

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

Neem asseblief kennis dat hierdie kennisgewing in Afrikaans hieronder volg.

**9 Aalwyn Street
FRANSCHHOEK
7690**

Attention: Mr A J du Toit

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

Application Property Address: **Lambrechts Street, Franschhoek, 7690**
Application Property Number: **Erf 579 Franschhoek**
Applicant: **David Hellig and Abrahamse Professional Land Surveyors
Tel: 021 872 4086
Email: plan@dhaa.co.za**
Owner: **Messrs Lewis Manhattan Investments (Pty) Ltd**
Application Reference: **LU/12267**
Application Type: **Rezoning and Subdivision**

Detailed description of land use or development proposal, including its intent and purpose:

Application is made in terms of Sections 15(2)(a) and 15(2)(d) of the Stellenbosch Municipal Land Use Planning By-Law, 2015 for the following:

- a) The rezoning of Erf 579 Franschhoek from Community Zone to Conventional Residential Zone**
- b) The subdivision of Erf 579 Franschhoek into 8 portions comprising the following zonings:**
 - Portions 1 – 7 : Conventional Residential units**
 - Portion 8: Private Open Space and Private Road**

The extent of the residential erven range between 1 989 square metres and 3 214 square metres in size with a 1 200 square metres building footprint on each.

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/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.

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:

David Hellig and Abrahamse Professional Land Surveyors
Email: plan@dhaa.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 **20-03-2021**.

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

Yours faithfully

DAVID HELLIG AND ABRAHAMSE



PER : M BOTHA

AFRIKAANSE WEERGAWE VAN ADVERTENSIE:

KENNISGEWING VAN GROND ONTWIKKELINGS AANSOEK AAN GETRESEERDE EN GEAFFEKTEERDE PARTYE VIR KOMMENTAAR.

**Aalwynstraat 9
FRANSCHHOEK
7690**

Aandag: Mnr A J du Toit

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

Adres van aansoek eiendom: **Lambrechtsstraat, Franschhoek, 7690**
Aansoek eiendom beskrywing: **Erf 579 Franschhoek**
Aansoeker: **David Hellig en Abrahamse Professionele Landmeters
Tel: 021 872 4086
E-pos: plan@dhaa.co.za**
Eienaar: **Mnre Lewis Manhattan Investments (Edms) Bpk**
Aansoek Verwysing: **LU/12267**
Tipe Aansoek: **Hersonering en Onderverdeling**

Besonderhede van die grondgebruiksaansoek, insluitende die doel en uitkoms:

Aansoek word gedoen ingevolge Artikels 15(2)(a) en 15(2)(d) van die Stellenbosch Verordening op Munisipale Grondgebruikbeplanning, 2015 vir die volgende:

- a) Die hersonering van Erf 579 Franschhoek van Gemeenskap Sone na Konvensionele Residensiële Sone**
- b) Die onderverdeling van Erf 579 Franschhoek in 8 gedeeltes wat die volgende sonerings bevat:**
 - Gedeeltes 1 – 7 : Konvensionele Residensiële eenhede**
 - Gedeelte 8: Privaat Oopruimte en Privaatpad**

Die grootte van die residensiële erwe wissel tussen 1 989 vierkante meter en 3 214 vierkante meter met 'n gebou voetspoor van 1 200 vierkante meter elk.

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 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 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:

David Hellig en Abrahamse Professionele Landmeters
E-pos: plan@dhaa.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 **20-03-2021**.

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 **021 872 4086** gedurende normale kantoor ure.

Die uwe

DAVID HELLIG EN ABRAHAMSE



PER : M BOTHA



TAX INVOICE
STELLENBOSCH
 STELLENBOSCH • PAARL • FRANSCHHOEK
 MUNICIPALITY • UMASIPALA • MUNISIPALITEIT

PO BOX 17, STELLENBOSCH, 7599
 PLANNING & ECONOMIC DEVELOPMENT: PLANNING

DATE:	2020-12-18	DOCUMENT NO.:	700185
ERF/FARM NO:	579	CREATED BY:	Nicole Katts
LOCALITY:	Lambrechts Street FRANSCHHOEK	APPLICATION NO.:	LU/12267
OWNER'S NAME:	Messrs Lewis Manhattan Investments (Pty) Ltd	APPLICANT VAT NO.:	4320112297
ADDRESS:	PO Box 18 Paarl 7622	VAT NO.:	4700102181
		APPLICANT:	Marnus Botha David Hallig and Abraham Louw
		TEL NO.:	0218724086

FEE DESCRIPTION	AMOUNT PER UNIT (R)	NUMBER OF UNITS	VOTE NUMBER	AMOUNT (R)
SUBDIVISION and CONSOLIDATION - Subdivision and Consolidation (Amendment/Cancellation of Subdivisional Plan / General Plan / Diagram).	R 5,000.00	1	20180711011497	R 5,000.00
REZONING and DETERMINATION OF A ZONING - Submitted in Urban and Rural Areas, Per application per property	R 10,000.00	1	20180711011484	R 10,000.00
TOTAL AMOUNT PAYABLE				R 15,000.00
VAT included @ 15%				R 1,956.52

FILE NR:	579 FH
SCAN NR:	
COLLABORATOR NR:	



All Tariffs include 15% VAT
 FROM 1 JULY 2020 TO 30 JUNE 2021

CALCULATED BY:
NAME: Nicole Katts
SIGNATURE:

VERIFIED BY:
NAME:
SIGNATURE:

DATE: 18.12.2020

 PAYMENT MUST BE MADE AT THE APPLICABLE DISTRICT OFFICE
 CHEQUES TO BE MADE PAYABLE TO STELLENBOSCH MUNICIPALITY
 Applicant to return this form to the Advice Centre for
 DIRECTOR PLANNING & ECONOMIC DEVELOPMENT

DATE:

BANKING DETAILS FOR EFT PAYMENT:
 ACCOUNT HOLDER Stellenbosch Municipality
 BANK First National Bank (FNB)
 ACCOUNT NUMBER 62869253684
 BRANCH CODE 210554
 REF. LU/_____ and ERF/FARM_____
 Please use both the Land Use Application number and the Erf/Farm number indicated on this invoice as a reference when making EFT payment.

VALID • ONTVANG



STELLENBOSCH

STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNISIPALITEIT • UMASIPALA • MUNICIPALITY

DUPLICATE RECEIPT

Receipt No: DIRI Duplicate Rec.No: 172553 Date: 21/11/2020
Local Authority: Stellenbosch Municipality
1 STB N 15000.00

50111060201 05040 FNB GB FM?
BIRECT 03011060201 LU/12267 ERF579

X100 Key: STB -009-20201221-00000001
X10 Key: STB 0000017255300002

AMPTELIKE KWITANSIE / OFFICIAL RECEIPT

17, STELLENBOSCH 7599
021 808-8578 / 8547 / 8546
021 886 7318

SLEGS MASJIENGEDRUKTE KWITANSIES GELDIG/ONLY MACHINE PRINTED RECEIPTS VALID • ONTVANG SONDER BENADELING VAN REGTE/RECEIVED WITHOUT PREJUDICE TO RIGHTS



Nicole Katts

From: Nicole Katts
Sent: Friday, 18 December 2020 15:31
To: Marnus Botha (plan@dhaa.co.za)
Subject: INVOICE - ERF 579 FRANSCHHOEK
Attachments: INV - ERF 579 FH.pdf

Dear Marnus

I trust that you are well.

Please find attached invoice for the abovementioned application. Once payment is made, forward the proof of payment to me.

Thanking you in advance.



Kind regards / Vriendelike Groete

Nicole Katts

Administrative Officer

Land Use Management

Planning & Economic Development

T +27 21 808 8318

43 Anthonisz St, Eikestad Mall, 1

Floor

www.stellenbosch.gov.za



Bestemmer en ontvangende party. Die kopskryf is 30% kleiner as die
kopskryf van die oorspronklike en is nie verbindend of verbindend nie.



PLANNING & ECONOMIC DEVELOPMENT

LAND USE APPLICATION COMPLIANCE CHECKLIST ITO S38 OF THE LAND USE PLANNING BYLAW, 2015			Date of Submission of Application	18/12/2020
Erf / Erven/ Farm no	579	Portion(s) if farm	Allotment Area	Franschhoek
Owner / Applicant	Marnus Botha	Contact number	021 872 4086	
Email address	plan@dhaa.co.za			
INDICATE WHICH OF THE FOLLOWING FORM PART OF THE DOCUMENTATION			ADMIN TO VERIFY ¹	PLANNER TO EVALUATE ²
			YES	NO
1. Completed application form that is signed			✓	✓
2. Power of Attorney / Owners' Consent if the applicant is an agent			✓	✓
3. Bondholders' consent				
4. Proof that applicant is authorized to act on behalf of an entity			✓	✓
5. Proof of ownership or rights held in land				
6. Motivation based on criteria in s65			✓	✓
7. SG diagram or General Plan			✓	✓
8. Locality plan			✓	✓
9. Site development plan or plan showing the land development			✓	✓
10. Subdivision plan			✓	✓
11. Permission for required servitude				
12. Title Deed			✓	✓
13. Conveyancer's certificate			✓	✓
14. Feedback on Pre-application scrutiny			✓	✓
15. Minutes of Pre-consultation Meeting				
16. Consolidation plan				
17. Street name and numbering plan				

¹ Verification by Admin only of the documentation attached and completeness of application and not the correctness thereof.

² Technical evaluation by Planner of the documentation attached for completeness and correctness thereof.

INDICATE WHICH OF THE FOLLOWING FORM PART OF THE DOCUMENTATION		ADMIN TO VERIFY		PLANNER TO VERIFY
18. Land use plan / zoning plan		✓		✓
19. Landscaping / tree plan		✓		✓
20. Flood line plan				
21. Neighbours' consent				
22. HOA consent				
23. Assessments: EIA, HIA, TIA, TIS, MHIA, EA/ROD				
24. Services report		✓		✓
25. Previous approvals		✓		✓
26. Proof of failure of HOA				
27. Proof of lawful use right / zoning certificate				
28. Other documents Specify:.....				
VERIFIED & SIGNED BY ADMIN	NAME: Nicole Katts	<i>Jobitts</i>		
VERIFIED & SIGNED BY PLANNER	NAME: Robert Fooy	<i>[Signature]</i>		

Outstanding information (to be completed by Planner):

NOTES:

1. The documentation is not considered as a registered application until such time as it has been scrutinized, all outstanding information (if any) has been submitted and payment is reflected in Council's bank account, after Applicant has been requested by Admin to make payment.
2. Should it be found that the application is not complete, the Applicant will be notified of outstanding information [s41(1)(c)(ii)].
3. Once payment has been confirmed and the application has been registered, the Applicant will be notified of the complete application [s41(1)(c)(i)] and will receive instructions to advertise [s48(4)].
4. Should the outstanding information and/or payment of fees not be received, the applicant will be notified that the application will not proceed due to failure to submit required information [s41(4)].



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PLANNING & ECONOMIC DEVELOPMENT

LAND USE APPLICATION - CHECK LIST			Date	18-12-2020
Erf/Erven/ Farm no	579	Portion(s) if farm	Alloiment Area	Franschhoek
Owner/ Applicant	David Hellig & Abrahamse Land Surveyors		Contact number	021 872 4086
Email address	plan@dhaa.co.za			

INDICATE WHICH OF THE FOLLOWING FORM PART OF THE DOCUMENTATION	OWNER/APPLICANT TO INDICATE		CUSTOMER INTERFACE VERIFY <input type="checkbox"/>
	YES	NO	
1. Application form completed in full and signed?	X		
2. Correct copy of the title deed of the property?	X		
3. Motivation attached?	X		
4. Site Development Plan / Subdivision Plan / Consolidation Plan (A4/A3 size in colour?)	X		
5. Property Registered in a Trust or Company - Power of Attorney as well as Trust / Company Resolution	X		
6. Neighbours Consent Form (initiated in full and signed) / Locality Plan indicating advertising to be undertaken		X	
7. Five (5) sets of copies of all documentation (One set for permanent residence applications)	X		
8. Proof of payment	X		

SIGNED BY OWNER/APPLICANT

VERIFIED & SIGNED BY CUSTOMER INTERFACE OFFICER

*Verification only of the documentation attached and not the completeness or correctness of that documentation

**Please note that your documentation is not considered as a submitted application until such time as it has been scrutinized, all initial outstanding information (if any) has been submitted and payment is reflected in Council's bank account.

***Should the initial outstanding information and/or payment of fees not be received, the documentation will be discarded.

Outstanding information (to be completed by planner):

Planner

Date

David Hellig & Abrahamse

Land Surveyors • Landmeters

DAVID SAMUEL HELBIG
B.Sc., B.Sc. (Land Survey), PR L (SA)
SPENCER GRAHAM DREYER
B.Sc. (Survey), PR.L (SA)

At Cape Town
RICHARD CLIFTON ABRAHAMSE
B.Sc. (Survey), PR.L (SA)
BRYAN JAMES HANSEN
B.Sc. (Geomatics), PR.L (SA)

258 Main Street/Hoofstraat
PAARL 7646

P O Box 18 PAARL 7622
Posbus 18 PAARL 7622

Telephone/Telefoon : (021) 872 4086
e-mail : david@dhaa.co.za

Our Ref : P3536/16(A6)

18 December 2020

The Municipal Manager
Stellenbosch Municipality
P O Box 17
STELLENBOSCH
7599

Attention : Mr Robert Fooy

Dear Robert

**APPLICATION IN TERMS OF THE STELLENBOSCH MUNICIPAL LAND USE PLANNING BY-LAW, 2015:
PROPOSED REZONING AND SUBDIVISION OF ERF 579 FRANSCHHOEK**

Further to the above, I enclose herewith the following documents for your attention:

1. Land Use Application Check List
2. Land Use Application Form
3. Locality Plan No 4 Rev 1
4. Topographical Plan No 1 Rev 2
5. Plan of Subdivision No 3 Rev 3
6. Planning Report
7. Site Development Plan prepared by Messrs J.d.V. Landscape Studio
8. Landscaping Plan prepared by Messrs J.d.V. Landscape Studio
9. Urban Design Philosophy Report and Landscaping Guidelines prepared by Messrs J.d.V. Landscape Studio
10. General Building Guidelines
11. Engineering Services Availability Report prepared by Messrs Zutari, which includes:
 - a) Geotechnical Investigation
 - b) Traffic Impact Study
12. Minutes of pre-application consultation meeting dated 02-12-2020

13. Stellenbosch Municipality Zoning Certificate vide Ref 579 FH dated 27-07-2020
14. Email correspondence regarding the Zoning Certificate and existing land use rights
15. Department of Environmental Affairs and Development Planning, WCG letter on non-applicability vide Ref 16/3/3/6/1/B4/12/1440/18 dated 21-02-2019
16. HWC ROD vide Ref HM/ CAPE WINELANDS / STELLENBOSCH / FRANSCHHOEK / ERF 579 dated 14-12-2018
17. Department of Transport and Public Works, WCG Act No 21/1940 Approval vide Ref 16/9/6/1-25/294 (Job 26590) dated 25-01-2019
18. Noting Sheets No 1605 & 1607
19. SG Diagram No 1392/1971
20. Servitude Diagram No 1877/1966
21. Deeds Office Search
22. Conveyancer's Certificate
23. Deed of Transfer No T59649/2018
24. Power of Attorney
25. Company Resolution

Please acknowledge receipt in writing of this letter and enclosures and provide us with your land use application reference number together with confirmation of the applicable Application Fees to enable us to effect payment thereof.

Should you require any additional information, please advise.

Yours sincerely
DAVID HELLIG & ABRAHAMSE



PER : M BOTHA
Candidate Planner C/8375/2016

Nicole Katts

From: Marnus Botha <plan@dhaa.co.za>
Sent: Friday, 18 December 2020 12:26
To: Ulrich Vonmolendorff
Cc: Robert Fooy; Landuse Applications; louis@lewismanhattan.co.za; 'Richard Lewis'; Spencer Dreyer
Subject: [EX] PROPOSED REZONING AND SUBDIVISION OF ERF 579 FRANSCHHOEK

Our Ref: P3536/16(A6)

Hi Ulrich

**APPLICATION IN TERMS OF THE STELLENBOSCH MUNICIPAL LAND USE PLANNING BY-LAW, 2015:
PROPOSED REZONING AND SUBDIVISION OF ERF 579
FRANSCHHOEK**

I hereby advise that the following documentation in support of our Application was today delivered to you via WeTransfer ()::

1. Land Use Application Check List
2. Land Use Application Form
3. Locality Plan No 4 Rev 1
4. Topographical Plan No 1 Rev 2
5. Plan of Subdivision No 3 Rev 3
6. Planning Report
7. Site Development Plan prepared by Messrs J.d.V. Landscape Studio
8. Landscaping Plan prepared by Messrs J.d.V. Landscape Studio
9. Urban Design Philosophy Report and Landscaping Guidelines prepared by Messrs J.d.V. Landscape Studio
10. General Building Guidelines
11. Engineering Services Availability Report prepared by Messrs Zutari, which includes:
 - a) Geotechnical Investigation
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14. Email correspondence regarding the Zoning Certificate and existing land use rights
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19. SG Diagram No 1392/1971
20. Servitude Diagram No 1877/1966
21. Deeds Office Search
22. Conveyancer's Certificate
23. Deed of Transfer No T59649/2018
24. Power of Attorney
25. Company Resolution

Please acknowledge receipt in writing of this email and the WeTransfer files and provide us with your land use application reference number together with confirmation of the applicable Application Fees to enable us to effect payment thereof.

I look forward to hearing from you soonest.

Kind regards

Marnus Botha
Candidate Planner C/8375/2016

David Hellig and Abrahamse
Professional Land Surveyors
258 Main Street
PAARL 7646
P O Box 18 PAARL 7622
Telephone : (021) 872 4086
Email : plan@dhaa.co.za
Website : www.dhale.co.za



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LAND USE PLANNING APPLICATION FORM 2017

(Section 15 of the Stellenbosch Municipal Land Use Planning By-Law (2015) and other relevant legislation)

KINDLY NOTE: Please complete this form using BLOCK letters and ticking the appropriate boxes.

PART A: APPLICANT DETAILS

First name(s)	Marnus					
Surname	Botha					
Company name (if applicable)	David Hellig & Abrahamse Land Surveyors					
Postal Address	P O Box 18					
	Paarl		Postal Code	7622		
Email	plan@dhaa.co.za					
Tel	021 872 4086	Fax	N/A		Cell	N/A

PART B: REGISTERED OWNER(S) DETAILS (If different from applicant)

Registered owner(s)	Messrs Lewis Manhattan Investments (Pty) Ltd					
Physical address	Lambrechts Street					
	Franschhoek		Postal code	7690		
E-mail	louis@lewismanhattan.co.za					
Tel	N/A	Fax	N/A		Cell	082 553 5500

PART C: PROPERTY DETAILS (in accordance with title deed)

Erf / Erven / Farm No.	579	Portion(s) if Farm		Allotment area	Franschhoek	
Physical Address	Lambrechts Street					
	Franschhoek					
	7690					
Current Zoning	Community Zone	Extent	2,5695 m ² / ha	Are there existing buildings?	existing	<input checked="" type="checkbox"/>

Applicable Zoning Scheme	Stellenbosch Municipality Zoning Scheme By-Law, 2019										
Current Land Use	Dwelling unit and ablution facilities										
Title Deed number and date	T	59649/2018									
Attached Conveyance's Certificate	X	Any Restrictions to the Attached Conveyance's Certificate? If yes, please list condition(s) as per certificate									
Are the restrictive conditions in favour of a third party(ies)?		X	If Yes, list the party(ies):								
Is the property encumbered by a bond?		X	If Yes, list the bondholder(s):								
Is the property owned by Council?		X	If Yes, kindly <u>attach a power of attorney</u> from the Manager Property Management								
Is the building located within the historical core?		X	Is the building older than 60 years?		X	Is the application triggered by the National Heritage Resources Act, 1999 (Act 25 of 1999) ¹		X	If Yes, kindly indicate which section are triggered and attached the relevant permit if applicable. Section 38		
Any existing unauthorized buildings and/or land use on the subject property(ies)?		X	If yes, is this application to legalize the building / land use ² ?				X				
Are there any pending court case(s) / order(s) relating to the subject property(ies)?		X	Are there any land claim(s) registered on the subject property(ies)?				X				
PART D: PRE-APPLICATION CONSULTATION											
Has there been any pre-application consultation?		X	If Yes, please attach the minutes of the pre-application consultation.								
PART E: LAND USE PLANNING APPLICATIONS AND APPLICATION FEES PAYABLE											
APPLICATIONS IN TERMS OF SECTION 15 OF THE STELLENBOSCH MUNICIPAL LAND USE PLANNING BY-LAW (2015)											
Tick	Type of application: Cost are obtainable from the Council Approved tariffs ³										
X	15(2)(a) Rezoning of Land										
	15(2)(b) a permanent departure from the development parameters of the zoning scheme										
	15(2)(c) a departure granted on a temporary basis to utilise land for a purpose not permitted in terms of the primary rights of the zoning applicable to the land;										
X	15(2)(d) a subdivision of land that is not exempted in terms of section 24, including the registration of a servitude or lease agreement;										
	15(2)(e) a consolidation of land that is not exempted in terms of section 24;										

All applications triggered by section 38(1)(a)-(e) in terms of the National Heritage Resources Act, 1999 (Act 25 of 1999) may not be processed without a permit issued by the relevant department

² No application may be submitted to legalize unauthorised building work and or land use on the property if a notice have been served in terms of Section 87(2)(a), and until such time a Section 91 Compliance Certificate have been issued in terms of the Stellenbosch Land Use Planning By-law (2015)

³ http://www.stellenbosch.gov.za/documents/dp-budget/2017-2/4873/appendix_3-tariff_budget-2017-2018/tdc

	15(2)(f) a removal, suspension or amendment of restrictive conditions in respect of a land unit;		
	15(2)(g) a permission required in terms of the zoning scheme;		
	15(2)(h) an amendment, deletion or imposition of conditions in respect of an existing approval;		
	15(2)(i) an extension of the validity period of an approval		
	15(2)(j) an approval of an overlay zone as contemplated in the zoning scheme;		
	15(2)(k) an amendment or cancellation of an approved subdivision plan or part thereof, including a general plan or diagram ;		
	15(2)(l) a permission required in terms of a condition of approval;		
	15(2)(m) a determination of a zoning;		
	15(2)(n) a closure of a public place or part thereof;		
	15(2)(o) a consent use contemplated in the zoning scheme;		
	15(2)(p) an occasional use of land;		
	15(2)(q) to disestablish a home owner's association		
	15(2)(r) to rectify a failure by a home owner's association to meet its obligations in respect of the control over or maintenance of services;		
	15(2)(s) a permission required for the reconstruction of an existing building that constitutes a non-conforming use that is destroyed or damaged to the extent that it is necessary to demolish a substantial part of the building.		
	15(2)(6) When the Municipality on its own initiative intends to conduct land development or an activity		
	15(2)(l) Amendment of Site Development Plan		
	15(2)(l) Compilation / Establishment of a Home Owners Association Constitution / Design Guidelines		
OTHER APPLICATIONS			
	Deviation from Council Policies/By-laws;	R	
N/A	Other (specify) : _____	R	
TOTAL A:		R	
PRESCRIBED NOTICE AND FEES** (for completion and use by official)			
Tick	Notification of application in media	Type of application	Cost
	SERVING OF NOTICES	Delivering by hand; registered post; data messages	R
	PUBLICATION OF NOTICES	Local Newspaper(s); <i>Provincial Gazette</i> ; site notice; Municipality's website	R
	ADDITIONAL PUBLICATION OF NOTICES	Site notice, public meeting, local radio station, Municipality's website, letters of consent or objection	R
	NOTICE OF DECISION	<i>Provincial Gazette</i>	R
	INTEGRATED PROCEDURES	T.B.C	R
TOTAL B:			R
TOTAL APPLICATION FEES* (TOTAL A + B)			R
* Application fees that are paid to the Municipality are non-refundable and proof of payment of the application fees must accompany an application.			
** The applicant is liable for the cost of publishing and serving notice of an application. Additional fees may become applicable and the applicant will be informed accordingly.			
BANKING DETAILS			
Name:	Stellenbosch Municipality		
Bank:	NEDBANK		
Branch no.:	198765		
Account no.:	1152271679		
SWIFT	NEDSZAJJ		
Payment reference:	579 Franschoek		
[Erf/Form number]		

DETAILS FOR INVOICE	
Name & Surname/Company name (details of party responsible for payment)	David Hellig & Abrahamse Land Surveyors
Postal Address	P O Box 18, Paarl 7622
Vat Number (where applicable)	4320112297

PART F: DETAILS OF PROPOSAL							
Building line encroachment	Street		From	m	To	m	
	Street		From	m	To	m	
	Side		From	m	To	m	
	Side		From	m	To	m	
	Aggregate side		From	m	To	m	
	Rear		From	m	To	m	
Exceeding permissible site coverage		From	%	To	%		
Exceeding maximum permitted bulk / floor factor / no of habitable rooms		From		To			
Exceeding height restriction		From	m	To	m		
Exceeding maximum storey height		From	m	To	m		
Consent/Conditional Use/Special Development							
To permit..... in terms of Section.....of the.....Zoning Scheme Regulations							
X	Other (please specify)	Rezoning and Subdivision					
<hr/> <hr/> <hr/>							

Brief description of proposed development / intent of application:	
1.	Erf 579 Franschoek is to be rezoned from Community Zone to Conventional Residential Zone
2.	Erf 579 Franschoek is to be subdivided into:
a)	Portions 1 - 7 : Conventional Residential units
b)	Portion 8 : Private Open Space and Private Road
See report for detailed development proposal.	

PART G: ATTACHMENTS AND SUPPORTING INFORMATION AND DOCUMENTATION FOR LAND USE PLANNING APPLICATION

Complete the following checklist and attach all the information and documentation relevant to the proposal. Failure to submit all information and documentation required will result in the application being deemed incomplete.

Information and documentation required						
X			Power of attorney / Owner's consent if applicant is not owner		N/A	Bondholder's consent (if applicable)
X			Resolution or other proof that applicant is authorised to act on behalf of a juristic person		X	Proof of any other relevant right held in the land concerned
X			Written motivation pertaining to the need and desirability of the proposal	X		S.G. diagram / General plan extract (A4 or A3 only)
X			Locality plan (A4 or A3 only) to scale	X		Site development plan or conceptual layout plan (A4 or A3 only) to scale
X			Proposed subdivision plan (A4 or A3 only) to scale		X	Proof of agreement or permission for required servitude
	X		Proof of payment of application fees	X		Proof of registered ownership (Full copy of the title deed)
X			Conveyancer's certificate	X		Minutes of pre-application consultation meeting (if applicable)
		X	Consolidation plan (A4 or A3 only) to scale	X		Land use plan / Zoning plan (A4 or A3 only) to scale
		X	Street name and numbering plan (A4 or A3 only) to scale			
X			Landscaping / Tree plan (A4 or A3 only) to scale			1 : 50 / 1:100 Flood line determination (plan / report) (A4 or A3 only) to scale
		X	Abutting owner's consent			Home Owners' Association consent
X			Copy of Environmental Impact Assessment (EIA) / Heritage Impact Assessment (HIA) / Traffic Impact Assessment (TIA) / Traffic Impact Statement (TIS) / Major Hazard Impact Assessment (MHIA) / Environmental Authorisation (EA) / Record of Decision (ROD)	X		Services Report or indication of all municipal services / registered servitudes
		X	Copy of original approval and conditions of approval			Proof of failure of Home owner's association
		X	Proof of lawful use right			Any additional documents or information required as listed in the pre-application consultation form / minutes
X			Required number of documentation copies			Other (specify)

PART H: AUTHORISATION(S) SUBJECT TO OR BEING CONSIDERED IN TERMS OF OTHER LEGISLATION

X		If required, has application for EIA / HIA / TIA / TIS / MHIA approval been made? If yes, attach documents / plans / proof of submission etc.	Specific Environmental Management Act(s) (SEMA) (e.g. Environmental Conservation Act, 1989 (Act 73 of 1989))	
			Y	<input checked="" type="checkbox"/> National Environmental Management: Air Quality Act, 2004 (Act 39 of 2004)
	Y	<input checked="" type="checkbox"/> Subdivision of Agricultural Land Act, 1970 (Act 70 of 1970)	Y	<input checked="" type="checkbox"/> National Environmental Management: Waste Act, 2008 (Act 59 of 2008)
	Y	<input checked="" type="checkbox"/> Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)(SPLUMA)	Y	<input checked="" type="checkbox"/> National Water Act, 1998 (Act 36 of 1998)
	Y	<input checked="" type="checkbox"/> Occupational Health and Safety Act, 1993 (Act 85 of 1993): Major Hazard Installations Regulations	Y	<input checked="" type="checkbox"/> Other (specify)
Y	<input checked="" type="checkbox"/> Land Use Planning Act, 2014 (Act 3 of 2014) (LUPA)			
Y	<input checked="" type="checkbox"/>	Do you want to follow an integrated application procedure in terms of section 44(1) of the Stellenbosch Municipality Land Use Planning By-Law? If yes, please attach motivation.		

SECTION I: DECLARATION

I hereby wish to confirm the following :

1. That the information contained in this application form and accompanying documentation is complete and correct.
2. I'm aware that it is an offense in terms of section 86(1)(e) to supply particulars, information or answers knowing the particulars, information or answers to be false, incorrect or misleading or not believing them to be correct.
3. I am properly authorized to make this application on behalf of the owner and that a copy of the relevant power of attorney or consent is attached hereto.
4. Where an agent is appointed to submit this application on the owner's behalf, it is accepted that correspondence from and notifications by the Municipality in terms of the by-law will be sent only to the agent and that the owner will regularly consult with the agent in this regard.
5. I confirm that the relevant title deed(s) have been read and that there are no restrictive title deed restrictions, which impact on this application, or alternatively an application for removal/suspension or amendment forms part of this submission.
6. I confirm that I have made known all information relating to possible Land / Restitution Claims against the application property.
7. It is the owner's responsibility to ensure that approval is not sought for a building or land use which will be in conflict with any applicable law.
8. The Municipality assesses an application on the information submitted and declarations made by the owner or on his behalf on the basis that it accepts the information so submitted and declarations so made to be correct, true and accurate.
9. Approval granted by the Municipality on information or declarations that are incorrect, false or misleading may be liable to be declared invalid and set aside which may render any building or development pursuant thereto illegal.
10. The Municipality will not be liable to the owner for any economic loss suffered in consequence of approval granted on incorrect, false or misleading information or declarations being set aside.
11. Information and declarations include any information submitted or declarations made on behalf of the owner by a Competent Person/professional person including such information submitted or

declarations made as to his or her qualification as a Competent person and/or registration as a professional.

- 12. A person who provides any information or certificate required in terms of Regulation A19 of the National Building Regulations and Building Standards Act No 103 of 1977 which he or she knows to be incomplete or false shall be guilty of an offence and shall be prosecuted accordingly.
- 13. A person who supplies particulars, information or answers in a land use application in terms of the Stellenbosch Municipality Land Use Planning By-law knowing it to be incorrect, false or misleading or not believing them to be correct shall be guilty of an offence and shall be prosecuted accordingly.
- 14. The Municipality will refer a complaint to the professional council or similar body with whom a Competent Person/professional person is registered in the event that it has reason to believe that information submitted or declaration/s made by such Competent Person/professional person is incorrect, false or misleading.

Applicant's signature:

M. Botha

Date:

18-12-2020

Full name:

Marnus Botha

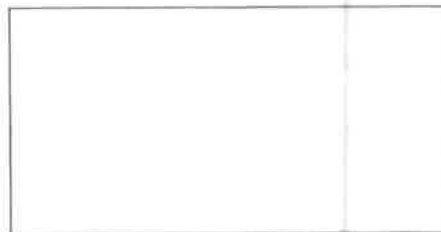
Professional capacity:

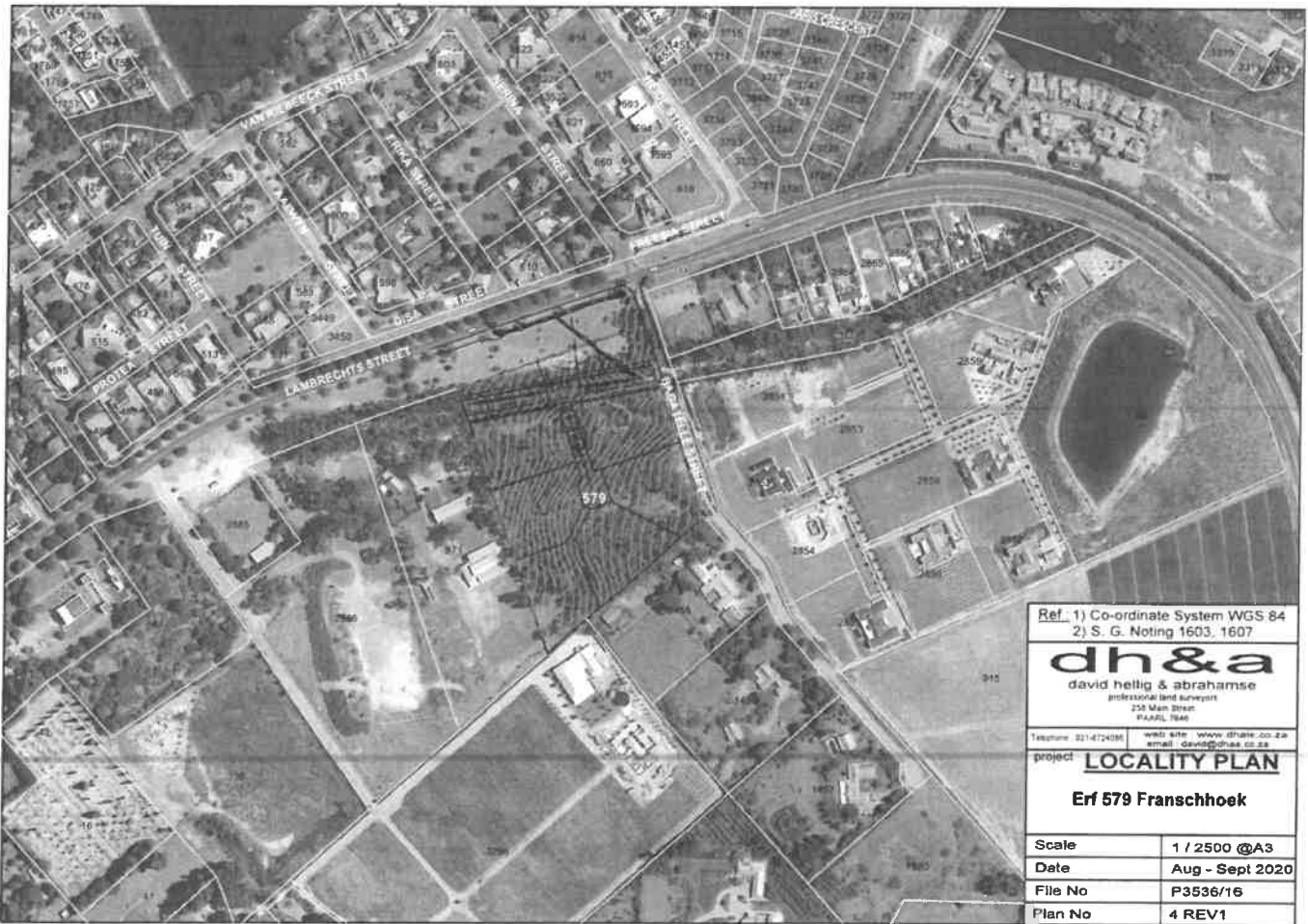
Candidate Town Planner (C8375/2016)

FOR OFFICE USE ONLY

Date received: _____

Received By: _____





Ref. 1) Co-ordinate System WGS 84
 2) S. G. Noting 1603, 1607

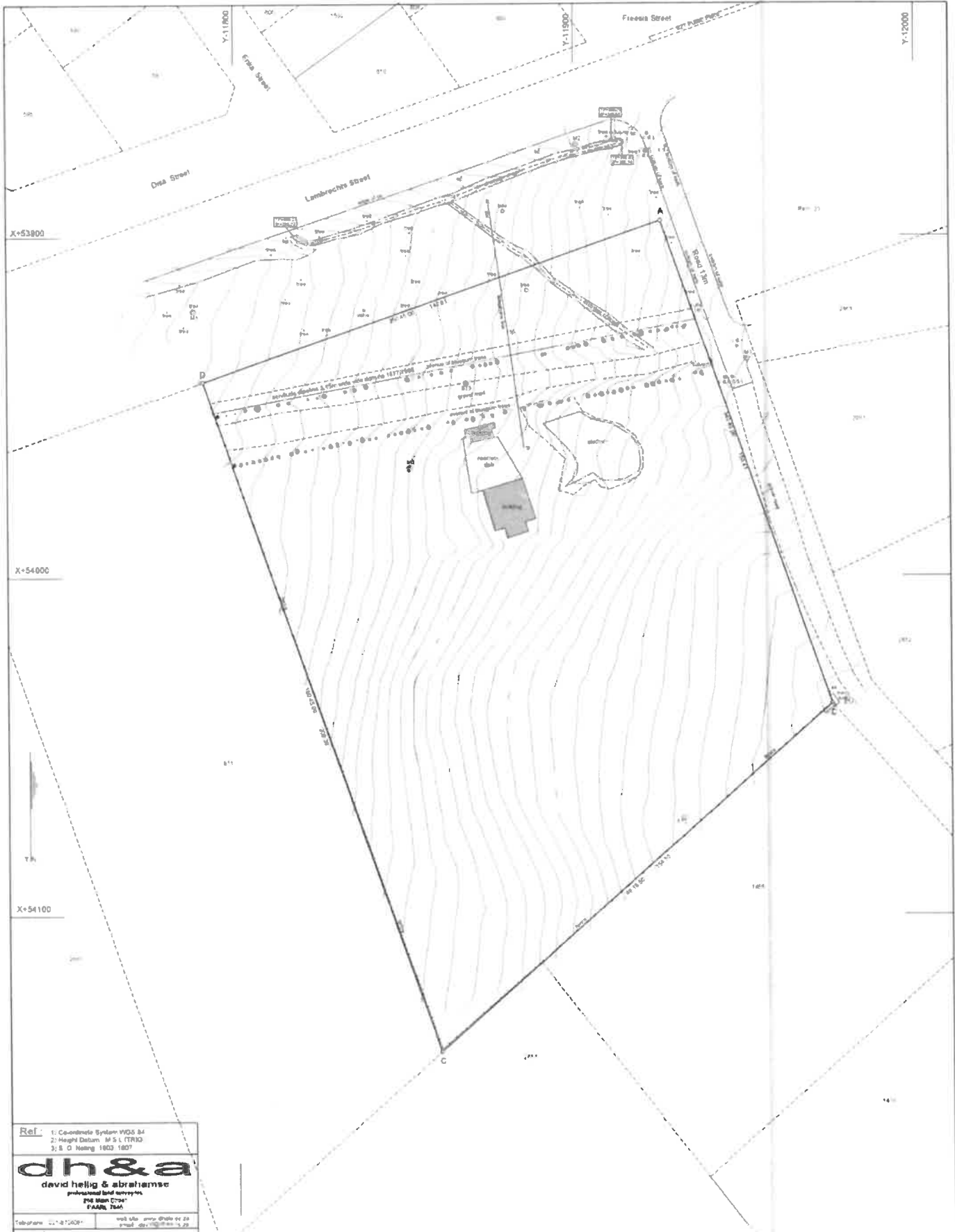
dh&a
 dauid heilig & abrahamse
 professional land surveyors
 224 Main Street
 FAARL 7640

Telephone 011 4724106 web site www.dh&a.co.za
 email david@dh&a.co.za

project **LOCALITY PLAN**

Erf 579 Franschoek

Scale	1 / 2500 @A3
Date	Aug - Sept 2020
File No	F3536/16
Plan No	4 REV1



Ref: 1: Co-ordinate System WGS 84
 2: Height Datum M S L (TRIG)
 3: S O Neang 1803 1807

dh&a
 david heilig & abrahamse
 professional land surveyors
 P.O. Box 2708
 F.R. 4001, TSWA

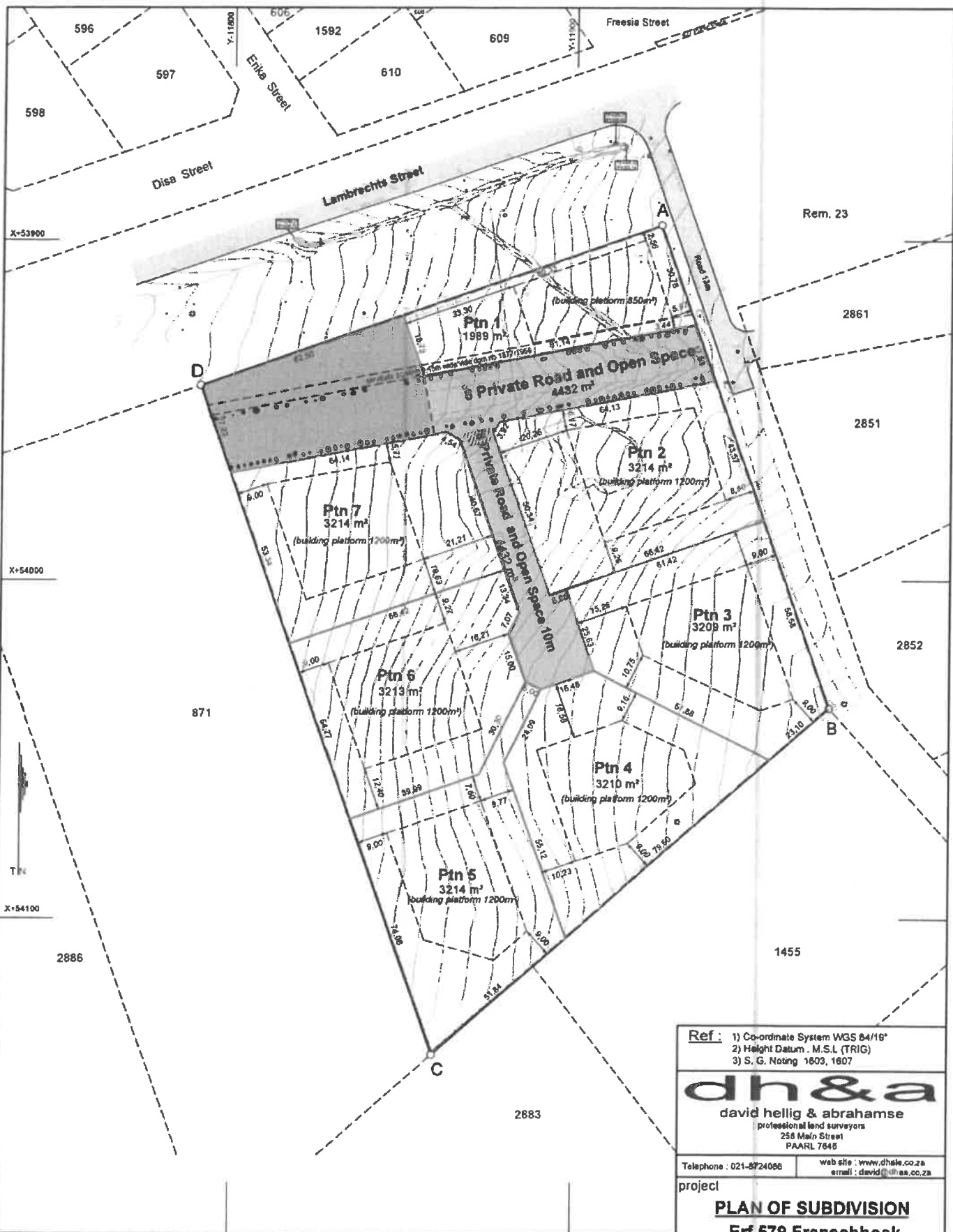
Telephone: +27-8-7540811
 web site: www.dh&a.co.za
 email: david@dh&a.co.za

project
Topographical Plan
Erf 579 Franschhoek

Scale	1 / 500 @A1
Date	February 2018, July 2019 & August 2019
File No	P3536/16
Plan No	1 REV2

LEGEND		CONTROL POINTS			
Symbol	Description	Constant	X	Z	Description
●	benches & young trees				
○	electrical signs				
○	telephone poles				
○	circular drain cover	11 950 51	+ 53 936 39	308 54	12 mm iron peg
○	sign post	11 900 71	+ 53 932 12	309 15	12 mm iron peg
○	steeples	11 787 81	+ 53 821 86	397 11	12 mm iron peg
○	top of pipe	11 871 11	+ 53 862 87	303 00	12 mm iron peg
○	invert of pipe	11 878 35	+ 54 036 12	314 41	12 mm iron peg
○	Survey Station	11 831 88	+ 54 971 87	311 71	12 mm iron peg
○		11 567 90	+ 53 842 88	301 54	12 mm iron peg

X+54200



Ref: 1) Co-ordinate System WGS 84/16°
 2) Height Datum . M.S.L (TRIG)
 3) S. G. Noting 1603, 1607

dh&a
 david hellig & abrahamse
 professional land surveyors
 258 Main Street
 PAARL 7645

Telephone : 021-8724086 web site : www.dh&a.co.za
 email : david@dh&a.co.za

project
PLAN OF SUBDIVISION
Erf 579 Franschoek

Scale	1 / 1000 @A3
Date	May - Dec 2020
File No	P3536/16
Plan No	3 REV 3

Notes :

- 1) Erf 579 Franschoek measuring 2,5695Ha in extent is to be rezoned from Community Zone to Conventional Residential Zone.
- 2) Erf 579 Franschoek is to be subdivided into
 - a) Ptns 1 - 7 : Conventional Residential Zone
 - b) Ptn 8 : Private Open Space Zone

PLANNING REPORT

PROPOSED REZONING AND SUBDIVISION OF ERF 579 FRANSCHHOEK

OUR REF: P3536/16(A6)

Compiled by:

David Hellig & Abrahamse

Land Surveyors

DECEMBER 2020

1. INTRODUCTION

Erf 579 Franschhoek measures 2,5695 hectares in extent being owned by Messrs Lewis Manhattan Investments (Pty) Ltd vide Deed of Transfer No T59649/2018. The subject land unit is situated on the southern outskirts of Franschhoek, south of Lambrechts Street (Franschhoek Pass) and adjoining Bagetelle Street on its eastern boundary. The land unit is bounded by residential erven to the east (L'Avenue Estate) and south and other Municipal and Religious Institutions viz the Shofar Church, Hugenote Monument to the west.

