



STELLENBOSCH

STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNISIPALITEIT • UMASIPALA • MUNICIPALITY

**NOTICE OF MUNICIPAL PLANNING
TRIBUNAL MEETING
OF STELLENBOSCH MUNICIPALITY
FRIDAY, 2022-09-23 FROM 10:00-15:00**



**NOTICE OF MUNICIPAL PLANNING TRIBUNAL MEETING
OF STELLENBOSCH MUNICIPALITY
FRIDAY, 2022-09-23 FROM 10:00-15:00**

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

2022-09-23

Chairperson

Dr DJ Du Plessis

Deputy-Chairperson

Ms C Havenga

External Members

Mr C Rabie

Dr R Pool-Stanvliet

Mrs H Crooijmans-Lemmer

Mr J Knight

Mr E Delport

Internal Members

Mr M Williams - Senior Legal Advisor

Mr A van der Merwe: Senior Manager - Community Services

Mr C Alexander: Senior Manager - Development Planning

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 via **MS TEAMS (Virtual Meeting)** on **FRIDAY, 2022-09-23 from 10h00-15:00** to consider the items on the Agenda.*

Dr DJ Du Plessis

CHAIRPERSON: MUNICIPAL PLANNING TRIBUNAL



TABLE OF CONTENT

ITEM	SUBJECT	PAGE NR.
1.	OPENING AND WELCOME	I N D E X P A G E S
2.	LEAVE OF ABSENCE	
3.	DISCLOSURE OF INTERESTS	
4.	MINUTES OF THE PREVIOUS MEETING DATED 22 JULY 2022	3-13
5.	MATTERS FOR CONSIDERATION	
	CONTENT INDEX – FARM 373/16 STELLENBOSCH DIVISION	14
5.1	APPLICATION FOR SUBDIVISION IN ORDER TO REGISTER AN ENGINEERING SERVICES SERVITUDE ON FARM 373/16 STELLENBOSCH DIVISION (LU/13942)	15-74
6.	OTHER MATTERS	

MINUTES OF THE STELLENBOSCH MUNICIPAL PLANNING TRIBUNAL MEETING
HELD ON FRIDAY, 22ND OF JULY 2022 via MS TEAMS

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

2022-07-22

Chairperson

Dr DJ Du Plessis

Deputy Chairperson

Ms C Havenga

External Members

Mr C Rabie

Dr R Pool-Stanvliet

Mrs H Crooijmans-Lemmer

Mr E Delpont

Mr J Knight

Internal Members

Mr A van der Merwe: Senior Manager - Community Services

Mr M Williams: Senior Legal Advisor

Mr C Alexander: Senior Manager - Development Planning

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

Technical Advisor

Mr K Munro: Director - Development Management, Department Environmental
Affairs and Development Planning

Officials

Mr. A. Barnes: Director Planning and Economic Development

Mr S Carstens: Senior Manager- Development Management

Mrs C Kriel: Manager-Land Use Manager

Mr S Van der Merwe: Environmental Planner

Mr P April: Senior Town Planner

Mrs N Dafeti: Town Planner

Ms O Sims: Administrative Officer

ITEM	SUBJECT
SMPT 01/07/22	OPENING AND WELCOME
	Chairperson Du Plessis welcomed all.
SMPT 02/07/22	LEAVE OF ABSENCE
	None recorded.
SMPT 03/07/22	DISCLOSURE OF INTERESTS
	No interests were declared.
SMPT 04/07/22	MINUTES OF THE PREVIOUS MEETING DATED 24 JUNE 2022
	The minutes of the previous meeting was noted.
	MATTERS FOR CONSIDERATION
SMPT 05/07/22	APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND CONSENT USE ON FARM 1653, PAARL DIVISION (LU/9520)
	<p>Discussion:</p> <ul style="list-style-type: none"> a) Mrs Dafeti gave a brief introduction to the Tribunal members in respect of the application. b) Mrs Crooijmans-Lemmer noted that the information requested on the position of other existing towers is partially indicated on the map on page 44 but the map is of a poor quality and better information is expected from a applicant/service provider for an application like this. She noted concerns relating alternative sites that must be

investigated and the fact that it has not been properly discussed in the application. The Municipality is requested to communicate the need for such information to applicants of future developments of this nature.

- c) The opinion that a tree-like mast will look unnatural in the location was supported and members would prefer a grey painted mast.
- d) Mr Rabie proposed the inclusion of conditions relating to the monitoring of radio frequency and radiation which was discussed. As it is not clear which other departments/institutions also monitor radiation levels, it was proposed to include conditions in this regard and it was proposed that it should also be included in the relevant municipal policy to inform decisions of this nature in future.

UNANIMOUSLY RESOLVED

1. That the application in terms of Section 15(2)(f) for the **removal of the restrictive title deed conditions** of the Stellenbosch Municipal Land Use Planning Bylaw, promulgated by notice number 354/2015, dated 20 October 2015 on Farm No. 1653, Paarl Division.

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

2. The **reasons** for the above decision are as follows:
 - 2.1 The title deed of the subject property makes provisions for the proposed development as telecommunication base stations are regarded as infrastructure related to township development.
3. That the application for a **Consent Use** in terms of Section 15(2)(o) of the Stellenbosch Municipality Land Use Planning By-Law, promulgated by notice number 354/2015, dated 20 October 2015, on Farm No. 1653, Paarl Division to allow for a 15m high freestanding base telecommunication station with associated equipment

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

4. The approval is subject to the following **conditions** imposed in terms of Section 66 of the said Bylaw:
 - 4.1 The approval only applies to the Consent Use under consideration, as indicated on Drawing ATSA1134 (Sheet 2 – 6), dated 8 March 2019 and not be construed as authority to depart from any other legal prescriptions or requirements from Council or other legislation or Bylaws or Regulations that may be applicable.
 - 4.2 The development be implemented substantially in accordance with the Site Development Plan (**Annexure C**) Drawing ATSA1134 (Sheet 2 – 6), dated 8 March 2019 and drawn by D. Loots of WPP town & regional planning consultants, allowing:
 - a) 1 x 15m high monopole mast;
 - b) 12 x antennae attached to the mast;
 - c) microwave dishes attached to the mast; and
 - d) 4 x equipment containers.
 - 4.3 Building plans be generally in accordance with the Drawing ATSA1134 (Sheet 2 - 6), dated 8 March 2019 and attached as Annexure C.
 - 4.4 Natural areas disturbed during construction be rehabilitated with indigenous water-wise plants to the satisfaction of the Municipality.
 - 4.5 Access to the telecommunication infrastructure and associated equipment be strictly controlled at all times by means of a fence or wall with a locked door or gate to the satisfaction of the Municipality.
 - 4.6 No unauthorized person be permitted within 5m in front of the panel antennae.

- | | |
|--|--|
| | <p>4.7 Adequate warning signs in the three official languages be displayed on the access door or gate, defining it as a no-go zone.</p> <p>4.8 Access be granted to the Municipality at all reasonable times to the installation, for the purpose of monitoring inspection and compliance certification.</p> <p>4.9 The finishing and colour of the panel antennae be kept in keeping with the building to which it is attached and the surrounding environment.</p> <p>4.10 The consent use be restricted to the fenced compound of the mast and equipment room as depicted on the approved site development plan attached as Annexure C.</p> <p>4.11 The mast, equipment room or any boundary enclosure is not utilised for outdoor advertising purposes.</p> <p>4.12 The service provider be willing to co-host with other service providers.</p> <p>4.13 The applicant/operator is responsible for ongoing maintenance of the entire installation as well as all costs with respect to such maintenance or future decommissioning of the telecommunication infrastructure.</p> <p>4.14 If the site is decommissioned the applicant/operator to remove all site infrastructure and the site to be rehabilitated to its former state or to a condition that is in line with the land use and character of the area at the time of decommissioning to the satisfaction of the Municipality.</p> <p>4.15 The radio frequency (RF) exposure emanating from the telecommunication infrastructure be monitored by the service provider / operator / lessee, not exceed the public exposure guidelines as set by the International Commission on Non-Ionising Radiation Protection (ICNIRP).</p> <p>4.16 The service provider / operator / lessee within 1 month of the request of the Municipality, submit documentary evidence completed by an independent certified person / body that the radio frequency (RF) electromagnetic energy (EME) levels</p> |
|--|--|

emitted by the telecommunication infrastructure on the property is lower than the ICNIRP guidelines (for a continuous period of not less than 3 months preceding this request). Evidence to the contrary will result in the immediate shut down / decommissioning of the installation.

- 4.17 Should it be proven that there are negative health effects from base stations, and this base station falls within those guidelines, the landowner is responsible for the rectification of non-compliance and if not done within a reasonable time, the Municipality may request that the base station be decommissioned with immediate effect.

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

- 5.1. The telecommunication base mast will benefit the users of cellular phones as well as the internet as it will continue increased effectiveness and efficiency of the network in the area.
- 5.2. The proposed use is in line with the objectives of the Stellenbosch Municipality Telecommunication mast policy.
- 5.3. Existing established trees on the property mitigate visual appearance of the mast on the property.

6. **Matters to be noted:**

- 6.1. 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.
- 6.2. Building plans must 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.

<p>SMPT 06/07/22</p>	<p>APPLICATION FOR REZONING, CONSENT USE, CONSOLIDATION AND CLOSURE OF A PUBLIC PLACE: ERF 21 AND 22, KYLEMORE(LU/13621).</p> <p>Discussion:</p> <ul style="list-style-type: none"> a) Mr April gave a brief introduction to the members in respect of the application that also served before the Tribunal on the 24th of June 2022. b) Mr Rabie raised concerns regarding the soil conditions and geology formation of the site and the need for cut-off drains to be constructed. c) It was noted that a specialist soil study has been done and the site has been identified as suitable. The Environmental Authorisation (EA) however did not include the conditions of the soil study related to cut-off drains. The study report indicates that the water table might cause problems and based on further discussions, it was decided to include a condition to mitigate the impact the cemetery may have on underground water sources and the river. <p>UNANIMOUSLY RESOLVED:</p> <ul style="list-style-type: none"> 1. That the application in terms of Section 15(2)(n) of the Stellenbosch Municipal Land Use Planning Bylaw, promulgated by notice number 354/2015, dated 20 October 2015 for the closure of a public place, Erf 22 Kylemore NOT BE APPROVED in terms of Section 60. 2. The reasons for the above decision are as follows: <ul style="list-style-type: none"> 2.1 A Status Report from the Surveyor Generals Office: Western Cape, confirming that Erf 22, Kylemore is shown as an Ordinary Erf in their records and do not require a closure process, but only rezoning.
--	--

3 That the following application in terms of Section 15(2) of the Stellenbosch Municipal Land Use Planning Bylaw, promulgated by notice number 354/2015, dated 20 October 2015, namely:

3.1 Rezoning of Erf 21, Kylemore to Private Open Space Zone, in terms of Section 15(2)(a).

3.2 Rezoning of Erf 22, Kylemore from Public Open Space Zone to Private Open Space Zone, in terms of Section 15(2)(a).

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

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

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

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

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

4.1 A detailed site development plan as contemplated in terms of Section 16 of the Zoning Scheme Bylaw, 2019 as required in terms of Section 196(3) of the said bylaw, be submitted to the Municipality for approval prior to the submission of any building plans or earthwork's being done. The site development plan, inclusive of a landscaping plan satisfactorily, addresses, but are not

necessarily limited to, all the conditions of this approval, compliance with relevant development parameters of the bylaw, any relevant matters relating to Section 16(4) of the said Bylaw, and specifically the requirement from the Spatial Planning Department. That a buffer zone be created between the cemetery and the backyards of the adjacent housing units.

