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20 August 2024

NOTICE OF LAND DEVELOPMENT APPLICATION

Dear Sir/Madam

APPLICATION FOR SUBDIVISION, CONSOLIDATION AND REGISTRATION OF A SERVITUDE ON REMAINDER ERF 280 & 891, STELLENBOSCH

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

Application Property Address: **Remainder Erf 280 & 891, Stellenbosch (Priel)**
Application Property Number: **Remainder Erf 280 & 891, Stellenbosch**
Applicant: **Arch Town Planners (Pty) Ltd (Carlien Coetzee, carlien@archtownplanners.co.za)**
Owner: **Francois Johan Malan**
Application Reference: **LU/TP TP494/2023**

Description of land development proposal:

Application is made in terms of Section 15(2)(d) and (e) of the Stellenbosch Municipal Land Use Planning Bylaw, 2023 for the following:

- **Subdivision of Erf 280, Priel in terms of Section 15(2)(d) of the said By-law, into two portions namely Portion A (±524m²) and a Remainder (±1568m²).**
- **Consolidation of Portion A (±524m²) with Erf 891, Priel (±742m²) to create a new land unit of ±1266m² in terms of Section 15(2)(e).**
- **The registration of a servitude right of way (4m) over Erf 285 & 288, Priel in favour of Remainder Erf 280, Priel in terms of Section 15(2)(d).**

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

You are hereby invited to submit comments and / or objections on the application in terms of Section 50 of the said bylaw. Written comment, which must include the reference to the application, the name, contact details and physical address of the person to submit the comments, the reasons for the comments, and the interest of the person who submits the comment in the application, may be submitted to the Applicant by electronic mail as follows: carlien@archtownplanners.co.za. By lodging an objection, comment or representation, the person doing so acknowledges that information may be made available to the public and to the applicant.

The comments must be submitted within 30 days from the date of this notice to be received on or before the closing date of **19 September 2024**.

The Municipality, in terms of Section 50(5) of the said Bylaw, may refuse to accept any comments/ objection received after the closing date.

For any enquiries on the Application or the above requirements, or if you are unable to write and /or submit your comments as provided for, you may contact the Applicant for assistance at the e-mail address provided or telephonically at **072 262 5304** during normal office hours.

Yours faithfully

Carlien Coetzee

For Arch Town Planners



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20 Augustus 2024

KENNISGEWING VAN GRONDONTWIKKELINGS AANSOEK

Geagte Mnr./Me.

Die volgende grondgebruiksaansoek in terme van Stellenbosch se Verordeninge op Grondgebruikbeplanning verwys:

AANSOEK OM ONDERVERDELING, KONSOLIDASIE EN REGISTRASIE VAN 'N PRIVAAT REG-VAN-WEG-SERWITUUT OP RESTANT Erf 280 & 891, STELLENBOSCH

Adres van aansoek eiendom: **Remainder Erf 280 & 891, Stellenbosch (Pniel)**

Aansoek eiendom beskrywing: **Remainder Erf 280 & 891, Stellenbosch**

Aansoeker: **Arch Town Planners (Pty) Ltd (Carlien Coetzee, carlien@archtownplanners.co.za)**

Eienaar: **Francois Johan Malan**

Aansoek Verwysing: **TP494/2023**

Besonderhede van die grondgebruiksaansoek:

Aansoek word gedoen in terme van Artikel 15(2)(d) en (e) van die Stellenbosch Munisipaliteit se Beplanningsverordening (2023) ten einde voorsiening te maak vir die volgende:

- **Onderverdeling van Erf 280, Pniel ingevolge Artikel 15(2)(d) van genoemde Verordening, in twee gedeeltes naamlik Gedeelte A (±524m²) en 'n Restant (±1568m²).**
- **Konsolidasie van Gedeelte A (±524m²) met Erf 891, Pniel (±742m²) om 'n nuwe grondeenheid van ±1266m² ingevolge Artikel 15(2)(e) te skep.**
- **Die registrasie van 'n servituut reg van weg (4m) oor Erf 285 & 288, Pniel ten gunste van Restant Erf 280, Pniel ingevolge Artikel 15(2)(d).**

Kennis word hiermee gegee in terme van die voorskrifte van die genoemde Verordeninge dat bowermelde aansoek by die Stellenbosch Munisipaliteit ingedien is vir oorweging. Die aansoek is beskikbaar vir insae op die Beplannings Portaal van die Stellenbosch Munisipaliteit se Webuiste vir die tydskedule van die publieke deelname proses by die volgende adres:

<https://www.stellenbosch.gov.za/planning/documents/planning-notices/land-use-applications-advertisements>. Indien die webuiste of tersaaklike dokumente nie toeganklik is nie, moet die Aansoeker versoek word om 'n elektroniese kopie van die aansoek beskikbaar te stel.

