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**NOTICE OF MUNICIPAL PLANNING
TRIBUNAL MEETING
OF STELLENBOSCH MUNICIPALITY
FRIDAY, 2020-01-31 FROM 10:00-15:00**

VOLUME 4



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LAND USE PLANNING REPORT TO THE MUNICIPAL PLANNING TRIBUNAL

APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS, SPECIAL DEVELOPMENT AND PERMANENT DEPARTURE ON ERF 4731, STELLENBOSCH.

Reference number	LU/8162	Application submission date	10 July 2018	Date report finalized	13 November 2019
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PART A: AUTHOR DETAILS

First name(s) and Surname	Louisa Ollyn				
Job title	Town Planner				
SACPLAN registration number	N/A				
Directorate/Department	Planning and Economic Development / Land Use Management				
Contact details	021 – 808 8672 / Louisa.Ollyn@stellenbosch.gov.za				

PART B: APPLICANT DETAILS

First name(s) and Surname	Barry Blount				
SACPLAN registration number	N/A				
Company name	Diesel & Munns Inc. Town and Regional Planners	Is the applicant authorized to submit this application?	Y	N	
Registered owner(s)	Thomas Bohn				

PART C: PROPERTY DETAILS

Property description (in accordance with Title Deed)	Erf 4731, Stellenbosch in the Municipality and Division of Stellenbosch, Western Cape Province				
Physical address	14 Paul Sauer Street, (see Appendix 1)	Town/City	Stellenbosch		
Current zoning	Single Residential	Extent (m²/ha)	1 182m ²	Are there existing buildings on the	Y N



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					property?		
Applicable Zoning Scheme	Stellenbosch Zoning Scheme Regulations, July 1996						
Current Land Use	Dwelling house and associated outbuildings (garage, laundry, entertainment area)			Title Deed number & date	T50865/2016 Appendix 3)		
Any restrictive title conditions applicable?	Y	N	If Yes, list condition number(s)	<p>Clause 6(a) "...Hierdie erf mag alleenlik gebruik word vir die oprigting daarop van een woning of ander geboue vir die doeleindes wat die Administrateur van tyd tot tyd, na oorleg met die Dorpekommissie en die plaaslike owerheid, goedkeur, met dien verstande dat, indien die erf in die gebied van 'n dorpsaanlegskema ingesluit is, die plaaslike owerheid enige ander geboue wat deur die skema toegelaat word, kan toelaat onderworpe aan die voorwaardes en beperkings wat in die skema bepaal word".</p> <p>Clause 6(b) "...Geen gebou of stuktuur of enige gedeelte daarvan, behalwe grensmure en heinings, mag behalwe met die toestemming van die Administrateur nader as 6,30 meter van die straatlyn wat 'n grens van hierdie erf uitmaak, asook nie binne 3,15 meter van enige ander grens opgerig word nie".</p>			
Any third party conditions applicable?	Y	N	If Yes, specify	N/A			
Any unauthorised land use/building work?	Y	N	If Yes, explain	Various notices for unauthorised building works were served on the property owner (see Appendix 14).			
PART D: APPLICATION DESCRIPTION							
<p>Application is made in terms of the Stellenbosch Municipal Land Use Planning By-Law, promulgated by notice number 354/2015, dated 20 October 2015, for the following on Erf4731, Stellenbosch:</p> <ol style="list-style-type: none"> Removal of the restrictive title deed conditions (section 15(2)(f)) Clause B.6(a) and (b) as contained in Deed of Transfer No. T50865/2016. special development (section 15(2)(o)) to permit the operation of a guesthouse (3 suites consisting of a total of 4 bedrooms); 							



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- 3) **Permanent departure** (section 15(2(b))) in order to relax the street building line from **4,5m** to **0m** and common building line (adjacent to Erf 4732, Stellenbosch) from **2,5m** to **0m** to accommodate the existing planter and pool pump.

PART E: SUMMARY OF APPLICANTS MOTIVATION (see Appendix 4)

- 1) The proposal complies with the guidelines as set out in the higher order spatial planning policies which promote socio-economic integration;
- 2) The proposed development is of an appropriate scale and form that relates to the surrounding urban fabric, development pattern and land use character of the surrounding neighbourhood;
- 3) The proposal will have a positive socio-economic benefit through income generation and the creation of employment opportunities;
- 4) The proposal will have no significant impact on the existing built form and will fit in to the surrounding urban context.
- 5) The placement of the proposal within an established urban residential development is seen to be compatible with the existing character and represents an acceptable land use intensification in the area;
- 6) The proposed development will not detract from any existing rights of the surrounding erven;
- 7) Increase human activity will help ensure increased passive surveillance of the adjoining public realm (street);
- 8) There is adequate servicing capacity to accommodate the proposed development and adequate on-site parking has been provided for;
- 9) The application will not undermine public interest.

PART F: SUMMARY OF PUBLIC PARTICIPATION

Methods of advertising				Date published	Closing date for objections
Press	Y	N	N/A	04 April 2019	03 May 2019
Notices	Y	N	N/A	03 April 2019	04 May 2019
Ward councillor	Y	N	N/A	04 April 2019	03 May 2019
On-site display	Y	N	N/A	03 April 2019	04 May 2019
Community organisation(s)	Y	N	N/A	03 April 2019	04 May 2019
Oth-er	Y	N	If yes, specify		

Was public participation undertaken in accordance with sections 44-49 of the Stellenbosch Land Use Planning By-law, October 2015

Y

N

Objections/Comments

The application was advertised in the local newspaper. Notices were served on the interested and affected property owners and a notice board was placed on the premises. **Twenty three (23)** objections were received. The application was also not supported by the **Manager: Spatial Planning, Heritage & Environment**. A map indicating the various owners who objected to the proposal is attached as **Appendix 6**.



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PART G: SUMMARY OF COMMENTS DURING PUBLIC PARTICIPATION (INTERESTED AND AFFECTED PARTIES)

ERF NO.	ISSUES RAISED	APPLICANT'S RESPONSE	DEPARTEMENTAL REPONSE
<p>Owner of Erf 4790 H J Brand</p>	<p>The dwelling has already been completed. How can an application for the removal of the title deed conditions be made now?</p> <p>The original building plans were incorrectly approved. Who is responsible for this error and what has been done to prevent the errors?</p> <p>The impact of a guesthouse versus a single residential dwelling differs in principle. A guesthouse has a greater negative ecological footprint on an area. There is a bird sanctuary located on Erf 4795, 100 – 200m away from the proposed guest house. No impact studies to illustrate the possible effect on the surrounding wildlife were done.</p>	<p>The owner previously had building plans prepared and submitted to the Municipality for the replacement of the existing dwelling on the property. These plans were prepared to conform to the Stellenbosch Municipality's Zoning Scheme parameters for single residential dwellings. The dwelling that has been constructed on the property conforms in all aspects to the definition of a single residential dwelling. The plans for the dwelling were submitted to the Local Authority for approval together with a copy of the title deed of the property and were subsequently approved.</p>	<p>The restrictive title deed condition (Clause 6(b)) reads as follows: <i>"...Geen gebou of stuktuur of enige gedeelte daarvan, behalwe grensmure en heinings, mag behalwe met die toestemming van die Administrateur nader as 6,30 meter van die straatlyn wat 'n grens van hierdie erf uitmaak, asook nie binne 3,15 meter van enige ander grens opgerig word nie"</i>.</p> <p>The zoning scheme building lines are 4,5m on the street boundary and 2,5m on the common boundaries. The title deed building lines are therefore more restrictive. Due to an administrative oversight, the building plan was approved as it complies with the zoning scheme building lines.</p> <p>The departure application under consideration is only for the encroachment of the street building lines (title deed and zoning scheme) to accommodate the pool pump and planter. The proposal will not have a negative impact on the streetscape as it will not be visible from the street as the planter and pool pump are screened from the street by the boundary wall.</p> <p>The application for special development is to use only a portion of the dwelling for guest house purposes and will therefore not have a negative</p>



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			impact on the activities taking place on Erf 4795.
Owner of Erf 4734 (Ralph & Marion Pina)	<p>The owner did not build the structures according to the original, approved plans.</p> <p>It was already obvious during the construction phase that the structure was intended to be a guest house with multiple, independent accommodation units and with no internal link between the first and ground floors as one would expect of a single residence.</p> <p>The owner always intended to built a guest house and neglected to engage with the citizens of the neighbourhood at the appropriate time.</p> <p>The guest house will change the character of the neighbourhood from residential to mixed use.</p> <p>Profits would be repatriated to a foreign owner and not be invested locally.</p> <p>There is no other similar, illegitimate case in the immediate neighbourhood in Water Road.</p> <p>Conversion to a guest house with 4 double bedrooms would increase the density of the usage to twice the density allowed by the municipal zoning scheme regulations for residential usage.</p>	<p>It came to the attention of the owner/architect that the builder constructed the entertainment area in slightly incorrect position on the property but still within the building lines as prescribed within the zoning scheme. This was also picked up by the building inspector who then requested that updated building plans be submitted for approval. When these updated building plans were submitted the architect was informed that there were restrictions within the title deed that prevented the construction of the dwelling in the location as indicated on the plans, which meant that the original plan was approved in error. At this stage the owner was planning to submit an application to utilize the lower floor as a guest house consisting of three rooms. It was suggested by the local authority that application to have the relevant restrictions be removed forms part of this application. The owner in no way attempted to mislead the local authority into approving the plans contrary to the title deed restriction.</p>	<p>The owner deviated from the approved building plans as the entertainment area was relocated to a different position and one of the rooms on ground floor was divided into two rooms.</p> <p>When the owner submitted the amended plans to include the above changes, it was determined that the restrictive title deed building lines had never been applied for.</p> <p>The building plan submitted to Council for approval adhered to the definition of a dwelling unit.</p>



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	<p>Surrounding property owners had a reasonable expectation of the permanence of the characteristics of low-traffic volumes, privacy and noise-free residential character, due to the explicit title deed restrictions, which would now be compromised.</p> <p>The proposed up-market guest house is aimed at short-term, overseas visitors, who have no incentive to get involved with public safety, lack the local knowledge to assess situations and who lack the access to local safety infrastructure.</p> <p>By deliberately failing to engage with the local public and attempting to circumvent municipal process and title deed restrictions, the owner has shown flagrant disregard for the public interest. The result will not be in the interest of the neighbourhood citizens who constitute the public.</p>		
<p>Owner of Erf 4721 (D & P Oosthuizen)</p>	<p>Traffic is already problematic.</p> <p>The entrance to the site is extremely narrow and cars will be parked in the street.</p> <p>When the municipality was asked about the deep excavations, the response was that plans had been approved. Now that the building has been erected, permission for suspension of existing regulations is being sought.</p>	<p>The proposed utilization of a portion of the dwelling on the property as a guest house will have far less of an impact in terms of noise and traffic generation than the numerous home occupation enterprises that are currently in operation in the surrounding neighbourhood.</p>	<p>The application was circulated to the traffic engineer of the municipality for comment and he supported the access and onsite parking as proposed by the applicant.</p>



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	<p>The building does not fit in with the neighbourhood at all.</p> <p>The owner is not full time here and a manager is not guaranteed. Tourism cannot benefit from this.</p>		
<p>Owner of Erf 4746 (Nakkiran Sunassee & Michelle Furphy)</p>	<p>The process of property development requires obtaining the necessary permission from the municipality and thus affords the neighbours the chance to comment/object to the proposed plans, should they be impacted negatively. This was not the case. It establishes a dangerous precedent for developers to ignore the Municipality's restrictions which will lead to a degradation of the neighbourhoods pleasant character.</p> <p>A guest house with regular traffic from guests and staff would destroy the character of the street and the wider neighbourhood and negatively affect property values.</p> <p>Rozendal is a close-knit neighbourhood and most residents know each other and watch out for each other. The owner of the property is an overseas real estate developer who is absent for most of the year and has no interest in becoming part of the community. The potential guesthouse guests and staff will not be interested in the community. This will</p>	<p>Already discussed.</p>	<p>These concerns/comment have already been addressed.</p>



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	<p>negatively affect the character of the neighbourhood.</p> <p>The constant influx of short-terms guests to the guest house and subsequent increase in traffic volumes will also have a negative impact on the security of the neighbourhood.</p>		
<p>Co-owner of Erf 4693 (Gerda Hayes)</p>	<p>I did not receive any documentation in this regard, even though my property is located two houses of the said development.</p> <p>In the motivation of the application (paragraph 8.1) the impression is created that minimal changes is made on the interior of the house. According to my observation, the house was built from the beginning as a guest house with more than 4 bathrooms.</p> <p>Lots of sand had been delivered to the site. The house therefore appears to have been built at a significantly higher level than the previous house. Privacy of the lower neighbours and the views of the upper neighbours are hindered.</p> <p>The visual character of the house as it is now is already a huge problem. Valid complaints from neighbours were not addressed during the construction of the existing dwelling.</p> <p>I pay a high premium to live in a rural area. The environment is rural because there are restrictions on</p>	<p>Already discussed.</p>	<p>Notices were sent to all owners located within General plan No. 8054 (Extention16) as indicated on the title subject property's title deed. The objector's property falls outside the boundaries of the general plan. However, the application was also advertised in the local newspaper and a notice was placed on the subject property.</p> <p>Refer to Part I of this item for the assessment of the report.</p>



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	<p>developments. Revenue generated by the guest house will not benefit the local community.</p> <p>Security is also a problem. A guesthouse where different vehicles and people move in and out every day, makes it very difficult for security officers to determine which persons and vehicles are indeed suspicious.</p> <p>The development has a solid wall that also creates a problem and is against building regulations.</p>		
<p>Owner of Erf 4728 (Jaco Van Niekerk)</p>	<p>The procedure is flawed: given the fact that the notice on display on the property gate did not indicate a "commencement date" and a "closing date" of the application.</p> <p>The owner purports that he will be residing at the residence. This is untrue as he is not in possession of a South African permanent residency permit and will not be allowed into this country for longer periods than any other tourist. Who will be living on the property for the rest of the time?</p> <p>The site plan provided in the registered letter is wrong as it does not indicate the title deed building lines.</p> <p>"Ground level" as defined by the Stellenbosch Municipality Land Use Planning By-Law means the following: the mean between the highest</p>	<p>The building plans were based on an accurate survey as conducted by a registered professional land surveyor.</p>	<p>The application was duly advertised in terms of Section 45 of the Stellenbosch Municipal Land Use Planning Bylaw. Section 48 of the bylaw also states that the Municipality may cause public notice by displaying a notice on the frontage of the erf concerned or at any other conspicuous and easily accessible place on the erf.</p> <p>Several notices were served on the property owner with regards to unauthorised building works (see Appendix 14). A contravention notice with regards to unauthorised use of the land was never issued as there was no evidence that the property is being used for guest house purposes. During my site inspection on 13 August 2019, there was also no indication that the dwelling was used for guest house purposes.</p>



	<p>and the lowest ground levels immediately adjacent to the building. If one measures roof height from the mean, it is most definitely higher than the common restriction of 8m as there is a garage area on the western side of the house that effectively raises the top structure to a second storey. If the argument is used that the garage is a basement storey it does not detract from the fact that the mean is incorrectly calculated and should be relooked at by an independent land surveyor.</p> <p>The Stellenbosch Municipality Land Use Planning By-Law states that a compliance notice must instruct the occupier and owner to cease the unlawful utilization of land or construction activity or both, without delay or within a period determined by the Municipality and may include an instruction to (a) demolish... (b) submit an application ... (c) rectify the contravention. Could this compliance notice be produced?</p> <p>Application is done for the removal of restrictive title deed condition 6(a). This is once again done as ratification for an already built structure that is in clear violation of the title deed stating that no second structure is permitted. Why should we believe now that this restriction is only to be lifted for the sake of a swimming pool pump.</p>		
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	<p>A large amount of landfill has taken place in order to lift the swimming pool. This implies that the natural ground level from building line to boundary line has been substantially altered.</p> <p>The house in its current form, considering the amount of rooms available should this be utilized as a guesthouse, does not properly provide for enough parking on the property. This will result in an overflow of vehicles parked in the street.</p>		
<p>Owner of Erf 4787 (Johan Kirsten)</p>	<p>Building lines and restrictions serve the purpose of protecting the rights of the property owners of an area as a collective. These rules provide certainty to property owners that the attributes and value of their properties and their neighbourhood will remain intact. Therefore it is important to maintain discipline in upholding the rules and procedures for the approval of building plans.</p> <p>When building rules and restrictions are violated and the owners are not forced to remedy such violations, it sets a precedent which will pave the way for the erosion of coherent structure and certainty, which will negatively affect the quality and aesthetics of the neighbourhood as well as the property values.</p> <p>The final structure is an eyesore which detracts from the beauty of the neighbourhood.</p>	<p>Already discussed.</p>	<p>These concerns/comment have already been addressed.</p>



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	<p>Boundary limitations of the rules of the zoning scheme of the Stellenbosch area were incorrectly approved by the Municipality and without following the correct procedure. It is also my understanding that the building height restrictions were violated. These violations encroach on the neighbouring resident's right to privacy as well as on the views they enjoy as a result of such building height restrictions. The encroachment on privacy rights are due to the top floor windows looking down directly into the backyards of the neighbouring properties.</p> <p>The building plans that were attached to the registered letter appear to be for a commercial guest house. The neighbourhood is not suited for such commercial use as there is not enough parking available and on-street parking will cause congestion and inconvenience for neighbouring residents. It will also cause additional noise, disruptions, traffic and will detract from the tranquility of the area.</p>		
<p>Owner of Erf 4733 (Mr & Mrs DJ & A Kotze)</p>	<p>The owner should have known about the title deed restrictions when submitted building plans in violation of the property's title deed. The Municipality appears to have approved these plans in error, despite having been contacted about this repeatedly.</p>	<p>The building plans were based on an accurate survey as conducted by a registered professional land surveyor and should the neighbours wish to question the measured heights they are more than welcome to appoint their own surveyor to check them.</p>	<p>A registered notice (RC370733235ZA) was send to the owner of Erf 4733 (see Appendix 5).</p> <p>The dwelling complies with the height restriction as indicated on the detail and height survey as indicated in Appendix 15.</p>



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It appears that the house is built on a higher level than the natural ground level, however due to the very substantial earthwork this is difficult to establish without any surveying work. We recommend that a professional survey be done by an independent 3rd party to confirm.

Owner did not receive a letter informing him of the proposed development. The process may be flawed and should be reviewed to confirm that all affected parties have been duly notified.

The proper process for the current building would have required approval from the affected neighbours. If it had been sought, it would not have been granted due to the large size of the structure and the proximity to the street.

The building in its current form negatively impacts the value of the surrounding properties, most notably Erf 4723, Erf 4730, Erf 4732 and Erf 4733.

According to the latest plans shared by the applicant, provision is only made for 5 parking bays which is insufficient. Additionally, it is very important that should additional parking be provided, the layout be designed/approved by a civil engineer to ensure sufficient space to turn and park



	<p>vehicles is allowed.</p> <p>It is our concern that if the retaining structures were not properly designed and constructed, these structures may fall and leads to significant damage to the surrounding properties as well as potential loss of life.</p> <p>Rozendal is a quiet residential neighbourhood. It is far from the CBD and is of limited interest to tourism.</p> <p>The application asks to remove the building lines to 0m. There is no reason for this other than to maximize the owner's potential profits from further redeveloping the site in the future.</p> <p>The moving of the swimming pool to its current position as well as the excessive raising of the surrounding platform (3,2m above the natural ground level) right next to the boundary of the neighbouring properties has a very negative impact on the privacy of the adjacent properties.</p> <p>The new entrance to the pool (steps) is now positioned right next to the boundary of Erf 4733 at level, 1,2m above top of wall. As a result all guest entering the pool will be looking directly into the private pool and entertainment area of Erf 4733 destroying any privacy as well as adding noise pollution into this private area.</p>		
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<p>Owner of Erf4732 (Valdon and Marianna Smit)</p>	<p>There are restrictive conditions in the title deed of our property that prohibit the utilization of the property as a guest house – we assumed that applied to all properties in the neighbourhood, giving some assurance that the attractive qualities that attracted us to the area would continue – on that assumption we paid a premium price for our property.</p> <p>We had twice approached Stellenbosch Municipality regarding our concerns and also met with the building inspector.</p> <p>The existing dwelling was demolished by the new owner in 2016. From the magnitude of the earthworks and filling in that occurred prior to building and the size of the new development once construction started, it was clear that what was envisioned was not a single residential dwelling.</p> <p>As construction progressed it became clear that there were deviations from the plans.</p> <p>The owner confirmed that the lower level would be used to accommodate overflow guest of Keren's Vine Guesthouse.</p> <p>The pool is elevated. Although the pool cannot be seen from the window, we</p>	<p>Already discussed.</p>	<p>These concerns/comment have already been addressed.</p>
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	<p>have already had experience of obtrusive noise from the pool deck when the house has been occupied.</p> <p>It is unlikely that there will be a full-time manager on site to control guest's behaviour.</p> <p>Our greatest personal benefit from the property is quietness, lack of traffic and the fact that the area is reasonably free from crime. These qualities will be compromised with an ever-changing set of residents of the property closest to our living room and bedroom windows.</p>		
<p>Owner of Erf 4787 (Cornelia Kirsten)</p>	<p>The blame placed on the municipality for wrongly approved plans is one-sided. The architect must have made sure of the building lines and planned accordingly.</p> <p>The process was not transparent at all. The neighbours and the municipality were assured that it is a family home.</p> <p>Therefore, it is not confident that a guesthouse will be operated taking into account the environment and the rest of the residents in the neighbourhood.</p>	<p>Already discussed.</p>	<p>These concerns/comment have already been addressed.</p>
<p>Erf number unknown (Elizabeth Van Der Merwe)</p>	<p>None of the residents were informed and given a fair chance to comment on plans of a new guest house prior to the construction of the house.</p> <p>Our objection is based on the</p>	<p>Already discussed.</p>	<p>These concerns/comment have already been addressed.</p>



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	<p>fact that the prescribed procedures with regards to approval of building plans was not followed, as the house was built in contravention of the title deeds and the actual house (as constructed) does not correspond to the approved plans.</p> <p>The site plan provided in the registered letter is incorrect as it does not indicate the title deed building lines, which is more restrictive than the normal building lines for this neighbourhood.</p> <p>The house does not conform to the definition of a residential dwelling but was specifically build for business purposes, that of running a guest house.</p>		
<p>Owner of Erf 4723 (Du Plessis, Hofmeyr and Malan on behalf of Prof Bernd Fisher and Ms Sylvia Dieckmann)</p>	<p>When my client bought the property, the subject property was developed in accordance with the general character of the area. It hosted a dwelling with a single residential character, which had, on the elevation facing Paul Sauer Road, one storey only. The site sloped significantly from Paul Sauer Road downwards in an easterly direction and because the dwelling on it was well set back from Paul Sauer Road, it was positioned well below street level.</p> <p>The title deed restrictions were imposed by the then Administrator of the Cape Province when the Rozendal township was established.</p>	<p>Already discussed.</p>	<p>The house that was demolished by the owner consisted of one floor and a garage at basement level. However, the zoning of the property allows for the construction of a double storey dwelling. Because the property is located higher than the other properties in the street, an extra floor will in any case obstruct the view to some extent. The applicant submitted a height survey plan confirming that the building complies with the height restriction.</p> <p>Refer to the assessment section of this report.</p>



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	<p>Their purpose would have been to facilitate a certain character and sense of place for a specific part of Stellenbosch, distinct from development parameters applying in other parts. The nature of the conditions was to facilitate a sense of spaciousness, exemplified by large erven and wide and open streetscapes.</p> <p>Given the location of our clients property relative to that of the subject property, our clients were always going to be directly affected by physical development of any significance on the subject property, particularly insofar as it fronts onto Paul Sauer Road.</p> <p>What the applicant seeks is condonation after the fact for the unlawful transformation of a conventional single-family home into a large guesthouse. The applicant firstly completed the guest house, and once he had done so, he presented it to the planning authority as fait accompli. In his presentation he ignores the fact and experts of the municipality and interested and affected parties to do the same, that at least part of the structure is unlawful and must for purposes of this application be deemed not to have been developed.</p> <p>The old building was substantially lower than street level and position further</p>		
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	<p>back in accordance with the 6,3m restriction.</p> <p>Whereas the other buildings in the area have a definite single-family character and appearance, the guest house's Paul Sauer Road elevation has the look and feel of a large block of flats very much at odds with the rest of the buildings in the area.</p> <p>Due to its position on the subject property, especially its elevation above what was ground level, the old building did not encroach on the privacy of the neighbouring properties. Due to the guest house being built closer to Paul Sauer Road and thus on the top part of the west-east slope of the subject property, the ground floor of the guest house is considerably higher than that of the old house. As a consequence, windows on the upper level of the guest house face onto and encroach on the privacy of at least our client's property and of 12 Paul Sauer Road, immediately southwest of the subject property.</p> <p>The impact of the guest house within its environment is visible not only from within the neighbourhood itself, but even from Stellenbosch Mountain it is visible as a large white blob wholly out of kilter with its surroundings.</p> <p>Apart from downplaying the impact that the development of the guest house has had</p>		
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	<p>on the area, the applicant argues that the removal of the title deed conditions have become outdated. He argues furthermore that the establishment of a guest house is something that the spatial planning instruments applicable in the area support in principle.</p> <p>Restrictions imposed by the Administrator as conditions of establishment prevails over provisions in a zoning scheme (Judgement of Appeal in Van Rensburg NO v Naidoo NO; Naidoo NO van Rensburg NO 2011(4) SA149(SCA).</p> <p>The applicant failed to advance any convincing argument as to why the title deed conditions should be removed. We submit therefore that no case has been made for the removal of the title deed restrictions and they should remain in force.</p> <p>The applicant did not referred to a single other guest house in the area and explained why he believes his development is as compatible as such other establishment is with the character of the area.</p> <p>The fact that the SDF promotes tourism does not mean that tourist related developments, such as guest houses, should be allowed willy-nilly without regard to the environment within which it is proposed.</p>		
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	<p>The SDF recognizes that its support for tourism must be qualified, and states that tourism should be promoted especially if it reinforces the municipality's sense of place. This particular guest house does not reinforce, and in fact derogates from the sense of place of the Rozendal neighbourhood. It is therefore not the kind of tourism establishment that the SDF advocates.</p> <p>Our clients are opposed to the approval of rider plans that were recently submitted to the municipality to regularise deviations from the approved building plans for the guest house. What concerns our clients in particular is that the approval of those plans will legalise the encroachment on their privacy facilitated by the enlarged windows in the guest house's Paul Sauer Road elevation. This impact may have been aggravated by the artificial elevation of the property's ground level but is not in a position yet to make any conclusive statements in this regard.</p>		
<p>Owner of Erf 4761 (S M Terblanche)</p>	<p>The owner bypassed the regulations.</p> <p>The encroachment of building lines invades on neighbours' privacy. The adjoining property is located fairly lower than the subject property and the upper floor looks right into the neighbour's house. The house comprises three levels</p>	<p>Already discussed.</p>	<p>The issue with regards to privacy and scale of the building is discussed in the assessment report.</p>



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	<p>as the basement is not sunken.</p> <p>Guest houses and hotels in this area in Stellenbosch rarely have 100% occupancy. So there is no urgent need for it.</p>		
<p>Owner of Erf 4767 (T E Bohlmann)</p>	<p>I bought a house in this area because it is a quiet area. The car transport will increase and disturb the tranquillity. If approved, Rozendal will lose its tranquil atmosphere and quiet environment.</p>	<p>Already discussed.</p>	<p>The tranquillity of the area will not necessarily be affected as only a portion of the dwelling will be used for guesthouse purposes. The owner/manager will also reside on the property to maintain order.</p>
<p>Owner of Erf 4712 (Wanda Grunewald)</p>	<p>I object to the use of the property as a guest house. The area is established as a single residential area where families reside and strict rules pertaining to student accommodation is applied.</p> <p>If the guest house is approved, the quiet urban nature of the area will be adversely affected.</p> <p>The owner can use the approval to establish student accommodation on his property and in so doing circumvent the bylaws regarding student accommodation in the area. What will prevent him from doing this now or at any stage later on. The document refers to the number of rooms, but does not address the number of guests/students that can be accommodated on the property.</p>	<p>Already discussed.</p>	<p>The application for consideration is for a special development for a guesthouse. If the owner, in the future, wishes to use the dwelling for student accommodation purposes, a land use application must be submitted.</p>
<p>Owner of Erf 4747 (Annemarie)</p>	<p>Object to the proposed changes to the existing municipal rules relating to</p>	<p>Already discussed.</p>	<p>The proposed use is still residential in nature and thus the use should have no impact</p>



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Bakker)	<p>building lines. This would set an undesirable precedent.</p> <p>The residential nature of the suburb needs to be protected.</p> <p>To change the title restrictions to enable a large and commercially motivated guest house to expand its operations would conflict with the residential and suburban nature of the area and would set an unwelcome precedent.</p>		<p>on the residential character as the existing dwelling will be used for guest house purposes.</p>
Owner of Erf 3819 (Bertus Swanepoel)	<p>The lifting of the title deed restrictions should be done in consultation with the neighbours and in this case the building has already been constructed with a complete disregard for the restrictions as per the owner's title deed. No approved building plans could be supplied on request from Diesel & Munns Inc.</p> <p>The nature of the development on Erf 4731 in relation to Erf 4733 being a retainer wall that holds a volume of water above Erf 4733 and provide a deck for people who could overlook the privacy of the backyard of Erf 4733 is reason enough to oppose the application. The development of Erf 4731 was done in such a way that it looks directly at Erf 4733 and disregards all privacy you would come to expect from single residential environment.</p> <p>I would argue that the development in relation to</p>	<p>Already discussed.</p>	<p>A structural investigation report was submitted by FRAME to confirm that the building contractor did not deviate from the structural design and that the retaining wall is structurally acceptable (see Appendix 17).</p>



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	<p>the boundary with Erf 4733 is a three-storey development and not two storeys.</p> <p>Studying the rider plans provided, you will be aware that "rider plans" are not permitted to be lodged with Stellenbosch Municipality, but that new plans forming a new application should be submitted. These "rider plans" clearly shows separate units and not a single residential house and is also what has been constructed without the due permission to do so. Has the municipality been aware of this and has an occupation certificate been issued?</p> <p>Approving this application will set a precedent for wealthy individuals who do not reside in our neighbourhood, to purchase property at inflated prices and thereby reducing housing stock that is in great need for families in our neighbourhood.</p>		
<p>Owner of Erf 4754 (C Slabbert)</p>	<p>The building was planned, built and completed as a very large guesthouse before obtaining the necessary approval for a permanent departure.</p> <p>The scale and character of the building is in serious conflict with existing established dwellings.</p> <p>According to the plan, the new building actually consists of at least 5 separate units that can accommodate a large number of residents, which will significantly</p>	<p>Already discussed.</p>	<p>The definition for a dwelling unit reads as follows: "<i>means a self-contained inter-leading complex of rooms utilized or intended to be utilized as complete residence and accommodation for a single family only, together with the customary outbuildings usually associated with such unit</i>". A building plan for a dwelling house was approved in 2016. The application to utilize a portion of the dwelling for guesthouse purposes was submitted July 2018. When a site inspection was conducted earlier this year, there were no</p>



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	<p>increase noise, movement and traffic.</p> <p>Access to the property is extremely difficult due to the topography of the yard.</p> <p>The building is located high and the privacy of the surrounding properties is seriously violated.</p> <p>The burden on municipal services such as water, sewerage, power and refuse removal is increased.</p> <p>There is no certainty that the total area of all the improvements on the site, including the two levels of the main dwelling, does not exceed the total area of the site.</p>		<p>guests occupying the house.</p> <p>The application was supported by the Engineering Department. Development charges will be payable should council approve the application.</p> <p>As mentioned in the assessment below, the dwelling complies with the permissible coverage, bulk and height restriction.</p>
<p>Owner of Erf 4711 (Fronika Heath)</p>	<p>The removal of restrictions would likely set a precedent for similar development for the whole are.</p> <p>The inevitable changed nature of Rozendal that would affect all the residents is not in our best interest.</p>	<p>Already discussed.</p>	<p>The application for the removal of the title deed conditions apply to the building lines only and not to the use of the property.</p>
<p>Owner of Erf 4758 (P J Celliers)</p>	<p>It appears that the municipality has done little or no inspection because the appearance of the house, as it is now, cannot be regarded as a single residential living area.</p> <p>There are four large kitchens on the first floor, there are also four large bedrooms, a living room and more dressing rooms.</p>	<p>Already discussed.</p>	<p>The dwelling conforms to the definition of a dwelling unit and was approved as a single dwelling (see Appendix 15 for approved building plan).</p> <p>The application for the removal of the title deed conditions apply to the building lines only and not to the use of the property.</p> <p>Rozendal cannot be compared with an area such</p>



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	<p>I get the idea that the municipality wants to approve the repeal of the current title deed because it will increase the municipality's income as a result of the increase in tourists.</p> <p>The increase in tourists and the increase in labourers will adversely affect our sensitive water and energy sources.</p> <p>What will happen if the title deed is changed, as in the case of the Weides neighborhood where all the residents had to move to other residential areas in Stellenbosch?</p>		<p>as Die Weides as the zoning of Die Weides allow for higher density development. The area and subject property is zoned for single residential purposes which allow an owner to apply for a special development to use his/her property of purposes for inter alia a guest house; using a minor portion of the dwelling by a permanent resident for social, religious or occupational purposes or for a home enterprise, etc.</p>
<p>Owner of Erf 4722 (Jan Westdyk)</p>	<p>Increase in noise levels.</p>	<p>The proposed utilization of a portion of the dwelling on the property as a guest house will have far less of an impact in terms of noise and traffic generation than the numerous home occupation enterprises that are currently in operation in the surrounding neighbourhood.</p>	<p>It is important to note that only a portion of the house will be used for guest house purposes. The impact of noise levels will therefore be minimal.</p>
<p>Owner of Erf 4717 (Hilko Hegewisch & Andrea Marent-Hegewisch)</p>	<p>The residents of this neighbourhood have been denied the opportunity to object and are now asked to "after the fact" ratify what is essentially a building built in contravention of the title deed.</p>	<p>Besides the error relating to the approval of the building plans, the owner followed the correct procedure in obtaining the necessary permission to utilize the lower floor of the approved dwelling as a guest house.</p>	<p>The building plan for a dwelling house was approved on the 4,5m building line, instead of the 6,3m title deed building line, resulting in an encroachment of 1,8m. The application property is a corner property, located opposite a large open space (Erf 4795) and the area is also characterized by wide streets and dense vegetation on the street front. The 1,8m will therefore not have a negative impact on the streetscape.</p>
<p>Owner of Erf 6455 (C J Calitz)</p>	<p>The erroneous approval of building plans by officials is not an excuse to abolish restrictive conditions</p>	<p>To state that the use of a portion of the house as a guest house will lead to the utilization of the property as student</p>	<p>The approval of a guesthouse (should council approve this proposal) does not automatically give permission</p>



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<p>summarily.</p> <p>Stellenbosch already has an oversupply of guesthouses and the danger that it could later be turned into student housing due to economic pressure.</p> <p>The guesthouse will certainly have an impact on traffic volume in surrounding streets.</p>	<p>accommodation is totally spurious in its intent.</p> <p>The proposed utilization of a portion of the dwelling on the property as a guest house will have far less of an impact in terms of noise and traffic generation than the numerous home occupation enterprises that are currently in operation in the surrounding neighbourhood.</p>	<p>to use the dwelling for student accommodation purposes. Should the owner wishes to use a portion of the house for student accommodation purposes, an appropriate land use application must be submitted.</p>
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PART H: SUMMARY OF COMMENTS FROM INTERNAL DEPARTMENTS AND/OR ORGANS OF STATE AND/OR COMMUNITY ORGANISATIONS AND/OR WARD COUNCILLOR

NAME OF DEPARTMENT	DATE	SUMMARY OF COMMENTS	RECOMMENDATION		
			Positive	Negative	No Comment
Manager: Building Development Management (see Appendix 8)	04/04/2019	Supported.	<u>Positive</u>	Negative	No Comment
Manager: Fire Services (see Appendix 9)	10/04/2019	No comment.	Positive	Negative	<u>No Comment</u>
Manager: Health Department (see Appendix 10)	05/04/2019	If meals will be provided for guests, the owner must apply for an acceptability certificate in terms of R638/2018 Reg 3.	<u>Positive</u>	Negative	No Comment
Director: Engineering Services (see Appendix 11)	09/05/2019	Supported, subject to the following conditions: 1. <u>Water</u> 1.1 The existing water connection must be utilized for the proposed development: no upgrade in the size of the connection will be allowed, unless agreed to by our Water Services Department.	<u>Positive</u>	Negative	No Comment



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		<p>2. <u>Sewer</u></p> <p>2.1 The existing sewer connection must be utilized for the proposed development: no upgrade in the size of the connection will be allowed, unless agreed to by our Water Services</p> <p>3. <u>Development Charges (DCs)</u></p> <p>3.1 Based on the information provided in the application the Development Charges payable by the developer is R49 396.69 (Vat incl.) as per attached Development Charges calculation.</p> <p>3.2 The DC's were calculated for the 2018/2019 financial year. If the account is paid after 30 June 2019 it has to be recalculated using the then applicable tariffs.</p> <p>3.3 DCs are payable prior to the erf or portion thereof being put to the approved used or building plan approval which ever come first.</p> <p>4. <u>Municipal Infrastructure (Civil Engineering Services)</u></p> <p>4.1 Any changes to existing municipal infrastructure due to this application will be for the account of the owner.</p>			
<p>Manager: Spatial Planning, Heritage & Environment (see Appendix 12)</p>	<p>14/05/2019</p>	<p>The department cannot support the application in its present format. However, a revised application for an owner-operated guest house in a minor portion of the residence can be supported.</p>	<p>Positive</p>	<p><u>Negative</u></p>	<p>No Comment</p>



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Manager: Electrical Services (see Appendix 13)	05/06/2019	This department supported the application subject to conditions.	Positive	Negative	No Comment
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PART I: MUNICIPAL PLANNING EVALUATION (REFER TO RELEVANT CONSIDERATIONS GUIDELINE)

Back ground (Application history)

The subject property is located in Rozendal, a residential suburb in Stellenbosch. It forms the eastern border of the town together with Karindal. The area is characterized by its large erven and dense vegetation in gardens and sidewalk.

The current owner demolished the existing dwelling unit in 2016 which consisted of one storey dwelling unit with a basement area to accommodate the double garage. The current owner submitted new building plans for the construction of a dwelling and started with building works in 2016/2017.

The owner deviated from the approved building plans (see **Appendix 15** for copy of approved building plans) and various notices were served on the owner. Notices were served on the following dates:

- 18 August 2017 : Deviation from approved building plan (BP/16/1094) (unclaimed)
- 20 April 2018 : Final notice for unauthorised building work (unclaimed)
- 16 November 2018 : request for extension of time
- 30 January 2019 : Unauthorised work
- 04 March 2019 : Unauthorised work
- 30 April 2019 : Letter to ask permission for as site inspection.

When an application for a special development to utilize a portion of the dwelling for purposes of a guesthouse, was submitted in July 2018, it became apparent that the building plan was approved on the 4,5m zoning scheme building line (instead of the 6,3m title deed building line).

(In)consistency with the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)

The application is consistent with the development principles of spatial justice, sustainability, efficiency and good administration as specified in Section 2 of SPUMA. See table below:

DEVELOPMENT PRINCIPLES	KEY CONSIDERATIONS
Spatial Justice	This principle has no direct bearing on the application under consideration.
Spatial Sustainability	The proposal has the potential in future to contribute to the financial viability of the municipality and is seen as a form of infill development.
Efficiency	The proposed land use contributes in achieving a desired mix of land uses and better utilization of the



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	existing infrastructure.
Spatial Resilience	The proposal will lead to better utilization of the existing infrastructure, mixed land use and less urban expansion.
Good Administration	The Stellenbosch Municipality is obligated to consider the application fairly and within the timeframes provided in terms of the relevant Municipal Planning By-Law. The proposal presents an aesthetically-pleasing public street interface that complements existing land uses.

(In)consistency with the principles referred to in Chapter VI of the Land Use Planning Act, 2014 (Act 3 of 2014)

The proposed development is consistent with the proposals of the spatial development framework and the other policies of the Municipality. The proposal is furthermore in line with the land use planning principles referred to in section 59 (spatial justice, spatial sustainability, efficiency and good administration) of LUPA.

(In)consistency with the IDP/Various levels of SDF's/Applicable policies

The spatial department is opposed to properties being utilized in total for guest house purposes within established neighbourhoods as these uses are seen essentially as businesses (albeit residential businesses) operating in residential areas and are reducing the supply of the residential offering available. In addition, the use of the guest house can change the character of the residence and in some instances also the character of the neighbourhood as it often creates unusually large houses and lead to abnormal behaviour patterns as guests increase the traffic flow, parking on site, parking in the street, display of signage and abnormal hours of operation. Often the owner does not reside at the house and appoints a manager to manage the business whilst he or she lives elsewhere.

Due to the impact of guest houses that entails the entire property and where the owner does not reside on the property, such enterprises are not supported in established neighbourhoods but rather in and on the edge of the CBD or along corridors of extensive development (see comment from **Manager: Spatial Planning, Heritage & Environment** attached as **Appendix 12**).

The Spatial Section further indicated that should Council support the application, the following conditions should be considered:

- i) *Only a minor portion (50% or less of the number of bedrooms) may be used for guest accommodation;*
- ii) *The primary use of the property is to remain single residential;*
- iii) *The owner of the property or a long term lessee thereof must reside at the property;*
- iv) *All parking is to be provided in terms of the zoning scheme requirements on the site. A to-scale parking layout plan must be submitted for approval;*



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- v) *The garden in front of the house must be retained and may not be used for parking;*
 vi) *Signage of no more than 0,1m² will be allowed to be displayed and must be positioned on site.*

The applicant stated in his comment that the owner is in die process of applying for permanent residency and will thus reside on the property. If the owner is away from the property (travelling) there will be an employee/manager staying on the property to oversee the guest house should there be guests residing on the property.

The fact that a guest house is to be considered as a special development in terms of the Stellenbosch Zoning Scheme Regulations on properties zoned single residential, highlights the intension of the zoning scheme to accommodate such uses after the necessary application procedure has been followed.

(In)consistency with guidelines prepared by the Provincial Minister

Not applicable.

Outcomes of investigations/applications i.t.o other laws

No environmental authorization in terms of NEMA & Regulations is applicable.

Existing and proposed zoning comparisons and considerations

The proposal will not change the zoning of the property.

The need and desirability of the proposal

1. The proposal:

The owner is applying for a special development to utilize the lower level of the existing double storey dwelling house for purposes of a guest house (3 suites consisting of a total of 4 bedrooms). The Stellenbosch Zoning Scheme Regulations, July 1996 makes provision for an owner/applicant to apply for a special development to utilize the property, or portion thereof, for purposes of a guest house. The proposal also entails the removal of a restrictive title deed condition and a departure to accommodate a planter and pool pump.

The subject property is developed with a double storey dwelling unit, swimming pool and outbuildings.

Guesthouses are characteristic of the Stellenbosch Municipal area, as Stellenbosch is renowned as a popular tourist destination whether within the towns (Stellenbosch, Franschhoek, etc.) or within the rural areas.



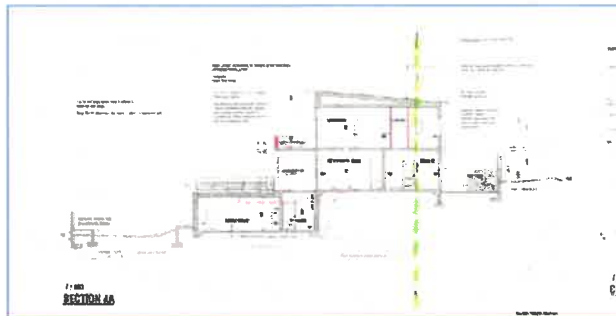
2. Approval of building plans without the necessary processes being followed:

Many of the objections deal with the fact that Council approved building plans without taking into consideration the restrictive title conditions applicable to the site.

The Zoning Scheme parameters and title deed restrictions are as follow:

	Zoning Scheme	Title Deed Restrictions	Approved Building Plan
Street building line	4,5m (Paul Sauer) 4,5m (Rozendal)	6,3m 6,3m	4,5m 4,5m
Common building line	2,5m	3,15m	3,0m; 2,5m & 3,3m
Coverage	36%	N/A	27%
Floor factor	0.55	N/A	0.51
Floor Area	650,10m ²	N/A	605.82m ²

Building plans indicating only the zoning scheme building lines were previously approved (BP/16/1094). The dwelling house was therefore approved on the 4,5m building line, instead of the 6,3m title deed building line, resulting in an encroachment of 1,8m.



1,8m encroachment

The application property is a corner property, located opposite a large open space (Erf 4795) and the area is also characterized by wide streets and dense vegetation on the street front and therefore the 1,8m encroachment does not have a negative impact on the street vista.

Guest house vs Dwelling unit

From the interested and affected property owners' objections it seems as if the Municipality approved the construction of a guesthouse without following the correct procedure. The layout of the approved building plan consist of a tv room; entertainment room; and four en-suite bedrooms on ground floor level; with a kitchen/scullery; dining room; living room; guest toilet; bathroom and two en-suite bedrooms on first floor level. The outbuildings consist of a double garage; servant's quarters; storeroom; outside entertainment area and a swimming pool (see **Appendix 15**).



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The definition of a dwelling unit in terms of the Stellenbosch Zoning Scheme Regulations, July 1996 reads as follows: *"means a self-contained inter-leading complex of rooms utilized or intended to be utilized as complete residence and accommodation for a single family only, together with the customary outbuildings usually associated with such unit."*

From the above definition it is clear that the dwelling complies with the definition of a dwelling unit as the rooms are all inter-inleading with each other and access from the ground floor to the first floor is via an enclosed entrance hall. The size and layout of a dwelling does not determine whether a dwelling is a guesthouse or not.

The approved building plan therefore represents a dwelling unit. The difference between the approved building plan and the amended plan is the position of the entertainment room; addition of a pool pump and dividing the tv room on ground floor into two rooms.

3. Title deed restrictions

The applicable restrictions reads as follows:

Clause 6(b) *"...Geen gebou of stuktuur of enige gedeelte daarvan, behalwe grensmure en heinings, mag behalwe met die toestemming van die Administrateur nader as 6,30 meter van die straatlyn wat 'n grens van hierdie erf uitmaak, asook nie binne 3,15 meter van enige ander grens opgerig word nie"*.

The only condition applicable to the application is Clause 6(b) which refers to the building lines. Should the delegated authority decide to remove this condition, the zoning scheme building lines will still be applicable. The title deed restrictions and the town planning scheme are both relevant and applicable and should a property owner wishes to do additions to the existing dwelling which extends over the zoning scheme building lines, a departure application will still be required. The application for the removal of this title deed condition does not give the owner the right to build up to the property boundaries without the consent from the interested and affected property owners or without submitting an application.

The application for the removal of the title deed conditions and the encroachment of the building line is only to accommodate the planter and pool pump. Previous approvals have already been granted in the area for the construction of outbuildings which indicate that the removal of these conditions is not foreign to the area. A swimming pool was previously approved over the title deed building lines on the very same property.

Clause 6(a) *"...Hierdie erf mag alleenlik gebruik word vir die oprigting daarop van een woning of ander geboue vir die doeleindes wat die Administrateur van tyd tot tyd, na oorleg met die Dorpekommissie en die plaaslike owerheid, goedkeur, met dien verstande dat, indien die erf in die gebied van 'n dorpsaanlegskema ingesluit is, die plaaslike owerheid enige ander geboue wat deur die skema toegelaat word, kan toelaat onderworpe aan die voorwaardes en beperkings wat in die skema bepaal word"*.



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Although the applicant's conveyancer certificate indicates that Clause 6(a) is also a restrictive condition, the department is of the opinion that application can be made to accommodate other land uses. This condition does not prevent / prohibit the owner from applying for a guesthouse.

4. Scale of development:

The objectors are also of the opinion that the scale of the development does not fit in with the surrounding area and that the house obstructs the views to the mountain. The dwelling unit complies with the permissible coverage (**26% instead of 36%**); floor factor (**0.49 instead of 0.55**) as well as the height requirements as specified in the zoning scheme.

The zoning of the property allows for the construction of a double storey dwelling and the proposal complies with the height restriction (basement, ground floor and 1st floor). A "storey" is a single level of a building, excluding the basement, which does not exceed the height of 4 metres, measured from finished floor level to finished floor level or to the ceiling in the case of the top storey. This height restriction does not include the height of the roof structure (which can also be a pitch roof). The dwelling unit was designed with a flat roof which allow for a view to the mountain.

The basement level also complies with the definition of a basement (see **Appendix 16** detail and height survey).

5. Character of area:

The fact that the Stellenbosch Municipality Zoning Scheme Regulations makes provision for the establishment of a guest house in single residential areas implies that the proposed use is in line with the residential uses associated with a dwelling house.

A guest house is "an owner-managed commercial accommodation establishment of not more than 16 bedrooms or suites, which has as its primary source of business the supply of tourist accommodation and a substantial breakfast for resident guests; provided that –

- (i) the individual bedrooms or suites may be marketed by means of short term renting only;*
- (ii) the building may, in terms of the Liquor Act, 1989 (Act 27 of 1989), be licensed only for the purposes of on-consumption and subject to any conditions or restrictions which the Council may impose; and*
- (iii) a hotel, hostel and accommodation establishment are not included in the definition."*

No new extensions and alterations to the existing dwelling are proposed to accommodate the proposed use; therefore the aesthetic appearance of the property remains the same. There is no physical impact that would have a detrimental effect on the neighbourhood.



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The parking area will not detract from the environment as it will not be visible from the street, but placed at the rear of the property. The Stellenbosch Zoning Scheme Regulations requires two parking bays to be provided per dwelling and 0,7 parking bay for every suite or bedroom to be used for guest house purposes. A total of five (5) bays are provided on-site.

A special development for a 4-bedroom guest house was approved on 17 December 2009 on Erf 4689, Rozendal Street, Stellenbosch and therefore the proposed guest house will not significantly alter the character of the area.

The proposed use is still residential in nature and thus the use should have no impact on the residential character as the existing dwelling will be used for guest house purposes.

6. Privacy:

The entertainment area (pool and deck) will have a minimal impact on the privacy of the adjacent properties due to the dense vegetation on the common boundary (see **Appendix 18** for photos). The owner could have designed his house with a balcony or patio in the same position as the existing pool without consent from the neighbours. This would have the same impact as a pool with reference to privacy and noise emanating from the subject property.

7. Noise

The use of the property as a guest house should not result in any additional noise being generated as the use is residential in nature. The applicant stated that there will be no abnormal behaviour patterns on the property as the guest house will be managed at all times ensuring that the guests conform to the rules of the establishment. The guests will not be permitted to make any unacceptable noise that would disturb, not only the other guests of the facility, but the owner of the property and those of the surrounding properties as well. It is important to note that any entertainment area, whether used by the family of the dwelling house or guest of a guest house, causes noise to some extent.

8. Traffic generation

Any approval for additional land use rights leads to an increase in traffic in that particular area. Only a portion of the dwelling (consisting of 3 suites with 4 bedrooms) will be utilized for guest house purposes. The traffic which will be generated will have a minimal impact on the traffic flow on the roads.

9. Safety

The proposal will not have a negative impact on the safety of the residents in the area as it would rather improve the surveillance in the area due to the higher number of residence occupying the property.



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10. Loss of property value

The issue of devaluation is highly subjective and is regarded as speculative.

11. Integrated Zoning Scheme (effective 1 November 2019)

It is important to note that a bed-and-breakfast facility for a maximum of up to 3 rooms, subject to certain conditions, will be an additional right (this approval is exempt from public notification) when the above scheme comes into effect.

PART J: ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

Financial or other value of the rights affected

The proposal is seen to have no negative impact on any surrounding property and will have no financial implications. No person or entity can argue that they will suffer any financial loss (value) as a result of the removal of this restriction as they are not in favour of any property and/or individual. They are development restrictions that will still be governed by the parameters as set out within the Stellenbosch Zoning Scheme.

Benefits to the holder of such rights in terms of the restrictive condition

As these restrictions are not for the benefit for any specific property or person, and the development parameters will still be governed by the Stellenbosch Zoning Scheme, the deletion of these conditions will not negatively impact on the personal benefits of any surrounding property owner within this township development. Thus the deletion of these conditions will not be removing any benefits to the holder of these rights in terms of the restrictive conditions.

Personal benefits which will accrue to the applicant

The proposal will allow for the existing dwelling to remain on the property and the owner of the property to utilize this dwelling as a guest house. This will allow for the owner to maximise the value of the property and hence obtain some personal financial benefit through the running of a guest house on the property. This personal financial gain will not lead to any loss in value (loss of benefits) to any of the surrounding properties.

Social benefit of the restriction remaining in place

The restrictive conditions were typically place within the deed of the property in order to place development controls within newly established townships in the past. These conditions were aimed at protecting a certain character and guiding the further development of the properties in a certain direction. The need for such condition to be replaced by the drafting of forward planning policies and zoning schemes. Thus these development restrictions no longer need to be duplicated within the title deeds of individual erven. Sufficient land use controls now exists so as to ensure that the property will not be developed to an inappropriate scale and density in the local context. Furthermore, the



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proposal is not seen to be out of character to the surrounding properties in terms of the scale of the dwelling. The proposed guest house will also be residential in nature and will thus also not negatively impact on the existing character of the area. Thus it can be argued that there would be no social benefit if the restrictive conditions were to remain in place.

Social benefit of the proposal and whether the application will completely remove all rights enjoyed by the beneficiary or only some of those rights

The proposed removal of the restrictive title conditions will not remove any development rights as enjoyed by any other property as the Stellenbosch Zoning Scheme will still restrict the development of the property and ensure the retention of the single residential character of the area and will hence have no real impact on the existing rights of the surrounding properties at all.

PART K: SUMMARY OF EVALUATION

- 1) Guesthouses are characteristic of the Stellenbosch Municipal area, as Stellenbosch is renowned as a popular tourist destination whether within the towns (Stellenbosch, Franschhoek, etc.) or within the rural areas.
- 2) The application property is a corner property, located opposite a large open space (Erf 4795) and the area is also characterized by wide streets and dense vegetation on the street front and therefore the 1,8m encroachment does not have a negative impact on the street vista.
- 3) From the above definition it is clear that the dwelling complies with the definition of a dwelling unit as the rooms are all inter-inleading with each other and access from the ground floor to the first floor is via an enclosed entrance hall.
- 4) Previous approvals have already been granted in the area for the construction of outbuildings which indicate that the removal of these conditions is not foreign to the area.
- 5) The dwelling unit complies with the other zoning parameters of the property.
- 6) The fact that the Stellenbosch Municipality Zoning Scheme Regulations makes provision for the establishment of a guest house in single residential areas implies that the proposed use is in line with the residential uses associated with a dwelling house.
- 7) The use of the property as a guest house should not result in any additional noise being generated as the use is residential in nature.
- 8) The traffic which will be generated will have a minimal impact on the traffic flow on the roads.
- 9) As the restrictions are not for the benefit for any specific property or person, and the development parameters will still be governed by the Stellenbosch Zoning Scheme, the deletion of these conditions will not negatively impact on the personal benefits of any surrounding property owner within this township development.



PART L: RECOMMENDATION

1. That **approval be granted** in terms of Section 60 of the Stellenbosch Municipal Land Use Planning By-Law, promulgated by notice number 354/2015, dated 20 October 2015, for the following applications on Erf 4731, Stellenbosch:
 - 1.1 **Removal of the restrictive title deed conditions** (section 15(2)(f)) Clause B.6(a) and (b) as contained in Deed of Transfer No. T50865/2016.
 - 1.2 **special development** (section 15(2)(o)) to permit the operation of a guesthouse (3 suites consisting of a total of 4 bedrooms) .
 - 1.3 **permanent departure** (section 15(2)(b)) in order to relax the street building line from **4,5m to 0m** and common building line (adjacent to Erf 4732, Stellenbosch) from **2,5m to 0m** to accommodate the existing planter and pool pump.
2. That the **approval(s) granted in Section 1 is subject to the following conditions in terms of Section 66 of the above-mentioned by-law;**
 - 2.1 The approval applies only to the removal of restrictive title conditions, special development and departure in question, and shall not be construed as authority to depart from any other legal prescriptions or requirements from Council;
 - 2.2 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;
 - 2.3 The approval shall lapse if not exercised within 5 years from date of final notification;
 - 2.4 The property be solely used for short term accommodation purposes and comply with the definition of a guest house at all times;
 - 2.5 Only a minor portion may be used for guest accommodation;
 - 2.6 The owner must stay on the property and the guest house must be operated by the owner;
 - 2.7 A business and liquor licence be applied for should it be required;
 - 2.8 Two (2) parking bays for the owner and three (3) parking bays for the guest house be provided on site;
 - 2.9 No parking will be allowed in the road reserve and the operation of the guest rooms must under no circumstances lead to a parking demand in excess of the parking bays provided on the property ;



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- 2.10 Should the establishment be operated in a manner which in the opinion of Council constitutes a nuisance, Council shall take legal action against the owner for contravening the provisions of the Zoning Scheme and not adhering to the conditions of approval;
- 2.11 No name or advertising sign shall be erected on the property, except one which complies with Council's approved policy on outdoor advertising and signage;
- 2.12 The conditions imposed by the **Manager: Health Services (Cape Winelands)** as contained in their memo dated 05 April 2019, be complied with (see **Appendix 10**);
- 2.13 The conditions imposed by the **Director: Engineering Services** as contained in their memo dated 09 May 2019, be complied with (See **Appendix 11**);
- 2.14 The conditions imposed by the **Manager: Electrical Services** as contained in their memo dated 05 June 2019, be complied with (See **Appendix 13**);
- 2.15 The applicant must after the publication of a notice in the Provincial gazette apply to the Registrar of Deeds to make the appropriate entries in, and endorsements on, any relevant register or title deed to reflect the removal, suspension or amendment of the restrictive conditions.
- 2.16 Building plans must be submitted to this Municipality for consideration for any internal alterations to the existing building.

PART M: REASONS FOR RECOMMENDATION

1. The residential character of the area will not be impacted on by the proposed use as the primary use of the property will still be residential;
2. Adequate onsite parking has been provided for the proposed use without impacting on the existing residential character of the property or surrounding area;
3. The proposed use is accommodated within the existing dwelling without alterations and additions being made to the existing building;
4. The fact that a guest house is to be considered as a special development in terms of the Stellenbosch Zoning Scheme Regulations on properties zoned single residential, highlights the intension of the zoning scheme to accommodate such uses after the necessary application procedure has been followed.



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PART N: APPENDICES

Appendix 1	Locality Map
Appendix 2	Proposed Site Development Plan
Appendix 3	Title deed and/or Conveyance certificate
Appendix 4	Motivation of Applicant
Appendix 5	Proof of Evidence (Public Participation, General Plan & Affidavit)
Appendix 6	Objections
Appendix 7	Comment on objections
Appendix 8	Comment from the Manager: Building Management
Appendix 9	Comment from the Manager: Fire Services
Appendix 10	Comment from Manager: Health Services
Appendix 11	Comment from Director Engineering Services
Appendix 12	Comment from the Manager: Spatial Planning, Heritage & Environment
Appendix 13	Comment from the Manager: Electrical Services
Appendix 14	Notices for unauthorised building works
Appendix 15	Copy of approved building plan
Appendix 16	Detail and height survey
Appendix 17	Structural investigation report
Appendix 18	Photos

PART T P: SIGNATURES

REPORT COMPILED BY:



LOUISA OLLYN
TOWN PLANNER

15/11/2019
DATE

RECOMMENDED BY:



R. FOOY
ACTING MANAGER: LAND USE MANAGEMENT

15/11/2019
DATE



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PART U: AUTHORISED EMPLOYEE DECISION IN TERMS OF SECTION 60 OF THE STELLENBOSCH MUNICIPAL LAND USE PLANNING BY-LAW, OCTOBER 2015:

APPROVE		APPROVE IN PART		REFUSE	
----------------	--	------------------------	--	---------------	--

Tick the appropriate box:

SIGNATURE: _____

DATE: _____

DR. D J DU PLESSIS
CHAIRPERSON: MUNICIPAL PLANNING TRIBUNAL

ADDITIONAL COMMENTS IF ANY:

APPENDIX 1

**APPLICATION FOR REMOVAL OF
RESTRICTIVE TITLE DEED CONDITIONS,
SPECIAL DEVELOPMENT AND PERMANENT
DEPARTURE ON ERF 4731, STELLENBOSCH.**

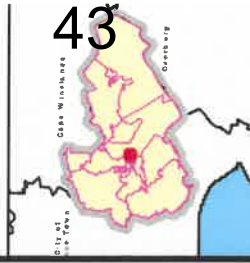
LOCALITY PLAN

Locality Map - Erf 4731, Stellenbosch

SCALE
1:4 513,99

Legend

43



Stellenbosch Municipality
Planning & Economic Development
Created by: Corporate GIS

Date: 2019-10-01



Author: Stellenbosch Municipality

Stellenbosch Municipality
Street Address: 7600
71 Plain Street, Stellenbosch, 7600
Tel: 02 1 808 8658

This map is an aerial view of the information currently held by the Municipality. It is not a cadastral map. It is not intended to be used as a legal document. It is not intended to be used as a legal document. It is not intended to be used as a legal document.

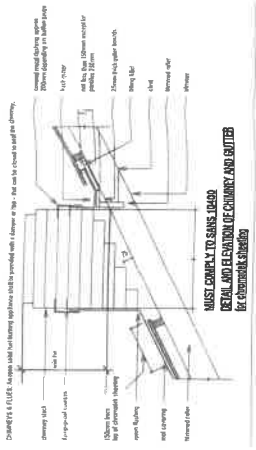
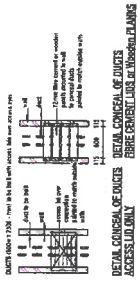
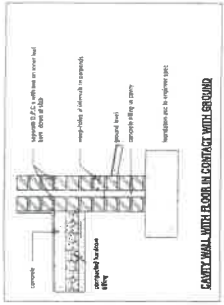


Stellenbosch Municipality

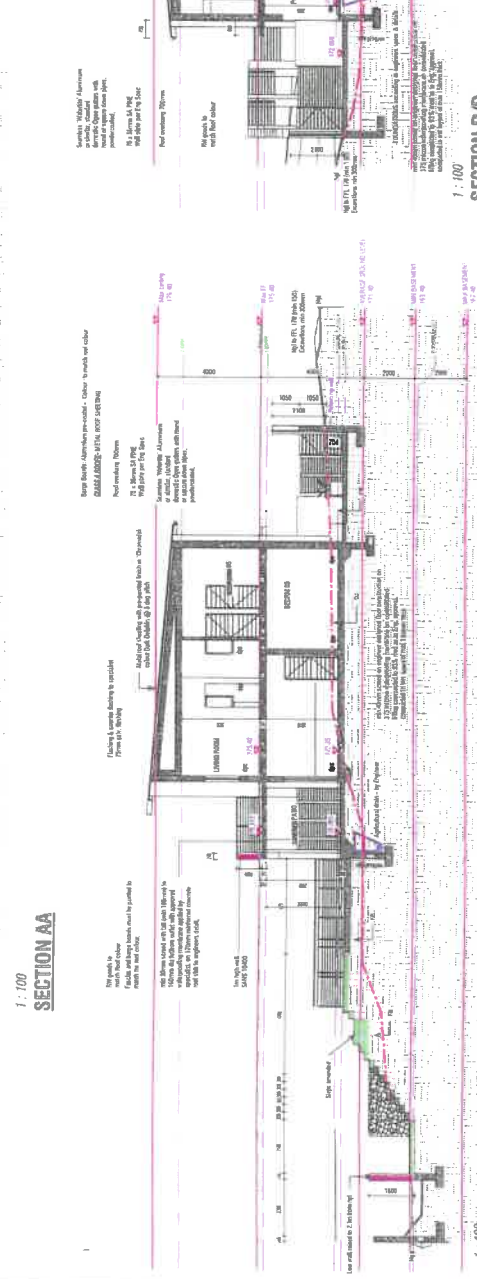
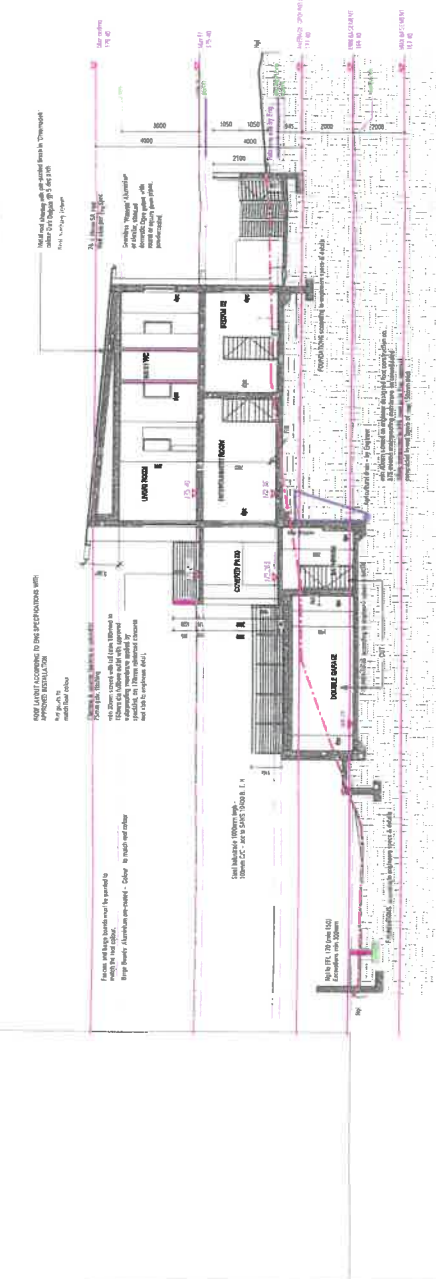
APPENDIX 2

**APPLICATION FOR REMOVAL OF
RESTRICTIVE TITLE DEED CONDITIONS,
SPECIAL DEVELOPMENT AND PERMANENT
DEPARTURE ON ERF 4731, STELLENBOSCH.**

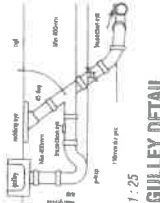
SITE DEVELOPMENT PLAN



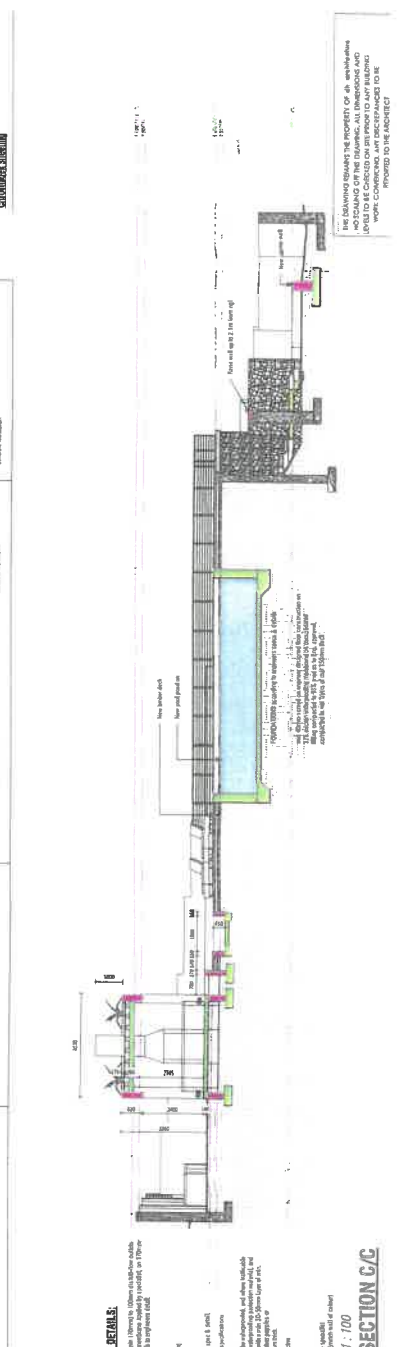
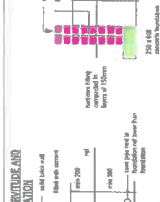
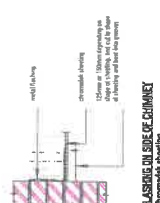
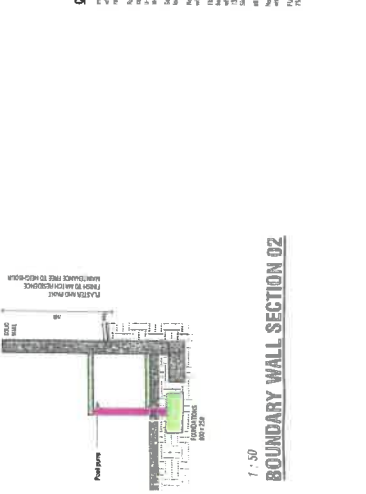
1:20 Concrete roof edge - Drip Detail



1:100 SECTION D/D



1:100 SECTION C/C



dh architecture
 County Centre | 171 Main Road | Somerset West | 7130 | 084 584 1814 | dhanov@dharchitecture.com

Project No: HOUSE BOHN, ERF 4731 STELLENBOSCH

Scale: As indicated
 Drawing: CS03
 Date: 10/2

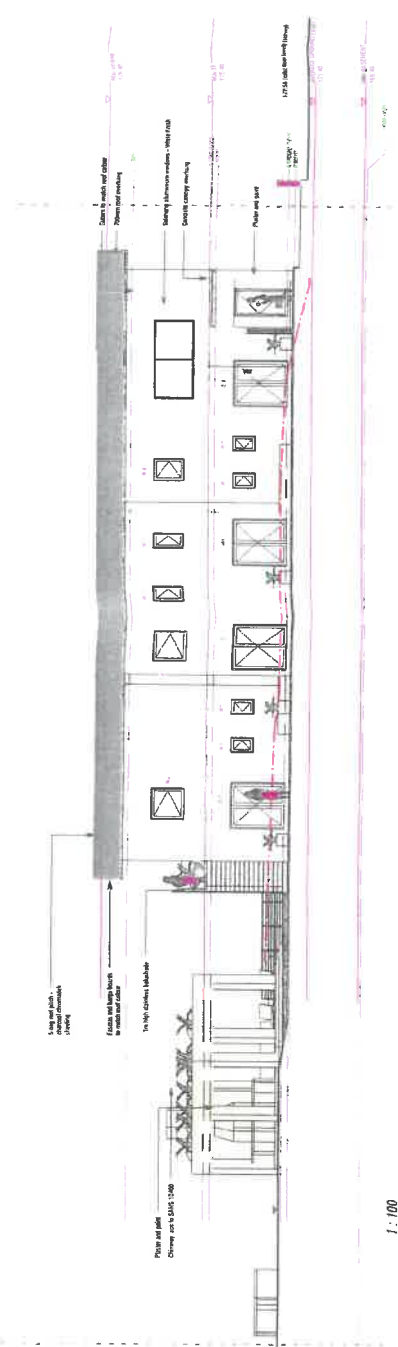
SACA Registration Number: 1714-103454
 As indicated
 Alterations and Additions

THE DRAWING REMAINS THE PROPERTY OF dh ARCHITECTURE. NO FURTHER USE OF THE DRAWING, ALL DIMENSIONS AND DETAILS, IS TO BE COPIED OR REPRODUCED IN ANY MANNER WITHOUT THE WRITTEN PERMISSION OF THE ARCHITECT.

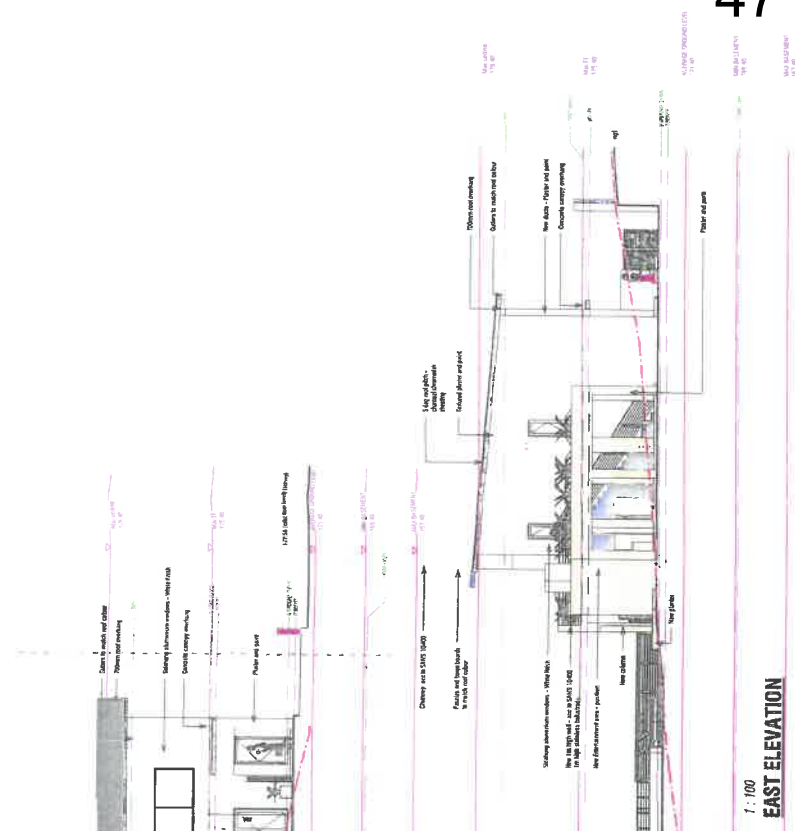
CONCRETE ROOF DETAILS
 The drawing shows the details of the concrete roof. The concrete must be cast in one continuous pour. The reinforcement must be installed before the concrete is poured. The concrete must be cured for a minimum of 28 days before the roof is finished.

BOUNDARY WALL SECTION 02
 The drawing shows the details of the boundary wall. The wall must be constructed in accordance with the specifications. The foundation must be cast in one continuous pour. The concrete must be cured for a minimum of 28 days before the wall is finished.

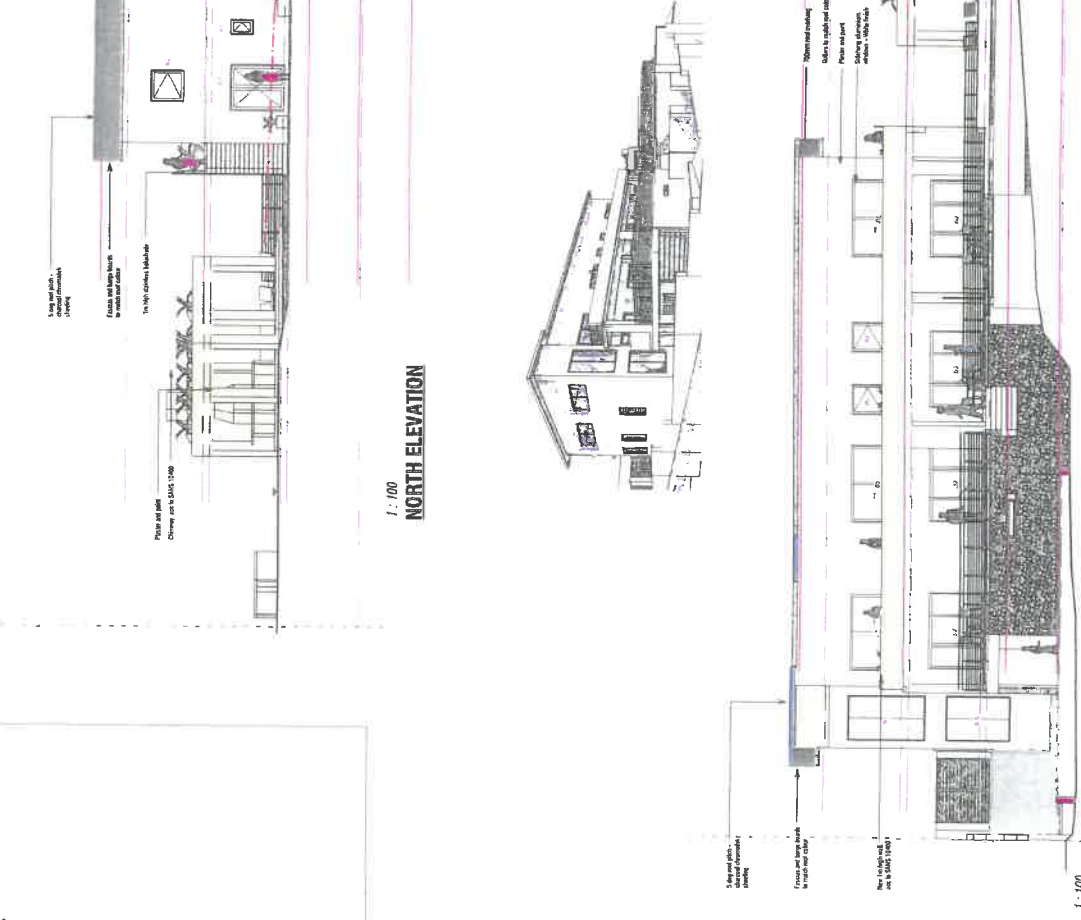
THIS DRAWING REMAINS THE PROPERTY OF dh architecture. NO PART OF THIS DRAWING IS TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, WITHOUT PERMISSION IN WRITING FROM dh architecture.



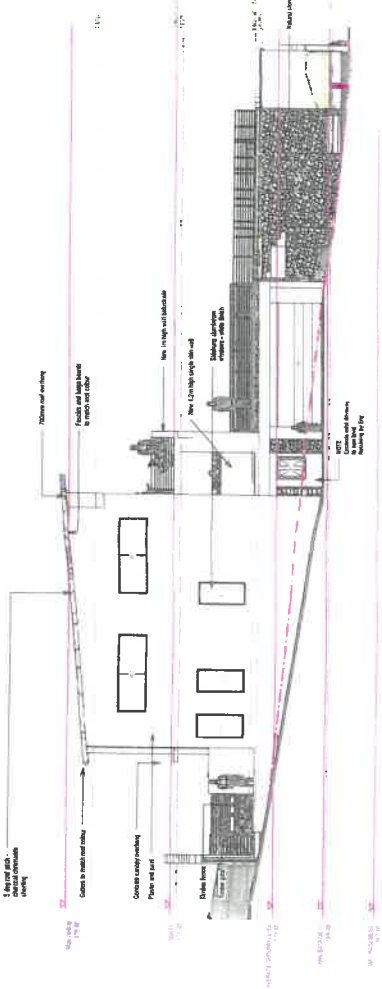
1:100 NORTH ELEVATION



1:100 EAST ELEVATION



1:100 SOUTH ELEVATION



1:100 WEST ELEVATION



GENERAL REQUIREMENTS

STRUCTURE

ALL WALLS CONFORMATIONS AND I.C. OTHERS SHALL BE AS SPECIFIED IN THE DRAWINGS. ALL CONCRETE SHALL BE CAST IN PLACE. ALL FOUNDATIONS SHALL BE TO THE DEPTH AS SPECIFIED IN THE DRAWINGS.

FLOORING

FLOORING SHALL BE CAST IN PLACE ON FORMS. ALL FLOORING SHALL BE FINISHED TO THE FINISH AS SPECIFIED IN THE DRAWINGS. ALL FLOORING SHALL BE COMPACTED AND FINISHED TO THE FINISH AS SPECIFIED IN THE DRAWINGS.

ROOFING

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PAINTING

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PLASTER

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WOODWORKING

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CONCRETE

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ROOFING

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COUNCIL SUBMISSION

DATE: 11/17/2017

SCALE: 1:50

PROJECT: HOUSE BOHM, ERF 4731 STELLENBOSCH

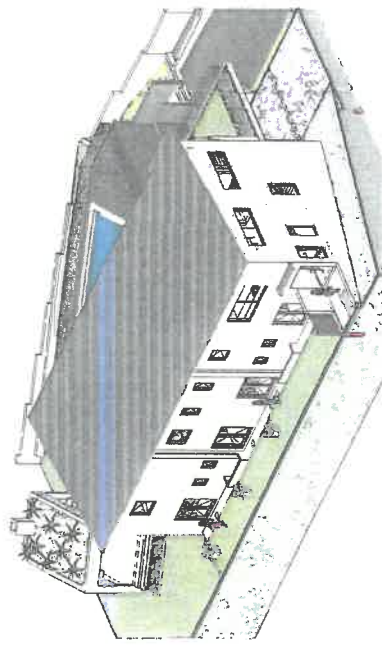
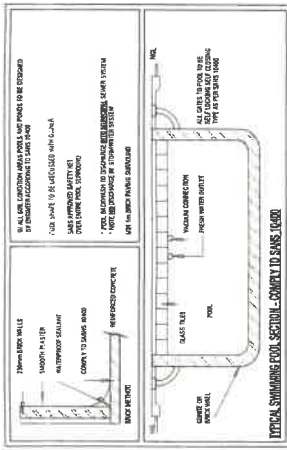
CLIENT: dh architecture

103

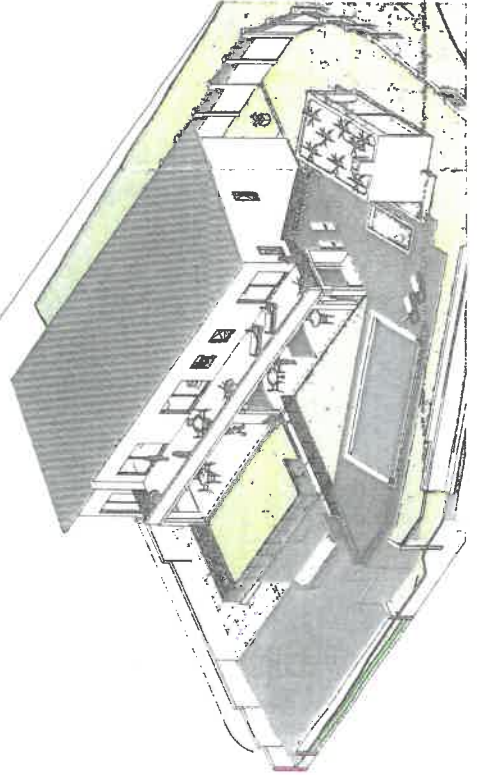
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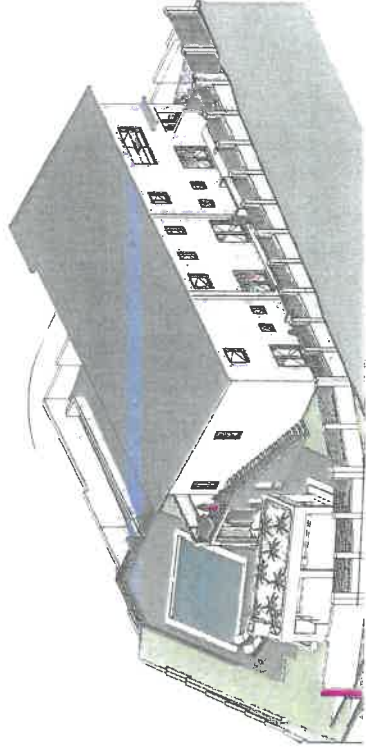
COURTESY CENTRE | 177 Marsh Road | Somerset West | 7130 | 084 - 445 - 1514 | donovan@dharchitecture.com



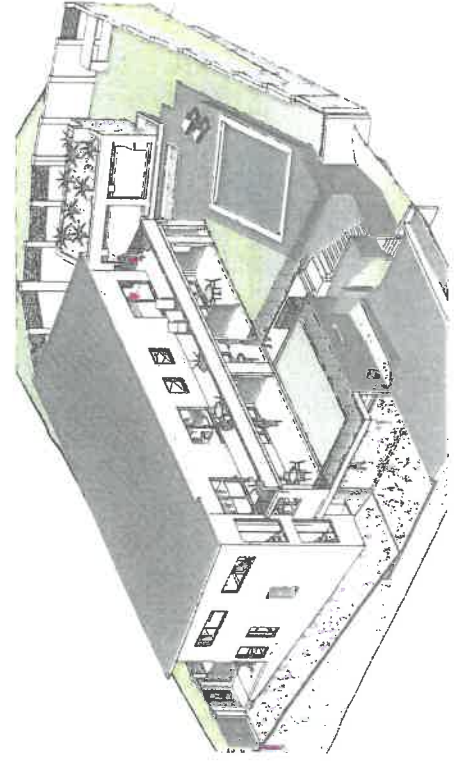
NORTH-WEST PERSPECTIVE



SOUTH EAST PERSPECTIVE



NORTH EAST PERSPECTIVE



SOUTH WEST PERSPECTIVE

THE DRAWINGS SHALL BE PROPERTY OF dh architecture AND SHALL REMAIN THE PROPERTY OF dh architecture AND SHALL NOT BE REPRODUCED OR USED IN ANY MANNER WITHOUT THE WRITTEN CONSENT OF dh architecture AS REPORTED TO THE ARCHITECT.

APPENDIX 3

**APPLICATION FOR REMOVAL OF
RESTRICTIVE TITLE DEED CONDITIONS,
SPECIAL DEVELOPMENT AND PERMANENT
DEPARTURE ON ERF 4731, STELLENBOSCH.**

**COPY OF TITLE DEED/CONVEYANCER
CERTIFICATE**



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CONVEYANCER CERTIFICATE

I, Grant Alastair Gregory Hill,
(conveyancer's name and surname)

Practising at:
Miller Bosman Le Roux Attorneys
Parc du Links
9 Niblick Way
Somerset West
7130
(firm and place of practice)

In respect of:
Erf 4731 Stellenbosch
In the Municipality and Division of STELLENBOSCH
Western Cape Province
(full property description (erf / farm) as it appear in title deed of same)

Hereby certify that a search was conducted in the Deeds Registry, regarding the said property (ies)
(including both current and earlier title deeds/pivot deeds/deeds of transfer):

- 1. Holding Deed T50865/2016
- 2. Pivot Deed T2907/1914
- 3. Prior Deed T26573/1972..
- 4.
- 5.
- 6.
- 7.
- 8.

For example Deed of Transfer T12345/2000 or Certificate of Registered Sectional Title ST1234/2000 (description of title deed number and date)



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A. IDENTIFY RESTRICTIVE TITLE CONDITIONS (if any)

Categories		Are there deed restrictions (indicate below)		Title Deed and Clause number if restrictive conditions are found
1.	Use of land	<input checked="" type="radio"/> Y	<input type="radio"/> N	T50865/2016 Clause 6(a)
2.	Building lines	<input checked="" type="radio"/> Y	<input type="radio"/> N	T50865/2016 Clause 6(b)
3.	Height	<input type="radio"/> Y	<input checked="" type="radio"/> N	
4.	Number of Dwellings	<input checked="" type="radio"/> Y	<input type="radio"/> N	T50865/2016 Clause 6(a)
5.	Bulk floor area	<input type="radio"/> Y	<input checked="" type="radio"/> N	
6.	Coverage/built upon area	<input type="radio"/> Y	<input checked="" type="radio"/> N	
7.	Subdivision	<input type="radio"/> Y	<input checked="" type="radio"/> N	
8.	Servitudes that may be registered over or in favour of the property	<input type="radio"/> Y	<input checked="" type="radio"/> N	
9.	Other Restrictive Conditions	<input type="radio"/> Y	<input checked="" type="radio"/> N	



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B. INDICATE AFFECTED PARTIES AS PER TITLE DEED (if any)

(Tick the appropriate box)
 for a special development (consent for a guest house on the property.)

a.	Organ(s) of State that might have an interest in the restrictive condition	Administrator of the Western Cape
b.	A person whose rights or legitimate expectations will be affected by the removal/suspension/amendment of a restriction condition.	N/A
c.	All persons mentioned in the deed for whose benefit the restrictive condition applies	Stellenbosch Municipality

C. PROCESS BY WHICH RELEVANT CONDITIONS WILL BE ADDRESSED

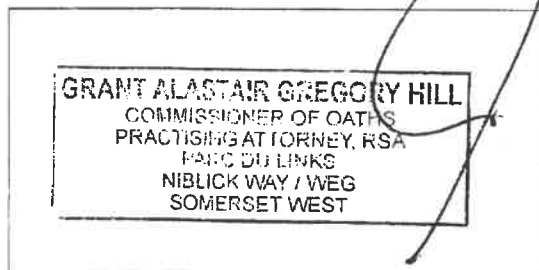
(Tick the appropriate box)

<input checked="" type="checkbox"/> Application in terms of Section 15 of the Stellenbosch Municipal Land Use Planning By-Law (2015)	<input type="checkbox"/> Notarial Deed of Cancellation (Submit Copy of Signed Agreement)	<input type="checkbox"/> Action by way of court order (Submit Copy of the Court Order)	<input type="checkbox"/> If Other, Please Specify
--	--	--	---

Signed at Somerset West (Place) on this 09 (Day) July (Month) of 2018

Full names and Surname: Grant Alastair Gregory Hill

Signature: 



Tel: 021-840 8000

Email: grant@mbll.co.za

Cell: 082-5572449

83

Bomman & Hayward
2 Reiger Street
Stellenberg
Bellville
7530

Fee		Office No
Purchase price/Value	4700 00-00	1650-00
Ing		
Mortgage amount		
Reason for exemption	Cat	section Act

Prepared by me,

[Signature]
CONVEYANCER
HENRIK PIERRE VAN DER MERWE

DATA / VERIFY
07 SEP 2016
NCAP/LINDA

T 000050865 / 2016

DEED OF TRANSFER

BE IT HEREBY MADE KNOWN:

THAT **JOHLENE FOURIE**

appeared before me, REGISTRAR OF DEEDS at CAPE TOWN, he/she, the said Appearer, being duly authorised thereto by a Power of Attorney granted to him/her by

DESIREE RAIDOO of SANLAM TRUST LIMITED as assignee by virtue of an Estate Power of Attorney signed at Bellville on 6 November 2015 of **THE EXECUTOR IN ESTATE LATE JOHAN JACOB DU PREEZ** Estate Number 14815/2015

dated 13 May 2016

and signed at BELLVILLE

Bomman & Hayward Inc

DATA / CAPTURE
2016 -09- 15
PUMELELA MNAMATA

AND the said Appearer declared that his/her principal the said **the Executor in estate LATE JOHAN JACOB DU PREEZ** had on **9 May 2016** truly and legally sold and that he/she, the said Appearer in his/her capacity aforesaid; did, by these presents cede and transfer to and on behalf of:

THOMAS BOHN
Born on 08 August 1967
Married, which marriage is governed by the Laws of GERMANY

his heirs, executors, administrators or in full and free property:

ERF 4731 STELLENBOSCH

in the Municipality and Division of STELLENBOSCH
 WESTERN CAPE PROVINCE

IN EXTENT: 1182 (ONE THOUSAND ONE HUNDRED AND EIGHTY TWO) Square Metres

FIRST TRANSFERRED and STILL HELD by Deed of Transfer T26573/1972 with General Plan TP8054 relating thereto

- A. SUBJECT to the conditions referred to in Deed of Transfer T2907/1914**
- B. SUBJECT FURTHER to the following conditions contained in Deed of Transfer T26573/1972 imposed by the Administrator of the Cape of Good Hope with the approval of the establishment of the said Township, namely:**

- "1. Alle woorde en uitdrukkings wat in die volgende voorwaardes gebesig word, het dieselfde betekenis as wat daaraan geheg word by regulasies afgekondig by Provinsiale Kennisgewing Nr 383 van 13 Junie 1958.
2. Ingeval 'n dorpsaanlegskema of enige gedeelte daarvan op hierdie erf van toepassing is of daarop van toepassing gemaak word, sal enige bepalinge daarvan wat meer beperkend is as enige voorwaardes van eiendomsreg wat op hierdie erf van toepassing is voorkeur geniet. Enige bepalinge van hierdie voorwaardes moet nie opgevat word as sou dit die bepalinge van Artikel 146 van Ordonnansie Nr. 15 van 1952, soos gewysig, vervang nie.
3. Die eienaar van hierdie erf is verplig om sonder betaling van vergoeding toe te laat dat elektrisiteits-kabels of -drade en hoof- en/of ander waterpype en die rioolvuil en dreinerings, insluitende stormwater van enige ander erf of erwe, binne of buite hierdie dorp, oor hierdie erf gevoer word indien dit deur die plaaslike owerheid nodig geag word, en wel op die wyse en plek wat van tyd tot tyd redelikerwys vereis word. Dit sluit die reg op toegang te alle redelike tye tot die eiendom in met die doel om enige

werke met betrekking tot bogenoemde aan te lê, te wysig, te verwyder of te inspekteer.

4. Die eienaar van hierdie erf is verplig om sonder vergoeding op die erf die materiaal te ontvang of uitgrawings op die erf toe te laat al na vereis word, sodat die volle breedte van die straat gebruik kan word en die wal veilig en behoorlik skuins gemaak kan word omrede van die verskil tussen die hoogte van die straat soos finaal aangelê en die erf tensy hy verkies om steunmure te bou tot genoeg van en binne 'n tydperk wat die plaaslike owerheid bepaal.
5. Geen gebou op hierdie erf mag gebruik word of van gebruik verander word vir 'n ander doel as wat volgens hierdie voorwaardes toegelaat word nie.
6.
 - (a) Hierdie erf mag alleenlik gebruik word vir die oprigting daarop van een woning of ander geboue vir die doeleindes wat die Administrateur van tyd tot tyd, na oorleg met die Dorpekommissie en die plaaslike owerheid, goedkeur, met dien verstande dat, indien die erf in die gebied van 'n dorpsaanlegskema ingesluit is, die plaaslike owerheid enige ander geboue wat deur die skema toegelaat word, kan toelaat onderworpe aan die voorwaardes en beperkings wat in die skema bepaal word.
 - (b) Geen gebou of struktuur of enige gedeelte daarvan, behalwe grensmure en heinings, mag behalwe met die toestemming van die Administrateur nader as 6,30 meter van die straatlyn wat 'n grens van hierdie erf uitmaak, asook nie binne 3.15 meter van enige ander grens opgerig word nie.
 - (c) By konsolidasie van hierdie erf of enige gedeelte daarvan met enige aangrensende erf wat onderworpe is aan dieselfde voorwaardes as die wat hierin uiteengesit word, is hierdie voorwaardes op die gekonsolideerde eiendom van toepassing asof dit een erf is.
 - (d) Ingeval hierdie erf onderverdeel word, is elke onderverdeelde gedeelte, uitgesonderd 'n gedeelte afgesny vir pad- of derglike doeleindes, onderworpe aan die voorwaardes hierin uiteengesit asof dit die oorspronklike erf is."

WHEREFORE the Appearer, renouncing all the right, title and interest which the said the Executor in estate LATE JOHAN JACOB DU PREEZ heretofore had to the premises, did, in consequence also acknowledge him, to be entirely dispossessed of, and disentitled to, the same; and that, by virtue of these presents, the said THOMAS BOHN Married, which marriage is governed by the Laws of GERMANY his heirs, executors, administrators or assigns their heirs, executors, administrators or assigns now is and henceforth shall be entitled thereto, conformably to local custom, the State, however, reserving its rights, and finally acknowledging the purchase price of the property hereby transferred to be the sum of R4 700 000.00 (FOUR MILLION SEVEN HUNDRED THOUSAND RANDS).

IN WITNESS WHEREOF I, the said Registrar of Deeds together with the Appearer, have subscribed to these presents, and have caused the Seal of Office to be affixed thereto.

THUS DONE AND EXECUTED at the Office of the REGISTRAR OF DEEDS at CAPE TOWN on 22 August 2016



q.q. Signature of Appearer

In my presence:



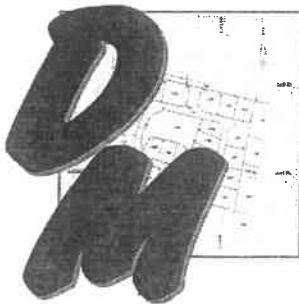
Registrar of Deeds

APPENDIX 4

**APPLICATION FOR REMOVAL OF
RESTRICTIVE TITLE DEED CONDITIONS,
SPECIAL DEVELOPMENT AND PERMANENT
DEPARTURE ON ERF 4731, STELLENBOSCH.**

MOTIVATION

**REMOVAL OR RESTRICTIONS,
PERMAMENT DEPARTURES AND
SPECIAL DEVELOPMENT
APPLICATION FOR A GUEST HOUSE
ON ERF 4731, STELLENBOSCH,
STELLENBOSCH MUNICIPALITY,
ADMINISTRATIVE DISTRICT OF
STELLENBOSCH**



DIESEL & MUNNS INC.

Professional Land Surveyors • Town and Regional Planners
Professionele Landmeters • Stads- en Streekbepanners
Sectional Title Consultants and Topographical Surveyors
Deeltitel Konsultante en Topografiese Opmeters

20 St. James Street/Straat
P. O. Box 475
SOMERSET WEST 7129

Tel: (021) 852-3800/852-3759
E-mail: planning@dieselandmunns.co.za

MOTIVATION REPORT

SPECIAL DEVELOPMENT APPLICATION FOR A GUEST HOUSE ON ERF 4731, STELLENBOSCH, STELLENBOSCH MUNICIPALITY, ADMINISTRATIVE DISTRICT OF STELLENBOSCH

1 PROPERTY DESCRIPTION

The property in question is Erf 4731, Stellenbosch, situate in the Stellenbosch Municipality, Division of Stellenbosch, Western Cape Province (Hereafter referred to as **The Property**).

2 REGISTRATION DETAILS

Registered Owner: Thomas Bohn

Area: 1182 square metres

Title Deed: T50865/2016

Existing Zoning: Single Residential Zone

3 THE APPLICATION

Application is hereby made on behalf of the registered owner for the following:

- i) Removal of restrictive title conditions B. 6. (a) and (b) in terms of Section 15(2)(f) of the Stellenbosch Municipal Land Use Planning By-Law, 2015.
- ii) Permanent departure for the relaxation of the common and street building lines on Erf 4731 Stellenbosch to 0m to accommodate the existing planter and pool pump on the property in terms of Section 15(2)(b) of the Stellenbosch Municipal Land Use Planning By-Law, 2015.

- iii) Special Development for the establishment of a guest house on Erf 4731 Stellenbosch in terms of Section 15(2)(o) of the Stellenbosch Municipal Land Use Planning By-Law, 2015.

4 LOCALITY

The Property is located within the Rozendal suburb of Stellenbosch at the intersection of Paul Sauer and Rozendal Streets. The property is bordered on the eastern side by Erven 4732 and 4733 and on the south-western side by Erf 4730 (see Locality Plan C5626/Loc attached to this application). Photo 1 below is an aerial image indicating the location of the property.



Photo 1: Aerial image of the property.

5. LAND USE AND ZONING

The property is currently zoned for Single Residential purposes, and is currently being utilised as a single residential property. The owner of the property recently had building plans approved and constructed a new dwelling on the property. Some of the existing structure were not constructed according to the approved plans and rider plans were submitted to the Local Authority for approval for the existing dwelling on the property. It was then picked up that there are restrictions in the title deed pertaining to building lines within which the building is located. Thus the original

plans were approved in error and the main dwelling (which is constructed according to the approved plans) is contrary to these restrictions. Thus an application for the removal of these restrictive title conditions is being submitted to accommodate the existing dwelling on the property.

The property is bordered on all sides by properties that are also zoned for single residential purposes which are utilised according to their zonings. Indication of the surrounding land uses can be seen on the land use map attached in Annexure A.

6. FORWARD PLANNING

The Stellenbosch Municipality Spatial Development Framework, 2018 (SSDF) indicates the property to be located within the Council Approved Urban Edge. The SSDF identifies tourism as being one of Stellenbosch's most competitive economic sector. The SDF calls for tourism to be encouraged, especially if it reinforces the municipality's sense of place. The establishment of a guest house in an existing residential dwelling would not only support the growth of this sector, but would also aid in the economic growth of the town as a whole through the attraction of tourists, and hence income, to the area. The protection of the existing character of the surrounding rural areas is also seen to be important, and the provision of tourist accommodation within the established urban area, and not in the surrounding countryside, will support this criteria.

The proposed guest house will also benefit the economy through the creation of much needed employment opportunities through the hiring of staff to run the facility (managers, cleaners, etc.). The SDF also seeks to improve sustainability through the minimising of ecological footprints. As the proposal is essentially the utilisation of the existing dwelling on the property as a guest house, and will not lead to any further development of the property, it can be seen to be in line with this policy criteria. Illustration 1 below is an extract from the Stellenbosch Municipality Spatial Development Framework indicating the approximate location of the property in relation to the Urban Edge.



Illustration 1: Extract from the Stellenbosch Municipality Spatial Development Framework, 2018.

7. RESTRICTIVE CONDITIONS OF TITLE

There are restrictive conditions of title contained within the Title Deed that inhibit the utilisation of the property for as a Guest House. The building plans for the existing dwelling were approved, but some of the structures were constructed in a slightly different position. Revised plans were submitted for approval where it was picked up that there were restrictions relating to the building lines on the property. Thus the existing building was constructed within the building lines as prescribed within the title deed, and these thus now need to be removed to accommodate the existing structures on the property (that were mainly constructed according to approved building plans). Thus an application is being submitted to remove conditions B. 6. (a) and (b) from title deed number T50865/2016. This is confirmed in the title deed and conveyancer's certificate, which have been attached in Annexure C and Annexure E respectively.

8. MOTIVATION

8.1 Character of the surrounding area

The property is located within an area that is characterised by single residential properties, with a nature reserve and public open space located diagonally across the road (see land use plan attached in Annexure A). The majority of the properties have been developed according to their zonings with all of the directly adjoining properties being utilised as single residential properties. As the proposal is essentially dealing with the internal conversion of an existing (approved) dwelling on the property to allow for it to be utilised as a guest house, the scale and character of the development will be in line with the structures that have been developed on the surrounding single residential properties. This proposal will not lead to the development of any additional structures on the property.

No external alterations to the existing structure are being proposed as a result of this application thus allowing for the retention of the existing visual character of the property, and hence having no impact on the existing streetscape whatsoever. The existing residential character of the building is being retained, but a Special Development approval is required to utilise the recently constructed building as a guest house consisting of four guest bedrooms located on the ground floor of the dwelling. The owner of the property will reside on the first floor of the dwelling as indicated on the Site Development Plan attached in Annexure A. All the proposed internal changes are minimal in nature and thus the building can easily be re-converted back to a single residential dwelling should it no longer be utilised as a guest house in the future.

The existing visual character of the building will be retained as only extremely minor internal alterations will be made to the approved dwellings, with none of these being visible from any adjoining property and/or public street. As no external alterations are being proposed to the approved dwellings on the property, and only internal modifications will be made to allow for the building to be utilised as a guest house, the scale and design of the property will not appear out of character with the existing structures and uses of the surrounding erven. The structures on the property will still have the appearance of a single residential dwelling unit, and the scale and design of the structures have been indicated on the Site Development Plan attached in Annexure A. This is mainly due to the majority of the properties in the surrounding area having been similarly developed, where the existing (extensive) dwellings on the properties are utilised for residential purposes. Furthermore, as the existing access point (driveway) will be utilised by the guest house and no alterations to the street facade are being proposed, the proposed guest house will also have no impact on the existing streetscape along this section of Paul Sauer Street.

As the proposal is allowing for the use of the building as an up market guest house on a well established landscaped property, the impacts on the surrounding neighbourhood will be minimal. The proposed utilisation of the dwelling on the property as a guest house poses no problems for the surrounding properties with regard to noise generation and the levels of traffic that will be generated as a result of the letting of the guest rooms associated with the facility. This is because the use of the structures as a guest house could be argued to be residential in character, and the proposed up market nature of the proposed facility will ensure the tranquillity of the surrounding area. The scale and nature of the facility have been indicated on the Site Development Plan that has been attached to this application.

As the proposed guest house will be located within a well established residential neighbourhood, the guests of the facility will have easy access to all the amenities that the Stellenbosch town and surrounding Winelands District have to offer.

8.2 Removal of Restrictive Title Conditions

As stated previously, the title deed for the property does contain a restrictive conditions that impact on the proposal as submitted. These conditions relate to the use and building lines on the property. As stated previously, the current building was constructed on the property after building plans were approved, but some structures die deviate slightly on the property. Thus revised building plans were submitted to correct these errors (mainly to do with the entertainment outbuilding), and it was picked up that the previous building plans were approved in error, and that the buildings encroach into the building lines as stipulated within the title deed.

It is thus being proposed that condition E.(i).f be removed from Title Deed T59976/2012 as contemplated in Section 39 of the Land Use Planning Act (LUPA) No. 3 of 2014, as well as Section 33 of the Stellenbosch Municipality Land Use Planning By-Law, 2015.

These conditions were imposed by the Administrator in 1972 to act as land use parameters for the properties when approving the development of Stellenbosch Extension 16 as indicated on the General Plan attached in Annexure A. As there has been the development and approval of a Zoning Scheme for the Stellenbosch Municipal area, there is now no need to duplicate these development restrictions within the title deeds of the individual erven. The regulations of the Stellenbosch Zoning Scheme will thus become the applicable parameters for the property. These regulations prescribe building lines and total floor areas permitted for single residential properties, and any deviations from these regulations will be subject to the required application processes at the Local Authority (permanent departures). The building lines that are prescribed in these

regulations for single residential dwellings allow for a 4,5m street building line and 2,5m common building lines. Thus, in order to be able to accommodate the existing structures on the property (that were done according to building plans that were approved in error) and the proposed guest house, restrictions B. 6. (a) and (b) will have to be removed from the title deed.

The proposal will also not deprive any person of property as contemplated in Section 25 of the Constitution of South Africa. The proposed removal of the restrictive conditions will in no way lead to any degradation of the social benefits as currently enjoyed by the surrounding property owners, as the application proposes a development that is seen to be compatible with the surrounding land uses. The proposed removal of the restrictive conditions will also not lead to any loss of development rights by adjoining owners.

As stated in Section 39(5) of LUPA, when a municipality considers the removal, suspension or amendment of a restrictive condition, it must give due regard to the following:

8.2.1 The financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity.

The respective restrictive conditions were imposed as part of the approval of the development of Stellenbosch Extension 16 as indicated on the General Plan attached in Annexure A. These restrictions were thus for the benefit of all of the residents of this township development. The proposal is for the removal of restrictions applicable to the building lines within which the existing dwelling already encroaches as a result of having been approved in error, as well as the utilisation of this existing building on the property for a guest house. Thus the proposal is seen to have no negative impact on any surrounding property and will have no financial implications. No person or entity can argue that they will suffer any financial loss (value) as a result of the removal of this restriction as they are not in favour of any property and/or individual. They are development restrictions that will still be governed by the parameters as set out within the Stellenbosch Zoning Scheme. Thus it can be argued that these restrictions hold no financial value to any surrounding property.

8.2.2 The personal benefits which accrue to the holder of the rights.

As these restrictions are not for the benefit for any specific property or person, and the development parameters will still be governed by the Stellenbosch Zoning Scheme, the deletion of these conditions will not negatively impact on the personal benefits of any surrounding property owner within this township development. Thus the deletion of these

conditions will not be removing any benefits to the holder of these rights in terms of the restrictive conditions.

8.2.3 The personal benefits which will accrue to the owner removing the conditions.

The proposed removal of the restrictive title conditions will allow for the existing dwelling to remain on the property and the owner of the property to utilise this dwelling as a guest house. This will allow for the owner to maximise the value of the property and hence obtain some personal financial benefit through the running of a guest house on the property. Furthermore, this personal financial gain will not lead to any loss in value (loss of benefits) of any of the surrounding properties.

8.2.4 The social benefit of the restrictive conditions remaining in place.

These restrictive conditions were typically placed within title deeds of properties in order to place development controls within newly established townships in the past. These conditions were aimed at protecting a certain character and guiding the further development of the properties in a certain direction. The need for such conditions to be placed within title deed has been replaced by the drafting of forward planning policies and zoning schemes. Thus these development restrictions no longer need to be duplicated within the title deeds of individual erven. Sufficient land use controls now exists so as to ensure that the property will not be developed to an inappropriate scale and density in the local context. Furthermore, the proposal (that requires the removal of these restrictive title conditions) is not seen to be out of character to the surrounding properties in terms of the scale of the dwelling. The proposed guest house will also be residential in nature and will thus also not negatively impact on the existing character of the area. Thus it can be argued that there would be no social benefit if the restrictive conditions were to remain in place.

8.2.5 Social benefit of the removal of the restrictive conditions.

As discussed above, there are many benefits associated with the proposed land use intensification of the property, ranging from a more efficient urban structure to increased rates and taxes revenue for the Local Authority which can be utilised to meet a variety of social needs. The owner of the property will be able to earn an income from the guest house and provide for employment opportunities in the area. All of these benefits essentially will lead to a social benefit being gained through the removal of the restrictive title conditions.

8.2.6 Whether the removal of the restrictive conditions will completely remove all rights enjoyed by the beneficiary, or only some of these rights.

The proposed removal of the restrictive title conditions will not remove any development rights as enjoyed by any other property as the Stellenbosch Zoning Scheme will still restrict the development of the property and ensure the retention of the single residential character of the area.), and will hence have no real impact on the existing rights of the surrounding properties at all.

8.3 Services

No problems are foreseen with regard to the provision of services to the proposed development, as the current structures located on the property are already linked to the municipal services. No extensions to the existing structures are proposed that would increase the capacity requirements for the various services.

8.4 Parking and Access

Access will continue to be gained to the parking areas on the property via the existing access points onto Paul Sauer Street as indicated on the SDP attached in Annexure A. The existing driveway area on the property will be utilised to provide the necessary on-site parking pays for the guest house. A total of five bays are being provided with two being located within the double garage. The proposed access point and on-site parking have been indicated on the Site Development Plan attached in Annexure A.

8.5 Other Applications

The the National Heritage Resources Act (Act No. 25, 1999) states that any development or activity that will change the character of a site exceeding 5 000 m² in extent will require the submission of a application in terms of the act. As the property is only 1182m² in extent and the proposal is utilising existing structures, which will only be altered internally, it does not constitute a listed activity in terms of this act, and therefore a Notification of Intent to Develop application in terms of Section 38 of the National Heritage Resources Act (Act No. 25, 1999) will not be required.

9. DESIRABILITY

Section 65 of the Stellenbosch Municipal Land Use Planning By-Law, 2015 sets out certain evaluation criteria which determine the desirability of a proposed development. These criteria include the following:

(1) When the Stellenbosch Municipality considers an application, it must have regard to the following:

- (a) the application submitted in terms of this By-law;
 - (b) the procedure followed in processing the application;
 - (c) the desirability of the proposed utilisation of land and any guidelines issued by the Provincial Minister regarding the desirability of proposed land uses;
 - (d) the comments in response to the notice of the application, including comments received from organs of state, municipal departments and the Provincial Minister in terms of section 45 of the Land Use Planning Act;
 - (e) the response by the applicant, if any, to the comments referred to in paragraph (d);
 - (f) investigations carried out in terms of other laws that are relevant to the consideration of the application;
 - (g) a registered planner's written assessment in respect of an application for—
 - (i) a rezoning;
 - (ii) a subdivision of more than 20 cadastral units;
 - (iii) a removal, suspension or amendment of a restrictive condition if it relates to a change of land use;
 - (iv) an amendment, deletion or imposition of additional conditions in respect of an existing use right;
 - (v) an approval of an overlay zone contemplated in the zoning scheme;
 - (vi) a phasing, amendment or cancellation of a subdivision plan or part thereof;
 - (vii) a determination of a zoning;
 - (viii) a closure of a public place or part thereof;
 - (h) the impact of the proposed land development on municipal engineering services;
 - (i) the integrated development plan, including the municipal spatial development framework;
 - (j) the integrated development plan, including the spatial development framework;
 - (k) the applicable local spatial development frameworks adopted by the Municipality;
 - (l) the applicable structure plans;
 - (m) the applicable policies of the Municipality that guide decision-making;
 - (n) the provincial spatial development framework;
-

- (o) where applicable, a regional spatial development framework contemplated in section 18 of the Spatial Planning and Land Use Management Act or provincial regional spatial development framework;
- (p) the policies, principles and the planning and development norms and criteria set by the national and provincial government;
- (q) the matters referred to in section 42 of the Spatial Planning and Land Use Management Act;
- (r) the principles referred to in Chapter VI of the Land Use Planning Act; and
- (s) the applicable provisions of the zoning scheme.

Taking into account all of the above it is clear that the proposed development will have no impact on the surrounding environment which can be construed to be undesirable in respect of the safety, welfare and amenity value of the specific site conditions and the preservation of the surrounding built and natural environment. The proposal will in no way impact on any existing rights.

The proposal can be seen to be compliant with these evaluation criteria for the following reasons:

- The proposal complies with the guidelines as set out in the higher order spatial planning policies which promote socio-economic integration.
- The proposed development is of an appropriate scale and form that relates to the surrounding urban fabric, development pattern and land use character of the surrounding neighbourhood.
- The proposal will have a positive socio-economic benefit through income generation and the creation of employment opportunities.
- The proposal will have no significant impact on the existing built form and will thus fit in to the surrounding urban context.
- The placement of the proposal within an established urban residential development is seen to be compatible with the existing character and represents an acceptable land use intensification in the area.
- The proposed development will not detract from any existing rights of the surrounding erven.
- Increase human activity will help ensure increased passive surveillance of the adjoining public realm (street).

- There is adequate servicing capacity to accommodate the proposed development and adequate on-site parking has been provided for.
- The application will not undermine the public interest.

10. CONCLUSION

The proposed removal of restrictive title conditions and special development for the utilisation of the dwelling on Erf 4731 Stellenbosch as a guest house is considered to be a compatible use in the specific area and it will result in a more optimal utilisation of the property. It will constitute a desirable development in terms of the City of Cape Town's Municipal Planning By-Law, 2015. With this in mind, it is therefore honourably considered that the proposed application will be endorsed with Council's consent.