The subject land unit comprises a derelict prefabricated dwelling unit and is densely populated with Blue Gum and Pine trees.

The land owner intends establishing an agricultural and residential estate comprising seven residential development opportunities together with associated communal amenities viz detention and irrigation pond and other recreational facilities situated within the internal private road and open space network. The development intends fostering and complementing the rural and agricultural character of Franschhoek and therefore will have a strong and prominent agricultural and landscaping component similar to the adjoining L'Avenue development to the east.

The purpose of this application is for the rezoning and subdivision of the subject land unit to give effect to this development proposal.

2. PROPERTY DETAILS

SUBJECT LAND UNIT				
PROPERTY DESCRIPTION	EXTENT	REGISTERED LANDOWNER	DEED OF TRANSFER	EXISTING ZONING
Erf 579 Franschhoek	2,5695 hectares	Lewis Manhattan Investments (Pty) Ltd	T59649/2018	Community Zone

3. LOCATION

The red polygon in the figure below indicates the location of the subject land unit.



Figure 1: Location of the subject land unit

4. PREVIOUS LAND USE DEVELOPMENT APPLICATION

A land use planning application for the development of the land unit into a gated group housing residential estate comprising of 56 units was refused by the Municipality on 16-10-2020 for the following reasons :

- The subject land unit is situated outside the urban edge and the development proposal in terms of its density and form is in contradiction with the principles contained in the MSDF and is out of character with its surrounds.

5. PRE-APPLICATION CONSULTATION MEETING

In the wake of the above mentioned refusal, the land owner held a meeting with representatives from the Departments of Planning and Spatial Planning on 21-09-2020 to discuss alternative possibilities. A Landscape Architect was subsequently appointed and a revised development proposal was formulated in accordance with the Municipality's requirements.

This revised development proposal was tabled at a formal pre-application consultation meeting as prescribed in terms of Section 37 of the Stellenbosch Municipal Land Use Planning By-law, 2015 held on 02-12-2020, the minutes of which are included in this land use planning application.

6. APPLICATION PROPOSAL

A land use planning application is hereby submitted in terms of Sections 15(2)(a) and 15(2)(d) of the Stellenbosch Municipality Land Use Planning By-Law, 2015 as follows:

A. REZONING

Erf 579 Franschhoek is to be rezoned from Community Zone purposes to Conventional Residential Zone

B. SUBDIVISION

Erf 579 Franschhoek is to be subdivided into:

- a) Portions 1 - 7 : Conventional Residential units
- b) Portion 8 : Private Open Space and Private Road

The extent of the seven residential erven range between 1989 and 3214 square metres with the construction of the residential homesteads to be confined to a specified building footprint and the balance of the land unit to be utilised for agricultural and / or landscaping purposes as indicated on the Site Development and Landscaping Master Plans.

The aesthetics, design elements and mechanics of the estate are to be regulated and controlled by means of the Constitution and Rules of the Home Owners Association, Architectural and Landscaping Guidelines and Site Development Plan as entrenched in the conditions of approval.

7. HERITAGE

In terms of Section 38(1) of the National Heritage Resources Act the rezoning of a portion of land in excess of 1 hectare requires the submission of the Notification of Intent to Develop (NID) application type to Heritage Western Cape (HWC). Messrs Aikman and Associates Heritage Management prepared a Baseline Report and attended to the submission of the NID Application to HWC in respect of the previous land use planning application for the 56 group housing units for which a positive Record of Decision was granted by HWC.

The Baseline Report identified the existing avenue of blue gum trees forming part of the "Cats se Pad" thoroughfare was identified as the only heritage resource present on the land unit and considered this landmark to be of Grade IIIA significance.

As with the previous development proposal, the avenue of blue gum trees is being retained and preserved in the current development proposal which will serve as a prominent and focal landscaping feature. This historic landmark will also serve as a screening element softening the visual impact of the development from Lambrechts Street being a tourist route.

The revised development proposal represents a drastically diminished impact on the heritage resource and cultural landscape for the following reasons :

- A substantial reduction in density viz 7 conventional housing units as opposed to 56 group housing units
- The development will incorporate strong elements of landscaping and agricultural activities to support and enhance the rural character of the surroundings.
- The avenue of blue gum trees signifying "Cat se Pad" will be traversed at two points via two spoor roads compared with three formalised access points as previously contemplated in the initial development proposal of 56 group housing units.

A new NID application will be submitted to HWC in respect of the current development proposal.

8. ENVIRONMENTAL

Messrs Doug Jeffery Environmental Consultant handled the environmental aspects pertaining to the previous land use planning application in respect of the 56 group housing units. A botanical scan was conducted in support of the application to DEADP, WCG for a ruling on the applicability of NEMA EIA Regulations. DEADP, WCG confirmed in their letter vide Ref 16/3/3/6/1/B4/12/1440/18 dated 21-02-2019 that the development proposal did not trigger any listed activities in terms of the NEMA EIA Regulations and that an Environmental Authorisation was not required.

An updated ruling on the non-applicability of the provisions of NEMA with specific reference to the current development proposal will be sought from the Department.

9. STELLENBOSCH MUNICIPAL SPATIAL DEVELOPMENT FRAMEWORK, 2019

The purpose of the Stellenbosch Municipal Spatial Development Framework (MSDF) is to guide the future growth and development of the municipality based on an agreed vision and principles which are aimed at addressing problems and creating opportunities for sustainable socio-economic

development. The MSDF provides overarching spatial development principles which underpin the Municipality's approach to the integrated spatial planning and management of land use and economic development for the municipal area as a whole.

The subject land unit is situated in **Franschoek**, which is regarded as the second most significant settlement in the Municipality as identified by the MSDF, 2019. In terms of the **Franschoek Framework Plan** (Figure 32 on page 77), the subject land unit is situated outside the existing 'Urban edge' and identified as 'Graded Landscapes to be protected' and 'Green Areas Retained' with the Lambrechts Street 'Sensitive Scenic Route' abutting the land unit on its northern boundary as indicated in the figure below.

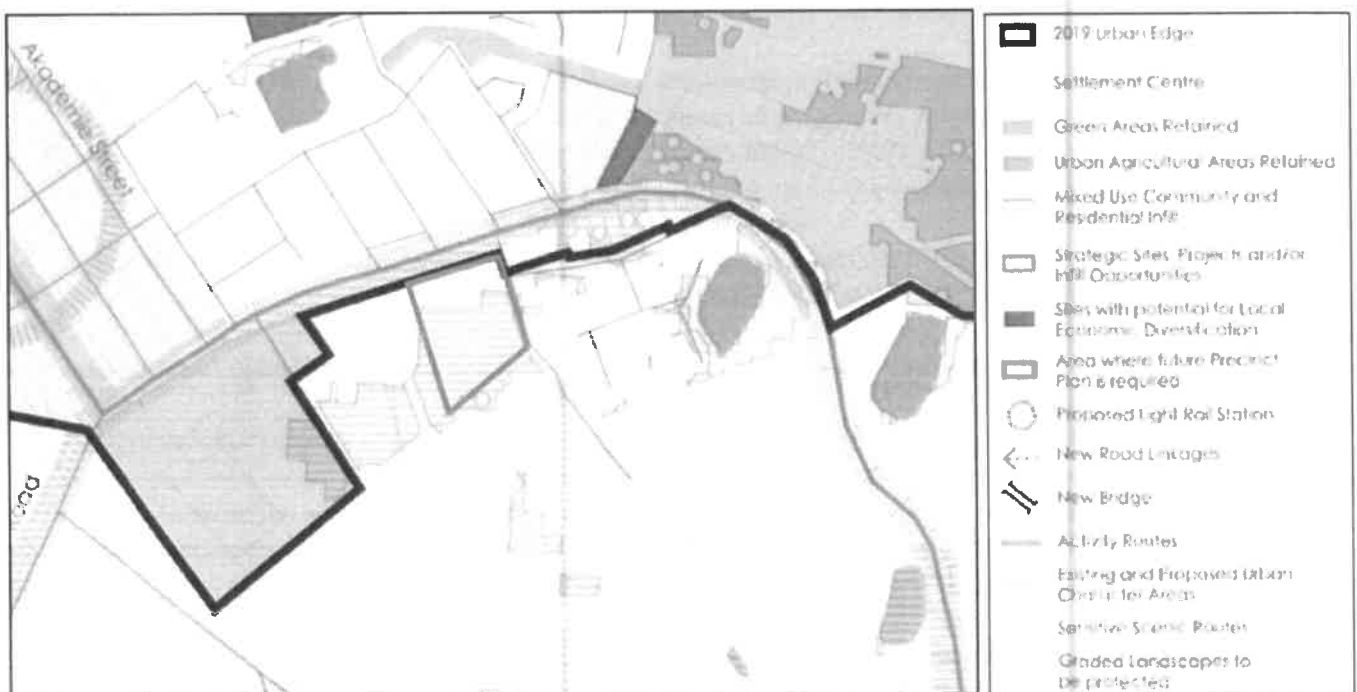


Figure 3: Franschoek Framework Plan (Stellenbosch MSDF, 2019)

A development proposal requiring planning permission approvals for a change of land use and subsequent subdivision of the land unit is considered a deviation from the objectives and principles as promoted in the MSDF, 2019 especially noting that the subject land unit is situated outside of the urban edge and can only be considered based on site specific circumstances. This was confirmed by the municipal officials present at the pre-application consultation meeting. Section 22(2) of SPLUMA empowers the Municipality to take land development decisions in respect of development proposals which represent a departure from a MSDF, in instances when site specific circumstances justify such a departure from the provisions of the MSDF.

10. THE STELLENBOSCH MUNICIPALITY ZONING SCHEME BY-LAW, 2019 (EXISTING LAND USE RIGHTS AND CONSTRAINTS)

The subject land unit was previously zoned for 'Public Worship' purposes in terms of the then Franschoek Zoning Scheme Regulations and in terms of the conversion table in Schedule 2 of

the Stellenbosch Zoning Scheme By-Law, 2019 converts to 'Community Zone'. The vast majority of the surrounding properties to the north, east and south of the subject land unit are zoned Conventional Residential Zone as illustrated in the below figure.



Figure 1: Extract of the Stellenbosch Municipality Zoning Map for Franschhoek

The following land use development parameters / restrictions apply to properties zoned for Community Zone purposes.

Primary Uses	Additional Uses (technical approval)	Consent Uses (application required)
<ul style="list-style-type: none"> • Clinic • Community residential building • Day care centre • Extramural facility • Indoor sport • Medical consulting rooms • Outdoor sport • Occasional use (one event/year) • Place of assembly • Place of education • Place of worship • Public institution • Welfare institution • Private road 	<ul style="list-style-type: none"> • Dwelling house • Employee housing 	<ul style="list-style-type: none"> • Freestanding base telecommunication station • Helicopter landing pad • Hospital • Hostel • Market • Occasional use (>one event/year) • Renewable energy structure • Rooftop base telecommunication station • Tertiary educational institution

Building lines:

Building type	Street boundary building lines (m)	Common boundary building lines (m)	Coverage	Height
All buildings	5m	5m	50%	3 storeys

The Stellenbosch Municipality issued a Zoning Certificate confirming the conversion to Community Zone as prescribed in terms of the new Zoning Scheme By-law, however imposed a limitation that the primary uses are restricted to Place of Worship only.

It is however our considered opinion that the Municipality is not lawfully entitled to arbitrarily or unilaterally limit or restrict the primary land uses or development parameters applicable to the Community Zone in the conversion process unless expressly empowered to do so in terms of the provisions of the Zoning Scheme By-law.

When queried on the matter, the Municipality referred to the provisions contained section 34 of the LUPA as the enabling legal mechanism to defend their actions, which is however misplaced since Section 34 of LUPA applies to the compliance of these principles when repealing the previous Zoning Schemes and introducing new Integrated Zoning Schemes and prescribing the manner and methodology in which zoning conversions must be undertaken.

In short, the Zoning Scheme By-law simply provides for the conversion to a base zoning as detailed in the Conversion Table in Schedule 2 and furthermore, in instances where such conversions may result in the intensification of land use rights, the imposition of Development Charges during the building plan approval process. This is the prescribed legal framework as set out in the Zoning Scheme By-law to which the Municipality is bound in the conversion process of allocating zonings and land use rights from the repealed Zoning Scheme to the current Zoning Scheme. We are therefore of the opinion that the land unit is entitled to the full range of primary and additional land use rights in respect of the Community Zone with the Municipality only being entitled to impose Development Contributions in respect of the deemed intensification of the previous land use rights on execution of said land use rights by the landowner. The applicant has also consulted with a specialist Attorney who confirmed and supported this view point. This has been put to the Municipality on a number of occasions who have been non-responsive in terms of confirming their willingness to amend the Zoning Certificate. This matter is thus a moot point and therefore the relevant correspondence with the Municipality on this particular matter has been included in the application documentation, since the argument is a primary motivation for a site specific deviation to the MSDF.

The subject land unit abuts onto Lambrechts Street being classified as an Urban Scenic Route (USR 11) in terms of the Scenic Route Overlay Zone as indicated on Map No SR05 dated October 2015. The site is however offset by a distance of approximately 33 metres from the edge of the road and will be largely screened by the avenue of blue gum trees forming part of the historic "Cats se Pad" route which will be retained. The site will also be landscaped with pristine fynbos gardens, olive trees and planted with vineyards as indicated on the Master Landscape Plan in order to create a soft, unobtrusive and natural visual appearance in support of it's rural and agricultural surroundings. The development proposal aims to provide a sustainable and feasible buffer and / or transition between the urban form north of Lambrechts Street and the outer lying agricultural areas to the south, as the adjoining L'Avenue Estate

11. THE CONSULTANT TEAM

The following professional consultants have been appointed to provide their specialist inputs in order to give effect to the revised development proposal :

a) David Hellig and Abrahamse, Professional Land Surveyors

who are responsible for:

- Topographical survey and preparation of Topographical Plan for planning and design purposes.
- Preparation and submission of the required land use planning application in terms of the provisions of the Stellenbosch Municipality Land Use Planning By-Law, 2015.
- Co-ordination and assembly of Consultants inputs
- Management of the land use planning application process for the acquisition of development rights
- Providing advice and inputs on all planning, surveying and land development related matters.

b) Zutari Consulting Engineers

who are responsible for:

- Design and provision of adequate services to the proposed development.
- Engineering Services Availability Report.
- Traffic Impact Statement.

c) J.d.V Landscape Studio

who are responsible for:

- The preparation of the Site and Landscape Site Development Plan indicating the layout and design elements of the development proposal
- Preparation of the Landscaping Report

d) Abrahams & Gross, Attorneys

who are responsible for:

- Conveyancers Certificate
- The preparation of the Home Owners Association Constitution

12. SITE DEVELOPMENT PLAN

a) Residential Opportunities :

- A total of seven conventional housing erven are accommodated viz Ptns 1 - 7, ranging between ± 1989 and ± 3214 square metres in extent.
- The building footprints in respect of the residential homesteads will be respectively limited to 1200 square metres in respect of Ptns 2 – 7 and 850 square metres in respect of Ptn 1, with the balance of the erven being utilised for agricultural cultivation and landscaped garden areas.
- Ptn 1 is situated north of the main access road in the north eastern corner of the site, whilst Ptns 2 – 7 are situated south of the main access road being screened by the avenue of blue gum trees.

b) Private Roads and Security Entrance (Ptn 8):

- The entrance to the estate is from Bagatelle Street directly opposite the existing entrance to the L'Avenue residential estate to the east.

- The main access road will be brick paved which then feeds into a network of two spoor roads to provide access to the individual units, which is a primary contributor to the agricultural and rural "look and feel" of the development proposal.

c) Private Open Space (Ptn 8):

- The private open space component comprises an irrigation and detention dam and children's play area situated in the north western corner of the land unit.
- The private open space is visually aesthetic and specifically situated on the northern boundary of the proposed development to preserve the scenic and tourist route of Lambrechts Street / Franschhoek pass.

13. ACCESS AND SERVICES

- The subject land unit is in close proximity to Lambrechts Street (R45: Paarl – Franschhoek - Villiersdorp) to the north being highly accessible from all directions.
- The proposed development will utilise existing and new services and infrastructure as determined by the Stellenbosch Municipality which have been adequately addressed in the Engineering Services Report and Traffic Impact Statement prepared by Messrs Zutari Consulting Engineers.
- The Traffic Impact Statement concludes that the proposed development will not have any major impact on the traffic flows in the area given the scale of the development.

14. RESTRICTIONS

The title deed of the subject land unit contains no restrictive conditions prohibiting the development proposal.

The previous Conveyancers Certificate prepared by Messrs Abrahams & Gross, Attorneys in respect of the previous land use planning application is enclosed herewith, however the following must be noted :

- Conditions B3 and B4 relating to a servitude rights of way in favour of the general public which were never applicable due to situation have since been removed. Please refer to the endorsements on page 6 of the Title Deed.

The land unit is also subject to a servitude pipeline vide servitude diagram no 1877/1966 registered in favour of the owner of Erf 59 Franschhoek being the Western Cape Provincial Government. It is proposed that this portion of servitude pipeline be cancelled and re-routed within Bagetelle and Lambrecht Street reserves. Please refer to the Engineering Services Availability Report for further detail.

15. MOTIVATION

11.2 Section 59 of the Western Cape Land Use Planning Act No 3/2014

The following land use planning principles prescribed in Section 59 of the Western Cape Land Use Planning Act, being indicators of desirability which in turn is one of the criteria for decision making, are complied with as follows:

- **Spatial sustainability:** The land use planning application when considered against the context and backdrop of the existing land use rights, its surroundings together with the Municipality's spatial vision for the area as enshrined in the MSDF represents a desirable, sustainable and preferred alternative. The development proposal is compatible with the aims and objectives as promoted in the MSDF, 2019 and seeks to bridge the divide between the development potential afforded to the land owner in terms of the existing land use rights and those advocated in the MSDF, 2019. The approval of the land use planning application will address this imbalance and align the land use rights with the spatial planning ideology of the MSDF, 2019 thereby promoting the principles of a rational and predictable planning environment and framework as opposed to the status quo.
- **Protection of the environment:** The existing avenue of trees representing 'Cat se Pad' is of historical significance and is incorporated into the design of the proposed development. The balance of the site is devoid of any environmental significance noting the following quote from DEADP, WCG letter of non-applicability dated 21-02-2019 :

".....it has been confirmed that due to the presence of dense growth of Blue Gum and Cluster Pines since 2004, the site has been completely transformed and is devoid of indigenous vegetation, and therefore does not support Swartland Alluvium Fynbos."

The development proposal also aims to incorporate elements of agriculture and landscaping to mitigate the impact on the environment and contribute toward the agricultural and rural character of its surroundings.

- **Efficiency:** The approval of the development proposal will enable the subject land unit to be utilised to its full potential whilst mitigating against the possible and potential development opportunities in terms of the current land use rights.
- **Good administration:** Multiple engagements, culminating in a formal pre-application consultation meeting to discuss, assess and refine the development proposal were held with the Municipality to ensure the efficient processing of the land use planning application.

11.3 Neighbourhood and Surroundings

- The proposed development comprises the establishment of 7 discrete unobtrusive high quality residential erven with appropriate mitigation and control measures in place to ensure compatibility with its surrounds and the Municipality's long term spatial vision for the area.
- The development proposes to enhance the character of the surrounding area and contribute to the existing sense of place in Franschhoek.

11.4 Need, Desirability and Demand

- The development proposal presents the opportunity to provide suitable and appropriate residential opportunities fit for purpose for the housing demand in Franschhoek.
- The development proposal will achieve a desired urban form which aligns with the existing residential developments in the immediate area.

11.5 Optimising the Potential of the Land and Opportunity

- The development proposal will optimise the potential of the subject land unit by providing a high quality residential development on the undeveloped land.
- The design and layout of the proposed development considered the topography and surroundings of the subject land unit and the development aims to promote secure residential opportunities in the area.

16. MOTIVATION IN SUPPORT OF A SITE SPECIFIC DEVIATION FROM THE STELLENBOSCH MSDF, 2019

Considering the designated spatial concepts, land use implications and location of the subject land unit (outside the urban edge), it is required that the land use development application be evaluated as a site specific deviation from the Stellenbosch MSDF, 2019 for the following reasons.

A. Existing Land Use Rights (STATUS QUO)

If the subject land unit was to be developed in terms of its current zoning and land use rights as described above, it is our considered opinion that the impact on the surrounding area, with special reference to the residential nature thereof, will be far more adverse than the current development proposal.

As explained above, it is our opinion that the current development proposal is aligned with the development ideals and spatial objectives as contemplated in the MSDF whilst the existing land use rights are not.

For example, a typical scenario would be the erection of a three storey school, tertiary education institution, clinic, hospital, church, hostel, community residential buildings etc. with a building footprint of 12 847,50 square metres (50% coverage permitted in Community Zone), leaving a balance of 12 847,50 square metres on which the required number of parking bays could easily be accommodated. A typical parking bay requires on average \pm 22 square metres for parking and access which would equate to \pm 580 parking bays which translates into a substantial GLA. This scenario represents the status quo in terms of the existing zoning and land use rights of the subject land unit should the owner intend to proceed on this basis.

The above development proposal does not require any planning permission approvals since it is in compliance with the development parameters contained in the Stellenbosch Zoning Scheme By-Law, 2019 and represents the execution of the primary land use rights.

There is thus a disconnect between the MSDF, 2019 and the current status quo position and this land use planning applications aims to address this imbalance.

B. Physical characteristics

- The subject land unit comprises existing building infrastructure viz a derelict dwelling unit and ablution facilities and is densely planted with Bluegum trees with very little agricultural potential.

- Due to the presence of dense growth of the blue gum trees, the site has been completely transformed and is devoid of any indigenous vegetation.
- The extent and nature of the subject land unit is not suitable for agricultural production and does not constitute an area of biodiversity conservation, scenic quality or a landscape to be protected as envisaged in the MSDF.
- The Department of Environmental Affairs and Development Planning, WCG confirmed that the proposed development does not constitute any listed activities in terms of the NEMA EIA Regulations as the site is located within an urban area, no indigenous vegetation will be cleared, no watercourses or wetlands were identified on site and that Environmental Authorisation is not required vide their letter Ref 16/3/3/6/1/B4/12/1440/18 dated 21-02-2019.
- The development proposal however aims to introduce an agricultural and landscaping element in the design philosophy of the Estate in order to achieve the goals and objectives of the MSDF, 2019 and in support of its surroundings.
- The development proposal will retain the avenue of blue gum trees signifying the historic Cats se Pad as prominent and focal landmark

C. Surrounding land uses and zonings

- The current development proposal is to a large degree modelled on the adjoining L'Avenue residential estate which will ensure its compatibility with its surroundings. The majority of the erven abutting the subject land unit are zoned for Conventional residential purposes

D. Legal / administrative implications

- The spatial considerations contained in the MSDF, 2019 sets out the preferred utilisation of the subject land unit being agricultural in nature with associated agri-tourism related activities which are inappropriate and impractical when considered with the lawful status quo situation taking cognisance of the current land use rights and current land usage.
- In the adoption and review of a Spatial Development Framework, one of the core principles and responsibilities which the Municipality needs to adhere to is the promotion of a "rational and predictable land development environment to create trust and stimulate investment" as contained in SPLUMA and LUPA.
- The exclusion of the land unit from the urban edge *does not promote the predictable utilisation of the land* when considering the existing land use rights and is therefore in conflict with the provisions contained in SPLUMA and LUPA in respect of land use development principles and the adoption of MSDFs.
- The current development proposal aims to remove this anomaly and align the land use rights with the spatial objectives advocated and promoted in the MSDF, 2019.

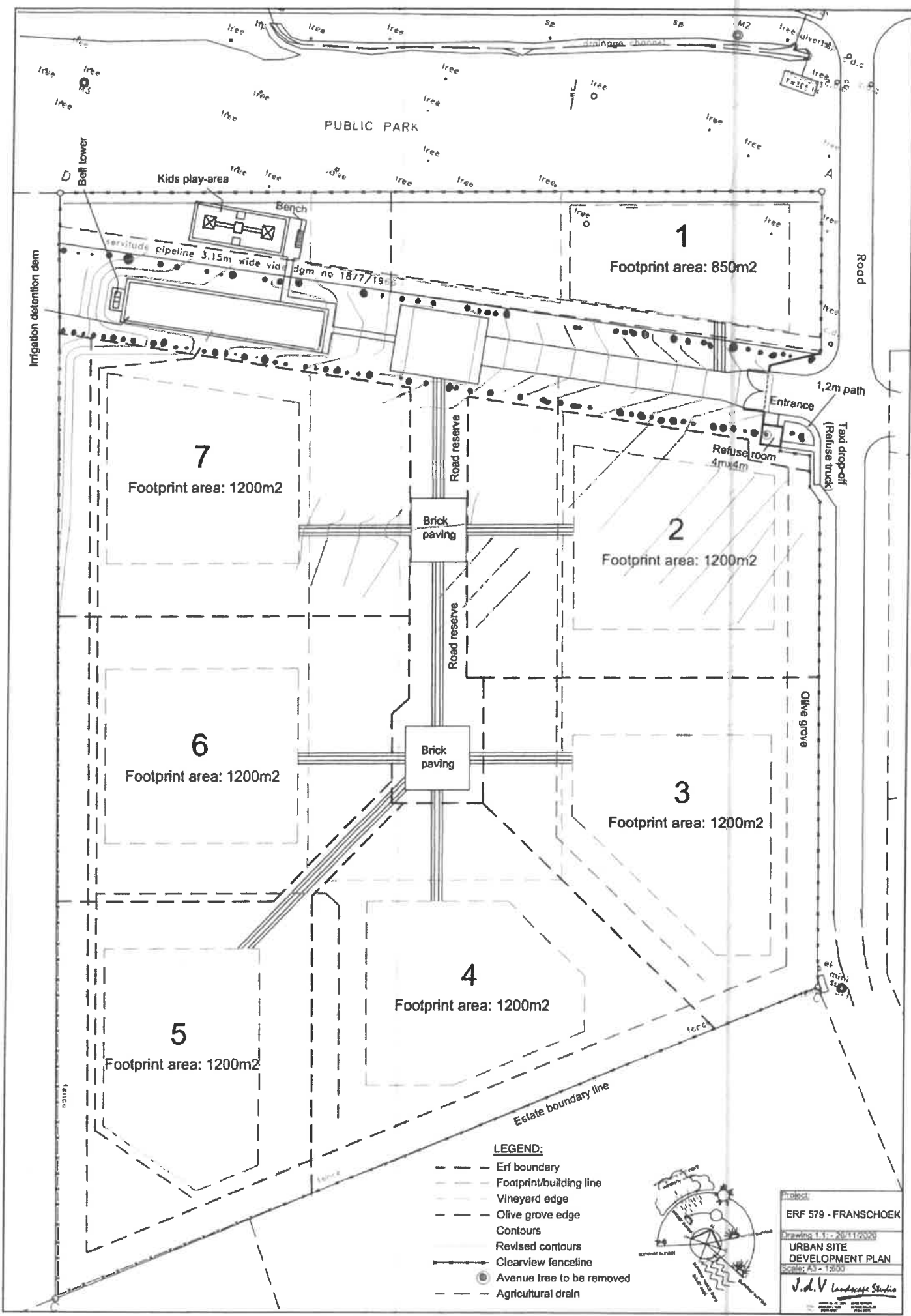
17. CONCLUSION

Section 22(2) of SPLUMA empowers the Municipality to take land development decisions in respect of development proposals which represent a departure from a MSDF only if site specific circumstances justify such a departure from the provisions of the MSDF. The reasons, justifications and motivations provided above are indeed considered to be site specific and unique circumstances to this particular land unit, justifying the deviation.

DAVID HELLIG & ABRAHAMSE



PER : M BOTHA
Candidate Planner C/8375/2016
DECEMBER 2020



PUBLIC PARK

Kids play-area

Bench

servitude pipeline 3.15m wide vid dgm no 1877/19

1
Footprint area: 850m²

Irrigation detention dam

Road

7

Footprint area: 1200m²

1,2m path

Entrance

Taxi drop-off
(Refuse truck)

Refuse room
4m x 4m

Road reserve

Brick paving

2

Footprint area: 1200m²

Road reserve

Brick paving

6

Footprint area: 1200m²

Olive grove

3

Footprint area: 1200m²

4

Footprint area: 1200m²

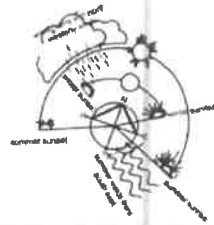
5

Footprint area: 1200m²

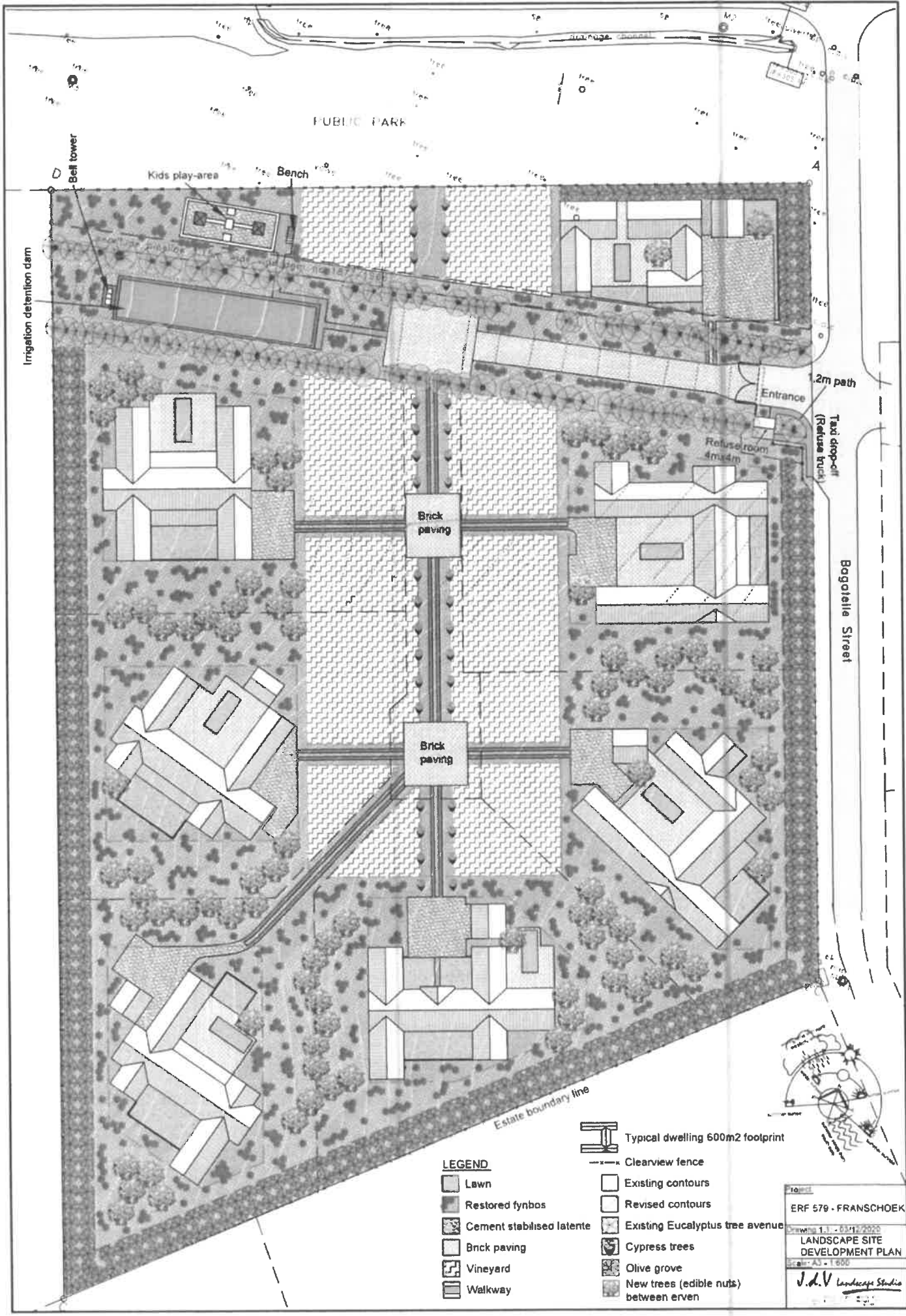
Estate boundary line

LEGEND:

- - - Erf boundary
- - - Footprint/building line
- - - Vineyard edge
- - - Olive grove edge
- - - Contours
- - - Revised contours
- - - Clearview fenceline
- Avenue tree to be removed
- - - Agricultural drain



Project:
ERF 578 - FRANSCHOEK
Drawing 1.1 - 26/11/2020
URBAN SITE
DEVELOPMENT PLAN
Scale: A3 - 1:500
J.d.V. Landscape Studio



PUBLIC PARK

Bell tower

Kids play-area

Bench

Irrigation detention dam

Entrance

1.2m path

Taxi drop-off
(Refuse truck)

Refuse room
4m x 4m

Brick paving

Bogotelle Street

Brick paving

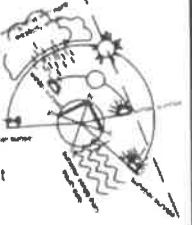
Estate boundary line

Typical dwelling 600m2 footprint

Clearview fence

LEGEND

- Lawn
- Restored fynbos
- Cement stabilised latente
- Brick paving
- Vineyard
- Walkway
- Existing contours
- Revised contours
- Existing Eucalyptus tree avenue
- Cypress trees
- Olive grove
- New trees (edible nuts) between erven



to: ERF 579 - FRANSCHOEK
 Drawn: 1.1.01/1.2002
LANDSCAPE SITE DEVELOPMENT PLAN
 Scale: A3 - 1:500
J.A.V. Landscape Studio



Johan de Villiers - Landscape Architect - BL (Pret) SACLAP

Erf 579 Franschoek – Housing Estate

1.0 Urban design

1.1 Existing Site

1.2 Urban design Philosophy

2.0 Landscape Guidelines:

2.1 Olive groves and Vineyards

2.2 Communal area and natural Fynbos areas around the dwellings landscaping:

2.2.1 Planting of trees shrubs and groundcover plants

2.2.2 Lawn areas

2.2.3 Fencing within properties

2.2.4 Retaining structures

2.2.5 Paving:

2.2.5.1 Steppingstones or flagstones

2.2.5.2 Pathways through the restored Fynbos areas

2.2.5.3 Motor courts

2.2.6 Garden lighting

2.2.7 Water features

2.2.8 Prefabricated planter/pots

2.2.9 Screening of service/dry yards and compost areas

2.2.10 Planting

2.2.11 Herb and vegetable gardens

Annexure A – Landscape Mood board

Annexure B – Plant Lists

Plant List no.1 - Swartland Alluvium Fynbos; in the communal areas and areas outside the 1200m² building footprint on the erven

Plant List no.2 - Indigenous plant material planted in proximity of the dwellings.

