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7 May 2025

## NOTICE OF LAND DEVELOPMENT APPLICATION

Dear Sir/Madam

### **APPLICATION FOR SUSPENSION OF RESTRICTIVE TITLE DEED CONDITION ON ERF 859, STELLENBOSCH – 3 SKOOL STREET**

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

Application Property Address: **Erf 859, Stellenbosch**  
Application Property Number: **3 Skool Street**  
Applicant: **Arch Town Planners (Pty) Ltd (Carlien Coetzee, [carlien@archtownplanners.co.za](mailto:carlien@archtownplanners.co.za))**  
Owner: **HMB Capital (Pty) Ltd**  
Application Reference: **TP978/2024**

### **Description of land development proposal:**

Application is made in terms of Section 15 (f) of the Stellenbosch Municipal Land Use Planning By-law, 2023 for the following on Erf 859, Stellenbosch:

- In terms of Section 15(2) (i) to suspend the following restrictive title deed condition to increase the permitted coverage from 33% to 50% to accommodate the proposed garage, laundry room and covered patio:
  - o "... clause 3.A.(c) of T68657/2024: not more than one third of the area of this erf shall be built upon."

Notice is hereby given in terms of the provisions of the said Bylaw that the above-mentioned application has been submitted to the Stellenbosch Municipality for consideration. The application is available for inspection on the Planning Portal of the Stellenbosch Municipal Website for the duration of the public participation process at the following address: <https://www.stellenbosch.gov.za/planning/documents/planning>.

[notices/land-use-applications-advertisements](#). If the website or documents cannot be accessed, an electronic copy of the application must be requested from the Applicant.

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

The comments must be submitted within 30 days from the date of this notice to be received on or before the closing date of **9 June 2025**.

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

For any enquiries on the Application or the above requirements, or if you are unable to write and /or submit your comments as provided for, you may contact the Applicant for assistance at the e-mail address provided or telephonically at **072 262 5305** during normal office hours.

Yours faithfully

Carlien Coetzee

**For Arch Town Planners (Pty) Ltd**



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7 Mei 2025

#### KENNISGEWING VAN GRONDONTWIKKELINGS AANSOEK

Geagte Mnr./Me.

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

#### AANSOEK OM OPSKORTING VAN BEPERKENDE TITELAKTE VOORWAARDE OP ERF 859, STELLENBOSCH – SKOOL STRAAT 3

Adres van aansoek eiendom: **Erf 859, Stellenbosch**

Aansoek eiendom beskrywing: **3 Skool Straat**

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

Eienaar: **HMB Capital (Pty) Ltd**

Aansoek Verwysing: **TP978/2024**

#### Besonderhede van die grondgebruiksaansoek:

Aansoek word gedoen in terme van Artikel 15 (f) van die Stellenbosch Munisipaliteit se Beplanningsverordening (2023) ten einde voorsiening te maak vir die volgende op Erf 859, Stellenbosch:

- Ingevolge Artikel 15(2) (f) om die volgende beperkende titelaktevoorwaarde op te skort om die toegelate dekking van 33% tot 50% te verhoog om die voorgestelde motorhuis, waskamer en onderdakstoep te akkommodeer:
  - o "Klausule 3.4.(c) van T68657/2024: nie meer as een derde van die oppervlakte van hierdie erf mag op gebou word nie."

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

[https://www.stellenbosch.gov.za/planning/documents/planning-notices/land-use-applications-](https://www.stellenbosch.gov.za/planning/documents/planning-notices/land-use-applications-advertisements)

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

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

Die kommentaar moet binne 30 dae vanaf die datum van hierdie kennisgewing gestuur word en moet ontvang word voor of op die laaste dag van die sluitings datum van **9 Junie 2025**.

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

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

Die uwe

Carlien Coetzee

**Vir Arch Town Planners (Pty) Ltd**

# APPLICATION FOR SUSPENSION OF RESTRICTIVE TITLE DEED CONDITION

**ERF 859 STELLENBOSCH, 3 SKOOL STRAAT**



**NOVEMBER 2024 – REV 1**

**SUBMITTED TO:  
STELLENBOSCH MUNICIPALITY**

**PREPARED AND SUBMITTED BY:**



**Postal Address:** Postnet Suite #027  
Private Bag X5071  
Stellenbosch, 7600

**Email:** [marike@archtownplanners.co.za](mailto:marike@archtownplanners.co.za)  
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## Table of Contents

|     |                                                    |    |
|-----|----------------------------------------------------|----|
| 1.  | BACKGROUND INFORMATION .....                       | 3  |
| 2.  | APPLICATION TO THE STELLENBOSCH MUNICIPALITY ..... | 3  |
| 3.  | PROPERTY DESCRIPTION .....                         | 3  |
| 2.1 | Ownership Details .....                            | 3  |
| 2.2 | Locality and Context .....                         | 4  |
| 2.3 | Current Zoning and Existing Land Use .....         | 5  |
| 3.  | DEVELOPMENT PROPOSAL .....                         | 6  |
| 4.  | MOTIVATION .....                                   | 8  |
| 5.  | CONCLUSION .....                                   | 10 |

