

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

### PROPOSED REZONING, SUBDIVISION AND LAND USE DEPARTURES: ERF 2681 FRANSCHHOEK

Application Address: **Corner of Hugenote and Louis Botha Streets, Franschhoek**

Applicant: **David Hellig and Abrahamse Professional Land Surveyors**  
Tel: **021 872 4086**  
Email: **plan@dhaa.co.za**

Owner: **Mr Ludwig Maske**  
Tel: **021 876 3775**  
Email: **info@lacotte.co.za**

Application Reference: **LU/13305**

Description of land development application:

**Application is made in terms of Section 15(2)(a) of the Stellenbosch Municipal Land Use Planning By-Law, 2015 for the rezoning of Erf 2681 Franschhoek from Limited Use and Conventional Residential Zones to Subdivisional Area to make provision for one (1) Mixed-Use erf, three (3) Conventional Residential Zone erven and two (2) Public Road and Parking Zone erven.**

**Application is also made in terms of Section 15(2)(d) of the Stellenbosch Municipal Land Use Planning By-Law, 2015 for the subdivision of Erf 2681 Franschhoek into six portions:**

- a) Portion 1 ( $\pm 641$  m<sup>2</sup> zoned Mixed-Use Zone)**
- b) Portion 2 ( $\pm 1\,380$  m<sup>2</sup> zoned Conventional Residential Zone)**
- c) Portion 3 ( $\pm 1\,038$  m<sup>2</sup> zoned Conventional Residential Zone)**
- d) Portion 4 ( $\pm 1\,827$  m<sup>2</sup> zoned Conventional Residential Zone)**
- e) Portion 5 ( $\pm 12$  m<sup>2</sup> zoned Public Roads and Parking Zone)**
- f) Portion 6 ( $\pm 12$  m<sup>2</sup> zoned Public Roads and Parking Zone)**

**Application is also made in terms of Section 15(2)(d) of the Stellenbosch Municipal Land Use Planning By-Law, 2015 for the registration of:**

- a) 1,10 m reciprocal services right of way servitude for maintenance purposes, indicated as line a-b, being registered over Portion 1 in favour of Portion 2 and over Portion 2 in favour of Portion 1.**
- b) 3 m right of way servitude over Portion 3 in favour of Portion 4 for access to Louis Botha Street.**

**Application is also made in terms of Section 15(2)(b) of the Stellenbosch Municipal Land Use Planning By-Law, 2015 for departures:**

- a) Relax the parking requirements for Portion 1 (Business premises) from 14 parking bays to 6 parking bays.**
- b) Relax the northern street building line for Portion 2 along Louis Botha Street from 4 m to 0,6 m to accommodate the existing residential dwelling.**
- c) Relax the southern common building line between Portion 2 and Erf 1704 Franschhoek from 2,5 m to 1,6 m to accommodate the existing braai and patio area.**
- d) Relax the common building line between Portion 1 and Portion 2 from 2,5 m to 0,5 m as a result of the new subdivisional line.**

Notice is hereby given in terms of the said By-Law that the abovementioned 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 By-Law to the Applicant by electronic mail as follows: **David Hellig and Abrahamse Professional Land Surveyors (Email: plan@dhaa.co.za)**. By lodging an objection, comment or representation, the person doing so acknowledges that information may be made available to the public and to the applicant.

The comments must be submitted within **30 days** from the date of this notice to be received on or before the closing date of **19-03-2022**.

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 **021 872 4086** during normal office hours.

**DATE OF NOTIFICATION: 17-02-2022**

## KENNISGEWING VAN GRONDONTWIKKELINGSAANSOEK IN DIE STELLENBOSCH MUNISIPALE AREA

### VOORGESTELDE HERSONERING, ONDERVERDELING EN GRONDGEBRUIK AFWYKINGS: ERF 2681 FRANSCHHOEK

Adres van eiendom: **Hoek van Hugenate en Louis Botha Strafe, Franschhoek**

Aansoeker: **David Hellig en Abrahamse Professionele Landmeters**  
Tel: 021 872 4086  
E-pos: plan@dhaa.co.za

Eienaar: **Mnr Ludwig Maske**  
Tel: 021 876 3775  
E-pos: info@lacotte.co.za

Aansoek Verwysing: **LU/13305**

Beskrywing van grondontwikkelingsaansoek:

**Aansoek word gedoen ingevolge Artikel 15(2)(a) van die Stellenbosch Munisipale Grondgebruikbeplanningsverordening, 2015 vir die hersonering van Erf 2681 Franschhoek vanaf Beperkte Gebruik en Konvensionele Residensiële Sones na Onderverdelingsgebied om voorsiening te maak vir een (1) Gemengde Gebruik erf, drie (3) Konvensionele Residensiële Sone erwe en twee (2) Openbare Pad en Parkeer Sone erwe.**

**Aansoek word ook gedoen ingevolge Artikel 15(2)(d) van die Stellenbosch Munisipale Grondgebruikbeplanningsverordening, 2015 vir die onderverdeling van Erf 2681 Franschhoek in ses gedeeltes:**

- a) **Gedeelte 1 (± 641 m<sup>2</sup> gesoneer Gemengde Gebruik Sone)**
- b) **Gedeelte 2 (± 1 380 m<sup>2</sup> gesoneer Konvensionele Residensiële Sone)**
- c) **Gedeelte 3 (± 1 038 m<sup>2</sup> gesoneer Konvensionele Residensiële Sone)**
- d) **Gedeelte 4 (± 1 827 m<sup>2</sup> gesoneer Konvensionele Residensiële Sone)**
- e) **Gedeelte 5 (± 12 m<sup>2</sup> gesoneer Openbare Pad en Parkeer Sone)**
- f) **Gedeelte 6 (± 12 m<sup>2</sup> gesoneer Openbare Pad en Parkeer Sone)**

**Aansoek word ook gedoen ingevolge Artikel 15(2)(d) van die Stellenbosch Munisipale Grondgebruikbeplanningsverordening, 2015 vir die registrasie van:**

- a) **1,10 m wederkerige dienste reg-van-weg serwituut vir instandhoudingsdoeleindes, aangedui as lyn a-b en word geregistreer oor Gedeelte 1 ten gunste van Gedeelte 2 en oor Gedeelte 2 ten gunste van Gedeelte 1.**
- b) **3 m reg-van-weg serwituut oor Gedeelte 3 ten gunste van Gedeelte 4 vir toegang tot Louis Botha Straat.**

**Aansoek word ook gedoen ingevolge Artikel 15(2)(b) van die Stellenbosch Munisipale Grondgebruikbeplanningsverordening, 2015 vir afwykings:**

- a) **Verlapping van die parkeervereistes vir Gedeelte 1 (Besigheidsperseel) van 14 parkeerplekke tot 6 parkeerplekke.**
- b) **Verlapping van die noordelike straatboulyn vir Gedeelte 2 langs Louis Botha Straat van 4 m tot 0,6 m om die bestaande residensiële woning te akkommodeer.**
- c) **Verlapping van die suidelike gemeenskaplike boulyn tussen Gedeelte 2 en Erf 1704 Franschhoek van 2,5 m tot 1,6 m om die bestaande braai en patio area te akkommodeer.**
- d) **Verlapping van die gemeenskaplike boulyn tussen Gedeelte 1 en Gedeelte 2 van 2,5 m tot 0,5 m as gevolg van die nuwe onderverdelingslyn.**

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.

