

MINUTES: STELLENBOSCH MUNICIPAL PLANNING TRIBUNAL 25 OCTOBER 2024

MINUTES OF THE STELLENBOSCH MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON WEDNESDAY, 25TH OF OCTOBER 2024 AT THE STELLENBOSCH COUNCIL CHAMBERS, STELLENBOSCH MUNICIPALITY, PLEIN STREET, STELLENBOSCH FROM 10H00- 15H00

**Ref. no. 3/4/5/2/40
2024-10-25**

Chairperson

Mrs H Crooijmans-Lemmer

Deputy-Chairperson

Mr P Van Zyl

External Members

Mrs C Havenga

Mr D Leo

Mr S Boshoff

Internal Members

Mr A Barnes: Director - Planning and Economic Development

Mr A van der Merwe: Senior Manager - Community Services

Mr M Williams: Senior Legal Advisor

Mrs M Francis: Senior Manager - Infrastructure Planning, Development, and Implementation

Technical Advisor

Mr K Munro: Director Development Management, Department Environmental Affairs and Development Planning

Officials

Mr S Carstens: Senior Manager: Development Management

Mrs C Kriel: Manager: Land Use Management

Ms N Dafeti: Town Planner

Ms O Vergotine: Administrative Officer

Mr R Fooy: Senior Town Planner

Visitors

Mr Dupre Lombard

Mr Charles Collins

Mr Chris Rabie

Mr André Wiehahn

MINUTES: STELLENBOSCH MUNICIPAL PLANNING TRIBUNAL 25 OCTOBER 2024

ITEM	SUBJECT
SMPT 01/003/24	OPENING AND WELCOME
	Chairperson Crooijmans-Lemmer welcomed all present.

SMPT 02/003/24	LEAVE OF ABSENCE
	None

SMPT 03/003/24	DISCLOSURE OF INTERESTS
	None received

SMPT 04/003/24	MINUTES OF THE PREVIOUS MEETING DATED 24 MAY 2024
	The minutes of the previous meeting was noted.

	MATTERS FOR CONSIDERATION
SMPT 05/003/24	REZONING AND SUBDIVISION OF FARM 717/1, PAARL DIVISION FROM AGRICULTURAL ZONE I TO SUB DIVISIONAL AREA WITH A DEPARTURE AND CONSENT FOR WAREHOUSING AND TRANSPORT USAGE Discussion: <ul style="list-style-type: none">a. Chairperson Crooijmans-Lemmer handed over to Mr Fooy to give a brief introduction of the application that served before the Tribunal.b. Mr Chris Rabie and Mr André Wiehahn from Interactive Town & Regional Planning made a presentation on behalf of the owner of Heen-en-Weer Farm 749. Farm 749 is land locked and is looking for a solution for access via the adjacent property, Farm 717/1. See presentation attached.

- c. Mr Dupre Lombard from Viridus Works made a presentation on behalf of the owner Mr Charles Collins of Farm 717/1. See presentation attached.

The chairperson thanked the presenting parties and the following discussion was held in a closed MPT session.

- d. Three aspects were of concern and were discussed, namely:

- i) The road access options have not been finalised to an agreed outcome.
- ii) The ownership and maintenance of the open space must be reconsidered, and thus the zoning of Private Open Space or Public Open Space. Although the lack of maintenance of public open space might be a reality, the benefit of a future possible open space system throughout the area should not be undermined. Consideration should be given on possible options that will address current realities with maintenance and future possibilities to be part of an accessible open space system. For such purpose a zoning of public open space with interim arrangements on access and maintenance must be considered.
- iii) The use of the land west of the open space system must be reconsidered in line with the alternative options presented. Although there are examples of coexistence of light industrial and residential uses, the type of industrial uses must be considered as well as the interface with the property to the north which is also designated for residential development. The continuation of a component of residential development to the west is therefore preferred from a spatial planning perspective.

- e. The Tribunal notes the request from the applicant to refer the application back.

UNANIMOUSLY RESOLVED:

1. That the application be referred back for the applicant to specifically also address the following matters:
 - 1.1. The proposed rezoning to subdivisional area application must comply with the requirements as stipulated in section 17(8) of the Municipal Land Use Planning Bylaw.

MINUTES: STELLENBOSCH MUNICIPAL PLANNING TRIBUNAL 25 OCTOBER 2024

	<p>1.2. The application reflects the municipal policy position in relation to the position of the land uses east and west of the river and the zoning and management of the open space area.</p> <p>1.3. The application be amended to include the subdivision plan to indicate as a minimum the road portions.</p>
<p>SMPT 06/003/24</p>	<p>CONSENT USE FOR A TOURIST FACILITY (RESTAURANT AND FUNCTION VENUE) AND FOR TOURIST ACCOMMODATION ESTABLISHMENT ON FARM No. 1106, PAARL DIVISION</p> <p>Discussion:</p> <ol style="list-style-type: none"> Chairperson handed over to Mrs Dafeti to give a brief introduction of the application that served before the Tribunal. The proposal was briefly discussed after clarity was given about the policy guidelines on tourist accommodation on farms. <p>UNANIMOUSLY RESOLVED:</p> <ol style="list-style-type: none"> That the application for a Consent Use on Farm No. 1106, Stellenbosch Division to allow a tourist accommodation establishment within six existing cottages, deviates from the provisions of the Stellenbosch Municipality SDF as contemplated in terms of Section 19 of the Western Cape Land Use Planning Act, 2014 (Act 3 of 2014), for the following reasons: <ol style="list-style-type: none"> The proposed development exceeds the number of dwelling units and coverage prescribed by the MSDF for Agricultural properties and thus is in conflict with the spatial planning objectives of the MSDF. That it BE DECIDED that the application for Consent Use on Farm No. 1106, Stellenbosch Division to allow a tourist accommodation establishment within six existing cottages does warrant site specific circumstances as contemplated in terms of Section 22(2) of Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) for the following reasons: <ol style="list-style-type: none"> The proposed development will utilise the same cottages as approved in 2011 as a temporary land use departure. The context of

	<p>the development is the same as that of the 2011 and is subservient to agricultural activities found on the farm.</p> <p>3. That the following applications in terms of Section 15(2) of the Stellenbosch Municipality Land Use Planning By-Law, 2023 on Farm No. 1106, Stellenbosch Division, namely:</p> <p>3.1. A consent use in terms of Section 15(2)(o) of the said by-law for the following:</p> <p>3.1.1. a tourist facility to utilise the existing wine tasting facility and outside seating area for restaurant purposes and to utilise the said existing wine tasting area as Function Venue; and</p> <p>3.1.2. In order to allow the existing six units to be utilised as tourist accommodation establishment.</p> <p>3.2. A permanent departure in terms of Section 15(2)(o) of the said by-law to exceed the permissible 120m² coverage prescribed for additional dwelling units to 124,628m² (cottage A), 180,744m² (Cottage B) and to 129,979m² (Cottage C) in order to accommodate the proposed additions to the existing cottages.</p> <p>BE APPROVED in terms of Section 60 of the said Bylaw and subject to conditions of approval.</p> <p>4. The approval is subject to the following conditions imposed in terms of Section 66 of the said Bylaw:</p> <p>4.1. The approval only applies to the proposed Consent Use 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.</p> <p>4.2. The development and building plans must be undertaken generally in accordance with drawing no. 201-205, dated 16 November 2023 and drawn by Jan Desseyne Architects and attached as Annexure C.</p> <p>4.3. The proposed tourist facility shall be limited to 400m² (210m² outside seating and 190m² inside) as indicated on attached Floor Layout Plans in Annexure C.</p>
--	---

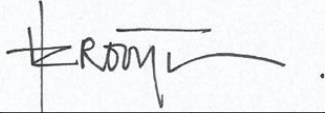
	<p>4.4. The Consent Uses (tourist facility and tourist accommodation establishment) must be subservient to the dominant agricultural use of the property.</p> <p>4.5. The 8-bedroom tourist accommodation establishment must be confined within the existing six self-catering units and no new buildings must be constructed.</p> <p>4.6. Condition as imposed by Department: Transport & Infrastructure in their letter dated 23 June 2023 be adhered to (See Annexure G).</p> <p>4.7. Development contributions are payable in accordance with the prevailing and applicable Council Tariffs at the time of payment prior to submission of any building plans.</p> <p>5. The reasons for the above decision are as follows:</p> <p>5.1. The proposed tourist facility is in line with the principles and guidelines of the Stellenbosch MSDF.</p> <p>5.2. The primary land use of the property will remain agriculture.</p> <p>5.3. The proposal is in line with the land uses found in the area, therefore it will not have a negative impact on the character of the area.</p> <p>5.4. The proposed land uses are confined within existing structures with proposed minor alterations and additions, thus agricultural viability of the subject property will not be affected.</p> <p>6. Matters to be noted:</p> <p>6.1. Conditions as imposed by Cape Winelands Health Services in their memo dated 24 November 2022 be adhered to (See Annexure H).</p> <p>6.2. 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.</p> <p>6.3. Building plans be approved by the Municipality prior to any building work commencing.</p> <p>6.4. A business license and a liquor license be applied for if required.</p> <p>6.5. Should, after following due process –</p>
--	--

MINUTES: STELLENBOSCH MUNICIPAL PLANNING TRIBUNAL 25 OCTOBER 2024

	<p>6.5.1. The subject approved land use remains in breach of complying with any of the conditions of approval required for the vesting of the subject approval, and/ or</p> <p>6.5.2. The operational use of the facility and establishment be in breach of any of the conditions of approval, inclusive of persistent complaints of undue noise levels, and/ or</p> <p>6.5.3. The property be used for any unauthorised uses not permitted in terms of this approval, the authorised official of the Municipality will exercise its discretion in terms of Section 90(c) of the Municipal Land Use Planning By-Law to withdraw the subject approval granted and the building structures to be reverted to uses in line with the primary use of the property.</p>
SMPT 07/003/24	OTHER MATTERS
6.1	<p>PLANNING POLICIES (REVIEWED OR APPROVED BY COUNCIL)</p> <p>a) The Municipality provided feedback on the progress with the draft zoning scheme bylaw. The Department received ad hoc input from various parties and are working on the final draft to advertise it before the end of the calendar year.</p> <p>b) Questions were raised about the introduction of PT-areas with reference to parking requirements and other local area overlay zones such as Dennesig.</p> <p>c) Chairperson Crooijmans-Lemmer shared that she attended a documentary film on gentrification in areas like Kylemore, Raithby, produced by the US Department of Geography in corporation with Department of Art as part of the Woordfees. A report is available on findings with recommendations made to the Stellenbosch Municipality. If the report and film is available, it can be shared with the MPT.</p> <p>d) The GIS Public Open Viewer has been finalised and will soon be launched.</p> <p>e) The Directorate completed the review of the IDP and MSDF and the item will serve at the next Council meeting. The review process indicates whether an amendment process will be followed.</p>
6.2	<p>APPEALS RECEIVED AGAINST MPT DECISIONS</p> <p>a) Appeals were previously submitted against the following MPT decisions: Val de Vine, Jamestown Housing, La Motte Bosdorp</p>

MINUTES: STELLENBOSCH MUNICIPAL PLANNING TRIBUNAL 25 OCTOBER 2024

	<p>Housing. All the appeals have been concluded in line with the MPT decision.</p> <p>b) The appeal decision on a condition of approval of The Bridge project is still outstanding.</p>
6.3	<p>GENERAL</p> <p>No further issues were discussed.</p>



Mrs H Crooijmans-Lemmer

CHAIRPERSON: MUNICIPAL PLANNING TRIBUNAL



Mr P van Zyl

DEPUTY-CHAIRPERSON: MUNICIPAL PLANNING TRIBUNAL



InterActive Town & Regional Planning
P.O. Box 980
Hermanus
7200

Date: 21 October 2024

Reference: P 749 Klapmuts

Attention: MPT Chairperson

FARM 749 KLAPMUTS: OWNERS PRESENTATION AS AFFECTED PARTY TO THE CONSIDERATION OF THE APPLICATION OF FARM 717 GROENFONTEIN

1. Introduction

Your approval to allow us an opportunity to do an oral presentation at the Municipal Planning Tribunal, in compliance with the Stellenbosch Municipality Land Use Planning By-Law (2023) regarding the application for the rezoning and subdivision of Farm 717/1 Paarl Division from Agricultural Zone I to Subdivisional area with a departure and consent for warehousing and transport usage to be considered at the Stellenbosch Municipal Planning Tribunal (MPT) refer.

The owners of Farm 749 Heen-en-Weer have been attempting for almost 10 years to secure land use rights for the subject property after the property became landlocked.

Our primary objective of this presentation is to find the fastest workable and practical solution for Farm 749 Heen-en-Weer to be developed.

Following the above, the background that led to the land being landlocked and efforts made in conjunction with the Stellenbosch Municipality and with other parties over the last 6 years to find solutions to materialize the development of the land is provided.