Plant List no.3 - Nut bearing trees to be planted as buffers between erven.

Annexure C - Endemic Western Cape – Gardens Planting Palette

1.0 Urban design:

1.1 Existing Site:

See the location plan below. The site is 2,57Ha in size and has a 1:8 fall across the site from east to west. The endemic vegetation in the area is Swartland Alluvium Fynbos and soils vary from Glenrosa to Misppah. The site is infested with Eucalytus and Pinus spp. Trees.

The old disbanded "Kat se Gat" road lined with Eucalytus trees runs through the site on the site's northern edge, from east to west the two avenues of eucalyptus trees have heritage value and must be retained and incorporated in the urban layout.

Dwellings situated on the southern, eastern and western boundaries of the housing estate will have mountain views.

The Developer will be installing a borehole as there is sufficient underground water.

1.2 Urban design philosophy:

A Rural Cape Vernacular lifestyle theme will be created to be in sympathy with the surrounding wine farms, by creating the following features:

- A central communal vineyard 110m x 45m = 0,5Ha, where 1,5 ton of grapes can be harvested and if processed could produce 1000 bottles of wine.
- An olive grove along the east, south and west boundaries of the estate. 300 trees will be planted and at year 5, 1,5ton of olives can be harvested. If 75%, 1100kg of the harvest is pressed at 5kg of olives to produce a litre of olive oil, 200litre could be bottled, the remaining 25%, 350kg could be processed for table olives. The olive trees will be kept trimmed, not to exceed 3m in height to avoid the screening of the mountain views. A walking/jogging trail will be created between the olive tree rows. The pathway will also be used to patrol the estate.
- It is proposed that there will be no internal erf fencing between the erven, to create the sense of the dwellings situated on one farm. To create privacy between the dwellings we propose establishing tree clusters with trees with edible nuts; Almond trees, Pecan nut trees, Chestnut trees, hazelnuts trees and macadamia nuts trees.
- The balance of the open areas will be restored to Swartland Alluvium Fynbos.
- The property owners will be allowed to create gardens immediately around the dwellings, strictly to the Estate Landscape Guidelines. Lawn will be limited and only endemic "Blou Kweek" (cynodon dactylon) will be allowed. Areas directly around the dwellings will be permitted to be fenced off with 1,2m high "Clear View" fencing, camouflaged with shrubs in situations where owners have pets.
- The roads through the vineyard and roads leading to the dwellings will be "Twee spoor" track roads 2m wide, the tracks will be surfaced with brown exposed aggregate concrete and where turning circles/ change of directions are required, brick paved square "werf" areas have been created to line the vehicles up for the next track road. The "werf" areas will also be used for vehicles to pass each other.
- The road along "Kat se Gat" Tree Avenue will be 5,5m wide and surfaced with brick paving. At the entrance gate, the road will be 7m wide, with a 12m stacking distance on the outside of the gate.
- The strong road axis along "Kat se Gat" tree avenue ends up, in the west, in a square with 900mm high, thick "werf" walls and beyond this "werf"/square is a formal farm dam which will serve as a retention dam and topped-up with the borehole water and also serve as an irrigation dam. A bell tower has been positioned at the western end of the dam to strengthen the axis.

– The dam/water feature edges will have stone rip-rap edges planted with aquatic plants and papyrus as a physical barrier and to aid with the polishing of the water. 4 aeration jets will be positioned in the dam to curb algae growth and the irrigation booster pump will drive the jets during the day when it is not used for irrigation. The dam could be filled with Trout, Bass & Tilapia (Vlei kurper). Fly fishing could be additional recreation facility for the owner's children. Due to the western part of the water feature dam wall being raised, a 1,2m high clear view fence will be installed at the toe of the embankment, which will be screened with shrubbery to avoid the resident children entering the dam area, without parent supervision.

– To enhance the Rural Cape Vernacular theme, we propose planting Mediterranean cypresses (*Cupressus sempervirens* *Stricta*) at the ends of each second row of vineyard along the "Tweespoor" vehicle track. The cypress tree crowns are the same width as that of the vine growth, which will not obstruct machinery, maintaining the vineyards.

- Low louvered bollard lighting (500mm high) will be position at every fourth cypress tree on either side of the track, to eliminate the track and to avoid light pollution.

- Motor courts/"werwe" are proposed at each dwelling, which could be edged off, with low/thick "werf" walls. The motor courts surfaces will be stabilized with a sifted laterite/crusher-dust/cement mix to enhance the rural theme. On the edges of the motor courts lemon, lime, Bay leaf trees & "Adams Vy" will be planted plus one large deciduous shade tree (Wit Stinkhout or London Plane) in the motor court.

- The estate can be fenced with a 2,1m transparent fence, as the olive tree will supply sufficient visual and noise screening. Boundary walls must be avoided as it defines the boundaries of the estate and the feeling of being caged in must be avoided. Only the entrance gate should be a built feature.

– Dwelling orientation and positioning:

* Where swimming pools are required at dwellings, it is proposed that the pools are positioned on the northern side of the dwelling, to screen the area from the south easterly winds.

* It is proposed that the dwellings on the western side of the estate have a living area that also opens up to the south to appreciate the mountain views and the dwellings on the eastern side of the estate have a living area that also opens up to the east to appreciate the mountain views.

* No building platforms will be enforced, but building lines have been introduced to ensure the dwellings are spaced at a minimum of 18m-20m apart.

* The dwelling footprints may not exceed 600m², including verandas and garages.

- Refuse removal

* A 4m x 4m building will be erected to form part of the entrance feature walls, with a door leading to the public road, for easy accessibility for refuse collection by the municipality.

* The refuse room will have a wash bay to clean the wheelie bins. A floor sump will be connected to the internal sewer line.

– The existing public road, Bagatelle Street, will be widened by 2,5m for a 17m length alongside the refuse room to serve as a taxi drop-off area and bay where the refuse collection truck can park when collecting the refuse.

2.0 Landscape Guidelines:

2.1 Olive groves and Vineyards:

As mentioned in the Urban Design Philosophy, item 2 and indicated on the Landscape Development Site Plan, each property owner will have a section olive grove and vineyard on their properties that will have to be established to contribute to the overall lifestyle theme of

the estate. The cost of the olive grove and vineyard plus the irrigation system on each property will be borne by the owner. An irrigation watering main pipe will be supplied to the olive grove and vineyard by the developer from the water feature/reservoir dam. The cost to run the irrigation booster pump delivering the pressurised water to the olive grove and vineyard will form part of the levy. The olive specie planted throughout the development will be Olea mission which is very hardy and delivers table fruit as well as oil. The trees will be planted 3m apart. The grape specie will be determined by a local viticulturist that have experience of the immediate region and planted in rows, 2m apart, along the existing natural contours. It is proposed that an outside contractor maintains and prunes all the olive groves and vineyards to ensure that a unified look is created.

Along the central "2 Spoor" track road at the end of every second row of vineyard, a large Mediterranean cypresses will be planted on either side of the road, to accentuate the lifestyle theme. The balance of the vineyard row ends will be planted with one Iceberg rose, to hide the pergola brace wire of the vineyards.

2.2 Communal area and natural Fynbos areas around the dwellings landscaping:

2.2.1 Planting of trees, shrubs and groundcover plants:

As stated in the Urban Design Philosophy, item 2, the property owner will only be allowed to detail landscape design in the areas immediately around their dwellings and in the dwelling courtyards. A list of indigenous plant material, see Plant List no.2, has been supplied with which this detail landscaping around the dwellings have to be executed. The balance of the area not taken up by the motor court, vineyards and olive groves will be planted with the endemic Swartland Alluvium Fynbos of the region. A list of plant species that are to be used are attached, see Plant List no.1. A list of trees from which nuts can be harvested, see Plant List no 3, can also be planted in the fynbos areas, to enhance the rural farm lifestyle and create screening between the dwellings.

2.2.2 Lawn areas:

Only Cynodon dactylon (Blou Kweek) lawn will be permitted in the active recreation areas around the dwellings. No Pennisetum clandestinum (Kikuyu) lawns will be permitted. Lawn area may not exceed 15% of the dwelling footprint.

2.2.3 Fencing within properties:

No fences will be permitted on the erf boundaries, between erven, as it would segment the development, omitting the visual effect of the properties situated in one large "farm". Clear view fencing, 1,2m high, will be permitted around lawned area in close proximity of the dwellings to contain pets and toddlers. The fencing has to be positioned in shrub beds, for the shrubs to screen off the fencing.

2.2.4 Retaining structures:

Due to the 1:8 fall over the estate, areas will have to be retained to create level platforms for lawns, pools and motor courts. No flexible retaining walls will be permitted i.e., Loffelstein and Terra-Force. Retaining walls may be constructed with:

- Gabions (cage constructed with galvanised steel wire mesh - 50mm x 70mm and not fencing diamond mesh).
- Off shutter concrete

- Brick walls which are clad with stone;
- Dry pack stone walls.

2.2.5 Paving:

2.2.5.1 Stepping stones or flagstones:

Stepping stones and flag stone have to be square or rectangular, 50mm thick concrete slabs with exposed aggregate or rock mound finish pigmented with a Table Mountain Limestone or Sandstone finish. No round or imitation tree trunk mounds will be permitted. Stepping stones preferably to be laid in straight lines squared off with the dwellings.

2.2.5.2 Pathways through the restored Fynbos areas:

These pathways to be surfaced with stabilised Laterite/cement mix, to enhance the rural theme. We propose that the pathways do not exceed 800mm width.

2.2.5.3 Motor courts:

Exposed aggregate (brown) concrete insitu paving is recommended, casted in 2m x 2m blocks with ROK brick stretcher bond edging/expansion joint patterns. Corn colour brick paving is also acceptable, to enhance the rural theme. A gravel (local soil) texture and finish is to be mimicked to typify of a farm yard/"werf" surfacing. No grey or black cobbles are permitted as paving material.

2.2.6 Garden lighting:

Low, louvered lights shining down wards (bollards - max 500mm high or low bulkhead lighting) will be permitted, only as direction giving on pathways and along the motor court. No up lighters in trees will be permitted. Light pollution must be reduced to a minimum.

2.2.7 Water features:

No prefabricated fibreglass ponds or free formed ponds will be permitted. Ponds will be rectangle and built with shutter concrete or bricks. Where water features are situated outside of the dwelling fenced off area, open to the public, it has to be provided with a safety net.

2.2.8 Prefabricated planter/pots:

Pot containers must be round or square, manufactured from clay, concrete & stone. No fibre cement "Everite" prefabricated plant container products will be permitted.

2.2.9 Screening of service/dry yards and compost areas:

Solid brick and mortar screen walls have to be avoided as far as possible as it increases the hard structures and elements, which has a negative impact on the proximity of the dwelling to one another. Timber trellis screens and Tanalith treated lath screens are encouraged for screening, which will aid with the integration of the dwelling and garden.

2.2.10 Planting:

There are 2 plant lists, See annexure A & B;

Plant list no.1 - Endemic plant material permitted to be planted on areas outside of the 1200m² dwelling platform on the erf. These plant selections are plant species that naturally grow in the Swartland Alluvium Fynbos

Plant list no.2 - Indigenous plant material permitted to be planted inside the 1200m² dwelling platform on the erf. These plant selections are decorative plant species that are hardy, water wise and requires low maintenance.

Plant list no.3 – Nut bearing trees to be planted as buffers between erven.

The plant species have to be planted in 3, 5, 7 etc. and in mass to create an impact. It is proposed that the planting in the proximity of the dwelling be planted in formal lines, parallel with the dwelling lines and as the shrub lines extend away from the dwelling, it can become more informal to integrate with the natural Swartland Alluvium Fynbos on the balance of the erf.

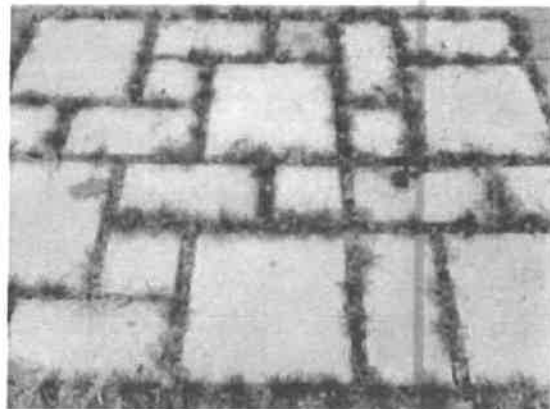
2.2.11 Herb and vegetable gardens:

It is proposed that the herb & vegetable planters be raised, rectangle and form a focal feature of the gardens. Timber trellises can be introduced for creepers and serve as a wind barrier.

Annexure A - Landscape Development – Mood board.



Motor court paving



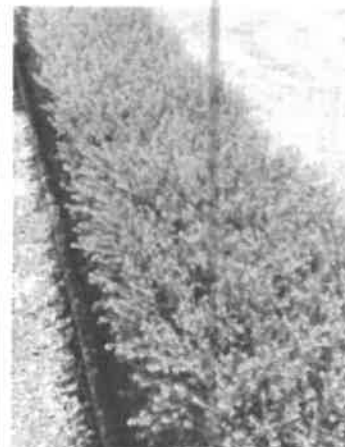
Stepping stone patio



Stepping stone Path



Hedge planting



Hedge planting



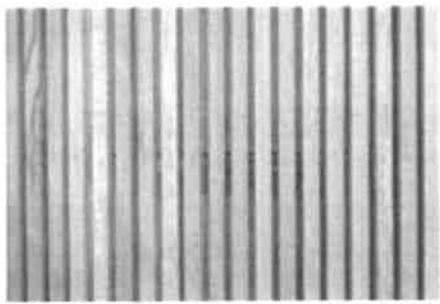
Laterite pathways



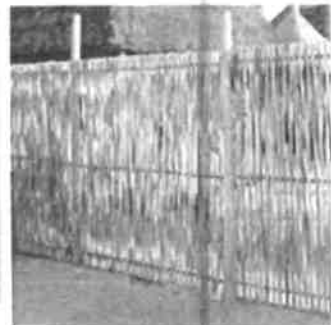
Raised herb & vegetable garden



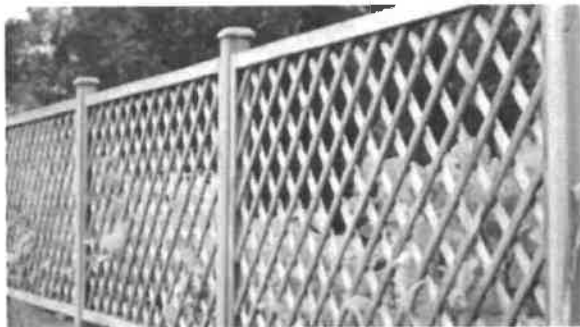
Timber lath screen



Timber screen



Timber lath screen



Timber trellis



Water feature



Water feature



Planter pots 1



2



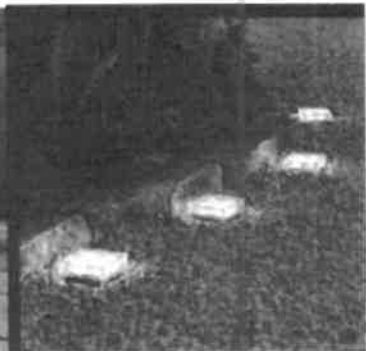
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Garden lighting 1



2



3

Annexure B – Plant Lists

Plant List no.1 - Swartland Alluvium Fynbos; in the communal areas and areas outside the 1200m² building footprint on the erven

Plant material available at nurseries:

Agathosma serpyllacea	Leucadendron rubrum
Asparagus densiflorus 'Mazeppa'	Lobostemon fruticosus
Babiana sp	Maytenus acuminata
Bulbine sp.	Metalasia muricata
Carpobrotus edulis	Moraea sp
Cliffortia odorata	Oxalis sp.
Cineraria saxifraga	Oftia africana,
Diospyros whyteana	Osteospermum sp.
Erepsia inlaudens	Othonna sp.
Erica sp.	Passerina rigida
Ficinia nigrecens	Pelargonium capitatum
Gladiolus tristis	Phyllica sp.
Helichrysum sp.	Protea mucronifolia
Hermannia sp.	Selago corymbosa
Ischyrolepis sp.	Senecio sp.
Lachenalia hybrid "Namakwa"	Thamnochortus fruticosus
Lampranthus sp.	Ursinia nudicaulis
Leptospermum laevigatum	Watsonia sp.
	Zantedeschia aethiopica

Plant List no.2 - Indigenous plant material planted in proximity of the dwellings.

2.1 Trees:

<u>Common Name</u>	<u>Botanical Name</u>
Witstinkhout	Celtis Africana
River Bush Willow	Combretum erythrophyllum
Assegaai bos	Curtisia dentate
Coral Tree	Erythrina lysistemon
Vlier	Nuxia floribunda
Wit Karee	Searsia pendulina
Water berry	Syzygium cordatum
Water Pear	Syzygium guineese
Cape willow	Salix mucronata ssp. woodi
Fever Tree	Vachellia xanthophloea

2.2 Shrubs:

Baleria	Baleria obtusa "blue"
Num.-Num	Carissa bispinosa
Confetti Bush	Coleonema album
Wild Rosemary	Eriocephalus spp.
Rivierharpiusbos	Euryops spp.

Ribbon Bush	Hypoestes aristata
Bush Jasmine	Jasminum multpartitum
Wilde Dagga	Leonotis leonurus
Forest Bell Bush	Makaya bella
Kruitjie-roer-my-nie	Metalasia major
Syselbos	Plumbago auriculata
Bloublomsalie	Salvia chamelaeagnea
Dune Crow-Berry	Searsia crenata
Burnt Orange	Tecoma capensis
Wild Camphor	Tarchonanthus camphorates

2.3 Ferns and Ratios (reeds):

Bush asparagus	Asparagus Africana
Mat Sedge	Cyperus textilis
Miniature Cyperus	Cyperus "Nanna"
Fountain reed	Elegia capensis
Dakriet	Elegia tectorum
Albertinia dekriet	Thamnochortus cinereus

2.3 Bulbs:

Blue Lilly	Agapanthus spp.
Blousuurkanol	Aristea major
Hen & Chickens	Chlorophytum comosum
Clivia	Clivia miniata
Fairy Bells	Dierama pulcherrimum
Wild Iris	Dietes spp.
Red Hot Poker	Kniphofia spp.
Wild Garlic	Tulbaghia violacea
Kanolpypie	Watsonia spp.
Arum lily	Zantedeschia aethiopica

2.4 Groundcover Plants:

Botterblom	Arctotis spp.
Asystasia	Asystasia gangetica
Rankkopieva	Bulbine spp.
Wilde-aster	Felicia spp.
Gousblom	Gazania spp.
Kooigoed	Helichrysum spp.
Vygies	Lampranthus spp.
Rank margriet	Osteospermum spp.
Pelargonium	Pelargonium spp.
Blue Spur Flower	Plectranthus spp.
Sutera	Sutera spp.

2.5 The permitted exotic plant materials are:

Hydrangea Blue	Christmas Roses
Rose spp.	Icebergs (floribunda or standards)
Rosemarinus officinalis	Rosemary
Olea mission	Fruit bearing olive trees.
Passiflora ligularis	Granadilla creeper on trellises.
Wisteria sinensis	Wisteria for pergola coverage.
Lavendula dentata	French lavender.

Plant List no.3 - Nut bearing trees to be planted as buffers between erven.

- Almond - Prunus amygdalus.
- Chestnut - Castanea sp.
- Hazelnut - Corylus sp.
- Hickory - Carya sp.
- Macadamia - Macadamia integrifolia.
- Pecan - Carya illinoensis.

Annexure C - Endemic Western Cape – Gardens Planting Palette

Buxus macowanii



Asystasia gangetica



Agapanthus praecox



Barleria obtusa



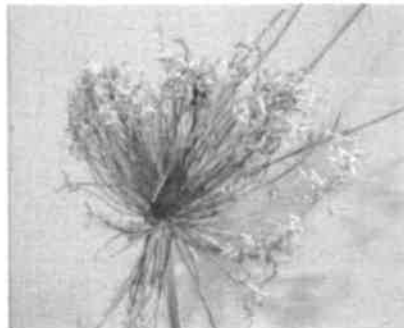
Clivia miniata



Coleonema album



Cyperus prolifer



Carissa macrocarpa



Elegia tectorum "Fishoek"



Dietes grandiflora



Dymondia margartae



Felicia heterophylla



Freylina visseri



Gazani rigens uniflora



Hypoestes aristata



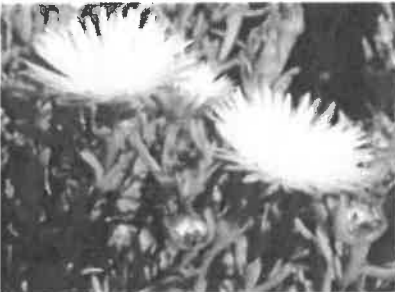
Jasminum multipartitum



Kniphofia linearifolia



Lampranthus bicolor



Metalasia muricata



Monopsis lutea



Pelargonium elegans



Phylica ericoides



Plectranthus ciliatus



Polygala myrtifolia



Salvia africana - lutea



Senecio glastifolia



Tulbaghia violacea



Salvia chamelaeagnea



Watsonia humilis



Erica baueri 'White'



Zantedeschia aethiopica



Wachendorfia thyrsiflora



Euryops 'Sunshine Classic'



Chironia liniodes



Searsia crenata



Rumhora adiantiformis



Sutera cordata



Asapargus meyerii



Berzelia intermedia



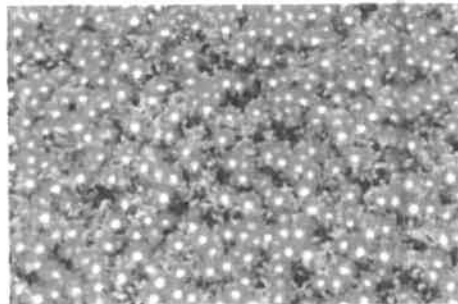
Athanasia dentata



Anisodentia capensis



Disphyma crassifolium



PURPOSE OF THE GENERAL GUIDELINES

The purpose of the General Guidelines is to provide architects and property owners with a framework within which individual properties can be designed and constructed to ensure an integrated and harmonious architectural language for La Demeure Wine Estate, Erf 579, Franschhoek.

It must be emphasized that these guidelines are not intended to stifle or inhibit innovative design and / or original thought. The challenge lies in respecting the *genius loci* (spirit of place) of the Winelands, by determining the identity of the area and interpreting it in ever new ways in the Estate.

The guidelines are intended to assist architects, home owners and others involved in the design and construction of building within La Demeure Wine Estate, Erf 579, Franschhoek to create a qualitative place which will resonate positively with a sense of place, history, craft, nature and scale qualities of the Winelands

These Guidelines cover development in both Portion A (Phase 1) and Portion B (Phase 2) of La Demeure Wine Estate, Erf 579, Franschhoek, Differentiated as follows:

Type I Erf: Portion A

Type II Erf: Portion B

These specific guidelines for properties in Portion B are subject to further refinement.

Specific Guidelines for certain sites will also apply.

To achieve the above objective the following aspects are addressed:

1. Building Form
2. Building Dimensions (Building Width, Height and Length)
3. Utilization of the Roof Space
4. Building Platform
5. Building Coverage

-
6. Building Lines (Portion A: On Boundary)
 7. Courtyards
 8. Garages and Carports
 9. Roofs
 10. Stoeps and Verandahs
 11. Boundary Walls
 12. Gates
 13. Exterior Walls, Windowsills and Plasterbands
 14. Windows and Doors
 15. Shutters
 16. Exterior Colours (for windows doors and shutters)
 17. Balconies
 18. Balustrading
 19. Burglar Bars & Security Gates
 20. Services (Aerials / Satellite Dishes / Pipes / Cables, Etc.)
 21. Chimneys
 22. External Lights
 23. Landscaping
 24. Building Plan Submission

1. BUILDING FORM

Building form shall consist of the main building structure, which is expressed as a code building with abutments; and free-standing structures

1.1 MAIN BUILDING STRUCTURE (CORE BUILDINGS)

- 1.1.1 Building form must conform to the traditional "letter of the alphabet" building types, which originated in the local vernacular of the Cape.
- 1.1.2 In this particular typology, the plan form of the building resembles the letters I, T, L, H, U or variations of the theme (figure 1). The latter constitutes the main body of the building and shall be referred to as the core building

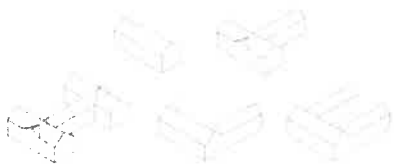


Figure 1 Letters of the alphabet type buildings

- 1.1.3 Rectangular sections of the core buildings must be built perpendicular to each other
- 1.1.4 Buildings must be dimensioned as described further in this document.
- 1.1.5 In order to create larger floor plans than what building dimensions of the core building would allow, the plan forms may be extended in various combinations of ways by abutments as illustrated in Figure 2

1.2 ABUTMENTS

- 1.2.1 Abutments are rectangular, single story extensions to core buildings
- 1.2.2 Abutments must be built to the dimensions that as illustrated in this document

1.3 FREE-STANDING BUILDINGS

- 1.3.1 Free-standing buildings are buildings with flat roofs as illustrated in Figure 3 and are only permitted on Type II Erven. (See page 4)

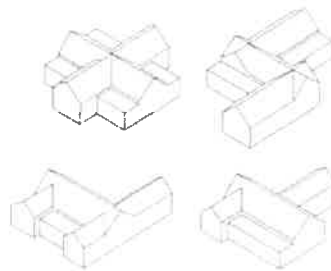


Figure 2: Illustration of different building forms that can be created by variation on the letter of the alphabet plan form and the use of abutments

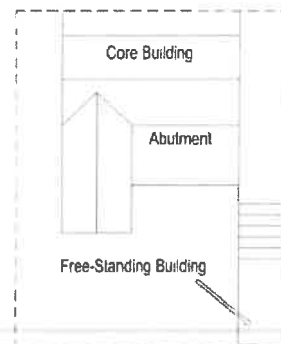


Figure 3: Core Building with free-standing building

2. BUILDING DIMENSIONS (WIDTH, HEIGHT & LENGTH)

Prescriptions relevant to the width of rectangular sections of the building and the corresponding heights relate to the type of erf which the house is constructed. The types that are defined are the following:

(i) TYPE I Erf:

Erven within Portion A with 1200m² set aside as the area for a house and garden. The total Erf size range from 3214m² – 3209m². The balance of the Erf will be planted with vineyards and olive grove

(ii) Type II Erf:

Erven within Portion B with a 850m² set aside as the area for a house and garden. The total Erf size is 1989m². The balance of the Erf will be planted with vineyards

2.1 BUILDING WIDTH

2.1.1 Building Width of Core Building:

- i) TYPE I Erf: 5m – 7.5m
- ii) TYPE II Erf: 4.2 – 6.6m



Figure 4: Building width Core Building Type I Erf



Figure 5: Building widths: Core Building Type II Erf

2.1.2 Building Width of Abutments

The width of any single abutment to the core building may not exceed 4.5 meters as shown in Figure 6 below

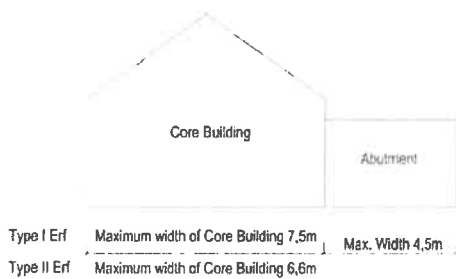


Figure 6: Section showing maximum width allowed for abutments

2.1.3 Width of Porticoes and Covered Entrances

Porticoes, covered entrances, linking walkways and single free-standing buildings are allowed to be narrower than the prescribed minimum width of core building and are left to the architect's discretion.



Figure 7: Perspective of Entrance Portico with a flat roof & a width of less than the minimum prescribed width.



Figure 8: This Portico has a width less than the prescribed minimum.

2.2 BUILDING HEIGHT

The height of any building must be related to its width and the type of erf on which it is built

2.2.1 Core Buildings

I) TYPE I Erf

Core Buildings on Type I erven may be single storey or single storey with loft space. The wall plate height shall be at 3.6m above finished floor level. This applies to buildings with widths from 5 – 7.5m (see Figure 9)

II) TYPE II Erf

Core buildings on Type II erven may be single storey or single storey with loft space with the wall plate height at 3.6m minimum and 4.8m maximum above finished floor level. This applies to buildings with width from 4.2m to 6.6m (see Figure 10)

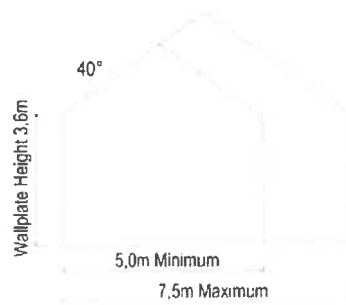


Figure 9: Section illustrating prescribed height for a Type I Erf Building

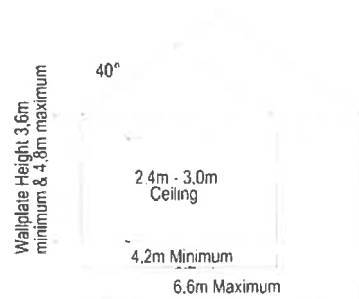


Figure 10: Section illustrating prescribed height for a Type II Erf Building

2.2.2 Height of abutments

- (I) On Type I and Type II erven, where core buildings are 3.6m high measured to the wall plate level, the height of abutment must be a maximum of 3.6 meters above finished floor level
- (II) On Type II erven, where code buildings are higher and 3.6m measured to the wall plate level the height of abutments are to be in the discretion of the architect, but may not exceed 4.0m

2.2.3 Height of Free-Standing structures

Free standing structure, such as a garage must be single storey, with flat roofs and only the permissible height will be equivalent to that of any abutment permitted on any particular site

Free-standing structures are only permitted on Type II erven and the maximum height allowed is 4.0 meters

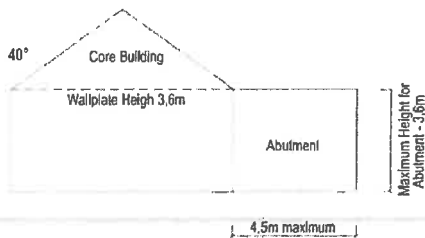


Figure 11: Section showing prescribed height of abutments

Figure 12: Abutment to core building with a flat roof behind parapet walls.

Figure 12: Abutment to core building with a flat roof behind parapet walls.



Figure 13: Abutment to core building with exposed mono pitch roof at 15° minimum

3. UTILIZATION OF THE ROOF SPACE

The General Guidelines lend themselves ideally to the utilization of the roof space for loft spaces, by virtue of the fact that the minimum wall plate height is specified as 3.6m above finished floor level and the maximum wall plate height at 4.8m. Ventilation, light and views can be provided for by the following methods:

3.1 Ventilator Windows

Ventilator windows may be used under eaves (see paragraph 16 Windows and Doors p 26-27)

3.2 Gable windows

- (a) The Gable end walls of the letter of the alphabet type buildings create opportunities for the use of gable windows. These windows must be rectangular, (see paragraph 15 External Window sills and plasterband p26, and paragraph 16 Windows and Doors p 26-27)
- (b) On a façade only one center gable with a window may be included

3.3 "French" dormers

"French" dormers may be used on the "soft belly" on the private side of the house that does not face the street (see Paragraph 16 Windows and Doors p26-27)

These dormers must be located 1m minimum away from the gable walls.

3.4 Roof Windows

Velux or similar type roof windows may be used (see Paragraph 16 Windows and Doors p26-27)



Figure 14: Perspective showing gable windows and ventilator windows

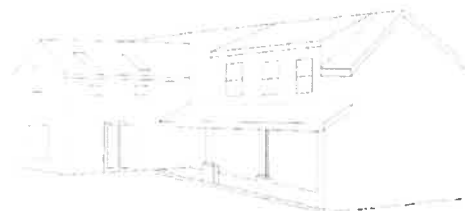
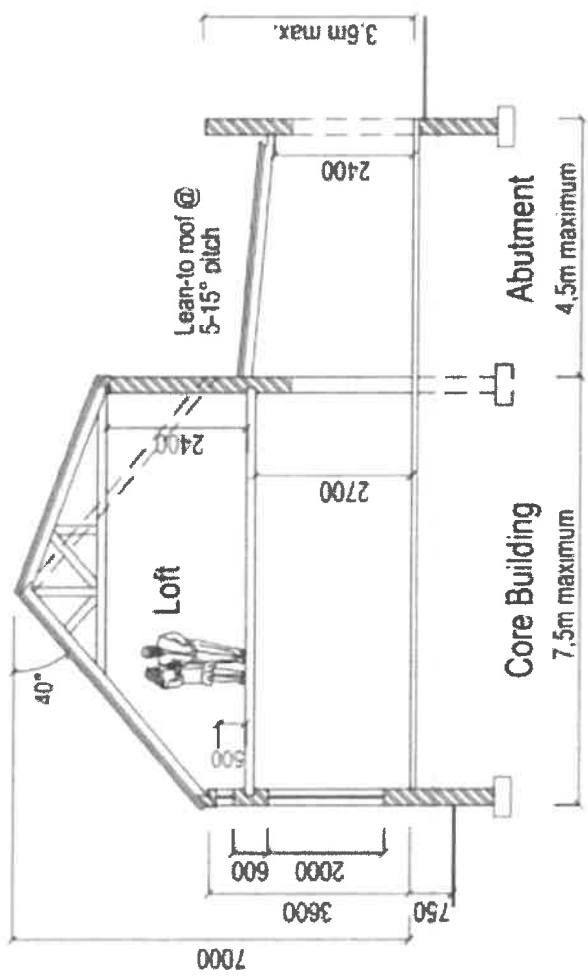


Figure 15: Perspective of French type dormer windows and roof windows facing into private area.



TYPE I ERVEN

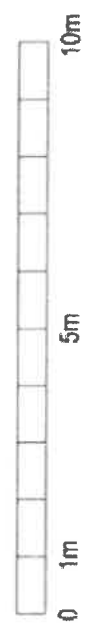


Figure 16: Section illustrating the dimensions for buildings on Type I erven

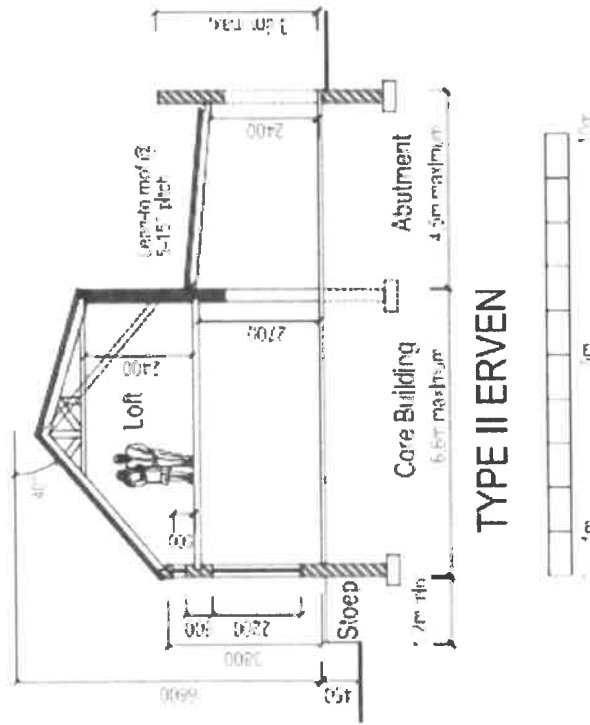
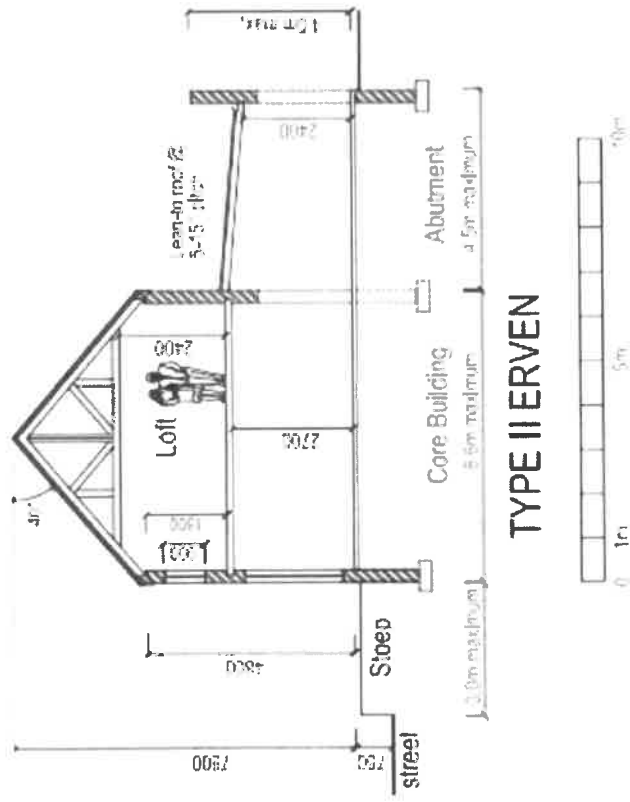


Figure 17: Sections illustrating the maximum and minimum dimensions for buildings on Type II erven

4.1 Steep Slopes

Building on slopes must be designed with stepping levels in response to the slope of the site or on stepped building platforms (Ref Figure 18 and 19)

4.2 Guidelines for Buildings on slopes

The following provisions must be applied to buildings which are situated on a slope:

4.2.1 The height of the ground fill at any point on the site may not be measured higher than 1.2m, measured from the natural ground level at that particular point of the site.

4.2.2 The part of the building that is at the highest part of the site may not cut deeper into the site than 1.2m measured from the natural ground level than that particular point of the site.

4.3 Retaining Structures

All retaining structures must be solid build walls

Vertical retaining structures on all boundaries must be plastered and painted brickwork or concrete blocks.

No stacked engineering blocks are allowed. Stone masonry walls may be used in gardens.



Figure 18: Section through slope illustrating building with stepped ground floor level and possible treatment

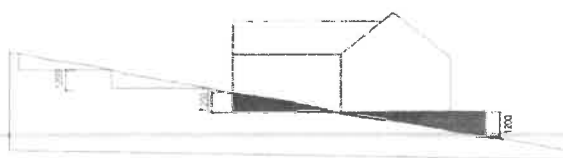


Figure 19: Section through slope illustrating limits to cut & fill

5. BUILDING COVERAGE

5.1. TYPE I erf: Maximum 50% of the 1200m² set aside for a dwelling and garden. The maximum footprint allowed for a dwelling shall not exceed 600m². The coverage shall not exceed 14.5% for these erven

5.2 TYPE II erf: Maximum 30% coverage for the erven in Portion B will be applicable. The maximum footprint of the buildings on Type II erven shall not exceed 460m²

Minimum size units that shall be allowed is 120m²

6. BUILDING LINES

Type I Erf: Nil building lines (On boundary)

Differentiation must be made between two types of building lines, namely:

6.1 Type A: This type of building line indicates a line over which a building structure **may not encroach.** (Figure 20)

6.2 Type B: This type of building line indicates the line on which an outer wall of a particular building structure **must be built** (Figure 21)

Type A and B building lines are shown on the **Specific guidelines of each erf**

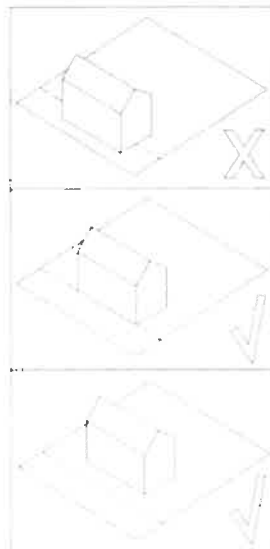


Figure 20: Type A building line

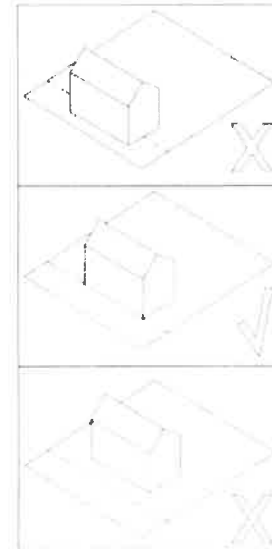


Figure 21: Type B building line

7. COURTYARDS

Courtyards are among the most ancient of outdoor rooms.

