

Virdus Works (Pty) Ltd (Reg. No. 2018/585747/07)

Development Management Consultants and
Environmental Assessment Practitioners

Managing Director: DUPRÉ LOMBAARD

77 BUITEKRING, DALSIG, STELLENBOSCH, 7600, SOUTH AFRICA

Mobile: +27 82 895 6362

Email: dupre.lombaard@virdus.com



17 May 2022

The Stellenbosch Wine Routes (Belang / Interest / Erf: All)
47 Church Street

STELLENBOSCH

7599

Per: elmarie@wineroute.co.za

Dear Sir / Madam Geagte Heer / Dame

NOTICE OF LAND DEVELOPMENT APPLICATION IN THE STELLENBOSCH MUNICIPAL AREA

Locality: Erf 897, cnr of Koch and Vrede Street, Krigeville, Stellenbosch

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

Owner: Trans Africa Supply Company (Pty) Ltd (Rep. Mr Rudolph Baard), Phone: +27 82 447 4827, E-mail: rudolph@baard.co.za, Address: 2 Vrede Street, Stellenbosch, 7600

Stellenbosch Municipality reference number: LU 12985

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

- a) Section 15(2)(f) for the removal of restrictive title deed conditions B(a) to (d), and C(m) to remove the restrictive building lines, make provision for a second dwelling and the intended non-residential uses on the property.
- b) Section 15(2)(g) for a permission required in terms of Section 13 of the Zoning Scheme By-Law (2019) for a technical approval to make provision for a second dwelling on the property.
- c) Section 15(2)(o) for a consent use for a home occupation practice that exceeds 50m² and 30% of the floor area of the buildings on the property.

The proposal is for one dwelling to be used as a dwelling, while the other will be used for home occupation practice in keeping with the Stellenbosch Municipality Zoning Scheme Bylaw, 2019, accommodating the proprietor, a secretary, and an administrative support person (accountant) doing the administration of an import and export business where no goods are stored or sold. It will be the head office of the Rudolph brand.

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: Dupré Lombaard, Viridus Works, **dupre.lombaard@viridus.com**. The comments must be submitted within 30 days from the date of this notice to be received on or before the **closing date of 20 June 2022**.

It should be noted that the Municipality, in terms of Section 50(5) of the said Bylaw, may refuse to accept any comments/ objection received after the closing date. For any enquiries on the Application or the above requirements, or if you are unable to write and /or submit your comments as provided for, you may contact the Applicant for assistance at the e-mail address provided or telephonically at +27 82 895 6362 during normal office hours.

KENNISGEWING VAN GRONDONTWIKKELINGSAANSOEK IN DIE STELLENBOSCH MUNISIPALE AREA

Ligging: Erf 897, hv Koch en Vredestraat, Krigeville, Stellenbosch

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

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Stellenbosch Munisipaliteit Verwysing: LU 12985

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

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- c) Artikel 15(2)(o) vir 'n vergunning om 'n tuisbedryf op die eiendom te onderneem, welke bedryf meer as 30% van die vloeroppervlakte van die geboue op die eiendom sal beslaan en groter is as 50m².

Die voorstel is vir die gebruik van een wooneenheid op die eiendom vir woon doeleindes en vir die ander as tuisbedryf soos omskryf in die Stellenbosch Munisipaliteit Soneringskema Verordening, 2019. Die tuisbedryf akkommodeer die eienaar, 'n sekretaresse en 'n administratiewe persoon (boekhouer)

vir die administrasie van die in- en uitvoer van goedere wat nie op die perseel uitgestal of te koop aangebied word nie. Dit sal die hoofkantoor wees vir die Rudolph handelsmerk.

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 tydskuur 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 ingevolge Artikel 50 van die tersaaklike Verordening wat die volgende vereistes en besonderhede moet bevat:

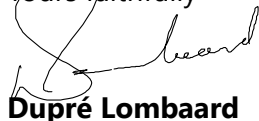
- Die kommentaar moet skriftelik wees;
- Die kommentaar moet die aansoek se verwysings nommer en adres insluit;
- Die naam van die persoon wat die kommentaar lewer;
- Die fisiese adres en kontak besonderhede van die persoon wat die kommentaar lewer.
- Die belang wat die persoon wat die kommentaar lewer, 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 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 inligting 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: Dupré Lombaard, Viridus Works, dupre.lombaard@viridus.com. Die kommentaar moet binne 30 dae vanaf die datum van hierdie kennisgewing gestuur word en moet ontvang word voor of op die laaste dag van die **sluitings datum** van **20 Junie 2022**.

Daar moet kennis geneem word dat die Munisipaliteit, in terme van Artikel 50(5) van die vermelde Verordeninge, mag weier om enige kommentaar / beswaar te aanvaar wat na die sluitingsdatum ontvang word. Indien daar enige navrae op die aansoek of bovermelde vereistes vir die lewer van kommentaar is, of indien dit nie moontlik is om geskrewe kommentaar te lewer of die kommentaar op die wyse te lewer soos voorsiening gemaak is nie, kan die Aansoeker geskakel word vir bystand by die vermelde elektroniese pos adres of telefonies by +27 82 895 6362 gedurende normale kantoor ure.

Your support of the application will be appreciated. // U ondersteuning van die aansoek sal waardeer word.