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

- 4.2 The approval applies only to the rezoning, consent use and consolidation in question and not be construed as authority to depart from any other legal prescriptions or requirements from Council or other legislation or Bylaws or Regulations that may be applicable.
- 4.3 The consolidation of the erven 21 and 22 Kylemore and a certificate of consolidated title and endorsement of the relevant title deed by the Registrar of Deeds be proceeded with.
- 4.4 Building plans be submitted and approved by the Municipality prior to the commencing of any building works, including the preparation of land, which will only be approved when all relevant (or qualified) conditions of approval have been complied with.
- 4.5 Details of service connection be indicated on the building plans.
- 4.6 The Municipality implements regular monitoring of levels of potential pollution and takes reasonable measures to prevent pollution of underground water and the river.

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

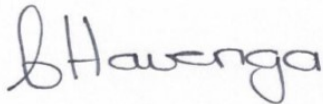
	<p>5.1 The neighbouring properties have already been approved and developed for cemetery purposes.</p> <p>5.2 The proposals are consistent with the objectives and principles of the Stellenbosch Municipal Spatial Development Framework.</p> <p>5.3 Sufficient Services can be provided to the satisfaction of the municipal engineering section if required.</p> <p>5.4 The portion of a public open space to be rezoned, has never been developed as a communal recreational space and a public sportsground and public open space is located less than ±100m from this site and is currently being used for sport and recreational purposes by the community.</p> <p>5.5 Safe vehicular access could be obtained from two public streets.</p> <p>6 Matters to be noted:</p> <p>6.1 All electrical requirements should be directed to Eskom.</p> <p>6.2 The conditions imposed by the Cape Winelands District Municipalities Health Section comes directly from the National Health Act (61 of 2003), which needs to be complied with and it will be the applicant's and owner's responsibility to apply for any exemptions from this legislation.</p>
<p>SMPT 07/07/22</p>	<p>OTHER MATTERS</p> <p>The term of the current members of the MPT lapses at the end of August 2022. Mr. Carstens reported that a submission was made to Council for their consideration and the outcome will be communicated as soon as possible to the members.</p> <p>Chairperson Du Plessis thanked all present for attending and for the valuable discussions.</p>

	<p>The next meeting is scheduled for 19 August 2022.</p> <p>The meeting adjourned at 11:55</p>
--	--



Dr D du Plessis

CHAIRPERSON: MUNICIPAL PLANNING TRIBUNAL



Mrs C Havenga

DEPUTY CHAIRPERSON: MUNICIPAL PLANNING TRIBUNAL



FARM 373/16, STELLENBOSCH DIVISION

CONTENT	
ANNEXURES	PAGE NUMBER
ANNEXURE A: Locality Plan	26-28
ANNEXURE B: Title Deed	29-40
ANNEXURE C: Subdivisional Plan (Servitude Diagram)	41-42
ANNEXURE D: Applicant's Motivation	43-51
ANNEXURE E: Portfolio of Evidence (Public Participation)	52-61
ANNEXURE F: Objections Received	62-63
ANNEXURE G: Response to Objections Received	64-67
ANNEXURE H: Comment from the Director: Infrastructure Services	68-70
ANNEXURE I: Previous Approval	71-74



STELLENBOSCH
 STELLENBOSCH • PNIEL • FRANSCHHOEK
 MUNISIPALITEIT • UMASIPALA • MUNICIPALITY

THE STELLENBOSCH MUNICIPALITY			
PLANNING REPORT: LAND USE AND LAND DEVELOPMENT APPLICATION: SUBDIVISION IN ORDER TO REGISTER AN ENGINEERING SERVICES SERVITUDE ON FARM 373/16, STELLENBOSCH DIVISION			
Application Reference	File Ref: LU/13942	Application Date	2022/04/25
		Last day for comments or additional information	2022/07/19

PART A: APPLICANT DETAILS			
First name(s) & Surname	Clifford Heys`		
Company name	TV3 Projects (Pty) Ltd		
SACPLAN registration number	A1158/2000		
Registered owner(s)	Stephen Morrison Spottiswoode	Is the applicant properly authorised to submit the application	Yes

PART B: PROPERTY DETAILS			
Property description	Farm 373/16	Administrative District	Stellenbosch
Physical address	Paradyskloof Street		
Extent (m ² /ha)	2,3283ha	Nearest Town	Stellenbosch
Existing Development and Current land use	Agriculture and private road		
Any unauthorised land use/building work	None		
Title Deed Nr.	T50204/2003		
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 in terms of Section 15(2)(d) of the Stellenbosch Municipal Land Use Planning Bylaw, promulgated by notice number 354/2015, dated 20 October 2015 for Subdivision in order to register an engineering services servitude on the Farm 373/16, Stellenbosch Division in favour of Westruther Estate.</p>
Purpose of Application: Background and motivation of Applicant	<p>1. Purpose of the Application:</p> <p>The purpose of the application is to obtain municipal approval for the registration of a servitude for the installation of engineering services by or on behalf of a private entity. The proposed servitude will be in favour of Westruther Estate which is located southwest of the subject property in order to install engineering services. See Annexure A for Locality Plan and Annexure C for Servitude Diagram, Plan no: 2 drawn by WH from TV2 and dated 22/11/2021).</p> <p>2. Background:</p> <p>The registration of a private right of way servitude on Farm 373/16 was exempted from municipal approval in terms of Section 24(1)(f)(iv) of the Stellenbosch Municipal Land Use Planning Bylaw (see Annexure I for letter dated 31/10/2017). The registration of a servitude for the installation of engineering services by or on behalf of a non-organ of state is however not exempted from municipal approval in terms of Section 24(1)(f)(i) of the said Bylaw.</p> <p>3. Motivation (see Annexure D for applicant's motivation):</p> <p>The engineering services, consisting of a sewer line and an power line will be mainly accommodated within the existing extent of the private right of way servitude. A new 6m wide engineering services servitude connecting the private right of way servitude and adjacent Beethoven Street is also proposed to accommodate the mentioned engineering services (see Annexure C for the Servitude Diagram, Plan no: 2 drawn by WH (TV3 Architects) and dated 22/11/2021). The purpose of the proposed sewer line is to connect an existing out-toilet located near the entrance gate of Westruther Estate to the only viable municipal sewer point located in Beethoven Street (see Annexure D for emails from the applicant dated 22/08/2022 for additional motivation and comment from the engineers). The proposed engineering services servitude will also accommodate the power line that had to be extended due to the relocation of the power substation from within Westruther Estate to Paradyskloof Road.</p> <p>Title Deed T50204/2003 contains no conditions restricting the proposal (see Annexure B for title deed).</p>

Pre-consultation	No pre-consultation.
Public participation, comments and response	<p>1. Public participation process</p> <p>The applicant has, in terms of Chapter IV of the Stellenbosch Municipal Land Use Planning By-Law, notified the adjoining property owners, the Ward Councillor, the Stellenbosch Interest Group, and the Stellenbosch Agricultural Society via email. See Portfolio of Evidence (POE) attached as Annexure E.</p> <p>2. Comments and/or objections received</p> <p>One objection email has been received from an adjoining property owner (Erf 12909 - incorrectly indicated as Erf 12921 by the applicant in their response to objections) and can be summarised as follows (see Annexure F for objection received):</p> <ul style="list-style-type: none"> a) The objector's house was flooded during the construction of the private road on Farm 373/16. The application is silent on what measures are in place to prevent this from reoccurring. b) The previous development on Farm 373/16 occurred without notifying surrounding property owners and was undertaken in a dangerous, destructive, and reckless manner leading to the flooding of the objector's property and the displacement of his family. The objector was compensated for the damage and promised that no further disruption would occur as the development was now complete. c) The visual impact of the previous construction is still a cause of nuisance for surrounding property owners and the promised mitigation measures to reduce the visual impact have not been implemented. d) The application lacks detail regarding the proposed development and any expected impacts on the surrounding properties. <p>No comments and/or objections have been received from the Stellenbosch Interest Group and the Stellenbosch Agricultural Society. The Ward Councillor indicated that he had no comment regarding the application.</p> <p>3. Applicant's response to the objections received (see Annexure G for applicant's response to the objections)</p> <ul style="list-style-type: none"> a) The objector was compensated, and damage caused by the flooding was repaired. The flood damage caused by the construction of the private road is irrelevant to the current application as it is not related to the installation of engineering

	<p>services. The objector was however contacted and flood mitigation measures such as planning construction activities during summer was proposed.</p> <p>b) All necessary approvals were obtained before construction of the private road commenced.</p> <p>c) Farm 373/16 is still planted with actively farmed vineyards, and the claim regarding the visual impact of the private road construction is questionable.</p> <p>d) The land use application must first be approved before detail regarding the actual work can be finalised. The necessary measures will be implemented to protect the surrounding properties from any potential damage caused during construction.</p>
Comments from internal service departments	<p>The application was circulated to the relevant internal departments and the following departments provided comment:</p> <p>1. The Director: Infrastructure Services recommended the application for approval (see Annexure H for memo dated 30 May 2022).</p> <p><u>Civil engineering services</u></p> <p>a) <i>No objection.</i></p> <p><u>Electrical engineering</u></p> <p>a) <i>No objection.</i></p> <p>b) <i>Appropriate caution shall be taken during construction, to prevent damage to existing service cables and electrical equipment in the vicinity. Should damage occur, the applicant will be liable for the cost involved repairing damages.</i></p> <p>c) <i>All electrical work to comply with SANS142 and Municipal electrical Bylaws.</i></p>

PART D: ASSESSMENT OF LAND USE AND LAND DEVELOPMENT APPLICATION

When the decision maker considers a land use and land development application, it must have regard to the general criteria for consideration in terms of Section 65(1) of said Bylaw, as it would relate to the subject land use and land development application.

It is noted that the subject land use and land development application was submitted and processed in accordance with and in compliance with the prescripts of the said Bylaw.

