



STELLENBOSCH

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**NOTICE OF MUNICIPAL PLANNING
TRIBUNAL MEETING
OF STELLENBOSCH MUNICIPALITY
FRIDAY, 2025-01-31 FROM
10:00-15:00**



**NOTICE OF MUNICIPAL PLANNING TRIBUNAL MEETING
OF STELLENBOSCH MUNICIPALITY
FRIDAY, 2025-01-31 FROM 10:00-15:00**

Ref. no. 3/4/5/2/40

2025-01-31

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 M Williams: Senior Legal Advisor

Mr A van der Merwe: Senior Manager - Community Services

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

Technical Advisor

Mr K Munro - Director Environmental & Spatial Planning: Department of Environmental Affairs and Development Planning

*Notice is hereby given in terms of Section 75(1) of the Stellenbosch Municipality Land Use Planning By-Law (2023), of the Municipal Planning Tribunal Meeting which will be held at the **Stellenbosch Council Chambers, Stellenbosch Municipality, Plein Street, Stellenbosch** on **FRIDAY, 2025-01-31** from 10h00-15:00 to consider the items on the Agenda.*

Mrs H Crooijmans-Lemmer
CHAIRPERSON: MUNICIPAL PLANNING TRIBUNAL



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**MINUTES OF THE STELLENBOSCH MUNICIPAL PLANNING TRIBUNAL MEETING
HELD ON WEDNESDAY, 29TH OF NOVEMBER 2024 AT THE FACILITIES MANAGEMENT
BUILDING, HAMMANSHAND ROAD, STELLENBOSCH CENTRAL, STELLENBOSCH FROM
10H00-15H00**

**Ref. no. 3/4/5/2/40
2024-11-29**

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

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

Mr P April : Senior Town Planner

Ms O Vergotine: Administrative Officer

Mrs Bongiwe : Senior Town Planner

Visitors

Mrs Bolz

MINUTES: STELLENBOSCH MUNICIPAL PLANNING TRIBUNAL 29 NOVEMBER 2024

ITEM	SUBJECT
SMPT 01/11/24	OPENING AND WELCOME
	Chairperson Crooijmans-Lemmer welcomed all present.
SMPT 02/11/24	LEAVE OF ABSENCE
	Mr M Williams Mr J Benjamin
SMPT 03/11/24	DISCLOSURE OF INTERESTS
	Mr D Leo provided professional services by compiling the plans for the telecommunication base station on the development on Erf 7001 Cloetesville.
SMPT 04/11/24	MINUTES OF THE PREVIOUS MEETING DATED 29 NOVEMBER 2024
	The minutes of the previous meeting was noted. The annexures on pages 52-62 were incorrectly included as it does not have reference to the Minutes of the meeting held on 25 October 2024.
	MATTERS FOR CONSIDERATION
SMPT 05/11/24	APPLICATION IN TERMS OF SECTION 15(2)(O) OF THE STELLENBOSCH MUNICIPALITY BY-LAW ON MUNICIPAL LAND USE PLANNING, 2023 FOR A CONSENT USE ON FARM NO. 124/11, STELLENBOSCH DIVISION TO ALLOW A TOURIST ACCOMMODATION ESTABLISHMENT WITHIN THE PROPOSED TEN (10) SELF-CATERING UNITS Discussion: <ol style="list-style-type: none"> Chairperson Crooijmans-Lemmer welcomed Mrs Bolz from ARCH Town Planners who made a presentation on behalf of the owner of Farm 124/11 Stellenbosch Division. She highlighted that no extensions to the existing structures are proposed, and the footprint will not be increased and that the property is too small for farming

activities. It was also noted that the objection from the neighbour was withdrawn on 28 November 2024. See presentation attached.

- b. The Chairperson handed over to Mrs Dafeti to give a brief introduction of the application that served before the Tribunal. She referred to the presentation by Mrs Bolz which indicated that the manager's house is existing, which is not correct as according to municipal records, the building was approved as an outbuilding.
- c. Clarity was asked about the provision of conference facilities as indicated in Unit 4. The applicant confirmed that the initial application for a conference facility was withdrawn and that the conference room in the guest Unit 4 will be used by guests for meetings. It was also confirmed that there is no provision for braai facilities.
- d. Discussions followed on the provisions in the provincial guidelines and the zoning scheme bylaw for tourist accommodation, guest houses, the number of dwelling units allowed on agricultural properties and the possible cumulative impact it can have on the rural landscape and value of agricultural land in Stellenbosch. The need is recognised for the review of policy guidelines and the draft zoning scheme bylaw to manage expectations for tourism opportunities created by policy in general.

UNANIMOUSLY RESOLVED:

- 1. That it **BE DECIDED** that the application for Consent Use on Farm No. 124/11, Stellenbosch Division to allow a tourist accommodation establishment within the existing structures, which are to be renovated to accommodate ten (10) self-catering units 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:
 - 1.1 The proposed development exceeds the number of dwelling units prescribed by the MSDF for Agricultural properties and thus is in conflict with the spatial planning objectives of the MSDF.
- 2. That it **BE DECIDED** that the application for Consent Use on Farm No. 124/11, Stellenbosch Division to allow a tourist accommodation establishment within the proposed ten (10) self-catering units **does not** 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:
 - 2.1 The size of the subject property (1,8ha) does not allow the number of units proposed in this application.
 - 2.2 The subject proposed development will become primary use of this property as it will not be subservient to the agricultural use that the property is zoned for.

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	<p>3. That the application in terms of Section 15(2)(o) of the Stellenbosch Municipality Land Use Planning By-Law, 2023 for a Consent Use for a tourist accommodation establishment in order to allow the existing structure to be converted into ten (10) self-catering units on Farm No. 124/11, Stellenbosch Division.</p> <p>BE REFUSED in terms of Section 60 of the said Bylaw.</p> <p>4. The reasons for the above decision are as follows:</p> <p>4.1 The scale of the proposed tourist accommodation is considered to be an overdevelopment of the subject property and does not fully consider the purpose of the Agriculture & Rural Zone.</p> <p>4.2 The proposal is not in line with the existing agricultural and rural character of the area, as the proposal gives rise to urban development within the rural area.</p> <p>4.3 The scale of the proposed development in relation to the size of the property is not in line with the objectives of the zoning of the property.</p> <p>4.4 The size of the subject property does not allow the proposed number of dwelling units.</p>
<p>SMPT 06/11/24</p>	<p>APPLICATION FOR REZONING, SUBDIVISION, DEPARTURE, CONSENT USE AND CLOSURE OF A PUBLIC PLACE: ERF 7001, STELLENBOSCH.</p> <p>Discussion:</p> <p>a. Mr D Leo excused himself from the discussion and decision of this item as he provided professional services for the drafting of the plans for the telecommunication base station on Erf 7001.</p> <p>b. Chairperson Crooijmans-Lemmer handed over to Mr April to give a brief introduction of the application that served before the Tribunal.</p> <p>c. Discussions followed on the open space and the functionality thereof which is regarded as sufficient. Reference was made to the recreation space close to the swimming pool in Cloetesville which is in close vicinity to this site.</p> <p>d. When questioned Mr April indicated that the layout of the development was finalised with input from the municipal town planners and engineers where the road widths, erf size, open space and parking requirements were discussed.</p> <p>e. The need for street trees was noted and it was agreed that the municipal services will be planned to be either in the middle of the road or on one side of the road to allow planting on the pavement.</p> <p>UNANIMOUSLY RESOLVED:</p> <p>1. That the following application(s) in terms of Section 15(2) of the Stellenbosch Municipal Land Use Planning Bylaw on Erf 7001, Stellenbosch for:</p>

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	<p>1.1. In terms of Section 15(2)(n) of the said bylaw, for the closure of a part of a public place.</p> <p>1.2. In terms of Section 15(2)(a) of the said bylaw, for the rezoning from Public Open Space Zone to Subdivisional Area Overlay Zone in order to allow for the following uses:</p> <p>1.2.1 Conventional Residential Zone Erven,</p> <p>1.2.2 5 Public Open Space Zone Erven,</p> <p>1.2.3 1 Utility Services Zone Erf and</p> <p>1.2.4 1 Public Road and Parking Zone Erf</p> <p>1.3 In terms of Section 15(2)(d) of the said bylaw, for the subdivision into 208 erven, namely:</p> <p>1.3.1 Erf 1 to Erf 201 (Conventional Residential Zone Erven) ranging from $\pm 115\text{m}^2$ to $\pm 312\text{m}^2$ (total of $\pm 3.32\text{ha}$).</p> <p>1.3.2 Erf 202 ($\pm 945\text{m}^2$), Erf 203 ($\pm 548\text{m}^2$), Erf 204 ($\pm 261\text{m}^2$), Erf 205 ($\pm 5866\text{m}^2$) and Erf 206 ($\pm 8.4\text{m}^2$) zoned Public Open Space Zone.</p> <p>1.3.3 Erf 207 ($\pm 6506\text{m}^2$) zoned Utility Services Zone.</p> <p>1.3.4 Erf 208 ($\pm 17976\text{m}^2$) zoned Public Road and Parking Zone.</p> <p>1.3.5 The registration of a 4m wide right of way servitude over Portion 128 in favour of Portion 129.</p> <p>1.3.6 The registration of a 5.2m and 6.6m wide services servitude in favour of the municipality over Portion 124, 125 and 126.</p> <p>1.4 In terms of Section 15(2)(b) of the Stellenbosch Municipality By-Law on Municipal Land Use Planning, 2023, for a permanent departure all residential zoned properties, to relax:</p> <p>1.4.1 the Street building line for erven up to 250m^2 from 2m to 1m,</p> <p>1.4.2 the Street building line for erven between 251m^2 to 500m^2 from 3m to 1m and</p> <p>1.4.3 the common building lines from 1m to 0m.</p> <p>1.5 In terms of Section 15(2)(o) of the said bylaw, for consent use to erect a telecommunications mast on the portion to be zoned as Public Open Space Zone (Portion 205).</p> <p>BE APPROVED in terms of Section 60 of the said Bylaw and subject to conditions of approval.</p> <p>2 The approval is subject to the following conditions imposed in terms of Section 66 of the said Bylaw:</p> <p>2.1 The approval only applies to the proposed applications under consideration and shall not be construed as authority to depart from any other legal prescriptions or requirements from</p>
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	<p>Council or other legislation or Bylaws or Regulations that may be applicable.</p> <p>2.2 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>Subdivision, rezoning, departure and closure of public place</p> <p>2.3 The development be undertaken in accordance with the Subdivisional and Zoning Plan with reference; Drawing Project Number 1001918, dated 04/10/2024, drawn by Zutari Impact Engineered and attached as APPENDIX B.</p> <p>2.4 An electronic copy (shp, dwg, dxf) of the approved General Plan be submitted to the Directorate Planning and Economic Development for record purposes, which plan indicate the following information:</p> <p>2.4.1) Newly allocated erf numbers</p> <p>2.4.2) Co-ordinates</p> <p>2.4.3) Survey dimensions</p> <p>2.4.4) Street names and numbering</p> <p>2.5 The servitude rights over any property be registered in the title deeds of the applicable property/ies on registration.</p> <p>2.6 Building plans be submitted and approved by the Municipality prior to the commencing of any building works, including the preparation of land, which will only be approved when all relevant conditions of approval have been complied with.</p> <p>2.7 Compliance with the conditions relating to infrastructure services contained in memorandum (Civil LU2644, dated 05 August 2024) and attached as APPENDIX F.</p> <p>2.8 Compliance with the conditions relating to Electrical services Department contained in memorandum dated 26/02/2024 and attached as APPENDIX G.</p> <p>2.9 Sufficient on-site parking be provided in accordance with the provisions of the Zoning Scheme Bylaw and to be illustrated on the building plans.</p> <p>2.10 Activities on site, during construction and thereafter, comply with the Western Cape Noise Control regulations.</p> <p>2.11 During constructions the relevant implementing agent/contractor must take all reasonable steps to prevent nuisance caused by dust in accordance with the national Dust Control Regulations.</p> <p>2.12 Should any heritage resources, including evidence of graves and human burials, archaeological material and paleontological material be discovered during the execution of the activities above, all works must be stopped immediately and Heritage Western Cape must be notified without delay.</p> <p>2.13 The Surveyor General – Western Cape in terms of Section 26(7) of the Bylaw on Municipal Land Use Planning (2023) be</p>
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	<p>informed of the approval of the closure of the public place to endorse their records.</p> <p>Telecommunication base stations:</p> <p>2.14 The development be undertaken in accordance with the building plan Rev No BP-7001-REV1, Sheet 3, 4, 5, 6, dated 10/11/2023 and drawn by Urban Solutions for ATC South Africa, attached as APPENDIX B.</p> <p>2.15 Access to the telecommunication infrastructure and associated equipment be strictly controlled at all times by means of a fence or wall with a locked door or gate to the satisfaction of the Municipality.</p> <p>2.16 No unauthorised person be able to come within 5m in front of the panel antennae for the telecommunication infrastructure.</p> <p>2.17 Adequate warning signs in the three official languages be displayed on the access door or gate, defining it as a no-go zone.</p> <p>2.18 The relevant municipal department be grant access at all reasonable times to the installation, for the purpose of monitoring inspection and compliance certification.</p> <p>2.19 The consent use be restricted to the fenced compound of the mast and equipment room as depicted on the approved building plan.</p> <p>2.20 The mast, equipment room or any boundary enclosure is not utilised for outdoor advertising purposes.</p> <p>2.21 The operator be responsible for ongoing maintenance of the entire installation as well as all costs with respect to such maintenance or future decommissioning of the telecommunication infrastructure.</p> <p>2.22 If the site is decommissioned the operator to remove all site infrastructure and the site to be rehabilitated to its former state or to a condition that is in line with the land use and character of the area at the time of decommissioning to the satisfaction of the Municipality.</p> <p>3 The reasons for the above decision are as follows:</p> <p>3.1 The property is needed by the Municipality for an integrated urban settlement development to address the municipal housing backlog and Erf 7001, Stellenbosch (Cloetesville area) was identified as a suitable site for such a development with a particular goal to deliver on their mandate to provide medium to upper market (GAP) housing opportunities.</p> <p>3.2 The closure of the public place will be in the interest of the broader community and a portion will be retained for public open space purposes. The closure will regularize some of the current uses (Utility Services) and will enable the various other statutory processes to realize the sites long-term potential, earmarked for infill development.</p>
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	<p>3.3 The mast will be beneficial to the broader community and customer base, with the increase in coverage and capacity.</p> <p>4 Matters to be noted:</p> <p>4.1 Street naming and numbering must be submitted, process, approved and implemented as per the approved policy and delegations.</p> <p>4.2 Architectural and landscaping design proposals must form part of the scope of works for the call for proposal and implemented accordingly.</p>
<p>SMPT 07/11/24</p>	<p>APPLICATION FOR SUBDIVISION: UNREGISTERED ERF 14599 AND 15095, STELLENBOSCH</p> <p>Discussion:</p> <ul style="list-style-type: none"> a. Chairperson handed over to Mr April to give a brief introduction of the application that served before the Tribunal. The history of the housing project as given by Mr April and Mr van Stavel provided context to the development. b. The main objective of the application is to give ownership to the beneficiaries. c. There is support from the MPT for the project. <p>1. That the following application(s) in terms of Section 15(2) of the Stellenbosch Municipal Land Use Planning Bylaw, namely:</p> <ul style="list-style-type: none"> 1.1. The Subdivision in terms of Section 15(2)(d) of the said Bylaw of Unregistered Erf 14599, Stellenbosch (consisting of the consolidation in terms of Section 15(2)(e) of the said Bylaw of Erf 6667, 6852, 14597 and 14598, Stellenbosch) into 90 Conventional Residential Zone Erven and Remainder Roads (Public Road and Parking Zone) erven and the registration of 2m stormwater servitudes, 2m services servitudes and 5m foul sewer servitude 1.2. The Subdivision in terms of Section 15(2)(d) of the said Bylaw of Unregistered Erf 15095, Stellenbosch (A portion of Erf 6846, Stellenbosch) into 74 Conventional Residential Zone Erven and a Remainder Road (Public Road and Parking Zone – Erf 15097) and the registration of pipeline and services servitudes. <p>BE APPROVED in terms of Section 60 of the said Bylaw and subject to conditions of approval.</p> <p>2. The approval is subject to the following conditions imposed in terms of Section 66 of the said Bylaw:</p>

	<p>2.1 The approval only applies to the applications as indicated above 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>2.2 The proposed subdivisions be implemented in accordance to General Plan No 4717/2006, surveyed by D. P Burger dated May 2004 – June 2006 and General Plan No 4720/2006, surveyed by M. B. Straughan dated May 2004 – June 2006 attached as ANNEXURE D & E.</p> <p>2.3 An electronic copy (shp, dwg, dxf) of the subdivisional plans be submitted to the Directorate Planning and Economic Development for record purposes, which plan must indicate the following information:</p> <p>2.3.1 Co-ordinates</p> <p>2.3.2 Survey dimensions</p> <p>2.4 The servitudes be registered in the title deeds of the applicable property/ies on registration.</p> <p>2.5 The approval granted shall not exempt the applicant from complying with any other legal prescriptions or requirements that might have a bearing on the approved land uses.</p> <p>3. The reasons for the above decision are as follows:</p> <p>3.1. The subdivisions formalize the existing residential area, where duplex units are already constructed and occupied, ensuring compatibility with surrounding privately owned residential properties.</p> <p>3.2. The proposed subdivision will not result in adverse impacts on the biophysical environment or heritage resources, as the development was established in 2007/2008, with no new construction planned.</p> <p>3.3. The subdivision does not place additional demands on infrastructure or services, as the properties are already fully serviced, and no upgraded engineering services are required.</p> <p>3.4. The transfer of ownership to beneficiaries will positively impact the community by providing security of tenure and supporting socio-economic stability for both current and future residents.</p> <p>3.5. The proposal which is within an urban edge aligns with the relevant planning frameworks and legislation, including the Stellenbosch Municipality's Amended Spatial Development Framework (2023), Land Use Planning By-Law (2023), and Zoning Scheme By-Law (2024).</p>
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<p>SMPT 08/11/24</p>	<p>APPLICATION IN TERMS OF SECTION 15(2)(O) & (B) OF THE STELLENBOSCH MUNICIPALITY BY-LAW ON MUNICIPAL LAND USE PLANNING, 2023 ON FARM NO. 136, STELLENBOSCH DIVISION FOR THE FOLLOWING:</p> <ul style="list-style-type: none"> - A CONSENT USE TO ALLOW FOR THE CONSTRUCTION OF AN ADDITIONAL DWELLING UNIT - A DEPARTURE TO EXCEED THE ALLOWABLE COVERAGE OF AN ADDITIONAL DWELLING UNIT FROM 120M² TO 210M² <p>Discussion:</p> <ol style="list-style-type: none"> a. Chairperson handed over to Mrs Dafeti to give a brief introduction of the application that served before the Tribunal. b. The environmental site analysis and other supporting documents. included in the report provided good insight and understanding. The Tribunal noted the quality of the applicant's application and report. <p>UNANIMOUSLY RESOLVED:</p> <ol style="list-style-type: none"> 1. That it BE DECIDED that the application for Consent Use on Farm No. 136, Stellenbosch Division for the construction of an additional dwelling unit 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"> 1.1 The proposed development exceeds the size limit of 175m² prescribed by the MSDF for additional dwelling units on agricultural properties and thus is in conflict with the spatial planning objectives of the MSDF. 2. That it BE DECIDED that the application for Consent Use on Farm No. 136, Stellenbosch Division for the construction of an additional dwelling unit <u>warrants</u> 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"> 2.1 The total coverage of residential buildings on this property including the proposed unit, amounts to 710m² which is well below the allowable limit of residential buildings that can be constructed as of right (1200m²) on this property. 2.2 The proposed additional dwelling unit does not have an impact on the agricultural activities on this farm and will be subservient to the primary land use of this property. 3. That the following application(s) in terms of Section 15(2) of the Stellenbosch Municipality By-law on Municipal Land Use Planning, 2023 on Farm No. 136, Stellenbosch Division for:
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3.1 Consent use in terms of Section 15(2)(o) of the said by-law for the construction of an additional dwelling unit.

3.2 A departure in terms of Section 15(2)(b) of the said by-law to exceed the permissible coverage of an additional dwelling unit.

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

4. The approval is subject to the following **conditions** imposed in terms of Section 66 of the said Bylaw:

4.1 The approval only applies to the proposed consent use & departure 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.

4.2 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.

4.3 The coverage of the additional dwelling unit be restricted to 210m².

4.4 Building plans must be generally in accordance with the site plan referenced no. S.A.02 dated 3 August 2023; floor layout plan as referenced no. S.B.01 Revision B and dated August 2022; Elevations referenced as S.C.01 Revision B and dated August 2022 and drawn by Andre de Villiers Architects. Annexure B.

4.5 Conditions from the Directorate Infrastructure as imposed in their memo dated 28 August 2024, be adhered to (See **Annexure F**).

4.6 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.

