



**MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING HELD IN THE COMMITTEE ROOM:  
CORPORATE SERVICES ON WEDNESDAY, 14 FEBRUARY 2024 AT 14:00**

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**PRESENT**

Internal members:

Municipal Manager, Mr J J Scholtz (chairperson)

Director: Corporate Services, Ms M S Terblanche

Director: Protection Services, Mr P A C Humphreys

External members:

Ms C Havenga

Other officials:

Senior Manager: Development Management, Mr A M Zaayman

Senior Town and Regional Planner, Mr A J Burger

Town and Regional Planner & GIS, Mr H Olivier

Town and Regional Planner, Ms A de Jager

Manager: Secretariat and Records, Ms N Brand (secretariat)

**1. OPENING**

The chairperson opened the meeting and welcomed members.

**2. APOLOGY**

**COGNISANCE BE TAKEN** of the apologies received from the external member, Mr C Rabie.

**3. DECLARATION OF INTEREST**

**RESOLVED** that cognisance be taken that no declarations of interest were received.

**4. MINUTES**

**4.1 MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON 15 NOVEMBER 2023**

**RESOLUTION**

(proposed by Mr P A C Humphreys, seconded by Ms C Havenga)

That the minutes of a Municipal Planning Tribunal Meeting held on 15 November 2023 are approved and signed by the chairperson.

**5. MATTERS ARISING FROM MINUTES**

None.

**6. MATTERS FOR CONSIDERATION**

**6.1 PROPOSED CONSENT USE, AMENDMENT OF CONDITIONS OF APPROVAL AND DEPARTURE OF DEVELOPMENT PARAMETERS ON ERF 3034, MALMESBURY (15/3/4-8, 15/3/10-8, 15/3/3-8) (WARD 8)**

Mr A J Burger discussed the application and confirmed that the expansion of the guest house to 7 bedrooms be supported, but not the consent use for a place of assembly.

6.1/...

The place of assembly is in contradiction with the SDF of Swartland Municipality as well as the planning principles of SPLUMA and LUPA.

Furthermore, the facilities at a guest house is to be used by the guests only and are not available to be used by the general public.

## **RESOLUTION**

- A. The application for consent use for a place of assembly on Erf 3034, Malmesbury be refused in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020);
- B. The application for the amendment of condition A.1(a) of the rezoning of Erf 3034, Malmesbury be approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), subject to the conditions that:

### **B1 TOWN PLANNING AND BUIDLING CONTROL**

- (a) Condition A.1(a) be amended to read as follows:

“...A.1(a) dat die gastehuis binne die bestaande gebou akkommodeer word en die volgende fasiliteite sal bied:

- 7 slaapkamers;
- binne en buite leefareas...”

The following additional conditions are made applicable:

### **B2 TOWN PLANNING**

- (a) The occupancy of the guest house be restricted to 13 guests;
- (b) A contact number of the owner be displayed conspicuously on the premises at all times for emergency and/or complaint purposes;
- (c) A code of conduct for guests be submitted to the Senior Manager: Development Management for consideration and approval;
- (d) The owner/developer be responsible for enforcing the code of conduct to the satisfaction of the Department: Law Enforcement;

### **B3 DEVELOPMENT CHARGES**

- (a) The development charge towards the bulk water supply amounts to R7 627,95 and is payable by the owner/developer at building plan stage. The amount is due to Swartland Municipality, is valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA: 9/249-176-9210);
- (b) The development charge towards water reticulation amounts to R13 579,20 and is payable by the owner/developer building plan stage. The amount is due to Swartland Municipality, is valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA 9/249-174-9210);
- (c) The development charge towards sewer reticulation amounts to R4 743,52 and is payable by the owner/developer building plan stage. The amount is due to Swartland Municipality, is valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA 9/240-184-9210);
- (d) The development charge towards waste water treatment amounts to R5 142,34 and is payable by the owner/developer building plan stage. The amount is due to Swartland Municipality, is valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA 9/240-183-9210);
- (e) The development charge towards roads amounts to R11 552,90 and is payable by the owner/developer at building plan stage. The amount is due to the Municipality, valid for the financial year of 2023/2024 and may be revised thereafter. (mSCOA 9/247-188-9210);
- (f) The Council resolution of May 2023 provides for a 60% discount on development charges to Swartland Municipality. The discount is valid for the financial year 2023/2024 and may be revised thereafter;

C./...

- C. The application for a departure from the development parameters on Erf 3034, Malmesbury, be approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020) as follows:

- Departure of the permissible coverage of 40% to 41%;
- Departure of the 5 m side building line to 0 m (southern boundary) and 2.9 m (northern boundary) respectively;

The decision under paragraph C is subject to the following condition:

**C1 TOWN PLANNING AND BUILDING CONTROL**

- (a) All building work that encroaches the street boundary of Erf 3034 be removed within 90 days of the date of the final decision on the application;

- D. The application for a departure from the development parameters on Erf 3034, Malmesbury be refused in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020) as follows:

- Departure of the required on-site parking bays from 7 to 1 (non-provision of 6 parking bays);

**E. GENERAL**

- (a) The applicant/objector be informed of the right to appeal against the decision of the Municipal Planning Tribunal in terms of section 89 of the By-Law. Appeals be directed, in writing, to the Municipal Manager, Swartland Municipality, Private Bag X52, Malmesbury, 7299 or by e-mail to [swartlandmun@swartland.org.za](mailto:swartlandmun@swartland.org.za), within 21 days of notification of decision. An appeal is to comply with section 90 of the By-Law and is to be accompanied by a fee of R5 000,00 in order to be valid. Appeals that are received late and/or do not comply with the aforementioned requirements, will be considered invalid and will not be processed;

- F. The reasons for the refusal of the application for a place of assembly are the following:

- (a) Guest houses are permitted in residential neighbourhoods due to its low disturbance potential. Guest houses provides facilities and amenities like a conference facility, venue facility, gym, restaurant, swimming pool, ect. These facilities are restricted to be used by guests of the guest house and are not available to be used by the general public;
- (b) The proposed place of assembly is deemed not to be a low-intensity commercial activity. The scope of the proposed place of assembly does not integrate well with the adjacent residential neighbourhood as it adversely affects the integrity of the area;
- (c) Complaints has been received since 2014 regarding the illegal operation of a place of assembly (function facility) on Erf 3034;
- (d) The proposed place of assembly (function facility) is deemed to be in contradiction with the spatial planning of Zone R of the SDF as well as the principles of LUPA and SPLUMA;
- (e) The place of assembly can be operated separately from the guest house as a business. It is therefore better suited in a business node or in the CBD of a town;
- (f) Sufficient on-site parking for the place of assembly cannot be provided;
- (g) Even though the proposed on-street parking is supported by the Department: Civil Engineering Services, the place of assembly as a business use is found not to be desirable on the property;
- (h) Enforcement of the proposed mitigation measures are questioned as a result of the history of the property;
- (i) Affected property owners do not consent to the operation of the place of assembly;

- G. The reasons for the approval of the amendment of conditions and departure of development parameters are the following:

6.1/G...

- (a) Lodging capacity at the guest house is increased;
- (b) The use of the property for guest house purposes remains to be deemed in compliance with the SDF and principles of LUPA and SPLUMA;
- (c) It is foreseen that the two additional bedrooms will have little to no impact on the character of the surrounding area;
- (d) Sufficient on-site parking is provided to accommodate guests of the two additional bedrooms;
- (e) The departure of building lines and coverage are as a result of the placement and scale of the existing buildings which have not been considered before. The impact of these departures on the surrounding residential properties are deemed low to none.

**6.2 PROPOSED AMENDMENT OF CONDITIONS OF APPROVAL ON ERF 7431, MALMESBURY (15/3/10-8) (WARD 8)**

Ms A de Jager explained that the application is for the expansion of the existing rights of the Place of Entertainment on portion of Erf 7431, Malmesbury to accommodate 20 limited pay-out machines (previously 5), 4 additional pool tables (previously 2) and occasional live entertainment.

Erf 7431, Malmesbury is located inside the Central Business District and the property block is bordered by an activity corridor and activity street/collector route as indicated in the SDF.

Ms De Jager confirmed that the proposed expansion of the consent uses will be contained inside the footprint of the existing night club and as such the impact on the surrounding properties will remain unchanged.

**RESOLUTION**

- A. The application for the amendment of conditions of approval pertaining to the Place of Entertainment on Erf 7431, Malmesbury be approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), subject to the conditions that:

**A1 TOWN PLANNING AND BUILDING CONTROL**

- (a) Condition 1.a) of approval letter 15/3/10-8Erf 7431, dated 13 August 2019, be amended to read as follows:

“The consent use granted for extending the existing place of entertainment on Erf 7431, in order to facilitate limited pay-out machines, pool tables and live entertainment and performances”;

- (b) Condition 1.b) of approval letter 15/3/10-8Erf 7431, dated 13 August 2019, be amended to read as follows:

“The proposed gambling facility be limited to 20 limited pay-out machines, 6 pool tables and the live entertainment and performances be restricted to the allocated internal area, as presented in the application”;

- (c) The external doors to the club be kept closed from 22:00 in the evenings;
- (d) Live entertainment and performances be not allowed to continue later than midnight;
- (e) No form of entertainment be permitted outside the existing club and that no sound enhancing equipment be allowed outside the club;
- (f) Building plans be submitted to the Senior Manager: Development Management for consideration and approval;
- (g) The minimum number of parking bays be maintained to the satisfaction of the Director: Civil Engineering Services;

**B. GENERAL**

- (a) The approval does not exempt the owner/developer from compliance with all legislation applicable to the approved land use;



- (b) Should it in future be determined necessary to extend or upgrade any engineering service in order to provide the development with services, it will be for the account of the owner/developer;
- (c) The approval is valid for a period of 5 years, in terms of section 76(2) of the By-Law, from the date of decision. Should an appeal be lodged, the 5 year validity period starts from the date of outcome of the decision against the appeal. All conditions of approval be implemented before the new land use comes into operation/or the occupancy certificate be issued and failing to do so will cause the approval to lapse. Should all conditions of approval be met within the 5 year period, the land use becomes permanent and the approval period will no longer be applicable;
- (d) The applicant/objector be informed of the right to appeal against the decision of the Municipal Planning Tribunal in terms of section 89 of the By-Law. Appeals be directed, in writing, to the Municipal Manager, Swartland Municipality, Private Bag X52, Malmesbury, 7299 or by e-mail to [swartlandmun@swartland.org.za](mailto:swartlandmun@swartland.org.za), within 21 days of notification of decision. An appeal is to comply with section 90 of the By-Law and is to be accompanied by a fee of R5 000,00 in order to be valid. Appeals that are received late and/or do not comply with the aforementioned requirements, will be considered invalid and will not be processed;

C. The application be supported for the following reasons:

- (a) The application is in compliance with the planning principles of LUPA and SPLUMA;
- (b) The application is in compliance with the spatial planning of Malmesbury;
- (c) The development proposal complies with all applicable zoning parameters of Business Zone 1;
- (d) The expansion of rights will be contained inside the existing footprint of the club;
- (e) The external facades of the building will remain unchanged, thus the heritage value of the building will not be negatively impacted;
- (f) No additional services or parking bays will be required;
- (g) The activities are restricted to the interior of the club and the doors to the club are closed at 22:00 to further contain any noise;
- (h) The noise generated by the club is expected to be mitigated by the fact that the club is located at a lower level than the objectors, the doors will be kept closed after 22:00, live entertainment will not continue after 24:00, no entertainment will be allowed outside of the club, no sound enhancement such as speakers are allowed outside the club;
- (i) The owner still needs to comply with all other relevant legislation applicable to the various amenities on offer;
- (j) Erf 7431 does not have any physical restrictions which may have a negative impact on the application;
- (k) The development proposal supports the optimal utilisation of the property;
- (l) Existing services are deemed sufficient to accommodate the development;
- (m) The impact of the development on property values of surrounding properties is deemed low to none;
- (n) There are no restrictions in the Title Deed of Erf 7431 which restricts the proposed development.

**6.3 PROPOSED CONSENT USE ON ERF 10654, MALMESBURY (15/3/10-8) (WARD 10)**

Mr H Olivier confirmed that the application is made for a consent use on Erf 10654, Malmesbury in order to accommodate a double dwelling house on the property.

Mr Olivier stated that it is not the first application for a double dwelling house in the Glen Lily Development and that the Glen Lily Owners Association does not object to the proposal to accommodate two units on one erf.

**RESOLUTION**

- A. The application for consent use on Erf 10654, Malmesbury in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2021), be approved, subject to the conditions:

**A1 TOWN PLANNING AND BUILDING CONTROL**

- (a) The consent use authorises a double dwelling house, as presented in the application;
- (b) The double dwelling adheres to the applicable development parameters;
- (c) Building plans be submitted to the Senior Manager: Development Management for consideration and approval;

**A2 WATER**

- (a) A single water connection be provided, and no additional connections be provided;

**A3 SEWERAGE**

- (a) A single sewer connection be provided, and no additional connections be provided;

**A4 DEVELOPMENT CHARGES**

- (a) The development charge towards the supply of regional bulk water amounts to R10 862,90 and is for the account of the owner/developer at building plan stage. The amount is due to the Swartland Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA: 9/249-176-9210);
- (b) The development charge towards bulk water reticulation amounts to R6 101,90 and is payable by the owner/developer at building plan stage. The amount is due to the Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA 9/249-174-9210);
- (c) The development charge towards sewerage amounts to R3 795,00 and is payable by the owner/developer at building plan stage. The amount is due to the Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA 9/240-184-9210);
- (d) The development charge towards wastewater treatment amounts to R4 113,55 and is for the account of the owner/developer at building plan stage. The amount is payable to the Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA 9/240-183-9210);
- (e) The development charge towards streets amounts to R11 938,15 and is payable by the owner/developer at building plan stage. The amount is due to the Municipality, valid for the financial year of 2023/2024 and may be revised thereafter. (mSCOA 9/249-188-9210);
- (f) The development charge towards electricity amounts to R4 620,01 and is payable by the owner/developer at building plan stage. The amount is payable to the Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA 9/253-164-9210);
- (g) The Council resolution of May 2023 makes provision for a 60% discount on development charges to Swartland Municipality. The discount is valid for the financial year 2023/2024 and may be revised thereafter.

**B. GENERAL**

- (a) The approval does not exempt the applicant from adherence to all other legal procedures, applications and/or approvals related to the intended land use, as required by provincial, state, parastatal and other statutory bodies;
- (b) Should it be determined necessary to expand or relocate any of the engineering services to provide the development with connections, said expansion and/or relocation will be for the cost of the owner/developer;
- (c) The approval is valid for a period of 5 years, in terms of section 76(2) of the By-Law from date of decision. Should an appeal be lodged, the 5 year validity period starts from the date of outcome of the decision against the appeal;
- (d) All conditions of approval be implemented before the new land uses come into operation/or occupancy certificate be issued and failing to do so the approval will lapse. Should all conditions of approval be met within the 5 year period, the land use becomes permanent, and the approval period will no longer be applicable;
- (e) The applicant/objectors be informed of the right to appeal against the decision of the Municipal Planning Tribunal in terms of section 89 of the By-Law. Appeals be directed, in writing, to the Municipal Manager, Swartland Municipality, Private Bag X52, Malmesbury, 7299 or by e-mail to [swartlandmun@swartland.org.za](mailto:swartlandmun@swartland.org.za), within

6.3/B(e)...

21 days of notification of the decision. An appeal is to comply with section 90 of the By-Law and be accompanied by a fee of R5000,00 to be valid. Appeals that are received late and/or do not comply with the requirements, will be considered invalid and will not be processed.

C. The application be supported for the following reasons:

- (a) The proposed second dwelling is a residential use and is therefore consistent with the proposals of the MSDF;
- (b) A double dwelling is accommodated as a consent use under Residential Zone 1 of the Development Management Scheme and there are no restrictions registered against the title deed of the property or contained in the design guideline of the Estate prohibiting the proposal;
- (c) The development proposal supports the optimal utilisation of the property;
- (d) The second dwelling provides in a need for a larger variety of housing opportunities to the wider population;
- (e) The development proposal will not negatively impact on the character of the Glen Lily Estate or the larger Malmesbury;
- (f) The application is supported by the Glen Lily Owners Association.

#### **6.4 PROPOSED CONSENT USE AND DEPARTURE ON ERF 461, RIEBEEK KASTEEL (15/3/10-11) (WARD 12)**

Ms A de Jager mentioned that the application is made to accommodate a guest house on Erf 461, Riebeek Kasteel.

The property was rezoned from Residential Zone 1 to General Residential Zone 3 in June 2016 in order to establish a guest house on the property. The guest house came into operation, but the remainder of the conditions of approval was not met within the allocated 5 year approval period and subsequently the rezoning lapsed.

During the amendment of the Swartland Municipality: Municipal Land Use Planning By-Law, 2020 a guest house was included as a consent use under Residential Zone 1 and therefore it is no longer necessary to apply for a rezoning to accommodate the use.

#### **RESOLUTION**

A. The application for consent use on Erf 461, Riebeek Kasteel, in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), be approved, subject to the conditions that:

##### **A1 TOWN PLANNING AND BUILDING CONTROL**

- (a) The consent use authorises a guest house, as presented in the application as follows:
  - (i) 10 x guest bedrooms for occupation by a maximum of 20 paying guests at any time;
  - (ii) 10 x en-suite bathrooms;
  - (iii) 1 x kitchen and scullery;
  - (iv) 1 x braai/sun room;
  - (v) 2 x living rooms;
  - (vi) 1 x shade port and wendy structure for storage;
- (b) A minimum of nine (9) on-site parking bays be provided and, including the sidewalk that provides access, be finished in a permanent, dust free surface, whether it be tar, concrete, paving or any other material, as approved by the Municipality beforehand, and the parking bays be clearly demarcated;
- (c) Building plans be submitted to the Senior Manager: Development Management for consideration and approval;
- (d) A contact number of the owner be displayed conspicuously on the premises at all times for emergency and/or complaint purposes;
- (e) A code of conduct for guests be submitted to the Senior Manager: Development Management for consideration and approval;

- (f) The owner/developer be responsible for enforcing the code of conduct to the satisfaction of the Department: Law Enforcement;
- (g) All amenities and provision of meals be for the sole benefit of bona fide lodgers. The approval does not authorise the use of the guest house or its amenities by individuals who are not bona fide lodgers as a venue for parties, weddings or any other such use restricted by the By-Law;
- (h) A register of guests and lodgers be kept and completed when rooms are let, and the register be produced for inspection on request by a municipal official at any time;
- (i) Guest rooms not be converted to, or used as separate dwelling units;
- (j) Application be made to the Senior Manager: Development Management for the right to construct or affix and display any signage;
- (k) Any signage be limited to 1 m<sup>2</sup> in area and may not project over a public street;
- (l) A Certificate of Compliance be obtained from the West Coast District Municipality for the operation of the guest house;
- (m) A trade licence be obtained from Swartland Municipality for the operation of the guest house;
- (n) Should the applicant fail to take effective steps to the satisfaction of the Senior Manager: Development Management, to ensure proper compliance with the provisions of the approved code of conduct, or should unauthorised land uses on the property occur, the approval for the consent use may be withdrawn after following due process;

## **A2 WATER**

- (a) The existing connection be used and no additional connections be provided;

## **A3 SEWERAGE**

- (a) The existing connection be used and no additional connections be provided;

## **A4 DEVELOPMENT CHARGES**

- (a) The owner/developer is responsible for the development charge of R19 010,88 towards bulk water supply, at building plan stage. The amount is due to the Swartland Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA: 9/249-176-9210);
- (b) The owner/developer is responsible for the development charge of R17 937,01 towards bulk water reticulation at building plan stage. The amount is due to Swartland Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA 9/249-174-9210);
- (c) The owner/developer is responsible for the development charge of R14 941,44 towards sewerage at building plan stage. The amount is due to the Swartland Municipality, valid for the year of 2023/2024 and may be revised thereafter (mSCOA 9/240-184-9210);
- (d) The owner/developer is responsible for the development charge of R20 092,16 towards waste water treatment at building plan stage. The amount is due to the Swartland Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA 9/240-183-9210);
- (e) The owner/developer is responsible for the development charge of R16 145,08 towards roads, at building plan stage. The amount is due to Swartland Municipality, valid for the financial year of 2023/2024 and may be revised thereafter. (mSCOA 9/247-188-9210);
- (f) The Council resolution of May 2023 provides for a 60% discount on development charges to Swartland Municipality. The discount has already been applied to conditions 4.a) – 4.e), is valid for the financial year 2023/2024 and may be revised thereafter;

- B. The application for departures on Erf 461, Riebeek Kasteel, in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), be approved as follows:

## **B1 TOWN PLANNING AND BUILDING CONTROL**

- (a) Departure from the 4 m southern street building line, reduced to 3,2 m;
- (b) Departure from the 4 m western street building line, reduced to 0 m;
- (c) Departure from the 1,5 m eastern side building line, reduced to 0,45 m;

6.4/B1...

- (d) Departure from the 40% permissible coverage, increased to 40,65%;
- (e) Each of the departures are restricted to the portion of the building or structure that encroaches, as presented in the application;

**C. GENERAL**

- (a) The approval does not exempt the owner/developer from compliance with all legislation applicable to the approved land use;
- (b) Should it be determined necessary to extend or upgrade any engineering service in order to provide the development with services, it will be for the account of the owner/developer;
- (c) The approval is valid for a period of 5 years, in terms of section 76(2) of the By-Law, from the date of decision. Should an appeal be lodged, the 5 year validity period starts from the date of outcome of the decision for or against the appeal. All conditions of approval be implemented before the new land use comes into operation/or the occupancy certificate be issued and failing to do so will cause the approval to lapse. Should all conditions of approval be met within the 5 year period, the land use becomes permanent and the approval period will no longer be applicable;
- (d) The applicant/objector be informed of the right to appeal against the decision of the Municipal Planning Tribunal in terms of section 89 of the By-Law. Appeals be directed, in writing, to the Municipal Manager, Swartland Municipality, Private Bag X52, Malmesbury, 7299 or by e-mail to [swartlandmun@swartland.org.za](mailto:swartlandmun@swartland.org.za), within 21 days of notification of decision. An appeal is to comply with section 90 of the By-Law and is to be accompanied by a fee of R5 000,00 in order to be valid. Appeals that are received late and/or do not comply with the aforementioned requirements, will be considered invalid and will not be processed;

**D. The application be supported for the following reasons:**

- (a) The proposed guest house is a residential use and is therefore consistent with the proposals of the SDF;
- (b) A guest house is accommodated as a consent use in the Residential Zone 1 zoning category;
- (c) The development proposal supports the optimal utilisation of the property;
- (d) The guest house will support the tourism industry in Riebeeck Kasteel, as well as the local economy;
- (e) The development proposal will not negatively impact on the character of the surrounding neighbourhood or the larger Riebeeck Kasteel;
- (f) The building line departures of the street building lines adhere to the requirements for building line departure prescribed by the By-Law;
- (g) A guest house is predominantly a residential land use, and therefore considered appropriate on a Residential Zone 1 property, while also located in the CBD of Riebeeck Kasteel;
- (h) The concerns of the neighbouring and affected property owners are sufficiently addressed in the conditions of approval.

**6.5 PROPOSED REZONING, SUBDIVISION, CONSENT AND DEPARTURE OF DEVELOPMENT PARAMETERS ON ERF 361, RIEBEEK KASTEEL (15/3/3-11, 15/3/4-11, 15/3/6-11, 15/3/10-11) (WARD 12)**

The Dutch Reform Church of Riebeeck Kasteel decided to dispose the church hall on Erf 361, Riebeeck Kasteel and to focus on developing the open area near the historic church on Erf 436 on Main Street to better accommodate the congregation's needs and activities.

Mr Olivier explained that the purpose of the application is to convert the existing church hall building into 12 flats, to keep the existing rooftop base station and to create two new single residential erven.

Resolution/...

**RESOLUTION**

- A. The application for the rezoning of erf 361, Riebeek Kasteel from Community Zone 2 to Sub divisional Area be approved in terms of Section 70 of Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020) to make provision for the following land uses:
- Residential zone 1 (Dwelling houses) and General Residential Zone 3 (Flats)
- B. The application for the subdivision of Erf 361 (3785m<sup>2</sup> in extent), Riebeek Kasteel, be approved in terms of section 70 of Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), to create a total of 3 portions, as follows:
- Portion A: Residential Zone 1 (668m<sup>2</sup> in extent)
  - Portion B: Residential Zone 1 (644m<sup>2</sup> in extent)
  - Remainder: General Residential Zone 3 (2469m<sup>2</sup> in extent)
- C. Decisions A and B are subject to the following conditions:
- C1 TOWN PLANNING AND BUILDING CONTROL**
- (a) Building plans to be submitted to the Senior Manager: Development Management for consideration and approval;
  - (b) The legal certificate which authorises the transfer of the subdivided portions in terms of section 38 of the By-Law, will not be issued unless all the relevant conditions have been complied with;
- C2 WATER**
- (a) Each subdivided portion be provided with a separate water connection. This condition applies to building plan stage.
- C3 SEWERAGE**
- (a) Each subdivided portion be provided with a separate sewer connection. This condition applies at subdivision stage for portions A and B as well as on building plan stage for the Remainder (proposed flats).
- C4 STREETS AND STORMWATER**
- (a) The proposed parking spaces, including the sidewalk that provides access, be provided with permanent surfaces to the satisfaction of the Director Civil Engineering Services.
- C5 SOLID WASTE**
- (a) Waste wheelie bin storage area to be easily accessible by the refuse collection officials and vehicle. The storage area floor must be slanted towards a grid inlet that is connected to the sewer reticulation for washing and sanitising purposes;
- C6 DEVELOPMENT CHARGES**
- (a) In terms of the proposed portion A the development charges be levied as follows:
    - (i) The development charge towards the bulk water supply amounts to R18 892,80 and is payable by the owner/developer at clearance stage. The amount is due to Swartland Municipality, is valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA: 9/249-176-9210);
    - (ii) The development charge towards water reticulation amounts to R17 825,60 and is payable by the owner/developer at clearance stage. The amount is due to Swartland Municipality, is valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA 9/249-174-9210);
    - (iii) The development charge towards sewer reticulation amounts to R10 208,44 and is payable by the owner/developer at clearance stage. The amount is due to Swartland Municipality, is valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA 9/240-184-9210);
    - (iv) The development charge towards wastewater treatment amounts to R13 727,56 and is payable by the owner/developer at clearance stage. The amount is due to Swartland Municipality, is valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA 9/240-183-9210);

6.5/C6(a)...

- (v) The development charge towards roads amounts to R14 591,00 and is payable by the owner/developer at clearance stage. The amount is due to the Municipality, valid for the financial year of 2023/2024 and may be revised thereafter. (mSCOA 9/247-188-9210);
    - (vi) The Council resolution of May 2023 provides for a 60% discount on development charges to Swartland Municipality. The discount is valid for the financial year 2023/2024 and may be revised thereafter.
  - (b) In terms of the proposed portion B the development charges be levied as follows;
    - (i) The development charge towards the bulk water supply amounts to R14 169,60 and is payable by the owner/developer at clearance stage. The amount is due to Swartland Municipality, is valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA: 9/249-176-9210);
    - (ii) The development charge towards water reticulation amounts to R13 369,20 and is payable by the owner/developer at clearance stage. The amount is due to Swartland Municipality, is valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA 9/249-174-9210);
    - (iii) The development charge towards sewer reticulation amounts to R9 744,42 and is payable by the owner/developer at clearance stage. The amount is due to Swartland Municipality, is valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA 9/240-184-9210);
    - (iv) The development charge towards wastewater treatment amounts to R13 103,58 and is payable by the owner/developer at clearance stage. The amount is due to Swartland Municipality, is valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA 9/240-183-9210);
    - (v) The development charge towards roads amounts to R 13 132,00 and is payable by the owner/developer at clearance stage. The amount is due to the Municipality, valid for the financial year of 2023/2024 and may be revised thereafter. (mSCOA 9/247-188-9210);
    - (vi) The Council resolution of May 2023 provides for a 60% discount on development charges to Swartland Municipality. The discount is valid for the financial year 2023/2024 and may be revised thereafter.
  - (c) In terms of the proposed flats on the Remainder the development charges be calculated and levied on building plan stage;
- D. The application for the consent use on the Remainder of erf 361, Riebeek Kasteel be approved in terms of section 70 of Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), in order to accommodate the existing transmission tower under the new zoning category, subject to the following conditions:

**D1 TOWN PLANNING**

- (a) The transmission tower be restricted to its current 15m in height designed to complement the existing building to the satisfaction of the Senior Manager: Development Management;
- E. The application for the departure from the height restriction applicable to a roof-top base station be refused in terms of section 70 of Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), as it is deemed not applicable to the proposal;
- F. The application for the departure from side building line restriction (southern boundary) be approved in terms of section 70 of Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), subject to the following conditions:

**F1 TOWN PLANNING**

- (a) The departure entails the relocation of existing supporting infrastructure (ground mounted equipment) on the property boundary in lieu of the 5m building line restriction, for a distance of 10m, as presented in the application.
- (b) A screen wall be constructed around the ground-mounted equipment in order to mitigate any impact from the view from the street or from the abutting property, to the satisfaction of the Senior Manager: Development Management;

**G. GENERAL**

- (a) The approval does not exempt the applicant from adherence to all other legal procedures, applications and/or approvals related to the intended land use, as required by provincial, state, parastatal and other statutory bodies.
- (b) Should it be determined necessary to expand or relocate any of the engineering services to provide the development with connections, said expansion and/or relocation will be for the cost of the owner/developer;
- (c) The approval is valid for a period of 5 years, in terms of section 76(2) of the By-Law from date of decision. Should an appeal be lodged, the 5-year validity period starts from the date of outcome of the decision against the appeal.
- (d) All conditions of approval be implemented before the new land uses come into operation/or occupancy certificate be issued and failing to do so the approval will lapse. Should all conditions of approval be met within the 5-year period, the land use becomes permanent, and the approval period will no longer be applicable.
- (e) The applicant/objectors be informed of the right to appeal against the decision of the Municipal Planning Tribunal in terms of section 89 of the By-Law. Appeals be directed, in writing, to the Municipal Manager, Swartland Municipality, Private Bag X52, Malmesbury, 7299 or by e-mail to [swartlandmun@swartland.org.za](mailto:swartlandmun@swartland.org.za), within 21 days of notification of the decision. An appeal is to comply with section 90 of the By-Law and be accompanied by a fee of R5000-00 to be valid. Appeals that are received late and/or do not comply with the requirements, will be considered invalid and will not be processed:

**H. The application be supported for the following reasons:**

- (a) The proposal will expand the housing opportunities in Riebeeck Kasteel;
- (b) The development also results in densification which in turn limits urban sprawl as well as due to the location of the subject property, creates residential opportunities within the centre of Riebeeck Kasteel;
- (c) The proposal is deemed consistent with the Municipal Spatial Development Framework (MSDF), 2023;
- (d) The proposal will achieve higher densities, will result in the optimum use of land/space within the urban edge, will not have a negative impact on the character of the area as well as not adversely affect the sense of place;
- (e) The development will have a positive economic impact as well as result in the creation of numerous job opportunities in the short and long term;
- (f) The two single residential erven will integrate seamlessly into the existing urban fabric;
- (g) The proposed apartments complement the denser residential land use activities already featured in the vicinity;
- (h) The title deed of Erf 361 does not contain any restrictions that prohibits the development proposal;
- (i) There are no physical restriction on the property that negatively impacts the proposal;
- (j) As confirmed by the Director Civil Engineering services as well as supported by the services reports, the proposed development will not have a negative impact on the existing services networks within town and sufficient capacity exist to accommodate the proposed new 14 units. The developer is responsible for development charges that will be used as the proportional contribution to the municipality's planned upgrades to the existing services network in terms of water as well as sewerage;
- (k) The consent use is proposed in order to confirm an existing lawful use and the impact of the proposed departure of the building line on neighbouring properties, in order to accommodate ground mounted supporting equipment for the existing transmission tower, is deemed minimal to none;
- (l) The proposed development will not have a negative impact on any heritage or environmental resources. The existing building was identified not being of any conservation value, although older than 60 years. The application for the change in use can be considered as the alterations to the building will only be confirmed on building plan stage were the comments / consent from Heritage Western Cape be required before the building plan can be recommended for approval;



6.5/H...

- (m) The application complies with the principles of LUPA (Land Use Planning Act) and SPLUMA (Spatial Planning and Land Use Management Act) (Spatial Planning and Land Use Management Act).

**(SIGNED) J J SCHOLTZ**  
**CHAIRPERSON**





23 February 2024

15/3/4-14/Erf 1142

15/3/5-14/Erf 1142

WARD: 5

**ITEM 6.1 OF THE AGENDA FOR THE MUNICIPAL PLANNING TRIBUNAL THAT WILL TAKE PLACE ON WEDNESDAY, 13 MARCH 2024**

LAND USE PLANNING REPORT PROPOSED AMENDMENT OF RESTRICTIVE TITLE CONDITION AND PERMANENT DEPARTURES ON ERF 1142, YZERFONTEIN					
Reference number	15/3/4-14/Erf 1142 15/3/5-14/Erf 1142	Application submission date	7 November 2023	Date report finalised	23 February 2023

**PART A: APPLICATION DESCRIPTION**

**A.** Application for the amendment of title deed restrictions registered against Erf 1142, Yzerfontein, in terms of Section 25(2)(f) of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 25 March 2020), is made in order to amend condition B.7.(b), in Title Deed T13301/2020, as follows:

*"...B.7.(b) No building or structure or any portion thereof except boundary walls and fences, shall except with the consent of the Administrator, be erected nearer than 5m to the street line which forms a boundary of this erf, not within 3m of the rear or 1,5m of the lateral boundary common to any adjoining erf, provide that with the consent of the local authority:*

be amended to read as follows:

*"...B.7(b) No building or structure or any portion thereof, except boundary walls and fences, shall, except with the consent of the Administrator, be erected nearer than 1,5m of the south-eastern lateral boundary, common to the adjoining erf, provided that with the consent of the local authority:..."*

**B.** Application for departure on Erf 1142, Yzerfontein, in terms of Section 25(2)(b) of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 25 March 2020), is made in order to depart from the 4m north-eastern street building line, the 1,5m north-western side building line and the 2m south-western rear building line in order to accommodate a double garage and a fire pit.

The applicant is C.K. Rumboll and Partners and the property owner is H.J. Venter.

**PART B: PROPERTY DETAILS**

Property description (in accordance with Title Deed)	ERF 1142 YZERFONTEIN, IN THE SWARTLAND MUNICIPALITY, DIVISION MALMESBURY, PROVINCE OF THE WESTERN CAPE				
Physical address	108 Dassen Island Drive (locality plan attached as Annexure A).	Town	Yzerfontein		
Current zoning	Residential Zone 1	Extent (m <sup>2</sup> /ha)	736m <sup>2</sup>	Are there existing buildings on the property?	Y N
Applicable zoning scheme	Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 25 March 2020)				
Current land use	Vacant land	Title Deed number & date		T13301/2020	

Any restrictive title conditions applicable	Y	N	If Yes, list condition number(s)	
Any third party conditions applicable?	Y	N	If Yes, specify	
Any unauthorised land use/building work	Y	N	If Yes, explain	

#### PART C: LIST OF APPLICATIONS (TICK APPLICABLE)

Rezoning	Permanent departure	<input checked="" type="checkbox"/> Temporary departure	Subdivision	
Extension of the validity period of an approval	Approval of an overlay zone	Consolidation	Removal, suspension or amendment of restrictive conditions	<input checked="" type="checkbox"/>
Permissions in terms of the zoning scheme	Amendment, deletion or imposition of conditions in respect of existing approval	Amendment or cancellation of an approved subdivision plan	Permission in terms of a condition of approval	
Determination of zoning	Closure of public place	Consent use	Occasional use	
Disestablish a home owner's association	Rectify failure by home owner's association to meet its obligations	Permission for the reconstruction of an existing non-conforming use		

#### PART D: BACKGROUND

The application property is situated along the south-western portion of Yzerfontein, in a predominantly residential area (Area B), interspersed by nature conservation open spaces and in close proximity to a mixed use, secondary business node at Pearl Bay, as identified by the Swartland Municipal Spatial Development Framework of 2023 (SDF).

The remaining vacant erven in the area are steadily being developed and the area is becoming gradually more established.

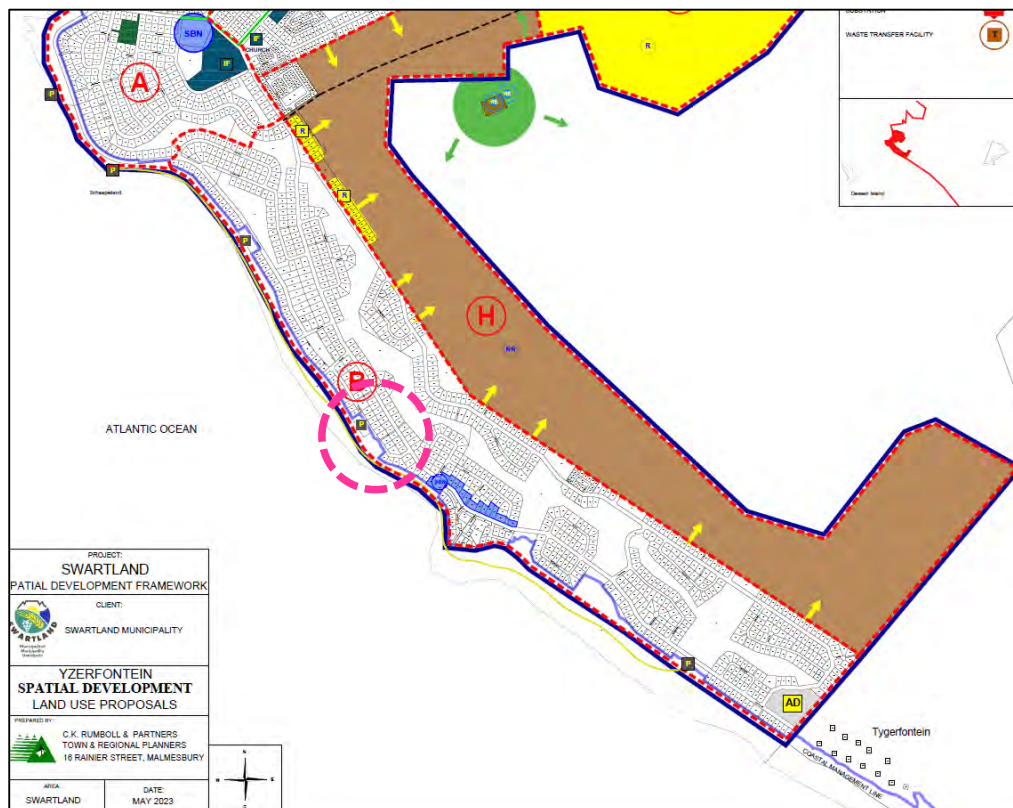


Figure A: Excerpt from Yzerfontein SDF

The owners of Erf 1142 also wish to expand the existing dwelling to serve as their retirement property and be able to accommodate various water craft, such as a boat and jet skis, as well as their own vehicles, on the property. In order to achieve the goal, it is proposed that the existing double garage be extended forward and upward and that an additional double garage be constructed.



It should be noted that the additional garage has already been completed without building plan approval and plans were submitted after the fact. The By-Law affords land owners the opportunity to rectify unlawful land use actions on their properties through engaging in the correct procedure and thus the application was submitted. The proposal entails the legalisation of the unauthorised building work at the same time as proposing new additions/extensions to the dwelling that are within the development parameters.

Due to the layout of the existing dwelling on the property, the need for connectivity of the garage with the dwelling and the accessibility from the street, the available position for the additional garage was deemed to be in the northern corner of the erf, encroaching over the north-eastern street building line and the north-western side building line. During the scrutiny of the building plans, however, the Title Deed was also scrutinised and it was discovered that a number of restrictive conditions are registered against the property, prohibiting the encroachments.

The development proposal thus includes the amendment of the applicable restrictive condition, as well as departure from the By-Law building lines, in order to legalise the additional garage and the proposed fire pit at the rear of the property.

#### PART E: PRE-APPLICATION CONSULTATION (ATTACH MINUTES)

Has pre-application consultation been undertaken?	Y	N	
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#### PART F: SUMMARY OF APPLICANT'S MOTIVATION

The owners/developers of Erf 1142, Yzerfontein, aim at developing dwelling unit on the property, in order to optimally utilise the space and consequently increase the value of the prime seafront erf.

##### 1. Planning policy

##### 1.1 Matters referred to in Section 42 of SPLUMA and Principles referred to in Chapter VI of LUPA

- a) Spatial Justice: The use of the property for residential purposes is in line with the applicable zoning as well as SDF proposals for the area in which the property is located. The encroachment of the double garage does not preclude any person from access to the public street.
- b) Spatial Sustainability: No land use change is proposed with the application, no additional pressure will be added to municipal services, as there are existing services on the property. The proposal optimises the utilisation of existing land within the urban periphery. The property is located inside a residential area earmarked for low to medium density uses and as such is consistent with the surrounding environment.
- c) Efficiency: The departure from building lines enables the property to be developed to its full potential as determined in the SDF. After the departure, the property will be subject to the By-Law. The zoning scheme regulations can be considered sufficient in regulating future development.

- d) Spatial Resilience: More flexible opportunities promote sustainable livelihoods. The amendment of the restrictive title conditions will allow the owner to develop the property to its maximum potential and fulfil development needs.
- e) Good administration: All decision-making regarding the outcome of the application will be guided by relevant statutory land use planning systems.

#### 1.2 Swartland Municipal Spatial Development Framework (SDF, 2023)

Erf 1142 is situated on area B of the SDF, characterised by residential, business, commercial and social uses. The proposal will not impact negatively on the existing character and is consistent with the objectives and guidelines contained within the SDF.

#### 1.3 Compliance with Section 43(5) (a)-(f) of the By-Law

<b>When the municipality considers the removal, suspension or amendment of a restrictive condition, the municipality must have regard to the following:</b>	
<i>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.</i>	The conditions were imposed by the Administrator for the benefit of the town and had no financial or other value for the beneficiary. The value of the conditions relates to land use restrictions that preserve and protect the character of the built environment. The Swartland Zoning Scheme consist over similar land use provisions that have the same effect in preserving and protecting the character of areas, thus keeping the restrictive conditions have no value to the township anymore.
<i>b) The personal benefits which accrue to the holder of the rights in terms of the restrictive condition.</i>	There are no personal benefits to the holder of rights seeing as the rights are in favour of the town as explained in the previous point.
<i>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.</i>	The inclusion of the said restrictive conditions in the title deed of Erf 1142, results in restrictions being placed on development possibilities for the property of which the restrictions are not always in line with the new planning philosophies such as densification, effectiveness and resilience. The amendment of said restrictive conditions will enable the property to be developed to its full potential as determined and guided by spatial policies such as the Swartland SDF.
<i>d) The social benefit of the restrictive condition remaining in place in its existing form</i>	There is no social benefit if the restrictive conditions remain in place in its existing form as it will not allow the property owners to exercise their land use rights to utilise the property to its full potential.
<i>e) The social benefit of the removal, suspension or amendment of the restrictive condition.</i>	This will result in more compact, diverse and resilient development on the property in the future and enable the property to be developed to its full potential.
<i>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.</i>	Not all rights in favour of the Administrator is proposed for amendment, only the rights relating to development parameters seeing as the need and desirability of development opportunities for Erf 1142, Yzerfontein, have changed over time.

#### 1.4 Schedule 2 of the By-Law (Zoning Scheme Provisions)

The property is zoned Residential Zone 1 and the development proposal will not affect the land use of the property, but the development parameters will be departed from. Following the amendment of the restrictive conditions contained in the Title Deed, in order to remove the building lines imposed by the Deed, the By-Law building lines remain applicable and the following departures are subsequently proposed:

- a) Departure from the north-eastern street building line from 4m to 0m to accommodate the additional garage;
- b) Departure from the north-western side building line from 1,5m to 0m to accommodate the additional garage;
- c) Departure from the 2m rear building line in order to accommodate the proposed fire pit.

All other development parameters, such as height, coverage and parking, are adhered to.

The property is accessed on the north-eastern border, via Dassen Island Drive. The property contains two double garages and the number of on-site parking bays are considered sufficient.

#### 1.5 Services

The property is serviced and the proposed development will not require additional services.