1. Impact on surrounding area and surrounding property owners

The proposed engineering services servitude will be in favour of the residents of the existing Westruther Estate located southwest of or adjacent to Farm 373/16. The engineering services consisting of a sewer line and power line will be mainly accommodated within the existing extent of the private right of way servitude. A new 6m wide engineering services servitude connecting the private right of way servitude and adjacent Beethoven Street is also proposed to accommodate the mentioned engineering services.

The private right of way servitude is in favour of Westruther Estate and serves as the estate's only access road. This private right of way servitude is an extension of the existing Bach Street which intersects with Paradyskloof Street. The proposed new engineering services servitude connects Beethoven Street with the private road. This connection between the existing streets allows for easy joining of the private engineering services with the municipal engineering services without the need to register additional engineering services servitudes over any of the adjoining private properties. The proposed private engineering services servitude will therefore have a limited impact on the surrounding properties and be of minimal significance to Stellenbosch Municipality.

2. Comment on objections received

The objections received have no direct bearing on the application at hand. The objections relate to issues experienced during the construction of the private road on Farm 373/16. The proposed services are to be accommodated mainly within the extent of the existing private right of way servitude. The surface of the existing road is covered with brick paving which can be temporarily removed and easily restored after the installation of any proposed services. Any potential negative impacts on the surrounding area, resulting from the installation of services are therefore considered to be minimal and temporary in nature.

PART E: 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 proposed engineering services servitude will be mainly accommodated within the existing extent of the 10m wide private right of way servitude with an addition of a new 6m wide private engineering services servitude to Beethoven Street.
2. The layout of the proposed servitude allows for the connection of private engineering services to the municipal engineering services without the need to register additional engineering services servitudes over any of the adjoining properties.

The subject land use and land development application is, having regard to the conclusions above, viewed as not inconsistent with the relevant legislative / principles / policy / guidelines / plans and consequently grounds for the support of the subject land use and land development application.

PART F: RECOMMENDATION

1. That the application in terms of Section 15(2)(d) of the Stellenbosch Municipal Land Use Planning Bylaw, promulgated by notice number 354/2015, dated 20 October 2015 for **Subdivision** in order to register an engineering services servitude on Farm 373/16, Stellenbosch Division in favour of Westruther Estate;

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

1. The approval is subject to the following conditions imposed in terms of Section 66 of the said Bylaw:
 - 1.1 The approval only applies to the subdivision application under consideration for the registration of an engineering services servitude, as indicated on the referenced Servitude Diagram, Plan no: 2 drawn by WH (TV3 Architects) and dated 22/11/2021, attached as **Annexure C** and shall not be construed as authority to depart from any other legal prescriptions or requirements from Council or other legislation or Bylaws or Regulations that may be applicable.
 - 1.2 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.
 - 1.3 The development must be undertaken in accordance with the Servitude Diagram, Plan no: 2 drawn by WH (TV3 Architects) and dated 22/11/2021, attached as **Annexure C**.

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

- a) Co-ordinates;
- b) Survey dimensions.

1.5 The servitude rights be registered in the title deeds of the applicable properties on registration.

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

2.1 The proposed engineering services servitude will be mainly accommodated within the existing extent of the private right of way servitude with an addition of a new 6m wide private engineering services servitude.

2.2 The proposed private engineering services servitude will have a limited impact on the surrounding properties, and provides basic services to residents in a private estate with minimal significance to Stellenbosch Municipality.

3. Matters to be noted

3.1 Appropriate caution shall be taken during construction, to prevent damage to existing service cables and electrical equipment in the vicinity. Should damage occur, the applicant will be liable for the cost involved repairing damages.

3.2 All electrical work to comply with SANS142 and Municipal electrical Bylaws.

PART G: ANNEXURES

- Annexure A:** Locality Plan
- Annexure B:** Title Deed
- Annexure C:** Subdivisional Plan (Servitude Diagram)
- Annexure D:** Applicant's Motivation
- Annexure E:** Portfolio of Evidence (Public Participation)
- Annexure F:** Objections Received
- Annexure G:** Response to Objections Received
- Annexure H:** Comment from the Director: Infrastructure Services
- Annexure I:** Previous Approval

PART H: COMPILATION OF PLANNING APPLICATION ASSESSMENT REPORT**APPLICATION FOR SUBDIVISION ON FARM 373/16, STELLENBOSCH DIVISION****Author of Planning Assessment Report****Name:** G Goosen**Capacity:** Town Planner**SACPLAN Registration:** A/2060/2015**Signature:** **Date:** 24/08/2022**Review of Planning Assessment Report:****Name:** B Zondo**Capacity:** Senior Town Planner**SACPLAN Registration:** C/8589/2017**Signature:** **Date:** 24/08/2022**Review and Recommended by Professional Town And Regional Planner****Name:** C Kriel**Capacity:** Manager: Land Use Management**SACPLAN Registration:** A/212/2010**Signature:** **Date:** 24/08/2022

PART I: SUBMISSION OF PLANNING APPLICATION ASSESSMENT REPORT**APPLICATION FOR SUBDIVISION ON FARM 373/16, 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 (2015) to assess the above 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 Item 7.7.1 and dated 8 April 2020, the subject application is categorised as follows:

Category: D(c)2

Decision Making Authority: SMPT

Rational: The application is for the subdivision of land for a property larger than 10 000m². The application is consistent with the approved MSDF; and not inconsistent with the relevant policies, principles and planning and development norms and standards set by the national and provincial government. However, objections were received from interested and affected property owners.

Name: S Carstens

Capacity: Senior Manager: Development Management

SACPLAN Registration: A/1551

Signature:

Date:



25/8/2022

PART J: SUBMISSION OF LAND USE AND LAND DEVELOPMENT ASSESSMENT REPORT**APPLICATION FOR SUBDIVISION ON FARM 373/16, 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: **23 SEPTEMBER 2022**

Name: *LENACIA KAMINER*

Capacity: *SENIOR ADMINISTRATIVE OFFICER*

Signature: *Kaminer*

Date: *07.09.2022*



26
STELLENBOSCH
STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNICIPALITY • UMASIPALA • MUNISIPALITEIT

ANNEXURE A

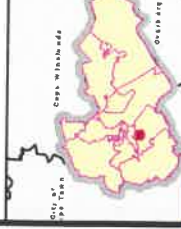
LOCALITY PLAN

Locality of Farm 373/16 Stellenbosch and Westruther Estate

SCALE

1:2 256,99

Legend



Stellenbosch Municipality
Planning & Economic Development
Created by: Corporate GIS

Date: 2022/08/23

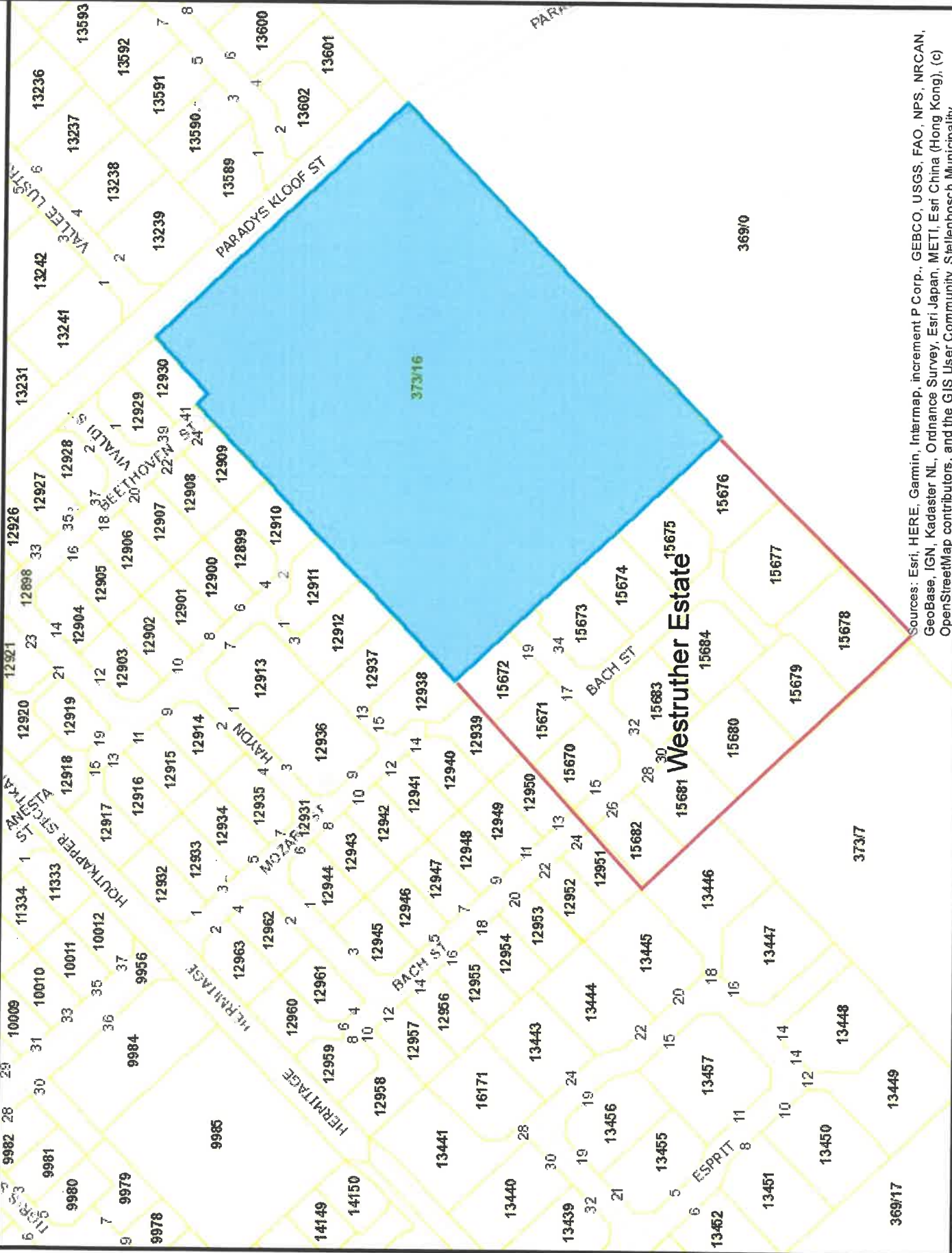


Author: Stellenbosch Municipality



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

This file is an electronic file. It remains the property of Stellenbosch Municipality. It may be used for internal purposes only. It may not be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or by any information storage and retrieval system, without the prior written permission of Stellenbosch Municipality.



Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community, Stellenbosch Municipality



29
STELLENBOSCH
STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNICIPALITY • UMASIPALA • MUNISIPALITEIT

ANNEXURE B

TITLE DEED

SEEL DUTY	✓
FOOI FEE	95,00

185 MALAN LOURENS
ARENDE INC.
TEL: (021) 853 1535

Prepared by me,
[Signature]
CONVEYANCER
D P SMIT

T 000050204 / 2003

CERTIFICATE OF CONSOLIDATED TITLE

Issued under the provisions of Section 40 (3) of the Deeds Registries Act No. 47 of 1937

WHEREAS

STEPHEN MORRISON SPOTTISWOODE

Identity No. 470404 5132 084

Married out of community of property

has applied for the issue to him of a Certificate of Consolidated Title under the provisions of Section 40 (3) of the Deeds Registries Act 1937;

VIR ENDOSSEMENTE KYK BLADSY
FOR ENDORSEMENTS SEE PAGE 9

[Handwritten signature]

AND WHEREAS he is the registered owner of:-

- 1 REMAINDER OF PORTION 9 of the farm PARADYS KLOOF No. 373, in the Municipality and Division of Stellenbosch, Western Cape Province
HELD under Deed of Transfer No. T67758/1994.
- 2 PORTION 15 (A PORTION OF PORTION 8) of the farm PARADYS KLOOF No. 373, in the Municipality and Division of Stellenbosch Western Cape Province
HELD under Deed of Transfer dated this day No. T000050209/2003

which have been consolidated into the land hereinafter described;

NOW THEREFORE in pursuance of the provisions of the said Act, I, the Registrar of Deeds at CAPE TOWN do hereby certify that the said

STEPHEN MORRISON SPOTTISWOODE

Identity no. 470404 5132 084

Married out of community of property

His heirs, executors, administrators or assigns -

is the registered owner of -

PORTION 16 of the farm PARADYS KLOOF No. 373 in the Municipality and Division of Stellenbosch, Western Cape Province

IN EXTENT : TWO COMMA THREE TWO EIGHT THREE (2,3283)
Hectares

AS WILL appear from the annexed Diagram No. S.G. 2223/2001

P

The said land is held subject –

I Insofar as the figure marked ABefEF on the said Diagram –

A. SUBJECT to the conditions referred to in Deed of Transfer No. 3861 dated 23rd March 1920 (Paragraph 1).

B. SUBJECT to the following special conditions contained in Deed of Transfer No. T2621/1950, which conditions have been varied by Notarial Deed No. 165/1950 referred to in Condition C below, namely:-

- (a) That the Transferors, namely Michael Mohrhardt and George William Seabridge and/or their successors in title of the remainder of the said farm Paradys Kloof in extent 18.1255 morgen, held under Certificate of Amended Title on Consolidation dated 7 November 1949, No. 18034, and/or of any portion thereof, shall have the right to bore for water on PORTION 9 of the Farm Paradys Kloof No. 373 at any point within a distance of 100 feet from the North-Western boundary of the said Portion 9, which said boundary is marked AB on the Diagram (N9o. 8450/48) annexed to Deed of Transfer No. T2621/1950) of the said Portion 9, which said right shall include the right to erect the necessary pump(s), pumphouse(s) and reservoir(s), and to lead the water over the said Portion 9 to the said remaining extent of Paradys Kloof and/or to any portion thereof subject to the condition, however, that the reservoir(s), excluding the borehole(s) and pumphouse(s) shall not take up more than one thousand (1000) square feet of land.



R

- (b) That for purpose of the boring operations etc. the said Transferors and/or their successors in title as owners of the remaining extent of Paradys Kloof held under the said Certificate of Amended Title on Consolidation dated 7 November 1949 No. 18034, and/or any portion thereof, shall have the right of access to and egress from the said PORTION 9.
- (c) That the stipulations and conditions referred to in paragraph (a) above shall also apply to the existing boreholes situated on said Portion 9 within a distance of 100 feet from the North-Western boundary of the said Portion 9.
- (d) That not to interfere with the water supply of the Transferors as owners of the remaining extent of the said farm Paradys Kloof, measuring 18.1255 Morgen, held under Certificate of Amended Title of Consolidation dated 7 November 1949 No. 18034, which said water is referred to in paragraphs (a) and (b) above, it has specially been agreed upon that the Transferee and his successors in title as owners of said Portion 9, or of any portion thereof, shall insofar as the said Portion 9 is concerned only be entitled to bore for water on that portion of Portion 9 which is situated between the South-Eastern boundary which said boundary is marked DE on the Diagram (No. 8450/48) of the said Portion 9, and a straight line drawn parallel to the aforesaid boundary and passing through the existing borehole on said Portion 9 which said borehole is marked P on the Diagram (No. 8450/48) of said Portion 9.

C SUBJECT FURTHER in terms of the Endorsement dated 11th May 1950 on Deed of Transfer No. 2621 dated 2nd March 1950, to the conditions (a) (b) (c) and (d) as set out in Para B above, which

P

conditions shall in future also be operative in favour of the owners of Portion 2 of the farm "Paradys Kloof" and their successors in title held by Certificate of Registered Title No. 18036 dated 7 November 1949 as more fully set out in Notarial Deed No. 165/50 dated 3 May 1950.

D SUBJECT FURTHER to clause 6.0 of the Will dated 20 June 1991 of Late Hildegard Enid Spottiswoode who died on 30 April 1993, which reads as follows:-

"I direct that all inheritances shall specifically and expressly be exempted from any community of property or accrual system which may subsist or in future subsist between my beneficiaries and their spouses and shall be protected against the creditors of their spouses and under no circumstances be liable to attachment by such creditors, whether married in or out of community of property and in respect of female beneficiaries also not be subject to the control, interference and marital power of any husband."

E ENTITLED FURTHER in terms of Deed of Transfer No. T41329/74 to a servitude of borehole and a servitude of pipeline together with the right to erect and maintain a pump and pumphouse at the borehole to ensure a supply of water therefrom and the right of access to and across the undermentioned property to the borehole aforesaid together with other rights, in favour of the owner and successors in title as owner of the property hereby transferred, over portion 6 of the Farm Paradys Kloof No. 373; measuring 3,9264 Ha. As will more fully appear from said Deed of Transfer.



P

F. SUBJECT FURTHER in terms of an endorsement in Deed of Transfer No. T10137/1962 and as more fully set out in Deed of Transfer No. T36558/74 to the following water and pipeline servitudes:

(a) Portion 5 of the farm Paradys Kloof No. 373, measuring 3,8363 Ha. Is entitled to $\frac{1}{2}$ share of the water from the borehole on Portion 9 of the farm Paradys Kloof No 373, measuring 3,8365 Ha; the position of the borehole being defined at a spot 12,28 metres from the boundary AB and 26,45 metres from the boundary CD on Diagram 8450/48 annexed to Deed of Transfer No. T2621/1950 on said Portion 9.

(b) Portion 5 of the farm Paradys Kloof No. 373 is further entitled to servitude of pipeline over Portion 9 of the farm to the servitude of pipeline over Portion 9 of the farm Paradys Kloof No. 373 together with the right to erect and maintain a pump and pumphouse at the borehole to ensure a supply of water therefrom and the right of access to and egress from the borehole and along the pipeline for the owner of the said Portion 5 and his successors in title and their workmen for the maintenance and for repair of the borehole, pump, pumphouse and pipeline.

G. NOT SUBJECT to condition B in Deed of Transfer No. T67758/1994 by virtue of the endorsement thereon dated 25th May 1995, reading as follows:-

"By Notarial deed of cancellation of servitude No. K462/95S dated this day, 26 April 1995, condition B at the bottom of page 2 to page 3 relating to water rights has been cancelled in relation to the Remaining extent of



f

Portion 10 of the farm Paradys Kloof No. 373, in the Municipality of Stellenbosch, Division Stellenbosch, Province Western Cape, in extent 4899 m2 gehou kragtens T63965/1991 as will more fully appear from said Notarial Deed,"

H. NOT SUBJECT to Condition B in Deed of Transfer No. T67758/94, by virtue of the endorsement thereon dated 25th May 1995 reading as follows:-

"By notarial deed of cancellation of servitude No. K463/95S dated this day 26 April 1995 Condition B at the bottom of page 2 to page 3 relating to water rights has been cancelled in relation to Erf 11138 Stellenbosch, in the Municipality of Stellenbosch, Division Stellenbosch, Province Western Cape, in extent 2,9999 Ha. Gehou kragtens T33076/1991, as will more fully appear from said Notarial Deed."

II Insofar as the figure marked feCD on annexed Diagram –

A SUBJECT to the conditions referred to in Deed of Transfer No. 3861 dated 23rd March 1920 (Paragraph 1).

B ENTITLED FURTHER in terms of Deed of Transfer No. T41329/74 to a servitude of borehole and a servitude of pipeline together with the right to erect and maintain a pump and pumphouse at the borehole to ensure a supply of water therefrom and the right of access to and across the undermentioned property to the borehole aforesaid together with other rights, in favour of the owner and successors in title as owner of the property hereby transferred, over portion 6 of the Farm Paradys Kloof No. 373; measuring 3,9264 Ha. As will more fully appear from said Deed of Transfer.



9

AND THAT, by virtue of these presents

STEPHEN MORRISON SPOTTISWOODE

Identity No. 470404 5132 084

Married out of community of property

His heirs, executors, administrators or assigns -

now is and henceforth shall be entitled thereto conformably to local custom, the State however reserving its rights.

In witness whereof, I, the said Registrar, 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 9 June 2003 ..


REGISTRAR OF DEEDS



9

T 50204/2003

NOTARIAL DEED OF AMENDED SERVITUDE K 325/2014 S
 DATED 31 AUGUST 2010:

CONDITION E IS AMENDED TO READ

THE WITHIN PROPERTY IS

Entitled to a servitude of borehole and servitude of pipeline together with the right to erect and maintain a pump at the borehole and a switchbox on the boundary wall of Erf 14150 held by Deed of Transfer T38998/10 with an electrical connection to the borehole; to ensure a supply of water therefrom and the Right of access to and egress from the borehole and along the pipeline for the maintenance and repair of the borehole, switchbox, pump and pipeline and the transferee and its successors in title shall not bore for water within 10 metres from the servitude borehole aforesaid as will more fully appear in the aforesaid Notarial Deed to Amend Servitude.

2016-04-08

DEED OFFICE
 CAPE TOWN

REGISTRAR.
 REGISTER OF DEEDS

VIR ENDOSSEMENTE KYK BLADSY
 FOR ENDORSEMENTS SEE PAGE 10

PAGE 10

T 50204/2003

By notarial deed of servitude K 325/2016 S, Dated the 10th December 2015.

The within mentioned property is SUBJECT, together with all ancillary rights, to a temporary underground high voltage electrical cable at a depth of approximately 1,0 metres in favor of:

ERF 15685 STELLENBOSCH

IN THE MUNICIPALITY AND DIVISION OF STELLENBOSCH

PROVINCE OF THE WERSTERN CAPE

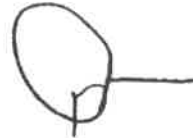
IN EXTENT 1849 (ONE THOUSAND EIGHT HUNDRED AND FORTY NINE) SQUIRE METRES

Held By Certificate of Registered Title No. (2) 19391/2016.