## FIGURES:

Figure 1 Locality of Application Site

Figure 2 The Application Site

Figure 3 SDP

## TABLES:

Table 1: Ownership Details

Table 2: Permitted land uses under the Conventional Residential Zone

Table 3: Development Parameters of Conventional Residential Zone

Table 4: Compliance with Development Parameters

Table 5: Assessment of Application in terms of Section 33(4) of the By-Law

Table 6: Assessment of Application in terms of Section 65 (1) of the By-Law

## ANNEXURES:

Annexure A: Approved Building Plans

Annexure B: Application Form

Annexure C: Title Deed

Annexure D: Power of Attorney and Company Resolution

Annexure E: Site Development Plan

## 1. BACKGROUND INFORMATION

Erf 859, Stellenbosch, hereafter referred to as the application site, was recently purchased by new owners who plan to make changes to the existing house. These alterations will increase the building coverage beyond what is permitted in the title deed but will still comply with the Stellenbosch Municipal Zoning Scheme By-Law (2023), hereafter referred to as the Zoning Scheme.

When the new owners bought the house, they realised that the existing house exceeded the coverage allowed for in the title deed. They then submitted building plans and obtained approval, which is attached as **Annexure A**, to renovate the house and demolish a few extensions of the house to comply with the coverage as allowed in the title deed.

The owners now wish to add a garage, laundry room and covered patio which will increase the coverage. The proposed additions brings the total coverage to 50% which is compliant with the Zoning Scheme but more than that allowed for in the Title Deed and therefore an application needs to be submitted to request for the suspension of this restrictive title deed condition.

## 2. APPLICATION TO THE STELLENBOSCH MUNICIPALITY

Arch Town Planners (Pty) Ltd hereby officially applies, in terms of Sections 15(2)(f) of the Stellenbosch Municipality Land Use By-Law, 2023 (hereafter referred to as 'the By-Law') for the following:

- i. A suspension of a restrictive title deed condition **3(A)(c)** to allow for a coverage of 50% on Erf 859 Stellenbosch.

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

## 3. PROPERTY DESCRIPTION

### 2.1 Ownership Details

| Application Site Details | Ownership             | Erf Size | Title Deed                                            | Restrictive Title Deed Conditions Applicable |
|--------------------------|-----------------------|----------|-------------------------------------------------------|----------------------------------------------|
| Erf 859, Stellenbosch    | HMB Capital (Pty) Ltd | 954.1m²  | T 000068657/2024<br>See attached as <b>Annexure C</b> | 3(A)(c)                                      |

Table 1: Ownership Details

The owners have authorised *Arch Town Planners (Pty) Ltd* by means of Power of Attorney, attached as **Annexure D**, to prepare and submit this application.

Condition **3(A)(c)** of the title deed stipulates the following:

*“Not more than one third of the area of this erf shall be built upon.”*

This title deed restriction thus places a restriction on the coverage.

## 2.2 Locality and Context

The application is situated in Krigeville, east of the R44 in Stellenberg Avenue. Please refer to Figure 1 for the locality of the site. The application site is situated between Bloemhof Girls' High School and Paul Roos. It is also within close proximity to Rhenish Girl's High School and within walking distance from town and surrounding amenities.