Yours faithfully



Dupré Lombaard

Virdus Works (Pty) Ltd (Reg. No. 2018/585747/07)

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STELLENBOSCH

STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNISIPALITEIT • UMASIPALA • MUNICIPALITY

NOTICE: LAND USE **APPLICATION**

**PLEASE CONSULT THE PLANNING PORTAL FOR
FURTHER DETAILS**

**STELLENBOSCH MUNICIPAL WEBSITE
(www.stellenbosch.gov.za)**

ADVERTISING PERIOD: 19/05/2022 – 20/06/2022

ERF: 897, Stellenbosch (2 Vrede Street)

**ENQUIRIES: Dupré Lombaard, Viridus Works (Pty)
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**LAND DEVELOPMENT APPLICATION FOR:
REMOVAL OF TITLE CONDITIONS AND CONSENT
FOR
ERF 897, STELLENBOSCH**



August 2021

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ANNEXURE

ANNEXURE A: LOCALITY

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ANNEXURE G: LAND USE SURVEY

ANNEXURE H: APPROVED BUILDING PLAN WITH USES

EXECUTIVE SUMMARY

<p><u>Owner:</u></p> <p>Trans Africa Supply Company (Pty) Ltd (Reg. No. 2010/005447/07)</p> <p>Represented by: Mr R Baard</p> <p>Cellular phone: +27 82 447 4827</p> <p>E-mail: rudolph@baard.co.za</p> <p>Address: PO Box 247, Stellenbosch, 7599</p>	<p><u>Project Consultant:</u></p> <p>Mr Dupré Lombaard</p> <p>Viridus Works (Pty) Ltd Reg. No. 2018/585747/07</p> <p>SACPLAN: B/8076/1998</p> <p>Cellular phone: +27 82 895 6362</p> <p>E-mail: dupre.lombaard@viridus.com</p> <p>Address: 77 Buitekring, Dalsig, Stellenbosch, 7600, South Africa</p>
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The owner recently purchased Erf 897 Stellenbosch (cnr Vrede and Koch Street, Krigeville) as an investment in an area where the residential quality has slowly deteriorated over time as a result of the high traffic volumes attributed to the in- and outflow of vehicles from and to the R44. Vrede Street is recognised as one of the main feeder streets in Stellenbosch and no longer a street with residential appeal. The house on the property creates the opportunity for the development of a second dwelling, thus increasing the economic value thereof, while creating more affordable accommodation space within walking distance of the Stellenbosch central business district and the Stellenbosch University. The title deed however contains severely restrictive title conditions which need to be removed to allow for two dwellings and home occupation practice on the property.

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

- (1) Section 15 (2)(f) a removal, suspension, or amendment of restrictive conditions in respect of a land unit.
- (2) Section 15 (2)(g) a permission required in terms of the zoning scheme; and
- (3) Section 15 (2)(o) a consent use contemplated in the zoning scheme;

The proposed use of the property is for the one dwelling to be used as a dwelling, while the other will be used for home occupation practice in keeping with the Stellenbosch Municipality Zoning Scheme Bylaw, 2019 definition, accommodating the proprietor, a secretary, and an administrative support person (accountant) doing the administration of an import and export business where no goods are stored or sold. It will be the head office of the Rudolph brand.

Erf 897 is held by Deed 9489/2021. There are title deed restrictions preventing the proposed land development, which need to be removed to permit the better utilisation of the property.

1. BACKGROUND

1.1 Introduction

The house on the property (Erf 897) located on the cnr of Koch and Vrede Street in Krigeville was renovated by the current owner after being purchased in 2021. The area contains a mix of land uses and Vrede Street is one of the main feeder roads between the Stellenbosch central business district, together with the University of Stellenbosch and the R44. It carries high traffic volumes and was already described as a congested main road in the Stellenbosch Comprehensive Integrated Transport Plan (CITP) of 2016. The Stellenbosch Roads Masterplan (2012) indicated that the road was operating beyond its capacity and *"should be investigated to ascertain the most appropriate means of reducing congestion in order to cope with the long term growth of the town"*.