PART G: SUMMARY OF PUBLIC PARTICIPATION					
Was public participation undertaken in accordance with section 55- 59 of the Swartland Municipal: By-law on Municipal Land Use Planning?					Y N
The application was advertised in the local papers, as well as the Provincial Gazette on 17 November 2023. A total of 22 registered notices were issued to affected parties on the same day and e-mails were sent additionally where e-mail addresses were available. Please refer to Annexure C for public participation map.					
The commenting period concluded on 18 December 2023 and three objections were received.					
The offices of the applicant were closed over the festive season and the objections were forwarded to them on 2 January 2024.					
Total valid comments	3		Total comments and petitions refused		No comments were refused. One objection was retracted.
Valid petition(s)	Y	N	If yes, number of signatures		
Community organisation(s) response	Y	N	Ward councillor response	Y	N The application was forwarded to councillor Rangasamy, but no comments were forthcoming.
Total letters of support	0				

PART H: COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS			
Name	Date received	Summary of comments	Recommendation
Department: Civil Engineering Services	28 Dec. 2023	Dassen Island Drive is a Class 4d urban road. Taking into account the road classification and the fact that no space is left in front of the garage for on-site parking, the application for departure from the street building line to 0m is not supported.	X
Department: Development Services	17 Nov. 2023	Building plans be submitted to the Senior Manager: Development Management for consideration and approval.	✓



Portion of road reserve between property boundary and road

PART I: COMMENTS RECEIVED DURING PUBLIC PARTICIPATION	SUMMARY OF APPLICANT'S REPLY TO COMMENTS	MUNICIPAL ASSESSMENT OF COMMENTS
<p><b>A. &amp; C. van Ellewee Erf 1137 Annexure D</b></p>	<p>1. The owner was surely aware of the size of the plot and the regulations when he bought it, why wasn't provision made for his motor home on his house plan?</p> <p>We don't live in a residential neighbourhood where we have to be in each other's "faces."</p> <p>We don't approve of the encroachment.</p> <p>1. In 2020, the current owners of Erf 1142 acquired the property, which consisted of a constructed dwelling that initially met their requirements. At that time, there were no plans for expansion. However, subsequent needs arose, specifically, the necessity to enlarge the existing single garage to accommodate the storage of watercraft, such as a boat and jet ski, still ensuring sufficient secured and shaded parking for their vehicles. This need was underscored by the lack of storage facilities for such purposes in Yzerfontein.</p> <p>Unfortunately, given the location of the existing dwelling on the property, the sole viable option for incorporating the envisioned garage was to extend the dwelling towards the street boundary. Care was given to the construction of this extension, ensuring that it does not compromise visual aesthetics or safety measures for the surrounding property owners. Importantly, the extension was accurately designed to be constructed in the same architectural style as the existing dwelling.</p> <p>Moreover, the width of the street reserve of Dassen Island Drive, resulting in ±4.1m measured from the western kerb of the street up to the street boundary of Erf 1142, facilitated the extension without adversely affecting sight distances or jeopardizing the safety of vehicles or persons passing by. Therefore, ample space remains in front of the garage extension, preserving unimpeded sightlines and maintaining the safety of the area.</p> <p>Additionally, the privacy considerations of neighbouring properties have been conscientiously addressed. The extended structure strategically lacks any windows or doors on its northern side, where the property shares a boundary with another residential-zoned property.</p>	<p>1. It is not unusual for the needs and requirements of home owners to evolve over time. It is also not always possible to predict initially what form said needs will take on over time.</p> <p>However, the owner/developer proceeded to address their needs through constructing the new double garage up to the street boundary and the fire pit at the rear of the property, without gaining authorisation from the relevant authorities, and without regard for the legislative framework applicable.</p> <p>Unsurprisingly, once the correct application processes commenced, a number of issues were identified that do not comply with the legislative requirements:</p> <ul style="list-style-type: none"> <li>i. The Title Deed conditions prohibits any structure to encroach on the building lines;</li> <li>ii. The garage also encroaches on the By-Law building lines;</li> <li>iii. The garage exceeds the permissible width at street front as stipulated in section 12 of the By-Law;</li> <li>iv. The available space in front of the new garage does not comply with the minimum length of a parking space, as defined by the By-Law, thus the space in front of the garage cannot be considered as safe parking space;</li> <li>v. Dassen Island Drive is classified as a Class 4d Urban Road and off-street parking is required in front of a garage, in terms of the Western Cape Roads Classification and TRH26 (2013).</li> </ul> <p>The argument by the applicant is considered to be based on opinion and personal taste and does not take the legal specifications pertaining to a development proposal of this nature into account.</p>

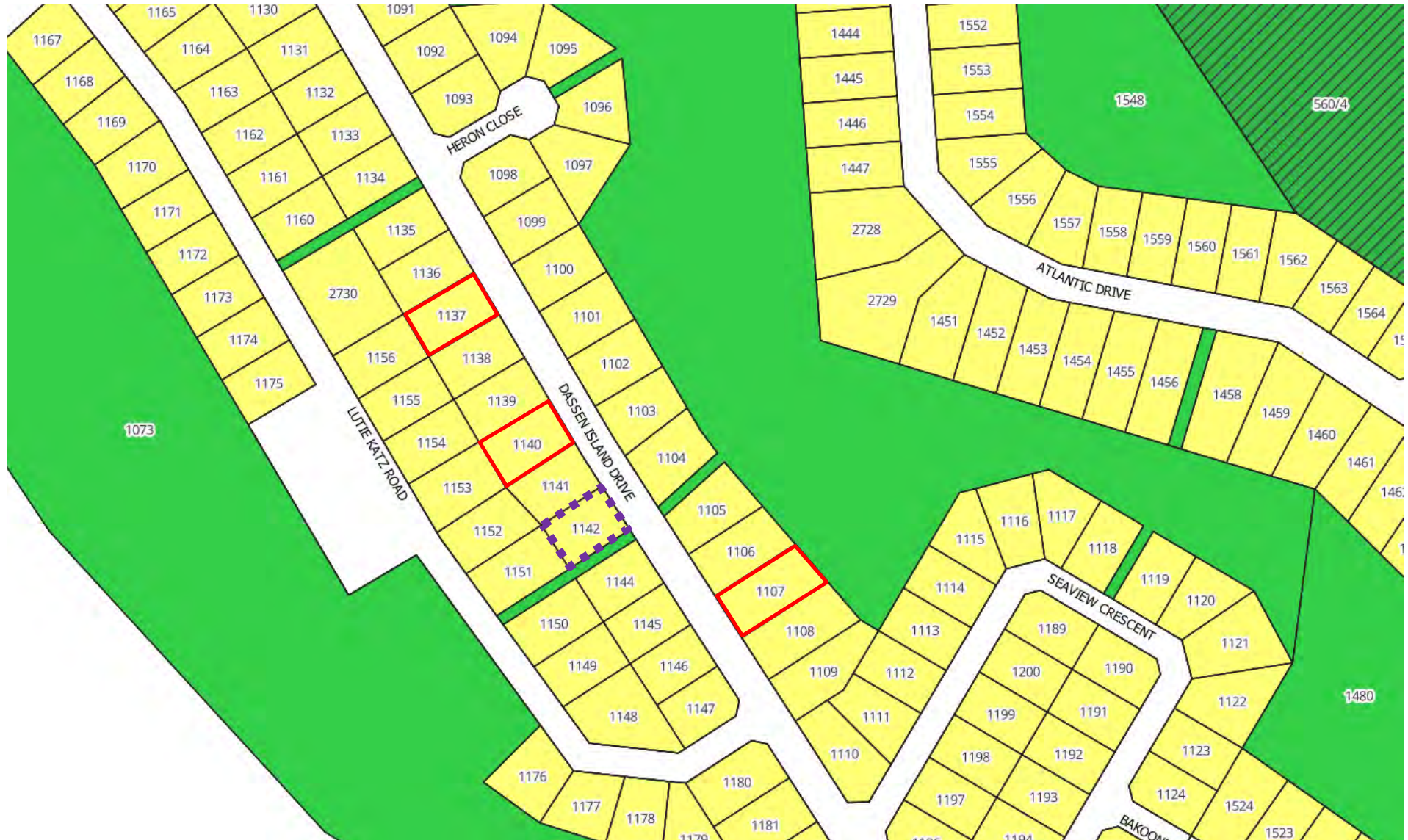


<p><b>A. Zietsman Erf 1107, Annexure E</b></p>	<p>2. Aesthetic concerns. Regardless of how the garage is oriented, a large portion will, for practical reasons, be situated against the sidewalk. Unsightly.</p> <p>If such a relaxation is allowed, more similar applications can be expected, resulting in structures being erected right up against the sidewalks. Yzerfontein may then develop and look like De Noon “north.”</p>	<p>2. As previously mentioned, careful attention has been dedicated to the aesthetic harmony of the new building extension, ensuring that it aligns seamlessly with the architectural style of the existing dwelling on Erf 1142. The double garage has been thoughtfully designed to integrate seamlessly with the dwelling, employing materials that match, identical painting, and a consistent design language (refer to Figure 2). This careful consideration contributes to a cohesive and visually pleasing appearance for the entire property.</p> <p>The configuration of Dassen Island Drive’s street reserve provides a relatively spacious area of approximately ±4.1m measured from the western kerb to the erf boundary of Erf 1142, creating ample space in front of the property boundary. Notably, in the absence of a sidewalk on Dassen Island Drive where the application property is situated, this space maintains a relatively wide and open streetscape.</p> <p>It is crucial to highlight that the formal structure of the building adheres to the existing architectural style, reinforcing that the development is far from being deemed “unsightly”.</p> <p>Moreover, taking a wider look at the characteristics of Dassen Island Drive, particularly in the vicinity of Erf 1142, it is evident that two properties situated northward from Erf 1142 within Dassen Island Drive feature a dwelling with a pergola extending up to the street boundary. Consequently, the proposed development is not the only existing building/structure erected up until the street boundary of Dassen Island Drive.</p> <p>Each application must be evaluated based on individual merits and circumstances. The locality of the existing dwelling limits the development potential of the property, specifically the construction of a garage. Due to no storage facilities for watercraft in Yzerfontein, the need arose for secure, safe, and shaded parking therefore on his property. The only</p>	<p>2. Whether or not the new garage is in keeping with the design language of the existing dwelling is not the issue, but rather whether the position and mass of the structure is in keeping with the character of the street and the wider area.</p> <p>The author agrees that the character of the particular portion of Dassen Island Drive is that of a wide, open streetscape. However, it is further argued that the character was established precisely because the road reserve is maintained throughout the portion of street and any encroachments that were considered recently, such as on Erf 1140, were approached with sensitivity toward the streetscape.</p> <p>The pergola on Erf 1140 was initially proposed as a solid garage, also exceeding the maximum width at street front and extending to the street boundary, but the design was considered by the local authority and found to be detrimental to the streetscape and the developer was obliged to amend the design to adhere to the character of the street and maintain the road reserve. Firstly the proposed garage was amended to a carport/pergola, in order to be a lighter, permeable structure with reduced visual impact. Thereafter the width and height were addressed to adhere to the development parameters of the By-Law, ensuring the scale is consistent with that of the surrounding residential neighbourhood. The same principles need to be applied to the structure on the application property and may be managed through the formulation of conditions of approval.</p> <p>The portion of side walk in front of Erf 1142 is per definition not sufficient to accommodate safe on-site parking space and cannot be described as ‘ample’.</p> <p>The applicant also argues that each application must be evaluated on its individual merits, but at the same time points out other properties with similar encroachments. The departures occurring along the street are, however, not similar to the development proposal, as it differs in the fundamental ways discussed above. Furthermore,</p>
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		<p>locality on the property where such parking could have been accommodated was towards the street boundary, necessitating a building line departure and amendment of a restrictive title deed condition. Granting flexibility in building line departures does not inherently imply a detrimental impact on decision-making for future applications. Instead, it signifies responsiveness to evolving requirements and unique circumstances.</p>	<p>the site circumstances are not unique, other than the fact that the site is too small to accommodate the owners' preferences, and thus the argument is deemed insufficient.</p>
<p><b>K. Korb</b> <b>Erf 1140</b> <b>Annexure F</b></p>	<p>3. When he was asked how he could build over building lines without our prior approval he said he already had approval from the council. This application is thus after the fact. The fire pit was only recently been built prior to having an approved plan or relevant change to his title deed.</p> <p>I am sure the swimming pool is also over the building line and drainage punched through his neighbour's wall into the neighbouring property.</p> <p>He also has parking which extends onto the council building line. Perhaps a detailed inspection should be done.</p>	<p>3. Although the owners of Erf 1142 commenced with building work prior to obtaining the necessary approvals, they intend to, by means of this application, authorise all unauthorised building work following the necessary procedures including public participation. The objective of this application is to amend the title deed restrictions and to relax the prescribed By-law building lines, allowing the owners to make lawful additions to the property in accordance with land use management regulations.</p> <p>Section 12.2.1 (a)(x) of the Swartland Municipal By-Law on Land Use Planning allows swimming pools to be 1m from a boundary. The swimming pool on Erf 1142 exists and located 1.5m from the northern side boundary. The swimming pool is, thus, consistent with the development parameters as set forth by the Swartland Municipal By-law on Land Use Planning (PG 8226) and does not form part of this application. It is also noteworthy that the building plan received consent from the abutting neighbouring property owners, Erf 1141, Erf 1144 and Erf 1104. Therefore, indicating clear consent from the neighbours that would be determined as directly impacted by the proposed departures of Erf 1142.</p>	<p>3. The garage and fire pit were constructed without authorisation. While the By-Law does afford the owner/developer the opportunity to rectify the oversight through the submission of the relevant applications, it does not guarantee automatic approval.</p> <p>The owner/developer intends to enlarge the existing dwelling on a number of levels and building plans were submitted that included the proposed new building work, as well as the unauthorised, completed building work. During the pre-scrutiny stage of the building plan submission, it came to light that, in addition to the By-Law building lines that were encroached, the Title Deed also contained building line restrictions, and it became clear that the development could not continue without the amendment of the Title Deed conditions and departure from the By-Law.</p> <p>The land use application was subsequently submitted and the development proposal was circulated for input from all the relevant departments. The comments from the Department: Civil Engineering Services confirmed that the lack of parking space in front of the garage is insufficient and that the proposal is undesirable in terms of the TRH26.</p> <p>Refer also to 1. And 2.</p> <p>The swimming pool adheres to the development parameters and is not addressed in the application.</p>

		<p>The fire pit was recently included to the amended building plan and is constructed in a way that does not significantly impact the neighbours as the wall acts as a screening for enhanced privacy. It is also important to take note that the fire pit utilizes gas, securely stored, and complies with all safety regulations. Therefore, the inclusion of the fire pit can be viewed favourably, given its low impact on the surrounding environment.</p>	<p>The fire pit construction necessitated the removal of the Title Deed rear building line, as the restriction states: “...No building or structure or any portion thereof except boundary walls and fences...” are allowed over the building line or, in the case of a departure, only outbuildings and vehicular storage may be considered, but the fire pit is none of the above.</p> <p>Departure from the By-Law rear building line is technically not necessary, as the fire pit itself adheres to the 2m building line and the seating area is similar to a planter box, a screen-wall or an open stoep, which are all structures that are allowed to encroach on side and rear building lines, in terms of section 12.2.1. However, the fire pit and walls are still structures, subject to building plan approval, which creates the opportunity for the local authority to stipulate certain requirements with regards to the structure.</p> <p>The purpose of a fire pit is social gathering and the potential nuisance and noise disturbances that may be caused by said gatherings can, at least in part, be mitigated by raising the screen-wall and further extending it along the boundary wall between Erf 1142 and Erf 1151.</p>
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Map of application property and objectors' properties



## PART J: MUNICIPAL PLANNING EVALUATION

### 1. Type of application and procedures followed in processing the application

Application for the amendment of title deed restrictions registered against Erf 1142, Yzerfontein, in terms of Section 25(2)(f) of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 25 March 2020), is made in order to amend condition B.7.(b) in Title Deed T13301/2020, as follows:

*“...B.7.(b) No building or structure or any portion thereof except boundary walls and fences, shall except with the consent of the Administrator, be erected nearer than 5m to the street line which forms a boundary of this erf, not within 3m of the rear or 1,5m of the lateral boundary common to any adjoining erf, provide that with the consent of the local authority...”*

be amended to read as follows:

*“...B.7(b) No building or structure or any portion thereof, except boundary walls and fences, shall, except with the consent of the Administrator, be erected nearer than 1,5m of the south-eastern lateral boundary, common to the adjoining erf, provided that with the consent of the local authority:...”*

Application for departure on Erf 1142, Yzerfontein, in terms of Section 25(2)(b) of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 25 March 2020), is made in order to depart from the 4m north-eastern street building line, the 1,5m north-western side building line and the 2m south-western rear building line, in order to accommodate a double garage at the front of the property and a fire pit at the rear.

The application was advertised in the local papers, as well as the Provincial Gazette on 17 November 2023. A total of 22 registered notices were issued to affected parties on the same day and e-mails were sent additionally where e-mail addresses were available.

The commenting period concluded on 18 December 2023 and three objections were received.

The offices of the applicant were closed over the festive season and the objections were forwarded from the Municipality on 2 January 2024. The response to comments was received back on 31 January 2024.

The applicant is C.K. Rumboll and Partners and the property owner is H.J. Venter.

### 2. Legislation and policy frameworks

#### 2.1 Matters referred to in Section 42 of SPLUMA and Principles referred to in Chapter VI of LUPA

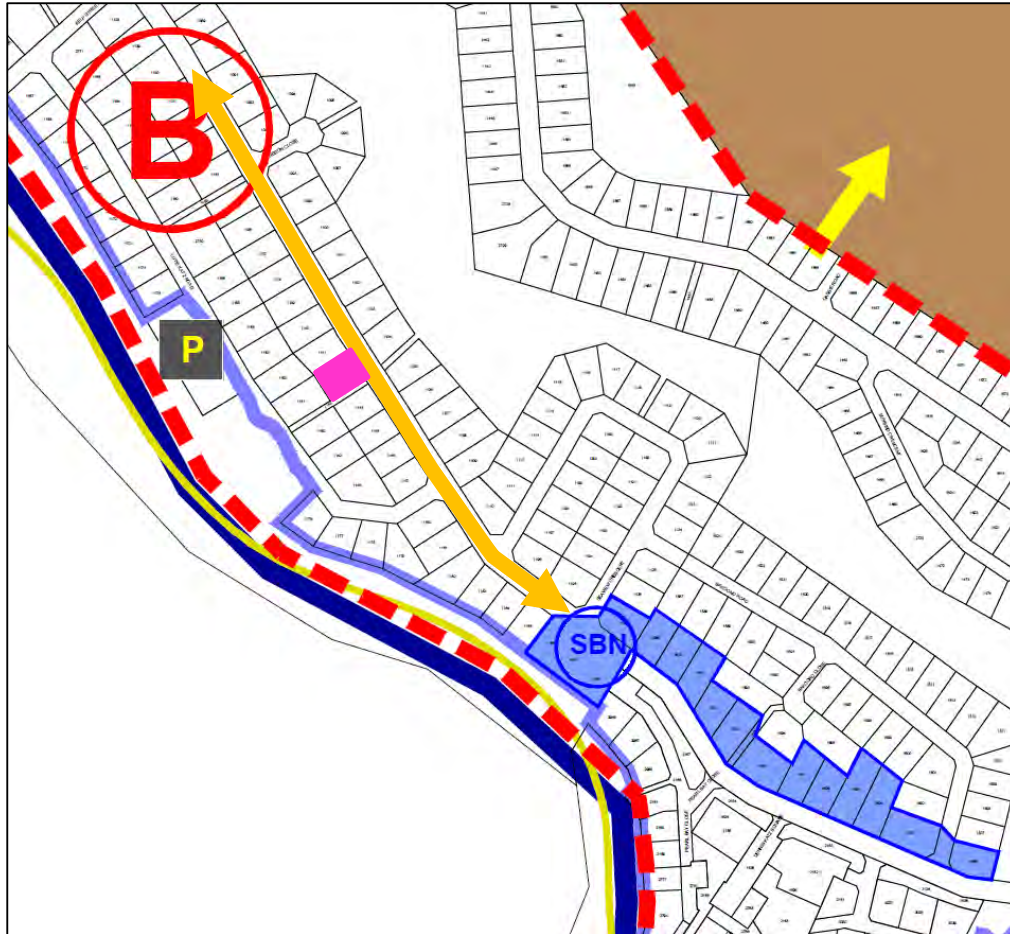
- a) Spatial Justice: The garage and fire pit were constructed unauthorised and the relevant legislative framework (all the facts) was not taken into account by the developer. A consequence of the garage encroaching on the street building line is the negative impact on the character of the streetscape and being in contradiction to creating an integrated settlement, benefitting the owner alone, rather than the wider community.
- b) Spatial Sustainability: The street building line departure will have a negative impact on the streetscape and use of the road and if similar departures are permitted over the long term, the entire character of the street will change. In addition, should the road be widened in future, there will be no space available in front of the garage. The proposal is thus not deemed sustainable.
- c) Efficiency: The departure from street building lines is permitted by the By-Law, for carports and garages, but in order to be considered efficient, the development proposal should enhance the interface between the development and the public realm/surrounding area. The proposal does not preserve resources such as the character of the area, safe traffic circulation, pedestrian movement or the impact of the streetscape etc. The development proposal errs on the side of exploitation, rather than optimal utilisation of the developable space and is therefore not considered efficient.
- d) Good Administration: The application was advertised in the local newspapers and provincial gazette, communicated to the affected land owners through registered mail and e-mailed, where possible. The application was also circulated to the relevant municipal departments for comment. Consideration was given to all correspondence received and the application was dealt with in a timely manner. It is therefore argued that the principles of good administration were complied with by the Municipality.

e) Spatial Resilience: The application is for permanent departure, implicating that, once the departures are approved it will not be possible to reverse the building line departures. The proposal is deemed as not being resilient.

## 2.2 Spatial Development Framework (SDF)

The SDF is a high level spatial guideline and does not make provision for building line departures.

It may nonetheless be noted that Dassen Island Drive connects the CBD with the secondary business node at Pearl Point, and as such is an important collector route. The long-term impact of any development along such a road should be considered carefully.



## 2.3 Schedule 2 of the By-Law (Zoning Scheme Provisions)

The development proposal includes the departure from the street building line and side building line by the garage. The By-Law allows for street building line departure by a garage or a carport. The garage or carport are further limited to a maximum height of 4m from FFL to the highest point of the roof. The garage adheres to the maximum height.

The By-Law also defines the dimensions of a parking bay as 5 metres in length and 2,5 metres in width. The space in front of the garage door is 4,1 metres long and does not allow for a full parking bay, which is not permissible along a class 4d urban road.

The portion of the garage that encroaches on the side building line may be considered positively.

The fire pit at the rear of the erf only encroaches on the rear building line with a portion of the screen-wall. The height of the wall is  $\pm 1,5$  metres and within the permissible parameter of maximum 2,1m. The pit itself does not encroach on the building line.

The remaining aspects of the proposed development on the property are consistent with the parameters specified by the By-Law.

## 2.4 Desirability of the proposed utilisation

LUPA and SPLUMA state that the effect of a development on the wellbeing of affected parties is an important factor in determining desirability. Following the evaluation of the proposal it is determined that some of the departures applied for may be considered positively, while others prove contradictory to the character and functionality of the road network.

The unauthorised fire pit does not need to depart from the By-Law building line, as the various elements fall within the permissible development parameters. However, in order to minimise potential disturbances caused by the use of the fire pit and to enhance the desirability, it is proposed that the screen-wall be raised to a height of at least 2 metres and that the northern-most portion of the screen wall be extended along the boundary wall for at least 2 metres, to create maximum privacy between Erf 1142 and Erf 1151.

The fire pit is, however, restricted by the building lines stipulated in the Title Deed, as the Deed does not allow for any structure, apart from outbuildings and boundary walls inside the building lines. The impact of the removal of the 3 metre building line from the Title Deed is not considered to impact negatively, as the garage of the Erf 1151 is located closest to the fire pit and in addition, mitigating measures will be employed to minimise noise disturbances.

The removal of the north-western side building line from the Title Deed is also considered necessary, as it will enable the property owner to optimally develop the erf. The vehicular storage structure will align with the side property boundary and will have a similar impact as that of a boundary wall.

Lastly, the removal of the 5m street building line restriction from the Title Deed is also considered desirable, as it will enable the land owner to develop the property optimally and in a manner equal to any Residential Zone 1 erf that is only governed by the By-Law. Should the 5m building line remain intact, the owner would be forced to demolish a portion of the garage and shorten the interior dimension to less than 5m in length, which is not sufficient for the storage of vehicles and would defy the purpose of the garage.

However, the abovementioned amendments and removals notwithstanding, the development parameters of the By-Law remain applicable and sufficient motivation and mitigating measure need to be applied in order to ensure desirability.

As previously discussed, the fire pit does not require departure from the rear building line, but it is recommended that the structure be amended to ensure maximum possible privacy and minimum disturbance to neighbouring property owners.

Additionally, the By-Law is fairly lenient towards the departure of side building lines by a garage or carport, provided that the height of the such a structure does not exceed the prescribed limit. The garage currently stands at a height of 2,9 metres at its highest point, consistent with the parameters.

The least desirable aspect of the proposed development is the departure from the By-Law street building line, as important principles are negatively impacted on:

- The character of the wide open street. There are no similar departures in the street and where departure was approved, the structures are light and visually permeable (only carports or pergolas), no higher than 3m and no wider than 6,5m;
- The streetscape itself, formed by the alignment of the elements of the existing residential developments is obstructed by the solid mass of the garage that extends right up to the street boundary; and
- The fact that the portion of road reserve in front of the garage is insufficient to accommodate a 5m parking space and the potential obstruction of vehicular movement.

In order to improve the desirability of the street building line departure, and in lieu of recommending that the garage be completely demolished, it is proposed that the garage be restructured into a carport, by removing the garage door in the street façade and the two side walls. The garage is a simple column and beam structure that can relatively easily be amended to also adhere to the maximum permissible width for a carport of 6,5m at street front.

The proposed carport is foreseen to have a lesser visual impact, as the mass of the structure will be drastically reduced. It will also create space in front of the structure to accommodate off-street parking that will not obstruct the traffic on Dassen Island Drive. The carport will be consistent with the character of the street and area and the impact on the streetscape, will be reduced and consequently more desirable within the context.

The proposed development of additional amenities on Erf 1142, once all discrepancies are resolved, will increase the property value and as such is supported. Increased property value translates to higher income for the Municipality through rates and taxes and the higher property value is likely to impact positively on that of surrounding properties as well. The economic impact of the proposal is thus considered positive.

<p>The zoning and land use will remain unchanged and the residential character of the property is considered compatible with the surrounding uses.</p> <p>The development property is not considered a heritage asset, according to the 2009 Swartland Heritage Survey and the development will thus not have a negative impact on any heritage resources.</p> <p>Access to the property will be obtained directly via Dassen Island Drive.</p> <p>Existing resources will be optimally utilised, through the appropriate use of the available space on the property and the utilisation of existing engineering services on the property.</p> <p>All costs relating to this application are for the account of the applicant.</p> <p>In conclusion, the proposed departures on Erf 1142, Yzerfontein, are deemed partly desirable subject to amendments affected to the current proposal.</p> <p><b>3. <u>Impact on municipal engineering services</u></b></p> <p>The approved departures will have no impact on any municipal engineering services.</p> <p>The impact on the road network will be addressed through conditions of approval.</p> <p><b>4. <u>Comments of organs of state</u></b></p> <p>No comments were requested.</p> <p><b>5. <u>Response by applicant</u></b></p> <p>See Annexure G.</p>
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PART K: ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS	
<p><i>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.</i></p>	<p>The portion of the dwelling on Erf 1151 that is nearest to the fire pit that departs from the rear building line, is a garage. Furthermore, the impact of the fire pit may be mitigated, but is also not considered to be more than that of an open porch, which would have been permissible without any application.</p> <p>The impact of the side building line departure on Erf 1141 is also considered negligible, as the proposed use will be for the parking of motor vehicles and will have no bearing on any financial rights.</p> <p>While the encroachment on the street building line is considered negative in terms of the character of the street and traffic movement along Dassen Island Drive, the removal of the Title Deed street building line does not contain any intrinsic financial value.</p>
<p><i>b) The personal benefits which accrue to the holder of the rights in terms of the restrictive condition.</i></p>	<p>There are no personal benefits to the holders of rights.</p>
<p><i>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.</i></p>	<p>The owner may benefit personally from the removal of the building lines in question, as the property may be developed to its full potential and additional amenities may be added to the existing dwelling.</p>
<p><i>d) The social benefit of the restrictive condition remaining in place in its existing form</i></p>	<p>There is are no social benefits applicable.</p>
<p><i>e) The social benefit of the removal, suspension or amendment of the restrictive condition.</i></p>	<p>The removal will enable the land owner to optimally develop the property equally to other residential properties that are only subject to less restrictive By-Law building lines.</p>
<p><i>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.</i></p>	<p>Not all rights in favour of the Administrator is proposed for amendment, only the rights relating to the building lines that are to be departed from. The rights of the owner, as well as the surrounding beneficiaries are still protected by the development parameters contained in the By-Law.</p>



## **PART L: RECOMMENDATION WITH CONDITIONS**

**A.** The application for the amendment of restrictive Title Deed condition registered against Erf 1142, Yzerfontein, be approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 25 March 2020), in order to amend condition B.7.(b), in Title Deed T13301/2020 as follows:

a) Restrictive condition B.7.(b) that reads as follows:

*“...B.7.(b) No building or structure or any portion thereof except boundary walls and fences, shall except with the consent of the Administrator, be erected nearer than 5m to the street line which forms a boundary of this erf, not within 3m of the rear or 1,5m of the lateral boundary common to any adjoining erf, provide that with the consent of the local authority:*

be amended to read as follows:

*“...B.7(b) No building or structure or any portion thereof, except boundary walls and fences, shall, except with the consent of the Administrator, be erected nearer than 1,5m of the south-eastern lateral boundary, common to the adjoining erf, provided that with the consent of the local authority:...”*

b) The applicant/owner applies to the Deeds Office to amend the title deed in order to reflect the removal of the restrictive conditions;

c) The following minimum information be provided to the Deeds Office in order to consider the application, namely:

- Copy of the approval by Swartland Municipality;
- Original title deed, and
- Copy of the notice, which was placed by Swartland Municipality in the Provincial Gazette;

d) A copy of the amended Title Deed be provided to Swartland Municipality for record purposes



**B.** The application for departure from development parameters on Erf 1142, Yzerfontein, be approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 25 March 2020), subject to the conditions that:

### **1. TOWN PLANNING AND BUILDING CONTROL**

- a) The 1,5m north-western side building line be departed from to 0m;
- b) The 4m north-eastern street building line be departed from to 0m;
- c) Both a) and b) above be restricted to the portions of the structure that encroaches on the building line, as presented in the application;
- d) The encroaching garage structure be reconstructed into a carport by removing both the side walls and street façade, to the satisfaction of the Senior Manager: Development Management;
- e) The street façade of the carport be restricted to a maximum width of 6,5 metres, measured from edge to edge of the roof;
- f) The screen-wall surrounding the fire pit be raised to a height of at least 2 metres and that the northern portion of the wall be extended for at least 2 metres, aligned with the existing boundary wall, to the satisfaction of the Senior Manager: Development Management;
- g) Building plans be submitted to the Senior Manager: Development Management for consideration and approval;
- h) Storm water be managed on the property itself and construction measures be taken to ensure no storm water run-off is directed to the abutting properties;

### **2. GENERAL**

- a) The approval does not exempt the owner/developer from compliance with all legislation applicable to the approved land use;
- b) Should it in future be determined necessary to extend or upgrade any engineering service in order to provide the development with services, it will be for the account of the owner/developer;
- c) The approval is valid for a period of 5 years, in terms of section 76(2) of the By-Law, from the date of decision. Should an appeal be lodged, the 5 year validity period starts from the date of outcome of the decision against the appeal. All conditions of approval be implemented before the new land use comes into operation/or the occupancy certificate be issued and failing to do so will cause the approval to lapse. Should all conditions of approval be met within the 5 year period, the land use becomes permanent and the approval period will no longer be applicable.

<p>d) The applicant/objector be informed of the right to appeal against the decision of the Municipal Planning Tribunal in terms of section 89 of the By-Law. Appeals be directed, in writing, to the Municipal Manager, Swartland Municipality, Private Bag X52, Malmesbury, 7299 or by e-mail to <a href="mailto:swartlandmun@swartland.org.za">swartlandmun@swartland.org.za</a>, within 21 days of notification of decision. An appeal is to comply with section 90 of the By-Law and is to be accompanied by a fee of R5 000,00 in order to be valid. Appeals that are received late and/or do not comply with the aforementioned requirements, will be considered invalid and will not be processed.</p>				
<b>PART M: REASONS FOR RECOMMENDATION</b>				
<ol style="list-style-type: none"> <li>1. The removal of the affected Title Deed building lines is deemed necessary in order to optimally develop the property. Restrictive conditions that are not affected by the development proposal, remain intact;</li> <li>2. The removal of restrictions will not have a negative financial or social impact on either the owner or the holder(s) of the rights;</li> <li>3. Application for departure is an acceptable mechanism provided for by the By-Law, in order to deviate from the required development parameters;</li> <li>4. The fire pit is consistent with structures defined by the By-Law to be exempted from building line departure. However, the use of the area for social purposes is a potential nuisance and therefore mitigating measures are proposed to the structure;</li> <li>5. The property owners of Erf 1151 – potentially most affected by the fire pit placement – did not object against the proposal;</li> <li>6. Garages are also defined in the By-Law as structures that may be considered for street and side building line departure. Unfortunately the development proposal entails the garage to be constructed onto the property boundary, which does not provide sufficient space in front of the garage to accommodate a parking space and as such is not acceptable;</li> <li>7. The impact of the garage departures on the character of the area and the streetscape was also deemed negative and therefore the departures are approved, but only if the garage is reconstructed into a carport;</li> <li>8. A carport would allow for more flexibility with regard to parking space and would allow for two vehicles to be parked in tandem if necessary, without protruding into the road and creating unsafe traffic conditions;</li> <li>9. The structure of a carport is also considered to have a lesser visual impact than that of the solid garage;</li> <li>10. The garage was constructed unauthorised, a calculated risk taken by the property owners. Fortunately the structure is comprised of an aluminium pillar and beam system, with Nu-tec cladding, which is relatively uncomplicated to reconfigure and reconstruct.</li> </ol>				
<b>PART N: ANNEXURES</b>				
Annexure A		Locality Plan		
Annexure B		Building Plans		
Annexure C		Public Participation Map		
Annexure D		Objections from A & C van Ellewee		
Annexure E		Objections from A Zietsman		
Annexure F		Objections from K Korb		
Annexure G		Response to comments		
<b>PART O: APPLICANT DETAILS</b>				
First name(s)	C.K. Rumboll and Partners			
Registered owner(s)	H.J. Venter	Is the applicant authorised to submit this application:	<b>Y</b>	<b>N</b>
<b>PART P: SIGNATURES</b>				
<b>Author details:</b> Annelie de Jager Town Planner SACPLAN registration number: (A/2203/2015)				Date: 29 Feb 2024
<b>Recommendation:</b> Alwyn Zaayman Senior Manager: Built Environment SACPLAN registration number: (A/8001/2001)		Recommended	<input checked="" type="checkbox"/>	Not recommended
				Date: 1 March 2024

# Erf 1142 Locality



Legend

Erf

World Hillshade

ANNEXURE A

**TITLE:**

**ERF 1142 YZERFONTEIN**

**SITE DEVELOPMENT PLAN**

AMENDMENT OF TITLE DEED RESTRICTIONS  
AND BUILDING LINE DEPARTURES

**GROUND FLOOR**






**SHEET 1 OF 2**

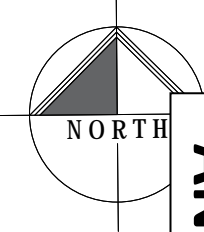
**NOTES:**

Property Zoning: Residential Zone 1

Total property area:	± 736m <sup>2</sup>
Dwelling	± 373.7m <sup>2</sup>
Balcony enclosure:	± 22.7m <sup>2</sup>
New Garages and Garage Extension	± 70.6m <sup>2</sup>
New Study:	± 57.1m <sup>2</sup>
Dwelling (total):	± 582.1m <sup>2</sup>
Coverage:	50%

**KEY:**

Relevant boundary	
Building Line (Scheme)	
Building Line (Deed)	
Proposed/Extension	
Pool	



**NORTH**

Drawing by:

Etienne Malan

ALL AREAS AND DISTANCES ARE SUBJECTED TO  
C.K. RUMBOLDT  
TOWN PLANNING  
PROFESSIONAL

Tel: 022 - 48  
Fax: 022 - 48  
Email: plan@ckr.co.za

ANNEXURE B

DATE:

NOV 2023

SWARTKOP

REF:

13360/YZER/JL/EM





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## CONSTRUCTION NOTES

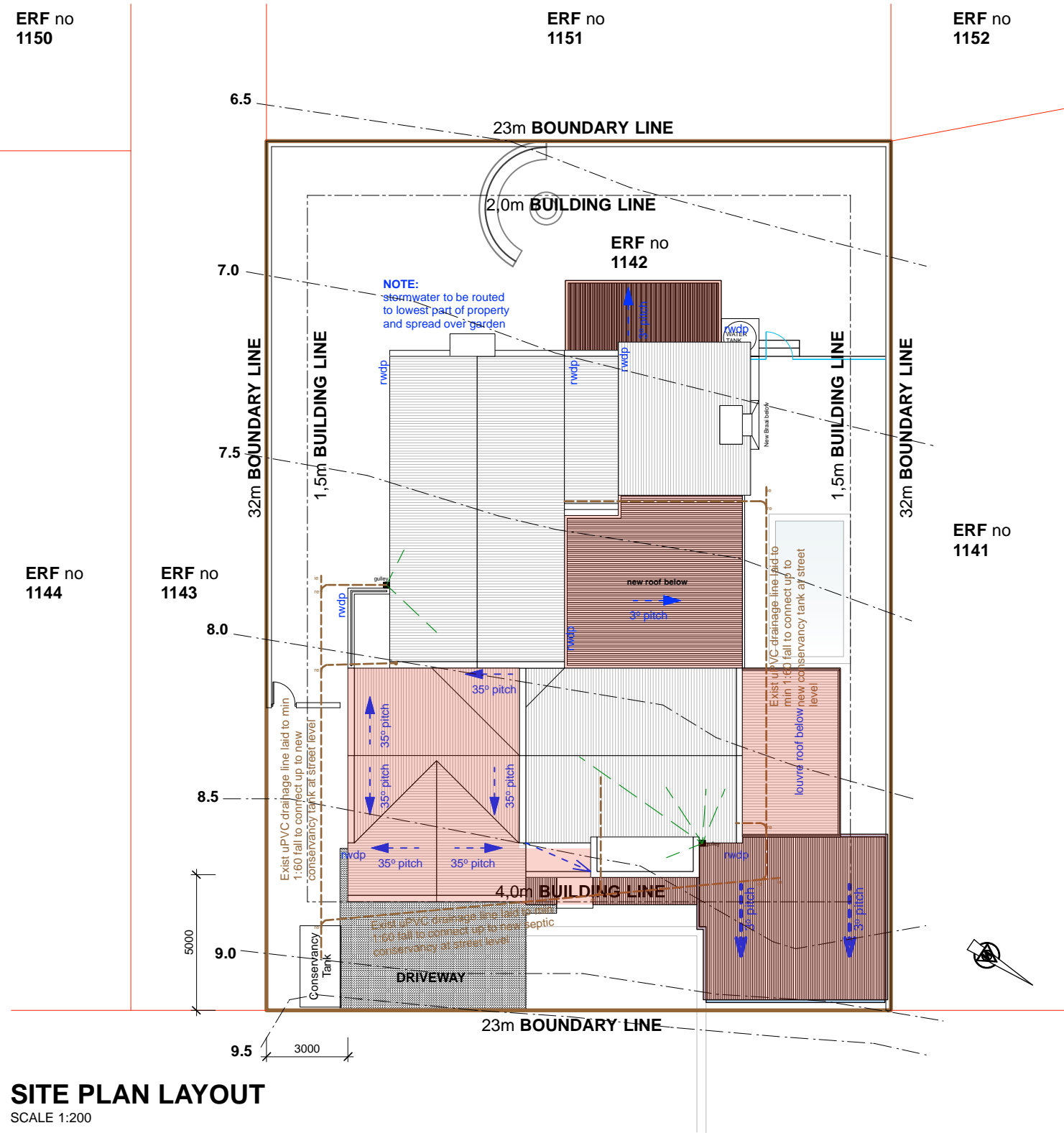
**Walls:**  
Lay 375 mm SABS approved polyethylene damp-proof membrane to full thickness of walls, lapped 150mm at ends and cross intersections.  
The same membrane is to be laid to full width over all heads of openings and to the sides of doors and under all window sills, to the sides of all windows, and a minimum 150mm strip to be built across all vertical cavity closures.  
**Internal Shower Floors & walls:**  
To be waterproofed with "ABE Duraflex" brushed or rolled directly on bedding screed with Sika No. 1 including 150mm vertical band against walls in shower area and reinforced in corners with fibreglass membrane as per manufacturer's specifications, to take tiling or moulded shower base. Shower walls to be coated to full height and width of tiling with "ABE Duraflex" prior to tiling.  
**Rainwater Goods:**  
Standard 120x85mm seamless aluminium Ogee gutter, as by Vitruvius, with powder coated finish. Colour: White. 75x50mm rectangular seamless aluminium downpipes. Downpipes, fixed to wall with downpipe clips at 2000mm centres. All rainwater goods to be supplied and installed by manufacturer.  
**Fascia Boards:** 220x12mm Medium density Everite NuTec fibre-cement fascia boards, fixed to other ends in accordance with manufacturers specifications, painted to specification.  
**Insulation:**  
Where indicated, Allow for double sided Radiantshield Insulation as per specialist instructions and detail on all ceilings.  
Where indicated, Allow for 30mm Isoboard Insulation as per specialist instructions and detail on all concrete roofs.  
**Sisalation:**  
Allow for Sisalation 405 (Heavy duty Industrial) over purfins to all roofs (excluding concrete).  
**Parapet Walls:**  
Top of all parapet walls to be waterproofed with "Kodek" waterproofing system or similar. Colour to match walls. Exposed faces of parapet walls to be finished in "Kodek" (paint only). Top of parapets to be sloped in towards roof.  
**SUPERSTRUCTURE**  
**Masonry Units:**  
Foundation walls to comprise of clay masonry bricks and superstructure walls above foundation to comprise of well burnt selected clay masonry bricks by Crammex or similar approved.  
**External Walls:**  
Generally 150 or 230mm unless otherwise indicated (see drawings for dimensions) cavity built in two skins with 50mm or 110mm cavity between and tied together with 12g Butcherfly wire ties, 3 ties per sq. meter constructed with stepped DPC membrane at floor level and over all external limits. Weepholes @ 1 meter centres or at least 2 per lintel (weepholes to be symmetrical above openings).  
**Internal Walls:**  
Non-loadbearing generally 90mm (see drawings for dimensions) constructed of footings as described above or on concrete surface bed to engineer's detail. Internal loadbearing walls generally 150 mm or 230 mm (see drawings for dimensions) constructed of footings as indicated by the Engineer. All internal walls to be built to higher than ceiling, unless otherwise indicated on Architect's drawings.  
**Ledges to internal walls:**  
Unless otherwise indicated, where ledges shown behind sanitaryware on plan, allow for masonry work projecting 150mm and ledges to be 1100mm high.  
**Retaining Walls (where required):**  
If any, refer to sections & floor plans. All retaining walls with an internal skin to be adequately waterproofed and to Engineers' detail. All other retaining walls to have exterior skin be coated in three coats "Triton" by ABE, or similar approved, and / or waterproofed with Diquigum SFA torch-on waterproofing including protection boards to specialist detail.

**Mortar Mixes:**  
Brickwork will be laid in 6:1 cement mortar, to the thickness and dimensions indicated on the plans and to approved bond.  
**Ceiling Heights:**  
As indicated on the Architect's drawings where necessary.  
**Mortar Mixes:**  
Brickwork will be laid in 6:1 cement mortar, to the thickness and dimensions indicated on the plans and to approved bond.  
**External Lintels:**  
To be pre-stressed concrete lintels to the required width of the wall over all openings and allow for a min 250mm projection on each side and filled up with suitable size bricks over. Cover the 250mm projection of the pre-stressed concrete lintels with wire mesh before plastering. FT suitable prestressed concrete lintels to take gable walls or roof members. R.C. beams to be created according to Engineers' detail, with brickwork every course above where indicated.

**Internal Openings:**  
Pre-stressed concrete lintels over door frames and all other openings in brickwork. Cover the projection of the pre-stressed concrete lintels with wire mesh before plastering. The projection to be at least 200mm, except for 90° connections with 110mm walls.  
**Beam Fill:**  
To be done on all external walls.  
**Frames:**  
Build in doorframes and windows as shown on plans and as per door & window schedule with no thermal breaks.  
**Vents:**  
Vapour-Proof airbricks, 2x per Garage built into external walls. Airbricks and wire gauze to be kept clean and free from plant blockage. If filled over, allow for Drilling of sufficient holes to allow for ventilation. (to be confirmed prior to construction).

**All Construction Joints/ Expansion Joints:**  
Externally and internally to be filled with "Acryseal" by Sika Waterproofing Systems (or similar approved) and painted over, to engineers specification.  
**PLASTERING, FLOOR SCREEDS & TILING**  
**External Walls:**  
Unless otherwise indicated to be plastered in one coat, wood floated compo plaster. Plaster to be smooth and free of undulations. All reveals and sills to be done simultaneously with walls. Plaster to be free of all irregularities especially around openings. Sika No. 1 waterproofing agent to be added to all external plaster in accordance with manufacturer's recommendations.  
Where indicated walls (Internal / External) to receive.  
**Internal Walls:**  
Other than where tiled, to be plastered in two coats, wood floated compo plaster. Plaster to be smooth and free of undulations. All reveals and sills to be done simultaneously with walls. Plaster to be free of all irregularities especially around openings.  
**Floors:**  
To be screeded with a 30mm or more (to align F.F.L.) 3:1 cement screed to receive carpet/ tiles / stone / timber tiles, other tiles as indicated on the plan. Allow for a total of 50mm finish including screed on floors. (Adjustments to be made to aluminium door thresholds, if applicable. Refer Architect and Door Schedule) as indicated on the plan.

**Bathrooms, wall tiling:**  
To be specified. Contractor to allow for "Genesis" or similar approved bullnose stainless steel edging strips to all tiled edges at showers & ledges & wall corners.  
**Floor Tiles:**  
Tiles to be chosen by Client/Architect. The Contractor to make allowance for fixing, grouting, cutting and waste. Approve all setting out, cut positions, joint size colour prior to any work commencing. All tiling required FFL.



**SITE PLAN LAYOUT**  
SCALE 1:200

WINDOW & DOOR SCHEDULE		
WINDOW NR.	WINDOW SIZE	WINDOW DESCRIPTION
1	3750 x 1500mm	Sliding casement window, 6.38mm tinted Solarview safety glass
2	3000 x 1500mm	Top hung aluminium casement and fixed panel, 6.38mm tinted Solarview safety glass
3	3000 x 1500mm	Sliding casement window, 6.38mm tinted Solarview safety glass

DOOR NR.	DOOR SIZE	DOOR DESCRIPTION
1	4800 x 2400mm	2.4m High Zincalume sectional overhead garage door. Colour to be confirmed
2	1300 x 2400mm	Aluminium framed sliding door with fixed 6.38mm tinted Solarview safety glass
3	900 x 2100mm	Semi-solid internal door with stained look MDF hardwood panels
4	1200 x 2400mm	Semi-solid internal door with stained look MDF hardwood panels
5	2800 x 2400mm	Semi-solid internal door with stained look MDF hardwood panels
6	6440 x 2400mm	Aluminium sliding stacking door, 6.38mm tinted Solarview safety glass

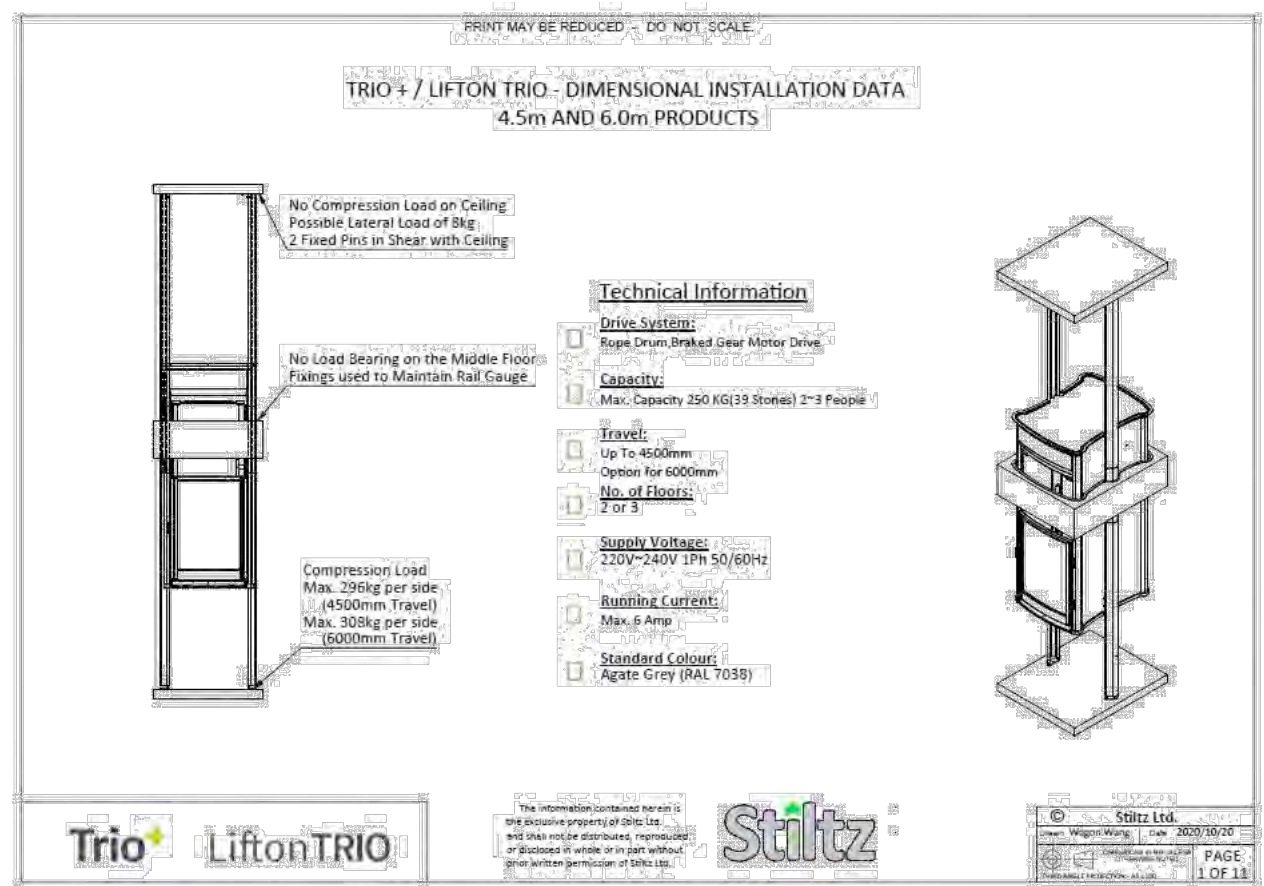
**NOTE:**  
All timber to be treated against termites, woodborer attack and fungal decay to comply with the requirements of the Sans 10005

**ENGINEERS WORK:**  
Engineer drawings for all reinforced structural works, structural steelworks etc. to be submitted to council prior to commencement of such works.

