



DIRECTORATE: PLANNING AND ECONOMIC DEVELOPMENT

DEPARTMENT OF DEVELOPMENT MANAGEMENT

LAND USE MANAGEMENT

www.stellenbosch.gov.za/planning-portal/

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INFORMATION GUIDELINE:

TOWN PLANNING REQUIREMENTS FOR BUILDING PLANS

1. BUILDING PLAN COMPLIANCE WITH TOWN PLANNING REQUIREMENTS

The Municipality receives numerous building plan applications yearly. To shorten the approval timeline and bypass the need for a separate Land Use Management (LUM) application after submission of a building plan, applicants must design building plans that strictly comply with all town planning requirements and the **Municipal Zoning Scheme Bylaw**.

It is strongly advised that a landowner/developer engages a Town Planner to ensure compliance from the outset. The Town Planner's key responsibilities include:

- Determining the optimal use or development for the land.
- Verifying existing and required land use rights to align the proposal with the Zoning Scheme.
- Preparing and submitting layout plans for municipal land use approval.
- Facilitating negotiations with interested and affected parties.
- Managing the entire planning, pre-application, and approval process, including post-approval compliance.

Designing a fully compliant plan is the most effective way to ensure the Municipality can process your application timeously. This guideline explains how to prepare and submit a building plan that clearly demonstrates conformance with applicable town planning requirements and Zoning Scheme rules and regulations.

Check your zoning before you build

Like all local governments, Stellenbosch Municipality manages land uses for the orderly and sustainable development of our urban and rural areas. Whether you are planning a guesthouse or student housing, or before opening a business— such as a local shop,

restaurant or daycare centre— or commencing any construction, it is essential to verify that your site complies with the land use rights and associated development rules in accordance with the approved Zoning Scheme. It is easy and quick to verify what is permitted on your property using our online zoning maps on [Citymaps Public GIS Viewer](#). Knowing your zoning rights and development rules upfront will help you decide if you need to apply for a change in land-use or development rules before you commence with a building plan application.

Zoning Category vs Rating Category

It is important to note that changing your zoning (your land use rights) is not the same thing as changing your rating category (your property taxes).

FEATURE	PROPERTY ZONING	RATING CATEGORY
Governing Law	Municipal Zoning Scheme Bylaw	Municipal Property Rates Act
Purpose	To determine what the property can be used for to manage development and the extent to which it may be developed for such purpose.	To fund municipal services
Determined by	The rights assigned to the land	The actual or permitted use of the property
Impact on Costs	Affects building and development costs.	Affects monthly municipal tax (rates)
Visual Tool	Citymaps Public GIS Viewer	Found on your monthly municipal account
Changed by	Submitting a land use application to the LUM Office in the Development Management Department.	Contacting the Valuations Office in the Finance Department

It is sometimes assumed that because you have successfully changed your zoning (e.g., from Residential to Business), your rates will stay the same. As soon as the zoning or usage changes, the Municipality's finance department will likely move your property into a different rating category due to higher cost or impact on infrastructure to service the subject property, which could significantly increase your monthly overheads.

Conversely, paying "Business Rates" does not automatically grant you "Business Zoning" rights. You still need to follow the planning process to make your business usage legal.

Why development control is important

Municipalities implement rules and restrictions to ensure that urban growth is sustainable, predictable, and manageable. Effective land development and land use management is essential for the following reasons:

- a. **Legal Certainty:** It provides landowners with a clear understanding of their specific property rights, defining exactly what can and cannot be built on a piece of land.
- b. **Property Valuation:** Zoning and development frameworks serve as a benchmark for determining a property's market value and its potential for future investment.
- c. **Community Protection:** It establishes order and a harmonious living environment to protect the interests of neighbouring residents. By regulating the scale, appearance,

and use of new buildings, it prevents developments that could negatively impact the character or privacy of an established area.

- d. **Impact Assessment:** It creates a formal process for the Municipality and the public to evaluate the desirability of a project, ensuring that new developments do not overwhelm local infrastructure or harm the environment.

2. DEVELOPMENT PARAMETERS AND DEFINITIONS IN THE ZONING SCHEME

The term "Development Parameters" refers to the set of rules and restrictions in the Zoning Scheme. These controls establish the maximum permitted size, height, and coverage of buildings, as well as the specific requirements and conditions for a particular use of the land.

Deviations from these parameters are possible but require a formal land use application for a permanent departure or a permission required in terms of the Zoning Scheme under the **Land Use Planning Bylaw** (LUPB). However, it is important to know that one cannot deviate from a definition.