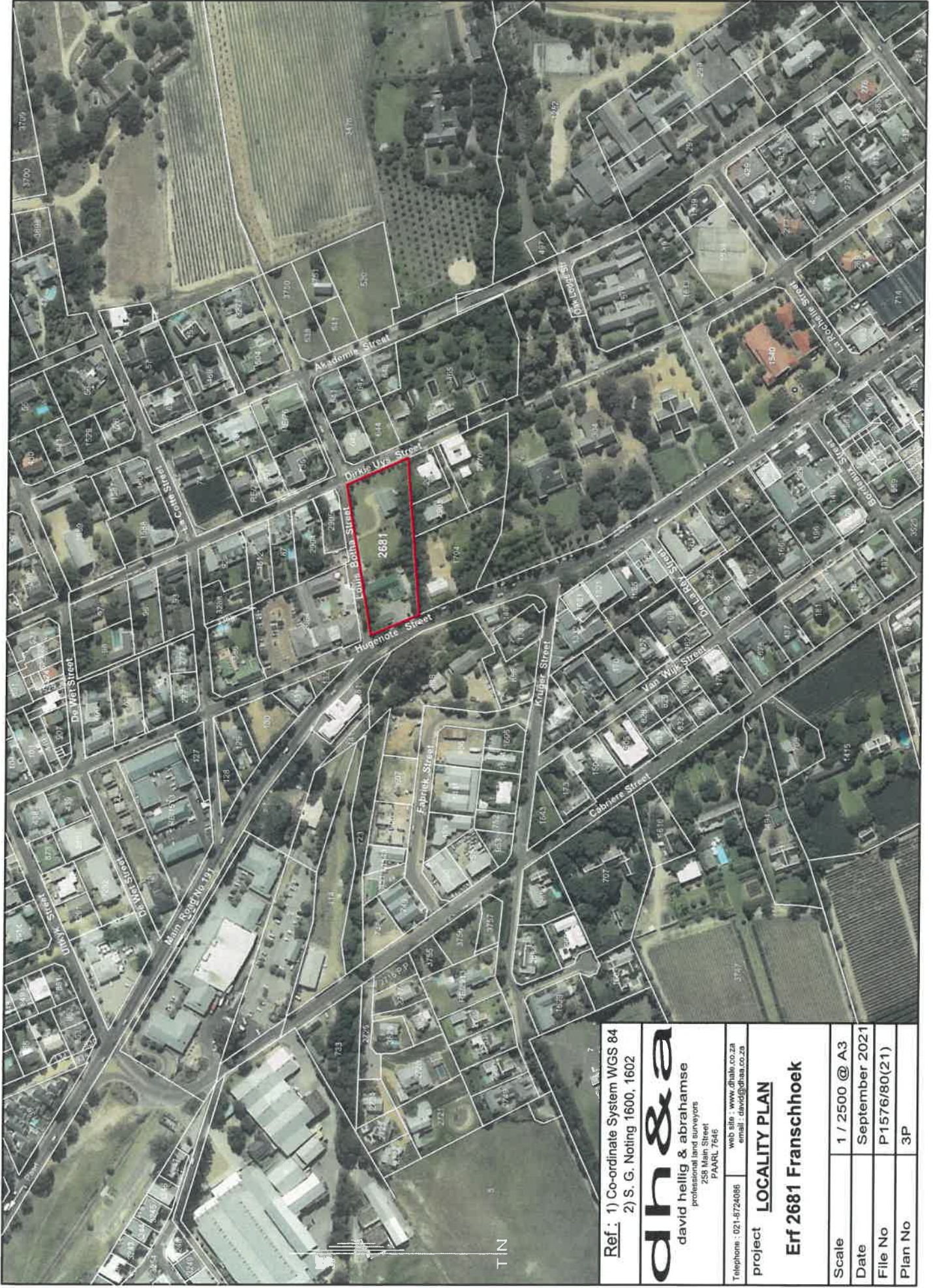
Skriftelike kommentaar, wat besonderhede ten opsigte van die verwysings nommer van die aansoek, die name, fisiese adres en kontak besonderhede van die persoon wat die kommentaar lewer, die redes vir die kommentaar, en die belang van die persoon wat die kommentaar lewer in die aansoek, kan ingedien word in terme van Artikel 50 van genoemde Verordeninge aan die Aansoeker by wyse van elektroniese pos as volg: **David Hellig en Abrahamse Professionele Landmeters (E-pos: [plan@dhaa.co.za](mailto:plan@dhaa.co.za))**. Deur 'n beswaar, kommentaar of versoë te rig, erken die persoon wat dit doen dat inligting aan die publiek en aan die aansoeker beskikbaar gestel kan word.

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 **19-03-2022**.

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 vermeldde elektroniese pos adres of telefonies by **021 872 4086** gedurende normale kantoor ure.

**KENNISGEWINGSdatum: 17-02-2022**





TIN

Ref: 1) Co-ordinate System WGS 84  
 2) S. G. Noting 1600, 1602

**dn&a**  
 david hellig & abrahamse  
 professional land surveyors  
 258 Main Street  
 PAARL 7646

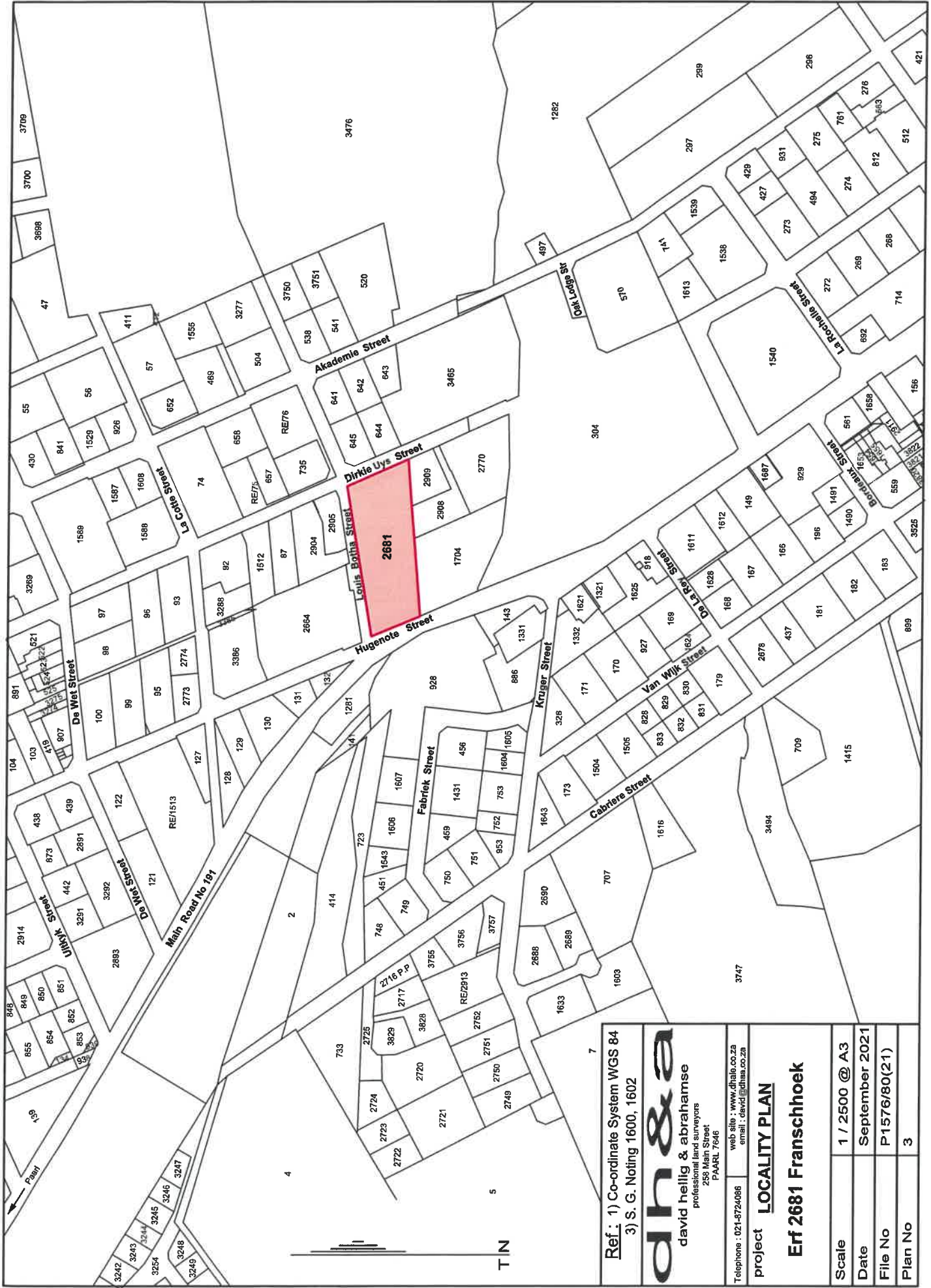
Telephone : 021-8724086  
 web site : www.dhaha.co.za  
 email : david@dhaha.co.za