APPENDIX 5

**APPLICATION FOR REMOVAL OF
RESTRICTIVE TITLE DEED CONDITIONS,
SPECIAL DEVELOPMENT AND PERMANENT
DEPARTURE ON ERF 4731, STELLENBOSCH.**


P.O.E (PUBLIC PARTICIPATION & AFFIDAVIT)




PLANNING & ECONOMIC DEVELOPMENT

PORTFOLIO OF EVIDENCE Applicant advertised CHECKLIST			Date	10/05/2019	
Erf/Erven Farm no	4731	Portion(s) if farm	Allotment Area	STELLEN BOSCH	
Owner/ Applicant	DIESEL & MUNIS INC.		LU/number	LU/8162	
INDICATE WHICH OF THE FOLLOWING DOCUMENTATION (WHERE APPLICABLE) IS ATTACHED TO THE PORTFOLIO OF EVIDENCE			OWNER/APPLICANT TO INDICATE		ADMIN OFFICER/ PLANNER VERIFY <input checked="" type="checkbox"/>
			YES	NO	
Affidavit (TEMPLATE ATTACHED)					
1. Is the affidavit signed by a Commissioner of Oaths			<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
2. Does the affidavit confirm that the advertising was undertaken in accordance with the said prescriptions?			<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
3. Does the affidavit confirm that the notice was placed and kept on site for the duration of the advertising period (from which date to which date)?			<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
Proof of publication					
4. In one local newspaper in two official languages (or in those cases where Council has indicated two local newspapers)			<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
5. Extract from the newspaper attached (date of publication visible)			<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
6. Does the wording fully address the description of the application?			<input checked="" type="checkbox"/>		
7. If no, define differences :					
8. Advertising period	From	04 April 2019	To	03 May 2019	
9. Does the Advertising period comply with the required 30 days?			<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
10. Was Council informed of the commencement date and closure date?			<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/> (28)
The registered slips in respect of all the registered letters addressed to					
11. A copy of the registered letter addressed to the affected parties			<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
12. Are the dates concurring			<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
13. A copy of the registered letter addressed to the external departments (where required)			N/A <input checked="" type="checkbox"/>		N/A
14. Affected interested and affected parties (registered property owners) (original registered slips)			<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
15. Community organisations (original registered slips)			<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
16. Ward Councillor (original registered slip)			<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/> email
17. External Departments (where required) (original registered slip)			N/A <input checked="" type="checkbox"/>		N/A
18. Unclaimed registered mail			N/A <input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>

19. If no to any of the above, define differences :

20. Were the external departments granted 60 days for comment?	N/A		N/A
Notices placed on the property			
21. Were the notices placed on the property on the same day as the notice in press?	✓		✓
22. Have photos been attached? (one close up and one from across the street)	✓		✓
23. Was the notice clearly visible on site?	✓		✓
24. Were the notices kept on site for the duration of the advertising period?	✓		✓
Objections/Comments			
25. From organs of state/external departments must be on a formal letterhead?		✓	N/A
26. All objections/comments received attached?	✓		✓
27. All emails sent or received in respect of this application attached?	✓		✓
28. Applicant's comments on the objections attached?	✓		✓
SIGNED BY APPLICANT/OWNER			

<i>For office use only</i>	
SIGNED BY ADMINISTRATIVE OFFICER	
VERIFIED & SIGNED BY TOWN PLANNER	
DATE VERIFIED:	06/06/2019

SWORN AFFIDAVIT

I, the undersigned [Full Name (s) and Surname]:

BARRY BLOUNT

Identity Number 7601295034089

in my capacity as (owner or authorised person through power of attorney):

APPLICANT

do hereby declare under oath that:

1. The application for:

THE REMOVAL OF RESTRICTIVE TITLE CONDITIONS B.6.(a)
AND (b) FROM TITLE DEED T50865/2016, A SPECIAL DEVELOPMENT
FOR AGUEST HOUSE AND DEPARTURE

on Erf/ Farm Number: 4731 STELLEN BOSCH

Was advertised in at least two of the official languages of the Province in the following newspaper(s)ⁱ:

(a) EIKESTAD NEWS

(b)

From 04 April

2019 to

03 May

2019

2. The public notices were prominently displayed and maintained in a legible condition for a continuous period of thirty (30) days from the date of the advertisement as indicated in Section (2) aboveⁱⁱ:

3. A notice containing the requirements as set out in the Stellenbosch Land Use Planning By-Law (2015), was posted per registered mailⁱⁱⁱ to all adjoining property owners/occupants/ interested and affected parties, during the same date of the advertising period as specified in Section (2) above;

4. Furthermore, a notice of the application was sent to the relevant Intergovernmental State Departments, per registered mail^{iv}, commencing the same date as in Section (2) above with an **additional 30 days (minimum 60 days)** for comment;

5. That all comments and objections to the application concerned were forwarded to Stellenbosch Municipality as contemplated in sections 1 – 4 above.

The Deponent acknowledges that he / she knows and understands the contents of this Affidavit.

Signature: [Signature]

Signed at SOMERSET WEST

On this 6th day of MAY 2019

At

I hereby certify that I have read and understood the contents of this declaration and that it was sworn to / affirmed and

signed before me at Somerset West

on this 6th day of May 2019

[Signature]
Capacity: Land Surveyor
Commissioner of Oaths Area: Republic of South Africa

ⁱ Must conform to Section 47 of the Stellenbosch Municipality Land Use Planning By-law (2015) [THE BY-LAW] – attach copy of advert (s)

ⁱⁱ Site Displays must conform to Section 48 (2)(a) of the By-law – attach photos

ⁱⁱⁱ Attach original registration post slips and copies of letters that were distributed containing the required information as per Section 47 of the By-law

^{iv} Attach original registration post slips and copies of letters that were distributed containing the required information as per Section 47 of the By-law

APPLICANT
Registered mail or normal mail
Diesel & Munns Inc. (Att.: Barry Blount) P. O. Box 475, SOMERSET WEST, 7129
Or faxed to
Or hand delivered to
Diesel & Munns Inc. (Att.: Barry Blount) 20 St James Street, SOMERSET WEST, 7129
Or e-mailed to
planning@dieselandmunns.co.za

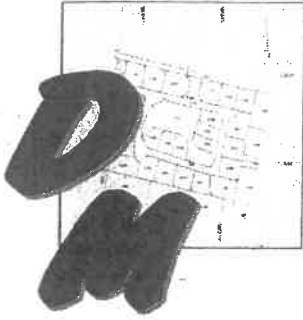
All comments, quoting the application number, reference number, your name, address or contact details, your interest in the application and reasons for comments should be received by the above party on or before 30 days from the date of publication of this notice. Telephonic enquiries can be made to the applicant, Doesel & Munns Inc. (Barry Blount) at (021) 852 3800. Any comment/objection received after aforementioned closing date will be considered invalid. Any person who cannot write will be assisted by a Municipal official by transcribing their comments.

Yours faithfully

Yours sincerely



Barry Blount
Town Planner
DIESEL & MUNNS INC.



DIESEL & MUNNS INC.

Professional Land Surveyors • Town and Regional Planners
 Professionele Landmeters • Stads- en Streekbeplanners
 Sectional Title Consultants and Topographical Surveyors
 Deeltitel Konsultante en Topografiese Opmeters

20 St. James Street/Straat
 P. O. Box 475
 SOMERSET WEST 7129

Tel: (021) 852-3800/852-3759
 E-mail: planning@dieselandmunns.co.za

Application Number: LU/8162
 Municipality Reference Number: Erf 4731, Stellenbosch
 Our Reference Number: C5626
 Enquiries: Diesel & Munns Inc. (Barry Blount)
 Contact No: (021) 852 3800
 Email address: planning@dieselandmunns.co.za

Date: 04 April 2019

REGISTERED MAIL

.....

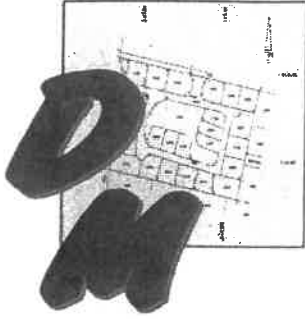
Dear Sir/Madam

APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITION, SPECIAL DEVELOPMENT AND DEPARTURE: ERF 4731, STELLENBOSCH

Applicant:	Diesel & Munns Inc. (Att: Barry Blount) P O Box 475, SOMERSET WEST, 7129 Tel: 021 852 3800 e-mail: planning@dieselandmunns.co.za .
Owner:	Thomas Bohn e-mail: gabidecorselections@gmail.com
Application number:	LU/8162
Reference number:	Erf 4731, Stellenbosch
Property Description:	Erf 4731, Stellenbosch
Physical Address:	14 Paul Sauer Street, Rozendal, Stellenbosch
Detailed description of proposal:	The matter for consideration is an application in terms of sections 15(2)(b), (f) and (o) of the Stellenbosch Municipal Land Use Planning By-Law for the removal of restrictive title conditions B.6.(a) and (b) from title deed T50865/2016, a special development for a guest house and a Departure for the relaxation of building lines on Erf 4731 Stellenbosch.

Notice is hereby given in terms of the Stellenbosch Municipal Land Use Planning By-law that the above mentioned application has been received and is available for inspection during weekdays between 08:30 and 13:30 at the Planning Advice Centre at Stellenbosch Municipality, Plein Street, Stellenbosch. Any written comments/objections, with full reasons therefore, may be addressed in terms of section 50 of the said legislation to the applicant in one of the following manners:

Directors: J. LAKE B.Sc. (Eng), Pr.L.(S.A.), M.I.P.L.S. D.W. LAMBERT B.Sc. (Eng), Pr.L.(S.A.), M.I.P.L.S. B.N. BLOUNT T.R.P. (S.A.) B.Sc. (TRP)
 Office Manager: D.M. HENDRICKS



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 Professionele Landmeters • Stads- en Streekbeplanners
 Sectional Title Consultants and Topographical Surveyors
 Deeltitel Konsultante en Topografiese Opmeters

20 St. James Street/Straat
 P. O. Box 475
 SOMERSET WEST 7129

Tel: (021) 852-3800/852-3759
 E-mail: planning@dieselandmunns.co.za

Aansoeknommer: LU/8162
 Municipale Lêerverwysingsnommer: Erf 4731, Stellenbosch
 Aansoeker Verwysingsnommer: C5626
 Navrae: Diesel & Munns Ing. (Barry Blount)
 Kontaknommer: (021) 852 3800
 E-pos adres: planning@dieselandmunns.co.za

Datum: 04 April 2019

GEREGISTREERDE POS

.....

Geagte Meneer/Juffrou

AANSOEK VIR OPHEFFING VAN TITELAKTE VOORWAARDES, SPESIALE ONTWIKKELING EN AFWYKING: ERF 4731, STELLENBOSCH

Aansoeker: Diesel & Munns Ing. (Aandag: Barry Blount)
 Posbus 475, SOMERSET WES 7129
 Tel: 021 852 3800
 e-pos: planning@dieselandmunns.co.za

Eienaar: Thomas Bohn
 e-pos: gabidecorselections@gmail.com

Aansoeknommer: LU/8162

Verwysingsnommer: Erf 4731, Stellenbosch

Eiendomsbeskrywing: Erf 4731, Stellenbosch

Fisiese Adres: Paul Sauerstraat 14, Rozendal, Stellenbosch

Beskrywing van aansoek: Die aansoek vir oorweging is 'n aansoek ingevolge artikel 15(2)(b), (f) en (o) van die Stellenbosch Munisipaliteit: Verordening op Grondgebruikbeplanning vir die opheffing van titelakte voorwaardes B.6.(a) en (b) uit Titelakte T50865/2016, spesiale ontwikkeling vir 'n gastehuis en 'n afwyking vir die verslapping van boulyne op Erf 4731 Stellenbosch.

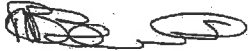
Kennis geskied hiermee ingevolge die Stellenbosch Munisipaliteit: Verordening op Grondgebruikbeplanning dat die bogenoemde aansoek ontvang is en gedurende woensdae tussen 08:30 en 13:30 by die Beplanningsadvieskantoor by Stellenbosch Munisipaliteit, Pleinstraat, Stellenbosch ter insae lê. Enige geskrewe kommentare/besware, met volledige redes daarvoor, moet ingevolge Artikel 50 van die genoemde wetgewing aan die aansoeker op een van die volgende wyses geadresee word:

Directors: J. LAKE B.Sc. (Eng), Pr.L.(S.A.), M.I.P.L.S. D.W. LAMBERT B.Sc. (Eng), Pr.L.(S.A.), M.I.P.L.S. B.N. BLOUNT T.R.P. (S.A.) B.Sc. (TRP)
 Office Manager: D.M. HENDRICKS

AANSOEKER
Geregistreerde of gewone pos
Diesel & Munns Ing. (Aandag: Barry Blount) Posbus 475, SOMERSET WES 7129
Of gefaks aan
Of per hand afgelewer aan
Diesel & Munns Ing. (Aandag: Barry Blount) St James Straat 20, SOMERSET WES, 7129
Of per e-pos gelewer aan
planning@dieselandmunns.co.za

Alle kommentare moet op of voor 30 dae vanaf die datum van publikasie van hierdie kennisgewing, met vermelding van die aansoeknommer, verwysingsnommer, u naam, adres en kontakbesonderhede, belangstelling in die aansoek en redes vir kommentaar, deur die bogemelde party ontvang word. Telefoniese navrae kan aan die aansoeker, Diesel & Munns Ing. (Barry Blount) by tel (021) 852 3800 gerig word. Enige kommentaar/beswaar ontvang na die voormelde sluitingsdatum sal as ongeldig geag word. Enige persoon wat nie kan skryf nie sal deur 'n Munisipale-amptenaar bygestaan word om hul kommentaar op skrif te stel.

Die Uwe



Barry Blount

DIESEL & MUNNS ING.

NOTICE OF LAND DEVELOPMENT APPLICATION IN THE STELLENBOSCH MUNICIPAL AREA

Application for subdivision in terms of Section 15(2)(d), consolidation in terms of Section 15(2)(e) and rezoning in terms of Section 15(2)(a) of the Stellenbosch Municipal Land Use Planning By-Law (2015)...

Applicant: Urban Dynamics Western Cape (Pty) Ltd PO Box 2445, Bellville, 7535 Tel: (021) 948 1545

Owner: Stellenbosch Municipality Contact: Department: Informal Settlements Tel: (021) 808 8450 / (021) 808 8776

Application number: LU/8597 Erf 2175, Kayamandi Property Description: Farm 183, Farm 161, Portion 5 of Farm 175, Remainder of Portion 33 of Farm 175, Stellenbosch Administrative Division, Erf 2175, Erf 1832 and Erf 2183, Kayamandi.

Detailed description of proposal: In order to effect the proposed upgrade of the Entkani informal settlement, including the extension of the existing settlement area to accommodate formalised development...

Application is in this regard made in terms of the Stellenbosch Municipal Land Use Planning By-law (2015), as follows: (i) Subdivision in terms of Section 15(2)(d) of the Stellenbosch Municipal Land Use Planning By-Law (2015)...

(ii) Rezoning in terms of Section 15(2)(a) of the Stellenbosch Municipal Land Use Planning By-Law (2015) of the consolidated area G from Agriculture Zone to Subdivisional Area to create the following: 1 Street Zone Erf (±7.3ha) (Road Network: 14m & 8m Reserves)...

(iii) The Stellenbosch Municipal Spatial Development Framework (MSDF) is a Sectoral Plan of the Municipal Integrated Development Plan (IDP), adopted in terms of the Municipal Systems Act, 2000 (Act No. 32 of 2000)...

Notice is hereby given in terms of the Stellenbosch Municipal Land Use Planning By-law that the above mentioned application has been received and is available for inspection during weekdays between 08:30 and 13:30 at the Planning Advice Centre at Stellenbosch Municipality, Plain Street, Stellenbosch...

APPLICANT Registered email or normal mail: Urban Dynamics Western Cape (Pty) Ltd PO Box 2445, Bellville, 7535

All comments, quoting the application number, reference number, your name, address or contact details, your interest in the application and reasons for comments should be received by the above party on or before 5 June 2019 (60 days from the date of publication of this notice)...

ISAZISO NGESICELO SOPHUHLISO-MHLABA KUMANDLA WO MASIPALA WASE STELLENBOSCH

Isicelo sicothula ngokungqongileyo ngu 15(2)(d), ukuhlanjibanisa ngokungqongileyo kwicandelo 15(2)(e) kunye kanye ngokuzenzisa ngokukhetha Section 15(2)(a) ngokufanele kwiStellenbosch Municipal Land Use Planning ngokomthetho (2015)...

Umfundi siCelo: Urban Dynamics Western Cape (Pty) Ltd P.O. Box 2445, Bellville, 7535 Tel: (021) 948 1545

Umnikazi: Stellenbosch Municipality Contact: Department: Informal Settlement Tel: (021) 808 8450 / (021) 808 8776

Inombolo yeSicelo: LU/8597 Inombolo yeSalathisi: Erf 2175, Kayamandi Incazelo yeSicelo: IFama engu 183, IFama engu 161, isigqirha seSihlanu(5) seFama engu 175, izintlela yesigqirha 33 kwifama engu 175, icandelo le Stellenbosch Administrative, isicelo esingu 2175, isiza esingu 2183, eKayamandi.

Incwadi Eme Kuyo: KumaTyotombwe aseEntkani, eStellenbosch Ingcaciso etha vetsho ngesaphakamiselo esi: Ukulungiselela isiphakamiselo esi soluphakamisela umgangatho wento kumaTyotombwe aseEntkani, ukudibanisa kunye nenkqubo esise kulahlwa kuyo, nokulungiselela uhlwatho...

Isicelo ke senzisa ngokomthetho leStellenbosch Municipal Land Use Planning, kumpango (2015) ome ngokuthobela: (i) Uhlwatho ngokungqongileyo Section 15(2)(d) ophuma wona kwStellenbosch Municipal Land Use Planning By-Law (2015) wona ome ngokuthobela: a) Uhlwatho lwesiza esingu 1832 ebe ngu Portion A (±0.49ha), kuzo kusalela (±1.49ha)...

(ii) Uhlwatho lwefama engu 161 be ngu Portion D (±14.44ha) kuzo kusalela (±0.363ha) (iii) Uhlwatho luka Portion 5 weFama u 175 be ngu Portion E (±0.90ha) kuzo kusalela (±0.13ha) za kugqibela a) Uhlwatho lwendawana esheleliyo engu Portion 33 weFama u 175, yona be y Portion F (±7.86ha), kuzo kusalela (±4.84ha)...

(iv) Lena ke yaziwa nge nge Stellenbosch Municipal Spatial Development Framework (MSDF) ikandelo le Municipal Integrated Development Plan (IDP), emiselelo kwimigqibo ka Masipala yokusebenza, phantsi komthetho 2000, (umthetho sisekelo 32 ka 2000)...

Notice is hereby given in terms of the Stellenbosch Municipal Land Use Planning By-law that the above mentioned application has been received and is available for inspection during weekdays between 08:30 and 13:30 at the Planning Advice Centre at Stellenbosch Municipality, Plain Street, Stellenbosch...

UMNIKAZI WE SICELO Imibalelelo ebutshatshatsheni okanye imibalelelo enoqoqosho Urban Dynamics Western Cape (Pty) Ltd PO Box 2445, Bellville, 7535

Zonke ka imitha ezimlangeni noku, uyakuchazisa inombolo yesicelo, inombolo yeSalathisi, igama lakho, IDilesi okanye umnxeba wakho, izinto ezikufutshane umda leweli sicelo kunye ka nezathu zokuphawula, kunye kufutshane ukuba zonke izifundo ezizawo apha ngentla, phantsi okanye ngenantsuku ediyi 60 phantsi kosuku lukuphawula kwelantshini.

KENNISGEWING VAN GRONDONTWIKKELINGSAANSOEK IN DIE STELLENBOSCH MUNISIPALE GEBIED

AANSOEK VIR OPHEFFING VAN TITELAKTE VOORWAARDES, SPESIALE ONTWIKKELING EN AFWYKING: ERF 4731, STELLENBOSCH

Aansoeker: Diesel & Munns Ing. (Aandag: Barry Blount) Posbus 475, SOMERSET WES 7129 Tel: 021.852 3800

Eienaar: Thomas Bohn e-pos: gabidecorselextions@gmail.com

Aansoeknommer: LU/8162

Verwysingsnommer: Erf 4731, Stellenbosch

Eiendomsbeskrywing: Erf 4731, Stellenbosch

Fisiese Adres: Paul Sauerstraat 14, Rozendal, Stellenbosch

Beskrywing van aansoek: Die aansoek vir owerreiging is 'n aansoek ingevolge artikel 15(2)(b), (f) en (o) van die Stellenbosch Munisipaliteit: Verordening op Grondgebruikbeplanning vir die opheffing van titelakte voorwaardes B.6.(a) en (b) uit Titeelakte T50865/2016, spesiale ontwikkeling vir 'n gastehuis en 'n afwyking vir die verslapping van boulyne op Erf 4731 Stellenbosch.

Kennis geskied hiemeer ingevolge die Stellenbosch Munisipaliteit: Verordening op Grondgebruikbeplanning dat die bogenoemde aansoek ontvang is 'n gedurende weksdae tussen 08:30 en 13:30 by die Beplanningsadvieskantoor by Stellenbosch Munisipaliteit, Plainstraat, Stellenbosch ter insae lè. Enige geskrewe kommentare/besware, met volledige redes daarvoor, moet ingevolge Artikel 50 van die genoemde wetgewing aan die aansoeker op een van die volgende wyses geadresseer word:

AANSOEKER Geskrewe of elektroniese pos Diesel & Munns Ing. (Aandag: Barry Blount) Posbus 475, SOMERSET WES 7129

Alle kommentare moet op of voor 30 dae vanaf die datum van publikasie van hierdie kennisgewing, met vermelding van die aansoeknommer, verwysingsnommer, u naam, adres en kontakbesonderhede, belangstelling in die aansoek en redes vir kommentaar, deur die bogenoemde party ontvang word. Telefoniese navrae kan aan die aansoeker, Diesel & Munns Ing. (Barry Blount) by tel (021) 852 3800 gerig word.

NOTICE OF LAND DEVELOPMENT APPLICATION IN THE STELLENBOSCH MUNICIPAL AREA

APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITION, SPECIAL DEVELOPMENT AND DEPARTURE: ERF 4731, STELLENBOSCH

Applicant: Diesel & Munns Inc. (Att: Barry Blount) P O Box 475, SOMERSET WEST, 7129 Tel: 021 852 3800

Owner: Thomas Bohn e-mail: gabidecorselextions@gmail.com

Application number: LU/8162

Reference number: Erf 4731, Stellenbosch

Property Description: Erf 4731, Stellenbosch

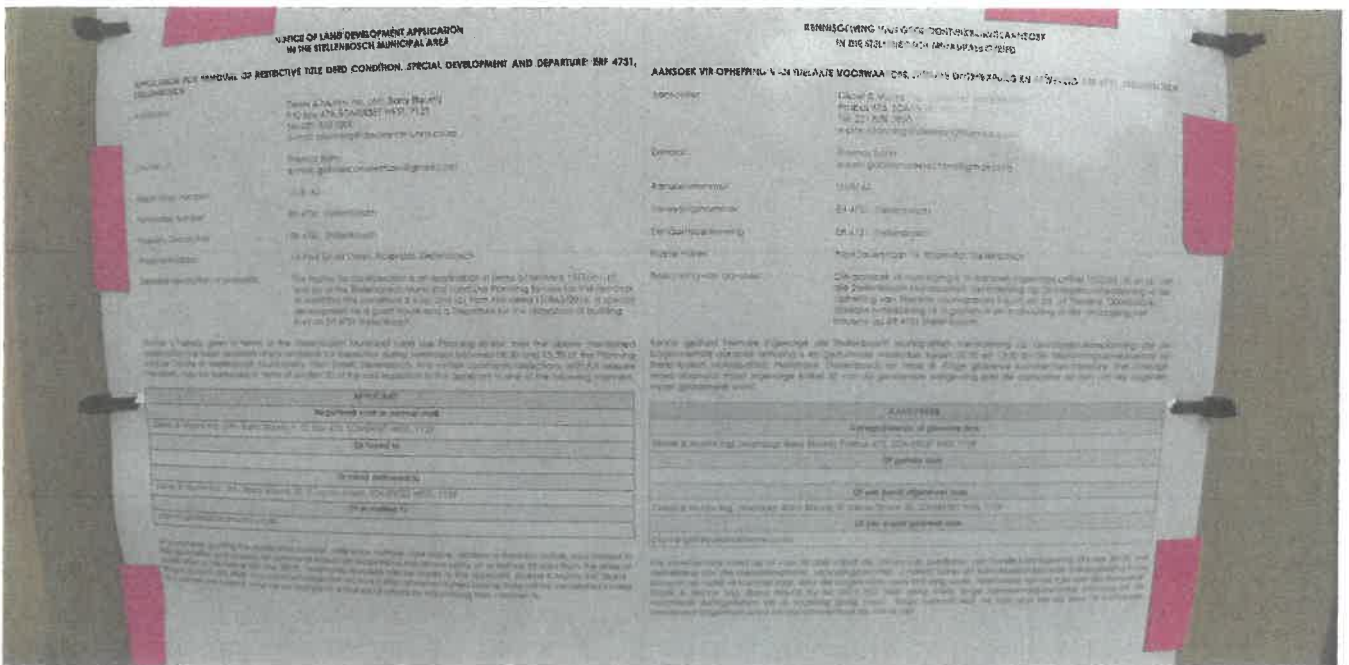
Physical Address: 14 Paul Sauer Street, Rozendal, Stellenbosch

Detailed description of proposal: The matter for consideration is an application in terms of sections 15(2)(b), (f) and (o) of the Stellenbosch Municipal Land Use Planning By-Law for the removal of restrictive title conditions B.6.(a) and (b) from title deed T50865/2016, a special development for a guest house and a Departure for the relaxation of building lines on Erf 4731 Stellenbosch.

Notice is hereby given in terms of the Stellenbosch Municipal Land Use Planning By-law that the above mentioned application has been received and is available for inspection during weekdays between 08:30 and 13:30 at the Planning Advice Centre at Stellenbosch Municipality, Plain Street, Stellenbosch. Any written comments/objections, with full reasons therefore, may be addressed in terms of section 50 of the said legislation to the applicant in one of the following manners:

APPLICANT Registered email or normal mail Diesel & Munns Inc. (Att: Barry Blount) P O. Box 475, SOMERSET WEST, 7129

All comments, quoting the application number, reference number, your name, address or contact details, your interest in the application and reasons for comments should be received by the above party on or before 30 days from the date of publication of this notice. Telephonic enquiries can be made to the applicant, Diesel & Munns Inc. (Barry Blount) at (021) 852 3800. Any comment/objection received after aforementioned closing date will be considered invalid. Any person who cannot write will be assisted by a Municipal official by transcribing their comments.



Subject: Erf 4731 Stellenbosch: Land Development Application
From: Diesel & Munns Planning <planning@dieselandmunns.co.za>
Date: 04-Apr-19, 8:31
To: Janetta.Giliomee@stellenbosch.gov.za

Good Day Mrs. Giliomee

Attached please find the notification for a land use development application on Erf 4731 Stellenbosch.

Regards

Barry Blount

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DIESEL & MUNNS INC.

Professional Land Surveyors • Town and Regional Planners
Professionele Landmeters • Stads- en Streekbeplanners
Sectional Title Consultants and Topographical Surveyors
Deeltime Konsultante en Topografiese Opmeters

20 St. James Street/Street
P. O. Box 473
SOMERSET WEST 7129

Tel: (021) 852-3800/852-3759
E-mail: admin@dieselandmunns.co.za

— Attachments: —

Erf 4731 Stellenbosch - Eng Notice.pdf	246 KB
Erf 4731 - Site Development Plan.pdf	4.9 MB
Erf 4731 Stellenbosch - Motivation.pdf	1.1 MB
Erf 4731 Stellenbosch - Afr Notice.pdf	247 KB

Subject: Erf 4731 Stellenbosch: Land Development Application
From: Diesel & Munns Planning <planning@dieselandmunns.co.za>
Date: 04-Apr-19, 8:26
To: Alwyn.Hanekom@stellenbosch.gov.za

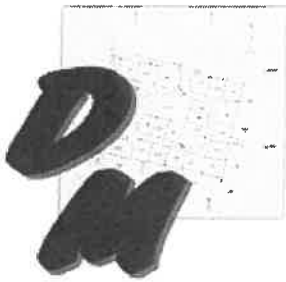
Good Day Councillor Hanekom

Attached please find the notification for a land use development application on Erf 4731 Stellenbosch.

Regards

Barry Blount

--



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Tel: (021) 852-3800/852-3759
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Attachments:

Erf 4731 - Stellenbosch Afr Notice.pdf	247 KB
Erf 4731 - Stellenbosch Eng Notice.pdf	246 KB
Erf 4731 - Site Development Plan.pdf	4.9 MB
Erf 4731 Stellenbosch - Motivation.pdf	1.1 MB

List of REGISTERED LETTERS
Lys van GEREGISTREERDE BRIEWE
 (with an insurance option/met 'n versekeringsopsie)



Post Office

Full tracking and tracing/Volledige volg en spoor

Name and address of sender:

Naam en adres van afsender:

Diesel and Munns Inc
P.O. Box 475
Somerset West
7129

Enquiries/Navrae

Toll-free number

Tolvry nommer

0800 111 502

No	Name and address of addressee Naam en adres van geadresseerde	Insured amount Versekerde bedrag	Insurance fee Versekeringsgeld	Postage Posgeld	Service fee Diensgeld	Affix Track and Trace customer copy Plak Volg-en-Spoor-klëntafskrif
1	<i>J.F. Kritzinger</i> <i>27 Omega St. Rozendal Stellenbosch</i>	<i>7600</i>				REGISTERED LETTER (with a domestic insurance option) RC370734085ZA A BOOK COPY
2	<i>H + C Whitehead Family Trust</i> <i>25 Omega St. Rozendal Stellenbosch</i>	<i>7600</i>				REGISTERED LETTER (with a domestic insurance option) RC370734077ZA
3	<i>Da Toit</i> <i>23 Omega St. Rozendal Stellenbosch</i>	<i>7600</i>				REGISTERED LETTER (with a domestic insurance option) RC370734063ZA A BOOK COPY
4	<i>H A D Kirsten</i> <i>21 B Omega St. Rozendal Stellenbosch</i>	<i>7600</i>				REGISTERED LETTER (with a domestic insurance option) RC370734050ZA A BOOK COPY
5	<i>H J + C J Brand</i> <i>11 Vitsig St. Rozendal Stellenbosch</i>	<i>7600</i>				REGISTERED LETTER (with a domestic insurance option) RC370734046ZA A BOOK COPY
6	<i>JJ Nel</i> <i>9 Vitsig St. Rozendal Stellenbosch</i>	<i>7600</i>				REGISTERED LETTER (with a domestic insurance option) RC370734032ZA A BOOK COPY
7	<i>J. L. van Zyl</i> <i>7 Vitsig St. Rozendal Stellenbosch</i>	<i>7600</i>				REGISTERED LETTER (with a domestic insurance option) RC370734029ZA
8	<i>JN Cumamat JA Swallow</i> <i>5 Vitsig St. Rozendal Stellenbosch</i>	<i>7600</i>				REGISTERED LETTER (with a domestic insurance option) RC370734015ZA A BOOK COPY
9	<i>E. Mazza</i> <i>19 Omega St. Rozendal Stellenbosch</i>	<i>7600</i>				REGISTERED LETTER (with a domestic insurance option) RC370734001ZA A BOOK COPY
10	<i>MMW + M Wild</i> <i>13 Vitsig St. Rozendal Stellenbosch</i>	<i>7600</i>				REGISTERED LETTER (with a domestic insurance option) RC370733995ZA A BOOK COPY
Number of letters posted Getal briewe gepos		Total Totaal	R	R	R	R

Signature of client

Handtekening van kliënt

Signature of accepting officer

Handtekening van aanneembeampte

The value of the contents of these letters is as indicated and compensation is not payable for a letter received unconditionally. Compensation is limited to R100,00. No compensation is payable without documentary proof. Optional insurance of up to R200,00 is available and applies to domestic registered letters only.

Die waarde van die inhoud van hierdie briewe is soos aangedui en vergoeding sal nie betaal word vir 'n brief wat sonder voorbehoud ontvang word nie. Vergoeding is beperk tot R100,00. Geen vergoeding is sonder dokumentere bewys betaalbaar nie. Opsionele versekering van tot R2 000,00 is beskikbaar en is slegs op binnelandse geregistreerde briewe van toepassing.

Date stamp

Somerset West
03-04-2019
Folio 6
7129

Datumstempel

List of REGISTERED LETTERS
Lys van GEREĞISTREERDE BRIEWE
 (with an insurance option/met 'n versekeringsopsie)



Post Office

Full tracking and tracing/Volledige volg en spoor

Name and address of sender:

Naam en adres van afsender:

Diesel and Munns Inc
P O Box 475
Somerset West 7129

Enquiries/Navrae
 Toll-free number
 Tolvry nommer
0800 111 502

No	Name and address of addressee Naam en adres van geadresseerde	Insured amount Versekerde bedrag	Insurance fee Versekeringsgeld	Postage Posgeld	Service fee Diensgeld	Affix Track and Trace customer copy Plak Volg-en-Spoor-klëntafskrif
1	<i>J.P. van Niekerk</i> <i>8 Paul Saver Street Rozendal Stellenbosch</i>					REGISTERED LETTER (with a domestic insurance option) RC370733275ZA A BOOK COPY
2	<i>G.B. Slabbert + E.L. van der Merwe</i> <i>10 Paul Saver Street Rozendal Stellenbosch</i>					REGISTERED LETTER (with a domestic insurance option) RC370733261ZA A BOOK COPY
3	<i>Nell Family Trust</i> <i>12 Paul Saver St. Rozendal Stellenbosch</i>					REGISTERED LETTER (with a domestic insurance option) RC370733258ZA
4	<i>V.R. + M. Smith</i> <i>P O Box 3117 Matieland 7602</i>					REGISTERED LETTER (with a domestic insurance option) RC370733244ZA A BOOK COPY
5	<i>D.J. + A. Katze</i> <i>P O Box 6415 Uriedal 7612</i>					REGISTERED LETTER (with a domestic insurance option) RC370733235ZA A BOOK COPY
6	<i>R.F. Pina</i> <i>25 Water Ave Stellenbosch 7600</i>					REGISTERED LETTER (with a domestic insurance option) RC370733227ZA A BOOK COPY
7	<i>G. + L.A. Goosen</i> <i>23 Water Ave Rozendal Stellenbosch</i>					REGISTERED LETTER (with a domestic insurance option) RC370733213ZA A BOOK COPY
8	<i>B. van der Linde</i> <i>P O Box 447 Stellenbosch 7599</i>					REGISTERED LETTER (with a domestic insurance option) RC370733200ZA A BOOK COPY
9	<i>H. Morais</i> <i>19 Water Ave Rozendal Stellenbosch</i>					REGISTERED LETTER (with a domestic insurance option) RC370733195ZA A BOOK COPY
10	<i>L.P. + H. van Kradenburg</i> <i>17 Water Ave Rozendal Stellenbosch</i>					REGISTERED LETTER (with a domestic insurance option) RC370733187ZA A BOOK COPY
		Total Totaal	R	R	R	R

Number of letters posted
 Getal briewe gepos

10

Signature of client

Handtekening van kliënt

EDLH

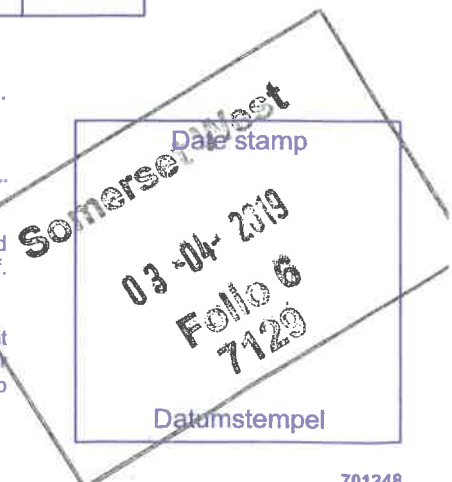
Signature of accepting officer

Handtekening van aanneembeampte

[Signature]

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List of REGISTERED LETTERS

Lys van GEREGISTREERDE BRIEWE

(with an insurance option/met 'n versekeringsopsie)

Full tracking and tracing/Volledige volg en spoor



Post Office

Name and address of sender:

Naam en adres van afsender:

Diesel and Munns Inc

PO Box 475

Somerset West

7129

Enquiries/Navraë

Toll-free number

Tolvry nommer

0800 111 502

No	Name and address of addressee Naam en adres van geadresseerde	Insured amount Versekerde bedrag	Insurance fee Versekeringsgeld	Postage Posgeld	Service fee Diensgeld	Affix Track and Trace customer copy Plak Volg-en-Spoor-klëntafskrif
1	C + J. D. Slabbert 9 Hendrik Bergh St. Rozendal Stellenbosch 7600					REGISTERED LETTER (with a domestic insurance option) RC370733377ZA A BOOK COPY
2	J.B. Schoonraad + D.E. Ridder 7 Hendrik Bergh St. Rozendal Stellenbosch 7600					REGISTERED LETTER (with a domestic insurance option) RC370733363ZA A BOOK COPY
3	Big Wave Trust 7 Omega St. Rozendal Stellenbosch 7600					REGISTERED LETTER (with a domestic insurance option) RC370733350ZA A BOOK COPY
4	Joseph Hulme Maalman Trust 10 Hendrik Berg St. Rozendal Stellenbosch 7600					REGISTERED LETTER (with a domestic insurance option) RC370733346ZA A BOOK COPY
5	P. J. Celliers 12 Hendrik Berg St. Rozendal Stellenbosch 7600					REGISTERED LETTER (with a domestic insurance option) RC370733332ZA A BOOK COPY
6	A. J. Basson 14 Hendrik Berg St. Rozendal Stellenbosch 7600					REGISTERED LETTER (with a domestic insurance option) RC370733301ZA A BOOK COPY
7	Reality Dynamix (Pty) Ltd 16 Hendrik Berg St. Rozendal Stellenbosch 7600					REGISTERED LETTER (with a domestic insurance option) RC370733292ZA A BOOK COPY
8	S.M. Terblanche 18 Hendrik Berg St. Rozendal Stellenbosch 7600					REGISTERED LETTER (with a domestic insurance option) RC370733315ZA A BOOK COPY
9	A.H. + C.S. Basson 20 Hendrik Berg St. Rozendal Stellenbosch 7600					REGISTERED LETTER (with a domestic insurance option) RC370733329ZA A BOOK COPY
10	G. J. A + E Vorster PO Box 745 Stellenbosch 7599					REGISTERED LETTER (with a domestic insurance option) RC370733289ZA A BOOK COPY
Number of letters posted Getal briewe gepos		Total Totaal	R	R	R	R

Signature of client

Handtekening van kliënt

EDLht

Signature of accepting officer

Handtekening van aanneembeampte

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Date stamp
Somerset West03-04-2019
Folio #
7129

Datumstempel

List of REGISTERED LETTERS
Lys van GEREgistreerde BRIEWE
 (with an insurance option/met 'n versekeringsopsie)



Full tracking and tracing/Volledige volg en spoor

Name and address of sender:

Naam en adres van afsender:

Diesel and Munns Inc
P O Box 475
Somerset West
7129

Enquiries/Navraë
 Toll-free number
 Tolvry nommer
0800 111 502

No	Name and address of addressee Naam en adres van geadresseerde	Insured amount Versekerde bedrag	Insurance fee Versekeringsgeld	Postage Posgeld	Service fee Diensgeld	Affix Track and Trace customer copy Plak Volg-en-Spoor-klëntafskrif	
1	<i>W T Claasen</i> <i>24 Hendrik Bergh St. Rozendal Stellenbosch</i>	<i>7600</i>				REGISTERED LETTER <i>(with a domestic insurance option)</i> RC370734284ZA A BOOK COPY	
2	<i>P. Mills</i> <i>20 Waterway Rozendal Stellenbosch</i>	<i>7600</i>				REGISTERED LETTER <i>(with a domestic insurance option)</i> RC370734275ZA A BOOK COPY	
3	<i>Winshaw Family Trust</i> <i>4 A Davis St. Kirstenhof 7945</i>					REGISTERED LETTER <i>(with a domestic insurance option)</i> RC370734267ZA A BOOK COPY	
4	<i>TE Bohlmann</i> <i>4 Uitsig St. Rozendal Stellenbosch</i>	<i>7600</i>				REGISTERED LETTER <i>(with a domestic insurance option)</i> RC370734253ZA A BOOK COPY	
5	<i>DF + KL van der Riet</i> <i>P O Box 939 Rivonia JHB 2128</i>					REGISTERED LETTER <i>(with a domestic insurance option)</i> RC370734240ZA A BOOK COPY	
6	<i>HG + A. Nel</i> <i>8 Uitsig St. Rozendal Stellenbosch</i>	<i>7609</i>				REGISTERED LETTER <i>(with a domestic insurance option)</i> RC370734236ZA A BOOK COPY	
7	<i>JH + C Mostert</i> <i>10 Uitsig St. Rozendal Stellenbosch</i>	<i>7609</i>				REGISTERED LETTER <i>(with a domestic insurance option)</i> RC370734222ZA A BOOK COPY	
8	<i>Aphrodite Diamonds Trust</i> <i>Shop 5 Eikenhof Church St. Stellenbosch</i>	<i>7609</i>				REGISTERED LETTER <i>(with a domestic insurance option)</i> RC370734219ZA A BOOK COPY	
9	<i>Plenty Properties 169 (Pty) Ltd</i> <i>17 Omega St. Rozendal Stellenbosch</i>	<i>7609</i>				REGISTERED LETTER <i>(with a domestic insurance option)</i> RC370734205ZA A BOOK COPY	
10	<i>JE Stimie + E Dirks</i> <i>P O Box 682 Stellenbosch 7599</i>					REGISTERED LETTER <i>(with a domestic insurance option)</i> RC370734196ZA A BOOK COPY	
		Total	Totaal	R	R	R	R

Number of letters posted

Getal briewe gepos

10

Total
Totaal

R

R

R

R

Signature of client

Handtekening van kliënt

EOHLT.

Signature of accepting officer

Handtekening van aanneembeampte

[Signature]

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List of REGISTERED LETTERS
Lys van GEREgistreerde Briewe
 (with an insurance option/met 'n versekeringsopsie)



Post Office

Full tracking and tracing/Volledige volg en spoor

Name and address of sender: *PO Box 475*
 Naam en adres van afsender: *Somerset West*
7129

Enquiries/Navrae
 Toll-free number
 Tolvry nommer
0800 111 502

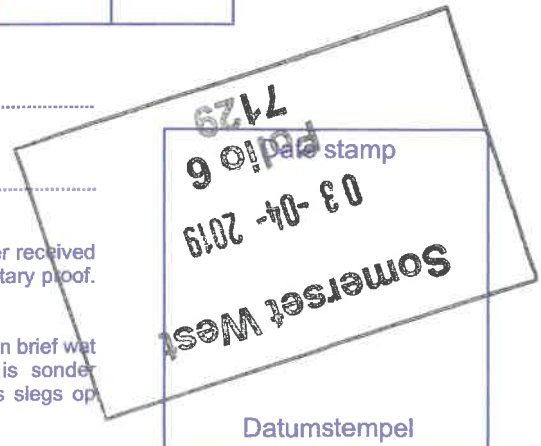
No	Name and address of addressee Naam en adres van geadresseerde	Insured amount Versekerde bedrag	Insurance fee Versekeringsgeld	Postage Posgeld	Service fee Diensgeld	Affix Track and Trace customer copy Plak Volg-en-Spoor-klëntafskrif
1	<i>Prida Trust</i> <i>PO Box 946 Stellenbosch 7599</i>					REGISTERED LETTER (with a domestic insurance option) RC370734182ZA A BOOK COPY
2	<i>JL + L Oberholzer</i> <i>PO Box 13554 Hatfield 0028</i>					REGISTERED LETTER (with a domestic insurance option) RC370734179ZA A BOOK COPY
3	<i>MJB van Zijl</i> <i>9 Omega St. Rozendal Stellenbosch</i> ⁷⁶⁰⁰					REGISTERED LETTER (with a domestic insurance option) RC370734165ZA A BOOK COPY
4	<i>G. D Kroger</i> <i>7 Omega St. Rozendal Stellenbosch</i> ⁷⁶⁰⁹					REGISTERED LETTER (with a domestic insurance option) RC370734151ZA A BOOK COPY
5	<i>JJ C Olivier</i> <i>1 Uitsig St. Rozendal Stellenbosch</i> ⁷⁶⁰⁹					REGISTERED LETTER (with a domestic insurance option) RC370734148ZA A BOOK COPY
6	<i>A. G. L. de Lange</i> <i>26 Water Way Rozendal Stellenbosch</i> ⁷⁶⁰⁰					REGISTERED LETTER (with a domestic insurance option) RC370734134ZA A BOOK COPY
7	<i>G. L. Christie</i> <i>13 Columbus Rd Claremont 7700</i>					REGISTERED LETTER (with a domestic insurance option) RC370734125ZA A BOOK COPY
8	<i>D. Marais</i> <i>34 Rozendal Ave Rozendal Stellenbosch</i> ⁷⁶⁰⁰					REGISTERED LETTER (with a domestic insurance option) RC370734117ZA A BOOK COPY
9	<i>M.G. Meyert + D. Marais</i> <i>PO Box 7391 Stellenbosch 7599</i>					REGISTERED LETTER (with a domestic insurance option) RC370734103ZA A BOOK COPY
10	<i>Kalander Trust</i> <i>26 Rozendal Ave Rozendal Stellenbosch</i> ⁷⁶⁰⁰					REGISTERED LETTER (with a domestic insurance option) RC370734094ZA A BOOK COPY
Number of letters posted Getal briewe gepos		Total Totaal	R	R	R	R

Signature of client
 Handtekening van kliënt *EON*

Signature of accepting officer
 Handtekening van aanneembeampte

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List of REGISTERED LETTERS
Lys van GEREgistreerde BRIEWE
 (with an insurance option/met 'n versekeringsopsie)



Post Office

Full tracking and tracing/Volledige volg en spoor

Name and address of sender:

Naam en adres van afsender:

Diesel and Munns Inc
P O Box 475
Somerset West
7129

Enquiries/Navraë
 Toll-free number
 Tolvry nommer
0800 111 502

No	Name and address of addressee Naam en adres van geadresseerde	Insured amount Versekerde bedrag	Insurance fee Versekeringsgeld	Postage Posgeld	Service fee Diensgeld	Affix Track and Trace customer copy Plak Volg-en-Spoor-klëntafskrif
1	<i>J. I. Morgan</i> <i>23 Van Coppenhagen St. Stellenbosch</i>					REGISTERED LETTER (with a domestic insurance option) RC370733981ZA A BOOK COPY
2	<i>FA Heath</i> <i>13 Water Way Rozendal Stellenbosch</i>					REGISTERED LETTER (with a domestic insurance option) Share Call 0800 111 502 www.sops.co.za RC370733978ZA CUSTOMER COPY 301028R
3	<i>W Grunewald</i> <i>18 Geelhout St. Eastern Ext. George</i>					REGISTERED LETTER (with a domestic insurance option) RC370733964ZA A BOOK COPY
4	<i>G.O. Kleyn</i> <i>9 Water Way Rozendal Stellenbosch</i>		7600			REGISTERED LETTER (with a domestic insurance option) RC370733955ZA A BOOK COPY
5	<i>Owl's Nest Trust</i> <i>7 Water Way Rozendal Stellenbosch</i>					REGISTERED LETTER (with a domestic insurance option) RC370733947ZA A BOOK COPY
6	<i>AJ + A Marlon</i> <i>5 Water Way Rozendal Stellenbosch</i>					REGISTERED LETTER (with a domestic insurance option) RC370733933ZA A BOOK COPY
7	<i>JH Smit</i> <i>3 Water Way Rozendal Stellenbosch</i>					REGISTERED LETTER (with a domestic insurance option) RC370733920ZA A BOOK COPY
8	<i>Stellenbosch Municipality</i> <i>P O Box 17 Stellenbosch 7599</i>					REGISTERED LETTER (with a domestic insurance option) RC370733916ZA A BOOK COPY
9	<i>C Venter</i> <i>8 Van Coppenhagen St. Stellenbosch</i>					REGISTERED LETTER (with a domestic insurance option) RC370733902ZA A BOOK COPY
10	<i>P.J. Erens</i> <i>10 Van Coppenhagen St. Stellenbosch</i>					REGISTERED LETTER (with a domestic insurance option) RC370733893ZA A BOOK COPY
	Number of letters posted Getal briewe gepos	Total Totaal	R	R	R	R

Signature of client

Handtekening van kliënt

EDH

Signature of accepting officer

Handtekening van aanneembeampte

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Date stamp

6724
 9 01/01
 03-04-2019

Somerset West

Datumstempel

List of REGISTERED LETTERS
Lys van GEREGETREERDE BRIEWE
 (with an insurance option/met 'n versekeringsopsie)



Post Office

Full tracking and tracing/Volledige volg en spoor

Name and address of sender:

Naam en adres van afsender: *Diesel and Munns Inc*
PO Box 475
Somerset West
7129

Enquiries/Navraë
 Toll-free number
 Tolvry nommer
0800 111 502

No	Name and address of addressee Naam en adres van geadresseerde	Insured amount Versekerde bedrag	Insurance fee Versekeringsgeld	Postage Posgeld	Service fee Diensgeld	Affix Track and Trace customer copy Plak Volg-en-Spoor-klëntafskrif
1	<i>J. L. Holden</i> <i>3 Vitsig St. Rozendal Stellenbosch</i> ⁷⁶⁰⁰					REGISTERED LETTER (with a domestic insurance option) RC370734386ZA A BOOK COPY
2	<i>MT + A Mey</i> <i>PO Box 3149 Matieland 7602</i>					REGISTERED LETTER (with a domestic insurance option) RC370734372ZA A BOOK COPY
3	<i>PR + L Bosman</i> <i>8 Waterway Rozendal Stellenbosch</i> ⁷⁶⁰⁰					REGISTERED LETTER (with a domestic insurance option) RC370734369ZA A BOOK COPY
4	<i>JH + AJ van Heerden</i> <i>PO Box 1220 Stellenbosch 7599</i>					REGISTERED LETTER (with a domestic insurance option) RC370734355ZA A BOOK COPY
5	<i>CJ Calitz</i> <i>14 Waterway Rozendal Stellenbosch</i> ⁷⁶⁰⁰					REGISTERED LETTER (with a domestic insurance option) RC370734341ZA A BOOK COPY
6	<i>FJ + L van Zyl</i> <i>12 Waterway Rozendal Stellenbosch</i> ⁷⁶⁰⁰					REGISTERED LETTER (with a domestic insurance option) RC370734338ZA A BOOK COPY
7	<i>DJ Marais + CE Terreblanche-Dupper</i> <i>PO Box 3001 Matieland 7602</i>					REGISTERED LETTER (with a domestic insurance option) RC370734298ZA A BOOK COPY
8	<i>AS Jordaan</i> <i>PO Box 3009 Matieland 7602</i>					REGISTERED LETTER (with a domestic insurance option) RC370734324ZA A BOOK COPY
9	<i>M + M Franken</i> <i>PO Box 2073 Dennesig 7601</i>					REGISTERED LETTER (with a domestic insurance option) RC370734315ZA A BOOK COPY
10	<i>Stellenbosch Interest Group</i> <i>PO Box 2217 Dennesig 7601</i>					REGISTERED LETTER (with a domestic insurance option) RC370734307ZA A BOOK COPY
	Number of letters posted Getal briewe gepos	Total Totaal	R	R	R	R

Signature of client

Handtekening van kliënt *EDLH*

Signature of accepting officer

Handtekening van aanneembeampte *[Signature]*

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Date stamp

7129
Folio 6
03-04-2019

Datumstempel

List of REGISTERED LETTERS
Lys van GEREGISTREERDE BRIEWE
(with an insurance option/met 'n versekeringsopsie)



Post Office

Full tracking and tracing/Volledige volg en spoor

Name and address of sender: Dieseland Munns Inc
 Naam en adres van afsender: Po Box 475
Somerset West
7129

Enquiries/Navraë
 Toll-free number
 Tolvry nommer
0800 111 502

No	Name and address of addressee Naam en adres van geadresseerde	Insured amount Versekerde bedrag	Insurance fee Versekeringsgeld	Postage Posgeld	Service fee Diensgeld	Affix Track and Trace customer copy Plak Volg-en-Spoor-kliëntafskrif
1	H Hegewisch 92 Van Coppenhagen St. Stellenbosch					REGISTERED LETTER (with a domestic insurance option) ShareCall 0860 111 502 www.sapo.co.za RC370734488ZA CUSTOMER COPY 301028R
2	J P de Vos 3 Paul Sauer St Rozendal Stellenbosch					REGISTERED LETTER (with a domestic insurance option) ShareCall 0860 111 502 www.sapo.co.za RC370734474ZA CUSTOMER COPY 301028R
3	J A van Zyl 5 Paul Sauer St. Rozendal Stellenbosch					REGISTERED LETTER (with a domestic insurance option) ShareCall 0860 111 502 www.sapo.co.za RC370734465ZA
4	H M Dixon 112 Sundown Place 121 Pretoria Ave Sandown					REGISTERED LETTER (with a domestic insurance option) RC370734457ZA A BOOK COPY
5	D J Oosthuizen PO Box 6112 Uniedal 7612					REGISTERED LETTER (with a domestic insurance option) RC370734443ZA
6	J H Westdyk 11 Paul Sauer St. Rozendal Stellenbosch					REGISTERED LETTER (with a domestic insurance option) RC370734430ZA A BOOK COPY
7	B Fischer, SM Dieskmann 14 Rozendal Ave Rozendal Stellenbosch					REGISTERED LETTER (with a domestic insurance option) RC370734426ZA A BOOK COPY
8	I J + P Bruwer 2 Paul Sauer St. Rozendal Stellenbosch					REGISTERED LETTER (with a domestic insurance option) RC370734412ZA A BOOK COPY
9	A Morgan 4 Paul Sauer St. Rozendal Stellenbosch					REGISTERED LETTER (with a domestic insurance option) RC370734409ZA A BOOK COPY
10	E P. Volschenk 6 Paul Sauer St. Rozendal Stellenbosch					REGISTERED LETTER (with a domestic insurance option) RC370734390ZA A BOOK COPY
Number of letters posted Getal briewe gepos		Total Totaal	R	R	R	R

Number of letters posted
Getal briewe gepos 10

Signature of client
Handtekening van kliënt

Signature of accepting officer
Handtekening van aanneembeampte

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List of REGISTERED LETTERS
Lys van GEREKISTREERDE BRIEWE
 (with an insurance option/met 'n versekeringsopsie)



Post Office

Full tracking and tracing/Volledige volg en spoor

Name and address of sender:
 Naam en adres van afsender: Diesel and Munns Inc
P O Box 475
Somerset West
7129

Enquiries/Navrae
 Toll-free number
 Tolvry nommer
0800 111 502

No	Name and address of addressee Naam en adres van geadresseerde	Insured amount Versekerde bedrag	Insurance fee Versekeringsgeld	Postage Posgeld	Service fee Diensgeld	Affix Track and Trace customer copy Plak Volg-en-Spoor-kliefekrif
1	FJ+T Bekker P O Box 867 Stilbaai 6674					REGISTERED LETTER (with a domestic insurance option) ShareCall 0860 111 502 www.sapo.co.za RC370736016ZA CUSTOMER COPY 301028R
2	L I Botha 14 Van Cappenhagen Street Stellenbosch Rozendal					REGISTERED LETTER (with a domestic insurance option) ShareCall 0860 111 502 www.sapo.co.za RC370736020ZA CUSTOMER COPY 301028R
3	M Furphy P O Box 194 Gordon's Bay 7151					REGISTERED LETTER (with a domestic insurance option) ShareCall 0860 111 502 www.sapo.co.za RC370736033ZA CUSTOMER COPY 301028R
4	A. Bakker 18 Van Cappenhagen St. Stellenbosch Rozendal 7600					REGISTERED LETTER (with a domestic insurance option) ShareCall 0860 111 502 www.sapo.co.za RC370736047ZA CUSTOMER COPY 301028R
5	J. A. Engelbrecht 18 Water Way Rozendal Stellenbosch 7600					REGISTERED LETTER (with a domestic insurance option) ShareCall 0860 111 502 www.sapo.co.za RC370736055ZA
6	T. Prins 19 Hendrik Bergh St. Stellenbosch Rozendal 7600					REGISTERED LETTER (with a domestic insurance option) ShareCall 0860 111 502 www.sapo.co.za RC370736064ZA CUSTOMER COPY 301028R
7	J. V. Retief 17 Hendrik Bergh St. Stellenbosch Rozendal 7600					REGISTERED LETTER (with a domestic insurance option) ShareCall 0860 111 502 www.sapo.co.za RC370736078ZA CUSTOMER COPY 301028R
8	N. Haasbroek 15 Hendrik Bergh St. Stellenbosch Rozendal 7600					REGISTERED LETTER (with a domestic insurance option) ShareCall 0860 111 502 www.sapo.co.za RC370736081ZA CUSTOMER COPY 301028R
9	R. Butler P O Box 3369 Matieland 7602					REGISTERED LETTER (with a domestic insurance option) ShareCall 0860 111 502 www.sapo.co.za RC370736095ZA CUSTOMER COPY 301028R
10	A M + K J Ridge 11 Hendrik Bergh St. Stellenbosch Rozendal 7600					REGISTERED LETTER (with a domestic insurance option) ShareCall 0860 111 502 www.sapo.co.za RC370736104ZA CUSTOMER COPY 301028R
		Total Totaal	R	R	R	R

Number of letters posted
 Getal briewe gepos 10

Signature of client
 Handtekening van kliënt [Signature]

Signature of accepting officer
 Handtekening van aanneembeampte [Signature]

The value of the contents of these letters is as indicated and compensation is not payable for a letter received unconditionally. Compensation is limited to R100,00. No compensation is payable without documentary proof. Optional insurance of up to R200,00 is available and applies to domestic registered letters only.

Die waarde van die inhoud van hierdie briewe is soos aangedui en vergoeding sal nie betaal word vir 'n brief wat sonder voorbehoud ontvang word nie. Vergoeding is beperk tot R100,00. Geen vergoeding is sonder dokumentere bewys betaalbaar nie. Opsionele versekering van tot R2 000,00 is beskikbaar en is slegs op binnelandse geregistreerde briewe van toepassing.



List of REGISTERED LETTERS
Lys van GEREgistreerde Briewe
 (with an insurance option/met 'n versekeringsopsie)



Post Office

Full tracking and tracing/Volledige volg en spoor

Name and address of sender:
 Naam en adres van afsender: Diesel and Munns Inc
PO Box 475
Somerset West 7129

Enquiries/Navrae
 Toll-free number
 Tolvry nommer
0800 111 502

No	Name and address of addressee Naam en adres van geadresseerde	Insured amount Versekerde bedrag	Insurance fee Versekeringsgeld	Postage Posgeld	Service fee Diensgeld	Affix Track and Trace customer copy Plak Volg-en-Spoor-klöntafskrif
1	Stellenbosch Ratepayers Association PO Box 399 Stellenbosch 7599					REGISTERED LETTER <small>(with a domestic insurance option)</small> RC370733880ZA A BOOK COPY
2						
3						
4						
5						
6						
7						
8						
9						
10						

Number of letters posted
 Getal briewe gepos 1 Total Totaal R R R R

Signature of client
 Handtekening van kliënt *EOHh*

Signature of accepting officer
 Handtekening van aanneembeampte *[Signature]*

The value of the contents of these letters is as indicated and compensation is not payable for a letter received unconditionally. Compensation is limited to R100,00. No compensation is payable without documentary proof. Optional insurance of up to R200,00 is available and applies to domestic registered letters only.

Die waarde van die inhoud van hierdie briewe is soos aangedui en vergoeding sal nie betaal word vir 'n brief wat sonder voorbehoud ontvang word nie. Vergoeding is beperk tot R100,00. Geen vergoeding is sonder dokumentere bewys betaalbaar nie. Opsionele versekering van tot R2 000,00 is beskikbaar en is slegs op binnelandse geregistreeerde briewe van toepassing.

Date stamp
Somerset West
03-04-2019
Folie 6
Datumstempel 7129



657636

REGISTERED LETTER
(with a domestic insurance option)
• Full Domestic tracking and tracing
• Domestic Enquiries
ShareCall 0850 111 502 www.sapo.co.za
RC370734267ZA

~~Winstanley Family Trust
4A Davis Street
FIRSTENHOF
7945~~

04
04

15/4

1st RC370734267ZA
D
RC370734267ZA

RECIPIENT NAME (please print clearly)



402640 / 414

REGISTERED LETTER
(with a domestic insurance option)
• Full Domestic tracking and tracing
• Domestic Enquiries
ShareCall 0850 111 502 www.sapo.co.za
RC370736033ZA

~~M. Murphy
P.O. Box 194
GORDONS BAY
7151~~

15/4

RTS

D
RC370736033ZA

RECIPIENT NAME (please print clearly)

APPENDIX 6

**APPLICATION FOR REMOVAL OF
RESTRICTIVE TITLE DEED CONDITIONS,
SPECIAL DEVELOPMENT AND PERMANENT
DEPARTURE ON ERF 4731, STELLENBOSCH.**

OBJECTIONS

Stellenbosch Map • OBJECTIONS

SCALE

1:4 513,99

Legend

- Find Erven_Query result
- High Way
- Provincial
- Arterial
- Main
- Street
- Street
- Railway
- Sectional Schemes
- Erven
- District Boundary
- Ocean

96



Stellenbosch Municipality
Planning & Economic Development
Created by: Corporate GIS

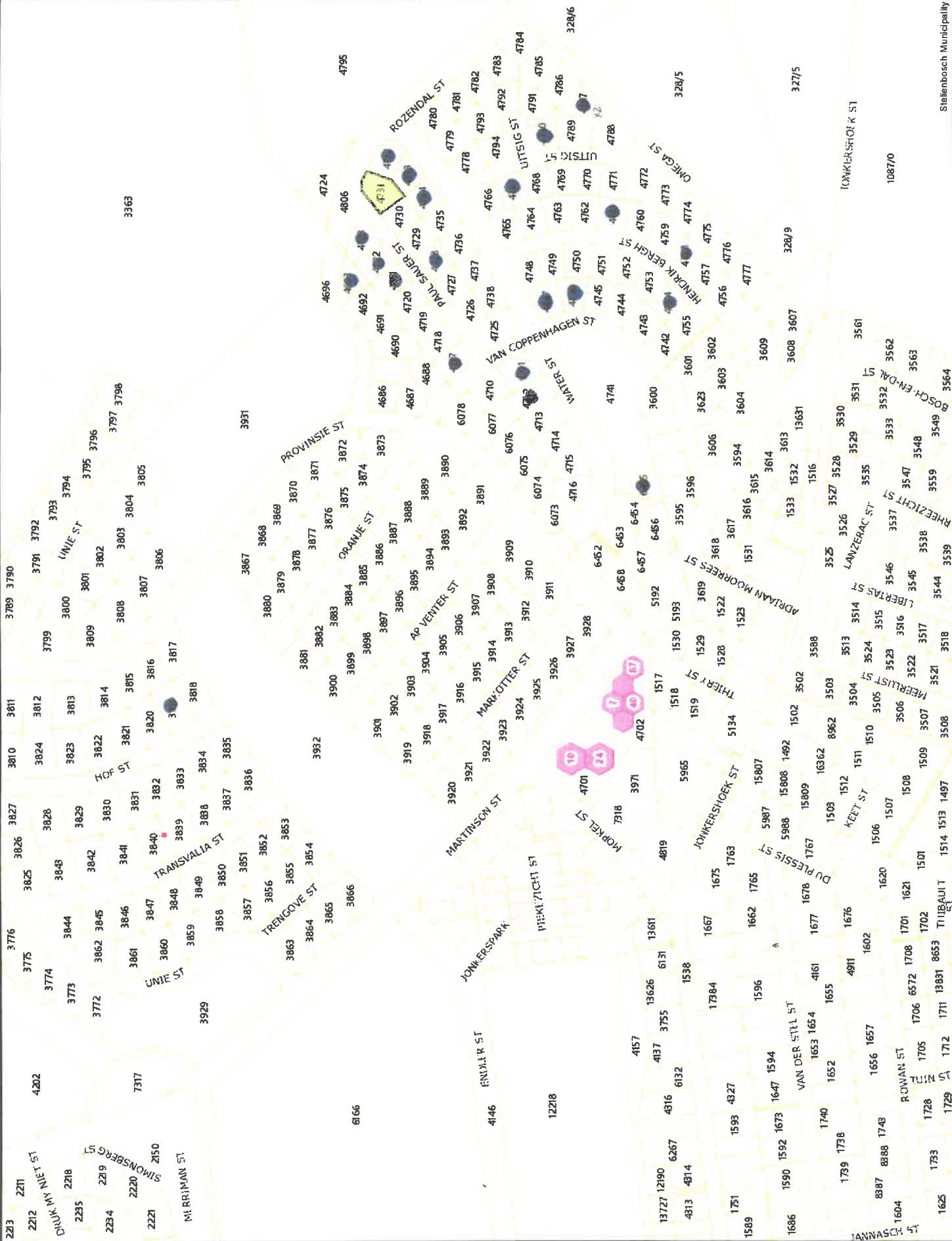
Date: 2019-10-01



Autor: Stellenbosch Municipality

Stellenbosch Municipality
Street Address:
71 Plein Street, Stellenbosch, 7600
Tel: 021 808 8658

This map is a representation of the information contained in the Stellenbosch Municipality GIS. It is not a legal document. It is not intended to be used as a legal document. It is not intended to be used as a legal document. It is not intended to be used as a legal document.



Stellenbosch Municipality

file

36

Brand, H.J., Dr [hjb@sun.ac.za]

From: Brand, H.J., Dr [hjb@sun.ac.za]
Sent: 21 April 2019 17:58
To: planning@dieselandmunns.co.za
Subject: ERF 4731, STELLENBOSCH

Die Bestuurder
 Diesel & Munns INC.
 St Jamesstraat
 Somerset-Wes 7129

BESWAAR TEEN AANSOEK OM OPHEFFING VAN TITELAKTE ERF 4731, STELLENBOSCH

Aansoeknr: LU/8162
 Mun Verw Nr: Erf 4731, Stellenboach
 Aansoeker Verw Nr: C5626

Correspondent: H J Brand
 Adres: Uitsigstraat 11, Rozendal, Stellenbosch 7600
 Erf Nr: 4790

FILE NR:	
SCAN NR:	E 4731 S
COLLABORATOR NR:	644190

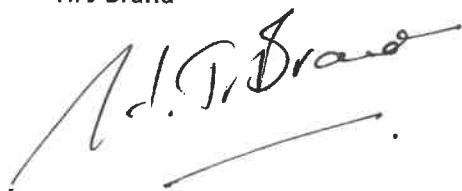
Verwysing: (u skrywe gedateer 4 April 2019)

Hiermee teken ek die ondergetekende beswaar aan teen die aansoek om die opheffing van die titelakte van erf 4731 en wel om die volgende redes:

1. Die gebou op die erf is reeds voltooi, en ten volle in gebruik geneem deur die eienaar. Hoe kan 'n aansoek om die opheffing van die titelakte nou gedoen word, nadat die gebou reeds voltooi is? Sodanige aansoek moet gedoen word gelyktydig of voor die indiening en goedkeuring van die bouplanne. Ek staan dus die aansoek teen, omdat 'n omgekeerde orde van goedkeuring gevolg word.
2. Die oorspronklike planne is foutiewelik goedgekeur ("the original plans were approved in error" p2). Omdat foute ingesluit het met die goedkeuring van die aanvanklike goedkeuring, staan ek die aansoek teen. Waarom het foute ingesluit, en wie was vir die foute verantwoordelik? Wat is gedoen om die foute te voorkom?
3. Die impak van 'n gastehuis teenoor 'n enkel residensiële woonhuis verskil in beginsel van mekaar. 'n Gastehuis behoort 'n groter negatiewe ekologiese spoor op die omgewing te hê as 'n enkel residensiële woonhuis, gevolglik word die aansoek teengestaan. Geen bewyse is beskikbaar van die moontlike impak van 'n moontlike gastehuis (erf 4731) op die onmiddellike omringende ekologie nie. Byvoorbeeld 100-120 meter vanaf die beoogde gastehuis is 'n voëlreservaat op erf 4795 geleë. Geen impakstudies is gedoen om die moontlike effek op die omringende natuurlewe te illustreer nie.

Die aansoek om opheffing van die titelakte van erf 4371 word dus om bg. redes ten sterkte teengestaan.

H. J Brand




Charlene Williams

From: Louisa Guntz
Sent: 29 April 2019 09:15 AM
To: Charlene Williams
Subject: FW: [EX] Fwd: Objections to application to remove title deed conditions and departures for Erf 4731 Stellenbosch/ Application no. LU/8162

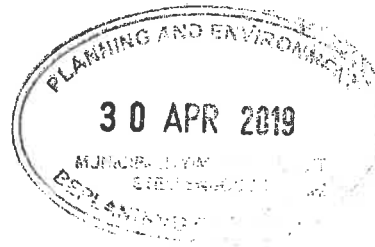
Hi dame

Hier is nog 'n beswaar op die aansoek op Erf 4731, Stb.

Kan jy hierdie ook op leër sit en vir my uitmerk asb.

Dankie.

Louisa



From: Ralph Pina [mailto:treehugger.ralph@gmail.com]
Sent: 29 April 2019 09:07 AM
To: Louisa Guntz
Subject: [EX] Fwd: Objections to application to remove title deed conditions and departures for Erf 4731 Stellenbosch/ Application no. LU/8162

Dear Ms Olyn,

For your information I have copied my household's objection to the development at 14 Paul Sauer Street. I trust that when the time comes, the municipality will serve the interests of the residents and rate payers of Rozendal, Stellenbosch.

Kind regards

Ralph Pina | Stellenbosch | m: 083 3026970 | twitter: @ralphpina | www.ralphpina.com

FILE NR:	
SCAN NR:	E4731S
COLLABORATOR NR:	643637

----- Forwarded message -----

From: Ralph Pina <treehugger.ralph@gmail.com>

Date: Thu, 25 Apr 2019 at 22:02

Subject: Objections to application to remove title deed conditions and departures for Erf 4731 Stellenbosch/ Application no. LU/8162

To: <planning@dieselandmunns.co.za>

Diesel & Munns Inc.,

We are the owners and residents of 25 Water Road, Stellenbosch (Erf 4734) diagonally adjacent to Erf 4731.

Our objection to the application may be summarised as follows:

1. The municipality approved the original plans erroneously or in contravention of its own standards;
2. The Owner did not build the structures according to the original, approved plans;
3. When we inspected the property during construction, it was already obvious that the structure was intended to be a guest house with multiple, independent accommodation units, and with no internal link between the 1st and ground floors as one would expect of a single residence;
4. Consequently, the application is a transparent attempt to retrospectively "fix" an illegitimate development in which the municipality was either erroneously or knowingly complicit, and where it is clear that the Owner attempted to mislead the municipality and the neighbourhood. The Owner, a

foreign property developer apparently, always intended to build a guest house and neglected to engage with the citizens of the neighbourhood when it would have been appropriate to do so.

As to the claimed compliance with "evaluation criteria" on page 11 of the application:

1. Appropriate scale and form: the conversion into a guest house will change the character of the neighbourhood from residential to mixed use;
2. Socio-economic benefits: these are overstated, given the scale of the development. In any case all profits would be repatriated to a foreign owner and not be invested locally;
3. Fit with surrounding urban context: this is manifestly false. There is one other similar, illegitimate case in the immediate neighbourhood in Water Road, so that this is one more cut that leads to the death of a neighbourhood.
4. Residential character and land use intensification: if the development was residential in nature, it would not need extraordinary permission. Conversion to a guest house with 4 double bed rooms would increase the density of the usage to twice the density allowed by the municipal zoning scheme regulations for residential usage;
5. No detraction from existing rights of surrounding erven; the development will likely devalue surrounding property values. Surrounding property owners had a reasonable expectation of the permanence of the characteristics of low-traffic volumes, privacy and noise-free residential character, due to the explicit title deed restrictions, which would now be betrayed;
6. Increased passive surveillance: the proposed up-market guest house is aimed at short-term, overseas visitors, who have no incentive to get involved with public safety, who lack the local knowledge to assess situations, and who lack the access to local safety infrastructure (e.g., neighbourhood whatsapp groups);
7. No undermining of the public interest: this one is the cherry on the cake. By deliberately failing to engage with the local public and attempting to circumvent municipal process and title deed restrictions, the owner, and his development, have shown flagrant disregard for the public interest. The result will not be in the interests of the neighbourhood citizens who constitute the public.

Yours faithfully

Ralph and Marion Pina

Owners and residents of 25 Water Road, Rozendal since 1987

Ralph Pina | Stellenbosch | m: 083 3026970 | twitter: @ralphpina | www.ralphpina.com

Paul Sauerstraat 9
Rozendal
Stellenbosch
7600

25 April 2019

Erf 4721

Diesel & Munns Inc

Posbus 475

Somerset Wes

7140

Geagte Heer,

i.s. ontwikkeling Erf 4731, Paul Sauerstraat 14, Rozendal, Stellenbosch.

Ons reageer op die brief i.v.m. ontwikkeling Paul Sauerstraat 14, Rozendal Stellenbosch en die aansoek vir opheffing van huidige regulasies..

As inwoners van Rozendal, vir meer as 30jaar, wil ons ten sterkste beswaar aanteken teen die beoogde opening van 'n gastehuis, op ons, spreekwoordelike, voorstoep. Ook dat regulasies aangepas of opgehef word om dit moontlik te maak.

Ons gee die volgende redes daarvoor:

1. Die *area grens aan 'n natuurgebied* en is bekend vir sy voëllewe, rustigheid en staproetes. Die verkeer, soos dit is, is al problematies. 'n Geheen en weer van personeel en nog motors en oorblyers wat geen erg aan die omgewing het nie, sal net tot stoornis ly. Die motor ingang van die huis is besonder smal en motors sal in straat geparkeer word.

①

2. Die feit dat *geen bure aanvanklik ingelig* was oor die moontlikheid dat 'n gastehuis opgerig gaan word nie. is vir ons verswarend.
- a} Op alle telefoniese navrae is daar deurentyd gesê dis net 'n huis vir 'n groot Duitse gesin. Dit is ook so deur die projekbestuurder verkondig.
- b} Toe daar by die munisipaliteit navraag gedoen is oor die diep uitgrawings, is daar gesê die planne is goedgekeur. *Nou dat die gebou opgerig is, word toestemming vir opskorting van bestaande regulasies gevra. Onaanvaarbaar.*
3. Die *gebou pas hoegenaamd nie in by die woonbuurt* nie. Die aflooppype waarin ons moet vaskyk is 'n seer oog. Die gebou doen afbreuk aan die waardigheid van die woonbuurt en is geen advertensie vir Stellenbosch nie.
4. Geen ekonomiese groei kan uit hierdie konstruksie vir die dorp kom nie. Ons is meer as 3km van middedorp, Die buurt betaal duur vir sekuriteit en ons beskou die moontlikheid van werklui, vir wie ons nie verantwoordelik is nie, 'n groot *risiko*. Die eienaar is nie voltyds hier nie en 'n inwonende bestuurder word nie gewaarborg nie. Toerisme kan nie hier uit baat vind nie.
5. Duidelik is die gebou buite die bepaalde beperkinge opgerig en regulasies is ge-ignoreer en onder geen omstandighede gee ons goedkeuring dat bestaande regulasies verander of opgehef word nie.

D.J. OOSTHUIZEN *Arthur 27-04-12*

P.A.M. Oosthuizer

Charlene Williams

From: Louisa Guntz
Sent: 30 April 2019 04:16 PM
To: Charlene Williams
Subject: FW: [EX] Objections to Application LU/8162 for Removal of Restrictive Title Deed condition, Special Development and Departure: ERF 4731, Stellenbosch

Hi dame

Nog 'n beswaar vir Erf 4731, Stellenbosch.

Dankie.



From: Nakkiran Sunassee [mailto:n.sunassee@gmail.com]
Sent: 30 April 2019 03:47 PM
To: planning@dieselandmunns.co.za
Cc: Louisa Guntz
Subject: [EX] Objections to Application LU/8162 for Removal of Restrictive Title Deed condition, Special Development and Departure: ERF 4731, Stellenbosch

Good day,

We would like to file our objections regarding the following application:

Application: **LU/8162**

Reference Number: **ERF4371, Stellenbosch**

Physical Address: **14 Paul Sauer Street, Stellenbosch**

FILE NR:	
SCAN NR:	E 4731 S
COLLABORATOR NR:	643718

Comments & Reasons for our objections

The process of property development requires obtaining the necessary permissions from the local municipality/council, and thus affords the neighbours the chance to comment/object to the proposed plans should they be impacted negatively. This was definitely not the case during the erection of the current dwelling on the property listed above. As law-abiding residents, we are being asked to sign off on this illegally-built structure after the fact, which is unreasonable and unfair. It also establishes a dangerous precedent for developers to further ignore the Municipality's restrictions, which will lead to a degradation of our neighbourhood's pleasant character.

The construction on the property listed above violates the title deed restrictions (esp. the building lines) and zoning regulations, which only allow a single dwelling. We are only too aware of this restriction, having encountered the same rule during our own renovations, which resulted in considerable changes to the construction at great costs. The proper process would have required consent from the affected parties, which would not have been given.

The owner has shown blatant disregard for the Municipality's regulations, as well as the general character and disposition of our neighbourhood by building the physical structures with a guest house layout from the start, and also ignored several restrictions of the (erroneously approved) application.

Residents move here and pay a premium for properties in the area because they appreciate the local, residential character of the neighbourhood. A guesthouse with regular traffic from guests and staff would destroy the character of the street and the wider neighbourhood, and negatively affect property values.

Rozendal is a close-knit neighbourhood, and most residents know each other and watch out for each other. The owner of the property listed above is an overseas real estate developer who is absent for most of the year, and has no interest in becoming part of the community. Likewise, the potential guest house guests and

staff will not be interested in the community. This will negatively affect the character of the neighbourhood,

The constant influx of short-term guests to the guest house, and subsequent increase in traffic volumes will also have a negative impact on the security of the neighbourhood.

We most strongly object to this application, and/or any further relaxation of the restrictive title deed conditions of the property listed above, and request that Stellenbosch Municipality intervene in this matter.

Regards,

Nakkiran Sunassee & Michelle Furphy
16 Van Coppenhagen Road erf 4746
Stellenbosch

7600

n.sunassee@gmail.com

0833402941

U 3

U 4

U 11

U 14

U 15

Louisa

40

Charlene Williams

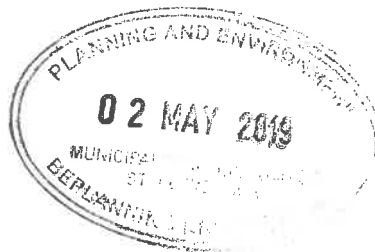
From: Louisa Guntz
Sent: 30 April 2019 04:14 PM
To: Charlene Williams
Subject: FW: [EX] FW: Vir Aandag: Barry Blount - Beswaar ontwikkeling erf 4731

Hi dame,

Kan hierdie ook op leër geplaas word asb.

Dankie.

Louisa



From: Gerda Hayes [mailto:ghayes@completecoding.co.za]
Sent: 30 April 2019 02:09 PM
To: planning@dieselandmunns.co.za
Cc: Louisa Guntz
Subject: [EX] FW: Vir Aandag: Barry Blount - Beswaar ontwikkeling erf 4731

Goeiedag. Ek het op die vorige epos nagelaat om die aansoeknommer te noem. Ek het reageer op aansoek LU/8162.

Baie dankie
 Gerda Hayes
 Rozendallaan 12, Stellenbosch

From: Gerda Hayes [mailto:ghayes@completecoding.co.za]
Sent: Monday, 29 April 2019 10:26
To: 'planning@dieselandmunns.co.za' <planning@dieselandmunns.co.za>
Cc: 'Louisa.Ollyn@stellenbosch.gov.za' <Louisa.Ollyn@stellenbosch.gov.za>
Subject: Vir Aandag: Barry Blount - Beswaar ontwikkeling erf 4731

FILE NR:	
SCAN NR:	E 4731 S
COLLABORATOR NR:	643661

Goeie môre Barry

Ek, GP Hayes met ID nommer 681224059081 is mede-eienaar van eiendom in Rozendallaan 12 Stellenbosch met erfnummer 4693. Die ontwikkeling op erf 4731 verwys.

Ek het geen dokumentasie in die verband ontvang nie, hoewel my huis slegs twee huise vanaf die genoemde ontwikkeling geleë is. Dit is my eerste beswaar. Dit wil voorkom of inligting baie selektief verskaf is.

Ek stap elke dag verby die eiendom met my honde en het die bouery eerstehands ervaar. In paragraaf 8.1 word die indruk geskep dat minimale veranderings aan die huis se binnekant aangebring gaan word. Volgens my waarneming is die die huis van die begin af gebou met die oog op 'n gastehuis met meer as 4 badkamers wat nou alreeds in die bestaande huis is. Daar is dus moontlik afgewyk van die bouplanne wat ingedien is. Daar word nou van eienaars in die omgewing verwag om te aanvaar dat ontwikkeling goedgekeur word wat reeds plaasgevind het. Dit skep 'n presedent vir toekomstige ontwikkeling wat op diesefde wyse deurgeforseer mag word. Dit mag eenvoudig nie gebeur nie.

Ek het ook waargeneem dat hope grond ingery is op die erf. Die huis vertoon dus asof dit op 'n aansienlike hoër vlak as die vorige huis gebou is. Privaatheid van die onderste bure en die uitsig van die boonste bure word belemmer. Par 8.1 maak die stelling: "The existing visual character of the building will be retained". Die visuele karakter van

die huis soos dit nou is, is alreeds 'n kollosale probleem. Geldige klagtes van bure is nie aangespreek tydens die bou van die bestaande huis nie. Hoekom sou ons nou addisionele veranderings goedkeur?

Par 8.2 ("Removal of Restrictive title conditions"). Ek betaal 'n hoë premie om in 'n landelike omgewing te woon. Die omgewing is landelik juis omdat daar beperkinge is op ontwikkelings. Die eienaar is 'n buitelandse wat nie belasting betaal nie. Inkomste wat deur die gastehuis gegenereer word hou geen voordeel in vir die plaaslike gemeenskap nie. Daar is ook nie 'n tekort aan gastehuse op Stellenbosch nie. Ek verwag van die munisipaliteit om te hou by sy eie reëls en regulasies tot voordeel van sy inwoners.

Sekuriteit is ook vir my 'n probleem. Par 8.1 verwys: "As the proposal is allowing for the use of the building as an up market guest house...the impacts on the surrounding neighbourhood will be minimal". 'n Gastehuis waar elke dag ander voertuie en persone in en uitbeweeg maak dit baie moeilik vir sekuriteitsbeamptes om te bepaal watter persone en voertuie verdag is. Die feit dat dit 'n "hoë klas" besoeker is maak geen verskil aan die argument nie. Die rooftog in Mosterdsdrif einde verlede jaar is gedoen deur 'n groep verdagtes wat 'n Mercedes Benz bestuur het. Op die oomblik is die misdaad in Uniepark en Rozendal die laagste in Stellenbosch juis omdat die JSRA toegewysde personeel het wat op 'n daaglikse basis die buurt patroleer en presies weet wat op elke erf aangaan. Die genoemde ontwikkeling het 'n soliede muur wat ook 'n probleem skep en -waar my kennis strek- teen bouregulasies is.

Ek staan die verwydering van hierdie beperkings teen en verwag spoedige terugvoer.

Erken asseblief ontvangs van hierdie epos.

Baie dankie

Gerda Hayes
083 456 7789

Charlene Williams

From: Louisa Guntz
Sent: 30 April 2019 04:15 PM
To: Charlene Williams
Subject: FW: [EX] ERF 4731, Appl # LU/8162
Attachments: 14 Paul Sauer straat.pdf

Hi dame,

Nog 'n beswaar vir Erf 4731, Stellenbosch.

Dankie.



From: Jaco van Niekerk [mailto:irigging@icloud.com]
Sent: 30 April 2019 11:55 AM
To: planning@dieselandmunns.co.za
Cc: Louisa Guntz
Subject: [EX] ERF 4731, Appl # LU/8162

FILE NR:

SCAN NR:

COLLABORATOR NR:

Dear Sir / Madam

The attached letter refers regarding your Application for Removal of Restrictive Title Deed Condition, Special Development and Departure, LU 8162; ERF 4731

It is my understanding that the process of building a dwelling on a property and obtaining the necessary permissions from your local council is supposed to be a fair, equitable and transparent process. This was definitely not the case during the erection of the current dwelling on the property listed above. The residents of this neighbourhood have been denied the opportunity to object and is now asked to "after the fact" ratify what is essentially a building built in contravention of the title deed.

Please find a list of the objections to your proposal.

1. **The procedure is flawed:** given the fact that the notice on display on the property gate does not indicate a "commencement date" and a "closing date" of the application.

It states and I quote "All comments, quoting the application number, reference number, your name, address or contact details, your interest in the application and reasons for the comments should be received by the above party on or before 30 days from the date of publication of this notice (03 May 2019)".

This is clearly a very ambiguous statement that could be construed to mean 30 days from the 03rd May 2019, i.e 03rd June 2019.

2. The owner of this property purports in the application that he will be residing at the residence. *This is untrue as he is not in possession of a South African permanent residency permit and will not be allowed into this country for longer periods than any other tourist.* Who will be living on the property for the rest of the time?
3. **The procedure is again flawed:** The Site plan provided in your registered letter is simply wrong as it does not indicate the Title Deed Building Lines. What it does indicate is building lines 4,5m away from the boundary wall. Isn't this exactly what you are requesting in this application? Is this "Build first and ask permission later"?

4. The *dwelling does not conform to the definition of a residential dwelling* but was specifically build for a different purpose. The connecting doors between the various units on ground floor has been bricked up, thus separating each unit into a separate dwelling.
5. The *boundary wall does not comply* with the approved boundary wall policy as it allows no view into the property.
6. "Ground Level" as defined by the Stellenbosch Municipal Land Use Planning By-Law means the following: the mean between the highest and the lowest natural ground levels immediately adjacent to the building. *If one measures roof height from this mean, it is most definitely higher than the common restriction of 8m* as there is a garage area on the Western side of the house that effectively raises the top structure to a second storey. If the argument is used that the garage is a "Basement storey", it does not detract from the fact that the mean is incorrectly calculated and should be re-looked at by an independent Land Surveyor.
7. The Stellenbosch Municipality Land Use Planning By-Law states: Serving of Compliance Notices 87 (2)

"A compliance notice must instruct the occupier and owner to cease the unlawful utilization of land or construction activity or both, without delay or within a period determined by the Municipality, and may include an instruction to – (a) demolish... (b) submit an application... (c) rectify the contravention ...

Please could this compliance notice be produced.

8. Application is done for the removal of restrictive title deed conditions 6 (a). This is once again done as ratification for an already built structure that is in clear violation of the Title deed stating that no second structure is permitted.

Is it the intension of the owner to build more units on the property in future? Why should he believed now that this restriction is only to be lifted for the sake of a swimming pool pump?

9. A large amount of landfill has taken place on order to "lift" the swimming pool. This implies that the natural ground level from building line to boundary line has been substantially altered.
10. The house in its current form, considering the amount of rooms available should this be utilized as a Guest House, does not properly provide for enough parking on the property. This will result in an overflow of vehicles parked in the street.

The owner of the property has proven himself to be completely unreliable in his dealings with the fellow property owners in the neighbourhood. There is no reason to believe he will maintain the building in it's present state after these restrictions have been lifted. I object most strongly to any relaxation and would like the Stellenbosch Municipality to correct their earlier mistake and revert back to original Title Act Restrictions.

Regards

Est 4728

Jaco van Niekerk

Jaco van Niekerk
 8 Paul Sauer Street
 Rozendal
 7600
info@i-rigging.com
 083 276 2033

Regarding Application number: LU/8162
 Erf 4731

29 April 2019

Dear Sir/Madam

Your application for the removal of restrictive title deed condition, special development and departure for Erf 4731 informs.

It is my understanding that the process of building a dwelling on a property and obtaining the necessary permissions from your local council is supposed to be a fair, equitable and transparent process. This was definitely not the case during the erection of the current dwelling on the property listed above. The residents of this neighbourhood have been denied the opportunity to object and is now asked to "after the fact" ratify what is essentially a building built in contravention of the title deed.

Please find a list of the objections to your proposal.

1. **The procedure is flawed:** given the fact that the notice on display on the property gate does not indicate a "commencement date" and a "closing date" of the application.
 It states and I quote "All comments, quoting the application number, reference number, your name, address or contact details, your interest in the application and reasons for the comments should be received by the above party on or before 30 days from the date of publication of this notice (03 May 2019)".
This is clearly a very ambiguous statement that could be construed to mean 30 days from the 03rd May 2019, i.e. 03rd June 2019.
2. The owner of this property purports in the application that he will be residing at the residence. *This is untrue as he is not in possession of a South African permanent residency permit and will not be allowed into this country for longer periods than any other tourist. Who will be living on the property for the rest of the time?*
3. **The procedure is again flawed:** The Site plan provided in your registered letter is simply wrong as it does not indicate the Title Deed Building Lines. What it does indicate is building lines 4,5m away from the boundary wall. Isn't this exactly what you are requesting in this application? Is this "Build first and ask permission later"?
4. The *dwelling does not conform to the definition of a residential dwelling* but was specifically build for a different purpose. The connecting doors between the various units on ground floor has been bricked up, thus separating each unit into a separate dwelling.

5. The *boundary wall does not comply* with the approved boundary wall policy as it allows no view into the property.
6. "Ground Level" as defined by the Stellenbosch Municipal Land Use Planning By-Law means the following: the mean between the highest and the lowest natural ground levels immediately adjacent to the building. *If one measures roof height from this mean, it is most definitely higher than the common restriction of 8m* as there is a garage area on the Western side of the house that effectively raises the top structure to a second storey. If the argument is used that the garage is a "Basement storey", it does not detract from the fact that the mean is incorrectly calculated and should be re-looked at by an independent Land Surveyor.
7. The Stellenbosch Municipality Land Use Planning By-Law states: Serving of Compliance Notices 87 (2)
 "A compliance notice must instruct the occupier and owner to cease the unlawful utilization of land or construction activity or both, without delay or within a period determined by the Municipality, and may include an instruction to - (a) demolish... (b) submit an application... (c) rectify the contravention ...
Please could this compliance notice be produced.
8. Application is done for the removal of restrictive title deed conditions 6 (a). This is once again done as ratification for an already built structure that is in clear violation of the Title deed stating that no second structure is permitted. Is it the intension of the owner to build more units on the property in future? Why should he be believed now that this restriction is only to be lifted for the sake of a swimming pool pump?
9. A large amount of landfill has taken place on order to "lift" the swimming pool. This implies that the natural ground level from building line to boundary line has been substantially altered.
10. The house in its current form, considering the amount of rooms available should this be utilized as a Guest House, does not properly provide for enough parking on the property. This will result in an overflow of vehicles parked in the street.

The owner of the property has proven himself to be completely unreliable in his dealings with the fellow property owners in the neighbourhood. There is no reason to believe he will maintain the building in it's present state after these restrictions have been lifted. I object most strongly to any relaxation and would like the Stellenbosch Municipality to correct their earlier mistake and revert back to original Title Act Restrictions.

Regards
 Jaco van Niekerk

Johan Kirsten
21A Omega Street
Stellenbosch
Rozendal
7600
Email: jhnkirsten@gmail.com
Tel: 082 555 8570

2 May 2019

Dear Mt. B. Blount

Application no LU/8162
Erf no: 4731 Stellenbosch
Your Ref no: c5626

As a property owner and resident of Rozendal Stellenbosch, I strongly object to your application for:

- Relaxation of any rules of the zoning scheme for Stellenbosch municipal area, whether those rules have been violated in error or not.
- Utilization of the property for guest-hose purposes instead of single residential dwelling,
- Removal of restrictive title deed conditions.

According to my understanding there are 2 sets of building rule violations that we are asked to ratify in respect of the structure that has been built

1. The incorrect procedure followed in the approval of the submitted building plans and
2. The final construction which deviates from the approved building plans and thus further violating rules and regulations of the zoning scheme as well as the limitations in the title deed.

Furthermore, it seems to me that you are seeking approval for even further relaxation of boundary limitations, coverage and use of the premises.

I strongly object to all of the abovementioned applications for the following reasons:

1. Building rules and restrictions serve the purpose of protecting the rights of the property owners of an area as a collective. These rules provide certainty to property owners that the attributes and value of their properties and their neighborhood will remain intact. Therefore it is important to maintain discipline in upholding the rules and procedures for the approval of building plans.
2. When building rules and restrictions are violated and the owners are not forced to remedy such violations, it sets a precedent which will pave the way for the erosion of coherent structure and certainty, which will negatively affect the quality and aesthetics of the neighborhood as well as the property values.
3. The final structure is an eyesore which detracts from the beauty of the neighborhood.
4. According to your registered letter, boundary limitations of the rules of the zoning scheme of the Stellenbosch area were incorrectly approved by the Municipality and without

following the correct procedures. It is also my understanding that the building height restrictions were violated. These violations encroach on the neighboring resident's right to privacy as well as on the views they enjoy as a result of such building height restrictions. The encroachment on privacy rights are due to the top floor windows looking down directly into the backyards of the neighboring properties.

- 5. The building plans that were attached to your registered letter appear to be for a commercial guest house. The neighborhood is not suited for such commercial use as there is not enough parking available and on-street-parking will cause congestion and inconvenience for neighboring residents. It will also cause additional noise, disruptions, traffic and will detract from the tranquility of the area.
- 6. All the motivations provided in your application for relaxation of restrictions are unconvincing, vague and unsubstantiated.

In conclusion, I urge the applicant to adhere to the rules and regulations of the title deed and zoning scheme and to alter the built structure to comply to all such rules and regulations.

Regards

Johan Kirsten
HAD KIRSTEN TESTAMENTARY TRUST

1 May 2019

DIESEL & MUNNS INC.

PO Box 475

Somerset West

7129

Dear Sir

OBJECTION AGAINST APPLICATION LU/8162 ERF 4731

Your above application refers.

We, as the owners of 27 Water road (adjacent property), formally object to the above application based on the below motivations. Furthermore, we reserve the right to bring additional objections as/when these become apparent in future.

1. Title Deed and Zoning

- i. The area's zoning regulations require a building line of 4.5 meters to the street and 2.5 meters to any adjacent erf. However, the erf's title deed is stricter, and requires 6.3 meters to the street and 3.15 meters to any adjacent erf, for any part of the building. This is the clause B.6(b) that the application seeks to lift.
- ii. The owner (or his appointed professional service provider(s)) should therefore have known this when submitted building plans to the municipality in violation of the erf's title deed. In particular, the main structure is only 4.5 meters from the street boundary.
- iii. The Municipality appears to have approved these plans in error, despite having been contacted about this repeatedly.
- iv. The owner constructed the building in violation of even the erroneously approved plans. In particular:
 - a. The entertainment area is a second separate building, rather than the approved annex, and is in a different location. This is also prohibited by the erf's title deed, which only allows a single structure. This is the clause B.6(a) that the application seeks to lift. Note that when this is lifted, a second dwelling may be constructed.
 - b. The pool is in a different location than approved, and the natural ground level has been filled up to a height exceeding the existing boundary wall, despite the explicit planning requirement that the "natural ground level has to remain from the building line to the boundary line".
 - c. The internal structure of the main house doesn't follow the approved plan; in particular, the ground floor has already been built using a guest-house layout, as the application now purports to be done.
- v. In addition, it appears to us that the house is built on a higher level than the natural ground level; however, due to the very substantial earthwork this is difficult to establish without any surveying work. We recommend that a professional survey be done by an independent 3rd party to confirm.

2. Application, approval and building process:

- i. The author has this date not received any registered mail informing him of the planned development and relevant request for lifting of restrictions. Thus, it is apparent that the application process may be flawed and should be reviewed to confirm that all affected parties have been duly notified.
- ii. The proper process for the current building would have required approval from the affected neighbours. If it had been sought, it would not have been granted, due to the large size of the structure and the proximity to the street. Lifting the restrictions after the fact removes our right in determining the development in our neighbourhood.
- iii. The owner (and or his professional service providers) should therefore have known better than submitting to the municipality building plans that are in violation of the erf's title deed. The application to lift the restrictions after the process appears to be an attempt to sidestep the municipal requirements in an attempt to maximize owner's profit at the expense of everybody else. This is unacceptable situation and creates a very dangerous precedent for future development in the area. It is also a slap in the face of law-abiding citizens who spend considerable time and efforts to follow the Municipality's restrictions.
- iv. The owner appears to have shown a complete disregard for the Municipality's regulations and built the physical structures as guest house from the start as was already apparent from initial site visits (including the municipal building inspector – Aug 2017).
- v. The fact that the Municipality may have erroneously approved the plans does not absolve the owner from the violations of the title deed. In contrast, the building in its current form negatively impacts the value of the surrounding properties, most notably Paul Sauer 13 (erf 4723), Paul Sauer 12 (erf 4730), Rozendal Rd 18 (erf 4732) and Water road 27 (erf 4733).
- vi. According to the latest available information the municipality requires at least 1 parking bay be provided per guestroom. However, according to the latest plans shared by the applicant, provision is only made for 5 parking bays which is insufficient. Additionally, it is very important that should additional parking be provided, the layout be designed/approved by a civil engineer to ensure sufficient space to turn and park vehicles is allowed.
- vii. From our initial assessment, it appears that the revised layout of the swimming pool and raising of the surrounding natural ground level (>3,2m) required significant earthworks which would necessitate the design and construction of retaining structures by a professional civil engineer. It is our concern that, if not properly designed and constructed, these raining structures may fall and lead to significant damage to the surrounding properties as well as potential loss of life. Therefore, it is requested that all documents related to the design and construction of these be provided to our appointed structural engineer's satisfaction for review. Please see attached annexure A which shows (1) new elevated platform around pool, (2) existing boundary wall, (3) the natural ground level inside erf 4733.

3. Desirability of conversion to a guest house:

- i. The SSDF encourages development of touristic infrastructure if it reinforces the Municipality's sense of place. However, the neighbourhood is overwhelmingly residential, with only residential buildings on Paul Sauer Street. Conversion to a guesthouse does change the sense of the place.
- ii. Rozendal is a quiet residential neighbourhood. It is far from the CBD and is of limited interest to tourism.

- iii. Residents move here and pay a premium for properties in the area because they appreciate the local, residential character of the neighbourhood. A guesthouse with regular traffic from guests and staff would have a negative impact on the character of the street and the wider neighbourhood, and negatively affect property values.
- iv. Rozendal is a close-knit neighbourhood. Most residents know each other and watch out for each other. The owner of Paul Sauer 14 lives overseas and is absent for the very largest part of the year, and has no interest in becoming part of the community. Likewise, the potential guest house guests and staff will not be interested in the community. This will negatively affect the character of the neighbourhood.
- v. The constant influx of short-term guests to the guest house can negatively impact the security of the neighbourhood, because there will be no on-site manager to monitor comings and goings.
- vi. The economical benefits of the guest house are overclaimed: as it only has four guestrooms, a full-time (non-owner) manager is hardly economical, and the required cleaning work is no more than that of a family residence which is occupied year round. Moreover, all profits from the operation would accrue to an overseas owner, rather than being re-invested into the local economy.

4. Overall form of the Special Development Application: :

- i. The application asks to remove the building lines to 0 meters, thus overriding the zoning regulations. There is no reason for this other than to maximize the owners potential profits from further redeveloping the site in the future.
- ii. The present application is shoddily written and replete with errors (e.g., "Thus the existing building was constructed within [sic] the building lines as prescribed within the title deed, and these thus need to be removed [...]" [Motivation, p4], "[...] proposed that condition E.(i).f be removed from the Title Deed T59976/2012" [Motivation, p.6 - note the wrong condition and title deed number], or the reference to Cape Town Municipal Planning By-Law [Motivation, p12]). The title deed and conveyancer's certificate are purported to be attached as Annexures C and E, respectively, but were not mailed out together with the application. This makes it difficult to formulate an objection. Furthermore, the application very carefully downplays the extent of the violations (e.g., "slightly different position" of the entertainment and pool areas [Motivation, p.4], or the illegal fill-in of the ground level behind the pool not being mentioned). Finally, the letter is dated April 4, but postmarked April 3; this can either be a gross oversight by the applicants, or an attempt to disguise the required deadline for filing an objection

5. Further specific comments to the Motivation Report: :

- i. p4, "existing (approved) dwelling": The dwelling is not built as approved, see comments above.
- ii. p4, "the scale and character of the development will be in line with the structures that have been developed in the surrounding single residential properties": The attached pictures show that the current building is not in line with the structures in the surrounding - it is already substantially higher above ground and closer to the street line than any of the other properties in Paul Sauer street. The conversion into a guest house will change the character of the neighbourhood from residential to mixed use.
- iii. p4, "re-converted back": This implies that the internal structure follows the submitted plans, which is not the case.

- iv. p6, "use of the structures as a guest house could be argued to be residential in character": No - otherwise a change would not require permission. Moreover, the conversion to a guest house with 4 double bed rooms would increase the density of the usage to twice the density allowed by the Stellenbosch Municipality zoning scheme regulations for residential usage (which is 4 persons in addition to the family). This is clearly not in line with the residential character.
- v. p7, "Thus the proposal is seen to have no negative impact on any surrounding property and will have no financial implications." and "will not negatively impact on the personal benefits of any surrounding property owner": Property owners have paid a premium for the residential character of the neighbourhood and the low traffic volume. The proposed change in usage will mean that this premium will not be fully recoverable if any of the surrounding properties is now sold by the owners, leading to negative financial impact on such owners. Moreover, the surrounding property owners had a reasonable expectation of the permanence of these characteristics, due to the explicit title deed restrictions.
- vi. p8, "This will allow the owner [...] to obtain some personal financial benefit.": The current structures are built in violation of the zoning scheme restrictions, title deed, and planning application; relief from these violations can also be achieved by demolishing and rebuilding. Hence, the owner stands to gain substantial rather than just "some" personal benefit. Moreover, up-scale guest houses in Stellenbosch routinely charge around 1500 to 2500 Rand per night; again, this indicates substantial rather than just "some" personal benefit.
- vii. p8, "Thus these development restrictions no longer need to be duplicated within the title deeds of individual erven.": Title deed restrictions formulate independent legal and enforceable rights that cannot be changed without consent of the affected surrounding property owners. They thus offer substantially stronger guarantees than municipal regulations that can be changed by un-affected members of the (municipal) public. Keeping the title deed restrictions in place thus ensures that the owners of the surrounding erven are not deprived of their full property rights.
- viii. p11, "Increase[d] human activity will help ensure increased passive surveillance of the adjoining public realm.": The proposed up-scale guest house is aimed at overseas short-term visitors, who have no incentive to get involved with public safety, who lack the local knowledge to assess situations, and who lack the access to local safety infrastructure (e.g., neighbourhood whatsapp groups). Instead, they can create confusion by mis-interpreting situations, and can provide cover (through increased traffic and "human turnover") for criminal activities.

6. Privacy

- i. The moving of the swimming pool to its current position as well as the excessive raising of the surrounding platform (>3,2m above natural ground level) right next the boundary of the neighbouring properties has a very negative impact on the privacy of the adjacent properties.
- ii. This destruction of privacy has a very negative impact on the values of the adjacent properties due to the residents of the area placing such a high value on the pre-existing character of the area.
- iii. Additionally, the new entrance of the pool (steps) is now positioned right next to the boundary of erf 4733 at a ground level >1,2m above top of wall. As a result all guests entering the pool will be looking directly into the private pool and entertainment area of erf 4733 destroying any privacy as well as adding noise pollution into this private area.
- iv. Finally, the recent occupation of the dwelling, during the period when the owner visited South Africa, has provided some indication of what can be expected should the house be

occupied by guests. Again the raised platform and noise from guests had an extremely negative impact on the privacy of erf 4733 which is not acceptable.

7. Conclusion

- i. The above appears to confirm that due process was not followed during the re-development of 14 Paul Sauer and that a flawed application process is now being used to retrospectively address these shortcomings (a dangerous precedent for future development in the area).
- ii. It is clear that various elements of the construction are in violation of current building and zoning regulations and that these have a very negative impact on privacy of the adjacent properties. Additionally, some elements also pose the risk of significant damage (raised platforms and retaining structures) and it is recommended that these apparent violations be properly investigated and if found in contravention be remedied immediately.
- iii. Preserving the character of the area requires that the development a new guesthouse be declined. Additionally, as the owner will not be on premises, it is foreseen that the management of issues such disruptive guests, will likely become a matter which the existing neighbours will have to mitigate.
- iv. It is foreseen that the existing, as well as planned application has (and will have) a very negative effect on the value of the surrounding properties.

Yours faithfully



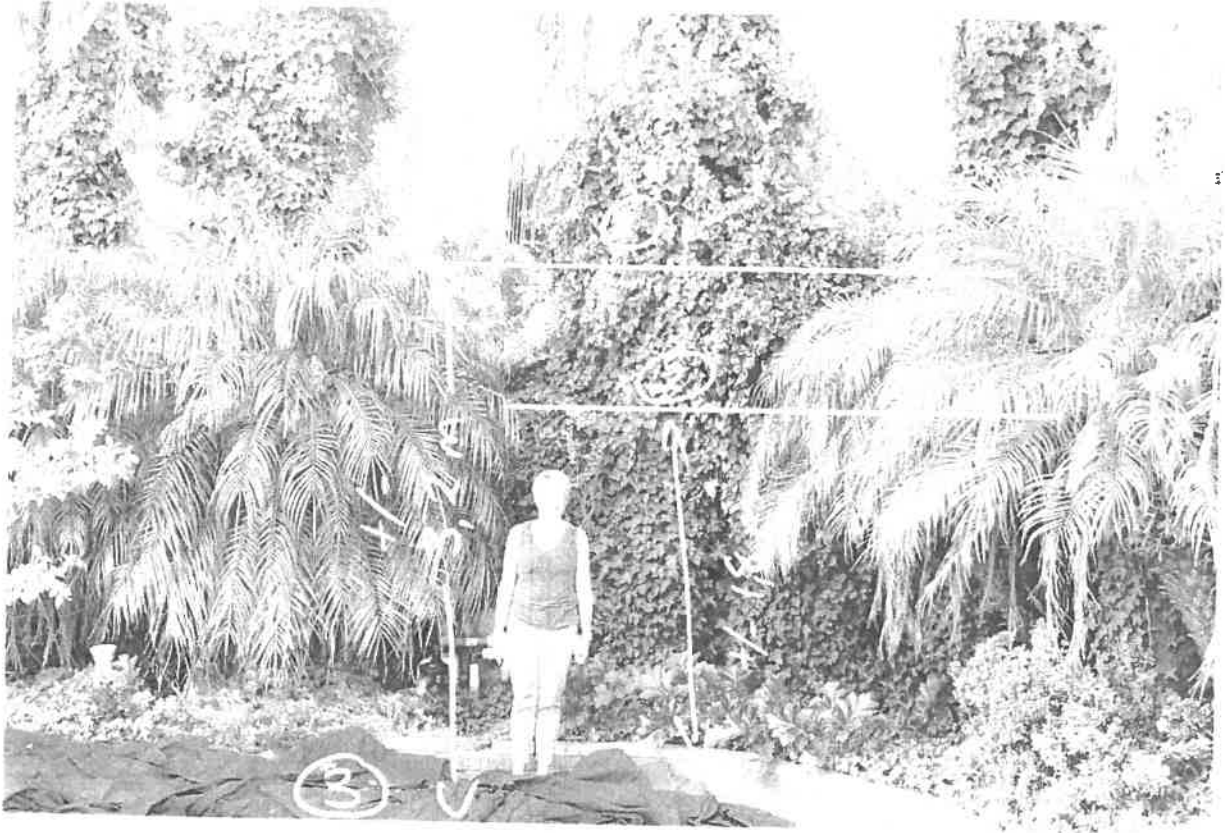
Mr/Mrs DJ & A KOTZÉ

27 Water road

djkotze.stell@gmail.com

nd
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Annexure A:



1. Cover level of swimming pool deck (+/- 3.2m above natural ground level).
2. Top of existing boundary wall (+/- 1.8 m above natural ground level).
3. Existing ground level.

-/-

3.0

Lawisa (44)

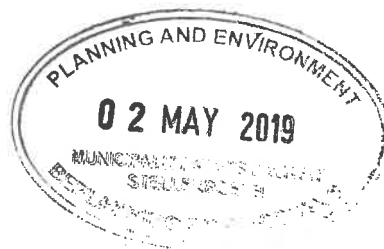
Charlene Williams

From: Louisa Guntz
Sent: 02 May 2019 11:28 AM
To: Charlene Williams
Subject: FW: Opposition to application for removal of restrictive title conditions - 14 Paul Sauer Street
Attachments: Objection letter - Smiths.pdf
Importance: High

Hi dame

Hier is nog 'n beswaar vir Erf 4731, stb

Dankie.



EF 4732

From: SMITH Marianna [mailto:Marianna.SMITH@ecocert.com]
Sent: 02 May 2019 09:43 AM
To: planning@dieselandmunns.co.za
Cc: Louisa Guntz
Subject: [EX] Opposition to application for removal of restrictive title conditions - 14 Paul Sauer Street
Importance: High

Dear Sir/Madam

In response to a letter from Diesel and Munns, dated 3 April, regarding the Removal of Restrictive Title conditions, we wish to oppose the application.

As a direct neighbor of the 14 Paul Sauer Street property, we attach our formal letter of objection.

Sincerely

Valdon and Marianna SMITH

Kind regards

Marianna Smith (Ph.D)

Certification Officer - *Chargé de certification*
Ecocert Southern Africa

Please take note of the future Ecocert Southern Africa office closure dates:

01/05/2019 (Workers Day)

08/05/2019 (National Election Day)

NB! Please note the following Ecocert Office Closure dates that will affect TC/COI requests:

Ecocert Madagascar Office - 22/04/2019, 01/05/2019 and 30/05/2019

Ecocert France Office - 22/04/2019, 01/05/2019, 08/05/2019, 30/05/2019 and 31/05/2019

No TC/COI will be processed and/or issued on days of office closure

TC/COI requests received after 12h00 on days prior to the public holiday/office closure will be dealt with the following work day only.

FILE NR:	
SCAN NR:	E-4731S
COLLABORATOR NR:	644202



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Personal Mobile: +27(0)83 640 3072
www.ecocertsouthafrica.com

Handwritten mark

Opposition to application for removal of restrictive title conditions, permanent departure for the relaxation of the common and street building lines and special development for the establishment of a guest house: Erf 4731, Stellenbosch.

Disputants; Valdón and Marianna Smith (neighbors to 14 Paul Sauer Street)

We strongly object to the actions proposed in Application Number LU/8162 regarding Erf 4731 (14 Paul Sauer Street), Stellenbosch. As resident owners of the house on Erf 4732, we have already been affected by the development on Erf 4731 and do not agree with statements made in application regarding the impact of the development on the character of the neighborhood and on residents close to the property. There are restrictive conditions in the title deed of our property that prohibit the utilization of the property as a guest house – we assumed that applied to all properties in the neighborhood, giving some assurance that the attractive qualities (see later) that attracted us to the area would continue - on that assumption we paid a premium price for our property.

This is not the first time we have raised objections, or queried developments at Erf 4731 since construction of the dwelling began. We have twice approached Stellenbosch municipality regarding our concerns and also met with a building inspector of the municipality. A brief history of our concerns and our contact/communication with the owner/property developer or his representatives follows.

The dwelling that existed on Erf 4731 when it was sold to the current owner was demolished soon after the sale (in 2016) and building started in 2017. From the magnitude of the earthworks and filling in that occurred prior to building, and then size of the new development, once construction started, it was clear to us that what was envisioned was not a single residential dwelling.

We inspected the plans at the municipality and were assured that they were for a single residential dwelling and that no application had been made for the establishment of a guest house. We were not conversant with technical aspects of the municipal or title deed restrictions (e.g. building lines, height restrictions, etc.), so were not able to query those aspects.

As construction progressed it became clear that there were deviations from the plans. We again inspected the plans at the municipality and pointed out what we considered were the deviations. As a result, a building inspector visited the site and admitted to us, and the owner of Erf 4733 (also an adjoining property to Erf 4731) that the building did deviate from the plans. The owner of Erf 4733 agreed to follow up with the inspector as to what action would be taken. He did do so but apparently the inspector was transferred and he has had very little feedback from the municipality regarding the matter.

We have had almost no communication with the owner of Erf 4731, or his representatives. The only communication we had during the building process was when we were asked (by the builder) to agree to an extension of the wall dividing our property from Erf 4731, toward the street. We agreed. We were also notified that a retaining wall would be constructed inside (Erf 4731 side) of the dividing wall. This coincided with, and was followed by, extensive earthworks

and infilling of the property. The level of Erf 4731 before it was sold was approximately the same as on our side of the wall. It is now much higher on the Erf 4731 side. We queried this with the builder who said that the infilling was to accommodate a pool deck and was the reason for the retaining wall. On two occasions the builder stated that the construction was of a single residential dwelling.

The only meeting with the owner/developer of the property was at a function he held on the property (Saturday 23 February 2019), where he stated that he had built the dwelling primarily for his family's use but that his family would not occupy it for the whole year. When they were absent, the lower level would be used to accommodate overflow-guests of Keren's Vine Guesthouse. He did not mention that he would be applying for permission to establish a guest house, relaxation of building lines restriction or removal of title conditions. The first we became aware of those was from a Notice of Land Development Application displayed on the outside wall of the property and then from the communication from Diesel and Munns Inc., which occasioned this objection submission.

There are several statements that are patently untrue in the Diesel and Munns Motivation Report that we challenge below.

Expressions in Sections 5 and 7 of the Motivation Report imply that the deviations from the original building plans have been approved by the municipality. If so, this is disappointing since it is yet another example of the owner and the municipality not consulting with the concerned neighbors. Some of the deviations from the original plan affect us directly and constantly. Examples are (1) the position and height of the entertainment area – it is about 15 m from, and in sight of, the main bedroom window, (2) elevation and position of the swimming pool deck- also about 15 m from the bedroom window and at about the level of the top of our window. Although the pool cannot be seen from the window, we have already had experience of obtrusive noise from the pool deck when the house has been occupied, we think by family of the owner. There is no question that worse will be true of the entertainment area once it is in use as part of a guest house– guests are on holiday and rightly want to enjoy themselves, with no need to be concerned about neighbors. It is unlikely that there will be a full-time manager on site to control guests' behavior, judging from the owner's admission (confirmed by the owner?/manager? of Keren's Vine) that Keren's Vine Guesthouse will be concerned with administration of the guest house on Erf 4731.