**ENERGY EFFICIENCY**  
Energy efficiency calculations (R-Value of roof, energy consumption etc) to comply to the requirements of the Sans 204 - Refer To Attached Document

**NOTE:**  
50% of the volume of hot water services to be from alternative sources. Solar Hot water system to comply to the minimum requirements of SANS204

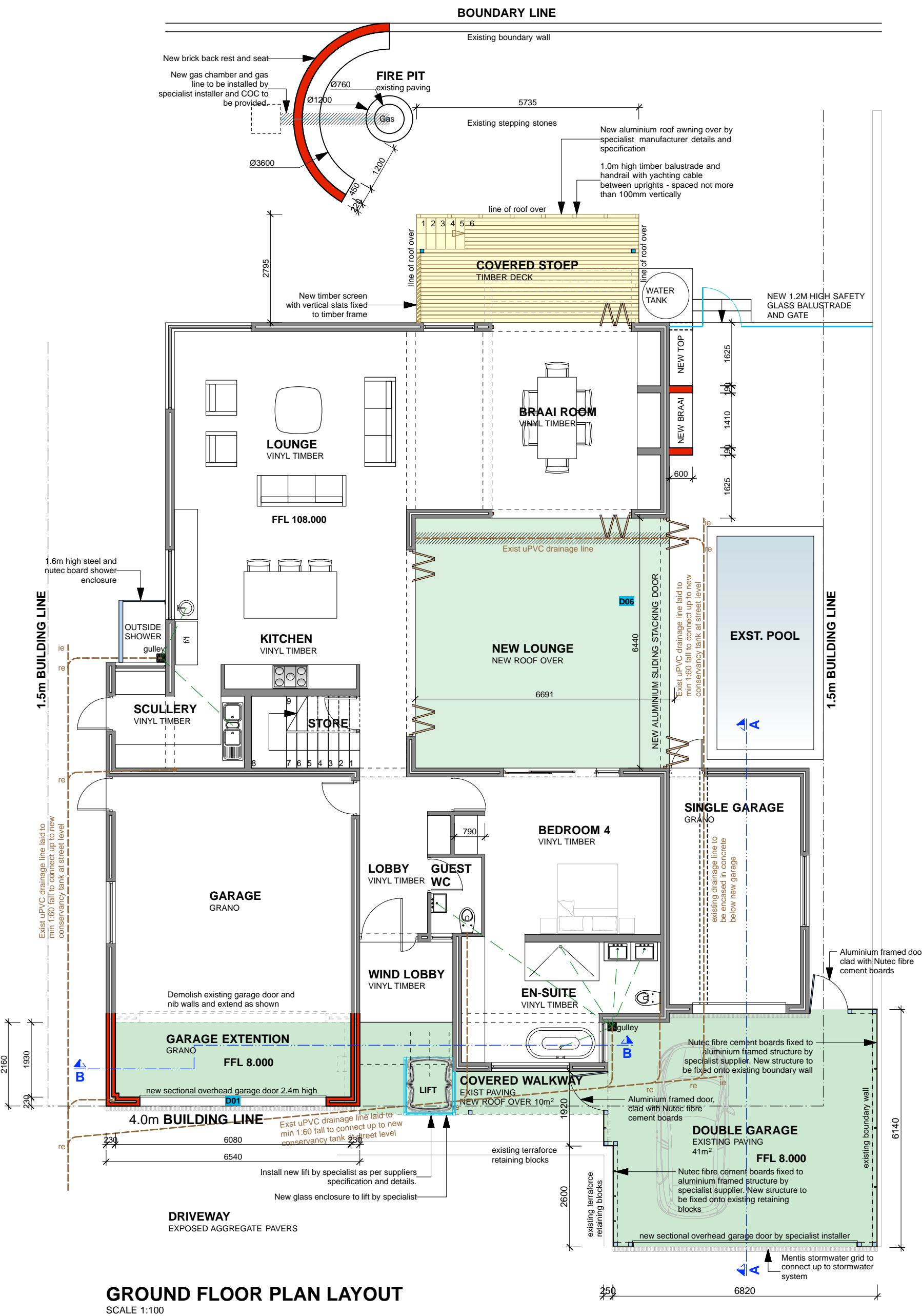
**NOTE:**  
- Building Inspector to evaluate boundary pegs before commencement of building work.  
- No building work may encroach any erf boundaries



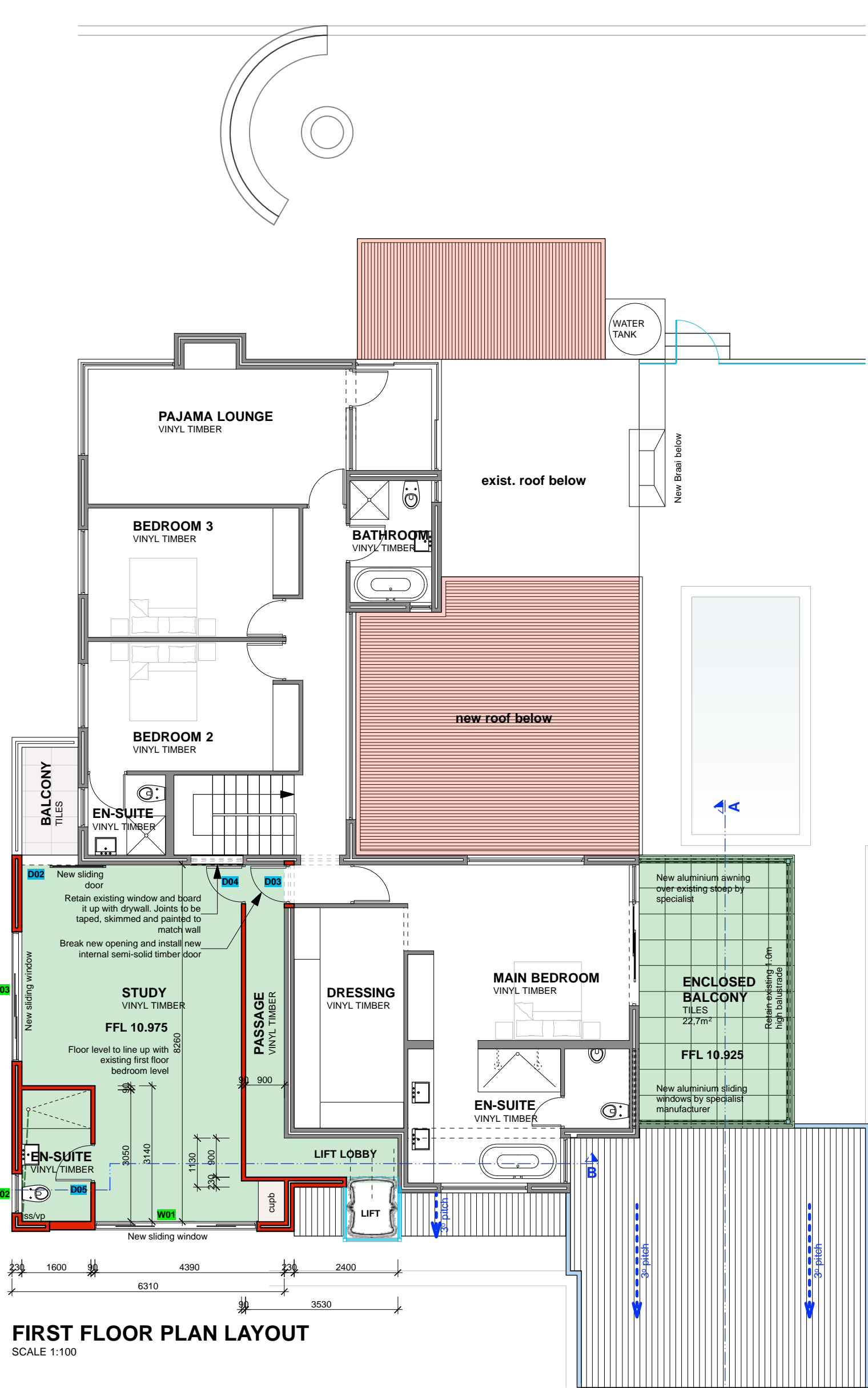
**LIFT SPECIFICATIONS**  
NTS

AREA SCHEDULE	
THE SITE	
ERF AREA	730m²
ZONING	RESIDENTIAL
SERVITUDES	0.00m
BUILDING LINE STREET	4.0m
BUILDING LINE BACK	2.0m
BUILDING LINE SIDE	1.5m
BUILDING LINE SIDE	1.5m

THE HOUSE	
DESCRIPTION	TOTAL
EXISTING DWELLING	373.7 SQM
BALCONY CLOSURE	22.7 SQM
NEW GROUND FLOOR LOUNGE	16.0 SQM
NEW COVERED TIMBER DECK	42.0 SQM
NEW GARAGE & GARAGE EXTENSION	70.6 SQM
NEW STUDY	57.1 SQM
TOTAL HOUSE (incl covered stoep)	582.1 SQM
ACTUAL COVERAGE incl covered stoep	48%
BULK	9.7%



**GROUND FLOOR PLAN LAYOUT**  
SCALE 1:100



**FIRST FLOOR PLAN LAYOUT**  
SCALE 1:100

## COUNCIL SUBMISSION

DesignCo Studios  
32 CHAVONNE STREET  
WILMINGTON  
7530  
cell: 084 5545 777 | email: tertius@designcostudios.co.za  
PROJECT  
**Mr & Mrs VENTER**  
**ON ERF 1142, DASSEN ISLAND**  
**YERFONTEIN**

DRAWING TITLE  
**MUNICIPAL SUBMISSION**

PROJECT No. **1033** DWG No. **2.00** REVIS

SCALE **1:100** PROJECT DATE **JULY 2023** DRAW

DESIGNER SIGNATURE  
M. T. Venter: P147 2470498 CLIENT

DATE: 2023/07/23

**ANNEXURE B**







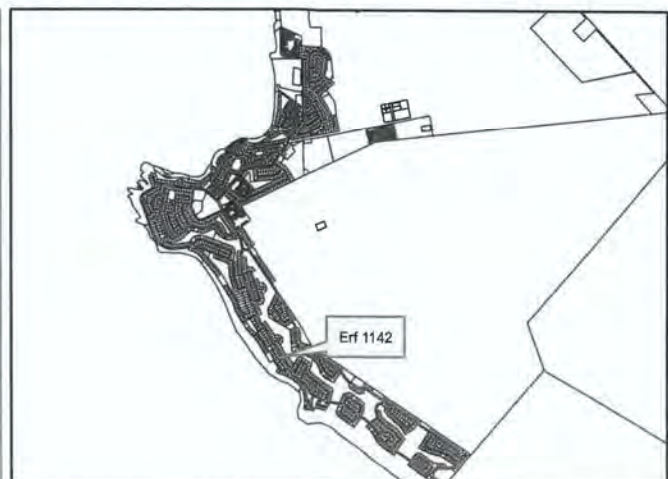


**Voorgestelde wysiging van titel voorwaardes en afwyking**

**Erf 1142, Yzerfontein**

**Publieke deelname**

**Skaal: NVT**



## ANNEXURE D

**From:** Christa van Ellewee <[cvanellewee@gmail.com](mailto:cvanellewee@gmail.com)>

**Sent:** Tuesday, November 14, 2023 9:52 AM

**To:** Danille Warries <[PlanIntern1@swartland.org.za](mailto:PlanIntern1@swartland.org.za)>

**Subject:** Re: Voorgestelde wysiging van beperkende titelvoorwaarde en afwyking van ontwikkelingsparameters op erf 1142, yzerfontein

Me Warries,

Die eienaar was mos bewus van die grote van die erf en die regulasies toe hy gekoop het, waarom nie voorsiening maak vir sy motor huis op sy huis plan nie?

Ons woon nie in n woonbuurt waar ons in mekaar se "gesigte"hoef te wees nie.

Ons keur nie die oorskreiding goed nie.

Die uwe

André van Ellewee



# ANNEXURE E

**From:** Adolph Zietsman <[adziets@gmail.com](mailto:adziets@gmail.com)>  
**Sent:** Tuesday, 21 November 2023 12:03  
**To:** Registrasie Email <[RegistrasieEmail@swartland.org.za](mailto:RegistrasieEmail@swartland.org.za)>  
**Subject:** Boubeperkings Erf 1142 Yzerfontein

Goeiemore, Die aansoek van Mnre Rumbolt in die verband vewys.

Die aansoek word teengestaan en wel om die volgende:

1. Esteties. Dit maak nie saak hoe die garage geswaai gaan word nie, 'n groot gedeelte gaan vir alle praktiese redes teenaan die sypaadjie staan. Onooglik.
2. Indien so 'n verslapping toegestaan word, kan meer sodanige aansoeke verwag word wat strukture tot teenaan die sypaadjies gaan oprig. Yzerfontein mag dan in 'n De Noon "Noord" ontwikkel en lyk.

Baie dankie  
Adolf Zietsman Erf 1107

## ANNEXURE F

**From:** katheen korb <[kathleenjkorb13@gmail.com](mailto:kathleenjkorb13@gmail.com)>

**Sent:** Wednesday, December 20, 2023 2:51 PM

**To:** Danille Warries <[PlanIntern1@swartland.org.za](mailto:PlanIntern1@swartland.org.za)>

**Subject:** Re: Voorgestelde wysiging van beperkende titelvoorwaarde en afwyking van ontwikkelingsparameters op erf 1142, yzerfontein

I have been away on vacation. What puzzles me is that the owner of 1142 completed all alterations reflected on his application some time ago.

When he was asked how he could build over building lines without our prior approval he said he already had approval from the council. This application is this after the fact. The fire pit was only recently been built and is encroaching on the building line at the rear as well, how is it possible to build prior to having an approved plan or relevant change to his title deed.

I am sure the swimming pool is also over the building line and drainage punched through his neighbour's wall into the neighboring property.

He also has parking which extends onto the council building line. Perhaps a detailed inspection should be done.

What is good for one is good for all. I therefore object to these changes.

Regards

K Korb

# ANNEXURE G

## CK RUMBOLL & VENNOTE / PARTNERS



PROFESIONELE LANDMETERS - ENGINEERING AND MINE SURVEYORS - STADS- EN STREEKSBEPLANNERS - SECTIONAL TITLE CONSULTANTS

Date: 29 January 2024

REF: 13360/YZER/JL/EM

### Per Hand

**Attention:** Mr A. Zaayman

The Municipal Manager

Swartland Municipality

Private Bag X52

**MALMESBURY**

7300

15 | 8 | 4 - 14 | Erf - 1142

SSSB				
e Del				

### **RESPONSE TO OBJECTIONS:** **AMENDMENT OF TITLE DEED RESTRICTIONS** **AND PERMANENT DEPARTURE,** **ERF 1142,** **YZERFONTEIN**

Herewith formal response to the objections received from the owner(s) and/or interested parties, in relation to the application for the amendment of title deed restrictions and permanent departure of Erf 1142, Yzerfontein the objections were received on January 2<sup>nd</sup> 2024.

The Following owner(s) and/or interested parties are listed as:

- Andre & Christa van Ellewee, Unknown Erf
- Adolph Zietsman, Erf 1107, Yzerfontein
- Katheen Korb, Unknown Erf

The following are attached with the response to the objections:

- **Annexure A** - List of Objections
- **Annexure B** - Signed Consent Letters of Surrounding Properties
- **Annexure C** - Signed Building Plan



VENNOTE / PARTNERS:

IHJ Rumboll PrL (SA), BSc (Surv), M.I.P.L.S., AP SteylPrL (SA).

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MALMESBURY (T) 022 482 1845 (F) 022 487 1661

-39-

VREDENBURG (T) 022 719 1014

Table 1: Objections and Response to Erf 1142

Objector	Objection	CK Rumboll & Partners Response
Andre & Christa van Ellewee - Erf unknown	<p>The owner was surely aware of the size of the plot and the regulations when he bought it, why wasn't provision made for his motor home on his house plan?</p> <p>We don't live in a residential neighbourhood where we have to be in each other's "faces."</p> <p>We don't approve of the encroachment.</p>	<p>In 2020, the current owners of Erf 1142 acquired the property, which consisted of a constructed dwelling that initially met their requirements. At that time, there were no plans for expansion. However, subsequent needs arose, specifically, the necessity to enlarge the existing single garage to accommodate the storage of watercraft, such as a boat and jet ski, still ensuring sufficient secured and shaded parking for their vehicles. This need was underscored by the lack of storage facilities for such purposes in Yzerfontein.</p> <p>Unfortunately, given the location of the existing dwelling on the property, the sole viable option for incorporating the envisioned garage was to extend the dwelling towards the street boundary. Care was given to the construction of this extension, ensuring that it does not compromise visual aesthetics or safety measures for the surrounding property owners. Importantly, the extension was accurately designed to be constructed in the same architectural style as the existing dwelling.</p> <p>Moreover, the width of the street reserve of Dassen Island Drive, resulting in <math>\pm 4.1\text{m}</math> measured from the western kerb of the street up to the street boundary of Erf 1142, facilitated the extension without adversely affecting sight distances or jeopardizing the safety of vehicles or persons passing by (refer to <b>Figure 1</b>). Therefore, ample space remains in front of the garage extension, preserving unimpeded sightlines and maintaining the safety of the area.</p>

## VENNOTE / PARTNERS:


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<p>Additionally, the privacy considerations of neighbouring properties have been conscientiously addressed. The extended structure strategically lacks any windows or doors on its northern side, where the property shares a boundary with another residential-zoned property.</p> <p><b>Figure 1: Street Reserve Distance of 4.1m</b></p> 		<p><b>Adolph - Zietsman - Erf 1107, Yzerfontein</b></p>
<p>1) As previously mentioned, careful attention has been dedicated to the aesthetic harmony of the new building extension, ensuring that it aligns seamlessly with the architectural style of the existing dwelling on Erf 1142. The double garage has been thoughtfully designed to integrate seamlessly with the dwelling, employing materials that match, identical painting, and a consistent design language (refer to <b>Figure 2</b>). This careful consideration contributes to a cohesive and visually pleasing appearance for the entire property.</p> <p>The configuration of Dassen Island Drive's street reserve provides a relatively spacious area of approximately ±4.1m measured from the western kerb to the erf boundary of Erf 1142, creating ample space in front of the property boundary. Notably, in the absence of a sidewalk on Dassen Island Drive where the application property is situated, this space maintains a relatively wide and open streetscape.</p> <p>It is crucial to highlight that the formal structure of the building adheres to the existing architectural style, reinforcing</p>	<p><b>The application is opposed for the following reasons:</b></p> <p><b>1. Aesthetic concerns.</b> Regardless of how the garage is oriented, a large portion will, for practical reasons, be situated against the sidewalk. Unightly.</p>	

	<p>2. If such a relaxation is allowed, more similar applications can be expected, resulting in structures being erected right up against the sidewalks. Yzerfontein may then develop and look like De Noon “north.”</p>	<p>that the development is far from being deemed “unsightly”.</p>  <p><b>Figure 2: Aesthetics of the Double Garage</b></p> <p>Moreover, taking a wider look at the characteristics of Dassen Island Drive, particularly in the vicinity of Erf 1142, it is evident that two properties situated northward from Erf 1142 within Dassen Island Drive feature a dwelling with a pergola extending up to the street boundary. Consequently, the proposed development is not the only existing building/structure erected up until the street boundary of Dassen Island Drive.</p> <p>2) Each application must be evaluated based on individual merits and circumstances. The locality of the existing dwelling limits the development potential of the property, specifically the construction of a garage. Due to no storage facilities for watercraft in Yzerfontein, the need arose for secure, safe, and shaded parking therefore on his property. The only locality on the property where such parking could have been accommodated was towards the street boundary, necessitating a building line departure and amendment of a restrictive title deed condition. Granting flexibility in building line departures does not inherently imply a detrimental impact on decision-making for future applications. Instead, it signifies responsiveness to evolving requirements and unique circumstances.</p>
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<p>Katheen Korb</p> <p>-</p> <p>Erf Unknown</p>	<p><b>When he was asked how he could build over building lines without our prior approval he said he already had approval from the council. This application is this after the fact. The fire pit was only recently been built prior to having an approved plan or relevant change to his title deed.</b></p> <p><b>I am sure the swimming pool is also over the building line and drainage punched through his neighbour's wall into the neighbouring property.</b></p> <p><b>He also has parking which extends onto the council building line. Perhaps a detailed inspection should be done.</b></p>	<p>Although the owners of Erf 1142 commenced with building work prior to obtaining the necessary approvals thereof, they intend to by means of this application authorise all unauthorised building work following the necessary procedures including public participation. The objective of this application is to amend the title deed restrictions and to relax the prescribed Swartland Municipal Land Use Planning By-law (PG 8226) building line parameters, allowing the owners to make lawful additions to the property in accordance with land use management regulations.</p> <p>Section 12.2.1 (a)(x) of the Swartland Municipal By-Law on Land Use Planning allows swimming pools to be 1m from a boundary. The swimming pool on Erf 1142 exists and located 1.5m from the northern side boundary. The swimming pool is, thus, consistent with the development parameters as set forth by the Swartland Municipal By-law on Land Use Planning (PG 8226) and does not form part of this application. It is also noteworthy that the building plan received consent from the abutting neighbouring property owners (refer to <b><u>Annexure B and C</u></b>), Erf 1141, Erf 1144 and Erf 1104. Therefore, indicating clear consent from the neighbouring that would be determined as directly impacted by the proposed departures of Erf 1142.</p> <p>The fire pit was recently included to the amended building plan and is constructed in a way that does not significantly impact the neighbours as the wall acts as a screening for enhanced privacy (See <b>Figure 3</b>). It is also important to take note that the fire pit utilizes gas, securely stored, and complies with all safety regulations (See <b>Figure 4</b>). Therefore, the inclusion of the fire pit can be viewed favourably, given its low impact on the surrounding environment.</p> <div data-bbox="987 874 1809 1251" data-label="Image"> </div> <p><b>Figure 3: Fire pit</b></p>
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**VENNOTE / PARTNERS:**

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What is good for one is good for all. I therefore object to these changes.



**Figure 4: Gas Storage**

Lastly, sufficient parking bays in accordance with Section 13 of the Swartland Municipal By-Law on Land Use Planning (PG 8226) are provided on-site within the garages on the driveway, completely within its erf boundaries.

**VENNOTE / PARTNERS:**

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### **Conclusion**

The major concerns of the objectors are based on the potential negative effect the new garage extension will have relating to the street building line encroachment. It is believed that the objectors' concerns are adequately addressed. Minimal objections were raised towards the side building line and rear building line encroachments.

Further, it is imperative to note that the property owners are still well within the prescribed coverage, floor factor, height and parking restrictions, underscoring a commitment to responsible and compliant development. The application will not limit or endanger any person or neighbouring property. No visual impacts will be impeded by the relaxation, nor will any safety measures be compromised.

It is respectfully requested that Swartland Municipality consider the application favourably and finalize the decision for the application in respect of Erf 1142, Yzerfontein.

Regards



Jolandie Linnemann/Etienne Malan  
for **CK RUMBOLL & PARTNERS**

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VENNOTE / PARTNERS:

IHJ Rumboll PrL (SA), BSc (Surv), M.I.P.L.S., AP SteylPrL (SA),

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29 February 2024

15/3/10-14/Erf 1919

WYK: 5

**ITEM 6.2 OF THE AGENDA FOR THE MUNICIPAL PLANNING TRIBUNAL THAT WILL TAKE PLACE ON WEDNESDAY, 13 MARCH 2024**

LAND USE PLANNING REPORT PROPOSED CONSENT USE ON ERF 1919, YZERFONTEIN							
Reference number	15/3/10-14/Erf 1919		Submission date	17 November 2023		Date finalised	1 March 2024
<b>PART A: APPLICATION DESCRIPTION</b>							
<p>Application for a consent use on Erf 1919, Yzerfontein, is made in terms of Section 25(2)(o) of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 25 March 2020), in order to establish a double dwelling on the property.</p> <p>The applicant is C.K. Rumboll and Partners and the property owners are M. Wright and A.S. Wright.</p>							
<b>PART B: PROPERTY DETAILS</b>							
Property description (in accordance with Title Deed)	ERF 1919 YZERFONTEIN, MUNICIPALITY OF SWARTLAND, DIVISION OF MALMESBURY, WESTERN CAPE PROVINCE						
Physical address	35 Fynbos Crescent (locality plan attached as Annexure A).			Town	Yzerfontein		
Current zoning	Residential Zone 1	Extent (m <sup>2</sup> /ha)	884m <sup>2</sup>	Are there existing buildings on the property?		Y	N
Applicable zoning scheme	Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 25 March 2020)						
Current land use	Vacant property			Title Deed number & date	T44736/2008		
Any restrictive title conditions applicable	Y	N	If Yes, list condition number(s)				
Any third party conditions applicable?	Y	N	If Yes, specify				
Any unauthorised land use/building work	Y	N	If Yes, explain				
<b>PART C: LIST OF APPLICATIONS (TICK APPLICABLE)</b>							
Rezoning		Permanent departure		Temporary departure		Subdivision	
Extension of the validity period of an approval		Approval of an overlay zone		Consolidation		Removal, suspension or amendment of restrictive conditions	
Permissions in terms of the zoning scheme		Amendment, deletion or imposition of conditions in respect of existing approval		Amendment or cancellation of an approved subdivision plan		Permission in terms of a condition of approval	

Determination of zoning		Closure of public place		Consent use	✓	Occasional use	
Disestablish a home owner's association		Rectify failure by home owner's association to meet its obligations		Permission for the reconstruction of an existing building that constitutes a non-conforming use			

#### PART D: BACKGROUND

Erf 1919 is located in Fynbos Crescent, in the southern point of Yzerfontein. The area is characterised by residential properties and protected open spaces. The application property and a number of the surrounding properties are vacant, but development of the area continues steadily. The Swartland Municipal Spatial Development Framework (SDF, 2023) identifies the area as Area B, with residential and ancillary uses.

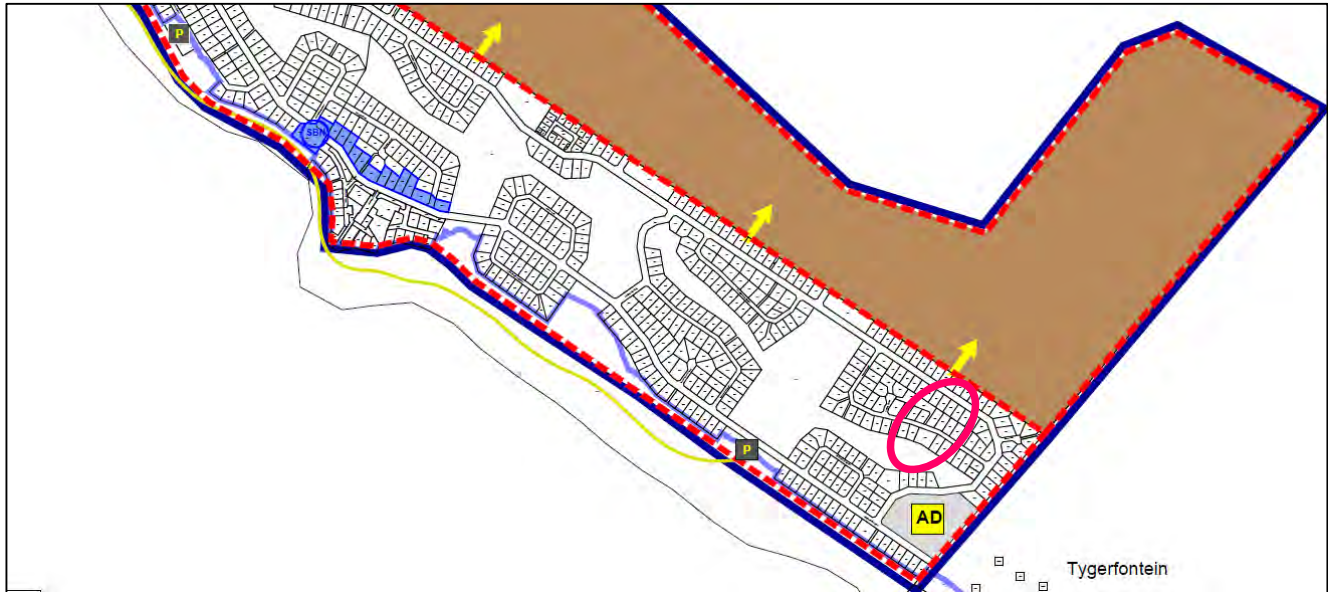


Figure 1: Locality Plan

Erf 1919 is zoned Residential Zone 1 and is currently vacant. The property slopes downward very slightly, away from Fynbos Crescent, in a north-eastern direction, at a ratio of roughly 1:22, ideal for construction with limited earthworks.

The owners intend to develop the property with a two storey double dwelling. The proposed building plans are illustrated in Figures 2a – e.

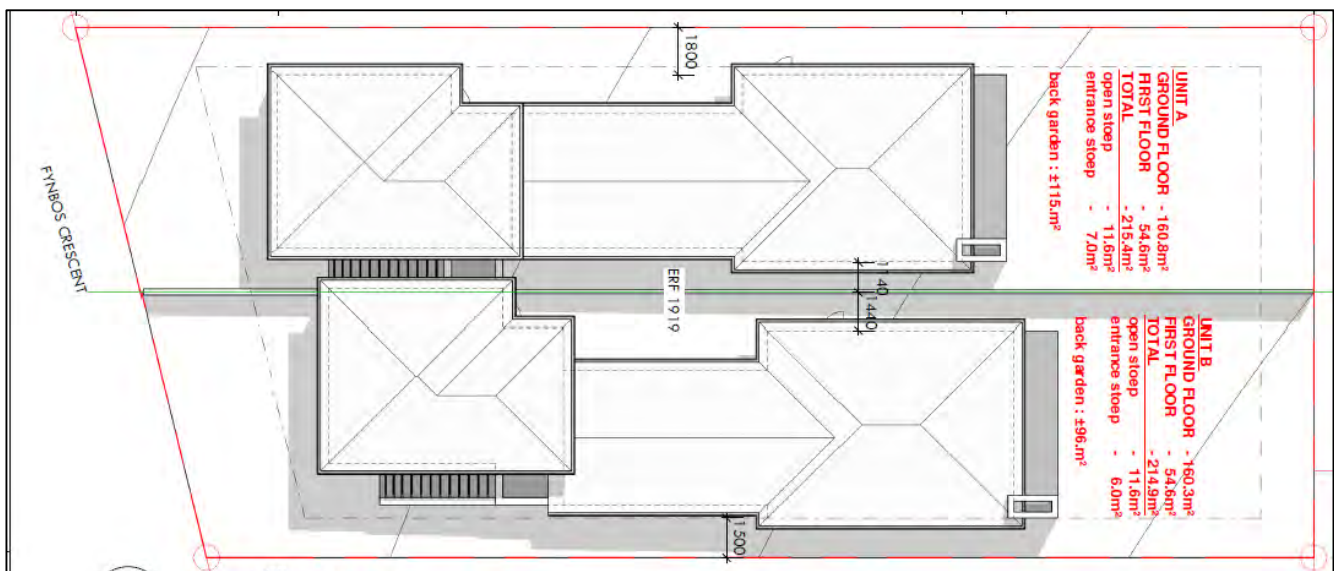


Figure 2a: Site Plan



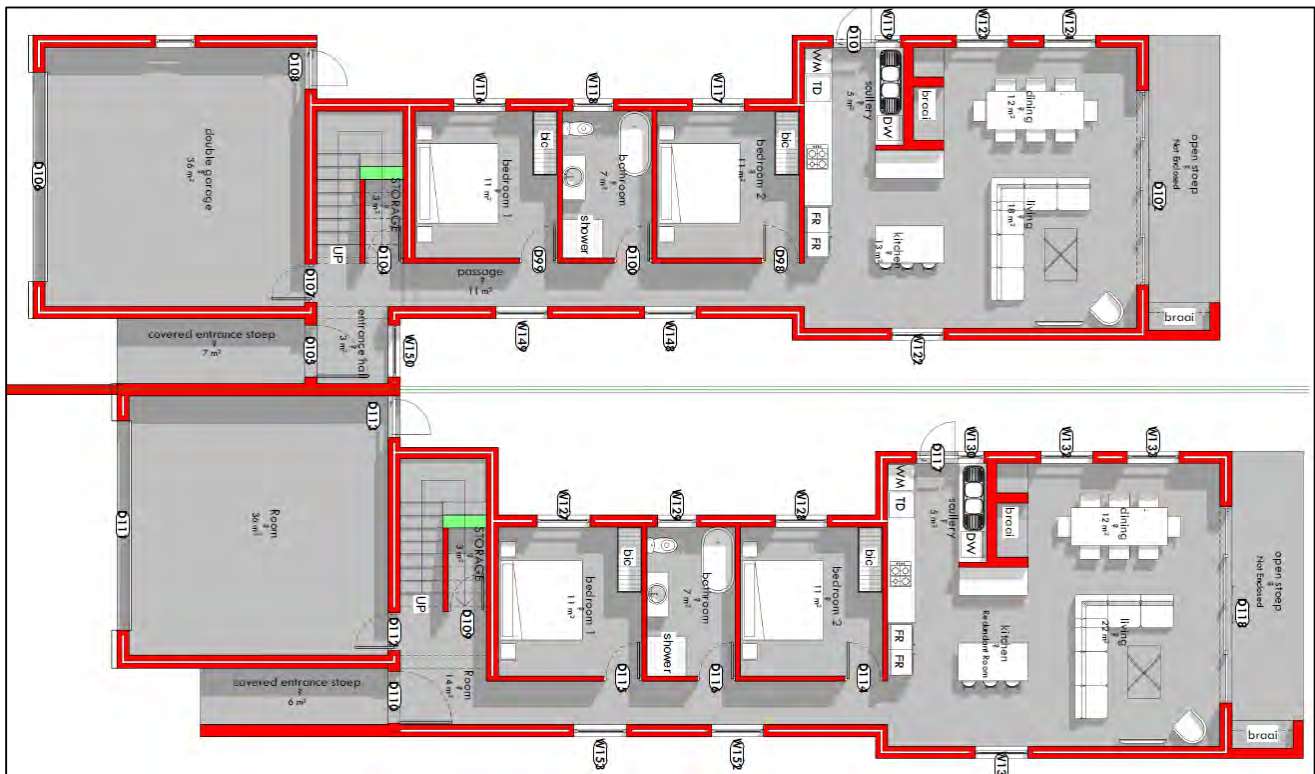


Figure 2b: Ground floor

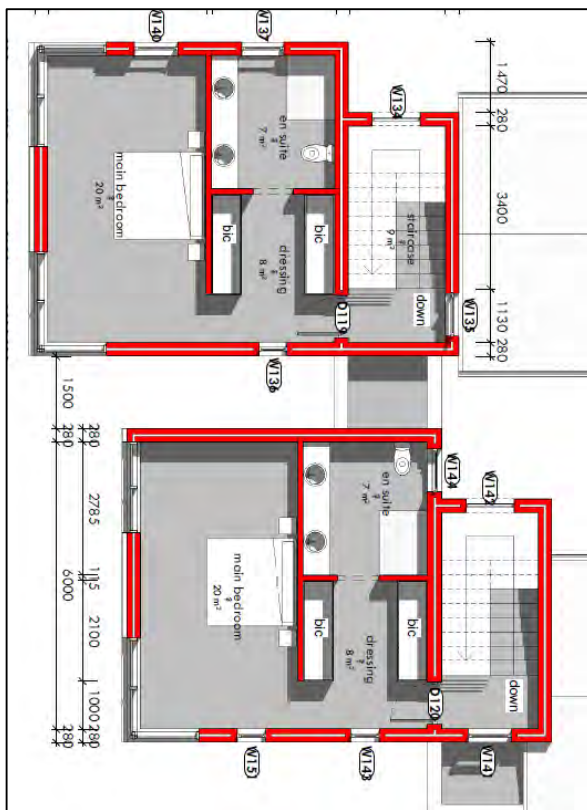


Figure 2c: First floor



Figure 2d: Perspective from the street



Figure 2e: Rear perspective

The design adheres to the development parameters of Residential Zone 1, but not entirely to the By-Law definition of a double dwelling, reading: “a building erected for residential purposes that is designed as a single architectural entity containing two dwelling units on one land unit.” The design submitted indicates two, clearly separate units and not one architectural entity, as per the definition. Any amendments deemed necessary may be included in the conditions of approval and monitored at building plan stage.

#### PART E: PRE-APPLICATION CONSULTATION (ATTACH MINUTES)

Has pre-application consultation been undertaken?	Y	N	If yes, provide a brief summary of the outcomes below.
---	---	---	--

#### PART F: SUMMARY OF APPLICANT’S MOTIVATION

1. The applicant states the following as motivation for the development proposal:
  - a) Additional housing opportunities are provided through the proposed development;
  - b) The proposed development combats urban sprawl;
  - c) The proposed development supports the notion of infill development;
  - d) The proposed development is aligned with the proposals of the MSDF;
  - e) The proposed development supports the principles of LUPA and SPLUMA;



- f) The existing services will be used to its full potential;
- g) The applicant states that the development property is situated within an established residential neighbourhood and that a double dwelling would be consistent with the existing character of the area.
- h) Access to the property will be obtained directly from Fynbos Crescent.
- i) The By-Law requires two parking bays for a single dwelling and one additional bay for the second unit. Each unit will be provided with a double garage, thus providing a total of four on-site parking bays;
- j) The total height of the dwelling does not exceed 8m, well below the permissible maximum height of 10,5m and no new construction or additions are proposed.

## 2. Legislation and policy frameworks

### 2.1 Matters referred to in Section 42 of SPLUMA and Principles referred to in Chapter VI of LUPA

- a) Spatial Justice: The proposed development complies with spatial development proposal and guidelines, justifying the right of the owner to develop the land for the proposed residential use. The property concerned will be used to its full potential and will make a positive contribution to housing provision in Yzerfontein.
- b) Spatial Sustainability: The proposal promotes spatial compactness and resource frugal development, whilst protecting the environment. It proposes the sustainable use of resources and limits urban sprawl. The double dwelling will not affect any sensitive vegetation, conservation areas or heritage resources.
- c) Efficiency: The consent use will promote residential and economic opportunities. Creating additional dwelling units promotes a combination of residential densities within the existing area. it further supports the development of more compact towns.
- d) Spatial Resilience: The development will be resilient in terms of the multiple uses that may be allowed on the property with the relevant authorisation. The propose development does not limit any future benefits of the properties or the surrounding area. the proposed development will have no negative impact on previously disadvantaged communities.
- e) Good administration: Swartland Municipality will manage the administrative process and public participation processes consistent with the requirements of the By-Law.

### 2.2 Swartland Municipal Spatial Development Framework (SDF, 2023)

The application property is located in Area B of the SDF, that identifies the area for low, medium and high-density residential opportunities. The proposed land use is thus consistent with the proposals of the SDF.

### 2.3 Schedule 2 of the By-Law (Zoning Scheme Provisions)

A double dwelling is a consent use that may be considered within the zoning category of Residential Zone 1. The proposal is consistent with the development parameters of the By-Law.

## **PART G: SUMMARY OF PUBLIC PARTICIPATION**

Was public participation undertaken in accordance with section 55- 59 of the Swartland Municipal: By-law on Municipal Land Use Planning?	<b>Y</b>	<b>N</b>
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A total of 12 registered notices were issued to affected parties on 4 December 2023. The same notices were also sent via e-mail, where possible. Please refer to Annexure D for public participation map.

Due to the commenting period taking place over the festive season, the closing date was extended to 26 January 2024. A total of three objections were received and forwarded to the applicant on 2 February 2024.

Total valid comments	<b>3</b>	Total comments and petitions refused	<b>0</b>
Valid petition(s)	<b>Y</b> <b>N</b>	If yes, number of signatures	
Community organisation(s) response	<b>Y</b> <b>N</b>	Ward response councillor	<b>Y</b> <b>N</b> The application was forwarded to councillor Rangasamy, but no comments were forthcoming.
Total letters of support	<b>0</b>		

PART H: COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS													
Department	Date		Recommend/ Not recommend										
Department: Development Services	30 Nov 2023	Building plans be submitted to the Senior Manager: Development Management, for consideration and approval;	✓										
Department: Civil Engineering Services	20 Dec 2023	<p><b>1. Water</b></p> <p>Die erf voorsien word van 'n enkele wateraansluiting;</p> <p><b>2. Riolering</b></p> <p>Die erf voorsien word van 'n rioolsuigtenk met 'n minimum kapasiteit an 8000 liter, wat vir die diensvragmotor vanuit die straat toeganklik is;</p> <p><b>3. Ontwikkelingsbydraes</b></p> <p>Dat vaste ontwikkelingsbydraes as volg gemaak word:</p> <table><tr><td>Bulk Water Supply</td><td>R10 862,90</td></tr><tr><td>Bulk Water Reticulation</td><td>R986,70</td></tr><tr><td>Sewer</td><td>R4 946,15</td></tr><tr><td>WWTW</td><td>R15 003,00</td></tr><tr><td>Roads</td><td>R10 275,25</td></tr></table>	Bulk Water Supply	R10 862,90	Bulk Water Reticulation	R986,70	Sewer	R4 946,15	WWTW	R15 003,00	Roads	R10 275,25	✓
Bulk Water Supply	R10 862,90												
Bulk Water Reticulation	R986,70												
Sewer	R4 946,15												
WWTW	R15 003,00												
Roads	R10 275,25												

PART I: COMMENTS RECEIVED DURING PUBLIC PARTICIPATION	SUMMARY OF APPLICANT'S REPLY TO COMMENTS	MUNICIPAL ASSESSMENT OF COMMENTS
<p><b>L. Swanson (Erf 1905) Annexure D</b></p> <p><b>E. Kruger (1918, 1917 and 1916) Annexure E</b></p> <p><b>D. Kruger (Erf 2373) Annexure F</b></p>	<p>1. The consent use will increase the coverage of the stand and will change the density of the neighbourhood. There are areas with higher density zonings and smaller erven that can be utilised for this use.</p> <p>1. A second dwelling unit is considered a primary right under Residential Zone 1 if it is smaller than 60m<sup>2</sup>. For a dwelling above 60m<sup>2</sup> or a double dwelling house, consent needs to be obtained from the local authority. Considering the fact that a second dwelling (&lt;60m<sup>2</sup>) is considered a primary right, the increase in density of properties is encouraged.</p> <p>Yzerfontein contains several double dwelling units, as it has become a trend in the area. The Swartland SDF (2023) guides future development within the municipal area through strategic policy guidelines. The SDF identifies the area in which Erf 1919 is located as Zone B. Zone B, Pearl Bay area, consists mainly of low density residential uses along the coastal stretch to the south, with a proposed node along the beach front as well as areas for medium and high density housing opportunities.</p> <p>The following are extracts from the SDF for the area:</p> <ul style="list-style-type: none"> <li>• Increase density by 2027 from the current 6.8 units per hectare to 7.8 units per hectare in Yzerfontein.</li> <li>• Densify in accordance with zone proposals through: Subdivision (sectional title); Infill development, and renewal and restructuring.</li> <li>• Spatially allow for adequate areas for provision of different residential types.</li> <li>• Sectional title subdivision of existing houses on single residential erven.</li> </ul> <p>The proposed consent use is therefore consistent with the proposals and guidelines of the SDF to increase density on Residential Zone 1 properties.</p>	<p>1. An increase in density and optimal use of properties are principles supported and promoted by all spheres of government, due to its positive impact on the environment, services, limiting urban sprawl, etc.</p> <p>Having said that, while the density on Erf 1919 will obviously be increased, the density ratio is by no means close to medium (&gt;25 u/ha) or even high density (&gt;50 u/ha).</p> <p>The proposed double dwelling is thus considered appropriate in the context and desirable in terms of the spatial planning for Yzerfontein.</p>

	<p>2. The consent use will put additional pressure on existing infrastructure. The area already has low water pressure and limited available electricity.</p> <p>3. The owners are concerned that the smaller units on the single stand will reduce the surrounding property value.</p> <p>4. The additional units will increase traffic in the area and will lead to visitors parking within the street, which will cause chaos.</p>	<p>2. Noted. The Swartland Engineering department has to confirm if sufficient services are available to accommodate the proposal.</p> <p>3. The proposed development will give the impression of one large dwelling house. The owner is within his rights to apply for a consent use on his property, as it is a component of low density erven (Residential Zone 1). According to the Spatial Planning Land Use Management Act (SPLUMA) prescribes the principles for guiding land use planning. Among other principles, Section 59 (1), which divulges principles of spatial justice, specifies in subsection (f) that: "A competent authority contemplated in this Act or other relevant authority considering an application before it, may not be impeded or restricted in the exercise of its discretion solely on the ground that the value of land or property will be affected by the outcome."</p> <p>The application cannot be negatively influenced as it may affect the value of the surrounding properties.</p> <p>4. Residential development has the lowest traffic impact of any development. Since only one additional dwelling unit will be accommodated, it will have limited, if any impact on traffic.</p> <p>The building plans also propose a total of 2 parking bays per unit within the double garages and parking</p>	<p>2. The availability of services in Yzerfontein is constantly and pre-emptively being addressed by the Swartland Department: Civil Engineering Services.</p> <p>The increased load on the services networks is mitigated by collecting development charges from the owner, in order to fund future upgrades, as and when it becomes necessary. The amounts are calculated in terms of the Swartland Municipality Development Charge Policy (2017).</p> <p>3. The statement is conjecture, not supported by proof. The Swartland General Valuation process is currently underway and the results to date indicate an increase in property values for the entire Yzerfontein.</p> <p>Additionally, an application may not be evaluated solely on the basis of the impact on property value.</p> <p>4. The traffic increase is expected to be minimal to negligible and sufficient parking is provided on the property. The applicant is supported.</p>
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	<p>5. This is a quiet area and the increase of dwellings on single stands will cause the area to not remain quiet anymore.</p>	<p>space on the driveways. The proposal also complies with the parking requirements for a double dwelling house under Residential Zone 1. No on-street parking will therefore be necessary.</p> <p>5. Since only one additional dwelling unit is proposed, it should have no impact on the peace and quiet of the area. Considering point 1 above, the SDF state that Zone B consists mainly of low density residential uses, but also encourages the increase of density in the area. The low density area will therefore still be maintained even with the additional unit.</p>	<p>5. The development of Erf 1919 may well have been that of a large single dwelling for a large family, which would have had the same effect of the two proposed dwellings. Unfortunately development cannot be halted to suit the needs of individuals and every property owner retains the right to develop their property optimally within the confines of the law.</p>
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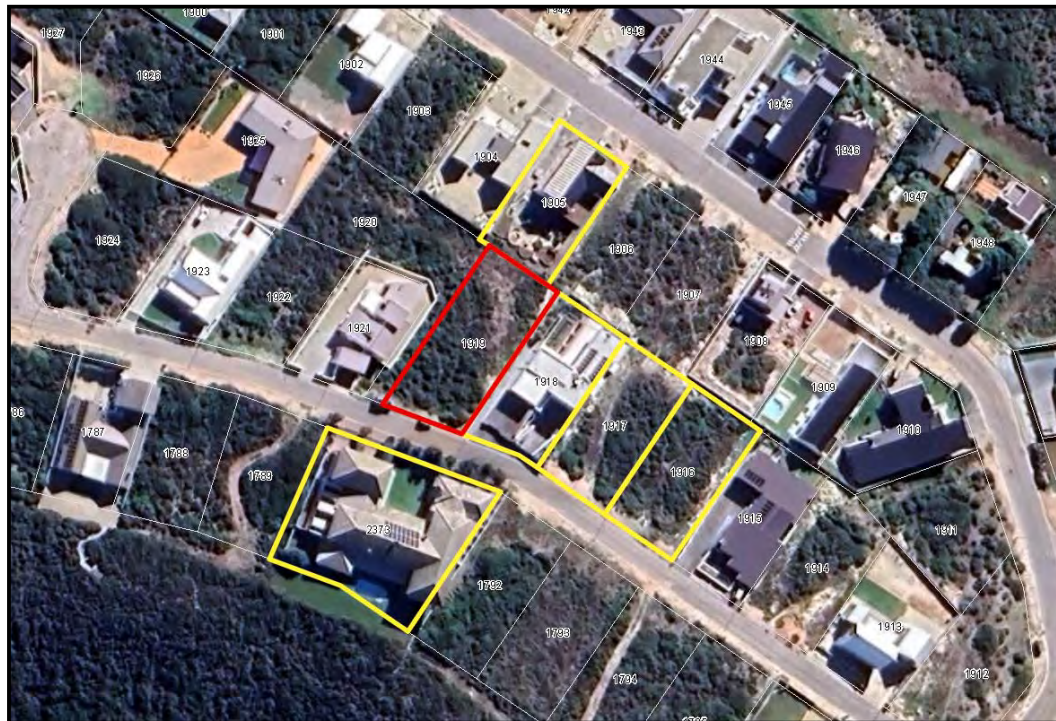


Figure 4: Location of applicant vs objectors

## PART J: MUNICIPAL PLANNING EVALUATION

### 1. Type of application and procedures followed in processing the application

Application for a consent use on Erf 1919, Yzerfontein, is made in terms of Section 25(2)(o) of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 25 March 2020), in order to establish a double dwelling on the property.

A total of 12 registered notices were issued to affected parties on 4 December 2023. The same notices were also sent via e-mail, where possible. Please refer to Annexure D for public participation map.

Due to the commenting period taking place over the festive season, the closing date was extended to 26 January 2024. A total of three objections were received and forwarded to the applicant on 2 February 2024. The response to the objections were received back on 5 February 2024.

The application is now ready for evaluation by the Planning Tribunal.

The applicant is C.K. Rumboll and Partners and the property owners are M. Wright and A.S. Wright.

