



**STELLENBOSCH**

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MUNISIPALITEIT • UMASIPALA • MUNICIPALITY

# **NOTICE: LAND USE** **APPLICATION**

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**STELLENBOSCH MUNICIPAL WEBSITE  
([www.stellenbosch.gov.za](http://www.stellenbosch.gov.za))**

**ADVERTISING PERIOD: 17/02/2022 – 22/03/2022**

**ERF: 1036, Stellenbosch (35 Buitekring)**

**ENQUIRIES: Dupré Lombaard, Viridus Works (Pty)  
Ltd, 77 Buitekring, Dalsig, STELLENBOSCH, 7600;  
Cell: 082 895 6362;  
Email: [dupre.lombaard@viridus.com](mailto:dupre.lombaard@viridus.com)**

## NOTICE OF LAND DEVELOPMENT APPLICATION IN THE STELLENBOSCH MUNICIPAL AREA

**Locality:** Erf 1036, Cnr Alphen and 35 Buitekring, Dalsig, Stellenbosch

**Applicant:** Dupré Lombaard, Viridus Works (Pty) Ltd, 77 Buitekring, Dalsig, STELLENBOSCH, 7600; Cell: 082 895 6362; Email: dupre.lombaard@viridus.com

**Owner:** Andrew Roy Harris, Phone: +27 82 462 1147, E-mail: [harris.andrew.roy@gmail.com](mailto:harris.andrew.roy@gmail.com), Address: 35 Buitekring Road, Stellenbosch, 7600

**Stellenbosch Municipality reference number:** LU 12953

**Application type:** Application in terms of Section 15 of the Stellenbosch Municipality Land Use Planning Bylaw, 2015 for:

- a) Section 15(2)(f) a removal, suspension or amendment of restrictive conditions in respect of a land unit; and
- b) Section 15(2)(b) a permanent departure from the development parameters of the zoning scheme.

The owner recently purchased Erf 1036 after the previous house on the property burnt down. A new house is proposed on the property, which has severely restrictive title conditions that hamper normal development and need to be removed. The property is located on the northern side of a street corner, causing it to lose significant usable garden and living space due to the 20' title deed street building line. The amendment is required to allow for street building lines of 4,0m in terms of the development parameters applicable to the zoning. Vehicular access to the property is off Buitekring Road. The owner further wishes to extend the line of the stoep and swimming pool deck to 1,5m from the side boundary building line, restricted to 10' in the title deed and 2,5m in terms of the land use parameters applicable to Conventional Housing in the Stellenbosch Municipality Zoning Scheme Bylaw, 2019.

Notice is hereby given in terms 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/documents/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.

Written comments, which must include the reference to the application, the name, contact details and physical address of the person to submit the comments, the reasons for the comments, and the interest of the person in the application, may be submitted in terms of Section 50 of the said Bylaw to the Applicant by electronic mail as follows: Dupré Lombaard, dupre.lombaard@viridus.com.

The comments must be submitted within 30 days from the date of this notice to be received on or before the closing date of **22 March 2022**. 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 082 895 6362 during normal office hours.

## KENNISGEWING VAN GRONDONTWIKKELINGSAANSOEK IN DIE STELLENBOSCH MUNISIPALE AREA

**Ligging:** Erf 1033, h/v Alphen en 35 Buitekring, Dalsig, Stellenbosch.

**Aansoeker:** Dupré Lombaard, Viridus Works (Pty) Ltd, 77 Buitekring, Dalsig, STELLENBOSCH, 7600;  
Sel: 082 895 6362; E-pos: dupre.lombaard@viridus.com

**Eienaar:** Andrew Roy Harris, Foon: +27 82 462 1147, E-pos: [harris.andrew.roy@gmail.com](mailto:harris.andrew.roy@gmail.com), Adres:  
35 Buitekringweg, Stellenbosch, 7600

**Stellenbosch Munisipaliteit Verwysing:** LU 12953

**Tipe aansoek:** Aansoek ingevolge Artikel 15 van die Stellenbosch Munisipaliteit Grondgebruik Verordening, 2015 vir:

- a) Artikel 15(2)(f) die verwydering, opheffing of wysiging van beperkende titel voorwaardes van toepassing op die eiendom; en
- b) Artikel 15(2)(b) 'n permanente afwyking van die grondgebruik parameters soos vervat in die Soneringsverordening.

