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Application Number: LU/14721 (TP118/2022)

Our File Reference Number: Erf 2151, Stellenbosch

Your Reference Number:

Enquiries: Ulrich von Molendorff

Contact No: 021 808 8682

Email address: Ulrich.Vonmolendorff@stellenbosch.gov.za

PER E-MAIL [REDACTED]

Sir

APPLICATION FOR AMENDMENT OF A CONDITION OF APPROVAL (SITE DEVELOPMENT PLAN) IN TERMS OF SECTION 15(2) OF THE STELLENBOSCH MUNICIPAL LAND USE PLANNING BYLAW, 2015 ON ERF 2151, STELLENBOSCH

1. The above application refers.
2. The duly authorised decision maker has decided on the above application as follows:
 - 2.1 That the following application in terms of Section 15(2) of the Stellenbosch Municipal Land Use Planning Bylaw, promulgated by notice number 354/2015, dated 20 October 2015 for a Permission required in terms of Section 15(2)(h) in terms of Condition 1.3.6, dated 28/07/2021 of the said Bylaw, for the approval of the Site Development Plan, for unregistered consolidated Erven 2151 ,2152, 2153, 11191, Stellenbosch.

BE APPROVED in terms of Section 60 of the said Bylaw and subject to conditions of approval.

- 2.2 The approval is subject to the following conditions imposed in terms of Section 66 of the said Bylaw:
- 2.3 The approval only applies to the proposal under consideration and shall not be construed as authority to depart from any other legal prescriptions or requirements from Council or other legislation or Bylaws or Regulations that may be applicable.
- 2.4 The approval granted shall not exempt the applicant from complying with any other legal prescriptions or requirements that might have a bearing on the proposed use.

2.5 The development be undertaken generally in accordance with the Site Development Plan as referenced (Dated 2022/09/20, Drawn by Cala Moller) and attached as **Annexure A**.

2.6 Building plans be generally in accordance with the Site Development Plan, Dated 2022/09/20, Drawn by Cala Moller Agitek (SK01 to SK04) and attached as **Annexure A**.

2.7 A detailed landscaping plan be submitted for consideration and approval by the relevant internal departments with the building plans.

2.8 Conditions of approval as noted in the initial approval letter, dated 28/07/2021, and attached as **Annexure B**, be complied with.

3. The reasons for the above decision are as follows:

3.1 The application for the approval of the revised site plan, Site Development Plan, Dated 2022/09/20, Drawn by Cala Moller Agitek (SK01 to SK04) and attached as **Annexure A**, will have no impact on the initial approval granted as the additional area approved is located in the basement and thus has no impact on the approved bulk and coverage of the top structure.

3.2 The approval of the revised Site Development Plan will provide the residents within the building with additional parking and storage space, without having an impact on the approved bulk and coverage of the top structure.

4. 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.

5. 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:

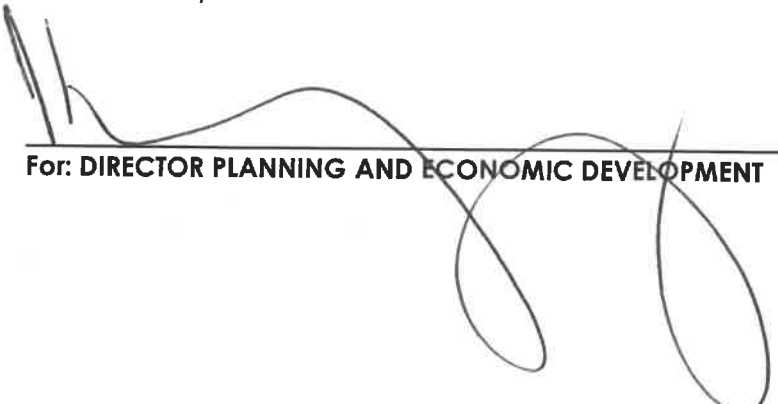
(i) The Appellant confirms that the information contained in the subject appeal and accompanied information and documentation is complete and correct

(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.

