



STELLENBOSCH

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Application Number: LU/16294 (TP393/2023)

Our File Reference Number: Erf 2653, Stellenbosch

Your Reference Number:

Enquiries: Ulrich von Molendorff

Contact No: 021 – 808 8682

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

PER E-MAIL [REDACTED]

Dear Sir/Madam

APPEAL LODGED IN TERMS OF SECTION 79(2) OF THE STELLENBOSCH MUNICIPAL LAND USE PLANNING BY-LAW: APPLICATION FOR CONSENT USE, REMOVAL/SUSPENSION OF RESTRICTIVE TITLE DEED CONDITIONS, PERMISSION IN TERMS OF THE ZONING SCHEME AND PERMANENT DEPARTURE ON ERF 2653, LA COLLINE, STELLENBOSCH

1. This Municipality's decision letter dated 28 October 2024, refers.
2. The Appeal Authority resolved on 4 September 2025 that the appeal submitted against the decision of the Authorised Decision-Maker dated 23 October 2024, in respect of the subject application on Erf 2653, **BE DISMISSED** and that the subject decision **BE CONFIRMED** in terms of Section 81(7)(b) of the Stellenbosch Municipal Land Use Planning By-law, as follows:
 - 2.1 That the following application(s) in terms of Section 15(2) of the Stellenbosch Municipality By-law on Municipal Land Use Planning 2023 on Erf 2653, Stellenbosch, for:

- 2.3.1 Application in terms of Section 15(2)(f) of the said By-law for the removal/suspension of restrictive title deed conditions Clauses III A (5)(b), (c) & (d) as contained in deed of transfer No. T18389/2021,
- 2.3.2 Application in terms of Section 15(2)(g) of the said By-law for permission in terms of the zoning scheme (technical approval/additional use) in order to construct a second dwelling unit,
- 2.3.3 Application in terms of Section 15(2)(o) of the said By-law for consent use in order to establish a 7 (seven) bedroom commune within 1 (one) of the proposed dwelling units,
- 2.3.4 Application in terms of Section 15(2)(b) of the said By-law for permanent departure for the following:
 - a. The relaxation of the common building line (adjacent to Erf 2652) from 1m to 0m to permit the replacement and alterations to the existing building,
 - b. The under-provision of onsite parking to permit 8 (eight) parking bays in lieu of the required 9 (nine) parking bays,

BE REFUSED in terms of Section 60 of the said By-law

3. The **reasons** for the above decisions are as follows:

3.1 The revised site development plan submitted during the appeal process is noted and has been considered but does not satisfactorily address the material matters that served as the reasons for refusing the application. In particular, the nature and scale of the proposed development will result in the overdevelopment of the subject property and will be detrimental to the character of the surrounding residential area.

3.2 A commune is defined as a dwelling house, or second dwelling unit that is used for the accommodation of boarders. The scale of the proposed building structure, compounded by the need for building line as well as parking departures, exceeds the nature of a normal dwelling unit and rather resembles the character of a residential building such as a hostel or flats. Residential buildings of such scale and

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nature must be appropriately located on properties that are zoned for Multi-unit Residential Zone with a minimum size of 1000m². The extent of the application property is however only 495m² and located in a traditional conventional residential area with appropriately scaled dwelling units.

3.3 An appeal process cannot serve the purpose to materially change the nature and scale of the proposed development in the original application, and to the extent that it will constitute a fresh application and circumvent the Decision-maker of first instance, and which will result therein that there will be no internal appeal mechanism on such a fresh application and decision by the Appeal Authority. In such instance, a fresh application must be submitted to the Decision-maker of first instance for consideration.

3.4 The Appeal Authority is consequently also in agreement with the reasons that was provided by the Authorised Decision-maker in deciding on the application, and recorded as follows:

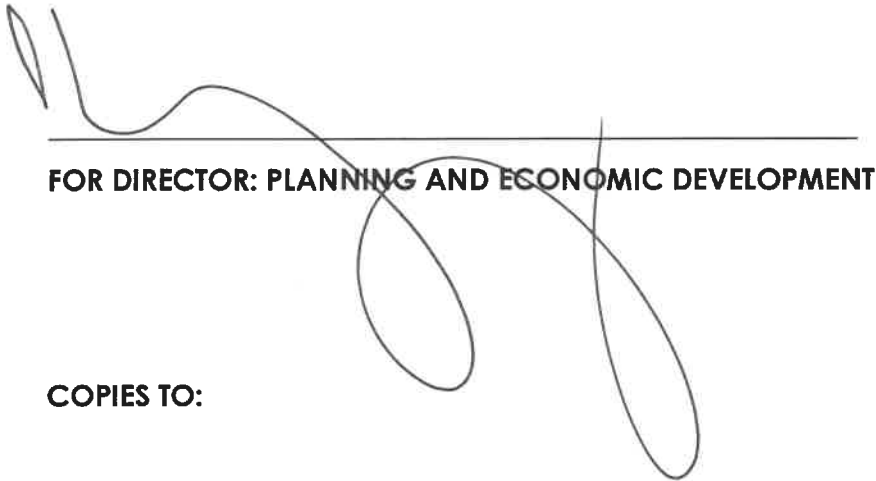
3.3.1 The scale of the proposed commune and layout, bulk and total height of the proposed purpose-built building is considered an overdevelopment of the subject property less than 500m² and does not fully consider the purpose of the Conventional Residential Zone.

3.3.2 The proposed second dwelling unit will be purposely built to accommodate the proposed commune. The application to permit the second dwelling unit and removal of the restrictive title deed condition pertaining to the number of dwelling units therefore forms an integral part of the application for a proposed commune.

3.3.3 The low-density residential character which the restrictive title deed conditions aim to preserve is still significantly prevalent in the area. The removal of the restrictive title deed conditions pertaining to the development parameters is therefore undesirable as it can be relaxed with the Administrator's consent in specific cases if deemed desirable.

4. The appeal process has now been concluded.

Yours faithfully



FOR DIRECTOR: PLANNING AND ECONOMIC DEVELOPMENT

23/9/2025
DATE

COPIES TO:

Stefan Jung

Email [REDACTED]

Dirk Schreuder

Email [REDACTED]

C Du Plessis

Email [REDACTED]