5. The **reasons** for the above decision are as follows:

5.1 The primary land use of the property will remain agricultural.

5.2 The concept of additional dwelling unit is in line with the MSDP guidelines and the increased coverage will have insignificant impact on the existing agricultural activities on this farm.

6. Matters to be noted:

6.1 The applicant advised to arrange for servitude access over the properties between Remainder Farm No. 136, Stellenbosch Divisional Main Road 172 (Helshoogte Road) to be registered in favour of Remainder Farm 136, to ensure permanent, legal and unfettered access.

6.2 All electrical requirements should be directed to Eskom.

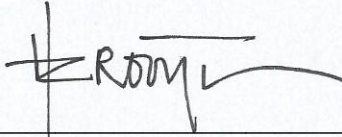
MINUTES: STELLENBOSCH MUNICIPAL PLANNING TRIBUNAL 29 NOVEMBER 2024

<p>SMPT 09/11/24</p>	<p>APPLICATION IN TERMS OF SECTION 15 (2)(G) OF THE STELLENBOSCH MUNICIPALITY LAND USE PLANNING BYLAW, 2023 ON FARM 468/9 STELLENBOSCH DIVISION FOR ADDITIONAL USE TO ALLOW TOURIST DWELLING UNITS WITHIN THE EXISTING FOUR (4) LABOURERS' COTTAGES</p> <p>Discussion:</p> <ol style="list-style-type: none"> Chairperson handed over to Ms Zondo to give a brief introduction of the application that served before the Tribunal. A question was asked about the comments from the Department of Agricultural that questioned the existence of the labour cottages. It was confirmed that the Municipality has record of approved building plans for the labourers' cottages. Discussions followed on the current farming activities and the phenomenon of farm workers not staying on farms anymore. The existing cottages are subservient to the agricultural activities on the farm as per the site photos shown. <p>UNANIMOUSLY RESOLVED:</p> <ol style="list-style-type: none"> That it BE DECIDED that the application for Technical Approval on Farm 468/9 Stellenbosch Division to allow tourist dwelling units within the existing four (4) laborers' 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"> 1.1 The proposal exceeds the number of dwelling units 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 Technical Approval on Farm 468/9 Stellenbosch Division to allow tourist dwelling units within the existing four (4) laborers' 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"> 2.1 The proposal will utilise the existing laborer's cottages as approved, and the context of the development is the same as and is subservient to agricultural activities on the farm. That the following application in terms of Section 15 (2)(g) of the Stellenbosch Municipality Land Use Planning Bylaw, 2023) on Farm 468/9 Stellenbosch Division for Additional Use to allow tourist dwelling units within the existing four (4) laborers' cottages, <p>BE APPROVED in terms of Section 60 of the said Bylaw, subject to conditions in terms of Section 66 of the said Bylaw.</p>
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4. The approval is subject to the following conditions imposed in terms of Section 66 of the said Bylaw:
 - 4.1 The approval only applies to the proposed application 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.
 - 4.2 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.
 - 4.3 The four (4) bedroom tourist dwelling units must be confined within the existing four (4) self-catering units and no new buildings must be constructed.
 - 4.4 No employee housing for farmworkers may be developed in the place of the former employee housing units that has been converted to the tourist dwelling units approved in this application, and should the need arise for such employee housing units for farm workers in the future, the existing tourist dwelling units must be converted back to its original use as employee housing units.
 - 4.5 That the approval, insofar as the structures that have been developed without prior authorisation to facilitate unauthorised land use activities which have already commenced, is subject to a contravention penalty of R25 000 per dwelling unit (x 4) in accordance with the approved tariffs of Council, which contravention penalty is payable within 30 days from date of the subject approval.
 - 4.6 Development charges are payable in accordance with the prevailing and applicable Council Tariffs at the time of payment prior to the approval of any building plans or as may be agreed on in writing with the Director Infrastructure Services.
 - 4.7 The development be implemented in accordance with the Site Development Plan, referenced as drawings No: 100 & C-101, drawn by: Yolandi Vorster Professional Architect, dated 2023/05/16 & 29/11/2022.
 - 4.8 Building plans be submitted for all changes of use in the existing buildings and which building plan(s) be approved and related occupancy certificates be issued prior to the vesting of any of the related approvals.
5. The **reasons** for the above decision are as follows:

MINUTES: STELLENBOSCH MUNICIPAL PLANNING TRIBUNAL 29 NOVEMBER 2024

	<p>5.1 The proposal is in line with the existing land use of the property and will not have a negative impact on the character of the surrounding area.</p> <p>5.2 The proposed uses are subservient to the agricultural use of the property and surrounding farms.</p> <p>5.3 The proposal will assist to diversify the land uses on the farm without impacting on the existing agricultural activities.</p> <p>5.4 There are four existing labourer's cottages which are being converted without extending the buildings.</p> <p>6. Matters to be noted:</p> <p>6.1 Building plans be approved by the municipality prior to any building work commencing.</p> <p>6.2 No directional signage be erected without the prior approval of the Provincial Roads Engineer and the Municipality.</p>
SMPT 10/11/24	OTHER MATTERS
6.1	<p>PLANNING POLICIES (REVIEWED OR APPROVED BY COUNCIL)</p> <p>a) The Draft Zoning Scheme Bylaw is available for public comment and the comment period closes on 31 January 2025.</p> <p>b) The MSDP was reviewed in terms of performance and no amendments are foreseen at this stage. The relevant Council Item will be circulated for information.</p> <p>c) The Glencore Constitutional Court Case provided clarity on the issuing of clearance certificates in instances where there are illegal building works. The clearance certificate cannot be withheld, and DEA&DP will issue a circular on this matter.</p>
6.2	<p>APPEALS RECEIVED AGAINST MPT DECISIONS</p> <p>a) No new appeals have been received on recent MPT decisions.</p> <p>b) The appeal decision on a condition of approval of The Bridge project in Klapmuts is still outstanding.</p>
6.3	<p>GENERAL</p> <p>a) It was noted that Mossel Bay has approved a new land use planning bylaw and decided to appoint an Appeal Tribunal instead of the Executive Mayor as the Appeal Authority.</p> <p>b) The LUM Office was requested to include a timeline in the planning report to give an indication of the history to provide an understanding of the process, as well as a locality plan and site plan in the report for ease of reference.</p>

A handwritten signature in black ink, appearing to read 'H. Crooijmans-Lemmer', written over a horizontal line.

Mrs H Crooijmans-Lemmer

CHAIRPERSON: MUNICIPAL PLANNING TRIBUNAL

A handwritten signature in black ink, appearing to read 'P. van Zyl', written over a horizontal line.

Mr P van Zyl

DEPUTY-CHAIRPERSON: MUNICIPAL PLANNING TRIBUNAL



APPLICATION IN TERMS OF SECTION 15 (2)(G) OF THE STELLENBOSCH MUNICIPALITY LAND USE PLANNING BYLAW, 2023 ON ERF 3298 FRANSCHHOEK FOR CONSENT USE TO ESTABLISH TWO (2) NEW SELF-CATERING TOURIST DWELLING UNITS

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STELLENBOSCH

STELLENBOSCH • PNIEL • FRANSCHHOEK

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DIRECTORATE: PLANNING & ECONOMIC DEVELOPMENT
DEVELOPMENT MANAGEMENT: LAND USE MANAGEMENT

PLANNING REPORT ON APPLICATION IN TERMS OF SECTION 15(2) OF THE STELLENBOSCH MUNICIPAL LAND USE PLANNING BYLAW

APPLICATION DETAILS

Application Reference	LU/15945	Commencement Date	16/08/2023
Applicant	Dupre Lombaard (Virdus Works)	Last day for comments or additional information	07/11/2024
Erf/Farm nr	Erf 3298	Place	Paarl Division
Zoning	Agriculture and Rural Zone	Other approvals	None

X TYPE OF APPLICATION

	15(2)(a) rezoning of land*
	15(2)(b) a permanent departure from the development parameters of the zoning scheme
	15(2)(c) a departure granted on a temporary basis to utilise land for a purpose not permitted in terms of the primary rights of the zoning applicable to the land
	15(2)(d) a subdivision of land that is not exempted in terms of section 24, including the registration of a servitude or lease agreement*
	15(2)(e) a consolidation of land that is not exempted in terms of section 24*
	15(2)(f) a removal, suspension or amendment of restrictive conditions in respect of a land unit*
	15(2)(g) a permission required in terms of the zoning scheme
	15(2)(h) an amendment, deletion or imposition of conditions in respect of an existing approval*
	15(2)(i) an extension of the validity period of an approval
	15(2)(j) an approval of an overlay zone as contemplated in the zoning scheme
	15(2)(k) an amendment or cancellation of an approved subdivision plan or part thereof, including a general plan or diagram*
	15(2)(l) a permission required in terms of a condition of approval
	15(2)(m) a determination of a zoning
	15(2)(n) a closure of a public place or part thereof
X	15(2)(o) a consent use contemplated in the zoning scheme
	15(2)(p) to disestablish a homeowners' association
	15(2)(q) to rectify a failure by a homeowners' association to meet its obligations in respect of the control over or maintenance of services
	15(2)(r) a permission required for the reconstruction of an existing building that constitutes a non-conforming use that is destroyed or damaged to the extent that it is necessary to demolish a substantial part of the building
	Approval required in terms of relevant policy for street naming and numbering
	Approval required in terms of Council policies or by-laws – Specify:
	Consent / Permission required in terms of a title deed (includes where planning permission is required in terms of the Advertising on Roads and Ribbon Development Act, Act 21 of 1940)

NATURE AND SCOPE OF PROPOSED LAND USE APPLICATION

1. Purpose of the Application:

- The applicant intends to establish two new guest cottages as tourist dwelling units. The proposed use is to better utilization to generate revenue for the farm.

2. Background and existing uses:

- Access to the property is gained off from La Provence Road (minor road 5615). The property abuts the Franschhoek railway line and is crossed by a municipal sewer servitude.
- The subject property currently comprises of 2x Farm dwellings, implement store, 3x labourers cottages, vehicle storage & workshops, pools room & entertainments area and bone fide agriculture – vineyards.
- An application for proposed three (3) guest cottages was amended to now two (2) guest cottages following consultation with the relevant local & provincial official regarding the location and size of the units (within 32m of the water course).

3. Summary of applicant's motivation: **(See Annexure D)**

- The proposal is consistent with the Integrated Development Plan and the Spatial Development Framework of the Stellenbosch Municipality.
- The scale of the proposed tourist dwelling units are keeping with the character of buildings on the abutting land unit and the farm buildings in general, as well as the character of the surrounding area, where many such facilities exist.
- There are no existing buildings on the farm for which consent use can be undertaken, as all existing buildings are utilised for their original purpose as part of agricultural activities.
- The proposed guest accommodation units will not require authorization in terms of Section 38 of the National Heritage Resources Act, 1999 as the character of the farm will not change over an area larger than 5 000m².
- The proposal conforms to the objectives of the National Development Plan and the Provincial Spatial Development Framework.
- The proposal is in line with the provisions of the Stellenbosch Zoning Scheme By-law and associated development parameters.

4. Summary of deviation from the SDF (Site specific Motivation) **(See Annexure D)**

- The applicant was informed that the application proposal submitted is made for more than the permitted number of additional dwelling units on a property (in relation to the size of the farm), therefore not in compliance with the provisions in the MSDF. As the application will deviate from the MSDF, the applicant was required to present and motivate the application on the basis of site-specific justification to depart from the MSDF as envisaged in Section 22 of SPLUMA.

The following is the summary of the site-specific motivation:

- The SDF guidelines indicate that preference of units be located within the farmstead, however the farmstead is fully developed, and it contains a large number of mature trees. It is further surrounded by plum orchards, which are the main product of the farm. Expansion of the farmstead is therefore not desirable, and neither is it desirable to remove the mature trees to create space to add the additional dwelling units to the farmstead.
- The proposed unit will not diminish the value of the agricultural resource and does not add to the cumulative impact of additional units on the receiving environment.
- One additional dwelling unit over the ratio of one per 10 ha can be approved, in view of the fact that the farm has an area of just more than 35 ha.
- The neighbouring farm (Leeu Estate development) is of significantly larger scale, and it contains large numbers of visible buildings and structures which make the small additional dwellings on Erf 3298 unobtrusive.
- The services infrastructure serving the one that is permitted will also serve the one additional unit, and these are the same services that also serve the employee housing units opposite the stream and the abutting tourist dwelling units on Erf 3498.
- The additional dwelling unit remain subservient to the agricultural uses.

ASSESSMENT CHECKLIST			
CONSIDERATION CRITERIA	YES	NO	Comments, if any
Accurate public participation processed followed	X		Circulated to internal & external departments as well as interested and affected parties.
Conditions imposed by departments	X		<ul style="list-style-type: none"> o The Manager: Spatial Planning did not support the proposal (See Annexure E for memo dated 08 December 2023). o The Director: Engineering Services: application recommended for approval (See Annexure G for Memo dated 01 December 2023). o The Manager: Property Management: application recommended for approval (See Annexure F for email dated 11 October 2023). o The Department of Infrastructure: Road Planning application recommended for approval (See Annexure I for email dated 13 May 2024). o The Environmental Planner: Community Services: application recommended for not be approved until such time as the specialist studies, identified and generated during the NEMA process, are submitted to the municipality for consideration. Amended comment: The department has no objection to the amended application subject to conditions. (See Annexure H for Memo dated 07 June 2024 & 27 August 2024). o The Department of Environmental Affairs and Development Planning: Development management, commented on the application (See Annexure J for email dated 11 June 2024).
DCs applicable	X		DCs are payable (See Annexure G)
Objections received		X	The applicant sent notices (e- mails) to interested and affected parties. No objections received.
Proposal complies with applicable laws, policies, guidelines, the IDP and SDP and/or technical requirements in terms of Section 65		X	The proposal is not compliant with the SDF as approved in 2019 & 2023. As a result, site specific motivation has been submitted.
DESIRABILITY CONSIDERATIONS IN TERMS OF SECTION 65 OF THE BYLAW			
Socio-economic impact	<p>The proposal facilitates economic growth appropriate to the rural context of the agricultural surrounding area. However, farm densification should not result in encroachment into farmland with agricultural potential. Development in rural areas should be in keeping with its location and sensitive to the rural landscape that is a tourist asset for the winelands economy.</p>		

Compatibility with surrounding uses	<p>The subject property is located in a predominantly agricultural area, with wine farms and tourist accommodation establishments and urban area of Franschhoek on the surroundings. The subject property is an active farm, producing plums on roughly 12 ha and 2,5 ha of vineyards. Roughly 12,5 ha of land on the farm, previously used for the cultivation of plums lie fallow and no longer cultivated. The proposal will not negatively impact on the farming activities on the farm and agricultural character of the area, except the removal of vineyards of 96 m² in total and pathway for the placement of the proposed tourist dwelling units.</p> <p>The property is located adjacent and just outside of the approved urban edge within a transitional area which forms the buffer between the urban and rural area. Note should be taken of the development of three tourist dwelling units along the stream on Erf 3498, adjacent to the subject property, closest to the urban edge. A similar application for two new tourist dwelling units, in addition to the three existing units on the adjacent Erf 3498, was submitted in 2021 and refused on appeal in 2024. As the design and floor plans appear similar, it is expected that the tourist units will be managed by the same entity.</p>
Impact on the external engineering services	<p>The proposal will not impact on any engineering services as the proposed tourist dwellings will utilise the existing infrastructure. Furthermore, the application was circulated to the Engineering Services, and they supported the application.</p>
Impact on safety, health and wellbeing of the surrounding community	<p>There are no anticipated negative impacts as the proposal complies with the development parameters applicable to the zoning of the property, except exceeding the number of dwelling units in a property which site specific motivation for deviating was submitted.</p> <p>The distance of the proposed units to the river and stream must be considered as a risk due to the recent floods in the Franschhoek area.</p>
Impact on heritage	<p>The proposed guest cottages are located in a sensitive area with a Grade 3A landscape unit with a high sensitivity. The development criteria for the area in terms of the Heritage Inventory and Management Plan requires that the area not needlessly destroyed and replaced by non-agricultural development and developments that promote the continuity of the core function of agriculture within Stellenbosch winelands should be promoted. The proposal is not aligned with this policy guidelines.</p>
Impact on the biophysical environment	<p>The proposal will have negative impact on the biophysical environment as the proposal entails the removal of agriculture (vineyards) of 96 m² in total and pathway to construct the proposed tourist dwelling units.</p>

Traffic impacts, parking, access and other transport related considerations	The applicant has provided parking for the proposed use on as indicated on the site plan, therefore sufficient parking is provided. The application was circulated to Western Cape department of Infrastructure: Road Planning and was supported as the traffic that will be generated by the proposal are insignificant.
Whether the imposition of conditions can mitigate an adverse impact of the proposed use or development of land	The negative impacts that the proposal has on the rural landscape cannot be mitigated through the imposition of conditions.

ASSESSMENT OF LAND USE AND LAND DEVELOPMENT APPLICATION

1. Policy and guidelines

1.1 The proposed development is located outside the urban edge of Franschhoek. The objectives and principles of the Stellenbosch Municipality Spatial Development Framework highlight the following related to the proposed development:

- o Land outside of existing and proposed urban settlements should be used for agricultural production, biodiversity conservation, scenic quality and agri-tourism; intensification of agriculture, biodiversity conservation and agri-tourism should be promoted in farming areas outside of urban settlements.
- o As far as possible, the consent uses should be undertaken from existing buildings on the property which are no longer utilised for their original purpose, and the Municipality may approve internal alterations and additions to these buildings within the parameters of this Scheme.
- o New buildings may only be approved if the Municipality is satisfied that there are no other suitable unused buildings on the land unit which can be used for this purpose, or where the location or configuration of existing buildings are obviously unsuitable or undesirable for the proposed use, or where the proposed new buildings are significantly more desirable given the purpose of the Agriculture and Rural zone.
- o All development in rural areas should be in keeping and in scale with its location and be sensitive to the character of the rural landscape and local distinctiveness.
- o Only activities that are appropriate in a rural context, generate positive socio-economic returns, and do not compromise the environment or ability of the municipality to deliver on its mandate is supported.
- o The long-term impact on the municipality (resources and financial); agricultural activities, production and sustainability, risk and finances; and the scenic, heritage and cultural landscape should be considered when decisions are taken.
- o Development in the rural area should not:
 - Have a significant negative impact on biodiversity.
 - Lead to the loss or alienation of agricultural land or has a cumulative impact there upon.
 - Compromise existing or potential farming activities.
 - Compromise the current and future possible use of mineral resources.
 - Be inconsistent with the cultural and scenic landscape within which it is situated.
 - Involve extensions to the municipality's reticulation networks.
 - Impose real costs or risks to the municipality delivering on their mandate.
 - Infringe on the authenticity of the rural landscape.

1.2 The proposal involves the development of two (2) new tourist dwelling units (99.20 m² all together) that can accommodate 4 guests (2 bedrooms). Therefore, the proposed development does not

make use of existing buildings. The MSDF further states that additional dwelling units should be restricted to one (1) unit per 10ha, to a maximum of 5 units: 175m² maximum floor area including garaging and building height of one (1) storey (6.5), the proposal is in conflict with this guideline. Similarly, the Western Cape Land Use Planning Guidelines (Rural Guidelines) also prescribes one (1) additional dwelling unit per 10 ha with a maximum of five (5) additional dwelling units per land unit. The proposed development is for two (2) tourist dwelling units and deviates from the provisions of the MSDF and Western Cape Guidelines for Rural Areas, 2019. Furthermore, the zoning scheme allows one dwelling unit and second dwelling unit as a primary right, and on land exceeding 20 ha in size consent may be granted for additional dwelling unit at a rate of one additional dwelling unit per every 10ha exceeding the 20ha threshold, up to a maximum of 4 additional dwelling units. The size of the property is 37ha, and there is already a main dwelling, second dwelling, 3x Labourers cottages, therefore only 1 additional dwelling can be applied for as consent use in line with the policy guidelines.

1.3 The proposed development is located in a sensitive area with a Grade 3A landscape unit with high sensitivity and must take the natural and heritage significance of the site into consideration. The development criteria for the area in terms of the Heritage Inventory and Management Plan requires the following:

- 1.3.1 The area is not needlessly destroyed and replaced by non-agricultural development. The potential agricultural use of the land should be retained for the future.
- 1.3.2 Fruit orchards are associated with windbreak trees which form distinctive strong lines on the landscape. In cases where the orchard has lost its function, to retain its heritage values, the windbreak trees should be kept, and new development could be included within exiting blocks.