Kommentaar en/ of besware kan vervolgens gedien word op die aansoek in terme van Artikel 50 van die tersaaklike Verordening. Skriftelike kommentaar, wat besonderhede ten opsigte van die verwysings nommer van die aansoek, die name, fisiese adres en kontak besonderhede van die persoon wat die kommentaar lewer, die redes vir die kommentaar, en die belang van die persoon wat die kommentaar lewer in die aansoek, by die Aansoeker ingedien word by wyse van elektroniese pos as volg: marike@archtownplanners.co.za. Deur 'n besware, kommentaar of verhoë te rig, erken die persoon wat dit doen dat inligting aan die publiek en aan die aansoeker beskikbaar gestel kan word.

Die kommentaar moet binne 30 dae vanaf die datum van hierdie kennisgewing gestuur word en moet ontvang word voor of op die laaste dag van die sluitings datum van **19 September 2024**.

Daar moet kennis geneem word dat die Munisipaliteit, in terme van Artikel 50(5) van die vermelde Verordeninge, mag weier om enige kommentaar / besware te aanvaar wat na die sluitingsdatum ontvang word.

Indien daar enige navrae op die aansoek of bowermelde vereistes vir die lewer van kommentaar is, of indien dit nie moontlik is om geskrewe kommentaar te lewer of die kommentaar op die wyse te lewer soos voorsiening gemaak is nie, kan die Aansoeker geskakel word vir bystand by die vermelde elektroniese pos adres of telefonies by **072 262 5304** gedurende normale kantoor ure.

Die uwe

Carlien Coetzee

Vir Arch Town Planners (Pty) Ltd

SUBDIVISION AND CONSOLIDATION

REMAINDER OF ERF 280 & ERF 891

PNIEL



April 2024 – Rev 1

PREPARED AND SUBMITTED BY:



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ANNEXURES

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ANNEXURE B:	APPLICATION FORM
ANNEXURE C:	TITLE DEED
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ANNEXURE E:	SUBDIVISION PLAN

1. Introduction

1.1 Background information

Remainder of Erf 280 and Erf 891 Pniel, hereafter referred to as the application site, is situated in the Stellenbosch Municipality on the northern edge of Pniel Town. These erven were both previously owned by the same owner, who has built a house on Erf 891 and used Remainder Erf 280 as garden area. With the recent sale of Erf 891, the owner of Remainder Erf 280 realized that due to the slope of Remainder Erf 280, the existing right of way servitude registered over Erf 891, which should have provided access to Remainder Erf 280, is not practical and it is impossible to obtain sensible access via this servitude. It is therefore proposed to register a new right of way servitude over Erf 285 to link with the existing right of way servitude on Erf 288, granting access to Remainder Erf 280 from Simonsberg Road.

This application also includes the subdivision of a portion of Remainder Erf 280 to be consolidated with Erf 891, to increase the erf size of Erf 891.

1.2 Planning Brief

In light of the above-mentioned background information, Arch Town Planners has been appointed by the owners of the property to prepare and submit the relevant application to the Stellenbosch Municipality to obtain their approval for the proposed subdivision, consolidation and registration of a right of way servitude.

1.3 Application

Arch Town Planners hereby officially submits an application in terms of Section 15(2)(d)(e) of the Stellenbosch Municipality Land Use Planning By-Law (2023) to allow for the following:

- i) Subdivision of Erf 280, Pniel in terms of Section 15(2)(d) of the said By-law, into two portions namely Portion A ($\pm 524\text{m}^2$) and a Remainder ($\pm 1568\text{m}^2$).
- ii) Consolidation of Portion A ($\pm 524\text{m}^2$) with Erf 891, Pniel ($\pm 742\text{m}^2$) to create a new land unit of Erf $\pm 1266\text{m}^2$ in terms of Section 15(2)(e).
- iii) The registration of a servitude right of way (4m) over Erf 285 & 288, Pniel in favour of Remainder Erf 280, Pniel in terms of Section 15(2)(d).

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

2. Property details

2.1 Ownership Details and Title Deed

Property Details	Ownership	Erf Size	Title Deed	Restrictive Title Deed Conditions
Erf 891, Pniel, Stellenbosch	FRANCOIS JOHAN MALAN	741m ²	T33699/2020	N/A
Remainder of Erf 280, Pniel, Stellenbosch	FRANCOIS JOHAN MALAN	2094m ²	T8592/2010	N/A
Erf 285, Pniel, Stellenbosch	JEANDRE DIRK HORN	2079m ²	T64090/2022	N/A
Erf 288, Pniel, Stellenbosch	WILLIAMS GERALD	13537m ²	T21797/1997	N/A

Table 1: Property Details

Please refer to **Annexure C** for a copy of the Title Deed. As confirmed by the attached Conveyancer Certificates, there are no restrictive title deed conditions which would restrict the proposed subdivision and consolidation.

2.2 Locality

The application site is situated in the northern part of Pniel Town, with both erven taking access from Kloof Street. The application site is on the periphery of the town with Portion 1 of Farm 1674 forming the northern boundary, and Erf 685, 281, 282 and 285 forming the western and southern boundaries. Refer to Figures 1-3 for the locality of the erven (in terms of regional and local context) and aerial view of the application site.