project **LOCALITY PLAN**

**Erf 2681 Franschoek**

Scale	1 / 2500 @ A3
Date	September 2021
File No	P1576/80(21)
Plan No	3P





Ref: 1) Co-ordinate System WGS 84  
 3) S. G. Noting 1600, 1602

**dh&a**  
 david hellig & abrahamse  
 professional land surveyors  
 286 Main Street  
 PAARL 7646

Telephone : 021-8724086  
 web site : www.dhale.co.za  
 email : david@dhale.co.za

project **LOCALITY PLAN**  
**Erf 2681 Franschoek**

Scale	1 / 2500 @ A3
Date	September 2021
File No	P1576/80(21)
Plan No	3

# **PLANNING REPORT**

## **PROPOSED REZONING, SUBDIVISION AND LAND USE DEPARTURES OF ERF 2681 FRANSCHHOEK**

**OUR REF: P1576/80(21)A**

**Compiled by:**

**David Hellig and Abrahamse**

**Professional Land Surveyors**

**SEPTEMBER 2021**

## 1. INTRODUCTION

Erf 2681 Franschhoek, measuring 4 910 square metres in extent, is situated at the corner of Hugenote and Louis Botha Streets, Franschhoek within the area of jurisdiction of the Stellenbosch Municipality, Administrative District of Paarl and is registered in the name of Mr Ludwig Maske vide Deed of Transfer No T50156/2010.

The western portion of the subject land unit comprises existing building infrastructure viz a bottle store (La Cotte Inn Wine Sales), residential dwelling unit, garages, store, braai and patio area and swimming pool, while the eastern portion of the subject land unit comprises a residential dwelling unit as indicated on the enclosed Plan of Subdivision No 2 Rev 3.

The purpose of this application is for the rezoning of the subject land unit to Subdivisional Area to accommodate the different land uses on site and the simultaneous subdivision thereof into six portions viz three Conventional Residential Zone portions, one Mixed Use Zone portion and two Public Roads and Parking Zone (Street) portions.

## 2. PROPERTY DETAILS

SUBJECT LAND UNIT				
PROPERTY DESCRIPTION	EXTENT	REGISTERED LANDOWNER	DEED OF TRANSFER	EXISTING ZONING
Erf 2681 Franschhoek	4 910 square metres	Ludwig Maske	T50156/2010	Limited Use and Conventional Residential Zones



3. LOCATION

The red polygon in Figure 1 below indicates the location of the subject land unit and Figure 2 indicates the existing building infrastructure.



Figure 1: Location of the subject land unit



Figure 2: Existing building infrastructure on the subject land unit

**4. STELLENBOSCH MUNICIPALITY ZONING SCHEME BY-LAW, 2019**

In terms of the Stellenbosch Zoning Scheme By-Law, 2019 the subject land unit has a split zoning of Limited Use and Conventional Residential Zones as indicated in the figure below.



**Figure 3: Extract of the Stellenbosch Municipality Zoning Map : Franschhoek 2**

**5. PREVIOUS LAND USE PLANNING APPROVAL**

The Stellenbosch Municipality granted the following Approval vide Ref FH 81 dated 23-03-2002 as follows:

- In terms of Section 16(2) of the Land Use Planning Ordinance No 15/1985 for the rezoning of a portion of Erf 81 Franschhoek for Single Residential purposes.
- In terms of Section 15 of the Land Use Planning Ordinance No 15/1985 for a departure to permit the approval of an additional dwelling.

The rezoning approval has been acted upon and the single residential dwelling duly constructed, however the additional dwelling unit was never constructed and therefore the departure approval has subsequently lapsed.

A copy of the abovementioned approval is enclosed herewith as an Annexure to the application in Para 11 of our covering letter.

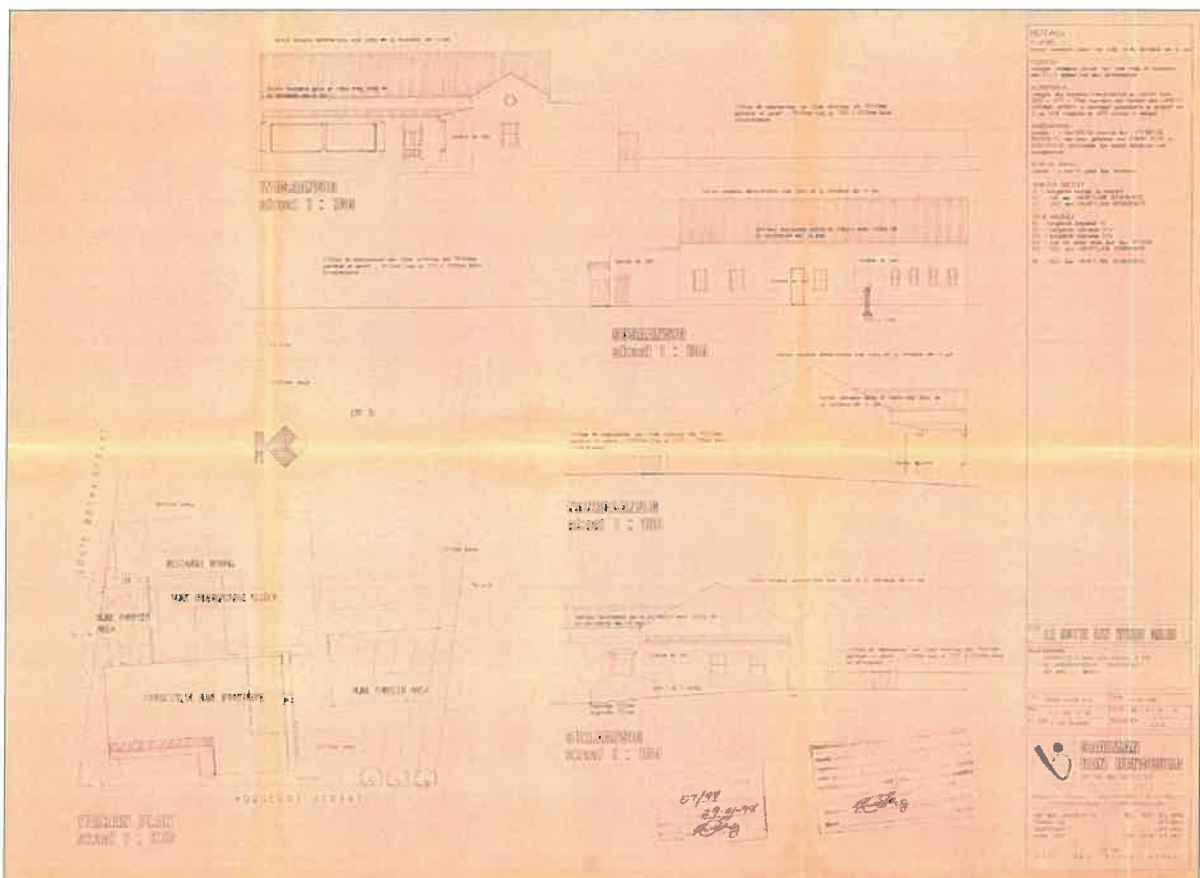
**6. APPROVED BUILDING PLANS AND IMPLIED LAND USE RIGHTS**

Copies of the relevant approved building plans, which were obtained from the client, were thoroughly assessed in terms of the land uses indicated thereon and correlated with the current land uses and building footprints.