### 2. Legislation and policy frameworks

#### 2.1 Matters referred to in Section 42 of SPLUMA and Principles referred to in Chapter VI of LUPA

- a) Spatial Justice: The proposed double dwelling supports higher density and enhances the availability of alternative residential opportunities, making the area more accessible to a wider range of society and promoting security of tenure;
- b) Spatial Sustainability: The proposed development will promote the intensive utilisation of engineering services, without additional impact on the natural environment. Urban sprawl is contained through densification;
- c) Efficiency: The development proposal will promote the optimal utilisation of services on the property and enhance the tax base of the Municipality;
- d) Good Administration: The application and public participation was administrated by Swartland Municipality and public and departmental comments obtained;
- e) Spatial Resilience: The proposed double dwelling creates diversification of assets which may contribute to withstanding possible future environmental and financial shocks. The double dwelling can also be remodelled into a large single dwelling, should the need arise.

It is subsequently clear that the development proposal adheres to the spatial planning principles and is thus consistent with the abovementioned legislative measures.

#### 2.2. Provincial Spatial Development Framework (PSDF, 2014)

The PSDF describes tourism as one of the underpinning factors within the urban space economy. The development proposal can contribute to providing in the need for tourist accommodation in Yzerfontein, while minimally impacting on the character of its environment.

The development proposal may therefore be deemed consistent with the PSDF.

#### 2.3 West Coast District SDF (WCDSDF, 2014)

Yzerfontein is one of the major tourist attractions throughout the West Coast District. One of the strategies contained in the WCDSDF is to promote and develop tourism infrastructure within the District. The development proposal can provide in the need for accommodation by various tourists who visit the district, and thus contribute to the income derived from tourism.

The WCDSDF also supports the principle of densification. A second dwelling/double dwelling promotes the principle, optimising the use of resources and limiting urban sprawl. The proposal is thus consistent with the PSDF.

## **2.4 Swartland Spatial Development Framework (SDF, 2023)**

The application property is situated within a residential node, delineated as Area B, as per the spatial proposals for Yzerfontein contained in the SDF. The area is characterised by residential developments of various densities, with ancillary uses and a small business node further to the west. Double dwellings are consistent with the character of the zone, as such a development will not alter the residential zoning of the property.

## **2.5 Schedule 2 of the By-Law: Zoning Scheme Provisions**

The application property is zoned Residential Zone 1 and a double dwelling may be accommodated within the zoning category as a consent use. The proposal is consistent with the development parameters determined by the By-Law.

The south-western façade of the double dwelling is well defined as two separate dwelling units. Amendments to the design is recommended to promote consistency with the definition of a double dwelling, as stipulated by the By-Law.

All remaining zoning parameters are adhered to.

## **3. Desirability of the proposed utilisation**

There are no physical restrictions on the property that will have a negative impact on the application. The property slopes only slightly downward toward the north-east and the erf is ideal for the proposed development. The overall height of the double dwelling is lower than the maximum allowable 8m wall plate height, which is considered a sensitive approach towards the views from surrounding properties.

The street façade of the double dwelling is not considered to be compatible with that of one large, single dwelling unit, but slight amendments may be made to the design to ensure better consistency with the By-Law definition. The intent of the definition is for the double dwelling to have the same impact as that of a large dwelling house and as such to blend in seamlessly with the existing residential character of the area. The recommended amendments will be affected through imposing conditions of approval and affecting the conditions once building plans are submitted.

The proposed application is consistent and not in contradiction with the Spatial Development Frameworks adopted on Provincial, District and Municipal levels.

The proposal is spatially resilient, as the property can revert to a dwelling for a single family, should it become necessary in future.

The character of the surrounding area is that of a low density residential neighbourhood. The nature of a double dwelling is to provide additional residential opportunities. The proposed land use is thus considered as a desirable activity within a residential neighbourhood, as it will accommodate residential activities compatible with that of the existing area.

The proposed activity will have a positive economic impact as it will generate income for both the land owner, and the municipality, through rates and taxes. Should the owner/developer make the property or a portion thereof available as tourist accommodation, the development may promote tourism and the spending of visitors to the area.

The proposed development is not perceived to have a detrimental impact on the health and safety of surrounding land owners, nor will it negatively impact on environmental assets.

Access to the property is obtained directly from Fynbos Crescent with a double garage available to each of the units, as well as two parking bays in front of each garage, ensuring the minimum impact on the traffic movement in the area.

The development proposal may be considered desirable.

## **4. Impact on municipal engineering services**

The proposed application is intended to optimise the use of existing infrastructure and municipal engineering services. Development charges will be levied in accordance with the Swartland Capital Contribution Policy for Yzerfontein (2017).

## **PART K: ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS**

The financial or other value of the rights

N/A.



The personal benefits which will accrue to the holder of rights and/or to the person seeking the removal

N/A



The social benefit of the restrictive condition remaining in place, and/or being removed/amended
N/A
Will the removal, suspension or amendment completely remove all rights enjoyed by the beneficiary or only some rights
N/A

<b>PART L: RECOMMENDATION WITH CONDITIONS</b>
<p>The application for consent use on Erf 1919, Yzerfontein, in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), be approved, subject to the conditions that:</p> <p><b>1. TOWN PLANNING AND BUILDING CONTROL</b></p> <ul style="list-style-type: none"> <li>a) The consent use authorises a double dwelling, as presented in the application;</li> <li>b) The street façade on the south-western border be re-designed to be more consistent with the façade of a single dwelling;</li> <li>c) The parking bays in front of the garages, including the sidewalk, be finished in a permanent, dust free material such as concrete, tar or paving or any other such material previously approved by the Director: Civil Engineering Services;</li> <li>d) Building plans be submitted to the Senior Manager: Development Management for consideration and approval;</li> </ul> <p><b>2. WATER</b></p> <ul style="list-style-type: none"> <li>a) The property be provided with a single water connection and that no additional connections be provided;</li> </ul> <p><b>3. SEWERAGE</b></p> <ul style="list-style-type: none"> <li>a) The double dwelling be provided with a conservancy tank with the minimum capacity of 8 000 litre, to be installed on the property at a point that is accessible to the municipal vacuum truck, to the satisfaction of the Director: Civil Engineering Services;</li> </ul> <p><b>4. DEVELOPMENT CHARGES</b></p> <ul style="list-style-type: none"> <li>a) The owner/developer is responsible for the development charge of R10 862,90 towards the supply of regional bulk water at building plan stage. The amount is due to the Swartland Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA: 9/249-176-9210);</li> <li>b) The owner/developer is responsible for the development charge of R986,70 towards bulk water reticulation at building plan stage. The amount is due to the Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA 9/249-174-9210);</li> <li>c) The owner/developer is responsible for the development charge of R4 946,15 towards sewerage at building plan stage. The amount is due to the Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA 9/240-184-9210);</li> <li>d) The owner/developer is responsible for the development charge of R15 003,00 towards waste water treatment building plan stage. The amount is payable to the Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA 9/240-183-9210);</li> <li>e) The owner/developer is responsible for the development charge of R10 275,25 towards roads at building plan stage. The amount is due to the Municipality, valid for the financial year of 2023/2024 and may be revised thereafter. (mSCOA 9/247-188-9210);</li> <li>f) The owner/developer is responsible for the development charge of R11 044,14 towards electricity at building plan stage. The amount is payable to the Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA 9/253-164-9210);</li> <li>g) The Council resolution of May 2023 makes provision for a 60% discount on development charges to Swartland Municipality. The discount is valid for the financial year 2023/2024 and can be revised thereafter;</li> </ul> <p><b>5. GENERAL</b></p> <ul style="list-style-type: none"> <li>a) The approval does not exempt the owner/developer from compliance with all legislation applicable to the approved land use;</li> <li>b) Should it in future be determined necessary to extend or upgrade any engineering service in order to provide the development with services, it will be for the account of the owner/developer;</li> <li>c) The approval is valid for a period of 5 years, in terms of section 76(2) of the By-Law, from the date of decision. Should an appeal be lodged, the 5 year validity period starts from the date of outcome of the decision against the appeal. All conditions of approval be implemented before the new land use comes into operation/or the occupancy certificate be issued and failing to do so will cause the approval to lapse. Should all conditions of approval be met within the 5 year period, the land use becomes permanent and the approval period will no longer be applicable.</li> </ul>

<p>d) The applicant/objector be informed of the right to appeal against the decision of the Municipal Planning Tribunal in terms of section 89 of the By-Law. Appeals be directed, in writing, to the Municipal Manager, Swartland Municipality, Private Bag X52, Malmesbury, 7299 or by e-mail to <a href="mailto:swartlandmun@swartland.org.za">swartlandmun@swartland.org.za</a>, within 21 days of notification of decision. An appeal is to comply with section 90 of the By-Law and is to be accompanied by a fee of R5 000,00 in order to be valid. Appeals that are received late and/or do not comply with the aforementioned requirements, will be considered invalid and will not be processed.</p>				
<b>PART M: REASONS FOR RECOMMENDATION</b>				
<p>1) The proposed double dwelling is a residential use and is therefore consistent with the proposals of the SDF.  2) A double dwelling is accommodated as a consent use under Residential Zone 1 of the By-Law.  3) The development proposal supports the optimal utilisation of the property.  4) The double dwelling may support the tourism industry in Yzerfontein, as well as the local economy.  5) The double dwelling will provide in a need for a larger variety of housing opportunities to the wider population.  6) The development proposal will not negatively impact on the character of the surrounding neighbourhood or the larger Yzerfontein.  7) The concerns of the neighbouring and affected property owners are sufficiently addressed in the conditions of approval.  8) The design may be amended at building plan stage to improve the consistence with the definition of a double dwelling and to better integrate with the character of the surrounding area..</p>				
<b>PART N: ANNEXURES</b>				
Annexure A	Locality Plan			
Annexure B	Building Plans			
Annexure C	Public Participation Map			
Annexure D	Objections from L. Swanson			
Annexure E	Objections from E. Kruger			
Annexure F	Objections from D. Kruger			
Annexure G	Response to Comments			
<b>PART O: APPLICANT DETAILS</b>				
First name(s)	C.K. Rumboll and Partners			
Registered owner(s)	M. Wright and A.S. Wright.	Is the applicant authorised to submit this application:	Y	N
<b>PART P: SIGNATURES</b>				
<b>Author details:</b> Annelie de Jager Town Planner SACPLAN: A/2203/2015				Date: 1 March 2024
<b>Recommendation:</b> Alwyn Zaayman Senior Manager: Built Environment SACPLAN: B/8001/2001		Recommended	<input checked="" type="checkbox"/>	Not recommended
				Date: 1 March 2024

## Locality of Erf 1919, Yzerfontein

Legend



Map Center: Lon: 18°9'  
Lat: 33°21'

Scale: 1:30,885

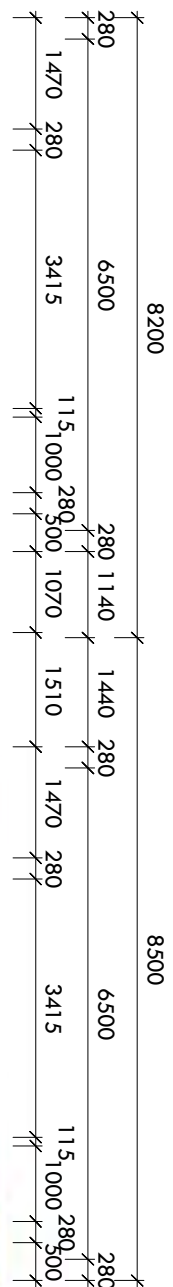
Date created: 2023/14/1



Western  
Government  
FOR YOU

ANNEXURE A



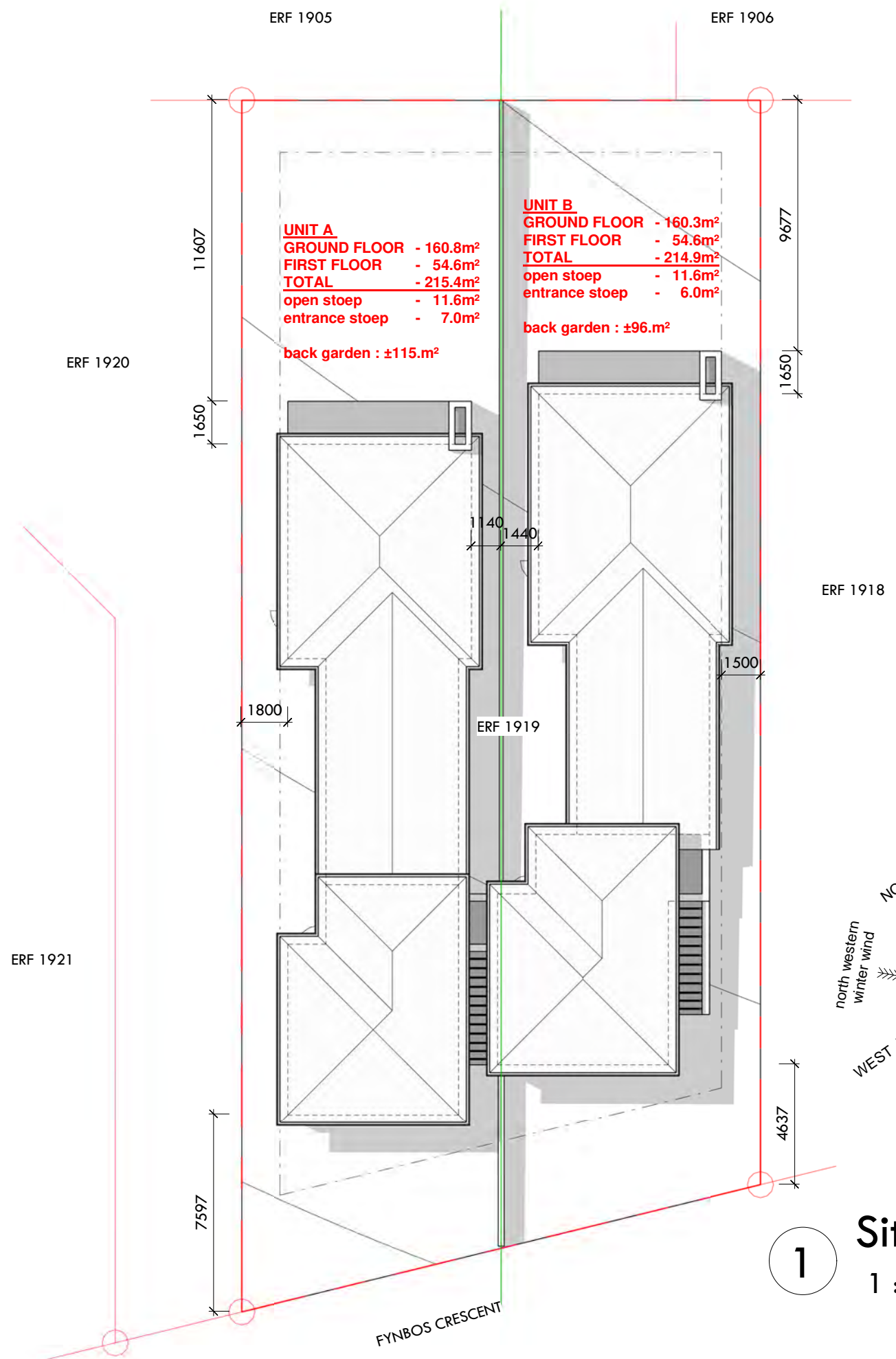


1

001 : 1



2 02 First Floor  
1 : 100



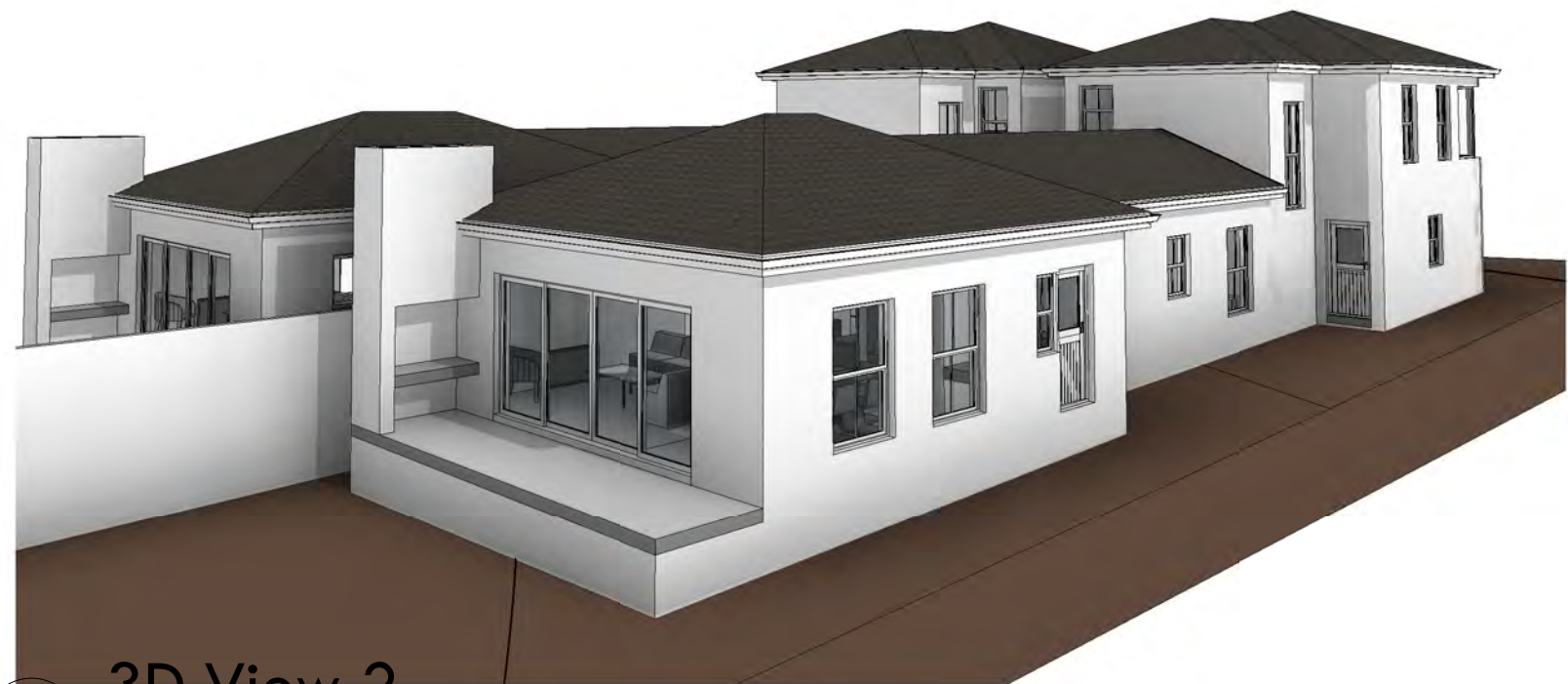
1 Site Plan  
1 : 200



1 3D View 1



2 3D View 2



1

## North East Elevation

1 : 100

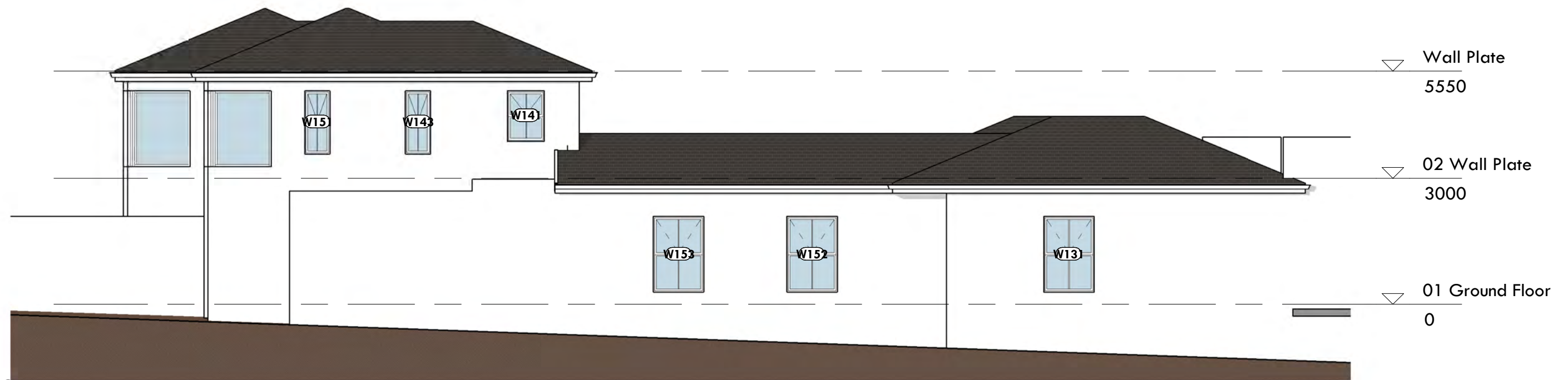


2

## North West Elevation

1 : 100

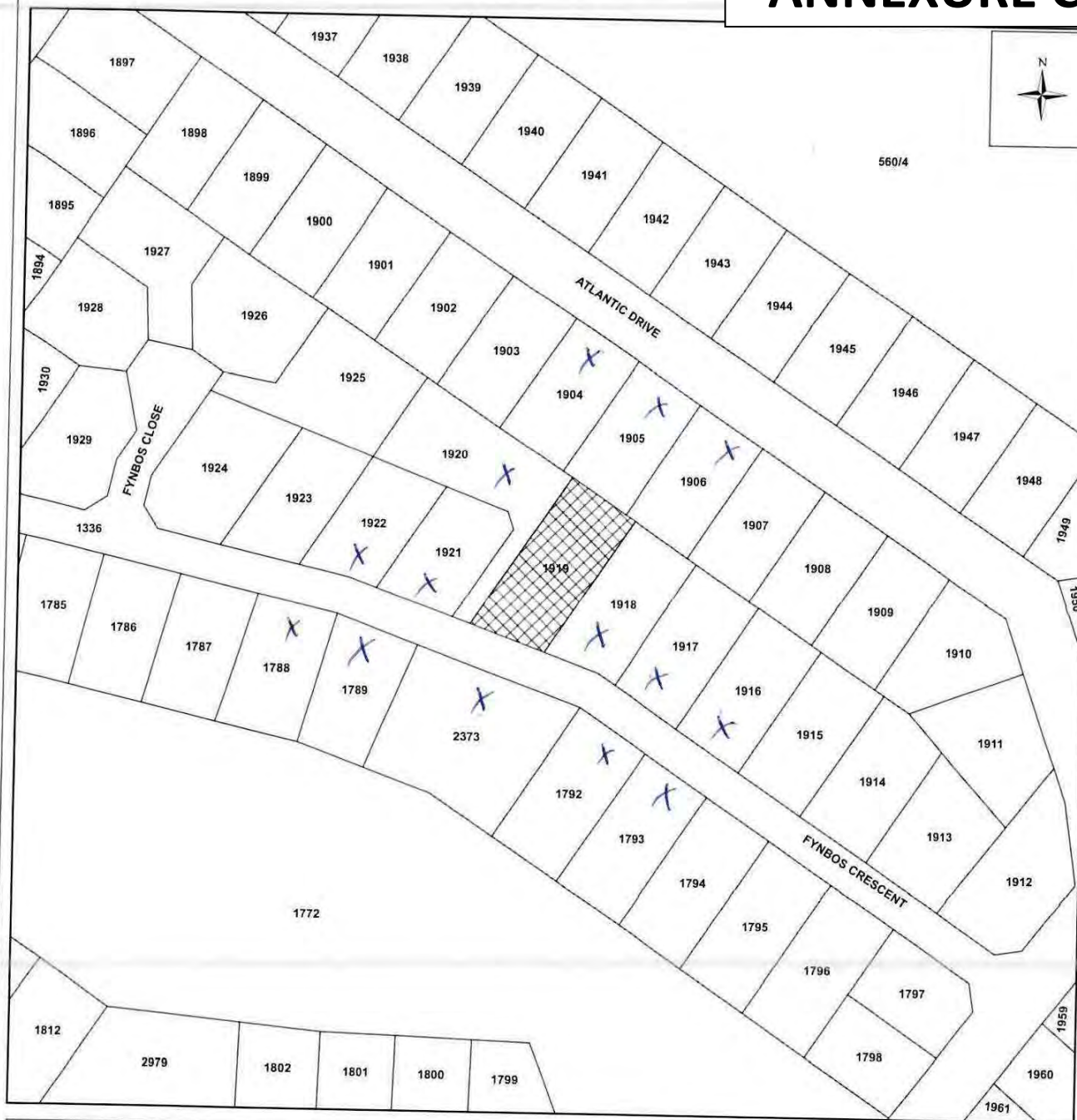




1 South East Elevation  
1 : 100



2 South West Elevation  
1 : 100



## ANNEXURE D

**From:** Eric Swanson <142atlantic@gmail.com>  
**Sent:** Monday, 22 January 2024 07:53  
**To:** Registrasie Email <RegistrasieEmail@swartland.org.za>  
**Subject:** Proposed Consent use on Erf 1919, Yzerfontein

The Municipal Manager

Dear Sir

Your letter dated 1 December 2023 with regards to the above has reference.

I wish to object against the proposed consent use for the following reasons.

I am the next door neighbour and owner of Erf 1905.

I believe by granting the consent use you are increasing the existing coverage of the stand and you are in fact changing the density of our neighbourhood. All our stands were zoned for single use residential homes and it should remain as such.

By increasing the density you are putting more strain on our already strained infrastructure. We are suffering from low water pressure and limited availability of electricity in our town, There are areas which are zoned with higher density erven and also smaller erven which can be utilised by developers for that use. That I assume was planned accordingly by the Council for that reason.

You will also increase the traffic volumes and already trained parking in front of the houses which just lead to chaos when visitors and owners start parking in our streets and on the verges.

We have a quiet neighbourhood which obviously will not remain quiet if you continue to allow more houses to be built on single stands.

We are also concerned about the value of my property if you allow smaller units to be built on single stands. It will affect our values negatively.

I do hope you will take my concerns seriously and not allow the consent use as proposed.

Yours faithfully

Linda Swanson  
142 Atlantic Drive  
Yzerfontein  
Email please to [linda.swanson@creativeintimatewear.co.za](mailto:linda.swanson@creativeintimatewear.co.za)

## ANNEXURE E

**From:** Douw Kruger <[egchap@global.co.za](mailto:egchap@global.co.za)>  
**Sent:** Tuesday, 26 December 2023 14:50  
**To:** Registrasie Email <[RegistrasieEmail@swartland.org.za](mailto:RegistrasieEmail@swartland.org.za)>  
**Cc:** [info@fynbosbeachhouse.co.za](mailto:info@fynbosbeachhouse.co.za)  
**Subject:** Proposed Consent use on Erf 1919, Yzerfontein

The Municipal Manager

Dear Sir

Your letter dated 1 December 2023 with regards to the above has reference.

I wish to object against the proposed consent use for the following reasons.

I am the next door neighbour and owner of Erf 1918, 1917 and 1916.

I believe by granting the consent use you are increasing the existing coverage of the stand and you are in fact changing the density of our neighbourhood. All our stand were zoned for single use residential homes and it should remain as such.

By increasing the density you are putting more strain on our already strained infrastructure. We are suffering with low water pressure and limited availability of electricity in our town, There are areas which are zoned with higher density erven and also smaller erven which can be utilised by developers for that use. That I assume was planned accordingly by the Council for that reason.

You will also increase the traffic volumes and already trained parking in front of the houses which just lead to chaos when visitors and owners start parking in our streets and on the verges.

We have a quiet neighbourhood which obviously will not remain quiet if you continue to allow more houses to be built on single stands.

We are also concerned about the value of my property if you allow smaller units to be built on single stands. It will affect our values negatively.

I do hope you will take my concerns seriously and not allow the consent use as proposed.

Yours faithfully

Erika Kruger  
37 Fynbos Crescent  
0716038199  
Email please to [info@fynbosbeachhouse.co.za](mailto:info@fynbosbeachhouse.co.za)  
Next door neighbour to Erf 1919.

# ANNEXURE F

**From:** Douw Kruger <[egchap@global.co.za](mailto:egchap@global.co.za)>

**Sent:** Tuesday, 26 December 2023 11:48

**To:** Registrasie Email <[RegistrasieEmail@swartland.org.za](mailto:RegistrasieEmail@swartland.org.za)>

**Subject:** Voorgestelde vergunningsgebruik op erf 1919, Yzerfontein

Die Munisipale Bestuurder

Waarde Heer

U brief gedateer 1 Desember 2023 rakende bogenoemde verwys.

Graag wens ek hiermee my beswaar teen bogenoemde vergunning te lig.

Ek verteenwoordig die Olympus Trust, eienaar van Erf 2373 wat reg oorkant Erf 1919 is.

Ons is beswaard en gekant teen sodanige vergunning om die volgende redes:

- 1) Die sonering tans is vir 'n enkele residensiële eiendom op die erf. Indien 2 wooneenhede gebou word word die digtheid onmiddelik hoër.
- 2) Die atmosfeer van ons woonbuurt word onmiddelik verander van 'n lae digtheid omgewing na 'n hoë digtheid omgewing. Dit is alreeds besig om te gebeur as gevolg van vorige vergunnings wat toegestaan is. Ons het hier gekoop om die lae digtheid te ervaar en nie die hoë digtheid nie.
- 3) Darr is ander erwe in die dorp wat geskik is vir hoë digtheid ontwikkeling en hierdie soort ontwikkeling behoort daar te geskied.
- 4) Ons eiendomswaardes word negatief beïnvloed deur hierdie meervoudige ontwikkelings. Met ander woorde ons groot erwe en huise se waardes daal as gevolg hiervan en ons is nie ten gunste daarvan nie.
- 5) Die impak wat hierdie vergunnings het op ons infrastruktuur verdubbel wanneer dit toegelaat word. Ons infrastruktuur is reeds onder druk. Water verbruik en druk, voorsiening van elektrisiteit, skoonmaak dienste en riolering is deel van hierdie probleem asook die toename in voertuie en die impak op ons paaie is negatief.
- 6) Parkering voor hierdie eindomme word 'n groot probleem en kan duidelik orals in ons dorp gesien word want die inwoners het nie genoeg rumte voor die huise nie asook nie binne parkering nie.
- 7) Baie van hierdie huise word verhuur as vakansie eenhede en selfs B&B's binne ons residensiële gebiede wat die stilte en rustigheid van ons woonbuurt negatief beïnvloed.
- 8) Die toename in mense is negatief op die rustigheid van ons woonbuurt. Dit sluit in geraasvlakke.

Ons vertrou dat U ons besware in ag sal neem voordat U sodanige vergunning toestaan en sal verseker dat U na die huidige eienaars en belastingbetalers se regte sal beskerm deur dit nie toe te laat nie.

Met groot dank

Douw Kruger

Trustee van Olympus Trust

36 Fynbos Crescent

08345250259

Voorkeurwyse van kommunikasie is per epos

Aangrensende erf eienaar van Erf 1919

## CK RUMBOLL & VENNOTE / PARTNERS

PROFESIONELE LANDMETERS – ENGINEERING AND MINE SURVEYORS – STADS- EN STREEKSBEPLANNERS – SECTIONAL TITLE CONSULTANTS

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DATE: 5 February 2024

Your Ref: 15/3/10-14/Erf\_1919

### PER HAND AND EMAIL

Attention: Mr A Zaayman

The Municipal Manager  
Swartland Municipality  
Private Bag X52  
MALMESBURY  
7300

Sir

### COMMENTS ON OBJECTIONS

#### PROPOSED CONSENT USE ON ERF 1919, YZERFONTEIN

Your letter dated 2 February 2024 refers (see annexure A attached). Please find attached our comments to objections.

This office has been instructed by Mr Nigel Brocklehurst, as owner of Erf 1919 to handle all town planning actions regarding the application for consent use on Erf 1919, Yzerfontein.

During the public participation period, comments were received from the following objectors:

- Linda Swanson (Owner of Erf 1905)
- Erika Kruger (Owner of Erven 1918, 1917 and 1916)
- Douw Kruger (Owner of Erf 2373)

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VENNOTE / PARTNERS:

IHJ RumbollPrL (SA), BSc (Surv), M.I.P.L.S., AP Steyl PrL (SA), BSc (Surv), M.I.P.L.S.

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MALMESBURY (T) 022 482 1845







		<p>which Erf 1919 is located as Zone B. <i>Zone B, Pearl Bay area, consists mainly of low density residential uses along the coastal stretch to the south, with a proposed node along the beach front as well as areas for medium and high density housing opportunities.</i></p> <p><i>The following are extracts from the SDF for the area:</i></p> <ul style="list-style-type: none"> <li>• Increase density by 2027 from the current 6.8 units per hectare to 7.8 units per hectare in Yzerfontein.</li> <li>• Densify in accordance with zone proposals through: Subdivision (sectional title); Infill development, and; Renewal and restructuring.</li> <li>• Spatially allow for adequate areas for provision of different residential types.</li> <li>• Sectional title subdivision of existing houses on single residential erven.</li> </ul> <p>The proposed consent use is therefore in line with the proposals and guidelines of the SDF to increase density on Residential Zone 1 properties.</p>
	<p>2. The consent use will put additional pressure on existing infrastructure. The area already has low water pressure and limited available electricity.</p>	<p>2. Noted. The Swartland Engineering department has to confirm if sufficient services are available to accommodate the proposal.</p>

	<p>3. The owners are concerned that the smaller units on the single stand will reduce the surrounding property value.</p>	<p>2. The proposed development will give the impression of one large dwelling house. The owner is within his rights to apply for a consent use on his property, as it is a component of low density erven (Residential Zone 1). According to the Spatial Planning Land Use Management Act (SPLUMA) prescribes the principles for guiding land use planning. Among other principles, Section 59 (1), which divulges principles of spatial justice, specifies in subsection (f) that: <b><i>“A competent authority contemplated in this Act or other relevant authority considering an application before it, may not be impeded or restricted in the exercise of its discretion solely on the ground that the value of land or property will be affected by the outcome.”</i></b></p> <p>The application cannot be negatively influenced as it may affect the value of the surrounding properties.</p>
	<p>4. The additional units will increase traffic in the area and will lead to visitors parking within the street, which will cause chaos.</p>	<p>4. Residential development has the lowest traffic impact of any development. Since only one additional dwelling unit will be accommodated, it will have limited, if any impact on traffic.</p> <p>The building plans also propose a total of 2 parking bays per unit within the double garages and parking space on the driveways. The proposal also complies with the parking requirements for a double dwelling house under Residential Zone 1. No on-street parking will therefore be necessary.</p>

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MALMESBURY (T) 022 482 1845

	<p>5. This is a quiet area and the increase of dwellings on single stands will cause the area to not remain quiet anymore.</p>	<p>5. Since only one additional dwelling unit is proposed, it should have no impact on the peace and quiet of the area. Considering point 1 above, the SDF state that Zone B consists mainly of low density residential uses, but also encourages the increase of density in the area. The low density area will therefore still be maintained even with the additional unit.</p>
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Considering the above, the owners of Erf 1919 adhere to all the building parameters of Residential Zone 1 properties as well as contribute to the guidelines of the Swartland Spatial Development Framework. The application should therefore be encouraged by the municipality.

We trust you will find the above in order when considering the application

Kind regards

  
.....

NJ de Kock  
For *CK RUMBOLL AND PARTNERS*

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VENNOTE / PARTNERS:

IHJ RumbollPrL (SA), BSc (Surv), M.I.P.L.S., AP Steyl PrL (SA), BSc (Surv), M.I.P.L.S.

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**MALMESBURY** (T) 022 482 1845



# Verslag ♦ Ingxelo ♦ Report

Office of the Director: Development Services  
Department: Development Management

29 February 2024

15/3/6-12/Erf\_1809  
15/3/13-12/Erf\_1809

Ward: 3

## ITEM 6.3 OF THE AGENDA FOR THE MUNICIPAL PLANNING TRIBUNAL THAT WILL TAKE PLACE ON WEDNESDAY 13 MARCH 2024

LAND USE PLANNING REPORT PROPOSED SUBDIVISION OF ERF 1809, RIEBEEK WEST					
Reference number	15/3/6-12/Erf_1809 15/3/13-12/Erf_1809	Submission date	21 November 2023	Date finalised	29 February 2024

PART A: APPLICATION DESCRIPTION						
Application is made for the subdivision of erf 1809, Riebeeck West in terms of section 25(2)(d) of Swartland Municipality: Municipal Land Use Planning By-law (PG 8226 of 25 March 2020). It is proposed that Erf 1809 (2843m <sup>2</sup> in extent) be subdivided into a remainder (1610m <sup>2</sup> in extent) and portion A (1233m <sup>2</sup> in extent).						
The applicant is C K Rumboll & Partners, and the owner is PS & WG Moore.						
PART B: PROPERTY DETAILS						
Property description (in accordance with Title Deed)	Erf 1809, Riebeeck West situated in the Swartland Municipality; Malmesbury Division, Province Western Cape					
Physical address	2 Kerk Street. Please refer to the locality plan attached as Annexure A		Town	Riebeeck West		
Current zoning	Residential Zone 1	Extent (m <sup>2</sup> /ha)	2843m <sup>2</sup>	Are there existing buildings on the property?	Y	N
Applicable zoning scheme	Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226, dated 25 March 2020)					
Current land use	Vacant			Title Deed number & date	T46225/2023	
Any restrictive title conditions applicable	Y	N	If yes, list condition number(s)			
Any third-party conditions applicable?	Y	N	If yes, specify			
Any unauthorised land use/building work	Y	N	If yes, explain			
PART C: LIST OF APPLICATIONS (TICK APPLICABLE)						
Rezoning		Permanent departure		Temporary departure		Subdivision
Extension of the validity period of an approval		Approval of an overlay zone		Consolidation		Removal, suspension or amendment of restrictive conditions
Permissions in terms of the zoning scheme		Amendment, deletion or imposition of conditions in respect of existing approval		Amendment or cancellation of an approved subdivision plan		Permission in terms of a condition of approval

Determination of zoning		Closure of public place		Consent use		Occasional use	
Disestablish a homeowner's association		Rectify failure by homeowner's association to meet its obligations		Permission for the reconstruction of an existing building that constitutes a non-conforming use			

#### PART D: BACKGROUND

Erf 1809, Riebeek West is zoned Residential zone 1 and is currently vacant.

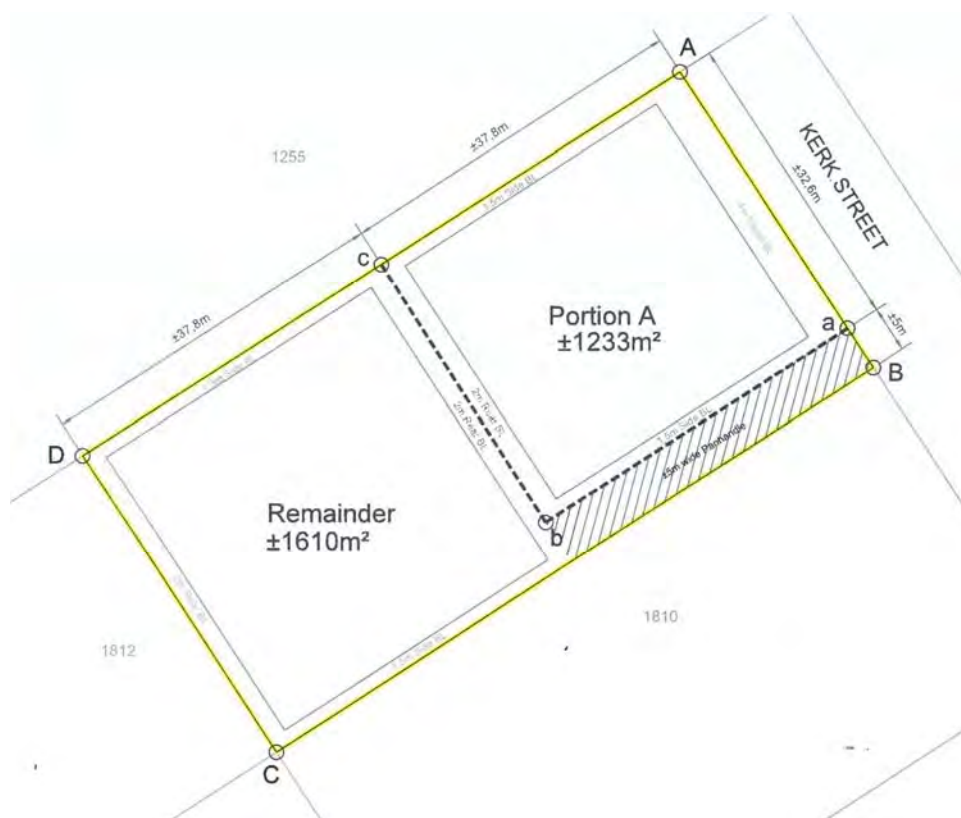
The owner intends to subdivide the erf into 2 portions.

Please refer to the proposed subdivision plan attached as Annexure B.

On the 30<sup>th</sup> of January the applicant submitted an application for confirmation of exemption for the registration of a right of way servitude (5m wide) that is proposed to be registered over the remainder in favour of the newly created portion A.

As the above mentioned application for exemption does not affect the neighbouring properties it was not required to follow a new public participation process. However the said application cannot be considered without the subdivision being approved and therefore we propose to deal with the two application simultaneously.

Please refer to the amended subdivisional plan below;



#### PART E: PRE-APPLICATION CONSULTATION (ATTACH MINUTES)

Has pre-application consultation been undertaken?	Y	N	If yes, provide a summary of the outcomes below.
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PART F: SUMMARY OF APPLICANT'S MOTIVATION									
<i>(Please note that this is a summary of the applicant's motivation and it, therefore, does not express the views of the author of this report)</i>									
The applicant motivates that the proposed subdivision will not affect the zoning of the property.									
The proposed subdivision to create smaller plots will not adversely affect the existing residential character, but rather strengthen it by making new residential opportunities available on existing land.									
The proposed subdivision aims to fulfil the need for smaller residential properties on existing residential zoned land.									
The application for subdivision is also a market driven decision and should be encouraged.									
The applicant motivates further that the proposed development is in line with the spatial proposals set out for Riebeeck West. With the proposed subdivision, the creation of a spatially efficient and compact urban form is promoted by applying sustainable infill development in an area consisting over potential for higher density residential development.									
The proposed subdivision complies with the minimum subdivision size.									
Taking a wider look at the Western Cape Spatial Development Framework (WCSDF), the principle of densification within the existing urban edges is of high importance. Densification does not only restrict urban sprawl, it also supports and promotes the optimal use of land, infrastructure and services within the urban context. Infill development and densification of areas to develop undeveloped land, is one of the main effective planning tools to decrease urban sprawl.									
Access to the proposed Remainder and Portion A will be from Church Street on the north-eastern side of the property. The proposed Portion A will keep its existing entry point directly from Church Street, while the proposed Remainder will gain access via a ±5m Panhandle that connects to Church Street. Sufficient space for parking will be available on each newly created portion.									
The proposed Portion A will connect to the existing service network.									
The applicant concludes that the proposed subdivision can be considered favourably based on the following:									
<ol style="list-style-type: none"> <li>1. The proposed development is in line with the spatial proposals set out for Riebeeck West in the Swartland Spatial Development Framework (2023) by promoting the creation of spatially efficient and compact urban forms by applying sustainable infill development;</li> <li>2. The proposed development supports the land use planning principles of SPLUMA and LUPA;</li> <li>3. The proposed subdivision will not adversely affect the character of the area, as numerous properties in the surrounding area are smaller than what is proposed with this development;</li> <li>4. The optimal use of services leads to cheaper infrastructure provision;</li> <li>5. The development also supports the Western Cape SDF by promoting compactness within the existing urban areas;</li> <li>6. The application complies with the minimum subdivision size.</li> </ol>									
PART G: SUMMARY OF PUBLIC PARTICIPATION									
Was public participation undertaken in accordance with section 55- 59 of the Swartland Municipal: By-law on Municipal Land Use Planning?								Y	N
With reference to Section 56(2) of the By-Law, a total of 9 notices were sent via registered post and per e-mail to the owners affected by the application.									
Total valid comments		1		Total comments and petitions refused		0			
Valid petition(s)		Y	N	If yes, number of signatures					
Community organisation(s) response		Y	N	Ward councillor response		Y	N	The application was forwarded to councillor, but no comments were forthcoming.	
Total letters of support		0							

PART H: COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS				
Name	Date received	Summary of comments	Recommendation	
			Positive	Negative
Building control	30 November 2023	No comment	X	
Protection services	29 December 2022	No comment	X	
	5 February 2023	Traffic and Law Enforcement has no objection to the proposed application. There is sufficient parking on site and will not cause traffic congestion in the street.		
Department: Civil Engineering Services	29 December 2023	<ol style="list-style-type: none"> <li>1. Water <ol style="list-style-type: none"> <li>(a) Each subdivided portion be provided with a separate water connection at building plan stage;</li> <li>(b) That a capital contribution be made to the amount of R 4502.25 with regards to the bulk distribution as well as R 5 445.25 with regards to the bulk supply of water, respectively.</li> </ol> </li> <li>2. Sewerage <ol style="list-style-type: none"> <li>(a) Each subdivided portion be provided with a separate sewer connection at clearance stage;</li> </ol> </li> <li>3. Streets and Storm water <ol style="list-style-type: none"> <li>(a) In order</li> </ol> </li> <li>4. Parks <ol style="list-style-type: none"> <li>(a) No comments</li> </ol> </li> <li>5. General <ol style="list-style-type: none"> <li>(a) Any existing services connecting the remainder and new portion, be disconnected and relocated, for each erf to have a separate connection and pipe work;</li> <li>(b) Should it be determined necessary to expand any of the engineering services to provide the subdivided portions with service connections, the cost will be for the applicant's account.</li> <li>(c) Capital contributions is payable as follows; <ol style="list-style-type: none"> <li>(i). Water R12 812,15</li> <li>(ii). Bulk Water R13 579,20</li> <li>(iii). Sewer R7 337,32</li> <li>(iv). WWTW R9 866,68</li> <li>(v). Roads R6 483,70</li> </ol> </li> </ol> </li> </ol>	X	

PART I: COMMENTS RECEIVED DURING PUBLIC PARTICIPATION	SUMMARY OF APPLICANT'S REPLY TO COMMENTS	MUNICIPAL ASSESSMENT OF COMMENTS
<p>Willem Sternberg Pretorius as the owner of neighbouring affected property, Erf 1812, Riebeeek West</p>	<p>Mr Pretorius states that they wish to object to the subdivision of Erf 1809 Riebeeek West, however feels that it is important to outline some history of the subject property.</p> <p>The objector states that the subject property forms part of a development of 11 plots that Mr. Brink did about 20 years ago. At that time, Swartland Municipality had it as a condition for the subdivision of the said plots (which were previously also village plots, but were incorporated into Groenrivier farm that;</p> <ol style="list-style-type: none"> <li>1) the Developers themselves must install the services for the 11 plots, and</li> <li>2) that there must be a Home Owners Association, which will take responsibility for the maintenance of the services. At the time, only one house was built, and the developers could not get most of the plots sold. Since there were no homeowners, the required Home Owners Association never came into existence.</li> </ol> <p>ZZ2 (Cape Almonds/Hishtill - all the same group, with different companies) bought into Groenrivier Farm when they got into financial trouble. They had no interest in the development, until more plots were sold, and some of the buyers became interested in building houses on the plots.</p> <p>The objector refers to a meeting that was held in 2016 at which all the owners were present, as well as ZZ2's appointed lawyer, Mr. Anton Maree from Stellenbosch. It is said that at that meeting it was decided that Mr. Maree would investigate the situation, make the necessary amendments to the proposed Constitution, and arrange the necessary first meeting to have trustees appointed for the Home Owners Association.</p>	<div data-bbox="863 261 1451 690" data-label="Image"> </div> <p>The municipality is aware of the history of the said properties, being subdivided and registered from an old General Plan dating back to the year 1911, see SG2840/1911 attached as annexure H. The said condition was most likely imposed by the Civil Services Department in 2005 when the properties were surveyed and re-numbered given the fact that the Municipality were not to service the properties at its expense.</p> <p>It is however noted that the title deed (See annexure E attached) refers to the owner of the property being required to be a member of the Groenrivier Country Estate owner's association and subject to its constitution. It is therefore important to note that the said Owner's Association has never been formally established and the Municipality has never approved the constitution. The requirement can therefore not restrict the subdivision of the property especially in the case where the property has its access from a municipal street as well as, is able to connect to the municipal services networks.</p>

	<p>Several owners worked together for months and contributed to update the Constitution. Unfortunately, Mr. Maree began to ignore the communications, the "first meeting" was never arranged, despite several inquiries about it, and nothing came of all the undertakings.</p> <p>The objector continues by stating that Mr. van Zyl took over from Mr. Brink as the person who signs off on Consent to Transfers, although this in the opinion of the objector, is wrong according to the original Constitution, which states that Mr. Brink will be responsible for signing these consents until trustees are elected at a first formal meeting of the Home Owners Association.</p> <p>As owners, they learned last year that Mr. Filé van Zyl applied on behalf of one of his companies, for the subdivision of one of the plots. The other members of the development were not notified, because that plot was not adjacent to one of our plots, and apparently, Swartland Municipality was not aware that there was a Homeowners Association (although the requirement for an Owners Association at the time set by the Municipality).</p> <p>When some of the owners wanted to object to the subdivision of one of the plots in 2023, they were informed that one of the plots had already been subdivided, therefore a precedent was created, and further subdivision will therefore be allowed. We only then found out that Mr. Van Zyl or on behalf of the Homeowners Association signed off on it, or did not disclose to the Municipality that there is actually a Homeowners Association, or is supposed to be established.</p> <p>The other owners of plots in this development therefore had no say as they should have had on possible subdivisions.</p>		<p>In terms of the subdivision of erf 1818 the municipality did follow a public participation process where all properties deemed affected by the application were notified and no objections were received.</p> <p>It should however be noted that each application is considered on its own merit. There are a number of considerations taken into account with the processing of an application for subdivision. For example the impact on the character of the area, the extent of properties in the vicinity as well as the availability of services in order to accommodate the proposed subdivision, all are taken into account when a decision is taken.</p>
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	<p>Grounds for objection to the subdivision:</p> <p>1) The objector states that the main reason for the objection is their concern with regard to the impact of the proposed subdivision on the existing services network. The objector refers to the services initially installed by the developers being designed only for a maximum of 11 households.</p> <p>2) The objector is concerned that the access to the plots can also become a big problem. The entrance from Kerk Street is a very small and narrow street. The owners there have foreseen that vehicles for up to 4 households will drive through there. They certainly did not provide for up to four times this amount of vehicles.</p> <p>3) The original plots that were never sold by the developers, or rather the companies that took over the original plots from the developers, belong to mega-farmers. There was already talk</p>	<p>The applicant secondly refers to an extract from the Swartland Spatial Development Framework for Riebeeck West which states that:</p> <ul style="list-style-type: none"> <li>• Allow for minimum subdivision size of single residential erven of 500m<sup>2</sup></li> <li>• Increase density by 2027 from the current 7.4 units per hectare to 8.5 units per hectare in Riebeeck Wes;</li> <li>• Provide a variety of housing topologies;</li> <li>• Support densification through subdivision, infill development, renewal and restructuring in accordance with zone proposals.</li> </ul> <p>Therefore the applicant is of opinion that the Swartland SDF supports the notion of infill development through subdivision and by adding additional residential opportunities to the area. The applicant notes that the initial proposal was only to accommodate a total of 11 residential properties, but the need and desirability of the area has changed over time and development should adapt accordingly.</p> <p>The applicant continue, stating that if one consider that only a single additional land unit is being proposed, its impact on existing services is expected to be minimal.</p> <p>Given that the road reserve for Kerk Street spans a width of 13 meters, it is well-equipped to accommodate an additional property. Currently servicing only nine properties, this portion of the street is underutilized, and the proposed additional unit is anticipated to have limited to no impact on traffic flow.</p> <p>Since only one additional residential unit of ±1233m<sup>2</sup> is proposed. The proposed subdivision will not have an adverse impact on the character of the area.</p>	<p>The Director Civil Engineering Services confirmed that the subject property has access to the existing municipal services network in the area with sufficient capacity to accommodate the proposed new unit.</p> <p>The access is deemed sufficient to accommodate the proposal and it does not directly affect the objector who gains access from Dennehof Street.</p> <p>The owners association is not functioning, does not have an approved constitution or design</p>
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	<p>of housing erected on the plots for employees.</p> <p>The developers at the time set building guidelines, with a typical Swartland style of building, and uniformity and high quality housing. If there are now, for example, houses for farm managers etc. and the properties are built to the max, it will detract tremendously from the type of environment and development that the other buyers envisioned when they bought here. These houses also border a working farm, and camps with animals.</p> <p>It was never the idea to overbuild these plots, against the farm. But with the precedent that has now been set, the danger is that this could happen.</p> <p>The objector conclude that they trust the Municipality will do the right thing, and either limit further subdivisions, or undertake in writing to maintain the existing services in the future and limit the existing home owners' future damage.</p>	<p>The applicant notes the comment made by the objector and states that Swartland Municipality Engineering department will have to provide feedback on this.</p>	<p>guideline. The properties have existing land use rights and can develop accordingly.</p> <p>As mentioned above, the availability of services to this specific property is confirmed as well as that the developer is subject to pay development charges as contribution to the impact of the proposed new unit on the municipal services network. This may not be the case for all the properties in the vicinity. Network upgrades may be required to accommodate some of the other erven, but for the subject property, it is not a concern.</p>
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## PART J: MUNICIPAL PLANNING EVALUATION

### 1. Type of application and procedures followed in processing the application

The application was submitted in terms of the By-Law on 21<sup>st</sup> of November 2023. The public participation process commenced on 1<sup>st</sup> of December 2023 and ended on 26<sup>th</sup> of January 2024 (affected parties and internal departments). One objections was received and referred to the applicant for comments on the 2<sup>nd</sup> of February 2024. The municipality received the comments on the objections on the 12<sup>th</sup> of February 2024. Please refer to the comments attached as Annexure G.

