

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

Dear Sir and/or Madam

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

**Application Property Address:** 1 Zwaanswyk Street, Stellenbosch

**Application Property Number:** Erf 3520, Stellenbosch

**Applicant:** Arch Town Planners (Pty) Ltd – Marike Bolz

**Contact Number:** 072 480 5838

[marike@archtownplanners.co.za](mailto:marike@archtownplanners.co.za)

**Owner:** Koos Toebees

**Contact Number:** 082 783 1976

**Application Reference:** LU/14211

**Application Type:** Removal of Restrictive Title Deed Conditions

**Description of proposal:**

Application is made in terms of Section 15 (2)(f) of the Stellenbosch Land Use Planning By-Law for:

- i) The removal of the restrictive title deed conditions contained in the following Title Deeds: Erf 3520, Title Deed: T37530/2019; Condition C.5, C.6(a), (b), (c) and (d) and D.1

Notice is hereby given in terms of the said Bylaw that the above-mentioned application has been submitted to the Stellenbosch Municipality for consideration. The application is available for inspection on the Planning Portal of the Stellenbosch Municipal Website for the duration of the public participation process at the following address: <https://www.stellenbosch.gov.za/planning/documents/planning-notices/land-use-applications-advertisements>. If the website or documents cannot be accessed, an electronic copy of the application can be requested from the Applicant.

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: **Arch Town Planners (Pty) Ltd – [marike@archtownplanners.co.za](mailto:marike@archtownplanners.co.za)**. By lodging an objection, comment or representation, the person doing so acknowledges that information may be made available to the public and to the applicant.

The comments must be submitted within 30 days from the date of this notice (2 August 2022) to be received on or before the closing date of **1 September 2022**.

It should be noted that the Municipality, in terms of Section 50(5) of the said Bylaw, may refuse to accept any comments/objections 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 072 480 5838 during normal office hours.

Yours faithfully



Marike Bolz (Director)  
For Arch Town Planners (Pty) Ltd

**KENNISGEWING VAN GRONDONTWIKKEUNGSAAFSAANSOEK AAN  
GETRESEERDE EN GAFFEKTEERDE PARTYE VIR KOMMENTAAR.**

Beste Mnr. en/of Mev

Die volgende grondgebruiksaansoek in terme van Stellenbosch se Verordeninge op Grondgebruikbeplanning, 2015, verwy's:

**Adres van aansoek eiendom:** 1 Zwaanswyk Street, Stellenbosch

**Aansoek eiendom beskrywing:** Erf 3520, Stellenbosch

**Aansoeker:** Arch Town Planners (Pty) Ltd – Marike Bolz

**Kontakbesonderhede:** 072 480 5838 of e-pos: marke@archtownplanners.co.za

**Eienaar:** Koos Toebes

**Kontakbesonderhede:** 082 783 1976

**Verwysingsnommer:** LU/14211

**Tipe Aansoek:** Opheffing van beperkende Titelakte Voorwaardes

**Beskrywing van aansoek:**

Die aansoek vir oorweging is 'n aansoek ingevolge artikel 15(2)(f) van die Stellenbosch Munisipaliteit: Verordening op Grondgebruikbeplanning vir:

- i) die opheffing van die beperkende titelaktevoorwaardes vervat in die volgende Titelakte: Nr. T37530/2019; Klausules C.5, C.6(a), (b), (c) en (d), en D.1

Kennis word hiemee gegee in terme van die genoemde Verordeninge dat bovermelde aansoek by die Stellenbosch Munisipaliteit ingedien is vir oorweging. Die aansoek is beskikbaar vir insae op die Beplannings Portaal van die Stellenbosch Munisipaliteit se Webtuiste vir die tydskdur van die publieke deelname proses by die volgende adres: <https://www.stellenbosch.gov.za/planning/documents/planning-notices/land-use-applications-advertisements>. Indien die webtuiste of tersaaklike dokumente nie toeganklik is nie, kan die Aansoeker versoek word om 'n elektroniese kopie 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 opsite van die volgende aspekte:
  - Die feite en omstandighede aantoon wat die kommentaar toeligg;
  - Indien toepaslik, aantoon wat die onwenslike resultaat sal wees indien die aansoek goedgekeur word;
  - Waar toepaslik moet aangevoer word indien enige aspek van die aansoekstrydig 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: Arch Town Planners (Pty) Ltd, marke@archtownplanners.co.za. Deur 'n beswaar, kommentaar of vertoë te rig, erken die persoon wat dit doen dat inligting aan die publiek en aan die aansoeker beskikbaar gestel kan word.

Die kommentaar moet binne 30 dae vanaf die datum van hierdie kennisgewing (2 Augustus 2022) gestuur word en moet ontvang word voor of op die laaste dag van die sluitings datum van **1 September 2022**.