A detailed topographical survey of the building infrastructure comprising a bottle store, two residential dwellings, garages and associated buildings was undertaken by us in June 2021 and a Topographical Plan prepared to calculate the as-built extents of the various building footprints. A short summary of the series of approved Building Plans relating to the existing building infrastructure on the subject land unit is provided below.

**A. BOTTLE STORE**

The building plans in respect of the bottle store situated on the western portion of the subject land unit were approved by the then Franschhoek Municipality on 29-01-1998 vide Building Plan Drawing No 66/M/97-01 dated July 1997.

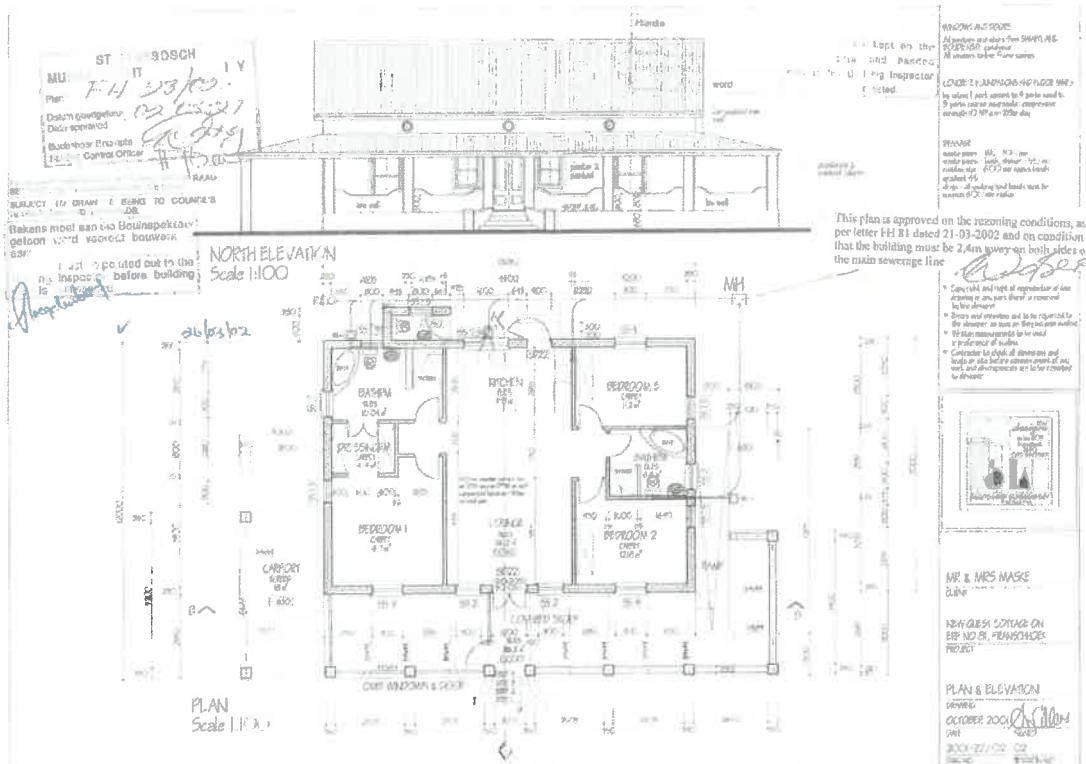
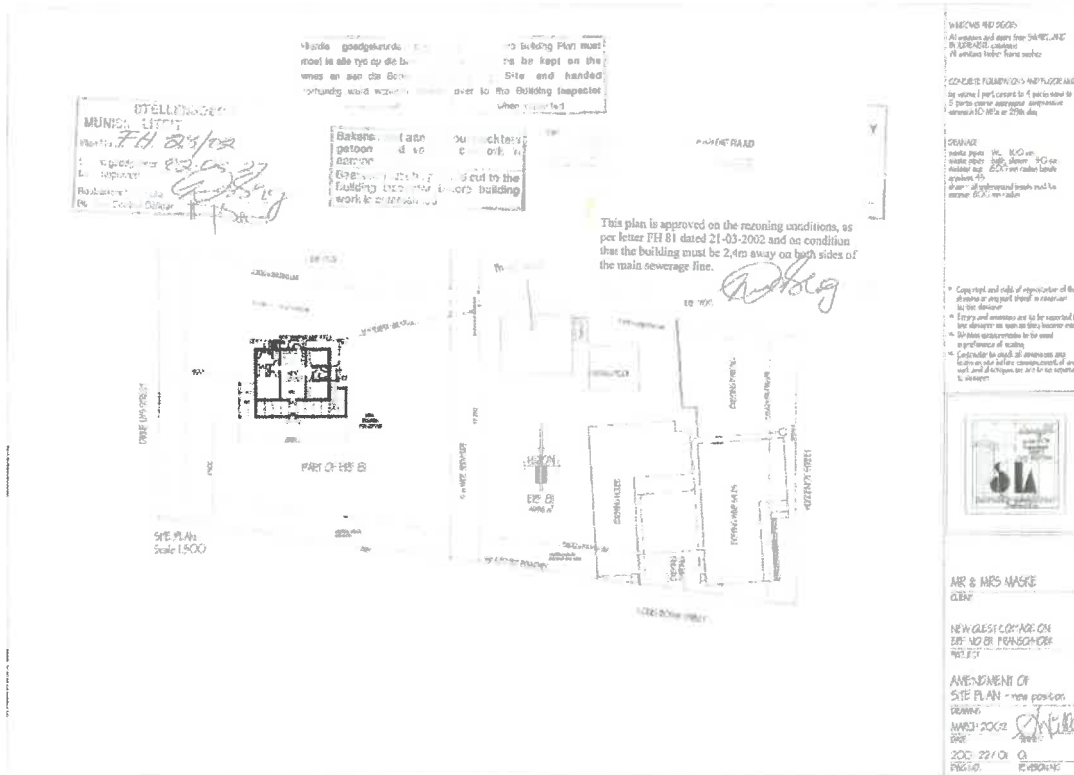