Of particular significance for La Demeure Wine Estate, Erf 579, Franschhoek is the opportunity created for courtyard living by the urban design of each development node with Type II erven



Figure 22: View of courtyard with central focal feature

7.1 Visual privacy

7.1.1 The guidelines cannot guarantee visual privacy. The Home Owners Association will however, in applying the guidelines take great care that is achieved to the maximum degree practically possible.

7.1.2 It is important that individual property owners ensure that houses are designed in a manner which respects the need for private outdoor space for neighbouring property.

7.1.3 Each property owner must motivate and illustrate how the aforementioned objective will be met when building plans are submitted to the Home Owners Association for approval.

7.2 Noise

7.2.1 While visual privacy can be attained by providing screen walls and locating windows and balconies in areas where privacy of the next-door neighbours are not compromised, noise is a potential problem that must be managed.

7.2.2 Good neighbourliness requires noise levels to be kept low by individual households.

7.2.3 Measures are required to regulate noise levels and to reduce noise levels through technical / design intervention.

7.2.4 Design techniques must be applied that will reduce noise disturbance. The following steps should be taken:

- i) The most effective way to reducing noise disturbance is to ensure that outside living spaces of neighbours are not located directly alongside one another, but that outdoor spaces are located in the centre of an erf with a building separating outdoor living spaces.

- ii) In the instances where boundaries are defined by wall, additional noise screening devices should be utilized such as planters, hedging, double walls, pergolas and garden seats.

- iii) Boundary walls can also be defined by covered walkways, which serve as linking elements between buildings and noise screening devices.



Figure 23: Covered walkway servicing as noise screening device

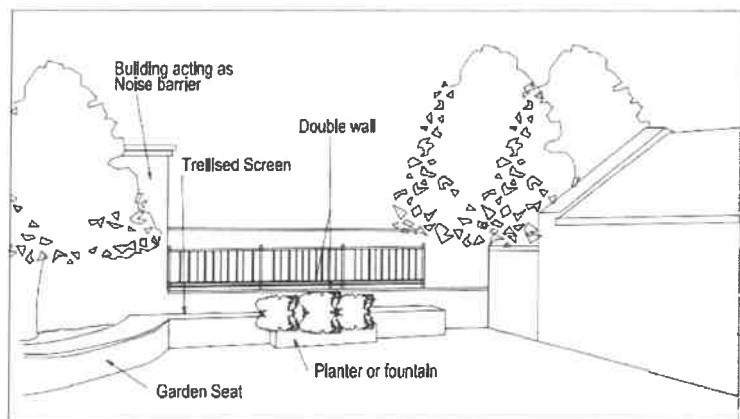


Figure 24: Illustration of methods of softening edges created by boundary walls

- iv) The sound of falling water from water features located along boundary walls is an effective method of reducing noise from external sources,

8. GARAGE AND CARPORTS

8.1 Doors General

Door materials and colours are more fully detailed in Paragraph 18 Exterior Colours for Windows, Doors and Shutters p28

Garage door openings must be 2440mm wide

8.2 Double Garages

A double garage must be provided with two garage doors next to each other separated by a 450mm wide brick column plastered and painted.

8.3 Additional garages

A third garage is allowed if it is built separately from the double garage

9. ROOFS

9.1 Gable Roof construction : Core buildings

9.1.1 Only double pitched roofs are allowed on the core buildings.

9.1.2 Roof pitch of core buildings must be 40°. All double-pitched roofs must be symmetrical at gable ends.

9.1.3 Gable walls may project above the roof surface as parapets or may terminate at the roof surface in which case the roof coverage is carried over the head of the wall to form a verge as the sloping edge of the roof is called



Figure 25: Gable wall with double-pitched roof and parapet

9.1.4 Roofs must have clipped / flush eaves with fascias on the longitudinal side of the building. Roofs must not project on the gable end.

9.1.5 Half and Full hipped roofs are allowed

9.1.6 Roof material for pitched roofs. The same roof material is to be used for all pitched roof per dwelling

- i) Roof finish will be corrugated S-profile metal roof sheeting with Plascon Nu-Roof TRP 58 "Smokey Grey" paint finish or pre painted charcoal colour SABS 109 5.05 finish

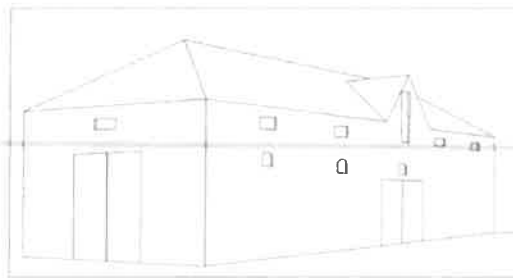


Figure 26: Half and Full hipped roof construction

9.1.7 Skylight / conservatory structures

Structures with glazed roof panels will only be allowed if surrounded by the core building on at least 3 sides.

These structures may not be located on the street side.

The roof pitch of these structures must be 40° to match that of the core building. The mullions must match window frames of the house.

These structures may not exceed the width of the core building, to ensure that the skylight roof is lower than roofs over core buildings.

9.1.8 Fascias and bargeboards:

The colour of fascias and bargeboards are to be painted white or the colour of the roof.

9.1.9 Gutters and Downpipes

Only white colour pre-painted O-gee shape seamless aluminium gutters or PVC gutters with half-round shape are permitted. Downpipes are to be 70mm diameter PVC in white colour or painted to match the colour of the walls.

9.2 Flat roof construction Freestanding garages, carports and outbuildings

9.2.1 Only flat roofs with a minimum gradient fall with parapet walls on all sides and box gutters will be allowed for free standing garages, carports and outbuildings.

9.2.2 Roof material for flat roofs

The following materials may be considered:

- i) Metal roof sheeting with Charcoal colour paint finish or pre-painted charcoal colour finish.
- ii) Other material such as reinforced concrete with waterproofing and crushed stone chips
- iii) Skylights may be used to permit light into interior spaces, though it should not be visible on elevation.

- iv) Shade cloth must be hidden behind bargeboards or parapet walls. Only grey shade cloth is permitted

9.3 Roofs to abutment and stoeps

Where the verge of roofs to abutments and stoeps are exposed a minimum gradient of 15° is applicable. Flat roofs with a pitch less than 15° to be contained with parapet walls



Figure 27: Gables with clipped roof ends

10. STOEPS AND VERANDAHS

10.1 The stoep must be a maximum width of 5000mm

10.2 Stoeps may be covered with a lean-to roof with a minimum gradient of 15°, if exposed on elevation, creating a verandah.

10.3 Alternatively, a pergola may be constructed on a stoep, vines or other suitable creepers or a canvas covering of uniform colour without patterns may be used.

10.4 Private stoeps may be covered with flat roofs behind parapets.

The roof structure of private verandahs may be exposed or a ceiling may be provided. Other than in the case of 9.2.2 (i-iv) roofing material must be the same as that used for the main roof of the house.

10.1 Stoep / Verandah / Pergola Columns

10.1.1 columns to verandahs, pergolas and canvass roofs may be either cylindrical or square

10.1.2 Square columns must be 350mm x 350mm without a base or 220mm x 220mm with a base of 350mm x 350mm, the height of which may not exceed 700mm. All square columns must be constructed of plastered brickwork.

10.1.3 In the case of cylindrical steel columns, the diameter must not be less than 70mm and must not exceed 120mm.

10.1.4 In that case of pergolas, and where a canvass roof is to be used, timber and steel may also be used for the columns.

10.1.5 If pre-cast concrete columns are used, no copies of the Greek or Roman Orders will be allowed. The shaft of the column must be tapered and have smooth surface and may therefore not be fluted. The minimum diameter at the top must not be less than 220mm and must not exceed 330mm at the base.

10.1.6 The top or capital of the column must be simple and not ornamented.

10.1.7 No Victorian cast iron pots or "Broekie Lace" detail will be allowed

10.1.8 No Pre-cast concrete pipe sections combined to form columns will be allowed.

11 BOUNDARY WALLS

The estate constitution and rules require that all homeowners effectively confine domestic animals to their erven. Owners must ensure that their choices in regard to the options available enable compliance with this obligation.

11.1 General Provisions

- 1) The Provisions laid out in these General Guidelines apply to all erven, other than where the Specific Guidelines applicable to an erf are in conflict with them.
- 2) All boundary walls must incorporate saddle copings projecting no more than 20mm on either side of the wall
- 3) The texture of the plaster finish to the wall faces other than in case of wall faces internal to the erf must conform to the plaster finish sample provided on site

- 4) All free-standing ends of walls must terminate in square columns 440 x 440mm, with copings as detailed in Figure 31 p21
- Type II Erven:**
The adjacent positioning of Type II erven effectively creates medium density clustered courtyard living in spaces.
- 5) Where walls incorporate columns, such columns must be square, may stand on a plinth of not more than 1200mm, and must protrude no more than 100mm from the face of the wall.
- 11.1.1 Shared Boundary walls**
Boundary walls between Type II Erven must be Type D walls
- 6) No wall may incorporate any recessed or raised panels, or any other form of embellishment, other than in the case of faces internal to the erf.
- 7) Any reference to the maximum height of a wall shall be taken as a measurement to the top of any coping forming part of any column incorporated into the wall.

11.1.2 Street and Close Boundary walls

Low boundary walls either Type A or B must be provided on street and close boundaries.

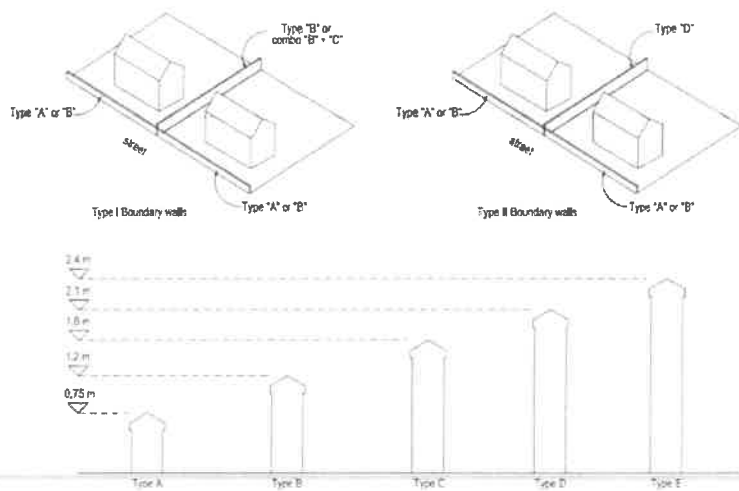


Figure 28: Typical Boundary walls
Low Boundary walls, either Type A or B must be provided on street & close boundaries

11.2 Type I Erven

Should an owner choose, no boundary walls need to be provided if no domestic animals require containment

11.2.1 Side boundary walls

- 1) Shared boundary walls between Type I erven may either be Type B or a combination of Type B and Type C
- 2) Where a combination of Type B and Type C is used, the sections of the wall terminating in both front and back boundaries of the erf must comprise Type B walls for a minimum of 3000mm from both such boundaries.
- 3) Where a combination of Type B and Type C is used, the central section of Type C wall must encompass no less than one third of the total length of the boundary upon which it is built.
- 4) All Type C walls must terminate in a 440 x 440mm plastered and painted column.

11.2.2 Boundary walls

- 1) Boundary walls Type A and Type B must be used on the street front boundary of an erf.
- 2) On portion B erven, and unobtrusive fence not higher than 2.1m with green plastic coated mesh may be constructed on the north side, but only if this fence is not visible from any street or road within the development / or from any public road i.e (R191).

11.2.3 Yard walls: Type D

- 1) Wall that enclose service yards may be upto 2.1m high for a maximum length of 30% of the street boundary which they face and must be designed to form part of the buildings. They must be of sufficient height to effectively screen any items contained in the service yard from the view of any persons outside the erf

12. GATES

Either wrought-iron steel or timber gates with varnished or painted finish may be used. Linear patterns of vertical rather than horizontal nature only may be used.



Figure 30: Wall as linking element with pedestrian archway



Figure 29: Timber gate



Figure 31: Wrought iron gate on axis of main entrance

13. EXTERIOR WALLS, WINDOW SILLS AND PLASTERBANDS

13.1 Walls must be plastered with a wood trowel finish and painted

13.2 Uneven plastered plinths are allowed

13.3 All external window sills and surrounds must be plastered with a smooth steel trowel finish

13.4 Simple articulated plaster bands are encouraged, and if used, must have a minimum width of 120mm and a maximum width of 200mm

14. WINDOWS AND DOORS

Windows and doors to be found in the Swartland Timber Cape Culture range are suitable and recommended where acceptable

14.1 Only windows in which the vertical dimension exceed the horizontal are allowed, with the exception of those described in 14.2 below. The ratio of horizontal dimension to vertical must be between 1:1.5 and 1:2



Figure 32: Plastered window sill
Plaster band forming flat arch above window will be permitted

14.2 Notwithstanding the provision contained in 14.1 above, clerestory and ventilator windows located in the section of the wall beneath the wall plate and above ground floor ceiling height, as illustrated earlier. "Utilisation of roof space", may be of such a nature that the horizontal proportion exceeds the vertical. In such cases the maximum horizontal proportion is 900mm and the maximum vertical proportion 600mm

14.3 "Winblok" or other precast concrete windows, glassblock windows or leaded windows with diamond patterns or mock sash type windows are not permitted.

14.4 Bay windows are not permitted

14.5 Aluminium windows and doors may be used, provided that the diameter sections or profiles exceed that of timber and door.

14.6 Only Velux or similar approved. Roof windows may be used in roof space and loft areas, and may not exceed 780mm x 1400mm. The positioning of these windows must align with the placement of doors and windows on the elevations of the building.

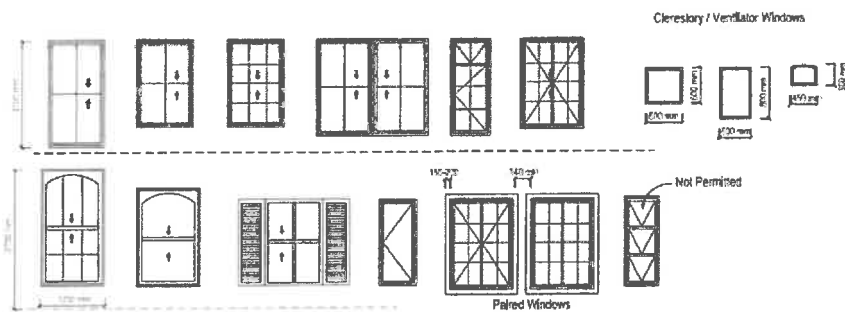


Figure 33: Possible Window Types

Aluminium frames, windows and doors must be epoxy powder coated in pure white or one of the colours prescribed in 16.2 above

16.3 Plaster bands and window sills must be painted pure white, or to match the colour of the wall into which they are set.

16.4 Palisades, other than the brickwork which may support them, must be painted in one of the colours prescribed in 16.2 above

16.5 Wrought iron or steel gates must be painted matte black, or in one of the colours prescribed in 16.2

16.6 Timber gates may be varnished or painted in one of the colours prescribed in 16.2

16.7 Roof, if painted, must be painted dark grey or charcoal colour

16.8 Chimneys, as described in 21 below, must be painted to match the wall to which they are attached.

17 BALCONIES

Balconies must form an integral part of the design and the sides must be plastered and painted. Where appropriate, the balcony floor can be tiled.

The following types will be allowed:

Type A: The slab, plastered and painted to match the exterior wall of the building, protruding 200mm max past the exterior face of the building with the handrail fixed on the side of the slab and the doors opening inwards, entire width of the balcony not to exceed 1800mm, or

Type B: The slab protruding 1000mm max past the exterior face of the building, this supportive columns, plastered and painted to match the exterior wall of the building, with the handrail fixed on the side or top of the slab, doors can open either in or out. Entire width of balcony not to exceed 3m

Type C: Larger balconies are allowed, provided that the following conditions are complied with:

- i) For Type II even these may only face onto open spaces
- ii) These may only be positioned on the private side of the building and will not be permitted on street facades
- iii) These must be enclosed by the walls of the core building.

18 BALUSTRADING

The following conditions apply to balustrading:

18.1 Hardwood timber balusters, varnished or painted white

18.2 Square mild steel tubing and flats can be used

18.3 The design of the balusters must be vertically proportioned

19 BURGLAR BARS, SECURITY GATES AND SYSTEMS, INCLUDING SECURITY LIGHT

19.1 All Burglar bars, security gates and security screens, including expandable and sliding products and roller shutter systems, must be mounted internal to openings which they secure, behind the glazing of the windows or sliding doors, and behind wooden doors.

19.2 Every effort should be made to align vertical bars with mullions

19.3 Security lights may not cast direct light outside the erf upon which they are situated

20 SERVICES

20.1 Television aërials and satellite dishes must be fitted below the main building eaves line. Satellite dishes must be "Channel Master" White composite or approved equivalent

20.2 Sewer and vent pipes must be concealed in vertical ducting within the wall plane of the building

20.3 All telephone and electrical cable reticulation on the property must be underground. No overhead mast or wires are permitted

20.4 Air-conditioning condenser units must if not located within the service yard as described in 11.2.3 above, be installed against exterior walls at or below ground level, and must not exceed a height of 1200mm above the ground level.

They must be screened by a brickwork wall of finish colour matching the exterior wall to which it is attached

Window mounted units are not allowed

20.5 House numbers may be no larger than 75mm high and 60mm wide

20.6 Gas cylinders, refuse bins, compost piles and clothes lines must be located within service yards as described in 11.2.3 above

20.7 Solar heating hot water system panels must be mounted on roofs of major form only. Remote tank and solar panels must be used and combined tank and panels on roofs are not permitted. Any remote equipment must be located within the house structure, or within service yards as prescribed in 11.2.3 above

21 CHIMNEYS

Plastered and painted masonry chimneys are permitted, strictly in accordance with the alternatives illustrated in Figure 35

The highest point of the chimney must be a maximum of one meter above the ridgeline of the roof

22 EXTERNAL LIGHTS

Lights on walls at the front door, garage or entrances form a welcome guide for visitors and play both a functional and aesthetic role. Types of lights that may be considered are : "Ledbury Lamps", "Canterbury Classic Bracket", "Blenheim", "Stratford Pendant" or "Cantrbury Longford"

Modern Style light fittings are also permitted. Security lights shall be operated by movement sensors.

Other contemporary lighting designs may also be used

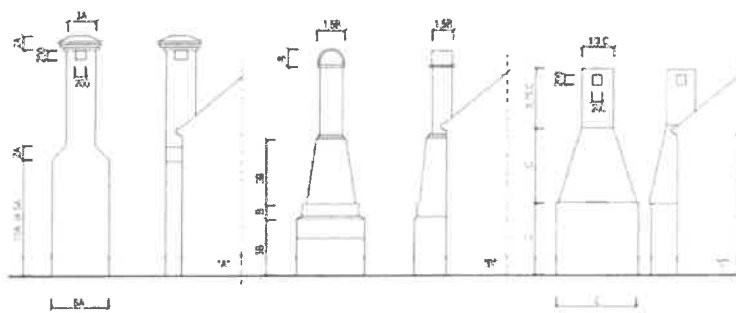


Figure 35: Possible Chimney Types

23 LANDSCAPING

23.1 GENERAL

23.1.1 It is recommended that owners use indigenous plants and plants with historical (eg. Oak trees) or agricultural (eg. Ornamental grape) connotations in order to integrate private landscaping with the overall landscaping of the estate

23.1.2 Non-invasive exotic plants may be used

23.1.3 Owners are encouraged to use Buffalo or Kweek grass for lawn areas as these grass types are less invasive and less water demanding than Kikuyu grass

23.2 PROHIBITED PLANT SPECIES NOT PERMITTED

23.2.1 All declared invasive alien plants listing in the "Conservation of Agricultural Resources Act 1983" (Act No. 43 of 1983) and subsequent amendments to Act No. 43 of 1983 are not permitted within the Estate and may not be cultivated in private gardens (See Addendum)

23.2.2 Palm trees

23.2.3 any type of cactus (Indigenous succulents are permitted)

23.2.4 Conifers

23.3 IRRIGATION

Should irrigation systems be installed, owners must design them in such a way that they do not cause brown or other staining to any walls both on the boundary and forming part of the structures

23.4 MAINTENANCE

All gardens are required to be kept in a tidy state at all times, and all erven upon which no structures have yet been built must be kept mowed.

24 BUILDING PLAN SUBMISSION

24.1 General

24.1.1 Plans must be submitted to the Home Owners Association's nominated architect as a sketch plan and if approved on this level, thereafter as a working drawing. These submissions must be certified by the architect submitting them as being in compliance with the guidelines

24.1.2 No plans may be submitted to the local authority or competent body for its approval until certified as approved by the Home Owners Association's nominated architect

24.1.3 Detailed procedural rules for submission and approval may be issued by the Home Owners Association from time to time and must be strictly adhered to

24.2 information required on plans

The following information must be indicated on plans being submitted for scrutiny at both sketch design and at working drawing stage

1. Contour base plan contours of 500mm indicated
2. Permissible coverage and actual coverage as a percentage and in terms of square meterage
3. North sign
4. Roof plan
5. Floor plan
6. Elevations and Sections
7. Position of driveway and paving of hard landscaping finishes
8. Building line setback
9. Drainage plan
10. Bulk earthworks with cut and fill sections
11. Location of retaining structures
12. Schedule of finishes
13. Position of external lights
14. All boundary walls

24.3 Other

24.3.1 All paving, water features, swimming pools, pumps and filters, fences, gazebos and any other structural elements must be indicate and he intended finished specified. This must include details of storm water and sewerage handling and elevations where relevant.

24.3.2 Clotheslines, dustbin storage areas and other utility areas and their screening must be indicate.

Services Report

Residential Development on Erf 579 Franschoek

Lewis Manhattan Investments (Pty) Ltd

Reference: 504014
Revision: Rev2

Submission date: 2020/12/09

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Table 2	Sewage yield calculations for the Erf 579 development
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Introduction

Zutari (Pty) Ltd was commissioned to prepare an Engineering Services Report for the proposed development of Erf 579 in Franschoek. The development falls within the Stellenbosch Municipality service area.

A new residential development proposed on Erf 579 in Franschoek only consist of 7 erven of approximately 1200m² per erf, the remainder of the 25 698m² site will be planted with olive trees and vineyards. The erf as it is mainly consists of trees and one building structure situated near the main road.

This report addresses the needs of Stellenbosch Municipality with regards to the provision of engineering services. The infrastructure design of the development is based on technical requirements and guidelines as stated by the Design Guidelines and Minimum Standards for Civil Engineering Services (Stellenbosch Municipality, 2015) and the general subdivision/rezoning conditions and planning by-laws of Stellenbosch Municipality. Additionally, design considerations are also based on Guidelines for Human Settlement Planning and Design (CSIR, 2005) and the Drainage Manual 6th Edition (SANRAL, 2013).

The level of service for the proposed infrastructure will be to the accepted standard associated with that of upmarket residential dwellings as per the architect's details.

This services report has been compiled based on the following available information:

- The Latest Site Development Plan (SDP) as in appendix A
- Comments on the proposed electrical services from De Villiers & Moore (Pty) Ltd
- A preliminary meeting with role players at Stellenbosch Municipality
- Traffic Impact Study (TIS) as in appendix B

Description of the proposed development

2.1 Locality Plan

The proposed development is situated next to a minor road (Bagatelle St) off Lambrechts St (R45). The coordinates of the proposed development are approximately 33°54'46.32"S (latitudinal) and 19° 7'42.81"E (longitudinal). Figure 1 indicates the locality position of the development.



Figure 1 Locality plan of the proposed Erf 579 development (Microsoft, 2017)

2.2 Proposed Development

A total of 7 residential erven are proposed for the new development. The boundary of the site is as shown in Figure 1.

The development comprises 7 free standing residential dwellings constructed on newly subdivided single residential erven. The average erf size of is approximately 1200 m². The remainder of the 25 698m² site will be planted with olive trees and vineyards. From the SDP, it was assumed that the new residential dwellings will have similar floor areas.

The engineering services required for the development were based on 7 erven with an average size of 1200m². The proposed SDP is attached to this document as Annexure A.

2.3 Geotechnical investigation

A geotechnical sub-consultant was appointed to undertake a geotechnical investigation for the proposed development.

The findings of the geotechnical investigation are detailed in the geotechnical report attached as Appendix B which include the following information:

- General site geology and groundwater conditions.
- Investigation methodology.
- Geological profiles.
- Groundwater occurrences.
- Material geotechnical properties and characteristics.
- Excavation sidewall stability.
- Excavation classification.
- Materials re-use potential for fill below buildings and roads.
- General foundation recommendations, including site suitability.
- Water and other precautionary measures.
- Drawings indicating test pit positions and soil distribution etc.

2.4 Traffic Impact Assessment

A separate Traffic Impact Study (TIS) was completed for the proposed development as per Stellenbosch Municipality requirements. The Traffic Impact Study concludes that the development will not have any major impact on the traffic flows in the area given the small scale of the development. Full conclusions and recommendations are available in the TIS attached in Appendix C.

Potable Water Supply

3.1 Bulk Water Infrastructure

GLS consulting engineers are acting as potable water and foul sewer master planning consultants for Stellenbosch Municipality. At the time of this report, GLS has not concluded their capacity analysis model for the area including the proposed Development. However, preliminary discussions with GLS and Stellenbosch Municipality have confirmed that the existing supply zone has sufficient capacity to accommodate this development. GLS has preliminarily indicated the preferred connection point to an appropriate supply zone.

As a condition for development of Erf 579, the existing 100 mm water main crossing the Erf must be relocated to the outside of the erf boundaries. See Figure 2 for the proposed route. The existing pipe is indicated in **Cyan**, while the **Red** line indicates the proposed new route and the red crosses the section of existing water line which will be decommissioned.

The new pipe will be a HDPE PE100 PN16 pipe. During a planning meeting, Stellenbosch Municipality requested that the relocation of this pipe be included in the Service Level Agreement with the developer. The cost of the relocation will be deductible from the developer contributions.



Figure 2 Proposed pipe through erf relocation route

As mentioned before, the bulk potable water erf connection point was confirmed by GLS consulting engineers. The preferred connection position is at the existing 160 mm pipe across Lambrechts street, between Erica and Nerina street. Figure 3 indicates the proposed connection position as well as the proposed new internal water reticulation network.



Figure 3 Connection point to existing water main and proposed new water reticulation loop

Furthermore, the developer intends to sink a borehole on the property to be used for irrigation of the proposed olive trees and vineyards. The borehole water will be pumped into the irrigation / detention dam from where irrigation will take place.

Considering the size of the development and the low fire risk, the two hydrants will be sufficient to meet the Stellenbosch Municipality requirements (Stellenbosch Municipality, 2015). These two fire hydrants will be installed on the 110 mm internal reticulation network.

The internal reticulation system will include an air valve at the highest point of the water network, as well as a scour and various gate valves to isolate sections of the internal reticulation network. The internal reticulation network was designed to ensure flow velocities are typically between 0.5 to 1.5 m/s.

The available pressure head at the connection point should be at least 35 meters to ensure that pressures in the proposed development do not fall below the recommend 24 meters of pressure head (CSIR, 2005) and have at least 7 m of pressure head at the fire hydrant.

The internal network will consist of HDPE PN16 PE 100 pipes which is the minimum requirement (Stellenbosch Municipality, 2015).

It is recommended that water saving mechanisms should be prescribed as part of the sale agreements and building guidelines, such as:

- Rainwater harvesting.
- Installation of toilets fitted with dual flush systems.

- Aerator nozzles fitted to taps and showers.
- Water wise irrigation practices, such as the planting of indigenous plants, installation of timers
- Greywater recycling

3.4 Fire Fighting Requirements

According to CSIR (2005), firefighting flow should be supplied at 15 l/s and 0.7 bar of pressure at the connection, and must be available during peak instantaneous flow. For the proposed development, fire flow will be accommodated in two hydrants as explained in the previous section.

Sanitation

4.1 Bulk Sewage Treatment and Disposal

The existing possible sewerage connection points are shown in Figure 4. Although the eastern and southern options are closer to the erf boundaries, the site topology favours the connection point at an existing manhole west of erf 579 next to Lambrechts street. This position allows adequate slope to accommodate a sufficient gravity sewer system in the proposed development without having to lay the sewer pipes too deep. The preferred connection point is not directly in the vicinity of erf 579. However, allowance for the additional length of sewer pipes was made in the developers cost estimation.



Figure 4 Existing sewer connection points


4.2 Sewage Yield Figures

The development on Erf 579 will have typical house irrigation demands. Each house will have a garden and/or grass area. Therefore, the percentage of potable water demand which will be converted to sewage yield was estimated as 80%. The value can be compared to the typical 70% value for residential erven with irrigation demand.

Furthermore, the allowance for 80% sewage yield models a conservative scenario. The calculations for daily sewage yield is shown in Table 2.

From Table 2 it can be concluded that the total annual average wet weather sewage yield of the proposed development is approximately 14 k/d. The instantaneous sewage peak flow was calculated as 0.4 l/s.

Table 2 Sewage yield calculations for the Erf 579 development

SEWAGE YIELD CALCULATIONS				PROJECT: Erf 579 Franschoek			
				Project no.	504014		
				Calculated by:	E Viljoen	Rev.	2
				Checked by:	C van der Walt	Approval Signature:	
				Date:	23 Nov 2020		
ANNUAL AVERAGE DAILY SEWAGE YIELD SCHEDULE							
Item no	Land use description	Amount of		Unit area (sqm)	Sewage yield rate per day		TOTAL YIELD (l/d)
		Qty	type		Rate per unit: litre per unit	Rate by Area: litre per 100 sqm.	
Erf 579 Franschoek							
1.	Single Residential Erven						
1.1	Erf area ±1200m ²	7	units		1650		11 550
						Subtotal 1	11 550
GENERAL NOTES:			SEWAGE YIELD SUMMARY				
			DAILY SEWAGE YIELD VOLUMES				
			Annual Average Daily Dry Weather Flow (l/d)				11 550
			Infiltration factor (%)				15.0%
			TOTAL ANNUAL AVERAGE DAILY WET WEATHER FLOW (l/d)				13 283
			PEAK FLOW CONDITIONS:				
			Instantaneous Peak Factor:				2.5
Instantaneous Peak Dry Weather Flow (l/s):				0.4			
Instantaneous Peak Wet Weather Flow (l/s):				0.4			

4.3 Sewerage Reticulation

A conventional uPVC Class 34 waterborne sewage system with a minimal diameter of 160 mm (Stellenbosch Municipality, 2015) will be installed with connections to each erf.

The Kutter equation results in a capacity value of approximately 13 l/s for a 160 mm uPVC pipe installed at a 1:100 slope. Considering the calculated peak sewage flow of the development (0.4 l/s), a 160 mm uPVC network is sufficient.

Furthermore, the minimum slope in the foul sewer network is designed to be 1:120, which results in additional pipe flow capacity. The internal sewer system of the proposed development will consist exclusively of a gravity network. The site's sewage will gravitate to a low point on the north-western corner of the development and will then connect to the existing Municipal system outside of the erf boundaries.

No onsite sewage settling or treatment will be done. All sewage will be directed towards the municipal bulk sewage network where it will be treated and discharged as per the municipal sewage management plan. Stellenbosch Municipality indicated that the connection point and closest wastewater treatment works have sufficient capacity to treat the raw sewage flow.

Stormwater Management

5.1 Existing infrastructure

The site area is approximately 25 500m² with a consistent slope towards the north-western boundary.

Bulk stormwater infrastructure is accessible nearby in the form of a V-shaped channel parallel to Lambrechts street. Approximately 200 m downstream in Lambrechts street, there are stormwater catch pits available with an accompanying underground stormwater pipe network. There is another existing stormwater manhole in Bagatelle street, however the site topology will likely not allow connection to this point. Further underground stormwater pipes networks near the site will be confirmed if required.

The proposed development will include one feature detention pond which will store up to the 1:50 year flood on site as well as irrigation water from the proposed borehole. The pond overflow will be at the north-western boundary. The overflows will be directed to the existing earth channel adjacent to Lambrechts street.

5.2 Design Philosophy

The standard stormwater guidelines for residential developments as per CSIR (2005), and Drainage Manual (SANRAL, 2013), was used for the design of the proposed new internal stormwater system.

Specific attention will be given to the following:

- Stormwater run-off will be calculated using the Rational Method;
- Minor flows: Stormwater will be conveyed to stormwater channels and discharged into the detention dam;
- Major flows: Safe overland flow directed to the proposed detention dam will be allowed for;
- For a 1:10 rainfall event, the peak run-off after development will not exceed the peak run-off prior to development.
- Temporary stormwater management measures will be implemented and adhered to during construction.

5.3 Pre- and Post-Development Flood Runoff

In line with the CSIR's Red Book Stormwater Management Plan, the stormwater design is based on restricting the 1:10 year peak flow of run-off to pre-development levels, for the same recurrence period. Table 3 indicates the parameters used to determine the development's estimated pre- and post-development run-off.

Table 3 Hydrological design parameters for the proposed development

HYDROLOGICAL DESIGN PARAMETERS		
PARAMETER	PRE-DEVELOPMENT VALUE	POST-DEVELOPMENT VALUE
Parameters		
Contributing site area	25 698 m ²	25 698 m ²
Time of concentration (T _c)	15 minutes	15 minutes
Rainfall intensity for 1:5 year storm (I _{t1.5})	57 mm/hour	57 mm/hour
Rainfall intensity for 1:10 year storm (I _{t1.10})	69 mm/hour	69 mm/hour
runoff coefficients (C ₅ ; C ₁₀)	0.201; 0.220	0.294; 0.303

Utilising the above design parameters, the catchment's flow rates for the various return periods were calculated and are summarised in Table 4.

Table 4 Peak run-off volumes for the proposed development

PEAK RUN-OFF VOLUMES			
RETURN PERIOD (YEARS)	PRE-DEVELOPMENT VALUE (m ³ /s)	POST-DEVELOPMENT VALUE (m ³ /s)	FLOOD INCREASE (%)
Peak Run-off volumes			
1:5	0.081	0.118	45%
1:10	0.107	0.147	37%
1:50	0.213	0.243	14%

Table 4 indicates that runoff will increase by 45% for a 1:5 year flood, 37% for a 1:10 year flood and 14% for a 1:50 year flood. This is due to more hard surfaces created (residential dwellings) which allows for less water ingress.

Detention storage was calculated using the Abt & Grigg formula for the 1:5 year pre-development and 1:10 year post-development runoff. The storage required was calculated as approximate 27 m³. This will be detained in the proposed detention pond in the Site Development Plan.

The attenuation height will be according to the size of the proposed detention dam. It is recommended that this dam has at least a 500mm freeboard height, with the overflow directed to the proposed north-western boundary road. Detention facilities of more than 150 m³ will be constructed on the low point of the site with an outlet structure to ensure that the flood peaks are reduced to pre-development levels and insure sufficient capacity for irrigation purposes.

Roads

6.1 External Roads

Access to the development is available from an existing paved road section on Bagatelle road.

6.2 Internal Roads

The main access road will have a paved surface and all internal branched roads will be paved rural 2 "spoor" track roads to provide access to each erf. All civil services will be within the 10 m wide road reserve areas. The rural track roads will have a negligible on the post development run-off volumes, and therefore no stormwater grid inlets or pipes are proposed along the internal 2 "spoor" track roads. Stormwater management along the main access road comprises an underground stormwater pipe network. This network will convey stormwater to the detention facility.

Electricity

The electricity section was completed by De Villiers & Moore (Pty) Ltd based on meetings with the Town Electrical Engineer and demand calculations based on the latest SDP and unit information as described.

7.1 Electricity demand

The after-diversity electricity demand for the proposed development is estimated at 200 kVA. This demand is based on 7 dwellings units and associated general services. Each dwellings will be supplied with a 60A three-phase connection.

7.2 Bulk electricity supply

The Municipality has confirmed supply availability from their 11kV network for the proposed development. A new mini-substation will be required to facilitate the bulk LV connection. The developer will provide a 6 x 4 meter site on the property boundary to accommodate a mini-substation. The developer will pay Development Contributions (DC's) based on the calculated electrical demand for the proposed development.

7.3 Internal site reticulation

The developer will be responsible for the supply and installation of all internal LV electrical reticulation. The internal reticulation will be installed following the standard and specifications of the local supply authority to allow for municipal prepaid metering of all the dwellings. All LV distribution cables will be copper conductor armoured cable installed underground within the communal areas and road reserves.

7.4 Street & area lighting

Street and area lighting will be energy efficient cut-off type luminaires positioned to provide optimal illumination and to prevent light pollution onto the dwellings properties. Security lighting will be installed on the perimeter fence for high-risk areas. The lighting will be owned and maintained by the Estate and will be separately metered from a municipal credit meter. The Estate will be liable for the municipal account associated with the lighting and general supply.

7.5 Energy conservation

It is in the Developer's interest to ensure that all efforts are made to reduce the maximum demand and use of electricity by the development. The Developer shall ensure compliance with the national building regulations pertaining to energy measures (SANS 10400 AND SANS 204).

7.6 Communication services

The developer will provide a duct/manhole network that individual buildings can be served and to allow connection to existing networks

Solid Waste Disposal

All waste generated from the residential units of the proposed development, will be temporarily stored in storage bins. The municipality will collect bins from all erven within the proposed development and transport it to a Waste Disposal Site as determined by the Municipality.

The Municipal Solid Waste Disposal Trucks will be granted access at the gate house of the development during refuse collection days.

Final arrangements will be addressed in the future Service Level Agreement between the developer and Stellenbosch Municipality

Developer Contributions

Development Contributions will be calculated considering the status quo situation in terms of current land use rights. The land unit is currently zoned for Community Zone purposes which provides for a Clinic, Community Residential building, Day Care centre, Place of Assembly, Place of Education, Place of Worship, Public Institution, Welfare Institution etc as a primary right.

As mentioned in this report, the relocation of the existing water main through the erf will be done during the construction of the development and will be deductible from the Developer Contributions.

The detail will be addressed during the Service Level Agreement process with the local authority.

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Appendix A – Site Development Plan

Appendix B – Traffic Impact Study (TIS)

Residential Development on Erf 579, Franschoek

Traffic Impact Statement

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Revision:1

Submission date: 2020/12/01

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Tables

- Table 1: Trip Generation of Proposed Development



1 Introduction

Background and Purpose

In 2018 Zutari (previously Aurecon) Consulting Engineers was appointed to compile a Traffic Impact Statement (TIS) for the rezoning and subdivision of Erf 579 in Franschoek into 56 Group Housing residential units. Subsequently, in 2020, the proposed development has been redesigned from 56 group housing dwelling units to 7 upmarket luxury homes. The following TIS summarizes the traffic and transport related to the new proposal. The Western Cape Provincial Department of Transport is the approving authority of this TIS while the Stellenbosch Municipality will be the commenting authority (refer to correspondence attached in Appendix A).

Locality

Figure 1 shows the location of Erf 579, Franschoek. The property is situated south of MR 191 (also known as Lambrecht Road or Franschoek Pass), within the jurisdiction of the Stellenbosch Municipality. Bagatelle Street is a municipal street abutting the eastern boundary of the property. Access to Erf 579 is currently off Bagatelle Street.



Figure 1: Location of Erf 579



Proposed Development

The new proposal entails rezoning the erf to 7 sub-divided erven; portion 1 is approximately 900m² and portions 2 to 7 are each over 1200m². Figure 2 shows the new 2020 proposal compared to the previous 2018 group housing proposal.