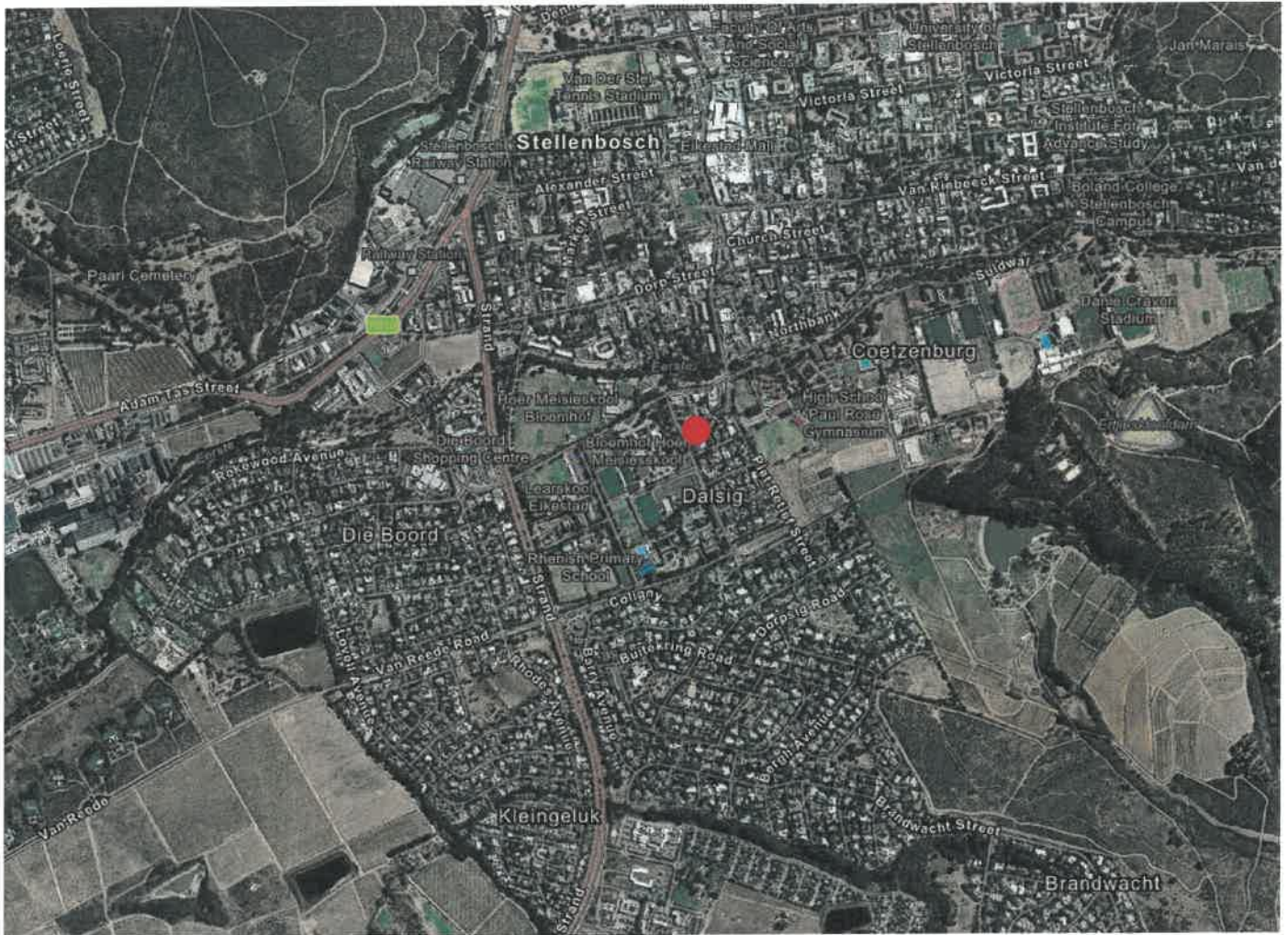


Figure 1 - Locality of Application Site

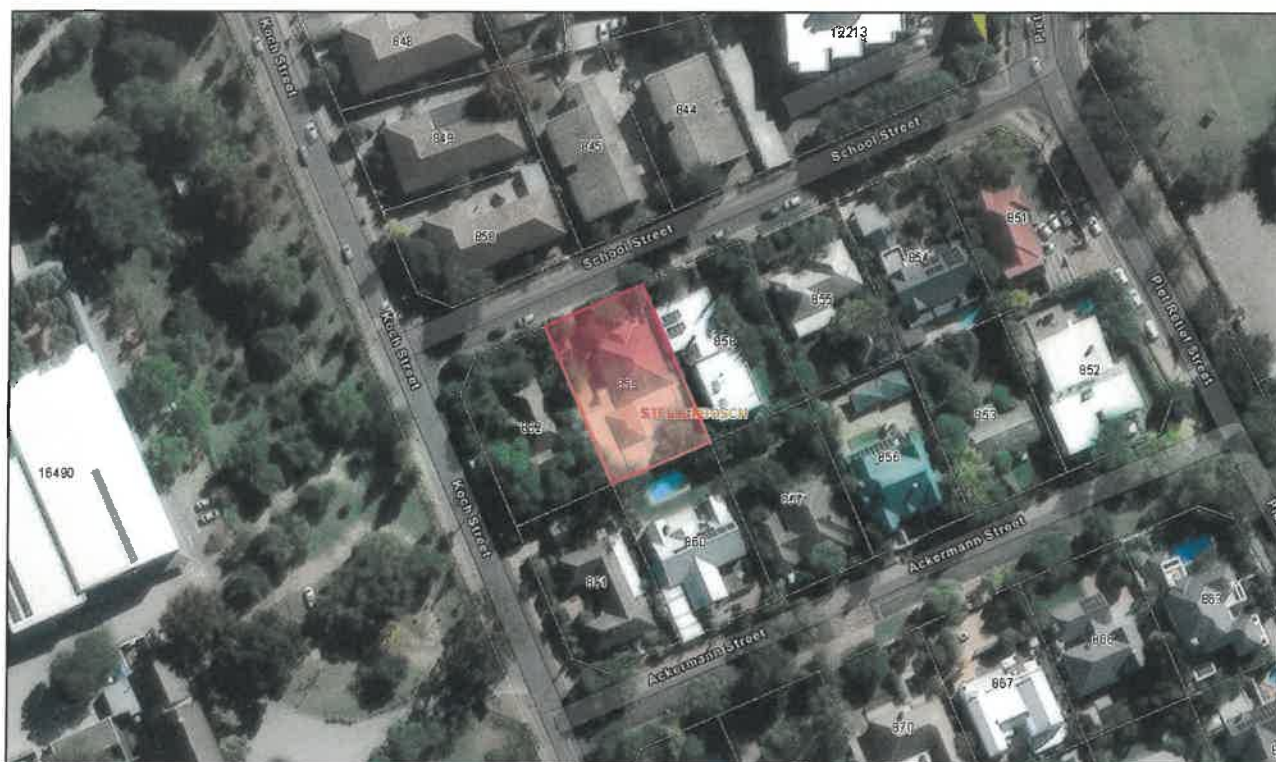


Figure 2 - The Application Site

## 2.3 Current Zoning and Existing Land Use

The application site has an existing residential house used for residential purposes. The zoning of property is regulated in terms of the Stellenbosch Municipality Zoning Scheme By-Law, 2023. According to the zoning scheme the site is zoned as **Conventional Residential Zone**. According to the Zoning Scheme the following land uses are permitted:

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

Table 2: Permitted land uses under the Conventional Residential Zone

| Land Use Parameters       | Conventional Residential Zone                 |
|---------------------------|-----------------------------------------------|
| Street Building Line (BL) | 501m <sup>2</sup> - 1500m <sup>2</sup> - 4m   |
| Common Boundary BL        | 501m <sup>2</sup> - 1500m <sup>2</sup> - 2.5m |
| Max Coverage              | The greater of 300m <sup>2</sup> or 50%       |
| Max Height                | 2 storeys                                     |

Table 3 Development Parameters

### 3. DEVELOPMENT PROPOSAL

Kindly see the SDP attached as **Annexure E** to be read with this section. The proposed development entails adding a new garage ( $\pm 70\text{m}^2$ ), laundry area ( $\pm 12\text{m}^2$ ), covered patio ( $\pm 42\text{m}^2$ ), and covered deck ( $\pm 14\text{m}^2$ ) which can be seen in Figure 3. The proposed extensions will increase the coverage to 50% which is allowed for in the Zoning Scheme but restricted by the title deed.