1.4 The location of the proposed dwelling units is of a concern as it is not clustered / within or peripheral to the farmstead. The site-specific motivation in this regard does not justify the proposed location of the units on productive land along the stream. The MSDF and Western Cape Guidelines for Rural Areas, 2019 state that tourist dwellings should be located appropriately, avoiding high risk areas (e.g. fire, flooding, coastal processes) and conflict with productive farming areas. The placement of the units 10m from the stream poses a risk due to possible flooding in the area. Visitors to on-farm tourist accommodation may also impact on surrounding farming activities (e.g. dust from vehicles) as farming activities (e.g. noise, odour, and spray drift) may impact negatively on on-farm tourist accommodation, especially if the proposed units are adjacent to existing vineyards. Sterilizing productive agricultural land for non-agricultural activities is against the objectives of the MSDF. The specific location on land positioned between the urban edge and a river lends itself to being developed for urban development purposes over time and the proposal is seen as a pre-cursor to urban sprawl. Should this proposal be allowed, next to the three existing dwelling units on the adjacent property, it will reinforce urban sprawl and linear development along the stream, which should be avoided at all costs in accordance with the Guidelines for Rural Areas.

2. Assessment of comments on application

There were no objections received from the interested and affected parties as well as community organisations, however, matters relating to planning principles were highlighted by internal and external planning departments. The concerns include the fact that the subject property is outside of the approved urban edge and within a transitional area which forms the buffer between the Franschhoek urban area and rural area. The proposed development application does not conform to the rural guidelines in terms of placement (buildings should be clustered together within or near the main buildings on the farm). Furthermore, developments that promote the continuity of the core function of agriculture within Stellenbosch Winelands should be promoted.

All the interested and affected parties as well as other internal and external departments' comments were taken into account and will be imposed as conditions of approval, where necessary.

KEY FINDINGS OF PLANNING EVALUATION

After having independently considered and weighted all the relevant information the evaluation of the subject land use and land development application concludes that:

1. The application submitted for three (3) tourist dwelling units were amended to only two (2) units.
2. The proposal exceeds the number of dwellings permitted on the property and deviates from the MSDP and the Western Cape Land Use Planning Guidelines for Rural Areas and is not in keeping and in scale with its location.
3. Due to the size of the property, only one (1) additional dwelling can be allowed on this farm.
4. The proposal infringes on the authenticity of the rural landscape as it is located in a sensitive area with a Grade 3A landscape in terms of Heritage Inventory and Management and the natural and heritage significance of the site is not reflected in the proposal.
5. The proposed application does not conform to the guidelines for the placement of the proposed guest cottages in terms of policy guidelines in that the buildings should be clustered together within or near the farmstead precinct and is inconsistent with the cultural and scenic landscape within which it is situated.
6. The initial application shown two units on fallow land and one unit in the vineyards, while the amended application indicates the location of both the proposed two units in the vineyards which will negatively impact on the agricultural activities on the farm as the proposal entails the removal of vineyards to accommodate the tourist dwelling units. It will thus lead to the loss or alienation of agricultural land and compromise existing or potential farming activities.
7. The proximity of the units to the stream can pose a flood risk.
8. The property is located adjacent and just outside of the approved urban edge within a transitional area which forms the buffer between the Franschhoek urban area and the rural area and is seen as pre-cursor to urban sprawl.
9. The proposed uses are subservient to the agricultural use of the property and surrounding farms.
10. Site specific motivation was submitted by the applicant.
11. The site specific motivation that was submitted to deviate from the prescribed number additional dwelling units as well as that the proposed additional dwelling units is not clustered with the existing buildings on the subject property, does not relate to any unique circumstances or considerations to serve as compelling justification to deviate from these planning provisions.

The subject land use and land development application is, having regard to the conclusions above, viewed as deviating from the MSDP and the Western Cape Guidelines for Rural Areas, and consequently grounds for the non-supporting of the subject land use and land development application.

List relevant plan numbers	Site Development Plan, referenced as drawings No: CD 102, REV:2 drawn by: Kruger Theron Architects, dated: August 2024.
List annexures to decision	Site Development Plan, referenced as drawings No: CD 102, REV:2 drawn by: Kruger Theron Architects, dated: August 2024.

RECOMMENDATION

1. That it **BE DECIDED** that the application for Consent Use on Erf 3298 Franschhoek to establish two (2) new self-catering tourist dwelling units 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:
 - 1.1 The proposal exceeds the number of dwelling units permitted on a property to the extent of 37 ha as prescribed by the MSDP for agricultural properties and thus conflicts with the spatial planning objectives of the MSDP.
 - 1.2 The proposed application does not conform to the guidelines for the placement of the proposed dwelling units in that the buildings are not clustered together within or near the farmstead precinct in support of the character of the rural landscape

- 1.3 The proposal will lead to the loss of agricultural land and compromise the existing or potential farming activities.
2. That it **BE DECIDED** that the application for Consent Use on Erf 3298 Franschhoek to establish two (2) new self-catering tourist dwelling units **does not** 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:
- 2.1 There is not any unique circumstances or considerations to serve as compelling justification to deviate from the prescribed number of additional dwelling units and the location / placement of the proposed units.
3. That the following application in terms of Section 15 (2)(g) of the Stellenbosch Municipality Land Use Planning Bylaw, 2023 on Erf 3298 Franschhoek for Consent Use to establish two (2) new self-catering tourist dwelling units:

BE REFUSED in terms of Section 60 of the said Bylaw for the following reasons:

- 3.1 The proposed development deviates from the provisions of the prevailing development agenda and strategy of the Stellenbosch MSDP as contemplated in terms of Section 19 of LUPA.
- 3.2 The proposed development does not warrant site specific circumstances as contemplated in terms of section 22(2) of SPLUMA.
- 3.3 The proposed development is not consistent with the broader spatial planning principles as set out in LUPA and SPLUMA.
- 3.4 The proposal exceeds the number of dwelling units permitted on a property which is 37ha in extent.
- 3.5 The proposal infringes on the authenticity of the rural landscape and does not support the natural and heritage significance of the site which is in a sensitive area within a Grade 3A landscape in terms of Heritage Inventory and Management.
- 3.6 The proposed application does not conform to the guidelines for the placement of the proposed dwelling units in that the buildings are not clustered within or near the farmstead precinct but is proposed on productive agricultural land which will lead to the loss of agricultural land and compromise existing or potential farming activities.
- 3.7 The property is located adjacent and just outside of the approved urban edge within a transitional area which forms the buffer between the urban area and the rural area, and the development is seen as pre-cursor to urban sprawl.

ANNEXURES

- ANNEXURE A:** Locality Plan
- ANNEXURE B:** Title Deed
- ANNEXURE C:** Site Development Plan
- ANNEXURE D:** Applicant's Motivation & Site-specific motivation
- ANNEXURE E:** Comment from the Manager: Spatial Planning
- ANNEXURE F:** Comment from Manager: Property Management
- ANNEXURE G:** Comment from Director: Infrastructure Services
- ANNEXURE H:** Comment from the Environmental Planner: Community Services
- ANNEXURE I:** Comment from department of Infrastructure: Road Planning
- ANNEXURE J:** Comment from Department of Environmental Affairs and Development Planning
- ANNEXURE K:** Site inspection photos

ASSESSMENT RECOMMENDATION BY TOWN PLANNER

The proposed land use and land development application has been duly evaluated in terms of process and desirability with the recommendation for consideration.

Name: Bongine Zondo
 Capacity: Snr. T.P.
 SACPLAN Registration: A/3477
 Signature: 
 Date: 17/01/25

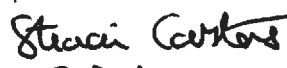
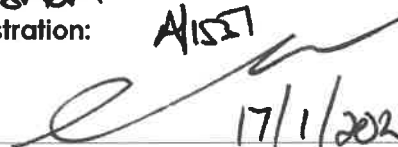
REVIEW OF ASSESSMENT AND RECOMMENDATION

The recommendation for decision is hereby submitted for consideration to the authorised decision-maker in accordance with the System of Delegations OR Categorisation Model approved in terms of Section 69 of the said Bylaw vide Item 11.8.1 dated 24 May 2023.

Category / Delegation Item Number: O4

Decision Making Authority: MPT

Rational: Application is inconsistent and deviates from the MSDF.

Name: 
 Capacity: SADM
 SACPLAN Registration: A/1557
 Signature: 
 Date: 17/1/2025

SUBMISSION OF LAND USE AND LAND DEVELOPMENT ASSESSMENT REPORT**APPLICATION FOR CONSENT USE: ERF 3298 FRANSCHHOEK****Administrator to Authorised Official / Municipal Planning Tribunal:**

It is hereby confirmed that proper notice was served of the Municipal Planning Tribunal meeting at which this land use and land development application will serve for consideration.

The land use and land development application will serve at the scheduled meeting of the Municipal Planning Tribunal on:

Date: 31 January 2025

Name: Chrizele Kriel

Capacity: MUMM

Signature: 

Date: 17.01.2025

ANNEXURE A:
LOCALITY PLAN

Stellenbosch GIS Map

SCALE

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Legend

29



Stellenbosch Municipality
Planning & Economic Development
Created by: Corporate GIS

Date: 2025/01/17

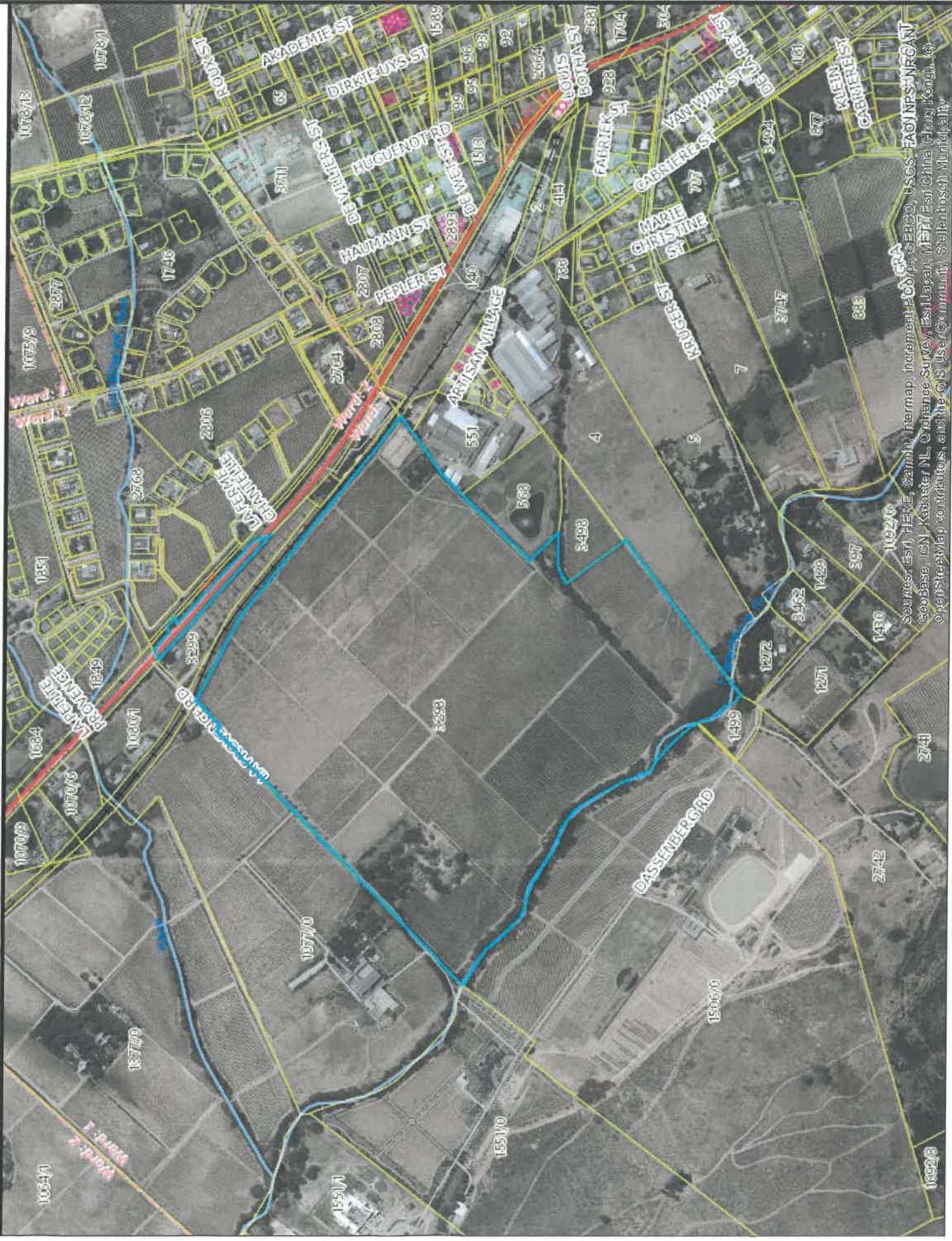


Author: Stellenbosch Municipality



Stellenbosch Municipality
Street Address:
71 Plain Street, Stellenbosch, 7600
Tel: 021 808 8658

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Legend

Stellenbosch Municipality
Planning & Economic Development
Created by: Corporate GIS

Date: 2025/01/17



Author: Stellenbosch Municipality



Stellenbosch Municipality

Street Address:

Tel: 021 808 8658

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ANNEXURE B:
TITLE DEED

40

VAN DYKS
(021) 914 5000

FEE

R 160.00

Opgestel deur my,

TRANSPORTBESORGER
VAN DYK EDA

For Release(s)
See bond

ACT 40 (5) 1937 SECTION ACT 4 OF 1937

VERBIND MORTGAGED

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REGISTERED SOUTH AFRICAN

WOP

VIR ENDOSSEMENTE KYK BLADSY
OR ENDORSEMENTS SEE PAGE

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00009448/2012

CERTIFIKAAT VAN VERENIGDE TITEL

Uitgereik kragtens die bepalings van Artikel Veertig van die Registrasie van Aktes Wet,
1937 (No. 47 van 1937)

NADEMAAL

Die Trustees indertyd van
DIE HAUMANN FAMILIE TRUST
Registrasienommer: IT 1707/1995

aansoek gedoen het om die uitreiking van 'n Sertifikaat van Verenigde Titel kragtens
Artikel Veertig van die Registrasie van Aktes Wet, 1937;

DATA / VERIFY
15 MAR 2012
LARNEY FATGEYAH

DATA / VERIFY
15 MAR 2012
TRANSPORTBESORGER

fg 9.

For Release (S)
See Bond

WETW. VAN 1937		ACT 1 OF 11
VERBIND		MORTGAGED
B. 33923/2007		1
VIR. FOR R 100 000 00		1
CONSENT FILED WITH		
T 9448/2012		
2012-03-01		

wop

For Release (S)
See Bond

WETW. VAN 1937		ACT 1 OF 11
VERBIND		MORTGAGED
B. 35634/2010		1
VIR. FOR R 700 000 00		1
CONSENT FILED WITH		
T 9448/2012		
2012-03-01		

wop

SERTIFIKAAT VAN GEREISTREERDE TITEL UITGEEK CERTIFICATE OF REGISTERED TITLE ISSUED	
TEW. OPTIOTE VAN IN RESPECT OF	EIT 3299 - 1,1693 ka
RESTART REMAINDER	36,804 ka
000041342/2013	
2013-08-21	
REGISTRAR GENERAL	

FOR ENDORSEMENTS ETK BLADSY
FOR ENDORSEMENTS SEE PAGE

10

ET SEG

- 2 -

EN NADEMAAL die Trust die geregistreerde eienaar is van :-

1. ERF 3296 FRANSCHHOEK, in die Stellenbosch Munisipaliteit, Afdeling Paarl, Provinsie Wes-Kaap;
2. ERF 3297 FRANSCHHOEK, in die Stellenbosch Munisipaliteit, Afdeling Paarl, Provinsie Wes-Kaap;
3. ERF 3294 FRANSCHHOEK, in die Stellenbosch Munisipaliteit, Afdeling Paarl, Provinsie Wes-Kaap;
4. DIE RESTANT VAN ERF 3 FRANSCHHOEK, in die Stellenbosch Munisipaliteit, Afdeling Paarl, Provinsie Wes-Kaap,

GEHOU kragtens Transportakte Nr. T 63186/1995;

5. ERF 3295 FRANSCHHOEK, in die Stellenbosch Munisipaliteit, Afdeling Paarl, Provinsie Wes-Kaap;

GEHOU kragtens Transportakte Nr. T

000009447/2012

wat verenig is tot die grond hieronder beskryf:

SO IS DIT DAT ingevolge die bepalings van genoemde Wet, ek die Registrateur van Aktes te Kaapstad, hierby sertifiseer dat voornoemde:-

Trustees indertyd van
 A DIE HAUMANN FAMILIE TRUST
 Registrasienommer: FT 1707 /1995

Administrateurs of gemagtigdes, die geregistreerde eienaar is van:-

Remaander
 1

ERF 3298 FRANSCHHOEK, in die Stellenbosch Munisipaliteit, Afdeling Paarl, Provinsie Wes-Kaap;

GROOT: 37,9757 (Sewe en Dertig komma Nege Sewe Vyf Sewe) hektaar;

SOOS meer volledig sal blyk uit die aangehegte Kaart Nr. 3144/2008;

[Handwritten signature]

For release(s)
See bond.

By 10

WOP

VERBIND		MORTGAGED
NR FOR R 1 900 000,00		
B 000030703/2017		
17 NOV 2017	REGISTRATEUR/REGISTRAR	

ERF 3498 = 9965 m² 1

GETRANSPORTER AAN	TRANSFERRED TO
The Trustees for the time being of VREDE Trust.	
RESIDANT/REMAINDER	35,8099 HA.
000009092/2019 A	
07 MAR 2019	REGISTRATEUR/REGISTI: ..

1

11

THE ENDORSEMENTS RVR 50021
OR ENDORSEMENTS SEE PAGE

Bledsy 12T9/08/2012Komponent IV (D):

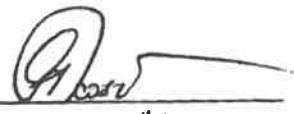
Kragtens wysiging van Serwituut No. K 000171/22 8
 gedateer 6 Oktober 2021 word die binnegemelde Serwituut
 no. K 646/2006S gewysig deur die Skrapping van
 paragraaf 5.1.8 daarin ivb reg van weg

Soos meer volledig sal blyk uit geregde Akte

Aktekantoor

Kaapstad

15 MAR 2022


 Registrateur v. Aktes

- 3 -

I. WAT BETREF die figuur AB C D E F P W X Y Z uitgesluit die figuur Y A1 a b D1 X aangedui op genoemde Kaart Nr. 3144/2008:-

A. ONDERHEWIG aan die voorwaardes waarna verwys word in Transportakte Nr. T 10736/1903.

B. ONDERHEWIG VERDER aan die serwituut waarna verwys word in die endossement gedateer 13 Desember 1949 aangebring op Transportakte Nr. T 10861/1942, welke endossement soos volg lui:-

"Registration of Servitude

By Notarial Deed No. 529/1949 dated 6/12/1949, the owner of the properties held under paras 1, 2 & 3 hereunder and for his successors in title of the property held under Deed of Transfer No. T 3648/1931, a 3,15 metres pipeline servitude is shown on the diagram annexed to the said Not Deed) for the purpose of conveying waste water and other effluent from the property thereby conveyed to the property conveyed under Deed of Transfer No. T 19994 dated 13.12.1949, subject to conditions as will more fully appear on reference to the said Not. Deed, a copy of which is hereunto annexed."

Eg 22-07
NOT woud
Ligg

(die middellyn van welke pyplyn serwituut aangedui word deur die lyn p1 q1, en die Suid Oostelike grens van welke pyplyn serwituut aangedui word deur die lyn q1 P en P r1s1, op Kaart Nr. 3144/2008).

C. ONDERHEWIG VERDER, soos vervat in genoemde Transportakte Nr. T 63186/1995, aan 'n onteiening van 'n gedeelte groot 0,277 hektaar, deur die Paarl Afdelingsraad, kragtens Artikel 27 van Ordonnansie Nr. 19 van 1976, soos blyk uit Onteieningskennisgewing Nr RMR 4/2/12 gedateer 26.2.1985 geliasseer as Onteieningscaveat EX 260/85 planne in tweevoud.

Q

- 4 -

II. WAT BETREF die figuur G binnerand van pad H J K L M N P uitgesluit die figuur a B1 J K L M C1 b aangedui op genoemde Kaart Nr. 3144/2008:-

A. ONDERHEWIG aan die voorwaardes waarna verwys word in Transportakte Nr. T 10734/1903.

B. ONDERHEWIG VERDER aan die serwituut waarna verwys word in die endossement gedateer 15 Maart 1920, aangebring op Transportakte Nr. T 10734/1903, wat soos volg lui:-

"Registration of Servitude, ~~387~~ 3187

By Deed of Transfer No. ~~387~~ of 10 Mach 1920 the exclusive right to the water arising out of a certain spring on the remainder of this property has been conceded in favour of the ppty thereby conveyed, subject to conditions as will more fully appear on reference to the said Transfer."

C. ONDERHEWIG VERDER aan die serwituut waarna verwys word in die endossement gedateer 13 Desember 1949 aangebring op Transportakte Nr. T 10861/1942, welke endossement soos volg lui:-

"Registration of Servitude

By Notarial Deed No. 529/1949 dated 6/12/1949, the owner of the properties held under paras 1, 2 & 3 hereunder and for his successors in title of the property held under Deed of Transfer No. T 3648/1931, a 3,15 metres pipeline servitude (shown on the diagram annexed to the said Not Deed) for the purpose of conveying waste water and other effluent from the property thereby conveyed to the property conveyed under Deed of Transfer No. T 19994 dated 13.12.1949, subject to conditions as will more fully appear on reference to the said Not. Deed, a copy of which is hereunto annexed."

