



MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING VIRTUALLY HELD ON WEDNESDAY, 8 JUNE 2022 AT 14:00

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
Mr C Rabie

Other officials:

Senior Manager: Built Environment, Mr A M Zaayman (advisor)
Director: Development Services, Ms J S Krieger
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

RESOLVED that the apologies be noted of the officials, namely Snr Town and Regional Planner, Mr A J Burger and Town, Regional Planner and GIS, Mr H Olivier.

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 11 MAY 2022

UNANIMOUSLY RESOLVED

That the minutes of a Municipal Planning Tribunal Meeting held on 11 May 2022 are approved and signed by the chairperson.

5. MATTERS ARISING FROM MINUTES

5.1 MINUTES OF MUNICIPAL PLANNING TRIBUNAL HELD ON 11 MAY 2022

None.

6. MATTERS FOR CONSIDERATION

6.1 PROPOSED CONSENT USE ON ERF 1714, YZERFONTEIN (15/3/10-14) (WARD 5)

Ms A de Jager, as author, confirmed that application is made for a consent use on Erf 7174, Yzerfontein in order to establish a double dwelling on the property. The owners' intent to develop the property with a two storey double dwelling hosting six persons per unit.

6.1/...

Erf 1714 is zoned Residential Zone 1 and is currently vacant.

Ms de Jager explained the matters addressed in the three objections received and the assessment done on the objections.

RESOLUTION

- A. The application for consent use on Erf 1714, Yzerfontein in order to establish a double dwelling, 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:

A1 TOWN PLANNING AND BUILDING CONTROL

- (a) The consent use be restricted to a double dwelling as presented in the application;
- (b) Building plans be submitted to the Senior Manager: Built Environment for consideration and approval;

A2 WATER

- (a) The property be provided with a single water connection and that no additional connections be provided;

A3 SEWERAGE

- (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;

A4 DEVELOPMENT CHARGES

- (a) The development charge towards the supply of regional bulk water amounts to R6 543,30 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 2021/2022 and may be revised thereafter (mSCOA: 9/249-176-9210);
- (b) The development charge towards bulk water reticulation amounts to R5 402,70 and is payable by the owner/developer at building plan stage. The amount is due to the Municipality, valid for the financial year of 2021/2022 and may be revised thereafter (mSCOA 9/249-174-9210);
- (c) The development charge towards waste water treatment amounts to R8 970,00, 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 2021/2022 and may be revised thereafter (mSCOA 9/240-183-9210);
- (d) The development charge towards sewerage amounts to R6 080,05 and is payable by the owner/developer at building plan stage. The amount is due to the Municipality, valid for the financial year of 2021/2022 and may be revised thereafter (mSCOA 9/240-184-9210);
- (e) The development charge towards streets amounts to R11 500,00 and is payable by the owner/developer at building plan stage. The amount is due to the Municipality, valid for the financial year of 2021/2022 and may be revised thereafter. (mSCOA 9/249-188-9210);
- (f) The development charge towards storm water amounts to R3 560,00 and is payable by the owner/developer at building plan stage. The amount is payable to the Municipality, valid for the financial year of 2021/2022 and may be revised thereafter (mSCOA 9/248-144-9210);
- (g) The development charge towards electricity amounts to R10 419,00 and is payable by the owner/developer at building plan stage. The amount is payable to the Municipality, valid for the financial year of 2021/2022 and may be revised thereafter (mSCOA 9/253-164-9210);
- (h) The Council resolution of May 2021 makes provision for a 40% discount on development charges to Swartland Municipality. The discount is valid for the financial year 2021/2022 and may be revised thereafter. The discount is not applicable to A4(a);

B./...

B. GENERAL

- (a) The approval is, in terms of section 76(2)(w) of the By-Law valid for 5 years. All conditions of approval be met before the occupancy certificate be issued, after which the 5 year period will no longer be applicable;
- (b) The approval does not exonerate the applicant from obtaining any necessary approval from any other applicable statutory authority;
- (c) The applicant/objectors be notified of the outcome and their right to appeal in terms of Chapter VII, Section 89 of the By-law;

C. The application be supported for the following reasons:

- (a) The proposed double dwelling is a residential use and is therefore consistent with the proposals of the SDF;
- (b) A double dwelling is accommodated as a consent use under Residential Zone 1 of the By-Law;
- (c) The development proposal supports the optimal utilisation of the property;
- (d) The double dwelling may support the tourism industry in Yzerfontein, as well as the local economy;
- (e) The double dwelling will provide in a need for a larger variety of housing opportunities to the wider population;
- (f) The development proposal will not negatively impact on the character of the surrounding neighbourhood or the larger Yzerfontein;
- (g) The concerns of the neighbouring and affected property owners are sufficiently addressed in the conditions of approval;
- (h) The double dwelling is consistent with all development parameters for Residential Zone 1.

**(SIGNED) J J SCHOLTZ
CHAIRPERSON**

25 July 2022

15/3/4-14/Erf_1774

WYK: 5

ITEM 6.1 OF THE AGENDA FOR THE MUNICIPAL PLANNING TRIBUNAL THAT WILL TAKE PLACE ON WEDNESDAY 10 AUGUST 2022

LAND USE PLANNING REPORT PROPOSED DEPARTURE OF DEVELOPMENT PARAMETERS ON ERF 1774, YZERFONTEIN					
Reference number	15/3/4-14/Erf_1774	Submission date	7 April 2022	Date finalised	29 July 2022

PART A: APPLICATION DESCRIPTION

Application for the departure of development parameters on Erf 1774, Yzerfontein, is made in terms of Section 25(2)(b) of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 25 March 2020). The proposal entails the departure of the following development parameters:

- Departure of the 4m street building line to 0m for the erection of a carport;
- Departure of the 1,5m side building line (south western boundary) to 0m for the erection of a carport;
- Departure of the 2m rear building line to 0m for the erection of a sunroom;
- Departure of the permissible coverage of 50% to 63%; and
- Departure of the permissible width of 6,5m for a carport to allow a 8,56m wide carport.

The applicant is C.K. Rumboll and Partners and the property owner is Louw Family Residential Builders Pty Ltd.

PART B: PROPERTY DETAILS

Property description (in accordance with Title Deed)	Erf 1774, Yzerfontein in die Swartland Munisipaliteit, Afdeling Malmesbury, Provinsie Wes-Kaap				
Physical address	4 Fynbos Street		Town	Yzerfontein	
Current zoning	Residential Zone 1	Extent (m ² /ha)	720m ²	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	Dwelling house		Title Deed number & date	T61613/2017	
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	
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 1774, Yzerfontein is zoned Residential Zone 1 and is developed with a double dwelling house.

The building plan for the dwelling was approved on 25 October 2017.

The owner intends to develop the property with a carport and a sunroom. Please note that the sunroom has already been erected. Please see below the proposed building work.



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:

- The proposed development supports the Swartland Spatial Development Framework (SDF) that guides sustainable future development in Yzerfontein.
- The application supports the planning principles of SPLUMA and LUPA.
- The proposal adheres to the Swartland Municipal Land Use Planning By-Law and where it does not, reasonable application is made.
- No change in land use is proposed and the additions are all ancillary to property's primary use.
- This will not have a negative impact on surrounding owners or character of the surrounding area, as the status quo on the property will remain unchanged.

- f) Little to no adverse impact on the privacy of neighbouring properties.
- g) The property will be allowed to be developed to its full potential.
- h) No impact on existing engineering services.
- i) Proposed land uses only to be utilised during certain times of the day and the public open space to the rear have no inhabitants.
- j) The proposal is to retain the single family dwelling and to add on to it ancillary uses which conforms to the general urban fabric of the area.
- k) It is the opinion of this office that the proposed permanent departure from rear, side, street building line, carport width and coverage will not influence the property or the surrounding environment negatively.

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
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A total of 8 registered notices were issued to affected parties, of which all of the same notices were also sent via e-mail. 3 posted notices were returned uncollected of which the owners were also not notified via email.

Total valid comments	2	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
Total letters of support	1 (T & A Jones, owners of Erf 1896)		

PART H: COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS				
Name	Date received	Summary of comments	Recommendation	
			Positive	Negative
Division: Building Control	21 April 2022	1. Submit building plans to Building Control for consideration for approval.	X	
PART I: COMMENTS RECEIVED DURING PUBLIC PARTICIPATION		SUMMARY OF APPLICANT'S REPLY TO COMMENTS	MUNICIPAL ASSESSMENT OF COMMENTS	
1.AD & SC Mertsch, owners of erf 1775	<p>1. Ek is die onmiddellike buurman wes elevasie van erf 1775. Ek maak ten sterkste beswaar teen die voorgestelde sonkamer (wat terloops reeds gebou is), asook die voorgestelde oprigting van die motorafdak wat reg bo-op my grensmuur sal wees, as ek die voorgestelde plan reg interpreteer.</p> <p>Die voorgestelde afwykings is nie met my bespreek nie, ook is daar nie toestemming hiervoor gevra nie. Indien dit met my bespreek was, kon ek selfs tot ander insig gekom het.</p> <p>My beswaar oor die sonkamer en motorafdak is dat sulke afwykings 'n presedent skep, en daartoe kan lei dat allerhande onooglike strukture in die toekoms opgerig kan word, wat 'n nadelige uitwerking op eiendoms waarde sal meebring.</p> <p>Dan wil ek net baie duidelik stel dat die grensmuur waar die beoogde motorafdak, se oprigting, voor aansoek gedoen word, my muur is en dat ek onder geen omstandighede toestemming sal gee vir enige bouwerk bo-op die muur nie.</p>	<p>1. Each proposal/development needs to be assessed on its own merits. Therefore, to suggest that the approval of the sunroom & carport could lead to the erection of other illegal structures or the creation of a precedent is considered unfounded. The erection of each and every structure remains in the decision making powers of the local authority and needs to go through the public participation process.</p> <p>Furthermore, the relevant authority may not restrict a land use application solely on grounds of the potential financial implications as specified under Section 59(1)(f) of Chapter VI of The Land Use Planning Act, Act 3 of 2014:</p> <p><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> <p>Notwithstanding the above, the increase of the property value on Erf 1774, by adding a sunroom and carport, it will overall increase the property values of the surrounding erven as well.</p> <p>As per Section 55-57 of Swartland Municipal Land Use Planning By-law, notices were sent to surrounding owners that may be affected by the proposed development, as identified by the Swartland Municipality. Individual phone calls or meetings is not warranted in this process.</p>	<p>1. The sunroom has already been constructed as indicated on the plans without building plan approval. The carport has not been constructed yet.</p> <p>The owners of Erf 1775 restricts their objections to the sunroom and carport and does not specifically refer to the specific departures applied for.</p> <p>Not to speculate the intention of the objection, it is safe to say that the objection is focussed on the departure of the side and rear building lines.</p> <p>It is common that carports are accommodated in front of an existing garage. This is seen as an extension of the existing undercover parking of the garage, providing additional covered parking, which provides protection for vehicles against nature's elements. The construction of the carport will not affect the boundary wall on Erf 1775.</p> <p>There are no similar street building line departures in Fynbos Street and if approved this will be the first street building line departure.</p> <p>The sunroom on Erf 1774 is illegal building work. As argued below on the objection from the owner of erf 1776, the illegal building work impacts on the views and possible property values of the properties.</p>	

		The carport will not be built on the wall between Erven 1774 and 1775 and will rather be placed on supporting columns or poles next to the wall.	
2. Stefan Bauer & Lizanne Hetherington, owners of erf 1776	<p>1. I hereby object to the plans, especially: Departure from the 2m rear building line to 0m for the construction of a sunroom.</p> <p>It is very important to me that view lines along the greenbelt are kept intact as these are a key part of our property value. Allowing homeowners to disregard the 2m line to the greenbelt sets a bad precedent for the area. Especially considering the building works have already been completed without prior consent by the impacted neighbours.</p> <p>If allowed, what's to stop neighbours on either side of us to significantly impact the views of the property and thereby the value.</p>	<p>1. Refer to discussion point 1 above.</p> <p>The green strip, of which the owners speak of, is already compromised by the (boundary) wall of the property at the end of the view. Even if the proposed sunroom is allowed, it would not change the fact that the view is already compromised.</p>	<p>1. The owners of Erf 1776 restricts their objection to the departure of the rear building line.</p> <p>The sunroom on Erf 1774 is illegal building work. The sunroom is erected inside the 2m rear building line area which impacts the views from Erf 1776 towards the west and public open space. In this case the views from Erf 1776 is that owner's right, regardless if the view has been compromised by a boundary wall on another property.</p> <p>The owner of Erf 1774 has developed the property outside the property's rights regarding compliance with building lines and coverage. By doing so, they have affected the rights of the owners of Erf 1776. In this case the property value of Erf 1776 may be impacted negatively by the illegal building work on erf 1774.</p> <p>The combination of the existing illegal sunroom and proposed carport encroaches 4 zoning parameters of which the coverage of 63% are most extreme.</p> <p>Please note that the full evaluation of the departures will discussed under Part J, Point 3.</p> <p>(Please note that during the site inspection of erf 1774 is was discovered that there are 2 sunrooms build at either unit of the double dwelling on erf 1776 which does not consist of building plan approval. This has been reported to the Division: Building Control.)</p>

PART J: MUNICIPAL PLANNING EVALUATION

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

Application for the departure of development parameters on Erf 1774, Yzerfontein, is made in terms of Section 25(2)(b) of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 25 March 2020). The proposal entails the departure of the following development parameters:

- Departure of the 4m street building line to 0m for the erection of a carport;
- Departure of the 1,5m side building line (south western boundary) to 0m for the erection of a carport;
- Departure of the 2m rear building line to 0m for the erection of a sunroom;
- Departure of the permissible coverage of 50% to 63%; and
- Departure of the permissible width of 6,5m for a carport to allow a 8,56m wide carport.

A total of 8 registered notices were issued to affected parties, of which all of the same notices were also sent via e-mail. 3 posted notices were returned uncollected of which the owners were also not notified via email. The commenting period for the application started on 22 April 2022 and concluded on 23 May 2022. 2 objections and 1 letter of support were received.

The objections received were referred to the applicant for comment on 26 May 2022. The response to objections were provided to the Municipality on 22 June 2022.

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: This principle is not evaluated.
- b) Spatial Sustainability: This principle is not evaluated.
- c) Efficiency: This principle is not evaluated.
- d) Good Administration: The application and public participation was administrated by Swartland Municipality and public and departmental comments obtained.
- e) Spatial Resilience: This principle is not evaluated.

2.2. Provincial Spatial Development Framework (PSDF, 2014)

Not applicable. Not evaluated.

2.3 West Coast District SDF (WCDSDF, 2014)

Not applicable. Not evaluated.

2.4 Spatial Development Framework(SDF)

Not applicable. Not evaluated.

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

The proposal entails the departure of the following development parameters:

- Departure of the 4m street building line to 0m for the erection of a carport;
- Departure of the 1,5m side building line (south western boundary) to 0m for the erection of a carport;
- Departure of the 2m rear building line to 0m for the erection of a sunroom;
- Departure of the permissible width of 6,5m for a carport to allow a 8,56m wide carport;
- Departure of the permissible coverage of 50% to 63%.

3. Desirability of the proposed utilisation

Erf 1774, Yzerfontein is zoned Residential Zone 1 and is developed with a double dwelling house. A sunroom has been illegally erected at the rear of the property which encroaches the rear 2m building line to 0m and increases the coverage of the property from the approved 48% (347m² footprint of existing building work) to 54,4%.

The existing building work which consist of building plan approval complies with all zoning parameters. The property is relatively flat and adjoins a public open space at the rear of the property.

Surrounding land uses includes single residential dwellings which all complies with the Residential Zone 1 zoning parameters. There are no similar building line and coverage departures in the surrounding area (Fynbos Street). The proposed departures will have a negative effect on the character of the area and possibly Yzerfontein as a whole.

Carport

The proposed carport departs from the zoning parameters as follows:

- 4m street building line to 0m;
- 1,5m side building line (south western boundary) to 0m;
- permissible width of 6,5m for a carport to 8,56m.



Please see above the street front of Erf 1774.

The proposed carport is 58m² in extent.

It is common that carports are accommodated in front of an existing garage. The construction of the carport will not affect the boundary wall on Erf 1775. The proposed carport is excessive in size and bring the coverage (excluding the illegal sunroom) to 56,25%. Departures from the permissible 50% coverage in the Pearl Bay area is unprecedented even though there are many large double storey dwelling houses. The reason for this is that erven are 700m² and larger which gives a development footprint of 350m² single storey and 700m² double storey floor areas. The dwelling on erf 1774 has a footprint (excluding the illegal sunroom) of 347m².

There are no similar street building line departures in Fynbos Street and if approved this will be the first street building line departure in this street.

The need for additional covered parking is acknowledged.

Sunroom

The sunroom is existing and has been erected without building plan approval.

The sunroom encroaches the 2m rear building line to 0m.

The sunroom is 45m² in extent and brings the coverage (excluding the proposed carport) of the property to 54,4% which is unprecedented in Pearl Bay as already discussed.



Please see above photos of the sunroom.

Both affected property owners object to the proposed departures as their right to views and possible impact on property values have been affected negatively.



Please see above a photo of the rear of erven 1773, 1774, 1775 and 1776 over the public open space.

It is pointed out to the Tribunal that if the departure of the 2m rear building line is approved, permissible coverage as well, it will undoubtedly influence decision making on future departures of development parameters negatively.

The departure of the rear building line is not supported. The building work be demolished.

Coverage

As discussed above the respective coverage for the carport (58m^2 - 56.25%) and sunroom (45m^2 - 54.4%) brings the total coverage of the property to 63% (450m^2 footprint) on property which is 720m^2 in extent. There is no merit in permitting coverage to this extent in a low density single residential area.

Conclusion

The owner of Erf 1774 took a predetermined risk to erect the sunroom without building plan approval which is also outside the development rights of the property. By doing so, the rights to views and possible property values of the adjoining property owners are negatively affected. Evidence of this is that the adjoining land owners objected to this application.

Approval of the departure 2m rear building line will as an attempt to legalise the illegal building work, influence decision making on future departures of development parameters negatively.

The proposed excessive size of the carport (58m^2) brings the coverage of the property to 56,25% which is unprecedented in context of the Pearly Bay area. The need for additional undercover parking is acknowledge and therefore it is proposed that a standard carport for 2 vehicles ($6\text{m} \times 6,5\text{m}$) will be more acceptable, given the consent of the affected property owners are obtained.

It is therefore recommended that the departures applied for be refused.

4. Impact on municipal engineering services

There is not impact.

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 departure of the development parameters on Erf 1774, Yzerfontein be refused in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2021). The departures refused includes the following:

1. Departure of the 4m street building line to 0m for the erection of a carport.
2. Departure of the 1,5m side building line (south western boundary) to 0m for the erection of a carport.
3. Departure of the permissible width of 6,5m for a carport to allow a 8,56m wide carport.

B. The application for the departure of the development parameters on Erf 1774, Yzerfontein be refused in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2021). The departure refused includes the following:

1. Departure of the 2m rear building line to 0m for the erection of a sunroom.

C. The application for the departure of the development parameters on Erf 1774, Yzerfontein be refused in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2021). The departure refused includes the following:

1. Departure of the permissible coverage of 50% to 63%.

D GENERAL



- a) The illegal building work (sunroom) be demolished within a period of 3 months after the decision making process on the application has been finalized.
- b) The applicant/objectors be notified of this outcome and their right to appeal in terms of Chapter VII, Section 89 of the By-law.

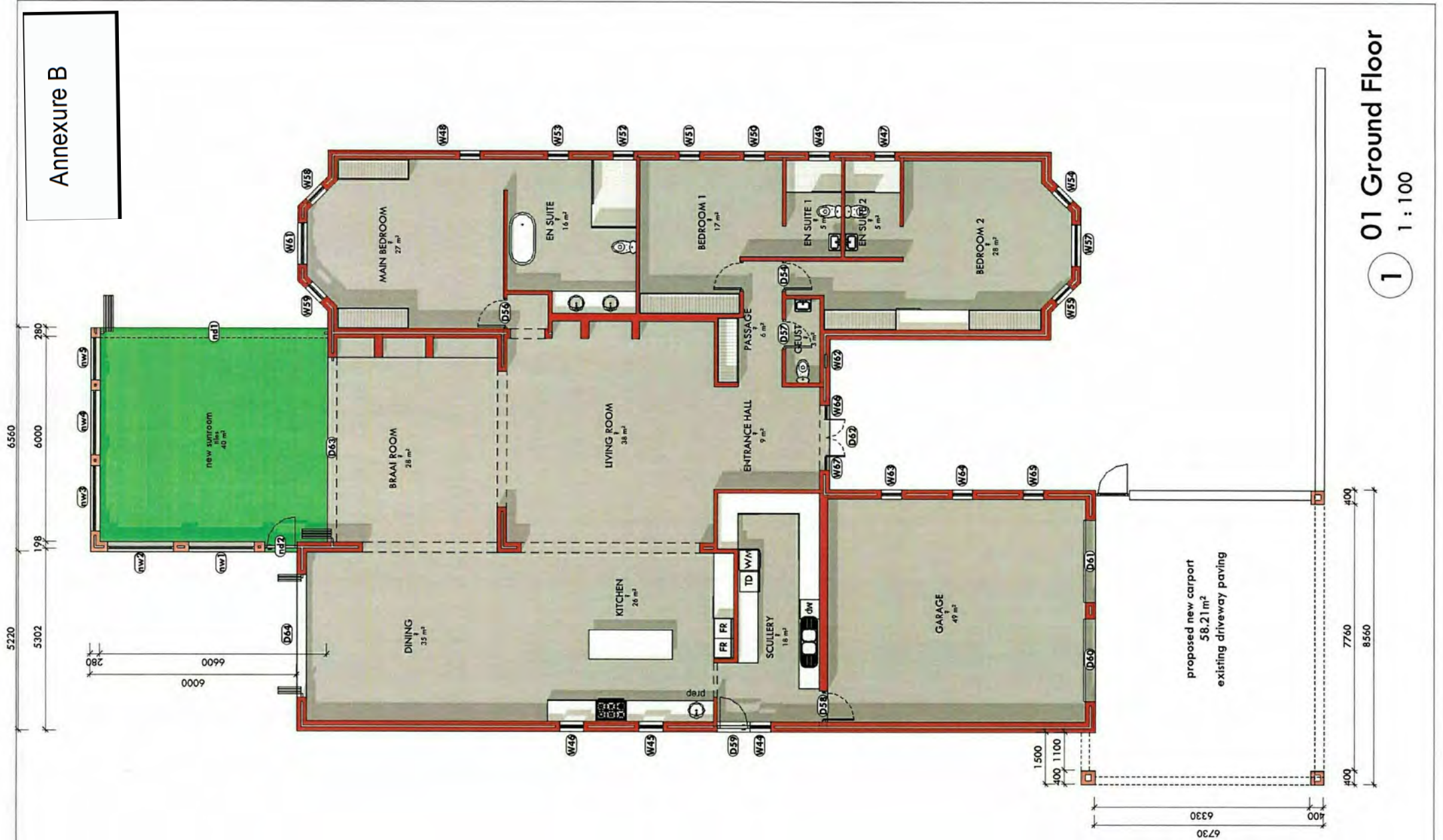
PART M: REASONS FOR RECOMMENDATION**A. Reasons for the decision:**

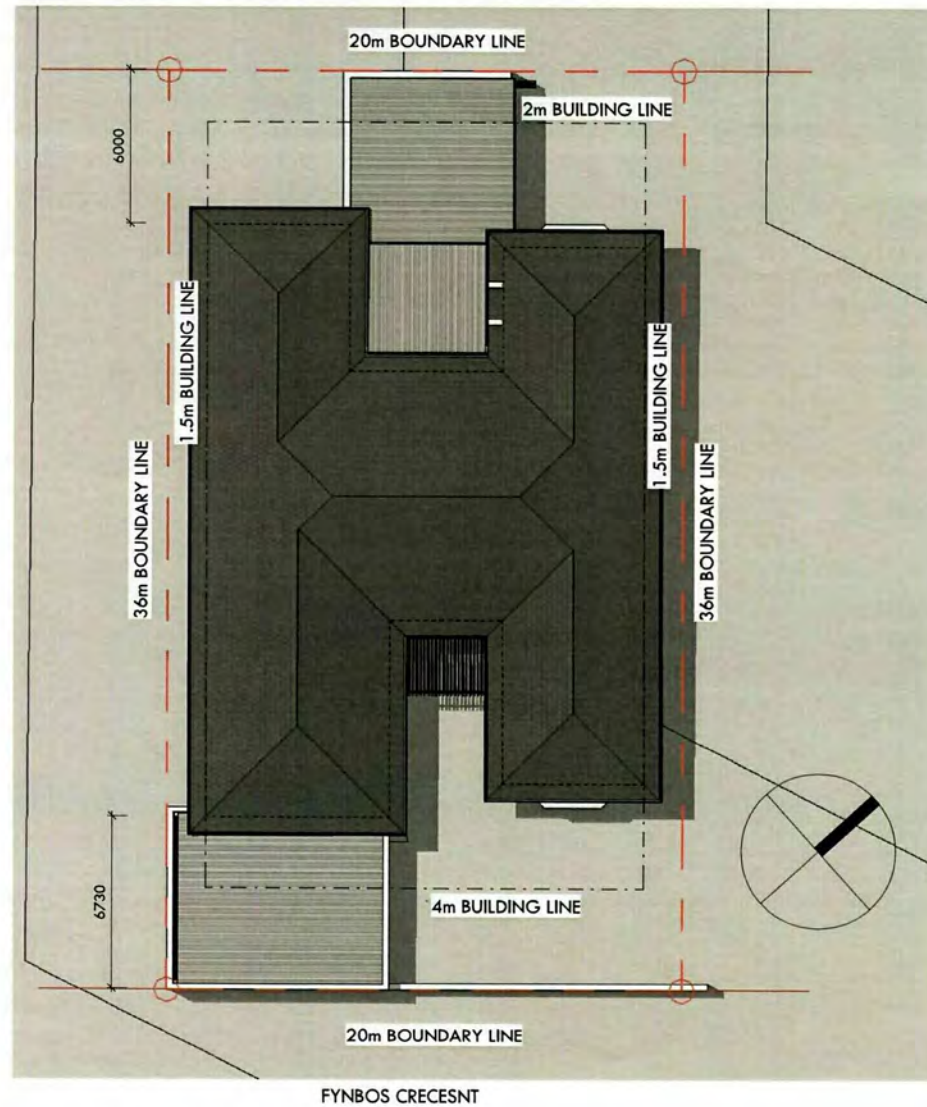
1. The proposed carport is excessive in size.
2. The coverage (excluding the illegal sunroom and including the proposed carport) is 56,25%. Departures from the permissible 50% coverage in the Pearl Bay area is unprecedented.
3. There are no street building line departures in Fynbos Street.

B. Reasons for the decision:

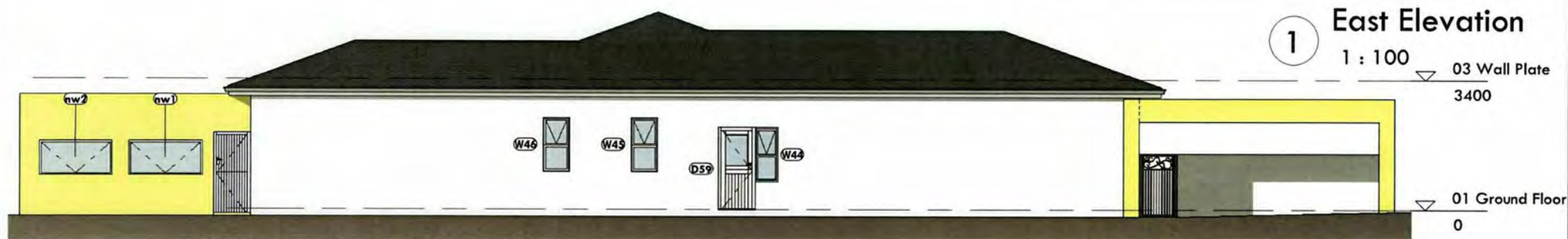
1. The sunroom is an illegal structure without building plan approval.
2. The illegal building work has been done outside the permitted land use rights of the Residential zone 1 zoning.
3. The coverage (including the illegal sunroom and excluding the proposed carport) is 54,4%. Departures from the permissible 50% coverage in the Pearl Bay area is unprecedented.
4. Adjoining affected property owners object to the proposed departures as their right to views and possible impact on property values have been affected negatively.

<p>5. The departure cannot be recommended as it will influence decision making on future departures of development parameters negatively.</p>				
<p>C. Reasons for the decision:</p>				
<p>1. The coverage total proposed coverage is 63%. Departures from the permissible 50% coverage in the Pearl Bay area is unprecedented.</p>				
<p>2. The departure cannot be recommended as it will influence decision making on future departures of development parameters negatively.</p>				
<p>PART N: ANNEXURES</p>				
<p>Annexure A: Locality plan Annexure B: Building plans Annexure C: Public participation plan Annexure D: Objection from AD & SC Mertsch Annexure E: Objection from Stefan Bauer & Lizanne Hetherington Annexure F: Letter of support from T & A Jones Annexure G: Comments from the applicant on the objections Annexure H: Photos</p>				
<p>PART O: APPLICANT DETAILS</p>				
First name(s)	C.K. Rumboll and Partners			
Registered owner(s)	Louw Family Residential Builders Pty Ltd	Is the applicant authorised to submit this application:	Y	N
<p>PART P: SIGNATURES</p>				
<p>Author details: AJ Burger Senior Town & Regional Planner SACPLAN: B/8429/2020</p>				<p>Date: 28 July 2022</p>
<p>Recommendation: Alwyn Zaayman Senior Manager: Built Environment SACPLAN: B/8001/2001</p>		<p>Recommended</p>	<p>Not recommended</p>	<p>✓</p>
				<p>Date: 3 August 2022</p>





1 Site Plan
1 : 200



3 South Elevation
1 : 100

4 West Elevation
1 : 100



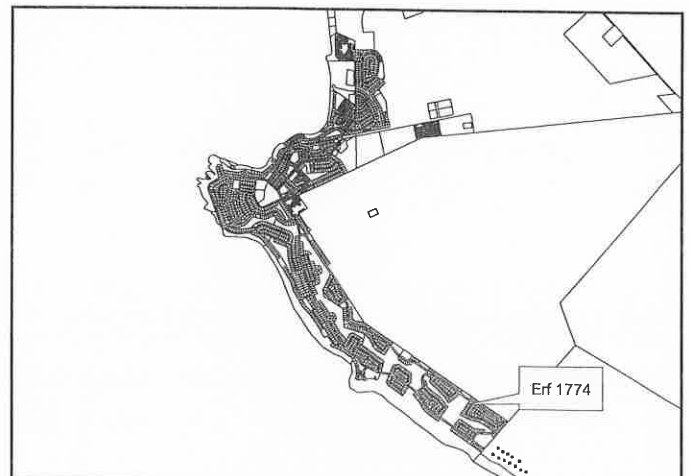


Voorgestelde afwyking van ontwikkelingsparameters

Erf 1774, Yzerfontein

Publieke deelname

Skaal: NVT



From: Anthon Mertsch <magnum.mertsch@gmail.com>
Sent: Friday, 06 May 2022 11:35
To: Registrasie Email <RegistrasieEmail@swartland.org.za>
Subject: VERWYSING 15/3/4-14/ERF 1774 YZERFONTEIN

Die Munisipale Bestuurder,

Ek verwys na versoek vir afwyking van bouregulasies met verwysing 15/3/4 – 14/ERF 1774 te Yzerfontein. Ek is die onmiddellike buurman wes elevasie ERF 1775. Ek maak ten sterkste beswaar teen die voorgestelde sonkamer(wat terloops reeds gebou is), asook die voorgestelde oprigting van die motorafdak wat reg bo-op my grensmuur sal wees, as ek die voorgestelde plan reg interpreteer.

Die voorgestelde afwykings is nie met my bespreek nie, ook is daar nie toestemming hiervoor gevra nie. Indien dit met my bespreek was, kon ek selfs tot ander insig gekom het.

My beswaar oor die sonkamer en motorafdak is dat diesulke afwykings 'n presedent skep, en daartoe kan lei dat allerhande onooglike strukture in die toekoms opgerig kan word, wat 'nnadelige uitwerking op eiendoms waarde sal meebring. Dan wil ek net baie duidelik stel dat die grensmuur waar die beoogde motorafdak, se oprigting, voor aansoek gedoen word, my muur is en dat ek onder geen omstandighede toestemming sal gee vir enige bouwerk bo-op die muur nie.

Bevestig asb. ontvangs van hierdie EPOS by magnum.mertsch@gmail.com

Groete,

A.D. & S.C. Mertsch,

Nr. 6 FYNBOS – SINGEL, YZERFONTEIN. ERF 1775

Kontak nommer **082 461 4896**

From: Stefan Bauer <stefan.bauer.sa@gmail.com>
Sent: Tuesday, May 03, 2022 5:43 PM
To: Chanice Dyason <PlanIntern1@swartland.org.za>
Cc: Lizanne Hetherington <lizanne.hetherington@gmail.com>
Subject: Re: Voorgestelde afwyking op Erf 1774, Yzerfontein

Hello Chanice,

Thank you for sending the application of erf1774 to us.

I hereby object to the plans, especially: **Departure from the 2m rear building line to 0m for the construction of a sunroom.**

It is very important to me that view lines along the greenbelt are kept intact as these are a key part of our property value. Allowing homeowners to disregard the 2m line to the greenbelt sets a bad precedent for the area. Especially considering the building works have already been completed without prior consent by the impacted neighbours.

If allowed, what's to stop neighbours on either side of us to significantly impact the views of the property and thereby the value.

regards

Stefan Bauer & Lizanne Hetherington

8 Fynbos Crescent (Erf 1776)

From: Trevor & Annalie Jones <tajones@telkomsa.net>
Sent: Tuesday, 19 April 2022 19:42
To: Chanice Dyason <PlanIntern1@swartland.org.za>; Registrasie Email <RegistrasieEmail@swartland.org.za>
Subject: RE: Voorgestelde afwyking op Erf 1774, Yzerfontein

Dear Chanice,

No objection to the proposed at all, go ahead

TD & A Jones

Fynbossingel 3

Yzerfontein

7351

Trevor & Annalie Jones

0834632741

0822243738

tajones@telkomsa.net

CK RUMBOLL & VENNOTE / PARTNERS



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

DATE: 22 June 2022

OUR REF: YZE/12160/GT_ZN

YOUR REF: 15/3/4-14/Erf_1774

BY HAND

Attention: Mr A. Zaayman

The Municipal Manager
Swartland Municipality
Private BagX52
MALMESBURY
7300

MUNICIPALITEIT SWARTLAND				REG
LECR No: 15/3/4-14/Erf-1774				REGIO No:
Verreys In	Inligting	Verlag	Afwand	Kom/Taar
SSSB				
cc: del				
Ander Opdrag:				
SPERDATUM:				(get)BK

Mr,

Comments on Objections

PROPOSED PERMANENT DEPARTURES ON ERF 1774, YZERFONTEIN

1. Introduction

Your letter dated 26 May 2022 refers.

CK Rumboll and Partners have been appointed by Louw Family Residential Builders, owners of Erf 1774, Yzerfontein, to attend to all town planning actions regarding the permanent departures on Erf 1774, Yzerfontein. The application was made to accommodate a sun room over the rear building line, carport wider than 6.5m and over the street and side building line as well as departing from the 50% permissible coverage on the subject properties.

During the public participation period, comments were received from the following surrounding neighbours and/or the public:

1. AD & SC Mertsch (Erf 1775)
2. Stefan Bauer & Lizanne Hetherington (Erf 1776)

2. Comments on objections

This section is intended to provide comments on the objections received. Please see our office's response to the objections received, below in tabular form.

VENNOTE / PARTNERS:

IHJ RumbollPrL (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 / PO Box 211 / Rainierstr 16, Malmesbury, 7299
MALMESBURY (T) 022 482 1845 (F) 022 487 1661



Objectors	Objections	Comments from CK Rumboll & Partners
A. Mertsch	<p>1. <u>Creates president & Property Values:</u></p> <p>My beswaar oor die sonkamer en motorafdak is dat die sulke afwykings 'n presedent skep, en daartoe lei dat allerhande onooglike strukture in die toekoms opgerig kan word, wat 'n nadelige uitwerking op eiendoms waarde sal meebring.</p> <p>Die voorgestelde afwykings is nie met my bespreek nie. Indien met my bespreek was, sou ek dalk tot ander insig gekom het.</p> <p>Dis my grensmuur waarop die oprigting van die voorgestelde motorafdak voorgestel word. Onder geen omstandighede toestemming sal gee vir enige bouwerk bo-op die muur nie.</p>	<p>Each proposal/development needs to be assessed on its own merits. Therefore, to suggest that the approval of the sunroom & carport could lead to the erection of other illegal structures or the creation of a precedent is considered unfounded. The erection of each and every structure remains in the decision making powers of the local authority and needs to go through the public participation process.</p> <p>Furthermore, the relevant authority may not restrict a land use application solely on grounds of the potential financial implications as specified under <i>Section 59(1)(f) of Chapter VI of The Land Use Planning Act, Act 3 of 2014:</i></p> <p><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> <p>Notwithstanding the above, the increase of the property value on Erf 1774, by adding a sunroom and carport, it will overall increase the property values of the surrounding erven as well.</p> <p>As per Section 55-57 of <i>Swartland Municipal Land Use Planning By-law</i>, notices were sent to surrounding owners that may be affected by the proposed development, as identified by the Swartland Municipality. Individual phone calls or meetings is not warranted in this process.</p> <p>The carport will not be built on the wall between Erven 1774 and 1775 and will rather be placed on supporting columns or poles next to the wall.</p>

VENNOTE / PARTNERS:

IHJ RumbollPrL (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 / PO Box 211 / Rainierstr 16, Malmesbury, 7299
 MALMESBURY (T) 022 482 1845 (F) 022 487 1661

S. Bauer & L.
Hetherington

2. Impact on views

Very important that view lines along the greenbelt are kept intact as these are a key part of our property value. Allowing homeowners to disregard the 2m line to the greenbelt sets a bad precedent for the area.

If allowed, what's to stop neighbours on either side of us to significantly impact the views of the property and thereby the value.

2. Refer to discussion point 1 above.

As seen in the images below, the green strip, of which the owners speak of, is already compromised by the (boundary) wall of the property at the end of the view. Even if the proposed sunroom is allowed, it would not change the fact that the view is already compromised.



One of the objectors is the abutting neighbour to the west (erf 1775) which is arguably most affected by the proposed carport. When one considers the nature of the objection, it becomes clear that the core of the objection is based on the lack of personal communication from the owner, of Erf 1774, towards him. So much so that the owner acknowledged that were the proposed plans suggested to him at the initial stage instead of being served a notice, he might have come to other insights.

This is a testimony that the proposed departures are not necessarily something which the objector is inherently against. An act of courtesy might have changed the objectors need to comment or object. Furthermore, the objector is concerned about the precedent which might be created which may lead to the erection of eyesore structures (caused by the approval of the sunroom and carport); one has to consider that the proposed development include land uses/structures which are ancillary to the residential use of the property (dwelling house) and thus is cohesive and complimentary to the zoning of the property. These proposals will also not negatively impact the value of the immediate area but rather enforce it. To remove the existing sunroom would be very costly to the owner and as per the principle of efficiency (SPLUMA), decision-making procedures are designed to minimise negative financial, social, economic or environmental impacts. To make a decision which may lead to the removal of the sunroom would be in direct conflict with the ideals of the principle of efficiency.