As will more fully appear in the said notarial document,

Deeds Registry
Cape Town

2016-04-08

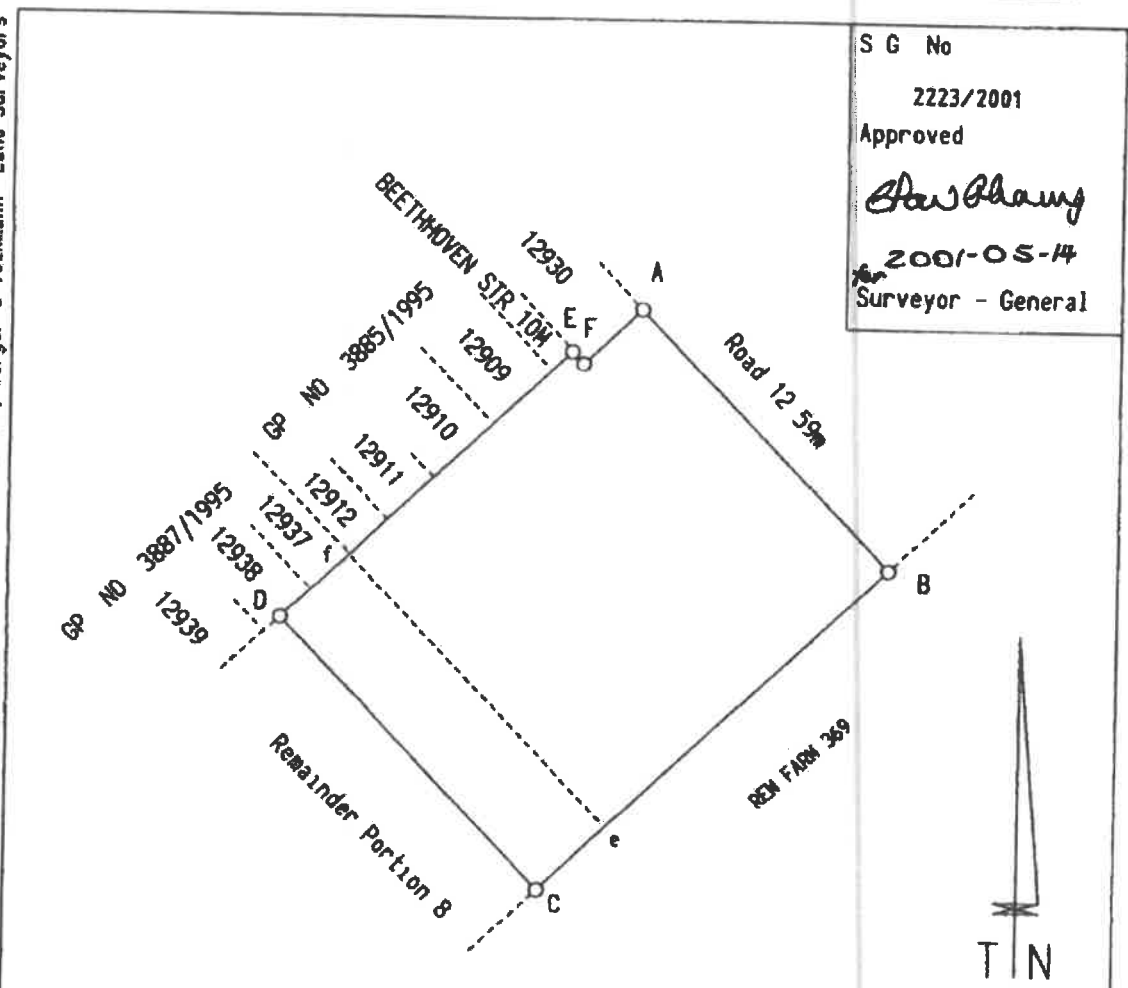


REGISTRAR OF DEEDS

OFFICIAL COPY

Friedlaender, Burger & Volkmann Land Surveyors

S G No
2223/2001
Approved
D P Burger
2001-05-14
Surveyor - General



COMPONENTS

- 1 The figure ABefEF represents the Remainder of Portion 9 of the farm PARADYS KLOOF No 373
Vide Dgm No 8450/1948 D/T 1950- -2621
- 2 The figure fecd represents Portion 15 of the farm PARADYS KLOOF NO 373
Vide Dgm No 2222/2001

SCALE 1 2500

The figure ABCDEF represents 2 3283 hectares

of land, being

PORTION 16 of the farm PARADYS KLOOF No 373 comprising of 1 and 2 as above

Situate in the Municipality and Administrative District of Stellenbosch
Compiled in February 2001
by me

Province of Western Cape

D P Burger
D P Burger Pr Land Surveyor PLS 0080

This diagram is annexed to No LET 50204/2003
Dated
i f o

The original diagrams are as above

File No Stel 373
S R No Compiled
Comp 8H-8DCB (3783)
8H-80CD (3785)

Registrar of Deeds

373/16

S



41

STELLENBOSCH
STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNICIPALITY • UMASIPALA • MUNISIPALITEIT

ANNEXURE C

SUBDIVISIONAL PLAN (SERVITUDE DIAGRAM)



43
STELLENBOSCH
STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNICIPALITY • UMASIPALA • MUNISIPALITEIT

ANNEXURE D

APPLICANT'S MOTIVATION

Our Reference: 3764-P

4 February 2022

Director: Planning and Development Services
Stellenbosch Municipality
Town House
7600 STELLENBOSCH

FIRST FLOOR
LA GRATITUDE
OFFICE BUILDING
97 DORP STREET
STELLENBOSCH 7600
TEL 021 861 3800

Attention: Ms. Chrizelle Kriel

Madam

**RE: APPLICATION FOR THE REGISTRATION OF AN ENGINEERING SERVICES
SERVITUDE OVER FARM 373/16, STELLENBOSCH**

1. Pertaining to the Farm 373/16, Stellenbosch.
2. Application is hereby made i.t.o. Section 15.2(d) of the Stellenbosch Municipality Planning By-law, 2015 for a subdivision of land that is not exempted i.t.o Section 24, including the registration of a servitude or lease agreement in order to register an engineering services servitude over Farm 373/16, Stellenbosch.
3. The purpose of the application is to allow the installation of engineering services (for the residents of the Westruther Estate) over Farm 393/16 as indicated on the aerial photograph below.



Figure 1: Proposed servitude area over Farm 373/16, Stellenbosch

4. Find attached hereto – for your endorsement – a detailed diagram illustrating the details of the proposed engineering servitude.
5. The proposed engineering services servitude will accommodate a sewer line and a power line in favour of the Westruther Estate's residents and will be located inside the private access road reserve (as indicated on the aerial photograph above).
6. We trust the information will suffice in processing the application. However, please feel free to contact the undersigned at 021 861 3800 or clifford@tv3.co.za if you have any queries or require any additional information.

Yours faithfully

CLIFFORD HEYS
TV3 PROJECTS (PTY) LTD

Gerrit Goosen

From: Clifford Heys <Clifford@tv3.co.za>
Sent: Monday, 22 August 2022 16:58
To: Gerrit Goosen
Subject: [EX] RE: Plaas 373/16 Stellenbosch
Attachments: Capture.JPG

Hi Gerrit

Soos telefonies bespreek.

Ons het aansoek gedoen vir die registrasie van 'n dienste serwituut oor Plaas 373/16 – sien aangeheg.

Die dienste serwituut is ten gunste van die Westruther Estate en het 2 doele, nl:

1. 'n Nuwe buite toilet is by die hek gebou. Weens die kontoere moet die rioolpyp by die munisipale lyn in Beethovenstraat aansluit. Daarvoor het ons 'n dienste serwituut oor Plaas 373/16 nodig.
2. Die elektriese substasie is geskuif na Paradyskloofweg (dit was eers binne die Westruther Estate). Die Landgoed se elektriese kables is nou gekoppel aan die nuwe elektriese substasie, en daarvoor het ons ook 'n dienste serwituut oor Plaas 373/16 nodig.

Ek het die ingenieurs versoek om ook te bevestig waarom die rioollyn na Beethovenstraat (en nie Bachstraat) moet loop nie, maar dit is a.g.v. die kontoere. Ek sal hul skrywe vir jou aanstuur.

Let asb daarop; hierdie ingenieursdienste is vir die Westruther Estate. Dit is nie vir enige toekomstige ontwikkelings op Plaas 373/16 nie. Tans het die grondeienaar (Mnr. Stephen Spottiswoode) nie enige planne om nou te ontwikkel nie.

Skakel my gerus indien jy enige addisionele inligting benodig vir jou verslag.

Groete

Clifford Heys

Pr Pln (TRP SA), B Econ, M (T&RP), MSAPI
DIRECTOR • TOWN PLANNING
Cell: +27 (0)83 309 9770
[Directions](#)

From: Gerrit Goosen <Gerrit.Goosen@stellenbosch.gov.za>
Sent: 22 August 2022 03:46 PM
To: Clifford Heys <Clifford@tv3.co.za>
Subject: Plaas 373/16 Stellenbosch

Middag Clifford,

Ons gesprek vroer verwys.

Soos genoem moet die aansoek voorgele word aan die MPT en wil ons net seker maak dat ons alle moontlike vrae kan beantwoord.

Sal dit dalk moontlik wees on net 'n kort addisionele motivering te skryf rakende die huidige hoof doel van die servituut en dat dit die enigste opsie is om die genoemde toilet te bedien. 'n Kort skrywe van die ingenieurs kan ook help om dit te bevestig.

Ons verslag moet Woensdag klaar wees so ek sal dit solank aanpas net sodat ons nie die sluitingsdatum mis nie.



Kind regards / Vriendelike groete

Gerrit Goosen (Pr. Pln.)