6. 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

7. 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.
8. 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>).
9. 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.
10. Kindly note that no appeal right exists in terms of Section 62 of the Local Government Municipal Systems Act, No 32 of 2000.
11. 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**

17/5/2023
DATE:



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ANNEXURE A



STELLENBOSCH MUNICIPALITY

THIS SITE DEVELOPMENT PLAN IS APPROVED IN
TERMS OF SECTION 60 OF THE STELLENBOSCH
MUNICIPAL LAND USE PLANNING BY-LAW (2015),
SUBJECT TO THE CONDITIONS AS PER APPENDIX

17/5/2023 DATE

MUNICIPAL MANAGER

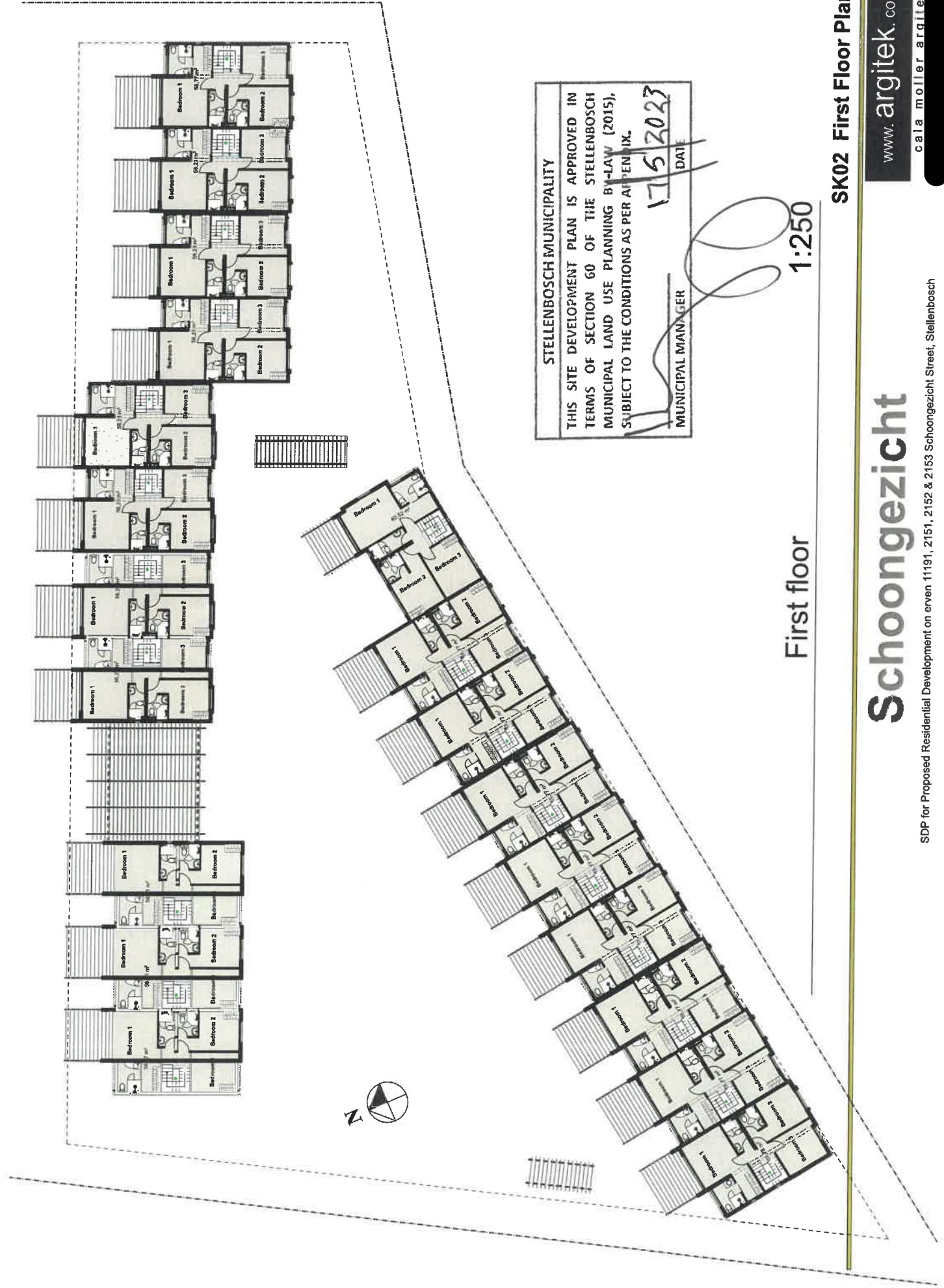
SK01 Ground Floor

Schoongezicht

www.argitek.co.za

SDP for Proposed Residential Development on erven 11191, 2151, 2152 & 2153 Schoongezicht Street, Stellenbosch