Development parameters applicable to all zones include, but is not limited to:

- a. Access requirements
- b. Boundary walls and fences
- c. Door and window opening and roof eaves
- d. Engineering services
- e. Equipment on top of or attached to a building
- f. Parking requirements
- g. Retaining walls, earth banks or raising ground level
- h. Steep slopes and ridgelines
- i. Satellite dish antennae
- j. Screening
- k. Shipping containers, wendy houses and tented structures

Building development parameters differ from zone to zone and generally makes provision for:

- a. Street and common building lines
- b. Coverage
- c. Height
- d. Floor area

Many incomplete or unnecessary applications are submitted because attention is not paid to the additional parameters regarding building lines that apply to relevant zones. The following parameters, specifically in the Conventional Residential Zone, must be considered:

- a. *carports are permitted up to 0 meters from the street boundary and garages are permitted up to 1 meter from the street boundary*
- b. *garages and carports are permitted 0 meters from the common boundary provided that the wall on the common boundary is no higher than one storey, the height of the entire garage may not exceed one*

storey, and no stormwater may be discharged directly from the building roof onto the neighbouring property other than the adjacent public or private road

- c. *the common boundary building lines for buildings and structures on the ground floor shall be deemed to be automatically relaxed if the neighbouring owner of the land unit or land units of the shared abutting common boundary grants permission in writing by signing both the relaxation form as prescribed by the Municipality and the accompanying building plan. Such relaxation may not be closer than 1 meter from the common boundary. If the proponent is unable to obtain the neighbour's written permission for any reason whatsoever, an application for departure may be duly submitted to and considered by the Municipality.*

A "**Letter of no Objection / Consent Form**" must be submitted to the Municipality in the correct format.

The Zoning Scheme Bylaw includes definitions such as the following:

"building line" means an imaginary line on a land unit, which defines a distance from a public or private road or common boundary, within which the erection of buildings or structures are prohibited. The following structures or buildings are excluded from adhering to building lines:

- *fences, boundary walls, retaining walls, screen walls which are not on a boundary or is perpendicular to a boundary;*
- *stoeps, entrance steps, stairs and/or landings, which are at ground level, external to the building, and not covered by a roof;*
- *pergolas;*
- *eaves and sunscreen feature not projecting more than 1 meter from the external wall of the building;*
- *on common boundaries only, a basement where the whole of the basement ceiling is below existing ground level;*
- *all services and tanks which are underground;*
- *on common boundaries only, uncovered drying yards, any structures, tanks and/or sheds no higher than 2,1 meters;*
- *refuse rooms which are required by the Municipality and located to the Municipality's satisfaction;*
- *rainwater harvesting tanks and/or grey water recycling tanks, provided they do not exceed the height of the boundary wall immediately abutting such tanks, or are suitably screened to the satisfaction of the Municipality;*
- *gatehouses which do not exceed one storey in height and which do not exceed a floor area of 10m².*

"coverage" means the total area of a land unit that may be covered by buildings with a roof, expressed in square meters or as a percentage of the area of the land unit. Coverage is measured from the outer surface of outside walls of the building, and the following shall be disregarded in the calculation of coverage:

- *eaves or sunscreens projecting up to 1 meter from the outside wall;*
- *stoeps, external stairs, steps, landings, driveways, paved areas or pergolas, all of which shall not be covered by a roof;*
- *verandas (which are roofed) which form part of a building of historical significance which remain open to the elements on the front or long side, or new verandas which may be required by the Municipality in areas of historical significance;*
- *those portions of the basement where the ceiling level is below existing ground level.*

“dwelling unit” means a self-contained set of inter-leading rooms which consist of at least one bedroom, one bathroom and no more than one kitchen or open-plan area set aside for preparation of meals, and which is utilised or intended to be utilised as a complete residence and accommodation for one family, and can be a dwelling house, second dwelling house, additional dwelling house, group house, employee housing or dwelling units in flats or apartments.

“floor area” in relation to any building means the area of a floor which is covered by a roof, slab or projection and shall be measured from the outer face of the exterior walls or similar supports of such building, and where the building consists of more than one level, the total floor area shall be the sum of the floor area of all the levels, including that of basements; provided that the following shall be excluded:

- any area, including a basement, which is reserved solely for circulation, parking or loading of vehicles which are ordinarily associated with and which serves the land use on the property, provided that a commercial parking garage which provides additional parking in excess of the parking required by the Scheme for land use on the property is not excluded;
- parking which is provided for one property on another property provided that the two properties are notarially tied;
- any unroofed area required for fire escapes regardless of the number of storeys, and which is open to the air and external to the main façade of the building and used solely for emergency purposes;
- a projection including a projection of eaves, a canopy or a projection which acts as a sunscreen or an architectural feature which protrudes less than 1 meter from the face of the building;
- any unroofed internal courtyard, light well or other uncovered shaft;
- and any stairs, stairwells, lift wells and atriums that are covered by a roof shall only be counted once at ground floor.

