



STELLENBOSCH

STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNISIPALITEIT • UMASIPALA • MUNICIPALITY

Application Number: LU/14880 (TP178/2022)

Our File Reference Number: Erven 16863 -16898 & 16900 – 17029, Stellenbosch

Your Reference Number:

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PER E-MAIL: [REDACTED]

Sir/Madam

APPLICATION FOR DEPARTURE IN TERMS OF SECTION 15(2)(B) OF THE STELLENBOSCH MUNICIPALITY LAND USE PLANNING BY-LAW IN ORDER TO ALLOW A 1,2M HIGH VIBRACRETE WALL ON THE STREET BOUNDARIES OF ERVEN 16863-16898 & 16900-17029, STELLENBOSCH

1. The above application refers.
2. The Municipal Planning Tribunal on 31 March 2023 resolved as follows:
 - 2.1 That the following departure applications in terms of Section 15(2)(b) of the Stellenbosch Municipality Land Use Planning Bylaw, promulgated by notice number 354/2015, dated 20 October 2015 on Erf 16863-16898 & 16900-17029, Stellenbosch, namely:

- 2.1.1 To depart from the provisions of Section 23(4) of the Stellenbosch Municipality Zoning Scheme By-Law, 2019 in order to allow a 1,2m high vibracrete wall on the street boundaries of Erf 16863-16898 & 16900-17029, Stellenbosch

BE APPROVED in terms of Section 60 of the said By-law and subject to conditions of approval.

2.2 The approval is subject to the following conditions imposed in terms of Section 66 of said By-law:

- 2.2.1 The approval will lapse if not implemented / confirmed within five years from the date of final notification of approval of the application.
 - 2.2.2 The approval only applies to the proposed departure under consideration and not be construed as authority to depart from any other legal prescriptions or requirements from Council or other legislation or Bylaws or Regulations be applicable.

2.2.3 The development be undertaken generally in accordance with the site plan as referenced drawing no. 301 dated 19 August 2022 and drawn by Oscar Schmidt Architecture and attached as **Annexure C**.

2.2.4 The approval granted not exempt the applicant from complying with any other legal prescriptions or requirements that might have a bearing on the proposed use.

2.2.5 The approval granted not be contradictory to any other legislation which has a bearing on the use of the property, and should any other legislation be applicable and be more restrictive, then the most restrictive conditions will apply.

2.2.6 Building plans be generally in accordance with the site plan as referenced drawing no. 301, dated 19 August 2022 and drawn by Oscar Schmidt Architecture and attached as **Annexure C**.

2.2.7 The vibracrete walls all have matching exposed aggregate finish on the street side.

2.3 The reasons for the above decision are as follows:

2.3.1 The proposed development is in line with the existing land use of the property and will thus not impact negatively on the character of the area.

2.3.2 Due to the nature of the housing project, it can be considered as acceptable as it is more cost effective and provides more safety and privacy.

3. You are hereby informed in terms of section 79(2) of the Stellenbosch Municipal Land Use Planning Bylaw, 2015, of your right to appeal the above decision to the Appeal Authority within 21 days from the date of notification of the above decision. Please note that no late appeals or an extension of time for the submission of appeals are permitted in terms of Section 80(1)(a) of the said By-Law.

4. Appeals must be submitted with the prescribed information to satisfy the requirements of Section 80(2) of the said By-law, failing which the appeal will be invalid in terms of Section 81(1)(b) of the said By-Law. The following prescribed information is accordingly required:

(a) The personal particulars of the Appellant, including:

(I) First names and surname;

(II) ID number;

(III) Company of Legal person's name (if applicable)

(IV) Physical Address;

- (V) Contact details, including a Cell number and E-Mail address;
- (b) Reference to this correspondence and the relevant property details on which the appeal is submitted.
- (c) The grounds of the appeal which may include the following grounds:
 - (i) that the administrative action was not procedurally fair as contemplated in the Promotion of Administrative Justice Act, 2000 (Act 3 of 2000);
 - (ii) grounds relating to the merits of the land development or land use application on which the appellant believes the authorised decision maker erred in coming to the conclusion it did.
- (d) whether the appeal is lodged against the whole decision or a part of the decision;
- (e) if the appeal is lodged against a part of the decision, a description of the part;
- (f) if the appeal is lodged against a condition of approval, a description of the condition;
- (g) the factual or legal findings that the appellant relies on;
- (h) the relief sought by the appellant; and
- (i) any issue that the appellant wishes the Appeal Authority to consider in making its decision;
- (j) That the appeal includes the following declaration by the Appellant:
 - (i) The Appellant confirms that the information contained in the subject appeal and accompanied information and documentation is complete and correct
 - (ii) That the Appellant is aware that it is an offence in terms of Section 86(1)(d) of the said By-Law to supply particulars, information or answers in an appeal against a decision on an application, or in any documentation or representation related to an appeal, knowing it to be false, incorrect or misleading or not believing them to be correct.

5. Appeals must be addressed to the Municipal Manager and submitted to his/ her designated official by means of E-mail at the following address: landuse.appeals@stellenbosch.gov.za

6. Any party (applicant or other) who lodges an appeal must pay the applicable appeal fee in terms of the approved municipal tariffs and submit the proof of payment together with the appeal. The **LU** Reference number on this correspondence, or the applicable Erf/ Farm Number must be used as the reference for the payment of the appeal fee.
7. The approved tariff structure may be accessed and viewed on the municipal website (<https://www.stellenbosch.gov.za/documents/finance/rates-and-tariffs>) and the banking details for the General Account can also be accessed on the municipal website (<https://www.stellenbosch.gov.za/documents/general/8314-stellenbosch-municipality-banking-details-1/file>).
8. An applicant who lodge an appeal must also adhere to the following requirements stipulated in terms of section 80(3) to (7) of the said By-law:
 - (a) Simultaneously serve the appeal on any person who commented on the application concerned and any other person as the municipality may determine.
 - (b) The notice by the applicant must invite persons to comment on the appeal within 21 days from date of notification of the appeal.
 - (c) The notice must be served in accordance with section 35 of the said legislation and in accordance with the prescripts or such additional requirements as may be determined by the Municipality.
 - (d) Proof of serving the notification must be submitted to the Municipality at the above E-mail address within 14 days of serving the notification.
9. Kindly note that no appeal right exists in terms of Section 62 of the Local Government Municipal Systems Act, No 32 of 2000.
10. Kindly note the above decision is suspended, and in the case of any approval, may therefore not be acted on, until such time as the period for lodging appeals has lapsed, any appeal has been finalised and you've been advised accordingly.

Yours faithfully



FOR DIRECTOR: PLANNING AND ECONOMIC DEVELOPMENT

26/4/2023
DATE

Annexure C: Building Plan