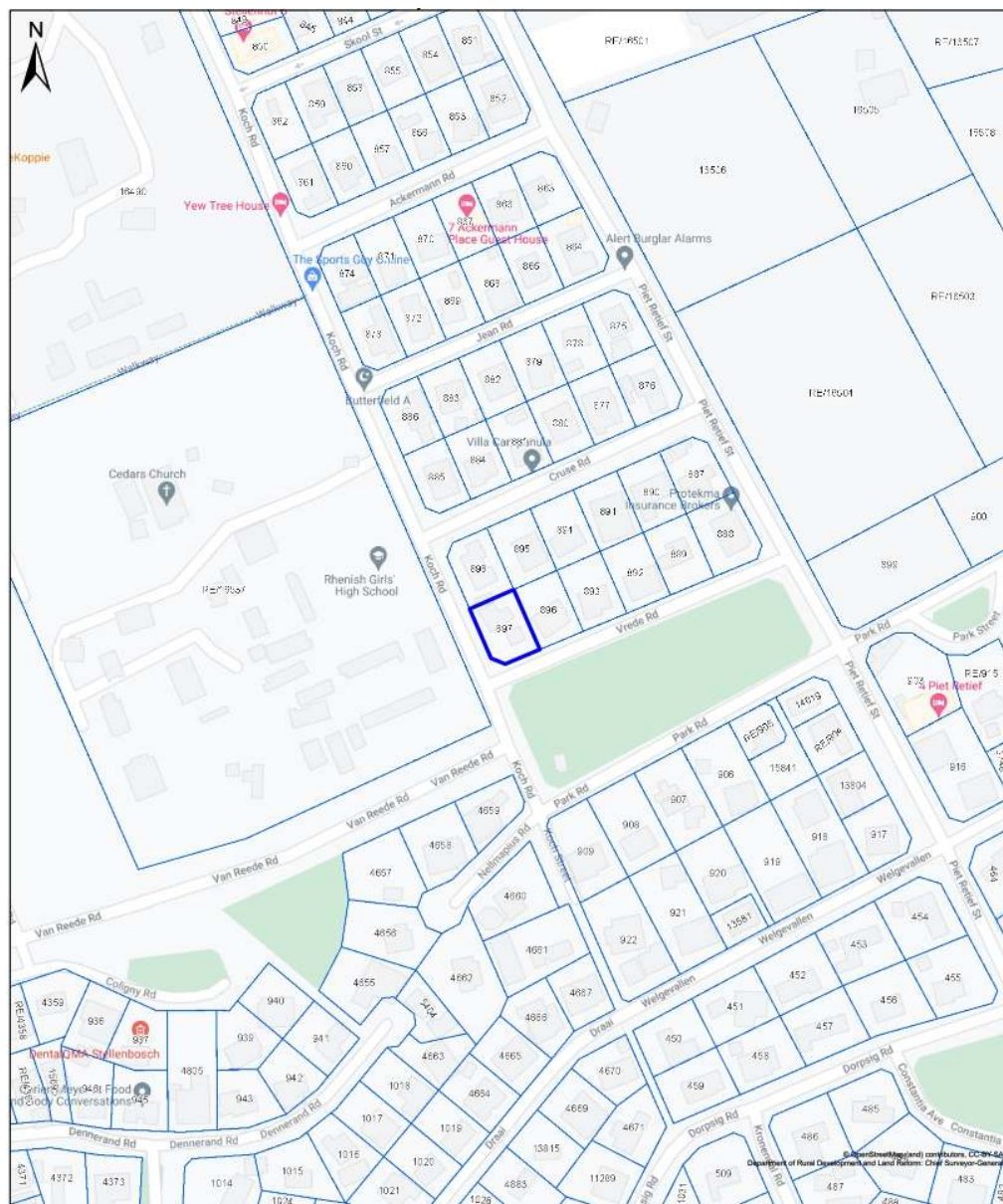


Figure 1: Erf 897 locality shown in blue

Thus, understandably, the property is no longer an ideal single dwelling residential use property, it being located on the intersection where school traffic further exacerbates the situation. On the other hand, its location within walking distance of the CBD, the University, and the schools of the surrounding area, makes it an ideal venue for densification, e.g., by the addition of a second dwelling, subject to the removal of the restrictive title conditions.



Figure 2: Erf 897 access during school peak

1.2 Title deed

The title deed (T9489/2021) contains conditions regarding the land use of the property which need to be removed to permit the proposed redevelopment and use of the property for a second dwelling and home occupation practice.

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

- *B. SUBJECT FURTHER to the following conditions contained in Deed of Transfer T23355/1948, imposed by the Administrator in terms of Ordinance Number 33 of 1943 namely:*
 - *"As being in favour of the Local Authority and the registered owner of any erf in the Township:*
 - *(a) This erf shall be used for residential purposes only.*
 - *(b) Only one dwelling, together with such outbuildings as are ordinarily required to be used therewith, shall be erected on this erf.*
 - *(c) Not more than one-third of the area of this erf shall be build upon.*
 - *(d) No building or structure or any portion thereof, except boundary walls and fences, shall be erected nearer than 6,30 meters to the street line which forms a boundary of this erf, nor within 3,15 meters of the*

rear boundary common to any adjoining erf, no building, however, to exceed two storeys in height.

- *C. SUBJECT FURTHER to the following conditions contained in Deed of Transfer T23355/1948, and imposed by Willem Adolph Krige, as owner of the remainder of the said Township, for his benefit and for the benefit of the owners of erven in the aforesaid Township:*
 - *(l)*
 - *(m) The owner of this erf shall carry on no activity likely, for the reason that it creates a noise or for any other reason, to be a nuisance to other owners of erven in this Township. He shall not saw or chop wood for profit or for gain on this erf, nor allow that this is done, nor shall he allow any material to be stored on this erf, which he requires in connection with any activity, which he pursues outside this erf."*

2. LAND DEVELOPMENT APPLICATION AND MOTIVATION

2.1 Development context

The subject property is located on the corner of Koch and Vrede Streets, in an old residential neighbourhood established in the late 1940's, nestled between three of the most prominent secondary schools in Stellenbosch and on the main access road to and from the Stellenbosch CBD, where houses in the area have been transformed over time to create double dwellings, offices, medical and professional practices and other uses such as guest houses.

Due to its locality and the high intensity of traffic and activity the neighbourhood has lost its appeal as a single dwelling residential neighbourhood. Instead, it has become a sought after area for guest accommodation, more affordable accommodation, and services providers, mainly offices and professional practices. Many houses have been modernised and redeveloped, while a large percentage still retain their original scale and form but have been transformed to accommodate additional uses. All the properties surrounding Krigeville are indicated as potential urban character areas, but the neighbourhood itself is not indicated in the Stellenbosch Spatial Development Framework as a focus area.

