

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: 52 Buitekring Street, Stellenbosch, 7600

Application Property Number: Erf 1060, Stellenbosch

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

Owner: WJ & A van Dyk – W van Dyk (contact details: 082 372 5801)

Application Reference: LU/13873

Description of Proposed Development:

- Application is made in terms of Section 15(2)(f) of the Land Use Planning By Law for the **removal of restrictive title deed conditions** no. C (iii)(a)-(d) and D(a)-(d) as contained in the Deed of Transfer number T. 46520/2019.
- Application is hereby made in terms of Section 15.(2)(g) of the Stellenbosch Municipality Planning By Law, 2015 for a **permission required in terms of the zoning scheme for an additional use**.
- Application is made in terms of Section 15.(2)(b) of the Stellenbosch Municipality Planning By Law for a **departure** to relax the street building line from 4m to 3m for the proposed additions to the existing structure.

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 of **13 Junie 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

KENNISGEWING VAN GROND ONTWIKKELINGSAANSOEK AAN GEINTERESSEERDE EN GEAFFEKTEERDE PARTYE VIR KOMMENTAAR

Meneer / Dame

Die volgende grondgebruiksaansoek in terme van Stellenbosch se Verordeninge op Grondgebruikbeplanning, 2015, verwys:

Adres van aansoek eiendom: 52 Buitekringstraat, Stellenbosch, 7600

Aansoek eiendom beskrywing: Erf 1060, Stellenbosch

Aansoeker: TV3 Projects (Pty) Ltd – C Heys (kontak besonderhede: 021 861 3800)

Eienaar: WJ & A van Dyk – W van Dyk (kontak besonderhede: 082 372 5801)

Aansoek Verwysing: LU/13873

Tipe Aansoek:

- Aansoek word hiermee gemaak in terme van Afdeling 15.(2)(f) van die Stellenbosch Munisipaliteit se Beplanning Bywet, 2015 vir die **opheffing van beperkende titelvoorwaardes** no. C (iii)(a)-(d) en D(a)-(d) soos vervat in Titelakte nommer T. 46520/2019.
- Aansoek word hiermee gemaak in terme van Afdeling 15.(2)(g) van die Stellenbosch Munisipaliteit se Beplanning Bywet, 2015 vir 'n **spesiale toestemming in terme van die sonering skema vir 'n addisionele gebruik**.
- Aansoek word hiermee gemaak in terme van Afdeling 15.(2)(b) van die Stellenbosch Munisipaliteit se Beplanning Bywet, 2015 vir 'n **afwyking** om die straat boulyn vanaf 4m na 3m te verslap vir die voorgestelde aanbouing tot die bestaande struktuur.

Kennis word hiermee gegee in terme van die voorskrifte van die Artikel 46 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 tydskedule van die publieke deelname proses by die volgende adres: [https://www.stellenbosch.gov.za/planning_portal/planning-notices/land-use-applications-advertisements]. Indien die webtuiste of tersaaklike dokumente nie toeganklik is nie, kan die Aansoeker versoek word om 'n elektroniese kopie van die aansoek beskikbaar te stel.

Kommentaar en/ of besware kan vervolgens gedien word op die aansoek in terms van Artikel 50 van die tersaaklike Verordening wat die volgende vereistes en besonderhede moet bevat:

- Die kommentaar moet skriftelik wees;
- Die kommentaar moet die aansoek se verwysings nommer en adres insluit;
- Die naam van die persoon wat die kommentaar lewer;
- Die fisiese adres en kontak besonderhede van die persoon wat die kommentaar lewer.
- Die belang wat die persoon wat die kommentaar lewer, in die aansoek het.
- Die redes vir die kommentaar wat gelewer word, welke redes genoegsame besonderhede moet bevat ten opsigte van die volgende aspekte:
 - Die feite en omstandighede aantoon wat die die kommentaar toelig;
 - Indien toepaslik, aantoon wat die onwenslike resultaat sal wees indien die aansoek goedgekeur word;
 - Waar toepaslik moet aangetoon word indien enige aspek van die aansoek strydig geag word met enige relevante beleid;

- Dat die insette voldoende ingting sal gee wat die aansoeker in staat sal stel om kommentaar daarop te lewer.