One also need to consider that, in terms of views, the property owners on the eastern side, is essentially more impacted. However, no objection was made by any of these property owners thus implying that neither the sunroom nor the proposed carport is of any impact on their view, value of their property or disturbance on the sense of place.



It is important to exclaim the land uses which are proposed are of such a low impact nature that no real life impact is to be expected. As mentioned earlier, the view of the green belt is already disturbed by existing structures. Removing the existing sunroom will not result in the enhancement of the view, considering the view is already disturbed.

The objectors raised their concerns mainly around the idea that a precedent will be created which will significantly impact the views of the property and thereby the value. It is difficult to accept that the proposal will have an impact on the value of properties without any sustentative proof. Furthermore, the view which is referred to is already impacted; the line of sight is imposed by a boundary wall. No concerns were raised against the departure from the permissible coverage and therefore the application for coverage is to be considered favourable. All the land uses/structures which push the coverage over the permitted 50% are both ancillary structures which are anticipated to be found on a residentially zoned property. The carport is open on three sides which helps retain the open feel on the site and the fact that part of the proposal is for a carport width departure, speaks more into the open feel of the street front.

The proposed development will not have any negative effects on the natural environment.

This office is of the opinion that the proposed permanent departures on Erf 1774, Yzerfontein, will have no detrimental impact on the surrounding area, but on the contrary rather, it will reinforce the value of the property and thus subsequently the area as potential buyers will be attracted by property features such as a sunroom and a carport.

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

Kind regards,



Zanelle Nortje / Geno Theron
ForCK RUMBOLL & PARTNERS









ITEM 6.2 OF THE AGENDA FOR THE MUNICIPAL PLANNING TRIBUNAL THAT WILL TAKE PLACE ON WEDNESDAY, 10 AUGUST 2022

LAND USE PLANNING REPORT PROPOSED PERMANENT DEPARTURES ON ERF 2123, YZERFONTEIN					
Reference number	15/3/4-14/Erf 2123	Application submission date	7 April 2022	Date report finalised	1 August 2022

PART A: APPLICATION DESCRIPTION

Application for departure on Erf 2123, Yzerfontein, in terms of Section 25(2)(b) of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 3 March 2020), is made in order to depart from the 4m northern street building line to 3m on both the ground floor and first floor level.

Application for departure on Erf 2123, Yzerfontein, in terms of Section 25(2)(b) of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 3 March 2020), is made in order to depart from the 3m eastern street building line to 2,5m on ground floor level and from 3m to 2,37m on first floor level.

Application for departure on Erf 2123, Yzerfontein, in terms of Section 25(2)(b) of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 3 March 2020), is made in order to depart from the 1,5m southern and western side building lines to 0m in order to accommodate the proposed garage on ground floor level.

Application for departure on Erf 2123, Yzerfontein, in terms of Section 25(2)(b) of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 3 March 2020), is made in order to depart from the 1,5m western side building line to 1m on ground floor and first floor level, in order to accommodate the proposed bedroom and pool with screen.

Application for departure on Erf 2123, Yzerfontein, in terms of Section 25(2)(b) of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 3 March 2020), is made in order to exceed the maximum permissible erf coverage of 50% by 9% (total of 59% coverage).

The applicant is C.K. Rumboll and Partners and the property owner is A.J. Smit.

PART B: PROPERTY DETAILS

Property description (in accordance with Title Deed)	ERF 2123 YZERFONTEIN, IN THE SWARTLAND MUNICIPALITY, DIVISION MALMESBURY, PROVINCE WESTERN CAPE				
Physical address	5 Ninth Street (locality plan attached as Annexure A).		Town	Yzerfontein	
Current zoning	Residential Zone 1	Extent (m ² /ha)	365m ²	Are there existing buildings on the property?	Y N
Applicable zoning scheme	Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 3 March 2020)				
Current land use	Vacant land		Title Deed number & date	T39250/2021	
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	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
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 north-western coastline of Yzerfontein, in close proximity to a long existing tidal pool on 9th Street, in area C, as identified by the Swartland Municipal Spatial Development Framework of 2019 (SDF).

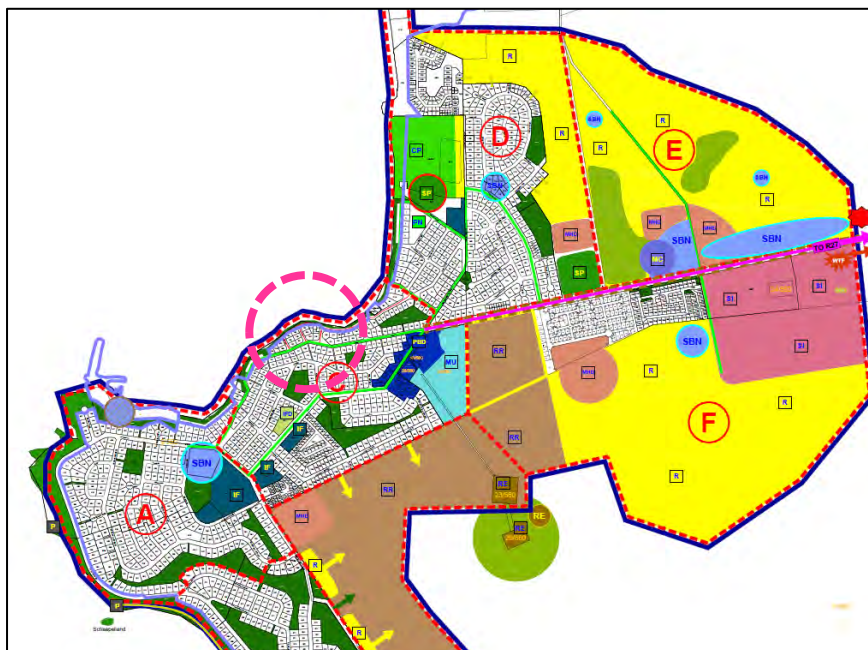


Figure A: Excerpt from Yzerfontein SDF

The application property was formed by subdivision of Erf 2014 into three portions of between 360m² and 460m² each. The resulting Erf 2123 (365m² in extent) is a corner property of roughly rectangular proportions, i.e. $\pm 26\text{m}$ in length, with a depth of $\pm 10,5\text{m}$ that widens to $\pm 11,5\text{m}$ towards the northern boundary, ending in a splayed corner.

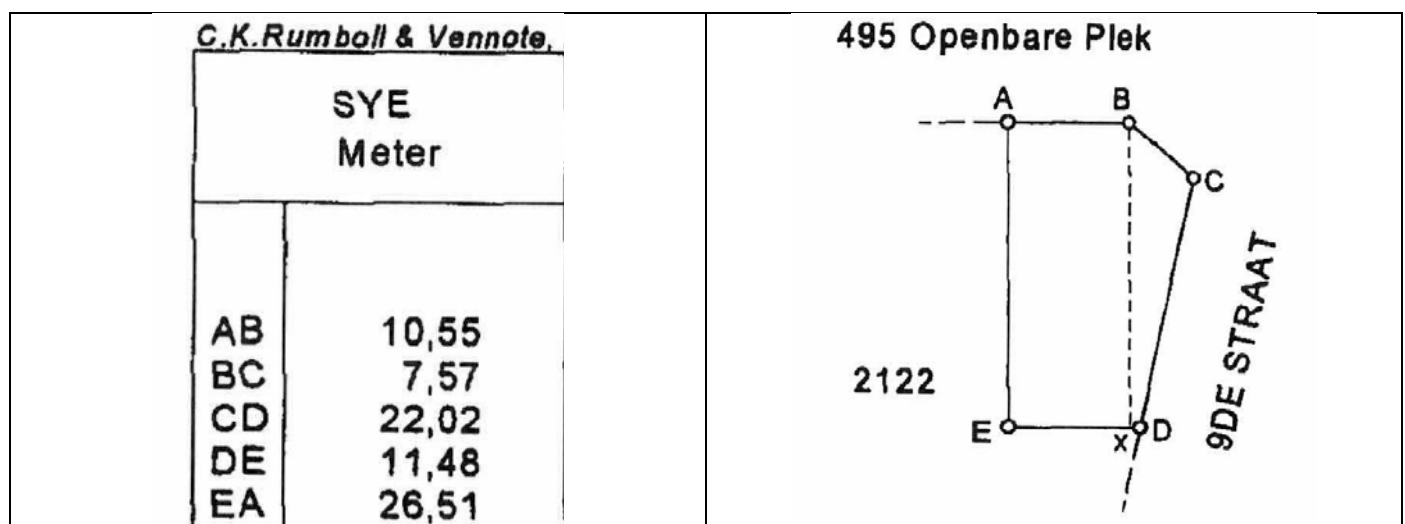


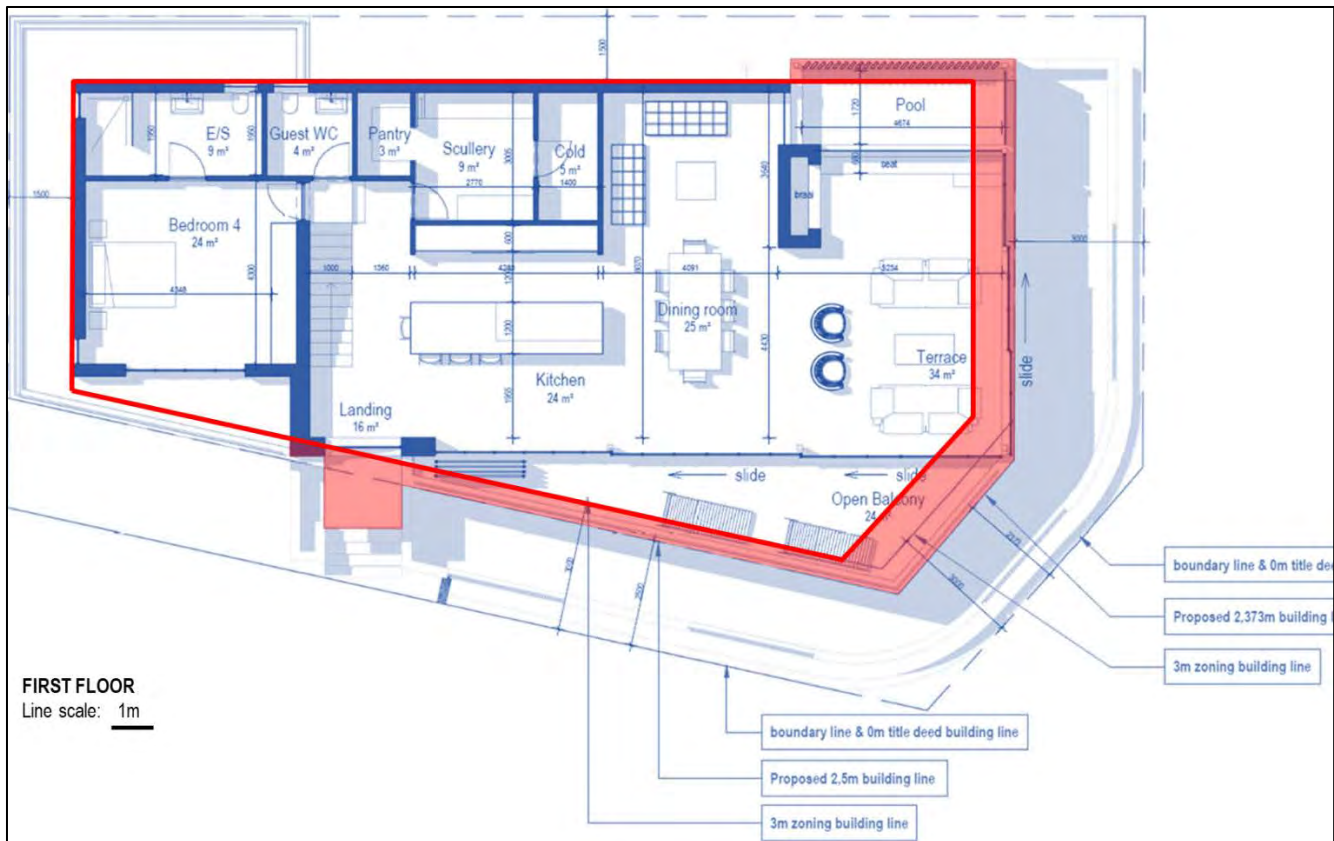
Figure B: Excerpt from S.G. diagram for Erf 2123, Yzerfontein

Erf 2123 is zoned Residential Zone 1 and the application is aimed at developing a dwelling house on the property. The development parameters for the zone are as follows:

Building lines	<ul style="list-style-type: none"> - Street: 4m (when the average depth of the erf is >20m); 3m (when the average depth of the erf is <20m); - Side: 1,5m - Rear: 2m
Coverage	50%
Height	<ul style="list-style-type: none"> - 8,5m from gradient line to wall plate - 10m from gradient line to maximum overall height - Building line departure is restricted to ground floor level

The impact of the development parameters on the proposal is as follows:

	Site specifications	Departures
Building lines	<ul style="list-style-type: none"> a) The northern street building line is 4m, as the erf is 26,5m long; b)i. The depth of the property perpendicular to the corner splay is more than 20m, thus the building line on the splay portion should be 4m; b)ii. The eastern street building line is 3m, as the property is 11m average in depth; c) The southern building line is 1,5m; d) The western building line is 1,5m; e) The site is a corner property, thus a rear building line is not applicable; 	<ul style="list-style-type: none"> a) The development proposal departs from the 4m northern street building line to 3m on ground floor (bedrooms) and first floor (living room); b)i. The applicant indicates the splay street building line as 3m and proposes departure on 1st floor level to 2,37m to accommodate the balcony; b)ii. The proposal departs from the 3m eastern street building line to 2,5m on ground floor level to accommodate a portion of the entrance wall and on 1st floor level to accommodate the balcony wall and an awning over the front door; c) Departure from 1,5m proposed to 0m to accommodate the garage; d) Departure is proposed from 1,5m to 0m on ground floor level for the garage, and to 1m for bedroom 2, while departure from 1,5m to 1m is proposed on first floor level to accommodate the pool above bedroom 2;
Coverage	<ul style="list-style-type: none"> a) The erf is 365m² with max 50% coverage; b) The maximum permissible footprint is 182.5m² 	<ul style="list-style-type: none"> a) The proposed coverage exceeds the permitted 50% by 9%; b) The proposed footprint is 216m²; <ul style="list-style-type: none"> i. The area of the portion of the garage that encroaches on the building line equals ±19,82m² (5% of the total coverage); ii. The area of the dwelling, pool, balcony and awning that encroach on the building line is ±31,52m² (±8,63% of the total coverage);
Height	<ul style="list-style-type: none"> a) 8,5m from gradient line to wall plate; b) 10m from gradient line to maximum overall height; c) Building line departure is restricted to the ground floor level. 	<ul style="list-style-type: none"> a) Comply; b) Comply; c) Building line departure on 1st floor level is proposed: <ul style="list-style-type: none"> i. The swimming pool over the side building line at a height of approximately 4,5m from NGL to edge of pool. Screening is proposed at the pool edge to establish privacy from neighbours; ii. A portion of the pool, the living room/terrace, open balcony, awning and entrance wall encroach on the 4m street, 4m splay and 3m street building lines at heights ranging from 4,5m to 3,6m.



Erf 2123, Yzerfontein is vacant, situated on a street corner with unobstructed sea views from the north, north-east and eastern portions 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 2123, 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 right of the owner to develop the property in accordance with the existing land use rights is recognised.
- 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. no prime, unique or agricultural land will be adversely affected with the proposed application.
- c) Efficiency: The departure from building lines and coverage 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.
- e) Good administration: All decision-making regarding the outcome of the application will be guided by relevant statutory land use planning systems.

2.1 Swartland Municipal Spatial Development Framework (SDF, 2019)

Erf 2123 is situated on area C 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.

2.2 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.

- a) Building line departures are proposed on the northern, eastern southern and western boundaries; and
- b) In addition to the building line departures, height departures are also affected, as building lines may only be departed from on ground floor level.

i. Northern street building line from 4m to 3m to accommodate the dwelling on ground and first floor.

The road reserve is wide and departure will not negatively impact on sight lines, as there is 4,8m from the road to the property boundary.

The shape of the property limits the development potential and reducing the street building line will enable the design to be more practical. Allowing the departure on the first floor will allow the owner to build on the footprint of the ground floor which is more cost effective and aesthetically pleasing.

The eastern sea view from Erf 2122 will not be affected, as the stoep and balcony are already obstructed by screen walls.



- ii. The eastern street building line from 3m to 2,5m to accommodate a portion of the entrance wall (ground floor).
The road reserve for the area is very wide and the distance from the road to the property boundary will be 5,7m; Due to the shape of the property traffic flow will not be adversely affected, as traffic is lead away from the departure. The odd shape of the erf limits the potential of the property, while the departures will enable it to be optimally developed.
- iii. The eastern street building line from 3m to 2,37m to accommodate the balcony (first floor)
The balcony will be $\pm 3,7$ m above the NGL and will not be covered. The impact of the balcony on the views from surrounding properties is considered negligible.
- iv. Southern and western side building lines from 1,5m to 0m to accommodate the garage.
It is recognised that Erven 194 and 2122 are impacted by the ground floor departures, but as the sea views from said erven are in a north-eastern direction, the impact is not considered to be detrimental. No openings are proposed on the encroaching garage facades.



The topography slopes downward toward the sea quite significantly and garage departure is thus unlikely to obstruct the views from Erf 194. The first floor on top of the garage will adhere to the side building lines.



- v. Western side building line from 1,5m to 1m on ground floor and first floor to accommodate bedroom and pool.
The ground floor encroachment will not have any openings and will leave 1m safety access to the rear of the property. The encroachment of the pool on the first floor will be mitigated through affixing shutters, in order to ensure privacy of both erven 2123 and 2122.

c) Departure is proposed from the maximum 50% coverage to 59%.

It is motivated that, while the maximum coverage for a Residential Zone 1 erf is 50%, the SDF limits the minimum erf size to 500m². As Erf 2123 is only 365m² it cannot be seen as a Residential Zone 1 erf and should rather be viewed as a Residential Zone 2 property, of which the coverage is 60%. A higher coverage will enable the property to be utilised to its full potential, as the developable space on the property is limited. The dwelling footprint of 216m² is considered to be consistent with that of the surrounding properties and thus also in keeping with the character of the area.

The dwelling is designed to adhere to the height restrictions imposed by Residential Zone 1.

2.3 Access and parking

The property is accessed on the eastern border, via ninth street and a double garage provides the required number of on-site parking bays.

2.4 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
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A total of 18 registered notices were issued to affected parties on 22 April 2022 and e-mails were sent additionally where e-mail addresses were available. The commenting period concluded on 23 May 2022. Please refer to Annexure C for public participation map.

Total valid comments	5			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: Development Services	14 April 2022	Submit building plans to Building Control for consideration for approval	✓

PART I: COMMENTS RECEIVED DURING PUBLIC PARTICIPATION	SUMMARY OF APPLICANT'S REPLY TO COMMENTS	MUNICIPAL ASSESSMENT OF COMMENTS
<p>Note: An objection was received from I. Smit, in capacity as co-owner of Erf 2122. However, the property is owned by a trust and the remaining members did not mandate Smit to object on their behalf. In fact, the majority members support the development and the objection was withdrawn. Please refer to Annexure D for written confirmation of withdrawal.</p>		
<p>C. Donaggi (Erf 2119) Annexure E</p>	<p>Departure of the 4m Street building line (northern boundary):</p> <p>1. Building lines and erf boundaries are specific rules and regulations that should be adhered to by the municipality to protect the rights of each land owner, especially those in prime locations. CK Rumboll states that due to the shape of the property, meaningful development will not be able to take place without the necessary deviations. Any of the above departures will have an adverse impact on Erf 2119.</p> <p>1. In 2013, the northern boundary was subject to a 2m side building line under the Land Use and Planning Ordinance (15 of 1985), as there was no road built on that side of the property. The Municipality later on created a new road (9th Street), which affected the landowners' rights in that the 2m side building line was amended to a 4m Street building line and thus more restrictive, which limited the development potential of the property. If Ninth Street was never built, Erf 2123 would have been subject to a 1.5m side building line under the Swartland Municipal Land Use Planning By-Law (2020). Application to relax the 4m street building line to a 3m Street building line will ensure that their initial rights are redeemed.</p> <p>The owners of Erf 2123 are within their rights to apply for the departure of the development parameters, as the By-Law makes provision for departure applications, and Swartland Municipality may approve this in terms of the By-Law.</p>  <p>Figure 1: Locality of Erf 2119</p> <p>2. The proposed departure will have a major impact on the view of the main beach from Erf 2119, which will cause the value of the property to be reduced</p> <p>2. Considering figure 2 below, It is uncertain how the relaxation of the 4m street building line will have an adverse effect on the view towards main beach as the property would retain a clear view of main beach even if Erf 2123 builds unto the northern erf boundary. Departure is only requested from the prescribed 4m to</p>	<p>1. The property is vacant, which implies that neither the current or previous owners asserted the rights that were historically applicable to the property. in fact, according to the Title Deed, the current owner purchased the property in 2021 with 9th Street fully developed and the 2020 By-Law (with development parameters) in effect.</p> <p>Any development is subject to the legislative framework of the day and the proposal cannot lay claim to any historical parameters that were applicable. The motivation is not supported.</p> <p>2. The view from Erf 2119 will in no way be impacted upon by the departures on Erf 2123. The applicant is supported.</p>

3m. The proposal will therefore not adversely affect the property value.

There is no basis for assuming that approval of the application will result in the devaluation of adjacent property values. The Spatial Planning Land Use Management Act (SPLUMA) prescribes the principles for guiding land use planning. Amongst 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."



Figure 2: View from Erf 2119 to Main Beach

3. The departure will have a major impact on the morning sun of Erf 2119. The privilege of morning sun will be taken away with the proposed departure.

3. This statement is viewed as untrue. Erf 2122, which is located between these two erven, contains a dwelling house that is exceeding the building parameters, eliminating any potential impact development on erf 2123 might have. The development on Erf 2123 will thus not have any impact on the morning sun of Erf 2119. See figure 3 below.



Figure 3: Impact on Erf 2119 from Erf 2123

3. The objection is untrue. The dwelling on Erf 2122 is situated between Erf 2123 and Erf 2119 and thus it is impossible for the departures under discussion to impact on Erf 2119, as illustrated by the applicant.

	<p>4. Ninth Street carries a lot of vehicle and pedestrian traffic over weekends and holidays and the departure of the street building line and height of the ground floor creates unnecessary danger.</p> <p>5. The 0m side building line will almost make it impossible for two large vehicles to pass each other. The proposal will therefore have an adverse effect on the driveway to erven 2119 and 2122.</p> <p>6. Erf 2123 also does not have any space for visitors and will in effect also make use of the driveway, which will further affect erven 2119 and 2122.</p>	<p>4. Referring to figure 3, even with the proposed relaxation of the northern street building line, there is sufficient space available on the northern side of Erf 2123 for pedestrians to walk within the road reserve as well as sufficient viewing distance for safe driving. Considering the fact the Ninth Street is a one way, the impact on safety is even lower than with a normal two way road. Ninth Street is located within a residential neighbourhood that requires a low average speed and is the full width of a two-way road ($\pm 12.7\text{m}$). The departure of the northern street building line will therefore have limited impact on the area.</p> <p>We are of the opinion that if the owners of Erf 2119 were indeed worried about the safety of pedestrian and vehicle traffic on Ninth Street, they would not have paved the road reserve in the case of Ninth Street receiving excessive traffic during weekends and holidays as stated. The owners of Erf 2119 and their visitor now park within the road reserve and force pedestrians to walk within the road. Also refer to figure 4 below.</p> <p>Additionally, both the ground and first floor height also comply with the national building regulations. On the contrary, the height of the proposed dwelling is even lower than allowed within the Swartland Municipality: Municipal Land Use Planning By-Law (2020), to ensure that the sea view of Erf 194, south of Erf 2123 is maintained.</p> <p>5. The relaxation of the southern side building line to 0m should not have an adverse impact on the traffic flow to and from Erven 2119 and 2122, as the right of way servitude is 5m wide, which will ensure that vehicles can easily pass one another, as the average width of a vehicle is $\pm 1.8\text{m}$.</p> <p>In addition, the owners are allowed to erect a boundary wall on the southern boundary, which will have the same effect as the erection of the proposed garage at the 0m boundary line, since the garage will not consist of any windows. The departure can therefore be favourably considered.</p> <p>6. According to the By-Law, the parking requirements for a dwelling house under Residential Zone 1 is two parking bays. The property makes provision for a double garage (2 parking bays). The proposal therefore complies with the parking requirements of the Swartland Municipal Land Use Planning By-Law. The property will in addition have its own driveway, which can accommodate visitors parking should there be a need.</p>	<p>4. Street building line departure for a structure other than a garage or carport, is not supported by the By-Law in principle. The onus thus rests with the applicant to sufficiently motivate the reason for street building line departure. As the claim to historical building lines has already been negated in comment 1, there remains no motivation, other than the financial gain of the owner, for the departure from the street building line.</p> <p>The first floor height only complies with the By-Law for the portions that do not encroach on the building line. Building line encroachment is limited to the ground storey and the applicant fails to motivate why the departure on first floor level should be favourably considered.</p> <p>5. The applicant is supported. Access to Erven 2119 and 2122 is not allowed over Erf 2123. The encroaching garage walls will also act as boundary walls and the objectors would not be able to refuse boundary walls.</p> <p>6. The required number of on-site parking bays will be provided. The applicant is supported.</p>
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	<p>7. There is insufficient space for vehicles that visit Erf 2119 to turn around and will thus create a traffic jam especially in a case of an emergency.</p> <p>8. In 2001 when the dwellings on erven 2119 and 2122 were built, the municipality required the 1.5m side building line to be maintained for danger of fire. There can therefore not be a departure on this side (western boundary).</p> <p>9. Since there is no boundary wall around Erven 2119 and 2122, guests of Erf 2122 and 2123 will walk between erven 2119 and 2122 to access the properties which will cause a noise disturbance.</p>	<p>7. The development on Erf 2123, Yzerfontein, cannot be negatively considered due to the limited turning space available on Erf 2119. Since Erf 2119 already paved a portion of the road reserve at the northern side of the property, the majority of vehicles will park there.</p> <p>8. Extract from section 12.2.1(c)(iii) of the Swartland Municipality: Municipal Land Use Planning By-Law (2020): <i>'...c) When an outbuilding, second dwelling unit or building is permitted within a side or rear building line, the following conditions shall apply:</i> <i>(iii) an access way, other than through a building and at least 1m wide, shall be provided from a public street to every vacant portion of the land unit concerned, other than a courtyard...'</i></p> <p>Considering the fact that there is a 1m-1.5m opening between the proposed dwelling on Erf 2123 and the erf boundary and a 1.5m opening between Erf 2122 and the erf boundary, adequate space will be available between the two buildings for fire safety.</p> <p>9. Noted, visitors of Erf 2123 will park on the driveway proposed on the property and therefore not disturb the owners of Erf 2119.</p>	<p>7. The objection does not relate to the proposed development of Erf 2123 and is considered invalid.</p> <p>8. The applicant does not provide sufficient motivation for the departure from the 1,5m side building line on ground floor level (bedroom) and pool (first floor). The departures are considered obstructive to sunlight, the view corridor from Erf 192 and the privacy on Erf 2122.</p> <p>Should the owner/developer have acted within the development rights of the property, the objectors may have felt negatively towards the design, but the owner would have retained the right to develop the property in accordance with personal preferences.</p> <p>The departure caused by the garage is considered differently, as a garage is technically an outbuilding and the By-Law specifically makes provision for outbuildings to encroach on building lines. The garage will also be incorporated into the slope of the property, act partly as a boundary wall and optimally utilise the narrowest portion of the erf, without obstructing views or movement from neighbouring properties. The dwelling portion on top of the garage will be constructed within the development parameters and the impact on surrounding properties is considered lawful.</p> <p>9. Conjecture. Objection cannot be supported.</p>
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<p>AC Blake (Erf 194) Annexure F</p>	<p>10. In 2004, permission had already been granted to sell part of the sidewalk to be part of the property to erect the planned dwelling house.</p> <p>11. With the relaxation of the development parameters, the property value of Erf 194 will be negatively affected as a portion of the sea view will be lost. Should Swartland Municipality approve this, it is necessary to reduce the property tax.</p>	<p>10. Noted, it has been recognised by the local municipality that Erf 2123 has very limited development potential and that a portion of the road reserve needs to form part of the property. Back then, the northern boundary (now Ninth Street) was still a public open space with a prescribed 2m building line. With the construction of Ninth Street, the rights of the property have been negatively impacted. Should Ninth Street not have been built, Erf 2123 would have had only a 1.5m northern side building line instead of a 4m building line.</p> <p>Ownership of the property has also changed since 2004 and the new owners had to draw up plans in accordance the Swartland Municipal Integrated Zoning Scheme Regulations. Departure of the development parameters is therefore made to accommodate the newly proposed dwelling under the new development parameters.</p> <p>11. Noted, Refer to point 4.</p>	<p>10. An extensive public participation process was completed at the time of the development of Ninth Street and objections and appeals were managed at that stage. The owner/developer purchased the property with the current building lines applicable, as well as being well aware of the available space on the property. If a larger developable space was required, a larger property should have been purchased.</p> <p>11. The view from a property becomes a right the moment that a development exceeds the purview of development parameters. Therefore, the side building line departure by the bedroom, pool and screen is not supported, as it negatively impacts on the view from Erf 194. However, the departures caused by the garage will have no impact on the views from any of the surrounding properties and may be supported.</p>
<p>GW Orchard (Erf 196) Annexure G</p>	<p>12. The owners of Erf 196 object to the development as there are building regulations that must be complied with and the approval of this will set a precedent, especially for landowners who want to do additions to their dwellings.</p>	<p>12. As mentioned above, due to the unique location, size, and shape of Erf 2123, the only way to develop the property to its full potential is to deviate from some of the development parameters. The approval of the proposed application will not create a precedent for future development, as each land use application submitted to Swartland Municipality is unique, and evaluated on its own merit.</p>	<p>12. Land use legislation does not endorse the principle of creating precedents, but rather deals with every application on a case to case basis. Future developments will be evaluated on their own merit.</p>
<p>M. Eksteen (Erf 894) Annexure H</p>	<p>13. The departure will have an impact of the property owner's view of Meeurots and therefore have a negative impact on the property value and enjoyment of the property.</p>	<p>13. Considering the figure below, the proposed departure will have no impact on erf 894's view of Meeurots. The value or enjoyment of the property will therefore not be negatively affected.</p>	<p>13. The applicant successfully demonstrates that the statement is untrue.</p>



Figure 5: Sea view of Meeurots

14. The building line in close proximity to the road will have an impact on the safety of pedestrians.

14. Refer to point 4.

Due to the width of Ninth Street ($\pm 12,7\text{m}$) and the large road reserve around Erf 2123, the relaxation of the building lines will have limited impact on the safety of pedestrians.

14. The eastern building line is already reduced, due to the narrow erf and the reduction of the northern building line is not merited. However, the impact of the building line departures on pedestrian traffic is not considered noticeable.



Objectors relative to application property

PART J: MUNICIPAL PLANNING EVALUATION

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

Application for departure on Erf 2123, Yzerfontein, in terms of Section 25(2)(b) of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 3 March 2020), is made in order to depart from the 4m northern street building line to 3m on both the ground floor and first floor level, to accommodate the newly proposed dwelling.

Application for departure on Erf 2123, Yzerfontein, in terms of Section 25(2)(b) of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 3 March 2020), is made in order to depart from the 3m eastern street building line to 2,5m on ground floor level and from 3m to 2,37m on first floor level, to accommodate the entrance wall and awning, and the balcony, respectively.

Application for departure on Erf 2123, Yzerfontein, in terms of Section 25(2)(b) of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 3 March 2020), is made in order to depart from the 1,5m southern and western side building lines to 0m, to accommodate the proposed garage on ground floor level.

Application for departure on Erf 2123, Yzerfontein, in terms of Section 25(2)(b) of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 3 March 2020), is made in order to depart from the 1,5m western side building line to 1m on ground floor and first floor level, in order to accommodate the proposed bedroom and pool with screen.

Application for departure on Erf 2123, Yzerfontein, in terms of Section 25(2)(b) of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 3 March 2020), is made in order to exceed the maximum permissible erf coverage of 50% by 9% (total of 59% coverage).

A total of 18 written notices were issued to affected parties via registered mail on 22 April 2022 and e-mails were sent additionally where e-mail addresses were available. The commenting period concluded on 23 May 2022.

Five objections were received and referred to the applicant for comment on 26 May 2022. The applicant requested an extension of 14 days to respond to the objections as it transpired that some objectors wanted to withdraw their objections. Comments from the owners of Erf 2122 were successfully withdrawn and the response to the remaining comments was then received on 11 July 2022.

The applicant is C.K. Rumboll and Partners and the property owner is A.J. Smit.

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:** All the relevant available facts and considerations surrounding the application have been taken into account during the decision-making process. The proposal does not have any other significant impact on spatial justice.
- b) **Spatial Sustainability:** The property is serviced, no new services will need to be provided and the development proposal is not foreseen to put an additional financial burden on the municipality. However, the erf is over-developed, as is made evident by the high coverage percentage. Furthermore, the development proposal promotes exclusivity, rather than inclusivity, benefitting the owner alone, rather than the wider community. Lastly, proximity to the ocean renders the property susceptible to rising sea level, storm damage and flooding. The accumulative effect of the proposal, if permitted, with similar developments that over-extend available resources, will create a coastline development that will not be sustainable over time.
- c) **Efficiency:** The departure from street building lines is not permitted by the By-Law, except for carports and garages. Furthermore, the maximum coverage is limited to 50% in order to not only preserve the demand on engineering services, but also to preserve resources such as the character of the area, views to the ocean, safe traffic circulation, pedestrian movement, 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 communicated to the affected land owners through registered mail and e-mail, 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 timeous 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 and the dwelling is completed, it becomes infinitely more problematic, if not impossible, 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 must be noted that the current SDF limits the minimum residential erf size to 500m², while the application property is 365m². The reason for the disparity is that the mother erf (Erf 2014) was subdivided before the minimum erf size was determined.

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

Erf 2123, Yzerfontein is a vacant property, zoned Residential Zone 1. The erf is roughly rectangular with a length of 26,5m and an average width/depth of 11m; smaller than the average erf size of the area. However, the By-Law mitigates the limitation of the developable area by reducing the street building line to 3m for the portion of the erf that is less than 20m deep. The development proposal will not impact on the land use of the property, but several applications were nonetheless made for departures from the development parameters.

The first principle to be addressed, is the fact that the property is vacant. A vacant property provides perfect opportunity to design the dwelling to adhere to all the development parameters of the site. Secondly, should a permanent departure be considered, the By-Law specifies the circumstances under which an applicable building line may be departed from:

- “...12.2.1(b) *The municipality may permit the erection of an outbuilding or second dwelling unit which encroaches onto the side or rear building line.*
- (c) *When an outbuilding, second dwelling unit or building is permitted within a side or rear building line, the following conditions shall apply:*
- (i) *No building shall exceed a height of 1 storey;*
 - (ii) *No door or window shall be permitted in any wall which is closer than 1m to the side or rear boundary concerned and must comply with the safety distance as specified by the National Building Regulations;*
 - (iii) *an access way, other than through a building and at least 1m wide, shall be provided from a public street to every vacant portion of the land unit concerned, other than a courtyard; and*
 - (iv) *no runoff of rainwater from the roof shall be discharged onto any adjoining land unit...”*
- “...(e) *The municipality may relax the street building line under the following circumstances:*
- (i) *in the case of a garage or carport subject to 13.1.2;*
 - (ii) *if, in its opinion, the architectural effect of the building line relaxation will enhance the appearance of a public street, or*
 - (iii) *if, in its opinion, there are other special circumstances such as the topography of the site...”*
- “...12.2.2 *The following additional land use provisions apply regarding garages and carports within building lines:*
- (a) *The municipality may permit the erection of a garage within the street building line if, in the municipality’s opinion, the garage cannot reasonably be sited at the prescribed distance due to the slope of the land unit, or for other reasons provided that the height of such garage from the finished floor level to the top of its roof shall not exceed 4m...”*



The erf slopes slightly from south to north, rather working in favour of the applicant, as the impact on the view from surrounding properties is minimised by the slope.

The excerpt from the By-Law clearly indicates that the only structure that may be considered for street building line departure is the garage, while the proposed street building line departures in this instance are for other portions of the dwelling. There are no site specific circumstances to justify the northern or eastern street building line departures, apart from the fact that the applicant claims the developable space on the property is too small.

The erf is vacant and the erf area has not changed since the purchase of the property, thus the developable area has been apparent since before the design commenced. Also, the process of developing the street along the northern boundary of the property was finalised in 2012, resulting in the building lines that are currently applicable. Any development is subject to the legislative framework that is applicable at the time of development and the current owner/developer cannot now lay claim to building lines that were historically applicable, before the northern road was formally constructed.

It is calculated that, when the entire dwelling is designed to adhere to the prescribed street building lines, on both the ground floor and first floor level, the applicant will lose $\pm 4\text{cm}$ per every running metre from north to south, and $\pm 6,25\text{cm}$ per running metre from east to west, which will minimally impact on the circulation space inside the dwelling.

Similarly, the departure of the western side building line by the ground floor bedroom is not motivated by any reasons other than that the owners wants it and that the bedroom will act as the foundation for the first floor pool. The reduction of the ground floor bedroom to adhere to the western side building line will have minimal impact on the internal circulation area, while negating the height departure for the pool and screen on first floor level. Not allowing the side departure also removes the impact of the dwelling on the view corridor from Erf 194.

The applicant claims that the departure from the height restriction is inevitable, as it will be aesthetically more pleasing to continue the first storey on the footprint of the ground storey. However, if the ground storey does not depart from the building lines in the first place, it will not be necessary for the first floor facades to do the same.

The side building line departure by the garage on the southern and western boundaries may be treated differently from the other departures applied for, as a garage is considered an outbuilding and the use and impact of the structure differs from that of a dwelling house. The proposed garage is a utilitarian structure, without any openings in the walls that encroach on the building lines. In fact, due to the property slope and necessary groundwork, the southern and western walls of the garage will largely act as retaining walls – only a small portion will protrude above the natural ground level. The impact on the view from Erf 194 will also be negligible, as the roof of the garage will be lower than the retaining wall of said erf. The garage is proposed on the narrowest portion of the property, at the optimal safety distance from the street corner and at a height that incorporates the topography of the site. As the impact of the proposed garage is considered minimal and an optimal use of the available space, it is the only building line departure that is considered positively. It must be noted that the architect's renderings provided to the municipality indicates railings on top of the garage, presumably for a rooftop terrace. Such a terrace will constitute a further departure, but it is not included in the application. It is hereby stated pre-emptively that such a departure will not be allowed and is not automatically approved with the current departure on ground floor level.



Lastly, it is calculated that, once the street building lines are adhered to, and only the garage is permitted to encroach on the side building lines, the footprint will be reduced and the coverage will decrease significantly, to $\pm 51\%$. The applicant argues that the area of the erf is closer to that of a Residential Zone 2 property and thus a higher coverage should be permitted, however, the motivation is strongly contested. The area where the property is located is a low density, residential development. In order to achieve a coverage as high as 60%, application for rezoning would first need to be made to Residential Zone 2 and this alone should already be an indication that the proposal is an exploitative over-development of the erf. In terms of the SDF, such a zoning would be wholly inconsistent with the spatial planning for the area, as well as the character of the surrounding neighbourhood. The increase in coverage is similarly considered to be inconsistent with both the SDF and the zoning category of Residential Zone 1.