Page 7. "the deletion of these conditions will not negatively impact on the personal benefits of any surrounding property owner" – Our greatest personal benefit from the property (the main reason we purchased in the Rozendal neighborhood) is quietness, lack of traffic and the fact that the area is reasonably free from crime. Certainly the first two mentioned qualities will be compromised with an ever-changing set of residents of the property closest to our living room and bedroom windows. No paying guests have been accommodated yet, but already we are affected by noise from maintenance/gardening teams, noise of the swimming pool pump and light pollution from outside lights above the level of our property.

Page 7: "Thus the proposal is seen to have no negative impact on any surrounding property and will have no financial implications." – We have already mentioned very real negative

impacts on our property, even before the guest house is operational. As to the financial implications of the development, we would not have considered purchasing this property with a neighboring dwelling that extends two storeys above the line of the top of the windows. We are certain that, the same consideration, plus the certain knowledge that the dwelling is used as a guest house (possibly with no on-site supervision), will deter potential purchasers of our property.

Page 7: "The proposed removal of the restrictive conditions will also not lead to any loss of development rights by adjoining owners" - This is not the point at all - their removal will give the owner of Erf 4731 carte blanche to develop the property as he sees fit, with no restriction as to building lines, number or elevation of structures/dwellings erected on the property in the future.

Final comments on our position:

We are disappointed that at no stage were any of the neighbors consulted about the current development at Erf 4731, which clearly from the outset was designed with a guest house in mind. That would have been the proper process to follow, and would at least have indicated that the owner/developer has at least some concern about the feelings and fears of the neighbors regarding the development.

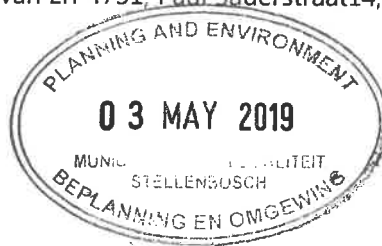
We are disappointed that the Municipality erroneously approved the plans originally, but that surely does not absolve the owner/developer from the title deed violations? It is clear to us that much of what has transpired, culminating in this, *post fatum*, attempt to remove the building restrictions and obtain special development permission for establishment of a guest house, is part of a plan to bulldoze through a development that is clearly unfavorable to, and not wanted by, the neighbors.

Afe

45

Charlene Williams

From: Louisa Guntz
Sent: 03 May 2019 07:58 AM
To: Charlene Williams
Subject: FW: [EX] Fwd: Ontwikkeling van Erf 4731, Paul Sauerstraat14, Rozendal, Stellenbosch



From: Cornelia Kirsten [mailto:cornelia@wam.co.za]
Sent: 02 May 2019 08:16 PM
To: planning@dieselandmunns.co.za
Cc: Louisa Guntz
Subject: [EX] Fwd: Ontwikkeling van Erf 4731, Paul Sauerstraat14, Rozendal, Stellenbosch

----- Forwarded Message -----

Subject: Ontwikkeling van Erf 4731, Paul Sauerstraat14, Rozendal, Stellenbosch
Date: Thu, 2 May 2019 19:34:54 +0200
From: Cornelia Kirsten <cornelia@wam.co.za>

FILE NR:	
SCAN NR:	E 4731 S
COLLABORATOR NR:	644296

Diesel & Munns Inc
 Posbus 475
 Somerset Wes
 7140
 Geagte Leser

Ek gee nie my ondersteuning vir u versoek vir opheffing huidige regulasies ten opsigte van die boulyn en enkel woonhuis nie.

Hiermee my kommentaar vir hierdie standpunt:
 Die hoeveelheid waarmee die boulyn geskuif moet word is vaag.

Die skuld wat op die munisipaliteit geplaas word vir planne wat verkeerdelik goedgekeur is, is na my mening eensydig.

Die argitek moes hom/haar vergewis het van die boulyn en daarvolgens beplan het.

Die proses lyk vir my gladnie deursigtig nie. Die bure en munisipaliteit is na my wete, verseker dat dit 'n woonhuis vir 'n gesin is.

Ek het daarom nie vertrou dat die gastehuis bedryf sal word met inagneming van die omgewing en res van die inwoners van die buurt nie.

Dankie vir u opname

CORNELIA KIRSTEN

Trustee HAD KIRSTEN TESTAMENTERE TRUST
 Eienaar: Omegastraat 21, Rozendal. erf 4787
 Gestuur: 2 Mei 2019

10

file

46

Charlene Williams

From: Louisa Guntz
Sent: 03 May 2019 12:06 PM
To: Charlene Williams
Subject: FW: [EX] Objection | Application number LU/8162 Erf 4731 | 14 Paul Sauer Street Rozendal Stellenbosch

Hi dame,

Nog 'n beswaar...

-----Original Message-----

From: Elizabeth Laura van der Merwe [mailto:lizlaura13@gmail.com]

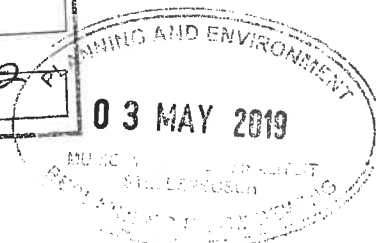
Sent: 03 May 2019 11:47 AM

To: planning@dieselandmunns.co.za

Cc: Louisa Guntz

Subject: [EX] Objection | Application number LU/8162 Erf 4731 | 14 Paul Sauer Street Rozendal Stellenbosch

FILE NR:	
SCAN NR:	E 4731 S
COLLABORATOR NR:	644382



Good day Barry

Regarding your application for the removal of restrictive title deed condition, special development for a guest house and departure for the relaxation of building lines for Erf 4731, please find below our comments.

Our family resides in Paul Sauer Street, Stellenbosch. None of the residents of this neighbourhood were informed and given a fair chance to comment on plans of the new guest house, Paul Sauer no 14, prior to the erection of the house.

Our ratification of what was built more than a year ago and further relaxation of building lines and the removal of restrictive conditions attached to the title deeds of the erf is now in question.

In essence of our objection is based on the fact that the prescribed procedures with regards to approvals of building plans was not followed, as the house was built in contravention of the title deeds and the actual house (as erected) does not correspond to the approved plans.

Furthermore, please note the following:

The owner indicates in his application that he will be residing in the residence. He is unfortunately not in possession of a South African permanent residency permit and will not be allowed into this country for long periods and can thus not reside in the house.

The Site plan provided in the registered letter is incorrect as it does not indicate the Title Deed Building Lines, which is more restrictive than the normal building lines for this neighborhood.

The house does not conform to the definition of a residential dwelling but was specifically build for business purposes, that of running a guest house.

Based on the above mentioned comments, it is evident that the owner of the property has not acted in good faith with regards to obtaining relevant permissions and following the prescribed procedures.

Kindest regards
Elizabeth

10

Our ref: CJH/Fischer
Your ref: Application number LU/8162

3 May 2019

Diesel & Munns Inc.
Somerset West

ATTENTION: Mr Barry Blount

EMAIL: planning@dieselandmunns.co.za
Copied to: louisa.ollyn@stellenbosch.gov.za

Dear Sir

**APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE CONDITION, SPECIAL DEVELOPMENT AND DEPARTURE: ERF 4731, STELLENBOSCH
APPLICATION NUMBER LU/8162
YOUR REFERENCE NUMBER: C5626**

1. We act for Prof Bernd Fischer and Ms Sylvia Dieckmann, the owners of Erf 4723, located at 14 Rozendal Avenue, Stellenbosch ("our clients' property").
2. Our instructions are to lodge an objection on behalf of our clients against the application for the removal of restrictive title conditions and for counsel's special consent to permit a special development on Erf 4731 Stellenbosch ("the subject property").

CHARACTER OF THE AREA

3. Our clients' property is located west of, and approximately 9 metres from the subject property, the two properties being separated by Paul Sauer Road. We attach hereto, marked "A" a google aerial photograph that depicts our clients' property and the subject property relative to each other.
4. Our clients' decision to purchase their property was informed largely by the character of the neighborhood generally, and of their property and its relation to development on erven immediately surrounding it, in particular. The single residential atmosphere, the surrounding streetscape and the unobstructed views towards the east were the traits that attracted our clients to their property in the first place.

5. When our clients bought their property, the subject property was developed in accordance with the general character of the area. The following features of the subject property as it was then, are of particular relevance for this objection:
 - 5.1. It hosted a dwelling with a distinctly single residential character, which had, on the elevation facing Paul Sauer Road, one storey only.
 - 5.2. The site sloped significantly from Paul Sauer Road downwards in an easterly direction, and because the dwelling on it was well set back from Paul Sauer Road, it was positioned well below street level.

6. We attach hereto the following photographs that illustrate the features of the area that attracted our clients to it:
 - 6.1. A photograph, marked "B", taken from our clients' property towards the east, showing the old house on the subject property in the forefront, the leafy eastern parts of Rozendal in the midground and the Stellenbosch- and Jonkershoek Mountains in the background;
 - 6.2. A photograph, marked "C", of the subject property before development of the guest house, taken from street level, with the Stellenbosch-and Jonkershoek Mountains visible above the old house from street level;
 - 6.3. A google aerial photograph, marked "D" that shows an area characterised by relatively large erven and, save for the subject property, by substantial building setbacks, acting as buffers between properties and the street;

7. Our clients took comfort in and relied on the fact that the features described in paragraphs 4 and 5 above, and depicted in the photographs referred to in paragraph 6 were protected by the zoning scheme and title deed conditions and were clearly held dear by everyone in the neighbourhood. Accordingly, the application:
 - 7.1. to remove the condition that only one dwelling may be erected on the subject property (referred to further herein as "the one dwelling restriction");
 - 7.2. to remove the condition that no structure may be built closer than 6,3m from the street (referred to further herein as "the 6,3m restriction")
(the one dwelling restriction and the 6,3m restriction are referred to further herein collectively as "the title deed restrictions");
 - 7.3. for counsel's special consent to allow a guest house establishment on the subject property,

came as a big surprise and disappointment to our client.

OBJECTION

8. Before turning to deal specifically with the impacts that the development of the guest house has had on our clients and other property owners in the area, we deem it expedient to canvass very briefly the origin of the title deed restrictions. ✓
9. The title deed restrictions were imposed by the then Administrator of the Cape Province when the Rozendal township was established. Their purpose would have been to facilitate a certain character and sense of place for a specific part of Stellenbosch, distinct from development parameters applying in other parts. One can safely infer from the nature of the conditions that their objective was to facilitate a sense of spaciousness, exemplified by large erven and wide- and open streetscapes. ✓
10. The objective that the title deed conditions were designed to achieve were indeed so achieved as is evident from the photographs referred to in paragraph 6 above. We attach also the following photographs, showing other properties in Paul Sauer Road, specifically the interface between the development on those properties and the street:
 - 10.1. Annexure "E": a photograph with 12 Paul Sauer Road in the foreground and the subject property, still hosting the old building in the background (compare the heights of the two buildings relative to each other with their relative heights evident in Annexure "L" hereto);
 - 10.2. Annexure "F": a photograph of 10 Paul Sauer Road;
 - 10.3. Annexure "G": a photograph of 8 Paul Sauer Road;
 - 10.4. Annexure "H": a photograph of 6 Paul Sauer Road;
 - 10.5. Annexure "I": a photograph of 4 Paul Sauer Road;
 - 10.6. Annexure "J": a photograph of 2 Paul Sauer Road.

Development on the subject property

11. Given the location of our clients' property relative to that of the subject property, our clients were always going to be directly affected by physical development of any significance on the subject property, particularly insofar as it fronts onto Paul Sauer Road. Furthermore, the impact was always going to be felt more acutely if it related to the features referred to in paragraphs 4 and 5 above.
12. As we explain below, the development that has taken place on the subject property for which the applicant now seeks approval *ex post*

facto has indeed affected our clients adversely. More specifically, the impact related to precisely the features referred to in paragraphs 4 and 5 above.

13. For a proper appreciation of our clients' interest in the application, it is important to dispel at the outset the notion that the development proposal you are required to consider amounts to no more than some minor internal tweaks to an existing building and the formality of rubber stamping a change in use of that existing building.
14. What the applicant seeks is condonation after the fact for the unlawful transformation of a conventional single-family home into a large guest house. The applicant first completed the guest house, and once he had done so, he presented it to the planning authority as a *fait accompli*. In his presentation he ignores the fact, and expects of the municipality and interested and affected parties to do the same, that at least part of the structure is unlawful and must for purposes of this application be deemed not to have been developed. We draw this to your attention specifically to ensure that you are not persuaded to approve the application purely because the building already stands.
15. The transformation that the subject property has undergone, in any event insofar as it affects our clients' property directly, entailed the following:
 - 15.1. Viewed from Paul Sauer Street, the old building was substantially lower than street level and positioned further back in accordance with the 6.3m restriction (see in this regard Annexure "B");
 - 15.2. Whereas the other buildings in the area have a definite single-family character and appearance, the guest house's Paul Sauer Road elevation has the look and feel of a large block of flats very much at odds with the rest of the buildings in the area (see in this regard amongst others Annexure "M").
 - 15.3. Due to its position on the subject property, especially its elevation above what was then ground level, the old building did not encroach on the privacy of neighboring properties. Due to the guest house being built closer to Paul Sauer Road and thus on the top part of the west-east slope of the subject property, the ground floor of the guest house is considerably higher than that of the old house. As a consequence, windows on the upper level of the guest house face onto and encroach on the privacy of at least our clients' property and of 12 Paul Sauer Road, immediately southwest of the subject property.
16. The impacts summarized above are illustrated graphically by:
 - 16.1. a comparison between Annexure "C" and a photograph, from more or less the same vantage point, of the subject property after the guest house has been developed, and attached hereto, marked "K";

- 16.2. a comparison between Annexure "B", being a photograph taken from our client's property towards the subject property before the guest house was developed, and Annexure "L" being a photograph from more or less the same vantage point after development of the guest house. ✓
- 16.3. A comparison between Annexure "M" being a street view of the guest house on the subject property and the photographs referred to in paragraph 10 above. ✓
17. The impact of the guest house within its environment is visible not only from within the neighbourhood itself, but even from Stellenbosch Mountain it is visible as a large white blob wholly out of kilter with its surroundings. See in this regard Annexure "N1" and "N2", which are photographs taken towards Rozendal from the slopes of Stellenbosch Mountain just above Coetzenburg. The guest house is indicated on both photographs by a black arrow. ✓

The Applicant's argument in summary

18. The applicant seeks to justify the "proposed" land use in a longwinded motivation report, which appears to be premised on the notion that the guest house is very much a run of the mill development that is entirely compatible with its environment and that should routinely be approved. ✓
19. Apart from downplaying the impact that the development of the guest house has had on the area, the applicant argues that the removal of the title deed conditions, upon which our clients and their neighbours place significant reliance, have become outdated. He argues furthermore that the establishment of a guest house is something that the spatial planning instruments applicable in the area support in principle. We submit that these arguments are without merit and should be dismissed for the reasons summarized below. ✓

Title Deed Restrictions

20. As regards the title deed restrictions, the applicant submits that they have been rendered obsolete by the development rules in the zoning scheme regulations and that their removal should be a mere formality. ✓
21. If the applicant's submission were correct, there would not have been any need for the process set out in the Stellenbosch Municipal Land Use Planning By-Law to remove restrictive conditions. The legislator clearly accepts that title deed conditions constitute a separate level of protection, which should not be removed if proper cause is not shown. ✓
22. It is trite law furthermore, that far from being inferior to them, restrictions imposed by the Administrator as conditions of establishment prevails over provisions in a zoning scheme. You are referred in this regard to the judgment handed down by the Supreme Court of Appeal in Van Rensburg NO v Naidoo NO; Naidoo NO van Van Rensburg NO 2011 (4) SA 149 (SCA). ✓

23. By relying entirely on the incorrect assumption that the provisions of a zoning scheme prevail over, and should routinely replace the restrictions set out in title deed conditions, the applicant failed to advance any convincing argument as to why the title deed conditions should be removed. We, on the other hand, have canvassed what the objective with the conditions originally was and illustrated why they should still perform that purpose. ✓
24. We submit therefore that no case has been made for the removal of the title deed restrictions and they should remain in force. ✓

Consent use / Special development

25. The applicant submits that the guest house is compatible with the existing land uses in the area and is in keeping with development on surrounding properties. He argues also that the guest house is compliant with the applicable spatial development framework (SDF) as that instrument promotes tourism as a major economic driver in the Stellenbosch area.
26. As far as the argument that the guest house is compatible with existing land uses in the area is concerned, we would like to point out the following only:
- 26.1. Apart from emphasising that surrounding properties are used in accordance with their single residential zoning, the applicant has done very little to corroborate his general statement. He has, for instance, not referred to a single other guest house in the area and explained why he believes his development is as compatible as such other establishment is with the character of the area. ✓
- 26.2. Our clients agree that most, if not all, other properties in the area are used in accordance with their single residential zoning, but that is our client's point: this is a quiet single residential area on the outskirts of Stellenbosch where commercial developments are out of place. ✓
27. As regards the argument that the guest house complies with the principles in the SDF, we submit the following:
- 27.1. The fact that the SDF promotes tourism does not mean that tourist related development, such as guest houses, should be allowed willy-nilly without regard to the environment within which it is proposed. Factors such as the character of the area and whether other areas in town would not be better suited to host guest houses should be considered as well. ✓
- 27.2. The SDF recognises that its support for tourism must be qualified, and states that tourism should be promoted especially if it reinforces the municipality's sense of place. As we have indicated above, this particular guest house does not reinforce, and in fact derogates from the sense of place of the Rozendal neighbourhood. It is therefore not the kind of tourism establishment that the SDF advocates.

28. It is our submission therefore that the application for a consent use to allow a guest house should be dismissed as well.

CONCLUSION

29. For the reasons canvassed above, it is our submission that the application for the removal of the title deed restrictions and for counsel's special consent to allow the operation of a guest house, should be dismissed.

30. Our instructions are lastly to place on record that our clients are opposed to the approval of rider plans that were recently submitted to the municipality to regularise deviations from the approved building plans for the guest house. What concerns our clients in particular is that the approval of those plans will legalise the encroachment on their privacy facilitated by the enlarged windows in the guest house's Paul Sauer Road elevation. Our clients suspect that this impact may have been aggravated by the artificial elevation of the property's ground level but is not in a position yet to make any conclusive statements in this regard. They will investigate this aspect further and make further submissions to you once they are in possession of all relevant information.

Yours faithfully

DU PLESSIS HOFMEYR MALAN INC.



Per:

C J HOFMEYR

"A"



"B"



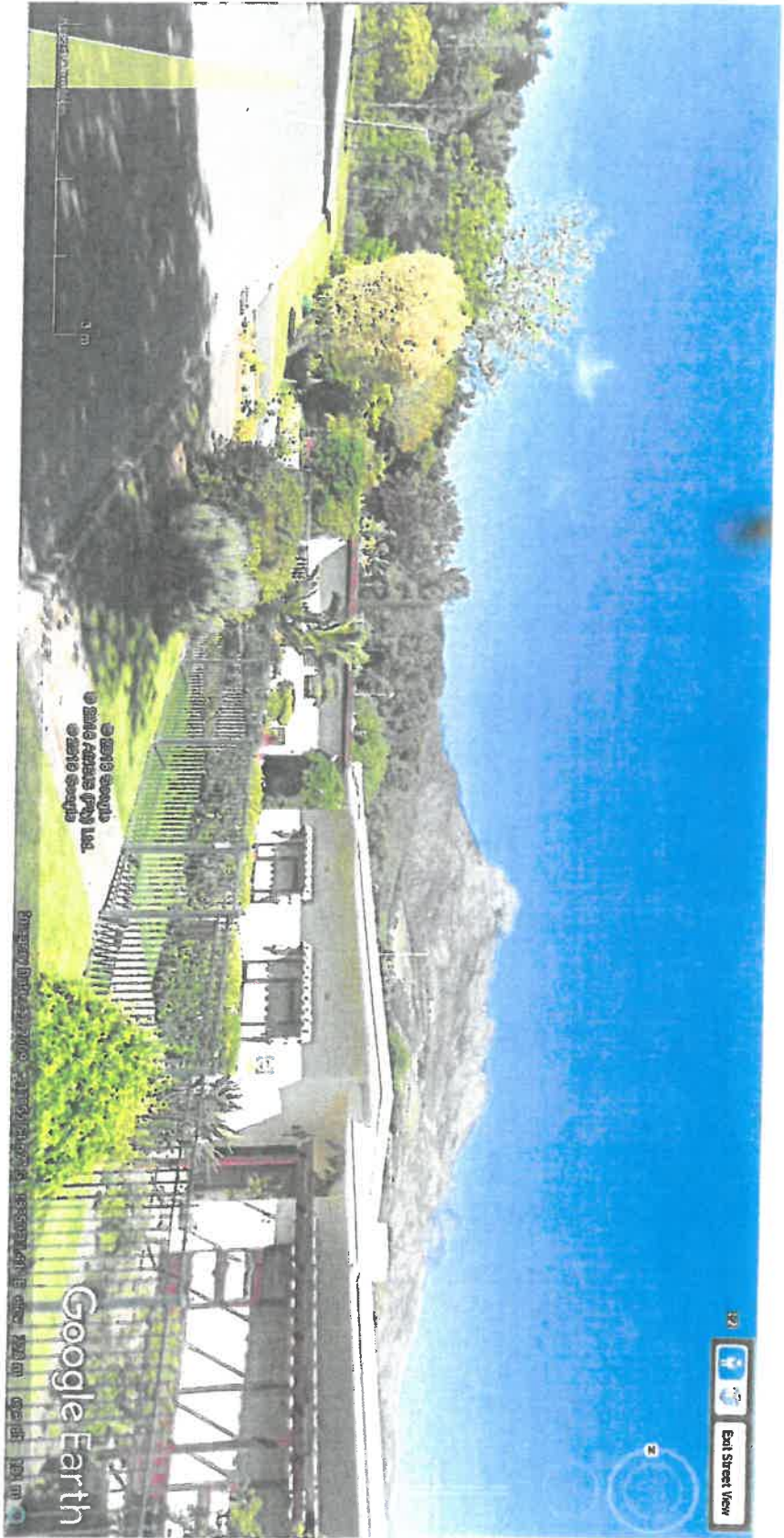
“C”



"D"



“E”





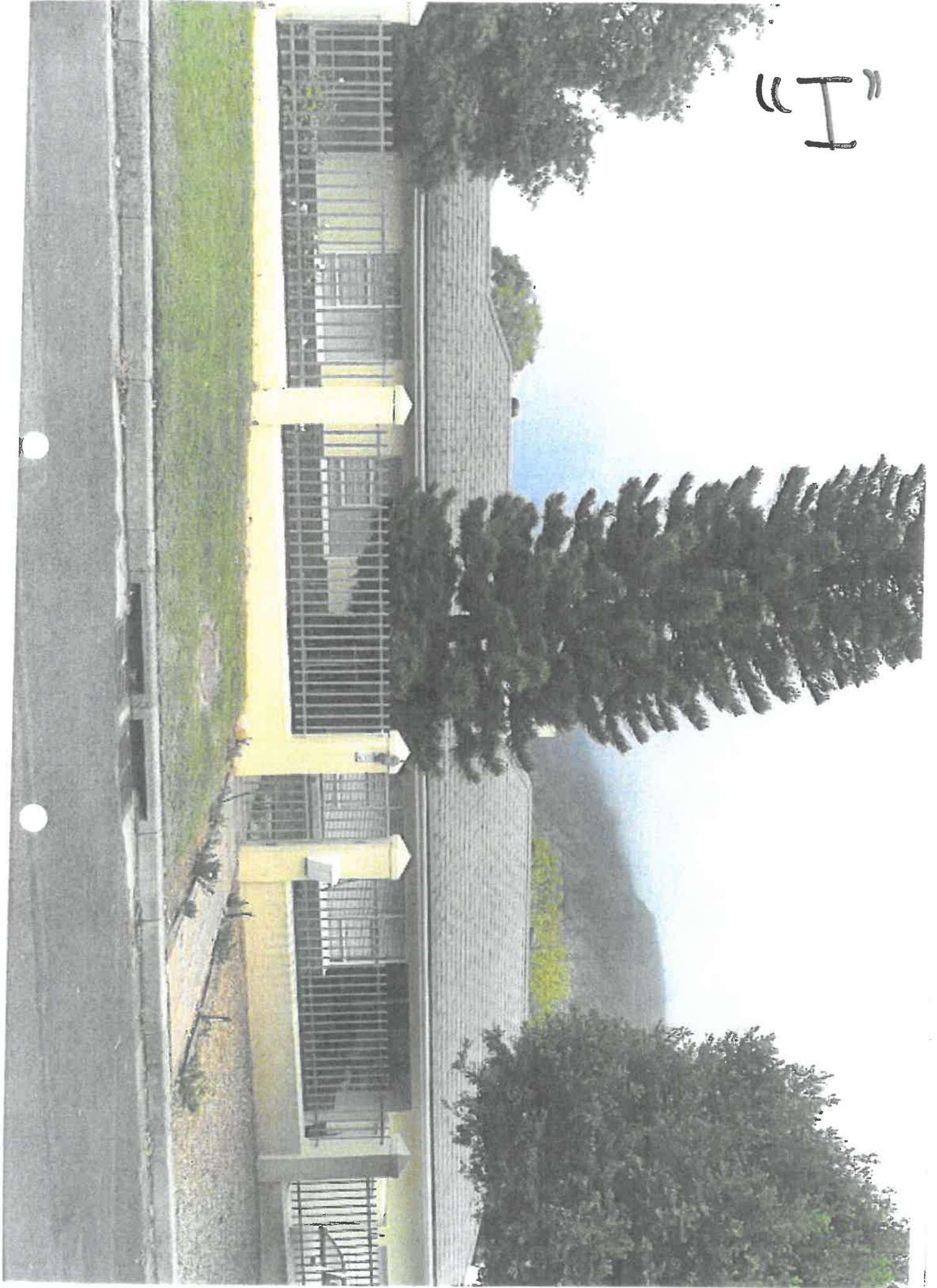
"G"



"H"



“I”

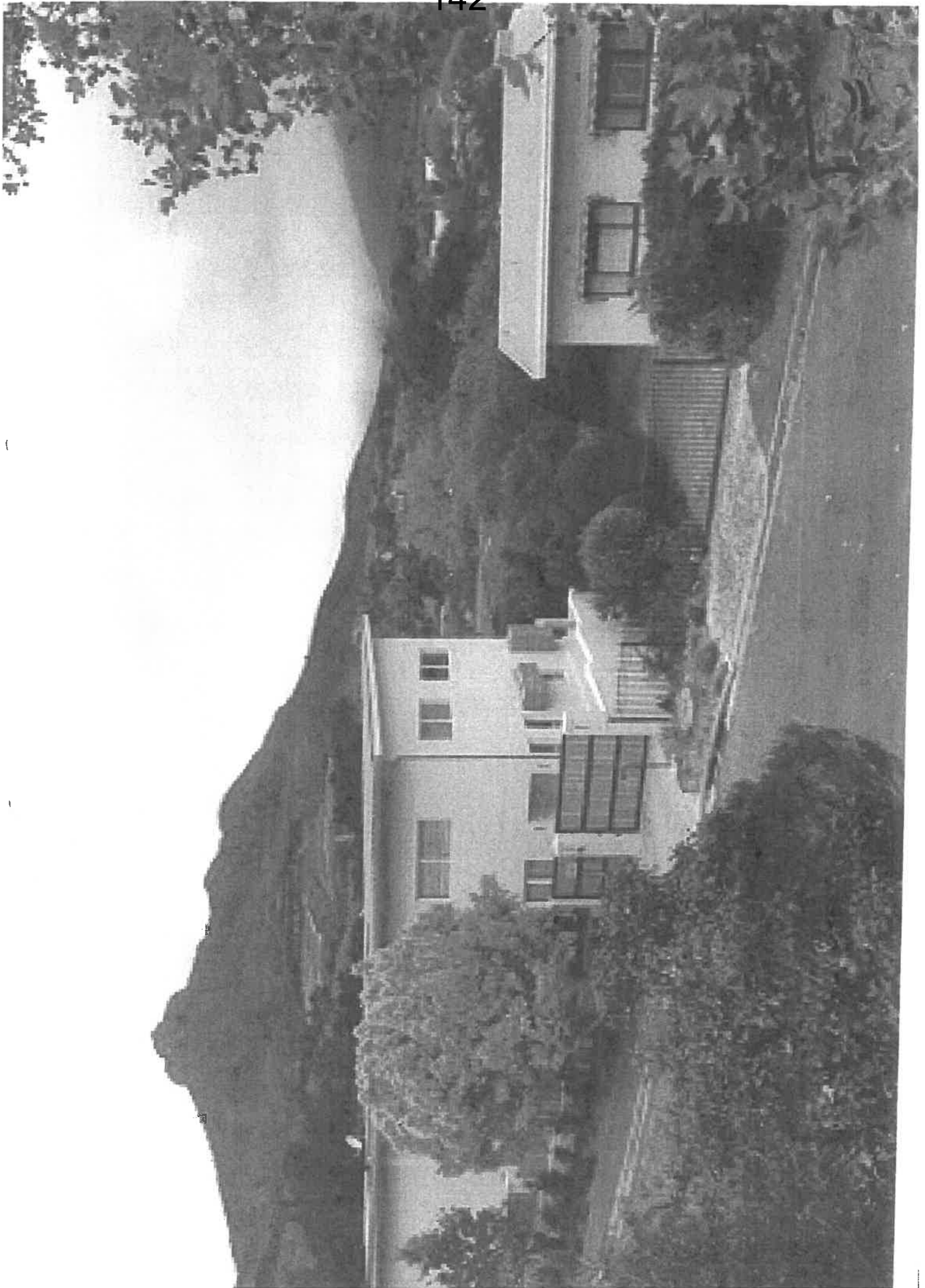


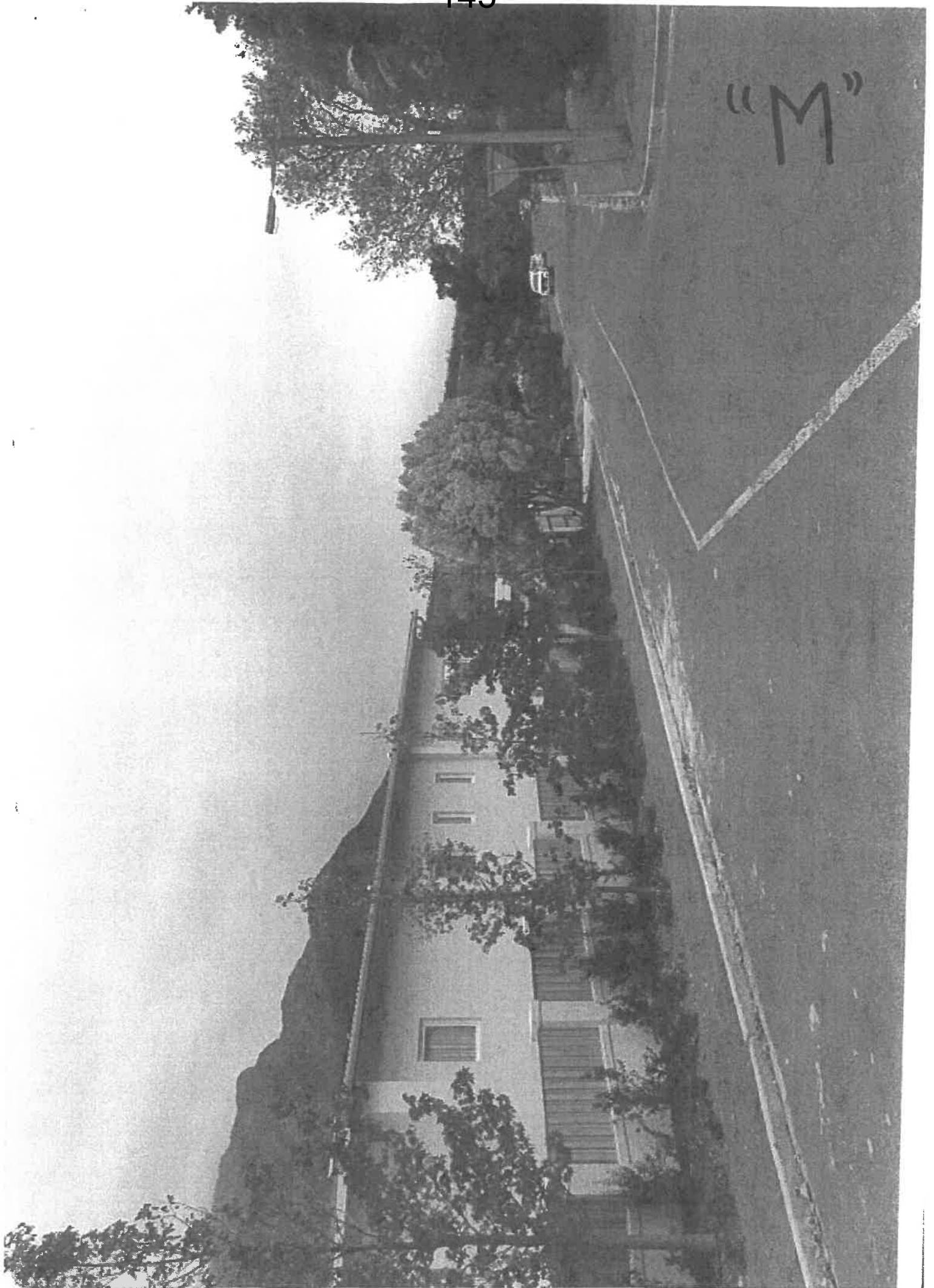


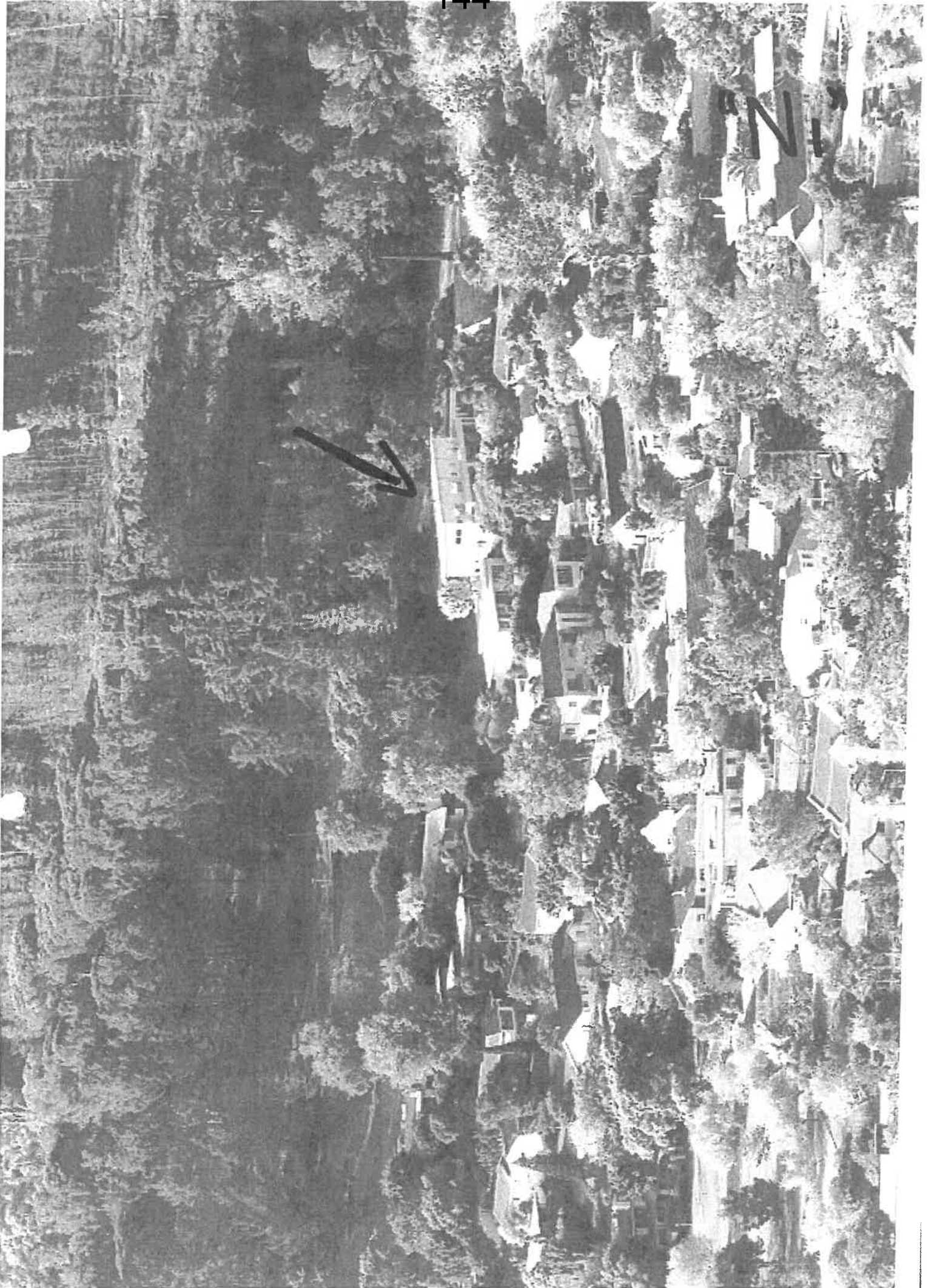
"J"

"K"

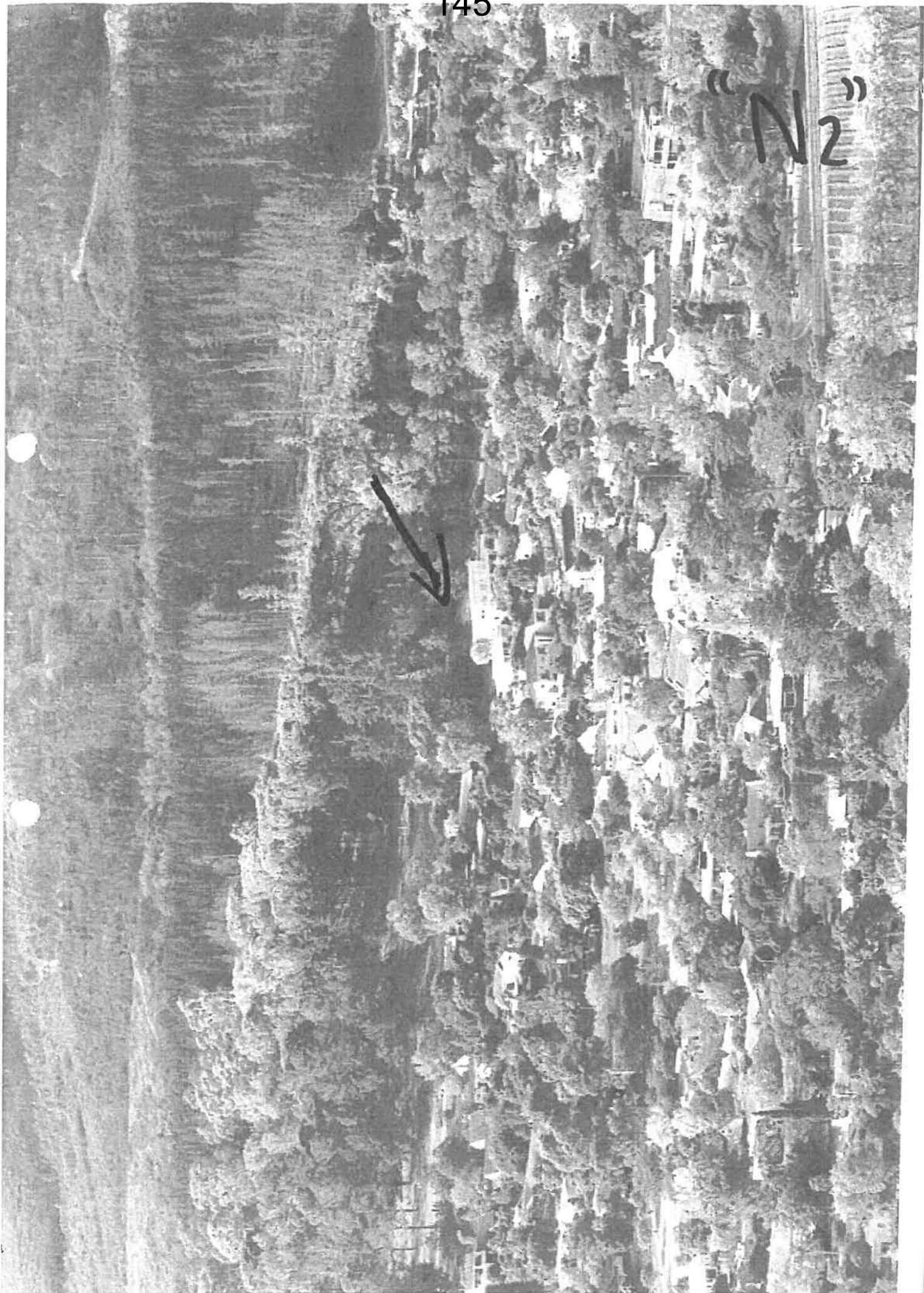








"N2"



Subject: Ref. No C5626
From: Suzanne Terblanche <suzanne.terblanche@gmail.com>
Date: 29-Apr-19, 20:53
To: planning@dieselandmunns.co.za

I.S. Stellenbosch munisipaliteit erf 4731
 Aansoek no. LU/8162
 U werw. C5626
 Gedateer 4.4.2019

Geagte Here

Hiermee teken ek beswaar aan en staan ek die aansoek tee.

My besware:

1. Hierdie redes en verloop van gebeure is reeds n ou "truuk" in Stellenbosch vir omseiling van regulasies. Inwoners en bure is reeds keelvol vir die tipe prosedures wat te dikwels plaasvind.
2. Die persone verantwoordelik vir "foutiewe goedkeurings" en die bouer en argitek verantwoordelik vir "slightly deviated" bouwerk, moet dan maar verantwoording doen vir hul foute. Enige bouer/argitek sal kan sien waar die boulyne loop, alvorens daar gebou word. "German builders" behoort te weet dat so n "fout" nie in Duitsland verby sal glip nie, hoekom dit in SA probeer?
3. Dit skep n presedent vir enige latere geboue in die area. Ons sit reeds in hierdie area met verskeie strukture wat onwettig is en deur die munisipaliteit "misgekyk" is.
4. Oorskryding van boulyne laat onmiddelik ruimte vir skending van bure se privaatheid. Soos dit reeds is, le die aangrensende erf redelik laer en die boonste verdieping van die huis ter sprake kyk reg op en in die buurman se huis. Die huis ter sprake beslaan drie vlakke. Die kelder is nie gesonke nie.
5. Die eienaar is nie n SA burger nie en mag moontlik na n jaar of meer besluit om die eiendom te verkoop en dan is daar geen vrywaring dat die volgende eienaar nie addisionele strukture oor die boulyne sal oprig nie.
6. Die argument van "werkskepping" is al holrug gery en lagwekkend, aangesien daar vir twee gaste eenhede, soos op die planne aangedui, hoogstens drie persone benodig sal wees.
7. U sal vind dat gastehuse en hotelle in hierdie omgewing en in Stellenbosch, selde 100% besetting het. Daar is dus nie n dringende nood daarvoor nie. U kan gerus navorsing hieroor doen.

Ek spreek my spyt uit teenoor die Duitse eienaar as hy onwetend ingedoen is met die bou van sy huis, maar weereens moes daar genoeg inspeksie deur die munisipaliteit en argitek/bouer gewees het om bouery te stop alvorens dit te ver gegaan het. Daardie persone moet dan verantwoordelik gehou word om sodoende n herhaling hiervan in die toekoms te voorkom.

Die uwe

S M Terblanche

Erf. 4761

Subject: Aansoek vir opheffing van titelaktevoorwaarde; spesiale ontwikkeling en afwyking: erf 4731, Stellenbosch.

From: Theo Bohlmann <bohlmanntheo@gmail.com>

Date: 16-Apr-19, 16:19

To: <planning@dieselandmunns.co.za>

HDL.,

1. Dankie dat ek kommentaar mag lewer op die aansoek vir gastehuis soos uiteengesit in u skrywe 4 April 2019.

2. Ek lewer my teenkanting teen u aansoek vir 'n gastehuis sowel as die oorskreiding van die boulyn.

3. Ek het hier gekoop omdat dit 'n rustige woonarea is. Die motorvervoer sal toeneem en die rustigheid versteur. Indien dit goedgekeur sal word, sal Rozendal sy rustige atmosfeer en stil-omgewing verloor. Hoedat dit eerstens deur die Munisipaliteit goedgekeur was dat so-iets gebeur, is alreeds 'n groot fout. Nou moet die res van die woonarea hom inskik omdat 'n amptenaar 'n fout begaan het. Die oprigting van die huis op die perseel is van die begin af 'n probleem. Daar is blykbaar van die oorspronklike planne afgewyk sonder Munisipale goedkeuring en toe is nuwe planne glo ingelewer wat in 'n gastehuis omskep is. Soos in u aansoek tergewys was alles foutiewelik gedoen en daarom is ek teen u aansoek.

4. Waarom moet 'n area soos Rozendal en sy inwoners toegee aan foute wat deur beamptes gedoen is en die rustigheid prysgee? Daar is reeds vermoede dat die gastehuis in Rozendallaan van hierdie betrokke huis gebruik maak as hy nie plek het vir sy gaste nie. Dit moet asseblief ook ondersoek word.

Van: TE Bohlmann, Uitsigstraat 4, Rozendal, Stellenbosch.

Erf 4767

J

10

Wanda Grunewald
5711300019087
11 Waterweg
Stellenbosch
0825891704
28 April 2019

To whom it may concern

I, Wanda Grunewald, owner of 11 Waterweg in Rozendal, Stellenbosch wish to lodge the following complaint relating to the proposed rezoning of the property on erf 4731 Stellenbosch.

My property will not be affected by the departure to the building plan regulations because it is not in the immediate vicinity of the said property. However, any input from the immediate neighbours must be addressed.

I do however wish to lay an official objection against the use of the property as a guest house. The area is established as a single residential area where families reside and strict rules pertaining to student accommodation is applied.

If the property on erf 4731 is given rights to operate a guest-house on the property then:

1. The quiet urban nature of the area will be adversely affected
2. The owner can use the approval to establish student accommodation on his property and in so doing circumvent the bylaws regarding student accommodation in the area. What will prevent him or a new owner from doing this now or at any stage later on? The document refers to the number of rooms, but does not address the number of guests/students that can be accommodated on the property.

W. Grunewald
Wanda Grunewald Erf 4731

✓

Ⓟ

Subject: re plot 4731 Rozendal, Stellenbosch
From: "Annemarie Bakker" <susseb@mweb.co.za>
Date: 28-Apr-19, 11:50
To: <planning@dieselandmunns.co.za>

Mr Barry Blount
Diesel & Munns Eng.
Po Box 475
Somerset West 7129

RE: RESPONSE TO APPLICATION FOR REMOVAL OF RESRICTIVE TITLE DEED CONDITION, SPECIAL DEVELOPMENT AND DEPARTURE: ERF 4731, STELLENBOSCH

Dear Mr Blount

I hereby object to the proposed changes to the existing municipal rules relating to building lines.

To do so would set an undesirable precedent. As a nearby property owner I believe the residential nature of this suburb needs to be protected. To change the title restrictions to enable a large and commercially motivated guest house to expand its operations would conflict with the residential and suburban nature of the area and would set an unwelcome precedent.

Yours sincerely
Annemarie Bakker
18 van Copenhagen Street
Rozendal
Stellenbosch.

(EF4747)

✓ 00

13 Hof Lane (ERF 3819)

Uniepark

Stellenbosch

2 May 2019

DIESEL & MUNNS INC.
(Att: Barry Blount)
PO Box 475
Somerset West
7129

Dear Sir

OBJECTION AGAINST APPLICATION LU/8162 ERF 4731

I hereby object against the approval sought to remove restrictive title conditions B.6.(a) and (b) and the Permanent departure for the relaxation of the common and street building lines on Erf 4731 Stellenbosch to 0m to accommodate the existing planter and pool pump on the property in terms of Section 15(2)(b) of the Stellenbosch Municipal Land Use Planning By-Law, 2015 for the following reasons.

These restrictions relate to the building line and are more stringent than the zoning scheme regulations for the following reasons:

This was possibly imposed because of the geography of the area. You will note specifically that the average natural ground level of Erf 4731 is much higher than that of erf 4733 and therefore the boundary between these two properties should be protected by the building lines as per the title deed.

In any event, the lifting of a title deed restriction should be done in consultation with the neighbours and in this case the building has already been constructed with a complete disregard for the restriction as per the owner's title deed. The owner should be aware of this and although the municipality has erred in allegedly approving the building plans the law still applies to him and should he not have made the municipality aware of the irregularity?

No approved building plans could be supplied on request from Diesel & Munns Inc.

The nature of the development on erf 4731 in relation to erf 4733 being a retainer wall that holds a volume of water above erf 4733 and provide a deck for people who could overlook the privacy of the back yard of erf 4733 is reason enough to oppose the application. You will note that the development of erf 4731 was done in such a way that it looks directly at erf 4733 and disregard all privacy you would come to expect from a single residential environment.

I would argue that the development, in relation to the boundary with erf 4733 is a three-story development and not 2 storey. Therefore, even if this is permitted, adherence to the building lines should be strictly enforced.

✓
BB

I hereby object against the application for the special development right to permit the establishment of a guest house for the following reasons.

The approved building plans were not available for inspection upon request and therefore it was not possible to establish the departure from the approved plans.

Studying the "rider plans" provided, you will be aware that rider plans are not permitted to be lodged with Stellenbosch municipality, but that new plans forming a new application should be submitted. These "rider plans" clearly shows separate units and not a single residential house and is also what has been constructed without the due permission to do so. Has the municipality been aware of this and has an occupation certificate been issued?

Approving this application will set a precedent for wealthy individuals, who do not reside in our neighbourhoods, to purchase property at inflated prices and thereby reducing housing stock that is in great need for families in our neighbourhoods. They will then be able to construct whatever they like and change the nature of our neighbourhood by retrospectively trying to obtain these approvals. You might be aware of such a situation at erf 3844 Uniepark so this trend is already manifesting itself. Even if this application is rejected, the neighbours like those in erf 4733 whom is greatly affected, will be stuck with big structures as neighbours, only because wealthy individuals took a gamble with the planning authorities. This application should therefore be rejected in principle to send a clear message that such behaviour will not be tolerated, irrespective of whether it was the intention of the owner or not. One can not submit a plan for a single residential house, but build a general residential building.

Our neighbourhood is zoned as single residential because families with young kids live here. Neighbours should not be subjected to unknown and unsupervised guests sitting on balconies overlooking their properties where their children play, especially if they ignore building lines.

Here I also refer to countless rejections of applications for student houses in our neighbourhoods where the municipality holds the view that this is a single residential area with a focus on families and that accommodation should not be permitted without the owner of such accommodation residing on the property too. This is to protect the nature of our neighbourhoods and the young families who reside therein. This application should not be viewed any differently.

I trust that you will find the above in order.

Kind Regards



Bertus Swanepoel

076 290 2410

Subject: Aansoek om Gastehuis te bedryf op erf 4731 Rozendal Stellenbosch Aansoek no LU/8162
From: <bslab@telkomsa.net>
Date: 23-Apr-19, 15:16
To: <planning@dieselandmunns.co.za>

Diesel & Munns Inc.

Goeiedag

Die volgende kommentaar word soos versoek, gelewer op u bovermeld aansoek.

Soos u bewus is en ten einde die regte en belange van eienaars van woning op enkel gesoneerde persele te beskerm plaas die Stellenbosch se Dorps aanlegskema 'n verpligtig op aansoekers vir afwykings om BETYDS dmv publieke deelname die wenslikheid al dan nie van die aansoek te bepaal.

U aansoek dui duidelik aan dat by die indiening van hierdie aansoek die oorspronklike enkel residensiele woning op die perseel reeds gesloop was en dat 'n nuwe gebou reeds opgerig was.

Sekere boulyne is tydens die konstruksie oorskry, vandaar die verdere aansoek om die verslapping van sekere boulyn beperkings. Ons woon in die gebied en het die sloping vandie vorige gebou en voltooiing van die nuwe gebou waargeneem.

Die nuwe gebou is uitsluitlik as 'n "Gastehuis" beplan en opgerig sonder dat enige publiek deelname op DAARDIE stadium onderneem is. Publieke deelname voor die begin van die bouwerk sou na mening redelik en billik gewees het om te voldoen aan die bepalings van die Dorpsaanleg skema ter beskerming van belanghebbendes. Dit is verbasend dat dit nie gedoen is nie.

Na mening skep die geval 'n erenstige Presedent omdat die aanlegskema se voorskrifte omseil kan word. In die toekoms sal enige eenaar dus kan handel soos in hierdie aansoek wat weer baie erenstige negatiewe gevolge vir alle eienaars van enkel gesoneerde eiendomme in Stellenbosch se regsgebiedsal inhou.

Wat betref die huidige motivering

- (1) Die gebou is beplan en gebou en voltooi as n baie groot gastehuis voordat die vereisde goedkeuring vir 'n permanente afwyking verkry is.
- (2) Die skaal en karakter van die gebou bots ernstig met bestaande gevestigde wonings.
- (3) Die nuwe gebou bestaan in werklikheid volgens die plan uit ten minste 5 afsonderlike eenhede wat 'n groot aantal bewoners kan huisvestig wat geraas beweging en verkeer aansienlik sal verhoog. Die rustige atmosfeer van die gebied sal dus beëindig word. Waarde van omliggende eiendomme sal daal omrede min kopers langs of naby die masiewe Gastehuis sou wil woon.
- (4) Motor toegang tot binne die werf van die gebou is agv die topografie uiters moeilik. Groot skaalse straat parkering van besoekers is dus onvermydelik.
- (5) Die gebou is hoog gelee en die privaatheid van die omliggende eiendomme word erenstig geskaad.
- (6) Die las op munisipale dienste water riool krag en vullusverwydering word aansienlik vermeerder.
- (7) 'n Residensiele gebied is beslis nie 'n gebied waar sosio ekonomiese inkomste geskep behoort te word nie. In teendeel eksta personeel sal n onnodige verdere las plaas op die verkeer, privaatheid en rustigheid van die gebied. Sommige kern personeel sal waarskynlik ook op die perseel moet slaap.
- (8) The Jonkerhoek SDR se patrollie diens lewer 'n baie goeie diens. Dit is te betwyfel of gaste sal omsien na beweging in die straat. Inteendeel as dit 'n gevaarlike area is behoort 'n gastehuis glad nie daar toe gelaat te word nie omdat dit Buitelandsse gaste in gevaar sal stel.
- (9) Die eindoms belasting skaal van residuesiele woonings verskil van die van n gastehuis omrede dit 'n

besigheid is Dit sal waarskynlik beteken dat aanpasings gedoen sal moet word

en is dit nie uitgesluit dat die belasting skaal van residensiele wonings daardeur negatief geraak sal word nie.

(10) Sekerheid bestaan nie of die totale oppervlakte van al die verbeterings op die perseel ingesluit die twee vlakke van die hoof woning nie die totale toegelate oppervlakte van die perseel oorskry nie .

Gevolgtik kan die aansoek nie gesteun word nie

'n Afskrif van ons beswaar word direk na die Stellenbosch Munisipaliteit verwys .

Vriendelik Groete

C Slabbert

bsalb@telkomsa.net

Subject: LU/8162 Ref C5626 14 Erf 4731 Stellenbosch
From: Fronika Heath <heathfronika@gmail.com>
Date: 26-Apr-19, 6:24
To: planning@dieselandmunns.co.za

Good Morning,

Application Number: LU/8162. Ref: C5626

Thank you for the notification of the 'Application for the Removal of the Restrictive Title Deed Condition' to Erf 4731 14 Paul Sauer Street Rozendal Stellenbosch 7600.

I am strongly opposed to the removal of such a restriction. It would quite likely set a precedent for similar development for the whole area.

I believe the applicant would be thousands of miles away and would not need to deal with any potential fallout for the immediate neighbours from thinly disguised high density living. Moreover, the inevitable changed nature of Rozendal that would affect all the residents is not in our best interest.

Thank you.

Regards

Fronika Heath

13 Waterweg Rozendal Stellenbosch 7600

(Erf 4711)

021 887 0576 Land line

079 877 0349 Mobile

[Heathfronika@gmail.com](mailto:heathfronika@gmail.com)

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Die Bestuurder
Diesel & Munns (Aandag: Barry Blount)
Posbus 475, Somerset-Wes 7129

Onderwerp

**BESWAAR TEEN AANSOEK OM OPHEFFING VAN TITELAKTE ERF 4731,
STELLENBOSCH**

Adres: Paul Sauer straat 14, Stellenbosch, Rozendal
Aansoeknr: LU/8162
Mun Verw Nr: Erf 4731, Stellenbosch
Aansoeker Verw Nr: C5626

Korrespondent: P..J. Celliers

1. Die munisipaliteit het die bouplanne van Erf 4731 goedgekeur as 'n enkel residensiële woonarea. Dit blyk dat die munisipaliteit min of nooit enige inspeksie gedoen het nie want die 'huis' se voorkoms, soos dit nou daar is, kan nie beskou word as 'n enkel residensiële woonarea nie. Daar is vier groot kombuise op die eerste vloer, ook vier groot slaapkamers, 'n leefkamer en nog aantrekkamers. Dit is dus duidelik dat die eienaar dit vooruit beplan het as 'n gastehuis êrens in die toekoms. Nou wil hy die munisipaliteit vir hulp inroep vir opheffing van die titelakte. Die voorkoms van die huis lyk in elkgeval nie soos 'n enkel residensiële woning nie, maar eerder soos 'n besigheidsbedryfwoonarea.
2. Ek kry die idee dat die munisipaliteit die opheffing van die huidige titelakte wil goedkeur want dit sal die inkomste van die munisipaliteit verhoog agv die toename van touriste maar vergeet dat die inwoners van Rozendal en Uniepark se huispryse sal afneem in waarde omdat mense nie belangstel in sake-woonstelle en met geraas tot laat in die nag nie. (Ons het baie sulke gevalle gehad) Een van die bouwerkers van die huis het by geleenheid gesê dat dit lyk of die gebou "for flats" gebou is.
3. Die toename in touriste en die noodsaaklike toename in arbeiders sal ons sensitiewe water- en energie bronne nadelig beïnvloed. Buitelanders het gewoonlik geen besef van beperkings op bronne wat hulle gebruike nie..

4. Daar is 'n aantal Gastehuse in die omgewing. Byvoorbeeld die Rozendal teerpad skei die Rozendal Guest Farm van die Erf 471. In die pragtige omgewing van Jonkershoek pad is daar verskeie Gastehuse sowel as die baie bekende Lanzerac hotel met sy wynkeller, spa en swembaddens by sommige van die wooneenhede.
5. Die vermindering van die ekologie-voetspoor sal by erf 471 geen rol speel nie! soos die minisipaliteit die omgekeerde verwag. Die grootste bydra tot die CO₂ voetspoor is die geweldige toename in motors op al die strate in Stellenbosch agv nuwe woonstelle wat die afgelope jare hier gebou is.
6. In Omega straat is daar 'n huis wat plat gestoot is en bouers is besig om al 6-9 maande lank 'n dubbelverdieping huis daar op te rig. Wat gaan gebeur as hierdie titelakte gewysig word soos wat gebeur in die area van die Weides woonbuurt? waar al die inwoners moes verhuis na ander woonareas op Stellenbosch. As die huis in Erf 471 goedkeuring kry dan moet al die eienaars van gekanseleerde titelaktes in Rozendal dieselfde behandeling kry om Gastehuse op te rig!
7. Die groot taak van die minisipaliteit is om nie 'n presedent te skep nie. Wie is die belangrikste kliënte vir die minisipaliteit?

Ten slotte

Daar was al 'n geleentheid in Rozendal waar die eenaar sy titelakte wou wysig na Gastehuis, een waarin 'n hotel gebou sou word en nog een waar die eenaar 'n kantoor met 5 of meer mense toe alreeds in sy huis bedryf het. Die inwoners het saam beswaar aangeteken en die wysigings is nie goedgekeur nie.

Die aansoek om opheffing van die titelakte van erf 4371 word dus om bogenoemde redes ten sterkste teengestaan.

'n Afskrif van die beswaar word direk aan die minisipaliteit gestuur

Vriendelike groete

.Dr. P.J. Celliers, Hendrik Bergh straat 12. Rozendal, Stellenbosch. 7600. Erf No: 4758

Subject: COMMENT WRT ERF 4731 stellenbosch
From: "Westdyk, Dimitra, Mrs [dw1@sun.ac.za]" <dw1@sun.ac.za>
Date: 10-Apr-19, 12:10
To: "planning@dieselandmunns.co.za" <planning@dieselandmunns.co.za>

ERF 4722, S1b

SIR. I JAN WESTDYK ...PAUL SAUER STREET 11 ,OBJECT BECAUSE OF THE NOISE THAT WILL NO DOUBT COME ABOUT!

AND BY THE WAY, WHY DID YOU NOT COME CLEAN FROM THE START?

J W

VISION 2040 | VISIE 2040 | UMBONO 2040

Stellenbosch University has launched its Vision 2040 and Strategic Framework 2019–2024. [Click here to find out more.](#)



The integrity and confidentiality of this email are governed by these terms. [Disclaimer](#)

Die integriteit en vertroulikheid van hierdie e-pos word deur die volgende bepalinge bereël. [Vrywaringsklousule](#)

Regarding Application number: LU/8162
 Erf 4731
 3 May 2019

Dear Sir/Madam,

Your application for the removal of restrictive title deed conditions, special development and departure for Erf 4731.

It is our understanding that the process of building a dwelling on a property and obtaining the necessary permissions from your local council is supposed to be a fair, equitable and transparent process. This was definitely not the case during the erection of the current dwelling on the property listed above. The residents of this neighbourhood have been denied the opportunity to object and are now asked to "after the fact" ratify what is essentially a building built in contravention of the title deed.

We raised this issue at the RPA Meeting of 29 Aug 2017 which was attended by the Mayor Gesie van Deventer and she was informed of our concerns that this dwelling would be turned into a guest house.

Please find a list of the objections to your proposal:

1. The procedure is flawed: given the fact that the notice on display on the property gate does not indicate a "commencement date" and a "closing date" of the application.

It states and we quote "All comments, quoting the application number, reference number, your name, address or contact details, your interest in the application and reasons for the comments should be received by the above party on or before 30 days from the date of publication of this notice (03 May 2019)".

This is clearly a very ambiguous statement that could be construed to mean 30 days from the 03rd May 2019, i.e. 03rd June 2019.

2. The owner of this property purports in the application that he will be residing at the residence. *This is untrue as he is not in possession of a South African permanent residency permit and will not be allowed into this country for longer periods than any other tourist. Who will be living on the property for the rest of the time?*

3. The procedure is again flawed: The Site plan provided in your registered letter is simply wrong as it does not indicate the Title Deed Building Lines. What it does indicate is building lines 4,5m away from the boundary wall. Isn't this exactly what you are requesting in this application? Is this "Build first and ask permission later"?

4. The dwelling does not conform to the definition of a residential dwelling but was specifically build for a different purpose. The connecting doors between the various units on ground floor has been bricked up, thus separating each unit into a separate dwelling.

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5. The *boundary wall does not comply* with the approved boundary wall policy as it allows no view into the property.

6. "Ground Level" as defined by the Stellenbosch Municipal Land Use Planning By-Law means the following: the mean between the highest and the lowest natural ground levels immediately adjacent to the building. *If one measures roof height from this mean, it is most definitely higher than the common restriction of 8m* as there is a garage area on the Western side of the house that effectively raises the top structure to a second storey. If the argument is used that the garage is a "Basement storey", it does not detract from the fact that the mean is incorrectly calculated and should be re-looked at by an independent Land Surveyor.

7. The Stellenbosch Municipality Land Use Planning By-Law states: Serving of Compliance Notices 87 (2)

"A compliance notice must instruct the occupier and owner to cease the unlawful utilization of land or construction activity or both, without delay or within a period determined by the Municipality, and may include an instruction to – (a) demolish... (b) submit an application... (c) rectify the contravention ...

Please could this compliance notice be produced.

8. Application is done for the removal of restrictive title deed conditions 6 (a). This is once again done as ratification for an already built structure that is in clear violation of the Title deed stating that no second structure is permitted. Is it the intension of the owner to build more units on the property in future? Why should he be believed now that this restriction is only to be lifted for the sake of a swimming pool pump?

9. A large amount of landfill has taken place on order to "lift" the swimming pool. This implies that the natural ground level from building line to boundary line has been substantially altered.

10. The house in its current form, considering the amount of rooms available should this be utilised as a guest house, does not properly provide for enough parking on the property. This will result in an overflow of vehicles parked in the street.

The owner of the property has proven himself to be completely unreliable in his dealings with the fellow property owners in the neighbourhood. There is no reason to believe he will maintain the building in its present state after these restrictions have been lifted. We object most strongly to any relaxation and would like the Stellenbosch Municipality to correct their earlier mistake and revert back to original Title Act Restrictions.

Regards

Hilko Hegewisch and Andrea Marent-Hegewisch

Erf 4717

22 Van Coppenhagen Street / 1 Paul Sauer

Subject: Kommentaar aansoek LU/8162, verwysing C5626

From: "Coen Calitz" <cjc2@mweb.co.za>

Date: 03-May-19, 17:43

To: <planning@dieselandmunns.co.za>

Soos versoek in u kennisgewing van 4 April, lewer ek hiermee kommentaar op bogenoemde aansoek:

Opsomming: Ek staan albei aansoeke sterk téen.

1. Beperkende voorwaardes op titelaktes moet vooraf deur die erfeienaar en/of sy verteenwoordigers nagegaan word. Om nou agterna te verwys na 2 insidente, nl. die aanvanklike foutiewe bouwerk en die agterlosige foutiewe goedkeuring deur amptenare is nie 'n verskoning om die beperkende voorwaardes summier op te hef nie. Hiermee sou 'n presedent geskep word vir enige sg. "vergissing" om summier te vra vir vrystelling van voorwaardes, van welke aard ookal.
2. Die aansoeker verwys na die oorskrydings as "deviate slightly", "mainly to do with outbuildings" ien "slightly different positions". Geen melding word gemaak van hoe groot die oorskryding presies is nie. Die eienaar kan tog nie 'n blanko tjek kry nvir oorskryding nie?
3. Die lang argumente oor die omstandighede waaronder die munisipaliteit afskaffing van voorwaardes kan toelaat is bloot eensydig aangehaal, maar verander nog nie die basiese feit van foutiewe bouwerk nie. Die eienaar kan liever die "slight different constructions" afbreek en regmaak.
4. Oor die beoogde gastehuis; wil ek ook my teenstand uitspreek: Stellenbosch het reeds 'n oorvloed van gastehuse en die gevaar bestaan dat dit later weens ekonomiese druk en/of 'n nuwe eienaar in studentebehuising, met al die euwels daaraan, kan verander.
5. Die beoogde 8 gaste wat kom en gaan, sal beslis minstens 'n uitwerking op die verkeersvolume in omringende strate hê. Voeg hierby 'n hele aantal personeel en afleweringsvoertuie wat noodwendig daar rond moet ry en/of parkeer, gaan dit die gebied erg benadeel.

My belang by hierdie saak is as inwoner van Rozendal vir 40 jaar en erfeienaar op 'n toegangsroete. Verder het die afsenders van die kennisgewing geoordeel dat ek belang by die saak mag hê en my kommentaar gevra.

Dankie vir u aandag.

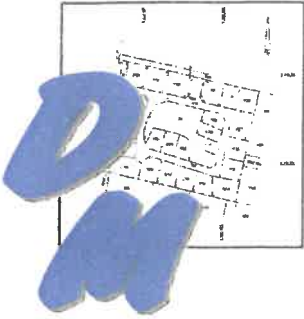
Mnr. CJ Calitz
Waterweg 14
Rozendal
Stellenbosch

5/5 0455

APPENDIX 7

**APPLICATION FOR REMOVAL OF
RESTRICTIVE TITLE DEED CONDITIONS,
SPECIAL DEVELOPMENT AND PERMANENT
DEPARTURE ON ERF 4731, STELLENBOSCH.**

COMMENT ON OBJECTIONS



DIESEL & MUNNS INC.

Professional Land Surveyors • Town and Regional Planners
 Professionele Landmeters • Stads- en Streekbeplanners
 Sectional Title Consultants and Topographical Surveyors
 Deeltitel Konsultante en Topografiese Opmeters

20 St. James Street/Straat
 P. O. Box 475
 SOMERSET WEST 7129

Tel: (021) 852-3800/852-3759
 E-mail: admin@dieselandmunns.co.za

09 May 2019

The Director: Planning and Economic Development
 Stellenbosch Municipality
 P O Box 17
STELLENBOSCH
7599

Our Ref: C5626

Attention: Louisa Oilyn

Your Ref: LU/8162

Dear Louisa

PROPOSED REMOVAL OF RESTRICTIONS, PERMANENT DEPARTURES AND SPECIAL DEVELOPMENT APPLICATION FOR A GUEST HOUSE ON ERF 4731 STELLENBOSCH.

The attached Portfolio of Evidence and objections received against the above proposal within the prescribed advertising period regarding the above applications (LU/8162) submitted on Erf 4731 Stellenbosch refer.

We hereby offer our comments on the objections received against the above proposal within the prescribed period. All the issues that were raised within the objection will be dealt with below.

It should be noted from the outset that the owner previously had building plans prepared and submitted them to the Municipality for the replacement of the existing dwelling on the property. These plans were prepared to conform to the Stellenbosch Municipality's Zoning Scheme (SZS) parameters for Single Residential dwellings and the dwelling that has been constructed on the property conforms in all aspects to the definition of a Single Residential Dwelling as stated within the SZS. These plans were submitted to the Local Authority for approval by the architect together with a copy of the title deed of the property, and were subsequently approved. The building plans were based on an accurate survey as conducted by a registered professional land surveyor, and should any of the neighbours wish to question the measured heights they are more than welcome to appoint their own surveyor to check them. The owner then contracted a builder to construct the approved dwelling on the property which was subsequently completed. Although the dwelling has been constructed strictly in accordance to the approved building plans, it came to the attention of the owner/architect that the builder did construct the entertainment area in a slightly incorrect position on the property, but still within the building lines as prescribed within the SZS. This was also picked up by the building inspector who then requested that updated building plans be submitted for approval.

Directors:
 Office Manager:

J. LAKE B.Sc. (Eng), Pr.L.(S.A.), M.I.P.L.S. D.W. LAMBERT B.Sc. (Eng), Pr.L.(S.A.), M.I.P.L.S. B.N. BLOUNT T.R.P. (S.A.) B.Sc. (TRP)
 D.M. HENDRICKS

When these updated building plans were submitted to the Local Authority, the architect was informed that there were restrictions within the title deed that prevented the construction of the dwelling in the location as indicated on the plans, which meant that the original building plans were approved in error. As the owner was planning at this stage to submit a Special Development application to the Local Authority to utilise the lower floor as a guest house consisting of three units, it was suggested by the Local Authority that the relevant restrictions be removed as part of this application. The owner of the property in no way attempted to mislead the Local Authority into approving the plans contrary to the title deed restriction. It would have been far easier for him to have conformed to the restrictive title conditions building lines than to have to retrospectively deal with them as great cost, not to mention to also have to deal with the numerous spurious and vexatious comments from the surrounding owners insinuating that he intentionally misled the Local Authority. The owner has in no way ever attempted to manipulate the information supplied to Council in order to obtain undesirable development rights.

Such development restrictions were routinely placed within the title deeds of properties prior to the advent of zoning schemes as a means of regulating the character of the area concerned. The promulgation of the relevant zoning schemes for the various municipal areas has negated the need to duplicate development parameters in title deeds. As planning policies and ideologies evolve, so do the permitted development parameters within zoning schemes. The latest proposed zoning scheme will focus on promoting a more compact urban form, and hence will differ from the existing SZS. Thus the removal of the restrictive title conditions will in no way alter the single residential character of the area as it will allow for the existing (approved) dwelling to be retained on the property which conforms to the single residential parameters as set out within the SZS. The only departures being applied for are for a planter box and pool pump that are located within the building lines. These structures will have no significant impact on the surrounding neighbourhood as they cannot be seen from outside the property at all.

The restrictive title conditions only relate to the building lines (location of the dwelling) and do not in any way place restrictions on the height of the dwelling permitted on the property. The dwelling has been constructed to conform to the height restrictions as stipulated within the SZS. Thus any objection referring to the height and/or architectural style/integrity of the dwelling constructed on the property has no relevance to the proposal as submitted at all. Furthermore, all of the adjoining properties along Paul Sauer Street are subject to the same zoning scheme height restrictions applicable to the application property, and any of these dwellings can be extended to a similar height under their primary rights. The location of the dwelling 1,8m closer to the street boundary does not materially alter the character of the property. Also, the dwelling as it stands would be within the permitted height even if it had conformed to the title deed restriction, and thus has no additional impact on the views being experienced from adjoining properties over what is permitted on any of the surrounding properties. As the dwelling is only located closer to the street boundary than what is permitted within the title deed, it in no way increases its impact on the privacy of the adjoining properties either (as it still conforms to the 3,15m common building line). The location of the dwelling only affords it increased opportunity to overlook the street, which actually would actually have the benefit of increasing passive surveillance of the public realm and do not encroach on the privacy of properties located across the road.

The building has been constructed as a single residential dwelling and complies to the definition of a dwelling unit as contained within the SZS. This definition states that a dwelling is defined as a self-contained interleading complex of rooms utilized or intended to

be utilized as a complete residence and accommodation for a single family only, together with the customary outbuildings usually associated with such a unit. As can be seen on the Site Development Plan (SDP) attached to the application, the dwelling conforms to this definition as all the rooms form a self contained interleading complex of rooms as all areas of the dwelling are accessible from the internal staircase. The structure only consists of one single residential dwelling unit. This has been confirmed by the building inspector who has conducted numerous inspections of the property. Any future expansions to the structures on the property, whether by the current owner or any future owner, will have to go through the necessary approvals (building plan and/or land use planning). It cannot be insinuated that because a genuine error was made in this case that any potential developments in the future will be done to mislead the Local Authority.

The SZS allows for single residential dwellings to be utilised as guest houses as a Special Development right which requires approval from the Local Authority. Besides the error relating to the approval of the building plans, the owner has followed the correct procedures in obtaining the necessary permissions to utilise the lower floor of the approved dwelling as a guest house. The proposed application is in no way altering the existing zoning of the property and is not proposing any structures that cannot be built under the Single Residential parameters as stipulated within the SZS. The proposed guest house is also permitted as a Special Development right within the Single Residential zone, thus not requiring a rezoning of the property. Thus the utilisation of the ground floor of the dwelling as a guest house will in no way alter the existing visual character of the property as the use will remain residential in nature. Even though the proposed guest house will operate out of the need for commercial gain, the primary focus will remain the accommodation of residents within a structure that conforms to the parameters of a single residential dwelling.

The socio-economic benefits of this proposed development are in no way overstated as insinuated in some of the objections. The proposed guest house will offer employment opportunities to local residents whilst at the same time promoting tourism into the Stellenbosch area. The benefits of tourism are not only measured in the cost of the accommodation, but also with regard to all the other spending that accompanies tourists (restaurants, entertainment, attractions, etc.). Thus the economic benefits that the proposed development will reach far beyond the income generated through the accommodation of tourists on the property. The owner of the property has already invested large amounts of foreign money in the upgrading of the old dwelling.

As has been stated previously, the utilisation of a portion of the single residential dwelling as a guest house will remain residential in nature. Many of the objectors state that this will alter the residential character of the neighbourhood, which is patently false as the property will still be primarily concerned with the accommodation of transient residents. The need for guest houses is driven by demand and a demand for tourist accommodation in the Stellenbosch area has been identified by the owner. A similar guest house operating in Rozendal Avenue often runs at capacity and has confirmed this demand for accommodation in this area during peak holiday periods. Sufficient parking has been provided for on site as the proposed guest house will only consist of three units/rooms that can be rented out. Three parking bays have been provided for the guests, as well as the two bays for the main dwelling/owner. Thus a total of five parking bays have been provided which is more than sufficient for the number of units/rooms that will be available to guests.

The assertion that the proposed guest house will lead to the devaluation of surrounding property values is based on mere supposition and has no basis in fact. There is another

guest house located approximately 160m west of the property that has been in operation for a number of years. None of the objectors make mention of any negative impacts associated with this establishment, and it thus stands to reason that such an operation does not have the negative impacts as stated within the objections. The operation is in fact a quiet enterprise that does not allow its guests to generate any form of noise or nuisance that would impact on the surrounding properties. This is a successful guest house which has little to no impacts on the surrounding residential character, and has no negative impacts with regard to the safety of the surrounding residents. The operation of the proposed guest house will be done in a similar manner and would thus not impact the surrounding neighbourhood as suggested in the objections.

Once again, the insinuation that the utilisation of the property as a guest house will impact on the security of the neighbourhood is based entirely on supposition. It is proposed that this establishment will be run as an upmarket guest house, the residents would have the same reasonable expectations of a tranquil living environment as those of the surrounding residents. The exclusive nature (and cost) of the accommodation would thus ensure that the proprietor of the guest house has a vested interest in ensuring the residents of the guest house do not generate any levels of excessive noise, thus ensuring a minimal impact on the surrounding properties. The proposed utilisation of a portion of the dwelling on the property as a guest house will have far less of an impact in terms of noise and traffic generation than the numerous home occupation enterprises that are currently in operation in the surrounding neighbourhood. Also to state that the use of a portion of the house as a guest house will lead to the utilisation of the property as student accommodation is totally spurious in its intent.

Section 65 of the Stellenbosch Municipal Land Use Planning By-Law, 2015 sets out certain evaluation criteria which determine the desirability of a proposed development. Taking these into account it is clear that the proposed development will have no impact on the surrounding environment which can be construed to be undesirable in respect of the safety, welfare and amenity value of the specific site conditions and the preservation of the surrounding built and natural environment. The proposal will in no way impact on any existing rights.

The proposal can be seen to be compliant with these evaluation criteria for the following reasons:

- The proposal complies with the guidelines as set out in the higher order spatial planning policies which promote socio-economic integration.
- The proposed development is of an appropriate scale and form that relates to the surrounding urban fabric, development pattern and land use character of the surrounding neighbourhood, as no additional structures will be constructed as a result of this application.
- The proposal will have a positive socio-economic benefit through income generation and the creation of employment opportunities.
- The proposal will have no significant impact on the existing built form and will thus fit in to the surrounding urban context.
- The placement of the proposal within an established urban residential development is seen to be compatible with the existing character and represents an acceptable land use intensification in the area.
- The proposed development will not detract from any existing rights of the surrounding erven.

- Increase human activity will help ensure increased passive surveillance of the adjoining public realm (street).
- There is adequate servicing capacity to accommodate the proposed development and adequate on-site parking has been provided for.
- The application will not undermine the public interest.

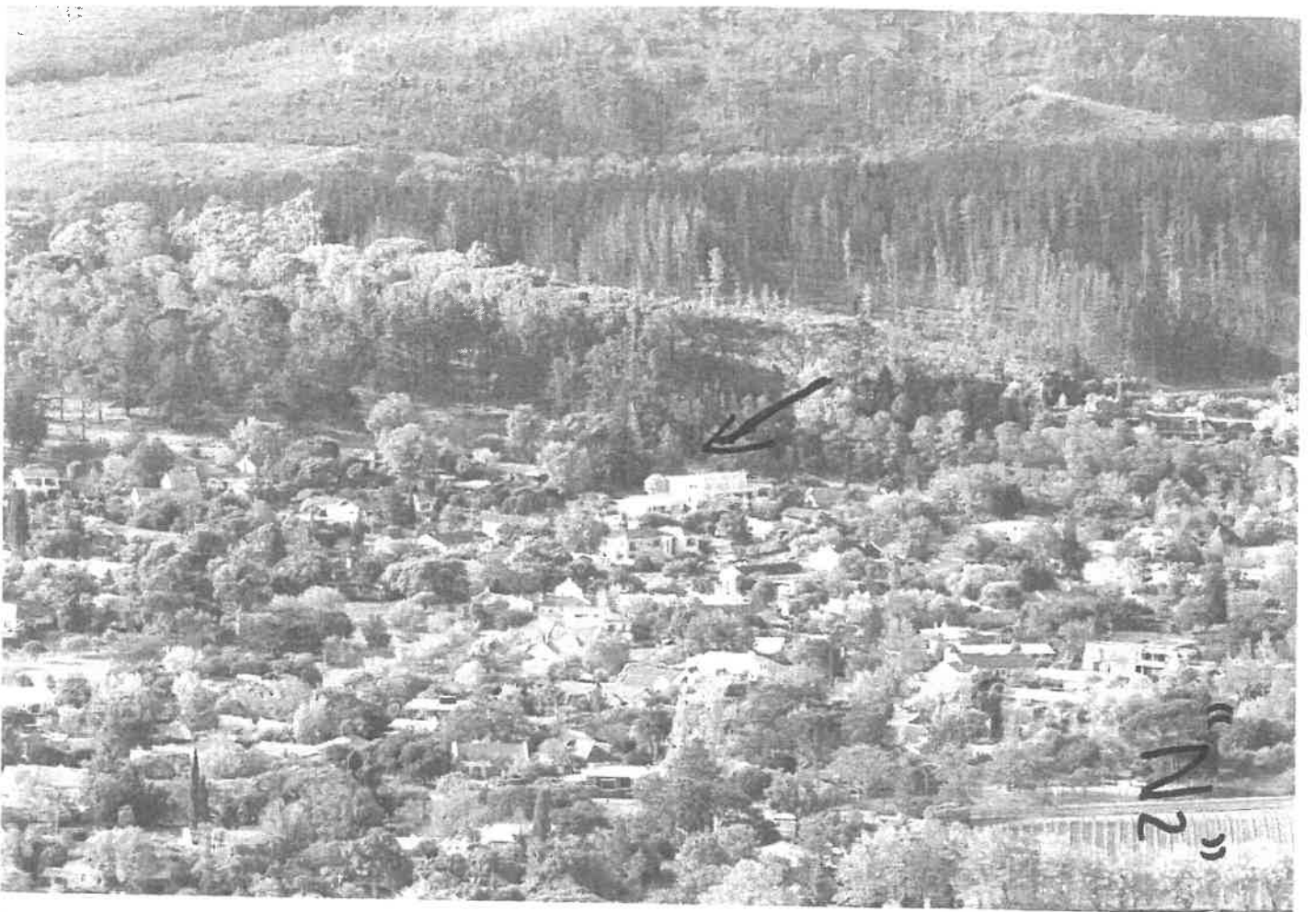
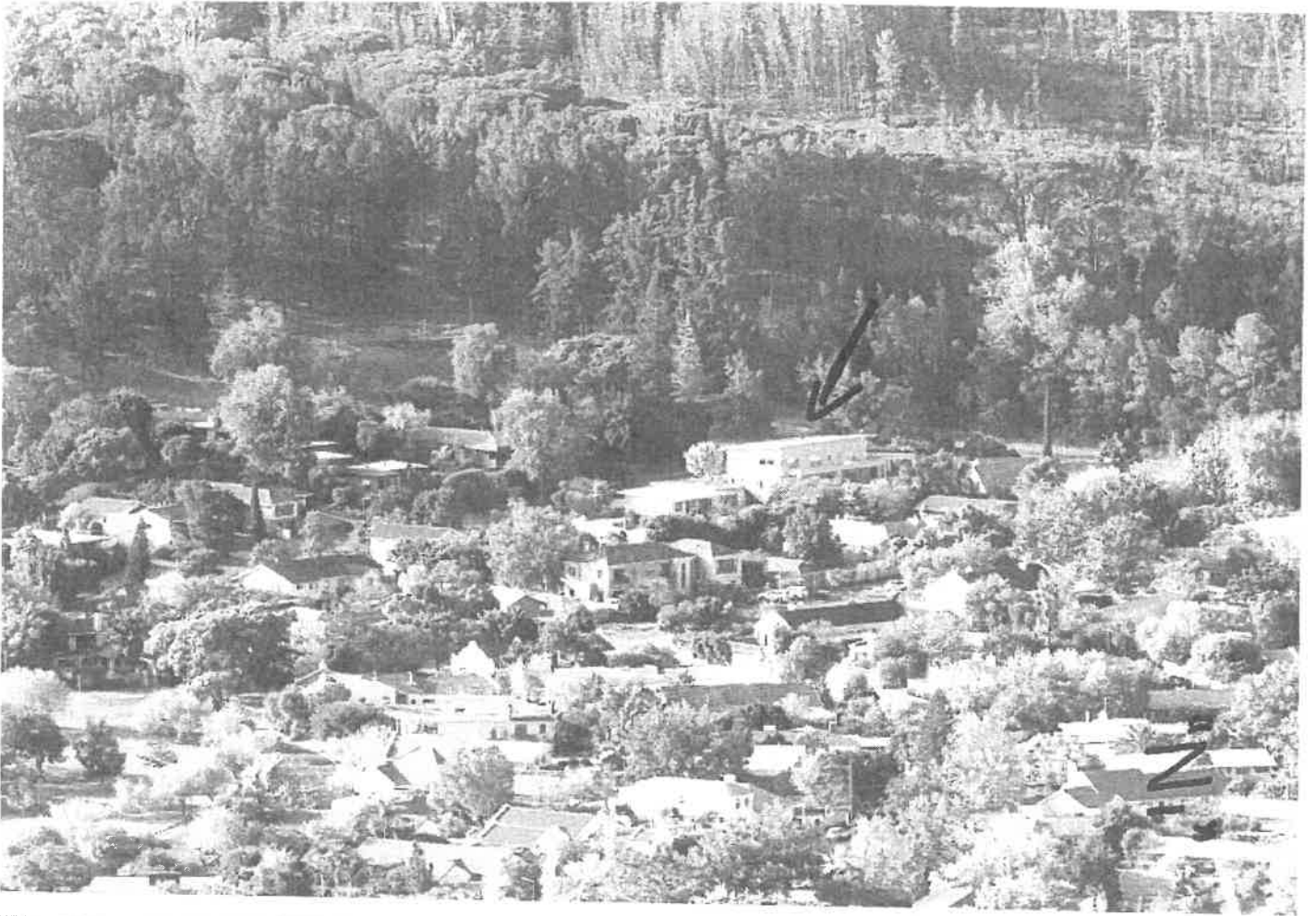
The proposed removal of restrictive title conditions and special development for the utilisation of the dwelling on Erf 4731 Stellenbosch as a guest house is considered to be a compatible use in the specific area and it will result in a more optimal utilisation of the property. It will constitute a desirable development in terms of the City of Cape Town's Municipal Planning By-Law, 2015. With this in mind, it is therefore honourably considered that the proposed application will be endorsed with Council's consent.

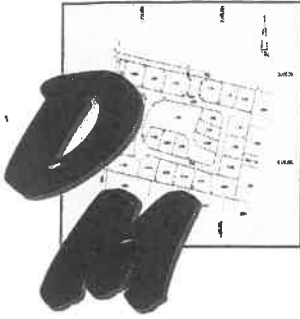
We trust that you will find the above in order.

Yours sincerely



Barry Blount
Town Planner
DIESEL & MUNNS INC.





DIESEL & MUNNS INC.

Professional Land Surveyors • Town and Regional Planners
 Professionele Landmeters • Stads- en Streekbeplanners
 Sectional Title Consultants and Topographical Surveyors
 Deeltitel Konsultante en Topografiese Opmeters

20 St. James Street/Straat
 P. O. Box 475
 SOMERSET WEST 7129

Tel: (021) 852-3800/852-3759
 E-mail: admin@dieselandmunns.co.za

25 June 2019

The Director: Planning and Economic Development
 Land Use Management
 Stellenbosch Municipality
 P O Box 17
STELLENBOSCH
7599

Our Ref: C5626

Attention: Louisa Ollyn

Your Ref: LU/8162

Dear Louisa

PROPOSED REMOVAL OF RESTRICTIONS, PERMANENT DEPARTURES AND SPECIAL DEVELOPMENT APPLICATION FOR A GUEST HOUSE ON ERF 4731 STELLENBOSCH – RESPONSE TO SPATIAL PLANNING COMMENT.

Your letter dated 12 June 2019 regarding the comment received from The Manger: Spatial Planning, Heritage & Environment refers.

We hereby offer our comments on the above correspondence. All the issues that were raised within the comments will be dealt with below.

The building has been constructed as a single residential dwelling and complies to the definition of a dwelling unit as contained within the Stellenbosch Zoning Scheme (SZS). This definition states that a dwelling is defined as a self-contained interleading complex of rooms utilized or intended to be utilized as a complete residence and accommodation for a single family only, together with the customary outbuildings usually associated with such a unit. As can be seen on the Site Development Plan (SDP) attached to the application, the dwelling conforms to this definition as all the rooms form a self contained interleading complex of rooms as all areas of the dwelling are accessible from the internal staircase. The structure only consists of one single residential dwelling unit consisting of a ground and first floor offering residential accommodation. The lower level only accommodates non-habitable space in the form of a garage and laundry.

The SZS allows for single residential dwellings to be utilised as guest houses as a Special Development right which requires approval from the Local Authority. It is being proposed that only the rooms on the ground floor be utilised for the accommodation of guests, and that the entire first floor be reserved for the accommodation of the owner of the property. Thus only half of the floor area of the dwelling will be utilised as a guest house with only three units available for rental. The guest house will thus not be utilising the entire property.

The guest house is proposing to utilise unoccupied rooms in an existing dwelling (as was approved by the Local Authority) for the accommodation of guests, and can thus be seen as a normal extension of the residential property.

The owner of the property is in the process of applying for permanent residency and will reside on the property as stipulated in the comment. If the owner is away from the property (travelling, etc.) there will be an employee/manager staying on the property to oversee the guest house should there be guests resident on the property. Thus there will be no abnormal behaviour patterns on the property as the guest house will be managed at all times ensuring that the guests conform to the rules of the establishment. The guests will not be permitted to make any unacceptable noise that would disturb, not only the other guests of the facility, but the owner of the property and those of the surrounding properties as well.

The property is still functioning as a residential unit for the owner and is in no way reducing the supply of residential units available, as no more residential units would be available without the guest house operating on the property. As no alterations to the existing dwelling are being proposed as part of this application, the proposal will also in no way affect the existing character of the residence at all.

Adequate on-site parking is being provided to accommodate the guests of the proposed three units on the property. Two bays are provided for the dwelling with a further three being provided for guests. This will ensure that no vehicles need to be parked in the street. The additional vehicles that will be parked on site will not be visible from the adjoining street and will thus have no significant impact on the surrounding neighbourhood. The parking layout, which is adequately dimensioned, is indicated on the SDP that was submitted with the application.

We trust that you will find the above in order.

Yours sincerely



Barry Blount
Town Planner
DIESEL & MUNNS INC.

APPENDIX 8

**APPLICATION FOR REMOVAL OF
RESTRICTIVE TITLE DEED CONDITIONS,
SPECIAL DEVELOPMENT AND PERMANENT
DEPARTURE ON ERF 4731, STELLENBOSCH.**

**COMMENT FROM THE MANAGER: BUILDING
MANAGEMENT**

LêER VERW/ FILE REF	Erf 4731, Stellenbosch	DATUM DATE	April 2 May 2019
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AANSOEKNUMMER/APPLICATION NUMBER	LU/8162
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MEMO AAN/ TO :

- Director : Engineering Services
- Manager : Electrical Department
- Manager : Building Development Management
- Manager : Fire Services
- Director : Corporate Services
- Manager: Spatial Planning / Heritage / Environment / Signage
- Manager: Health Department (Winelands Health)
- Manager: Greening department
- Manager : Property Management



Application	Application is made in terms of Section 15(2)(o) of the Stellenbosch Municipal Land Use Planning By-Law, promulgated by notice number 354/2015, dated 20 October 2015 for special development to permit the operation of a 4-bedroom guesthouse on Erf 4731, Stellenbosch.
Adres / Address	14 Paul Sauer Street, Stellenbosch
Aansoek Datum / Application Date	24 July 2018
Aansoeker / Applicant	Diesel & Munns Inc.

Aangeheg vind u tersaaklike dokumentasie in verband met bogenoemde aansoek. Ten einde my in staat te stel om die aansoek aan die besluitnemingsowerheid vir oorweging voor te lê, word u versoek om my skriftelik van u kommentaar, indien enige, te voorsien. Onderskei asseblief tussen algemene kommentaar op die meriete van die aansoek en enige voorwaardes wat u departement wil opleë indien die aansoek goedgekeur word.

Attached please find the relevant documentation regarding the abovementioned application. Kindly furnish me with your written comment, if any, in order to enable me to submit the application to the decision making authority for consideration. Please differentiate between general comment on the merits of the application and any conditions that your department wishes to impose should the application be approved.

Geliewe die memorandum per hand aan my terug te besorg voor of op: 2 Mei 2019
Please hand deliver the memorandum to me on or before : 2 May 2019

A. Hardouin
For DIRECTOR: PLANNING AND ECONOMIC DEVELOPMENT

ALGEMENE KOMMENTAAR / GENERAL COMMENT:

No objection

FILE NR:	
SCAN NR:	E47315
COLLABORATOR NR:	639696

VOORWAARDES/CONDITIONS :

.....

.....

.....

HANDTEKENING / SIGNATURE	<i>[Signature]</i>	DATUM / DATE	04/05/2019
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APPENDIX 9

**APPLICATION FOR REMOVAL OF
RESTRICTIVE TITLE DEED CONDITIONS,
SPECIAL DEVELOPMENT AND PERMANENT
DEPARTURE ON ERF 4731, STELLENBOSCH.**

**COMMENT FROM THE MANAGER: FIRE
SERVICES**

INTERDEPARTMENTAL CIRCULATION FORM

File

LêER VERW/ FILE REF	Erf 4731, Stellenbosch	DATUM DATE	2 May 2019
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AANSOEKNUMMER/APPLICATION NUMBER	LU/8162
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MEMO AAN/ TO :

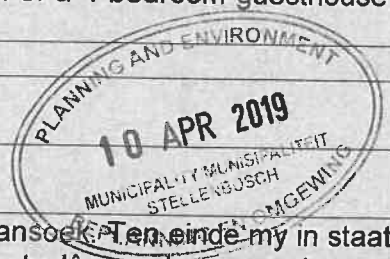
- Director : Engineering Services
- Manager : Electrical Department
- Manager : Building Development Management
- Manager : Fire Services
- Director : Corporate Services
- Manager: Spatial Planning / Heritage / Environment / Signage
- Manager: Health Department (Winelands Health)
- Manager: Greening department
- Manager : Property Management

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Adres / Address 14 Paul Sauer Street, Stellenbosch

Aansoek Datum / Application Date 24 July 2018

Aansoeker / Applicant Diesel & Munns Inc.



Aangeheg vind u tersaaklike dokumentasie in verband met bogenoemde aansoek. Ten einde my in staat te stel om die aansoek aan die besluitnemingsowerheid vir oorweging voor te lê, word u versoek om my skriftelik van u kommentaar, indien enige, te voorsien. Onderskei asseblief tussen algemene kommentaar op die meriete van die aansoek en enige voorwaardes wat u departement wil opleë indien die aansoek goedgekeur word.

Attached please find the relevant documentation regarding the abovementioned application. Kindly furnish me with your written comment, if any, in order to enable me to submit the application to the decision making authority for consideration. Please differentiate between general comment on the merits of the application and any conditions that your department wishes to impose should the application be approved.

Geliewe die memorandum per hand aan my terug te besorg voor of op: 2 Mei 2019
Please hand deliver the memorandum to me on or before : 2 May 2019

A. Hardouin
For DIRECTOR: PLANNING AND ECONOMIC DEVELOPMENT

FILE NR:	
SCAN NR:	E4731S
COLLABORATOR NR:	640569

ALGEMENE KOMMENTAAR / GENERAL COMMENT:

.....

.....

.....

VOORWAARDES/CONDITIONS :

..... Fire Requirements will be given when plans are submitted to Council

.....

HANDTEKENING / SIGNATURE	DATUM / DATE
	10/04/2017

APPENDIX 10

**APPLICATION FOR REMOVAL OF
RESTRICTIVE TITLE DEED CONDITIONS,
SPECIAL DEVELOPMENT AND PERMANENT
DEPARTURE ON ERF 4731, STELLENBOSCH.**

**COMMENT FROM THE MANAGER: HEALTH
SERVICES**

INTERDEPARTMENTAL CIRCULATION FORM

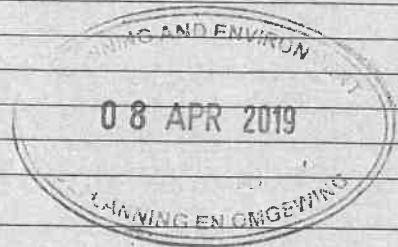
File 31
April

LêER VERW/ FILE REF	Erf 4731, Stellenbosch	DATUM DATE	2 May 2019
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AANSOEKNUMMER/APPLICATION NUMBER	LU/8162
----------------------------------	---------

MEMO AAN/ TO :

- X Director : Engineering Services
- X Manager : Electrical Department
- X Manager : Building Development Management
- X Manager : Fire Services
- Director : Corporate Services
- X Manager: Spatial Planning / Heritage / Environment / Signage
- X Manager: Health Department (Winelands Health)
- Manager: Greening department
- Manager : Property Management



Application	Application is made in terms of Section 15(2)(o) of the Stellenbosch Municipal Land Use Planning By-Law, promulgated by notice number 354/2015, dated 20 October 2015 for special development to permit the operation of a 4-bedroom guesthouse on Erf 4731, Stellenbosch.
Adres / Address	14 Paul Sauer Street, Stellenbosch
Aansoek Datum Application Date	24 July 2018
Aansoeker Applicant	Diesel & Munns Inc.

Aangeheg vind u tersaaklike dokumentasie in verband met bogenoemde aansoek. Ten einde my in staat te stel om die aansoek aan die besluitnemingsowerheid vir oorweging voor te lê, word u versoek om my skriftelik van u kommentaar, indien enige, te voorsien. Onderskei asseblief tussen algemene kommentaar op die meriete van die aansoek en enige voorwaardes wat u departement wil opleë indien die aansoek goedgekeur word.

Attached please find the relevant documentation regarding the abovementioned application. Kindly furnish me with your written comment, if any, in order to enable me to submit the application to the decision making authority for consideration. Please differentiate between general comment on the merits of the application and any conditions that your department wishes to impose should the application be approved.

Geliewe die memorandum per hand aan my terug te besorg voor 2 Mei 2019
Please hand deliver the memorandum to me on or before : 2 May 2019

SCAN NR:	E 47315
COLLABORATOR NR:	639857
AFDELING:	AUNDSIPALE

A. Hardouin
For DIRECTOR: PLANNING AND ECONOMIC DEVELOPMENT

ALGEMENE KOMMENTAAR / GENERAL COMMENT: DIE GESONDHEIDSDIENESTE HET GEEN BESWAAR TEEN VOORGESTELDE AANSOEK VIR SPESIALE ONTWIKKELING OM 'N 4 SLEEPKAMER GASTEHLUIS TE BEDRYF NIE.

VOORWAARDES/CONDITIONS : INDIEN MAALTYE VIR GASTE VERSKAF SAL WORD MOET DIE EIENAAR 'N GESKIKTE KOMBUIS VERSKAF EN IN AANSOEK DOEN VIR 'N GESKIKTHEIDSERTIFIKAAT IN TERME VAN R638/2018 REG. 3.

HANDTEKENING / SIGNATURE	2019/04/05
	DATUM / DATE

APPENDIX 11

**APPLICATION FOR REMOVAL OF
RESTRICTIVE TITLE DEED CONDITIONS,
SPECIAL DEVELOPMENT AND PERMANENT
DEPARTURE ON ERF 4731, STELLENBOSCH.**

**COMMENT FROM THE DIRECTOR:
ENGINEERING SERVICES**



STELLENBOSCH MUNICIPALITY
STELLENBOSCH · PNIEL · FRANSCHHOEK

MEMORANDUM

DIREKTEUR: INFRASTRUKTUURDIENSTE
DIRECTORATE: INFRASTRUCTURE SERVICES

To ▫ Aan: Director: Planning + Economic Development
Att Aandag A Hardouin
From ▫ Van: Colin Taylor (Development)
Date ▫ Datum: 9/05/2019
Our Ref ▫ Ons Verw: Civil LU 1819
Re ▫ Insake: Erf 4731 Stellenbosch: Application for departure

The above mentioned application for the following refers.

- 1) Special development to permit the operation of a 4 bedroom guesthouse on Erf 4731, Stellenbosch

Comments from the Transport, Roads and Stormwater, Water Services, Traffic Engineering and Development Departments will be reflected in this memo and is to be regarded as development conditions to be reflected in the land-use approval.

The application is recommended for approval, **subject to the following conditions:**

1. Water

- 1.1 The existing water connection must be utilized for the proposed development: no upgrade in the size of the connection will be allowed, unless agreed to by our Water Services Department.

2. Sewer

- 2.1 The existing sewer connection must be utilized for the proposed development: no upgrade in the size of the connection will be allowed, unless agreed to by our Water Services Department.

3. Development Charges (DCs)

- 3.1 Based on the information provided in application the Development Charges payable by the developer is R 49 396.69 (Vat incl.) as per attached Development Charges Calculation.
- 3.2 The DC's were calculated for the 2018/2019 financial year. If the account is paid after 30 June 2019 it has to be recalculated using the then applicable tariffs.
- 3.3 DCs are payable prior to the erf or portion thereof being put to the approved use or building plan approval which ever come first.

4. Municipal Infrastructure (Civil Engineering Services)

- 4.1 Any changes to existing municipal infrastructure due to this application will be for the account of the owner.

**Colin Taylor****PRINCIPAL TECHNICIAN: DEVELOPMENT (INFRASTRUCTURE SERVICES)**

Q:\AAUSERS\Colin\DS\Dev Applications\1819 - Erf 4731 Stellenbosch\1819 - Erf 4731 Stellenbosch (Special Development).doc

Stellenbosch Municipality - Development Charge Calculation



APPLICATION INFORMATION	
Application Number	Thursday, 09/May/2019
Date	2018-2019
Financial Year	Stellenbosch Town
Erf Location	4731
Erf No	
Erf Size (m²)	
Suburb	
Applicant	Diesel & Munn Inc.
Approved Building Plan No.	

SUMMARY OF DC CALCULATION								Totals
Units	Water	Sewer	Storm-water	ha°C	Solid-Waste	Roads	Community Facilities	person
	kilday	kilday	kl/day	ha°C	€/week	trips/day		person
Total Increased Services Usage	0,000	0,300	0,000	0,000	0,060	3,75		3,8
Total Development Charges before Deductions		R 6 854,22			R 2 797,39	R 21 526,02	R 11 776,02	R 42 953,64
Total Deductions								
Total Payable (excluding VAT)		R 6 854,22			R 2 797,39	R 21 526,02	R 11 776,02	R 42 953,64
VAT		R 1 028,13			R 419,61	R 3 228,90	R 1 766,40	R 6 443,05
Total Payable (including VAT)		R 7 882,35			R 3 216,99	R 24 754,92	R 13 542,43	R 49 396,69

APPLICANT INFORMATION	
Application Processed by:	C. Taylor
Signature	
Date	8 May 2019
Amount Paid:	
Date Payment Received	
Receipt Number	

Stellenbosch Town		Development Charge levied (excl VAT)										Community Facilities		Total
Land Use Category	Unit Type	Existing Usage		Proposed New Usage		Increased Usage	Water	Sewer	Storm-water	Solid-Waste	Roads	Community Facilities		Total
		area (m2)	du/ha	area (m2)	du/ha							du	Yes	
Infrastructure Type applicable? (yes/no)		du	du	du	du	du	Yes	no	Yes	Yes	Yes	Yes		
		m2 GLA	m ² GLA	m2 GLA	% GLA	m2 GLA								
Residential	Single Residential >1000m2	du	0	0	0%	0	R -28 586.27	R -15 993.18	R -	R -1 864.92	R -22 961.08	R -11 776.02	R -81 181.47	
	Single Residential >500m2	du	0	0	0%	0	R -	R -	R -	R -	R -	R -	R -	
	Single Residential >250m2	du	0	0	0%	0	R -	R -	R -	R -	R -	R -	R -	
	Single Residential <250m2	du	0	0	0%	0	R -	R -	R -	R -	R -	R -	R -	
	Less Formal Residential >250m2	du	0	0	0%	0	R -	R -	R -	R -	R -	R -	R -	
	Less Formal Residential <250m2	du	0	0	0%	0	R -	R -	R -	R -	R -	R -	R -	
	Group Residential >250m2	du	0	0	0%	0	R -	R -	R -	R -	R -	R -	R -	
	Group Residential <250m2	du	0	0	0%	0	R -	R -	R -	R -	R -	R -	R -	
	Medium Density Residential >250m2	du	0	0	0%	0	R -	R -	R -	R -	R -	R -	R -	
	Medium Density Residential <250m2	du	0	0	0%	0	R -	R -	R -	R -	R -	R -	R -	
Residential	High Density Residential - flats	du	0	1	0%	1	R 10 719.85	R 9 138.96	R -	R 1 864.92	R 15 785.74	R 11 776.02	R 49 285.50	
	High Density Residential - student rooms	du	0	4	0%	4	R 17 151.76	R 13 708.44	R -	R 2 797.39	R 28 701.35	R 11 776.02	R 74 134.96	
Commercial	Local Business - office	m2 GLA	0%	0%	0%	0	R -	R -	R -	R -	R -	R -	R -	
	Local Business - retail	m2 GLA	0%	0%	0%	0	R -	R -	R -	R -	R -	R -	R -	
	General Business - office	m2 GLA	0%	0%	0%	0	R -	R -	R -	R -	R -	R -	R -	
	General Business - retail	m2 GLA	0%	0%	0%	0	R -	R -	R -	R -	R -	R -	R -	
	Community	m2 GLA	0%	0%	0%	0	R -	R -	R -	R -	R -	R -	R -	
	Education	m2 GLA	0%	0%	0%	0	R -	R -	R -	R -	R -	R -	R -	
	Light Industrial	m2 GLA	0%	0%	0%	0	R -	R -	R -	R -	R -	R -	R -	
	General Industrial - light	m2 GLA	0%	0%	0%	0	R -	R -	R -	R -	R -	R -	R -	
	General Industrial - heavy	m2 GLA	0%	0%	0%	0	R -	R -	R -	R -	R -	R -	R -	
	Nodous Industrial - heavy	m2 GLA	0%	0%	0%	0	R -	R -	R -	R -	R -	R -	R -	
Industrial	Resort	m2 GLA	0%	0%	0%	0	R -	R -	R -	R -	R -	R -	R -	
	Public Open Space	m2	0%	0%	0%	0	R -	R -	R -	R -	R -	R -	R -	
	Private Open Space	m2	0%	0%	0%	0	R -	R -	R -	R -	R -	R -	R -	
	Natural Environment	m2	0%	0%	0%	0	R -	R -	R -	R -	R -	R -	R -	
	Utility Services	m2 GLA	0%	0%	0%	0	R -	R -	R -	R -	R -	R -	R -	
	Public Roads and Parking	m2	0%	0%	0%	0	R -	R -	R -	R -	R -	R -	R -	
	Transport Facility	m2	0%	0%	0%	0	R -	R -	R -	R -	R -	R -	R -	
	Limited Use		0%	0%	0%	0	R -	R -	R -	R -	R -	R -	R -	
	To be calculated based on equivalent demands													
	Special													

Development Charge levied (excl VAT)		Community Facilities		Total		
Water	Sewer	Storm-water	Solid-Waste	Roads	Community Facilities	Total
Yes	Yes	no	Yes	Yes	Yes	
R 0.00	R 6 854.22	R 0.00	R 0.00	R 21 526.02	R 11 776.02	R 42 953.64
0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00
0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00
0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
R 0.00	R 6 854.22	R 0.00	R 2 797.39	R 21 526.02	R 11 776.02	R 42 953.64
0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
R 0.00	R 1 028.13	R 0.00	R 419.61	R 3 228.90	R 1 766.40	R 6 443.05
0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
R 0.00	R 7 882.35	R 0.00	R 3 216.99	R 24 754.92	R 13 542.43	R 49 396.69
0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%

* Complete yellow/green calls.
 ** du = dwelling unit, GLA=Gross lettable area.
 *** displays red if not equal to existing area.
 Total Development Charges before Deductions
 % Deductions per service (%)
 % Deductions per service (amount)
 Additional Deduction per service - from Service Agreement (sum)
 Sub Total after Deductions (excluding VAT)
 VAT
 Total

APPENDIX 12

**APPLICATION FOR REMOVAL OF
RESTRICTIVE TITLE DEED CONDITIONS,
SPECIAL DEVELOPMENT AND PERMANENT
DEPARTURE ON ERF 4731, STELLENBOSCH.**

**COMMENT FROM THE MANAGER: SPATIAL
PLANNING, HERITAGE & ENVIRONMENT**

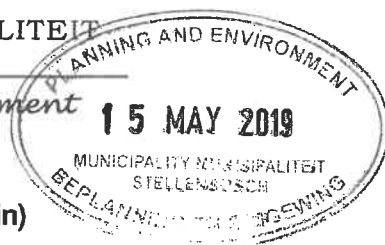
Charlene



STELLENBOSCH
STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNICIPALITY • UMASIPALA • MUNISIPALITEIT

Spatial Planning, Heritage and Environment



To : Head: Customer Interface & Administration (A Hardouin)
From : Manager: Spatial Planning, Heritage & Environment
Date : 14 May 2019
Re : Application for Special Development: Erf 4731, Paul Sauer Street, Stellenbosch

I refer to your request for comment on the above application.

1. This department cannot support the application in its present format. However, a revised application for an owner-operated guest house in a minor portion of the residence can be supported.
2. The subject property is located in Rozendal, a quiet and established residential neighborhood. Any land use in this area should ideally remain primarily residential in nature and should provide permanent housing. It is common knowledge that Stellenbosch experiences a severe shortage of housing that results in many urban related problems such as traffic congestion as people living out of town has to drive into town due to their inability to obtain proper housing in Stellenbosch.
3. The use of residential property for purposes of a home enterprise is encouraged as it addresses some of the urban problems such as the demand for travel and parking and high rentals in the CBD. In addition, when the land owner resides at and works from home the property retains its residential character to a large extent and is properly maintained and managed. A home enterprise includes a guest house owned and operated by the owners of the property that also residence at the property on a permanent basis.
4. On the other hand this department is opposed to properties being utilized in total as guest houses or other businesses within established neighborhoods as they are essentially businesses (albeit residential businesses) operating in residential areas and are reducing the supply of the residential offering available. In addition the use of the guest house can change the character of the residence, and in some instances the character of the neighborhood as it often create unusually large houses and lead to abnormal behavior

FILE NR: erf 4731
 SCAN NR:
 COLLABORATOR NR: 645788

increase of traffic flow, parking on site, parking in the street, display of signage and abnormal hours of operation. Often the owner does not reside at the house and appoints a manager to manage the business whilst he or she lives elsewhere but rather lives elsewhere.

5. Due to the impact of guest houses that entails the entire property and where the owner does not reside on the property, such enterprises are not supported in established neighborhoods but rather in and on the edge of the CBD or along corridors of extensive development.
6. Owner-operated guest houses that utilize unoccupied rooms or existing outbuildings in a residential area are supported as they operate to a large extent as a normal extension of the residential property.
7. Should the application be supported, the following conditions should be considered:
 - a. Only a minor portion (50% or less of the number of bedrooms) may be used for guest accommodation;
 - b. The primary use of the property is to remain single residential;
 - c. The owner of the property or a long term lessee thereof must reside at the property;
 - d. All parking is to be provided in terms of the zoning scheme requirements on the site. A to-scale parking layout plan must be submitted for approval;
 - e. The garden in front of the house must be retained and may not be used for parking.
 - f. Signage of no more than 0,1m² will be allowed to be displayed and must be positioned on site.



BJG de la Bat

MANAGER: SPATIAL PLANNING, HERITAGE AND ENVIRONMENT

Barbara-Ann Henning

From: Barbara-Ann Henning
Sent: 04 July 2019 12:27 PM
To: Louisa Guntz
Cc: Annecke Hardouin; Bernabe De La Bat
Subject: Erf 4731, Stellenbosch (Internal Comment)

Dear Louisa

This department takes note of the comment, dated 25 June 2019, from Diesel & Munns on our internal comment.

Please note that our comment remains the same as per our memo, dated 14 May 2019. Refer to point 7 with regards to if the application be supported and the conditions that we proposed.

Thank you.



Regards / Groete,

Barbara-Ann Henning (Pr.Pln A/2043/2015)

Spatial Planner : Spatial Planning, Heritage &
Environment

Planning and Economic Development

T: +27 21 808 8656 | F: +27 21 886 6899

43 Andringa Street, Eikestad Mall, 3rd Floor,
Stellenbosch, 7600

www.stellenbosch.gov.za/planning



Disclaimer and confidentiality note: The legal status of this communication is governed by the terms and conditions published at the following link:

http://www.stellenbosch.gov.za/main_pages/disclaimerpage.htm

APPENDIX 13

**APPLICATION FOR REMOVAL OF
RESTRICTIVE TITLE DEED CONDITIONS,
SPECIAL DEVELOPMENT AND PERMANENT
DEPARTURE ON ERF 4731, STELLENBOSCH.**

**COMMENT FROM THE MANAGER:
ELECTRICAL SERVICES**

Charlene Eled 18/19
Apit 5/6/2019
03/04

INTERDEPARTMENTAL CIRCULATION FORM

LêER VERW/ FILE REF	Erf 4731, Stellenbosch	DATUM DATE	2 May 2019
AANSOEKNUMMER/APPLICATION NUMBER	LU/8162		
MEMO AAN/ TO :			
<input checked="" type="checkbox"/>	Director : Engineering Services		
<input checked="" type="checkbox"/>	Manager : Electrical Department		
<input checked="" type="checkbox"/>	Manager : Building Development Management		
<input checked="" type="checkbox"/>	Manager : Fire Services		
	Director : Corporate Services		
<input checked="" type="checkbox"/>	Manager: Spatial Planning / Heritage / Environment / Signage		
<input checked="" type="checkbox"/>	Manager: Health Department (Winelands Health)		
	Manager: Greening department		
	Manager : Property Management		



Application	Application is made in terms of Section 15(2)(o) of the Stellenbosch Municipal Land Use Planning By-Law, promulgated by notice number 354/2015, dated 20 October 2015 for special development to permit the operation of a 4-bedroom guesthouse on Erf 4731, Stellenbosch.		
Adres / Address	14 Paul Sauer Street, Stellenbosch		
Aansoek Datum / Application Date	24 July 2018		
Aansoeker / Applicant	Diesel & Munns Inc.		