“height” of a building when measured in storeys, means the number of storeys in a building, and any habitable space in the roof or storey, which is not a basement, shall be counted as a storey and when measured in meters, means the vertical dimension from a specified level to another specified level, provided that chimneys, flues, masts and antennae shall not be included for the purpose measuring a building height in meters.

Enforcement

Landowners, developers and applicants/agents must take note of Section 10 of the Zoning Scheme Bylaw.

10. (1) The Municipality may refuse any application in terms of the Scheme or in terms of the Planning By-law if in its opinion the plan or application facilitates or constitutes an evasion of the intent of the Scheme or any of its provisions.

In addition, your attention is also drawn to Sections 62 and 86 of the Land Use Planning Bylaw (LUPB) regarding the duties of an agent and offences and penalties.

62. (2) An agent may not provide information or make a statement in support of an application which information or statement he or she knows or believes to be misleading, false or inaccurate.

86. (1) A person is guilty of an offence and is liable on conviction to a fine or imprisonment not exceeding 20 years or to both a fine and such imprisonment if he or she—

- (a) contravenes or fails to comply with sections 15(1) and (4), 20(1), 21(4), 31(1), 59(3), 62(2) or 88(2);*
- (b) utilises land in a manner other than prescribed by a zoning scheme without the approval of the Municipality;...*

The Municipality must serve a compliance notice on a person if it has reasonable grounds to suspect that the person is guilty of an offence in terms of Section 86. On conviction of an offence, the person shall be liable to a fine as adopted by the Municipality. In the case of an application for the authorisation of an unlawful activity or development parameter, a contravention penalty in accordance with the prevailing and applicable Council Tariffs (available on the Municipal Website) in respect of the unlawful use of land shall be payable within 30 days from the date of final notification of the coming into operation of the decision and before the approval of any building plans. The approved land use rights will only come into effect once all suspensive conditions or relevant legislative provisions, including the payment of the contravention penalty, have been complied with.

Is your proposed development compliant?

Once you know the existing land use and development rights for your property, you will need to assess your planned development to determine whether it would comply with those rights or perhaps exceed them. Remember, these rights may also include factors such as on-site parking, the width of access ways from a public street, or the number of employees allowed should you have a home occupation.

If you find that your proposal does not comply, you have one of two options:

<u>OPTION 1</u>	<u>OPTION 2</u>
You can change your development proposal so that no departures or additional use rights are required and the proposal complies with the town planning requirements.	You can apply for a departure or for additional use rights. The land use application will have to be approved before you will be able to submit building plans to the Municipality for consideration.

Land use applications to depart from development parameters or for permission required in terms of the Zoning Scheme

The formal submission of an **application for a permanent departure** must be made in terms of section 15(2)(b) of the LUPB, and for a **permission required in terms of the Zoning Scheme** in terms of section 15(2)(g) of the LUPB.

The "**Land Use Application Form B**" must be completed in full and submitted with all relevant documents and information to ensure a streamlined application process. For more information on the submission of applications and the process workflow refer to the relevant information guidelines available on www.stellenbosch.gov.za/planning-portal/

A departure is an essential tool for landowners who find that standard regulations limit the best possible use of their property. It helps to ensure that new builds are not just compliant but are actually the best fit for the specific site and it often facilitates a more diverse and

aesthetically pleasing architectural outcome. This process supports more environmentally friendly construction, and it can also maximise a site's development potential and allow for greater land use flexibility.

Important considerations for a permission or departure application

If you are planning to apply for a departure or permission required in terms of the Zoning Scheme, please take note of the following critical factors to ensure a smooth application process:

- a. *Development restrictions:* Many development and land use restrictions found in the Zoning Scheme are often also recorded in your property's Title Deed. If this is the case, you may need to apply for the formal removal or relaxation of those specific Title Deed conditions in addition to the departure.
- b. *Multiple Permissions:* Depending on your project, a departure might not be the only approval required. You may need to submit concurrent applications for rezoning or subdivision. These related applications can typically be submitted simultaneously for efficiency.
- c. *Public Participation & Neighbour Relations:* Most proposals must be advertised to affected parties (primarily your neighbours) to allow them to comment or object. While you do not technically require your neighbours' "permission," it is highly recommended to discuss your plans with them in advance. If neighbours object, the decision-making process becomes more complex and time-consuming, as it opens the door for formal appeals by dissatisfied parties.
- d. *Approval Sequencing:* You must obtain a final notification of the departure approval before the Municipality will accept or review any building plan applications. Planning permission is a prerequisite for the building plan process.