Daar moet kennis geneem word dat die Munisipaliteit, in terme van Artikel 50(5) van die vermeldde 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 gestrawe kommentaar te lewer of die kommentaar op die wyse te lewer soos voorsiening gemaak is nie, kan die Aansoeker geskakel word vir bystand by die vermeldde elektroniese pos adres of telefonies by: 072 480 5838 gedurende normale kantoor ure

Die uwe



Marike Bolz (Direkteur)  
Vir Arch Town Planners (Pty)Ltd



# REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS

**ERF 3520  
ZWAANSWYK ROAD  
STELLENBOSCH**



**MAY2021**

**SUBMITTED TO:  
STELLENBOSCH MUNICIPALITY**

**PREPARED AND SUBMITTED BY:**



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Annexure A:	Power of Attorney and Company Resolution
Annexure B:	Land Use Planning Application Form
Annexure C:	Copy of Title Deed and Conveyancer's Certificate
Annexure D:	Site Development Plan, Floor Plans and Elevations

## Tables

Table 1:	Property Details
Table 2:	Summary of Uses
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## 1. INTRODUCTION

### 1.1 Background Information

Erf 3520 Stellenbosch (hereafter referred to as 'the application site') is a conventional residential erf, within the Stellenbosch Municipal area. The owner of the property seeks to regularise the existing dwelling house whilst proposing additions to the dwelling house such as a garage on the western common boundary and a playroom on the north-eastern corner of the application site. The applicable Title Deed conditions restricts the development of the application site in terms of restrictions on, *inter alia*, the street and common boundary building lines which is more restrictive than that of the Stellenbosch Municipality Zoning Scheme By-Law, 2019 (hereafter referred to as 'the Zoning Scheme'). This results in the inefficient and costly use of space. As with most of the erven in Karindal, the Title Deed conditions imposed on this erf, is considered to be outdated and constricting optimal land use of the site.

### 1.2 Planning Brief

In light of the above information, Arch Town Planners (Pty) Ltd has been appointed by the owner of the application site to prepare and submit the required land use application to the Stellenbosch Municipality to remove the relevant restrictive title deed conditions and to apply for building line departures.

Please refer to the attached Power of Attorney (**Annexure A**).

### 1.3 Applications to Stellenbosch Municipality

Arch Town Planners (Pty) Ltd hereby officially applies, in terms of Section 15(2)(f) of the Stellenbosch Municipality Land Use By-Law, 2015 (hereafter referred to as 'the By-Law') for the following:

- i. **The removal of the following restrictive title deed conditions** from Deed of Transfer No. T17049/2021:
  - C.5
  - C.6 (a)- (d)
  - D.1

This report serves as motivation for the above-mentioned application. The official application form is attached to this report as **Annexure B**.



## 2. PROPERTY DESCRIPTION

### 2.1 Ownership Details and Title Deed

Property Details	Ownership	Erf size	Title Deed	Restrictive Title Deed Conditions Applicable
Erf 3520, Stellenbosch	Valtoemax Holdings Proprietary Limited	947m <sup>2</sup>	T37530/2019	C.5 C.6(a) – (d) D.1

Table 1 Property Details

Please refer to **Annexure C** for a copy of the Title Deed and Conveyancer Certificate. As listed under paragraphs C.5., C.6, and D.1 of the Title Deed, the following conditions are restricting the proposed and future development of the property and therefore needs to be removed to be in line with the applicable Stellenbosch Zoning Scheme:

- C.5. *No building on this erf shall be used or converted to use for any purpose other than that stipulated in these conditions.*
- C.6.(a) *it shall not be subdivided;*
- C.6.(b) *it shall be used only for the purpose of erecting thereon one dwelling together with such outbuildings as are ordinarily required to be used therewith;*
- C.6.(c) *not more than one-third of the area thereof shall be built upon;*
- C.6.(d) *no building or structure or any portion thereof except boundary walls and fences shall be erected nearer than 6,30 metres to the street line which forms a boundary of this erf, nor within 4,72 metres of the rear or 3,15 metres of the lateral boundary common to any adjoining erf, provided that in the full discretion of the local authority it may permit an outbuilding not exceeding 3,05 metres in height, measured from the floor to the wall plate, to be erected within the above prescribed rear space and within the above prescribed lateral space for a distance of 9,45 metres reckoned from the rear boundary.*
- D.1. *Plans of dwelling houses and outbuildings to be erected on this erf and of alterations to any buildings already erected, including separate drainage and sewerage plans. elevations and specifications in duplicate, with an architect's or quantity surveyor's estimate of cost of construction, must be submitted to the said Company and the Local Authority and the Company's written approval obtained before any such buildings or erections or structures are commenced by the owner of the erf. The approval of the aforesaid plans shall be subject to any conditions in regard thereto which the Company may wish to impose so as to ensure the harmonious and attractive development of the entire Township. The Company shall have the right to decide as to the suitability of any design and the elevation and location of any proposed building and of the soundness of the proposed construction. The Company, however, does not in any way whatsoever accept any legal responsibility arising directly or indirectly from plans which it approves, nor shall the Company make any charge for scrutinising such plans. In the event of the Company refusing to sanction a proposed erection in terms of the foregoing provisions, the owner shall have the right to refer the matter to the local authority whose decision shall be final.*