FILE NR	
SCAN NR	E 4731 S

Aangeheg vind u tersaaklike dokumentasie in verband met bogenoemde aansoek. Ten einde my in staat te stel om die aansoek aan die besluitnemingsowerheid vir ooreweging voor te lê, word u versoek om my skriftelik van u kommentaar, indien enige, te voorsien. Onderskei asseblief tussen algemene kommentaar op die meriete van die aansoek en enige voorwaardes wat u departement wil opleë indien die aansoek goedgekeur word.

Attached please find the relevant documentation regarding the abovementioned application. Kindly furnish me with your written comment, if any, in order to enable me to submit the application to the decision making authority for consideration. Please differentiate between general comment on the merits of the application and any conditions that your department wishes to impose should the application be approved.

1. No Objection	
CONDITIONS:	
2. If upgrade is needed Bulk Levy Contributions are payable.	
3. Installation cost for the new electrical service cable is the responsibility of the applicant.	
4. All electrical wiring for the house on the proposed subdivided portion A should be carried out in accordance with SANS 10142 and Municipal by-laws.	
5. Appropriate caution shall be taken during construction, to prevent damage to existing service cables and electrical equipment in the vicinity. Should damage occur, the applicant will be liable for the cost involved repairing damages?	
6. All new developments and upgrades of supplies to existing projects are subject to SANS 10400-XA energy savings and efficiency implementations such as:	
- Solar water Heating or Heat Pumps in Dwellings	
- Energy efficient lighting systems	
- Roof insulation with right R-value calculations .	
- In large building developments;	
-Control Air condition equipment tied to alternative efficiency systems	
-Preheat at least 50% of hotwater with alternative energy saving source	
-All hot water pipes to be clad with insulation with R-value of 1	
-Provide a professional engineer's certificate to proof that energy saving measures is not feasible.	

<i>BH</i>	5/6/2019
HANDTEKENING / SIGNATURE	DATUM / DATE

APPENDIX 14

**APPLICATION FOR REMOVAL OF
RESTRICTIVE TITLE DEED CONDITIONS,
SPECIAL DEVELOPMENT AND PERMANENT
DEPARTURE ON ERF 4731, STELLENBOSCH.**

**NOTICES FOR UNAUTHORISED BUILDING
WORKS**

REGISTERED LETTER 4781 GEREGISTREERDE BRIEF (with an insurance option/met 'n versekeringsopsie)		189 Postage paid R _____ Service fee/Diensgeld R _____ Insurance/Versekering R _____ Total/Totaal R _____	(35)
Full tracking and tracing/Volledige volg en spoor		Insured value of contents Versekerde waarde van inhoud R _____	
Addressed to/Geadresseer aan Mr. Thomas Bohn 14 Paul Sauer Street Uniepark Stellenbosch 7600		Enquiries/Navrae Toll-free number Tolvry nommer 0800 111 502	Initial of accepting officer _____ Date stamp POST OFFICE MATIELAND 7602 30 APR 2019
<small>The value of the contents of this letter is as indicated and compensation is not payable for a letter received unconditionally. Compensation is limited to R100.00. No compensation is payable without documentary proof. Optional insurance up to R2 000.00 is available and applies to domestic registered letters only.</small> <small>Die waarde van die inhoud van hierdie brief is soos aangedui en vergoeding sal nie betaal word vir 'n brief wat sonder voorbehoud ontvang word nie. Vergoeding is beperk tot R100.00. Geen vergoeding is sonder dokumentêre bewys betaalbaar nie. Opsionele versekering tot R2 000.00 is beskikbaar en is slegs op binnelandse geregistreerde briewe van toepassing.</small>		Affix Track and Trace / ORDINARY PARCEL <small>ShareCall 0860 111 502 www.sapo.co.za</small> EE 947 239 875 27 CUSTOMER COPY 301016	Paraf van aaneent-beëmate _____ Datumstempel

Mr Thomas Bohn
 14 Paul Sauer Street
 Uniepark
 STELLENBOSCH
 7600

Permission for a site inspection - ERF: SB 4731, 14 Paul Street, Uniepark, STELLENBOSCH

A site inspection is hereby requested on the above property within 14 days.

I, Lincoln Africa, hereby request a site inspection on ERF 4731 as required in terms of Section 15 (1) and (2) of Act 103/1977 (punishable crime in terms of Section 4/4 of Act 103/1977).

NATIONAL BUILDING REGULATIONS AND BUILDING STANDARDS ACT NO. 103 OF 1977 (as amended)

15 Entry by Building Control Officers and Certain Other Persons of Certain Buildings and Land

- (1) Any building control officer or any other person authorized thereto by the local authority may enter any building or land at any reasonable time with a view to inspection in connection with the consideration of any application submitted in terms of section 4, or to determine whether the owner of the building or land complies with any provision of this Act or any condition imposed by the local authority in terms of this Act.
- (2) Any person who hinders or obstructs any building control officer or person authorized by the local authority in question in the exercise of his powers in terms of subsection (1), shall be guilty of an offence.

Failure to comply with this notice will leave the Local Authority no other option but to institute legal action against you and to apply for a court order in terms of Section 21 of Act 103/1977 to demolish the building/structure without Local Authority approval.

Recipient:	
Served by: SEND VIA REG MAIL	Date: 28/04/2019
Inspected by:	

BUILDING CONTROL OFFICER
 DIRECTORATE: PLANNING AND DEVELOPMENT SERVICES

Perio 09/05/2019



190
STELLENBOSCH
STELLENBOSCH • PNIEL • FRANSCHHOEK

(2)

MUNICIPALITY • UMASIPALA
• MUNISIPALITEIT

Planning and Economic Development

Date: 4 March 2019
Enquiries: Lincoln Africa
Telephone : (021)808-8668

Mr Thomas Bohn
14 Paul Sauer Street
Uniepark
Stellenbosch
7600



**UNAUTHORISED WORK- ERF: SB 4731
LOCATION- 14 PAUL SAUER STREET, UNIEPARK**

An inspection on **22 January 2019** on the abovementioned property, refers.

During inspection it was noted that it was backfilled against boundary wall between your property, erf **SB 4731**, and the adjoining property, erf **SB 4733**, 27 Water Street

The wall in question was not designed to be used as a retaining wall (Regulation K1 and KK12 of NBR).

In terms of Reg. A25(9) of the National Building Regulations and Building Standards, Act No 103 of 1977, you are hereby notified to comply with the following requirements without delay, but not later than **14 days** from date of this notice :

1 (a) Remove all backfilled material against the wall,

OR

2 (a) Build a proper retaining wall as designed by a Structural Engineer;
(b) Submit Engineers design of the retaining wall to the Local Authority.

FILE NR:	
SCAN NR:	E 4731 S
COLLABORATOR NR:	633672

Failure to comply with this notice will leave the Local Authority no other option but to institute legal action without further notice (offence in terms of Regulation A25(11) of NBR).

Recipient:		SEND VIA REG MAIL
Served by:		05/03/2019.
Inspected by:	Lincoln Africa	

Perio 20/03/2019

.....
MANAGER, BUILDING CONTROL
DIRECTORATE : PLANNING AND DEVELOPMENT SERVICES

REGISTERED LETTER 4731
REGISTERDE BRIEF
 (Insurance option/met 'n versekeringsopsie)
Tracking and tracing/Volledige volg en spoor
 Addressed to/Geadresseer aan
 Mr. Thomas Bohn
 14 Paul Sauer Street
 Uniepark
 Stellenbosch 7600 Postcode/Postkode

Service fee/Diensgeld R 191
 Insurance/versekering R
 Total/Totaal R
 Insured value of contents/Versekerde waarde van inhoud R
Enquiries/Navrae
Toll-free number/Tolvry nommer
0800 111 502
 Initial of accepting officer
 Date stamp
 30-01-2019
Folio 2
7602
 Affix Track and Trace
INSURED PARCEL
 ShareCall 0860 111 502 www.sapo.co.za
 PA 470 370 998 ZA
 CUSTOMER COPY 301012
 klientarskyn
 Paraaf van aaneem-beampte
 Datumstempel

19

Telephone :(021)808-8668

Mr Thomas Bohn
 14 Paul Sauer Street
 Uniepark
 Stellenbosch
 7600

FILE NR:
 SCAN NR:
 E 4731 S
 COLLABORATOR NR:
 627769



UNAUTHORISED WORK- ERF: SB 4731
LOCATION- 14 PAUL SAUER STREET, UNIEPARK

An inspection on **22 January 2019** on the abovementioned property, refers.

During inspection it was noted that it was backfilled against boundary wall between your property, **erf SB 4731**, and the adjoining property, **erf SB 4733**, 27 Water Street

The wall in question was not designed to be used as a retaining wall (Regulation K1 and KK12 of NBR).

In terms of Reg. A25(9) of the National Building Regulations and Building Standards, Act No 103 of 1977, you are hereby notified to comply with the following requirements without delay, but not later than **30 days** from date of this notice :

1 (a) Remove all backfilled material against the wall;

OR

? (a) Build a proper retaining wall as designed by a Structural Engineer;
 (b) Submit Engineers design of the retaining wall to the Local Authority.

Failure to comply with this notice will leave the Local Authority no other option but to institute legal action without further notice (offence in terms of Regulation A25(11) of NBR).

Recipient:	
Served by:	SENT VIA REG MAIL
Inspected by:	Lincoln Africa

[Signature] 28/01/2019

Perio 28/02/2019.

MANAGER: BUILDING CONTROL
 DIRECTORATE: PLANNING AND DEVELOPMENT SERVICES



16th November 2018,

To:

Babalwa Nkonzo - Building control officer (babalwa.nkonzo@ Stellenbosch.gov.za)
 Rodney Adams - Building Control officer (rodney.adams@ Stellenbosch.gov.za)
 Andrew Crouzer - Manager Building Development (andrew.crouzer@ Stellenbosch.gov.za)
 CC Denny Jason to be cc'ed into the email (denny.jason@ Stellenbosch.gov.za)

House Bohn, Erf 4731, Stellenbosch – Extension of time request:

The owner of Erf 4731, Stellenbosch would hereby like to ask for an extension of time to get the revised plans approved.

Unauthorized building work was done on the property, which deviated from the original approved plan. The owner appointed DH Architecture to draw up a revised plan that was submitted to council, which reflects the "as built" situation.

Subsequently, the town planner (Barry Blount of Diesel and Munns) submitted an application to the Land Use Management Department for the removal of the title deed restrictions and an application for a Guest House. If for some reason this application is not approved, the house will revert back to a single dwelling. As the plans are currently in the approval process, the owner would like to apply for an extension of time to get the revised plans approved.

Should you require clarification on any of the above please do not hesitate to contact me on 084. 565 1514 or per e-mail donovan@dharchitecture.com

Best wishes,

A handwritten signature in black ink, appearing to read 'Donovan Hanekom'.

Donovan Hanekom.

7

REGISTERED LETTER 4731
GEREGISTREERDE BRIEF
 (with an insurance option/met 'n versekeringsopsie)

Post Office

Full tracking and tracing/Volledige volg en spoor

Addressed to/Geadresseer aan
Johan Jacob du Preez & Thomas B
11 GARDENFAY CENTRE
171 Main Road
SOMERSET WEST **71130** Postcode
 Postkode

193

Postage paid R _____ c
 Service fee/Diensgeld R _____ c
 Insurance/Versekering R _____ c
Total/Totaal R _____ c

Insured value of contents
 Gedeclareerde waarde van inhoud R _____ c

Enquiries/Navrae
 Toll-free number
 Tolvry nommer
0800 111 502

Initial of accepting officer _____
 Date stamp
18-08-2017
Stellenbosch

The value of the contents of this letter is as indicated and compensation is not payable for a letter received unconditionally. Compensation is limited to R100.00. No compensation is payable without documentary proof. Optional insurance up to R2 000.00 is available and applies to domestic registered letters only.

Die waarde van die inhoud van hierdie brief is soos aangedui en vergoeding sal nie betaal word vir 'n brief wat sonder voorbehoud ontvang word nie. Vergoeding is beperk tot R100.00. Geen vergoeding sonder dokumentêre bewys betaalbaar nie. Opsionele versekering tot R2 000.00 is beskikbaar en slegs op binnelandse geregistreerde briewe van toepassing.

Affix Track and Trace
REGISTERED LETTER
 (with a domestic insurance option)
 ShareCall 0860 111 502 www.sapo.co.za

RC2530889062A
 CUSTOMER COPY 301028R
 Klientaanskrif

Paraaf van aanvaar-beampte _____
 Datumstempel

18 August 2017
REGISTERED MAIL
 SEPTEMBER '17

DEVIATION FROM APPROVED BUILDING PLAN (BP/16/1094) ERF: SB 4731, – 14 Paul Sauer Street.

Pursuant to a complaint received an inspection was held on ERF 4731, Stellenbosch on or about 15 August 2017. It was observed that you made significant internal changes with the building up of walls and in so doing dividing the dwelling into separate units/sections.

During the abovementioned inspection it was noticed that the changes deviated from the approved building plan application (offence in terms of NBR A25/5). (5) Any person who, having obtained approval in terms of the Act for the erection of any building, deviates to any material degree from any plan, drawing or particulars approved by the local authority shall, except where such deviation has been approved, be guilty of an offence.

You are hereby notified to comply with the following requirements within **30 days** from date of this notice:

- 1. Rectify or remove the structures or part thereof, (NBR A25/7) (Internal Alterations and Additions).

Failure to comply with this notice will leave the Local Authority no other option but to institute legal action against you and to apply for a court order in terms of Section 21 of Act 103/1977 to demolish the building/structure without further notice.

Recipient:	Sign:
Served by:	Date:
Inspected by: Denny Jason	Senior Building Inspector

Manager: Building Development Management



DIRECTOR: PLANNING AND ECONOMIC DEVELOPMENT



FILE NR: _____ OUTGOING POST
 Page 1 of 1
 SCAN NR: _____
E 4731 SB
 COLLABORATOR NR: _____
534716

APPENDIX 15

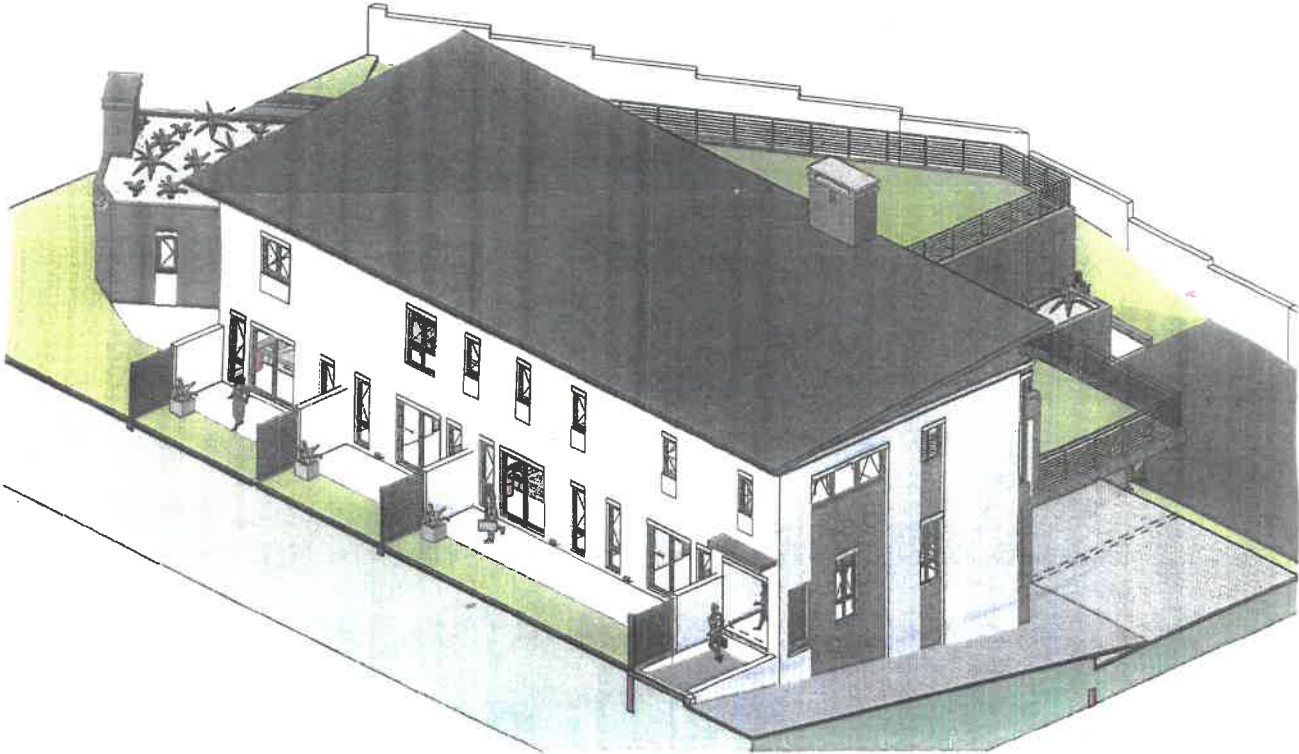
**APPLICATION FOR REMOVAL OF
RESTRICTIVE TITLE DEED CONDITIONS,
SPECIAL DEVELOPMENT AND PERMANENT
DEPARTURE ON ERF 4731, STELLENBOSCH.**

COPY OF APPROVED BUILDING PLAN

1 : 100

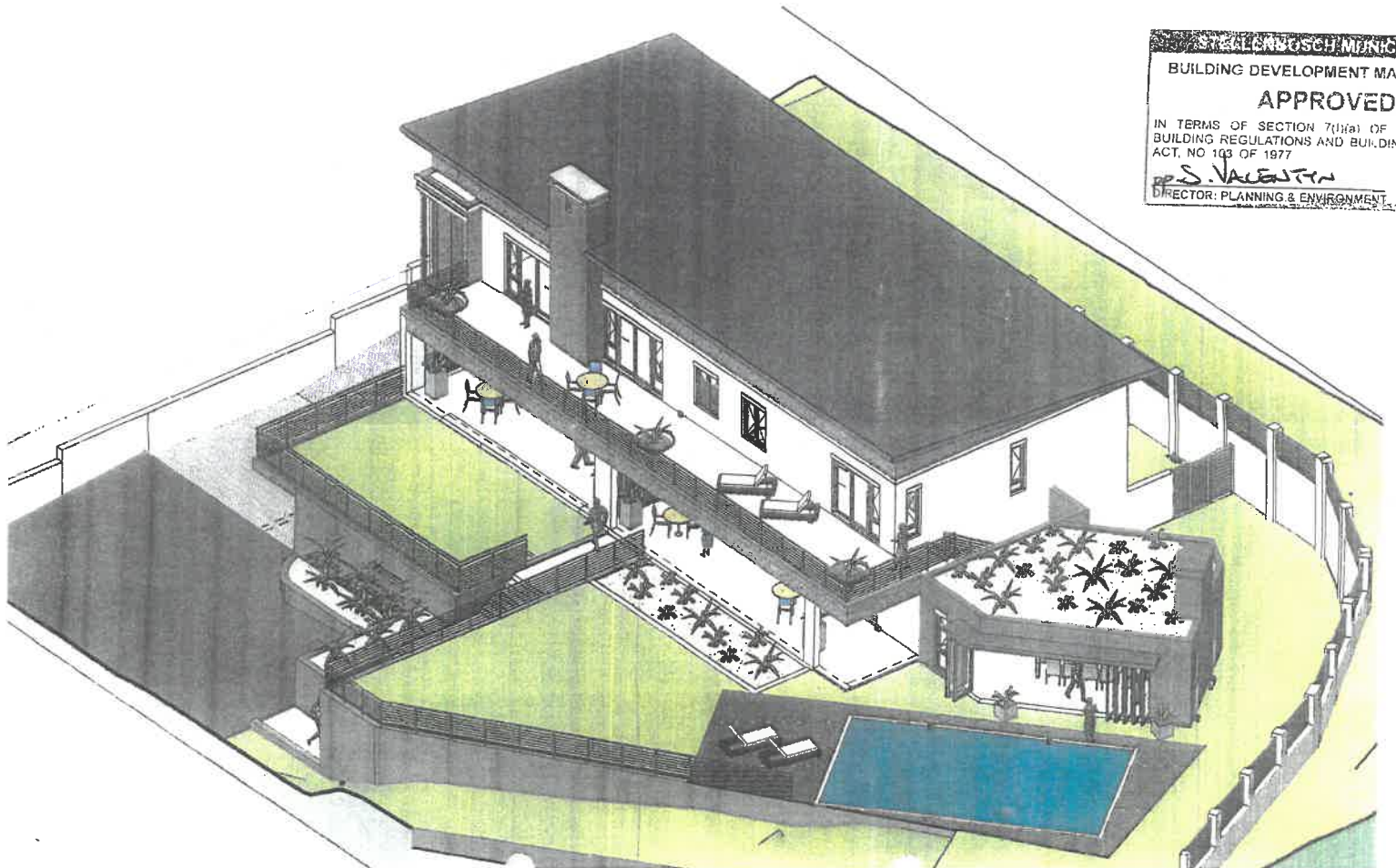
7.46m Boundary Line - Boundary wall

Boundary wall



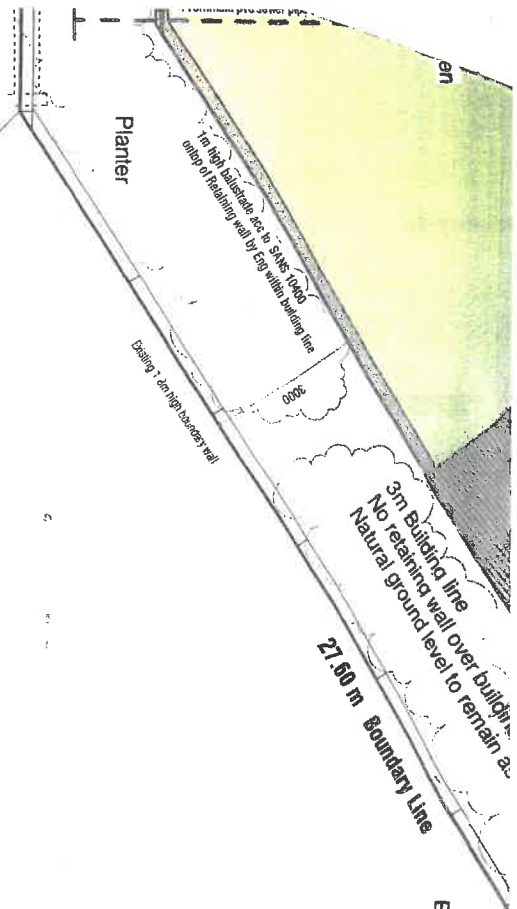
NORTH-WEST PERSPECTIVE

BP/16/10



STEELE BOSCH MANTON
BUILDING DEVELOPMENT MANAGER
APPROVED
IN TERMS OF SECTION 7(1)(a) OF THE
BUILDING REGULATIONS AND BUILDING
ACT, NO 103 OF 1977
P.S. VALENTIN
DIRECTOR: PLANNING & ENVIRONMENT

FIRST FLOOR



BUILDING DEVELOPMENT MANAGEMENT
APPROVED
 IN TERMS OF SECTION 7(1)(a) OF THE NATIONAL BUILDING REGULATIONS AND BUILDING STANDARDS ACT NO 103 OF 1977
R. S. MATHIAS
 DIRECTOR: PLANNING & ENVIRONMENT
 DATE: 26/11/2016

BP/16/1094

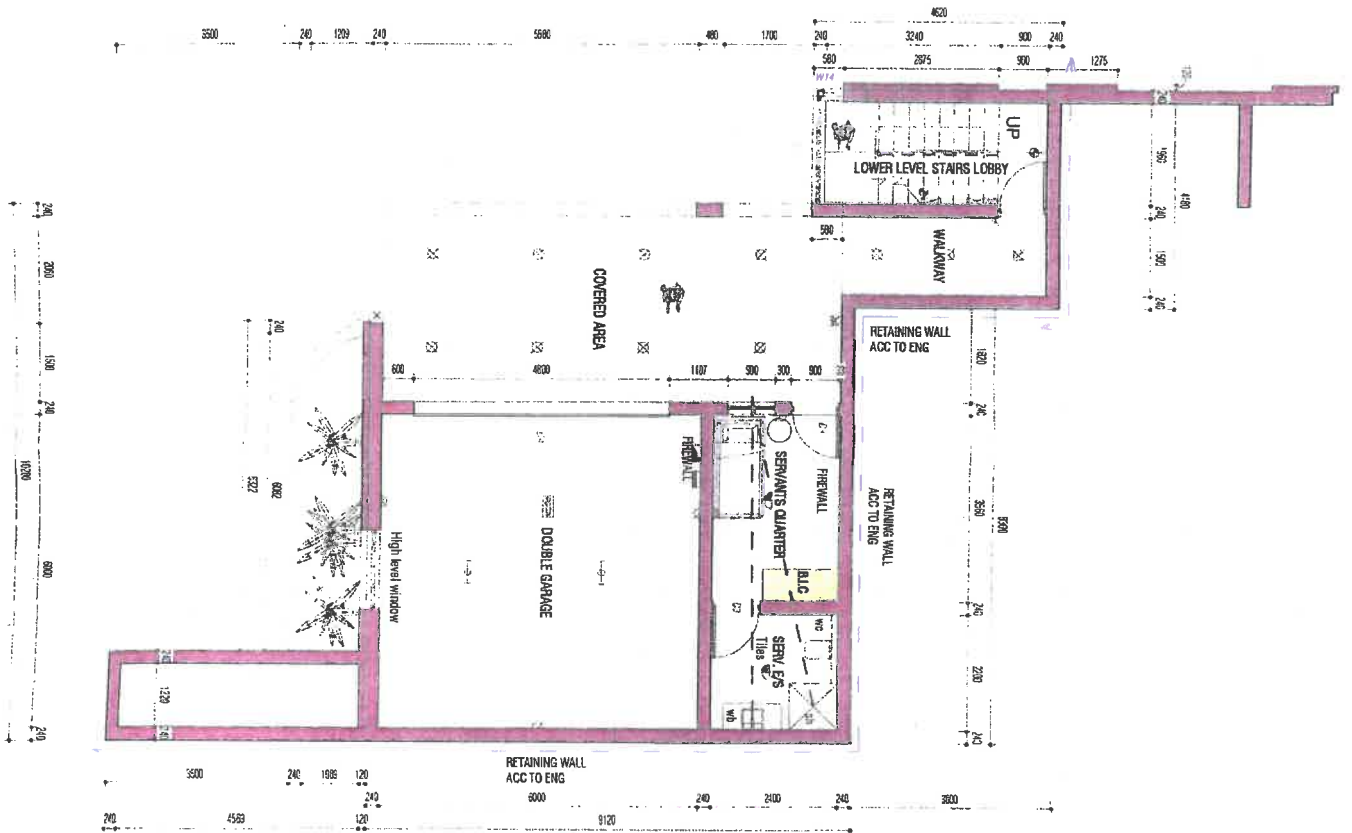
ERF 4732

03	INTERNAL TIMBER DOOR	LOBBY	900	2100	0 GROUND FLOOR
04	INTERNAL TIMBER DOOR	LOBBY	900	2100	0 GROUND FLOOR
05	INTERNAL TIMBER DOOR	BEDRM 04	900	2100	0 GROUND FLOOR
06	INTERNAL TIMBER DOOR	BEDRM 03	900	2100	0 GROUND FLOOR
07	INTERNAL TIMBER DOOR	GARAGE	900	2100	0 GROUND FLOOR
08	INTERNAL TIMBER DOOR	GUEST WC	900	2100	1 FIRST FLOOR
09	INTERNAL TIMBER DOOR	BEDROOM 05	900	2100	1 FIRST FLOOR
10	INTERNAL TIMBER DOOR	E/S 05	900	2100	1 FIRST FLOOR
11	INTERNAL TIMBER DOOR	MAIN BEDROOM	900	2100	1 FIRST FLOOR
12	INTERNAL TIMBER DOOR	MAIN ES	900	2100	1 FIRST FLOOR
13	INTERNAL TIMBER DOOR	SERVANT QUARTER	900	2100	1 LOWER LEVEL
14	INTERNAL TIMBER DOOR	LOWER LEVEL STAIRS LOBBY	900	2100	1 LOWER LEVEL
15	INTERNAL TIMBER DOOR	SCULLERY	900	2100	1 LOWER LEVEL
16	INTERNAL TIMBER DOOR	ENTERTAINMENT ROOM	900	2100	0 GROUND FLOOR
17	INTERNAL TIMBER DOOR	STAIRS LOBBY	900	2100	0 GROUND FLOOR
18	ALUMINIUM DOUBLE SECTIONAL OVERHEAD GARAGE DOOR	DOUBLE GARAGE	4800	2400	-1 LOWER LEVEL
19	FOLDING SLIDING STACKING DOOR	GAZEBO	5200	2100	0 GROUND FLOOR
20	FOLDING SLIDING STACKING DOOR	GAZEBO	1000	2100	0 GROUND FLOOR

THIS DRAWING REMAINS THE PROPERTY OF dh architecture. NO SCALING OFF THIS DRAWING. ALL DIMENSIONS AND LEVELS TO BE CHECKED ON SITE PER CR TO ANY BUILDING

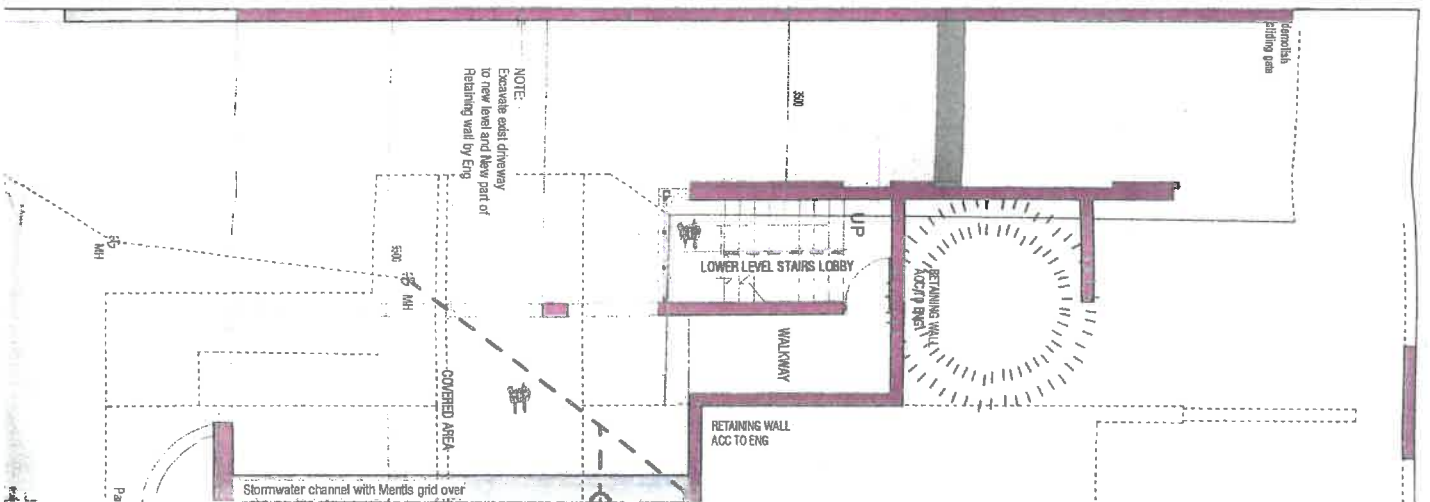
LOWER LEVEL

1 : 100



500
x 400

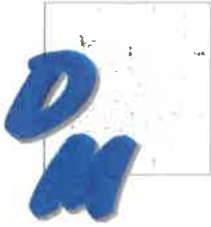
Exist low wall



APPENDIX 16

**APPLICATION FOR REMOVAL OF
RESTRICTIVE TITLE DEED CONDITIONS,
SPECIAL DEVELOPMENT AND PERMANENT
DEPARTURE ON ERF 4731, STELLENBOSCH.**

DETAIL AND HEIGHT SURVEY



DIESEL & MUNNS INC.

Professional Land Surveyors • Town and Regional Planners
 Professionele Landmeters • Stads- en Streekbeplanners
 Sectional Title Consultants and Topographical Surveyors
 Deeltitel Konsultante en Topografiese Opneters

20 St. James Street/Street
 P. O. Box 475
 SOMERSET WEST 7129

Tel: (021) 852-3800/852-3759
 Fax: (021) 852-4966
 E-mail: admin@dieselandmunns.co.za

AVERAGE LEVEL OF LAND AROUND BUILDING ERF 4731 Stellenbosch

Heights refer to metres above Mean Sea Level

Ground level around proposed new building

171.6

172.4

172.9

171.9

171.3

170.6

169.9

170.7

Average Ground Level	171.4
	-2.0
Basement Definition	169.4

Date of Survey July 2016

DW Lambert
 Professional Land Surveyor
 PLS (0329)

**DETAIL & HEIGHT SURVEY OF
ERF 4731 STELLENBOSCH**

STELLENBOSCH MUNICIPALITY
ADMINISTRATIVE DISTRICT OF STELLENBOSCH
PROVINCE: WESTERN CAPE

SCALE 1:100

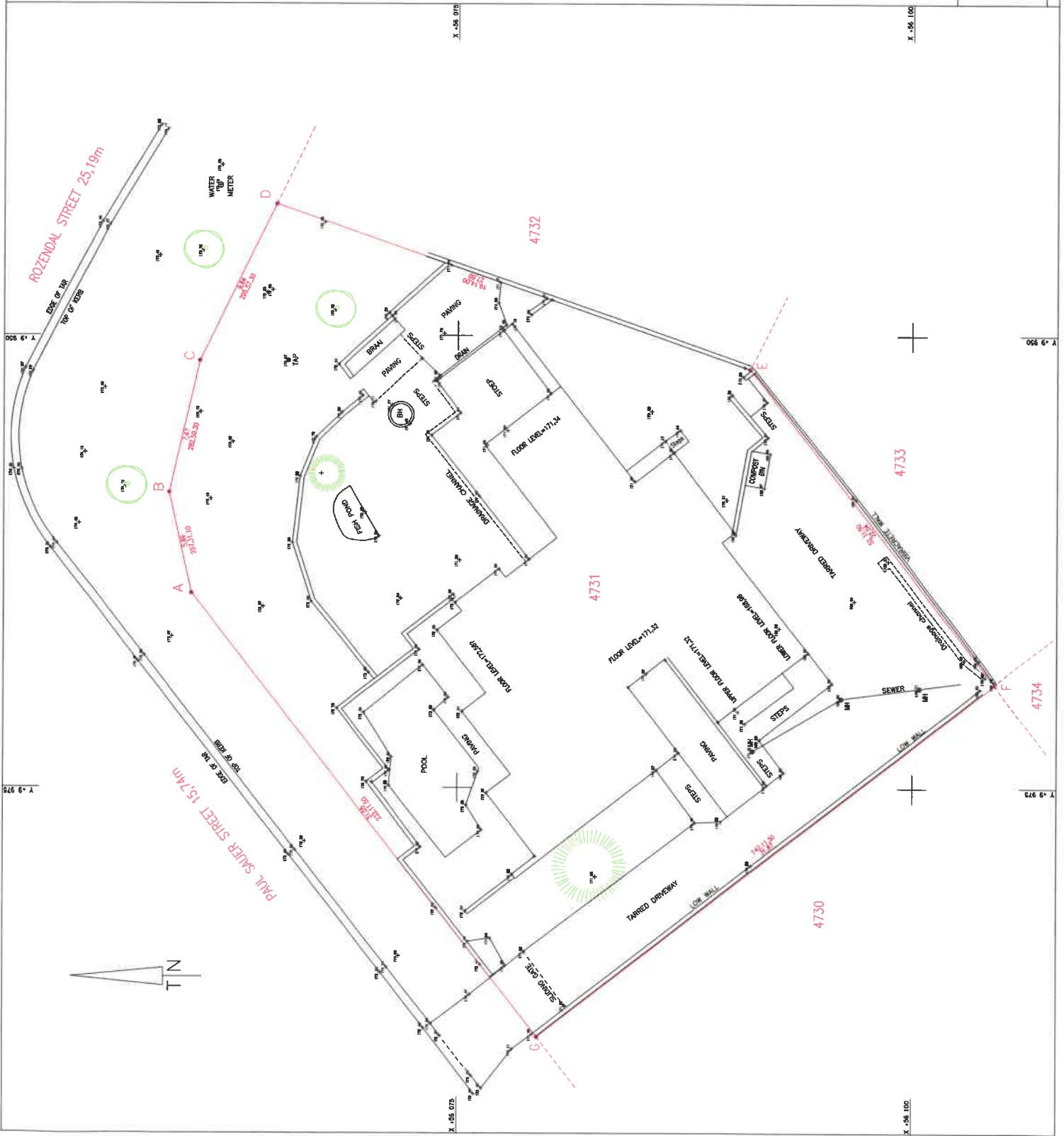
NOTES
1. ALL CO-ORDINATE SYSTEM IS WGS 1984 METRES.
2. HEIGHTS ARE BASED ON MEAN SEA LEVEL.

DESCRIPTION OF BEACONS
D 12mm IRON PEGS
B, C 12mm IRON PEGS
E, F NOT BEACONED
G NORTH WEST CORNER OF SQUARE IRON FENCE POST

DIESEL & MUNNS Inc
PROFESSIONAL LAND SURVEYORS & PLANNERS
PROFESSIONELE LANDMETERS - STADS- EN STRUKTUR-PLANNERS
CONSULTANTS IN SURVEYING AND TOPOGRAPHICAL DRAWINGS
REGISTERED CONSULTANTS IN SURVEYING AND TOPOGRAPHICAL DRAWINGS
20 ST. JAMES STREET/GRAND - P. O. BOX 7965/165 - ST. JAMES WEST 7126
TEL : (021) 852-3007/852-3759 FAX : (021) 852-4818



DATE: 25th JULY 2016 SCALE 1:100 (A1) PLAN No. 58254dc.dwg



APPENDIX 17

**APPLICATION FOR REMOVAL OF
RESTRICTIVE TITLE DEED CONDITIONS,
SPECIAL DEVELOPMENT AND PERMANENT
DEPARTURE ON ERF 4731, STELLENBOSCH.**

**STRUCTURAL INVESTIGATION REPORT BY
FRAME**

Our ref.: F13903r001
Your ref.:

F R A M E

13 March 2019

Stellenbosch Municipality
Planning and Economic Development
Plein Street
Stellenbosch Central
7600

1 Gymnasium Street, Paarl, 7646 a
+27 21 872 4436 ff
+27 76 305 1839 m
info@framegroup.co.za e
www.framegroup.co.za w

Attention: Mr. Lincoln Africa,

STRUCTURAL INVESTIGATION OF BOUNDARY RETAINING WALL AT 14 PAUL SAUER STREET, ERF 4731, STELLENBOSCH

Your letter dated 24 January 2019 sent to the owner, Mr. Thomas Bohn, refers.

1. Introduction

The owner of the referred property requested FRAME to meet with the building contractor on site to discuss and investigate the matter stated in the abovementioned letter.

Please see attached below in Appendix A the structural drawing, Photo 1, and design, Photo 2, for this specific wall between Erf 4731 and Erf 4733.

2. Site Notes

Upon inspection the following were found:

- a. The structural integrity of the wall is still sound.
- b. No structural cracks and/or failure were noticed.
- c. No overturning at top of wall to the neighbouring erf.
- d. There is a void between this new retaining wall and the existing wall.
- e. The retaining height were kept at maximum 1500mm, as per Photo 2 below.

3. Conclusion and Recommendations

- a. According to the information available and provided to us, the building contractor did not deviate from the structural design provided to them.
- b. The retaining wall is structurally acceptable.

We trust you will find the above stated in order. Please contact me should you have any queries or wish to discuss.

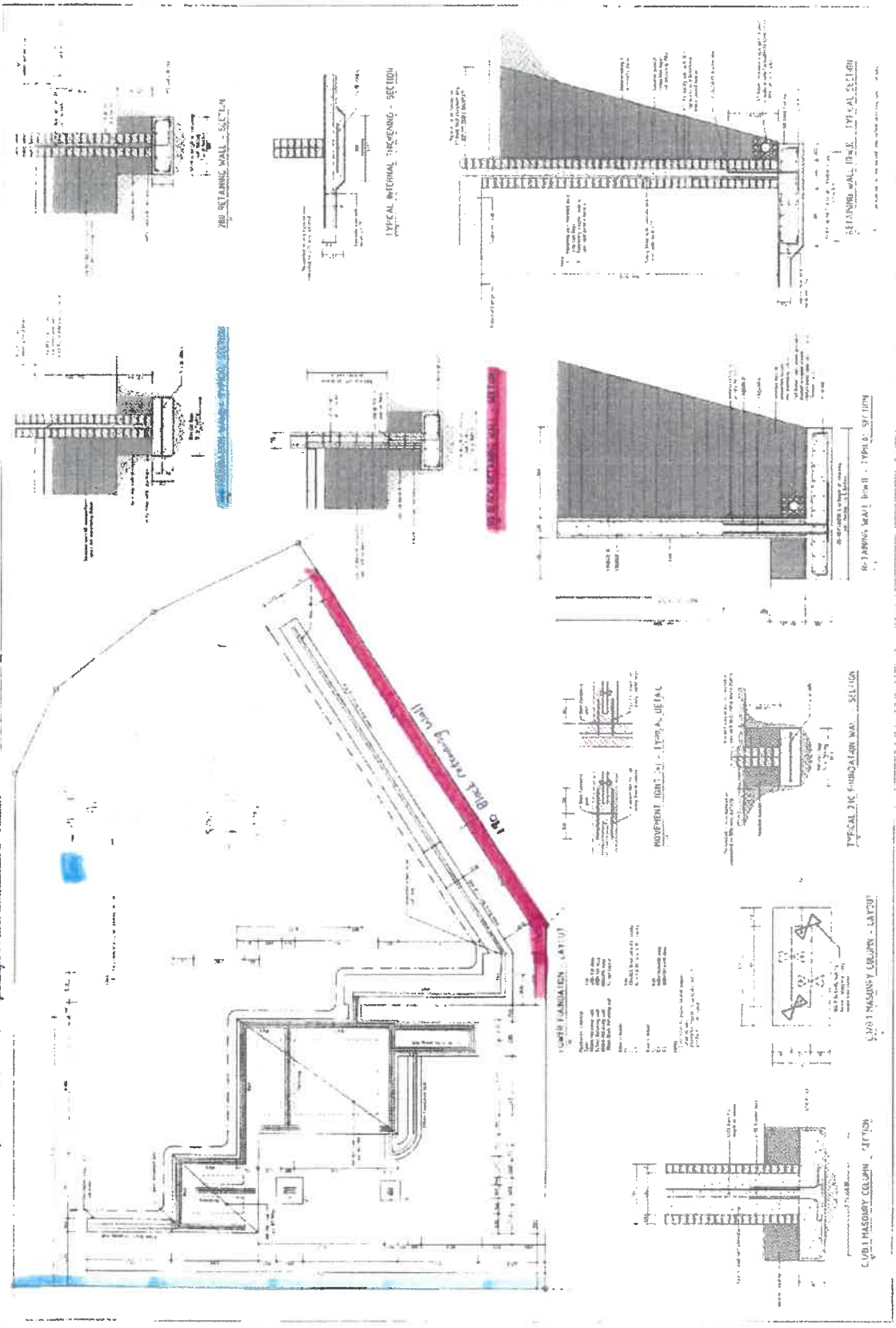
Yours truly,



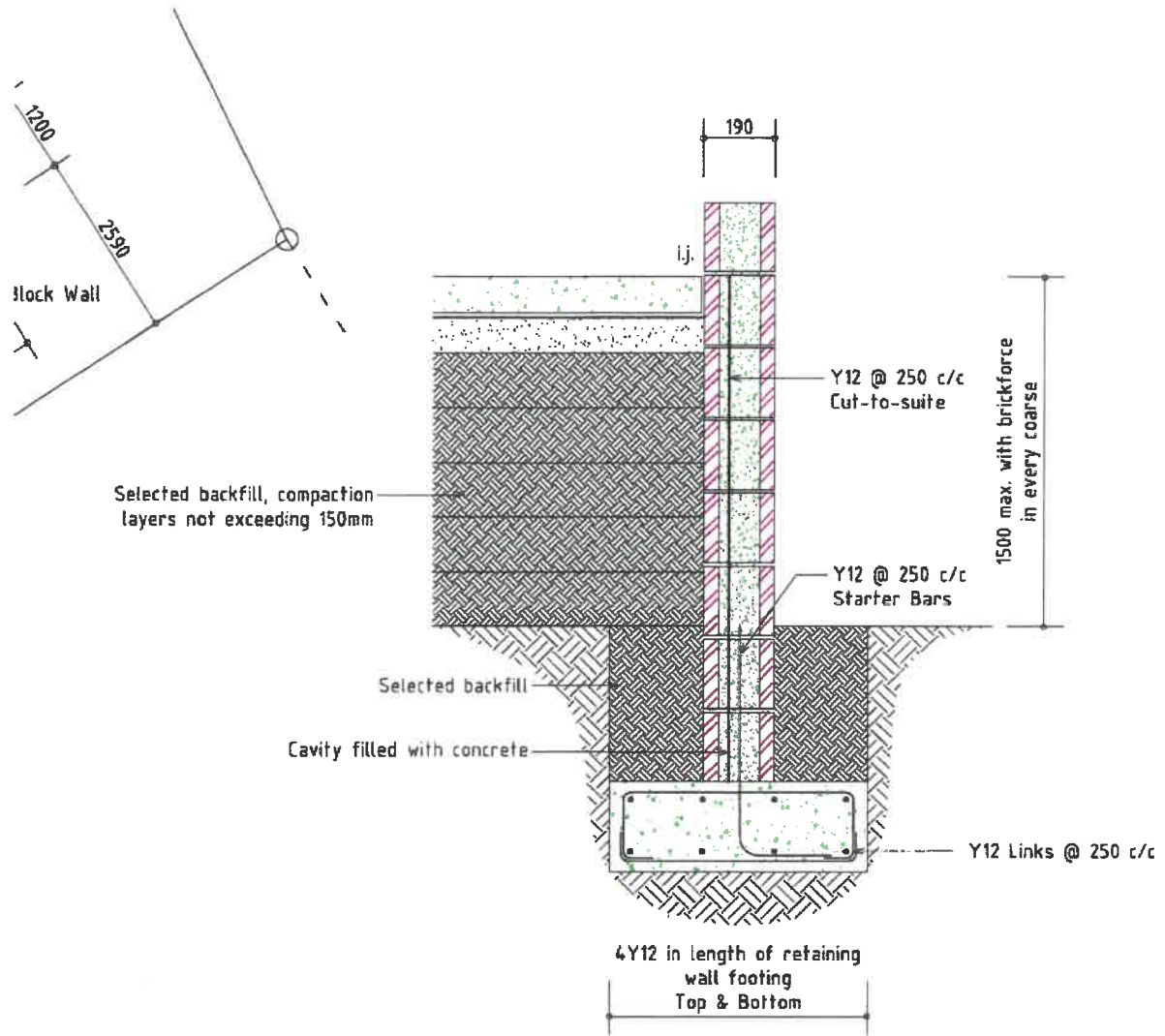
Arie Francis
on behalf of F R A M E

Photo 1: Plan issued to building contractor

FRAME - Markups 2017 Jan/22



<p>FRAME</p> <p>dh architecture</p>	<p>HOUSE BODY</p>	<p>NEW CEILING (FOR 100' WALL) STEEL BRACING</p>	<p>STRUCTURAL MEMBERS FASTENERS, DETAILS AND DETAILS</p>
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190 BLOCK RETAINING WALL - SECTION

1 : 20

Photo 2: Detail of retaining boundary wall as per plan issued



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Planning and Economic Development

Date: 4 March 2019
 Enquiries: Lincoln Africa
 Telephone :(021)808-8668

Mr Thomas Bohn
 14 Paul Sauer Street
 Uniepark
 Stellenbosch
 7600

UNAUTHORISED WORK- ERF: SB 4731
LOCATION- 14 PAUL SAUER STREET, UNIEPARK

An inspection on **22 January 2019** on the abovementioned property, refers.

During inspection it was noted that it was backfilled against boundary wall between your property, **erf SB 4731**, and the adjoining property, **erf SB 4733**, 27 Water Street

The wall in question was not designed to be used as a retaining wall (Regulation K1 and KK12 of NBR).

In terms of Reg. A25(9) of the National Building Regulations and Building Standards, Act No 103 of 1977, you are hereby notified to comply with the following requirements without delay, but not later than **14 days** from date of this notice :

1 (a) Remove all backfilled material against the wall;

OR

2 (a) Build a proper retaining wall as designed by a Structural Engineer;
 (b) Submit Engineers design of the retaining wall to the Local Authority.

Failure to comply with this notice will leave the Local Authority no other option but to institute legal action without further notice (offence in terms of Regulation A25(11) of NBR).

Recipient:	
Served by:	
Inspected by: Lincoln Africa	

.....
 MANAGER: BUILDING CONTROL
DIRECTORATE : PLANNING AND DEVELOPMENT SERVICES

APPENDIX 18

**APPLICATION FOR REMOVAL OF
RESTRICTIVE TITLE DEED CONDITIONS,
SPECIAL DEVELOPMENT AND PERMANENT
DEPARTURE ON ERF 4731, STELLENBOSCH.**

PHOTOS



SUBJECT PROPERTY



SUBJECT PROPERTY



↳ EXISTING DWELLING
(PROPOSED GUEST HOUSE
ON GROUND FLOOR)



↳ PARKING AREA



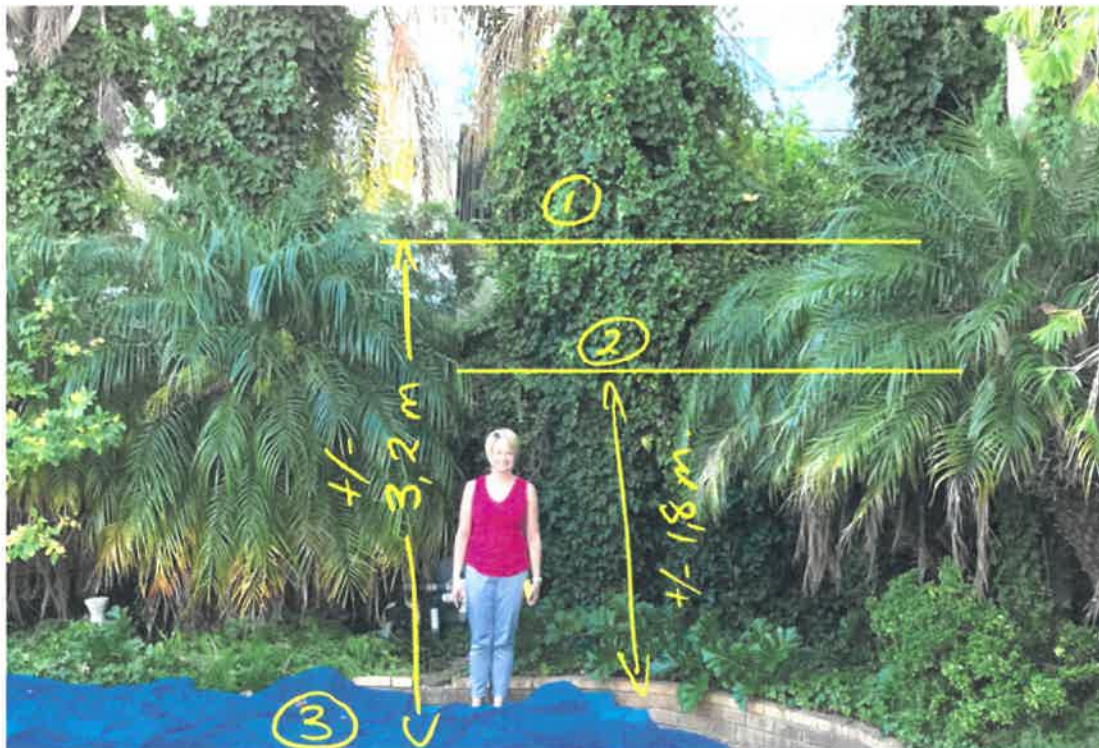
↳ SWIMMING POOL DECK



VEGETATION ON BOUNDARY



214
VIEW FROM ADJACENT PROPERTY (ERF4733)



1. Cover level of swimming pool deck (+/- 3.2m above natural ground level).
2. Top of existing boundary wall (+/- 1.8 m above natural ground level).
3. Existing ground level.

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LAND USE PLANNING REPORT TO THE MUNICIPAL PLANNING TRIBUNAL

APPLICATION FOR SPECIAL CONSENT OF COUNCIL ON FARM NO. 74/37, STELLENBOSCH DIVISION

Reference number	LU/8791	Application submission date		Date report finalized	2020-01-09
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PURPOSE OF REPORT

To provide the Municipal Planning Tribunal with the pertinent facts to consider the application for special consent to accommodate tourist facilities in the form of two (2) restaurants, a wine shop and curio shop on Farm No. 74/37, Stellenbosch Division.

PART A: AUTHOR DETAILS

First name(s) and Surname	Craig Alexander				
Job title	Acting Manager: Land Use Management				
SACPLAN registration number	Professional Planner A/1749/2013				
Department	Planning and Economic Development				
Contact details	021 808 8691 / Craig.alexander@stellenbosch.gov.za				

PART B: APPLICANT DETAILS

First name(s) and Surname	Allen Goosen				
SACPLAN registration number	n/a				
Company name	MLH Architects and Planners	Is the applicant authorized to submit this application?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Registered owner(s)	Tavia International Trading CC				

PART C: PROPERTY DETAILS

Property description (in accordance with Title Deed)	Remaining extent of Portion 37 of Farm Nooitgedacht No. 74 in the Municipality and Division of Stellenbosch Province of the Western Cape (Title Deed No. T7983/2018)				
Physical address	Located ±6km north-west of Stellenbosch and ±2km south-east of the intersection between provincial main roads MR00174 (Klawervlei Road – R304) and the Bottelary Road. The	Town / City	Stellenbosch (Koelenhof)		

	locality map is attached as Appendix A.					
Current zoning	Agricultural Zone I (with consent use for a tourist facility for restaurant, offices, boardroom and wine tasting facility with a floor area of ±330m ² in extent; with a spot zoning of ±1130m ² in extent as Agricultural Zone II for the existing wine cellar	Extent (ha)	47,4790ha	Are there existing buildings on the property?	<u>Y</u>	N
Applicable Zoning Scheme	Zoning Scheme Regulations promulgated in terms of Section 8 of LUPO					
Current Land Use	Agriculture with Tourist facilities, and Agriculture industry for the existing wine cellar	Title Deed number & date	T7983/2018			
Any restrictive title conditions applicable?		N	If Yes, list condition number(s)	Not applicable.		
Any third party conditions applicable?		N	If Yes, specify	Not applicable		
Any unauthorised land use/building work?		N	If Yes, explain	Not applicable		
Heritage Compliant?	Y		If No, specify	Not applicable		
NEMA Compliant?	Y		If No, specify	Not applicable		

PART D: APPLICATION DESCRIPTION

Application is made in terms of the Stellenbosch Municipality: Land Use Planning Bylaw, 2015 promulgated by Notice Number 354/2015, dated 20 October 2015, for the following on Farm No. 74/37, Stellenbosch Division:

a) **Consent use** in terms of Section 15(2)(o) for a tourist facility in order to accommodate a restaurant of ±334m² in extent, within the existing wine cellar, as per **Layout Plan**, Drawing No.: 2018/09/T02, drawn by Stephan Weyers Architects, attached as **Appendix C**; and

b) **Consent use** in terms of Section 15(2)(o) for a tourist facility to accommodate a wine shop of and curio shop of ±238m² in extent, and a restaurant of ±562m² in extent with the existing dwelling house, as per **Layout Plans**, Drawing No(s) 2018/09/T02; 2018/09/T100; 2018/09/T302; 2018/09/T301, drawn by Stephan Weyers Architects, attached as **Appendix C**.

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PART E: SUMMARY OF APPLICANTS MOTIVATION

The proposed tourist facilities are prevalent within the surrounding area, and this proposal will not negatively impact the livelihoods, but rather improve the socio-economic environment through the upgrading of existing facilities, which in turn will provide additional employment opportunities on the subject property.

The proposal is consistent with the current agricultural landscape within the Cape Winelands District and although, a portion of the vineyards will need to be removed to make provision for parking for the proposed development, the farm has sufficient large spaces that are fallow, but ready for planting of additional vineyards.

The proposed development will be accommodated within existing structures and under-utilised portions, and will thus not have any negative impact on the farming and / or agricultural activities of the farm. The predominant use will thus remain agriculture.

PART F: SUMMARY OF PUBLIC PARTICIPATION

Methods of advertising				Date published	Closing date for objections	
Press	Y	N	N/A	Not applicable		
Notices	<u>Y</u>	N	N/A	16 April 2019 and updated 02 May 2019	03 June 2019	
Ward councillor	<u>Y</u>	N	N/A	10 September 2019	09 October 2019	
On-site display	<u>Y</u>	N	N/A	16 April 2019	03 June 2019	
Community organisation(s)	<u>Y</u>	N	N/A	16 April 2019 and updated 02 May 2019	03 June 2019	
Other	<u>Y</u>	N	If yes, specify	EXTERNAL DEPARTMENTS: (i) Department of Transport and Public Works (WCG) (ii) Department of Environmental Affairs & Development Planning (WCG)	16 April 2019 17 June 2019	
Was public participation undertaken in accordance with sections 44-49 of the Stellenbosch Land Use Planning By-law, October 2015					<u>Y</u>	N
Objections received:						
One (1) letter of objection was received from the Stellenbosch Interest Group ("SIG"). The letter was dated 30 May 2019, is thus justified as a valid objection at it was received within the legislated timeframe for comments and/or objections, and is attached as Appendix D . The applicant provided responses to the comment and / or objection received from SIG on 20 August 2019, the letter of response is attached as					<u>Y</u>	N

PART G: SUMMARY OF COMMENTS DURING PUBLIC PARTICIPATION (INTERESTED AND AFFECTED PARTIES)

Organisation	ISSUES RAISED	APPLICANT'S RESPONSE	DEPARTMENTAL RESPONSE
	Proposed parking area relocated to smaller area and a less sensitive site be found.	<p>The parking areas are provided in accordance to SANS regulations and a reduction in parking bays may lead to non-compliance with these regulations.</p> <p>The proposed parking area of ±1500m² uses an area already cleared and paved. No further vegetation clearing is required.</p> <p>The proposed parking area is currently used as farm storage, occupied by crates and farm waste.</p>	<p>The application being evaluated is for the consent uses to convert a portion of the existing wine cellar into a restaurant, as well as the existing dwelling house into a tourist facility for a restaurant, curio shop and wine shop.</p> <p>The parking is ancillary and as proposed by the applicant, this space is already cleared and paved, which is currently used for storage. The use of this portion would mean that the parking provision for the tourist facility will thus not interfere or result in further loss of agricultural land.</p>
Stellenbosch Interest Group	The loss of agricultural land for construction of a parking area.	The proposed parking area is currently used as farm storage, occupied by crates and farm waste, and no loss of agricultural land is contemplated.	See above comment which is re-iterated.
	Extensive paved area between existing buildings to be used to accommodate parking.	The proposed parking area is a by-product of the land use application, of which SIG expressed	This is existing paved areas, and this have no bearing on the application that is being evaluated.

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		<p>their support, and is compliant with relevant engineering requirements.</p> <p>The existing spaces between the buildings are not sufficient to accommodate the required parking ratios.</p> <p>The space between the buildings are to be used by tourists and pedestrians.</p>	
	<p>Application must be submitted for comment and approval to Stellenbosch Municipality for the new design of the gateway entrance along the R304.</p>	<p>The existing gateway was submitted and approved by Stellenbosch Municipality and implemented as part of a previous separate building plan submission. No building plans are being submitted as part of this land use application.</p>	<p>There is an existing gateway, and should a new gateway be proposed, it must comply to Section 215 of the Stellenbosch Municipality Zoning Scheme Bylaw, 2015, read together with Section 23. The applicant will also be required to submit building plans in terms of the National Building Regulations and Building Standards Act.</p>
	<p>Extensive paving and street lights lining the private road to the werf be submitted for comment and approval by the Municipality.</p>	<p>The application in question proposes a range of consent uses – internal refurbishment to existing built structures. The extensive paving and street lights are existing features in terms of already approved engineering drawings.</p>	<p>This is an existing internal private road, with existing lighting, and this has no bearing on the land use application being evaluated.</p>
	<p>Street lights are urban</p>	<p>The street lights</p>	<p>See above comment.</p>

intrusive into the vineyard on highly visible agricultural slopes in the Cape Winelands. objected to are already existing features on site and was subject to previous engineering approvals.

The street lights do not form part of this consent use application, objecting to this would imply an additional application is being made, which is inaccurate.

PART H: SUMMARY OF COMMENTS FROM INTERNAL DEPARTMENTS AND/OR ORGANS OF STATE AND/OR COMMUNITY ORGANISATIONS AND/OR WARD COUNCILLOR

NAME OF DEPARTMENT	DATE	SUMMARY OF COMMENTS	RECOMMENDATION		
Spatial Planning, Heritage and Environment	04-06-2019	<p>Supported the proposed development, as it is consistent with the principles contained within the approved Stellenbosch Municipality Spatial Development Framework ("SDF") for property's located outside of the approved urban edge.</p> <p>The SDF's principles regarding land outside of the urban edge are as follows:</p> <ul style="list-style-type: none"> • Land outside of existing and proposed urban settlements should be used for agricultural production, biodiversity conservation, scenic quality and agri-tourism; • Intensification of agriculture, biodiversity conservation and agri-tourism should be promoted in farming areas outside of the urban settlements. 	Positive	Negative	No Comment
Electrical Department	31-05-2019	The property is located outside of the Stellenbosch Municipality Electrical Department's area of supply and all electrical requirements must be directed to ESKOM.	Positive	Negative	No Comment
Directorate Engineering Services	23-10-2019	The application is recommended for approval subject to conditions contained in the memorandum attached	Positive	Negative	No Comment

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		as Appendix F.			
Manager: Building Development Management	16-04-2019	The building must comply with SANS 10400 Part S with regards to disabled facilities (i.e. toilets, ramps, parking signage)	Positive	Negative	No Commen t
Cape Winelands District Municipality (Health)	23-04-2019	The application is recommended for approval.	Positive	Negative	No comment
Manager: Local Economic Development	03-06-2019	Application is supported, as it will improve the tourism product offering on the R304 and will provide much needed jobs.	Positive	Negative	No comment
Department of Transport and Public Works	10-09-2019	DT&PW's Road Network Management Departments offered no objection to the proposed development in their letter dated 10 September 2019, subject to conditions, attached as Appendix G.	Positive	Negative	No Commen t
Western Cape Government: Department of Agriculture	08-08-2019	WCG: Agriculture's Land Use Management offered no objection against the proposed development in their letter with Reference: 20/9/2/5/6/237 dated 08 August 2019.	Positive	Nega- tive	No Com- ment

PART I: MUNICIPAL PLANNING EVALUATION (REFER TO RELEVANT CONSIDERATIONS GUIDELINE)

Background

The subject property is located within the rural area leading from the N1 to Stellenbosch on the R304 Main Road. This area is characterized with farms with wineries and tourist facilities. The property itself has obtained approval for a portion of ±1130m² in extent for an agricultural industry for a wine cellar, and with consent uses for a tourist facility for restaurant, offices, boardroom and wine tasting facility with a floor area of ±330m² in extent.

The land use application was advertised to interested and affected parties, and internal departments, as well as the applicable provincial departments for their comments, and only one (1) objection was received from the Stellenbosch Interested Group ("SIG"). SIG however noted in their letter the support for tourist related activities as proposed, but the basis for their objection was in respect of the extensive proposed parking area, the lighting of the internal, private farm road, and the 'extensive' paved areas around the existing buildings. These are all existing infrastructure and thus has no bearing on the land use application submitted by the applicant. The applicant also motivated that the proposed parking area will be located in an area which is paved and used as a dumping site for agriculture wastage and storage. The

applicant thus does not propose any new structures nor any removal of vineyards for the intended usage.

The application further motivates that the existing dwelling house will be converted for the tourist facility (fine dining restaurant, wine- and curio shop), and a portion of the existing wine cellar for the other restaurant. There are thus no additional structures proposed.

The proposal itself has been supported by all the municipal and provincial departments consulted, and the Section: Spatial Planning, Heritage and Environment confirmed that the land use application and the proposed development is consistent with the principles for development in areas outside of the urban edge, i.e. agri-tourism is promoted.

(In)consistency with the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)

The proposal complies with Section 42 of the Spatial Planning and Land Use Management Act, Act 16 of 2013 ("SPLUMA") and Section 49 of the Land Use Planning Act, 2014 (Act 3 of 2014) as the application property complies and are guided by the Development Principles stipulated in Section 7 of SPLUMA. These principles are as follows:

- Spatial Justice (Providing additional job opportunities and upskilling of farm workers and / or residents within the surrounding farming area within the tourism industry)
- Spatial Sustainability (Providing the owner with the means of generating an additional income resource to sustain the agricultural activity)
- Efficiency (Optimal usage of the buildings not utilised for the tourist facility and further adding value to the property)
- Spatial Resilience (Ensuring that the main farming activity be economically supported by additional agri-tourism related activities, which is an additional income generator not only for the farm owner, but also the farm workers, especially for both during the non-cultivation periods of the year)
- Good Administration (All the consulted municipal and provincial departments provided their input and comments on the application, and the land use application duly compiled with Section 3 of the Promotion of Administration of Justice Act, 2000 as all the interested and affected parties was offered the opportunity to comment on the application)

(In)consistency with the principles referred to in Chapter VI of the Land Use Planning Act, 2014 (Act 3 of 2014)

The proposal is consistent with the forward planning vision for the area and it complies with the development principles contained in the Integrated Development Plan (IDP) and Spatial Development Framework (SDF), which aim to promote agri-tourism. This was confirmed by the Section: Spatial Planning, Heritage and Environment in their commenting memorandum.

(In)consistency with the IDP/Various levels of SDF's/Applicable policies

The proposal is consistent with the principles contained in the IDP and SDF. The application also does not contradict the strategic objectives of the Municipal IDP and the SDF, specifically with regards to development outside of the urban edges.

(In)consistency with guidelines prepared by the Provincial Minister

The Provincial Spatial Development Framework (PSDF), adopted in 2014, provides broad overarching development principles and guidelines for the Western Cape Province. The PSDF has been informed by the need to adapt to an ever changing economic climate.

Outcomes of investigations/applications i.t.o other laws

Not applicable.

Existing and proposed zoning comparisons and considerations

The predominant zoning of the property is Agricultural Zone I with a spot zoning of ±1130m² in

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extent with tourist facility for restaurant and wine tasting facility, with ancillary uses of $\pm 330\text{m}^2$ in extent.

The proposed development envisages the limited extension of these tourist facilities to enable the land owner to generate additional income through either operating the restaurant or procuring an operator for these facilities, which in either case will provide additional job opportunities, income to the farm and increase the value of the property in question. The proposed rights is allocated to existing buildings, and the owner will thus be permitted to construct a new main dwelling, as the exiting dwelling will be converted into a tourist facility in its totality.

The need and desirability of the proposal

Tourist facility are additional income generators for the land owner in order to ensure the sustainability of the main farming activity is sustained. Te=he tourist facility will also ensure that sufficient additional value be added to the property should the landowner need to look at other and future investment options or funding mechanisms.

The Cape Winelands Area itself is renowned for its agri-tourism, especially its wineries, farm restaurants, wine tasting and sales facility, and it has lured a remarkable amount of diverse visitors, whether local or international to these areas. Stellenbosch Municipality itself is an international renowned wine region and boasts some of the best restaurants and eateries in the world. This makes the municipal area a tourist 'mecca', which in turn provides a significant input into the economy of not only the municipality, but the province and country as a whole.

The report throughout has clearly highlighted the benefits of the proposed development and the negative impacts of the loss of agricultural land have been mitigated, as the landowner proposed to locate the tourist facilities within existing buildings and use existing under-utilised areas for parking. The owner will be permitted to construct a new dwelling house and the recently adopted Stellenbosch Municipality Zoning Scheme Bylaw further provide the option to construct a second dwelling as an additional right.

The latter bylaw also provides for the operation of tourist facilities of the nature proposed as additional rights, which further promotes these activities within the rural areas outside of the urban edge. The proposal as previously mentioned is further consistent with the Municipal IDP and SDF, and must be supported.

The objections raised was aimed at already existing infrastructure, which has limited to no impact and / or bearing on the land use application at hand, and it is also noted that the objector did support the agri-tourism activities.

PART J: ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

Financial or other value of the rights affected

Not applicable to this application.

Benefits to the holder of such rights in terms of the restrictive condition

Not applicable to this application.

Personal benefits which will accrue to the applicant

Not applicable to this application.

Social benefit of the restriction remaining in place

Not applicable to this application.

Social benefit of the proposal and whether the application will completely remove all rights enjoyed by the beneficiary or only some of those rights

Not applicable to this application.

PART K: SUMMARY OF EVALUATION

The proposed development is consistent with Council's policies and the development trends for the surrounding rural areas, and is also supported by the Municipal IDP and SDF and should thus be approved, accordingly.

PART L: RECOMMENDATION

- 1 **Approval be granted** in terms of Section 60 of the Stellenbosch Municipal Land Use Planning Bylaw, 2015 promulgated by notice number 354/2015, dated 20 October 2015, for:
 - 1.1 **Consent use** in terms of Section 15(2)(o) for a tourist facility in order to accommodate a restaurant of $\pm 334\text{m}^2$ in extent, within the existing wine cellar, as per **Layout Plan**, Drawing No.: 2018/09/T02, drawn by Stephan Weyers Architects, attached as **Appendix C**; and
 - 1.2 **Consent use** in terms of Section 15(2)(o) for a tourist facility to accommodate a wine shop of and curio shop of $\pm 238\text{m}^2$ in extent, and a restaurant of $\pm 562\text{m}^2$ in extent with the existing dwelling house, as per **Layout Plans**, Drawing No(s) 2018/09/T02; 2018/09/T100; 2018/09/T302; 2018/09/T301, drawn by Stephan Weyers Architects, attached as **Appendix C**.
2. **That the approval(s) granted in Section 1. is subject to the following conditions in terms of Section 66 of the above-mentioned by-law;**
 - 2.1 The approval applies only to the application in question as shown on drawing, drawn by Stephan Weyers Architects, Dated August 2018, (See **APPENDIX C**) and shall not be construed as authority to depart from any other legal prescriptions or requirements from Council;
 - 2.2 The applicant must submit building plans to be approved by this municipality, prior to any building work commencing on sites;
 - 2.3 The condition imposed by the Director: Infrastructure Services, attached as Appendix F, must be adhered to.
 - 2.4 The conditions imposed by the WCG: Department of Transport and Public Works ("DT&PW") Road Network Management, attached as Appendix G must be adhered to
 - 2.5 The approval will lapse if not implemented within 5 years from date of final notification of the application, and
 - 2.6 The Municipality reserves the right to impose further conditions if deemed necessary.

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PART M: REASONS FOR RECOMMENDATION

The approval as noted above is supported for the following reasons:

- Land outside of existing and proposed urban settlements should be used for agricultural production, biodiversity conservation, scenic quality and agri-tourism;
- Intensification of agriculture, biodiversity conservation and agri-tourism should be promoted in farming areas outside of the urban settlements.
- The proposed development will be located within existing buildings and use existing structures for its ancillary uses, i.e. parking.
- The proposal is consistent with the Municipal IDP and SDF and its strategic objectives for the rural areas of Stellenbosch Municipality.

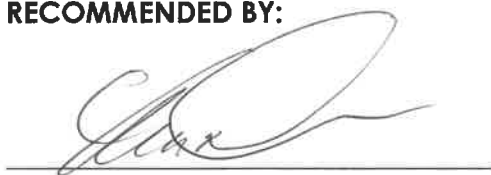
PART N: ANNEXURES

Appendix A	- Locality map
Appendix B	- Title Deed
Appendix C	- Layout Plans
Appendix D	- Objection Letter from SIG
Appendix E	- Applicant's response to SIG objection
Appendix F	- Comments and conditions of the Department: Engineering Services
Appendix G	- Comments and conditions of DT&PW's Road Network Management
Appendix H	- Comments from Internal and External Departments

PART P: SIGNATURES

REPORT COMPILED AND RECOMMENDED BY:

RECOMMENDED BY:



CRAIG ALEXANDER PR PLN
ACTING MANAGER: LAND USE MANAGEMENT
 (Pr Pln A/1749/2013)

09/01/2020
DATE

PART U: MUNICIPAL PLANNING TRIBUNAL DECISION IN TERMS OF SECTION 60 OF THE STELLENBOSCH MUNICIPAL LAND USE PLANNING BY-LAW, OCTOBER 2015:

APPROVE		APPROVE IN PART		REFUSE	
----------------	--	------------------------	--	---------------	--

Tick the appropriate box:

SIGNATURE: _____

DATE: _____

**CHAIRPERSON OF THE MUNICIPAL PLANNING TRIBUNAL
DR D J DU PLESSIS**

ADDITIONAL COMMENTS IF ANY:

APPENDIX A

wider Cape Winelands tourism industry.

The farm falls within the Stellenbosch Municipality administration in close proximity to the towns of Nooitgedacht, Koelenhof, Devonvale and Stellenbosch.

The R304 gives access to the farm, with a ±510m tar road giving access to the main werf.

The R304 links to the property to greater Winelands, Paarl, Klapmuts and Cape Metropole area via the N1 and R44.

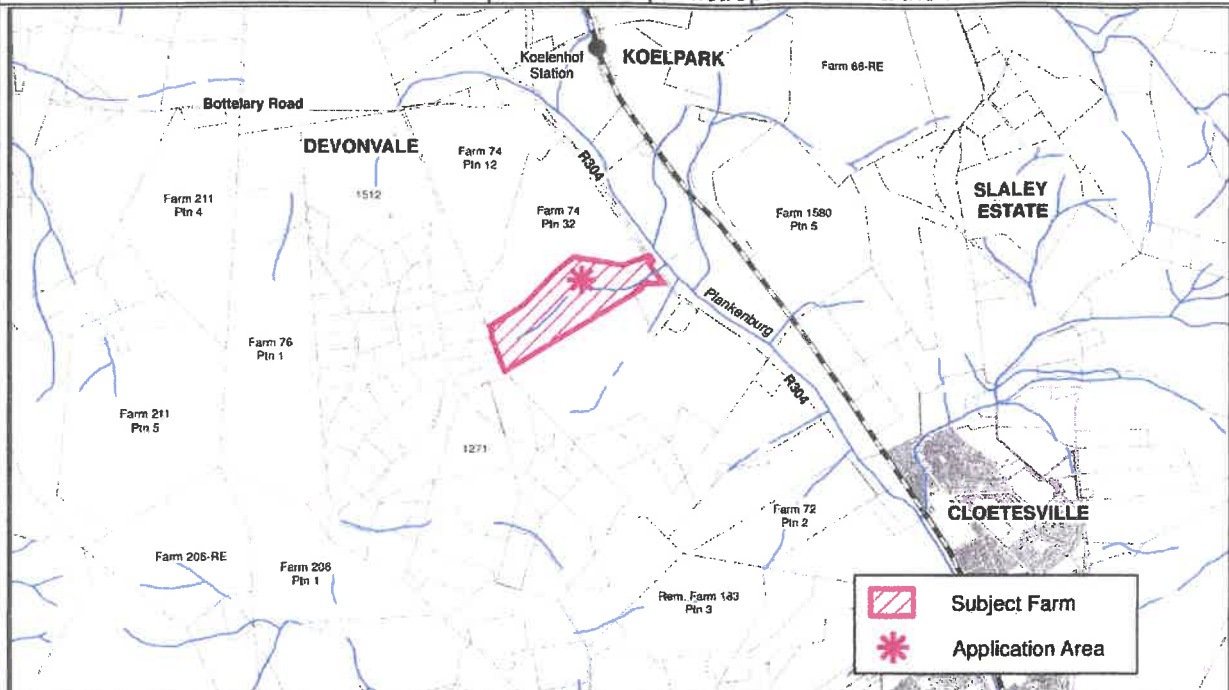


Figure 1: Local Context



Figure 2: Aerial Photography (Google Earth - October 2018)

APPENDIX B

41

Edward Nathan Sonnenbergs Inc
PO Box 2293
Cape Town
8000

Inc enforcement		
Purchase price/Value	R. 29 890 000 00	Office fee R. 4 675 00
Mortgage capital Amount	R.	Prepared by me
Reason for exemption	Cat.	Exempt i.t. a section Act

CONVEYANCER
Lee-Ann Fiona Hopley

DATA / CAPTURE
02 MAR 2018
LITHA MADAMA

T 000007983 / 2018

DEED OF TRANSFER

BE IT HEREBY MADE KNOWN THAT

CARLA BATT

appeared before me, REGISTRAR OF DEEDS at CAPE TOWN, the said appearer being duly authorised thereto by a Power of Attorney granted to him by

KANU VINEYARDS PROPRIETARY LIMITED
Registration number 1989/002511/07

which said Power of Attorney was signed at CAPE TOWN on 23 January 2018

DATA / VERIFY
05 MAR 2018
VUYELWA LAMANI

And the appearer declared that his said principal had, on 3 November 2017, truly and legally sold by Private Treaty, and that he, the said Appearer, in his capacity aforesaid, did, by virtue of these presents, cede and transfer to and on behalf of:

TAVIA INTERNATIONAL TRADING CC
Registration Number 2001/016606/23

or its Successors in Title or assigns, in full and free property

REMAINING EXTENT OF PORTION 37 OF FARM NOOITGEDACHT NO. 74
 IN THE MUNICIPALITY AND DIVISION OF STELLENBOSCH
 PROVINCE OF WESTERN CAPE

IN EXTENT 47,4790 (FORTY SEVEN COMMA FOUR SEVEN NINE ZERO)
 Hectares

FIRST REGISTERED by Certificate of Consolidated Title Number
 T53114/1981 with Diagram No. 7804/1979 relating thereto and held by Deed of
 Transfer Number T31337/1989 (VA9090/2009)

- I. AS REGARDS the figure ABCDEFGVRS on said Diagram No. 7804/1979.
- A. SUBJECT to the conditions referred to in Deed of Transfer Number T20871/1955.
- B. SUBJECT FURTHER to the following conditon contained in Deed of Transfer Number T2509/1933:
- "(1) The land hereby transferred shall not be entitled to any portion of the one-nineth share of water mentioned in Deed of Transfer Number T5466/1924 as being reserved to the remaining extent."
- C. SUBJECT FURTHER to the terms of the endorsement dated 21 October 1966 on Deed of Transfer Number T20871/1955, namely :
- "Endorsement in terms of Section 31(6) of Act 47 of 1937 (as amended)
- A portion of the hereinmentioned property measuring about 0,13 morgen has been expropriated by the Divisional Council of Stellenbosch in terms of Section 130 of Ordinance no. 15 of 1952. Vide Notice of Expropriation No. H/2/1 d.d. 5.10.1966 filed with exprop caveat 731/1966 plans filed herewith."
- II. AS REGARDS the figure VHJKLMNPQR on the said Diagram No. 7804/1979 :
- A. SUBJECT to the conditions referred to in Deed of Transfer no. T7351/1944

- B. SUBJECT FURTHER to the terms of the endorsement dated 26th October 1956 on Deed of Transfer No. T7351/1944, which endorsement reads as follows:

"Endorsement in terms of Section 11 of Act no. 21 of 1940:

Remainder = 44,6465.morgen

By virtue of S.G. Caveat No. 691/1956 dated 25th October 1956 and filed with Deed of Transfer No. 15331/1956 dated this day, the remainder of the property held hereunder has been made subject to the conditions fully set out in the annexure hereto marked "A" which conditions have been imposed by the Controlling Authority in terms of Section 11 of Act no. 21 of 1940"

Which Annexure A reads as follows;

AANHANGSEL A

1. Die grond mag alleen gebruik word vir residensiële – of landboudoeleindes en geen ander doel sonder die skriftelike toestemming van die beherende gesag soos omskryf in Wet Nr. 21 van 1940 nie.
2. Geen gebou of struktuur hoegenaamd mag opgerig word sonder die skriftelike toestemming van die beherende gesag soos omskryf in Wet Nr. 21 van 1940 nie.
3. Geen gebou of struktuur hoegenaamd mag opgerig word binne 'n afstand van 300 Kaapse voet van die middellyn van die Bottelary Hoofweg wat in 'n noord-oostelike rigting langs die eiendom en deur die eiendom loop sonder die skriftelike toestemming van die beherende gesag soos omskryf in Wet Nr. 21 van 1940 nie.

- III. SUBJECT FURTHER to the following endorsement which appears on Deed of Transfer Number T31337/1989 dated 12 November 1996 which reads as follows:-

"Remainder

By Deed of Transfer No. 87440/1996 the withinmentioned property in extent 47,4790 Ha is

- a) Subject to a Building Restriction Servitude in favour of Portion 40 (a Portion of Portion 37 of the Farm Nooigedacht Nr 74 = 767m² more specific over an area which will extend across an area of 35 metres wide along a portion of the eastern boundary, indicated by the line BCDEFG on diagram SG 6249/1994, Restricting the erection of any building, structure, constructions, wall and/or fences.

- b) Entitled to a Restriction on the planting of trees and shrubs – Servitude is over Portion 40 (a Portion of Porion 37) of the farm Nooitgedacht – 767m² Restricting the planting of any trees and/or large shrubs on the withinmentioned property without the prior consent of the withinmentioned owner first been obtained.
- v. SUBJECT FURTHER to the following endorsement which appears on Deed of Transfer Number T31337/1989 which reads as follows:-

"Remainder

By Notarial Deed of Servitude No K902/1998S the within property is SUBJECT TO a 3m wide pipeline servitude indicated by the line ABCDE on servitude diagram no. 6434/1997 annexed thereto IN FAVOUR OF the Winelands District Council as will more fully appear from said Notarial Deed with diagram annexed thereto.



WHEREFORE the said Appearer, renouncing all rights and title which the said

KANU VINEYARDS PROPRIETARY LIMITED
Registration number 1989/002511/07

heretofore had to the premises, did in consequence also acknowledge it to be entirely dispossessed of, and disentitled to the same, and that by virtue of these presents, the said

TAVIA INTERNATIONAL TRADING CC
Registration Number 2001/016606/23

or its Successors in Title or assigns, now is and henceforth shall be entitled thereto, conformably to local custom, the State, however reserving its rights, and finally acknowledging the purchase price to be the sum of R29 890 000,00 (TWENTY NINE MILLION EIGHT HUNDRED AND NINETY THOUSAND RAND) .

IN WITNESS WHEREOF, I the said Registrar, together with the Appearer, have subscribed to these presents, and have caused the Seal of Office to be affixed thereto.

THUS DONE and EXECUTED at the Office of the REGISTRAR OF DEEDS at CAPE TOWN on 1 March 2018



q.q.

In my presence




REGISTRAR OF DEEDS

1-6
J M.

41

Edward Nathan Sonnenbergs Inc
PO Box 2293
Cape Town
8000

Prepared by me


CONVEYANCER
Lee-Ann Fiona Hopley

POWER OF ATTORNEY TO PASS TRANSFER

I, the undersigned

BAREND FREDERIK TRUTER
duly authorised hereto by a resolution of the Directors of
KANU VINEYARDS PROPRIETARY LIMITED
Registration number 1989/002511/07



do hereby nominate and appoint Adelene Posthumus and/or Anton Luther Posthumus and/or Arno Watson and/or Carla Batt and/or Fritz Dieter Schulz and/or Lee-Ann Fiona Hopley and/or Safeera Ally

with power of substitution to be my true and lawful Attorney and Agent in my name, place and stead to appear at the Office of the REGISTRAR OF DEEDS at CAPE TOWN or any other competent official in the Republic of South Africa and then and there to act as my Attorney and Agent and to pass transfer to:

TAVIA INTERNATIONAL TRADING CC
Registration Number 2001/016606/23



the property described as:

REMAINING EXTENT OF PORTION 37 OF FARM NOOITGEDACHT, 74
IN THE MUNICIPALITY AND DIVISION OF STELLENBOSCH
PROVINCE OF WESTERN CAPE

No. 74

IN EXTENT 47,4790 (FORTY SEVEN COMMA FOUR SEVEN NINE ZERO)
Hectares

HELD BY Deed of Transfer Number T31337/1989 (VA9090/2009)



the said property having been sold by me on 3 November 2017, to the said transferee/s for the sum of R29 890 000,00 (Twenty Nine Million Eight Hundred and Ninety Thousand Rand);






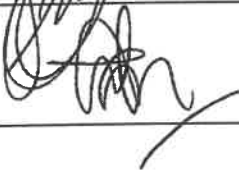


and further cede and transfer the said property in full and free property to the said Transferee; to renounce all right, title and interest which the Transferor heretofore had in and to the said property, and generally, for effecting the purposes aforesaid, to do or cause to be done whatsoever shall be requisite, as fully and effectually, to all intents and purposes, as the Transferor might or could do if personally present and acting therein; hereby ratifying, allowing and confirming all and whatsoever the said Agent/s shall lawfully do or cause to be done in the premises by virtue of these presents.

Signed at CAPE TOWN on 23 January 2018
in the presence of the undersigned witnesses.

AS WITNESSES :

1. 

2. 



On behalf of KAMU VINEYARDS
PROPRIETARY LIMITED



(2) M



Transfer Duty Declaration


TDREP

Reference Details

Transfer Duty Reference Number: TDE02891A6

Details			
Details of Seller/Transferor/Time Share Company			
Surname / Registered Name KANU VINEYARDS PROPRIETARY LIMITED		Full Name KANU VINEYARDS PROPRIETARY LIMITED	
Company / CC / Trust Reg No. 188900251107		Marital Status	
Details of Purchaser/Transferee			
Full Name TAVIA INTERNATIONAL TRADING CC		Surname / Registered Name TAVIA INTERNATIONAL TRADING CC	
Company / CC / Trust Reg No. 200101660823		Marital Notes if applicable	
Details of the Property			
Date of Transaction/Acquisition (CCYYMMDD) 2017-11-03			
Total Fair Value R 29890000.00		Total Consideration R 29890000.00	
Calculation of Duty and Penalty/Interest			
Transfer Duty Payable on Natural Person R 0.00			
Property Description			
1 REMAINING EXTENT OF PORTION 37 OF FARM NOOITGEOCHT 74 IN THE MUNICIPALITY AND DIVISION OF STELLENBOSCH PROVINCE OF WESTERN CAPE IN EXTENT 47,4790 (FORTY SEVEN COMMA FOUR SEVEN NINE ZERO) Hectares			

Exemption Certificate	
Exemption Certificate Details	
Transfer Duty Reference No. TDE02891A6	Exempt in terms of Section 9 of the Transfer Duty Act Other
Exemptions allowed by another Act Section 9(15)	

Declaration by Conveyancer / Attorney	
I certify that this is a true copy of the transfer duty declaration / receipt / exemption certificate drawn from the SARS eFiling site, which will be retained by me for 5 years from the date of registration of transfer.	
 Please ensure you sign over the 2 lines of 'X's above	
LEE-ANN FIONA HOPLEY	
Date: (CCYYMMDD)	For enquiries go to www.sars.gov.za or call 0800 00 SARS (7277)
20180214	

Datum van indiening/Date of lodgement

Ref. No./Verw. Nr. 0437618LHIO

27 FEB 2018

A. VIR AKTEBESORGER GEBRUIK/ FOR DEEDS OFFICE USE:

LODGED
19 FEB 2018
INGEDIEN

	Onssoekers/Examiners	Kamers/ Rooms	Skakeling/Linking	Reject/ Verwerp	Passeer/Pass
1.	AA. HLONGWANE	113	3	2	
2.	F. NKWINIKA				
3.					

Handwritten signature

B. VIR AKTEBESORGER SE GEBRUIK/ FOR CONVEYANCER'S USE.

Aard van Akte/Nature of Deed: Transfer

Kanu Vineyards

Verw. No./Ref. No. Taria Int. Trd CC t.g.v./i.f.o.

T 000007983 / 2018

Skakeling/Linking	Titelaktes, ens. binne/Title deeds, etc. within
3 2	

GELYKTYDIGES/SIMULS

No. in se/batch	Kode Code	Name van Partye/Names of Parties	Naaam van Firma/Name of Firm	Firma/ Firm No.
1.	BC	Kanu Vineyards (S93)	HANDED IN FOR EXECUTION	41
2.	T	Kanu Vineyards / Taria	SNS	41
3.	BC	Kanu Vineyards / ABSA	Sanderburgh Nel	78
4.			HANDED IN FOR EXECUTION	
5.				
6.				
7.				
8.				
9.				
10.				



REGISTRASIE VERSOEK DEUR:

REGISTRATION REQUESTED BY:

080006612576

DATUM:

DATE:

(Kort beskrywing van eiendom (slegs para 1 in Akte) / Brief description of property (merely para 1 in Deed))

RE 5 Fw 378 Yarm Noitaedacht 74

41

Edward Nathan Sonnenberg Inc.

Phone: 021 410 2500


UITVOERING/EXECUTION

Datum van indiening/Date of lodgement

Ref. No./Verw. Nr. 0437618LH10

27 FEB 2018

A. VIR AKTEBESORGER GEBRUIK/ FOR DEEDS OFFICE USE:

LODGED

 19 FEB 2018
INGEDIEN

	Ondersoekers/Examiners	Kamers/ Rooms	Skakeling/Linking	Reject/ Verwerp	Passeer/Pass
1.	AA. HLONGWANE	113	3	2	
2.	F. NKWINIKA				
3.					

F. NKWINIKA

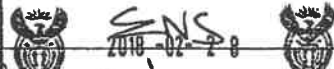

B. VIR AKTEBESORGER SE GEBRUIK/ FOR CONVEYANCER'S USE.

Aard van Akte/Nature of Deed: Transfer
Kanu Vineyards
 t.g.v./i.f.o.
 Verw. No./Ref. No. Tavia Int. Trd CC

T 000007983 / 2018

Skakeling/Linking	Titelaktes, ens. binne/Title deeds, etc. within
3 2	

GELYKTYDIGES/SIMULS

No. in del/batch	Kode Code	Name van Partye/Names of Parties	Naaam van Firma/Name of Firm	Firma/ Firm No.
1.	BC	Kanu Vineyards (S93)	HANDED IN FOR EXECUTION	41
2.	T	Kanu Vineyards / Tavia	 SENS 2018-02-28	41
3.	BC	Kanu Vineyards / ABSA	 Sanderson Nel HANDED IN FOR EXECUTION	78
4.				
5.				
6.				
7.				
8.				
9.				
10.				

REGISTRASIE VERSOEK DEUR: _____
 REGISTRATION REQUESTED BY: _____
 DATUM: _____
 DATE: _____

.080006612576



(Kort beskrywing van eiendom (slegs para 1 in Akte) / Brief description of property (merely para 1 in Deed))

RE S Au 379 Farm Nbootgedacht 714

A. VIR AKTEBESORGER GEBRUIK/ FOR CONVEYANCER'S USE:

(a) Gelyktydiges met ander registrasiekantore/deeltitels: Simuls with other registries/sectional titles

Kode	Firma/Firm	Eiendom/Property	Kantoor/Office
1.			
2.			
3.			
4.			

(b) Kliënt afskrifte van aktes permanent in Aktekantoor gelaas: Client copies of deed filed permanently in Deeds Office:

Aard en nommer van akte Nature and number of deed	Cover No. Omslag Nr.	Parawe van ondersoekers Initials of Examiners

(c) Notas/Notes

B. VIR AKTEKANTOOR GEBRUIK/FOR DEEDS OFFICE USE:

		Opmerkings Remarks	Paraaf Initials
Interdikte nagesien deur Interdicts checked by	(1) Dorp goedgekeur (geproklameer) Township approved (proclamed)		
Datum Date	(2) Begiftigingserwe Endowment erven		
	(3) Begiftiging Endowment		
	(4) Voorwaardes Conditions		
	(5) Mikro Micro		
Interdikte nagesien deur Interdicts checked by	(6) Algemene plan General Plan		
Datum Date	(7) Titelakte Title Deed		
	(8) Verbande teen dorpsitel Bonds against township title		
	(9) Datum nagesien Date checked		

Kantoor instruksies/Office instructions:

Seksie/Section: *Dorpe*

Dorpe VA 9090/2009
H. Hlongwane
20.02.2018
H. HLONGWANE

APPENDIX C

ALL INFORMATION IS THE PROPERTY OF THE CONTRACTOR & SUB-CONTRACTORS.

- BUILDING A1:**
 - GROUND STOREY: 316,42m²
 - RESTAURANT = 316,42m²
 - KITCHEN = 7,92m²
 - RESTROOMS = 6,84m²
- FIRST STOREY:**
 - WINE TASTING = 126,47m²
 - WINE TASTING DECK = 61,00m²
 - KITCHEN = 34,34m²
 - RESTROOMS = 41,77m²
- TOTAL BUILDING A:**
 - RESTAURANT = 316,42m²
 - WINE TASTING = 187,47m²
 - DECK = 61,00m²
 - KITCHEN = 66,08m²
 - RESTROOMS = 48,61m²
- BUILDING B1:**
 - OFFICE = 104,84m²
 - KITCHEN = 6,62m²
 - RESTROOMS = 3,82m²
- SHOP:**
 - SHOP = 49,12m²
 - STORE = 19,20m²
 - RESTROOMS = 7,44m²
- BUILDING C1:**
 - DECK = 45,25m²
 - RESTAURANT = 192,62m²
 - RESTAURANT PATIO = 130,32m²
 - KITCHEN = 70,06m²
 - RESTROOMS = 103,32m²



NO	DATE	REVISIONS / REMARKS

STÉPHAN WEYERS
ARCHITECTS • ARGITEXTE
 44 OUDERBOS 31
 WILLEMSTAD
 0611 111111310
 ou / bo. 6093
 w@argitex.com
 11 021 513 3320
 11 021 513 3289
 11 021 513 7477
 w@weyers.difefilm.com.net

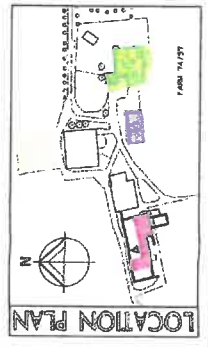
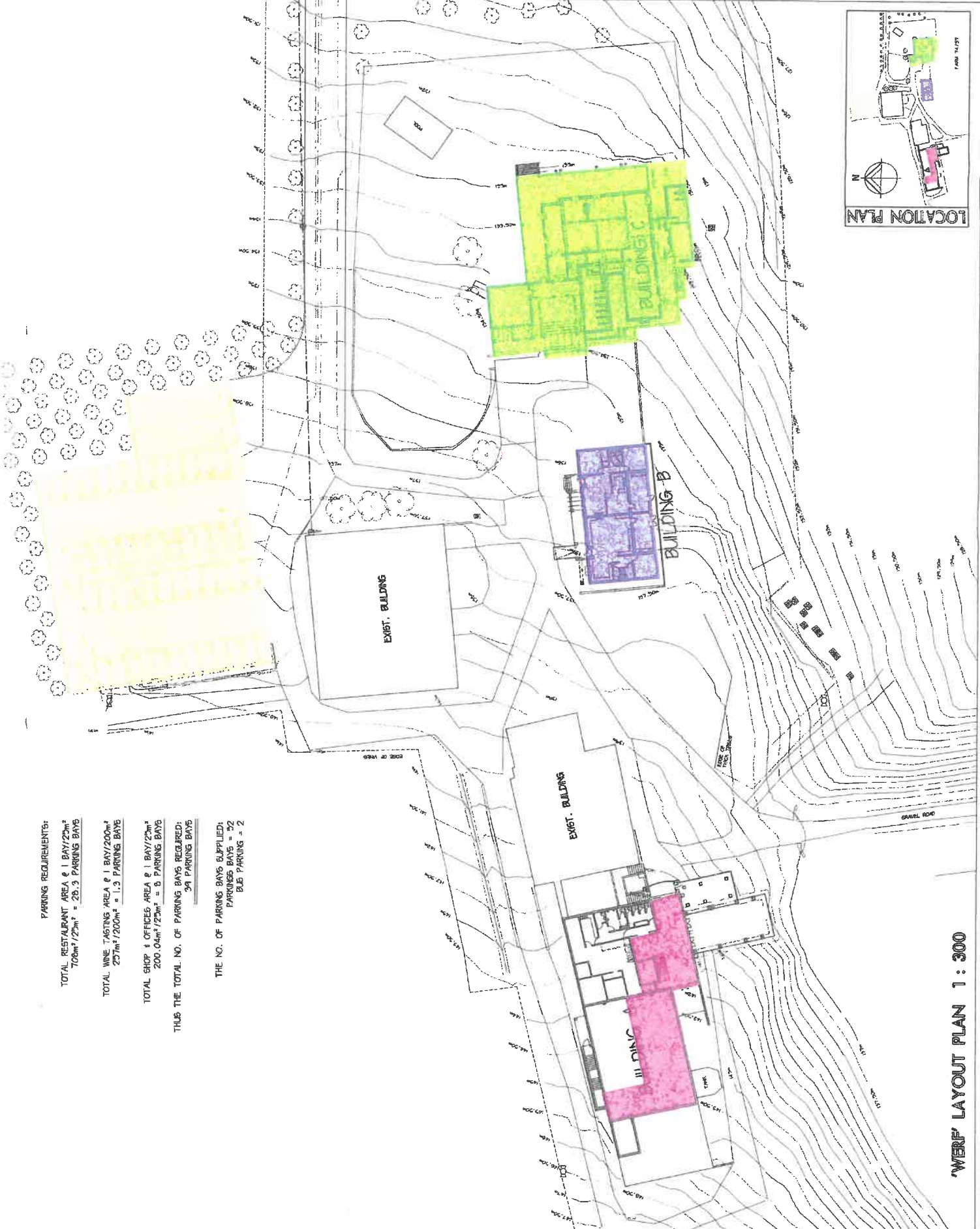
PROJECT
NEW FACILITIES FOR
TAMA INT. TRADING CC
FARM 74/37
KOELLENHOF, STELLENBOSCH

TITLE
YARD LAYOUT PLAN

SCALE	DATE	DATE
1 : 300	17 / 09 / 2018	

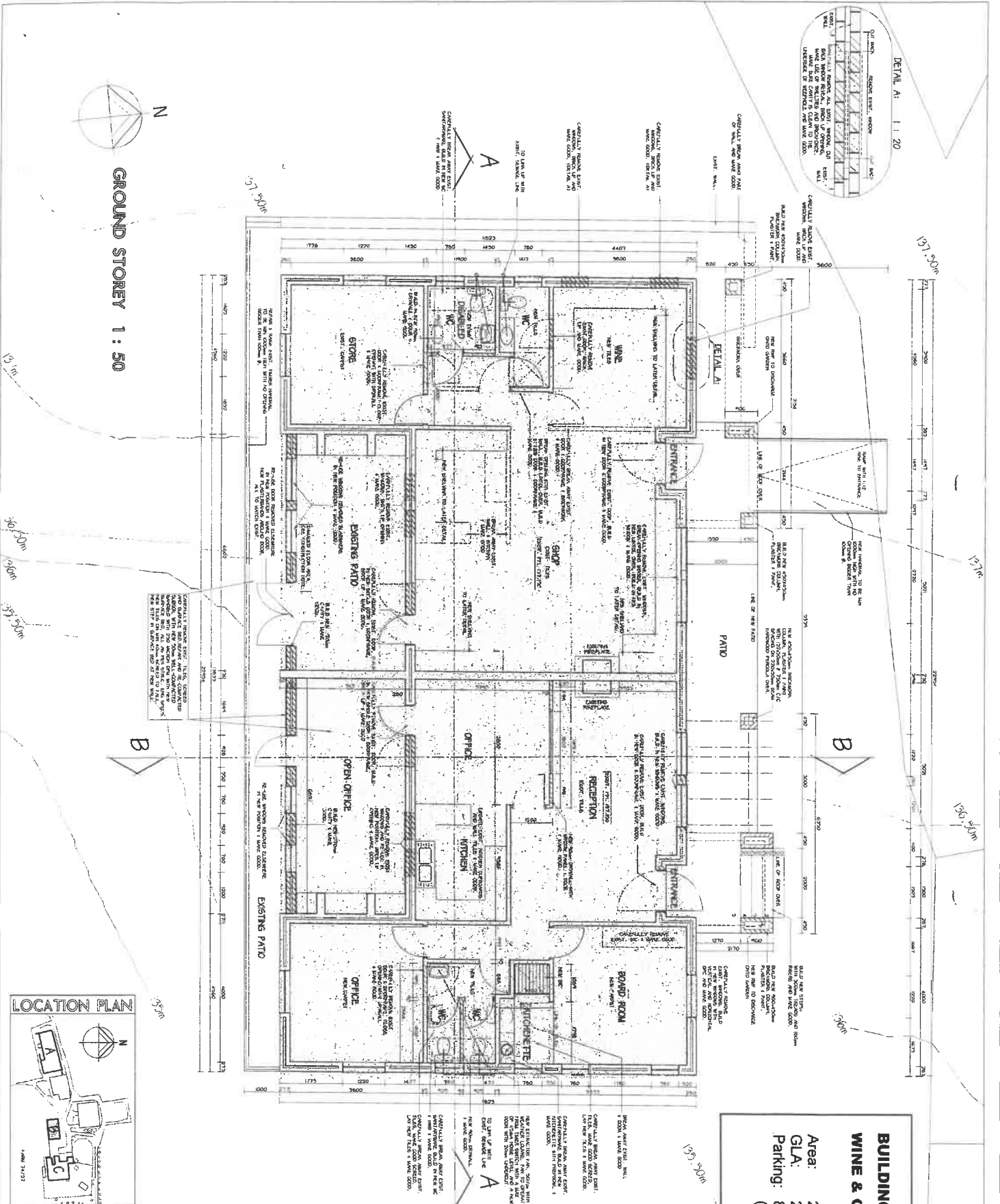
DATE	LEVEL
2018 / 09 / T02	A

05 WEYERS PARK 105 N. 6440 WEYERS W/CP.



PARKING REQUIREMENTS:
 TOTAL RESTAURANT AREA @ 1 BAY/23m²
 700m²/23m² = 28,3 PARKING BAYS
 TOTAL WINE TASTING AREA @ 1 BAY/200m²
 237m²/200m² = 1,3 PARKING BAYS
 TOTAL SHOP & OFFICES AREA @ 1 BAY/23m²
 200,04m²/23m² = 8 PARKING BAYS
 THUS THE TOTAL NO. OF PARKING BAYS REQUIRED:
 34 PARKING BAYS
 THE NO. OF PARKING BAYS SUPPLIED:
 PARKING BAYS = 52
 BUS PARKING = 2

'WERF' LAYOUT PLAN 1 : 300



BUILDING B
WINE & CURIO SHOP

Area: 275m²
 GLA: 200.04m²
 Parking: 8 bays
 (1 bay per 25m²)

ALL DIMENSIONS TO BE CHECKED ON SITE BY CONTRACTOR & SUB-CONTRACTORS.

STÉPHAN WESER
ARCHITECTS • ARCHITKTE

44 quellenberg st
 1151 GENEVA 11
 CH
 TEL: +41 22 818 8000
 FAX: +41 22 818 8002
 WWW: www.steph.weser.ch

181 021 9124589
 181 021 912 7147

WEYER@steph.weser.ch

NEW FACILITIES FOR
TAVNA INT. TRADING CC
FARM 74/37
KOELLENHOF, STELLENBOCH

GROUND STOREY

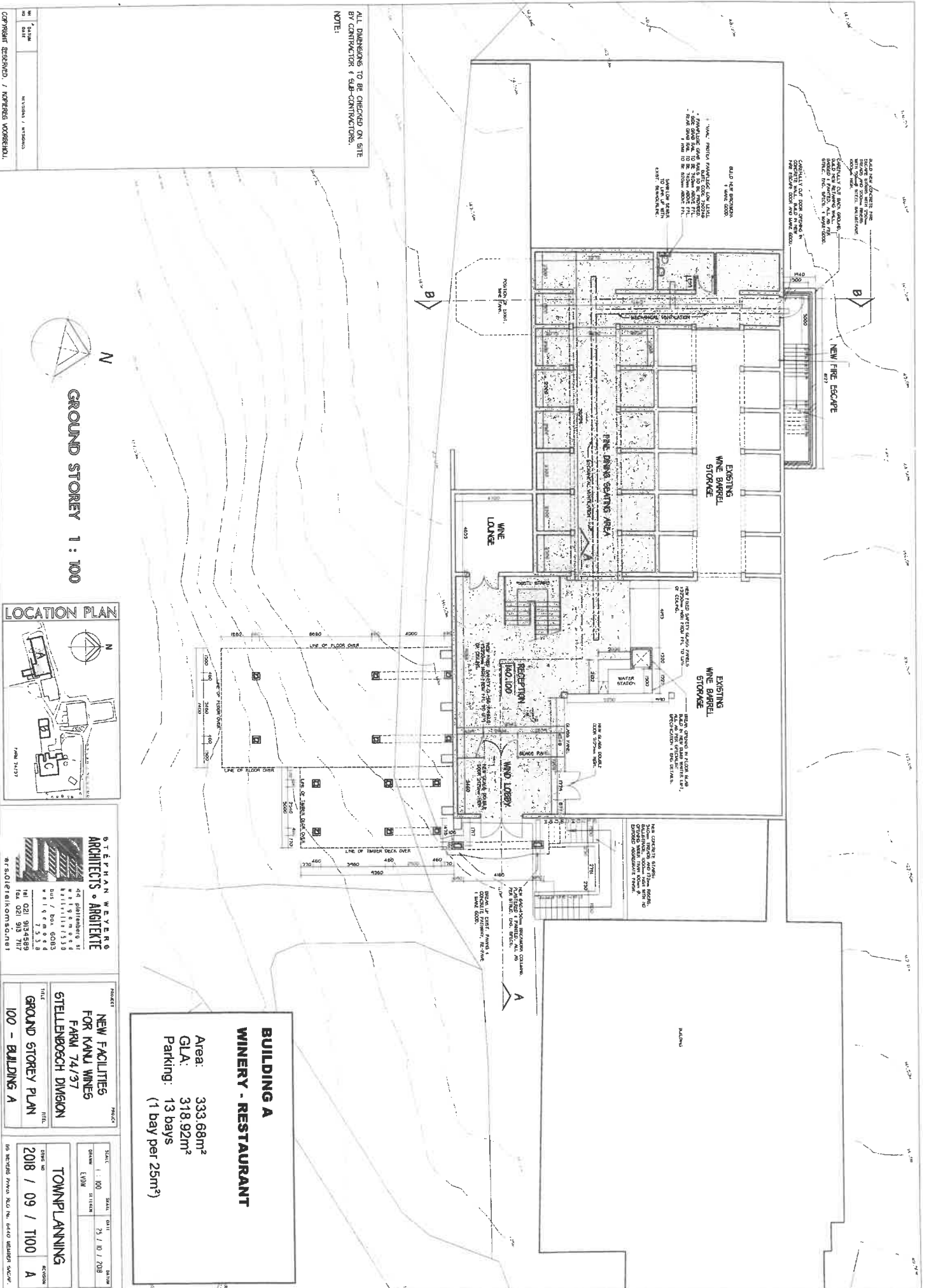
200 - BUILDING B

SCALE: 1:50
 DATE: 09 / 09 / 2018
 DRAWN BY: KIL

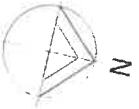
TOWNPLANNING

DATE: 2018 / 09 / 12 00

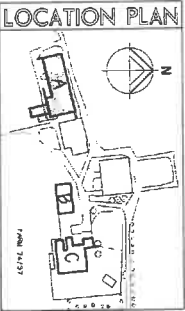
55 METERS FROM ROAD TO ROAD DISTANCE SCALE



ALL DIMENSIONS TO BE CHECKED ON SITE BY CONTRACTOR & SUB-CONTRACTORS.
NOTE:



GROUND STOREY 1 : 100

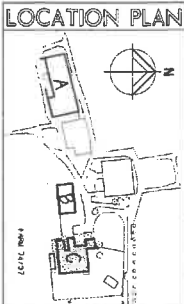
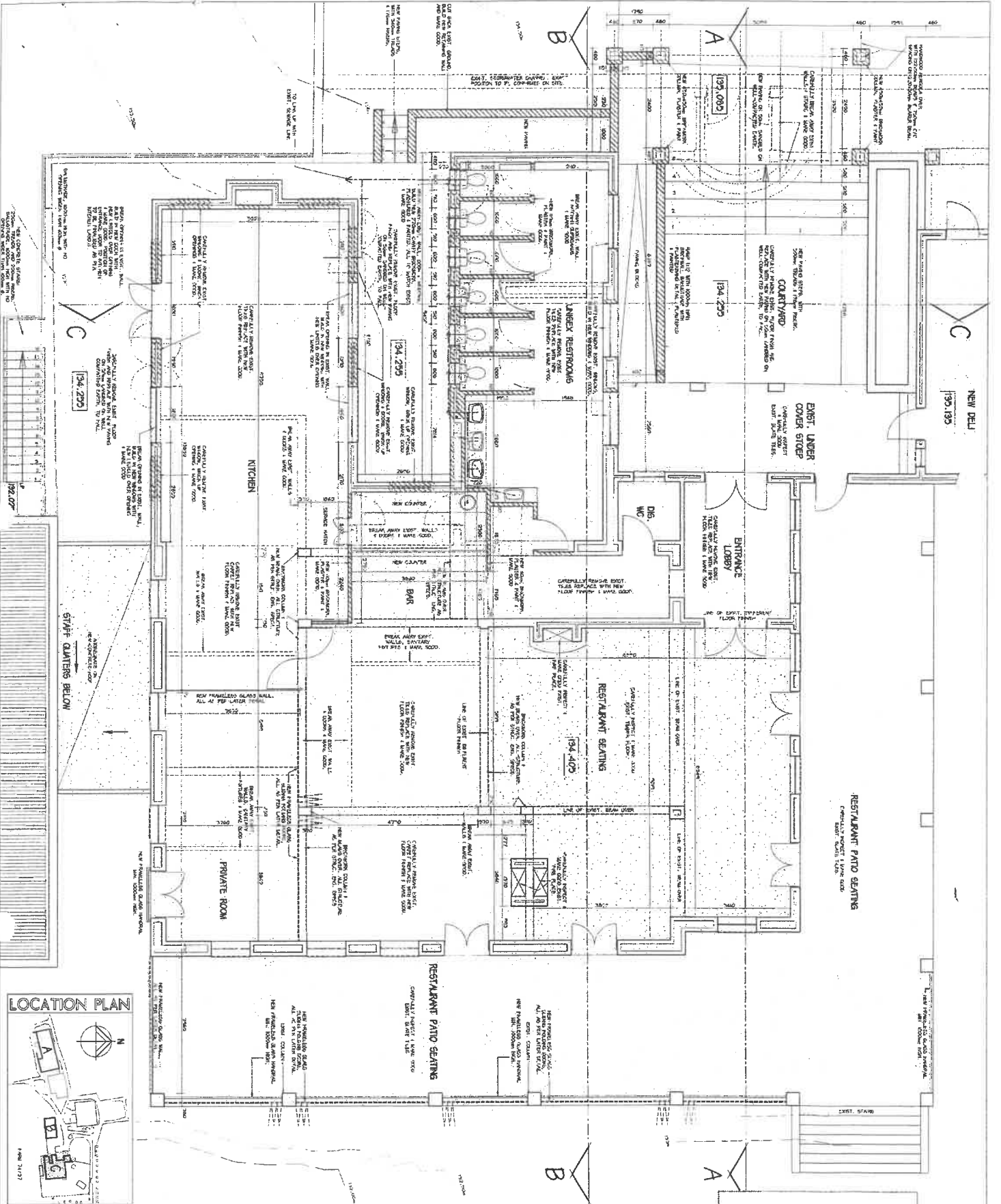


S.T.EPHAN WEVERS ARCHITECTS • ANGEKTE
 48 phlegelbergstrasse
 50131 Hildesheim
 Tel. 051 934589
 Fax 051 934717
 www.stephanwevers.de

PROJECT
 NEW FACILITIES FOR KANU WINES FARM 74/37
TITLE
 GROUND STOREY PLAN
100 - BUILDING A

BUILDING A	WINERY - RESTAURANT
Area: 333,68m ²	GLA: 318,92m ²
Parking: 13 bays	(1 bay per 25m ²)

TOWNPLANNING
 SCALE: 1:100
 DRAWN: E.V.M.
 DATE: 25.10.2018
 REGION: A
 NO. 100 - BUILDING A



ALL DIMENSIONS TO BE CHECKED ON SITE BY CONTRACTOR & SUB-CONTRACTORS.