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 constitute the over-development of the property.

For instance, the proposal to position the garage on the south-western boundary may be considered desirable, as the position will optimally utilise the narrowest portion of the property, farthest removed from the street junction. The proposal also does not rely on street building line departure, further promoting traffic safety and the preservation of the street scape. The departure from the southern and south-western building lines will have no effect on the views from affected properties, as the topography ensures that the garage will be located lower than the erven towards the south. In this instance, the building line departure is considered desirable.

Conversely, the western side building line departure by the proposed bedroom and pool with screen, will partly impact on the view from Erf 194, as well as access to northern sun to Erf 2122. The right to a sea view from surrounding erven is protected by law once a developer departs from the development parameters and it affects said view. The proposed departure will impact directly on the view corridor that will be created once the dwelling on Erf 2123 is constructed and thus the departure is not considered desirable.

The departure from street building lines is in principle not supported by the By-Law, unless under specific circumstances. The proposal is not subject to any of the applicable factors, such as the topography. The motivation that the property is too small to develop as desired and that building line departure is inevitable, is also opposed, as a vacant erf affords the opportunity to design on a "blank slate" and to adhere to development parameters.

The proposed departure from the maximum coverage is not considered desirable, as coverage of 59% is closer to the coverage of Residential Zone 2 and said zoning is not keeping with the spatial planning and character of the area. Once the undesirable departures are removed, ($\pm 36\text{m}^2$) the coverage is foreseen to be drastically reduced to a percentage much more consistent with Residential Zone 1. However, the Tribunal may only determine the outcome of applications as presented and therefore the departure cannot be considered desirable.

The proposed development of a dwelling house on Erf 2123 will increase the value of the property considerably and development 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 dwelling may also be visited by various tourists, who in turn make use of other amenities in Yzerfontein. The economic impact of the proposal is thus considered positive.

Not allowing the departure from maximum coverage and limiting the street building line and height encroachments will contribute to rendering the scale of the development more compatible with that of the erf, the surrounding area and consequently more desirable within the context.

The zoning and land use will remain unchanged and the residential character of the property is considered compatible with the surrounding uses.

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.

Access to the property will be obtained directly via Ninth Street, along the eastern property boundary. The development proposal includes a double garage and parking space in front of the garage for at least two more vehicles, consistent with access and parking requirements of Residential Zone 1.

Limiting the street building line encroachment will contribute to keeping sight lines unobstructed for motor vehicles. The proposed balcony, once it does not encroach on the 3m street building line, will be above the sight line and thus poses no threat to traffic safety.

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.

All costs relating to this application are for the account of the applicant.

In conclusion, the proposed departures on Erf 2123, Yzerfontein, are deemed partly desirable (garage), but largely undesirable, in terms of the above-mentioned criteria.

3. Impact on municipal engineering services

The approved departures will have no impact on any municipal engineering services.

4. Comments of organs of state

No comments were requested.

5. Response by applicant

See Annexure I.

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.** Application for departure on Erf 2123, Yzerfontein, in terms of Section 25(2)(b) of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 3 March 2020), in order to depart from the 4m northern street building line to 3m on both the ground floor and first floor level, be refused;
- B.** Application for departure on Erf 2123, Yzerfontein, in terms of Section 25(2)(b) of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 3 March 2020), in order to depart from the 3m eastern street building line to 2,5m on ground floor level and from 3m to 2,37m on first floor level, be refused;
- C.** Application for departure on Erf 2123, Yzerfontein, in terms of Section 25(2)(b) of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 3 March 2020), in order to depart from the 1,5m western side building line to 1m on ground floor and first floor level, in order to accommodate the proposed bedroom and pool, be refused;
- D.** Application for departure on Erf 2123, Yzerfontein, in terms of Section 25(2)(b) of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 3 March 2020), in order to exceed the maximum permissible erf coverage to 59%, be refused;
- E.** Application for departure on Erf 2123, Yzerfontein, in terms of Section 25(2)(b) of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 3 March 2020), is made in order to depart from the 1,5m southern and western side building lines to 0m, be approved, subject to the conditions that:

1. TOWN PLANNING AND BUILDING CONTROL

- a) The 1,5m southern building line be departed from to 0m;
- b) The 1,5m western side building line be departed from to 0m;
- c) Both a) and b) above be restricted to the portions of the garage that encroaches on the building line, as presented in the application;
- d) Building plans be submitted to the Senior Manager: Built Environment for consideration and approval;
- e) No openings, windows or doors, be allowed in the façades that encroach on the building lines;
- f) The roof of the garage that encroach on the building lines be in no way utilised as terraces, balconies or any such use and that said portions be made inaccessible for such use;
- g) 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 will be, in terms of section 76(2)(w) of the By-Law, valid for 5 years. All conditions of approval must be implemented within these 5 years, without which, the approval will lapse and occupation will not be granted. Should all the conditions of approval be met before the 5 year approval period lapses, the approval period will not be applicable anymore;
- b) The applicant/objector be informed of the right to appeal against this decision of the Municipal Planning Tribunal, within 21 days of this notice, in terms of section 89(2) of the By-Law;

PART M: REASONS FOR RECOMMENDATION

Reasons for approval:

1. Application for departure is an acceptable mechanism provided for by the By-Law, in order to deviate from the required development parameters;
2. The impact of the garage departures has been evaluated and deemed to have either minimal or no impact on the surrounding area with regards to views, safety, access, privacy and health concerns;
3. The proposed garages optimally utilise the narrowest portion of the property while providing the required number of parking bays on the property;
4. The side building line departure will have no impact on the residential character of the area, as the land use will remain unchanged;
5. The approved side building line departures are considered desirable within the spatial context;
6. The departure by the proposed garage will have no impact on the views from southern properties, as the erf is located much lower than said erven.

Reasons for refusal:

1. An increase in coverage to 59% will constitute an over-development of the property, beyond the intended capacity. Such a high coverage is more suited to another zoning category, which is not consistent with the spatial planning of the area;
2. Application for departure from coverage may again be made at building plan stage, if the design has been amended and the proposed coverage remains above 50%, but is more consistent with the parameters of Residential Zone 1;
3. The property area was known at time of purchase and the decision could have been made at that point that it did not suit the needs of the owner/developer;
4. The property is vacant and subject to the current applicable legislative framework, thus no claims may be made on development parameters that were previously applicable;
5. The street building line departures are not consistent with the departure criteria stipulated in section 12 of the By-Law;
6. The By-Law restricts building line departure to the ground floor and departure from any building line on first floor level is considered undesirable, due to its impact on privacy, views, the street scape, human scale within a residential neighbourhood, blocking of natural light, the character of the area, etc.;



PART N: ANNEXURES

Annexure A	Locality Plan
Annexure B	Site Development Plan
Annexure C	Map indicating interested/affected parties
Annexure D	Objections from I. Smit withdrawn
Annexure E	Objections from C. Donaggi
Annexure F	Objections from A.C. Blake
Annexure G	Objections from G.W. Orchard
Annexure H	Objections from M. Eksteen
Annexure I	Response to comments

PART O: APPLICANT DETAILS

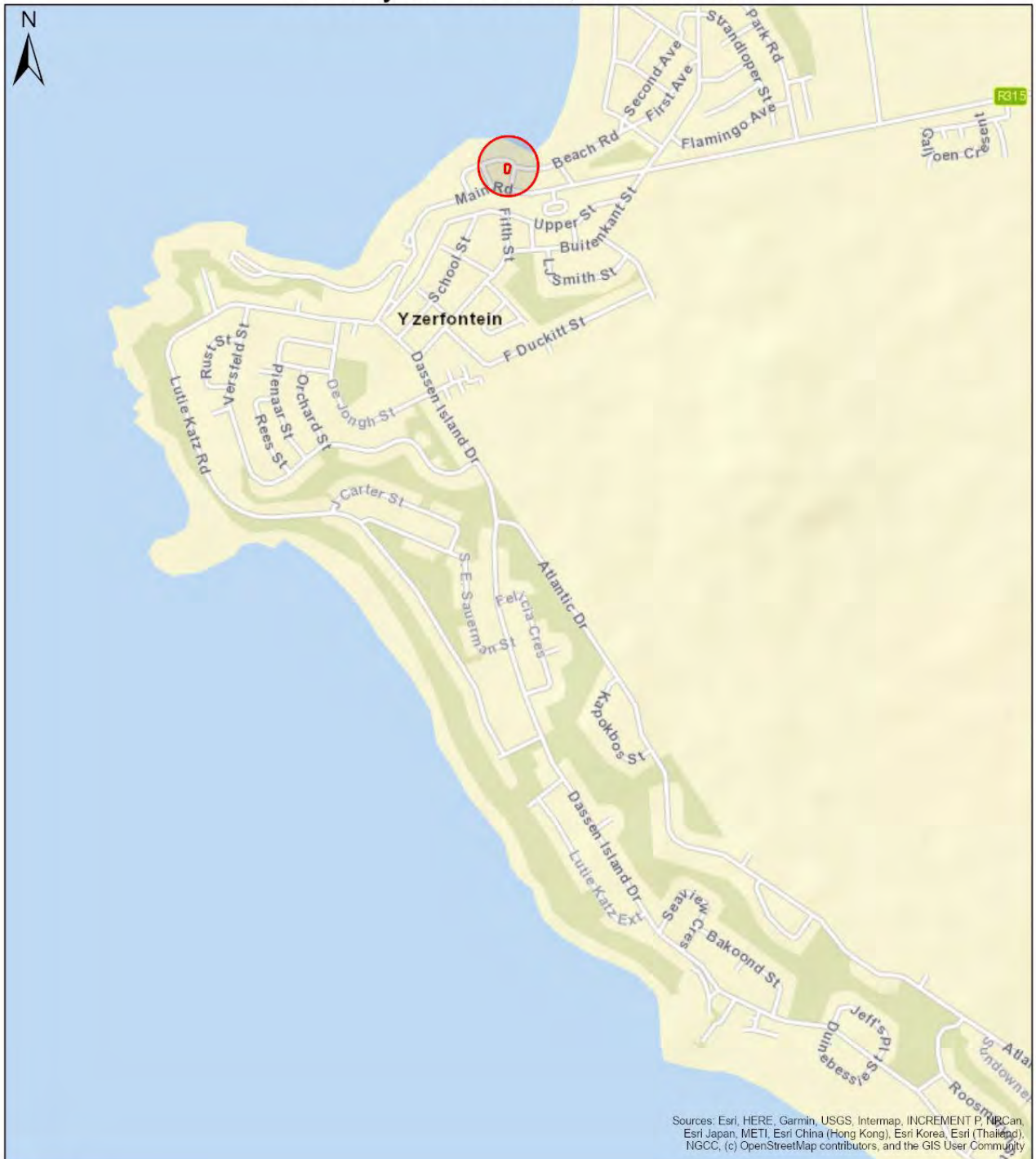
First name(s)	C.K. Rumboll and Partners			
Registered owner(s)	A.J. Smit	Is the applicant authorised to submit this application:	Y	N

PART P: SIGNATURES

Author details: Annelie de Jager Town Planner SACPLAN registration number: (A/2203/2015)			Date: 1 Aug 2022	
Recommendation: Alwyn Zaayman Senior Manager: Built Environment A/8001/2001	Recommended	<input checked="" type="checkbox"/>	Not recommended	
		Date: 1 Aug 2022		

ANNEXURE A

Locality of Erf 2123, Yzerfontein



Legend

0 0.17 0.35 0.7 km

Map Center: Lon: 18°9'29.4"E
Lat: 33°21'19.5"S

Scale: 1:18 056

Date created: March 25, 2022



**Western Cape
Government**
FOR YOU

Agriculture

NOTES:
CONTRACTORS MUST VERIFY ALL LEVELS AND DIMENSIONS ON SITE BEFORE COMMENCING WORK OR MAKING ANY SHOP DRAWINGS. NOTIFY ARCHITECTS OF ANY DISCREPANCIES BEFORE PROCEEDING. THIS DRAWING TO BE READ IN CONJUNCTION WITH FINISHES SCHEDULE AND SPECIFICATION. THIS DRAWING IS COPYRIGHT AND REMAINS THE PROPERTY OF THE ARCHITECT.

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Client Signature

Architect Signature

REV.	DATE	DESCRIPTION	BY
REVISIONS			

connect architects
building on your values

T: 082 928 0954 E: email: info@connectarchitects.co.za
First Floor Constantia Emporium, Spaniaanschemat River Rd.
Constantia, Cape Town, 7805.

PROJECT: Beach road,

for Riaan Smit

ADDRESS: Beach Road,

DRAWING: SD

PROJECT STATUS: SD

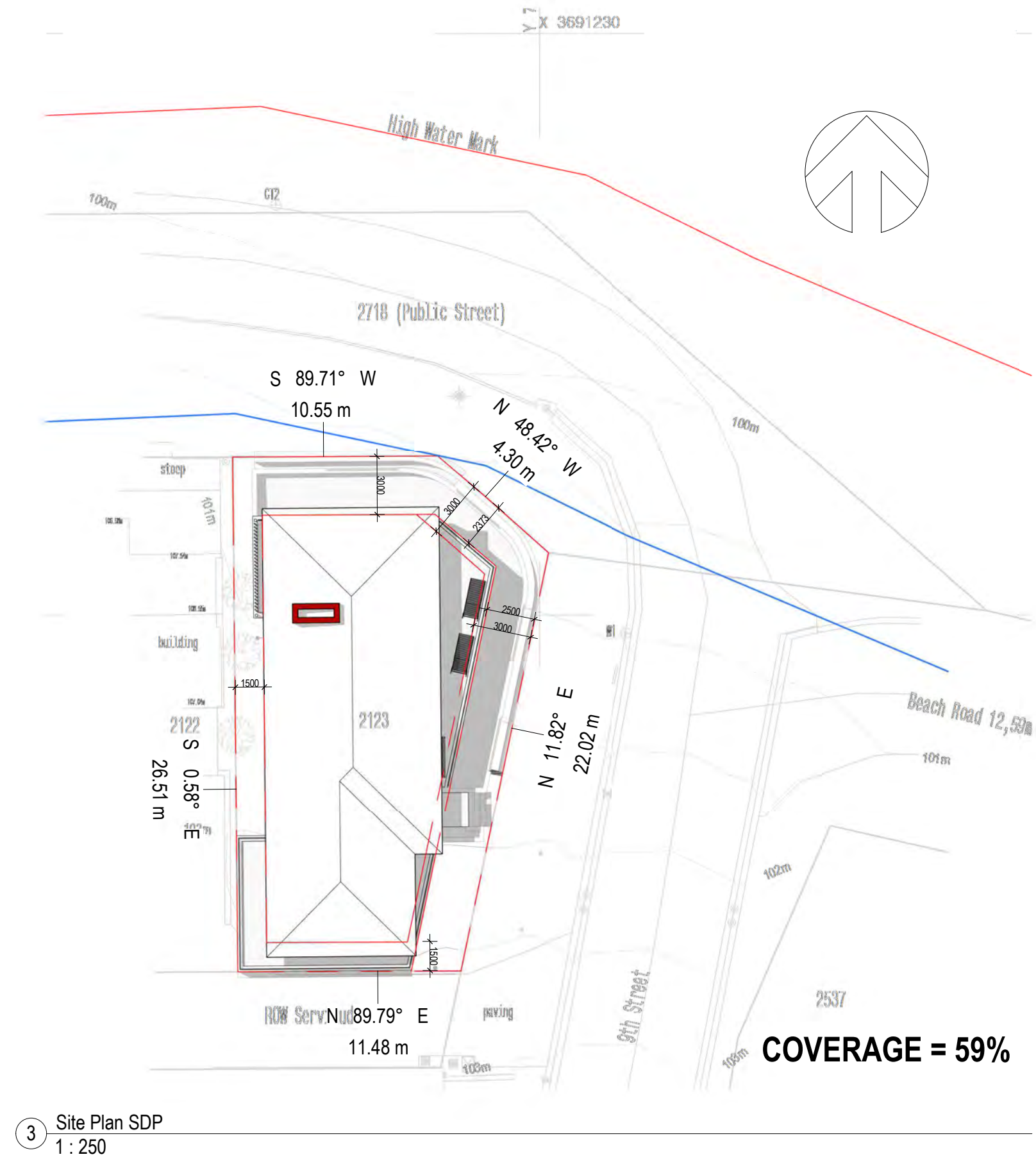
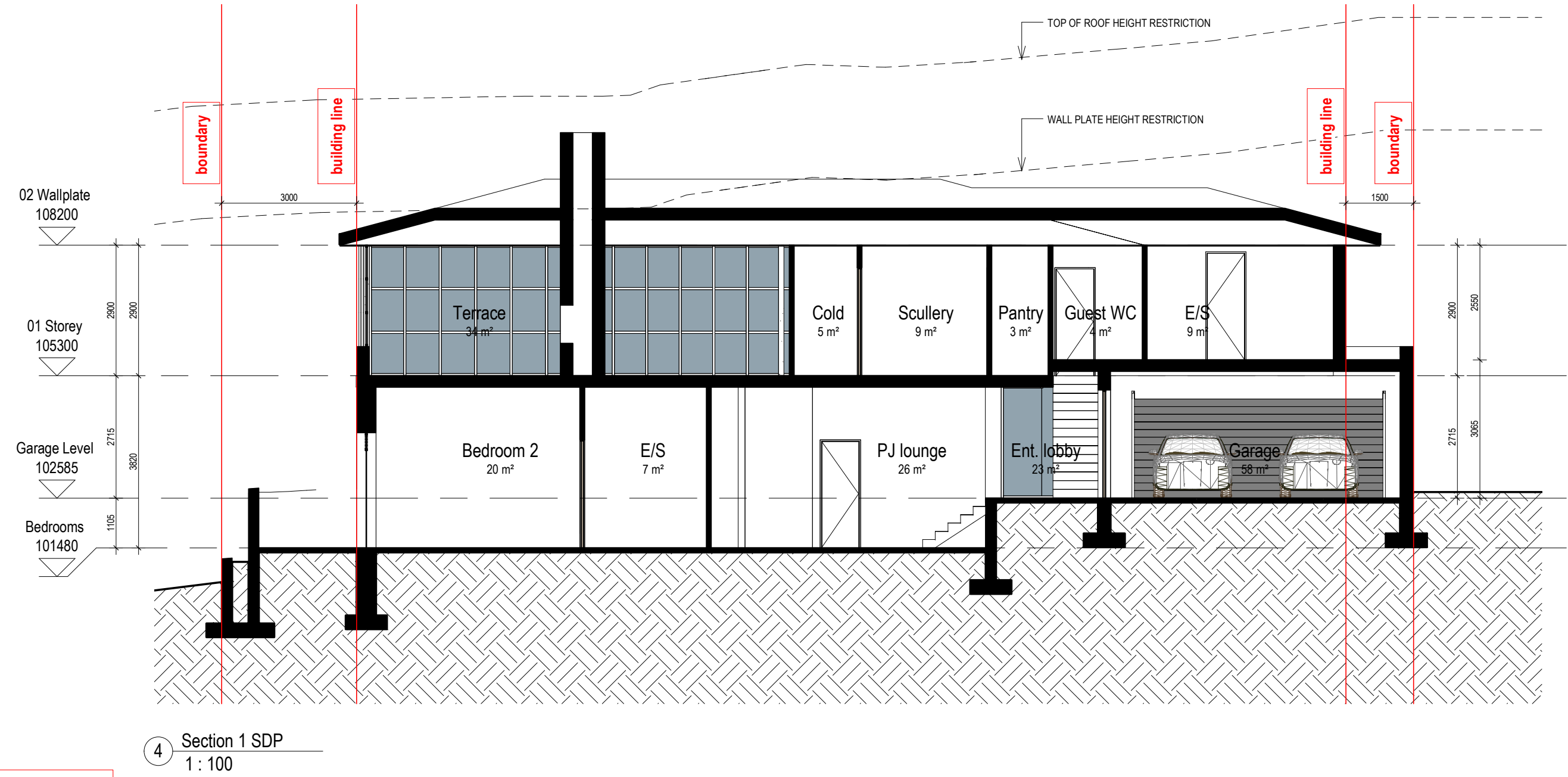
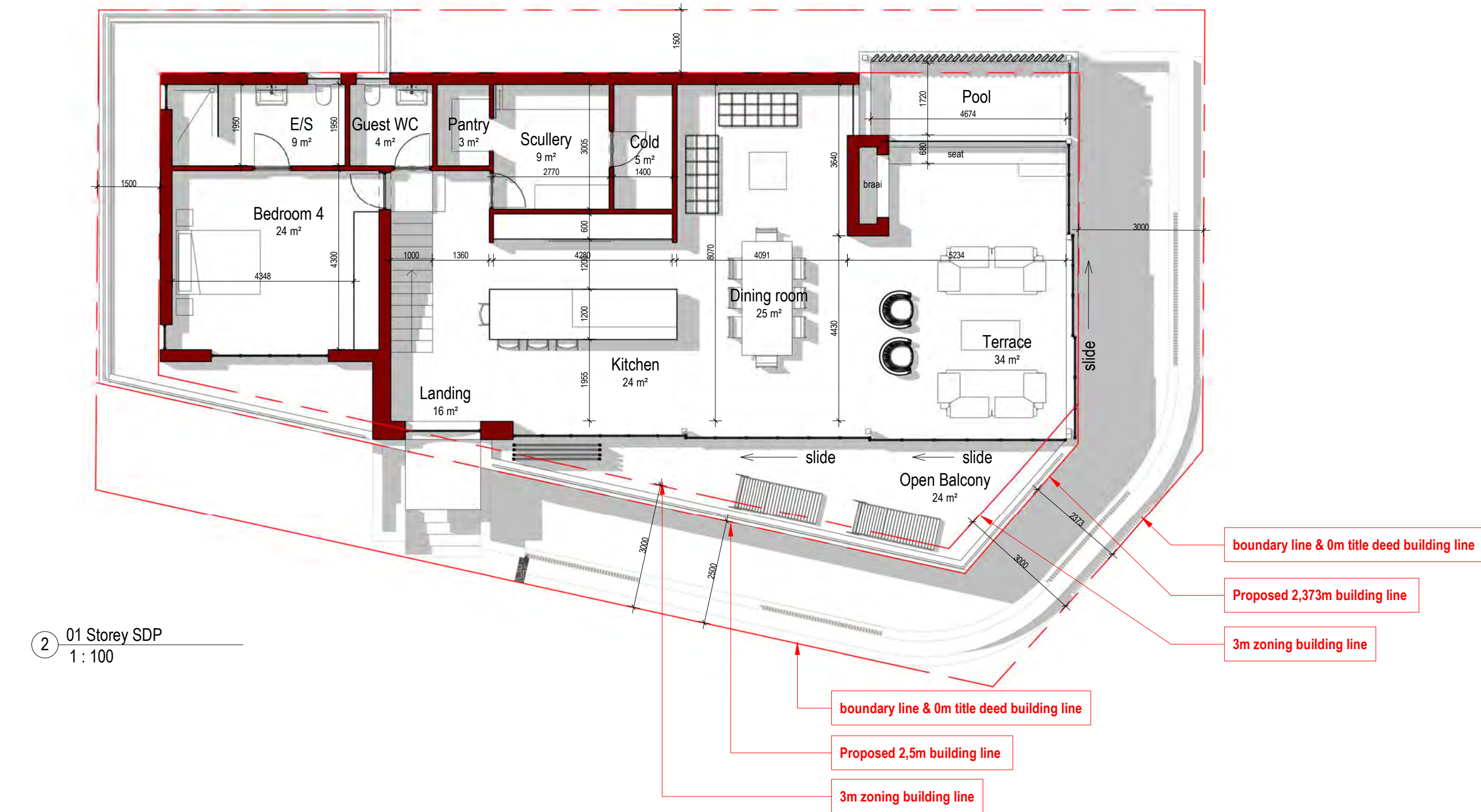
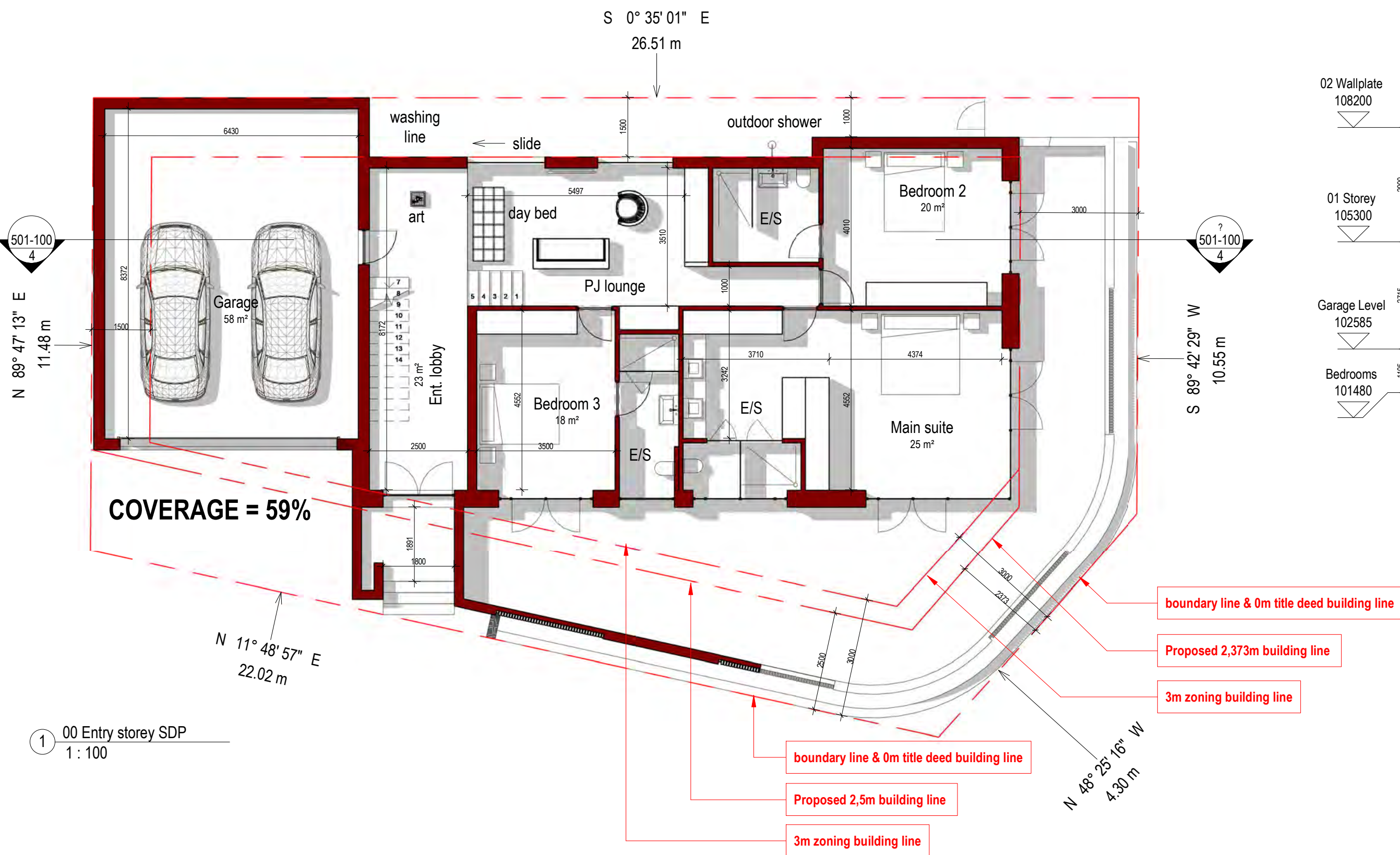
ISSUED FOR: Informa

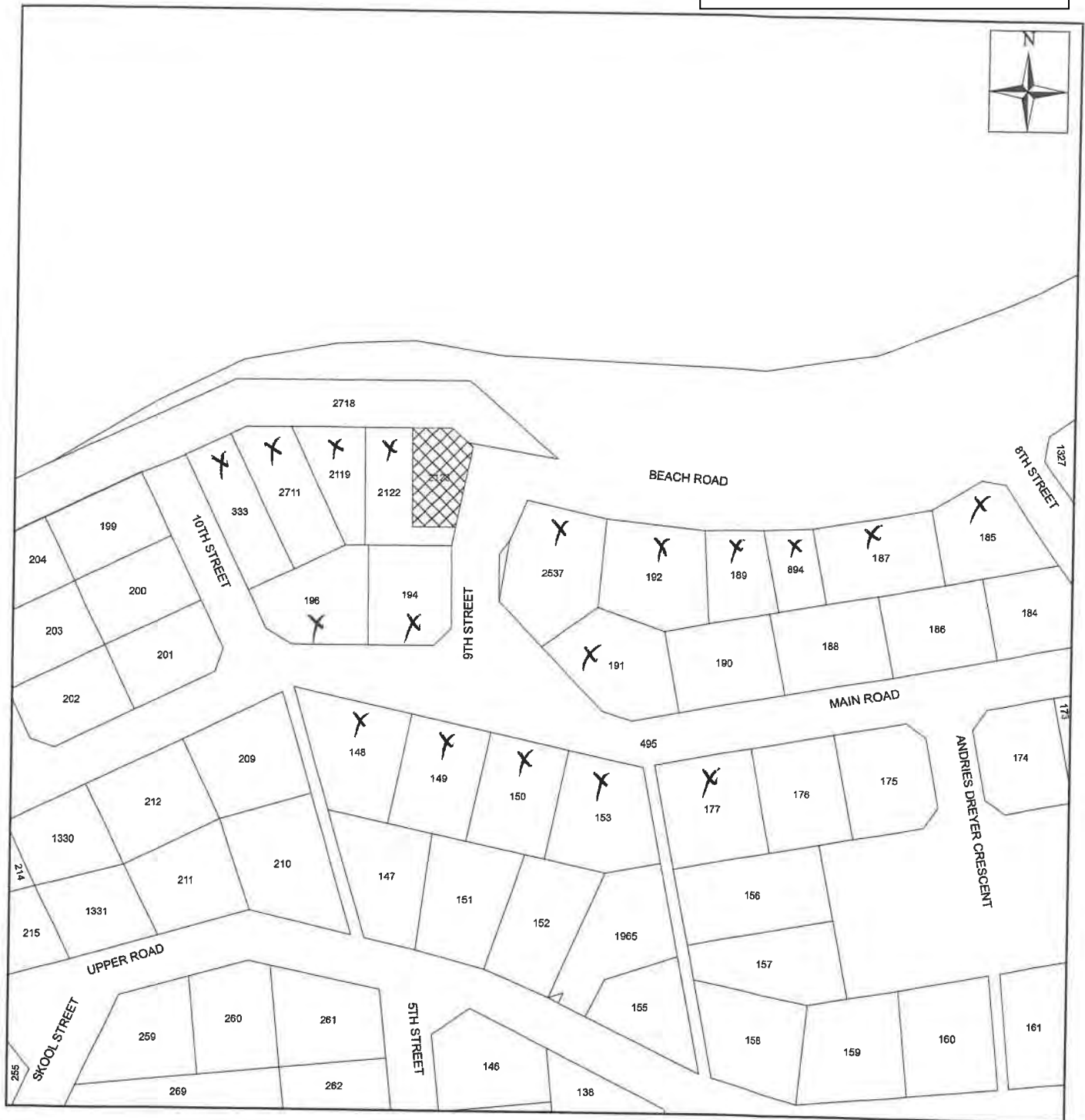
SCALE: As indicated @ A1

DRAWING No: 1800- CA- 0- DV

PROJECT No: 1800

ANNEXURE B



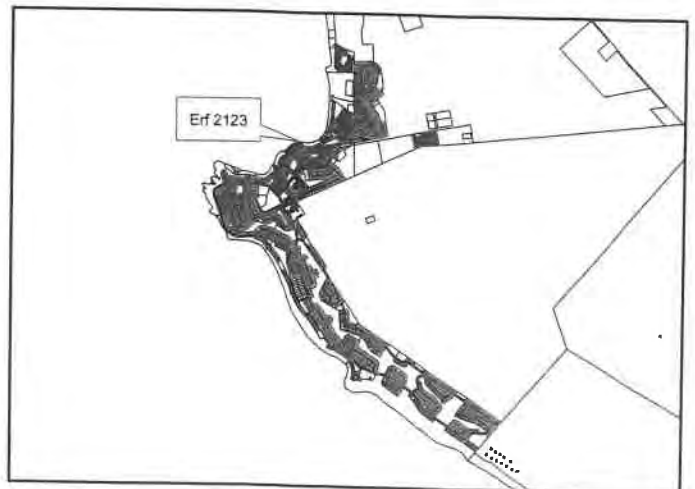


Voorgestelde afwykings van ontwikkelingsparameters

Erf 2123, Yzerfontein

Publieke deelname

Skaal: NVT



ANNEXURE D

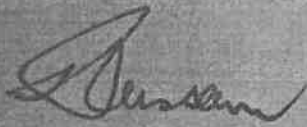
Geagte

Ek verwys na die skrywe wat Ilze Smit gerig het teen die verbouings of bg erf. Die Smit Famillietrust het 3 trustees: Christie Smit, Ilze Smit en Hertzog Rousseau. Ilze Smit het geen mandaat vanaf die Trust gehad om die skrywe te stuur nie. Haar skrywe kan derhalwe ignoreer word.

Die uwe



C SMIT



H ROUSSEAU

DR CHRISTIE SMIT

MB ChB (Stell) M Med (Plast & Recons)

Room 209 | Mediclinic Panorama | 7500

Tel: +27 (0)21 930 3982 | Fax: +27 (0)21 930 3984

Practice Number 3601277

From: Colyn Donaggi <Colyn@hgca.co.za>

Sent: Monday, 23 May 2022 15:45

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

Subject: Voorgestelde afwyking op Erf 2123 Yzerfontein - beswaar deur eienaar van Erf 2119.

Die Munisipale Bestuurder
Privaatsak X52
MALMESBURY
7299

Per epos vir aandag Mnr Alwyn Burger. swartlandmun@swartland.co.za

Hiermee die formele beswaar namens Erf 2119, Yzerfontein teen voorgestelde afwykings soos versoek in u skrywe van 22 April 2022. As eienaar van erf 2119, geleë twee erwe verder aan die westekant van erf 2123 het die voorgestelde afwykings het n wesenlike effek op erf 2119 se waarde, soos hier onder uiteengesit.

Ons teken beswaar aan teen die volgende afwykings.

- Afwyking van die 4m straatboulyn (noordelike grens) na 3m ten opsigte van die grond en eerstevloer.
- Afwyking van 1,5m syboulyn (suidelike grens) na 0m ten opsigte van die grondvloer boulyn.
- Afwyking van die 1,5m syboulyn (westelike grens) na onderskeidelik 0m ten opsigte van grondvloer en 1m ten opsigte van die eerstevloer.

Alvorens redes verskaf word op elk van bostaande punte, wil ons graag die volgende punte uitlig. Boulyne en grense is spesifieke reëls en regulasies wat streng toegepas moet word deur die plaaslike raad om sodoende regverdigheid aan elke grondeienaar te gun. Veral waar dit by prima liggende erwe is. Die aansoeker was deeglik bewus van sekere beperkinge van die erf voordat daar n aanbod op Erf 2123 gemaak is. Die konsultant CK Rumboll, maak deurentyd die punt dat erf 2123 n ongewone vorm het en dat dit nie sinvol ontwikkel kan word nie. Enige ontwikkeling op erf 2123, wat enige van bostaande afwykings as vergunning kry, sal erf 2119 negatief affekteer.

Afwyking van die 4m straatboulyn (noordelike grens) na 3m ten opsigte van die grond en eerstevloer.

- Die voorgestelde afwyking sal n wesenlike invloed op erf 2119 se uitsig op die hoofstrand he. Daar is n groot premie op die waarde van n erf wat onbelemmerde uitsig op die totale strandgebied. Die beoogde bouwerk asook die versoek tot n 1m verslapping ontnem erf 2119 sy onbelemmerde uitsig op die strand. Dit verminder die waarde van erf 2119. Op onderstaande figuur vertoon die blou gedeeltes die beoogde ontwikkeling en die rooi gemerkte gedeelte waar Erf 2119 uitsig verloor op die eerste gedeelte van die strandgebied.
- Beoogde ontwikkeling gaan n geweldige negatiewe invloed he op oggend son vir erf 2119. Ons bewoon al 20 jaar in die woning en die voorreg word nou ontnem met die beoogde verslapping van die noordelike bougrens.
- Die aansoeker is foutief met die opmerking dat die eenrigting straat min verkeer dra. Gedurende seisoen tyd en naweke is daar aansienlike beweging in die pad sowel as voetgangers. Die pad maak n geweldige kort draai na regs voor erf 2123. Die beoogde oorskrydings van boulyne, tesame met die hoogte van die huis se grondvloer wat gebou word skep n onnodige gevaar vir voetgangers (vir wie daar geen sypaadjie is nie) sowel as voertuie.

Afwyking van 1,5m syboulyn (suidelike grens) na 0m ten opsigte van die grondvloer boulyn.

- Hierdie versoek moet teen sterkste teengestaan word. Die huidige oprit maak dit onmoontlik vir twee groter motors om mekaar verby te gaan. Om nou n boulyn van 0m te versoek gaan n ewige stryd tot gevolg he, vir die ander twee erwe wat die oprit gebruik.
- Erf 2123 het ook geen parkering vir gaste, wat uiteraard ook die bestaande oprit potensieel gaan gebruik, wat die verkeersvloei nog meer gaan belemmer.
- Daar is nie voldoen plek om n voertuig om te draai nie, dus voertuie wat erf 2119 besoek moet agteruit tussen ander motors ry.
- Hierdie versoek het n wesenlik effek op erf 2119 wat in tye van n noodgeval, noodlottige gevolge kan hou vir inwoners van erf 2119, wat potensieel vasgekeer is.
- Die aansoeker was bewus van die beperkinge van erf 2123 alvorens perseel gekoop is.

Afwyking van die 1,5m syboulyn (westelike grens) na onderskeidelik 0m ten opsigte van grondvloer en 1m ten opsigte van die eerstevloer.

- Tydens die oprigting van eiendomme op erwe 2119 en 2122 (2001) het Swartland munisipaliteit ten sterkste n aanwysing uitgereik dat die eiendomme n 1,5m boulyn tussen moet handhaaf. Brandgevaar is as rede aangevoer, daar kan geen afwyking van hierdie bestaande aanwysing wees nie.

- Siende dat die voorgestelde afwyking van die boulyn vir erf 2122 volle toegang aan die oostelike kant verhoed, beteken dit dat gaste van erf 2122 en moontlik ook erf 2123, die loopgang tussen erf 2119 en erf 2122 gaan gebruik. Daar is geen ringmuur van enige aard nie, dus privaatheid en geraas gaan n groot effek op die 4 kamers van erf 2119, aangrensend van die loopgang, veroorsaak. Dit is nie aanvaarbaar nie en het n geweldige negatiewe effek op erf 2119.

Erken asb ontvangs van hierdie skrywe.