2.2 Land use planning / land development application

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

The title deed restrictions impose more onerous land development parameters than are applicable in terms of the Stellenbosch Zoning Scheme Bylaw, 2019 and are indicative of the vision for the neighbourhood as a low density residential suburb when it was established in the late 1940's. The title conditions are no longer appropriate to the area, where densification and more intensive land use

is required along the main traffic routes in and out of town and within walking distance of major educational facilities.

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



Figure 3: Krigeville area land use map

The judgment in the Camps Bay Ratepayers and Residents Association and Others v Minister of Planning, Culture and Administration, Western

Cape 2001(4) SA294 (C) indicates that one or more of the following needs to be indicated for the removal of a restriction:

- a) It must be desirable to remove the restriction in the interests of the public;
- b) It must be desirable to remove the restriction in the interests of an establishment;
- c) It must be desirable to remove the restriction in the interests of a development; or
- d) It must be desirable to remove the restriction in the interests of any area.

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

- 2.2.2 Application in terms of Section 15(2)(g) a permission required in terms of the zoning scheme.

The property is zoned for Conventional Residential Use, which permits the establishment of a second dwelling thereon as an additional use through a technical approval process as provided for in Section 13 of the Stellenbosch Municipality Zoning Scheme Bylaw, 2019 (ZSB).

In terms of the ZSB, a second dwelling has no development restrictions other than it having to be provided with its own accessible parking area if it is to be registered separately through sectional title.

In terms of the ZSB, the main dwelling or the second dwelling may be used for an additional use such as a home occupation practice, as proposed herein. However, the home occupation practice in this zone must comply with the parameters as indicated below, failing which a consent use should be considered:

- a) *the activity should be of such a limited nature that the operator shall employ no more than two persons;*
- b) *the hours of operation shall be limited to between 07:30 to 18:00 Mondays to Saturdays;*
- c) *the maximum floor area for a home occupation practice (including storage) shall be no more than 30% of the floor area of the buildings on the land unit up to a maximum of 50m².*

- 2.2.3 Application in terms of Section 15(2)(o) a consent use contemplated in the zoning scheme.

As the floor area for the home occupation practice exceeds 50m² and 30% of the floor area of the buildings, it would be necessary to apply for a consent use that is subject to the following as determined in the ZSB:

- a) *A technical approval of an additional use in a dwelling house or second dwelling house shall not be issued in terms of section 13(8)(f) unless all the applicable parameters in this section are complied with. Any deviation from these parameters requires a consent use application in terms of Planning Law.*
- b) *The operator of an additional use activity shall reside on the land unit from which the additional use activity is conducted, and the dominant use of the land unit shall remain the operator's residence.*
- c) *Apart from a second dwelling, only one additional use may be conducted on any property at any given time.*
- d) *An operator of an additional use may either use a portion of the dwelling house in which he resides or a portion of, or the entire second dwelling for an additional use.*
- e) *The nature of any alterations to the dwelling house or second dwelling to accommodate additional use shall be such that the building can at any time revert to its use as a dwelling house or second dwelling, and additional uses, other than a second dwelling, may not be reflected on a building plan.*
- f) *The residential character of the façade of the dwelling house or second dwelling shall be retained to the satisfaction of the Municipality.*
- g) *No goods, material or equipment in connection with the additional use shall be displayed or be visible from a public road. Any such goods, materials or equipment to be stored on the land unit shall be within an enclosed structure which forms part of the dwelling house, second dwelling or its normal outbuildings.*
- h) *The additional use may not cause a public nuisance.*
- i) *Additional uses may not cause any excessive fumes or smell to be emitted, cause any noise disturbance, be harmful or a disturbance to the neighbours, may not cause excessive congregation of people, disturbing after-hours activity, excessive parking in the public road or an excessive increase in the number and frequency of visitors to the land unit so as to be a nuisance, in the sole opinion of the Municipality.*
- j) *No advertising sign may be displayed other than a single non-illuminated sign which does not project over a public road and which does not exceed 0,5m².*
- k) *No more than one vehicle not exceeding 3 500kg may be used in connection with the additional use and may be stored on the land unit.*
- l) *An affected party may lodge a complaint if an additional use is causing a disturbance, affects their health, welfare or safety, or does not comply with the provisions in this section.*

2.3 Land use motivation

The property is located on the corner of Vrede and Koch Street, a highly congested feeder road that not only congests during morning and evening peak periods, but also during school closing and on weekends when there are events and activities in

or around the town. It is no longer a desirable residential property. Since 2012 the Municipality's master plans have indicated that: "These roads required dualling between the R44 and Piet Retief Street, with further improvements at the R44 / Van Reede intersection" (Roads Master Plan, 2019 (RMP)). The trip modelling indicates that more than 1 000 vehicles pass the property on the corner during a weekday morning peak hour.