Division: Planning is now in the position to present the application to the Swartland Municipal Planning Tribunal for decision making.

### 2. Legislation and policy frameworks

#### 2.1 Matters referred to in Section 42 of SPLUMA and Principles referred to in Chapter VI of LUPA

- a) Spatial Justice: The proposed subdivision supports higher density and enhances the availability of alternative residential opportunities, making the area more accessible to a wider range of society;
- b) Spatial Sustainability: The proposed development promotes the intensive utilisation of engineering services, without additional impact on the natural environment. Urban sprawl is contained through densification;
- c) Efficiency: The development proposal promotes the optimal utilisation of services on the property and enhance the tax base of the Municipality;
- d) Good Administration: The application and public participation was administrated by Swartland Municipality and public and departmental comments obtained;
- e) Spatial Resilience: The proposed subdivision creates more affordable housing typologies in Riebeeck West.

It is subsequently clear that the development proposal adheres to the spatial planning principles and is thus consistent with the abovementioned legislative measures.

#### 2.2 Provincial Spatial Development Framework (PSDF, 2014)

The PSDF (2014) the average densities of cities and towns in the Western Cape is low by international standards, despite policies to support mixed-use and integration. There is unmistakable evidence that urban sprawl and low densities contribute to unproductive and inefficient settlements as well as increase the costs of municipal and Provincial service delivery.

The PSDF suggest that by prioritising a more compact urban form through investment and development decisions, settlements in the Western Cape can become more inclusionary, widening the range of opportunities for all.

It is further mentioned in the PSDF that the lack of integration, compaction, and densification in urban areas in the Western Cape has serious negative consequences for municipal finances, for household livelihoods, for the environment, and the economy. Therefore, the PSDF provides principles to guide municipalities towards more efficient and sustainable spatial growth patterns.

One of the policies proposed by the PSDF is the promotion of compact, mixed-use, and integrated settlements. This according to the PSDF can be achieved by doing the following:

- 1. Target existing economic nodes (e.g. CBDs (Central Business District), township centres, modal interchanges, vacant and under-utilised strategically located public land parcels, fishing harbours, public squares, and markets, etc.) as levers for the regeneration and revitalisation of settlements.
- 2. Promote functional integration and mixed-use as a key component of achieving improved levels of settlement liveability and counter apartheid spatial patterns and decentralization through densification and infill development.
- 3. Locate and package integrated land development packages, infrastructure, and services as critical inputs to business establishment and expansion in places that capture efficiencies associated with agglomeration.

4. Prioritise rural development investment based on the economic role and function of settlements in rural areas, acknowledging that agriculture, fishing, mining, and tourism remain important economic underpinnings of rural settlements.
5. Respond to the logic of formal and informal markets in such a way as to retain the flexibility required by the poor and enable settlement and land use patterns that support informal livelihood opportunities rather than undermine them.
6. Delineate Integration Zones within settlements within which there are opportunities for spatially targeting public intervention to promote more inclusive, efficient, and sustainable forms of urban development.
7. Continue to deliver public investment to meet basic needs in all settlements, with ward level priorities informed by the Department of Social Development's human development indices.
8. Municipal SDFs (Spatial Development Framework) to include growth management tools to achieve SPLUMA's spatial principles. These could include a densification strategy and targets appropriate to the settlement context; an urban edge to protect agricultural land of high potential and contain settlement footprints; and a set of development incentives to promote integration, higher densities, and appropriate development typologies.

The PSDF further states that scenic landscapes, historic settlements, and the sense of place which underpins their quality are being eroded by inappropriate developments that detracts from the unique identity of towns. These are caused by inappropriate development, a lack of adequate information and proactive management systems.

The Provincial settlement policy objectives according to the PSDF are to:

1. Protect and enhance the sense of place and settlement patterns
2. Improve accessibility at all scales
3. Promote an appropriate land use mix and density in settlements
4. Ensure effective and equitable social services and facilities
5. Support inclusive and sustainable housing

And to secure a more sustainable future for the Province the PSDF propose that settlement planning and infrastructure investment achieves:

1. Higher densities
2. A shift from a suburban to an urban development model
3. More compact settlement footprints to minimise environmental impacts, reduce the costs, time impacts of travel, and enhance provincial and municipal financial sustainability in relation to the provision and maintenance of infrastructure, facilities, and services.
4. Address apartheid spatial legacies by targeting investment in areas of high population concentration and socio-economic exclusion.

The development proposal is therefore deemed consistent with the PSDF as the proposal will achieve higher densities, will result in the optimum use of land / space within the urban edge, will not have a negative impact on the character of the area as well as not adversely affect the sense of place. This is achieved by mainly complying with the minimum property size for Residential Zone 1 properties ensuring integration within the existing urban fabric.

The proposed development is therefore deemed consistent with the spatial development principles of the PSDF, 2014.

### 2.3 West Coast District SDF (WCDSDF, 2020)

In the WCDSDF, 2020 it is stated that the functional classification for Riebeek West is Agricultural Service Centre and according to the growth potential study Riebeek West is a small service town that has a high growth potential.

In terms of the built environment policy of the WCDSDF, local municipalities should plan sustainable human settlements that comply with the objectives of integration, spatial restructuring, residential densification, and basic service provision. Priority should also be given to settlement development in towns with the highest economic growth potential and socio-economic need.

The WCDSDF rightfully looks at spatial development on a district level. However it does promote the approach that local municipalities in the WCDM should focus on spatial integration, efficiency, equal access, sustainability, and related planning principles, to inform planning decisions (as required in terms of SPLUMA and recommended in the PSDF, 2014), to improve quality of life and access to amenities and opportunities to all residents in the WCDM.

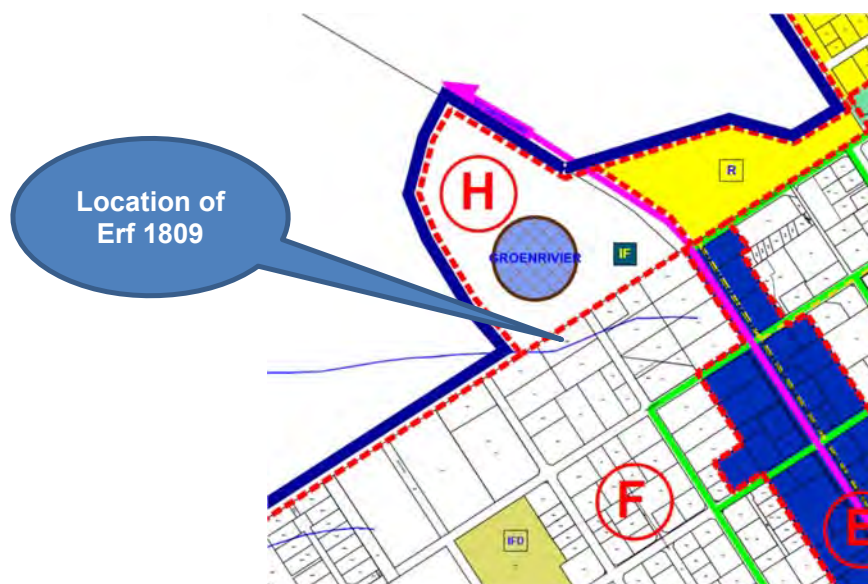
The proposal is deemed consistent with the WCDSDF, 2020.

## 2.4 Spatial Development Framework(SDF)

The subject property is situated in an area demarcated as Land use Proposal Area F, as per the spatial proposals for Riebeeck West contained in the SDF, 2023. Zone F, has a low density residential character with supporting social infrastructure and opportunities for infill development including higher density residential uses. Low and Medium density residential uses are supported in this area.

Furthermore the proposed erf sizes complies with the minimum erf size of 500m<sup>2</sup> as prescribed by the SDF. The proposed subdivision is seen as densification and the optimal use of land and infrastructure.

The proposal is therefore deemed consistent with the land use proposals of the MSDF, 2023.



## 2.5 Schedule 2 of the By-Law: Zoning Scheme Provisions

Erf 1809, Riebeeck West is zoned Residential Zone 1. The proposed subdivision will not affect the zoning of the property.

### 2. Desirability of the proposed utilisation

Erf 1809, Riebeeck West is zoned Residential zone 1 and is currently vacant. There are also no physical restrictions, which may negatively affect the application.

The character of the surrounding area includes single residential properties, a large number of which has not yet been developed. The proposed erf sizes of >1200m<sup>2</sup> are in keeping with the erf sizes of the surrounding properties and will not have a negative effect on the character of the area.

The proposed subdivision promotes densification and the optimal use of land and infrastructure, making it in compliance with provincial and municipal planning policy.

Sufficient services capacity exist in order to provide the newly created erf with services. The director Civil Engineering Services has confirmed that the subject property is able to connect to the existing municipal network in terms of water and sewer.

There are no restrictions in the title deed of erf 1809, prohibiting the proposed subdivision. It is however noted that the title deed refers to the owner of the property being required to be a member of the Groenerivier Country Estate owners association and subject to its constitution. It is however important to note that the said Owners Association was never established and its constitution has never been approved by the Municipality. The requirement can therefore not restrict the subdivision of the property especially in the case where the property has its access from a municipal street as well as is able to connect to the municipal services networks.

Surrounding property values are deemed not be affected as the proposed subdivision will not impact negatively on the character of the area.

The development potential of the newly created erven are in keeping with the character of the area.

### **3. Impact on municipal engineering services**

Sufficient services capacity exist in order to provide the newly created erf with services.

## **PART K: ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS**

The financial or other value of the rights

N/A.

The personal benefits which will accrue to the holder of rights and/or to the person seeking the removal

N/A

The social benefit of the restrictive condition remaining in place, and/or being removed/amended

N/A

Will the removal, suspension or amendment completely remove all rights enjoyed by the beneficiary or only some rights

N/A

## **PART L: RECOMMENDATION WITH CONDITIONS**

A. The application for the subdivision of erf 1809, Riebeek West be approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2021), subject to the conditions that:

### **1. TOWN PLANNING AND BUILDING CONTROL**

(a) Erf 1809, Riebeek West (2843m<sup>2</sup> in extent) be subdivided into a remainder (1610m<sup>2</sup> in extent) and portion A (±1233m<sup>2</sup> in extent) as presented in the application;

### **2. WATER**

(a) Each subdivided portion be provided with a separate water connection and meter at building plan stage;

### **3. SEWERAGE**

(a) Each subdivided portion be provided with a separate sewer connection at clearance stage;

### **4. DEVELOPMENT CHARGES**

(a) The owner/developer is responsible for a development charge of R33,948.00 towards the bulk supply of regional water, at clearance stage. The amount is payable to the Swartland Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA: 9/249-176-9210);

(b) The owner/developer is responsible for the development charge of R32,030.95 towards bulk water distribution, at clearance stage. The amount is payable to the Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA: 9/249-174-9210);

(c) The owner/developer is responsible for the development charge of R18,343.65 towards sewerage, at clearance stage. The amount is payable to the Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA: 9/240-184-9210).

(d) The owner/developer is responsible for the development charge of R24,666.35 towards waste water treatment works, at clearance stage. The amount is payable to the Municipality, valid for the financial year of 2023/2024 and may be revised thereafter. (mSCOA: 9/240-183-9210);

(e) The owner/developer is responsible for the development charge of R16,209.25 towards roads, at clearance stage. The amount is payable to the Municipality, valid for the financial year of 2023/2024 and may be revised thereafter. (mSCOA: 9/247-188-9210);

(f) The Council resolution of May 2023 makes provision for a 60% discount on development charges to Swartland Municipality. The discount is valid for the financial year 2023/2024 and can be revised thereafter;

### **5. GENERAL**

(a) The legal certificate which authorises transfer of the subdivided portion in terms of Section 38 of the By-Law not be issued unless all the relevant conditions have been complied with;



- (b) The approval does not exempt the applicant from adherence to all other legal procedures, applications and/or approvals related to the intended land use, as required by provincial, state, parastatal and other statutory bodies.
- (c) Should it be determined necessary to expand or relocate any of the engineering services to provide the development with connections, said expansion and/or relocation will be for the cost of the owner/developer;
- (d) The approval is valid for a period of 5 years, in terms of section 76(2) of the By-Law from date of decision. Should an appeal be lodged, the 5-year validity period starts from the date of outcome of the decision against the appeal.
- (e) All conditions of approval be implemented before the new land uses come into operation/or occupancy certificate be issued and failing to do so the approval will lapse. Should all conditions of approval be met within the 5-year period, the land use becomes permanent, and the approval period will no longer be applicable.
- (f) The applicant/objectors be informed of the right to appeal against the decision of the Municipal Planning Tribunal in terms of section 89 of the By-Law. Appeals be directed, in writing, to the Municipal Manager, Swartland Municipality, Private Bag X52, Malmesbury, 7299 or by e-mail to [swartlandmun@swartland.org.za](mailto:swartlandmun@swartland.org.za), within 21 days of notification of the decision. An appeal is to comply with section 90 of the By-Law and be accompanied by a fee of R5000-00 to be valid. Appeals that are received late and/or do not comply with the requirements, will be considered invalid and will not be processed:
- B. The registration of a 5m wide right-of-way servitude over the remainder, in favour of the newly created Portion A of Erf 1809, Riebeeck West, complies with the requirements of Section 34 of Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020) and is thus exempted from approval from Swartland Municipality;
- Kindly provide Swartland Municipality with copies of the approved Surveyor General diagram for record keeping purposes.

#### PART M: REASONS FOR RECOMMENDATION


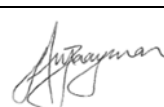
1. The proposal is consistent with the spatial proposals of the Municipal SDF, 2023.
2. The proposal is consistent with the minimum erf size determined by the SDF, namely 500m<sup>2</sup>.
3. The development promotes densification in an urban area, consistent with national, provincial and local legislation and policy.
4. The proposal complies with the principles of LUPA and SPLUMA.
5. The zoning of the properties will remain unchanged and consistent with the character of the area.
6. The rights of the surrounding landowners will not be negatively affected.
7. The subdivision promotes the optimal utilisation of land and the existing engineering services.
8. There are no physical restrictions that prevent the subdivision from being approved.
9. Property values of the surrounding properties will not be affected negatively.
10. The concern raised by the objector regarding the availability of services have been addressed with the confirmation by the Department: Civil Engineering Services that municipal engineering services networks with sufficient capacity are available in the vicinity for the property in order to accommodate the proposed subdivision. Should any services need upgrading it will be for the cost of the applicant / owner.

#### PART N: ANNEXURES

Annexure A: Locality plan  
 Annexure B: Subdivision plan  
 Annexure C: Amended Subdivision plan  
 Annexure D: Public participation plan  
 Annexure E: Copy of the Title deed  
 Annexure F: Objection from  
 Annexure G: Comments from the applicant on the objection  
 Annexure H: Copy of the General Plan dated 1911

#### PART O: APPLICANT DETAILS

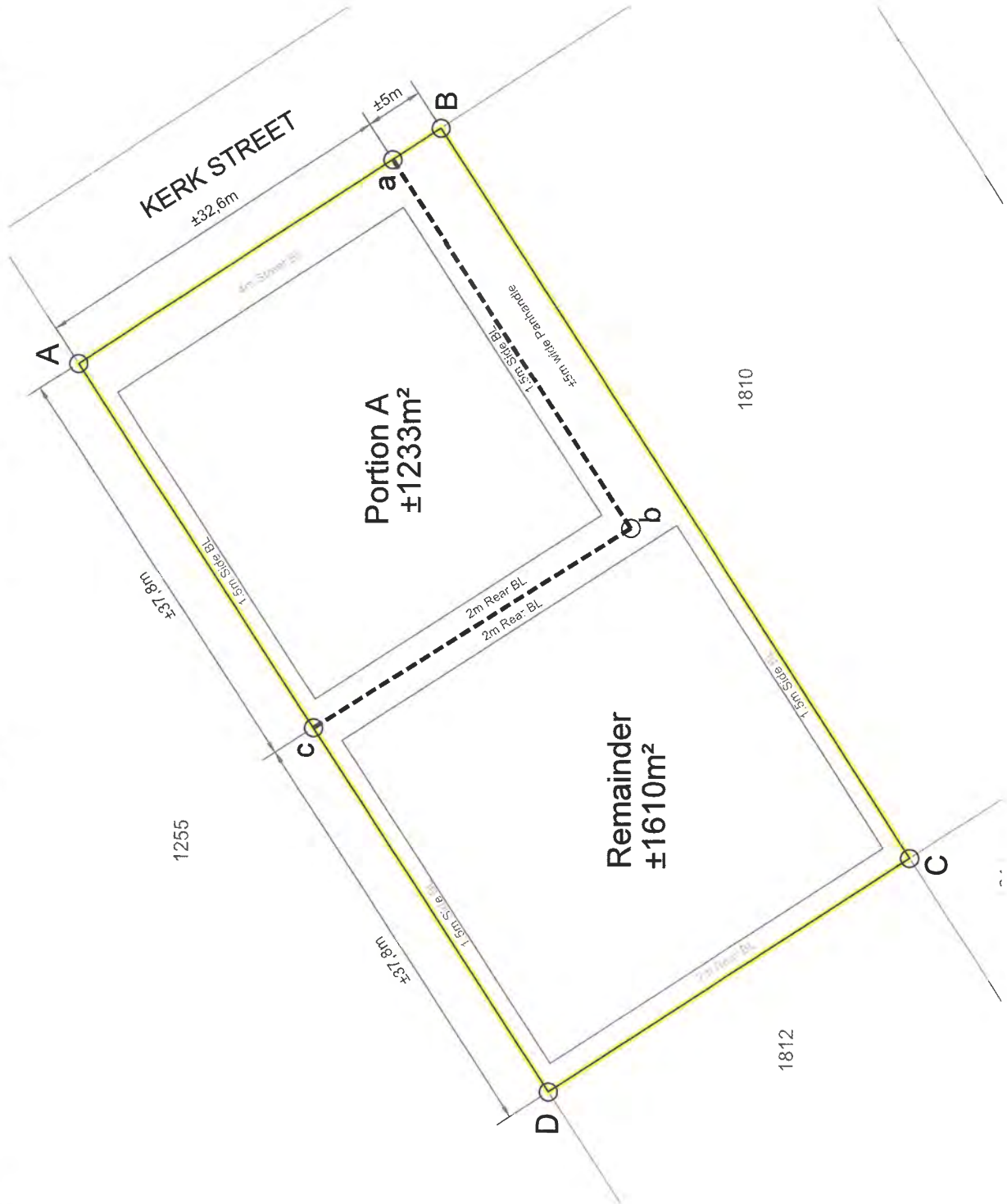
First name(s)	C.K. Rumboll and Partners			
Registered owner(s)	PS & WG Moore	Is the applicant authorised to submit this application:	Y	N

PART P: SIGNATURES			
Author details: Herman Olivier Town Planner SACPLAN: A/204/2010			Date: 29 February 2024
Recommendation: Alwyn Zaayman Senior Manager Development Management SACPLAN: B/8001/2001	Recommended	<input checked="" type="checkbox"/>	Not recommended
			Date: 1 March 2024

# LOCATION PLAN PROPOSED SUBDIVISION OF ERF 1809, RIEBEEK WEST



# PLAN OF SUBDIVISION: ERF 1809, RIEBEEK WEST



## NOTES:

Figure A B C D represents Erf 1809 Riebeeck West which measures ±2843m<sup>2</sup>. Erf 1809 is to be subdivided into:

- Remainder (±1610m<sup>2</sup>) represented by Figure a B C D c b,
- Portion A (±1233m<sup>2</sup>) represented by Figure A a b c

**Subdivision Line** - - - -

**Zoning:** Residential Zone 1

Drawing by:

N.J. de Kock

## ANNEXURE B

ALL AREAS AND DISTANCES ARE SUBJECTED TO SURVEY

C.K. RUMBOLD & VENNOTE  
TOWN PLANNERS  
PROFESSIONAL SURVEYORS  
16 RAINIER STREET, MALM  
Tel: 022 - 4871845  
Fax: 022 - 4871661  
Email: krap@rumbold.co.za

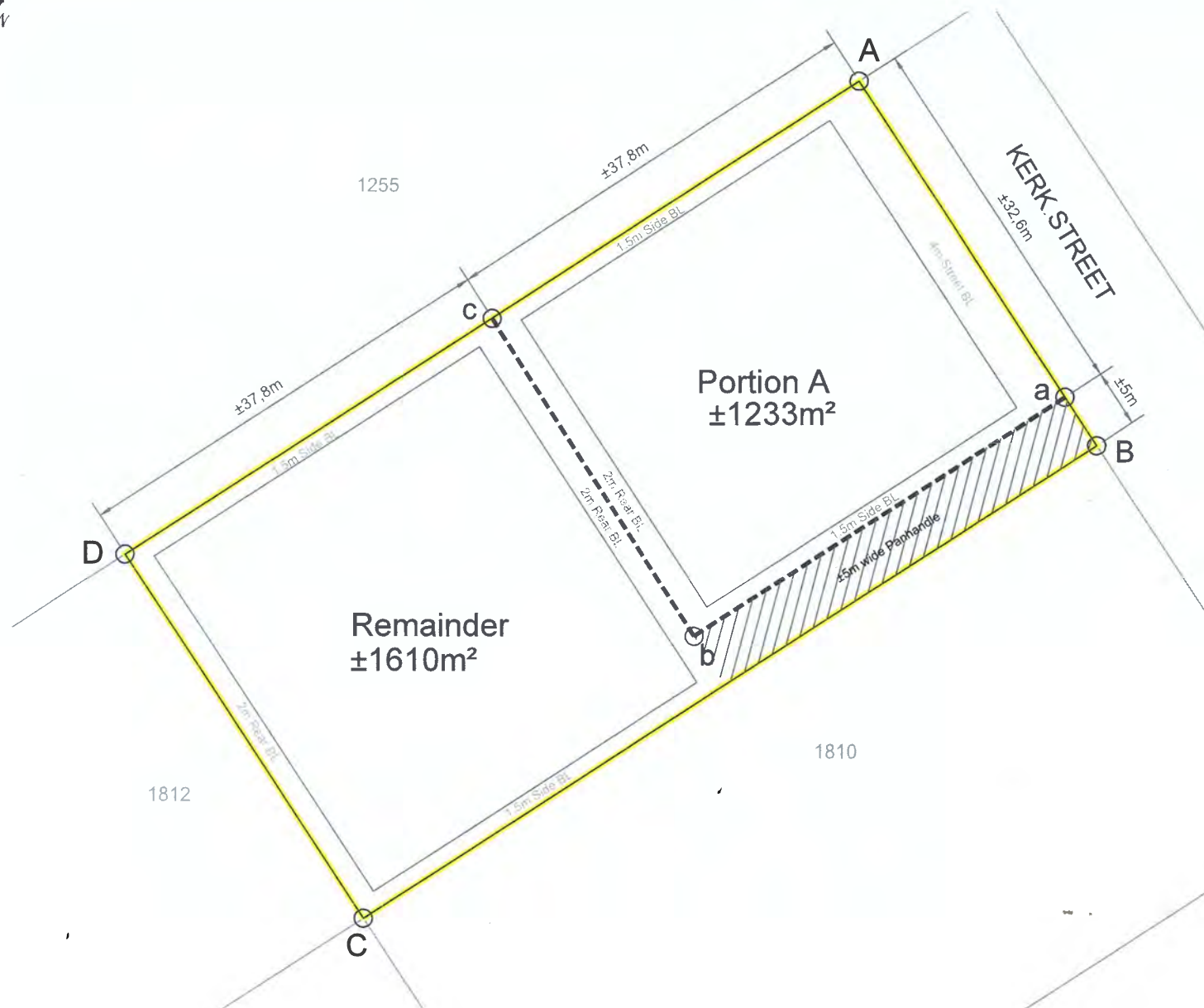
DATE:  
Nov 2023

AUTHORITY:  
SWARTLAND MUNICI

REF:  
RW/1341/NUK

SCALE: NTS

# PLAN OF SUBDIVISION: ERF 1809, RIEBEEK WEST



NOTES:

Figure A B C D represents Erf 1809 Riebeeck West which measures  $\pm 2843\text{m}^2$ . Erf 1809 is to be subdivided into:

- a) Remainder ( $\pm 1610\text{m}^2$ ) represented by Figure **a B C D c b**,
- b) Portion A ( $\pm 1233\text{m}^2$ ) represented by Figure **A a b c**

Subdivision Line

**Zoning:** Residential Zone 1

±5m wide right of way servitude  
in favour of portion A

Drawing by:

N.J. de Kock

ALL AREAS AND DISTANCES ARE SUBJECTED TO SURVEYING



C.K. RUMBOLL & VENNOTE  
TOWN PLANNERS  
PROFESSIONAL SURVEYORS  
16 RAINIER STREET, MALMESBURY  
Tel: 022 - 4821845  
Fax: 022 - 4871661  
Email: [leap@rumboll.co.za](mailto:leap@rumboll.co.za)

DATE:  
Nov 2023

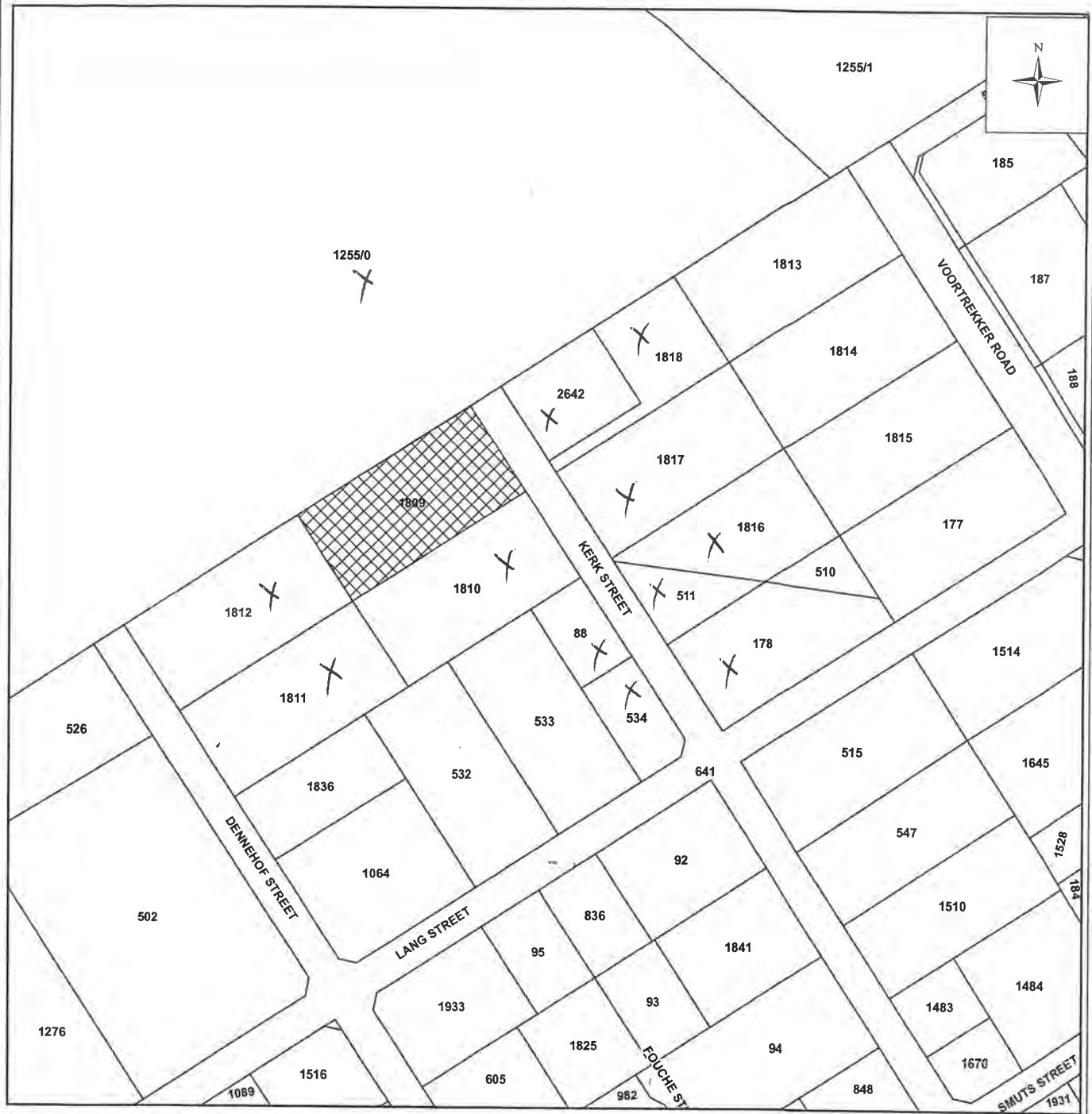
AUTHORITY:  
SWARTLAND MUNICIPALITY

REF:  
RW/13411/NJdK

SCALE: NTS



## Liggingsplan

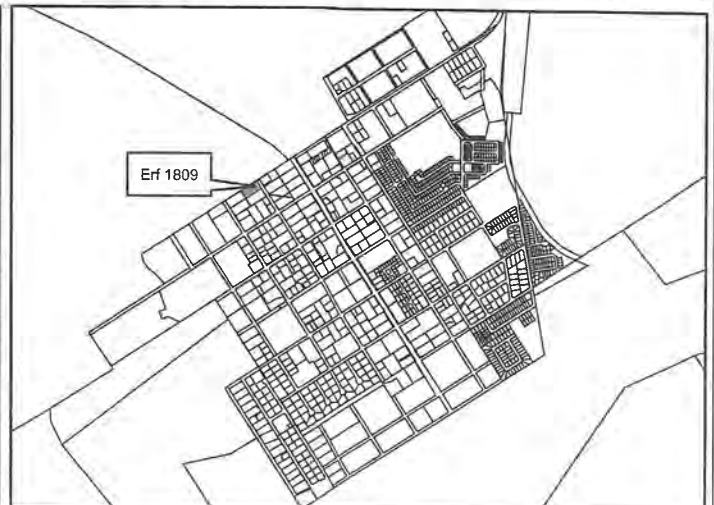


**Voorgestelde onderverdeling**

**Erf 1809, Riebeeck Wes**

**Publieke deelname**

**Skaal: NVT**



320

**Anton Posthumus Attorneys**  
 14A ALBIE DE WAAL STREET  
 Sonstraal  
 Durbanville  
 Cape Town  
 Tel: (021) 300 0802

Prepared by me

CONVEYANCER  
**ANTON LUTHER POSTHUMUS**  
 (LPCM NO.: 80715)

Deeds Office Registration fees as per Act 47 of 1937		
	Amount	Office Fee
Purchase Price	R. 1400 000,00	R. 1453,00
Reason for Exemption	Category Exemption.....	Exemption i t o. Sec/Reg..... Act/Proc.....

DATA / CAPTURE  
 02 NOV 2023  
 Sinazo Xhiphu

T000046225 / 2023

**DEED OF TRANSFER**

BE IT HEREBY MADE KNOWN THAT

**ANTON LUTHER POSTHUMUS (LPCM NO.: 80715)**

appeared before me, the Registrar of Deeds at Cape Town, the said appearer, being duly authorised thereto by a power of attorney granted to him by

**MIZI PROPERTIES (PTY) LTD**  
 Registration Number 2021/960469/07

signed at **SOMERSET WEST** on **27 SEPTEMBER 2023**

DATA / VERIFY  
 02 NOV 2023  
 Anitha Manyisana

And the appearer declared that:

Whereas the Transferor had truly and legally sold the undermentioned property on 10 July 2023 by Private Treaty

Now therefore the Appearer on behalf of the Transferor, did by these presents, cede and transfer to and on behalf of

1. **PATRICK SHAUN MOORE**  
Identity Number 690606 5012 08 2  
Married out of Community of Property
2. **WENDY GAIL MOORE**  
Identity Number 720505 0001 08 8  
Married out of Community of Property

their heirs, executors, administrators or assigns, in full and free property

**ERF 1809 RIEBEEK WEST,  
SITUATED IN THE SWARTLAND MUNICIPALITY  
DIVISION MALMESBURY, PROVINCE OF THE WESTERN CAPE**

**IN EXTENT 2843 (TWO THOUSAND EIGHT HUNDRED AND FORTY THREE)  
SQUARE METRES**

**FIRST TRANSFERRED** by Deed of Transfer No. T24281/2006 with Diagram SG Number 981/2005 relating thereto and held by Deed of Transfer No. T23297/2022

- A. **SUBJECT** to the conditions referred to in Deed of Transfer No. T3529/1908.
- B. **SUBJECT FURTHER** to the following conditions as contained in Deed of Transfer No. T24281/2006 imposed by the Transferor in favour of the GROENRIVIER COUNTRY ESTATE HOME OWNERS ASSOCIATION, namely:
- a. Die huidige geregistreerde eienaar van die eiendom hiermee oorgedra sal 'n lid word en bly van die Groenrivier Country Estate Huiselenaarsvereniging, en sal gebonde wees deur die gemelde Huiselenaarsvereniging se Konstitusie.

- b. Die gemelde eiendom sal nie vervreem word sonder die skriftelike toestemming van die gemelde Huiseienaarsvereniging, gegee in terme van sy konstitusie, welke toestemming nie onredelik weerhou sal word nie, onderhewig daaraan dat die huidige eienaar op datum is met enige heffings betaalbaar aan die Groenrivier Country Estate Huiseienaarsvereniging.

WHEREFORE the appearer, renouncing all the rights and title the said

**MIZI PROPERTIES (PTY) LTD**

heretofore had to the premises, did, in consequence also acknowledge them to be entirely dispossessed of, and disentitled to, the same; and that, by virtue of these presents, the said

1. **PATRICK SHAUN MOORE, Married as aforesaid**
2. **WENDY GAIL MOORE, Married as aforesaid**

their heirs, executors, administrators or assigns, now are and henceforth shall be entitled thereto, conformably to local customs; the State, however, reserving its rights, and finally acknowledging that the purchase price is the amount of R1 400 000,00 (One Million Four Hundred Thousand Rand).

IN WITNESS WHEREOF I, the said Registrar, together with the appearer, have subscribed to these presents, and have caused the seal of office to be affixed thereto.

THUS DONE AND EXECUTED at the Office of the Registrar of Deeds at Cape Town on

31 OCT 2023

Signature of appearer q.q.

In my presence

Registrar of Deeds



**From:** Nicolene <leidig@adept.co.za>  
**Sent:** Wednesday, 24 January 2024 11:53  
**To:** Registrasie Email <RegistrasieEmail@swartland.org.za>  
**Subject:** kommentaar op voorgestelde onderverdeling van erf 1809

Goeie dag

Ek rig hierdie skrywe namens aan u as die geregistreerde eienaar van Erf 1812 Riebeek Wes.

Ons wil beswaar maak teen die onderverdeling van Erf 1809 Riebeek Wes. Dit is egter belangrik om eers die agtergrond en verloop tot op hierdie punt uiteen te sit. Ek het destyds vir mnr. Van der Byl Brink bygestaan toe hierdie ontwikkeling van Groenrivier Country Estate begin is, en dra dus eerstehandse kennis van die verloop.

Erf 1809 Riebeek Wes vorm deel van 'n ontwikkeling van 11 erwe wat mnr. Brink ongeveer 20 jaar gelede gedoen het. Swartland Munisipaliteit het op daardie stadium dit as 'n voorwaarde vir die herverdeling van die gemelde erwe (wat voorheen ook dorpsrwe was, maar geïnkorporeer was by Groenrivier Plaas) dat 1) die Ontwikkelaars self die dienste vir die 11 erwe moet installeer, en 2) dat daar 'n Huiseienaarsvereniging moet wees, wat verantwoordelikheid sal neem vir die instandhouding van die dienste. Daar is destyds net een huis gebou, en die ontwikkelaars kon die groot gros van die erwe nie verkoop kry nie. Aangesien daar basies geen huiseienaars was nie, het die vereiste Huiseienaarsvereniging nooit tot stand gekom nie.

ZZ2 (Cape Almonds/Hishtill – almal dieselfde groep, met verskillende maatskappye) het ingekoop by Groenrivier Plaas toe hulle in finansiële moeilikheid gekom het. Hulle het geen belangstelling gehad in die ontwikkeling nie, totdat daar nog erwe verkoop is, en van die kopers begin belangstel het om huise te bou op die erwe. ZZ2, bww mnr. File van Zyl, het in ongeveer 2016 'n vergadering gehou waarby al die eienaars teenwoordig was, asook ZZ2 se aangestelde prokureur, mnr. Anton Maree van Stellenbosch, en daar is besluit dat mnr. Maree die situasie sal ondersoek, die nodige wysigings aan die voorgestelde Konstitusie maak, en die nodige eerste vergadering sal reël om trustees te laat aanstel vir die Huiseienaarsvereniging. Verskeie eienaars het vir maande saamgewerk en bydraes gelewer om die Konstitusie te opdateer. Ongelukkig het mnr. Maree met tyd die kommunikasies begin ignoreer, die “eerste vergadering” is nooit gereël nie, ten spyte van verskeie navrae daaroor, en daar het niks van al die ondernemings gekom nie.

Mnr. Van Zyl het by mnr. Brink oorgeneem as die persoon wat afteken op Toestemming tot Oordragte, hoewel dit verkeerd is volgens die oorspronklike Konstitusie, wat bepaal dat mnr. Brink verantwoordelik sal wees vir die aftekening van hierdie toestemmings totdat trustees verkies word by 'n eerste formele vergadering van die Huiseienaarsvereniging.

Ons as eienaars het verlede jaar verneem dat mnr. Filé van Zyl namens een van sy maatskappye 'n aansoek ingesit het vir die onderverdeling van een van die erwe. Die ander lede van die ontwikkeling is nie in kennis gestel nie, want daardie erf was nie aangrensend aan een van ons erwe nie, en blykbaar het Swartland Munisipaliteit nie kennis gedra dat daar 'n Huiseienaarsvereniging is nie (hoewel die vereiste vir 'n HUV destyds deur die Munisipaliteit gestel is).

Toe van die eienaars wou beswaar maak teen die onderverdeling van een van die erwe in 2023, is ons ingelig dat daar reeds een van die erwe onderverdeel is, derhalwe is 'n presedent geskep en sal verdere onderverdeling dus toegelaat word. Ons het toe eers uitgevind dat mnr. Van Zyl of namens die Huiseienaarsvereniging afgeteken het daarop, of nie aan die Munisipaliteit openbaar het dat daar eintlik 'n Huiseienaarsvereniging is, of veronderstel is om tot stand gebring te word.

Die ander eienaars van erwe in hierdie ontwikkeling het dus geen sê gehad soos wat hulle behoort te gehad het oor moontlike onderverdelings nie.

Redes vir beswaar teen die onderverdeling:

Die hoofrede hoekom ons beswaarmaak teen die onderverderling is dat die dienste wat aanvanklik geïnstalleer is deur die ontwikkelaars, was met die beplanning van maksimum 11 huishoudings. Daar sou 'n maksimum van 11 huise gebou kon word in hierdie klein ontwikkeling. Nou, met die onderverdelings wat plaasvind, kan daar potensieel 22 tot 40 huise gebou word. (as in ag geneem word dat die minimum grootte vir 'n erf in Swartland Munisipaliteit 500 vierkante meter is, kan meeste van hierdie erwe potensieel in 4 tot 5 erwe verdeel word).

Toegang tot die erwe kan ook 'n groot probleem raak. Die ingang vanaf Kerkstraat is 'n baie klein en nou straatjie. Die eienaars daar het voorsien dat daar voertuie vir tot 4 huishoudings daar sal deurry. Hulle het verseker nie voorsiening gemaak vir tot viermaal hierdie hoeveelheid voertuie nie.

Die oorspronklike erwe wat nooit verkoop is deur die ontwikkelaars, of eder die maatskappye wat die oorspronklike erwe oorgeneem het by die ontwikkelaars, behoort aan megaboere. Daar was al sprake van behuising oprig op die erwe vir werknemers. Die ontwikkelaars het destyds bouriglyne gestel, met 'n tipiese Swartland styl van bou, en eenvormigheid en hoë gehalte behuising. Indien daar nou byvoorbeeld huise vir plaasbestuurders ens. gebou word, en die eiendom tot die maksimum bebou word, sal dit geweldige afbreek doen aan die tipe omgewing en ontwikkeling wat die ander kopers voorsien het toe hulle hier gekoop het. Hierdie huise grens ook aan 'n werkende plaas, en kampe met diere. Dit was nooit die idee om hierdie erwe, teen die plaas, so te oorbebou nie. Maar met die presedent wat nou geskep is, is die gevaar dat dit kan gebeur.

Indien dit wel so is dat Swartland Munisipaliteit nou alle aansoeke vir onderverdeling van hierdie erwe gaan toelaat, omdat daar 'n presedent geskep is, is ons van mening dat Swartland Munisipaliteit dan

op die minste op skrif moet verantwoordelikheid aanvaar vir alle dienste, asook enige skade wat huidige eienaars mag lei sou die dienste oorlaai word as gevolg van die groter hoeveelheid huishoudings. Rioolverwyderingspype en watertoevoerpipe is destyds geïnstalleer vir maksimum 11 huishoudings. Gaan dit nou vergroot word deur Swartland Munisipaliteit? En indien wel, gaan die bestaande huise se pipe opgegradeer word op die munisipaliteit se onkoste, om voorsiening te maak vir groot uitbreidings?

Terwyl ons die konsep van 'n presedent wat geskep is verstaan, en nie in beginsel 'n probleem het dat die huidige eienaars van Erf 1809 die erf wil onderverdeel nie, is ons van mening dat Swartland Munisipaliteit nie die feit kan ignoreer dat die eerste onderverdeling verkeerdlik deurgegaan het sonder enige insette van die ander eienaars in die ontwikkeling, omdat die munisipaliteit nie bewus was van die vereiste Huiseienaarsvereniging. Daar kan nie verwag word van die ander eienaars om te weet het dat die munisipaliteit nie kennis dra van die Huiseienaarsvereniging wat tot stand moet kom nie, want Swartland Munisipaliteit het self die vereiste van 'n Huiseienaarsvereniging daargestel. Die Munisipaliteit neem ook in alle waarskynlikheid nie in ag watter dienste geïnstalleer is nie, omdat hulle blykbaar nie kennis gedra het van die destydse beplanning vir net 11 huishoudings nie.

Ons vertrou die Munisipaliteit sal die regte ding doen, en of verdere onderverdelings beperk, of skriftelik onderneem om die bestaande dienste in die toekoms te onderhou en die bestaande huiseienaars se toekomstige skade te beperk.

Vriendelike groete

Willem Sternberg Pretorius as eienaar van Erf 1812 Riebeek-Wes

**CK RUMBOLL &  
VENNOTE / PARTNERS**

PROFESIONELE LANDMETERS ~ ENGINEERING AND MINE SURVEYORS ~ STADS- EN STREEKSBEPLANNERS ~ SECTIONAL TITLE CONSULTANTS

DATE: 8 February 2024

Your Ref: 15/3/6-12/Erf\_1809

PER HAND AND EMAIL

**Attention:** Mr A Zaayman

The Municipal Manager  
Swartland Municipality  
Private Bag X52  
**MALMESBURY**  
7300

Sir

[illegible]

## COMMENTS ON OBJECTIONS

**PROPOSED CONSENT USE ON ERF 1809, RIEBEEK WEST**

Your letter dated 2 February 2024 refers (see annexure A attached). Please find attached our comments to objections.

This office has been instructed by Ms Wendy Moore, as owner of Erf 1809 to handle all town planning actions regarding the application for subdivision of Erf 1809, Riebeeek West.

During the public participation period, comments were received from the following objectors:

- William Sternberg Pretorius (Erf 1812)



**VENNOTE / PARTNERS:**

I/H J Rumbolt PrL (SA), BSc (Surv), M.I.P.L.S., AP Steyl PrL (SA), BSc (Surv), M.I.P.L.S.

ADDRESS/ ADRES: [admin@rumboll.co.za](mailto:admin@rumboll.co.za) / PO Box 211 / Rainierstr 16, Malmesbury, 7299  
MALMESBURY (T) 022 482 1845





Figure 1: Erf 1809 and surrounding objectors.