Die kommentaar moet by wyse van elektroniese pos aan die Aansoeker gestuur word as volg: TV3 Projects (Pty) Ltd – C. Heys clifford@tv3.co.za

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 sluitingsdatum van **13 Junie 2022**.

Daar moet kennis geneem word dat die Munisipaliteit, in terme van Artikel 50(5) van die vermelde Verordeninge, mag weier om enige kommentaar / beswaar te aanvaar wat na die sluitingsdatum ontvang word.

Indien daar enige navrae op die aansoek of bovermelde vereistes vir die lewer van kommentaar is, of indien dit nie moontlik is om geskrewe kommentaar te lewer 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 021 861 3800 gedurende normale kantoor ure.

Die uwe

**CLIFFORD HEYS
TV3 PROJECTS (PTY) LTD**

Our Reference: 3625-P

10 March 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: ERF 1060, STELLENBOSCH: APPLICATION FOR AN ADDITIONAL USE, A PERMANENT DEPARTURE AND THE REMOVAL OF RESTRICTIVE TITLE CONDITIONS

1. Land use planning applications

Pertaining to **Erf 1060, Stellenbosch** (hereafter referred to as the subject property):

- (i) Application is hereby made i.t.o. Section 15.(2)(f) of the Stellenbosch Municipality Planning By-law, 2015 for a removal, suspension or amendment of restrictive conditions in respect of a land unit; i.e. **for the removal of restrictive title conditions numbers:**

C.(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 agdat die beperking in enige sodanige voorwaarde te enigertyd 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 oppervlakte 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 die 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 geen 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.*

D. SUBJECT further to the special conditions imposed by and in favour of DALSIG LANDGOED EIENDOMS BEPERK and their successors in title as owners of the remainder of the ground held by them under Deed of Transfer Number T10536 dated 14th July 1953 issued in their favour and in favour of the registered owner and his successors in title of any erf in the Dalsig Village:-

- (a) *Geen gebou van welke aard ookal mag op die erf opgerig word alvorens die planne en spesifikasies nie aan die Eienaars van die dorpsaanleg of hulle opvolgers in regte voorgelê is nie, welke planne en spesifikasies binne 21 dae na voorlegging daarvan goed of afgekeur word nie.*
- (b) *Geen skadelike, raserige of enige ander bedrywighede waarteen die inwoners van die dorpsgebied redelikerwys beswaar mag maak as synde 'n oorlas vir die bure of vir diegene wat die openbare plekke of weë began, mag op die erf uitgevoer word nie. Voorts mag geen hout vir wins op hierdie erf gesaag of gekap word nie en ook mag die okkupeerder van*

die erf nie material wat hy vir enige besigheidsonderneming buite die erf gebruik, op die erf bêre nie. Die toestand van die erf moet te alle tye sodanig wees dat dit geen oorlas vir die inwoners van die dorpsaanleg of vir diegene wat die openbare plekke of weë began daarstel nie.

(c) Geen dak van enige bouwerk op die erf mag van sinkplaat van enige aard gemaak word nie behalwe as sodanige dak nie van die straat sigbaar is nie. Alle dakke op die erf moet van dieselfde material en konstruksie wees behalwe as die betrokke dak nie van die straat sigbaar is nie.

(d) Die omheining van die erf mag alleen opgerig word nadat volle besonderhede in verband met die beplanning daarvan aan die eienaars van die dorpsaanleg voorgelê is en dit deur hul goedgekeur is, dog in geen geval mag enige omheining van enige soort sinkplaat gehou word nie.

- (ii) Application is hereby made i.t.o. Section 15.(2)(g) of the Stellenbosch Municipality Planning By-law, 2015 for a permission required in terms of the zoning scheme; i.e. **for a technical approval (for an additional use) to permit a 2nd dwelling.**
- (iii) Application is hereby made i.t.o. Section 15.(2)(a) of the Stellenbosch Municipality Planning By-law, 2015 for a permanent departure from the development parameters of the zoning scheme; i.e. **for the relaxation of the street building line from 4m to 3m.**

The purpose of this land use planning application is to obtain the required planning approval for the development of a 2nd dwelling on the subject property.