Die eienaar het onlangs Erf 1036 gekoop nadat die huis daarop afgebrand het. Ten einde 'n huis met hedendaagse karakter en skaal te bou is dit nodig om sekere van die voorwaardes op te hef. Omdat die eiendom aan die noordekant van die straat hoek is, beperk die 20' boulyne ingevolge die akte die ontwikkelbaarheid en dit is byvoorbeeld nie moontlik om 'n dubbel motorhuis op die eiendom op te rig en dan leefruimte aan die noordekant oor te hou nie. Om die rede word 'n straatgrens boulyn van 4,0m soos voorgeskryf in die Soneringsverordening voorgestel. Voertuig toegang tot die perseel is vanaf Buitekring. Die eienaar wil verder die stoep en dek om die swembad uitbrei tot 1,5m van die sygrens, waar die titel beperking 'n 10' boulyn vereis in plaas van die normale 2,5m van toepassing op Konvensionele Behuising in die Stellenbosch Munisipaliteit Soneringskema Verordening, 2019.

Kennis word hiermee gegee in terme van die genoemde Verordeninge dat bovermelde aansoek by die Stellenbosch Munisipaliteit ingedien is vir oorweging. Die aansoek is beskikbaar vir insae op die Beplannings Portaal van die Stellenbosch Munisipaliteit se Webtuiste vir die tydsduur van die publieke deelname proses by die volgende adres: <https://www.stellenbosch.gov.za/planning/documents/planning-notice/land-use-applications-advertisements>. Indien die webtuiste of tersaaklike dokumente nie toeganklik is nie, kan die Aansoeker versoek word om 'n elektroniese kopie beskikbaar te stel.

Skriftelike kommentaar, wat besonderhede ten opsigte van die verwysings nommer van die aansoek, die name, fisiese adres en kontak besonderhede van die persoon wat die kommentaar lewer, die redes vir die kommentaar, en die belang van die persoon wat die kommentaar lewer in die aansoek, kan ingedien word in terme van Artikel 50 van genoemde Verordeninge aan die Aansoeker by wyse van elektroniese pos as volg: Dupré Lombaard, dupre.lombaard@viridus.com. Die kommentaar moet binne 30 dae vanaf die datum van hierdie kennisgewing gestuur word en moet ontvang word voor of op die laaste dag van die sluitings datum van **22 Maart 2022**. Indien daar enige navrae op die aansoek of bovermelde vereistes vir die lewer van kommentaar is, of dit nie moontlik is om geskrewe kommentaar, of die kommentaar op die wyse te lewer soos voorsiening gemaak is nie, kan die Aansoeker geskakel word vir bystand by die vermelde elektroniese pos adres of telefonies by 082 895 6362 gedurende normale kantoor ure.



## CONTENT

<b>1. BACKGROUND .....</b>	<b>4</b>
1.1 Introduction.....	4
1.2 Title deed.....	4
<b>2. LAND DEVELOPMENT APPLICATION AND MOTIVATION .....</b>	<b>6</b>
2.1 Development context.....	6
2.2 Land use planning / land development application.....	6
2.3 Land use motivation.....	8
2.4 IDP and SDF.....	9
2.5 SPLUMA and LUPA principles.....	9
2.6 Heritage .....	11
2.7 Engineering .....	11
<b>3. CONCLUSION .....</b>	<b>11</b>

## TABLE OF FIGURES

Figure 1: Erf 1036 locality shown in red.....	4
Figure 2: Erf 1036 situation.....	6
Figure 3: Proposed house on Erf 1036.....	7
Figure 4: Erf 1036 viewed from inside street corner .....	8

## ANNEXURE

- ANNEXURE A: LOCALITY**
- ANNEXURE B: APPLICATION AUTHORISATION**
- ANNEXURE C: APPLICATION FORM**
- ANNEXURE D: CONVEYANCER'S CERTIFICATE**
- ANNEXURE E: TITLE DEEDS**
- ANNEXURE F: DIAGRAMS**
- ANNEXURE G: BUILDING PLAN PROPOSAL**

