



**STELLENBOSCH**

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**NOTICE OF MUNICIPAL PLANNING  
TRIBUNAL MEETING  
OF STELLENBOSCH MUNICIPALITY  
WEDNESDAY, 2024-03-20 FROM  
10:00-13:00**



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**NOTICE OF MUNICIPAL PLANNING TRIBUNAL MEETING  
OF STELLENBOSCH MUNICIPALITY  
WEDNESDAY, 2024-03-20 FROM 10:00-15:00**

Ref. no. 3/4/5/2/40

2024-03-20

**Chairperson**

Mrs H Crooijmans-Lemmer

**Deputy-Chairperson**

Mr van  
Zyl

**External Members**

Mrs Christine Havenga

Mr Dane Leo

Mr Stephen Boshoff

**Internal Members**

Mr A Barnes: Director - Planning and Economic Development

Mr M Williams: Senior Legal Advisor

Mr A van der Merwe: Senior Manager - Community Services

Mrs M Francis: Senior Manager - Infrastructure Planning, Development and  
Implementation, Directorate Infrastructure Services

**Technical Advisor**

Mr K Munro - Director Environmental & Spatial Planning: Department of  
Environmental Affairs and Development Planning

Notice is hereby given in terms of Section 75(1) of the Stellenbosch Municipality Land Use Planning By-Law (2015), of the Municipal Planning Tribunal Meeting which will be held at the **Paradyskloof Clubhouse, Paradyskloof, Stellenbosch** on **WEDNESDAY, 2024-03-20 from 10h00-13h00** to consider the items on the

Agenda

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Mrs H Crooijmans-Lemmer  
**CHAIRPERSON: MUNICIPAL PLANNING TRIBUNAL**





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**MINUTES: STELLENBOSCH MUNICIPAL PLANNING TRIBUNAL 01 MARCH 2024****MINUTES OF THE STELLENBOSCH MUNICIPAL PLANNING TRIBUNAL MEETING  
HELD ON FRIDAY, 01<sup>ST</sup> OF MARCH 2024 VIA MS TEAMS FROM 10H00-15H00****Ref. no. 3/4/5/2/40****2024-03-01**Chairperson

Mrs H Crooijmans-Lemmer

External Members

Mrs C Havenga

Mr Dane Leo

Mr Stephen Boshoff

Internal Members

Mr A Barnes: Director - Planning and Economic Development

Mr A van der Merwe: Senior Manager: Community Services

Mr M Williams: Senior Legal Advisor

Mrs M Francis: Senior Manager - Infrastructure Planning, Development, and  
ImplementationTechnical AdvisorMr K Munro: Director Development Management, Department Environmental Affairs  
and Development Planning.Officials

Mr S Carstens: Senior Manager: Development Management

Mrs C Kriel: Manager: Land Use Management

Ms B Zondo: Senior Town Planner

Mr R Fooy: Senior Town Planner

Mr G Goosen: Senior Town Planner

Ms O Sims: Administrative Officer: MPT

Ms L Davids: Senior Administrative Officer: MPT

ITEM	SUBJECT
<b>SMPT 01/03/24</b>	<b>OPENING AND WELCOME</b>
	Chairperson Crooijmans-Lemmer welcomed all present. The Chairperson further requested that the MPT meetings please take place in-person and that the request be minuted.
<b>SMPT 02/03/24</b>	<b>LEAVE OF ABSENCE</b>
	Mr P van Zyl
<b>SMPT 03/03/24</b>	<b>DISCLOSURE OF INTERESTS</b>
	None received
<b>SMPT 04/03/24</b>	<b>MINUTES OF THE PREVIOUS MEETING DATED 26 JANUARY 2024</b>
	The minutes of the previous meeting was noted.
	<b>MATTERS FOR CONSIDERATION</b>
<b>SMPT 05/03/24</b>	<b>APPLICATION FOR SUBDIVISION, REZONING AND DEPARTURE ERF 2183, KLAPMUTS (LU/14679)</b>  <b>Discussion:</b> <ul style="list-style-type: none"> <li>a. Chairperson Crooijmans-Lemmer handed over to Mr Fooy to give a brief introduction of the application that served before the Tribunal.</li> <li>b. Mr Munro enquired whether the Environmental Impact Assessment (EIA) was completed to which Mr Fooy indicated that a final decision regarding the requirement for a new study is still awaited from DEADP.</li> </ul>

- c. Further discussions followed between the members of the tribunal in respect of the EIA.
- d. The tribunal raised their concerns about the functionality, location and size of the public open space and location thereof, as well as the efficiency of the layout to which Mr Fooy provided clarity.
- e. Members of the Tribunal enquired about pedestrian linkages to the intended abutting development and Mr Fooy provided clarity.
- f. Chairperson Crooijmans-Lemmer enquired regarding the relocation and accommodation of current occupants within the new development the number of units for this housing project, to which Mr Fooy indicated that the beneficiaries are on the housing list.
- g. Mr van Stavel indicated that the Municipality wants to accommodate the maximum households with this project.
- h. Mr Munro raised the concern on all the Development Contributions that are required for all infrastructure triggered upgrades. During the meeting it was discussed regarding the necessity to construct the second Access Road to the proposed site and who will be responsible to fund it. Ms Francis responded and confirmed that the second Access Road (Southern Access) will not be required and the memorandum from Infrastructure Services will be updated and resubmitted to support the proposal

**UNANIMOUSLY RESOLVED:**

- 1. That the following application(s) in terms of Section 15(2) of the Stellenbosch Municipal Land Use Planning Bylaw namely:

- 1.1. **Rezoning** in terms of Section 15(2)(a) of the said bylaw, of Erf 2183, Klapmuts, from Agriculture and Rural Zone to Subdivisional Area indicated on Development Proposal Plan, Drawing No: KL/11996/ZN\_ZA, Dated: February 2024, drawn by CK Rumboll & Associates, and attached as **Annexure B**, to create:

- a) 109 Less Formal Residential Zone erven (5174m<sup>2</sup>)
- b) 1 Public Open Space Zone (342m<sup>2</sup>)
- c) 1 Public Road and Parking Zone (4157m<sup>2</sup>)

1.2. **Subdivision** in terms of Section 15(2)(d) of the said bylaw, of Erf 2183, Klapmuts, as indicated on Subdivision Plan, Drawing No: KL/11996/ZN\_ZA, Dated: February 2024, drawn by CK Rumboll & Associates, and attached as **Annexure B**, into the following:

- d) 109 Less Formal Residential Zone erven (5174m<sup>2</sup>)
- e) 1 Public Open Space Zone (342m<sup>2</sup>)
- f) 1 Public Road and Parking Zone (4157m<sup>2</sup>)

1.3. **Departure** in terms of Section 15(2)(a) of the said bylaw, to relax the 1m street building line of all the resulting subdivided residential erven that are located on the internal roads to 0m but excluding the street building line applicable on Groenfontein Road.

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

2. The approval is subject to the following conditions imposed in terms of Section 66 of the said Bylaw:

2.1 The approval applies only to the application in question and shall not be construed as authority to depart from any other legal prescriptions or requirements from Council.

2.2 The development be undertaken in accordance with the Subdivision Plan, Drawing No: KL/11996/ZN\_ZA, Dated: February 2024, drawn by CK Rumboll & Associates, and attached as **Annexure B**.

2.3 All land designated for the provision of municipal service infrastructure and amenities on the subdivision plan be transferred to the Municipality upon transfer of the first residential unit/erf in the subdivision, of which the cost for the surveying and transfer of such public land will be for the account of the applicant/developer.

2.4 The applicant submits an electronic copy (shp,dwg,dxf) of the Subdivision Plan which was preliminary approved by the SG. The following information must be indicated:

- 2.4.1 Newly allocated Erf Numbers
- 2.4.2 Co-ordinates
- 2.4.3 Survey Dimensions
- 2.4.4 Street names (if approved by Council)

2.5 A Street Naming and Numbering plan be submitted for approval prior to the issuing of the Section 28 Certification.

2.6 Development charges are payable in accordance with the prevailing and applicable Council Tariffs at the time of payment prior to the transfer of the first residential property or approval of any building plans, whichever occurs first, or as may be agreed on in writing with the Director Infrastructure Services.

2.7 Should the full extent of permissible development rights, as approved herein-above, not be implemented initially or development is phased, a pro rata Development Charge will be levied in accordance with the extent to which the development rights will be implemented, provided that the remaining development charges will be levied for the remaining permissible development rights when implemented in future. Remaining Development Charges will be levied in accordance with the prevailing and applicable Council Tariffs at the time of payment prior to the transfer of the first property or approval of any building plans, whichever occurs first.

2.8 Compliance with the conditions relating to Directorate Infrastructure Services contained in memorandum, dated 8 December 2023, as amended to reflect the omission of the condition relating to the construction of the second Access Road (Southern Access) and attached as **Annexure E**.

2.9 All engineering services and infrastructure as required in terms of the conditions and services agreement be complied with to the satisfaction of the Municipality prior to the issuing of a Section 28 Certification.

- 2.10 The final SDP must consider the inclusion of functional recreation space and greening in support of a liveable environment.

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

- 3.1 The proposed development is regarded as being consistent with the MSDF and desirable in terms of its locational context
- 3.2 The proposed development will have no impact on the character of the existing surrounding area as the development is seen as an infill development.
- 3.3 The development will provide much needed housing opportunities for vulnerable households of Stellenbosch.

**4. Matters to be noted:**

- 4.1 The subdivision only comes into effect once all suspensive conditions or relevant legislative provisions have been complied with.
- 4.2 That Enviromental Authorization be obtained from the Deparment of Environmental Affairs and Development Planning as noted in the letter of comment dated 29 November 2023, attached as **Annexure F** and that the conditions of approval contained in the Enviromental Authorization be complied with prior to the approval above being acted on.
- 4.3 The approval granted shall not exempt the applicant from complying with any other legal prescriptions or requirements that might have a bearing on the proposed use.

<p><b>SMPT</b> <b>06/03/24</b></p>	<p><b>APPLICATION FOR REZONING AND SUBDIVISION ON FARM 527/7 STELLENBOSCH FARMS (LU/15064)</b></p> <p><b>Discussion:</b></p> <ul style="list-style-type: none"> <li>a. Chairperson Crooijmans-Lemmer handed over to Ms Zondo to give a brief introduction of the application that served before the Tribunal.</li> <li>b. Ms Zondo made the Tribunal aware that the original layout was amended.</li> <li>c. Mrs Havenga referred to the report which stated there would be a phase 4 at a later stage and asked what community facilities are proposed in the phase. She further raised a concern regarding the provision of a public open space.</li> <li>d. The Chairperson is in agreement with the concern about the lack of the public open space as well as it's location and functionality and enquired about the reasons for the amendment of the original Site Development Plan.</li> <li>e. Mrs Kriel stated that phase 4 will be planned at a later stage. This application is only phase 2 and phase 3 of the project.</li> <li>f. Mr Schroder, consultant for the Municipality, gave some insight as to reasons why the layout had to be amended. There were also comments from the community who were concerned about the School Road.</li> <li>g. Mr Munro stated this is a radically amended proposal and queried if it should not have been re-advertised to the community for public participation.</li> <li>h. Mr Carstens indicated that it was not necessary to re-advertise the application as the nature and extent of the changes was minimal and did not make an impact.</li> <li>i. Mr Van Stavel indicated that the comments received on the advertisement, were not just in respect of phase 2 and 3, but also in respect of phase 4.</li> <li>j. Mr Leo wanted to know if the properties on the north can be accessed from the north side of the property.</li> </ul>
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- k. Mr Boshoff questioned whether the different phases of the application should not have been dealt with as one application. He stated there is a desperate need for the project hence he will support the project, to not cause further delays to housing provision, however he had concerns about the quality and consideration given to the built environment. He further enquired whether all residents currently staying there, will be accommodated within the proposed development.
- l. Mr Van Stavel replied yes and stated that the families are currently staying on phase 3 and will be moved to Phase 2 during the completion of project.
- m. Mr Barnes indicated that the project has been in the pipeline for many years and the community have been made aware of the housing development within Jamestown area.
- n. Mr van Stavel stated that the national budget has been reduced and this project is earmarked to assist with the housing need for the greater community.

**UNANIMOUSLY RESOLVED:**

- 1. That the applications in terms Section 15 (2) of the Stellenbosch Municipality Land Use Planning By-law, 2023 on Farm 527/7 Stellenbosch for the following:

- 1.1 **Rezoning** in terms of Section 15 (2)(a) of the said by-law from Agriculture and Rural Zone to Subdivisional area in order to allow for the following uses:

- a) 274 Conventional Residential Zone (Single Residential housing) erven ( $\pm 44\,291\text{ m}^2$ )
- b) 2 Public Open Space Zone erven ( $\pm 699\text{ m}^2$ )
- c) 1 Community Zone erven ( $\pm 577\text{ m}^2$ )
- d) 1 Transport Facility Zone (Transport Embayment) erven ( $\pm 1929\text{ m}^2$ )
- e) Public Roads and Parking Zone erven (Public Roads) ( $\pm 52\,069\text{ m}^2$ )
- f) Agriculture and Rural Zone (Remainder  $\pm 49\,524\text{ m}^2$ )

1.2 **Subdivision** in terms of Section 15 (2)(d) of the said by-law in accordance with the subdivisional plan in order to allow the proposed development.

**BE APPROVED** in terms of Section 60 of the said bylaw, subject to conditions in terms of Section 66 of the said Bylaw:

**2. Conditions of Approval:**

2.1 The approval applies only to the proposed development under consideration shall not be construed as authority to depart from any other legal prescriptions or requirements from Council or other legislation or Bylaws or Regulations that may be applicable.

2.2 The development be undertaken in accordance with the Subdivisional layout and phasing plan, Rev 3, drawn by CHH (Zutari Pty (Ltd)), dated 15/12/2023, attached as **Annexure C**.

2.3 A phasing plan which indicates the spatial phasing and associated timeframe of the development be submitted to the Municipality for approval.

2.4 The approval granted shall not exempt the applicant from complying with any other legal prescriptions or requirements that might have a bearing on the proposed use.

2.5 New erf diagrams or general plans for the newly created land units be submitted to the municipality for clearance and record purposes.

2.6 A Street Naming and Numbering Plan be submitted and approved prior to the issuing of Section 28 Certification.

2.7 An electronic copy (shp, dwg, dxf) of the approved General Plan be submitted to the Directorate Planning and Economic Development for record purposes, which plan indicate the following information:

- a) Newly allocated erf numbers
- b) Co-ordinates
- c) Survey dimensions

d) Street names and numbering

2.8 Development charges are payable in accordance with the prevailing and applicable Council Tariffs at the time of payment prior to the transfer of the first property or approval of any building plans, whichever occurs first, or as may be agreed on in writing with the Director Infrastructure Services.

2.9 Should the full extent of permissible development rights, as approved herein-above, not be implemented initially or development is phased, a pro rata Development Charge will be levied in accordance with the extent to which the development rights will be implemented, provided that the remaining development charges will be levied for the remaining permissible development rights when implemented in future. Remaining Development Charges will be levied in accordance with the prevailing and applicable Council Tariffs at the time of payment prior to the transfer of the first property or approval of any building plans, whichever occurs first.

2.10 A service agreement regarding the responsibilities for the provision of engineering services be entered into with the Municipality prior to the construction of any Engineering services or infrastructure in terms of Section 66(3) and Section 82(4) of the said Bylaw, which service agreement includes and complies with the conditions as imposed by the Directorate Infrastructure Services in their memo dated 16 February 2024, attached as **Annexure J**.

2.11 The conditions imposed by the Western Cape: Transport Infrastructure as contained in their letter dated 27 February 2024, attached as **Annexure K**, be complied with.

2.12 The final SDP must consider the inclusion of functional recreation space and greening in support of a liveable environment.

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

3.1 The scale and nature of the proposed development will not compromise the existing character of the surrounding urban landscape considering that it will offer residential opportunities in the area.

3.2 The subject property is located within the approved urban edge of Stellenbosch and the proposed development is included in the Municipal Capital Expenditure Framework.

3.3 Provision has been made for the required infrastructure and there are sufficient services to support the proposal.

**4. Matters to be noted:**

4.1 The subdivision only comes into effect once all suspensive conditions or relevant legislative provisions have been complied with.

4.2 The approval granted shall not exempt the applicant from complying with any other legal prescriptions or requirements that might have a bearing on the proposed use.

4.3 All engineering services and infrastructure as required in terms of the conditions and services agreement be complied with to the satisfaction of the Municipality and/ or the relevant authority prior to the issuing of a Section 28 Certification.

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

<b>SMPT 07/03/24</b>	<b>OTHER MATTERS</b>
<b>7.1</b>	<b>PLANNING POLICIES (REVIEWED OR APPROVED BY COUNCIL)</b>
<b>7.2</b>	<b>APPEALS RECEIVED AGAINST MPT DECISIONS</b> The Administration confirmed that no appeals were received against MPT decision for the months of January and February 2024.
<b>7.3</b>	<b>GENERAL</b> Mr Leo requested that the Administration in future please provide documents or plans in high resolution. Chairperson Crooijmans -Lemmer thanked all members for attending.  <p style="text-align: right;">The meeting adjourned</p>




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**Mrs H Crooijmans-Lemmer**

**CHAIRPERSON: MUNICIPAL PLANNING TRIBUNAL**

## APPLICATION FOR CONSENT USE, DEPARTURE, & PERMISSION ON FARM 528/5 STELLENBOSCH DIVISION

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**THE STELLENBOSCH MUNICIPALITY**

**PLANNING REPORT: LAND USE AND LAND DEVELOPMENT APPLICATION:  
APPLICATION FOR CONSENT USE, DEPARTURE, & PERMISSION ON FARM 528/5 STELLENBOSCH  
DIVISION**

Application Reference	File Ref: LU/14500	Application Date	2020/09/06
		Last day for comments or additional information	2024/01/24

**PART A: APPLICANT DETAILS**

First name(s) & Surname	Dupre' Lombaard		
Company name	Virdus Works (Pty) Ltd		
SACPLAN registration number	Not provided		
Registered owner(s)	Benedetto Trust	Is the applicant properly authorised to submit the application	Yes

**PART B: PROPERTY DETAILS**

Property description	Farm 528/5	Administrative District	Stellenbosch Division
Physical address	R44, Main Road 0027		
Extent (m <sup>2</sup> /ha)	4, 2827 ha	Nearest Town	Paradyskloof
Existing Development and Current land use	a) Main dwelling (Proposed guest house & Restaurant) b) Second dwelling (Proposed farm stall and guest rooms) c) Additional dwelling / Manager's house (Proposed guest rooms) d) Two Staff Cottages e) Outbuildings, storage and garages f) Garden area (Proposed picnic and outdoor venue) g) Old reservoir (Proposed wellness centre / spa)		
Any unauthorised land use/building work	a) The proposed tourist facilities in the form of a restaurant and outdoor garden venue with an enclosed gazebo are operating without approval. b) The proposed tourist accommodation establishment in the main house, second dwelling and additional dwelling are operating without approval. c) A notice was served for unauthorised land uses (operating a function/event venue, restaurant/bar and accommodation facility) in		



	<p>September 2022 and the matter was handed over to the Stellenbosch Municipal Court on the 7 December 2022 which was finalised by way of an Admission of Guilt fine on the 11 September 2023. The amount paid was R4000.</p> <p>d) Another notice was served for unauthorised land uses (operating tourist facilities, tourist accommodation establishment and events) in November 2023 and the matter was handed over to the court on 26 January 2024 and is still pending.</p> <p>e) The Boundary wall, Arch structures and all additions to existing house were built without building plan approval.</p> <p>f) Notices were served for unauthorised building works in November 2022, June 2023 and July 2023.</p>
Title Deed Nr.	T018186/2016
Current zoning and approved land use rights as per Zoning Scheme Bylaw 2019	Agriculture and Rural Zone

#### PART C: APPLICATION DETAILS

Applications(s)	<p>Application is made in terms of Section 15 (2) of the Stellenbosch Municipal Land Use Planning By-Law, 2023 on Farm 528/5 Stellenbosch Division for the following:</p> <ol style="list-style-type: none"> <li>1. <b>Consent Uses</b> in terms of Section 15 (2)(o) of the said by-law, for the following: <ol style="list-style-type: none"> <li>a) For Tourist facilities in order to facilitate the following: <ol style="list-style-type: none"> <li>i. New function/wedding venue (68-seater Chapel) (325 m<sup>2</sup>)</li> <li>ii. Outdoor garden venue with gazebo (314 m<sup>2</sup>) (110 guests)</li> <li>iii. Convert the existing second dwelling (96 m<sup>2</sup>) into farm stall/ shop</li> <li>iv. Wellness centre/spa for the guests (583 m<sup>2</sup>)</li> <li>v. Restaurant (90 m<sup>2</sup>) (30 guests)</li> </ol> </li> <li>b) For Tourist Accommodation Establishment for the following: <ol style="list-style-type: none"> <li>i. Twelve (12) bedrooms with a capacity of 24 guests in the converted main dwelling</li> <li>ii. Three (3) bedrooms in the converted manager's / additional dwelling with a capacity of six guests</li> <li>iii. Three (3) bedrooms added to the farm stall with a capacity of six guests</li> </ol> </li> </ol> </li> <li>2. <b>Occasional uses</b> to allow for more than one event per year for Live music, art exhibition and outdoor functions.</li> <li>3. <b>Permanent Departure</b> in terms of Section 15 (2)(b) of the said by-law for the following:</li> </ol>
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	<p>i. To construct 2.1m high brick wall on eastern boundary of the property (adjacent to R44)</p> <p>ii. To relax the building line from 5m to 0m in order to accommodate the new wellness centre/spa</p> <p>4. <b>Permission</b> required in terms of restrictive title deed condition clause D (2) - (4) on page 2 of Title Deed No T18186/2016, in order to facilitate the proposed uses.</p>
Purpose of Application	The applicant intends to accommodate the property for tourist facilities and tourist accommodation establishment.
Pre-consultation	Pre-scrutiny application submitted.

#### PART D: APPLICATION BACKGROUND

##### 1. Location of the property

The subject property is located on the R44 to Somerset West (Main Road 0027).

##### 2. Development context of surrounding area

The subject property is located in a predominantly agricultural area, with wine farms and tourist accommodation establishments on the surroundings farming units.

##### 3. Historic use and development of subject property

The farm previously known as Drie Lande was cultivated for wine production with a small vineyard (0.8ha) manged and used by adjacent farmers. The property has water rights for 2.5ha.

#### PART E: APPLICATION OVERVIEW AND MOTIVATION

- o The proposed consent uses are subservient to the primary agricultural uses of the property.
- o The farm is not a viable agricultural unit or capable of sustaining a feasible revenue stream.
- o More than 50% of the property will remain primarily agricultural in use.
- o There is no agricultural building on the farm capable of supporting increased agricultural production on the farm.
- o The farm has sufficient existing buildings and space to allow for the creation of the proposed tourist accommodation establishment and tourist facilities without negatively affecting its limited production capacity.
- o The scale and form of the proposed new buildings and structures are in keeping with that found in the area and normally on farms, therefore would not detract from the obvious character of the surrounding area.
- o All the abutting and adjacent farms have similar scaled tourist accommodation establishments, spa/wellness centres, shops, restaurants, kennels in similarly scaled buildings and areas.
- o The proposed boundary (fence with brick piers) will further blend with the vegetated and built background and should therefore not be visually obstructive.
- o The encroachment will not have any effect on the receiving environment.
- o The main dwelling and additional building already exist, therefore will not add to the visual built structures on the farm.
- o The noise impact assessment confirmed that the gathering of people did not cause any disturbing noise and it could be appropriately managed to avoid any risk thereof.

- o The percentage of vehicle traffic to the proposed attractions according to the traffic impact assessment worst case scenario is less than 3% of the daily peak period traffic on the R44.
- o The proposals are in line with the municipal policy and legislation.

## PART F: PUBLIC PARTICIPATION, COMMENTS AND RESPONSE

### 1. Process followed

The applicant has notified the internal and external departments and notified (serving notices) all interested and affected parties. Comments were received about the misleading, inaccurate and incompleteness of the application. This was confirmed after a site visit by the senior town planner and the applicant was requested to amend the application and a revised SDP and motivation report was advertised. The second advertising period was from 06/10/2023 to 06/11/2023 (see **Annexure E**). **Three (3)** objections were received.

### 2. Public & stakeholder inputs

The following objections were received: (See **Annexure F**)

- a) Avidata Trading 301 CC – Marc Nel (Farm 528 Ptn 6)
- b) Bellevue Trust – (Farm 528 Ptn 4)
- c) Stellenbosch Interest Group



SUMMARY OF COMMENTS DURING PUBLIC PARTICIPATION (INTERESTED AND AFFECTED PARTIES)		
FARM/ ERF NO.	ISSUES RAISED	APPLICANT'S RESPONSE
Avidata Trading 301 CC – Marc Nel (Farm 528/6)	<ul style="list-style-type: none"> <li>Objects to the consent uses.</li> <li>Purpose of the zoning applicable to the property is to protect agricultural land, rural landscapes, and biodiversity (quoting the Zoning Scheme Bylaw), all of which will be compromised by the proposed consent uses.</li> </ul>	<ul style="list-style-type: none"> <li>The objection is a typical example how one-sidedly the neighbours perceive the situation. Attached hereto is a land use complaint form requesting further investigation of the land use on Portion 6, the complainant's property. Avidata has for years been operating a furniture restoration / manufacturing / retail business (De Oude Schuur) on the property, to the best of our knowledge without prior approval and certainly as the primary use of the property, as there is no longer any agricultural activity on the property as defined by the objector in the objection to the subject application. A time series of satellite images are attached with the land use complaint form to illustrate the degradation of the vineyards on the property and the extension of buildings and structures, which to the best of our knowledge without prior building plan approval or authorisation in terms of the title conditions.</li> </ul>
	<ul style="list-style-type: none"> <li>The consent use will be the primary use of the property and it will affect the surrounding properties.</li> <li>The palisade fence will detract from the rural character of the area and the scenic value of the R44.</li> </ul>	<ul style="list-style-type: none"> <li>To the best of our knowledge there is no agricultural activity related to cultivation of any legal agricultural products on the property. By making this objection, Mr Nel incriminates himself and Avidata, as the "De Oude Schuur" property is definitely not used primarily for agricultural purposes as suggested by him to apply to the subject property.</li> </ul>
	<ul style="list-style-type: none"> <li>The competent authority must indicate whether Activity 6 of Listing Notice 3 is applicable and authorisation required in terms of the national Environmental Management Act, 1998.</li> <li>Illegal building work has occurred on the property and the uses commenced prior to authorisation.</li> </ul>	<ul style="list-style-type: none"> <li>It is not only cultivated vineyards, fields, orchards, or plantations which are deemed agricultural use, as is obvious from the definition contained in the Zoning Scheme Bylaw: "agriculture means the cultivation of land for crops and/or plants, the keeping and/or breeding of animals, livestock, game, bees, birds, whether or not in the open or in enclosures, and/or the breeding of water fauna and/or flora in artificially constructed dams or natural waterways, and includes a riding school, generating compost for own use on the land unit or farm, but excludes intensive feed farming or any other additional or consent uses in the Agriculture and Rural zone".</li> </ul> <p>The Bylaw further determines that: "The purpose of this zone is to make provision for: (a) the protection and preservation of agricultural land, rural landscapes and biodiversity;</p>

	<p>(b) use of land for purposes of bona fide agricultural production or conservation;</p> <p>(c) buildings and structures which may be erected for reasonable and normal agricultural purposes;</p> <p>(d) a limited range of other ancillary uses which may take place on agricultural land units, either as additional rights or with the consent of the Municipality and which provides for more intensive agricultural use, agricultural industry or tourism which has the objective of creating variety, ensuring sustainability and providing diversified income to land owners, without adversely impacting on the primary use of the land unit for agricultural purposes".</p> <p>o The mere fact that the unproductive vineyards have been removed leads to the objection that the land is no longer used for agricultural purposes, but contrary to that, the owner uses the land for the cultivation of the fruit and plants as mentioned in the application, and further for the extensive use of the land for maintaining a natural environment and preserving a rural landscape as provided for in the Bylaw.</p> <p>o Agricultural use of land does mean the unviable / non-feasible cultivation of land for vineyards that is not sustainable. The owner has the choice of what to cultivate, how much of it, and the use to which the products and the land are put. In this instance the farm produces fruit, flowers, herbs, and vegetables for sale and for own use, other than trees and vegetation (plants) to serve as habitat for all nature of fauna and to retain the rural character of the area. The objection that the land is not used for agricultural purposes or is not used primarily for this is therefore erroneous. The only rational measure for what is agricultural and what is not, is the land area used primarily for agriculture as per the wide definition and purpose quoted above. On Portion 5 (the subject property), more than 85% is used for agricultural purposes. A maximum of 5 908m<sup>2</sup> could be attributed to consent uses, e.g., tourist accommodation, dedicated garden and entertainment areas, parking, restaurant, swimming pool, and the proposed chapel. The remaining 36 912m<sup>2</sup> of the property is used for agricultural purposes, similar to that on most other smallholdings in the area, where no feasible agricultural activities occur.</p> <p>o Avidata also offers guest accommodation for 23 people in De Oude Schuur Guest accommodation. According to the information on the</p>
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<p>online reservation sites, there are seven different units, of which only one is a room in a "guest house". All others are freestanding and self-catering units. Thus, the same objections lodged by Avidata to the subject application, would apply to its property, as it has to the best of our knowledge not been approved for a tourist accommodation establishment.</p> <ul style="list-style-type: none"> <li>o The palisade fence is largely invisible from the R44. It is located on the inner (westerly) side of the servitude accessed road leading northwards towards Bellevue and Chi Chi Spa. As evidenced by the attached photographs, it is barely visible and definitely does not intrude in the visual field as observed from the south or northbound carriageways of the R44.</li> <li>o Activity 6 of Listing Notice 3 applies to properties outside of the urban area and in instances where the properties are located in sensitive environments, excluding for the conversion of existing buildings where the development footprint will not be increased. It thus does not apply to the subject property.</li> <li>o Another disingenuous objection by Avidata is the objection to the illegal building activity on the subject property. While it is the case that illegal construction and land use activities have occurred on the subject property, these were not evident at the time of the preparation and submission of the initial application, amongst others as evidenced by the photographs contained in the application document. To the best of our knowledge Avidata is equally guilty of illegal construction and should be investigated. To this end an illegal building complaint form is attached hereto for further action.</li> <li>o It should be noted that the common boundary fence between Portions 5 and 6 does not run on the property boundary, as clearly illustrated by the satellite image attached to the complaint form. The illegal antique shop and workshop encroaches the boundary line and was erected well inside the 30m building line applicable to the property prior to the promulgation of the Zoning Scheme Bylaw in 2019.</li> <li>o The owners have obviously commenced illegal construction of buildings and structures, as evidenced by the attached photographs of the palisade fence on the R44 and by photographs of the restaurant at the</li> </ul>	
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		swimming pool as published on the Val de Vine website. The Municipality should deal with the matter in terms of the relevant legislation.
<p>Bellevue Trust (Farm 528/4)</p>	<ul style="list-style-type: none"> <li>o Previous objection of 13 December 2022 still valid regardless of the amendments to the application.               <ul style="list-style-type: none"> <li>➤ Val de Vine (Ptn 5 Farm 528) publicly advertises more guest rooms available on the property than in the application.</li> <li>➤ Val de Vine advertises events for up to 200 people on the internet.</li> <li>➤ Live music, restaurant, bar, and gambling events advertised on the internet.</li> <li>➤ Application is misleading, inaccurate, and incomplete as it does not include the aforementioned.</li> <li>➤ Agriculture covers only 18% of the site and is not the primary use. Vineyard is neglected. No animals are kept.</li> <li>➤ Section 213(2) of the Stellenbosch Zoning Scheme Bylaw applies (consent use subject to objective of preserving agricultural land).</li> <li>➤ Scale of the proposed buildings and structures on the property are not in keeping with agricultural potential thereof.</li> <li>➤ Uses applied for will not be subservient to the agricultural use of the property.</li> <li>➤ Proposed uses require rezoning to a mixed-use zoning outside of the urban edge.</li> <li>➤ Application must be to regularise the existing unlawful uses and not for proposed uses.</li> <li>➤ New shed is planned and placed on the site development plan to be a function venue.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>o The SDP and the proposal for the number of guest rooms in a tourist accommodation establishment have been rectified to show the correct number.</li> <li>o The application has been amended to assume that all facilities will be available for guests for different parties, i.e., a cumulative number / capacity has been used and it now provides for the accommodation of 264 guests, based on the limitations of the property.</li> <li>o At the time of preparing and making the application in February 2022, none of the uses as indicated in the objection were present on the farm, and the situation was confirmed with a site visit in preparation of the application as evidenced by the photographs included in the application.</li> <li>o Agriculture is defined more broadly than cultivated fields, as argued above in response to the Avidata objection. All related infrastructure, buildings, and land not used for other non-agricultural purposes, over and above the cultivated areas and natural areas, is considered agricultural use, e.g., the irrigation dam, the main, manager's and labourers' dwellings, and surrounding land. The SDP shows that at least 85% of the site will be used primarily for agricultural purposes.</li> <li>o The primary use of the property is agricultural, but due to the size and other limitations, it cannot be used viably for agricultural purposes only. Additional and consent uses are essential to generate revenue from the land asset, failing which it becomes a residential smallholding only with limited economic contribution. Moreover, it is the only smallholding / farm in the area that has not yet been developed for a diversified use. This aspect was highlighted in the motivation report. The objector's property is advertised as offering eight tourist accommodation establishment suites of 45m² each, added to which "cosy family gatherings and functions, conferences, workshops and seminars for groups of up to 21 guests", added to which are spa and chiropractic treatments.</li> </ul>



	<p>➤ The guest house is described as a tourist accommodation establishment in the application. It is misleading as it does not comply with the definition of a guest house.</p> <p>➤ The tourist accommodation with ancillary restaurant, bar and facilities is a hotel and it cannot be permitted on an agricultural property.</p> <p>➤ The proposed farm stall will not be able to sell 50% of its produce from products produced on the farm, as there are no agricultural activities.</p> <p>○ Traffic counts were done on Thursday, 28 July 2022, which is a weekday in winter when visitor numbers will be low, and it is a misrepresentation of the background traffic situation.</p> <p>○ The TIS does not consider the advertised guest numbers and assumes that visitors will only be generated by the uses as calculated. It does not calculate the potential visitors attracted by all combined uses and the related use areas.</p> <p>○ More parking should be provided for the potential visitors, including the shed which is arguably a function venue.</p> <p>○ Upgrading of the R44 with a right turn lane and as proposed in the TIS should occur prior to any of the uses being permitted on the farm.</p> <p>○ The proposed uses are not desirable and have already caused noise disturbances to the surrounding properties. The noise</p>	<p>○ The farm is insufficiently developed with farm infrastructure and a shed is essential to improving its agricultural potential. No farm equipment, produce, materials, or input goods, e.g., fertilizers, seed, can be stored.</p> <p>○ As indicated above, the area proposed for the consent and additional uses is less than the area intended for agricultural use. It is however true that the revenues to be generated from the consent uses will probably exceed the revenues possible from the agricultural uses.</p> <p>○ None of the farms in the Stellenbosch Municipal area that offers similar tourist consent uses is zoned for a mixed-use or a hotel, e.g., Spier, Delaire Graff, Webersburg, Stellenbosch Vineyards, Alluvia, Banhoek Chilli Oil, etc.</p> <p>○ At the time of preparing and lodging the application there were none of the mentioned illegal uses on the property.</p> <p>○ While it is potentially true that the shed might be used for events and as a tourist facility, the shed is also essential for the development of the farm, for agricultural purposes. Should the shed in future be used illegally for functions, then the Municipality must act according to the prescriptions of the Bylaw.</p> <p>○ The application is for a tourist accommodation establishment as defined in the Zoning Scheme Bylaw and it is in keeping with the relevant definition. It is not a hotel, and a rezoning is not required. The extent and capacity of the proposed tourist accommodation establishment is in keeping with the capacity and scale of many others in the Stellenbosch area.</p> <p>○ Following the agricultural development and improvements as indicated above, together with the food and baked products produced on the farm, the farm stall can be stocked with at least 50% of its products off the farm.</p> <p>○ The TIS has been updated in line with the latest SDP as annexed, and the amended motivation report. Traffic counts, as indicated in the TIS, are for determining existing traffic use on the main road. It is not for determining visitor traffic. Thus, a weekend count would have led an unrealistically low background traffic volume determination.</p>
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	<p>management plan was not made available to the objectors.</p> <ul style="list-style-type: none"> <li>o A more dangerous intersection will be created on the R44, and the shared access road will be congested with negative effect on the objector property.</li> <li>o The application for consent use should be refused.</li> </ul>	<ul style="list-style-type: none"> <li>o The upgrading of the R44 to create a safe intersection and access should be a condition of an approval as indicated, considering that the intersection / access also services three other properties with consent uses, including tourist facilities and accommodation. Upgrading of the access which is already used for tourist facilities and accommodation by three of the four properties which share it, will be essential.</li> <li>o The objection to the noise is a subjective and unsubstantiated comment. As indicated in the noise impact assessment (that was and is available to the interested and affected parties on request), the noise levels produced by live events on the farm are within acceptable limits.</li> <li>o The request for refusal of the application reflects badly on the objector, who already operates a tourist accommodation establishment and function venue, to which it objects.</li> </ul>
Stellenbosch Interest Group	<ul style="list-style-type: none"> <li>o The SIG finds the application as problematic as the previous one and the objections in the letter of 19 December 2022 remain equally valid regardless of the amendments to the application.</li> <li>o The R44 abutting the property is a Grade IIIA scenic route and the proposed 2,1m palisade fence will be unsightly, create a precedent, and is not in character with the surrounding rural landscape.</li> <li>o The Western Cape Rural Development Guidelines require close alignment of development within local context of environmental characteristics.</li> <li>o The proposed buildings on the property are out of character with the area and will be visible and obtrusive and should not be considered unless subject to a prior visual impact assessment.</li> </ul>	<ul style="list-style-type: none"> <li>o The objections remain irrelevant and symptomatic of an "any change is undesirable" attitude held by the SIG.</li> <li>o The surrounding landscape is fully developed and yet the R44 as a scenic route has its current grading, i.e., the use of the existing buildings for the tourist facilities and accommodation and the addition of a bona fide agricultural building will have no negative effect on the scenic value of the route.</li> <li>o While a solid 2,1m high wall could have a negative effect on the scenic route, the palisade wall mitigates the negative effects and solves the needs of the owner and desires of the road users not wanting to see a solid white wall. The limited effect of the fence is clearly illustrated on the attached photographs thereof.</li> <li>o As indicated in the motivation report and herein above, this is the only smallholding in the immediate area that has not yet been granted permission for tourist facilities and accommodation. Thus, the application is in line with surrounding land use and in keeping with the Guidelines which promote the diversification of use on farms.</li> </ul>



	<ul style="list-style-type: none"> <li>o The agricultural shed will change the character of the landscape considerably and it is out of keeping with the agricultural potential of the property and its use therefore questionable.</li> <li>o Consent uses on the farm will dominate the use and the primary use will no longer be agricultural, as the vineyards have already been removed to be replaced with buildings.</li> <li>o The application is silent on and does not reflect the true extent of the existing lawful uses, the existing illegal uses, the true purpose of the proposed buildings and structures, and falsely states that the primary use of the property is agriculture, for which the consultant should be sanctioned.</li> </ul>	<ul style="list-style-type: none"> <li>o The farm stall is in keeping with the surrounding uses, buildings, and structures. The entire route / road is characterised by visible buildings along it and yet the road is a graded scenic route as indicated above.</li> <li>o As above, the shed is an essential building for the agricultural use of the property and in keeping with the existing buildings and structures along the road.</li> <li>o The shed is a primary use, and no application is required for it. Application has been made for the removal or suspension of the restrictive title conditions which hinder is construction.</li> <li>o As indicated above, the agricultural use of the property remains the primary use and the SIG errs in stating that the consent uses will predominate.</li> <li>o As above, at the time of preparation and submission of the application, the illegal uses did not exist. Moreover, the SIG errs in its determination of the extent of the consent uses and the agricultural uses. If the SIG feels so strongly about prosecution of the consultant, it can submit a complaint to the professional body, SACPLAN, or any other relevant body to investigate the matter and to act accordingly.</li> </ul>
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### 3. Government related inputs received

- a) The **Department of Transport and Public Works: Western Cape Government** has no objection to the proposal subject to conditions (see **ANNEXURE G** for letter dated 20 December 2023).

### 4. Comments from internal service departments

- a) The **Manager: Spatial Planning** did not support the proposal (see **ANNEXURE H** for memo dated 08 December 2023).
- b) The **Directorate: Infrastructure Services** supported the proposal subject to conditions (see **ANNEXURE I** for memo dated 17 January 2024).

## PART G: ASSESSMENT OF LAND USE AND LAND DEVELOPMENT APPLICATION

### 1. Legislative and Policy Context of land use and land development application

The legislative, principles, policies, guidelines and plans which are considered as relevant to the application under consideration and land use application, are as follows:

- o Stellenbosch Municipality Land Use Planning Bylaw, 2023
- o Stellenbosch Municipality Spatial Development Framework, 2023
- o SPLUMA and Chapter VI of the Land Use Planning Act, 2014 (Act 3 of 2014)
- o Western Cape Land Use Planning Guidelines for Rural Areas

### 2. Assessment of grounds of the land use and land development application

#### 2.1 Land use principles

The proposal has significant bearing on development principles referred to in Section 42 of the Spatial Planning and Land Use Management Act (SPLUMA) (Act 16 of 2013) and Chapter VI of the Western Cape Land Use Planning Act (LUPA) (Act 3 of 2014):

- o Spatial Justice
- o Spatial Sustainability
- o Efficiency
- o Spatial Resilience
- o Good Administration

#### 2.2 Applicable MSDF and LSDF's

The proposed development is located outside the urban edge of the Stellenbosch node and within the rural area of Stellenbosch, along the R44 to Somerset West and along a declared scenic route. Scenic routes have land use and design criteria contained in the Heritage Inventory that relates to the protection of the environmental and agricultural quality of the area.

The objectives and principles of the Stellenbosch Municipality Spatial Development Framework highlights the following related to the proposed development: 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.

### 2.3 Applicable planning policies and guidelines

The Western Cape Land Use Planning Guidelines for Rural Areas set out guidelines for Tourist Accommodation in areas outside the urban edge. The proposed development does not align with key guideline implementations covered in this framework. Tourist accommodation should preferably make use of existing buildings or new buildings on disturbed footprints and these should take the natural and heritage significance of the site into consideration. Rural place-bound businesses (including farm stalls and farm shops, restaurants and venue facilities) of appropriate location and scale to complement farming operations, and not compromise the environment, agricultural sustainability, and the scenic, heritage and cultural landscape. Furthermore, various forms of leisure and tourism activities across the rural landscape, of appropriate location, scale, and form that does not compromise the environment, agricultural sustainability, and the scenic, heritage and cultural landscape can be supported.

The current uses are not in keeping with the scale and agricultural activities on the subject property. There are extensive buildings and renovations illegally done that detracts from the objective of the Rural Guidelines to promote sustainable development in appropriate locations and to maintain the integrity, authenticity and accessibility of the significant farming and rural landscapes of scenic and cultural significance in the Cape Winelands area.

### 2.4 Service infrastructure capacity and sustainability

The application was circulated to the Stellenbosch Municipality Engineering Services, and they supported the application subject to conditions. The Electrical services department indicated that the subject property is outside Stellenbosch area of supply, therefore all Electrical requirements should be directed to ESKOM (See **Annexure J**).

### 2.5 Any investigations carried out in terms of other laws that are relevant to the consideration of the subject application (e.g., EIA, TIA, HIA etc.)

A Traffic Impact Study was done by Urban Development Solutions, dated 15 September 2023 to investigate the expected transport related impacts the proposed development will have on the existing road network in the area. The report concluded that should this proposed development be considered for approval, the minimum required upgrade would thus be the provision of a dedicated right-turn lane (based on deceleration) along the northern R44- approach to the access-intersection, to address safety. Furthermore, the increased right-turn movement from the access-approach could pose a safety risk (See **Annexure J**).

### 2.6 The proposal (the applicable provisions of the zoning scheme)

The subject property is zoned Agriculture and Rural Zone and in terms of the zoning of the subject property, the tourist facilities and tourist accommodation establishments are a consent use in terms of the zoning scheme by-law where Section 213 stipulates:

- When approving new consent uses the Municipality shall have regard for the objectives of the zone namely the preservation of agricultural land and the continued use of farmland for agriculture.
- The scale of the individual buildings used for consent uses shall remain in keeping with the character of buildings on the land unit, the character of the area and non-agricultural land uses may not dominate the farm activities or buildings form.
- These consent uses may only be undertaken from a land unit where the primary use of the land unit is bona fide agriculture/and or natural environment and where the proposed activity is subservient to these two primary land use activities on the land unit. If agriculture or natural environment use is not conducted from the farm, or if agriculture or natural environment use ceases to be practiced on the land unit, a rezoning is required before non-agricultural consent uses may be exercised.



- As far as possible, the consent uses should be undertaken from existing buildings on the property which are no longer utilised for their original purpose, and the Municipality may approve internal alterations and additions to these buildings within the parameters of this Scheme.
- New buildings may only be approved if the Municipality is satisfied that there are no other suitable unused buildings on the land unit which can be used for this purpose, or where the location or configuration of existing buildings are obviously unsuitable or undesirable for the proposed use, or where the proposed new buildings are significantly more desirable given the purpose of the Agriculture and Rural zone.

The proposal involves the development of a tourist accommodation facility that can accommodate 36 guests (18 bedrooms) and tourist facilities in the form of a restaurant, farm stall, wellness centre/spa, outdoor garden venue and a function/wedding venue that can accommodate a total of 264 guests, as well as for the right to host more than one event per year in the facilities. In order to facilitate the development of the farm permission is required in terms of restrictive title deed conditions and for the departure of building lines and the height restriction of the fence.

Apart from all the land uses for which applications have been made, there is also a reference on page 13 of the motivation report to the following areas / uses:

1	Bar	34 m <sup>2</sup>
2	Restaurant covered patio	115 m <sup>2</sup>
3	3 Bedroom staff accommodation	Unknown (in the 12-bedroom house)
4	View deck	50 m <sup>2</sup>
5	Terrace	52 m <sup>2</sup>
6	Boma	50 m <sup>2</sup>
7	Agricultural shed	826 m <sup>2</sup>
8	Covered stoep	191 m <sup>2</sup>
9	Store and labourers' room	260 m <sup>2</sup>
10	2 Bedroom staff cottages	187 m <sup>2</sup>

And reference is made to the bottling of olive oil and to use the distillery for the making of lavender oil, but the application has been amended to omit the distillery and rather propose the wellness centre/spa. A new farm shed is indicated on the site plan, and although floor plans have also been submitted, the motivation report does not address the use of the shed. No reference is made to conference facilities and a children's play area although these facilities are advertised on the website of the venue.

Knowledge is taken of the other uses, but they are not considered and discussed as part of the application. Complaints from surrounding neighbours related to the illegal construction and land uses and activities on the property are on record. The municipality is also aware that the activities continue.

The rational is to support the use of existing structures rather than to allow the construction of any new buildings/structures on the property due to the skewed balance between non-agricultural and agricultural activities.

### **3. General desirability in accordance with possible impacts on neighbouring properties and surrounding areas.**

#### **3.1 Combability with surrounding properties**

The subject property is located in a predominantly agricultural area, with wine farms and tourist accommodation establishments on the surroundings. However, the type of land uses and all the

different activities as proposed is not desirable on the subject property as it is merely 4.2ha in size and the proposed uses are not subservient to the agricultural activities on the subject property. Due to the location and distance to neighbouring properties, the scale and form of the proposed development is thus not compatible with the rural landscape.

### **3.2 Impact on safety, health and wellbeing of the surrounding community**

There is no reason to believe that the proposed development will result in any changes to the safety and security in the area except for the increased right turn movement from the access approach which could pose a safety risk should the minimum required upgrades not be provided, as stipulated in the traffic impact assessment.

The scale of proposed development might impact on noise levels and the integrity of the rural area with the introduction of undesirable forms of development and the crowdedness of different uses proposed on the subject property.

## **4. Assessment of comments on application**

The interested and affected parties as well as community organisations raised concerns regarding issues relating to the purpose of the zoning applicable to the property is to protect agricultural land, rural landscapes & biodiversity, all of which will be compromised by the proposed consent uses. It is evident from the application that the consent uses will be the primary use of the property and it will affect the surrounding properties.

The palisade fence will detract from the rural character of the area and the scenic value of the R44 and the departure application to increase the height of the fence cannot be supported.

Illegal building work already occurred on the property and the uses commenced prior authorisation and this has further supported the idea that the application is misleading, inaccurate and incomplete. The community does not have confidence in the actions of the owner. The traffic count was done in a weekday in winter when visitors numbers are low, therefore the assumption is made of the misrepresentation of the background traffic situation and therefore the request that recommended upgrades should occur prior to any of the uses being permitted on the farm.

All the interested and affected parties as well as other internal and external department's comments were taken into account and will be imposed as conditions of approval, where necessary.

## **5. Additional planning evaluation relating to restrictive title deed conditions**

The title deed contains title deed restrictions which refers to the permission of the Controlling Authority in terms of Section 11 of Act 21 of 1940. These restrictive title deed conditions are contained in the title deed No: T018186/2016, clause D (1) - (4) on page 2, which reads as follows:

- o D (1) – Die grond mag nie onderverdeel word nie, tensy die skriftelike goedkeuring van die beherende gesag soos omskryf in Wet nr 21 van 1940, soos gewysig, eers verkry is.
- o D (2) – Die-grond mag alleen gebruik word vir residensiele- of landboudoeleindes en geen ander doel sonder die skriftelike toestemming van die beherende gesag soos omskryf in Wet nr 21 van 1940 nie.
- o D (3) – 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.
- o D(4) – Geen gebou of struktuur van enige aard mag opgerig word binne 'n afstand van 94,46 meter vanaf die middellyn van die Somerset-Wes-Stellenbosch Grootpad wat in 'n Noord-oostelike rihing langs die grens van die eiendom loop sonder die toestemming van die beherende gesag soos omskryf in Wet nr 21 van 1940 nie.

Section 45(6) of SPLUMA makes provision that "where a condition of title, a condition of establishment of a township or an existing scheme provides for a purpose with the consent or approval of the



administrator, a Premier, the township board or any controlling authority, such consent may be granted by the municipality and such reference to the administrator, a Premier, the township board or controlling authority is deemed to be a reference to the municipality". The Municipality will thus need to consider the necessary permissions/consents required in terms of the relevant title deed conditions.

Condition D (1) is restricting the property to be subdivided, which is not related to the proposal. In order to facilitate the tourist facilities as applied for, permission is required in view of the restriction on the non-residential use of the property in condition D (2). Furthermore, permission needs to be granted for the construction of new buildings and a boundary fence on the property in terms of condition D (3) and within 94,46m of the R44 centreline as determined in condition D (4). The delegated official as per the System of Delegations of the Municipality will thus consider the required permission for the said uses in terms of the title deed conditions based on the decision of the Municipal Planning Tribunal on the application.

## PART H: SUMMARY OF KEY FINDINGS OF ASSESSMENT

After having independently considered and weighted all the relevant information the evaluation of the subject land use and land development application concludes that:

- 1) The proposals for the construction of new buildings to facilitate the new tourist facilities such as the wedding venue (325m<sup>2</sup>) and wellness centre/spa (583m<sup>2</sup>) and for the conversion of the second dwelling into a farm stall (96m<sup>2</sup>) are in conflict with the applicable policies and relevant guidelines as the scale thereof, together with the other proposed uses does not support the objectives envisaged for properties in the agricultural/rural zone.
- 2) Should all proposals be supported, the land uses on the farm will not be subservient to the farming activities and the number of buildings will not be in keeping with the character of buildings on farmland and the non-agricultural land uses will dominate the farm activities or farm buildings.
- 3) The proposal in its entirety will negatively impact on the surrounding area or wider rural, scenic and cultural landscape of Stellenbosch.
- 4) Tourist guest accommodation can be accommodated in the main dwelling (24 guests) and converted additional dwelling / manager's house (6 guests) which has been converted for this purpose, although illegally, the use of existing buildings to provide opportunities for tourists and visitors to experience the tranquility of the rural areas of Stellenbosch are supported as tourist related facilities in the agricultural and rural zone.
- 5) The newly built three (3) bedrooms in the converted manager's / additional dwelling has been built without any building plan approval.
- 6) The conversion of the second dwelling to provide guest accommodation will have the effect that there is no main residence on the property for the use of the owner or manager. The conversion of existing buildings to other uses can only be supported if there are adequate buildings to cater for the primary uses of the subject property.
- 7) The restaurant and outdoor picnic and garden area are served from the kitchen in the main dwelling and provide services to overnight guests and day visitors and are regarded as tourist facilities ancillary to the proposed tourist accommodation establishment which does not provide self-catering units.
- 8) Provision has been made for employee housing in the form of 2-bedroom cottages and three bedrooms in the main dwelling, although the exact numbers are not clear from the application.

- 9) The events and outdoor dining overlay zone in the zoning scheme bylaw allows 12 place-bound events per calendar year on an agricultural and rural zoned property link to certain performance parameters. More than one event per year can thus be supported but the number of complaints received on disturbance and noise levels must be considered.
- 10) There will be limited impact on existing infrastructure.
- 11) The proposal will result in additional traffic to be generated and increased right turn movement from the access approach which could pose a safety risk should the minimum required road upgrades not be provided.
- 12) Noise pollution can be mitigated as recommended by a Noise Management Plan (attached as **Annexure L**).

## PART I: RECOMMENDATION

1. That the applications made in terms of Stellenbosch Municipal Land Use Planning By-Law, 2023, on Farm 528/5 Stellenbosch Division for the following:

1.1 **Consent Uses** in terms of Section 15 (2)(o) of the said by-law, for:

a) Tourist facilities to facilitate the following:

- i. New function/wedding venue (68-seater Chapel) (325 m<sup>2</sup>);
- ii. Convert the existing second dwelling into a Farm stall/shop (96 m<sup>2</sup>); and
- iii. Wellness centre/spa for the guests (583 m<sup>2</sup>).

b) Tourist Accommodation Establishment for three (3) bedrooms in the second dwelling with a capacity of six guests.

1.2 **Permanent Departure** in terms of Section 15 (2)(b) of the said by-law for the following:

- a) To construct a 2.1m high brick wall on eastern boundary of the property (adjacent to R44)
- b) To relax the building line from 5m to 0m in order to accommodate the new wellness centre/spa

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

## 2. Reasons for the above decision:

- 2.1 The accumulative scale and form of the proposed uses that would result from permitting new buildings/structures in addition to the existing building structures and its associated land uses are not in keeping with the rural landscape as it will lead to the overdevelopment and crowdedness of non-agricultural land uses on an agricultural and rural zoned property that will not be subservient to the primary land use and farming activities.
- 2.2 The conversion of the second dwelling to provide guest accommodation will result therein that there is no main residence on the property for the use of the owner or manager. The conversion of existing buildings to other uses can only be supported if there are adequate buildings to cater for the primary uses of the subject property.



2.3 The boundary wall (proposed 2,1m palisade fence with brick piers) will detract from the rural character of the area and the scenic value of R44.

3. That the applications made in terms of Stellenbosch Municipal Land Use Planning By-Law, 2023, on Farm 528/5 Stellenbosch Division for the following:

3.1 **Consent Uses** in terms of Section 15 (2)(o) of the said by-law, for:

a) Tourist Accommodation Establishment for the following:

- i. Twelve (12) bedrooms with a capacity of 24 guests in the converted main dwelling
- ii. Three (3) bedrooms with a capacity of six guests in the converted manager's / additional dwelling

b) Tourist facilities to facilitate a:

- i. Restaurant limited to 90 m<sup>2</sup> providing seating for 30 guests; and
- ii. Outdoor garden venue limited to 314 m<sup>2</sup> providing seating and picnics to 110 guests.

3.2 **Occasional uses** to allow for a maximum of 24 events per calendar year on Farm 528/5 for live music, art exhibition and functions not extending beyond 18:00 in the restaurant and outdoor garden venue.

**BE APPROVED** in terms of Section 60 of the said bylaw, subject to conditions in terms of Section 66 of the said Bylaw.

#### 4. Conditions of Approval:

- 4.1 The approval only applies to the consent use application under consideration and shall not be construed as authority to depart from any other legal prescriptions or requirements from Council or other legislation or By-laws or Regulations that may be applicable.
- 4.2 A detailed site development plan as contemplated in terms of Section 16 of the Zoning Scheme Bylaw, 2023 be submitted to the Municipality and approved prior to the submission of any building plans, which site development plan satisfactorily addresses, but are not necessarily limited to, all the conditions of this approval, compliance with relevant development parameters of the said Bylaw, any relevant matters relating to Section 16 (4) of the said By-law and specifically illustrate:
  - a) that sufficient on-site parking is provided in accordance with the provisions of the subject Zoning Scheme Bylaw;
  - b) the area of the outdoor garden venue;
  - c) areas and buildings used for agricultural activities; and
  - d) include appropriately labelled floor plans depicting all approved land uses as well as ancillary uses within the corresponding approved floor size limitations.
- 4.3 The enclosed gazebo in the garden be used only as an extended serving point of the Restaurant in the Tourist Accommodation Establishment to the outdoor garden venue and not be operated as a separate kitchen or restaurant.
- 4.4 No permanent structures be allowed in the outdoor garden venue except the existing enclosed gazebo.



- 4.5 An accurate register of events be kept and presented on request from an authorised official of the Municipality.
- 4.6 The approval granted shall not exempt the applicant from complying with any other legal prescriptions or requirements that might have a bearing on the proposed use.
- 4.7 A service agreement regarding the responsibilities for the provision of engineering services be entered into with the Municipality prior to the construction of any Engineering services or infrastructure in terms of Section 66(3) and Section 82(4) of the said Bylaw, which service agreement includes and complies with the conditions related to the approval as imposed by the Directorate Infrastructure Services in their memo dated 17 January 2024, attached as **Annexure H**.
- 4.8 No directional, advertisement, or any other signage be erected without the prior approval of the competent authority and the Municipality.
- 4.9 Development contributions are payable in accordance with the prevailing and applicable Council Tariffs at the time of payment prior to the transfer of the first property or submission of any building plans, whichever occurs first, or as may be agreed on in writing with the Director Infrastructure Services.
- 4.10 The land use shall not create any undue noise or be a nuisance to the neighbourhood and that precautionary measures be taken to avoid environmental noise pollution in terms of the Noise Control Regulations (PN627 dated 20 November 1998) made in terms of Section 25 of the Environmental Conservation Act, 1989 (Act No 73 of 1989).
- 4.11 All doors and windows must strictly be kept closed after 18:00 when the Restaurant makes use of amplified sound.
- 4.12 Building plans be submitted and approved by the Municipality prior to the commencing of any building works, including the preparation of land, which will only be approved when all relevant (or qualified) conditions of approval have been complied with.
- 4.13 Building plans be submitted for all changes of use in the existing buildings and which building plans be approved and related occupancy certificates be issued prior to the vesting of any of the related approvals.
- 4.14 The conditions related to the approval as imposed by the Western Cape Government: Transport Infrastructure contained in their letter dated 20 December 2023, attached as **Annexure G**, be complied with.

**5. The reasons for the above decision:**

- 5.1 The scale and nature of the proposed activities in the existing structures will not further compromise the rural character of the surrounding landscape.
- 5.2 The development proposal will be accommodated within existing structures and will consequently have no additional impact on the agricultural potential of the subject land unit as no viable agricultural land will be lost.

**6. Matters to be noted:**

- 6.1 Event permits be obtained for any events proposed on the subject property as prescribed in the relevant policy or bylaw of the Municipality.