2. Background:

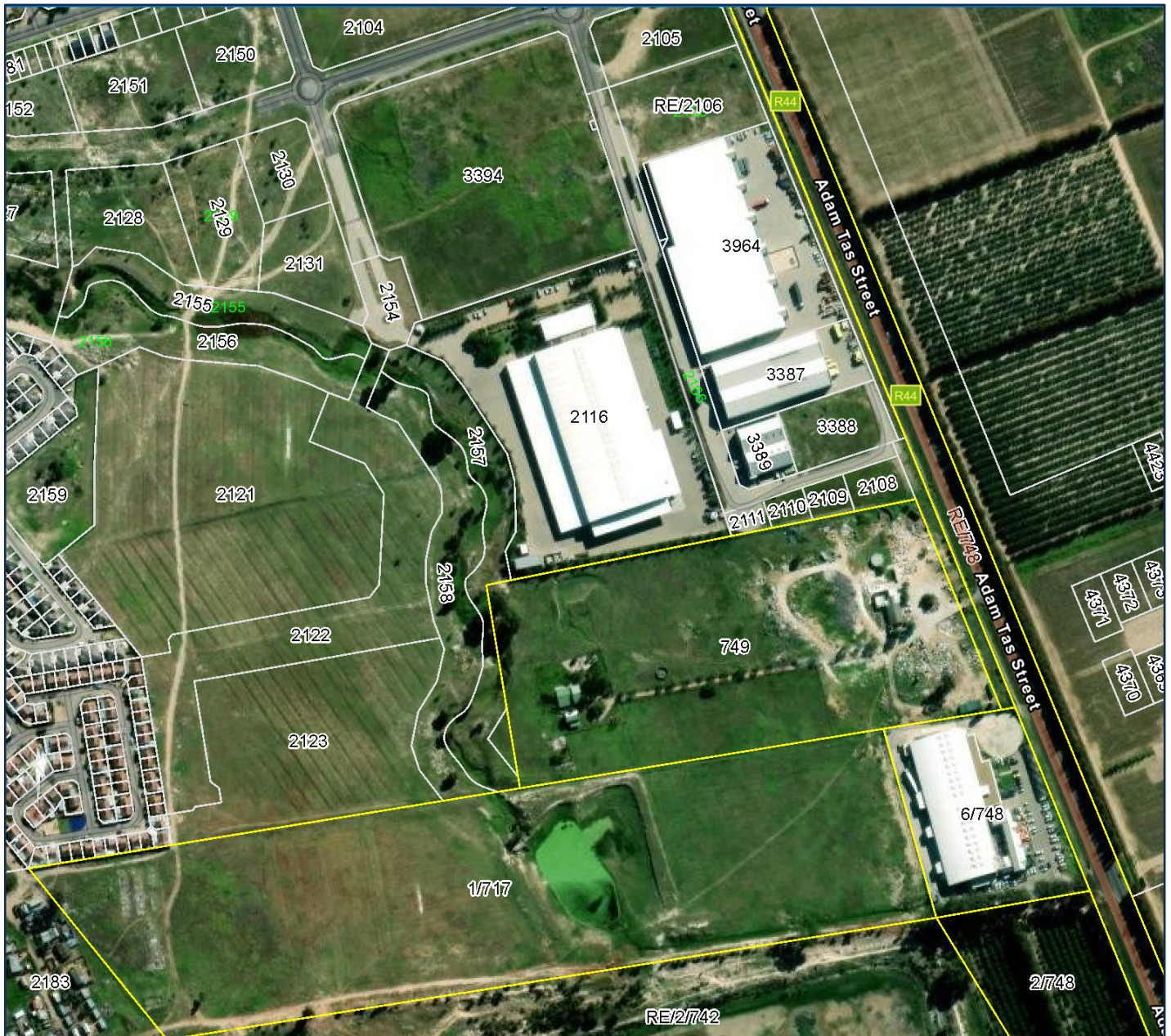
In the following section, some background resulting to the Farm 749 being landlocked is provided.

2.1 Simonsberg Industrial Park

Erf 2111 Klapmuts was rezoned as part of an application dated 12 November 2013 from Business Zone II to Open Space Zone II (Private Road) purposes.

In the motivation report, paragraph D.1.c) it was stated that ***“That the proposed rezoning of Erf 2111 for private road purposes is applied for in order to allow for access / linkage with the proposed development of Farm 749 (Heen-en-Weer) to the south Erf 1336.”***

The following extract from Cape Farm Mapper website provides context to the erven affected by the above application.



In a follow-up application, the public road providing access to inter alia Erf 2111 Klapmuts as part of an application for the subdivision, rezoning, consolidation, closure of a public road, consent use and amendment of architectural guidelines over Erven 2106, 2107, 2108, 2109, 2110, 2113, 2114, 2115, 2117, 2118, 2133-2142, 2166 and 2167 Klapmuts dated 8 May 2015 was approved on 26 November 2014 by the Director: Planning and Economic Development.

The Directorate Engineering Services, dated 26 November 2014 highlighted that ***“48. That the approval to rezone the public road, indicated as erf 2166, to a private road be subject to a mutual written agreement between the “Developer” and the owner of Farm 749 Heen-en-Weer in respect of access to Farm 749,”***

The following status reports confirm the closure of the Erven 2166 and 2167 as public roads and now being private roads:

rural development & land reform
Department:
Rural Development & Land Reform
REPUBLIC OF SOUTH AFRICA

90 Plain Street / Private Bag X1025, CAPE TOWN, 8000. Tel: 021 467 4850. Fax: 021 4633008. Email: rpd@rpd.gov.za

SURVEYOR-GENERAL: WESTERN CAPE

**GEOMATICS AFRICA
LAND SURVEYING CONSULTANTS**
PO BOX 2245
HERMANUS
7200

Enquiries: ML Zulu
My Reference: S/9762/5 v4 p212
Your Reference:

2018-08-17

Attention: Marthi De Klerk
Madam:

STATUS REPORT: ERVEN 2166 AND 2167 KLAPMUTS

I refer to your letter dated 2018-08-16.

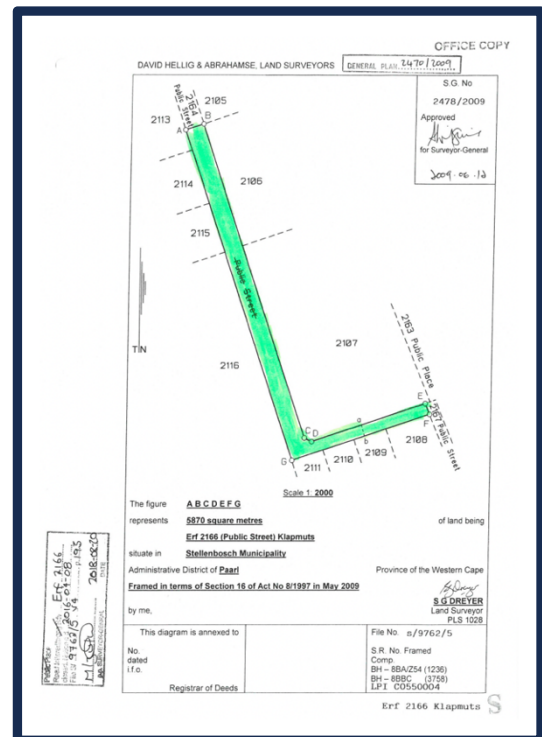
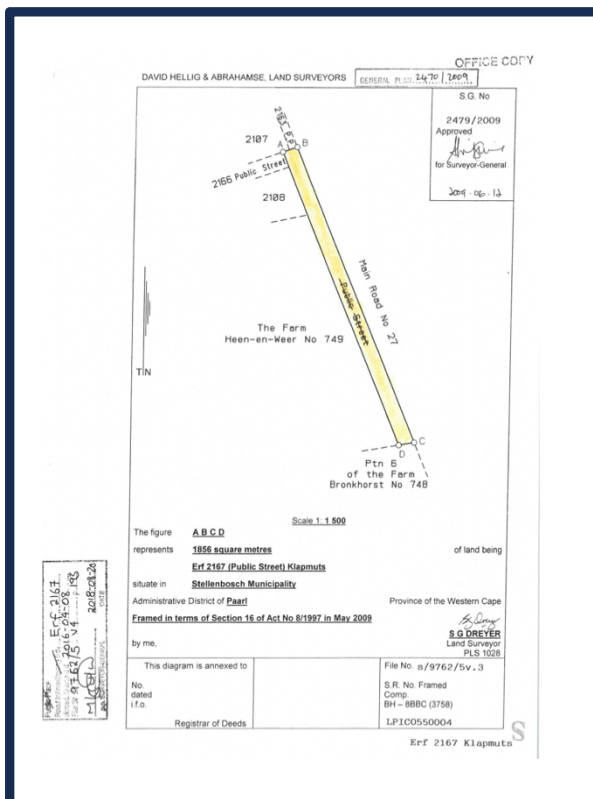
According to my records, the land shown COLOURED IN GREEN AND ORANGE on the attached plans represent:

- Green - Erf 2166 Klapmuts vide SG No 2478/2009
- Orange - Erf 2167 Klapmuts vide SG No 2479/2009

It is shown as ORDINARY ERVEN in our records.

Note: The above mentioned properties were Public Streets but they were officially closed vide Gazette Notice. 7594 dated 2016-04-08.

Yours faithfully
ML Zulu
For Surveyor-General: Western Cape



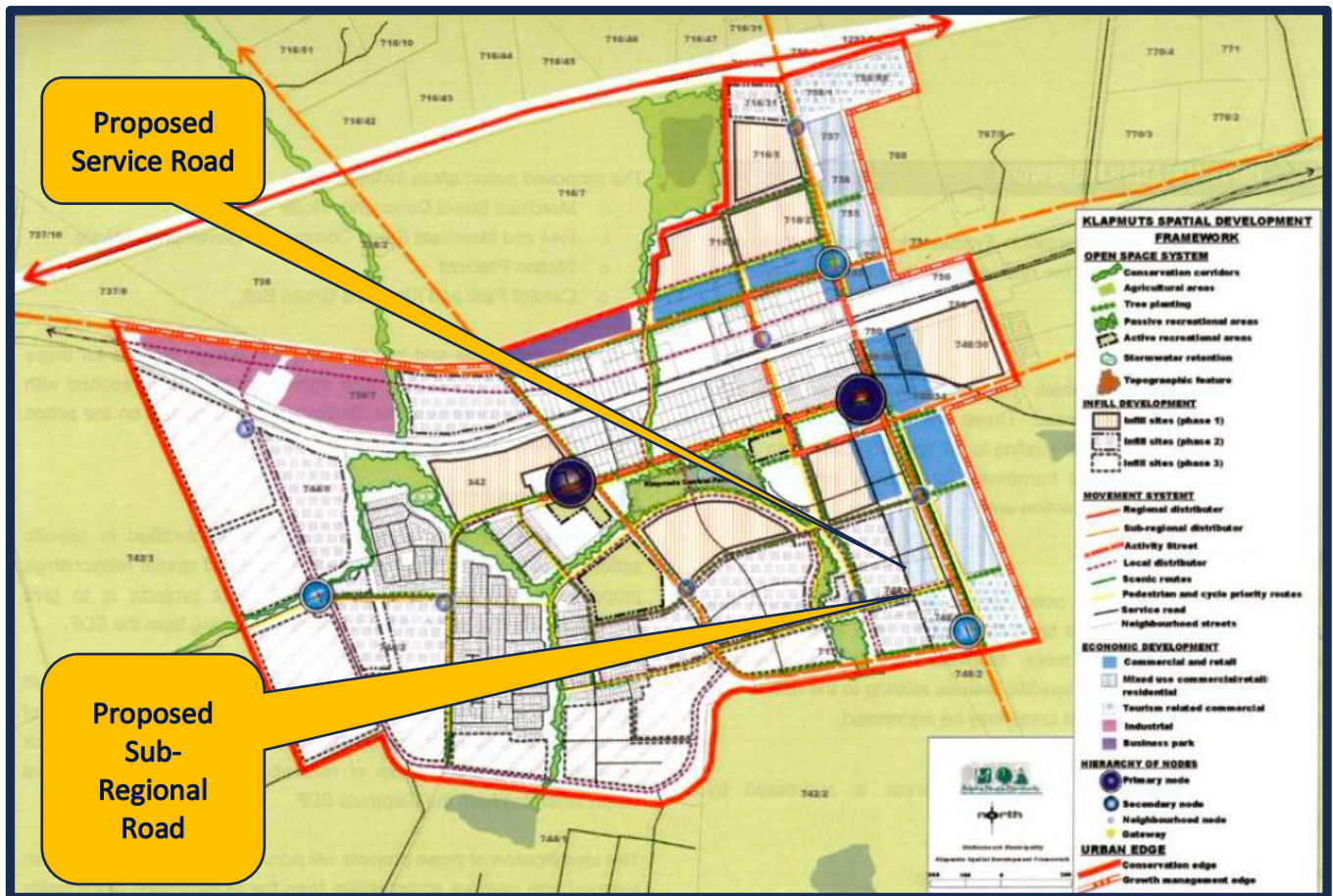
As a result of the non-compliance of this decision, Farm 749 Heen-en Weer became landlocked.

It was clearly stated in the conditions of approval that ***"48. That the approval to rezone the public road, indicated as erf 2166, to a private road be subject to a mutual written agreement between the "Developer" and the owner of Farm 749 Heen-en-Weer in respect of access to Farm 749,"***

No mutual agreement was ever concluded nor touted for from the owner of Farm 749 Klapmuts, but the Stellenbosch Municipality nevertheless allowed the rezoning of the Public Road and Erf 2111 Klapmuts to proceed resulting in Farm 749 becoming landlocked.

In addition to this, the decision was taken in contradiction with the Klapmuts SDF at that time without an application for deviation from the said SDF.

Further to the above, cognizance should also be taken that at the time of the application of the SIP, the Stellenbosch Municipality Spatial Development Framework, 2010 **clearly shows that Farm 749 should have obtained access via a service road through the SIP and Farm 717/1 as indicated below:**



It should also be noted that the said SDF also proposed a sub-regional distributor road on the southern boundary between Farm 749 and 717/1.

Of note is that the approval of the rezoning application for the SIP resulted to Farm 749 being landlocked. This mentioned application was signed-off by the Director: Planning and Economic Development at that time and is the applicant's consultant relating to Farm 717/1.

In terms of the Spatial Planning and Land Use Management Act, 2013 Clause 22. (1) clearly states that "A Municipal Planning Tribunal or any other authority required or mandated to make a land development decision in terms of this Act or any other law relating to land development may not make a decision which is inconsistent with a municipal spatial development framework."

It is furthermore ruled that (2) Subject to Section 42, a Municipal Planning Tribunal or any other authority required or mandated to make a land development decision, may depart from the provisions of a municipal spatial development framework only if site specific

circumstances justify a departure from provisions of such municipal spatial development framework.”

The Director: Planning and Economic Development had no authority to make this decision and

The decision was also inconsistent with the municipal spatial development framework.

In terms of Section 42 (2) such decision could not be justified.

Perhaps even more relevant is that no application was even made to depart from the SDF.