Objector	Objection	Comment from CK Rumboll & Partners
William Sternberg Pretorius	As part of the initial approval of the development of 11 erven, it was a condition of approval that a HOA be established. This was never done. Due to this, none of the surrounding land owners had the chance to comment on any further subdivisions that took place.	The subdivision of a property necessitates a public participation process, during which the local community is notified of the proposal and afforded the opportunity to provide comments or raise objections. If a notice letter was not received by the surrounding landowners, Swartland Municipality held the view that they would not be directly impacted by the proposal.
	1. The primary objection arises from the fact that when the 11 erven were initially created, services were designed exclusively for their accommodation. However, considering the mandated	1. The following is an extract from the Swartland Spatial Development Framework for Riebeeck West: <ul style="list-style-type: none"> <li>Allow for minimum subdivision size of single residential erven of 500m<sup>2</sup>;</li> </ul>

VENNOTE / PARTNERS:

IHJ RumbollPrL (SA), BSc (Surv), M.I.P.L.S., AP Steyl PrL (SA), BSc (Surv), M.I.P.L.S.

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	<p>minimum erf size of 500m<sup>2</sup>, the challenge now lies in adapting these services to potentially accommodate a range of 22 to 40 residential units, doubling the originally planned number of 11 dwelling units.</p>	<ul style="list-style-type: none"> <li>• Increase density by 2027 from the current 7.4 units per hectare to 8.5 units per hectare in Riebeeck Wes;</li> <li>• Provide a variety of housing topologies;</li> <li>• Support densification through subdivision, infill development, renewal and restructuring in accordance with zone proposals.</li> </ul> <p>The Swartland SDF support the notion of infill development through subdivision and by adding additional residential opportunities to the area. It is noted that the initial proposal was only to accommodate a total of 11 residential properties, but the need and desirability of the area has changed over time and development should adapt accordingly.</p> <p>Considering that only a single additional land unit is being proposed, its impact on existing services is expected to be minimal.</p>
	<p>2. Access to the properties may also cause problems due to the narrow road. The owners made provision to accommodate four dwellings and not four times the amount of vehicles.</p>	<p>2. Given that the road reserve for Kerk Street spans a width of 13 meters, it is well-equipped to accommodate an additional property. Currently servicing only nine properties, this portion of the street is underutilized, and the proposed additional unit is anticipated to have limited to no impact on traffic flow.</p>
	<p>3. There are rumours that these erven may be utilised for farm workers. Back in the day the developer set guidelines to develop a typical Swartland style to ensure a high quality houses. Should these properties be utilised for farm workers and these properties be developed to its full potential, it will have a severe impact on the character of the</p>	<p>3. Since only one additional residential unit of ±1233m<sup>2</sup> is proposed. The proposed subdivision will not have an adverse impact on the character of the area.</p>

VENNOTE / PARTNERS:

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	area. The precedent for subdivision that has been set may cause these properties to be overdeveloped.	
	4. Should Swartland Municipality approve this subdivision, they should take responsibility for the upgrade of these services to accommodate additional pressure.	4. Noted. The Swartland Municipality Engineering department will have to provide feedback on this.

In light of the aforementioned details, it is clear that the proposition to subdivide Erf 1809 in Riebeeck West into Portion A and Remainder aligns with the guidelines and future planning outlined in the Swartland Spatial Development Framework for the area. Consequently, the proposal is expected to exert minimal to no impact on the neighbouring landowners and can be viewed favourably for consideration.

We trust you will find the above in order when considering the application

Kind regards



NJ de Kock  
For CK RUMBOLL AND PARTNERS

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VENNOTE / PARTNERS:

IHJ RumbollPrL (SA), BSc (Surv), M.I.P.L.S., AP Steyl PrL (SA), BSc (Surv), M.I.P.L.S.

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## **Annexure A**

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Objections





CLEAN AUDITS SINCE 2010/11  
SKOON OUDITS SEDERT 2010/11



*Swartland forward-thinking 2040 -  
where people can live their dreams!*

*Swartland vooruitdenkend 2040 -  
waar mense hul drome kan uitleef!*

File ref: 15/3/6-12/Erf\_1809

Enquiries:  
Ms D N Stallenberg

2 February 2024

C K Rumboll & Partners  
P O Box 211  
MALMESBURY  
7299

Dear Sir/Madam

**OBJECTIONS : PROPOSED SUBDIVISION ON ERF 1809, RIEBEEK WES**

Your application with reference RW/13411/NJdK dated 17 November 2023 refers.

Kindly find attached the objection received by William Sternberg Pretorius during the commenting period.

Your comment on the objections is requested within 30 days from the date of this letter in order for Swartland Municipality to make a decision.

Yours sincerely

**MUNICIPAL MANAGER**  
per Department Development Services

/ds

*Rig asseblief alle korrespondensie aan:*  
Die Munisipale Bestuurder  
Privaatsak X52  
Malmesbury 7299  
Darling Tel: 022 492 2237

Tel: 022 487 9400  
Faks/Fax: 022 487 9440  
Epos/Email: swartlandmun@swartland.org.za  
Moorreesburg Tel: 022 433 2246

*Kindly address all correspondence to:*  
The Municipal Manager  
Private Bag X52  
Malmesbury 7299  
Yzerfontein Tel: 022 451 2366



**From:** Nicolene <leidig@adept.co.za>  
**Sent:** Wednesday, 24 January 2024 11:53  
**To:** Registrasie Email <RegistrasieEmail@swartland.org.za>  
**Subject:** kommentaar op voorgestelde onderverdeling van erf 1809

Goeie dag

Ek rig hierdie skrywe namens aan u as die geregistreerde eienaar van Erf 1812 Riebeek Wes.

Ons wil beswaar maak teen die onderverdeling van Erf 1809 Riebeek Wes. Dit is egter belangrik om eers die agtergrond en verloop tot op hierdie punt uiteen te sit. Ek het destyds vir mnr. Van der Byl Brink bygestaan toe hierdie ontwikkeling van Groenrivier Country Estate begin is, en dra dus eerstehandse kennis van die verloop.

1. Erf 1809 Riebeek Wes vorm deel van 'n ontwikkeling van 11 erwe wat mnr. Brink ongeveer 20 jaar gelede gedoen het. Swartland Munisipaliteit het op daardie stadium dit as 'n voorwaarde vir die herverdeling van die gemelde erwe (wat voorheen ook dorpserwe was, maar geïnkorporeer was by Groenrivier Plaas) dat 1) die Ontwikkelaars self die dienste vir die 11 erwe moet installeer, en 2) dat daar 'n Huiseienaarsvereniging moet wees, wat verantwoordelikheid sal neem vir die instandhouding van die dienste. Daar is destyds net een huis gebou, en die ontwikkelaars kon die groot gros van die erwe nie verkoop kry nie. Aangesien daar basies geen huiseienaars was nie, het die vereiste Huiseienaarsvereniging nooit tot stand gekom nie.
2. ZZ2 (Cape Almonds/Hishtill – almal dieselfde groep, met verskillende maatskappye) het ingekoop by Groenrivier Plaas toe hulle in finansiële moeilikheid gekom het. Hulle het geen belangstelling gehad in die ontwikkeling nie, totdat daar nog erwe verkoop is, en van die kopers begin belangstel het om huise te bou op die erwe. ZZ2, bvw mnr. File van Zyl, het in ongeveer 2016 'n vergadering gehou waarby al die eienaars teenwoordig was, asook ZZ2 se aangestelde prokureur, mnr. Anton Maree van Stellenbosch, en daar is besluit dat mnr. Maree die situasie sal ondersoek, die nodige wysigings aan die voorgestelde Konstitusie maak, en die nodige eerste vergadering sal reël om trustees te laat aanstel vir die Huiseienaarsvereniging. Verskeie eienaars het vir maande saamgewerk en bydraes gelewer om die Konstitusie te opdateer. Ongelukkig het mnr. Maree met tyd die kommunikasies begin ignoreer, die "eerste vergadering" is nooit gereël nie, ten spyte van verskeie navrae daaroor, en daar het niks van al die ondernemings gekom nie.
3. Mnr. Van Zyl het by mnr. Brink oorgeneem as die persoon wat afteken op Toestemming tot Oordragte, hoewel dit verkeerd is volgens die oorspronklike Konstitusie, wat bepaal dat mnr. Brink verantwoordelik sal wees vir die aftekening van hierdie toestemmings totdat trustees verkies word by 'n eerste formele vergadering van die Huiseienaarsvereniging.
4. Ons as eienaars het verlede jaar verneem dat mnr. Filé van Zyl namens een van sy maatskappye 'n aansoek ingesit het vir die onderverdeling van een van die erwe. Die ander lede van die ontwikkeling is nie in kennis gestel nie, want daardie erf was nie aangrensend aan een van ons erwe nie, en blykbaar het Swartland Munisipaliteit nie kennis gedra dat daar 'n Huiseienaarsvereniging is nie (hoewel die vereiste vir 'n HUV destyds deur die Munisipaliteit gestel is).
5. Toe van die eienaars wou beswaar maak teen die onderverdeling van een van die erwe in 2023, is ons ingelig dat daar reeds een van die erwe onderverdeel is, derhalwe is 'n



presedent geskep en sal verdere onderverdeling dus toegelaat word. Ons het toe eers uitgevind dat mnr. Van Zyl of namens die Huiseienaarsvereniging afgeteken het daarop, of nie aan die Munisipaliteit openbaar het dat daar eintlik 'n Huiseienaarsvereniging is, of veronderstel is om tot stand gebring te word.

6. Die ander eienaars van erwe in hierdie ontwikkeling het dus geen sê gehad soos wat hulle behoort te gehad het oor moontlike onderverdelings nie.

Redes vir beswaar teen die onderverdeling:

1. Die hoofrede hoekom ons beswaarmaak teen die onderverdeling is dat die dienste wat aanvanklik geïnstalleer is deur die ontwikkelaars, was met die beplanning van maksimum 11 huishoudings. Daar sou 'n maksimum van 11 huise gebou kon word in hierdie klein ontwikkeling. Nou, met die onderverdelings wat plaasvind, kan daar potensieel 22 tot 40 huise gebou word. (as in ag geneem word dat die minimum grootte vir 'n erf in Swartland Munisipaliteit 500 vierkante meter is, kan meeste van hierdie erwe potensieel in 4 tot 5 erwe verdeel word).
2. Toegang tot die erwe kan ook 'n groot probleem raak. Die ingang vanaf Kerkstraat is 'n baie klein en nou straatjie. Die eienaars daar het voorsien dat daar voertuie vir tot 4 huishoudings daar sal deurry. Hulle het verseker nie voorsiening gemaak vir tot viermaal hierdie hoeveelheid voertuie nie.
3. Die oorspronklike erwe wat nooit verkoop is deur die ontwikkelaars, of eder die maatskappye wat die oorspronklike erwe oorgeneem het by die ontwikkelaars, behoort aan megaboere. Daar was al sprake van behuising oprig op die erwe vir werknemers. Die ontwikkelaars het destyds bouriglyne gestel, met 'n tipiese Swartland styl van bou, en eenvormigheid en hoë gehalte behuising. Indien daar nou byvoorbeeld huise vir plaasbestuurders ens. gebou word, en die eiendomme tot die maksimum bebou word, sal dit geweldige afbreek doen aan die tipe omgewing en ontwikkeling wat die ander kopers voorsien het toe hulle hier gekoop het. Hierdie huise grens ook aan 'n werkende plaas, en kampe met diere. Dit was nooit die idee om hierdie erwe, teen die plaas, so te oorbehou nie. Maar met die presedent wat nou geskep is, is die gevaar dat dit kan gebeur.

Indien dit wel so is dat Swartland Munisipaliteit nou alle aansoeke vir onderverdeling van hierdie erwe gaan toelaat, omdat daar 'n presedent geskep is, is ons van mening dat Swartland Munisipaliteit dan op die minste op skrif moet verantwoordelikheid aanvaar vir alle dienste, asook enige skade wat huidige eienaars mag lei sou die dienste oorlaai word as gevolg van die groter hoeveelheid huishoudings. Rioolverwyderingspype en watertoevoerpype is destyds geïnstalleer vir maksimum 11 huishoudings. Gaan dit nou vergroot word deur Swartland Munisipaliteit? En indien wel, gaan die bestaande huise se pype opgegradeer word op die munisipaliteit se onkoste, om voorsiening te maak vir groot uitbreidings?

Terwyl ons die konsep van 'n presedent wat geskep is verstaan, en nie in beginsel 'n probleem het dat die huidige eienaars van Erf 1809 die erf wil onderverdeel nie, is ons van mening dat Swartland Munisipaliteit nie die feit kan ignoreer dat die eerste onderverdeling verkeerdlik deurgegaan het sonder enige insette van die ander eienaars in die ontwikkeling, omdat die munisipaliteit nie bewus was van die vereiste Huiseienaarsvereniging. Daar kan nie verwag word van die ander eienaars om te gewet het dat die munisipaliteit nie kennis dra van die Huiseienaarsvereniging wat tot stand moet kom nie, want Swartland Munisipaliteit het self die vereiste van 'n Huiseienaarsvereniging daargestel. Die Munisipaliteit neem ook in alle waarskynlikheid nie in ag watter dienste geïnstalleer

is nie, omdat hulle blykbaar nie kennis gedra het van die destydse beplanning vir net 11 huishoudings nie.

Ons vertrou die Munisipaliteit sal die regte ding doen, en of verdere onderverdelings beperk, of skriftelik onderneem om die bestaande dienste in die toekoms te onderhou en die bestaande huiseienaars se toekomstige skade te beperk.

Vriendelike groete

Willem Sternberg Pretorius as eienaar van Erf 1812 Riebeek-Wes



## LIST OF DEDUCTIONS

SG No 2840/1911

Lot No	Former owner	Lot No	Diagram No	Transfer ref.
1	Commonage 01	64	430	1928 19 6287
2	Lot 1	65	430	1928 20 1077
3	Commonage 01	13	430	1927 202 0097
4	Lot 1 and 12	66	430	1928 21 24
5	Lot 1	67	430	1928 22 1077
6	Lot 1	68	430	1928 23 1077
7	Lot 1	69	430	1928 24 1077
8	Lot 1	70	430	1928 25 1077
9	Lot 1	71	430	1928 26 1077
10	Lot 1	72	430	1928 27 1077
11	Lot 1	73	430	1928 28 1077
12	Lot 1	74	430	1928 29 1077
13	Lot 1	75	430	1928 30 1077
14	Lot 1	76	430	1928 31 1077
15	Lot 1	77	430	1928 32 1077
16	Lot 1	78	430	1928 33 1077
17	Lot 1	79	430	1928 34 1077
18	Lot 1	80	430	1928 35 1077
19	Lot 1	81	430	1928 36 1077
20	Lot 1	82	430	1928 37 1077
21	Lot 1	83	430	1928 38 1077
22	Lot 1	84	430	1928 39 1077
23	Lot 1	85	430	1928 40 1077
24	Lot 1	86	430	1928 41 1077
25	Lot 1	87	430	1928 42 1077
26	Lot 1	88	430	1928 43 1077
27	Lot 1	89	430	1928 44 1077
28	Lot 1	90	430	1928 45 1077
29	Lot 1	91	430	1928 46 1077
30	Lot 1	92	430	1928 47 1077
31	Lot 1	93	430	1928 48 1077
32	Lot 1	94	430	1928 49 1077
33	Lot 1	95	430	1928 50 1077
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40	Lot 1	102	430	1928 57 1077
41	Lot 1	103	430	1928 58 1077
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56	Lot 1	118	430	1928 73 1077
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207	Lot 1	269	430	1928 224 1077
208	Lot 1	270	430	1928 225 1077
209	Lot 1	271	430	1928 226 1077
210	Lot 1	272	430	1928 227 1077
211	Lot 1	273	430	1928 228 1077
212	Lot 1	274	430	1928 229 1077
213	Lot 1	275	430	1928 230 1077
214	Lot 1	276	430	1928 231 1077
215	Lot 1	277	430	1928 232 1077
216	Lot 1	278	430	1928 233 1077
217	Lot 1	279	430	1928 234 1077
218	Lot 1	280	430	1928 235 1077
219	Lot 1	281	430	1928 236 1077
220	Lot 1	282	430	1928 237 1077
221	Lot 1	283	430	1928 238 1077
222	Lot 1	284	430	1928 239 107



**ITEM 6.4 VAN DIE AGENDA VAN 'N MUNISIPALE BEPLANNINGSTRIBUNAAL WAT GEHOU SAL WORD OP WOENSDAG, 13 MAART 2024**

LAND USE PLANNING REPORT PROPOSED REZONING OF ERF 5662, MOORREESBURG					
Reference number	15/3/3-9/Erf_5662	Application submission date	26 April 2022	Date report finalised	1 March 2024

**PART A: APPLICATION DESCRIPTION**

The application for the rezoning of erf 5662, Moorreesburg in terms of section 25(2)(a) of Swartland Municipality : Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020) has been received. It is proposed that erf 5662 (5,0002ha in extent) be rezoned from Agricultural zone 1 to Open Space zone 4 in order to establish a cemetery.

The applicant is the CK Rumboll & Partners and the owner is Swartland Municipality.

**PART B: PROPERTY DETAILS**

Property description (in accordance with Title Deed)	Erf 5662, Portion of Erf 1105, Moorreesburg, in the Swartland Municipality, Division Malmesbury, Province of the Western Cape					
Physical address	Eight Avenue		Town	Moorreesburg		
Current zoning	Agricultural zone 1	Extent (m <sup>2</sup> /ha)	5,000 2ha	Are there existing buildings on the property?	Y	N
Applicable zoning scheme	Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226, dated 25 March 2020)					
Current land use	Vacant		Title Deed number & date		T56692/2021	
Any restrictive title conditions applicable	Y	N	If Yes, list condition number(s)			
Any third party conditions applicable?	Y	N	If Yes, specify			
Any unauthorised land use/building work	Y	N	If Yes, explain			

**PART C: LIST OF APPLICATIONS (TICK APPLICABLE)**

Rezoning	<input checked="" type="checkbox"/>	Permanent departure	<input type="checkbox"/>	Temporary departure	<input type="checkbox"/>	Subdivision	<input type="checkbox"/>
Extension of the validity period of an approval	<input type="checkbox"/>	Approval of an overlay zone	<input type="checkbox"/>	Consolidation	<input type="checkbox"/>	Removal, suspension or amendment of restrictive conditions	<input type="checkbox"/>
Permissions in terms of the zoning scheme	<input type="checkbox"/>	Amendment, deletion or imposition of conditions	<input type="checkbox"/>	Amendment or cancellation of an approved subdivision plan	<input type="checkbox"/>	Permission in terms of a	<input type="checkbox"/>





PART E: PRE-APPLICATION CONSULTATION (ATTACH MINUTES)									
Has pre-application consultation been undertaken?	Y	N							
PART F: SUMMARY OF APPLICANT'S MOTIVATION									
<ol style="list-style-type: none"> <li>1. There is a need for additional burial space in Moorreesburg as existing cemeteries are nearing full capacity.</li> <li>2. Erf 5662 was specifically created for a cemetery site in accordance with the spatial planning of Moorreesburg.</li> <li>3. The topography of the erf lends itself to be utilised for a cemetery.</li> <li>4. The character of the surrounding area will not be affected negatively.</li> <li>5. Erf 5662 is not situated in a CBA.</li> <li>6. No impact is anticipated on municipal engineering services.</li> <li>7. The impact of increase traffic to and from the proposed cemetery is deemed to be low.</li> <li>8. An Environmental Authorisation has been issued by the Department of Environmental Affairs and Development Planning for the propose cemetery.</li> <li>9. The application complies with the spatial planning of Moorreesburg.</li> <li>10. The application complies with the principles of LUPA and SPLUMA.</li> </ol>									
PART G: SUMMARY OF PUBLIC PARTICIPATION									
Was public participation undertaken in accordance with section 55- 59 of the Swartland Municipal: By-law on Municipal Land Use Planning?								Y	N
<p>A total of 26 registered notices which were send to affected parties as well as the application was advertised in the local newspapers and Provincial Gazette. The public participation process started on 9 May 2022 and ended on 13 June 2022. Where e-mail addresses were available, affected parties were notified via email as well. 19 of owners were also notified via email. A total of 21 notices were returned uncollected. 15 of the owners who's notices were returned uncollected received the notice via email. 6 of the owners did not receive the notices.</p> <p>A total of 5 objection letters were received. One of the letters contains a petition containing signatures of 32 people. The applicant's comments on the objections were received on 6 July 2022.</p>									
Total valid comments	5			Total comments and petitions refused			0		
Valid petition(s)	Y	N	If yes, number of signatures		Petition provided by P Feldman – 32 signatures				
Community organisation(s) response	Y	N	Ward councillor response		Y	N	No objection.		
Total letters of support	0								
PART H: COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS									
Name	Received	Summary of comments						Recomm.	
West Coast District Municipality	23 June 2022	<p>The West Coast District Municipality's Environmental Health Division has the following comments on the proposed rezoning:</p> <ol style="list-style-type: none"> <li>1. The environmental assessment reports (NEMA) regarding the establishment of a cemetery on Erf 5662, Moorreesburg, must be circulated to the Environmental Health Division for comment.</li> <li>2. Your attention is drawn to Regulation 363 (Regulations Relating to the Management of Human Remains promulgated on 22 May 2013 in terms of the National Health Act of 2003). In this regard cognisance must be taken of the distance requirements from (i) groundwater sources (350m) and (ii) habitable buildings (500m).</li> </ol>							

		3. Additional health requirements may be stated during the environmental assessment process.	
Western Cape Department of Agriculture	1 August 2022	No objection.	

PART I: COMMENTS RECEIVED DURING PUBLIC PARTICIPATION	SUMMARY OF APPLICANT'S REPLY TO COMMENTS	MUNICIPAL ASSESSMENT OF COMMENTS
<p>Comments from the objectors were similar in nature. The different objectors with similar objections will be grouped together.</p> <p>A – Altus de Villiers Family Trust (Erf 4045)  B – Retief Nel  C – P Feldman (Erven 2887 &amp; 2888) &amp; Petition  D – NPJ Kriek (Erf 4044)  E – Francois JE Koch</p>		
<p>1. A, B, C, D, E</p>	<p>1. Contamination of water source:  The proposed cemetery is located higher than my farm. Cipher water from the cemetery has the potential to contaminate my water source. More than one case has been recorded in South Africa where underground water sources have been contaminated by cemeteries. The borehole is our only source of drinking water. Ecoli will make the water unsuitable for drinking water.</p> <p>My farm is audited annually by Global Gap. Without a Global Gap certificate, no market is interested in the agricultural produce. The farm must make an annual analysis of my irrigation water available to the auditors. To date, the test results show my borehole is clean of impurities.</p> <p>Clause 2.3 of the application states that a cemetery won't have any negative impact on the surrounding agricultural areas. A cemetery right in the middle of all agricultural surrounding area by its very existence reduces the agricultural land available. In addition, there is a risk of groundwater being infected or polluted. This ground water may run through to surrounding properties, of which mine are but two, and pollute the groundwater which is used via borehole to provide water for irrigation and for animals.</p>	<p>1. EnviroAfrica CC has been appointed to manage the process of applying for Environmental Authorisation in terms of the Environmental Impact Assessment Regulations, 2014 (as amended) for the proposed cemetery on Erf 5662, Moorreesburg. As part of the process, different specialists, including a geotechnical, botanical, groundwater, and heritage specialists, were appointed to conduct the necessary studies. The groundwater study will determine the impact of the cemetery on any and all water sources in the area.</p> <p>The Swartland Spatial Development Framework (SDF) (2019) determines the strategic policy guidelines for future development in the Swartland region and in this case, in Moorreesburg. The Land Use Proposals Map as part of the Swartland SDF (2019) for Moorreesburg includes the development of a cemetery on Erf 5662. This indicates that this application is fully supported by the SDF.</p>

1. An Environmental Authorization for the proposed cemetery has been issued by the Department of Environmental Affairs and Development Planning on 8 February 2024.

The impacts, assessment and mitigation measures identified includes: botanical, freshwater, traffic, agriculture, geotechnical, storm water and dust impacts.

Compliance with the conditions of approval stipulated in the Environmental Authorization and compliance with the Environmental Management Programme are deemed sufficient to mitigate the potential detrimental environmental impacts which may result from the proposed cemetery.

The development of erf 5662 as a cemetery is in compliance with the spatial planning of Moorreesburg and is situated outside the urban edge of the town. The existing cemeteries in Moorreesburg are nearing full capacity and cannot be expanded due to a variety of reasons. The position of the proposed cemetery is deemed suited in terms of land use planning and from an environmental perspective.



	<p>According to the World Health Organisation, seepage water as a result of purification of human corpses may mix with the groundwater and may become a potential environmental risk.</p>		
<p>2. A, B, D, E</p>	<p>2. Current Water Pollution: The Sout River runs through Moorreesburg and also through my farm. Currently the water in the river is rotting due to sewage works not working. The condition of the water is of such poor quality that when the sheep and cattle drink from it, they become ill and die.</p> <p>In 2002, I conducted a water analysis on the farm's account and submitted it to the Municipality to prove how high the Ecoli pollution is in the river. The municipality's response was: "We have a clean audit".</p> <p>The source of the pollution was and is most likely the sewage works that border the river and were and are in poor working condition, or of the current cemetery located higher than the river.</p>	<p>2. As mentioned in Point 1, the necessary specialists have been appointed to conduct studies to determine the environmental impact of the proposed cemetery on Erf 5662, Moorreesburg.</p>	<p>2. The pollution that is referred to has no relevance to this application and is noted</p>
<p>3. A, B, D, E</p>	<p>3. Environmental Impact Assessment (EIA): Is an EIA conducted? If so, who conducted it? When was it done? Are the results available for the public?</p>	<p>3. EnviroAfrica CC has been appointed to manage the process of applying for Environmental Authorisation in terms of the Environmental Impact Assessment Regulations, 2014 (as amended) for the proposed cemetery on Erf 5662, Moorreesburg. Interested and Affected Parties ("I&amp;Aps") have been notified of the intention to submit an application for environmental authorisation for the above-mentioned development proposal and were invited to register (in writing) and to provide comments to EnviroAfrica regarding the proposed development on or before 10 June 2022.</p> <p>Registered I&amp;APs will be notified of the availability of reports that become available for public viewing and comment and only Registered I&amp;APs will be notified of the outcome of the application, the reasons for the</p>	<p>3. An Environmental Authorization was issued by the Department of Environmental Affairs and Development Planning on 8 February 2024.</p>

		<p>decision; and that an appeal may be lodged against the decision; and if applicable, only Registered I&amp;APs will be notified of the applicant's intention to appeal the decision of the competent authority.</p> <p>The environmental process is still in process.</p>	
4. A, B, C, D	<p>4. Alternative locations: Swartland is a water scarce area. Expand around the existing cemetery. This area is already contaminated.</p> <p>Surely there are more suitable locations for an additional cemetery to cater to the surrounding communities in locations closer to those communities within the urban edge, rather than on the outskirts of town which is still being used for agricultural purposes. Moorreesburg Cemetery East appears to have plenty of open land across Swartland Road between Swartland and Piketberg Roads. Certainly, location wise it would be more convenient for the local Moorreesburg community?</p>	<p>4. There is not sufficient space to expand around the existing cemeteries in Moorreesburg, which will comply with Health Regulations. The National Health Act, 2003 (Act 61 of 2003), published Regulations Relating to the Management of Human Remains, 2013, which states in Chapter 5 Section 2(b) that a cemetery cannot be located within 500m of a habitable building. New cemeteries need to be located away from residential areas or future residential areas and the suggested site will not affect any residential areas, current or future.</p> <p>The Swartland Spatial Development Framework (SDF) (2019) determines the strategic policy guidelines for future development in the Swartland region and in this case, in Moorreesburg. The Land Use Proposals Map as part of the Swartland SDF (2019) for Moorreesburg includes the development of a cemetery on Erf 5662. This indicates that this application is fully supported by the SDF.</p>	<p>4. The existing cemeteries in Moorreesburg are nearing full capacity and cannot be expanded due to a variety of reasons. (The previous extension of an existing cemetery was done in 2017 which was 2000m<sup>2</sup> in extent.) The position of the proposed cemetery is deemed suited in terms of land use planning and from an environmental perspective.</p>
5. A, B	<p>5. Clean Audit: Swartland Municipality has boasted clean audits since 2010/11. Will Swartland Municipality please explain to its ratepayers how they get a clean audit while the river downstream of the sewers is in such a dire condition?</p>	<p>5. This objection has no relevance to the proposed development of a cemetery on Erf 5662, Moorreesburg.</p>	<p>5. Noted. Not relevant to this application.</p>
6. C	<p>6. Peace Disturbance: The main reason I moved to these properties was that they offered the tranquility of an agricultural setting. Weekends in particular are a time to rest and relax. Whilst the application refers to +-11 burials per month it</p>	<p>6. The extent of the proposed cemetery site will contribute to most of the activities taking place far from the urban area. The disturbance will be temporary in nature.</p>	<p>6. The house on erf 2888 is situated ±100m from Eight Avenue and ±300m from the entrance of the proposed cemetery on erf 5662. It is anticipated that most burials will take place on Saturdays and Sundays. The disturbance caused by a burial, movement to and from the cemetery as well as the</p>

	<p>doesn't mention the number of vehicles which attend each burial. It also refers to an increase in the number of burials due to the Covid-19 pandemic. Even at 11 burials per month that is an average of two per weekend, before allowing for any increase due to the Covid-19 pandemic.</p> <p>Additionally, the community tends to conduct burials on a Saturday, which makes the weekly average number of burials misleading — as most burials are likely to be on a Saturday. So realistically every Saturday, and perhaps Sunday, there are likely to be burials. So this will most definitely negatively impact me.</p>	<p>Premises where loved ones are buried must be accessible to next of kin to have access during normal reasonable hours. Sufficient area will be provided for on-site parking, including for buses. By the nature of the use, the influx of people is occasion bound.</p>	<p>actual burial taking place, is temporary of nature. The disturbance cause is deemed to be low.</p> <p>The impact on erf 2888 can be mitigated by fencing the cemetery and landscaping it which will make it less visible and more attractive.</p>
7. C	<p>7. Property Value: Similarly not everyone wants to live next to a cemetery. So my property value will decrease; in as much as the available pool of buyers will be smaller - thus negatively impacting me trying to sell my property.</p>	<p>7. The relevant authority may not restrict the application on grounds of the potential financial implications as specified under Section 59(1)(f) of Chapter VI of The Land Use Planning Act: "a competent authority contemplated in this Act or other relevant authority considering an application before it, may not be impeded or restricted in the exercise of its discretion solely on the ground that the value of land or property will be affected by the outcome of the application."</p>	<p>7. This statement is unfounded as no evidence could be provided.</p> <p>Market conditions and sales in an specific area determines the valuation of a property. The municipal valuations for erf 2888, since 2015, are as follows: 2015 – R3 578 000,00  2019 – R4 242500,00  2019 – R3 325 000,00 (purchase price)  2023 – R2 995 000,00</p>
8. C	<p>8. Decrease in agricultural activity: Clause 2.3 of the rezoning application refers to Erf 5662 being used to grow lucerne. On my property we are cultivating crops. South Africa as a country cannot afford for any more agricultural land to be rezoned for other purposes; as we are already struggling to provide food for an ever growing population and feed for livestock which, in turn, provide food for the population.</p>	<p>8. Erf 5662 is in the process of being transferred to Swartland Municipality. The agricultural activity will not be continued after the transfer is complete.</p> <p>The Swartland Spatial Development Framework (SDF) (2019) determines the strategic policy guidelines for future development in the Swartland region and in this case, in Moorreesburg. The Land Use Proposals Map as part of the Swartland SDF (2019) for Moorreesburg includes the development of</p>	<p>8. Erf 5662 (5ha in extent) was created from erf 1105 which is zoned Agricultural zone 1. As part of the NEMA:EIA Regulations process the impact on agricultural land as well as the permanent loss of agricultural land was considered to be of medium negative significance.</p> <p><i>"...The proposed development will result in the permanent loss of 5ha of agricultural land. The loss of cropland represents some loss of agricultural production potential, both for the affected farmer</i></p>

		<p>a cemetery on Erf 5662. This indicates that this application is fully supported by the SDF.</p> <p>The site is considered ideal for the development of a cemetery in an attempt to address the urgent need for additional burial space in Moorreesburg.</p>	<p><i>and in terms of national food security. Due to the size of the area to be lost and the agricultural production potential of the land, the agricultural impact has been assessed as being of medium negative significance. Furthermore, the cumulative impact of agricultural land loss from urban expansion around towns in the Western Cape is significant and the proposed development will contribute to the cumulative loss in the Province.</i></p> <p><i>The site is in close proximity to the town of Moorreesburg in an area that has already been divided into small land parcels that are no longer of sufficient size to be individually viable as agricultural production land. As such, the agricultural impact of the proposed development is deemed acceptable. Further, the Western Cape Department of Agriculture indicated in their comment dated 15 November 2023, that they have no objection to the proposed development..."</i></p>
9.	<p>9. Crime: Another concern is the criminal element which frequents the Waste Disposal Facility a little further down 8th Avenue. Their activities, including starting of fires, damage to property and defecation in public and alleged consumption of illegal substances, amongst others, will almost certainly spread to the cemetery resulting in the cemetery fence being vandalised as well as the graves and headstones being vandalised. Certainly, the dead's right to dignity will not be upheld in the current circumstances. If the Waste Disposal Facility was closed and moved elsewhere, this would mitigate this risk. As I understand, the Waste Disposal Facility was a temporary facility and meant to be closed. When is this scheduled to be closed?</p> <p>Cemeteries unfortunately become the target of vandals, and this will most definitely result in the devaluation of surrounding properties as</p>	<p>9. A cemetery is certainly not the generator of crime. Crime is something that is common and cannot be linked to a cemetery. The proposed cemetery can also not be held responsible for the social problems the current Waste Disposal Facility is causing.</p>	<p>9. The objector is speculating. The cemetery will be fenced which will restrict access. Municipal law enforcement needs to act if any criminal activities take place.</p>

	well as impinging on the dignity of the dead and their surviving relatives and friends who visit their graves.		
10. C	<p>10. Access Road: Is the current narrow gravel road suitable for carriage of digging machinery and the vehicles required to transport said digging machinery, which will be required in terms of clause 2.6.2 of the application? Also due to increased burials there will be more vehicles and probably some buses; surely the current road was not designed for this increase in vehicle traffic. Furthermore, has an adequate assessment of vehicle traffic and required parking being done?</p>	<p>10. Sufficient area will be provided for on-site parking, including bus parking. The access road will be able to handle the traffic and will be maintained by the Municipality.</p>	<p>10. The Department: Civil Engineering Services had no comments on the upgrade of Eight Avenue to accommodate the potential increase of traffic as a result of the proposed cemetery. This implies that exiting road is deemed sufficient.</p>
11. C	<p>11. Petition: Please refer to, and admit as additional objections, the enclosed petition signed by a number of residents in close proximity to Erf 5662 reflecting their objection to a cemetery on this site.</p>	<p>11. Section 59 of the Swartland Municipal By-law on Land Use Planning (PG 8226) stipulates requirements for petitions.</p> <p>Section 59: "Requirements for petitions (1) Comments in respect of an application submitted by the public in the form of a petition must clearly state— (c) the comments and reasons therefore."</p> <p>It is to be noted that the petition referred to, does not include the reasons for the objection. Therefore, the petition is not consistent with the Swartland Municipal By-law on Land Use Planning (PG 8226).</p>	<p>11. The applicant is correct that the petition does not comply with the requirements of the Planning By-law. However, for the sake of completeness, it will be considered.</p>
12. D	<p>12. Specialist Reports Is a geological/hydrological study conducted which indicates the flow of underground water?</p>	<p>12. Refer to Points 1 and 3.</p>	<p>12. Specialist studies were conducted for geotechnical &amp; stormwater reports. The findings of the reports were made part of the Environmental Authorisation.</p> <p>There are no water courses present on the site. The closest water course is ±1300m from the site which is further away than the minimum recommended safe distance with regard to permeability.</p>



13. D	<p>13. Visual Impact: Hooikraal is a knife point due to refuse sites and sewerage works which makes the area less sought after. Another municipal site will have a negative impact on the attractiveness of Hooikraal.</p>	<p>13. Effective planting of trees and shrubs around the site will serve as an effective visual and noise buffer.</p>	<p>13. The proposed cemetery will be fenced and landscaped. It will not detract from the character or visual attractiveness of the area.</p>
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## PART J: MUNICIPAL PLANNING EVALUATION

### 1. Type of application and procedures followed in processing the application

The application for the rezoning of erf 5662, Moorreesburg in terms of section 25(2)(a) of Swartland Municipality : Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020) has been received. It is proposed that erf 5662 (5,0002ha in extent) be rezoned from Agricultural zone 1 to Open Space zone 4 in order to establish a cemetery.

A total of 26 registered notices which were sent to affected parties as well as the application was advertised in the local newspapers and Provincial Gazette. The public participation process started on 9 May 2022 and ended on 13 June 2022. Where e-mail addresses were available, affected parties were notified via email as well. 19 of owners were also notified via email. A total of 21 notices were returned uncollected. 15 of the owners who's notices were returned uncollected received the notice via email. 6 of the owners did not receive the notices.

A total of 5 objection letters were received. One of the letters contains a petition containing signatures of 32 people. The applicant's comments on the objections were received on 6 July 2022.

The Division: Land Use & Town Planning is now in the position to present the application to the Swartland Municipal Planning Tribunal for decision making.

### 2. Legislation and policy frameworks

#### 2.1 Matters referred to in Section 42 of SPLUMA and Principles referred to in Chapter VI of LUPA

- a) Spatial Justice: The proposal aims to provide a basic social service to the residents of Moorreesburg. The application will not result in the exclusion of any groups. The development proposal is consistent with the Swartland Spatial Development Framework as a spatial instrument that directs future development at a local municipal level
- b) Spatial Sustainability: The proposal will not adversely affect any high potential agricultural land or conservation areas of high significance and will be cradled by the surrounding rural landscape, not impeding on the agricultural character of the area. The facility will promote long term financial sustainability for the property and the surrounding Swartland region. Furthermore, it will not affect any endangered vegetation or conservation areas.
- c) Efficiency: The proposal seeks to establish a land use that is best located outside of the urban area and also ensuring efficient use of resources relating to land, infrastructure and services. The property can be developed to its full potential in accordance with the Swartland SDF and Zoning Scheme Regulations set out in Schedule 2 of the Municipal Land Use Planning By-Law (PG 8226). The proposed development will contribute to the meaningful utilisation of land for a much-needed land use.
- d) Good Administration: The application was communicated to the affected landowners through registered mail and it as advertised in local newspapers and the Provincial Gazette. The application was also circulated to the relevant municipal departments for comment. Consideration was given to all correspondence received and the application was dealt with in a timeous manner. It is therefore argued that the principles of good administration were complied with by the Municipality.
- e) Spatial Resilience: The principle of spatial resilience allows more flexibility in spatial plans, policies and systems. The spatial resilience of the property is increased by allowing a land use much needed in Moorreesburg. The proposed development does not limit any future benefits of the properties or surrounding area and have no negative impact on disadvantaged communities.

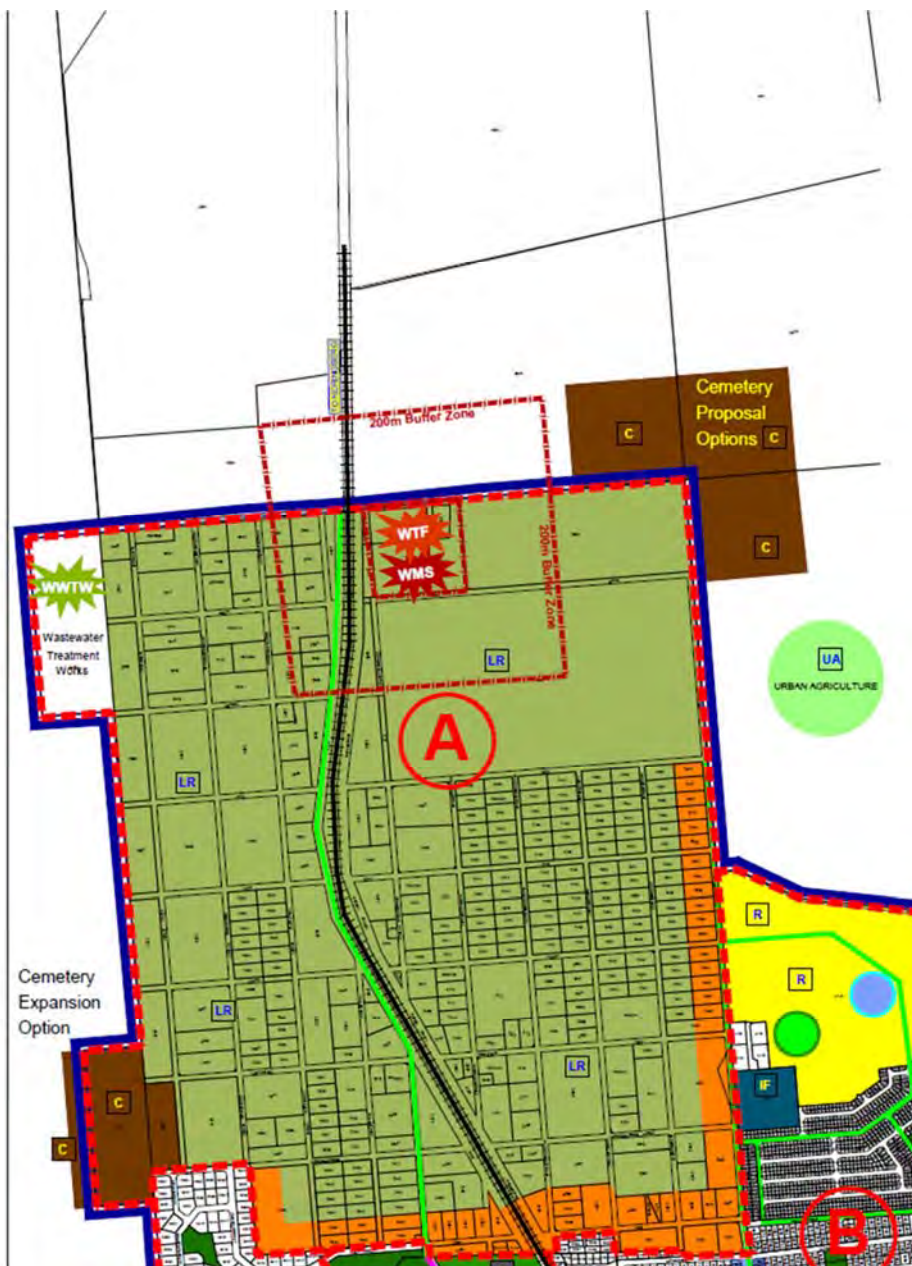
#### 2.3 Spatial Development Framework(SDF)

The land use application was submitted in 2022 when the SDF of 2017-2022, as amended in 2019, was still applicable. The amendment in 2019, amongst others, specifically referred to changes regarding cemeteries. It was proposed that there should be allowed for the expansion of the cemetery. The expansion of the existing cemetery was proposed as well as new positions of possible cemetery sites outside the urban edge. One of the options outside the urban edge is on the position of erf 5662.

See an extract of the SDF of 2019.

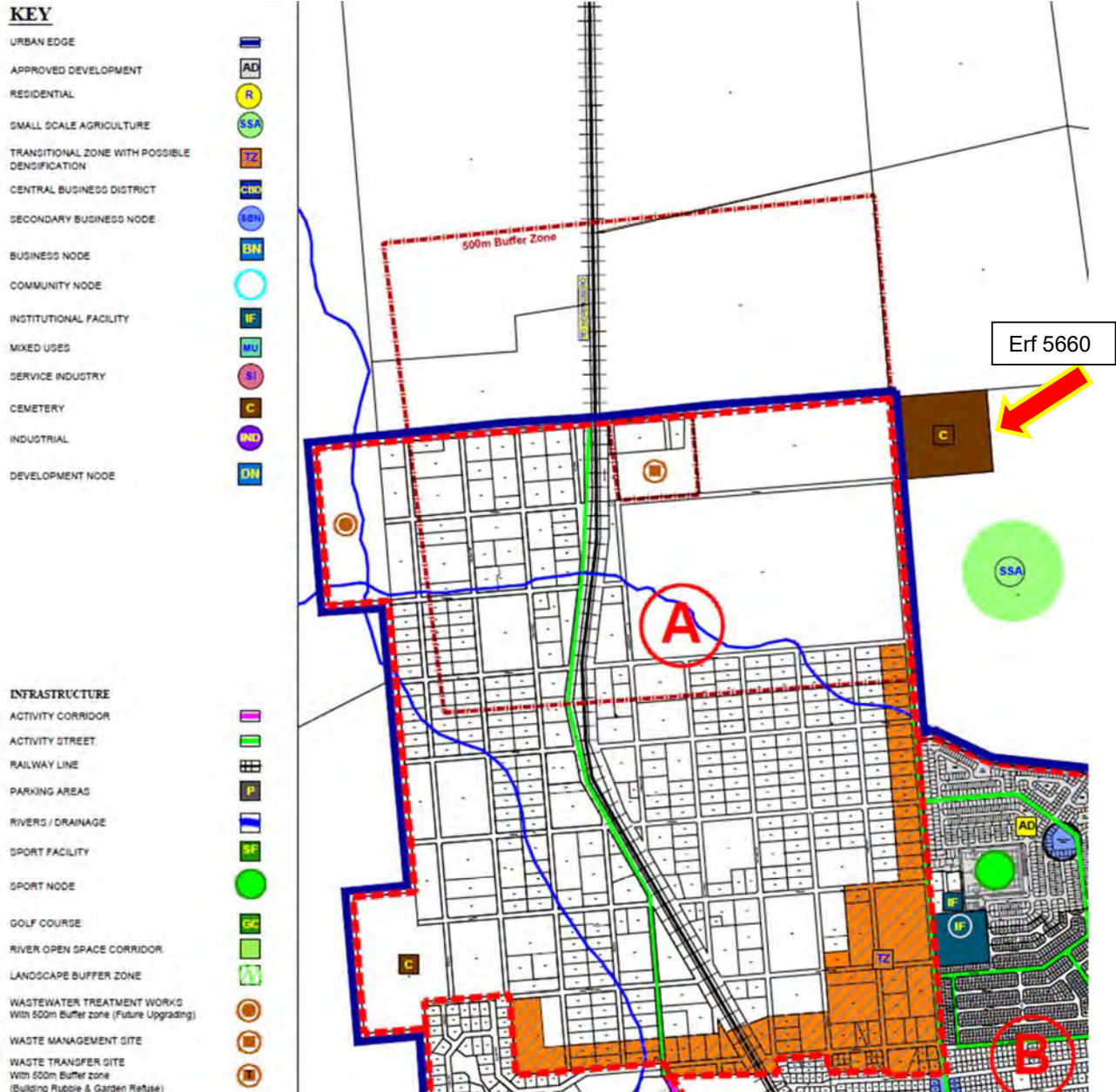
# **KEY**

URBAN EDGE	[Blue line]
RESIDENTIAL	[Yellow box with R]
LOW DENSITY RESIDENTIAL	[Light green box with LR]
INFILL DEVELOPMENT	[Light blue box with ID]
URBAN AGRICULTURE	[Light green box with UA]
TRANSITIONAL ZONE WITH POSSIBLE DENSIFICATION	[Orange box]
PRIMARY BUSINESS DISTRICT	[Dark blue box with PBD]
SECONDARY BUSINESS DISTRICT	[Light blue box with SBD]
PRIMARY BUSINESS NODE	[Dark blue circle]
SECONDARY BUSINESS NODE	[Light blue circle]
COMMERCIAL ACTIVITY NODE	[Light blue circle]
COMMUNITY NODE	[Red circle]
INSTITUTIONAL FACILITY	[Dark blue box with IF]
MIXED USES	[Light blue box with MU]
SERVICE INDUSTRY	[Light blue box with SI]
CEMETERY WITH EXPANSION POSSIBILITIES	[Brown box with C]
INDUSTRIAL	[Dark blue box with IND]
INFRASTRUCTURE	[Dark blue box with INF]
ACTIVITY CORRIDOR	[Pink line]
ACTIVITY STREET	[Green line]
RAILWAY CONNECTION	[Black line with cross-ticks]
PARKING AREAS	[Dark blue box with P]
RIVERS / DRAINAGE	[Blue line]
PARKS / PUBLIC OPEN SPACES	[Dark green box]
PRIVATE OPEN SPACES	[Dark green box]
SPORT FACILITY	[Dark green box with SP]
SPORT NODE	[Dark green circle]
GOLF COURSE / PRIVATE OPEN SPACE	[Dark green box with GC]
RIVER OPEN SPACE CORRIDOR	[Dark green line]
GOLF COURSE EXPANSION POSSIBILITY	[Dark green line with arrow]
LANDSCAPE BUFFER ZONE	[Green line with W]
WASTEWATER TREATMENT WORKS With 500m Buffer zone (Future Upgrading)	[Green starburst with WWTW]
WASTE MANAGEMENT SITE With 500m Buffer zone (Building Rubble & Garden Refuse)	[Red starburst with WMS]
WASTE TRANSFER FACILITY	[Red starburst with WTF]



The SDF of 2023 - 2028 specifically makes provision for the proposed cemetery on erf 5662. No extension of existing cemeteries are proposed.