2. Property details

The subject property is located at 52 Buitekring Street, in Dalsig, Stellenbosch – see Figures 1 and 2 below.



Figure 1: Locality of Erf 1060, Stellenbosch



Figure 2: Streetview of 52 Buitekring Street, Dalsig

The subject property is described in the Deed of Transfer No. T46520/2019 as Erf 1060, Stellenbosch.

Wessel Jurie van Dyk and Annemiek van Dyk are the registered owners of the subject property.

The subject property is 991m² in extent.

3. Development proposal

The landowner wishes to construct a 2nd dwelling on the subject property. A typical site development plan – illustrating the development details of the main and 2nd dwellings – is attached hereto.

Once the land use planning application has been approved, a formal building plan for the 2nd dwelling will be submitted to Council for approval.

4. Motivation for the removal of the restrictive title conditions

The removal of restrictive title conditions is motivated as follows:

- Title deed search

A title deed search was undertaken by Cluver Markotter Attorneys. According to their attached Conveyancer Certificate there are title conditions that will restrict the proposed development of a 2nd dwelling. These restrictive title conditions, namely title conditions numbers C.(iii)(a) – (d) and D.(a) – (d), will have to be removed. For this reason, application is made for the removal of these restrictive title conditions.

- Reasons to remove the title conditions

All of these restrictive title conditions will have to be removed in order for the landowner to construct a 2nd dwelling on the subject property that complies with the permissible land uses and development rules of the Stellenbosch Municipality's Zoning Scheme By-Law (2019).

These title restrictions were imposed – owing to an absence of a municipal zoning scheme – with the proclamation of the Dalsig Township in 1950. It is now ±72 years later, and Council has adopted the Stellenbosch Municipality Zoning Scheme Regulations (2019) that clearly details all the land uses and development rules for each zoning. In other word, the township establishment development rules (as listed

above) have become obsolete and has been replaced by the new Stellenbosch Zoning Scheme Regulations (2019). In order for the subject property to properly utilise the new Stellenbosch Zoning Scheme Regulations all historic township establishment development rules and title conditions must be removed.

- Benefits of removing outdated title deed restrictions

As explained above, these title deed conditions were imposed before the Stellenbosch Zoning Scheme Regulations (2019) were adopted, and in the case “*Edelor (Pty) Ltd v Champagne Castle Hotel Ltd*” the court indicated that a restrictive title deed condition is a praedial servitude and that it is necessary to determine what interest the condition was designed to protect in order to establish the underlying intention. In this connection, regard must be had of the circumstances that existed when the conditions were imposed in 1950 (i.e. the absence of a municipal zoning scheme). This is no longer the case. Council has adopted the Stellenbosch Municipality Zoning Scheme Regulations (2019) that governs the development of all properties in Stellenbosch.

The Stellenbosch Zoning Scheme Regulations (2019) have become the governing statutory document and has replaced the township development parameters contained in the subject property’s title deed. The removal of these restrictive title conditions will remove any future confusion pertaining to the subject property’s development rights and parameters.

5. Motivation for a 2nd dwelling

Application is made for a technical approval (for an additional use) to permit the development of a 2nd dwelling on the subject property. This application is motivated as follows:

- The Stellenbosch Municipality has identified the need to densify Stellenbosch. However, it is still important that the densification of the town’s urban areas is consistent with the municipal spatial planning policies and regulations. To this end, the proposed 2nd dwelling is consistent with the recommendations of the draft Stellenbosch Densification Strategy (2001). In 2001 the Stellenbosch Municipality

appointed planning consultant to “*prepare a densification strategy that will give pragmatic meaning to achieving the vision and objectives for a more compact urban form of development for the town of Stellenbosch*”. According to their report subdivisions and 2nd dwellings should be promoted in Dalsig – see Figure 3 below:

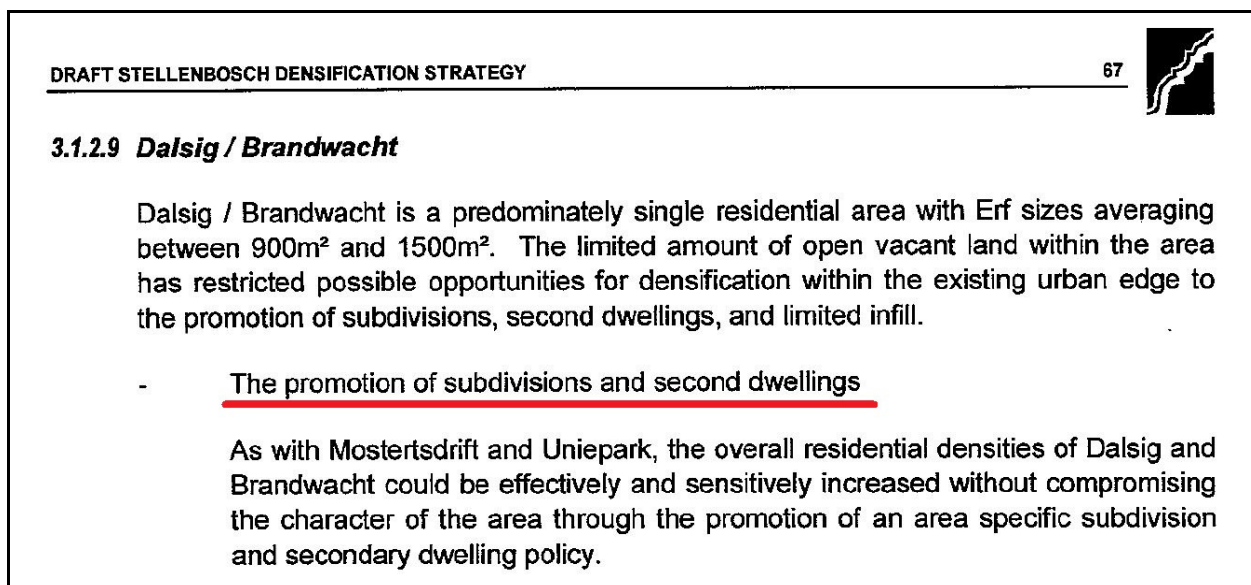


Figure 3: Extract of the draft Stellenbosch Densification Strategy (2001)

- The subject property is zoned i.t.o. the Stellenbosch Municipality’s Zoning Scheme By-Law, 2019 Conventional Residential Zone. According to the Zoning Scheme By-Law, the purpose of this Zone is to inter alia “*make provision for moderate densification through additional dwellings of similar built form and character*”. This land use planning application – to develop a 2nd dwelling – supports the purpose of the Conventional Residential Zone.
- This vision for the densification of Stellenbosch is also reflected by the Stellenbosch Municipal Spatial Development Framework (MSDF) which states, “*dwelling densities have increased in Stellenbosch, but are still significantly lower than the targeted density of set in planning policies and studies of 25du/ha*”. The MSDF advocates the densification of Stellenbosch in order to protect the rural and agricultural hinterland. It is the MSDF’s aim to increase the town’s residential density to ±25du/ha and the ways to densify is via the recommendations of the relevant spatial planning policies and regulations, such as the draft Stellenbosch Densification Strategy (2001), the Stellenbosch Subdivision Policy (2003), the Stellenbosch Municipality Zoning Scheme By-Law (2019) and the Adam Tas Corridor Project (2022). In order to

achieve this vision of 25du/ha Council must approve the subdivisions of large erven and the construction of 2nd dwellings on residential erven.

- The 2nd dwelling development proposal – to sensibly densify Dalsig – is therefore consistent with the Stellenbosch Municipality’s densification vision and spatial planning policies and regulations and should be supported by the Town Planning Department.
- The proposed development will not create a precedent for 2nd dwellings in Dalsig as Council has already approved numerous applications for subdivision / 2nd dwellings, such as – see Figures 4 to 6 below:



Figure 4: Subdivision in Park Street



Figure 5: Subdivision in Piet Retief Street



Figure 6: Subdivision in Welgevallen Street

- The restrictive title conditions were imposed because of the absence of a zoning scheme. The proposed 2nd dwelling development will not worsen the character of the

residential area as similar subdivisions and 2nd dwellings have been approved by Council, without causing the deterioration of the residential area.