2.2 Discussions and attempts to create access to Farm 749 Heen-en-Weer

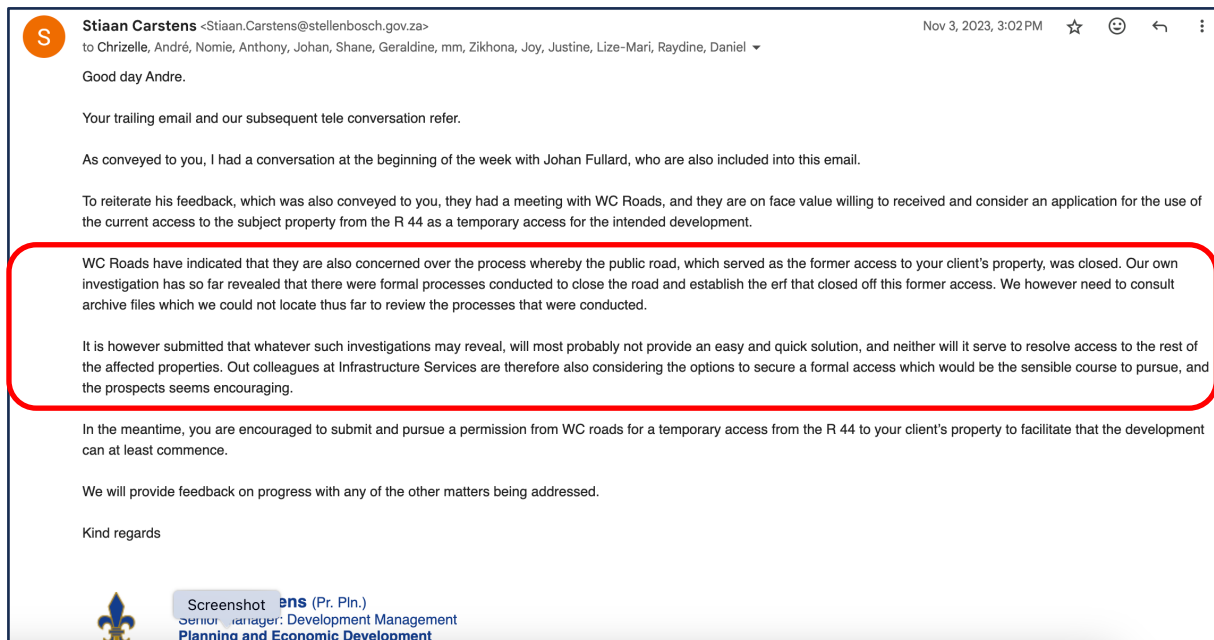
Since 2018 many meetings have taken place with senior officials; from the Municipal Manager to the Directors of the Engineering and Town Planning Departments without any success. **In finding a solution, a clear sympathy for our situation was always demonstrated but with no concrete proposal.**

Many discussions with the neighbouring property owners, including the subject application property owners were also held without achieving progress regarding unlocking the current landlock situation.

Of note is that the developer of the SIP offered to provide access to Farm 749 but in return demanded 50% of Farm 749 as compensation. Should that have been agreed to, the developer of Erf 2111 Klapmuts in principle agreed to provide access to Farm 749.

No evidence could be found of how permission was granted to commence with the rezoning of the SIP development. A request to view the files was made, but to date no direct response has received other than a statement that requested files are protected in accordance with the Protection of Personal Information Act.

The following response was received from the Stellenbosch Municipality regarding our request to view the files of how this error took place.



2.3 Conclusion regarding SIP:

The decisions made in 2015 resulting in the removal of public access through the Simonsberg Industrial Park to Farm 749 Heen-en Weer was illegal in terms of the Spatial Planning Act 2013 as:

2.3.1 The Director: Planning and Economic Development had no authority to make this decision and

2.3.2 The decision was also inconsistent with the municipal spatial development framework.

2.3.3 In terms of Section 42 (2) such a decision could not be justified.

2.3.4 No application was made to depart from the subject Municipal Spatial Development Framework.

The conditions of approval referred to in condition (48) of the application, were not complied with, resulting in the decision can only be considered ultra virus and the implementation of the decision was accordingly a mistake, leading to serious loss of an opportunity to the owners and the investors of Farm 749 and the community to develop the land and provide an economic opportunity.

The number of coincidences of events appears suspect.

2.4 The application of Farm 717/1

A notice of the application was emailed to the owners of Farm 749 on 31 May 2021 applying for rezoning and subdivision as shown in the following extract of the application:

Ptn 1 Farm 717:

- 1) Application is made in terms of Section 15(2)(a) of the Stellenbosch Municipal Land Use Planning By-Law, 2015 to rezone Farm No. 717/1, Paarl Division from Agricultural Zone I to Subdivisional Area, in order to accommodate the following land uses:
 - a. Portion A: Residential Zone II (± 0.75 ha);
 - b. Portion B: Transport Zone I (± 0.468 ha);
 - c. Portion C: Industrial Zone I, Open Space Zone II (Private Open Space) and Transport Zone II (± 6.5 ha)
- 2) Application is made in terms of Section 15(2)(d) of the By-Law for the subdivision of Portion 1 of Farm No. 717, Paarl Division into 3 portions for the following land uses:
 - a. Portion A: Residential Zone II (± 0.75 ha);
 - b. Portion B: Transport Zone I (± 0.468 ha)
 - c. Portion C: Industrial Zone I, Open Space Zone II (Private Open Space) and Transport Zone II (± 6.5 ha)
- 3) Application is made in terms of Section 15(2)(o) of the By-Law for a Consent Use in order to accommodate warehousing as well as transport usage in terms of the Industrial Zone I;
- 4) Application is made in terms of Section 15(2)(b) of the By-Law for a departure to develop 25 units / ha in lieu of the 20 units / ha density applicable to group housing;
- 5) Application is made in terms of Section 15(2)(b) of the By-law for a departure to provide 30m² of communal open space per dwelling unit in lieu of the prescribed 80m² of communal open space per dwelling unit required;
- 6) Application is made in terms of Section 15(2)(b) of the By-Law for a departure to provide 20% of the gross floor space of the dwelling unit for outdoor open space in lieu of the prescribed 80m² of communal open space.

In response, the application on behalf of the owners, was supported by the owners of Farm 749 Heen-en-Weer subject thereto that access be provided to Farm 749 to which the applicant, Messrs. Viridus Works (PTY) LTD acknowledged the comments on 12 July 2021.

Following the application process and meetings with the Stellenbosch Municipality, commitment was made by the Stellenbosch Municipality to find a solution to access to Farm 749 as is evident in the following emails:



InterActive Town & Regional Planning

P.O. Box 980
Hermanus
7200

Date: 7 July 2021

Reference: P 749 Klapmuts

Attention: Mr Dupré Lombard, Viridus Works (Pty)Ltd

STELLENBOSCH MUNICIPALITY REFERENCE NUMBER LU 9820 AND 12469:- RESPONSE TO NOTICE OF LAND DEVELOPMENT APPLICATION IN THE STELLENBOSCH MUNICIPAL AREA: PORTION 1 OF FARM 717 AND ERF 2183 KLAPMUTS

The notice LU 9820 and 12469 forwarded to me and on the Stellenbosch Municipality website refers.

This comment is done with the permission of the owners of Farm 749 Heen-en-Weer

The above-mentioned application is supported subject to the following:

1. That an agreement for a 16m access road to Farm 749 Heen-en-Weer be concluded to the satisfaction of the owners of Portion 1 of Farm 717 and the Farm 749 Heen-en-Weer as part of a land swap transaction as per your e-mail dated 7 July 2021 and illustrated in the plan shown in the Annexure here-below.
2. That our land-use rezoning application process for Farm 749 Heen-en-Weer be authorized by the Stellenbosch Municipality to commence with, based on the fact that the agreement as per 1. here-above resolves the landlock situation which prevented the application to commence.

Your acknowledgement of this comment will be appreciated.

Should you have any questions in this regard please do not hesitate to contact me.

Kind Regards

Andre Wiehahn Pr. Pln. A/927/1996

Telephone: 028 312 1668 Cellphone: 082 466 0490 Fax: 086 602 7558 E-Mail: info@itrp.co.za

RE: Klapmuts 749 Access & Timelines > TP Klapmuts x



Stiaan Carstens <Stiaan.Carstens@stellenbosch.gov.za>
to me, Chrizelle, Tyrone, Robert ▾

Mar 28, 2022, 3:26 PM ☆ ☺ ↶ ⋮

Good day Andre;

Following from our discussions today, and as confirmed by our Engineers present, the roads provisions as contained in the proposed land use application for property Farm 717, and which would facilitate access over the subject property to Farm 749, will on face value be practical and viable.

It should be noted that the land use application on Farm 717 is still in process with the public participation process currently in progress. It will consequently not be possible to establish and give a position on the merits of the specific development proposal at this point in time.

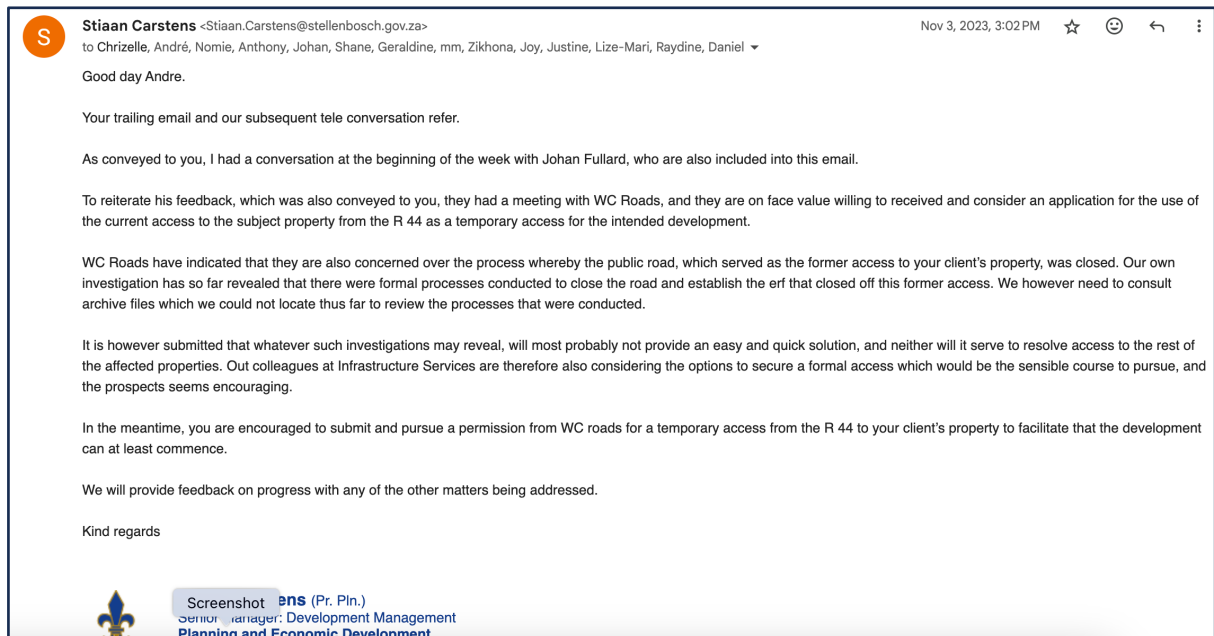
Kind regards



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

T: +27 21 8088674 | Email:
Stiaan.Carstens@stellenbosch.gov.za
Third floor Eikestad Mall, 7600
PO Box 17, Stellenbosch, 7599
www.stellenbosch.gov.za

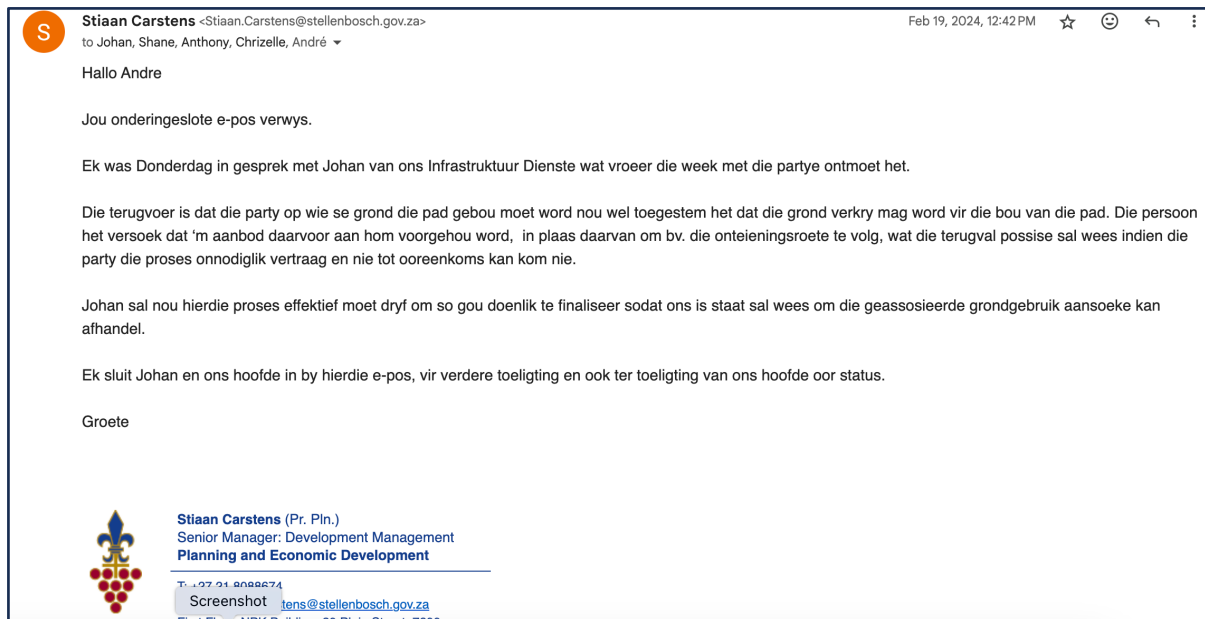
Following discussions with the Stellenbosch Municipality, access to information was formally requested during October 2023 to determine processes and procedures followed to the outcome of the decision of the SIP application.



Evident from the following email indicated that the municipality worked towards a solution to obtain a workable access to Farm 749.