6.2 Should, after following due process -

- a) The subject approved land use remains in breach of complying with any of the conditions of approval required for the vesting of the subject approval, and/ or
- b) The operational use of the tourist facilities be in breach of any of the conditions of approval, inclusive of persistent complaints of undue noise levels, and/ or
- c) The property be used for any unauthorised uses not permitted in terms of this approval, the authorised official of the Municipality will exercise its discretion in terms of Section 90(c) of the Municipal Land Use Planning By-Law (2023) to withdraw the subject approval granted and the building structures to be reverted to uses in line with the primary use of the property.

6.3 The delegated official to consider the permission required in terms of restrictive title deed condition clauses D (3) - (4) on page 2 of Title Deed No T18186/2016, to facilitate the approved land uses.

#### **PART J: ANNEXURES**

<b>ANNEXURE A:</b>	Locality Plan
<b>ANNEXURE B:</b>	Title Deed
<b>ANNEXURE C:</b>	Site Development Plan
<b>ANNEXURE D:</b>	Applicant's Motivation
<b>ANNEXURE E:</b>	Proof of Evidence (Public Participation, General Plan & Affidavit)
<b>ANNEXURE F:</b>	Objections and Applicants response thereto
<b>ANNEXURE G:</b>	Comment from the Western Cape Government: Transport Infrastructure
<b>ANNEXURE H:</b>	Comment from the Director: Spatial Planning
<b>ANNEXURE I:</b>	Comment from the Director: Infrastructure Services
<b>ANNEXURE J:</b>	Traffic Impact Assessment
<b>ANNEXURE K:</b>	Unauthorized building work notice
<b>ANNEXURE L:</b>	Noise Management Plan
<b>ANNEXURE M:</b>	Site inspection photos

#### **PART K: ASSESSMENT OF THE LAND USE AND LAND DEVELOPMENT APPLICATION**

##### **APPLICATION FOR CONSENT USE, DEPARTURE, & PERMISSION ON FARM 528/5 STELLENBOSCH DIVISION**

##### **AUTHOR OF PLANNING ASSESSMENT REPORT**

**NAME:** B. Zondo

**CAPACITY:** Senior Town Planner

**SACPLAN REGISTRATION:** C/8589/2017

**SIGNATURE** 

**DATE:** 08/03/2024



**PART I: SUBMISSION OF LAND USE AND LAND DEVELOPMENT ASSESSMENT REPORT**

**APPLICATION FOR CONSENT USE, DEPARTURE, & PERMISSION ON FARM 528/5 STELLENBOSCH DIVISION**

**Authorised Employee to assess and make a recommendation on a land use and land development application for consideration by the authorised decision maker:**

As the duly authorised official in terms of Section 56 of the Stellenbosch Municipal Land Use Planning Bylaw (2023) to assess and make a recommendation on the above planning application, the subject planning report is hereby submitted for consideration to the duly authorised decision maker in accordance with the Categorisation Model for Land Use and Land Development Applications as approved by the Stellenbosch Municipality in accordance with Section 69(1) of the said Bylaw.

In terms of the Categorisation Model duly approved in terms of Section 69(1) of the said Bylaw vide 11.8.1 and dated 24 May 2023, the subject application is categorised as follows:

**Category:** B4, O4


**Decision Making Authority:** MPT

**Rational:** The application is inconsistent with relevant guidelines and council policies, inclusive of SDF.

**Name:** Chrizelle Kriel

**Capacity:** Manager Land Use Management

**SACPLAN Registration:** A212/10

**Signature:** 

**Date:** 8 March 2024

**PART M: SUBMISSION OF LAND USE AND LAND DEVELOPMENT ASSESSMENT REPORT****APPLICATION FOR CONSENT USE, DEPARTURE, & PERMISSION ON FARM 528/5 STELLENBOSCH DIVISION****Administrator to Authorised Official / Municipal Planning Tribunal:**

It is hereby confirmed that proper notice was served of the Municipal Planning Tribunal meeting at which this land use and land development application will serve for consideration.

The land use and land development application will serve at the scheduled meeting of the Municipal Planning Tribunal on:

Date: **22 March 2024**

Name:

Capacity:

Signature:

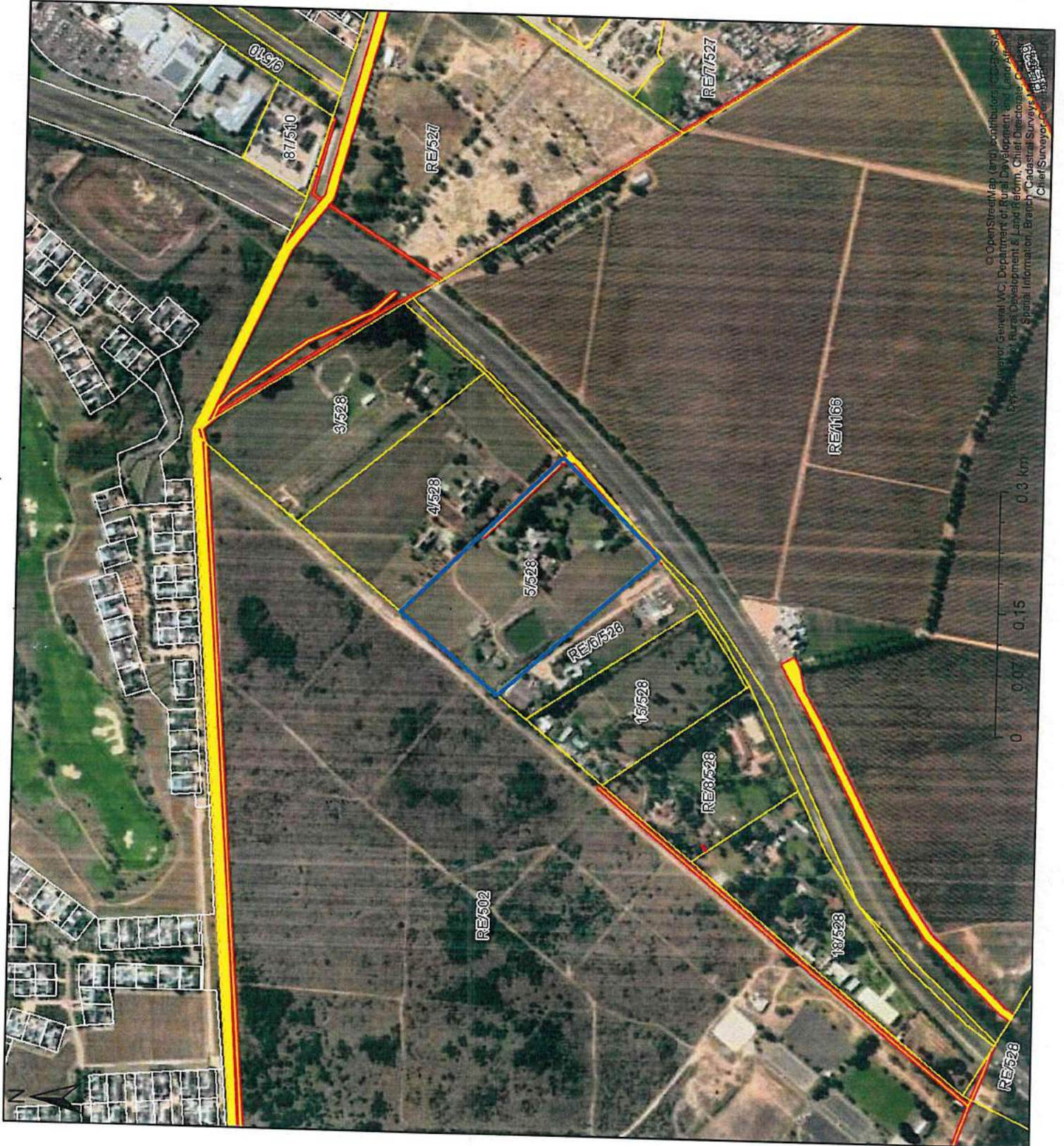
Date:

**ANNEXURE A: LOCALITY PLAN**



# Ptn 5 Farm 528, Stellenbosch

- Legend**
- Farm Portions
  - Erf
  - Servitude Area



Map Center: Lon: 18°50'6.2"E  
Lat: 33°58'56.8"S

Scale: 1:7 500

Date created: December 13, 2021



Western Cape  
Government

FOR YOU

Agriculture



# Ptn 5 Farm 528, Stellenbosch

## Legend

- Farm Portions
- Servitude Area



Map Center: Lon: 18°50'6.2"E  
Lat: 33°58'56.8"S

Scale: 1:2 500

Date created: December 13, 2021



Western Cape  
Government

FOR YOU

Agriculture

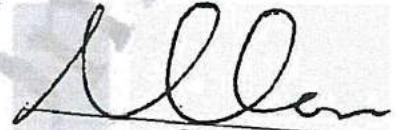
**ANNEXURE B: TITLE DEED**



145

MORKEL AND DE VILLIERS INC  
The Forum  
13 Drama Street  
Somerset West  
7129

Prepared by me



CONVEYANCER  
MICHAEL PAUL ROSE

Fees and Disbursements		
	Amount	Office fee
Purchase price/Value	R 17 500 000,00	R 3179,00
Mortgage capital Amount	R .....	R .....
Reason for exemption	Cat.....	Exempt i.t.o section..... Act.....

DATA/ CAPTURE

12 APR 2016

MAPAMA

T 00018186 201 6

## DEED OF TRANSFER

BE IT HEREBY MADE KNOWN THAT

MICHAEL PAUL ROSE

appeared before me, REGISTRAR OF DEEDS at CAPE TOWN, the said appearer being duly authorised thereto by a Power of Attorney which said Power of Attorney was signed at STELLENBOSCH on 29 February 2016 granted to him by

ELMO BIRK ESTERHUYSE

Identity Number 440723 5025 08 0

Married out of community of property

DATA/ VERIFY

2 U

OLIVIER YOLANDI

And the appearer declared that his said principal had, on 19 December 2015, 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:

**The Trustees for the time being of THE BENEDETTO TRUST  
Registration Number IT1586/2012**

its Successors in Office or assigns, in full and free property

1. PORTION 5 (PORTION OF PORTION 2) OF THE FARM NO-528, IN THE MUNICIPALITY AND DIVISION OF STELLENBOSCH, WESTERN CAPE PROVINCE

IN EXTENT 4,2827 (FOUR COMMA TWO EIGHT TWO SEVEN) Hectares

FIRST transferred and still held by Deed of Transfer Number T17448/1982 with Diagram LG No. 7888/54 annexed

**A. SUBJECT** to conditions referred to in Deed of Transfer no 1064/1941.

**B. SUBJECT FURTHER** to the following benefit contained in the Deed of Grant issued on 29 June 1891 in respect of the provisions of Act 15 of 1887, Stellenbosch Deeds of Grant, Volume 6 no 6, namely:

- "1. That all road and thoroughfares now existing on the land hereby granted whether they are described in the diagram or not shall remain free and uninterrupted."

**C. SUBJECT** to the condition in the said Deed of Grant, Stellenbosch Deeds of Grant, Volume 6 no 6 -

"Subject, however, to all such Duties and Regulations as are either already or shall in future be established with regard to such lands."

**D. SUBJECT FURTHER** to the conditions of subdivision imposed in Deed of Transfer no T17448/1982 by the controlling authority by virtue of Section 11 of Act 21 of 1940 upon approval of the subdivision of Portion 2 of the Farm 528, Stellenbosch, namely:

- "1. Die grond mag nie onderverdeel word nie, tensy die skriftelike goedkeuring van die beherende gesag soos omskryf in Wet nr 21 van 1940, soos gewysig, eers verkry is.
2. 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.
3. 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.



4. Geen gebou of struktuur van enige aard mag opgerig word binne 'n afstand van 94,46 meter vanaf die middellyn van die Somerset-Wes-Stellenbosch Grootpad wat in 'n noord-oostelike rigting langs die grens van die eiendom loop sonder die toestemming van die beherende gesag soos omskryf in Wet nr 21 van 1940 nie."

2. PORTION 2 OF THE FARM NO 1166, IN THE MUNICIPALITY AND DIVISION OF STELLENBOSCH, WESTERN CAPE PROVINCE

IN EXTENT 247 (TWO HUNDRED AND FORTY SEVEN) SQUARE METRES

FIRST transferred and still held by Deed of Transfer Number T41693/1999 with Diagram SG No. 973/1990 annexed

- A. **SUBJECT** to the conditions referred to in Deed of Transfer no T1064/1941.
- B. **SUBJECT FURTHER** to the condition in the said Deed of Grant dated 12 December 1890 (Stellenbosch Deeds of Grant Volume 6 no 4) issued by virtue of the provisions of Act 14 of 1887, which read as follows:

- I. That all roads and thoroughfares now existing on the land hereby granted, whether they are described in the diagram or not, shall remain free of uninterrupted.

- C. **SUBJECT FURTHER** to the condition contained in the said Deed of Grant dated 12 December 1890 (Stellenbosch Deeds of Grant Volume 6 no 4) which read as follows:

Subject, however, to all such duties and regulations as are either already or shall in future be established with regard to such lands.

- D. **SUBJECT FURTHER** to the condition referred to in the endorsement dated 5 June 1950 on said Deed of Transfer no T1064/1941 and which reads as follows:

By Deed of Transfer no 7800 dated 1950 Portion 2 thereby transferred is entitled to the benefit of a condition that the owners of the said remainders shall not have the right to erect any building or structure on such remainders within 100 yards of the eastern boundary of the said Portion 2, as will more fully appear on reference to the said Deed of Transfer.

- E. **SUBJECT FURTHER**, regarding the component marked ABCDEFGHJKLR on Diagram no 8786/1983, to the provisions of the endorsement dated 22 February 1967 on said Deed of Transfer no T1064/1941, which reads as follows:

ENDORSEMENT IN TERMS OF SECTION 31(6) OF ACT NO 47 OF 1937 (AS AMENDED).

The hereinmentioned property in extent approximately 2,87 morgen, has been expropriated by the Divisional Council of Stellenbosch in terms of Section 130 of Ordinance 15 of 1952 as amended. Vide Notice of Expropriation no H/9/3 dated 1.6.1965 filed as exprop. Caveat 760/65, plans in duplicate filed herewith.



WHEREFORE the said Appearer, renouncing all right and title which the said

**ELMO BIRK ESTERHUYSE, Married as aforesaid**

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

**The Trustees for the time being of THE BENEDETTO TRUST**  
**Registration Number IT1586/2012**

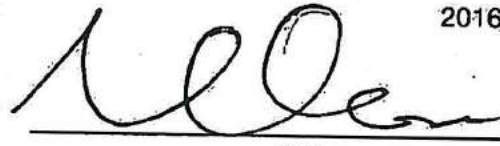
its Successors in Office or assigns, now is and henceforth shall be entitled thereto, conformably to local custom, the State, however reserving its rights, and finally acknowledging the purchase price to be the sum of R17 500000,00 (SEVENTEEN MILLION FIVE HUNDRED THOUSAND RAND).

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<sup>st</sup> April

2016

  
 q.q.

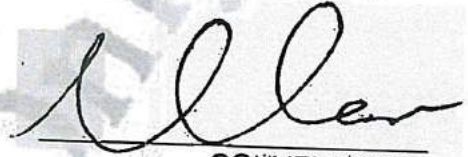
In my presence

  
 REGISTRAR OF DEEDS

145

MORKEĻ AND DE VILLIERS INC  
The Forum  
13 Drama Street  
Somerset West  
7129

Prepared by me



CONVEYANCER  
MICHAEL PAUL ROSE

## POWER OF ATTORNEY TO PASS TRANSFER

I, the undersigned

**ELMO BIRK ESTERHUYSE**  
Identity Number 440723 5025 08 0  
Married out of community of property

do hereby nominate and appoint MICHAEL PAUL ROSE and/or JULIAN WEIL and/or CHRISTO NIMB and/or JACOBUS JOHANNES PETRUS HORN 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:

The Trustees for the time being of THE BENEDETTO TRUST  
Registration Number IT1586/2012

the property described as:

1. PORTION 5 (PORTION OF PORTION 2) OF THE FARM NO 528, IN THE MUNICIPALITY AND DIVISION OF STELLENBOSCH, WESTERN CAPE PROVINCE

IN EXTENT 4,2827 (FOUR COMMA TWO EIGHT TWO SEVEN) Hectares

HELD BY Deed of Transfer Number T17448/1982

2. PORTION 2 OF THE FARM NO 1166, IN THE MUNICIPALITY AND DIVISION OF STELLENBOSCH, WESTERN CAPE PROVINCE

IN EXTENT 247 (TWO HUNDRED AND FORTY SEVEN) SQUARE METRES

HELD BY Deed of Transfer Number T41693/1999

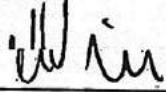
the said property having been sold by me on 19 December 2015, to the said transferee/s for the sum of R17 500 000,00 (Seventeen Million Five Hundred Thousand Rand);

  
GhostConvey 15.7.4.2


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 Stellenbosch on 29 February 2016  
in the presence of the undersigned witnesses.

AS WITNESSES:

1. 

X   
ELMO BIRK ESTERHUYSE

2. 



① The place of execution in deed of transfer differs with the one in P.A. What is the situation?

Deed duly amended

*Ching*  
C. N. N. N.  
C. N. N. N.

R. SHUQUILA

31/03/2016

For Information Only

For Information



Deeds Reg A/C No.  
CTN  
**145**

**M** MORKEL & DE VILLIERS INC/ING.  
TEL.: 021 850 9700  
31 MAR 2016

EXECUTION/  
UITVOERING

Reins. / Verw. Nr. **R155**

A. VIR AKTEKANTOOR GEBRUIK / FOR DEEDS OFFICE USE.

Datum in die ntt g / Date of lodgement

**LODGEN**  
2016-03-18  
**INGEDIEN**

A. VIR AKTEKANTOOR GEBRUIK / FOR CONVEYANCER'S USE  
(a) Gelyktydiges met ander registrasiekantore / deeltielig: Simuls with other registries / sectional titles:  
Kode / Code Firma / Firm Elendom / Property Kantoor / Office  
1  
2  
3  
4  
(b) Klient afskrifte van aktes permanent in Aktekantoor gelasseer:  
Client copies of deeds 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:  
Interdikte nagesien  
Interdicts checked  
Datum / Date Paraal  
Initials  
Opmerkings / Remarks  
Paraal  
Initials

Interdikte nagesien  
Interdicts checked  
Datum / Date Paraal  
Initials  
Opmerkings / Remarks  
Paraal  
Initials  
B. VIR AKTEKANTOOR GEBRUIK / FOR DEEDS OFFICE USE:  
(1) Dorp goedgekeur (geproklamaer)  
Township approved (proclaimed)  
(2) Begliffingserwe  
Endowment arven  
(3) Begliffing  
Endowment  
(4) Voorwaardes  
Conditions  
(5) Mikro  
Micro  
(6) Algemene Plan  
General Plan  
(7) Titelakte  
Title Deed  
(8) Verbands leen dorpslied  
Bonds against township title  
(9) Datum nagesien  
Date checked

Kantoor instruksies / Office instructions:  
Seksie / Section

(Kort beskrywing van eiendom (legs para 1 in Akte) / Brief description of property (mainly para 1 in Deed)  
① DPN 5 OF FROM 328  
② DPN 2 OF FROM 1166

Ondersoekers / Examiners  
Kamers / Rooms  
Pagina's / Pages  
1 K. SHUQUILA 1164 8 3 02  
2 C. MORRIS 1331  
3

B. VIR AKTEKANTOOR GEBRUIK / FOR CONVEYANCER'S USE  
Aard van Akte / Nature of Deed: TRANSFER  
Tg. v. lto THE BENEDETTO TRUST  
T 000018 18 6 / 2 016

1 Skakelings / Linking  
2 Titelaktes / Title deeds within  
3 17-11-1693/1999 in no ① of batch  
2. 17-11-1693/1999 in no ④ of batch

GELYKTYDIGES / SIMULS				EXAMINER'S NOTES INSIDE	
No. in stel / batch	Kode / Code	Name van Partye / Names of Parties	Naam van Firm / Name of Firm	Firma Firm No.	
1	VBI	Esterhuysen 168 (1)	De Villiers	145	
2	PBC	Esterhuysen 168 (2)	De Villiers	145	
3	ETC	Esterhuysen 168 (3)	De Villiers	145	
4	BC	Esterhuysen 168 (4)	De Villiers	145	
5	BC	Esterhuysen 168 (5)	De Villiers	145	
6	BC	Esterhuysen 168 (6)	De Villiers	145	
7	BC	Esterhuysen 168 (7)	De Villiers	145	
8	BC	Esterhuysen 168 (8)	De Villiers	145	
9					
10					
11					
12					

080006167320



**STELLENBOSCH**  
STELLENBOSCH • PNIEL • FRANSCHHOEK  
MUNISIPALITEIT • UMASIPALA • MUNICIPALITY

## CONVEYANCER CERTIFICATE

I/We MADELEIN WILLIAMS

*(conveyancer's name and surname)*

Practising at:

MADELEIN WILLIAMS ATTORNEYS AT 18 TAURUS STREET, CROYDON VINEYARD  
ESTATE, CROYDON, SOMERSET WEST, 7130

*(firm and place of practice)*

In respect of:

PORTION 5 (A PORTION OF PORTION 2) OF THE FARM 528, IN THE MUNICIPALITY AND  
DIVISION OF STELLENBOSCH, WESTERN CAPE PROVINCE, HELD BY DEED OF TRANSFER  
NUMBER T18186/2016

*(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. DEED OF TRANSFER NUMBER T18186/2016

2. DEED OF TRANSFER NUMBER T1064/1941

3. DEED OF TRANSFER NUMBER T17448/1982

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)*

*mw*





**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="checkbox"/> Y	N	T18186/2016, T17448/1982 - D(2) Approval required i.t.o Act 21/1940 for use other than residential or agricultural purposes.
2.	Building lines	<input checked="" type="checkbox"/> Y	N	T18186/2016, T17448/1982 - D(4) Consent required i.t.o Act 21/1940 to construct buildings within 94.46m of the center of the Somerset-West / Stellenbosch road, along the north-eastern boundary.
3.	Height	Y	<input checked="" type="checkbox"/> N	Not Applicable
4.	Number of Dwellings	Y	<input checked="" type="checkbox"/> N	Not Applicable
5.	Bulk floor area	Y	<input checked="" type="checkbox"/> N	Not Applicable
6.	Coverage/built upon area	Y	<input checked="" type="checkbox"/> N	Not Applicable
7.	Subdivision	Y	<input checked="" type="checkbox"/> N	T18186/2016, T17448/1982 - D(1) Consent required i.t.o Act21/1940 prior subdivision
8.	Servitudes that may be registered over or in favour of the property	Y	<input checked="" type="checkbox"/> N	Not Applicable
9.	Other Restrictive Conditions	<input checked="" type="checkbox"/> Y	N	T18186/2016, T17448/1982 - B & D(3) All roads and thoroughfares to remain uninterrupted. Approval required to construct any buildings.

*mcw*



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

*In respect of which it was found that there \*are/are no restrictive conditions with reference to Section 33(4) (a, b or c) of the Land Use Planning By-law (2015) registered against such property (ies) prohibiting it from being utilised/developed for the following purposes (as elaborated in the accompanying application):*

a.	Organ(s) of State that might have an interest in the restrictive condition	The relevant road authority - Act 21/1940
b.	A person whose rights or legitimate expectations will be affected by the removal/suspension/amendment of a restriction condition.	Not Applicable
c.	All persons mentioned in the deed for whose benefit the restrictive condition applies	The relevant road authority - Act 21/1940.

**C. PROCESS BY WHICH RELEVANT CONDITIONS WILL BE ADDRESSED** Not Applicable  
(please tick appropriate box)

Application in terms of Section 15 of the Stellenbosch Municipal Land Use Planning By-Law (2015) N.A	Notarial Deed of Cancellation (Submit Copy of Signed Agreement) N.A	Action by way of court order (Submit Copy of the Court Order) N.A	If Other, Please Specify N.A
------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------	-------------------------------------------------------------------	------------------------------

Signed at SOMERSET WEST (Place) on this 9th (Day) FEBRUARY (Month) of 2022

Full names and Surname: MADELEIN WILLIAMS

Signature: MWilliams

18 TAURUS STREET,  
CROYDON VINEYARD ESTATE,  
CROYDON, 7130

Firm Postal Address:

MADELEIN WILLIAMS ATTORNEYS  
18 TAURUS STREET  
CROYDON VINEYARD ESTATE  
CROYDON  
7130

*Kindly endorse certificate by affixing official stamp here and initial here*

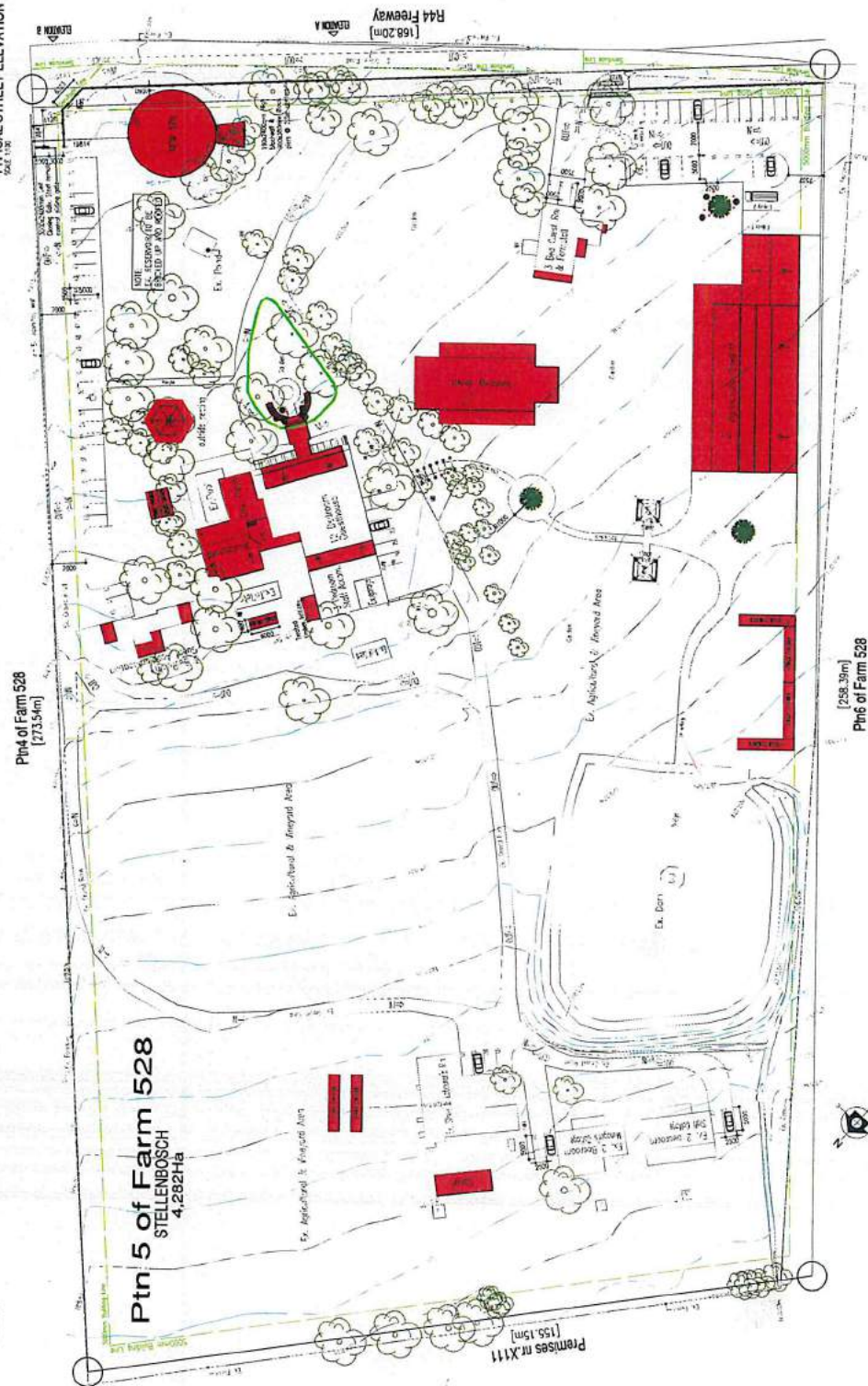
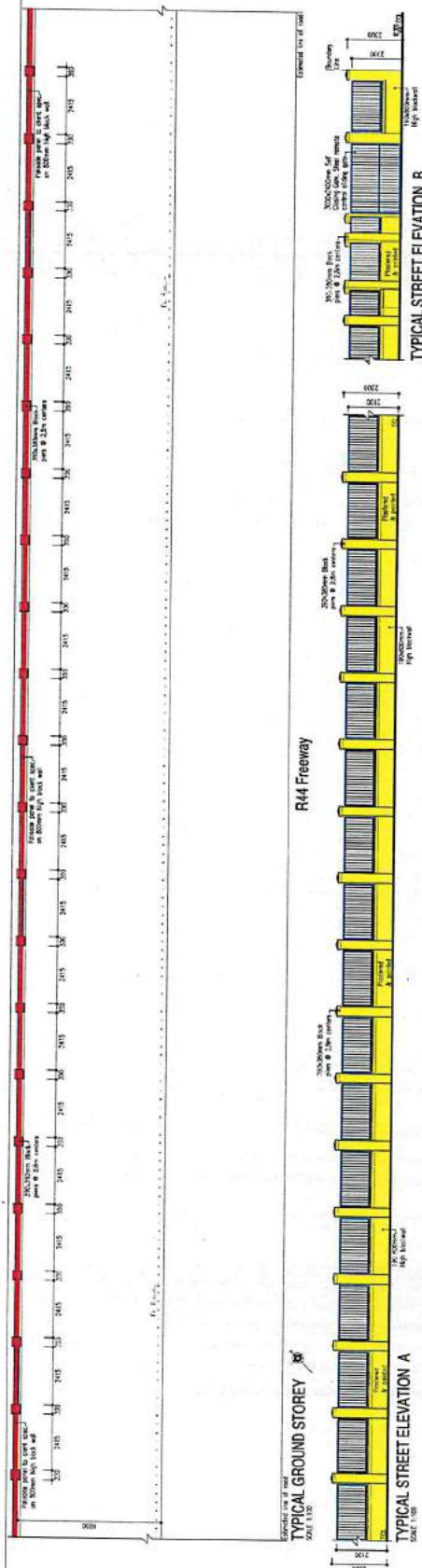
Tel: 021 843 3036

Email: madelein@madeleinwilliams.co.za

Cell: 072 404 3003



**ANNEXURE C: SITE DEVELOPMENT PLAN**



**SITE PLAN**  
SCALE 1"=50'

[258..39m]  
Pln6 of Farm 528

VARIATIONS TO APPROVED PLANS FOR CONSTRUCTION			
REV:	DATE:	DRAWN:	DETAILS:
DRAWN: L A		HOUSE AREAS	
DESIGNER:		SITE AREA 47820sq/m	
CLIENT:			

**PROJECT:**  
**PROPOSED SITE DEVELOPMENT**  
**PLAN FOR THE BENEDETTO**  
**TRUST ON PTN 5 OF FARM**  
**28 STELLENBOSCH**

**DRAWING :**  
**SITE DEVELOPMENT PLAN**

SHEET 1 OF 11	SCALE : As Shown	REVISION : 2.0
DATE: 8/09/2023	FILE : 528-WENTZ	DRAWING NO : 22-30

PO BOX 5456 WEST BEACH CELL 002 937 7755 FAX: 006 694 1667  
E-MAIL: lvelledesign@msn.com SACAP Pr. No. 571554



2. E. Value	4.0
3. E. Value	3.3
4. E. Value	2.2
5. E. Value	0.7

#12 TO MAN HOIST TO BE RUN  
 250'WS ABOVE GROUND LEVEL OF  
 MINERAL CONNECTION  
 #11 TO GROUND TO BE RUN  
 150'WS ABOVE G.L.G AT MAIN  
 ENTRANCE COMPANY  
 ALL KITCHEN AND BEDROOM  
 CUPBOARDS TO BE DONE BY  
 SPECIALIST  
 ALL BUILDING WORK TO COMPLY  
 WITH SANS 1040 REQUIREMENT.  
 WATERPROOFING TO BE DONE BY  
 SPECIALIST

lighting is 16,000 lux per m<sup>2</sup> per day. The 100% hot water system is to be wrapped with a Silver Back available branding element and a

1. **ALL STRUCTURAL WORK SHALL BE VERIFIED BY A LICENSED STRUCTURAL ENGINEER.**



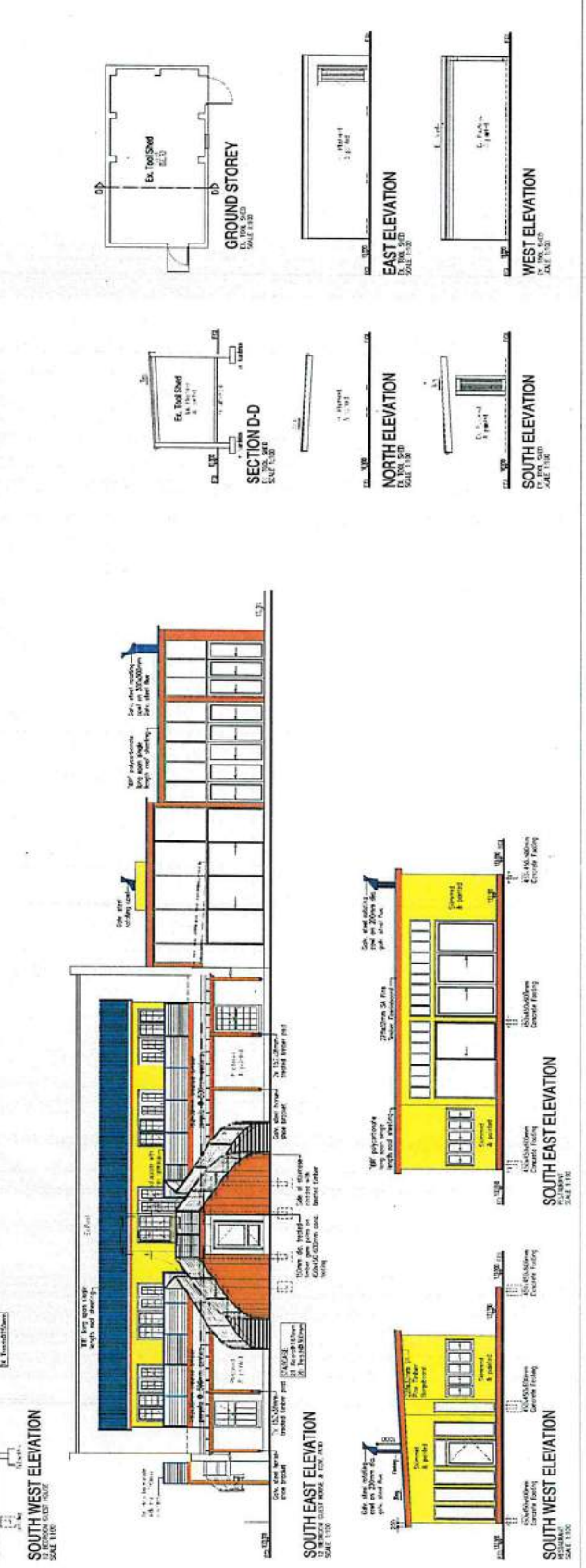
PARKING REQUIREMENTS:	
2xLoading Bay Size 8000x3500mm	105m <sup>2</sup>
7xParking Bay Size 5000x2500mm	34m <sup>2</sup>
2xDisabled Bay Size 5000x3500mm	90m <sup>2</sup>
	115m <sup>2</sup>
	1016m <sup>2</sup>
PERMISSIBLE	
Guest & Staff Cottages	50m <sup>2</sup>
1 Bay per Room/Suite	52m <sup>2</sup>
Total 27 Rooms = 12 Bays	325m <sup>2</sup>
Restaurant & Conv. Patio	126m <sup>2</sup>
Wedding Venue	50m <sup>2</sup>
1 Bay per 6 seats	826m <sup>2</sup>
Farm Stall	191m <sup>2</sup>
Spa	260m <sup>2</sup>
4 Bays per 100m <sup>2</sup> = 4 Bays	30m <sup>2</sup>
2.5 Bays per consulting room & 0.5 Bays	187m <sup>2</sup>
Per room exceeding 5 Rooms	148m <sup>2</sup>
8 Rooms = 14 Bays	216m <sup>2</sup>
Total = 65 Bays	54m <sup>2</sup>
	428m <sup>2</sup>
	434.3m <sup>2</sup>
ACTUAL	
Guest & Staff Cottages	
Restaurant & Conv. Patio	
Wedding Venue	
Farm Stall	
Spa	
Total = 78 Bays	

AREAS:	
3 BEDROOM GUEST ACCOMMODATION	105m <sup>2</sup>
BAR	34m <sup>2</sup>
RESTAURANT	90m <sup>2</sup>
RESTAURANT CONV. PATIO	115m <sup>2</sup>
TOILETS	1016m <sup>2</sup>
12 BEDROOM GUEST HOUSE	50m <sup>2</sup>
& 3 BEDROOM STAFF ACCOM.	52m <sup>2</sup>
NEW DECK	325m <sup>2</sup>
TERRACE	126m <sup>2</sup>
WEDDING VENUE	50m <sup>2</sup>
3 BEDROOM GUEST & FARM STALL	826m <sup>2</sup>
BOVA	191m <sup>2</sup>
AGRICULTURAL SHED	260m <sup>2</sup>
CON. STOPS	30m <sup>2</sup>
STORE & LABOURER'S RM	187m <sup>2</sup>
CARPENT	148m <sup>2</sup>
2 BEDROOM STAFF COTTAGES	216m <sup>2</sup>
2 BEDROOM MANAGERS COTTAGES	54m <sup>2</sup>
STORAGE CONTAINERS	428m <sup>2</sup>
STORAGE	434.3m <sup>2</sup>
SPA	
TOTAL	

# SCHEDULE OF RIGHTS

SITE AREA	42 820 sq/m
ZONING	AGRICULTURAL (A5)
PERMISSIONS	12, 15, 15 & 27
RESTRICTIONS	12, 15, 15 & 27
AGRICULTURAL SHED - 12	
FARM STALL - 12	
2 BED MANAGERS COTTAGES - 15	
2 BED LABOURER COTTAGES - 15	
6 BED LABOURER BAYS - 15	
3 BED STAFF ACCOMMODATION - 15	
12 BED GUEST HOUSE - 15 (10 COTTAGES)	
3 BED GUEST ACCOMMODATION - 15 (6 COTTAGES)	
3 BED GUEST ACCOMMODATION - 15 (6 COTTAGES)	
PERMISSIBLE	ACTUAL
MAXIMUM FLOOR SPACE for all dwelling units	1424m <sup>2</sup>
HEIGHT	7.695m
RESTRICTION	11m top of Road

VARIATION TO APPROVED PLANS FOR CONSTRUCTION	
REV.	DATE
1	09/09/2023
2	09/09/2023
3	09/09/2023
4	09/09/2023
5	09/09/2023
6	09/09/2023
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100	09/09/2023





[illegible]

VARIATIONS TO APPROVED PLANS FOR CONSTRUCTION			
REV:	DATE:	DRAWN:	DETAILS:
DRAWN:	L A	HOUSE AREAS	
DEVELOPER		SITE AREA	4380sq/m

**PROJECT :**  
**PROPOSED SITE DEVELOPMENT**  
**PLAN FOR THE BENEDETTO**  
**TRUST ON PTN 5 OF FARIM**  
**5228 STELLENBOSCH**

DRAWING :  
SITE DEVELOPMENT PLAN

SHIRTS 2 OF 11	SCALE : As Shown	REVISION : 2.0
DATE: 08/09/2023	FILE : 528-WENTZ	QUANTITY No : 22-30

PO BOX 39066 INDIANAPOLIS, IN 46239-0666 FAX 317-546-1867  
E-MAIL: [info@designs-usa.com](mailto:info@designs-usa.com) 561429 Pp. No. 571255

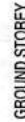


**ATTIC FLOOR**  
CLUSTERING & RESTAURANT  
SCALE 1:1125

**GROUND STOREY**  
GLASSWALLS & RESTAURANT  
SCALE 1:110







VARIATIONS TO APPROVED PLANS FOR CONSTRUCTION			
REV:	DATE:	DRAWN:	DETAILS:
DRAWN: L A		HOUSE AREAS	
DESIGNER:		SITE AREA	4380sq/m
CLIENT:			

**PROJECT:**  
**PROPOSED SITE DEVELOPMENT  
PLAN FOR THE BENEDETTO  
TRUST ON PTN 5 OF FARM  
528 STELLENBOSCH**

DRAWING :  
SITE DEVELOPMENT PLAN

SHEET 10 OF 11	SCALE : As Shown	REVISION : 2.0
DATE: 08/09/2023	FILE : 528-WDWTZ	DRAWING No : 22-30

PO BOX 20466 WESTTEACH CELL 907 755 FAX: 408 694 1867



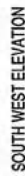




SECTION A-A



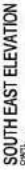
**NORTH EAST ELEVATION**



**SOUTH WEST ELEVATION**



**NORTH WEST ELEVATION**



**SOUTH EAST ELEVATION**  
CHART 1



SECTION B-B



SECTION A-A



GROUND STOREY

REV:	
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# PROPOSED SITE DEVELOPMENT

SITE DEVELOPMENT PLAN

6 OF 11 As Shown 2.0

[illegible]

DESIGN



[illegible][illegible]

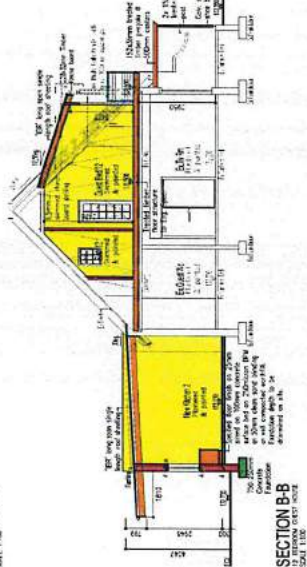
**PROJECT:**  
PROPOSED SITE DEVELOPMENT  
PLAN FOR THE BENEDETTO  
TRUST ON PTN 5 OF FARM  
228 STELLENBOSCH

**DRAWING:**  
*SITE DEVELOPMENT PLAN*

SHEET 4 OF 11	SCALE : As Shown	REVISION : 2.0
DATE: 08/09/2023	FILE : 528-MENTZ	EXPANSION : 22-30



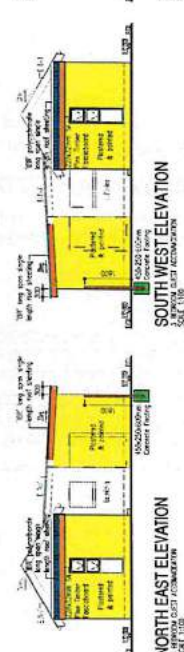
**SECTION A-A**  
12 HIGHWAY GUT SIDE  
CROSS 1-110



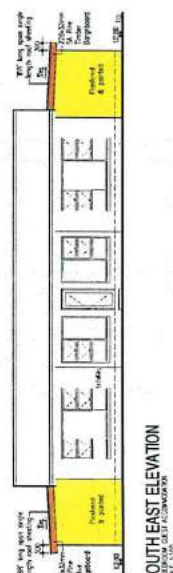
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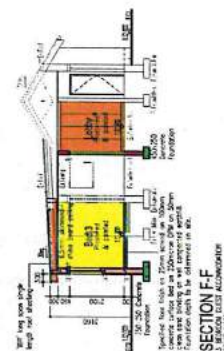
**GROUNDSTOREY**



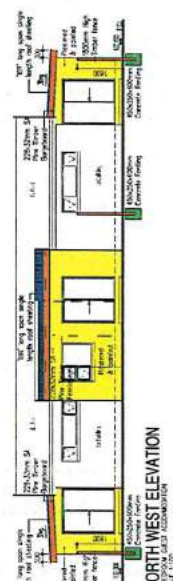
**NORTH EAST ELEVATION**  
HYDROM. C. 531 ACROSS THE  
AT 1:100



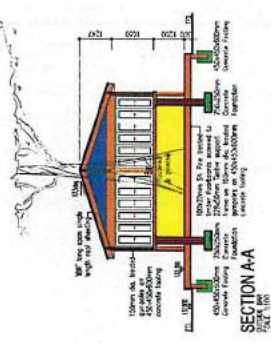
**SOUTH EAST ELEVATION**  
BEDROOM GUEST ACCOMMODATION  
E. N. 1995



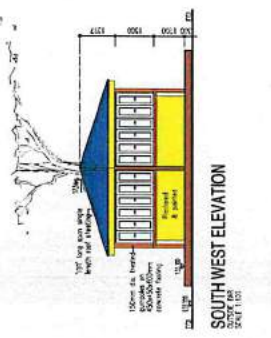
## SECTION F-F



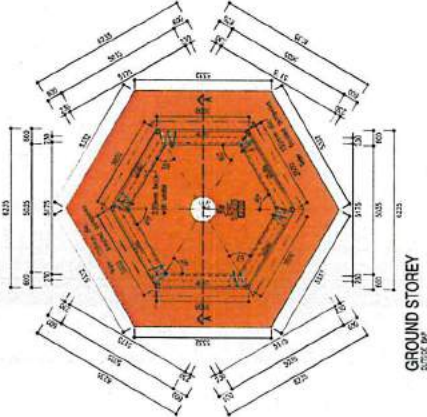
**ORTH WEST ELEVATION**  
CONCRETE FINISHES  
PROGRAM GUEST ACCOMMODATION  
P. 3.120



**SECTION A-A**



**SOUTH WEST ELEVATION**  
NORTH



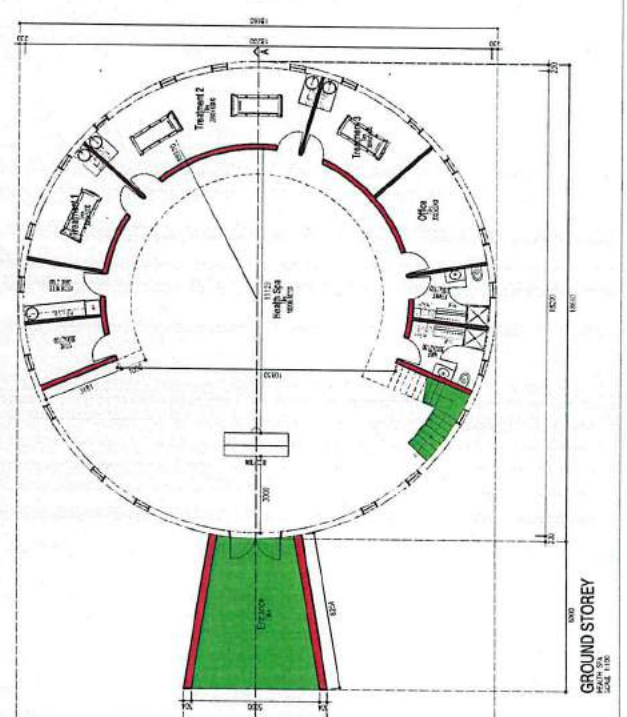
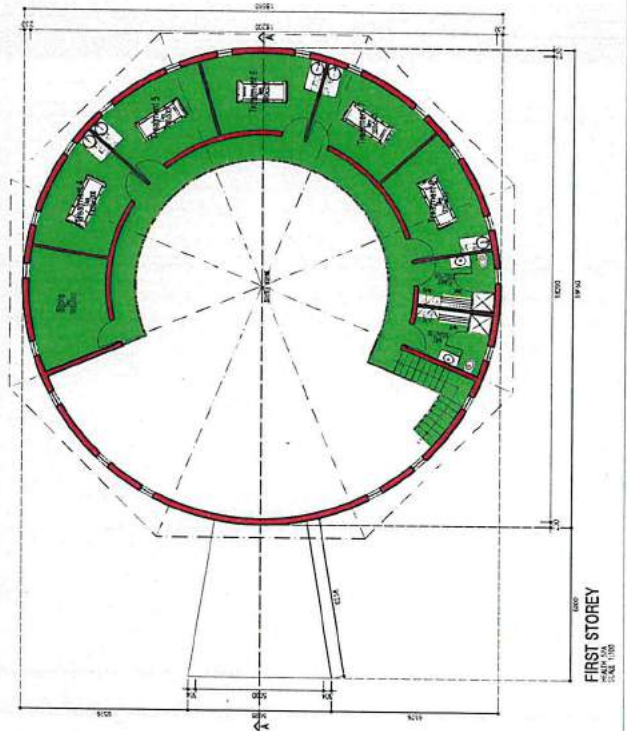
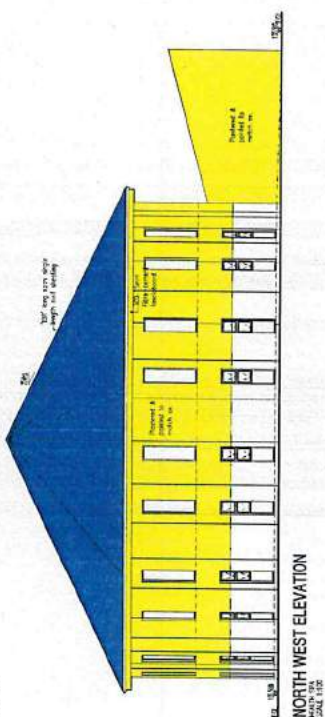
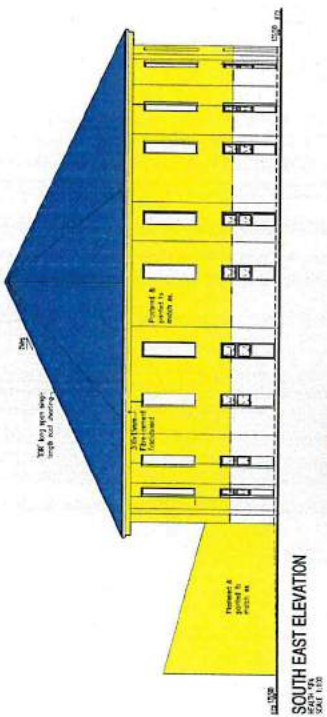
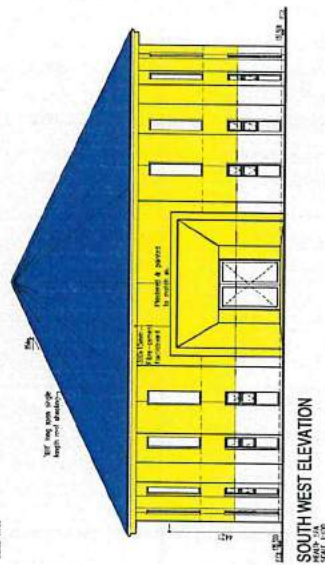
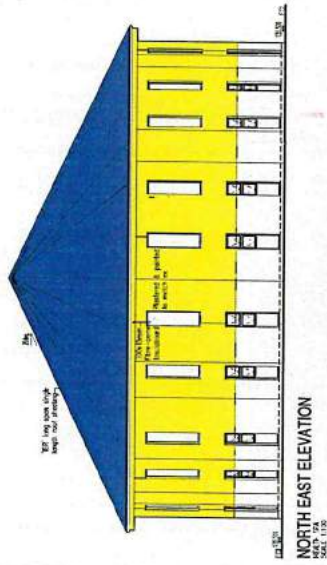
**GROUND STOREY**  
GROUND FLOOR



## NOTES

<p>NOTES:</p> <p>1. ALL DIMENSIONS TO BE AS SHOWN UNLESS OTHERWISE SPECIFIED.</p> <p>2. ALL DIMENSIONS TO BE IN METERS UNLESS OTHERWISE SPECIFIED.</p> <p>3. ALL DIMENSIONS TO BE IN METERS UNLESS OTHERWISE SPECIFIED.</p> <p>4. ALL DIMENSIONS TO BE IN METERS UNLESS OTHERWISE SPECIFIED.</p> <p>5. ALL DIMENSIONS TO BE IN METERS UNLESS OTHERWISE SPECIFIED.</p> <p>6. ALL DIMENSIONS TO BE IN METERS UNLESS OTHERWISE SPECIFIED.</p> <p>7. ALL DIMENSIONS TO BE IN METERS UNLESS OTHERWISE SPECIFIED.</p> <p>8. ALL DIMENSIONS TO BE IN METERS UNLESS OTHERWISE SPECIFIED.</p> <p>9. ALL DIMENSIONS TO BE IN METERS UNLESS OTHERWISE SPECIFIED.</p> <p>10. ALL DIMENSIONS TO BE IN METERS UNLESS OTHERWISE SPECIFIED.</p>	<p>11. ALL DIMENSIONS TO BE IN METERS UNLESS OTHERWISE SPECIFIED.</p> <p>12. ALL DIMENSIONS TO BE IN METERS UNLESS OTHERWISE SPECIFIED.</p> <p>13. ALL DIMENSIONS TO BE IN METERS UNLESS OTHERWISE SPECIFIED.</p> <p>14. ALL DIMENSIONS TO BE IN METERS UNLESS OTHERWISE SPECIFIED.</p> <p>15. ALL DIMENSIONS TO BE IN METERS UNLESS OTHERWISE SPECIFIED.</p> <p>16. ALL DIMENSIONS TO BE IN METERS UNLESS OTHERWISE SPECIFIED.</p> <p>17. ALL DIMENSIONS TO BE IN METERS UNLESS OTHERWISE SPECIFIED.</p> <p>18. ALL DIMENSIONS TO BE IN METERS UNLESS OTHERWISE SPECIFIED.</p> <p>19. ALL DIMENSIONS TO BE IN METERS UNLESS OTHERWISE SPECIFIED.</p> <p>20. ALL DIMENSIONS TO BE IN METERS UNLESS OTHERWISE SPECIFIED.</p>
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ALL STRUCTURAL WORK  
TO BE VERIFIED BY  
ENGINEER



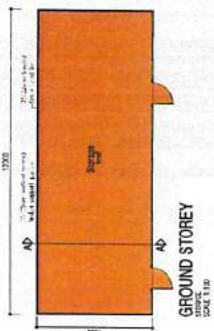
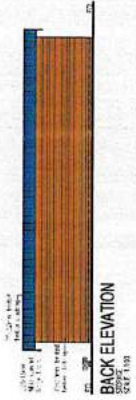
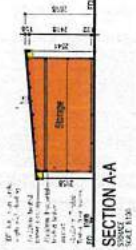
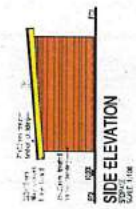
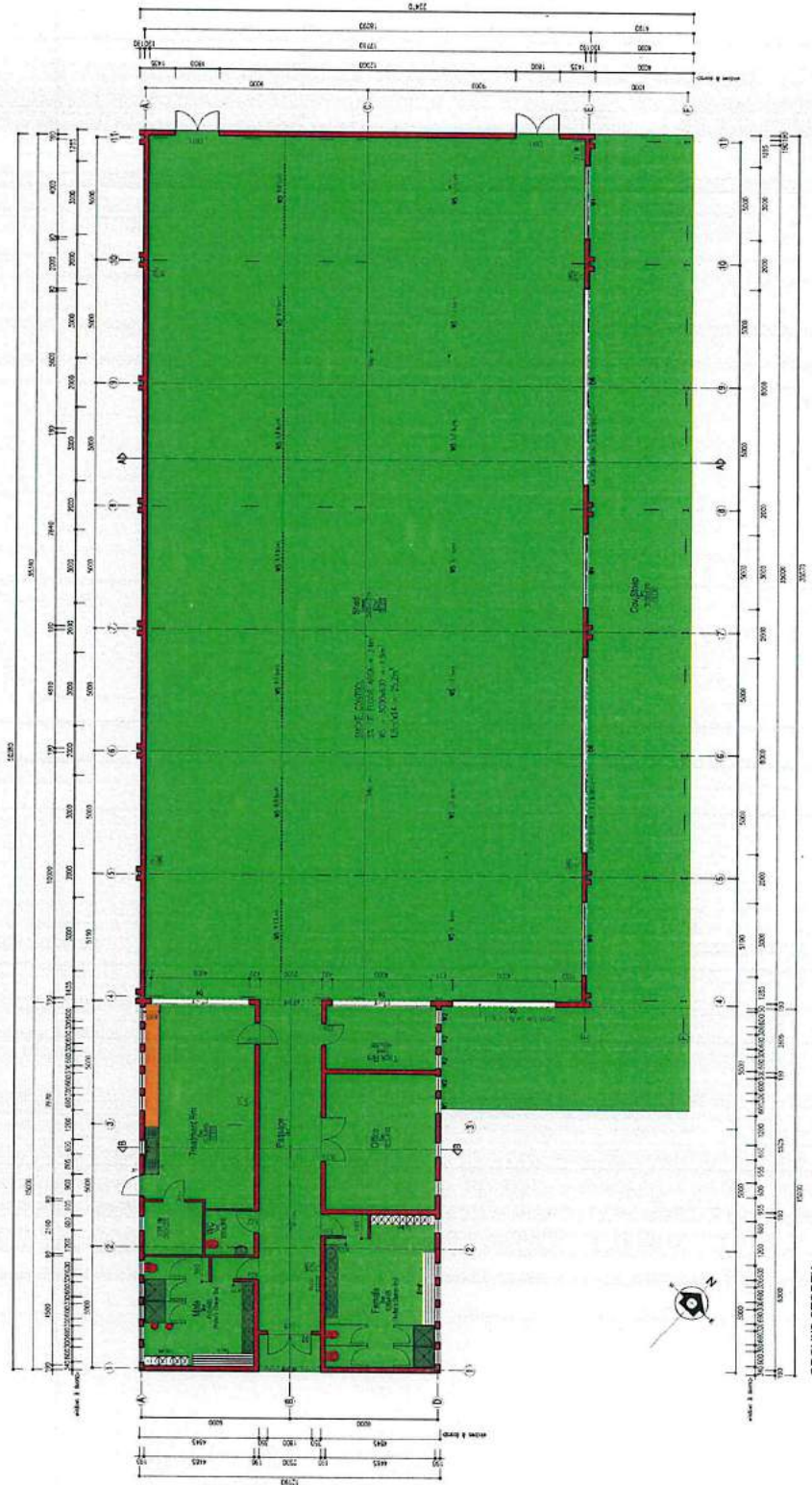
<p>VARIATIONS TO APPROVED PLANS FOR CONSTRUCTION</p> <p>REV: DATE: DRAWN: DETAILS:</p> <p>DRAWN: L. A. HOUSE AREAS</p> <p>SCACHE: SITE AREA 4000sq/m</p> <p>CLIENT:</p>	<p>PROJECT:</p> <p>PROPOSED SITE DEVELOPMENT PLAN FOR THE BENEDETTO TRUST ON PTN 5 OF FARM 528 STELLENBOSCH</p> <p>DRAWING:</p> <p>SITE DEVELOPMENT PLAN</p> <p>SHEET: 5 OF 11</p> <p>SCALE: As Shown</p> <p>REGION: 2.0</p> <p>DATE: 08/09/2023</p> <p>22-30</p> <p>FOR COUNCIL USE ONLY: 735 FAX: 06 09 186</p> <p>EMAIL: <a href="mailto:info@designstudio.co.za">info@designstudio.co.za</a></p>	<p>DESIGN</p> <p>ARCHITECTS</p>
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------