**Figure 4: Building Plan in respect of bottle store**



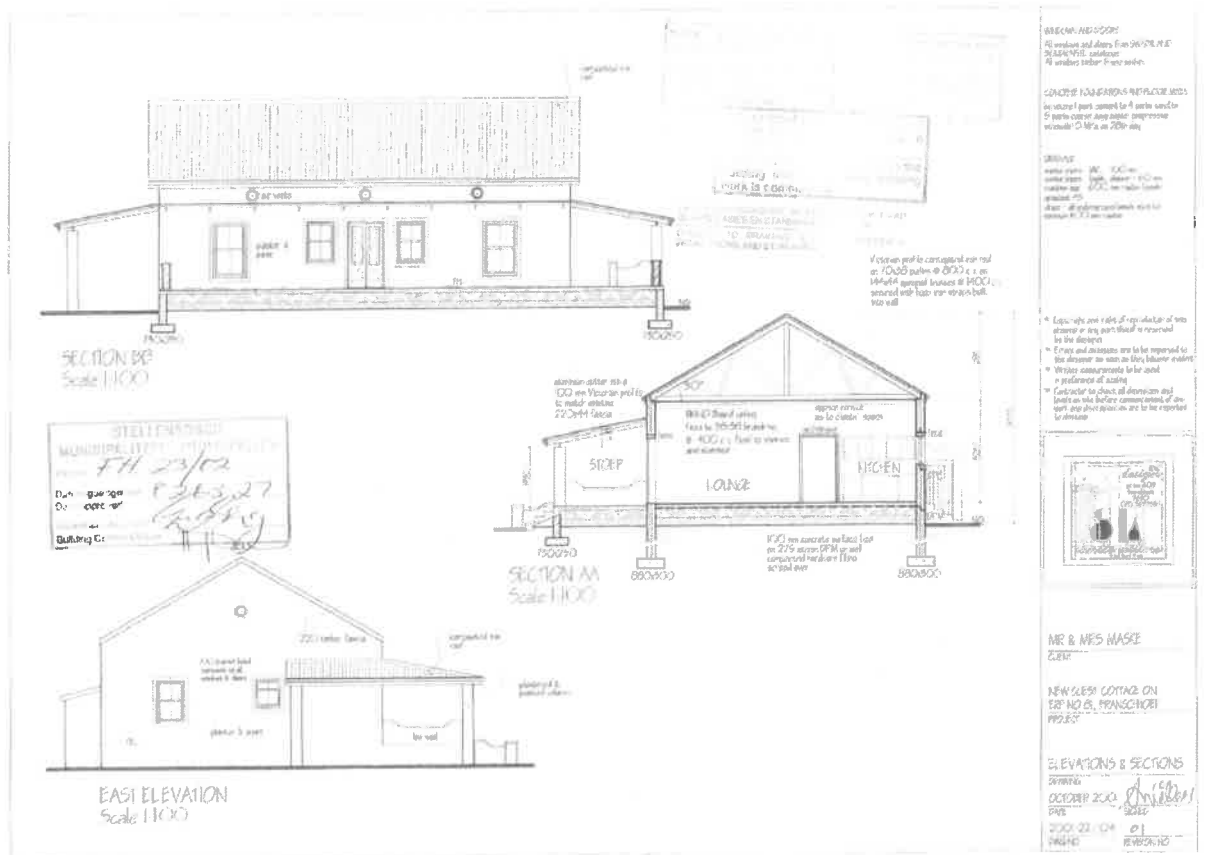
**B. RESIDENTIAL DWELLING HOUSE**

The building plans in respect of the residential dwelling house situated on the eastern portion of the subject land unit were approved by the Stellenbosch Municipality on 27-03-2002 vide Building Plan Drawing Nos 2001-22/01 – 2001-22/04 dated October 2001 and March 2002.



Figures 5 and 6: Building Plans in respect of Site and Floor Plans

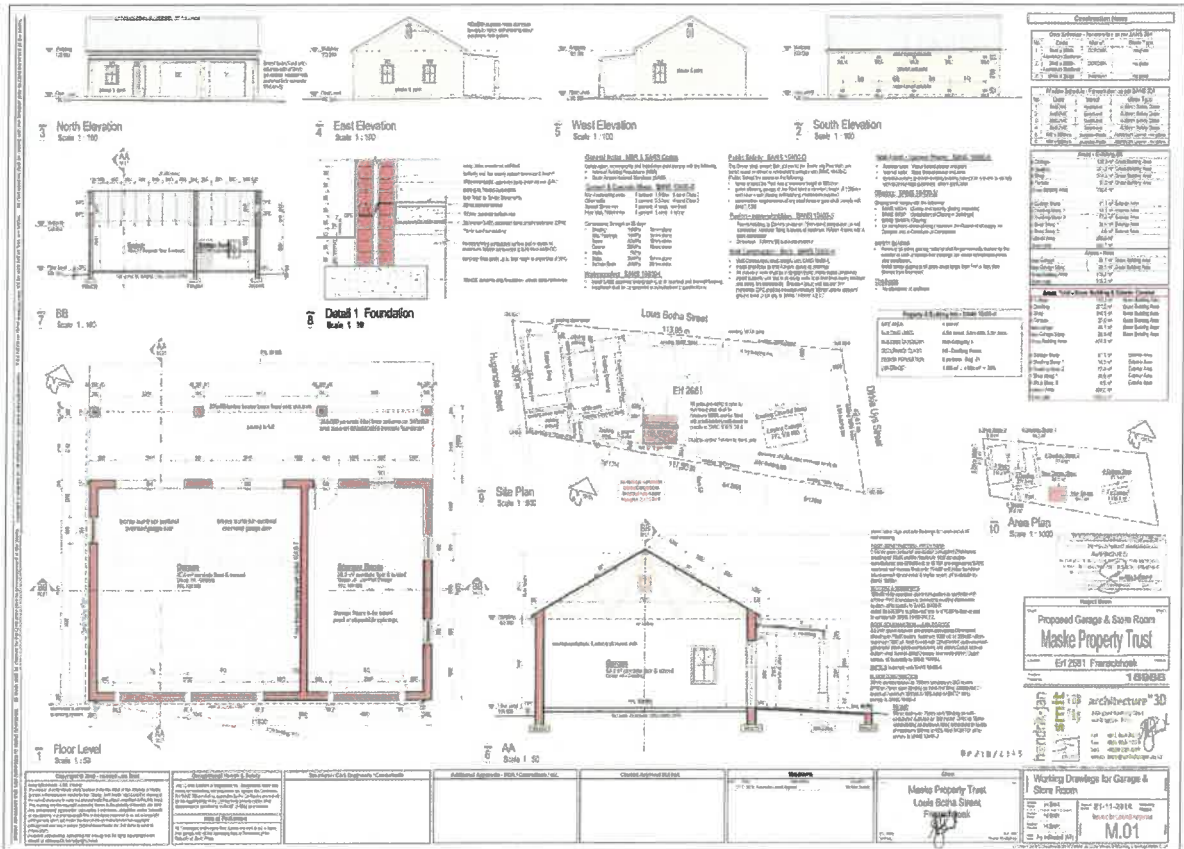




Figures 7 and 8: Building Plans in respect of Elevation and Section Plans

**C. GARAGE / STORAGE ROOM**

The building plans in respect of the garage / storage room situated on the southern boundary of the subject land unit were approved by the Stellenbosch Municipality on 01-03-2019 vide Building Plan Drawing No M.01 dated 21-11-2018.



**Figure 9: Building Plan in respect of garage / storage room**

It is important to consider the existing land use rights lawfully accrued in terms of the provisions of the Land Use Planning Ordinance No 15/1985 (LUPO) relating to the approval of the Building Plans, which is also acknowledged and respected in terms of the transitional arrangements of the current presiding planning legislative framework.

Section 39(2) of LUPO dealing with compliance with the provision of the Zoning Scheme reads as follows :

- “(2) No person shall –
- (a) contravene or fail to comply with –
- (i) the provisions incorporated in a zoning scheme in terms of this Ordinance, or
- (ii) conditions imposed in terms of this Ordinance or in terms of the Townships Ordinance, 1934 (Ordinance 33 of 1934),

except in accordance with the intention of a plan for a building as approved and to the extent that such plan has been implemented, or

b) utilise the land for a purpose or in a manner other than that intended by a plan for a building as approved and to the extent that such plan has been implemented.”

From the above, it is clear that the act of approving building plans confers and grants the applicable land use rights to a property.

In terms of the current legislative regime, the land use rights accrued from building plan approval under LUPO, which has since been repealed, are recognised and acknowledged in terms of Section 34(4) of the Western Cape Land Use Planning Act, as indicated in the below extract, which sets out the principle that all land use rights granted in terms of prior legislation must be recognised and protected when Municipalities implement their new Zoning Schemes.

(4) When determining a zoning or a deemed zoning in terms of subsection (1), (2) or (3), a municipality must have regard to at least—

- (a) the lawful utilisation of the land, or the purpose for which it could be lawfully utilised immediately before the commencement of this Act if it can be determined;
- (b) the zoning, if any, that is most compatible with that utilisation or purpose and any applicable title deed condition;
- (c) any departure or consent use that may be required in conjunction with that zoning;
- (d) in the case of land that was vacant immediately before the commencement of this Act, the utilisation that is permitted in terms of the title deed conditions or, where more than one land use is so permitted, one of such land uses determined by the municipality; and
- (e) where the lawful utilisation of the land and the purpose for which it could be lawfully utilised immediately before the commencement of this Act, cannot be determined, the zoning that is the most desirable and compatible with any applicable title deed condition, together with any departure or consent use that may be required.