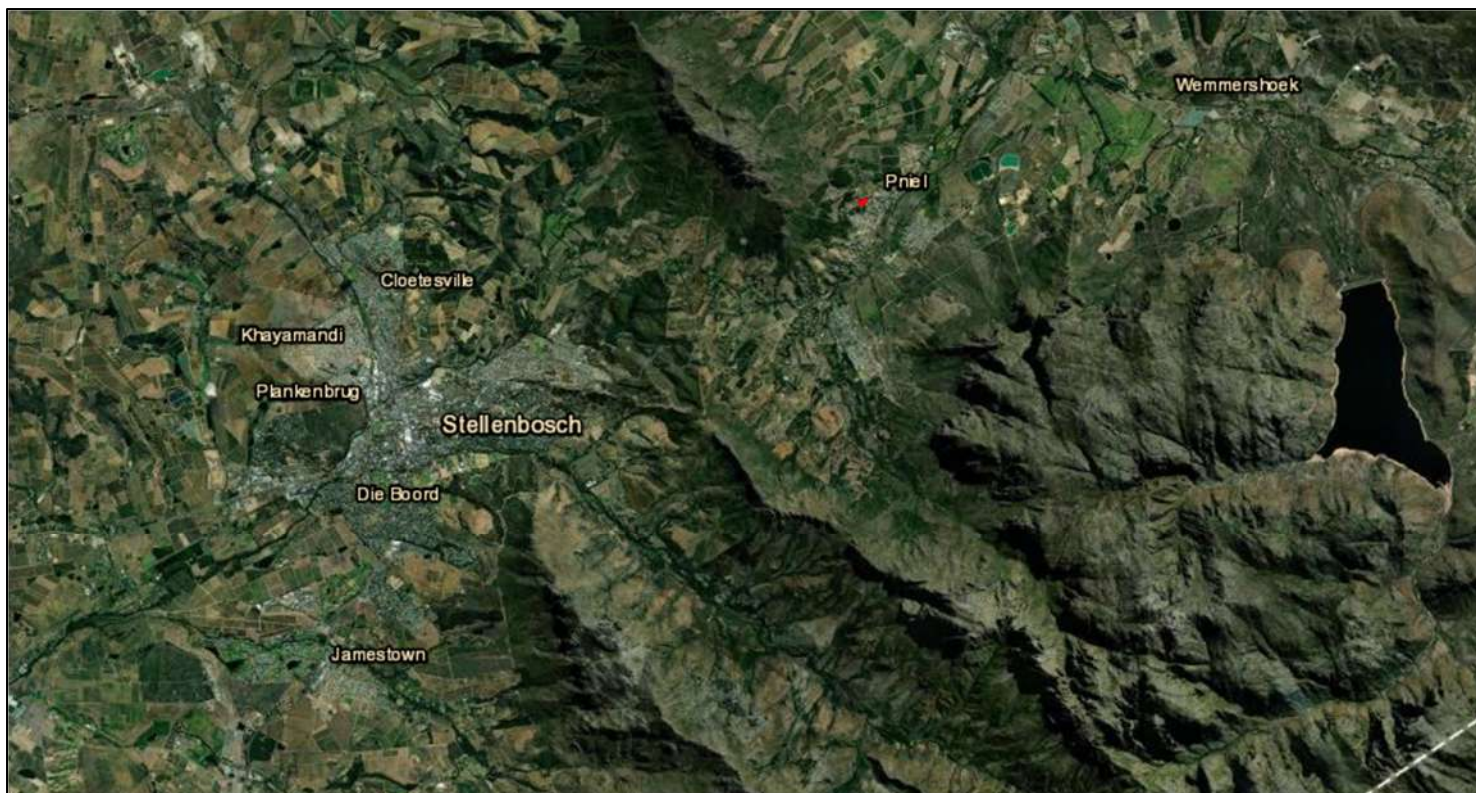


Figure 1: Regional Locality Plan



Figure 2: Locality Plan



Figure 3: Aerial Photo (Surrounding Properties)

2.3 Physical characteristics, existing and surrounding land uses

Remainder of Erf 280 is 2 094 m² in extent and Erf 891 is 741m². The remainder of Erf 280 is a vacant erf with no structures while Erf 891 has one structure, a dwelling house.

Erf 891 currently has one access point running along the southern boundary of the erf, taking access directly from Kloof Street. Remainder of Erf 280 currently gains access via a right of way servitude over Erf 891. This is however only a theoretical access as there is an embankment with a vertical slope that renders this access unusable. Please refer to Figure 4 below which indicates the right of way servitude.



Figure 4: Location Access and Servitudes

Erven 285 and 288, situated south of Remainder Erf 280, takes access from Simonsberg Street via a right of way servitude which has been registered along the western boundary of Erf 288 and crossing over the most northern corner of this erf. The intention of this application is to obtain approval to make use of the existing right of way servitude already registered over Erf 288 and to create a new servitude to connect Remainder Erf 280, crossing over Erf 285, to access to and from Simonsberg street.