In the following email dated 19 February 2024 further confirmation of an access solution was mentioned by the Stellenbosch Municipality and clearly indicating that as an alternative an **expropriation is a possibility**.



In a follow-up email from the Stellenbosch Municipality dated 22 February 2024 indicated that a solution was found.

"Stiaan Carstens <Stiaan.Carstens@ Stellenbosch.gov.za>

**Thu, Feb 22,
3:26 PM**

to Johan, Tyrone, Chrizelle, Anthony, Shane, Robert, André

Goeie dag Andre

Ons Infrastruktuur Dienste Departement het telefonies bevestig dat 'n ooreenkoms vir die oplossing vir die toegangspad kwessie wel bereik kon word.

Voort moet Tyrone en Johan, soos ingesluit by hierdie epos, jou as aansoeker voorsien van gewysigde kommentaar tot hierdie effek en wat jy met kerende kommentaar as finale POE aan ons moet voorsien sodat dit ons in 'n posisie sal plaas om die aansoek te finaliseer.

Jy is voorts welkom om die verlande opgedateerde kommentaar met Tyrone en Johan op te neem.

Ons sal poog om effektief met die aansoek te handel vir finalisering wanneer ons jou opgedateerde POE ontvang.

Groete

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

T: +27 21 8088674

Email: Stiaan.Carstens@ Stellenbosch.gov.za

First Floor, NPK Building, 20 Plein Street, 7600

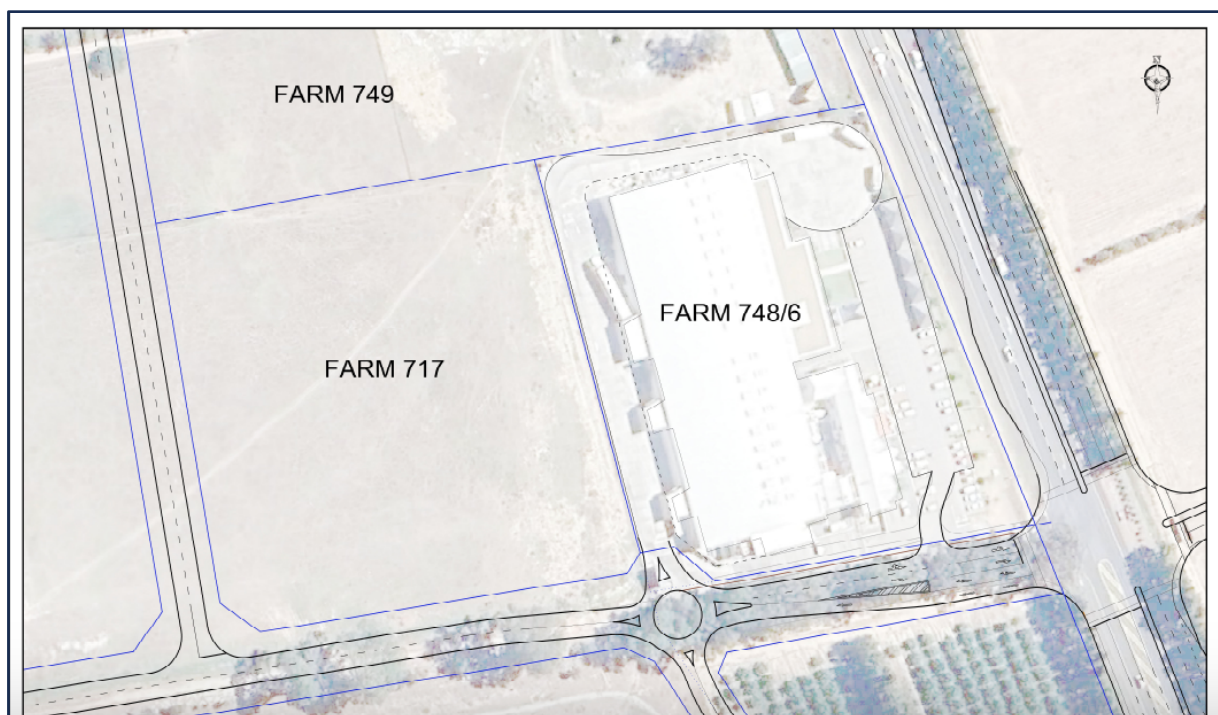
PO Box 17, Stellenbosch, 7599

www.stellenbosch.gov.za

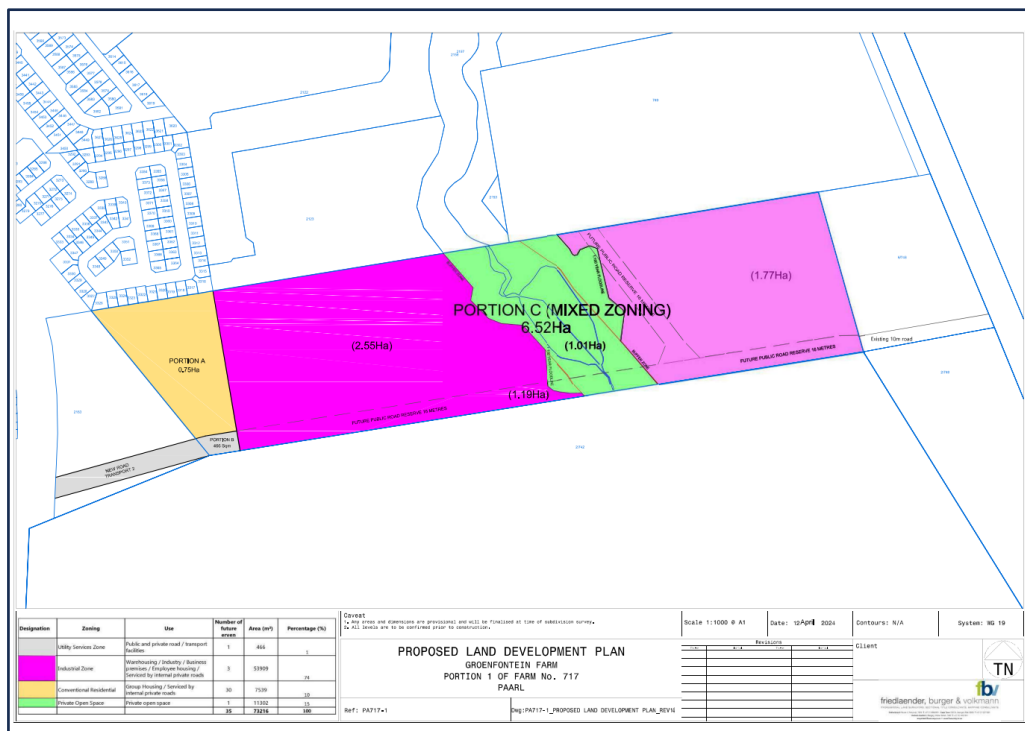
Simultaneously, the Western Cape Government, Deputy Director-General: Transport Infrastructure, dated 8 August 2023 supported the application subject to the following conditions as reflected in the following extract of the letter (also refer to the letter attached as **Annexure A**)

5. This Branch offers no objection to this application for the Subdivision, Rezoning, Consent Use and Departures for Remainder of Portion 1 of Farm Groenfontein 177 Paarl (Klapmuts) subject to the following conditions:
 - 5.1. Access off MR27 (R44) to Portion 1 of Farm 717 must be via a 16m municipal road reserve over Portion 6 of Farm 748 (Potbelly Pantry);
 - 5.2. The section of the 16m municipal road reserve must be acquired and the street off MR27 (R44) over Portion 6 of Farm 748 (Potbelly Pantry) must be constructed prior to the construction of the development;
 - 5.3. The extension of the 16m municipal street must link with Groenfontein Road;
 - 5.4. The development must provide access to Farm 749 (Heen-en-Weer) via a right of way servitude or municipal street over Portion 1 of Farm 717;
 - 5.5. Access to the development via Groenfontein Road will not be allowed without the access over Portion 6 of Farm 748 off MR27 (R44).

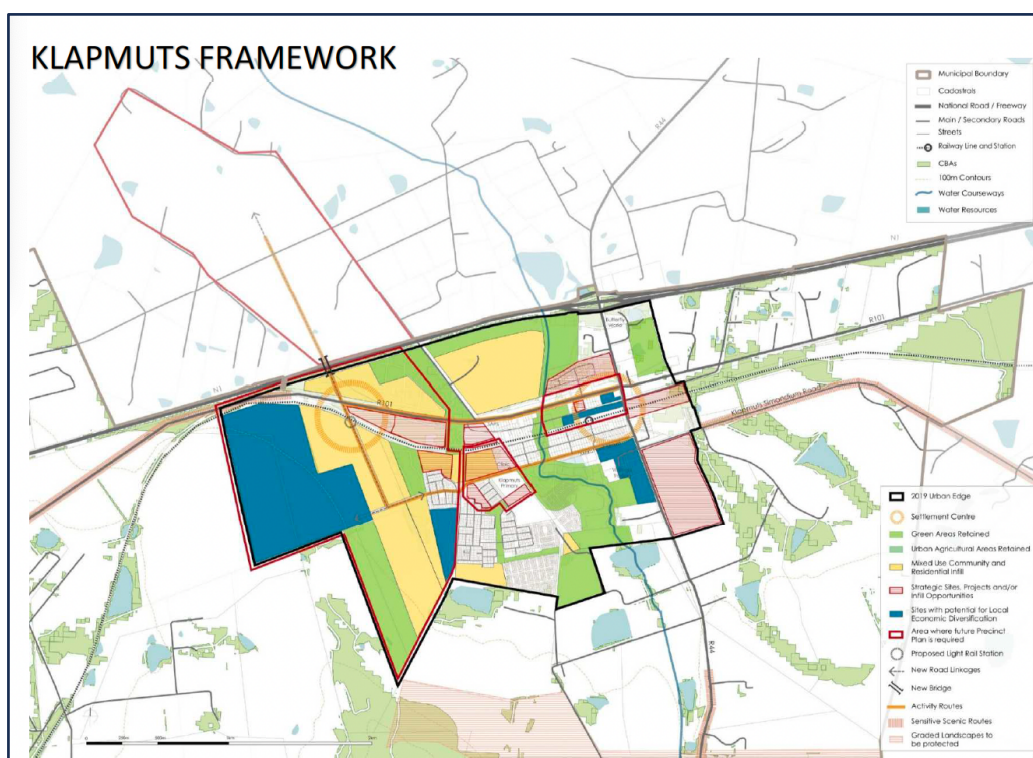
Specific detail access proposals were designed between the respective traffic engineers and Mr. Johan Fullard from the Stellenbosch Municipality for Farm 717/1 and 749 and whereby Traffic Engineer Liezl Stodart confirms Me Yolandi Obermeyer's from UDS Africa's support to the proposal (also refer to the letter compiled by Me Liezl Stodart regarding the access attached as **Annexure B**). The following access proposal was made over Farm 717 to Farm 749:



On 12 June 2024 we were informed that the applicant decided to change the layout without providing any subdivisions and only reflecting future roads as shown here-below:



Evident from the above application in terms of the Spatial Planning and Land Use Management Act, 2013 is that the application is not consistent with current SDF with specific reference to the “Green Areas Retained” an area in the application proposed for Industrial.



2.4.1 The recommendation of the MPT

As per the Agenda for the meeting on 25 October 2025 relating to the application for the rezoning and subdivision of Farm 717/1, Paarl from Agricultural Zone I to Subdivisional area with a departure and consent for warehousing and transport usage is recommended to be refused as shown in the following extract:

DECISION	
1.	That the following application(s) in terms of Section 15(2) of the Stellenbosch Municipal Land Use Planning Bylaw on Farm 717/1 Klapmuts, namely:
1.1	The rezoning of Farm 717/1, Paarl Division from Agricultural Zone I to Sub Divisional Area , in terms of Section 15(2)(a) of the Stellenbosch Municipal Land Use Planning By-Law dated Junie 2023 in order to accommodate a mixed-use development comprising the following zonings:
	<ul style="list-style-type: none">– Residential Zone II (±0.75ha)– Transport Zone II (± 0.0466ha)– Industrial Zone I (± 5.39ha)– Open Space Zone II (± 1.13ha),
1.2	The Subdivision of Farm 717/1, Paarl Division in terms of Section 15(2)(d) of the Stellenbosch Municipal Land Use Planning By-Law dated Junie 2023, comprising the following portion:
	<ul style="list-style-type: none">– Portion A measuring ±0.75ha for Group Housing purposes.– Portion B measuring ± 0.0466ha for Public Road purposes.– Remainder Portion consisting of ±5.39ha for Industrial and ± 1.13ha of Private Open Space purposes.
1.3	Departures in terms of Section 15(2)(b) of the Stellenbosch Municipal Land Use Planning By-Law dated Junie 2023, for the following:
1.3.1	Density: as laid down by the council up to a maximum of twenty units per gross hectare or a 3:7 ratio with regard to the gross density of surrounding dwelling units, whichever permits smaller number of units is required, with a density of only 25 units / hectare being applied for.
1.3.2	Communal open space of at least 80m ² per dwelling unit is required, with a maximum of 30m² of communal open space being applied for.
1.3.3	Private outdoor space required, at least 40% of the gross floor space of the unit concerned, in a form which shall not exceed a ratio of 2:1 (length to width) is required, with a maximum of 20% private outdoor space being applied for with no form ratio limitation.
1.4	Consent use in terms of Section 15(2)(o) of the Stellenbosch Municipal Land Use Planning By-Law dated Junie 2023, in order to accommodate warehousing as well as transport usage under the proposed zoning of Industrial Zone I.
BE REFUSED in terms of Section 60 of the said Bylaw and subject to conditions of approval.	

The reasons provided by the Stellenbosch Municipality area the following:

2.	The reasons for the above decision are as follows:
2.1.	The Industrial land use proposed on the western side of the river are not supported as the river corridor / green belt is seen to be a natural boundary / buffer between the Industrial and Residential land uses.
2.2.	The main transport routes that form part of the subject property and that are required in terms of the Municipal Roads Master Plan for the Klapmuts area, are not included in the application under consideration.
2.3.	The application under consideration does not comply with the minimal requirements applicable to an application for a rezoning to subdivisional area.