BUILDING C RESTAURANT

Area: 562.17m²
 GLA: 388.58m²
 Parking: 15 bays
 (1 bay per 25m²)

NO	DATE	REVISIONS / RETHINKS
01	08/2018	CONCEPT REVISIONS / KOPREBS KORREKTUR

STÉPHAN WEVERS
 ARCHITECTS • ARCHITKTE

PROJECT: NEW FACILITIES FOR TAWA INT. TRADING CC FARM 74/97 KOELENWOF, STELLENBOSCH

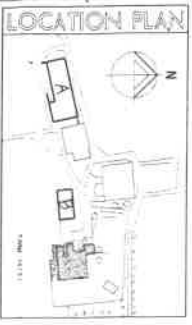
WEYERSCHEIDT/INHOUP/SCHUBB

DATE: 2018 / 08 / T301

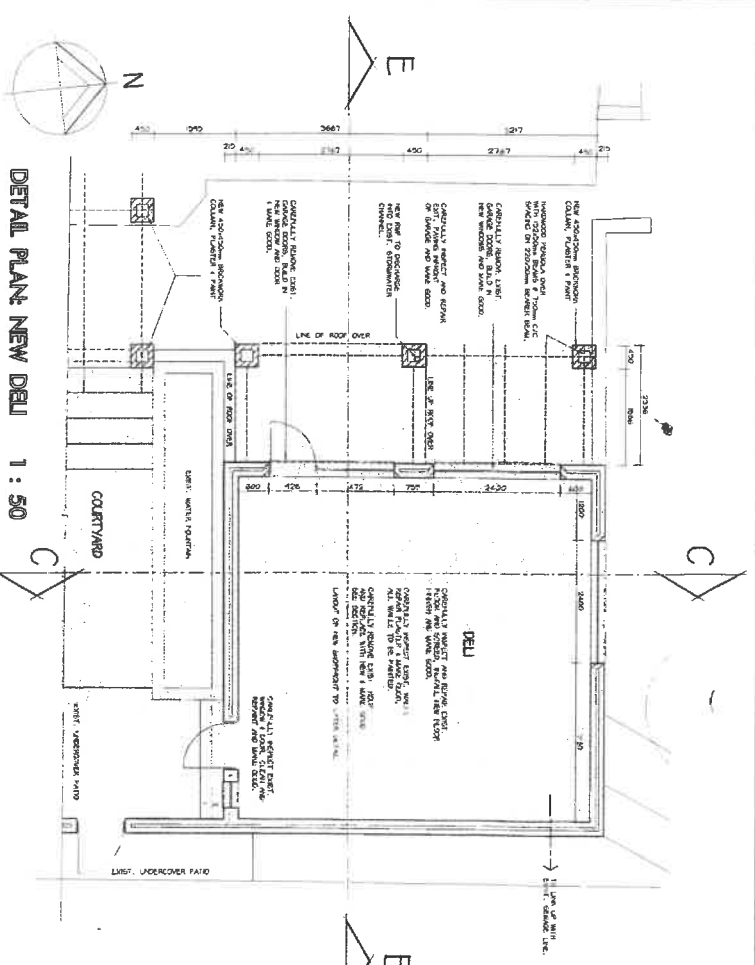
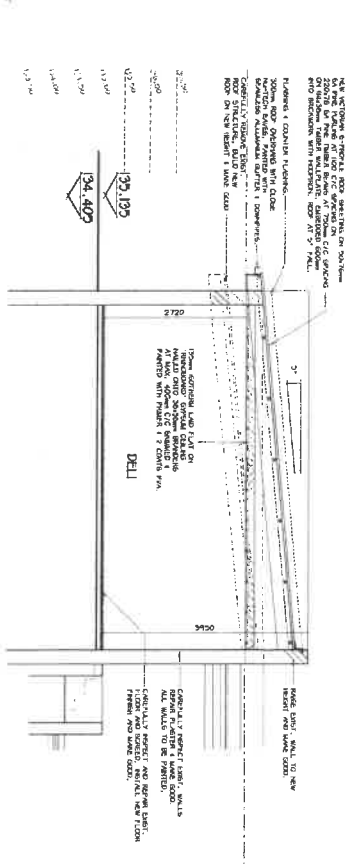
TOWNPLANNING

SCALE: 1:50

DATE: 07 / 09 / 2008

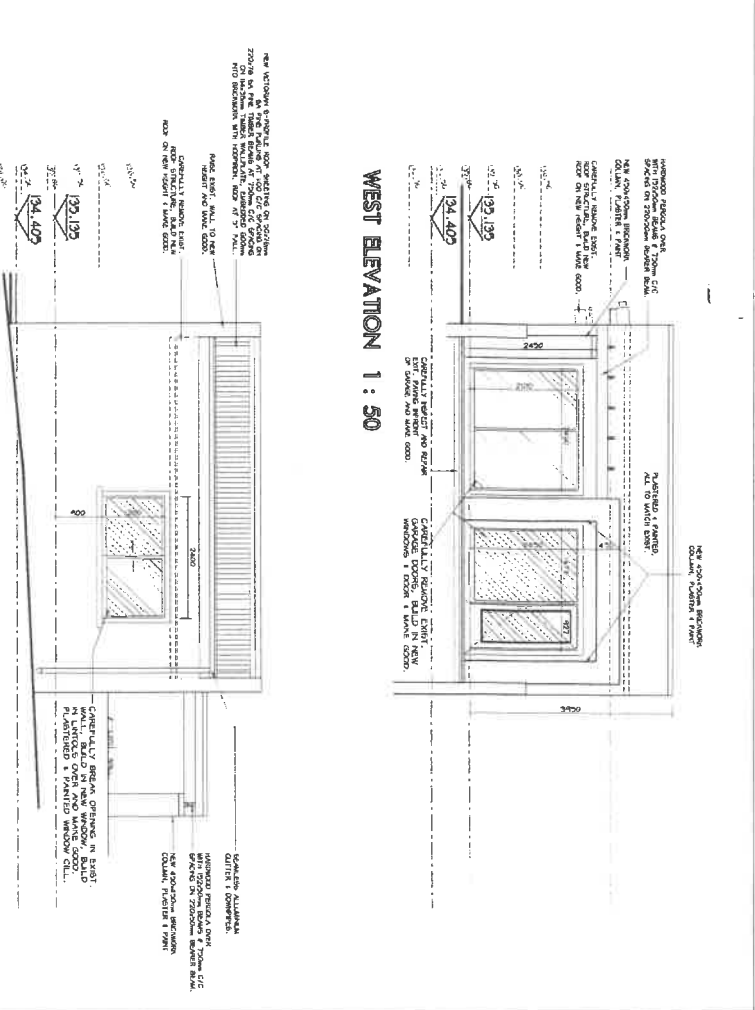


SECTION CC 1 : 50

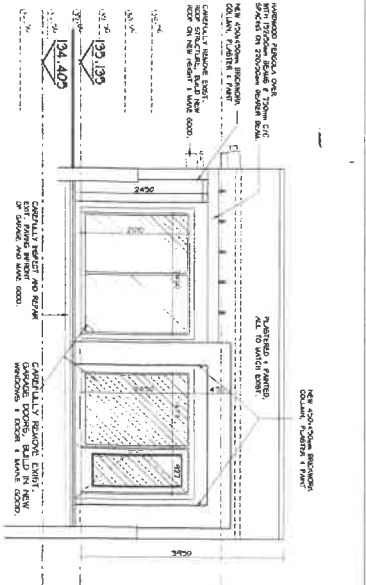


BUILDING C RESTAURANT
Area: 562.17m²
GLA: 388.56m²
Parking: 15 bays (1 bay per 25m²)

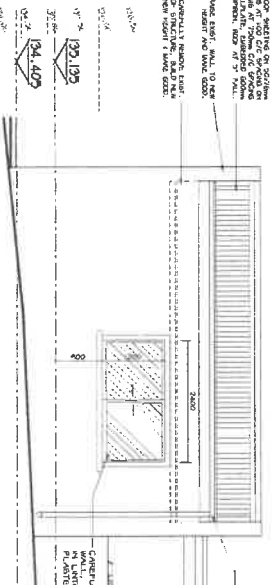
SECTION EE 1 : 50



WEST ELEVATION 1 : 50



NORTH ELEVATION 1 : 50



ALL DRAWINGS TO BE CHECKED ON SITE BY CONTRACTOR & SUB-CONTRACTORS.

STEPHAN WEYER ARCHITECTS • ARCHITECTE
44 DEINBERGER STRASSE 1000
TEL 021 9134589
FAX 021 913 717
R14KOM090181

PROJECT: NEW FACILITIES FOR KANU WINES FARM 74/37 STELLENBOSCH DIVISION

TITLE: NEW DELL

DATE: 2018 / 09 / 1302

SHEET: 1 : 50
DATE: 11 / 09 / 2018
DRAWN: E.L.H.

300 - BUILDING C

APPENDIX D



Belangegroep Stellenbosch Interest Group

HM/CB/0815/32
30 May 2019

Application number: LU/8791
Nooitgedacht Farm, Farm 74/37, Stellenbosch

Mhl Architects and Planners,
PO Box 15002,
Vlaeberg,
8018
allen@mhl.co.za

Dear Sir

The application in terms of section 15(2) of the Stellenbosch Municipal Land Use Planning By-Law for consent use to permit Tourist Facilities to allow for restaurants and wine shop and offices.

The Stellenbosch Interest Group (SIG) supports tourism in the Cape Winelands and has no objection to the consent use of the existing wine cellar and bottling plant (currently Agricultural Zone II) to include a restaurant.

The SIG also supports the consent use to enable the refurbishing of an existing residence Building B (currently Agricultural Zone I) into a wine and curio shop and existing Building C residence into a second restaurant on the condition that the associated parking area be reduced in size and that a smaller area and a less sensitive site be found.

The loss of agricultural land for the construction of a parking area for 52 cars and two buses is not supported by the Stellenbosch Interest Group.

The parking area will be directly to north of all existing buildings on a steeply sloped mountainside. The proposed area is 1500m² and lies on a high slope between the 136.5 and 140.5 contour lines. The hard paved surfaces and buses and cars will be highly visible from the R304 and farms and residences across the valley.

The placement of the parking away from any buildings increases the visibility in a landscape dominated by vineyards. It will create a scar in the agricultural landscape.

There is already an extensive paved area between the existing buildings. This area currently accommodates staff cars, occupants of the residences and visitors to the winetasting facilities (FIG A and B). This area has already been paved and could accommodate parking for about 10 cars. With a small additional extension for parking north

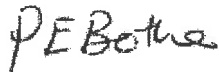
of the existing building attached to Building A and west of the existing building (not named on map, but lying furthest north). The existing buildings will partly hide the cars and reduce the impact on the agricultural landscape (FIG C)

The SIG requests that application for the new design of the gateway entrance on the R304 (FIG D and E), the extensive very decorative paving and the street lights lining the private road approximately one kilometer in length from the the R304 and passing through vineyards up to building A be submitted for comment and approval by the Municipality.

With regard to the street lights the SIG objects most strongly at this urban intrusion into the vineyards on highly visible agricultural slopes in the Cape Winelands, an international recognised tourist destination (FIG E and F) .

Please find all the illustrations inserted in support of our comments attached

Yours faithfully



Patricia Botha

APPENDIX E


mlh
architects & planners

3rd Floor, Graphic Centre
 199 Loop Street,
 Cape Town, 8001, South Africa
 PO Box 15002, Vlaeberg, 8018
 Tel +27 21 424 3210
 Fax +27 21 424 7810
 E-mail mlh@mlh.co.za
 Web www.mlh.co.za

20 August 2019

Our ref. 2018 669

Stellenbosch Municipality
 Town House Complex
 Plein Street
 Stellenbosch
 7600

Attention: Ms. Siyanda Sangqa (c/o Hedre Dednam)

Dear Siyanda

LU/8791: STELLENBOSCH FARM 74 PORTION 37: APPLICATION FOR CONSENT USE ITO SECTION 15(2)(O) OF THE STELLENBOSCH MUNICIPALITY LAND USE PLANNING BY-LAW, 2015 TO ALLOW FOR TOURIST FACILITIES (RESTAURANTS & CURIO SHOP) – FORMAL RESPONSE TO COMMENT.

The above LUM application refers:

The above application was advertised as follows:

- Interested and affected parties: **16 April 2019 – 30 May 2019**
- External departments: **16 April 2019 – 18 June 2019**

1. Response to Interested and Affected Parties:

- **Mr Francois Malan – comment received 10 May 2019**
 - Mr Malan's support and comments were noted and well received.
- **Stellenbosch Interest Group (SIG) – comment received 30 May 2019**
 - The group's support for the consent uses and proposed refurbishments to existing buildings are noted.
 - The following aspects of the proposal not supported are summarised below:

Points of concern	Response
1. Proposed parking area relocated to 'smaller area' and 'a less sensitive site' be found.	<ul style="list-style-type: none"> • The parking bays are provided in accordance with SANS regulations and a reduction in parking bays with lead to non-compliance with these regulations. • The proposed parking area of ±1500m² utilises an already cleared, paved area, no further vegetation clearing is required. • The proposed parking area is currently used as farm storage, occupied with crates and farm waste.
2. The loss of agricultural land for construction of parking area.	<ul style="list-style-type: none"> • As stated above, the proposed parking area utilises an existing paved area currently utilised for farm storage and waste.

	<ul style="list-style-type: none"> No loss of agricultural land is contemplated.
3. Hard paved surface and cars and buses will be visible from the R304 and across the valley.	<ul style="list-style-type: none"> The proposed parking area will be landscaped with olive trees and appropriate vegetation to screen the parking area from the public road (R304). The majority of the Farm will remain as agricultural, with existing buildings used for agri-tourism. The overall visual experience will remain a well-established agricultural landscape. The parking area is $\pm 500\text{m}$ from the road boundary, at a higher level than the road further mitigating any visual impact the parking area may have on passers-by.
4. Extensive paved area between existing buildings to be used to accommodate parking.	<ul style="list-style-type: none"> The proposed parking area is a by-product of the land use application, of which the SIG expressed their support, and is compliant with relevant engineering requirements. The existing spaces between the buildings are not sufficient to accommodate the required parking ratios. The space between the buildings are to be used by tourists & pedestrians.
5. Application for new design of gateway entrance on R304.	<ul style="list-style-type: none"> The land use application in question proposes a range of consent uses, which allows for additional land use rights for internal refurbishments to existing built structures of which the SIG has expressed their support. The existing gate/ gateway was submitted and approved by Stellenbosch Municipality and implemented as part of a previous separate building plan submission. No building plans are being submitted as part of this land use application.
6. Extensive paving and street lights lining the private road to the werf be submitted for comment and approval by the Municipality.	<ul style="list-style-type: none"> The land use application in question proposes a range of consent uses – internal refurbishments to existing built structures. The extensive paving and street lights are existing features in terms of already approved engineering drawings.
7. Objection to street lights - an urban intrusion.	<ul style="list-style-type: none"> The street lights objected to are already existing features on site, subject to previous engineering approvals. The street lights do not form part of this consent use application, objecting to this would imply an additional application is being made – which is inaccurate.

2. Response to Internal Departmental comments:

The following internal department comments were received during the advertising period;

- Manager: Building Development Management**
 - The department's comments are noted, and conditions accepted. Future building plan submissions will be in accordance with SANS 10 400 – Part S.
- Manager: Health Department (Winelands Health)**
 - The department's recommendation is noted.

- **Director: Engineering Services**

- The department's letter of no support is noted.
- The following is being resolved;
An alternative sewage solution is being sought in lieu of utilising the existing septic tanks on site for collection and treatment of on-site sewerage.

- **Manager: Electrical Department**

- The department's comments are noted.
- The electrical requirements will be sought from Eskom as a parallel process to this land use application and will not affect the processing and decision-making of this application. See correspondence with Stellenbosch Municipality attached **Annexure B**.

- **Manager: Spatial Planning, Heritage and Environment**

- The department's letter of support and comments are noted.

- **Manager: Local Economic Development**

- The department's letter of support and comments are noted.

3. Response to External Departmental comments:

- **Department of Agriculture**

- No formal comments were received from the above external department within the designated advertising time frame (16 April 2019 – 18 June 2019).

- **Department of Transport and Public Roads**

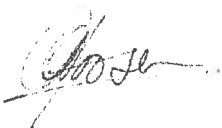
- The department's comments, received 20.06.2019 via email refers;
 - 1.1 – 1.2: noted.
 - 2: The department's withdrawal is noted.
 - 3.1: The existing access remains the only approved access off the Main Road (R304)
 - 3.2 – 3.4: The land owner has appointed an engineer (ITS Engineering Consultants) to deal with the relevant access conditions to the site, as well as the geometric design of the access & road works.
 - 3.5: A servitude right of way will be registered – as per ITS report
 - 3.6: A servitude right of way will be registered – as per ITS report
 - 3.7: noted.
 - 4: noted.

4. Conclusion

We trust that you find the above in order and ask that the Municipality acknowledge receipt of this letter and proceed to issuing a decision with regard to the application at hand.

Please do not hesitate to contact the undersigned should you require additional information.

Yours faithfully



Allen Goosen
mlh architects & planners

APPENDIX F



STELLENBOSCH MUNICIPALITY
STELLENBOSCH · PNIEL · FRANSCHHOEK

MEMORANDUM

DIREKTEUR: INGENIEURSDIENSTE
DIRECTORATE: INFRASTRUCTURE SERVICES

To ▫ Aan: Director: Planning + Economic Development
Att Aandag A Hardouin
From ▫ Van: Colin Taylor (Development)
Date ▫ Datum: 23/10/2019
Our Ref ▫ Ons Verw: Civil Lu 1829
Re ▫ Insake: Farm 74/37 Stellenbosch: Consent use



The application is for the following items:

- i. Consent use for a tourist facility in order to accommodate a restaurant within an existing wine cellar of Farm 74/37; and
- ii. Consent use for a tourist facility in order to accommodate a wine shop, a curio shop and restaurant on Farm 74/37.

Comments from the Transport, Roads and Stormwater, Water Services, Traffic Engineering and Development Departments will be reflected in this memo and is to be regarded as development conditions to be reflected in the land-use approval.

The application is recommended for approval, **subject to the following conditions:**

1. Water

- 1.1 The quality of the 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.

2. Waste Water and Sewage

- 2.1 No new septic tanks and soak-aways are permitted to be built.
- 2.2 Use of existing septic tanks to collect and treat sewage generated by the proposed development is not allowed.
- 2.3 The conservancy tank must be accessible to the removal truck and of a volume to necessitate not more than a fortnightly service.
- 2.4 The surface/layerworks of such an access should be designed to accommodate a 15ton/10000l service truck.
- 2.5 Only Stellenbosch Municipality is allowed to empty conservancy tanks.
- 2.6 A service contract has to be entered into with the municipality to service the conservancy tanks on a regular basis.

FILE NR:	
SCAN NR:	F 74/37 S
COLLABORATOR NR:	666 096

3. Solid Waste

- 3.1 Please note: 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. Roads

- 4.1 The application has to be referred to the District Roads Engineer for comments and conditions.
- 4.2 All the conditions set by the District Roads Engineer will be applicable.
- 4.3 Sufficient parking must be provided and indicated on the SDP at building plan submission stage.

5. Development Charges (DCs)

- 5.1 Based on the information provided in application the Development Charges payable by the developer is R 540 447.95 (Vat incl.) as per attached Development Charges Calculation.
- 5.2 The DC's were calculated for the 2019/2020 financial year. If the account is paid after 30 June 2020 it has to be recalculated using the then applicable tariffs.
- 5.3 DCs are payable prior to the erf or portion thereof being put to the approved use or building plan approval which ever come first.

**COLIN TAYLOR****PRINCIPAL TECHNICIAN: DEVELOPMENT (INFRASTRUCTURE SERVICES)**

V:\2.0 DEVELOPMENT\00 Developments\1829 (CT) Farm 74-37 Stellenbosch (R304)\1829 - Farm 74-37, Stellenbosch (R304).doc

Stellenbosch Municipality - Development Charge Calculation



APPLICATION INFORMATION

Application Number			
Date	Wednesday, 23-Oct-2019		
Financial Year	2019-20		
Erf Location	Stellenbosch Town		
Erf No	Farm 74-37		
Erf Size (m ²)			
Suburb	R304, Stellenbosch		
Applicant	MLH Architects & Planners		
Approved Building Plan No.			

SUMMARY OF DC CALCULATION

Units)	Water	Sewer	Storm-water	Solid-Waste	Roads	Community Facilities	Totals
	kl/day	kl/day	ha°C	t/week	trips/day	person	
Total Increased Services Usage	0,822	1,419	0,000	0,242	64,50	64,5	
Total Development Charges before Deductions				R 12 406,31	R 457 548,42		R 469 954,74
Total Deductions							
Total Payable (excluding VAT)				R 12 406,31	R 457 548,42		R 469 954,74
VAT				R 1 860,95	R 68 632,26		R 70 493,21
Total Payable (including VAT)				R 14 267,26	R 526 180,69		R 540 447,95

APPLICANT INFORMATION

Application Processed by:	Colin Taylor		
Signature			
Date	As Above		
Amount Paid:			
Date Payment Received			
Receipt Number			

Stellenbosch Town

Land Use Category	Unit Type	Existing Usage	Proposed New Usage		Increased Usage	Development Charge Inland (excl VAT)																
			du	m ² GLA		Water	Sewer	Storm-water	Solid-Waste	Roads	Community Facilities	Total										
Residential	Single Residential >1000m ²	du																				
	Single Residential >800m ²	du																				
	Single Residential >250m ²	du																				
	Single Residential <250m ²	du																				
	Less Formal Residential >250m ²	du																				
	Less Formal Residential <250m ²	du																				
	Group Residential >250m ²	du																				
	Group Residential <250m ²	du																				
	Medium Density Residential >250m ²	du																				
	Medium Density Residential <250m ²	du																				
	High Density Residential - flats	du																				
	High Density Residential - student rooms	du																				
Commercial	Local Business - office	m ² GLA																				
	Local Business - retail	m ² GLA																				
	General Business - office	m ² GLA																				
	General Business - retail	m ² GLA																				
	Community	m ² GLA																				
	Education	m ² GLA																				
	Light Industrial	m ² GLA																				
	General Industrial - light	m ² GLA																				
	General Industrial - heavy	m ² GLA																				
	Nexus Industrial - heavy	m ² GLA																				
Other	Resort	m ² GLA																				
	Public Open Space	m ²																				
	Private Open Space	m ²																				
	Natural Environment	m ²																				
	Utility Services	m ² GLA																				
	Public Roads and Parking	m ²																				
	Transport Facility	m ²																				
	Limited Use																					
	Special																					
	To be calculated based on equivalent demands																					
* du = dwelling unit, GLA=Gross lettable area.																						
** du = dwelling unit, GLA=Gross lettable area.																						
*** displays red if not equal to existing area																						
Total Development Charges before Deductions																						
% Deductions per service (amount)																						
Additional Deduction per service - from Service Agreement (sum)																						
Sub Total after Deductions (excluding VAT)																						
VAT																						
Total																						

APPENDIX G



Western Cape
Government

Transport and Public Works

ROAD NETWORK MANAGEMENT

Email: Grace.Swanepoel@westerncape.gov.za

tel: +27 21 483 4669

Rm 335, 9 Dorp Street, Cape Town, 8001

PO Box 2603, Cape Town, 8000

REFERENCE: 16/9/6/1-25/133 (Job 16793)

ENQUIRIES: Ms GD Swanepoel

DATE: 10 September 2019

Stellenbosch Municipality
PO Box 17
STELLENBOSCH
7599

Attention: Mr U van Motendorff
2018

Dear Sir

FILE NR:	
SCAN NR:	F 74 / 37 S
COLLABORATOR NR:	662123

PLANNING AND ENVIRONMENTAL SERVICES
18 SEP 2019
MUNICIPALITY OF STELLENBOSCH
STELLENBOSCH

MUNICIPALITEIT STELLENBOSCH
18 SEP 2019

PORTION 37 OF FARM 74, STELLENBOSCH: MAIN ROAD 174: APPLICATION FOR CONSENT USE

1. The following refer:
 - 1.1. The letter Farm 74/37, Stellenbosch (LU/8791) from mlh architects and planners to this Branch dated 16 April 2019;
 - 1.2. The Land Use Application (2018 669) from mlh architects and planners dated November 2018,
 - 1.3. Our letter 16/9/6/1-25/133 (Job 16793) dated 12 November 2010; and
 - 1.4. Our letter 16/9/6/1-25/133 (Job 16793) dated 3 March 2015.
2. The application entails the Consent Use for tourist facilities to the refurbishing of a portion of the existing wine cellar as a new fine-dining restaurant and the two dwellings within the werf as a wine and curio shop, and a restaurant respectively.
3. Cognisance is taken of the fact that the traffic related issues is not significantly different from that listed in previous applications.
4. Main Road 174 is directly affected by this application.
5. It is unlikely that the dualling of Main Road 174 past the farm will commence before 2021.

6. This Branch offers no objection to the application for Consent Use subject to the following conditions:
- 6.1. The existing access off Main Road 174 at ±km55.03 remains the only access to the farm;
 - 6.2. A dedicated right turn lane must be provided on Main Road 174 in accordance with the applicable standards;
 - 6.3. A materials and geometric design of the proposed road works must be submitted to the Design Directorate of this Branch (Ms M Hofmeyr - 021 483 3999) for final approval;
 - 6.4. A right of way servitude must be registered over Portion 37 of Farm 74 in favour of Portion 4 of Farm 74 as indicated in the Arterial Management Plan for Main Road 174 prepared by ITS Engineers; and
 - 6.5. A right of way servitude must be registered over Portion 37 of Farm 74 in favour of Portion 27 of Farm 74 as indicated in the Arterial Management Plan for Main Road 174 prepared by ITS Engineers.

Yours faithfully



S CARSTENS

For CHIEF DIRECTOR: ROAD NETWORK MANAGEMENT

APPENDIX H

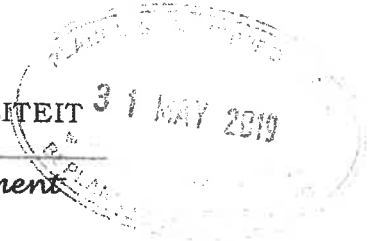
Charlene
18

STELLENBOSCH

STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNICIPALITY • UMASIPALA • MUNISIPALITEIT

Spatial Planning, Heritage and Environment



To : Head: Customer Interface & Administration (A Hardouin)
 From : Manager: Spatial Planning, Heritage & Environment
 Date : 27 May 2019
 Re : Application for consent use on Farm 74/37, Stellenbosch

I refer to your request for comment on the above application.

1) Opinion / reasoning:

In terms of the approved Stellenbosch Municipality MSDF, the subject property is located outside of the approved urban edge. The following principles apply to properties that fall outside the urban edge:

- Land outside of existing and proposed urban settlements should be used for agricultural production, biodiversity conservation, scenic quality and **agri-tourism**;
- Intensification of agriculture, biodiversity conservation and agri-tourism should be promoted in farming areas outside of urban settlements.

The subject property is located outside the urban edge and in principle this department supports agri-tourism uses if it is related to the farm and if the agricultural activities remain the primary use. Tourist related activities can be used as secondary use.

2) Supported / not supported:

This department therefore supports the proposal subject to the following conditions:

- The primary use must still remain agricultural with tourist related activities operating as a secondary use;

B. de la Bat

B de la Bat

MANAGER: SPATIAL PLANNING, HERITAGE AND ENVIRONMENT

FILE NR:	
SCAN NR:	F-74/37S
COLLABORATOR NR:	648248

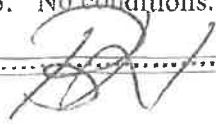
INTERDEPARTMENTAL CIRCULATION FORM

Chalene

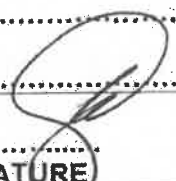
LêER VERW/ FILE REF	Farm 74/37, Stellenbosch	DATUM DATE	11 April 2019
AANSOEKNUMMER/APPLICATION NUMBER	LU/8791		
MEMO AAN/ TO :			
X	Director : Engineering Services		
X	Manager : Electrical Department		
X	Manager : Building Development Management		
	Manager : Fire Services		
	Director : Corporate Services		
X	Manager: Spatial Planning / Heritage / Environment / Signage		
X	Manager: Health Department (Winelands Health)		
	Manager: Greening department		
X	Manager : Local Economic Development		
Application	Application is made in terms of Section 15(2)(o) of the Stellenbosch Municipal Land Use Planning By-Law, August 2015 for: a) Consent use for a tourist facility in order to accommodate a restaurant within an existing wine cellar of Farm 74/37, Stellenbosch Division; and b) Consent use for a tourist facility in order to accommodate a wine shop, a curio shop and a restaurant on Farm 74/37, Stellenbosch Division.		
Adres / Address	R304, Stellenbosch		
Aansoek Datum Application Date	16 November 2019		
Aansoeker Applicant	MLH Architects & Planners		
<p>Aangeheg vind u tersaaklike dokumentasie in verband met bogenoemde aansoek. Ten einde my in staat te stel om die aansoek aan die besluitnemingsowerheid vir oorweging voor te lê, word u versoek om my skriftelik van u kommentaar, indien enige, te voorsien. Onderskei asseblief tussen algemene kommentaar op die meriete van die aansoek en enige voorwaardes wat u departement wil oplê indien die aansoek goedgekeur word.</p> <p>Attached please find the relevant documentation regarding the abovementioned application. Kindly furnish me with your written comment, if any, in order to enable me to submit the application to the decision making authority for consideration. Please differentiate between general comment on the merits of the application and any conditions that your department wishes to impose should the application be approved.</p> <p>Geliewe die memorandum <u>per hand</u> aan my terug te besorg vóór of op: 13 Mei 2019 Please <u>hand deliver</u> the memorandum to me on or before : 13 May 2019</p>			
A. Hardouin		FILE NR: 13 Mei 2019	
For DIRECTOR: PLANNING AND ECONOMIC DEVELOPMENT		SCAN NR:	
		F 74/37S	
		COLLABORATOR NR.	
ALGEMENE KOMMENTAAR / GENERAL COMMENT:			
Supported: Will improve the tourism product offering on the R304 and will provide much needed jobs			
VOORWAARDES/CONDITIONS :			
HANDTEKENING / SIGNATURE		03-06-2019	
		DATUM / DATE	

INTERDEPARTMENTAL CIRCULATION FORM

Elect 1829

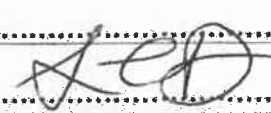
LêER VERW/ FILE REF	Farm 74/37, Stellenbosch	DATUM DATE	11 April 2019
AANSOEKNOMMER/APPLICATION NUMBER	LU/8791		
MEMO AAN/ TO :			
X	Director : Engineering Services		
X	Manager : Electrical Department		
X	Manager : Building Development Management		
	Manager : Fire Services		
	Director : Corporate Services		
X	Manager: Spatial Planning / Heritage / Environment / Signage		
X	Manager: Health Department (Winelands Health)		
	Manager: Greening department		
X	Manager : Local Economic Development		
Application	Application is made in terms of Section 15(2)(o) of the Stellenbosch Municipal Land Use Planning By-Law, August 2015 for: a) Consent use for a tourist facility in order to accommodate a restaurant within an existing wine cellar of Farm 74/37, Stellenbosch Division; and b) Consent use for a tourist facility in order to accommodate a wine shop, a curio shop and a restaurant on Farm 74/37, Stellenbosch Division.		
Adres / Address	R304, Stellenbosch		
Aansoek Datum / Application Date	16 November 2019		
Aansoeker / Applicant	MLH Architects & Planners		
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<p>A. Hardouin For DIRECTOR: PLANNING AND ECONOMIC DEVELOPMENT</p>			
ALGEMENE KOMMENTAAR / GENERAL COMMENT:			
GENERAL COMMENT:			
1. Outside Stellenbosch area of supply.			
2. All Electrical requirements should be directed to Eskom.			
CONDITIONS			
3. No conditions.			
 HANDTEKENING / SIGNATURE		2 31/05/2019 DATUM / DATE	

INTERDEPARTMENTAL CIRCULATION FORM

L&ER VERW/ FILE REF	Farm 74/37, Stellenbosch	DATUM DATE	11 April 2019
AANSOEKNUMMER/APPLICATION NUMBER	LU/8791		
MEMO AAN/ TO :			
X	Director : Engineering Services		
X	Manager : Electrical Department		
X	Manager : Building Development Management		
	Manager : Fire Services		
	Director : Corporate Services		
X	Manager: Spatial Planning / Heritage / Environment / Signage		
X	Manager: Health Department (Winelands Health)		
	Manager: Greening department		
X	Manager : Local Economic Development		
Application	Application is made in terms of Section 15(2)(o) of the Stellenbosch Municipal Land Use Planning By-Law, August 2015 for: a) Consent use for a tourist facility in order to accommodate a restaurant within an existing wine cellar of Farm 74/37, Stellenbosch Division; and b) Consent use for a tourist facility in order to accommodate a wine shop, a curio shop and a restaurant on Farm 74/37, Stellenbosch Division.		
Adres / Address	R304, Stellenbosch		
Aansoek Datum Application Date	16 November 2019		
Aansoeker Applicant	MLH Architects & Planners		
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A. Hardouin For DIRECTOR: PLANNING AND ECONOMIC DEVELOPMENT		SCAN NR: F 74/37 S COORDINATOR NR: <i>The building must comply</i>	
ALGEMENE KOMMENTAAR / GENERAL COMMENT:			
<i>with SANS 10400- Part 5 with regards to disable facilities (toilets, ramps, parking signage)</i>			
VOORWAARDES/CONDITIONS :			
 HANDTEKENING / SIGNATURE		16/11/2019 DATUM / DATE	

Check

INTERDEPARTMENTAL CIRCULATION FORM

LêER VERW/ FILE REF		Farm 74/37, Stellenbosch	DATUM DATE	11 April 2019
AANSOEKNUMMER/APPLICATION NUMBER		LU/8791		
MEMO AAN/ TO :				
X	Director : Engineering Services			
X	Manager : Electrical Department			
X	Manager : Building Development Management			
	Manager : Fire Services			
	Director : Corporate Services			
X	Manager: Spatial Planning / Heritage / Environment / Signage			
X	Manager: Health Department (Winelands Health)			
	Manager: Greening department			
X	Manager : Local Economic Development			
Application		Application is made in terms of Section 15(2)(o) of the Stellenbosch Municipal Land Use Planning By-Law, August 2015 for:		
		a) Consent use for a tourist facility in order to accommodate a restaurant within an existing wine cellar of Farm 74/37, Stellenbosch Division; and		
		b) Consent use for a tourist facility in order to accommodate a wine shop, a curio shop and a restaurant on Farm 74/37, Stellenbosch Division.		
Adres / Address		R304, Stellenbosch		
Aansoek Datum Application Date		16 November 2019		
Aansoeker Applicant		MLH Architects & Planners		
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A. Hardouin		<div style="border: 1px solid black; padding: 5px;"> <p>FILE NO:</p> <p>F 74/37 S</p> <p>COLLATOR NR:</p> </div>		
For DIRECTOR: PLANNING AND ECONOMIC DEVELOPMENT				
ALGEMENE KOMMENTAAR / GENERAL COMMENT:				
<p>This application is recommended from an Environmental Health perspective</p>				
VOORWAARDES/CONDITIONS :				
<p>.....</p> <p>.....</p> <p>.....</p>				
 HANDTEKENING / SIGNATURE		<p>23/04/2019</p> DATUM / DATE		

4



Western Cape
Government

Agriculture

Cor Van Der Walt
LandUse Management
Email: LandUse.Elsenburg@elsenburg.com
tel: +27 21 808 5099 fax: +27 21 808 5092

OUR REFERENCE : 20/9/2/5/6/237
YOUR REFERENCE : Farm 74/37, Stellenbosch
ENQUIRIES : Cor van der Walt

MIH Architects & Planners
PO Box 15002
VLAEBERG
8018

Att: Allen Goosen

FILE:	PT	TTJ	BY	
10 SEP 2019				
		VAG	FV	AI

APPLICATION FOR CONSENT USE: DIVISION STELLENBOSCH
PORTION 37 OF THE FARM NO 74

Your application of 16 April 2019 has reference no.

FILE NR:	
SCAN NR:	F 74/37 S
COLLABORATOR NR:	661243



The Western Cape Department of Agriculture has no objection against the proposed application.

Please note:

- Kindly quote the above-mentioned reference number in any future correspondence in respect of the application.
- The Department reserves the right to revise initial comments and request further information based on the information received.

Yours sincerely

Mr. C. van der Walt

LANDUSE MANAGER: LANDUSE MANAGEMENT
2019-08-08

Copy:

Stellenbosch Municipality
PO Box 17
STELLENBOSCH
7599



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LAND USE PLANNING REPORT TO:

THE AUTHORISED EMPLOYEE			THE MUNICIPAL PLANNING TRIBUNAL		X
APPLICATION FOR THE AMENDMENT OF CONDITIONS OF APPROVAL, AMENDMENT OF THE SITE DEVELOPMENT PLAN AND SUBDIVISIONAL PLAN: FARM 1307/2 AND 1307/3, STELLENBOSCH DIVISION.					
Reference number	LU/8130	Application submission date	11 November 2018	Date report finalized	Dec 2019
WARD COUNCILLOR	Cllr A Crombie			Ward	20
PART A: AUTHOR DETAILS					
First name(s) and Surname	Pedro April				
Job title	Senior Town Planner				
SACPLAN registration number					
Directorate	Planning & Economic Development				
Contact details	021 808 8683				
PART B: APPLICANT DETAILS					
First name(s) and Surname	Emile van der Merwe				
SACPLAN registration number					
Company name	Emile van der Merwe Town Planning Consultants	Is the applicant authorized to submit this application?	Y	N	
Registered owner(s)	Ash Family Trust				
PART C: PROPERTY DETAILS					
Property description (in accordance with Title Deed)	Portion 2 and 3 of Farm No. 1307, In the Division of Stellenbosch (see APPENDIX A)				
Physical address	Vlottenburg (see APPENDIX A)	Town/City	Stellenbosch		



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Current zoning	Subdivisional Area	Extent (m ² /ha)	10,8341ha	Are there existing buildings on the property?	Y	N
Applicable Zoning Scheme	Initially approved in terms of the Zoning Scheme Regulations promulgated in terms of Section 8 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985). Allocated zoning now needs to be converted to the zoning categories in terms of the Stellenbosch Zoning Scheme By-law.					
Current Land Use	Vacant, with proportional vineyards on it.			Title Deed number & date	T6692/1995	
Any restrictive title conditions applicable?	Y	N	If Yes, list condition number(s)	N/A		
Any third party conditions applicable?	Y	N	If Yes, specify	n/a		
Any unauthorised land use/building work?	Y	N	If Yes, explain	n/a		
Heritage compliant?	Y	N	If No, explain	n/a		
NEMA compliant?	Y	N	If No, explain	n/a		

PART D: APPLICATION DESCRIPTION

Application is made in terms of Section 15(2)(h)(k) of the Stellenbosch Municipal Land Use Planning By-Law dated 20 October 2015 for;

1. the amendment of a condition of approval (condition 5 imposed in the letter of approval dated 2015-12-17) in order to replace the approved subdivisional and site development plans to provide the main access for the proposed estate development on Farm No. 1307/2 and 3 Stellenbosch Division over the existing 5m servitude right of way and proposed 6,3m extensions thereto in lieu of the access over the Digteby Estate Development as previously approved by Council and;
2. the amendment of the approved subdivisional plan for minor amendments to the internal layout of the approved erven and the new access;

See **Appendix B**.

Please note that the applicant indicated that the following servitudes will to be dealt with as servitude right of way exemptions in terms of section 24 of the subject by-law (No applications needed);

1. the registration of a 6,30m right of way servitude over Farm No. 390/22, 390/16 and 390/30, Stellenbosch to increase the existing 5m right of way servitude to 11,3m and 10m between the



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- Main Road 168 service road and the a ±149m² area for the position of a new guardhouse;
 2. the registration of a ±1970m² construction access and services servitude over Farm No. 387, Stellenbosch;

PART E: SUMMARY OF APPLICANTS MOTIVATION

The revised access over the existing servitude road (5m wide) is required to provide access to the development since the owner of the property was informed that the Digteby Home Owners Association that they are no longer in favour of providing access to the approved development via the existing Digteby private road network. There are no restrictive conditions in terms of the Title Deed.

The approval of the proposed access road is of pivotal importance since it will enable the registration and transfer of Portion B to the Municipality. The said portion (Portion B) is earmarked and zoned to form part of the municipal subsidised housing project, i.e Longlands, Digteby 1 and Chantecler (Portion B) envisaged and planned for the Vlothenburg settlement. In this regard your attention is drawn to the fact that successful transfer of Portion B to the municipality will resolve the current access constraints and development applicable to the existing Digteby and approved Longlands subsidy housing project.

The owners has successfully concluded a servitude right of way agreement with Vredenheim (Pty) Ltd the owner of Farm 387 Stellenbosch for the construction, building, maintenance, farming activities, refuse removal and more specifically to enable access to the subsidised housing component on Portion. The approval of this application will "unlock" the access constraints pertaining to the Digteby and Longlands subsidised housing projects.

PART F: SUMMARY OF PUBLIC PARTICIPATION

Methods of advertising				Date published	Closing date for objections	
Press	Y	N	N/A	N/A	N/A	
Notices	Y	N	N/A	16 May 2019	16 June 2019	
Ward councillor	Y	N	N/A	16 May 2019	16 June 2019	
On-site display	Y	N	N/A	N/A	N/A	
Community organisation(s)	Y	N	N/A	16 May 2019	16 June 2019	
Oth- er	Y	N	If yes, specify	Stellenbosch Interest Group & Digteby Homeowners Association		
Was public participation undertaken in accordance with sections 44-49 of the Stellenbosch Land Use Planning By-law, October 2015					Y	N



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PART G: SUMMARY OF COMMENTS DURING PUBLIC PARTICIPATION (INTERESTED AND AFFECTED PARTIES)

Four objections were received within the prescribed advertising period from Michelle Groenewald, Rochelle Ueckermann, MacKenzie Johnson Trust and Cluver Markotter Attorneys on behalf of the Digteby Home Owners Association. The objections from the Digteby HOA Attorneys were mainly about the use of the access servitude for the new residential development, but are not totally against the proposed servitude extensions on condition that discussions and consultations are entered into between the developer and the Digteby HOA to determine safety requirements, type of road and the security issues that should be taken into consideration. Further that the use of the servitude road for access to the new development will have a negative impact on the marketability and market value of at least 37% of the houses within the Digteby Estate facing or in close proximity to such servitude road.

One of the objectors Michelle Groenewald requested to be afforded and opportunity to attend and speak at the MPT meeting when the application serves before the Tribunal.

See **Appendix F** for copies of the objections received and **Appendix G** for the comments on the objections from the applicant.

NO.	ISSUES RAISED	APPLICANT'S RESPONSE	DEPARTMENTAL REPOSE
3	That when the 5 meter servitude right of way was granted in favour of Portions 2 and 3 of Farm No. 1307 it was intended that it would be used for farming activities and that the said servitude is an agricultural servitude and the subsequent rezoning of Chantecler does not entitle the owner of Chantecler to use the 5 meter servitude right of way as an access road for residential purposes; and that a new servitude agreement must be entered into between Ash and Digteby HOA.	A legal opinion from Advocate SF Mouton attached to the response of the objections stipulates that Chantecler has a registered right of way 5 meter wide over Erf 42 Vlottenburg an there is no restrictions on the manner that this right of way can be exercised.	It is noted that servitude right of way rights exist over the existing mentioned 5 meter servitude over Erf 42, Vlottenburg. To accommodate the proposed access road width to the Chantecler development will however require an expansion of the subject servitude, which will subsequently require and alignment over 3 other farming entities for which consent was obtained and attached to the application
3	That the consent of the owner of Erf 42 Vlottenburg is required before the existing 5 meter servitude right of way may be used as part of the proposed residential access route to Chantecler.	When the subdivided erven of Chantecler is transferred from the developer to the purchasers thereof, the owners thereof (and at least the members of his household, his guests, his table companions, hirelings and medical attendants along with him) will ex lege also be	
3	That the existing 5 meter servitude road over Erf 42, Vlottenburg is not the only access road available to the disposal of the developer and that the Construction Road can be used to access Chantecler for residential purposes		



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		<p>entitled to a right of way 5 meters wide over Erf 42 Vlottenburg and it is not necessary to amend the current servitude in any way whatsoever.</p> <p>The future owners of the sub-divided erven in Chantecler will not be granted a greater right than the current rights enjoyed by Chantecler prior to the subdivision thereof and there is no room for the argument that they are not exercising their real rights <i>civiliter modo</i>.</p> <p>Based on the aforementioned legal opinion it is our submission that the objections raised have no legal standings and must be rejected.</p>	documentation.
3	<p>That the use of the existing 5 meter servitude right of way over Erf 42 Vlottenburg as a residential access road to Chantecler, will change the nature of the servitude in that it will place bigger burden on the servient tenement in that more vehicles will use the servitude road.</p>	<p>The construction road was negotiated for this specific reason and the agreement concluded with Vredenheim in respect of the servitude over Farm No. 387 was limited to the use thereof as agreed upon between the parties. Further to this Chantecler is entitled to a servitude over Erf 42 Vlottenburg and Ash (or Croydon as future developer of</p>	<p>See PART I: MUNICIPAL PLANNING EVALUATION for the departmental response.</p>



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		Chantecler) is entitled to exercise its right of choice where to construct the residential access road to Chantecler.	
3	That the proposed residential access to Chantecler via the existing 5 meter servitude road right of way over Erf 42 Vlottenburg will have a negative impact on the marketability and market value of the properties situated along the south western boundary of the Digteby Estate.	This objection is speculative and subjective. We are of the opinion that extra security and controlled access on the western boundary of Digteby Estate as well as the upgrading of the current gravel road on the 5 meter servitude right of way to a properly constructed road will contribute to the value and marketability of the properties along the western boundary of the Digteby Estate.	See PART I: MUNICIPAL PLANNING EVALUATION for the departmental response.
2	That the building and widening of the existing 5 meter servitude right of way by the developer of Chantecler "will only benefit the upper-class, white elitists that can afford a property in such an estate" and that the developer should rather use that funds to uplift the community of Vlottenburg.	Portion B of the Chantecler development, measuring approximately 1ha worth in excess of R3,500,000 will be donated to the Stellenbosch Municipality for the development of 40 social housing units. Portion B will also serve as the link for access to the Vlottenburg Road for Klein Digteby, as well as the ±144 social	See PART I: MUNICIPAL PLANNING EVALUATION for the departmental response



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		<p>housing units to be developed at the bottom of Longlands. It is also very ironic that while Ash and Croydon are being accused of creating a "white, elitist upper-class development", the same individuals being members of the Digteby HOA has failed to provide formal access to Klein Digteby and therefor denying the beneficiaries of the houses in Klein Digteby registered ownership.</p>	
1	<p>There will be a huge security risk during the construction of the residential access road to Chantecler.</p>	<p>We can only presume that reference to a security risk was made in the context where Croyton has previously offered to move and replace the western boundary fence of Digteby to the correct position at the costs of Croyton, which offer has been rejected by the Digteby HOA. The proposed residential access road will be built on the outside of the western boundary fence of the Digteby Estate and will there be no security risk for the residents of Digteby. As mentioned before, Digteby HOA has already been requested to move the western</p>	<p>It will be the responsibility of the developer to put all necessary safety measures in place during the construction period of the road.</p>



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		boundary fence of the Digteby Estate to the correct position and construction of the residential access road will only commence once the fence has been moved by Digteby HOA.	
1	That the use of the existing 5 meter servitude right of way will change the "country feeling" of the Digteby Estate	Chantecler has been earmarked for residential development and falls within the Stellenbosch Spatial Development Framework. Chantecler is entitled to an access route. The statement made in this regard is very subjective considering the fact that the objector lives on the eastern boundary of the Digteby Estate, meaning that the proposed residential access road will not affect the objector in any way.	It should be kept in mind that the subject dusty gravel road is already providing access to a few farms and therefore already regularly carry traffic not only from the Chantecler property.

PART H: SUMMARY OF COMMENTS FROM INTERNAL AND/OR ORGANS OF STATE AND/OR COMMUNITY ORGANISATIONS AND/OR WARD COUNCILLOR

NAME OF DEPARTMENT	DATE	SUMMARY OF COMMENTS	RECOMMENDATION		
			<u>Positive</u>	Negative	No Comment
Manager New Housing	13/11/2019	Support the application.	<u>Positive</u>	Negative	No Comment
Engineering Services	06/06/2019	Recommended for approval, subject to certain conditions. See Appendix H.	<u>Positive</u>	Negative	No Comment



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Department of Transport and Public Works	12/03/2019	Recommended for approval, subject to certain conditions. See Appendix I.	<u>Positive</u>	Negative	No Comment
Municipal Property Management Department	15/08/2019	Recommended for approval, condition that the servitude access road over Farm No. 387, Stellenbosch only be used for construction/service road point of view. The developer agrees to a development contribution with our applicable municipal department for the construction of the applicable servitude access road. That Portion B is transferred to the Stellenbosch Municipality free of charge. See Appendix H.	<u>Positive</u>	Negative	No Comment
Spatial Planning, Heritage & environment	28/06/2019	In terms of the approved Stellenbosch Municipality's MSDF, the subject property is located inside the approved urban edge of the Vlothenburg node and within the residential area known as Digteby Estate. Densification and infill development are encouraged in terms of the approved Stellenbosch Municipal SDF. This department therefore supports the proposal. See Appendix H.	<u>Positive</u>	Negative	No Comment



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PART I: MUNICIPAL PLANNING EVALUATION (REFER TO RELEVANT CONSIDERATIONS GUIDELINE)

Back ground (Application history)

In the comments on the objections, the applicant's attorney provides self-explanatory history and background information on the application property and previous applications and approvals. See **Appendix G**.

(In) consistency with the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) and Chapter VI of the Land Use Planning Act, 2014 (Act 3 of 2014)

(In)consistency with the IDP/Various levels of SDF's/Applicable policies

(In)consistency with guidelines prepared by the Provincial Minister

Please note that this application only entails minor internal subdivisional amendments and the relocation of the approved access road. The merits of the proposed development have therefore already been assessed and the application was approved by all applicable departments.

Outcomes of investigations/applications i.f.o other laws

The registration and establishment of private right of way servitudes are exempted from the Land Use Planning By-law and will subsequently be dealt with through separate legal processes and other laws.

Existing and proposed zoning comparisons and considerations

As previously mentioned, this application only entails minor internal subdivisional amendments and the creation of a new access road by relocating the approved access road.

The need and desirability of the proposal

The need for the proposed amendment of approval conditions, SDP's and subdivisional plans and subsequently alternative access to the Chantecler development on Farms No. 1307/2 & 3, Stellenbosch has been necessitated due to the refusal of the Digteby HOA to grant access to the development over an existing access in the development as approved by the municipality. Chantecler has always been seen as the phase two residential development to the Digteby Estate and access over it to the closes proclaimed public road (Vlottenburg Road) was seeing as the best alternative, which was endorsed by the competent roads authority.

The use of an existing servitude road over Erf 42, Vlottenburg (within the Digteby Estate), with expansions over Farms No. 390/14, 390/16 and 390/22, Stellenbosch has now been investigated and motivated as the best alternative in the interest of the proposed residential development.



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The 5 meter right of way servitude over Erf 42, Vlottenburg in favor of Farm 1307/2 & 3, Stellenbosch.

The documentation and legal opinions attached to the application clearly stipulates that the abovementioned servitude do exist and have no use right restrictions on it. However, in order to address the concerns of the competent roads authorities that the 5m wide servitude right of way cannot accommodate the proposed two-way traffic over its length of $\pm 500\text{m}$, the applicant and owner intends to acquire an additional 6,3m width from three property owners adjacent to the existing servitude. They all consent to the proposed expansion of the servitude over their properties on condition that a notarial deed of servitude is signed between all the parties concerned.

Notwithstanding the objection from Cluver Markotter Inc on behalf of the Digteby HOA, they stipulation the following in the their letter of objections;

"Should Council, however, approve the application, we stress the importance that the lengthy caucus discussions and consultations by the developer and the Digteby HOA regarding the specific essential requirements of the Digteby HOA for the construction of the servitude road, relating to inter alia the speed bumps, the type of road and the security issues that should be taken into account. We accept that these requirements shall be adhered to and that the approval of the application shall be made subject to requirements as set put in the latest draft servitude agreement."

The Digteby Homeowners Association is therefore still open for the establishment of the proposed access road, subject to certain conditions which don't seems unreasonable.

The reason why the above-mentioned discussion becomes imperative over the consent of the Digteby HOA for the servitude expansion is that the applicant specifically excludes the expansion of the new road over a small portion of Erf 42, Vlottenburg which the Digteby HOA needs to consent to. Meaning that it would not be possible to continue with the expansion of the Road if the subject HOA doesn't consent to it over a small portion of its common property. It will mean the proposed $\pm 11,3\text{m}$ road will need to convert to a single lane for $\pm 30\text{-}40\text{m}$ of its length where it goes over Erf 42, Vlottenburg within the Digteby Estate.

This application is however only for the amendment of conditions of approval, the site development and subdivisional plan, to relocate the approved access point for the development, to where it can access the existing and proposed expanded servitude. The applicant therefore indicated that the following servitudes will be dealt with as servitude right of way exemptions in terms of section 24(1)(f)(iv) of the subject by-law with the consent of the owners over which property the new road will be aligned;

1. the registration of a 6,30m right of way servitude over Farm No. 390/22 ($\pm 1052\text{m}^2$), 390/16 ($\pm 422\text{m}^2$ and 308m^2) and 390/30 ($\pm 149\text{m}^2$), Stellenbosch to increase the existing 5m right of way servitude to 11,3m and 10m and to provide for an area for creation of a new guardhouse;
2. the registration of a $\pm 1970\text{m}^2$ construction access and services servitude over Farm No. 387, Stellenbosch;

Sufficient spaces exist to accommodate and expand the proposed servitude access road, although it



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may include the removal of trees and the relocation of irrigation systems, fences and other services. See attached photos as **Appendix J**. No visible structures which may prohibit the alignment of the new road could be found during a site inspection.

Impact of the road on the properties within the Digteby Estate.

It should be reiterated that the servitude to be expanded is an existing servitude right of way, granting access to other agricultural properties, its visitors and workers also. It's currently a gravel road which the developer intends to upgrade to a tar road with controlled access. Most of the dwellings close to the proposed access road are orientated with its backyards to the existing servitude road and the traffic flow on this road will hardly impact on them visually. With speed control measures on such a road, road safety may also be improved. Its therefore not envisage that the new access road, upgraded with new road safety measures in place would adversely affect the residential dwellings along the western side of the Digteby Estate. The servitude road was also, always intended to be used by the estate, although it was initially intended to be used for agricultural activities only as per the application.

Although it's not the intent to approve the new servitude roads with this application, both the new servitude access road and the services servitude road could be supported from a land use management perspective.

Amendment of the subdivisional plan.

These amendments entail minor internal realignments of erven. The road layout predominantly remains the same and the amount of residential opportunities is not increased. The proposed amendments would therefore not create development rights which have not been assessed by all interested and affected parties before. All services as initially approved, predominantly remains the same, hence the positive recommendation from the engineering department.

The developers just need to ensure that a servitude access arrangement for access to the services road to the Vloottenburg Road is in place, once Portion B has been transferred to the local authority.

PART J: ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

This section is not applicable to the application. There are no restrictive title deed conditions applicable to this property that may prohibit the applications at hand and the use of the servitude roads.

PART K: SUMMARY OF EVALUATION

The proposal remains within the Urban Edge, is in keeping with the relevant prescriptions, policies and guidelines of the municipality and provincial department. All services could be provided and upgraded to the satisfaction of the relevant departments if needed. The amendment of the relevant conditions of approval and the Site Development Plan only entails the relocation of the access point to the development and the amendment of the subdivisional plan only entails minor amendments with no impact on the surrounding interested and affected parties.



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The application is therefore deemed desirable, and the impact on surrounding interested and affected parties could be mitigated by imposing and complying with conditions of approval.

PART L: RECOMMENDATION

1. **Approval be granted** in terms of Section 60 of the Stellenbosch Municipal Land Use Planning By-Law, promulgated by PN 354/2015, dated 20 October 2015, for the following land use applications relating to Portion 2 & 3 of Farm 1307, Stellenbosch:
 - 1.1 the amendment of a condition of approval (condition 5 imposed in the letter of approval dated 2015-12-17) in order to replace the approved subdivisional and site development plans to provide the main access for the proposed residential estate development on Farm No. 1307/2 and 3, Stellenbosch Division over the existing 5m servitude right of way and proposed 6,3m extensions thereto in lieu of the access over the Digteby Estate Development as previously approved by Council and;
 - 1.2 the amendment of the approved consolidation and subdivisional plan for minor amendments to the internal layout of the approved erven and the new access (See **Appendix B**);
2. That the approvals granted is subject to the following conditions in terms of Section 66 of the above-mentioned By-Law;
 - 2.1 The approval applies only to the applications for the amendment of the subject condition of approval, the site development plans and subdivisional Plan in question, and shall not be construed as authority to depart from any other legal prescriptions or requirements from Council;
 - 2.2 That a new Site Development & Landscaping Plan based on the approvals granted in this application be submitted to the authorized employee for endorsement.
 - 2.3 That all previous conditions of approval remain applicable unless it has been replaced by this approval.
 - 2.4 All conditions imposed by the Municipal Engineering Department be complied with, as per **Appendix H**;
 - 2.5 All conditions imposed by the Provincial Roads Department be complied with, as per **Appendix I**;
 - 2.6 That new erf diagrams and general plans of the newly created land units be submitted to this municipality for clearance and record purposes;
 - 2.7 Building plans be submitted to this municipality for approval;



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- 2.8 The servitude access road over Farm No. 387, Stellenbosch only be used for construction/service road purposes and the developer agrees to a development contribution with our applicable municipal departments for the construction of the applicable servitude access road.
- 2.9 That Portion B is transferred to the Stellenbosch Municipality free of charge.
- 2.10 It will be the responsibility of the developer to put all necessary safety measures in place during the construction period of the access road to the development.

PART M: REASONS FOR RECOMMENDATION

- The proposal remains within the Urban Edge.
- Is in keeping with the relevant prescriptions, policies and guidelines of the municipality and provincial department.
- All services could be provided and upgraded to the satisfaction of the relevant departments if needed.
- The amendment of the relevant conditions of approval and the Site Development Plan only entails the relocation of the access point to the development.
- The amendment of the subdivisional plan only entails minor amendments with no impact on the surrounding interested and affected parties.

PART N: APPENDICES

- APPENDIX A: Locality map
- APPENDIX B: Amended Site Development and Subdivisional Plans
- APPENDIX C: Copy of Title Deed
- APPENDIX D: Applicant's motivation
- APPENDIX E: Affidavit & POE
- APPENDIX F: Objections received
- APPENDIX G: Applicant's response on objections
- APPENDIX H: Comments from the internal departments
- APPENDIX I: Comments from relevant external departments
- APPENDIX J: Site inspection photos



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PART T P: SIGNATURES

REPORT COMPILED BY:

P. APRIL
SENIOR TOWN PLANNER

13/01/2020

DATE

ASSESSED AND RECOMMENDED BY:

C ALEXANDER
ACTING SENIOR MANAGER: DEVELOPMENT MANAGEMENT

14/01/2020

DATE

Per PUN A/1749/2013

PART U: MUNICIPAL PLANNING TRIBUNAL'S DECISION IN TERMS OF SECTION 60 OF THE STELLENBOSCH MUNICIPALITY LAND USE PLANNING BY-LAW, OCTOBER 2015:

APPROVE		APPROVE IN PART		REFUSE	
---------	--	-----------------	--	--------	--

Tick the appropriate box:

SIGNATURE: _____

CHAIRPERSON OF THE MUNICIPAL PLANNING TRIBUNAL

DATE: _____

ADDITIONAL COMMENTS IF ANY:

APPENDIX A

Locality map

Farm No. 1307/2 7 3, Stellenbosch Division

SCALE
1:9 027,98

Legend

- High Way
- Provincial
- Arterial
- Main
- Street
- Street
- Railway
- Sectional Schemes
- Erven
- Municipal Boundary
- District Boundary
- Ocean

285



Stellenbosch Municipality
Planning & Economic Development
Created by: Corporate GIS
Date: 2020-01-15



Author: Stellenbosch Municipality

Stellenbosch Municipality
Street Address:
71 Plein Street, Stellenbosch, 7600
Tel: 021 808 8658

This map is the property of the Stellenbosch Municipality and is not to be used for any other purpose without the written permission of the Municipality. It is not to be used for any other purpose without the written permission of the Municipality.



1307/2&3, Stellenbosch (Servitude Road)

SCALE
1:2 256,99

- Legend**
- Street
 - Railway
 - Sectional Schemes
 - Erven
 - District Boundary
 - Ocean

286



Stellenbosch Municipality
Planning & Economic Development
Created by: Corporate GIS
Date: 2020-01-10



Author: Stellenbosch Municipality

Stellenbosch Municipality
Street Address:
71 Plein Street, Stellenbosch, 7600
Tel: 021 808 8658

This map is a representation of the information available to the City of Stellenbosch at the time of publication. It is not a guarantee of accuracy. The City of Stellenbosch is not liable for any errors or omissions. The City of Stellenbosch is not responsible for any damage or loss of data that may result from the use of this map. The City of Stellenbosch is not responsible for any damage or loss of data that may result from the use of this map.



APPENDIX B

Amended Site Development and Subdivisional Plans

REVISED CONSOLIDATION AND SUBDIVISIONAL PLAN DIGTEBY PHASE 2 PORTION 2 & 3 OF FARM 1307 STELLENBOSCH

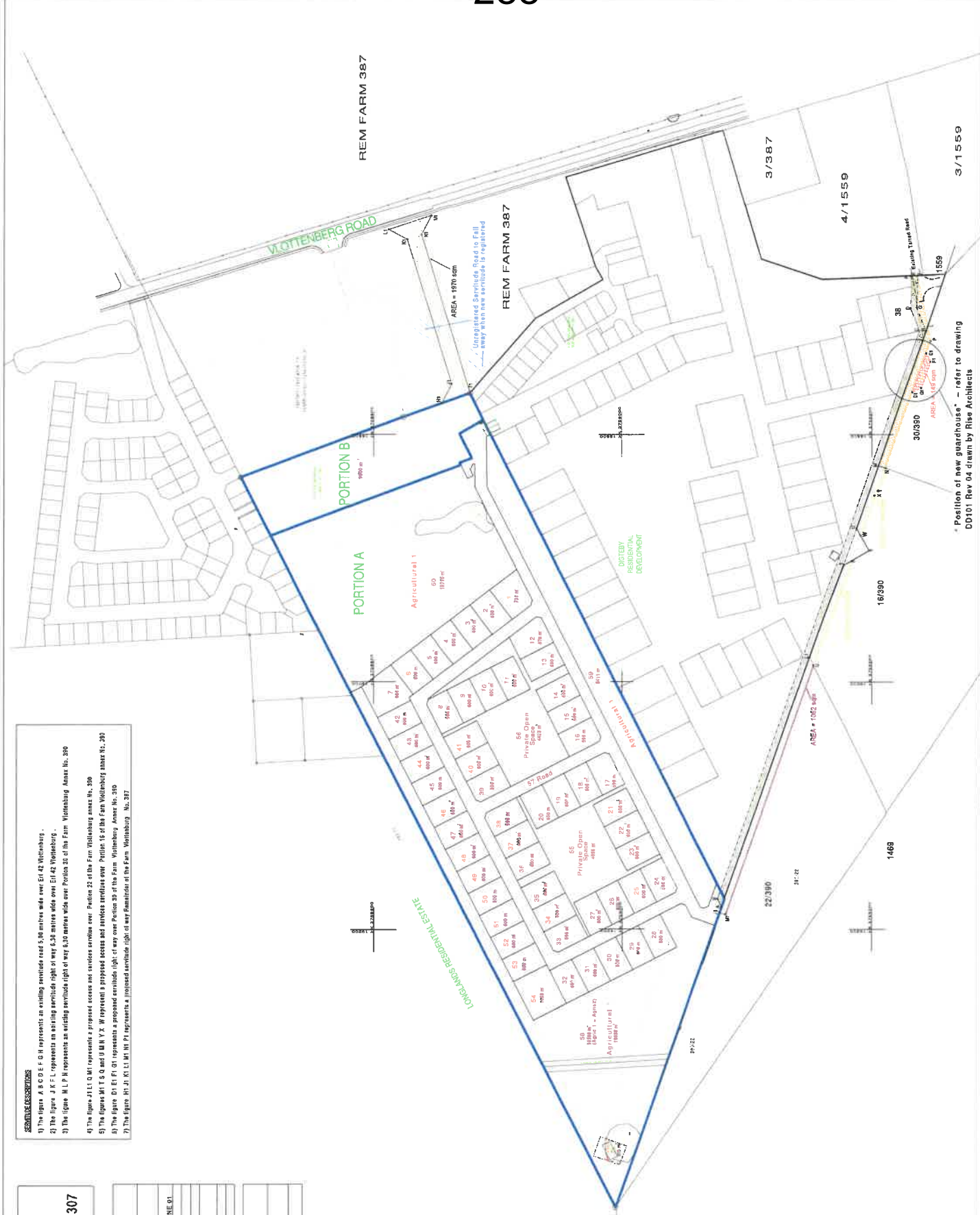
PORTION A		
UNITS	AREA	LAND USE ZONING
164	33318	RESIDENTIAL RESIDENTIAL ZONE 01
58	4038	OPEN SPACE OPEN SPACE 1
57	10381	ROAD OPEN SPACE 2
58	359	WINE CELLAR AGRIC ZONE 2
58-60	28124	AGRICULTURE AGRIC ZONE 1
TOTAL		89584

PORTION B		
UNITS	AREA	LAND USE ZONING
800		GROUP HOUSING RESIDENTIAL 2

Scale 1 : 1000 on A0

SCHEDULE DESCRIPTIONS

- 1) The figure A B C D E F G H represents an existing servitude read 5,30 metres wide over Erf 42 Wittenburg.
- 2) The figure J K L represents an existing servitude right of way 6,30 metres wide over Erf 42 Wittenburg.
- 3) The figure M L P N represents an existing servitude right of way 6,30 metres wide over Portion 30 of the Farm Wittenburg Annex No. 390.
- 4) The figure J1 L1 Q M1 represents a proposed access and servitude servitude over Portion 22 of the Farm Wittenburg Annex No. 390.
- 5) The figure M1 T S Q and J1 M1 V X W represent a proposed access and servitude servitude over Portion 16 of the Farm Wittenburg Annex No. 390.
- 6) The figure D1 E1 F1 G1 represents a proposed servitude right of way over Portion 30 of the Farm Wittenburg Annex No. 390.
- 7) The figure H1 J1 K1 L1 M1 N1 P1 represents a proposed servitude right of way servitude of the Farm Wittenburg No. 377.



PROJECT: CHANTECLER
CLIENT: ASH FAMILY TRUST
DATE: NOVEMBER 2018
REVISION: REVISED SUBDIVISIONAL PLAN No.5
DRAWN BY: STEPHEN OLD LAND SURVEYORS
SCALE: Panel Size 237
 Drawing Size A105
 M1 C16 786 X
 Tel: +27 (0) 21 551 7485
 Fax: +27 (0) 21 559 2485
 stephen@stephenold.co.za
 www.stephenold.co.za
 No. 1: 00018 (M1) 786 X 1050 (A1) 1050 X 786 (A0) 1050 X 1050 (A0)

* Position of new guardhouse* - refer to drawing DD101 Rev 04 drawn by Rise Architects

APPENDIX C
Copy of Title Deed

FOR FURTHER ENDORSEMENTS SEE 290
VIR. VERDERE ENDOSSEMENTE SIEH.....

Prepared by me
[Signature]
CONVEYANCER
J A L DE WAAL

SEELREG
DUTY R. _____
FOOI
FEE R. 100,00

"A"

Stamp: 2000-01-01
2000-01-01

[Handwritten initials]

Act Fam. B512249.
File

T 6692 95

DEED OF TRANSFER

CLUVER MARKOTTER
ATTORNEYS
STELLENBOSCH

BE IT HEREBY MADE KNOWN

THAT ~~JACOBUS ADRIAAN LOUW DE WAAL~~

Conveyancer, appeared before me, Registrar of Deeds, at Cape Town he being duly authorised thereto by a Power of Attorney signed at STELLENBOSCH on the 21st day of December 1994 and granted to him by

THE TRUSTEES FROM TIME TO TIME OF THE
DE RUYTER FAMILY TRUST
NO T 2484/1990

AND the Appearer declared that his Principal on the 21st of December 1994 sold the undermentioned property to the undermentioned Transferee and that he, the Appearer, in his capacity aforesaid, did by these presents, cede and transfer in full and free property to and on behalf of

**THE TRUSTEES FROM TIME TO TIME OF THE
ASH FAMILY TRUST
NO T 4082/1994**

It's Administrators or Assigns

1. **PORTION 2 OF THE FARM NO 1307 in the Division of Stellenbosch**

MEASURING 5,0042 (Five comma zero zero four two) hectares

FIRST transferred and still held by Deed of Transfer No T68807/92 with diagram S.G. No 1186/92 annexed thereto.

A. **SUBJECT to the conditions referred to in Certificate of Consolidated Title No. T25437/1986**

B. **WITH REGARD TO a one-half (1/2) share in the property which was held by Deed of Transfer No T8587/1906:**

SUBJECT FURTHER to the condition therein contained reading:-

"that should the owner of the property or his successors in title be at any time called upon to give transfer of such plots forming part of the property as have been sold by the said John Wilhelm Herold Roux and Cornelius Pieter Roux but not yet transferred to the purchaser, he or his successors in title shall be obliged to give transfer thereof to such purchasers; these lots which have been sold and deducted but which have not yet been transferred and therefore included in Paragraph (3) are the following:-

1. Lots 644, 646 and 653 in extent 4461 square metres.
2. Lots 654 and 655 in extent 991 square metres.
3. Lots 679, 680, 681 to 688 in extent 4957 square metres.
4. Lot 1294 in extent 741 square metres.
5. Lot 1295 in extent 463 square metres.
6. Lots 1303 to 1306 in extent 2586 square metres."

C. **NOT ENTITLED** to the benefits of the Conditions referred to in the following endorsement dated 30th August 1912 on Deeds of Transfer Nos. T11459/1897 and T 8587/1906, by reason of situation, namely:-

"By Deeds of Transfer Nos 6825, 6826 August 1912 certain right of way and right to lay pipes across this property to the Lion distillery have been conceded in favour of the land held by transfers Nos 11053 November 1905, 5169 & 5170 July 1910 and an agreement with regard to certain water rights has been entered into subject to conditions as will more fully appear on reference to the said Deeds of Transfer."

which endorsement must be read with the endorsement quoted in Paragraph 9F on page 13 of Deed of Transfer No T36614/1973.

D. **ENTITLED** to the benefits of the Servitude referred to in the endorsement dated 29th September 1944 on Deed of Transfer No T 15356/1942 reading as follows:-

" WAT BETREF die een-halwe aandeel in die eiendom wat gehou is kragtens die gemelde Transportakte Nr 8587/1906:

ONDERHEWIG VERDER aan die volgende voorwaarde daarin genoem wat lees:-



"that should the owner of the property or his successors in title be at any time called upon to give transfer of such plots forming part of the property as have been sold by the said John Wilhelm Herold Roux and Cornelius Pieter Roux but not yet transferred to the purchaser, he or his successors in title shall be obliged to give transfer thereof to such purchasers; these lots which have been sold and deducted but which have not yet been transferred and therefore included in Paragraph (3) are the following:-

1. Lots 644,646 and 653 in extent 4461 square metres.
2. Lots 654 and 655 in extent 991 square metres.
3. Lots 679, 680, 681 to 688 in extent 4957 square metres.
4. Lot 1294 in extent 741 square metres.
5. Lot 1295 in extent 463 square metres.
6. Lots 1303 to 1306 in extent 2586 square metres."

E. ENTITLED to the benefits of the Servitude referred to in the Endorsement dated 18th September 1972 reading as follows:-

"By Deeds of Transfer Nos 6825, 6826 August 1912 certain right of way and right to lay pipes across this property to the Lion distillery have been conceded in favour of the land held by transfers Nos 11053 November 1905, 5167 July 1910 and an agreement with regard to certain water rights has been entered into subject to conditions as will more fully appear on reference to the said Deeds of Transfer."

which endorsement must be read with the endorsement quoted in Paragraph 9F on page 13 of Deed of Transfer No T36614/1978.

F. ENTITLED FURTHER to the benefits of the following Servitude:

a right of way 5 (five) metres wide of which the South Western and Southern boundaries are depicted by the lines DE and EFG respectively on diagram S.G. No 649/92 in respect of Portion 3 of the Farm 1307 in the Division of Stellenbosch over the property described as

THE REMAINDER OF THE FARM 1307 in the Division
of Stellenbosch
MEASURING 11,5164 (Eleven comma five One Six
Four) hectares
HELD by the Transferor under Certificate of Consolidated
Title No T. 68806/92.

to enable the Transferee and it's successors in title to gain access to the
nearest public road, the said right of way to be constructed at cost of
the Transferor and to be maintained at the cost of the Transferee and
it's successors in title.

2. PORTION 3 OF THE FARM NO 1307 in the Division of Stellenbosch

MEASURING 5,8299 (Five comma eight two nine nine) hectares

**FIRST TRANSFERRED and still held by Deed of Transfer No T68807/92
with diagram S.G. No 6491/92 annexed.**

**A. SUBJECT to the conditions referred to in Certificate of Consolidated Title No.
T25437/1986.**

**B. WITH REGARD TO a one-half ($\frac{1}{2}$) share in the property which was held by
Deed of Transfer No T8587/1906:**

SUBJECT FURTHER to the condition therein contained reading:-

As more fully set out in 1.B. above.

A

- C. NOT ENTITLED to the benefits of the Conditions referred to in the following endorsement dated 30th August 1912 on Deeds of Transfer Nos. T11459/1897 and T 8587/1906, by reason of situation, namely:-

As more fully set out in 1.C. above.

- D. ENTITLED to the benefits of the Servitude referred to in the endorsement dated 29th September 1944 on Deed of Transfer No T15356/1942 reading as follows:-

" WAT BETREF die een-halwe aandeel in die eiendom wat gehou is kragtens die gemelde Transportakte Nr 8587/1906: "

As more fully set out in 1.D. above.

- E. SUBJECT FURTHER to the Servitude referred to in the following endorsement dated 2nd December 1965 on Deed of Transfer No T14356/1942, namely:-

" Restant para 3

By Notarial Deed No 854/1965 dd 29/10/65 the right has been granted to Escom to convey electricity over the property hereby conveyed together with ancillary rights, and subject to conditions as will more fully appear on reference to Notarial Deed and diagram, grosse whereof is hereto annexed."

(of which servitude the line ab on diagram S.G. No 6491/92 hereunto annexed represents the centre line.)

- F. ENTITLED to the benefits of the Servitude referred to in the Endorsement dated 18th September 1972 reading as follows:-

As more fully set out in 1.E. above.

G. ENTITLED FURTHER to the benefits of a Servitude which is more fully set out in para 1.F. above

WHEREFORE the Appearer, renouncing all the right and title of the TRANSFEROR

heretofore had to the premises, did in consequence also acknowledge the TRANSFEROR to be entirely dispossessed of, and disentitled to, the same; and that, by virtue of these presents, the said TRANSFEREE

It's Administrators or Assigns

now is and henceforth shall be entitled thereto, conformably to local custom; the State, however, reserving its rights; and finally declared that Transfer Duty was paid on the sum of R694 200,00 (SIX HUNDRED AND NINETY FOUR THOUSAND TWO HUNDRED RAND) being the valuation of the property, which is fair and reasonable.

IN WITNESS whereof I, the said Registrar of Deeds, together with the Appearer, q.q., have subscribed to these Presents, and have caused the Seal of Office to be affixed thereto.

THUS DONE and executed at the Office of the Registrar of Deeds,

in Cape Town, Cape Province, on the 1 day of FEBRUARY

in the year of our Lord, One Thousand Nine Hundred and Ninety Five (1995).

q.q.

In my presence

Registrar of Deeds.

APPENDIX D
Applicant's motivation

1. BACKGROUND

The Stellenbosch Municipality on 2015/01/28 granted approval for the rezoning and subdivision of Portions 2 and 3 of Farm 1307 as per the letter of approval attached hereto as **Appendix 1**.

The Stellenbosch Municipality on 2015/12/17 granted approval for the amendment of the approved subdivision plan of Portions 2 and 3 of Farm 1307 as per the letter of approval attached hereto as **Appendix 2**.

The approval inter-alia permits the following:

- 54 single residential erven on Portion A
- Portion B to be transferred to the Stellenbosch as part of the Vlottenburg municipal housing project
- Private Road and Private Open Spaces

In terms of the approval dated 2015/12/17, Condition 5 read as follows:

Condition 5

"That all previous conditions of approval (See Appendix 5) remain the same, unless it is replaced by this approval. No access to the subject development may therefore be obtained from the 5m servitude road west of the property without the written consent of the affected property owners and the controlling roads authority. The main access to this development will therefore be off the access over the Digteby Development as previously approved by Council."

Condition 5 as mentioned was imposed as a result of the letter of approval issued by the Department of Transport and Public Works: Provincial Government Western Cape dated 15 February 2012, attached hereto as **Appendix 3** (refer to condition 4.1)

2. CURRENT STATUS

Since the approvals granted above, the owner (Ash Family Trust) of the subject property and the Stellenbosch Municipality were informed by the Digteby Home Owners Association that they are no longer in favour of the access to the development over the existing Digteby development as previously approved by Council.

The only alternative, emanating from the decision of the Digteby HOA is to provide access to the Estate development via the registered 5m servitude to the west of the property. The new access road via the servitude road and proposed extension (widening) thereof now necessitates an amendment of condition 5 as previously stated.

In order to comply with the requirements of the Controlling Roads Authority a servitude right of way agreement was reached with the owners of the Portions 30 of Farm 390, Portion 16 of Farm 390 and Portion 22 of Farm 390 (the servient properties) to increase the width of the servitude road. The letters of consent are attached as **Appendix 4**.

As a result of the above, the new subdivisional plan was submitted to the Western Cape Government: Department of Transport and Public Works): Road Network Section that subsequently granted their approval in accordance with their letter attached as **Appendix 5**. The revised/amended subdivisional plan that shows the new access and minor amendments to the internal layout of the approved erven is attached as **Appendix 6**.

The consent granted by the affected property owners (servient properties) and the approval of the Controlling Authority complies with the requirements as stated in Condition 5.

3. APPLICATION

As a result of the above, application is now made for:

1. Application in terms of Section 15 (2) (h) of the Stellenbosch Municipal Land Use Planning By-Law (2015) for the amendment of a condition of approval (condition 5 imposed in the letter of approval dated 2015-12-17) in order to provide the main access for the estate development via the existing servitude right of way and proposed extensions thereto in lieu of the access over the Digteby development as previously approved by Council; and
2. Application in terms of Section 15 (2) (k) of the Stellenbosch Municipal Land Use Planning By-Law (2015) for the amendment of the approved subdivisional plan and site development plan to allow for the new main access to the Estate and minor amendments to the internal layout of the approved erven.

The approval of the application is of pivotal importance since it will enable the registration and transfer of Portion B to the Municipality. The said portion (Portion B) is earmarked and zoned to form part of the municipal subsidised housing projects in the Vlottenburg node (i.e. Longlands, Klein Digteby and Portion B). These said land parcels and development are landlocked and the successful transfer of Portion B to the Municipality will resolve these current access constraints to enable the transfer of erven in the existing Klein Digteby development to the owners and to provide access to the long awaited Longlands subsidy housing project. This is of critical importance to Municipality as to resolve the desired need for housing of the Vlottenburg community.

Croydon Property Holdings (Pty) Ltd the successors in title of the application property (Portion 2 and 3 of Farm 1307) successfully has concluded a servitude right of way agreement with Vredenheim (Pty) Ltd the owner of Farm 387 Stellenbosch for the construction, building, maintenance, farming activities, refuse removal and more

Portion 2 and 3 of Farm 1307 Stellenbosch

specifically to enable access the subsidised housing component on Portion B. The road will also serve as construction entrance/exit to the Estate development on Portion A.

The approval of this application therefore will "unlock" the access constraints pertaining to the Digteby and Longlands subsidised housing projects.

Yours faithfully

Emile van der Merwe

EMILE VAN DER MERWE TOWN PLANNING CONSULTANTS

APPENDIX 1

APPROVAL DATED 2015/01/28



304 STELLENBOSCH

STELLENBOSCH • PNIËL • FRANSCHHOEK

MUNISIPALITEIT • UMASIPALA • MUNICIPALITY

INNOVATION CAPITAL • ISIXEKO ESIZA NENGUQU • INNOVASIESTAD

Enquiries	C Charles / B Mdoda
Your ref	-
Our ref	Farm 1307/2, Stellenbosch
Application No	LU/1978
Date	2015-02-24
Telephone	021-808 8699 / 8690
Fax	021-886 6899

REGISTERED MAIL

Emile Van Der Merwe Town Planning Consultants
PO Box 204
Stellenbosch
7599

Sir

APPLICATION FOR REZONING AND SUBDIVISION ON FARMS 1307/2 AND 1307/3, STELLENBOSCH DIVISION

Your application in the above regard, refers.

I wish to advise that the appeal process has now been concluded and that the decision as per Council's previous letter of approval is therefore now considered final. Accordingly, you may now act on the decision, subject to compliance with the conditions detailed in my letter dated 28 January 2015.

Yours faithfully


for **DIRECTOR: PLANNING & ECONOMIC DEVELOPMENT**

Enquiries	C Charles / B Mdoda
Your ref	-
Our ref	Farm 1307/2, Stellenbosch
Application No	LU/1978
Date	2015-01-28
Telephone	021-808 8699 / 8690
Fax	021-886 6899

REGISTERED MAIL

Emile Van Der Merwe Town Planning Consultants
PO Box 204
Stellenbosch
7599

Sir

FILE NR:	OUTGOING POST
F1307/25 LU/1978	Appr:
SCAN NR:	
COLLABORATOR NR:	355685

**APPLICATION FOR REZONING AND SUBDIVISION ON FARMS
1307/2 AND 1307/3, STELLENBOSCH DIVISION**

Your application in the above regard, refers.

The Director: Planning and Economic Development at a recent meeting resolved as follows:

1. That **approval be granted** in terms of Sections 16 and 25 of the Land Use Planning Ordinance, 1985 (15 of 1985) for the rezoning and subdivision of consolidated Farms 1307/2 and 1307/3, Stellenbosch Division Agricultural Zone I to Subdivisional Area to accommodate the following: Residential Zone I, Agricultural Zone I, Agricultural Zone II and Open Space Zone II (Portion A) and Residential Zone II, Open Space Zone I and Transport Zone II (Portion B) as per Drawing Number 09473-03, dated 06 July 2011, drawn by EH (Dekker Papendorf Architects) attached as **Appendix 3**.
2. That **approval be granted** in terms of Sections 25 of the Land Use Planning Ordinance, 1985 (15 of 1985) for the subdivision of consolidated Farms 1307/2 and 1307/3, Stellenbosch Division into two portions namely Portion A (± 9.8568 ha) and Portion B (± 0.9772 ha) as per Drawing Number 09473-02, dated 06 July 2011, drawn by EH (Dekker Papendorf Architects) attached as **Appendix 4**.
3. That **approval be granted** in terms of Sections 25 of the Land Use Planning Ordinance, 1985 (15 of 1985) for the subdivision of Portion A into 26 residential erven, 6 open space erven and remainder agriculture as per Drawing Number 09473-03, dated 06 July 2011, drawn by EH (Dekker Papendorf Architects) attached as **Appendix 3**.

*Grant
outgoing*

29/1/15

4. That approval be granted in terms of Sections 25 of the Land Use Planning Ordinance, 1985 (15 of 1985) for the subdivision of Portion B into 20 Residential Zone II erven, 1 Open Space Zone I erf and 1 Transport Zone II erf as per Drawing Number 09473-03, dated 06 July 2011, drawn by EH (Dekker Papendorf Architects) attached as Appendix 3.

This approval is subject to the conditions set out in APPENDIX 1, which conditions must be complied with prior to subdivision clearance being granted for the transfer of any portion and/or registration of a Certificate of Registered Title.

Kindly note, this rezoning and subdivision approval will lapse unless all conditions of approval have been complied with and separate registration of at least one erf therein is effected in the Deeds Registry within 5 years of Council's final notification letter, which is to follow in due course. Should it be required, any application for extension of validity of the subdivision approval should be lodged well in advance of lapsing of this approval.

Kindly note that the above approval does not guarantee approval of any related building plan application in terms of the National Building Regulations and Building Standards Act, No 103 of 1977 and that building work may therefore only commence once such plans are formally passed.

Kindly also note, you are advised in terms of Section 5 of the Promotion of Administrative Justice Act, No 3 of 2000 that you are entitled to request in writing reasons for the above decision.

Kindly be advised that you may appeal to the Municipal Manager against the above Council decision (including any conditions imposed in case of approval) by giving written notice of such appeal in terms of Section 62 of the Local Government Municipal Systems Act, No 32 of 2000 ("MSA"), and/or the internal appeal process approved by Council at its meeting held on 29 October 2014. In terms of the aforesaid Council decision, an applicant or objector aggrieved by a decision of Council in respect of an application in terms of the Ordinance, Zoning Scheme Regulations or applicable By-Law, may appeal against such decision to the Municipal Manager, by giving written notice of such appeal.

A detailed motivated appeal with reasons therefore (and not only the intention to appeal), clearly stating in terms of which legislation it is made, as well as payment of the appeal fee to the amount of R 737,00, should be directed to and received by the Municipal Manager, Stellenbosch Municipality, P O Box 17, Stellenbosch, 7599, or if hand delivered, to the Advice office, Land Use Management, Ground floor, municipal building, Plein Street, Stellenbosch, or faxed to fax number 021 886 6899 within 21 days of the date of registration at the Post Office of this notification letter (with such registration day not included in the appeal period), provided where the last day for lodging an appeal falls either on a Saturday, Sunday or public holiday, it shall be deemed to be the next working day thereafter. Where this letter is collected by hand, the above appeal period will be similarly calculated from the next day after collection. Failure to comply with the above requirements may result in the appeal being ruled invalid by the Appeal Authority. **Kindly be advised that no appeal will be accepted via email.**

Notwithstanding the above, kindly note, you are not permitted to submit a revised proposal as part of such an appeal. Should this be the case, your submission will not be regarded as an appeal, but rather a new application which should be submitted in the normal manner, as only the above decision can be appealed at this stage.

* In *Minister of Local Government, Environmental Affairs and Development Planning, Western Cape v The Habitat Council and Others*; *Minister of Local Government, Environmental Affairs and Development Planning, Western Cape v City of Cape Town and Others* [2014] ZACC 9 (Case No. CC117/13).


Kindly be advised that objectors (if any) are granted a simultaneous right of appeal in terms of the internal appeal process approved by Council at its meeting held on 29 October 2014.

Please note, appellants are not permitted to canvass the Municipal Manager or members of Council before or after the matter is heard.

Important note: Rights of appeal in terms of Section 44(1)(a), (b), (c) or (d) of the Land Use Planning Ordinance, No 15 of 1985 no longer exist as such an appeal to the Minister of Local Government, Environmental Affairs and Development Planning, Western Cape has been declared unconstitutional by the Constitutional Court in its unanimous judgment* on 4 April 2014, as such matters fall within the exclusive functions of a municipality in terms of the Constitution.

Kindly note the above Council 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



for DIRECTOR: PLANNING & ECONOMIC DEVELOPMENT

REGISTERED LETTER GEREGISTREERDE BRIEF		1307/2 Post Office	
(with an insurance option/met 'n versekeringsopsie)		Postage paid R _____ Service fee/Diensgeld R _____ Insurance/Versekering R _____ Total/Totaal R _____	
Full tracking and tracing/Volledige volg en spoor		Insured value of contents Versekerde waarde van inhoud R _____	
Addressed to/Geadresseer aan The Sunbapt - General P/ Bag 191029 Cape Town		Enquiries/Navrae Toll-free number Tollvry nommer 0800 111 502	
81009 Postcode Postkode		Initial of accepting officer	Date stamp 10 FEB 2015
The value of the contents of this letter is as indicated and compensation is not payable for a letter received undamaged. Compensation is limited to R100.00. No compensation is payable without documentary proof. Optional insurance up to R2 000.00 is available and applies to domestic registered letters only. Die waarde van die inhoud van hierdie brief is soos aangedui en vergoeding sal nie betaal word vir 'n onbeskadigde brief ontvang word. Die vergoeding is beperk tot R100.00. Geen vergoeding is betaalbaar sonder dokumentêre bewys. Opsionele versekering tot R2 000.00 is beskikbaar en is slegs op domestiese geregistreerde briewe van toepassing.		ABX-Track and Trace REGISTERED LETTER (with a domestic insurance option) ShureCall 0800 111 502 www.abx.co.za RD 873 176 606 ZA	Paraaf van aanvaarder beampie Datumstempel FOLIO 4
CUSTOMER COPY 30102BR Klantafskrif			

* In Minister of Local Government, Environmental Affairs and Development Planning, Western Cape v The Habitat Council and Others; Minister of Local Government, Environmental Affairs and Development Planning, Western Cape v City of Cape Town and Others [2014] ZACC 9 (Case No. CC117/13).



APPENDIX 1
 FILE NO: PL1307/2S

In this approval document:

"Council" means the Stellenbosch Municipality

"the Owner" means the registered owner of the property.

"the property" means Farms 1307/2 and 1307/3, Stellenbosch Division

"scheme regulations" has the meaning assigned thereto by Ordinance 15 of 1985.

EXTENT OF APPROVALS: Approval for the rezoning and subdivision of consolidated Farms 1307/2 and 1307/3, Stellenbosch Division from Agricultural Zone I to Subdivisional Area to accommodate the following: Residential Zone I, Agricultural Zone I, Agricultural Zone II and Open Space Zone II (Portion A) and Residential Zone II, Open Space Zone I and Transport Zone II (Portion B) as per Drawing Number 09473-03, dated 06 July 2011, drawn by EH (Dekker Papendorf Architects)

Approval for the subdivision of consolidated Farms 1307/2 and 1307/3, Stellenbosch Division into two portions namely Portion A (± 9.8568 ha) and Portion B (± 0.9772 ha) as per Drawing Number 09473-02, dated 06 July 2011, drawn by EH (Dekker Papendorf Architects)

Approval for the subdivision of Portion A into 26 residential erven, 6 open space erven and remainder agriculture as per Drawing Number 09473-03, dated 06 July 2011, drawn by EH (Dekker Papendorf Architects)

Approval for the subdivision of Portion B into 20 Residential Zone II erven, 1 Open Space Zone I erf and 1 Transport Zone II erf.

VALIDITY OF APPROVAL: The approval for subdivision and rezoning will be valid for five (5) years after the date of final notification

CONDITIONS IMPOSED: Subdivision and Rezoning Conditions

CONDITIONS IMPOSED IN TERMS OF SECTION 42(1) OF THE LAND USE PLANNING ORDINANCE 15 OF 1985 IN RESPECT OF THE PROPERTY CONCERNED:

- a) That the approval applies only to the subdivision and rezoning in question and shall not be construed as authority to depart from any other legal prescriptions or requirements from Council;



- b) That erf diagrams of the newly created properties must be submitted to this Municipality for clearance and record purposes;
- c) That building plans must be submitted for approval prior to any building work commencing on site;
- d) That the capacity of the boutique wine cellar be restricted to 50 tonnes;
- e) That a development agreement must be entered into between Council and the developer with regard to contributing to community and municipal development funds from the sale of each property. Percentage to be contributed will be specified in aforementioned development agreement;
- f) That the condition imposed by the Heritage Western Cape (attached hereto as Appendix 5) be adhered to;
- g) That the conditions imposed by Western Cape Government: Agriculture (attached hereto as Appendix 6) be adhered to;
- h) That the conditions imposed by the Provincial Government of the Western Cape: Department of Transport and Public Works (attached hereto as Appendix 7) be adhered to;
- i) That the conditions imposed by the Department: Water and Sanitation (Republic of South Africa) (attached hereto as Appendix 8) be adhered to;
- j) That the conditions imposed by the Directorate: Engineering Service (attached hereto as Appendix 9) be adhered to;
- k) Council reserves the right to impose further conditions if deemed necessary.

Compiled by:

.....
 C Charles
 Senior Town Planner

11/12/2014
 Date

Recommended by the Acting Manager: Land Use Management

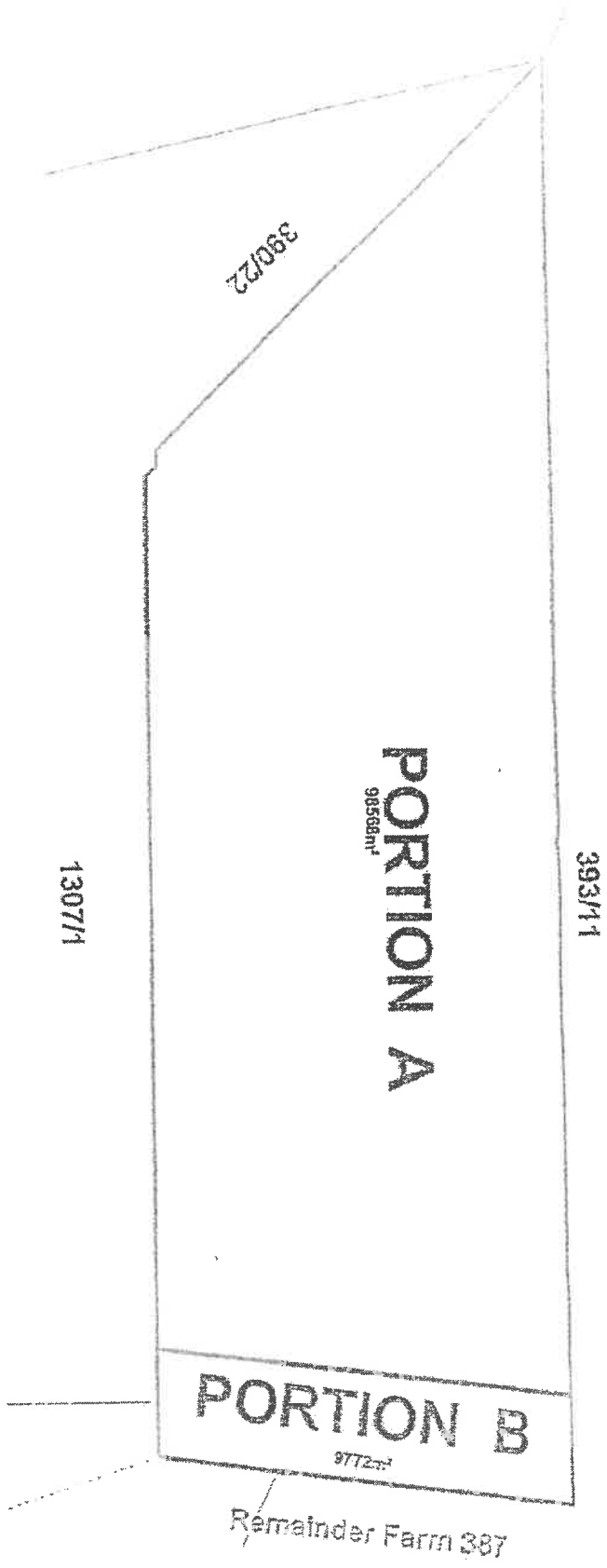
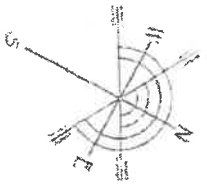
.....
 C Alexander

12/12/2014
 Date

Resolved by Director: Planning and Economic Development

.....
 D Lombaard

12/12/2014
 Date



MOORE STEPHENS VDA GEROU
 140 TECHNIO RD N & ELEKTRON
 STELLENBOSCH 7600
 PO BOX 7385
 STELLENBOSCH 7689

TEL: 021 934 1111
 FAX: 021 934 1112
 E-MAIL: info@msvda.co.za
 WEBSITE: www.msvda.co.za

MOORE STEPHENS VDA BUILDING
 140 TECHNIO AVE & ELEKTRON
 STELLENBOSCH 7600
 PO BOX 7385
 STELLENBOSCH 7689

**D E K K E R
 P A P E N D O R F
 A R C H I T E C T S**

REG NO: 28920/2382/07

SKEMA / PROJECT
 DIGITEBY PHASE 2
 Subdivision of Portion 2&3 of
 Farm 1307, Stellenbosch

Approved 15/12/2016

TEKENING / DRAWING
 Subdivision Plan - Portion A&B

URTOEGELIKS/ISSUED	2011/09/06	TEKENING NR.	09473-02
ONTWERP / DESIGNED BY	[Signature]	DRAWING NO.	
VERBODEN / FORBIDDEN BY		SKAAL / SCALE	A4 ingespan

STELLENBOSCH MUNICIPALITY
 LAND USE MANAGEMENT

THIS SUBDIVISION HAS BEEN APPROVED IN TERMS OF SECTION 28 OF ORDINANCE 15 OF 1985, SUBJECT TO THE CONDITIONS AS PER ANNEXURE

DIRECTOR: PLANNING & ENVIRONMENT
[Signature]
 28/11/15

1307/3
1307/3



Ilifa leMveli
Errenis
Heritage

Case No: 110726JW31
File No: HM/STELLENBOSCH/PORTION 2 & 3 OF FARM 1307
Enquiries: JONATHAN WINDVOGEL
E-mail: jwindvog@pwvc.gov.za
Tel: (021) 483 9736
Date: 4 AUGUST 2011



Emile van der Merwe Town Planning Consultants
Moore Stephans VDA Building
TECHNOPARK
7600

Dear Mr van der Merwe

CASE NUMBER: 110726JW31
NOTIFICATION OF INTENT TO DEVELOP (NID): PROPOSED RESIDENTIAL DEVELOPMENT ON PORTION 2 & 3 OF FARM 1307, STELLENBOSCH IN TERMS OF SECTION 38 OF THE NATIONAL HERITAGE RESOURCES ACT (ACT 25 OF 1999)

The matter above has reference.

Heritage Western Cape is in receipt of your NID for the above matter, dated 8 July 2011.

You are hereby notified that, since there is no reason to believe that the proposed development will impact on heritage resources, further processes under Section 38 of the National Heritage Resources Act (Act 25 of 1999) does not apply.

However, should any evidence of human burials be discovered during the execution of the activities above, all works must be stopped immediately and Heritage Western Cape be notified without delay.

This letter does not exonerate the applicant from obtaining any necessary approval from any other applicable statutory authority.

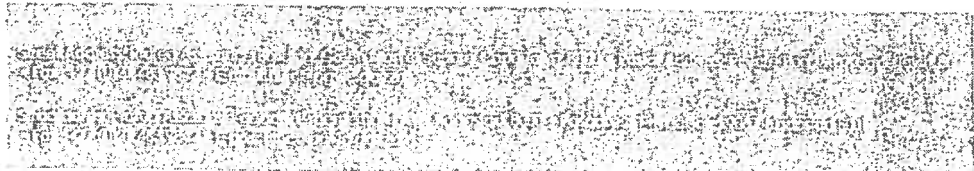
Should you have any further queries, please contact the official above and quote the case number above.

Yours faithfully

AB Hall
(CEO: Heritage Western Cape)

PI 1307 / 2 & 3 SM3
464

211825





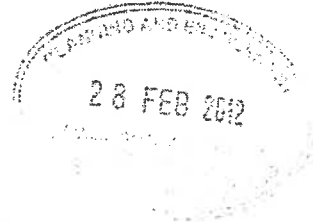
Western Cape
Government

Agriculture

FILE NR:	LANDUSE MANAGEMENT
PI 1307/2&3 SB	
SCAN NR:	738
COLLABORATOR NR:	238 298

1307/2
1307/3

OUR REFERENCE : 20/9/2/5/6/646
YOUR REFERENCE : Farm 1307/2&3
ENQUIRIES : Cor van der Walt



Emile Van Der Merwe Town Planning Consultants
PO Box 204
STELLENBOSCH
7599



Att: Emile Van Der Merwe

PROPOSED REZONING AND SUBDIVISION: DIVISION STELLENBOSCH
PORTION 2 OF THE FARM NO 1307
PORTION 3 OF THE FARM NO 1307

Your application of 03 February 2012 has reference.

After reconsidering your application and motivation the Provincial Department of Agriculture: Western Cape revised its comment to one of no-objection, with conditions.

- That the allocated irrigation water be used for the agricultural development of ±5.8ha as indicated in your letter.
- That additional water be harvested and stored to supplement the irrigation requirements of the agricultural development.
- That all newly created portion be zoned out of agriculture to the applicable zoning for township development in accordance with the zoning scheme regulations of the Local Authority.

Private Bag X1, Eisenburg, 7607
LandUse.Eisenburg@eisenburg.com
www.eisenburg.com

tel: +27 21 803 5079 fax: +27 21 808 5092
www.westerncape.gov.za

- That all newly created portions is linked with the bulk services of the Local Authority.
- That the ±5.8ha which is reserved for agriculture with the cellar must be zoned Agricultural Zone 1 and Agriculture Zone II, respectively.
- That no further subdivision or alienation of the Agricultural Land will be supported.

Please note:

- That this is only a recommendation to the relevant deciding Authorities in terms of the Subdivision of Agricultural Land Act 70 of 1970, Conservation of Agricultural Resources Act no 43 of 1983 and the Land Use Planning Ordinance 15 of 1985. The applicant must provide the local government and the National Department of Agriculture, Fisheries and Forestry with copies of the application.
- Kindly quote the above-mentioned reference number in any future correspondence in respect of the application.
- The Department reserves the right to revise initial comments and request further information based on the information received.

Yours sincerely

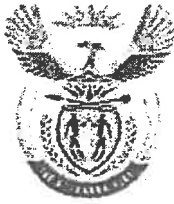


AS ROUX, Pr Eng

DIRECTOR: SUSTAINABLE RESOURCE MANAGEMENT

14/2/12

<u>Copies:</u>	
Directorate Land Use and Sustainable Resource Management	Stellenbosch Municipality
National Department of Agriculture	PO Box 17
Private Bag X 120	STELLENBOSCH
PRETORIA	7599
0001	



315 water & sanitation

Department:
Water and Sanitation
REPUBLIC OF SOUTH AFRICA

1307/12
1307/3

WESTERN CAPE REGION
Private Bag X16, Sanlamhof, 7532
52 Voortrekker Road, Bellville, 7530

☎ 021 941 6311
✉ rhodaf@dwa.gov.za

Ms. F. Rhoda
Reference number: 16/2/7/G100/A/08

Attention: C Charles/ U Von Molendorff

The Municipal Manager
Stellenbosch Municipality
P.O. Box 17
STELLENBOSCH
7599



Dear Sir/Madam

REZONING AND SUBDIVISION: PORTIONS 2 & 3 OF FARM NO 1307, VLOTTENBURG, DIGTEBY, PHASE 2: STELLENBOSCH DIVISION

The document with your reference: Ptns 2 & 3 of Farm no 1307, Vloottenburg Digteby, Stellenbosch refers.

This Department has reviewed the application and does not object to the proposed development from going ahead provided that the following conditions are adhered to:

1. No abstraction of surface or groundwater may be done or storage of water be created without prior authorization from this Department, unless it is Schedule 1 or Existing Lawful use as described in the National Water Act 1998 (Act No. 36 of 1998).
2. The Department is aware that the Stellenbosch Waste Water Treatment Works is currently overloaded. Please note that the Stellenbosch Waste Water Treatment Works can only accept the proposed development's wastewater after the upgrading of the treatment works has been completed.
3. Please note that a sufficient storm water management plan must be developed and implemented.
4. No surface, ground or storm water may be polluted as a results of any activities on the site. In the event that pollution does occur, this Department must be informed immediately.
5. All relevant sections and regulations of the National Water Act, 1998 (Act 36 of 1998) regarding water use must be adhered to.

Should you have any further queries, you are welcome to contact this office.

Yours faithfully

van Lintvoer - Strauss
CHIEF DIRECTOR: WESTERN CAPE
DATE: 9 September 2014

F1307/2x3S
340677



DEPARTMENT of
TRANSPORT & PUBLIC
WORKS

Provincial Government of the Western Cape

ROAD NETWORK MANAGEMENT

Grace.Swanepoel@pgwc.gov.za
tel: +27 21 483 4669; +27 21 483 2427
Rm 335, 9 Dorp St, Cape Town, 8000
PO Box 2603, Cape Town, 8000
www.capegateway.gov.za

(39)

REFERENCE: 13/3/5/1-25/182 (Job 19505)
ENQUIRIES: Ms GD Swanepoel

1307/2
1307/3

The Municipal Manager
Stellenbosch Municipality
P O Box 17
STELLENBOSCH
7599



Attention: C Charles / U von Molend

FILE NR:	P1 1307/2 x3 SFB
SCAN NR:	670
COLLABORATOR NR:	237900

Dear Sir/Madam

REZONING AND SUBDIVISION: PORTIONS 2 AND 3 OF FARM NO 1307, VLOTTENBURG, DIGTEBY, PHASE 2: STELLENBOSCH DIVISION

1. Your letter with reference "Ptns 2 and 3 of Farm No 1307, Digteby" dated 2 September 2011 refers.
2. Portions 2 and 3 of Farm No 1307 are located adjacent to DR1065. For this development access will be taken from the existing Digteby Development access.
3. This application is to rezone and subdivide the property to enable the following:
 - 3.1 26 Residential Zone I erven
 - 3.2 20 Residential Zone II (Group housing) erven
 - 3.3 6 Open Space Zone II erven
 - 3.4 Remainder Agricultural Zone I with a small portion zone Agricultural Zone II for a wine cellar.
4. This Branch has no objection to the application in terms of Section 17 of the Land Use Planning Ordinance No 15 of 1985, provided the following conditions are met:
 - 4.1 Access is taken from internal roads within the Digteby Development.

4.2 No more than 46 residential erven are developed.

5. As the controlling authority in terms of Act 21 of 1940, this Branch approves the subdivision of Portions 2 and 3 of Farm 1307 Vloffenburg.

Yours faithfully



ML WATERS

for EXECUTIVE MANAGER: ROAD & TRANSPORT MANAGEMENT

DATE: 15 Feb. 2017

APPENDIX 2

APPROVAL DATED 2015/12/17



STELLENBOSCH

STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNISIPALITEIT • UMASIPALA • MUNICIPALITY

INNOVATION CAPITAL • ISIXEKO ESIZA NENQUQU • INNOVASIESTAD

Enquiries
Our ref
Appl. No
Date
Telephone
Fax

P April / S Newman
Farm 1307/2, Stellenbosch
LU/4118
2016-01-15
021 808 8683 / 8659
021 886 6899

REGISTERED MAIL

Emile van der Merwe Town Planning
P.O Box 204
STELLENBOSCH
7599

FINAL NOTIFICATION LETTER

Dear Sir / Madam

APPLICATION FOR THE AMENDMENT OF A SUBDIVISIONAL PLAN: FARM 1307/2 & 3, STELLENBOSCH

My previous correspondence dated 17 December 2015 refers.

I wish to advise that the appeal process has now been concluded and that the decision as per Council's previous letter of approval is therefore now considered final. Accordingly, you may now act on the decision, subject to compliance with the conditions detailed in my letter dated 17 December 2015.

Yours faithfully

for DIRECTOR: PLANNING & ECONOMIC DEVELOPMENT



STELLENBOSCH

STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNISIPALITEIT • UMASIPALA • MUNICIPALITY

INNOVATION CAPITAL • ISIXEKO ESIZA NENQUQU • INNOVASIESTAD

Enquiries	P April / S Newman
Our ref	Farm 1307/2, Stellenbosch
Application no	LU/4118
Date	2015-12-17
Telephone	021-808 8683 / 8659
Fax	021-886 6899

REGISTERED MAIL

Emile van der Merwe Town Planning
PO Box 204
STELLENBOSCH
7599

Sir / Madam

APPLICATION FOR THE AMENDMENT OF A SUBDIVISIONAL PLAN: FARM 1307/2 & 3, STELLENBOSCH

Your application in the above regard, refers.

The Director: Planning and Economic Development at a recent meeting resolved as follows:

1. That the application for the amendment of the approved Subdivisional and Site Development Plan in order to consolidate Farm No.1307/2 and 1307/3, Stellenbosch Division and to subdivide the consolidated property with the following zonings into;
 - (i) Portion A (Subdivisional area $\pm 98808\text{m}^2$) and Portion B (Residential Zone II – grouphousing – 9788m^2) and;
 - (ii) Subdivision of Portion A into 54 Residential Zone I, 2 Open Space Zone II erven (Private Open Space) and a Remainder zoned Agricultural Zone II (350m^2 Wine Cellar) and Agricultural Zone I for the rest of the property, as indicated on Appendix 3, **be approved** in terms of Section 30(1) of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985), subject to the conditions as per the attached **Appendix 1**.

Kindly note, this subdivision approval will lapse unless all conditions of approval have been complied with and separate registration of at least one erf therein is effected in the Deeds Registry within 5 years of Council's final notification letter, which is to follow in due course. Should it be required, any application for extension of validity of the subdivision approval should be lodged well in advance of lapsing of this approval.

Kindly also note where applicable, the above approval does not guarantee approval of any related building plan application in terms of the National Building Regulations and Building Standards Act, No 103 of 1977 and that building work may therefore only commence once

Tel: +27 21 808 8025 | Fax: +27 21 886 6749

Physical Address: Plein Street, Stellenbosch, 7600 | Postal Address: PO Box 17, Stellenbosch, 7599 | Website: www.stellenbosch.gov.za

Kindly note, you are advised in terms of Section 5 of the Promotion of Administrative Justice Act, No 3 of 2000 that you are entitled to request in writing reasons for the above decision.

Kindly be advised that you may appeal to the Municipal Manager against the above Council decision (including any conditions imposed in case of approval) by giving written notice of such appeal in terms of Section 62 of the Local Government Municipal Systems Act, No 32 of 2000 ("MSA"), and/or the internal appeal process approved by Council at its meeting held on 29 October 2014. In terms of the aforesaid Council decision, an applicant or objector aggrieved by a decision of Council in respect of an application in terms of the Ordinance, Zoning Scheme Regulations or applicable By-Law, may appeal against such decision to the Municipal Manager, by giving written notice of such appeal. A detailed motivated appeal with reasons therefore (and not only the intention to appeal), clearly stating in terms of which legislation it is made, as well as payment of the appeal fee to the amount of R 800,00, should be directed to and received by the Municipal Manager, Stellenbosch Municipality, P O Box 17, Stellenbosch, 7599, or if hand delivered, to the Advice office, Land Use Management, Ground floor, municipal building, Plein Street, Stellenbosch, or faxed to fax number 021 886 8899 within 21 days of the date of registration at the Post Office of this notification letter (with such registration day not included in the appeal period), provided where the last day for lodging an appeal falls either on a Saturday, Sunday or public holiday, it shall be deemed to be the next working day thereafter. Where this letter is collected by hand, the above appeal period will be similarly calculated from the next day after collection. Failure to comply with the above requirements may result in the appeal being ruled invalid by the Appeal Authority. **Kindly be advised that no appeal will be accepted via email.**

Notwithstanding the above, kindly note, you are not permitted to submit a revised proposal as part of such an appeal. Should this be the case, your submission will not be regarded as an appeal, but rather a new application which should be submitted in the normal manner, as only the above decision can be appealed at this stage.

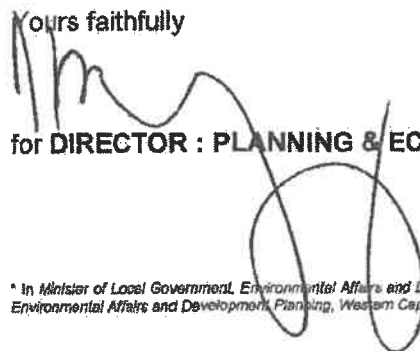
Kindly be advised that objectors (if any) are granted a simultaneous right of appeal in terms of the internal appeal process approved by Council at its meeting held on 29 October 2014.

Please note, appellants are not permitted to canvass the Municipal Manager or members of Council before or after the matter is heard.

Important note: Rights of appeal in terms of Section 44(1)(a), (b), (c) or (d) of the Land Use Planning Ordinance, No 15 of 1985 no longer exist, as such an appeal to the Minister of Local Government, Environmental Affairs and Development Planning, Western Cape has been declared unconstitutional by the Constitutional Court in its unanimous judgment* on 4 April 2014, as such matters fall within the exclusive functions of a municipality in terms of the Constitution.

Kindly note the above Council 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


for DIRECTOR : PLANNING & ECONOMIC DEVELOPMENT

* In *Minister of Local Government, Environmental Affairs and Development Planning, Western Cape v The Habitat Council and Others; Minister of Local Government, Environmental Affairs and Development Planning, Western Cape v City of Cape Town and Others* [2014] ZACC 9 (Case No. CC117/13).



STELLENBOSCH
 STELLENBOSCH • PNIEL • FRANSCHHOEK
 MUNICIPALITY • UMASIPALA • MUNISIPALITEIT
 DIRECTORATE:
 PLANNING AND ECONOMIC DEVELOPMENT

APPENDIX 1
FILE NO: FARM 1307/2 & 3, STELLENBOSCH DIVISION.

In this approval document:

"Council" means the Stellenbosch Municipality

"the owner" means the registered owner of the property.

"the site" means FARM 1307/2 & 3, STELLENBOSCH DIVISION.

"scheme regulation" has the meaning assigned thereto by the Land Use Planning Ordinance (15 of 1985).