**EXECUTIVE SUMMARY**

<p><b><u>Owner:</u></b></p> <p><b>Mr AR Harris</b></p> <p>Cellular phone: +27 82 462 1147</p> <p>E-mail: <a href="mailto:harris.andrew.roy@gmail.com">harris.andrew.roy@gmail.com</a></p> <p>Address: 35 Buitekring Road, Stellenbosch, 7600</p>	<p><b><u>Project Consultant:</u></b></p> <p><b>Mr Dupré Lombaard</b></p> <p>Viridus Works (Pty) Ltd Reg. No. 2018/585747/07</p> <p>SACPLAN: B/8076/1998</p> <p>Cellular phone: +27 82 895 6362</p> <p>E-mail: <a href="mailto:dupre.lombaard@viridus.com">dupre.lombaard@viridus.com</a></p> <p>Address: 77 Buitekring, Dalsig, Stellenbosch, 7600, South Africa</p>
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The owner recently purchased Erf 1036 after the previous house on the property burnt down. A new house is proposed on the property, which has severely restrictive title conditions that hamper normal development and need to be removed. The property is located on the northern side of a street corner, causing it to lose significant usable garden and living space due to the 20' title deed street building line. The amendment is required to allow for street building lines of 4,0m in terms of the development parameters applicable to the zoning. Vehicular access to the property is off Buitekring Road. The owner further wishes to extend the line of the stoep and swimming pool deck to 1,5m from the side boundary building line, restricted to 10' in the title deed and 2,5m in terms of the land use parameters applicable to Conventional Housing in the Stellenbosch Municipality Zoning Scheme Bylaw, 2019.

This is an application in keeping with Section 15 of the Stellenbosch Municipality Land Use Planning Bylaw, 2015. The application covers the following aspect(s):

- (1) Section 15 (2)(f) a removal, suspension or amendment of restrictive conditions in respect of a land unit.
- (2) Section 15(2)(b) a permanent departure from the development parameters of the zoning scheme.

The proposed use will be in keeping with the Stellenbosch Municipality Zoning Scheme Bylaw, 2019.

Erf 1036 is held by Deed 35376/2018. There are title deed restrictions preventing the proposed land development, which need to be removed to permit the better utilisation of the property.



The following title conditions apply to the property, as detailed in the attached conveyancer's certificate and title deed (Annexure D and E):

- Title conditions referred to in Deed of Transfer No. 10536/1953 (where applicable) and those imposed by the Administrator of the Province of the Cape of Good Hope in terms of Ordinance 33 of 1934 when approving the Dalsig township establishment as in Deed No. T2109/1961.
- The title conditions make specific provision for the Administrator (now the Stellenbosch Municipality) to suspend or relax the following title conditions with or without conditions:
  - C(ii)(a) the property may not be subdivided;
  - C(ii)(b) it may only be used for the erection thereon of one dwelling together with outbuildings normally related to such dwelling;
  - C(ii)(c) building may occur only on 1/3 of the property; and
  - C(ii)(d) no building or structure or any part thereof, excluding boundary walls and fences may be erected within 20' (6,1m) of the street building line.

(iii) Hierdie erf is onderhewig aan die volgende voorwaardes, met dien verstande dat indien die Administrateur, na oorleg met die Dorpekommissie en die plaaslike owerheid dit raadsaam ag dat die beperking in enige sodanige voorwaarde te eniger tyd opgeskort of versag behoort te word, hy die nodige opskorting of versagting kan goedkeur onderworpe aan sodanige voorwaardes as wat hy oplê :-

(a) dit mag nie onderverdeel word nie;

(b) dit mag alleen gebruik word vir die doel om een woning, tesame met die buitegeboue wat gewoonlik in verband daarmee gebruik word daarop op te rig;

(c) op nie meer as een derde van die oppervalkte daarvan mag gebou word nie;

(d) geen gebou of struktuur of enige gedeelte daarvan behalwe grensmure en heinings mag binne 20 voet van die straatlyn wat 'n grens van hierdie erf vorm, opgerig word nie, ook nie binne 10 voet van die agtergrens of sygrens van 'n aangrensende erf nie, met dien verstande dat 'n buitegebou met die toestemming van die plaaslike owerheid op die voorgeskrewe ruimte langs die agtergrens opgerig mag word, mits sodanige buitegebou nie 'n hoogte van 10 voet te bowe gaan nie, watter hoogte gemeet moet word van die vloer tot die ankerplaat, en mits gedeelte daarvan vir bewoningsdoeleindes deur mense aangewend word nie. By konsolidering van enige twee of meer erwe sal hierdie voorwaardes van toepassing wees op die gekonsolideerde gebied as een erf.