## NOTES

1. TO BE DONE IN ACCORDANCE WITH THE NATIONAL BUILDING REGULATIONS (NBR) 1010:2012 AND THE NATIONAL BUILDING REGULATIONS (NBR) 1010:2012 (AS AMENDED).
2. ALL STRUCTURAL WORK TO BE VERIFIED BY AN ENGINEER.
3. ALL WORK TO BE DONE IN ACCORDANCE WITH THE NATIONAL BUILDING REGULATIONS (NBR) 1010:2012 AND THE NATIONAL BUILDING REGULATIONS (NBR) 1010:2012 (AS AMENDED).
4. ALL WORK TO BE DONE IN ACCORDANCE WITH THE NATIONAL BUILDING REGULATIONS (NBR) 1010:2012 AND THE NATIONAL BUILDING REGULATIONS (NBR) 1010:2012 (AS AMENDED).
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9. ALL WORK TO BE DONE IN ACCORDANCE WITH THE NATIONAL BUILDING REGULATIONS (NBR) 1010:2012 AND THE NATIONAL BUILDING REGULATIONS (NBR) 1010:2012 (AS AMENDED).
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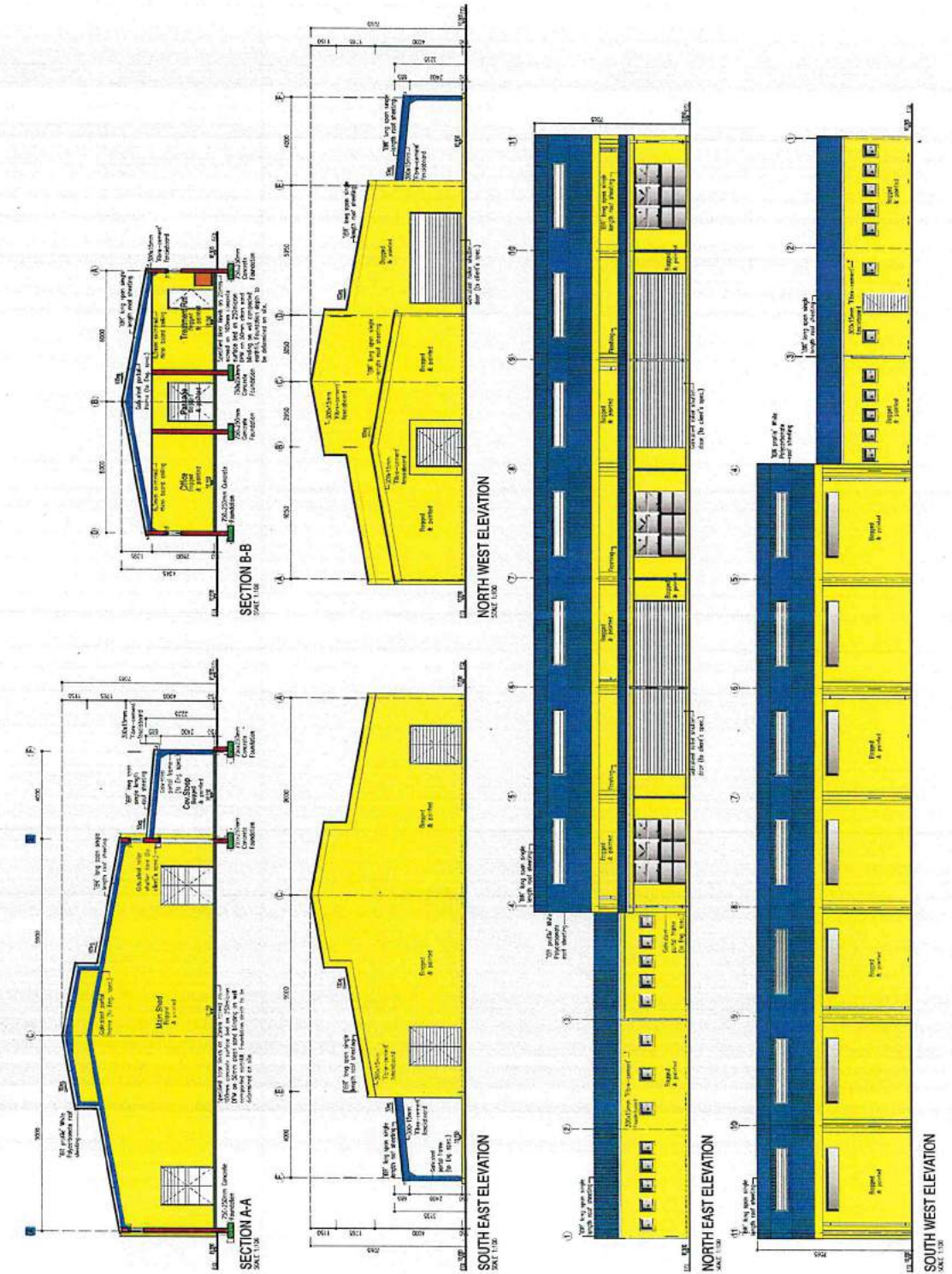
VARIATIONS TO APPROVED PLANS FOR CONSTRUCTION	
REV.	DATE
DRAWN: L.A. HOUSE AREAS: 4383sqm	
CHECKED: SITE AREA: 4383sqm	
CLIENT:	
PROJECT: PROPOSED SITE DEVELOPMENT PLAN FOR THE BENEDETTO TRUST ON PTN 5 OF FARM 520 STELLENBOSCH	
DRAWING: SITE DEVELOPMENT PLAN	
SHEET: 8 OF 11	SCALE: As Shown
DATE: 08/09/2023	REVISION: 2.0
FILE: 520-1001	FRAME: 22-30
FOR KODAKA NESTLE CELLAR 2735 HAL (06-04-186)	
EMAIL: info@karakas.co.za	

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SCALE 1:100SIDE ELEVATION  
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NOTES

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VARIATIONS TO APPROVED PLANS FOR CONSTRUCTION	
REV.	DATE: DETAILS:
DESIGNER:	HOUSE AREAS
CLIENT:	SITE AREA: 6000sqm
PROJECT: PROPOSED SITE DEVELOPMENT PLAN FOR THE BENEDICTO TRUST ON PTN 5 OF FARM 528 STELLENBOSCH	
DRAWING: SITE DEVELOPMENT PLAN	
SHEET: 9 OF 11	SCALE: As Shown
DATE: 06/09/2023	REVISION: 2.0
FILE: 528-MKTZ	DRAWING NO: 22-30
PROJECT: 3661 WESTMEACH CILLARUUT 735 FAX: 06164 0616	
EMAIL: info@design4u.co.za	

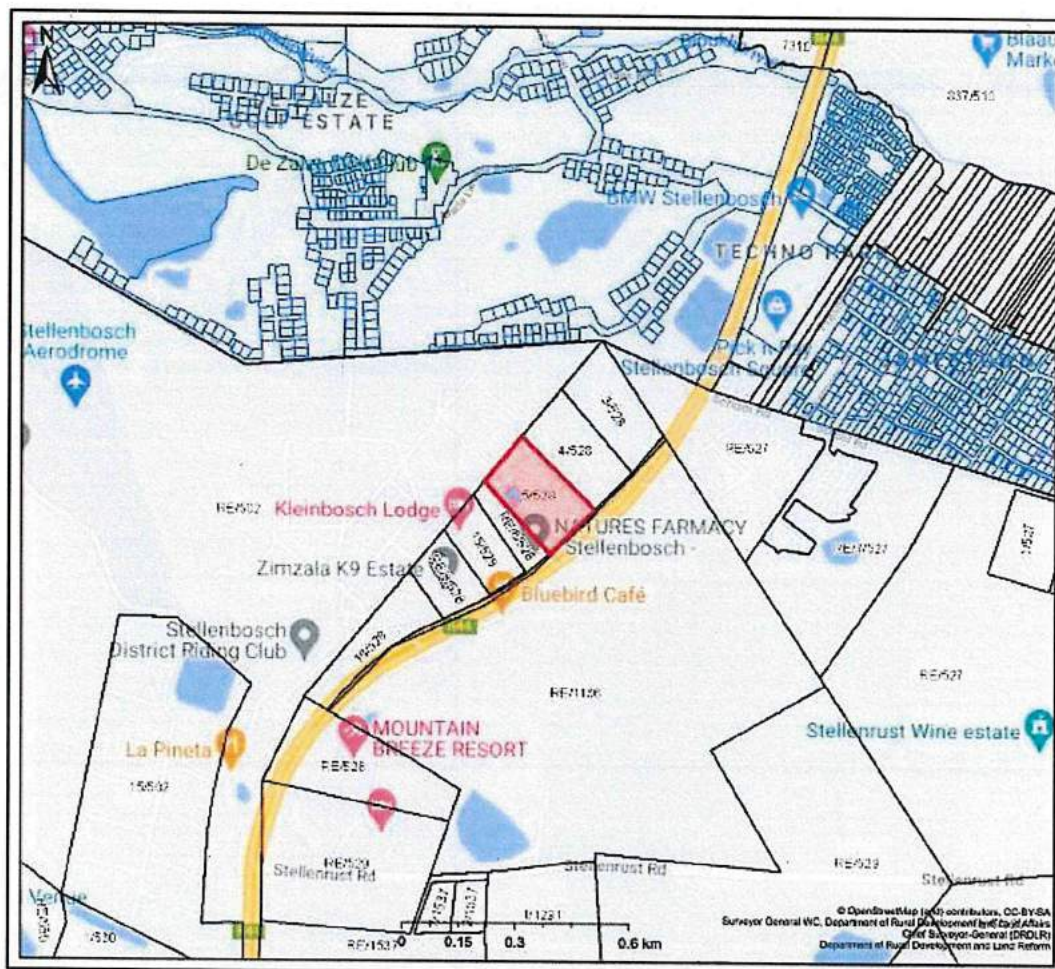




**ANNEXURE D: APPLICANT'S MOTIVATION**



**UPDATED AND AMENDED LAND DEVELOPMENT APPLICATION  
FOR:  
CONSENT USE AND DEPARTURES ON  
PORTION 5 OF FARM NO. 528, STELLENBOSCH RD**



August 2022

Report V3 following public participation - March 2023

Report V4 following planning feedback - September 2023

## CONTENT

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**ANNEXURE****ANNEXURE A: LOCALITY****ANNEXURE B: APPLICATION AUTHORISATION****ANNEXURE C: APPLICATION FORM****ANNEXURE D: CONVEYANCER'S CERTIFICATE****ANNEXURE E: TITLE DEED****ANNEXURE F: DIAGRAM****ANNEXURE G: SDP****ANNEXURE H: TRAFFIC IMPACT STATEMENT**



**EXECUTIVE SUMMARY**

<b>AMENDED MOTIVATION IN SUPPORT OF LAND DEVELOPMENT APPLICATION FOR:</b> <b>PORTION 5 OF FARM NO. 528, STELLENBOSCH RD</b> <b>SG Code: C0670000000052800005 / Location: Lat: 33° 58' 56.597" S   Lon: 18° 50' 06.201" E</b>	
<b><u>Owner:</u></b> <b>Benedetto Trust Reg. No. 1586/2012</b>  Represented by: Ms Valerie Mentz  Cellular: +27 83 281 0501 E-mail: valmentz@icloud.com Address: PO Box 2937, Durbanville, 7551	<b><u>Project Consultant:</u></b> <b>Virdus Works (Pty) Ltd Reg. No. 2018/585747/07</b> Represented by: Mr Dupré Lombaard SACPLAN: B/8076/1998 // EAPASA: 2019/304  Cellular: +27 82 895 6362 E-mail: dupre.lombaard@virdus.com Address: 3 <sup>rd</sup> Floor, Time Square, Elektron Street, Techno Park, Stellenbosch, 7600

This is a further amended and updated report following a site visit by the responsible planner and in response to the input received. It is submitted together with an updated traffic statement and site development plan.

The amendments herein address the following:

- Removal of the application for an additional use for technical approval of an agricultural industry (distillery) of 583m<sup>2</sup> and replacement thereof with a wellness centre / spa;
- The re-introduction of the wedding venue (previously shown as a chapel);
- Change of proposed use from a guest house to a tourist accommodation establishment; and
- Submission of version 9 of the site development plan.

The amendments are made in terms of Section 52 of the Stellenbosch Municipality Land Use Planning Bylaw, 2015. The application is for:

- Approval of consent uses in terms of Section 15(2)(o) of the Stellenbosch Municipality Land Use Planning Bylaw, 2015 (a consent use contemplated in the zoning scheme), read with Section 208, 209 and 213 of the Stellenbosch Municipality Zoning Scheme Bylaw, 2019 (ZSB) for the use of existing structures and buildings exceeding 250m<sup>2</sup> on the property as a tourist accommodation establishment, and as tourist facilities which include conversion of the old reservoir to a wellness centre / spa, a restaurant, use of the identified outdoor garden area for serving meals and events, with inclusive occasional use of the garden area and facilities on the farm; and
- Approval for a permanent departure in terms of Section 15(2)(b) of the Bylaw to gain approval for the existing reservoir abutting the R44 boundary and within the 5m building line to be converted to a wellness centre / spa, thus exceeding the building line, and for a brick pier palisade fence of 2,1m height on the R44 boundary for which the permanent departure is sought.

In accordance with the amended Site Development Plan, the following is determined as the capacity of the tourist facilities and guest accommodation (tourist accommodation establishment) on the

farm. The calculation allows for 264 guests to be accommodated on the farm, of which 36 in the guest accommodation and 228 in the tourist facilities. The GLA calculations are inserted below.

- Tourist accommodation establishment (36 guests):
  - 12 bedrooms with a capacity of 24 guests in the converted main dwelling;
  - Three bedrooms in the converted manager's / additional dwelling with a capacity of six guests; and
  - Three bedrooms added to the farm stall with a capacity of six guests.
- Farm stall (20 guests):
  - 96m<sup>2</sup> GLA with 0,4 as factor for determination of the usable for seating space, thus 38,4m<sup>2</sup> of seating area allowing for 1,9m<sup>2</sup> / guest. Thus 20 guests could be accommodated in the farm stall; and
  - The three bedrooms as indicated above.
- Garden venue: A gazebo used as serving point for a 314m<sup>2</sup> area with 0,6 as factor for determination of the usable seating space, thus 188,4m<sup>2</sup> of seating allowing 1,7m<sup>2</sup> / guest and thus 110 guests.
- Wellness centre / spa: A spa for resident guests and visitors that is not open to the public.
- Restaurant: A restaurant with 90m<sup>2</sup> GLA with 0,6 as factor for determination of the usable space for seating, thus 54m<sup>2</sup> of seating area allowing for 1,9m<sup>2</sup> / guest. Thus 30 guests could be accommodated in the restaurant.
- Wedding venue: 325m<sup>2</sup> GLA with 0,4 as factor for determination of the usable space for seating, thus 130m<sup>2</sup> of seating area allowing for 1,9m<sup>2</sup> / guest. Thus 68 guests could be accommodated in the venue.

AREAS :	
3 BEDROOM GUEST ACCOMMODATION	105m <sup>2</sup>
BAR	34m <sup>2</sup>
RESTAURANT	90m <sup>2</sup>
RESTAURANT COV. PATIO	115m <sup>2</sup>
TOILETS	40m <sup>2</sup>
12 BEDROOM GUEST HOUSE & 3 BEDROOM STAFF ACCOM.	1016m <sup>2</sup>
VIEW DECK	50m <sup>2</sup>
TERRACE	52m <sup>2</sup>
WEDDING VENUE	325m <sup>2</sup>
3 BEDROOM GUEST & FARM STALL	126m <sup>2</sup>
BOMA	50m <sup>2</sup>
AGRICULTURAL SHED	826m <sup>2</sup>
COV. STOEP	191m <sup>2</sup>
STORE & LABOURER'S RM	260m <sup>2</sup>
CARPORT	30m <sup>2</sup>
2 BEDROOM STAFF COTTAGES	187m <sup>2</sup>
2 BEDROOM MANAGERS COTTAGES	148m <sup>2</sup>
STORAGE CONTAINERS	216m <sup>2</sup>
STORAGE	54m <sup>2</sup>
SPA	428m <sup>2</sup>
TOTAL	4343m <sup>2</sup>



A permanent departure is further sought in terms of Section 15(2)(b) for a departure from the building line on the eastern side of the property and the conversion of the reservoir built up to 1,0m from the R44 side boundary, to use it as a wellness centre / spa as a service to resident guests and visitors.

The property has an Agricultural and Rural Zone, and is 4,2827ha in extent. It was previously cultivated and used for vineyards and the keeping of horses. The use was obviously not feasible, and it was replaced with pomegranate, avocado, guava, and olive trees for on-site production of delicatessen, together with lavender plants. It has sufficient water resources (2,5ha A allocation) to support the agricultural use and the proposed consent use. The farm improvements include a main dwelling, second dwelling, manager's house, two labourers' cottages, and outbuildings for storage, garaging, and stables. The farm has a borehole and a dam that supplies it with additional irrigation and household water. Waste water is contained in conservancy tanks. The owner wishes to better use the property through diversification of the use to generate revenue that could contribute to the maintenance of the agricultural activities. The agricultural potential of the farm alone is not sufficient to financially sustain it.

Access to the farm is directly off the R44, roughly at KM 28,5 on Main Road 0027. Its access is shared with abutting properties.

The title deed (T18186/2016) contains restrictions in terms of the Advertising on Roads and Ribbon Development Act, 1940, Act 21 of 1940, preventing the proposed land developments unless by prior consent of the controlling authority, suspension of the restrictive conditions, or removal thereof in terms of Section 15(2)(f) of the Land Use Planning Bylaw.



## MOTIVATION REPORT

### 1. BACKGROUND

#### 1.1 Introduction

The application is for consideration of a tourist accommodation establishment, and a tourist facility that includes the identified outdoor area, with inclusive occasional use of the farm and facilities on the farm, Portion 5 of the Farm No. 528, Stellenbosch. The application is amended in terms of Section 52 of the Stellenbosch Municipality Land Use Planning Bylaw, 2015, following a public participation process and subsequent visit by the case officer, who asked for additional information and updating of the site development plan to show the existing uses on the property, inclusive of the uses commenced without prior approval, e.g., the restaurant and guest accommodation.

The amended application is for:

- Approval of consent uses in terms of Section 15(2)(o) of the Land Use Planning Bylaw for a consent use contemplated in the zoning scheme, read with Section 208, 209 and 213 of the Stellenbosch Municipality Zoning Scheme Bylaw, 2019 (ZSB) for the use of existing structures and buildings exceeding 250m<sup>2</sup> on the property as a tourist accommodation establishment, and as tourist facilities which include conversion of the old reservoir to a wellness centre / spa, a restaurant, use of the identified outdoor garden area for serving meals and events, with inclusive occasional use of the garden area and facilities on the farm; and
- Approval for a permanent departure in terms of Section 15(2)(b) of the Bylaw to gain approval for the existing reservoir abutting the R44 boundary and within the 5m building line to be converted to a wellness centre / spa, thus exceeding the building line, as well as for a brick pier palisade fence of 2,1m height on the R44 boundary for which the permanent departure is sought.

The farm is located on the R44 to Somerset West (Main Road 0027), approximately at KM28,5. The 4,2827ha property is relatively flat, with a gentle westwards slope towards the abutting Stellenbosch Airport and contains a farm dam used as a reservoir for irrigation and an attraction.

The Farm, previously known as Drie Lande, now Val De Vine, was cultivated primarily for wine production with a small vineyard (0,8ha) managed and used by adjacent farmers. The vineyard has been removed and replaced with more appropriate planting for the farm and the proposed uses. Irrigation water to the Farm is supplied by the Wynland Water Users' Association, delivering irrigation water for 2,5ha through the Theewaterskloof piped scheme. It also contains a borehole delivering water for household use. It is well endowed with buildings and infrastructure, including a main dwelling, second dwelling, manager's house, two cottages, and outbuildings for storage, garaging and outbuildings. The location of the farm creates an opportunity for diversification by offering a venue for functions and events as well as tourist accommodation, in keeping with surrounding land uses.



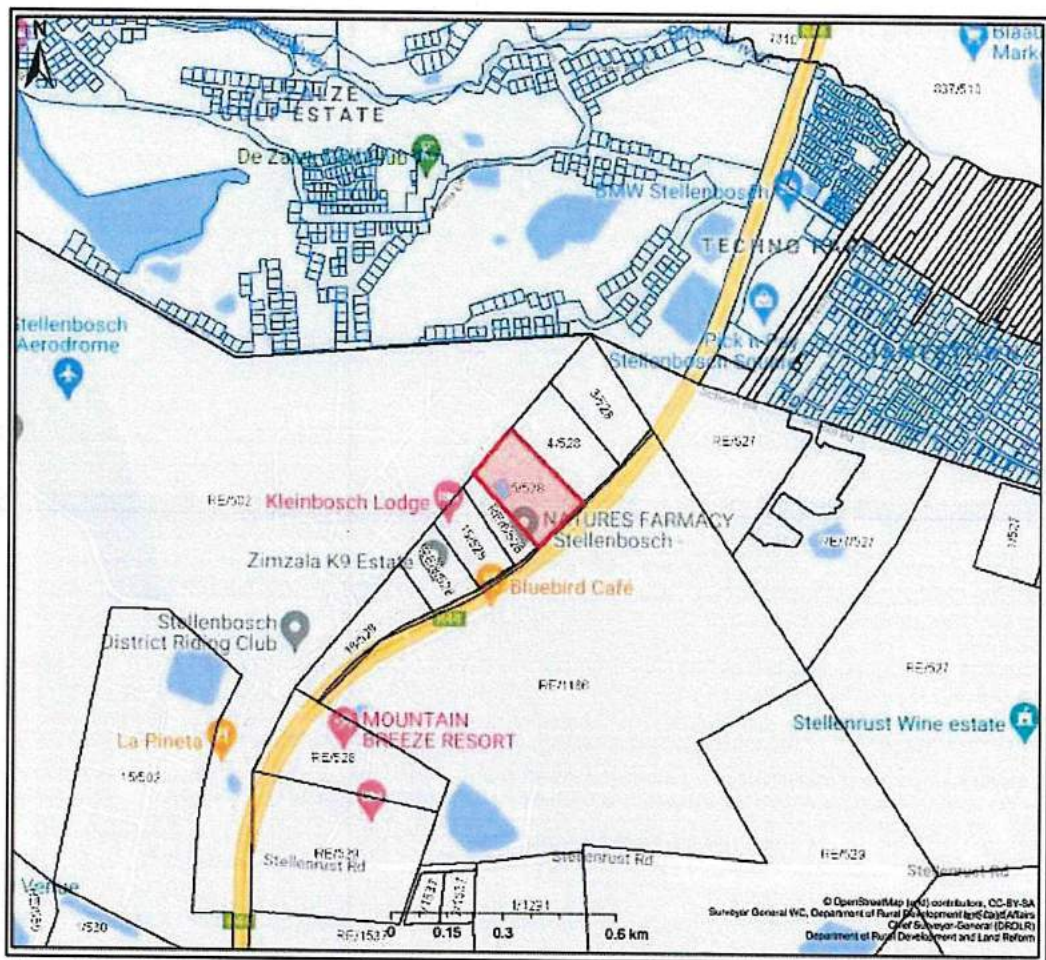


Figure 1: Portion 5 of Farm No. 528, Stellenbosch locality

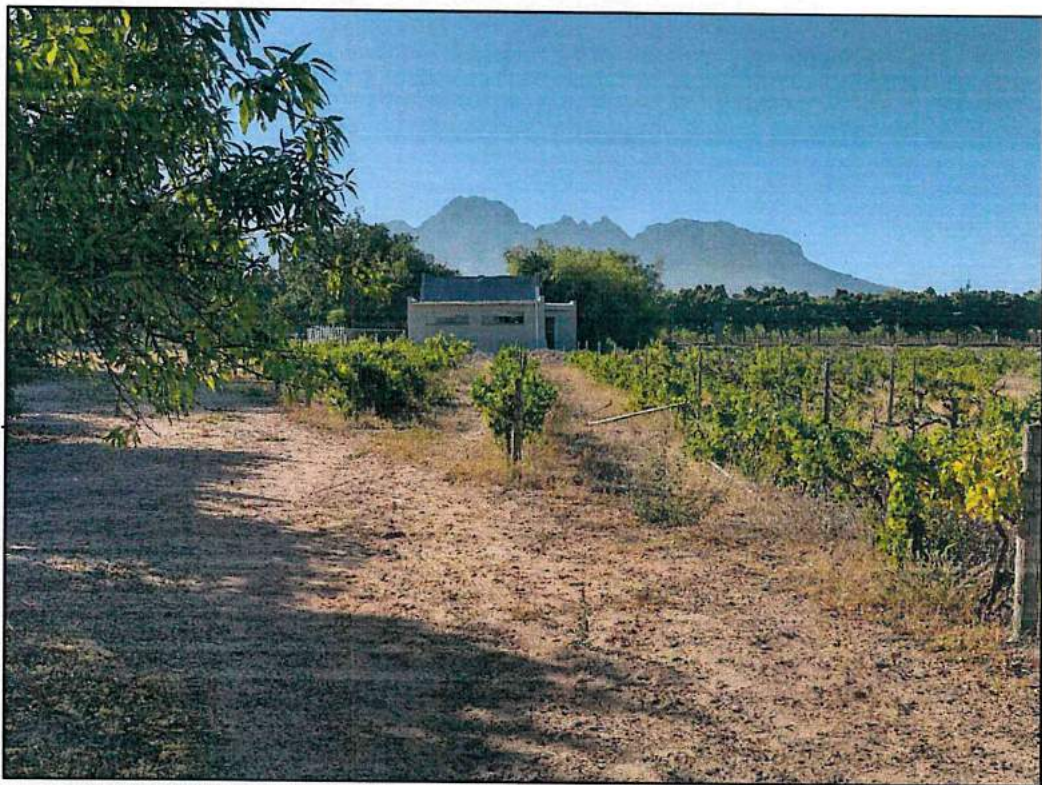


Figure 2: Agricultural use of Ptn 5 of Farm 528 (December 2021)



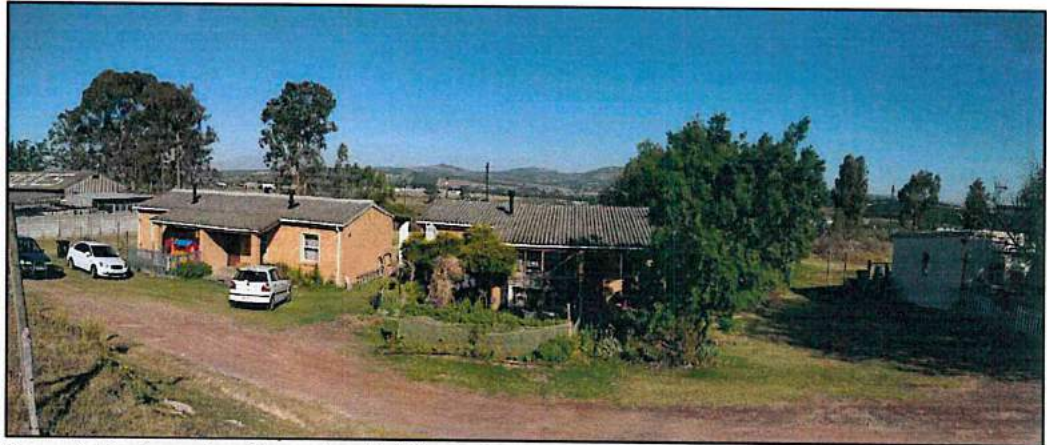


Figure 3: Employee housing and outbuilding on Ptn 5 of Farm 528

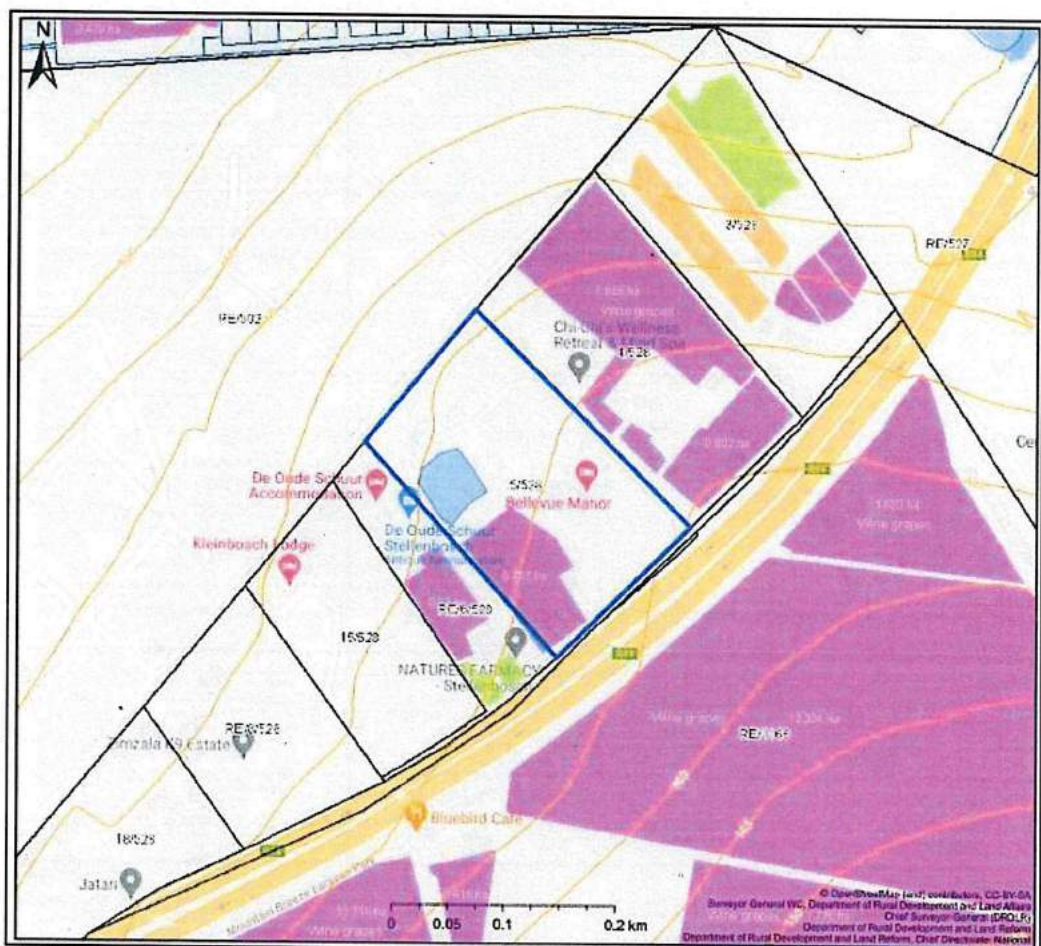


Figure 4: Agricultural use of Ptn 5 of Farm 528

The agricultural potential of the 8 000m<sup>2</sup> vineyard on the Farm was not sufficient to financially sustain it. Although the Farm has sufficient water resources to expand the vineyard, the costs of establishing a new vineyard with desirable cultivars and the time to productivity are prohibitive under current market conditions. Together with limited extent, wine production or any other activity is not commercially viable. In view thereof the owners first need to diversify the use and generate additional revenue, before expanding the agricultural capacity of the farm through replacement



of the existing vineyard, during which period it would generate no agricultural revenue.

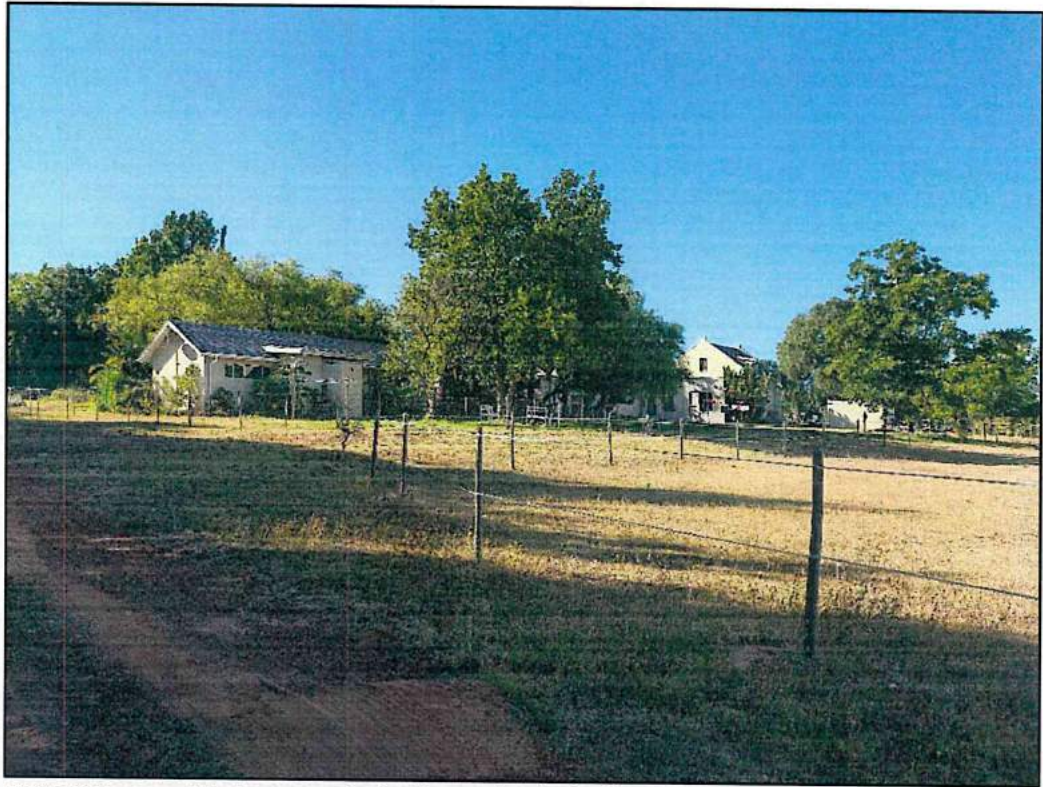


Figure 5: Horse paddock, manager's dwelling, and main dwelling on Ptn 5 of Farm 528 (December 2021)

The owner has in the time since making the application undertaken improvements to the agricultural use by planting of:

- 186 olive trees for on-site bottling and use in the catering;
- 10 pomegranate trees for on-site sale in the farmstall;
- 10 avocado trees for on-site sale in the farmstall and use in the catering;
- 30 guava trees for on-site sale in the farmstall and use in the catering;
- 600 lavender plants for lavender oil production and use in the distillery;
- Over 100 large trees for greening of the area.
- Preparations are in process for the addition of 1 hectare of new vines as soon as the shed is erected.

Building development on the Farm is subject to prior approval by the competent authority in terms of the Advertising on Roads and Ribbon Development Act, 1941.

## 1.2 Context

The Farm is not a viable agricultural unit or capable of sustaining a feasible agricultural revenue stream, mainly as a result of the limited size and age of the existing vineyard and the need to rejuvenate it by planting of a more desirable cultivar and expanding the product range as detailed in paragraph 1.1 above. The Farm has sufficient water resources to allow for expansion and rejuvenation of the vineyard, but the cost thereof and lead time to generating income are prohibitive. Moreover, there is no agricultural building on the farm capable of supporting the



increased agricultural production of the farm. It is first necessary to establish the farming infrastructure before the production capacity of the farm can be increased.

The owner thus has to diversify its use and generate revenue from an alternative resource, prior to incurring the expense and expanding the agricultural potential, for which purpose the improvements as detailed in paragraph 1.1 have been made and by the addition of tourist facilities to add to the revenue stream.

As the farm is located along a major tourist route and in an area that contains numerous attractions and tourist facilities, it creates an opportunity to expand the product offering of the farm and to generate additional revenue. The immediate neighbours offer a variety of tourist related services and activities, e.g., a hemp and cannabis products shop, restaurants, antique shop, conference facilities, tourist accommodation and a spa and no bona fide commercially viable agricultural activities.

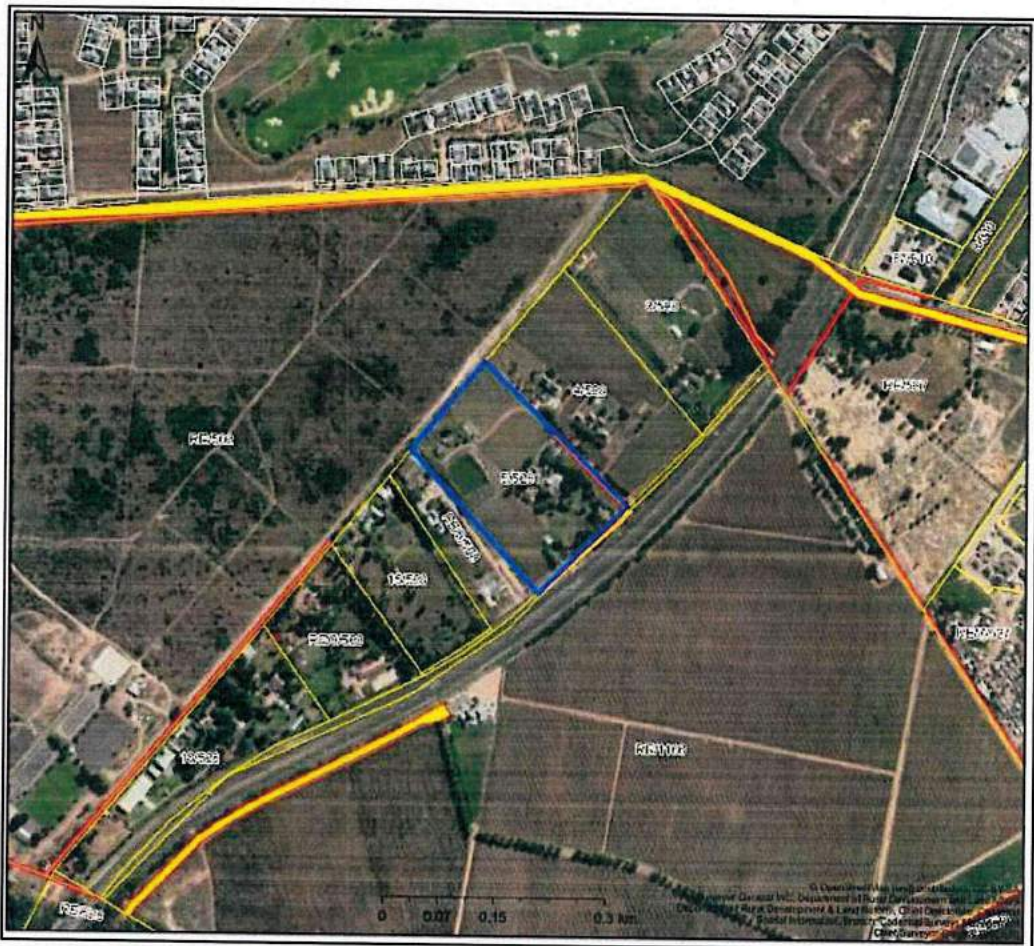


Figure 6: Val De Vine Ptn 5 Farm 528 location image

The Farm has sufficient existing buildings and space to allow for the creation of the proposed tourist accommodation establishment and tourist facilities without negatively affecting its limited production capacity and potential. Use of the old equestrian ring and horse paddock for irrigated orchards has improved the agricultural potential of the farm, but production is not foreseen before 2028.





Figure 7: R44 entrance to Val De Vine looking south

The development of tourist accommodation establishments and tourist facilities in the Stellenbosch municipal area are promoted in the Integrated Development Plan (IDP) and related policies. The Farm has a high tourism attraction potential, and it is located in an area where tourism is a major economic contributor.

### 1.3 Proposal

The proposal is to convert the existing second dwelling into a farm stall with an area of 96m<sup>2</sup>, the manager's dwelling into the owner's house and the main dwelling into a tourist accommodation establishment with 12 bedrooms. The two employee housing units will be upgraded and used for staff accommodation.

A picnic and outdoor venue area is proposed to be established in the front garden with an area of roughly 314m<sup>2</sup>. It will be served from the kitchen and facilities in the converted main dwelling (new tourist accommodation establishment).



Figure 8: Proposed outdoor venue and chapel area on Ptn 5 of Farm 528 (December 2021)

In accordance with the amended Site Development Plan, the following is determined as the capacity of the tourist facilities and guest accommodation (tourist accommodation establishment) on the farm:

- Tourist accommodation establishment (36 guests):
  - 12 bedrooms with a capacity of 24 guests in the converted main dwelling;
  - Three bedrooms in the converted manager's / additional dwelling with a capacity of six guests; and
  - Three bedrooms added to the farm stall with a capacity of six guests.
- Farm stall (20 guests):



- 96m<sup>2</sup> GLA with 0,4 as factor for determination of the usable for seating space, thus 38,4m<sup>2</sup> of seating area allowing for 1,9m<sup>2</sup> / guest. Thus 20 guests could be accommodated in the farm stall; and
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VIEW DECK	50m <sup>2</sup>
TERRACE	52m <sup>2</sup>
WEDDING VENUE	325m <sup>2</sup>
3 BEDROOM GUEST & FARM STALL	126m <sup>2</sup>
BOMA	50m <sup>2</sup>
AGRICULTURAL SHED	826m <sup>2</sup>
COV. STOEP	191m <sup>2</sup>
STORE & LABOURER'S RM	260m <sup>2</sup>
CARPORT	30m <sup>2</sup>
2 BEDROOM STAFF COTTAGES	187m <sup>2</sup>
2 BEDROOM MANAGERS COTTAGES	148m <sup>2</sup>
STORAGE CONTAINERS	216m <sup>2</sup>
STORAGE	54m <sup>2</sup>
SPA	428m <sup>2</sup>
TOTAL	4343m <sup>2</sup>

The tourist facilities (farm stall and outdoor garden area) will thus exceed the 250m<sup>2</sup> coverage limit for tourist facilities as determined in the Zoning Scheme Bylaw.

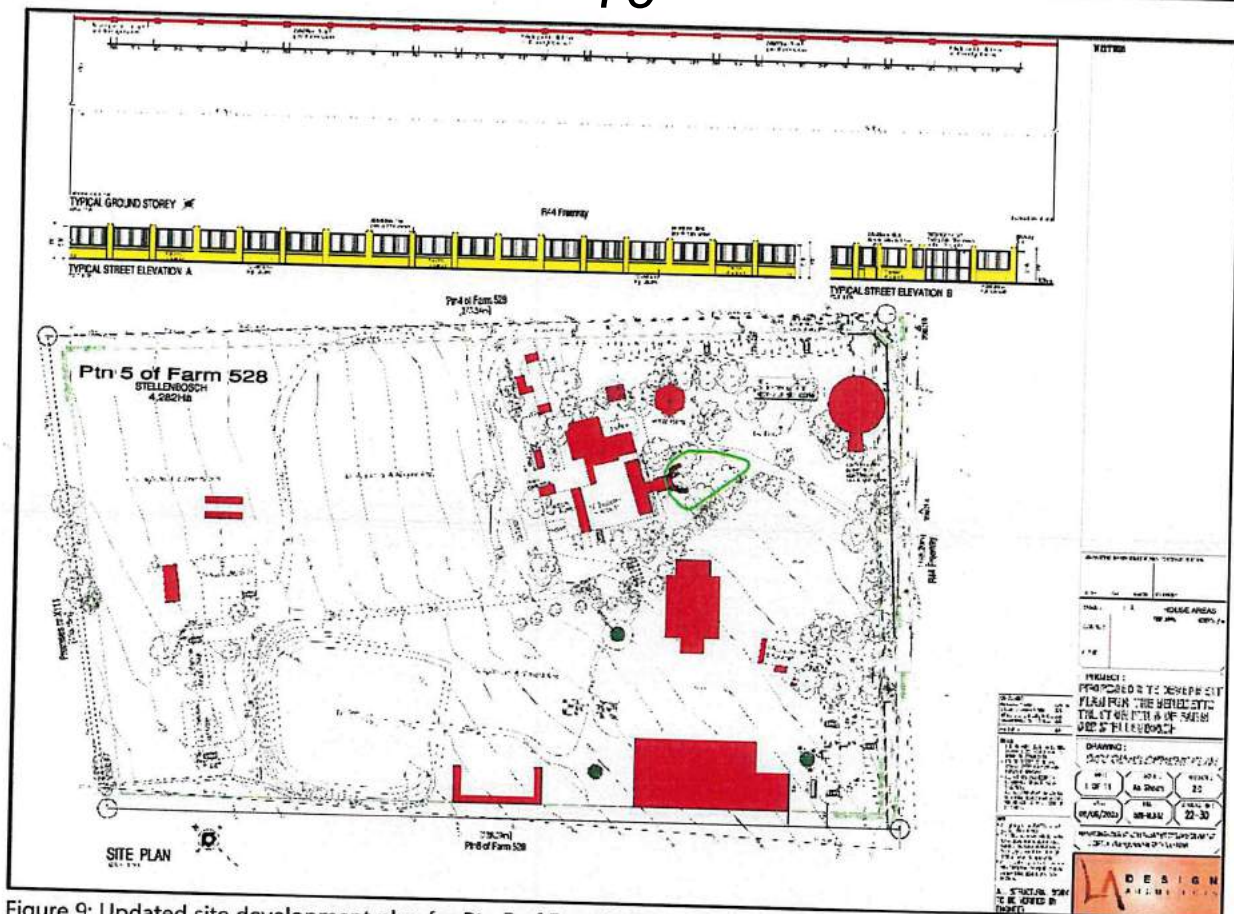


Figure 9: Updated site development plan for Ptn 5 of Farm 528

The proposed tourist facilities and tourist accommodation establishment would employ 18 permanent staff and additional staff will be employed for events, depending in the size thereof.

The main entrance and the existing driveway are sufficient to accommodate the expected traffic and the equestrian area is sufficient to accommodate the parking needs, with 78 bays formally provided on site and large areas between the trees for parking, without negative effect on the orchards.

A new boundary fence, to be constructed as a palisade fence with brick piers and a height of 2,1m is proposed on the front boundary, on the western side of the servitude access road that serves the abutting properties (Belle Vue Manor and Chi Chi's Spa). The existing reservoir built up to 1,0m of the eastern boundary of the farm, along the R44 side, will be converted to a spa, as it is no longer required for irrigation purposes. The owner renovated the farm dam, and it now serves as the irrigation reservoir for the farm.



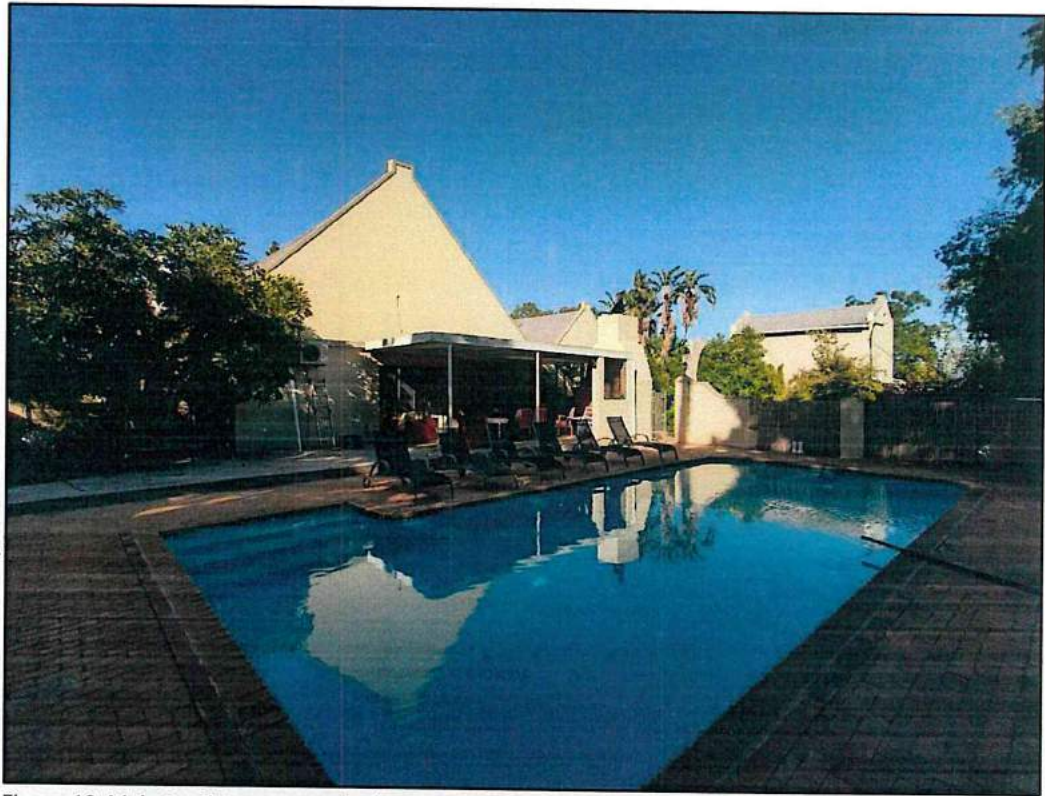


Figure 10: Main tourist accommodation establishment outdoor entertainment area (December 2021)

## 2. LAND DEVELOPMENT APPLICATION AND AUTHORISATION

### 2.1 Proposed use

The primary use of the Farm will remain agriculture, for the orchards as detailed in paragraph 1.1 above (roughly 1,8ha). The farm dam (roughly 0,5ha) will also be retained as an irrigation reservoir and added attraction for the envisaged tourist uses (picnics), together with the employee housing units and the new shed (agricultural building).

For diversification of the activities, the owner aims to establish the aforementioned tourist accommodation establishment and tourist facilities. By doing so the owners uses the farm primarily for an agricultural purpose and it creates an attraction that does not detract from the character of the general area, makes better use of the agricultural resources, while contributing to the general attraction of the R44 as a tourist corridor.

The redevelopment of the farm for tourist accommodation establishment and tourist facilities will include the following uses as defined in the Stellenbosch Municipality Zoning Scheme Bylaw, 2019 (ZSB):

- Farm stall / shop (delicatessen) of 96m<sup>2</sup> replacing the additional dwelling;
- Picnic facility (periodic outdoor use area licensed to serve food and alcohol), in the front garden area of 314m<sup>2</sup> in extent;
- Restaurant connected to the converted main dwelling and sharing the same kitchen, with a floor area of 90m<sup>2</sup>;
- Provision for guests to walk around on the farm and around the dam; and

- 18 bedroom tourist accommodation establishment in the converted main dwelling, rooms attached to the farm stall and the erstwhile manager's dwelling.

## 2.2 Application

The following applications are made in terms of Section 15 of the Stellenbosch Municipality Land Use Planning Bylaw, 2015 (LUPB) and the Stellenbosch Municipality Zoning Scheme Bylaw, 2019 (ZSB), for the property that is zoned Agriculture and Rural Zone and to which no previous approvals are applicable.

- 2.2.1 Application in terms of Section 15(2)(o) for consent use as contemplated in the zoning scheme to permit tourist facilities (farm stall, outdoor garden venue, and the occasional use of the front garden and farm area around the dam) and an 18 bedroom tourist accommodation establishment.
- 2.2.2 Application in terms of Section 15(2)(f) for the suspension of the restrictive conditions, or removal thereof, if the consent of the controlling authority in terms of Act 21 of 1940 is not appropriate.
- 2.2.3 Application in terms of Section 15(2)(b) for the construction of a 2,1m high brick pier palisade boundary fence along the eastern boundary of the property.
- 2.2.4 Application in terms of Section 15(2)(b) for the reconstruction of the reservoir and its conversion within 1,0m of the eastern boundary of the property thus encroaching the 5m building line.

## 2.3 Zoning scheme requirements

The tourist facilities will be open seven days a week:

- Monday to Thursday from 10:00 to 18:00; and
- Friday to Sunday from 09:00 to 22:00.

The proposed development of the consent uses must be considered in terms of Sections 208, 209 and 213 of the Stellenbosch Municipality Zoning Scheme Bylaw, 2019, read with the relevant considerations as set out in the Stellenbosch Municipality Land Use Planning Bylaw, 2015. Said ZSB determines that "*When approving new consent uses the Municipality shall have regard for the objectives of the zone namely the preservation of agricultural land and the continued use of farm land for agriculture. The scale of the individual buildings used for consent uses shall remain in keeping with the character of buildings on the land unit, the character of the area and non-agricultural land uses may not dominate the farm activities or buildings form.*

*These consent uses may only be undertaken from a land unit where the primary use of the land unit is bona fide agriculture/and or natural environment and where the proposed activity is subservient to these two primary land use activities on the land unit.."*

Given that the applied consent uses are subservient to the primary agricultural use of the property, and that it would be possible to manage the farm and the facilities sustainably as an economic unit, there are rational grounds for favourable consideration of the application.



Moreover, all the abutting and adjacent farms have similar scaled tourist accommodation establishments, spa's / wellness centres, shops, and restaurants, e.g., Mountain Breeze opposite the road, Bellevue Manor Guesthouse and Wellness Retreat abutting to the north, Chi-Chi's MindSpa adjacent to the north, using the same entrance off the R44, Nature's Pharmacy and De Oude Schuur Antique Furniture store abutting to the south and Kleinbosch Lodge and Zimzala Kennels and dog parlour adjacent to the south are some examples.

## 2.4 Title deed restrictions

The title deed (T18186/2016) contains restrictions imposed on the subdivision of the property in 1954 in terms of the Advertising on Roads and Ribbon Development Act, 1940, Act 21 of 1940, preventing the proposed land developments unless by prior consent of the controlling authority, suspension of the restrictive conditions, or removal thereof in terms of Section 15(2)(f) of the Land Use Planning Bylaw.

This application therefore allows for the controlling authority to grant its prior consent for the proposed uses, alternatively for the removal or suspension of the following title conditions:

*D. SUBJECT FURTHER to the conditions of subdivision imposed in Deed of Transfer no T17448/1982 by the controlling authority by virtue of Section 11 of Act 21 of 1940 upon approval of the subdivision of Portion 2 of the Farm 528, Stellenbosch, namely:*  
*"1. Die grond mag nie onderverdeel word nie, tensy die skriftelike goedkeuring van die beherende gesag soos omskryf in Wet nr 21 van 1940, soos gewysig, eers verkry is.*

*2. 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.*

*3. 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.*

*4. Geen gebou of struktuur van enige aard mag opgerig word binne 'n afstand van 94,46 meter vanaf die middellyn van die Somerset-Wes-Stellenbosch Grootpad wat in 'n noord-oostelike rigting langs die grens van die eiendom loop sonder die toestemming van die beherende gesag soos omskryf in Wet nr 21 van 1940 nie."*

It will be necessary to gain approval for the non-residential use of the property for tourist facilities in view of the restriction contained in condition D.2, above.

Permission needs to be granted for the construction of new buildings and a boundary fence on the property in terms of condition D.3. above and within 94,46m of the R44 centreline as determined in condition D.4.

## 3. MOTIVATION

As indicated above, the applied consent uses are subservient to the primary agricultural use of the property, albeit that the agricultural use is not and cannot reasonably be commercially viable, and that it would be possible to manage the farm together with the proposed tourist

facilities and tourist accommodation establishment sustainably as an economic unit. More than 50% of the property will remain primarily agricultural in use. The scale and form of the proposed new buildings and structures are in keeping with that found in the area and normally on farms, i.e., it would not detract from the obvious character of the surrounding area. Moreover, all the abutting and adjacent farms have similar scaled tourist accommodation establishments, spa's / wellness centres, shops, restaurants, kennels, and a dog parlour in similarly scaled buildings and areas, none of which are used primarily for commercially viable agricultural purposes.

The owner must erect a boundary fence along the western edge of the access servitude in proximity of the eastern property boundary. The fence must increase the security of the property from the road. A palisade fence with a height of 2,1m and brick piers is proposed. It can be softened by appropriate landscaping along the outside, to make it less visible and improve the noise absorption qualities thereof. The fence will further blend with the vegetated and built background and should therefore not be visually obtrusive.

As indicated above, the existing reservoir structure is within 1,0m of the eastern boundary of the farm. The reservoir is no longer required for the agricultural use and can be feasibly converted to a wellness centre, due to its size and dimensions. Retaining it in its current position and converting it to a different use requires approval of the encroachment of the 5,0m building line in this position. The encroachment will not have any effect on the receiving environment. The change in use of the existing encroaching building will further not have any significant effect. The wellness centre is for the use of resident guests.

The main dwelling is no longer required as a family residence and it was under-utilised. It is better used by allowing the use of thereof as a tourist accommodation establishment with twelve bedrooms, which were pre-existing in the house. The kitchen and dining room that serves resident guests is further offered as a restaurant open to outside visitors, to increase its feasibility. The restaurant, linked to the swimming pool adjacent thereto, and the garden area is used as a tourist or visitor attraction where meals can be enjoyed in a garden setting. Such outdoor attraction is in keeping with the nature of other tourist facilities along the R44 and essential to make the restaurant more attractive in the warm summer months, while the enclosed indoor area is better used in winter.

As an added attraction and to try an increase the spread of resident visitors over a longer period, a wellness centre / spa is being offered in the reconstructed reservoir. As the structure exists and it will only be reconfigured, it will not add to the visual built structures on the farm.

As indicated above, the applied consent uses are all subservient to the primary non-viable agricultural use of the property. It is essential to establish such uses to be able to retain the non-viable agricultural uses, and it would be possible to manage the farm as an agricultural unit together with the proposed tourist facilities and tourist accommodation establishment. More than 90% of the property will remain primarily agricultural in use. The scale and form of the proposed new buildings and structures are in keeping with that found in the surrounding area and neighbouring farms. It would not detract from the visible character of the surrounding area, primarily as all the abutting and adjacent farms have similar scaled tourist facilities and attractions.



According to the Zoning Scheme Bylaw, the total number of guest bedrooms in a guest house as an additional use on a land unit may not exceed seven bedrooms in total. This application is for a consent use for a tourist accommodation establishment, for which the Municipality may grant a consent use for a greater number of bedrooms to be used subject to assessment of the application in terms of the criteria under Section 213 of the Bylaw. The primary use of the property should remain primarily bona fide agricultural or natural environment use, unless otherwise approved by the Municipality and the guest accommodation shall always remain subservient to the primary agricultural activities and shall not interfere with the agricultural or natural environment land uses on the property. As has been shown, the primary use of the property is agriculture, albeit non-viable, with more than 90% of the property retaining its agricultural use. Moreover, the motivation for the establishment of the tourist accommodation establishment is the attraction of the agricultural use, the proposed tourist facilities, and the existing tourist attractions in the surrounding area. Establishment of the tourist accommodation establishment does not require any adaptation of or change in the agricultural activities on the farm.

The Bylaw further determines that tourist facilities in the Agriculture and Rural Zone may only be undertaken from a land unit where the primary use of the land is bona fide agriculture or natural environment or a combination of these uses and where the proposed activity is subservient to the primary land use on the farm. Compliance with this criterion is difficult to illustrate on a property where commercially viable agriculture is simply not possible as has been illustrated above. With more than 90% of the land unit being used for agricultural purposes, and the proposed tourist facilities not affecting the use or being affected by it, this criterion is met. The tourist proposed facilities and the agricultural use are compatible and complementary.

A site development plan showing all the existing and proposed uses is annexed hereto and could form the basis, together with any conditions as approved by the Municipality, of the development rules for the tourist accommodation establishment and tourist facilities on the property.

The tourist accommodation establishment and the tourist facilities will not have an adverse impact on surrounding properties, in respect of, but not limited to, noise, traffic congestion, pollution, emissions or the hindering of agriculture e.g., during spraying season, nor will the tourist activities have an adverse impact on any agricultural activities on the farm itself or on neighbouring properties.

On the other hand, the gathering of large numbers of people, or the presence of people in significant numbers could have an adverse impact on neighbouring properties and the enjoyment thereof. It would be mostly noise emanating from the gathering that would lead to a disturbance, for which purpose the owner commissioned a noise impact assessment and noise management plan, as annexed hereto. The findings of these were that the gathering of people did not cause any disturbing noise and that it could be appropriately managed to avoid any risk thereof.

The potential daily visitor numbers (and thus traffic generated by it) are low and not out of scale with the surrounding tourist facilities on neighbouring farms. Moreover, the access to the farm is directly off the R44 and the additional traffic would flow directly in and out of the property without passing the neighbouring properties which make use of a servitude



access across the property for access, amongst others for similar uses, i.e., guest accommodation and tourist facilities.

The other listed nuisance factors to be considered when granting a consent use, e.g., pollution and emissions do not apply to the tourist accommodation establishment or the proposed tourist facilities, as they do not directly generate these, even if they do draw vehicle traffic. The percentage of vehicle traffic to the proposed attractions according to the traffic impact assessment worst case scenario (157 peak period trips) is less than 3% of the daily peak period traffic on the R44. Thus, even though emissions could be argued to be related to the attraction, it is a mere fraction of the ambient situation and the effect thereof on the neighbours insignificant. The proposed use will not lead to any pollution, as the use does not manufacture or process materials that are of a polluting nature.