## 2.2 Locality and Context

Please refer to Figure 1 and Figure 2 on the next page for the locality and aerial view of the application site. The site is situated on the corner of Zwaanswyk and Meerlust Road, in Karindal, Stellenbosch. Karindal is one of the older residential suburbs in Stellenbosch with predominantly conventional residential erven. The application site is within walking distance from both Stellenbosch Primary School and Stellenbosch High School. Vehicular and pedestrian access to the application site is currently gained from Zwaanswyk Road.



Figure 1 Locality of Application Site



Figure 2 Aerial view



## 2.3 Current Land Use and Zoning

There is an existing double-storey residential house, comprising of five bedrooms, currently developed on the application site. As mentioned, an additional garage and playroom has been added to the existing building. The zoning of property is regulated in terms of the Stellenbosch Municipality Zoning Scheme By-Law, 2019. According to the zoning scheme the site is zoned as **Conventional Residential Zone**, which allows for the following land uses on the site:

Primary Uses	Additional Uses (not exceeding threshold in this chapter and subject to technical approval)	Consent Uses (application required)
<ul style="list-style-type: none"> <li>• Dwelling house</li> </ul>	<ul style="list-style-type: none"> <li>• Bed and breakfast establishment</li> <li>• Home day care centre</li> <li>• Home occupation practice</li> <li>• Home lodging</li> <li>• Second dwelling</li> <li>• Occasional use (one event/year)</li> <li>• Private road</li> </ul>	<ul style="list-style-type: none"> <li>• Commune</li> <li>• Extramural facility</li> <li>• Group housing</li> <li>• Guest house</li> <li>• House shop</li> <li>• Occasional use (&gt;one event/year)</li> <li>• Tourist dwelling unit</li> <li>• Additional uses exceeding parameters in this chapter</li> </ul>

Table 2 Summary of land uses

The following building development parameters area applicable to Conventional Residential zoned erven:

Area of Land Unit	Street Boundary Building Lines	Common Boundary Building Lines	Coverage	Height
501m <sup>2</sup> - 1 500m <sup>2</sup>	4m and 1m for garage	2.5m and 0m for garage	The greater of 300m <sup>2</sup> or 50% = 473.5m <sup>2</sup>	2 Storeys

Table 3 Building development parameters

As can be seen from the above two tables and the title deed conditions listed under Section 2.1 of this report, the title deed conditions are much more restrictive than the Zoning Scheme.

## 3. DEVELOPMENT PROPOSAL

### 3.1 Overview

The proposal includes the regularisation of the additions already developed on the application site. These additions, as mentioned in Section 1.1 of this report, includes a garage on the western common boundary and a playroom on the north-eastern corner of the application site. It is important to note that the existing dwelling house is already developed beyond the building lines applicable in terms of Restrictive Title Deed Condition B.6.(d). The additional coverage, as a result of these additions, equates to 59m<sup>2</sup>, which brings the total proposed coverage to 375m<sup>2</sup>. Furthermore, this equates to a coverage percentage of 39.6%, which is below the allowable 50% of the Zoning Scheme but above the 33.3% restriction of the Title Deed. Please refer to Annexure D for the SDP, Floor Plans and Elevations. Figure 3, below, indicates the existing structures that requires regularisation (in red):