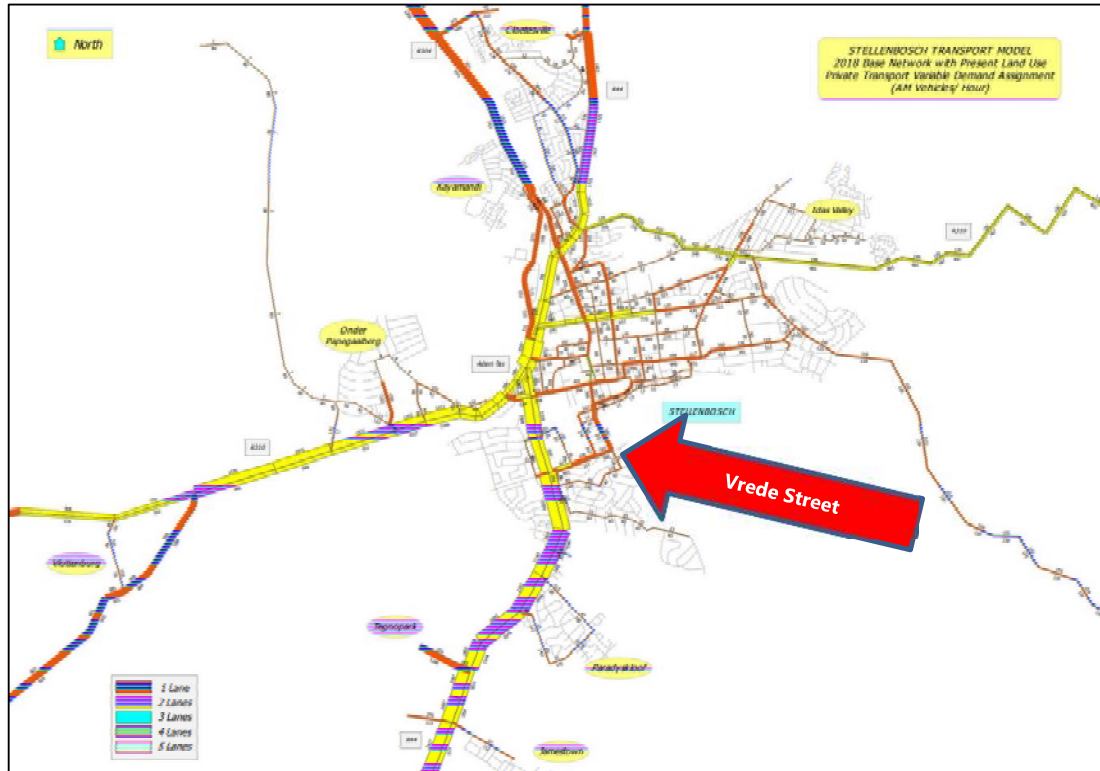


Figure 4: Vrede Street as shown in the Roads Master Plan, 2019

As is visible from Figure 2 above, during the afternoon school peak period, access to and egress from the property is near impossible, given the congestion on the corner. Same applies to the morning and evening peak periods, which last for more than an hour each. Traffic noise, fumes, and activity cause significant disturbance to the neighbours along Vrede Street, thus only one of the six houses is still a residential property. The others, as have approximately 14 others in the neighbourhood (see Figure 3 above and Annexure G), have been converted to business uses in the residential buildings, as provided for in the ZSB and double dwellings. The residential quality of the properties taking access off and abutting the main feeder routes has decreased significantly over time due to the disturbance and nuisance caused by the traffic.

In addition, the development parameters as set out in the title deed causes a house to be set far into the erf, leaving very little functional garden space on the northern side of the Erf, away from the street. Residents are thus obliged to make use of the street facing sides for gardening and outdoor living, which due to the exhaust fumes, noise and disturbance is not healthy or good for the well-being of the residents. It is therefore logical that the houses abutting Vrede Street are turned into double dwellings, to create space for affordable rental accommodation, and home occupation practices, where the peak period noise is less disturbing to the

users, who would typically only occupy the business space between peak periods. Such home occupation use is not in keeping with the definition as in the ZSB, as it is not the proprietor occupying the property, but rather an employee or otherwise related person. The situation along the main feeder roads, especially in view of the envisaged doubling thereof as indicated in the RMP needs to be considered holistically and the properties should be permitted to rezone to more appropriate uses as also provided for in the Adam Tas Corridor proposals.