6. Motivation for the relaxation of the street building line

Application is made for the relaxation of the street building line from 4m to 3m to accommodate the new dwellings – see Figure 7 below.

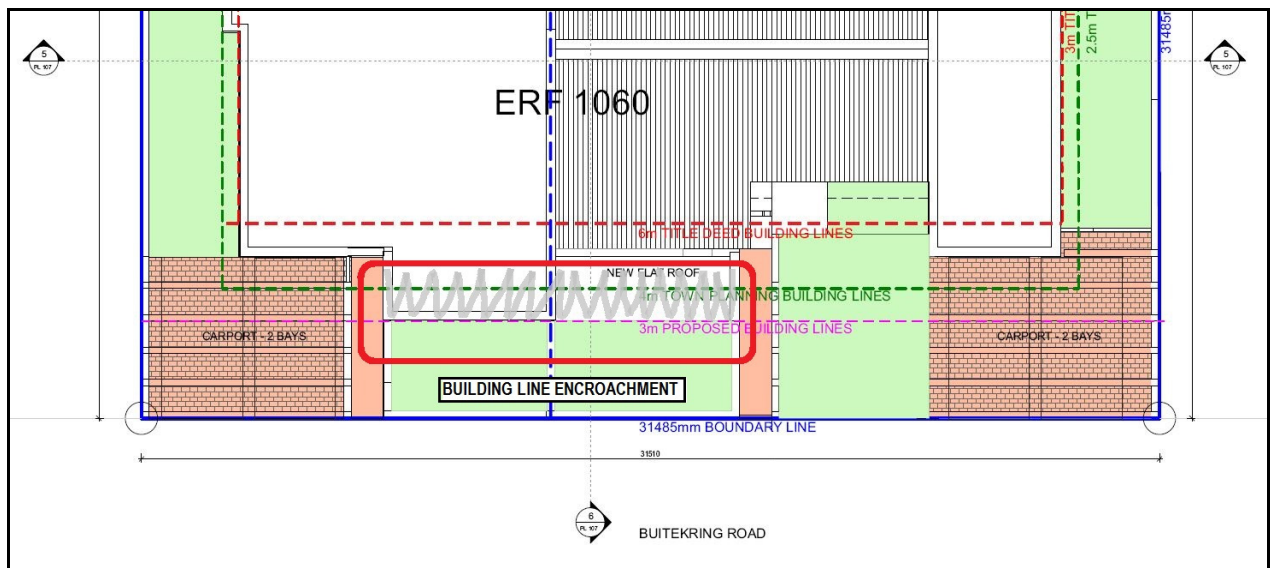


Figure 7: Proposed street building line encroachment

Buitekring Street has a very wide road reserve of $\pm 18\text{m}$ with a sidewalk that is $\pm 6\text{m}$ wide. In other words, the newly erected dwellings (with the building line encroachment) will be located $\pm 9\text{m}$ from the actual black top / road surface. The impact of the building line relaxation will therefore not adversely affect any of the neighbouring properties, nor will it pose a safety risk for pedestrians or motorists. It will be located behind a boundary fence and will scarcely be noticeable from the public road or surrounding properties. In other words, the proposed building line encroachment will have a negligible impact on the surrounding environment.