2.4 Current zoning

The application site is zoned Conventional Residential in terms of the Stellenbosch Zoning Scheme By-Law. Table 2 below lists all the Primary Uses (In terms of the Stellenbosch Municipality Zoning Scheme By-Law, 2019) allowed on the site. The land uses listed as Additional Uses and Consent Uses require formal approval from the Stellenbosch Municipality.

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

Table 2: Permitted Land Uses

Figure 5 below is an extract from the Municipal Zoning Scheme By-Law 2018. The figure indicates that both Erven, Remainder of Erf 280 and Erf 891 are zoned conventional residential.

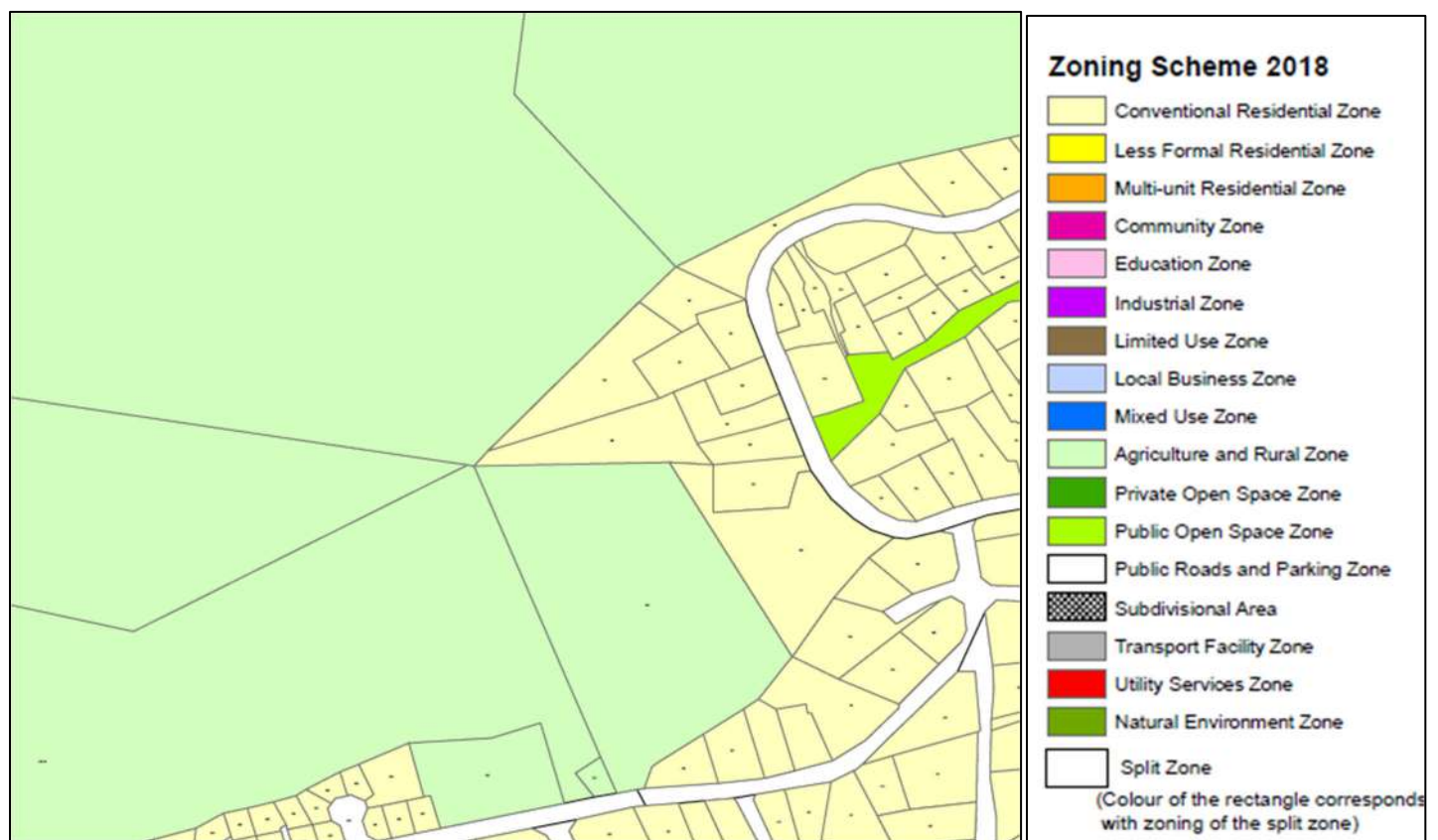


Figure 5: Zoning Scheme Extract

2.5 Restrictive Title Deed Conditions

As confirmed by the attached Conveyancer Certificate's (please refer to Annexure D) there are no restrictive title deed conditions that would prohibit the subdivision, consolidation, and registration of a private right of way servitude.