**Figure 10: Extract of LUPA Act No 3/2014**

Under Section 8 of the Stellenbosch Zoning Scheme By-Law, 2019 with the heading **Transitional arrangements and existing schemes**, subsection (3) and (5) read as follows:

“(3) Buildings constructed lawfully and in accordance with an approved building plan, which has been approved in terms of a former scheme, will not be contravening this Scheme but will be a lawful non-conforming use.

“(5) Where a land use, at the commencement of this Scheme, has lawfully commenced and, although it has been a primary or consent use in terms of a former scheme, it is no longer

permitted in that zone in this Scheme, it is a **lawful non-conforming right**, and it remains a lawful land use, until the activity ceases, at which time the use may not continue or restart again without the required application. The activity may not be altered, expanded or changed unless the property rezoned to a zone which would permit the activity and alterations to be approved.

In light of the above, the Municipality must consider the following criteria in zoning determinations for lawful land uses :

- Land use planning approvals.
- All existing approved Building Plans which have been implemented in terms of the land uses indicated thereon.
- Existing land uses lawfully established prior to the introduction of the Land Use Planning Ordinance No 15/1985.

The portion of the subject land unit currently zoned as Limited Use Zone restricts the use of the land unit to the existing lawfully established land uses and this zoning therefore caps the use of the existing buildings on the property.

To reiterate, the act of approving building plans by the Municipality and the utilisation thereof automatically entrenches the land use rights in respect of the existing building infrastructure.

## **7. PRE-APPLICATION CONSULTATION PROCESS**

A formal pre-application consultation process was followed as prescribed in terms of Section 37 of the Stellenbosch Land Use Planning By-Law, 2015.

The following municipal departments provided their comments / feedback:

- Land Use Management (Town Planning)
- Infrastructure Services (Engineering)
- Community and Protection Services (Environmental)
- Heritage Resource Management (Heritage)

Please note that the Department: Spatial Planning did not provide comments during the pre-application consultation process.

The email correspondence with the various municipal departments in respect of this process is enclosed as an Annexure to the application.



## 8. APPLICATION PROPOSAL

Application is hereby submitted for the following:

### A. REZONING

- (i) In terms of **Section 15(2)(a)** of the Stellenbosch Municipal Land Use Planning By-Law, 2015 for the **REZONING** of Erf 2681 Franschhoek from **Limited Use** and **Conventional Residential Zones** to **Subdivisional Area**.

### B. SUBDIVISION

- (ii) In terms of **Section 15(2)(d)** of the Stellenbosch Municipal Land Use Planning By-Law, 2015 for the **SUBDIVISION** of the **rezoned land unit** into six portions *viz*:

- **Ptn 1**, measuring ± 641 square metres in extent : Mixed-Use Zone
- **Ptn 2**, measuring ± 1 380 square metres in extent : Conventional Residential Zone
- **Ptn 3**, measuring ± 1 038 square metres in extent : Conventional Residential Zone
- **Ptn 4**, measuring ± 1 827 square metres in extent : Conventional Residential Zone
- **Ptn 5**, measuring ± 12 square metres in extent : Public Roads and Parking Zone
- **Ptn 6**, measuring ± 12 square metres in extent : Public Roads and Parking Zone

### C. REGISTRATION OF SERVITUDES

- (iii) In terms of **Section 15(2)(d)** of the Stellenbosch Municipal Land Use Planning By-Law, 2015 for the **REGISTRATION OF A SERVITUDE** as follows:

- The line a b represents the centreline of a reciprocal services right of way and maintenance servitude 1,10 m wide to be registered over Ptn 1 in favour of Ptn 2 and over Ptn 2 in favour of Ptn 1, as the case may be.
- The line c d represents the eastern boundary of a servitude road 3 m wide to be registered over Ptn 3 in favour of Ptn 4 for access to Louis Botha Street.

### D. PERMANENT DEPARTURES

- (iv) In terms of **Section 15(2)(c)** of the Stellenbosch Municipal Land Use Planning By-Law, 2015 for **PERMANENT DEPARTURES** from the development parameters as contained in the Zoning Scheme By-Law, 2019 as follows:

- Ptn 1: Mixed-Use Zone:
  - The relaxation of the parking requirements for the existing business premises viz bottle store from the required **14 parking bays** to **6 parking bays** (see Para 10 below).
- Ptn 2: Conventional Residential Zone:
  - The relaxation of the northern **street boundary building line** (Louis Botha Street) from **4 m** to **0,6 m** to accommodate the existing residential dwelling.

- The relaxation of the southern **common boundary building line** between Ptn 2 and Erf 1704 Franschhoek from **2,5 m** to **1,6 m** to accommodate the existing braai and patio area.
- The relaxation of the western **common boundary building line** between Ptns 1 and 2 from **2,5 m** to **0,5 m** as a result of the new subdivisional line.

**9. ACCESS AND SERVICES**

- The subject land unit gains direct access from the Hugenate and Louis Botha Streets.
- Ptn 1 will retain its existing access points from both Hugenate Street on its western boundary and Louis Botha Street on its northern boundary.
- Ptn 2 will retain its existing entrance from Louis Botha Street, which situated in the north eastern corner of this land unit.
- Ptn 3 will gain direct access from Louis Botha Street on its northern boundary.
- Ptn 4 will gain access via a servitude road 3 m wide to be registered over Ptn 3 to obtain access from Louis Botha Street as indicated on Plan of Subdivision No 2 Rev 3.
- Please refer to the enclosed Civil Engineering Services Report prepared by Messrs Endecon Engineers and the Electrical Services Report prepared by Messrs De Villiers & Moore Consulting Engineers regarding the existing and proposed engineering services for the subject land unit. All required services and connections will comply with municipal requirements.

**10. PARKING**

The following table indicates the prescribed parking requirements for residential dwelling houses and business premises in terms of the Stellenbosch Zoning Scheme By-Law, 2019.

<u>Land Use Category</u>	<u>Normal parking</u>	<u>Additional parking reserved for visitors</u>
Residential		
<b>Dwelling house in all zones except LFR:</b> 1 bedroom 2 or more bedrooms	1 bay/dwelling house 2 bays/dwelling house	
Business and office		
<b>Business premises:</b> including liquor store, funeral parlour, adult entertainment and similar	4 bays/100m <sup>2</sup> gross leasable area	

- The existing bottle store on Ptn 1 comprises a retail and storage area on ground floor with a GLA of 316 square metres and a small basement storage area with a GLA of 40 square metres. The combined GLA = **356 square metres**.

The bottle store therefore requires a total number of **14 parking bays**. Ptn 1 is provided with a total number of **6 parking bays** as indicated on the Plan of Subdivision.

Due consideration must be given to the fact that the bottle store is considered a **lawful non-conforming use** and therefore the shortage of parking bays is already condoned and considered a lawful use as discussed in Para 6 above. The Permanent Departure Application relating to parking as detailed in Para 8 D. will reconcile the parking shortage with the existing lawful non-confirming land use.

- The existing residential dwelling houses on Ptns 2 and 4 each require **2 parking bays**. The existing garages on Ptn 2 provide sufficient parking to this land unit, while sufficient on-site parking is provided for Ptn 4.
- Ptn 3, which is currently undeveloped, will be provided with the necessary on-site parking bays for residential purposes as prescribed in terms of the Stellenbosch Zoning Scheme By-Law, 2019.

**11. RESTRICTIONS**

The title deed of the subject land unit contains no restrictive conditions prohibiting the proposed rezoning and subdivision.

**12. MOTIVATION**

**12.1 Stellenbosch Municipality Spatial Development Framework, 2019**

The subject land unit is situated within the existing urban edge of Franschhoek, which has been identified as a loci for future development within the Stellenbosch MSDF.

In terms of the Franschhoek Concept Map contained in the Stellenbosch MSDF, 2019 the subject land unit abuts the Main Road “*MU / Intensification Route*” and is in close proximity to a “*Proposed Transit Node*” as indicated in the figure below.