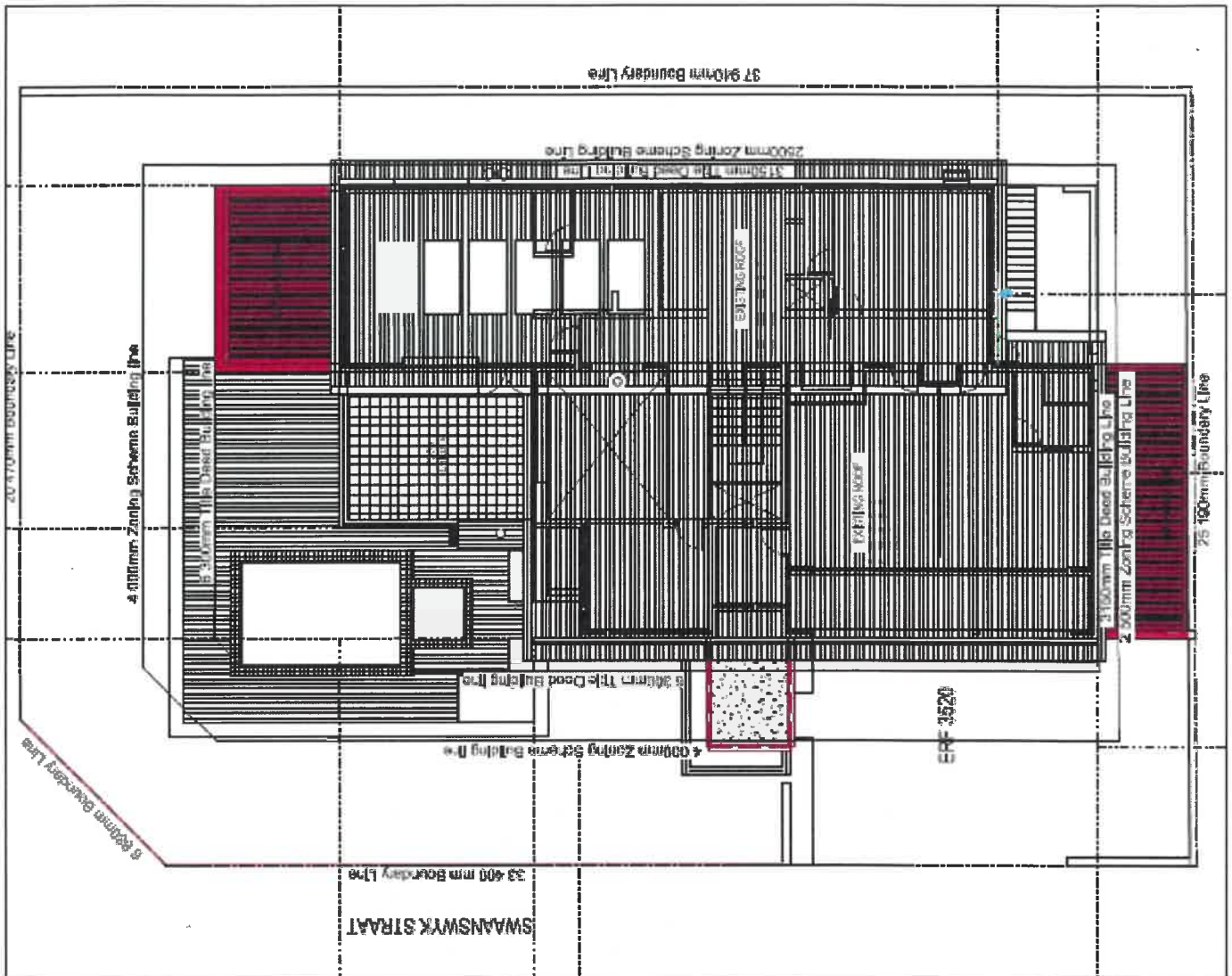


Figure 3 Proposed extensions (already developed)

As stated, the application site is situated on the corner of Meerlust and Zwaanswyk Road. Due to the application site being a corner erf, the 6.3m Title Deed Building Line is applicable to two boundaries of the application site. This results in a significant size of unusable area on the application site.

The existing dwelling house (except for the *Koi Pond* and *deck*) and existing additions is developed in line with the development rules and regulations of the Zoning Scheme. The additional garage, in particular, is allowed on the common boundary of the application site as per the provision of Section 55.(2)(b) of the Zoning Scheme.

### 3.2 Development Parameters

Table 4, below, provides a comparison between the prescribed development parameters of the zoning scheme and those specified in the Title Deed:

COMPARISON OF DEVELOPMENT PARAMETERS: CONVENTIONAL RESIDENTIAL ZONE VS TITLE DEED:					
Development Rule	Permissible		Proposed	Applications Required	
	Zoning Scheme	Title Deed		Zoning Scheme	Title Deed
Street Boundary Building Lines	4m	6.3m	4m (except for existing <i>Koi Pond</i> and <i>deck</i> )	Compliant	Remove
Common Boundary Building Lines	2.5m	3.15m	2.5m	Compliant	Remove
Coverage	50% 473.5m <sup>2</sup>	33.3% 315.7m <sup>2</sup>	39.6% 375m <sup>2</sup>	Compliant	Remove
Height	2 Storeys	n/a	2 Storeys	Compliant	n/a

**Table 4** Compliance of Proposed Garage with Land Use Parameters

The proposal complies with all of the development parameters of the Zoning Scheme, but it extends beyond the building lines prescribed in the Title Deed and exceeds the coverage permitted in the Title Deed. Though the proposed development complies with the title deed conditions in terms of number of dwelling units (being only one) it is proposed to remove all the restrictive title deed conditions which is more restrictive than the Zoning Scheme. This will enable the owners to develop the application site in line with the latest land use management legislation, in the foreseeable future. Any future additional development of the application site, will however, be subject to building plan scrutiny and approval.