When applying for a permission or to deviate from development parameters or rules outlined in the Zoning Scheme, the motivation must comprehensively address several key criteria for the Municipality's town planner and decision-maker to evaluate.

Here are the essential matters that must be addressed in your **application motivation**:

1. Planning and Land Use Context

- a. *Impact on the General Plan and Planning Policy:* Demonstrate that the proposed departure is not in conflict with the objectives and principles of the Municipality's Integrated Development Plan (IDP), Spatial Development Framework (SDF), any specific local area plans, or any applicable overlay zone such as the Urban and Rural Conservation Overlay Zone, the Scenic Route Overlay Zone or Techno Park or Adam Tas Corridor Overlay Zone.
- b. *Compliance with Intent of the Zone:* Explain how the departure, despite not strictly adhering to the numeric parameters (e.g., height or coverage), still upholds the overall character and intent of the zoning category (e.g., Conventional Residential).
- c. *Need for the Departure:* Clearly motivate why the standard development parameters cannot be met, often due to constraints like the size, shape, or

topography of the property, or to achieve a specific design or function that is in the public interest.

2. Impact on Neighbours and Locality

Impact on Amenity (Public and Private Interest): Assess and mitigate any potential negative impact on the rights and reasonable expectations of neighbouring property owners and the surrounding locality. This includes considering:

- a. *Privacy*: Will the departure (e.g., increased height) result in the overlooking of adjacent private spaces?
- b. *Shadowing/Overshadowing*: Will the development significantly reduce sunlight access to neighbouring properties, especially private open space?
- c. *Visual Intrusion/Streetscape*: Does the proposal negatively alter the established character or scale of the streetscape?
- d. *Precedent Setting*: Address whether the approval of this departure could set an undesirable precedent that would make it difficult for the Municipality to refuse similar applications in the future, thus undermining the integrity of the Zoning Scheme.

3. Engineering and Technical Feasibility

- a. *Service Provision and Infrastructure*: Confirm that the proposed development and deviation will not place an undue strain on existing municipal services and infrastructure, such as water supply, sewerage, stormwater, or roads.
- b. *Traffic and Parking*: If the deviation involves increased density or size, address the impact on local traffic circulation and ensure adequate provision for on-site parking is maintained as required by the scheme.

4. Alternatives and Justification

- a. *Consideration of Alternatives*: Demonstrate that reasonable alternative designs that would comply with the rules were considered and why they were deemed impractical or inferior to the proposed deviation.
- b. *Merit and Public Benefit*: Argue the merits of the application, emphasizing any public benefit or significant improvement to the property or locality that the deviation facilitates. This justification should outweigh the necessity of strict adherence to the rule.

By thoroughly addressing these points, the applicant provides the decision-maker with the necessary information to conclude whether the proposal and departure is desirable, justifiable, and will not negatively affect the public interest or the surrounding area.

3. TITLE DEED RESTRICTIONS

Before processing any building plan or land use application, the applicable title deed(s) must be scrutinised to investigate whether there are any restrictive title deed conditions that would require removal, amendment, suspension or relaxation.

Conveyancer Certificate

The primary purpose of a Conveyancer's Certificate is to provide legal assurance and verification to the Municipality regarding the property's title conditions, especially in the context of land use or development applications.

Key Functions of the Certificate includes:

- a. **Verification of Restrictive Conditions:** The conveyancer (a specialised attorney) conducts a thorough search of the current and historical title deeds (including "pivot deeds" in some areas) in the Deeds Registry.
- b. **Identification of Restrictions:** The certificate clearly lists and certifies all restrictive conditions registered against the property. These conditions can govern various aspects, such as:
 - Use of the land (e.g., residential only).
 - Building lines (setbacks from boundaries).
 - Height restrictions.
 - Number of dwellings allowed.
 - Coverage / Built upon area (how much land can be covered by buildings).
 - Registered servitudes (rights of way, utility access, etc.).

In essence, it answers the question:

Are there any existing, registered legal restrictions on the title deed that would prevent or affect the proposed development, construction, or change of land use?

The Municipality requires this certificate before approving applications like building plans for new construction or significant additions/alterations or land use applications, such as departures, rezoning, subdivision, or consent use. If the proposed building plan contravenes a restrictive condition, the conveyancer will advise the property owner and the Municipality on the legal requirements for having that condition formally removed or relaxed to allow the application to proceed. In summary, the certificate acts as a legal due diligence report, ensuring that the property's legal history aligns with the owner's plans, preventing future title disputes or illegal development.

A "**Conveyancer Certificate**" must be submitted to the Municipality in the correct format.

Land use applications for the removal, suspension, amendment or relaxation of restrictive title deed conditions

Section 33 of the LUPB stipulates the provisions applicable to restrictive conditions.