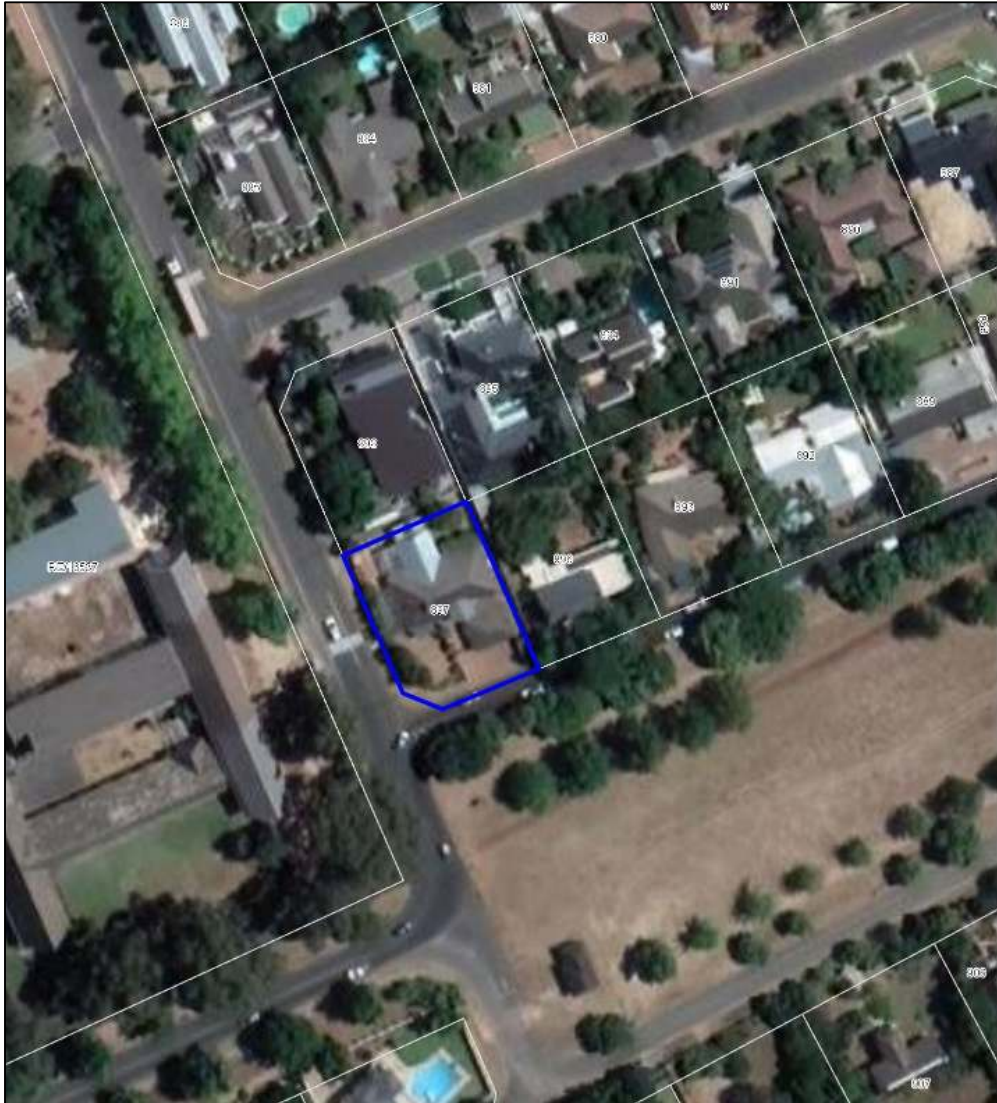


Figure 5: Satellite image of Erf 897 showing effect of title deed development parameters

Trans Africa Supply Company trades amongst others the brand known as "Rudolph". It is known as a top quality precision optical engineering business that manufactures and uses lenses for optical systems used amongst others in binoculars, rifle scopes and range finders. The company headquarters are in Stellenbosch, from where the operations are managed at the manufacturing plants, logistics hubs and points of sale. Three people, namely the owner, a secretary and an accountant work in the head office and will make use of the one dwelling unit on the property. More than 30% of the dwelling house and 50m² is used for the administration of the business (see Annexure H), therefore a consent use, rather

than a technical approval is sought. The property will not be used as a point of sale and no retail sales occur from the head office.

The second dwelling on the property will be used for residential purposes and the property will retain its residential scale and form.

2.4 IDP and SDF

The Integrated Development Plan 2021 (IDP), including the municipal spatial development framework approved in 2019 make no specific provision for the Krigeville area. The SDF promotes the better utilisation of properties in centrally located areas, such as Krigeville, which is located between the major secondary schools and walking distance of two primary schools, the central business district, and the University. Densification through the establishment of second dwellings is promoted, as is the establishment of businesses in the central area and along transport corridors.

Vrede Street is identified as one of the major feeder routes of the town and one that should be dualled to address the chronic congestion that occurs along it, according to the RMP. Such dualling might lessen the congestion but would probably increase the traffic volumes along the route, further exacerbating the situation and detracting from the residential amenity of the abutting properties.

It is evident from the creation of Erf 12213 (Valerida Centre) on the intersection of Piet Retief, School and Suidwal that consideration was given to the change in land use in view of the locality of such properties and a change in use to a use more appropriate for its locality. Same principle should apply to Vrede Street.

2.5 SPLUMA

The matters referred to in Section 42 of the Spatial Planning and Land Use Management Act, 2013 (SPLUMA) have been considered, as indicated below.

The proposed rezoning, subdivision and use of the land is "*consistent with norms and standards, measures designed to protect and promote the sustainable use of agricultural land, national and provincial government policies and the municipal spatial development framework*", as indicated above.

The public interest in the application and the proposals will be tested during the public participation process.

"The constitutional transformation imperatives and the related duties of the State" do not apply to the site.

"The facts and circumstances relevant to the application" indicate that the use and redevelopment of the property will have no detrimental impact on the surrounding environment and in fact contribute to the achievement of the development objectives of the Municipality, by adding additional revenue generating property to balance the growing demand for non-revenue generating development. Moreover, as indicated in the land use survey, nearly 50% of the properties in the

neighbourhood have changed use or densified and primarily as a result of the location of the neighbourhood between major schools and along one of the main feeder routes of the town.

It is obvious that the delegated decision-maker will consider "*the respective rights and obligations of all those affected*", not least by considering the site-specific conditions and recognising that the neighbourhood has suffered significant negative effect due to the traffic and congestion along its edges, where the residential ambience has been lost as a result.