cala-moller-argitek
www.calamollerargitek.co.za



SK02 First Floor PlanR2

Schoongezicht

SDP for Proposed Residential Development on erven 11191, 2151, 2152 & 2153 Schoongezicht Street, Stellenbosch

www.argitek.co.za

cala mollier argitek

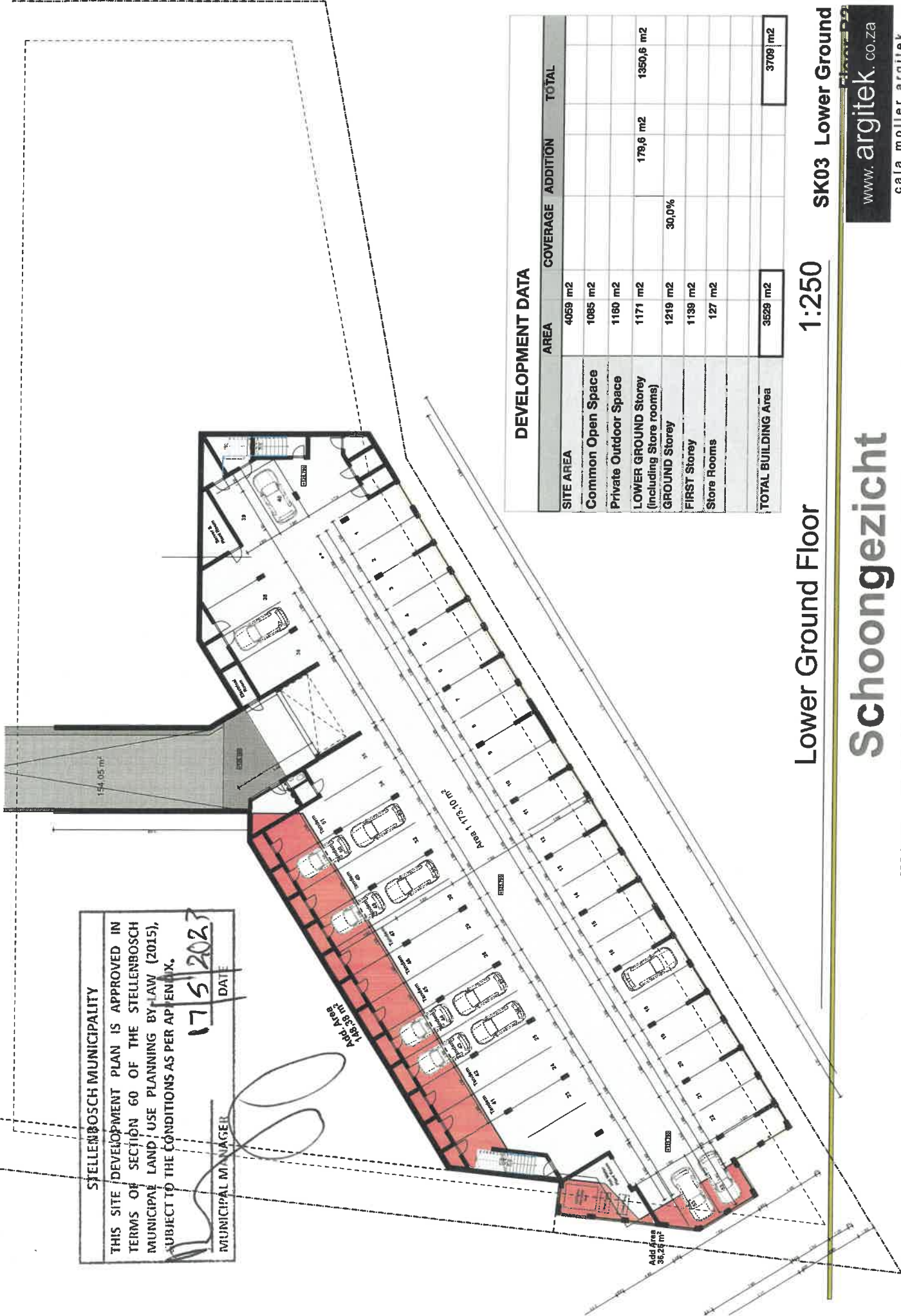
STELLENBOSCH MUNICIPALITY

THIS SITE DEVELOPMENT PLAN IS APPROVED IN
TERMS OF SECTION 60 OF THE STELLENBOSCH
MUNICIPAL LAND USE PLANNING BY-LAW (2015),
SUBJECT TO THE CONDITIONS AS PER APPENDIX.

MUNICIPAL MANAGER

DATE

17/5/2023



DEVELOPMENT DATA

SITE AREA	AREA	COVERAGE	ADDITION	TOTAL
Common Open Space	4059 m ²			
Private Outdoor Space	1085 m ²			
LOWER GROUND STOREY (including Store rooms)	1180 m ²			
GROUND STOREY	1171 m ²		179,6 m ²	1350,6 m ²
FIRST STOREY	1219 m ²	30,0%		
Store Rooms	1139 m ²			
	127 m ²			
TOTAL BUILDING AREA	3828 m ²			3708 m ²