33. (1) *The Municipality may—*

- (a) remove or amend a restrictive condition permanently;*
- (b) suspend a restrictive condition permanently for the extent of the development specified in the approval;*
- (c) suspend or amend a restrictive condition for a period specified in the approval; or*
- (d) remove, suspend or amend a restrictive condition as contemplated in paragraph (a) or (b) subject to conditions of approval.*

There are various types of restrictions in title deeds, referring to different aspects of properties; however, the most common restrictive conditions of these have often been compiled with the old Township Ordinance, 1934 (Ordinance 33 of 1934) in mind and are in favour of the Administrator. They include the following (hereunder "it" refers to the subject property):

- 1) *It shall be used for residential purposes only.*
- 2) *It shall not be subdivided.*
- 3) *It shall be used only for the purpose of erecting thereon one dwelling⁹ together with such outbuildings¹⁰ as are ordinarily required to be used therewith.*
- 4) *Not more than half the area shall be built upon.*
- 5) *No building or structure or any portion thereof, except boundary walls and fences shall be erected nearer than 15 feet ¹² to the street line, which forms a boundary of this erf, nor within 10 feet of the rear or 15 feet of the lateral boundary common to any adjoining erf, provided that with the consent of the local authority, an outbuilding not exceeding 10 feet in height, measured from the floor to the wall plate and no portion of which will be used for human habitation, may be erected within the above prescribed rear space. On consolidation of any two or more erven this condition shall apply to the consolidated areas as one erf.*

The formal submission of an application to **remove, suspend or amend a restrictive title deed condition** must be made in terms of section 15(2)(f) of the LUPB.

In some instances, the wording in the title deed makes provision to relax certain conditions with the permission or consent of the Administrator:

- 1) *This erf shall be used solely for the purpose of erecting thereon one dwelling or other buildings for such purposes as the Administrator may from time to time after reference to the Townships Board and the local authority, approve, provided that if the erf is included within the area of a Town Planning Scheme, the local authority may permit such other buildings as are permitted by the scheme subject to conditions and restrictions stipulated by the scheme.*
- 2) *No building or structure of this erf or any portion thereof except boundary walls and fences, shall except with the consent of the Administrator, be erected neared than 6,1 metres to the street line which forms a boundary to this erf, nor within 3,5 metres of the rear or 3,5 metres of the lateral boundary common to any adjoining erf.*

Section 45(6) of the Spatial Planning Land Use Management Act (SPLUMA) provides that "

(6) Where a condition of title, a condition of establishment of a township or an existing scheme provides for a purpose with the consent or approval of the administrator, a Premier, the townships board or any controlling authority, such consent may be granted by the municipality and such reference to the administrator, a Premier, the townships board or controlling authority is deemed to be a reference to the municipality.

SPLUMA thus makes provision for the substitution of administrator, a Premier, the townships board or any controlling authority by the Municipality.

The LUPB does not list an application for the **relaxation of title deed restrictions** in Section 15 but provide for such a permission in accordance with section 33(9) of the LUPB:

(9) Where a condition of title, a condition of establishment of a township or an existing scheme provides for a purpose with the consent or approval of the Municipality, such consent must be requested and may be granted by the Municipality in terms of the provisions as provided for in the subject title deed.

The land use application form refers to it as a permission in terms of the title deed, and such a permission / relaxation application must be submitted together with a departure application in which instances the immediate landowners will be notified and at least the written consent from all adjacent landowners needs to be provided. If any one of these landowner(s) did not want to give this written consent, the applicant will be advised to submit a fully motivated application in terms of Section 15(2)(f) of the LUPB to have the condition either removed, suspended or amended. This would then enable a wider public participation process and consideration of the principles enshrined in planning legislation.

The "**Land Use Application Form B**" must be completed in full and submitted with all relevant documents and information to ensure a streamlined application process. For more information on the submission of applications and the process workflow refer to the relevant information guidelines available on www.stellenbosch.gov.za/planning-portal/

The implication of common restrictive conditions on land use rights

Title restrictions are generally imposed for the reciprocal benefit of all property owners in a general township scheme (unless explicitly stated otherwise). This means each erf is simultaneously both encumbered by the title deed condition in favour of all the other similar erven (servient tenement) and favoured by the title deed condition in respect of the other similar erven (dominant tenement).

It is critical to understand that when you apply to remove, suspend, or amend a restrictive condition, you are not only granting more rights and benefits to the applicant but also simultaneously impacting the established rights and benefits of all other properties for whom that restriction was originally intended. Therefore, each application and the removal of each specific restrictive condition must be evaluated strictly on its own merit in accordance with approved legislation and in relation to the specific application type.