(die middellyn van welke pyplyn serwituut aangedui word deur die lyn p1 q1, en die Suid Oostelike grens van welke pyplyn serwituut aangedui word deur die lyne q1 P en P r1 s1, op Kaart Nr. 3144/2008).

D. ONDERHEWIG VERDER, soos vervat in genoemde Transportakte Nr. T 63186/1995, aan 'n onteiening van 'n gedeelte groot 0,224 hektaar, deur die Paarl Afdelingsraad, kragtens Artikel 27 van Ordonnansie Nr. 19 van 1976, soos blyk uit Onteieningskennissgewing Nr. RMR 4/2/12 gedateer 26.2.1985 geliasseer as Onteieningscaveat EX 260/85 planne in tweevoud.

52/2299
not wms
1:500

Q1

3294

III. **WAT BETREF** die figuur V P f e d c Middel van Franschhoek Rivier u, aangedui op genoemde Kaart Nr. 3144/2008:-

A. **ONDERHEWIG** aan die voorwaardes waarna verwys word in Transportakte Nr. T 10736/1903.

B. **ONDERHEWIG VERDER** aan die serwituut waarna verwys word in die endossement gedateer 13 Desember 1949 aangebring op Transportakte Nr. T 10861/1942, welke endossement soos volg lui:-

"Registration of Servitude

By Notarial Deed No. 529/1949 dated 6/12/1949, the owner of the properties held under paras 1, 2 & 3 hereunder and for his successors in title of the property held under Deed of Transfer No. T 3648/1931, a 3,15 metres pipeline servitude (shown on the diagram annexed to the said Not Deed) for the purpose of conveying waste water and other effluent from the property thereby conveyed to the property conveyed under Deed of Transfer No. T 19994 dated 13.12.1949, subject to conditions as will more fully appear on reference to the said Not. Deed, a copy of which is hereunto annexed."

(die middellyn van welke pyplyn serwituut aangedui word deur die lyn p1 q1, en die Suid Oostelike grens van welke pyplyn serwituut aangedui word deur die lyne q1 P en P r1s1, op Kaart Nr. 3144/2008)

C. **ONDERHEWIG VERDER**, aan die serwituut waarna verwys word in die endossement gedateer 3 Julie 1952 aangebring op Transportakte Nr. T 10861/1942, wat soos volg lui:-

"Registration of Servitude.

By Deed of Transfer No. 10844 dd 3/7/52 the remdr of the property held under para 2 hereof, is subject to:

- (a) 0,63 metres servitude pipe line represented by the figure XD on diagram 8012/50 in favour of portion 1 thereby conveyed;
- (b) Certain ancillary rights thereto.

The erection of buildings on portion 1 must be approved by the owners of the said remaining extent.

As will more fully appear on reference to the said Deed of Transfer."

(die Suidelike grens van welke pyplyn serwituut aangedui word deur die lyn r1 f, aangedui op genoemde kaart Nr. 3144/2008).

0

Ret 3
Page 4
IV. WAT BETREK die figuur Q r middel van stroom s t middel van Franschoek Rivier g, aangedui op kaart Nr. 3144/2008:-

A. ONDERHEWIG aan die voorwaardes waarna verwys word in Transportakte Nr. T 857/1946.

B. GERECHTIG op die voordeel van die spesiale voorwaardes genoem in Aanhangsel A aan Transportakte Nr. T 1770/1905, Nrs. II en III waarvan soos volg lees:-

"II. That a 6,30 metres passage shown on the diagram hereunto annexed shall be common to the land hereby conveyed and Lot 2 of the said farm Cabriere transferred this day.

III. That the transferee and her aforesaid shall be entitled to the use of the 9,45 metres road shown on the diagram of Lot No. 1 of the said farm Cabriere this day transferred to Chrisman Joel Ackerman in common with the owners of the said Lot 1 as transferred this day."

C. GERECHTIG soos vervat in Transportakte Nr. T28570/1967, op 'n serwituutarea aangedui deur die figuur a b c' middel van stroom d' e f g h op serwituutkaart Nr. 4708/67 daaraan geheg, om as toegang te dien tot seker pyplyne oor Erf 568, Groot: 1,7289 hektaar getranspoteer kragtens genoemde Transportakte Nr. T 28570/1967, waarvolgens die Restant van Erf 3 Franschoek, Groot: 3,9613 hektaar, gehou kragtens Transportakte nr. T 18364/1960 gerechtig is op gemelde serwituutarea, soos meer volledig sal blyk uit die verwysing op die genoemde transportakte en serwituutkaart daaraan geheg.

** /* **D. KRAGTENS** Notariële Akte en Serwituut Nr. (K 1) 346/2005 gedateer 7/6/2005 is de Restant van Erf 3 Franschoek, Groot: 3,9613 hektaar, Gehou kragtens Transportakte Nr. T 63186/95, **GERECHTIG** op 'n serwituut reg van weg 5 (vyf) meter wyd, oor Erf 551 Franschoek, Groot: 2563 m², waarvan die suid-oostelike grens voorgestel word deur die lyn A B op diagram LG No. 3139/2002, sowel as 'n serwituut reg van Weg 5 (vyf) meter wyd, oor erf 568 Franschoek, Groot: 1,7289 hektaar, waarvan die Suid-oostelike grens voorgestel word deur die lyne A b op Kaart LG Nr. 3140/2002, tesame met bykomende regte. Soos meer volledig sal blyk uit genoemde Notariële Akte.

Q

V. WAT BETREFF die figuur c d e f g Middel van Franschoek Rivier aangedui op genoemde Kaart Nr. 3144/2008:-

A. ONDERHEWIG aan die voorwaardes waarna verwys word in Transportakte Nr. T 10736/1903 gedateer 30 Julie 1903.

B. ONDERHEWIG VERDER aan en **GEREGTIG** op die serwituut voordele van, soos die geval mag wees, die volgende spesiale voorwaardes vervat in genoemde Transportakte Nr. T 10844 gedateer 3 Julie 1952, naamlik:-

- "1(a) The transferee, as owner of the said Portion 1 and his successors in title thereto, shall for the purpose of Conveyancing waste water and effluent, be entitled to a pipe line servitude 0,63 metres wide, along the southern boundary of the remaining extent of the said farm Dassen, Measuring 28,1335 hectares, formerly the remaining extent of portions of the farm "La Provence" and adjoining land held by the Appearer's Constituent under paragraph 2 of the said Deed of Transfer No. 10861/1942. The said pipeline as to its southern side, is represented by the line marked XD on subdivisional diagram No. 8012/1950 hereunto annexed.
- (b) The Transferee, as owner of the said Portion 1, and his successors in title thereto, shall furthermore be entitled from time to time to repair, renew, and/or to remove such pipeline as also to inspect it, and for this purpose the Transferee shall be entitled to enter on to the said remaining extent all along the said pipeline
2. The land hereby transferred shall not be used for the erection of any building or structures without the written permission and consent of the Appearer's Constituent, which conditions is imposed by the Appearer's Constituent as owner of the remaining extent of the said farm Dassen held by him under paragraph 2 of the said deed of transfer No. T 10861/1942, for his benefit and the benefit of his successors in title."

(die suidelike grens van welke pyplynserwituut (vermeld in V.B.1.(a) hierbo) aangedui word deur die lyn r1 fop genoemde Kaart Nr. 3144/2008).'



- 8 -

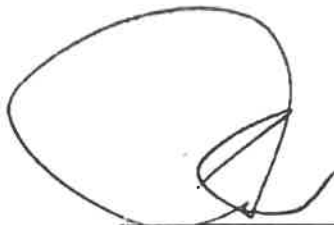
EN DAT KRAGTENS hierdie Sertifikaat voornoemde

DIE HAUMANN FAMILIE TRUST

Hulle administrateurs of gemagtigdes, nou en voortaan daartoe geregtig is ooreenkomstig plaaslike gebruik, maar behoudens die Regte van die Staat.

TEN BEWYSE waarvan ek, voornoemde Registrateur van Aktes, hierdie Akte onderteken en met die ampseel bekragtig het.

ALDUS GEDOEN en **GETEKEN** op die kantoor van die Registrateur van Aktes te Kaapstad, hede die / ^{ste} dag van **MART** in die jaar van Ons Heer Tweeduisend en Een (2012).



REGISTRATEUR VAN AKTES



REMAINDER

PAGE 11.

T 9448/2012.

BY DEED OF TRANSFER T 000009092 / 2019 / 2019,

THE REMAINDER IS ENTITLED TO A PIPELINE SERVITUDE 5 METRES WIDE THE CENTRE LINE OF WHICH IS REPRESENTED BY THE LINED H1 J1 K1 L1 M1 N1 ON DIAGRAM SG No. 472/2014 OVER ERF 3498 FRANSCHHOEK MEAS; 9965 SQUARE METRES, HELD BY THE ABOVE DEED OF TRANSFER IN FAVOUR OF STELLENBOSCH MUNICIPALITY.

AS WILL MORE FULLY APPEAR FROM SAID TRANSFER.

CAPE TOWN

DEEDS OFFICE

07 MAR 2019

REGISTRAR OF DEEDS

VER ENDOSSEMENTE JOX BLADBY
FOR ENDORSEMENTS SEE PAGE

12)

ANNEXURE C:
SITE DEVELOPMENT PLAN

ERF 3299

GENERAL

1. COPYRIGHT RESERVED BY THE ARCHITECTS.
2. ALL INFORMATION ON THE PLAN MUST BE CHECKED AND ANY DISCREPANCIES MUST BE BROUGHT TO THE ARCHITECTS' ATTENTION BEFORE ANY BUILDING WORK COMMENCES.
3. DRAWINGS MUST NOT BE SCALED.
4. ALL WORK AND QUALITY OF MATERIALS MUST COMPLY WITH SANS 10400 AND ALL OTHER APPROPRIATE AUTHORITIES.
5. QUALITY OF WORKMANSHIP MUST BE IN HARMONY WITH THE SABS USERS CODE WITH GRADE : BUILDING WORK.
6. FOUNDATION EXCAVATION MUST BE TREATED WITH SABS APPROVED POISON WITH A 10 YEAR GUARANTEE AND MUST BE APPLIED AS INDICATED ACCORDING TO SABS 0124.
7. CONCRETE FOUNDATION, SURFACE BED AND PAVING MUST COMPLY WITH SABS 0100 AND 0101 AS WELL AS ENGINEERS PLANS AND SPECIFICATIONS.
8. WHERE ANY SURFACE DIFFERENCES IN STRIP FOUNDATIONS OCCUR THE HIGHEST SECTION MUST BE EXTENDED OVER THE LOWEST FOR A DISTANCE AS THICK AS THE FOUNDATION.
9. FOUNDATION EXCAVATION FOR OUTSIDE BRICK WALLS MUST NOT BE LESS THAN 400MM UNDER THE SURFACE OF THE ADJOINING FINISHED GROUND (F.F.).
10. 375 MICRON D.P.C. MUST BE PROVIDED IN ALL WALLS AS INDICATED.
11. CORRECT WIDTH BRICKWORK MUST BE PROVIDED IN EACH FIFTH COURSE IN ALL BRICK WALLS, EXCEPT WHERE SHOWN OTHERWISE.
12. ALL BRICK WORK IN STRETCHER BOND EXCEPT WHERE SHOWN OTHERWISE L. BRICK WORK IN STRETCHER BOND EXCEPT WHERE SHOWN OTHERWISE.
13. ALL DRAIN PIPE EXCAVATIONS MUST BE TREATED WITH TERMITICIDE FOR 1500MM FROM ANY BUILDING ACCORDING TO SABS 0124.
14. ALL GLAZING MUST BE ACCORDING TO S.A.B.S. AND NBR REQUIREMENTS. PROVIDE SAFETY GLASS TO ALL OPENINGS IN EXCESS OF 1 M² OR WITHIN 300 MM FROM GROUND LEVEL.
15. ALL DRAIN PIPE WORKS AND MATERIAL MUST BE ACCORDING TO NBR REQUIREMENTS.
16. ELECTRICAL INSTALLATIONS MUST BE STRICTLY ACCORDING TO APPROPRIATE REGULATIONS.
17. ALL TIMBER ROOF TRUSSES MUST BE TREATED WITH TERMITICIDE RESISTANT SUBSTANCE OR SIMILAR APPROVED.
18. WALL TIES SHALL BE INSTALLED IN ANY CAVITY WALL IN AN EVENLY DISTRIBUTED PATTERN AT A RATE OF NOT LESS THAN 5 TIES PER SQ METER OF FACE AREA WHERE THE CAVITY IS MORE THAN 75MM IN WIDTH.

THE FARM PROTERRA
NO 1077THE FARM
NO 1551THE FARM
NO 1506SITE DEVELOPMENT PLAN
SCALE 1:1500

AREA SCHEDULE	
DESCRIPTION:	AREAS
ERF 3298 FARM	354 056.60m ²
1 MAIN FARM HOUSE	297.00m ²
2 VEHICLE STORAGE & WORKSHOPS	170.00m ²
3 POOLROOM & ENTERTAINMENT AREA	118.00m ²
4 SECONDARY FARM HOUSE	189.00m ²
5 IMPLEMENT STORE	265.00m ²
6 LABOURER'S COTTAGES	61.00m ²
7 LABOURER'S COTTAGES	100.00m ²
8 LABOURER'S COTTAGES	118.98m ²
9-10 LABOURER'S COTTAGES	141.00m ²
11 GUEST COTTAGE 1	57.50m ²
12 GUEST COTTAGE 2	41.70m ²
TOTAL GUEST COTTAGES	99.20m ²

KPUGEP THERON
www.kpugeptheron.co.za

Unit 12, Gey van Pilius Center, Somerset West, 7130

T 021 851 8727 / C 082 922 3567

e-mail: kruger@kpugeptheron.co.za

SACAP: PR Arch 7440

PROJECT DETAILS

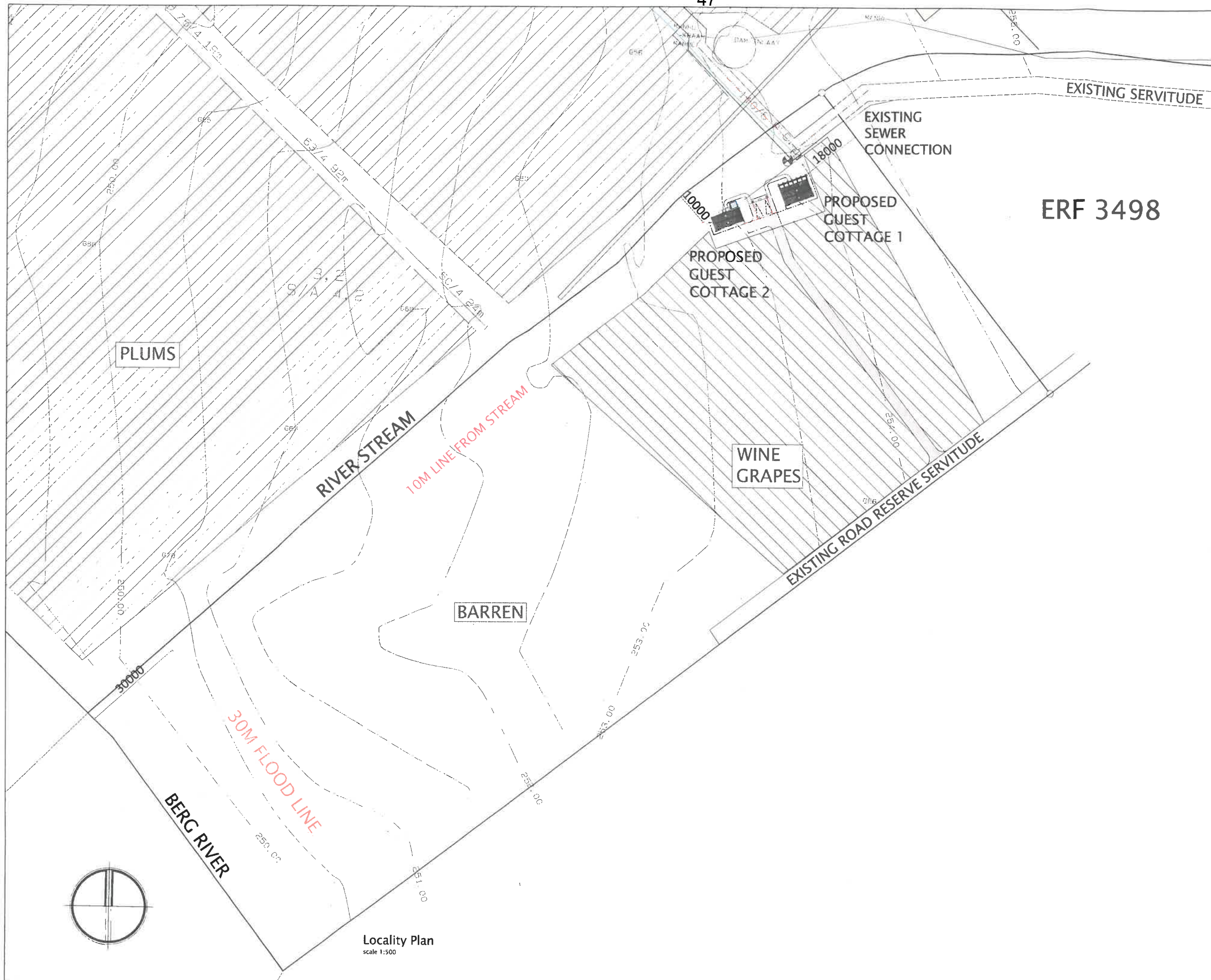
HAUMANN FAMILY TRUST
PROPOSED GUEST COTTAGES
SITE DEVELOPMENT PLAN
LA PROVENCE FARM 3298
FRANSCHHOEK

DRAWING DETAILS

SITE DEVELOPMENT PLAN 1:1500

DRAWN: J. STOLWORTHY	CHECKED: K. THERON
DATE: AUG 2024	SCALE: 1:1500

PROJECT NO	DRAWING NUMBER	REV
3298-24	CD 100	1



- GENERAL**
1. COPYRIGHT RESERVED BY THE ARCHITECTS.
 2. ALL INFORMATION ON THE PLAN MUST BE CHECKED AND ANY DISCREPANCIES MUST BE BROUGHT TO THE ARCHITECTS ATTENTION BEFORE ANY BUILDING WORK COMMENCES.
 3. DRAWINGS MUST NOT BE SCALED.
 4. ALL WORK AND QUALITY OF MATERIALS MUST COMPLY WITH SANS 10400 AND ALL OTHER APPROPRIATE AUTHORITIES.
 5. QUALITY OF WORKMANSHIP MUST BE IN HARMONY WITH THE SANS 10400 CODE WITH GRADE 1 BUILDING WORK.
 6. FOUNDATION EXCAVATION MUST BE TREATED WITH SABS APPROVED POISON WITH A 10 YEAR GUARANTEE AND MUST BE APPLIED AS INDICATED ACCORDING TO SABS 0124.
 7. CONCRETE FOUNDATION, SURFACE BED AND PAVING MUST COMPLY WITH SABS 0100 AND 0101 AS WELL AS ENGINEERS PLANS AND SPECIFICATIONS.
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 10. 375 MICRON D.P.C. MUST BE PROVIDED IN ALL WALLS AS INDICATED.
 11. CORRECT WIDTH BRICKFORCE MUST BE PROVIDED IN EACH FIFTH COURSE IN ALL BRICK WALLS, EXCEPT WHERE SHOWN OTHERWISE.
 12. ALL BRICK WORK IN STRETCHER BOND EXCEPT WHERE SHOWN OTHERWISE 1 BRICK WORK IN STRETCHER BOND EXCEPT WHERE SHOWN OTHERWISE.
 13. ALL DRAIN PIPE EXCAVATIONS MUST BE TREATED WITH TERMITE POISON FOR 1500MM FROM ANY BUILDING ACCORDING TO SABS 0124.
 14. ALL GLAZING MUST BE ACCORDING TO S.A.B.S. AND NBR REQUIREMENTS, PROVIDE SAFETY GLASS TO ALL OPENINGS IN EXCESS OF 1 M2 OR WITHIN 300MM FROM GROUND LEVEL.
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 18. WALL TIES SHALL BE INSTALLED IN ANY CAVITY WALL IN AN EVENLY DISTRIBUTED PATTERN AT A RATE OF NOT LESS THAN 5 TIES PER SQ. METER OF FACE AREA WHERE THE CAVITY IS MORE THAN 75MM IN WIDTH.