Dankie

COLYN DONAGGI CA(SA) RA

Namens eienaar : MM Donaggi

Kontak per epos : colyn@hqca.co.za – gebruik hierdie adres vir kommunikasie

Telefoon : 082 853 7211

Adres : Posbus 82 SALDANHA 7395

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ANNEXURE F

Posbus 194
YZERFONTEIN
7351

Die Munisipale Bestuurder
Swartland Munisipaliteit

17 Mei 2022

Geagte mnr Scholtz

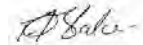
I/S : Kennisgewing nr: 15/3/4-14/Erf 2123

Hiermee dien ek A.C. Blake (selfoon nr 0824965062) as Trustee van die Johan Frederick Blake Testamentêre Trust beswaar aan teen die voorgestelde wysiging aan die bouregulasies soos per kennisgewing nr 15/3/4-14/Erf_2123.

My beswaar is as volg:

- Ons gevoel is dat daar destyds reeds 'n toegewing gemaak is deurdat 'n deel van die sypaadjie aan die eienaars/vorige eienaars verkoop is om voorsiening te maak om destyds se beplande huis/e in te pas
- Die verslapping van die bouregulasies sal ook ons eiendoms waarde negatief beïnvloed aangesien ons 'n groot gedeelte van ons seeuitsig gaan verloor. Indien Swartland Munisipaliteit hierdie aansoek goedkeur aanvaar ek dus dat ons eiendomsbelasting afwaarts aangepas sal word.

Vriendelike groete



A.C . Blake
TRUSTEE van die Johan Frederick Blake Testamentêre Trust

IS

VOORGESTELDE AFWYKING OP ERF 2123, YZERFONTEIN.

GW ORCHARD

36 MAIN ROAD

YZERFONTEIN.

robert@malmesburytoyota.co.za

ERF 196

Met verwysing na bogenoemde aansoek staan ek dit teen aangesien daar defnitiewe bouregulasies is veral in die ou deel van YZERFONTEIN. Goedkeuring tov bogenoemde sal net 'n presedent skep, veral in die lig van eienaars wat aanbouings wil doen.

Groete

GW ORCHARD

A handwritten signature in black ink, appearing to be 'GW ORCHARD', written over the printed name.

From: Melane Eksteen <eksteen.melane@gmail.com>
Sent: Tuesday, 17 May 2022 19:56
To: Registrasie Email <RegistrasieEmail@swartland.org.za>
Subject: Re: Proposed Departure on Erf 2123 Yzerfontein

Municipal Manager

Regarding the proposed departure, I wish to object and request that the departure be denied.

The property in question is central in the beach area and the proposed departure will have a substantial impact on the view from my stoep, especially in the direction of Meeurots. This impact on my view will definitely have an impact in the valuation of my property, since the view is such a key feature of my house. It will also detract from the enjoyment of the property that my family and I experience.

In addition, I believe that moving the building line so close to the road will have a substantial impact on the safety of pedestrians in the area, since this will reduce the option to get out of the road when a car comes.

I think that such an excessive development which reduces the spaciousness and openness of the area will do harm to the entire community and to the beauty of the area.

Thank you in advance

Melané Eksteen
Owner of 6b Beach Road, Yzerfontein
25 Nutwood Gardens
Somerset West
083-233-2236

CK RUMBOLL & VENNOTE / PARTNERS

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

DATE: 11 July 2022

ONS VERW / OUR REF: YZER/12335/NJdK
U VERW / YOUR REF: 15/3/4-14/Erf _2123

PER HAND

Attention: Mr A Zaayman

The Municipal Manager
Swartland Municipality
Private Bag X52
MALMESBURY
7300

Sir

COMMENTS ON OBJECTIONS

PROPOSED DEPARTURE ON ERF 2123, YZERFONTEIN

Your letter dated 26 May 2022 refers (see annexure A attached). Please find attached our comments to objections as requested.

This office has been instructed by Mr Adriaan Johannes Smit, as owner of Erf 2123 to handle all town planning actions regarding the application for departure of development parameters on erf 2123, Yzerfontein.

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

- Colyn Donaggi (Erf 2119) - Objection withdrawn
- Ilze Smit (Erf 2122) - Objection withdrawn
- AC Blake (Erf 194)
- GW Orchard (Erf 196)
- Melane Eksteen (Erf 894)

MUNISIPALITEIT SWARTLAND				
LEER No. 15/3/4-14/Erf 2123		DLO No.		
Verwys Na	Inligting	Verslag	Afwandel	Kom/Taar
SSSB(A3)				
cc Delmar				
Ander Opdrag:				
SPERDATUM:				(get)BK

VENNOTE / PARTNERS:

IHJ RumbollPrL (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 / PO Box 211 / Rainierstr 16, Malmesbury, 7299
MALMESBURY (T) 022 482 1845





Figure 1: Layout of Erf 2123 and surrounding objects.

Due to the unique location, size, and shape of Erf 2123, the only way to develop the property to its full potential is to deviate from some of the development parameters. The approval of the proposed application will not create a precedent for future development, as each land use application submitted to Swartland Municipality is unique, and should be evaluated accordingly.

Objector	Objection	Comment from CK Rumboll & Partners
Colyn Donaggi (Erf 2119)	<p>Departure of the 4m Street building line (northern boundary):</p> <p>1.1 Building lines and erf boundaries are specific rules and regulations that should be adhered to by the municipality to protect the rights of each land owner, especially</p>	<p>1.1 In 2013, the northern boundary was subject to a 2m side building line under the Land Use and Planning Ordinance (15 of 1985), as there was no road built on that side of the property. The Municipality later on created a new road (9th Street), which affected the landowners'</p>

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those with prime locations. CK Rumboll states that due to the shape of the property, meaningful development will not be able to take place without the necessary deviations. Any of the above departures will have an adverse impact on Erf 2119.

rights in that the 2m side building line was amended to a 4m Street building line and thus more restrictive, which limited the development potential of the property. If Ninth Street was never built, Erf 2123 would have been subject to a 1.5m side building line under the Swartland Municipal Land Use Planning By-Law (2020). Application to relax the 4m street building line to a 3m Street building line will ensure that their initial rights are redeemed.

The owners of Erf 2123 are within their rights to apply for the departure of the development parameters, as the By-Law makes provision for departure applications, and Swartland Municipality may approve this in terms of section 28 of this By-Law



Figure 1: Locality of Erf 2119

1.2 The proposed departure will have a major impact on the view of the main beach from Erf 2119, which will cause the value of the property to be reduced

1.2 Considering figure 2 below, It is uncertain how the relaxation of the 4m street building line will have an adverse effect on the view towards main beach as the property would retain a clear view of main beach even if Erf 2123 builds unto the northern erf boundary. Departure is only requested from the prescribed 4m to 3m. The proposal will therefore not adversely affect the property value.

There is no basis for assuming that approval of the application will result in the devaluation of adjacent property values. The Spatial Planning Land Use

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Management Act (SPLUMA) prescribes the principles for guiding land use planning. Amongst 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."*



Figure 2: View from Erf 2119 to Main Beach

1.3 The departure will have a major impact on the morning sun of Erf 2119. The privilege of morning sun will be taken away with the proposed departure

1.3 This statement is viewed as untrue. Erf 2122, which is located between these two erven, contains a dwelling house that is exceeding the building parameters, eliminating any potential impact development on erf 2123 might have. The development on Erf 2123 will thus not have any impact on the morning sun of Erf 2119. See figure 3 below.



Figure 3: Impact on Erf 2119 from Erf 2123
(Red line indicates proposed dwelling house)

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	<p>1.4 Ninth Street carry a lot of vehicle and pedestrian traffic over weekends and holidays and the departure of the street building line and height of the ground floor creates unnecessary danger.</p>	<p>1.4 Referring to figure 3 above; even with the proposed relaxation of the northern street building line, there is sufficient space available on the northern side of Erf 2123 for pedestrians to walk within the road reserve as well as sufficient viewing distance for safe driving. Considering the fact the Ninth Street is a one way, the impact on safety is even lower than with a normal two way road. Ninth Street is located within a residential neighbourhood that requires a low average speed and is the full width of a two-way road ($\pm 12.7\text{m}$). The departure of the northern street building line will therefore have limited impact on the area.</p> <p>We are of the opinion that if the owners of Erf 2119 were indeed worried about the safety of pedestrian and vehicle traffic on Ninth Street, they would not have paved the road reserve in the case of Ninth Street receiving excessive traffic during weekends and holidays as stated. The owners of Erf 2119 and their visitor now park within the road reserve and force pedestrians to walk within the road. Also refer to figure 4 below.</p> <p>Additionally, both the ground and first floor height also comply with the national building regulations. On the contrary, the height of the proposed dwelling is even lower than allowed within the Swartland Municipality: Municipal Land Use Planning By-Law (2020), to ensure that the sea view of Erf 194, south of Erf 2123 is maintained.</p>
	<p>2. Departure of side building line (southern boundary):</p> <p>2.1 The 0m side building line will almost make it impossible for two large vehicles to pass each other. The proposal will therefore have an adverse effect on the driveway to erven 2119 and 2122.</p>	<p>2.1 The relaxation of the southern side building line to 0m should not have an adverse impact on the traffic flow to and from Erven 2119 and 2122, as the right of way servitude is 5m wide, which will ensure that vehicles can easily pass one another, as the average width of a vehicle is $\pm 1.8\text{m}$.</p>

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	<p>2.2 Erf 2123 also does not have any space for visitors and will in effect also make use of the driveway, which will further affect erven 2119 and 2122.</p> <p>2.3 There is insufficient space for vehicles that visit Erf 2119 to turn around and will thus create a traffic jam especially in a case of an emergency.</p>	<p>In addition, the owners are allowed to erect a boundary wall on the southern boundary, which will have the same effect as the erection of the proposed garage at the 0m boundary line, since the garage will not consist of any windows. The departure can therefore be favourably considered.</p> <p>2.2 According to the Swartland Municipality: Municipal Land Use Planning By-Law (2020), the parking requirements for a dwelling house under Residential Zone 1 is two parking bays. The property makes provision for a double garage (2 parking bays). The proposal therefore complies with the parking requirements of the Swartland Municipal Land Use Planning By-Law. The property will in addition have its own driveway, which can accommodate visitors parking should there be a need.</p> <p>2.3 The development on Erf 2123, Yzerfontein, cannot be negatively considered due to the limited turning space available on Erf 2119. Since Erf 2119 already paved a portion of the road reserve at the northern side of the property (see figure 4 below), the majority of vehicles will park there.</p> 
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VENNOTE / PARTNERS:

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		 <p>Figure 4: Street view at northern side of Erf 2119</p>
	<p>3. Departure of the 1.5m side building line (western boundary):</p> <p>3.1 In 2001 when the dwellings on erven 2119 and 2122 were built, the municipality required the 1.5m side building line to be maintained for danger of fire. There can therefore not be a departure on this side.</p> <p>3.2 Since there is no boundary wall around Erven 2119 and 2122, guests of Erf 2122 and 2123 will walk between erven 2119 and 2122 to access the properties which will cause a noise disturbance.</p>	<p>3.1 Extract from section 12.2.1(c)(iii) of the Swartland Municipality: Municipal Land Use Planning By-Law (2020):</p> <p>c) When an outbuilding, second dwelling unit or building is permitted within a side or rear building line, the following conditions shall apply:</p> <p>(iii) an access way, other than through a building and at least 1m wide, shall be provided from a public street to every vacant portion of the land unit concerned, other than a courtyard.</p> <p>Considering the fact that there is a 1m-1.5m opening between the proposed dwelling on Erf 2123 and the erf boundary and a 1.5m opening between Erf 2122 and the erf boundary, adequate space will therefore be available between the two buildings for fire safety.</p> <p>3.2 Noted, visitors of Erf 2123 will park on the driveway proposed on the property and therefore not disturb the owners of Erf 2119.</p>

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MALMESBURY (T) 022 482 1845


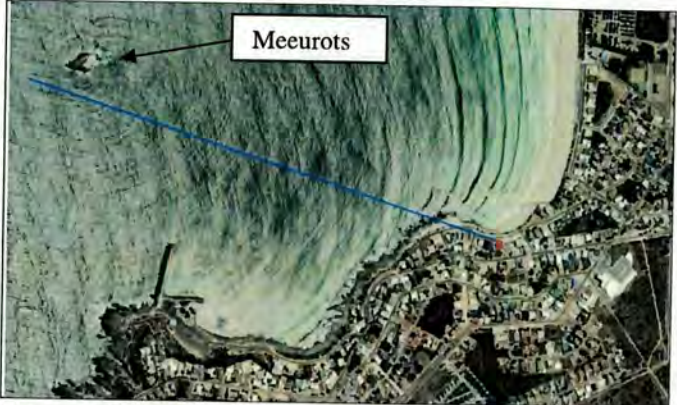
Ilze Smit (Erf 2122)	4. Objections from Ms Ilze Smit, trustee of Erf 2122, Yzerfontein.	4. Ilze Smit submitted objections on behalf of the Smit Family Trust, but did not have the mandate to do so. The other two trustees of the Smit Family Trust support the development and withdrew the objection submitted by Ms Ilze Smit. Please see letter attached as Annexure B .
A.C. Blake (Erf 194)	5. In 2004, permission had already been granted to sell part of the sidewalk to be part of the property to erect the planned dwelling house.	5. Noted, it has been recognised by the local municipality that Erf 2123 has very limited development potential and that a portion of the road reserve needs to form part of the property. Back then, the northern boundary (now Ninth Street) was still a public open space with a prescribed 2m building line (see diagram attached as Annexure C). With the construction of Ninth Street, the rights of the property have been negatively impacted. Should Ninth Street not have been built, Erf 2123 would have had only a 1.5m northern side building line instead of a 4m building line. Ownership of the property has also changed since 2004 and the new owners had to draw up plans in accordance the Swartland Municipal Integrated Zoning Scheme Regulations. Departure of the development parameters is therefore made to accommodate the newly proposed dwelling under the new development parameters.
	6. With the relaxation of the development parameters, the property value of Erf 194 will be negatively affected as a portion of the sea view will be lost. Should Swartland Municipality approve this, it is necessary to reduce the property tax.	6. Noted, Refer to point 1.4
GW Orchard	7. The owners of Erf 196 object to the development as there are building regulations that must be complied	7. As mentioned above, due to the unique location, size, and shape of Erf 2123, the only way to develop the property to its full potential is to deviate from some of the

VENNOTE / PARTNERS:

IHJ RumbollPrL (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 / PO Box 211 / Rainierstr 16, Malmesbury, 7299

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(Erf 196)	with and the approval of this will set a precedent, especially for landowners who want to do additions to their dwellings.	development parameters. The approval of the proposed application will not create a precedent for future development, as each land use application submitted to Swartland Municipality is unique, and evaluated on its own merit.
Melane Eksteen (Erf 894)	8. The departure will have an impact of the property owner's view of Meeurots and therefore have a negative impact on the property value and enjoyment of the property.	<p>9. Considering the two figures below, the proposed departure will have no impact on erf 894's view of Meeurots. The value or enjoyment of the property will therefore not be negatively affected.</p>  <p>Figure 5: Sea view of Meeurots</p>  <p>Figure 6: Sea view of Meeurots</p>
	9. The building line in close proximity to the road will have an impact on the safety of pedestrians.	<p>9. Refer to point 1.4</p> <p>Due to the width of Ninth Street ($\pm 12.7\text{m}$) and the large road reserve around Erf 2123, the relaxation of the building lines will have limited impact on the safety of pedestrians.</p>

Considering the above, it is evident that the proposed development, even with the departure from the development parameters, will not have a significant impact on the surrounding properties or built environment.

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

Kind regards


.....

Izak Rumboll / NJ de Kock
For CK Rumboll and Partners

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

Objections



CLEAN AUDITS SINCE 2010/11



Munisipaliteit
Municipality
Umasipala

*Ons gee gestalte aan 'n beter toekoms!
We shape a beter future!
Sibumba ikamva elingcono!*

File ref: 15/3/4-14/Erf_2123

Enquiries:
Ms D N Stallenberg

26 May 2022

C K Rumboll & Partners
P O Box 211
MALMESBURY
7299

Dear Sir/Madam

PROPOSED DEPARTURE ON ERF 2123, YZERFONTEIN

Your application with reference YZER/12335/NJdK dated 28 March 2022 refers.

Kindly find attached the objection received by Colyn Donaggi, Ilze Smit, A C Blake, G W Orchard and Melane Eksteen 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: Colyn Donaggi <Colyn@hgca.co.za>
Sent: Monday, 23 May 2022 15:45
To: Registrasie Email <RegistrasieEmail@swartland.org.za>
Subject: Voorgestelde afwyking op Erf 2123 Yzerfontein - beswaar deur eienaar van Erf 2119.

Die Munisipale Bestuurder
Privaatsak X52
MALMESBURY
7299

Per epos vir aandag Mnr Alwyn Burger. swartlandmun@swartland.co.za

Hiermee die formele beswaar namens Erf 2119, Yzerfontein teen voorgestelde afwykings soos versoek in u skrywe van 22 April 2022. As eienaar van erf 2119, gelee twee erwe verder aan die westekant van erf 2123 het die voorgestelde afwykings het n weselike effek op erf 2119 se waarde, soos hier onder uiteengesit.

Ons teken beswaar aan teen die volgende afwykings.

- Afwyking van die 4m straatboulyn (noordelike grens) na 3m ten opsigte van die grond en eerstevloer.
- Afwyking van 1,5m syboulyn (suidelike grens) na 0m ten opsigte van die grondvloer boulyn.
- Afwyking van die 1,5m syboulyn (westelike grens) na onderskeidelik 0m ten opsigte van grondvloer en 1m ten opsigte van die eerstevloer.

Alvorens redes verskaf word op elk van bostaande punte, wil ons graag die volgende punte uitlig. Boulyne en grense is spesifieke reëls en regulasies wat streng toegepas moet word deur die plaaslike raad om sodoende regverdigheid aan elke grondeienaar te gun. Veral waar dit by prima liggende erwe is. Die aansoeker was deeglik bewus van sekere beperkinge van die erf voordat daar n aanbod op Erf 2123 gemaak is. Die konsultant CK Rumboll, maak deurentyd die punt dat erf 2123 n ongewone vorm het en dat dit nie sinvol ontwikkel kan word nie. Enige ontwikkeling op erf 2123, wat enige van bostaande afwykings as vergunning kry, sal erf 2119 negatief affekteer.

Afwyking van die 4m straatboulyn (noordelike grens) na 3m ten opsigte van die grond en eerstevloer.

- Die voorgestelde afwyking sal n weselike invloed op erf 2119 se uitsig op die hoofstrand he. Daar is n groot premie op die waarde van n erf wat onbelemmerde uitsig op die totale strandgebied. Die beoogde bouwerk asook die versoek tot n 1m verslapping ontnem erf 2119 sy onbelemmerde uitsig op die strand. Dit verminder die waarde van erf 2119. Op onderstaande figuur vertoon die blou gedeeltes die beoogde ontwikkeling en die rooi gemerkte gedeelte waar Erf 2119 uitsig verloor op die eerste gedeelte van die strandgebied.



- Beoogde ontwikkeling gaan n geweldige negatiewe invloed he op oggend son vir erf 2119. Ons bewoon al 20 jaar in die woning en die voorreg word nou ontnem met die beoogde verslapping van die noordelike bougrens.
- Die aansoeker is foutief met die opmerking dat die eenrigting straat min verkeer dra. Gedurende seisoen tyd en naweke is daar aansienlike beweging in die pad sowel as voetgangers. Die pad maak n geweldige kort draai na regs voor erf 2123. Die beoogde oorskrydings van boulyne, tesame met die hoogte van die huis se grondvloer wat gebou word skep n onnodige gevaar vir voetgangers (vir wie daar geen sypaadjie is nie) sowel as voertuie.

Afwyking van 1,5m syboullyn (suidelike grens) na 0m ten opsigte van die grondvloer boulyn.

- Hierdie versoek moet teen sterkste teengestaan word. Die huidige oprit maak dit onmoontlik vir twee groter motors om mekaar verby te gaan. Om nou n boulyn van 0m te versoek gaan n ewige stryd tot gevolg he, vir die ander twee erwe wat die oprit gebruik.
- Erf 2123 het ook geen parkering vir gaste, wat uiteraard ook die bestaande oprit potensieel gaan gebruik, wat die verkeersvloei nog meer gaan belemmer.
- Daar is nie voldoen plek om n voertuig om te draai nie, dus voertuie wat erf 2119 besoek moet agteruit tussen ander motors ry.
- Hierdie versoek het n wesenlik effek op erf 2119 wat in tye van n noodgeval, noodlottige gevolge kan hou vir inwoners van erf 2119, wat potensieel vasgekeer is.
- Die aansoeker was bewus van die beperkinge van erf 2123 alvorens perseel gekoop is.

Afwyking van die 1,5m syboullyn (westelike grens) na onderskeidelik 0m ten opsigte van grondvloer en 1m ten opsigte van die eerste vloer.

- Tydens die oprigting van eiendomme op erwe 2119 en 2122 (2001) het Swartland munisipaliteit ten sterkste n aanwysing uitgereik dat die eiendomme n 1,5m boulyn tussen moet handhaaf. Brandgevaar is as rede aangevoer, daar kan geen afwyking van hierdie bestaande aanwysing wees nie.
- Siende dat die voorgestelde afwyking van die boulyn vir erf 2122 volle toegang aan die oostelike kant verhoed, beteken dit dat gaste van erf 2122 en moontlik ook erf 2123, die loopgang tussen erf 2119 en erf 2122 gaan gebruik. Daar is geen ringmuur van enige aard nie, dus privaatheid en geraas gaan n groot effek op die 4 kamers van erf 2119, aangrensend van die loopgang, veroorsaak. Dit is nie aanvaarbaar nie en het n geweldige negatiewe effek op erf 2119.

Erken asb ontvangs van hierdie skrywe.

Dankie

COLYN DONAGGI CA(SA) RA

Namens eienaar : MM Donaggi

Kontak per epos : colyn@hgca.co.za – gebruik hierdie adres vir kommunikasie

Telefoon : 082 853 7211

Adres : Posbus 82 SALDANHA 7395

**THE MUNICIPAL MANAGER
PRIVATE BAG X52
MALMESBURY 7299**

ATTENTION: MR ALWYN BURGER

OBJECTIONS: DEPARTURES ON ERF 2123, YZERFONTEIN

I, the undersigned, is a co-owner and trustee and act on behalf of the owner of Erf 2122, Yzerfontein, namely the Smit Family Trust (SFT) (registration number IT 4612/96).

The contact details of the representative of the SFT are as follows:

Co-owner & trustee: Mrs Ilze Smit

Email: ilze.smit2015@gmail.com

Cell: 083-287-6372

Address: 26 Andrag Road, Vierlanden, Durbanville, 7550

Preferred communication method: Email

Interest in the land use application and reasons for objecting: The SFT, owner of the adjacent property Erf 2122 Yzerfontein, is of the opinion that it will be directly and negatively affected by the proposed land use applications on Erf 2123 as set out in the application by CK Rumboll and Partners.

The co-owner and trustee of Erf 2122, Yzerfontein wishes to **object** against the following land use applications proposed for adjacent Erf 2123, which were submitted to the Swartland Municipality:

1. Departure from the 4m street building line (northern boundary) to 3m with regard to the ground and first floor.
2. Departure from the 1.5m side building line (southern boundary) to 0m with regard to the ground floor and 1m with regard to the first floor.
3. Departure from the 1.5m side building line (western boundary) to 0m with regard to the ground floor and 1m in regard of the first floor.

4. Departure from the 3.0 m street building line (eastern boundary) to 2.5m with regard to the ground floor and 2.37m in regards of the first floor.
5. Departure from the allowable coverage from 50% to 59%.

The reasons for the objections are explained in more detail below:

1. DEPARTURE FROM THE 4M STREET BUILDING LINE (NORTHERN BOUNDARY) TO 3M WITH REGARD TO THE GROUND AND FIRST FLOOR.

The application stipulates that *"The sea view of Erf 2122, will also not be obstructed, as the view of the sea towards Erf 2123 is already blocked with an existing braai (on both ground and first floor). Since the property will have a boundary wall at the northern side of the property, the relaxation will barely have an impact, if any, on the surrounding area"*.

I wish to contend that the abovementioned impact on Erf 2122 will be much larger than what is suggested in the application:

- 1.1 The statement made in the application by Rumboll et al that the relaxation of the street building line of 1m will not have an adverse effect on the neighbouring properties and specifically on erf 2122 is not accepted. Inserted Pictures 1 and 2 indicate the extent of the negative impact caused by the proposed relaxation of the northern street building line. The corner of the western-northern wall of the proposed dwelling is approximately 1.7m beyond the chimney, and the boundary wall approximately 4.4m beyond the chimney of Erf 2122.

The statement of Rumboll et al that *'...the sea view of Erf 2122...is already blocked with an existing braai (on both ground and first floor)'* is not accurate as there is only a standard size braai of 1.5m width on the ground floor. Furthermore, the current north-eastern view of the ocean and beach area from Erf 2122 will be blocked by a 6.6m high western wall of the dwelling on Erf 2123, resulting these residents enjoying a 140 degree north-eastern view of the beach and ocean whilst the north eastern view of erf 2122 is greatly diminished to a direct northern view only. This is not acceptable and this application is opposed.

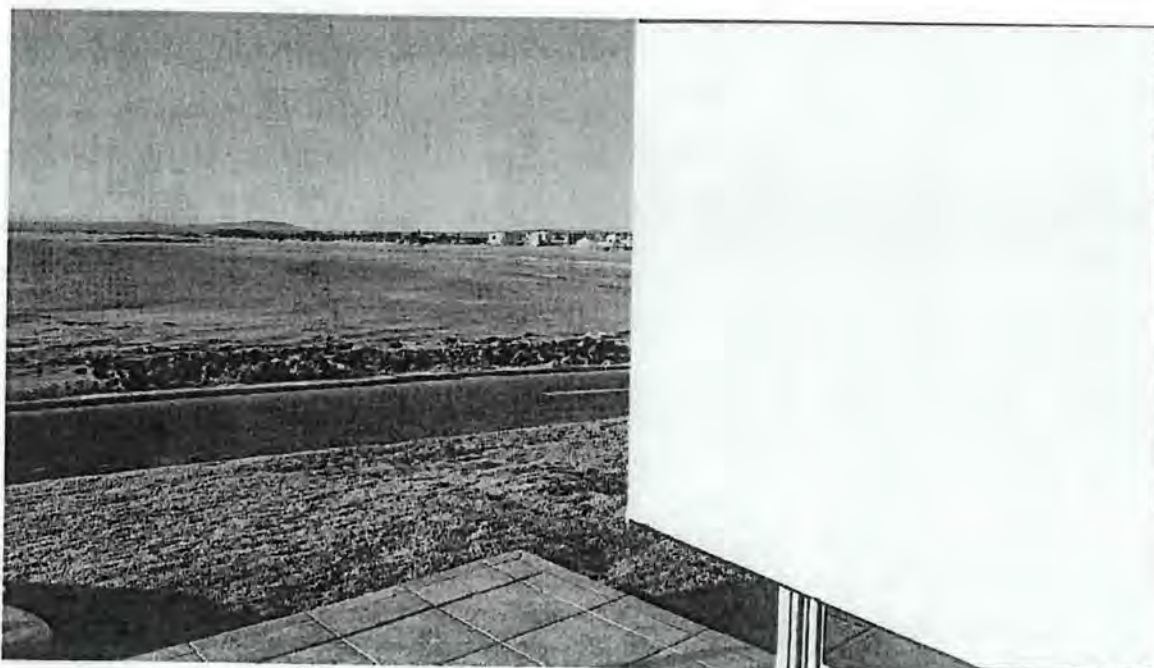
1.2 A statement by Rumboll et al (Par 6.1:p12 and Par 6.2:p13) that 'the precedent to build closer to the street building lines has already been set', cannot be accepted as a general condition of approval for proposed new developments in Yzerfontein. The development on Erf 2122 was done within parameters as set out by National Building Regulations and the provincial Gazette Extraordinary 8226.

1.3 Furthermore, the proposed relaxation of the northern street building line by 1m will have an adverse effect on the dwelling of Erf 2122 insofar as the sun will be blocked for a large part of the day causing the dwelling, and specifically the 4 bedrooms and 4 bathrooms on the eastern side of erf 2122, to be cold and dark.

1.4 Rumboll et al mentioned that 'the departure of the northern street building line will as a result not have an adverse effect on the flow of traffic or traffic viewing distance for motorists' (Par 6.1). Although the current viewing distance for oncoming traffic as mentioned is noted as 11m, the height of the boundary wall must be taken into account as this will obscure traffic travelling down Ninth Street in a northern direction towards the ocean. The issue of traffic flow should be properly assessed.



PICTURE 1: EXISTING NORTH-EASTERN VIEW OF ERF 2122



PICTURE 2: IMPACT OF PROPOSED BUILDING LINE DEPARTURE ON THE EXISTING NORTH-EASTERN VIEW OF ERF 2122

2. DEPARTURE FROM THE 1.5M SIDE BUILDING LINE (SOUTHERN BOUNDARY) TO 0M WITH REGARD TO THE GROUND FLOOR AND 1M IN REGARD OF THE FIRST FLOOR.

With regards to the proposed building line relaxation on the southern boundary, the application stipulates that *"It is recognised that Erven 194 and 2122 is impacted by the proposed departures on the ground floor level, however, it should be noted that direct views from the dwelling to the sea is in a northern and north-easterly direction. It is therefore unlikely that there will be a detrimental impact on the existing views from the dwellings on Erven 194 and 2122 and should the departures be approved"*.

My objections against the proposed relaxation of the side building line (southern boundary) are explained in more detail below:

2.1 The proposed relaxation of the southern and western building lines to 0m will have a detrimental effect on the driveway and existing parking area on the eastern boundary of Erf

2122. Minimum turning circles will not be possible with minimum standards not met. The proposed position and size of the garage will result in turning circles of 2.1m to 2.8m respectively. A minimum turning circle for a medium to large sedan vehicle is 5.9m. Figure 1 below indicates a modelled turning circle to allow parking for Erf 2122. The relaxation of the southern and western building lines to 0m is thus not possible and can therefore not be considered for approval.

2.2 Furthermore, the driveway is shared with Erf 2119. Reducing the width of the driveway will have a detrimental effect on traffic flow. The current 7.3m driveway width allows for 2 way traffic which in busy holiday times are often used as such. Reducing the width of the driveway will result in traffic backing up into Ninth Street, should access be blocked by in/outgoing vehicles. The T junction in close proximity already calls for careful entrance / exit strategies.

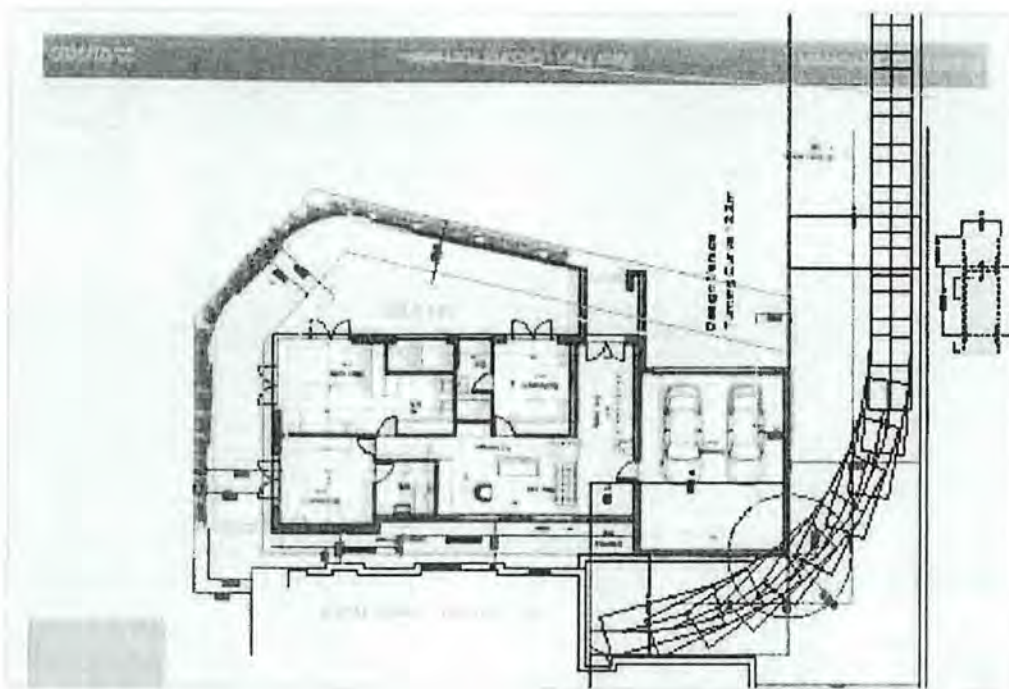


FIGURE 1: IMPACT ON ACCESSIBILITY OF PARKING AND OTHER MATTERS

3. DEPARTURE FROM THE 1.5M SIDE BUILDING LINE (WESTERN BOUNDARY) TO 0M WITH REGARD TO THE GROUND FLOOR AND 1M IN REGARD OF THE FIRST FLOOR.

3.1 The plan in Figure 1 indicates the eastern wall (black lines) of the dwelling on Erf 2122.

The relaxation of the 1.5m building line will not allow access around the dwelling on Erf 2122. Refer chapter 12 par 12.2.1(iii) of THE PROVINCE OF THE WESTERN CAPE: PROVINCIAL GAZETTE EXTRAORDINARY 8226: *'an access way, other than through a building 1.0m wide shall be provided from a public street to every vacant portion of the land unit concerned, other than a courtyard'*.

3.2 The relaxation of the 1.5m western building line to 0m and hence the total blocking of access around the dwelling on erf 2122 will result in the remaining section of Erf 2122 being alienated and in effect becoming part of Erf 2123.

3.3 Access to services and maintenance will not be possible as a security gate is shown on the proposed plan blocking free access to the eastern side of Erf 2122.

3.4 The relaxation of the 1.5m building line to 0m at the garage section, and approximately 1.0m at the bedroom section of Erf 2122 will have detrimental effect on the residents of erf 2122 as all services including pool pump; cold room equipment, air conditioners etc. will be placed in this area resulting in constant noise pollution, aggravated by the narrow passage between the 2 dwellings. Note that windows of bedrooms and en suite bathrooms of dwelling Erf 2122 are situated against this proposed passage way.

3.5 Privacy:

3.5.1 The proposed building plans show a swimming pool on the western boundary, first floor of Erf 2123. The proposed relaxation of 1.5m building line to 0m will have an effect on the privacy of the residents of Erf 2122 as the pool is proposed to be constructed in close proximity from the main bedroom and en suite bathroom on first floor of Erf 2122. The pool close to the boundary will result in noise pollution, which will have an effect on the comfort of residents of Erf 2122. Refer PROVINCIAL GAZETTE EXTRAORDINARY 8226 Par 12.2.1 (x) stating: *'swimming pools not closer than 1,0m from any boundary'*.

3.5.2 The statement by Rumboll et al that the privacy of Erf 2122 *'...will not be adversely affected... as the building where relaxation is proposed does not consist of any windows*

or doors and can therefore be considered favourably'. This is not correct, as sliding doors for a pyjama lounge / TV room on the ground floor is indicated on the proposed plans, opposite and in close proximity of 2 bedrooms and en suite bathrooms of Erf 2122. This will result in invasion of privacy and contribute to noise pollution to bedrooms and en suite bathrooms on ground floor, as well as first floor of dwelling on Erf 2122.

- 3.5.3 Two bathrooms / toilet windows are also indicated on the first floor of the proposed plans, opposite and in close proximity of the front door and reception area of Erf 2122.

The use of shutters for the above areas will not necessarily ensure privacy for Erf 2122 (Par 6.1:p11).

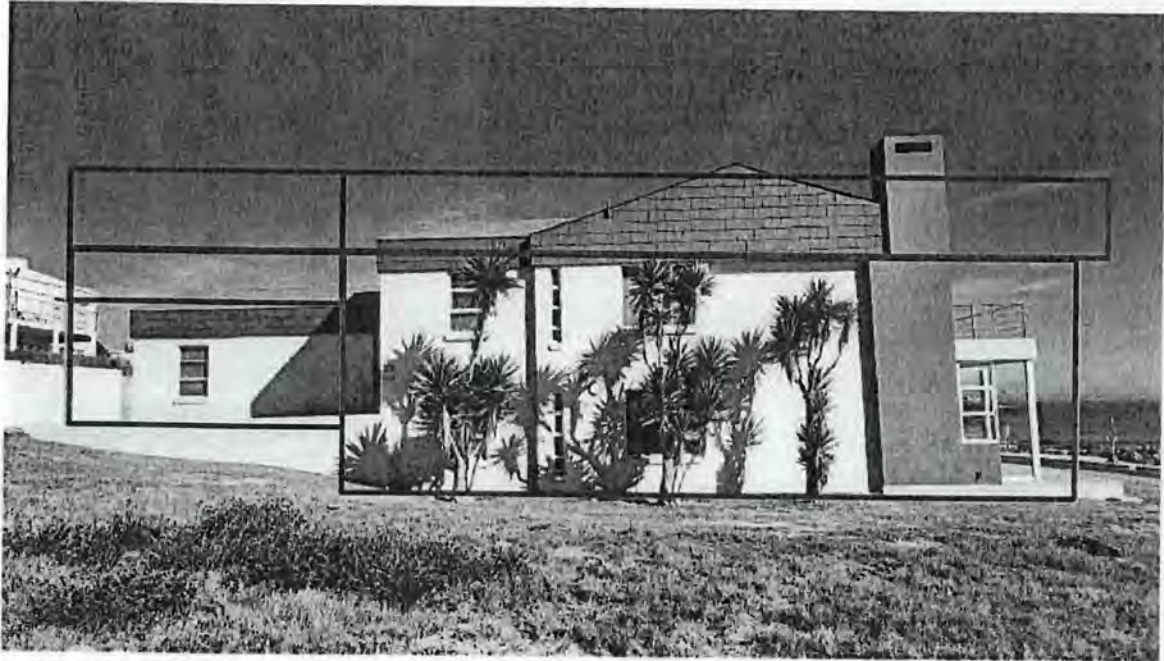
- 3.5.4 The proposed relaxation of the 1.5m building line to 0m will furthermore have a negative impact on the front door and reception area of the dwelling on Erf 2122. The proposed building plan indicates a washing line area right in front of the front door of dwelling on Erf 2122. This will be unsightly and cannot be considered for approval.

- 3.6 As mentioned in Par 3.3 above, all 4 bedrooms and en suite bathrooms, ground and first floor, are situated on the eastern boundary of Erf 2122. The construction of a 6.6m high double storey wall from the southern boundary (relaxed to 0m) up to the northern boundary (relaxed to 0m) will put the entire eastern side of the dwelling on Erf 2122 in the shade and hence block all sun; light; and existing view from bedrooms and bathrooms on the eastern side of the Erf 2122. See red lines in inserted Picture 3 indicating extent of proposed western wall on Erf 2123. The statement by Rumble et al (Par 6.1) that '*it is unlikely that there will be detrimental impacts on the existing views on Erf ...2122*' is therefore not correct.

- 3.7 The proposed relaxation of the 1.5m building line on the western boundary to 0m will result in the 750mm roof overhang being approximately 900mm from the dwelling on Erf 2122. This will have a detrimental effect in the event of fire. It is questionable if Santam insurance policy will cover damages if building is not according to code requirements. As mentioned previously, there is no access all around the dwelling on Erf 2122 due to proposed garage with 0m building line; access is not possible due to proposed security/pedestrian gate at northern border; and passage between the dwellings is too narrow for effective firefighting. Feedback from Santam Legal Department regarding liability in case of fire is pending.