Lower Ground Floor

1:250

SK03 Lower Ground

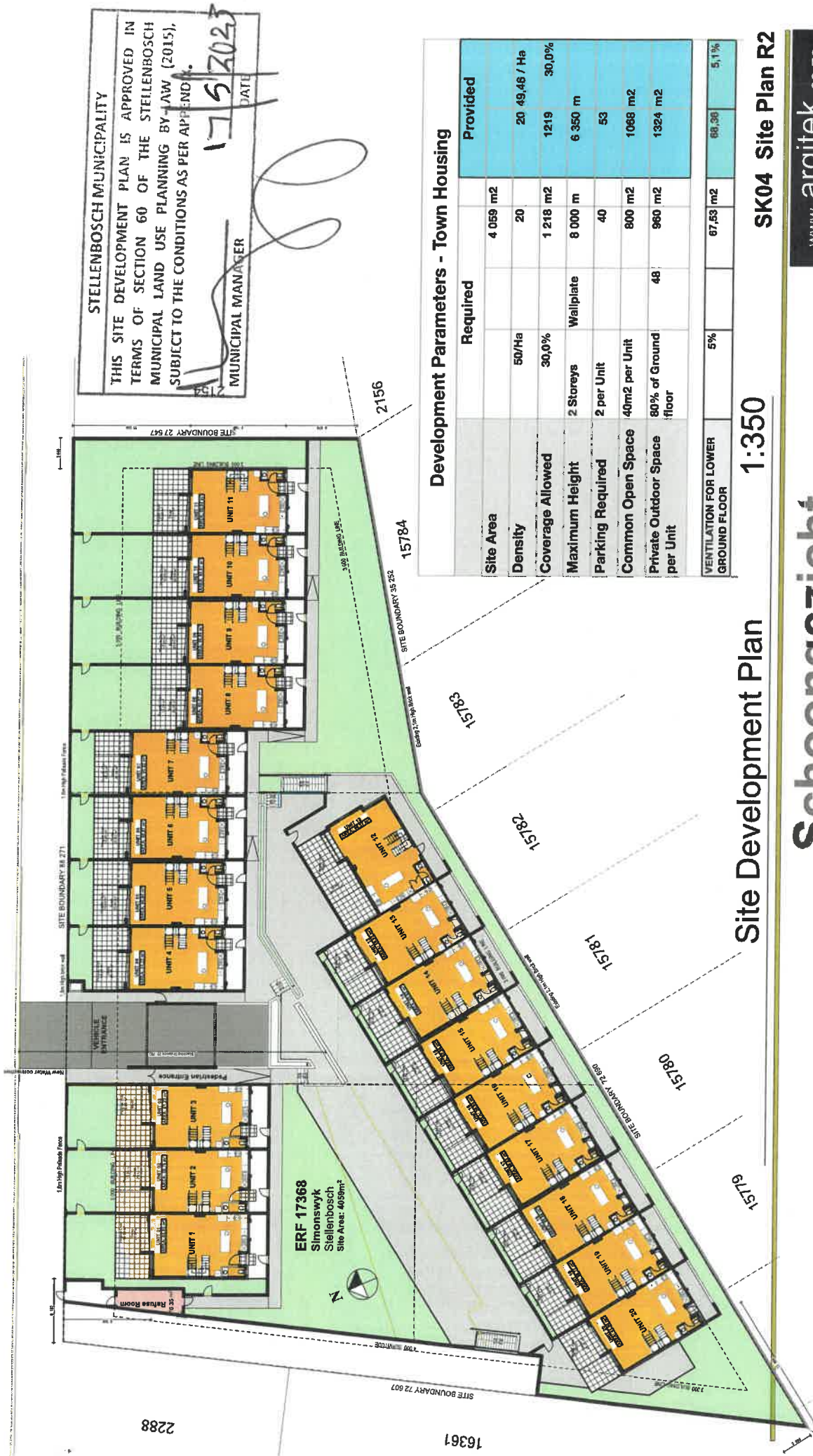
Schoongezicht

SDP for Proposed Residential Development on erven 11191, 2151, 2152 & 2153 Schoongezicht Street, Stellenbosch

www.argitek.co.za

cala moller argitek

Schoongezicht Street



Schoongezicht

SDP for Proposed Residential Development on erven 11191, 2151, 2152 & 2153 Schoongezicht Street, Stellenbosch

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ANNEXURE B



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Application Number: LU/10599

Our File Reference Number: Erven 2151, 2152, 2153 & 11191, Stellenbosch Division

Enquiries: Lenacia Kamineth / Odile Sims

Contact No: 021 808 8697/ 021 808 8684

Email address: Lenacia.Kamineth@stellenbosch.gov.za / Odilesims@stellenbosch.gov.za

Date: 28 July 2021

PER E-MAIL: gerhard@udwc.co.za

Dear Mr Swart

APPLICATION FOR A REMOVAL OF RESTRICTIVE CONDITIONS, CONSOLIDATION, REZONING AND DEPARTURES: ERVEN 2151, 2152, 2153 AND 11191, STELLENBOSCH

1. With reference to the appeals received relating Erven 2151, 2152, 2153 and 11191, Stellenbosch
2. Kindly find attached hereto the decision of the Appeal Authority for your attention.

Yours faithfully,


MUNICIPAL MANAGER



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NOTICE OF DECISION OF APPEAL AUTHORITY