KPUGEP THERON
ARCHITECTS

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T 021 851 8727 / C 082 922 3567
e-mail: kruger@ktharchitects.co.za
SACAP: PR Arch 7440

PROJECT DETAILS
HAUMANN FAMILY TRUST
PROPOSED GUEST COTTAGES
SITE DEVELOPMENT PLAN
LA PROVENCE FARM 3298
FRANSCHHOEK

DRAWING DETAILS

LOCALITY PLAN & SITE PLAN 1:500

DRAWN:	J. STOLWORTHY	CHECKED:	K. THERON
DATE:	AUG 2024	SCALE:	1:500

PROJECT NO	DRAWING NUMBER	REV
3298-24	CD 101	1

ANNEXURE D:
APPLICANT'S MOTIVATION & SITE-SPECIFIC MOTIVATION

LAND DEVELOPMENT APPLICATION FOR:
CONSENT USES ON
ERF 3298, FRANSCHHOEK



July 2023

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Executive Summary

Motivation Report

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ANNEXURE
ANNEXURE A: LOCALITY
ANNEXURE B: APPLICATION AUTHORISATION
ANNEXURE C: APPLICATION FORM
ANNEXURE D: SITE DEVELOPMENT PLAN
ANNEXURE E: CONVEYANCER'S CERTIFICATE
ANNEXURE F: TITLE DEED
ANNEXURE G: DIAGRAMS

EXECUTIVE SUMMARY

MOTIVATION IN SUPPORT OF LAND DEVELOPMENT APPLICATION FOR: ERF 3298, FRANSCHHOEK SG Code: C05500030000329800000 / Location: Lat: 33° 54' 17.395" S Lon: 19° 06' 23.979" E	
<u>Owner:</u> HAUMANN FAMILIE TRUST Reg No 1707/1995 Telephone: +27 21 876 2370 Mobile: +27 83 231 0557 E-mail: haumannfarm@gmail.com Address: PO Box 242, Franschhoek, 7690	<u>Project Consultant:</u> Mr Dupré Lombaard (SACPLAN B/8076/1998 / EAPASA 2019/304) Virdus Works (Pty) Ltd Reg No. 2018/585747/07 Cellular phone: +27 82 895 6362 E-mail: dupre.lombaard@virdus.com Address: 5 Vygeboom Close, Vygeboom, Durbanville, 7550, South Africa

Application is made for the development of six self-catering tourist dwelling units for a tourist accommodation establishment on the property as a consent use. The application is for consent use in terms of Section 15(2)(o) of the Stellenbosch Municipality Land Use Planning Bylaw, 2023 (LUPB) for a consent use as contemplated in the zoning scheme, Section 208 and read with Section 213 of the Stellenbosch Municipality Zoning Scheme Bylaw, 2019 (ZSB).

Although registered as an erf and within the old Franschhoek Municipal area boundary, the property, La Provence farm, has an Agricultural and Rural Zone. It has an area of 35,8099ha and it is located between the Franschhoek River, the R45 and La Provence Road. The farm is primarily used for agricultural purposes, with roughly 12ha of plums, and 2,5ha of vineyards. There are however roughly 12,5ha of land lying fallow. This land was previously used for cultivation of plums, but it is no longer cultivated due to low yields and market conditions. A consent use for a tourist accommodation establishment on another portion of the farm that is partially cultivated with vineyards that are not economically viable, and partially fallow, roughly 1,8ha in extent is therefore made to better utilise the land resources to generate revenue, while considering the future use of the large tract of fallow land previously used for the cultivation of fruit.

There are no title deed restrictions preventing the proposed land developments in Title Deed T9448/2012.

MOTIVATION REPORT

1. BACKGROUND

1.1 Introduction

This application is for consideration of a tourist accommodation establishment, consisting of six self-catering units on Erf 3298, Franschhoek, in terms of Section 15 of the Stellenbosch Municipality Land Use Planning Bylaw, 2023 (LUPB). The application is for a consent use as permitted in terms of the Stellenbosch Municipality Zoning Scheme Bylaw, 2019. Erf 3298 (35,8099ha in extent) is located abutting the urban edge in Franschhoek, next to the Franschhoek Wine Cellar and Artisan Village and zoned for Agricultural and Rural use.

The property is an active farm, producing plums on roughly 12ha, and 2,5ha of vineyards. Roughly 12,5ha of land on the farm, previously used for the cultivation of plums lie fallow, and are no longer cultivated due to low yields and market conditions. Another portion of the farm that is partially cultivated with vineyards which are not economically viable, roughly 1,8ha in extent, is therefore considered for better utilisation to generate revenue for the farm, while considering the future use of the large tract of fallow land previously used for the cultivation of fruit.

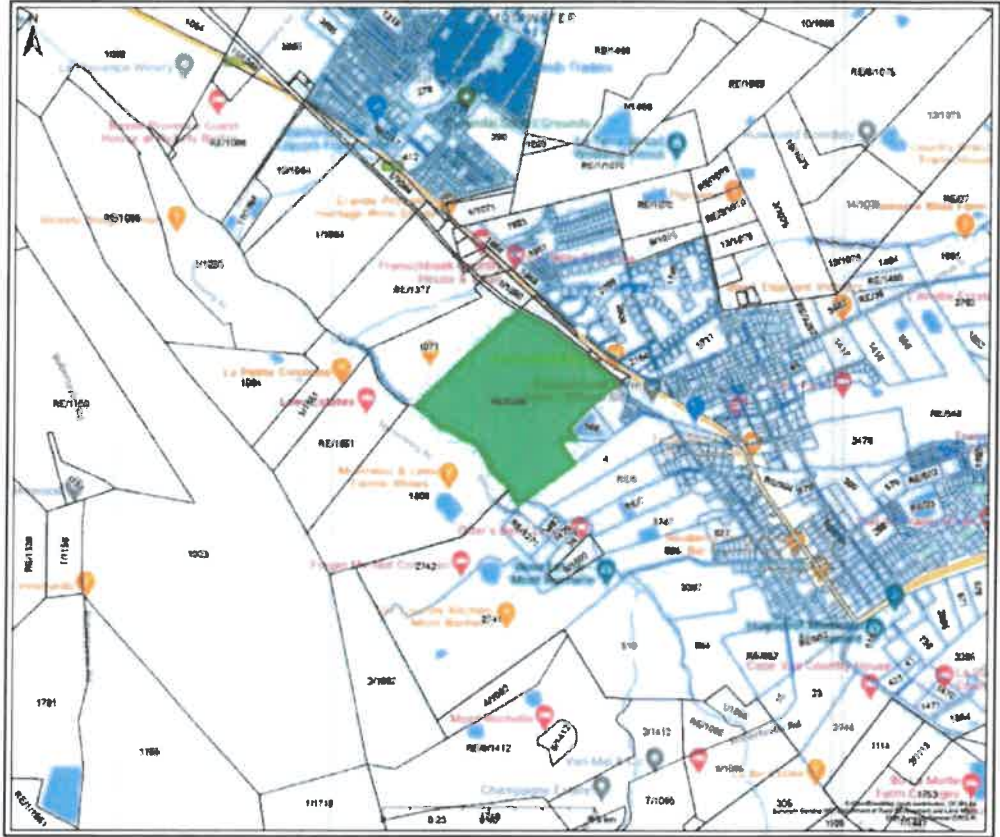


Figure 1: Erf 3298 context

The location of the property and the natural assets of the area create a good setting for a tourist accommodation establishment that is located in proximity of the town,

and in a rural environment surrounded by similar tourist accommodation establishments and facilities.

Access to the property is off the La Provence Road (Minor Road 5615). The property abuts the Franschhoek Railway line and is crossed by a municipal sewer servitude. It abuts the Franschhoek River on the southwestern side.



Each unit has a floor area of approximately 90m² and consists of a two-bedroom unit with en-suite bathrooms, living area with incorporated kitchen, and a pergola. Each unit also has two rainwater conservation tank that provides water for the unit, which can be supplemented by borehole water from the farm. Each two-bedroom unit is proposed to be connected to a conservancy tank, from where the sewerage will be pumped and disposed of at the municipal wastewater treatment works.

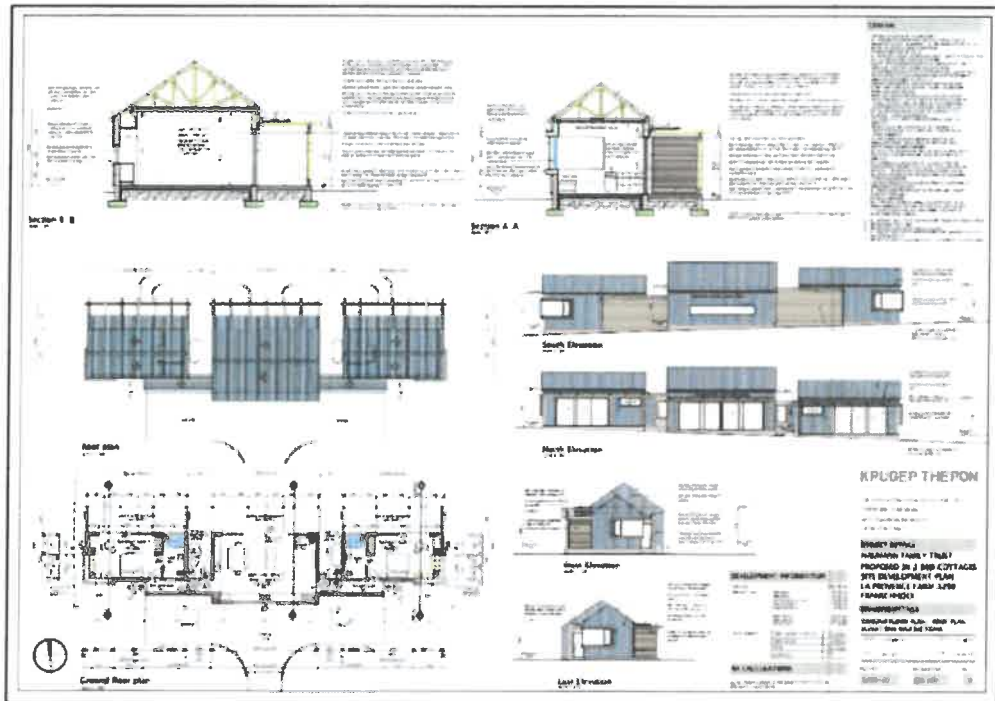


Figure 5: Proposed tourist accommodation unit model

The site has an existing servitude access registered in its favour through the abutting Erf 3498, the Franschhoek Artisan Village and the Franschhoek Cellar.

2.2 Title deed restrictions

There are no restrictive title conditions that prevent the proposed land use. The title deed (T9448/2012) of the property is attached in Annexure F. A conveyancer's certificate is also included, confirming that there are no restrictive title conditions that would prevent the proposed development of a tourist accommodation establishment.

2.3 Zoning scheme requirements

The guest accommodation establishment consisting of six bedrooms in three cottages (tourist dwelling units) of approximately 90 m² each, will create three additional employment opportunities for the farm. The land development parameters, uses and provisions of Sections 208 and 213 of the Stellenbosch Municipality Zoning Scheme Bylaw, 2019 have been considered.

A site development plan in accordance with the requirements in Section 216 of the ZSB is annexed hereto (Annexure D). The layout of the tourist dwelling units has

3. MOTIVATION

3.1 Stellenbosch Municipality IDP

The Integrated Development Plan 2023 (IDP), including the approved 2019 Municipal Spatial Development Framework (SDF) make specific provision for the establishment of tourist facilities and accommodation on farms and the diversification of agricultural activities to enhance their economic sustainability. It confirms that tourism, linked to the natural environment and agriculture, is one of the largest creators of employment and that it makes substantial contribution to the economic sustainability of the agricultural sector. This application is in line with the provisions of both said documents. The owners wish to utilise unused land for a tourist accommodation establishment in an attempt to increase the feasibility and sustainability of the farm.

Strategic Focus Area 2 of the approved IDP (2023) makes specific provision for tourist development in the agricultural sector, including the need for spatial planning policy to grow the assets available to the community.

The SDF specifically states that the protection and expansion of tourism assets and the protection of agricultural land, enablement of its use and expansion of agricultural output are core to the sustainability of Stellenbosch. Without diversification Erf 3298 is marginally sustainable, like many farms in the region.

The SDF continues to indicate that the Municipality supports compatible and sustainable rural activities outside the urban edge (including tourism) if these activities are "*of a nature and form appropriate in a rural context, generate positive socio-economic returns, and do not compromise the environment, agricultural sustainability, or the ability of the municipality to deliver on its mandate*". The proposed tourist dwelling units comply in every respect with these criteria, as the attraction will have positive socio-economic effect, amongst others by creating employment opportunities and drawing tourists to the area, while the agricultural activities on the property will not be affected by the proposed use.

The location and positioning of the proposed units are such that they will not be visible from the R45. Their scale, design, and size are in keeping with units on the abutting land and that of farm worker dwelling units. The units will therefore not detract from the character of the area.

3.2 Provincial Spatial Development Framework

The Provincial Spatial Development Framework (PSDF) and the supporting and complementary regional spatial development framework as contemplated in Section 18 of the Spatial Planning and Land Use Management Act, 2013 determine principles and the planning and development norms and criteria for tourism related uses in the area. Nothing proposed in this application contradicts any of the said principles or guidelines.

The Western Cape Rural Development Guidelines indicate that: *"The Western Cape economy is founded on the Province's unique asset base. These include farming resources, that make the Western Cape the country's leading exporter of agricultural commodities and whose value chains (e.g. agri-processing) underpin the Province's industrial sector; and its natural capital (i.e. biological diversity) and varied scenic and cultural resources which are the attraction that makes the Western Cape the country's premier tourism destination. The Western Cape seeks to ensure: 1) sustainable development of its rural areas; 2) conservation of their biological diversity; 3) functionality of ecosystems; 4) protection of agricultural productive land; and 5) safeguarding of rural heritage and culture."*

Chapters 10 and 11 of the Rural Development Guidelines determine the following sustainability principles and management guidelines for tourism and tourist accommodation in rural and agricultural areas:

- *To offer a range of appropriate nature, cultural and agri-based rural tourism facilities, and recreational opportunities across the rural landscape (e.g. animal sanctuary, paintball, shooting ranges, and conference facilities).*
- *Rural tourism and recreation facilities and activities should not compromise farm production, and must be placed to reinforce the farmstead precinct.*
- *To provide a range of opportunities, including different typologies, for tourists and visitors to experience the Western Cape's unique rural landscapes; e.g. additional dwelling units on farms, B&Bs, guesthouses, backpacker lodges, lodges, resorts, hotels, and camping sites.*
- *To offer more people access to unique tourism and recreational resources in sought-after natural areas, where it would not otherwise have been possible.*
- *To contribute towards the sustainability and well-being of the relevant areas where tourist accommodation is considered.*
- *To align the scale and form of overnight facilities with the character and qualities of the Western Cape's diverse rural areas.*
- *To diversify farm income.*

An assessment of the proposals show that they meet all of the aforementioned principles and criteria.

- ✓ To offer a range of appropriate facilities. When considering the main attractions of the Cape Winelands District (wine tasting, culture/heritage, culinary, and outdoor activities), it is obvious that Erf 3298 will support the product ranges, by offering new accommodation within the vicinity of the attractions such as the Franschhoek Cellar immediately to the north and Leeu Estate to the south. An added advantage is that the proposal will create new tourist accommodation opportunities on the edge of the urban area where walking to attractions via the existing servitude road, instead of vehicle use, is possible.
- ✓ No compromise to agricultural activities. The location of the proposed units and related development activities were chosen in relation to the cultivated areas, servitudes, and natural drainage. The tourist dwelling units are located more or less in line with the existing units on the abutting property (Erf 3498) and the municipal pipeline servitude. There is no loss of vineyards or production capacity due to the proposed units.

- ✓ Provide a range of opportunities. By adding new tourist accommodation units in proximity of the urban area, the owners create more and a wider range of opportunities for tourists and for job seekers within a short walking and commuting distance just off of a major transport route (R45). The property is further located between the place of residence of most job seekers in the Franschhoek area and the town, thus increasing its accessibility for job seekers and suppliers.
- ✓ Offer access to more people. The locality of and connectivity to the Erf 3298 proposed tourist dwelling units in relation to the edge of the town will improve its accessibility. It is within walking distance of the majority of the attractions in the town and the local Wine Tram transport node, which conveys visitors to the surrounding wineries and tourist attractions.
- ✓ Improve the economic viability and sustainability of farms. The property is a viable and fully operational farm, with more than 15ha of cultivated land producing fruit and wine. There is however a large portion of the land that cannot be productively used under current conditions. The owner therefore wishes to develop the tourist accommodation establishment on land not intended for agricultural use to generate additional revenue for the farm while the future agricultural uses are being considered.
- ✓ Align scale and form of facilities with character of area. The surrounding area has a diverse character, with urban development on the northern boundary and with similar scaled agri-tourism related facilities and accommodation on adjacent farms. The proposed tourist dwelling units are of design, scale, and form of agricultural buildings and do not require any departures.
- ✓ Diversify farm income. The farm relies primarily on the production of plums as the main source of revenue. The viticultural activities on the farm are not financially sustainable. Hence a tourist accommodation establishment is proposed to increase the revenue of the farm.

There is therefore a good match between the relevant policies and the proposed development of a tourist accommodation establishment on Erf 3298 by the diversification of the product offering on the property and in the surrounding area.

3.3 SPLUMA principles

The matters referred to in Section 42 of the Spatial Planning and Land Use Management Act, 2013, with specific reference to spatial justice, spatial sustainability, efficiency, and good administration have all been considered in making this application.

- ✓ **Spatial Justice.** It refers to the need to redress the past apartheid spatial development imbalances and aim for equity in the provision of access to opportunities, facilities, services, and land. In the broadest sense, it seeks to promote the integration of communities and the creation of settlements that allow the poor to access opportunities. In a spatially just settlement,

opportunities and access are provided to those whose historical access and opportunities have been impeded by past spatial planning. Land development procedures must include provisions that accommodate access to, and facilitation of, security of tenure and the incremental upgrading of informal areas.

The proposed use of the land does not have any negative effect on the spatial development framework and policies for such redress. It rather opens up opportunities for those who live in the area and do not have access to employment opportunities.

It does not prevent or hinder access to additional land for the poor for settlement purposes and it does not add to the cost of land acquisition to the state, as it is outside of the urban edge and not identified as settlement land or land for land reform purposes, for which it would in any event be useless due to the soil and water situation. The economic opportunities created by the construction of new buildings and use of fallow land as envisaged in this application results in a significantly better situation than where the property becomes an unsustainable farm due to its mono-functional focus on the production of plums.

- ✓ Spatial Sustainability. According to this principle, a sustainable form of development must be pursued. Amongst others it means promoting less resource consuming development typologies that promote compaction and mixed-use urban environments. A spatially sustainable settlement will be one which has an equitable land market, while ensuring the protection of valuable agricultural land, environmentally sensitive and biodiversity rich areas, as well as scenic and cultural landscapes and ultimately limits urban sprawl.

Spatial sustainability, although primarily focused on urban development, has been considered. The proposed use of the land for a tourist accommodation establishment does not have any negative effect on the urban area and fits with the uses in the surrounding rural area. As a tourist accommodation establishment, it will contribute to the municipal and local economic revenue base, without requiring public expenditure to occur. In its current state it makes limited and a diminishing contribution to the local economy. Moreover, it is located along the R45 corridor in an area where many tourist attractions are located, and it supplements these. Land earmarked for agriculture, conservation, or urban development, is not negatively affected, or restricted by the proposed use of the farm.

The proposed land use ensures a more efficient and sustainable use of the land for a diversified use in terms of all policy documents. The new buildings will fit the surrounding character, where tourist related activities occur and will use only land that has not been used productively for cultivation for a few decades. The proposed consent use is unlikely to cause the lowering of the service levels in municipal or other public infrastructure.

- ✓ Efficiency. It refers to the need to create settlements that optimise the use of space, energy, infrastructure, resources, and land. Inherent in this statement is the need to promote densification and compact urban development typologies.

This also has to do with the manner in which the settlement itself is designed and functions, which should reduce the need to travel long distances to access services, facilities, and opportunities. Efficiency also refers to decision making procedures which are designed to minimise negative financial, social, economic, or environmental impacts. In addition, efficiency refers to the need for development application procedures that are efficient and streamlined.

Efficiency (optimising the use of existing resources and infrastructure) has been addressed and the better use of the agricultural land resource to diversify the farm income will contribute to increased efficiencies. The tourist accommodation establishment will further improve efficiency in the area, as it is located in an area where many tourist facilities are located, adding to the attraction and product offerings in proximity of the town, where there is a significant labour market. Moreover, it utilises the same servitude access road as the tourist dwelling units on the abutting property and is within walking distance of the town.

- ✓ **Spatial Resilience.** In the context of land use management and planning, it refers to the need to promote the development of sustainable livelihoods for the poor (i.e., communities that are most likely to suffer the impacts of economic and environmental shocks). It also refers to the requirement for flexibility in spatial plans, policies, and land use management systems to ensure sustainable livelihoods in communities most likely to suffer the impacts of economic and environmental shocks. The spatial plans, policies and land use management systems should enable the communities to be able to resist, absorb and accommodate these shocks and to recover from these shocks in a timely and efficient manner, which includes the preservation and restoration of essential basic infrastructure and functions, but also adaptation in order to ensure increased resilience in terms of future shocks.