EXTENT OF APPROVAL:

Amendment of the approved Subdivisional and Site Development Plan in order to consolidate Farm No. 1307/2 and 1307/3, Stellenbosch Division and to subdivide the consolidated property with the following zonings into;

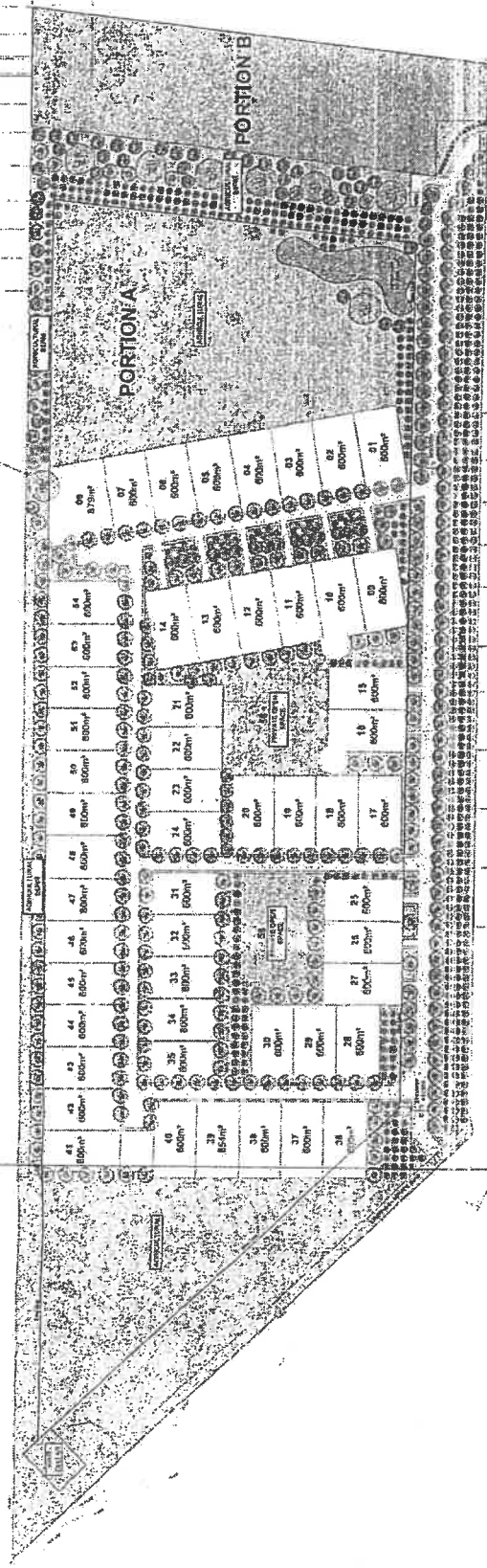
- (i) Portion A (Subdivisional Area $\pm 98808m^2$) and Portion B (Residential Zone II – grouphousing – $9788m^2$) and;
- (ii) Subdivision of Portion A into 54 Residential Zone I, 2 Open Space Zone II erven (Private Open Space) and a Remainder zoned Agricultural Zone II ($350m^2$ Wine Cellar) and Agricultural Zone I for the rest of the property, as indicated on **APPENDIX 3**, in terms Section ~~15(1)~~ ³⁰⁽¹⁾ of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985).

CONDITIONS IMPOSED IN TERMS OF SECTION 42(1) OF THE LAND USE PLANNING ORDINANCE NO 15 OF 1985:

1. That the approval applies only to amendment of the subdivisional plan in question, as indicated on **APPENDIX 3** and shall not be construed as authority to depart from any other legal prescriptions or requirements from Council.
2. That all conditions from the Municipal Engineering Services (See **APPENDIX 4**) be adhered to.
3. That building plans for the new developments be submitted to this municipality for approval, prior to any building work commencing on site.
4. That any changes to the existing municipal infrastructure will be for the account of the applicant.
5. That all previous conditions of approval (See **APPENDIX 5**) remains the same, unless it is replaced by this approval. No access to the subject development may therefore be obtained from the 5m servitude road west of the property without the written consent of the effected property owners and the controlling roads authority. The main access to this development will therefore be off the access over the Digteby Development as previous approved by Council.
6. That new erf diagrams and general plans of the newly created units be submitted to this Council for clearance and record purposes.

393/11

LONGLANDS RESIDENTIAL ESTATE



DIGTEBY
RESIDENTIAL
DEVELOPMENT

EXISTING SERVICE ROAD

PORTION A

UNIT	AREA	LAND USE	ZONING
1-54	3232m ²	Residential	Residential Zone D1
55-56	4922m ²	Open Space	Open Space 2
57	1011m ²	Open Space	Open Space 2
REAR	318m ²	Wine Cellar	Agric Zone 2
	4422m ²	Agriculture	Agric Zone 2
TOTAL	9418m ²		

PORTION B

UNIT	AREA	LAND USE	ZONING
	9789m ²	Group Housing	Residential 2
TOTAL	9789m ²		

REVISED SUBDIVISIONAL PLAN
DIGTEBY PHASE 2
PORTION 2 & 3 OF PARCEL 1307
STELLENBOSCH

Jose Sucena
083 302 3868

STELLENBOSCH MUNICIPALITY

300 LAND USE MANAGEMENT

THIS SUBDIVISION HAS BEEN APPROVED IN TERMS OF SECTION 22 OF ORDINANCE 15 OF 1985, SUBJECT TO THE CONDITIONS AS PER ANNEXURE

GENERAL NOTES

DIRECTOR: PLANNING ENVIRONMENT

[Signature]

APPENDIX 3
LETTER OF APPROVAL ROADS
AUTHORITY (REFER TO CONDITION 4.1)



DEPARTMENT of
TRANSPORT & PUBLIC
WORKS

Provincial Government of the Western Cape

ROAD NETWORK MANAGEMENT

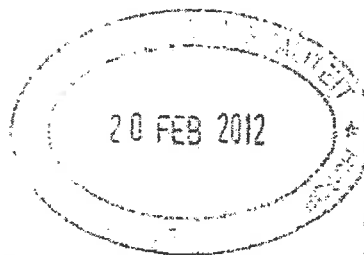
Grace.Swanepoel@pgwc.gov.za
tel: +27 21 483 4669; +27 21 483 2427
Rm 335, 9 Dorp St, Cape Town, 8000
PO Box 2603, Cape Town, 8000
www.capegateway.gov.za

(39)

REFERENCE: 13/3/5/1-25/182 (Job 19505)
ENQUIRIES: Ms GD Swanepoel

1307/2
1307/3

The Municipal Manager
Stellenbosch Municipality
P O Box 17
STELLENBOSCH
7599



20 FEB 2012

FILE NR:

P1 1307/2 & 3 SRB

SCAN NR:

678

COLLABORATOR NR:

237908

Attention: C Charles / U von Molendarr

Dear Sir/Madam

REZONING AND SUBDIVISION: PORTIONS 2 AND 3 OF FARM NO 1307, VLOTTENBURG, DIGTEBY, PHASE 2: STELLENBOSCH DIVISION

1. Your letter with reference "Pins 2 and 3 of Farm No 1307, Digteby" dated 2 September 2011 refers.
2. Portions 2 and 3 of Farm No 1307 are located adjacent to DR1065. For this development access will be taken from the existing Digteby Development access.
3. This application is to rezone and subdivide the property to enable the following:
 - 3.1 26 Residential Zone I erven
 - 3.2 20 Residential Zone II (Group housing) erven
 - 3.3 6 Open Space Zone II erven
 - 3.4 Remainder Agricultural Zone I with a small portion zone Agricultural Zone II for a wine cellar.
4. This Branch has no objection to the application in terms of Section 17 of the Land Use Planning Ordinance No 15 of 1985, provided the following conditions are met:
 - 4.1 Access is taken from internal roads within the Digteby Development.

4.2 No more than 46 residential erven are developed.

5. As the controlling authority in terms of Act 21 of 1940, this Branch approves the subdivision of Portions 2 and 3 of Farm 1307 Vlottenburg.

Yours faithfully



ML WATTERS

for EXECUTIVE MANAGER: ROAD & TRANSPORT MANAGEMENT

DATE: 15. Feb. 2017.

APPENDIX 4
LETTERS OF CONSENT

BAYLY FAMILY TRUST

Masters reference no. : IT1853/1995

"Kykop" Farm, Vlottenburg Road, Vlottenburg, 7604, South Africa

PO Box 42, Vlottenburg, 7604, South Africa

Tel: +27 - 21 - 881 3409 Fax: +27 - 86 - 611 4876

e-mail: fcbayly@gmail.com

Trustees: FC Bayly, GC Bayly, SC Bayly, KC Backx, JC Erasmus

Stellenbosch Municipality
PO Box 17
Stellenbosch
Western Cape
7599

Date 13 December 2018

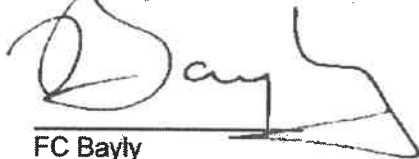
Dear Sir / Madame

SERVITUDE OVER PORTION 16 (A PORTION OF PORTION 14) OF FARM 390 STELLENBOSCH (THE "SERVIENT PROPERTY") IN FAVOUR OF PORTIONS 2 AND 3 OF FARM 1307 STELLENBOSCH (THE "DOMINANT PROPERTY") / CURRENT OWNER: THE ASH FAMILY TRUST / RESIDENTIAL ACCESS ROUTE TO THE DEVELOPMENT KNOWN AS CHANTECLER (DIGTEBY PHASE 2)

We confirm that Bayly Family Trust (registration number: IT1853/1995) is the registered owner of Portion 16 (a portion of portion 14) of Farm 390, Stellenbosch, namely the servient property as referred to above.

We confirm that the Trust have agreed in principal with the registered owner of the dominant property, as well as the developer, to grant a servitude right of way over the servient property in favour of the dominant property in accordance with the amended layout plan prepared by Steven Old (a copy of which is attached hereto), subject to the successful conclusion and signature of a notarial deed of servitude between all the parties.

We trust you find the above in order.



FC Bayly
Trustee duly authorised



STELLENBOSCH HILLS

Distinction through diversity

STELLENBOSCH MUNICIPALITY

SERVITUDE OVER PORTION 30 (NOW REMAINDER OF PORTION 14) OF FARM 390 STELLENBOSCH (THE "SERVIENT PROPERTY") IN FAVOUR OF PORTIONS 2 AND 3 OF FARM 1307 STELLENBOSCH (THE "DOMINANT PROPERTY") / CURRENT OWNER: THE ASH FAMILY TRUST / RESIDENTIAL ACCESS ROUTE TO THE DEVELOPMENT KNOWN AS CHANTECLER (DIGTEBY PHASE 2)

We confirm that we are the registered owner of Portion 30 (now remainder of portion 14) of Farm 390, Stellenbosch, namely the servient property as referred to above.

We confirm that we have agreed in principal with the registered owner of the dominant property, as well as the developer, to grant a servitude right of way over the servient property in favour of the dominant property in accordance with the amended layout plan prepared by Steven Old (a copy of which is attached hereto), subject to the successful conclusion and signature of a notarial deed of servitude between all the parties.

We trust you find the above in order.

L.P Andrag

Chairman

P.G. Slabbert

Manager

Gordon Hindmarch

Farm 390/72 Stellenbosch

19/12/2018

STELLENBOSCH MUNICIPALITY


SERVITUDE OVER PORTION 22 OF FARM 390 STELLENBOSCH (THE "SERVIENT PROPERTY") IN FAVOUR OF PORTIONS 2 AND 3 OF FARM 1307 STELLENBOSCH (THE "DOMINANT PROPERTY") / CURRENT OWNER: THE ASH FAMILY TRUST / RESIDENTIAL ACCESS ROUTE TO THE DEVELOPMENT KNOWN AS CHANTECLER (DIGTEBY PHASE 2)

I confirm that I, Gordon McDonald Hindmarch (Identity Number: 690724 5228 08 5) is the registered owner of Portion 22 of Farm 390, Stellenbosch, namely the servient property as referred to above.

I confirm that I have agreed in principal with the registered owner of the dominant property, as well as the developer, to grant a servitude right of way over the servient property in favour of the dominant property in accordance with the amended layout plan prepared by Steven Old (a copy of which is attached hereto), subject to the successful conclusion and signature of a notarial deed of servitude between all the parties.

We trust you find the above in order.

Regards



G. Hindmarch

APPENDIX 5

**WESTERN CAPE GOVERNMENT:
DEPARTMENT OF TRANSPORT AND
PUBLIC WORKS APPROVAL**



ROAD NETWORK MANAGEMENT
 Email: Grace.Swanepoel@westerncape.gov.za
 tel: +27 21 483 4669
 Rm 335, 9 Dorp Street, Cape Town, 8001
 PO Box 2603, Cape Town, 8000

REFERENCE: 16/9/6/1-25/212 (Job 19505)
ENQUIRIES: Ms GD Swanepoel
DATE: 12 March 2019

The Municipal Manager
 Stellenbosch Municipality
 PO Box 17
STELLENBOSCH
 7599

Attention: Mr P April

Dear Sir

PORTION 2 AND 3 FARM 1307 VLOTTENBURG, STELLENBOSCH, DIGTEBY: APPLICATION FOR AMENDMENT OF APPROVED SITE DEVELOPMENT PLAN AND SUBDIVISION

1. The following refer:
 - 1.1 This Branch's letter 16/9/6/1-25/212 (Job 19505) dated 12 April 2016;
 - 1.2 The e-mail from Emile van der Merwe Town Planning Consultants dated 13 February 2019;
 - 1.3 The Revised Subdivision Plan No. 5 dated November 2018 prepared by Stephen Old Land Surveyors and
 - 1.4 The meeting held on 7 March 2019 at 9 Dorp Street, Cape Town.
2. In our letter 16/9/6/1-25/212 (Job 19505) dated 12 April 2016, concern was raised with regards to the 5m width of the existing right of way servitude which has now been increased to 11.3m and 10m between the Main Road 168 service road as indicated on the Revised Subdivision Plan No. 5 dated November 2018 prepared by Stephen Old Land Surveyors which would now allow for 2-way traffic for which the owners of Portion 22 of Farm 390, Portion 16 of Farm 390 and the Remainder of Portion 30 of Farm 390 has provided consent.
3. This Branch offers no objection to the application in terms Stellenbosch Land Use Planning Bylaw of 2015 subject to the following conditions:
 - 3.1 The number of residential units are limited to 54;

- 3.2 The right of way servitude for the access road to Portion A is registered and constructed before the 1st erven is transferred, excluding Portion B, which will be transferred to Stellenbosch Municipality for municipal subsidised housing;
- 3.3 The design of the connection of the right of way servitude road to the Main Road 168 service road must be approved by the District Roads Engineer, Paarl (Mr Stewart Bain - 021 863 2020);
- 3.4 Construction access to Portion A and B will be via the existing informal road off Divisional Road 1065 as per the servitude right of way agreement entered between Croyden Property Holdings (Pty) Ltd and Vredenheim (Pty) Ltd the registered owner of Remainder Farm 387 and
- 3.5 Formal access to Portion B will be via the proposed access off Divisional Road 1065 once Divisional Road 1065 has been realigned to connect with Main Road 177 at the intersection with Divisional Road 1067. However, the development of Portion A is not subject to the formal approval and design of the access road to municipal subsidised housing project on Portion B.

Yours faithfully



SW CARSTENS
For **CHIEF DIRECTOR: ROAD NETWORK MANAGEMENT**

ENDORSEMENTS

1. Stellenbosch Municipality

Attention: Mr P April (e-mail: pedro.april@stellenbosch.gov.za)

Attention: Mr U von Molendorff (e-mail: Ulrich.Vonmolendorff@stellenbosch.gov.za)

2. Emile van der Merwe Town Planning Consultants

Attention: Mr E van der Merwe (e-mail: emilevdm@adept.co.za)

3. District Roads Engineer
Paarl

4. Mr S Carstens (e-mail)

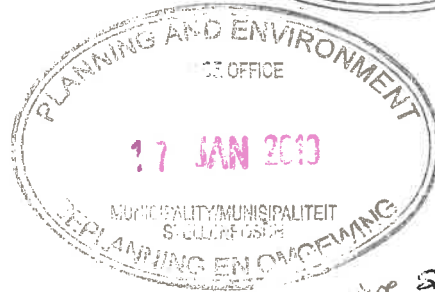
5. Mr F Fakier (e-mail)

6. Mr B du Preez (e-mail)

2019-01-17

My ref: Farm 1307/2&3

Stellenbosch Municipality
Department Planning and Development
PO Box 17
STELLENBOSCH
7599
Attention: Mr. Pedro April



recd 25/01/2019
VMS

Dear Sir

PORTION 2 AND 3 OF FARM 1307 STELLENBOSCH: AMENDMENT OF CONDITIONS OF APPROVAL AND REVISED SITE DEVELOPMENT PLAN

Our meeting held on 15 January 2019 and the application information provided on 12 December 2018 in respect of the above has reference.

Attached hereby please find the revised site development plan showing the final layout of the proposed access to the development. The Site Development Plan is attached as **Annexure A**.

The new plan addresses your comment raised in our meeting in respect of the servitude shown over Erf 42 by Figure TUV as indicated on the Revised Subdivisional Plan No 4.

The new Plan – Revised Subdivisional Plan No 5 shows the existing registered 5m servitude over Erf 42.. The consent from the Digteby HOA therefore is not required prior to the formal advertising of the application.

Doornbosch Centre | Strand Road | PO Box 17
Tel: 021 886 5050 | Fax: 021 883 8965 | Email: emilevdm@adept.co.za

EvdM Town Planning Services CC Reg. No. 2005/162249/23
Emile van der Merwe URP(SA) B. Hon. M(U)RP MSAPI

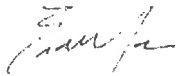
FILE NR:	
SCAN NR: Stellenbosch 7599	
COLLABORATOR NR:	F1307/2&3
M(U)RP MSAPI	626644



In light of the above it will be appreciated if you can as a matter of urgency please provide this office with the required templates to commence with the advertising process.

Your assistance in this regard is much appreciated.

Yours faithfully



EMILE VAN DER MERWE

EMILE VAN DER MERWE TOWN PLANNING CONSULTANTS

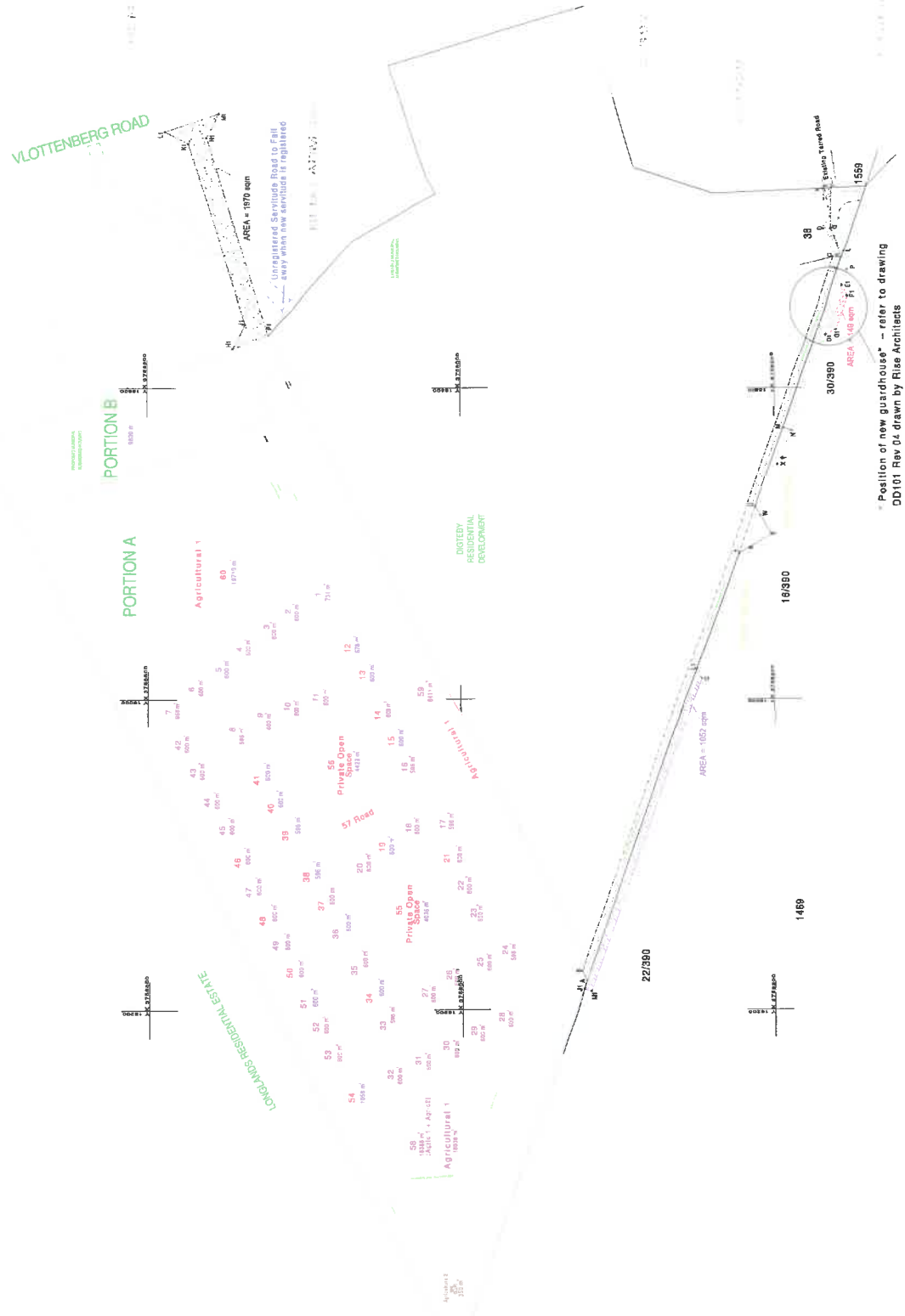
REVISED CONSOLIDATION AND SUBDIVISIONAL PLAN DIGTEBY PHASE 2 PORTION 2 & 3 OF FARM 1307 STELLENBOSCH

PORTION A		
UNITS	AREA	LAND USE / ZONING
1-64	30318	RESIDENTIAL, RESIDENTIAL ZONE 01
65	4036	RESIDENTIAL, RESIDENTIAL ZONE 01
66	4428	OPEN SPACE, OPEN SPACE 2
67	10384	OPEN SPACE, OPEN SPACE 2
68	10384	OPEN SPACE, OPEN SPACE 2
69	18038	AGRICULTURE, AGRIC ZONE 1
70-80	28182	AGRICULTURE, AGRIC ZONE 1
TOTAL		98864

PORTION B		
UNITS	AREA	LAND USE / ZONING
81-82		GROUP HOUSING, RESIDENTIAL 2

Scale 1 : 1000 on AC

- SERVICE DESCRIPTIONS**
- 1) The figure A B C D E F G H represents an existing servitude road 5,30 metres wide over Erf 42 Vlotenberg.
 - 2) The figure J K F L represents an existing servitude right of way 6,30 metres wide over Erf 42 Vlotenberg.
 - 3) The figure M L P N represents an existing servitude right of way 5,30 metres wide over Portion 30 of the Farm Vlotenberg Annex No. 340.
 - 4) The figure J I L O M represents a proposed access and services servitude over Portion 27 of the Farm Vlotenberg Annex No. 340.
 - 5) The figure M T E Q and U J M Y X W represents a proposed access and services servitude over Portion 15 of the Farm Vlotenberg Annex No. 340.
 - 6) The figure O I E F I G I represents a proposed servitude right of way over Portion 30 of the Farm Vlotenberg Annex No. 340.
 - 7) The figure M I K L M N P I represents a proposed servitude right of way remainder of the Farm Vlotenberg Annex No. 340.



CHANTECLER
ASH FAMILY TRUST
 NOVEMBER 2016
 REVISED SUBDIVISIONAL PLAN No.5
STEPHEN OLD LAND SURVEYORS
 Private Suite 237
 Private Bag X103
 NI City 7463
 Tel: +27 (0) 21 561 7485
 Fax: +27 (0) 21 561 7491
 survey@chantecler.co.za
 www.surveyland.co.za

* Position of new guardhouse* - refer to drawing DD101 Rev 04 drawn by Rise Architects

APPENDIX E
Affidavit & POE



13

EMILE VAN DER MERWE

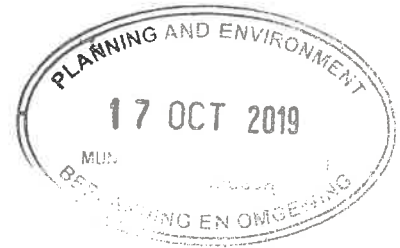
town planning consultants

2019/10/15

My ref: Farm 1307/2 & 3 Stellenbosch

Your ref: Farm 1307/2 and Farm 1307/3 Stellenbosch

LU/8130



Stellenbosch Municipality
Department Planning and Development
PO Box 17
STELLENBOSCH
7599



Dear Sir/Madam

COLLABORATOR NR: []
SCAN NR: []
FILE NR: []

APPLICATION FOR AMENDMENT OF CONDITIONS OF APPROVAL AND AMENDMENT OF SUBDIVISION AND SITE DEVELOPMENT PLAN: FARM NO 1307/2 AND 1307/3

The above-mentioned application has reference. Hereby please find the following information and required Portfolio of Evidence.

Attached please find the following:

- Completed checklist – Appendix 1
- Signed affidavit by Commissioner of Oaths – Appendix 2
- Letter re commencement date – Appendix 3
- Registered slips – Appendix 4

FILE NR: []
SCAN NR: F 1307/35
COLLABORATOR NR: 665186

Doornbosch Centre | Strand Road | PO Box 204 | Stellenbosch 7599
Tel: 021 - 886 5050 | Fax: 021 - 883 8965 | Email: emilevdm@adept.co.za

EvdM Town Planning Services CC Reg. No. 2005/162249/23
Emile van der Merwe URP(SA) B. Hon. M(URP) MSAPI

- Sample letter as send to Ward Councillor, Community Organisations and Affected property owners – Appendix 5
- Letter requested for an extension of time – Appendix 6
- Letter of extension granted – Appendix 7
- Objections received – Appendix 8
 - Cluver Markotter Attorneys on behalf of Digteby Home Owners Association
 - Michelle Groenewald
 - Rochelle Ueckermann
- Comment on objections - Appendix 9 – Marais Muller Hendricks Attorneys
- Approval granted: Western Cape Government: Transport and Public Works: Road Network Management – Appendix 10

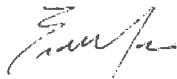
This office is in full agreement on the response provided on the objections by Marais Muller Attorneys as set out In Appendix 8. The responsibility and mandate of the Stellenbosch Municipality in this regard is to evaluate and determine whether the application conforms to the criteria of decision-making as contemplated in terms of Chapter V (Section 65) of the Stellenbosch Municipal Planning Land Use Planning By-Law.

The application under consideration conforms to and complies with the same planning principles and policies as previously tested and adopted by the Municipality by approving the development on the subject properties. The Department of Transport and Public Works: Western Cape Government furthermore has given their approval in respect of the new access road to the Estate development.

The application is consistent with the guiding principles of decision-making as set referred to in Section 42 of the Spatial Planning and Land Use Management Act as well as the principles referred to in Chapter VI of the Land Use Planning Act.

It is trusted that the Stellenbosch Municipality favourably will consider the application in order to give practical execution to their developmental mandate enshrined in the Integrated Development Plan and Spatial Development Framework.

Yours faithfully



EMILE VAN DER MERWE

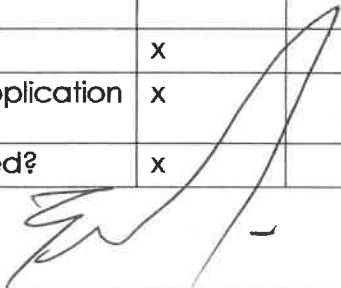
EMILE VAN DER MERWE TOWN PLANNING CONSULTANTS


APPENDIX 1
COMPLETED CHECKLIST



PLANNING & ECONOMIC DEVELOPMENT

PORTFOLIO OF EVIDENCE Applicant advertised CHECKLIST				Date	2019/10/15	
Erf/Erven Farm no	1307	Portion(s) if farm	2 & 3	Allotment Area	Stellenbosch	
Owner/ Applicant	Emile van der Merwe Town Planning Consultants		LU/number	8130		
INDICATE WHICH OF THE FOLLOWING DOCUMENTATION (WHERE APPLICABLE) IS ATTACHED TO THE PORTFOLIO OF EVIDENCE				OWNER/APPLICANT TO INDICATE		ADMIN OFFICER/ PLANNER VERIFY <input checked="" type="checkbox"/>
				YES	NO	
Affidavit (TEMPLATE ATTACHED)						
1. Is the affidavit signed by a Commissioner of Oaths				x		✓
2. Does the affidavit confirm that the advertising was undertaken in accordance with the said prescriptions?				x		✓
3. Does the affidavit confirm that the notice was placed and kept on site for the duration of the advertising period (from which date to which date)?				n/a		N/A
Proof of publication						
4. In one local newspaper in two official languages (or in those cases where Council has indicated two local newspapers)				n/a		N/A
5. Extract from the newspaper attached (date of publication visible)				n/a		N/A
6. Does the wording fully address the description of the application?				n/a		N/A
7. If no, define differences :						
8. Advertising period		From	16 May 2019	To	15 July 2019	
9. Does the Advertising period comply with the required 30 days?				x		✓
10. Was Council informed of the commencement date and closure date?				x		✓
The registered slips in respect of all the registered letters addressed to						
11. A copy of the registered letter addressed to the affected parties				x		✓
12. Are the dates concurring				x		✓
13. A copy of the registered letter addressed to the external departments (where required)				N/A	n/a	N/A
14. Affected interested and affected parties (registered property owners) (original registered slips)				x		✓
15. Community organisations (original registered slips)				x		✓
16. Ward Councillor (original registered slip)				x		✓
17. External Departments (where required) (original registered slip)				N/A	n/a	N/A
18. Unclaimed registered mail				N/A	n/a	N/A

19. If no to any of the above, define differences :			
20. Were the external departments granted 60 days for comment?	n/a		N/A
Notices placed on the property			
21. Were the notices placed on the property on the same day as the notice in press?	n/a		N/A
22. Have photos been attached? (one close up and one from across the street)	n/a		N/A
23. Was the notice clearly visible on site?	n/a		N/A
24. Were the notices kept on site for the duration of the advertising period?	n/a		N/A
Objections/Comments			
25. From organs of state/external departments must be on a formal letterhead?	x		✓
26. All objections/comments received attached?	x		✓
27. All emails sent or received in respect of this application attached?	x		✓
28. Applicant's comments on the objections attached?	x		✓
SIGNED BY APPLICANT/OWNER			

<i>For office use only</i>	
SIGNED BY ADMINISTRATIVE OFFICER	
VERIFIED & SIGNED BY TOWN PLANNER	
DATE VERIFIED	21/10/2019

APPENDIX 2
SIGNED AFFIDAVIT

SWORN AFFIDAVIT

I, the undersigned [Full Name (s) and Surname]: ... Emile van der Merwe

Identity Number..... 7003215189082

in my capacity as (owner or authorised person through power of attorney):
Authorised person

do hereby declare under oath that:

1. The application for:
Application for amendment of condition of approval and amendment of approved subdivisional
and site development plan : Farm no 1307/2 and 1307/3 Stellebosch

on Erf/ Farm Number: Farm 1307/2 and 1307/3

Was advertised in at least two of the official languages of the Province in the following newspaper(s)ⁱ:

(a)..... NOT APPLICABLE (b).....

From 16 May 2019 20 to 15 July 2019 20.....

- 2. The public notices were prominently displayed and maintained in a legible condition for a continuous period of thirty (30) days from the date of the advertisement as indicated in Section (2) aboveⁱⁱ;
- 3. A notice containing the requirements as set out in the Stellenbosch Land Use Planning By-Law (2015), was posted per registered mailⁱⁱⁱ to all adjoining property owners/occupants/ interested and affected parties, during the same date of the advertising period as specified in Section (2) above;
- 4. Furthermore, a notice of the application was sent to the relevant Intergovernmental State Departments, per registered mail^{iv}, commencing the same date as in Section (2) above with an additional 30 days (minimum 60 days) for comment;
- 5. That all comments and objections to the application concerned were forwarded to Stellenbosch Municipality as contemplated in sections 1 – 4 above.

The Deponent acknowledges that he / she knows and understands the contents of this Affidavit.

Signature:.....
Signed at..... Stellenbosch

On this..... 15th day of..... October 2019.....

At: ..Stellenbosch.....

..... D/CAPT
D. NICHOLAS

Commissioner of Oath's Stamp & Signature
SUID-APRIKAANSE POLISDIENERS

STASIE BEVELVOERDER
STELLENBOSCH

2019 -10- 15

STELLENBOSCH
STATION COMANDER

SOUTH AFRICAN POLICE SERVICE

ⁱ Must conform to Section 47 of the Stellenbosch Municipality Land Use Planning By-law (2015) [THE BY-LAW]- attach copy of advert (s)
ⁱⁱ Site Displays must conform to Section 48 (2)(a) of the By-law – attach photos
ⁱⁱⁱ Attach original registration post slips and copies of letters that were distributed containing the required information as per Section 47 of the By-law
^{iv} Attach original registration post slips and copies of letters that were distributed containing the required information as per Section 47 of the By-law

APPENDIX 3
EMAIL CONFIRMING COMMENCEMENT
DATE

Emile van der merwe

From: Emile van der merwe <emilevdm@adept.co.za>
Sent: 16 May 2019 04:04 PM
To: 'Bulelwa Mdoda'
Cc: 'Ulrich Vonmolendorff'
Subject: RE: Instruction to advertise: Farm 1307/2 & 3

Hallo Bulelwa

This letter serves to inform you that the advertising of the above application commenced today on 16 May 2019 in accordance with your letter of instruction.

A 30 day commenting period is applicable after which the POE will be provide accordingly.

Regards
 Emile

From: Bulelwa Mdoda [<mailto:Bulelwa.Mdoda@stellenbosch.gov.za>]
Sent: 14 May 2019 02:55 PM
To: Emile van der merwe (emilevdm@adept.co.za)
Cc: Ulrich Vonmolendorff
Subject: Instruction to advertise: Farm 1307/2 & 3

Good day Emile;

Attached please find an instruction to advertise letter and templates for advertising.

Please comply with instructions in the attached letter dated 13 May 2019.



Kind regards,
Bulelwa Mdoda
 Customer Interface & Administration
 Planning & Economic Development

T: +27 21 808 8690 : F +27 21 886 6899
 3rd Floor, Eikestad Mall, Andringa Street,
 Stellenbosch
www.stellenbosch.gov.za



Disclaimer and confidentiality note: The legal status of this communication is governed by the terms and conditions published at the following link:
http://www.stellenbosch.gov.za/main_pages/disclaimerpage.htm

**About Stellenbosch Municipality**

Our mission is to deliver cost-effective services that will provide the most enabling environment for civil and corporate citizens.



Our head office is at Town House Complex, Plein Street, Stellenbosch, 7600, South Africa. For more information about Stellenbosch Municipality, please call +2721-808-8111, or visit www.stellenbosch.gov.za

APPENDIX 4
REGISTERED SLIPS

APPENDIX 5
SAMPLE LETTER AND SUPPORTING
DOCUMENTATION

Municipal Ref: Farm 1307/2 and 1307/3 Stellenbosch

My Ref: Farm 1307/2 & 3 Stellenbosch

Application number: LU/8130

Enquiries (Emile van der Merwe, Tel no. 021-886 5050, emilevdm@adept.co.za)

2019-05-15

REGISTERED MAIL

Ward Councillor A Crombie (Ward 20)

7 Pool Street

Stellenbosch

7600

Dear Sir/Madam

**APPLICATION FOR AMENDMENT OF CONDITION OF APPROVAL AND AMENDMENT OF APPROVED
SUBDIVISIONAL AND SITE DEVELOPMENT PLANS: FARM NO 1307/2 AND 1307/3 STELLENBOSCH
DIVISION**

Applicant:	Emile van der Merwe Town Planning Consultants
Owner:	Ash Family Trust
Application number	8130
Reference number:	Farm 1307/2 and 1307/3 Stellenbosch
Property Description:	Farm 1307/2 and 1307/3 Stellenbosch
Physical Address:	Farm 1307/2 and 1307/3 Vlottenburg Stellenbosch, situated between Digteby and Longlands Estates

Detailed description of proposal:

The matter for consideration is an application in terms of the Municipal Land Use Planning By-Law for the following:

1. Application in terms of Section 15 (2) (h) of the Stellenbosch Municipal Land Use Planning By-Law (2015) for the amendment of a condition of approval (condition 5 imposed in the letter of approval dated 2015-12-17) in order to provide the main access for the estate development via the existing servitude right of way and proposed extensions thereto in lieu of the access over the Digteby development as previously approved by Council; and
2. Application in terms of Section 15 (2) (k) of the Stellenbosch Municipal Land Use Planning By-Law (2015) for the amendment of the approved subdivisional plan and site development plan to allow for the new main access to the Estate and minor amendments to the internal layout of the approved erven.

Notice is hereby given in terms of the Stellenbosch Municipal Land Use Planning By-law that the above mentioned application has been received and is available for inspection during weekdays between 08:30 and 13:30 at the Planning Advice Centre at Stellenbosch Municipality, Plein Street, Stellenbosch. Any written comments/objections, with full reasons therefore, may be addressed in terms of section 50 of the said legislation to the applicant in one of the following manners:

APPLICANT
Registered mail or normal mail
Emile van der Merwe Town Planning Consultants, PO Box 204, Stellenbosch, 7599
Or Fax to
021-8838965
Of hand delivered to
Doornbosch Centre, Strand Road, R44, Stellenbosch
Of e-mailed to
emilevdm@adept.co.za

All comments, quoting the application number, reference number, your name, address or contact details, your interest in the application and reasons for comments should be received by the above party on or before 30 days from the date of publication of this notice. Telephonic enquiries can be made to the applicant, Emile van der Merwe) at (021-8865050/0845566461). Any comment/objection received after aforementioned closing date will be considered invalid. Any person who cannot write will be assisted by a Municipal official by transcribing their comments.

Yours faithfully

Emile van der Merwe

EMILE VAN DER MERWE TOWN PLANNING CONSULTANTS



EMILE VAN DER MERWE
town planning consultants

Municipal Ref: Farm 1307/2 and 1307/3 Stellenbosch

My Ref: Farm 1307/2 & 3 Stellenbosch

Application number: LU/8130

Enquiries (Emile van der Merwe, Tel no. 021-886 5050, emilevdm@adept.co.za)

2019-05-15

REGISTERED MAIL

Digteby Home Owners Association

Digteby Estate

Postnet Suite 353

Privaatsak

Somerset West

7129

Dear Sir/Madam

**APPLICATION FOR AMENDMENT OF CONDITION OF APPROVAL AND AMENDMENT OF APPROVED
SUBDIVISIONAL AND SITE DEVELOPMENT PLANS: FARM NO 1307/2 AND 1307/3 STELLENBOSCH
DIVISION**

Applicant:	Emile van der Merwe Town Planning Consultants
Owner:	Ash Family Trust
Application number	8130
Reference number:	Farm 1307/2 and 1307/3 Stellenbosch
Property Description:	Farm 1307/2 and 1307/3 Stellenbosch
Physical Address:	Farm 1307/2 and 1307/3 Vlottenburg Stellenbosch, situated between Digteby and Longlands Estates

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Doornbosch Centre, Strand Road, R44, Stellenbosch
Of e-mailed to
emilevdm@adept.co.za

All comments, quoting the application number, reference number, your name, address or contact details, your interest in the application and reasons for comments should be received by the above party on or before 30 days from the date of publication of this notice. Telephonic enquiries can be made to the applicant, Emile van der Merwe) at (021-8865050/0845566461). Any comment/objection received after aforementioned closing date will be considered invalid. Any person who cannot write will be assisted by a Municipal official by transcribing their comments.

Yours faithfully
Emile van der Merwe
EMILE VAN DER MERWE TOWN PLANNING CONSULTANTS

Municipal Ref: Farm 1307/2 and 1307/3 Stellenbosch

My Ref: Farm 1307/2 & 3 Stellenbosch

Application number: LU/8130

Enquiries (Emile van der Merwe, Tel no. 021-886 5050, emilevdm@adept.co.za)

2019-05-15

REGISTERED MAIL

Stellenbosch Interest Group

PO Box 2217

Dennesig

7601

Dear Sir/Madam

**APPLICATION FOR AMENDMENT OF CONDITION OF APPROVAL AND AMENDMENT OF APPROVED
SUBDIVISIONAL AND SITE DEVELOPMENT PLANS: FARM NO 1307/2 AND 1307/3 STELLENBOSCH
DIVISION**

Applicant:	Emile van der Merwe Town Planning Consultants
Owner:	Ash Family Trust
Application number	8130
Reference number:	Farm 1307/2 and 1307/3 Stellenbosch
Property Description:	Farm 1307/2 and 1307/3 Stellenbosch
Physical Address:	Farm 1307/2 and 1307/3 Vlothenburg Stellenbosch, situated between Digteby and Longlands Estates

Detailed description of proposal:

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Emile van der Merwe

EMILE VAN DER MERWE TOWN PLANNING CONSULTANTS

Municipal Ref: Farm 1307/2 and 1307/3 Stellenbosch

My Ref: Farm 1307/2 & 3 Stellenbosch

Application number: LU/8130

Enquiries (Emile van der Merwe, Tel no. 021-886 5050, emilevdm@adept.co.za)

2019-05-15

REGISTERED MAIL

Stellenbosch Agricultural Society

PO Box 204

Stellenbosch

7599

Dear Sir/Madam

**APPLICATION FOR AMENDMENT OF CONDITION OF APPROVAL AND AMENDMENT OF APPROVED
SUBDIVISIONAL AND SITE DEVELOPMENT PLANS: FARM NO 1307/2 AND 1307/3 STELLENBOSCH
DIVISION**

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Owner:	Ash Family Trust
Application number	8130
Reference number:	Farm 1307/2 and 1307/3 Stellenbosch
Property Description:	Farm 1307/2 and 1307/3 Stellenbosch
Physical Address:	Farm 1307/2 and 1307/3 Vlottenburg Stellenbosch, situated between Digteby and Longlands Estates

Detailed description of proposal:

The matter for consideration is an application in terms of the Municipal Land Use Planning By-Law for the following:

1. Application in terms of Section 15 (2) (h) of the Stellenbosch Municipal Land Use Planning By-Law (2015) for the amendment of a condition of approval (condition 5 imposed in the letter of approval dated 2015-12-17) in order to provide the main access for the estate development via the existing servitude right of way and proposed extensions thereto in lieu of the access over the Digteby development as previously approved by Council; and
2. Application in terms of Section 15 (2) (k) of the Stellenbosch Municipal Land Use Planning By-Law (2015) for the amendment of the approved subdivisional plan and site development plan to allow for the new main access to the Estate and minor amendments to the internal layout of the approved erven.

Notice is hereby given in terms of the Stellenbosch Municipal Land Use Planning By-law that the above mentioned application has been received and is available for inspection during weekdays between 08:30 and 13:30 at the Planning Advice Centre at Stellenbosch Municipality, Plein Street, Stellenbosch. Any written comments/objections, with full reasons therefore, may be addressed in terms of section 50 of the said legislation to the applicant in one of the following manners:

APPLICANT
Registered mail or normal mail
Emile van der Merwe Town Planning Consultants, PO Box 204, Stellenbosch, 7599
Or Fax to
021-8838965
Of hand delivered to
Doombosch Centre, Strand Road, R44, Stellenbosch
Of e-mailed to
emilevdm@adept.co.za

All comments, quoting the application number, reference number, your name, address or contact details, your interest in the application and reasons for comments should be received by the above party on or before 30 days from the date of publication of this notice. Telephonic enquiries can be made to the applicant, Emile van der Merwe) at (021-8865050/0845566461). Any comment/objection received after aforementioned closing date will be considered invalid. Any person who cannot write will be assisted by a Municipal official by transcribing their comments.

Yours faithfully

Emile van der Merwe

EMILE VAN DER MERWE TOWN PLANNING CONSULTANTS

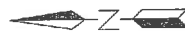
APPENDIX 6
AMENDMENT PLAN OF SUBDIVISION AND
SITE DEVELOPMENT PLAN

REVISED CONSOLIDATION AND SUBDIVISIONAL PLAN DIGTEBY PHASE 2 PORTION 2 & 3 OF FARM 1307 STELLENBOSCH

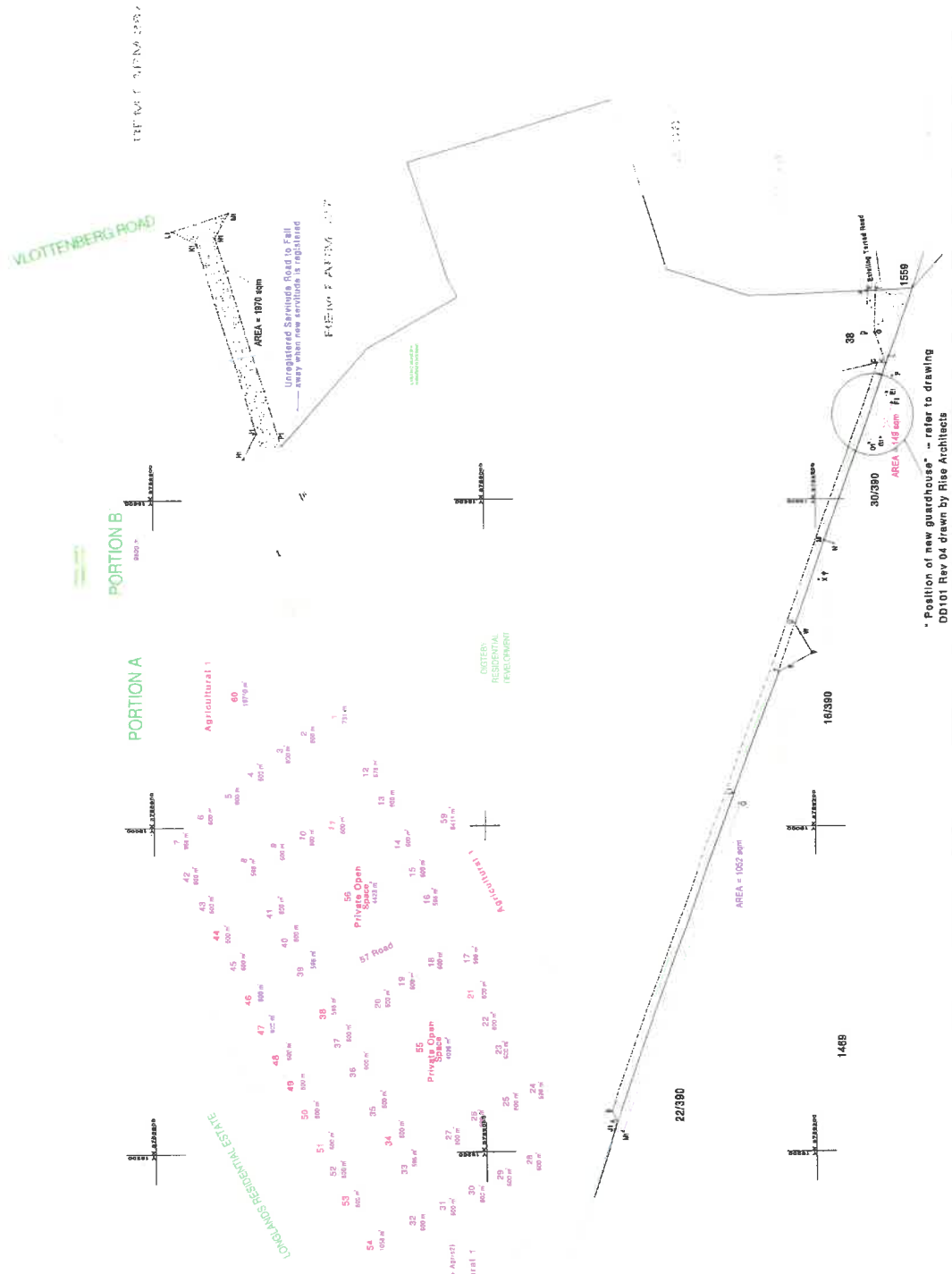
PORTION A		
UNITS	AREA	LAND USE ZONING
1-54	33319	RESIDENTIAL AGRICULTURAL ZONE 01
55	4423	RESIDENTIAL OPEN SPACE 2
56	4423	OPEN SPACE
57	10381	ROAD OPEN SPACE 2
58	350	WINE CELLAR AGRIC ZONE 2
59	18998	AGRICULTURAL AGRIC ZONE 1
60	18770	AGRICULTURAL AGRIC ZONE 1
TOTAL	89984	

PORTION B		
UNITS	AREA	LAND USE ZONING
6000		GROUP HOUSING RESIDENTIAL 2

Scale 1 : 1000 on A0



- GENERAL NOTES**
- 1) The figure A B C D E F G H represents an existing servitude road 8,00 meters wide over Erf 12 Vlotenberg.
 - 2) The figure J K F L represents an existing servitude right of way 8,50 meters wide over Erf 12 Vlotenberg.
 - 3) The figure M T P N represents an existing servitude right of way 8,50 meters wide over Portion 2D of the Farm Vlotenberg Annex No. 309
 - 4) The figure 11, O M I represents a proposed access and services servitude over Portion 2E of the Farm Vlotenberg annex No. 209
 - 5) The figure M T E O and U M N X W represent a proposed access and services servitude over Portion B of the Farm Vlotenberg annex No. 309
 - 6) The figure D I E I F G I represents a proposed servitude right of way over Portion 3D of the Farm Vlotenberg Annex No. 389
 - 7) The figure H I J K L M N P I represents a proposed servitude right of way servitude of the Farm Vlotenberg No. 387



PREPARED BY
CHANTECLER

CLIENT
ASH FAMILY TRUST

DATE
NOVEMBER 2018

TITLE
REVISED SUBDIVISIONAL PLAN No.5

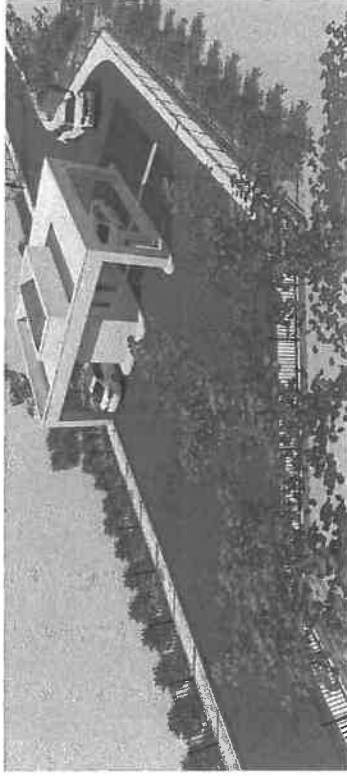
DRAWN BY
STEPHEN OLD LAND SURVEYORS

Postal Suite 237
Private Bag 4103
NI City 7463
Tel +27 (0) 21 561 7486
Fax +27 (0) 88 929 2991
www.stellenboschland.co.za

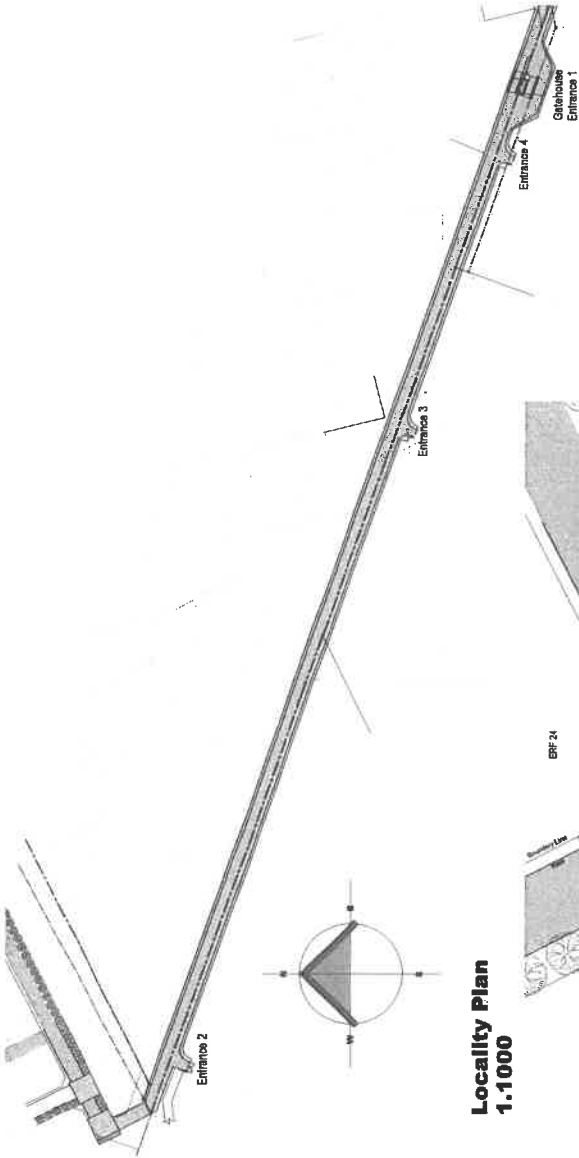
THE INFORMATION CONTAINED HEREIN IS UNCLASSIFIED AND NOT FOR OFFICIAL USE. IT IS THE PROPERTY OF CHANTECLER AND SHOULD BE KEPT CONFIDENTIAL.



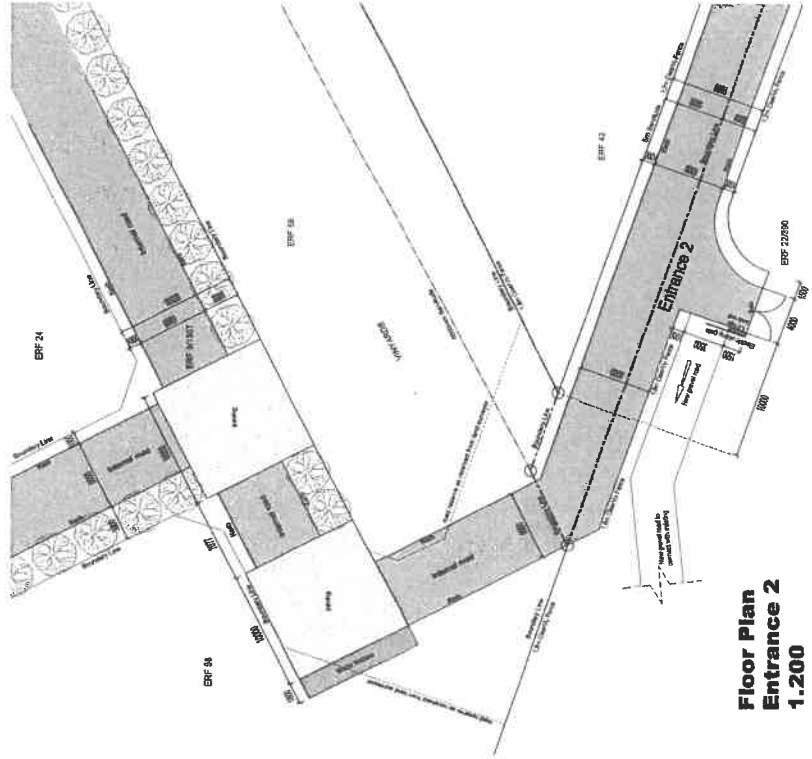
Proposed New Gatehouse Entrance View



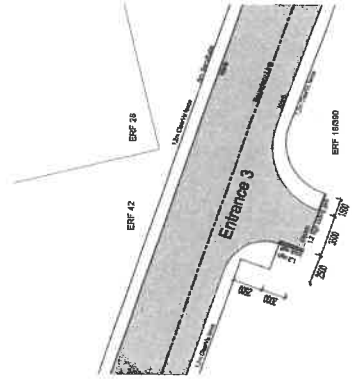
Proposed New Gatehouse Exit View



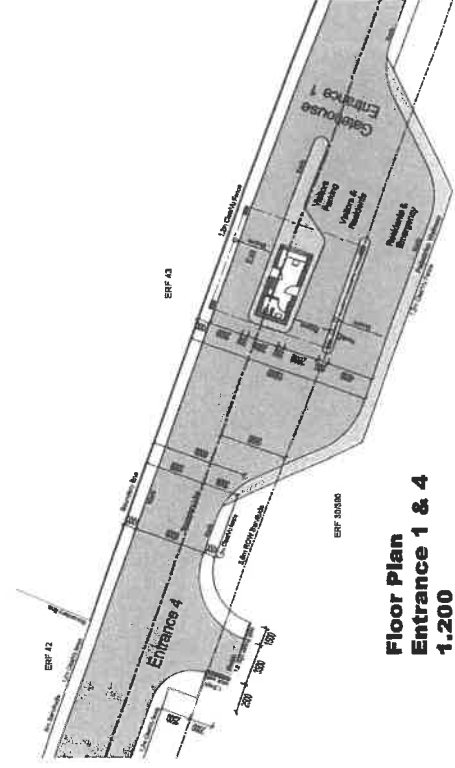
Locality Plan 1.1000



Floor Plan Entrance 2 1.200



Floor Plan Entrance 3 1.200



Floor Plan Entrance 1 & 4 1.200

APPENDIX 6
REQUEST FOR EXTENSION OF TIME

Sent: 12 June 2019 02:52 PM

To: 'Emile van der merwe'

Cc: 'Lize Pecoraro'; 'Carel Lubbe'; 'Willem Verhoogt'

Subject: Extension

Dear Emile,

On behalf of the Digteby Home Owners Association, I hereby request an extension for 1 month in respect of your application to the Municipality of Stellenbosch.

The postage system is in such a state of disaray that a number of the intended recipients on the list claim that they did not receive these documents including the HOA and myself.

It is on this basis that I request the extension.

Additionally, the reason for requesting this amount of time is because Willem Verhoogt, Carel Lubbe and Lize Pecoraro are out of town for the next few weeks. Willem Verhoogt is already away and Carel Lubbe leaves for overseas this afternoon whilst Lize Pecoraro is going on leave for two weeks from Friday.

Could you please let me know your decision after your meeting tomorrow morning.

I do this request in my capacity as a trustee of Digteby HOA and as the deputy chairman in the absence of our Chairman, Willem Verhoogt.

Yours Sincerely

Andrew Kidd

0824595979

APPENDIX 7

LETTER: EXTENSION OF TIME GRANTED



MARAIS MÜLLER HENDRICKS
ATTORNEYS

Our Reference: Louis Smith/Megan/
Email: lsmith@maraismuller.co.za
Your Reference: Andy Kidd
Date: 13 June 2019

DIGTEBY HOME OWNERS' ASSOCIATION
By email: andy@sustains.co.za

Dear Sir

APPLICATION FOR AMENDMENT OF CONDITIONS OF APPROVAL AND AMENDMENT OF APPROVED SUBDISIONAL AND SITE DEVELOPMENT PLANS: FARM NO. 1307/2 & 1307/3, STELLENBOSCH (LU 8130)

EXTENSION OF COMMENTING PERIOD

We refer to the above and your email dated 12 July 2019, addressed to Emile van der Merwe Town Planning Consultants, the applicant in the matter.

In your email on behalf of the Digteby Home Owners' Association ("DHOA") you have requested an extension of time (one month) over and above the prescribed public participation period of 30 days as determined in terms of the Stellenbosch Municipal Planning By-Law (2015).

We act on behalf of the applicant in the abovementioned application and hereby confirm that the applicant grants the DHOA and all its members (who were recorded as interested and affected parties in their capacities as owners) an extension of 30 calendar days on the prescribed period. The extension is granted in order to ensure a transparent and fair process for the particular circumstances mentioned in your request.

We confirm that the extended 30 day period as mentioned above, will be calculated from 14 June 2019, which means that the extended period to lodge comments or objections will lapse on 15 July 2019.

We also confirm your written undertaking, dated 13 June 2019, that the DHOA will forward this letter of extension to all the interested and affected owners (and members) of immovable properties in Digteby by email, before close of business on 14 June 2019. Kindly provide us with written confirmation that same has been attended.

We trust you find the above in order.

Yours faithfully
MARAIS MÜLLER HENDRICKS INC

Per: **L J Smith**

tel: +27 21 887 1021 fax: +27 21 887 1022 docex 3, Zandfontein www.maraismuller.co.za
address 21 Gewerpark, Die Baard, Stellenbosch, 7600 PO Box 27, Stellenbosch, 7600

MARAIS MÜLLER HENDRICKS INC (INCORPORATED)

DIRECTORS

MR JACQUES DE WET (ATTORNEY GENERAL) MR SURINDER BAL (ATTORNEY GENERAL) MR JACQUES DE WET (ATTORNEY GENERAL) MR JACQUES DE WET (ATTORNEY GENERAL) MR JACQUES DE WET (ATTORNEY GENERAL) MR JACQUES DE WET (ATTORNEY GENERAL) MR JACQUES DE WET (ATTORNEY GENERAL) MR JACQUES DE WET (ATTORNEY GENERAL) MR JACQUES DE WET (ATTORNEY GENERAL) MR JACQUES DE WET (ATTORNEY GENERAL)

CONSULTANTS

MR JACQUES DE WET (ATTORNEY GENERAL) MR SURINDER BAL (ATTORNEY GENERAL) MR JACQUES DE WET (ATTORNEY GENERAL) MR JACQUES DE WET (ATTORNEY GENERAL) MR JACQUES DE WET (ATTORNEY GENERAL) MR JACQUES DE WET (ATTORNEY GENERAL) MR JACQUES DE WET (ATTORNEY GENERAL) MR JACQUES DE WET (ATTORNEY GENERAL) MR JACQUES DE WET (ATTORNEY GENERAL) MR JACQUES DE WET (ATTORNEY GENERAL)

PROFESSIONAL ASSISTANTS

MR JACQUES DE WET (ATTORNEY GENERAL) MR SURINDER BAL (ATTORNEY GENERAL) MR JACQUES DE WET (ATTORNEY GENERAL) MR JACQUES DE WET (ATTORNEY GENERAL) MR JACQUES DE WET (ATTORNEY GENERAL) MR JACQUES DE WET (ATTORNEY GENERAL) MR JACQUES DE WET (ATTORNEY GENERAL) MR JACQUES DE WET (ATTORNEY GENERAL) MR JACQUES DE WET (ATTORNEY GENERAL) MR JACQUES DE WET (ATTORNEY GENERAL)



www.lawyersworldwide.com

APPENDIX 8
OBJECTIONS RECEIVED

APPENDIX 9
COMMENT ON OBJECTIONS

APPENDIX F
Objections received

Emile Van der Merwe Town Planning Consultants
For attention: Emile van der Merwe
Doornbosch Centre
Strand Road
R44
STELLENBOSCH
7599

Date: 10 July 2019
Ref No: Farm 1307/2 and 1307/3 Stellenbosch
Our ref: LPO/mdt | DIG4/0001
E-mail: lizep@cluvermarkotter.law

By hand

Dear Mr Van der Merwe

OBJECTIONS TO: APPLICATION FOR AMENDMENT OF CONDITION OF APPROVAL AND AMENDMENT OF APPROVED SUBDIVISIONAL AND SITE DEVELOPMENT PLANS: FARM NO 1307/2 AND 1307/3 STELLENBOSCH DIVISION

APPLICATION NUMBER: 8130

REFERENCE NUMBER: FARM 1307/2 AND 1307/3 STELLENBOSCH

1. We act for the Digteby Home Owners Association ("Digteby HOA"), the registered owner of the Property known as Erf 42, Vlottenburg ("the Servient Property"). The Developers of the Chantecler Residential Estate require the Servitude Right of Way, currently registered over the Servient Property owned by the Digteby HOA ("the Servitude"), in favour of Portion 3 of Farm 1307 ("the Dominant Property") to be widened for the use as a main entrance to the residential estate.
2. We hereby submit on behalf of the Digteby HOA, the following written objections in respect of the Notice in terms of the Stellenbosch Municipal Land Use Planning By-law of 2015, relating to the aforementioned application ("the Notice"). The Notice, dated 15 May 2019, was sent by registered post and was not received timeously by a vast amount of the members of the Digteby HOA or the HOA itself. We assume that this is a result of the ongoing poor postal delivery service that we receive from the South African Post Office. The Digteby HOA was accordingly granted an extension of the objection until 14 July 2019. We attach hereto the communication in this regard.
3. The application deals with the amendment of the condition of approval in order to provide for the main access of the intended Chantecler Residential Estate Development ("the Development") via the Servitude. Our client submits that the nature and the use of the Servitude cannot be amended by a notice, it can only be changed by agreement. This notice, from a planning perspective, can only be valid in respect of any other use changes in respect of the neighbouring properties and cannot have the effect of changing the nature and interpretation of the Servitude.

Cluver Markotter Building | Mill Street | Stellenbosch | 7600
PO Box 12 | Stellenbosch | 7599 | South Africa

Directors

AMJ Melck (Chairman) | L Brink | AL de Waal | JM Geyser | SM Geyser
B Hess | PL Hill | M Koen | JH Lamprecht | MM Loubser | L Pecoraro
CW Prins | S Roberts | RA Stevens | L van Niekerk | MC Wild

Telephone +27(0)21 808 5639 | **Fax** +27(0)21 886 5420
Docex 6 | Stellenbosch | www.cluvermarkotter.law

Associates | H Beviss-Challinor | PA Badenhorst | J Bothma

Practice Manager | A Keyter
Registration Number 2000/002905/21
Cluver Markotter Incorporated

NATURE AND INTERPRETATION OF THE SERVITUDE AND IMPACT OF THE VARIATION THEREOF

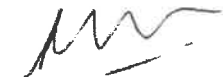
4. A servitude is a limited real right that imposes a burden on a specific immovable property by restricting the rights to and use of the property by the owner in favour of another property. The scope of the Servitude is determined by the specific wording. A servitude has to be interpreted according to its wording and in light of the surrounding circumstances prevailing when it was grounded. If any uncertainty should exist regarding a registered servitude right of way, the least onerous interpretation should be followed. A change in the use of the Dominant Property over time does not automatically entitle the owner of the Dominant Property to expand the extent and use of the Servitude road, especially if the changed use implies imposing an additional burden on the Servient Property.
5. The Servitude appears to be unencumbered by additional ancillary entitlements in favour of its holder. The Servitude should be interpreted strictly and its terms construed in a manner which is least burdensome and inconvenient for the Servient Property. At the time of the registration of the Servitude the Dominant Property was used for agricultural purposes and the servitude road was intended to serve as an entry to the Dominant Property for the owner of the property and individuals related to the farming activities. The amendment of the Servitude will have a more burdensome effect of the Servient Property as the servitude road will provide access to a residential estate with fifty four separate erven to be occupied by its residents, amounting to a substantial increase in the traffic on the servitude road.
6. The servitude road is not the only access road to the disposal of the Development and should the current servitude road not be sufficient for the use of the Development, the alternative construction road can be used for the exact same purpose.
7. In terms of a servitude agreement, no variation of the servitude, including an addition, amendment, repeal, novation, cancellation or any waiver of any right by a party to the servitude agreement, shall be binding on the other party unless such variance is reduced to writing and signed by both parties or their agents authorised in writing. Changing the nature and interpretation of the Servitude by notification to the owner of the Servient Property will therefore not qualify as a valid variation of the servitude. The variation of the Servitude can only be effected by way of an agreement between the owners of the Dominant and Servient Properties. We reiterate that the Notice and Application will not suffice in reaching the intended purpose of effecting the variation of the Servitude.



CONDITIONS OF APPROVAL

8. We are of the opinion that our objections to the application are merited and that the servitude road will remain as is, unless agreed otherwise. The Digteby HOA has been in the process of considering the proposal of the construction of the new servitude road and attempted to reach an agreement on the terms and conditions of the servitude agreement with the developers. The developers were to make further changes to a proposed servitude agreement, which changes were requested by the Digteby HOA in October 2018 already subsequent to a special general meeting regarding the issue. The Digteby HOA only received the revised draft servitude agreement on 14 June 2019. The Digteby HOA are in the process of considering the amended agreement and setting up a special general meeting with its members in this regard.
9. Should Council, however, approve the application, we stress the importance that the lengthy caucus discussions and consultations by the developer and the Digteby HOA regarding the specific essential requirements of the Digteby HOA for the construction of the servitude road, relating to *inter alia* the speed bumps, the type of road and the security issues that should be taken into account. We accept that these requirements shall be adhered to and that the approval of the application shall be made subject to the specific requirements as set out the latest draft servitude agreement.
10. Our client also reserves its right to appeal against any approval granted by Council.

Yours faithfully



L PECORARO
CLUVER MARKOTTER INC

MACKENZIE JOHNSON TRUST

IT103/2006

E-mail and hand delivered

15 July 2019

Emile van der Merwe Town Planning Consultants
Doornbosch Centre
Strand Road, R44
Stellenbosch
7600

Objecting Party: John-Mackenzie Johnson (duly authorized on behalf of the Mackenzie Johnson Trust - IT103/2006) owner of Digteby Estate no 28, Vlottenberg Road, Stellenbosch.

Application number: 8130 (reference number Farm 1307/2 and 1307/3 Stellenbosch) refers.

Reference number: Farm 1307/2 and 1307/3 Stellenbosch

Attached please find a letter from Marais Muller providing extension of the objection period up to and including 15 July 2019 (Appendix A).

I strongly object to:

- (1) the use of the 5m servitude being used as access road for the proposed development, and
- (2) the amended sub-divisional plan and site plan to allow for the new main access to the Estate, as stated in the application dated 15 May 2019 (letter attached, Appendix B, for ease of reference).

Basis of the objection:

1. Alternative access is available

Previous Approval

Previously the proposed development was approved with the specific exclusion of using the existing 5m servitude along the south western boundary of Digteby Estate.

Condition 5:

"....No access to the subject development may therefore be obtained from the 5m servitude road west of the property without the written consent of the affected property owners and the controlling roads authority. The main access to this development will therefore be off the access over the Digteby Development as previously approved by Council."

The applicant now states that since the Digteby Home Owners Association informed Ash Family Trust (the owner of the subject property) that they are no longer in favour of the access to the proposed development over the existing Digteby development as previously approved by council, that **the only alternative (as stated in their application page 2, "Current Status" para 2)** is to provide access to the proposed development via the registered 5 m servitude to the west of the property (hereinafter referred to as the "*Digteby Servitude Road*").

Clearly this is not the case as by the applicant's own account they have negotiated a servitude with Vredenheim from the Vlottenurg Road to Portion A and Portion B of the Chantecler Development (hereinafter referred to as the "*Vredenheim Servitude Road*"):

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IT103/2006

"Vredenheim (Pty) Ltd, Registration Number: 1995/007371/07 has granted Croydon and its successors in title or assigns, as future owners of the Chantecler Development a servitude right of way over the Remainder of the Farm Vlotenburg No. 387, situated in the Municipality and Division of Stellenbosch, Western Cape Province, to access the Chantecler Development from the Vlotenburg Road (connecting the Polkadraai Road M12 and the Baden Powell Drive R310), for the purposes of construction, building, maintenance, refuse removal and pedestrian access in respect of Portion A of the Chantecler Development, as well as access to the Group Housing component on Portion B of the Chantecler Development, as will more fully appear from Annexure A (hereinafter referred to as the "Construction Road");"

In respect of Portion A of the Chantecler Development the *Vredenheim Servitude Road* road will be used for the purpose of:

- construction,
- building,
- maintenance,
- refuse removal and
- and pedestrian access.

With respect to the access for the residents of the proposed estate (Chantecler Portion A), to hold forth that all alternative access to Chantecler Portion A (the proposed estate) has been exhausted and that the access along the Digteby Servitude Road is the only access available to the proposed development is therefore not true as the same Vredenheim Servitude Road can be used by the residents for access to Chantecler Portion A.

The Vredenheim Servitude Road (over the Remainder of the Farm Vlotenburg No. 387, situated in the Municipality and Division of Stellenbosch, Western Cape Province) will be a total of approximately 175 meters in length (see Appendix C)

While the Digteby Servitude Road (the access which is currently being applied for) is approx. 500 meters long see Appendix C).

To ensure access via the Digteby Servitude Road the applicant needs to negotiate separate servitude agreements with three landowners (excluding Digteby HOA), which includes remuneration in various forms. Furthermore, the developer will have to spend a significant amount of money to upgrade this road and pave it and install additional electric fence around the properties of the owners they have agreed the new servitude agreements with, namely Stellenbosch Hills, Bayly Family Trust and Gordon Hindmarch. Again, this adds to the significant cost which will be incurred by the developer to ensure access via the Digteby Servitude Road.

In addition to this, the developer also needs to prepare the Vredenheim Servitude Road (the 200m) to be used as access for purposes other than the residents of Chantecler Portion A (as stated above) as well as access for residents of Chantecler Portion B.

The developer is willing to spend a vast amount of additional money to ensure access via the Digteby Servitude Road because it does not want to provide access to their proposed development via the Vredenheim Servitude Road and have stated that this will not be suitable for their high-end clientele (no doubt not from a previously disadvantaged community). It is clear that they do not want to enter their "elitist estate" via a previously disadvantaged community. I find this very upsetting that in this day and age the privileged will go at vast lengths to try to segregate their development from the realities of our community, by spending vast amounts of money to secure an alternative, more attractive entrance to their estate in lieu of spending the same money to upgrade the local area and use a much shorter access road at their disposal.

Instead of spending the money to build an additional 500m access road (along with the funds to acquire the right of ways) the developer could spend the same money (or even half the amount) on uplifting the area around the Vredenheim Servitude Road. Making access to Le Chanteclair Portion A not only more cost effective but making the area more attractive not just for their high end (mostly white) clientele but also for the less fortunate, previously disadvantaged, community they are now joining.

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IT103/2006

As an example this has been successfully done in the past by the developers of Aan-de-Weber in Jamestown.

In a *without prejudice* e-mail from the developers' attorneys it was stated that should Digteby not accept the proposal for access via the Digteby Servitude Road they will have no other choice than to approach the Municipality to re-apply for an amendment of the ROD. The developers indicated that they shall prove to the Municipality that they have exhausted all options available to develop the property in accordance with the current approval. They further state that should the application for amendment of the ROD be approved by the Municipality the developers will be entitled to develop a high density development in line with the 150 social housing units which is set to be built near Longlands.

The developers' indicated that it will then obtain access to the development from the Vredenheim Servitude Road for both Chantecler Portion A and Portion B.

It is clear the developer is resorting to blackmail tactics to encourage the residents and affected interested parties to go along with their proposal. But in doing this they have again affirmed that they do have access to Chantecler Portion A via the Vredeheim Servitude Road and that they have not exhausted all option with respect to access as is indicated in their application.

I would further like to point out that the Digteby HOA voted against the Digteby Servitude Road road being used for access to the proposed 54 house residential development. This vote was taken at a special meeting held on 18 October 2018.

2. Nature of the use of the Digteby Servitude Road (please note this is an extract from a legal opinion obtained)

2.1 The nature and interpretation of servitudes

A servitude may be defined as a limited real right that imposes a burden on movable or immovable property by restricting the rights, powers or liberties of its owner in favour of another person or owner of another immovable property.¹ At the outset it is necessary to consider the wording of the servitude in question, being a servitude right of way of 5 (five) meters wide in favour of Portions 2 and 3 of Farm 1307. This servitude appears to be unencumbered by additional ancillary entitlements in favour of its holder. The specific wording of the servitude, as it is contained in Title Deed Number T80398/2007, reads as follows,

"Withinmentioned property is subject to Right of Ways 5 m wide of which South Western & Southern boundaries are depicted by lines DE & EFG dgm 6491/92 in favour of Ptn 2 – 3 of Farm no 1307 meas 5,0042 ha held by T68807/92." (sic)

Following a proper interpretation of the wording of Deed of Title Number T12003/1944 and Deed of Title Number T16066/1949, it would appear that the servitude right of way of 6,3 meters wide, over Erf 42, is registered in favour of Portion 4 of the Farm 1307 (which now forms part of Portion 16 of Farm 1307) and not Chantecler.

The principle is that a servitude must be interpreted strictly so as to impose the least cumbersome burden on the servient property.

¹ Van der Merwe and de Waal "Servitudes" in Joubert and Farris (eds) The Law of South Africa (2010)

MACKENZIE JOHNSON TRUST

IT103/2006

2.2 The relationship between the parties**2.2.1 The holder of servitude rights**

As a point of departure the owner of the dominant tenement, i.e. the party entitled to the servitude rights, has the right to do whatever may be necessary for the full enjoyment of the servitude.² This right of the servitude holder is further extended in that it includes all ancillary entitlements necessary for the effective use of the servitude.³ The right of the servitude holder to fully enjoy the servitude granted to it is a definitive feature of this discipline of South African property law, but it is qualified by the common law principle that a servitude right must be exercised *civiliter modo*.

Also referred to as ‘**the reasonable use of a servitude**’, this common law principle provides that the servitude must be utilised in a reasonable manner.

Accordingly, the servitude holder can only use a servitude road, for example, in a manner that causes the least damage or inconvenience to the servient property.⁴ The principle of reasonable use is further discussed under section 2.3, below.

2.2.2 The grantor of servitude rights

The owner of the servient tenement, i.e. the grantor of the servitude rights, may use its land in any reasonable manner, provided always that it enables the dominant owner to exercise fully the servitude rights granted to it.⁵ For example, the servitude grantor **may divert the course of a road** (over which the dominant owner holds a servitude right) **provided that the diversion does not make the road less convenient or more expensive to/for the dominant owner**.

To summarise, the first of the two foundational principles regulating the relationship between the parties, is that the servitude holder is entitled to and the servitude grantor is obligated to provide, or refrain from disturbing, effective use of the servitude. The second foundational principle, which must necessarily be balanced with the first, is that the servitude holder must exercise its servitude rights in a reasonable manner. The following section investigates the latter in more detail.

2.2.3 Reasonable use of a servitude

According to Van de Walt, the principles of reasonable use “primarily protects the servient owner against the negative effects that exercise of the servitude may have on ownership of the servient land.”⁶ Given that a servitude right of way is praedial in nature in that it burdens the servient land indefinitely it is reasonable to foresee that, due to modernisation, the use of a servitude road will change over time. It is because of this fact that the change in the use of a servitude, as a result of modern circumstances, may legitimately and reasonably require the imposition of a heavier burden on the servient land.⁷ The reasoning, therefore, is that the servitude has to serve the current needs of the dominant land. However, it is pertinent to remember that the tensions that arise from the rights of both the servitude holder and the servitude grantor must be resolved by way of a balancing exercise. Accordingly, the following remark by Van der Walt must be borne in mind.⁸

“[A] change in the use of the dominant property over time does not automatically entitle the owner of the dominant property to expand the extent of the original servitude [road], or to use the right of way however she thinks fit, especially if the changed use implies imposing an additional burden on the servient land” (own emphasis added)

² Hall and Kellaway *Servitudes* (1942) page 120

³ Van der Walt *The Law of Servitudes* 412

⁴ Brink v van Niekerk en 'n Ander 1986 (T) at 434.

⁵ Roeloffze NO and Another v Bothma NO and Others 2007 (C) paras 8, 12.

⁶ Van der Walt: *The Law of Servitudes* p 247.

⁷ Van der Walt: *The Law of Servitudes* p 414

⁸ Van der Walt: *The Law of Servitudes* p 415 – 416

MACKENZIE JOHNSON TRUST

IT103/2006

To concretise the legal position of the Digteby residents in respect of providing access to Chantecler by way of the [Digteby] servitude road, one must specifically look at the surrounding circumstances at the time that the servitude was created. The servitude holder may not change the (condition) of the dominant property to the extent that exercise of the servitude would be more burdensome on the servient property than what could reasonably have been foreseen at the time of creating the servitude.⁹ It could reasonably be argued that the dominant property, being the property to be used for the proposed development, was utilised as an agricultural holding at the time of granting the servitude road. It could not reasonably have been foreseen that the servitude road would provide for access to a residential estate with 54 separate erven to be occupied by its residents.

The inconvenience and additional burden on Erf 42, as a result of [the construction activity for a fixed period of time and] the increased traffic from the Chantecler residents for an indefinite time, must further be weighed against the existence of an alternative route available to the dominant property. In this instance, the following excerpt from the Supreme Court of Appeal judgement in *Investment CC v Hammersley and Another* offers some guidance:

"[T]he opportunity for relocation should not be excluded if the circumstances prevailing at the time of the original agreement have changed and the dominant owner no longer possesses any acceptable reason to subject the servient property to the strict terms of the grant. It seems to me that, in such a case, the respective interests of the parties can fairly be regulated by reliance on the concepts of convenience and prejudice [...]"¹⁰

To summarise, there is an argument to be made against providing access to Chantecler based on both the common law principle of reasonable use, academic writings on the matter and case law dealing with prejudice to the servient owner and unreasonable burdening of the servient property. This argument is strengthened due to the existence of a possible alternative route.

Summary

Based on the above we therefor object to the Digteby Servitude Road to be used as access road to Chantecler Portion A on the basis that:

- (1) alternative access is available;
- (2) the use of the Digteby Servitude Road was never intended for a 54 residential estate but for agricultural purposes only. The fact that the land to which it currently gives access to has undergone a change in use does not automatically entitle the owner of Chantecler to expand the extend of the original servitude road; and
- (3) the use of the Digteby Access Road as access to the 54 erven within the Chantecler Portion A will have a negative impact on the marketability and market value of the houses within the Digteby Estate facing or in close proximity to such servitude road (indicated on Appendix C with an "X"). This represent 18 of the 49 properties in Digteby Estate, or approximately 37% of the residents.

We trust you will take our objection into serious consideration.

Kind regards,



John Mackenzie Johnson

Duly authorised on behalf of the Mackenzie Johnson Trust

⁹ Van der Merwe GG Sakereg (2 ed) page 467.

¹⁰ 2008 2 All SA 493 (SCA) at para 32

Emile van der merwe

From: Michelle Groenewald <michgroenewald7@gmail.com>
Sent: 15 July 2019 02:11 PM
To: emilevdm@adept.co.za
Cc: Michelle Groenewald
Subject: Objection - Ref number Farm 1307/2 and 1307/3 Stellenbosch
Attachments: Emile van der Merwe Town Planning Consultants_ MG Objection to application (July 2019).pdf

To whom it may concern

Dear Sir / Madam

This is just to confirm via email, my objection, hand delivered to Emile van der Merwe on Friday, 12 July 2019 at 15:00.

Please let me know if you have any questions or concerns. I am open to any meeting to discuss further.

Kind regards

Michelle

Michelle Groenewald

HR Consultant

Address: 27, Digteby Estate, Vlotenburg, Stellenbosch

Cell: +27 (0)83 4158878

E-mail: michgroenewald7@gmail.com

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MICHELLE GROENEWALD

Owner at No. 27, Digteby Estate, Vlottenburg 7600

0834158878 / michgroenewald7@gmail.com

15 July 2019

EMILE VAN DER MERWE TOWN PLANNING CONSULTANTS

PO Box 204, Stellenbosch 7599

FOR THE ATTENTION OF: EMILE VAN DER MERWE TOWN PLANNING CONSULTANTS

Dear Sir / Madam

Application Number: 8130

Reference number: Farm 1307/2 and 1307/3 Stellenbosch

OBJECTION TO THE APPLICATION FOR THE AMENDMENT OF CONDITION OF APPROVAL AND AMENDMENT OF APPROVED SUBDIVISIONAL AND SITE DEVELOPMENT PLANS: FARM 1307/2 AND 1307/3 STELLENBOSCH DIVISION:

The matter for consideration, is an objection in terms of section 50 of the said legislation. I therefore write in connection with the above application. I have examined the application and I know the servitude road and area well.

I wish to object strongly to this application.

Due to the period of time given to comment and /or object to this application and without being afforded an opportunity to make an informed decision (due to the fact that a Digteby Home Owners' Association Special meeting could not be conducted in time, prior to the expiry date of the set out objection period), I hereby reserve my right to at a later stage supplement my objection, as contained herein, with more detailed information / submissions.

I HEREBY OBJECT TO THE APPLICATION BASED ON THE FOLLOWING:

1. A Digteby Homeowners Association special meeting was held in October 2018. We as homeowners had to vote on the proposed extension of the servitude road, to the west of the Digteby Estate, as the proposed extension, necessitated an amendment of condition 5 of the previously stated application. In order to comply with the requirements of the Controlling Roads Authority and servitude right of agreement, an agreement had to be reached by all servient properties, to an increase in the width of

this servitude road. At the meeting we had to vote on this decision and a 'majority vote' had to be reached. However, at this meeting a 'majority vote' was not reached and therefore the agreement was declined. However, it was made clear that we will consider further discussions, should all homeowners be provided with updated and relevant information relating to the proposal, as well as a follow up special DHOA meeting scheduled (in order to make an informed decision regarding the application and in turn thereafter exercise our voting rights). To date, I confirm that updated information was received, however no special DHOA meeting could be scheduled in time. I will therefore not be acting in the best interest of myself as home owner, nor the Digteby Homeowners Association, without this meeting scheduled to discuss the amended documentation and information received (to be in a position to reconsider this application / proposal and exercise my voting rights). I therefore have no other choice than to object to this application.

2. In the Vlottenburg area, development proposals and changes to existing servitude roads should be considered very carefully: infilling could ruin the character of the area, while exclusive "white privilege" estate entrances could overwhelm it, rather than acting in the best interest of the community, by uplifting and improving it. In the documents received, it has been stated, that because the DHOA is no longer in favour of access to the new planned development via the exit of Digteby Estate, as previously approved, the only alternative is to provide access to the new proposed estate via the 5m servitude road to the west of the Digteby Estate. In my opinion, this information, is incorrect, as a primary access road to the new planned estate has been identified closer to Klein Digteby and Portions A and B (as indicated), i.e. next to the Vlottenburg School property. I strongly feel that this is of critical importance, as the developers should rather be contributing to the upliftment of this area and community as a whole and should use the funds to add to the infrastructure of this specific road and area, rather than spending these funds on the building and widening of a servitude road, that will only benefit the upper-class, white elitists, that can afford a property in such an estate. I propose that the developers should rather contribute to the community, adding to the infrastructure and in turn uplift the community and not spend funds on a servitude road, that would only benefit a minority group.
3. Furthermore, the principle of reasonable use "primarily protects the servient owner against the negative effects that the widening and extension of this servitude road could have on ownership of the servient land. It is therefore important to note, that the servitude road to the west of Digteby Estate, was originally made available for agricultural activities and nowhere has it been agreed or permission been given that this servitude road could be used for the development of a residential housing estate. To my knowledge this is a direct contravention of the rules set out and feedback in this regard would very much be appreciated, especially as an alternative road has been identified for the use of an entrance to the new proposed estate.

I do however take cognizance of the fact that a servitude right of way is praedial in nature and due to modernization the servitude road could change over time, but still the following must be borne in mind: A change in the use of the dominant property over time does not automatically entitle the owner of such a property to expand or extent the original servitude road, or to use the right of way

however the owner thinks fit. It is therefore important to note, that the servitude holder may not change the condition of the dominant property to the extent that, this exercise prove to be more burdensome on the servient property. So, at the time of creating this servitude road in question, the dominant property was utilized as an agricultural holding. By now erecting a residential estate with 54 separate erven and preceding this, the burden on the servient land from the possible construction activities for a fixed period of time and the inconvenience and additional burden, as a result of increased traffic from the Chantecler residents for an indefinite time, must without doubt be weighed against the existence of an alternative route available to the dominant property and new development.

4. Lastly, the direct impact of the widening of the servitude road to the west of the Digteby Estate, not only has a direct financial impact on my property, which will be severely affected by such a busy entrance road (note that the only property not having a house built on yet and is currently for sale, is the property directly next to me), but more so poses a huge security risk to me and my family during the construction of such a road, as well as the construction of new security fences. Considering the current happenings in the Stellenbosch community, this can merely not be ignored.

I understand that other homeowners in Digteby Estate and members of the Vlottenburg Community, share my concerns.

If this objection is to be taken into consideration and be discussed at a relevant meeting, please take this as a notice that I would like to attend and speak at the meeting at which this application and or objection is expected to be decided. Please let me know, as soon as possible, the date of such meeting.

Finally, please note that my submission is in respect of the proposed amendment and widening of the servitude road to the west of the Digteby Estate. While I have taken every effort to present accurate information for your consideration, as I am not a decision maker or statutory consultee, I therefore cannot accept any responsibility for unintentional errors or omissions, and you should satisfy yourselves on any facts before reaching your decision.

Furthermore, as for myself and those members of the Vlottenburg Community who are not familiar with all the laws and requirements that affect such an application, we rely on your ability and input to ensure that the interests of all affected parties have been carefully weighed and considered and should you decide to approve the application, that you are satisfied all required regulations have been complied with.

I trust that you will consider this objection in a positive light and consider the impact of such a decision on the Vlottenburg community.

I am available for further discussion on this matter.

Yours faithfully,

Michelle Groenewald

Emile van der merwe

From: Rochelle Ueckermann <rochelleueckermann@gmail.com>
Sent: 11 July 2019 01:54 PM
To: emilevdm@adept.co.za
Subject: Fwd: Site development plans: Farm no 1307/2 and 1307/3

Beste Emile

Ek wil jou graag in kennis stel van my teenkanting teen die voorstel van die pad agterom Digteby Estate - aansoek nommer 8130.

Sien asb my redes hieronder uiteengesit aan Louis Smith van Marais Muller.

Vriendelike groete
Rochelle Ueckermann

----- Forwarded message -----

From: Rochelle Ueckermann <rochelleueckermann@gmail.com>
Date: Mon, Jun 24, 2019 at 5:36 PM
Subject: Site development plans: Farm no 1307/2 and 1307/3
To: <lsmith@maraismuller.co.za>
Cc: Andrew Kidd (andy@sustains.co.za) <andy@sustains.co.za>

Goeie middag

Digteby Estate se HEV gaan binnekort 'n spesiale vergadering hou om te stem oor die goedkeuring van die beplande toegangspad agterom Digteby Estate.

In my privaathoedanigheid wil ek dit stel dat ek is nie ten gunste is van die beplande toegang agterom Digteby Estate. Ek woon in Digteby Estate nr 10 sedert Desember 2008 en het my erf reeds in 2006 gekoop. Dit sal Digteby se landelike gevoel tot niet laat gaan as hierdie toegangspad gebou word.

Daar kan 'n toegangspad gemaak word vanaf Vlottenburg pad. Digteby Estate se toegang loop verby 'n lae koste behuising ontwikkeling en dit het nie kopers afgeskrik. Al wat potensiële kopers teen die grensdraad afskrik is moontlike geraas vanaf Klein Digteby - maar steeds verkoop die eiendom maklik.

Vriendelike groete
Rochelle Ueckermann
0829778471

APPENDIX G

Applicant's response on objections

Our Reference: Louis Smith/Megan Brogneri
Email: megan@maraismuller.co.za
Your Reference: Emile van der Merwe
Date: 25 September 2019

**EMILE VAN ER MERWE
TOWN PLANNING CONSULTANTS
DOORNBOSCH CENTRE
STRAND ROAD R44
STELLENBOSCH**

Dear Sir

**MUNICIPAL REFERENCE: FARM 1307/2 AND 1307/3 STELLENBOSCH
YOUR REFERENCE: farm 1307/2 & and 3
APPLICATION NUMBER: LU/8130**

OBJECTIONS FILED IN RESPECT OF APPLICATION FOR AMENDMENT OF CONDITION OF APPROVAL AND AMENDMENT OF APPROVED SUBDIVISIONAL AND SITE DEVELOPMENT PLANS BY:

1. **DIGTEBY HOME OWNERS ASSOCIATION ("Digteby HOA") as Owner of Erf 42 Vlottenburg;**
2. **MACKENZIE JOHNSON TRUST ("MJT") as owner of Erf 28 Vlottenburg;**
3. **MICHELLE GROENEWALD ("MG") as owner of Erf 27 Vlottenburg; and**
4. **ROCHELLE UECKERMANN ("RU") as owner of Erf 10 Vlottenburg**

OUR CLIENT: ASH FAMILY TRUST as owner of Portions 2 and 3 of Farm 1307 Stellenbosch

We confirm that we act on behalf of Ash Family Trust ("Ash") as registered owner of Portions 2 and 3 of Farm 1307 Stellenbosch ("Chantecler Development" or "Portions 2 and 3 of Farm 1307") with the instructions to respond to the objections raised against the above mentioned application, prepared by your office on behalf of Ash.

Before we respond to the objections raised by the 4 parties mentioned above, we are of the opinion that it is important to record the history and background information regarding the Digteby Development, Chantecler and the applications (rezoning and subdivision) lodged with the Stellenbosch Municipality.

1. HISTORY AND BACKGROUND INFORMATION:

- a. Farm 1307 Stellenbosch (measuring: 22,3505 hectares) was registered on 29 October 1992 at the Cape Town Deeds Office – in this regard we refer to Certificate of Consolidated Title No. T68806/1992.

tel +27 21 887 1021 fax +27 21 887 1033 docex 3, Kuils River [www maraismullerhendricks.co.za](http://www.maraismullerhendricks.co.za)
address 21 Oewerpark, Die Boord, Stellenbosch, 7600 PO Box 627, Stellenbosch, 7599

MARAIS MÜLLER HENDRICKS INC. No 1997/012640/21

DIRECTORS

CS HENDRICKS LLB LLM (LABOUR LAW) DIP PENOLOGY - SJ BURGER BA LLB DIP TAX PRAC DIP EST - AJ MARAIS BA LLB - CJ GROBBELAAR BA LLB - GM DE WET BMUS LLB - PJ TRUTER BA LLB DIP EST DIP INSOLVENCY LAW - OJM SIEBERHAGEN B COM LLB LLM DIP LABOUR LLM - LJ SMITH B PROC - P BRINK BA LLB - MJ TITUS BCOM LLB - S RALL-WILLEMSE BA LLB - P NIEMANN B COM LLB - M GARANITO B COM LLB - RW STEWART LLB ADV DIP LABOUR LAW

CONSULTANTS

MTS HOFMEYR BA LLB - P RALL BA LLB -TR DE WET B COM LLB

PROFESSIONAL ASSISTANTS

LJ SMIT BA LLB - L KOTZE B COM LLB - JC SENEKAL LLB - CF MÖLLER B COM (HONS) LLB - AC DU TOIT B. COM LLB - JB FERREIRA B COM LLB



- b. Portion 2 and 3 of Farm 1307³⁸⁵ subdivided from Farm 1307 during 1992 and transferred to De Ruyter Family Trust on 29 October 1992 in terms of Deed of Transfer No. T68807/1992.
- c. With the transfer of Portions 2 and 3 of Farm as mentioned above, a 5 meter servitude right of way was granted in favour of Portions 2 and 3 of Farm 1307 over the Remainder of Farm 1307, to enable the owners of Portions 2 and 3 of Farm 1307 and their successors in title to gain access to the closest public road, which servitude read as follows:

F. ENTITLED FURTHER to the benefits of the following Servitude:

a right of way 5 (five) metres wide of which the South Western and Southern boundaries are depicted by the lines DE and HFG respectively on diagram S.G. No 649/92 in respect of Portion 3 of the Farm 1307 in the Division of Stellenbosch over the property described as

**THE REMAINDER OF THE FARM 1307 in the Division of Stellenbosch
MEASURING 11,5164 (Eleven comma five One Six Four) hectares
HELD by the Transferor under Certificate of Consolidated Title No T. 68806/92.**

to enable the Transferee and it's successors in title to gain access to the nearest public road, the said right of way to be constructed at cost of the Transferor and to be maintained at the cost of the Transferee and it's successors in title.

- d. During December 1994 Ash purchased Portions 2 and 3 of Farm 1307 from De Ruyter Family Trust and the said properties were transferred to Ash on 1 February 1995 in terms of Deed of Transfer No. T6692/1995. The 5 meter servitude right of way granted in favour of Portion 2 and 3 of Farm 1307 over the Remainder of Farm 1307 was carried forward in T6692/1995 (attached hereto as Annexure A) as recorded in clause 1.c. above. The wording of the servitude is very clearly recorded without any restrictions.
- e. An application for rezoning and subdivision of Remainder of Farm 1307 was lodged with the relevant authorities, which application was approved in terms of section 25 of Ordinance 15 of 1985 on 26 July 2006. As part of the approval a new access road to Digteby Estate was approved by the Department of Transport and Public Works: Western Cape Government. In this regard we refer to the letter addressed to the Stellenbosch Municipality dated 24 July 2006, attached hereto as Annexure B.
- f. On 22 January 2007 the Remainder of Farm 1307 was transferred to Digteby Trust. It is common cause that Digteby Trust was the developer of the Digteby Estate.
- g. The property description of Remainder of Farm 1307 was changed to Erf 46 Vlottenburg and in terms of the aforementioned approval Erf 46 was subdivided into Erven 45 and 44 Vlottenburg.
- h. Erf 44 Vlottenburg was transferred to the Stellenbosch Municipality on 5 October 2007. It is common cause that Erf 44 was earmarked for the development of ±20 social housing units ("Klein Digteby"), as an off-set for the higher income development on Digteby. It is also common cause that none of the individual erven in Klein Digteby has since been transferred to the beneficiaries due to the fact that the developer of Digteby and its successor in title, namely the Digteby HOA, has failed to provide an access road to Klein Digteby as per the conditions of approval of subdivision of Remainder of Farm 1307 and subsequent development agreement concluded with Stellenbosch Municipality.

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- i. In terms of the approval granted as recorded in clause 1.e. above, Erf 45 Vlottenburg was subdivided into 43 erven, as will more fully appear on General Plan G.P. No. 1490/2007, attached hereto as Annexure "C". Following the registration of General Plan G.P. No. 1490/2007 at the deeds office in Cape Town, the township establishment for the Digteby Estate became a residential area. In this regard we refer you to servitude note no.1 on page 1 of the said General Plan. Following the subdivision of the Remainder of Farm 1307 and subsequently Erf 45 Vlottenburg, the 5 meter servitude right of way granted in favour of Portion 2 and 3 of Farm 1307, is now situated on Erf 42 Vlottenburg, which erf was registered in the name of Digteby HOA on 5 October 2007 in terms of Deed of Transfer No. T80398/2007. In other words: the 5 meter servitude right of way registered in favour of Portions 2 and 3 of Farm 1307 (the "Dominant Tenement") now only applies to Erf 42 Vlottenburg (the "Servient tenement") due to the subsequent subdivision of Remainder of Farm 1307. Please refer to servitude note no. 1 below:

Servitude Notes:

- As12 s12s13s3
1. The lines ~~s0s1~~ and ~~s5s6s7~~ respectively represent the south western and southern boundaries of a servitude road 5,00 metre wide, vide Diagram No. 6491/1992, D/T 1992- 68807
 2. The line s10s11 represents the southern boundary of a services servitude 2,00 metre wide, as shown.
 3. The figure s1s2s3s4 represents a right of way 6,30 metre wide, vide Diagram No. 9784/1948, D/T 1949-322-16066
 4. The line s8s9s3 represents the northern boundary of a pipeline servitude 0,63 metre wide and the southern boundary of a servitude right of way 4,72 metre wide, vide Diagram No. 3780/1943, D/S 345/1944

- j. It is clear from servitude note no. 1 that it refers to the diagram and title deed in terms of which the servitude was created, namely Diagram No. 6491/1992 and T68807/1992. We confirm that the wording of the servitude right of way is exactly the same as recorded in clause 1.c. above. It is further worth mentioning that all the individuals and entity (recorded in the heading of this letter) who objected against the amended application lodged on behalf of Ash, took transfer of the various properties long after the said servitude right of way was registered over the Servient Tenement and granted in favour of the Dominant Tenement.
- k. Following the subdivision of Erf 45 Vlottenburg in terms of General Plan No. 1490/2007, a further application was lodged by Digteby Trust to subdivide Erf 41 Vlottenburg into 14 erven consisting of 10 further residential erven, open spaces and road/s. In this regard we refer to General Plan No. 3214/2008 attached hereto as Annexure D. It is our understanding that the motivation for this further subdivision was to enable the Developer of Digteby Estate, namely Digteby Trust, to generate further income from the sale of the 10 residential erven.
- l. As early as 2010 Ash instructed a professional team to prepare the necessary application/s for the rezoning and subdivision of Portions 2 and 3 of Farm 1307, to consist of a Residential Agricultural Estate of 26 erven, as well as a Village (measuring ±1 hectare) of 20 social housing units. During this period there were discussions with the Digteby HOA regarding the proposed new development, more specific the connection of services and access to Chantecler via the existing entrance gate of Digteby Estate (situated on Erf 43 Vlottenburg) and its existing internal roads (more specific Erf 57 Vlottenburg), rather than via the existing 5 meter servitude right of way over Erf 42 Vlottenburg. To this effect we refer you to a letter dated 1 June 2010 written by the chairman of Digteby Estate and addressed to Chantecler Estate, attached hereto as Annexure E. No formal agreement or servitude agreement was however concluded between Ash and Digteby HOA at this point in time in respect of the newly proposed access route via the Digteby entrance gate and internal roads. Based on the aforementioned, it was decided that the application for rezoning and subdivision of Portions 2 and 3 of Farm 1307 would propose that access to Chantecler as well as the

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village component would be via the existing entrance gate and access roads within the Digteby Estate. In this regard we refer you to page 16 of the application for rezoning and subdivision in respect of Portions 2 and 3 of Farm 1307, attached hereto as Annexure F.

- m. An application for rezoning and subdivision of Portions 2 and 3 Farm 1307, dated 7 July 2010, was lodged on behalf of Ash at the Stellenbosch Municipality, which application was approved in terms of section 25 of Ordinance 15 of 1985 on 28 January 2015. It is also important to note that Chantecler is also referred to as Digteby Phase 2 on the said application and the Stellenbosch Municipality's records and correspondence related to Portions 2 and 3 of Farm 1307.
- n. The aforementioned approval, as recorded in clause 1.m above, inter alia stated the following:
1. That **approval be granted** in terms of Sections 16 and 25 of the Land Use Planning Ordinance, 1985 (15 of 1985) for the rezoning and subdivision of consolidated Farms 1307/2 and 1307/3, Stellenbosch Division Agricultural Zone I to Subdivisional Area to accommodate the following: Residential Zone I, Agricultural Zone I, Agricultural Zone II and Open Space Zone II (Portion A) and Residential Zone II, Open Space Zone I and Transport Zone II (Portion B) as per Drawing Number 09473-03, dated 06 July 2011, drawn by EH (Dekker Papendorf Architects) attached as **Appendix 3**.
 2. That **approval be granted** in terms of Sections 25 of the Land Use Planning Ordinance, 1985 (15 of 1985) for the subdivision of consolidated Farms 1307/2 and 1307/3, Stellenbosch Division into two portions namely Portion A (± 9.8568 ha) and Portion B (± 0.9772 ha) as per Drawing Number 09473-02, dated 06 July 2011, drawn by EH (Dekker Papendorf Architects) attached as **Appendix 4**.
 3. That **approval be granted** in terms of Sections 25 of the Land Use Planning Ordinance, 1985 (15 of 1985) for the subdivision of Portion A into 26 residential erven, 6 open space erven and remainder agriculture as per Drawing Number 09473-03, dated 06 July 2011, drawn by EH (Dekker Papendorf Architects) attached as **Appendix 3**.
 4. That **approval be granted** in terms of Sections 25 of the Land Use Planning Ordinance, 1985 (15 of 1985) for the subdivision of Portion B into 20 Residential Zone II erven, 1 Open Space Zone I erf and 1 Transport Zone II erf as per Drawing Number 09473-03, dated 06 July 2011, drawn by EH (Dekker Papendorf Architects) attached as **Appendix 3**.
- o. The section of the said approval that is relevant, namely the access to and from Chantecler, was subject to the conditions imposed by the controlling authority, namely the Department of Transport and Public Works: Western Cape Government in its letter dated 12 February 2012 and addressed to the Stellenbosch Municipality, attached hereto as Annexure G. It stated the following:
2. Portions 2 and 3 of Farm No 1307 are located adjacent to DR1065. For this development access will be taken from the existing Digteby Development access.
 3. This application is to rezone and subdivide the property to enable the following:
 - 3.1 26 Residential Zone I erven
 - 3.2 20 Residential Zone II (Group housing) erven
 - 3.3 6 Open Space Zone II erven
 - 3.4 Remainder Agricultural Zone I with a small portion zone Agricultural Zone II for a wine cellar.
 4. This Branch has no objection to the application in terms of Section 17 of the Land Use Planning Ordinance No 15 of 1985, provided the following conditions are met:
 - 4.1 Access is taken from internal roads within the Digteby Development.

4.2 No more than 46 residential erven are developed.

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5. As the controlling authority in terms of Act 21 of 1940, this Branch approves the subdivision of Portions 2 and 3 of Farm 1307 Vlotenburg.
- p. It is however worth mentioning that the Department of Transport and Public Works: Western Cape Government in its letter dated 12 February 2012, incorrectly stated that Portions 2 and 3 of the Farm 1307 "*are located adjacent to DR1065.*" Portions 2 and 3 of Farm 1307 is not situated adjacent to nor does it have direct access to the DR1065 (also known as the Vlotenburg Road) by means of any servitude road or otherwise. At the time of approval of the application for rezoning and subdivision of Portions 2 and 3 of Farm 1307, the only access available to a public road to and from Portions 2 and 3 of Farm 1307, was via the 5 meter servitude right of way over Erf 42 Vlotenburg, as recorded above.
- q. Following the approval granted as recorded in clause 1.m. above and the revised approval of Longlands, Ash instructed its professional team to apply for the amendment of approval of subdivision, more specifically to increase the density of the residential units as previously approved, to be in line with the Longlands approval. An application, as aforementioned, was lodged with the Stellenbosch Municipality to increase the erven in the Residential Agricultural Estate from 26 to 54 erven and to increase the social housing from 20 to 40 erven, which application was approved in terms of section 25 of Ordinance 15 of 1985 on 17 December 2015, with final letter of notification dated 15 January 2016.
- r. It is our understanding that Stellenbosch Municipality again consulted with the Department of Transport and Public Works: Western Cape Government as the controlling authority (in a letter dated 23 September 2015 – we are not in possession of a copy of the said letter and it will be on file at the Stellenbosch Municipality) regarding the access to Chantecler in terms of the aforementioned application to amend the conditions of approval, but that the said department did not respond timeously; due to the aforementioned department's failure to respond to Stellenbosch Municipality's letter, the Stellenbosch Municipality imposed the same conditions regarding access to Chantecler, which formed part of the original approval dated 28 January 2015, except for increasing the number of erven.
- s. In respect of the access road, the Stellenbosch Municipality stated the following on Appendix 1 – page 4:
- ~~5. That all previous conditions of approval (See APPENDIX 5) remains the same, unless it is replaced by this approval. No access to the subject development may therefore be obtained from the 5m servitude road west of the property without the written consent of the effected property owners and the controlling roads authority. The main access to this development will therefore be off the access over the Digteby Development as previous approved by Council.~~
- t. It is our opinion that the Stellenbosch Municipality erred in stating: "**No access may therefore be obtained from the 5m servitude road west of the property without the consent of the affected property owners.....**". The 5 meter servitude road is a registered real right over Erf 42 Vlotenburg in favour of Portions 2 and 3 of Farm 1307. The wording of the said servitude right of way specifically states that it has been granted in favour of the owners of Portions 2 and 3 of Farm 1307 and its successors in title for *purposes of accessing the nearest public road*; in this case being the Lynedoch Road. The Stellenbosch Municipality can only impose restrictions on the use of the 5 meter servitude road insofar it is not wide enough for use as an entrance road to a residential development as Chantecler or where the controlling authority has objected against the use of the servitude road.

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- u. The Department of Transport and Public Works: Western Cape Government only responded on 16 April 2016 to the letter of Stellenbosch Municipality dated 23 September 2015, attached hereto as Annexure H. It is clear from the contents of the letter that the said department was commenting on the existing 5 meter servitude right of way to access Chantecler from main Road 168, also known as the Lynedoch Road. In the letter the Department stated the following:
2. The subject properties are located adjacent to Digteby and have rights to develop 26 residential erven with access through the Digteby development to a newly proclaimed portion of Main Road 168.
 3. This application is to amend the rights in order to develop 54 erven and to use a right of way servitude to access a public road.
 4. This Branch is concerned that the servitude right of way is only 5m wide and cannot accommodate two-way traffic over its length of approximately 500m.
 5. Thus a situation may result that a vehicle may have to reverse onto a public road in order to give right of way to a vehicle exiting the residential development.
 6. Whilst this Branch offers no objection to the application to amend the number of erven to be developed in terms of the Land Use Planning Ordinance, No 15 of 1985, it objects to the use of the servitude right of way being used to access the proclaimed road system.
 7. This Branch may review its comment on receipt of an access plan that has a safe junction with the public road and which can also accommodate two way traffic.
- v. On 17 March 2017 Ash sold the Chantecler Development to Croydon Property Holdings Pty Ltd ("Croydon"), subject to certain terms and conditions.
- w. Following the approval of the amended application of Chantecler, as recorded in clause 1.q. above, Croydon and Ash entered into discussions and negotiations with the Digteby HOA to formalise the access route to Chantecler as per the conditions of approval imposed by Stellenbosch Municipality. It was very clear from the start that there was resistance from certain owners in the Digteby Estate to grant access to Chantecler via the existing entrance gate and roads of the Digteby Development. Many options were considered over a long period of discussions and negotiations. During the second half of 2017 there were two proposals on the table, namely: 1. access to Chantecler off the Vlottenburg Road via the Digteby entrance gate and along "Wynstraat", being Erf 57 Vlottenburg and 2. access to Chantecler off the Lynedoch Road via the existing 5 meter servitude right of way. Without going into too much detail as it is academic, the two proposals entailed the following:
- i. In terms of proposal 1 Ash or the developer of Chantecler would make a capital contribution to Digteby HOA for granting a right of access to Chantecler, as well as some upgrades to Wynstraat (Erf 57 Vlottenburg) and the boundary fence between Digteby Estate and Klein Digteby;
 - ii. In terms of proposal 2 the existing 5 meter servitude right of way would be widened to 7 meters at certain sections (against payment of a fair value), as well as a new servitude right of way over the properties to the west of the Digteby Estate owned by Bayly Family Trust ("Bayly") (Portion 16 of Farm 390 ("Portion 16")) and Gordon Hindmarch ("Hindmarch") (Portion 22 of Farm 390 ("Portion 22")), in favour of Chantecler to ensure that the width of the proposed access road is wider than 5 meters to accommodate two way traffic, being a concern of the Department of Transport and Public Works: Western Cape Government in their letter dated 12 February 2016, attached hereto as Annexure H. The proposal, *inter alia*, also included the moving and replacement of the Digteby security fence on its western boundary as the fence has been erected incorrectly by the developer of the Digteby Estate, by fencing the 5 meter servitude right of way registered in favour of Portions 2 and 3 of Farm 1307, "into" the Digteby Estate.

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- x. During the discussion and negotiations in respect of the two proposals, Digteby HOA, Bayly and Hindmarch all stated that there must be an alternative access road for construction, building, pedestrian, etc. ("the Construction Road"). Due to this "condition" we were instructed to initiate discussions with the owner of Remainder of Farm Vlotenburg 387 ("Farm 387"), namely Vredenheim Pty Ltd ("Vredenheim"). An agreement was concluded with Vredenheim on 21 February 2018 to enter into a servitude right of way over Farm 387 in favour of the Chantecler Development for the following purposes:

AND WHEREAS Croydon requires a second entrance to the Dominant Tenement for construction, building, maintenance, farming activities and refuse removal purposes, as well as access to the social housing component;

- y. After concluding the agreement to secure a Construction Road, we were informed by the Digteby HOA that its owners are not in favour of granting access to Chantecler via the Digteby entrance and its internal roads, as per the approval of subdivision. It also became clear that Digteby HOA was not willing to extend the existing 5 meter servitude right of way over Erf 42 Vlotenburg, as recorded in clause 1.w. above. At this point in time the only other option available to Croydon and Ash was to approach Bayly, Hindmarch and Stellenbosch Hills Limited ("Stellenbosch Hills"), as owner of the Remainder of Portion 14 of Farm 390 ("Portion 14") with the request to grant a servitude right of way over Portions 14, 16 and 22 in favour of Chantecler for purposes of adding to the existing 5 meter servitude right of way over Erf 42 Vlotenburg, to allow for an access road that would be wide enough to comply with statutory regulations, more specifically the concern raised by the Department of Roads and Public Works in their letter of 12 February 2016, attached as Annexure H.
- z. During the second half of 2018 Croydon and Ash concluded agreements with Bayly, Hindmarch and Stellenbosch Hills to grant further servitudes over Portions 14, 16 and 22 in favour of Chantecler, the details of which are contained in the amended application that was lodged on behalf of Ash, as registered owner of Portions 2 and 3 of Farm 1307.
- aa. An application was lodged during December 2018 for the amendment of conditions of approval and layout plan for the Chantecler Development, with specific reference to the entrance route, namely a residential entrance via the existing 5 meter servitude right of way over Erf 42 Vlotenburg and the newly proposed servitudes over Portions 14, 16 and 22, as well as the Construction Road access via the newly proposed servitude right of way over Farm 387.
- bb. During this period and until 22 August 2019, we were in discussions and negotiations with Digteby HOA through their attorneys to try and formalize certain aspects around the use of the existing 5 meter servitude right of way over Erf 42 Vlotenburg, the moving and replacement of the estate fence on the servitude boundary (on the western boundary of the Digteby Estate), the encroachment of the water pump house into the 5 meter servitude right of way, assisting Digteby Estate to secure access to Klein Digteby via the Construction Road, etc. A draft agreement was prepared in this regard for presentation to the members of the Digteby HOA at a special general meeting.
- cc. Following the lodgement of the amended application in December 2018, Emile van der Merwe Town Planning Consultants was instructed to approach the Department of Transport and Public Works: Western Cape Government regarding the proposed access routes. Following a meeting with the said department on 7 March 2019, the department recorded the following in a letter addressed to the Stellenbosch Municipality dated 12 March 2019 and attached hereto as Annexure I:

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3. This Branch offers no objection to the application in terms Stellenbosch Land Use Planning Bylaw of 2015 subject to the following conditions:
 - 3.1 The number of residential units are limited to 54;
 - 3.2 The right of way servitude for the access road to Portion A is registered and constructed before the 1st erven is transferred, excluding Portion B, which will be transferred to Stellenbosch Municipality for municipal subsidised housing;
 - 3.3 The design of the connection of the right of way servitude road to the Main Road 168 service road must be approved by the District Roads Engineer,Paarl (Mr Stewart Bain - 021 863 2020);
 - 3.4 Construction access to Portion A and B will be via the existing informal road off Divisional Road 1065 as per the servitude right of way agreement entered between Croyden Property Holdings (Pty) Ltd and Vredenheim (Pty) Ltd the registered owner of Remainder Farm 387 and
 - 3.5 Formal access to Portion B will be via the proposed access off Divisional Road 1065 once Divisional Road 1065 has been realigned to connect with Main Road 177 at the intersection with Divisional Road 1067. However, the development of Portion A is not subject to the formal approval and design of the access road to municipal subsidised housing project on Portion B.
-

- dd. As with previous decisions by the Department of Transport and Public Works in respect of the Chantecler Development, the Stellenbosch Municipality has to accept and impose the conditions imposed by the said department, as recorded in Annexure I.
- ee. In terms of due process interested and affected parties were consulted in respect of the application as recorded in the heading above and four objections were received.
- ff. The applicant received the formal instruction from the Stellenbosch Municipality to proceed with the advertising of the application in accordance with its letter dated 13 May 2019. The application was subsequently advertised on 16 May 2019 with closing date for comment on 17 June 2019 (30 commenting period). The applicant received a written request from the Digteby Home Owners Association for an extension of time (an additional 30 days) as per the correspondence dated 12 June 2019, attached hereto as Annexure J.
- gg. In order to allow for and ensure a fair and transparent process an extension of time of 30 days was granted to the Digteby HOA and all its members as per our letter addressed to Digteby HOA dated 13 June 2019. The final closing date for comments was thus extended to 15 July 2019.
- hh. As mentioned in clause 1.bb. above and clause 8 of the objection lodged by Cluver Markotter on behalf of the Digteby HOA, dated 10 July 2019, Croydon and Ash has been attempting to reach agreement on the terms and conditions of a new servitude agreement and for which a comprehensive draft agreement was prepared, but not accepted by the required majority of the members of Digteby HOA at a special general meeting dated 22 August 2019.