### 4. MOTIVATION

It is important to note that prior to the existence of zoning schemes, title deeds were used to govern and guide the development (by way of various conditions) of properties. Title deed conditions were used to regulate and protect the existing rights of all property owners. Without arguing that restrictive title deed conditions are redundant, it is motivated that Zoning Schemes and Municipal Policies now replaces the need for title deeds to govern the development of properties.

The removal of restrictive title deed conditions is a very costly and lengthy application process, and it is sensible for the landowner to address all issues in this application. This application is therefore merely to align the development rights of the application site with the more relevant and current Zoning Scheme and Policies of the Stellenbosch Municipality.

Even with the approval for the removal of restrictive title deed conditions, any further development on the application site will still be regulated by the development parameters of the Conventional Residential Zone (as listed in Tables 2 and 3 of this report).

Section 65(1) of the By-law sets out certain criteria which needs to be met in consideration of an application by the decision- making authorities. In line with this section, Table 5, below, sets out the criteria and assesses the application accordingly:

<b>Section 65(1) Criteria</b>	<b>Assessment of Proposal</b>
a. Application submitted in terms of the By-law.	The application is submitted in terms of Sections 15(2)(f) of the By-law.
b. Procedure followed in terms of processing the application	To be decided. All relevant and required documentation are attached to this application and motivation.
c. Desirability of land use	<p>The applications for the removal of restrictive title deed conditions will not negatively affect the existing or future land use of the site. The land use will stay as is, being conventional residential. In terms of the Removal of Restrictive Title Deed Conditions, it is further motivated that:</p> <ul style="list-style-type: none"> <li>- The approval of the application will not have a negative impact on the surrounding properties as it is in character with similar developments in the immediate and surrounding residential neighbourhood.</li> <li>- The approval of this application will not result in an unusual advantage for the owners of the application site. Any future development will have to comply with the provisions of the applicable Zoning Scheme.</li> <li>- The existing additions to the existing house, resulting in a marginal increase in coverage is still below the permissible coverage and will not result in the overdevelopment of the site. It is appropriate in the context of the area.</li> <li>- The existing rights of the surrounding neighbours will not be impacted in a negative way if the title deed restrictions are removed.</li> <li>- The removal of the title deed restrictions will have no impact on any of the infrastructure services in the area.</li> </ul>
d. Comment in response to public participation.	The application to be advertised in accordance with the Stellenbosch Municipality's requirements.
e. Applicants response to comments received.	To be submitted as part of the Portfolio of Evidence upon conclusion of the Public Participation Process.
f. Investigations in terms of other laws.	Not Applicable.
g. Written assessment by planner.	To be done by the Stellenbosch Municipality.
h. Impact on municipal engineering services.	None

<p>i. The IDP and SDF</p>	<p>Stellenbosch Municipality recently approved a new MSDF, which is used to guide land use decisions in both the short and long term. This document conceptualizes seven core principles. While not all these principles are of pertinence to this application, the relevant principles are indicated below.</p> <p><i>Maintain and grow the assets of Stellenbosch Municipality's natural environment and farming areas:</i> This application will not have any impact on the Municipality's natural environment and farming areas as the proposed development is located well within the urban edge.</p> <p><i>Respect and grow cultural heritage:</i> In line with the Stellenbosch Municipality's SDF, the proposed development will contribute to sensitive densification of an established conventional residential area.</p> <p><i>Clarify and respect the different roles and potentials of existing settlements:</i> As identified throughout this report, the application site is located within an area earmarked for conventional residential development. By allowing for the removal of the restrictive title deed conditions, the approval thereof will contribute to realising the potential of the conventional residential property to be sensitively densified.</p> <p><i>Ensure balanced, sustainable communities:</i> It is required that future development within Stellenbosch take cognisance of the fact that the municipality is experiencing increased congestion. The removal of the title deed restrictions could allow for a second dwelling unit to be developed on the erf (with Council's consent). As per the SDF, development and densification must be prioritised within a radius of 1km of residential areas. It is important that the sensible densification in Stellenbosch should be supported to allow for the optimal use of land, services and infrastructure (including public transport).</p> <p>Furthermore, some of the main principles of the SDF relevant to this application includes:</p> <ul style="list-style-type: none"> <li>- The principle of appropriate densification,</li> <li>- Development approvals should be guided by the need to achieve the settlement densities needed to make the public transport system financially and operationally viable.</li> <li>- Subdivisions, second dwellings, sectional title, re-development of existing low-density areas, infill and brownfield land opportunities should be prioritized over greenfield sites, as guided by the SDF.</li> </ul> <p>The application promotes all the above highlighted principles of the SDF.</p>
<p>j. IDP and SDF of district Municipality.</p>	<p>In line with this applicable plan and framework.</p>
<p>k. IDP and SDF of local Municipality</p>	<p>Discussed and addressed under i and j, above.</p>
<p>l. Applicable structure plans</p>	<p>N/A</p>
<p>m. Applicable policies for decision making</p>	<p>Aligned.</p>
<p>n. Provincial spatial development framework</p>	<p>The application is in line with the Municipal and District SDF and IDP, which is informed by the provincial IDP and SDF which all promotes densification. Thus, the application is in line with the provincial SDF.</p>
<p>o. Regional spatial development framework.</p>	<p>N/A</p>