The state of and impact of the proposed development on engineering services, social infrastructure and open space requirements have not been addressed, as the redevelopment and use of the property retains the residential scale and form and does not require additional engineering services.

Section 22 (1) and (2) of SPLUMA stipulate that a Municipal Planning Tribunal or any other authority required to make a land development decision may not make a decision which is inconsistent with a municipal SDF and that such authorities may only depart from the provisions of a SDF if there are site specific circumstances that justify a departure. Although it has been shown that the proposal is consistent with the existing SDF, even if not specifically mentioned therein, site specific conditions warrant reconsideration of the future use of the properties along the main feeder routes.

2.6 LUPA principles

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

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

economical use of municipal services infrastructure and community facilities, provide for efficient public transport services and reduce traveling distances to a variety of opportunities. This fits with the location of the property in an urban area with full services, on a major feeder road, where a business use will not have any significant negative consequences or effect. The mix of land uses in the area is supportive of a change in zoning or land use on the subject property and all those along the main feeder routes envisaged for doubling due to traffic congestion.

- ✓ The proposed use of the property for home occupation practice while retaining the residential scale and form of building and a residential use contributes to intensification and densification by appropriate use of the property in terms of its location. It leads to improvement of the efficiencies in service provision as set out above, on under-utilised land within an identified urban node. It does not diminish the supply of ecological or agricultural resources, opportunities for redress, or improved spatial integration with access to land for those previously dispossessed, while surrounded by a variety of uses which are of low intensity use.

The LUPA considerations and development principles of SPLUMA require:

- ✓ The protection and promotion of the sustainable use of agricultural land, which is not affected by the proposal. It requires adherence to national and provincial government policies, as illustrated above, inclusive of the municipal spatial development framework.
- ✓ Consideration of the public interest, which is done through the compliance with the aforementioned policies and guidelines, as indicated above.
- ✓ Promotion of constitutional transformation imperatives and the related duties of the state. No comment.
- ✓ Proper consideration of the facts and circumstances relevant to the application, as have been set out above, indicate grounds for a positive land development consideration and decision. The proposed use of the redeveloped dwelling will not detract from the ambience and appeal of the area, and it is in keeping with the scale and form of surrounding houses. The appeal of the area is rather diminished through the traffic congestion and disturbances caused by the main feeder routes along the edges of the neighbourhood.
- ✓ The respective rights and obligations of all those potentially affected, primarily the existing residents and surrounding property owners, public and private service providers and the wider community have been considered. There are no identified issues, and the proposed removal of the restrictive conditions and building development that will result from it do not have any negative effect on any of the surrounding residents. The applicant seeks to utilise the property in terms of the Zoning Scheme Bylaw and to redevelop it to create a more attractive environment where the use also generates economic benefit.
- ✓ The impact of the proposed development on engineering services infrastructure, social infrastructure, and open space requirements. There is no negative impact and there are no negative effects on the social infrastructure or open space requirements. The property makes use of existing municipal services infrastructure, and its redevelopment does not create additional demand.

- ✓ Spatial justice must be considered, and past spatial and other development imbalances must be redressed through improved access to and use of land. At the scale of the proposed development and the location of the site, it does not offer any significant opportunity for redress.
- ✓ Spatial sustainability has been considered and the proposed land development is within the fiscal, institutional, and administrative means of the state, given that the development will contribute to the municipal revenue base, without requiring public expenditure to occur.
- ✓ Efficiency (optimising the use of existing resources and infrastructure) has been addressed and the use of the property is in keeping with that which could be aligned to the uses along a major traffic feeder route, where residential qualities have been eroded as a result of the traffic.
- ✓ Spatial resilience is addressed, as the use of an existing erf in keeping with its zoning without a need for further public expenditure or increase in the capacity of municipal services infrastructure capacity represents sustainable development.
- ✓ Good administration is a function of the authorities, not affected by the proposed use of the property.

2.7 Heritage

The proposed land development does not require authorisation in terms of Section 34 or 38 of the National Heritage Resources Act, 1999, Act 25 of 1999, albeit that the house on the property could be older than 60 years. The house has been renovated and changed over time and is no longer in its original state. Further, as indicated above, there are no townscape character area guidelines applicable to the Krigeville area. The SDF shows such character areas around the area over all properties, i.e., it specifically excluded the neighbourhood.

2.8 Engineering

Storm water, water and sewerage services are existing, and the demand will not change. Solid waste is removed by the Municipality. Electrical services and capacity are existing. The proposed use will not add additional traffic to the area.

3. CONCLUSION

From the above it is clear that the Krigeville area is severely affected by traffic congestion and change has crept into the area over time. Residential use along Vrede Street is no longer feasible or desirable from a landowner perspective, hence some change should be permitted to allow for the best use of the properties along the road and Erf 897 in particular. Rezoning of the property is probably the ideal, however it brings a number of foreseeable impacts which first need to be considered from a spatial planning policy perspective. It is apparent that a consent use for a home occupation practice that exceeds the parameters of the ZSB should be permitted in the meantime.

The application for the removal of the restrictive title conditions, to allow for the redevelopment and use of the house on Erf 897, Stellenbosch in terms of the land

development parameters as set out in the Stellenbosch Municipality Zoning Scheme Bylaw, 2019, for home occupation use can accordingly be approved.