### 3.1 Stellenbosch Municipality IDP and SDF

The Integrated Development Plan 2022 (IDP), including the municipal spatial development framework (SDF) make specific provision for the establishment of guest accommodation and tourist facilities on farms and the diversification of agricultural activities to enhance the economic sustainability of the farms. It confirms that tourism, linked to the natural environment and agriculture, is one of the largest creators of employment and that it makes substantial contribution to the economic sustainability of the agricultural sector. This application is in line with the provisions of both said documents and an attempt to increase the feasibility and sustainability of the farm. The age, cultivar and small size of the existing vineyard are the primary causes of it not contributing to the sustainability of the Farm as an agricultural unit. It is however large enough and sufficiently developed with agricultural infrastructure and buildings to allow for diversification and use of the buildings and uncultivated land to contribute to the sustainability of the farm by generating revenue from it. The large front garden with the added attraction of the irrigation dam creates an ideal outdoor venue and picnic area, while the conversion of the dwellings to create lettable tourist dwelling units and a restaurant further improves the use of existing resources.

IDP Strategy 5 makes specific provision for the use of farms as tourism attractions: *"Manage and develop tourism as one of the key economic sectors - Facilitate the development of tourism attractions, as contained in the Local Economic Development Strategy, in all sectors and at all levels of the local economy"*. It further states that the Municipality must *"Support compatible and sustainable rural activities outside the urban edge (including tourism) if these activities are of a nature and form appropriate in a rural context, generate positive socio-economic returns, and do not compromise the environment, agricultural sustainability, or the ability of the municipality to deliver on its mandate."*

The SDF specifically states that the protection and expansion of tourism assets and the protection of agricultural land, enablement of its use and expansion of agricultural output are core to the sustainability of Stellenbosch. As the Farm cannot be sustained for agricultural purposes (vineyard) only, the diversification of the use and creation of an alternative revenue stream is necessary to sustain it over time. Using it for equestrian purposes only retains the rural character thereof but does not contribute to the economic feasibility thereof.



It is estimated that the economic pressure of COVID-19 has significantly impacted the municipal area and resulted in a 6,7 per cent contraction of the economy. Tourism and hospitality businesses, including restaurants, accommodation, the wine industry, tour guides, shuttle services, tour operators, booking agents and visitor attractions, have suffered significantly. SMMEs that are less capital-intensive have also been significantly affected by the COVID-19 pandemic. The decline in tourist activities in 2020 as a result of the pandemic, plus the restrictions in many forms of retail trade, resulted in the trade sector contracting by an estimated 9,6 per cent between 2019 and 2020. Tourism and hospitality are linked to the wine industry not only in terms of providing an outlet for the consumption of wine but also in terms of wine tourism, where the associated revenue generated at the wine farms has been reduced. The Municipal Economic Review Outlook (MERO), 2020 provides important insight into the situation, indicating that the agricultural sector grew by only 0,4% in 2020 and is likely to contract by 7,2% in 2021. The MERO is a good indicator of the economic need for diversified use of the agricultural and natural resources and the nature of the tourism that occurs. It indicates that visitors primarily partook in scenic drives (30,0%), culture/heritage (17,0%), and outdoor activities (52,0%), in 2020, which symbolise the core product offering of the Cape Winelands District. Previously wine tasting accounted for 24% of visitor activities, but this has changed significantly as a result of the Covid-19 restrictions. In contrast to the MERO, 2020, the MERO, 2019 indicated a significantly different picture of the local economy and tourism related activities. It indicated that visitors partook in wine tasting (24,0%), culture/heritage (19,0%), culinary (17,0%), and outdoor activities (13,0%), which was then described as *"the core product offering of the Cape Winelands District (CWD)"*. This radically changed in 2020 and is now more locally and recreation focussed, scenic drives attracting 30,0% of all visits, culture/heritage 17,0%, and outdoor activities 52,0%. While there is great uncertainty around the economic effects of the pandemic, there is general consensus that the international travel and tourism industries will not return to the pre-2020 levels for many years.

The tourism sector, and as indicated above, local visitors, contribute significantly to the local and regional economy and it requires continuous product development to ensure repeat visits and new visitors. By creating the proposed accommodation and function venue attraction, the Farm is likely to contribute to the local tourism sector and adding to the employment of people in need of such opportunities in proximity to their place of residence, assuming most would be residents of Jamestown and other neighbourhoods in Stellenbosch.

### 3.2 Provincial Spatial Development Framework

The Provincial Spatial Development Framework (PSDF) and the supporting and complementary regional spatial development framework as contemplated in Section 18 of the Spatial Planning and Land Use Management Act, 2013 determine principles and the planning and development norms and criteria for tourism related uses in the area. Nothing proposed in this application contradicts any of the said principles or guidelines.

The Western Cape Rural Development Guidelines indicate that: *"The Western Cape economy is founded on the Province's unique asset base. These include farming*

*resources, that make the Western Cape the country's leading exporter of agricultural commodities and whose value chains (e.g., agri-processing) underpin the Province's industrial sector; and its natural capital (i.e., biological diversity) and varied scenic and cultural resources which are the attraction that makes the Western Cape the country's premier tourism destination. The Western Cape seeks to ensure: 1) sustainable development of its rural areas; 2) conservation of their biological diversity; 3) functionality of ecosystems; 4) protection of agricultural productive land; and 5) safeguarding of rural heritage and culture."*

Chapter 11 of the Rural Development Guidelines determines the following sustainability principles and management guidelines for tourism development in rural and agricultural areas:

- *To diversify farm income.*
- *To offer a range of appropriate nature, cultural and agri-based rural tourism facilities, and recreational opportunities across the rural landscape (e.g., animal sanctuary, paintball, shooting ranges, and conference facilities).*
- *Rural tourism and recreation facilities and activities should not compromise farm production and must be placed to reinforce the farmstead precinct.*
- *To provide a range of opportunities, including different typologies, for tourists and visitors to experience the Western Cape's unique rural landscapes; e.g., additional dwelling units on farms, B&Bs, guesthouses, backpacker lodges, lodges, resorts, hotels, and camping sites.*
- *To offer more people access to unique tourism and recreational resources in sought-after natural areas, where it would not otherwise have been possible.*
- *Whilst tourist and recreational facilities should be accommodated across the rural landscape (i.e., in all SPCs), the nature and scale of the facility provided needs to be closely aligned with the environmental characteristics of the local context.*
- *Any facility not directly related to the rural landscape should preferably be located within, or peripheral to, urban centres. The obligation is on the applicant to illustrate why the land use cannot be accommodated in the urban area.*
- *The development should have no adverse effects on society, natural systems, and agricultural resources.*
- *The long term impact on the municipality (resources and financial); water supply and demand; agricultural activities, production and sustainability, risk, and finances; and the scenic, heritage and cultural landscape should be considered when decisions are taken.*
- *Avoid establishing facilities with any permanent on-site employees' residences in rural areas, as on-the-farm accommodation is restricted to agri-workers. Employees should be accommodated in existing settlements.*
- *Development applications should include a locality plan to indicate how it contributes to the clustering of facilities in nodal areas.*
- *A site development plan must be submitted to the municipality for consideration. The exact proposed footprint must be shown on the site development plan, it should illustrate the placement of the activity in relation to existing buildings on the farm, and provide details on infrastructure provision, access and parking arrangements and the position and nature of all proposed signage and landscaping.*



- *Environmentally sensitive areas (e.g., wetlands and other special habitats) should be avoided, and the placement of facilities and activities should be informed by a landscape assessment (i.e., considering biodiversity, cultural & scenic attributes).*
- *Existing structures or disturbed footprints should preferably be used, and adequate provision made for access and parking. Buildings should respond to the farm's built vernacular and should include appropriate buffers, landscaping, and screening to reduce their visual impact on the rural landscape. Information on the architectural design must be provided, for the purposes of the heritage and visual assessments.*
- *The appropriate nature and scale of a facility within a particular context should be determined by considering:*
  - *the extent of the cadastral portion, and*
  - *the sensitivity of, and impact on, the receiving environment (i.e., agricultural, or natural).*
- *The scale of a development must be limited to the extent that it will not promote secondary development (e.g., service stations, shopping centres, retail activities, social services such as schools, etc.) on or around the site such that a new, unplanned development node is created.*
- *Only activities that are appropriate in a rural context, generate positive socio-economic returns, and do not compromise the environment or ability of the municipality to deliver on its mandate should be accommodated.*
- *Landscaped areas, which generally require the application of fertilizers, herbicides, and pesticides, should be located above the 1:100-year flood line. Where the flood line has not been determined or is out of date, a flood line study is required.*
- *The development should not result in or contribute to visually obtrusive or ribbon development along the coastline, visually sensitive areas, cliffs, or ridges.*
- *The services associated with a development should not have a negative impact on the environment. The impact of these services should be taken into account when determining the appropriate location for a development. In particular, sewerage provision should not result in pollution of surface or groundwater (e.g., no soak-ways should be permitted).*
- *The development of the site should not negatively affect the role, function, public enjoyment and status of open space systems/networks, designated sites of cultural significance and/or sites identified as being of conservation significance.*
- *The development should not result in or contribute to visually obtrusive or ribbon development along the coastline, visually sensitive areas, cliffs, or ridges.*
- *The services associated with a development should not have a negative impact on the environment. The impact of these services should be taken into account when determining the appropriate location for a development. In particular, sewerage provision should not result in pollution of surface or groundwater (e.g., no soak-ways should be permitted).*

An assessment of the above land use proposals show that they meet all of the aforementioned principles and criteria. The proposed facilities will have no negative effect on the existing agricultural use and potential of the Farm and will in fact create the revenue required to improve the productive capacity of the Farm by the replacement of the vineyard with a more desirable cultivar and by its expansion.

Moreover, this is the only farm along the stretch of the R44 between the entrance to the airport and the urban edge at De Zalse Golf Estate that does not have any tourist facilities or guest / tourist accommodation established on it. Its access also serves as a servitude access to the abutting and adjacent properties containing such facilities and uses.

- ✓ To offer a range of appropriate facilities. When considering the main attractions of the CWD (according to the MERO 2021, outdoor activities is the primary attraction), it is obvious that the Drie Lande attraction will fit with the market trend and the regional setting. The proposed activities add to the tourism offerings along the R44.
- ✓ No compromise to agricultural activities. The proposed consent uses will occur in existing, reconfigured buildings and between the cultivated areas of the farm. It will therefore enhance and not negatively affect the agricultural activities on the farm, and it will not have any negative effect on the surrounding agriculture, as the proposed use does not cause any disturbance and is not sensitive to any agricultural activities, e.g., crop spraying, irrigation, use of farm implements and machinery.
- ✓ Provide a range of opportunities. New business and employment opportunities are created, as well as a new attraction for local and foreign visitors. This has significant positive effect on the local economy, which is virtually dedicated to agriculture and tourism. The proposed activities will add 18 permanent additional employment opportunities in proximity of the Stellenbosch town boundaries.
- ✓ Offer access to more people. The facility will create an additional venue in proximity of Stellenbosch town where such venues are in high demand. It is located on an existing tourist corridor and in an area surrounded by similar product offerings, allowing for a comparative choice.
- ✓ Improve the economic viability and sustainability of farms. The addition of the tourist attraction and accommodation would probably contribute to the Farm revenue and allow for its future agricultural capacity expansion.
- ✓ Align scale and form of facilities with character of area. The surrounding area has a high intensity use character, with similar scaled tourism related facilities on all adjacent farms. The use of the garden area and existing buildings for the tourist facilities and accommodation allows it to fit the agricultural scale and nature.
- ✓ Diversify farm income. Currently the farm does not generate sufficient revenue from the vineyard and the equestrian use to be sustainable as a farm. The consent uses proposed on the farm will allow for the generation of additional income from the agricultural resources and more importantly, allow for the future expansion of the agricultural use.

There is therefore a good match between the relevant policies and the proposed development of the Farm by the creation of the tourist accommodation



establishment and tourist facilities and the product offering of the immediate area along the R44.

### 3.3 SPLUMA principles

The matters referred to in Section 42 of the Spatial Planning and Land Use Management Act, 2013, with specific reference to spatial justice, spatial sustainability, efficiency, and good administration have all been considered in making this application.

- ✓ **Spatial Justice.** It refers to the need to redress the past apartheid spatial development imbalances and aim for equity in the provision of access to opportunities, facilities, services, and land. In the broadest sense, it seeks to promote the integration of communities and the creation of settlements that allow the poor to access opportunities. In a spatially just settlement, opportunities and access are provided to those whose historical access and opportunities have been impeded by past spatial planning. Land development procedures must include provisions that accommodate access to, and facilitation of, security of tenure and the incremental upgrading of informal areas.

The proposed use of the land does not have any negative effect on the spatial development framework and policies for such redress. It rather opens up opportunities for those who live in the area and do not have access to employment opportunities.

It does not prevent or hinder access to additional land for the poor for settlement purposes and it does not add to the cost of land acquisition to the state, as it is outside of the urban edge and not identified as settlement land or land for land reform purposes, for which it would in any event be useless due to the soil and water situation. The economic opportunities created by the use of the existing buildings, infrastructure and land as envisaged in this application results in a significantly better situation than where the property is used for residential smallholding purposes as an alternative to an unsustainable farm.

- ✓ **Spatial Sustainability.** According to this principle, a sustainable form of development must be pursued. Amongst others it means promoting less resource consuming development typologies that promote compaction and mixed-use urban environments. A spatially sustainable settlement will be one which has an equitable land market, while ensuring the protection of valuable agricultural land, environmentally sensitive and biodiversity rich areas, as well as scenic and cultural landscapes and limits urban sprawl.

Spatial sustainability, although primarily focused on urban development, has been considered. The proposed use of the land does not have any negative effect on the urban area and fits with the surrounding rural area. As a tourist facility it will contribute to the municipal and local economic revenue base, without requiring public expenditure to occur, while in its current state it makes extremely limited contribution. Moreover, it is located along the R44 corridor where tourist attractions are located, and it supplements these. Land earmarked

for agriculture, conservation, or urban development, is not negatively affected, or restricted by the proposed use of the farm.

The proposed land use ensures a more efficient and sustainable use of the land for a diversified use in terms of all policy documents. The buildings and structures are existing and fit the surrounding character, where tourist related activities predominate.

The proposed consent use and removal or suspension of the restrictive title conditions are unlikely to cause the lowering of the service levels in municipal or other public infrastructure.

- ✓ Efficiency. It refers to the need to create settlements that optimise the use of space, energy, infrastructure, resources, and land. Inherent in this statement is the need to promote densification and compact urban development typologies. This also has to do with the manner in which the settlement itself is designed and functions, which should reduce the need to travel long distances to access services, facilities, and opportunities. Efficiency also refers to decision making procedures which are designed to minimise negative financial, social, economic, or environmental impacts. In addition, efficiency refers to the need for development application procedures that are efficient and streamlined.

Efficiency (optimising the use of existing resources and infrastructure) has been addressed and the use of the agricultural land resource will contribute to increased efficiencies. The attraction will further improve efficiency in the area, as it is located in an area where many tourist facilities are located, adding to the attraction and product offerings in proximity of the town, where there is a labour market.

- ✓ Spatial Resilience. In the context of land use management and planning, it refers to the need to promote the development of sustainable livelihoods for the poor (i.e., communities that are most likely to suffer the impacts of economic and environmental shocks). It also refers to the requirement for flexibility in spatial plans, policies, and land use management systems to ensure sustainable livelihoods in communities most likely to suffer the impacts of economic and environmental shocks. The spatial plans, policies and land use management systems should enable the communities to be able to resist, absorb and accommodate these shocks and to recover from these shocks in a timely and efficient manner, which includes the preservation and restoration of essential basic infrastructure and functions, but also adaptation in order to ensure increased resilience in terms of future shocks.

The applicant cannot dictate the SDF and other spatial planning policies and strategies. At best, the applicant can collaborate with the relevant authorities to assist with the implementation of the relevant policies and strategies, as is the case with this application. Spatial resilience has thus been addressed, as the SDF and other policies allow for flexibility to ensure sustainable development, amongst others by determining policy to assess the application in terms of the SDF and IDP strategies, both of which promote the better use of agricultural



resources, the expansion of tourist attractions on appropriate land outside of the urban areas and the conservation of the rural environment.

The application needs a flexible approach, by taking cognisance of the entire spectrum of relevant considerations. By better utilisation of the land, the applicant makes a significant contribution to the sustainability of the farm, the broader agricultural environment and resource use in general.

- ✓ Good administration. In the context of land development planning, it refers to the promotion of integrated, consultative planning practices in which all spheres of government and other role-players ensure a joint planning approach is pursued. Land development decisions should seek to minimise the negative financial, social, economic, and environmental impacts of a development in an efficient process where all statutory requirements are adhered to.

Good administration is primarily a function of the authorities, not affected by the proposed use of the land. A flexible approach to the application and agreement on the achievement of the desired outcomes in the most economic and administratively justifiable and lawful manner is critically important. The applicant has taken the necessary actions to ensure that the decision-maker is provided with the required information to be able to take a decision based on the relevant considerations.

### 3.4 LUPA principles

The principles referred to in Chapter VI of the Western Cape Land Use Planning Act, 2014, Act 3 of 2014 (LUPA) have all been considered. The LUPA considerations and development principles require:

- ✓ The protection and promotion of the sustainable use of land, which is the purpose of the proposal. As indicated above, the application does not affect land essential for conservation, other uses, or service delivery by the Municipality. The application however requires adherence to national and provincial government policies, which it does, as illustrated above, inclusive of the municipal spatial development framework that promotes the expansion of tourist facilities on appropriate land outside of the urban areas without negatively affecting the agricultural use.
- ✓ Consideration of the public interest, which is done through compliance with the aforementioned policies and guidelines, together with the creation of new economic opportunities in proximity of the other tourist facilities and existing road infrastructure without negative impact on surrounding land use or the natural environment.
- ✓ Promotion of constitutional transformation imperatives and the related duties of the state. No comment.
- ✓ Proper consideration of the facts and circumstances relevant to the application, as have been set out above, indicating grounds for a positive land development consideration and decision. The relevant considerations include that the property is not sustainable as a farm and tourist facilities as are permitted in the Agriculture and Rural Zone would improve the sustainability thereof and create the basis for future upgrading of the productive capacity of the farm.

- ✓ The respective rights and obligations of all those potentially affected, primarily the surrounding property owners, public and private service providers and the wider community have been considered and there are no identified significant issues. The only potentially negative effect is the potential noise effect of an outdoor venue used in the evenings. The effect could however be mitigated by appropriate sound management. There are currently no residential dwelling units in the immediate vicinity of the garden area where the outdoor venue is proposed.
- ✓ The impact of the proposed development on engineering services infrastructure, social infrastructure, and open space requirements is insignificant. The proposed use contributes to the provision of economic activities without requiring additional infrastructure services. The proposed use of the land for tourist facilities and accommodation establishment allows for the best possible use of the land resource.

### 3.5 National Development Plan

The National Development Plan, 2030 (NDP) is extensively quoted in the Stellenbosch SDF 2019. *It serves as the strategic framework guiding and structuring the country's development imperatives and is supported by the New Growth Path (NGP) and other national strategies. In principle, the NDP is underpinned by, and seeks to advance, a paradigm of development that sees the role of government as enabling by creating the conditions, opportunities, and capabilities conducive to sustainable and inclusive economic growth. The NDP sets out the pillars through which to cultivate and expand a robust, entrepreneurial, and innovative economy that will address South Africa's primary challenge of significantly rolling back poverty and inequality by 2030.* The recently released Tourism Transformation Strategy (2018) goes to detail about the matter: *The tourism sector is one of the few sectors in South Africa that continues to grow economically and globally despite the recent economic challenges. The tourism sector is one of the six core pillars of growth in the country according to the New Growth Path and the Industrial Policy Action Plan (IPAP2) identified the sector as one of the areas that contributes to the development of areas of potential such as rural areas and cultural industries amongst others.*

### 3.6 Environmental Management

The proposed development of the consent uses does not trigger an authorisation application in terms of the National Environmental Management Act, 1998, Act 107 of 1998.

### 3.7 Heritage

The proposed tourist facilities and occasional use will not require authorisation in terms of Section 34 or 38 of the National Heritage Resources Act, 1999, Act 25 of 1999, as the existing buildings are not older than 60 years and reconfiguration thereof does not require prior authorisation and the area will not be transformed.

### 3.8 Engineering



Electricity is supplied by Eskom, through an existing service, which does not require any upgrading.

The farm is self-sufficient with potable water from the borehole and for irrigation from the relevant allocation.

The sewerage system is an existing conservancy tank system that is regularly emptied by a local service provider. The tanks have sufficient capacity to accommodate the tourist facilities and accommodation establishment.

Solid waste is removed by the Municipality, which service will continue with insignificant increase in volume.

The traffic impact statement for the proposed consent use established that as a minimum requirement a dedicated right-turn lane (based on deceleration) along the northern R44 approach to the access-intersection should be made a condition to address traffic safety. The potential total trip generation of the proposed development is 63 AM peak hour trips (47 in, 16 out) and 94 PM peak hour trips (32 in, 62 out), with the 'daily operations' expected in the order of 27 AM peak hour trips and 58 PM peak hour trips. Because congestion is currently experienced along the access-approach to the R44-intersection, the aforementioned dedicated right-turn lane (length based on deceleration) is proposed along the R44 to accommodate inbound traffic to the subject property and the neighbouring properties which also accommodate tourist facilities and guest accommodation. It is further recommended that in future when the R44 Safety Project of the Western Cape Government is implemented, the existing median break at the access should be closed, resulting in the intersection becoming a left-in/left-out only, with a U-turn opportunity provided further northeast along the R44.

### 3.9 Chapter V evaluation

In Section 65 of the SMLUPB, the following criteria for deciding applications are prescribed. While all of the matters referred to in Section 65 have been addressed in broad above, this section summarises and highlights the relevant matters which the Municipality must consider.

Criterion in Section 65	Applicability	Compliance of application
<i>(a) the application submitted in terms of this By-law;</i>	Application must comply with the processes of the LUPB.	Application covers all the relevant aspects, i.e., consent, and departure and is supported by the required documents and reports.
<i>(b) the procedure followed in processing the application;</i>	Application must be consistent with the LUPB.	Process still has to be concluded. Preparation and submission followed prescribed process.
<i>(c) the desirability of the proposed utilisation of land and any guidelines issued by the Provincial Minister regarding the desirability of proposed land uses;</i>	Desirability test according to Section 207, 209 and 213 of the Zoning Scheme Bylaw, read with the	See paragraphs 2.3, 3.2, 3.2 and 3.2 above. • Use not likely to cause nuisances and therefore desirable.

Criterion in Section 65	Applicability	Compliance of application
	provincial Rural Development Guidelines.	<ul style="list-style-type: none"> <li>Guidelines indicate better use of agricultural resources necessary to diversify economy.</li> <li>Guidelines require least impact on agricultural capacity, amongst others by use of existing buildings.</li> <li>Guidelines promote the addition of new and wider range of attractions and opportunities.</li> </ul>
<i>(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;</i>	Notices still to be circulated.	Compliance can only be monitored after conclusion of the public participation process.
<i>(e) the response by the applicant, if any, to the comments referred to in paragraph (d);</i>	Notices still to be circulated.	Compliance can only be monitored after conclusion of the public participation process.
<i>(f) investigations carried out in terms of other laws that are relevant to the consideration of the application;</i>	NEMA Act 107/1998 NHRA Act 25/1999	See paragraphs 3.6 and 3.7 above. <ul style="list-style-type: none"> <li>No authorisations required.</li> </ul>
<i>(h) the impact of the proposed land development on municipal engineering services;</i>	No negative effect envisaged due to the low scale and limited extent of the proposed uses.	See paragraph 3.8 above. <ul style="list-style-type: none"> <li>Insignificant additional traffic.</li> <li>Eskom electricity supply network has capacity.</li> <li>Own water supply from borehole is sufficient in quality and quantity.</li> <li>Sewerage managed on-site with conservancy tank for disposal into municipal system.</li> <li>Solid waste removed by Municipality</li> </ul>
<i>(i) the integrated development plan, including the municipal spatial development framework;</i>	Aligned to: IDP 2021, Tourism Development Strategy; and SDF Agricultural Sector Policy	See paragraph 3.1 above. <ul style="list-style-type: none"> <li>Tourism important economic contributor.</li> <li>New tourist facilities outside of existing nodes promoted, i.e., on farms and natural areas.</li> <li>Agricultural sector to be strengthened through appropriate diversification.</li> </ul>
<i>(j) the integrated development plan and spatial development framework</i>	Compliant with Rural Area Plan.	See paragraph 3.2 above.



<b>Criterion in Section 65</b>	<b>Applicability</b>	<b>Compliance of application</b>
<i>of the district municipality, where applicable;</i>		<ul style="list-style-type: none"> <li>The appropriate diversification of use on farms is desirable.</li> </ul>
<i>(k) the applicable local spatial development frameworks adopted by the Municipality;</i>	None identified.	None.
<i>(l) the applicable structure plans;</i>	Not applicable.	Not applicable.
<i>(m) the applicable policies of the Municipality that guide decision-making;</i>	None identified.	None.
<i>(n) the provincial spatial development framework;</i>	Compliant with Rural Area Plan.	See paragraph 3.2 above. <ul style="list-style-type: none"> <li>The appropriate diversification of use on farms is desirable.</li> </ul>
<i>(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;</i>	Compliant with Rural Area Plan.	See paragraph 3.2 above. <ul style="list-style-type: none"> <li>The appropriate diversification of use on farms is desirable.</li> </ul>
<i>(p) the policies, principles and the planning and development norms and criteria set by the national and provincial government;</i>	Compliant with principles and criteria.	See paragraphs 3.3 and 3.4 above. <ul style="list-style-type: none"> <li>Assessed against spatial justice, spatial sustainability, efficiency, and good administration.</li> </ul>
<i>(q) the matters referred to in section 42 of the Spatial Planning and Land Use Management Act;</i>	Compliant with principles and criteria.	See paragraph 3.3 and 3.4 above. <ul style="list-style-type: none"> <li>Assessed against spatial justice, spatial sustainability, efficiency, and good administration.</li> </ul>
<i>(r) the principles referred to in Chapter VI of the Land Use Planning Act; and</i>	Compliant with principles and criteria.	See paragraph 3.3 and 3.4 above. <ul style="list-style-type: none"> <li>Assessed against spatial justice, spatial sustainability, efficiency, and good administration.</li> </ul>
<i>(s) the applicable provisions of the zoning scheme.</i>	SM Zoning Scheme Bylaw, 2019 considered	See paragraph 2.3 above. <ul style="list-style-type: none"> <li>Consent evaluated against Section 207, 209 and 213.</li> <li>Definition of tourist facilities in Bylaw includes occasional use under tourist facilities.</li> <li>Existing buildings, infrastructure, and garden area to be used.</li> </ul>

#### 4. CONCLUSION

The application for approval of the proposed tourist accommodation establishment and tourist facilities along MR 0027 / R44 and related suspension or removal of the title conditions from deed T18186/2016 imposed in terms of the Advertising on Roads and Ribbon Development Act, 1940, Act 21 of 1940, in 1954, in terms of Section 15(2)(f) of the Land Use Planning Bylaw, or with the prior consent of the controlling authority for:

- 1) Approval for the non-residential use of the property for tourist facilities in terms of the restriction contained in condition D.2.
- 2) Permission for the construction of new buildings and a boundary fence on the property in terms of conditions D.3. and D.4.

As the proposed use is in line with municipal policy and legislation and the land use of the surrounding properties, and the proposed use has no significant negative effect on the surrounding area, approval can be granted for the following in terms of the Stellenbosch Municipality Land Use Planning Bylaw, 2015:

- 1) Section 15(2)(o) for Consent Use on Farm 528/5, Stellenbosch Division for the following:
  - a) For tourist facilities in order to facilitate the following:
    - i. New function venue (68-seater Chapel - 325 m<sup>2</sup>);
    - ii. Outdoor garden venue with gazebo (314 m<sup>2</sup>) for 110 guests;
    - iii. Convert the existing second dwelling (96 m<sup>2</sup>) into farm stall / shop;
    - iv. Wellness centre / spa for guests (583 m<sup>2</sup>); and
    - v. Restaurant (90 m<sup>2</sup>) (30 guests).
  - b) For Tourist Accommodation Establishment for the following:
    - i. Twelve (12) bedrooms with capacity for 24 guests in converted main dwelling;
    - ii. Three (3) bedrooms in converted manager's / additional dwelling for six guests; and
    - iii. Three (3) bedrooms added to the farm stall with a capacity for six guests.
  - c) For Occasional Uses to allow for more than one event per year for Live music, art and exhibitions and outdoor functions;
- 2) Application is made in terms of Section 15(2)(b) for a Permanent Departure for the following:
  - a) To construct a 2,1m high brick pier palisade fence on the eastern boundary of the property (adjacent to R44) on Farm 528/5, Stellenbosch Division; and
  - b) To relax the building line from 5m to 0m in order to accommodate the new wellness centre / spa in the reconstructed reservoir.

All relevant considerations have been addressed and the application could accordingly be approved after following the required consultation process.



**ANNEXURE E: PROOF OF EVIDENCE (PUBLIC PARTICIPATION, GENERAL  
PLAN & AFFIDAVIT)**



**STELLENBOSCH**  
STELLENBOSCH • PNIEL • FRANSCHHOEK  
MUNISIPALITEIT • UMASIPALA • MUNICIPALITY

July 2021v2

# **DIRECTORATE: PLANNING & ECONOMIC DEVELOPMENT**

[www.stellenbosch.gov.za/planning-portal/](http://www.stellenbosch.gov.za/planning-portal/)

**SUBMIT COMPLETED FORM TO RELEVANT LAND USE MANAGEMENT ADMINISTRATOR**

## **LAND USE PLANNING APPLICATION: PUBLIC PARTICIPATION PROCESS**

### **PORTFOLIO OF EVIDENCE (POE) CHECKLIST AND DECLARATION**

Sections 45, 46 and 55 of the Stellenbosch Municipal Land Use Planning By-Law (2015)

<b>Erf / Farm no</b>	528	<b>Portion(s) if farm</b>	5	<b>Allotment Area</b>	Stellenbosch
<b>Owner/ Applicant</b>	Benedetto Trust Reg. No. 1586/2012 Virdus Works (Pty) Ltd			<b>LU/#</b>	LU14500 TP61_2022
<b>Notice Period</b>	<b>From:</b>	15/11/2022	<b>To:</b>	19/12/2022	

	OWNER/APPLICANT			ADMIN VERIFY
	YES	NO	N/A	
<b>CONFIRMATION OR DOCUMENTATION SUBMITTED</b>				
1. The declaration is duly signed	X			
2. Applicant confirms that the public participation process was duly undertaken as instructed and attached	X			
3. Municipality informed of the start date and closure date	X			
4. The advertisement period complies with the required 30 days (60 days for municipal departments and organs of state)	X			
5. If applicable, confirms that the site notice was placed and kept on site for the full duration of the public participation process			X	
6. All communications (other than notices) in respect of the public participation process attached	X			
<b>Proof of notices published</b>				
7. If applicable, photo evidence to confirm site notice (one close up and one from across the street)			X	
8. Wording of the advertisement accurate and copy attached	X			
9. Proof of notices published (publication date visible)	X			
<b>Proof of notices served</b>				
10. Wording of notice accurate and example attached	X			
11. Proof of all notices served to neighbouring properties attached	X			
12. Proof of all notices served to interest and community groups attached	X			
13. Proof of all notices served to municipal departments and organs of state (government dept's and entities) attached	X			
<b>Comments received</b>				
14. All objections and comments received attached, including amended comments if relevant	X			
15. All comments from municipal departments and organs of state received (must also be attached to POE)	X			
16. Consent from abutting property owners obtained and attached			X	
17. Applicant's written reply / responding comments on all the objections attached	X			



**KINDLY NOTE:**

1. The POE may only be submitted once all relevant municipal departments and organs of state have submitted their comment, inclusive of the applicant's written reply thereto.
2. When any comments have been discussed or amended terms negotiated with the relevant commenting entity, the amended comments and the applicant's written reply thereto must be attached to the POE.
3. The decision-making period will only commence after receipt and confirmation of a complete POE in accordance with section 57 of the Bylaw.

**COMPLETE AND SIGN THE FOLLOWING DECLARATION****DECLARATION**

I, (full names & surname) Dupré Lombaard and ID No: [REDACTED] as the Applicant for the above application, hereby confirms:

- 1) the public participation process for the subject application was duly undertaken in accordance with the instruction for such process and the associated requirements stipulated in the Stellenbosch Municipal Land Use Planning Bylaw;
- 2) the information contained in the above checklist and the accompanied information and documentation in the Portfolio of Evidence for the concluded public participation process, are accurate and complete; and
- 3) the personal information (e.g. name, address, contact details) of interested and affected parties as supplied by the Municipality was only used for official municipal communication matters with reference to the Protection of Personal Information Act 4 of 2013 (POPI).

Duly signed on 13/03/2022 at Sanxenxo  
Date Place

  
 Signature

<i>For office use only</i>	
<b>CHECKED BY ADMINISTRATIVE OFFICER</b>	
<b>CHECKED BY TOWN PLANNER</b>	
<b>DATE VERIFIED</b>	

**NOTES TO BE RECORDED:**

**Virdus Works (Pty) Ltd (Reg. No. 2018/585747/07)**  
 Development Management Consultants and  
 Environmental Assessment Practitioners



15 March 2023

The Director: Planning and Development  
 Stellenbosch Municipality  
 PO Box 17  
 Stellenbosch  
 7599  
 Per: Landuse.Enquiries@ Stellenbosch.gov.za

Dear Sir

**SUBMISSION OF PORTFOLIO OF EVIDENCE REGARDING LAND DEVELOPMENT APPLICATION:  
 PORTION 5 OF FARM NO. 528 STELLENBOSCH RD (LU14500 TP61/2022)**

Notice of the application for the consent use was given in terms of the provisions of Section 46 of the Stellenbosch Municipality Land Use Bylaw, 2015, to all the identified stakeholders. The following are submitted in evidence of the public participation process:

- A. Copies of the mailing list.
- B. Proof of sending of email notices.
- C. Copies of the public notices.
- D. Comment received.
- E. Checklist and affidavit.
- F. Proof of prior sending to the Municipality.

Based on the public participation process, and due to the owner seeking alternatives to resolve some of the issues raised, the site development plan, the motivation report reflecting the land use proposals and the traffic statement have been amended. Copies of the amended documents are also submitted herewith under the Annexure:

- G. Amended Site Development Plan.
- H. Amended motivation report.
- I. Updated Traffic Statement.
- J. Noise impact assessment and Management Plan.
- K. Distillery Water Management Plan.

The amendments address the additional use for technical approval of an agricultural industry (distillery) of 583m<sup>2</sup> to be accommodated in the existing but unused reservoir, exclusive of tasting facilities and a point of sale, the removal of the chapel from the land use and site development proposal and an updated site development plan and traffic impact assessment. The amendments are made in terms of Section 52 of the Stellenbosch Municipality Land Use Planning Bylaw, 2015.

As indicated in the amended motivation report, the proposal in accordance with the amended Site Development Plan and the capacity of the tourist facilities and guest accommodation on the farm are



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Date: 15 March 2023

as follows:

- Guest accommodation: seven rooms with a capacity of 14 guests in the guesthouse (converted main dwelling).
- Farm stall: 96m<sup>2</sup> GLA with 0,4 as factor for determination of the usable for seating space, thus 38,4m<sup>2</sup> of seating area allowing for 1,9m<sup>2</sup> / guest. Thus 20 guests could be accommodated in the farm stall.
- Garden venue: 314m<sup>2</sup> area with 0,6 as factor for determination of the usable seating space, thus 188,4m<sup>2</sup> of seating allowing 1,7m<sup>2</sup> / guest and thus 110 guests.
- Distillery: Sales and tasting to occur in the farm stall, i.e., no provision for additional visitors.
- Future restaurant: A restaurant is not included in the application and no provision is made for visitors. Its indication on the plan is for planning of the site alone.

The calculation allows for 144 guests to be accommodated on the farm, of which 14 in the guest accommodation and 130 in the tourist facilities.

As indicated in the amended motivation report, the owner has, in the time since making the application, undertaken improvements to the agricultural use by planting of:

- 186 olive trees for on-site bottling and use in the catering;
- 10 pomegranate trees for on-site sale in the farmstall;
- 10 avocado trees for on-site sale in the farmstall and use in the catering;
- 30 guava trees for on-site sale in the farmstall and use in the catering;
- 600 lavender plants for lavender oil production and use in the distillery;
- Over 100 large trees for greening of the area.
- Preparations are in process for the addition of 1 hectare of new vines as soon as the shed is erected.

The comment from the Western Cape Department of Transport and Public Works is still outstanding, but 120 days, double the permitted time for comment, has lapsed and the consideration of the application can no longer be delayed by the lack of a response from the Department.

SUMMARY OF PUBLIC PARTICIPATION						
Methods of advertising				Date published	Closing date for objections	
Press			N/A			
Notices (by email)	Y			17-11-2022	19-12-2022	
Ward councillor	Y			05-12-2022	19-12-2022	
On-site display			N/A			
Community organisation(s)	Y			17-11-2022	19-12-2022	
Government bodies	Y			17-11-2022	23-01-2023	
Other	N	If yes, specify				

SUMMARY OF COMMENTS DURING PUBLIC PARTICIPATION (INTERESTED AND AFFECTED PARTIES)		
FARM/ ERF NO.	ISSUES RAISED	APPLICANT'S RESPONSE
De Zalse - CEO	<ul style="list-style-type: none"> <li>• Potential noise pollution from function venue.</li> <li>• Additional traffic along R44.</li> </ul>	<ul style="list-style-type: none"> <li>• The owner conducted a noise impact assessment and based thereon developed a noise management plan. See Annexure J. The assessment found the noise levels to be within acceptable levels and not disturbing.</li> <li>• Additional traffic will be added to the R44, but the percentage relative to the existing traffic</li> </ul>



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Date: 15 March 2023

	<ul style="list-style-type: none"> <li>Live events require time limitations.</li> </ul>	<p>volumes is insignificant and will have no detrimental effect on De Zalse.</p> <ul style="list-style-type: none"> <li>The owner indicated that the tourist facilities will be open seven days a week, from Monday to Thursday from 10:00 to 18:00, and Friday to Sunday from 09:00 to 22:00.</li> </ul>
Ptn 4 Farm 528 - Bellevue Trust	<ul style="list-style-type: none"> <li>Val de Vine (Ptn 5 Farm 528) publicly advertises 11 guest rooms available on the property while application is for seven.</li> <li>Val de Vine advertises events for up to 200 people on the internet.</li> <li>Live music, restaurant, bar, and gambling events advertised on the internet.</li> <li>Application is misleading, inaccurate, and incomplete as it does not include the aforementioned.</li> <li>Agriculture covers only 18% of the site and is not the primary use. Vineyard is neglected. No animals are kept.</li> <li>Section 213(2) of the Stellenbosch Zoning Scheme Bylaw applies (consent use subject to objective of preserving agricultural land).</li> <li>Scale of the proposed buildings and structures on the property are not in keeping with agricultural potential thereof.</li> <li>Uses applied for will not be subservient to the agricultural use of the property.</li> <li>Proposed uses require rezoning to a mixed-use zoning outside of the urban edge.</li> </ul>	<ul style="list-style-type: none"> <li>The owner indicated as on the SDP that the proposal is for seven guest rooms in the converted main dwelling only.</li> <li>The owner indicated that the proposal is for the accommodation of 144 guests as indicated above, based on the limitations of the property.</li> <li>No comment.</li> <li>At the time of preparing and making the application in February 2022, none of the uses as indicated in the objection were present on the farm, and the situation was confirmed with a site visit in preparation of the application.</li> <li>Agriculture is defined more broadly than cultivated fields. All related infrastructure, buildings, and land not used for other non-agricultural purposes, over and above the cultivated areas and natural areas, is considered agricultural use, e.g., the irrigation dam, the main, manager's and labourers' dwellings, and surrounding land. The SDP shows that at least 80% of the site will be used primarily for agricultural purposes.</li> <li>The primary use of the property is agricultural, but due to the size and other limitations, it cannot be used viably for agricultural purposes only. Additional and consent uses are essential to generate revenue from the land asset, failing which it becomes a residential smallholding only with limited economic contribution. Moreover, it is the only smallholding / farm in the area that has not yet been developed for a diversified use. This aspect was highlighted in the motivation report. The objector's property is advertised as offering eight tourist accommodation establishment suites of 45m<sup>2</sup> each, added to which "cosy family gatherings and functions, conferences, workshops and seminars for groups of up to 21 guests", added to which are spa and chiropractic treatments.</li> <li>The farm is insufficiently developed with farm infrastructure and a shed is essential to improving its agricultural potential. No farm equipment, produce, materials, or input goods, e.g., fertilizers, seed, can be stored.</li> <li>As indicated above, the area proposed for the consent and additional uses is less than the area intended for agricultural use. It is however true that the revenues to be generated from the consent uses will probably exceed the revenues possible from the agricultural uses.</li> <li>None of the farms in the Stellenbosch Municipal area that offers similar tourist</li> </ul>



Document: SUBMISSION OF PORTFOLIO OF EVIDENCE REGARDING LAND DEVELOPMENT APPLICATION: PORTION 5 OF FARM NO. 528 STELLENBOSCH RD (LU14500 TP61/2022)

Date: 15 March 2023

	<ul style="list-style-type: none"> <li>• Application must be to regularise the existing unlawful uses and not for proposed uses.</li> <li>• New shed is planned and placed on the site development plan to be a function venue.</li> <li>• The guest house is described as a tourist accommodation establishment in the application. It is misleading as it does not comply with the definition of a guest house.</li> <li>• The tourist accommodation with ancillary restaurant, bar and facilities is a hotel and it cannot be permitted on an agricultural property.</li> <li>• The proposed farm stall will not be able to sell 50% of its produce from products produced on the farm, as there are no agricultural activities.</li> <li>• The traffic statement is misleading in that it provides an incorrect description of the current use.</li> <li>• The TIS indicates 12 rooms for guest accommodation in contradiction of the land development application.</li> <li>• Traffic counts were done on Thursday, 28 July 2022, which is a weekday in winter when visitor numbers will be low</li> <li>• The TIS does not consider the advertised guest numbers of 200 visitors.</li> <li>• The TIS states that visitors will only be generated by the chapel and does not add the potential visitors attracted by other uses</li> <li>• Parking should be provided for a hotel and not a guest house.</li> <li>• Parking should be provided for the potential visitors to the shed which is arguably a function venue.</li> <li>• Upgrading of the R44 as proposed in the TIS should occur prior to any of the uses being permitted on the farm.</li> <li>• A liquor licence has already been issued for the farm and it is subject to the prior approval of the land uses, thus liquor is sold illegally.</li> <li>• The proposed uses are not desirable and have</li> </ul>	<p>consent uses is zoned for a mixed-use, e.g., Spier, Delaire Graff, Webersburg, Stellenbosch Vineyards, Alluvia, Banhoek Chilli Oil, etc.</p> <ul style="list-style-type: none"> <li>• At the time of preparing and lodging the application there were none of the mentioned illegal uses on the property.</li> <li>• While it is potentially so, the shed is also essential for the development of the farm, for agricultural purposes. Should the shed in future be used illegally for functions, then the Municipality must act according to the prescriptions of the Bylaw.</li> <li>• The application is for a guest house as defined in the Zoning Scheme Bylaw.</li> <li>• The proposal is in keeping with the definition of a guest house as defined in the Zoning Scheme Bylaw and the additional facilities are for guests only.</li> <li>• Following the agricultural development and improvements as indicated above, together with the food and baked products produced on the farm, the farm stall can be stocked with at least 50% of its products off the farm.</li> <li>• The TIS has been updated in line with the latest SDP as annexed, and the amended motivation report.</li> <li>• The TIS has been updated in line with the latest SDP as annexed, and the amended motivation report.</li> <li>• Traffic counts, as indicated in the TIS, are for determining existing traffic use on the main road. It is not for determining visitor traffic.</li> <li>• The TIS, as the motivation report and application, can only consider what is shown on the SDP and what is indicated as the potential by the owner.</li> <li>• The owner indicated that the venues would not be operated separately, i.e., that visitor numbers would be limited to the pre-booked visitor numbers per event, as indicated in the calculation above and in the amended motivation report.</li> <li>• The proposed use is a guest house and not a hotel.</li> <li>• As above, the shed is an agricultural building intended for bona fide agricultural use, therefore parking is not applicable to it.</li> <li>• The upgrading of the R44 to create a safe intersection and access should be a condition of an approval as indicated, considering that the intersection / access also services three other properties with consent uses, including tourist facilities and accommodation.</li> <li>• No comment</li> <li>• The objection to the noise is a subjective and</li> </ul>
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	<p>already caused noise disturbances to the surrounding properties.</p> <ul style="list-style-type: none"> <li>A more dangerous intersection will be created on the R44, and the shared access road will be congested with negative effect on the objector property.</li> <li>The application for consent use should be refused.</li> </ul>	<p>unsubstantiated comment. As indicated in the annexed noise impact assessment the noise levels produced by live events on the farm are within acceptable limits.</p> <ul style="list-style-type: none"> <li>As above, upgrading of the access which is already used for tourist facilities and accommodation by three of the four properties which share it, will be essential.</li> <li>The request for refusal of the application reflects badly on the objector, who already operates a tourist accommodation establishment and function venue, to which it objects.</li> </ul>
SIG - two submissions	<ul style="list-style-type: none"> <li>The R44 abutting the property is a Grade IIIA scenic route.</li> <li>The proposed 2,1m high wall along the edge of the route will be unsightly and is not in character with the surrounding landscape.</li> <li>The Western Cape Rural Development Guidelines require close alignment of development within local context of environmental characteristics.</li> <li>The farm stall is out of character with the area and will be visible and obtrusive.</li> <li>The agricultural shed will change the character of the landscape considerably.</li> <li>No application is made for the agricultural shed, which is not required in view of the limited agricultural use of the property.</li> <li>Buildings on the property were probably erected without prior approval and contravene the municipal bylaws and title deed restrictions.</li> <li>The TIS mentions 12 guest rooms while the application is for seven only. Other dwellings on the farm are likely to be used for guest accommodation and not for the owner and manager as indicated on the SDP.</li> <li>Other uses on the farm will dominate the use and the primary use will no longer be agricultural.</li> <li>The vineyards on the farm will be replaced with buildings.</li> </ul>	<ul style="list-style-type: none"> <li>Noted. The surrounding landscape is fully developed and yet the route has its current grading, i.e., the use of the existing buildings for the tourist facilities and accommodation and the addition of a bona fide agricultural building will have no negative effect.</li> <li>While a solid wall could have a negative effect, its shape, form, and finishing could mitigate the negative effects and solve the needs of the owner and desires of the road users not wanting to see a solid white wall.</li> <li>As indicated in the motivation report and herein above, this is the only smallholding in the immediate area that has not yet been granted permission for tourist facilities and accommodation. Thus, the application is in line with surrounding land use and in keeping with the Guidelines which promote the diversification of use on farms.</li> <li>The farm stall is in keeping with the surrounding uses, buildings, and structures. The entire route / road is characterised by visible buildings along it and yet the road is a graded scenic route as indicated above.</li> <li>As above, it is an essential building for the agricultural use of the property and in keeping with the existing buildings and structures along the road.</li> <li>The shed is a primary use, and no application is required for it. Application has been made for the removal or suspension of the restrictive title conditions which hinder is construction.</li> <li>No comment.</li> <li>As above, the SDP, motivation report, and TIS have been updated and are aligned. If in future the owner illegally uses any buildings, the Municipality must act in terms of its Bylaws.</li> <li>As above, at least 80% of the farm will be used for agricultural purposes.</li> <li>As above, new plantings have been undertaken and the new vineyard will be established once a shed is available to support the agricultural</li> </ul>



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	<ul style="list-style-type: none"> <li>The TIS is inaccurate, as it does not calculate the trips generated by the potential capacity of all the proposed facilities. More parking bays are shown on the SDP than are required in terms of the TIS, making the application questionable.</li> <li>Water is available for irrigation of 2,5ha while less than 7 000m<sup>2</sup> is used for agriculture. The proposed uses should locate in an urban area.</li> <li>Val de Vine already advertises and offers events and guest accommodation prior to consideration of the application. Several buildings on the property are advertised for accommodation, more than only the guest house with seven rooms.</li> <li>The vineyards have been removed and there is no longer any agricultural activity on the farm.</li> <li>Application should be made for a rezoning, as the extent of the proposed uses exceed what could be granted under consent.</li> <li>The application did not reflect the true extent of the uses and the existing illegal uses.</li> </ul>	<p>uses.</p> <ul style="list-style-type: none"> <li>The SDP and the TIS have been updated and are accordingly aligned with the capacity of the facilities for which application has been made.</li> <li>The water is also used for the recently planted trees and orchards and will be used for the new proposed vineyard.</li> <li>No comment.</li> <li>This is incorrect. As indicated above, new plantings have occurred, and a new vineyard will be planted as soon as a shed is available to support the agricultural use.</li> <li>As above, a rezoning is not required, as the scale of the proposed uses, including the buildings, is in keeping with the agricultural use and what is prevalent in the immediate area.</li> <li>As above, at the time of submission the illegal uses did not exist.</li> </ul>
<b>SUMMARY OF COMMENTS FROM INTERNAL DEPARTMENTS AND/OR ORGANS OF STATE AND/OR COMMUNITY ORGANISATIONS AND/OR WARD COUNCILLOR</b>		
Name of Department	DATE / SUMMARY OF COMMENTS	APPLICANT'S RESPONSE
Western Cape Department of Transport	<ul style="list-style-type: none"> <li>16/11/2022 - Acknowledged receipt.</li> <li>06/02/2023 - Indicated that comment will be made within a week.</li> </ul>	<ul style="list-style-type: none"> <li>No comment was received in the 60-day period.</li> <li>No comment has been received to date. The updated TIS and SDP have been sent to the Department for comment.</li> </ul>
Ward Councillor - Badenhorst	<ul style="list-style-type: none"> <li>Traffic on the R44 is already a concern and more traffic through a median break is problematic.</li> <li>Noise emanating from the site will have negative effect on surrounding uses.</li> </ul>	<ul style="list-style-type: none"> <li>As above, upgrading of the access serving four properties of which three already have similar consent uses, will be essential.</li> <li>The objection to the noise is a subjective and unsubstantiated comment. As indicated in the annexed noise impact assessment the noise levels produced by live events on the farm are within acceptable limits.</li> </ul>
Spatial Planning	<ul style="list-style-type: none"> <li>Tourist accommodation should make use of existing buildings.</li> <li>Rural place-bound businesses (including farm stalls and shops, venue facilities) of appropriate location and scale to complement farming operations and not compromise the environment, agricultural sustainability, and the scenic, heritage and cultural landscape.</li> <li>Support for various forms of leisure and tourism activities across the rural landscape.</li> <li>Activities and uses directly related to agricultural enterprises are permitted.</li> <li>Tourism must diversify and strengthen the rural economy and is supported.</li> <li>Large-scale tourist accommodation should preferably be provided in or adjacent to existing towns.</li> </ul>	<ul style="list-style-type: none"> <li>Noted and indeed so planned in the amended SDP.</li> <li>As indicated above, more than 80% of the property will be used for agricultural purposes and the consent uses, as well as the agricultural building (shed) are essential to ensure the future of the farm as an agricultural use and not a residential smallholding.</li> <li>Noted.</li> <li>Noted.</li> <li>Noted.</li> <li>Noted.</li> </ul>



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	<ul style="list-style-type: none"> <li>The proposed use of existing buildings for the proposed guest accommodation and farm stall is supported.</li> <li>New shed and chapel are not supported.</li> <li>The primary use of the property should remain agricultural.</li> <li>The guest accommodation, bar and restaurant in the main house are existing. The uses can be supported due to them being in an existing building.</li> <li>The application indicates that the secondary uses will precede the development of the primary uses.</li> </ul>	<ul style="list-style-type: none"> <li>Noted.</li> <li>The chapel has been removed from the SDP. The shed is however an essential agricultural building without which the vineyard cannot be established, and the new plantings cannot be maintained, or the produce used.</li> <li>It is indeed so, with at least 80% of the property used for agricultural purposes.</li> <li>A compliance notice was issued for the illegal uses which did not exist at the time of submission of the application.</li> <li>The primary use has in the meantime been extended with planting as indicated above, but the agricultural uses do not generate sufficient revenue to significantly expand and maintain the primary agricultural use, hence the need for consent use to generate additional revenue.</li> </ul>
Electrical Infrastructure	<ul style="list-style-type: none"> <li>It is not in the Stellenbosch area of supply.</li> <li>All electrical requirements to be addressed to Eskom.</li> </ul>	<ul style="list-style-type: none"> <li>Noted.</li> <li>Noted.</li> </ul>
Fire Safety	<ul style="list-style-type: none"> <li>Land use is in order.</li> <li>Fire requirements will be given on consideration of building plans.</li> </ul>	<ul style="list-style-type: none"> <li>Noted.</li> <li>Noted.</li> </ul>
Infrastructure Services	<ul style="list-style-type: none"> <li>Required additional information and an updated TIS.</li> </ul>	<ul style="list-style-type: none"> <li>Required information submitted herewith as indicated above.</li> </ul>

The above objections and comment were taken into consideration by the owner and resulted in an amended development proposal, as submitted herewith. Many of the issues raised in the process have also been addressed, e.g., the planting of orchards for agricultural production and preparation for a new vineyard, as indicated in the amended motivation report. Noise issues have been addressed and a management plan proposed. The old water reservoir is proposed as a distillery, for which a water management plan has been proposed. This all contributes to the better use of the land for agricultural purposes.

Yours faithfully

  
**DUPRÉ LOMBAARD**



**Dupré Lombaard (Virdus Works)**

---

**From:** Dupré Lombaard (Virdus Works) <dupre.lombaard@virdus.com>  
**Sent:** 15 November 2022 05:46  
**To:** 'stlandbo@mweb.co.za'  
**Subject:** FW: NOTICE OF LAND DEVELOPMENT APPLICATION IN THE STELLENBOSCH MUNICIPAL AREA (LU 14500 (TP61/2022))  
**Attachments:** Ptn 5 Farm 528 Stellenbosch consent use application LU14500 TP61\_2022 summary.pdf; Email notice Ptn 5 Farm 528 S consent use LU14500 TP61\_2022 merged 20221114\_2.pdf

Dear Sir / Madam

Herewith a public notice regarding a land development application in the vicinity of your property / in your area of interest with a summary of the application submission.

Should you not be willing to open the attachment for understandable internet safety and security reasons, or if you require the complete application submission, you may request a copy of the full application from undersigned, to be sent via WeTransfer, due to its size (23Mb).

Geagte Heer / Dame

Hiermee 'n afskrif van 'n publieke kennisgewing insake 'n grondontwikkelingsaansoek in u omgewing / area van belang tesame met 'n opsomming van die aansoek dokumente.

Sou u om verstaanbare redes nie bereid wees om die aanhangsel oop te maak nie, vanweë die risiko vir internet sekuriteit en veiligheid, of indien u die volledige aansoek dokument verlang, kan u ook vir ondergetekende vra vir 'n afskrif van die volledige aansoek, wat met WeTransfer gestuur sal word as gevolg van die omvang daarvan (23Mb).

Regards / Groete

**DUPRÉ LOMBAARD**

(SACPLAN B/8076/1998 / EAPASA 2019/304)

**Virdus Works (Pty) Ltd (Reg. No. 2018/585747/07)**

Development Management Consultants and Environmental Assessment Practitioners

Address: 77 Buitekring, Dalsig, Stellenbosch, 7600, South Africa

Mobile: +27 82 895 6362

Web: [www.virdus.com](http://www.virdus.com)

**Dupré Lombaard (Virdus Works)**

---

**From:** Dupré Lombaard (Virdus Works) <dupre.lombaard@virdus.com>  
**Sent:** 15 November 2022 05:43  
**To:** 'Jan Jooste'  
**Subject:** FW: NOTICE OF LAND DEVELOPMENT APPLICATION IN THE STELLENBOSCH MUNICIPAL AREA (LU 14500 (TP61/2022))  
**Attachments:** Ptn 5 Farm 528 Stellenbosch consent use application LU14500 TP61\_2022 summary.pdf; Email notice Ptn 5 Farm 528 S consent use LU14500 TP61\_2022 merged 20221114\_5.pdf

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Regards / Groete

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Web: [www.virdus.com](http://www.virdus.com)



**Dupré Lombaard (Virdus Works)**

**From:** Dupré Lombaard (Virdus Works) <dupre.lombaard@virdus.com>  
**Sent:** 15 November 2022 05:43  
**To:** Stellenbosch Ratepayers (info@stellenboschratedpayers.org)  
**Subject:** FW: NOTICE OF LAND DEVELOPMENT APPLICATION IN THE STELLENBOSCH MUNICIPAL AREA (LU 14500 (TP61/2022))  
**Attachments:** Ptn 5 Farm 528 Stellenbosch consent use application LU14500 TP61\_2022 summary.pdf; Email notice Ptn 5 Farm 528 S consent use LU14500 TP61\_2022 merged 20221114\_4.pdf

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**Dupré Lombaard (Virdus Works)**

**From:** Dupré Lombaard (Virdus Works) <dupre.lombaard@virdus.com>  
**Sent:** 15 November 2022 05:42  
**To:** Stellenbosch Interest Group  
**Subject:** FW: NOTICE OF LAND DEVELOPMENT APPLICATION IN THE STELLENBOSCH MUNICIPAL AREA (LU 14500 (TP61/2022))  
**Attachments:** Ptn 5 Farm 528 Stellenbosch consent use application LU14500 TP61\_2022 summary.pdf; Email notice Ptn 5 Farm 528 S consent use LU14500 TP61\_2022 merged 20221114\_3.pdf

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Regards / Groete

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(SACPLAN B/8076/1998 / EAPASA 2019/304)

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Mobile: +27 82 895 6362

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**Dupré Lombaard (Virdus Works)**

---

**From:** Dupré Lombaard (Virdus Works) <dupre.lombaard@virdus.com>  
**Sent:** 15 November 2022 05:36  
**To:** 'De Oude Schuur'  
**Subject:** FW: NOTICE OF LAND DEVELOPMENT APPLICATION IN THE STELLENBOSCH MUNICIPAL AREA (LU 14500 (TP61/2022))  
**Attachments:** Ptn 5 Farm 528 Stellenbosch consent use application LU14500 TP61\_2022 summary.pdf; Email notice Ptn 5 Farm 528 S consent use LU14500 TP61\_2022 merged 20221114\_6.pdf

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(SACPLAN B/8076/1998 / EAPASA 2019/304)

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**Dupré Lombaard (Virdus Works)**

---

**From:** Dupré Lombaard (Virdus Works) <dupre.lombaard@virdus.com>  
**Sent:** 15 November 2022 05:36  
**To:** winery@zetler.co.za; info@polkadraaifarm.co.za  
**Subject:** FW: NOTICE OF LAND DEVELOPMENT APPLICATION IN THE STELLENBOSCH MUNICIPAL AREA (LU 14500 (TP61/2022))  
**Attachments:** Ptn 5 Farm 528 Stellenbosch consent use application LU14500 TP61\_2022 summary.pdf; Email notice Ptn 5 Farm 528 S consent use LU14500 TP61\_2022 merged 20221114\_7.pdf

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Regards / Groete

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Mobile: +27 82 895 6362

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**Dupré Lombaard (Virdus Works)**

---

**From:** Dupré Lombaard (Virdus Works) <dupre.lombaard@virdus.com>  
**Sent:** 15 November 2022 05:35  
**To:** Vanessa Stoffels (Vanessa.Stoffels@westerncape.gov.za)  
**Subject:** FW: NOTICE OF LAND DEVELOPMENT APPLICATION IN THE STELLENBOSCH MUNICIPAL AREA (LU 14500 (TP61/2022))  
**Attachments:** Ptn 5 Farm 528 Stellenbosch consent use application LU14500 TP61\_2022 summary.pdf; Email notice Ptn 5 Farm 528 S consent use LU14500 TP61\_2022 merged 20221114\_8.pdf

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**Dupré Lombaard (Virdus Works)**

**From:** Dupré Lombaard (Virdus Works) <dupre.lombaard@virdus.com>  
**Sent:** 15 November 2022 05:34  
**To:** 'info@lapineta.co.za'  
**Subject:** FW: NOTICE OF LAND DEVELOPMENT APPLICATION IN THE STELLENBOSCH MUNICIPAL AREA (LU 14500 (TP61/2022))  
**Attachments:** Ptn 5 Farm 528 Stellenbosch consent use application LU14500 TP61\_2022 summary.pdf; Email notice Ptn 5 Farm 528 S consent use LU14500 TP61\_2022 merged 20221114\_9.pdf

Dear Sir / Madam

Herewith a public notice regarding a land development application in the vicinity of your property / in your area of interest with a summary of the application submission.