7. List of supporting documents

Find attached hereto the following supporting documents:

- **Section A:** Land Use Planning Application Form
- **Section B:** Power of Attorney

- **Section C:** Title Deed and General Plan
- **Section D:** Conveyancer Certificate
- **Section E:** Locality Plan and Site Development Plan

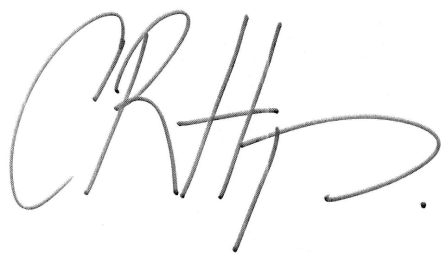
8. Conclusion

The purpose of this land use planning application is to obtain the Stellenbosch Municipality's planning approval for the removal of outdated and restrictive title conditions, a technical approval for a 2nd dwelling and for the relaxation of the street building line. This will allow the landowner to construct a second dwelling on the subject property which is already permissible i.t.o. the erf's zoning (i.e. a second dwelling is a permissible additional land use). The impact of a second dwelling is deemed to be desirable and will contribute to the sensible densification of Stellenbosch.

The 2nd dwelling development proposal is consistent with Council's spatial planning policies (for densification). There is a need for new residential opportunities in Stellenbosch, and this development proposal will not undermine the single residential character of the area but will support Council's vision for the sensible densification of urban areas in Stellenbosch. For this reason, we deem this densification development proposal to be desirable and we respectfully request the application be granted.

We trust the information provided will suffice in processing the land use planning application. However, 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 in order to process the application.

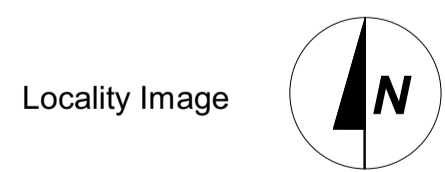
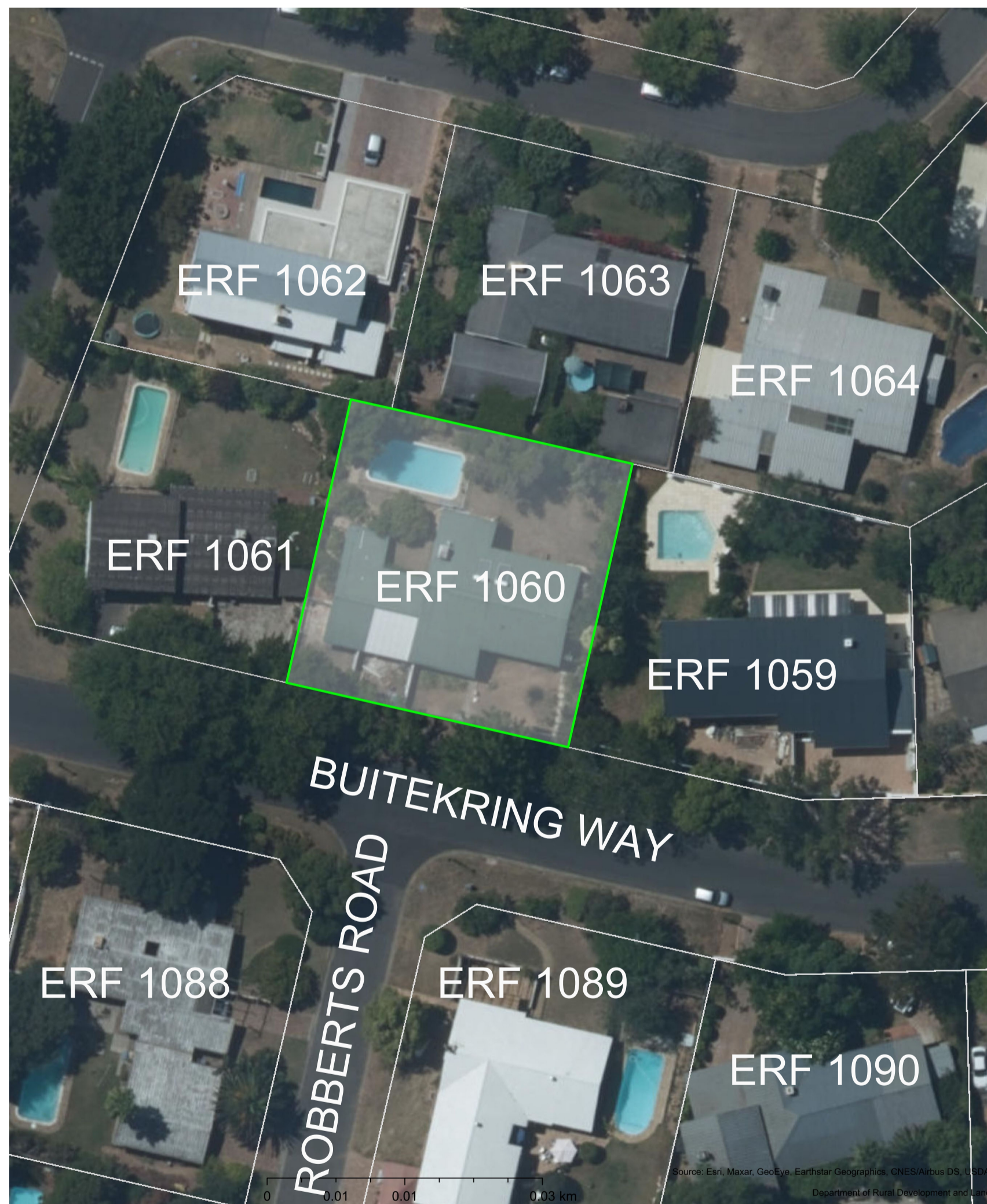
Yours faithfully