Key assessment questions

In line with the considerations set out in the relevant legislation, a set of key questions has been developed to guide and frame the required assessment. Applicants must consider and motivate their responses to these questions for the removal of each restrictive condition. While these questions are not exhaustive—as necessary considerations may vary by application type—they are intended to satisfy legislative requirements and initiate the necessary assessment:

- A. **Purpose and Benefit:** Why was the restrictive condition originally imposed, and how is it currently beneficial?

- B. *Value of Rights*: Do the rights established by the restriction hold any financial or other measurable value for the holders of those rights (including other property owners)?
- C. *Public Interest of Retention*: Why will the restriction remaining in place be in the public interest or benefit?
- D. *Public Interest of Change*: How will the removal, amendment, or suspension of the restrictive condition be in the public interest or benefit?
- E. *Impact on Others' Benefits*: How will the personal benefit gained by the applicant through the change impact the personal benefits currently enjoyed by any other holders of those rights?

Scenarios for evaluating the removal of restrictive conditions

The legislative considerations and key assessment questions can be applied across numerous scenarios. Below are illustrative examples of situations (though not exhaustive) that guide the evaluation process:

SCENARIO	DESCRIPTION AND IMPACT	ASSESSMENT FOCUS
i. Loss of Value or Amenity	The removal of a restriction (e.g., building line or height limit) allows a proposed development that directly impacts a neighbour's existing rights. This may result in a quantifiable loss of property value or a diminished quality of life (e.g., loss of privacy, blocking of panoramic views, or loss of sunlight).	Key Questions B & E: <i>Does the right have measurable value? How does the applicant's benefit impact the existing personal benefits of others?</i>
ii. Erosion of Area Character	Restrictions are often imposed to preserve the unique character, sense of place, or historical/cultural identity of an area. Amending restrictions like coverage or subdivision rules may concern not just immediate neighbours, but the wider area or township . Allowing a deviation can undermine these intrinsic communal benefits.	Key Questions A & C: <i>Why was the condition imposed? Why should the restriction remaining in place be in the public interest?</i>
iii. Minimal Negative Impact	In specific instances, an application may be considered favourably if the removal of the restriction provides a clear benefit to the applicant while having a minimal or negligible negative impact on other parties. However, there must be absolute certainty that the negative impact is truly minimal, as the applicant is	Key Question D: <i>How will the removal be in the public interest or benefit (weighed against minimal loss of private benefit)?</i>

	acquiring new rights at the expense of the rights of others.	
iv. Clear Negative Impact	If the removal of a restriction clearly benefits the applicant but results in a significant negative impact on others, it is likely to be unfavourable. Examples include a land use change (e.g., to entertainment or business) that introduces new noise intrusion or excessive traffic congestion .	Key Questions D & E: <i>How does the personal benefit to the applicant impact the benefits of others? (Likely deemed against the public interest).</i>
v. Jeopardizing Public Access	When the removal of a restriction will have a clear, negative impact on the public interest , the restriction should remain. A prominent example is where removal would lead to the closure of public access to a vital public amenity, such as a beach or public open space.	Key Questions C & D: <i>Is the restriction remaining in place in the public interest? (Yes, in this case, to maintain public access).</i>
vi. Overwhelming Public Benefit	Removal may be favourably considered if it provides a clear and overwhelming public benefit , even if there is some minor impact on other parties. For example, providing an educational facility in an area with a dire need for such a service represents a clear public good that outweighs minor individual impact.	Key Question D: <i>How will the removal be in the public interest or benefit? (Public benefit outweighs private impact).</i>

There are certain instances where the complete removal of a restrictive condition may not be considered as the most appropriate course of action. In these instances, the amendment or suspension of these conditions to a lesser degree might be a more appropriate measure to find the balance between the rights of the holders of those rights and the applicant who wishes to acquire more rights.

Scenarios may include:

- a. an application to remove a restrictive condition that will allow for an increase of the permissible coverage/area to be built upon (e.g. 50 percent) of a property. The removal of the restrictive condition in its entirety may be deemed unacceptable, though there may be some merit (as established in the assessment and evaluation) to rather amend the restrictive condition to allow for additional coverage to accommodate the proposed development (e.g. 60 percent).
- b. an application to remove a restrictive condition that will allow for an additional use on the property. This may accompany an application for a temporary departure or consent use for a defined period. The removal, in its entirety, or amendment of the

restrictive condition may be deemed unacceptable, though there may be merit (as established in the assessment and evaluation) to suspend the restrictive condition and allow the additional use to occur for a defined period. It should be noted that when the defined period for the suspension of the restrictive condition has lapsed, the original restrictive condition is then automatically restored.