Should you not be willing to open the attachment for understandable internet safety and security reasons, or if you require the complete application submission, you may request a copy of the full application from undersigned, to be sent via WeTransfer, due to its size (23Mb).

Geagte Heer / Dame

Hiermee 'n afskrif van 'n publieke kennisgewing insake 'n grondontwikkelingsaansoek in u omgewing / area van belang tesame met 'n opsomming van die aansoek dokumente.

Sou u om verstaanbare redes nie bereid wees om die aanhangsel oop te maak nie, vanweë die risiko vir internet sekuriteit en veiligheid, of indien u die volledige aansoek dokument verlang, kan u ook vir ondergetekende vra vir 'n afskrif van die volledige aansoek, wat met WeTransfer gestuur sal word as gevolg van die omvang daarvan (23Mb).

Regards / Groete

**DUPRÉ LOMBAARD**

(SACPLAN B/8076/1998 / EAPASA 2019/304)

**Virdus Works (Pty) Ltd (Reg. No. 2018/585747/07)**

Development Management Consultants and Environmental Assessment Practitioners

Address: 77 Buitekring, Dalsig, Stellenbosch, 7600, South Africa

Mobile: +27 82 895 6362

Web: [www.virdus.com](http://www.virdus.com)



**Dupré Lombaard (Virdus Works)**

**From:** Dupré Lombaard (Virdus Works) <dupre.lombaard@virdus.com>  
**Sent:** 15 November 2022 05:30  
**To:** elmarie@wineroute.co.za  
**Subject:** NOTICE OF LAND DEVELOPMENT APPLICATION IN THE STELLENBOSCH MUNICIPAL AREA (LU 14500 (TP61/2022))  
**Attachments:** Ptn 5 Farm 528 Stellenbosch consent use application LU14500 TP61\_2022 summary.pdf; Email notice Ptn 5 Farm 528 S consent use LU14500 TP61\_2022 merged 20221114\_1.pdf

Dear Sir / Madam

Herewith a public notice regarding a land development application in the vicinity of your property / in your area of interest with a summary of the application submission.

Should you not be willing to open the attachment for understandable internet safety and security reasons, or if you require the complete application submission, you may request a copy of the full application from undersigned, to be sent via WeTransfer, due to its size (23Mb).

Geagte Heer / Dame

Hiermee 'n afskrif van 'n publieke kennisgewing insake 'n grondontwikkelingsaansoek in u omgewing / area van belang tesame met 'n opsomming van die aansoek dokumente.

Sou u om verstaanbare redes nie bereid wees om die aanhangsel oop te maak nie, vanweë die risiko vir internet sekuriteit en veiligheid, of indien u die volledige aansoek dokument verlang, kan u ook vir ondergetekende vra vir 'n afskrif van die volledige aansoek, wat met WeTransfer gestuur sal word as gevolg van die omvang daarvan (23Mb).

Regards / Groete

**DUPRÉ LOMBAARD**

(SACPLAN B/8076/1998 / EAPASA 2019/304)

**Virdus Works (Pty) Ltd (Reg. No. 2018/585747/07)**

Development Management Consultants and Environmental Assessment Practitioners

Address: 77 Buitekring, Dalsig, Stellenbosch, 7600, South Africa

Mobile: +27 82 895 6362

Web: [www.virdus.com](http://www.virdus.com)

**Dupré Lombaard (Virdus Works)**

**From:** Dupré Lombaard (Virdus Works) <dupre.lombaard@virdus.com>  
**Sent:** 15 November 2022 05:22  
**To:** 'Bulelwa Mdoda'  
**Cc:** 'Landuse Enquiries'; 'Valerie Mentz'  
**Subject:** RE: FARM 528/5 STELLENBOSCH.INSTRUCTION TO ADVERTISE  
**Attachments:** Email notice Ptn 5 Farm 528 S consent use LU14500 TP61\_2022 table 20221115.pdf;  
 Email notice Ptn 5 Farm 528 S consent use LU14500 TP61\_2022 SM 20221115.pdf; Ptn 5  
 Farm 528 Stellenbosch consent use application LU14500 TP61\_2022 summary.pdf

Dear Bulelwa

Herewith the notice as circulated today for placement on the website please.

Regards / Groete

**DUPRÉ LOMBAARD**

(SACPLAN B/8076/1998 / EAPASA 2019/304)

**Virdus Works (Pty) Ltd (Reg. No. 2018/585747/07)**

Development Management Consultants and Environmental Assessment Practitioners

Address: 77 Buitekring, Dalsig, Stellenbosch, 7600, South Africa

Mobile: +27 82 895 6362

Web: [www.virdus.com](http://www.virdus.com)

**From:** Bulelwa Mdoda <Bulelwa.Mdoda@ Stellenbosch.gov.za>  
**Sent:** 14 November 2022 09:16  
**To:** Dupré Lombaard (Virdus Works) <dupre.lombaard@virdus.com>  
**Subject:** FARM 528/5 STELLENBOSCH.INSTRUCTION TO ADVERTISE

Good day Mr Lombaard;

Please find attached instruction to advertise letter and templates for advertising.

Please comply with instructions in the attached letter dated 14 November 2022.



Kind regards,  
**Bulelwa Mdoda**  
 Land Use Management  
 Planning & Economic Development

T: +27 21 808 8690 : F +27 21 886 6899  
 1<sup>st</sup> Floor, NPK Building, 20 Plein Street  
 Stellenbosch  
 7600  
[www.stellenbosch.gov.za](http://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](http://www.stellenbosch.gov.za/main_pages/disclaimerpage.htm)



**ANNEXURE F: OBJECTIONS AND APPLICANTS RESPONSE THERETO**

# PIETERHUIZEN

P L A N N I N G

PIETERHUIZEN PLANNING (PTY) LTD  
2021/472575/07

OUR REFERENCE: J060  
YOUR REFERENCE: LU/14500  
DATE: 3 November 2023

✉ wilhelm@pieterhuizen.co.za  
📞 +27(0) 83 262 4843  
🌐 https://pieterhuizen.co.za

Per Email: [dupre.lombaard@virdus.com](mailto:dupre.lombaard@virdus.com)  
Cc: [Landuse.applications@stellenbosch.gov.za](mailto:Landuse.applications@stellenbosch.gov.za)

To whom it may concern

**OBJECTION AGAINST LU/14500: AMENDED APPLICATION FOR SUSPENSION/REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS (OR CONSENT IN TERMS OF RESTRICTIVE TITLE DEED CONDITIONS), PERMANENT DEPARTURES AND CONSENT USES ON PORTION 5 OF FARM NO. 528 STELLENBOSCH**

## 1. INTRODUCTION

1.1 The notice of the titled amended application, advertised from 5 October 2023, and the comment on the land use application submitted by this office on 13 December 2022, has reference. In terms of Section 50 of the Stellenbosch Municipality's Land Use Planning By-law, 2015 (hereafter referred to as 'the By-law'), this letter serves as written objection against the titled amended application on Portion 5 of Farm 528 Stellenbosch (hereafter referred to as 'the application site').

1.2 A Trust Resolution and Power of Attorney (dated 13 November 2023), authorising Pieterhuizen Planning to submit this objection on behalf of the owners of Portion 4 of Farm 528 Stellenbosch, is attached to this letter as **Annexure A**. Section 50(3) sets out the requirements of such written objection and has been extensively addressed by paragraphs 1.3 to 1.9 of our objection letter dated 13 December 2022 (see attached as **Annexure B**). It should be noted that the previous addressing of these sections must remain valid in the instance of this letter.

1.3 Further to Section 50(3) of the By-law, Section 50(4) states that the reasons for the comments must be set out in sufficient detail in order to-

- |                  |                                                                                                                   |
|------------------|-------------------------------------------------------------------------------------------------------------------|
| Section 50(4)(a) | indicate the facts and circumstances that explain the comments                                                    |
| Section 50(4)(b) | where relevant demonstrate the undesirable effect the application will have if approved                           |
| Section 50(4)(c) | where relevant demonstrate any aspect of the application that is not considered consistent with applicable policy |
| Section 50(4)(d) | enable the applicant to respond to the comment                                                                    |



- 1.4 Even though certain particulars of the proposal have been amended, we stand with our reasons for the objection as set out in paragraphs 2.1 to 2.6 of our objection letter dated 13 December 2022.
- 1.5 From what could be derived from the notice of the amended application, it seems that there have been two amendments to the submitted application since the submission of our objection on 13 December 2022. The first amendment to the application seems to have been submitted in March 2023, whilst the current amendment to the application has been submitted in September 2023. Nor the Objector (to our knowledge), or this office have been notified of the first amendment to the application (dated March 2023).
- 1.6 A distillery (agricultural industry measuring 583m<sup>2</sup>) seems to have formed part of the proposal during the first amendment (dated March 2023). This addition to the proposal, in our opinion, can be described as material. It is therefore not clear why the Municipality, in terms of Section 52(3) of the By-Law, did not require notice of this amended proposal to this office (or the objector).

## 2. Proposed Use of the Application Site

- 2.1 Notwithstanding the above, the current proposal involves the following (GLA and areas as derived from amended motivation report and SDP):

Current Building/Use	Status of Building	Extent(m <sup>2</sup> / rooms)	Proposal	Use Classification
Second Dwelling	-	96m <sup>2</sup> GLA (20 guests/ visitors) + additional 3 rooms (6 guests)	Farm Stall	Non-Agriculture
Managers Dwelling	-	3 rooms (6 guests)	Owners House	Residential
Main Dwelling	Approved Building Plan	12 rooms (24 guests)	Tourist Accommodation Establishment with 12 Bedrooms	Non-Agriculture
Front Garden	-	314m <sup>2</sup> (110 guests)	Picnic and Outdoor Venue	Non-Agriculture
Reservoir	-	583m <sup>2</sup>	Wellness Centre / Spa	Non-Agriculture
New	New	90m <sup>2</sup> GLA (30 guests)	Restaurant	Non-Agriculture
New	New	325m <sup>2</sup> GLA (68 guests)	Wedding Venue	Non-Agriculture
<b>Total Claimed Visitors / Additional Visitors</b>		<b>268 guests (without spa guests)</b>		
Agriculture	-	186 Olive Trees, 10 Pomegranate Trees, 10 Avocado Trees, 30 Guava Trees, 600 Lavender Plants, 100 Trees for Greening	Additional 1 Ha of Vineyard after development of new shed.	Agriculture

Table 1 Summary of Proposal



- 2.2 The 186 Olive Trees, 10 Pomegranate Trees, 10 Avocado Trees, 30 Guava Trees, 600 Lavender Plants, 100 Trees for Greening are described as improvements to the agricultural use on the application site. The zoning scheme defines *subservient* as being *lesser of importance, in overall intent, scale or extent*. The submitted amended motivation report rely heavily on the importance of the proposed uses for the financial viability of the farm and in relation to the agricultural uses on the farm, this is understandable. Furthermore, and from the information summarised in Table 1, it is reasonable to argue that the amended proposal includes mainly non-agricultural activities that is not subservient to the primary use of bona fide agriculture. Therefore, and in accordance with Section 213(6), **we are still of the opinion that the proposed uses will require the rezoning of the property.**
- 2.3 Further to the current and proposed buildings and uses as referred to in Table 1, it is also proposed to develop an *Agricultural Shed* measuring 826m<sup>2</sup> with a covered patio of 191m<sup>2</sup>. With the minuscule amount of agriculture currently present, in relation to the application site, it is reasonable to argue that the necessity of this scale of *Agricultural Shed* should be validated and that the current and proposed agricultural activities should not be used as a 'smokescreen' validating the development of the proposed *Agricultural Shed*.
- 2.4 Under Section 2.3 of the amended motivation report, the applicant states that *all the abutting and adjacent farms have similar scaled tourist accommodation establishments, spa's / wellness centres, shops, and restaurants, e.g., Mountain Breeze opposite the road, Bellevue Manor Guesthouse and Wellness Retreat abutting to the north, Chi-Chi's MindSpa adjacent to the north, using the same entrance off the R44, Nature's Pharmacy and De Oude Schuur Antique Furniture store abutting to the south and Kleinbosch Lodge and Zimzala Kennels and dog parlour adjacent to the south are some examples*. This, in our opinion is not accurate. The objecting site, as an example, comprise of 8 guest house suites and a small-scale spa with approximately 3Ha of the property still covered by vineyard – this is not comparable (in scale) with the current proposal on the application site. Figure 1, below and as extracted from the amended motivation report, clearly illustrates the significant difference in scale (of agricultural use) between the two sites:

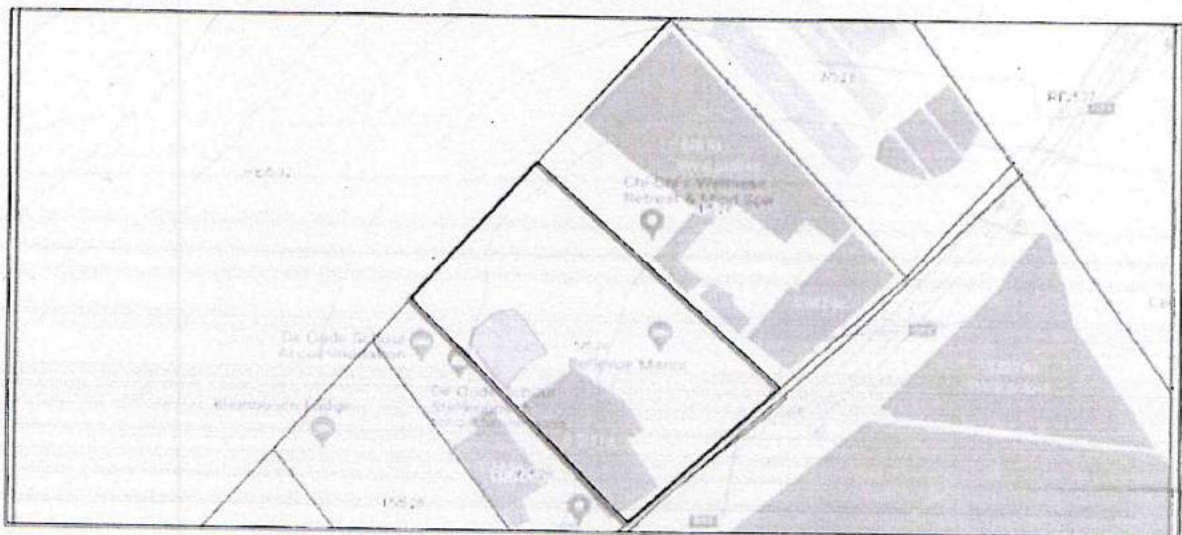


Figure 1 Agricultural Use (in Purple) on the Respective Sites.



2.5 With further reference to Figure 1 on page 3 above, it should be noted that the portion allocated to agricultural use on the application site currently consist of degraded vineyards and a large portion of this area is proposed to be replaced by the proposed *Wedding Venue* and *Agricultural Shed* – therefore further reducing the agricultural use of the application site.

2.6 The motivation report also refers to the new lavender plants that will be used for oil production in the distillery. The amended application, however, includes the omission of a distillery and it is therefore not clear if this will still be the case.

### 3. Unregularised Buildings and Uses

3.1 To be read in conjunction with paragraphs 2.1.1 to 2.1.5 of our objection dated 13 December 2022, it should be noted that the application site has been operational with *inter alia* tourist accommodation, a restaurant, live music, bars for the sale of alcohol, and a function venue since at least February 2022. As stipulated in the cover letter of the amended application, only the Main Dwelling has approved plans – yet all uses are continued on site with extensive advertisement on social media. In fact, upgrades to the on-site advertisement have been done during the period in which this application has been at the Stellenbosch Municipality.

3.2 In light of the above, it is unclear as to whether the Stellenbosch Municipality has decided to act on the continued use of the application site for the unregularised buildings and uses. If they have in fact acted on this, the continuation of the said uses is a clear indication of the disregard to adhere to regulations and creates uncertainty as to whether the current proposal is in fact what will occur on the application site in the foreseeable future.

3.3 Further to paragraph 3.2 above, and to be read in conjunction with paragraphs 2.3.2 of our objection dated 13 December 2022, it is understandable that the objector has great concern regarding the intention of the proposed *agricultural shed* in relation to the proposed *wedding venue*. The motivation report refers to the wedding venue to only accommodate 68 guests – although speculative, this is argued to be a small amount of people for weddings considering that the wedding venue will be required to accommodate both wedding ceremonies and wedding receptions.

3.4 In our opinion and with the information that has been provided, we are of the opinion that the *Agricultural Shed* has not yet been approved. Nevertheless, recent aerial photography has illustrated what seems to be groundwork and preparations for the development of the building – although speculative, it is reasonable to argue that the disregard for the process and to adhere to regulations is bound to continue. Figure 2, on page 5 below illustrates this:



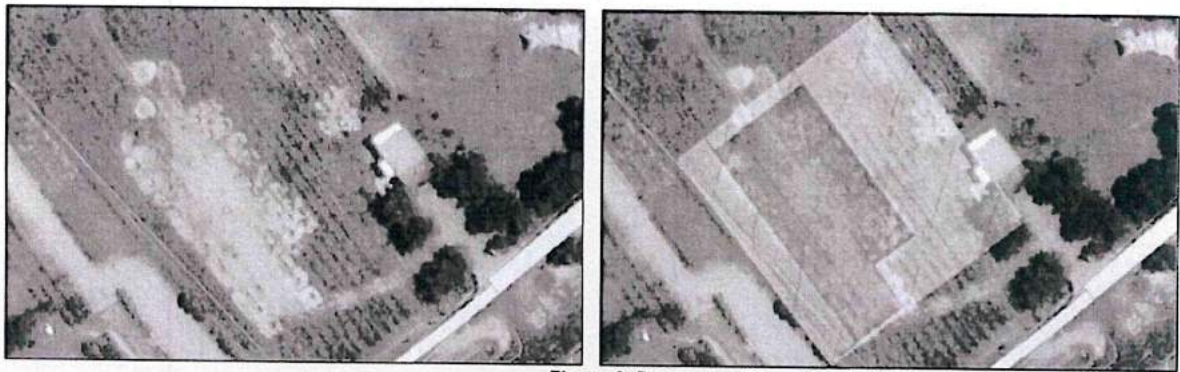


Figure 2 Remnants of Groundworks for the proposed Agricultural Shed

#### 4. Proposed Spa

The newly proposed wellness centre / spa that replaced the previously proposed distillery (of which this office was not aware of), is proposed on the current footprint of the existing reservoir on the application site. The proposed wellness centre / spa requires a departure from the 5m building line zoning scheme provision. The amended motivation report states that the *wellness centre / spa is being offered in the reconstructed reservoir. As the structure exists and it will only be reconfigured, it will not add to the visual built structures on the farm. This reconfiguration of the existing structure will include the addition of another storey on the structure. In our opinion, this can be regarded as a significant addition to the visual built structures on the farm, especially being 1m in lieu of 5m from the boundary of the application site.*

#### 5. Parking and Traffic

5.1 A total of 73 formalised parking bays has been provided on the amended SDP. According to our assessment of the proposed uses and based on the GLA calculations stipulated in the amended motivation report and SDP (not according to the definition of GLA in the zoning scheme), the following parking requirements should be adhered to:

Proposal	Parking Requirement	Extent(m <sup>2</sup> / rooms)	Bays Required
Farm Stall	4 bays / 100m <sup>2</sup> GLA	96m <sup>2</sup> GLA (20 guests/ visitors) +	3.84 Bays
	0.7 bays / Bedroom	additional 3 rooms (6 guests)	2.1 Bays
Owners House	0.7 bays / Bedroom	3 rooms (6 guests)	2.1 Bays
Tourist Accommodation Establishment with 12 Bedrooms	0.7 bays / Bedroom	12 rooms (24 guests)	8.4 Bays
Picnic and Outdoor Venue	4 bays / 100m <sup>2</sup> GLA	314m <sup>2</sup> (110 guests)	12.56 Bays
Wellness Centre / Spa	4 bays / 100m <sup>2</sup> GLA	583m <sup>2</sup>	23.32 Bays
Restaurant	4 bays / 100m <sup>2</sup> GLA	90m <sup>2</sup> GLA (30 guests) + 115m <sup>2</sup> for Covered Patio	9.56 Bays



		+ 34m <sup>2</sup> for Bar	
Wedding Venue	0.25 / seat	325m <sup>2</sup> GLA (68 guests)	17 Bays
Agricultural Shed	1 bays / 100m <sup>2</sup> GLA	826m <sup>2</sup>	8.26 Bays
Staff Cottages	2 Bays / Cottage	2 x 2-Bedroom Cottages	4 Bays
Managers Cottage	2 Bays	1 x 2-Bedroom Cottage	2 Bays
<b>Total</b>			<b>93.14 Bays</b>

*Table 2 Assumption of Parking Requirement*

- 5.2 Based on the GLA numbers provided in the amended motivation report and SDP, it is argued that a shortfall of formal parking bays is provided for on the application site. The amended motivation report does refer to informal parking being provided on a portion of the property where orchards are being grown. Although not proven, it is argued that the positioning of the trees has been planned to fit parking bays on this area. This further detracts from the argument that the proposed uses will remain subservient to the agricultural use on the property, since the agricultural use will in this instance be subservient to the provision of parking for the proposed uses.
- 5.3 Furthermore, and to be read with paragraphs 2.4.1 to 2.4.10 of our objection dated 13 December 2022, the amended TIS submitted still relies on traffic counts that were done on Thursday (28 July 2022) – a weekday in the middle of the South African Winter. We stand with our opinion that the proposed uses will be at its peak on weekends and that traffic counts should be taken over a weekend in the summer – to provide a realistic status quo.
- 5.4 With specific reference to paragraph 2.4.10 of our objection dated 13 December 2022, we stand with our opinion that the recommended dedicated right-turn lane should be developed along the R44 prior continuation of the unauthorised land uses in its current form and as proposed. At the moment, this is a substantial safety risk for the owners of the surrounding properties, the users of the R44 and the visitors of the application site.
- 5.5 Further to paragraph 5.4 above, we are of the opinion that the Municipality should restrict the traffic volumes to and from application site without the development of a dedicated right turn lane, before fatalities occur. It is well-known that the R44 is a high accident road and the increase in traffic using this access may contribute to an increase in accidents on the road.

## **6. LACK OF DESIRABILITY**

- 6.1 The amended motivation report refers to a noise management plan that is attached to the said report. This document was not attached to the documents that was made available to the objector and we can therefore not comment on the findings and recommendations of the said noise management plan. We can, however, mention that the application site and the objecting site is situated in a rural area. In our opinion, amplified sound is experienced more significantly and has a far greater impact in rural areas than in urban areas. If



the noise management plan confirms that the sound emanating from the proposed use will not be above the threshold, it is still reasonable to argue that there will be a significant disturbance to the objector in terms of noise (this has been experienced by the objector).

6.2 With specific reference to paragraph 1.8 of our objection letter dated 13 December 2022, it should be reiterated that the objecting site shares an access with the application site. The access road from the R44 towards the objecting site is a single lane road that also lead to the main parking area and 'overspill' parking space of the application site. This creates a scenario where access to and from the objecting site is negatively affected by the substantial increase of traffic to and from the objecting site (as a result of the existing uses that forms part of this amended application).

6.3 Although it is proposed to convert the existing *manager's house* to the *owner's house*, it is not clear whether the owner will reside on the property. It should be noted that the surrounding property owners, including the objector, resides on their properties and experience the impact of the existing uses that forms part of this proposal daily. It is therefore reasonable to argue that the objector has an informed understanding of the lack of desirability of the current status quo on the objecting site.

## 7. CONCLUSION

7.1 It is clear that the amended application is still, in our opinion, misleading, inaccurate and not desirable. Based on the reasons for the objection as set out in our objection dated 13 December 2022 as well as the information provided throughout this letter, we are of the opinion that the proposal will detrimentally impact the envisaged use of the application site, being agricultural.

7.2 It is also requested that, in the event of a Municipal Tribunal hearing, an opportunity to submit a written/oral argument in favour of this objection letter be granted to the objector.

Kind Regards



Wilhelm Esterhuizen

for Pieterhuizen Planning (Pty) Ltd



**ANNEXURE A**

**TRUST RESOLUTION AND POWER OF ATTORNEY**

## TRUST RESOLUTION

OF  
BELLEVUE TRUSTTrust Number 276/2008  
(the Trust)

## WHEREAS:

The trustees of the Trust, current owner of Portion 4 of Farm 528 Stellenbosch, hereby resolves the following:

RESOLUTION dated 03 November 2023

*Date of Resolution*

JOHANNES GERHARDUS JOOSTE (ID [REDACTED])

*Name of representative trustee of the Trust*

in his/her capacity as representative trustee of the Trust, is hereby authorised, in his/her sole and absolute discretion, to undersign the Power of Attorney effecting the appointment of *Pieterhuizen Planning (Pty) Ltd* to submit an objection against the land use applications applicable to Portion 5 of Farm 528 Stellenbosch on behalf of the Trust.

JOHANNES GERHARDUS JOOSTE

*Name of Trustee**Signature of Trustee*

ANDRIES GERHARDUS DU PLESSIS

*Name of Trustee**Signature of Trustee*

DIRK JACOBUS JOOSTE

*Name of Trustee**Signature of Trustee*



# PIETERHUIZEN

PLANNING

PIETERHUIZEN PLANNING (PTY) LTD  
2021/472575/07

✉ wilhelm@pieterhuizen.co.za

☎ +27(0) 83 262 4843

🌐 <https://pieterhuizen.co.za>

## POWER OF ATTORNEY

I/we, the registered owner(s) **BELLEVUE TRUST (REPRESENTATIVE TRUSTEE)**

registered owner(s) of the following property(ies) **PORTION 4 OF FARM 528 STELLENBOSCH**

wish to certify that authority is hereby granted to

**WILHELM ESTERHUIZEN OF PIETERHUIZEN PLANNING (PTY) LTD**

in terms of the resolution(s) (if the landowner is a registered company, closed corporation, trust or any other juristic person) to submit the following application types

**TO SUBMIT AN OBJECTION AGAINST THE LAND USE APPLICATIONS APPLICABLE TO**

**PORTION 5 OF THE FARM 528 STELLENBOSCH.**

in respect of the afore-mentioned property(ies), to enable the following


**TO OPPOSE THE APPROVAL OF THE AMENDED LAND USE APPLICATIONS APPLICABLE TO**

**PORTION 5 OF FARM 528 STELLENBOSCH**

Owner's name **BELLEVUE TRUST**

Date **03/11/2023**

Registered owner's signature



**ANNEXURE B**

**SUBMITTED OBJECTION DATED 13 DECEMEBR 2022**



# PIETERHUIZEN

P L A N N I N G

PIETERHUIZEN PLANNING (PTY) LTD  
2021/472575/07

OUR REFERENCE: J060  
YOUR REFERENCE: LU/14500  
DATE: 13 December 2022

✉ wilhelm@pieterhuizen.co.za  
📞 +27(0) 83 262 4843  
🌐 https://pieterhuizen.co.za

Per Email: [dupre.lombard@virdus.com](mailto:dupre.lombard@virdus.com)  
Cc: [Landuse.applications@stellenbosch.gov.za](mailto:Landuse.applications@stellenbosch.gov.za)

To whom it may concern

## OBJECTION AGAINST LU/14500: APPLICATION FOR PERMISSION IN TERMS OF A RESTRICTIVE TITLE DEED CONDITION, A PERMANENT DEPARTURE AND CONSENT USE ON PORTION 5 OF FARM NO. 528 STELLENBOSCH

### 1. INTRODUCTION

- 1.1 The notice of the titled application, advertised from 15 November 2022, together with the applicable documents uploaded on the Stellenbosch Municipality's website (pertaining to the application), has reference. In terms of Section 50 of the Stellenbosch Municipality's Land Use Planning By-law, 2015 (hereafter referred to as 'the By-law'), this letter serves as written objection against the titled application on Portion 5 of Farm 528 Stellenbosch (hereafter referred to as 'the application site').
- 1.2 Section 50(3) sets out the requirements of such written notice, and will be addressed accordingly:
- 1.3 Section 50(3)(a): *The name of the person concerned*
- 1.4 This objection is made on behalf of *The Bellevue Trust*, the owner of Portion 4 of Farm 528 Stellenbosch, abutting the application site to the northeast. *Mr. Jan Jooste* is appointed as the representative trustee of *The Bellevue Trust* and has duly authorised *Wilhelm Esterhuizen of Pieterhuizen Planning (Pty) Ltd* to prepare and submit this objection on behalf of *The Bellevue Trust*. See **Annexure A**, attached to this letter, for the **Trust Resolution** and **Power of Attorney**. *Mr Jan Jooste* will hereafter be referred to as "the objector" and Portion 4 of Farm 528 Stellenbosch will hereafter be referred to as "the objecting site".
- 1.5 Section 50(3)(b): *The address or contact details at which the person or body concerned will receive notice or service of documents*



- 1.6 Correspondence regarding the subject matter must be sent to [janjooste@gmail.com](mailto:janjooste@gmail.com) and [wilhelm@pieterhuizen.co.za](mailto:wilhelm@pieterhuizen.co.za).
- 1.7 Section 50(3)(c) *The interest of the person in the application*
- 1.8 The application site abuts the objecting site immediately to the southwest. The proposed (and existing) uses are situated within close proximity of the common boundary between the two properties. It should also be noted that the objecting site shares access from the R44 with the application site via a shared access road over Remainder Portion 2 of the Farm 528 Stellenbosch. See Figure 1, below, for the locality of Portion 4 of Farm 528 Stellenbosch in relation with the application site. Since the objector was identified as an Interested and Affected Party by the Municipality, it is argued that the objector shares great interest in the application at hand.



Figure 1 Locality of Portion 4 of Farm 528 in relation to the application site

- 1.9 Section 50(3)(d) *The reason for the comments*
- 1.10 Further to Section 50(3)(d) of the By-law, Section 50(4) states that the reasons for the comments must be set out in sufficient detail in order to-
- |                  |                                                                                                                   |
|------------------|-------------------------------------------------------------------------------------------------------------------|
| Section 50(4)(a) | indicate the facts and circumstances that explain the comments                                                    |
| Section 50(4)(b) | where relevant demonstrate the undesirable effect the application will have if approved                           |
| Section 50(4)(c) | where relevant demonstrate any aspect of the application that is not considered consistent with applicable policy |
| Section 50(4)(d) | enable the applicant to respond to the comment                                                                    |



- 1.11 The reasons for this objection letter, as required per Section 50(3)(d) and Section 50(4) of the By-Law are set out and elaborated on under paragraphs 2.1 – 2.6, below:

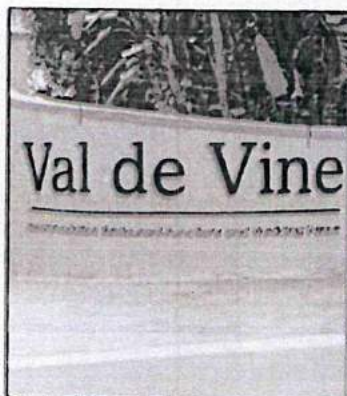
## 2. REASONS FOR THE OBJECTION

### 2.1 Chronological Turn of Events:

- 2.1.1 The application, advertised from 15 November 2022, is made to allow for *inter alia* a new function venue (30 seater chapel comprising of 389m<sup>2</sup> and outdoor picnic area comprising 2 000m<sup>2</sup>), to convert the existing second dwelling (comprising 96m<sup>2</sup>) into a *farm stall / shop*, to convert the existing dwelling house into a 7-bedroom guest house, and to allow for *Occasional Uses* comprising of more than one event per year for *live music, art exhibitions and outdoor functions*.

- 2.1.2 From marketing perused of the *Val de Vine Guest Farm*, it should be noted that the following timeline exist in terms of land uses operational on the application site:

Tourist Accommodation:	<u>11 guest rooms</u> available from at least February 2022
Occasional Use (>1 event/year):	Functions and art exhibitions <u>with the sale of alcohol</u> from at least March 2022. <u>Advertised to be available to at least 200 members of the public.</u>
Restaurant:	Serving food and alcohol to resident guests and <u>members of the public not residing on the application site</u> from at least May 2022
Live Music:	From at least May 2022 and <u>continuing to at least 21h30</u> in the evenings
Two Bars:	<u>Selling alcohol to members of the public</u> from at least September 2022
Function Venue:	<u>Wedding/birthday venue</u> from at least September 2022
Gambling Place:	Although not formalised, <u>poker and blackjack events</u> from at least September 2022





A black and white photograph of a large, ornate outdoor patio furniture set, including a sofa, armchairs, and ottomans, arranged on a lawn. In the background, there is a large, light-colored building with a prominent chimney and a large tree on the right.

[illegible]

VAL DE VINE  
*Winter Warmers*

WEDNESDAYS TO SUNDAYS DURING WINTER

DINNER LUNCHEON 7  
2 COURSES OF YOUR CHOICE INCLUDING A  
BOTTLE OF WHITE / RED HOUSE WINE

£ 3.95

STARTERS

French Onion Soup  
or Chicken Livers  
or Blooming Onion

MAINS

300g Sirloin Steak with Side  
or Roasted Chicken Breast with Vegetables  
or Beer Battered Hake & Chips

DESSERTS

Crème Brûlée  
or Cheesecake  
or Bread & Butter Pudding

Any Two Pizzas & a Bottle of Rose £270  
Double Brandy & Cake Special £70



Figure 2 Advertisement of Commenced Unregularised Land Uses on the Application Site

Further Proof of the above can be provided on request.



- 2.1.3 An application for occasional use consent, of which the objector has been notified on 8 September 2022, included a Stellenbosch Municipality Land Use Application Form where (under Part C of the form) the applicant confirmed that there are no existing unauthorised land uses on the application site. From the information identified under paragraph 2.1.2 it is argued that this statement was incorrect and misleading.
- 2.1.4 Since there were no current approved site development plan submitted as part of the public participation process and since the motivation report (dated 4 August 2022) refers to the current improvements on the farm to be a main dwelling house, second dwelling, manager's house, two labourers' cottages, outbuilding for storage/garaging and stables, it is reasonable to assume that the land uses specified under paragraph 2.1.2 of this letter has been operational without the approval of the Stellenbosch Municipality and without any public participation process prior to operation.
- 2.1.5 It is believed that a compliance notice, in terms of Section 87 of the By-Law, have since been served on the owner of the application site, yet the unauthorised land uses are still operational on the application site.
- 2.1.5 Based on the above, this application is therefore argued to be incomplete, inaccurate, and misleading and should not be considerate for approval.
- 2.2 Inconsistency of the Application with Section 65(1)(h) of the By-Law
- 2.2.1 Section 65(1)(h) of the By-Law states that the Municipality must have regard to the applicable provisions of the zoning scheme.
- 2.2.2 With the application site being zoned Agriculture and Rural, the provisions of Chapter 20 of the Stellenbosch Municipality Zoning Scheme By-Law, 2019 (hereafter referred to as "the zoning scheme"), are applicable to the development of the property. The purpose of the Agriculture and Rural Zone is to, *inter alia*, make provision for the use of land for purposes of bona fide agricultural production and for the provision of ancillary uses which may take place on agricultural units which will not adversely impact the primary use of the land unit for agricultural purposes.
- 2.2.3 According to the motivation report, the application site measures 4.28Ha in extent and is currently cultivated with 0,8Ha of vineyard. This is equivalent to merely 18% of the application site being utilised for supposed agricultural purposes.
- 2.2.4 It should also be noted that a site visit confirmed that the vineyard on the application site is neglected, and it is also reasonable to believe that the mentioned equestrian uses are not prevalent on the application site anymore – it is believed that this part of the application site is currently being utilised as overspill parking for the unregularized land uses on the application site. Figure 3, on page 6 below, illustrates the current status of the agricultural uses on the application site.





Figure 3 Status of Current Agricultural Uses

- 2.2.5 Furthermore and mentioned under Section 1.1 of the submitted motivation report, the agricultural potential of the vineyard on the application site is not sufficient to result in a financially sustainable farming entity. The submitted site development plan also illustrates that the proposed *agricultural shed, chapel, and formalised parking areas* will further reduce the size of the vineyard and the extent of the agricultural activities on the application site. From Figure 3, above, it is clear to see that the partial removal of the said vineyards for development purposes has already occurred.
- 2.2.6 As per the information obtained and the land uses specified in the motivation report, the application site will comprise of tourist accommodation and tourist facilities of at least 4000m<sup>2</sup>. This number excludes the formalised parking areas as well as the proposed new *agricultural shed* comprising 976m<sup>2</sup> – the reasoning for including the *agricultural shed* in this calculation will be elaborated on further in this letter.
- 2.2.7 Section 213 of the zoning scheme stipulates the provisions applicable to consent uses in the Agricultural and Rural Zone. The sections relevant to this objection letter, as the assessment of the application in terms of these sections, are set out below:

*Section 213(2) When approving new consent uses the Municipality shall have regard for the objectives of the zone namely the preservation of agricultural land and the continued use of farm land for agriculture.*

It is argued that the approval of the proposed (existing) consent uses will detract from the main objective of the Agriculture and Rural Zone, since the proposed uses will result in the reduction of the agricultural viability of the application site and will result in the application site being characterised by land uses applicable to mixed-use zoned properties rather than agricultural and rural zoned properties.

*Section 213(3) The scale of the individual buildings used for consent uses shall remain in keeping with the character of buildings on the land unit, the character of the area and non-agricultural land uses may not dominate the farm activities or buildings form.*



It is argued that the scale of the buildings and areas for the proposed (existing) consent uses will not be in keeping with the character of the area and will dominate the small-scale farming activities on the application site. It is also reasonable to argue that little to no agricultural buildings will be prevalent on the application site if this application is approved.

*Section 213(4) A consent use application for an abattoir, airstrip, meeting facilities associated with a guest house, day care centre, helicopter landing pad, hotel, outdoor sport, tourist accommodation establishment and tourist facilities which exceed the threshold may only be approved if the Municipality is satisfied that the use is subservient to the primary use of bona fide agriculture or natural environment or combination of these two primary uses.*

It is argued that the scale of the proposed (existing) consent uses will not be subservient to the primary use of *bona fide* agriculture or natural environment due to the scale and extent of the consent uses in relation to the size of the application site and the lack of actual agricultural uses on the application site.

*Section 213(5) These consent uses may only be undertaken from a land unit where the primary use of the land unit is bona fide agriculture/and or natural environment and where the proposed activity is subservient to these two primary land use activities on the land unit.*

Further to the assessment of the proposal against Section 213(4) of the By-law, above, it is argued that the consent uses will not be subservient to the primary land use activities and therefore may not be approved on the application site.

*Section 213(6) If agriculture or natural environment use is not conducted from the farm, or if agriculture or natural environment use ceases to be practiced on the land unit, a rezoning is required before non-agricultural consent uses may be exercised.*

It is argued that, in terms of Section 213(6) of the By-law, the proposed consent uses constitutes a rezoning of the application site (which is located outside of the urban edge of the Stellenbosch Municipality) to mixed-use zone.

2.2.8 For the reasons set out under paragraphs 2.2.1 to 2.2.7 of this letter, it is respectfully requested that this application be refused due to not conforming to the requirement as set out in Section 65.(1)(s) of the By-law.



### 2.3 Misleading Application and Motivation:

- 2.3.1 As identified throughout this letter, the application site is currently being utilised for a tourist accommodation, a restaurant, wedding/function venue, bar, and occasional uses (>1 event/year). However, no mention of the existing uses is made in the current application. Although perusal of the application form submitted is not possible at this instance, it is reasonable to argue that the application form does not state that there are any unauthorised land uses on the property – see paragraph 2.1.3 of this letter for reference. It is reiterated that the application should be worded to read that certain proposed applications are in fact to regularise the existing unauthorised land uses on the application site.
- 2.3.2 The application includes the application for consent use to allow for a new function venue, a 30-seater chapel measuring 389m<sup>2</sup> in extent with a front outdoor area of 2 000m<sup>2</sup> to be allowed on the property. With specific reference to the submitted site development plan, attached to the application as Annexure G, the proposed chapel is located on eastern centre of the property. With further reference to Figure 4, below, it is noticed that the chapel and *new agricultural shed* is ideally positioned with walkways between the two proposed buildings that lends itself to be utilised as a ceremonial venue (chapel) and reception venue (*new agricultural shed*) for weddings.

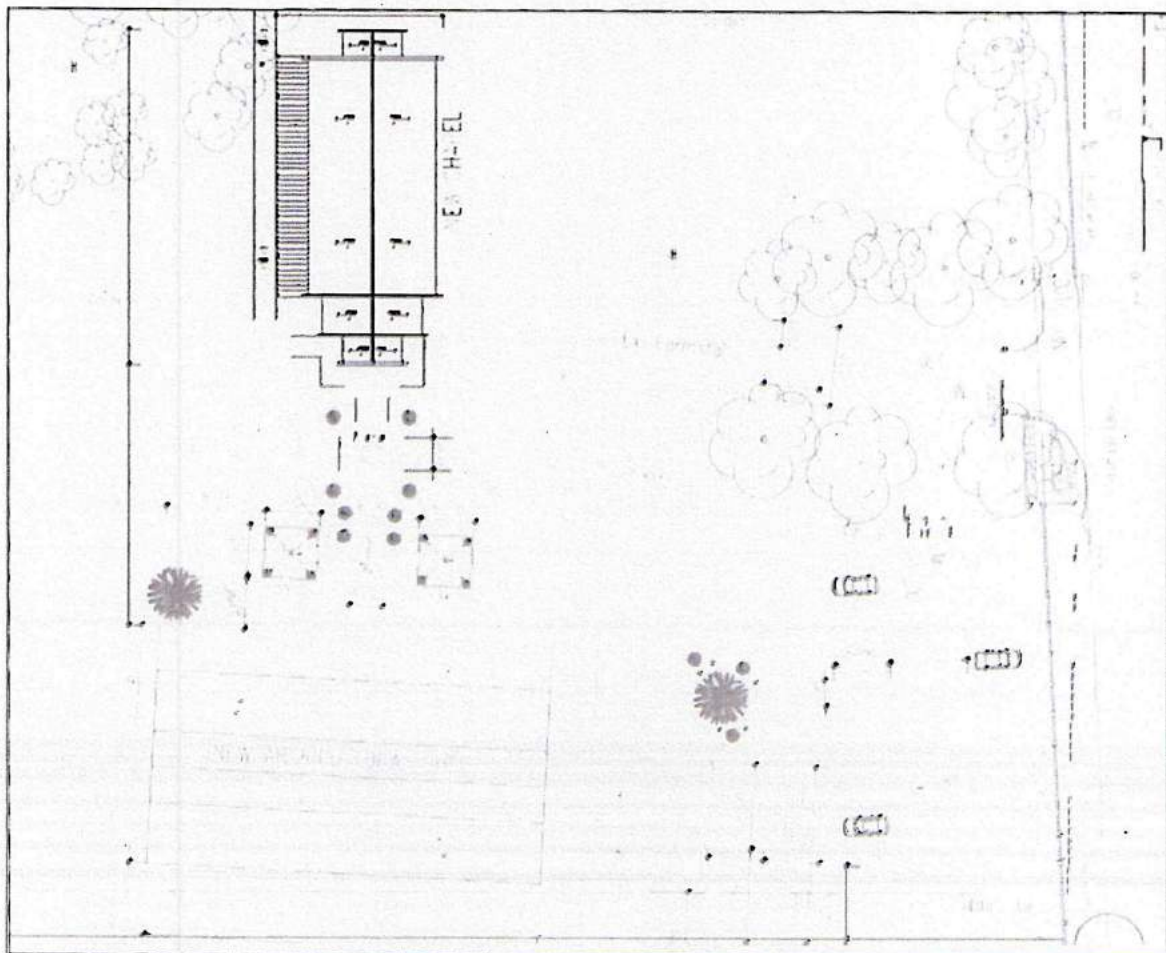


Figure 4 Locality of the Proposed Chapel in relation to the Proposed "Agricultural" Shed



- 2.3.3 Clarity should be provided on the use of the proposed agricultural shed since the agricultural activity on the application site does not, in our opinion, lends itself to requiring an agricultural shed of this extent. If the new agricultural shed were to be incorporated as part of the function venue, it will most definitely result in a change in the traffic impact of the proposal as well as the impact on the character of the application site and the surrounding area.
- 2.3.4 In terms of the application for consent use to allow for the existing main dwelling house to be used as a guest house of 7 bedrooms described as a tourist accommodation establishment, it should be noted that we are of the opinion that this application description is incorrect and misleading. The main dwelling house is already converted to accommodation for tourists as well as a restaurant to be utilised by resident guests as well as members of the public. With the proposed guest house plans as it is, it is argued that the proposed used is not in line with the definition of a guest house in terms of the zoning scheme.
- 2.3.5 With the application description as advertised, it is unclear where the 11 bedrooms for 2 guests per room (as advertised by the owner of the property) is located. The site development plan only illustrates the main dwelling house to be used for tourist accommodation with 7 available rooms. According to the marketing of the land uses on the property, there are accommodation available for 22 guests – yet the application description, motivation report and site development plan only refer to the 7-bedroom guest house situated in the main dwelling house. This is inaccurate and misleading and clarity on this matter should be provided prior to the consideration of the application.
- 2.3.6 It is reasonable to argue that the identified tourist accommodation, ancillary restaurant (available to the public), and two bars (*Bush pub and Bar*, available to the public) lends itself to be defined as a *hotel* rather than a *guest house / tourist accommodation establishment*. With reference to Chapter 20 of the zoning scheme, a hotel is not primary use, additional use, or consent use on properties zoned agriculture and rural. The application is thus considered to be incorrect and should not be considered for approval.
- 2.3.7 The application also includes a consent use to allow for the existing second dwelling to be converted into a farm stall. It has not been specified what will be sold in the farm stall and with the lack of viable agricultural activity on the farm, it is reasonable to argue that less than 50% of the floor space of the farm shop will be used to display or sell goods or produce from the application site – this has not been addressed as part of this application and therefore the application is argued to be incomplete and should not be considered for approval.
- 2.4 Misleading Traffic Impact Statement
- 2.4.1 The traffic impact statement (hereafter referred to "the TIS"), attached to the application as Annexure H, also misleads the reader by stating that the application site is currently only developed with housing (no specific description is provided), farm related buildings, and agricultural land (vineyards and horses).



- 2.4.2 The TIS, under section 2.1, contradicts the land use application and site development plan in stating that the guest house will accommodate 12 rooms. This is in contradiction with the application description which states that a 7-bedroom guesthouse is "proposed".
- 2.4.3 It is argued that the TIS is lacking in relevance due to the fact that the traffic counts were done on Thursday, 28 July 2022 – a weekday in the middle of the South African winter. The TIS also specifically only mentions *weekday trip generation* which, in our opinion, is irrelevant to a large extent for the proposed uses. The proposed uses for a function venue, occasional use (>1 event/year) and "guest house" is argued to be at its peak during the weekends and especially in the summer – it is therefore requested that a traffic count be done on a Friday, Saturday and Sunday during the summer months.
- 2.4.4 It should also be noted that the TIS makes no mention of the existing restaurant and ancillary bars or the occasional uses (>1 per year) that is open to the public. It is reiterated that the venue for functions have been advertised to accommodate at least 200 persons from the public. It has been experienced that these uses already amount to a significant increase in trip generation to and from the property. It is therefore requested that the TIS be revised to include all the proposed/existing uses on the application site to provide the objector with an accurate assessment of the impact on traffic as a result of this application.
- 2.4.5 It is further noted that the TIS base the trip generation on the perception that the function venue will only comprise of the chapel – this is incorrect since the application includes the use of a 2 000m<sup>2</sup> portion of the application site as part of the function venue. It is also not yet established if the "agricultural shed" will in fact form part of the function venue – this will also have an impact on the findings of the TIS
- 2.4.6 The TIS further contradicts the application and site development plan by illustrating *guest rooms* to be prevalent within buildings described in the motivation report and on the site development plan as *existing stables and labourer's cottages*. It was also noticed that the *Gate House* is also being advertised as tourist accommodation. This contributes to the opinion that the application is incorrect and misleading and should not be considered for approval. See Figure 5, below, for reference.



Figure 5 Diagram 2 of the TIS



- 2.4.7 It is further argued that Section 5 of the TIS should include the parking requirements for a hotel rather than a guest house – with specific reference to paragraph 2.3.6 of this letter. This will also result in the parking calculations to include the parking requirements for the ancillary restaurant and bar area which is open to the public.
- 2.4.8 The parking requirements should also include, if applicable, the use of the "agricultural shed" as part of the function venue.
- 2.4.9 It is therefore reasonable to argue that the TIS is inaccurate, misleading and should be amended to assess the actual land uses and trip generation applicable to the application site.
- 2.4.10 It should also be noted that the TIS, regardless of its inaccuracies, already recommends that a dedicated right-turn lane should be developed along the R44. In our opinion, this should be done prior to the commencement of the proposed function venue and prior to the continuation of the unauthorised land uses in its current form.

## 2.5 Liquor Licence

- 2.5.1 Although not directly relevant to this application, it must be noted that the application for a liquor licence has been applied for, and conditionally approved. The cover letter of this condition approval specifically states that *a conditional approval does not allow for trading liquor until such time that the conditions have been fulfilled and the licence is issued*. With specific reference to condition of approval number 1., the trading of liquor may only commence upon the *positive outcome of land use application* has been achieved. The land use application has not been decided on yet, it has also found to be flawed, yet it seems that the trading of liquor on the application site continues. In our opinion, this further emphasises the lack of adherence to legislation and regulations on the application site.

## 2.6 Desirability

- 2.6.1 In terms of desirability, Section 65(1)(c) of the By-law states that the Municipality must have regard to the desirability of the proposed utilization of land. It is reiterated that the proposed (and existing unauthorised) land uses is not desirable for the objector.
- 2.6.2 The proposed (and existing unauthorised) land uses has already caused an impact on the current noise levels in the area and specifically to the objector. As demonstrated in this letter, the proposed (and existing unauthorised) land uses is not in character of the area and lends itself to that of a mixed-use zoned property. The locality of the proposed (and existing unauthorised) land uses in relation to the objecting site lends itself to a disturbance in the existing character and noise levels of the area.



- 2.6.3 The impact of the application on the traffic volumes to and from the application site is not desirable to the objector. As mentioned, the objecting site shares an access road with the application site. Not only will the proposed intensification of land use on the application site result in an even more dangerous intersection with the R44, but it will also have a material negative impact on the objector due to the large volumes of traffic that will use the shared access road.
- 2.6.4 Since there are numerous inconsistencies between the actual uses on the application site, the submitted application, the submitted site development plan and the submitted TIS, it is still unclear as to what the actual impact on traffic will be as a result of this application.

### 3. CONCLUSION

- 3.1 It is clear that the advertised application is misleading, inaccurate and not desirable. As provided for by Section 59(1) of the By-law, it is recommended that the authorized employee conduct an inspection of the application site. Based on the reasons for the objection as set out through paragraphs 2.1 to 2.6 of this letter and the apparent flaws in the advertised application, it is requested that the application be amended (as provided for by Section 52(1)(b) of the By-law) to accurately reflect the current and proposed land use situation on the application site. We are of the opinion that this amendment will result in the necessity of a rezoning application outside of the urban edge of the Stellenbosch Municipality.
- 3.2 In terms of Section 52(3) of the By-law, it is also requested that further notice of the amended application be served to the objector, and all interested and affected parties. Furthermore, it is requested that the written response from the applicant be distributed to our offices. It is also requested that, in the event of a Municipal Tribunal hearing, an opportunity to submit a written/oral argument in favour of this objection letter be granted.

Kind Regards

  
Wilhelm Esterhuizen

for Pieterhuizen Planning (Pty) Ltd



**ANNEXURE A:**  
**Trust Resolution and Power of Attorney**

## TRUST RESOLUTION

OF

## BELLEVUE TRUST

Trust Number 276/2008

("the Trust")

## WHEREAS

The trustees of the Trust, current owner of Portion 4 of Farm 528 Stellenbosch, hereby resolves the following

RESOLUTION dated

12 DECEMBER 2022

*Date of Resolution*

JOHANNES GERHARDUS JOOSTE (ID [REDACTED])

*Name of representative trustee of the Trust*

in his/her capacity as representative trustee of the Trust, is hereby authorised, in his/her sole and absolute discretion, to undersign the Power of Attorney effecting the appointment of *Pieterhuizen Planning (Pty) Ltd* to submit an objection against the land use applications applicable to Portion 5 of Farm 528 Stellenbosch on behalf of the Trust

JOHANNES GERHARDUS JOOSTE

*Name of Trustee**Signature of Trustee*

ANDRIES GERHARDUS DU PLESSIS

*Name of Trustee**Signature of Trustee*

DIRK JACOBUS JOOSTE

*Name of Trustee**Signature of Trustee*



# PIETERHUIZEN

P L A N N I N G

PIETERHUIZEN PLANNING (PTY) LTD  
2021/472575/07

✉ wilhelm@pieterhuizen.co.za

☎ +27(0) 83 262 4843

🌐 <https://pieterhuizen.co.za>

## POWER OF ATTORNEY

I/we, the registered owner(s) **BELLEVUE TRUST (REPRESENTATIVE TRUSTEE)**

registered owner(s) of the following property(ies) **PORTION 4 OF FARM 528 STELLENBOSCH**

**JOHANNES GERHARDUS JOOSTE (ID 510807 5167 086)**

wish to certify that authority is hereby granted to

**WILHELM ESTERHUIZEN OF PIETERHUIZEN PLANNING (PTY) LTD**

in terms of the resolution(s) (if the landowner is a registered company, closed corporation, trust or any other juristic person) to submit the following application types

**TO SUBMIT AN OBJECTION AGAINST THE LAND USE APPLICATIONS APPLICABLE TO**

**PORTION 5 OF THE FARM 528 STELLENBOSCH**

in respect of the afore-mentioned property(ies), to enable the following

**TO OPPOSE THE APPROVAL OF THE LAND USE APPLICATIONS APPLICABLE TO PORTION 5  
OF FARM 528 STELLENBOSCH**

Owner's name **BELLEVUE TRUST**

Date **12/12/2022**

Registered owner's signature



M Nel

Avidata Trading 301 CC

Owner Farm 528/6

2023-11-06

Virdus Works

Third Floor, Time Square

Electron Street, Technopark

Stellenbosch, 7600

Per email: [dupre.lombaard@virdus.com](mailto:dupre.lombaard@virdus.com)

Dear Sir

**APPLICATION FOR CONSENT USE: FARM 528/5 STELLENBOSCH (TP6/2002; LU14500).**

Your notice dated 5 October 2023 in respect of the above has reference.

As registered owner of Portion 6 of Farm 528 Stellenbosch, we strongly object to the application to allow for numerous consent use activities on the subject property. We as immediate and abutting neighbor have a direct interest in the application.

**OBJECTION:**

Our objection is based on the fundamental planning principles and objectives of the regulatory framework, i.e. The Stellenbosch Zoning Scheme By-Law (2019) that applies to all properties located within the Stellenbosch Municipal area of jurisdiction. The subject property in this regard is zoned Agricultural Rural Zone with the provisions associated thereto set out in Chapter 20 of the Zoning Scheme By-Law. The purpose of the zone is to make provision for the following:



1. the protection and preservation of agricultural land, rural landscapes and biodiversity;
2. use of land for purposes of bona fide agricultural production or conservation;
3. buildings and structures which may be erected for reasonable and normal agricultural purposes;
4. a limited range of other ancillary uses which may take place on agricultural land units, either as additional rights or with the consent of the Municipality and which provides for more intensive agricultural use, agricultural industry or tourism which has the objective of creating variety, ensuring sustainability and providing diversified income to land owners, without adversely impacting on the primary use of the land unit for agricultural purposes.

The development proposals will compromise and is not line with the objectives envisaged for this base zone (Agricultural/Rural Zone). The application for this reason alone cannot be supported.

#### **Section 209 (Tourist facilities)**

Tourist facilities in this zone may only be undertaken from a land unit where the primary use of the land unit is bona fide agriculture or natural environment or a combination of these uses and where the proposed activity is subservient to the primary land use on the farm. The activities will not be subservient to the farming activities.

Tourist facilities may not have an adverse impact on surrounding properties, in respect of, but not limited to, noise, traffic congestion, pollution, emissions or the gathering of large numbers of people, or the presence of people hindering agriculture e.g. during spraying season, nor may the tourist activities have an adverse impact on any bona fide agricultural activities on the farm itself or on neighbouring properties. The proposals do not conform to this requirement.

The development proposals will lead to the over-development of the property and will not be servient to the farming activities. The application for these reasons cannot be supported.