2. OBJECTIONS RAISED:

- a. The objections raised by the 4 parties as recorded in the heading hereof can be summarised as follows:
 - i. that when the 5 meter servitude right of way was granted in favour of Portions 2 and 3 of Farm 1307 it was intended that it would be used for farming activities and that the said servitude is an "agricultural servitude" and the subsequent rezoning of Chantecler does not entitle the owner of Chantecler to use the 5 meter servitude right of way as an access road for residential purposes; and that

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- ii. a new servitude agreement must be entered into between Ash and Digteby HOA – this objection was raised by Digteby HOA, MJT and MG;
 - ii. That the existing 5 meter servitude road over Erf 42 Vlottenburg is not the only access road available to the disposal of the developer and that the Construction Road can be used to access Chantecler for residential purposes – this objection was raised by Digteby HOA, MJT and MG;
 - iii. that the use of the existing 5 meter servitude right of way over Erf 42 Vlottenburg, as a residential access road to Chantecler, will change the nature of the servitude in that it will place a bigger burden on the servient tenement in that more vehicles will use the servitude road – this objection was raised by Digteby HOA, MJT and MG;
 - iv. that the proposed residential access to Chantecler via the existing 5 meter servitude road right of way over Erf 42 Vlottenburg will have a negative impact on the marketability and market value of the properties situated along the south western boundary of the Digteby Estate – this objection was raised by Digteby MJT and MG;
 - v. that the consent of the owner of Erf 42 Vlottenburg is required before the existing 5 meter servitude right of way may be used as part of the proposed residential access route to Chantecler – this objection was raised by Digteby HOA, MJT and MG;
 - vi. That the building and widening of the existing 5 meter servitude right of way by the developer of Chantecler *"will only benefit the upper-class, white elitists, that can afford a property in such an estate"* and that the developer should rather use that funds to uplift the community of Vlottenburg – this objection was raised by MJT and MG;
 - vii. that there will be a huge security risk during the construction of the residential access road to Chantecler – this objection was raised by MG; and
 - viii. that the use of the existing 5 meter servitude right of way will change the *"country feeling"* of the Digteby Estate – this objection was raised by RU.

3. RESPONSE TO OBJECTIONS AND LEGAL POSITION:

- a. As appears from clause 1.c. above, there are no restrictions on the use of the existing 5 meter servitude right of way registered over Erf 42 Vlottenburg in favour of Portion 2 and 3 of Farm 1307 and that the terms and conditions of the registered servitude is very clear, namely that the said servitude will serve as an access route to the closest public road for the benefit of the owners of Portions 2 and 3 of Farm 1307, and their successors in title, in this case the Lynedoch Road. On receiving the objections from the parties mentioned above, Ash (in consultation with Croydon as purchaser and future developer of Chantecler) instructed us to brief counsel to give a legal opinion in respect of the following:
 - i. whether there are any restrictions on the manner the existing 5 meter servitude right of way can be exercised;
 - ii. whether the subdivision of Portions 2 and 3 of Farm 1307 will entitle the future owners of such subdivided portions (54 residential erven) to have the benefit of use of the existing 5 meter servitude right of way; and
 - iii. whether the nature of the existing 5 meter servitude right of way will be changed upon subdivision of Portions 2 and 3 of Farm 1307 into 54 residential erven and the subsequent use thereof as a residential access to Chantecler.
- b. We have instructed Advocate SF Mouton in this regard and attach hereto his legal opinion dated 12 September 2019, attached hereto as Annexure K.
- c. It is clear from the legal opinion obtained (Annexure K) from Advocate SF Mouton that:
 - i. Chantecler has a registered right of way 5 meters wide over Erf 42 Vlottenburg and there is no restriction on the manner that this right of way can be exercised;
 - ii. when the subdivided erven of Chantecler is transferred from the developer to the purchasers thereof, the owners thereof (and at least also 'the members of his

household, his guests, his table companions, hirelings and medical attendants along with him') will *ex lege* be entitled to a right of way 5 meters wide over Erf 42 Vlottenburg and it is not necessary to amend the current servitude in any way whatsoever; and

- iii. the future owners of the sub-divided erven in Chantecler will not be granted a greater right than the current rights enjoyed by Chantecler prior to the subdivision thereof and there is no room for the argument that they are not exercising their real rights *civiliter modo*.
- d. **Based on the aforementioned legal opinion it is our submission that the objections raised by the parties as summarised in clauses 2.a.i., 2.a.iii., and 2.a.v. have no legal standing and must be rejected by Stellenbosch Municipality.** It is also important to record that the existing 5 meter servitude right of way is in fact located outside (to the west) of the boundary fence of Digteby Estate, except for that section where the boundary fence of the estate was erected incorrectly. Ash and Croydon has already requested Digteby HOA to move the fence to the correct position.
- e. **In respect of the other objections summarised in clause 2.a. above, we wish to respond as follows:**
 - i. 2.a.ii. – the Construction Road was negotiated for this specific reason and the agreement concluded with Vredenheim in respect of the servitude over Farm 387 was limited to the use thereof as agreed upon between the parties and we refer you to clause 1.x. above. Further to this point: Chantecler is entitled to a 5 meter servitude right of way over Erf 42 Vlottenburg and Ash (or Croydon as future developer of Chantecler) is entitled to exercise its right of choice where to construct the residential access road for Chantecler.
It is opportunistic that the Parties who argue that the Construction Road can / must be used for the residential access, are well aware of the restrictions recorded on the use of the Construction Road, but at the same time argue that the existing 5 meter servitude right of way over Erf 42 Vlottenburg does not allow for the use thereof as a residential access road, while there are no restrictions recorded in respect of the said servitude;
 - ii. 2.a.iv. – this objection is speculative and subjective. We are of the opinion that extra security and controlled access on the western boundary of Digteby Estate, as well as the upgrading of the current gravel road on the 5 meter servitude right of way to a properly constructed road will contribute to the value and marketability of the properties along the western boundary of the Digteby Estate;
 - iii. 2.a.vi. – Portion B of the Chantecler Development, measuring approximately 1 hectare worth in excess of R3,500,000 will be donated to the Stellenbosch Municipality for the development of 40 social housing units. Portion B will also serve as the link for access to the Vlottenburg Road for Klein Digteby, as well as the ±144 social housing units to be developed at the bottom of Longlands. In this regard we refer you to the site development plan that was prepared for the Stellenbosch Municipality by AECOM in 2016 (attached hereto as Annexure L) which clearly shows the importance of the link of Portion B of the Chantecler Development.
It is also very ironic that while Ash and Croydon are being accused of creating a “white, elitist upper-class development, the same individuals being members of the Digteby HOA has failed to provide formal access to Klein Digteby and therefor denying the beneficiaries of the houses in Klein Digteby registered ownership;
 - iv. 2.a.vii. – we can only presume that reference to a security risk was made in the context where Croydon has previously offered to move and replace the western boundary fence of Digteby to the correct position at the costs of Croydon, which offer has been rejected by the Digteby HOA. The proposed residential access road will be built on the outside of the western boundary fence of the Digteby Estate and will there be no security risk for the residents of Digteby. As mentioned in clause 3.d. above, Digteby HOA has already been requested to move the western boundary fence of the Digteby Estate to the correct position

- and construction of the residential access road will only commence once the fence has been moved by Digtoby HOA; and
- v. 2.a.vii. – Chantecler has been earmarked for residential development and falls within the Stellenbosch Spatial Development Framework. Chantecler is entitled to an access route. The statement made by RU in this regard is very subjective considering the fact that she lives on the eastern boundary of the Digtoby Estate, meaning that the proposed residential access road will not affect her in any way.

4. CONCLUSION:

- a. In considering the application lodged on behalf of Ash, the objections raised and the applicant's response, the Stellenbosch Municipality must considering the following:
- i. was the application and the subsequent consultation process done in a fair, just and transparent manner;
 - ii. does the application comply with national and provincial planning legislation and frameworks; and
 - iii. is the application compatible with the Stellenbosch Spatial Development Framework and Integrated Development Plan;

and it is our submission that the answers to the questions raised in 4.a.i. to 4.a.iii. are yes.

- b. It is also very important to note that the merits and desirability of the development of Chantecler into a residential estate of 54 erven, agricultural areas, open areas and streets on Portion A; and 40 social housing units, open areas and streets on Portion B has already been decided on and approved by Stellenbosch Municipality.
- c. This application under consideration only deals with the access roads to and from Chantecler, which access roads have been approved by the competent authority, namely the Department of Transport and Public Works: Western Cape Government in a letter addressed to the Stellenbosch Municipality dated 12 March 2019 and attached hereto as Annexure I.
- d. Chantecler and its successors in title are entitled by law to use the 5 meter servitude right of way over Erf 42 Vlottenburg for purposes of accessing the Lynedoch Road, which servitude is registered without any restrictions. The said 5 meter servitude right of way over Erf 42 Vlottenburg and the additional proposed servitudes right of way over Portion 14, 16 and 22 ensure that the proposed residential access road complies with the requirements imposed by the competent authority.
- e. The Stellenbosch Municipality, with all due respect, does not have the authority to decide whether or not the owner of Chantecler and its successors in title may or may not use the 5 meter servitude right of way over Erf 42 Vlottenburg. Such function vests in the hands of our Courts.
- f. The applicant has proven that it, and its successors in title, is the holder of a registered real right (being the 5 meter servitude right of way) over Erf 42 Vlottenburg for purposes of accessing the closest public road, namely the Lynedoch Road. Further, that the competent authority, namely the Department of Transport and Public Works: Western Cape Government has accepted that the new proposed access roads comply with the department's requirements.
- g. Based on the reasons given above the Stellenbosch Municipality must approve the application.

Yours faithfully
MARIS MÜLLER HENDRICKS INC

Per: L J SMITH

FOR FURTHER ENDORSEMENTS SEE 395
VIR. VERDERE ENDSSEMENTE SIEH.....

Prepared by me
[Signature]
CONVEYANCER
J A L DE WAAL

SEELREG
DUTY R.....
FOOI
FEE R. 100,00

"A"

DEED OF TRANSFER

[Handwritten initials]

*Asst Fam. BELAZA
File*

T 6692 95

DEED OF TRANSFER

**CLUVER MARKOTTER
ATTORNEYS
STELLENBOSCH**

BE IT HEREBY MADE KNOWN

THAT ~~JACOBUS ADRIAAN LOUW DE WAAL~~

Conveyancer, appeared before me, Registrar of Deeds, at Cape Town he being duly authorised thereto by a Power of Attorney signed at STELLENBOSCH on the 21st day of December 1994 and granted to him by

**THE TRUSTEES FROM TIME TO TIME OF THE
DE RUYTER FAMILY TRUST
NO T 2484/1990**

AND the Appearer declared that his Principal on the 21st of December 1994 sold the undermentioned property to the undermentioned Transferee and that he, the Appearer, in his capacity aforesaid, did by these presents, cede and transfer in full and free property to and on behalf of

**THE TRUSTEES FROM TIME TO TIME OF THE
ASH FAMILY TRUST
NO T 4082/1994**

It's Administrators or Assigns

1. **PORTION 2 OF THE FARM NO 1307 in the Division of Stellenbosch**

MEASURING 5,0042 (Five comma zero zero four two) hectares

FIRST transferred and still held by Deed of Transfer No T68807/92 with diagram S.G. No 1186/92 annexed thereto.

A. **SUBJECT to the conditions referred to in Certificate of Consolidated Title No. T25437/1986**

B. **WITH REGARD TO a one-half (½) share in the property which was held by Deed of Transfer No T8587/1906:**

SUBJECT FURTHER to the condition therein contained reading:-

"that should the owner of the property or his successors in title be at any time called upon to give transfer of such plots forming part of the property as have been sold by the said John Wilhelm Herold Roux and Cornelius Pieter Roux but not yet transferred to the purchaser, he or his successors in title shall be obliged to give transfer thereof to such purchasers; these lots which have been sold and deducted but which have not yet been transferred and therefore included in Paragraph (3) are the following:-

1. Lots 644, 646 and 653 in extent 4461 square metres.
2. Lots 654 and 655 in extent 991 square metres.
3. Lots 679, 680, 681 to 688 in extent 4957 square metres.
4. Lot 1294 in extent 741 square metres.
5. Lot 1295 in extent 463 square metres.
6. Lots 1303 to 1306 in extent 2586 square metres."

C. NOT ENTITLED to the benefits of the Conditions referred to in the following endorsement dated 30th August 1912 on Deeds of Transfer Nos. T11459/1897 and T 8587/1906, by reason of situation, namely:-

"By Deeds of Transfer Nos 6825, 6826 August 1912 certain right of way and right to lay pipes across this property to the Lion distillery have been conceded in favour of the land held by transfers Nos 11053 November 1905, 5169 & 5170 July 1910 and an agreement with regard to certain water rights has been entered into subject to conditions as will more fully appear on reference to the said Deeds of Transfer."

which endorsement must be read with the endorsement quoted in Paragraph 9F on page 13 of Deed of Transfer No T36614/1973.

D. ENTITLED to the benefits of the Servitude referred to in the endorsement dated 29th September 1944 on Deed of Transfer No T 15356/1942 reading as follows:-

" WAT BETREFF die een-halwe aandeel in die eiendom wat gehou is kragtens die gemelde Transportakte Nr 8587/1906:

ONDERHEWIG VERDER aan die volgende voorwaarde daarin genoem wat lees:-



"that should the owner of the property or his successors in title be at any time called upon to give transfer of such plots forming part of the property as have been sold by the said John Wilhelm Herold Roux and Cornelius Pieter Roux but not yet transferred to the purchaser, he or his successors in title shall be obliged to give transfer thereof to such purchasers; these lots which have been sold and deducted but which have not yet been transferred and therefore included in Paragraph (3) are the following:-

1. Lots 644,646 and 653 in extent 4461 square metres.
2. Lots 654 and 655 in extent 991 square metres.
3. Lots 679, 680, 681 to 688 in extent 4957 square metres.
4. Lot 1294 in extent 741 square metres.
5. Lot 1295 in extent 463 square metres.
6. Lots 1303 to 1306 in extent 2586 square metres."

E. ENTITLED to the benefits of the Servitude referred to in the Endorsement dated 18th September 1972 reading as follows:-

"By Deeds of Transfer Nos 6825, 6826 August 1912 certain right of way and right to lay pipes across this property to the Lion distillery have been conceded in favour of the land held by transfers Nos 11053 November 1905, 5167 July 1910 and an agreement with regard to certain water rights has been entered into subject to conditions as will more fully appear on reference to the said Deeds of Transfer."

which endorsement must be read with the endorsement quoted in Paragraph 9F on page 13 of Deed of Transfer No T36614/1973.

F. ENTITLED FURTHER to the benefits of the following Servitude:

a right of way 5 (five) metres wide of which the South Western and Southern boundaries are depicted by the lines DE and EFG respectively on diagram S.G. No 6491/92 in respect of Portion 3 of the Farm 1307 in the Division of Stellenbosch over the property described as

THE REMAINDER OF THE FARM 1307 in the Division
of Stellenbosch
MEASURING 11,5164 (Eleven comma five One Six
Four) hectares
HELD by the Transferor under Certificate of Consolidated
Title No T. 68806/92.

to enable the Transferee and it's successors in title to gain access to the
nearest public road, the said right of way to be constructed at cost of
the Transferor and to be maintained at the cost of the Transferee and
it's successors in title.

2. PORTION 3 OF THE FARM NO 1307 in the Division of Stellenbosch

MEASURING 5,8299 (Five comma eight two nine nine) hectares

**FIRST TRANSFERRED and still held by Deed of Transfer No T68807/92
with diagram S.G. No 6491/92 annexed.**

**A. SUBJECT to the conditions referred to in Certificate of Consolidated Title No.
T25437/1986.**

**B. WITH REGARD TO a one-half (1/2) share in the property which was held by
Deed of Transfer No T8587/1906:**

SUBJECT FURTHER to the condition therein contained reading:-

As more fully set out in 1.B. above.

A

- C. NOT ENTITLED to the benefits of the Conditions referred to in the following endorsement dated 30th August 1912 on Deeds of Transfer Nos. T11459/1897 and T 8587/1906, by reason of situation, namely:-

As more fully set out in 1.C. above.

- D. ENTITLED to the benefits of the Servitude referred to in the endorsement dated 29th September 1944 on Deed of Transfer No T15356/1942 reading as follows:-

" WAT BETREF die een-halwe aandeel in die eiendom wat gehou is kragtens die gemelde Transportakte Nr 8587/1906: "

As more fully set out in 1.D. above.

- E. SUBJECT FURTHER to the Servitude referred to in the following endorsement dated 2nd December 1965 on Deed of Transfer No T14356/1942, namely:-

Restant para 3

By Notarial Deed No 854/1965 dd 29/10/65 the right has been granted to Escom to convey electricity over the property hereby conveyed together with ancillary rights, and subject to conditions as will more fully appear on reference to Notarial Deed and diagram, grosse whereof is hereto annexed."

(of which servitude the line ab on diagram S.G. No 6491/92 hereunto annexed represents the centre line.)

- F. ENTITLED to the benefits of the Servitude referred to in the Endorsement dated 18th September 1972 reading as follows:-

As more fully set out in 1.E. above.



G. ENTITLED FURTHER to the benefits of a Servitude which is more fully set out in para 1.F. above

WHEREFORE the Appearer, renouncing all the right and title of the TRANSFEROR

heretofore had to the premises, did in consequence also acknowledge the TRANSFEROR to be entirely dispossessed of, and disentitled to, the same; and that, by virtue of these presents, the said TRANSFEREE

It's Administrators or Assigns

now is and henceforth shall be entitled thereto, conformably to local custom; the State, however, reserving its rights; and finally declared that Transfer Duty was paid on the sum of R694 200,00 (SIX HUNDRED AND NINETY FOUR THOUSAND TWO HUNDRED RAND) being the valuation of the property, which is fair and reasonable.

IN WITNESS whereof I, the said Registrar of Deeds, together with the Appearer, q.q., have subscribed to these Presents, and have caused the Seal of Office to be affixed thereto.

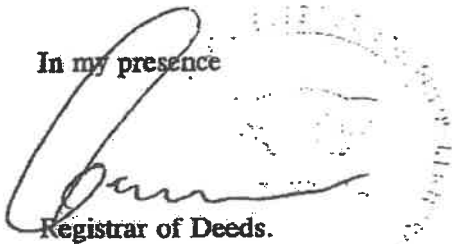
THUS DONE and executed at the Office of the Registrar of Deeds,

in Cape Town, Cape Province, on the 1 day of FEBRUARY

in the year of our Lord, One Thousand Nine Hundred and Ninety Five (1995).

q.q. 

In my presence


Registrar of Deeds.

403

B11

D6



DEPARTMENT OF TRANSPORT AND PUBLIC WORKS
DEPARTEMENT VAN VERMOER EN OPENBARE WERKE
ISEBE LEZOTHWHO NEMISEBENZI YOLUNDTU



Reference:
Verwysing:
Isalathiso: FR 22/29/105/0415(06)

Enquiries:
Isifanekiso: HF Hendriks
Imibuzo:

Die Munisipale Bestuurder
Stellenbosch Munisipaliteit
Posbus 17
STELLENBOSCH
7599

Vir aandag: Mnr Dumza Mfutwana

Mnr

**AANSOEK IN TERME VAN WET 21/1940 (soos gewysig) : VOORGESTELDE
HERSONERING EN VERGUNNINGSGEBRUIK OP PLAAS 1307, GEDEELTE
1, DIGTEBLJ, AFDELING STELLENBOSCH, STELLENBOSCH MUNISIPALE
AREA**

1. Na aanleiding van bogenoemde Wet, word daar geen beswaar geopper teen die hersonering, vir die bedryf van 'n gastehuis fasiliteit ($\pm 500m^2$) en onderverdeling van die Plaas in gedeeltes A (Residensiële Zone I en Oop Zone II) van $\pm 10.7ha$ en gedeelte B (Residensiële Zone II) van $\pm 1.05ha$, nie op voorwaarde dat:
 - 1.1 die voorgestelde toegang vanuit die Vloffenburg Pad (Afdelingspad 1065) as die enigste toegang tot die onderverdeelde eiendom vanaf bogenoemde pad by log km 0.34 gebruik sal word en alle ander toegange onverwyld toegemaak word, en;
 - 1.2 geen advertensies of enige ander teken opgang word sodat dit sigbaar is van die geproklameerde pad sonder om die nodige skriftelike uitdaring deur die Distrikspadingenieur: Paarl te bekom nie.
2. Die toestand en opgradering van die toegang in para. 1 genoem, moet in ooreenstemming wees met die beskrywing soos neêrgeleë word in die brief van die verkeersimpakstudie gedoen deur die ICE-groep en in noue

Distrikspadingenieur, Paarl, 7600, Suider-Paarl, 7624
Distrikse Engeneer, Paarl, 7600, Suider-Paarl, 7624
Telefoon: 027 281 1111, Faks: 027 281 1111
Telefoon: 027 281 1111, Faks: 027 281 1111

880 9500 A614

417 083

Samewerking met standaarde aanvaarbaar vir die Distrikspadingenieur :
Paarl.

Die voorafgaande goedkeuring is slegs van toepassing op hierdie
aansoek en verleen nie vrystelling van enige ander Wet, Ordonnansie of
Regulasie nie.

Die uwe

H. F. Hendriks

HF Hendriks

For DISTRICT ROADS ENGINEER

HFH/el

Datum: 2006-07-24

STATION NO.	TYPE	EASTING		NORTHING	
		COORDINATE	10000	COORDINATE	1000000
1	INTERSECTION	42	68	48	80
2	INTERSECTION	42	68	48	80
3	INTERSECTION	42	68	48	80
4	INTERSECTION	42	68	48	80
5	INTERSECTION	42	68	48	80
6	INTERSECTION	42	68	48	80
7	INTERSECTION	42	68	48	80
8	INTERSECTION	42	68	48	80
9	INTERSECTION	42	68	48	80
10	INTERSECTION	42	68	48	80
11	INTERSECTION	42	68	48	80
12	INTERSECTION	42	68	48	80
13	INTERSECTION	42	68	48	80
14	INTERSECTION	42	68	48	80
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97	INTERSECTION	42	68	48	80
98	INTERSECTION	42	68	48	80
99	INTERSECTION	42	68	48	80
100	INTERSECTION	42	68	48	80

Surveyed by me in accordance with the
 Land Survey Act No. 135 of 1956
 Date: 19th Nov 2009

Surveyed by me in accordance with the
 Land Survey Act No. 135 of 1956
 Date: 19th Nov 2009

CDR
 (VOTTERBURG ALLOTMENT AREA)
GENERAL PLAN NO. 3214 / 2008
 of
Subdivision of Erf 41 Vlotterburg
 vide S.G. Diagram No. 3315 / 2008 annexed to D/T No.
 and comprising 14 erven numbered 45 - 58
 Situate in the Municipality of Stellenbosch
 Administrative District of Stellenbosch
 Province of Western Cape

SCALE 1:500



ENDORSEMENTS				
NO.	AMENDMENT	ADDITION	AUTHORITY	IND. DATE

Handwritten signature
 8873

8871

S.C. FILE NO. 514/2007
 SOURCE RECORD: 51457/2008
 COMPILATION: 5051458 / 2008
 PLAN: 51458 / 2008

"407"
E

DIGTEBY

E S T A T E

HOME OWNERS ASSOCIATION

Dorpstraat 107 Dorp Street
Stellenbosch, 7600

Tel: 021-887 1373
Faks: 021-883 9634

Posbus 1550 P O Box
Stellenbosch, 7599

1 June 2010

The Owners
Chantecler Estate
PO Box 4316
TYGERVALLEY
7536

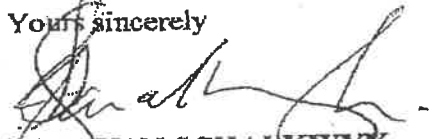
Sirs

Proposed development: Portion 2 and 3 of farm 1307 Vlottenburg, Stellenbosch

With regard to your proposed development of the above-mentioned property and use of the current Digteby Estate entrance, the Home Owners' Association of the Estate hereby agree in principal that the development, as presented to the HOA, will be supported. We would also support the connection of the Chantecler sewerage to the Digteby line if the Digteby line can cope with the capacity.

We do, however, request that we are kept up to date with the design of the development as it evolves, and that we are consulted in advance with regard to any decisions that may impact on either the envisaged access or the development more broadly. It is obviously important to us that such development will not impose on the privacy and security of the Digteby Estate, nor have a negative impact on current levies or any other costs.

Yours sincerely



TINY VAN SCHALKWYK
CHAIRMAN: DIGTEBY HOA

agricultural component of the two developments will be managed as one entity. The proposed zoning process will further protect the agricultural remainder.

7.2 THE VILLAGE

In terms of the development proposal a portion (Portion B - ± 1 ha) will be subdivided from the property for the alienation (donation) thereof to the Stellenbosch Municipality. This subsidised development will consist of 20 residential stands (average 150m²), public road and public open space. The project will form of the Municipal Housing Strategy and will be developed in partnership with the Stellenbosch Municipality. The guiding principles for the development will be incorporated in terms of the Services Agreement.

7.3 ACCESS

The estate as well as the village component will gain access from the existing access roads within the Digteby development.

With regard to the temporary access in favour of the municipal housing project it is proposed that the process be formalised as to secure a permanent road linkage between the different subsidised housing projects.

The existing 5m road servitude along Digteby, servicing the property from the south, will be retained and will only be utilized to serve the wine cellar and associated farming activities.

7.4 MUNICIPAL SERVICES

A services report pertaining to the availability, location and connection to the surrounding bulk infrastructure is attached as **Appendix 8**.



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DEPARTMENT OF
TRANSPORT & PUBLIC
WORKS

Provincial Government of the Western Cape

ROAD NETWORK MANAGEMENT

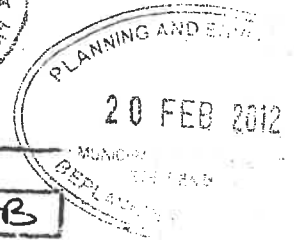
Grace.Swanepoel@pgwc.gov.za
tel: +27 21 483 4669: +27 21 483 2427
Rm 335, 9 Dorp St, Cape Town, 8000
PO Box 2603, Cape Town, 8000
www.capegateway.gov.za

REFERENCE: 13/3/5/1-25/182 (Job 19505)
ENQUIRIES: Ms GD Swanepoel

The Municipal Manager
Stellenbosch Municipality
P O Box 17
STELLENBOSCH
7599

Attention: C Charles / U von Molendoff

Dear Sir/Madam



FILE NR:	PI 1307/2 a3 SRB
SCAN NR:	678
COLLABORATOR NR:	237908

REZONING AND SUBDIVISION: PORTIONS 2 AND 3 OF FARM NO 1307, VLOTTENBURG, DIGTEBY, PHASE 2: STELLENBOSCH DIVISION

1. Your letter with reference "Ptns 2 and 3 of Farm No 1307, Digteby" dated 2 September 2011 refers.
2. Portions 2 and 3 of Farm No 1307 are located adjacent to DR1065. For this development access will be taken from the existing Digteby Development access.
3. This application is to rezone and subdivide the property to enable the following:
 - 3.1 26 Residential Zone I even
 - 3.2 20 Residential Zone II (Group housing) even
 - 3.3 6 Open Space Zone II even
 - 3.4 Remainder Agricultural Zone I with a small portion zone Agricultural Zone II for a wine cellar.
4. This Branch has no objection to the application in terms of Section 17 of the Land Use Planning Ordinance No 15 of 1985, provided the following conditions are met:
 - 4.1 Access is taken from internal roads within the Digteby Development.

4.2 No more than 46 residential erven are developed.

5. As the controlling authority in terms of Act 21 of 1940, this Branch approves the subdivision of Portions 2 and 3 of Farm 1307 Vlottenburg.

Yours faithfully



ML WATTERS

for EXECUTIVE MANAGER: ROAD & TRANSPORT MANAGEMENT

DATE: 15 Feb. 2017.



“ H ”

ROAD NETWORK MANAGEMENT

Email: Grace.Swanepoel@westerncape.gov.za

tel: +27 21 483 4669

Rm 335, 9 Dorp Street, Cape Town, 8001

PO Box 2603, Cape Town, 8000

REFERENCE: 13/3/5/1-25/182 (Job 19505)**ENQUIRIES: Ms GD Swanepoel****DATE: 12 April 2016**

The Municipal Manager
Stellenbosch Municipality
PO Box 17
STELLENBOSCH
7599

Attention: Mr P April

Dear Sir

**APPLICATION FOR AMENDMENT OF APPROVED SITE DEVELOPMENT PLAN AND SUBDIVISION:
FARMS 1307/2 AND 1307/3, STELLENBOSCH:**

1. The following refer:
 - 1.1 Your letter Farm 1307/2 (S) dated 23 September 2015 and
 - 1.2 This Branch's letter 13/3/5/1-25/182 (Job 19505) dated 15 February 2012.
2. The subject properties are located adjacent to Digteby and have rights to develop 26 residential erven with access through the Digteby development to a newly proclaimed portion of Main Road 168.
3. This application is to amend the rights in order to develop 54 erven and to use a right of way servitude to access a public road.
4. This Branch is concerned that the servitude right of way is only 5m wide and cannot accommodate two-way traffic over its length of approximately 500m.
5. Thus a situation may result that a vehicle may have to reverse onto a public road in order to give right of way to a vehicle exiting the residential development.
6. Whilst this Branch offers no objection to the application to amend the number of erven to be developed in terms of the Land Use Planning Ordinance, No 15 of 1985, it objects to the use of the servitude right of way being used to access the proclaimed road system.

7. This Branch may review its comment on receipt of an access plan that has a safe junction with the public road and which can also accommodate two way traffic.

Yours faithfully

A handwritten signature in black ink, appearing to read 'ML Waters', written in a cursive style.

ML WATERS
For CHIEF DIRECTOR: ROAD NETWORK MANAGEMENT

" H "



ROAD NETWORK MANAGEMENT
Email: Grace.Swanepoel@westerncape.gov.za
tel: +27 21 483 4669
Rm 335, 9 Dorp Street, Cape Town, 8001
PO Box 2603, Cape Town, 8000

REFERENCE: 13/3/5/1-25/182 (Job 19505)

ENQUIRIES: Ms GD Swanepoel

DATE: 12 April 2016

The Municipal Manager
Stellenbosch Municipality
PO Box 17
STELLENBOSCH
7599

Attention: Mr P April

Dear Sir

**APPLICATION FOR AMENDMENT OF APPROVED SITE DEVELOPMENT PLAN AND SUBDIVISION:
FARMS 1307/2 AND 1307/3, STELLENBOSCH:**

1. The following refer:
 - 1.1 Your letter Farm 1307/2 (S) dated 23 September 2015 and
 - 1.2 This Branch's letter 13/3/5/1-25/182 (Job 19505) dated 15 February 2012.
2. The subject properties are located adjacent to Digteby and have rights to develop 26 residential erven with access through the Digteby development to a newly proclaimed portion of Main Road 168.
3. This application is to amend the rights in order to develop 54 erven and to use a right of way servitude to access a public road.
4. This Branch is concerned that the servitude right of way is only 5m wide and cannot accommodate two-way traffic over its length of approximately 500m.
5. Thus a situation may result that a vehicle may have to reverse onto a public road in order to give right of way to a vehicle exiting the residential development.
6. Whilst this Branch offers no objection to the application to amend the number of erven to be developed in terms of the Land Use Planning Ordinance, No 15 of 1985, it objects to the use of the servitude right of way being used to access the proclaimed road system.

ENDORSEMENTS

1. Stellenbosch Municipality

Attention: Mr P April (e-mail: pedro.april@stellenbosch.gov.za)

2. Mr ML Watters (e-mail)

3. Mr F Fakier (e-mail)

4. Planning Section

- 415
- u. The Department of Transport and Public Works: Western Cape Government only responded on 16 April 2016 to the letter of Stellenbosch Municipality dated 23 September 2015, attached hereto as Annexure H. It is clear from the contents of the letter that the said department was commenting on the existing 5 meter servitude right of way to access Chantecler from main Road 168, also known as the Lynedoch Road. In the letter the Department stated the following:
2. The subject properties are located adjacent to Digteby and have rights to develop 26 residential erven with access through the Digteby development to a newly proclaimed portion of Main Road 168.
 3. This application is to amend the rights in order to develop 54 erven and to use a right of way servitude to access a public road.
 4. This Branch is concerned that the servitude right of way is only 5m wide and cannot accommodate two-way traffic over its length of approximately 500m.
 5. Thus a situation may result that a vehicle may have to reverse onto a public road in order to give right of way to a vehicle exiting the residential development.
 6. Whilst this Branch offers no objection to the application to amend the number of erven to be developed in terms of the Land Use Planning Ordinance, No 15 of 1985, it objects to the use of the servitude right of way being used to access the proclaimed road system.
 7. This Branch may review its comment on receipt of an access plan that has a safe junction with the public road and which can also accommodate two way traffic.
- v. On 17 March 2017 Ash sold the Chantecler Development to Croydon Property Holdings Pty Ltd ("Croydon"), subject to certain terms and conditions.
- w. Following the approval of the amended application of Chantecler, as recorded in clause 1.q. above, Croydon and Ash entered into discussions and negotiations with the Digteby HOA to formalise the access route to Chantecler as per the conditions of approval imposed by Stellenbosch Municipality. It was very clear from the start that there was resistance from certain owners in the Digteby Estate to grant access to Chantecler via the existing entrance gate and roads of the Digteby Development. Many options were considered over a long period of discussions and negotiations. During the second half of 2017 there were two proposals on the table, namely: 1. access to Chantecler off the Vlottenburg Road via the Digteby entrance gate and along "Wynstraat", being Erf 57 Vlottenburg and 2. access to Chantecler off the Lynedoch Road via the existing 5 meter servitude right of way. Without going into too much detail as it is academic, the two proposals entailed the following:
- i. In terms of proposal 1 Ash or the developer of Chantecler would make a capital contribution to Digteby HOA for granting a right of access to Chantecler, as well as some upgrades to Wynstraat (Erf 57 Vlottenburg) and the boundary fence between Digteby Estate and Klein Digteby;
 - ii. In terms of proposal 2 the existing 5 meter servitude right of way would be widened to 7 meters at certain sections (against payment of a fair value), as well as a new servitude right of way over the properties to the west of the Digteby Estate owned by Bayly Family Trust ("Bayly") (Portion 16 of Farm 390 ("Portion 16")) and Gordon Hindmarch ("Hindmarch") (Portion 22 of Farm 390 ("Portion 22")), in favour of Chantecler to ensure that the width of the proposed access road is wider than 5 meters to accommodate two way traffic, being a concern of the Department of Transport and Public Works: Western Cape Government in their letter dated 12 February 2016, attached hereto as Annexure H. The proposal, *inter alia*, also included the moving and replacement of the Digteby security fence on its western boundary as the fence has been erected incorrectly by the developer of the Digteby Estate, by fencing the 5 meter servitude right of way registered in favour of Portions 2 and 3 of Farm 1307, "into" the Digteby Estate.

"416"



Western Cape
Government

Transport and Public Works

ROAD NETWORK MANAGEMENT

Email: Grace.Swanepoel@westerncape.gov.za

tel: +27 21 483 4669

Rm 335, 9 Dorp Street, Cape Town, 8001

PO Box 2603, Cape Town, 8000

REFERENCE: 16/9/6/1-25/212 (Job 19505)

ENQUIRIES: Ms GD Swanepoel

DATE: 12 March 2019

The Municipal Manager
Stellenbosch Municipality
PO Box 17

STELLENBOSCH

7599

Attention: Mr P April

Dear Sir

PORTION 2 AND 3 FARM 1307 VLOTTENBURG, STELLENBOSCH, DIGTEBY: APPLICATION FOR AMENDMENT OF APPROVED SITE DEVELOPMENT PLAN AND SUBDIVISION

1. The following refer:
 - 1.1 This Branch's letter 16/9/6/1-25/212 (Job 19505) dated 12 April 2016;
 - 1.2 The e-mail from Emile van der Merwe Town Planning Consultants dated 13 February 2019;
 - 1.3 The Revised Subdivision Plan No. 5 dated November 2018 prepared by Stephen Old Land Surveyors and
 - 1.4 The meeting held on 7 March 2019 at 9 Dorp Street, Cape Town.
2. In our letter 16/9/6/1-25/212 (Job 19505) dated 12 April 2016, concern was raised with regards to the 5m width of the existing right of way servitude which has now been increased to 11.3m and 10m between the Main Road 168 service road as indicated on the Revised Subdivision Plan No. 5 dated November 2018 prepared by Stephen Old Land Surveyors which would now allow for 2-way traffic for which the owners of Portion 22 of Farm 390, Portion 16 of Farm 390 and the Remainder of Portion 30 of Farm 390 has provided consent.
3. This Branch offers no objection to the application in terms Stellenbosch Land Use Planning Bylaw of 2015 subject to the following conditions:
 - 3.1 The number of residential units are limited to 54;

- 3.2 The right of way servitude for the access road to Portion A is registered and constructed before the 1st erven is transferred, excluding Portion B, which will be transferred to Stellenbosch Municipality for municipal subsidised housing;
- 3.3 The design of the connection of the right of way servitude road to the Main Road 168 service road must be approved by the District Roads Engineer, Paarl (Mr Stewart Bain - 021 863 2020);
- 3.4 Construction access to Portion A and B will be via the existing informal road off Divisional Road 1065 as per the servitude right of way agreement entered between Croyden Property Holdings (Pty) Ltd and Vredenheim (Pty) Ltd the registered owner of Remainder Farm 387 and
- 3.5 Formal access to Portion B will be via the proposed access off Divisional Road 1065 once Divisional Road 1065 has been realigned to connect with Main Road 177 at the intersection with Divisional Road 1067. However, the development of Portion A is not subject to the formal approval and design of the access road to municipal subsidised housing project on Portion B.

Yours faithfully



SW CARSTENS
For CHIEF DIRECTOR: ROAD NETWORK MANAGEMENT

ENDORSEMENTS

1. Stellenbosch Municipality

Attention: Mr P April (e-mail: pedro.april@stellenbosch.gov.za)

Attention: Mr U von Molendorff (e-mail: Ulrich.Vonmolendorff@stellenbosch.gov.za)

2. Emile van der Merwe Town Planning Consultants

Attention: Mr E van der Merwe (e-mail: emilevdm@adept.co.za)

3. District Roads Engineer
Paarl

4. Mr S Carstens (e-mail)

5. Mr F Fakier (e-mail)

6. Mr B du Preez (e-mail)

419

Emile van der merwe

From: Andrew Kidd <andy@sustains.co.za>
Sent: 12 June 2019 02:52 PM
To: 'Emile van der merwe'
Cc: 'Lize Pecoraro'; 'Carel Lubbe'; 'Willem Verhoogt'
Subject: Extension

Dear Emile,

On behalf of the Digteby Home Owners Association, I hereby request an extension for 1 month in respect of your application to the Municipality of Stellenbosch.

The postage system is in such a state of disaray that a number of the intended recipients on the list claim that they did not receive these documents including the HOA and myself.

It is on this basis that I request the extension.

Additionally, the reason for requesting this amount of time is because Willem Verhoogt, Carel Lubbe and Lize Pecoraro are out of town for the next few weeks. Willem Verhoogt is already away and Carel Lubbe leaves for overseas this afternoon whilst Lize Pecoraro is going on leave for two weeks from Friday.

Could you please let me know your decision after your meeting tomorrow morning.

I do this request in my capacity as a trustee of Digteby HOA and as the deputy chairman in the absence of our Chairman, Willem Verhoogt.

Yours Sincerely

Andrew Kidd

0824595979

“ 4/20 ”

OPINION

A. INTRODUCTION

1. Consultant is The Ash Family Trust, the developer of Chantecler development.
2. Consultant is the registered owner of Portion 2 and 3 of Farm 1307 in the Division of Stellenbosch in terms of title deed T6692/1995 (“the Dominant Property”).
3. The Digteby Home Owner’s Association is the registered owner of Erf 40, 42 and 43 Vlottenburg in terms of title deed T80398/2007
4. In terms of clause 1 F and 1 G of T6692/1995 the Dominant Property is entitled to the benefits of the following servitude over the Remainder of the Farm 1307 in the Division of Stellenbosch **“a right of way 5 (five) metres wide of which the South Western and Southern boundaries are depicted by the lines DE and EFG respectively on diagram S.G: No 649 /92 in respect of Portion 3 of the Farm 1307 in the Division of Stellenbosch to enable the Transferee and it’s successors in title to gain access to the nearest public road, the said right of way to be constructed at cost of the Transferor and to be maintained a the cost of the Transferee and it’s successors in title.”**
5. In terms of clause 2 V of T80398/2007 Erf 42 Vlottenburg (“the Servient Property”) is subject to the servitude referred to in paragraph 4 above in favour of the dominant property.

6. On 28 January 2015 the Stellenbosch Municipality advised that its Director: Planning and Economic Development had resolved that:

6.1 That approval be granted in terms of Sections 16 and 25 of the Land Use Planning Ordinance, 1985 (15 of 1985) for the rezoning and subdivision of consolidated Farms 1307/2 and 1307/3, Stellenbosch Division Agricultural Zone I to Subdivisional Area to accommodate the following: Residential Zone I, Agricultural Zone I, Agricultural Zone II and Open Space Zone II (Portion A) and Residential Zone 11, Open Space Zone I and Transport Zone II (Portion B) as per Drawing Number 09473-03, dated 06 July 2011, drawn by EH (Dekker Papendorf Architects);

6.2 That approval be granted in terms of Sections 25 of the Land Use Planning Ordinance, 1985 (15 of 1985) for the subdivision of consolidated Farms 1307/2 and 1307/3, Stellenbosch Division into two portions namely Portion A (± 9.8568 ha) and Portion B (± 0.9772 ha) as per Drawing Number 09473-02, dated 06 July 2011, drawn by EH (Dekker Papendorf Architects);

6.3 That approval be granted in terms of Sections 25 of the Land Use Planning Ordinance, 1985 (15 of 1985) for the subdivision of Portion A into 26 residential erven, 6 open space erven and remainder agriculture as per Drawing Number 09473-03, dated 06 July 2011, drawn by EH (Dekker Papendorf Architects);

6.4 That approval be granted in terms of Sections 25 of the Land Use Planning Ordinance, 1985 (15 of 1985) for the subdivision of Portion B into 20 Residential Zone II erven, 1 Open Space Zone I erf and 1 Transport Zone II erf as per Drawing Number 09473-03, dated 06 July 2011, drawn by EH (Dekker Papendorf Architects).

7. The approval was subject to the condition that access to the development “is taken from internal roads within the Digteby Development”.
8. On 17 December 2015 the Stellenbosch Municipality advised that its Director: Planning and Economic Development had resolved that the application for the amendment of the approved Subdivisional and Site Development Plan in order to consolidate Farm No. 1307/2 and 1307/3, Stellenbosch Division and to subdivide the consolidated property with the following zonings into:
- (i) Portion A (Subdivisional area ±9880Bm²) and Portion B (Residential Zone II - grouphousing- 9788m²) and;
 - (ii) Subdivision of Portion A into 54 Residential Zone I, 2 Open Space Zone II erven (Private Open Space) and a Remainder zoned Agricultural Zone II (350m² Wine Cellar) and Agricultural Zone I for the rest of the property, as indicated on Appendix 3,
- be approved in terms of Section 30(1) of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985), subject to the conditions as per the attached Appendix 1.
9. Condition 5 states that “No access to the subject development may therefore be obtained from the 5m servitude road west of the property without the written consent of the effected property owners and the controlling roads authority. The main access to this development will therefore be off the access over the Digteby Development as previous approved by Council.”
10. The Digteby Home Owner’s Association has not agreed that access to the approved

development Chantecler may be provided via the internal roads within the Digteby Development.

11. During 2018 Consultant accordingly applied for the amendment of the conditions of approval and the revised site development plan that access to the Chantecler Development is provided by the servitude referred to in paragraph 4 and 5 above.
12. Written objections against the application were delivered by/on behalf of the Digteby Home Owner's Association, Mackenzie Johnson Trust, Michelle Groenewald and Rochelle Ueckermann.
13. I have been requested to furnish an opinion on the aforesaid objections.

B. THE SERVITUDE

14. In terms of the registered servitude the Dominant Property is entitled to "a right of way 5 (five) metres wide of which the South Western and Southern boundaries are depicted by the lines DE and EFG respectively on diagram S.G: No 649 /92 in respect of the Servient Property to enable Consultant and it's successors in title to gain access to the nearest public road."
15. In *Zeeman v De Wet* 2012 (6) SA 1 (SCA) Malan JA held at paragraph 14 that:

"Om die inhoud van die gebruiks- en genotsbevoegdhede van 'n serwituut wat by ooreenkoms verleen word vas te stel moet die ooreenkoms vertolk word.

Serwituutooreenkomste word volgens die gewone beginsels van uitleg uitgelê, met

ander woorde, beide die teks en die samehang word oorweeg. Getuienis oor die samehang waarin 'n ooreenkoms opgestel is, word konserwatief toegelaat om die dokument te identifiseer of om die feitelike agtergrond daarvan te verduidelik. In hierdie verband word nie langer 'n onderskeid getref tussen agtergrondomstandighede en die sogenaamde omringende omstandighede nie. Wat wel duidelik is, is dat getuienis oor die samehang binne hierdie perke slegs toelaatbaar is indien beide partye van die feite wat aangebied word, bewus was.”

16. In *Van Rensburg v Taute* 1975 (1) SA 279 (A) Wessels JA held at 301G-H that:

“Dit is ten aanvang namens respondente betoog dat die vertolking daarvan moet geskied met inagneming van die beginsel "dat 'n ooreenkoms van serwituut, omdat dit strydig is met die vryheid van die eienaar van die dienende eiendom, streng en die mins beswarend vir hom uitgelê moet word”. Wat dié beginsel betref, is die Hof verwys na die uitspraak van VAN BLERK, A. R., in *Pieterse v Du Plessis*, 1972 (2)

SA

597 AA), en meer bepaaldelik na 'n passasie op bl. 599G - H. By die toepassing van hierdie beginsel moet egter steeds in gedagte gehou word dat die aard en omvang van die beswaring bepaal word na aanleiding van die betekenis wat gegee moet word aan die ooreenkoms wat die serwituut daarstel. Indien die betekenis daarvan ondubbelsinnig blyk te wees, is 'n hof nie geregtig om daarvan af te wyk ten einde 'n mindere beswaring te bewerkstellig nie.”

17. Consultant and its successors in title therefore have a registered right of way five meters wide over the Servient Property as depicted on the plan to gain access to the nearest public road.

18. In *Smith v Mukheiber* 2001 (3) SA 591 (SCA) Smalberger ADCJ held that:

"[9] The position in our law is that, when a dominant tenement is subdivided, each portion retains the original dominant tenement's servitudal rights. Each portion can exercise a right of access over the servient tenement and, in the absence of any agreement to the contrary, each owner can trek over that portion of the original dominant tenement, which, owing to the division, now lies between it and the servient tenement. (See D 8.3.23(3); *Van Leeuwen* RHR 2.21.12; *Louw v Louw* 1921 CPD 320 at 322; *Briers v Wilson and Others* 1952 (3) SA 423 (C) at 439H.)

[12] What must be remembered is that the servitude in favour of erf 5027 does not found its origin in an agreement between the present owner of erf 5027 and the owner of erf 4112 but in the original grant. In interpreting the deed regard must therefore be had to the wording of the original condition. That a servitude in favour of erf 5027 exists is not in issue.

[15] In the present matter erf 4113 was entitled to one road and the route was agreed upon between the dominant and servient tenements before the subdivision. Mere subdivision of the dominant erf could not have increased the number of roads or the route of the existing road. To hold otherwise would be to grant to a subdivision a greater right to that which the dominant tenement enjoyed before it was subdivided."
(my underlining)

19. In the event that the Dominant Property is subdivided, each owner of a subdivided

portion will therefore ex lege have a right of way over the Servient Property as depicted on the plan and this right will not be greater than the right that the Dominant Property enjoyed before it was subdivided. In *Roeloffze NO v Bothma NO 2007 (2) SA 257 (C)* Griesel J further held at paragraph 35 that:

"In any event, the applicants themselves appear to recognise that a narrow, literal interpretation of the phrase 'the transferee hereunder and his successors in title only' will lead to absurd results. They concede that the phrase must be interpreted - in accordance with common-law principles - to include not only the servitude holder, but at least also 'the members of his household, his guests, his table companions, hirelings and medical attendants along with him'."

20. In *Johl v Nobre 2012 JDR 0485 (WCC)* Meer J held at paragraph 16 - 17 that:

"Where the wording of the servitude is clear, it must be given the ordinary grammatical meaning and in such circumstances the Court will not have recourse to the surrounding circumstances. See *De Kock v Hanel 1999 (1) SA 994 (C)* at 997 E - 998 [17] The ordinary grammatical meaning of the words of the servitude in the title deed, namely "a servitude of right of way", is clear. It entitles the dominant owner to a right of way across the property of the servient owner, no more, no less. There are no other entitlements relevant to the servitude, either express or implied. Nor are there any restrictions as to how the right of way is to be exercised and certainly none imposed upon the servient owner."

21. In *De Kock v Hänel 1999 (1) SA 994 (SA)* Davis AJ held at 998 C-G and 1000 B-D and that:

"Mr Sholto-Douglas went on to deal with the question of the purpose of the servitude and, in particular, to submit that, because of subdivision of the property, the burden on the servient tenements could be more excessive than previously. In support thereof he referred to Joubert (ed) The Law of South Africa vol 25 para 43 where the following statement appears:

'If the dominant land is physically subdivided between different co-owners, the servitude continues to be attached to each subdivided portion of the land insofar as it can benefit from the servitude, provided, however, that it does not increase the burden on the servient land.'

There was no dispute that this passage is an accurate description of the law, but it does not take the matter any further unless there is some evidence of which the Court can take cognisance which allows for a conclusion that the burden is excessive. Mr Sholto-Douglas conceded that subdivision per se does not constitute an excessive burden and that further evidence is required. This was a wise concession in the light of the decision in *Louw v Louw* 1921 CPD 320 at 322, in which the Court held that each dominant tenement can exercise rights over servient tenements in circumstances similar to that envisaged in this case.

There was no suggestion raised in argument as to the reason for the burden being greater through an act of subdivision per se. For this reason, the contention as advanced has no merit.

In the alternative Mr Sholto-Douglas argued that the servitude should be exercised *civiliter modo*, to the extent that it should be exercised so as not to detrimentally affect the servient tenement. This is indeed correct. But, as Mr MacWilliam submitted, this does not mean that the servitude should not be used for its clear and properly defined purpose. Hall and Kellaway in their work on *Servitudes* 3rd ed

at 134--5 state of the dominant tenement holder:

'He must act civiliter modo, that is to say he must not make the position of the servient owner more difficult than is necessary for the due and proper exercise of his right. . . . Where the grant of the servitude contains a precise description of the manner in which the servitude is to be exercised and it has been so exercised there can not be any room for complaint that it has not been exercised civiliter modo.'

In my view, if the terms of the servitude are unambiguous, if the servitude provides for a right of way, if it has been registered in the same manner, notwithstanding the various acts of transfer, there can be no justification for holding that the doctrine of civiliter modo should negate the essential content of such servitude."

See also: *Linvestment CC v Hammersley* 2008 (3) SA 283 (SCA) at paragraph 16-20.

C. CONCLUSION

22. I am therefore of the opinion that:

22.1 The Dominant Property currently has a registered right of way 5 meters wide over the Servient Property and there is no restriction on the manner that this right of way can be exercised;

22.2 When the subdivided erven of the Dominant Property is transferred to the purchasers thereof, the owners thereof (and at least also 'the members of his household, his guests, his table companions, hirelings and medical attendants along with him') will ex lege also be entitled to a right of way 5 meters wide over the Servient

Property and it is not necessary to amend the current servitude in any way whatsoever;

22.3 The owners of the sub-divided erven are not granted a greater right than the rights enjoyed by the Dominant Property prior to the subdivision and there is no room for the argument that they are not exercising their real rights *civiliter modo*.

SF Mouton

Chambers

Cape Town

12 September 2019

14

STELLENBOSCH MUNICIPALITY
PLANNING AND ECONOMIC DEVELOPMENT
OFFICE OF THE DIRECTOR
18 OCT 2019
RECEIVED

PLANNING AND ENVIRONMENT
18 OCT 2019
MUNICIPALITY: STELLENBOSCH
MUNISIPALITEIT: STELLENBOSCH
MUNISIPALITEIT: OMGEWING

APPENDIX 10

**LETTER OF APPROVAL: DEPARTMENT OF
TRANSPORT AND PUBLIC WORKS**

FILE NR:	
SCAN NR:	F 1307 / 2038
COLLABORATOR NR:	66544



ROAD NETWORK MANAGEMENT
Email: Grace.Swanepoel@westerncape.gov.za
tel: +27 21 483 4669
Rm 335, 9 Dorp Street, Cape Town, 8001
PO Box 2603, Cape Town, 8000

REFERENCE: 16/9/6/1-25/212 (Job 19505)
ENQUIRIES: Ms GD Swanepoel
DATE: 12 March 2019

The Municipal Manager
Stellenbosch Municipality
PO Box 17
STELLENBOSCH
7599

Attention: Mr P April

Dear Sir

PORTION 2 AND 3 FARM 1307 VLOTTENBURG, STELLENBOSCH, DIGTEBY: APPLICATION FOR AMENDMENT OF APPROVED SITE DEVELOPMENT PLAN AND SUBDIVISION

1. The following refer:
 - 1.1 This Branch's letter 16/9/6/1-25/212 (Job 19505) dated 12 April 2016;
 - 1.2 The e-mail from Emile van der Merwe Town Planning Consultants dated 13 February 2019;
 - 1.3 The Revised Subdivision Plan No. 5 dated November 2018 prepared by Stephen Old Land Surveyors and
 - 1.4 The meeting held on 7 March 2019 at 9 Dorp Street, Cape Town.
2. In our letter 16/9/6/1-25/212 (Job 19505) dated 12 April 2016, concern was raised with regards to the 5m width of the existing right of way servitude which has now been increased to 11.3m and 10m between the Main Road 168 service road as indicated on the Revised Subdivision Plan No. 5 dated November 2018 prepared by Stephen Old Land Surveyors which would now allow for 2-way traffic for which the owners of Portion 22 of Farm 390, Portion 16 of Farm 390 and the Remainder of Portion 30 of Farm 390 has provided consent.
3. This Branch offers no objection to the application in terms Stellenbosch Land Use Planning Bylaw of 2015 subject to the following conditions:
 - 3.1 The number of residential units are limited to 54;

- 3.2 The right of way servitude for the access road to Portion A is registered and constructed before the 1st erven is transferred, excluding Portion B, which will be transferred to Stellenbosch Municipality for municipal subsidised housing;
- 3.3 The design of the connection of the right of way servitude road to the Main Road 168 service road must be approved by the District Roads Engineer, Paarl (Mr Stewart Bain - 021 863 2020);
- 3.4 Construction access to Portion A and B will be via the existing informal road off Divisional Road 1065 as per the servitude right of way agreement entered between Croyden Property Holdings (Pty) Ltd and Vredenheim (Pty) Ltd the registered owner of Remainder Farm 387 and
- 3.5 Formal access to Portion B will be via the proposed access off Divisional Road 1065 once Divisional Road 1065 has been realigned to connect with Main Road 177 at the intersection with Divisional Road 1067. However, the development of Portion A is not subject to the formal approval and design of the access road to municipal subsidised housing project on Portion B.

Yours faithfully



SW CARSTENS

For CHIEF DIRECTOR: ROAD NETWORK MANAGEMENT

ENDORSEMENTS

1. Stellenbosch Municipality

Attention: Mr P April (e-mail: pedro.april@stellenbosch.gov.za)

Attention: Mr U von Molendorff (e-mail: Ulrich.Vonmolendorff@stellenbosch.gov.za)

2. Emile van der Merwe Town Planning Consultants

Attention: Mr E van der Merwe (e-mail: emilevdm@adept.co.za)

3. District Roads Engineer
Paarl

4. Mr S Carstens (e-mail)

5. Mr F Fakier (e-mail)

6. Mr B du Preez (e-mail)

APPENDIX H

Comments from the internal departments



STELLENBOSCH MUNICIPALITY
STELLENBOSCH·PNIEL·FRANSCHHOEK

MEMORANDUM

DIREKTEUR: INFRASTRUKTUURDIENSTE
DIRECTORATE: INFRASTRUCTURE SERVICES

To ▫ Aan:	Director: Planning + Economic Development
Att Aandag	B Mdoda
From ▫ Van:	Manager: Development (Infrastructure Services)
Author ▫ Skrywer:	Tyrone King
Date ▫ Datum:	3 June 2019
Our Ref ▫ Ons Verw:	Civil 1842
Your Ref:	LU/8130
Re ▫ Insake:	Farm 1307 2&3: Chantecler: Amendemnt of SDP in order to provide the main access over the existing 5m servitude right of way and proposed 6.3m extensions thereto; amendment of the approved subdivisional plan and to allow for the main access to the estate and minor amendments to the internal layout of the approved subdivisional plan.

Details, specifications and information reflected in the following documentation refers:

- Application i.t.o. Stellenbosch Municipality Land Use Planning By-law, dated 8 July 2018
- Revised consolidation and subdivisional plan Digteby Phase 2 Portion 2&3 of Farm 1307 Stellenbosch, dated November 2018 by Stephen old Land surveyors;
- Letter by WCG: Road Network Management dated 12 March 2019 stating development conditions;

The application is recommended for approval, **subject to the following conditions:**

This recommendation for approval is based on the following parameters:

- 54 residential erven

Any development beyond these parameters would require a further approval from this Directorate as well as a revised DC calculation.

1. General

- 1.1 All previous conditions of approval as per Memo from Vincent Harris dated 2014-10-13 remain valid (**Annexure A**). The revised development charges are attached.
- 1.2 Water provision shall be via borehole, as per the aforementioned Memo condition #32. This will be a temporary measure and once the capacity has been created in the bulk network, the Developer will be responsible for connecting the development to the municipal network at the Developer's cost.
- 1.3 Capacity at the Digteby sewer pumpstation is limited. The status of the pumpstation must be investigated prior to the approval of engineering drawings. The sewer run-off of the adjacent Longlands development must also be taken into account. It should be determined how many housing units can still be accommodated by the pumpstation and if any upgrades are required, a service agreement must be entered into between the Developer and the Municipality. Such upgrades may be offset against DCs.
- 1.4 All conditions by the WCG: Road Network Management must be adhered to before clearance.

2. Development Charges (DCs)

- 2.1 The following DC's are payable: See **Annexure DCs** attached.
- 2.2 The DC's were calculated by using the 2018/2019 tariff structure. If DC's are paid after 30 June 2019 it will have to be recalculated by using the tariff structure applicable at date of payment.

2.3 The appropriate DC's are payable before a Section 28 Clearance certificate can be issued.



**TYRONE KING Pr Tech Eng
MANAGER: DEVELOPMENT (INFRASTRUCTURE SERVICES)**

W:\2.0 DEVELOPMENT\00 Developments\1024 and 1842 (TK) - Farm 1307-2 and 3, Chantecler\1842 - revised SDP\1842 (TK) - Farm 1307-2 and 3.doc

Stellenbosch Municipality - Development Charge Calculation



APPLICATION INFORMATION

Application Number	Civil 1842
Date	Monday, 03/Jun/2019
Financial Year	2018-19
Erf Location	Stellenbosch Town
Erf No	1307 2&3
Erf Size (m ²)	
Suburb	
Applicant	
Approved Building Plan No.	Revised consolidation and subdivisional plan Digteby Phase 2 Portion 2&3 of Farm 1307 Stellenbosch, dated November 2018 by Stephen old Land surveyors

SUMMARY OF DC CALCULATION

	Water	Sewer	Storm-water	Solid-Waste	Roads	Community Facilities	Totals
Units)	kl/day	kl/day	ha°C	t/week	trips/day	person	
Total Increased Services Usage	44,600	36,325	1,411	2,300	223,00	223,0	
Total Development Charges before Deductions	R 1 062 456,22	R 829 931,62	R 210 908,72	R 107 233,16	R 1 297 939,01		R 3 508 468,73
Total Deductions							
Total Payable (excluding VAT)	R 1 062 456,22	R 829 931,62	R 210 908,72	R 107 233,16	R 1 297 939,01		R 3 508 468,73
VAT	R 159 368,43	R 124 489,74	R 31 636,31	R 16 084,97	R 194 690,85		R 526 270,31
Total Payable (including VAT)	R 1 221 824,65	R 954 421,36	R 242 545,03	R 123 318,13	R 1 492 629,86		R 4 034 739,03

APPLICANT INFORMATION

Application Processed by:	Tyrone King
Notes	DCs calculated for Portion A only - Portion B to be transferred to Municipality for subsidised housing.
Date	3 June 2019
Amount Paid:	
Date Payment Received	
Receipt Number	

Stellenbosch Town

Land Use Category	Unit Type	Existing Usage				Proposed New Usage				Increased Usage	Development Charge levied (excl VAT)					Total
		du	m2 GLA	area (m2)	% GLA	du	m2 GLA	area (m2)	% GLA		Water	sewer	Storm-water	Solid-Waste	Roads	
Infrastructure Type applicable? (yes/no)																
		du	m2 GLA	area (m2)	% GLA	du	m2 GLA	area (m2)	% GLA	du	m2 GLA	area (m2)	% GLA	du	m2 GLA	
Single Residential >100m2	du	0			0	0			0	0			0	0		
Single Residential >500m2	du	0		83 819	0%	16	54		16	54			16	54		
Single Residential >250m2	du	0			0	0			0	0			0	0		
Single Residential <250m2	du	0			0	0			0	0			0	0		
Less Formal Residential >250m2	du	0			0	0			0	0			0	0		
Less Formal Residential <250m2	du	0			0	0			0	0			0	0		
Group Residential >250m2	du	0			0	0			0	0			0	0		
Group Residential <250m2	du	0			0	0			0	0			0	0		
Medium Density Residential >250m2	du	0			0	0			0	0			0	0		
Medium Density Residential <250m2	du	0			0	0			0	0			0	0		
High Density Residential - flats	du	0			0	0			0	0			0	0		
High Density Residential - student rooms	du	0			0	0			0	0			0	0		
Local Business - office	m2 GLA		0%		0%	0			0	0			0	0		
Local Business - retail	m2 GLA		0%		0%	0			0	0			0	0		
General Business - office	m2 GLA		0%		0%	0			0	0			0	0		
General Business - retail	m2 GLA		0%		0%	0			0	0			0	0		
Community	m2 GLA		0%		0%	0			0	0			0	0		
Educational	m2 GLA		0%		0%	0			0	0			0	0		
Light Industrial	m2 GLA		0%		0%	0			0	0			0	0		
General Industrial - light	m2 GLA		0%		0%	0			0	0			0	0		
General Industrial - heavy	m2 GLA		0%	350	100%	350			350	350			350	350		
Nodous Industrial - heavy	m2 GLA		0%		0%	0			0	0			0	0		
Resort	m2 GLA		0%		0%	0			0	0			0	0		
Public Open Space	m2				0%	0			0	0			0	0		
Private Open Space	m2			8 459	100%	8 459			8 459	8 459			8 459	8 459		
Natural Environment	m2	98 678	98 678		100%	46 159			46 159	46 159			46 159	46 159		
Utility Services	m2 GLA		0%		0%	0			0	0			0	0		
Public Roads and Parking	m2			10 391	100%	10 391			10 391	10 391			10 391	10 391		
Transport Facility	m2				0%	0			0	0			0	0		
Unknd Use					0%	0			0	0			0	0		
Special																
To be calculated based on equivalent demands																
		98 678		98 678												

* Complete yellow/green cells.

** du = dwellings unit, GLA=gross lettable area.

*** du/m2 red if not equal to existing area

Total Development Charges before Deductions	R1 062 456,22	R829 931,62	R210 908,72	R107 233,16	R1 297 939,01	0,00	R3 508 468,73
% Deductions per service (%)	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%	0,00%
% Deductions per service (amount)	R 0,00	R 0,00	R 0,00	R 0,00	R 0,00	R 0,00	R 0,00
Additional Deduction per service - from Service Agreement (sum)							
Sub Total after Deductions (excluding VAT)	R1 062 456,22	R829 931,62	R210 908,72	R107 233,16	R1 297 939,01	0,00	R3 508 468,73
VAT	R159 368,43	R124 489,74	R31 636,31	R16 084,97	R194 690,85	0,00	R526 270,31
Total	R1 221 824,65	R954 421,36	R242 545,03	R123 318,13	R1 492 629,86	0,00	R4 034 739,03



MEMO

DIRECTORATE: ENGINEERING SERVICES
DIREKTORAAT: INGENIEURSDIENSTE

TO : The Director: Planning and Development
FOR ATTENTION : Land-use Admin
FROM : Vincent Harris
DATE : 2014-10-13
RE. : PROPOSED REZONING AND SUBDIVISION OF PORTIONS 2 & 3 OF
 THE FARM 1307, DIGTEBY PHASE 2
Reference : PL 1307/2 and PL 1307/3

Details, specifications and information reflected in the abovementioned application, dated June 2011, as well as the Subdivisional Plan C9473-03 by Dekker Papendorf Architects, dated 06 July 2011, refers.

Comments from the Directorate: Engineering Services i.e. Roads & Stormwater, Water Services, Traffic Engineering and Development Services will be reflected in this memo and is to be regarded as development conditions to be reflected in the land-use approval. It must be noted that Electrical Services will comment in a separate memo.

Background

The proposed development falls within the catchment area of the existing Stellenbosch WWTW (Waste Water Treatment Works). The current capacity of the existing Stellenbosch WWTW does not allow for any new developments at this stage.

However, planning and sourcing of funding for the upgrade of the Stellenbosch WWTW with a design capacity of 20, 4ML/day, to a 35 ML/day treatment works has commenced two years ago.

The approved 3 year municipal capital budget reflects a financial commitment towards the upgrade of the Stellenbosch WWTW which will lead to additional capacity to accommodate this development. With the above mentioned commitments in place it is anticipated that the commissioning of the first

PROPOSED REZONING AND SUBDIVISION OF PTN 2 & 3 OF FARM 1307

phase of the upgraded WWTW to accommodate sewage from new developments will be by the end of the 2016/2017 financial year.

This development will be recommended for approval but occupation will only be allowed once capacity at the waste water treatment works is created.

After long negotiations between the professional team of the Developer and the Directorate: Engineering Services it was agreed that the source of potable water for the development could be borehole water as a temporary source until the Stellenbosch Municipality's water system is upgraded.

The above-mentioned land-use application is supported, subject to the following conditions:

General

1. that the following words and expressions referred to in the development conditions, shall have the meanings hereby assigned to except where the context otherwise requires:
 - (a) "*Municipality*" means the STELLENBOSCH MUNICIPALITY a metropolitan municipality, Local Authority, duly established in terms of section 9 of the Local Government Municipal Structures act, Act 117 of 1998 and Provincial Notice (489/200), establishment of the Stellenbosch Municipality (WC024) promulgated in Provincial Gazette no. 5590 of 22 September 2000, as amended by Provincial Notice 675/2000 promulgated in Provincial Gazette;
 - (b) "*Developer*" means the developer and or applicant who applies for certain development rights by means of the above-mentioned land-use application and or his successor-in-title who wish to obtain development rights at any stage of the proposed development;
 - (c) "*Engineer*" means an engineer employed by the "*Municipality*" or any person appointed by the "*Municipality*" from time to time, representing the Directorate: Engineering Services, to perform the duties envisaged in terms of this land-use approval;

2. that no occupation certificates will be issued or taking up of proposed rights will be allowed until sufficient capacity at the Stellenbosch Waste Water Treatment Works is confirmed by the "Engineer". In order to accommodate the development, the "Developer" will be allowed to agree with the "Engineer" on an implementation plan that will reflect development processes by the "Developer", like construction of internal services, parallel to the upgrade of the waste water treatment works;

PROPOSED REZONING AND SUBDIVISION OF PTN 2 & 3 OF FARM 1307

3. that should the "*Developer*" not take up his rights for whatever reason within two years from the date of this memo, a revised Engineering report addressing services capacities and reflecting infrastructure amendments during the two year period, must be submitted to the Directorate: Engineering Services by the "*Developer*" for further comment and conditions. Should this revised Engineering report confirms that available services capacities is not sufficient to accommodate this development, then the implementation of the development must be re-planned around the availability of bulk services as rate clearance in terms of Section 31 of LUPO will not be supported by the Directorate: Engineering Services for this development if bulk services are not available upon occupation or taking up of proposed rights;
4. that the "*Developer*" indemnifies and keep the "*Municipality*" indemnified against all actions, proceedings, costs, damages, expenses, claims and demands (including claims pertaining to consequential damages by third parties and whether as a result of the damage to or interruption of or interference with the municipalities' services or apparatus or otherwise) arising out of the establishment of the development, the provision of services to the development or the use of servitude areas or municipal property, for a period that shall commence on the date that the installation of services to the development are commenced with and shall expire after completion of the maintenance period.
5. that the "*Developer*" must ensure that he / she has an acceptable public liability insurance policy in place;
6. that the conditions as set by the Provincial Administration: Western Cape be adhered to before Section 31 Clearance Certificate will be issued;
7. that the "*Developer*" informs the project team for the proposed development (i.e. engineers, architects, etc.) of all the relevant conditions contained in this approval;
8. that the General Conditions of Contract for Construction Works (GCC) applicable to all civil engineering services construction work related to this development, will be the SAICE 2nd Edition of 2010;
9. that the "*Developer*" takes cognizance and accepts the following:

PROPOSED REZONING AND SUBDIVISION OF PTN 2 & 3 OF FARM 1307

- a.) that no construction of any civil engineering services may commence before approval of internal – and external civil engineering services drawings;
- b.) that no approval of internal – and external civil engineering services drawings will be given before land-use and or SDP approval is obtained;
- c.) that no approval of internal – and external civil engineering services drawings will be given before the “*Developer*” obtains the written approval of all affected owners where the route of a proposed service crosses the property of a third party;
- d.) that no building plans will be recommended for approval by the Directorate: Engineering Services before land-use and or SDP approval is obtained;
- e.) that no building plans will be recommended for approval by the Directorate: Engineering Services before the approval of internal – and external civil engineering services drawings;
- f.) that no building plans will be recommended for approval by the Directorate: Engineering Services before a Clearance Certificate in terms of Section 31 of the Land-use Planning Ordinance is issued.

Site Development Plan

10. that it is recognized that the normal Site Development Plan, submitted as part of the land-use application, is compiled during a very early stage of the development and will lack engineering detail that may result in a later change of the Site Development Plan. Any later changes will be to the cost of the “*Developer*”;

Internal- and Link Services

11. that it be noted that as per Subdivisional Plan C9473-03 by Dekker Papendorf Architects, dated 06 July 2011, the roads are reflected as private roads. Therefor all internal services on the said erf will be regarded as private services and will be maintained by the “*Developer*” and or HOA;
12. that the “*Developer*”, at his/her cost, construct the internal (on-site) private civil services for the development, as well as any link (service between internal and available bulk municipal service) municipal services that need to be provided;

PROPOSED REZONING AND SUBDIVISION OF PTN 2 & 3 OF FARM 1307

13. that the detailed design and location of access points, circulation, parking, loading - and pedestrian facilities, etc., shall be generally in accordance with the approved Site Development Plan and / or Subdivision Plan applicable to this application;
14. that plans of all the internal civil services and such municipal link services as required by the Directorate: Engineering Services be prepared and signed by a Registered Engineering Professional before being submitted to the aforementioned Directorate for approval;
15. that the design and construction/alteration of all civil engineering infrastructure shall be generally in accordance with the Standard Conditions imposed by the Directorate: Engineering Services in this respect or as otherwise agreed. The Standard Conditions is available in electronic format and available on request;
16. that the construction of all civil engineering infrastructure shall be done by a registered civil engineering services construction company approved by the "Engineer";
17. that the "Developer" ensures that his/her design engineer is aware of the Stellenbosch Municipality Design Guidelines & Minimum Standards for Civil Engineering Services (BS1028) and that his/her design engineer will comply to the mentioned document or as otherwise agreed in writing with the Directorate: Engineering Services;
18. that engineering design drawings will only be approved once Final Notice of LUPO approval is issued;
19. that all the internal civil services (water, sewer and stormwater), be indicated on the necessary building plans for approval by the Directorate: Engineering Services;
20. that all internal - and link services be inspected by the "Engineer" on request by the "Developer" or his Consulting Engineer;
21. that a practical completion certificate be issued prior to transfer of individual units or utilization of buildings;
22. that a complete set of test results of all internal – and external services (i.e. pressure tests on water - and sewer pipelines as well as densities on road structure and all relevant tests on

PROPOSED REZONING AND SUBDIVISION OF PTN 2 & 3 OF FARM 1307

- asphalt), approved and verified by a professional registered engineer be submitted to the "Engineer" on a monthly basis;
23. that the "Developer" shall adhere to the specifications of Telkom (SA) and or any other telecommunications service provider. Copies of all correspondence with Telkom shall be handed over to the "Engineer";
 24. that the "Developer" shall be responsible for the cost for any surveying and registration of servitudes regarding services on the property;
 25. that the "Developer" be liable for all damages caused to existing civil and electrical services of the "Municipality" relevant to this development. It is the responsibility of the contractor and/or sub-contractor of the "Developer" to determine the location of existing civil and electrical services;
 26. that all connections to the existing services be made by the "Developer" under direct supervision of the "Engineer" or as otherwise agreed and all cost will be for the account of the "Developer".
 27. That, if not connected to Phase 1, the "Developer" shall install a bulk water meter conforming to the specifications of the Directorate: Engineering Services at his cost at the entrance gate of all private developments before the practical completion inspection is carried out;
 28. that the developer takes cognizance of applicable tariffs by Council in respect of availability of services and minimum tariffs payable;
 29. that Section 31 Clearance will only be issued if the bulk watermeter is installed, a municipal account for the said meter is activated and the consumer deposit has been paid;
 30. that a suitably qualified professional resident engineer be appointed to supervise the construction of all internal – and external services;
 31. that the "Developer", at his/her cost, will be responsible for the maintenance of all the internal (on-site) municipal – and private civil engineering services constructed for this development until at least 80% of the development units (i.e. houses, flats or GLA) is constructed and

PROPOSED REZONING AND SUBDIVISION OF PTN 2 & 3 OF FARM 1307

occupied whereafter the services will be formally handed over to the HOA, in respect of private services, and to the Municipality in respect of public services;

Water Provision

32. that it is agreed that the source of potable water for the development could be borehole water as a temporary source until the Stellenbosch Municipality's water system is upgraded;
33. that the onus will be on the "Developer" and or the HOA to ensure that the connection to the municipal water reticulation system be made as and when such a system is available and to the cost of the "Developer" and or HOA;
34. that the onus is on the "Developer" to ensure a sustainable water source to the said development and that the "Municipality" be exempted from any claims whatsoever should the natural water source not be sufficient;
35. that a complete SANS 241 analysis by an accredited laboratory be done before any Section 31 Clearance will be given for any erven;
36. that the "Developer" needs to comply with all relevant legislation required by DWA when using borehole water and that proof thereof be submitted to the "Municipality" before any Section 31 Clearance will be given for any erven;
37. that a complete geo-hydrology report be submitted to the "Municipality" before any Section 31 Clearance will be given for any erven;

Servitudes

38. that the "Developer" ensures that all main services to be taken over by the Directorate: Engineering Services, all existing municipal – and or private services crossing private - and or other institutional property and any other services crossing future private land/erven are protected by a registered servitude before final Section 31 Clearance will be given;
39. The width of the registered servitude must be a minimum of 3 m or twice the depth of the pipe (measured to invert of pipe), whichever is the highest value. The "Developer" will be responsible for the registration of the required servitude(s), as well as the cost thereof;

PROPOSED REZONING AND SUBDIVISION OF PTN 2 & 3 OF FARM 1307

40. that the "*Developer*" obtains the written approval of all affected owners where the route of a proposed service crosses the property of a third party before final approval of engineering drawings be obtained.

Stormwater Management

41. that the geometric design of the roads and/or parking areas ensure that no trapped low-points are created with regard to stormwater management. All stormwater to be routed to the nearest formalized municipal system;
42. that the design engineer needs to apply his/her mind to ensure a design that will promote a sustainable urban drainage system which will reduce the impacts of stormwater on receiving aquatic environments;
43. that no disturbance to the river channel or banks be made without the prior approval in accordance with the requirements of the National Water Act;
44. that the consulting engineer, appointed by the "*Developer*", analyses the existing stormwater systems and determine the expected stormwater run-off for the proposed development, for both the minor and the major storm event. Should the existing municipal stormwater system not be able to accommodate the expected stormwater run-off, the difference between the pre- and post development stormwater run-off must be accommodated on site, or the existing system must be upgraded to the required capacity at the cost of the "*Developer*" and to the standards and satisfaction of the Directorate: Engineering Services. The aforementioned stormwater analysis is to be submitted concurrent with the detail services plans;

Floodplain Management

45. that the 1:50 and 1:100 year flood lines of the stream adjacent to Phase 2 B be shown on all plans submitted. The flood lines are to be verified by a suitably qualified registered engineering professional. Where flood lines have not previously been determined, the "*Developer*" must procure the services of a suitably qualified registered engineering professional to undertake such determinations at his/her own cost. No new development will be allowed under the 1:100 year flood line;

PROPOSED REZONING AND SUBDIVISION OF PTN 2 & 3 OF FARM 1307

46. that the floor level of all buildings be at least 100 mm above the 1:100 year flood level. These levels must be indicated on all building plans submitted and must be certified by a Registered Professional Engineer;
47. that all perimeter fencing below the 1:50 year flood line be visually permeable from ground level and not adversely effects the free flow of water (e.g. palisade fencing). No fences will be allowed across the watercourse;

Development Contributions

48. that the "*Developer*" hereby acknowledges that development contributions are payable towards the following civil services: water, sewerage, roads, stormwater and solid waste as per Council's Policy;
49. that the "*Developer*" hereby acknowledges that the development contribution levy as determined by the "Municipality" and or the applicable scheme tariffs will be paid by the "*Developer*" towards the provision of bulk municipal civil services in accordance with the relevant legislation and as determined by Council's Policy, should this land-use application be approved;
50. that the "*Developer*" immediately familiarise himself with the latest development contributions applicable to his/her development;
51. that the "*Developer*" accepts that the development contributions will be subject to annual escalation up to date of payment. The amount payable will therefore be the amount as calculated at the time that payment is made;
52. that the "*Developer*" may enter into a services agreement with the "*Municipality*" to install or upgrade bulk municipal services at an agreed cost, to be off-set against Development Contributions payable in respect of bulk civil engineering services;
53. that the "*Developer*" is aware that a contribution is required for municipal services to permit the development at this stage;

PROPOSED REZONING AND SUBDIVISION OF PTN 2 & 3 OF FARM 1307

54. that the "Developer" accepts the average amount, as reflected in this document as the amount required for the provision of municipal services in the event that the development is approved;
55. that the Development Contribution levy as reflected below and attached herewith, be paid by the "Developer" towards the provision of bulk municipal civil services in accordance with the relevant legislation and as determined by Council's Policy.

Based on the 2014/2015 tariff structure and the approved lay-out, the following amounts are payable:

Phase 2A

Service	Contribution	VAT	TOTALS
Roads	R 467 758	R 65 486	R 533 244
Solid Waste	R 17 536	R 2 455	R 19 991
Stormwater	R 306 549	R 42 916	R 349 465
Sewerage	R 271 011	R 37 942	R 308 953
Water	R 546 617	R 76 526	R 623 143
	R1 609 471	R225 325	R1 834 796

56. that the Development Contribution levy be paid by the "Developer" per phase –
- prior to the approval of a Certificate in terms of Section 31 in the case of Phase A
 - prior to the erf or portion thereof being put to the approved use;
57. that it be noted that the Development Contributions as reflected on the BICLS Contribution calculation sheet will be subject to annual escalation up to date of payment. The final amount payable will therefore be the amount as calculated at the time that payment is made;
58. that the development shall be substantially in conformance with the Site Development Plan submitted in terms of this application. Any amendments and/or additions to the Site Development Plan, once approved, which might lead to an increase in the number of units will result in the recalculation of the Development Contributions;
59. Bulk infrastructure contribution levies and repayments are subject to VAT and are further subject to the provisions and rates contained in the Act on Value Added Tax of 1991 (Act 89 of 1991) as amended;

PROPOSED REZONING AND SUBDIVISION OF PTN 2 & 3 OF FARM 1307**Home Owners Association**

60. that a Home Owners Association (HOA) be established in accordance with the provisions of section 29 of the Land Use Planning Ordinance no 15 of 1985 and shall come into being upon the separate registration or transfer of the first deducted land unit arising from this subdivision;
61. that the HOA take transfer of the private roads simultaneously with the transfer or separate registration of the first deducted land portion in such phase;
62. that in addition to the responsibilities set out in section 29, the HOA also be responsible for the maintenance of the private roads, street lighting, open spaces, retention facilities and all internal civil services;
63. that the Constitution of the HOA specifically empower the Association to deal with the maintenance of the roads, street lighting, open spaces, retention facilities and all internal civil services;

Green Technologies

64. Peak water demand should be accommodated with supplementary storage and recycling (e.g. rainwater tanks, grey water recycling) of water so that municipal water only be used to satisfy the base demand;
65. Technologies that facilitate the efficient use of irrigation water must be used;
66. Planting of waterwise flora is encouraged;
67. In accordance with the new SANS 10400-XA standard, all new housing should install solar water heating devices;
68. All non-subsidy housing is encouraged to meet the portion of their electrical demand that exceeds 300 kWh per month by generators such as solar photovoltaic panels and solar hot water heating devices;
69. SANS 10400-XA energy efficiency standards should be adhered to in all planning applications

PROPOSED REZONING AND SUBDIVISION OF PTN 2 & 3 OF FARM 1307

for new buildings, major renovations and usage changes;

Solid Waste

70. that it be noted that the Solid Waste Branch will not enter private property, private roads or any access controlled properties for the removal of solid waste unless otherwise agreed with the Phase 1 HOA;
71. that the "*Developer*" will enter into a service agreement with the "*Municipality*" for the removal of refuse;
72. that should it not be an option for the "*Municipality*" to enter into an agreement with the "*Developer*" due to capacity constraints, the "*Developer*" will have to enter into a service agreement with a service provider approved by the "*Municipality*";
73. that if the "*Developer*" wishes to remove the waste by private contractor, provision must still be made for a refuse room should this function in future revert back to the "*Municipality*";
74. All refuse storage areas shall be approved by the Directorate: Engineering Services, to ensure that the Council is able to service all installations, irrespective of whether these are currently serviced by Council or other companies;

AS-BUILTs

75. The "*Developer*" shall provide the "*Municipality*" with:
 - a. a complete set of as-built paper plans, signed by a professional registered engineer;
 - b. a CD/DVD containing the signed as-built plans in an electronic DXF-file format, reflecting compatible layers and formats as will be requested by the "*Engineer*" and is reflected herewith as Annexure X;
 - c. a completed Asset Verification Sheet in Excell format, reflecting the componentization of municipal services installed as part of the development. The Asset Verification Sheet will have to be according to the IMQS format, as to be supplied by the "*Engineer*", and is to be verified as correct by a professional registered engineer;
 - d. a complete set of test results of all internal – and external services (i.e. pressure tests on water - and sewer pipelines as well as densities on road structure and all relevant tests on asphalt), approved and verified by a professional registered engineer;

PROPOSED REZONING AND SUBDIVISION OF PTN 2 & 3 OF FARM 1307

municipality's electrotechnical engineer for approval before any construction work commences;

90. Any defect with the street lighting services constructed by the "*Developer*" which may occur during the defects liability period of 12 (TWELVE) months and which occurs as a result of defective workmanship and/or materials must be rectified immediately / on the same day the defect was brought to the attention of the consulting electrical engineer, appointed by the "*Developer*". Should the necessary repair work not be done within the said time the "*Municipality*" reserves the right to carry out the repair work at the cost of the "*Developer*";
91. The maintenance and servicing of all private internal street lighting shall be the responsibility and to the cost of the "*Developer*" and or Home Owners Association.



V.R. HARRIS

MANAGER: DEVELOPMENT SERVICES

PROPOSED REZONING AND SUBDIVISION OF PTN 2 & 3 OF FARM 1307

ATTACHMENT X

Geographic Information System (GIS) data capturing standards

In drawing up the As-build Plans relating to this development, the consultant must create the following separate layers in ESRI .shp, electronic file format in order for the data to reflect spatially correct.

Layer name	Content
TITLE	Title information, including any endorsements and references
NOTES	All noted information, both from the owner / surveyor and SG
PARENT_PROPLINES	Parent property lines
PARENT_PROPNUM	Parent erf number (or portion number)
PROPLINES	New portion boundaries
PROPANNO	New erf numbers
SERVLINES	Servitude polygons
SERVANNO	Servitude type
STREET_NAMES	Road centre lines with street names
STREET_NUMBERS	Points with street numbers
COMPLEX BOUNDARIES	Where applicable, polygon with complex name (mention whether gated or not and if so, where gates are)
SUBURB	Polygon with suburb name, where new suburb / township extension created
ESTATE	Where applicable, polygon with estate name (mention whether gated or not and if so, where gates are)

When data is provided in a shp format it is mandatory that the .shx, .dbf, files should accompany the shapefile. The prj file containing the projection information must also accompany the shapefile.

It is important that different geographical elements for the GIS capture process remains separate. That means that political boundaries like wards or suburbs be kept separate from something like rivers. The same applies for engineering data types like water lines, sewer lines, electricity etc. that it is kept separate from one another. When new properties are added as part of a development, a list of erf numbers with its associated SG numbers must be provided in an electronic format like .txt, .xls or .csv format.

For road layer shapefiles; the road name, the from_street and to_street where applicable as well as the start en end street numbers needs to be included as part of the attributes. A rotation field needs to be added to give the street name the correct angle on the map.

In addition to being geo-referenced and in WGS 1984 Geographic Coordinate System, the

PROPOSED REZONING AND SUBDIVISION OF PTN 2 & 3 OF FARM 1307

drawing must be completed using real world coordinates based on the Stellenbosch Municipality standard as follows:

- Datum : Hartebeeshoek WGS 84
- Projection : Transverse Mercator
- Central Longitude/Meridian 19
- False easting : 0.00000000
- False northing : 0.00000000
- Central meridian : 19.00000000
- Scale factor : 1.00000000
- Origin latitude : 0.00000000
- Linear unit : Meter

INTERDEPARTMENTAL CIRCULATION FORM

LêER VERW/ FILE REF	Farm 1307/2&3, Stellenbosch	DATE: 15 May 2019
AANSOEKNUMMER/APPLICATION NUMBER	LU/8130	

MEMO AAN/ TO :

Director : Traffic Engineer / Engineering Services
Manager : Electrical Department
Manager : Building Development Management
Manager : Fire Services
Manager: Spatial Planning / Heritage / Environment / Signage
Manager: Health Department (Winelands Health)
Manager: Community Services (Parks): Albert Van Der Merwe
Manager: Property Management (P Smit)
Chief Financial Officer
Legal Services
Manager: Local Economic Development



Application	<p>Application is made in terms of Section 15 (2) (h) of the Stellenbosch Municipal Land Use Planning By-Law (2015) for the amendment of a condition of approval (condition 5 imposed in the letter of approval dated 2015-12-17) in order to provide the main access for the proposed estate development on Farm No. 1307/2 & 3 Stellenbosch over the existing 5m servitude right of way and proposed 6,3m extensions thereto in lieu of the access over the Digteby Estate Development as previously approved by Council; and</p> <p>Application is also made in terms of Section 15 (2) (k) of the Stellenbosch Municipal Land Use Planning By-Law (2015) for the amendment of the approved subdivisional and site development plans to allow for the new main access to the Estate on Farm No. 1307/2 & 3 Stellenbosch and minor amendments to the internal layout of the approved subdivisional plan.</p>
Adres / Address	Digteby
Aansoek Datum / Application Date	08 July 2018
Aansoeker / Applicant	Emile Van Der Merwe Town Planning Consultants

angeheg vind u tersaaklike dokumentasie in verband met bogenoemde aansoek. Ten einde my in staat te stel om die aansoek aan die besluitnemingsowerheid vir oorweging voor te lê, word u versoek om my skriftelik van u kommentaar, indien enige, te voorsien. Onderskei asseblief tussen algemene kommentaar op die meriete van die aansoek en enige voorwaardes wat u departement wil opleë indien die aansoek goedgekeur word.

Attached please find the relevant documentation regarding the abovementioned application. Kindly furnish me with your written comment, if any, in order to enable me to submit the application to the decision making authority for consideration. Please differentiate between general comment on the merits of the application and any conditions that your department wishes to impose should the application be approved.

Geliewe die memorandum per hand aan my terug te besorg voor of op:
Please hand deliver the memorandum to me on or before : **18 June 2019**

NR: F 1307/2&3 S

COLLABORATOR NR: 657874

B Mdoda
For DIRECTOR: PLANNING AND ECONOMIC DEVELOPMENT

ALGEMENE KOMMENTAAR / GENERAL COMMENT:

The application is supported, subject thereto that the so-called access road (H.T. k. v. W.N. P.) are to 3.87. ~~to~~ only be used for construction / service part of urban. The developer to agree to a financial contribution for the construction of this access road. Further subject thereto that the said

VOORWAARDES / CONDITIONS:

be transferred to Stellenbosch Municipality free of charge.

HANDTEKENING / SIGNATURE

DATUM / DATE

2018.08.15



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Spatial Planning, Heritage and Environment

To : Head: Customer Interface & Administration (B Mdoda)
 From : Manager: Spatial Planning
 Date : 28 June 2019
 Re : Application for amendment of condition and amendment of approved subdivision and site development plans on Farm 1307/2 & 3, Stellenbosch (Digteby Estate)

I refer to your request for comment on the above application.

1) Opinion / reasoning:

In terms of the approved Stellenbosch Municipality MSDF, the subject property is located inside the approved urban edge of the Vlottenburg node and within the residential area known as Digteby Estate. Densification and infill development are encouraged in terms of the approved Stellenbosch Municipality MSDF.

2) Supported / not supported:

This department therefore supports the proposal.

B. de la Bat

B de la Bat
 MANAGER: SPATIAL PLANNING



FILE NR:	
SCAN NR:	F 1307/2 & 3 S
COLLABORATOR NR:	652300

APPENDIX I

Comments from relevant external departments

file (duplicate)

5



ROAD NETWORK MANAGEMENT
Email: Grace.Swanepoel@westerncape.gov.za
tel: +27 21 483 4669
Rm 335, 9 Dorp Street, Cape Town, 8001
PO Box 2603, Cape Town, 8000

REFERENCE: 16/9/6/1-25/212 (Job 19505)

ENQUIRIES: Ms GD Swanepoel

DATE: 12 March 2019

The Municipal Manager
Stellenbosch Municipality
PO Box 17
STELLENBOSCH
7599

Attention: Mr P April

Dear Sir

FILE NR:	
SCAN NR:	F 1307/2035
COLLABORATOR NR:	637136



PORTION 2 AND 3 FARM 1307 VLOTTENBURG, STELLENBOSCH, DIGTEBY: APPLICATION FOR AMENDMENT OF APPROVED SITE DEVELOPMENT PLAN AND SUBDIVISION

1. The following refer:
 - 1.1 This Branch's letter 16/9/6/1-25/212 (Job 19505) dated 12 April 2016;
 - 1.2 The e-mail from Emile van der Merwe Town Planning Consultants dated 13 February 2019;
 - 1.3 The Revised Subdivision Plan No. 5 dated November 2018 prepared by Stephen Old Land Surveyors and
 - 1.4 The meeting held on 7 March 2019 at 9 Dorp Street, Cape Town.
2. In our letter 16/9/6/1-25/212 (Job 19505) dated 12 April 2016, concern was raised with regards to the 5m width of the existing right of way servitude which has now been increased to 11.3m and 10m between the Main Road 168 service road as indicated on the Revised Subdivision Plan No. 5 dated November 2018 prepared by Stephen Old Land Surveyors which would now allow for 2-way traffic for which the owners of Portion 22 of Farm 390, Portion 16 of Farm 390 and the Remainder of Portion 30 of Farm 390 has provided consent.
3. This Branch offers no objection to the application in terms Stellenbosch Land Use Planning Bylaw of 2015 subject to the following conditions:
 - 3.1 The number of residential units are limited to 54;

- 3.2 The right of way servitude for the access road to Portion A is registered and constructed before the 1st erven is transferred, excluding Portion B, which will be transferred to Stellenbosch Municipality for municipal subsidised housing;
- 3.3 The design of the connection of the right of way servitude road to the Main Road 168 service road must be approved by the District Roads Engineer, Paarl (Mr Stewart Bain - 021 863 2020);
- 3.4 Construction access to Portion A and B will be via the existing informal road off Divisional Road 1065 as per the servitude right of way agreement entered between Croyden Property Holdings (Pty) Ltd and Vredenheim (Pty) Ltd the registered owner of Remainder Farm 387 and
- 3.5 Formal access to Portion B will be via the proposed access off Divisional Road 1065 once Divisional Road 1065 has been realigned to connect with Main Road 177 at the intersection with Divisional Road 1067. However, the development of Portion A is not subject to the formal approval and design of the access road to municipal subsidised housing project on Portion B.

Yours faithfully



SW CARSTENS

For CHIEF DIRECTOR: ROAD NETWORK MANAGEMENT

APPENDIX J

Site inspection photos



















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LAND USE PLANNING REPORT TO THE MUNICIPAL PLANNING TRIBUNAL

APPLICATION FOR SUBDIVISION, CONSOLIDATION, REZONING, DEPARTURES AND THE REGISTRATION OF A SERVITUDE OF REMAINDER ERF NO.2183, ERVEN 1714, 863 AND 873, ZONE O, KAYAMANDI

Reference number	LU/86 33	Application submission date	August 2018	Date report finalized	January 2020
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PART A: AUTHOR DETAILS

First name(s) and Surname	Craig Alexander				
Job title	Senior Manager: Development Planning				
SACPLAN registration number	Professional Planner A/1749/2013				
Department	Planning and Economic Development				
Contact details	021 808 8196				

PART B: APPLICANT DETAILS

First name(s) and Surname	Danette Jones				
SACPLAN registration number	A/060/2008				
Company name	NuPlan Africa	Is the applicant authorized to submit this application?	Y	N	
Registered owner(s)	Stellenbosch Municipality				

PART C: PROPERTY DETAILS

Property description (in accordance with Title Deed)	<ul style="list-style-type: none"> Erf 2183, Kayamandi (T98381/2005) Erf 1714, Kayamandi (T90127/1996) Erf 863, Kayamandi (T59361/2002) Erf 873 Kayamandi (T59361/2002) 				
Physical address	Zone O, Kayamandi. See Appendix 1 for Locality Map.	Town/City	Kayamandi		
Current zoning	<ul style="list-style-type: none"> Erf 1714 - Informal Residential Erf 2183 - Agriculture Unregistered Erf 863 - Residential I Unregistered Erf 873 - Residential I 	Extent (m ² /ha)	8,1212m ² (consolidated)	Are there existing buildings on the property?	Y N



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Applicable Zoning Scheme	Stellenbosch Municipality Zoning Scheme Regulations, 1996			
Current Land Use	Shelters		Title Deed number & date	Erf 139:28075/1996 Erf 140:54174/2012
Any restrictive title conditions applicable?	Y	N	If Yes, list condition number(s)	n/a
Any third party conditions applicable?	Y	N	If Yes, specify	n/a
Any unauthorised land use/building work?	Y	N	If Yes, explain	The property is currently developed with shelters, in terms of the applicable zoning scheme no building plans are required for a shelter.

PART D: APPLICATION DESCRIPTION

Application is made in terms of the Stellenbosch Municipality: Land Use Planning Bylaw, 2015 promulgated by Notice Number 354/2015, dated 20 October 2015, for the following on Erven 1714, 2183 and Unregistered Erven 863 and 873, Kayamandi:

- a) **Subdivision** in terms of Section 15(2)(d) of Erf 1714, Kayamandi into two (2) portions, namely Portion A and the Remainder of Erf 1714, Kayamandi, as per Proposed Subdivision Plan, Plan 3 dated 11 September 2018, drawn by NuPlan Africa attached as **Appendix 2**;
- b) **Subdivision** in terms of Section 15(2)(d) of the Remainder of Erf 2183, Kayamandi, into three (3) portions, namely Portion A, Portion B and the Remainder of Erf 2183, Kayamandi, as per Proposed Subdivision Plan, Plan 4 dated 11 September 2018, drawn by NuPlan Africa attached as **Appendix 3**;
- c) **Consolidation** in terms of Section 15(2)(e) of Portion A of Erf No.1714, Portion A of Remainder of Erf No. 2183, Portion B of Remainder of Erf No. 2183, Kayamandi, Unregistered Erf No.: 863, Kayamandi, Unregistered of Erf 873, Kayamandi, as per Proposed Consolidation Plan, Plan 5 dated 11 September 2018, drawn by NuPlan Africa attached as **Appendix 4**;
- d) **Rezoning** in terms of Section 15(2)(a) of the consolidated property from **Agriculture, Informal Residential and Residential I to Subdivisional Area** to accommodate the following zonings, as per Proposed Rezoning and Subdivision Plan, Plan 2.561(a) – S1-06 dated 11 September 2018, drawn by NuPlan Africa, attached as **Appendix 5**:
 - 532 Group housing erven
 - 178 General Residential erven (row housing)
 - 13 General Residential erven (communal court yards)



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- 2 Public Open Space erven
 - 6 Private Open Space erven
 - 1 Place of Worship
 - 1 Educational institution erf
 - 4 Local Authority erven (mini-substations, and
 - 4 Local Authority erven (public roads)
- e) **Departure** in terms of Section 15(2)(c) for the relaxation of the **street building line** for all Group housing erven from **2m** to **1m**, common building line from **1,5m** to **1m** on one side and **0m** on the other;
- f) **Departure** in terms of Section 15(2)(c) for the relaxation of the **street building line** for all the General Residential erven from **7,6m** to **0m**, **common building line** from **4,6m** to **0m**;
- g) **Departure** in terms of Section 15(2)(c) for the relaxation of the open space requirement to provide **±1 535m²** in lieu of **21 280m²**;
- h) **Departure** in terms of Section 15(2)(c) for relaxation of the **parking requirements** to provide **no parking bays** in lieu of **2 parking bays** per group housing dwelling unit, and **0,6 parking bays** per dwelling for **on-street parking**, and **no parking** for **on-site parking bay**, in lieu of **2 parking bays** per dwelling unit;
- i) **Departure** in terms of 15(2)(c) from the permissible coverage of **25%** to **100%**;
- j) **Subdivision** in terms of Section 15(2)(d) for the registration of the following **right-of-way servitudes** in order to access the group housing and general residential units:
- Right-of-way servitude to be registered over Portion 551 in favour of Portions 549 and 550;
 - Right-of-way servitude to be registered over Portion 552 in favour of Portions 531 and 532;
 - Right-of-way servitude to be registered over Portion 540 in favour of Portion 539;
 - Right-of-way servitude to be registered over Portion 541 in favour of Portions 542 and 543;
 - Right-of-way servitude to be registered over Portion 554 in favour of Portions 555 and 556;
 - Right-of-way servitude to be registered over Portion 561 in favour of Portions 559 and 560;
 - Right-of-way servitude to be registered over Portion 567 in favour of Portions 568 and 569;
 - Right-of-way servitude to be registered over Portion 566 in favour of Portions 564 and 565;
 - Right-of-way servitude to be registered over Portion 576 in favour of Portions 574 and 575;
 - Right-of-way servitude to be registered over Portion 577 in favour of Portions 578 and 579;
 - Right-of-way servitude to be registered over Portion 581 in favour of Portions 582 and 583;
 - Right-of-way servitude to be registered over Portion 590 in favour of Portions 588 and 589;
 - Right-of-way servitude to be registered over Portion 592 in favour of Portions 593 and 594;
 - Right-of-way servitude to be registered over Portion 599 in favour of Portions 597 and 598;
 - Right-of-way servitude to be registered over Portion 603 in favour of Portions 601 and 602;
 - Right-of-way servitude to be registered over Portion 604 in favour of Portions 605 and 606;
 - Right-of-way servitude to be registered over Portion 610 in favour of Portions 608 and 609;
 - Right-of-way servitude to be registered over Portion 611 in favour of Portions 612 and 613;
 - Right-of-way servitude to be registered over Portion 615 in favour of Portions 616 and 617;
 - Right-of-way servitude to be registered over Portion 621 in favour of Portions 619 and 620;
 - Right-of-way servitude to be registered over Portion 627 in favour of Portions 625 and 626;
 - Right-of-way servitude to be registered over Portion 628 in favour of Portions 629 and 630;
 - Right-of-way servitude to be registered over Portion 636 in favour of Portions 634 and 635;
 - Right-of-way servitude to be registered over Portion 639 in favour of Portions 640 and 641;



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- Right-of-way servitude to be registered over Portion 646 in favour of Portions 644 and 645;
- Right-of-way servitude to be registered over Portion 650 in favour of Portions 648 and 649;
- Right-of-way servitude to be registered over Portion 651 in favour of Portions 652 and 653;
- Right-of-way servitude to be registered over Portion 659 in favour of Portions 657 and 658;
- Right-of-way servitude to be registered over Portion 660 in favour of Portions 661 and 662;
- Right-of-way servitude to be registered over Portion 663 in favour of Portions 664 and 665;
- Right-of-way servitude to be registered over Portion 671 in favour of Portions 669 and 670;
- Right-of-way servitude to be registered over Portion 676 in favour of Portions 674 and 675;
- Right-of-way servitude to be registered over Portion 677 in favour of Portions 678 and 679;
- Right-of-way servitude to be registered over Portion 685 in favour of Portions 683 and 684;
- Right-of-way servitude to be registered over Portion 689 in favour of Portions 690 and 691;
- Right-of-way servitude to be registered over Portion 697 in favour of Portions 695 and 696;
- Right-of-way servitude to be registered over Portion 698 in favour of Portions 699 and 700; and
- Right-of-way servitude to be registered over Portion 708 in favour of Portions 706 and 707

PART E: SUMMARY OF APPLICANTS MOTIVATION

The proposal is aimed the redevelopment and formalization of the current layout and density of Zone O located in Kayamandi. There is currently no access for emergency vehicles and there are no formal roads or erven, which in turn means no basic services are available.

The proposed redevelopment is thus necessary in order to formalise the area in the form of de-densification that allows for the construction of roads and installation of basic services. The proposal will also enable beneficiaries to obtain ownership.

The proposal will in general enhance the area as its location grants the opportunity to integrate the property in question with the adjacent residential developments, facilities and jobs. The property is not subject to any environmental constraints.

The departures from the land use parameters are required in order to increase the densities, which is motivated by the current backlog and the number of households currently in Zone O, that are in excess of 2000. It is therefore essential to for the redevelopment to be able to accommodate as many households as possible within the site constraints. This necessitated the need to increase the densities on smaller erven.

PART F: SUMMARY OF PUBLIC PARTICIPATION

Methods of advertising				Date published	Closing date for objections	
Press	Y		N/A	07-02-2019	11-03-2019	
Notices	Y		N/A	08-02-2019	11-03-2019	
Ward councillor	Y		N/A	08-02-2019	11-03-2019	
On-site display	Y		N/A	08-02-2019	11-03-2019	
Community organisation(s)	Y	N	N/A	08-02-2019	11-03-2019	
Other	Y		If yes, specify	WCG: DT&PW	08-02-2019	08-04-2019



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Y		If yes, specify	WCG: DEA&DP	08-02-2019	08-04-2019
Y		If yes, specify	Dept of Water Affairs	08-02-2019	08-04-2019
Y		If yes, specify	National Dept of Agriculture	08-02-2019	08-04-2019
Y		If yes, specify	WCG: Agriculture	08-02-2019	08-04-2019

Was public participation undertaken in accordance with sections 44-49 of the Stellenbosch Land Use Planning By-law, October 2015

Y

N

PART G: SUMMARY OF COMMENTS DURING PUBLIC PARTICIPATION (INTERESTED AND AFFECTED PARTIES)

Registered letters were sent out as well as the newspaper advert and no objections and / or comments from the public were received.

PART H: SUMMARY OF COMMENTS FROM INTERNAL DEPARTMENTS AND/OR ORGANS OF STATE AND/OR COMMUNITY ORGANISATIONS AND/OR WARD COUNCILLOR

NAME OF DEPARTMENT	DATE	SUMMARY OF COMMENTS	RECOMMENDATION		
			Positive	Negative	No comment
Manager: Building Development Management	21/01/2019	No objection.	Positive	Negative	No comment
Manager: Community Services	16/04/2019	The application has made provision for partial care centre /crèche for the area. The municipality has ensured with New Housing Development project, that provision has been made for a suitable ECD service. New Housing development projects should ensure that there is provision for basic service needs of the community and promote the social and economic development programmes.	Positive	Negative	No comment



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Chief Financial Officer			Positive	Negative	No comment
Manager: Electrical Department	19/02/2019	Development Bulk Levy Contributions are payable, subject to conditions, attached as Appendix 6 .	Positive	Negative	No Comment
Manager: Fire Services	23/01/2019	In order. Fire requirements will be provided during the building plan process.	Positive	Negative	No Comment
Manager: LED	18/02/2019	Memo signed but no comment submitted.	Positive	Negative	No Comment
Department Spatial Planning, Heritage and Environment	19/02/2019	The proposal is supported, as it located within the urban edge of Stellenbosch and Kayamandi within the approved Municipality SDF. Densification and infill development is encouraged in terms of the SDF	Positive	Negative	No Comment
Directorate: Infrastructure Services	13/02/2019 21/10/2019	Initially, not supported, and then approval granted subject to the infrastructure conditions attached as Appendix 7 .	Positive	Negative	No Comment
Department: Agriculture, Forestry and Fisheries	24/06/2019	The site is not subject to the provisions of the Subdivision of Agricultural Land Act, Act 70 of 1970, as per letter attached as Appendix 8 .	Positive	Negative	No Comment
Western Cape Government ("WCG"): Agriculture	19/04/2019	No objection to proposed application.	Positive	Negative	No comment
WCG: Department of Transport and Public Works	23/08/2019	No objection on condition that before the recommendation to relocate the existing pedestrian crossing on Main Road 174 by 49m southwards, DT&PW requires an addendum to the TIA which specifically	Positive	Negative	No Comment



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		considers the impact of the proposed pedestrian bridge, current pedestrian crossing, all the desire lines and phasing of implementation in order to resolve the issue of pedestrians crossing Main Road 174. See comment attached as Appendix 9.			
Department: Water & Sanitation	19/03/2019	No objection to the application, subject to the conditions contained in the letter attached as Appendix 10.	Positive	Negative	No comment

PART I: MUNICIPAL PLANNING EVALUATION (REFER TO RELEVANT CONSIDERATIONS GUIDELINE)

The Stellenbosch Municipal Council at the 14th Council Meeting dated 29 November 2017 resolved that methodology to develop Zone O and the housing allocation criteria for the temporary housing unit in Watergang be approved. Zone O is an existing informal settlement located within the Kayamandi Township.

Council appointed NuPlan Africa by this Department, Department of Planning & Economic Development: New Housing, to prepare and submit the required land use applications to obtain the necessary land use rights to enable the municipality to formalize the informal settlement by providing the necessary basic services.

NuPlan Africa duly submitted the required land use applications during August 2018, and undertook the Public Participation Process ("PPP") as required in terms of the Stellenbosch Municipality Land Use Planning Bylaw, 2015 and the Protocol and Public Participation requirements in terms of the said bylaw dated 18 January 2016, whereby such PPP be undertaken by the applicant and Portfolio of Evidence ("POE") be submitted Council for confirmation and verification. The applicant did duly comply with the PPP and no objections were received from interested and affected parties ("I&AP's"), and the proposal was supported by the internal and external departments as highlighted in Part H of this report.

The Western Cape Government ("WCG") Provincial Strategic Plan 2019 – 2024 identified five (5) Vision-Inspired Priority's ("VIP's") with the VIP 4 focusing on Mobility, Spatial Transformation and Human Settlements. The aim of VIP 4 is to "*envisage that more people use safe, reliable, affordable, and low-carbon public transport. With more mixed-use, mixed-income neighbourhoods and sustainable densification of economic centres, the average time, cost, and distance of commuting is reduced. Through leveraging public sector investments in infrastructure, human settlements, spaces and services we can heal, connect, integrated and transform our communities while reducing the vulnerability to climate change. This will make neighbourhoods places of dignity and belonging.*" This VIP focusses on three (3) areas, where Focus Area 3: *More opportunities for people to live in better*



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locations, is specifically applicable and supports the proposal to redevelop Zone O in order to provide basic services to the area and also enable access for emergency services.

The proposal is also supported by Stellenbosch Municipality's Strategic Focus Area for Dignified Living, as contained within the Stellenbosch Municipality's Integrated Development Plan ("IDP") 2017-2022, and is aligned with the strategic objectives with all the spheres of government. The proposal is also aligned with the Stellenbosch Municipality Integrated Human Settlement Plan ("IHSP") as it sets out to achieve the upgrading of informal settlements which is an objective of the housing pipeline.

The Manager: Spatial Planning, Heritage & Environment in the comments, that the proposal is located within the urban edge of Stellenbosch and Kayamandi within the approved Municipality SDF. Densification and infill development is encouraged in terms of the SDF.

The site is located within an area which has formalised housing typologies, and the current informal settlement is not only unsafe, due to the shelters and lack of access for emergency vehicles, but also detracts from the current formal residential character of the immediate surrounding area. The proposal in itself will provide basic engineering services to Zone O.

(In)consistency with the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)

The proposed development is consistent with the principle contained in SPLUMA, which is explained as follows:

- **Spatial Justice:**
The proposal improves access to and use of land, as well makes provision for persons from previously disadvantaged areas, specifically informal settlements to be provided with basic services.
- **Spatial Sustainability:**
The proposal is aimed at formalising an existing informal settlement through in-situ upgrading within the urban edge and thus prevents urban sprawl into the agricultural areas. It will also further improve the viability of the community in question, as basic services and accessibility will drastically be improved by the proposal.
- **Efficiency:**
The existing informal settlement is located within an urban area, and the upgrading of Zone O will limit the further expansion into the agricultural areas.
- **Spatial Resilience:**



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The proposal will further enhance government's ability to react and access the property with emergency services should Zone O suffer from environmental shocks (i.e. fire, ambulance services, etc.), which is currently not the situation.

- **Good Administration:**

The proposal was duly advertised to all I&AP's and the applicable internal and external state departments for comment and/or objection.

(In)consistency with the principles referred to in Chapter VI of the Land Use Planning Act, 2014 (Act 3 of 2014)

The proposal is consistent with LUPA.

(In)consistency with the IDP/Various levels of SDF's/Applicable policies

The proposal is consistent with the IDP, as noted in Part I of this report.

(In)consistency with guidelines prepared by the Provincial Minister

Consistent with all relevant guidelines, specifically relating to urban densification and infill development.

Outcomes of investigations/applications i.t.o other laws

Not applicable.

Existing and proposed zoning comparisons and considerations

The proposal involves the formalization of the existing informal settlement, and in turn will also result in the legalization and / or rectification of the zoning rights to accommodate the improved use of land.

The need and desirability of the proposal

The proposed development as mentioned throughout this report aims to obtain the required land use rights to formalise the existing Informal Settlement, known as Zone O in Kayamandi. The formalisation will also result in providing the beneficiaries of the housing project with basic services, as well as formal dwelling units, and provide access roads, which would enable emergency services to access the intended dwelling units.

The proposal is consistent with the Municipal IDP and SDF, as well as the Integrated Human Settlement Plan. It also gives effect to the Strategic Objective of Dignified Living, and also further enhances the character of the immediate surrounding formal housing area.



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The proposal also complies with the development principles contained in the SPLUMA, and all I&AP's, as well as affected state and municipal departments, which were consulted supported the proposal.

Although several departures have been applied for to accommodate the proposed layout and urban design to enable the optimum usage of land, the aim is also to ensure that the required engineering infrastructure also be used optimally. The Council at the 14th Council Meeting already supported the reduction in parking requirements, and it must be noted that the existing had no space for roads, notwithstanding parking for vehicles. The roads have also been designed to ensure that services can be accommodated and that parking can be provided off-site. The proposal is thus required as currently no emergency services can access Zone O, and further limited to no engineering services are available to beneficiaries. The desirability of the proposal is obvious, as it will result in beneficiaries being able to be owners of dwelling units, and it will drastically improve the current landscape.

PART J: ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

Financial or other value of the rights affected

Not applicable, as no restrictive conditions are contained within the applicable title deeds.

Benefits to the holder of such rights in terms of the restrictive condition

Not applicable, as no restrictive conditions are contained within the applicable title deeds.

Personal benefits which will accrue to the applicant

Not applicable, as no restrictive conditions are contained within the applicable title deeds.

Social benefit of the restriction remaining in place:

Not applicable, as no restrictive conditions are contained within the applicable title deeds.