Town Planner

Planning & Economic Development

T: +27 21 808 8610

3rd Floor, Eikestad Mall, 43 Andringa

Street, Stellenbosch, 7600

www.stellenbosch.gov.za



STELLENBOSCH
STELLENBOSCH • INSEL • FRANSCHRIJDE
MUNISIPALITEIT • UMASHIPALA • MUNICIPALITY



About Stellenbosch Municipality

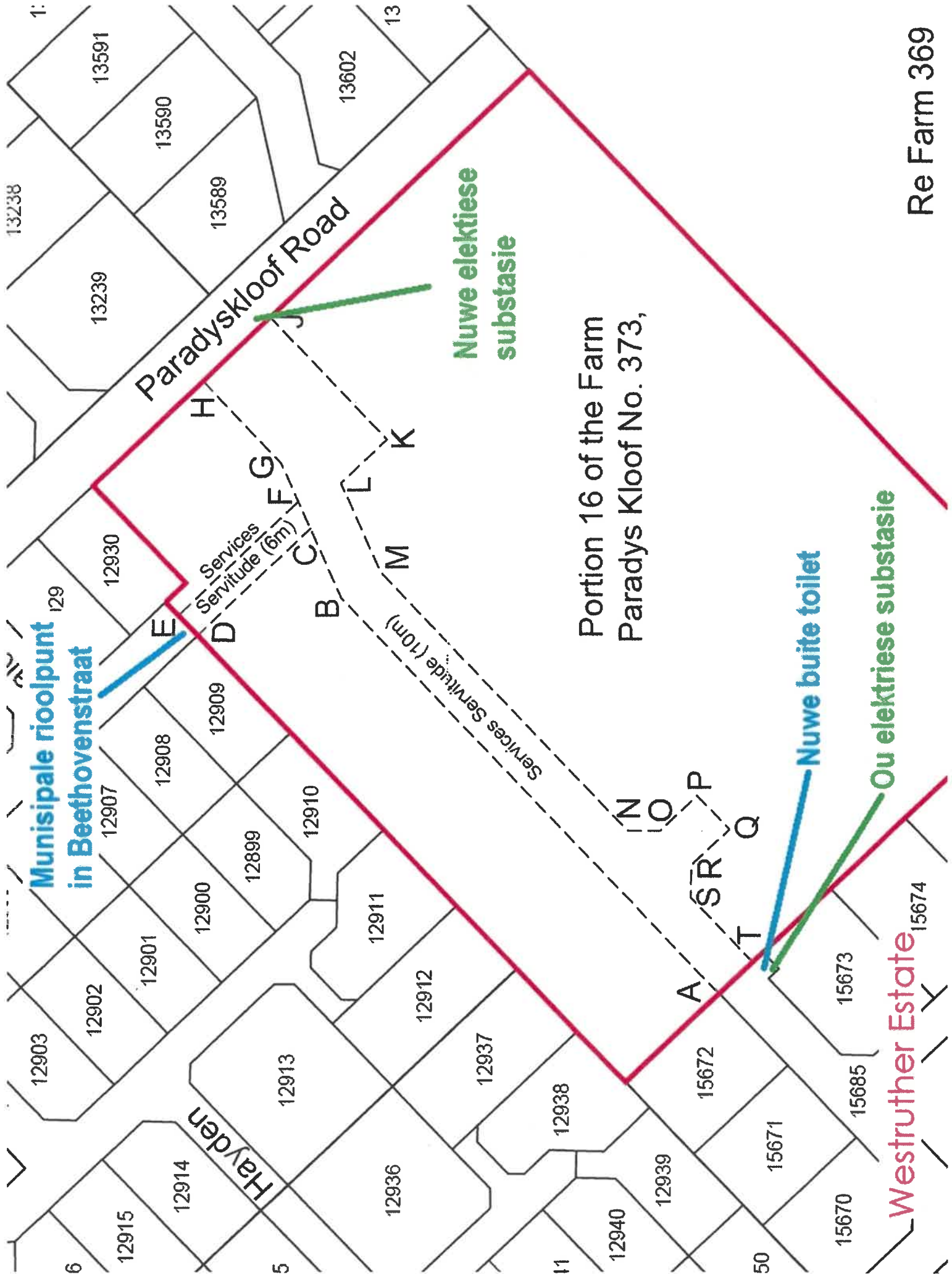
Our mission is to deliver cost-effective services that will provide the most enabling environment for civil and corporate citizens.

Our head office is at Town House Complex, Plein Street, Stellenbosch, 7600, South Africa. For more information about Stellenbosch Municipality, please call +2721-808-8111, or visit www.stellenbosch.gov.za

Disclaimer:

The information contained in this communication from gerrit.goosen@stellenbosch.gov.za sent at 2022-08-22 15:46:33 is confidential and may be legally privileged. It is intended solely for use by clifford@tv3.co.za and others authorized to receive it. If you are not clifford@tv3.co.za 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 [IOCO](http://www.io.co.za)





Portion 16 of the Farm
Paradys Kloof No. 373,

Municipale rioolpunt
in Beethovenstraat

Nuwe elektriese
substasie

Nuwe buite toilet

Ou elektriese substasie

Westruther Estate

Re Farm 369

Gerrit Goosen

From: Clifford Heys <Clifford@tv3.co.za>
Sent: Tuesday, 23 August 2022 07:01
To: Gerrit Goosen
Subject: [EX] FW: Plaas 373/16 Stellenbosch

Hi Gerrit

Sien die ingenieur se e-pos hieronder.

Help dit?

Groete

Clifford

From: Lukas Louw <lukas@bs-inc.co.za>
Sent: 22 August 2022 05:37 PM
To: Clifford Heys <Clifford@tv3.co.za>
Subject: RE: Plaas 373/16 Stellenbosch

Hi Clifford,

Die nuutgeboude waghuis op Westruther Estate se toilet kan as gevolg van die natuurlike val van die grond nie onder gravitasie langs Bachstraat se rioolstelsel dreineer nie. Die behoefte is dus om dit noord-ooswaarts, saam met die natuurlike helling, oor Plaas 373/16 te dreineer en dan by die bestaande netwerk in Beethovenstraat aan te sluit. Gevolglik die nodigheid vir die serwituut.

Groete.

Lukas Louw Pr Eng

*Bart Senekal and Partners Incorporated
(Civil and Structural Consulting Engineers)*

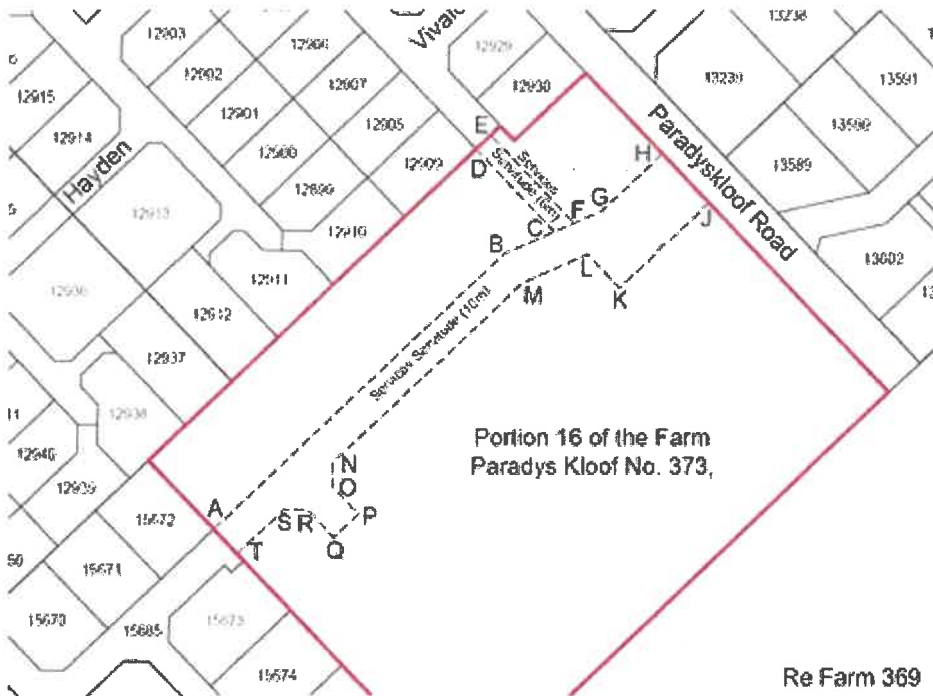


Cel : ~~XXXXXXXXXX~~
Tel : ~~XXXXXXXXXX~~

From: Clifford Heys <Clifford@tv3.co.za>
Sent: Monday, August 22, 2022 4:41 PM
To: Lukas Louw <lukas@bs-inc.co.za>
Subject: FW: Plaas 373/16 Stellenbosch

Hi Lukas

Insake ons aansoek vir die registrasie van 'n dienseserwituut oor Plaas 373/16.



Sal jy asb. vir my per e-pos bevestig waarom die serwituut vir die buite toilet oor Plaas 373/16 moet loop.

Groete

Clifford

From: Gerrit Goosen <Gerrit.Goosen@stellenbosch.gov.za>

Sent: 22 August 2022 03:46 PM

To: Clifford Heys <Clifford@tv3.co.za>

Subject: Plaas 373/16 Stellenbosch

Middag Clifford,

Ons gesprek vroer verwys.

Soos genoem moet die aansoek voorgele word aan die MPT en wil ons net seker maak dat ons alle moontlike vrae kan beantwoord.

Sal dit dalk moontlik wees om net 'n kort addisionele motivering te skryf rakende die huidige hoof doel van die servituut en dat dit die enigste opsie is om die genoemde toilet te bedien. 'n Kort skrywe van die ingenieurs kan ook help om dit te bevestig.

Ons verslag moet Woensdag klaar wees so ek sal dit solank aanpas net sodat ons nie die sluitingsdatum mis nie.

Kind regards / Vriendelike groete

Gerrit Goosen (Pr. Pln.)

Town Planner



Planning & Economic Development

T: +27 21 808 8610
3rd Floor, Eikestad Mall, 43 Andringa
Street, Stellenbosch, 7600
www.stellenbosch.gov.za



STELLENBOSCH
STELLENBOSCH • STELLINGENBOSCH • STALLINGENBOSCH
MUNICIPALITEIT • UMASHIPALA • MUNICIPALITY



About Stellenbosch Municipality

Our mission is to deliver cost-effective services that will provide the most enabling environment for civil and corporate citizens.
Our head office is at Town House Complex, Plein Street, Stellenbosch, 7600, South Africa.
For more information about Stellenbosch Municipality, please call +2721-808-8111, or visit www.stellenbosch.gov.za

Disclaimer:

The information contained in this communication from gerrit.goosen@stellenbosch.gov.za sent at 2022-08-22 15:46:33 is confidential and may be legally privileged. It is intended solely for use by clifford@tv3.co.za and others authorized to receive it. If you are not clifford@tv3.co.za 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 IOCO





52
STELLENBOSCH
STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNICIPALITY • UMASIPALA • MUNISIPALITEIT

ANNEXURE E

PORTFOLIO OF EVIDENCE (PUBLIC PARTICIPATION)

Our Reference: 3480-P
Application No: LU/13942

FIRST FLOOR
LA GRATITUDE
OFFICE BUILDING
97 DORP STREET
STELLENBOSCH 7600
TEL 021 861 3800

11 July 2022

Director: Planning and Economic Development
Stellenbosch Municipality
Town House
7600 STELLENBOSCH

Attention: Ms. Nicole Katts

Madam



PORTFOLIO OF EVIDENCE REPORT: APPLICATION FOR THE REGISTRATION OF AN ENGINEERING SERVICES SERVITUDE ON FARM 373/16, STELLENBOSCH

- Your letter of 30 May 2022 has reference.
- We hereby confirm that the public participation process was successfully completed in accordance with the prescriptions of the Stellenbosch Municipal Land Use Planning By-law, 2015.
- The public participation process commenced on 6 June 2022 and continued for 30 days as prescribed.
- As instructed, notices were sent (via e-mail) to all the interested and affected parties and community organisations.
- After advertising one letter of objection was received from the public.
- We hereby provide Council with the following proof of advertising and alignment with the relevant legislation and by-laws:

FILE NR:	
SCAN NR:	F 373/16 S
COLLABORATOR NR:	732654

process was successfully completed in
Stellenbosch Municipal Land Use Planning By-

- **Section A:** Portfolio of Evidence checklist and declaration.
 - **Section B:** List of parties informed and copy of notice sent to public.
 - **Section C:** Public objection received.
 - **Section D:** Applicant's response to the objection.
 - **Section E:** E-mail correspondence with the officials.
7. The relevant internal departments were informed of the application (and requested to comment) by the Directorate: Planning and Development Services.
8. We trust this information will suffice in finalising the application. However, if you have any queries please feel free to contact the undersigned.