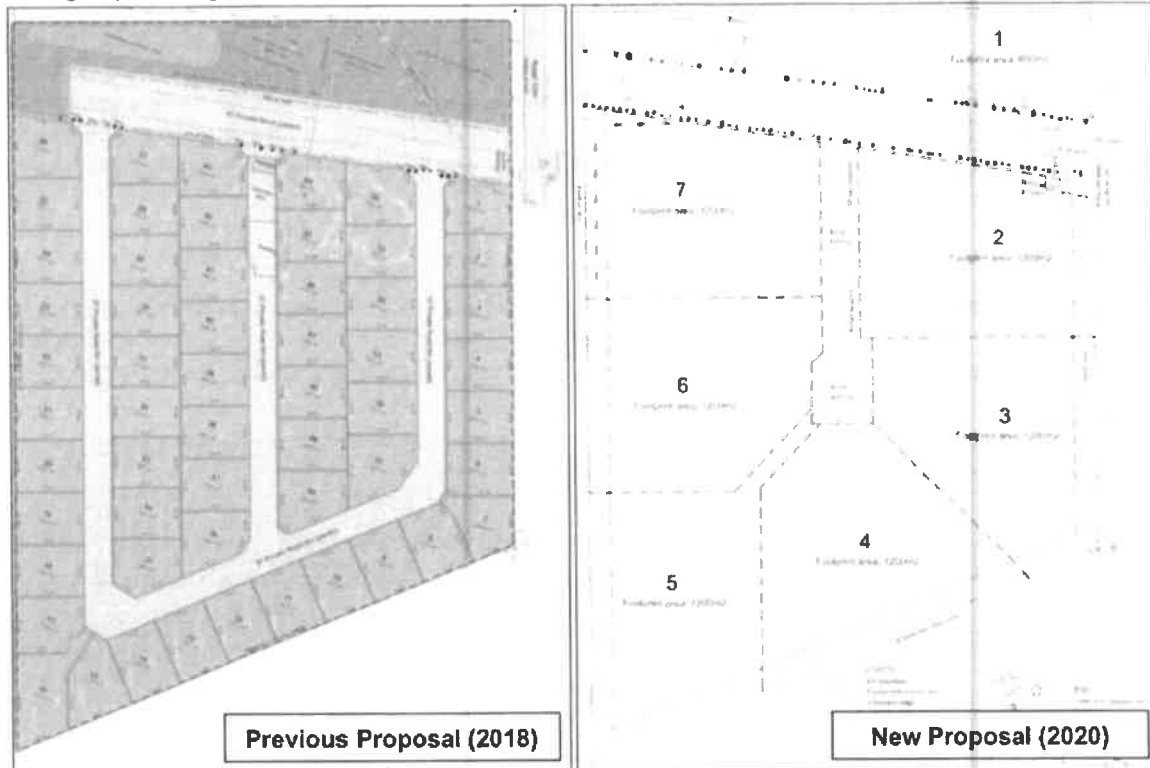


Figure 2: Proposed Erf Sub-division

Affected Road Network

The roads bordering Erf 579 are:

- **Bagatelle Street:** Single carriageway road, with one lane per direction. This road is paved for the first 100m thereafter it is an unpaved, gravel road. The paved section is approximately 6m wide without shoulders and sidewalks, the unpaved section of the road is slightly wider (approximately 8m wide). The intersection between MR191 and Bagatelle Street is stop controlled on the minor road (Bagatelle Street).
- **MR 191 (also referred to as Lambrechts Road/Franschhoek Pass):** This road is a Class 2, single carriageway with one lane per direction. The posted speed limit is 60km/h and 80km/h in the immediate vicinity (shown in Figure 3). The section of this road passing Bagatelle Street has unpaved shoulders and no sidewalks.

Road Name/Number	Classification	Function
Bagatelle Street	Class4/5 Local Residential Street	Access
Provincial Main Road (MR) 191/ Lambrechts Road/Franschhoek Pass	Class 2 Arterial in a suburban roadside environment	Mobility



The speed of Southwest bound traffic is reduced to 60km/h southwest of the Bagatelle street intersection. However, northeast bound traffic travel at 60km/h to a point east of Bagatelle street, where after the posted speed limit increases to 80km/h. Speed regulatory signs should be placed directly opposite one another to create uniform speed zones. Figures 3 and 4 show the two affected roads and the speed limits.

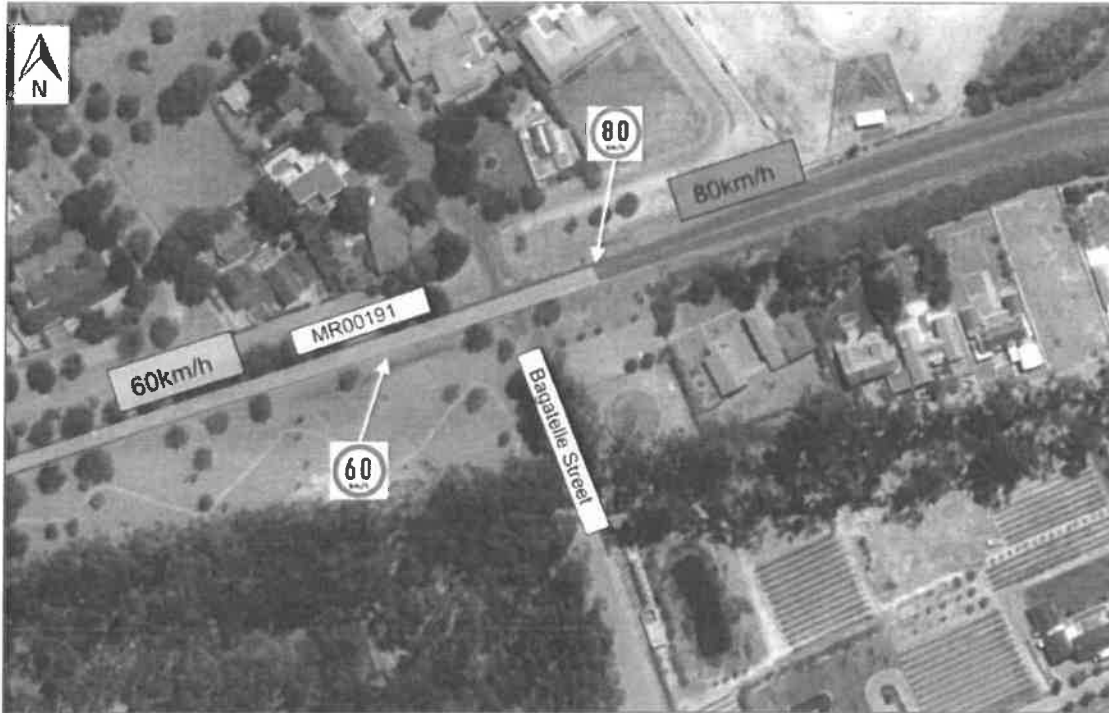


Figure 3: Affected Roads – aerial view



Figure 4: Affected Roads – street view

2 Traffic Impact

There is an existing traffic counting station located along MR191 at Km 26.02, the approximate position of the counting station is shown in Figure 5. The data collected by count station 4277C was obtained from RNIS and the 2009 and 2015 data are shown in Figure 6 below:

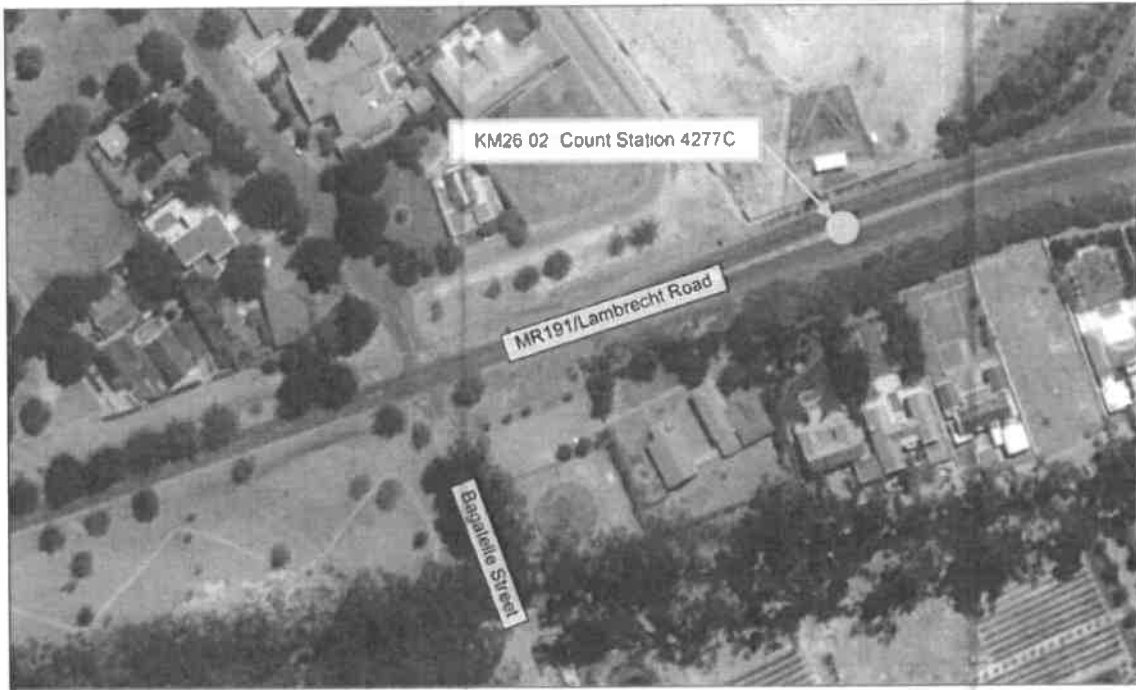


Figure 5: Location of station 4277C

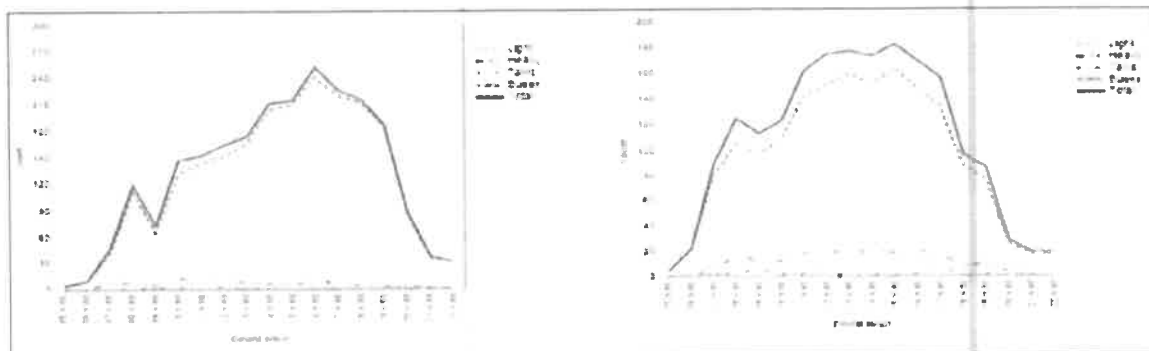


Figure 6: RNIS Traffic volumes

Given that the area is semi-rural, the peak hours differ significantly from the typical urban peak hours. The 2009 diagram shows the peak hour along MR 191 to be between 15:00 and 16:00 on a weekday. During this hour 11% of the total daily traffic were recorded. The 2015 traffic volume is more spread out throughout the day, with the peak hour traffic recorded between 14:00 and 15:00 (where 10% of the total daily traffic was recorded during this hour).

In order to estimate the existing 2020 traffic volume along MR191 and the peak hour traffic volume, the 2015 AADT, as recorded on RNIS, is increased by 4% per annum for 5 years. TMH17 recommends 3-4% growth for "average growth areas". It is reasonable to assume that Franschoek is an average growth area. This method estimates the 2020 AADT to be 2810 vehicles. Assuming 11% of the traffic occurred during the peak hour, the 2020 peak hour traffic is estimated to be 309 vehicles.



The proposed development is a residential development consisting of townhouse type dwelling units. The trip generation rates were obtained from the TMH 17 South African Trip Data Manual (2013) prepared by the Committee of Transport Officials (COTO). The proposed development will generate the number of trips shown in Table 1:

Table 1: Trip Generation of Proposed Development

Code	Land Use	Unit	Trip Rate		No units	Trips Generated	
			AM	PM		AM	PM
210	Single Dwelling Units	1 D/Unit	1	1	7	7	7

Code	Land Use	Unit	Split		AM	PM	AM	PM
			AM	PM	IN	OUT	IN	OUT
210	Single Dwelling Units	1 D/Unit	25:75	70:30	2	5	5	2

A total of 14 daily trips generated by the development is only 0.5% of the total AAD. And 7 development trips are only 2.3% of the estimated peak hour trips. The addition of the development trips to the network is fewer trips than the estimated annual growth of 4%. Applying the 4% pa growth for 5 years, the development trips in 2025 will be 8.25 trips.

The new proposed residential development is significantly fewer, and the impact of 7 residential erven can be considered to be negligible. The increase in network traffic is below the estimated annual growth of 4%.

3 Access Management

The main access road will be off Bagatelle Street and is situated along the eastern boundary of the property. The proposed access will be located directly opposite the entrance to the existing residential development east of Bagatelle Street. The main access road aligns with the avenue of trees, which will be retained as part of the development.

Referring to Figure 7 below, the required sight distance for the access road is approximately 110m (assuming the design speed along Bagatelle Street is 60km/h and the width of the road is 8m). It is therefore concluded that the proposed access road has sufficient sight distance.



Figure 7: Access to Development





Figure 8: Access View to Southeast and Northwest

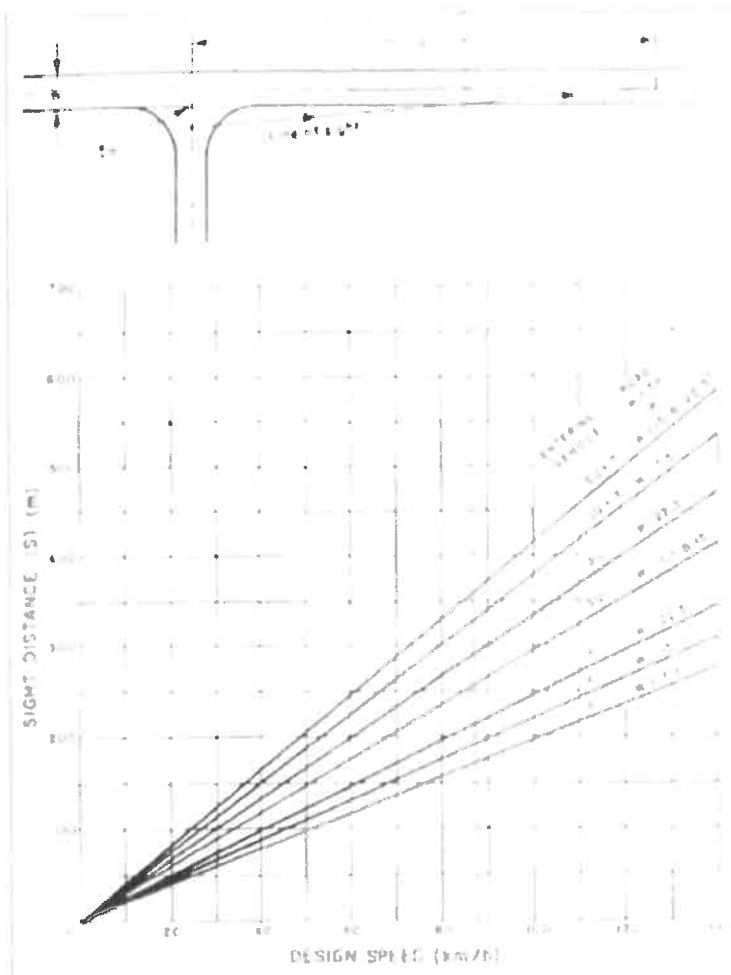


Figure 9: Shoulder Sight Distance for Stop conditions (UTG1)

The existing access off Bagatelle Street will provide access to the proposed development on Erf 579. This access is across from the access to an existing development east of Bagatelle Road. During a site investigation it was established that the traffic volume along Bagatelle street South is extremely low, it is therefore recommended that this access position be approved.

Public Transport

Minibus taxis provides the main form of public transport in Franschhoek. Taxi routes transporting commuters between Stellenbosch and Paarl are shown in Figure 10. No formal taxi route exists within the immediate vicinity of the proposed development for residents or visitors. Figure 10 also shows the existing public transport facilities within Franschhoek. An informal taxi rank is located approximately 1km from the proposed development site. Another informal facility exists along MR191, adjacent to the Pick&Pay shopping centre. Both these facilities are more than 1km from the development site, although walkable this may be considered too far for the elderly. Several private operators provide coach services for tourists. There are no railway services in the vicinity.



Figure 10: Public Transport Facilities in Franschhoek

Non-motorised Transport

During a site visit it was established there is limited pedestrian activity along MR 191 in the vicinity of Erf 579 and Bagatelle Street. There are no formal NMT facilities provided along the roads abutting Erf 579. The provision of NMT facilities is concentrated around the retail areas along MR191.

It is expected that pedestrian activity along MR 191 will not increase significantly when Erf 579 is developed. Taking into consideration the existing cross section of MR 191 and the high number of heavy vehicles along this road, consideration should be given by the Road Authority to provide pedestrian and cyclist facilities along MR 191. NMT facilities should also be considered along Bagatelle Street (at least along one side of the road).



4 Conclusion and Recommendations

Based on the findings in this investigation, the following is concluded:

- Erf 579 is bordered by Bagatelle Street to the east and MR 191 to the north. The posted speed limit along MR191 is 60km/h for Southwest bound traffic and 80km/h for Northeast bound traffic. It is recommended that the 60Km/h regulatory speed sign should be re-positioned to opposite the 80km/h sign; in order to create uniform speed zones at the intersection with Bagatelle Road
- The proposed development will only generate 7 peak hour trips which is only 2.3% of the estimated peak hour trips. The addition of the development trips to the network is fewer trips than the estimated annual growth of 4%. The impact of the development trips can be considered to be negligible
- The proposed access location is acceptable and regarded as a low volume driveway with an acceptable width of 8m where it intersects with Bagatelle Street with a stop control. The sight distance in both directions are considered to be acceptable without any obstacles in the line of sight.
- Minibus taxi facilities exist along Daniel Hugo Street and MR191, both facilities are more than 1km from the development site and considered to be a long walk. Several private operators provide coach services for tourists. There is no railway service in the vicinity.
- During a site visit it was established that no formal sidewalks exist along roads abutting Erf 579. Taking into consideration the high percentage of heavy vehicles, consideration should be given to providing NMT facilities that encourage walking and cycling along MR191 and Bagatelle Street in the vicinity of the proposed development.

In accordance with the above summary, it is the conclusion of this report that there is no traffic-related reason for this development to not be approved.



APPENDIX A: Correspondence

Carine Heyns

From: Harry Thompson - Harry.Thompson@westerncape.gov.za
Sent: Monday, October 29, 2018 7:12 PM
To: Carine Heyns
Cc: Malcolm Watters; Grace Swanepoel
Subject: Re: Erf 579 Franschoek

Good day Carine,

Based on the information provided, I'd be OK with using the RNIS data as opposed to doing fresh counts. However, please take into account that the 9 October 2009 count had a peak flow of 250 vph, while on 30 March 2015 the traffic was much more spread out through the day, with the peak hour flow being just 182vph. We don't really know which is more typical, so it would be desirable to use the 2009 data to establish the peak hour as a proportion of ADT, but base your evaluation on the more recent ADT total. Also, I would suggest you take a high proportion of the two way flow opposing the right turn movement - say 60 - 70% - and a background traffic growth rate of 5% p.a. over 5 years from 2018 (ie. 8 years from 2015). That would be a conservative (ie. worst case) scenario, and give a good idea whether any congestion or road safety issues might be expected, and if so, what mitigation measures would be required.

Hope that helps. Please note that these comments are not commitments on WCG's part, as we do not have all the details of the proposed development.

Kind regards,
Harry

Harry Thompson FrEng

On behalf of:

Chief Engineer Land Transport

Road Network Management
Department of Transport and Public Works
WESTERN CAPE GOVERNMENT

Address: 9 Dorp Street, Cape Town, 8001, PO Box 2663, Cape Town, 8000
Tel: +27 21 483 4669
Fax: +27 21 483 2146
Mobile: +27 73 263 4564
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From: Carine Heyns <Carine.Heyns@aurecongroup.com>
Sent: 29 October 2018 12:37
To: Harry Thompson
Cc: Jacques Taljaard
Subject: FW: Erf 579 Franschoek

Good afternoon Harry

With reference to my email below. Would you require traffic counts or could we perhaps use counting data from RNIS? The screenshot below shows the count from a counting station, located +/- 200m from the MR 191/Bagatelle Street intersection. Access to the proposed development will be off Bagatelle Street.



We can apply a growth factor and estimate the number of trips in and out of Bagatelle Street by applying the applicable trip generation rate.

Please advise?

Kind regards,

Carine Heyns B.Eng.(Civ.), SA.ICE, PR.Eng.
Professional, Aurecon

Carine.Heyns@aurecon.co.za

DISCLAIMER

From: Carine Heyns
Sent: Friday, October 26, 2018 8:16 AM
To: 'Harry.Thompson@westerncape.gov.za' <Harry.Thompson@westerncape.gov.za>
Cc: Jacques Taljaard <Jacques.Taljaard@aurecongroup.com>
Subject: Erf 579 Franschoek

Good morning Harry,

As discussed telephonically Aurecon are appointed to prepare a TIS for a residential development in Franschoek (location shown in the attached google earth image). The development consists of 56 single residential units with the access to the development off Bagatelle Street (shown in subdivision plan).

Nigel Winter (Stellenbosch Municipality) recommended that we do traffic counts but before we go ahead I would like to understand what your requirements are in terms of the traffic counts (intersections, time period, etc.)?

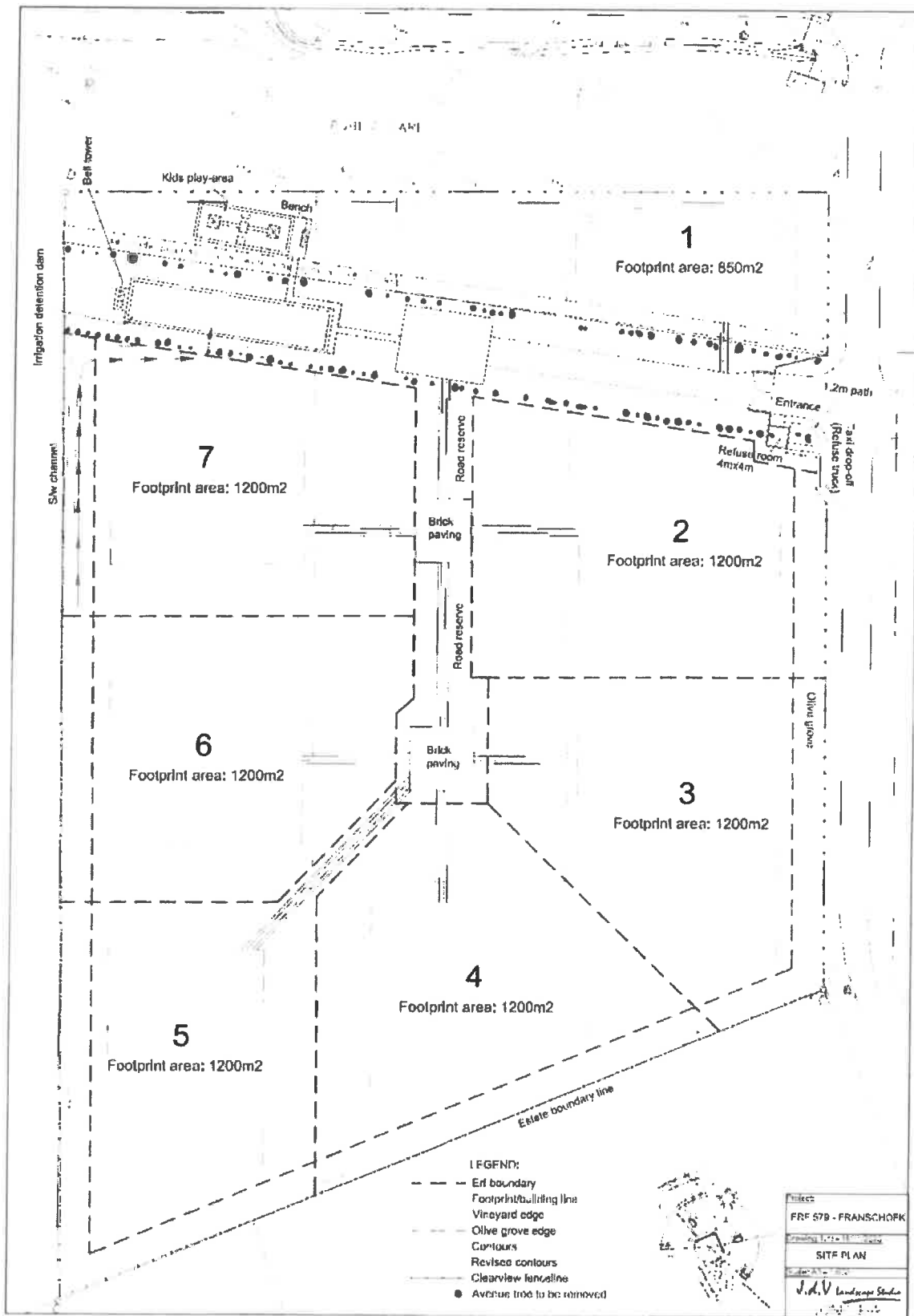
Kind regards,

Carine Heyns B.Eng.(Civ.), SA.ICE, PR.Eng.
Professional, Aurecon

Carine.Heyns@aurecon.co.za

www.aurecongroup.com

APPENDIX B: Subdivision plan of Erf579



In diversity there is beauty
and there is strength.

MAYA ANGELOU

Document prepared by:

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ZUTARI
IMPACT. ENGINEERED.

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PROPOSED LAND USE PLANNING APPLICATION IN RESPECT OF ERF 579 FRANSCHHOEK

MINUTES OF A PRE-APPLICATION CONSULTATION MEETING HELD
ON 02-12-2020 AT STELLENBOSCH MUNICIPALITY (DEPARTMENT
OF PLANNING & ECONOMIC DEVELOPMENT)

1) ATTENDANCE

Louis Fourie (LF)	Lewis Manhattan Investments (Pty) Ltd (Developer)
Richard Lewis (RL)	Lewis Manhattan Investments (Pty) Ltd (Developer)
Robert Fooy (RF)	Stellenbosch Municipality (Planning & Economic Development)
Chrizzelle Kriel (CK)	Stellenbosch Municipality (Planning & Economic Development)
Bernabe de la Bat (BB)	Stellenbosch Municipality (Spatial Planning, Heritage & Environment)
Johan de Villiers (JdV)	J.d.V Landscape Studio (Landscaping Architect)
Chris van der Walt (CW)	Aurecon Consulting Engineers
Spencer Dreyer (SD)	David Hellig and Abrahamse Land Surveyors

2) INTRODUCTION

- LF provided background information pertaining to the revised development proposal and handed over to JdV to table the Plans and run through the design elements of the proposal.
- BB advised that the purpose of the meeting was to merely assist in the formulation and structure of the land use planning application. BB also confirmed that the final decision will be taken by the MPT and not the Department.

3) CONCEPTUAL DESIGN

- JdV confirmed that the proposal was to subdivide the land unit into 7 residential erven and 1 open space and private road erf.
- The design of the houses will be of a Rural Cape Vernacular theme
- The objective of the development proposal is to enhance, complement and contribute towards the Agricultural and Rural character of its surroundings

- In this respect strong elements of agriculture and landscaping have been incorporated in the design
- Access to the individual homesteads is proposed via a "twee spoor" roads in support of the agricultural look and feel of the development
- The main entrance road is a paved 5,5m road with an axis along the centre of the Kats se Pad, noting that the avenue of Bluegum trees will be retained and incorporated in the design .
- The focal point or visual axis from the entrance will be the proposed irrigation detention dam, which is functional in terms of aesthetics, detention and storage.
- A borehole will be sunk to source irrigation water for the dam.
- The road network is broken up by blocks of brick paving which then feeds into the network of "twee spoor" roads to the individual homesteads.
- No fencing is proposed on the internal subdivisional boundaries which will be planted with trees in appropriate areas to ensure the privacy of each homestead. There will be no formal physical demarcation of the internal subdivisional boundary lines which will give an impression of a continuous belt of landscaped gardens and vineyards between the homesteads.
- The agricultural component represents approximately 0,80 hectares of vineyards planted along the central axis facing onto Lambrecht Street with a grove of olive trees along the outside perimeter of the estate.
- The Building footprints would be limited to 1200 square metres with the balance of the land unit being landscaped and planted with vineyard.
- The concept is to maintain the vineyard and olive trees as a working agricultural endeavour which could provide the owners within the estate with a limited supply of wine, olives (200kg) and olive oil (150 litres)
- SD added the reasons for the refusal of the previous group housing development proposal were taken to heart by the Developer and the current development proposal was an attempt to address these concerns to ensure to compliance with the objectives and principles set out in the MSDF, 2019. Essentially the development proposal represents a drastic decrease in density and attempts to mimic the current and existing land use fabric of the surrounding land units, in particular that of the L'Avenues Estate, thereby achieving the Municipality's spatial vision for the area.
- BB enquired whether it is proposed to have a security access.
- SD confirmed that security access is proposed, but it would be in a more informal manner as indicated on the SDP and Landscaping Plan. Provision for a Refuse Room is accommodated with a remote controlled gate.
- BB commented that the homestead of Unit 4 should form the focal point of the central north-south axis and should be aligned perpendicularly with the central access route for visual aesthetics. The design of the House should also perhaps form a more Cape Vernacular feel (H frame Herehuis) to set it aside from the others and give it a sense of "*the homestead of the farm*".
- All concurred and agreed with this suggestion.

- RF queried whether the zonings of the erven were going to be Conventional Residential or Agriculture, the reason being that the perimeter fencing would need to comply with municipal policy for the area.
- LF confirmed that the perimeter fencing would be permeable and more than likely comprise of Clearvue or pallasade.
- BB was satisfied with this proposal.
- SD was of the opinion that the zonings could not be considered agricultural since the primary use is residential in nature and therefore it would not be possible to motivate each erf as a separate and independent agricultural land unit. The mitigation measures in respect of the limitation of building footprint, adherence to design guidelines, landscaping and agricultural improvements enforced through the planning permission approvals and the Constitution of the HOA will achieve the long term spatial vision and objectives for the area, as advocated in the MSDF, 2019 being similar to that of the adjoining L'Avenue Estate.
- RF queried whether the adjoining land units were zoned for residential or agricultural purposes.
- SD tabled an extract of the Stellenbosch Municipality's Zoning Map confirming that the surrounding land units are indeed zoned for residential purposes.

4) **ENGINEERING**

- CW confirmed that there were no complications in terms of capacity and availability of engineering services.
- CW had been in consultation and engagement with his counterparts at the Municipality in preparing the updated Engineering Services Report and Traffic Impact Statement.
- CW added that the "twee spoor" road would be formally designed with sufficient layer works.
- An embayment for refuse collection and taxis had been incorporated in the design at the entrance to the Development in accordance with the requirements of the Engineering Department.
- A mini-substation would need to be installed for the provision of electrical supply.
- BB cautioned against excessive street lighting which should be limited where possible and appropriate.

5) **TOWN PLANNING**

- BB stressed that the final decision is taken by the MPT which would need to base their decision on a site specific motivation / justification to deviate from the municipal planning policy ie MSDF, 2019, noting that the subject land unit is situated outside of the urban edge.
- BB also advised that recently there has been clarification sought from Province on the meaning of site specific circumstances.

- BB explained that essentially the motivation for site specific deviation would entail looking at the broader context, Heritage Management Plan, ideals of the SDF, the preservation of the rural and agricultural character together with the scale and density of the development proposal.
- SD added that a primary motivation would also entail an assessment of the current status quo land use rights in terms of the Zoning Scheme and highlight the disparity between the existing land use rights and the ideals advocated in the MSDF. The current development proposal aims to bridge this gap.
- RF commented that the scale of the development proposal and prominent landscaping features which would break up and soften the visual impact would also be a motivating factor.
- SD highlighted the envisaged extent of the land use approvals as follows viz
Rezoning from Community to Conventional Residential
Subdivision into 7 residential units and 1 open space system
Approval of the SDP
Establishment of the HOA Constitution / Design Guidelines
- RF advised that the SDP and HOA Constitution would only be approved after the MPT had decided on the Rezoning and Subdivision, noting that the approval of the SDP and HOA Constitution is delegated to the Department and not the MPT. It would therefore be imposed as a condition in the Rezoning and Subdivisional approval that the SDP and HOA Constitution would need to be approved at a later juncture.
- RF would prefer to hold off on the formal application for the approval of the SDP and HOA Constitution, until the MPT had approved the Rezoning and Subdivision, however these documents would need to be submitted as supporting documents in order to motivate the current development proposal, which would then be resubmitted later for formal approval. RF considered this to be a relatively easy administrative formality, which would not require any inputs external to the Department.
- RF suggested that the word "typical" be included on the SDF when referring to the house typologies to provide scope for small and minor deviations at a later stage.
- SD confirmed that the following documents would be submitted as supporting documents :
Application form, Plans, Planning Report, Site Development Plan, Landscaping Master Plan, Landscaping Report, Engineering Services Availability Report, Traffic Impact Statement, HOA Constitution, Architectural Design Guidelines, SG Diagram, SG Noting Sheet, Deed of Transfer, Power of Attorney, Company Resolution
- RF enquired regarding a Conveyancers Certificate
- SD advised that a Conveyancers Certificate was provided in the previous planning application however one of the conditions of title which was not applicable due to situation had since been removed from the Title Deed. SD

asked whether a copy of the previous Conveyancers Certificate could be included with clarification in the planning report regarding the removal of the particular condition.

- RF agreed to this proposal.

PUBLIC PARTICIPATION

- SD enquired regarding the other Statutory Authorities which would need to be notified, noting that previous comments / approvals / non-applicability rulings were obtained from HWC, Department of Transport & Public Works, WCG and DEADP, WCG in respect of the previous land use planning application.
- On the back of the previous comments / approvals / non-applicability rulings etc – SD would forward the revised development proposal to the relevant Departments and Institutions for updated responses.
- RF requested comments from Department of Agriculture, WCG
- SD explained that the land unit is currently zoned for Community Zone purposes which is to be rezoned to Conventional Residential purposes. In the circumstances, comments from the Department of Agriculture would be irrelevant.
- RF agreed and confirmed that comments from the Department of Agriculture, WCG is unnecessary.
- SD enquired whether the Public Participation process could be started in the interim prior to formal instructions being received from the Municipality. SD was concerned regarding the time delay in receiving the instructions to commence Public Participation.
- After some discussion, it was decided that only on receipt of the land use planning application and receipt of instruction from the Stellenbosch Municipality could the Public Participation process be commenced.
- RF undertook to expedite the issuing of these instructions on receipt of the application and payment of the application fees.
- RF advised that given the background he estimated that such instructions could be forwarded to the applicant within a week.
- SD thanked RF for his assistance with this regard, which would be much appreciated

6) CONCLUSION

- LF thanked all and sundry for their attendance and inputs at the meeting.

PREPARED BY:



**S G DREYER
DAVID HELLIG AND ABRAHAMSE
02-12-2020**



Our Ref : 579 FH
Contact person : CS Rabothata
Contact no : (021) 808 8661
Date : 27 July 2020

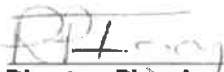
ZONING CERTIFICATE

ERF 579, FRANSCHHOEK

It is hereby certified that the zoning of Erf 579 Franschhoek, in terms of the Stellenbosch Municipality Zoning Scheme By-Law 2019 is:

Community Zone

PRIMARY USES	ADDITIONAL USES (Technical approval)	CONSENT USE (Application Required)
Place of worship	Dwelling house Employee housing	



pp **Director: Planning & Economic Development**

Please Note: Where discrepancies exist between the zoning information contained in this certificate and any Council decision, Council's decision override the contents of this zoning certificate.

Marnus Botha

From: Marnus Botha
Sent: Wednesday, 12 August 2020 13:04
To: Stiaan Carstens
Cc: Robert Fooy; louis@lewismanhattan.co.za; Richard Lewis; Spencer Dreyer
Subject: PROPOSED SUBDIVISION AND REZONING OF ERF 579 FRANSCHHOEK: REQUEST FOR ZONING CERTIFICATE
Attachments: 579 Zoning Certif.pdf

Our Ref: P3536/16(A5)
Your Ref: ERF_579_FRANSCHHOEK, LU/8858

Hi Stiaan

**APPLICATION IN TERMS OF THE STELLENBOSCH MUNICIPAL LAND USE PLANNING BY-LAW, 2015:
PROPOSED SUBDIVISION AND REZONING OF ERF 579 FRANSCHHOEK:
REQUEST FOR ZONING CERTIFICATE**

Robert Fooy's below email of this morning, attaching the Zoning Certificate vide Ref 579 FH dated 27-07-2020 and my telecon of this morning with Robert, refer.

The matter was discussed with Robert who advised that the Zoning Certificate was completed under your instructions and that I should contact you directly, noting that the Primary, Additional and Consent Uses are not listed on the Zoning Certificate as per the below extract of your Zoning Scheme By-Law, 2019 in respect of Community Zone.

143. Land use within this zone

(1) The following land uses are permitted in this zone:

Primary Uses	Additional Uses (technical approval)	Consent Uses (application required)
<ul style="list-style-type: none">• Clinic• Community residential building• Day care centre• Extramural facility• Indoor sport• Medical consulting rooms• Outdoor sport• Occasional use (one event/year)• Place of assembly• Place of education• Place of worship• Public institution• Welfare institution• Private road	<ul style="list-style-type: none">• Dwelling house• Employee housing	<ul style="list-style-type: none">• Freestanding base telecommunication station• Helicopter landing pad• Hospital• Hostel• Market• Occasional use (>one event/year)• Renewable energy structure• Rooftop base telecommunication station• Tertiary educational institution

Could you please amend your Zoning Certificate to reflect the abovementioned permitted land uses.

I look forward to hearing from you soonest and thank you for your assistance in the matter.

Kind regards

Marnus Botha
Candidate Planner C/8375/2016

David Hellig and Abrahamse
Professional Land Surveyors
258 Main Street
PAARL 7646
P O Box 18 PAARL 7622
Telephone : (021) 872 4086
Email : plan@dhaa.co.za
Website : www.dhale.co.za

From: Robert Fooy [mailto:Robert.Fooy@stellenbosch.gov.za]
Sent: Wednesday, 12 August 2020 10:08
To: Marnus Botha <plan@dhaa.co.za>
Subject: RE: REQUEST FOR ZONING CERTIFICATE

Morning Marnus

Attached find the relevant Zoning Certificate for erf 579, Franschoek.



Kind regards,

Robert Fooy

Senior Town Planner; Land Use Management
Department: Planning & Economic Development

T: +27 21 808 8680

Email: robert.fooy@stellenbosch.gov.za

3rd Floor, Stellenbosch Mall
Aandringa Street, Stellenbosch, 7600
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twitter.com/StellMun

Marnus Botha

From: Robert Fooy <Robert.Fooy@stellenbosch.gov.za>
Sent: Thursday, 13 August 2020 11:43
To: Marnus Botha
Cc: Stiaan Carstens; Chrizelle Kriel
Subject: RE: PROPOSED SUBDIVISION AND REZONING OF ERF 579 FRANSCHHOEK:
REQUEST FOR ZONING CERTIFICATE
Attachments: Place of Worship-1-Def.pdf; Place of Worship-3 Development Parameters.pdf; Place of Worship-2.pdf

Follow Up Flag: Follow up
Flag Status: Completed

Hi Marnus

Sorry the previous email was sent prior to me completing it.

Below is the response to your enquiry.

The Zoning Certificate issued is based on the zoning that the property was allocated in terms of the Franschhoek Zoning Scheme which specifically reserved the use of the property for a Place of Worship.

The Stellenbosch Municipality Zoning Scheme By-Law 2019 specifically requires a property to be attributed at least one of the use zones as set out in the By-Law / Scheme and then to identify the use that the property is being used for at the time of conversion.

As noted, the current zoning / use of the property is for Place of Worship and thus the zoning certificate specifically only refers to the use that the property is currently being used for. (Place of Worship)

The definition attributed to a Place of Worship by the Franschhoek Zoning Scheme only makes provision for associated buildings in terms of a Place of Worship and therefore the property may only be developed / used in terms of a Place of Worship as the other primary land use attributed in the Municipality Zoning Scheme By-Law in terms of the "Community Zone" do not form part of the uses defined in the definition for Place of Worship as noted in the Franschhoek Zoning Scheme (Refer to relevant attached extracts of the Franschhoek Zoning Scheme of which the relevant sections have been highlighted.)