APPEAL LODGED IN TERMS OF SECTION 79(2) OF THE STELLENBOSCH MUNICIPAL LAND USE PLANNING BY-LAW (2015): APPLICATION FOR A REMOVAL OF RESTRICTIVE CONDITIONS, CONSOLIDATION, REZONING AND DEPARTURES: ERVEN 2151, 2152, 2153 AND 11191, STELLENBOSCH

DECISION OF APPEAL AUTHORITY

The Appeal Authority hereby, in terms of Section 81(7) of the Stellenbosch Municipal Land Use Planning By-law 2015:

Tick the appropriate box:

CONFIRM		VARY	X	REVOKE	
THE DECISION OF THE AUTHORISED DECISION MAKER, ON THE 3rd of NOVEMBER 2020 AND THE 21st of JANUARY 2021, TO APPROVE IN TERMS OF SECTION 60 OF THE STELLENBOSCH MUNICIPAL LAND USE PLANNING BY-LAW DATED 20 OCTOBER 2015, AN APPLICATION FOR A REMOVAL OF RESTRICTIVE CONDITIONS, CONSOLIDATION, REZONING AND DEPARTURES: ERVEN 2151, 2152, 2153 AND 11191, STELLENBOSCH					
A: BACKGROUND					
<p>1. The abovementioned appeal refers.</p> <p>2. The Authorised Decision maker on the 23rd of October 2020 (as communicated on 3 November 2020) and the 21st of January 2021, partly approved, in terms of Section 60 of the Stellenbosch Municipal Land Use Planning By-law, promulgated by Notice no 354/2015 dated 20 October 2015, the application to allow the development of residential apartments (Annexure A).</p> <p>3. The application was approved subject to a number of conditions imposed in terms of Section 66 of the Stellenbosch Municipality Land Use Planning By-Law (2015).</p>					