Yours faithfully



CLIFFORD HEYS
TV3 PROJECTS (PTY) LTD



STELLENBOSCH

STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNISIPALITEIT • UMASIPALA • MUNICIPALITY

DEPARTMENT OF DEVELOPMENT MANAGEMENT

LAND DEVELOPMENT APPLICATION:

PUBLIC PARTICIPATION PROCESS PORTFOLIO OF EVIDENCE CHECKLIST AND DECLARATION

Erf/Erven Farm no	Farm 373	Portion(s) if farm	16	Allotment Area	Stellenbosch		
Owner/Applicant	TV3 Projects (Pty) Ltd			LU/#	LU/13942		
Notice Period	From:	6 June 2022		To:	7 July 2022		
CONFIRMATION OR DOCUMENTATION SUBMITTED				OWNER/APPLICANT			ADMIN VERIFY
				YES	NO	N/A	
1. The declaration is duly signed				X			✓
2. Applicant confirms that the public participation process was duly undertaken as instructed and attached to this POE.				X			✓
3. Approval for notices were obtained prior to the public participation process and attached to this POE.				X			✓
4. Municipality informed of the start date and closure date.				X			✓
5. The advertisement period complies with the required 30 days (60 days for state entities).				X			✓
6. If applicable, confirms that the site notice was placed and kept on site for the duration of the public participation process.						X	
7. All communications (other than notices) in respect of the public participation process attached.				X			✓
Proof of notices published							
8. If applicable, photo evidence to confirm site notice.						X	
9. Wording of the advertisement accurate as approved & attached.						X	
10. Proof of notices published (Publication date visible)						X	
Proof of notices served							
11. Wording of notice accurate as approved and attached				X			✓
12. Proof of all notices served to neighbouring properties attached				X			✓
13. Proof of all notices to Interest & Community Groups attached				X			✓
14. Proof of all notices to Govt. Dept's and Entities attached						X	
Comments received							
15. All objections/comments received attached				X			✓
16. All comments from internal Municipal Departments received (must also be attached to POE).					X	Engineering Comment outstanding.	
17. Applicant's comments on all the objections attached				X			✓

Please complete and sign the following declaration on above:

Received
19.7.22

SECTION A

**Portfolio of Evidence
checklist and declaration**

DECLARATION

I, (full names & surname) CLIFFORD REX HEYS and ID#: ~~XXXXXXXXXX~~ as the Applicant for the above application, hereby confirms that 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, and that 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:


Duly signed by the APPLICANT CLIFFORD HEYS on this 11 / 07 / 2022 at place STELLENBOSCH.



Signature Applicant

11 JULY 2022

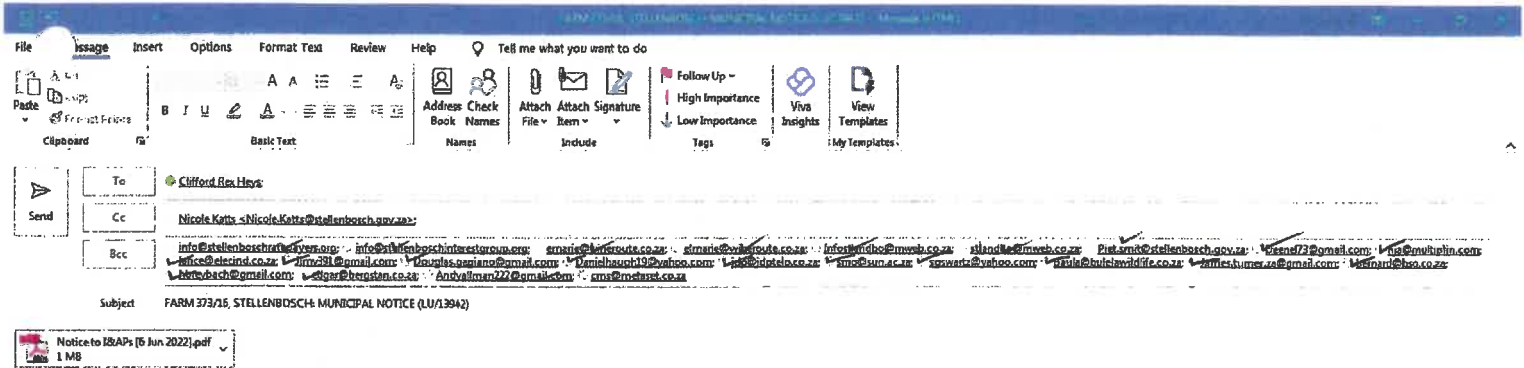
Date

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

NOTES TO BE RECORDED:

SECTION B

**List of parties informed and
copy of notice sent to public**



Sir / Madam

FARM 373/16, STELLENBOSCH: APPLICATION FOR THE REGISTRATION OF AN ENGINEERING SERVICES SERVITUDE

We have been instructed by the Stellenbosch Municipality to inform you of the application to register an engineering services servitude over Farm 373/16, Stellenbosch. Find attached a municipal notice regarding the abovementioned land use planning application.

Please feel free to contact me if you have any queries or require any additional information.

Kind regards

Clifford Heys
 P-16 (TRP SA), B Ezen, M (TRFP), MSAP;
 DIRECTOR - TOWN PLANNING
 Cell: +27 (0)83 309 9770
 @cliffordh

NOTICE OF LAND DEVELOPMENT APPLICATION TO INTERESTED AND AFFECTED PARTIES FOR COMMENT

Sir / Madam

The following land use application in terms of the Stellenbosch Land Use Planning Bylaw, 2015, refers:

Application Property Address: Paradyskloof Road

Application Property Number: Farm 373/16, Stellenbosch

Applicant: TV3 Projects (Pty) Ltd – C Heys (contact details: 021 861 3800)

Owner: S M Spottiswoode – C Spottiswoode (contact details: ~~021 861 3800~~)

Application Reference: LU/13942

Description of Proposed Development:

- Application is made in terms of Section 15(2)(d) of the Land Use Planning By-Law, 2015 for a subdivision in order to **register an engineering services servitude over Farm 373/16, Stellenbosch.**

Notice is hereby given in terms of the provisions of Section 46 of the said Bylaw that the above-mentioned application has been submitted to the Stellenbosch Municipality for consideration. The application is available for inspection on the Planning Portal of the Stellenbosch Municipal Website for the duration of the public participation process at the following address: [https://www.stellenbosch.gov.za/planning_portal/planning-notices/land-use-applications-advertisements]. If the website or documents cannot be accessed, an electronic copy of the application can be requested from the Applicant.

You are hereby invited to submit comments and / or objections on the application in terms of Section 50 of the said bylaw with the following requirements and particulars:

- The comments must be made in writing;
- The comments must refer to the Application Reference Number and Address,
- The name of the person that submits the comments;
- The physical address and contact details of the person submitting the comments;
- The interest that the person has in the subject application;
- The reasons for the comments, which must be set out in sufficient detail in order to:
 - Indicate the facts and circumstances that explain the comments;
 - Where relevant demonstrate the undesirable effect that the application will have if approved;
 - Where relevant demonstrate any aspect of the application that is not considered consistent with applicable policy; and
 - Enable the applicant to respond to the comments.

The comments must be addressed to the applicant by electronic mail as follows: TV3 Projects (Pty) Ltd – C. Heys clifford@tv3.co.za

The comments must be submitted within 30 days from the date of this notice to be received on or before the closing date **7 July 2022**.

It should be noted that the Municipality, in terms of Section 50(5) of the said Bylaw, may refuse to accept any comments/ objection received after the closing date.

For any enquiries on the Application or the above requirements, or if you are unable to write and /or submit your comments as provided for, you may contact the Applicant for assistance at the e-mail address provided or telephonically at 021 861 3800 during normal office hours.

Yours faithfully

CLIFFORD HEYS
TV3 PROJECTS (PTY) LTD



62
STELLENBOSCH
STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNICIPALITY • UMASIPALA • MUNISIPALITEIT

ANNEXURE F

OBJECTIONS RECEIVED

Clifford Heys

From: daniel@interactiveonline.co.za
Sent: 07 July 2022 01:57 PM
To: Clifford Heys
Cc: 'Graham Hood'; 'Hilary Anderson'; 'dalene Haugh'
Subject: Objection to proposed development on FARM 373/16, STELLENBOSCH: MUNICIPAL NOTICE (LU/13942)

We object to the proposed development.

Mr. Haugh's home, located directly in line with the proposed development, was flooded during the initial development phase when a new road was constructed across the Farm property. Nowhere in the documents provided is there mention of the flood damage at 24 Beethoven Street or what measures are in place to prevent this from happening a 2nd time. It should additionally be noted that the previous development by Mr. C.M. Spottiswoode and TV3 was done without any communication to the neighboring properties, was completely unannounced, done in a dangerous, destructive and reckless manner and forced our family to move from our home for a period of nearly a month.

That previous construction project continues to be an eyesore and has been promised to us and other immediate residents by Mr. C.M. Spottiswoode to be addressed with landscaping and that has yet to materialize in all these years.

Mr. C.M. Spottiswoode paid R30,000 to the Haugh with a promise that the development was complete and that no further disruption would follow.

Furthermore, the lack of detail on exactly what work will be done and what the impact on direct neighboring properties. We object the proposed development and will do whatever is necessary to protect our property from exposure to further damages.