- Title conditions imposed in favour of the Dalsig Estate (Pty) Ltd, which need to be removed:
  - D(d) no roof on the property may be corrugated iron sheeting, unless it is not visible from the street and the roof covering material of all the roofs have to be of the same material and construction if visible from the street.
  - D(e) The fence of the property may only be erected after approval by the developer and no corrugated iron may be used for the fencing of the property.



## 2. LAND DEVELOPMENT APPLICATION AND MOTIVATION

### 2.1 Development context

The subject property is located in the Dalsig residential neighbourhood, where surrounding properties are similarly zoned and used. Houses in the area are uniform in form, size and scale with some set back from the street, while most others are built up to four or five metres from the street, presumably with departures and title deed amendments. The majority of the houses have well developed gardens with large trees, creating a green neighbourhood where the residential density is around 7,8 units per gross hectare. Significant modernisation of the area has occurred in recent years, with the redevelopment of properties.

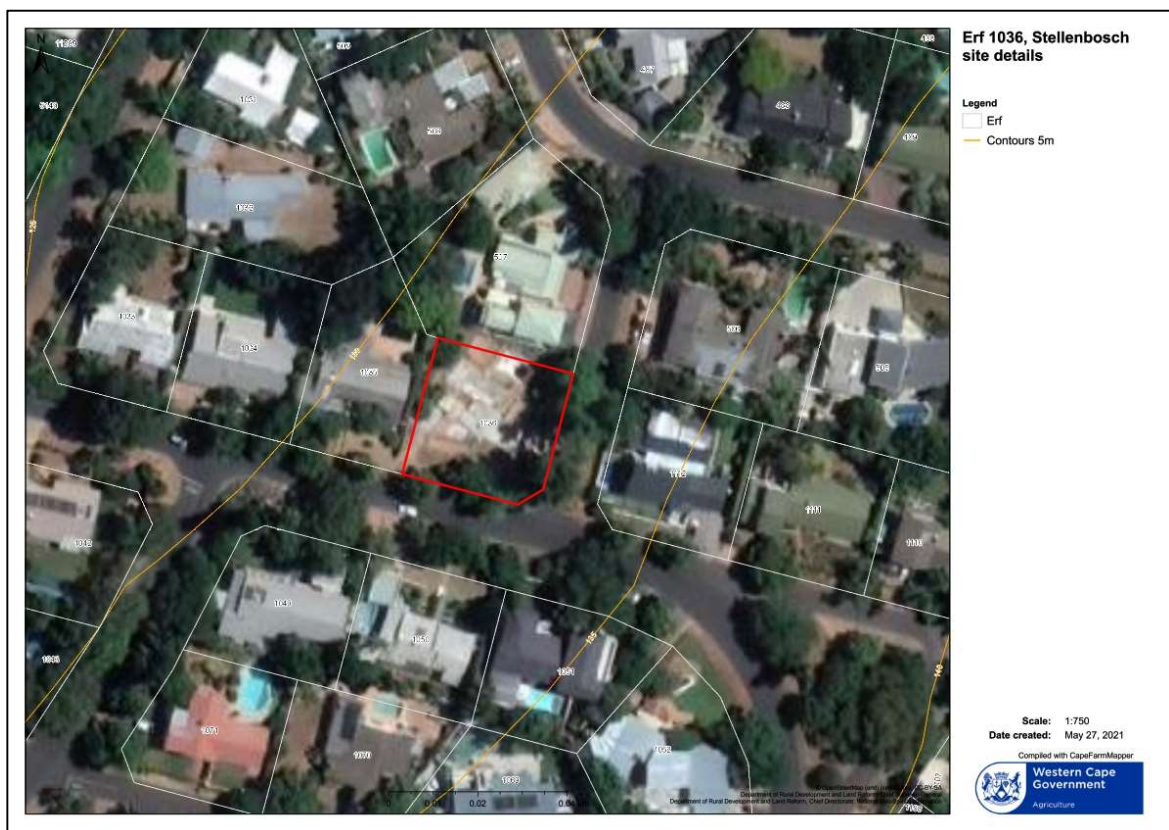


Figure 2: Erf 1036 situation

### 2.2 Land use planning / land development application

Application in terms of Section 15(2)(f) a removal, suspension or amendment of restrictive conditions in respect of a land unit as detailed above.