It is requested that all code requirements of part T of SANS 10400 are strictly adhered to.

3.8 According to Rumboll et al (Par 6.1:p11) *'the small relaxation [of the western side building line] will improve the aesthetics of the street and building'*. This statement is not justifiable as the relaxation is almost onto the dwelling of Erf 2122 and therefore do not improve any aesthetics of either Erf 2122 or 2123.



PICTURE 3: IMPACT ON LIGHT, VIEW AND SUNLIGHT

4. DEPARTURE FROM THE 3.0 M STREET BUILDING LINE (EASTERN BOUNDARY) TO 2.5M WITH REGARD TO THE GROUND FLOOR AND 2.37M IN REGARDS OF THE FIRST FLOOR

Although the eastern boundary does not has a direct impact on Erf 2122, there are a few points of importance to mention:

4.1 Rumboll et al mentioned that *'the road reserve on the eastern boundary is very large... which is more than sufficient to accommodate safe movement of traffic'* (Par 6.1). However, the entire road on the eastern side of the proposed dwelling has NO sidewalks for pedestrians for safe walking to the beach.

- 4.2 The proposed building plan and application for relaxation of building lines and other parameters, indicates a double garage with carriageway crossing from Ninth Street. Refer PROVINCIAL GAZETTE EXTRAORDINARY 8226 Par 13.1.3 (a), (b), (c):
- (a) *'Vehicular access shall be limited to 1 combined carriageway crossing per site per public street or road abutting the site'*
 - (b) *'Notwithstanding (a) above, where the total length of any street boundary of a site exceeds 30m in length, one additional carriageway crossing may be permitted provided that no 2 carriageway crossings or combined carriageway crossings are closer than 15m to each other'*
 - (c) *'No carriageway crossing may exceed 4m in width where it crosses the street boundary, and no combined carriageway crossing may exceed 8m in width where it crosses the street boundary'.*

Inserted Picture 4 indicates the carriageway crossings of Erven 194 (CWC1), 2122 and 2119 (CWC2). This is already a combined carriageway crossing meeting the prescriptions of the above points (a), (b) and (c). The addition of a third carriageway (CWC3) crossing - as proposed - will result in above guidelines not being met and can thus not be considered for approval.



PICTURE 4: EXISTING COMBINED CARRIAGEWAY CROSSINGS ERF 194, 2122 & 2119

4.3 Further to Par 4.2 above, careful consideration should be given to the T-junction of Beach Road with Ninth Street in close proximity, approximately 10m. Off street parking for Beaches Restaurant and adjacent Coffee Shop is directly opposite the proposed carriageway crossing. Traffic congestion is already experienced with traffic turning from Beach Road into Ninth Street. The addition of a third carriageway crossing will aggravate this situation.

4.4 Beaches Restaurant, Coffee Shop and beach goers all make use of the municipal off street parking in Ninth Street. The addition of a third carriageway crossing and entrance to the dwelling will have a negative effect on all visitors to this area, as parking is already limited. The municipal parking provided in Beach Road is not adequate.

5. DEPARTURE FROM THE ALLOWABLE COVERAGE FROM 50% TO 59%.

Erf 2123 is zoned as Residential Zone 1 and located in the older residential Zone C-area and almost fully developed. Residential Zone 2 properties are classified as medium density residential development with a density of 20 to 50 units per hectare, having a minimum subdivision size less than 500m² (Rumboll et al Par 5 & Par 6.3). The question is whether there are 20 to 50 existing units per hectare in Zone C-area of Yzerfontein to be re-zoned and if it is really necessary?

Erf 2123 is 365m² in size which means that the existing allowable coverage on erf 2123 is 182.5m². The proposed coverage with departures at all 4 boundaries is ±216m², excluding unused area of Erf 2123 on the eastern boundary. According to the layout of the first floor the area underneath will be an open stoep area, but is not as such indicated on the plans.

The proposed development should not affect the zoning of the property. The request to re-classify Zone 1 to Zone 2 based on the size of Erf 2123 and thus request coverage up to 59% is unnecessary. There is no reason why the proposed dwelling cannot be planned with skilful architecture within the parameters, without disadvantage to the surrounding properties.

TITLE DEED & RESTRICTIVE CONDITIONS

Rumboll et al mentioned that *'there are no physical or title restrictions that will prohibit the proposed development...'* (Par 3, Table 1). Furthermore, Rumboll et al state *'Erf 2123 does not hold any heritage significance to the Swartland Heritage Survey... and can therefore be developed to its full potential'* (Par 5).

However, the Title Deed (T39250/2021) of Erf 2123 makes references to conditions in historical Title Deeds (e.g. T10028/1951, T3728/1937, etc.) that are still relevant to and applicable to this property, Erf 2123. From an inspection of the land use application it seems that the applicant has not submitted a Conveyancing Certificate. I believe it would be wise for a conveyancer to inspect these historical title deeds to confirm whether there are any restrictive conditions in these historical title deeds that might need to be removed.

From a procedural perspective, I therefore believe that the application in its current form is incomplete without the abovementioned Conveyancing Certificate.

Furthermore, during the initial planning of the development on Erven 2119; 2122; and 2123 in 1999, a mutual agreement was made that the 3 owners would seek one architectural style for aesthetic reasons, with individualised layouts for the 3 dwellings. Erf 2123 was sold with such plan. This agreement is still standing, but not adhered to by the new owner of Erf 2123.

CONCLUSION

Rumboll et al stated *'... the architectural effect of the building line relaxation will enhance the appearance of a public street'* (Par 6). This statement is not applicable as the departure of all building lines have a negative effect on the comfort, privacy and appearance of the dwelling on Erf 2122.

To develop property to its full potential does not mean to relax all restrictions and building lines. Rumboll et al acknowledged that *'there is limited development within the Residential Zone 1 development parameters'* (Par 6.1). Arguments regarding the size; narrowness; slanted slope; shape; and limited development potential of Erf 2123, as well as the resultant request for

relaxation of all four (4) building lines, and the negative effect thereof on surrounding properties, are all indications that Erf 2123 is not suitable to accommodate the proposed dwelling.

The development proposal for Erf 2123 will have a negative impact on the value of Erf 2122, as the latter will give up the spacious appearance of the existing dwelling to a rather cramped-in dwelling on the foreshore/beach.

In the event of proper and open communication it would have saved a lot of time and cost for all parties involved. It is regrettable that the impact of the proposed dwelling on neighbours has to be mediated by Swartland Municipality and not by the owner of Erf 2123 himself.

The co-owner and under-signed of Erf 2122 acknowledges the right of the owner to develop his property and does not object to the construction of a dwelling on Erf 2123, but believe that such a dwelling should be constructed within the existing development parameters of the Single Residential Zone 1 without any departures from these parameters.

Yours faithfully

I Smit

20/05/22

ILZE SMIT

DATE

Posbus 194
YZERFONTEIN
7351

Die Munisipale Bestuurder
Swartland Munisipaliteit

17 Mei 2022

Geagte mnr Scholtz

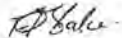
I/S : Kennisgewing nr: 15/3/4-14/Erf 2123

Hiermee dien ek A.C. Blake (selfoon nr 0824965062) as Trustee van die Johan Frederick Blake Testamentêre Trust beswaar aan teen die voorgestelde wysiging aan die bouregulasies soos per kennisgewing nr 15/3/4-14/Erf_2123.

My beswaar is as volg:

- Ons gevoel is dat daar destyds reeds 'n toegewing gemaak is deurdat 'n deel van die sypaadjie aan die eienaars/vorige eienaars verkoop is om voorsiening te maak om destyds se beplande huis/e in te pas
- Die verslapping van die bouregulasies sal ook ons eiendoms waarde negatief beïnvloed aangesien ons 'n groot gedeelte van ons seeuitsig gaan verloor. Indien Swartland Munisipaliteit hierdie aansoek goedkeur aanvaar ek dus dat ons eiendomsbelasting afwaarts aangepas sal word.

Vriendelike groete



A.C. Blake

TRUSTEE van die Johan Frederick Blake Testamentêre Trust

IS

VOORGESTELDE AFWYKING OP ERF 2123, YZERFONTEIN.

GW ORCHARD

36 MAIN ROAD

YZERFONTEIN.

robert@malmesburytoyota.co.za

ERF 196

Met verwysing na bogenoemde aansoek staan ek dit teen aangesien daar definitiewe bouregulasies is veral in die ou deel van YZERFONTEIN. Goedkeuring tov bogenoemde sal net 'n presedent skep, veral in die lig van eienaars wat aanbouings wil doen.

Groete

GW ORCHARD

From: Melane Eksteen <eksteen.melane@gmail.com>
Sent: Tuesday, 17 May 2022 19:56
To: Registrasie Email <RegistrasieEmail@swartland.org.za>
Subject: Re: Proposed Departure on Erf 2123 Yzerfontein

Municipal Manager

Regarding the proposed departure, I wish to object and request that the departure be denied.

The property in question is central in the beach area and the proposed departure will have a substantial impact on the view from my stoep, especially in the direction of Meeurots. This impact on my view will definitely have an impact in the valuation of my property, since the view is such a key feature of my house. It will also detract from the enjoyment of the property that my family and I experience.

In addition, I believe that moving the building line so close to the road will have a substantial impact on the safety of pedestrians in the area, since this will reduce the option to get out of the road when a car comes.

I think that such an excessive development which reduces the spaciousness and openness of the area will do harm to the entire community and to the beauty of the area.

Thank you in advance

Melané Eksteen
Owner of 6b Beach Road, Yzerfontein
25 Nutwood Gardens
Somerset West
083-233-2236

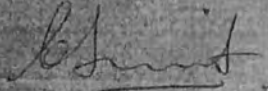
Annexure B

Objection withdraw

Geagte

Ek verwys na die skrywe wat Ilze Smit gerig het teen die verbouings of bg erf. Die Smit Familietrust het 3 trustees: Christie Smit, Ilze Smit en Hertzog Rousseau. Ilze Smit het geen mandaat vanaf die Trust gehad om die skrywe te stuur nie. Haar skrywe kan derhalwe ignoreer word.

Die uwe



C SMIT



H ROUSSEAU

DR CHRISTIE SMIT

MB ChB (Stell) M Med (Plast & Recons)

Room 209 | Mediclinic Panorama | 7500

Tel: +27 (0)21 930 3982 | Fax: +27 (0)21 930 3984

Practice Number 3601277

Annexure C

Diagram

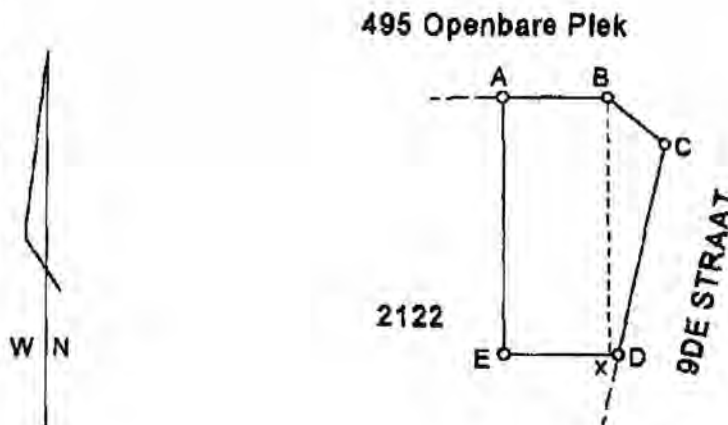
SYE Meter	RIGTINGS- HOEKE	KOÖRDINATE Y Stelsel: WG 19° X	L.G. No.
	Konstante:	0,00 +3600 000,00	4161/2004
AB 10,55	269 43 10	A +78 405,80 +91 251,88	Goedgekeur
BC 7,57	311 02 10	B +78 395,25 +91 251,83	<i>Stu. Alamy</i>
CD 22,02	11 49 00	C +78 389,54 +91 256,80	nms.
DE 11,48	89 47 10	D +78 394,05 +91 278,35	LANDMETER- GENERAAL
EA 26,51	179 25 10	E +78 405,53 +91 278,39	2004-10-18
	152 Slangkop	Δ +68 665,24 +87 801,67	
	156 Yzerfontein	Δ +77 638,59 +92 108,06	

Beskrywing van bakens

A,B,C,D : 12mm ronde ysterpen

E : 12mm gat in baksteen plaveisel

Public Place
Read-Referenced Along Bdy AB
closed. Notice d.d. 2016-07-29
File SI Malm 560/1 v3 p 12
DATE



Bdy AB
Malm 560/1 v3 p30

Skaal 1:750

A B C D E

Die figuur

Stel voor

365 vierkante meter

grond, synde

ERF 2123, gedeelte van Erf 2014 YZERFONTEIN

gelee in die Munisipaliteit Swartland
Administratiewe Distrik Malmesbury
Provinsie Wes-Kaap

Opgemeet in Desember 2003 deur my

[Signature]
PLS 1141 F.Truter
Professionele Landmeter

EXEMPT FROM PROVISIONS OF ACT
70 OF 1970

SECTION 161

Hierdie diagram is
geheg aan
No. T98333/2005
ged.
t.g.v.
Registrateur van Aktes

Die oorspronklike diagram
is
L.G. No. 6947/2001
Transport
72797/2004

Lêer Malm 560/1
M.S. E2623/2003
Komp. BHNQ2472(M2490)
LPI - C0460015

Erf 2123 Yzerfontein

29 July 2022

15/3/3-14/Erf_515
15/3/5-14/Erf_515

WYK: 5

**ITEM 6.3 VAN DIE AGENDA VAN 'N MUNISIPALE BEPLANNINGSTRIBUNAAL WAT GEHOU SAL WORD
OP WOENSDAG 10 AUGUSTUS 2022**

LAND USE PLANNING REPORT

APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE CONDITIONS AS WELL AS REZONING OF ERF 515, YZERFONTEIN

Reference number	15/3/3-14/Erf 515 15/3/5-14/Erf 515	Application submission date	16 November 2021 & 6 April 2022	Date report finalised	29 July 2022
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PART A: APPLICATION DESCRIPTION

Swartland Municipality received an application for rezoning of Erf 515, Yzerfontein in terms of section 25(2)(a) of Swartland Municipality: Municipal Land Use Planning By-law (PG 8226 of 25 March 2020). It is proposed that Erf 515 is rezoned from Residential Zone 1 to Business Zone 2 in order to accommodate a business premises (shops and offices) on the property.

Application is also made for the removal of restrictive title conditions on Erf 515, Yzerfontein, in terms of section 25(2)(f) of Swartland Municipality : Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020). It is proposed that restrictive condition C3 and C6(a) of Deed of Transfer T51963/2021 be removed. The application aims to remove a restrictive condition regarding the use of the property.

The applicant is CK Rumboll and Partners and the owner of the property is 515 On Buitenkant Pty Ltd.

PART B: PROPERTY DETAILS

Property description (in accordance with Title Deed)	Erf 515, Yzerfontein, in the Swartland Municipality, Division Malmesbury, Province of the Western Cape				
Physical address	39 Buitenkant Street. Please refer to the location plan attached as Annexure A		Town	Yzerfontein	
Current zoning	Residential zone 1	Extent (m ² /ha)	805m ²	Are there existing buildings on the property?	Y N
Applicable zoning scheme	Swartland Municipal By-Law on Municipal Land Use Planning (PG 8226 of 25 March 2020)				
Current land use	Vacant		Title Deed number & date	T51963/2021	
Any restrictive title conditions applicable	Y	N	If yes, list condition number(s)	C. SUBJECT FURTHER as contained in Deed of Transfer No. T6978/1984 to the following conditions imposed by the Administrator of the Province of the Cape of Good Hope in terms of Ordinance No 33 of	

				<p>1934 with the approval of the establishment of the Yzerfontein Township Extension No. 2, namely:</p> <p>3. No building on this erf shall be used or converted to use for any purpose other than permitted in terms of these conditions.</p> <p>6. (a) This erf shall be used solely for the purpose of erecting thereon one dwelling or other buildings for such purposes as the Administrator may, from time to time after reference to the Townships Board and the local authority, approve, provided that if the erf is included within the area of a Town Planning Scheme, the local authority may permit such other buildings as are permitted by the scheme subject to the conditions and restrictions stipulated by the scheme.</p>
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 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

The application for rezoning was presented to the Municipal Planning Tribunal on the 9th of March 2022. With the evaluation of the application it was determined that the title deed does indeed restrict the use of the property and therefore the Tribunal referred the application back in order for it to include an application for removal of restrictions. With the inclusion of the application for the removal of restrictive title conditions, it was necessary to follow an additional public participation process as required in terms of the By-Law. The public participation has now been finalised and the municipality received 1 additional comment / objection from an affected property owner. The application is therefore presented to the Municipal Planning Tribunal for decision making.

Erf 515 (805m² in extent) is vacant and currently zoned Residential Zone 1 in terms of the applicable development management scheme. The purpose of the application is to rezone the property from Residential Zone 1 to Business Zone 2 to utilise the property for commercial purposes.

As the current zoning does not make provision for shops and offices, as well as the title deed of the property restricts the use of the property to residential, application is therefore made to remove the applicable conditions from the title deed as well as to rezone the property.

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.
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PART F: SUMMARY OF APPLICANTS MOTIVATION

(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)

The applicant motivates that the surrounding properties consist mainly of business and residential zoned properties and therefore the proposed development to utilise the subject property as a business premises (for example offices or shops) will, in their opinion, not adversely affect the character of the area. This, according to the application is due to the property being located directly adjacent to the central business district (CBD) of Yzerfontein.

The applicant states further that the precedent to develop Buitenkant Street as a business corridor has already been set. The proposal will, in the applicants' opinion, contribute to the already established business corridor.

The proposal will strengthen the commercial character of the area.

Access to Erf 515 is obtained from Buitenkant Street on the northern side of the property.

The development will also enhance the value of the property and give local business owners commercial opportunities within the existing residential area and in close proximity to the CBD of town.

Commercial opportunities (professional services and home occupation) within the residential area are encouraged by the Swartland Spatial Development Framework.

Since the property is located along an activity street, it is highly accessible and ideal for commercial purposes.

There are no physical restrictions on the property or registered against the title that prohibits the proposed rezoning application to establish a business premises on Erf 515, Yzerfontein.

The proposed development can be regarded as promoting small business opportunities, creating additional income for local residents.

The proposed development will not have any adverse effect on the natural environment and the establishment of mixed-uses near the central business district (CBD) and along an existing activity street can be considered as effective spatial planning.

The applicant concludes that the proposed rezoning to transform Erf 515, Yzerfontein, into a business premises can be considered favourably on the basis of the following;

1. The proposed development is supported by the Swartland Spatial Development Framework (SDF) that guides sustainable future development in Yzerfontein;
2. The application supports the planning principles of SPLUMA and LUPA;
3. The proposed development is compatible with the land use proposals for the area in which Erf 515 is located;
4. With the proposed development, economic as well as employment opportunities will be created for local residents;
5. Effective use of services will occur as the property is currently vacant;

Additional motivation with regards to the removal of restrictive title conditions:

Restrictive title deed conditions according to the applicant were used as the only building guidelines before zoning schemes came into effect within the Swartland Municipal area. With the commencement of the Swartland Integrated Zoning scheme, it is no longer necessary for building parameters to be scrutinised against the Title Deed.

Since the establishment of the restrictive conditions in the title deed, the dynamics and atmosphere of the area in which Erf 515 is situated, has changed over time and by keeping the restrictive conditions in the title deed, future opportunities for the property is limited. The area was previously used solely for residential purposes, but now also consists of several commercial activities.

With reference to Section 43(5)(a)-(f) of the Swartland land use planning By-Law the applicant motivates that the proposed application for the removal of restrictive title deed conditions can further be considered favourably based on the following:

(1) 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.

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 and Spatial Development Framework 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.
(2) the personal benefits which accrue to the holder of the rights in terms of the restrictive condition.	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.
(3) 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.	The inclusion of the said restrictive conditions in the title deed of Erf 515, 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 removal 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.
(4) the social benefit of the restrictive condition remaining in place in its existing form	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, for example, a business premises.
(5) the social benefit of the removal, suspension or amendment of the restrictive condition.	This will result in more compact, diverse and resilient development of the property and enable the property to be developed to its full potential. This will also enable the property to create various new job opportunities for the local residents.
(6) 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.	Not all rights in favour of the Administrator is proposed for removal, only the rights contradicting the Spatial Development Framework and Municipal Land Use Planning By-Law to enable the property to be utilised to its full potential.

New Spatial Policies, sufficient guidelines, directives and provisions are available for land use development, therefore the removal of restrictive conditions can be considered favourably.

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
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The application was published in local newspapers and the Provincial Gazette on 19 November 2021, in terms of Section 55 of the By-law. The commenting period, for or against the application, closed on 24th of January 2022.

In addition to the abovementioned publication, a total of 23 written notices were sent via registered mail to the owners of affected properties, in term of Section 56(1) & (2) of the By-Law (refer to Annexure E).

The second round of public participation was done for the application for the removal of restrictive title conditions. The application was therefore again published in local newspapers and the Provincial Gazette on the 22nd of April 2022. Opportunity was given to all affected property owners to comment or object against the proposed application and the commenting period closed on the 23rd of May 2022. Written notices were also sent to the 23 affected property owners. It should however be noted that on the second round a total of 9 letters were returned unclaimed.


Total valid comments	2 during the first round and only 1 during the second round of public participation			Total comments and petitions refused	0			
Valid petition(s)	Y	N	If yes, number of signatures		N/A			
Community organisation(s) response	Y	N	N/A	Ward councillor response		Y	N	The application was referred to the Ward Councillor and no comments have been received.
Total letters of support	None							

PART H: COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS

Name	Date received	Summary of comments	Recommendation	
Department: Civil Engineering Services	23-11-2021	Water A single water connection be provided and that no additional connections will be provided; Sewerage The property be provided with a conservancy tank of minimum 8	Positive	Negative

		<p>000 litre capacity and that the tank be accessible to the municipal service truck via the street;</p> <p>Streets and storm water The proposed layout indicates that parking bays 1 to 7 is accessed directly from Buitenkant Street. This layout is unacceptable and must be amended in order to provide the property with a combined carriageway crossing and that no parking be accessed directly of the street. Please refer to Annexure B.</p> <p>Development charges A fixed cost capital contribution be made calculated as follows:</p> <table><tr><td></td><td></td><td>Calculated @ 224m²</td></tr><tr><td>Bulk Water Distribution</td><td>R 35,65</td><td>R 7 985,60</td></tr><tr><td>Bulk Water Supply</td><td>R 43,70</td><td>R 9 788,80</td></tr><tr><td>Sewer</td><td>R 49,45</td><td>R 11 076,80</td></tr><tr><td>WWTW</td><td>R 73,60</td><td>R 16 486,40</td></tr><tr><td>Roads</td><td>R 57,50</td><td>R 12 880,00</td></tr><tr><td>Storm Water</td><td>R 67,85</td><td>R 15 198,40</td></tr><tr><td>Total</td><td>R 327,75</td><td>R 73 416,00</td></tr></table>			Calculated @ 224m²	Bulk Water Distribution	R 35,65	R 7 985,60	Bulk Water Supply	R 43,70	R 9 788,80	Sewer	R 49,45	R 11 076,80	WWTW	R 73,60	R 16 486,40	Roads	R 57,50	R 12 880,00	Storm Water	R 67,85	R 15 198,40	Total	R 327,75	R 73 416,00		
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Roads	R 57,50	R 12 880,00																										
Storm Water	R 67,85	R 15 198,40																										
Total	R 327,75	R 73 416,00																										
Cleaning Services	24-11-2021	All waste generated must be placed in closed refuse bags or in bags in wheelie bins on the kerbside on the day of the collection service, before 07:30 in the morning. Unobstructed access for the refuse compactor truck is essential.	Positive	Negative																								
Protection Services	23-11-2021	No feedback required	Positive	Negative																								
Electrical Engineering Services	18-11-2021	No comments	Positive	Negative																								
Development Services: Building Control	25-11-2021	Submit building plans to Building Control for consideration and approval.	Positive	Negative																								

PART I: COMMENTS RECEIVED DURING PUBLIC PARTICIPATION		SUMMARY OF APPLICANT'S REPLY TO COMMENTS Please refer to Annexure H	MUNICIPAL ASSESSMENT OF COMMENTS
Mr G Du Toit as neighbouring property owner of erf 127, Yzerfontein Please refer to Annexure F	1. Mr du Toit is of opinion that the subject property is situated in a residential area which is already sufficiently served with commercial property spaces. Yzerfontein has, according to the objector a number of vacant business zoned premises and more such would be superfluous to the village's needs.	1. The applicant states that the surrounding properties consist mainly of business and residential zoned properties. The proposed development to utilise the property as a business premises (for example offices or shops) will not adversely affect the character of the area, as the property is located directly adjacent to the central business district (CBD) of Yzerfontein. The applicant continues by stating the precedent to develop Buitenkant Street as a business corridor has already been set. The proposal will therefore contribute to the already established business corridor (Activity Street).	1. The subject property is located on Buitenkant Street which is an identified activity street. Furthermore the subject property is located in close proximity to the identified Primary Business node for Yzerfontein. Buitenkant Street have seen several properties being converted into business properties in the last few years. The application is supported by the MSDF, 2019 and will not have an adverse effect on the character of the surrounding neighbourhood. Yzerfontein has also seen a large increase in permanent residents which results in an increase in demand for commercial property. Buitenkant Street being the link between two business nodes ensures its status as an activity street.
	2. Secondly, Mr Du Toit states that the property is situated on a blind turn and will materially impact on the traffic flow in Buitenkant Street;	2. The applicant motivates that due to the width of the road reserve, the road may be transformed into a two-way lane in the future which, in the applicant opinion will remove all possible negative traffic impacts. There is sufficient viewing distance to safely turn onto Erf 515, without causing any safety hazards. See figures below. Furthermore, due to the property being situated on a turn, drivers tend to reduce speed at a turn, further reducing any safety risks to the property.	2. Access to the property is proposed on the eastern corner. This ensures sufficient sight distance for oncoming vehicles when accessing the property from a westerly direction. There is also sufficient sight distance available when accessing the property from a northerly direction as well as exiting the property. The wide road reserve ensures safe access and egress to and from the property and as pointed out by the applicant also ensures sufficient space for future upgrading if necessary. It should be noted that from the Main Rd intersection to the Dassen Island Drive junction approximately 40% of Buitenkant Street have already been upgraded to a dual lane collector. The proposed shops and offices will not adversely affect the traffic flow in Buitenkant Street.

			
	<p>3. Thirdly, the objector is of opinion that the rezoning may result in the commercialisation of the residential portions of Buitenkant Street, which will materially adversely impact the value, ambiance and character of the area.</p>	<p>3. The applicant refers to point 1. The precedent to develop Buitenkant Street as a business corridor has already been set. The proposal will therefore not have an adverse impact on the character of the area, as the commercial character already exist around Erf 515.</p> <p>The applicant further motivates that the Spatial Planning Land Use Management Act (SPLUMA) prescribes the principles for guiding land use planning. Among other, 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>3. Buitenkant Street is an identified activity street. According to the MSDF, 2019 mixed / alternative uses are supported along activity streets in Yzerfontein. As mentioned above the character of the area along Buitenkant Street is not residential as a number of commercial activities is already present along Buitenkant Street.</p>
<p>Mr D van Heerden as neighbouring property owner of Erf 122 Yzerfontein. Please refer to Annexure G</p>	<p>4. Mr van Heerden states that he, even in quieter times, he already experience large numbers of traffic and finds it difficult to get his car out of his property. He states that it is even worse when he is towing his boat and during holiday times, he must park his boat elsewhere until the traffic calms down again. He is therefore of opinion that should another shop be accommodated at Erf 515, he will not be able to get out of his property at all.</p>	<p>4. Since Erf 122 is located within the CBD of Yzerfontein and is located along an activity street, it is common for such an area to experience higher traffic volumes.</p> <p>The illegal commercial use on Erf 122 may also contribute to the higher traffic volume in the area, as well as to and from the property.</p>	<p>4. Buitenkant Street is a public street currently being the main collector connecting Dassen Island Drive and Lutie Katz Street with the Main Rd intersection. Arguably it is a very busy road which may need to be upgraded in the future. As mentioned above a large portion have already been upgraded and with the Pearl Bay area steadily filling up, this upgrading will probably need to take place sooner than later. The proposed development will not have a significant impact on the traffic volumes. The developer needs to make a development contribution which could be seen as their contribution to the future upgrading of</p>

	<p>5. Mr van Heerden asks that the municipality consider his plea not to approve the application as it will only cause more frustration to an already frustrating situation.</p>	<p>5. The applicant refers to point 4 of their comments and adds that, the fact that Erf 515, Yzerfontein, is following the right procedures to operate a business premises, should be considered positively.</p>	<p>Buitenkant Street. No further upgrading / contributions was required from the Department: Civil Engineering Services.</p> <p>The statement that the objector will not be able to access his property at all due to the proposed application is unjustified.</p> <p>5. Noted</p>
<p>JK & AJ Lambrecht as owners of neighbouring affected erven 516 & 525, Yzerfontein</p>	<p>6. The objector states that they have acquired their properties 22 years ago as the place where they would like to retire. They have, over the years ploughed in a lot of capital to get it comfortable. With their living space towards Buitenkant Street as well as the open erf (erf 516) in front of them, they have lovely sea view creating the feeling of space and close to nature.</p> <p>The natural vegetation on both the open plots (erven 515&516) also dampens the noise of busy road traffic. In their opinion, should business rights be granted to erf 515, it will certainly greatly reduce the tranquillity, atmosphere and open space feeling due to traffic activities.</p> <p>This, according to the objector will inconvenience all the owners as indicated on the public participation plan.</p> <p>7. The objectors further question what the effect of removing the conditions on the title deed will have on the value of neighbouring residential houses.</p>	<p>6. The applicant states that the surrounding properties consist mainly of Business and Residential Zoned properties. The proposed development to utilise the property as a Business premises (for example offices or shops) will not adversely affect the character of the area, as the property is located directly adjacent to the central business district (CBD) of Yzerfontein and the precedent to develop Buitenkant Street (Activity Street) as a business corridor has already been set. The proposal will therefore contribute to the already established business corridor.</p> <p>The proposal to rezone Erf 515, Yzerfontein, to Business Zone 2 is a market driven decision.</p> <p>The fact that a building is proposed on Erf 515 will reduce the noise of traffic much more than merely the existing natural vegetation on the property</p> <p>7. 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 and Spatial Development Framework consist over similar land use</p>	<p>6. In Yzerfontein allot has changed in the last 22 years. The proposed development is consistent with the policies for local and provincial spatial planning and should therefore be supported. The Business zone 2 proposal with a bulk of only 0,4 will clearly not have negative impact on the character of the area nor on the existing sense of place.</p> <p>The proposed building will dampen even more noise from Buitenkant Street to the properties at the back.</p> <p>All persons deemed affected by the proposal, as indicated on the public participation plan, was personally invited by means of a registered notice. The notice in the local newspapers and provincial gazette also affords any-body to submit their objections. If no objection is received it is deemed that you do not object.</p> <p>It could be argued that brining the opportunities closer to the people especially on the scale as proposed with the application being considered here, will definitely not inconvenience the neighbouring property owners.</p> <p>7. It could be argued that in terms of impact on the properties behind the subject property the parameters applicable to Business zone 2 result in a 3m building line which is more restrictive therefore providing a larger gap between buildings to still have a sea-view.</p> <p>The properties in Buitenkant Street all have the potential of accommodating mixed uses due to it being an activity street. The approval of the</p>

		<p>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.</p> <p>The removal will also not have an adverse impact on the property value of the surrounding properties, as the development potential of the property will still be limited to the development parameters of the Municipal Land Use Planning By-Law—2020.</p> <p>Also, in terms of 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>application would strengthen the activity street and due to its close proximity to the existing business node it will definitely have a positive impact on the value of properties in Buitenkant Street. It is worth noting that there is already several other businesses that established themselves along Buitenkant Street.</p>
	<p>8. The objectors are also concerned about the future use of the property. In their view, should ownership change hands with a business license, there is no guarantee that the regulations will be adhered to, only the future will tell. A new owner may have other motives than just 'consulting rooms'.</p> <p>9. The objectors question whether the application is really in the public's interest to set up more 'consulting rooms' right on the doorstep of their established property and suggest that it rather be accommodated at existing business nodes.</p>	<p>8. Swartland Municipality is responsible to ensure that the development proposed on Erf 515, Yzerfontein, complies with the development parameters as prescribed in the Municipal Land Use Planning By-Law, 2020. Even if the current owners sells the property, the new owner/s would still be subject to these development parameters and to the uses allowed under the proposed zoning.</p> <p>9. It is uncertain why the objector refers to medical consulting rooms in the objections, as that is not what was applied for with the rezoning application.</p> <p>As mentioned previously, the rezoning to accommodate a business premises in this area is a market driven decision. There is a</p>	<p>8. The proposal does not include consulting rooms specifically although it can be accommodated as one of the primary rights under the Business zone 2 zoning. As stated in the development management scheme the objective of Business zone 2 is to provide for low intensity commercial and mixed-use development which satisfies the needs of the local precinct for commodities and personal services. Such development should be limited in extent and must be able to integrate with the adjacent precinct without adversely affecting the amenities of the residential precinct. The municipality enforce the land use planning By-law.</p> <p>9. The proposal is located next to one of the few identified activity streets within Yzerfontein. Buitenkant Street which connects the existing primary business node with Villa Fontana as a secondary business node. As mentioned above, Yzerfontein has changed significantly over the past 22 years and it is definitely in the interest of the community of Yzerfontein to have more opportunities for</p>

	<p>10. The objectors are also concerned where the drain-pipes as well as refuse area will be.</p> <p>11. Is it going to stay with a one-level building?</p> <p>12. What about sufficient parking for the proposed consulting rooms?</p> <p>13. They state that they have already received several offers to sell their plot (Erf 516), but are not yet ready for such a drastic curtailment of their privacy.</p> <p>With the granting of these business conditions, there are persons who are very interested in the outcome of this case. In their opinion the president that will be created should the application succeed will allow them to also take a chance with the development of a "Pop-up-shop or Pop-up-business"?</p> <p>14. With the consultation that the objectors had with the neighbouring property owners, they confirm that no-one is in favour of the proposal and although everyone does not have the time, energy or perseverance to raise objections, Mr Lamprecht feels compelled to comment as they have been paying their 'school fees' for many years on both plots/properties to get them established for a place in the sun for their retirement.</p> <p>15. The objectors lastly states that residential opportunities also create jobs for the communities of Yzerfontein and Darling and that they count on a fair, well thought out reconsideration to maintain the residential</p>	<p>great need for these land use rights in the area.</p> <p>10. The owners of the property have the right to place their garbage cans anywhere they feel fit on their property.</p> <p>11. The property will remain a single storey building. The GLA of the proposal and parking provision limit the property to only a single storey building.</p> <p>12. There is sufficient parking space available to accommodate the proposed business premises.</p> <p>13. Refer to point 1. The precedent to develop Buitekant Street (Activity Street) as a business corridor has already been set. The proposal will therefore not have an adverse impact on the character of the area, as the commercial character already exist around erf 515.</p> <p>14. Noted</p> <p>15. The applicant did not comment on this point</p>	<p>commercial development within the urban edge of the town.</p> <p>10. The municipality may require a built refuse area. The refuse area need to be accessible to refuse removal staff but inaccessible to animals and unauthorised individuals.</p> <p>11. The proposal only includes a single storey building. The business zone 2 zoning is restricted to double storey however, with reference to the comment made by the applicant the total floor area is restricted due to the requirement for on-site parking.</p> <p>12. The application does not include a departure of the required parking. Parking is proposed as required in terms of the development management scheme.</p> <p>13. The proposal will not have a negative impact on the objectors' privacy. The layout of the business premises is such that all activities will take place in Buitenkant Street. Furthermore the existing rights on the property allow for the construction of a double storey dwelling up to 1,5m from the side boundary. With the proposed rezoning the building line is increased to 3m, therefore</p> <p>14. This statement that none of the neighbouring property owners is in favour of the proposal is not justified. The objector does not provide any proof. From the 23 letters sent and two rounds of public participation the municipality only received 3 objections.</p> <p>15. The fact that residential opportunities also create jobs is recognised, however not all properties are situated next to activity streets or within the business nodes of Yzerfontein. There area therefore only a few properties that have the potential to accommodate</p>
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	conditions on erf 515.		business / mixed use. As can be clearly seen throughout this report, there are a large number of consideration taken into account when decisions are made on land use applications.
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PART J: MUNICIPAL PLANNING EVALUATION

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

The application in terms of the By-law was submitted on 16 November 2021. The public participation process commenced on the 19th November 2021 and ended on the 24th January 2022. Objections were received and referred to the applicant for comment on 27th January 2022 and this municipality received the comments on the objection from the applicant on 31st of January 2022. As mentioned above the application was referred back by the Municipal Planning Tribunal as it was determined that the rezoning cannot be considered in isolation due to the conditions in the title deed that restricts the use of the property. The applicant amended the application and a second round of public participation was done as required by the By-Law.

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

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

The application is evaluated according to the principles of spatial planning, as contained in the abovementioned legislation.

Spatial Justice: The proposed development is deemed consistent with the Swartland MSDF (2019) as well as the goals of the district and provincial spatial policies as will be further discussed below. The consideration of the application also realises the owner of the property's right to apply in terms of the relevant legislation.

Spatial Sustainability: The proposed development will result in a more spatially compact and resource-efficient settlement and will optimise the use of existing infrastructure. Seeing that the existing services will be used and that no upgrades to existing services / infrastructure is required to accommodate the development. The proposal will also not have a negative impact on critical biodiversity areas or high potential agricultural land and will in the long term contribute to the economy of Yzerfontein through the improvement of the property as well as through job creation.

Efficiency: The development proposal will promote the optimal utilisation of services on the property and enhance the tax base of the Municipality. The proposed use will also strengthen the current mixed-use character of the area as well as the existing identified activity street. Therefore this application complies with the principle of efficiency.

Good Administration: The application and public participation are administrated by Swartland Municipality and public and departmental comments were obtained. The decision making is guided by a number of considerations as required by the relevant By-law and MSDF;

Spatial Resilience:

The property is currently vacant and underutilised. The proposal to accommodate mixed uses along an identified activity street in close proximity to the primary business node for Yzerfontein is not only supported from a spatial planning point of view but also makes the property more resilient as it creates opportunity for a wider range of uses. With the above in mind the use of the property for commercial purposes is justified in the long term and is therefore deemed spatial resilient.

The development proposal clearly adheres to the spatial planning principles and is consistent with the abovementioned legislative measures.

Provincial Spatial Development Framework (PSDF, 2014)

The PSDF(2014) indicates that the average densities of cities and towns in the Western Cape is low by international standards, in spite of policies to support mixed-use and integration. There is clear 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, 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 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 in order 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 and 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 may, therefore, be deemed consistent with the PSDF.

West Coast District SDF (WCDSDF, 2020)

In the WCDSDF, 2020 it is stated that the functional classification for Yzerfontein is tourism and according to the growth potential study Yzerfontein has a Medium 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. It is however noted that poor access to social facilities often relate to spatial patterns, lack of spatial integration, limited mix-use development, disconnect between economic and social opportunities, car-dependent developments far from public transport and a 'business as usual' approach with the emphasis on greenfield development and low density sprawl.

It is thus clear that the proposed development is not in conflict with the principles as set out in the WCDSDF, 2020.