#### **Section 213 (Consent Uses)**





# Ptn 5 Farm 528, *NU* 1 Stellenbosch

## Legend

- Farm Portions
- Servitude Area

Map Center: Lon: 18°50'6.2"E  
Lat: 33°58'56.8"S

Scale: 1:2 500

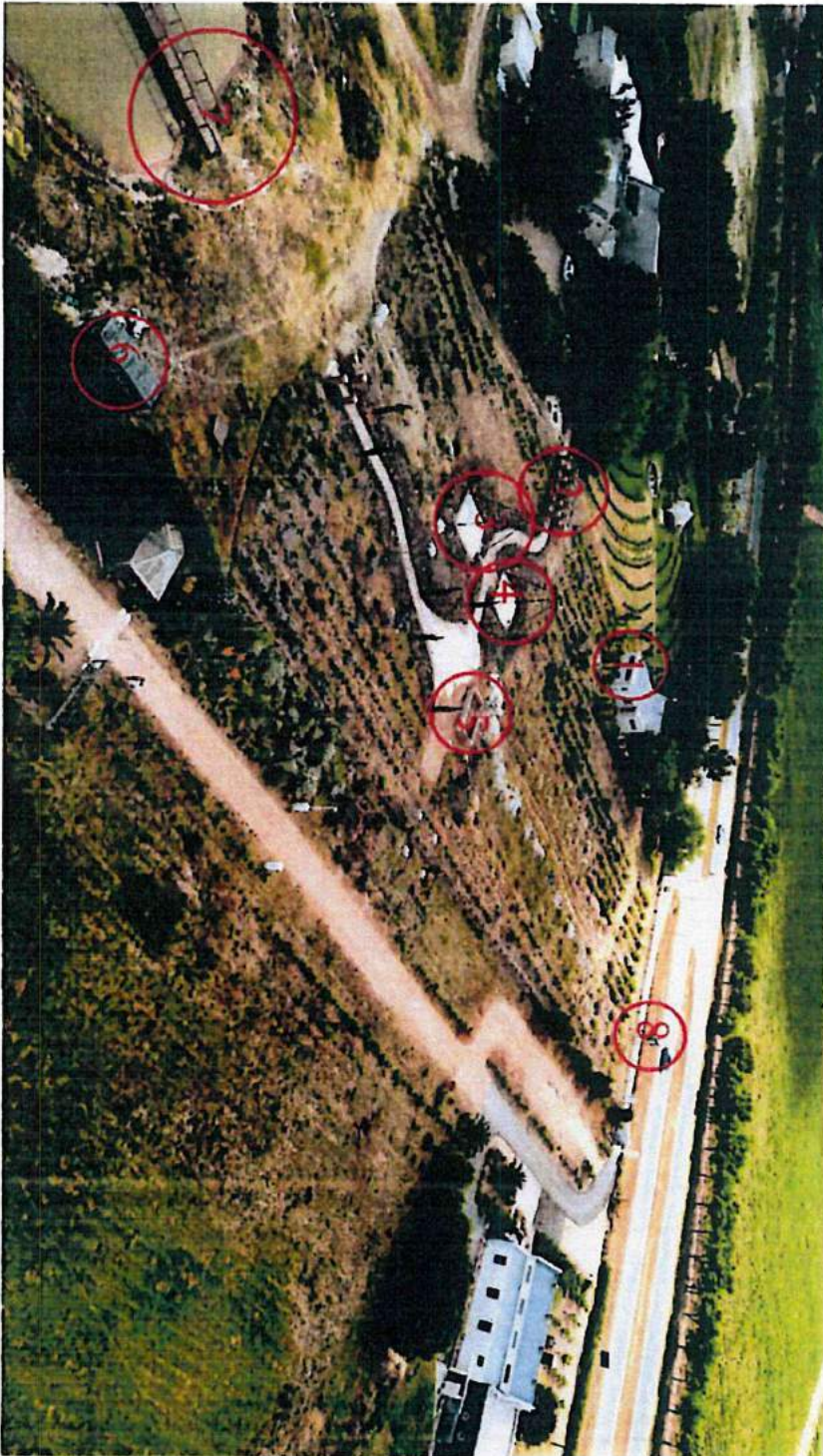
Date created: December 13, 2021



Western Cape  
Government  
FOR YOU

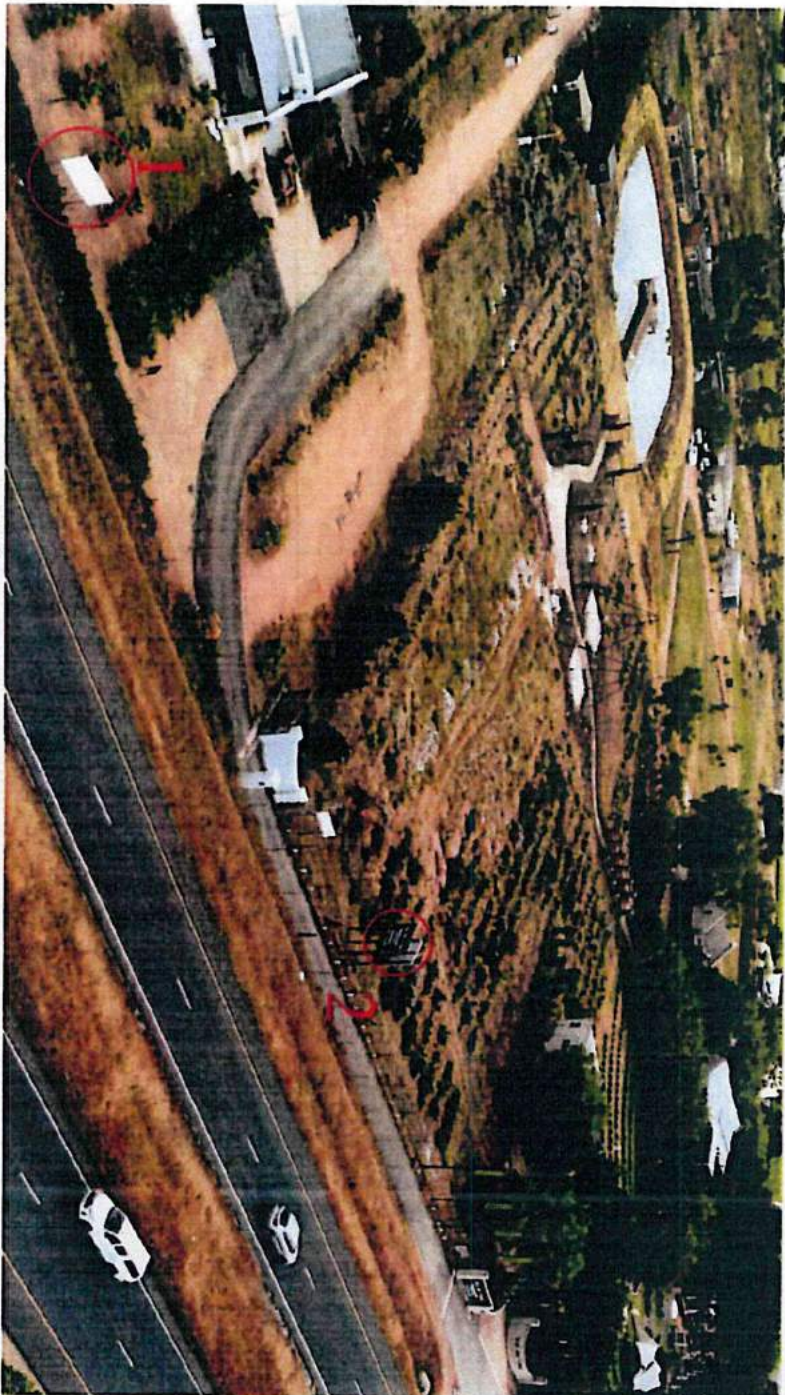


MNO 4



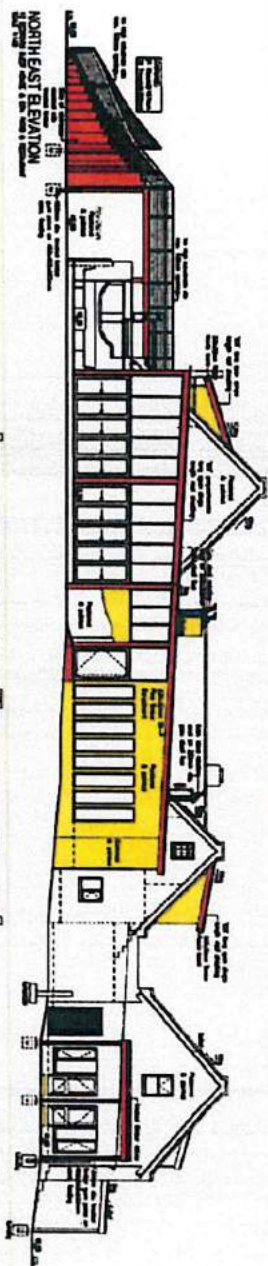
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- 2 - Pillare alreeds gebou
- 3/4 - Vloer oppervlakte groter as 5 vierkante meter
- 5 - Tans besig met die bouwerk
- 6 - Vraghouer met toilette 1.3m vanaf grensdaad
- 7 - Hout Struiktuur alreeds voltooi
- 8 - Advertensie bordie groter as voorgeskrewe mates





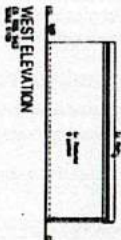
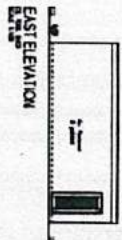
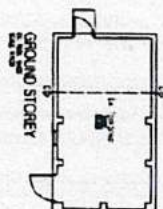
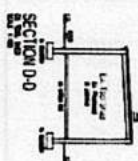
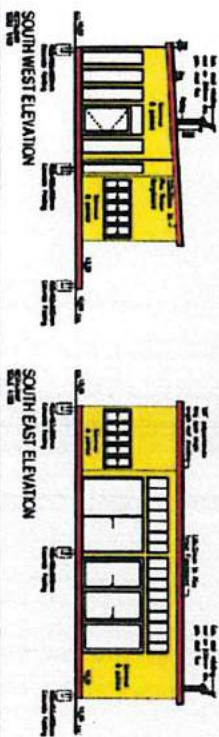
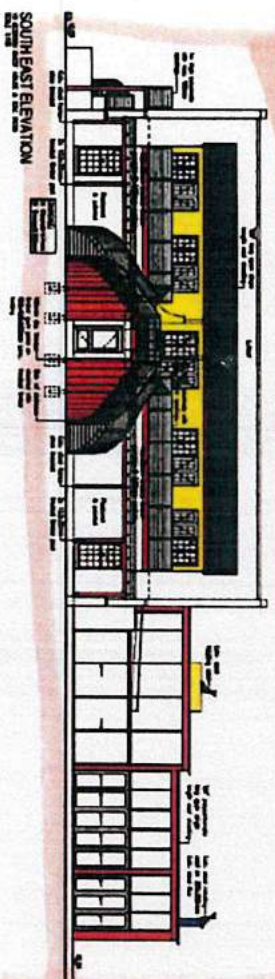
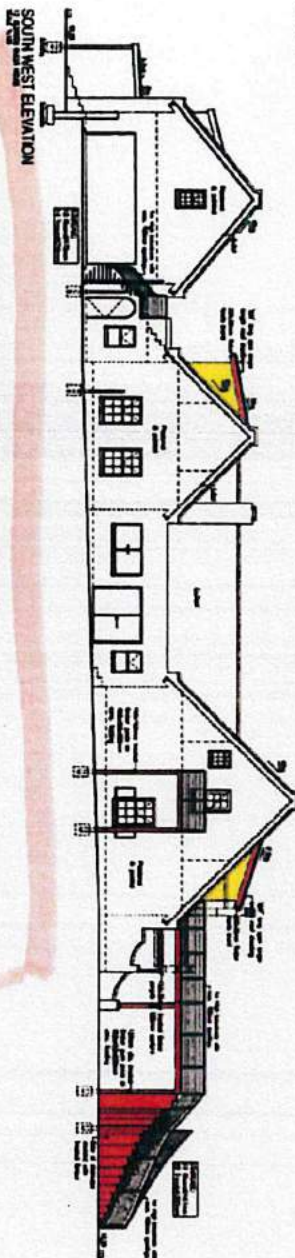
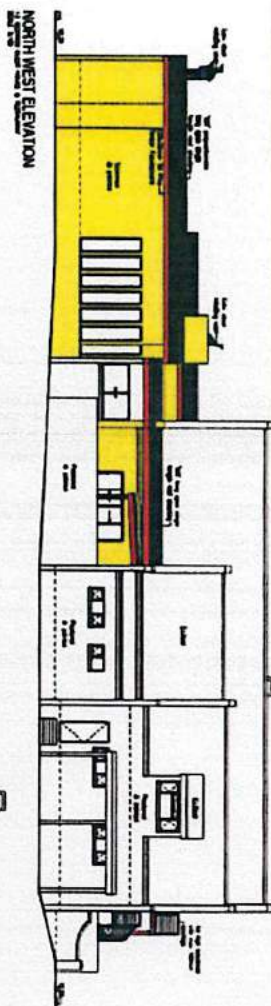
- 1 - Advertensie bord korrekte  
groote
- 2 - Borde nie volgens toegelate  
mates nie (Groter)





AREAS:	
3 BEDROOM GUEST ACCOMMODATION	105m <sup>2</sup>
BATH	36m <sup>2</sup>
RESTAURANT DIN PAID	50m <sup>2</sup>
TOILETS	115m <sup>2</sup>
12 BEDROOM GUEST HOUSE	40m <sup>2</sup>
KITCHEN	1016m <sup>2</sup>
WET KITCHEN	50m <sup>2</sup>
TERACE	55m <sup>2</sup>
MEETING ROOM	25m <sup>2</sup>
2 BEDROOM GUEST & FASH STALL	156m <sup>2</sup>
BOOM	50m <sup>2</sup>
ACCOMMODATION SHED	820m <sup>2</sup>
CO. STOPS	191m <sup>2</sup>
STORE & LABORATORY RM	265m <sup>2</sup>
OFFICE	20m <sup>2</sup>
2 BEDROOM SUITE CONTACTS	181m <sup>2</sup>
2 BEDROOM WARRIORS CONTACTS	146m <sup>2</sup>
SOURCE CONTACTS	216m <sup>2</sup>
STORAGE	54m <sup>2</sup>
SPA	428m <sup>2</sup>
TOTAL	4343m <sup>2</sup>

PARKING REQUIREMENTS :	
1) Loading Bay Size	8000x3500mm
2) Loading Bay	17' x 20' (5.2m x 6.1m)
3) Loading Bay Size	3000x3500mm
<b>FORMS/CURT:</b>	
Client & Staff Cottages	
Utility stor Room/Store	
Total 27 Rooms -	
Restaurant & Coc. Pkgs	
& Bays per 100cm <sup>2</sup> -	12 Bays
loading Venue	
Bay per 6 seats	
Total 50 people -	8 Bays
form. Staff	
& Bays per 100cm <sup>2</sup> -	4 Bays
500	
25 Bays per counselling room & 0.5 Bays	
for women waiting 3 Rooms	
8 Rooms -	14 Bays
Total -	65 Bays
<b>ACTUAL</b>	
Client & Staff Cottages	
Restaurant & Coc. Pkgs	
-	
loading Venue	
& Bays	
form. Staff	
& Bays	
500	
= 20 Bays	
Total =	78 Bays

[illegible]

**PROJECT**

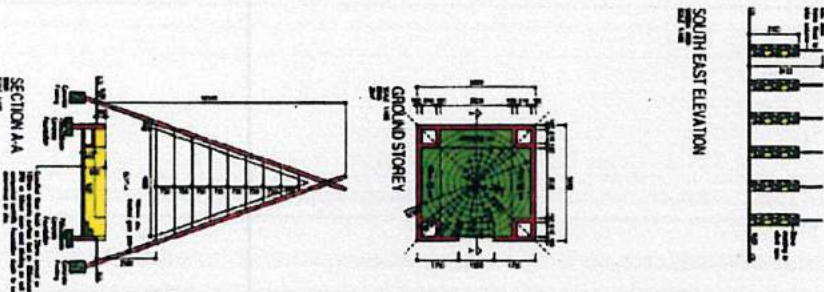
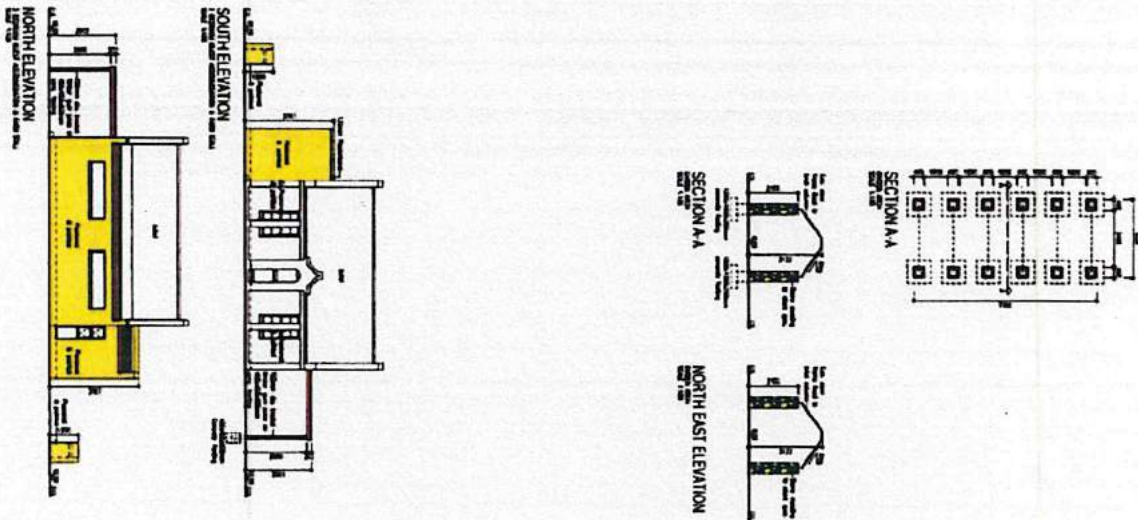
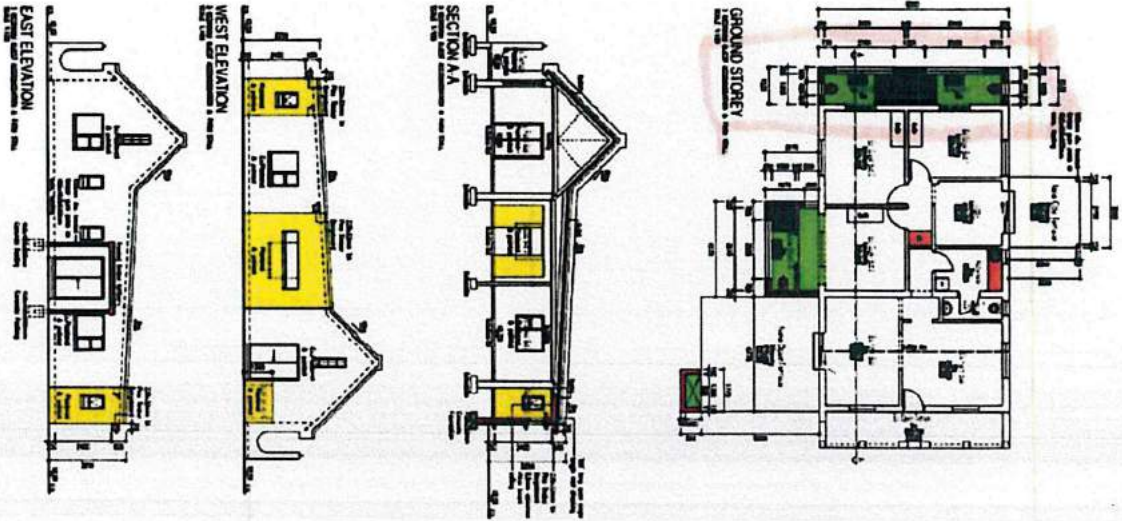
DRAWING		
SHEET	SHEET	REVISED
3 OF 11	As Spec'd	2.0
DATE:	FILE:	Issued to:
06/09/2013	518-4837	22-30





- 1 - Muur met palisade alreeds gebou
- 2/3 - Nuwe kamers, restaurant, hout trappe en deck alreeds voltooi
- 4 - Hout platform in dam alreeds gebou vir gebruik as n verhoog vir harde musiek, minder as 20 meter van ons grenslyn.





NOTES
1. All dimensions are in millimeters unless otherwise stated.
2. All structural work shall be in accordance with the relevant building codes.
3. All materials shall be of the highest quality and shall be approved by the architect.
4. All work shall be completed within the specified time frame.
5. All work shall be carried out in accordance with the relevant health and safety regulations.
6. All work shall be carried out in accordance with the relevant environmental regulations.
7. All work shall be carried out in accordance with the relevant fire safety regulations.
8. All work shall be carried out in accordance with the relevant accessibility regulations.
9. All work shall be carried out in accordance with the relevant energy efficiency regulations.
10. All work shall be carried out in accordance with the relevant sustainability regulations.

MNB

PROJECT		DRAWING	
1.1		7 OF 11	
2.1		4.1	
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98.1		100.1	







## Belangegroep Stellenbosch Interest Group

Interestgroupstellenbosch@gmail.com

19 December 2022

Mr Dupré Lombaard [dupre.lombaard@virdus.com](mailto:dupre.lombaard@virdus.com)  
Virdus Works (Pty) Ltd.  
77 Buitekring  
Dalsig  
STELLENBOSCH 7600

Mr Stiaan Carstens  
Senior Manager; Development Management  
Planning and Economic Development  
Stellenbosch Municipality [Stiaan.Carstens@stellenbosch.gov.za](mailto:Stiaan.Carstens@stellenbosch.gov.za)

Dear Mr Lombaard

### **Farm 528/5 (Val de Vine): Application for Consent Uses, Tourist Accommodation Establishment, Occasional uses, Permanent Departure and Removal of a Restrictive Condition.**

1. The Stellenbosch Interest Group (SIG) refers to your e-mail dated 15 November 2022, concerning the above-mentioned application, under Municipal Reference LU 14500 (TP61/2022) calling for comment on or before 19 December 2022.

2. The Stellenbosch Interest Group (SIG) does not in principle object to the establishment of a guest house on the subject property as envisaged in the application. It does, however, find several aspects of the application disturbing and objectionable.

3. The subject property is located along the R44, a IIIA scenic route. Although, as the application points out, various non-agricultural activities are common on adjacent properties, the aspect of the landscape remains rural and predominantly agricultural. The route is scenic precisely because it provides a vista of this rural and agricultural landscape. For this reason, the SIG is firmly opposed to the proposed erection of a wall, 2.1 meters high, along the boundary of the R44.

It is said that this wall would serve as a noise abatement measure and would improve security. However, none of the properties in the vicinity that house tourist facilities have found need for such a wall. The wall would drastically change the character of the section of the scenic route, thereby going against the policy regarding "safeguarding of rural heritage" (Western Cape Rural Development Guidelines) and the regulation in the zoning scheme that "The height of any masonry wall, excluding the entrance structure and columns, may not exceed 1 meter." It is definitely not "closely aligned with the environmental characteristics of the local context" (Western Cape Rural Development



Guidelines). It would, moreover, set a potentially devastating precedent: we may soon find large sections of land along the R44 hidden behind high walls.

Since "the scenic, heritage and cultural landscape should be considered when decisions are taken" (Western Cape Rural Development Guidelines) and since the proposed wall would contravene the regulations of the zoning scheme, the SIG cannot see how the application to erect the wall can reasonably be granted.

The "farm stall / shop (delicatessen) of 96m<sup>2</sup> replacing the additional dwelling" may also be out of keeping with the area, particularly since it is unclear to what extent this will simply utilize the existing building and to what extent it will be an entirely new building. 32 proposed parking bays plus parking bays for deliveries will be located close to the boundary on the side of R44 where they will be highly visually intrusive. Finally, the proposed "agricultural shed", a building of considerable size, may change the aspect of the landscape considerably.

4. As noted above, several features of the application are disturbing.

a) The plans in the annexure mention a "new agricultural shed" of 976 m<sup>2</sup>. This is not mentioned in the application. Given the fact that the vineyard (sometimes said to be 0.8 hectare and sometimes 0.7 hectare) on the farm is not managed by the owner and that the horses are stabled elsewhere, the agricultural use of this large building – hardly a shed – remains a mystery. One may doubt whether it will ever be used for agricultural purposes. It will be located within 94.45 meters of the midpoint of the R44 and adjacent to proposed parking bays.

b) The plans show "existing" toilets and a dining area adjacent to the main house (to be used as a guest house). The title deed stipulates that: "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" (our emphasis). Were these structures erected with the approval of the municipality?

c) The new building for which an application is made is sometimes called a chapel, sometimes an event centre and sometimes (in the plans in the annexure) a conference centre. *Conference centres are not tourist facilities.* The Western Cape Rural Development Guidelines stipulates: "Any facility not directly related to the rural landscape should preferably be located within, or peripheral to, urban centres. The obligation is on the applicant to illustrate why the land use cannot be accommodated in the urban area."

d) The Traffic Impact Report is based on the presence of twelve rooms. Of these only seven will be accommodated in the main building. But the same report lists the two labourers' cottages (each divided into two) as "guest cottages". The site map in the annexure refers to these "laborer's cottage" and "manager's cottage" respectively and also refers to the "owner's house". It notes that the former two have two beds each and the latter has one bed.

It would, therefore, seem that a total of twelve guest units are indeed envisaged, while the zoning scheme allows for a maximum of seven. We may note here that the "owner's house" and the "manager's house" are both so small that it is wildly unlikely that either the owner or the manager (of the farm) would use them as residences.

5. According to Stellenbosch Municipality Zoning Scheme Bylaw, 2019, "the scale of the individual buildings used for consent uses shall remain in keeping with the character of buildings on the land unit, the character of the area and *non-agricultural land uses may not*



*dominate the farm activities or buildings form*" (our emphasis). From the above it would appear that the current application and possible further applications (the "shed", etc.) would transform the property to such an extent that agricultural activities would be entirely peripheral. As it is, the owner seems not to be engaged in any agricultural activity. Horses serve an equestrian school and are apparently not bred there.

It may be noted that the photos attached to the traffic report show the portion of the property alongside the R44 to the south-west as still under vines. This is where the proposed "shed" and parking would be located. It would seem that the agricultural potential of the property has been deliberately diminished in order to make way for developments not related to agriculture. It is said that replacing old vineyards would be costly, but this holds on all farms in the district. *It would invariably be more lucrative to use agricultural land for various non-agricultural activities.* If the municipality is concerned with the maintenance of our agricultural heritage, such arguments should not be entertained.

6. In the view of the SIG, the application to host outdoor events, including musical ones, should be considered with great care. Such events may generate excessive noise, which would be extremely disturbing to, for instance, guests at Bellevue Manor. It may also create a dangerous traffic situation on the R44.

**7. The findings and recommendations of the Traffic Impact Assessment (TIA) are inadequate if not irrelevant in relation to the current application.** This is so because the TIA is based solely on a proposed chapel with seating for 30 people, and a maximum of six guest suites. The Site Development Plan (SDP), however, shows 128 formally laid-out parking bays. Furthermore, according to the application, provision is made for additional parking in the area that is earmarked for grazing (roughly one hectare). The TIA does not refer at all to the proposed use of the property for events or weddings, and the calculations do not take these activities into account.

**8. In the application reference is made to the fact that this property has a water quota to irrigate an area of 2,5Ha.** In terms of the current proposals, however, only some 7000m<sup>2</sup> of land is to be irrigated. It accordingly appears that the proposed urban uses on the property should rather be located in an urban area and that the water quota should be used for agricultural purposes on the property. This would also assist in protecting the rural nature and scenic splendour of the wider area.

**In view of the above comments and reasoning the SIG does not support approval of the application.**

Kind regards,



Ms Patricia Botha (Chairperson)



**Dupré Lombaard (Virdus Works)**

**From:** Bulelwa Mdoda <Bulelwa.Mdoda@ Stellenbosch.gov.za>  
**Sent:** 15 November 2022 07:29  
**To:** Dupré Lombaard (Virdus Works)  
**Subject:** FW: COMMENT ON LAND USE APPLICATION: FARM 528/5, STELLENBOSCH (LU/14500)  
**Attachments:** image002.png; image003.png; image001.png; image004.png; image005.png; image006.png; image007.jpg; Ptn 5 Farm 528 Stellenbosch consent use application V2 20220816\_1 Motivation.pdf

Dear Mr Lombaard;

Please find below comments received from the CEO of De Zalze Estate.



Kind regards,  
**Bulelwa Mdoda**  
 Land Use Management  
 Planning & Economic Development

T: +27 21 808 8690 : F +27 21 886 6899  
 1<sup>st</sup> Floor, NPK Building, 20 Plein Street  
 Stellenbosch  
 7600  
[www.stellenbosch.gov.za](http://www.stellenbosch.gov.za)



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**STELLENBOSCH**  
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**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 6111, or visit [www.stellenbosch.gov.za](http://www.stellenbosch.gov.za)

**Disclaimer:**

The information contained in this communication from [bulelwa.mdoda@stellenbosch.gov.za](mailto:bulelwa.mdoda@stellenbosch.gov.za) sent at 2022-11-15 07:29:25 is confidential and may be legally privileged. It is intended solely for use by Dupré Lombaard's virdus.com and others authorized to receive it. If you are not Dupré Lombaard's virdus.com you are hereby notified that any disclosure, copying, distribution or taking action in reliance of the contents of this information is strictly prohibited and may be unlawful. Powered by [JOCC](#)

**From:** Peet de Wet <ceo@dezalzeestate.com>  
**Sent:** Monday, 14 November 2022 16:08  
**To:** Bulelwa Mdoda <Bulelwa.Mdoda@ Stellenbosch.gov.za>  
**Cc:** Rikus Badenhorst <Rikus.Badenhorst@ Stellenbosch.gov.za>; Karin Boshoff <office@dezalzeestate.com>  
**Subject:** [EX] COMMENT ON LAND USE APPLICATION: FARM 528/5, STELLENBOSCH (LU/14500)

**Comment on behalf of the de Zalze Homeowners Association and WARD 21 committee representative (for Technopark & de Zalze)**

- New function venue (30 seater Chapel) (389 m2) with front outdoor garden (picnic area) (2000 m2)



- For Occasional uses to allow for more than one event per year for Live music, art & exhibition and outdoor functions.

#### **Comment**

1. Potential noise pollution and concern with additional traffic during events, specifically in evenings crossing median on R44.
2. Outdoor events – consideration for noise impact on 65 residential properties situated nearby in de Zalze Estate (de Vleie & Bergsvlei Villages)
3. Live events – must consider time limitations / restrictions with hosting outdoor events / not to impact on surrounding residential properties.

Regards,



Peet de Wet  
Chief Executive Officer  
Tel: +27(0)21 880 2708  
E-mail: [ceo@dezalzeestate.com](mailto:ceo@dezalzeestate.com)  
Website: [www.dezalzehoa.co.za](http://www.dezalzehoa.co.za)



Founder Member of Arc

**From:** Bulelwa Mdoda <[Bulelwa.Mdoda@ Stellenbosch.gov.za](mailto:Bulelwa.Mdoda@ Stellenbosch.gov.za)>  
**Sent:** Monday, 14 November 2022 13:09  
**To:** Rikus Badenhorst <[Rikus.Badenhorst@ Stellenbosch.gov.za](mailto:Rikus.Badenhorst@ Stellenbosch.gov.za)>  
**Cc:** Nelmar Williams <[Nelmar.Williams@ Stellenbosch.gov.za](mailto:Nelmar.Williams@ Stellenbosch.gov.za)>; Dupré Lombaard (Virdus Works) <[dupre.lombaard@virdus.com](mailto:dupre.lombaard@virdus.com)>  
**Subject:** COMMENT ON LAND USE APPLICATION: FARM 528/5, STELLENBOSCH (LU/14500)

Good day Councillor Badenhorst;

Attached please find the relevant documentation regarding the abovementioned application.

Kindly furnish me with your comment by email, in order to enable me to submit the application to the decision making authority for consideration.

#### **FARM NUMBER & APPLICATION NUMBER:**

Farm 528/5 Stellenbosch (LU/14500 / TP61/2022)

#### **DESCRIPTION OF THE PROPOSAL**

1. Application is made in terms of Section 15 (2)(o) of the Stellenbosch Municipality Land Use Planning By-Law, 2015, on Farm 528/5, Stellenbosch Division for Consent Use for the following:

a) For **tourist facilities** in order to facilitate the following:

- i) New function venue (30 seater Chapel) (389 m2) with front outdoor garden (picnic area) (2000 m2);



- ii) Convert the existing second dwelling (96 m2) into farm stall/ shop;
- b) For **Tourist Accommodation Establishment** to utilise the existing 7 bedroom main dwelling into guest house;
- c) For **Occasional uses** to allow for more than one event per year for Live music, art & exhibition and outdoor functions;
2. Application is made in terms of Section 15 (2)(b) of the Stellenbosch Municipality Land Use Planning By-Law, 2015 for **Permanent Departure** to construct 2.1m high brick wall on eastern boundary of the property (adjacent to R44) on Farm 528/5, Stellenbosch Division.
3. **Permission required in terms of restrictive title deed condition clause D(1) - (4)** on page 2 of Title Deed No T18186/2016, in order to facilitate the proposed uses on Farm 528/5, Stellenbosch Division.

**APPLICANT:**

Virdus Works (Pty) Ltd (Dupre Lombaard)

**PROPERTY ADDRESS:**

R44, Jamestown, Stellenbosch

Please note that your comments must be submitted on or before 15 December 2022 from the date of this email.



Kind regards,  
**Bulelwa Mdoda**  
 Land Use Management  
 Planning & Economic Development

T: +27 21 808 8690 : F +27 21 886 6899  
 1<sup>st</sup> Floor, NPK Building, 20 Plein Street  
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Kind regards,  
**Bulelwa Mdoda**  
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03 January 2024

The Director: Planning and Development  
 Stellenbosch Municipality  
 PO Box 17  
 Stellenbosch  
 7599  
 Per: Landuse.Enquiries@ Stellenbosch.gov.za

Dear Sir

**SUBMISSION OF PORTFOLIO OF EVIDENCE FOR SECOND PUBLIC COMMENT PERIOD REGARDING LAND DEVELOPMENT APPLICATION: PORTION 5 OF FARM NO. 528 STELLENBOSCH RD (LU14500 TP61/2022)**

This is the second public participation process for the application. Notice of the application for the consent use was first given in terms of the provisions of Section 46 of the Stellenbosch Municipality Land Use Bylaw, 2015, to all the identified stakeholders in November 2022. Due to outstanding comment from government bodies, the public participation report was only submitted to the Municipality in March 2023, subsequent to which more comments were received, and the application significantly amended. Due to the amendments to the application, further public notice was deemed necessary, as addressed in this submission.

The following are submitted in evidence of the second public participation process that commenced in October 2023:

- A. Copies of the mailing list.
- B. Proof of sending of email notices.
- C. Copies of the public notices.
- D. Comment received.
- E. Checklist and affidavit.
- F. Proof of prior sending to the Municipality.

The proposed use, which was presented to the interested and affected parties, entails the following.

- 1) Application in terms of Section 15(2)(o) for Consent Use.
  - a) For tourist facilities in order to facilitate the following:
    - i. New function venue (68-seater Chapel - 325 m<sup>2</sup>);
    - ii. Outdoor garden venue with gazebo (314 m<sup>2</sup>) for 110 guests;
    - iii. Convert the existing second dwelling (96 m<sup>2</sup>) into farm stall / shop;
    - iv. Wellness centre / spa for guests (583 m<sup>2</sup>); and
    - v. Restaurant (90 m<sup>2</sup>) (30 guests).
  - b) For a Tourist Accommodation Establishment for the following:
    - i. Twelve (12) bedrooms with capacity for 24 guests in the converted main dwelling;
    - ii. Three (3) bedrooms in the converted manager's / additional dwelling for six guests; and
    - iii. Three (3) bedrooms added to the farm stall with a capacity for six guests.
  - c) For Occasional Uses to allow for more than one event per year for live music, art and exhibitions and outdoor functions;



- 2) Application in terms of Section 15(2)(b) for a Permanent Departure for the following:
- To construct a 2,1m high brick pier palisade fence on the eastern boundary of the property (adjacent to R44) on Farm 528/5, Stellenbosch Division; and
  - To relax the building line from 5m to 0m in order to accommodate the new wellness centre / spa in the reconstructed reservoir.
- 3) Permission required in terms of restrictive title deed condition clause D(1) - (4) on page 2 of Title Deed No T18186/2016, in order to facilitate the proposed uses and buildings on the property.

SUMMARY OF PUBLIC PARTICIPATION						
Methods of advertising				Date published	Closing date for objections	
Press			N/A			
Notices (by email)	Y			06-10-2023	06-11-2023	
Ward councillor	Y					
On-site display			N/A			
Community organisation(s)	Y			06-10-2023	06-11-2023	
Government bodies	Y			06-10-2023	06-12-2023	
Other		N	If yes, specify			

SUMMARY OF COMMENTS DURING PUBLIC PARTICIPATION (INTERESTED AND AFFECTED PARTIES)		
FARM/ ERF NO.	ISSUES RAISED	APPLICANT'S RESPONSE
Avidata Trading 301 CC – Marc Nel (Ptn 6 Farm 528)	<ul style="list-style-type: none"> <li>Object to the consent uses.</li> <li>Purpose of the zoning applicable to the property is to protect agricultural land, rural landscapes, and biodiversity (quoting the Zoning Scheme Bylaw), all of which will be compromised by the proposed consent uses.</li> <li>The consent use will be the primary use of the property and it will affect the surrounding properties.</li> <li>The palisade fence will detract from the rural character of the area and the scenic value of the R44.</li> <li>The competent authority must indicate whether Activity 6 of Listing Notice 3 is applicable and authorisation required in terms of the national Environmental Management Act, 1998.</li> <li>Illegal building work has occurred on the property and the uses commenced prior to authorisation.</li> </ul>	<ul style="list-style-type: none"> <li>The objection is a typical example how one-sidedly the neighbours perceive the situation. Attached hereto is a land use complaint form requesting further investigation of the land use on Portion 6, the complainant's property. Avidata has for years been operating a furniture restoration / manufacturing / retail business (De Oude Schuur) on the property, to the best of our knowledge without prior approval and certainly as the primary use of the property, as there is no longer any agricultural activity on the property as defined by the objector in the objection to the subject application. A time series of satellite images are attached with the land use complaint form to illustrate the degradation of the vineyards on the property and the extension of buildings and structures, which to the best of our knowledge without prior building plan approval or authorisation in terms of the title conditions.</li> </ul> <p>To the best of our knowledge there is no agricultural activity related to cultivation of any legal agricultural products on the property. By making this objection, Mr Nel incriminates himself and Avidata, as</p>



		<p>the "De Oude Schuur" property is definitely not used primarily for agricultural purposes as suggested by him to apply to the subject property.</p> <ul style="list-style-type: none"> <li>• It is not only cultivated vineyards, fields, orchards, or plantations which are deemed agricultural use, as is obvious from the definition contained in the Zoning Scheme Bylaw: <i>"agriculture means the cultivation of land for crops and/or plants, the keeping and/or breeding of animals, livestock, game, bees, birds, whether or not in the open or in enclosures, and/or the breeding of water fauna and/or flora in artificially constructed dams or natural waterways, and includes a riding school, generating compost for own use on the land unit or farm, but excludes intensive feed farming or any other additional or consent uses in the Agriculture and Rural zone"</i>.</li> </ul> <p>The Bylaw further determines that: <i>"The purpose of this zone is to make provision for:</i></p> <ul style="list-style-type: none"> <li><i>(a) the protection and preservation of agricultural land, rural landscapes and biodiversity;</i></li> <li><i>(b) use of land for purposes of bona fide agricultural production or conservation;</i></li> <li><i>(c) buildings and structures which may be erected for reasonable and normal agricultural purposes;</i></li> <li><i>(d) a limited range of other ancillary uses which may take place on agricultural land units, either as additional rights or with the consent of the Municipality and which provides for more intensive agricultural use, agricultural industry or tourism which has the objective of creating variety, ensuring sustainability and providing diversified income to land owners, without adversely impacting on the primary use of the land unit for agricultural purposes"</i>.</li> </ul> <p>The mere fact that the unproductive vineyards have been removed leads to the objection that the land is no longer used for agricultural purposes, but contrary to that, the owner uses the land for the cultivation of the fruit and plants as mentioned in the application, and further for the extensive use of the land for</p>
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		<p>maintaining a natural environment and preserving a rural landscape as provided for in the Bylaw.</p> <p>Agricultural use of land does mean the unviable / non-feasible cultivation of land for vineyards that is not sustainable. The owner has the choice of what to cultivate, how much of it, and the use to which the products and the land are put. In this instance the farm produces fruit, flowers, herbs, and vegetables for sale and for own use, other than trees and vegetation (plants) to serve as habitat for all nature of fauna and to retain the rural character of the area. The objection that the land is not used for agricultural purposes or is not used primarily for this is therefore erroneous. The only rational measure for what is agricultural and what is not, is the land area used primarily for agriculture as per the wide definition and purpose quoted above. On Portion 5 (the subject property), more than 85% is used for agricultural purposes. A maximum of 5 908m<sup>2</sup> could be attributed to consent uses, e.g., tourist accommodation, dedicated garden and entertainment areas, parking, restaurant, swimming pool, and the proposed chapel. The remaining 36 912m<sup>2</sup> of the property is used for agricultural purposes, similar to that on most other smallholdings in the area, where no feasible agricultural activities occur.</p> <ul style="list-style-type: none"> <li>• Avidata also offers guest accommodation for 23 people in De Oude Schuur Guest accommodation. According to the information on the online reservation sites, there are seven different units, of which only one is a room in a "guest house". All others are freestanding and self-catering units. Thus, the same objections lodged by Avidata to the subject application, would apply to its property, as it has to the best of our knowledge not been approved for a tourist accommodation establishment.</li> <li>• The palisade fence is largely invisible from the R44. It is located on the inner (westerly) side of the servitude access road leading northwards towards Bellevue and Chi Chi Spa. As evidenced</li> </ul>
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		<p>by the attached photographs, it is barely visible and definitely does not intrude in the visual field as observed from the south or northbound carriageways of the R44.</p> <ul style="list-style-type: none"> <li>• Activity 6 of Listing Notice 3 applies to properties outside of the urban area and in instances where the properties are located in sensitive environments, excluding for the conversion of existing buildings where the development footprint will not be increased. It thus does not apply to the subject property.</li> <li>• Another disingenuous objection by Avidata is the objection to the illegal building activity on the subject property. While it is the case that illegal construction and land use activities have occurred on the subject property, these were not evident at the time of the preparation and submission of the initial application, amongst others as evidenced by the photographs contained in the application document. To the best of our knowledge Avidata is equally guilty of illegal construction and should be investigated. To this end an illegal building complaint form is attached hereto for further action.</li> </ul> <p>It should be noted that the common boundary fence between Portions 5 and 6 does not run on the property boundary, as clearly illustrated by the satellite image attached to the complaint form. The illegal antique shop and workshop encroaches the boundary line and was erected well inside the 30m building line applicable to the property prior to the promulgation of the Zoning Scheme Bylaw in 2019.</p> <p>The owners have obviously commenced illegal construction of buildings and structures, as evidenced by the attached photographs of the palisade fence on the R44 and by photographs of the restaurant at the swimming pool as published on the Val de Vine website. The Municipality should deal with the matter in terms of the relevant legislation.</p>
Ptn 4 Farm 528 –	<ul style="list-style-type: none"> <li>• Previous objection of 13 December 2022 still valid regardless of the amendments</li> </ul>	<ul style="list-style-type: none"> <li>• The SDP and the proposal for the number of guest rooms in a tourist</li> </ul>



<p>Bellevue Trust</p>	<p>to the application.</p> <ul style="list-style-type: none"> <li>• Val de Vine (Ptn 5 Farm 528) publicly advertises more guest rooms available on the property than in the application.</li> <li>• Val de Vine advertises events for up to 200 people on the internet.</li> <li>• Live music, restaurant, bar, and gambling events advertised on the internet.</li> <li>• Application is misleading, inaccurate, and incomplete as it does not include the aforementioned.</li> <li>• Agriculture covers only 18% of the site and is not the primary use. Vineyard is neglected. No animals are kept.</li> <li>• Section 213(2) of the Stellenbosch Zoning Scheme Bylaw applies (consent use subject to objective of preserving agricultural land).</li> <li>• Scale of the proposed buildings and structures on the property are not in keeping with agricultural potential thereof.</li> <li>• Uses applied for will not be subservient to the agricultural use of the property.</li> <li>• Proposed uses require rezoning to a mixed-use zoning outside of the urban edge.</li> <li>• Application must be to regularise the existing unlawful uses and not for proposed uses.</li> <li>• New shed is planned and placed on the site development plan to be a function venue.</li> <li>• The guest house is described as a tourist accommodation establishment in the application. It is misleading as it does not comply with the definition of a guest house.</li> <li>• The tourist accommodation with ancillary restaurant, bar and facilities is a hotel and it cannot be permitted on an agricultural property.</li> <li>• The proposed farm stall will not be able to sell 50% of its produce from products produced on the farm, as there are no agricultural activities.</li> </ul> <ul style="list-style-type: none"> <li>• Traffic counts were done on Thursday, 28 July 2022, which is a weekday in winter when visitor numbers will be low, and it</li> </ul>	<p>accommodation establishment have been rectified to show the correct number.</p> <ul style="list-style-type: none"> <li>• The application has been amended to assume that all facilities will be available for guests for guests from different parties, i.e., a cumulative number / capacity has been used and it now provides for the accommodation of 264 guests, based on the limitations of the property.</li> <li>• At the time of preparing and making the application in February 2022, none of the uses as indicated in the objection were present on the farm, and the situation was confirmed with a site visit in preparation of the application as evidenced by the photographs included in the application.</li> <li>• Agriculture is defined more broadly than cultivated fields, as argued above in response to the Avidata objection. All related infrastructure, buildings, and land not used for other non-agricultural purposes, over and above the cultivated areas and natural areas, is considered agricultural use, e.g., the irrigation dam, the main, manager's and labourers' dwellings, and surrounding land. The SDP shows that at least 85% of the site will be used primarily for agricultural purposes.</li> <li>• The primary use of the property is agricultural, but due to the size and other limitations, it cannot be used viably for agricultural purposes only. Additional and consent uses are essential to generate revenue from the land asset, failing which it becomes a residential smallholding only with limited economic contribution. Moreover, it is the only smallholding / farm in the area that has not yet been developed for a diversified use. This aspect was highlighted in the motivation report. The objector's property is advertised as offering eight tourist accommodation establishment suites of 45m<sup>2</sup> each, added to which <i>"cosy family gatherings and functions, conferences, workshops and seminars for groups of up to 21 guests"</i>, added to</li> </ul>
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	<p>is a misrepresentation of the background traffic situation.</p> <ul style="list-style-type: none"> <li>• The TIS does not consider the advertised guest numbers and assumes that visitors will only be generated by the uses as calculated. It does not calculate the potential visitors attracted by all combined uses and the related use areas.</li> <li>• More parking should be provided for the potential visitors, including the shed which is arguably a function venue.</li> <li>• Upgrading of the R44 with a right turn lane and as proposed in the TIS should occur prior to any of the uses being permitted on the farm.</li> <li>• The proposed uses are not desirable and have already caused noise disturbances to the surrounding properties. The noise management plan was not made available to the objectors.</li> <li>• A more dangerous intersection will be created on the R44, and the shared access road will be congested with negative effect on the objector property.</li> <li>• The application for consent use should be refused.</li> </ul>	<p>which are spa and chiropractic treatments.</p> <ul style="list-style-type: none"> <li>• The farm is insufficiently developed with farm infrastructure and a shed is essential to improving its agricultural potential. No farm equipment, produce, materials, or input goods, e.g., fertilizers, seed, can be stored.</li> <li>• As indicated above, the area proposed for the consent and additional uses is less than the area intended for agricultural use. It is however true that the revenues to be generated from the consent uses will probably exceed the revenues possible from the agricultural uses.</li> <li>• None of the farms in the Stellenbosch Municipal area that offers similar tourist consent uses is zoned for a mixed-use or a hotel, e.g., Spier, Delaire Graff, Webersburg, Stellenbosch Vineyards, Alluvia, Banhoek Chilli Oil, etc.</li> <li>• At the time of preparing and lodging the application there were none of the mentioned illegal uses on the property.</li> <li>• While it is potentially true that the shed might be used for events and as a tourist facility, the shed is also essential for the development of the farm, for agricultural purposes. Should the shed in future be used illegally for functions, then the Municipality must act according to the prescriptions of the Bylaw.</li> <li>• The application is for a tourist accommodation establishment as defined in the Zoning Scheme Bylaw and it is in keeping with the relevant definition. It is not a hotel, and a rezoning is not required. The extent and capacity of the proposed tourist accommodation establishment is in keeping with the capacity and scale of many others in the Stellenbosch area.</li> <li>• Following the agricultural development and improvements as indicated above, together with the food and baked products produced on the farm, the farm stall can be stocked with at least 50% of</li> </ul>
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		<p>its products off the farm.</p> <ul style="list-style-type: none"> <li>• The TIS has been updated in line with the latest SDP as annexed, and the amended motivation report. Traffic counts, as indicated in the TIS, are for determining existing traffic use on the main road. It is not for determining visitor traffic. Thus, a weekend count would have led an unrealistically low background traffic volume determination.</li> <li>• The upgrading of the R44 to create a safe intersection and access should be a condition of an approval as indicated, considering that the intersection / access also services three other properties with consent uses, including tourist facilities and accommodation. Upgrading of the access which is already used for tourist facilities and accommodation by three of the four properties which share it, will be essential.</li> <li>• The objection to the noise is a subjective and unsubstantiated comment. As indicated in the noise impact assessment (that was and is available to the interested and affected parties on request), the noise levels produced by live events on the farm are within acceptable limits.</li> <li>• The request for refusal of the application reflects badly on the objector, who already operates a tourist accommodation establishment and function venue, to which it objects.</li> </ul>
Stellenbosch Interest Group	<ul style="list-style-type: none"> <li>• The SIG finds the application as problematic as the previous one and the objections in the letter of 19 December 2022 remain equally valid regardless of the amendments to the application.</li> <li>• The R44 abutting the property is a Grade IIIA scenic route and the proposed 2,1m palisade fence will be unsightly, create a precedent, and is not in character with the surrounding rural landscape.</li> <li>• The Western Cape Rural Development Guidelines require close alignment of development within local context of environmental characteristics.</li> </ul>	<ul style="list-style-type: none"> <li>• The objections remain irrelevant and symptomatic of an "any change is undesirable" attitude held by the SIG.</li> <li>• The surrounding landscape is fully developed and yet the R44 as a scenic route has its current grading, i.e., the use of the existing buildings for the tourist facilities and accommodation and the addition of a bona fide agricultural building will have no negative effect on the scenic value of the route.</li> <li>• While a solid 2,1m high wall could have a negative effect on the scenic route, the palisade wall mitigates the negative effects and solves the needs of the</li> </ul>



	<ul style="list-style-type: none"> <li>• The proposed buildings on the property are out of character with the area and will be visible and obtrusive and should not be considered unless subject to a prior visual impact assessment.</li> <li>• The agricultural shed will change the character of the landscape considerably and it is out of keeping with the agricultural potential of the property and its use therefore questionable.</li> <li>• Consent uses on the farm will dominate the use and the primary use will no longer be agricultural, as the vineyards have already been removed to be replaced with buildings.</li> <li>• The application is silent on and does not reflect the true extent of the existing lawful uses, the existing illegal uses, the true purpose of the proposed buildings and structures, and falsely states that the primary use of the property is agriculture, for which the consultant should be sanctioned.</li> </ul>	<p>owner and desires of the road users not wanting to see a solid white wall. The limited effect of the fence is clearly illustrated on the attached photographs thereof.</p> <ul style="list-style-type: none"> <li>• As indicated in the motivation report and herein above, this is the only smallholding in the immediate area that has not yet been granted permission for tourist facilities and accommodation. Thus, the application is in line with surrounding land use and in keeping with the Guidelines which promote the diversification of use on farms.</li> <li>• The farm stall is in keeping with the surrounding uses, buildings, and structures. The entire route / road is characterised by visible buildings along it and yet the road is a graded scenic route as indicated above.</li> <li>• As above, the shed is an essential building for the agricultural use of the property and in keeping with the existing buildings and structures along the road.</li> <li>• The shed is a primary use, and no application is required for it. Application has been made for the removal or suspension of the restrictive title conditions which hinder is construction.</li> <li>• As indicated above, the agricultural use of the property remains the primary use and the SIG errs in stating that the consent uses will predominate.</li> <li>• As above, at the time of preparation and submission of the application, the illegal uses did not exist. Moreover, the SIF errs in its determination of the extent of the consent uses and the agricultural uses. If the SIG feels so strongly about prosecution of the consultant, it can submit a complaint to the professional body, SACPLAN, or any other relevant body to investigate the matter and to act accordingly.</li> </ul>
<b>SUMMARY OF COMMENTS FROM INTERNAL DEPARTMENTS AND/OR ORGANS OF STATE AND/OR COMMUNITY ORGANISATIONS AND/OR WARD COUNCILLOR</b>		
Name of Department	DATE / SUMMARY OF COMMENTS	APPLICANT'S RESPONSE



Western Cape Department of Infrastructure	<ul style="list-style-type: none"> <li>• No objection to the palisade fence.</li> <li>• No objection to the consent use and departure, subject to: <ul style="list-style-type: none"> <li>• As a result of the congestion that is currently experienced along the access-approach to the MR27-intersection and from a safety point of view, a dedicated right-turn lane is required along MR27 to accommodate inbound traffic to the subject property as well as the two neighbouring properties, but as this median break will be closed as part of the future R44 Road Safety Upgrade Project such right turn lane will then be fruitless and the Branch is prepared to wave the condition for its construction on condition that visitors are made aware of the restriction on right turn traffic and efforts to limit simultaneous arrival of large traffic volumes that intend to turn right to or from the facility be put in place – especially during events that attract substantial traffic volumes;</li> <li>• It should be noted that any future change of land use application will be subject to the closure of the median break on MR27 or when the R44 Road Safety Project is implemented and the R44 access will then accommodate left in/left out traffic only;</li> <li>• To provide sufficient stacking distance for vehicles entering the property at the entrance structure and security gate and any other security measures must be designed and managed on the property to avoid vehicles stacking and waiting in the shared access road reserve and MR27 (R44), especially linked to the Occasional Uses to allow for more than one event per year for live music, art and exhibitions and outdoor functions, and traffic arrangements be communicated efficiently on the facility's website and managed to the satisfaction of the local traffic services.</li> </ul> </li> <li>• Herewith this Branch approves the encroachment of the 5m building line to</li> </ul>	<ul style="list-style-type: none"> <li>• Noted.</li> <li>• The conditions are in keeping with the recommendations of the TIS and accepted.</li> <li>• Approval of the encroachment in terms of the relevant road legislation is noted.</li> </ul>
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	accommodate the new wellness centre spa inside the reconstructed reservoir.	
Ward Councillor	<ul style="list-style-type: none"> <li>No response.</li> </ul>	<ul style="list-style-type: none"> <li>Noted</li> </ul>
Spatial Planning	<ul style="list-style-type: none"> <li>No response.</li> </ul>	<ul style="list-style-type: none"> <li>Noted.</li> </ul>
Electrical Infrastructure	<ul style="list-style-type: none"> <li>It is not in the Stellenbosch area of supply.</li> <li>All electrical requirements to be addressed to Eskom.</li> </ul>	<ul style="list-style-type: none"> <li>Noted.</li> <li>Noted.</li> </ul>
Fire Safety	<ul style="list-style-type: none"> <li>Land use is in order.</li> <li>Fire requirements will be given on consideration of building plans.</li> </ul>	<ul style="list-style-type: none"> <li>Noted.</li> <li>Noted.</li> </ul>
Infrastructure Services	<ul style="list-style-type: none"> <li>All the conditions set by the District Roads Engineer will be applicable.</li> <li>Sufficient parking must be provided and indicated on the SDP at the building plan submission stage.</li> <li>The owner has proposed borehole water. The quality of the water stored and distributed by the owner has to comply with SANS 241 Drinking Water Quality Standards.</li> <li>The owner has proposed on site treatment for the sewer generated. A technical report regarding the handling of the waste water and sewage generated on the premises has to be submitted to the Engineering Services Directorate for approval, prior to the acceptance of any building plans.</li> <li>No new septic tanks and soak-aways are permitted to be built. Waste water and sewage may not pollute any ground water, stormwater and surface water.</li> <li>The following DC's are payable: See Development Charge Calculation attached. Please note that this calculation is indicative at this stage and will be amended based on the detail information provided on subsequent applications ie building plans. The DC's were calculated by using the 2023/2024</li> </ul>	<ul style="list-style-type: none"> <li>Noted. The conditions have been accepted.</li> <li>Noted. The parking will be finally determined at building plan stage. It should be noted that many of the uses and structures have already been altered, in which case it will be necessary to consider as-built building plans, which require special consideration.</li> <li>Noted. An engineering report will be submitted by the proponent at building plan stage.</li> <li>Noted. Any approval following from the application must incorporate the relevant land use conditions relating to the provision of waste water services.</li> <li>Noted. An invoice for the DC's payable must be provided to the proponent at building plan stage.</li> </ul>

	tariff structure. If DC's are paid after 30 June 2024 it will have to be recalculated by using the tariff structure and DC Policy principles applicable at date of payment. The appropriate DC's are payable before building plan approval.	
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The objections and comment are much the same as previously in the first public participation process, leading to an amended development proposal, as made known to the interested and affected parties in this public participation process. Many of the issues raised in the initial process have been addressed as indicated in the amended motivation report. While it may be true that the range and extent of the consent uses are out of scale with that of the surrounding smallholdings, they are certainly not out of scale with what is offered on other farms along the R44 and in the Stellenbosch area. Moreover, the visibility of the existing and proposed buildings off the R44 is minimal and arguably inconsequential. Regardless of the existing scale and placement of consent use related buildings along the R44, it is designated as a scenic route, i.e., the effect of such visible buildings is minimal and the effect of ones which would hardly been seen would be even less.

The objections that the primary use of the land is not for agricultural purposes are erroneous and baseless. The factual situation is shown on the SDP and indicates that at most 15% of the land will be used primarily for consent uses, the remaining 85% being used for agricultural purposes as permitted and required in terms of the Zoning Scheme Bylaw.

Annexed hereto are two photographs from the R44 north and south bound carriageways, showing the property with the palisade fence completed. As is obvious from the photographs, the fence has no negative visual effect on the road or the surrounding environment. To ensure that this endures, the colour palette for the fence can be determined by land use conditions, for which purpose earth tones are recommended.



**ANNEXURE G:** COMMENT FROM THE WESTERN CAPE GOVERNMENT:  
DEPARTMENT OF  
TRANSPORT AND PUBLIC WORKS



**Western Cape  
Government**

Infrastructure  
**Vanessa Stoffels**

Chief Directorate: Road Planning

Vanessa.Stoffels@westerncape.gov.za | Tel: 021 483 4669

Ref: DOI/CFS/RP/LUD/REZ/SUB-25/484 (Job 30638)

The Municipal Manager  
Municipality  
PO Box  
**STELLENBOSCH**  
7599

Attention: Mr Ulrich von Molendorff

Dear Sir

**PORTION 5 OF FARM 528, VAL DE VINE, STELLENBOSCH: MAIN ROAD 27 (R44): APPLICATION FOR CONSENT USE, OCCASIONAL USE AND PERMANENT DEPARTURE**

1. The following refer:
  - 1.1. The application as received on 5 October 2023 from Virdus Works.
  - 1.2. All previous correspondence relating to this property including the following:
    - 1.2.1. The e-mail from Virdus Works to this Branch dated 11 October 2022 containing an application for consent use for the construction of a farm shed on Portion 5 of Farm 528 wrongly dated 27 February 2020 (it should read 2022);
    - 1.2.2. Drawing No. 22-24 prepared by LA Design Architects dated 29 April 2022;
    - 1.2.3. The updated Land Development Application for Consent Use prepared by Virdus Works dated August 2022;
    - 1.2.4. Your notice of refusal of building plan number 2139/2022 dated 10 October 2022;
    - 1.2.5. The unreferenced letter from Virdus Works dated 15 November 2022;
    - 1.2.6. Site Development Plan (Drawing No 22-30) prepared by LA Design Architects dated 15 February 2023;
    - 1.2.7. The letter UDS563/Reports/TIS/Rev02 from UDS Africa containing the Traffic Impact Statement dated 12 March 2023; and
    - 1.2.8. Our conditional no objection letter TPW/CFS/RP/LUD/LP-25/02 (Job 8223) dated 20 April 2023 approval and conditions for building plans for the construction of a farm shed in terms of the Act 21 of 1940 restrictive title deed conditions as listed in the Deed of Transfer.



2. Main Road 27 (MR27) (R44) is directly affected by this application at ±km28,55 left hand side (LHS).
3. The application entails following:
  - 3.1. Consent Use for tourist facilities to facilitate the following:
    - 3.1.1. New function venue (68-seater Chapel - 325 m²);
    - 3.1.2. Outdoor garden venue with gazebo (314 m²) for 110 guests;
    - 3.1.3. Convert the existing second dwelling (96 m²) into farmstall/shop;
    - 3.1.4. Wellness centre/spa for guests (583 m²); and
    - 3.1.5. Restaurant (90 m²) (30 guests).
  - 3.2. Tourist Accommodation Establishment for the following:
    - 3.2.1. Twelve (12) bedrooms with capacity for 24 guests in converted main dwelling;
    - 3.2.2. Three (3) bedrooms in converted manager's/additional dwelling for 6 guests; and
    - 3.2.3. Three (3) bedrooms added to the farm stall with a capacity for 6 guests.
  - 3.3. Occasional Uses to allow for more than one event per year for live music, art and exhibitions and outdoor functions;
  - 3.4. Permanent Departure for the following:
    - 3.4.1. To construct a 2.1m high brick pier palisade fence on the eastern boundary of the property (adjacent to Main Road 27); and
    - 3.4.2. To relax the building line from 5m to 0m to accommodate the new wellness centre spa inside the reconstructed reservoir.
4. Permission required in terms of restrictive title deed condition clause D(1) - (4) on page 2 of Title Deed No T18186/2016, in order to facilitate the proposed uses and buildings.
  - 4.1. In our letter TPW/CFS/RP/LUD/LP-25/02 (Job 8223) dated 20 April 2023 we provided permission for the removal of the restrictive title conditions by virtue of Section 11 of Act 21 of 1940 as imposed in the Deed of Transfer No T17448/1982.
5. Access to Portion 5 of Farm 528 is gained directly off MR27 at ±km 28,55 LHS via a shared access between the subject property and the two abutting properties, by way of a right-of-way servitude in favour of the abutting properties across the subject property.
6. Portion 4 and 5 of Farm 528 and Remainder of Portion 6 of Farm 528 share a median break access on MR27.
7. This Branch offers no objection to the construction of a 2.1m high brick pier palisade fence on the eastern boundary of Portion 5 of Farm 528, west of the servitude road.