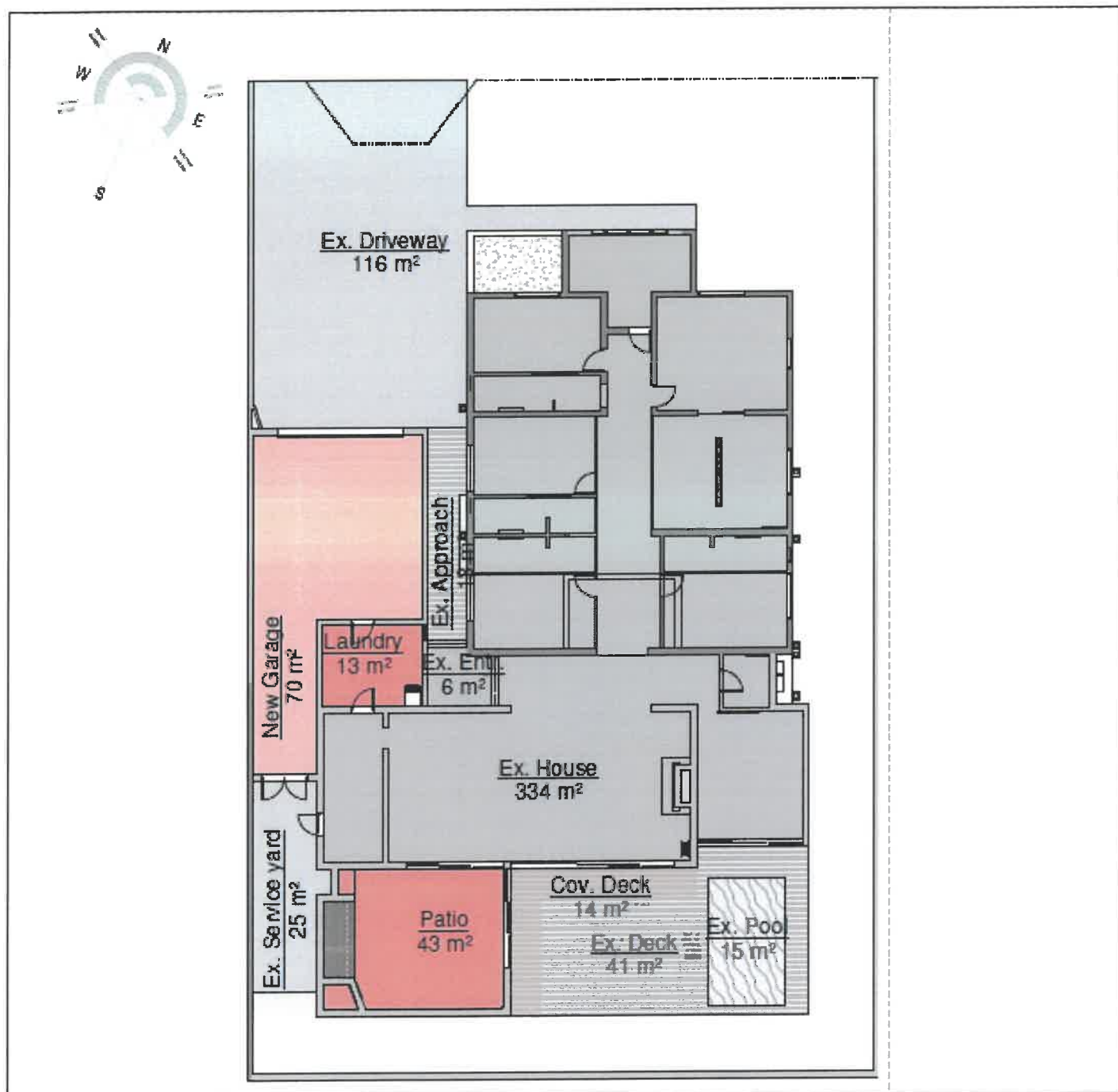


Figure 3 - SDP

The proposed garage will be situated on the 0m common boundary line which is allowed in the zoning scheme under Section 55 (2) (b) that stipulates that a garage may be situated on the 0m common boundary provided that the wall on the common boundary is no higher than one storey, the height of the garage may not exceed one storey, and no stormwater may be discharged directly from the building roof onto the neighbouring property.

Table 3 outline the development parameters applicable to Conventional Residential zoned properties. As indicated in the table, all structures on the application site, complies with the development parameters of the zoning scheme.

| Land Use Parameters       | Conventional Residential Zone                 | Proposed Development | Compliance/ Application Required |
|---------------------------|-----------------------------------------------|----------------------|----------------------------------|
| Street Building Line (BL) | 501m <sup>2</sup> - 1500m <sup>2</sup> - 4m   | 5.92m                | Complies                         |
| Common Boundary BL        | 501m <sup>2</sup> - 1500m <sup>2</sup> - 2.5m | 2.73m                | Complies                         |
| Max Coverage              | The greater of 300m <sup>2</sup> or 50%       | 50%                  | Complies                         |
| Max Height                | 2 storeys                                     | 1 storey             | Complies                         |

**Table 4** *Compliance with Development Parameters*

#### 4. MOTIVATION

From the attached drawings and Table 4 above, it is clear that the proposed development complies with all the building parameters as set out in the Zoning Scheme. However, the coverage exceeds that allowed for in the title deed. No other laws or policies are impacted by the proposed extensions.

It is important to note that prior to the existence of zoning schemes, title deeds were used to govern and guide the development (by way of various conditions) of properties. Title deed conditions were used to regulate and protect the existing rights of all property owners. Without arguing that restrictive title deed conditions are redundant, it is motivated that Zoning Schemes and Municipal Policies now replaces the need for title deeds to govern the development of properties.

Even with the approval for the suspension of restrictive title deed conditions, any further development on the application site will still be regulated by the development parameters of the Conventional Residential Zone (as listed in Tables 2 and 3 of this report).