p. National policies, norms, and criteria.	N/A
q. Section 42 of the Spatial Planning and Land Use Act	The application is considerate towards the requirement and provisions of Section 42 of the Spatial Planning and Land Use Management Act.
r. Chapter VI of the Land Use Planning Act	<p><b>Spatial Justice:</b> Aligned. The proposal includes an opportunity of a second dwelling within proximity of various schools, health facilities and other points of interest.</p> <p>Considering the location of the property, it may be justified that the property owner deserves the opportunity of developing the property to its maximum potential, whilst being sensitive towards the character of the area.</p> <p><b>Spatial Sustainability:</b> Aligned. The proposal complies with this principle by ensuring that the development of the property will create a more compact Stellenbosch. It will also contribute to the promotion of land development in a location that will limit urban sprawl.</p> <p><b>Efficiency:</b> Aligned. This application entails the utilisation of existing infrastructure on an optimal level. The proposal will allow for the efficient utilisation of land.</p> <p><b>Good Administration:</b> The approval of this application will be in the best interest of the Stellenbosch Municipality.</p> <p><b>Spatial Resilience:</b> Through the approval of this application, there will be no negative impact on the surrounding area; nor would there be any additional risk to the resilience of human residents in the area.</p>
s. Applicable provisions of the Zoning Scheme	As discussed, the proposed development is in line with the provisions of the Zoning Scheme.

Table 5 Assessment of Application in terms of Section 65 of the By-law

## 5. CONCLUSION

The approval of this application is argued to be favourable, considering the nature of this application, the applicable policies and frameworks of the Stellenbosch Municipality and the legislation in terms of land use regulation. In light of the above information, Council is respectfully requested to favourably consider the application for the following:

- i. The **removal of the following restrictive title deed conditions** from Deed of Transfer No. T17049/2021:
- C.5.
  - C.6 (a)- (d)
  - D..1

Report compiled by:



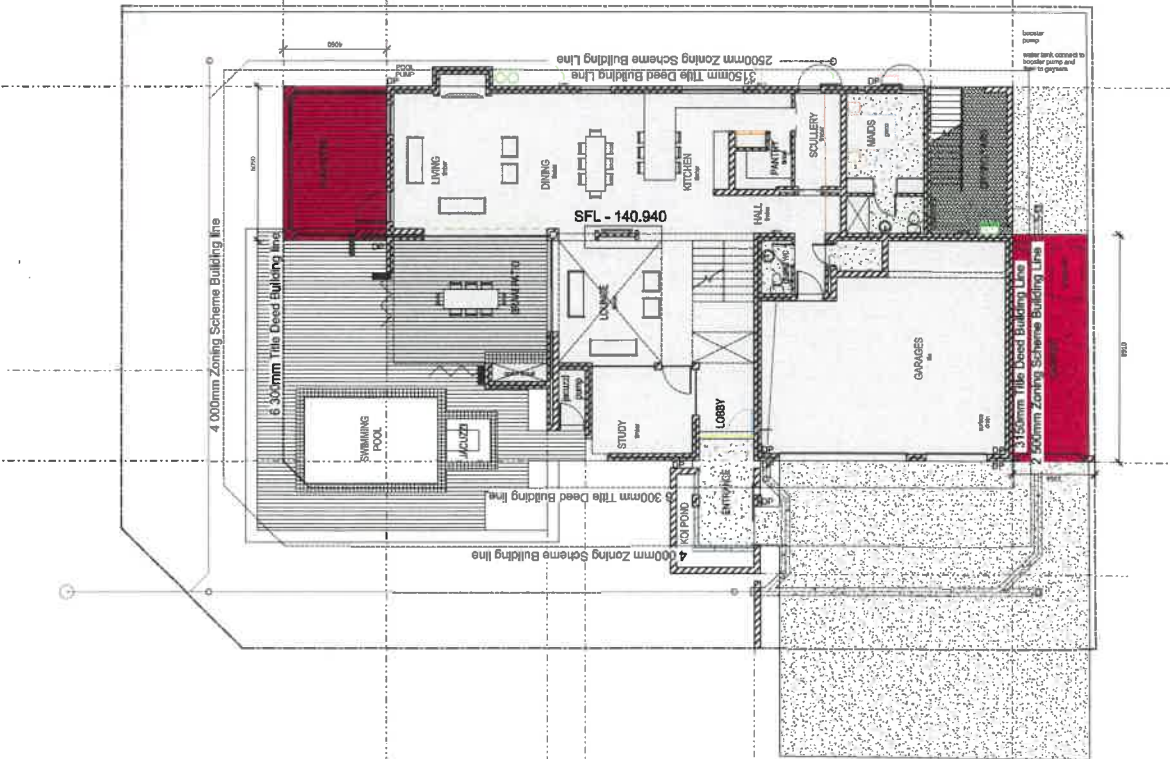
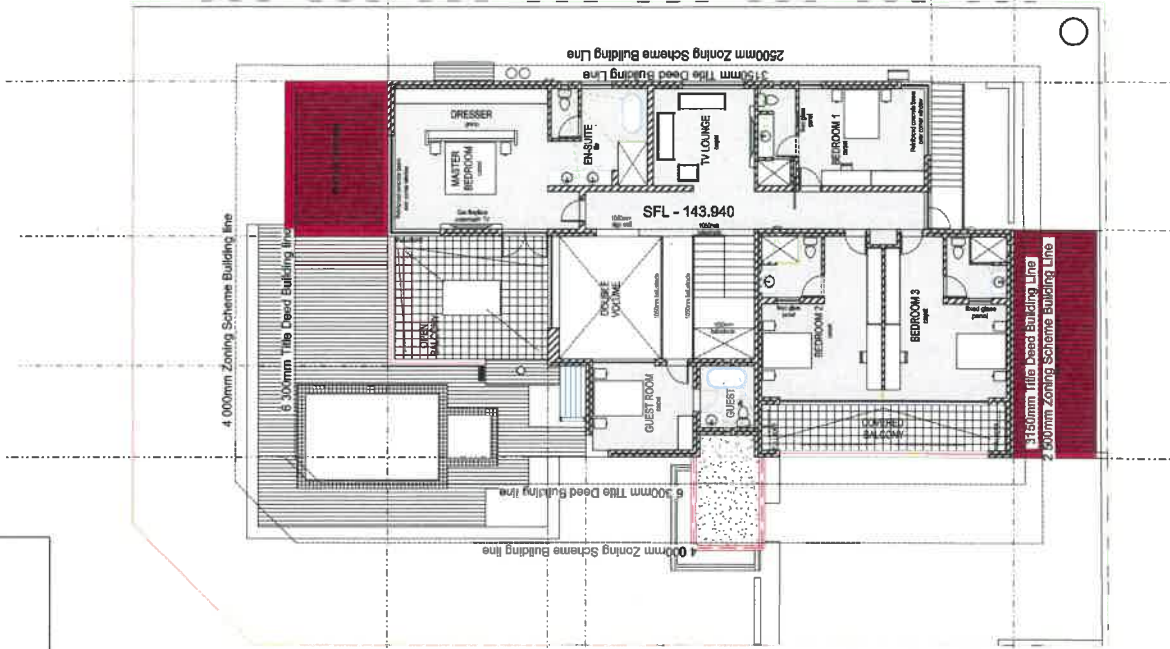
Marike Bolz (Director)