Municipal Spatial Development Framework (SDF), 2019

Erf 515, Yzerfontein is located in land use proposal zone C as indicated in the land use proposal map for Yzerfontein. Please refer to the extract below:



Zone C is defined as the older residential area, which also includes the primary business node which allows for mixed uses including residential, commercial and social uses.

Buitenkant and Main Street are identified as the main axis of the central town.

The SDF supports the accommodation of professional services, business uses as well as secondary business uses along activity streets or at the existing node. With Buitenkant Street being an identified activity street it is clear that the proposed application is consistent with the development proposals of the MSDF, 2019.

2.4 Zoning Scheme Provisions

All provision of the proposed zoning is complied with;

3. Desirability of the proposed utilisation

There are no physical restrictions on the property that will have a negative impact on this application.

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

The proposed application will not have a negative impact on the character of the area.

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

4. Impact on municipal engineering services

The proposed development will not have a significant impact on municipal engineering services. Should any services need upgrading in order to accommodate the proposed development it will be for the developers account.

The comment from the Department Civil Engineering services regarding the parking layout was given through to the applicant which provided the municipality with an amended Site Plan on the 25th of February 2022. The Director Civil Engineering services confirmed that the amended site plan is in order. Please refer to the amended site development plan attached as Annexure C.

5. Response by applicant

See Part F in terms of the motivation as well as part I in terms of the comments on the objections received.

6. **Comments from other organs of state/departments**

The comments from external departments were not deemed necessary with the current proposal. Should the application be approved it does not exonerate the developer or occupants from the proposed shops and offices to comply with any other legislation.

PART K: ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

The financial or other value of the rights

Removing the restrictive conditions will impact positively on the value of the property. The removal will also not have a negative impact on the value of neighbouring properties. A similar application has already been approved along Buitenkant street.

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

The rights do not relate to private rights, but rather to ensure equitable development. The By-Law will continue to perform this function even after restrictions have been removed. The departures will allow the owner to develop the property to its full potential.

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

There is no social benefit if the conditions remain. The removal result in the property being able to be rezoned for commercial use. It could be argued that the proposed shops and offices will generate a number of temporary as well as permanent job opportunities which will benefit the community of Yzerfontein.

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

Not the rights of the applicant, nor the rights of the affected property owners will be negatively impacted on. The restrictive conditions in question will be completely removed from the Title Deed, but the development parameters will continue to be regulated by the By-Law.

PART L: RECOMMENDATION WITH CONDITIONS

A. The application for the removal of title deed restrictions on Erf 515, Yzerfontein, be approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), in order to remove the restrictive conditions C3 and C6(a) registered in Title Deed T51963/2021, subject to the conditions that:

1. TOWN PLANNING AND BUILDING CONTROL

(a) The restrictions to be removed read as follows:

3. *No building on this erf shall be used or converted to use for any purpose other than permitted in terms of these conditions.*

6. (a) *This erf shall be used solely for the purpose of erecting thereon one dwelling or other buildings for such purposes as the Administrator may, from time to time after reference to the Townships Board and the local authority, approve, provided that if the erf is included within the area of a Town Planning Scheme, the local authority may permit such other buildings as are permitted by the scheme subject to the conditions and restrictions stipulated by the scheme.*

(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:

(i) Copy of the approval by Swartland Municipality;

(ii) Original title deed, and

(iii) 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, prior to final consideration of building plans;

- A The application for the rezoning of Erf 515, Yzerfontein from Residential Zone 1 to Business Zone 2, be approved in terms of section 70 of the Swartland Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020).

1. TOWN PLANNING AND BUILDING CONTROL

- (a) The use of the business premises be restricted to shops and / or offices;
(b) Building plans be submitted to the Senior Manager Built Environment for consideration and approval;

2. WATER

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

3. SEWERAGE

- (a) The property be provided with a conservancy tank of minimum 8 000 litre capacity and that the tank be accessible to the municipal service truck via the street;

4. STREETS & STORMWATER

- (a) The proposed parking area, including the junction with Buitenkant Street, be provided with a permanent dust free surface. See Annexure "C" The materials used be pre-approved by the Director Civil Engineering services on building plan stage;

5. REFUSE REMOVAL

- (a) A built refuse area be constructed and provided with clean running water as well as a catchment point for dirty water that is connected to the sewer network. The refuse should be easily accessible to refuse removal workers but should not be accessible to animals / birds and unauthorised individuals;

6. DEVELOPMENT CHARGES

- (a) The development charge towards the regional bulk supply of water amounts to R9 788.80 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 2022/2023 and may be revised thereafter (mSCOA: 9/249-176-9210);
(b) The fixed development charge towards bulk water reticulation amounts to R7 985.60 and is payable by the owner/developer at building plan stage. The amount is due to the Municipality, valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA 9/249-174-9210);
(c) The fixed development charge towards wastewater treatment, to the amount of R16 486,40 is payable by the owner/developer, at building plan stage. The amount is payable to this Municipality, valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA 9/240-183-9210);
(d) The fixed development charge towards sewerage amounts to R 11 076.80 and is payable by the owner/developer at building plan stage. The amount is due to this Municipality, valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA 9/240-184-9210);
(e) The fixed development charge towards streets amounts to R12 880,00 and is payable by the owner/developer at building plan stage. The amount is due to this Municipality, valid for the financial year of 2022/2023 and may be revised thereafter. (mSCOA 9/249-188-9210);
(f) The fixed development charge towards storm water, to the amount of R15 198,40 is payable by the owner/developer at building plan stage. The amount is payable to this Municipality, valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA 9/248-144-9210);
(g) The Council resolution of May 2022 provides for a 35% discount on development charge to Swartland Municipality. The discount is valid for the financial year 2022/2023 and may be revised thereafter. The discount is not applicable to 6.(a);

7. GENERAL

- (a) Should it be necessary to upgrade any existing services in order to accommodate the access or service connections of the proposed development, the cost thereof will be for the developer's account;
(b) The approval is, in terms of section 76(2)(w) of the By-Law, valid for a period of 5 years. The owner/developer is responsible to ensure that every condition of approval is complied with. Should all conditions not be met by the end of 5 years, the land use approval will lapse. However, should the conditions of approval be met before the 5 year period lapses, the land use will be permanent and the approval period will not be applicable anymore.
(c) The applicant/objectors be informed of the right to appeal against this decision of the Municipal Planning Tribunal, within 21 days of this notice, in terms of section 89(2) of the By-Law;

PART M: REASONS FOR RECOMMENDATION

- 1) There are no physical restrictions on the property that will have a negative impact on the proposed application.
- 2) There are no restrictions registered against the title deed of the property that prohibits the proposed land use.
- 3) The SDF, 2019 supports the accommodation of professional services, business uses as well as secondary business uses along activity streets or at the existing node. Buitenkant Street is an identified activity street.
- 4) The proposed application is consistent with and not in contradiction to the Spatial Development Frameworks adopted on Provincial, District and Municipal levels.
- 5) The proposed application will not have a negative impact on the character of the area.
- 6) The proposed development is not perceived to have a detrimental impact on the health and safety of surrounding landowners, nor will it negatively impact on environmental/heritage assets.
- 7) The proposal will not have a significant impact on traffic in Buitenkant Street.
- 8)



PART N: ANNEXURES

Annexure A	Locality Map
Annexure B	Site development plan
Annexure C	Amended Site development plan
Annexure D	Proposed building plans
Annexure E	Public Participation Plan
Annexure F	Objections by Mr G du Toit
Annexure G	Objections by Mr D van Heerden
Annexure H	Applicants comment on the objections
Annexure I	Copy of the title deed
Annexure J	Conveyancers Certificate
Annexure K	Comment on Conveyancers Certificate
Annexure L	Objection by JK & AJ Lambrecht
Annexure M	Applicants comment on the objection of JK & AJ Lamprecht

PART O: APPLICANT DETAILS

Name	CK Rumboll and Partners			
Registered owner(s)	515 On Buitenkant Pty Ltd.	Is the applicant authorised to submit this application?	Y	N

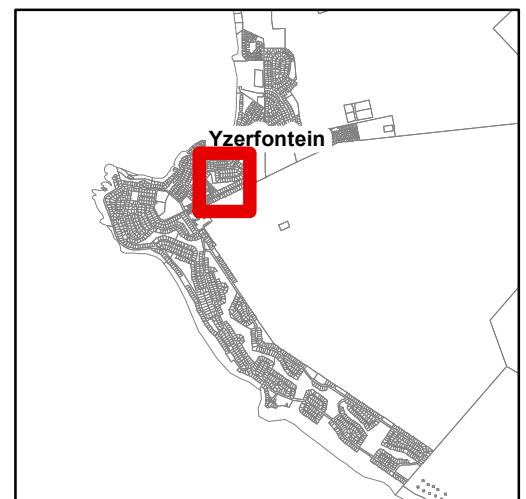
PART P: SIGNATURES

Author details: Herman Olivier Town Planner SACPLAN: A/204/2010		Date: 29 th of July 2022		
Recommendation: Alwyn Zaayman Senior Manager Built Environment SACPLAN : A/8001/2001	Recommended	<input checked="" type="checkbox"/>	Not recommended	
		Date: 1 st August 2022		

LOCATION PLAN OF ERF 515, YZERFONTEIN



0 25 50 100 Meters



SITE DEVELOPMENT PLAN: BUSINESS PREMISES ON ERF 515, YZERFONTEIN



NOTES:

ZONING:

Current zoning: Residential
Zone 1

Proposed zoning: Business
Zone 2

Total GLA: ±224m²

13 Parking spaces provided

Building Lines — — — — —

Drawing by

NJ de Kock

ALL AREAS AND DISTANCES ARE SUBJECT TO SURVEYING



C.K. RUMBOLD & VERNOTE
TOWN PLANNERS
PROFESSIONAL SURVEYORS
16 RAINIER STREET, MALMESBURY
Tel: 022 - 4821845
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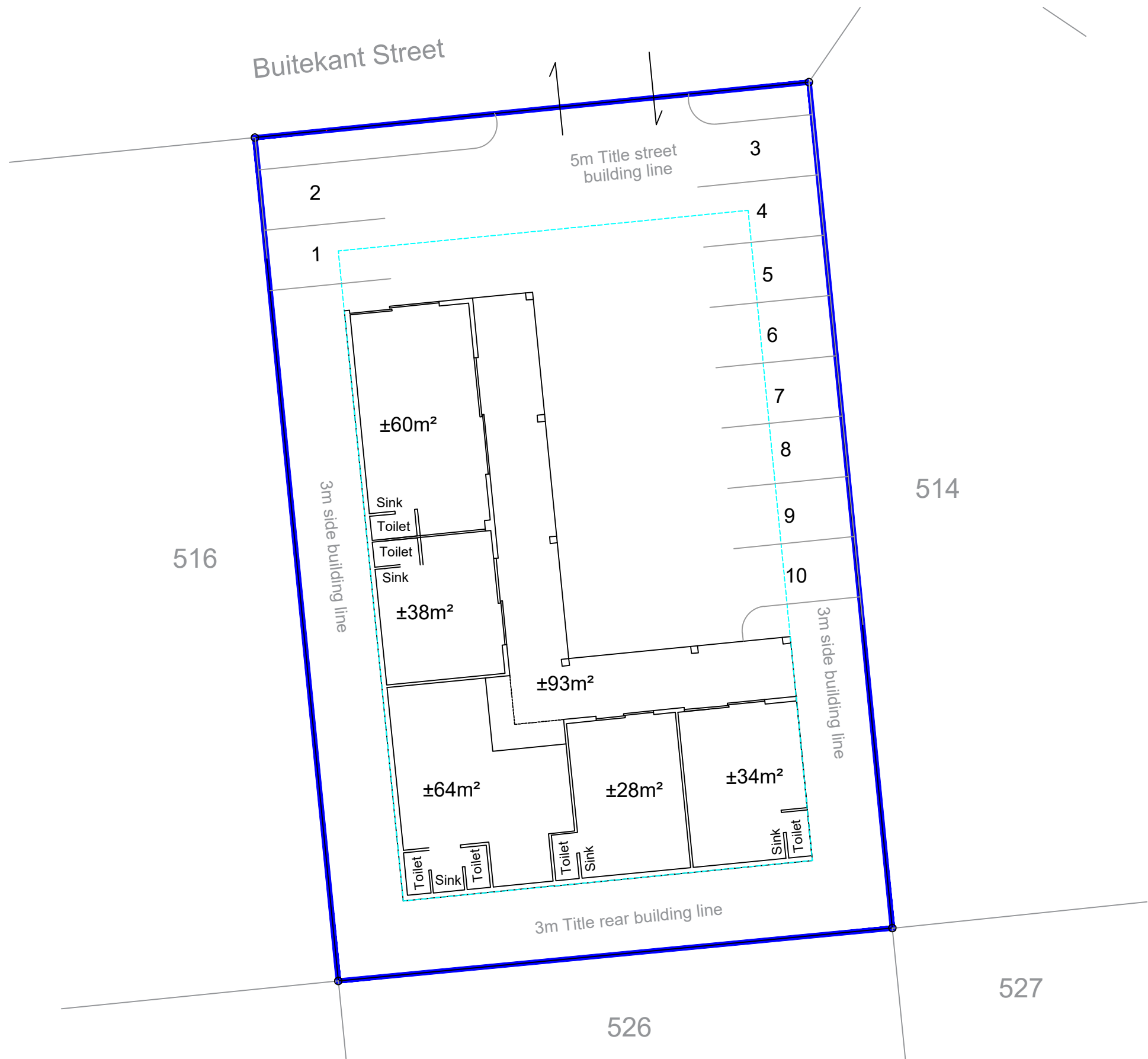
DATE:
November 2021

AUTHORITY:
SWARTLAND MUNICIPALITY

REF:
YZR/12240/NJKK

SCALE: NTS

SITE DEVELOPMENT PLAN: BUSINESS PREMISES ON ERF 515, YZERFONTEIN




NOTES:

ZONING:
Current zoning: Residential
Zone 1
Proposed zoning: Business
Zone 2

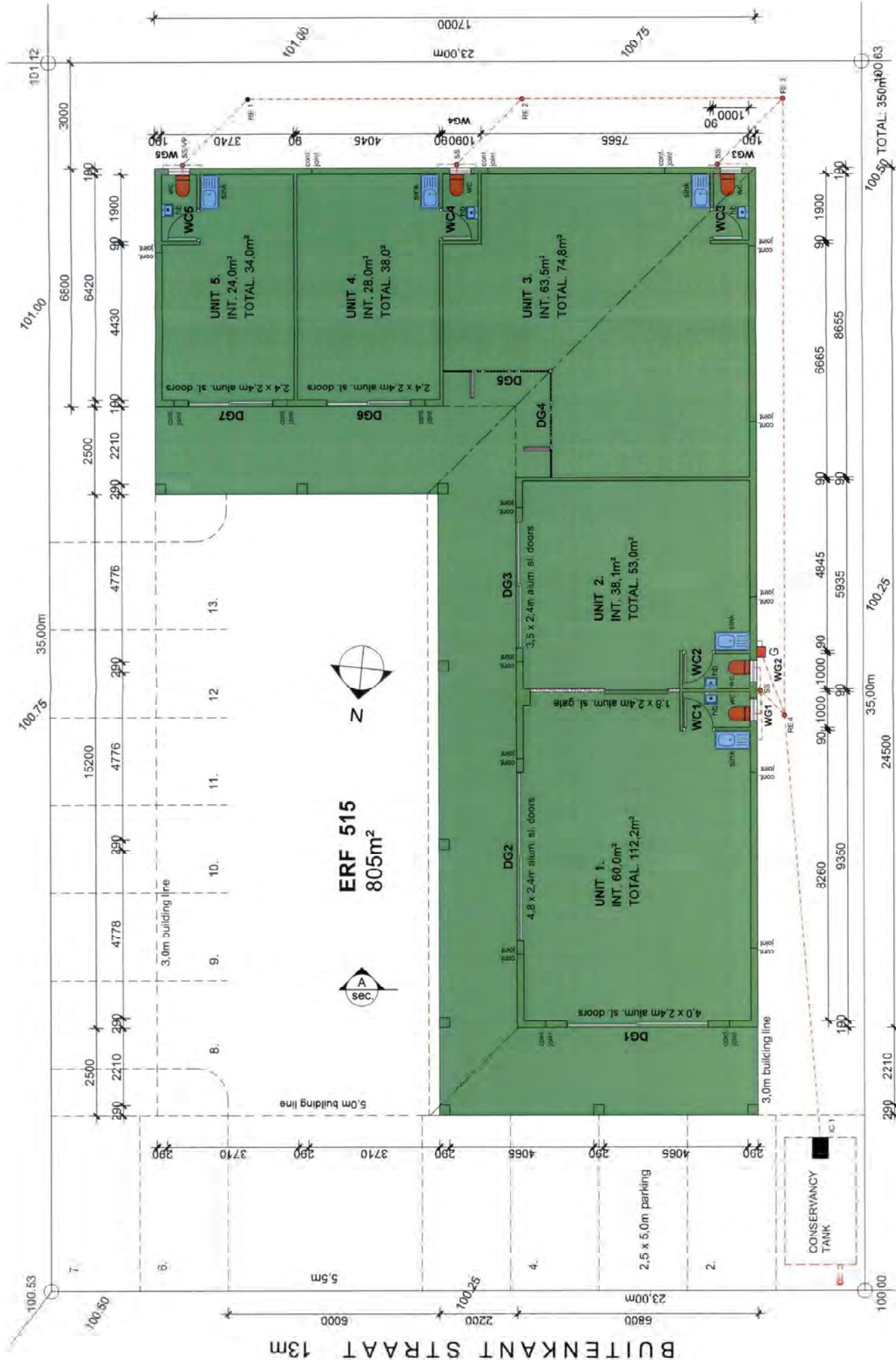
Total GLA: ±224m²

10 Parking spaces provided

Building Lines — — —

Drawing by: NJ 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
DATE: November 2021	AUTHORITY: SWARTLAND MUNICIPALITY
REF: YZR/12240/NJdK	SCALE: NTS

ANNEXURE D



Monica Broeksma
Pr. Snr. Arch. T - Reg No. ST 2024
23 First Avenue Yzerfontein
Tel 082 5600 003 monica@sign*ml abco.za



DRAWING
New Building - Offices

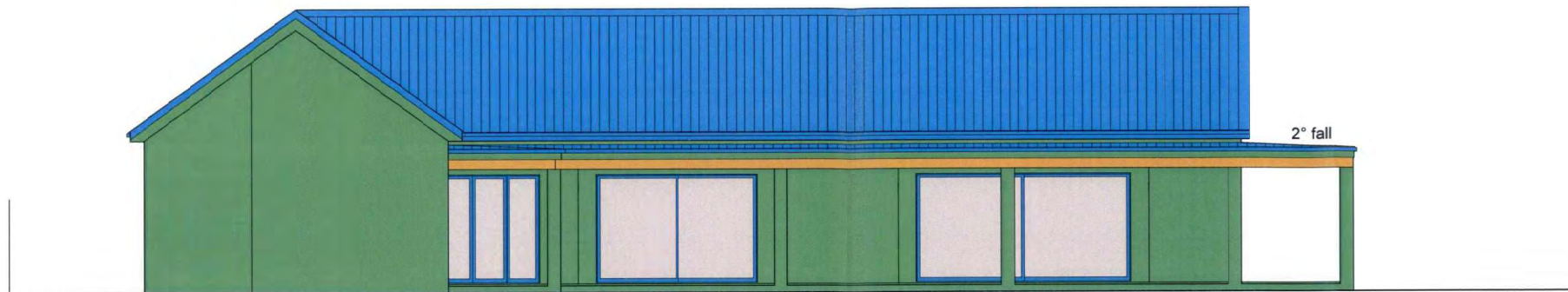
SIGNATURE

PROJECT
LA LEIGH
39 Buitekant Street
ERF 515 YZERFONTEIN

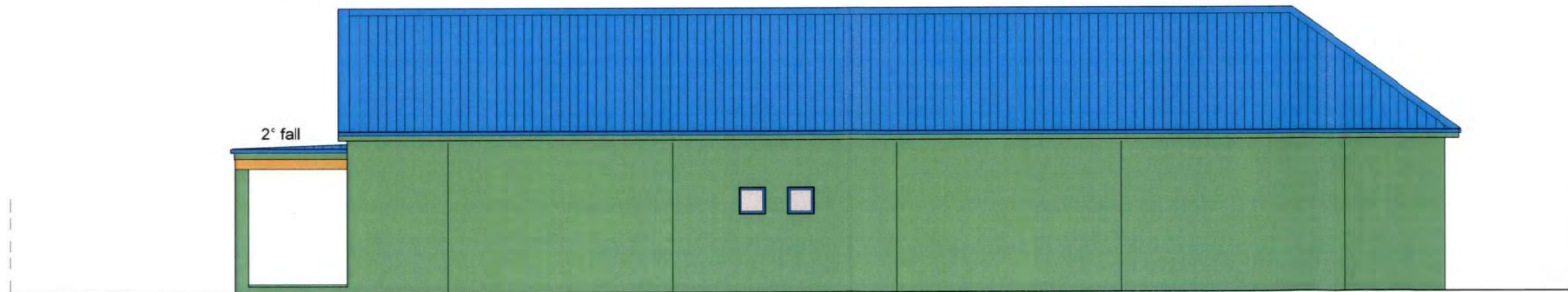
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DATE
Nov 2021
DRAWING NO
JP-PLN-01
REVISION
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EAST ELEVATION Scale 1:100



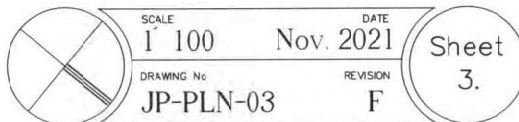
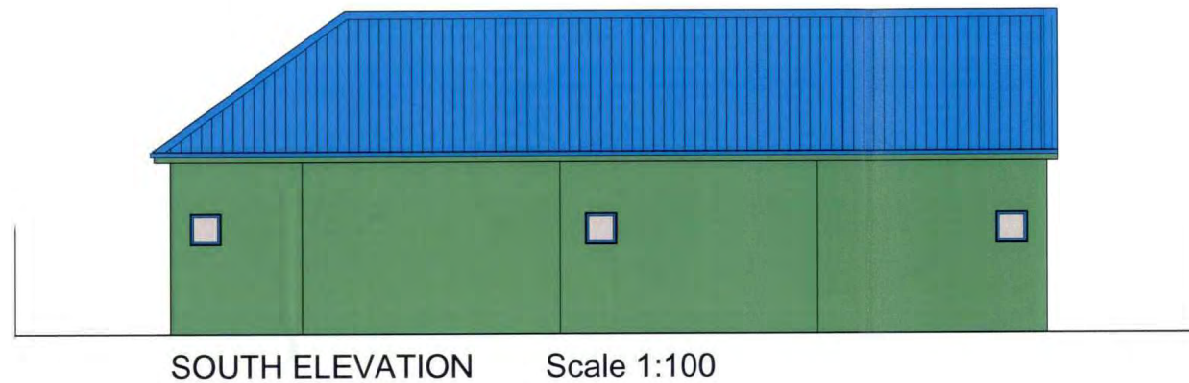
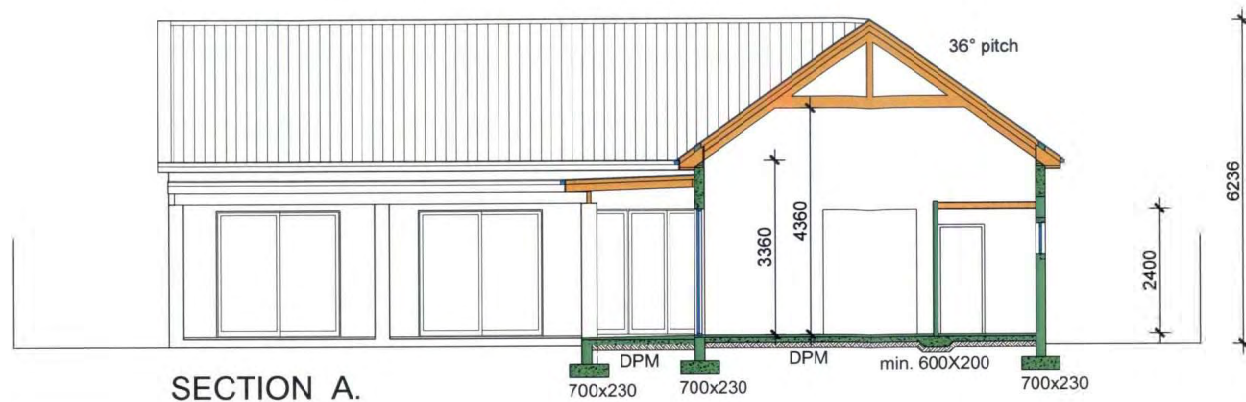
NORTH ELEVATION Scale 1:100

	SCALE	DATE	Sheet 2.
	1:100	Nov. 2021	
	DRAWING No	REVISION	
	JP-PLN-02	F	

PROJECT
LA LEIGH
39 Buitekant Street
ERF
515 YZERFONTEIN

DRAWING
New Building
SIGNATURE

	Monica Broeksma
	Pr. Snr. Arch. T - Reg. No. ST 2324
	23 First Avenue Yzerfontein
	Tel 082 5600 993 monicaesign@nwweb.co.za



PROJECT
LA LEIGH
39 Buitekant Street
ERF 515 YZERFONTEIN

DRAWING
New Building - Offices
SIGNATURE



Monica Broeksma
Pr. Snr. Arch. T - Reg. No. ST 2324
23 First Avenue Yzerfontein
Tel 082 5600 993 monicaesign@mweb.co.za

ROOF CONSTRUCTION

VERANDAH ROOF: 2° fall

0,5mm thick ASTM 446 Grade E HHR Robertson Clipdek continuous galvanised roof sheeting with vertical over-laps and fixing to Manufacturer's specification with gray Colormet finish on 76 x 50mm purlins @ 1000mm crs on 152 x 50mm rafters @ 1000mm crs
67 x 231mm Cape Lam edge and end beams on 290 x 290mm solid concrete brick pillars as indicated on plan.
Rafters fixed to walls with galv. truss hangers. Rafters fixed to truss hangers with min. 2No. 12mm Ø bolts each (bolted through) Truss hangers fixed to walls with min. 12mm Ø Hilti chemical anchors each.
Rafters tied down to pillars with 1,2 x 30mm galv. hoop iron straps.

PITCHED ROOF: 38° pitch

Roof sheeting, rafters and purlins as described for verandah roof.
Roof trusses by EPRESS ROOFING & CEILINGS (PTY) Ltd 114 x 38mm wall plates
Roof bracing: 114 x 38mm diagonal end bracing at 45° nailed to u/s rafters at each end of the roof and in both planes.
FLASHING: Ridge, corner and side wall flashing and cranking details to Manufacturer's specification. All as supplied by Manufacturer with same finish and colour to match roof sheeting.

RAINWATER GOODS:

Min. 100mm VHV aluminium box gutters, finish to match roof, fixed to 220x12mm medium density plain Nutecc-cement fascia boards with finish to match roof sheeting. 85 x 50mm aluminium downpipes and fixings. Downpipes to discharge rainwater into pre-cast concrete channels 1,5m from dwelling / buildings or into storm water drains.

CEILINGS FOR PICHED ROOF:

100mm thick 'Lambdaboard' fire resistant ceiling board & insulation with min. thermal value of R 3,7 and to have white matt mineral coated fibre glass tissue finish with nail up ceiling application. Boards fixed between truss rafters.
Seamless finish with Plascon EZ Joint and EZ Skim system.
50x38mm branning on-edge @ 1220mm c in both directions.

CEILINGS UNDER NEW FLAT ROOF:

50mm thick 'Lambdaboard' fire resistant ceiling board & insulation with thermal value and to have white matt mineral coated fibre glass tissue finish with nail up ceiling application. Seamless finish with Plascon EZ Joint and EZ Skim system.
50x38mm branning on-edge @ 1220mm c in both directions.
6mm thick Nutecc-cement ceiling boards fixed to 50 x 38mm branning at 600mm crs with paint finish.

CEILINGS AND ROOF TO TOILETS:

6mm thick Nutecc-cement nail up ceiling board fixed to 114 x 50mm rafters @ 600mm crs and with 9mm thick Nutecc-cement boards on rafters.
Ceiling to have paint finish.
Supply 75mm coved cornices to inside with paint finish

BLOCK WALL CONSTRUCTION:

BOUNDARY WALLS: 1,8m high

DCM MA 140 plain blockwork with 10mm joints - see plan
Bagged and paint finish to both faces.
Continuous brickforce every 400mm.
Two number 140 x 400mm blocks to form pier at max. 2,5m crs and max. height not exceeding 1,8m above ground. Block piers 590 x 390mm projecting on one side with expansion joints every 5,0m in length on base for cantilevered loading. Pier blocks to have 15MPa concrete core filled and tampered well in two stages with reinforcing:
1R10, 150 x 620mm in 750 x 230mm concrete base,
1Y12 U-Bar, 270 x 700mm,
2Y12 Straight bars, 1900mm long.
Plastered coping to slope towards erf.
None wall and concrete strip footing to exceed boundary line.

BLOCK WALL CONSTRUCTION:

WALLS:

DCM MB190 hollow concrete blockwork walls - see plan
Plaster and paint finish to both faces.
190mm load bearing walls with 10mm joint.
Continuous brickforce every 400mm through expansion joints.
90mm hollow concrete block walls internally.
Two block beam using lintel block with reinforcing and concrete infill for openings exceeding 3,0m in length and single lintel block with reinforcing and min. 15MPa concrete infill for smaller openings and 90mm high pre-cast concrete lites for 900 and 600mm wide openings. Approved galv. block reinforcement every 2 horizontal courses for full length of wall, lapped at intersections.
Vertical and horizontal dpc to be provided at all external walls terminating 150mm min. above natural ground level.
Control butt joints every 5,0m to be 10mm wide formed with soft board and sealed with approved sealant.
25MPa concrete infill in cores on either side of control joints with Y8 bars.
Cores adjoining on both sides of door openings to have solid 25MPa concrete infill and reinforced with a single Y10 bar that extends from floor level to the top of the lintel.
Cores below top of concrete floor slab to be filled with 15MPa concrete.

DPC:

Provide 375 brick grip dpc to walls at floor level, window cills and window/door heads.
Dpc to be provided at all external reveals of doors and windows.
Dpc to be min. 150mm above ngl.
Provide 250micron Dpm under conc. surface bed.

WINDOWS AND DOORS:

Refer to Door and Window Schedule.
All windows and external doors to be dark bronze anodised aluminium.
All internal doors and frames to be semi-solid timber as per Swartland Joinery.
External door frame size (opening): 895 x 2073mm with 90 x 55mm hardwood frames with 813mm wide rebale.

CILLS:

Window cills to be standard concrete block with plastered and painted finish both sides.

GLAZING:

Refer to Door and Window Schedule.
Glazing to windows and doors in excess of 1m² or less than 500mm from finished floor level to be safety glass in accordance with the National Building Regulations
Obscure glass to be confirmed by client.

FLOOR CONSTRUCTION:

GROUND STOREY CONCRETE SURFACE BED:

Floor finish: Polished 100mm thick concrete surface bed - 25Mpa concrete Ready Mix Concrete with galvanised mild steel mesh on 250 micron DPM as per USB Green on compacted sandblinding layer min. 100mm thick on well compacted clean fill.
DPM to be lapped with wall DPC.
Control joints in surface bed not to exceed 6,0m or 36m²
Bathroom floors to have sealed polished concrete surface bed as described above.

FOUNDATIONS:

90mm thick internal walls to have min. 600 x 200mm concrete strip foundation or thickening in concrete surface bed.
190mm load bearing walls to be founded on min. 700 x 230mm strip foundation with foundations to project 200mm past blockwork. Footings with 500mm mesh in foundations.
375micron DPC at all walls and window and window cills.
Depth of all foundations to be determined on site and to the approval of the local building inspector.
Contractor to confirm ground conditions & excavate footings to firm ground.
Freestanding walls on 750 x 230mm strip foundations

CONCRETE STEPS:

Concrete steps constructed on natural ground and fill - ex site with min. 150mm waist and finish to match external finish.
Risers: max. 200mm
Treads: min. 275mm each

DRAINAGE:

All drainage works as indicated on drawings.
Drainage installation to be undertaken in accordance with the National Building Regulations Part P and any requirements of the Local Authority.
Provide 5000 litre Conservancy Tank with 110mm inlet and inspection chamber to comply with Local Municipality Regulations. Provide suction head in box with cover.

DRAINAGE AND STORMWATER PIPES:

All drainage and stormwater pipes under paving, foundations and floor slabs to be encased in 100mm concrete.
No foundation to bear on sewer pipe.
Sand compaction of 300mm around sewer pipe as per PP24 SABS 0400

ELECTRICAL NOTES:

- Allow for dimmer switches for light fittings to ceiling roses, down lighters and wall lighting.
- All electrical fittings and fixtures of approved quality and to comply with energy efficiency in buildings reg.
- Business Zone 2 to have a maximum energy demand of 5 W/m² and a maximum energy consumption of 5 kW h/m² for lighting
- Should any new sanitary fittings or fixtures, requiring hot water supply, allowance shall be made for the installation of a heat pump system or Solar panels by specialist.
- This hot water service shall provide a minimum of 50% by volume of the annual average hot water heating requirement by means other than electrical resistance heating.
- Allow for galv. boxes in conc. beams (above) for light fittings (wall lighting).
- Allow for waterproof external light fittings.

ELECTRICAL INSTALLATION:

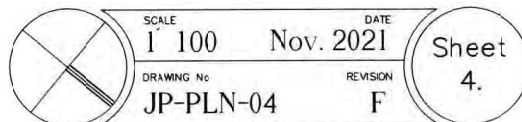
All electrical installations to be undertaken by a registered person.

ELECTRICAL FITTINGS:

All new electrical fittings and fixtures as supplied by Arora Lights or similar approved to comply to maximum energy consumption and energy efficiency in buildings.

WATER SERVICES INSTALLATION:

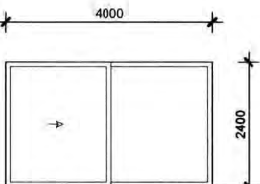
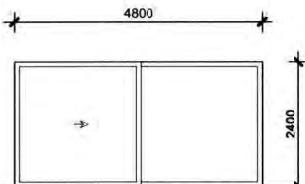
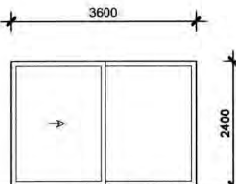
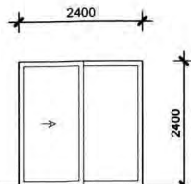
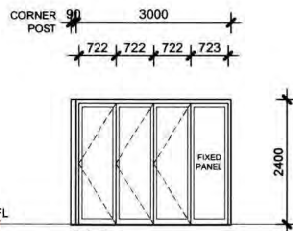
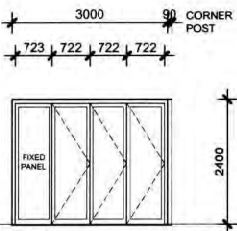
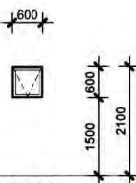
- All exposed pipes to and from the hot water cylinders and central heating systems shall be insulated with pipe insulation material.
- Hot water vessels and tanks shall be insulated with a material (blanket) achieving a minimum R-value of 2,0 including the manufacturer's installed insulation.
- Insulation on vessels, tanks and piping containing cooling water shall be protected by a vapour barrier on the outside of the insulation.
- Pipe and duct distribution system: All chilled water, hot water and refrigeration piping, conditioned air duct work and flexible ducting shall be insulated to limit heat gain or loss (or both) to be not more than 5% from source to furthest point of delivery on a system.
- Minimum R-value of pipe insulation: Internal Ø of pipe smaller than 80mm = Min. R-value of 1,00 Internal Ø of pipe larger than 80mm = Min. R-value of 1,50

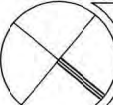


PROJECT
LA LEIGH
39 Buitekant Street
ERF
515 YZERFONTEIN

DRAWING
New Building
SIGNATURE


Monica Broeksma
Pr. Snr. Arch. T - Reg. No. ST 2324
23 First Avenue Yzerfontein
Tel 082 5600 993 monicaesign@mweb.co.za

 <p>FFL</p> <p>9,6m²</p>	 <p>11,52m²</p>	 <p>8,64m²</p>	 <p>5,76m²</p>
NUMBER : Ground Storey DG1	NUMBER : Ground Storey DG2	NUMBER : Ground Storey DG3	NUMBER : Ground Storey DG6 and DG7
POSITION : Unit 1.	POSITION : Unit 1.	POSITION : Unit 2 and Unit 5.	POSITION : Unit 4.
QUANTITY : 1	QUANTITY : 1	QUANTITY : 2	QUANTITY : 2
TYPE: Dark bronze anodised aluminium sliding door with cill - outside sliding panel.	TYPE: Dark bronze anodised aluminium sliding door with cill - outside sliding panel.	TYPE: Dark bronze anodised aluminium sliding door with cill - outside sliding panel.	TYPE: Dark bronze anodised aluminium sliding door with cill - outside sliding panel.
GLAZING: 6,38mm clear PVB lam. safety glass. Clear film/laminate	GLAZING: 6,38mm clear PVB lam. safety glass. Clear film/laminate	GLAZING: 6,38mm clear PVB lam. safety glass. Clear film/laminate	GLAZING: 6,38mm clear PVB lam. safety glass. Clear film/laminate
 <p>FFL</p> <p>7,2m²</p>	 <p>7,2m²</p>	 <p>FFL</p> <p>0,36m²</p>	
NUMBER : Ground Storey DG4	NUMBER : Ground Storey DG5	NUMBER : Ground Storey WG1, WG2, WG3, WG4 and WG5	
POSITION : Unit 3.	POSITION : Unit 3.	POSITION : WC 1 to WC 5	
QUANTITY : 1	QUANTITY : 1	QUANTITY : 5	
TYPE: Dark bronze anodised aluminium folding - sliding door and fixed panel with cill - opening out.	TYPE: Dark bronze anodised aluminium folding - sliding door and fixed panel with cill - opening out.	TYPE: Dark bronze anodised aluminium window: 1No. top-hung	
GLAZING: 6,38mm clear PVB lam. safety glass. Clear film/laminate	GLAZING: 6,38mm clear PVB lam. safety glass. Clear film/laminate	GLAZING: 6,38mm obscure PVB laminated safety glass. Clear film/laminate	
DOOR AND WINDOW SCHEDULE Scale 1:100			



SCALE
1" 100

DATE
Nov. 2021

DRAWING No
JP-PLN-05

REVISION
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Sheet
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PROJECT
LA LEIGH
39 Buitekant Street
ERF
515 YZERFONTEIN

DRAWING
New Building - Offices
SIGNATURE



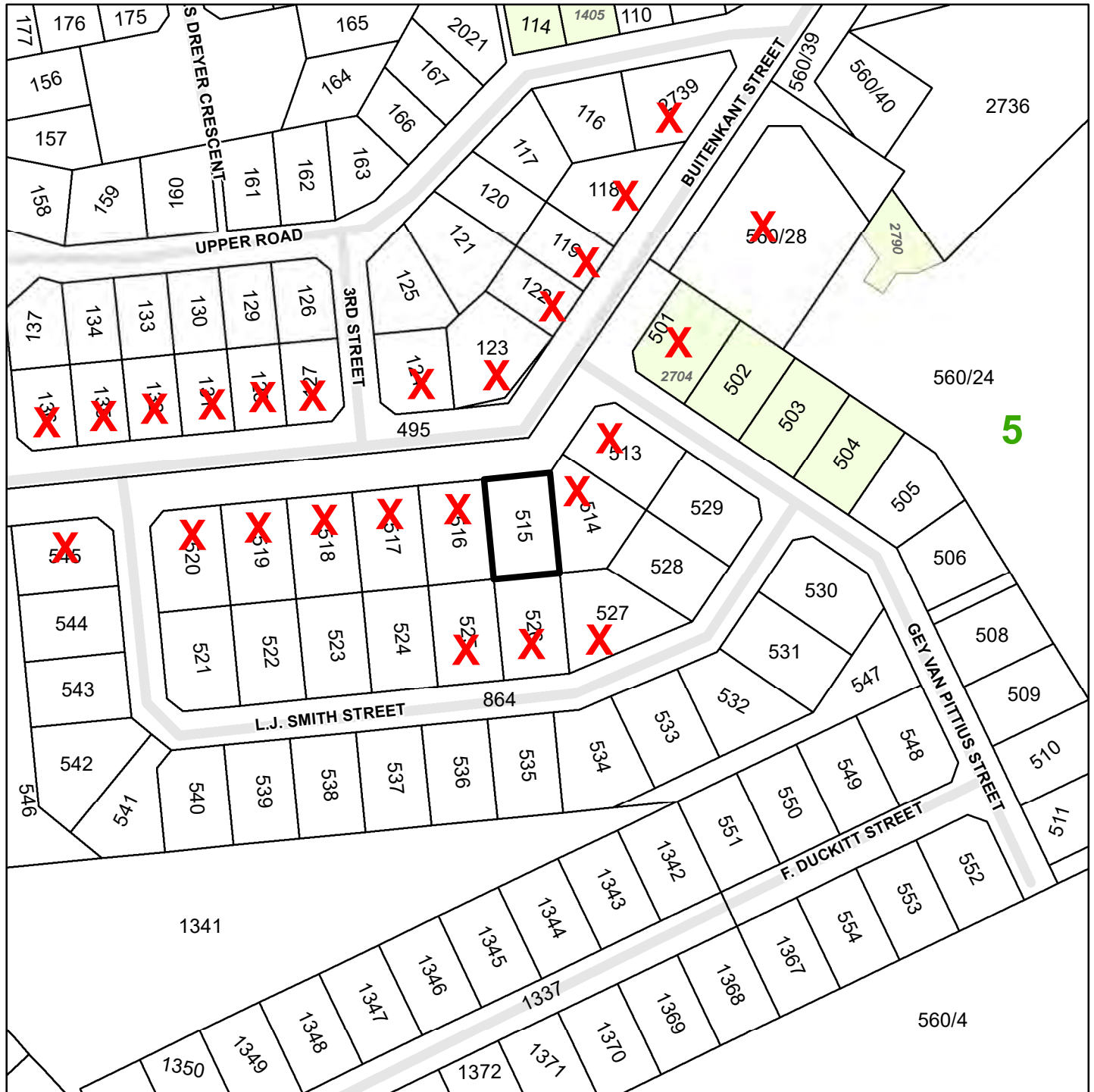
Monica Broeksma

Pr. Snr. Arch. T - Reg. No. ST 2324

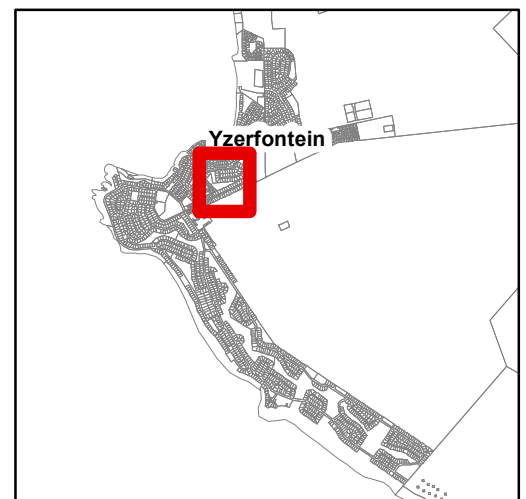
23 First Avenue Yzerfontein

Tel 082 5600 993 monicadesign@mweb.co.za

PUBLIC PARTICIPATION PLAN **PROPOSED REZONING OF ERF 515, YZERFONTEIN**



0 25 50 100 Meters



From: Gerhard Du Toit <gerharddd@courierit.co.za>
Sent: Sunday, 02 January 2022 08:32
To: Registrasie Email <RegistrasieEmail@swartland.org.za>
Subject: Objection to proposed Rezoning of Erf 515: Ref 15/3/3-14/Erf_515

Dear Sir/Madam

RE: Proposed rezoning of Erf 515

The above refers.