The applicant cannot dictate the SDF and other spatial planning policies and strategies. At best, the applicant can work with the relevant authorities to assist with the implementation of the relevant policies and strategies, as is the case with this application. Spatial resilience has thus been addressed, as the SDF and other policies allow for flexibility to ensure sustainable development, amongst others by determining policy to assess the application in terms of the SDF and IDP strategies, both of which promote the better and diversified use of agricultural resources, the expansion of tourist attractions on appropriate land outside of the urban areas, and the conservation of the rural environment.

The application needs a flexible approach, by taking cognisance of the entire spectrum of relevant considerations. By better utilisation of the land, the applicant makes a significant contribution to the sustainability of the farm, the broader agricultural environment and resource use in general.

- ✓ **Good administration.** In the context of land development planning, it refers to the promotion of integrated, consultative planning practices in which all spheres of government and other role-players ensure a joint planning approach is pursued. Land development decisions should seek to minimise the negative

financial, social, economic, and environmental impacts of a development in an efficient process where all statutory requirements are adhered to.

Good administration is primarily a function of the authorities, not affected by the proposed use of the land. A flexible approach to the application and agreement on the achievement of the desired outcomes in the most economic and administratively justifiable and lawful manner is critically important. The applicant has taken the necessary actions to ensure that the decision-maker is provided with the required information to be able to take a decision based on the relevant considerations.

3.4 LUPA principles

The principles referred to in Chapter VI of the Western Cape Land Use Planning Act, 2014, Act 3 of 2014 (LUPA) have all been considered. The LUPA considerations and development principles require:

- ✓ The protection and promotion of the sustainable use of land, which is the purpose of the proposal. As indicated above, the application does not affect land essential for conservation, other uses, or service delivery by the Municipality. The application however requires adherence to national and provincial government policies, which it does, as illustrated above, inclusive of the municipal spatial development framework that promotes the expansion of tourist facilities and accommodation establishments on appropriate land outside of the urban areas without negatively affecting the agricultural use.
- ✓ Consideration of the public interest, which is done through compliance with the aforementioned policies and guidelines, together with the creation of new economic opportunities in proximity of the other tourist facilities and existing road infrastructure without negative impact on surrounding land use or the natural environment.
- ✓ Promotion of constitutional transformation imperatives and the related duties of the state. No comment.
- ✓ Proper consideration of the facts and circumstances relevant to the application, as have been set out above, indicating grounds for a positive land development consideration and decision. The relevant considerations include that the economic sustainability of the farm will be improved by the use of fallow land for the generation of revenue by the development of a tourist accommodation establishment as permitted in the Agriculture and Rural Zone and that it would create the basis for future upgrading of the productive capacity of the farm.
- ✓ The respective rights and obligations of all those potentially affected, primarily the surrounding property owners, public and private service providers and the wider community have been considered and there are no identified significant issues.
- ✓ The impact of the proposed development on engineering services infrastructure, social infrastructure, and open space requirements is insignificant. The proposed use contributes to the provision of economic activities without requiring additional infrastructure services. The proposed use of the land for a tourist accommodation establishment allows for the improved use of the land resource.

3.5 National Development Plan

The National Development Plan, 2030 (NDP) is extensively quoted in the Stellenbosch SDF 2021. *It serves as the strategic framework guiding and structuring the country's development imperatives and is supported by the New Growth Path (NGP) and other national strategies. In principle, the NDP is underpinned by, and seeks to advance, a paradigm of development that sees the role of government as enabling by creating the conditions, opportunities, and capabilities conducive to sustainable and inclusive economic growth. The NDP sets out the pillars through which to cultivate and expand a robust, entrepreneurial and innovative economy that will address South Africa's primary challenge of significantly rolling back poverty and inequality by 2030.* The recently released Tourism Transformation Strategy (2018) goes to detail about the matter: *The tourism sector is one of the few sectors in South Africa that continues to grow economically and globally despite the recent economic challenges. The tourism sector is one of the six core pillars of growth in the country according to the New Growth Path and the Industrial Policy Action Plan (IPAP2) identified the sector as one of the areas that contributes to the development of areas of potential such as rural areas and cultural industries amongst others.*

3.6 Zoning scheme

The proposed development of the consent uses must be considered in terms of Section 208 and 213 of the Stellenbosch Municipality Zoning Scheme Bylaw, 2019, read with the relevant considerations as set out in the Stellenbosch Municipality Land Use Planning Bylaw, 2015. Said ZSB determines that "When approving new consent uses the Municipality shall have regard for the objectives of the zone namely the preservation of agricultural land and the continued use of farm land for agriculture. The scale of the individual buildings used for consent uses shall remain in keeping with the character of buildings on the land unit, the character of the area and non-agricultural land uses may not dominate the farm activities or buildings form. These consent uses may only be undertaken from a land unit where the primary use of the land unit is bona fide agriculture/and or natural environment and where the proposed activity is subservient to these two primary land use activities on the land unit".

Given that the envisaged consent use is not in conflict with the primary use of the property (plum production and limited viticulture) and intended to supplement the agricultural activities of Erf 3298, there is no threat of diminishing the agricultural capacity or resource.

3.7 Environmental Management

The proposed development of the consent uses does not trigger an authorisation application in terms of the National Environmental Management Act, 1998. Act 107 of 1998

3.8 Heritage

The proposed guest accommodation units will not require authorisation in terms of Section 38 of the National Heritage Resources Act, 1999, Act 25 of 1999, as the character of the farm will not change over an area larger than 5 000m².

3.9 Architecture

Attached hereto as Annexure D, are proposals for the establishment of the above consent use applicable to the farm. Separate building plans will be submitted to the Municipality for the guest units. The existing buildings are all approved, and the SDP shows the full extent of the farm and the use thereof

3.10 Engineering

A traffic statement (TIS) is not required, as the maximum additional traffic that could be generated regularly in relation to the proposed expansions, are less than 6 trips per day

Electricity is supplied by Eskom, through an existing service, which does not require any upgrading.

A borehole on the property provides potable water which will be used to supplement rainwater harvesting systems provided to each unit. The units will be connected to conservancy tanks which can be emptied by contract in the municipal sewerage system. The additional demand generated by the consent use does not justify any upgrading of municipal services.

Solid waste is removed by the Municipality, which service will continue with insignificant increase in volume.

3.11 Chapter V evaluation

In Section 65 of the SMLUPB, the following criteria for deciding applications are prescribed. While all of the matters referred to in Section 65 have been addressed in broad above, this section summarises and highlights the relevant matters which the Municipality must consider.

Criterion in Section 65	Applicability	Compliance of application
<i>(a) the application submitted in terms of this By-law;</i>	Application must comply with the processes of the LUPB.	Application covers all the relevant aspects, i.e., consent, departures and permissions and is supported by the required documents and reports.
<i>(b) the procedure followed in processing the application;</i>	Application must be consistent with the LUPB.	Process still has to be concluded. Preparation and submission followed prescribed process.
<i>(c) the desirability of the proposed utilisation of land and any guidelines issued by the Provincial Minister regarding the desirability of proposed land uses;</i>	Desirability test according in terms of Section 208 and 213 of the Zoning Scheme Bylaw, read with the provincial Rural Development Guidelines.	See paragraphs 2.3, 3.2, and 3.6 above. • Uses are not likely to cause nuisances and therefore desirable.

Criterion in Section 65	Applicability	Compliance of application
		<ul style="list-style-type: none"> Guidelines indicate better use of agricultural resources necessary to diversify economy. Guidelines require least impact on agricultural capacity. Guidelines promote the addition of new and a wider range of attractions and opportunities on farms.
<i>(d) the comments in response to the notice of the application, including comments received from organs of state, municipal departments and the Provincial Minister in terms of section 45 of the Land Use Planning Act;</i>	Notices still to be circulated.	Compliance can only be monitored after conclusion of the public participation process.
<i>(e) the response by the applicant, if any, to the comments referred to in paragraph (d);</i>	Notices still to be circulated.	Compliance can only be monitored after conclusion of the public participation process.
<i>(f) investigations carried out in terms of other laws that are relevant to the consideration of the application;</i>	NEMA Act 107/1998 NHRA Act 25/1999	See paragraphs 3.7 and 3.8 above. <ul style="list-style-type: none"> No authorisations required.
<i>(h) the impact of the proposed land development on municipal engineering services;</i>	No assessments and reports done, due to the low scale and limited extent of the proposed uses.	See paragraph 3.10 above. <ul style="list-style-type: none"> Insignificant additional traffic. Eskom electricity supply network has capacity. Existing water supply from municipal system. Sewerage connected for disposal into municipal system. Solid waste removed by Municipality.
<i>(i) the integrated development plan, including the municipal spatial development framework;</i>	Aligned to: IDP 2022, Tourism Development Strategy; and SDF Agricultural Sector Policy	See paragraph 3.1 above. <ul style="list-style-type: none"> Tourism important economic contributor. New guest accommodation outside of existing nodes promoted, i.e., on farms and natural areas. Agricultural sector to be strengthened through appropriate diversification.
<i>(j) the integrated development plan and spatial development framework of the district municipality, where applicable;</i>	Compliant with Rural Area Plan.	See paragraph 3.2 above. <ul style="list-style-type: none"> The appropriate diversification of use on farms is desirable. Location, scale, and form of development complies with the development principles.
<i>(k) the applicable local spatial development frameworks adopted by the Municipality;</i>	None identified.	None.
<i>(l) the applicable structure plans;</i>	Not applicable.	Not applicable.

Criterion in Section 65	Applicability	Compliance of application
<i>(m) the applicable policies of the Municipality that guide decision-making;</i>	None identified.	None.
<i>(n) the provincial spatial development framework;</i>	Compliant with Rural Area Plan.	See paragraph 3.2 above. <ul style="list-style-type: none"> The appropriate diversification of use on farms is desirable. Location, scale, and form of development complies with the development principles.
<i>(o) where applicable, a regional spatial development framework contemplated in section 18 of the Spatial Planning and Land Use Management Act or provincial regional spatial development framework;</i>	Compliant with Rural Area Plan.	See paragraph 3.2 above. <ul style="list-style-type: none"> The appropriate diversification of use on farms is desirable.
<i>(p) the policies, principles and the planning and development norms and criteria set by the national and provincial government;</i>	Compliant with principles and criteria.	See paragraphs 3.2, 3.3, and 3.4 above. <ul style="list-style-type: none"> Assessed against spatial justice, spatial sustainability, efficiency, and good administration. Criteria and principles for development of tourist accommodation in rural areas applied to development.
<i>(q) the matters referred to in section 42 of the Spatial Planning and Land Use Management Act;</i>	Compliant with principles and criteria.	See paragraph 3.3 above. <ul style="list-style-type: none"> Assessed against spatial justice, spatial sustainability, efficiency, and good administration.
<i>(r) the principles referred to in Chapter VI of the Land Use Planning Act; and</i>	Compliant with principles and criteria.	See paragraph 3.4 above. <ul style="list-style-type: none"> Assessed against spatial justice, spatial sustainability, efficiency, and good administration.
<i>(s) the applicable provisions of the zoning scheme.</i>	SM Zoning Scheme Bylaw, 2019 considered	See paragraphs 2.3 and 3.6 above. <ul style="list-style-type: none"> Consent evaluated against Section 208 and 213.

4. CONCLUSION

The application for approval of the proposed consent use, being a tourist accommodation establishment consisting of three tourist dwelling units with a total coverage of 330m² clustered on fallow land not used for cultivation on Erf 3298, Franschhoek, in terms of Section 15(2)(o) of the Stellenbosch Municipal Land Use Planning Bylaw, 2023, can be approved in view of the positive effects the use would have on the economic sustainability of the farm and the lack of any negative effects. The units blend into the environment and are within walking distance of the tourist attractions in the town.

Document: SITE SPECIFIC MOTIVATION FOR AN ADDITIONAL DWELLING ON ERF 3298, FRANSCHHOEK (LU15945 TP435/2023)

Date: 03 December 2024

development proposal (one additional dwelling unit) represents an unusual situation on land that is transformed or of an exceptional nature that could not have been contemplated when the Municipality considered and adopted the SDF. If a site specific motivation or application can demonstrate that the proposal does not significantly impact on the credibility of the SDF it can be argued that the proposal is consistent with the SDF, or at least not inconsistent with it.

This motivation is therefore for the consideration of a single tourist dwelling unit that is also an additional dwelling unit on the subject property, with due cognisance of the potential cumulative impact of additional dwelling units on the agricultural resource and the surrounding environment. The motivation in the land development application indicated the proposed use of a portion of the farm for tourist accommodation to be generally consistent with the SDF. It did not however motivate why the number of dwelling units on the farm should be permitted to exceed the limits set therefore in the Zoning Scheme Bylaw.

The development proposal must be assessed in terms of the SPC within which the property falls, policy guidelines are based thereon. In terms of the SPC C.b., it is preferable that the additional dwelling units be located within the farmstead. The farmstead is however fully developed, and it contains a large number of mature trees. It is further surrounded by plum orchards, which are the main product of the farm. Expansion of the farmstead is therefore not desirable, and neither is it desirable to remove the mature trees to create space to add the additional dwelling units to the farmstead. In such instance the SDF policy indicates that dispersed units should be on existing farm roads, in visually unobtrusive locations, and be self-sufficient in terms of servicing. The proposed location on the eastern side of the farm was chosen with this in mind. As indicated above, it is abutting existing developed erven, and the municipal sewer gravitation main from the town to the treatment works. The water line for the property also runs to the edge of the site, where it serves two employee housing units on the opposite side of the stream. The location is served by a 5m wide servitude road from Erf 551, over Erf 3498. The site is not visible from the north, or any other point of interest for tourists and visitors, it being down slope and behind two large agricultural industrial uses.

The site is visible from the south, from the Leeu Estate development up the slope of the Dassenberg. The Leeu Estate development is however of significantly larger scale, and it contains large numbers of visible buildings and structures which make the small additional dwellings on Erf 3298 unobtrusive.

One additional dwelling unit over the ratio of one per 10 ha can be approved, in view of the fact that the farm has an area of just more than 35 ha. Moreover, given the site specific location of the proposed unit and the motivation above, it is apparent that the unit will not diminish the value of the agricultural resource and does not add to the cumulative impact of additional units on the receiving environment. The services infrastructure serving the one that is permitted will also serve the one additional unit, and these are the same services that also serve the employee housing units opposite the stream and the abutting tourist dwelling units on Erf 3498. Even if the effects of the additional dwellings are considered cumulatively, it will remain subservient to the agricultural use, being of lesser importance in overall intent, scale, and extent.

Yours faithfully



DUPRÉ LOMBAARD

Technical Planner and Environmental Assessment Practitioner

SACPLAN B/8076/1998 // EAPASA 2019/304

ANNEXURE E:
COMMENT FROM THE MANAGER: SPATIAL PLANNING



STELLENBOSCH

STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNICIPALITY • UMASIPALA • MUNISIPALITEIT

Spatial Planning

To : Manager: Land Use Management
From : Manager: Spatial Planning
Reference : Erf 3298, Franschhoek
LU No : LU/15945
Date : 8 December 2023
Re : Application for Consent Use to accommodate new proposed cottages on Erf 3298, Franschhoek

I refer to your request for comment on the above application.

Application is herewith being made for:

- **Consent use** in order to accommodate the new proposed cottages (tourist dwelling units) as Tourist Accommodation Establishment

1) Opinion/reasoning:

The new approved Municipal Spatial Development Framework for the WC024 area was approved by Council in June 2023 and recognises that the spatial decisions and actions of many make what settlements are.

In terms of this approved document, seven principles need to be considered:

1. Maintain and grow the assets of Stellenbosch Municipality's natural environment and farming areas;
2. Respect and grow cultural heritage;
3. Direct growth to areas of lesser natural and cultural significance as well as movement opportunity;
4. Clarify and respect the different roles and potentials of existing settlements;
5. Clarify and respect the roles and functions of different elements of movement structure;
6. Ensure balanced, sustainable communities;
7. Focus collective energy on a few catalytic lead projects.

With the enactment of the Spatial Planning and Land Use Management Act 16 of 2013 (SPLUMA), a new planning regime was introduced in South Africa. It replaced disparate apartheid era laws with a coherent legislative system as the foundation for all spatial planning and land use management activities in South Africa. It seeks to promote consistency and uniformity in procedures and decision-making. Other objectives include addressing historical spatial imbalances and the integration of the principles of sustainable development into land use and planning regulatory tools and legislative instruments.

Chapter 2 of SPLUMA sets out the development principles that must guide the preparation, adoption and implementation of any SDF, policy or by-law concerning spatial planning and the development or use of land. These principles are the following:

- Spatial Justice
- Spatial Efficiency
- Spatial Sustainability
- Spatial Resilience
- Good Administration

The subject property is located just outside the urban edge of Franschhoek and zoned for Agricultural and Rural Zone. It has an area of 35.80ha and located between the Franschhoek River, The R45 and La Provence Road. The farm is currently being used for agricultural purposes, with roughly 12ha plums and 2.5ha of vineyards with about 12.5ha of land lying fallow. This land was previously used for cultivation of plums, but is no longer cultivated due to low yields and market conditions.

The purpose of the **Agricultural Zone** is to make provision for:

- The protection and preservation of agricultural land, rural landscapes and biodiversity;
- Use of land for purposes of bona fide agricultural production or conservation;
- Buildings and structures which may be erected for reasonable and normal agricultural purposes;
- A limited range of other ancillary uses which may take place on agricultural land units, either as additional rights or with the consent of the Municipality and which provides for more intensive agricultural use, agricultural industry or tourism which has the objective of creating variety, ensuring sustainability and providing diversified income to land owners, without adversely impacting on the primary use of the land unit for agricultural purposes.

In terms of the approved MSDF the following guidelines are applicable to this specific application:

- Tourist accommodation should preferably make use of existing buildings or new buildings on disturbed footprints, and these should take the natural and heritage significance of the site into consideration.
- Rural place-bound businesses (including farm stalls and farm shops, restaurants and venue facilities) of appropriate location and scale to complement farming operations, and not compromise the environment, agricultural sustainability, and the scenic, heritage and cultural landscape.
- Rural place-bound agricultural industry related to the processing of locally sourced (i.e. from own and/or surrounding farms) products, and not compromise the environment, agricultural sustainability, and the scenic, heritage and cultural landscape.

- Support for various forms of leisure and tourism activities across the rural landscape, of appropriate location, scale, and form not to compromise the environment, agricultural sustainability, and the scenic, heritage and cultural landscape.
- Agricultural industry should be subservient or related to the dominant agricultural use of the property and/ or surrounding farms.
- All place-bound agricultural industry related to the processing of locally sourced (i.e. from own and/or surrounding farms) products, should be located within the farmstead precinct in the agricultural area.
- Industry in rural areas should not adversely affect the agricultural potential of the property.
- Activities and uses directly related to the primary agricultural enterprise are permitted, including farm buildings and associated structures (e.g. one homestead, barns, agri-worker housing, etc.), as well as additional dwelling units to support rural tourism opportunities and to diversify farm income, comprising 1 additional non-alienable dwelling unit per 10ha, up to a maximum of 5 per farm.
- Ancillary rural activities of appropriate scale that do not detract from farming production, that diversify farm income, and add value to locally produced products (e.g. restaurant and function venue facility, farmstall and farm store, home occupation, local product processing, and rural recreational facilities.
- Recognising the prospects of tourism to diversify and strengthen the rural economy, the provision of a variety of short-term tourism accommodation across the rural landscape that is in keeping with the local character is supported.
- Large scale tourist accommodation should preferably be provided in or adjacent to existing towns and rural settlements. Tourist accommodation in the rural landscape could be allowed if, of an appropriate scale and form, appropriate to the SPC.
- Tourist accommodation situated outside of the urban edge should be clustered in visually discreet nodes, preferably make use of existing buildings or new buildings on disturbed footprints, located within or peripheral to the farmstead, reinforce rural landscape qualities, and cater exclusively for the temporary accommodation for in transit visitors.

2) Supported / not supported:

It is unclear from the motivation what the extent of the facilities are. The applicant initially refers to the 6 new tourist dwellings but later to only 3 tourist dwelling units. Each unit is described as being 90m² in extent. This creates confusion for this department and the applicant needs to be clear on the number of proposed units.

From the site development plans it seems that 3 "groups" of tourist facilities is proposed each consisting of 2 self-containing bedrooms with a shared sitting/dining room between them. It is unsure if these will be rented out as a unit or as individual rooms.