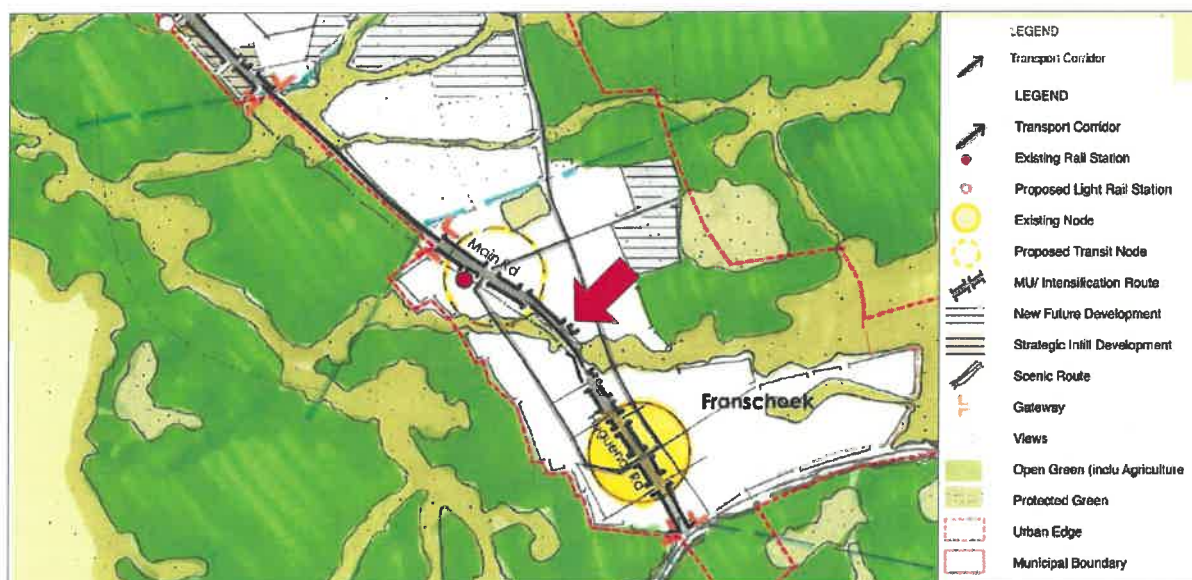


Figure 11: Franschhoek Concept Map (Stellenbosch MSDF, 2019)

In terms of the Franschhoek Framework Map contained in the Stellenbosch MSDF, 2019 the subject land unit abuts the Main Road “Activity Route” and “Sensitive Scenic Route”. The entire extent of the land unit is identified as “Existing and Proposed Urban Character Areas” (hatched in light pink) as indicated in the figure below.



**Figure 12: Franschhoek Framework Map (Stellenbosch MSDF, 2019)**

The application proposal specifically supports the following SDF Elements:

- Urban Edge
  - As a general principle, contain the footprint of Franschhoek as far as possible within the existing urban edge.
- Areas for residential densification and infill
  - Focus infill development on undeveloped land within the urban edge.
  - Ensure that future development is woven into the urban fabric of the existing town.

**12.2 Section 7 of the Spatial Planning and Land Use Management Act No 16/2013 and Section 59 of the Western Cape Land Use Planning Act No 3/2014**

The following land use planning principles prescribed in Section 7 of the Spatial Planning and Land Use Management Act No 16/2013 and Section 59 of the Western Cape Land Use Planning Act No 3/2014, being indicators of desirability which in turn is one of the criteria for decision making, are complied with as follows:

- Spatial sustainability: The subject land unit is situated within the existing urban edge which prevents urban sprawl and the application proposal will contribute to the provision of



additional residential opportunities in the town of Franschhoek. The application proposal is consistent with the overall principles and objectives contained in the Stellenbosch MSDF, 2019 and aligns with the future growth of the Stellenbosch Municipal Area which promotes spatial sustainability. The current planning permission application acknowledges previous land use planning approvals and the existing lawful land uses as established and therefore addresses the land use planning principle of spatial sustainability.

- Protection of the environment: The existing building infrastructure and proposed infrastructure on Ptn 3 will be well maintained to have no negative impact on the environment. Messrs Doug Jeffery Environmental Consultants confirmed in their letter dated 12-08-2021 (copy enclosed) that construction on any of the proposed Ptns 1 – 4 which takes place outside of the stream and the 1:100 year floodline would not trigger the provisions of NEMA or the National Water Act and therefore no Environmental Authorisation or water use permissions would be required. Please refer to the enclosed Floodline Study prepared by Messrs Graeme McGill Consulting as additional motivation in this regard.
- Efficiency: the proposal optimises the use of existing resources and infrastructure with minor upgrades where necessary. The phenomenon of urban sprawl is discouraged by the application proposal, which will result in a more compact urban area with a denser habitation. The application proposal merely represents the regularisation of the status quo and existing building infrastructure.
- Good administration: A pre-application consultation process was undertaken as prescribed in terms of the Stellenbosch Municipal Land Use Planning By-Law, 2015 to obtain inputs from the various internal municipal departments prior to the submission of the formal planning permission application to ensure that the application procedure is efficient and the decision-making is guided by statutory land use planning systems.

### 12.3 Neighbourhood and Surroundings

- The application proposal will not be in conflict with the character of the surrounding area, since the existing land uses are to be retained.
- The proposed Mixed Use zoning for Ptn 1, which is situated on the western boundary of the subject land unit, is appropriate since it will complete the belt of Mixed Use Zone properties along Hugenate Street as indicated in Figure 11: Stellenbosch Municipality Zoning Map : Franschhoek 2.
- The proposed Conventional Residential zonings for Ptns 2 – 4, which is situated on the eastern portion of the subject land unit, is appropriate since the land units along Louis Botha and Dirkie Uys Streets are residential in nature. The proposed zonings therefore align with the transition of less intensive land uses viz residential towards the east of the town into the larger agricultural land units.

- The application proposal will have no negative impact on the existing architectural style or character of the buildings situated along Hugenate Street, since no alterations to the existing building infrastructure are proposed.
- The proposed rezoning and subdivision will also have no negative impact on the Main Road “Sensitive Scenic Route” as identified in terms of the Stellenbosch MSDF, 2019, since no alteration to the existing buildings on the subject land unit or a change in land use are proposed.
- The existing land uses on the subject land unit viz a bottle store and residential dwelling houses are located in close proximity to main transportation routes e.g. Main Road No 191 (Paarl – Franschhoek) providing easy access to other towns in the region.
- With its reputable track record, the La Cotte Inn Wine Sales bottle store has already proven its importance and place within Franschhoek, which contributes significantly to the wine tourism trade and the economy and therefore the application proposal merely represents the formalisation of the applicable zoning viz Mixed Use for this specific portion of the subject land unit.

#### 12.4 Need, Desirability and Demand

- The rezoning and subdivision of the subject land unit will afford the owner security of title of the four proposed portions to operate the bottle store and establish the two existing residential dwelling houses on separate land units, with another residential opportunity being created viz Ptn 3.
- Proposed Ptn 3, which is currently undeveloped, will be developed in terms of its Conventional Residential zoning, which aligns with the future growth proposals of the Stellenbosch Municipal Area and which is desirable from a Spatial Planning point of view.
- The creation of four land units will enable the erven to be separately owned and therefore promotes the desirable concepts of ownership and security of title with its accompanying benefits.
- The application proposal will not have a negative impact on the environment, heritage or tourism resources and equates to effective and sustainable diversification at this specific location.
- With the subject land unit situated within an already well-established mixed use (along Hugenate Street) and residential area (along Louis Botha and Dirkie Uys Streets), it will achieve the desired urban form at an appropriate location as promoted by the MSDF.