Kind regards,

Robert Fooy

Senior Town Planner: Land Use Management
Department: Planning & Economic Development

T: +27 21 808 8680

Email: robert.fooy@stellenbosch.gov.za

3rd Floor, Stellenbosch Mall

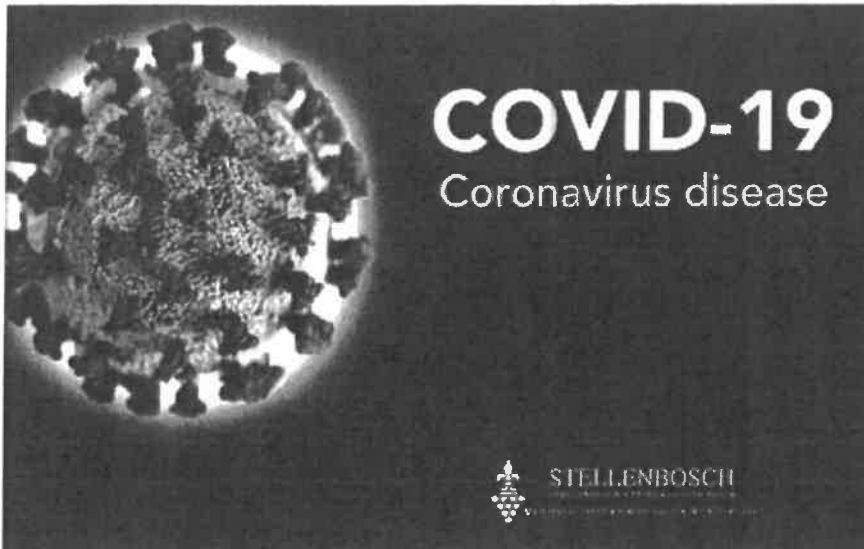
Aandringa Street, Stellenbosch, 7600

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From: Marnus Botha <plan@dhaa.co.za>

Sent: Wednesday, 12 August 2020 13:04

To: Stiaan Carstens <Stiaan.Carstens@stellenbosch.gov.za>

Cc: Robert Fooy <Robert.Fooy@stellenbosch.gov.za>; louis@lewismanhattan.co.za; Richard Lewis <richard@lewismanhattan.co.za>; Spencer Dreyer <Spencer@dhaa.co.za>

Subject: [EX] PROPOSED SUBDIVISION AND REZONING OF ERF 579 FRANSCHHOEK: REQUEST FOR ZONING CERTIFICATE

Our Ref: P3536/16(A5)

Your Ref: ERF_579_FRANSCHHOEK, LU/8858

Hi Stiaan

**APPLICATION IN TERMS OF THE STELLENBOSCH MUNICIPAL LAND USE PLANNING BY-LAW, 2015:
 PROPOSED SUBDIVISION AND REZONING OF ERF 579 FRANSCHHOEK:
 REQUEST FOR ZONING CERTIFICATE**

Robert Fooy's below email of this morning, attaching the Zoning Certificate vide Ref 579 FH dated 27-07-2020 and my telecon of this morning with Robert, refer.

The matter was discussed with Robert who advised that the Zoning Certificate was completed under your instructions and that I should contact you directly, noting that the Primary, Additional and Consent Uses are not listed on the Zoning Certificate as per the below extract of your Zoning Scheme By-Law, 2019 in respect of Community Zone.

143. Land use within this zone

(1) The following land uses are permitted in this zone:

Primary Uses	Additional Uses (technical approval)	Consent Uses (application required)
<ul style="list-style-type: none"> • Clinic • Community residential building • Day care centre • Extramural facility • Indoor sport • Medical consulting rooms • Outdoor sport • Occasional use (one event/year) • Place of assembly • Place of education • Place of worship • Public institution • Welfare institution • Private road 	<ul style="list-style-type: none"> • Dwelling house • Employee housing 	<ul style="list-style-type: none"> • Freestanding base telecommunication station • Helicopter landing pad • Hospital • Hostel • Market • Occasional use (>one event/year) • Renewable energy structure • Rooftop base telecommunication station • Tertiary educational institution

Could you please amend your Zoning Certificate to reflect the abovementioned permitted land uses.

I look forward to hearing from you soonest and thank you for your assistance in the matter.

Kind regards

Marnus Botha
Candidate Planner C/8375/2016

David Hellig and Abrahamse
Professional Land Surveyors
 258 Main Street
 PAARL 7646
 P O Box 18 PAARL 7622
 Telephone : (021) 872 4086
 Email : plan@dhaa.co.za
 Website : www.dhale.co.za

From: Robert Fooy [<mailto:Robert.Fooy@stellenbosch.gov.za>]
Sent: Wednesday, 12 August 2020 10:08

Marnus Botha

From: Spencer Dreyer
Sent: Tuesday, 18 August 2020 07:57
To: robert fooy; Stiaan Carstens; Chrizelle Kriel
Cc: Anthony.Barnes@stellenbosch.gov.za; louis@lewismanhattan.co.za; Richard Lewis (richard@lewismanhattan.co.za); Marnus Botha; David Hellig
Subject: RE: PROPOSED SUBDIVISION AND REZONING OF ERF 579 FRANSCHHOEK: REQUEST FOR ZONING CERTIFICATE

Follow Up Flag: Follow up
Flag Status: Completed

Our Ref : P3536/16(A5)

Hi Robert

ERF 579 FRANSCHHOEK

Your below e-mail refers.

We are going around in circles on this particular matter.

My interpretation is that the conversion of the land use rights from the previously applicable Land Use Management Scheme to the current one is relatively a straightforward exercise in that the new Zoning Scheme By-law requires that all land units are allocated an applicable and corresponding base zoning as detailed in the new Integrated Zoning Scheme, which in this case is "Community Zone" as has already been acknowledged by your Administration.

There is no provision in the new Zoning Scheme By-law which enables or empowers the Municipality to limit and / or restrict the land use rights applicable to the respective base zoning. The only enforceable provision is in respect of the imposition of Development Charges, noting that section 20(2) states that Development Charges are payable in instances whereby it is deemed that intensified primary development rights have occurred as a result of the conversion. The Zoning Scheme By-law further stipulates that such Development Charges are payable on approval of the building plans.

It is therefore my respectful opinion that there is no lawful provision contained in the Zoning Scheme By-law, 2019 which permits the Municipality to limit or restrict land use rights when converting those land use rights from the now repealed Franschoek Zoning Scheme to the new Zoning Scheme By-law, 2019.

I now look forward to receiving the amended Zoning Certificate indicating the full range of land use rights applicable to that of Community Zone.

Regards

Spencer Dreyer

David Hellig & Abrahamse

Land Surveyors
258 Main Street
PAARL 7646
P O Box 18 PAARL 7622
Telephone : (021) 872 4086

From: Marnus Botha <plan@dhaa.co.za>
Sent: 17 August 2020 04:00 PM
To: Spencer Dreyer <Spencer@dhaa.co.za>
Subject: FW: PROPOSED SUBDIVISION AND REZONING OF ERF 579 FRANSCHHOEK: REQUEST FOR ZONING CERTIFICATE

Kind regards

Marnus Botha
Candidate Planner C/8375/2016

David Hellig and Abrahamse
Professional Land Surveyors
258 Main Street
PAARL 7646
P O Box 18 PAARL 7622
Telephone : (021) 872 4086
Email : plan@dhaa.co.za
Website : www.dhale.co.za

From: Robert Fooy [<mailto:Robert.Fooy@stellenbosch.gov.za>]
Sent: 14 August 2020 11:43
To: Marnus Botha <plan@dhaa.co.za>
Cc: Stiaan Carstens <Stiaan.Carstens@stellenbosch.gov.za>; Chrizelle Kriel <Chrizelle.Kriel@stellenbosch.gov.za>
Subject: RE: PROPOSED SUBDIVISION AND REZONING OF ERF 579 FRANSCHHOEK: REQUEST FOR ZONING CERTIFICATE

Hi Marnus

Sorry the previous email was sent prior to me completing it.

Below is the response to your enquiry.

The Zoning Certificate issued is based on the zoning that the property was allocated in terms of the Franschoek Zoning Scheme which specifically reserved the use of the property for a Place of Worship.

The Stellenbosch Municipality Zoning Scheme By-Law 2019 specifically requires a property to be attributed at least one of the use zones as set out in the By-Law / Scheme and then to identify the use that the property is being used for at the time of conversion.

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Kind regards,

Robert Fooy

Senior Town Planner: Land Use Management
Department: Planning & Economic Development

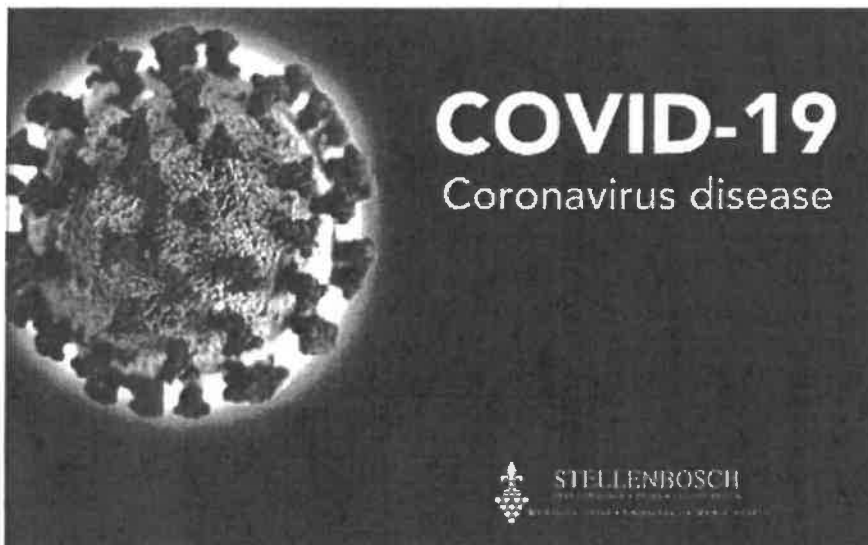
T: +27 21 808 8680

Email: robert.fooy@stellenbosch.gov.za

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www.stellenbosch.gov.za



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David Hellig

From: Stiaan Carstens <Stiaan.Carstens@stellenbosch.gov.za>
Sent: Wednesday, 16 September 2020 19:39
To: Spencer Dreyer; Robert Fooy
Cc: Chrizelle Kriel; David Hellig
Subject: RE: ERF 579 FRANSCHHOEK

Follow Up Flag: Follow up
Flag Status: Completed

Good day Spencer;

Robert did discuss the matter with me, and I believe he did convey the information accurately to you.

To reiterate the position:

When a new zoning scheme is adopted, it is indeed an inevitable consequence that in some instances additional user rights, which are closely associated with the original user rights, are attached to the new zoning. The impact in such instances will however be minimal. The transition of land use rights from one to another zoning scheme is however a factual exercise and it has however never been the purpose during the transition from one zoning scheme to another to unduly dish out development rights which never lawfully existed in the past.

To turn to the legislative prescripts, please refer to Section 34 of LUPA:

- (4) When determining a zoning or a deemed zoning [when adopting a zoning scheme] 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.
- (5) A competent person who requires a zoning for land contemplated in subsection (1) or (2) must apply to the municipality for the determination of a zoning.
- (6) Zoning may be made applicable to a land unit or part thereof and zoning need not follow cadastral boundaries.

Careful scrutiny of the above provisions will make it blatantly clear that it must be the approach to limit the user rights of a property with the transition of an old to a new scheme to the existing / lawful rights. To reinforce this principle of only permitting existing/ lawful land use rights, the provision suggests the use of departures, consent uses, and even part (split) zonings. Section 29(1)(c) of LUPA further makes provision for non-conforming uses, which provision also suggest that it is not the intention to summarily legalise land uses, even in some instances if they were lawful in terms of the previous zoning scheme.

To give effect to the above, the Stellenbosch Zoning Scheme Bylaw includes the required transition table, which purpose is qualified [...the proposed new zoning in terms of this (new) scheme] to be indicative to the most compatible new base zone which should be applied when determining the new user rights. Reference is also made to conversions based on the lawful existing land use of zonings where a suitable corresponding zone does not exist. It is thus inconceivable why it would be applied otherwise to attach a range of new land use rights in cases where compatible base zones do exist.

The associated zoning maps also has disclaimers to this effect that the base zones as indicated are in the process of being updated as data are verified, and decisions are taken. Such process will inevitably include the issuing of zoning certificates as and when they are requested.

To summarize, as indicated in the transition table, the most compatible base zone to reflect the lawful land use rights of the subject property prior to the adoption of the new zoning scheme, is Community Zone, which base zone includes a church. The new zoning will however be limited to such lawful use of a church use.

If you are not in agreement with the allocated zoning, you may apply in terms of section 15(2)(m) for a zoning determination, which again is a factual exercise and in which case the provisions of Section 13 will apply and you will be required to furnish documentary proof of the lawful land use rights which are claimed to be attached to the subject property.

I trust that the above explanation will suffice.

Kind regards

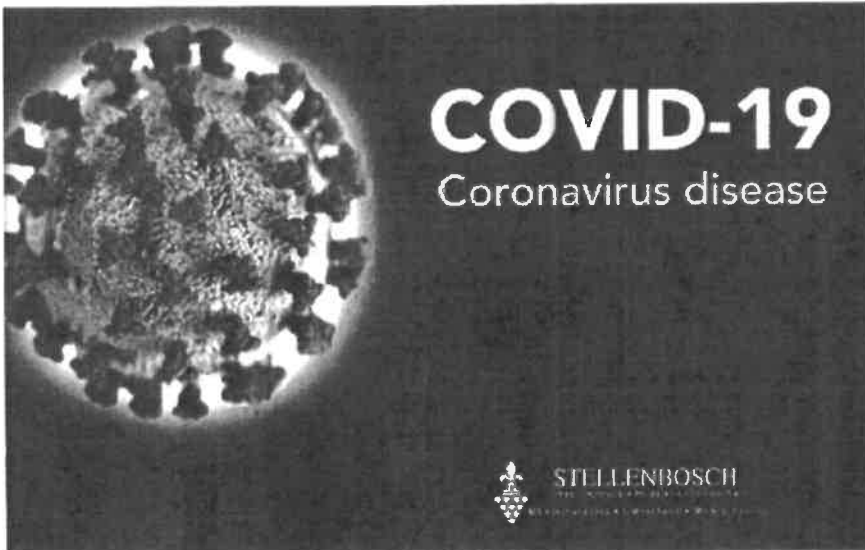


Stiaan Carstens (Pr. Pln.)
Senior Manager: Development
Management
**Planning and Economic
Development**

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MUNICIPALITY OF WINE VALLEY & FISH HARBOUR



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From: Spencer Dreyer <Spencer@dhaa.co.za>

Sent: Wednesday, 16 September 2020 17:38

To: Stiaan Carstens <Stiaan.Carstens@stellenbosch.gov.za>; Robert Fooy <Robert.Fooy@stellenbosch.gov.za>

Subject: [EX] FW: ERF 579 FRANSCHHOEK

Our Ref : P3536/16(A5)

Hi Stiaan and Robert

ERF 579 FRANSCHHOEK

My e-mails dated 18-08-2020, 28-08-2020, 01-09-2020, 04-09-2020 and 10-09-2020 refer.

I now look forward to hearing from you.

Regards

Spencer Dreyer

David Hellig & Abrahamse

Land Surveyors

258 Main Street
PAARL 7646
P O Box 18 PAARL 7622
Telephone : (021) 872 4086

From: Spencer Dreyer

Sent: 10 September 2020 03:58 PM

To: Stiaan Carstens <Stiaan.Carstens@stellenbosch.gov.za>; 'robert fooy' <robert.fooy@stellenbosch.gov.za>

Cc: 'louis@lewismanhattan.co.za' <louis@lewismanhattan.co.za>; 'Richard Lewis' <richard@lewismanhattan.co.za>;

David Hellig <DAVID@dhaa.co.za>; Marnus Botha <plan@dhaa.co.za>

Subject: FW: ERF 579 FRANSCHHOEK

Our Ref : P3536/16(A5)

Hi Stiaan and Robert

ERF 579 FRANSCHHOEK

My e-mails dated 18-08-2020, 28-08-2020, 01-09-2020 and 04-09-2020 refer.

Mr Robert Fooy has confirmed that you would be responding to the above mentioned e-mail correspondence. Please refer to the below e-mails and those attached for your ease of reference.

I would appreciate your expeditious attention to this matter, as my client now needs to make progress on the way forward.

I look forward to hearing from you soonest.

Regards

Spencer Dreyer

David Hellig & Abrahamse

Land Surveyors

258 Main Street
PAARL 7646
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Telephone : (021) 872 4086

From: Spencer Dreyer

Sent: 04 September 2020 05:37 PM

To: Stiaan Carstens <Stiaan.Carstens@stellenbosch.gov.za>; robert fooy <robert.fooy@stellenbosch.gov.za>

Cc: louis@lewismanhattan.co.za; 'Richard Lewis' <richard@lewismanhattan.co.za>; Marnus Botha

<plan@dhaa.co.za>; David Hellig <DAVID@dhaa.co.za>

Subject: FW: ERF 579 FRANSCHHOEK

Our Ref : P3536/16(A5)

Hi Stiaan and Robert

ERF 579 FRANSCHHOEK

My e-mails dated 18-08-2020, 28-08-2020 and 01-09-2020 refer.

Please could you confirm acknowledgement of receipt and advise when we may expect a response thereto.

I look forward to hearing from you.

Regards

Spencer Dreyer

David Hellig & Abrahamse

Land Surveyors

258 Main Street
PAARL 7646
P O Box 18 PAARL 7622
Telephone : (021) 872 4086

From: Spencer Dreyer

Sent: 01 September 2020 05:48 PM

To: robert fooy <robert.fooy@stellenbosch.gov.za>

Cc: Stiaan Carstens <Stiaan.Carstens@stellenbosch.gov.za>

Subject: ERF 579 FRANSCHHOEK

Our Ref : P3536/16(A5)

Hi Robert

ERF 579 FRANSCHHOEK

The MPT meeting held on 28-08-2020 refers.

My clients, in the wake of the decision taken by the MPT to refuse the land development application, now intend exploring the alternatives available to them in order to realise the development potential of the subject land unit.

Due to time constraints, lengthy delays and uncertainties associated with the processing of planning permission applications, my clients are exploring the opportunity to exercise the primary rights available to them in terms of the existing zoning viz Community Zone as outlined in the Stellenbosch Zoning Scheme By-law, 2019.

You will recall that we await a response from your Mr Stiaan Carstens regarding his reasoning and rationale relating to the Municipality being lawfully empowered to restrict and / or limit the primary land uses to that of Place of Worship. I refer you to my e-mails dated 18-08-2020 and 28-08-2020 (copies attached) for your ease of reference.

For the sake of expediency since my clients now need to move forward on the matter, lets for the moment accept (for discussion purposes only) that the land unit is entitled to the full range of primary land use rights as detailed in terms of Community Zone category. Based on this proviso, we would greatly appreciate and hereby request your advices in respect of the following development proposal.

My clients intend erecting building(s) on the property to be utilised as an old age / retirement home together with various ancillary facilities which may include a frail care and medical facilities.

With this in mind, I refer you to the primary land use rights in terms of a Community Zone viz community residential building, welfare institution and medical consulting rooms noting the following definitions contained in the Zoning Scheme By-law, 2019 :

- ***“Community residential building means a building where accommodation is provided in rooms or dormitories for welfare purposes, such as a home for handicapped, orphaned, mentally disabled, indigent and/or aged persons, night shelters, partial care facilities, rehabilitation facilities and may include ancillary uses such as, but not limited to, offices, medical, frail care and/or employee housing”***
- ***“Welfare institution means a place where career guidance, counselling, recuperation or rehabilitation for bona fide medical, psychological or post-surgical conditions is provided, and includes ancillary offices and residential accommodation associated with the aforementioned”***
- ***“Old age home means a welfare institution which provides permanent accommodation in rooms, apartments or dormitories to retired persons and may include a wide spectrum of associated health care and/or recreational facilities, provided these are to the satisfaction of the Municipality”***
- ***“Medical consulting rooms means a building or rooms which are used for medical and / or related consultations, examinations or treatments and does not include overnight facilities”***

Of particular importance is the definition of an old age home, which is considered to be a welfare institution, and /or community residential building, both of which are permissible as a primary land use right, which caters for the provision of residential accommodation for retired or aged persons.

The association of the concept of welfare with these primary land use rights, may be construed to exclude affluent clientele and only pertain to those in financial need, if one were to apply the most common and generic ideology or concepts which come to mind when utilising the word “welfare”.

The term “welfare” is not defined in the Zoning Scheme By-law, 2019 and therefore one would have to be guided by the meaning contained in the “new Shorter Oxford English Dictionary” published by Oxford University Press, as prescribed in terms of section 6(1)(c) of the Zoning Scheme By-law, 2019, which reads as “the health, happiness or fortunes of a person or group” being related to the well-being of people.

This makes eminent sense considering the context, otherwise one could never establish an old age home for the affluent within the municipal area. It could never have been the intended consequence of the Zoning Scheme By-law, 2019 to exclude a particular sector of society (the affluent) from such a facility for senior citizens.

The following is acknowledged :

- Section 143(3) of the Zoning Scheme By-law, 2019 prohibits the opening of a sectional title scheme register with respect to land units which are zoned for Community Zone purposes. My clients may however explore other avenues of possibly granting life rights under the Retired Persons Act or establish a Share Block Scheme, noting that legal advice would need to be obtained in this regard.
- Section 149(1) states that the Municipality may require the approval of a Site Development Plan for new development prior to Building Plan approval and shall include a parking layout and landscape plan. Please confirm that reference to new development is related to new planning approvals being granted in respect of this zone and is not applicable to the execution of existing primary land use rights.
- Section 151 may be applicable insofar as the Municipality may impose Development Charges in respect of the potential intensification of primary land use rights which have occurred as a result of the conversion from the Franschoek Zoning Scheme to the new Stellenbosch Zoning Scheme By-law, 2019, payable prior to the approval of the building plan. Your views in this regard will be appreciated.

It is my considered opinion, based on the above explanation, the execution and implementation of such a development proposal would not be deemed to be an evasion of the intent of the Zoning Scheme By-law and within the primary land use rights afforded to the subject land unit, provided of course that the Municipality is able to provide proof that it is entitled to restrict and limit the primary land uses to Public Worship purposes only, as alluded to in paragraph 4 above.

Please could you provide your inputs, comments and advices with respect to the above, with particular reference to the required municipal interventions and administrative actions required from your Department relating to the possible approval of a site development plan, the approval of building plans and the issuing of any certifications in this regard.

Should you differ from the above interpretation and know of any obstacle or impediment which may hamper or prohibit the proposed development, then kindly confirm such and provide your reasoning and rationale. My clients welcome your inputs and assistance in this regard before embarking on such a process in order to ensure the smooth implementation and execution of such a development proposal.

I look forward to hearing from you soonest.

Thanking you in advance.

Kind regards

Spencer Dreyer

David Hellig & Abrahamse

Land Surveyors

258 Main Street

PAARL 7646

P O Box 18 PAARL 7622

Telephone : (021) 872 4086



Directorate: Development Management
(Region 1)

REFERENCE: 16/3/3/6/1/B4/12/1440/18
ENQUIRIES: Ms. Arabel McClelland
DATE: 2019-02-21

Board of Directors
Lewis Manhattan Investments (Pty) Ltd
357 Bear Creek Boulevard
Pearl Valley
PAARL
7646

Attention: Mr. L. Fourie

Cell: 082 553 5500
Email: louisf@lfourie.co.za

Dear Sir

RE: APPLICABILITY OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) ("NEMA") ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014 (AS AMENDED) WITH RESPECT TO THE PROPOSED HOUSING DEVELOPMENT ON ERF NO. 579, FRANSCHHOEK

1. The abovementioned document, dated 26 November 2018, received by this Department on 27 November 2018, the Department's correspondence dated 6 December 2018 and 5 February 2019, and the additional information dated 11 February 2019, received by the Department on 12 February 2019, refer.
2. Further to review of the additional information submitted to this Department, the following is noted:
 - 2.1. The proposal entails the development of a residential estate on Erf no. 579, Franschhoek, comprising of 56 erven (group housing units), Private Open Space, an internal road network and associated infrastructure, including a mini substation, sewerage and water supply networks.
 - 2.2. Although the property is to be developed fully, therefore covering an area of approximately 2.57ha, it has been confirmed that due to the presence of dense growth of Blue Gum and Cluster Pines since at least 2004, the site has been completely transformed and is devoid of indigenous vegetation, and therefore does not support Swartland Alluvium Fynbos.
3. Therefore, in light of the above, your attention is drawn to the listed activities in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA"), viz, the Environmental Impact Assessment ("EIA") Regulations, 2014, as defined in Listing Notices 1, 2 and 3. Please be advised that the proposed development of a housing estate does not constitute any listed activities in terms of the NEMA EIA Regulations, 2014

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(as amended), as the site is located within an urban area, no indigenous vegetation will be cleared and no watercourses or wetlands were identified on site. Environmental authorisation is therefore not required from this Department prior to the proposed development thereof.

4. Please note that should any revision of the proposal constitute a listed activity(ies) in terms of the NEMA EIA Regulations, 2014 (as amended) as defined in Listing Notices 1, 2 and/or 3, an application must be submitted and environmental authorisation obtained before such activity(ies) may commence.
5. The applicant is reminded of his/her general duty of care and the remediation of environmental damage, Section 28(1) of NEMA specifically states that – “Every person who causes, has caused or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment.”
6. Please note that the applicant must comply with any other statutory requirements that may be applicable to the undertaking of the activity.
7. Your interest in the future of our environment is greatly appreciated.
8. This Department reserves the right to revise or withdraw any comments or request further information from you based on any information received.

Yours faithfully



**HEAD OF COMPONENT
ENVIRONMENTAL IMPACT MANAGEMENT SERVICES: REGION 1
DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

CC: (1) Ms. S. O'Toole (Doug Jeffery Environmental Consultants)

Fax: (086) 660 2635

REGISTERED POST

Our Ref: HM/ CAPE WINELANDS / STELLENBOSCH / FRANSCHHOEK / ERF 579
Case No: 18112613SB1128E
Enquiries: Stephanie-Anne Barnardt
E-mail: stephanie.barnardt@westerncape.gov.za
Tel: 021 483 9689
Date: 14 December 2018

Henry Aikman
PO Box 140
Tulbagh
6820
aikman@wol.co.za



RESPONSE TO NOTIFICATION OF INTENT TO DEVELOP: FINAL
In terms of Section 38(2) of the National Heritage Resources Act (Act 25 of 1999) and the Western Cape Provincial Gazette 6061, Notice 298 of 2003

NOTIFICATION OF INTENT TO DEVELOP: PROPOSED RESIDENTIAL DEVELOPMENT ON ERF 579, FRANSCHHOEK, SUBMITTED IN TERMS OF SECTION 38(1) OF THE NATIONAL HERITAGE RESOURCES ACT (ACT 25 OF 1999)

CASE NUMBER: 18112613SB1128E

The matter above has reference.

Heritage Western Cape is in receipt of your application for the above matter received on 28 November 2018. This matter was discussed at the Heritage Officers meeting held on 13 December 2018.

You are hereby notified that, since there is no reason to believe that the proposed residential development will impact on heritage resources, no further action under Section 38 of the National Heritage Resources Act (Act 25 of 1999) is required.

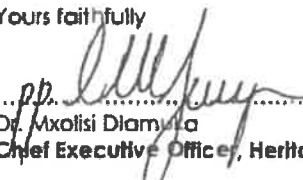
However, should any heritage resources, including evidence of graves and human burials, archaeological material and paleontological material be discovered during the execution of the activities above, all works must be stopped immediately and Heritage Western Cape must be notified without delay.

This letter does not exonerate the applicant from obtaining any necessary approval from any other applicable statutory authority.

HWC reserves the right to request additional information as required.

Should you have any further queries, please contact the official above and quote the case number.

Yours faithfully


.....
Dr. Mxolisi Dlamini
Chief Executive Officer, Heritage Western Cape

www.westerncape.gov.za/cas



Western Cape
Government

Transport and Public Works

ROAD NETWORK MANAGEMENT

Email: Grace.Swanepoel@westerncape.gov.za

tel: +27 21 483 4669

Rm 335, 9 Dorp Street, Cape Town, 8001

PO Box 2603, Cape Town, 8000

REFERENCE: 16/9/6/1-25/294 (Job 26590)

ENQUIRIES: Ms GD Swanepoel

DATE: 25 January 2019

Director: Planning and Economic Development

Stellenbosch Municipality

PO Box 17

STELLENBOSCH

7599

Attention: Mr U von Molendorff

Dear Sir

ERF 579 FRANSCHHOEK: MAIN ROAD 191: APPLICATION FOR REZONING AND SUBDIVISION

1. Planning Report ref. P3536/16(A2), with attachments, sent by Marnus Botha of David Hellig & Abrahamse to this Branch on 23 November 2018 refers. This e-mail indicates that the planning application was submitted to Stellenbosch Municipality on 22 November 2018, but the Municipality's Land Use Application Number is not known.
2. Erf 579 Franschhoek is located $\pm 1,5$ km north-east of Franschhoek town centre, on the east side of Main Road 191 Lambrechts Road, with access via Bagatelle Street, which forms a four-legged intersection with Main Road 191 opposite Nerina Street.
3. The application is for the following:
 - 3.1 Rezoning of Erf 579 Franschhoek from Public Worship purposes to Subdivisional Area.
 - 3.2 Subdivision of the subject property into 56 Group Housing residential units and a Portion designated for Private Open Space and Private Road.
4. In terms of Clause B4 of the Title Deed of Erf 579, there is a 170.02m wide servitude right of way registered over the property. It has been established that this was unnecessarily carried over from the subdivision of the original Erf 23 which predates the development of the current town and street layout of Franschhoek. As this is no longer relevant to Erf 579, this condition should be removed from the Title Deed.
5. A Traffic Impact Statement (TIS) was prepared by Aurecon South Africa (Pty) Ltd. The findings of this TIS were as follows:

- 5.1 Allowing for existing traffic at the intersection of Main Road 191/Bagatelle/Nerina and a 5% p.a. growth rate to 2023, there is adequate capacity to accommodate the additional traffic generated by the proposed development.
- 5.2 Widening of the road to make provision for a right turn lane for north-eastbound traffic to the subject property (ie. coming from the centre of Franschhoek) is warranted. This conclusion is supported by this Branch. A right turn lane to serve south-westbound traffic is also recommended, although this is not required to accommodate development traffic; however, as road widening and a painted "ghost" island to the north-east of the intersection will be needed anyway, it would be desirable to lengthen this sufficiently to accommodate a right turn lane in the south-westbound direction too.
- 5.3 Shoulder sight distance at the intersection is adequate.
- 5.4 There are no paved sidewalks or cycle paths on Main Road 191 Lambrechts Road. This Branch agrees that such provision would be desirable; however, this cannot be justified as a development-driven improvement.
- 5.5 Provision of parking for two vehicles per dwelling unit is proposed.
- 5.6 Public transport does not serve this area at present and it is not considered necessary to provide pull-offs or other facilities.
- 5.7 The 60km/h sign for south-westbound traffic, which is currently located south of the Bagatelle intersection, should be relocated to directly opposite the 80km/h sign for north-eastbound traffic, which is located north of the intersection.
6. This Branch offers no objection to the application for the rezoning and subdivision of Erf 579, Franschhoek to allow for the development of 56 town houses, subject to the following:
 - 6.1 The Applicant shall apply to the Deeds Office to have the restriction in Clause B4 of the Title Deed for Erf 579 relating to the 170.02m servitude right of way removed.
 - 6.2 A right turn lane shall be provided at the Applicant's expense on the north-eastbound approach to the intersection of Bagatelle Street with Main Road 191.
 - 6.3 The Applicant shall appoint an appropriately registered person to submit detailed design drawings to the Design Directorate (Ms MK Hofmeyr 021 483 3999) of this Branch for approval prior to construction.
 - 6.4 The Applicant and/or his Consultant shall accept the handing over of the site in writing from the Road Authority prior to construction.
 - 6.5 After completion of the construction phase, the Road Authority shall accept in writing the handing over of the site from the Applicant and/or his Consultant.

- 6.6 As built drawings shall be sent to this Branch (Ms GD Swanepoel 021 483 2009), the District Roads Engineer (Mr S Bain 021 863 2020) and the Roads Department of Cape Winelands District Municipality (Mr ACA Stevens 086 126 5263).
7. In terms of the Advertising on Roads and Ribbon Development Act 21 of 1940, this Branch approves the Subdivision of Erf 579 Franschoek.

Yours faithfully


SW CARSTÉNS
For CHIEF DIRECTOR: ROAD NETWORK MANAGEMENT

ENDORSEMENTS

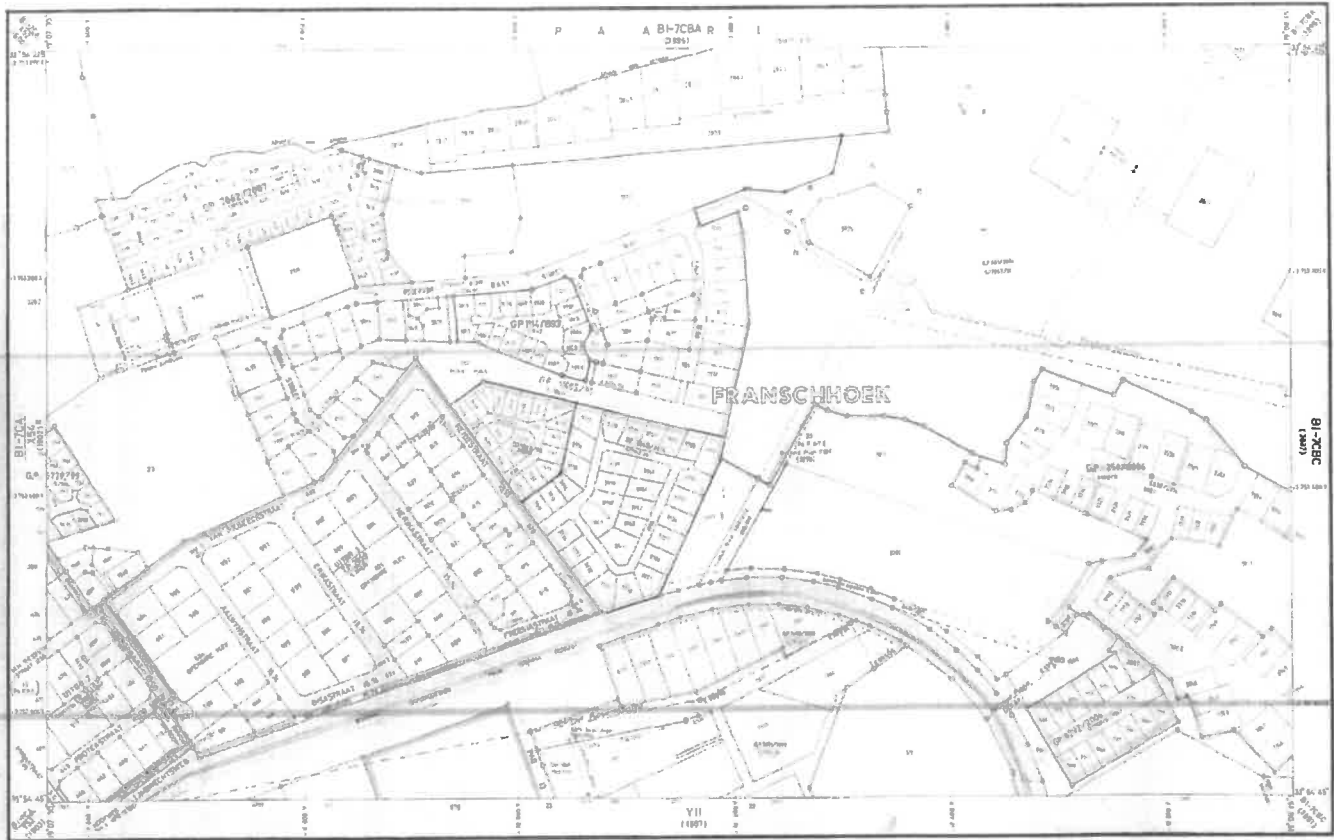
1. David Hellig & Abrahamse (e-mail: plan@dhaa.co.za)
2. Aurecon
Attention: Ms Carine Heyns (e-mail: Carine.Heyns@aurecongroup.co.za)
3. District Roads Engineer
Paarl
4. Mr SW Carstens (e-mail)
5. Ms M Hofmeyr (e-mail)
6. Mr H Thompson (e-mail)

I: 1250

FRANSCHHOEK

FIGUR 10-1199

BI-7CB
X13



Maatskappij van die Kaaplandse Provinsie, Kaapstad, April 1881. A. B. van der Merwe, Kaapstad, 1881.

1019/1020



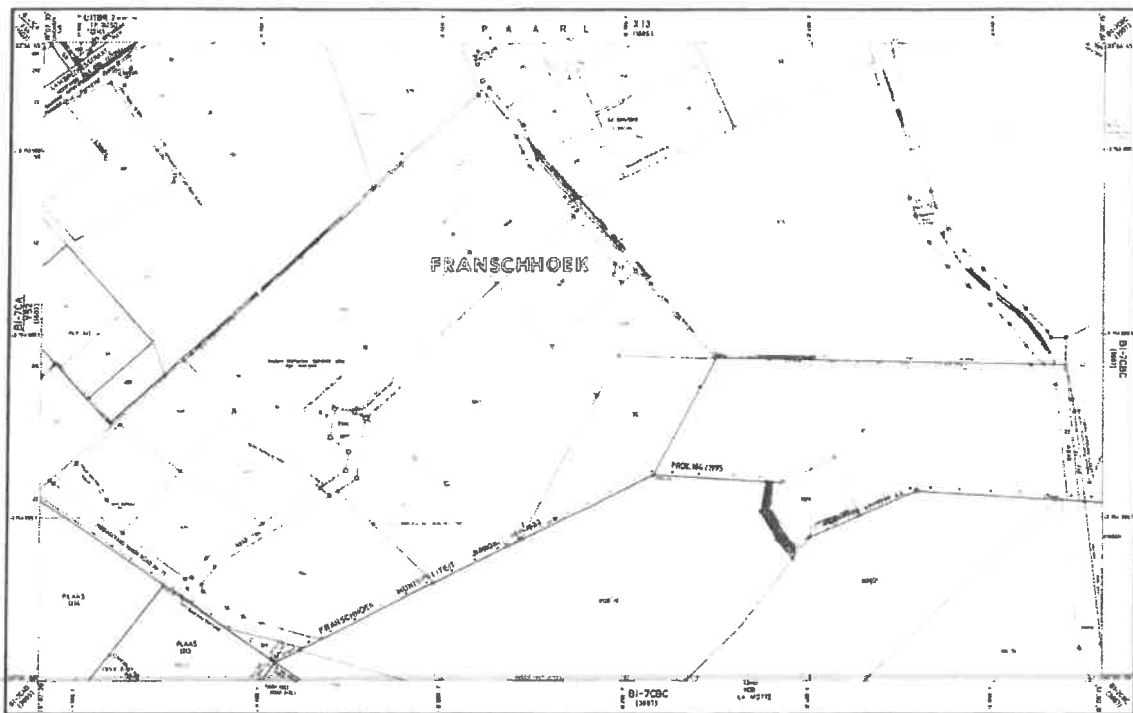
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1505

1:1250

FRANSCHHOEK

BI-7CB
YII



1607

Scale of the drawing
Drawing No. 1295
Drawing Date: 28/11/72

1295/1



BI-7CB
YII

S 1607

3YE
Kapsse Voet
RIOTING8

Kon.	AB	164.0	308.22.00	A
	BC	156.4	320.19.00	B
	CD	173.8	332.22.20	C
	DE	137.0	342.32.40	D
	EF	537.2	65.13.40	E
	FG	347.6	154.41.20	F
	GH	311.9	200.25.00	G
	HA	217.3	234.43.20	H
	KC	286.6	53.18.30	K
	HJ	99.5	234.43.20	J
	JL	146.7	153.00.00	L
	LM	496.1	63.33.00	M
	MN	1669.1	79.11.50	N
	NO	65.0	354.53.10	O
	OP	54.4	83.40.00	P
	PQ	198.7	54.45.00	Q
	QR	18.3	144.25.20	R
	QS	226.6	324.25.20	S

Die swart lyn K-C si
Weselike, L-M-N die
oostelike en O-P-Q
Pyplyn serwihut
Resant, voor

Beskriving van

A.B.C.D.E.F.G.H } = 3/4
K.L.M.N.O.P.Q.S } = 3/4

R. = 3/4

Die figuur A.B.C.D.E.F
stel voor 3.2625
van die plaas Erf 59 gede
gele in Munisipaliteit
Administratiewe Distrik
Opgetel in Februarie 1971

Hierdie kaart is geneem van
18/67 No. 1971

S

VAN DER MERWE, DUXBURY & DUNN
Landmeters

OFFICE COPY

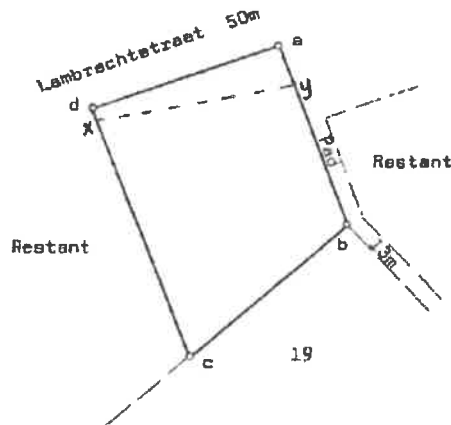
SYE Meter	RIGTINGS -HOEKE	KOÖRDINATE Stelsel /19°		L.G. No. 1392/71
		Y	X	
	Korstante	+	0.00	+3700 000.00
ab	150.41 340 45 00	a	- 11 986.72	+ 53 596.78
bc	154.53 48 16 50	b	- 12 036.31	+ 53 736.78
cd	209.39 160 45 00	c	- 11 922.91	+ 53 841.55
da	142.83 250 45 00	d	- 11 853.88	+ 53 643.87
	Franschhoek		- 9 267.35	+ 47 936.71
	Middenberg		- 6 881.61	+ 52 965.39

Goedgekeur

[Handwritten Signature]
Landmeter-generaal
3.5.71

- a c - 20mm ronde yeterpen
- b - Ysterataander hoekdraadpaal
- d - 20mm zonde yeterpen in klipbeken

Die lyn xy stel voor die suidelike grens van n servituut ppylyn 3.15 meter wyd sien kaart 1877/1966.