8. This Branch offers no objection to the application for Consent Use, Occasional Use and Permanent Departure on Portion 5 of Farm 528, Stellenbosch Division subject to the following conditions:
- 8.1. As a result of the congestion that is currently experienced along the access-approach to the MR27-intersection and from a safety point of view, a dedicated right-turn lane is required along MR27 to accommodate inbound traffic to the subject property as well as the two neighbouring properties, but as this median break will be closed as part of the future R44 Road Safety Upgrade Project such right turn lane will then be fruitless and the Branch is prepared to waive the condition for its construction on condition that visitors are made aware of the restriction on right turn traffic and efforts to limit simultaneous arrival of large traffic volumes that intend to turn right to or from the facility be put in place – especially during events that attract substantial traffic volumes;
- 8.2. It should be noted that any future change of land use application will be subject to the closure of the median break on MR27 or when the R44 Road Safety Project is implemented and the R44 access will then accommodate left in/left out traffic only;
- 8.3. To provide sufficient stacking distance for vehicles entering the property at the entrance structure and security gate and any other security measures must be designed and managed on the property to avoid vehicles stacking and waiting in the shared access road reserve and MR27 (R44), especially linked to the Occasional Uses to allow for more than one event per year for live music, art and exhibitions and outdoor functions, and traffic arrangements be communicated efficiently on the facility's website and managed to the satisfaction of the local traffic services.
9. Herewith this Branch approves the encroachment of the 5m building line to accommodate the new wellness centre spa inside the reconstructed reservoir.

Yours Sincerely



**SW CARSTENS**

**For DEPUTY DIRECTOR-GENERAL: TRANSPORT INFRASTRUCTURE**

**DATE: 20 DECEMBER 2023**



**ENDORSEMENTS**

1. Stellenbosch Municipality  
Attention: Mr U von Molendorff (e-mail: [u.vonmolendorff@stellenboschmunicipality.gov.za](mailto:u.vonmolendorff@stellenboschmunicipality.gov.za))
2. Viridus Works (Pty) Ltd  
Attention: Mr D Lombaard (e-mail: [dupre.lombaard@viridus.com](mailto:dupre.lombaard@viridus.com))
3. Mr SW Carstens (e-mail: [swcarstens@westerncape.gov.za](mailto:swcarstens@westerncape.gov.za))
4. Mr F Hunter (e-mail: [faiz.hunter@westerncape.gov.za](mailto:faiz.hunter@westerncape.gov.za))
5. Me S du Preez (e-mail: [sdupreez@westerncape.gov.za](mailto:sdupreez@westerncape.gov.za))
6. Mr B du Preez (e-mail: [bdupreez@westerncape.gov.za](mailto:bdupreez@westerncape.gov.za))

**ANNEXURE H: COMMENT FROM THE MANAGER: SPATIAL PLANNING**





# STELLENBOSCH

STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNICIPALITY • UMASIPALA • MUNISIPALITEIT

## Spatial Planning

**To :** Manager: Land Use Management  
**From :** Manager: Spatial Planning  
**Reference :** Farm 528/5, Stellenbosch  
**LU No :** LU/14500  
**Date :** 8 December 2023  
**Re :** Application for consent use for tourist facilities, tourist accommodation and occasional uses, departure and permission in terms of restrictive title deed conditions on Farm 528/5, Stellenbosch

FILE NR:

SBP 528/5

SCAN-NR:

COLLABORATOR NR:

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

Application is herewith being made for:

- **Consent Use for the following:**

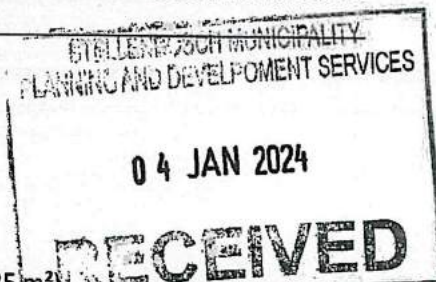
**For Tourist facilities** in order to facilitate the following:

- New function/wedding venue (68-seater Chapel) (325 m<sup>2</sup>)
- Outdoor garden venue with gazebo (314 m<sup>2</sup>) (110 guests)
- Convert the existing second dwelling (96 m<sup>2</sup>) into farm stall/ shop
- Wellness centre/spa for the guests (583 m<sup>2</sup>)
- Restaurant (90 m<sup>2</sup>) (30 guests)

**For Tourist Accommodation Establishment** for the following:

- Twelve (12) bedrooms with a capacity of 24 guests in the converted main dwelling
- Three (3) bedrooms in the converted manager's / additional dwelling with a capacity of six guests;
- Three (3) bedrooms added to the farm stall with a capacity of six guests.

- **Occasional uses** to allow for more than one event per year for Live music, art & exhibition and outdoor functions.
- **Permanent Departure** for the following:
  - To construct 2.1m high brick wall on eastern boundary of the property (adjacent to R44) on Farm 528/5, Stellenbosch Division
  - To relax the building line from 5m to 0m in order to accommodate the new wellness centre/spa.
- **Permission required in terms of restrictive title deed condition clause D(1) - (4) on page 2 of Title Deed No T18186/2016**, in order to facilitate the proposed uses on Farm 528/5, Stellenbosch Division.



**1) Opinion/reasoning:**

The new approved Municipal Spatial Development Framework for the WC024 area was approved by Council in June 2023 and recognises that the spatial decisions and actions of many make what settlements are.

In terms of this approved document, seven principles need to be considered:

1. Maintain and grow the assets of Stellenbosch Municipality's natural environment and farming areas;
2. Respect and grow cultural heritage;
3. Direct growth to areas of lesser natural and cultural significance as well as movement opportunity;
4. Clarify and respect the different roles and potentials of existing settlements;
5. Clarify and respect the roles and functions of different elements of movement structure;
6. Ensure balanced, sustainable communities;
7. Focus collective energy on a few catalytic lead projects.

With the enactment of the Spatial Planning and Land Use Management Act 16 of 2013 (SPLUMA), a new planning regime was introduced in South Africa. It replaced disparate apartheid era laws with a coherent legislative system as the foundation for all spatial planning and land use management activities in South Africa. It seeks to promote consistency and uniformity in procedures and decision-making. Other objectives include addressing historical spatial imbalances and the integration of the principles of sustainable development into land use and planning regulatory tools and legislative instruments.

Chapter 2 of SPLUMA sets out the development principles that must guide the preparation, adoption and implementation of any SDF, policy or by-law concerning spatial planning and the development or use of land. These principles are the following:

- Spatial Justice
- Spatial Efficiency
- Spatial Sustainability
- Spatial Resilience
- Good Administration

The subject property is located outside the urban edge of the Stellenbosch node and within the rural area of Stellenbosch, along the R44 to Somerset West and along a declared scenic route. Scenic routes have land use and design criteria contained in the Heritage Inventory that relates to the protection of the environmental and agricultural quality of the area.

In terms of the approved MSDF the following guidelines are applicable to this specific application:

- Tourist accommodation should preferably make use of existing buildings or new buildings on disturbed footprints, and these should take the natural and heritage significance of the site into consideration.
- Rural place-bound businesses (including farm stalls and farm shops, restaurants and venue facilities) of appropriate location and scale to complement farming operations, and not compromise the environment, agricultural sustainability, and the scenic, heritage and cultural landscape.



- Rural place-bound agricultural industry related to the processing of locally sourced (i.e. from own and/or surrounding farms) products, and not compromise the environment, agricultural sustainability, and the scenic, heritage and cultural landscape.
- Support for various forms of leisure and tourism activities across the rural landscape, of appropriate location, scale, and form not to compromise the environment, agricultural sustainability, and the scenic, heritage and cultural landscape.
- Agricultural industry should be subservient or related to the dominant agricultural use of the property and/ or surrounding farms.
- All place-bound agricultural industry related to the processing of locally sourced (i.e. from own and/or surrounding farms) products, should be located within the farmstead precinct in the agricultural area.
- Industry in rural areas should not adversely affect the agricultural potential of the property.
- Activities and uses directly related to the primary agricultural enterprise are permitted, including farm buildings and associated structures (e.g. one homestead, barns, agri-worker housing, etc.), as well as additional dwelling units to support rural tourism opportunities and to diversify farm income, comprising 1 additional non-alienable dwelling unit per 10ha, up to a maximum of 5 per farm.
- Ancillary rural activities of appropriate scale that do not detract from farming production, that diversify farm income, and add value to locally produced products (e.g. restaurant and function venue facility, farmstall and farm store, home occupation, local product processing, and rural recreational facilities.
- Recognising the prospects of tourism to diversify and strengthen the rural economy, the provision of a variety of short-term tourism accommodation across the rural landscape that is in keeping with the local character is supported.
- Large scale tourist accommodation should preferably be provided in or adjacent to existing towns and rural settlements. Tourist accommodation in the rural landscape could be allowed if, of an appropriate scale and form, appropriate to the SPC.
- Tourist accommodation situated outside of the urban edge should be clustered in visually discreet nodes, preferably make use of existing buildings or new buildings on disturbed footprints, located within or peripheral to the farmstead, reinforce rural landscape qualities, and cater exclusively for the temporary accommodation for in transit visitors.

## 2) Supported / not supported:

In terms of the approved MSDF consent uses can be considered by the Municipality provided that the primary use on the property remain agricultural. The total extent of the site is 4.2827 ha. The property is not currently actively used as an agricultural unit and any agricultural activities on the small holding does clearly not constitute the primary land use. Reference made to envisaged agricultural activities in future is meaningless in the context of what is proposed now.

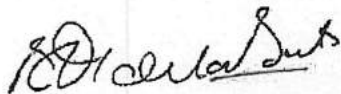
The development proposals are not line with the objectives envisaged for Agricultural/Rural zone. Tourist facilities in this zone may only be undertaken from a land unit where **the primary use of the land unit is bona fide agriculture or natural environment or a combination of these uses and where the proposed activity is subservient to the primary land use on the farm.** The proposed activities will not be subservient to the farming activities and any agricultural activities will only fulfil the role of "landscaping".

The development proposals will lead to the over-development of the property and will not be subservient to the farming activities. As the proposed activities will constitute as the primary activity on the farm, a rezoning application will be required. It is also proposed that the existing manager's house be converted into the owner's house, however it is not clear whether the owner will reside on the property.

The property has been operational with tourist accommodation, a restaurant, live music, bars for the sale of alcohol and a function venue since February 2022 and has been advertised on social media and on illegal bill boards in front of the property and clearly visible from the R44.

An updated TIA in peak times (over weekends) needs to be provided with more realistic data. The access to this property from the R44 also raises some concern and this needs to be addressed as this is also a substantial risk for the owners of the surrounding properties, the users of the R44 and the visitors of the application property. It is well known that the R44 is a high accident road and the increased traffic using the proposed access may contribute to an increase in accidents on the road.

This department therefore **does not support** the proposed development on the farm.



BJG de la Bat  
MANAGER: SPATIAL PLANNING



**ANNEXURE I: COMMENT FROM THE DIRECTOR: INFRASTRUCTURE  
SERVICES**



**STELLENBOSCH MUNICIPALITY**  
STELLENBOSCH-PNIEL-FRANSCHHOEK

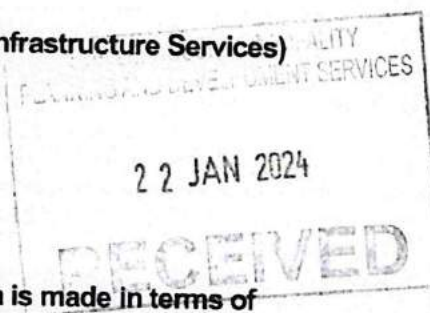
# MEMORANDUM

DIREKTORAAT: INFRASTRUKTUURDIENSTE  
DIRECTORATE: INFRASTRUCTURE SERVICES

FS28/S S

## CIVIL ENGINEERING SERVICES

<b>To • Aan:</b>	Director: Planning + Economic Development
<b>Att Aandag:</b>	Bulelwa Mdoda
<b>From • Van:</b>	Principal Technician: Development (Infrastructure Services)
<b>Author • Skrywer:</b>	Ilze Fillies
<b>Date • Datum:</b>	17 January 2024
<b>Our Ref • Ons Verw:</b>	Civil LU 2593
<b>Town Planning Ref:</b>	LU/14500 – TP61/2022
<b>Re • Insaak:</b>	<p>Farm 528/5, Stellenbosch: Application is made in terms of Section 15 (2)(o) of the Stellenbosch Municipality Land Use Planning By- Law, 2015, on Farm 528/5, Stellenbosch Division for Consent Use for the following: - a) For Tourist facilities in order to facilitate the following: - i new function/wedding venue (68-seater Chapel) (325 m<sup>2</sup>). ii. Outdoor Garden venue with gazebo (314 m<sup>2</sup>) (110 guests). i ii. Convert the existing second dwelling (96 m<sup>2</sup>) into farm stall/ shop. iv. Wellness Centre/spa for the guests (583 m<sup>2</sup>). v. Restaurant (90 m<sup>2</sup>) (30 guests) b) For Tourist Accommodation Establishment for the following: i. Twelve (12) bedrooms with a capacity of 24 guests in the converted main dwelling. ii. Three (3) bedrooms in the converted manager's / additional dwelling with a capacity of six guests; and iii. Three (3) bedrooms added to the farm stall with a capacity of six guests. 2. For Occasional uses to allow for more than one event per year for Live music, art &amp; exhibition and outdoor functions.</p>



*[Handwritten signature]*



3. Application is made in terms of Section 15 (2)(b) of the Stellenbosch Municipality Land Use Planning By- Law, 2015 for Permanent Departure for the following: -i. To construct a 2.1m high brick wall on the eastern boundary of the property (adjacent to R44) on Farm 528/5, Stellenbosch Division. ii. To relax the building line from 5m to 0m in order to accommodate the new wellness Centre/spa. 4. Permission required in terms of restrictive title deed condition clause D (1) - (4) on page 2 of Title Deed No T18186/2016, in order to facilitate the proposed uses on

---

This Memo replaces the previously approved land use 2421 memo dated 18 July 2023.

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

- The following conditions relating to the upgrades and arrangements for the effective provision of services are required to accommodate the development. No taking up of proposed rights will be allowed until these conditions have been complied with.

**1. Roads**

- 1.1 All the conditions set by the District Roads Engineer will be applicable.
- 1.2 The existing main access gate to the subject property is setback approximately one car length from the edge of the parallel access road and is not considered an issue with regards to stacking.
- 1.3 The proposed second gate must be more than 100 meters from the R44-intersection.
- 1.4 Attention must be given to the signage at/to the various accesses to ensure that vehicles do not obstruct traffic flow at the shared access.
- 1.5 As per the TIA and the letter from the Western cape government: The developer must upgrade the dedicated right turn lane (based on deceleration) along the Northern R44 approach to the access-intersection. The increased right turn movement from the access approach could pose a safety risk. This upgrade is for the developers' cost.

- 1.6 Sufficient parking must be provided and indicated on the SDP at the building plan submission stage.

**2. Water**

- 2.1 The owner has proposed borehole water.
- 2.2 The quality of the water stored and distributed by the owner has to comply with SANS 241 Drinking Water Quality Standards.

**3. Sewer**

- 3.1 The existing sewer system consists of conservancy tanks for the sewer generated. It is the Developers responsibility to ensure that the conservancy tanks have sufficient capacity to accommodate the proposed developments.
- 3.2 No new septic tanks and soak-aways are permitted to be built.
- 3.3 Waste water and sewage may not pollute any ground water, stormwater and surface water.

**4. Solid Waste**

- 4.1 A formal space for the refuse bins must be provided to the outside of the existing main access gate.
- 4.2 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).

**5. Development Charges**

- 5.1 The following DC's are payable: See **Development Charge Calculation** attached. Please note that this calculation is indicative at this stage and will be amended based on the detail information provided on subsequent applications ie building plans.
- 5.2 The DC's were calculated by using the 2023/2024 tariff structure. If DC's are paid after 30 June 2024 it will have to be recalculated by using the tariff structure and DC Policy principles applicable at date of payment.
- 5.3 The appropriate DC's are payable before building plan approval





- 5.4 The appropriate DC's are payable before the facility is put to its approved use (where building plans are not applicable).

*Ilze Fillies*

**Ilze Fillies**

**Principal Technician: Development (Infrastructure Services)**

N:\2.0 DEVELOPMENT\01 Land Use applications\2593 (IF) Farm 528-5 Stellenbosch (LU-14500 TP61-2022)\2593 () Farm 528-5 Stellenbosch (LU-14500 TP61-2022).doc

*JK*



# Stellenbosch Municipality

## Development Charge Calculation



APPLICATION INFORMATION	
Application Number	2593 (IF) Farm 526-5 Stellenbosch (LU-14500 TP61-2022)
Development Name	
Date	17 January 2024
Financial Year	2023/2024
Erf Location (Select from 7 Locations)	Stellenbosch Town
Erf Region (Select Urban or Rural)	Rural
Erf No. / Farm No.	Farm 526 portion 5
DC Parameters Reference	Val de Vine R44 Stellenbosch Viridus Works dated 5 October 2023 and Site plan Drawing no 22-30 by LA Design dated 8 September 2023

SUMMARY OF DC CALCULATION									
Service	Water	Sewer	Stormwater	Solid Waste	Roads & Transport	Sub Total (Civil Eng Services)	Community	Totals	
Unit(s)	klday	Mlday	ha°C	Uweek	Inps/day		persons		
Total Increased Services Usage:	11,946	9,634	0,2621	0,6988	179,7		31,24		
Total Service Usage Reduction	0	0	0	0	89,9		0		
Total Service Usage after Reduction	11,95	9,63	0,26210	0,699	89,9		31		
Charges before adjusting for positive only, before Deductions	R 374 361,04	R 332 284,11	R 54 298,24	R 68 350,76	R 1 175 865,38	R 2 005 159,54	R 66 404,83	R	2 071 564,37
Charges adjusted for positive only, before Deductions	R 374 361,04	R 332 284,11	R 54 298,24	R 68 350,76	R 1 175 865,38	R 2 005 159,54	R 66 404,83	R	2 071 564,37
Total Deductions	R -	R -	R -	R -	R -	R 587 932,69	R -	R	587 932,69
Total Development Charges Payable (excluding VAT)	R 374 361,04	R 332 284,11	R 54 298,24	R 68 350,76	R 587 932,69	R 1 417 226,84	R 66 404,83	R	1 483 831,68
VAT	R 56 154,16	R 49 842,62	R 8 144,74	R 10 252,61	R 88 189,89	R 212 584,03	R 9 990,72	R	222 544,75
Total Development Charges Payable (including VAT)	R 430 515,20	R 382 126,72	R 62 442,98	R 78 603,37	R 676 122,60	R 1 629 810,87	R 76 395,56	R	1 706 176,43

APPLICANT INFORMATION	
Application Processed by	Ize Fillies
Signature	<i>[Signature]</i>
Notes	Credit is given for the existing Main house, second dwelling and managers cottage as per the Site plan Drawing no 22-30 by LA Design dated 8 September 2023

*[Signature]*





FARM 528-5

**GENERAL COMMENT:**

1. Outside Stellenbosch area of supply.
2. All Electrical requirements should be directed to ESKOM

**CONDITIONS**

3. No conditions.



SIGNATURE

DATE 05/10/2023

FILE NR:	OUTGOING POST
F 528/5 SB	
SCAN NR:	
COLLABORATOR NR:	757795



**ANNEXURE J: TRAFFIC IMPACT ASSESSMENT**



Urban Development Solutions  
Reg no. 2003/043709/23

#### Head Office

Unit 8, Time Square Building,  
9 Electron Street, Techno Park,  
Stellenbosch, 7600

PO Box 50487  
V&A Waterfront  
8002

#### General Enquiries:

Elmarie Els  
T +27 (0)21 880 0443  
info@udsafrika.co.za

#### Services

Civil Engineering  
(Water, Sewer, Stormwater)  
Roads and Transport  
Traffic Engineering  
Project Management

#### Offices

Stellenbosch, Piketberg, Somerset  
West, Clanwilliam

**Date:** 15 September 2023

**Our Ref:** UDS563/Reports/TIS/Rev03

Virdus Works (Pty) Ltd  
77 Buitekring Street, Dalsig  
STELLENBOSCH  
7600

**ATTENTION:** Mr Dupré Lombaard

Dear Sir,

### **RE: APPLICATION FOR CONSENT USE ON FARM 528 PORTION 5, STELLENBOSCH: TRAFFIC IMPACT STATEMENT**

This company was appointed by *The Benedetto Trust* to prepare a Traffic Impact Statement (TIS) for the proposed development on Farm 528/5, Stellenbosch.

#### **1. BACKGROUND AND LOCALITY**

The subject property is bordered by the R44 to the southeast, south of De Zalze, Stellenbosch. See the attached **Locality Plan**. Access to the R44 is shared with the two neighbouring properties, one of which accommodates, inter alia, a restaurant.

According to information obtained from the client, farming activities are no longer financially sustainable, and tourist-type facilities are thus proposed on the property, as will be discussed hereafter.

This TIS accompanies the Application for Consent Use on Farm 528/5, Stellenbosch.



A Level 1 Contributor to B-BBEE



## 2. PROPOSED DEVELOPMENT

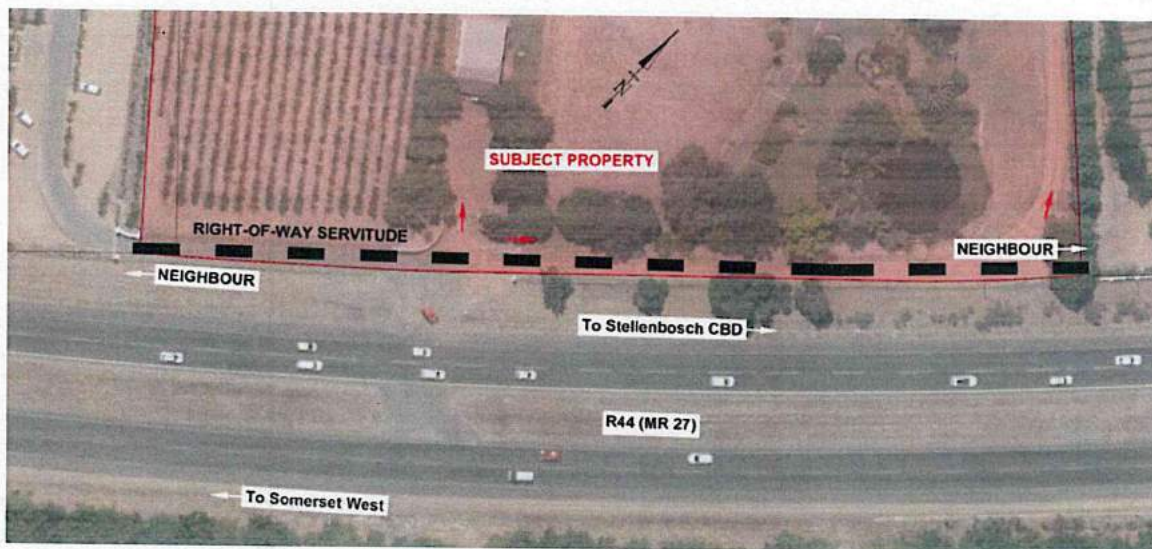
### 2.1 Proposed Development

As per information obtained from the client and contained on the latest Site Plan, the proposed development consists of the following tourist-type facilities: Guest Accommodation (18 rooms), Staff Accommodation (3 units), Restaurant/Bar, Venue, Farm Stall and Spa. An Agricultural Shed & Storage are also proposed.

The above is indicated on the attached *Site Development Plan (Rev 2.0, 08/09/2023)* prepared by LA Design Architects.

### 2.2 Access to the Property

Access to the subject property is currently obtained from the R44 via a shared access between the subject property, and the two abutting properties, by way of a right-of-way servitude in favour of the abutting properties across the subject property. See *Diagram 1* below. Detail on access will be further discussed in *paragraph 4* below.



*Diagram 1 : Access to subject property*

## 3. TRAFFIC

### 3.1 Available Traffic

To obtain an indication of the existing traffic travelling via the access, traffic counts were conducted on Thursday, 28 July 2022, from 06h00 to 09h00 and again from 15h30 to 18h30 for the purpose of the initial application. The peak hour volumes derived from these counts are indicated in *Figure 1* below.

To assess a five-year horizon (from date of application), the abovementioned peak hour volumes were increased by an average 3% per annum growth (as per TMH17 *South African Trip Data Manual*). These estimated 2028 background volumes are indicated in *Figure 2* below.



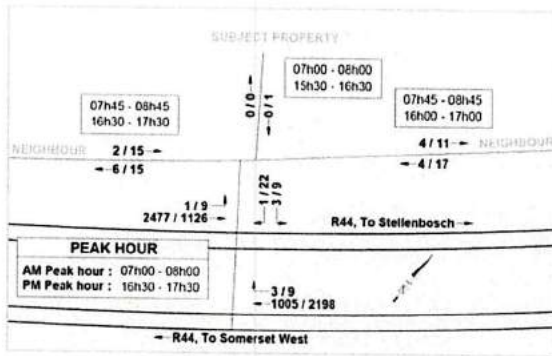


Figure 1 : Available 2022 AM/PM Peak Hour Volumes

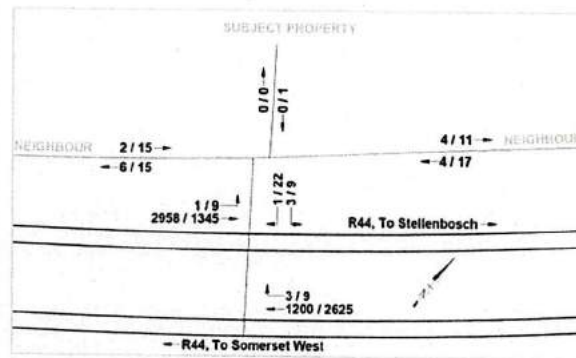


Figure 2 : Estimated 2028 AM/PM Peak Hour Volumes

### 3.2 Trip Generation

Trip generation rates as contained in the TMH17 *South African Trip Data Manual* were consulted to calculate the potential peak hour traffic that can be generated by the proposed development. The facilities expected to generate peak hour traffic are the guest accommodation, restaurant, venue, farm stall and spa. The agricultural uses and the staff accommodation are, for the purpose of peak hour trip generation calculations, not expected to contribute.

The TMH17 contains the following applicable trip generation rates:

TMH17 Trip Generation Rates	AM Peak Hour		PM Peak Hour	
	Rate	Split (in/out)	Rate	Split (in/out)
Guest House	0,45 trips per room	50/50	0,45 trips per room	50/50
Restaurant	0,75 trips per 100 m <sup>2</sup> GLA	70/30	11,8 trips per 100 m <sup>2</sup> GLA	40/60
Venue*	0,5 trips per seat	90/10	-	-
Farm Stall**	4,17 trips per 100 m <sup>2</sup> GLA	65/35	23,63 trips per 100 m <sup>2</sup> GLA	50/50
Spa***	8,0 trips per 100 m <sup>2</sup> GLA	55/45	8,0 trips per 100 m <sup>2</sup> GLA	45/55

\* For the venue, the TMH17 trip generation rate for conferences was applied. The said rate suggests a 90/10 in out split during the AM peak hour. For conferences it would be assumed that the said split would occur during the AM peak hour, whilst the inverse would be expected during the PM peak hour. For parties or events, it would be expected that only the PM peak hour would be impacted on, with 90/10 in/out split. Weddings generally occur over weekends. To assess a worst case scenario in terms of the weekday peak hours, a conference will be assessed hereafter, i.e. 0,5 trips per seat during the peak hours, with 90/10 in/out during the AM peak hour and vice versa during the PM peak hour.

\*\* For the farm stall, the standard retail trip generation rate was applied. The said rate is calculated based on the TMH17 Shopping Centre formulas:  $0,6 \times \left[1 + \frac{6}{1+m^2/3500}\right]$  &  $3,4 \times \left[1 + \frac{6}{1+m^2/3500}\right]$ .

\*\*\* A trip generation rate for a spa is not contained in the TMH17, however, as the rooms within the spa is noted as treatment rooms, it was assessed as medical consulting rooms for the purpose of trip generation calculations.



To allow for internal trips between the various uses, the TMH17 suggests trip adjustment (reduction) factors for mixed-use development, which were applied to the restaurant and venue. The suggested adjustment rates are 10% for both uses.

Based on the above, the potential trip generation of the proposed development would be as follows:

Farm 528/5 Trip Generation	AM Peak Hour Trips			PM Peak Hour Trips		
	Total	In	Out	Total	In	Out
Guest House (18 rooms)	8	4	4	8	4	4
Restaurant (239 m <sup>2</sup> GLA)	2	1	1	26	13	13
Farm Stall (30 m <sup>2</sup> GLA)	1	1	0	8	4	4
Spa (203 m <sup>2</sup> GLA)	16	9	7	16	7	9
<b>Subtotal (daily operations)</b>	<b>27</b>	<b>15</b>	<b>12</b>	<b>58</b>	<b>28</b>	<b>30</b>
Venue (80 seats)	36	32	4	36	4	32
<b>Total</b>	<b>63</b>	<b>47</b>	<b>16</b>	<b>94</b>	<b>32</b>	<b>62</b>

As tabled above, the 'daily operations' can be expected to generate 27 AM peak hour trips and 58 PM peak hour trips. The venue, which would not necessarily be operational on a daily basis, can be expected to generate 36 peak hour trips. As mentioned above, the calculations assume a worst case scenario where conferences occur, which would impact on the AM and PM peak hours, whilst other events would more likely only impact on the PM peak hour.

The said peak hour trips were distributed to the road network based on the existing directional split at the R44/Access intersection. The distributed volumes are indicated in **Figure 3** below, whilst these volumes added to the background traffic is indicated in **Figure 4**.

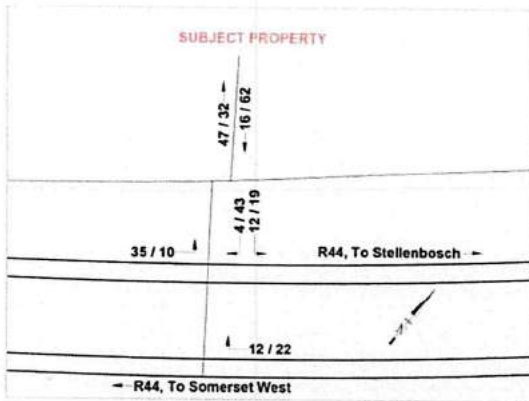


Figure 3 : Distribution of Peak Hour Trips

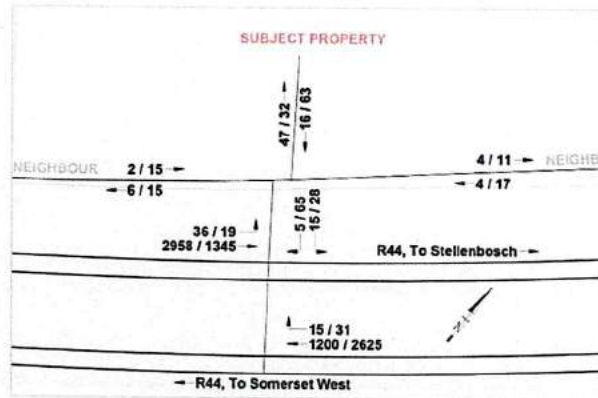


Figure 4 : Expected 2028 AM/PM Peak Hour Volumes

### 3.3 Traffic Analysis

Traffic analyses of the access-intersection were done by means of the Sidra Intersection 9.0 software. Service levels A to D are considered acceptable, with D the critical.

No dedicated right turning lanes exist at the access intersection, however, a median break with a wide median island ( $\pm 10$  metres wide) exists along the R44 where right-turning vehicles currently have refuge whilst waiting to negotiate through traffic along the R44. The layout can be seen in *Diagram 1* above.

According to the Sidra analyses, acceptable service levels are experienced along the R44-approaches at the access-intersection during the available 2022 peak hours, whilst vehicles along the access-approach experience unacceptable service levels as result of the large volumes through traffic along the R44 during the AM/PM peak hours. These conditions can be expected to continue during the estimated 2028- and expected 2028 peak hours for the most part, whilst service level F is expected on the shared through-right lane along the R44 (eastern approach) during the AM peak hours (excluding- and including development traffic). It should be noted that the right-turn movement from the access-approach could pose a safety risk.

According to the Sidra analyses, the shared access-approach to the R44 is already at capacity. From a safety point of view, to accommodate the inbound right-turning traffic to this property and the two neighbouring properties, a dedicated right-turn lane is suggested along the R44, the length of which is to be based on deceleration.

It should be noted that in future, when the R44 Safety Project of WCG is implemented, this median break will be closed resulting in the intersection becoming a left-in/left-out (LILO) only, and a u-turn opportunity provided further northeast along the R44.

## 4. GEOMETRY

As previously mentioned, access will remain via the existing intersection to the R44. The R44 is classified as a Class 2-road and has a posted speed limit of 100 km/h in the vicinity of the existing access.



The access-approaches are indicated below.

Shared access approach looking towards R44:



Subject property access:



Farm 528/4 access-approach looking towards shared access (R44 to the left):



Farm 528/6 access-approach looking towards shared access (R44 to the right):

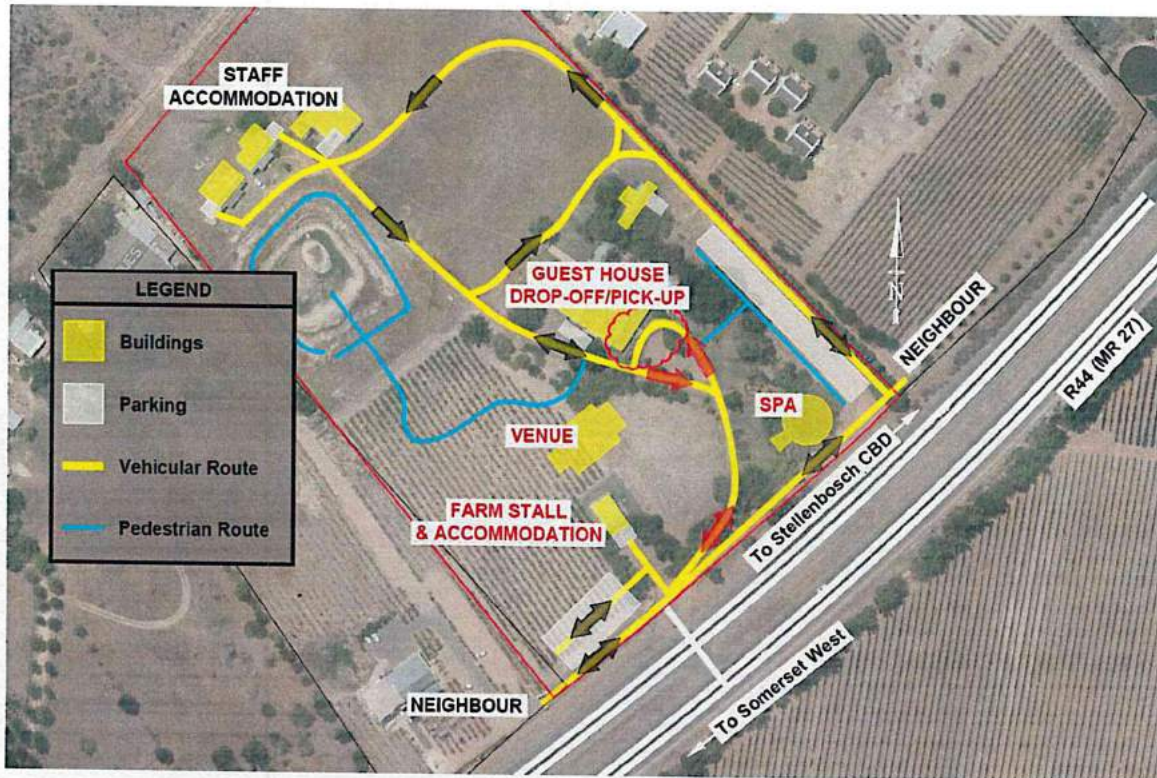


A gate currently exists at the main access to the subject property, which is setback approximately one car-length from the edge of the access road running parallel to the R44. The said parallel road is situated approximately 15 metres from the R44 (measured from the yellow line of the R44 to the centre of the parallel road). The queuing space available at the R44-intersection is thus limited.

A second gate is proposed at the route running along the north-western property boundary. Potential queuing/stacking at this gate is not considered an issue, as it is situated more than 100 metres from the R44-intersection-approach.

Access to the parking areas to the various facilities on-site are proposed as indicated below. It is expected that the majority of vehicles would travel to the two parking areas, with limited volumes of peak hour trips expected to travel to/from the drop-off/pick-up area indicated below. Attention should be given to signage at these accesses to ensure that vehicles do not obstruct traffic flow at the shared access, especially vehicles having to travel to the 'second gate' potentially forming unnecessary queues at the 'main access'.





**Diagram 2 : On-site traffic flow**

The routes indicated above follows the existing gravel roads on-site. The one-way routes measure  $\pm 3$  metres in width, whilst the sections accommodating two-way traffic to the parking areas are proposed with 6 to 7 metre widths (depending on whether parking bays abut the road). These widths are considered sufficient to accommodate the expected on-site traffic.

Refuse removal is currently handled by the Municipality on collections days from the outside of the main access gate to the subject property. Refuse removal is expected to continue as per current practice, however, as indicated on the attached plan, a formal space for refuse bins will be made to the outside of the main access gate to ensure bins do not encroach onto the shared access road.



## 5. PARKING

The parking considered required, based on the Stellenbosch Zoning Scheme, are as follows:

Land Use	Parking Requirement	Units/GLA	Bays Required
Guest House	1 bay/bedroom or suite	18 rooms	18
Restaurant	4 bays/100 m <sup>2</sup> GLA	239 m <sup>2</sup> GLA	9,56
Farm Stall ('business premises')	4 bays/100 m <sup>2</sup> GLA	30 m <sup>2</sup> GLA	1,2
Spa ('medical consulting rooms')	6 bays/100 m <sup>2</sup> GLA	203 m <sup>2</sup> GLA	8,12
Venue ('conference facility')	0,25 bay/seat	80 seats	20
<b>Subtotal</b>			<b>56,88 ≈ 57</b>
Staff accommodation ('dwelling house, 2 or more bedrooms')	2 bays/dwelling house	3 units	6
<b>Total</b>			<b>63</b>

The attached plan includes parking areas with 70 bays plus 8 bays at the staff accommodation, i.e. a total of 78 parking bays. The number of bays provided are thus considered sufficient based on the requirements of the Stellenbosch Zoning Scheme.

The parking spaces provided consist of dimensions in line with normal parking standards, i.e. 2,5 by 5,0 metre bays, with available isle width of at least 7,0 metres, which are considered sufficient.

## 6. PUBLIC- AND NON-MOTORISED TRANSPORT

Pedestrian accommodation has been proposed on-site between the parking areas and the buildings, as schematically indicated in **Diagram 2** above. It is not considered necessary to provide additional facilities as result of the proposed development.

## 7. CONCLUSIONS AND RECOMMENDATIONS

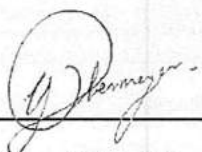
The following can be concluded from the report:

- 1) That this TIS accompanies the application for consent use on Farm 528/5, bordered by the R44 to the southeast, south of De Zalze, Stellenbosch;
- 2) That the available development information includes guest accommodation, staff accommodation, restaurant/bar, venue, farm stall and spa, with agricultural shed and storage space;
- 3) That access is proposed to remain via the existing access to the R44, shared with the two abutting properties;
- 4) That the potential total trip generation of the proposed development is 63 AM peak hour trips (47 in, 16 out) and 94 PM peak hour trips (32 in, 62 out), with the 'daily operations' expected in the order of 27 AM peak hour trips and 58 PM peak hour trips;
- 5) That congestion is currently experienced along the access-approach to the R44-intersection, and that from a safety point of view, a dedicated right-turn lane (length based on deceleration) is suggested along the R44 to accommodate inbound traffic to the subject property plus two neighbouring properties;
- 6) That in future when the R44 Safety Project of WCG is implemented, the existing median break at the access will be closed resulting in the intersection becoming a left-in/left-out (LILLO) only, and u-turn space provided further northeast along the R44;
- 7) That the existing main access gate to the subject property is setback approximately one car-length from the edge of the parallel access road, whilst the second gate proposed is situated more than 100 metres from the R44-intersection and thus not considered an issue with regard to stacking, but that attention should be given to signage at/to the various accesses to ensure that vehicles do not obstruct traffic flow at the shared access;
- 8) That the vehicular routes on-site follow the existing gravel roads, that the one-way routes measures  $\pm 3$  metres in width, whilst the two-way sections are 6 to 7 metres wide, which are considered sufficient to accommodate the expected on-site traffic;
- 9) That refuse removal will continue as per current practice, and that formal space for refuse bins are proposed to the outside of the existing main access gate;
- 10) That sufficient parking is indicated on the SDP (63 bays required, 78 bays provided), with parking bay dimensions in line with normal parking standards (2,5 by 5,0 metre bays, with 7,0 metre isle widths); and
- 11) That pedestrian accommodation is proposed on-site between the parking areas and various facilities, and that no additional public- or non-motorised transport facilities are considered necessary as result of the proposed development.

Should this proposed development be considered for approval, the minimum required upgrade would thus be the provision of a dedicated right-turn lane (based on deceleration) along the northern R44-approach to the access-intersection, to address safety. It should be noted that the increased right-turn movement from the access-approach could pose a safety risk.

We trust that the Traffic Impact Statement will be to your satisfaction and will gladly provide any additional information required on request.

Yours faithfully,



Compiled by: Yolandi Obermeyer (B Eng)





**STELLENBOSCH MUNICIPALITY**  
STELLENBOSCH · PNIEL · FRANSCHHOEK

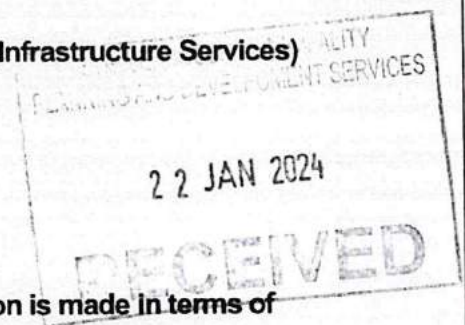
# MEMORANDUM

DIREKTORAAT: INFRASTRUKTUURDIENSTE  
DIRECTORATE: INFRASTRUCTURE SERVICES

FS28/5 S

**CIVIL ENGINEERING SERVICES**

<b>To ▫ Aan:</b>	Director: Planning + Economic Development
<b>Att Aandag:</b>	Bulelwa Mdoda
<b>From ▫ Van:</b>	Principal Technician: Development (Infrastructure Services)
<b>Author ▫ Skrywer:</b>	Ilze Fillies
<b>Date ▫ Datum:</b>	17 January 2024
<b>Our Ref ▫ Ons Verw:</b>	Civil LU 2593
<b>Town Planning Ref:</b>	LU/14500 – TP61/2022
<b>Re ▫ Insake:</b>	<p>Farm 528/5, Stellenbosch: Application is made in terms of Section 15 (2)(o) of the Stellenbosch Municipality Land Use Planning By- Law, 2015, on Farm 528/5, Stellenbosch Division for Consent Use for the following: - a) For Tourist facilities in order to facilitate the following: - i new function/wedding venue (68-seater Chapel) (325 m<sup>2</sup>). ii. Outdoor Garden venue with gazebo (314 m<sup>2</sup>) (110 guests). i ii. Convert the existing second dwelling (96 m<sup>2</sup>) into farm stall/ shop. iv. Wellness Centre/spa for the guests (583 m<sup>2</sup>). v. Restaurant (90 m<sup>2</sup>) (30 guests) b) For Tourist Accommodation Establishment for the following: i. Twelve (12) bedrooms with a capacity of 24 guests in the converted main dwelling. ii. Three (3) bedrooms in the converted manager's / additional dwelling with a capacity of six guests; and iii. Three (3) bedrooms added to the farm stall with a capacity of six guests. 2. For Occasional uses to allow for more than one event per year for Live music, art &amp; exhibition and outdoor functions.</p>



HK



3. Application is made in terms of Section 15 (2)(b) of the Stellenbosch Municipality Land Use Planning By- Law, 2015 for Permanent Departure for the following: -i. To construct a 2.1m high brick wall on the eastern boundary of the property (adjacent to R44) on Farm 528/5, Stellenbosch Division. ii. To relax the building line from 5m to 0m in order to accommodate the new wellness Centre/spa. 4. Permission required in terms of restrictive title deed condition clause D (1) - (4) on page 2 of Title Deed No T18186/2016, in order to facilitate the proposed uses on

---

**This Memo replaces the previously approved land use 2421 memo dated 18 July 2023.**

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

- The following conditions relating to the upgrades and arrangements for the effective provision of services are required to accommodate the development. No taking up of proposed rights will be allowed until these conditions have been complied with.

#### **1. Roads**

- 1.1 All the conditions set by the District Roads Engineer will be applicable.
- 1.2 The existing main access gate to the subject property is setback approximately one car length from the edge of the parallel access road and is not considered an issue with regards to stacking.
- 1.3 The proposed second gate must be more than 100 meters from the R44- intersection.
- 1.4 Attention must be given to the signage at/to the various accessed to ensure that vehicles do not obstruct traffic flow at the shared access.
- 1.5 As per the TIA and the letter from the Western cape government: The developer must upgrade the dedicated right turn lane (based on deceleration) along the Northern R44 approach to the access-intersection. The increased right turn movement from the access approach could pose a safety risk. This upgrade is for the developers' cost.



- 1.6 Sufficient parking must be provided and indicated on the SDP at the building plan submission stage.

**2. Water**

- 2.1 The owner has proposed borehole water.
- 2.2 The quality of the water stored and distributed by the owner has to comply with SANS 241 Drinking Water Quality Standards.

**3. Sewer**

- 3.1 The existing sewer system consists of conservancy tanks for the sewer generated. It is the Developers responsibility to ensure that the conservancy tanks have sufficient capacity to accommodate the proposed developments.
- 3.2 No new septic tanks and soak-aways are permitted to be built.
- 3.3 Waste water and sewage may not pollute any ground water, stormwater and surface water.

**4. Solid Waste**

- 4.1 A formal space for the refuse bins must be provided to the outside of the existing main access gate.
- 4.2 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).

**5. Development Charges**

- 5.1 The following DC's are payable: See **Development Charge Calculation** attached. Please note that this calculation is indicative at this stage and will be amended based on the detail information provided on subsequent applications ie building plans.
- 5.2 The DC's were calculated by using the 2023/2024 tariff structure. If DC's are paid after 30 June 2024 it will have to be recalculated by using the tariff structure and DC Policy principles applicable at date of payment.
- 5.3 The appropriate DC's are payable before building plan approval



- 5.4 The appropriate DC's are payable before the facility is put to its approved use (where building plans are not applicable).

*IFILLIES*

**Ilze Fillies**

**Principal Technician: Development (Infrastructure Services)**

N:\2.0 DEVELOPMENT\01 Land Use applications\2593 (IF) Farm 528-5 Stellenbosch (LU-14500 TP61-2022)\2593 () Farm 528-5 Stellenbosch (LU-14500 TP61-2022).doc

*IF*



**ANNEXURE K: UNAUTHORIZED LAND USE AND BUILDING WORK NOTICES**



Our Reference Number: Farm 528/5 Stellenbosch

Enquiries: Errol Williams

Contact No: 021 808 8688

Date: 06/09/2022

THE BENEDETTO TRUST (Trustee: Ms Valerie Mentz)

R44

Jamestown

Stellenbosch

7600

By hand

Dear Sir

**NOTIFICATION: ALLEGED LAND USE CONTRAVENTION IN TERMS**

**OF SECTION 87(2) OF THE STELLENBOSCH MUNICIPALITY LAND USE PLANNING BY-LAW 2015: FARM 528 PORTION 5  
STELLENBOSCH**

1. This Municipality has reasonable grounds to suspect that you are guilty of an offence(s) in terms of **Section 86 (1) (b)** of the Stellenbosch Municipality Land Use Planning By-law 2015 ("the By-Law").  
  
"A person is guilty of an offence and is liable on conviction to a fine or imprisonment not exceeding 20 years or to both a fine and such imprisonment if he or she—  
  
utilises land in a manner other than prescribed by a zoning scheme without the approval of the Municipality;"
2. You are hereby instructed to cease the activity in terms of section 87(2) of the Stellenbosch Municipality Land Use Planning By-law, 2015, within 30 days of receipt of this notice. The unlawful utilisation of the property being the following: **function/event venue, restaurant/bar and accommodation facility**
3. Please take note that by submitting an application in terms of section 87(2) (b) as read with section 87(4) of the By-Law does not indicate that the application will be approved, and if such application is refused, you must cease the unauthorised activity.
4. Please take further note that you may object to this compliance notice by submitting written representations to the municipality within 30 (thirty) days of receipt of this notice.
5. You are hereby warned that in the event that you fail or refuse to comply with this compliance notice, the Municipality shall proceed with legal action against you, which may include inter alia the following:
  - a. You can be prosecuted for and convicted of an offence contemplated in section 86 of the By-Law;
  - b. On conviction of an offence, you will be liable for the penalty as provided for in the By-Law;
  - c. You can be required by an order of court to demolish, remove or alter any building structure or work unlawfully erected or constructed or to rehabilitate the land or restore the building concerned or to cease the activity;
  - d. In the case of contravention relating to a consent use or temporary departure, such approval may be withdrawn; and/or
  - e. In the case of an application of the activity or development parameter, the contravention penalty in the amount as stated in the notice, including any costs incurred by the Municipality, may be imposed on you.

Yours faithfully

**FOR DIRECTOR: PLANNING AND ECONOMIC DEVELOPMENT**

This is a true copy of the notice served on this 6 day  
of September 2022, at \_\_\_\_\_ (time).  
On: Ms Valerie Mentz  
Served by: Errol Junior Williams  
Capacity of Server: Senior Land Use Inspector  
Signature of Server: [Signature]  
Person Receiving Document: [Signature] (Sign)  
Capacity: Trustee  
In the event the recipient of the notice refuses to sign or accept notice the server must indicate how notice was issued.





**STELLENBOSCH**  
 STELLENBOSCH • PNIEL • FRANSCHHOEK  
 MUNISIPALITEIT • UMASIPALA • MUNICIPALITY

Our Reference Number: Farm 528/5 Stellenbosch  
 Enquiries: Errol Williams  
 Contact No: 021 808 8688  
 Date: 10/11/2023

**THE BENEDETTO TRUST (Trustee: Ms Valerie Mentz)**  
 R44  
 Jamestown  
 Stellenbosch  
 7600

By hand

Dear Sir

Criminal Prosecution

**COMPLIANCE NOTICE IN TERMS OF SECTION 87 & 88 OF THE STELLENBOSCH MUNICIPALITY LAND USE PLANNING BY-LAW, 2023 ("the By-Law");**

You are the registered owner of Farm 528/5 Stellenbosch situated at along R44 Stellenbosch.

The property is zoned Agricultural and Rural Zone in terms of the Stellenbosch Municipality Zoning Scheme By-Law, 2019 ("the Zoning Scheme"). See Annexure A.

Stellenbosch Municipality are of the opinion that you are allowing the utilisation/utilising the abovementioned property for **tourist facilities, tourist accommodation establishments and events.**

The activity listed directly above is in contravention with zoning of the property and land use approval. Section 86 of the By-Law provides:

*(1) A person is guilty of an offence and is liable on conviction to a fine or imprisonment not exceeding 20 years or to both a fine and such imprisonment if he or she-*

*(b) utilises land in a manner other than prescribed by a zoning scheme without the approval of the Municipality;*

and

In terms of section 90 of the By-Law, if a person fails to comply with a compliance notice, the Municipality may -

*(a) lay a criminal charge against the person*

*(b) apply to the High Court for an order -*

- i. restraining that person from continuing the unlawful utilisation of the land;*
- ii. directing that person to, without the payment of compensation -*
  - (aa) demolish, remove or alter any building, structure or work unlawfully erected or constructed; or*
  - (bb) rehabilitate the land concerned*

*(c) in the case of a consent use or a temporary departure, withdraw the approval granted and act in terms of section 87.*


You are hereby instructed to cease the unlawful conduct and to comply with the provisions of the By-Law and zoning of the property by the 10/12/2023, notwithstanding your right to submit an objection or representation to of section 89 the By-Law.

In terms of section 89(1) of the By-Law, any person or owner who receives a compliance notice in terms of section 87 may object to the notice by making written representations to the Municipality within 30 days of the date of notification.

(2) After consideration of any objections or representations made in terms of subsection (1) and any other relevant information, the Municipality -

- (a) may suspend, confirm, vary or withdraw a compliance notice or any part of the compliance notice; and
- (b) must specify the period within which the person to whom the compliance notice is addressed must comply with any part of the compliance notice that is confirmed or varied.

Yours faithfully



**Errol Williams**  
**Senior Land Use Inspector**

for DIRECTOR: PLANNING AND ECONOMIC DEVELOPMENT

Received by

..... GLENN .....  


Signature \*

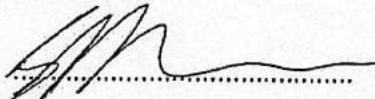
Capacity

..... RESTAURANT MANAGER .....

Served by

Errol Williams

Signature



Capacity

**Senior Land Use Inspector**





208  
**STELLENBOSCH**  
STELLENBOSCH • PNIEL • FRANSCHHOEK

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• MUNISIPALITEIT

PEND

11

12 DEC. 2022

Planning and Economic Development

Date: 10 November 2022  
Enquiries: Aubrey Langeveldt  
Telephone : (021)808-8792

BENEDETTO TRUST  
R44 Road  
Stellenbosch  
7600

REF	DATE
F528/5 S	10/11/2022
FILE	
738454	

**UNAUTHORISED BUILDING WORK - ERF: SBP 528/5, VAL DE VINE RESTAURANT , R44 , STELLENBOSCH**

An inspection on 9<sup>TH</sup> November 2022 on the above property refers.

During the above mentioned inspection, it was noted that the building/structure, as mentioned below, was erected without the prior approval, in writing, of the Local Authority in question, as required in terms of Section 4/1 of Act 103/1977 (punishable crime in terms of Section 4/4 of Act 103/1977)

**ILLEGAL ADDITIONS TO EXISTING HOUSE AND TIMBER ROOF / DECK**

You are hereby instructed in terms of Section 17(1) of the said act as published in Government Notice R2378 on 12 October 1990 (as amended), **TO CEASE THE ERECTION OF THE SAID BUILDING IMMEDIATELY**, and to obtain the written approval of the Local Authority for the building /structure in the prescribed manner within 30 days from date of this notice (Reg A25 (10) OF Act 103/1977).

**NOTE: You must contact the Building Control Officer / Building Inspector immediately.**

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:	Valerie Wentz	
Served by:		
Inspected by:	Aubrey Langeveldt	

.....  
SENIOR BUILDING INSPECTOR

val@datadesign.co.za

STELLENBOSCH MUNICIPALITY PLANNING AND DEVELOPMENT SERVICES
11 NOV 2021
RECEIVED

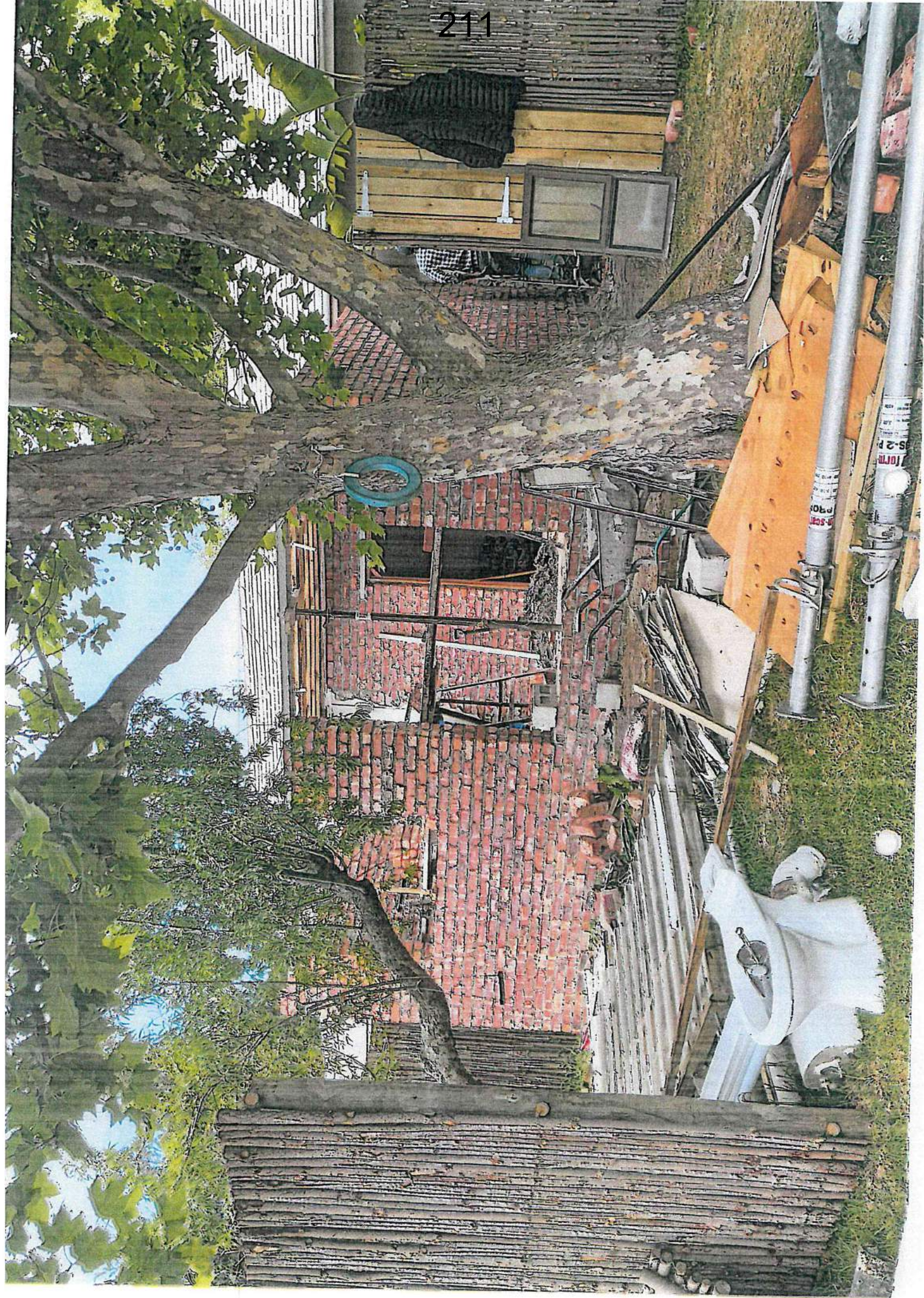
















212

**STELLENBOSCH**  
STELLENBOSCH • PNIEL • FRANSCHHOEKMUNICIPALITY • UMASIPALA  
• MUNISIPALITEITPEND (b)  
01.08.23

Planning and Economic Development

Date: 28 June 2023

Enquiries: Aubrey Langeveldt (Aubrey.langeveldt@ Stellenbosch.gov.za)

Telephone : (021) 808-8792

BENEDETTO TRUST - Ms. Valerie Mentz  
R44 Road  
Stellenbosch  
7600STELLENBOSCH MUNICIPALITY  
PLANNING AND DEVELOPMENT SERVICES

03 JUL 2023

**RECEIVED**  
VAL DE VINE RESTAURANT**UNAUTHORISED BUILDING WORK - ERF: SBP 528/5, R44 ROAD, VAL DE VINE RESTAURANT, STELLENBOSCH**

An inspection on 26 June 2023 on the above property refers.