##### **Stellenbosch Municipality Land Use By-Law (2023):**

As set out in Section 33(4) and 65(1) of the By-law, certain criteria need be met in consideration of an application by the decision-making authorities. In line with this section, Table 4, below, sets out the criteria and assesses the application accordingly:

| Section 33(4) Criteria                                                                                                                                                                                                           | Assessment of Proposal                                                                                                                                                                                                                                                      |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (a) the financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity, irrespective of whether these rights are personal or vest in the person as the owner of a dominant tenement; | With the suspension of the condition relating to coverage, the landowner can add a garage, laundry and patio to the existing house which will increase the value of the property.                                                                                           |
| (b) the personal benefits which accrue to the holder of rights in terms of the restrictive condition;                                                                                                                            | It does not impact the benefits of the holder of rights as the restriction was put in place to protect the character of the area, however, many of the surrounding properties already exceeds 33% coverage.                                                                 |
| (c) the personal benefits which will accrue to the person seeking the removal, suspension or amendment of the restrictive condition if it is amended, suspended or removed;                                                      | With the suspension of the condition relating to coverage, the landowner can add a garage, laundry and patio to the existing house which will increase the value of the property and will contribute to efficient use of the property.                                      |
| (d) the social benefit of the restrictive condition remaining in place in its existing form;                                                                                                                                     | There is no social benefit for the restriction to remain in place.                                                                                                                                                                                                          |
| (e) the social benefit of the removal, suspension or amendment of the restrictive condition;                                                                                                                                     | The landowner wishes to add a few extensions to the existing house in line with their needs. Additionally, it may promote economic growth by facilitating property improvements and investments, which could benefit the local community through increased property values. |

|                                                                                                                                                                          |                                                                                                                                    |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------|
| (f) whether the removal, suspension or amendment of the restrictive condition will completely remove all rights enjoyed by the beneficiary or only some of those rights. | The suspension of the restrictive conditions will not remove all the rights enjoyed by the beneficiary, only relating to coverage. |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------|

**Table 5 Assessment of Application in terms of Section 65 (1) of the By-Law**

| Section 65(1) Criteria                               | Assessment of Proposal                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| a. Application submitted in terms of the By-law.     | The application is submitted in terms of Sections 15 (f) of the By-law.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| b. Procedure followed in processing the application. | To be decided.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| c. Desirability of land use                          | <p>The application for the suspension of the restrictive title deed condition will not negatively affect the existing or future land use of the site. The land use will stay as is, being conventional residential. In terms of the Removal of Restrictive Title Deed Conditions, it is further motivated that:</p> <ul style="list-style-type: none"> <li>- The approval of the application will not have a negative impact on the surrounding properties as it is in character with similar developments in the immediate and surrounding residential neighbourhood.</li> <li>- The approval of this application will not result in an unusual advantage for the owners of the application site. Any future development will have to comply with the provisions of the applicable Zoning Scheme.</li> <li>- The existing additions to the existing house, resulting in a marginal increase in coverage is still within the permissible coverage and will not result in the overdevelopment of the site. It is appropriate in the context of the area.</li> <li>- The existing rights of the surrounding neighbours will not be impacted in a negative way if the title deed restrictions are removed.</li> </ul> <p>The suspension of the title deed restriction will have no impact on any of the infrastructure services in the area.</p> |
| d. The IDP and SDF                                   | <p>Stellenbosch Municipality recently approved a new MSDF, which is used to guide land use decisions in both the short and long term. This document conceptualizes seven core principles. While not all these principles are of pertinence to this application, the relevant principles are indicated below.</p> <p><i>Maintain and grow the assets of Stellenbosch Municipality's natural environment and farming areas:</i> This application will not have any impact on the Municipality's natural environment and farming areas as the proposed development is located well within the urban edge.</p> <p><i>Respect and grow cultural heritage:</i> In line with the Stellenbosch Municipality's SDF, the proposed development will contribute to sensitive densification of an established conventional residential area.</p> <p><i>Clarify and respect the different roles and potentials of existing settlements:</i> As identified throughout this report, the application site is located within an area earmarked for conventional residential development. By allowing for the removal of the restrictive title deed conditions, the approval thereof will contribute to realising the potential of the conventional residential property to be sensitively densified.</p>                                                        |

|                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|----------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                                                                    | <p><i>Ensure balanced, sustainable communities:</i> As per the SDF, development and densification must be prioritised within a radius of 1km of residential areas. It is important that the sensible densification in Stellenbosch should be supported to allow for the optimal use of land, services and infrastructure (including public transport).</p> <p>Furthermore, some of the main principles of the SDF relevant to this application includes:</p> <ul style="list-style-type: none"> <li>• The principle of appropriate densification,</li> </ul> <p>The application promotes all the above highlighted principles of the SDF.</p> |
| e. The principles referred to in Chapter VI of the Land Use Planning Act.                                                                          | The five principles relates to spatial justice, spatial sustainability, efficiency, good administration, and spatial resilience. The proposed extensions and the application for the suspension of the coverage restrictive title deed condition aligns with the principles as it allows for efficient land use through sensible densification and infill within the urban edge of Stellenbosch. It allows for optimal use of the property within the urban edge and does not place additional use on the engineering services.                                                                                                               |
| f. The applicable provisions of the zoning scheme.                                                                                                 | As discussed, the proposal is in line with the provisions of the Zoning Scheme                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| g. Any restrictive condition applicable to the land concerned.                                                                                     | Yes, condition 3(A)(c). This application serves to suspend this restrictive condition.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| h. The impact of the proposed land development on any heritage resources as defined in the National Heritage Resources Act, 1999 (Act 25 of 1999). | None                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |

**Table 6** Assessment of Application in terms of Section 65 (1) of the By-Law

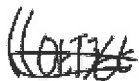
## 5. CONCLUSION

In light of the above information, Council is respectfully requested to favourably consider the application for the following in terms of the Stellenbosch Municipality Land Use By-Law to allow for the following:

- ii. **A suspension of a restrictive title deed condition (3(A)(c))** to allow for a coverage of 50% on Erf 859 Stellenbosch.

Report compiled by:

Carlien Coetzee (C/9982/2024)



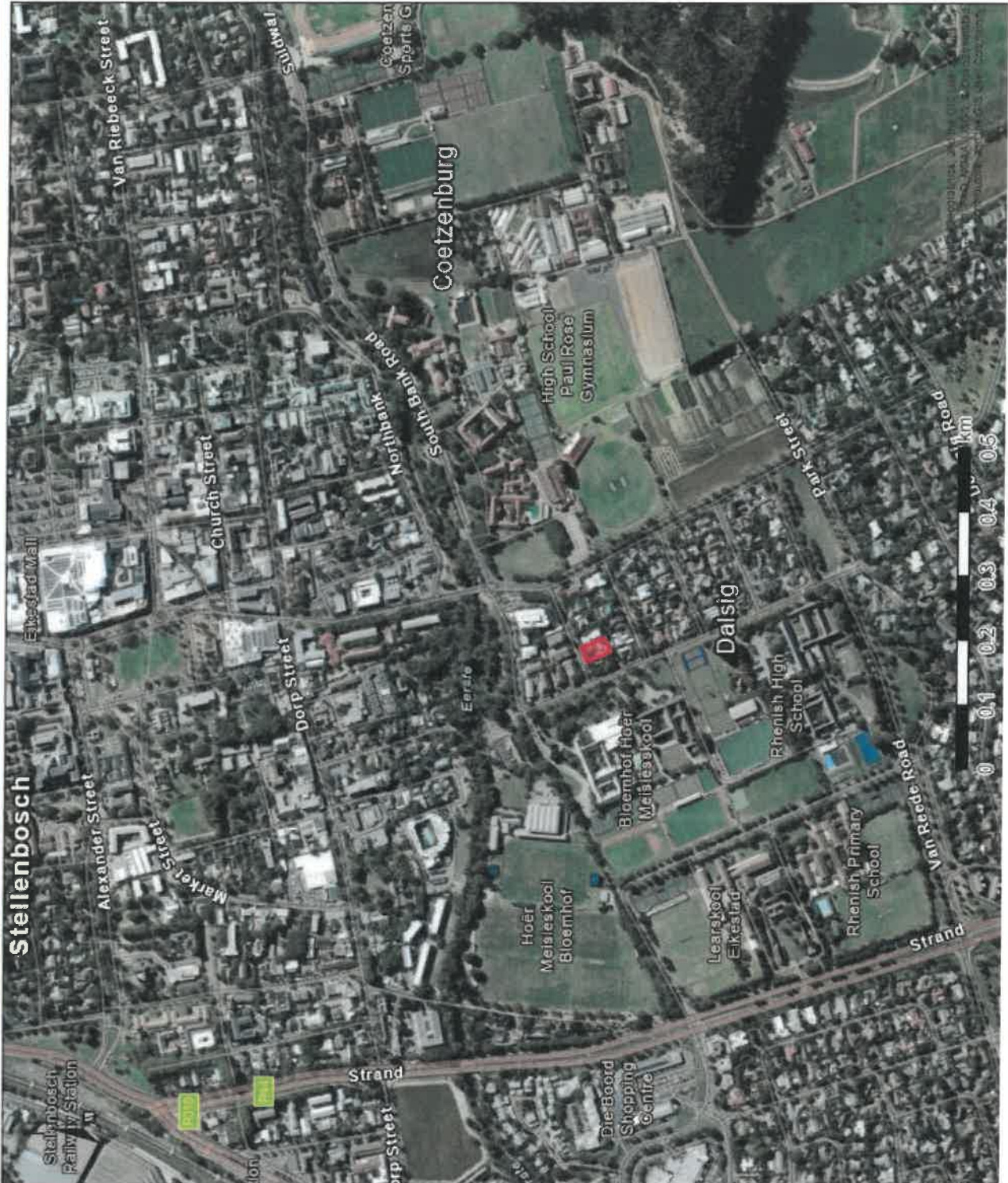
Report reviewed by:

Marika Bolz (Director)



**for Arch Town Planners (Pty) Ltd**

Locality Plan - Erf 859, Stellenbosch

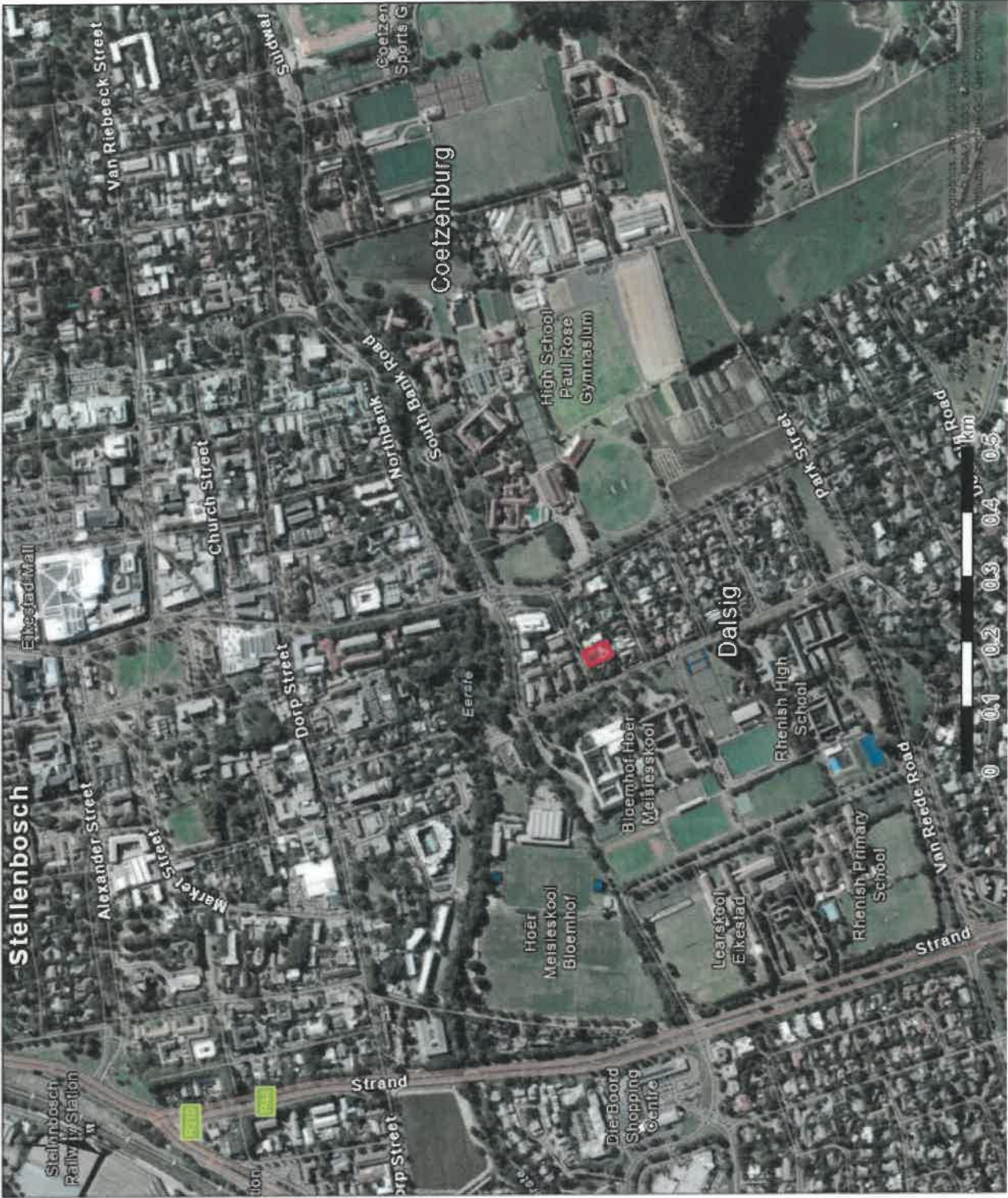


Legend

Map Center: Lon: 18°51'35.8"E  
Lat: 33°56'31.4"S  
Scale: 1:10,070  
Date created: 2024/26/11



Locality Plan - Erf 859, Stellenbosch



Legend

Map Center: Lon: 18°51'35.8"E  
Lat: 33°56'31.4"S  
Scale: 1:10,070  
Date created: 2024/26/11