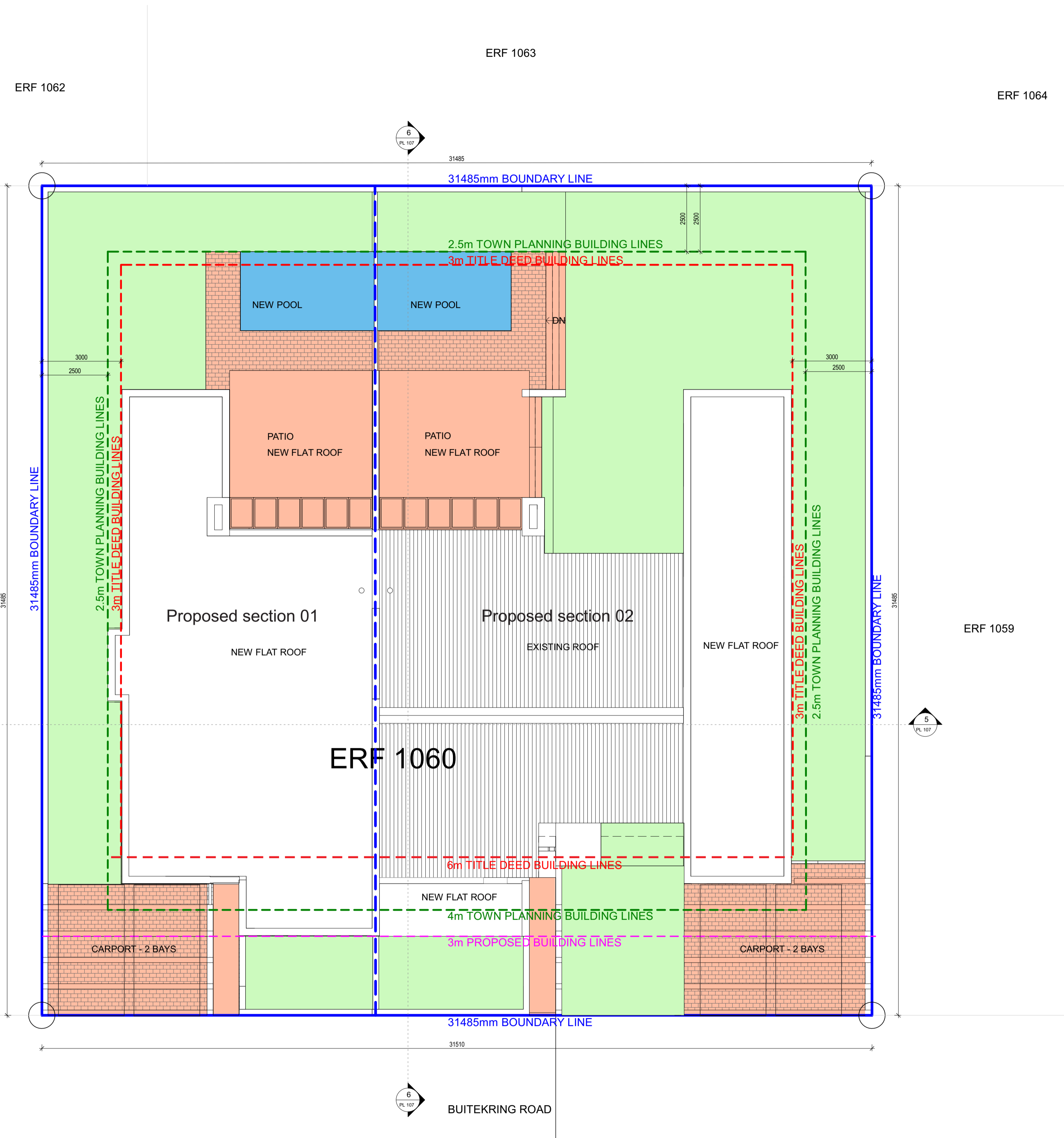
CLIFFORD HEYS

TV3 PROJECTS (PTY) LTD

STAND 1060, 52 BUITEKRING ROAD, DALSIG, STELLENBOSCH					
BUILDING DEVELOPMENT PARAMETERS OF APPLICATION SITE					
STAND SIZE:	991sqm				
DEVELOPMENT RULE	PERMISSIBLE		PROPOSED	APPLICATIONS REQUIRED	
	ZONING SCHEME	TITLE DEED		ZONING SCHEME	TITLE DEED
STREET BOUNDARY BUILDING LINE	4,0m	6,096m (20ft)	3,0m	New Proposed	New Proposed
COMMON BOUNDARY BUILDING LINES	2,5m	3,048m (10ft)	2,5m to comply with Zoning Scheme.	Compliant	New Proposed
MAXIMUM COVERAGE	50% (495,50 sqm)	33,3% (330,33 sqm)	50%	Compliant	New Proposed
MAXIMUM HEIGHT	2 storeys	n/a	2 storeys	Compliant	n/a
PARKING	3 bays	n/a	4 bays	Compliant	n/a



Locality Image



Proposed Site Plan

Site
Scale - 1 : 100

copyright

In accordance with the relevant clauses of the Copyright Act 1978 (Act 98 of 1978) relating to assignment, all documents prepared by GASS in connection with the project remain the property and copyright of GASS, subject to their use by the client for the particular project to which this document relates, and the client shall not be entitled, either directly or indirectly, to make use of the document(s) for the carrying out of any additional or similar works or publish the same except with the prior consent from GASS.