See the extract from the SDF below.



The application is therefore in compliance with the spatial planning of Moorreesburg.

## 2.4 Schedule 2 of the By-Law: Zoning Scheme Provisions

All zoning parameters are complied with.

## 2.5 Desirability of the proposed utilisation

Erf 5662 is zoned Agricultural zone 1 in terms of the Swartland Planning By-law.

The existing cemeteries in Moorreesburg are nearing full capacity and cannot be expanded due to a variety of reasons. (The previous extension of an existing cemetery was done in 2017 which was 2000m<sup>2</sup> in extent.) The proposed cemetery will create sufficient space for years to come. The position of the proposed cemetery is deemed suited in terms of land use planning and from an environmental perspective.

Erf 5662 has no physical restrictions which may impact negative on the proposed cemetery.

The position of the proposed cemetery is as indicated in the SDF, which makes the application in compliance with the spatial planning of Moorreesburg.

The proposed cemetery will be fenced and landscaped. It will not detract from the character or visual attractiveness of the area. The visual impact is deemed to be low.

An Environmental Authorization was issued by the Department of Environmental Affairs and Development Planning on 8 February 2024. The Environmental Authorization took into consideration the following possible impacts:

- Activity need and desirability
- Botanical
- Freshwater
- Traffic
- Agriculture
- Geotechnical
- Stormwater
- Dust
- Heritage

Taking into consideration the all the specialist studies that were undertaken as well as the Environmental Authorization, the author is satisfied that all concerns raised during the public participation process has either been addressed or mitigated.

The concerns of the objectors have sufficiently been addressed and they are advised that any irregularities taking place on the cemetery premises need to be reported to the municipal law enforcement or alternatively SAPS.

The only other legislation that still needs to be addressed is the National Health Act (Act 61 of 2003). With reference to the regulations relating to the management of human remains that were promulgated in Government Gazette 36473 dated 22 May 2013.

In terms of Chapter 5 section 15 of the abovementioned regulations

“... ”

- (1) *No land or site shall be identified and used for the purpose of a burial site, unless environmental authorization has been granted in terms of the National Environmental Management Act, 1998 (Act 107 of 1998) (NEMA), Environmental Impact Assessment Regulations, R543 of 18 June 2010, as amended (EIA Regulations);*
- (2) *“(2) All burial sites must comply with the following environmental requirements-*
  - (a) be located outside the 100 year floodplain;*
  - (b) be located at least 350 m from ground water sources used for drinking purposes and at least 500 m from the nearest habitable building;***
  - (c) for a preferred burial site with a soil of sand-clay mix of low porosity and a small and fine-grain texture, the water table should be at least 2.5m deep in order to allow for traditional grave depth of six feet (1.8 meters);*
  - (d) for areas with higher water tables, the local government may determine a reasonable depth with additional walling recommendations to protect underground water; and*
  - (e) the covering soil shall not be less than 1 m, should two bodies be buried in the same grave, 300mm of soil shall be maintained between the coffins.*
- (3) *All burials must be registered with the relevant local government, and the local government concerned shall enter all burials in the register of burials of such local government...”*

The above-mentioned regulations are a real concern as there are very few or proposed cemeteries located in close proximity to the community that it will serve that will be able to comply with the 500m rule. The regulations do make provision that the municipality can apply for an exemption in terms of Chapter 2 section 2(a) to the Director General of the National Department of Health.



Such a request will be sent to the National Department of Health which will need to include the Environmental Authorisation, land use approval of Swartland Municipality and a recommendation from the West Coast District Municipality.

Taken all the above-mentioned into consideration, application is deemed desirable and is recommended for approval.

**3. Impact on municipal engineering services**

No impacts are anticipated.

**4. Comments of organs of state**

West Coast District Municipality

Department of Agriculture

**5. Response by applicant**

See Annexure H.

**PART K: ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS**

The financial or other value of the rights

N/A

The personal benefits which will accrue to the holder of rights and/or to the person seeking the removal

N/A

The social benefit of the restrictive condition remaining in place, and/or being removed/amended

N/A

Will the removal, suspension or amendment completely remove all rights enjoyed by the beneficiary or only some rights

N/A

**PART L: RECOMMENDATION WITH CONDITIONS**

**A.** The application for the rezoning of erf 5662, Moorreesburg be approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), subject to the following conditions:

**1. TOWN PLANNING AND BUILDING CONTROL**

- a) Erf 5662 be rezoned from Agricultural zone 1 to Open Space 4, as presented in the application;
- b) Application be made for an exemption in terms of Chapter 2 section 2(a) of the National Health Act (Act 61 of 2003) to the Director General of the National Department of Health;

**2. GENERAL**

- a) Cognisance be taken of the conditions of approval of the Environmental Authorization of the Department of Environmental Affairs and Development Planning with reference 16/3/3/1/F5/17/2025/23, dated 8 February 2024;
- b) Cognisance be taken of the letter from Eskom with reference 05653-00, dated 19 May 2022;
- c) The approval does not exempt the applicant from adherence to all other legal procedures, applications and/or approvals related to the intended land use, as required by provincial, state, parastatal and other statutory bodies;
- d) The approval is valid for a period of 5 years, in terms of section 76(2) of the By-Law from date of decision. Should an appeal be lodged, the 5 year validity period starts from the date of outcome of the decision against the appeal;

- e) All conditions of approval be implemented before the new land uses come into operation and failing to do so the approval will lapse. Should all conditions of approval be met within the 5 year period, the land use becomes permanent, and the approval period will no longer be applicable;
- f) The applicant/objectors be informed of the right to appeal against the decision of the Municipal Planning Tribunal in terms of section 89 of the By-Law. Appeals be directed, in writing, to the Municipal Manager, Swartland Municipality, Private Bag X52, Malmesbury, 7299 or by e-mail to swartlandmun@swartland.org.za, within 21 days of notification of the decision. An appeal is to comply with section 90 of the By-Law and be accompanied by a fee of R5000,00 to be valid. Appeals that are received late and/or do not comply with the requirements, will be considered invalid and will not be processed.

#### PART M: REASONS FOR RECOMMENDATION

1. The existing cemeteries in Moorreesburg are nearing full capacity and cannot be expanded due to a variety of reasons.
2. Erf 5662 does not consist of any physical restrictions which may impact negative on the application.
3. The character of the area will not be affected negatively. The proposed cemetery will be fenced and landscaped which will make it less visible and more attractive.
4. Various specialist studies were conducted which found erf 5662 suited for cemetery purposes.
5. The application is in compliance with the spatial planning of Moorreesburg.
6. The application complies with the principles of LUPA and SPLUMA.
7. An Environmental Authorization from the Department of Environmental Affairs and Development Planning has been issued for the development of a cemetery.
8. The concerns of the objectors have sufficiently been addressed or mitigated.
9. Any disturbance cause by the cemetery (burials) on the surrounding area are temporary. The disturbance is deemed low.
10. The impact on surrounding property values are determined by market conditions and sales in the area. The proposed cemetery will not impact negatively on the surrounding property values.
11. Access to the proposed cemetery is deemed sufficient.
12. The loss of agricultural land is deemed to be of medium negative significance.



#### PART N: ANNEXURES

Annexure A	Locality Plan
Annexure B	Site development plan
Annexure C	Public participation map
Annexure D	Objection from P Feldman (includes a petition)
Annexure E	Objection from Altus de Villiers Family Trust
Annexure F	Objection from Retief Nel
Annexure G	Objection from NPJ Kriek
Annexure H	Objection from Francois JE Koch
Annexure I	Letter from Department of Agriculture
Annexure J	Letter from Eskom
Annexure K	Letter from the West Coast District Municipality
Annexure L	Environmental Authorization
Annexure M	Comments from the applicant on the objections received.

**Please note that the specialist studies that were conducted as part of the applicant can be made available on request.**

#### PART O: APPLICANT DETAILS

First name(s)	CK Rumboll & Partners			
Registered owner(s)	Swartland Municipality	Is the applicant authorised to submit this application:	<b>Y</b>	N

PART P: SIGNATURES			
<b>Author details:</b> AJ Burger Chief Town & Regional Planner SACPLAN: B/8429/2020		Date: 1 March 2024	
<b>Recommendation:</b> Alwyn Zaayman Senior Manager: Development Management SACPLAN: B/8001/2001	Recommended	<input checked="" type="checkbox"/>	<input type="checkbox"/> Not recommended
		Date: 6 March 2024	

## Locality plan

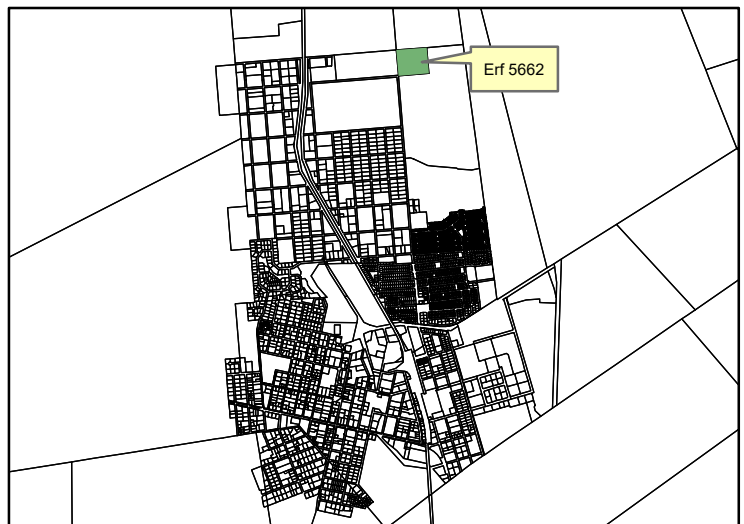
## Annexure A



### Locality plan

**Erf 5662, Moorreesburg**

**Scale: N/A**





**KEY:**

Power line

Grave Space ( $\pm 4.1259\text{ha}$ )Landscaped Area ( $\pm 659\text{m}^2$ )Gravel Roads/walkways ( $\pm 5276\text{m}^2$ )

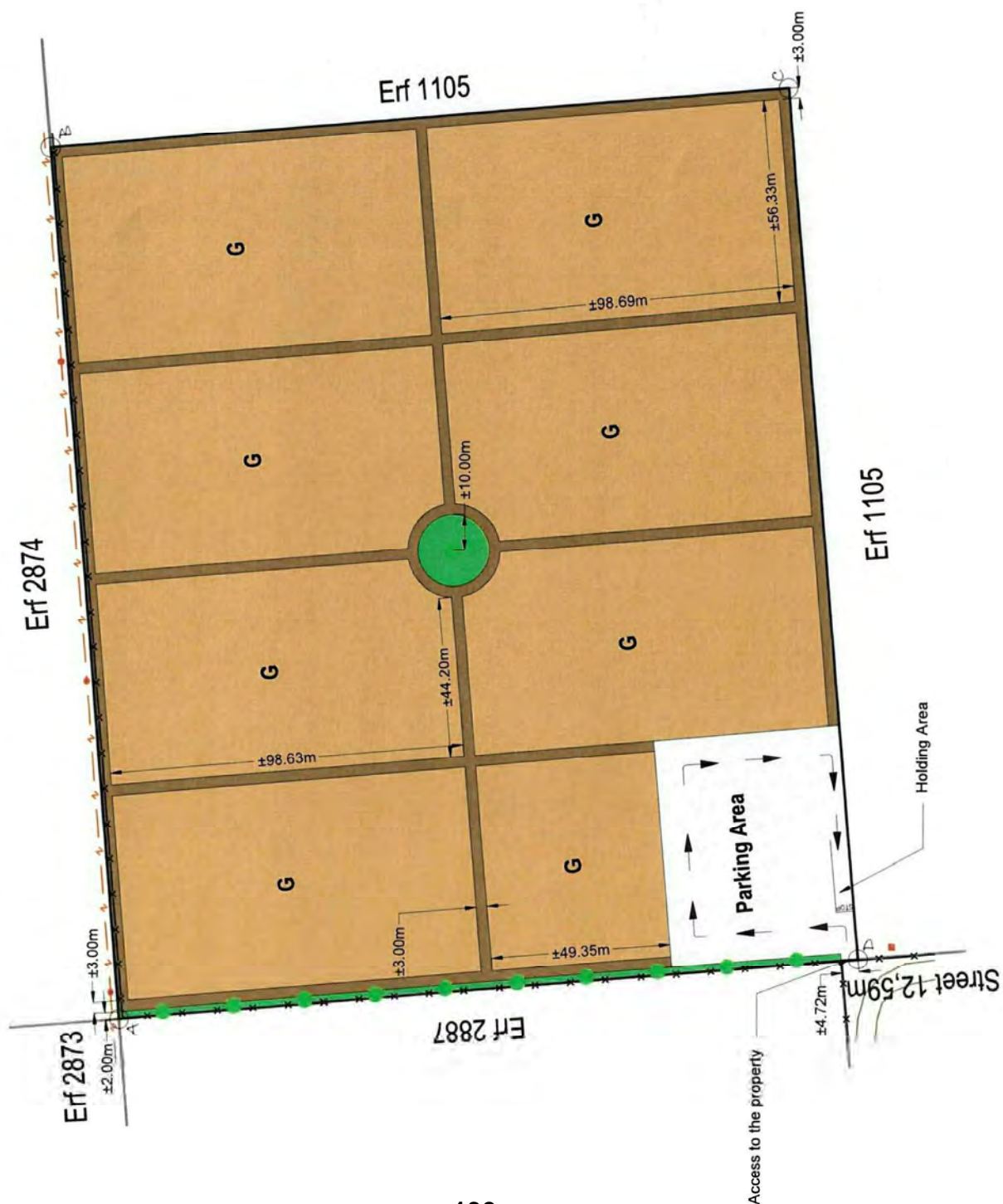
**ZONING I.T.O. THE ZONING SCHEME:**

Current: Agricultural Zone 1

**Proposed: Open Space Zone 4**

**NOTES:**

Figure ABCD represents Erf 5662, Moorreesburg, with an extent of 5.002ha.



## Annexure B

Drawing:

Moonweiburg Proposed Cem

Northwestern Polytechnic University

ALL AREAS AND DISTANCES ARE GIVEN

C.K. RUMBLE



TOWN PLANNING  
PROFESSION



For more information, call 1-800-451-4517 or visit our website at [www.451.com](http://www.451.com)

[illegible]

DATE: JAN 11 AGY 2023

DEC

110005112457771581





**From:** Richard Hiscock <richard.hiscock@fmginc.co.za>

**Sent:** Friday, 10 June 2022 11:54

**To:** Registrasie Email <RegistrasieEmail@swartland.org.za>

**Subject:** Proposed rezoning on Erf 5662, Moorreesburg (Notice 96/2021/2022) - Letter of comment and objection

**Importance:** High

Good day

Your letter dated 9 May 2022 in regard to proposed rezoning above, refers.

This is sent on behalf of Miss Patricia Feldman, of Erf 2887 and 2888 8<sup>th</sup> Avenue, Moorreesburg. Her contact details and preferred method of communication are care of email: [richard.hiscock@fmginc.co.za](mailto:richard.hiscock@fmginc.co.za)  
Her interest in this application is as an affected person and property owner of ERF 2887 and 2888, adjacent and opposite Erf 5662. Reasons for comments are as an affected adjoining property owner and member of the local community.

In connection with proposed rezoning of Erf 5662 Moorreesburg, please find attached on behalf of Miss P Feldman:

- Letter of comment and objection;
- Petition signed – 2 pages attached;
- Cemetery photos – 2 attached.

Kindly confirm receipt of her letter of comment and objection and attachments. Please also note the petition signed by a number of neighbours in close proximity to the site proposed for rezoning.

Thank you.

Kind Regards,

Richard Hiscock CA (S.A.)  
FMG Chartered Accountants  
Ph: 021 424 4666  
Fax: 021 424 4577

Ms P Feldman  
8th Avenue  
Moorreesburg  
7310

8 June 2022

WITHOUT PREJUDICE

The Municipal Manager  
Swartland Municipality  
Private Bag X 52  
Malmesbury  
7299

Per email: [swartlandmun@swartland.org.za](mailto:swartlandmun@swartland.org.za)

Dear Sir

Re: Comment and Objection to Proposed rezoning of Erf 5662, Moorreesburg

I am the owner of Erf 2887 and Erf 2888 Moorreesburg.

Erf 2887 is adjacent to Erf 5662 on which the proposed rezoning is contemplated and Erf 2888 is across the road from it. Thus, I would be directly affected by any such contemplated rezoning on Erf 5662.

The main reason I moved to these properties was that they offered the tranquillity of an agricultural setting. Weekends in particular are a time to rest and relax.

Whilst the application refers to +/-11 burials per month it doesn't mention the number of vehicles which attend each burial. It also refers to an increase in the number of burials due to the Covid-19 pandemic. Even at 11 burials per month that is an average of two per weekend, before allowing for any increase due to the Covid19 pandemic. Additionally, the community tends to conduct burials on a Saturday, which makes the weekly average number of burials misleading – as most burials are likely to be on a Saturday. So realistically every Saturday, and perhaps Sunday, there are likely to be burials. So this will most definitely negatively impact me.

Similarly not everyone wants to live next to a cemetery. So my property value will decrease; in as much as the available pool of buyers will be smaller - thus negatively impacting me trying to sell my property.

Surely there are more suitable locations for an additional cemetery to cater to the surrounding communities in locations closer to those communities within the urban edge, rather than on the outskirts of town which is still being used for agricultural purposes.

Moorreesburg Cemetery East appears to have plenty of open land across Swartland Road between Swartland and Piketberg Roads. Certainly, location wise it would be more convenient for the local Moorreesburg community?

Clause 2.3 of the rezoning application refers to Erf 5662 being used to grow lucerne. On my property we are cultivating crops. South Africa as a country cannot afford for any more agricultural land to be rezoned for other purposes; as we are already struggling to provide food for an ever-growing population and feed for livestock which, in turn, provide food for the population.

Clause 2.3 of the application also states that a cemetery won't have any negative impact on the surrounding agricultural areas. A cemetery right in the middle of all agricultural surrounding area by its very existence reduces the agricultural land available. In addition, there is a risk of groundwater being infected or polluted

This ground water may run through to surrounding properties, of which mine are but two, and pollute the groundwater which is used via borehole to provide water for irrigation and for animals.

According to the World Health Organisation, seepage water as a result of putrefaction of human corpses may mix with the groundwater and may become a potential environmental risk

Another concern is the criminal element which frequents the Waste Disposal Facility a little further down 8<sup>th</sup> Avenue. Their activities, including starting of fires, damage to property and defecation in public and alleged consumption of illegal substances, amongst others, will almost certainly spread to the cemetery resulting in the cemetery fence being vandalised as well as the graves and headstones being vandalised. Certainly, the dead's right to dignity will not be upheld in the current circumstances. If the Waste Disposal Facility was closed and moved elsewhere, this would mitigate this risk. As I understand, the Waste Disposal Facility was a temporary facility and meant to be closed. When is this scheduled to be closed?

As you can see by the attached photographs, cemeteries unfortunately become the target of vandals, and this will most definitely result in the devaluation of surrounding properties as well as impinging on the dignity of the dead and their surviving relatives and friends who visit their graves.

Is the current narrow gravel road is suitable for carriage of digging machinery and the vehicles required to transport said digging machinery, which will be required in terms of clause 2.6.2 of the application. Also due to increased burials there will be more vehicles and probably some busses; surely the current road was not designed for this increase in vehicle traffic. Furthermore, has an adequate assessment of vehicle traffic and required parking being done?

In conclusion I object to the proposed rezoning application of Erf 5662, Moorreesburg as I feel that there must surely be more suitable alternatives, and these should be investigated. In addition, due to the other issues I have raised I don't believe this proposed site is in the best interests of the surrounding local communities.

Please refer to, and admit as additional objections, the enclosed petition signed by a number of residents in close proximity to Erf 5662 reflecting their objection to a cemetery on this site.

Thanking you for the opportunity to address my concerns, reservations, comments and objection.

Yours faithfully



P Feldman

(signed electronically on her behalf by RG Hiscock)

**PETITION TO OBJECT TO PROPOSED CEMETERY DEVELOPMENT**  
**PETISIE OM BESWAAR TEEN VOORGESTELDE BEGRAAFPLAAS ONTWIKKELING**

OBJECTION TO PROPOSED CEMETERY ON ERF 5662 (PORTION OF ERF 1105), MOORREESBURG  
 I, BY MY SIGNATURE HEREUNDER, WISH TO OBJECT TO THE PROPOSED CEMETERY BEING DEVELOPED ON THE ABOVE SITE

BESWAAR TEEN VOORGESTELDE BEGRAAFPLAAS OP ERF 5662 (GEDEELTE VAN ERF 1105), MOORREESBURG  
 EK, MET MY HANDTEKENING HIERONDER, WIL BESWAAR MAAK TEEN DIE VOORGESTELDE BEGRAAFPLAAS ONTWIKKELING  
 OP DIE BOGENOEMDE TERREIN

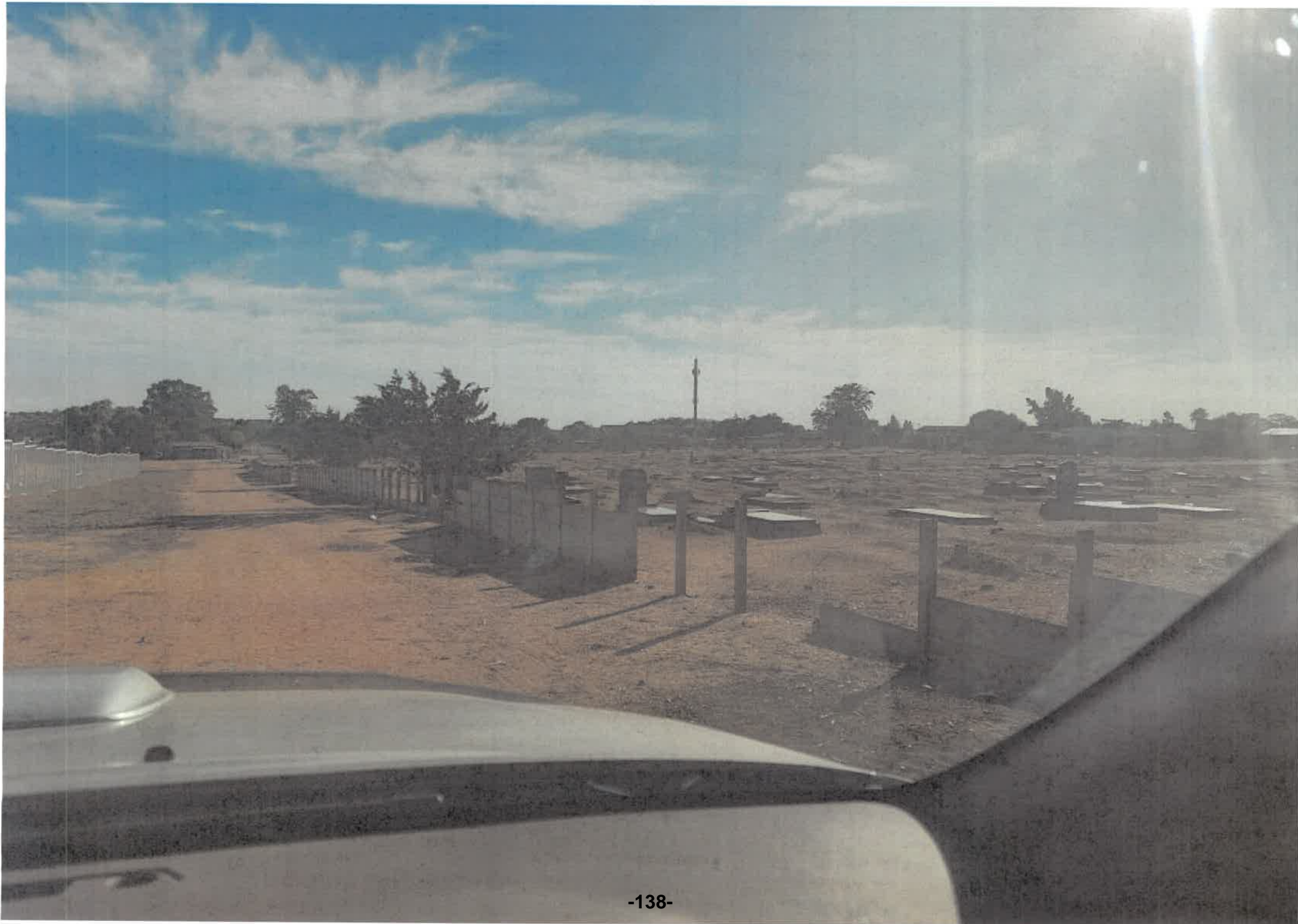
NO	DATUM DATE	NAAM EN VAN NAME & SURNAME	ADRES ADDRESS	KONTAK NO CONTACT NO.	E-POS E-MAIL
1	20/5/22	J. P. Le Roux	Gate 1000 16 Moorreesburg	0649107139	
2	20/5/22	Wilma de la Rive	Gate 1000 16 Moorreesburg	0649107139	
3	20/5/22	Wilma & Chris v Dijk	53 Pankrasius Hoofstraat	0722220088	
4	20/5/22	Jean-Louis v Dijk	53 Pankrasius Hoofstraat	08282201644	
5	20/5/22	V. van der Merwe	28 MAIN RD HOORIKRAAL	0837377516	
6	20/5/22	Bernie Schreiner	28 MAIN RD HOORIKRAAL	0856018504	
7	20/5/22	A. van der Merwe	32 Main Rd Hoofstraat	081609930	
8	22/5/22	H. van der Merwe	38 Hoofstraat	0835521518	
9	22/5/22	Hennie	Hoofstraat 10 Hoofstraat	0609232620	
10	22/5/22	H. van der Merwe	55 Hoofstraat	0785000000	
11	22-5-22	D. Veldt	Hoofstraat 4 m28	0844942321	
12	23-5-22	Angelique Visser	Hoofstraat 4 Hoofstraat	0119211748	
13	23/5/22	Mieke van Dijk	Sixth Avenue Hoofstraat	0716795986	
14	24/5/22	Venessa Jordaan	108 Hoofstraat	0794778610	
15	24/5/22	Catherine Uys	57 Liberty Hill Road	0763039515	
16	24/5/22	D. Robinson	57 LIBERTY Hill Road	0626927508	
17	24/5/22	T. Uys	57 LIBERTY Hill Road	0824862708	
18	24/5/22	R. Kockemoer	57 LIBERTY Hill Road	0655130208	
19	24/5/22	K. Uys	57 LIBERTY Hill Road	0198607053	
20	24/5/22	H. Robinson	57 LIBERTY Hill Road	0626927338	



22	2/6/22	R.G. Smith	56.13.20.15	07510009
23	2/8/22	P. G. Smith	46.13.20.15	083377434
24	2/11/22	A. G. Smith	46.13.20.15	083377434
25	2/11/22	A. G. Smith	46.13.20.15	083377434
26	2/11/22	A. G. Smith	46.13.20.15	083377434
27	2/11/22	A. G. Smith	46.13.20.15	083377434
28	2/11/22	A. G. Smith	46.13.20.15	083377434
29	2/11/22	A. G. Smith	46.13.20.15	083377434
30	2/11/22	A. G. Smith	46.13.20.15	083377434
31	2/11/22	A. G. Smith	46.13.20.15	083377434
32	2/11/22	A. G. Smith	46.13.20.15	083377434
33	2/11/22	A. G. Smith	46.13.20.15	083377434
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**Altus de Villiers Familie Trust****Klein Constantia - Erf nommer 4045****Posbus 307****Moorreesburg  
7310****BTW NO: 4080195961****IT 2560/2001****19-05-2022****Sel no 083 233 4345 / 083 233 4344****E-Mail: altusdv@gmail.com**

Die Munisipale Bestuurder  
 Privaatsak X52  
 Malmesbury  
 E-pos: swartlandmun@swartland.org.za

**Beswaar - Hersonerig van erf 5662**

Belang by aansoek:	Aangrensende Boerdery
Redes vir kommentaar:	Besoedeling van Boorgatwater
Keuse van kommunikasie:	Epos: altusdv@gmail.com
Eienaar:	Altus de Villiers
Beroep:	Boer
Tipe Boerdery:	Granate onder besproeiing
Waterbron:	Boorgat
Permanente werksgeleenthede:	20 mense
Seisoenale werksgeleenthede:	60 mense vir 5 maande elke jaar

**1. Bekommernis:****BESOEDELING VAN WATERBRON**

Die voorgestelde begraafplaas is hoër geleë as my plaas, SYFERWATER van die begraafplaas het die potensiaal om my waterbron te besoedel.

Daar is meer as een geval aangeteken in Suid Afrika waar ondergrondse waterbronne besoedel is deur begraafplase.

Die boorgat is ons ENIGSTE BRON VAN DRINKWATER. Ecol sal die water ongeskik maak vir drinkwater. My boerdery word jaarliks geoudit deur GLOBAL GAP. - Sonder 'n GLOBAL GAP CERTIFIKAAT stel geen mark in die verboude vrugte belang nie.

Die boerdery moet jaarliks 'n ontleding van my besproeiings water aan die ouditeurs beskikbaar stel. Tot op hede wys die toetsresultate my boorgat is skoon van onsuiverhede.

Indien ECOLI in my besproeiings water gevind word, kan ek maar my boerdery staak, aangesien geen mark die vrugte sal aanvaar nie.

## **2. Huidige Besoedeling:**

Die Soutrivier loop deur Moorreesburg dorp en ook oor my plaas.

Huidiglik vrot die water in die rivier a.g.v. die RIOOLWERKE wat nie werk nie.

Die toestand van die water is van so 'n swak kwaliteit dat as die skape en beeste dit suip, hulle siek word en vrek.

In 2002 het ek 'n waterontleding - gedoen op die boerdery rekening - aan die Munisipaliteit voorgelê om te bewys hoe hoog die ECOLI besoedeling in die rivier is.

Die munisipaliteit se reaksie was: "ONS HET 'N SKOON OUDIT".

Die bron van die besoedeling was en is hoogs waarskynlik die RIOOLWERKE wat aan die rivier grens en in swak werkende toestand was en is, of van die huidige BEGRAAFPLAAS wat hoër as die rivier geleë is.

## **3. Omgewings Impakstudie:**

Is daar 'n OMGEWINGS IMPAKSTUDIE gedoen ???

Indien wel:

Deur wie ?

Wanneer ?

Is die resultate beskikbaar vir die publiek ?

## **4. Voorstel:**

Die Swartland is 'n WATERSKAARS AREA.

Brei rondom die BESTAANDE BEGRAAFPLAAS uit - die area is REEDS BESOEDEL.

## **5. Skoon Oudit**

Swartland Munisipaliteit spog met "CLEAN AUDITS SINCE 2010/11".

Sal Swartland Munisipaliteit asseblief aan sy BELASTING BETALERS verduidelik hoe hulle 'n skoon oudit kry terwyl die rivier stroomaf van die rioolwerke in so 'n haglike toestand verkeer.

Ek glo en vertrou hierdie skrywe is stof tot nadenke vir SWARTLAND MUNISIPALITEIT.

Groete

Altus de Villiers



Nel Boerdery

Groeneweide straat 14  
Posbus 120  
Moorreesburg  
7310

Sel no 083 470 7370

E-Mail: nelboerdery1@gmail.com

Die Munisipale Bestuurder  
Privaatsak X52  
Malmesbury  
E-pos: swartlandmun@swartland.org.za

**Beswaar - Hersonerig van erf 5662**

Belang by aansoek: Omliggende Boerdery

Redes vir kommentaar: Besoedeling van boorgatwater asook die hele ondergrondse water sisteem van Hooikraal

Keuse van kommunikasie: Epos: nelboerdery1@gmail.com

Eienaar: Retief Nel

Beroep: Boer

Tipe Boerdery: Boerbokke

Waterbron: Boorgat

1. Bekommernis:

**BESOEDLING VAN WATERBRON**

Die voorgestelde begraafplaas is hoër geleë as my plaas, SYFERWATER van die begraafplaas het die potensiaal om my waterbron te besoedel.

Daar is meer as een geval aangeteken in Suid Afrika waar ondergrondse waterbronne besoedel is deur begraafplase.

Die boorgat is ons ENIGSTE BRON VAN DRINKWATER. Ecoli sal die water ongeskik maak vir drinkwater.

My boerdery word jaarliks geoudit deur landbou verwante instansies om te verseker dat ons geskikte boerdery praktyke toepas. - Sonder die SERTIFIKAAT stel geen mark in die genetika of vleis belang nie.

Die boerdery moet jaarliks 'n ontleding van my besproeiings water aan die ouditeurs beskikbaar stel.

Tot op hede wys die toetsresultate my boorgat is skoon van onsuierhede.

Indien ECOLI in my besproeiings water gevind word, kan ek maar my boerdery staak, aangesien dit die diere siek maak sal en 'n negatiewe impoak sal hê op kwaliteit van genetika asook vleis.

## 2. Huidige Besoedeling in die omliggende area:

Die Soutrivier loop deur Moorreesburg dorp en ook oor my plaas.

Huidiglik vrot die water in die rivier a.g.v. die RIOOLWERKE wat nie werk nie.

Die toestand van die water is van so 'n swak kwaliteit dat as die skape en beeste dit suip, hulle siek word en vrek.

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Ek glo en vertrou hierdie skrywe is stof tot nadenke vir SWARTLAND MUNISIPALITEIT.

Groete

Retief Nel

**KRIEK HOLDINGS (PTY) LTD**

**EN**

**NPJ KRIEK**

Lankgewaght Plaas

Erf 4044

Hooikraal

Moorreesburg

7310

Munisipale rekening nommer: 3-30-04044-002-8

**BESWAAR TEEN VOORGESTELDE HERSONERING EN BEGRAAFPLAAS VAN ERF 5662**

Vir wie dit mag aangaan

Ek as grondeienaar en boer in die Hooikraal omgewing teken hiermee beswaar aan teen die voorgestelde hersonering en beplande begraafplaas op Erf 5662.

My beswaar is 3 ledig van aard:

**1. Risiko van besoedeling van grondwater**

Die hooikraal omgewing is tans reeds onder geweldige druk itv besoedeling op grondwater, asook deurloop water. Om Hooikraal is die huidige begraafplaas, die rioolsuiweringsaanleg, asook die vullisgate. Hierdie munisipale persele plaas geweldige druk op die Hooikraal omgewing se grondwater, en kan nog 'n item die laaste strooi op die kameel se rug wees, wat ons grondwater onbruikbaar gaan maak. Ek vra dat jul asb 'n alternatiewe perseel soek, nie om die Hooikraal omgewing, aangesien ons reeds blootgestel is aan verskeie munisipale persele.

Verder wil ek vra of 'n omgewingsimpakstudie gedoen is, asook of 'n geologiese/hidrologiese verslag verkry is wat die vloei van ondergrondse water aandui? Indien wel, voorsien asb die dokumente aan my.



## **2. Addisionele verkeer/besoedeling weens groot toevloei van mense**

Tweedens ervaar ons tans baie besoedeling van vullis wat deur die wind vanaf die asgate rondgewaai word. Indien daardie pad nou nog 'n groot getal mense op gereelde basis bedien, gaan besoedeling toeneem en addisionele druk op die hooikraal gebied plaas.

## **3. Behoud van Hooikraal as gesogte kleinhoewe area**

Ons het in 2021 na Hooikraal verhuis, en was aangenaam verras deur hoe gesog die area is en het 'n gevind dat daar heelwat opgraderings plaasvind onder huise in die area. Die area is wel op 'n mespunt weens die vullisgate, rioolwerke ens wat die area minder gesog maak. Nog 'n munisipale perseel sal 'n negatiewe effek op aantreklikheid van Hooikraal hê.

Ek vertrou jul sal bogenoemde punte in ag neem en vra as boer en grondeienaar in die area dat jul asseblief sal heroorweeg en 'n ander perseel sal soek.

Dankie

Die uwe



NBJ Kriek

Constantia Plaas  
Erf 3002868000  
Moorreesburg  
7310  
Munisipale rekening nommer: 3-30-02868-002-0  
Epos: [admin@fafko.co.za](mailto:admin@fafko.co.za)  
Selfoon: 0836541006 Francois Koch  
Voorkeur vir kommunikasie: Epos

Vir wie dit mag aangaan:

**Hiermee teken Fafko Holdings (PTY) Ltd beswaar aan teen die hersonering van erf 5662 te Moorreesburg.**

Ons boer op Constantia vir die laaste 35 jaar. Boerderyvertakkings sluit in graan, kanola en vee.

Die beplande begraafplaas kan meer druk op die ondergrondse water in die area plaas. Die potensiaal kan ontstaan dat ons enigste boorgat (wat vir veesuipings gebruik word) besoedel kan word sou die projek voortgaan. Ons kan klaar nie die rivier wat oor ons grond loop gebruik as veesuiping nie weens die besoedeling vanaf die rioolwerke langs ons. Bogenoemde rivier mond uit in Misverstanddam waarvandaan Withoogte hul water trek vir suiwering. Loging vanaf beplande begraafplaas na die rivier het sodoende die potensiaal om Moorreesburg se drinkwater te affekteer.

Verder is die beplande begraafplaas reg langs Moorreesburg se stortingsterrein en kan dit die hoeveelheid rommel wat klaar die wêreld rondwaai by tye net vererger.

Is daar 'n omgewingsimpakstudie gedoen? Deur wie is dit gedoen indien wel? Waar kan ons as publiek hierdie studie bestudeer?

Die uwe

Francois J E Koch  
Direkteur: Fafko Holdings(PTY) Ltd





**OUR REFERENCE : 20/9/2/2/6/033**  
**YOUR REFERENCE : 15/3/3-9/Erf\_5662**  
**ENQUIRIES : Cor van der Walt**

Swartland Municipality  
Private bag X52  
MALMESBURY  
7299

Att: Me. DN Stellenberg

**PROPOSED REZONING: DIVISION MOORREESBURG**  
**ERF NO 5662**

Your application of 09 May 2022 has reference.

The Western Cape Department of Agriculture: Land Use Management has no objection to the proposed application.

Please note:

- Kindly quote the above-mentioned reference number in any future correspondence in respect of the application.
- The Department reserves the right to revise initial comments and request further information based on the information received.

Yours sincerely

Mr. C. J. van der Walt

**LANDUSE MANAGER: LANDUSE MANAGEMENT**  
**2022-08-01**

<u>Copies:</u> Directorate Land Use and Sustainable Resource Management National Department of Agriculture Private Bag X 120 PRETORIA 0001	CK Rumboll & Partners PO Box 211 MALMESBURY 7299
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CK Rumboll & Partners

Date: 2022/05/19

planning1@rumboll.co.za

Enquiries:

WayleavesWesternOU@eskom.co.za

**WAYLEAVE APPLICATION:** Rezoning of Erf 5662 from Agricultural Zone 1 to Open Space Zone 4, to establish a cemetery. : The north-eastern portion of Honikraal · Moorreeshurn

**YOUR REF:** 15/3/3-9/Erf 5662

**ESKOM REF:** 05653-22

## THIS IS NOT AN APPROVAL TO START CONSTRUCTION

I hereby inform you that Eskom has no objection to the proposed work indicated on your drawing in principle. This approval is valid for **12 months** only, after which reapplication must be made if the work has not been completed.

### 1. Eskom services are affected by your proposed works and the following must be noted:

- a) Eskom has no objection to the proposed work and include a drawing indicating Eskom 11kV/LV underground services in close proximity.
- b) Please note that underground services indicated are only approximate and the onus is on the applicant to verify its location.
- c) There may be LV overhead services / connections not indicated on this drawing.
- d) The successful contractor must apply for the necessary agreement forms and additional cable information not indicated on included drawing, in order to start construction.

Application for Working Permit must be made to:

Customer Network Centre: Piketberg

Andre Julius / Werner Boshoff

022 913 6307 / 022 913 6306 / 0794989369 / 0837607188

JuliusAC@eskom.co.za / BoshofWe@eskom.co.za

**Include Eskom Wayleave as-built drawings and all documentation, when applying for Working Permit.**

Should it be necessary to move, relocate or support any existing services for possible future needs, it will be at the developer's cost. Application for relocating services must be made to Customer Services on 08600 37566 or customerservices@eskom.co.za

## 2. Underground Services

The following conditions to be adhered to at all times:

- a) Works will be carried out as indicated on plans.
- b) No mechanical plant to be used within 3.0m of Eskom underground cables.
- c) All services to be verified on site.
- d) Cross trenches to be dug by hand to locate all underground services before construction work commences.
- e) If Eskom underground services cannot be located or is grossly misplaced from where the wayleave plan indicates, then all work is to be stopped and Lianne Muller from the Land Development Office to be contacted at MullerLE@eskom.co.za , to arrange the capturing of such services.
- f) In cases where proposed services run parallel with existing underground power cables the greatest separation as possible should be maintained with a minimum of 1000mm.
- g) Where proposed services cross underground power cables the separation should be a minimum of **300mm** with protection between services and power cables. (Preferably a concrete slab)
- h) No manholes; catch- pits or any structure to be built on top of existing underground services.
- i) Only walk-behind (2 ton Bomac type) compactors to be used when compacting on top of and 1 metre either side of underground cables.
- j) If underground services cannot be located then the Customer Network Centre (CNC) should be consulted before commencement of any work.
- k) **No work can take place within the servitude of a 66kV Cable or 132kV Cable if indicated.** Should you need to undertake any work within the proximity of our 66kV or 132kV Cables please contact Lianne Muller at MullerLE@eskom.co.za to arrange a site visit.

## 3. O.H. Line Services:

- a) The following building and tree restriction on either side of centre line of overhead power line must be observed:

Voltage	Building restriction either side of centre line
11 / 22kV	9.0 m
66kV	11.0 m
132kV	15.5 m

- b) No construction work may be executed closer than **6 (SIX) metres** from any Eskom structure or structure-supporting mechanism.
- c) No work or no machinery nearer than the following distances from the conductors:

Voltage	Not closer than:
11 / 22kV	3.0 m
66kV	3.2 m
132kV	3.8 m

- d) Natural ground level must be maintained within Eskom reserve areas and servitudes.
- e) That a minimum ground clearance of the overhead power line must be maintained to the following clearances:

Voltage	Safety clearance above road:
11 / 22kV	6.3 m
66kV	6.9 m
132kV	7.5 m

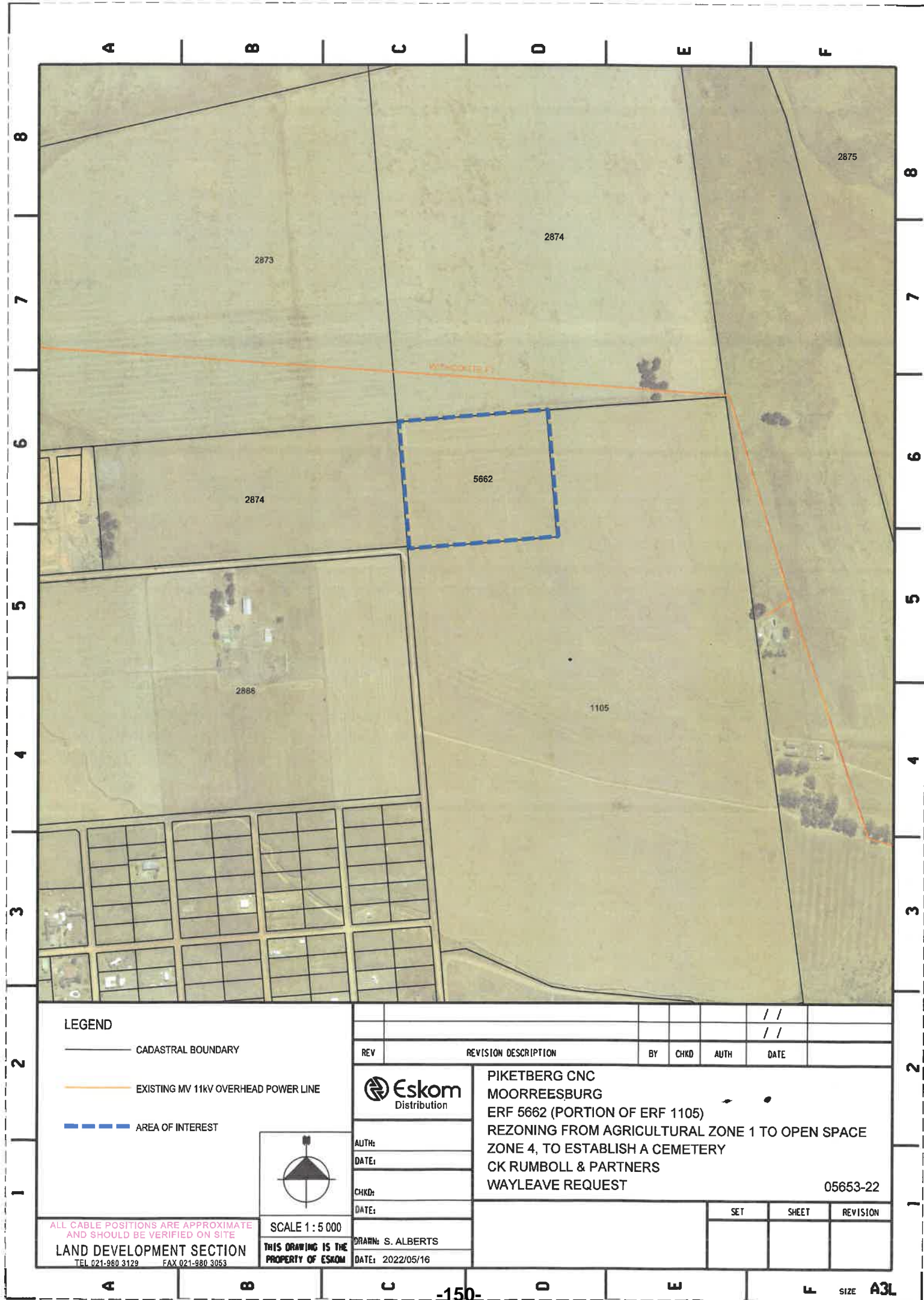
- f) That existing Eskom power lines and infrastructure are acknowledged as established infrastructure on the properties and any rerouting or relocation would be for the cost of the applicant/developer.
- g) That Eskom rights or servitudes, including agreements with any of the landowners, obtained for the operation and maintenance of these existing power lines and infrastructure be acknowledged and honoured throughout its lifecycle which include, but are not limited to:
  - i. Having 24 hour access to its infrastructure according to the rights mentioned in (a) above,
  - ii. To perform maintenance (structural as well as servitude – vegetation management) on its infrastructure according to its maintenance programmes and schedules,
  - iii. To upgrade or refurbish its existing power lines and infrastructure as determined by Eskom,
  - iv. To perform any other activity not listed above to ensure the safe operation and maintenance of the Eskom power lines or infrastructure.
- h) Eskom must have at least a 10m obstruction free zone around all pylons (not just a 10m radius from the centre).
- i) Eskom shall not be liable for the death or injury of any person, or for loss of or damage to any property, whether as a result of the encroachment or use of the area where Eskom has its services, by the applicant, his/her agent, contractors, employees, successors in title and assignee.
- j) The applicant indemnifies Eskom against loss, claims or damages, including claims pertaining to interference with Eskom services, apparatus or otherwise.
- k) Eskom shall at all times have unobstructed access to and egress from its services.
- l) Any development which necessitates the relocation of Eskom's services will be to the account of the developer.
- m) Lungile Motsisi MotsisL@eskom.co.za. Eskom: Transmission must be contacted on 011 800 5734 to comment on behalf of the 400 kV OVERHEAD POWERLINES. NO WORK WITHIN THIS SERVITUDE OR UNDERNEATH POWERLINES IS ALLOWED until comment from Eskom Transmission has been obtained.

#### 4. **NOTE**

Wayleaves, Indemnity form (working permit) and all as-built drawings issued by Eskom to be kept on site at all times during construction period.