The enduring relevance of title deed restrictions

It is frequently asserted that the application of title deed restrictions is outdated and has been entirely replaced by the adoption of a zoning scheme bylaw. This is inaccurate, misleading, and an irrelevant consideration for decision-making. If restrictive title deed conditions were truly redundant, the new planning law regime would have provisions to this effect. Instead, national framework legislation (SPLUMA) specifically includes a dedicated application type, complete with relevant criteria, to remove, suspend, or amend title restrictions. This legal structure confirms their continued validity and importance. Many towns and neighbourhoods possess a distinctive character directly resulting from the original title restrictions imposed during township establishment.

While some areas have experienced such extensive removal or amendment of title restrictions that the original rationale has been diluted, diminishing their value in maintaining the built character, this is not universally the case. In many prominent historic neighbourhoods, the prevailing built context is directly shaped by title deed restrictions. Residents often buy into these areas precisely because of the restrictive title deed conditions and the resulting development context. The importance of title deed restrictions is evident in the volume of public interest and comments generated by applications for their removal or amendment, with main concerns typically revolving around the potential impact on privacy and the general streetscape.

Title deed restrictions as property rights and the Municipality's role

Title deed restrictions constitute property rights that accrue to all interested and affected parties. If these parties are not properly consulted and adequately informed of the proposal's details and potential impact, they cannot meaningfully consent to the application. The Municipality remains the custodian of land use planning and is relied upon by the community to uphold the entire planning regime, including title deed restrictions and the Zoning Scheme, for the town's benefit.

Therefore, the Municipality cannot automatically accept a proposed deviation simply because a neighbour consents. Such an approach would reduce land use planning to a "rubber stamp" exercise, leading to dire consequences when sound planning practice is neglected. This same principle must guide professional land use planning consultants. To permit the casual removal of title deed conditions without due consideration of a tangible proposal and justifiable grounds constitutes an unjustified practice. Without proper proposals that clearly illustrate the implementation and impact of the intended development, neighbouring property owners are unable to accurately understand the extent and potential consequences of the proposed title deed condition removal.

4. CONDITIONS OF APPROVAL AFTER THE REZONING OR SUBDIVISION OF LAND

The formal submission of an application for a permission required in terms of a condition of approval must be made in terms of section 15(2)(f) of the LUPB.

The “**Land Use Application Form B**” must be completed in full and submitted with all relevant documents and information to ensure a streamlined application process. For more information on the submission of applications and the process workflow refer to the relevant information guidelines available on www.stellenbosch.gov.za/planning-portal/

Building plan applications will not be accepted or processed unless the following critical land registration and compliance steps have been completed:

- a. **SG Diagram Approval:** The new or amended land diagrams must first be officially approved by the Surveyor-General (SG) Office. The Municipality's cadastre system (e.g., AFLA Portal - BPAMS) is updated only after the SG Office notifies the Municipality of this approval.
- b. **Compliance Clearance:** All applicable conditions of approval must be fully complied with prior to subdivision clearance.
- c. **Registration Confirmation:** Proof must be submitted (by the owner or transfer attorney) that the subdivision has been confirmed. This typically means a **Section 28 Transfer Certificate** has been issued, the first erf/unit in the subdivision has been registered and/or transferred or the relevant subject property has been registered in the Deeds Office.

Certain general conditions of approval require Municipal approval before building plans can be submitted. These typically include, but are not limited to, the official approval of **Site Development Plans (SDPs), landscaping plans, and the constitution of an Owners' Association and related design guidelines.**

Once an SDP is approved, it becomes a legal annexure to the original development approval. This means the SDP constitutes a binding legal obligation with which you must fully comply. The entire proposed development must be undertaken, completed, and maintained strictly in accordance with the details of the approved SDP.

Building plans and engineering layout drawings can only be submitted or considered once the relevant SDP has been formally approved. These subsequent drawings must be fully consistent with the approved SDP. The Municipality may not refuse an SDP if it is consistent with the development rules of the base zone, any overlay zone, and all relevant conditions of approval.

Should any future development proposals or extensions deviate from the currently approved SDP, you will be required to apply for a formal amendment to the plan.

5. BUILDING PLAN SUBMISSION

A building plan details the technical specifications of a planned new building or structure. It is a legal requirement and must receive approval from the Building Development Management (BDM) Office before any construction may commence on site. The Municipality retains a copy of the approved plan for future reference, ensuring compliance with all regulations.

The landowner/developer must appoint a qualified architect or draughtsperson to execute the following key tasks:

- a. Design the proposed buildings and structures for the development.
- b. Obtain the necessary building plan approval from the Municipality.
- c. (Typically) Oversee the subsequent construction phase to ensure adherence to the approved plans.