#### 12.5 Optimising the Potential of the Land and Opportunity

- The approval of the application will optimise the potential of the underutilised vacant portion of the subject land unit viz Ptn 3 by the creation of an additional residential opportunity.
- The subject land unit abuts a “MU / Intensification Route” as identified by the Stellenbosch MSDF, 2019 (see Para 12.1) where more intensified land uses being mixed use in nature are encouraged. The formalisation of the existing land uses on the subject land unit and

the creation of an additional residential opportunity aligns with the MSDF in this regard and optimises the overall potential of the land unit.

- The allocation of the appropriate zonings to each subdivided portion optimises the overall potential of the subject land unit since the portion of the land unit currently zoned for Limited Use Zone purposes restricts the use of the property to the existing lawfully established land uses.
- The economic benefits of the application proposal are significant and the operation of the existing bottle store already optimises the potential of the subject land unit.
- Land units with a smaller extent, accommodating independent land uses and infrastructure, can be more easily and functionally maintained, thus creating a neat environment which contributes to the upliftment and value of the area.

### **13. CONCLUSION**

The application is essentially in respect of the subdivision of the subject land unit and the allocation of the appropriate zonings to each portion in accordance with the approved building plans and lawfully established land uses.

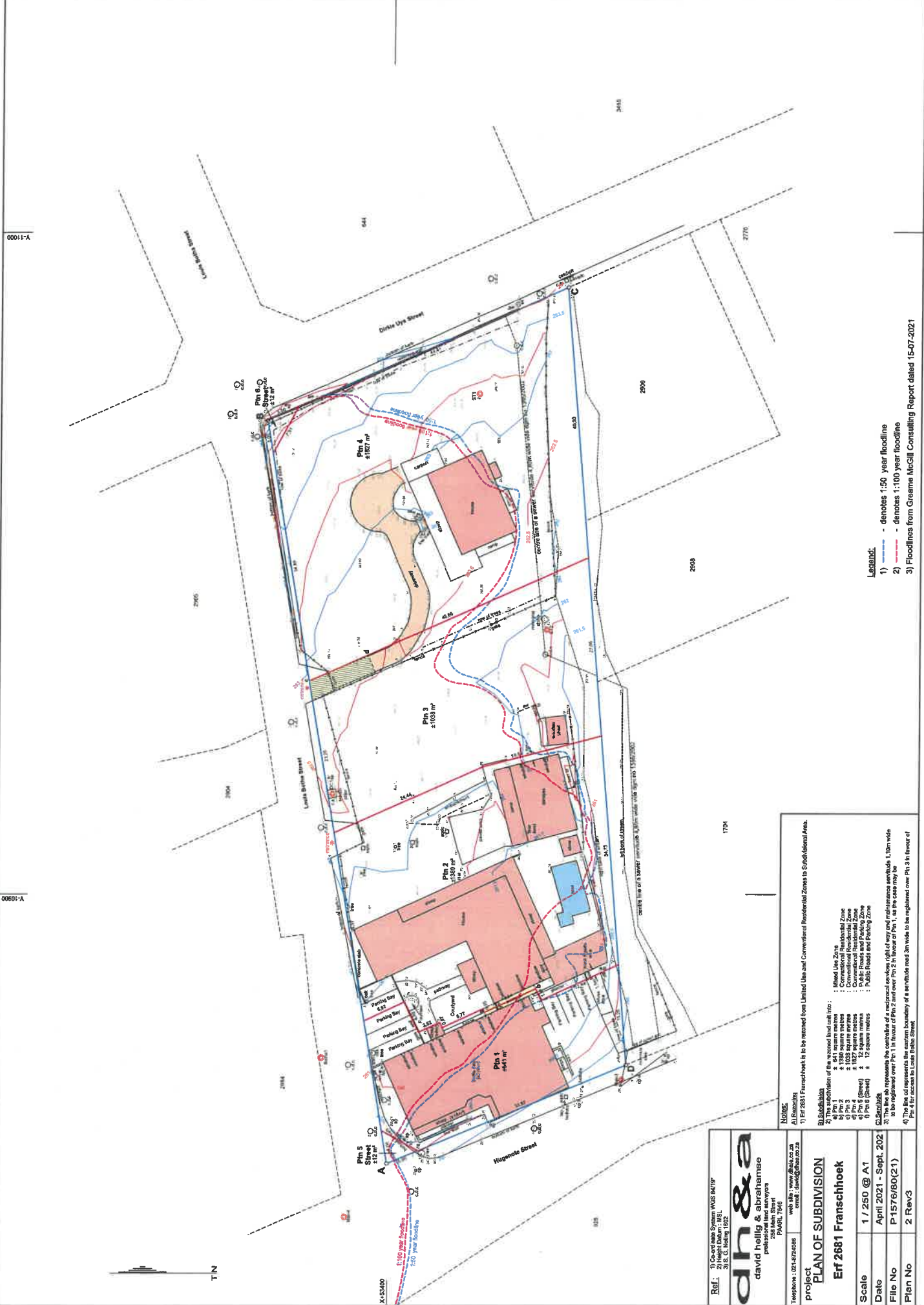
**DAVID HELLIG AND ABRAHAMSE**



**PER : M BOTHA**

**Professional Town Planner**

**Pr. Pln A/3057/2021**



- Legend:**
- 1) - denotes 1:50 year floodline
  - 2) - denotes 1:100 year floodline
  - 3) Floodlines from Greame McGill Consulting Report dated 15-07-2021

**NOTICE:**

A) Beocaching

B) Substitution of the zoned land into:

- 1) Mixed Use Zone
- 2) Conventional Residential Zone
- 3) Conventional Residential Zone
- 4) Public Roads and Parking Zone
- 5) Public Roads and Parking Zone

C) The line which represents the centreline of a road may need maintenance outside 1.1m wide

D) The line which represents the centreline of a road may need maintenance outside 1.1m wide

E) The line which represents the centreline of a road may need maintenance outside 1.1m wide

F) The line which represents the centreline of a road may need maintenance outside 1.1m wide

G) The line which represents the centreline of a road may need maintenance outside 1.1m wide

H) The line which represents the centreline of a road may need maintenance outside 1.1m wide

I) The line which represents the centreline of a road may need maintenance outside 1.1m wide

J) The line which represents the centreline of a road may need maintenance outside 1.1m wide

K) The line which represents the centreline of a road may need maintenance outside 1.1m wide

L) The line which represents the centreline of a road may need maintenance outside 1.1m wide

M) The line which represents the centreline of a road may need maintenance outside 1.1m wide

N) The line which represents the centreline of a road may need maintenance outside 1.1m wide

O) The line which represents the centreline of a road may need maintenance outside 1.1m wide

P) The line which represents the centreline of a road may need maintenance outside 1.1m wide

Q) The line which represents the centreline of a road may need maintenance outside 1.1m wide

R) The line which represents the centreline of a road may need maintenance outside 1.1m wide

S) The line which represents the centreline of a road may need maintenance outside 1.1m wide

T) The line which represents the centreline of a road may need maintenance outside 1.1m wide

U) The line which represents the centreline of a road may need maintenance outside 1.1m wide

V) The line which represents the centreline of a road may need maintenance outside 1.1m wide

W) The line which represents the centreline of a road may need maintenance outside 1.1m wide

X) The line which represents the centreline of a road may need maintenance outside 1.1m wide

Y) The line which represents the centreline of a road may need maintenance outside 1.1m wide

Z) The line which represents the centreline of a road may need maintenance outside 1.1m wide

REF:	1) Coordinates System WGS 84/19° 2) Height Datum: MSL 3) E. G. holding 1802
Telephone:	021 8726088
web site:	www.dh&a.co.za
email:	sales@dh&a.co.za
<b>PROJECT</b> <b>PLAN OF SUBDIVISION</b> <b>Erf 2881 Franschoek</b>	
Scale	1 / 250 @ A1
Date	April 2021 - Sept. 2021
File No	P1576/80(21)
Plan No	2 Rev3