The title deed restrictions limit the street boundary building lines to 6,1m, which need to be reduced to allow for a house with functional garden space and a double garage to be constructed on the property.

The title conditions relating to finishes and roof material are no longer applicable, given the development of a large number of houses in the area, subject to the same title conditions, which have been approved with corrugated iron roofs clearly visible to the abutting streets.

The restrictive title conditions in the title deed are relevant only to the Dalsig properties as indicated in the General Plan in Annexure F.

Some of the title deed restrictions are related to land use management, given that the conditions were imposed by the Administrator when approving the development in terms of the Townships Ordinance, 1934, Ordinance 33 of 1934. These conditions could be removed, suspended, or relaxed where a zoning scheme is in effect (paragraph 1.2 insert above).

There are also title conditions relating to the nature of the finishes to the dwelling and the use, which were imposed by the developer and which should be removed, given that these conditions are no longer relevant and the original developer has no interest in the matter. These conditions need to be removed.

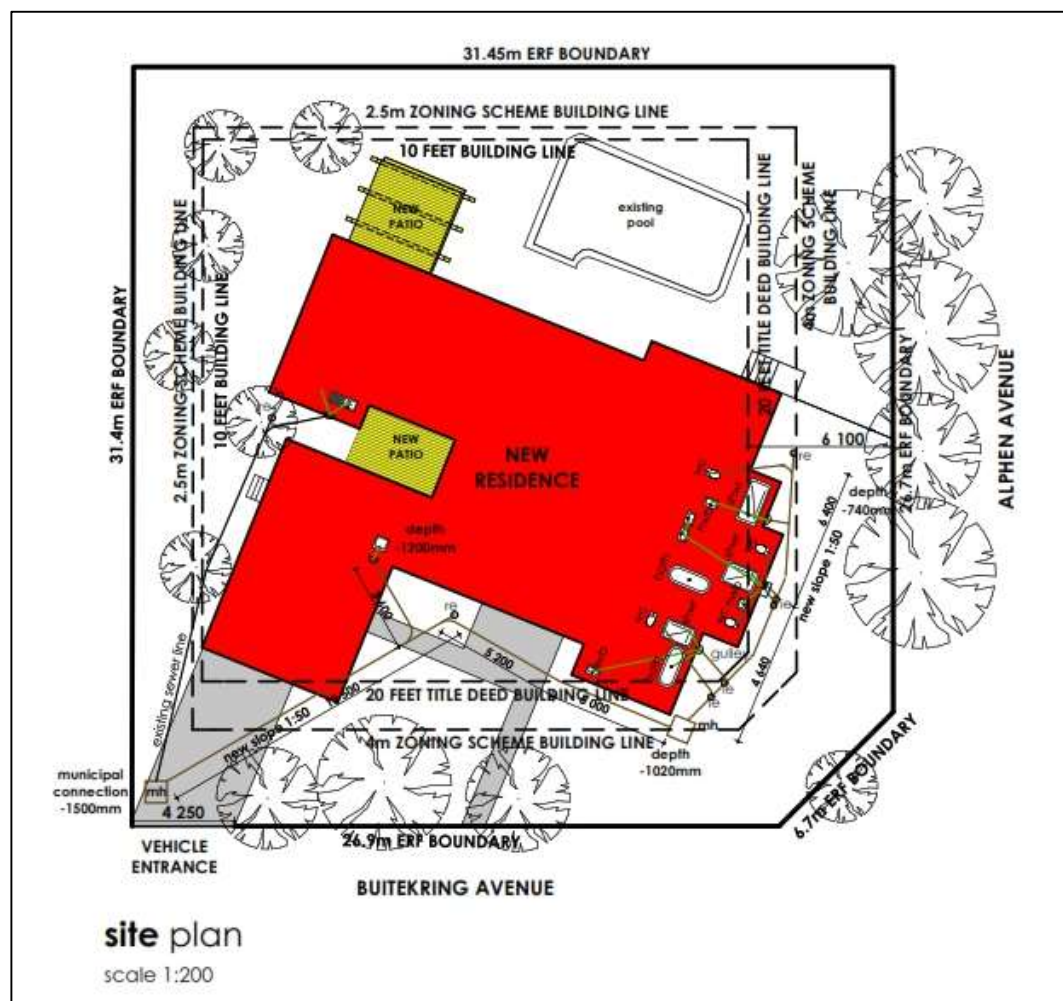


Figure 3: Proposed house on Erf 1036

The judgment in the *Camps Bay Ratepayers and Residents Association and Others v Minister of Planning, Culture and Administration, Western Cape 2001(4) SA294 (C)* indicates that one or more of the following need to be indicated for the removal of a restriction:

- It must be desirable to remove the restriction in the interests of the public;
- It must be desirable to remove the restriction in the interests of an establishment;

- It must be desirable to remove the restriction in the interests of a development; or
- It must be desirable to remove the restriction in the interests of any area.