Despite the above confusion this department does not support the proposed for the following reasons:

- The property is located adjacent and just outside of the approved urban edge within a transitional area which forms the buffer between the Franschhoek urban area and the rural area. The motivation for the placement of the units is that this is unproductive agricultural land with low yields. The specific location on fallow land positioned between the urban edge and a river lend itself to be developed for urban development purposes over time and is seen as pre-cursor to urban sprawl. Any application for further development and possibly subdivision and inclusion of a portion of the farm into the urban edge will be assisted with the approval of tourist facilities next to the built-up area.
- The application does not conform to the guidelines for the placement of the proposed guest cottages in terms of the Rural Guidelines in that the buildings should be clustered together within or near the main buildings on the farm;
- Should the buildings be located within the 32m buffer indicated by Environmental Legislation an EIA must be obtained. During the recent floods in Franschhoek should be taken into account when determining the distance to the river;
- The proposed units do not comply with the typical definition of a tourist dwelling unit and appears to be 6 units instead of 3 units.
- In terms of the Heritage Inventory and Management Plan the property is located in a sensitive area with a Grade 3A landscape unit with a high sensitivity. The development criteria for the area in terms of the latter policy requires the following:
 - This area is not needlessly destroyed and replaced by non-agricultural development. The potential agricultural use of the land should be retained for the future.
 - Fruit orchards are associated with windbreak trees (see T10.3 in the CMP for windbreak species) which form distinctive strong lines on the landscape. In cases where the orchard has lost its function, to retain its heritage values the windbreak trees should be kept and new development could be included within existing blocks.
 - Developments that promote the continuity of the core function of agriculture within Stellenbosch winelands should be promoted.

This department reserves the right to revise initial comments and request further information based on any new or revised information received.



BJG de la Bat
MANAGER: SPATIAL PLANNING

Charlene Williams

From: Salome Newman
Sent: Monday, 14 October 2024 09:39
To: Charlene Williams
Subject: FW: ERF 3298, FRANSCHHOEK: APPLICATION FOR CONSENT USE: SPATIAL PLANNING (COMMENTS BY EMAIL)
Attachments: RE: ERF 3298, FRANSCHHOEK: APPLICATION FOR CONSENT USE: SPATIAL PLANNING (COMMENTS BY EMAIL)

Print en plaas op die leer asb

From: Bernabe De La Bat <Bernabe.DeLaBat@stellenbosch.gov.za>
Sent: Monday, 14 October 2024 09:37
To: Salome Newman <Salome.Newman@stellenbosch.gov.za>
Cc: Viola Anthony <Viola.Anthony@stellenbosch.gov.za>; Barbara-Ann Henning <Barbara-Ann.Henning@stellenbosch.gov.za>
Subject: FW: ERF 3298, FRANSCHHOEK: APPLICATION FOR CONSENT USE: SPATIAL PLANNING (COMMENTS BY EMAIL)

Salome

Ons kommentaar bly onveranderd staan.

Die beplanner moet daarmee werk.



Kind regards

Bernabé de la Bat (Pr. Plan.)

A/696/1992

Manager: Spatial Planning

T: +27 21 808 8653

129 Dorp Street, Stellenbosch, 7600

www.stellenbosch.gov.za



Deurlooi van elektroniese dokumente, soos e-posse en elektroniese oorskrifte, kan nie gewaarborg word teen oorsake van vervalsing of ander vorme van manipulasie nie. Indien u hierdie e-pos ontvang het, is dit moontlik dat u nie die afgeskreë persoon is nie. Indien u hierdie e-pos ontvang het, is dit moontlik dat u nie die afgeskreë persoon is nie.

From: Barbara-Ann Henning <Barbara-Ann.Henning@stellenbosch.gov.za>
Sent: Monday, 14 October 2024 09:08
To: Salome Newman <Salome.Newman@stellenbosch.gov.za>; Bernabe De La Bat <Bernabe.DeLaBat@stellenbosch.gov.za>
Cc: Viola Anthony <Viola.Anthony@stellenbosch.gov.za>
Subject: RE: ERF 3298, FRANSCHHOEK: APPLICATION FOR CONSENT USE: SPATIAL PLANNING (COMMENTS BY EMAIL)

Beste Salome

ANNEXURE F:
COMMENT FROM MANAGER: PROPERTY MANAGEMENT

Dupré Lombaard (Virdus Works)

From: Yolande van den Berg <Yolande.vandenBerg@ Stellenbosch.gov.za>
Sent: 11 October 2023 08:30
To: Dupré Lombaard (Virdus Works)
Subject: RE: [EX] FW: NOTICE OF LAND DEVELOPMENT APPLICATION IN THE STELLENBOSCH MUNICIPAL AREA: ERF 3298, FRANSCHHOEK (REF. LU 15945 / TP435/2023)

Thank you Dupree, there are no objections from Property Management.

Warm Regards,



Kind regards,

Yolande van den Berg

Head: Contract Management

Corporate Services

T: +27 21 808 8073 | Fax 021-886 7319

Plein Street, Stellenbosch, 7600

www.stellenbosch.gov.za



STELLENBOSCH

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 MUNISIPALITEIT • FRANSCHHOEK • MOUËTSHOOF



About Stellenbosch Municipality

Our mission is to deliver cost-effective services that will provide the most enabling environment for civil and corporate citizens.

Our head office is at Town House Complex, Plein Street, Stellenbosch, 7600, South Africa. For more information about Stellenbosch Municipality, please call +2721-808-8111, or visit www.stellenbosch.gov.za

Disclaimer:

The information contained in this communication from yolande.vandenbergh@stellenbosch.gov.za sent at 2023-10-11 08:29:59 is confidential and may be legally privileged. It is intended solely for use by dupre.lombaard@virdus.com and others authorized to receive it. If you are not dupre.lombaard@virdus.com you are hereby notified that any disclosure, copying, distribution or taking action in reliance of the contents of this information is strictly prohibited and may be unlawful. Powered by [IOCO](#)

From: Dupré Lombaard (Virdus Works) <dupre.lombaard@virdus.com>

Sent: Friday, 29 September 2023 04:17

To: Yolande van den Berg <Yolande.vandenBerg@ Stellenbosch.gov.za>

Subject: [EX] FW: NOTICE OF LAND DEVELOPMENT APPLICATION IN THE STELLENBOSCH MUNICIPAL AREA: ERF 3298, FRANSCHHOEK (REF. LU 15945 / TP435/2023)

Dear Sir / Madam

Herewith a public notice regarding a land development application in the vicinity of your property / in your area of interest.

Should you not be willing to open the attachment for understandable internet safety and security reasons, you may request a copy of the full application from undersigned, to be sent via WeTransfer, due to its size.

Geagte Heer / Dame

ANNEXURE G:
COMMENT FROM DIRECTOR: INFRASTRUCTURE SERVICES



STELLENBOSCH MUNICIPALITY
STELLENBOSCH · PNIEL · FRANSCHHOEK

MEMORANDUM

DIREKTORAAT: INFRASTRUKTUURDIENSTE
DIRECTORATE: INFRASTRUCTURE SERVICES

CIVIL ENGINEERING SERVICES

To ▫ Aan:	Director: Planning + Economic Development
Att Aandag:	Salome Newman
From ▫ Van:	Manager: Development (Infrastructure Services)
Author ▫ Skrywer:	Kurt Titus
Date ▫ Datum:	1 December 2023
Our Ref ▫ Ons Verw:	Civil LU 2587
Town Planning Ref:	LU/15945
Re ▫ Insake:	Erf 3298, Franschhoek: An application is made in terms of Section 15 (2) (o) of the Stellenbosch Municipal Land Use Planning By-Law, 2023, on Erf 3298 Franschhoek for Consent use in order to accommodate the new proposed cottages (tourist dwelling units) as Tourist Accommodation Establishment

The application is **recommended for approval**, subject to the following conditions:

Civil Engineering services

The below information to be provided at building plan approval stage:

1. Water & Sewer
 - 1.1. The location of the borehole as potable water source.
 - 1.2. Indicate the location of the conservancy tank, that will service development.

2. Development Charges (DCs)

- 2.1 DC's will be applicable for this development.
- 2.2 Development charges are payable at build plan approval stage and will be calculated using the applicable rates at that time.

K Titus

Kurt Titus
Principal Technician: Development (Infrastructure Services)

Z:\2.0 DEVELOPMENT\01 Land Use applications\2587 (Ku) Erf 3298 Franschhoek (LU-15945)\2587 () Erf 3298 Franschhoek (LU-15945).doc

Charlene Williams

From: Salome Newman
Sent: Monday, 26 August 2024 14:02
To: Charlene Williams
Subject: FW: ERF 3298, FRANSCHHOEK: APPLICATION FOR CONSENT USE: ENGINEERING SERVICE (COMMENTS BY EMAIL)

Print en plaas op die leer asb

From: Kurt Titus <Kurt.Titus@ Stellenbosch.gov.za>
Sent: Friday, 23 August 2024 13:27
To: Salome Newman <Salome.Newman@ Stellenbosch.gov.za>
Subject: RE: ERF 3298, FRANSCHHOEK: APPLICATION FOR CONSENT USE: ENGINEERING SERVICE (COMMENTS BY EMAIL)

Hi Salome,

The conditions as stipulated on the initial memo remains unchanged.



Kind regards

Kurt Titus

Principal Technician: Development
 Infrastructure Services

T: +27 21 808 8644

1st Floor, Ecclesia Building, 71 Plein Street.

Stellenbosch, 7600

P O Box 17, Stellenbosch, 7599

www.stellenbosch.gov.za



FILE NR:	E 3298 FH
SCAN NR:	
COLLABORATOR NR:	

From: Salome Newman <Salome.Newman@ Stellenbosch.gov.za>
Sent: Friday, August 23, 2024 12:26 PM
To: Kurt Titus <Kurt.Titus@ Stellenbosch.gov.za>
Subject: FW: ERF 3298, FRANSCHHOEK: APPLICATION FOR CONSENT USE: ENGINEERING SERVICE (COMMENTS BY EMAIL)

Jammer ek het dit aangeheg

From: Salome Newman
Sent: Friday, 23 August 2024 11:33

ANNEXURE H:
COMMENT FROM THE ENVIRONMENTAL PLANNER:
COMMUNITY SERVICES

INTEROFFICE
MEMORANDUM

STELLENBOSCH
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MUNICIPALITY • UMASIPALA • MUNISIPALITEIT

DEPARTMENT: COMMUNITY SERVICES

Stellenbosch Municipality, 123 Merriman Avenue, Stellenbosch, 7599

To:	Administrative Officer: Land Use Management Salome Newman	From:	Senior Environmental Planner: Schalk van der Merwe
CC:		Date:	7 June 2024
Re:	APPLICATION FOR CONSENT USE: ERF 3298, FRANSCHHOEK – LU/15945		

The application includes the development of three cottages (units 11-13 on the relevant Site Development Plan [SDP]) to the south of the property. These cottages consist of a floor area of $\pm 90\text{m}^2$ each. In total the three cottages will cover an area of $\pm 330\text{m}^2$ including each unit's stoep and pergola.

In terms of the National Environmental Management Act (107 of 1998 [NEMA]), Environmental Impact Assessment Regulations, Environmental Authorisation (EA) is required for the development of structures with a physical footprint of 100m^2 or more where such development occurs within 32m of a watercourse (Activity 12 [Listing Notice 1]). Overlaying the above SDP with aerial imagery shows that the cottages (units 11-13) are located within a 32m buffer area of a tributary of the Franschhoek River. In terms of the land use application prepared by Viridus Works (Pty) Ltd (July 2023) the proposed development does not trigger the requirement for the acquisition of an EA in terms of NEMA. Enquiring with Mr Dupré Lombard from Viridus Works (Pty) Ltd in this regard Mr Lombard confirmed that the above submission was an oversight and that the development of the said cottages will indeed require an EA in terms of NEMA.

The required NEMA process will generate relevant information, with specific reference to the location of the proposed cottages, that will have to be considered in the evaluation of the application. From an environmental planning point of view it is therefore recommended that the application not be approved until such time as the specialist studies, identified and generated during the NEMA process, are submitted to the municipality for consideration.

S. V. Merwe
S VD MERWE - SENIOR ENVIRONMENTAL PLANNER:
COMMUNITY SERVICES

INTEROFFICE
MEMORANDUM

STELLENBOSCH
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MUNICIPALITY • UMASIPALA • MUNISIPALITEIT

DEPARTMENT: COMMUNITY SERVICES

Stellenbosch Municipality, 123 Merriman Avenue, Stellenbosch, 7599

To:	Administrative Officer: Land Use Management Salome Newman	From:	Senior Environmental Planner: Schalk van der Merwe
CC:		Date:	27 August 2024
Re:	APPLICATION FOR CONSENT USE: ERF 3298, FRANSCHHOEK – LU/15945		

This department's comment of 7 June 2024 and the amendments to the application (Virdus Works writing [7 August 2024] and Kruger Theron Architects e-mail [27 August 2024]) refers. From an environmental planning point of view this department has no objection to the approval of the amended application on condition that:

1. The 1:50 year flood line be indicated on the relevant building plans to be submitted.
2. Activities on site, during construction and thereafter, comply with the Western Cape Noise Control Regulations.
3. During construction the owner, developer or any agent acting on his/her behalf, must take all reasonable steps to prevent nuisance caused by dust in accordance with the National Dust Control Regulations.

Given the close proximity of the proposed development to the local stream the applicant is again reminded of the requirements of the National Environmental Management Act (107 of 1998 [NEMA]) and the Environmental Impact Assessment Regulations. Should any activity listed in terms of the above legislation be triggered Environmental Authorization will be required prior to the implementation of the proposed development.

FILE NO:	OUTGOING POST
ERF 3298 PH	LU/15945

S VD MERWE - SENIOR ENVIRONMENTAL PLANNER:
COMMUNITY SERVICES

ANNEXURE I:
COMMENT FROM DEPARTMENT OF INFRASTRUCTURE:
ROAD PLANNING



**Western Cape
Government**

Departement of Infrastructure

Vanessa Stoffels

Chief Directorate: Road Planning

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

Ref: 16/9/6/1-25/245 (Application no: 2024-04-0114)

The Municipal Manager
Stellenbosch Municipality
PO Box 17
STELLENBOSCH
7599

Attention: Mr U von Molendorff

Dear Sir

FILE NR:	OUTGOING POST
Erf 32 98 FH	
SCAN NR:	
COLLABORATOR NR:	

ERF 3298, FRANSCHHOEK: MINOR ROAD 5615 AND MAIN ROAD 191: APPLICATION FOR CONSENT USE TO DEVELOP SIX SELF-CATERING TOURIST DWELLING UNITS

1. The following refer:
 - 1.1. Motivation Report prepared by Viridus Works dated July 2023 only received by this Branch on 25 April 2024; and
 - 1.2. The Site Development Plan (Drawing No. CD 100 Rev 0) prepared Kruger Theron Architects dated May 2023;
2. Minor Road 5616 (OP5616) and Main Road 191 (MR191) is affected by this application.
3. The application entails a consent use for a tourist accommodation establishment for three farm cottages consisting of six self-catering units.
4. Access to Erf 3298 is via OP5616 which intersects with MR191. Access is also available from the east through right of way servitudes over the adjacent properties from Franschhoek Town.
5. No new accesses will be created onto MR191 or OP5616.
6. An application has been submitted to this Branch for the closure of OP5616 in terms of Section 3 and 26 of the Roads Ordinance 19 of 1976.
7. The peak hour trips that will be generated by the 3 cottages are insignificant.
8. This Branch offers no objection to the application for consent use for a tourist accommodation establishment subject to no new accesses being created off MR191.

Yours Sincerely

SW CARSTENS

For **DEPUTY DIRECTOR-GENERAL: TRANSPORT INFRASTRUCTURE BRANCH**

DATE: 13 MAY 2024

STELLENBOSCH MUNICIPALITY PLANNING AND DEVELOPMENT SERVICES
07 JUN 2024
RECEIVED

ANNEXURE J:
COMMENT FROM DEPARTMENT OF ENVIRONMENTAL
AFFAIRS AND DEVELOPMENT PLANNING



**Western Cape
Government**

Department of Environmental Affairs and Development Planning

Kobus Munro

Development Management: Region 2

Kobus.Munro@westerncape.gov.za | Tel: 083 701 1890

REFERENCE: 15/3/2/12/BS2

FOR ATTENTION: CHRIZELLE KRIEL

**PROVINCIAL PLANNING COMMENT: APPLICATION FOR CONSENT USE FOR TOURIST ACCOMMODATION
ON REMAINDER ERF 3298, FRANSCHHOEK**

1. Your request for comment, dated 7 June 2024, has reference.
2. The subject property measures 35.8ha in extent and is zoned Agriculture and Rural. The farm is used for agricultural purposes, with approximately 12ha of plums, 5ha of vineyards and 11ha of planted pastures. According to the applicant, roughly 12.5ha of land on the farm, previously used for the cultivation of plums, lies fallow and is no longer cultivated due to low yields and market conditions.
3. The guest accommodation establishment comprises three cottages of approximately 110m² each (including the stoep and pergola). Each unit has two-bedrooms with en-suite bathrooms, living area with incorporated kitchen and a pergola. Whereas two of the units are placed on fallow land, one of the proposed units is placed in the vineyard, but on land that is not currently cultivated due to pre-existing disturbed soil conditions.
4. According to the applicant, there are no existing buildings on the farm from which the consent use can be undertaken, as all existing buildings are utilised for their original purpose as part of the agricultural activities.
5. All three units are located within an Ecological Support Area (ESA2) associated with a non-perennial drainage line. Although the applicant averred that the proposed development of the consent use does not trigger an authorisation application in terms of the National Environmental Management Act, 1998, Act 107 of 1998, further investigation has revealed that the proposed activity is likely to trigger a listed activity that prohibits the development of infrastructure within 32 metres from the bank of a stream.
6. The applicant should, therefore, be advised to follow due process and complete a NEMA Applicability Checklist in order for DEA&DP: EIA (Region 1: Cape Winelands and Overberg) to make a determination on whether EIA approval is required or not. Due regard should also be given to section 65(f) of the Stellenbosch Municipality Land Use Planning By-law, which provides that when the Municipality (or the Municipal Planning Tribunal in this instance) considers an application, it must have regard to investigations carried out in terms of other laws that are relevant to the consideration of the application.
7. The Stellenbosch Spatial Development Framework, 2023 permits dwelling units that support rural tourism and ancillary rural activities that serve to diversify farm income, provided said uses do not undermine the sustainability of agricultural production and/or the natural environment and adhere to the recommendation as contained in the Western Cape Land Use Planning Guidelines for Rural Areas, 2019.

8. The following extracts from the Western Cape Land Use Planning Guidelines for Rural Areas, March 2019, have specific bearing on the application at hand:
- The corresponding Spatial Planning Category for Ecological Support Area 2 is Buffer 2, in which agricultural diversification and non-agricultural opportunities such as additional dwelling units and tourist facilities are encouraged, provided that development associated with farm diversification of "value adding" does not result in excessive encroachment into farmland with agricultural production potential and is located within or peripheral to the farmstead precinct within existing farm buildings.
 - All development in rural areas should be in keeping and in scale with its location, and sensitive to the character of the rural landscape and local distinctiveness (page 35).
 - The cumulative effect of all ancillary and non-agricultural land uses should not detract from the rural character of the landscape and the primary agricultural activities (page 35).
 - Rural activities must have a focus on sustainability and be in harmony with the surrounding agricultural landscape (page 35).
 - Extensive agriculture should be located on land in Buffer 1 and Buffer 2 SPCs (page 39).
 - Buildings accommodating land uses ancillary to agriculture should be located within the farmstead precinct, preferably within existing structures. Where new buildings are erected, these should be on previously disturbed footprints within or adjacent to the farm homestead and not on cultivated land (page 40).
 - Whilst it is preferable that land uses ancillary to agriculture be located within the farmstead, dispersed rental units can be allowed, provided they are located along existing farm roads, in visually unobtrusive locations and be self-sufficient in terms of service infrastructure (page 41).
 - Only activities that are appropriate in the rural context, general positive socio-economic returns and do not compromise the environment or ability of the municipality to deliver on its mandate should be accommodation (page 41).
 - Given the Western Cape's unique rural landscape, tourism offers exciting prospects to diversify and strengthen the rural economy. Accordingly, the Western Cape Government's approach to rural accommodation is to facilitate the provision of a variety of short-term tourist accommodation across the rural landscape (page 47).
 - The building height of any new resort unit (or additional dwelling unit) should be restricted to that of a single storey (6,5m measured from natural ground level to the highest point of a building) (page 52).
 - The maximum floor area of a resort unit should be limited to 120m² including garaging (page 52).
 - The development should not result or contribute to visually obtrusive or ribbon development along the coastline, visually sensitive areas, cliffs or ridges (page 55).
9. It should be noted that the Rural Areas Guideline is a broad-based tool providing practical planning guidance for implementation in the rural areas of the Western Cape. Given its broad application across the Western Cape Province, the description of the land uses in the Guideline are not necessarily identical to the land uses as described in a specific municipal zoning scheme.
10. To this end, the Rural Areas Guidelines do not specifically reference a 'tourist accommodation establishment' as described in the Stellenbosch Zoning Scheme By-law, although the description, i.e. accommodation for transient guests that exceeds the scale and extent of a

tourist dwelling unit or guest house, would be comparable to some degree to 'holiday accommodation' within a resort development.