Yours faithfully

**LAND DEVELOPMENT (BRACKENFELL)**





**From:** Doretha Kotze <[dkotze@wcdm.co.za](mailto:dkotze@wcdm.co.za)>  
**Sent:** 23 June 2022 04:04 PM  
**To:** Delmarie Stellenberg <[StellenbergD@swartland.org.za](mailto:StellenbergD@swartland.org.za)>  
**Cc:** WCDM Correspondence <[mun@wcdm.co.za](mailto:mun@wcdm.co.za)>  
**Subject:** WCDM comment: Proposed rezoning of Erf 5662 (cemetery), Moorreesburg

Ref: 13/2/12/1/1

Madam

1. Your letter 15/3/3-9/Erf\_5662 dated 9 May 2022 and the proposed rezoning of Erf 5662, Moorreesburg refer.
2. The West Coast District Municipality's Environmental Health Division has the following comments on the proposed rezoning:
  - 2.1 The environmental assessment reports (NEMA) regarding the establishment of a cemetery on Erf 5662, Moorreesburg, must be circulated to the Environmental Health Division for comment.
  - 2.2 Your attention is drawn to Regulation 363 (Regulations Relating to the Management of Human Remains promulgated on 22 May 2013 in terms of the National Health Act of 2003). In this regard cognisance must be taken of the distance requirements from
    - i) groundwater sources (350m) and
    - ii) habitable buildings (500m).
  - 2.3 Additional health requirements may be stated during the environmental assessment process.

Regards

Doretha Kotze  
Stads- en Streekbeplanner/Town and Regional Planner  
Weskus Distriksmunisipaliteit  
Langstraat 58 Long Street  
Posbus 242 PO Box  
MOORREESBURG 7310  
Tel: 022 433 8523  
West Coast District Municipality





REFERENCE: 16/3/3/1/F5/17/2025/23  
NEAS REFERENCE: WCP/EIA/0001302/2023  
DATE OF ISSUE: 08 February 2024

The Municipal Manager  
Swartland Municipality  
Private Bag X52  
MALMESBURY  
7299

Attention: Mr. Alwyn Zaayman

E-mail: [zaaymana@swartland.org.za](mailto:zaaymana@swartland.org.za)

Dear Sir

APPLICATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. **107 OF 1998**) ("**NEMA**") AND THE ENVIRONMENTAL IMPACT ASSESSMENT ("**EIA**") REGULATIONS, 2014 (AS AMENDED): PROPOSED ESTABLISHMENT OF A CEMETERY AND ASSOCIATED INFRASTRUCTURE ON ERF NO. 5662 (A PORTION OF ERF NO. 1105), MOORREESBURG.

1. With reference to the above application, the competent authority hereby notifies you of its decision to grant Environmental Authorisation, attached herewith, together with the reasons for the decision.
2. In terms of Regulation 4 of the EIA Regulations, 2014 (as amended), you are instructed to ensure, within 14 days of the date of the Environmental Authorisation, that all registered interested and affected parties are provided with access to and reasons for the decision, and that all registered interested and affected parties are notified of their right to appeal.
3. Your attention is drawn to Chapter 2 of the Appeal Regulations, 2014 (as amended), which prescribes the procedure to be followed in the event of appeals being lodged. This procedure is summarised in the attached Environmental Authorisation.

Yours faithfully

MR. ZAAHIR TOEFY  
DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)  
DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

CC: (1) Mr. Bernard de Witt (EnviroAfrica cc)  
(2) Mr. André Oosthuizen (DEA&DP: DDF)

E-mail: [bernard@enviroafrica.co.za](mailto:bernard@enviroafrica.co.za)  
E-mail: [Andre.Oosthuizen@westerncape.gov.za](mailto:Andre.Oosthuizen@westerncape.gov.za)



REFERENCE: 16/3/3/1/F5/17/2025/23

NEAS REFERENCE: WCP/EIA/0001302/2023

## ENVIRONMENTAL AUTHORISATION

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL **ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) ("NEMA") AND THE ENVIRONMENTAL IMPACT ASSESSMENT ("EIA") REGULATIONS, 2014 (AS AMENDED)**: PROPOSED ESTABLISHMENT OF A CEMETERY AND ASSOCIATED INFRASTRUCTURE ON ERF NO. 5662 (A PORTION OF ERF NO. 1105), MOORREESBURG.

With reference to your application for the abovementioned, find below the outcome with respect to this application.

### DECISION

By virtue of the powers conferred on it by the NEMA and the EIA Regulations, 2014 (as amended), the competent authority herewith grants Environmental Authorisation to the applicant to undertake the list of activities specified in Section B below with respect to the preferred alternative as included in the Basic Assessment Report ("BAR") dated 03 October 2023.

The granting of this Environmental Authorisation (hereinafter referred to as the "Environmental Authorisation") is subject to compliance with the conditions set out in Section E below.

#### A. DETAILS OF THE HOLDER OF THIS ENVIRONMENTAL AUTHORISATION

Swartland Municipality  
c/o Mr. Alwyn Zaayman  
Private Bag X52  
MALMESBURY  
7299

Tel.: (022) 487 9400  
Fax: (022) 487 9440  
E-mail: [zaaymana@swartland.org.za](mailto:zaaymana@swartland.org.za)

The abovementioned applicant is the holder of this Environmental Authorisation and is hereinafter referred to as "the holder".

B. LIST OF ACTIVITIES AUTHORISED

Listed Activity	Activity/Project Description
Listing Notice 1 of the EIA Regulations, 2014 (as amended):  Activity 23: <i>"The development of cemeteries of 2 500 square metres or more in size".</i>	The proposed cemetery will be approximately 5ha in size.

The abovementioned list is hereinafter referred to as "the listed activity".

The holder is herein authorised to undertake the following related to the listed activity:

The proposed development entails the establishment of a cemetery and associated infrastructure on Erf No. 5662 (a portion of Erf No. 1105), Moorreesburg. The proposed cemetery and associated infrastructure will be approximately 5ha in size. The proposed cemetery will be landscaped and fenced. A car parking area will also be provided. Access will be obtained from Eighth Avenue.

C. LOCATION AND SITE DESCRIPTION

The listed activity will be undertaken on Erf No. 5662 (a portion of Erf No. 1105), Moorreesburg.

The erf is located on the corner of Eighth Avenue and Omega Street, Moorreesburg.

The SG 21-digit code is: C04600100000566200000

Co-ordinates:

Latitude: 33° 07' 50.0" S

Longitude: 18° 40' 06.3" E

Refer to Annexure 1: Locality Plan and Annexure 2: Site Plan.

hereinafter referred to as "the site".

D. **DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER ("EAP")**

EnviroAfrica cc  
c/o Mr. Bernard de Witt  
P.O. Box 5367  
HELDERBERG  
7130

Tel.: (021) 851 1616

E-mail: [bernard@enviroafrica.co.za](mailto:bernard@enviroafrica.co.za)

## E. CONDITIONS OF AUTHORISATION

### Scope of authorisation

1. The holder is authorised to undertake the listed activity specified in Section B above in accordance with and restricted to the preferred alternative, described in the BAR dated 03 October 2023 on the site as described in Section C above.
2. Authorisation of the activity is subject to compliance with the conditions set out in this Environmental Authorisation. The holder must ensure compliance with the conditions by any person acting on his/her behalf, including an agent, sub-contractor, employee or any person rendering a service to the holder.
3. The holder must commence with, and conclude, the listed activity within the stipulated validity period which this Environmental Authorisation is granted for, or this Environmental Authorisation shall lapse and a new application for Environmental Authorisation must be submitted to the competent authority.

This Environmental Authorisation is granted for–

- (a) A period of ten (10) years, from the date of issue, during which period the holder must commence with the authorised listed activity; and
  - (b) A period of ten (10) years, from the date the holder commenced with an authorised listed activity, during which period the authorised listed activity must be concluded.
4. The activity that has been authorised may only be carried out at the site described in Section C above in terms of the approved Environmental Management Programme ("EMPr").
  5. Any changes to, or deviations from the scope of the description set out in Section B and Condition 2 above must be accepted or approved, in writing, by the competent authority before such changes or deviations may be implemented. In assessing whether to grant such acceptance/approval or not, the competent authority may request such information to evaluate the significance and impacts of such changes or deviations, and it may be necessary for the holder to apply for further authorisation in terms of the applicable legislation.

### Notification of authorisation and right to appeal

6. The holder of the authorisation must in writing, within 14 (fourteen) calendar days of the date of this decision –
  - 6.1 **notify all registered interested and affected parties ("I&APs") of –**
    - 6.1.1 the outcome of the application;
    - 6.1.2 the reasons for the decision;
    - 6.1.3 the date of the decision; and
    - 6.1.4 the date of issue of the decision;
  - 6.2 draw the attention of all registered I&APs to the fact that an appeal may be lodged against the decision in terms of the National Appeal Regulations, 2014 (as amended);



- 6.3 draw the attention of all registered I&APs to the manner in which they may access the decision; and
- 6.4 provide the registered I&APs with:
- 6.4.1 the name of the holder (entity) of this Environmental Authorisation,
  - 6.4.2 name of the responsible person for this Environmental Authorisation,
  - 6.4.3 postal address of the holder,
  - 6.4.4 telephonic and fax details of the holder,
  - 6.4.5 e-mail address, if any;
  - 6.4.6 the contact details (postal and/or physical address, contact number, facsimile and e-mail address) of the decision-maker and all registered I&APs in the event that an appeal is lodged in terms of the National Appeal Regulations, 2014 (as amended).

#### Commencement

7. The listed activity, including site preparation, must not commence within 20 (twenty) calendar days from the date the applicant notified the registered I&APs of this decision.
8. In the event that an appeal is lodged with the Appeal Administrator, the effect of this Environmental Authorisation is suspended until such time as the appeal is decided. In the instance where an appeal is lodged the holder may not commence with the activity, including site preparation, until such time as the appeal has been finalised and the holder is authorised to do so.

#### Written notice to the competent authority

9. A minimum of 7 (seven) calendar days' notice, in writing, must be given to the competent authority before commencement of construction activities. Commencement for the purpose of this condition includes site preparation.
- 9.1 The notice must make clear reference to the site details and EIA Reference number given above.
- 9.2 The notice must also include proof of compliance with the following conditions described herein:  
Conditions: 6, 7 and 14.

#### Management of activity

10. The draft EMPr dated October 2023 (as compiled by EnviroAfrica cc) and submitted as part of the application for Environmental Authorisation is hereby approved and must be implemented.
11. An application for amendment to the EMPr must be submitted to the competent authority in terms of Chapter 5 of the EIA Regulations, 2014 (as amended) if any amendments are to be made to the outcomes of the EMPr, and these may only be implemented once the amended EMPr has been authorised by the competent authority.
12. The EMPr must be included in all contract documentation for all phases of implementation.

13. A copy of the Environmental Authorisation and the EMPr must be kept at the site where the listed activity will be undertaken. Access to the site referred to in Section C above must be granted and, the Environmental Authorisation and EMPr must be produced to any authorised official representing the competent authority who requests to see it for the purposes of assessing and/or monitoring compliance with the conditions contained herein. The Environmental Authorisation and EMPr must also be made available for inspection by any employee or agent of the applicant who works or undertakes work at the site.

#### Monitoring

14. The holder must appoint a suitably experienced Environment Control Officer ("ECO"), for the duration of the construction phase to ensure compliance with the provisions of the EMPr and the conditions contained in this Environmental Authorisation.

The ECO must–

- 14.1 be appointed prior to commencement of any construction activities commencing;
- 14.2 ensure compliance with the EMPr and the conditions contained herein;
- 14.3 keep record of all activities on site; problems identified; transgressions noted, and a task schedule of tasks undertaken by the ECO;
- 14.4 remain employed until all rehabilitation measures, as required for implementation due to construction damage, are completed;
- 14.5 provide the competent authority with copies of the ECO reports within 30 days of the project being finalised; and
- 14.6 conduct monthly site inspections during the construction phase.

#### Environmental audit reports

15. The holder must, for the period during which the Environmental Authorisation and EMPr remain valid -
  - 15.1 ensure that the compliance with the conditions of the Environmental Authorisation and the EMPr is audited;
  - 15.2 submit an environmental audit report four (4) months after commencement of the construction phase to the relevant competent authority;
  - 15.3 submit an environmental audit report six (6) months after completion of the construction phase to the relevant competent authority; and
  - 15.4 submit an environmental audit report every five (5) years while the Environmental Authorisation remains valid.
16. The environmental audit reports must be prepared by an independent person with expertise and must address the objectives and contain all the information set out in Appendix 7 of the EIA Regulations, 2014 (as amended).

In addition to the above, the environmental audit report, must -

- 16.1 provide verifiable findings, in a structured and systematic manner, on–
  - (a) the level of compliance with the conditions of the Environmental Authorisation and the EMPr and whether this is sufficient or not; and
  - (b) the extent to which the avoidance, management and mitigation measures provided for in the EMPr achieve the objectives and outcomes of the EMPr and highlight whether this is sufficient or not;

- 16.2 identify and assess any new impacts and risks as a result of undertaking the activity;
  - 16.3 evaluate the effectiveness of the EMPr;
  - 16.4 identify shortcomings in the EMPr;
  - 16.5 identify the need for any changes to the avoidance, management and mitigation measures provided for in the EMPr;
  - 16.6 indicate the date on which the construction work was commenced with and completed or in the case where the development is incomplete, the progress of the development and rehabilitation;
  - 16.7 include a photographic record of the site applicable to the audit; and
  - 16.8 be informed by the ECO reports.
17. The holder must, within 7 days of the submission of the environmental audit report to the competent authority, notify all potential and registered I&APs of the submission and make the report available to anyone on request and, where the holder has such a facility, be placed on a publicly accessible website.

#### Specific conditions

- 18. Surface or ground water must not be polluted due to any actions on the site. The applicable requirements with respect to relevant legislation pertaining to water must be met.
- 19. An integrated waste management approach, which is based on waste minimisation and incorporates reduction, recycling, re-use and disposal, where appropriate, must be employed. Any solid waste must be disposed of at a waste disposal facility licensed in terms of the applicable legislation.
- 20. Should any heritage remains be exposed during excavations or any actions on the site, these must immediately be reported to the Provincial Heritage Resources Authority of the Western Cape, Heritage Western Cape (in accordance with the applicable legislation). Heritage remains uncovered or disturbed during earthworks must not be further disturbed until the necessary approval has been obtained from Heritage Western Cape. Heritage remains include archaeological remains (including fossil bones and fossil shells); coins; indigenous and/or colonial ceramics; any articles of value or antiquity; marine shell heaps; stone artifacts and bone remains; structures and other built features; rock art and rock engravings; shipwrecks; and graves or unmarked human burials.

A qualified archaeologist must be contracted where necessary (at the expense of the applicant and in consultation with the relevant authority) to remove any human remains in accordance with the requirements of the relevant authority.

- 21. The holder of the Environmental Authorisation must, at all times, ensure that the activities comply with the Noise Regulations in terms of the relevant legislation.

## General matters

1. Notwithstanding this Environmental Authorisation, the holder must comply with any other statutory requirements that may be applicable when undertaking the listed activity.
2. If the holder does not commence with the listed activity within the period referred to in Condition 3, this Environmental Authorisation shall lapse for the activity, and a new application for Environmental Authorisation must be submitted to the competent authority. If the holder wishes to extend the validity period of the Environmental Authorisation, an application for amendment in this regard must be made to the competent authority prior to the expiry date of the Environmental Authorisation.
3. The holder must submit an application for amendment of the Environmental Authorisation to the competent authority where any detail with respect to the Environmental Authorisation must be amended, added, substituted, corrected, removed or updated. If a new holder is proposed, an application for amendment in terms of Part 1 of the EIA Regulations, 2014 (as amended) must be submitted.

Please note that an amendment is not required if there is a change in the contact details of the holder. In this case, the competent authority must only be notified of such changes.

4. The manner and frequency for updating the EMPr is as follows:  
Amendments to the EMPr, other than those mentioned above, must be done in accordance with Regulations 35 to 37 of the EIA Regulations, 2014 (as amended) or any relevant legislation that may be applicable at the time.
5. Non-compliance with a condition of this Environmental Authorisation or EMPr may render the holder liable to criminal prosecution.

## F. APPEALS

Appeals must comply with the provisions contained in the National Appeal Regulations, 2014 (as amended).

1. An appellant (if the holder of the decision) must, within 20 (twenty) calendar days from the date notification of the decision was sent to the holder by the competent authority -
  - 1.1 Submit an appeal in accordance with Regulation 4 of the National Appeal Regulations, 2014 (as amended) to the Appeal Administrator; and
  - 1.2 Submit a copy of the appeal to any registered I&APs, any Organ of State with interest in the matter and the decision-maker *i.e.*, the competent authority that issued the decision.
2. An appellant (if NOT the holder of the decision) must, within 20 (twenty) calendar days from the date the holder of the decision sent notification of the decision to the registered I&APs -

- 2.1 Submit an appeal in accordance with Regulation 4 of the National Appeal Regulations, 2014 (as amended) to the Appeal Administrator; and
  - 2.2 Submit a copy of the appeal to the holder of the decision, any registered I&AP, any Organ of State with interest in the matter and the decision-maker *i.e.*, the competent authority that issued the decision.
3. The holder of the decision (if not the appellant), the decision-maker that issued the decision, the registered I&AP and the Organ of State must submit their responding statements, if any, to the appeal authority and the appellant within 20 (twenty) calendar days from the date of receipt of the appeal submission.
4. The appeal and the responding statement must be submitted to the address listed below:  
  
By post:           Attention: Mr. Marius Venter  
                      Western Cape Ministry of Local Government, Environmental  
                      Affairs and Development Planning  
                      Private Bag X9186  
                      CAPE TOWN  
                      8000  
  
By facsimile:   (021) 483 4174; or  
  
By hand:         Attention: Mr. Marius Venter (Tel: 021 483 3721)  
                      Room 809  
                      8<sup>th</sup> Floor Utilitas Building, 1 Dorp Street, Cape Town, 8001  
  
Note: For purposes of electronic database management, you are also requested to submit electronic copies (Microsoft Word format) of the appeal, responding statement and any supporting documents to the Appeal Authority to the address listed above and/ or via e-mail to [DEADP.Appeals@westerncape.gov.za](mailto:DEADP.Appeals@westerncape.gov.za).  
  
5. A prescribed appeal form as well as assistance regarding the appeal processes is obtainable from Appeal Authority at: Tel. (021) 483 3721, E-mail [DEADP.Appeals@westerncape.gov.za](mailto:DEADP.Appeals@westerncape.gov.za) or URL <http://www.westerncape.gov.za/eadp>.



G. DISCLAIMER

The Western Cape Government, the Local Authority, committees or any other public authority or organisation appointed in terms of the conditions of this environmental authorisation shall not be responsible for any damages or losses suffered by the holder, developer or his/her successor in any instance where construction or operation subsequent to construction is temporarily or permanently stopped for reasons of non-compliance with the conditions as set out herein or any other subsequent document or legal action emanating from this decision.

Your interest in the future of our environment is appreciated.

Yours faithfully

---

MR. ZAAHIR TOEFY  
DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)  
DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

DATE OF DECISION: 08 FEBRUARY 2024

CC: (1) Mr. Bernard de Witt (EnviroAfrica cc)  
(2) Mr. André Oosthuizen (DEA&DP: DDF)

E-mail: [bernard@enviroafrica.co.za](mailto:bernard@enviroafrica.co.za)  
E-mail: [Andre.Oosthuizen@westerncape.gov.za](mailto:Andre.Oosthuizen@westerncape.gov.za)

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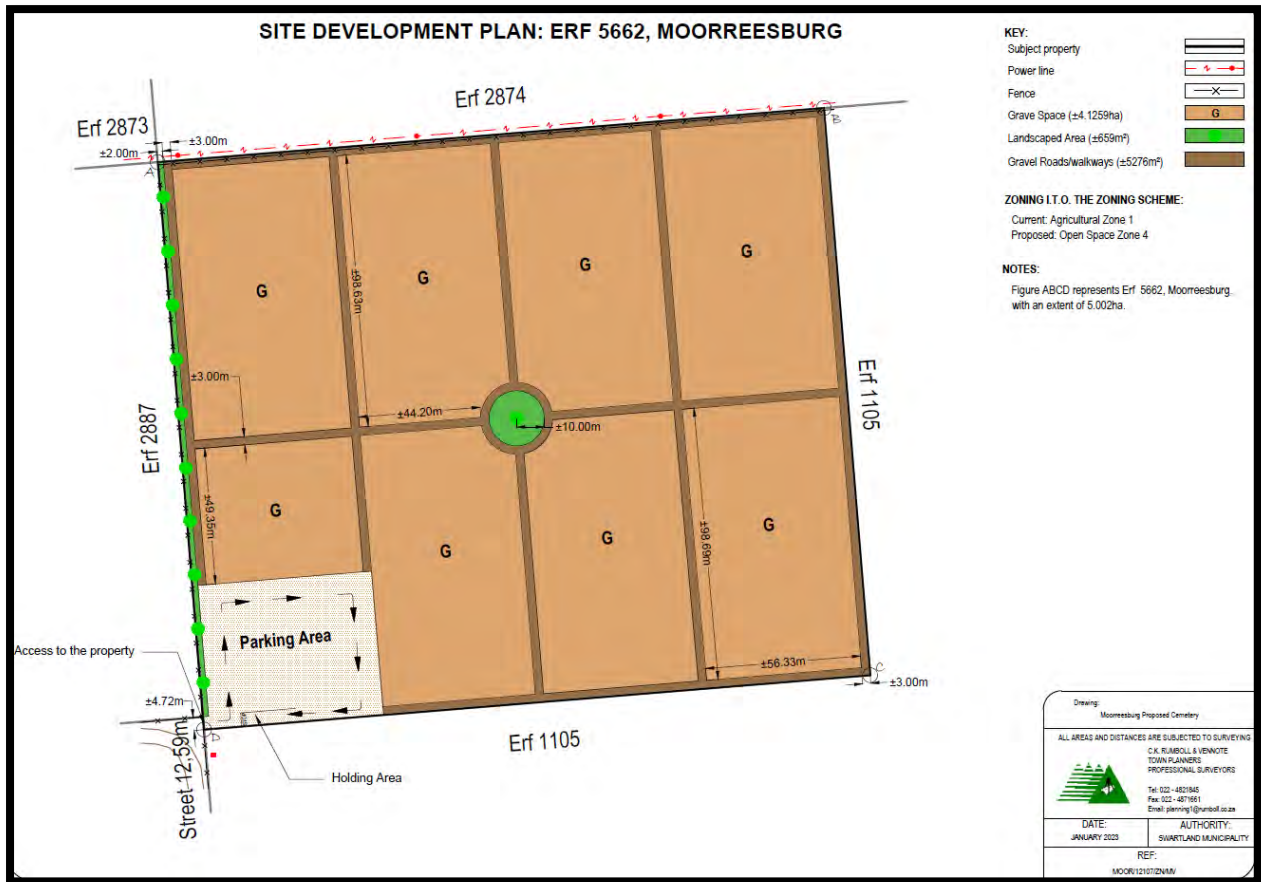
FOR OFFICIAL USE ONLY:

EIA REFERENCE NUMBER: 16/3/3/1/F5/17/2025/23  
NEAS EIA REFERENCE NUMBER: WCP/EIA/0001302/2023

## ANNEXURE 1: LOCALITY PLAN



## ANNEXURE 2: SITE PLAN



### ANNEXURE 3: REASONS FOR THE DECISION

In reaching its decision, the competent authority, *inter alia*, considered the following:

- a) The information contained in the application form received by the competent authority via electronic mail correspondence on 4 July 2023; the BAR dated 03 October 2023, as received by the competent authority via electronic mail correspondence on 06 October 2023; the EMPr submitted together with the BAR; and the additional information received by the competent authority via electronic mail correspondence on 06 October 2023, 16 November 2023, 17 January 2024 and 02 February 2024, respectively.
- b) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the NEMA.
- c) The comments received from I&APs and the responses provided thereon, as included in the BAR dated 03 October 2023.
- d) No site visits were conducted. The competent authority had sufficient information before it to make an informed decision without conducting a site visit.

All information presented to the competent authority was taken into account in the consideration of the application for environmental authorisation. A summary of the issues which, according to the competent authority, were the most significant reasons for the decision is set out below.

#### 1. Public Participation

The Public Participation Process comprised of the following:

- A notice was placed on site;
- An advertisement was placed in the "Swartland Gazette" newspaper on 03 May 2022;
- E-mails were sent to adjacent neighbours, the ward councillor, local municipality and relevant organs of state/State Departments on 04 May 2022 and 17 July 2023, respectively;
- An electronic copy of the draft BAR was placed on the EAPs website for the duration of the commenting period; and
- The draft BAR was made available from 11 July 2023 until 18 August 2023.

#### Authorities consulted

The authorities consulted included the following:

- Department of Environmental Affairs and Development Planning ("DEA&DP") Directorate: Pollution and Chemicals Management;
- DEA&DP Directorate: Waste Management;
- National Department of Agriculture, Rural Development and Land Reform;
- Western Cape Department of Agriculture;
- Heritage Western Cape;
- Swartland Municipality;
- West Coast District Municipality;
- Department of Water and Sanitation; and
- CapeNature.

The competent authority is satisfied that the Public Participation Process that was followed met the minimum legal requirements. All the comments and responses that were raised were responded to and included in the BAR.

## 2. Alternatives

Considering that cemeteries form an essential part of a community's tradition and culture, it is vital that appropriate burial space is provided within an acceptable distance to a particular community. Furthermore, services requirements, social and community needs, as well as the provision of services to the surrounding properties were considered and accommodated. The option of expanding the existing cemetery sites in the town, was not possible due to insufficient space. As such, the proposed site for the new cemetery fulfills these requirements. No environmental constraints were identified on the site and the layout of the cemetery makes optimal use of the site, as per the cemetery guidelines. **Therefore, only the preferred alternative and "no-go" alternative were assessed.**

### Preferred alternative – herewith authorised:

The preferred alternative entails the establishment of a cemetery and associated infrastructure on Erf No. 5662 (a portion of Erf No. 1105), Moorreesburg. The proposed cemetery and associated infrastructure will be approximately 5ha in size. The proposed cemetery will be landscaped and fenced. A car parking area will also be provided. Access will be obtained from Eighth Avenue.

### "No-Go" Alternative:

This alternative entails maintaining the *status quo* and as such, the proposed cemetery will not be established. This alternative was not deemed as preferred, since there is a critical shortage of burial space and the current cemeteries are nearing its capacity and new burial space is required. **The "no-go" alternative is therefore not warranted.**

## 3. Impacts, assessment and mitigation measures

### 3.1 Activity Need and Desirability

Moorreesburg currently has three cemeteries, which serve the town and surrounding rural areas. However, the cemeteries are nearing capacity. Since there is currently a critical shortage of burial space in Moorreesburg, the proposed cemetery will therefore provide much needed burial space. There is also not enough space to expand the existing cemeteries to provide for additional burial space.

Erf No. 5662 will need to be rezoned from Agricultural Zone 1 to Open Space Zone 4 in terms of Section 25(2)(a) of the Swartland Municipal By-law on Municipal Land Use Planning, March 2020.

The design and layout of the proposed cemetery will:

- Ensure a safe, accessible and aesthetically pleasing site for the burials of the deceased;
- Keep maintenance and costs low;
- Use design elements such as meandering walkways, views and vistas, landscaped planting, open spaces, well designed entrances and fencing to create a sense of place and dignity;
- Ensure easy access for vehicles, digging machinery and pedestrians; and
- Keep the design of the layout flexible.

### 3.2 Botanical impacts

A Terrestrial Biodiversity Compliance Statement dated 27 May 2022 was compiled by PB Consult Environmental Management Services, to assess the potential botanical impacts associated with the proposed development.



Historically, the site would have been covered with Swartland Shale Renosterveld, which is considered critically endangered in terms of the "List of ecosystems that are threatened and in need of protection dated December 2022", promulgated in terms of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004).

The site is actively being farmed as dry-land seasonal crops (wheat and lucerne) and is surrounded by cultivated land. During the site visit conducted by the specialist, the site had just been ploughed/prepared for the next planting season.

The site does not overlap any Critical Biodiversity Areas or Ecological Support Areas. Due to the transformed nature of the site, the proposed development will not have a significant impact on national or provincial conservation targets for Swartland Shale Renosterveld.

No significant impacts on biophysical elements are anticipated as a result of the proposed development, as the site is completely transformed.

### 3.3 Freshwater impacts

There are no watercourses present on the site. The closest watercourse is located approximately 1300m from the site. The river is further than the minimum recommended safe distance with regards to permeability, and as such no impacts on the river are anticipated.

### 3.4 Traffic impacts:

A Site Transport Assessment Report dated 07 February 2023 was compiled by Sturgeon Consulting, to assess the potential traffic impacts associated with the proposed development.

The peak traffic flow along Main Road (DR1171) occurs between 12h00 and 13h00 during the week. Saturday traffic flows are expected to be lower, although it is expected that more funerals take place over a weekend. The proposed development will generate a total of 12 vehicles per hour trips (9 inbound and 3 outbound) during the midday peak hour and 24 vehicles per hour trips (12 inbound and 12 outbound) during the Saturday peak hour. The resultant number of trips on the surrounding road network that will be generated by the proposed development will therefore be very low (less than 25 peak hour trips) during both peak hours and will have an insignificant traffic impact on the surrounding road network. No road upgrades are therefore required.

Access to the site will be along the northeastern corner of the Eighth Avenue/Omega Street intersection, approximately 770m east of the Main Road/Eighth Avenue intersection and approximately 285m east of the access to Erf No. 2888. The access will be stop-controlled on the development side and will operate in a one-way direction in and out of the holding area. Vehicles will enter (given right of way) at the same time and leave giving way to any entering vehicles. No access spacing or shoulder sight distance issues are expected.

Sufficient parking space will be provided on site (including buses and/or taxis) within the allocated parking/holding area. No additional public transport facilities are required for the proposed development.

### 3.5 Agricultural impacts

A Site Sensitivity Verification Report and Agricultural Compliance Statement dated 23 May 2023 was compiled by Johann Lanz, to assess the potential agricultural impacts associated with the proposed development.

According to the Compliance Statement, the site falls within an area that is classified as a Protected Agricultural Area. A Protected Agricultural Area is a demarcated area in which the climate, terrain, and soil are generally conducive for agricultural production and which, historically, has made important contributions to the production of the various crops that are grown across South Africa. Within Protected Agricultural Areas, the protection, particularly of arable land, is considered a priority for the protection of food security in South Africa.

Despite some potential climate and soil limitations, the site is of high enough agricultural potential that it is suitable and used for viable rain-fed field crop production of small grains.

The proposed development will result in the permanent loss of 5ha of agricultural land. The loss of cropland represents some loss of agricultural production potential, both for the affected farmer and in terms of national food security. Due to the size of the area to be lost and the agricultural production potential of the land, the agricultural impact has been assessed as being of medium negative significance. Furthermore, the cumulative impact of agricultural land loss from urban expansion around towns in the Western Cape is significant and the proposed development will contribute to the cumulative loss in the Province.

The site is in close proximity to the town of Moorreesburg in an area that has already been divided into small land parcels that are no longer of sufficient size to be individually viable as agricultural production land. As such, the agricultural impact of the proposed development is deemed acceptable. Further, the Western Cape Department of Agriculture indicated in their comment dated 15 November 2023, that they have no objection to the proposed development.

### 3.6 Geotechnical impacts

A Geotechnical Investigation Report dated February 2023 was compiled by SKCMasakhizwe Engineers (Pty) Ltd., to assess the potential geotechnical impacts associated with the proposed development.

The maximum slope of the site is approximately four degrees. The ponding of water will therefore not be problematic as the slope is ideal for the use as a cemetery. The water table is deep (11.56m below ground level) and the permeability of the *in-situ* soils is within the prescribed range for cemeteries. The installation of cutoff drains and internal roads to channel storm water to suitable discharge points will reduce the possibility of groundwater pollution.

The nearest registered borehole is anticipated to be further away than the minimum distance of 166m. No evidence of boreholes or wells on the property adjacent to the site was found. A non-perennial stream flows approximately 1300m west of the site. The stream will therefore be further than the minimum recommended safe distance from the site's boundary.

Groundwater or seepage was not observed in the profile pits that were excavated. Due to the relatively flat gradient of the site, erosion is unlikely to occur. The proposed drainage channels will further curb possible erosion around the site.

This Department's Directorate: Pollution and Chemicals Management indicated in their comment dated 2 February 2024, given the findings of the Geotechnical Report which were that the proposed site is suitable for the development of a cemetery, in terms of ideal soil permeability, slope, groundwater depth, distance from existing water sources and drainage features, the Directorate supports the proposed development.

### 3.7 Storm water impacts

A Storm Water Management Plan dated 10 April 2023 was compiled by SKCMasakhizwe Engineers (Pty) Ltd., to assess the potential storm water impacts associated with the proposed development.

Surface water originating upland of the site will be cut off by diverting the existing drainage channel around the site. Due to the relatively flat gradient of the site, erosion is unlikely to occur. The proposed drainage channels will further curb possible erosion around the site. Surface water that penetrates the top sand/gravel soil layers will flow in the same direction as the surface slope and drain into the non-perennial stream west of the site.

### 3.8 Dust impacts

Potential dust impacts are anticipated during the construction phase. However, no significant potential dust impacts are anticipated as these impacts will be mitigated by the implementation of the mitigation measures included in the EMPr.

The development will result in both negative and positive impacts.

Negative Impacts:

- Potential groundwater and storm water impacts;
- Potential traffic impacts; and
- Potential impacts on agricultural land.

Positive impacts:

- Optimal use of municipal owned land for the development of a new cemetery;
- Provision of additional burial services in the local area; and
- Some employment opportunities.

National Environmental Management Act Principles

The National Environmental Management Act Principles (set out in section 2 of the NEMA, which apply to the actions of all Organs of State, serve as guidelines by reference to which any Organ of State must exercise any function when taking any decision, and which must guide the interpretation, administration and implementation of any other law concerned with the protection or management of the environment), *inter alia*, provides for:

- the effects of decisions on all aspects of the environment to be taken into account;
- the consideration, assessment and evaluation of the social, economic and environmental impacts of activities (disadvantages and benefits), and for decisions to be appropriate in the light of such consideration and assessment;
- the co-ordination and harmonisation of policies, legislation and actions relating to the environment;
- the resolving of actual or potential conflicts of interest between Organs of State through conflict resolution procedures; and

- the selection of the best practicable environmental option.

In view of the above, the NEMA principles, compliance with the conditions stipulated in this Environmental Authorisation, and compliance with the EMP, the competent authority is satisfied that the proposed listed activity will not conflict with the general objectives of integrated environmental management stipulated in Chapter 5 of the NEMA and that any potentially detrimental environmental impacts resulting from the listed activity can be mitigated to acceptable levels.

You are reminded of your general duty of care towards the environment in terms of Section 28(1) of the NEMA which states: *"Every person who causes, has caused or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment."*

-----END-----

# CK RUMBOLL & VENNOTE / PARTNERS



PROFESIONELE LANDMETERS ~ ENGINEERING AND MINE SURVEYORS ~ STADS- EN STREEKSBEPLANNERS ~ SECTIONAL TITLE CONSULTANTS

DATE: 6 July 2022

OUR REF: MOOR/12107/ZN/MV

YOUR REF: 15/3/3-9/Erf\_5662

## BY HAND

**Attention:** Mr A. Zaayman

The Municipal Manager  
Swartland Municipality  
Private Bag X52  
**MALMESBURY**  
7300

MUNISIPALITEIT SWARTLAND				REG
REKONSTR	15/3/3-9/Erf	5662		
Verwys: / Ref	Inligting	Verslag	Afkandel	Kom/Taar
SCSB				
α Del				
Ammer Opdrag:				
BESPREKING				(get)BN

Mr,

## Comments on Objections

### PROPOSED REZONING OF ERF 5662, MOORREESBURG

#### 1. Introduction

Your letter dated 15 June 2022 refers.

CK Rumboll & Partners have been appointed by Swartland Municipality to handle all town planning and land surveying actions for the establishment of an additional cemetery on Erf 5662, Moorreesburg. During the public participation period, objections were received from the following surrounding neighbours:

- Altus de Villiers Familie Trust (Erf 4045)
- Retief Nel
- P Feldman (Erven 2887 and 2888)
- NPJ Kriek (Erf 4044)
- Francois J E Koch

#### 2. Comments on objections

Please see our office's response to the objections received below in tabular form.



#### VENNOTE / PARTNERS:

IHJ Rumboll PrL (SA), BSc (Surv), M.I.P.L.S., AP Steyl PrL (SA), BSc (Surv), M.I.P.L.S.  
ADDRESS/ ADRES: [planning1@rumboll.co.za](mailto:planning1@rumboll.co.za) / PO Box 211 / Rainierstr 16, Malmesbury, 7299  
MALMESBURY (T) 022 482 1845 (F) 022 487 1661



Table 1: Comments on Objections

Objectors	Objections	Comments from CK Rumboll & Partners
A, B, C, D, E	<p>1. <b><u>Contamination of water source:</u></b> The proposed cemetery is located higher than my farm. Cipher water from the cemetery has the potential to contaminate my water source. More than one case has been recorded in South Africa where underground water sources have been contaminated by cemeteries. The borehole is our only source of drinking water. Ecoli will make the water unsuitable for drinking water.</p> <p>My farm is audited annually by Global Gap. Without a Global Gap certificate, no market is interested in the agricultural produce. The farm must make an annual analysis of my irrigation water available to the auditors. To date, the test results show my borehole is clean of impurities.</p> <p>Clause 2.3 of the application states that a cemetery won't have any negative impact on the surrounding agricultural areas. A cemetery right in the middle of all agricultural surrounding area by its very existence reduces the agricultural land available. In addition, there is a risk of groundwater being infected</p>	<p>1. EnviroAfrica CC has been appointed to manage the process of applying for Environmental Authorisation in terms of the Environmental Impact Assessment Regulations, 2014 (as amended) for the proposed cemetery on Erf 5662, Moorreesburg. As part of the process, different specialists, including a geotechnical, botanical, <b>groundwater</b>, and heritage specialists, were appointed to conduct the necessary studies. The groundwater study will determine the impact of the cemetery on any and all water sources in the area.</p> <p>The <i>Swartland Spatial Development Framework (SDF) (2019)</i> determines the strategic policy guidelines for future development in the Swartland region and in this case, in Moorreesburg. The Land Use Proposals Map as part of the <i>Swartland SDF (2019)</i> for Moorreesburg includes the development of a cemetery on Erf 5662. This indicates that this application is fully supported by the <i>SDF</i>.</p>

VENNOTE / PARTNERS:

IHJ Rumboll PrL (SA), BSc (Surv), M.I.P.L.S., AP Steyl PrL (SA), BSc (Surv), M.I.P.L.S.  
 ADDRESS/ ADRES: [planning1@rumboll.co.za](mailto:planning1@rumboll.co.za) / PO Box 211 / Rainierstr 16, Malmesbury, 7299  
 MALMESBURY (T) 022 482 1845 (F) 022 487 1661

	<p>or polluted. This ground water may run through to surrounding properties, of which mine are but two, and pollute the groundwater which is used via borehole to provide water for irrigation and for animals.</p> <p>According to the World Health Organisation, seepage water as a result of purification of human corpses may mix with the groundwater and may become a potential environmental risk.</p>	
A, B, D, E	<p>2. <b><u>Current Water Pollution:</u></b></p> <p>The Sout River runs through Moorreesburg and also through my farm. Currently the water in the river is rotting due to sewage works not working. The condition of the water is of such poor quality that when the sheep and cattle drink from it, they become ill and die.</p> <p>In 2002, I conducted a water analysis on the farm's account and submitted it to the Municipality to prove how high the Ecoli pollution is in the river. The municipality's response was: "We have a clean audit".</p> <p>The source of the pollution was and is most likely the sewage works that border the river and were and are in poor working condition,</p>	<p>2. As mentioned in Point 1, the necessary specialists have been appointed to conduct studies to determine the environmental impact of the proposed cemetery on Erf 5662, Moorreesburg.</p>



	or of the current cemetery located higher than the river.	
A, B, D, E	<p>3. <b><u>Environmental Impact Assessment (EIA):</u></b> Is an EIA conducted? If so, who conducted it? When was it done? Are the results available for the public?</p>	<p>3. EnviroAfrica CC has been appointed to manage the process of applying for Environmental Authorisation in terms of the Environmental Impact Assessment Regulations, 2014 (as amended) for the proposed cemetery on Erf 5662, Moorreesburg. Interested and Affected Parties ("I&amp;As") have been notified of the intention to submit an application for environmental authorisation for the above-mentioned development proposal and were invited to register (in writing) and to provide comments to EnviroAfrica regarding the proposed development on or before 10 June 2022.</p> <p>Registered I&amp;As will be notified of the availability of reports that become available for public viewing and comment and only Registered I&amp;As will be notified of the outcome of the application, the reasons for the decision; and that an appeal may be lodged against the decision; and if applicable, only Registered I&amp;As will be notified of the applicant's intention to appeal the decision of the competent authority.</p> <p>The environmental process is still in process.</p>
A, B, C, D	<p>4. <b><u>Alternative locations:</u></b> Swartland is a water scarce area. Expand around the existing cemetery. This area is already contaminated.</p> <p>Surely there are more suitable locations for an additional cemetery to cater to the</p>	<p>4. There is not sufficient space to expand around the existing cemeteries in Moorreesburg, which will comply with Health Regulations. The National Health Act, 2003 (Act 61 of 2003), published Regulations Relating to the Management of Human Remains, 2013, which states in Chapter 5 Section 2(b) that a cemetery cannot be located within 500m of a habitable building. New cemeteries need to be located away from residential areas or</p>

	<p>surrounding communities in locations closer to those communities within the urban edge, rather than on the outskirts of town which is still being used for agricultural purposes. Moorreesburg Cemetery East appears to have plenty of open land across Swartland Road between Swartland and Piketberg Roads. Certainly, location wise it would be more convenient for the local Moorreesburg community?</p>	<p>future residential areas and the suggested site will not affect any residential areas, current or future.</p> <p>The <i>Swartland Spatial Development Framework (SDF) (2019)</i> determines the strategic policy guidelines for future development in the Swartland region and in this case, in Moorreesburg. The Land Use Proposals Map as part of the <i>Swartland SDF (2019)</i> for Moorreesburg includes the development of a cemetery on Erf 5662. This indicates that this application is fully supported by the <i>SDF</i>.</p>
A, B	<p>5. <b><u>Clean Audit:</u></b> Swartland Municipality has boasted clean audits since 2010/11. Will Swartland Municipality please explain to its ratepayers how they get a clean audit while the river downstream of the sewers is in such a dire condition?</p>	<p>5. This objection has no relevance to the proposed development of a cemetery on Erf 5662, Moorreesburg.</p>
C	<p>6. <b><u>Peace Disturbance:</u></b> The main reason I moved to these properties was that they offered the tranquility of an agricultural setting. Weekends in particular are a time to rest and relax. Whilst the application refers to +11 burials per month it doesn't mention the number of vehicles which attend each burial. It also refers to an increase in the number of burials due to the Covid-19 pandemic. Even at 11 burials per month that is an average of two per weekend, before</p>	<p>6. The extent of the proposed cemetery site will contribute to most of the activities taking place far from the urban area. The disturbance will be temporary in nature.</p> <p>Premises where loved ones are buried must be accessible to next of kin to have access during normal reasonable hours. Sufficient area will be provided for on-site parking, including for buses. By the nature of the use, the influx of people is occasion bound.</p>



	<p>allowing for any increase due to the Covid-19 pandemic.</p> <p>Additionally, the community tends to conduct burials on a Saturday, which makes the weekly average number of burials misleading — as most burials are likely to be on a Saturday. So realistically every Saturday, and perhaps Sunday, there are likely to be burials. So this will most definitely negatively impact me.</p>	
C	<p>7. <b><u>Property Value:</u></b> Similarly not everyone wants to live next to a cemetery. So my property value will decrease; in as much as the available pool of buyers will be smaller - thus negatively impacting me trying to sell my property.</p>	<p>7. The relevant authority may not restrict the application on grounds of the potential financial implications as specified under <i>Section 59(1)(f) of Chapter VI of The Land Use Planning Act</i>:  <i>"a competent authority contemplated in this Act or other relevant authority considering an application before it, may not be impeded or restricted in the exercise of its discretion solely on the ground that the value of land or property will be affected by the outcome of the application."</i></p>
C	<p>8. <b><u>Decrease in agricultural activity:</u></b> Clause 2.3 of the rezoning application refers to Erf 5662 being used to grow lucerne. On my property we are cultivating crops. South Africa as a country cannot afford for any more agricultural land to be rezoned for other purposes; as we are already struggling to provide food for an ever growing population and feed for livestock which, in turn, provide food for the population.</p>	<p>8. Erf 5662 is in the process of being transferred to Swartland Municipality. The agricultural activity will not be continued after the transfer is complete.</p> <p>The <i>Swartland Spatial Development Framework (SDF) (2019)</i> determines the strategic policy guidelines for future development in the Swartland region and in this case, in Moorreesburg. The Land Use Proposals Map as part of the <i>Swartland SDF (2019)</i> for Moorreesburg includes the development of a cemetery on Erf 5662. This indicates that this application is fully supported by the <i>SDF</i>.</p>



		<p>The site is considered ideal for the development of a cemetery in an attempt to address the urgent need for additional burial space in Moorreesburg.</p>
C	<p>9. <b><u>Crime:</u></b></p> <p>Another concern is the criminal element which frequents the Waste Disposal Facility a little further down 8th Avenue. Their activities, including starting of fires, damage to property and defecation in public and alleged consumption of illegal substances, amongst others, will almost certainly spread to the cemetery resulting in the cemetery fence being vandalised as well as the graves and headstones being vandalised. Certainly, the dead's right to dignity will not be upheld in the current circumstances. If the Waste Disposal Facility was closed and moved elsewhere, this would mitigate this risk. As I understand, the Waste Disposal Facility was a temporary facility and meant to be closed. When is this scheduled to be closed?</p> <p>Cemeteries unfortunately become the target of vandals, and this will most definitely result in the devaluation of surrounding properties as well as impinging on the dignity of the dead and their surviving relatives and friends who visit their graves.</p>	<p>9. A cemetery is certainly not the generator of crime. Crime is something that is common and cannot be linked to a cemetery. The proposed cemetery can also not be held responsible for the social problems the current Waste Disposal Facility is causing.</p>

C	<p><b>10. <u>Access Road:</u></b></p> <p>Is the current narrow gravel road suitable for carriage of digging machinery and the vehicles required to transport said digging machinery, which will be required in terms of clause 2.6.2 of the application? Also due to increased burials there will be more vehicles and probably some buses; surely the current road was not designed for this increase in vehicle traffic. Furthermore, has an adequate assessment of vehicle traffic and required parking being done?</p>	<p>10. Sufficient area will be provided for on-site parking, including bus parking. The access road will be able to handle the traffic and will be maintained by the Municipality.</p>
C	<p><b>11. <u>Petition:</u></b></p> <p>Please refer to, and admit as additional objections, the enclosed petition signed by a number of residents in close proximity to Erf 5662 reflecting their objection to a cemetery on this site.</p>	<p>11. Section 59 of the <i>Swartland Municipal By-law on Land Use Planning (PG 8226)</i> stipulates requirements for petitions.</p> <p><i>Section 59: "Requirements for petitions (1) Comments in respect of an application submitted by the public in the form of a petition must clearly state— (c) the comments and reasons therefore."</i></p> <p>It is to be noted that the petition referred to, does not include the reasons for the objection. Therefore, the petition is not consistent with the <i>Swartland Municipal By-law on Land Use Planning (PG 8226)</i>.</p>
D	<p><b>12. <u>Specialist Reports</u></b></p> <p>Is a geological/hydrological study conducted which indicates the flow of underground</p>	<p>12. Refer to Points 1 and 3.</p>

	water?	
D	<p>13. <b>Visual Impact:</b></p> <p>Hooikraal is a knife point due to refuse sites and sewerage works which makes the area less sought after. Another municipal site will have a negative impact on the attractiveness of Hooikraal.</p>	<p>13. Effective planting of trees and shrubs around the site will serve as an effective visual and noise buffer.</p>

### 3. Conclusion

The major concerns of the surrounding neighbours are the possible environmental impact the proposed cemetery will have, such as on groundwater. An environmental process is currently underway where different specialists are appointed to determine the environmental impact.

Considering the above, it is evident that the proposed development will not have a significant impact on the surrounding properties, or built environment, seeing that the *Swartland Municipal Land Use Planning By-law (PG 8226)* and *Swartland Spatial Development Framework (2019)* are sufficient to coordinate development within the Swartland Municipal area. This office is of opinion that the proposed rezoning of Erf 5662, Moorreesburg, will maximise the development potential of the property, as was envisaged in the *Swartland SDF (2019)*.

We trust you will find the above in order when considering the application.

Kind regards



Zanelle Nortje / Mandri Viljoen  
For CK RUMBOLL & PARTNERS