Skaal: 1:4000

Die figuur a b c d
stel voor 2.5695 hektaar grond, synde
Erf 579, 'n gedeelte van Erf 23 Franschhoek
geleë in die Munisipaliteit van Franschhoek Administratiewe Distrik
Peerl Provinsie Keop die Goeie Hoop.
Opgemeet in Mei 1970 - Januarie 1971
deur my, *[Handwritten Signature]*
Landmeter

Hierdie kaart is geheg aan	Die oorspronklike kaart is.	Lêer No. S/7042
No. gedateer 22495/72	No. B107/1926 geheg aan	M.S. No. 3368/71
t.g.v.	Fransoon/Grondbrief	Komp. B1-7CB/x13, y11
	No. P. F. 4. 7	Attrek Plan F 13c
	Plan 15cc (5285)	(2270)

Registrateur van Aktes

S
B
C

I hereby certify that the enclosed copy of the ...
 ... have been ...
 with.

[Signature]
 TOWN CLERK.



Gedebel eur kragtens	Voorwaardes	
	Met	Bander
Art. 10. Cr. 10. 107.	<input checked="" type="checkbox"/>	
Art. 107. 10. 10.	<input type="checkbox"/>	
Art. 10. 10. 10.	<input type="checkbox"/>	
Verspreid <i>AF 27/4/01</i>		
Moptrins		
Geboort. 26. 11. 1969		
<i>[Signature]</i>		



rural development & land reform

Department:
Rural Development and Land Reform
REPUBLIC OF SOUTH AFRICA

Deeds Registration Office

DeedsWEB

Property Report

Erf Enquiry

General Information

Date Requested	2020-10-31
Deed Office	Cape Town
Information Source	Deed Office

Property Details

Deeds registry	CAPE TOWN
Property type	ERF
Township	FRANSCHHOEK
Erf number	579
Portion	0
Province	WESTERN CAPE
Registration division/Administrative district	PAARL RD
Local authority	FRANSCHHOEK MUN
Previous description	-
Diagram deed number	T22495/1972
Extent	2,56 95HA UNKNOWN
LPI Code	C05500030000057900000

Deeds Title Details

#	Document	Registration Date	Purchase Date	Amount (R)
1	T59649/2018	20181219	20180815	R15000000.00

Owner Information

#	Document	Full name	Identity Number	Share
1	T59649/2018	LEWIS MANHATTAN INV PTY LTD	201631188007	-

Endorsements/Encumbrances

No data found for this search criteria

Historic Documents

#	Document	Holder	Amount (R)	Image Reference
1	VA4773/96-22495/72T	-	-	-
2	T22495/1972	NED GER KERK IN SUID-AFRIKA	-	20190115 13:16:02

Disclaimer:

The Office of the Chief Registrar of Deeds hereby confirms that, on the basis of information at the Deeds Office's disposal that the contents of this report accurately reflects property information held in our records. As per Deeds Registration process, this information is valid for seven (7) days.

Photocopies of this report are not valid.

This report is issued subject to costs as specified in the fee schedule: <http://deeds.dra.gov.za/fees.php>

© 2020 DRA



TDA
CAPE TOWN

The City of Cape Town's Transport
and Urban Development Authority

MP/EL 1/15/02

DEVELOPMENT MANAGEMENT

CONVEYANCER'S CERTIFICATE

I/we, **NICHOLAS PHILLIP HAYES**

(conveyancer's name)

hereby wish to certify that a search was conducted in the Deeds Registry, Cape Town for restrictive conditions affecting the development of the following property(ies) (including title deeds and pivot deeds)

ERF 579 FRANSCHHOEK, PAARL, WESTERN CAPE

(erf number/s and description/s as it appear in the title deed)

1. CERTIFICATE TYPE (please select only one option)

The information provided below is a certified record of all restrictive conditions affecting development on the above stated property(ies)

The information provided below is a certified record of all applicable restrictive conditions relating to a specific plan or proposed application of the above stated property(ies) (complete plan no., date and application type below)

Plan no. Date **D D M M Y Y Y Y** Application type

2. SCHEDULE OF TITLE DEEDS APPLICABLE (List title deed number in full and attach a complete set of copies)

T 22495 /1972

T 7 /1927

3. LIST OF RESTRICTIVE TITLE CONDITIONS Please note: If any clause is selected, Addendum A needs to be completed for each property

Categories	Title deed and clause number of restrictive conditions. Conveyancer to provide details of any necessary interpretation of conditions.		
	Title deed number	Clause number	Interpretation
Use of Land	T 22495 /1972 T 7 /1927		
Building lines	T 7 /1927 T 22495 /1972		
Height	T 22495 /1972 T 7 /1927		
Number of dwellings	T 22495 /1972 T 7 /1927		
Bulk floor area	T 22495 /1972 T 7 /1927		
Coverage / built upon area	T 22495 /1972 T 7 /1927		
Subdivision	T 22495 /1972 T 7 /1927		
Servitudes that may be registered over or in favour of the property	T 22495 /1972 T 7 /1927	4 & 5	A right of way 170,02 metres wide in favour of the state & a general right of way over the whole land in favour of the state.
Other restrictive conditions limiting development	T 22495 /1972 T 7 /1927		

Signed at **CAPE TOWN** on this **4** day of **OCTOBER** 20 **18**

Company name **ABRAHAMS AND GROSS ATTORNEYS**

Postal address **1ST FLOOR, 56 SHORTMARKET STREET**

CAPE TOWN

Signature

Tel **021 4221323**

Email **NICHOLAS@ABGROSS.CO.ZA**

Property reference

Allotment

ADDENDUM A

	APPLICABLE LEGISLATION OR TYPE OF CONDITIONS	APPLICATION NECESSARY TO CITY OF CAPE TOWN	AFFECTED CONDITION FOR PROPOSED DEVELOPMENT ON PROPERTY		BENEFICIARY IDENTIFICATION TO BE SUPPLIED BY CONVEYANCER	BENEFICIARIES (if insufficient space is provided in each block, then please attach a separate document or file)
			Title deed no.	Clause no.		
RESTRICTIVE CONDITIONS IMPOSED AT TIME OF TOWNSHIP ESTABLISHMENT	Municipal Planning By law 2015	Mandatory			<ul style="list-style-type: none"> All properties in affected Township (attach a copy of approved general plan) Specified state departments 	
	33/34 or LUPO or Any other legislation repealed in terms of LUPA (see section 77)	Mandatory			<ul style="list-style-type: none"> All properties in affected Township (attach a copy of approved general plan) Specified state departments 	
	Prior to 30/24	Voluntary			<ul style="list-style-type: none"> Properties or individuals affected by the condition Specified state departments 	
	Developer	Voluntary			<ul style="list-style-type: none"> Developer (if still alive) Company (if not deregistered) Properties or individuals affected by decision on application Specified state departments 	
TRADITIONAL CONDITIONS IMPOSED AFTER TOWNSHIP ESTABLISHMENT	Practical (multiple affected parties)	No provision in MPBL for application to be made to the City at this time			<ul style="list-style-type: none"> Persons whose rights are affected Specified state departments 	
	Personal (individual party)	No provision in MPBL for application to be made to the City at this time	T22495/1972	445	<ul style="list-style-type: none"> Individual named Specified state departments 	The state (department not specified)

It is acknowledged that the information on beneficiaries supplied will be relied upon by the City as being correct for Public Participation purposes.

2017/08/01 11:16:21

4

De Klerk & Van Gend
Absa Bank Building
132 Adderley Street
Cape Town
8001

Prepared by me


CONVEYANCER
HENDRIK PETRUS SERFONTEIN

Fees and charges		
	Amount	Exempt I.T.O
Purchase price/Value	R. 15 000 000,00	305700
Mortgage capital amount	R.	R.
Amount for registration	R.	Exempt I.T.O

FBM 1000059649/2018

REKENAAR: DATAVASLEGGING/COMPUTER DATA CAPTURE		
	DATUM/DATE	OPERATEUR/OPERATOR
OPGENEEM/ENTERED	08/19	JT
GESTAAF/VERIFIED		

T 000059649 / 2018

DEED OF TRANSFER

BE IT HEREBY MADE KNOWN THAT

DANIËL JACOBUS GERHARDUS WIESE

appeared before me, REGISTRAR OF DEEDS at CAPE TOWN, the said appearer being duly authorised thereto by a Power of Attorney granted to him/her by

DIE NEDERDUITSE GEREFORMEERDE KERK IN SUID-AFRIKA

which said Power of Attorney was signed at CAPE TOWN on 30 AUGUST 2018

DATA / VERIFY
10 JAN 2019

P



And the appearer declared that his/her said principal had, on 15 August 2018, truly and legally sold by Private Treaty, and that he/she, the said Appearer, in his/her capacity aforesaid, did, by virtue of these presents, cede and transfer to and on behalf of:

LEWIS MANHATTAN INVESTMENTS PROPRIETARY LIMITED
Registration Number : 2016/311880/07

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

ERF 579 FRANSCHHOEK
IN THE STELLENBOSCH MUNICIPALITY
DIVISION PAARL
PROVINCE OF THE WESTERN CAPE

IN EXTENT 2,5695 (TWO COMMA FIVE SIX NINE FIVE) Hectares

FIRST TRANSFERRED and still held by Deed of Transfer Number
T 22495/1972 with Diagram No. 1392/1971 relating thereto.

- A. SUBJECT to the conditions referred to in Paarl Freehold Vol. 4
Aforementioned Deed of Grant Number 7/1927
- B. FURTHER SUBJECT to the following conditions contained in Paarl
Freehold Vol. 4
Aforementioned Deed of Grant Number 7/1927, namely:-
1. That all roads and thoroughfares over the land, whether or not described in the plan or diagram thereof, shall remain free and uninterrupted unless closed, diverted, or altered by competent authority.
 2. That the land hereby granted shall be subject to all rights and servitudes which now affect, or at any time hereafter may be found to affect, the title of the land hereby granted or which may be binding on the Government in respect of the said land as at the date hereof.



3. That a right of way 170,02 metres wide from the Western end of the Southern boundary of the adjoining State land, lying to the North of the land hereby granted, to the Northern point of the road South-West of Mont Rochelle, shown on the diagram annexed to the title deed, is reserved in favour of the State.

4. That a general right of way from and to the adjoining State land over the whole of the land hereby granted is reserved in favour of the State.

C. FURTHER SUBJECT to the terms of the endorsement dated 19 July 1971 on aforementioned Deed of Grant Number 7/1927, namely:-

Remainder

By Deed of Transfer Number 18707/1971 dated this day, the remainder of Erf 23, measuring 1784,0036 hectares held hereunder is subject to a servitude of water and pipeline in favour of Erf 59, a portion of Erf 23, measuring 2,7948 hectares thereby conveyed, which said pipeline is indicated by the lines K.c.j.l.m.n.o.p.q on diagram 1877/1966 of the said Erf 59 annexed to the said deed of Transfer Number 18707/1971 together with certain ancillary rights and obligations.

As will more fully appear on reference to said deed of transfer.

D. FURTHER SUBJECT by Deed of Transfer Number T 22495/1972 to the following conditions imposed by the Administrator of the Province Cape of Good Hope by virtue of Ordinance Nr. 33 of 1934, namely :-



1. Die eienaar van hierdie erf is verplig om sonder betaling van vergoeding, toe te laat dat elektrisiteitskabels of -drade, hoof- en ander waterpype en die rioolvuil en dreinerings, insluitende stormwater van enige ander erf of erwe, oor hierdie erf gevoer word indien dit deur die plaaslike owerheid nodig geag word, en wel op die wyse en plek wat van tyd tot tyd redelikerwys vereis word. Dit sluit die reg op toegang te alle tye tot die eiendom in met die doel om enige werke met betrekking tot bogenoemde aan te lê, te wysig, te verwyder of te inspekteer.

2. Die eienaar van hierdie erf is verplig om sonder vergoeding op die erf die materiaal te ontvang of uitgraving op die erf toe te laat al na vereis word, sodat die volle breedte van die straat gebruik kan word en die wal veilig en behoorlik skuins gemaak kan word omrede van die verskil tussen die hoogte van die straat soos finaal aangelê en die erf tensy hy verkies om steunmure te bou tot genoeg van en binne 'n tydperk wat die plaaslike owerheid bepaal.

M

9

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

DIE NEDERDUITSE GEREFORMEERDE KERK IN SUID-AFRIKA


heretofore had to the premises, did in consequence also acknowledge it to be entirely dispossessed of, and disentitled to the same, and that by virtue of these presents, the said

LEWIS MANHATTAN INVESTMENTS PROPRIETARY LIMITED
Registration Number : 2016/311880/07

or its Successors in Title or assigns, now is and henceforth shall be entitled thereto, conformably to local custom, the State, however reserving its rights, and finally acknowledging the purchase price to be the sum of R15 000 000,00 (FIFTEEN MILLION RAND) .

IN WITNESS WHEREOF, I the said Registrar, together with the Appearer, have subscribed to these presents, and have caused the Seal of Office to be affixed thereto.

THUS DONE and EXECUTED at the Office of the REGISTRAR OF DEEDS at CAPE TOWN on 19 DEC 2018


_____ q.q.


In my presence


_____ REGISTRAR OF DEEDS



9

6-

CONDITIONS B3. AND B4. REMOVED	
GEWYSIG Kragtens ART. 4 (1) VAN	AMENDED IN TERMS OF SECTION 4 (1)
WET 47 VAN 1937 OM TE LEES:	(b) OF ACT 47 OF 1937 TO READ:
CONDITIONS B3 + B4 OMITTED.	
<hr/> <hr/> <hr/> <hr/>	
BC 000003657/2019	
2019-02-05	REGISTRATEUR/REGISTRAR

COMPANY RESOLUTION

At a meeting of Messrs **LEWIS MANHATTEN INVESTMENTS (PTY) LTD** (ID : 2016/311880/07) held at **Franschhoek** it was resolved as follows.

- 1) To make Application in terms of
 - a) **The Stellenbosch Municipal Land Use Planning By-law, 2015**
 - b) **The Advertising on Roads and Ribbon Development Act No 21/1940**
 - c) **Any other applicable Acts / Ordinances / By-Laws**

with respect to the **Rezoning and Subdivision of Erf 579 Franschhoek**

situate in the **Stellenbosch Municipality and Administrative District of Paarl**

- 2) To authorise **Louis Fourie** to sign the necessary Power of Attorney in favour of **Messrs David Hellig & Abrahamse, Professional Land Surveyors**



LOUIS FOURIE (DIRECTOR)
ON BEHALF OF THE LEWIS MANHATTEN INVESTMENTS (PTY) LTD



RICHARD LLEWELLYN LEWIS (DIRECTOR)
ON BEHALF OF THE LEWIS MANHATTEN INVESTMENTS (PTY) LTD

DATE **OCTOBER 2020**

POWER OF ATTORNEY

I the undersigned,

Louis Fourie

duly authorised by Messrs **LEWIS MANHATTEN INVESTMENTS (PTY) LTD (ID : 2016/311880/07)**

do hereby nominate, constitute and appoint

MESSRS DAVID HELIG AND ABRAHAMSE, PROFESSIONAL LAND SURVEYORS

with power of Substitution, to be my lawful Attorney and Agent.

To make application and sign the necessary application forms in terms of

- 1) **Stellenbosch Municipal Land Use Planning By-Law, 2015**
- 2) **The Advertising on Roads and Ribbon Development Act No 21/1940**
- 3) **Any other applicable Acts / Ordinances / By-laws**

with respect to **the Rezoning and Subdivision of Erf 579 Franschoek**

situate in the **Stellenbosch Municipality and Administrative District of Paarl**

and generally for effecting the purposes aforesaid to do or cause to be done, whatsoever shall be requisite as fully and effectually to all intents and purposes, as I might or could do if personally present and acting herein – hereby ratifying, allowing and confirming, and promising and agreeing to ratify, allow and confirm all and whatsoever my said Attorney shall lawfully do or cause to be done by virtue of these present

Executed at **Franschoek** in the Province of the Western Cape on this ... day of **October 2020** in the presence of the undersigned Witnesses

Witnesses:



LOUIS FOURIE

Nicole Katts

From: Marnus Botha <plan@dhaa.co.za>
Sent: Friday, 18 December 2020 15:10
To: Ulrich Vonmolendorff; Robert Fooy
Cc: Landuse Applications; louis@lewismanhattan.co.za; 'Richard Lewis'; Spencer Dreyer
Subject: [EX] RE: PROPOSED REZONING AND SUBDIVISION OF ERF 579 FRANSCHHOEK
Attachments: HOA Constitution 16.12.20 Clean.pdf

Our Ref: P3536/16(A6)

Hi Ulrich and Robert

**APPLICATION IN TERMS OF THE STELLENBOSCH MUNICIPAL LAND USE PLANNING BY-LAW, 2015:
PROPOSED REZONING AND SUBDIVISION OF ERF 579
FRANSCHHOEK**

Further to my below email of this afternoon, I attach herewith the draft Home Owners Association Constitution for your information and attention.

Please acknowledge receipt in writing of this email and attachment and kindly append to our Application.

Kind regards

Marnus Botha
Candidate Planner C/8375/2016

David Hellig and Abrahamse
Professional Land Surveyors
258 Main Street
PAARL 7646
P O Box 18 PAARL 7622
Telephone : (021) 872 4086
Email : plan@dhaa.co.za
Website : www.dhale.co.za

From: Marnus Botha
Sent: Friday, 18 December 2020 12:26
To: 'Ulrich Vonmolendorff' <Ulrich.Vonmolendorff@stellenbosch.gov.za>
Cc: Robert.Fooy@stellenbosch.gov.za; 'Landuse Applications' <Landuse.Applications@stellenbosch.gov.za>; louis@lewismanhattan.co.za; 'Richard Lewis' <richard@lewismanhattan.co.za>; Spencer Dreyer <Spencer@dhaa.co.za>
Subject: PROPOSED REZONING AND SUBDIVISION OF ERF 579 FRANSCHHOEK

Our Ref: P3536/16(A6)

Hi Ulrich

**APPLICATION IN TERMS OF THE STELLENBOSCH MUNICIPAL LAND USE PLANNING BY-LAW, 2015:
PROPOSED REZONING AND SUBDIVISION OF ERF 579
FRANSCHHOEK**

I hereby advise that the following documentation in support of our Application was today delivered to you via WeTransfer (_____):

1. Land Use Application Check List
2. Land Use Application Form
3. Locality Plan No 4 Rev 1
4. Topographical Plan No 1 Rev 2
5. Plan of Subdivision No 3 Rev 3
6. Planning Report
7. Site Development Plan prepared by Messrs J.d.V. Landscape Studio
8. Landscaping Plan prepared by Messrs J.d.V. Landscape Studio
9. Urban Design Philosophy Report and Landscaping Guidelines prepared by Messrs J.d.V. Landscape Studio
10. General Building Guidelines
11. Engineering Services Availability Report prepared by Messrs Zutari, which includes:
 - a) Geotechnical Investigation
 - b) Traffic Impact Study
12. Minutes of pre-application consultation meeting dated 02-12-2020
13. Stellenbosch Municipality Zoning Certificate vide Ref 579 FH dated 27-07-2020
14. Email correspondence regarding the Zoning Certificate and existing land use rights
15. Department of Environmental Affairs and Development Planning, WCG letter on non-applicability vide Ref 16/3/3/6/1/B4/12/1440/18 dated 21-02-2019
16. HWC ROD vide Ref HM/ CAPE WINELANDS / STELLENBOSCH / FRANSCHHOEK / ERF 579 dated 14-12-2018
17. Department of Transport and Public Works, WCG Act No 21/1940 Approval vide Ref 16/9/6/1-25/294 (Job 26590) dated 25-01-2019
18. Noting Sheets No 1605 & 1607
19. SG Diagram No 1392/1971
20. Servitude Diagram No 1877/1966
21. Deeds Office Search
22. Conveyancer's Certificate
23. Deed of Transfer No T59649/2018
24. Power of Attorney

25. Company Resolution

Please acknowledge receipt in writing of this email and the WeTransfer files and provide us with your land use application reference number together with confirmation of the applicable Application Fees to enable us to effect payment thereof.

I look forward to hearing from you soonest.

Kind regards

Marnus Botha
Candidate Planner C/8375/2016

David Hellig and Abrahamse
Professional Land Surveyors
258 Main Street
PAARL 7646
P O Box 18 PAARL 7622
Telephone : (021) 872 4086
Email : plan@dhaa.co.za
Website : www.dhale.co.za

CONSTITUTION

of the

LA DEMEURE WINE ESTATE HOMEOWNERS ASSOCIATION

**A statutory body established in terms of be established in terms of Section 29 of
Stellenbosch Municipality Land Use Planning By-Law, 2015**

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1. PREAMBLE

It is recorded that the **La Demeure Wine Estate Home Owners Association** is constituted as a statutory body in terms of Section 29 of Stellenbosch Municipality Land Use Planning By-Law, 2015 and in accordance with the conditions imposed by the Stellenbosch Municipality City of Cape Town, when approving the sub-division of the Land.

2. INTERPRETATION

In this document:

- 2.1 The following words shall, unless the context otherwise requires, have the meanings hereinafter assigned to them:
- 2.1.1 **"the Association"** means the **LA DEMEURE WINE ESTATE HOMEOWNERS ASSOCIATION**, its nominee or assigns;
- 2.1.2 **"the Auditors"** means the Auditors of the Association;
- 2.1.3 **"Business Day"** means weekdays other than Saturdays, Sundays and public holidays;
- 2.1.4 **"Chairperson"** means the Chairperson of the Trustee Committee;
- 2.1.5 **"the Common Areas"** means the private roads, private open spaces, as approved by all relevant authorities;
- 2.1.6 **"the Council"** means the Stellenbosch Municipality;
- 2.1.7 **"the Design Manual"** means the manual which sets forth the guidelines for structures to be erected on Residential Erven, the landscaping thereof and the procedure for submitting building plans.
- 2.1.8 **"the Developer"** means **LEWIS MANHATTAN INVESTMENTS PROPRIETARY LIMITED** registration number 2016/311880/07, or its successors in title, nominees and/or permitted assignees and/or successors-in-title.
- 2.1.9 **"Development"** means the residential property development to be established on the Land.
- 2.1.10 **"Development Period"** means the period commencing on the date of the incorporation of the Association and terminating upon the transfer of the last Residential Erf, whether improved or unimproved, in the Development from the Developer, or such earlier or later date on which the Developer notifies the Association in writing that it terminates the Development Period, subject, however, to the terms and conditions of the Constitution of the Association;
- 2.1.11 **"Developer Trustee"** means a Trustee who is nominated and appointed by the Developer;
- 2.1.12 **"Dwelling Unit"** means a free-standing house constructed on a Residential Erf;
- 2.1.13 **"the EMPs"** means the environmental plans applicable to the Estate, if any.
- 2.1.14 **"the Erven"** means the erven located on the Estate be they Residential, Non-Residential or Common Areas and "Erf" shall have a corresponding meaning;
- 2.1.15 **"the Estate"** means **La Demeure Wine Estate** as described under clause 2.1.9.
- 2.1.16 **"the Land"** means Erf 579, Franschoek, in the Stellenbosch Municipality, Division Paarl, Province of the Western Cape;
- 2.1.17 **"levy"** means the levy referred to in Clause 9.
- 2.1.18 **"Local Authority"** means the Stellenbosch Municipality.
- 2.1.19 **"Member"** means a member of the Association being a Registered Owner of a Residential Erf.

- 2.1.20 "month" means a calendar month;
- 2.1.21 "Non-Residential Erven" means erven other than Residential Erven and which are not allocated for residential purposes
- 2.1.22 "Olive Groves" means Olive Groves Land as well as the olive trees, irrigation systems and all such other equipment and infrastructure as may be necessary to establish and maintain the olive trees;
- 2.1.23 "Olive Grove Land" means the land on which the olive trees will be planted on the private open spaces;
- 2.1.24 "Registered Owner" means the registered owner of a Residential Erf as recorded in the Deeds Office;
- 2.1.25 "Residential Erf/Erven" means those erven which have been earmarked for the construction of houses for residential purposes;
- 2.1.26 "Rules" means the Rules made by the Trustee Committee and/or the Association from time to time;
- 2.1.27 "Services" means such facilities, utilities, services and amenities as may be provided on the Estate in terms of clause 11, including (but not limited to) security, electricity, telecommunication, roads and reserves, storm water, water, sewage, waste removal, landscaping, farming and irrigation;
- 2.1.28 "SMLUPB" means the Stellenbosch Municipality Land Use Planning By-Law, 2015;
- 2.1.29 "Vineyards" means the Vineyard Land as well as the grape vines, trellises, irrigation systems and all such other equipment and infrastructure as may be necessary to establish and maintain the grape vines;
- 2.1.30 "Vineyard Land" means the land on which the grape vines will be planted on the private open spaces;
- 2.1.31 "a Trustee" means one of the Trustee Committee;
- 2.1.32 "the Trustee Committee" means the Board of Trustees of the Association;
- 2.1.33 "in writing" means written, printed or lithographed or partly one and partly another, and other modes of representing or producing words in a visible form;
- 2.1.34 "year" means a calendar year.
- 2.2 Unless the context otherwise requires, any words importing the singular number only shall include the plural number, and vice versa and words importing any one gender only shall include the other two genders.

3. CREATION OF ASSOCIATION

The Association is constituted as a Body Corporate in terms of Section 29 of the SMLUPB in accordance with the conditions imposed by the Stellenbosch Municipality and will come into existence simultaneously with the registration in the Deeds Office of the transfer of the first of the Erven.

4. STATUS OF THE ASSOCIATION

- 4.1 The Association shall:
- 4.1.1 have legal personality and be capable of suing and being sued in its own name; and
- 4.1.2 not operate for profit, but for the benefit of the Members.
- 4.2 No member shall have any right, title or interest in or to the funds or assets of the Association in his personal capacity, all of which shall vest in the Association.

5. MAIN OBJECTS

The main object of the Association is the matters referred to in section 29 of the SMLUPB, and more specifically:

- 5.1 to prescribe guidelines and control the design and construction of any alterations and/or additions to the Dwelling Units and/or Residential Erven once they have been completed by the Developer.
- 5.2 to comply with, and to ensure compliance by Members with, the conditions imposed by the all approving authorities in respect of the Development;
- 5.3 to take transfer of the Common Area/s and improvements thereon from the Developer at no consideration as and when the Developer elects to hand over same to the Association, it being recorded that:
 - 5.3.1 such hand over may take place on a piece meal basis and not all at once; and
 - 5.3.2 will subject to the relevant professional consultant confirming that the Common Area/s and /or improvements were completed to industry norms and that as at the date of handover, such Common Area/s and/or improvements have been exposed to the usual wear and tear since the date of completion;
- 5.4 to control and maintain the structures, Services and amenities situate on the Estate and obtain access where necessary to such parts of the Estate for that purpose;
- 5.5 to promote, advance and protect the communal and group interests of the Members generally;
- 5.6 to enter into service agreements with the Local Authority or any other supplier of Services;
- 5.7 to implement and maintain security measures and systems for controlled access to the Estate.
- 5.8 to prescribe measures for the landscaping in respect of gardens and landscaped areas located on Erven after such areas have been established by the Developer and to prescribe measures for the maintenance of such standards of development.
- 5.9 to register where necessary various service or other servitudes over Erven in the Estate in favour of the Local Authority, the Developer, Association, Service providers, similar developments located in close proximity to the Estate and/or to register servitudes in favour of the Erven in the Estate over other land owned by the Association as are from time to time required;
- 5.10 to acquire by way of lease or ownership or otherwise, erven in the Estate constituting Common Areas and to register transfer of ownership thereof in the name of the Association;
- 5.11 to acquire and hold servitudes in the Association's favour for access to the Estate and also for the supply of Services, including but not limited to communication, surveillance and water to and within the Estate;
- 5.12 to formulate, enforce, modify, amend, add and delete the Estate and/or Conduct Rules and Regulations;
- 5.13 to appoint a Manager to manage the affairs of the Association and as such, delegate the management of the Association's affairs to an outside agency;
- 5.14 to include in the Title Deeds of the Common Areas to be transferred to the Association, that, after the Development Period all such Common Areas shall not be sold, alienated, otherwise disposed of or transferred to any other party, nor Mortgaged;
- 5.15 to accredit architects, designers and builders to be utilised by Registered Owners other than the Developer, in respect of any design and construction work to be conducted on Residential Erven, in accordance with such criteria as the Association may stipulate from time to time;
- 5.16 to accredit Estate Agents appointed by Registered Owners in respect of the resale of their Residential Erven, in accordance with such criteria as the Association may stipulate from time to time;
- 5.17 to enter into agreements with other developments and/or property owners located nearby or adjacent to the Estate with regard to the sharing of facilities or Services of any nature whatsoever, including but not being limited to security, landscaping, gardening, agricultural services, water, sewerage, electricity, roads, whether or not for the purposes of sharing the cost thereof;
- 5.18 to accredit Service providers or contractors in respect of Services to be rendered to members of the Association, including but not limited to pool cleaning and garden service contractors;

- 5.19 to grant or refuse a Registered Owner consent to transfer his Residential Erf, depending as to whether or not there has been compliance with this Constitution, the Conduct Rules or such other Rules / determinations made by the Association from time to time;
- 5.20 to include in the Title Deeds of Residential Erven that transfer of such erven shall be subject to the Association granting its written consent in respect of such transfer;
- 5.21 to formulate and prescribe rules relative to short term letting; and
- 5.22 to raise levies, open and operate bank accounts, invest money, pay for Services and goods, and generally act in such a manner so as to give effect to the provisions of this Constitution.

6. FINANCIAL YEAR END

The financial year end of the Association shall be determined by the Trustee Committee.

7. MEMBERSHIP AND OBLIGATIONS

- 7.1 The Developer shall remain a member of the Association for the duration of the Development Period or beyond the Development Period for so long as the Developer still owns an Erf within the Development (whichever is the later of the two). Both during and after the Development Period, the Developer shall not be liable to pay any levies to the Association pertaining to its membership, regardless of whether or not such Erf has been sub-divided off the general plan and/or registered in its name.
- 7.2 Membership of the Association shall be limited to and compulsory for all the Registered Owners provided that:
 - 7.2.1 a person who is entitled to obtain a certificate of registered title to any such Residential Erf shall be deemed to be the Registered Owner thereof;
 - 7.2.2 where any such Registered Owner is more than one person, all the Registered Owners of that Erf shall be deemed jointly and severally to be one Member and as such their liability shall be joint and several.
- 7.3 Membership in terms of clause 7.2 shall commence simultaneously with the transfer of the Residential Erf into the name of the Registered Owner.
- 7.4 When a Member ceases to be the Registered Owner he shall *ipso facto* cease to be a Member of the Association.
- 7.5 A Registered Owner may not resign as a Member of the Association.
- 7.6 The rights and obligations of a Member shall not be transferable and every Member shall:
 - 7.6.1 to the best of his ability further the objects and interests of the Association;
 - 7.6.2 observe all regulations made by the Association or the Trustee Committee.
- 7.7 No Member shall let or otherwise part with the occupation of his Residential Erf without obtaining the prior written agreement of the proposed occupier that he will be bound by the provisions of this Constitution.
- 7.8 The Member shall be liable for the acts or omissions of all persons occupying his Residential Erf, whether lawfully or unlawfully, including but not limited to lessees, guests, employees, invitees, contractors and agents.
- 7.9 Save in those instances where the Developer passes first transfer to a Registered Owner, in all other instances where a Registered Owner wishes to alienate or transfer his Residential Erf, he shall not be entitled to do so unless:
 - 7.9.1 the transferee becomes a Member of the Association and upon the registration of transfer of the Residential Erf into the name of the transferee, he shall *ipso facto* become a Member of the Association;
 - 7.9.2 he obtains a clearance certificate from the Association which shall be given provided:

- 7.9.2.1 the transferee of such Residential Erf agrees in writing to accept and abide by the Constitution of the Association;
- 7.9.2.2 all amounts owing by the Registered Owner to the Association have been paid or satisfactorily secured;
- 7.9.2.3 all obligations of the Registered Owner in terms of this Constitution and Conduct Rules have been complied with in full; and
- 7.9.2.4 he pays to the Association the fees pertaining to such certificate as determined by the Association from time to time
- 7.10 A sale and transfer of the entire membership interest or shares in a Close Corporation or Company which is the Registered Owner shall be deemed to be a sale of such Residential Erf or Sectional Title Unit.

8. BUILDING AND APPROVAL FOR PROPOSED WORK

- 8.1 Construction of a Dwelling on a Residential Erf shall commence no later than 2 (two) years calculated from the date of transfer of the said Residential Erf by the Developer to the Registered Owner ("the Building Commencement Date") and shall complete the Dwelling and the landscaping of the erf within 16 (sixteen) months of the Building Commencement Date ("the Building Completion Date").
- 8.2 In the event that the Registered Owner should fail to commence construction of the Dwelling on or before the Building Commencement Date, or complete the Construction of the Dwelling and landscaping of the erf by the Building Completion Date, the said owner shall be liable to pay the following monthly penalty levies calculated as from the Building Commencement Date until such time as the building of the Dwelling is commenced, or if commenced, for the period after the Building Completion Date:
- 8.2.1 for the first 12 (twelve) months, an amount equal to 1 (one) month's normal levy;
- 8.2.2 from the 13th (thirteenth) month to the 24th (twenty fourth) month, an amount equal to a 2 (two) months' normal levy; and thereafter
- 8.2.3 an amount equal to a 3 (three) months' normal
- 8.3 The penalty levies aforesaid shall be payable as and when the normal levies fall due for payment.
- 8.4 A Registered Owner shall not without the prior written approval of the Association
- 8.4.1 erect any building and/or structures of any nature whatsoever a Residential Erf,
- 8.4.2 make any changes, additions or alterations to existing buildings and/or structures on his Residential Erf, including changes to external colour scheme;
- 8.4.3 install or fix burglar bars to any external windows or doors of the buildings on his Residential Erf,
- 8.4.4 erect or construct any pergolas, patio awnings, shade ports, car ports, washing lines, satellite dish, television, radio or any other type of antennae, wendy-houses, walls, solar panels, chimneys, solar geysers, or any other structures which may affect the external appearance of the improvements on his Residential Erf;
- 8.4.5 sink a borehole or well-point or install water storage tanks.
- 8.5 The consent required from the Association as contemplated in Clause 8.4 shall only be considered
- 8.5.1 after detailed plans of the proposed work have been submitted to the Association;
- 8.5.2 if the proposed work complies with the documents and requirements set out in clause 5.1 above.
- 8.5.3 if the Member has made payment of all costs which may be incurred in obtaining this approval, including any scrutiny fees as determined by the Trustees from time to time.

- 8.5.4 if the Member and the Builder have undertaken to comply with the EMPS, if any, and have entered into a contract with the Association in this regard;
- 8.5.5 if the Builder appointed by the Member has been accredited by the Association;
- 8.5.6 if all statutory and other permits and /or authorizations have been obtained by the Member

it being recorded however that, notwithstanding the aforesaid, the Association may refuse to grant consent in respect of any of the structures referred to in Clauses 8.4.3. to 8.4.5.

- 8.6 The Trustee Committee shall be entitled to determine a scrutiny fee from time to time, which shall be payable by the Member in respect of the scrutiny and approval of plans by the Association of the proposed work, payable in full to the Association upon first lodgement of any plans relating to the proposed work to the Association.
- 8.7 The Trustee Committee shall be entitled to determine a Sidewalk Deposit and a Builders' Management Fee, payable by a Registered Owner (other than the Developer) so as to provide for the repairs of damage caused by the Registered Owners' builder as well as for the management and control of the building process on his erf, which deposit and fee shall be payable by the Registered Owner concerned in such amount and on such terms and conditions as may be determined by the Trustee Committee from time to time.
- 8.8 After obtaining the written approval of the Trustees for the proposed work, the Member shall submit the building, landscaping and/or other applicable plans to the Council or other applicable authorities as may be relevant for approval, with the approval of the Trustees evidenced by an endorsement of the relevant plans as well as the payment of any fees payable to the Council and/or other authority for the scrutiny and approval of the plans.
- 8.9 After obtaining all necessary approvals of the Council or other applicable authority for the proposed work, the Member shall comply with all conditions, standards and requirements so imposed by the Council and other applicable authority and the Association.
- 8.10 In respect of any building work of a minor nature, a Member shall complete the construction of the structures on the Residential Erf within 6 (six) months of the date that the Member commences construction and in respect of any building work of a major nature, within 12 (twelve) months of such commencement date. The Trustee Committee shall determine whether the building work is of a minor or major nature.
- 8.11 The commencement of the construction means the commencement of any work of whatsoever nature on the said property as certified by the Association, which Certificate shall be final and binding on the parties and completion shall have occurred only upon the issue of a Certificate by the Association or its nominees or assigns.
- 8.12 The Trustee Committee shall be entitled to impose penalty levies in the event of the Member failing to complete the construction of the buildings and/or structures within the time period referred to in clause 8.10.
- 8.13 The provisions of this clause 8 shall not be applicable to the Developer and/or its builders.