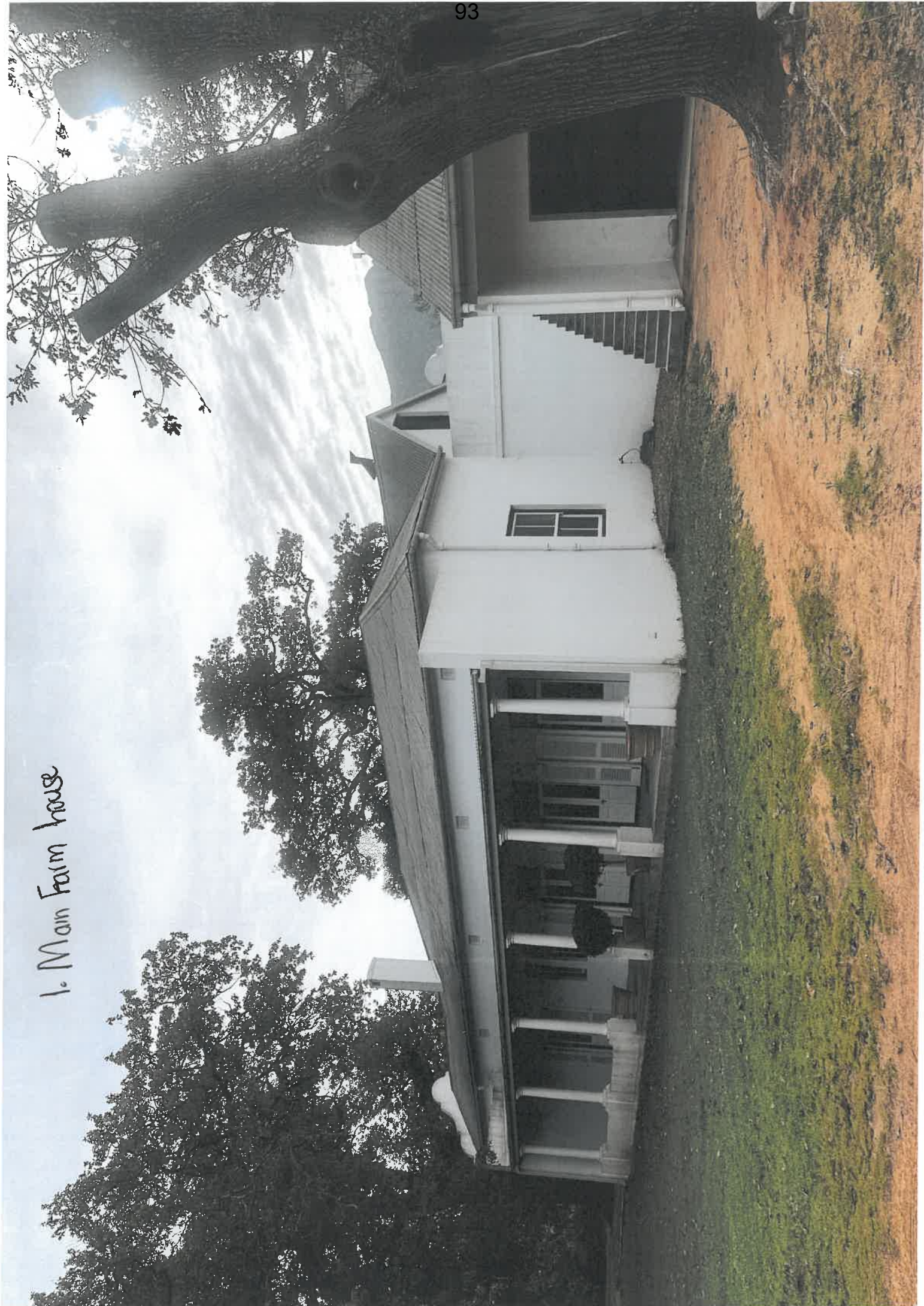
11. The Guidelines are not clear with respect to density size but recommend that properties smaller than 50ha be guided by the additional dwelling density model (1 unit per 10ha with a maximum of 5 units). Figure 3: Resort Densities (page 51) applies only in respect of properties with a low visual carrying capacity, which should be in excess of 500ha before units can be considered, and properties which have a linear sea/river frontage. In both respects the calculation of density is very conservative and is based on the premise that the impact of any development is usually larger on smaller properties and smaller on large properties and assumes that the loss of a small part of a property will not have a significant impact on the biodiversity and sustainable functioning of the whole.
12. Notwithstanding the fact that application has been made for tourist accommodation in terms of which the Zoning Scheme By-law does not prescribe density or size parameters, the density and size of the units as proposed is in line with the additional dwelling density model as advocated in the Rural Areas Guideline, with the 3 proposed self-catering units remaining subservient to the primary use of the property, which is agriculture.
13. The placement of one of the units on cultivated land is, however, cause for concern and said proposal is not consistent with the recommendations as set out in the Rural Areas Guideline.
14. It is important to note, however, that the official position of the Western Cape Government as outlined in the Rural Areas Guideline is not inflexible but is a framework for informed decision-making. Where a finding of consistency cannot be made, the decision-maker must give due regard to the applicant's motivation to justify such deviation and the impact of such deviation on the overall objective of the applicable guidelines. A key consideration for such justification would be that the development that is inconsistent with the broadly applicable guideline principles would not undermine the main goals and objects of the guidelines.
15. A deviation from the guidelines should, however, be applied with restraint and decision-makers should caution against its general application to the wider area, future precedent based motivation and resultant cumulative impacts.

Kobus Munro Digitally signed by Kobus Munro
Date: 2024.06.11 09:29:20 +02:00

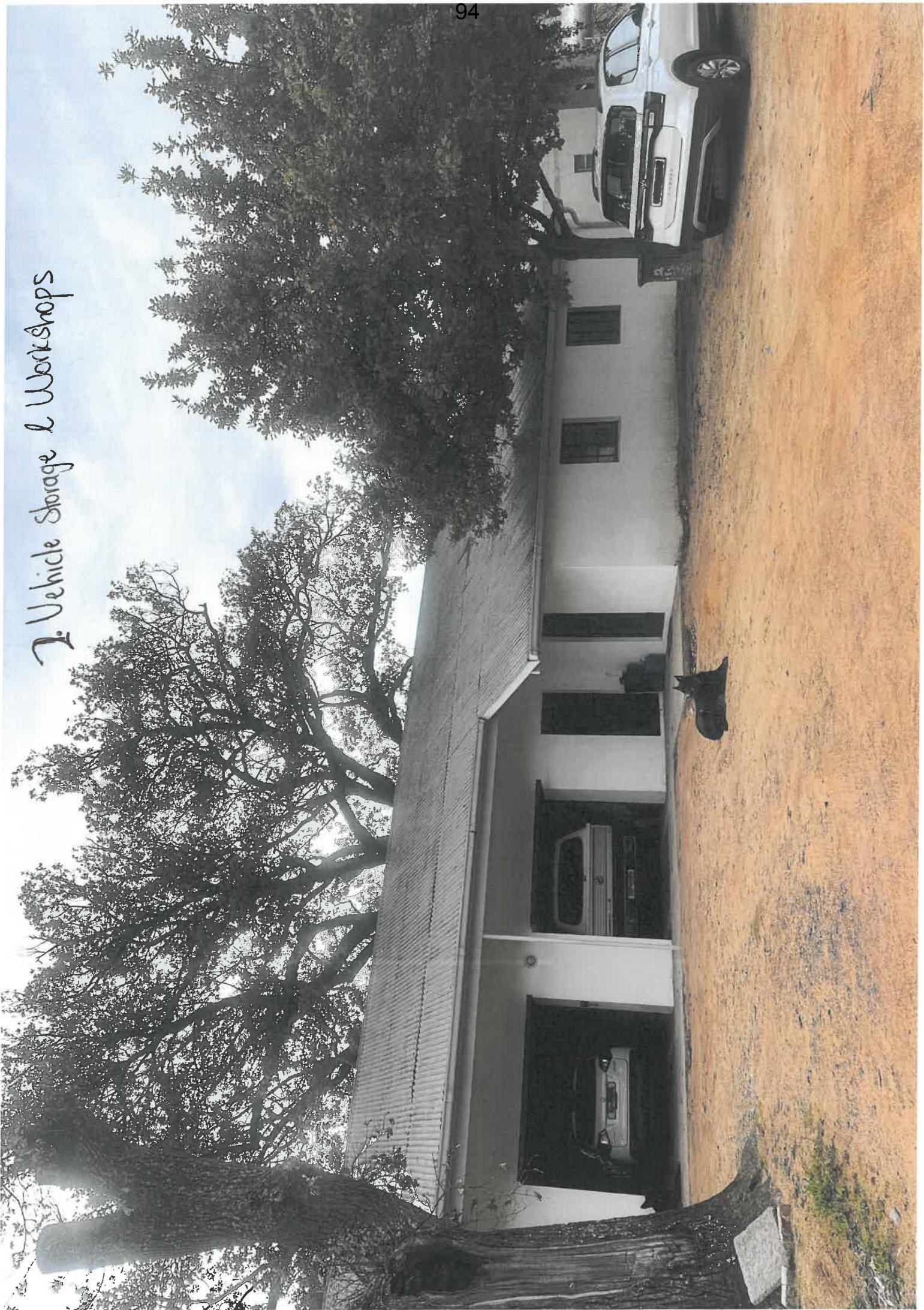
KOBUS MUNRO
DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 2)

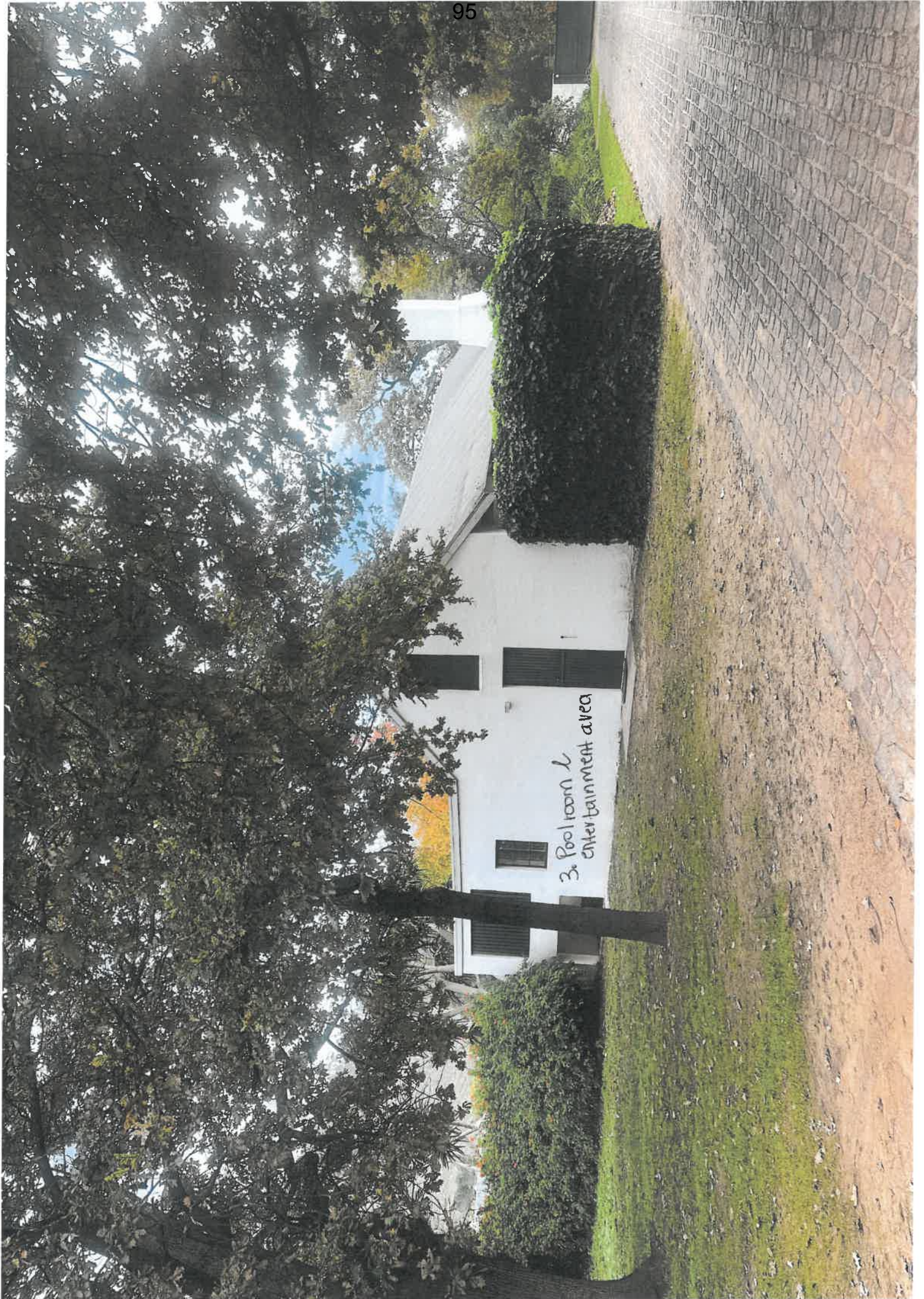
ANNEXURE J:
SITE INSPECTION PHOTOS

1. Main Farm house

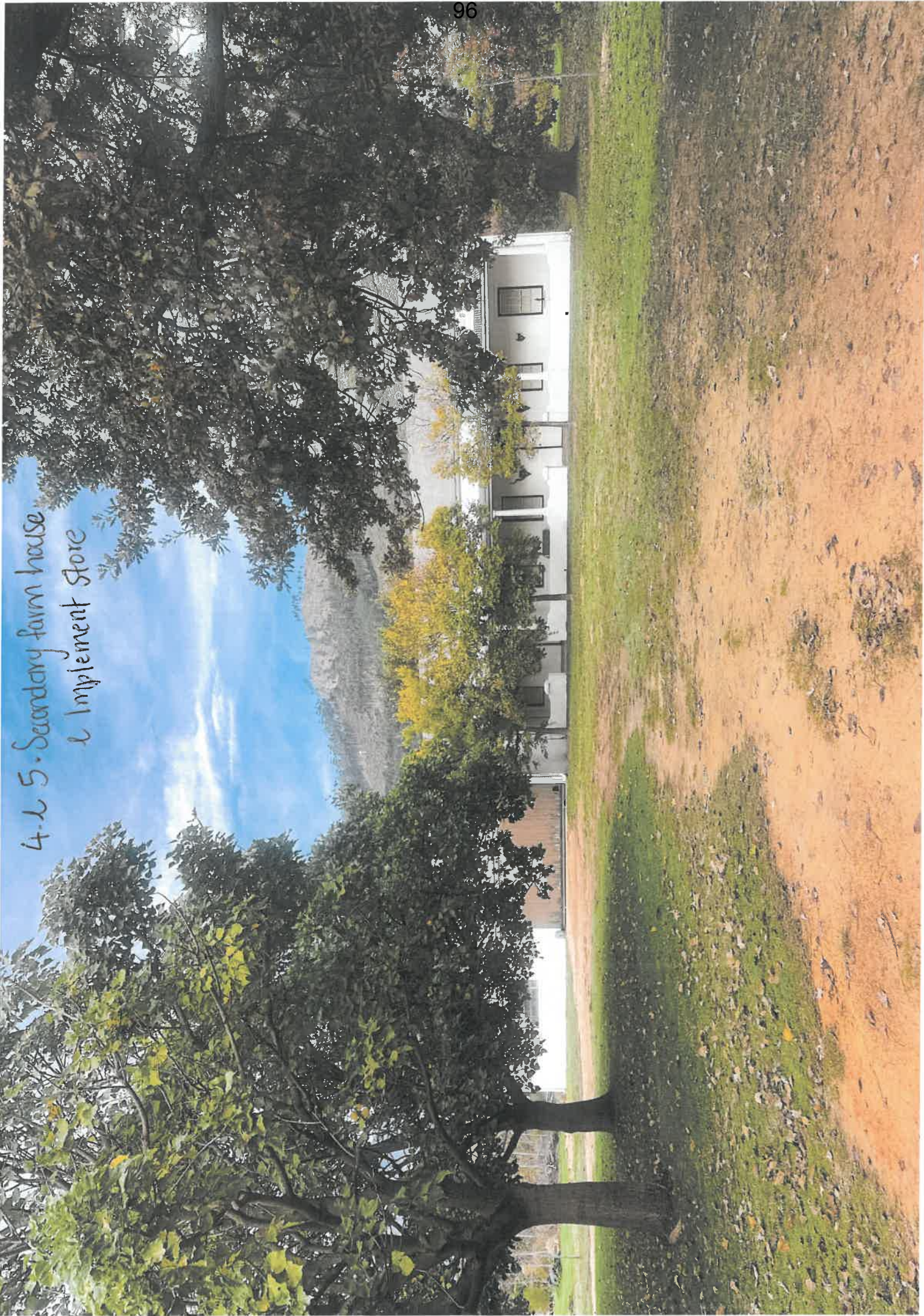


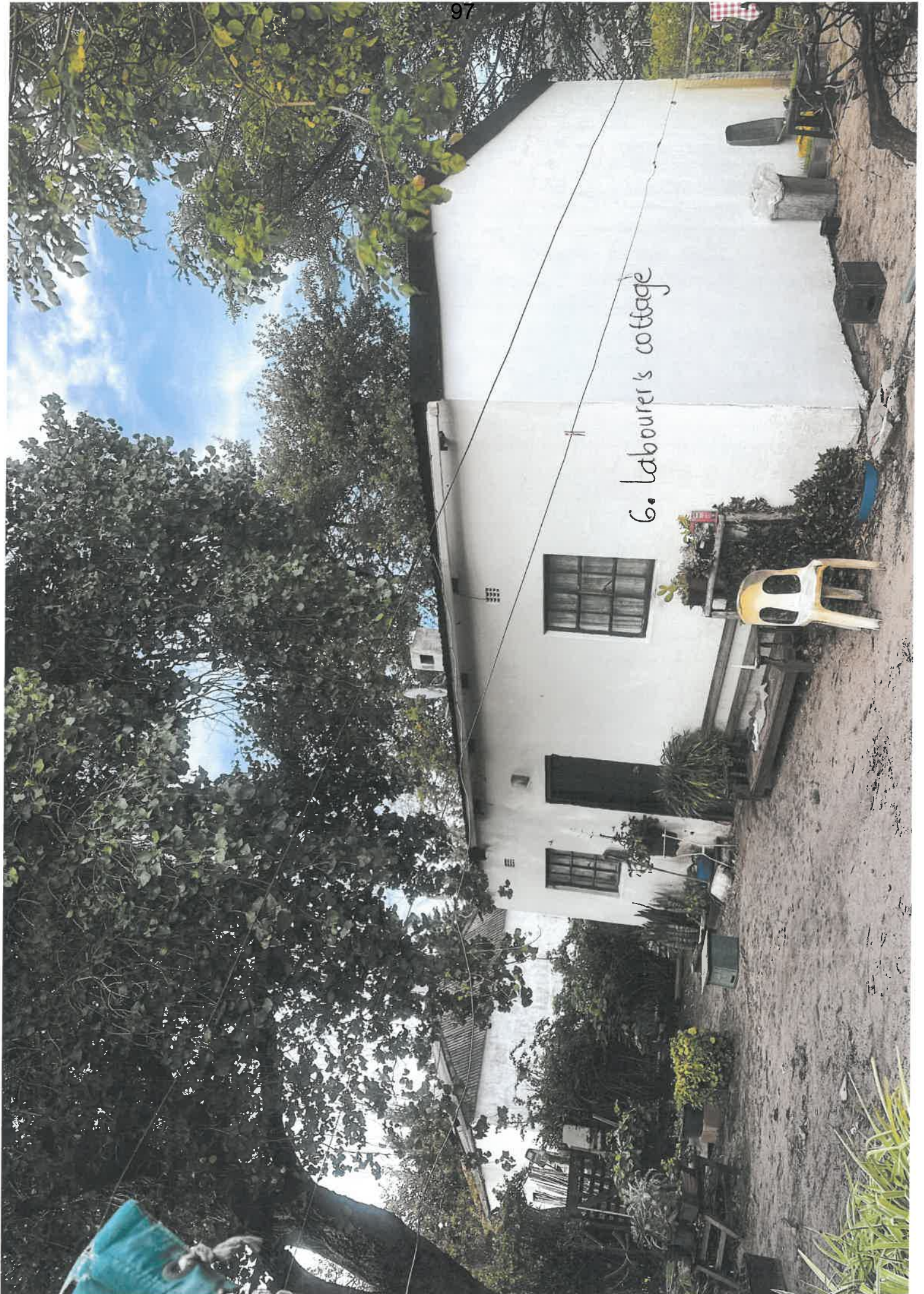
Vehicle Storage & Workshops





4-2 5. Secondary farm house
& Implement Store





7. Labours Cottage



8. Labouret's Cottage



* Servitude :- Access to proposed
guest cottages