I am the registered co-owner of the property situated at no 2 Third Street, Yzerfontein.

I object to the proposed rezoning of erf 515 ("the property") on inter alia the following grounds:

- a) The property is situated in a residential area which is already sufficiently served with commercial property spaces. In fact, Yzerfontein has a number of vacant business zoned premises and more such would be superfluous to the village's needs;
- b) The property is situated on a blind turn and will materially impact on the traffic flow in Buitenkant Street;
- c) The rezoning may lead to the commercialisation of the residential portions of Buitenkant street, which will materially adversely impact the value, ambiance and character of the area.

Kindly acknowledge receipt hereof and keep me apprised of all further developments in respect of the application.

Yours faithfully

Gerhard Du Toit

General Manager
P: +27 21 555 6777
M: +27 82 787 9897
E: gerharddd@courierit.co.za
A: Site 10 Tower Road Cape Town Airport City

From: van Heerden, Daniel <Daniel.vanHeerden@dcs.gov.za>
Sent: Thursday, 09 December 2021 13:04
To: Registrasie Email <RegistrasieEmail@swartland.org.za>
Subject: beswaar teen erf 515

Die Munisipale bestuurder

Ek is Mnr van Heerden bly in Buitekantstraat 46 erf 122 ek ervaar reeds baie verkeer en ek sukkel om met my motor uit my erf te kom en as ek my boot uittrek of terugstoot is dit nog erger ek moet partykeer mense gaan soek om die verkeer te stop om my boot in die erf in te kry in die stil tye, en oor vakansietyd is dit nog erger ek moet my boot by andermense gaan parkeer tot dit stiller raak as daar nog n winkel by erf 515 kom sal ek glad nie daaruit kan kom nie

Hiermee vra ek dat dit hoogs frustrerend is om daardie besige pad te ervaar en dat daar asseblief gekyk moet na my versoek om nie winkels goed te keur nie dit gaan baie frustrasie op my plaas

Baie dankie

Waardeer u samewerking

Danie van Heerden

CK RUMBOLL & VENNOTE / PARTNERS

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

DATE: 31 January 2022

OUR REF: YZER/12240/NJdK
YOUR REF: 15/3/3-14/Erf_515

PER HAND

Attention: Mr A Zaayman

The Municipal Manager
Swartland Municipality
Private Bag X52
MALMESBURY
7300

Sir

COMMENTS ON OBJECTIONS

PROPOSED REZONING ON ERF 515, YZERFONTEIN

Your letter dated 27 January 2022 refers (see annexure A attached). Please find attached our comments to objections as requested.

This office has been instructed by Mr Gerard Pronk, as representative of 515 On Buitekant Proprietary Limited, the owners of Erf 515, Yzerfontein to handle all town planning actions regarding the application for rezoning on erf 515, Yzerfontein.

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

- Danie van Heerden (Erf 122)
- Gerhard du Toit (Erf 127)



MUNISIPALITEIT SWARTLAND				
LEER No: 15/3/3-14/Erf_515		TREC		
Verwys Na	Inligting	Verslag	Afhanter	Kom/Taar
SSSB (A3)				
Ander Opdrag:				
SPERDATUM:				(get)BK

VENNOTE / PARTNERS:

IHJ RumbollPrL (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 / PO Box 211 / Rainierstr 16, Malmesbury, 7299
MALMESBURY (T) 022 482 1845



Figure 1: Layout of Erf 515 and surrounding objectors.



Objector	Objection	Comment from CK Rumboll & Partners
Gerhard du Toit (Erf 127)	1. The property is situated in a residential area which is already sufficiently served with commercial property spaces. In fact, Yzerfontein has a number of vacant business zoned premises and more such would be superfluous to the towns needs.	1. The surrounding properties consist mainly of Business and Residential Zoned properties. The proposed development to utilise the property as a Business premises (for example offices or shops) will not adversely affect the character of the area, as the property is located directly adjacent to the central business district (CBD) of Yzerfontein and the precedent to develop Buitekant Street (Activity Street) as a business corridor has already been set. The proposal will therefore contribute to the already established business corridor.

VENNOTE / PARTNERS:

IHJ RumbollPrL (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 / PO Box 211 / Rainierstr 16, Malmesbury, 7299


MALMESBURY (T) 022 482 1845

		 <p>ACTIVITY STREET</p> <p>The proposal to rezone Erf 515, Yzerfontein, to Business Zone 2 is an market driven decision. Given the fact that Erf 122, Yzerfontein, (opposite Erf 515) is zoned Residential Zone 1 and are being used for commercial purposes indicates that there is still a shortage of available business properties / buildings in the area.</p>
	<p>2.The property is situated in a blind turn and will materially impact on the traffic flow in Buitekant Street</p>	<p>2. Due to the width of the road reserve, the road may be transformed into a two way lane in the future. This will remove all possible negative traffic impacts.</p> <p>There is sufficient viewing distance to safely turn onto Erf 515, without causing any safety hazards. See figures below. Due to the property being situated on a turn, drivers tend to reduce speed at a turn, further reducing any safety risks to the property.</p> 

VENNOTE / PARTNERS:

IHJ RumbollPrL (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 / PO Box 211 / Rainierstr 16, Malmesbury, 7299
MALMESBURY (T) 022 482 1845

		 <p>3. The rezoning may lead to the commercialisation of the residential portions of Buitekant Street, which will materially adversely impact the value, ambiance and character of the area.</p> <p>3. Refer to point 1. The precedent to develop Buitekant Street (Activity Street) as a business corridor has already been set. The proposal will therefore not have an adverse impact on the character of the area, as the commercial character already exist around erf 515.</p> <p>Also, in terms of 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: <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></p>
Danie van Heerden (Erf 122)	<p>4. We already experience a lot of traffic and struggle to access the road from our property, especially if we have our boat. In the holiday season it is even worse.</p>	<p>4. Since Erf 122 is located within the CBD of Yzerfontein and is located along an activity street, it is common for such an area to experience higher traffic volumes. The illegal commercial use on Erf 122 may also contribute to the higher traffic volume in the area, as well as to and from the property.</p>
	<p>5. I am very frustrated by the busy roads and hereby ask that the business / shops do not be approved.</p>	<p>5. Refer to point 4. The fact that Erf 515, Yzerfontein, is following the right procedures to operate a business premises should be positively considered.</p>

VENNOTE / PARTNERS:

IHJ RumbollPrL (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 / PO Box 211 / Rainierstr 16, Malmesbury, 7299
MALMESBURY (T) 022 482 1845

Considering the above, it is evident that the proposed development will not have a significant impact on the surrounding properties or built environment.

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

Kind regards



NJ de Kock
VIR CK RUMBOLL EN VENNOTE

VENNOTE / PARTNERS:

IHJ RumbollPrL (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 / PO Box 211 / Rainierstr 16, Malmesbury, 7299
MALMESBURY (T) 022 482 1845

Annexure A

OBJECTIONS



CLEAN AUDITS SINCE 2010/11



*Ons gee gestalte aan 'n beter toekoms!
We shape a beter future!
Sibumba ikamva elingcono!*

File ref: 15/3/3-14/Erf_515

Enquiries:
Ms D N Stallenberg

27 January 2022

C K Rumboll & Partners
P O Box 211
MALMESBURY
7299

Dear Sir/Madam

PROPOSED REZONING ON ERF 515, YZERFONTEIN

Your application with reference YZR/12240/NJdk dated 14 November 2021 refers.

Kindly find attached the objection received by Danie van Heerden and Gerhard du Toit 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

From: Gerhard Du Toit <gerhardd@courierit.co.za>
Sent: Sunday, 02 January 2022 08:32
To: Registrasie Email <RegistrasieEmail@swartland.org.za>
Subject: Objection to proposed Rezoning of Erf 515: Ref 15/3/3-14/Erf_515

Dear Sir/Madam

RE: Proposed rezoning of Erf 515

The above refers.

I am the registered co-owner of the property situated at no 2 Third Street, Yzerfontein.
I object to the proposed rezoning of erf 515 ("the property") on *inter alia* the following grounds:

- a) The property is situated in a residential area which is already sufficiently served with commercial property spaces. In fact, Yzerfontein has a number of vacant business zoned premises and more such would be superfluous to the village's needs;
- b) The property is situated on a blind turn and will materially impact on the traffic flow in Buitenkant Street;
- c) The rezoning may lead to the commercialisation of the residential portions of Buitenkant street, which will materially adversely impact the value, ambiance and character of the area.

Kindly acknowledge receipt hereof and keep me apprised of all further developments in respect of the application.

Yours faithfully

Gerhard Du Toit
General Manager
P: +27 21 555 6777
M: +27 82 787 9897
E: gerhardd@courierit.co.za
A: Site 10 Tower Road Cape Town Airport City
Disclaimer:www.courierit.co.za
Please consider the environment before printing this email.

From: van Heerden, Daniel <Daniel.vanHeerden@dcs.gov.za>
Sent: Thursday, 09 December 2021 13:04
To: Registrasie Email <RegistrasieEmail@swartland.org.za>
Subject: beswaar teen erf 515

Die Munisipale bestuurder

Ek is Mnr van Heerden bly in Buitekantstraat 46 erf 122 ek ervaar reeds baie verkeer en ek sukkel om met my motor uit my erf te kom en as ek my boot uittrek of terugstoot is dit nog erger ek moet partykeer mense gaan soek om die verkeer te stop om my boot in die erf in te kry in die stil tye, en oor vakansietyd is dit nog erger ek moet my boot by andermense gaan parkeer tot dit stiller raak as daar nog n winkel by erf 515 kom sal ek glad nie daaruit kan kom nie

Hiermee vra ek dat dit hoogs frustrerend is om daardie besige pad te ervaar en dat daar asseblief gekyk moet na my versoek om nie winkels goed te keur nie dit gaan baie frustrasie op my plaas

Baie dankie


Waardeer u samewerking

Danie van Heerden

17

Michael Matthews & Associates
SUITE D1 WESTLAKE SQUARE
1 WESTLAKE DRIVE, 7945
TOKAI
Cape Town
Tel: 021 702 3070

Prepared by me


CONVEYANCER
DAMIAN WINSTON ENSLIN
(LPCM 84785)

Deeds Office Registration fees as per Act 47 of 1937		
	Amount	Office Fee
Purchase Price	R. <u>1 180 000.00</u>	R. <u>1283.00</u>
Reason for Exemption	Category Exemption.....	Exemption i t o. Sec/Reg..... Act/Proc.....

T 000051963 / 2021

DEED OF TRANSFER

BE IT HEREBY MADE KNOWN THAT

HANNELI LE ROUX LPCM 92162

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

The Trustees of C J DU TOIT FAMILIETRUST
Registration Number IT5324/1997

signed at Prince Alfred Hamlet on 23 AUGUST 2021



And the appearer declared that:

Whereas the Transferor had truly and legally sold the undermentioned property on 24 May 2021 by Private Treaty;

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

515 ON BUITENKANT PROPRIETARY LIMITED
Registration Number 2021/778605/07

or its assigns, in full and free property

ERF 515 YZERFONTEIN
IN THE SWARTLAND MUNICIPALITY
DIVISION MALMESBURY, PROVINCE OF THE WESTERN CAPE

IN EXTENT 805 (Eight Hundred and Five) square metres

FIRST TRANSFERRED by Deed of Transfer No. T6978/1984 with General Plan No. T.P 10142 relating thereto and **HELD BY** Deed of Transfer No. T33465/2005.

A. **SUBJECT** to the conditions referred to in Certificate of Consolidated Title No. T17824/1980.

B. **SUBJECT FURTHER** and **ENTITLED** to the benefit of the condition referred to in the endorsement dated 31 March 1954 on Deed of Transfer No. T19514/1947, which endorsement reads as follows:

"By Deed of Transfer No 4692/1954 Portion 12 conveyed by Para. 2 thereof is made subject to a condition re erection of fences and cost and upkeep thereof in favour of the remainder of the property held by Para. 2 hereof; As will more fully appear on reference to the said Deed of Transfer."

C. **SUBJECT FURTHER** as contained in Deed of Transfer No. T6978/1984 to the following conditions imposed by the Administrator of the Province of the Cape of Good Hope in terms of Ordinance No 33 of 1934 with the approval of the establishment of the Yzerfontein Township Extension No. 2, namely:

1. Any words and expressions used in the following conditions shall have the same meaning as may have been assigned to them by the regulations published under Provincial Notice Nr. 623 dated 14 August 1970.
2. In the event of a Town Planning Scheme or any portion thereof applying or being made applicable to this erf, any provisions thereof which are more restrictive than any conditions of title applicable to this erf shall take precedence. Furthermore, nothing in these conditions shall be construed as overriding the provisions of section 17 of Ordinance No. 19 of 1976, as amended.
3. No building on this erf shall be used or converted to use for any purpose other than permitted in terms of these conditions.

4. The owner of this erf shall, without compensation, be obliged to allow gas mains, electricity, telephone and television cables and/or wires and main and/or other waterpipes and the sewage and drainage, including stormwater or any other erf or erven inside or outside this township to be conveyed across this erf, if deemed necessary by the local or any other statutory authority and in such manner and position as may from time to time be reasonably required. This shall include the right of access to the erf at any reasonable time for the purpose of constructing, altering, removing or inspecting any works connected with the above.
5. The owner of this erf shall be obliged, without compensation, to receive such material or permit such excavation on the erf, as may be required to allow use of the full width of the street and provide a safe and proper slope to its bank owing to difference between the levels of the street as finally constructed and the erf, unless he elects to build retaining walls to the satisfaction of and within a period to be determined by the local authority.
6. (a) This erf shall be used solely for the purpose of erecting thereon one dwelling or other buildings for such purposes as the Administrator may, from time to time after reference to the Townships Board and the local authority, approve, provided that if the erf is included within the area of a Town Planning Scheme, the local authority may permit such other buildings as are permitted by the scheme subject to the conditions and restrictions stipulated by the scheme.
- (b) No building or structure or any portion thereof except boundary walls or fences, shall except with the consent of the Administrator, be erected nearer than 5 metres to the street line which forms a boundary of this erf, nor within 3 metres of the rear of 1,5 metres of the lateral boundary common to any adjoining erf, provided that with the consent of the local authority-
- (i) an outbuilding used solely for the housing of motor vehicles and not exceeding 3 metres in height, measured from the ground floor of the outbuilding to the wall-plate thereof, may be erected within such side and rear spaces, and any other outbuilding of the same height may be erected within the rear space and side space for a distance of 12 metres measured from the rear boundary of the erf, provided that in case of a corner erf the distance of 12 metres shall be measured from the point furthest from the streets abutting the erf;
- (ii) an outbuilding in terms of subparagraph (i) may only be erected nearer to a lateral or rear boundary of a site than the above prescribed spaces, if no windows or doors are inserted in any wall facing such boundary.
- (c) On consolidation of this erf or any portion thereof with any abutting erf which is subject to the same conditions as herein set forth these conditions shall apply to the consolidated holding as if it was one erf.
- (d) In the event of this erf being subdivided each subdivided portion, other than any portion deducted for road or similar purposes, shall be subject to the conditions herein set forth as if it were the original erf.



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

The Trustees of C J DU TOIT FAMILIETRUST

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

515 ON BUITENKANT PROPRIETARY LIMITED

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 180 000,00** (One Million One Hundred and Eighty 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

20 October 2021

in



Signature of appearer q.q.

In my presence



Registrar of Deeds



AKTEBESORGERCERTIFIKAAT

Ek, die ondergetekende

MARIUS CHRISTO VAN ZYL

'n Aktebesorger wat woon en praktiseer te Malmesbury, in die Provinsie Wes-Kaap sertifiseer hiermee as volg:

1. Dat 515 On Buitenkant Proprietary Limited (Registrasienommer 2021/778605/07), die geregistreerde eienaar is van die volgende eiendom, naamlik

ERF 515 Yzerfontein, in die Swartland Munisipaliteit, Afdeling Malmesbury, in die Provinsie Wes-Kaap;

GROOT 805 (Agt Nul Vyf) vierkante meter

GEHOU kragtens Transportakte Nommer T.51963/2021

2. Ek het slegs die gemelde Transportakte Nommer T.51963/2021 bestudeer en die enige voorwaardes daarin geregistreer wat hersonering daarvan mag beperk is die volgende:

- 2.1 "C.3. No building on this erf shall be used or converted to use for any purpose other than permitted in terms of these conditions.

C.6.(a) This erf shall be used solely for the purpose of erecting thereon one dwelling or other buildings for such purposes as the Administrator may, from time to time after reference to the Township Board and the local authority, approve, provided that if the erf is included within the area of a Town Planning Scheme, the local authority may permit such other buildings as are permitted by the scheme subject to the conditions and restrictions stipulated by the scheme."

3. Daar is geen ander serwitute, saaklike regte of voorwaardes in gemelde Transporakte Nommer T.51963/2021 geregistreer wat die gemelde eiendom beswaar of bevoordeel nie.



4. Hierdie inligting is verkry uit Transportakte Nommer T.51963/2021 en 'n aktekantoor drukstuk van Erf 515 Yzerfontein gedateer 1 Maart 2022.

GEDATEER TE MALMESBURY OP 1 MAART 2022.



M C VAN ZYL
TRANSPORTBESORGER

----- Forwarded message -----

From: **Marius van Zyl** <Marius@dupmos.co.za>

Date: Mon, 7 Mar 2022 at 15:27

Subject: ERF 515 YZERFONTEIN

To: CK Rumboll and Partners Planning <planning2@rumboll.co.za>

Goeiedag Mnr De Kock

U epos van 7 deser verwys.

Ons kan ongelukkig nie 'n opinie deelmaak van die aktebesorgersertifikaat nie aangesien dit feitlike inhoud bevat.

Ons meld wel in paragraaf 2 van die aktebesorgersertifikaat dat die voorwaardes slegs hersonering MAG beperk.

Paragraaf C6 van die titelvoorwaardes bepaal duidelik dat die Administrateur of sy regsopvolgers toestemming kan verleen vir ander gebruike van die eiendom indien daar aan die nodige vereistes voldoen word.

Die doel van die aktebesorgersertifikaat is juis om die aandag te vestig op hierdie tipe voorwaardes wat die gebruik van 'n eiendom kan beperk maar nie noodwendig verhoed nie. Dit hang van die munisipaliteit af of hulle gaan aandrang op 'n aansoek om verwydering van die voorwaarde uit die akte en/of hulle bloot met 'n aansoekproses wat deur die klousule gemagtig word, afwykende gebruik gaan toelaat.

U is welkom ons my korrespondensie en kommentaar op die aktebesorgersertifikaat ook aan die munisipaliteit voor te lê.

Ons vertrou u vind dit so in orde.

Indien u enige verdere navrae het, verneem ons graag van u.

Vriendelike Groete,

MARIUS VAN ZYL

SENIOR PARTNER

OFFICE NR: 022 482 1101

EMAIL: marious@dupmos.co.za

ADDRESS: 13 Piet Retiefstr, Malmesbury, 7300

POSTAL: P.O. Box 5, Malmesbury, Docex 2, 7299

www.dupmos.co.za



DU PLESSIS & MOSTERT
Attorneys | Notaries | Conveyancers

ANNEXURE L

Ref Number	3733016	//
Meta Type	Correspondence	//
Name	BESWAAR TEEN VOORGESTELDE OPHEFFING VAN BEPERKENDE	//
Originator	LEATITIA LAMPRECHT	//
ReturnInvalidEmail		//
Tittle		//
Originating Sub Office		//
To	File File [file@swartland.org.za]	//
File No.	15/3/5-14/Erf_515	//
Language	Afrikaans	//
Type	E-Mail	//
Received Date	2022-05-24	//
Originating Organisation	LEATITIA LAMPRECHT	//
Covid Form		//
Covid Form Status		//
Document Date	2022-05-24	//
Access Level	Public	//
Acknowledge to E-Mail		//
Acknowledge to Cel		//
Stand No	515	//
Flow Indicator	Incoming	//
	<p>A2015/3/5-14/Erf_515 Ulynn Julies Senior Administrative Officer Records & Archives T: 022 487 9400 F: 022 487 9440 Ext: 2231 -----Original Message----- From: Laetitia Lamprecht Sent: Tuesday, 24 May 2022 08:17 To: Registrasie Email Cc: ICE Jannie Lamprecht Subject: Hersonerig van erf 515 YZ Verwysing 15/3/5-14Erf515 geleë te 39 Buitenkantstr Yzerfontein. Vir aandag asb. Die Munisipale Bestuurder by Swartland. Alwyn Burger of Herman Olivier. Voorgestelde opheffing van beperkende voorwaardes op erf 515.(Kennisgewing 85/2021/2022 NAAM: JK&AJ LAMPRECHT ADRES: Eienaars van LJ SMIT STRAAT 10 (Erf 525) en BUITENKANTSTRAAT (erf 516) KONTAKNR 0845109701 Eposadres: laetitia.lamprecht@gmail.com Kommentaar/Beswaar Ons het 22jaar gelede bogenoemde eiendomme aangeskaf as ons aftreeplek-oor die jare baie kapitaal ingeploeg om dit gerieflik te kry-ons leefruite is na Buitenkanstraat se kant toe-met die oop erf voor ons (erf 516) is n lieflike stukkie see uitsig en dit skep die gevoel van ruimte en na aan die natuur. Die natuurlike plantegroei op die oop erwe (515&516) demp ook die geraas vd besige padverkeer. Indien daar besigheidsregte aan erf 515 toegestaan word sal dit beslis die rustigheid, atmosfeer en gevoel aan n oop ruimte geweldig inkort agv verkeers-aktiwiteite.Dit behoort al die eienaars te verontref soos op die skaal aangedui vir publieke deelname. Verder: 1. Wat sal die uitwerkingvan opheffing van sekere voorwaardes vir die omliggende/aangrensende woonhuise se eiendomswaarde wees? 2.Wat en wie sal polisieër sou eienaarskap op die perseel van hande verwissel met n besigheidslisensie, daar kan geen waarborg wees dat daar by die voorskrifte gehou word nie, net die toekoms sal dit leer. n</p>	

Message

Nuwe eienaar kan dalk ander motiewe hê as net 'sprekkamers'. 3. Is dit regtig in die publiek se belang om nog 'sprekkamers' reg op die voorstoep van hul gevestigde eiendom op te rig? Hoekom nie waar reeds n sakesentra is soos Volstruislaan/huur van kantoorruimte by Spar gebou of waar die nuwe Yzerfontein mall beplan word nie? 4. Waar sal die afvoerpype/swart vullisdromme van die gebou wees. Seker aan ons gesigsveld en nie voor aan die straat se kant nie? 5. Gaan dit by n eenvlak-gebou bly of net aan die begin tot die stof gaan lê en dan met nog verdiepings verhoog? 6. Wat van genoegsame parkering vir die voorgenome sprekkamers? Ons was al verskeie aanbiedinge gemaak om ons erf (516) daarvoor te verkoop, maar is nog glad nie gereed vir so n drastiese inkorting van ons privaatheid nie. 7. Met die toestaan van hierdie besigheidsvoorwaardes is daar persone wat baie belangstel in die uitkoms van hierdie saak- dit sal n president skep van as hierdie slaag, kan 'ek' ook mos n kans vat met 'my' plan hetsy n 'Pop-up-shop of Pop-up-business'?. Laastens, ek het my eie stukkies marknavorsing by n paar bure gedoen om hul gevoel oor die hersonering te toets. Niemand was tengunste daarvan nie, maar nie almal het die tyd, energie of deurstellingsvermoë om besware aanhangig te maak nie, makliker om net skouers op te trek en te sê, wat sal dit tog help-die koeël is klaar deur die kerk! Ek voel genoep om kommentaar te lewer aangesien ons al vir baie jare ons 'skoolgeld' betaal het op beide erwe/eiendomme om n dit gevestig te kry vir n plekkie in die son vir ons aftrede. Een voëltjie maak nie n somer nie, maar ek kan vertrou op n regverdige, goeddeurdagte herooring om residensiële voorwaardes op erf 515 te behou. Ons skep ook werk vir mense van die Darling en Swartland gemeenskap...verwers, nutmanne, tuiniers en huishulpe. Baie dankie vir u tyd en die agtergrond waarmee u my op 23 Mei goedgunstiglik op voorsien het-dit bring mens baie meer in die prentjie...en ek het ook nou geleer van 'spatial', ek is van agter die klip uitgelig met die term-opregte dank-ek voel sommer bemagtig! Vriendelike groete Laetitia (AJ LAMPRECHT) laetitia.lamprecht@gmail.com 0845109701 Sent from my iPhone DISCLAIMER: This E-Mail and any files transmitted with it are private and confidential and are for the sole use of the addressee. It may contain legally privileged material. If you are not the addressee or the person responsible for delivering to the addressee, be advised that you have received this E-Mail in error as such any use, printing, copying or distribution of it is strictly prohibited. Failure to abide by this warning could give rise to legal action and a claim for damages. If you have received this E-Mail in error please notify Swartland Municipality on (27)224879400 or E-Mail swartlandmun@swartland.org.za. Any opinions expressed in the E-Mail are those of the individual writer and not necessarily the Company's unless specifically stated otherwise. There is no intention to create any legally binding contract or other commitment through use of this E-Mail. The content of this E-Mail and any attachments should be virus tested before being downloaded to your computer. . P???t

Business Related ?

Department / Section

Service Complaint Category 1

Not Applicable

Service Complaint Category 2

Service Complaint Category 3

Email Classification

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2022-05-24 08:43

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General

Originated From

Acknowledgement

E-Mail

File Plan

Stand No

515

Received Date

2022-05-24

Document Date

2022-05-24

Type

E-Mail

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CK RUMBOLL & VENNOTE / PARTNERS

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

DATE: 30 May 2022

OUR REF: YZER/12240/NJdK

YOUR REF: 15/3/5-14/Erf_515

PER HAND

Attention: Mr A Zaayman

The Municipal Manager
Swartland Municipality
Private Bag X52
MALMESBURY
7300

Sir

COMMENTS ON OBJECTIONS

PROPOSED REMOVAL OF RESTRICTIVE TITLE CONDITIONS ON ERF 515, YZERFONTEIN

Your letter dated 26 May 2022 refers (see annexure A attached). Please find attached our comments to objections as requested.

This office has been instructed by Mr Gerard Pronk, as representative of 515 On Buitekant Proprietary Limited, the owners of Erf 515, Yzerfontein to handle all town planning actions regarding the application for removal of restrictive title conditions on erf 515, Yzerfontein.

Please note: The removal of restrictions is done in addition to the rezoning of the property from Residential Zone I to Business Zone II.

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

- Leatitia Lamprecht (Owner of Erf 516 and 525)

VENNOTE / PARTNERS:

IHJ RumbollPrL (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 / PO Box 211 / Rainierstr 16, **Malmesbury**, 7299

MALMESBURY (T) 022 482 1845



Figure 1: Layout of Erf 515 and surrounding objectors.

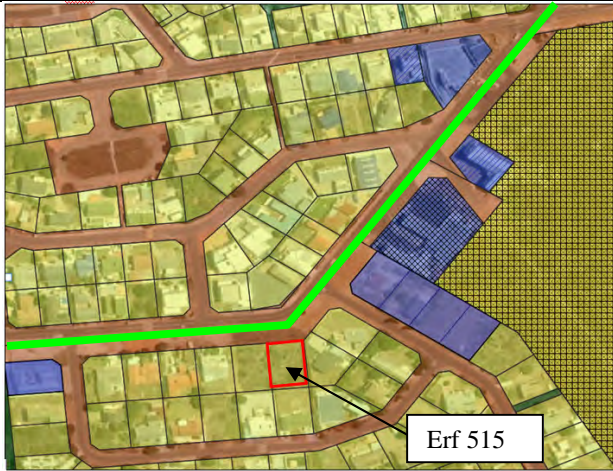
Objector	Objection	Comment from CK Rumboll & Partners
Leatitia Lamprecht (Owner of Erf 516 and 525)	1. We bought the properties 22 years ago and have invested a lot into them. Should Erf 515 be developed for business uses, the natural vegetation on Erf 515 will be removed and therefore increase the noise of traffic to our property.	1. The surrounding properties consist mainly of Business and Residential Zoned properties. The proposed development to utilise the property as a Business premises (for example offices or shops) will not adversely affect the character of the area, as the property is located directly adjacent to the central business district (CBD) of Yzerfontein and the precedent to develop Buitekant Street (Activity Street) as a business corridor has already been set. The proposal will therefore contribute to the already established business corridor.

VENNOTE / PARTNERS:

IHJ RumbollPrL (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 / PO Box 211 / Rainierstr 16, Malmesbury, 7299

MALMESBURY (T) 022 482 1845

		 <p>ACTIVITY STREET</p> <p>The proposal to rezone Erf 515, Yzerfontein, to Business Zone 2 is an market driven decision.</p> <p>The fact that a building is proposed on Erf 515 will reduce the noise of traffic much more that merely the existing natural vegetation on the property.</p>
	<p>2. What will the impact be on the surrounding land owners' property values with the removal of the restrictive title restrictions?</p>	<p>2. 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 and Spatial Development Framework 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.</p> <p>The removal will also not have an adverse impact on the property value of the surrounding properties, as the development potential of the property will still be limited to the development parameters of the Municipal Land Use Planning By-Law—2020.</p> <p>Also, in terms of the Spatial Planning Land Use</p>

VENNOTE / PARTNERS:

IHJ RumbollPrL (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 / PO Box 211 / Rainierstr 16, Malmesbury, 7299
MALMESBURY (T) 022 482 1845

		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.”
	3. Who will police these uses on the property should the current owner decide to sell the property and a new owner wishes to develop something other than what is proposed?	3. Swartland Municipality is responsible to ensure that the development proposed on Erf 515, Yzerfontein, complies with the development parameters as prescribed in the Municipal Land Use Planning By-Law—2020. Even if the current owners sells the property, the new owner/s would still be subject to these development parameters and to the uses allowed under the proposed zoning.
	4. Is it really in the public's interest that another medical consulting room be erected in this area, should it not be located within the CBD?	4. It is uncertain why the objector refers to medical consulting rooms in the objections, as that is not what was applied for with the rezoning application. As mentioned in point 1, the rezoning to accommodate a business premises in this area is a market driven decision. There is a great need for these land use rights in the area.
	5. Where will the garbage cans be placed? Probably in our eyesight and not at the street end.	5. The owners of the property have the right to place their garbage cans anywhere they feel fit on their property.
	6. Will this remain a single storey building?	6. The property will remain a single storey building. The GLA of the proposal and parking provision limit the property to only a single storey building.
	7. Is there sufficient parking space available to accommodate the business use?	7. There is sufficient parking space available to accommodate the proposed business premises.

VENNOTE / PARTNERS:

IHJ RumbollPrL (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 / PO Box 211 / Rainierstr 16, Malmesbury, 7299
MALMESBURY (T) 022 482 1845

	8. Should business rights be awarded to the property, it will set a precedent and then I to can apply for a pop up shop or business.	8. Refer to point 1. The precedent to develop Buitekant Street (Activity Street) as a business corridor has already been set. The proposal will therefore not have an adverse impact on the character of the area, as the commercial character already exist around erf 515.
	9. None of the surrounding owners are in favour of this application, but none of them have the energy to fight the process.	9. Noted

Considering the above, it is evident that the proposed development will not have a significant impact on the surrounding properties or built environment.

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

Kind regards

.....

NJ de Kock
VIR CK RUMBOLL EN VENNOTE

VENNOTE / PARTNERS:

IHJ RumbollPrL (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 / PO Box 211 / Rainierstr 16, **Malmesbury**, 7299
MALMESBURY (T) 022 482 1845

Annexure A

Objections



CLEAN AUDITS SINCE 2010/11



*Ons gee gestalte aan 'n beter toekoms!
We shape a better future!
Sibumba ikamva elingcono!*

File ref: 15/3/5-14/Erf_515

Enquiries:
Ms D N Stallenberg

26 May 2022

C K Rumboll & Partners
P O Box 211
MALMESBURY
7299

Dear Sir/Madam

PROPOSED REMOVAL OF RESTRICTIVE TITLE CONDITIONS ON ERF 515, YZERFONTEIN

Your application with reference YZR/12240/NJdK dated 29 March 2022 refers.

Kindly find attached the objection received by Leatitia Lamprecht 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: Laetitia Lamprecht Sent: Tuesday, 24 May 2022 08:17

To: Registrasie Email

Cc: ICE Jannie Lamprecht

Subject: Hersonering van erf 515 YZ Verwysing 15/3/5-14Erf515 geleë te 39 Buitenkantstr Yzerfontein.

Vir aandag asb. Die Munisipale Bestuurder by Swartland. Alwyn Burger of Herman Olivier.

Voorgestelde opheffing van beperkende voorwaardes op erf 515.(Kennisgewing 85/2021/2022

NAAM: JK&AJ LAMPRECHT ADRES: Eienaars van LJ SMIT STRAAT 10 (Erf 525) en BUITENKANTSTRAAT (erf 516) KONTAKNR 0845109701

Eposadres: laetitia.lamprecht@gmail.com

Kommentaar/Beswaar Ons het 22jaar gelede bogenoemde eiendomme aangeskaf as ons aftreeplek-oor die jare baie kapitaal ingeploeg om dit gerieflik te kry-ons leefruite is na Buitenkantstraat se kant toe-met die oop erf voor ons (erf 516) is n lieflike stukkie see uitsig en dit skep die gevoel van ruimte en na aan die natuur. Die natuurlike plantegroei op die oop erwe (515&516) demp ook die geraas vd besige padverkeer. Indien daar besigheidsregte aan erf 515 toegestaan word sal dit beslis die rustigheid, atmosfeer en gevoel aan n oop ruimte geweldig inkort agv verkeers-aktiwiteite.Dit behoort al die eienaars te verontref soos op die skaal aangedui vir publieke deelname.

Verder:

1. Wat sal die uitwerkingvan opheffing van sekere voorwaardes vir die omliggende/aangrensende woonhuise se eiendomswaarde wees?
- 2.Wat en wie sal polisieër sou eienaarskap op die perseel van hande verwissel met n besigheidslisensie, daar kan geen waarborg wees dat daar by die voorskrifte gehou word nie, net die toekoms sal dit leer. n Nuwe eienaar kan dalk ander motiewe hê as net 'spreekkamers'.
- 3.Is dit regtig in die publiek se belang om nog 'spreekkamers' reg op die voorstoep van hul gevestigde eiendom op te rig?Hoekom nie waar reeds n sakesentra is soos Volstruislaan/huur van kantoorruimte by Spar gebou of waar die nuwe Yzerfontein mall beplan word nie?
- 4.Waar sal die afvoertipe/swart vullisdromme van die gebou wees. Seker aan ons gesigsveld en nie voor aan die straat se kant nie?
5. Gaan dit by n eenvlak-gebou bly of net aan die begin tot die stof gaan lê en dan met nog verdiepings verhoog?
6. Wat van genoegsame parkering vir die voorgenome spreekkamers? Ons was al verskeie aanbiedinge gemaak om ons erf (516) daarvoor te verkoop, maar is nog glad nie gereed vir so n drastiese inkorting van ons privaatheid nie.
7. Met die toestaan van hierdie besigheids voorwaardes is daar persone wat baie belangstel in die uitkoms van hierdie saak-dit sal n president skep van as hierdie slaag, kan 'ek' ook mos n kans vat met 'my' plan hetsy n 'Pop-up-shop of Pop-up-business'?