Daniel Haugh
24 Beethoven Street

Daniel Haugh
Executive Director



Go Digital and Go Further
 C
 T
 www.interactiveonline.co.za
 "Branding power and broad reach through smarter digital marketing"
 f t in WATCH OUR VIDEO

Increased Sales & Brand Loyalty



+



=






64
STELLENBOSCH
STELLENBOSCH • PNIEL • FRANSCHHOEK


MUNICIPALITY • UMASIPALA • MUNISIPALITEIT

ANNEXURE G

RESPONSE TO OBJECTIONS RECEIVED

Table 1: Summary of the objection received and the applicant's response

NO.	OBJECTOR	ISSUES RAISED	APPLICANT'S RESPONSE
1.	Daniel Haugh	Mr. Haugh's home, located directly in line with the proposed development, was flooded during the initial development phase when a new road was constructed across the Farm property.	<p>Mr. Haugh's home is located at 24 Beethoven Street – ±100m from the servitude area. See image below.</p>  <p>It is unfortunate that during the construction of the Westruther access road Mr. Haugh's property was damaged by flooding. However, all the damages were repaired and Mr. Haugh was compensated for his inconvenience.</p>

2.	Daniel Haugh	Nowhere in the documents provided is there mention of the flood damage at 24 Beethoven Street or what measures are in place to prevent this from happening a 2 nd time.	The flood damage caused by the construction of the Westruther access road is not relevant in assessing the need and desirability of the land use planning application (i.e. the need to install the engineering services). However, we did contact Mr. Haugh to obtain his input in ensuring that with the installation of the proposed engineering services does not cause any flood damage. For example, by installing the engineering services in summer, the chances of any flood damage are minimal.
3.	Daniel Haugh	It should additionally be noted that the previous development by Mr. C.M. Spottiswoode and TV3 was done without any communication to the neighboring properties, was completely unannounced, done in a dangerous, destructive and reckless manner and forced our family to move from our home for a period of nearly a month.	The Westruther access road was constructed with all the necessary planning approvals in place. The flooding that occurred during the construction phase was regrettable and the necessary measures will be taken to ensure that it does not happen again. However, the flooding accident is not a criterion to determine the need and desirability of the application to register a servitude for additional engineering services.
4.	Daniel Haugh	That previous construction project continues to be an eyesore and has been promised to us and other immediate residents by Mr. C.M. Spottiswoode to be addressed with landscaping and that has yet to materialize in all these years.	<p>We are unsure to what landscaping Mr. Haugh is referring to. The subject property is planted with vineyards and is actively farmed. One can hardly refer to it as an "eyesore". See image below.</p> 

5.	Daniel Haugh	Mr. C.M. Spottiswoode paid R30,000 to the Haugh with a promise that the development was complete and that no further disruption would follow.	As mentioned above, it was unfortunate that during the construction of the Westruther access road Mr. Haugh's property was damaged by flooding. However, all the damages were repaired and Mr. Haugh was compensated for his inconvenience. All the necessary precautions will be taken to ensure that none of the surrounding properties are damaged during the construction phase to install the additional engineering services.
6.	Daniel Haugh	Furthermore, the lack of detail on exactly what work will be done and what the impact on direct neighboring properties. We object the proposed development and will do whatever is necessary to protect our property from exposure to further damages.	The land use planning application must first be approved before the detail of the actual work can be finalised. Nevertheless, all the necessary measures will be taken by the contractor (including insurance) to ensure that none of the surrounding properties are damaged.



68
STELLENBOSCH
STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNICIPALITY • UMASIPALA • MUNISIPALITEIT

ANNEXURE H

COMMENT FROM THE DIRECTOR:
INFRASTRUCTURE SERVICES



STELLENBOSCH MUNICIPALITY
STELLENBOSCH · PNIEL · FRANSCHHOEK

MEMORANDUM

DIREKTEUR: INFRASTRUKTUURDIENSTE
DIRECTORATE: INFRASTRUCTURE SERVICES

To ▫ Aan: Director: Planning + Economic Development
Att Aandag Nicole Katts
From ▫ Van: Manager: Development (Infrastructure Services)
Author ▫ Skrywer: Tyrone King
Date ▫ Datum: 30 May 2022
Our Ref ▫ Ons Verw: Civil LU 2315
Your Ref: LU/13942
Re ▫ Insake: Farm 373/16, Stellenbosch: Application is made in terms of Section 15(2)(d) of the Stellenbosch Land Use Planning Bylaw, 2015 for a Subdivision in order to register an engineering servitude on the on Farm 373/15, Stellenbosch farms.

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

1. Civil Engineering Services

1.1 No objection.

2. Electrical Engineering

2.1 Refer to **Annexure: Electrical**

Tyrone King Pr Tech Eng
MANAGER: DEVELOPMENT (INFRASTRUCTURE SERVICES)

Farm 373-16

1. No Objection
CONDITIONS:
.
2. Appropriate caution shall be taken during construction, to prevent damage to existing service cables and electrical equipment in the vicinity. Should damage occur, the applicant will be liable for the cost involved repairing damages.
3. All electrical work to comply with SANS142 and Municipal electrical by-laws

Bradley Williams

Date.....18/07/2022.....



Signature



71
STELLENBOSCH
STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNICIPALITY • UMASIPALA • MUNISIPALITEIT

ANNEXURE I

PREVIOUS APPROVAL



STELLENBOSCH

STELLENBOSCH • P'NIEL • FRANSCHHOEK

MUNISIPALITEIT • UMASIPALA • MUNICIPALITY



Application Number: LU/6711
 Our Reference Number: 373/16 S
 Your Reference Number:
 Enquiries: Siyanda Zangqa, 021 808 8667, Siyanda.Zangqa@stellenbosch.gov.za
 Date: 31/10/2017

REGISTERED MAIL

TV3
 ATT: Clifford Heys
 97 Dorp Street
 Stellenbosch
 7600

FILE NR:	OUTGOING POST
F 373/16 S	U/6711
SCAN NR:	
COLLABORATOR NR:	557641

Dear Sir

EXEMPTION CERTIFICATE IN TERMS OF THE STELLENBOSCH MUNICIPAL LAND USE PLANNING BY-LAW, 2015

Details of the proposal:

The registration of a 2314m² servitude right of way over Farm No. 373/16, Stellenbosch Division in favour of Erf 15685 (La Pastorale II), Stellenbosch as indicated in **Appendix 1**.

It is herewith certified that the above **subdivision** does not require the approval of this Municipality in terms of the Stellenbosch Municipal Land Use Planning By-Law (2015). It is therefore exempted from the applications listed in Sections 15, and sections 20 to 23 as contemplated in terms of Section 24(1)(c) of the Stellenbosch Municipal Land Use Planning By-Law (2015) and illustrated on the servitude plan (**No 2223/2001 dated August 2017**) attached as **Appendix 1**.

Attached please find the relevant servitude plan duly endorsed.

Yours faithfully

FOR DIRECTOR: PLANNING & ECONOMIC DEVELOPMENT

APPENDIX 1
Servitude Plan

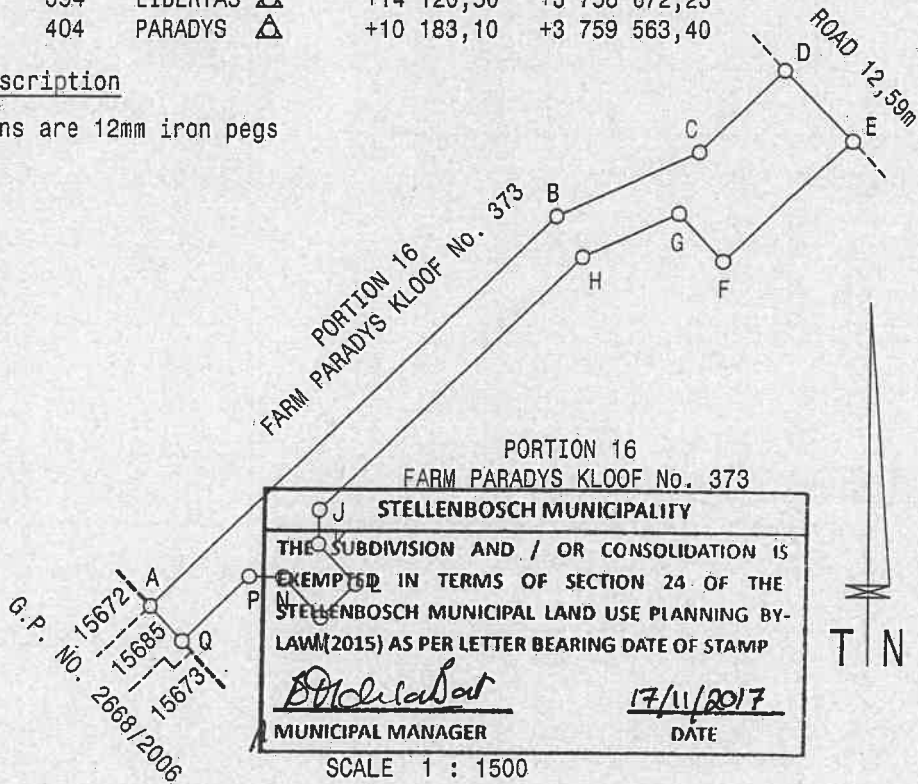
Friedlaender, Burger & Volkmann - Land Surveyors

SIDES Metres	ANGLES OF DIRECTION	CO-ORDINATES System WG 19°		S.G. No.		
		Y	X			
Constants :		0,00	0,00	Approved. for Surveyor - General Date :		
A B	116,76	226 16 30	A		+12 688,81	+3 760 225,41
B C	32,99	246 13 10	B		+12 604,44	+3 760 144,71
C D	24,60	226 26 20	C		+12 574,25	+3 760 131,41
D E	20,01	316 30 20	D		+12 556,42	+3 760 114,45
E F	36,41	46 27 40	E		+12 542,65	+3 760 128,97
F G	13,61	136 30 20	F		+12 569,05	+3 760 154,05
G H	22,32	66 13 00	G		+12 578,41	+3 760 144,18
H J	75,61	46 16 30	H		+12 598,84	+3 760 153,18
J K	7,09	1 23 50	J		+12 653,48	+3 760 205,44
K L	11,40	316 31 00	K		+12 653,65	+3 760 212,52
L M	10,00	46 31 00	L		+12 645,81	+3 760 220,79
M N	11,36	136 31 00	M		+12 653,07	+3 760 227,68
N P	7,06	91 23 50	N		+12 660,88	+3 760 219,44
P Q	19,37	46 16 30	P	+12 667,94	+3 760 219,27	
Q A	9,99	136 29 50	Q	+12 681,94	+3 760 232,65	

394	LIBERTAS	△	+14 120,50	+3 758 672,23
404	PARADYS	△	+10 183,10	+3 759 563,40

Beacon Description

All beacons are 12mm iron pegs



The figure ABCDEFGHJKLMNPQ represents a private right of way servitude area 2314 square metres, as shown
over PORTION 16 OF THE FARM PARADYS KLOOF No. 373

Situate in the Stellenbosch Municipality
Administrative District of Stellenbosch
Surveyed in August 2017
by me

Province of Western Cape

PLS 1354 M R Stuart-Fox Pr Land Surveyor

This diagram is annexed to No.	The original diagram is No. 2223/2001	File No.
Dated	Annexed to	S.R. No.
i.f.o.	C.C.T. 2003- -50204	Comp. BH-8DCB (3783) BH-8DCD (3785)
Registrar of Deeds		