2.4.2 Response to the recommendation to refuse the application in full

The implications of the refusal of the application will have the result that access to Farm 749 is once again denied. This, whilst in our opinion, the points mentioned in the “Planning Evaluation and Key Findings of Planning Evaluation “can be overcome through conditions of approval in terms of Part C, Clause 40 (7) (b) of the Spatial Planning Land Use Management Act, 2013 reading that *“A Municipal Planning Tribunal may in the approval of any application, impose any reasonable conditions, including conditions relating to the provision of engineering services”*

These proposed conditions would include inter alia the subdivision of the application area within a realistic determined time-period and access to Farm 749 and the Groenfontein link road.

The conditional approval would contribute to the much-needed development and consequent employment opportunities.

3. Recommended solution to the application under discussion

The existing recommendation to the MPT for the rezoning, subdivision, departures and consent use applications are recommended to be ***“refused subject to conditions of approval”*** is reflected of the extract in paragraph 2.4.1 above.

Our recommendation would rather be approving the application in part, but subject to the applicant through submitting an amended plan where among other conditions, and inter alia making provision for an access road.

The advantage of such part approval with inter alia a plan providing an access road would contribute to realizing development and the subject Klapmuts spatial development plan sooner. As part of this part approval a condition can be brought in that the owners Farm 749 compensate the owners of Farm 717/1 fairly for the land required for access from the future extended Groenfontein Road to the boundary of Farm 749 should, the application for Farm 749 be approved.

The disadvantage of the existing recommendation namely the refusal of the application will imply that the application of Farm 749 must also be refused until an access solution to Farm 749 is found. This would mean that the development of both these two properties can be delayed for an undetermined time with unnecessary negative economic implications to the owners, the community and the local authority.

4. Conclusion:

Against the above background of the fact that Farm 749 Klapmuts was indisputably deprived of a right of access to the public road network by unlawfully allowing the processes and accommodating the public road through the Simonsberg Industrial Park to be closed and proclaimed private road, the amended application for rezoning of the Farm 717/1 Klapmuts

to subdivision area is of critical importance to be partly approved and the only remaining opportunity for the Council to redress the injustice towards the owner of Farm 749.

It would not be fair due to the nature of the application that the owners of Farm 717/1 Klapmuts be "punished" in this process and therefore no additional obligations should be placed on that owner in the process that leads to the rezoning.

The owners of Farm 749 would urge the competent authority to use the opportunity, as it is within their powers and as an authorized agent to strengthen the Council's hand to achieve access to Farm 749 Klapmuts, in the most expeditious way possible, especially in light of the interest from a prospective developer who wants to acquire our property to erect a 25,000.00 square meter light industrial building, with minimal water and electricity needs, subject to suitable access be provided.

The recommendation should inter alia involve that the MPT allows for access from the proposed Groenfontein Road, a 16 meters wide road, which extends over the eastern part of Farm 711/1 to provide access to Farm 749 and also the exact route for the connection of such road to the proposed Groenfontein Road.

Furthermore, that portion or portions of Farm 717/1 to the south of the proposed Groenfontein Road and East of the river which crosses that property shall only be allowed to gain access to the latter road via such newly created public road.

It is subsequently recommended that the Council be responsible for the construction of the extension of the Groenfontein road up to the junction as a priority, to which contributions must be made by the two beneficial owners on existing principles.

If these proposals cannot be carried out the owners of Farm 749 Heen-en-Weer will have no option but to lodge a claim in terms of Section 26 (3)(a) of the Stellenbosch Land Use Planning By-Law, 2015 against the Municipality for financial loss and damage suffered due to the wrongdoing on the part of the Municipality which to date already resulted in loss due to the permanent closure of Erven 2166 and 2167, this something that we want to avoid at all costs

I trust the request to provide access via Farm 717/1 through the partial approval of Farm 717/1 be agreed to by the Stellenbosch MPT.

Kind Regards

A handwritten signature in black ink, appearing to read 'Andre Wiehahn', with a stylized flourish at the end.

Andre Wiehahn Pr Pln A/927/1996

Telephone: 028 312 1668 **Cellphone:** 082 466 0490 **E-Mail:** info@itrp.co.za

ANNEXURE A

Liezl Stodart Pr Eng

Address: PO Box 359 | Villiersdorp | 6848

Tel no: 082 338 6466

e-mail: liezlstodart@gmail.com

Date: 18 March 2024

Our ref: LS 143

Stellenbosch Municipality
Private Bag X5043
Stellenbosch
7599

For attention: Mr. Johan Fullard

Sir

COVER LETTER FOR DRAWINGS:

ACCESS TO FARMS 748 (POTBELLY PANTRY), 717 (CADCOR), 749 (HEEN EN WEER), 742 AND 748/2, KLAPMUTS

This letter and accompanying drawings supersede the letter and drawings dated 13 March 2024. An agreement has subsequently been reached by the representatives of Farm 717 (Yolandi Obermeyer, UDS), Farm 749 (André Wiehahn, Interactive Town Planning) and Farm 748/6 (Liezl Stodart) on short term, intermediate and future layouts that are acceptable to all three parties.

1. Short term layout (Drawing No. LS143-A1 rev 01)

This drawing was prepared in response to a request by the Stellenbosch Municipal Engineering Department for the land use approval of Farm 748/6. The drawing shows the 10-metre wide public road reserve along the property's southern border with access to Farm 717, a relocated access to Potbelly Pantry with an exclusive right turn lane, as well as access for trucks near the western border.

2. Interim layout (Drawing No. LS143-G01 rev 05)

Farm 717 only needs one access road off Potbelly Road, and the practical position is near the centre of the property where the road can serve erven on both sides. The same road will be extended northwards to give access to Farm 749. A 16-metre wide road reserve will be provided by both property owners for this purpose.

It will not be necessary to provide another road or road reserve along the eastern boundary of Farm 717, as the Subtropico deliveries can continue in the current fashion with only the formalisation of the access from Potbelly Road (the east-west road).

3. Future layout (Drawing No. LS143-G02 rev 04)

This drawing shows how Potbelly Road can be widened when the additional ten metres from Farm 748/2 is added to the road reserve. A new road is proposed along the shared boundary of Farms 742 and 748/2, giving access to these two properties. The proposed alignment means that the

dam on Farm 742 is missed. Stellenbosch Municipal officials indicated that a roundabout should be introduced at the intersection of Potbelly Road and this new road. The Farm 748/6 delivery access can form the northern leg of the roundabout. The drawing shows the splays and road reserves that will be required to accommodate the future layout.

We trust that you will find the drawings to your satisfaction. Please contact the undersigned should you have any further questions.

Regards

A handwritten signature in black ink, appearing to read 'L. Stodart', with a stylized, flowing script.

Liezl Stodart
M. Eng Pr. Eng



LIEZL STODART

M.Eng Pr. Eng

PO Box 359
90 Threewaterskloof Estate | Villiersdorp | 0048
Tel: 082 338 6466
E-mail: liezlestodart@gmail.com

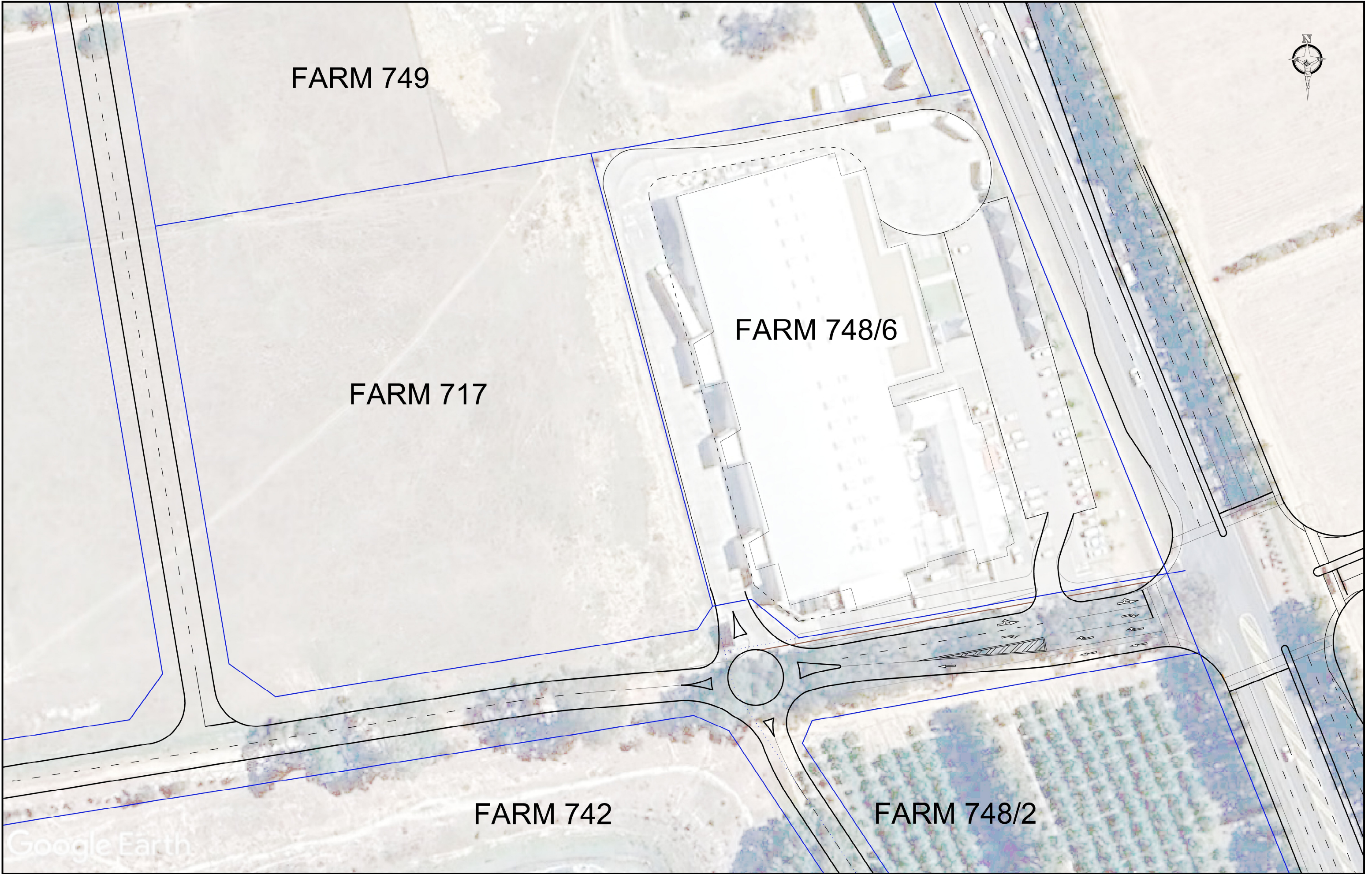
PROPOSED LAYOUT OF ACCESS ROAD PAST FARM 748/6 IN AVAILABLE 10-METRE WIDE ROAD RESERVE

DWG NO. LS143-A1

Rev 01

2024-03-16





ANNEXURE B



Ref: TPW/CFS/RP/LUD/REZ/SUB-25/335 (Job 27206)

The Municipal Manager
Stellenbosch Municipality
PO Box 17
STELLENBOSCH
7599

Attention: Mr Ulrich von Molendorff

REMAINDER OF PORTION 1 OF FARM GROENFONTEIN 177 PAARL (KLAPMUTS): MAIN ROAD 27 AND MAIN ROAD 205: UPDATED TRAFFIC IMPACT ASSESSMENT FOR THE ORIGINAL APPLICATION FOR SUBDIVISION, REZONING AND CONSENT USE AND DEPARTURES

1. The following refer:
 - 1.1. The email from Viridus Works dated 21 February 2023;
 - 1.2. The letter UDS233/Reports/TIA/Addendum from UDS Africa dated 20 February 2023 serving as an Addendum to the previous Traffic Impact Assessment (TIA) (Ref: iCE/S/1297 and dated 3 June 2019);
 - 1.3. Proposed Land Development Plan dated 8 November 2021 (reference PA717-1, drawing number PA717-1 and Revision 11) as prepared by Friedlaender, Burger & Volkmann;
 - 1.4. This Branch's comments and conditions (reference TPW/CFS/RP/LUD/EWZ/SUB-25/335 (Job 27206) dated 18 November 2021 on the application;
 - 1.5. All previous correspondence and conditions relating to the Rezoning and Consent application for the original Portion 6 of Farm No. 748, Paarl (Potbelly Pantry) with the intension of also creating a 20m road reserve on the southern edge of the subject property to perform the function of a Class 4 Municipal Collector road between Main Road 27 and Groenfontein road (10m will be taken from Farm 748/6 and 10m from the adjacent Portion 2 of Farm 748):
 - 1.5.1. Reference 16/9/6/1-25 (Job 26250) dated 10 September 2018 relating to this Branch's comments and conditions for the Rezoning and Consent application for Portion 6 of Farm 748, Klapmuts Paarl;
 - 1.5.2. Reference 16/9/6/1-25 (Job 270) dated 9 November 2020 for this Branch's comments and conditions and also to comply with the above approval by Stellenbosch

Municipality: Application for Subdivision of Portion 6 of Farm No. 748 (Potbelly Pantry) into two portions, Portion A (1056.4m²) a 10m wide strip along the southern boundary (part of the 20m road reserve) and Portion B (11913.4m²), the remainder and the Rezoning of the subdivided Portion A of Portion 6 of Farm 748 (Potbelly Pantry) from Industrials zone to Public Roads and Parking.