for Arch Town Planners (Pty) Ltd

May 2022

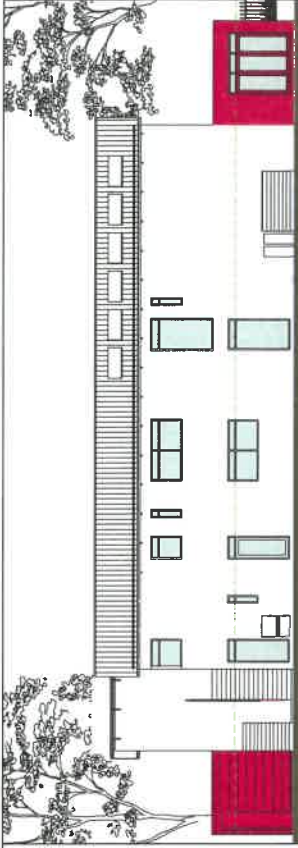
**COVERAGE**

EXIST AS APPROVED	316m2
EXIST AS BUILD (incl. playroom & carport)	375m2

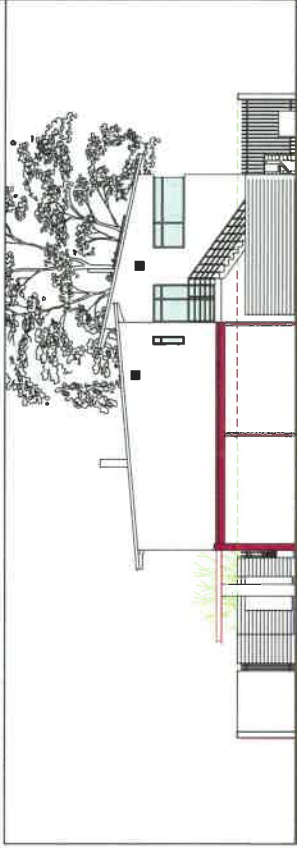


**first floor plan 1:100**

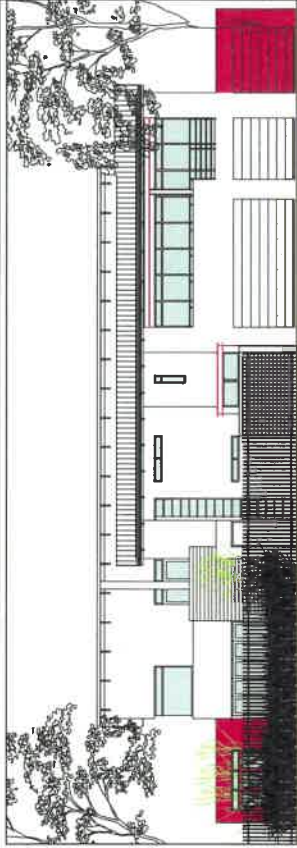
**ground floor plan 1:100**



north elevation 1:100



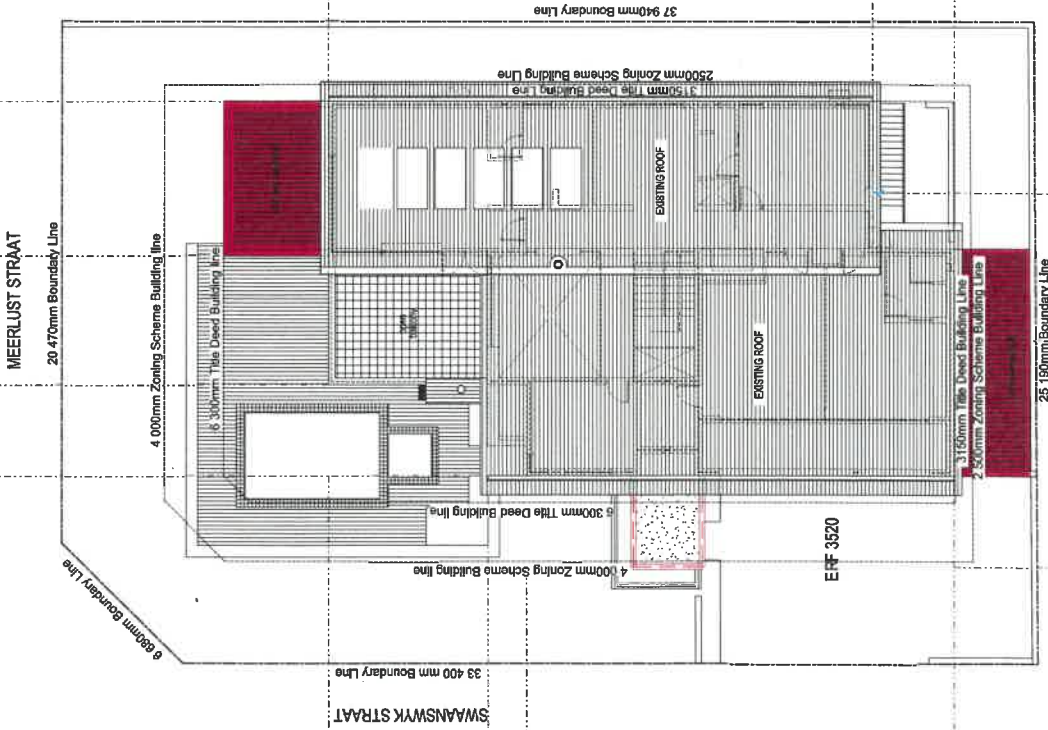
east elevation 1:100



south elevation 1:100



west elevation 1:100



site & roof plan 1:100