9. LEVIES

- 9.1 Subject to clause 9.2, only the owners of Residential Erven shall be jointly liable for expenditure incurred by the Association and as such, no other Members shall be liable to pay any levies to the Association.
- 9.2 The Developer shall not be required to pay any levies during the Development Period. However, the Developer shall be entitled in its sole discretion, to loan and advance to Association any shortfall between the levies invoiced by the Association and the costs referred to in clauses 9.3.1 and 9.3.2, or part thereof, and which loan shall become payable by the Association to the Developer on or before the end of the Development Period.
- 9.3 The Trustee Committee shall from time to time, determine the total amount of levies payable by owners of Residential Erven, as well as the amount of levies payable by each such individual Member for the purpose of meeting all the expenses which the Association has incurred, or which the Trustee Committee reasonably anticipates the Association will require in respect of:
- 9.3.1 facilities and services in connection with the Estate including, the maintenance of the Common areas including the Vineyards and Olive Groves;

- 9.3.2 the payment of all expenses necessarily or reasonably incurred or to be incurred in connection with the management of the Association and its affairs; and
- 9.3.3 any reserves which the Trustees may deem necessary.
- 9.4 In calculating levies the Trustee Committee shall take into account income, if any, earned by the Association.
- 9.5 A Registered Owner shall be liable to pay levies with effect from the first day of the month in which the transfer of the Residential Erf or Sectional Title Unit is effected into his name, and as such, the levy shall not be pro-rated
- 9.6 The Registered Owner who is the transferor shall accordingly be liable for the payment of levies calculated up to the last day of the month during which the transfer takes place to the Transferee and accordingly shall not be entitled to a refund from the Association of any levies calculated from the date of transfer to the end of the month in which the transfer took place
- 9.7 The Trustee Committee shall estimate the amount which shall be required by the Association to meet the expenses during each year, together with such estimated deficiency, if any, as shall result from the preceding year, and shall determine a levy payable by Registered Owners equal to or as near as is reasonably practical to such estimated amount. The Trustee Committee may include in such levies an amount to be held in reserve to meet anticipated future expenditure not of an annual nature and also, such amount as may be necessary to meet the actual expenses of the Association between the date of the Financial Year End and the date from which the new levy for the ensuing year is approved and implemented. Every such levy shall be payable by equal monthly instalments due in advance on the first day of each and every succeeding month of such year and shall be paid by way of a debit order in favour of the Association or by any other method as determined by the Trustee Committee from time to time.
- 9.8 The Trustee Committee, may from time to time, make special levies upon the Registered Owners in respect of all such expenses as are mentioned in Clause 9.2, and such levies may be made in the sum or by such instalments and at such time or times as the Trustee Committee shall think fit
- 9.9 Levies are payable by Registered Owners to the Association without deduction, set off or exchange. Any amount due by a Registered Owner way of a levy shall be a debt due by him to the Association
- 9.10 The obligation of a Registered Owner to pay a levy shall, subject to the provisions of Clause 9.6 above, cease upon his ceasing to be a Member of the Association, without prejudice to the Association's right to recover arrear levies. No levies paid by a Registered Owner shall under any circumstances be repayable by the Association upon his ceasing to be a Member.
- 9.11 Save in respect of a Special Levy, the total levy payable shall be borne jointly by the Registered Owners in equal shares.
- 9.12 For as long as the Developer is the Registered Owner of the Land or any portion thereof or the remainder thereof, the Developer shall not be required to pay levies as contemplated in clause 9.
- 9.13 No Registered Owner shall be entitled to any of the privileges of membership unless and until he shall have paid all levies and any other sum (if any) which shall be due and payable to the Association in respect of his membership thereof. This includes the right to vote at any meeting of the Association
- 9.14 The levies payable by Registered Owners of Residential Erven shall be the same. As such no distinction will be made with regard to the size of the Residential Erf, the price paid in respect thereof, whether or not it is improved or the extent of any improvements. Where two or more Residential Erven have been consolidated, levies shall be payable in respect of each such Residential Erf as they existed prior to consolidation and as if such consolidation had not occurred
- 9.15 Arrear levies shall bear interest calculated at 2% above the publicly quoted prime rate of interest as charged by the Association's Bankers from time to time, from due date of payment until the actual payment, calculated monthly in arrears.
- 9.16 Members who are in arrears with their levies shall be charged an administrative fee that may be determined by the Trustees from time to time
- 10. DEALING WITH THE COMMON AREAS**
- 10.1 After the Development period and once transferred to the Association, neither the whole nor any portion of the Common Areas, or any improvements thereon shall be

- 10.1.1 sold, alienated, otherwise disposed of, subdivided, rezoned, transferred;
- 10.1.2 mortgaged; or
- 10.1.3 subjected to any rights other than those contained in the present existing title deed of the Land, or to be imposed in the title deed(s) of the Common Area as required by any relevant authority or as contained in this Constitution, whether registered in a Deeds Registry or not, of use, occupation or servitude other than with by way of a special resolution adopted by the Members of the Association.
- 10.2 The Association is hereby empowered to take transfer and shall take title to the Common Areas at no consideration.
- 10.3 The Developer shall be entitled to tender transfer of the Common Areas and the handover of any amenities to the Association, who shall be obliged to accept same, subject to the wear and tear which these Common Areas and amenities have been subjected to since the date of the establishment of these areas or amenities, at such time/s as the Developer may elect, it being recorded that such hand over need not all take place at once but indeed may be in respect of specific Common Areas and/or amenities from time to time up to the termination of the Development Period.
- 10.4 The Association acknowledges that the Council shall not be responsible for, and the Association shall be solely responsible for the construction, care, repair, maintenance, cleaning, upkeep, improvements and proper control of the Common Areas, all services therein (other than services provided and/or maintained by the Council, if any) and all amenities and improvements located or to be located on or within the Common Areas.
- 10.5 The Council shall at no time in the future assume ownership of the Common Areas.

11. SERVICES

- 11.1 It is recorded that the Developer has and/or will enter into agreements with Council and /or other Service providers to provide the Services and accordingly these agreements will be ceded, assigned and transferred to the Association.
- 11.2 In order to secure a fibre WiFi network within the Estate, the Developer may contract with a service provider for the installation of such network and in respect of which the Association will become contracted to such service provider for the rendering of internet services for a minimum time period.

12. MANAGER

- 12.1 During the Development Period, the Developer shall be entitled to appoint a manager or managers (individuals or corporations) to manage the affairs of the Association. It shall be within the absolute discretion of the Developer to determine the terms and conditions of the appointment of such a manager or managers, including the fees and/or remuneration payable.
- 12.2 Any fees and /or remuneration payable to the Manager shall be paid by the Association and not the Developer.
- 12.3 The appointment of the Manager may extend beyond the Development Period, provided that the Developer shall endeavour to procure, when making such appointment, that the appointment may, if so required by the Association at a General Meeting, and subject to the requirements of the law, be terminated on reasonable notice after the end of the Development Period.
- 12.4 After the Development Period, the Association shall be responsible for the appointment of any successive managers, it being contemplated that the affairs of the Association shall at all times be entrusted to a professional manager with appropriate executive powers so as to conform to the requirements of good corporate governance.
- 12.5 Subject to this Constitution and the terms of his appointment, the Manager shall have the full power to manage and control the business and affairs of the Association by themselves.
- 12.6 All instructions issued to the Manager shall be in writing and shall only be issued by the Chairman of the Trustees of the Association. The Manager shall not be required to act upon any instruction received from Trustees other than the Chairman or from a member of the Association.

13. CONTRACTS AND REGULATIONS

- 13.1 Without limiting the powers referred to in Clause 18 hereof, the Trustee Committee may from time to time:
- 13.1.1 make regulations governing, *inter alia*:
- 13.1.1.1 the Members' rights of use, occupation and enjoyment of the Common Areas;
- 13.1.1.2 the alterations of or additions to the Dwelling Units after they have been completed by the Developer and/or additions or modifications on Residential Erven, subject always to the Design Manual and the requirements of the Council;
- 13.1.1.3 the conduct of Members generally;
- 13.1.2 enter into agreement(s) with the Council and other parties for the provision of Services on the Estate;
- 13.1.3 impose penalties which it considers appropriate in its sole discretion against Members and/or builders who are in default of any of their obligations in terms of this Constitution, including the terms of payment of such penalties
- 13.2 In the event that the Developer has entered into an Environmental Contract with the Council, same shall become binding upon the Association upon its creation
- 13.3 Each Member undertakes to the Association that he shall comply with
- 13.3.1 the provisions of this Constitution.
- 13.3.2 any regulations made in terms of sub-Clause 13.1.1.1,
- 13.3.3 any agreements referred to in sub-Clause 13.1.2 insofar as those agreements either directly or indirectly impose obligations on him.

14. BREACH

- 14.1 Should any Member:
- 14.1.1 fail to pay on due date any amount due by that Member in terms of this Constitution or any regulation made thereunder and remain in default for more than 7 (seven) days after being notified in writing of such default by the Trustee Committee; or
- 14.1.2 commit any other breach of the provisions of this Constitution or any regulation made thereunder and fail to commence remedying that breach within a period of 7 (seven) days after the receipt of written notice to that effect by the Trustee Committee and complete the remedying of such breach within a reasonable time;
- then and in either such event, the Trustee Committee shall be entitled on behalf of the Association, without prejudice to any other rights or remedies which the Trustee Committee or the Association or any other Member may have in law, including the right to claim damages:
- 14.1.3 to institute legal proceedings on behalf of the Association against such Member for payment of such overdue amount or for performance of his obligations in terms of this Constitution or any regulation made thereunder, as the case may be; or
- 14.1.4 in the case of Clause 14.1.2, to remedy such breach and immediately recover the total costs incurred by the Trustees or the Association in so doing from such Member.
- 14.2 Should the Trustee Committee institute any legal proceedings against any Member pursuant to a breach by that Member of this Constitution or any regulation made thereunder, then without prejudice to any other rights which the Trustee Committee or the Association or any other Member may have in law, the Trustee Committee / Association / Member (as the case may be) shall be entitled to recover from such Defaulting Member all legal costs incurred by it, including attorney and own client charges calculated on the non-litigious tariff recommended by the Law Society of the Cape of Good Hope (or its successors), tracing fees and collection commission.

- 14.3 Without prejudice to all or any of the rights granted to the Trustee Committee of the Association under this Constitution, should any Member fail to pay any amount due by that Member on due date, then such Member shall pay interest thereon calculated at 2% (two percent) above the publicly quoted prime rate of interest charged by the Association's bankers from time to time calculated from the due date of payment until the actual date of payment of such amount. A certificate issued by the Association's bankers as to the prime rate applicable shall constitute *prima facie* proof thereof.

15. CESSATION OF MEMBERSHIP

No Member ceasing to be a Member of the Association for any reason shall, (nor shall any such Member's executor, curators, trustees or liquidators) have any claim upon or interest in the funds, reserves or other property of the Association. This clause shall be without prejudice to the rights of the Association to claim from such Member or his estate any arrears of levies or other sums due from him to the Association at the time of his so ceasing to be a Member.

16. MANAGEMENT AND TRUSTEES

- 16.1 During the Development Period, the affairs of the Association shall be managed and controlled by a Board of Trustees (the "Trustee Committee") consisting of at least 3 (three) but not more than 5 (five) Trustees, subject to the condition that, as from the time that the Association is created until the first annual general meeting, the 3 (three) Developer Trustees referred to in clause 16.1.1 shall form the Trustee Committee and thereafter the Board of Trustees shall be as follows:
- 16.1.1 3 (three) shall be representatives of the Developer nominated and appointed to the Board of Trustees by the Developer (and not at a general meeting of Members); and
- 16.1.2 the remaining Trustee/s shall be nominated by the Developer and elected by majority votes by Members of the Association at the first general meeting, and thereafter such Trustees shall be nominated by the Members and elected by majority votes by Members of the Association a general meeting.
- 16.2 Upon the expiry of the Development Period a general meeting of Members shall be called for the purpose of electing all of the Trustees.
- 16.3 All the Trustees, shall after proposal and seconding, be elected by ballot or show of hands (if the meeting so determines) of those Members who attend the general meeting of the Association, and successive Trustees shall be elected likewise at each successive annual general meeting of the Association, provided that no Member shall be eligible for election unless he shall have been duly nominated and seconded in writing by other Members and such written nomination, duly endorsed by the nominee, shall have been handed to the secretary not later than the day preceding the meeting and provided further that such nominee's levies for the current year shall have been duly paid.
- 16.4 A Trustee need not be a Registered Owner.
- 16.5 The Trustee Committee shall consist of a chairman, vice chairman, secretary/treasurer and 2 (two) trustees. The Trustees shall from their ranks elect a Chairman, provided that the Chairman, Vice-Chairman and secretary/treasurer shall, for the duration of the Development Period, be Developer Trustees.
- 16.6 A quorum for any meeting of the Trustee Committee shall consist of 3 (three) Trustees, of which the majority shall comprise Developer Trustees during the Development Period. Should a quorum not be formed as aforesaid, the meeting shall stand adjourned until a time to be decided upon by the chairman. All matters at any meeting shall be determined by a majority of those present and voting. In the event of an equality of votes, the chairman of any meeting shall have a casting vote.
- 16.7 The trustees, except for the Developer Trustees during the Development Period, shall cease to hold office at every annual general meeting, but shall be eligible for re-election.
- 16.8 In Trustees shall cease to hold office:
- 16.8.1 by notice to the Trustee Committee if he resigns his office;
- 16.8.2 if he is removed from office by the majority vote of the trustees;
- 16.8.3 if he absents himself from 4 (four) consecutive meetings of the trustees without leave of absence;
- 16.8.4 upon his Estate being sequestered, whether provisionally or finally;

- 16.8.5 upon the commission by him of any act of insolvency, or
- 16.8.6 upon his conviction of any offence involving dishonesty.
- 16.9 Vacancies on the Trustee Committee may be filled by co-option at the instance of the majority vote of the Members.
- 16.10 No Trustee shall be liable to the Association or any Member thereof or to any other person whomsoever, for any act or omission by himself, the Association or its servants or agents. Every Trustee is indemnified by the Association against any loss suffered by him in consequence of any purported liability provided that such Trustee has, upon the basis of information known to him, acted in good faith, without intent and without gross negligence and/or without dishonesty.
- 16.11 Meetings of the Trustees shall be held as frequently as may be decided by the Trustee Committee, and minutes shall be kept of all meetings and decisions.
- 16.12 Proper books of account of the administration and finances of the Association shall be kept and financial accounts shall be audited annually by the Auditors

17. OFFICE OF TRUSTEES

- 17.1 Subject to clause 16.5 the Trustees shall appoint from amongst themselves, a Chairperson and Vice-Chairperson.
- 17.2 Subject to Clause 16.6, the Chairperson and Vice-Chairperson shall hold their respective offices until the First Annual General Meeting following the date of their appointment, provided that any such office shall *ipso facto* be vacated by the Trustee holding such office upon his ceasing to be a Trustee for any reason.
- 17.3 Subject to the rights of the Developer as set out in clause 16.5 above, within 7 (seven) days of the holding of such Annual General Meeting, the Trustee Committee shall meet and shall elect from its own number the Chairperson and Vice-Chairperson, who shall hold their respective offices until the Annual General Meeting held next after their said appointment, provided that the office of the Chairperson or Vice-Chairperson shall *ipso facto* be vacated by the Trustee holding such office upon his ceasing to be a Trustee for any reason. No one Trustee shall be appointed to more than one of the aforesaid offices. In the event of any vacancy occurring in any of the aforesaid offices at any time, the Trustee Committee shall immediately meet to appoint one of their number as a replacement in such office, subject however to the rights of the Developer as set out in clause 16.5 above.
- 17.4 Save as otherwise provided herein, the Chairperson shall preside at all meetings of the Trustee Committee, and all general meetings of Members, and shall perform all duties incidental to the office of the Chairperson and such other duties as may be prescribed by the Trustee Committee or of Members, and to allow or refuse to permit invitees to speak at any such meetings, provided however, that any such invitees shall not be entitled to vote at any such meetings.
- 17.5 The Vice-Chairperson shall assume the powers and duties of the Chairperson in the absence of the Chairperson, or his inability or refusal to act as Chairperson, and shall perform such other duties as may from time to time be assigned to him by the Chairperson or the Trustee Committee
- 17.6 Trustees shall be entitled to be repaid all reasonable and bona fide expenses incurred by them respectively in connection with the performance of their duties as Trustees and/or Chairperson, Vice-Chairperson, as the case may be, but save as aforesaid, shall not be entitled to any other remuneration fees or salary in respect of the performance of such duties.

18. FUNCTIONS AND POWERS OF THE TRUSTEE COMMITTEE

- 18.1 Subject to the express provisions of this Constitution, the Trustee Committee shall manage and control the business and affairs of the Association, shall have full powers in the management and direction of such business and affairs and, save as may be expressly provided herein, may exercise all such powers of the Association, as are required to be exercised or done by the Association in general meeting, subject nevertheless to such regulation as may be prescribed by the Association in general meeting from time to time, provided that no regulation made by the Association in general meeting shall invalidate any prior act of the Trustee Committee which would have been valid if such regulation had not been made.
- 18.2 The Trustee Committee shall have the right to vary, cancel or modify any of its decisions and resolutions from time to time

- 18.3 The Trustee Committee may, should it so decide, investigate any suspected or alleged breach by any Member or Trustee in such reasonable manner as it shall decide from time to time.
- 18.4 The Trustee Committee may make regulations not inconsistent with this Constitution, or any regulations prescribed in the Association in general meeting:
- 18.4.1 as to disputes generally;
 - 18.4.2 for the furtherance and promotion of any of the objects of the Association;
 - 18.4.3 for the better management of the affairs of the Association;
 - 18.4.4 for the advancement of the interests of Members;
 - 18.4.5 for the conduct of Trustee Committee meetings and general meetings;
 - 18.4.6 to assist it in administering and governing the Association's activities generally;
- and shall be entitled to cancel, vary or modify any of the same from time to time.
- 18.5 Save as otherwise provided in this constitution, the trustees shall at all times have the right to engage on behalf of the Association, the services of accountants, auditors, attorneys, advocates, architects, engineers, town planners, managing agents, environmental consultants, and any other person or firm and/or any other employee/s whatsoever, for any reasons thought necessary by the trustees and on such terms as the trustees shall decide.
- 18.6 The Trustees shall further have the power to:
- 18.6.1 require that any alterations of or additions to the Dwelling Units after they have been completed by the Developer and/or additions or modifications on Residential Erven are supervised to ensure that the provisions of this constitution and the Estate rules are complied with and that all such construction is performed in a proper and workmanlike manner;
 - 18.6.2 issue architectural and landscape design manuals, environmental management plans and contracts or instructions in respect of the Estate, and to ensure that these documents and instructions are complied with at all times;
 - 18.6.3 determine the criteria for the accreditation of architects, builders, estate agents and other service providers or contractors employed by Registered Owners or the Association.
 - 18.6.4 enter into agreements with other developments located in close proximity to the Estate with regard to the sharing of facilities or services or with a view of sharing the cost of services, including but not being limited to security, landscaping, gardening and agricultural services.
- 18.7 The Trustees shall have the right to appoint committees consisting of such number of their members and such outsiders, including a Manager as they deem fit and to delegate to such committees such of their functions, powers and duties as they deem fit, with further power to vary or revoke such appointments and delegations as the trustees may from time to time deem necessary.
- 18.8 The Trustees may appoint an architectural review committee whose members shall not be required to be Members of the Association.
- 18.9 Except for any Dwelling Units, buildings, out-buildings, structures, additions or alterations to be erected or effected by the Developer, all plans for buildings, out-buildings, structures, additions and alterations shall be approved by the Trustees or architectural review committee (if so appointed), or any person designated by them for the purpose.
- 18.10 The Trustees shall further have the power to make Estate and/or Conduct Rules in regard to *inter alia*:
- 18.10.1 the use of motor vehicles and the parking of vehicles, including trucks, caravans, trailers and boats and the use of the roads;

- 18.10.2 the right to prohibit, restrict or control the keeping of any animals which they regard as dangerous or a nuisance;
- 18.10.3 the conduct of any persons within the Estate for the prevention of nuisance of any nature to any member;
- 18.10.4 the use of Services;
- 18.10.5 the furtherance and promotion of any of the objects of the Association and/or for the better management of the affairs of the Association and/or for the advancement of the interests of the members and/or the residents of the Estate;
- 18.10.6 the maintenance of all buildings, out buildings, structures, improvements of any nature and landscaping of Erven on the Estate;
- 18.10.7 the control of the number of occupiers permitted on any one Residential Erf;
- 18.10.8 the admission of any person to the Estate, and the eviction of any person not entitled to be thereon;
- 18.10.9 maintenance of and access to Common Areas;
- 18.10.10 refuse disposal and waste management;
- 18.10.11 use of dams (if any) and amenities relating thereto.
- 18.10.12 installation of air conditioning units, solar geysers and panels, television and radio antennae, flag poles and/or satellite dishes;
- 18.10.13 littering.
- 18.10.14 responsibility of the Members for the activities of contractors, house help employees and their guests, including access of such persons to the Estate
- 18.10.15 security.
- 18.10.16 letting (including short-term letting and Air BnB);
- 18.10.17 the re-selling of Erven/ Dwelling Units;
- 18.10.18 the imposition of fines and other penalties;
- 18.10.19 the accreditation of Estate Agents for sales and re-sales of Residential Erven and the appointment of an exclusive on-site Estate Agent or Agents to conduct sales and re-sales;
- 18.10.20 the accreditation of builders contracted to conduct construction work on Residential Erven;
- 18.10.21 the accreditation of Service providers or contractors in respect of work to be conducted on behalf of members or the Association on the Estate;
- 18.10.22 for the enforcement of any of the rules made by the trustees in terms of this clause, or of any of the provisions of this constitution generally, the trustees may:
- 18.10.22.1 give notice to the Member concerned requiring him to remedy such breach within such period as the trustees may determine; and/or
- 18.10.22.2 take or cause to be taken such steps, as they may consider necessary to remedy the breach of the rule or provision of which the member may be guilty, and debit the cost of so doing to the member concerned, which amount shall be deemed to be a debt owing by the member concerned to the Association; and/or
- 18.10.22.3 take such action including the imposition of a fine, or proceedings in court, as they may deem fit
- 18.11 Should the Trustees institute any legal proceedings against any Member or resident on the Estate for the enforcement of any

of the rights of the Association in terms hereof, the Association shall be entitled to recover all legal costs so incurred from the Member or resident concerned, calculated as between attorney and own client, including tracing fees and collection commission.

- 18.12 In the event of any breach of the rules by the Members or any Member's household or his guests or lessees, such breach shall be deemed to have been committed by the Member himself, who shall be jointly and severally liable with such wrongdoer to and in favour of the Association. However, without prejudice to the foregoing, the trustees may take or cause to be taken such steps against the person actually committing the breach as they may in their discretion deem fit.
- 18.13 Notwithstanding anything to the contrary herein contained, the Trustees may in the name of the Association enforce the provisions of any rules by criminal action or civil application or action in a court of competent jurisdiction and for this purpose may appoint attorneys and counsel, as they may deem fit.
- 18.14 The Association may in general meeting itself make any rules in regard to any matter and may also vary or modify any rule made by it or by the trustees from time to time.
- 18.15 The Association shall generally have the power and shall perform the functions so as to implement and invoke the objects of the Association referred to in Clause 5.

19. PROCEEDINGS OF THE TRUSTEE COMMITTEE

- 19.1 The Trustee Committee may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit, subject to any provisions hereof.
- 19.2 Meetings of the Trustee Committee shall be held at least once every quarter.
- 19.3 The quorum necessary for the holding of any meeting of the Trustee Committee shall be 3 (three) of whom the majority of Trustees shall be Developer Trustees, during the Development period.
- 19.4 The Chairperson shall preside as such at all meetings of the Trustee Committee, provided that should at any meeting of the Trustee Committee the Chairperson not be present within 30 (thirty) minutes after the time appointed for the holding thereof, then the Vice-Chairperson shall act as Chairperson at such meeting, provided further that should the Vice-Chairperson also not be present within 15 (fifteen) minutes of the time appointed for the holding of such meeting, those present of the Trustees shall vote to appoint a Chairperson for the meeting provided that, for the duration of the Development Period, such Chairperson shall be appointed from the Trustees appointed by the Developer, and that Chairperson so appointed shall thereupon exercise all the powers and duties of the Chairperson in relation to such meeting.
- 19.5 A Trustee shall take minutes of every Trustee Committee meeting, although not necessarily verbatim, which minutes shall be reduced to writing without undue delay after the meeting and shall then be certified correct by the Chairperson of the meeting. All minutes of Trustee Committee meetings shall after certification as aforesaid be placed in a Trustee Committee Minute Book to be kept in accordance with the provisions of the law relating to the keeping of minutes of meetings of directors of companies. The Trustee Committee Minute Book shall be open for inspection at all reasonable times by a Trustee, the Auditors, the Members and Local Authority.
- 19.6 All resolutions recorded in the minutes of any Trustee Committee meeting shall be valid and of full force and effect as therein recorded, with effect from the passing of such resolutions, and until varied or rescinded, but no resolution or purported resolution of the Trustee Committee shall be of any force or effect or shall be binding upon the Members or any of the Trustees unless such resolution is competent within the powers of the Trustee Committee.
- 19.7 Save as otherwise provided herein, the proceedings at any Trustee meeting shall be conducted in such reasonable manner and form as the Chairperson of the meeting shall decide.
- 19.8 A resolution signed by all the Trustees shall be valid in all respects as if it had been duly passed at a meeting of the Trustee Committee duly convened.
- 19.9 Resolutions put to the vote at meetings of the Trustee Committee shall be carried by a simple majority.
- 19.10 In the case of an equality of votes, the Chairperson of the Trustee Committee shall have a casting vote.

20. GENERAL MEETINGS OF THE ASSOCIATION

- 20.1 The Association shall hold a general meeting as its Annual General Meeting, in addition to any other general meetings during that year, as soon as possible after the end of each financial year, it being the intention that each Annual General Meeting shall take place not later than 3 (three) months after each financial year end. Notwithstanding the foregoing, the first Annual General Meeting of the Association is only required to take place by no later than 12 (twelve) months following the date on which the Association came into existence.
- 20.2 The Association shall specify the meeting as such in the notices, in terms of Clause 21 below calling it
- 20.3 Such Annual General Meetings shall be held at such time and place, subject to the foregoing provisions, as the Trustee Committee shall decide from time to time.
- 20.4 All general meetings other than Annual General Meetings shall be called special general meetings.
- 20.5 Subject to Clause 20.6 the Trustee Committee, may, whenever they think fit, convene a special general meeting
- 20.6 Where the Members who hold at least 51% of the total votes resolve to call a special meeting, the Trustee Committee shall be obliged to call such meeting.

21. NOTICE OF MEETINGS

- 21.1 An Annual General Meeting and a meeting called for the passing of a Special Resolution, shall be called by no less than 21 (twenty one) days' notice in writing, and a special general meeting, other than one called for the passing of a Special Resolution, shall be called by no less than 14 (fourteen) days' notice in writing. In each case, the notice shall be exclusive of the day on which it is given, and shall specify the place, the day and the hour of the meeting. In the case of a Special Resolution, the said Notice shall specify the terms, the effect of the resolution and the reasons for it.
- 21.2 A general meeting of the Association shall, notwithstanding that it is called by shorter notice than that specified as aforesaid, be deemed to have been duly called if it is so agreed:
- 21.2.1 in the case of a meeting called as the Annual General Meeting, by all the Members present and who are entitled to attend and vote thereat, and
- 21.2.2 in the case of a special general meeting, by the Developer (for the duration of the Development Period), and by a majority in number of the Members having a right to attend and vote at the meeting, being a majority together holding not less than 75% (seventy five percent) of the total number of votes.
- 21.3 The accidental omission to give notice of a meeting or of any resolution, or to give any other notification, or present any document required to be given or sent in terms of these presents, or the non-receipt of any such notice, notification or document by any Member or other person entitled to receive the same, shall not invalidate the proceedings at, or any resolution passed at, any meeting.

22. VENUE OF MEETINGS

General Meetings of the Association shall take place at such place as shall be determined by the Trustee Committee from time to time

23. QUORUM

- 23.1 No business shall be transacted at any general meeting unless a quorum is present when the meeting proceeds to business. The quorum necessary for the holding of any general meeting shall be such of the Members entitled to vote, as together for the time being, represent at least 51% (fifty one percent) of the total votes of all Members of the Association entitled to vote, and provided further that, for the duration of the Development Period, the Developer is present in person or by proxy.
- 23.2 If within half an hour from the time appointed for the holding of a general meeting a quorum is not present, the meeting, if convened on the requisition of Members, shall be dissolved, in any other case it shall stand adjourned to the same day in the next week, at the same place and time, or at such other place as the Chairperson of the meeting shall appoint, and if at such adjourned meeting a quorum is not present within half an hour from the time appointed for holding the meeting, the Members

present shall be a quorum, provided that, for the duration of the Development Period, the Developer is present in person or by proxy.

24. AGENDA AT MEETINGS

Only the following matters shall be dealt with at every Annual General Meeting:

- 24.1 confirmation of the minutes of the preceding annual general meeting and of any general meetings held thereafter;
- 24.2 presentation of the Chairperson's report;
- 24.3 the consideration of the report of the Auditors for the past Financial Year;
- 24.4 the appointment of Auditors for the next Financial Year;
- 24.5 the noting of the Levy for the following Financial Year as determined by the Trustees;
- 24.6 the consideration of the income statement and the balance sheet of the Association for the last Financial Year of the Association preceding the date of such meeting;
- 24.7 the election of Trustees and office bearers; and
- 24.8 the consideration of any other matters as the Trustees may allow to be raised.

25. PROCEDURE AT GENERAL MEETINGS

- 25.1 The Chairperson shall preside as such at all general meetings, provided that should he not be present within 30 (thirty) minutes after the time appointed for the holding thereof, then the Vice-Chairperson, shall act as Chairperson at such meeting, provided further that should the Vice-Chairperson also not be present within 15 (fifteen) minutes of the time appointed for the holding of such meeting, then the Members present at such meeting entitled to vote, shall vote to appoint a Chairperson for the meeting, who shall thereupon exercise all the powers and duties of the Chairperson in relation to such meeting, provided that, for the duration of the Development Period, the Chairperson shall be a Developer Trustee.
- 25.2 The Chairperson may, with the consent of any general meeting at which a quorum is present (and if so directed by the meeting) adjourn a meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business which might have been transacted at the meeting from which the adjournment took place. Whenever a meeting is adjourned for ten days or more, notice of the adjourned meeting shall be given in the same manner as of an original meeting. Save as aforesaid, the Members shall not be entitled to any notice of adjournment, or of the business to be transacted at an adjourned meeting.
- 25.3 Except as otherwise set forth herein, all general meetings shall be conducted in accordance with generally accepted practice.

26. PROXIES

- 26.1 A Member may be represented at a general meeting by a proxy, who need not be a Member of the Association. The Proxy shall be entitled to vote at a general meeting on behalf of that Member provided that the Member is in good standing in accordance with clause 9.13. The instrument appointing a proxy shall be in writing signed by the Member concerned or his duly authorised agent in writing, but need not be in any particular form, provided that where a Member is more than 1 (one) person, any 1 (one) of those persons may sign the instrument appointing a proxy on such Member's behalf, where a Member is a company, the same may be signed by the Chairperson of the Board of Directors of the Company or by its secretary, and where an association of person, by the secretary thereof.
- 26.2 The said proxy shall be deposited at the office of the Association Secretary at least 24 (twenty four) hours prior to the time appointed for the commencement of the meeting.
- 26.3 No instrument appointing a proxy shall be valid after the expiration of 12 (twelve) months calculated from the date of its execution.

27. VOTING

- 27.1 Subject to the provisions of clauses 27.1.1 to 27.1.3 below, at every meeting, the following provisions shall apply in regard to voting:
- 27.1.1 the Developer shall, during the Development Period, have 5 (five) votes in addition to votes in respect of each Erf of which it is the Registered Owner.
- 27.1.2 subject to the provisions of Clause 27.1.3, every other Registered Owner Member in person or by proxy and entitled to vote shall have the number of votes for each Residential Erf registered in his name, as set out below, provided that if a Residential Erf is registered in more than one person's name, then they shall jointly have one vote.
- 27.1.3 in the event of two or more Residential Erven being consolidated, then the Member in question shall continue to have the same number of votes he held prior to consolidation, as if such consolidation had not taken place.
- 27.2 Save in respect of the Developer during the Development Period, no person other than a Registered Owner, and who shall have paid every levy and other sum (if any) which shall be due and payable to the Association in respect of or arising out of his membership, and who is not under suspension, shall be entitled to be present or to vote (on any question, either personally or by proxy, at any general meeting.
- 27.3 At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands.
- 27.4 Voting on the election of a Chairperson of a general meeting (if necessary) or on any question of adjournment, shall be decided on a show of hands by a majority of the Members present in person or by proxy, subject however to the Developer's rights in clause 16.5.
- 27.5 Every resolution and every amendment of a resolution proposed for adoption by a general meeting shall be seconded at the meeting and, if not seconded, shall be deemed not to have been proposed.
- 27.6 An ordinary resolution (that is a resolution other than a Special Resolution) shall be carried on a simple majority of all the votes. A Special Resolution shall be carried by a majority of no less than 75% (seventy-five per cent) of the total votes of Members who are present in person or represented and who are entitled to vote. An abstention shall not be counted as a vote for or against the resolution in question. In the case of an equality of votes, the Chairperson of the general meeting shall be entitled to a casting vote in addition to its deliberative vote.
- 27.7 Unless any Member present in person or by proxy at a general meeting shall before closure of the meeting have objected to any declaration made by the Chairperson of the meeting as to the result of any voting at the meeting, or to the propriety or validity of the procedure at such meeting, such declaration by the Chairperson shall be deemed to be a true and correct statement of the voting, and the meeting shall in all respects be deemed to have been properly and validly constituted and conducted, and an entry in the minutes to the effect that any motion has been carried or lost, with or without a record of the number of votes recorded in favour of or against such motion, shall be conclusive evidence of the vote so recorded if such entry conforms with the declaration made by the Chairperson of the meeting as to the result of any voting at the meeting.

28. ACCOUNTS

- 28.1 The Association in general meeting or the Trustee Committee, may from time to time make reasonable conditions and regulations as to the time and manner of the inspection by the Members of the accounts and books of the Association, or any of them, and subject to such conditions and regulations, the accounts and books of the Association shall be open to the inspection of Members at all reasonable times during normal business hours.
- 28.2 At each Annual General Meeting the Trustee Committee shall lay before the Association the income and expenditure account for the preceding Financial Year of the Association, or in the case of the first account, for the period since the incorporation of the Association, together with a balance sheet made up as at the last Financial Year end of the Association. Every such balance sheet shall be accompanied by proper and extensive reports of the Trustee Committee and the Auditors, and there shall be attached to the notice sent to Members convening each Annual General Meeting, copies of such accounts, balance sheet and reports and of any other documents required by law to accompany the same.

29. AUDIT

At least once a year, the accounts of the Association shall be reviewed (not audited) and the correctness of the income and expenditure account and balance sheets ascertained by the Auditors.

30. SERVICE OF NOTICES

30.1 A notice shall be in writing and shall be given or served by the Association upon any Member either by hand, by telefax, by email or by post in a prepaid registered letter addressed to the Member at the address of the Residential Erf once transfer has taken place or possession taken.

30.2 No Member shall be entitled to have a notice served on him at any address not within the Republic of South Africa, but any Member may require the Association, by notice, to record an address within the Republic of South Africa which shall be deemed to be his address for the purpose of the service of notices.

30.3 The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any person entitled to receive notice, shall not invalidate the proceedings of that meeting.

31. INDEMNITY

31.1 All Trustee Members and the Auditors shall be indemnified out of the funds of the Association against any liabilities *bona fide* incurred by them in their respective said capacities and in the case of a Trustee Member, in his capacity as Chairperson, Vice-Chairperson, whether defending any proceedings, civil, criminal or otherwise, in which relief is granted to any such person/s by the Court.

31.2 Every Trustee Member, every servant, agent and employee of the Association, and the Auditors shall be indemnified by the Association against (and it shall be the duty of the Trustee Committee out of the funds of the Association to pay) all costs, losses and expenses (including travelling expenses) which such person or persons may incur or become liable for by reason of any contract entered into, or any act or deed done, by such person or persons in the discharge of any of his/their respective duties, including in the case of a Trustee Member, his duties as Chairperson or Vice-Chairperson. Without prejudice to the generality of the above, the Association shall specifically indemnify every such person against all losses of whatsoever nature incurred arising out of any *bona fide* act, deed or letter done or written by him jointly or severally in connection with the discharge of his duties, provided that any such act, deed or letter has been done or written in good faith.

31.3 A Trustee Member shall not be liable for the acts, receipts, neglects or defaults of the Auditors or of any of the other Trustee Members, whether in their capacities as Trustee Members or as Chairperson or Vice-Chairperson, or for any loss or expense sustained or incurred by the Association through the insufficiency or deficiency of title to any property acquired by the Trustee Committee for or on behalf of the Association, or for the insufficiency or deficiency of any security in or upon which any of the monies of the Association shall be invested, or for any loss or damage arising from the insolvency or tortious act of any person with whom any monies, securities or effects shall be deposited, or for any loss or damage occasioned by any error of judgement or oversight on his part, or for any other loss, damage or misfortune whatever which shall happen in the execution of any of the duties of his office/s or in relation thereto, unless the same shall happen through lack of *bona fides* or breach of duty or breach of trust.

32. ARBITRATION

32.1 Any dispute, question or difference arising at any time between Members or between Members and Trustees out of or in regard to:

32.1.1 any matters arising out of this Constitution and/or Rules; or

32.1.2 the rights and duties of any of the parties mentioned in this Constitution; or

32.1.3 a breach of Constitution and/or Rules; or

32.1.4 the interpretation of this Constitution and/or Rules

shall be submitted to and decided by arbitration on notice given by any party to the other parties who are interested in the matter in question.

- 32.2 Notwithstanding clause the aforesaid, the Association shall be entitled to institute court proceedings against any Member in default of payment of any amounts due in terms of the Constitution and/or Rule, or to obtain an interdict against a Member.
- 32.3 The arbitration shall be held in Cape Town informally and otherwise in terms of the provisions of the Arbitration Act No 42 of 1965 (as amended or replaced from time to time) it being intended that if possible it shall be held and concluded within 30 (thirty) Business Days after it has been demanded.
- 32.4 Save as otherwise specifically provided herein, the Arbitrator shall be, if the question in dispute is:
- 32.4.1 primarily an accounting matter - an independent accountant;
- 32.4.2 primarily a legal matter - a practising counsel or attorney of not less than 10 (ten) years' standing;
- 32.4.3 any other matter - an independent and suitably qualified person appointed by the attorneys of the Association
as may be agreed upon between the parties to the dispute
- 32.5 If agreement cannot be reached on whether the question in dispute falls under sub-Clauses 32.4.1 to 32.4.3, or upon a particular arbitrator in terms of sub-Clause 32.4, within 5 (five) Business Days after the arbitration has been demanded, then:
- 32.5.1 the Director of the Legal Practice Council for the Western Cape (or its successors) shall determine whether the question in dispute falls under sub-clauses 32.4.1, 32.4.2 or 32.4.3; and / or
- 32.5.2 the Director of the Legal Practice Council for the Western Cape (or its successors) shall nominate the arbitrator in within 7 (seven) Business Days after the parties have failed to agree, so that the arbitration can be held and concluded as soon as possible within the 21 (twenty one) Business Days referred to in Clause 32.3.
- 32.6 The arbitrator shall make his award within 7 (seven) Business Days after completion of the arbitration and shall in giving his award, have regard to the principles laid down in terms of this Constitution. The arbitrator may determine that the cost of the arbitration may be paid either by one or other of the disputing parties or by the Association as he in his sole discretion may deem fit.
- 32.7 The decision of the arbitrator shall be final and binding and may be made an Order of the Cape of Good Hope Provincial Division of the High Court of South Africa (or its successors) upon the application of any party to the arbitration. No appeal shall lie against the decision of the Arbitrator unless the parties otherwise agree.
- 32.8 Notwithstanding anything to the contrary contained herein, the Trustees shall be entitled to institute legal proceedings on behalf of the Association by way of application, action or otherwise in any Court having jurisdiction for the purposes of restraining or interdicting breaches of any of the provisions.

33. DEPOSITS AND INVESTMENT OF FUNDS

- 33.1 The Trustees shall cause all moneys received by the Association to be deposited to the credit of an account or accounts with a registered commercial bank in the name of the Association and, subject to any direction given or restriction imposed at a general meeting of the Association, such moneys shall only be withdrawn for the purpose of payment of the expenses of the Association or investment
- 33.2 The Trustees shall cause all moneys received by the Association to be deposited to the credit of an account or accounts with a registered commercial bank in the name of the Association and, subject to any direction given or restriction imposed at a general meeting of the Association, such moneys shall only be withdrawn for the purpose of payment of the expenses of the Association or investment.
- 33.3 The Trustees will set up reserve accounts for funds that are held over and above one year's working capital requirements.
- 33.4 Interest on moneys invested shall be used by the Association for any lawful purpose in the interest of the Association

34. AMENDMENTS TO CONSTITUTION

- 34.1 This constitution, or any part thereof, as contained herein shall not be repealed or amended, and no new clauses shall be

made, save by a Special Resolution adopted at an Annual General Meeting or General Meeting of the Members, and if during the Development Period, shall be subject to the prior written consent of the Developer

34.2 In addition, should any amendment/s of the Constitution be in respect of those matters as are prescribed by section 29(3) of the SMLUP then such amendment/s will also have to be approved by the Council.

35. SALES

Registered Owners who wish to appoint an Estate Agent to sell their Residential Erf, or in the event that the said Erf is owned by a Close Corporation, Company or Trust, the sale of the majority membership interest, shares or beneficial interest respectively, then and in such event the said Owner shall be obliged to use the services of an Estate Agent who has been accredited by the Association.

36. VINEYARDS AND OLIVE GROVES

36.1 It is recorded that the Vineyards and Olive Groves which are an essential aesthetic component of the Estate, are to be established and maintained by third party contractors appointed by the Developer, and who will also harvest the grapes and olives.

36.2 Accordingly, the Association shall grant the said contractors, their employees and/or consultants, reasonable access to the Vineyards and the Olive Groves so as to enable them to conduct the necessary operations referred to in paragraph 36.1.

36.3 The Association shall at all times have the authority to determine how to best manage and deal with the Vineyards and the Olive Groves.

36.4 No Member shall be entitled to cut, prune or in any way interfere with the maintenance and management of the Vineyards and Olive Groves, nor shall they be able to harvest any grapes or Olives, unless the Association otherwise determines.

36.5 By virtue of the agricultural element that makes up a significant portion of the Estate, Members accept that there will be the normal activity as encountered on a working farm, especially during the harvesting season.

Signature
Date: _____
First Trustee Name & Surname _____

Signature
Date: _____
First Trustee Name & Surname _____

Signature
Date: _____
First Trustee Name & Surname _____