2. Main Road 27 (MR27; R44) is directly affected by this application while the Main Road 27/Main Road 189 (Old Paarl Road) and Main Road 27 / Main Road 205 (Simondium Road) is indirectly affected.
3. This Branch objected to the previous application because access would only have been through the existing Klapmuts road network with the main access off Groenfontein Road.
4. Key findings in the latest Addendum to the previous TIA are as follows:
 - 4.1. Access was initially only proposed via Groenfontein Road as issues regarding access over Portion 6 of Farm 748 (Potbelly Pantry) to MR27 (R44) were not yet resolved;
 - 4.2. The proposed access position changed from the Groenfontein Road access only, to access also now possible onto MR27 (R44) over Portion 6 of Farm 748 (Potbelly Pantry) and was possible following negotiations with Stellenbosch Municipality and the neighbouring property owners;
 - 4.3. It was agreed with Stellenbosch Municipality that 16m (of the 20m road reserve) would be provided along the subject property and Portion 6 of Farm 748, whilst the remaining 4m required to accomplish the 20m would be provided by the neighbouring property (Portion 2 of Farm 748) if/when it is developed;
 - 4.4. The 16m will provide sufficient space for an 8m road and 2m sidewalk;
 - 4.5. The proposed future 4m along the neighbouring property (Portion 2 of Farm 748) would accommodate the current row of trees and the NMT route;
 - 4.6. The potential trip generation, as per the previous TIA, were 276 peak hour trips (183 in, 93 out during the AM peak hour and 89 in, 187 out during the PM peak hour) for the light industrial/warehousing uses, and 23 peak hour trips (6 in, 17 out during the AM peak hour and 16 in, 7 out during the PM peak hour) for the potential housing portion of the development:
 - 4.6.1. With the proposed access to Main Road 27, approximately 75% of the light industrial/warehousing trips were assumed to travel via the said access, whilst the remainder of the light industrial/warehousing trips (possibly employees via the existing Klapmuts area) plus the housing portion-trips were assumed to travel via Groenfontein Road.
 - 4.6.2. To provide access to the Mount Vernon development, to the opposite side of the Potbelly Pantry-access, a dedicated right-turn lane (as first phase upgrade) and traffic signals (to follow when warranted) will be provided at this intersection.
 - 4.6.3. MR27 (R44) / MR189 (Old Paarl Road) intersection: WCG comments mentioned that this intersection was not included in the previous TIA's analyses but should be assessed

as the development would “add at least 200 vehicle trips to the traffic passing through” the intersection.

- 4.6.4. It was concluded that no upgrades to the MR27 (R44) / MR189 (Old Paarl Road) intersection is considered necessary as result of the proposed development traffic and that background issues exist in the area, i.e. the dualling of Main Road 27 considered required to accommodate the traffic along the road through Klapmuts (between Klapmuts-Simondium Road-intersection and the N1-interchange), by the year 2026/2027 (based solely on annual growth in background traffic along the road, regardless of specific developments).
- 4.6.5. It was recommended that the proposed development on the subject property be considered for approval from a traffic point of view on condition that the R44/Potbelly/Mount Vernon intersection is signalised, and access to the full proposed development is possible to Groenfontein Road as well.
5. This Branch offers no objection to this application for the Subdivision, Rezoning, Consent Use and Departures for Remainder of Portion 1 of Farm Groenfontein 177 Paarl (Klapmuts) subject to the following conditions:
 - 5.1. Access off MR27 (R44) to Portion 1 of Farm 717 must be via a 16m municipal road reserve over Portion 6 of Farm 748 (Potbelly Pantry);
 - 5.2. The section of the 16m municipal road reserve must be acquired and the street off MR27 (R44) over Portion 6 of Farm 748 (Potbelly Pantry) must be constructed prior to the construction of the development;
 - 5.3. The extension of the 16m municipal street must link with Groenfontein Road;
 - 5.4. The development must provide access to Farm 749 (Heen-en-Weer) via a right of way servitude or municipal street over Portion 1 of Farm 717;
 - 5.5. Access to the development via Groenfontein Road will not be allowed without the access over Portion 6 of Farm 748 off MR27 (R44).
6. This Branch remains concerned about the continuous ad-hoc development approvals in Klapmuts with interim road intersection measures proposed but also affecting the further deterioration of the mobility function of this section of MR27 (R44) until such time as the dualling of the affected section of MR27 (R44) is in place.

Yours Sincerely



SW CARSTENS

For DEPUTY DIRECTOR-GENERAL: TRANSPORT INFRASTRUCTURE

DATE: 8 AUGUST 2023

ENDORSEMENTS

1. Stellenbosch Municipality
Attention: Mr U von Molendorff (e-mail: ulrich.vonmolendorff@stellenbosch.gov.za)
2. STBB
Attention: Me A van Vuuren (e-mail: annemarievv@stbb.co.za)
3. Mr P Pienaar (e-mail)
4. Mr B du Preez (email)
5. Mr S Carstens (e-mail)

ORAL PRESENTATION TO THE MUNICIPAL PLANNING TRIBUNAL REGARDING THE LAND DEVELOPMENT PROPOSAL FOR PORTION 1 OF PAARL FARM GROENFONTEIN NO. 717 AT KLAPMUTS (LU 9820)

1. Presentation

The submission and presentation of verbal input at the oral hearing on 25 October 2024 is done on behalf of the applicant and owner of the property, Cadcor (Pty) Ltd. The purpose of the presentation is to comment on the item before the Tribunal. The point of contention is the negative recommendation (recommendation for refusal) and reasons for the recommendation, which are not based on statutorily defensible grounds or criteria for consideration of applications as set out in Section 65 of the Stellenbosch Municipality Land Use Planning Bylaw, 2023.

We will request a favourable decision, by the approval of the proposed use, based on a decision considering Section 49 of the Western Cape Land Use Planning Act, 2014, Act 3 of 2014 (LUPA) and Section 65 of the Stellenbosch Bylaw.

We attach three illustrative maps and an extract of the Roads Master Plan hereto for reference purposes, each of which briefly discussed in the presentation:

- 1.1. Map relating to site specific conditions;
- 1.2. Map showing Alternative 01;
- 1.3. Map showing Alternative 02; and
- 1.4. Road Master Plans 2018 and 2022.

2. Planning report

The recommendation for the outright refusal of the application does not refer to any of the criteria for the consideration of applications as set out in Section 49 of LUPA, or Section 65 of the Bylaw. Instead, it argues that the application should be refused, because:

- the industrial land use proposed on the western side of the river is not supported;
- the "*main transport routes that form part of the subject property and that are required in terms of the Municipal Roads Master Plan for the Klapmuts area, are not included in the application under consideration*"; and
- the application does not comply with the requirements for an application for rezoning to subdivisinal area.

2.1. Industrial use west of the river.

The reasons for indication of an industrial use to the west of the river are contained in our numerous submissions. Suffice to refer to the facts that uncertainty regarding access to abutting properties, and the need for economic opportunities, more than the need for more lower middle income residential erven, substantiate the proposal.

Alternatives 01 and 02 hereto illustrate how a positive outcome (approval subject to appropriate conditions) can lead to a desirable development that benefits the larger community and the Municipality.

The report does not take appropriate cognizance of the site specific environmental factors, which the applicant need not motivate, as it is a fluvial risk management matter. The establishment of residential settlement directly below a dam, is a risk. There are at least seven instream farm dams within three kilometres upstream of the development (see Annexure A), other than the dam directly abutting the property. It would be foolhardy to permit a lower middle income or GAP housing residential development in such close proximity do the dam. Households in this income category are not financially resilient, and any damage to their properties as a result of a dam failure would be devastating. The officials should consult with the Department of Water and Sanitation in this regard. An industrial use can absorb the risk related to flooding in a worst case dam failure scenario, where a residential settlement for lower income households cannot.

Moreover, road access to the abutting properties (Farm 749, Ptn 2 Farm 742, and Erf 2123) will affect the layout and it too needs to be considered, but cannot, if there is no certainty regarding the zoning of the property (see Annexure B and C). In stead of leaving the land vacant as open space that is not properly maintained or used (proven by experience in Klapmuts) and thus benefitting only the informal live stock farmers, the land between a road to the abutting properties and the river can be used productively for industrial purposes and with economic benefit to all.

The argument that the close proximity of industry and residential uses create an undesirable living environment are contrary to the trends seen in the Western Cape and even the Adam Tas Corridor Spatial Development Framework. In these it is recommended that light industrial, commercial, and residential uses are mixed. The following extract from the ATC SDF is but one example.



2.2. Roads master plan

The approved RMP of October 2022 does not show a road over the property (See Annexure D) and it does not contain any road project that directly affects the property.

The 2018 RMP did show a proposed project, as indicated by the dotted line over the property, but this project was clearly discarded with the 2022 RMP approval.

The owner is more than willing to provide for roads required by the abutting properties and to create a link to Groenfontein, as shown on the plans with the application, but such road is not required for the development of an industrial park as envisaged for the subject property. The adjacent Simonsberg Industrial Park is a case in point. There is no

thoroughfare through it, causing the abutting Farm 749 to be landlocked.

Thus, the owner of the subject property need not apply for the rezoning and subdivision of a road. Those parties requiring the road need to apply for it, as the owner had to do over Erf 2183 on the insistence of the Municipality.

2.3. Application is non-compliant

The application, if non-compliant, should have been refused. The Municipality, in a letter dated 26 May 2021, confirmed that the application is considered complete and compliant,

(8) The approval of a rezoning to subdivisional area must include conditions that make provision for at least—

- (a) density requirements;
- (b) main land uses and the extent thereof; and
- (c) a detailed phasing plan or a framework including—
 - (i) main transport routes;
 - (ii) main land uses;
 - (iii) bulk infrastructure;
 - (iv) requirements of organs of state;
 - (v) public open space requirements; and
 - (vi) physical development constraints.

and that the application process can proceed. This reason is contradictory to the letter and seemingly ignorant of the fact that a decision should address the matters which are described in the report as shortcomings (see

insert from the Bylaw). At the time of making the application, in June 2019, the requirement was for the indication of the different zonings and uses, and the density of the development. This was included in the application. The application even satisfies the 2023 Bylaw requirements, as it addresses all the aspects under Section 17(8) of the Bylaw as inserted above.

Section 49 of LUPA requires consideration of the SDF, the principles referred to in Chapter

Basis of assessment of land use applications

49. When a municipality considers and decides on a land use application, the municipality must have regard to at least—

- (a) the applicable spatial development frameworks;
- (b) the applicable structure plans;
- (c) the principles referred to in Chapter VI;
- (d) the desirability of the proposed land use; and
- (e) guidelines that may be issued by the Provincial Minister regarding the desirability of proposed land use.

VI and the desirability of the development, all of which addressed in the application.

The item, under the desirability considerations (page

15), determines the use to be desirable, but for the lack of a buffer between the residential and industrial uses. Such a buffer can be created as shown in the attached plans with the alternatives and can be made a condition of the development, considering the aforementioned integrated use trends and policy relating to the Adam Tas Corridor.

3. Requested decision

A refusal of the application as recommended is counter-productive. By refusing the application, the community at large receives no benefit, the Municipality receives no benefit, and the abutting land owners, which need to establish access across the property, do not benefit.

On the contrary, and as confirmed in parts of the item, an approval will benefit all parties, while

not causing any negative effect on the receiving environment.

We request that the application be approved in whole, given that we argue that use of the property is desirable, in keeping with the relevant policies, and has no negative effect on the receiving environment or the rights of others and that there is no substantive objection thereto.

The approval could be granted on condition that a road reserve be set aside along the southern boundary, as indicated in the plans and in correspondence with the Directorate: Infrastructure Services. Moreover, an approval can be made conditional on the submission of an amended plan showing the extent of the approved uses (Section 17(8)(b) of the Bylaw), for which purpose we propose positive consideration of Alternative 01.

Submission by:



DUPRÉ LOMBAARD

ANNEXURE A: Map relating to site specific conditions

Ptn 1 Farm No. 717, Paarl RD: Site situation



Legend

Farm Portions

Erf

Wetlands (NWM5)