It further indicates that any removal, amendment, or suspension of a restrictive title deed condition must be in accordance with Section 25 of the Constitution of the Republic of South Africa Act, 1996, Act 108 of 1996 (The Constitution), in so far as it implies a deprivation of land rights. The requested removal must therefore be supported by the written consent of all those affected, or beneficiary property owners as contemplated in Section 25 of The Constitution.

### 2.3 Land use motivation

The proposed house construction as planned, and removal of the restrictive conditions will have no negative effect on the residential character of the surrounding environment. A large number of houses in the area have already been constructed accordingly, up to 4m of the streets, many with shade port structures up to the street boundary, with second dwellings and with visible corrugated iron sheeting roof cover. The redevelopment of the Dalsig properties should reflect current policy and needs and not be limited to outdated development visions from the 1960's, as reflected in the title deed restrictions.



Figure 4: Erf 1036 viewed from inside street corner

The property is zoned for Conventional Residential use, inside of the urban edge and inside of an existing developed residential neighbourhood. The property does not have any historical significance. A building line of 4m is required on the Buitekring Road and Alphen Street boundaries. Vehicular access is off Buitekring.

A corner house is at a disadvantage with the wide street boundary building lines, as it significantly reduces the functional garden space, which in this instance is on the northern side of the house. The immediately abutting houses are constructed with reduced building lines to Alphen Street, where fences, hedges and large trees create a special ambience that hides the closeness of the structures to the street boundary.

Moreover, the existing trees, infrastructure and structures which could be re-used, e.g. the swimming pool, decks and retaining walls cause the proposed house to be situated over the foundations of the old house.

The house is set obliquely over the erf, as in Figure 4 above. Any external structures, e.g. braai area, retaining walls, steps and patios will encroach the 4m building line as permitted in terms of the Zoning Scheme Bylaw along Alphen Street, some of which can already be seen in Figure 3 above. A 4m building line along the Alphen Street boundary will allow for such structural encroachments, while the dwelling will be inside of the building lines.

## **2.4 IDP and SDF**

The Integrated Development Plan 2021 (IDP), including the municipal spatial development framework approved in 2019 make no specific provision for the Dalsig area. It appears obvious that the policy promotes the retention of the character of certain identified areas and that redevelopment should take cognisance of and enhances the character elements (shape and form of houses and tree lined streets).

## **2.5 SPLUMA and LUPA principles**

The matters referred to in Section 42 of the Spatial Planning and Land Use Management Act, 2013 (SPLUMA) and the principles referred to in Chapter VI of the Western Cape Land Use Planning Act, 2014 (LUPA), with specific reference to spatial justice, spatial sustainability, efficiency, and good administration have all been considered, as are elaborated on below.

- ✓ The Western Cape Provincial Spatial Development Framework (PSDF) focuses strongly on densification and intensification of urban areas to achieve its desired outcomes. The average gross residential density of urban areas should increase to 25 units / ha before extensions to an urban edge are considered. In this instance the urban edge is not relevant to the argument, the proposal being consistent with the SDF, as indicated above and no change in use is proposed.
- ✓ The policy of more intense use of nodes and urban core areas further requires consideration of the bio-physical environment, cultural heritage, municipal infrastructure services and social infrastructure issues and factors. With these in mind, the density targets should be achieved by allowing a variety of development methodologies, including, but not limited to: demolition and redevelopment of existing properties; utilisation of vacant and under-utilised land and changing of permitted land use of existing developments. The purpose of densification is primarily to maintain sustainable supplies of natural

resources, for food production and ecological functioning, to achieve more economical use of municipal services infrastructure and community facilities, provide for efficient public transport services and reduce traveling distances to a variety of opportunities. This fits with the location of the property in an urban area with full services, without any significant negative consequences or effect.