3. Development Proposal

As explained above, with the recent sale of Erf 891, the owner of Remainder Erf 280 realized that the existing right of way servitude registered over Erf 891, which has to provide access to Remainder Erf 280, is not practical and it is impossible to obtain sensible access via this servitude. It is therefore proposed to register a new right of way servitude over Erf 285 to link with the existing right of way servitude on Erf 288, granting access to Remainder Erf 280 from Simonsberg Road. At the same time, the owner of Remainder Erf 280 intends to subdivide Remainder Erf 280 into 2 Portions of which one portion is to be consolidated with Erf 891. The following section will provide details of the proposal:

3.1 Proposed Subdivision and Consolidation

Remainder Erf 280, with a total extend of 2 092m², will be subdivided into two portions, Portion A (Figure xCDE) with an area of 524m² and Remainder of Remainder Erf 280 (Figure ABCx) with an area of 1 568m².

Portion A will then be consolidated with Erf 891 (with an existing erf size of 742m²) to form a new Erf (Figure FGHJBCxA) with a total area of 1 266m². Refer to Figure 6 below for an extract of the subdivision plan and **Annexure E** for the formal subdivision plan.

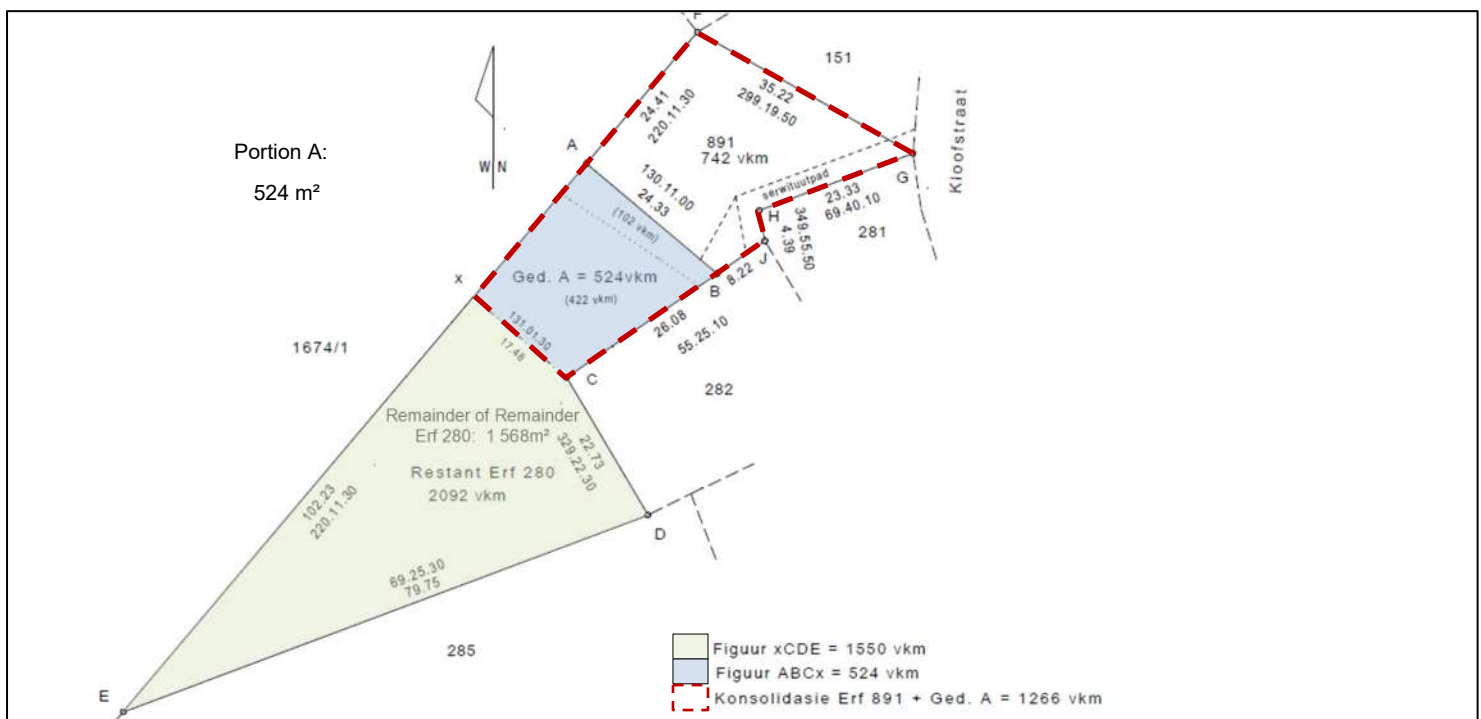


Figure 6: Subdivision Plan Extract

As indicated, the current access to Remainder of Erf 280 is unusable due to the steep slope. Thus, included in the development proposal is the registration of a right of way servitude (of 4m wide) over Erf 285. Refer to General Plan No: 9954/93 extract for the servitudes.