Classification

Seep wetland

Dams

Rivers

Non-Perennial

20m Contours

0 0.15 0.3 0.45 0.6 0.75 km

Map Center: Lon: 18°52'26.4"E
Lat: 33°49'8.7"S

Scale: 1:15,000

Date created: 2024/10/18

Western Cape Government
FOR YOU

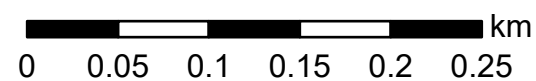
ANNEXURE B: Map showing Alternative 01

Ptn 1 Farm No. 717, Paarl RD: Alternatives 01



Legend

-  Servitude Area
 Farm Portions
 Erf



Map Center: Lon: 18°52'19.2"E
Lat: 33°48'48.9"S

Scale: 1:5,000

Date created: 2024/10/18



**Western Cape
Government**

FOR YOU

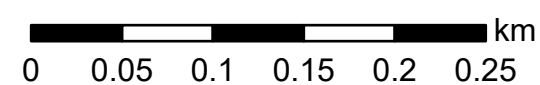
ANNEXURE C: Map showing Alternative 02

Ptn 1 Farm No. 717, Paarl RD: Alternatives 02



Legend

-  Servitude Area
 Farm Portions
 Erf



Map Center: Lon: 18°52'19.7"E
Lat: 33°48'49.2"S

Scale: 1:5,000

Date created: 2024/10/18



**Western Cape
Government**

FOR YOU

ANNEXURE D: Road Master Plans 2018 and 2022

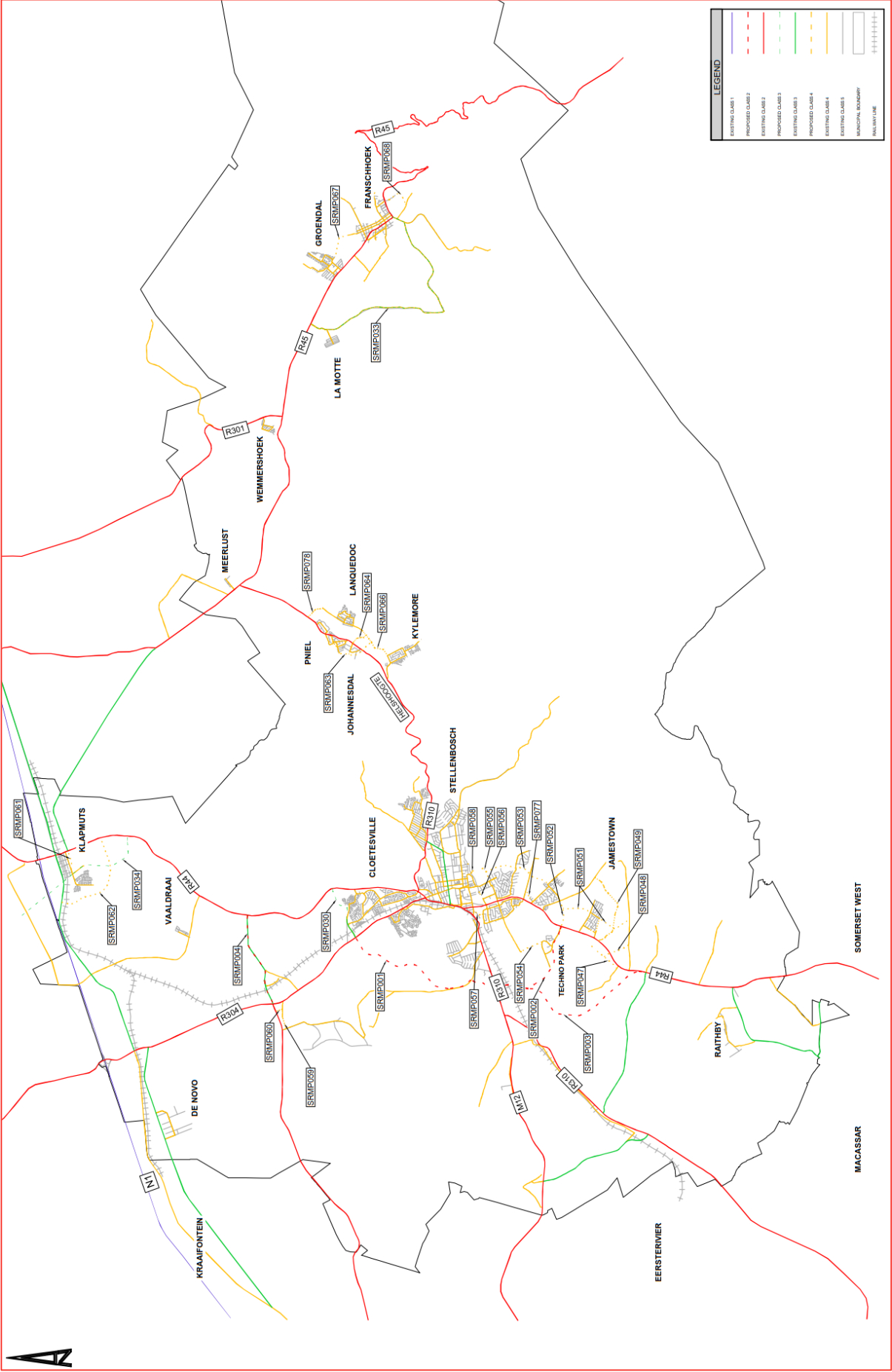
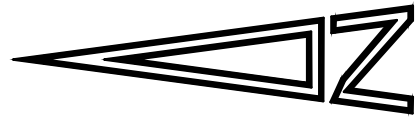
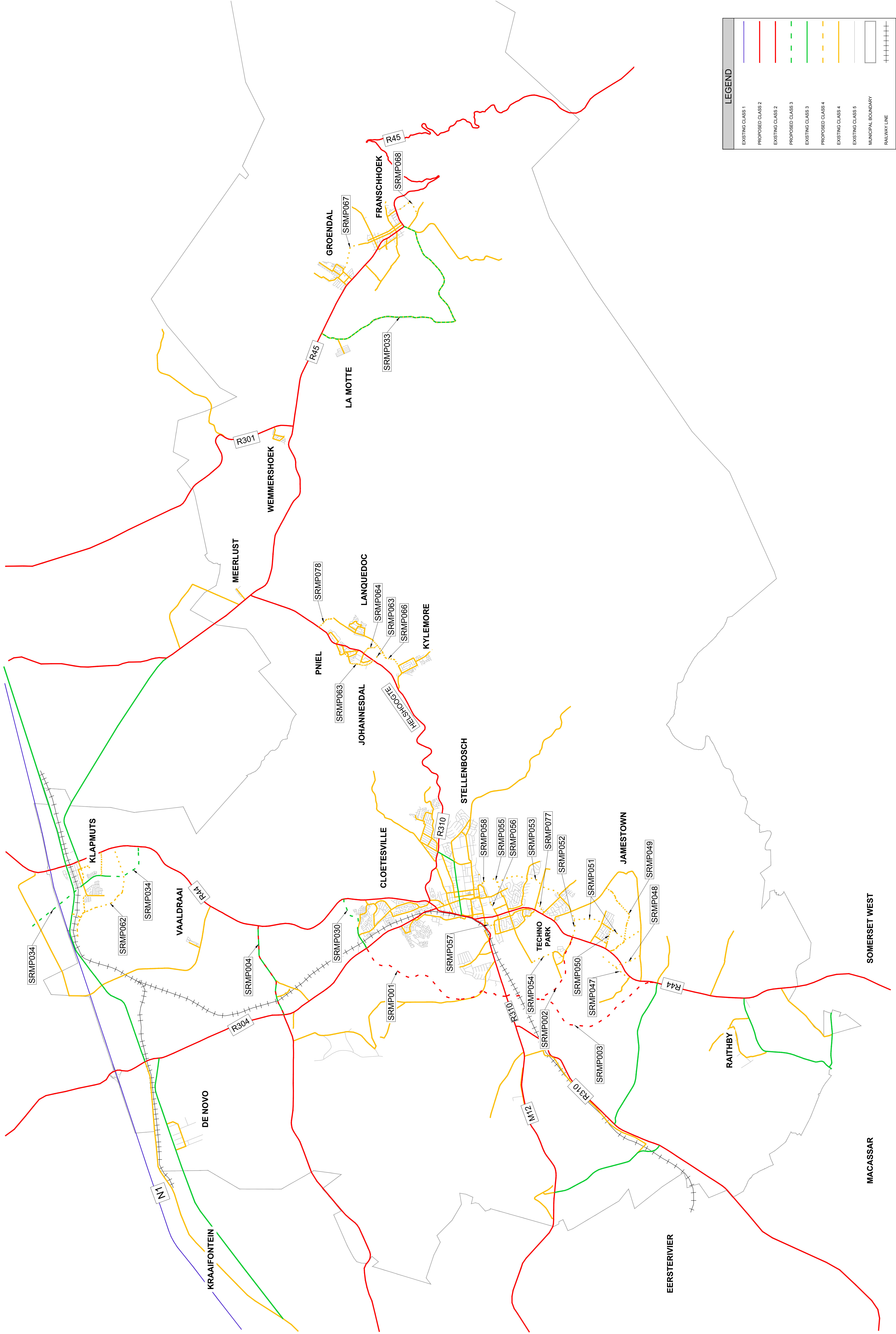


Figure 8-1: 2022 Stellenbosch Road Masterplan proposals



LEGEND	
EXISTING CLASS 1	---
PROPOSED CLASS 2	---
EXISTING CLASS 2	---
PROPOSED CLASS 3	---
EXISTING CLASS 3	---
PROPOSED CLASS 4	---
EXISTING CLASS 4	---
EXISTING CLASS 5	---
MUNICIPAL BOUNDARY	---
RAILWAY LINE	---

LAND USE AND LAND DEVELOPMENT APPLICATION: CONSENT USE FOR A TOURIST FACILITY
(RESTAURANT AND FUNCTION VENUE) AND FOR TOURIST ACCOMMODATION
ESTABLISHMENT: FARM No. 1106, PAARL DIVISION

ANNEXURE C

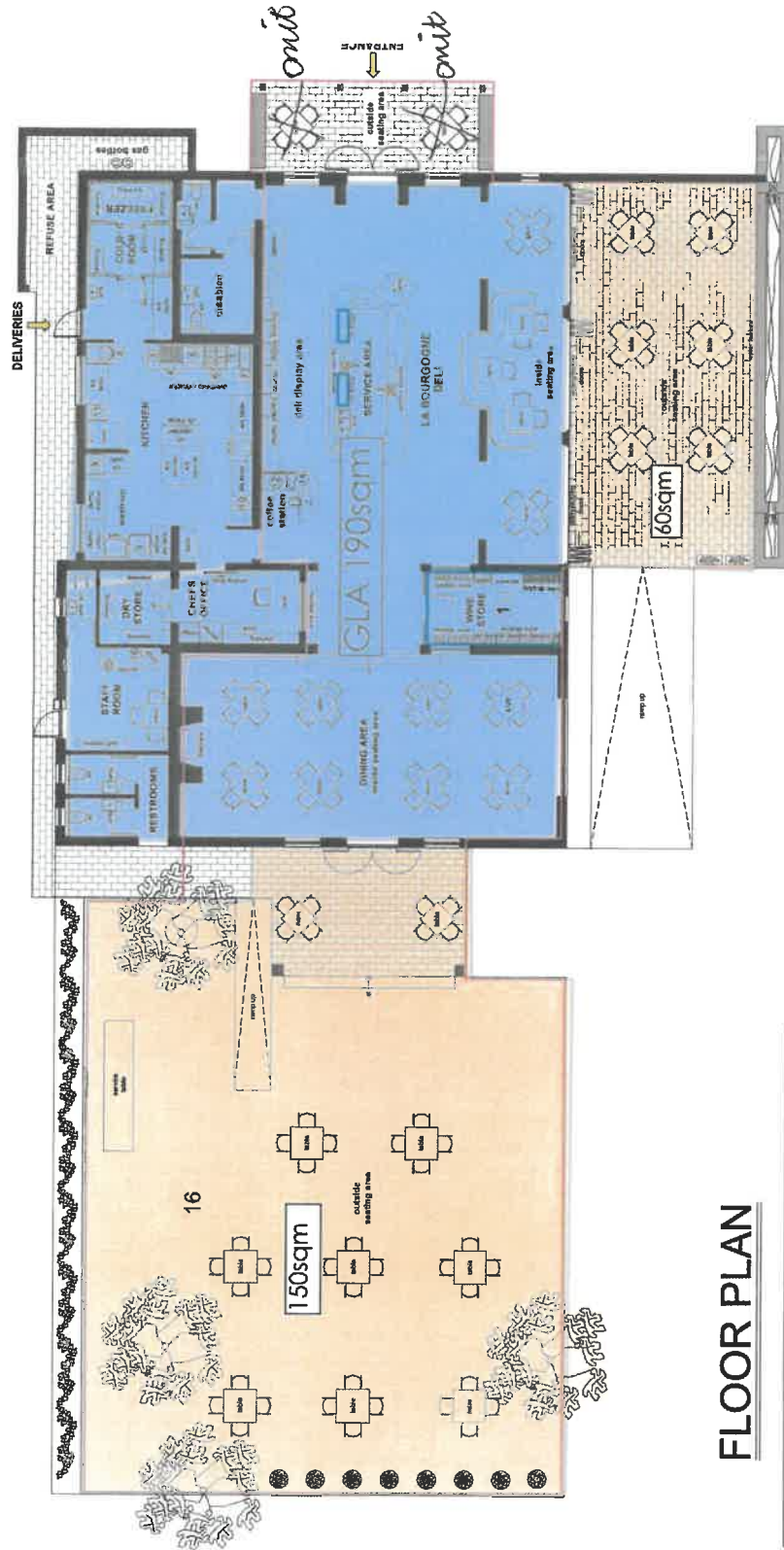
Site & Floor layout plan

DWG. NO. LB01-3/5



NOTES

This drawing is for Liquor license application.
It is, consequently not to be used for submission to municipality
as a working drawing or to be used for construction purposes.



FLOOR PLAN

TOTAL GLA INCLUDING OUTSIDE SEATING =
400SQM

NEW GLA 210 SQM (OUTSIDE SEATING)