- ✓ The proposed use of the property for residential purposes in terms of the initial planning contributes to intensification and densification by proper use of the property in terms of its zoning. It leads to improvement of the efficiencies in service provision as set out above, on under-utilised land within an identified urban node. It does not diminish the supply of ecological or agricultural resources, while surrounded by urban uses.

The LUPA considerations and development principles of SPLUMA require:

- ✓ The protection and promotion of the sustainable use of agricultural land, which is not affected by the proposal. It requires adherence to national and provincial government policies, as illustrated above, inclusive of the municipal spatial development framework.
- ✓ Consideration of the public interest, which is done through the compliance with the aforementioned policies and guidelines, as indicated above.
- ✓ 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, indicate grounds for a positive land development consideration and decision. The proposed dwelling will not detract from the ambience and appeal of the area and is in keeping with the scale and form of surrounding houses.
- ✓ The respective rights and obligations of all those potentially affected, primarily the existing residents and surrounding property owners, public and private service providers and the wider community have been considered. There are no identified issues, and the proposed removal of the restrictive conditions and building development that will result from it do not have any negative effect on any of the surrounding residents. The applicant seeks to utilise the primary rights applicable to the property in terms of the Zoning Scheme Bylaw.
- ✓ The impact of the proposed development on engineering services infrastructure, social infrastructure and open space requirements. There is no negative impact and there are no negative effects on the social infrastructure or open space requirements. The proposed dwelling makes use of existing municipal services infrastructure.
- ✓ Spatial justice must be considered, and past spatial and other development imbalances must be redressed through improved access to and use of land. At the scale of the proposed development and the location of the site, it does not offer any significant opportunity for redress.
- ✓ Spatial sustainability has been considered and the proposed land development is within the fiscal, institutional and administrative means of the state, given that the development will contribute to the municipal revenue base, without requiring public expenditure to occur.
- ✓ Efficiency (optimising the use of existing resources and infrastructure) has been addressed and the use of the site is in keeping with its original planning and purpose of establishment.

- ✓ Spatial resilience is addressed, as the use of an existing erf in keeping with its zoning without a need for further public expenditure or increase in the capacity of municipal services infrastructure capacity represents sustainable development.
- ✓ Good administration is a function of the authorities, not affected by the proposed use of the property.

## **2.6 Heritage**

The proposed land development does not require authorisation in terms of Section 34 or 38 of the National Heritage Resources Act, 1999, Act 25 of 1999. Further, as indicated above, there are no townscape character area guidelines applicable to the Dalsig area.

## **2.7 Engineering**

Storm water, water and sewerage services are existing, and the demand will reduce. Solid waste is removed by the Municipality. Electrical services and capacity are existing.