During the above-mentioned inspection, it was noted that the building/structure, as mentioned below, was demolished without the prior approval, in writing, of the Local Authority in question, as required in terms of Section 4/1 of Act 103/1977 (punishable crime in terms of Section 4/4 of Act 103/1977)

**BOUNDARY WALL, ARCH STRUCTURES - ALL ADDITIONS TO EXISTING HOUSE**You are hereby instructed in terms of Section 17(1) of the said act as published in Government Notice R2378 on 12 October 1990 (as amended), **TO CEASE THE BUILDING WORK OF THE SAID BUILDING IMMEDIATELY**, and to submit application/ building plan for consideration to the Local Authority for the building /structure in the prescribed manner within 30 days from date of this notice (Reg A25 (10) OF Act 103/1977)**NOTE: You must contact the Building Control Officer / Building Inspector immediately.**

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:	
Served by:	Aubrey Langeveldt
Inspected by:	Aubrey Langeveldt

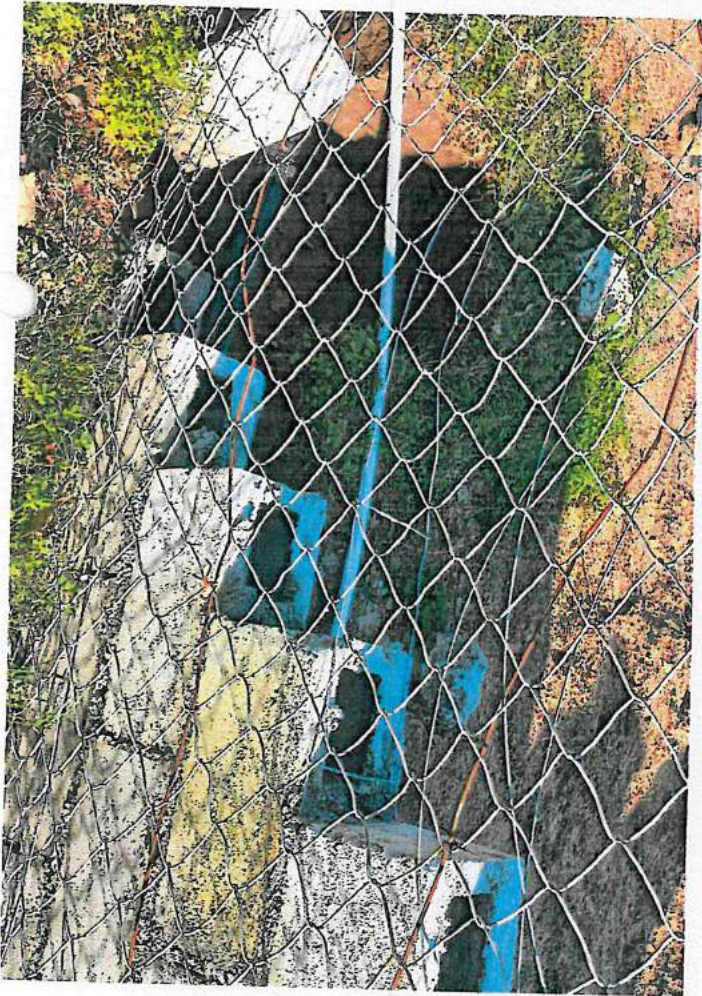
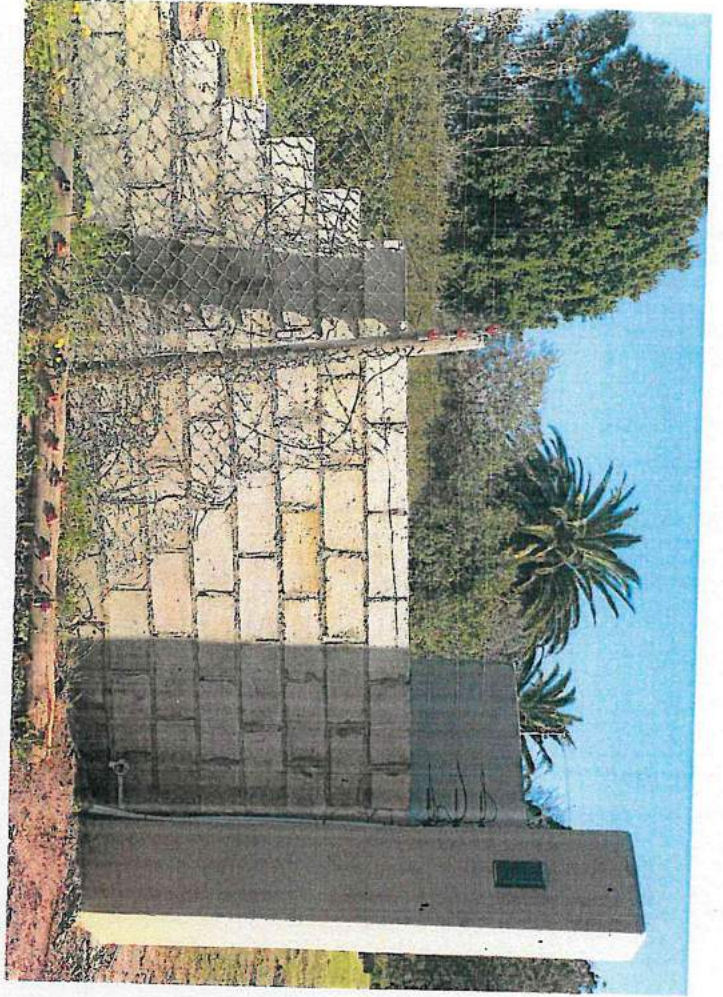
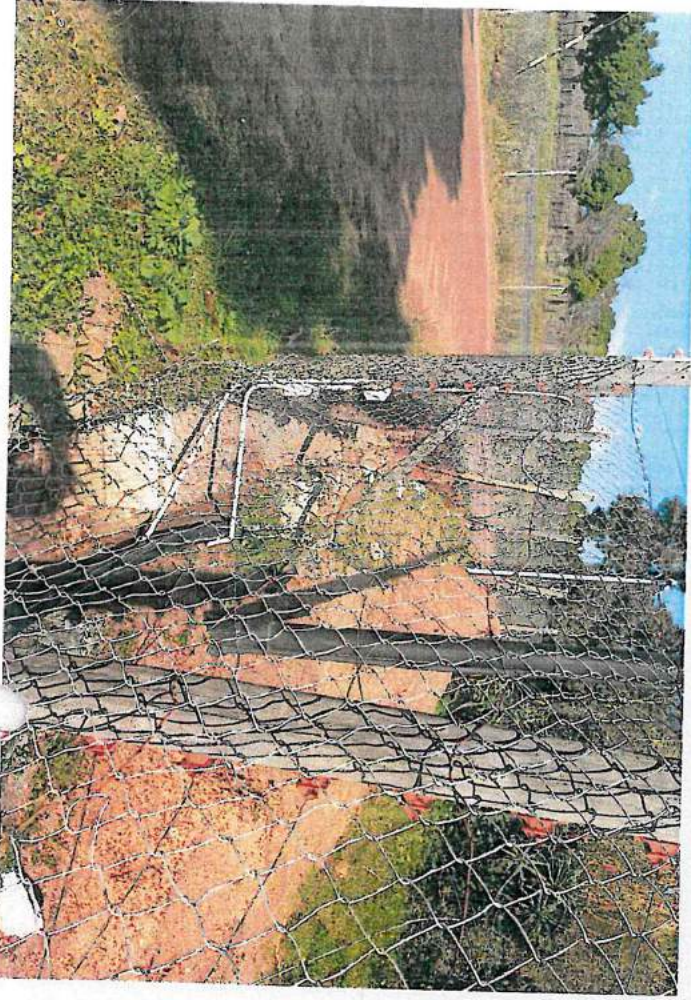
Snr Building Inspector: BUILDING CONTROL

**DIRECTORATE : PLANNING AND DEVELOPMENT SERVICES**

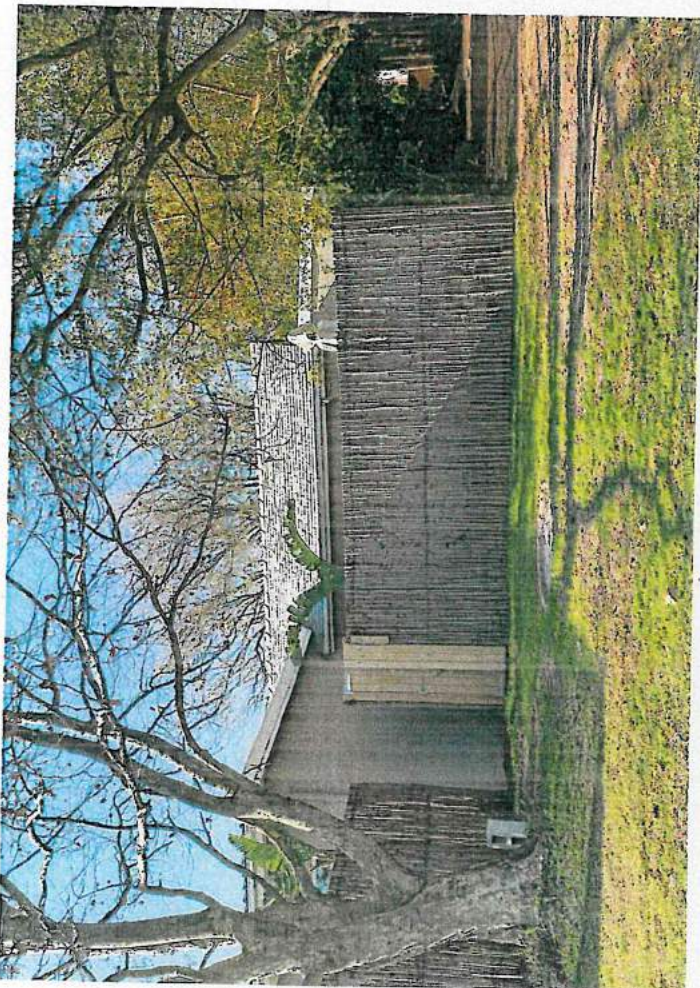
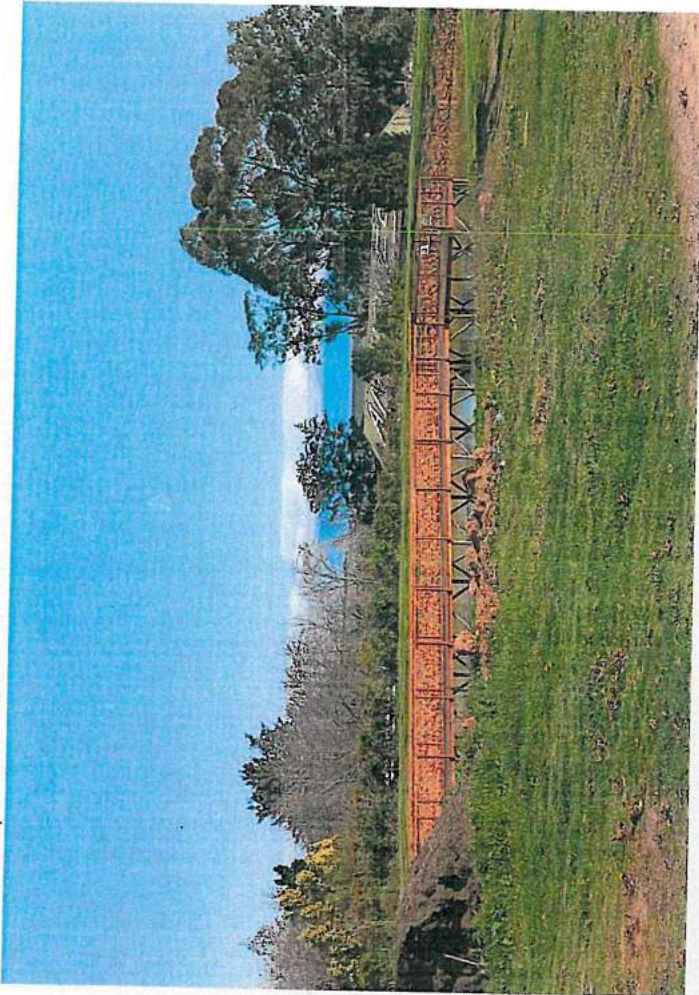
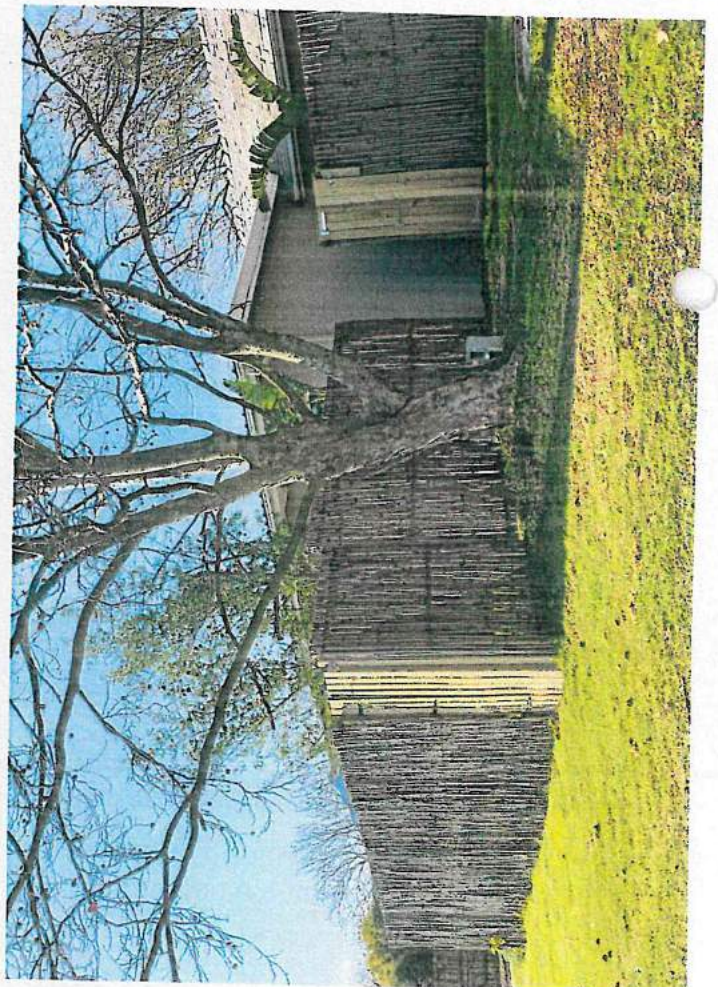
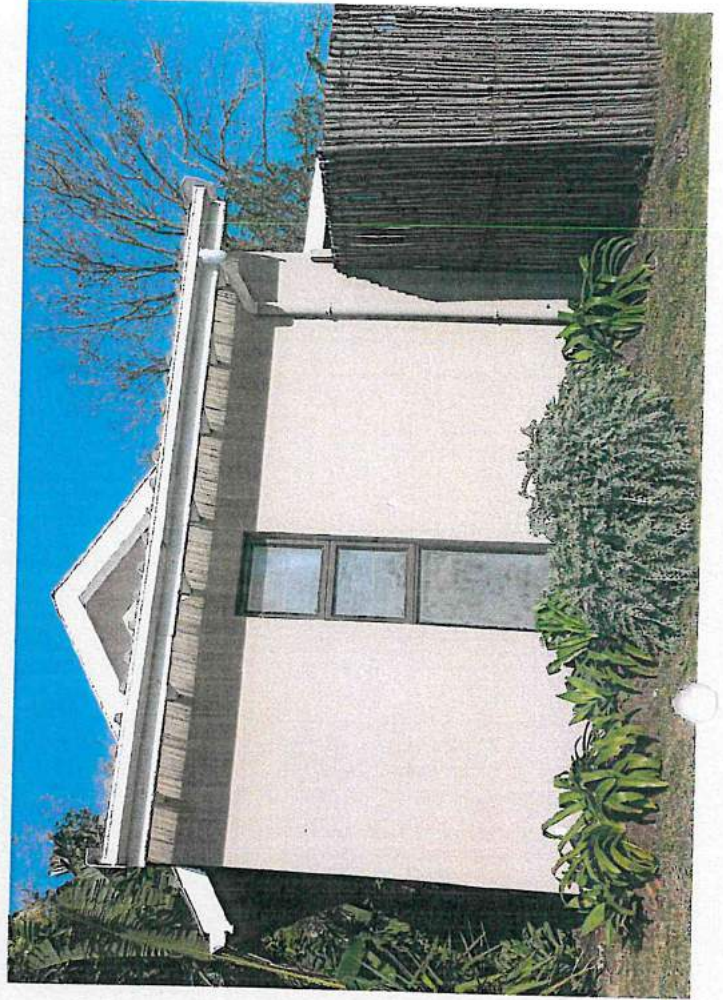
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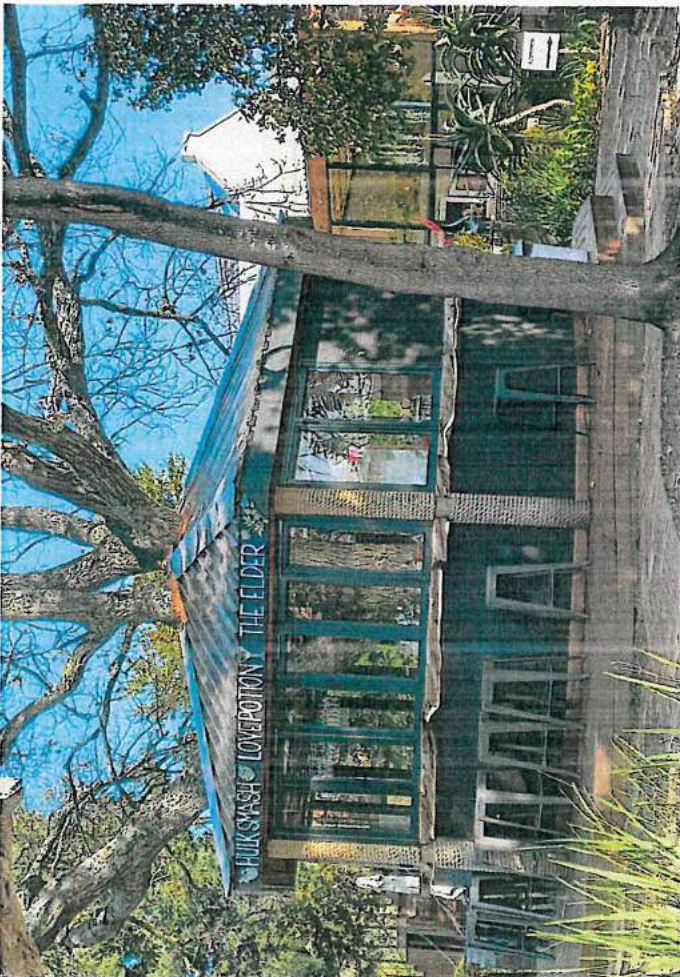
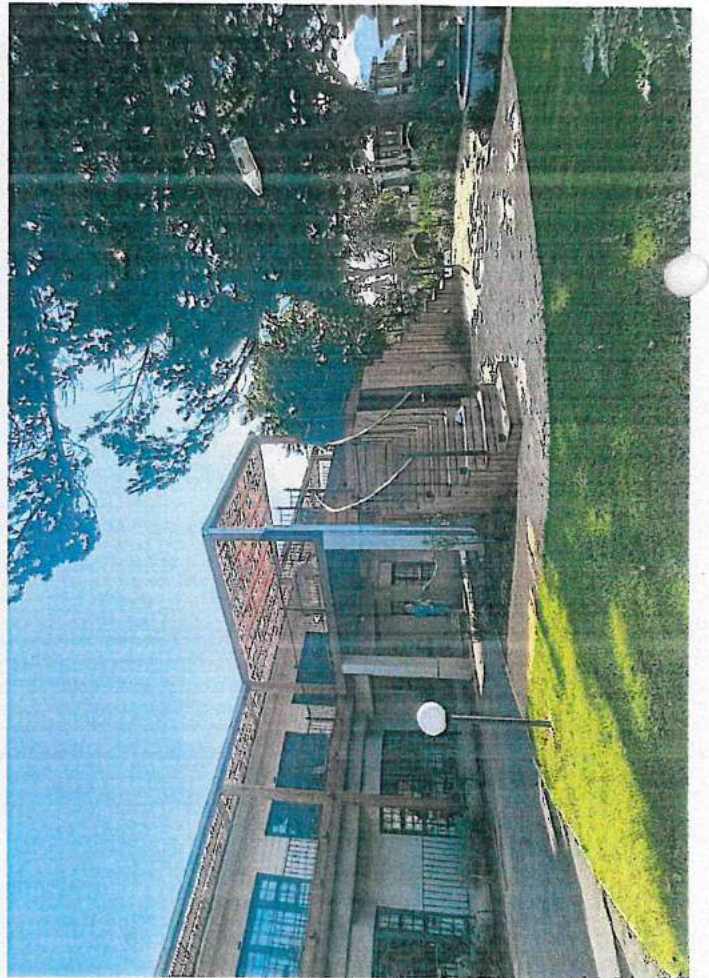
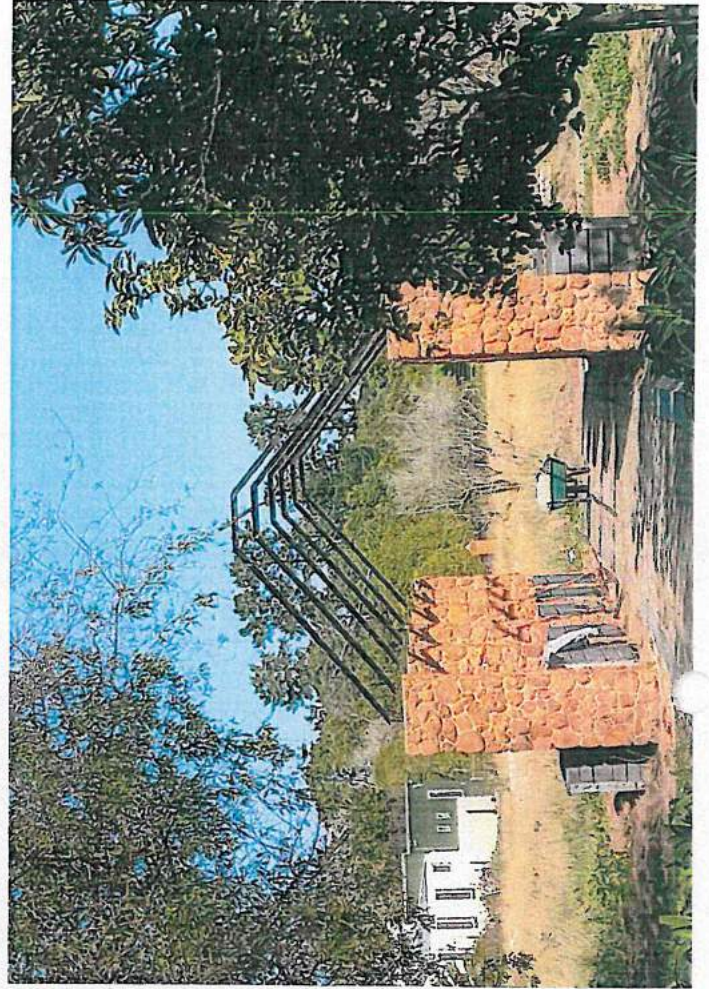
















216  
**STELLENBOSCH**  
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• MUNISIPALITEIT

Planning and Economic Development

Date: 18 July 2023

Enquiries: Aubrey Langeveldt (Aubrey.langeveldt@stellenbosch.gov.za)

Telephone : (021) 808-8792

BENEDETTO TRUST - Ms. Valerie Mentz  
R44 Road  
Stellenbosch  
7600

F. 528/5
753241

QUALITY  
COUNCIL SERVICES

21 JUN 2023

**UNAUTHORISED BUILDING WORK - ERF: SBP-528/5, VAL DE VINE VAL DE VINE RESTAURANT, R44 ROAD, STELLENBOSCH.**

An inspection on 17 July 2023 on the above property refers.

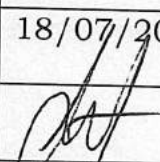
During the above-mentioned inspection, it was noted that the building/structure, as mentioned below, was erected without the prior approval, in writing, of the Local Authority in question, as required in terms of Section 4/1 of Act 103/1977 (punishable crime in terms of Section 4/4 of Act 103/1977)

**ILLEGAL BUILDING WORK**

You are hereby instructed in terms of Section 17(1) of the said act as published in Government Notice R2378 on 12 October 1990 (as amended), **TO CEASE THE ERECTION AND TO REMOVE STRUCTURE AND FENCE IMMEDIATELY.**

**NOTE:** You must contact the Building Control Officer / Building Inspector immediately.

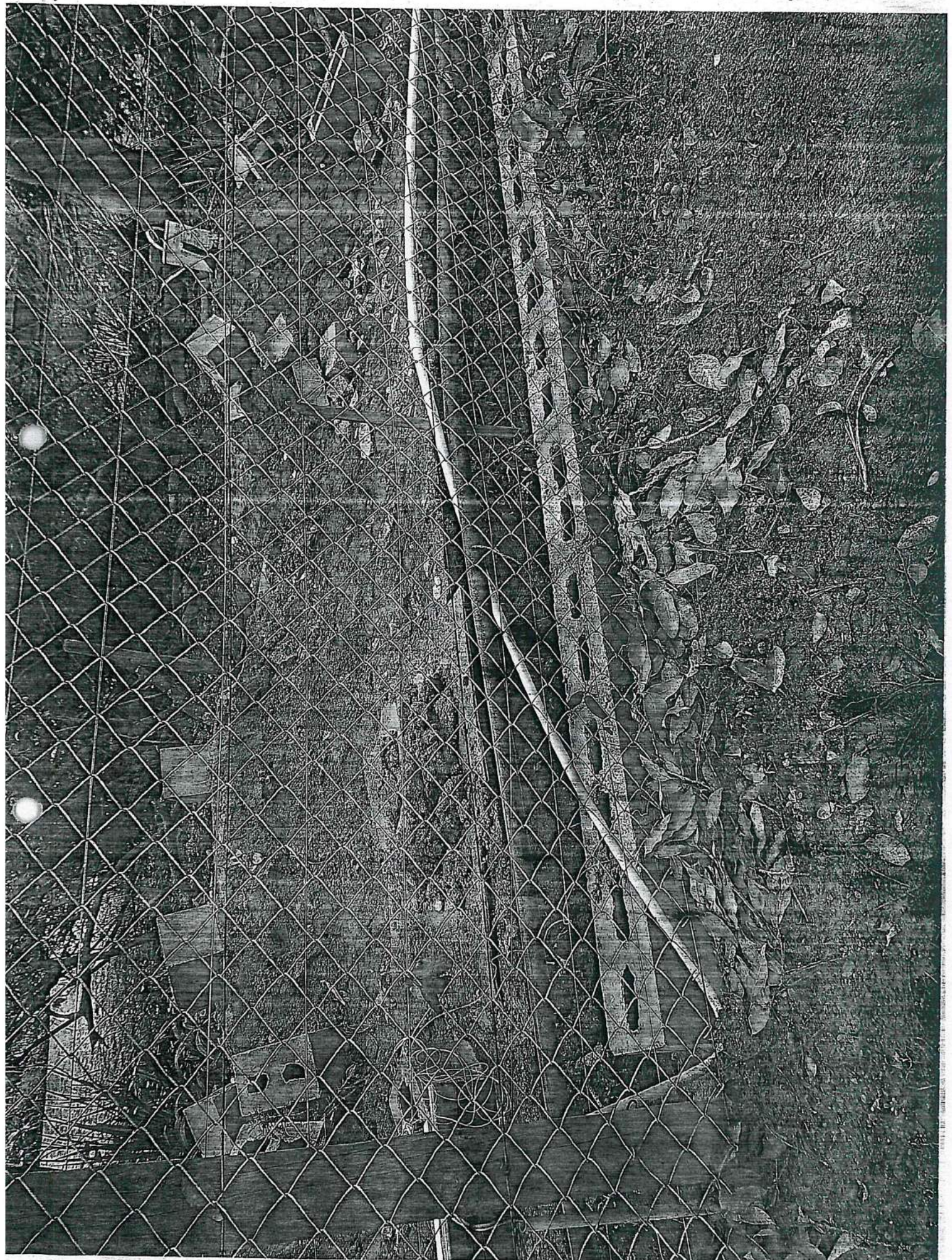
Failure to comply with this notice will leave the Local Authority no other option but to institute legal action against you and to apply for a court order in terms of Section 21 of Act 103/1977 to demolish the building/structure without further notice.

Recipient:		REGISTERED POST
Served by:	Aubrey Langeveldt	18/07/2023
Inspected by:	Aubrey Langeveldt	

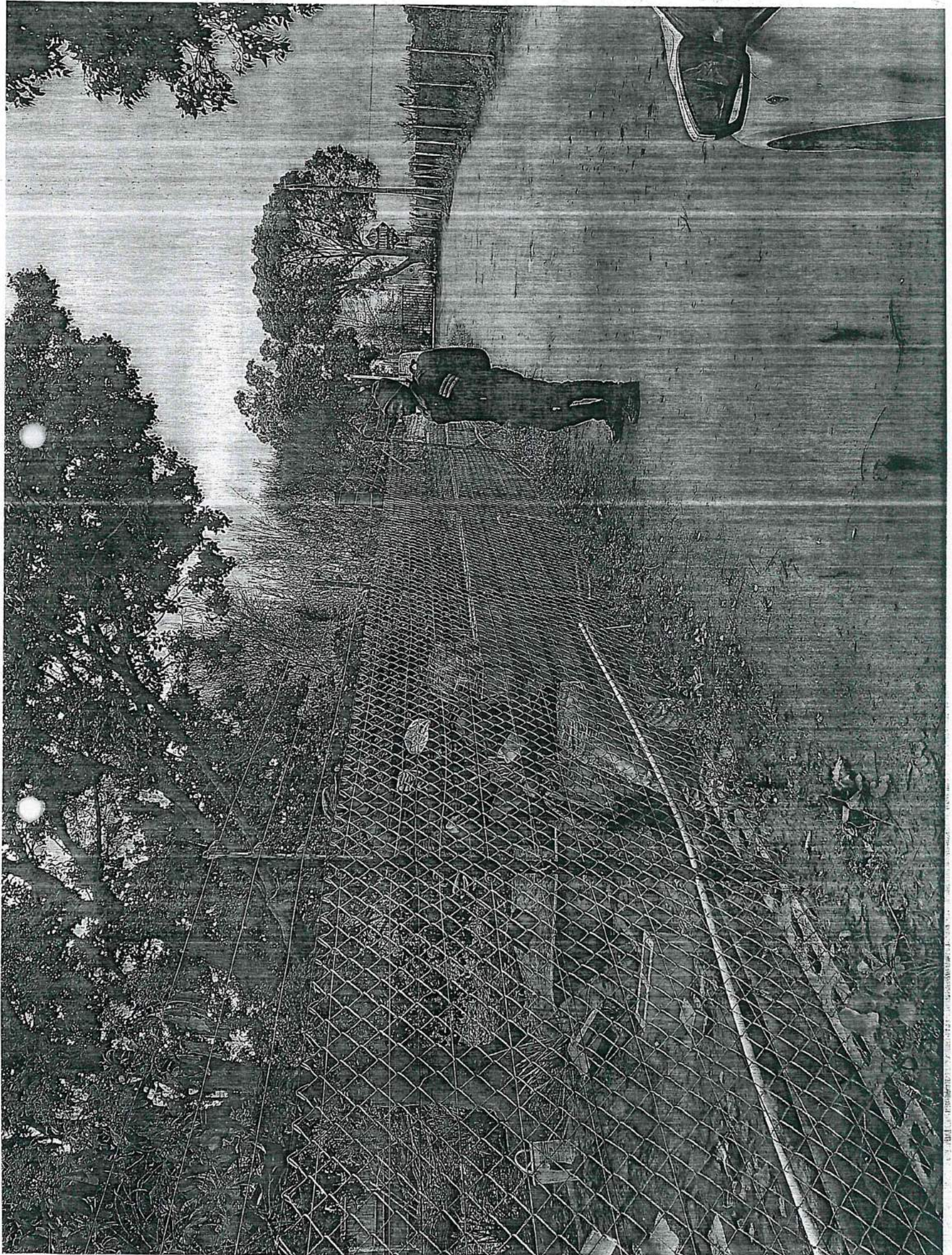
.....  
SENIOR BUILDING INSPECTOR

**DIRECTORATE : PLANNING AND DEVELOPMENT SERVICES**





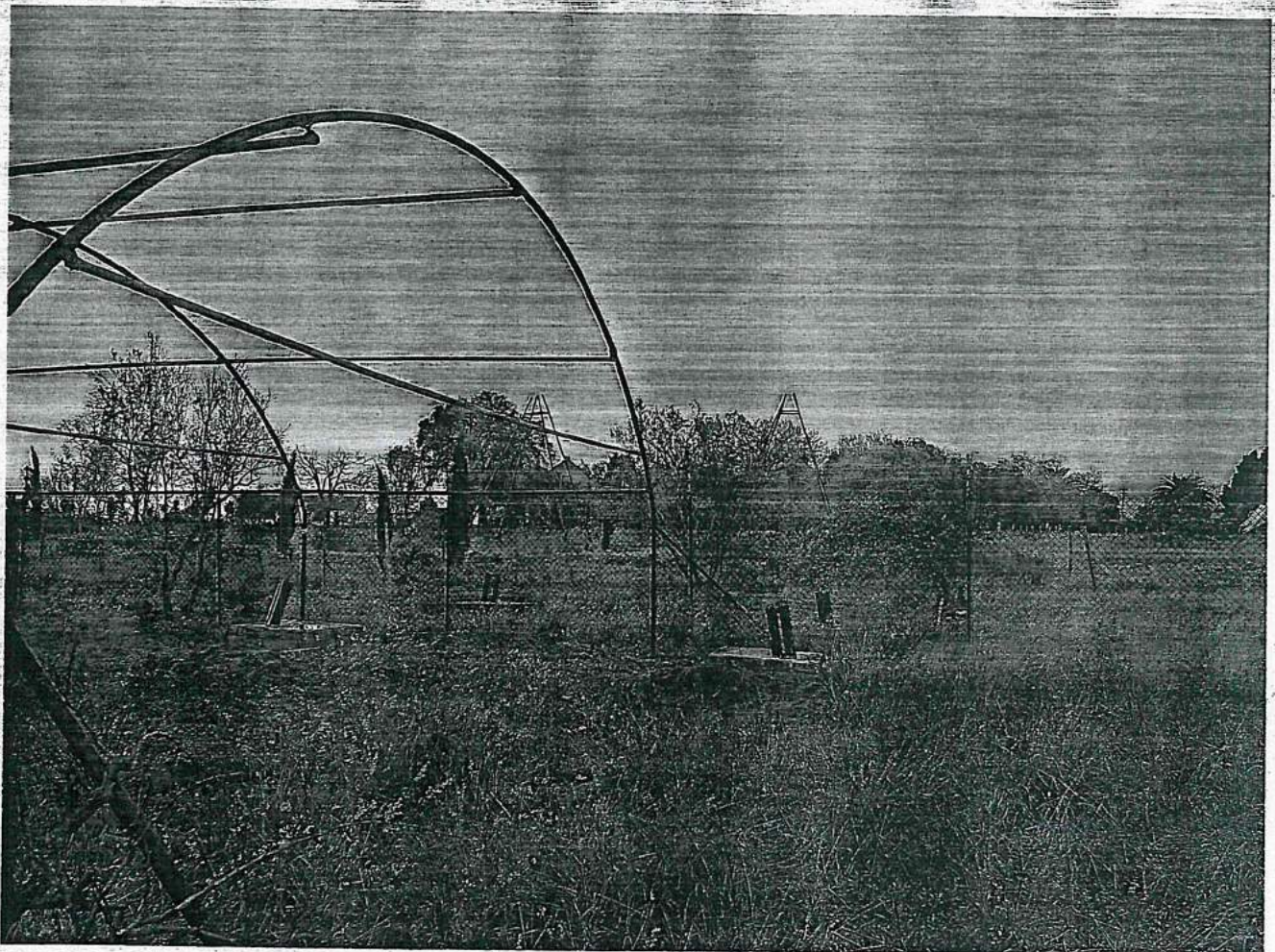
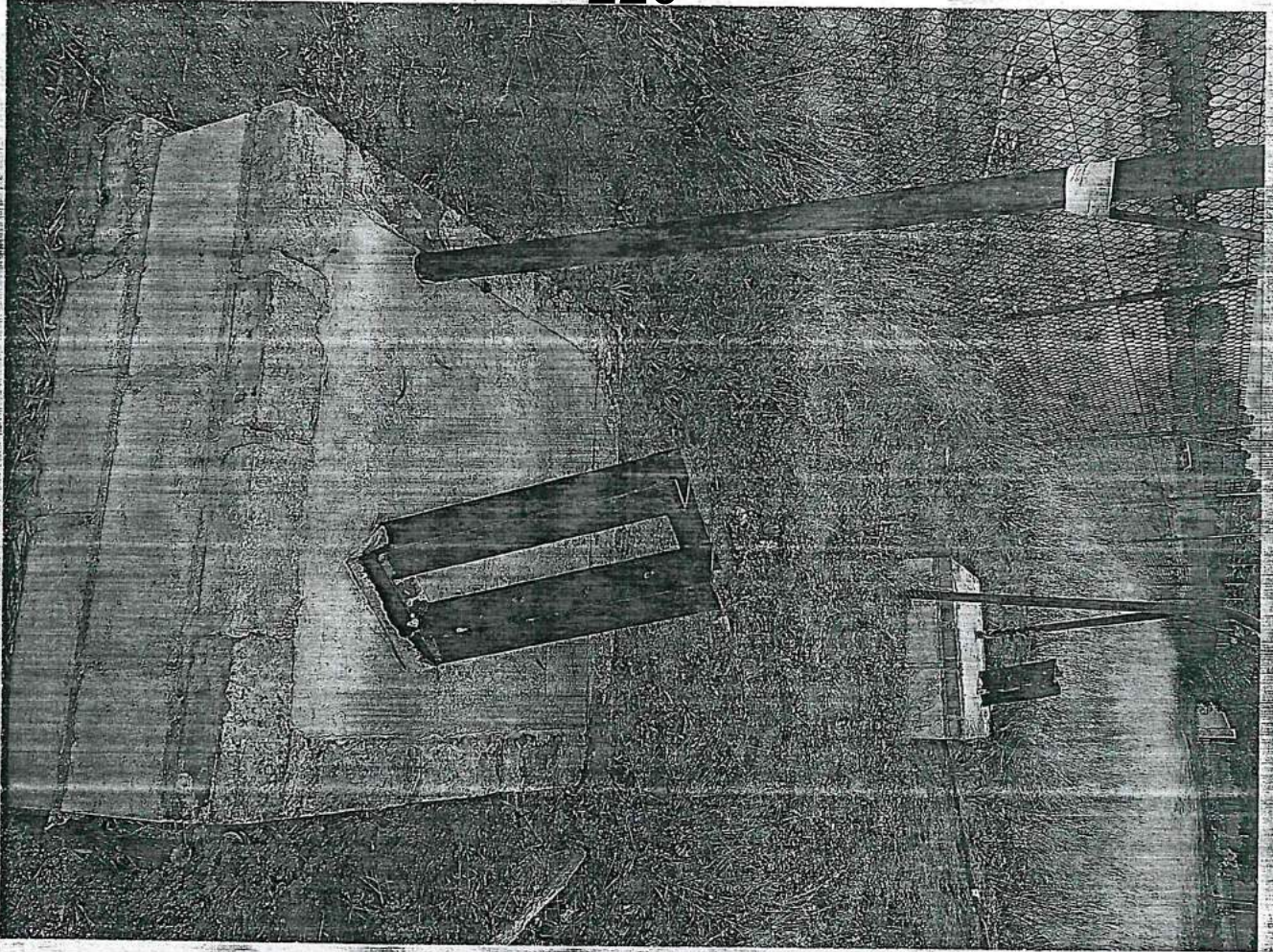














**ANNEXURE L: NOISE MANAGEMENT PLAN**



*Gerry Kuhn*

P O BOX 198 Piketberg 7320

Tel 022 913 1726

fax 0866171773

Cell 083 308 4764

e-mail address: [gerry@dustwatch.com](mailto:gerry@dustwatch.com)

**VAL DE VINE FESTIVAL – STELLENBOSCH  
ENVIRONMENTAL NOISE ASSESSMENT PLAN – 22/10/2022**

**1.0 INTRODUCTION & OBJECTIVE**

This report represents an impact assessment report and thus addresses the issues of noise assessment of the impact of a music festival event and any determination required to effect noise control measures of noise during the period of the event. The event spanned a time period from 10H00 to 22H00 on 22<sup>nd</sup> October 2022.

The noise tests took place from on set up as quickly as possible noting almost immediately that the atmospheric conditions were ideal and the placement of the main sound system at a position directly in front of the main grandstand, projecting music directly into the stand. As several groups and bands had to adjust the sound system to key in with their own groups requirement, the sessions were very short duration which we could not obtain legally acceptable exposures of 10 minutes each, but we noted in exposures (which usually overread) at 10H00 to 11H00.

As in practise at all events we made sure that the music system was turned off once the tune-up had been completed for a definite period to ensure that an event is not extended by utilizing the tune up period as a time addition. Music was present, and this formed the essential entertainment throughout the period.

Monitoring and control of noise levels was undertaken on a regular basis throughout the period which the event took place and from the times taken and the exposures we noted determinations from 11H00 – 21H05 throughout the day/night to close down. In terms of the noise plan and the original application we note that the music was to continue until 22H00.

We had not undertaken any control at an event at this estate previously and elected to pay more attention to condition at the open stage as that within the structure in front of the main grand stand and facing directly into this though 120 m from the stage. All residential noise sensitivities were between 90 m and 110 m from the stage allowing sufficient distance to absorb a significant portion of the generated noise. In addition, there is a 1,8m precast wall screening the property which has attenuation of 3,7 dBA.



The FOH monitoring position was some 30 m from the stage and thus the expected absorption to the closer dwelling sensitivities was around 3,7+ 6 dBA or almost 10,0 Dba.

We were notified that if the Val de Vine plays any music and the slightest strains are heard, the neighbour will complain.

The determinations do comply with all accepted procedures for accuracy and diligent determinations and these and any deviations are outlined in the report. National Standards (SANS) Code 10103:2008 were followed. The measurement and Rating of Environmental Noise with respect to Land Use, Health, and Annoyance and to Speech Communication but we also review Western Cape Provincial Noise Control Regulations 200:2013. These regulations now apply throughout the Western Cape and are called Western Cape provincial noise regulations 200:2013. From a worker's perspective we also considered SANS 1083 as applicable.

## **2.0 CONDITIONS SURROUNDING THE VENUE**

Inspections were to be undertaken on arrival at just after 11H00 to enable us to set up the directionality of the speaker bank at the main stage and also to afford us an opportunity of running calibration tests on this sound stage. There was a slight breeze of 3,0m/s from the west but within the estate and surrounding monitoring areas all wind velocities were well within the wind guard limits of 5.0 m/s without velocity adjustment warranted and played no significant part in the daytime noise distribution as well as those during the night.

The sound system was set up with music to be controlled to 83/-1 dBA day time as the prevailing conditions dictated this as a level that would not affect the main road ambient conditions and would be as outlined in the noise management plan. We were aware that there was unlikely to be rain and thus the NMP levels could be compromised and this was not confirmed during the evening period. At night, levels below 79 dBA were specified in the Noise Management Plan.

## **3.0 WEATHER CONDITIONS PREVAILING**

### **3.1 CONDITIONS 22<sup>nd</sup> October 2022**

While the wind was from the West almost throughout the period necessitating that it was clear that the initial 3,0m/s+ wind had resulted in noise not travelling as far down wind. The wind resulting in more noise at night. The day time temperatures of 22 °C freshened at 16H00 dropping to 20 °C and below we thus expected this to also occur certainly after 22H00 as well. Prior to closing the temperature had dropped to 19°C which wind at 3.0 m/s resulted in a slightly increased noise transference.

Most control of noise is better achieved during the non-rainy or dry periods of the year and we often warn event organisers that if they change their events to differing months of the year, they must expect that they will either need to instigate different and increased noise measures and can then expect our recommendations to differ quite markedly from the previous time slot.

## **4.0 MEASUREMENT CRITERIA AND INSTRUMENTATION**

All logged determinations were undertaken using a Casella – Cel63x-Type1 integrating noise meter serial number 1488315 with a matched microphone. The



instrument was tripod mounted for all determinations with the microphone height at 1250mm.

The instrument was calibrated using a Casella calibrator, serial number 3864827, before determinations were undertaken at the venue, again during determinations and finally after the determinations were completed. We noted no deterioration between the calibration tests and 3 new sets of batteries were used in both the noise meter and the calibrator and were thus acceptable.

We note that fresh batteries of the disposable type offer a far more consistent voltage than rechargeable units which fall off-voltage with continuous use as these also vary from one to the next and a power pack of 4 batteries can vary quite considerably and possibly affect readings and all possible variations need to be eliminated where possible.

The Casella meter is calibrated and has a calibration certificate numbered 2022 – AS 0423 and is dated April 2023. The calibrator s/n 3864827 was calibrated and the certificate bears no. 2022 – AS – 0429 dated 11<sup>th</sup> April 2022. Both are thus current.

As the compliance with regulation is not of major concern in this report but rather the status of conditions within the residential areas, we will not belabour regulations. It is also to be noted that the music event and entertainment we accepted was operating under an exemption and was thus not actually subjected to a regulated limit but rather to control by the appointed Noise Control practitioner and the conditions stipulated in the NMP. (In this case the undersigned).

Noise at source had been controlled to around 84 dBA daytime and 79 dBA night time. The values are achievable with care for a live band which we note as not having a central control for all aspects of the noise like the case with a DJ when all sound would run through a central mixer station. All environmental noise determinations were Impulse integrated sound pressure determinations to A-weighting, slow LAeq and were taken over a 10 minute period which was noted as a period suitable for the site conditions as well as the time period specified by the Provincial Regulations 200:2013.

#### 5.0 DETERMINATIONS UNDERTAKEN ON FRIDAY Saturday 22<sup>nd</sup> October 2022 WITH THE PREVAILING WEATHER

**Table N 1 – EARLIER AFTERNOON AND EVENING – DETERMINATIONS**

CRITERIA	046	047	048	049	050	051	052	053	054
LAeq	68,4	75,8	71,6	62,3	54,8	75,4	59,5	75,7	75,1
LCeq	76,1	87,7	81,4	76,2	68,5	83,3	71,4	85,0	84,1
LC-Aeq	7,7	11,5	9,8	13,9	14,1	7,9	11,9	9,3	9,0
LAF max	83,3	83,0	85,0	72,4	78,3	88,6	75,6	86,2	86,9
LAF min	39,3	39,0	42,1	37,6	38,1	43,1	38,1	39,0	40,1



LC Peak	107,1	103,4	107,8	100,7	95,4	104,3	97,3	105,2	103,2
Duration	Minimum 10 minutes								
TIME	11H50	12H25	13H01	13H20	13H45	14H14	14H47	15H19	16H07
Position	A	A	A	B1	B2	A	B1	B1	B2

Table N\*1 continued:

CRITERIA	055	056	057	058	059	060	061	082	083
LAeq	76,3	81,9	81,3	63,8	73,8	82,8	82,4	66,1	80,8
LCeq	81,8	90,8	91,9	81,5	82,9	94,5	93,3	81,7	88,2
LC-Aeq	5,5	8,9	10,6	17,7	9,1	11,7	10,9	15,6	7,4
LAF max	92,4	95,2	98,7	79,1	88,5	91,1	92,4	78,6	94,8
LZL max	39,3	40,8	42,3	40,1	39,3	39,8	40,7	33,4	41,7
LC Peak	109,3	113,4	113,1	100,8	114,7	113,8	112,5	104,0	112,9
Duration	Minimum 10 minutes								
TIME	16H25	17H52	17H27	18H53	19H23	19H56	20H30	20H55	21H30
Position	A	A	A	B1	A	A	A	B1	B2

### MONITORING POSITIONS

A (FOH) – 25 m from stage position

B1 – a+ Bar Tent – 80 m from stage

B2 – At boundary – 100 m from stage

### NOTES APPLICABLE TO MONITORING

While we initially concentrated on the FOH position on the Saturday conditions suggested that a position in front of the grand stand would permit us a more direct quantification of values reaching residents to avoid having to run a calculation to work out exactly what the levels would be at any complainant approximately the same distance away. We also viewed the boundary around 10 m from neighbours' sensitivity.

We conclude that during an extended event condition can be quite good and exposure levels of noise relatively low but should these be raised even for a short period, there will be complaints as residents will get used to a certain level of music over a period and then consider anything higher than this unacceptable whereas with an overall consistency perhaps bordering high levels is acceptable. We note this trend over a long time at almost all venues.

At this venue, the complainant neighbour appears to have a complaint no matter what the noise levels are. The event control level was already set very low, but with site and weather conditions being ideal we were able to better the levels throughout the event and during the main group band appearances while the levels were up these were still totally within the 84 dBA limit we controlled to with the highest values at 81,9 – 81,8 – 82,8 – 82,4 – 80,8.

### 6.0 NOTES & COMMENTS – DETERMINATIONS

The values with music on at source almost throughout were mid 70's daytime and night. These levels are below the approved 84 dBA level applicable to the noise plan even at the activation closest to the residential areas and if we regard the



We thus consider that values in the mid 60's in the surrounding area would be entirely appropriate for the area. We also point out that the present values we found to be between 60 and 65 dBA daytime values and 55 to 57 dBA night values and these are based on the present ambient levels measured off site.

Manipulation of the lower frequencies was utilised continuously to prevent low frequency thump from reaching residents. The fact that legal determination takes 10 minutes each and manipulation during the 10 minutes are not permitted also means that there will always be a delay in manipulations and control has to be reactive.

## **7.0 CONCLUSIONS**

While most noise reports review compliance against regulations to arrive to a conclusion, in this instance we need to do much more than noting compliance or otherwise as the event was not in total compliance as levels had been exceeded. We had to remain as vigilant as possible and to an extent had been very aware of having to check outside areas to prevent possible complaints.

### **7.1 COMPLIANCE OR NOISE SOURCE ISSUES**

Viewing only compliance in terms of regulation as already noted above, the event was basically compliant necessitating that we kept music to below 84 dBA daytime and less at night when we controlled to the prevailing conditions. Much wind and highway noise were present making finite control almost impossible.

As a further point, the music was not clearly audible from the outside positions in the street area this does not necessarily constitute regulation infringement especially during the midday period during which sensitivities should be at their lowest. We were able to control most audibility of the noise quite finely. We do concede that we were extra vigilant once we went past 21H00 but the event closed at 22H05.

As a third point we could not clearly apply noise tonal character correction factors which may have then resulted in some form of legally related noise as we were operating under an exemption which noting zone ratings did not cater for a major highway.

We do generate Noise Management Plans based on conditions expected at the venue, the weather conditions and the type of event as well as the sound rig in use. With hindsight the stipulated control level was a little too low for the area, but residents are used to the daytime racecourse activity noise.

In closing this report, I need to express gratitude to the organisers, and sponsors for their awareness of the importance of noise and finally the city can take a bow that the environmental awareness expressed and noise awareness at this venue can be noted as one of the better ones in the area.

## **8.0 QUALIFICATION**

While all due diligence was taken with all measurements and determinations over the noise monitoring, the values are applicable to the conditions prevailing at the time and

conditions of the audit or investigation and could differ under differing environmental or weather condition or traffic pattern changes.

It should be noted that while we were attendant at the event on a continuous basis and this is a noisy area. It can be accepted that we had been exposed to ratings around 70-85dBA, which was unlikely to result in any noise hearing shift being present which was likely to affect perception of noise to any great extent away from the noise and thus determinations of noise that we made or a call on the applicability of all corrections can be considered as apt. Hearing protection of a factor exceeding 24 was worn by the observer during all work within the noise zone but not outside the complex.

We wish to thank the event management for their diligence in reacting promptly to all requests for noise manipulation.



Gerry F. Kuhn  
SAIOH  
FMVSSA  
Environmental Engineer  
Attachments:  
Calibration certificates

02/11/2022



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**Art and Appetisers 2022**

**22 October 2022, 10.00 – 22.00**

**Val de Vine, R44, Stellenbosch**

**NOISE MANAGEMENT PLAN**

## **1.0 INTRODUCTION**

While generating a comprehensive plan to control noise at a venue always sounds like an easy option the reality is quite the opposite as the weather and unique combinations of noise at each venue differs as well as what actually happens at each event, the behaviour of patrons or spectators and the equipment and layout. The various venues also have differing needs, and each also has specific tolerances in what is acceptable for the type of event, for the sensitivity of the surrounding area and finally how a small change in the weather can adversely affect the whole event.

While an exemption is issued for each event this does not give *carte blanche* for noise to exceed regulated levels and it is necessary for noise control levels to be set that are achievable and which become the levels that we have to defend in the exemption issued.

This event takes place on Portion 5 of Farm 528, Stellenbosch, known as Val de Vine.

The neighbours are:

- Bellevue Manor (guest house closed since start of lockdown and not open as yet. Portion 4 of Farm 528, Stellenbosch. Distance from noise: 137 m.
- Nature's Pharmacy on other neighbouring property (Mark Nel is the owner):

Ian Senekal is the Manager and he is renting the building from Mark Nel.

Distance from noise: Nature's Pharmacy: 162 m.

- Mark Nel's property (De Oude Schuur accommodation). Distance from noise: 201 m.

This will give us latitude to control the noise level and we will also be able to assist with the tuning and equipment positioning to be done on site.

## 2.0 GEOGRAPHY AND FEATURES OF ANY EVENT

One must also realise that the deliverable in terms of noise is an acceptable condition to the area farming residents, a condition reasonably within regulation limits and an event which meets the requirements for which it is being held and to an extent the expectations of patrons.

Also to be considered are the economic aspects and desirability of the event.  
This is a free entry event in aid of CANSA.

We all enjoy and reap the benefits of having major events, international sports events, concerts and the like and besides the event any other activities can be "custom made" for such occasions to maximise the event.

With many farms and wine estates now offering their properties for use as venues in many cases, there have never been any events held at these and thus this is the one event per annum allowed per farm - a first event will often then have to be the training ground/learning ground and it is imperative that a knowledgeable person be available to optimise condition and to control the event noise levels.

With the event being run from 10.00 to 22.00, the event will be run during both daylight and night-time periods which differ appreciably as well as the noise limits applicable to each.

With time, acoustic service providers have determined and continue to find the most "noise free" venues and features of each venue in such a way as to minimise noise escape and also minimise the noise reaching residents of the area as well as any



particular noise sensitive undertakings and businesses including those specified by the municipality in their communications with the event organisers. There are also some complainants who require consideration as is the case with any venue within earshot.

As much as the new generation of speaker banks and sound systems have arguably offer a more controlled spread of noise, the proof is in the pudding and once noise leaves the speakers, we need to control this as the speakers have no further influence and we are left with spreading noise. Base units will be mounted on rubber mats on the ground with the line array system directing any noise into the patrons. The set-up is also to be checked. Limiters are fitted.

We do specify that any basements that will be positioned on the ground need to be slightly elevated or positioned on rubber mats to prevent lower frequency noise being transmitted to sub-terrain geological fault or dyke formations. As this has been problematic throughout the Cape Peninsula until proved otherwise, we require this.

Tuning tests will be carried out at the event as soon as equipment set up has been completed but will take about half an hour.

To determine what the atmospheric circumstances will do to the noise, something that the speakers have no control over and any outside measures are expensive and have limited application so the combined experience and the use of natural features have to be considered and such plans will change radically should weather conditions alter and while conditions may be perfect and noise spread fairly well controlled at an event, as soon as a temperature or humidity inversion arises, those ideals are severely compromised and noise control has to be instituted by instituting part of an event which may generate particularly high noise to either delay this to after the occurrence or hold it before, or to make small adjustments to the music and even flatten the more penetrating noise frequencies to limit the spread of noise.

We have not directly controlled noise at this venue before but have done work in the area.

The sound system is digital, and we will be setting up each speaker bank and control levels as per the limits outlined before the event. We reserve the right to move all speakers at the stage facilities. Levels will be aggressively controlled. There is music throughout the event.

### **3.0 SETTING UP AND TUNING WITH OPTIMUM SETTINGS**

This is important and the professional person will have a working knowledge of the finer setting up details. Part of this is to set the local speakers, position these to direct noise in a pre-determined direction for each position of equipment at the specific location working from determinations under previously undertakings but being aware of differing climatic conditions.

A set up of pre-determined monitoring positions has to be done so a documented account of the event will be made as a permanent record and to establish by extrapolation what any noise export is likely to be in the future.

### **4.0 EVENT PROCEDURE**

We establish a set of monitoring positions around the venue and calculate as an initial exercise what the determinations at these positions will be and to extra-polate these to the local farms areas at and around the event.

With the noise consultant or trained staff being on site for the entire event from the start and tune up for the duration of the event and including the event, we will be able to handle any occurrences and offer a mobile telephone number for any complaint.



As most complaints centring on noise are communicated inwards, so as much care as possible and outward feedback communication is also imperative and any abnormal condition that is generated that could have a major impact in the farming area is communicated timeously followed by any adjustment as a mitigating measure.

Typically, such detrimental factors events may be the sudden arrival of rain with a change of wind and humidity or as mentioned before, the generation of a temperature inversion condition or even the dropping of the cloud ceiling. Bearing in mind that such events could occur under wind directional changes this could also generate a lot of differing combinations of conditions most of which do affect noise distribution.

A record of all determinations, any complainants and including the action taken under each condition is kept and made available as a record of each event and is all included in a report covering the event.

## **5.0 VALUE OF RECORDS AND PREVIOUS EVENT EXPERIENCE**

Full communications will be established with a list of relevant persons if these are identified. In the Noise Management Plan it is vital that all stipulated times be adhered to and the management team will undertake to do this especially with regard to advertised programmes and tune up periods.

It is important that duty or interested or affected persons within the farming areas are identified for contact reasons and due to local noise and attenuation measures that all communication be done using texting and not verbal calls as phone ringing can often not be heard, especially close to the venue and will also influence the determinations.

The event management is included in the loop for communication purposes as well as any authorities who may wish to be informed of any developments.

## 6.0 ESTIMATING MAXIMUM NOISE LEVELS TO BE COMPLIED WITH FOR THE EVENT

By regulation a disturbing noise may not be created and for public areas the day/night rating is 60 to 65 dBA and night rating is 50 to 52 dBA. Further, we note that a disturbing noise is created when 7 dBA is added by the rating level and thus the levels to be complied with are a maximum day value of 67 dBA and at night 57 dBA. The above values are seldom achieved in Cape Town.

DAYTIME LIMIT AT SOURCE = 83.0 dBA

NIGHT TIME 79.0 dBA



Gerry F. Kuhn

SAIOH, FMVSSA, ENVIRONMENTAL ENGINEER



**ANNEXURE M: SITE INSPECTION PHOTOS**