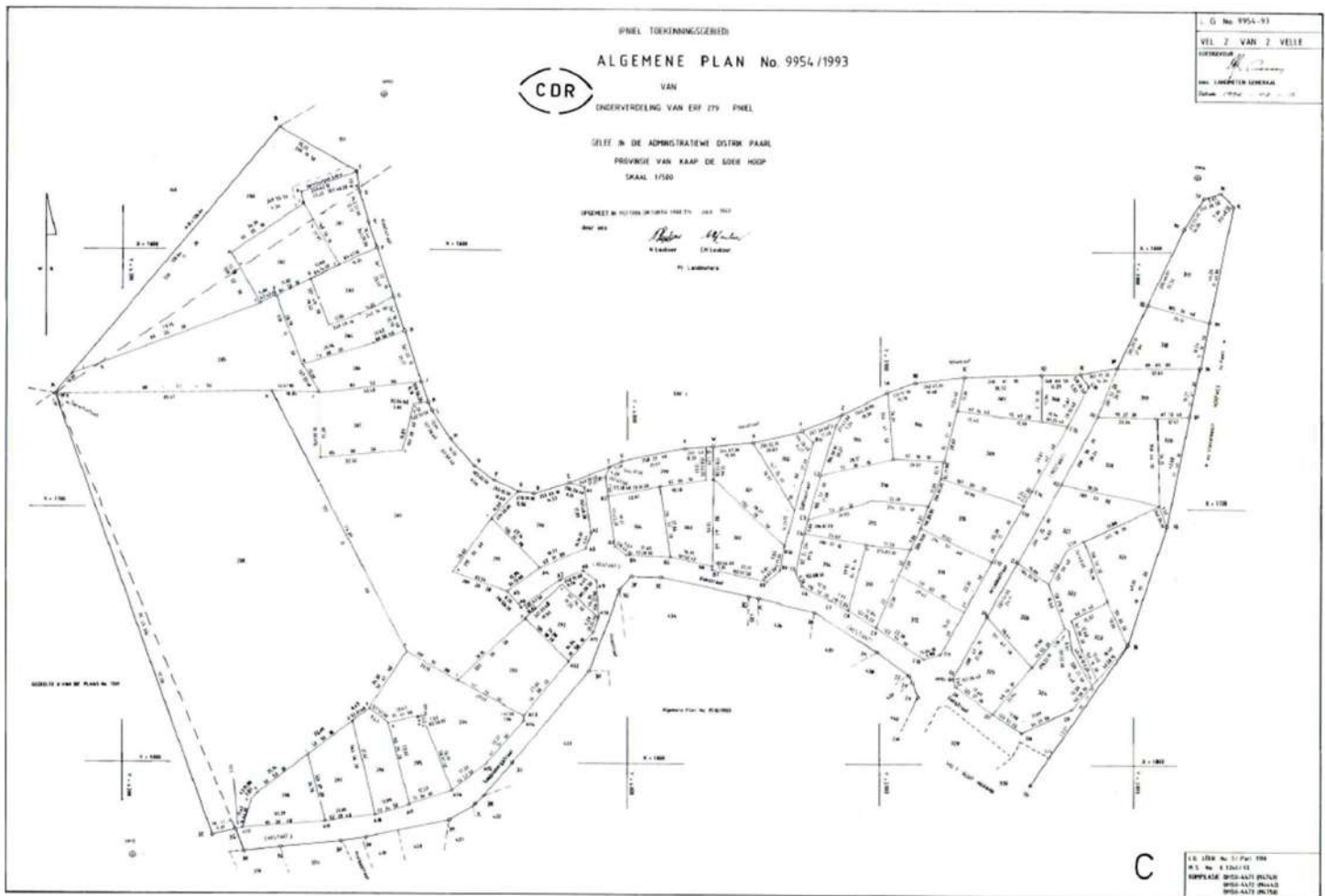


Figure 7: General Plan Extract

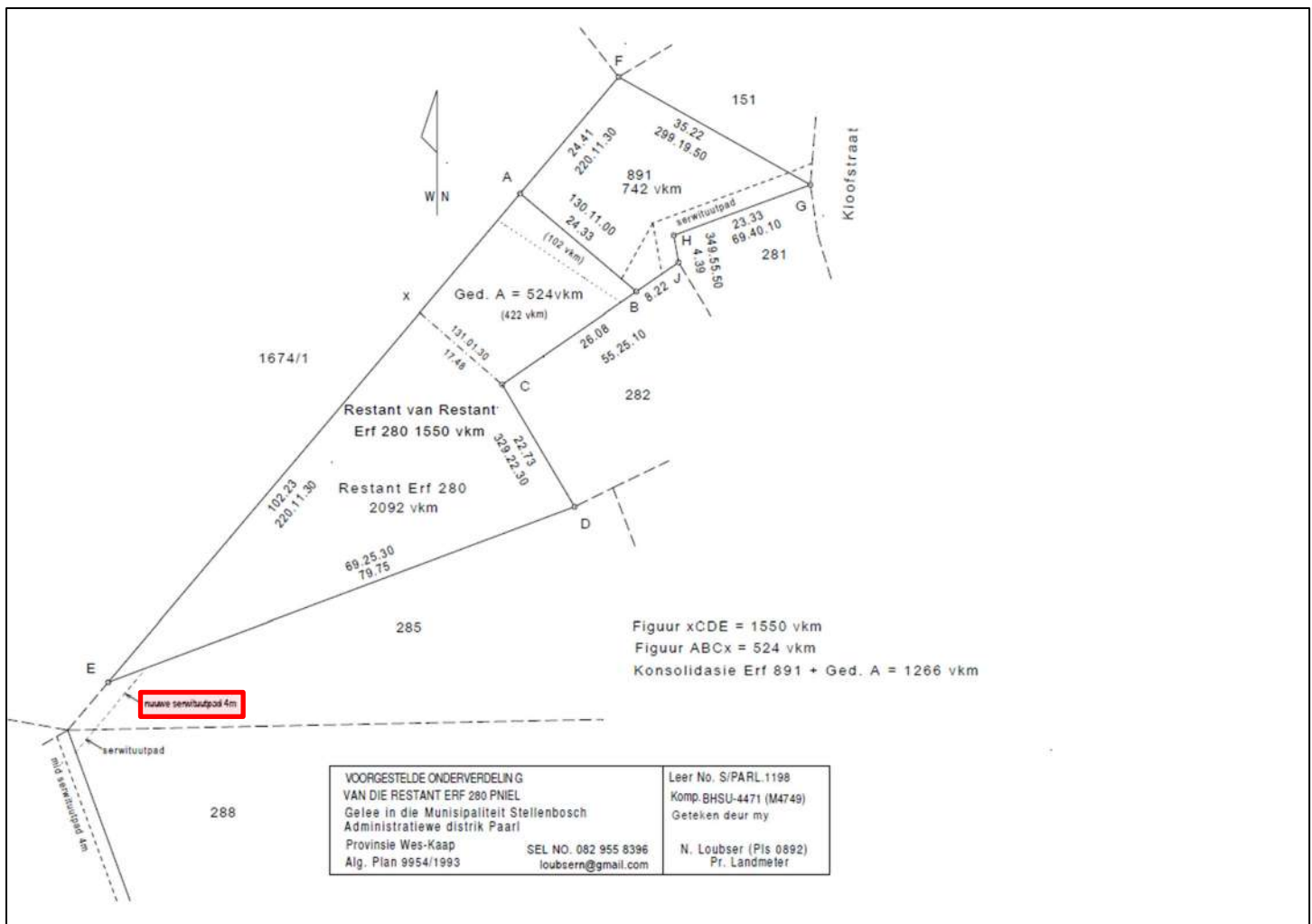


Figure 8: Proposed Right of Way Servitude (width of 4m) over Erf 285

4. Motivation

4.1 Municipal Requirements

When considering a subdivision and consolidation application, the Municipality shall adhere to the assessment criteria and other requirements as set out in Section 20 of the By-Law as listed below:

Section 20:

1. No person may subdivide land without the approval of the Municipality in terms of section 15(2) unless the subdivision is exempted in terms of section 24.
2. No application for subdivision involving a change of zoning may be considered by the Municipality unless the land concerned is zoned as a subdivisational area.
3. An applicant may submit a subdivision application simultaneously with an application for rezoning.
4. The Municipality must impose appropriate conditions in terms of section 66 relating to engineering services for an approval of a subdivision.

5. If the Municipality approves a subdivision, the applicant must submit a general plan or diagram to the Surveyor-General for approval, including proof to the satisfaction of the Surveyor-General of—
 - (a) the Municipality's decision to approve the subdivision;
 - (b) the conditions of approval imposed in terms of section 66; and
 - (c) the approved subdivision plan.
6. The Municipality must issue a certificate to the applicant or any other person on his or her written request to confirm that all the conditions of approval contemplated in subsection 21(1)(c) have been met, if the applicant has submitted the proof contemplated in that section.
7. If the Municipality issues a certificate referred to in subsection (6) in error, the owner is not absolved from complying with the obligations imposed in terms of the conditions.