general notes

1. All work is to be done in accordance with the National Building Regulations.
2. All materials and workmanship are to comply with the relevant S.A.N.S. codes.
3. This drawing is not to be scaled. Figured dimensions to be used.
4. This drawing must be read in conjunction with all the relevant drawings and specifications issued by qualified architects, engineers, and other consultants.
5. All dimensions and levels must be checked on site by the contractor before putting work in hand.

project details

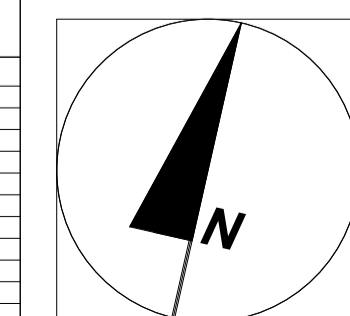
House van Dyk
52 Buitekring Way,
Dalsig, Stellenbosch
Mr & Mrs van Dyk

drawing title

Site Plan

revisions

Number	Revision Description	Date	Issued by



issued for
INFORMATION

drawing info

DRAWN	CHECKED	DATE	SCALE
Author	Checker	SCALE: As indicated @ A1	
drawing number			
PROJECT NUMBER	SHEET NUMBER	PROJECT STAGE	REVISION
123	PL 110	C	

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JHB: +27 11 482 2045 CT: +27 21 001 0210 F: +86 686 4999
E: gv9@gass.co.za W: www.gass.co.za pr.Arch: fg van gass - SACAP # 6802