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4. The Municipality received 15 appeals in respect of the abovementioned application in terms of Section 79(2) of the Stellenbosch Municipality By-Law against the decision of the Authorised Employee (**Annexure B**).
5. The appeal assessment report was drafted based on all documentation provided.
6. In order to comply with section 81(6) of the Stellenbosch Municipality Land Use Planning By-Law (2015), an inspection of the documents must be held before the handover to the Appeal Authority for consideration and decision making and the report was forwarded electronically to all relevant parties on the 13th and the 14th of May 2021.
7. Mr Maritz, Mr Botha, Mr Truter, Mr Hugo and Ms Smart submitted their comments in respect of the appeal assessment report where after all documentation was handed over to the Appeal Authority for consideration and decision making (**Annexure C**).
8. After careful consideration of the written appeal, as well as all the relevant documents, information and submissions made available to me as Appeal Authority, I have taken the following decision.

B. APPEAL RESOLUTION

1. The appeal submitted against the approval by the authorised decision maker on 23 October (communicated on 3 November 2020) and 21 January 2021 of the application for a removal of restrictive conditions, consolidation, rezoning and departures to permit the development of residential apartments on Erven 2151, 2152, 2153 & 11191, Stellenbosch, **BE UPHELD** and that the subject decision **BE VARIED** in terms of section 81(7) (b) of the Stellenbosch Municipal Land Use Planning By-law, 2015, as follows:



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1.1 That the following applications in terms of the Stellenbosch Municipal Land Use Planning By-Law (2015), for the proposed development of town housing on erven RE 2151, 2152, 2153 and 11191, Stellenbosch:

- a) The **consolidation**, in terms of Section 15(2)(e) of the Stellenbosch Municipal Land Use Planning By-Law (2015), of the following properties, to create an unregistered property of $\pm 4\,059\text{m}^2$ in size consisting of Rem Erf 2151, Erf 2152, Erf 2153 & Erf 11191, Stellenbosch;
- b) The **rezoning** of the unregistered consolidated property, in terms of Section 15(2)(a) of the Stellenbosch Municipal Land Use Planning By-Law (2015), from Single Residential Zone to Group Housing to accommodate a town housing development;
- c) The **removal of the following restrictive title deed conditions**, in terms of Section 15(2)(f) of the Stellenbosch Municipal Land Use Planning By-Law (2015):

Re/Erf 2151 Stellenbosch	T37247/2009	H
		J(G)
		I(IV)(d)
		I(IV)(b)
		I(IV)(c)
		I(II)
		I(III)
		J(D)
		J(E)
		J(F)
Erf 2152 Stellenbosch	T24042/2011	H
		J(g)
		I(IV)(d)
		I(IV)(b)
		I(IV)(c)
		I(IV)(a)



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		I(ii)
		F
		G
		I(iii)
		J(d)
		J(e)
		J(f)
Erf 2153 Stellenbosch	T37432/2010	E
		F(ii)(4)(7)
		F(i)(4)(d)
		F(i)(4)(b)
		F(i)(4)(c)
		F(i)(4)(a)
		F(i)(2)
		F(i)(3)
		F(ii)(4)
		F(ii)(5)
		F(ii)(6)
Erf 11191 Stellenbosch	T35568/2012	H
		J(7)
		F
		G
		I(4)(d)
		I(4)(b)
		I(4)(c)
		3
		I(2)
		J(4)
		J(5)
		J(6)

BE APPROVED in terms of Section 60 of the said Bylaw and subject to conditions of approval in terms of Section 66 of the said Bylaw.