Section 65(1) of the By-law sets out certain criteria which needs be met in consideration of an application by the decision-making authorities. In line with this section, Table 4, below, sets out the criteria and assesses the application accordingly:

Section 65(1) Criteria	Assessment of Proposal
a. Application submitted in terms of the By-law.	The application is submitted in terms of Sections 15(2)(d)(e) of the By-law.
b. Procedure followed in processing the application.	To be decided by the municipality.
c. Desirability of land use	<p>The approval of the application will not negatively affect the surrounding area, as motivated for below:</p> <ul style="list-style-type: none"> • All development rights on both Erven will remain the same. • The development will create a logical and accessible access to Remainder of Remainder Erf 280 • The scale and character of the Erven will remain in line with the surrounding properties and the residential character will remain intact.
d. Comment in response to public participation.	The application to be advertised in accordance with the Stellenbosch Municipality's requirements.
e. Applicants' response to comments received.	To be submitted as part of the Portfolio of Evidence upon conclusion of the Public Participation Process.

f. Investigations in terms of other laws.	Not Applicable.
g. Written assessment by planner.	To be done by the Stellenbosch Municipality.
h. Impact on municipal engineering services.	None
i. The IDP and SDF	<p>Stellenbosch Municipality MSDF is used to guide land use decisions in both the short and long term. The section below indicates how the proposed land use will comply with these proposals:</p> <ul style="list-style-type: none"> • The proposed development will not result in the loss of agricultural land or will in any way negatively affect the scenic character of the area. • The proposed development will ease access to the benefit of both Erven.
j. IDP and SDF of district Municipality.	In line with this applicable plan and framework.
k. IDP and SDF of local Municipality	Discussed and addressed under i and j, above.
l. Applicable structure plans	General Plan No: 9954/93
m. Applicable policies for decision making	Aligned.
n. Provincial spatial development framework	The application is in line with the Municipal and District SDF and IDP, which is informed by the provincial IDP and SDF.
o. Regional spatial development framework.	N/A
p. National policies, norms and criteria.	N/A
q. Section 42 of the Spatial Planning and Land Use Management Act.	The application is considerate towards the requirement and provisions of Section 42 of the Spatial Planning and Land Use Management Act.

<p>r. Chapter VI of the Land Use Planning Act</p>	<p><u>Spatial Justice:</u> Aligned. The proposed development will allow both properties to be efficiently used and accessed.</p> <p><u>Spatial Sustainability:</u> Aligned. There will be no change in land use and the subdivision and consolidation even has the same zoning and land use parameters.</p> <p><u>Efficiency:</u> Aligned. This application entails the utilisation of existing infrastructure on an optimal level. The proposal will allow for the efficient utilisation of land.</p> <p><u>Good Administration:</u> The approval of this application will be in the best interest of the Stellenbosch Municipality.</p> <p><u>Spatial Resilience:</u> Through the approval of this application, there will be no negative impact on the surrounding area; nor would there be any additional risk to the resilience of human residents in the area.</p>
<p>s. Applicable provisions of the zoning scheme</p>	<p>The purpose of the Conventional Residential Zone is to make provision for:</p> <ul style="list-style-type: none"> • The use of land for the purposes of predominantly single dwelling houses; <ul style="list-style-type: none"> ○ The subdivision and consolidation propose no change in land use. • The welfare and safety of the occupants of dwelling houses within a neighbourhood by limiting uses which are likely to give rise to a public nuisance. <ul style="list-style-type: none"> ○ The proposed subdivision and consolidation will have no negative effect on the welfare of the surrounding neighbourhood. • The protection and improvement of the quality and character of residential areas to ensure a safe and pleasant living environment. <ul style="list-style-type: none"> ○ The proposed subdivision and consolidation will have a positive effect on access to the properties thus creating a more pleasant living area. • Controlled opportunities for home employment and income generation through activities which are compatible with and ancillary to residential uses; and <ul style="list-style-type: none"> ○ No home employment is planned. • Moderate densification through additional dwellings of with a similar built form and character. <ul style="list-style-type: none"> ○ The area will through better-defined boundaries allow for ease of development and densification.

	As discussed, the proposed development is in line with the provisions of the Zoning Scheme.
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Table 3 Assessment of Application in terms of Section 65 of the By-law

5. Conclusion

In light of the above information, Council is respectfully requested to favourably consider the application for the following:

- i) Subdivision of Erf 280, Pniel in terms of Section 15(2)(d) of the said By-law, into two portions namely Portion A ($\pm 524\text{m}^2$) and a Remainder ($\pm 1568\text{m}^2$).
- ii) Consolidation of Portion A ($\pm 524\text{m}^2$) with Erf 891, Pniel ($\pm 742\text{m}^2$) to create a new land unit of Erf $\pm 1266\text{m}^2$ in terms of Section 15(2)(e).
- iii) The registration of a servitude right of way (4m) over Erf 285 & 288, Pniel in favour of Remainder Erf 280, Pniel in terms of Section 15(2)(d).

Report compiled by:

Renaldo Muller

Report reviewed by:



Marike Bolz (Pr. Plan A/060/2008)

for Arch Town Planners

Locality Plan - Erf 891 & RE/280, Pniel



Legend

- Local Municipalities
- Farm Portions
- Erf

Map Center: Lon: 18°57'18"E
Lat: 33°53'39.9"S

Scale: 1:2,257

Date created: 2024/19/08



**Western Cape
Government**
FOR YOU

Municipal Demarcation Board
Mayor General WC Department of Rural Development and Land Affairs
Source: Esri, DeLorme, Garmin, FAO, NOAA, USGS, OpenStreetMap contributors, and the GIS User Community