Social benefit of the proposal and whether the application will completely remove all rights enjoyed by the beneficiary or only some of those rights

Not applicable, as no restrictive conditions are contained within the applicable title deeds.

PART K: SUMMARY OF EVALUATION

The proposal is consistent with Council's IDP, SDF and IHSP, as it is aimed at obtaining the land use rights to formalise Zone O and also providing the require basic services. The proposal will be located within the urban edge and is aimed at optimally using the resources to enable the transformation of the informal settlement.



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PART L: RECOMMENDATION

1. That **approval be granted** in terms of Section 60 of the Stellenbosch Municipal Land Use Planning By-Law, promulgated by notice number 354/2015, dated 20 October 2015, for the following applications:
 - 1.1 **Subdivision** in terms of Section 15(2)(d) of Erf 1714, Kayamandi into two (2) portions, namely Portion A and the Remainder of Erf 1714, Kayamandi, as per Proposed Subdivision Plan, Plan 3 dated 11 September 2018, drawn by NuPlan Africa attached as **Appendix 2**;
 - 1.2 **Subdivision** in terms of Section 15(2)(d) of the Remainder of Erf 2183, Kayamandi, into three (3) portions, namely Portion A, Portion B and the Remainder of Erf 2183, Kayamandi, as per Proposed Subdivision Plan, Plan 4 dated 11 September 2018, drawn by NuPlan Africa attached as **Appendix 3**;
 - 1.3 **Consolidation** in terms of Section 15(2)(e) of Portion A of Erf No.1714, Portion A of Remainder of Erf No. 2183, Portion B of Remainder of Erf No. 2183, Kayamandi, Unregistered Erf No.: 863, Kayamandi, Unregistered of Erf 873, Kayamandi, as per Proposed Consolidation Plan, Plan 5 dated 11 September 2018, drawn by NuPlan Africa attached as **Appendix 4**;
 - 1.4 Rezoning in terms of Section 15(2)(a) of the consolidated property from **Agriculture, Informal Residential and Residential I** to **Subdivisional Area** to accommodate the following zonings, as per Proposed Rezoning and Subdivision Plan, Plan 2.561(a) – S1-06 dated 11 September 2018, drawn by NuPlan Africa, attached as **Appendix 5**:
 - 532 Group housing erven
 - 178 General Residential erven (row housing)
 - 13 General Residential erven (communal court yards)
 - 2 Public Open Space erven
 - 6 Private Open Space erven
 - 1 Place of Worship
 - 1 Educational institution erf
 - 4 Local Authority erven (mini-substations, and
 - 4 Local Authority erven (public roads)
 - 1.5 **Departure** in terms of Section 15(2)(c) for the relaxation of the **street building line** for all Group housing erven from **2m** to **1m**, common building line from **1,5m** to **1m** on one side and **0m** on the other;
 - 1.6 **Departure** in terms of Section 15(2)(c) for the relaxation of the **street building line** for all the General Residential erven from **7,6m** to **0m**, **common building line** from **4,6m** to **0m**;
 - 1.7 **Departure** in terms of Section 15(2)(c) for the relaxation of the open space requirement to provide **±1 535m²** in lieu of **21 280m²**;



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- 1.8 **Departure** in terms of Section 15(2)(c) for relaxation of the **parking requirements** to provide **no parking bays** in lieu of **2 parking bays** per group housing dwelling unit, and **0,6 parking bays** per dwelling for **on-street parking**, and **no parking** for **on-site parking bay**, in lieu of **2 parking bays** per dwelling unit;
- 1.9 **Departure** in terms of 15(2)(c) from the permissible coverage of **25%** to **100%**;
- 1.10 Departure in terms of Section 15(2)(d) for the registration of the following **right-of-way servitudes** in order to access the group housing and general residential units:
- Right-of-way servitude to be registered over Portion 551 in favour of Portions 549 and 550;
 - Right-of-way servitude to be registered over Portion 552 in favour of Portions 531 and 532;
 - Right-of-way servitude to be registered over Portion 540 in favour of Portion 539;
 - Right-of-way servitude to be registered over Portion 541 in favour of Portions 542 and 543;
 - Right-of-way servitude to be registered over Portion 554 in favour of Portions 555 and 556;
 - Right-of-way servitude to be registered over Portion 561 in favour of Portions 559 and 560;
 - Right-of-way servitude to be registered over Portion 567 in favour of Portions 568 and 569;
 - Right-of-way servitude to be registered over Portion 566 in favour of Portions 564 and 565;
 - Right-of-way servitude to be registered over Portion 576 in favour of Portions 574 and 575;
 - Right-of-way servitude to be registered over Portion 577 in favour of Portions 578 and 579;
 - Right-of-way servitude to be registered over Portion 581 in favour of Portions 582 and 583;
 - Right-of-way servitude to be registered over Portion 590 in favour of Portions 588 and 589;
 - Right-of-way servitude to be registered over Portion 592 in favour of Portions 593 and 594;
 - Right-of-way servitude to be registered over Portion 599 in favour of Portions 597 and 598;
 - Right-of-way servitude to be registered over Portion 603 in favour of Portions 601 and 602;
 - Right-of-way servitude to be registered over Portion 604 in favour of Portions 605 and 606;
 - Right-of-way servitude to be registered over Portion 610 in favour of Portions 608 and 609;
 - Right-of-way servitude to be registered over Portion 611 in favour of Portions 612 and 613;
 - Right-of-way servitude to be registered over Portion 615 in favour of Portions 616 and 617;
 - Right-of-way servitude to be registered over Portion 621 in favour of Portions 619 and 620;
 - Right-of-way servitude to be registered over Portion 627 in favour of Portions 625 and 626;
 - Right-of-way servitude to be registered over Portion 628 in favour of Portions 629 and 630;
 - Right-of-way servitude to be registered over Portion 636 in favour of Portions 634 and 635;
 - Right-of-way servitude to be registered over Portion 639 in favour of Portions 640 and 641;
 - Right-of-way servitude to be registered over Portion 646 in favour of Portions 644 and 645;
 - Right-of-way servitude to be registered over Portion 650 in favour of Portions 648 and 649;
 - Right-of-way servitude to be registered over Portion 651 in favour of Portions 652 and 653;
 - Right-of-way servitude to be registered over Portion 659 in favour of Portions 657 and 658;
 - Right-of-way servitude to be registered over Portion 660 in favour of Portions 661 and 662;
 - Right-of-way servitude to be registered over Portion 663 in favour of Portions 664 and 665;
 - Right-of-way servitude to be registered over Portion 671 in favour of Portions 669 and 670;
 - Right-of-way servitude to be registered over Portion 676 in favour of Portions 674 and 675;
 - Right-of-way servitude to be registered over Portion 677 in favour of Portions 678 and 679;
 - Right-of-way servitude to be registered over Portion 685 in favour of Portions 683 and 684;
 - Right-of-way servitude to be registered over Portion 689 in favour of Portions 690 and 691;



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- Right-of-way servitude to be registered over Portion 697 in favour of Portions 695 and 696;
 - Right-of-way servitude to be registered over Portion 698 in favour of Portions 699 and 700; and
2. That the approval granted in Sections 1 above is subject to the following conditions in terms of Section 66 of the above-mentioned by-law;
- 2.1 The approval applies only to the application under consideration and shall not be construed as authority to depart from any other legal prescriptions or requirements from Council;
 - 2.2 That the conditions of approval as imposed by the Manager: Development (Infrastructure Services) in its memo dated 21 October 2019, attached as **Appendix 7** must be adhered to and complied with;
 - 2.3 That the conditions of approval as imposed by the Manager: Electrical Engineering Services in its memo dated 19 February 2019, attached as **Appendix 6** must be adhered to;
 - 2.4 That the conditions of the WCG: DT&PW in their letter dated 23 August 2019, attached as **Appendix 9** must be adhered to;
 - 2.5 That the conditions imposed by the Department: Water and Sanitation in their letter dated 19 March 2019, attached as **Appendix 10** must be adhered to;
 - 2.6 That the applicant submits an electronic copy (shp,dwg,dxf) of the consolidation diagram which was preliminary approved by the SG indicating the newly allocated Erf Number, Co-ordinates and Survey Dimensions;
 - 2.7 The development be undertaken in accordance with the approved site development plan as attached in **Appendix 6**, Proposed Rezoning and Subdivision Plan, Plan 2.561(a) – S1-06 dated 11 September 2018, drawn by NuPlan Africa;
 - 2.8 Building plans are to be submitted to the Municipality for approval prior to any building work taking place on the property;
 - 2.9 Rates clearances will only be granted once all the conditions of approval for the development have been complied with;



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The proposed development is recommended for approval for the following reasons:

- Formalise the existing informal settlement;
- Aligned with the Municipal IDP, SDF and IHSP;
- Proposal will result in the implementation of basic services, including the construction of roads;
- Will be in character with the immediate surrounding area.

PART N: ANNEXURES

Appendix 1	Locality map
Appendix 2	Proposed Subdivision Plan Remainder of Erf 1714, Kayamandi
Appendix 3	Proposed Subdivision Plan of Remainder of Erf 2183, Kayamandi
Appendix 4	Proposed Consolidation Plan
Appendix 5	Proposed rezoning and subdivision plan
Appendix 6	Comments and conditions by Manager: Electrical Engineering Services
Appendix 7	Memo of support and conditions from the Directorate: Infrastructure Services
Appendix 8	Comments from the Department: Agriculture, Forestry and Fisheries
Appendix 9	Comments from the WCG: DT&PW
Appendix 10	Comments from the Department: Water and Sanitation

PART P: SIGNATURES

REPORT COMPILED & RECOMMENDED BY:

CRAIG ALEXANDER PR PLN (A/1749/2013)
SENIOR MANAGER: DEVELOPMENT PLANNING

16/01/2020
DATE

PART U: STELLENBOSCH MUNICIPAL PLANNING TRIBUNAL DECISION IN TERMS OF SECTION 60 OF THE STELLENBOSCH MUNICIPAL LAND USE PLANNING BY-LAW, OCTOBER 2015:

APPROVE		APPROVE IN PART		REFUSE	
----------------	--	------------------------	--	---------------	--

Tick the appropriate box:

SIGNATURE: _____

DATE: _____

CHAIRPERSON OF THE MUNICIPAL PLANNING TRIBUNAL
DR D J DU PLESSIS



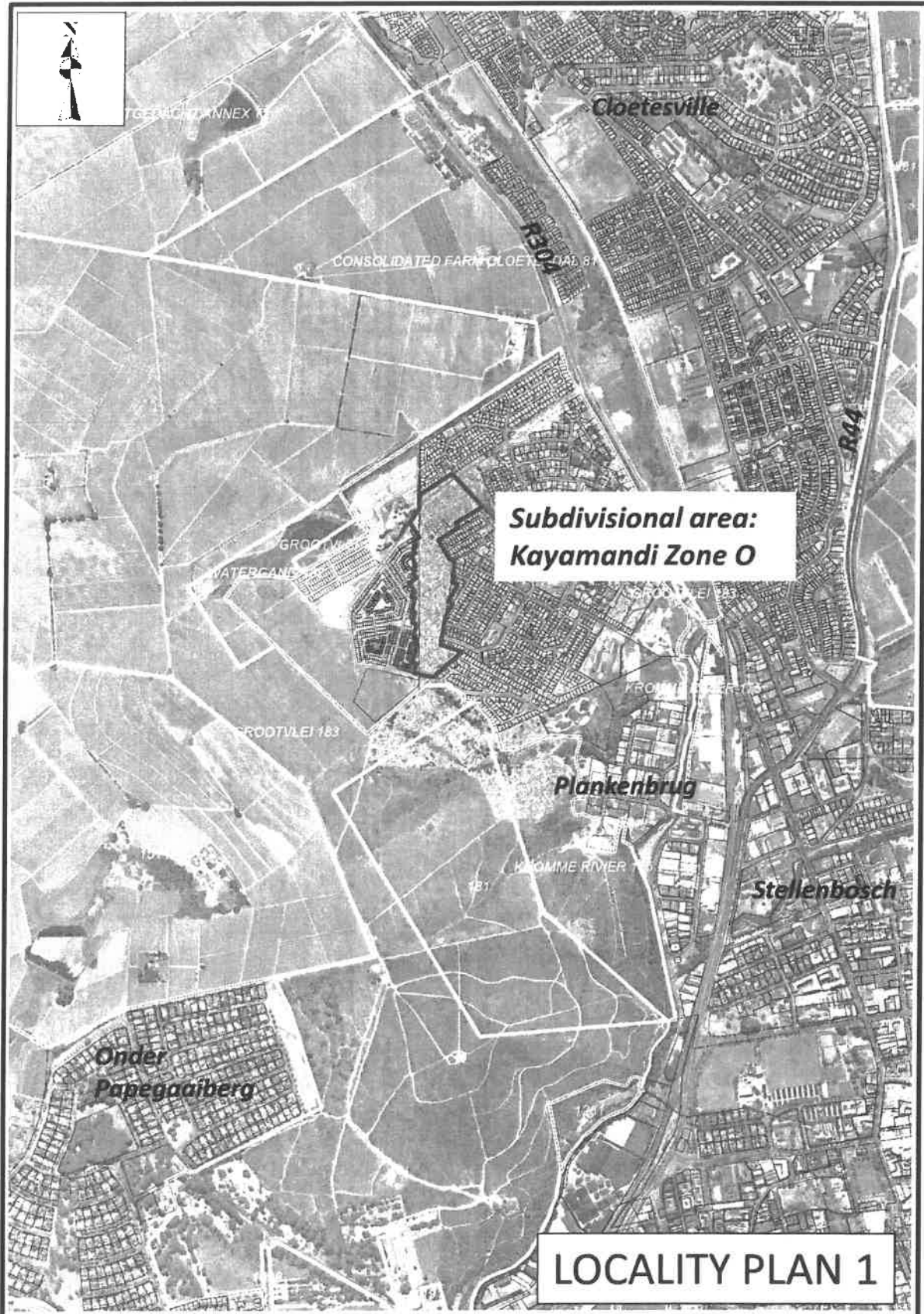
STELLENBOSCH
STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNICIPALITY • UMASIPALA • MUNISIPALITEIT

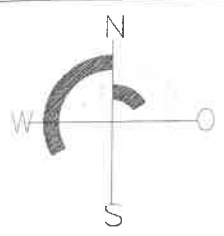
ADDITIONAL COMMENTS IF ANY:

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APPENDIX 1

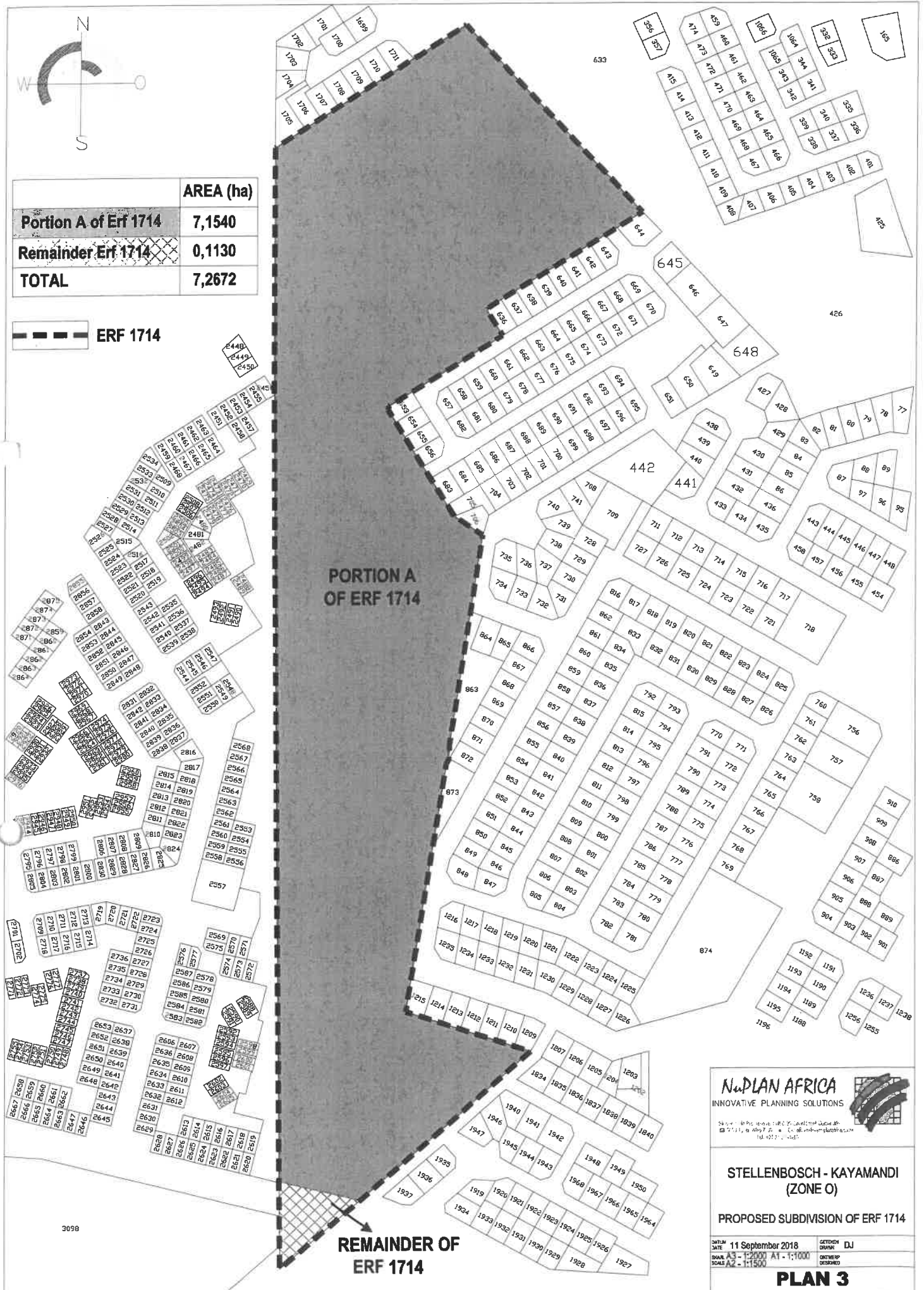


APPENDIX 2



	AREA (ha)
Portion A of Erf 1714	7,1540
Remainder Erf 1714	0,1130
TOTAL	7,2672

--- ERF 1714



PORTION A OF ERF 1714

REMAINDER OF ERF 1714

NPLAN AFRICA
 INNOVATIVE PLANNING SOLUTIONS

STELLENBOSCH - KAYAMANDI
 (ZONE O)

PROPOSED SUBDIVISION OF ERF 1714

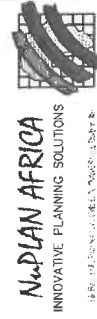
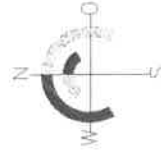
DATE: 11 September 2018
 DRAWN BY: DJ
 CHECKED BY: DJ
 SCALE: A3 - 1:2000 A1 - 1:1000
 SCALE: A2 - 1:1500

PLAN 3

APPENDIX 3

REMAINDER ERF 2183	AREA (ha)
Ptn A of Rem Erf 2183	0,7168
Ptn B of Rem Erf 2183	0,1150
Rem. of Rem. Erf 2183	21,4135
TOTAL	22,2453

REMAINDER ERF 2183

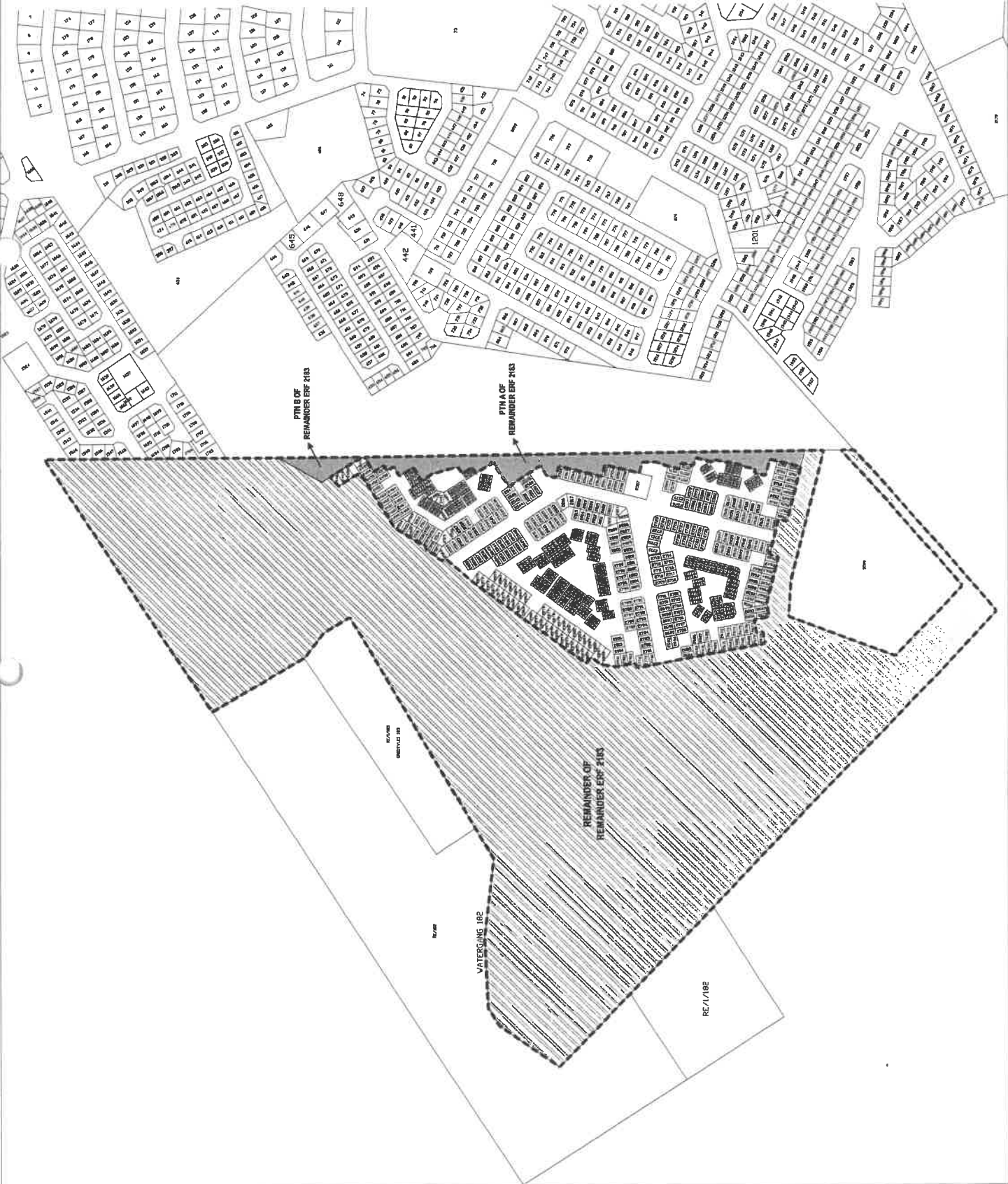


**STELLENBOSCH - KAYAMANDI
(ZONE 0)**

PROPOSED SUBDIVISION OF
REMAINDER ERF 2183

DATE 11 September 2018
DRAWN BY
SCALE A3 - 1:4000

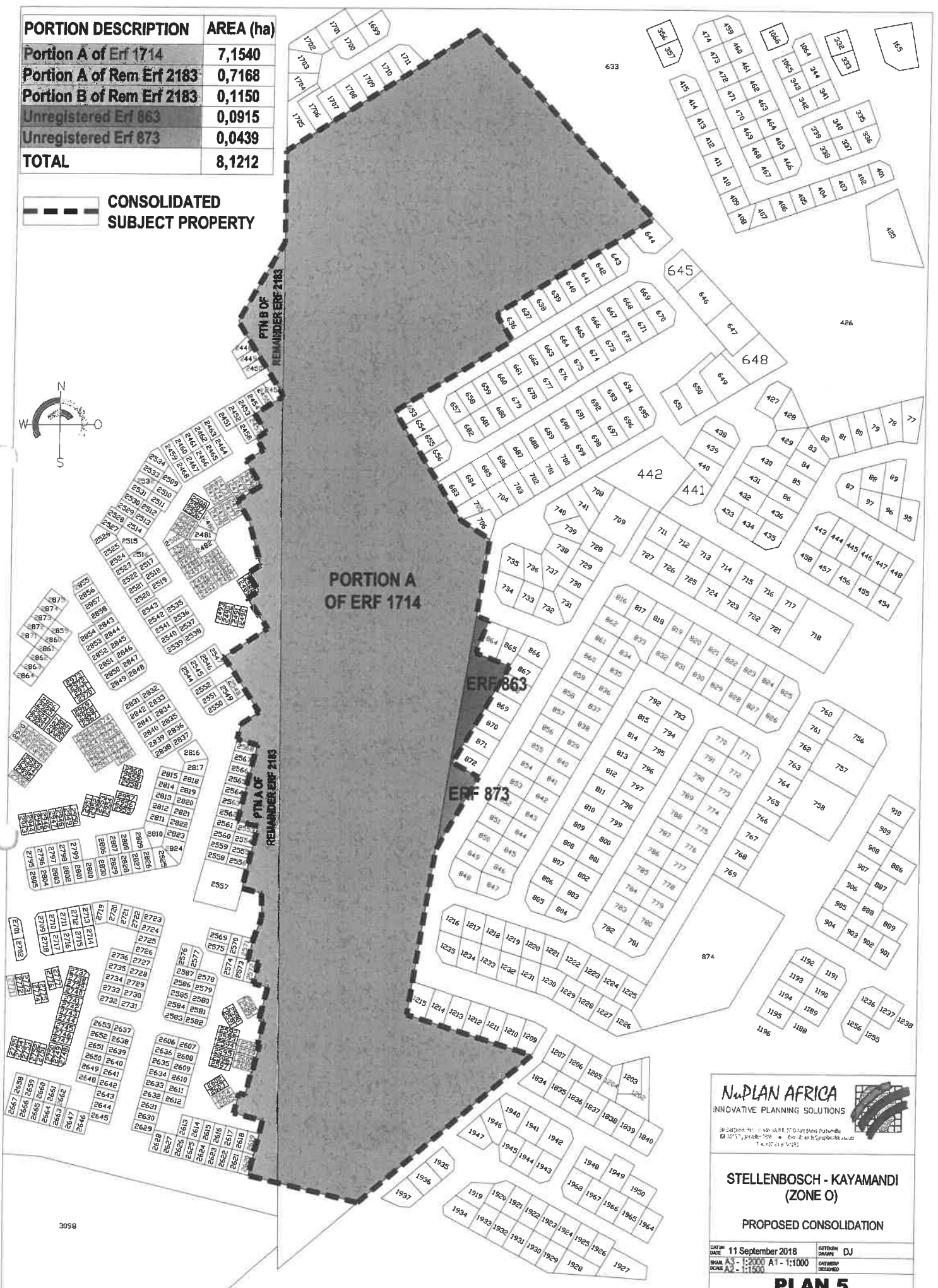
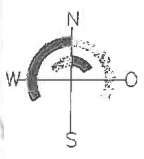
PLAN 4



APPENDIX 4

PORTION DESCRIPTION	AREA (ha)
Portion A of Erf 1714	7,1540
Portion A of Rem Erf 2183	0,7168
Portion B of Rem Erf 2183	0,1150
Unregistered Erf 863	0,0915
Unregistered Erf 873	0,0439
TOTAL	8,1212

 **CONSOLIDATED SUBJECT PROPERTY**



NAPLAN AFRICA
 INNOVATIVE PLANNING SOLUTIONS

Stellenbosch - Kayamandi (Zone O)
 PROPOSED CONSOLIDATION

DATE: 11 September 2018
 DRAWN: DJ
 SCALE: A3 - 1:2000 A1 - 1:1000 A2 - 1:500
 OWNER: DELIVERED

PLAN 5

APPENDIX 5



PHASE 1

ZONING	LAND USE	PTN NRS	N ERVEN UNITS	N UNITS	AREA (m²)	%	
Group housing	Freestanding & Semi-detached housing	1-234	234	234	17 872	57.39	
	Public Open Space	731	1		868	2.79	
	Worship	732	1		716	2.30	
	Creche	733	1		683	2.19	
Local Authority	Mini sub-stations	234,732	2		48	0.15	
	Public Roads	738	1		10 985	35.27	
TOTAL						31 142	100

PHASE 2

ZONING	LAND USE	PTN NRS	N ERVEN UNITS	N UNITS	AREA (m²)	%	
Group housing	Freestanding & Semi-detached housing	748,741	282	282	21 929	65.34	
	Public Open Space	747	1		667	1.89	
	Mini sub-stations	738	1		24	0.07	
Local Authority	Public Roads	738	1		10 942	32.69	
	TOTAL						33 562

PHASE 3

ZONING	LAND USE	PTN NRS	N ERVEN UNITS	N UNITS	AREA (m²)	%	
Group housing	Freestanding & Semi-detached housing	525-530	8	8	545	3.30	
	Public Open Space	531-704	178	178	4 850	29.36	
Private Open Space	Communal courtyards	705-72	13		2 197	13.31	
	Private Open Space	722-727	6		3 430	20.78	
Local Authority	Mini sub-stations	728	1		24	0.15	
	Public Roads	729,730	2		5 482	33.08	
TOTAL						16 506	100

PHASE 1 - 3

ZONING	LAND USE	N ERVEN UNITS	N UNITS	AREA (m²)	%		
Group housing	Freestanding & Semi-detached housing	532	532	40 346	49.66		
	Public Open Space	178	178	4 850	5.97		
Private Open Space	Communal courtyards	13		2 197	2.71		
	Private Open Space	6		1 535	1.89		
Local Authority	Mini sub-stations	4		96	0.12		
	Public Roads	4		27 369	33.73		
TOTAL						81 212	100

- Subject Property Boundary
- Phase Boundaries
- Right of Way Servitudes (2.875m x 0.935m)

BASE MAP & SURVEY SUPPLY BY JOUBERT BRINK
 DATE: RECEIVED 18 MAY 2015

NOTE: ALL STANDARDS BY GRADUATION OR OTHERWISE AND OPERATING
 NOTE: ALL MEASUREMENTS APPROXIMATE AND SUBJECT TO SURVEYING

HERSIENINGS - REVISIONS		
NO	DATE/DATE	DESCRIPTION
01	1 JULY 2015	REVISE LAYOUT / CHECK ROAD WIDTHS
03	27 JULY 2015	REVISE LAYOUT / ADD PHASES
04	19 SEPTEMBER 2016	REVISE LAYOUT - PHASE 3
04	15 MARCH 2017	CALCULATIONS / MID OF ROAD REVISE AT FLATS
05	29 APRIL 2018	SMALL AMENDMENTS TO FLATS TO CORRECT BUILDING LINES
05	25 JULY 2018	AMENDMENTS TO OUTSIDE FIGURE
05	31 JULY 2018	AMENDMENTS TO FLAT CADASTRAL LINES, FINALISE PORTION NUMBERS
05	6 AUG 2019	ADD ACCESS SERVITUDES - ROW HOUSING
06	27 SEPT 2018	Amend southern portion according to new layout provided by Engineers & Architects (EA). Amend road of layout tables according to Engineers Input (EI). Flats layout on north eastern boundary - 6 more arows (EA). Re-numbered roads.

REFER TO SITE DEVELOPMENT PLAN - PLAN 8

NuPLAN AFRICA
 INNOVATIVE PLANNING SOLUTIONS

Sir Benjamin Pomeroy, Unit 6, 25 Ouderdorp Street, Durbanville
 61 3603 Tyngvalley 7035 • E-mail: annie@nuplan.co.za
 Tel: +27 21 975-1056

STELLENBOSCH - KAYAMANDI (ZONE O)

Ptn. Rem Erf 2183, Ptn.Erf 1714,
 Unregistered Erven 863 & 873 (Ptn's of Erf 707)
Proposed Rezoning & Subdivision

DATE: 27 September 2018
 DRAWN: DJ
 SCALE: A3 - 1:2000 A1 - 1:1000
 SCALE: A2 - 1:1500
 CHECKED: DJ
 DESIGNED: DJ

2.561(a) - S1 - 06



PHASE 1	UNIT TYPE	N
	Single Storey	7
	Free standing	226
	Sub - Total	234

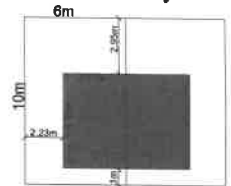
PHASE 2	UNIT TYPE	N
	Single Storey	9
	Free standing	280
	Sub - Total	292

PHASE 3	UNIT TYPE	N
	Single Storey	-
	Free standing	6
	Sub - Total	178

PHASE 1 - 3	UNIT TYPE	N
	Single Storey	16
	Free standing	512
	Sub - Total	710

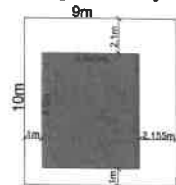
- Subject Property Boundary
- Phase Boundaries

SEMI-DETACHED Double Storey



Unit size: 43m²
Erf size: 60m²

FREE STANDING Single Storey



Unit size: 40m²
Erf size: 90m²

BASE MAP & SURVEY SUPPLY BY JOUBERT BRINK
DATE: RECEIVED 18 MAY 2015

NOTE: ALL STANDSTAD BY REMANDEER EN OORSPREKING VAN OPMETTING
NOTE: ALL MEASUREMENTS APPROXIMATE AND SUBJECT TO SURVEYING

HERSIENINGS • REVISIONS		
NO	DATE	REVISIONS/DESCRIPTION
01	1 JULY 2015	REVISE LAYOUT / CHECK ROAD WIDTHS
02	27 JULY 2015	REVISE LAYOUT / ADD PHASES
04	19 SEPTEMBER 2015	REVISE LAYOUT - PHASE 3
04	15 MARCH 2017	CALCULATIONS / MID OF ROAD REVISE AT FLATS
05	20 APRIL 2015	SMALL ADJUSTMENTS TO FLATS TO CONNECT BUILDING LINES
05	15 JULY 2015	ADJUSTMENTS TO OUTSIDE FLOOR
05	21 JULY 2015	ADJUSTMENTS TO FLAT CADASTRAL LINES, PARALLEL PORTION NUMBERS
05	6 AUG 2015	ADD ACCESS SERVITUDES - ROW HOUSING
06	27 SEPT 2015	Amend southern portion according to new layout (PHASE 1) by Engineers & Architect (D.D.) Amend rest of layout (PHASE 2) according to Engineers layout (D.D.) Revise layout on north western boundary - 6 more units (D.D.) Re-submit layout.

REFER TO SITE DEVELOPMENT PLAN - PLAN 8

NuPLAN AFRICA
INNOVATIVE PLANNING SOLUTIONS

Sir Benjamin Franklin Road, Unit 6, 20 Oxford Street, Durbanville
CP 3603 Tygerberg 7536 • E-mail: nplan@nuplan.co.za
Tel: +27 21 915-1265

STELLENBOSCH - KAYAMANDI (ZONE O)
Ptn. Rem Erf 2183, Ptn. Erf 1714,
Unregistered Erven 863 & 873 (Ptn's of Erf 707)
Proposed House Placement Plan

DATUM DATE	27 September 2018	DIETREK OORNAME	AV
SKALA SCALE	A3 - 1:2000 A1 - 1:1000 A2 - 1:1500	ONTWERP DESIGNED	

2.561(a) - SITE - 06

APPENDIX 6

ELETRICITY SERVICES: CONDITIONS OF APPROVAL
Erf 2183

GENERAL COMMENT:

1. Development Bulk Levy Contributions are payable

CONDITIONS

2. The electrical consulting engineer responsible for the development shall schedule an appointment with Manager Electricity Services (Engineering Services) before commencing with the construction of the development. As well as to discuss new power requirements if required.
3. The development's specifications must be submitted to Stellenbosch Municipality (Engineering Services) for approval. i.e.
- a) The design of the electrical distribution system
 - b) The location of substations(s) and related equipment.
4. A separate distribution board/s shall be provided for municipal switchgear and metering. (Shall be accessible & lockable). Pre-paid metering systems shall be installed in domestic dwellings.
5. 24-hour access to the location of the substation, metering panel and main distribution board is required by Technical Services. (On street boundary)
6. Appropriate caution shall be taken during construction, to prevent damage to existing service cables and electrical equipment in the vicinity, should damage occur, the applicant will be liable for the cost involved for repairing damages.
7. On completion of the development, Stellenbosch Municipality (Technical Services) together with the electrical consulting engineer and electrical contractor will conduct a take-over inspection.
8. No electricity supply will be switched on (energised) if the Development contributions, take-over Inspection and Certificate(s) of Compliance are outstanding.
9. All new developments and upgrades of supplies to existing projects are subject to **SANS 10400-XA** energy savings and efficiency implementations such as:
- Solar water Heating or Heat Pumps in Dwellings
 - Energy efficient lighting systems
 - Roof insulation with right R-value calculations .
 - In large building developments;
 - Control Air condition equipment tied to alternative efficiency systems
 - Preheat at least 50% of hotwater with alternative energy saving sources
 - All hot water pipes to be clad with insulation with R-value of 1
 - Provide a professional engineer's certificate to proof that energy saving measures is not feasible.


Signature


Date

APPENDIX 7



MEMO

DIRECTORATE: INFRASTRUCTURE SERVICES
DIREKTORAAT: INFRASTRUKTUURDIENSTE

TO : **The Director: Planning and Development**

FOR ATTENTION : **N Katts**

FROM : **Manager: Development (Infrastructure Services)**

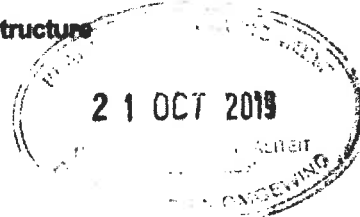
AUTHOR : **Tyrone King**

DATE : **14 October 2019**

RE. : **Erf 2183, Erf 1714, Erf 863, Erf 873 (Kayamandi (Zone O): Subdivision, consolidation and rezoning for the development of 533 Group Housing erven (single storey free standing and double storey semi-detached) and 178 General residential erven (double storey row housing)**

YOUR REF : **LU/8633**

OUR REF : **1786 CIVL LU**



Details, specifications and information reflected in the following documents refer:

- The abovementioned application dated 9 October 2018 and motivation report by NuPlan Africa Dennis Moss Partnership, dated September 2018
- Transport Statement by ITS Engineers dated 2 September 2015;
- Engineering Services Report by Lyners dated September 2018, revision 2
- Initial comment on the application docs listed above – Memo dated 13 February 2019;
- Notes of meeting dated 15 May 2019 (**Annexure A**) regarding the discussion of the initial engineering comments as per Memo dated 13 February 2019;
- E-mail from Tyrone King dated 31 July 2019 and response e-mail from Danette Jones dated 29 August 2019 further addressing the various engineering issues listed in the 15 May 2019 minutes and including the motivation for the proposed parking relaxations (**Annexure B**);
- E-mails between Lester van Stavel, Tyrone King and Danette Jones, latest e-mail dated Wed 2019/10/09 09:06 regarding the existing vehicle ownership ratios and how it compares with the proposed parking provision (**Annexure C**)
- Proposed House Placement Plan dated 29 July 2019 by NuPlan Africa (**Annexure D**)

Aansoek Datum Application Date	2018-10-09
Aansoeker Applicant	Nuplan Africa

Aangeheg vind u tersaaklike dokumentasie in verband met bogenoemde aansoek. Ten einde my in staat te stel om die aansoek aan die besluitnemingsowerheid vir oorweging voor te lê, word u versoek om my skriftelik van u kommentaar, indien enige, te voorsien. Onderskei asseblief tussen algemene kommentaar op die meriete van die aansoek en enige voorwaardes wat u departement wil opleë indien die aansoek goedgekeur word.

Attached please find the relevant documentation regarding the abovementioned application. Kindly furnish me with your written comment, if any, in order to enable me to submit the application to the decision making authority for consideration. Please differentiate between general comment on the merits of the application and any conditions that your department wishes to impose should the application be approved.

Geliewe die memorandum per hand aan my terug te besorg voor of op: **2019-02-18**
Please hand deliver the memorandum to me on or before: **2019-02-18**

N Katts

For DIRECTOR: PLANNING AND ECONOMIC DEVELOPMENT

ALGEMENE KOMMENTAAR / GENERAL COMMENT: *Recommended for approval*

VOORWAARDES/CONDITIONS: *See Memo dated 14 Oct 2019*

<i>[Signature]</i>	<i>2019/10/21</i>
HANDTEKENING / SIGNATURE	DATUM / DATE

Rec dated Aug 2018

Traffic Engineering: *Not supported*

- ① Please provide a signed (Professional Traffic Engineer/Tech) Transport Impact Study.
- ② Please indicate on the SOP - How the o/b parking bays per dwelling unit was assigned.
- ③ 8m ^{road} reserves must cater for 2x1,5m tarm'd sidewalk + 5m tar road driving surface as a minimum. *Memo 2019/02/11*
- ④ Comments from WCU: Provincial Roads. *Memo 2019/02/11*

Note: After NW's comments, various meetings and correspondence occurred to discuss inter alia road and traffic issues, and all was addressed to Munic's satisfaction. The necessary road+ traffic conditions are contained in the approval Memo. *[Signature]*
21 Oct 2019

IF approved roads. See Jerrilee email 2019/08/30 11:20am

Development of Erf 2183, Erf 1714, Erf 863, Erf 873 (Kayamandi (Zone O))

- GLS report dated 21 May 2019

Comments from the Directorate: Infrastructure Services i.e. Roads & Stormwater, Water Services, Traffic Engineering and Development Services will be reflected in this memo and is to be regarded as development conditions to be reflected in the land-use approval.

These comments and conditions are based on the following proposed development parameters, as reflected on the Proposed House Placement Plan dated 29 July 2019 by NuPlan Africa (Annexure D):

- Group Housing erven (single storey free standing and double storey semi-detached):
533 No
- General residential erven (double storey row housing):
178 No

Any development beyond these parameters would require a further approval and/or a recalculation of the Development Charges from this Directorate.

Definitions

1. that the following words and expressions referred to in the development conditions, shall have the meanings hereby assigned to except where the context otherwise requires:
 - (a) "*Municipality*" means the STELLENBOSCH MUNICIPALITY, a Local Authority, duly established in terms of section 9 of the Local Government Municipal Structures act, Act 117 of 1998 and Provincial Notice (489/200), establishment of the Stellenbosch Municipality (WC024) promulgated in Provincial Gazette no. 5590 of 22 September 2000, as amended by Provincial Notice 675/2000 promulgated in Provincial Gazette;
 - (b) "*Developer*" means the developer and or applicant who applies for certain development rights by means of the above-mentioned land-use application and or his successor-in-title who wish to obtain development rights at any stage of the proposed development;
 - (c) "*Engineer*" means an engineer employed by the "*Municipality*" or any person appointed by the "*Municipality*" from time to time, representing the Directorate: Infrastructure Services, to perform the duties envisaged in terms of this land-use approval;

Development of Erf 2183, Erf 1714, Erf 863, Erf 873 (Kayamandi (Zone O))

2. that all previous relevant conditions of approval to this development application remain valid and be complied with in full unless specifically replaced or removed by the "Engineer";

Recommendation:

3. The development is recommended for approval, subject to the conditions as stated below:

Conditions specific to this Development:

4. that the following upgrades are required to accommodate the development. No taking up of proposed rights including Section 28 Certification in terms of the Stellenbosch Municipal Land Use Planning By-law / building plan approval / occupation certificates (whichever comes first) will be allowed until the following upgrades have been completed and/or conditions have been complied with:

a. **Stellenbosch WWTW (Waste Water Treatment Works):** The proposed development falls within the catchment area of the existing Stellenbosch WWTW (Waste Water Treatment Works). There is sufficient capacity at the WWTW for the proposed development.

b. **Water Network: See Annexure E:** The master plan indicated that the higher lying even of the proposed formalisation area be accommodated in the existing Kayamandi reservoir zone and the lower lying even in the Kayamandi PRV 4 zone. Connections to the existing system can be implemented as per Annexure E - Figure 1 attached. Please note that the proposed connection points together with the proposed link service items are of significant importance as specific loop systems will be created for the improvement of the Kayamandi water network. The following upgrades are required to create capacity for the proposed development.

- i. Item 1: 300 m x 200 mm Ø New water pipe - R 176 000*
Funding: Internal pipeline – must be included in the project budget.
- ii. Item 2: 125 m x 160 mm Ø New water pipe - R 510 000*
*Funding: Link pipeline – must be included in the project budget.

Development of Erf 2183, Erf 1714, Erf 863, Erf 873 (Kayamandi (Zone O))

c. **Sewer Network:** See Annexure F: The following upgrades are required to create capacity for the proposed development.

i. All connections to the existing system to be generally in accordance with **Annexure F: Figure 2**

ii. **Item 3: 750 m x 450 mm Ø Upgrade existing outfall sewer - R 3 181 000***
Funding: To be implemented by the Municipality – R10m currently on the 2019/20 budget on line item "New Plankenburg Main Outfall Sewer". Should this not be implemented by the Municipality for any reason, it must be included in the budget of the housing project.

iii. Master plan items SSS1.39 (under construction) and SSS1.40b (R 7 627 000*) are required to accommodate potential upstream development areas and to protect the Plankenburg River against polluted stormwater from Kayamandi and Enkanini. In a separate study (performed by GLS for Stellenbosch Municipality) to improve water quality of the Plankenburg River it is proposed that the stormwater runoff of Kayamandi and Enkanini (which is highly polluted) is diverted to the existing sewer system in order to protect the quality of the water in the Plankenburg River. Master plan items SSS1.39 and SSS1.40b will be required to accommodate the highly polluted diverted stormwater.

Funding: Master plan item SSS1.39 is currently being implemented by the Municipality and although not a minimum requirement for the development, it is **strongly recommended that master plan items SSS1.40b be implemented by the Municipality as well to accommodate the highly polluted diverted stormwater. The Municipality should therefore consider to allocate budget in order for SSS1.40b to be implemented in parallel with the housing project.**

** Including P & G, Contingencies and Fees, but excluding VAT – Year 2018/19 Rand Value. This is a rough estimate, which does not include major unforeseen costs).*

Development of Erf 2183, Erf 1714, Erf 863, Erf 873 (Kayamandi (Zone O))

d. **Roads Network:** No major road upgrades have been identified in the Transport Study. The following has been agreed wrt the internal roads network and should be implemented:

- i. Based on the motivation letter from Nu Plan Africa dated 29 August 2019, as well as a vehicle ownership count (current vehicle to household ratio 0.12 vehicles per household), it is hereby agreed that 0 on-site parking be provided, but that the aim should be to provide an on-street parking ratio of 0.5 bays per unit for the Group Housing erven. Any deviation from this ratio should be strongly motivated, for approval to the Manager: Traffic Engineering. Approval must be obtained prior to any engineering drawings are approved and the approved number of parking bays must be clearly indicated on such drawings.
- ii. The densified Joe Slovo model on the southern part of the site, with the 0.6 bays per unit on-street parking is acceptable as per the Council resolution received.
- iii. The road reserve widths as indicated on the Proposed House Placement Plan dated 29 July 2019 by NuPlan Africa (Annexure D) are acceptable and the following design standards were agreed upon to be used as a guideline going forward below (Also see the cross sections in Annexure A):
- iv. The 8m road design was agreed upon to be as follows:
 1. These roads can be treated as one-way roads;
 2. To be allowed in shorter roadways;
 3. One-way roads however not advised due to residents and road users not obeying the road rules
 4. Black top width = 4.5m;
 5. Off-center blacktop to allow 1,25m sidewalk on one side and 2,25m wide parallel "parking" space on the other side.
- v. The 10m road design was agreed upon to be as follows:
 1. To replace the remainder of the 8m road reserves
 2. Black top width = 5m;
 3. The blacktop will be off center to allow 1,5m sidewalk on one side and 2,5m parallel parking plus 1,0m sidewalk on the other side.
- vi. The 12m & 13m road design was agreed upon to be as follows:
 1. Black top width = 5.5m;
 2. The blacktop will remain in the center of the road reserve.

Development of Erf 2183, Erf 1714, Erf 863, Erf 873 (Kayamandi (Zone O))

vii. The following must be investigated by the Consulting Traffic Engineer after approval of the land use application. Proposals must be discussed with the Manager: Transport Planning, and once agreed to in principle should be indicated on the engineering drawings for formal approval:

1. Public transport routes and stops must be determined and be constructed on the 12 / 13m road reserves.
2. Safe and convenient NMT facilities must be determined and be constructed wherever possible.

e. Stormwater:

i. Any stormwater detention facilities within the development should be designed so that the space can still be used as a functional space (i.e. playground) during non-storm events. Detention facilities should be designed so as to not cause a safety or health hazard to the public and fencing should be provided where/if needed. If possible, stormwater management should be designed according to SUDS principles and details of the stormwater management systems and ponds should be provided on engineering drawings submitted for approval.

f. Devon Valley landfill site:

i. The Municipality will provide a waste collection service for the proposed development.

5. that the upgrades mentioned above be met by the "Developer" before Section 28 Certification in terms of the Stellenbosch Municipal Land Use Planning By-law / building plan approval / occupation certificates (whichever comes first) will be given.

Development Charges

6. that the Development Charges levy to the amount of **R 30 792 841. 27** (Excluding VAT) as reflected on the DC calculation sheet, dated 9 October 2019, and attached herewith as **Annexure DC**, be paid by the "Developer" towards the provision of bulk municipal civil services in accordance with the relevant legislation and as determined by Council's Policy.

Site Development Plan

Development of Erf 2183, Erf 1714, Erf 863, Erf 873 (Kayamandi (Zone O))

7. during the application phase, the option of amending house shapes and placements on certain erven to allow for at least a 5.0m x 2.85m on-site parking, where topography makes it feasible, was discussed. It was agreed that once land use approval has been obtained, the consulting engineer, town planner and architect must do a detail investigation and submit a revised house placement and parking layout plan, before we approve any engineering services drawings and/or building plans. The aim should be to create as much as possible on-site parking for those end users who do possess private vehicles;
8. approval is sought for a departure to relax the open space requirements from 21 180m² to 1 535m². This leaves very little space for the public and especially the youth to utilise for recreational purposes which might in turn lead to social problems. It should also be taken into account that the two POS's are earmarked for use as detention ponds, and if not properly designed these spaces will not be functional open spaces. The decision making authority should keep this in mind when assessing this application;
9. that the layout must accommodate continuous forward movement by service trucks and all cul-de-sacs have a minimum of 11 m radius turning circle, to ensure continuous forward movement;
10. that any amendments to cadastral layout and or site-development plan to accommodate the above requirements will be for the cost of the "Developer" as these configurations were not available at land-use application stage;
11. *State any notes or revisions that must be applied to the SDP and must be resolved prior to building plan submission;*

Ownership and Responsibility of services

12. that it be noted that the roads are reflected as public roads. Therefor all internal services on the said erf will be regarded as public services and will be maintained by the "Municipality;

Solid Waste

13. For large spoil volumes from excavations, to be generated during the construction of this development, will not be accepted at the Stellenbosch landfill site. The Developer will have to indicate and provide evidence of safe re-use or proper disposal at an alternative, licensed facility. This evidence must be presented to the Manager: Solid Waste (Mr Saliem Haider; 021 808 8241; saliem.haider@stellenbosch.gov.za), before building plan approval and before

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implementation of the development. Clean rubble can be utilized by the Municipality and will be accepted free of charge, providing it meets the required specification.

Servitudes

14. All servitudes as indicated on Plan 11 – Proposed Servitude Plan by Nu Plan, dated 27 Sept 2018, and as amended, as well as any other servitudes identified at a later stage, must be registered or be in the process of being registered, before clearance is given.

Roads

15. that the "Developer", at his/her cost, implement the recommendations of the Transport Statement by ITS Engineers dated 2 September and where required, a sound Traffic Management Plan to ensure traffic safety shall be submitted for approval by the Directorate: Infrastructure Services and the approved management plan shall be implemented by the "Developer", at his/her cost. If any requirement of the Transport statement is in conflict with one of the conditions of approval, the conditions of approval shall govern;
16. that the "Developer" will be held liable for any damage to municipal infrastructure within the road reserves, caused as a direct result of the development of the subject property. The "Developer" will therefore be required to carry out the necessary rehabilitation work, at his/her cost, to the standards of the Directorate: Infrastructure Services;

Building line encroachments (delete if not applicable)

17. that, if gates are required into driveways, it may not encroach onto the sidewalk;

Bulk Electricity

18. Please refer to the conditions attached as Annexure: Electrical Engineering;

Standard development conditions:

(if there is a contradiction between the specific and standard development conditions, the specific conditions will prevail):

19. that the "Developer" will enter into an Engineering Services Agreement with the "Municipality" in respect of the implementation of the infrastructure to be implemented in lieu of DCs if the need for such infrastructure is identified at any stage by the Municipality;

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20. that should the "*Developer*" not take up his rights for whatever reason within two years from the date of this memo, a revised Engineering report addressing services capacities and reflecting infrastructure amendments during the two year period, must be submitted to the Directorate: Infrastructure Services by the "*Developer*" for further comment and conditions. Should this revised Engineering report confirm that available services capacities is not sufficient to accommodate this development, then the implementation of the development must be re-planned around the availability of bulk services as Section 28 Certification in terms of the Stellenbosch Municipal Land Use Planning By-law will not be supported by the Directorate: Infrastructure Services for this development if bulk services are not available upon occupation or taking up of proposed rights;
21. that the "*Developer*" indemnifies and keep the "*Municipality*" indemnified against all actions, proceedings, costs, damages, expenses, claims and demands (including claims pertaining to consequential damages by third parties and whether as a result of the damage to or interruption of or interference with the municipalities' services or apparatus or otherwise) arising out of the establishment of the development, the provision of services to the development or the use of servitude areas or municipal property, for a period that shall commence on the date that the installation of services to the development are commenced with and shall expire after completion of the maintenance period.
22. that the "*Developer*" must ensure that he / she has an acceptable public liability insurance policy in place;
23. that, if applicable, the "*Developer*" approach the Provincial Administration: Western Cape (District Roads Engineer) for their input and that the conditions as set by the Provincial Administration: Western Cape be adhered to before Section 28 Certification in terms of the Stellenbosch Municipal Land Use Planning By-law will be issued;
24. that the "*Developer*" informs the project team for the proposed development (i.e. engineers, architects, etc.) of all the relevant conditions contained in this approval;
25. that the General Conditions of Contract for Construction Works (GCC) applicable to all civil engineering services construction work related to this development, will be the SAICE 3rd Edition (2015);
26. Should the "*Developer*" wish to discuss the possibility of proceeding with construction work parallel with the provision of the bulk services listed above, he must present a motivation and

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an implementation plan to the "Engineer" for his consideration and approval. The implementation plan should include items like programmes for the construction of the internal services and the building construction. Only if the programme clearly indicates that occupation is planned after completion of the bulk services, will approval be considered. If such proposal is approved, it must still be noted that no occupation certificate will be issued prior to the completion and commissioning of the bulk services. Therefore should the proposal for proceeding with the development's construction work parallel with the provision of the bulk services be agreed to, the onus is on the "Developer" to keep up to date with the status in respect of capacity at infrastructure listed above in order for the "Developer" to programme the construction of his/her development and make necessary adjustments if and when required. The Developer is also responsible for stipulating this condition in any purchase contracts with buyers of the properties;

27. that the "Developer" takes cognizance and accepts the following:
- a.) that no construction of any civil engineering services may commence before approval of internal – and external civil engineering services drawings;
 - b.) that no approval of internal – and external civil engineering services drawings will be given before land-use and or SDP approval is obtained;
 - c.) that no approval of internal – and external civil engineering services drawings will be given before the "Developer" obtains the written approval of all affected owners where the route of a proposed service crosses the property of a third party;
 - d.) that no building plans will be recommended for approval by the Directorate: Infrastructure Services before land-use and or SDP approval is obtained;
 - e.) that no building plans will be recommended for approval by the Directorate: Infrastructure Services before the approval of internal – and external civil engineering services drawings;
 - f.) that no building plans will be recommended for approval by the Directorate: Infrastructure Services before a Section 28 Certification in terms of the Stellenbosch Municipal Land Use Planning By-law is issued unless the "Developer" obtains the approval mentioned in **condition 26** (for construction work of his development parallel with the provision of the bulk services).

Site Development Plan

28. that it is recognized that the normal Site Development Plan, submitted as part of the land-use application, is compiled during a very early stage of the development and will lack engineering

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detail that may result in a later change of the Site Development Plan. Any later changes will be to the cost of the "Developer";

29. that even if a Site Development Plan is approved by this letter of approval, a further fully detailed site plan be submitted for approval prior to the approval of engineering services plans and or building- and/or services plans to allow for the setting of requirements, specifications and conditions related to civil engineering services. Such Plan is to be substantially in accordance with the approved application and or subdivision plan and or precinct plan and or site plan, etc. and is to include a layout plan showing the position of all roads, road reserve widths, sidewalks, parking areas with dimensions, loading areas, access points, stacking distances at gates, refuse removal arrangements, allocation of uses, position and orientation of all buildings, the allocation of public and private open spaces, building development parameters, the required number of parking bays, stormwater detention facilities, connection points to municipal water- and sewer services, updated land-use diagram and possible servitudes;
30. that if the fully detailed Site Development Plan, as mentioned in the above item, contradicts the approved Site Development Plan, the "Developer" will be responsible for the amendment thereof and any costs associated therewith;
31. that an amended Site Development Plan be submitted for approval prior to the approval of building plans for new buildings not indicated on the Site Development Plan applicable to this application and or changes to existing buildings or re-development thereof;

Internal- and Link Services

32. that the "Developer", at his/her cost, construct the internal (on-site) municipal civil services for the development, as well as any link (service between internal and available bulk municipal service) municipal services that need to be provided;
33. that the Directorate: Infrastructure Services may require the "Developer" to construct internal municipal services and/or link services to a higher capacity than warranted by the project, for purposes of allowing other existing or future developments to also utilise such services. The costs of providing services to a higher capacity could be offset against the Development Charges payable in respect of bulk civil engineering services if approved by the Directorate: Infrastructure Services;

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34. that the detailed design and location of access points, circulation, parking, loading - and pedestrian facilities, etc., shall be generally in accordance with the approved Site Development Plan and / or Subdivision Plan applicable to this application;
35. that plans of all the internal civil services and such municipal link services as required by the Directorate: Infrastructure Services be prepared and signed by a Registered Engineering Professional before being submitted to the aforementioned Directorate for approval;
36. that the construction of all civil engineering infrastructure shall be done by a registered civil engineering services construction company approved by the "Engineer";
37. that the "Developer" ensures that his/her design engineer is aware of the Stellenbosch Municipality Design Guidelines & Minimum Standards for Civil Engineering Services (as amended) and that the design and construction/alteration of all civil engineering infrastructure shall be generally in accordance with this document, unless otherwise agreed with the Engineer. The said document is available in electronic format on request;
38. that a suitably qualified professional resident engineer be appointed to supervise the construction of all internal - and external services;
39. that engineering design drawings will only be approved once approval in terms of the Stellenbosch Municipal Land Use Planning By-law is issued;
40. that all the internal civil services (water, sewer and stormwater), be indicated on the necessary building plans for approval by the Directorate: Infrastructure Services;
41. that prior to the issuing of the Certificate of Practical Completion, in terms of GCC 2015 Clause 5.14.1, all internal - and link services be inspected for approval by the "Engineer" on request by the "Developer's" Consulting Engineer;
42. that a Certificate of Practical Completion, in terms of GCC 2015 Clause 5.14.1 be issued before Section 28 Certification in terms of the Stellenbosch Municipal Land Use Planning By-law will be issued (prior to transfer of individual units or utilization of buildings);
43. that a complete set of test results of all internal - and external services (i.e. pressure tests on water - and sewer pipelines as well as densities on road structure and all relevant tests on asphalt), approved and verified by a professional registered engineer be submitted to the "Engineer" on request;

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44. that the "*Developer*" shall adhere to the specifications of Telkom (SA) and or any other telecommunications service provider;
45. that the "*Developer*" shall be responsible for the cost for any surveying and registration of servitudes regarding services on the property;
46. that the "*Developer*" be liable for all damages caused to existing civil and electrical services of the "*Municipality*" relevant to this development. It is the responsibility of the contractor and/or sub-contractor of the "*Developer*" to determine the location of existing civil and electrical services;
47. that all connections to the existing services be made by the "*Developer*" under direct supervision of the "*Engineer*" or as otherwise agreed and all cost will be for the account of the "*Developer*".
48. that the developer takes cognizance of applicable tariffs by Council in respect of availability of services and minimum tariffs payable;

Servitudes

49. that the "*Developer*" ensures that all main services including roads to be taken over by the Directorate: Infrastructure Services, all existing municipal – and or private services including roads, crossing private - and or other institutional property and any other services/roads crossing future private land/erven are protected by a registered servitude before Section 28 Certification in terms of the Stellenbosch Municipal Land Use Planning By-law will be given;
50. The width of the registered servitude must be a minimum of 3 m or twice the depth of the pipe (measured to invert of pipe), whichever is the highest value. The "*Developer*" will be responsible for the registration of the required servitude(s), as well as the cost thereof;
51. that the "*Developer*" obtains the written approval of all affected owners where the route of a proposed service crosses the property of a third party before final approval of engineering drawings be obtained.

Stormwater Management

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52. that the geometric design of the roads and/or parking areas ensure that no trapped low-points are created with regard to stormwater management. All stormwater to be routed to the nearest formalized municipal system;
53. that overland stormwater escape routes be provided in the cadastral layout at all low points in the road layout, or that the vertical alignment of the road design be adjusted in order for the roads to function as overland stormwater escape routes. If this necessitates an amendment of the cadastral layout, it must be done by the "Developer", at his/her cost, to the standards of the Directorate: Infrastructure Services;
54. that the design engineer needs to apply his/her mind to ensure a design that will promote a sustainable urban drainage system which will reduce the impacts of stormwater on receiving aquatic environments;
55. that no disturbance to the river channel or banks be made without the prior approval in accordance with the requirements of the National Water Act;
56. that the consulting engineer, appointed by the "Developer", analyses the existing stormwater systems and determine the expected stormwater run-off for the proposed development, for both the minor and the major storm event. Should the existing municipal stormwater system not be able to accommodate the expected stormwater run-off, the difference between the pre- and post-development stormwater run-off must be accommodated on site, or the existing system must be upgraded to the required capacity at the cost of the "Developer" and to the standards and satisfaction of the Directorate: Infrastructure Services. The aforementioned stormwater analysis is to be submitted concurrent with the detail services plans;
57. that for larger developments, industrial developments or developments near water courses a stormwater management plan for the proposed development area, for both the minor and major storm events, be compiled and submitted for approval to the Directorate: Infrastructure Services.
58. that the approved management plan be implemented by the "Developer", at his/her cost, to the standards of the Directorate: Infrastructure Services. The management plan, which is to include an attenuation facility, is to be submitted concurrent with the detail services plans;
59. that in the case of a sectional title development, the internal stormwater layout be indicated on the necessary building plans to be submitted for approval.

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60. that no overland discharge of stormwater will be allowed into a public road for erven with catchment areas of more than 1500m² and for which it is agreed that no detention facilities are required. The "Developer" needs to connect to the nearest piped municipal stormwater system with a stormwater erf connection which may not exceed a diameter of 300mm.

Roads

61. that, where applicable, the application must be submitted to the District Roads Engineer for comment and conditions. Any conditions set by the District Roads Engineer will be applicable;
62. that no access control will be allowed in public roads;
63. that the layout must make provision for all deliveries to take place on-site. Movement of delivery vehicles may not have a negative impact on vehicular – and pedestrian movement on public roads and or public sidewalks;
64. The design and lay-out of the development must be such that emergency vehicles can easily drive through and turn around where necessary;
65. that, prior to commencement of any demolition / construction work, a traffic accommodation plan for the surrounding roads must be submitted to the Directorate: Infrastructure Services for approval, and that the approved plan be implemented by the "Developer", at his/her cost, to the standards of the Directorate: Infrastructure Services;
66. that visibility splays shall be provided and maintained on each side of the new access in accordance with the standard specifications as specified in the Red Book with regard to sight triangles at intersections;
67. that each erf has its own access (drive-way), constructed to standards as set out by the the Directorate: Infrastructure Services and in line with the Road Access Guideline;
68. that the access road to the existing facility be kept in an acceptable condition, i.e. maintained to a standard which will result in a comfortable ride for a standard passenger vehicle and to a standard which will not endanger the lives or property of road users;
69. that the parking area be provided with a permanent surface and be clearly demarcated and accessible. Plans of the parking layout, pavement layerworks and stormwater drainage are to

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be approved by the Directorate: Infrastructure Services before commencement of construction and that the construction of the parking area be to the standards of the Directorate: Infrastructure Services;

Development Charges

70. that the "*Developer*" hereby acknowledges that Development Charges are payable towards the following bulk civil services: water, sewerage, roads, stormwater, solid waste and community facilities as per Council's Policy;
71. that the "*Developer*" hereby acknowledges that the development charges levy as determined by the "*Municipality*" and or the applicable scheme tariffs will be paid by the "*Developer*" towards the provision of bulk municipal civil services in accordance with the relevant legislation and as determined by Council's Policy, should this land-use application be approved;
72. that the "*Developer*" immediately familiarise himself with the latest Development Charges applicable to his/her development;
73. that the "*Developer*" accepts that the Development Charges will be subject to annual adjustment up to date of payment. The amount payable will therefore be the amount as calculated according to the applicable tariff structure at the time that payment is made;
74. that the "*Developer*" may enter into an engineering services agreement with the "*Municipality*" to install or upgrade bulk municipal services at an agreed cost, to be off-set against Development Charges payable in respect of bulk civil engineering services;
75. that the Development Charges levy be paid by the "*Developer*" per phase –
 - prior to the approval of any building- and/or services plans in the case of a Sectional title erf in that phase or where a clearance certificate is not applicable and/or;
 - prior to the approval of Section 28 Certification in terms of the Stellenbosch Municipal Land Use Planning By-law in all cases and or;
 - prior to the erf or portion thereof being put to the approved use;
76. that the development shall be substantially in conformance with the Site Development Plan submitted in terms of this application. Any amendments and/or additions to the Site Development Plan, once approved, which might lead to an increase in the number of units i.e.

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more than 533 group housing + 178 general residential units, will result in the recalculation of the Development Charges;

77. Bulk infrastructure Development Charges and repayments are subject to VAT and are further subject to the provisions and rates contained in the Act on Value Added Tax of 1991 (Act 89 of 1991) as amended;

Wayleaves

78. that way-leaves / work permits be obtained from the Directorate: Infrastructure Services prior to any excavation / construction work on municipal land or within 3,0m from municipal services located on private property;
79. that wayleaves will only be issued after approval of relevant engineering design drawings;
80. that it is the Developer's responsibility to obtain wayleaves from any other authorities/service provider's who's services may be affected.

Solid Waste

81. The reduction, reuse and recycle approach should be considered to waste management:
- Households to reduce waste produced
 - Re-use resources wherever possible
 - Recycle appropriately
82. Access to all properties via public roads shall be provided in such a way that collection vehicles can complete the beats with a continuous forward movement;
83. Access shall be provided with a minimum travelable surface of 5 meters width and a minimum corner radii of 5 meters;
84. Maximum depth of cul-de-sac shall be 20 meters or 3 erven, whichever is the lesser. Where this requirement is exceeded, it will be necessary to construct a turning circle with a minimum turning circle radius of 11m or, alternatively – a turning shunt as per the Directorate: Infrastructure Services' specifications. With respect to the latter, on street parking are to be prohibited by way of "red lines" painted on the road surface as well as "no parking" signboards as a single parked vehicle can render these latter circles and shunts useless;

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85. Minimum turning circle radius shall be 11 meters to the center line of the vehicle;
86. Road foundation shall be designed to carry a single axle load of 8.2 tons;
87. Refuse storage areas are to be provided for all premises other than single residential erven;
88. Refuse storage areas shall be designed in accordance with the requirements as specified by the Solid Waste Branch. Minimum size and building specifications is available from the Solid Waste Branch;
89. A single, centralized, refuse storage area which is accessible for collection is required for each complete development. The only exception is the case of a single residential dwelling, where a refuse storage area is not required;
90. The refuse storage area shall be large enough to store all receptacles needed for refuse disposal on the premises, including all material intended to recycling. No household waste is allowed to be disposed / stored without a proper 240 l Municipal wheelie bin;
91. The size of the refuse storage area depends on the rate of refuse generation and the frequency of the collection service. For design purposes, sufficient space should be available to store two weeks' refuse;
92. Where the premises might be utilized by tenants for purposes other than those originally foreseen by the building owner, the area shall be sufficiently large to store all refuse generated, no matter what the tenant's business may be;
93. All black 85 l refuse bins or black refuse bags is in the process of being replaced with 240 l black municipal wheeled containers engraved with WC024 in front, and consequently refuse storage areas should be designed to cater for these containers. The dimensions of these containers are:

Commercial and Domestic : 585 mm wide x 730 mm deep x 1100 mm high

94. With regard to flats and townhouses, a minimum of 50 litres of storage capacity per person, working or living on the premises, is to be provided at a "once a week" collection frequency;

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95. Should designers be in any doubt regarding a suitable size for the refuse storage area, advice should be sought from the Solid Waste Department : Tel 021 808-8224

96. Building specifications for refuse storage area:

Floor

The floor shall be concrete, screened to a smooth surface and rounded to a height of 75mm around the perimeter. The floor shall be graded and drained to a floor trap (See: Water Supply and Drainage).

Walls and Roof

The Refuse Storage Area shall be roofed to prevent any rainwater from entering. The walls shall be constructed of brick, concrete or similar and painted with light color high gloss enamel. The height of the room to the ceiling shall be not less than 2.21 meters.

Ventilation and Lighting

The refuse storage area shall be adequately lit and ventilated. The room shall be provided with a lockable door which shall be fitted with an efficient self-closing devise. The door and ventilated area shall be at least 3 metres from any door or window of a habitable room. Adequate artificial lighting is required in the storage area.

Water Supply and Drainage

A tap shall be provided in the refuse storage area for washing containers and cleaning spillage. The floor should be drained towards a 100 mm floor trap linked to a drainage pipe which discharges to a sewer gully outside the building. In some cases a grease gully may be required.

97. Should the refuse storage area be located at a level different from the level of the street entrance to the property, access ramps are to be provided as stairs are not allowed. The maximum permissible gradient of these ramps is 1:7;

98. A refuse bay with minimum dimensions of 15 meters in length x 2, 5 meters in width plus 45 degrees splay entrance, on a public street, must be provided where either traffic flows or traffic sight lines are affected. The refuse bays must be positioned such that the rear of the parked refuse vehicle is closest to the refuse collection area;

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99. Any containers or compaction equipment acquired by the building owner must be approved by the Directorate: Infrastructure Services, to ensure their compatibility with the servicing equipment and lifting attachments;
100. Refuse should not be visible from a street or public place. Suitable screen walls may be required in certain instances;
101. Access must be denied to unauthorized persons, and refuse storage areas should be designed to incorporate adequate security for this purpose;
102. All refuse storage areas shall be approved by the Directorate: Infrastructure Services, to ensure that the Council is able to service all installations, irrespective of whether these are currently serviced by Council or other companies;

AS-BUILTs

103. The "*Developer*" shall provide the "*Municipality*" with:
 - a. a complete set of as-built paper plans, signed by a professional registered engineer;
 - b. a CD/DVD containing the signed as-built plans in an electronic DXF-file format, reflecting compatible layers and formats as will be requested by the "*Engineer*" and is reflected herewith as Annexure X;
 - c. a completed Asset Verification Sheet in Excell format, reflecting the compositization of municipal services installed as part of the development. The Asset Verification Sheet will have to be according to the IMQS format, as to be supplied by the "*Engineer*", and is to be verified as correct by a professional registered engineer;
 - d. a complete set of test results of all internal – and external services (i.e. pressure tests on water - and sewer pipelines as well as densities on road structure and all relevant tests on asphalt), approved and verified by a professional registered engineer;
 - e. Written verification by the developer's consulting engineer that all professional fees in respect of the planning, design and supervision of any services to be taken over by the "*Municipality*" are fully paid;
104. All relevant as-built detail, as reflected in the item above, of civil engineering services constructed for the development, must be submitted to the "*Engineer*" and approved by the

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"Engineer" before any application for Certificate of Clearance will be supported by the "Engineer";

105. The Consulting Civil Engineer of the "Developer" shall certify that the location and position of the installed services are in accordance with the plans submitted for each of the services detailed below;
106. All As-built drawings are to be signed by a professional engineer who represents the consulting engineering company responsible for the design and or site supervision of civil engineering services;
107. Section 28 Certification in terms of the Stellenbosch Municipal Land Use Planning By-law shall not be issued unless said services have been inspected by the "Engineer" and written clearance given, by the "Engineer";

Section 28 Certification in terms of the Stellenbosch Municipal Land Use Planning By-law

108. It is specifically agreed that the "Developer" undertakes to comply with all conditions of approval as laid down by the "Municipality" before clearance certificates shall be issued, unless otherwise agreed herein;
109. that the "Municipality" reserves the right to withhold any clearance certificate until such time as the "Developer" has complied with conditions set out in this contract with which he/she is in default. Any failure to pay monies payable in terms of this contract within 30 (thirty) days after an account has been rendered shall be regarded as a breach of this agreement and the "Municipality" reserves the right to withhold any clearance certificate until such time as the amount owing has been paid;
110. that clearance will only be given per phase and the onus is on the "Developer" to phase his development accordingly;
111. **The onus will be on the "Developer" and or his professional team to ensure that all land-use conditions have been complied with before submitting an application for a Section 28 Certification in terms of the Stellenbosch Municipal Land Use Planning By-law. Verifying documentation (proof of payment in respect of Development Charges, services installation, etc.) must be submitted as part of the application before an application will be accepted by this Directorate;**

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112. that any application for Certificate of Clearance will only be supported by the "Engineer" once all relevant as-built detail, as reflected in the item "AS-BUILT's" of this document, is submitted to the "Engineer" and approved by the "Engineer".

Avoidance of waste, nuisance and risk

113. Where in the opinion of the "Municipality" a nuisance, health or other risk to the public is caused due to construction activities and/or a lack of maintenance of any service, the "Municipality" may give the "Developer" and or OWNER'S ASSOCIATION written notice to remedy the defect failing which the "Municipality" may carry out the work itself or have it carried out, at the cost of the "Developer" and or OWNER'S ASSOCIATION.

Streetlighting

114. The "Developer" will be responsible for the design and construction at his own expense of all internal street lighting services and street lighting on link roads leading to his development (excluding Class 1, 2 and 3 Roads) according to specifications determined by the municipality's Manager: Electrical Services and under the supervision of the consulting engineer, appointed by the "Developer";
115. Prior to commencing with the design of street lighting services, the consulting electrical engineer, as appointed by the "Developer" must acquaint himself with, and clarify with the municipality's Manager: Electrical Engineering, the standards of materials and design requirements to be complied with and possible cost of connections to existing services;
116. The final design of the complete internal street lighting network of the development must be submitted by the consulting electrical engineer, as appointed by the "Developer", to the municipality's Manager: Electrical Engineering for approval before any construction work commences;
117. Any defect with the street lighting services constructed by the "Developer" which may occur during the defects liability period of 12 (TWELVE) months and which occurs as a result of defective workmanship and/or materials must be rectified immediately / on the same day the defect was brought to the attention of the consulting electrical engineer, appointed by the "Developer". Should the necessary repair work not be done within the said time the "Municipality" reserves the right to carry out the repair work at the cost of the "Developer";
118. The maintenance and servicing of all private internal street lighting shall be the responsibility and to the cost of the "Developer" and or Home Owner's Association.

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TYRONE KING Pr Tech Eng

MANAGER: DEVELOPMENT (INFRASTRUCTURE SERVICES)

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ATTACHMENT X

Geographic Information System (GIS) data capturing standards

In drawing up the As-build Plans relating to this development, the consultant must create the following separate layers in ESRI .shp, electronic file format in order for the data to reflect spatially correct.

Layer name	Content
TITLE	Title information, including any endorsements and references
NOTES	All noted information, both from the owner / surveyor and SG
PARENT_PROPLINES	Parent property lines
PARENT_PROPNUM	Parent erf number (or portion number)
PROPLINES	New portion boundaries
PROPANNO	New erf numbers
SERVLINE	Servitude polygons
SERVANNO	Servitude type

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STREET NAMES	Road centre lines with street names
STREET NUMBERS	Points with street numbers
COMPLEX BOUNDARIES	Where applicable, polygon with complex name (mention whether gated or not and if so, where gates are)
SUBURB	Polygon with suburb name, where new suburb / township extension created
ESTATE	Where applicable, polygon with estate name (mention whether gated or not and if so, where gates are)

When data is provided in a .shp format it is mandatory that the .shx, .dbf, files should accompany the shapefile. The prj file containing the projection information must also accompany the shapefile.

It is important that different geographical elements for the GIS capture process remains separate. That means that political boundaries like wards or suburbs be kept separate from something like rivers. The same applies for engineering data types like water lines, sewer lines, electricity etc. that it is kept separate from one another. When new properties are added as part of a development, a list of erf numbers with its associated SG numbers must be provided in an electronic format like .txt, .xls or .csv format.

For road layer shapefiles; the road name, the from_street and to_street where applicable as well as the start en end street numbers needs to be included as part of the attributes. A rotation field needs to be added to give the street name the correct angle on the map.

In addition to being geo-referenced and in WGS 1984 Geographic Coordinate System, the drawing must be completed using real world coordinates based on the Stellenbosch Municipality standard as follows:

- Datum : Hartebeeshoek WGS 84
- Projection : Transverse Mercator
- Central Longitude/Meridian 19
- False easting : 0.00000000
- False northing : 0.00000000
- Central meridian : 19.00000000
- Scale factor : 1.00000000
- Origin latitude : 0.00000000
- Linear unit : Meter

KAYAMANDI ZONE 0: NOTES OF MEETING 15 MAY 2019**Purpose and Background**

The purpose of the meeting was to discuss the comments received from Infrastructure Services and Traffic Engineering. The negative comments received from these departments related to parking (no on-site parking provision for the Group Housing erven is not acceptable) and black top widths being too narrow.

Lester van Stavel explained that the instruction from Human Settlements was to increase the densities to accommodate as many families as possible, due to the number of families currently residing in Zone 0. For this reason the erf sizes were reduced to 60m² (6m x 10m) to accommodate a semi-detached double story unit and in some instances, single story freestanding units and double story freestanding units are proposed. And further densification was done on the southern part of the site, by proposing the Joe Slovo model in this area. This model is still double story units, each unit on its own erf, but in the form of row housing designed around a communal courtyard with communal on-street parking. This model was possible on this part of the site as it is the least steep part of the site. The rest of the site is too steep and it would be too costly to implement the Joe Slovo model.

Discussion Points

The departments indicated that they will allow no on-site parking provision, IF the road reserve widths can be increased to at least allow parallel parking in the road reserve (on one side).

The following decisions were thus taken:

- Nuplan should evaluate the layout to determine which of the 8m road reserves can be increased to 10m to make provision for parallel parking on one side of the road, without losing units / too much units.
- The aim should be to provide an on-street parking ratio of 0.5 bays per unit for the Group Housing erven.
- Nuplan should motivate the 0.5 parking bays per unit (look at other housing development examples etc.).
- The densified Joe Slovo model on the southern part of the site, with the 0.6 bays per unit on-street parking is acceptable as per the Council resolution received.
- The 8m road design was agreed upon to be as follow:
 - These roads can be treated as one-way roads;
 - To be allowed in shorter roadways;
 - One-way roads however not advised due to residents and road users not obeying the road rules
 - Black top width = 4.5m;
 - Off-center blacktop to allow 1,25m sidewalk on one side and 2,25m wide parallel "parking" space on the other side.

- The 10m road design was agreed upon to be as follow:
 - To replace the remainder of the 8m road reserves
 - Black top width = 5m;
 - The blacktop will be off center to allow 1,5m sidewalk on one side and 2,5m parallel parking plus 1,0m sidewalk on the other side.

- The 12m & 13m road design was agreed upon to be as follow:
 - Black top width = 5.5m;
 - The blacktop will remain in the center of the road reserve.

- Stellenbosch Mun requested that the following be investigated, after township development has been established:
 - Safe Taxi routes and stops to be determined and be implemented on the 12 / 13m road reserves by the Municipality.
 - Pedestrian walkways to be implemented where possible (TOD – transit orientated development, a combination of non-motorised transport and public transport)

- Civil services
 - Water and sewer to be installed within roadway
 - Watermeter not to be installed as part of the building contract
 - Double sewer and water house connections are acceptable
 - Johan Fullard to provide feedback on the proposed inline stormwater manhole / catch pit combination
 - An additional stormwater detention facility to be implemented, as indicated on the attached layout drawing and marked by "X"

- Where possible, the units should be moved to the back of the erf. Lyners indicated that this might not be possible on all erven due to the slope. However the discussion was that the zoning will remain Group Housing (and not Informal housing as per the new IZS), as originally applied for in the LUPA application. This zoning requires building plans to be submitted. Thus when Human Settlement implements the project, the building plans for individual erven can be evaluated to determine which units can be moved to the back to make provision for a vehicle to park in front of the unit.

Stellenbosch Municipality - Development Charge Calculation



APPLICATION INFORMATION

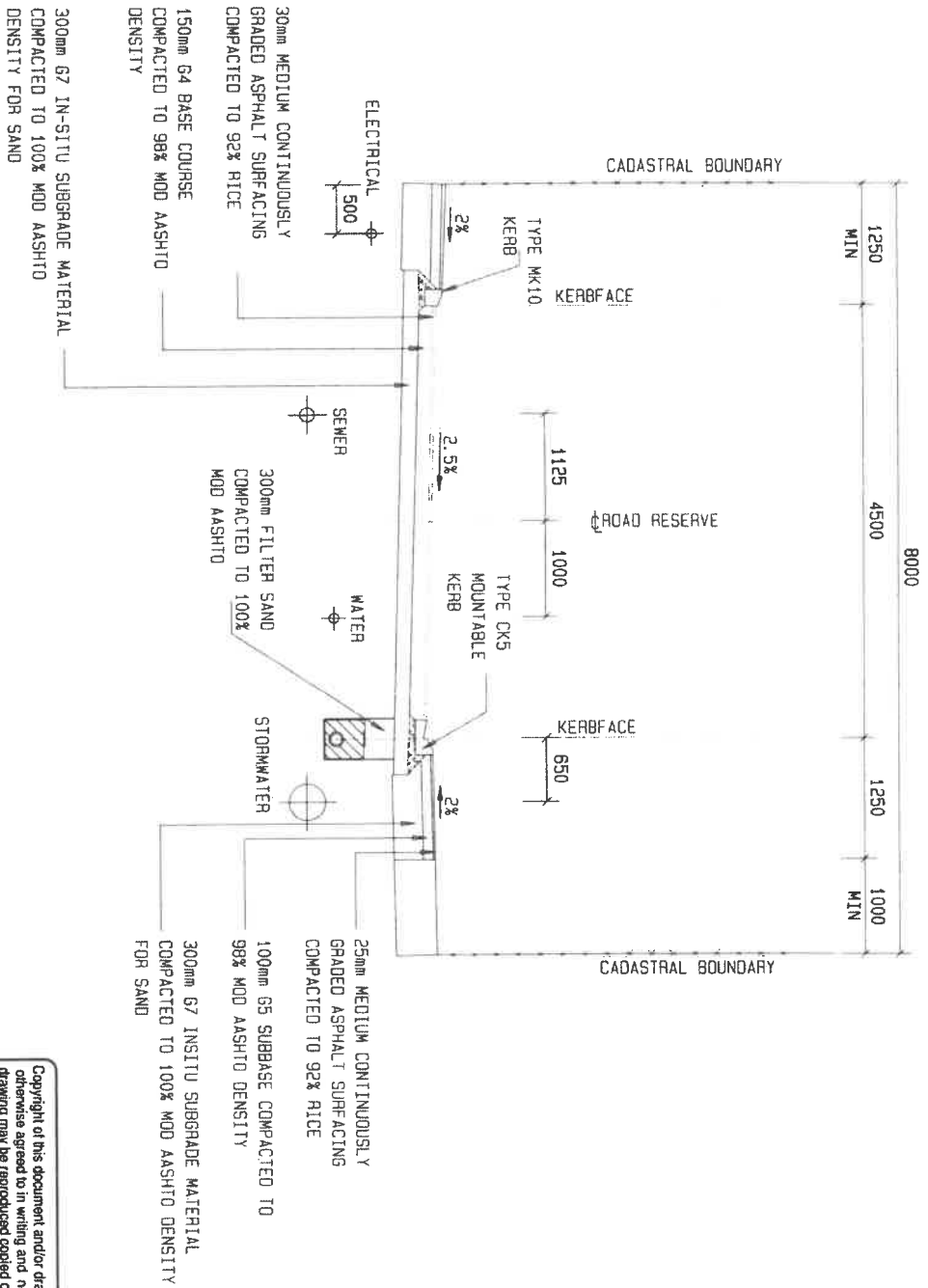
Application Number	Civil LU 1706 (LU/5633 - TOWN PLANNING SER)
Date	Wednesday, 09/Oct/2019
Financial Year	2019-20
Er1 Location	
Er1 No	Er 2103, Er 1714, Er 683, Er 672: Kuymanal (Zone O)
Er1 Size (m ²)	
Suburb	Kuymanal (Zone O)
Applicant	
Approved Building Plan No.	Proposed House Placement Plan dated 29 July 2019 by Nathan Africa

SUMMARY OF DC CALCULATION

Unit(s)	Water K/day	Sewer K/day	Storm-water ha°C	Solid-Waste t/week	Roads t/ha-day	Community Facilities person	Totals
Total Increased Services Usage	318,950	284,400	12,790	20,440	533,25	533,3	
Total Development Charges before Deductions	R 8 373 867,49	R 7 138 536,92	R 1 261 332,90	R 1 456 793,91	R 3 363 028,22	R 9 198 891,33	R 30 792 841,27
Total Deductions							
Total Payable (excluding VAT)	R 8 373 867,49	R 7 138 536,92	R 1 261 332,90	R 1 456 793,91	R 3 363 028,22	R 9 198 891,33	R 30 792 841,27
VAT	R 1 266 678,62	R 1 070 640,54	R 189 199,94	R 218 519,09	R 504 464,23	R 1 379 833,77	R 4 618 926,19
Total Payable (including VAT)	R 9 629 936,10	R 8 209 777,46	R 1 450 532,84	R 1 675 313,00	R 3 867 492,46	R 10 678 725,60	R 36 411 767,46

APPLICANT INFORMATION

Application Processed by:	Tyrose King
Signature	
Date	As Above
Amount Paid:	
Date Payment Received	
Receipt Number	



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REV	DESCRIPTION	DATE	REV BY	CHKD
A	ISSUED FOR APPROVAL	SEP'18	DVDW	FL
B	FOR INFORMATION	SEP'18	DVDW	FL
C	FOR INFORMATION	MAY'19	DVDW	FL

DESIGNED	DVDW
DRAWN	SB
CHECKED	

CONSULTING ENGINEERS

23 Pabul Street,
PABUL
7846
Tel: 021 872 0822/Fax: 021 872 0619
email: pan@lyners.co.za

CLIENT

STELLENBOSCH
MUNICIPALITY

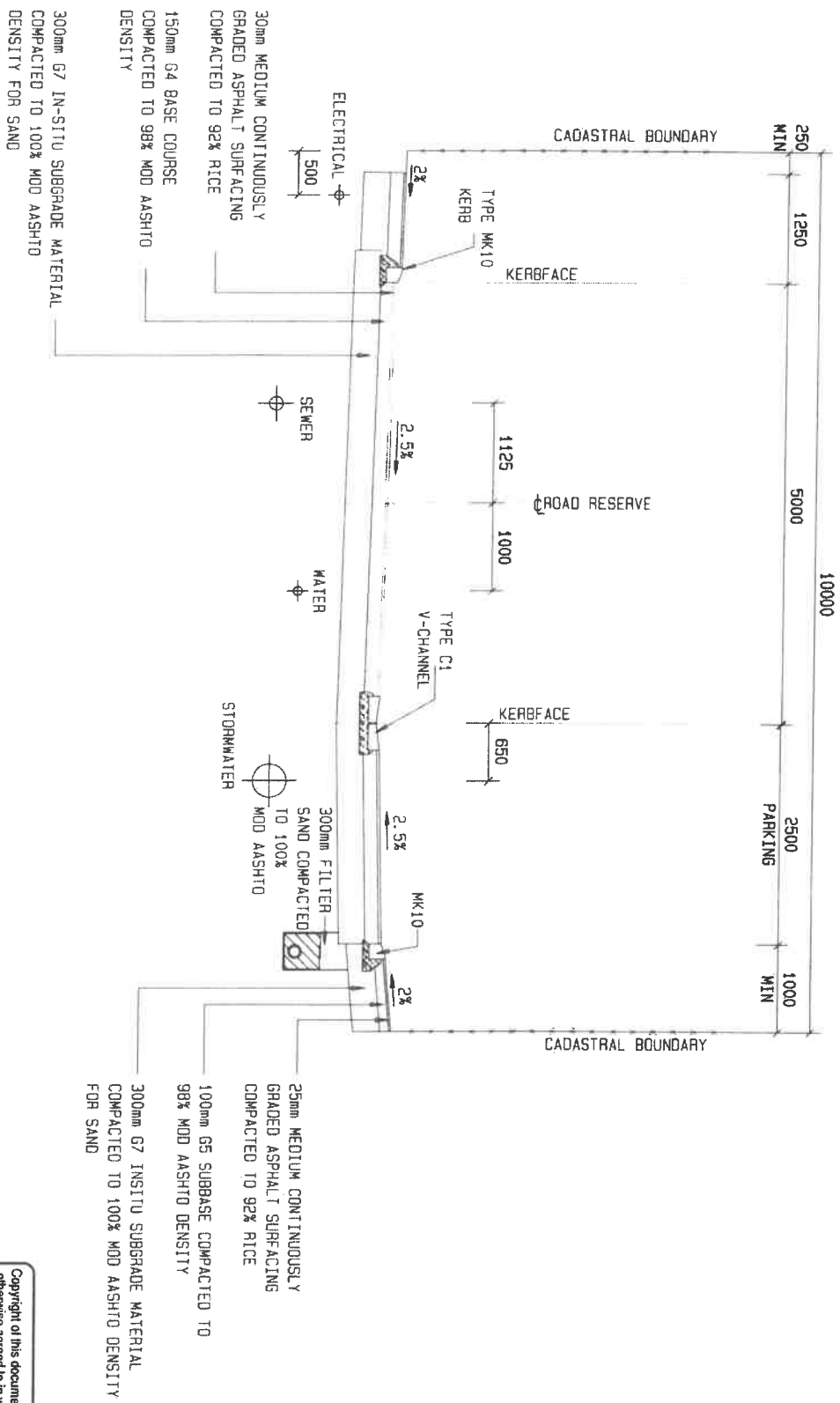
PROJECT

**ZONE O KAYAMANDI,
STELLENBOSCH**

TITLE

8m ROAD RESERVE

SCALE (ON AS DIMS)	SHEET
1:50	1 OF 1
CONTRACT No.	PROJECT No.
	14152
DRAWING No.	REV
14152/DET/RD/02	C
DATE OF FIRST ISSUE:	



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REV	DESCRIPTION	DATE	REV BY	CHKD
A	ISSUED FOR INFORMATION	19	DUDW	FIL

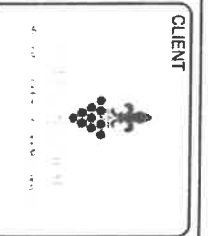
DESIGNED	DUDW
DRAWN	SB
CHECKED	

CONSULTING ENGINEERS

LYNERS

23 Pined Street,
PAARL
7646

Tel: (021) 872 0622 Fax: (021) 872 0819
email: paarl@lyners.co.za



PROJECT	ZONE O KAYAMANDI, STELLENBOSCH
TITLE	10m ROAD RESERVE

SCALE (ON A3 DWG)	SHEET
1:50	1 OF 1
CONTRACT NO.	PROJECT NO.
	14152
DRAWING NO.	REV
14152/DET/RD/05	A
DATE OF FIRST ISSUE:	

Tyrone King

From: Danette Jones <danette@nuplanafrica.co.za>
Sent: Thursday, 29 August 2019 11:55
To: Tyrone King; Michelle Moses; Deon Louw; Johan Fullard; Esias De Jager; Hedre Dednam; Siyanda Zangqa; Myra Francis; Dirk Larsen; fred@lyners.co.za; Divan Van Der Westhuizen; Mark Julie; Vincent Phiri; Lester Vanstavel; jerilee.mowers@stellenbosch.gov.za; Abdullah Daniels; Jeri-Lee Mowers; Adriaan Kurtz
Subject: [EX] RE: Kayamandi Zone 0: Revised layout 29 July 2019
Attachments: Letter_Parking Departure Motivation_29 Aug 2019.pdf

Good day Tyrone,

Your email below refers.

Please see attached letter as well as my response highlighted in yellow.

Kind regards,

Danette Jones

Town Planner
 B:TRP; Mph: (TS);
 Pr Pin (A 1897-2013).



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 E danette@nuplanafrica.co.za
 P PO Box 3803, Tyger Valley, 7536
 A The Benjamin Promenade, Unit 6, 20 Oxford Street, Durbanville, South Africa

From: Tyrone King <Tyrone.King@stellenbosch.gov.za>
Sent: Wednesday, July 31, 2019 3:41 PM
To: Danette Jones <danette@nuplanafrica.co.za>; Michelle Moses <Michelle.Moses@stellenbosch.gov.za>; Deon Louw <Deon.Louw@stellenbosch.gov.za>; Johan Fullard <Johan.Fullard@stellenbosch.gov.za>; Esias De Jager <Esias.DeJager@stellenbosch.gov.za>; Hedre Dednam <Hedre.Dednam@stellenbosch.gov.za>; Siyanda Zangqa <Siyanda.Zangqa@stellenbosch.gov.za>; Myra Francis <Myra.Francis@stellenbosch.gov.za>; Dirk Larsen <dirk@nuplanafrica.co.za>; fred@lyners.co.za; Divan Van Der Westhuizen <divan@lyners.co.za>; Mark Julie <MJulie@jubelie.co.za>; Vincent Phiri <vphiri@jubelie.co.za>; Lester Vanstavel <Lester.Vanstavel@stellenbosch.gov.za>; jerilee.mowers@stellenbosch.gov.za; Abdullah Daniels <Abdullah.Daniels@stellenbosch.gov.za>; Jeri-Lee Mowers <Jeri-Lee.Mowers@stellenbosch.gov.za>; Adriaan Kurtz <Adriaan.Kurtz@stellenbosch.gov.za>
Subject: RE: Kayamandi Zone 0: Revised layout 29 July 2019

Hi All

I attach the minutes of 15 May 2019, for ease of reference.

1. Danette, I still need the following in order to comment:
 - a. Refer to minutes of meeting 15 May 2019: No on-site parking bays are proposed, but rather off-street parking bays. Provide a proper motivation of the sufficiency of the proposed off-street parking ratio of 0.5 bays per unit, including comparisons with other similar housing developments where it has been proven to be sufficient/successful. Motivation attached. Please just note that the minutes states that the aim will be to provide 0.5 on-street parking bays and also stating that the

layout will be assessed to determine which of the 8m streets can be increased to 10m without losing too many units. The only way to provide a ratio of exactly 0.5 is to make all the streets 10m – which was not possible. The layout was assessed and the roads that could become 10m was amended. This means that there are still some 8m streets, but they are limited to the shorter streets (as per the minutes).

- b. We previously discussed the option of amending house shapes and placements on certain erven to allow for at least a 5.0m x 2.85m on-site parking, where topography makes it feasible. From the revised layout I cannot see that any of the house placements allows for a parking on site and you explained that this has not yet been investigated but can be done during implementation stage. I will therefore include a condition of approval that will require your consulting engineer and architect to do a detail investigation and submit a revised house placement and parking layout plan, before we approve any engineering services drawings. Are you in agreement? This was discussed with the Consultant Engineers and they are in agreement with such a condition.
2. Nigell:
- a. See signed TIS as requested and revised roads layout attached– can you please give final comment and conditions?
- b. Please note no on-site parking allowed for – see SDP. 0.5 bays per unit on-street parking is proposed. This was discussed at our meeting on 15 May 2019, and was agreed to in principle, provided that Nu-Plan can motivate the sufficiency of the 0.5 bays per unit – see 1a above. Motivation attached.
3. Adriaan:
- a. GLS report requires the following upgrades. Also see pdf attached. Is there budget allowed for these items? I cannot approve application if no budget approved to create the spare capacity. Please advise. I trust that this issue has been discussed and resolved? Please confirm?

2.4 Implementation of the master plan

The following master plan items will be required to reinforce the existing Stellenbosch sewer system in order to accommodate the proposed development together with other future development areas.

Bulk sewer upgrades

Keyamandi bulk sewer:

- Item 3: : 750 m x 450 mm Ø Upgrade existing outfall sewer R 3 181 000 *

Cloetesville bulk sewer (Phase 1): (Under construction)

- SSS1.39 : 152 m x 600 mm Ø Upgrade existing outfall sewer

Adam Tas bulk sewer (Phase 4):

- SSS1.40b : 1400 m x 600 mm Ø Upgrade existing outfall sewer R 7 627 000 *

Danette, once I have the above I will be able to give final comments and conditions. But if no budget for the bulk sewer, I will not be able to recommend for approval. Adriaan's input is therefore critical.

Regards



Tyrone King Pr Tech Eng
 Manager: Development
 Infrastructure Services

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 Plein Street, Stellenbosch, 7600
www.stellenbosch.gov.za



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http://www.stellenbosch.gov.za/main_pages/disclaimerpage.htm

From: Danette Jones [mailto:danette@nuplanafrica.co.za]

Sent: Monday, 29 July 2019 15:42

To: Michelle Moses; Deon Louw; Johan Fullard; Esias De Jager; Hedre Dednam; Siyanda Zangqa; Myra Francis; Tyrone King; Dirk Larsen; fred@lyners.co.za; Divan Van Der Westhuizen; Mark Julie; Vincent Phiri; Lester Vanstavel; jerilee.mowers@stellenbosch.gov.za; Abdullah Daniels; Jeri-Lee Mowers

Subject: [EX] Kayamandi Zone 0: Revised layout 29 July 2019

Dear All,

With reference to my email below and our last meeting.

After a couple of revisions between Nuplan and Lyners, we have managed to amend the layout to increase some of the 8m road reserves to 10m reserves. During this process we actually got 1 more unit, thus giving a total of 711 units.

Attached is the revised layout for comment. Can you please provide your revised comments by **13 August 2019**?

Please do not hesitate to contact me should you need to discuss the layout.

Kind regards,

Danette Jones

Town Planner
 B (TRP) Mph (TS)
 P (Ph) : A 1697 2013



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From: Danette Jones

Sent: Friday, May 24, 2019 12:29 PM

To: Michelle Moses; Deon Louw; Johan Fullard; Esias De Jager; Hedre Dednam; Siyanda Zangqa; Myra Francis; Tyrone King (Tyrone.King@stellenbosch.gov.za); Dirk Larsen; fred@lyners.co.za; Divan Van Der Westhuizen (divan@lyners.co.za); Mark Julie (MJulie@jubelie.co.za); Vincent Phiri (vphiri@jubelie.co.za); Lester.Vanstavel@stellenbosch.gov.za; jerilee.mowers@stellenbosch.gov.za; abdullah.daniels@stellenbosch.gov.za

Subject: Kayamandi Zone 0: Minutes of meeting 15 May 2019

Dear All,

Please find attached the minutes of the meeting, as well as Annexures, held on 15 May 2019.

We are still in process to revise the layout to change the 8m roads to 10m roads where possible. I will circulate the revised layout as soon as possible.

Kind regards,

Danette Jones

Director, Planning & Solutions



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29 August 2019

Attention: Mr. Tyrone King (Stellenbosch Development Infrastructure Services Department)

Re: Kayamandi Zone 0 Informal Settlement – Parking Departure Motivation

This letter is in response to the comments received from the Development (Infrastructure Services) & Traffic Engineering Departments dated 13 February 2019 and will provide a motivation to the application for a parking departure to provide 0 on-site parking in lieu of 1 on-site parking per erf.

The subject property is known as Kayamandi Zone 0. This area is an existing informal settlement situated within the Kayamandi Township, with no formal services or access roads. The purpose of the land use application is to obtain the necessary land use rights to enable the municipality to formalise the informal settlement by providing the necessary services.

The Project Team was appointed by the Department of Human Settlements to prepare and submit a Bylaw application in line with the Municipal and DoHS Strategic goals and objectives. The project brief was that the project is to be undertaken on a cost effective and densification model in order to ensure that the maximum amount of units / erven can be provided, within the site constraints, taken into consideration the current housing backlog and number of residents currently residing in Kayamandi Zone 0.

Based on this brief it was decided in the early stages of the project that in order to densify it would not be possible to provide on-site parking and thus apply for a parking departure.

The parking departure is motivated on the basis that the families currently living in Zone 0, and who will be the beneficiaries when Zone 0 is upgraded, falls within the income bracket that qualifies for a housing subsidy, thus between R0 – R3500 household income per month, which is the lowest income group. Car ownership in this income bracket is very low. An extract from the Traffic Impact Statement states that "Most people in Kayamandi walk or use public transport and private vehicle ownership is generally very low".

During the project planning a balance had to be found between accommodating the housing need, upgrading the informal settlement into a human settlement and providing parking. The balance that was found was to reduce the erf sizes to the minimum that can accommodate a top structure, densify a portion of the site where the slope allows and design the streets so that street parking on one side of the street (for the 10m streets) would be possible.

African Town Planning Services (Pty) Ltd. Reg Nr. 88 06090/07 T/A

DIRECTEURE

TL Slegn
 DK Larsen

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BYGESTAANDEUR

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 B Larsen
 A Viljoen
 A van Zyl

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 Stadsplannings Technoloog
 Finansiële Bestuurder

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 A Viljoen
 A van Zyl

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 Cn. Pin. BA (DAEM), M (CRP)
 Town Planning Technologist
 Financial Manager

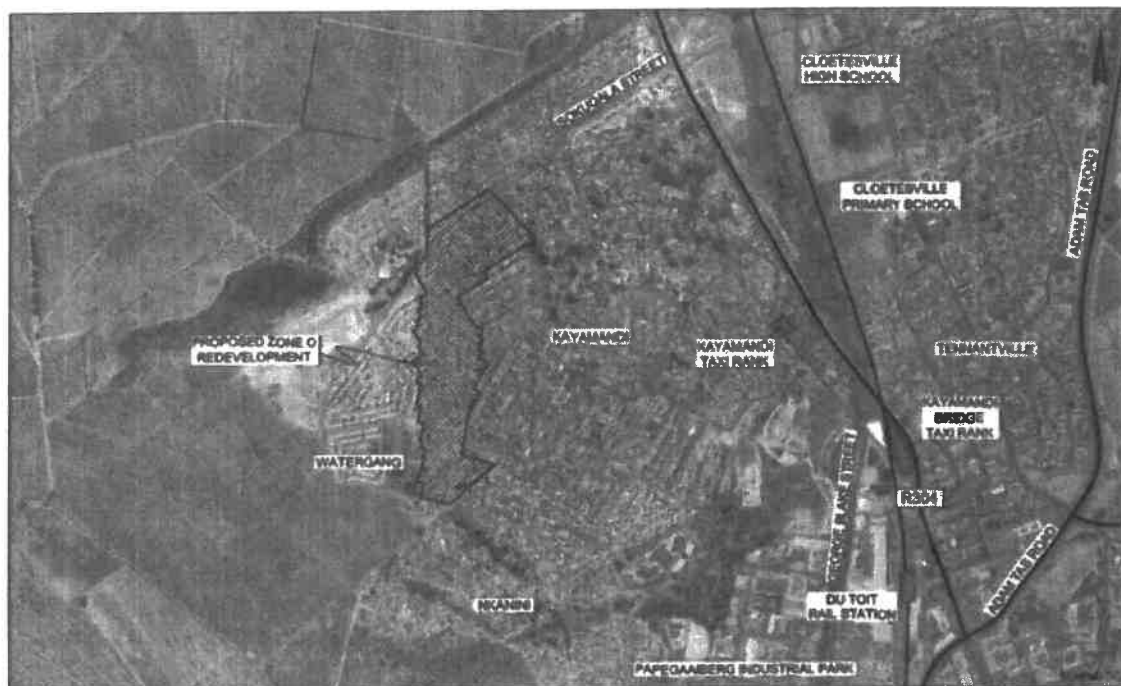
The parking departure is furthermore motivated by the current shift to move away from focusing on the private car to focusing on and encouraging public transport use. The following information was obtained from the Traffic Impact Statement (page 4 & 7) which confirms that there is public transport within walking distance which the current residents of Zone 0 use.

"The existing public transport facilities in the vicinity of Zone 0 include:

- *The Kayamandi and Kayamandi Bridge Taxi Ranks*
- *The Du Toit Train Station*
- *Bus embayment's along the R304 and George Blake Street*

See Figure 1B for the locations of these facilities relative to Zone 0.

Based on the above, it is evident that there are currently several public transport options available in this area and the residents of Zone 0 will continue to use these facilities. It is recommended that hard surfaced areas be strategically provided along all the through roads, with a road reserve wider than 8 metres, for mini-bus taxis to drop-off and / or collect passengers. These hard-surfaced areas should be used by taxis, to allow other vehicles to pass them without blocking the road."



its	KAYAMANDI ZONE 0, STELLENBOSCH	LOCALITY PLAN (ZOOMED AREA)	1B
------------	--------------------------------	--------------------------------	----

The Development (Infrastructure Services) Department also requested that a comparison with other similar housing developments should be provided where no on-site parking provision it has been proven to be sufficient/successful. Nuplan Africa did engage with the Stellenbosch Housing Department for assistance in this regard, as they are more actively involved with housing projects in the Municipality. Unfortunately, no information was available from this Department. However, Nuplan Africa is involved in numerous other Subsidized Housing projects in the City of Cape Town,

African Town Planning Services (Pty) Ltd. Reg. No. 88 06090/07 T/A

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Pr. Fin. BA M(S&S) LSAB I LVRS5 (epoc.diri@nuplanafria.co.za)

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On. Fin. BA (DAEM), M (CRP) (epoc.bjorn@nuplanafria.co.za)
Stadsplanning Tegnoloog (epoc.arnita@nuplanafria.co.za)
Finansiële Bestuurder (epoc.arnita@nuplanafria.co.za)

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ASSISTED BY:

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B Larsen
A Viljoen
A van Zyl

Pr. Fin. BA (TRP), MPHil (TS)
On. Fin. BA (DAEM), M (CRP)
Town Planning Technologist
Financial Manager

where the principle of no on-site parking is accepted and encouraged. These projects are still in planning or implementation phases and success cannot be proven at this stage.

In conclusion, the Professional Team is of the opinion that the proposal put forward for Zone 0 as submitted for approval is the best possible option for the upgrading of Zone 0 taking into consideration the project brief, the number of families currently living in Zone 0 as well as the site constraints. It is therefore kindly requested that both Departments reconsider their comments and provide their recommendation for approval.

Kind regards,



Danette Jones
For Nuplan Africa

African Town Planning Services (Pty) Ltd. Reg Nr. 88 060907 T/A

DIREKTORE

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RYGESTAANDEUR

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A Viljoen	Stadsbeplannings Tegnoloog	(apos_arnie@nuplanafca.co.za)
A van Zyl	Finansiële Bestuurder	(apos_anna@nuplanafca.co.za)

DIRECTORS

TL Steyn	Pt. Pln. BA M (TRP) MSAPI MACTRP
DK Larsen	Pt. Pln. BA M (TRP) MSAPI MACTRP

ASSISTED BY

D Jones	Pt. Pln. BA (TRP) MPhil (TS)
B Larsen	Cn. Pln. BA (DAEM), M (CRP)
A Viljoen	Town Planning Technologist
A van Zyl	Financial Manager

APPENDIX 8



agriculture, forestry & fisheries

Department:
Agriculture, Forestry and Fisheries
REPUBLIC OF SOUTH AFRICA

Private Bag X120, Pretoria, 0001
Delpen Building, C/o Annie Botha & Union Street, Riviera, 0084
From: Directorate Land Use and Soil Management
Tel: 012-319-7634 Fax: 012-329-5938 E-mail: nhlakad@daff.gov.za
Enquiries: Helpdesk Ref: 2019_03_0014

Nuplan Africa
P.O. Box 3603
TYGER VALLEY
7536

Attention: D Jones

CONFIRMATION OF APPLICABILITY OF THE SUBDIVISION OF AGRICULTURAL LAND ACT, ACT 70 OF 1970: ERVEN 1714, REMAINDER OF ERF 2183, AND UNREGISTERED ERVEN 863 AND 873 KAYA MANDI, DIVISION STELLENBOSCH, WESTERN PROVINCE

Your request to this office with regard to confirmation of applicability application received in terms of Act 70 of 1970.

The above mentioned property is not subject to the provisions of the Subdivision of Agricultural Land Act, Act 70 of 1970 as it is situated within a township.

Section 1 of the Act states the following:

".....1. **agricultural land** means any land, except-

- (a) land situated in the area of jurisdiction of a municipal council, city council, town council, village council, village management board, village management council, local board, health board or health committee, and land forming part of, in the province of the Cape of Good Hope, a local area established under section 6 (1) (i) of the Divisional Councils Ordinance, 1952 (Ordinance No. IS of 1952 of that province), and,....."

Registrations of transactions on the above property will therefore no longer require a letter from this Department.

Yours faithfully

MR H.J. LINDEMANN
ACTING DIRECTOR: LAND USE AND SOIL MANAGEMENT
DELEGATE OF THE MINISTER
DATE: 24/06/2019

APPENDIX 9



ROAD NETWORK MANAGEMENT
Email: Grace.Swanepoel@westerncape.gov.za
tel: +27 21 483 4669
Rm 335, 9 Dorp Street, Cape Town, 8001
PO Box 2603, Cape Town, 8000

REFERENCE: 16/9/6/1-25/304 (Job 26728)
ENQUIRIES: Ms GD Swanepoel
DATE: 23 August 2019

The Municipal Manager
Stellenbosch Municipality
PO Box 17
STELLENBOSCH
7599

Attention: Mr R Fooy/Ms H Deacon

Dear Sir/Madam

REMAINDER ERF 2183, ERVEN 1714, 863 AND 873, KAYAMANDI: MAIN ROAD 174 AND MAIN ROAD 27: PROPOSED SUBDIVISION, CONSOLIDATION, REZONING AND DEPARTURE

1. The following refer:
 - 1.1 Letter from Nuplan Africa (Pty) Ltd dated 6 February 2019;
 - 1.2 This Branch's even-numbered letter dated 8 May 2019 and
 - 1.3 E-mail exchange between our Mr S Carstens and Mr H Engelbrecht of ITS (Pty) Ltd from 10 June 2019 to 16 July 2019.
2. In order to avoid any delay with the land use application, this Branch affirms that it offers no objection to the land use application in terms of the Land Use Planning Act, Act No 3 of 2014.

3. However, before the recommendation to relocate the existing pedestrian crossing on Main Road 174 by 49m southwards, this Branch requires an addendum to the TIA which specifically considers the impact of the proposed pedestrian bridge, current pedestrian crossing, all the desire lines and phasing of implementation in order to resolve the issue of pedestrians crossing Main Road 174.

Yours faithfully



SW CARSTENS
For CHIEF DIRECTOR: ROAD NETWORK MANAGEMENT

APPENDIX 10



water & sanitation

Department:
Water and Sanitation
REPUBLIC OF SOUTH AFRICA

WESTERN CAPE PROVINCIAL OPERATIONS

Private Bag X16, Sanlamhof, 7532
52 Voortrekker Road, Bellville, 7530

☎	021 941 6039	✉	Mr. Nkosinathi Mkonto
📠	021 941 6082	📁	16/2/7/G200/A/8
📠	082 370 2708	📧	mkonton@dws.gov.za

Attention: Donette Jones

Nuplan Africa Town Planners
PO Box 3603
TYGERVALLEY
7536

Dear Madam

APPLICATION FOR SUBDIVISION, REZONING, & DEPARTURE: ERF 1714, REMAINDER OF ERF 2183 AND UNREGISTERED ERVEN 863&873, KAYAMANDI

The Department acknowledges receipt of your report dated 6 February 2019 for the above mentioned activity.

After evaluating the abovementioned application, you are hereby informed that the Department does not object to the proposed activities from going ahead subject to the following conditions:

1. All relevant sections and regulations of the National Water Act, 1998 (Act 36 of 1998) regarding water use and pollution management must be adhered to.
2. All relevant sections and regulations of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) must be adhered to.
3. No additional use of surface water and/or storage of water is permitted, unless the applicant has formally obtained an authorisation from this Department in terms of Section 22 of the National Water Act (Act 36 of 1998).
4. No activities may take place within a buffer area of 500m of any wetland system without formal authorisation obtained from this Department.





water & sanitation

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5. No permanent structures may be constructed within the 1:100 year flood line of a watercourse and/or wetland without Water Use Licence Application obtained prior.
6. If any property that receives water from an Irrigation Board or Water User Association is subdivided, sold or consolidated, the Board or Association and this Department must be notified within sixty (60) days after the said transaction took place.
7. Please note that if the subdivision will affect the allocation of a water use as registered by this Department, the owner(s) of the new property(ies) must enter into a written mutual agreement to determine each property's share in any allocated water or water use and this must be communicated to this Department.
8. If this subdivision (or consolidation) will affect the allocation of a water use as licenced by this Department, the Licencee must contact the Department for the amendment of this licence. This will also be necessary if the property description changes. The Licencee must provide full details of all changes with respect to the properties to the Responsible Authority within 60 days of the said change/s taking place.

The Department reserves the right to revise its initial comments and request additional information that may arise from correspondence and/or upon inspection.

Should you have any queries, please do not hesitate to contact Nkosinathi Mkonto at the contact details provided above.

Yours faithfully

REGIONAL HEAD: WESTERN CAPE

Signed by: Nelisa Ndobeni
Designation: Control Environmental Officer (Acting)
Date: 19 MARCH 2019