EXISTING GLA 190SQM

Parking requirement : 4/100sqm

Parking required = 16

Parking provided = 16

LA BOURGOGNE
FARM 1106
EXCELSIOR ROAD
FRANSCHHOEK
7690

Date: 03 February 2022

Scale: 1:150 @ A3

Drawn: D. van Driel

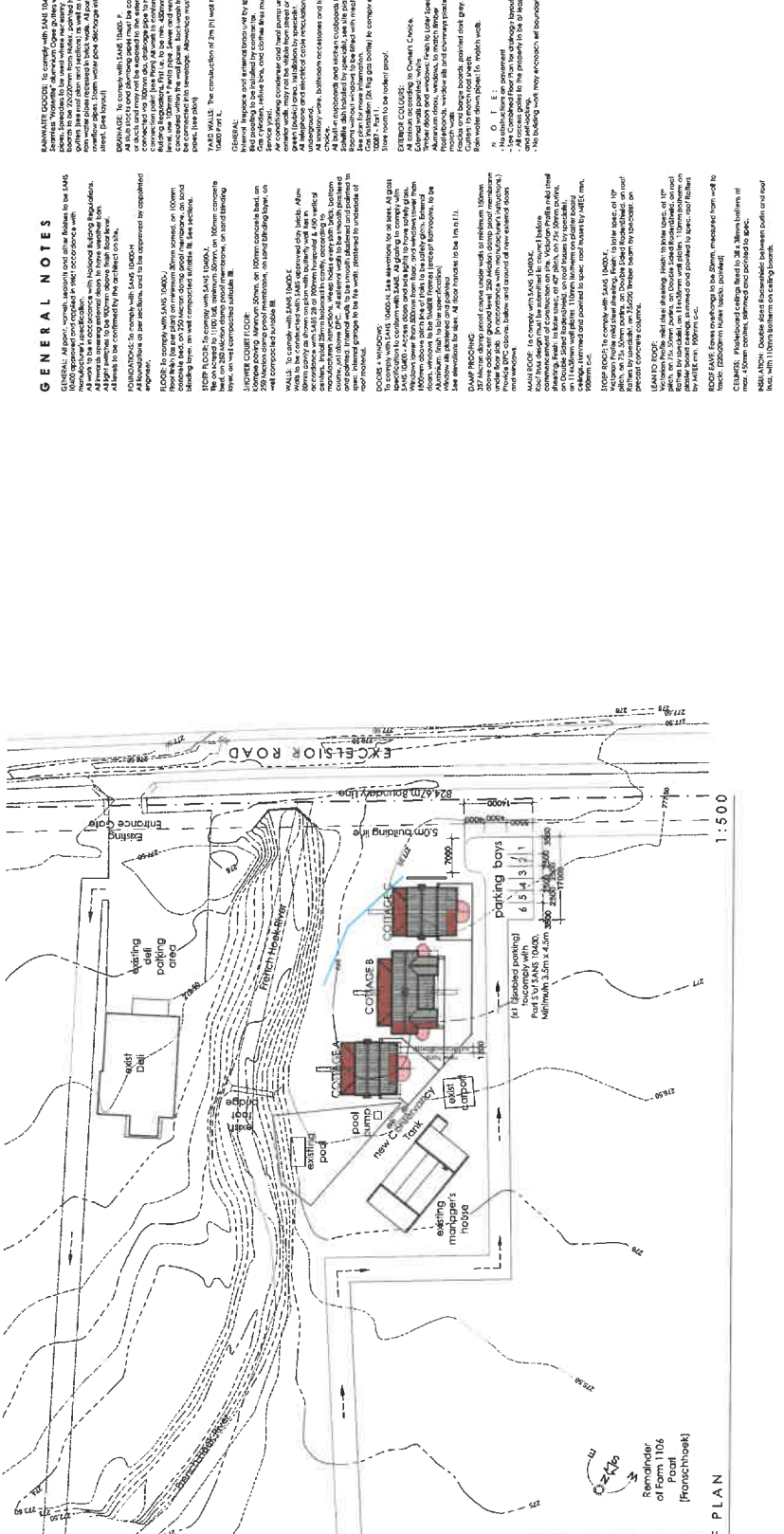
Cell: 0724819745

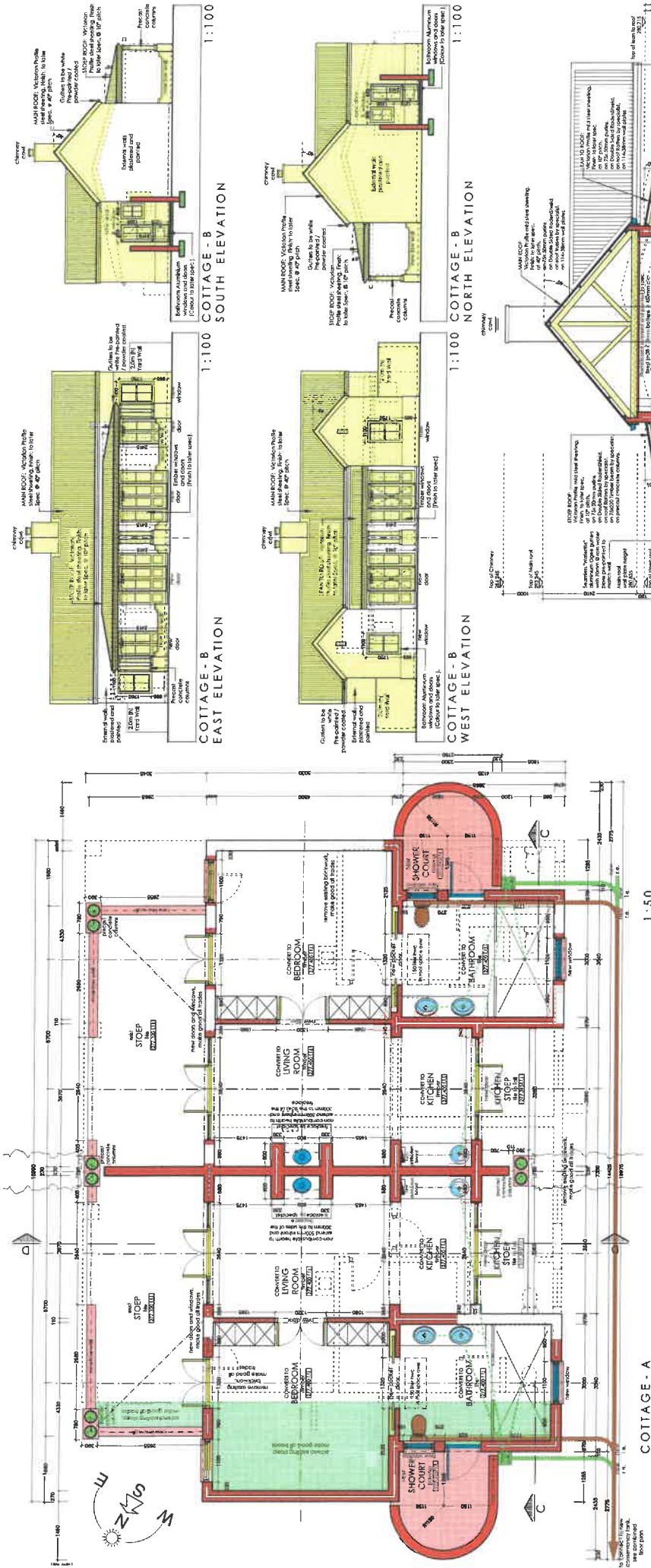
15 Smalville on Burgundy, 2 Amber Rd.

Burgundy Estate

dr.vandriel@gmail.com

DWG. NO. LB01-1/5

[illegible]



SEE DRAWING 201 FOR GENERAL NOTES AND AREA CALCULATIONS.

DRAWING 202 FOR COMBINED GROUND STOREY PLAN AND DRAINAGE ANN 202 FOR XA NOTES AND SPECIFICATIONS

AMENDMENTS DETAILS: 1. Indicate correct building line. 2. Indicate use of existing building.		DATE: 2024/02/27	DATE: 2024/02/27
AMENDMENTS DETAILS: 1. Indicate correct building line. 2. Indicate use of existing building.		DATE: 2024/02/27	DATE: 2024/02/27
AMENDMENTS DETAILS: 1. Indicate correct building line. 2. Indicate use of existing building.		DATE: 2024/02/27	DATE: 2024/02/27
AMENDMENTS DETAILS: 1. Indicate correct building line. 2. Indicate use of existing building.		DATE: 2024/02/27	DATE: 2024/02/27

AMENDMENTS DETAILS: 1. Indicate correct building line. 2. Indicate use of existing building.		DATE: 2024/02/27	DATE: 2024/02/27
AMENDMENTS DETAILS: 1. Indicate correct building line. 2. Indicate use of existing building.		DATE: 2024/02/27	DATE: 2024/02/27
AMENDMENTS DETAILS: 1. Indicate correct building line. 2. Indicate use of existing building.		DATE: 2024/02/27	DATE: 2024/02/27
AMENDMENTS DETAILS: 1. Indicate correct building line. 2. Indicate use of existing building.		DATE: 2024/02/27	DATE: 2024/02/27

**LAND USE AND LAND DEVELOPMENT APPLICATION: CONSENT USE FOR A TOURIST
FACILITY (RESTAURANT AND FUNCTION VENUE) AND FOR TOURIST ACCOMMODATION
ESTABLISHMENT: FARM No. 1106, PAARL DIVISION**

ANNEXURE G

Comments from Department of Transport & Infrastructure



Western Cape
Government

Infrastructure
Vanessa Stoffels

Chief Directorate: Road Planning

Vanessa.Stoffels@westerncape.gov.za | Tel: 021 483 4669

Ref: TPW/CFS/RP/LUD/REZ/SUB-10/520 (Job 8061)

Emile van der Merwe Town Planning Consultants
PO Box 204
STELLENBOSCH
7599

Attention: Mr E van der Merwe

FARM NO. 1106, PAARL DIVISION: DIVISIONAL ROAD 1343: APPLICATION FOR CONSENT USE

1. Your application received from Mr E van der Merwe on 9 December 2022 refers.
2. The subject property is in Franschhoek and takes access off Divisional Road 1343 (Excelsior Road).
3. This application is for Consent Use to utilise the existing wine tasting area ($\pm 190\text{m}^2$) and outside seating area ($\pm 210\text{m}^2$) for restaurant and function purposes and to utilise the existing 3 cottages as a tourism accommodation establishment (8 bedrooms in total).
4. This Branch offers no objection to the application in terms of the Land Use Planning Act, No. 3 of 2014, on condition that the access at km1.67 RHS will be the only access used for this consent use.

Yours Sincerely

SW CARSTENS

For DEPUTY DIRECTOR-GENERAL: TRANSPORT INFRASTRUCTURE

DATE: 23 June 2023

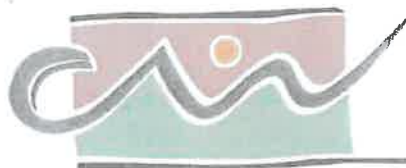
ENDORSEMENTS

1. Applicant: Emile van der Merwe Town Planning Consultants
Attention: Mr P Mons (e-mail: emilevdm@adept.co.za)
2. District Roads Engineer
Paarl
3. Mr E Smith (e-mail)
4. Ms S du Preez (e-mail)
5. Mr S Carstens (e-mail)

**LAND USE AND LAND DEVELOPMENT APPLICATION: CONSENT USE FOR A TOURIST
FACILITY (RESTAURANT AND FUNCTION VENUE) AND FOR TOURIST ACCOMMODATION
ESTABLISHMENT: FARM No. 1106, PAARL DIVISION**

ANNEXURE H

Comments from Cape Winelands Health



CAPE WINELANDS DISTRICT

MUNICIPALITY • MUNISIPALITEIT • UMASIPALA

NAVRAE/ENQUIRIES/IMIBUZO:
TELEFOON/TELEPHONE/UMNXEBA:
FAKS/FAX/IFEKSI:
E-POS/E-MAIL/IE-MAIL:
U VERW/YOUR REF/IREF YAKHO:
ONS VERW/OUR REF/REF YETHU:

Mnr. M. Mathee
021-8711001
021-8721277
mathee@capewinelands.gov.za
Farm 1106, Paarl (LU/14682)
Farm No. 1106

Alexanderstraat 46 Alexander Street
☒ 100
STELLENBOSCH
7599

24 November 2022

**The Municipal Manager
Stellenbosch Municipality
P.O. Box 17
STELLENBOSCH
7599**

Director: Planning & Economic Development

Dear Sir / Madam

COMMENT ON LAND USE APPLICATION: LA BOURGOGNE, FARM 1106 PAARL

Your email dated 23 November refers.

From an environmental health perspective this application for a restaurant, function venue and guest cottages, is recommended for approval, if the following conditions are complied with:

1. Environmental Pollution

- 1.1 No environmental pollution (water, air, dust or noise) may occur on any part of the premises during the construction and operation of the mentioned facilities.

2. Sewage / Sanitary Facilities

- 2.1 The sewage disposal from the proposed development must adhere to specifications, conditions and approval received from the National Department of Water & Sanitation.
- 2.2 Sewage disposal on the premises must at all times take place in a nuisance-free manner and shall be the owner's responsibility.
- 2.3 Toilet facilities must adhere to National Building Regulations standards.
- 2.4 Disabled toilet facilities must be provided.

3. Potable Water / Storm water

- 3.1 Drinking water on the premises must at all times comply with the minimum bacteriological and chemical standards for potable water, as determined by SANS 241.
- 3.2 The collection and subsequent disposal of storm water must be approved by the Department of Water & Sanitation.

4. Solid Waste Disposal

- 4.1 Refuse collecting and removal must be nuisance free at all time.

5. Food Handling

- 5.1 **All facilities where food is handled**, must comply with the minimum structural and hygiene requirements for food handling premises, as determined in Regulation R638 (General Hygiene Requirements for Food Premises Regulations) in terms of the Foodstuffs Act (Act 54 of 1972).
- 5.2 **Food handling areas may under no circumstances operate without a prior application being made to the Municipal Health Department of the Cape Winelands District Municipality for a Certificate of Acceptability. This certificate will only be issued after inspection and if the premises meets the requirements of Regulation R638.**

6. General Conditions

- 6.1 The planned operations/businesses may not result in a "noise disturbance" or a "noise nuisance" as defined in the Noise Control Regulations PN 627/1998, in terms of the Environmental Conservation Act (Act 73 of 1989), as well as the provisions of SANS Code 0103 – 2008. Any noise pollution is prohibited as defined in the Municipal Health By-laws of the Cape Winelands District Municipality.
- 6.2 The requirements for smoking in public places as contained in Regulation 975 – Notice Relating to Smoking of Tobacco Products in Public Places, issued in terms of the Tobacco Products Control Act, 1993 (Act 83 of 1993) as amended, must be complied with at all times.
- 6.3 This Department reserves the right to set further requirements during the running of the business.

7. Accommodation Facilities (Guest Cottages)

Shall comply, at all time, with all the following requirements as stipulated in the Municipal Health By-laws: Cape Winelands District Municipality No.6696 of 15 February 2010.

No person shall use any building as an accommodation establishment unless—

- (a) it is in good structural condition outside and inside and in a proper state of repair;
- (b) not less than one bathroom is provided for the first eight lodgers, with one additional bathroom for every additional twelve lodgers or part thereof;
- (c) every bathroom—
 - (i) is provided with a hand wash-basin;
 - (ii) is provided with a bath or shower; and
 - (iii) is provided with an adequate supply of cold and or hot running water.
- (d) sanitary conveniences are provided on the basis of one convenience for the first eight lodgers and thereafter one convenience for every additional twelve lodgers or part thereof: provided that a sanitary convenience shall not be installed in the same room as a bath or shower, en-suite bathrooms excluded.
- (e) the faecal matter arising in respect of the accommodation is properly stored and, except where pit latrines or a method for the adequate treatment of such matter by means of an enzymatic or chemical process is provided, is properly removed and disposed of;
- (f) a receptacle with a close-fitting lid is provided in a latrine.
- (g) the household refuse arising in respect of the accommodation is properly removed and
- (h) all water supply fittings and fittings that relate to sanitation and ablution are in a working order.

The planned development is situated in an agricultural use zoning area and the facilities of the planned development will be exposed to normal agricultural activities and effects. Guest may be inconvenienced by these agricultural activities.

Yours faithfully



**M. MATTHEE
ENVIRONMENTAL HEALTH PRACTITIONER
for MUNICIPAL MANAGER**