1.2 That the following applications in terms of the Stellenbosch Municipal Land Use Planning By-Law (2015), for the proposed development of town housing on erven RE 2151, 2152, 2153 and 11191, Stellenbosch:

- a) A **permanent departure**, in terms of Section 15(2)(b) of the Stellenbosch Municipal Land Use Planning By-Law (2015), pertaining to the provisions of Section 10.2.3(c) of the Stellenbosch Zoning Scheme Regulations (1996), to



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permit a height of 3 storeys, in lieu of 2 storeys and to permit a height of 9.79m in lieu of 8.0m, for residential units within a Group Housing Zone to accommodate a town housing development;

b) A **permanent departure**, in terms of Section 15(2)(b) of the the Stellenbosch Municipal Land Use Planning By-Law (2015), pertaining to the provisions of Section 10.3.3(e)(ii) of the Stellenbosch Zoning Scheme (1996), to permit a density of 103 units per ha, in lieu of 50 units per hectare within a Group Housing Zone to accommodate a town housing development comprised of 42 units;

c) A **permanent departure**, in terms of Section 15(2)(b) of the the Stellenbosch Municipal Land Use Planning By-Law (2015), pertaining to the provisions of Section 10.2.3(a)(i) of the Stellenbosch Zoning Scheme (1996), to allow the following building lines:

- (i) A street building line of 1m in lieu of 5m, to accommodate the proposed wooden deck only;
- (ii) A lateral building line of 1m in lieu of 3m, to accommodate the proposed wooden deck only;
- (iii) A lateral building line of 0m, to accommodate a refuse area as required by the Municipality;

NOT BE APPROVED in terms of Section 60 of the said Bylaw.

1.3 Conditions of approval

1.3.1 The approval applies only to the application in question and shall not be construed as authority to depart from any other legal prescriptions or requirements from Council.



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- 1.3.2 The basement parking area may not protrude above ground level at any point of the subject properties.
- 1.3.3 The refuse room be relocated / placed on the north western side of the property adjoining the servitude area and still complies to the street building line.
- 1.3.4 A boundary wall be constructed along Schoongezicht that complies with the current parameters applicable to a street boundary wall. (Stellenbosch Municipality Zoning Scheme By-Law, 2019).
- 1.3.5 An Urban Designer be formally appointed by the applicant at his cost to undertake an urban design study to aid in reducing the impact of the building on the surrounding area.
- 1.3.6 A revised Site Development Plan with detailed landscaping plan be submitted for approval by the Director: Planning and Economic Development which is endorsed by the urban designer.
- 1.3.7 The revised landscaping plan to include sidewalk planting plan but also make provision for pedestrian movement on the sidewalk area of Schoongezicht Street.
- 1.3.8 The applicant submits an electronic copy (shp, dwg, dxf) or A4 hard copy of the SG diagrams, which was preliminary approved by the SG. The following information be indicated:
 - (a) Newly allocated Erf Numbers;
 - (b) Co-ordinates;
 - (c) Survey Dimensions.
- 1.3.9 The consolidated property be registered with the Deeds Office prior to building plan approval being granted by the Building Department.
- 1.3.10 The building plans may only be submitted once the revised Site Development Plan has been approved.
- 1.3.11 That the conditions imposed by the Director: Infrastructure Services in its memo dated 10 December 2019 be adhered to as attached as Appendix G.



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1.3.12 That development contributions are payable before the approval of building plans for the new building and which amount will be calculated in accordance with the approved council tariffs in force at the time of payment.

1.4 The above decision was made for the following reason(s) in terms of section 81(7)(c) of the said By-law:

1.4.1 The proposed infill development adheres to the general recommendations in the MSDF for densification for the subject area and can be supported.

1.4.2 The specific properties are well located with good access for the intended redevelopment and densification.

1.4.3 The proposed departures for height, density as well as building lines will however result in the over-development of the subject properties to the extent that it will have a detrimental impact on the area and adjoining properties.

SIGNATURE:

Adv. Gesle van Deventer

DATE: 28/07/2021

Adv. Gesle van Deventer

EXECUTIVE MAYOR

(Appeal Authority in terms of Section 79(1) of the Stellenbosch Municipal Land Use Planning By-Law)