Before you start preparing a building plan submission, be sure to obtain copies of the following information in respect of your property:

- a. A copy of the property title deed or deed of transfer.
- b. A registered survey diagram from the Surveyor-General's office. A survey diagram clearly indicates the boundaries and dimensions of your property or any other relevant land area.
- c. The correct information on the zoning and development parameters or restrictions relating to your property.
- d. A copy of any previously approved building plans. This is usually required in the case of extensions, additions or alterations.
- e. A letter of approval for a permission required in terms of the Zoning Scheme or any departure from the Zoning Scheme (if applicable)
- f. An architectural compliance certificate
- g. A letter of no objection / consent form from your neighbour/sectional title/homeowners' association/body corporate (if applicable)
- h. A zoning certificate (if applicable)

Copies of existing building plans

No copies of building plans will be provided without the authorisation of the registered property owner. Once you have obtained this authorisation you will need to complete a special application form for copies of the building plans and include the authorisation plus the relevant fee.

Also remember, although comprehensive, the Municipality's database of approved building plans is not necessarily complete. Where a building plan is not available and cannot be sourced anywhere else, it is the registered property owner's responsibility to have the built structures on the property measured and plans drawn up, if required.

Content requirements for site layout plans

Listed below are content requirements for site layout plans that you must include in your building plan to demonstrate compliance with the town planning requirements and the Zoning Scheme matters:

- a. The erf / farm number
- b. The north point
- c. The distance to the nearest named cross-street (and the name of that street)
- d. The name(s) of the street(s) onto which the site fronts and abutting the site
- e. The dimensions of the site boundaries
- f. The position of any building lines (including title deed building lines and/or design guideline building lines if applicable)
- g. The position and width of any servitude or right of way (if applicable)
- h. All new proposed buildings and alterations (coloured red)
- i. All existing buildings and/or structures and pools on the site (uncoloured)
- j. Annotations of any unauthorised building and/or structures (if applicable)
- k. Buildings proposed to be demolished (in dotted lines)
- l. The distance of all new and existing buildings from the site boundaries
- m. The site's existing ground level(s)
- n. The level of the lowest floor in relation to the abutting road
- o. The position of any municipal services (including any drain, stormwater drain or surface channel on the site) and any connection points to such services
- p. Any existing or proposed access points from any abutting public road, and the position of any street tree, street furniture, apparatus or equipment in relation to the access point
- q. Existing and proposed on-site parking and loading bays
- r. A summary land use block / table indicating erf size, existing vs proposed uses and areas, coverage, floor space, floor factor, parking requirements, etc
- s. Title deed built upon area (if applicable)
- t. The widths of any existing or proposed carriageway crossing(s)
- u. The distance of two carriageway crossings from each other where two are proposed on one street
- v. The distance of a proposed carriageway crossing from an intersection (only applicable for corner sites)
- w. Height measured from existing ground level
- x. The height of any proposed boundary wall(s) measured from existing ground level
- y. The visual permeability calculation of any boundary wall(s), exceeding 1,5 m in height, measured from existing ground level, which faces a public street, public road or public open space
- z. Linear distance calculation (if applicable)
- aa. Homeowners Association stamp (if applicable)
- bb. Drawing number and date (revisions to plans to be clearly indicated with corresponding new date)

Any layout drawings must also include the following:

- a. Sufficient plans, sections and elevations to clearly illustrate the construction and layout of every portion of every building (with section lines clearly indicated on the plan view, and all plans, elevations and sections fully dimensioned)
- b. The intended use of every room or compartment
- c. Sanitary and plumbing fixtures
- d. The location, type and capacity of water-heating installations, where provided
- e. The details of fenestration and insulation required to satisfy the energy usage requirements of National Building Regulation, where applicable

Finalising your building plan submission

The "**Town Planning Compliance Checklist for Building Plans**" is an essential tool for confirming your plan's adherence to the town planning requirements and Zoning Scheme.

Include this completed **checklist with your building plan submission's** supporting documents. This will significantly assist the LUM Office's town planners with the technical evaluation. Meticulous compliance demonstrated in your plan is the most effective way to significantly shorten the application processing time.

6. CONTACT DETAILS

For general town planning inquiries regarding the submission of land use applications or specific technical matters, you are advised to speak to a municipal town planner by contacting or visiting the **LUM Advice Desk**, which is open to the public daily from 8:30 a.m. to 1:30 p.m. at the NPK Building on the corner of Plein and Ryneveld Street, Stellenbosch.

Alternatively, you may contact the Customer Interface Officer at phone 021 – 808 8606 or send an email to landuse.enquiries@ Stellenbosch.gov.za who will assist with general enquiries or refer you to a municipal town planner.

For any building plan related matters, please contact the Customer Interface Officer at phone 021 – 808 8696 or send an email to building.development@ Stellenbosch.gov.za.