The following restrictive title conditions which apply to the property can be removed to allow for the improved use of the property:

- B. SUBJECT FURTHER to the following conditions contained in Deed of Transfer T23355/1948, imposed by the Administrator in terms of Ordinance Number 33 of 1943 namely:
 - As being in favour of the Local Authority and the registered owner of any erf in the Township:
 - (a) This erf shall be used for residential purposes only.
 - (b) Only one dwelling, together with such outbuildings as are ordinarily required to be used therewith, shall be erected on this erf.
 - (c) Not more than one-third of the area of this erf shall be build upon.
 - (d) No building or structure or any portion thereof, except boundary walls and fences, shall be erected nearer than 6,30 meters to the street line which forms a boundary of this erf, nor within 3,15 meters of the rear boundary common to any adjoining erf, no building, however, to exceed two storeys in height”.

- C. SUBJECT FURTHER to the following conditions contained in Deed of Transfer T23355/1948, and imposed by Willem Adolph Krige, as owner of the remainder of the said Township, for his benefit and for the benefit of the owners of erven in the aforesaid Township:
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ANNEXURE A: LOCALITY

Erf 897, Stellenbosch location



Legend

 Erf

0 0.01 0.03 0.05 km

Scale: 1:1 000

Date created: June 3, 2021

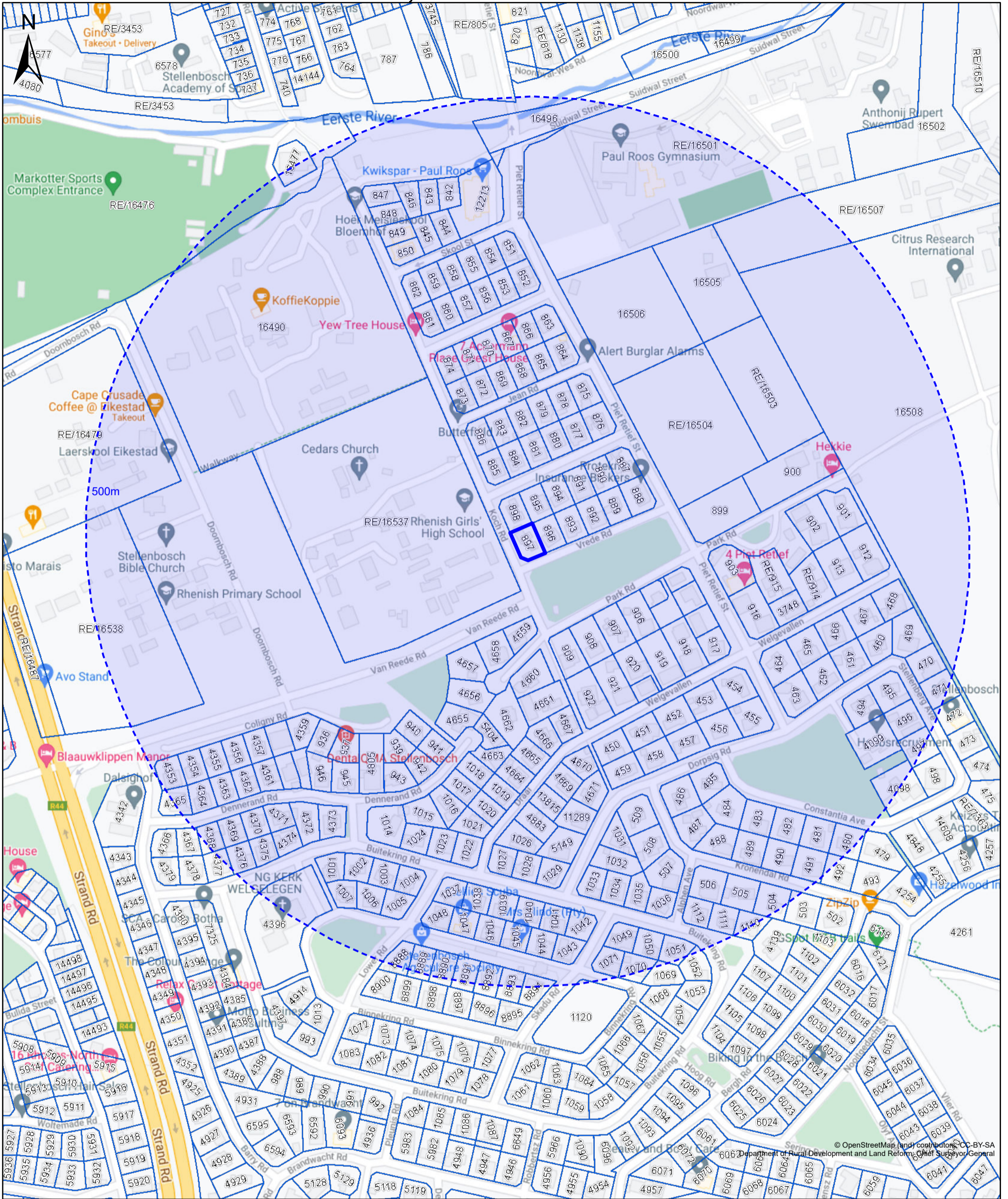
Compiled with CapeFarmMapper



**Western Cape
Government**

Agriculture

Erf 897, Stellenbosch location



Legend

Erf

0 0.05 0.1 0.2 km

Scale: 1:5 000

Date created: June 3, 2021

Compiled with CapeFarmMapper



Western Cape Government

Agriculture

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