## **3. CONCLUSION**

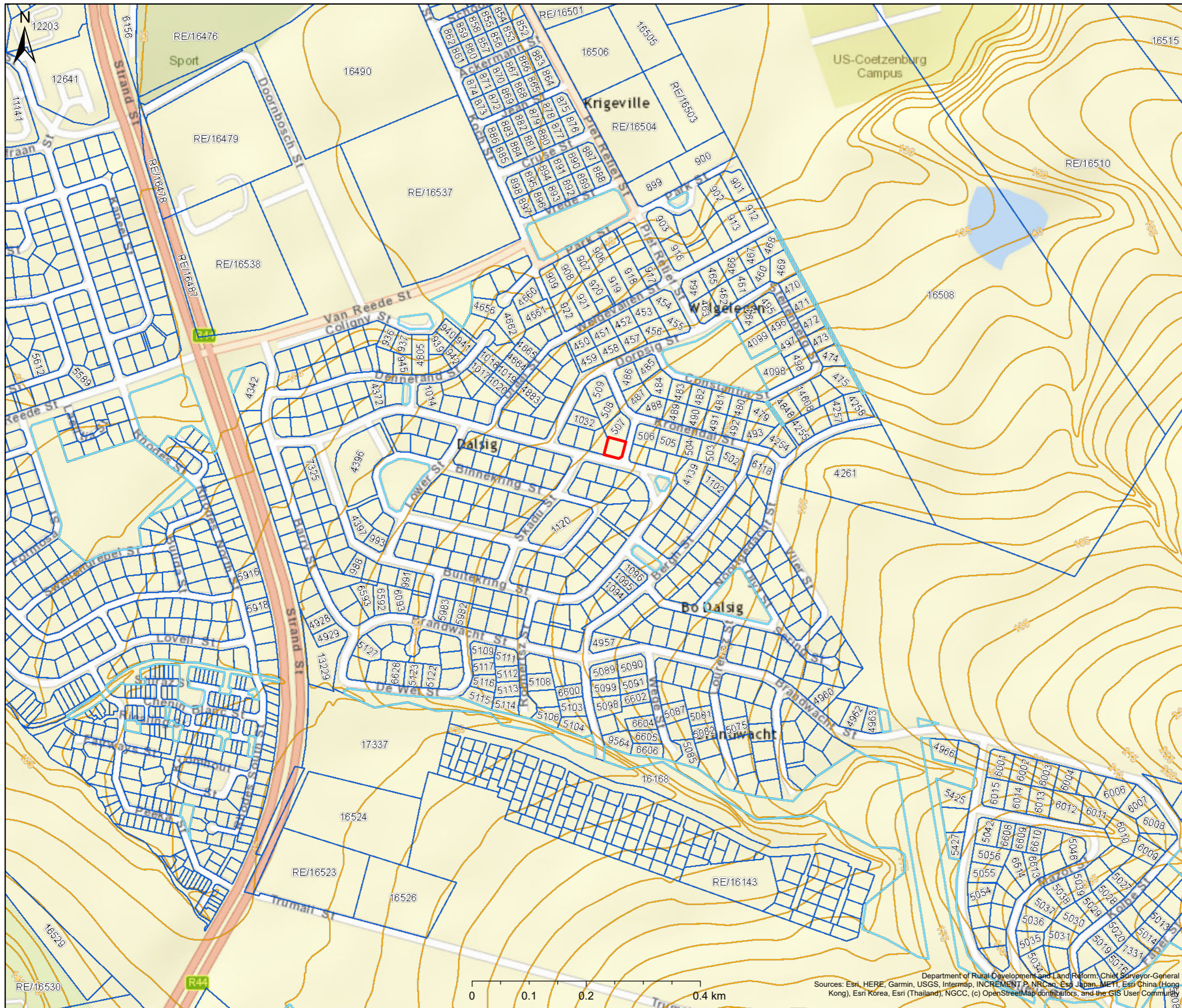
The application for the removal of the restrictive title conditions, to allow for the construction of a house on Erven 1036, Stellenbosch in terms of the land development parameters as set out in the Stellenbosch Municipality Zoning Scheme Bylaw, 2019, is in keeping with the predominant use of erven in the area and can accordingly be approved.

## **ANNEXURE A: LOCALITY**

# Erf 1036, Stellenbosch locality

## Legend

- Public Place
- Erf
- Contours 5m



Scale: 1:7 500  
 Date created: May 27, 2021

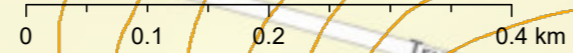
Compiled with CapeFarmMapper



**Western Cape  
Government**

Agriculture



Department of Rural Development and Land Reform: Chief Surveyor-General  
 Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, (c) OpenStreetMap contributors, and the GIS User Community





# Erf 1036, Stellenbosch site details

## Legend

-  Erf
-  Contours 5m



Scale: 1:750  
Date created: May 27, 2021

Compiled with CapeFarmMapper



## **ANNEXURE G: BUILDING PLAN PROPOSAL**

Amended building plan proposal - 20211015

RELAXATION ON BUILDING LINE TO BE OBTAINED BEFORE CONSTRUCTION

31.45m ERF BOUNDARY

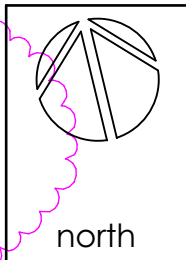


# site plan

scale 1:200

Site 978.62m<sup>2</sup>  
 Ground Floor 274m<sup>2</sup> GBA  
 First Floor 90m<sup>2</sup> GBA  
 Total GBA 364m<sup>2</sup>  
 Coverage 301m<sup>2</sup> 31%

HOUSE HARRIS STELLENBOSCH



**WATER AND ELECTRICAL CONNECTION POSITIONS TO BE CONFIRMED ON SITE BEFORE WORK IS UNDERTAKEN**  
**CONNECTION DEPTH TO BE CONFIRMED ON SITE AND LEVELS ADJUSTED ACCORDINGLY TO APPROVAL OF THE LOCAL BUILDING INSPECTOR ALL TO SANS 10400 PORTION P**