Laastens, ek het my eie stukkie marknavorsing by n paar bure gedoen om hul gevoel oor die hersonering te toets.Niemand was tengunste daarvan nie, maar nie almal het die tyd, energie of deursettingsvermoë om besware aanhangig te maak nie, makliker om net skouers op te trek en te sê, wat sal dit tog help-die koeël is klaar deur die kerk! Ek voel genoep om kommentaar te lewer aangesien ons al vir baie jare ons 'skoolgeld' betaal het op beide erwe/eiendomme om n dit gevestig te kry vir n plekkie in die son vir ons aftrede. Een voëltjie maak nie n somer nie, maar ek kan vertrou op n regverdige, goeddeurdagte heroorweging om residensiële voorwaardes op erf 515 te behou. Ons skep ook werk vir mense van die Darling en Swartland gemeenskap...verwers, nutmanne, tuiniers en huishulpe. Baie dankie vir u tyd en die agtergrond waarmee u my op 23 Mei goedgunstiglik op voorsien het-dit bring mens baie meer in die prentjie...en ek het ook nou geleer van 'spatial', ek is van agter die klip uitgelig met die term-opregte dank-ek voel sommer bemagtig!

Vriendelike groete Laetitia (AJ LAMPRECHT)

laetitia.lamprecht@gmail.com 0845109701

18 July 2022

15/3/6-14/Erf_1262

WYK: 5

ITEM 6.4 OF THE AGENDA FOR THE MUNICIPAL PLANNING TRIBUNAL THAT WILL TAKE PLACE ON WEDNESDAY 10 AUGUST 2022

LAND USE PLANNING REPORT PROPOSED SUBDIVISION OF ERF 1262, YZERFONTEIN					
Reference number	15/3/6-14/Erf_1262	Submission date	12 April 2022	Date finalised	22 July 2022

PART A: APPLICATION DESCRIPTION						
The application for the subdivision of erf 1262, Yzerfontein, in terms of section 25(2)(d) of Swartland Municipality : Municipal Land Use Planning By-law (PG 8226 of 25 March 2020) has been received. It is proposed that Erf 1262 (1036m ² in extent) be subdivided into portion 1 (506m ² in extent) and portion 2 (529m ² in extent).						
The applicant is C K Rumboll & Partners and the owner is Zanal Foods Pty Ltd.						
PART B: PROPERTY DETAILS						
Property description (in accordance with Title Deed)	Erf 1262 Yzerfontein, situated in the Swartland Municipality; Malmesbury Division, Province Western Cape					
Physical address	10 Pikkewyn Crescent		Town	Yzerfontein		
Current zoning	Residential Zone 1	Extent (m ² /ha)	1036m ²	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		Title Deed number & date	T32578/2021		
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		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

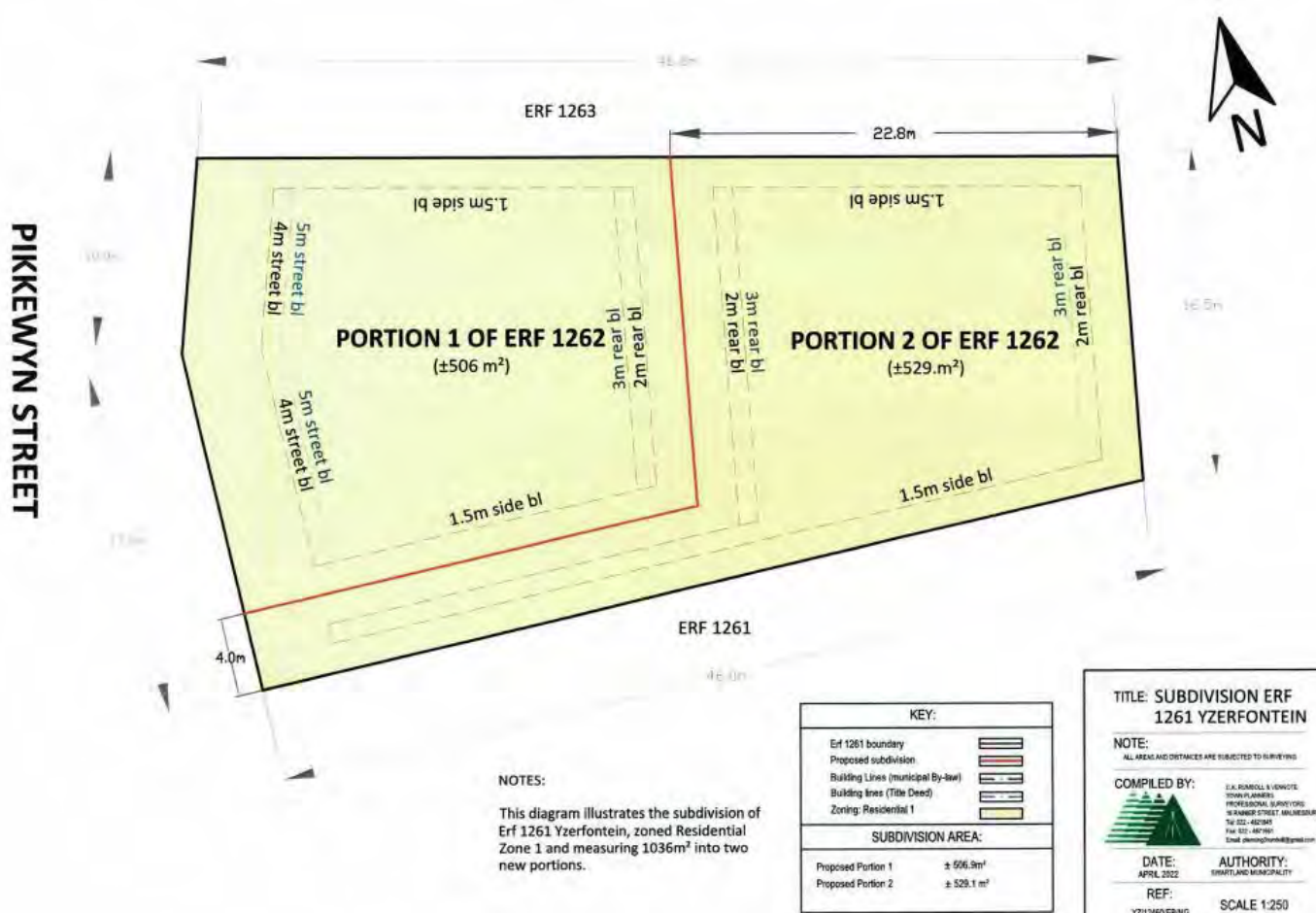
Disestablish a home owner's association		Rectify failure by home owner's association to meet its obligations		Permission for the reconstruction of an existing building that constitutes a non-conforming use		
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PART D: BACKGROUND

Erf 1262, Yzerfontein is zoned Residential zone 1 and is currently vacant.

The owner intends to subdivide the erf into 2 portions.

The applicant indicates that there is a tendency for owners to invest in smaller properties. See the subdivision plan below.



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 proposed subdivision supports principles of LUPA and SPLUMA.
2. The proposed development effectively caters for future residential needs in Yzerfontein by creating new housing opportunities.
3. The optimal use of services leads to cheaper infrastructure provision.
4. The proposed subdivision will limit urban sprawl within the Yzerfontein area through the optimal use of available residential land.
5. The proposed development complies with the guidelines set by the Swartland SDF to promoting integration in the area.
6. The development also supports the SDF by promoting densification within the existing urban areas.
7. The current zoning of the property will remain unchanged.

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>The application was advertised by means of notices sent to the affected parties by registered mail.</p> <p>A total of 13 registered notices were issued to affected parties. A total of 4 notices were uncollect, of which 3 of the same notices were also sent via e-mail.</p>						
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	1					

PART H: COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS

Name	Date received	Summary of comments	Recommendation	
			Positive	Negative
Department: Civil Engineering Services	14 April 2022	<p>1. <u>Water</u></p> <p>Elke onderverdeelde gedeelte voorsien word van 'n aparte aansluiting met meter. Hierdie voorwaarde is op blouplanstadium van toepassing.</p> <p>'n Ontwikkelingsbydrae ten bedrae van R7 340.83 t.o.v. die grootmaat verspreiding van water en R7 623.35 t.o.v. die grootmaat voorsiening van water gemaak word.</p> <p>2. <u>Riolering</u></p> <p>Elke onderverdeelde gedeelte voorsien word van 'n aparte rioolsuigtenk met 'n minimum kapasiteit van 8 000l. Die suigtenk moet vir die diensvragmotor vanuit die straat toeganklik wees. Hierdie voorwaarde is op bouplanstadium van toepassing.</p> <p>'n Ontwikkelingsbydrae t.o.v. riool ten bedrae van R3 631.57 gemaak word.</p> <p>3. <u>Strate en stormwater</u></p> <p>n Ontwikkelingsbydrae t.o.v. strate en stormwater ten bedrae van R5 410.05 gemaak word..</p> <p>4. <u>Algemeen</u></p> <p>Enige bestaande dienste wat die restant en onderverdeelde gedeeltes aan mekaar koppel, verskuif en/of ontkoppel word sodat elke erf se pypwerk op die betrokke erf geleë is. Dat indien die uitbreiding van enige bestaande dienste nodig sou wees om die onderverdeelde gedeelte van diensaansluitings te kan voorsien, dit vir die koste van die aansoeker sal wees.</p>	X	

Department: Electrical Engineering Services	14 April 2022	<ol style="list-style-type: none"> 1. Elke onderverdeelde gedeelte van 'n afsonderlike elektriese aansluiting op koste van die eienaar/ontwikkelaar voorsien word. 2. Enige verskuiwings van elektriese kables oor die betrokke onderverdeelde gedeelte verskuif sal word ten koste van die eienaar/ontwikkelaar. 3. Die elektrisiteitsaansluiting aan bestaande langspanning netwerk gekoppel sal word. 4. n Vaste koste ontwikkelingsbydrae t.o.v. grootmaat elektrisiteitsdienste ten bedrae van R10419,00 betaalbaar is op elke nuutgeskepte onderverdeelde gedeelte. 5. Kontak Daniel Mostert (078 711 0643) vir elektriese aansluiting kwotasie. 	X	
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PART I: COMMENTS RECEIVED DURING PUBLIC PARTICIPATION		SUMMARY OF APPLICANT'S REPLY TO COMMENTS	MUNICIPAL ASSESSMENT OF COMMENTS
Darren & Amanda Hunkin, Owners of erf 1264	<ol style="list-style-type: none"> 1. It is our view that the proposed subdivision will affect the property values in our street. 	<ol style="list-style-type: none"> 1. This statement is not based on any factual information, and there is no substantiated evidence suggesting that the value of the surrounding plots will be adversely affected. Furthermore, 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." 	<ol style="list-style-type: none"> 1. The municipal valuation of erf 1264 in the year 2015 was R1 685 000-00, which changed in the year 2019 to R2 316 500-00. It is not foreseen that the proposed subdivision will have a negative impact on the character of Pikkewyn Crescent. Therefore, it is also foreseen that property values in Pikkewyn Crescent will not be affected. The comments from the objector is speculative and noted.

	<p>2. The proposed dwellings will be small compared to the houses in the vicinity and give the impression of high density development.</p> <p>3. The trend to subdivide plots in Yzerfontein does not suit all areas of the town and in the case of Pikkewyn Crescent will not provide an aesthetically pleasing impression.</p>	<p>For these reasons, Swartland Municipality may not base its decision solely on the possibility that property values may be affected.</p> <p>2. According to the Swartland Municipal Spatial Development Framework (SDF), the town of Yzerfontein has a 500m² minimum erf size requirement for erven zoned Residential Zone 1. The proposed subdivision intends on subdividing Erf 1262 into two portions measuring ±506.9m² and ±529m² respectively. Furthermore, in accordance with the Swartland SDF Land Use Proposals, the property is located in Zone D which allows for medium to low density development thus, making the proposed development compliant with the Swartland SDF.</p> <p>Although two erven will be created one portion will be located at the rear of the other. The subdivision will therefore not create an extra property on the street front of Pikkewyn Crescent and the development proposal will not create small and slim properties resulting in shapes such as those in Volstruis Avenue.</p> <p>Furthermore, erf sizes in the vicinity of Erf 1262 include properties with sizes similar to what the proposed subdivision will create.</p> <p>3. The Swartland Municipal By-Law sets out specific development parameters for each zoning, complying with these development parameters ensures that the character (aesthetics) of the neighbourhood remains intact. Furthermore, it is within every property owner's right to subdivide their erven provided that the subdivision complies with the development parameters as set out in the Swartland Municipal By-Law.</p> <p>The neighbourhood in which Erf 1262 is located, does not form part of an estate and is not subject to architectural design guidelines. Consequently, the property owners are not inclined to adhere to</p>	<p>2. The spatial planning of Yzerfontein intends to increase the density of the town to 7.8 units/ha by 2028. This remains to be lower than the proposed 15 units/ha for low density residential developments.</p> <p>The proposed erf sizes of the subdivided portions complies with the minimum erf size of 500m² as prescribed by the Spatial Development Framework and is seen as low density residential development.</p> <p>The proposed subdivision is seen as densification which is promoted on provincial and municipal levels which leads to the optimal use of land and infrastructure.</p> <p>House sizes in Pikkewyn Crescent differs. The proposed erf sizes of more than 500m² allows for a coverage of 50% (250m² building footprint) which also may be double storey, giving development potential for a dwelling with a total floorarea of 500m². The development potential of the newly created erven are surely in keeping with the character of Pikkewyn Crescent.</p> <p>The proposed application is consistent with the Spatial Development Frameworks adopted on Provincial, District and Municipal levels.</p> <p>3. Very few plots in Yzerfontein consist of the development potential to be subdivided. Densification are mostly achieved by second dwellings or double dwellings on single residential properties.</p> <p>Erf 1262 has the development potential to be subdivided.</p> <p>As already mentioned at points 1 and 2, the development potential of the newly created erven will not negatively affect the character of Pikkewyn Crescent.</p>
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		<p>any other specific development parameters (architectural styles or building footprints) but those set out in the Swartland Municipal By-Law. Houses in the immediate surroundings of Erf 1262 do not appear to have the same architectural style and all have their unique character thus there is no specific vernacular which needs to be preserved.</p> <p>The argument made by the owners of Erf 1264 stating that the proposed development will not provide an “aesthetically pleasing impression” is unfounded and unsubstantiated.</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 subdivision of erf 1262, Yzerfontein, in terms of section 25(2)(d) of Swartland Municipality : Municipal Land Use Planning By-law (PG 8226 of 25 March 2020) has been received. It is proposed that Erf 1262 (1036m² in extent) be subdivided into portion 1 (506m² in extent) and portion 2 (529m² in extent).

A total of 13 registered notices were issued to affected parties. A total of 4 notices were uncollected, of which 3 of the same notices were also sent via e-mail. The commenting period for the application started on 25 April 2022 and concluded on 25 May 2022 and 1 objection and 1 letter of support were received.

The objections received were referred to the applicant for comment on 1 June 2022. The response to objections were provided to the Municipality on 15 June 2022.

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: According to the spatial planning of Yzerfontein erf 1262 is situated in zone D. Zone D is the residential area around the main beach with supporting community, sport and tourist facilities and a secondary business node. The expansion of residential uses are promoted. Low and medium density residential development are earmarked as land uses in zoned D. Furthermore the proposed erf sizes complies with the minimum erf size of 500m² as prescribed by the SDF. The proposed subdivision is seen as densification and the optimal use of land and infrastructure. The application is therefore in compliance with the spatial planning of Yzerfontein. Therefore the application complies with the principal of spatial justice.

b) Spatial Sustainability: Very few properties in Yzerfontein consist of the development potential to be subdivided. The proposed subdivision will create a more spatially compact and resource-efficient town.

The new land unit can be taxed by the municipality, creating an income for the municipality. Once developed, services can be sold to the new land unit.

Existing services are deemed sufficient to accommodate the newly created erf.

Therefore the application complies with the principle of spatial sustainability

c) Efficiency: The proposed subdivision contributes to achieving the desired densification strategy of the municipality as advocated in provincial policy. It also ensures the optimal use of land and infrastructure. Therefore the application complies with the principle of efficiency.

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 is evidence that different erf sizes will not negatively impact on the character of a residential area.

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 Spatial Development Framework(SDF)

The spatial planning of Yzerfontein indicates that Erf 1262 is situated in zone D. Zone D is the residential area around the main beach with supporting community, sport and tourist facilities and a secondary business node. The expansion of residential uses are promoted. Low and medium density residential development are earmarked as land uses in zoned D. Furthermore the proposed erf sizes complies with the minimum erf size of 500m² as prescribed by the SDF. The proposed subdivision is seen as densification and the optimal use of land and infrastructure. The application is therefore in compliance with the spatial planning of Yzerfontein.

2.3 Schedule 2 of the By-Law: Zoning Scheme Provisions

Erf 1262, Yzerfontein is zoned Residential zone 1. The proposed subdivision will not affect the zoning of the property.

2. Desirability of the proposed utilisation

Erf 1262, Yzerfontein is zoned Residential zone 1 and is currently vacant. Erf 1262 is relatively flat with no physical restrictions which may negatively affect the application.

The character of the surrounding area includes single residential properties, some with dwellings and others vacant. There are also a guesthouse and animal clinic in Pikkewyn Crescent. The proposed erf sizes of $\pm 500\text{m}^2$ are in keeping with the erf sizes of the surrounding properties and will not affect 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.

There are no restrictions in the title deed of erf 1262 which affects this application.

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 existing dwellings in Pikkewyn Crescent.

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

The application for the subdivision of erf 1262, Yzerfontein 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 1262, Yzerfontein (1036m^2 in extent) be subdivided into portion 1 (506m^2 in extent) and portion 2 (529m^2 in extent) as presented in the application;
- b) The legal certificate which authorises 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;

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 conservancy tank which is accessible for the sewerage truck from the municipality road. This condition is applicable at building plan stage;

4. ELECTRICITY

- a) The subdivided portion be provided with a separate electrical connection point and related costs be for the account of the owner/developer;
- b) Any costs incurred through the relocation of electrical cables over the subdivided portions, be for the account of the owner/developer;
- c) Any electrical interconnection be isolated and completely removed;
- d) The electricity connection be joined to the existing low voltage network;
- e) Additional to the abovementioned, the owner/developer will be responsible for the costs incurred for the installation of the electricity meter on the subdivided portion/activation of electricity to the erf. Fanie Weideman may be contacted at 082 928 3001 for a quotation;

5. DEVELOPMENT CHARGES

- a) The owner/developer is responsible for a development charge of R5 445,25 per newly created erf towards the bulk supply of regional water, at clearance stage. The amount is payable to the Swartland Municipality, valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA 9/249-176-9210);
- b) The owner/developer is responsible for the development charge of R4502,25 per newly created erf towards bulk water distribution, at clearance stage. The amount is payable to the Municipality, valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA: 9/249-174-9210);
- c) The owner/developer is responsible for the development charge of R5 612,00 per newly created erf towards sewerage, at clearance stage. The amount is payable to the Municipality, valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA: 9/240-184-9210).
- d) The owner/developer is responsible for the development charge of R8 280,00 per newly created erf towards waste water treatment works, at clearance stage. The amount is payable to this Municipality, valid for the financial year of 2022/2023 and may be revised thereafter. (mSCOA: 9/240-183-9210);
- e) The owner/developer is responsible for the development charge of R11 500,00 per newly created erf towards roads, at clearance stage. The amount is payable to this Municipality, valid for the financial year of 2022/2023 and may be revised thereafter. (mSCOA: 9/247-188-9210);
- f) The owner/developer is responsible for the development charge of R3 414,35 per newly created erf towards stormwater, at clearance stage. The amount is payable to this Municipality, valid for the financial year of 2022/2023 and may be revised thereafter. (mSCOA: 9/247-144-9210);
- g) The owner/developer is responsible for the development charge of R10 419,00 per newly created erf towards electricity, at clearance stage. The amount is payable to this Municipality, valid for the financial year of 2022/2023 and may be revised thereafter. (mSCOA: 9/253-164-9210);
- h) The Council resolution of May 2022 makes provision for a 35% discount on capital contributions to Swartland Municipality, except for condition 5.a), which is payable in full. The discount is valid for the financial year 2022/2023 and can be revised thereafter;



6. GENERAL

- a) Any existing services connecting the remainder and/or new portions, be disconnected and relocated, in order for each erf to have a separate connection and pipe work;
- b) Should it be determined necessary to expand or relocate any of the engineering services in order to provide any of the portions with connections, said expansion and/or relocation will be for the cost of the owner/developer;
- c) The approval is, in terms of section 76(2)(w) of the By-Law, valid for 5 years. All conditions of approval be implemented within these 5 years, without which, the approval will lapse. Should all the conditions of approval be met before the 5 year approval period lapses, the subdivision will be permanent and the approval period will not be applicable anymore.

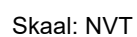
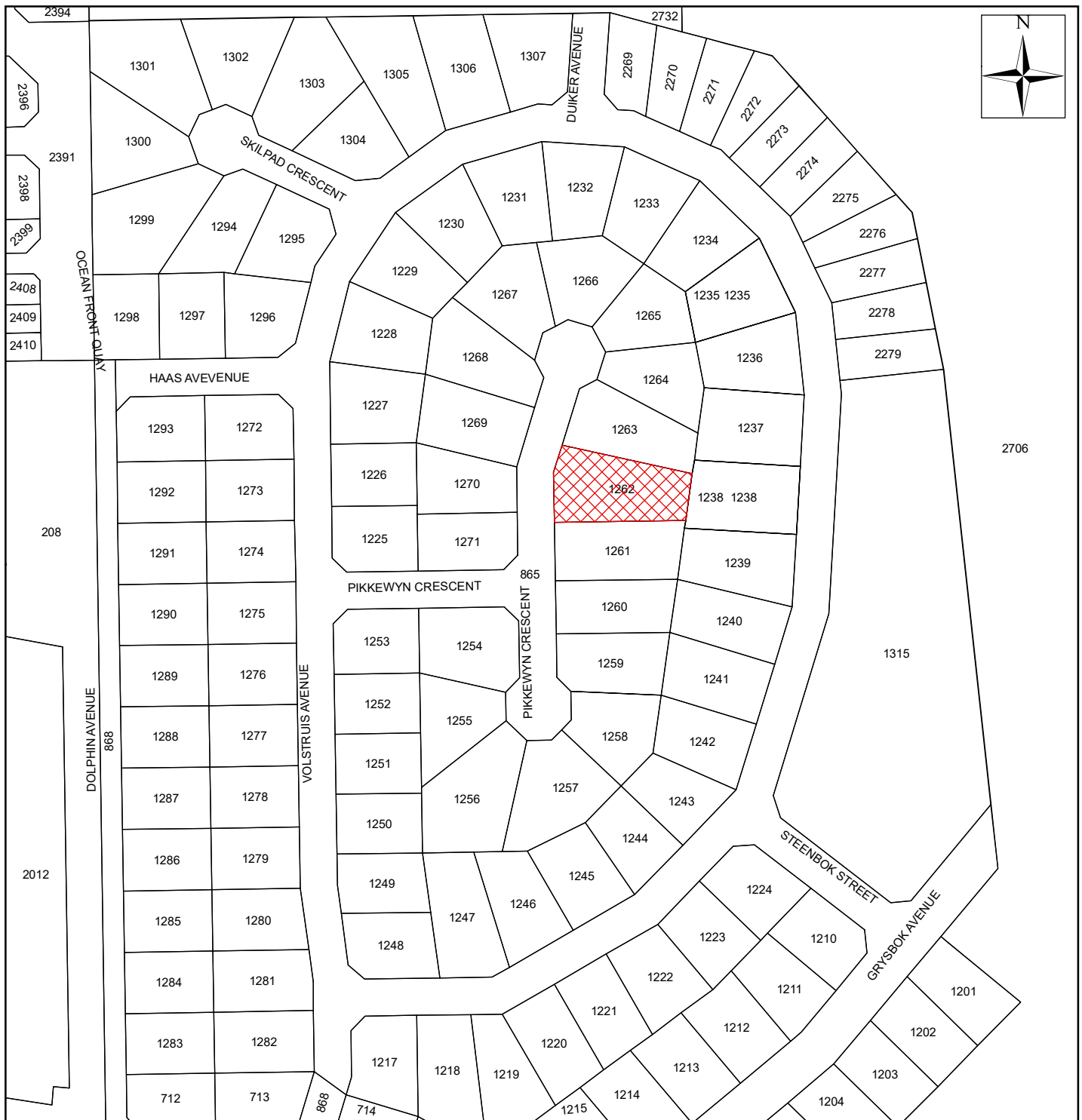
PART M: REASONS FOR RECOMMENDATION

1. The proposal is consistent with the spatial proposals of the SDF.
2. The proposal is consistent with the minimum erf size determined by the SDF, namely 500m².
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 land owners will not be negatively impacted.
7. The proposal makes additional opportunities for rural residential development available and may create additional employment opportunities.
8. The subdivision promotes the optimal utilisation of land and the existing engineering services.
9. Property values of the surrounding properties will not be affected negatively.
10. The development potential of the newly created erven are surely in keeping with the character of Pikkewyn Crescent.
11. Erf 1262 has the development potential to be subdivided unlike many other properties in Yzerfontein.

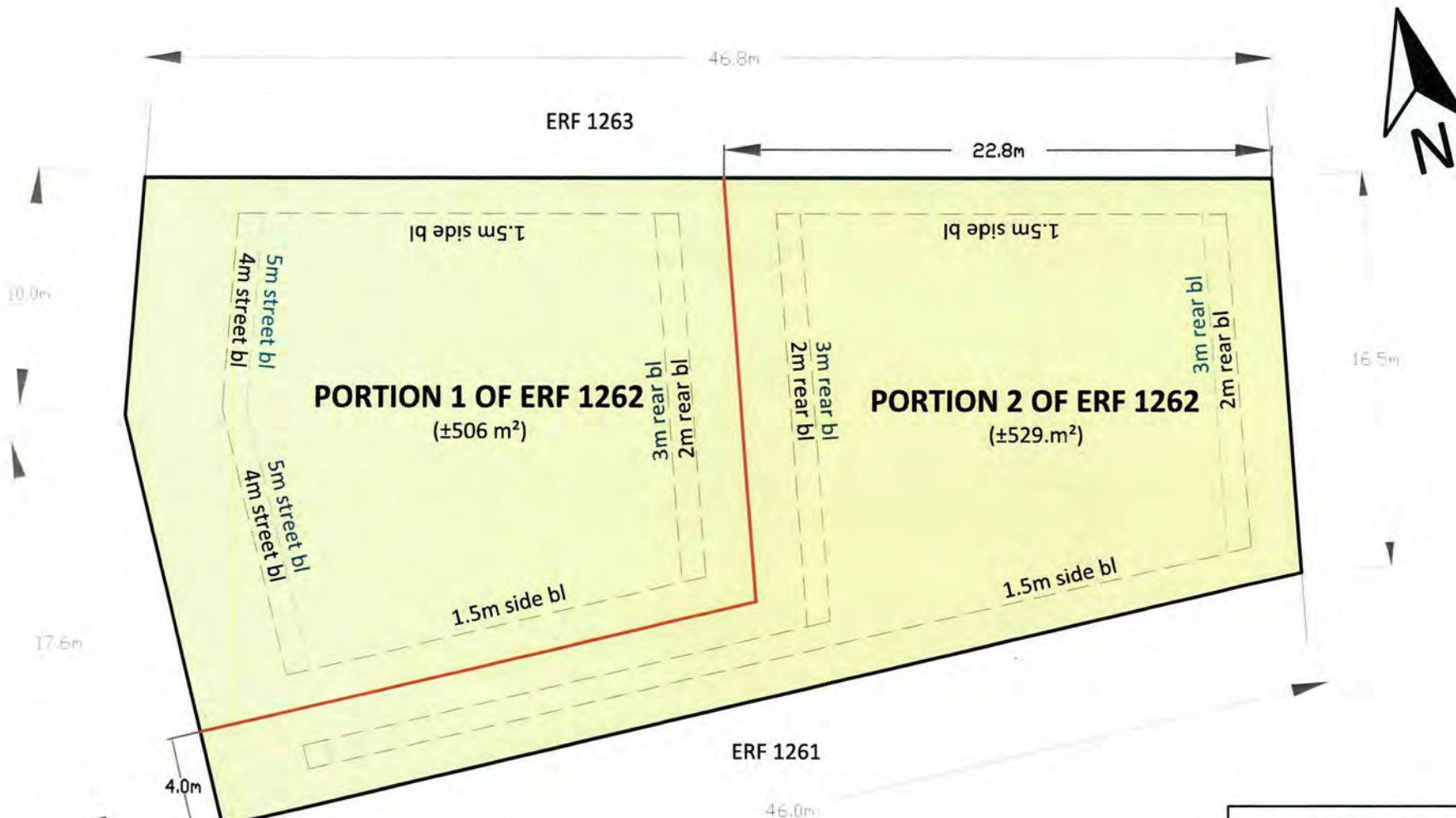
PART N: ANNEXURES

Annexure A: Locality plan Annexure B: Subdivision plan Annexure C: Public participation plan Annexure D: Objection from Darren & Amanda Hunkin Annexure E: Comments from the applicant on the objections				
PART O: APPLICANT DETAILS				
First name(s)	C.K. Rumboll and Partners			
Registered owner(s)	Zanal Foods Pty Ltd	Is the applicant authorised to submit this application:	Y	N
PART P: SIGNATURES				
Author details: AJ Burger Senior Town & Regional Planner SACPLAN: B/8429/2020				Date: 19 July 2022
Recommendation: Alwyn Zaayman Senior Manager: Built Environment SACPLAN: B/8001/2001		Recommended	<input checked="" type="checkbox"/>	Not recommended
				Date: 27 July 2022

Annexure A



PIKKEWYN STREET



NOTES:

This diagram illustrates the subdivision of Erf 1261 Yzerfontein, zoned Residential Zone 1 and measuring 1036m² into two new portions.

KEY:	
Erf 1261 boundary	
Proposed subdivision	
Building Lines (municipal By-law)	
Building lines (Title Deed)	
Zoning: Residential 1	
SUBDIVISION AREA:	
Proposed Portion 1	± 506.9m ²
Proposed Portion 2	± 529.1 m ²

TITLE: SUBDIVISION ERF 1261 YZERFONTEIN

NOTE:
ALL AREAS AND DISTANCES ARE SUBJECT TO SURVEY

COMPILED BY:
 C.K. RUMBOLL & PARTNERS
TOWN PLANNERS
PROFESSIONAL SERVICES
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DATE: APRIL 2022 AUTHORITY: SWARTLAND MUNICIPALITY

REF: YZ/12460/EB/NG SCALE 1:250

Annexure B

Ref Number	3730317	//
Meta Type	Correspondence	//
Name	OBJECTION TO PROPOSED SUBDIVISION ON ERF 1262, YZERFONTEIN	//
Originator	DH & WA HUNKIN	//
ReturnInvalidEmail		//
Tittle		//
Originating Sub Office		//
To	File File [file@swartland.org.za]	//
File No.	15/3/6-14/Erf_1262	//
Language	English	//
Type	E-Mail	//
Received Date	2022-05-16	//
Originating Organisation	DH & WA HUNKIN	//
Covid Form		//
Covid Form Status		//
Document Date	2022-05-16	//
Access Level	Public	//
Acknowledge to E-Mail		//
Acknowledge to Cel		//
Stand No		//
Flow Indicator	Incoming	//

A2015/3/6-14/Erf_1262 Ulynn Julies Senior Administrative Officer | Records & Archives T: 022 487 9400 | F: 022 487 9440 | Ext: 2231 -----Original Message-----
 From: Amanda Hunkin Sent: Monday, 16 May 2022 12:20 To: Registrasie Email ; amandahunkin@gma= il.com Subject: Proposed Subdivision Of Erf 1262, Yzerfontein- 10 Pikkewyn Crescen= t, Yzerfontein > The Municipal Manager, Malmesbury > > We, Darren Hillman Hunkin and Wilhelmina Aletta Hunkin, owners of Erf 126= 4/ 8 Pikkewyn close- Yzerfontein, hereby object to the proposed subdivision= of Erf 1262. > > It is our view that the proposed subdivision will affect the property val= ues in our street. =10The proposed dwellings will be small compared to the = houses in the vicinity and give the impression of high density development.= The trend to subdivide plots in Yzerfontein does not suit all areas of the= town and in the case of Pikkewyn close will not provide a aesthetically pl= easing impression. > > Thank you. > Kind regards/ Groete Darren & Amanda Hunkin 083 762 9147/ 083 306 7818 Communication via email- amandahunkin@gmail.com DISCLAIMER: This E-Mail and any files transmitted with it are private and c= onfidential and are for the sole use of the addressee. It may contain legal= ly privileged material. If you are not the addressee or the person responsi= ble for delivering to the addressee, be advised

Message	that you have received this E-Mail in error as such any use, printing, copying or distribution of it is strictly prohibited. Failure to abide by this warning could give rise to legal action and a claim for damages. If you have received this E-Mail in error please notify Swartland Municipality on (27)224879400 or E-Mail swartlandmun@swartland.org.za. Any opinions expressed in the E-Mail are those of the individual writer and not necessarily the Company's unless specifically stated otherwise. There is no intention to create any legally binding contract or other commitment through use of this E-Mail. The content of this E-Mail and any attachments should be virus tested before being downloaded to your computer. UID 52736	
Business Related ?		//
Department / Section		//
Service Complaint Category 1	Not Applicable	//
Service Complaint Category 2		//
Service Complaint Category 3		//
Email Classification		//
Created By	UploadFiledEmail	//
Date Created	2022-05-16 14:50	//

General	Originated From	Acknowledgement	E-Mail	File Plan
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Stand No		//
Received Date	2022-05-16	//
Document Date	2022-05-16	//
Type	E-Mail	//
Language	English	//
File No.	15/3/6-14/Erf_1262	//
Access Level	Public	//

Message

A2015/3/6-14/Erf_1262 Ulynn Julies Senior Administrative Officer | Records & Archives T: 022 487 9400 | F: 022 487 9440 | Ext: 2231 -----Original Message----- From: Amanda Hunkin Sent: Monday, 16 May 2022 12:20 To: Registrasie Email ; amandahunkin@gmail.com Subject: Proposed Subdivision Of Erf 1262, Yzerfontein- 10 Pikkewyn Crescen= t, Yzerfontein > The Municipal Manager, Malmesbury > > We, Darren Hillman Hunkin and Wilhelmina Aletta Hunkin, owners of Erf 126= 4/ 8 Pikkewyn close- Yzerfontein, hereby object to the proposed subdivision= of Erf 1262. > > It is our view that the proposed subdivision will affect the property val= ues in our street. =10The proposed dwellings will be small compared to the = houses in the vicinity and give the impression of high density development.= The trend to subdivide plots in Yzerfontein does not suit all areas of the= town and in the case of Pikkewyn close will not provide a aesthetically pl= easing impression. > > Thank you. > Kind regards/ Groete Darren & Amanda Hunkin 083 762 9147/ 083 306 7818 Communication via email- amandahunkin@gmail.com DISCLAIMER: This E-Mail and any files transmitted with it are private and c= onfidential and are for the sole use of the addressee. It may contain legal= ly privileged material. If you are not the addressee or the person responsi= ble for delivering to the addressee, be advised that you have received this= E-Mail in error as such any use, printing, copying or distribution of it i= s strictly prohibited. Failure to abide by this warning could give rise to = legal action and a claim for damages. If you have received this E-Mail in e= rror please notify Swartland Municipality on (27)224879400 or E-Mail swartl= andmun@swartland.org.za. Any opinions expressed in the E-Mail are those of = the individual writer and not necessarily the Company's unless specifically= stated otherwise. There is no intention to create any legally binding cont= ract or other commitment through use of this E-Mail. The content of this E= Mail and any attachments should be virus tested before being downloaded to = your computer. UID 52736

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CK RUMBOLL &
VENNOTE / PARTNERS

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

Date: 22 June 2022

Ref: YZ/12460/EB/NG

Per electronic mail

Attention: Mr. A. Zaayman

Municipal Manager
Swartland Municipality
Privatebag X52
MALMESBURY
7299

RESPONSE TO OBJECTIONS:
SUBDIVISION OF ERF 1262, YZERFONTEIN

Herewith formal response to the objection received from the owner(s) of Erf 1264 Yzerfontein in relation to the application for the subdivision of Erf 1262 Yzerfontein. The objection¹ was received on 16 May 2022. The response is arranged so that points raised by the objectors are emboldened and numbered which is followed by a response.

Comments and objections were received from the following parties:

- Darren & Amanda Hunkin – *Erf 1264, Yzerfontein*

1. It is our view that the proposed subdivision will affect the property values in our street.

This statement is not based on any factual information, and there is no substantiated evidence suggesting that the value of the surrounding plots will be adversely affected.

Furthermore, 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

¹ A copy of the objection is attached as *Annexure A*

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.”

For these reasons, Swartland Municipality may not base its decision solely on the possibility that property values may be affected.

3. The proposed dwellings will be small compared to the houses in the vicinity and give the impression of a high-density development.

According to the Swartland Municipal Spatial Development Framework (SDF), the town of Yzerfontein has a 500m² minimum erf size requirement for erven zoned Residential Zone 1. The proposed subdivision intends on subdividing Erf 1262 into two portions measuring ±506.9m² and ±529m² respectively. Furthermore, in accordance with the Swartland SDF Land Use Proposals, the property is located in Zone D which allows for medium to low density development thus, making the proposed development compliant with the Swartland SDF.

Although two erven will be created one portion will be located at the rear of the other (as illustrated in figure 1). The subdivision will therefore not create an extra property on the street front of Pikkewyn Street and the development proposal will not create small and slim properties resulting in shapes such as those in Volstruis street (see figure 2)

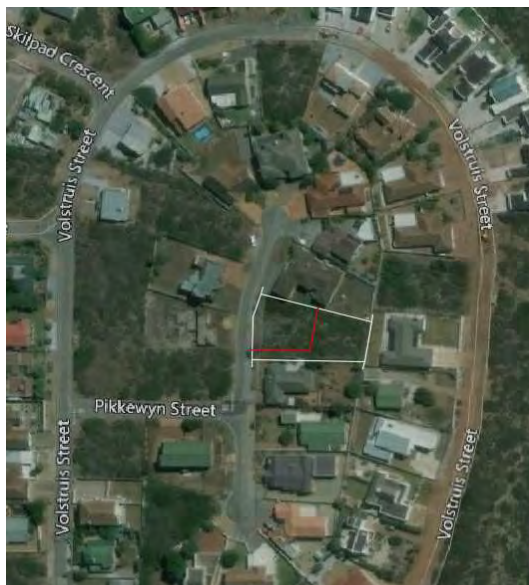


Figure 2 Erf 1262 Subdivision



Figure 1 Volstruis Street property sizes

Furthermore, erf sizes in the vicinity of Erf 1262 include properties with sizes similar to what the proposed subdivision will create. Figure 3 below illustrates the locations and sizes that are consistent with the development proposal.



Figure 3 Erf Sizes

4. The trend to subdivide plots in Yzerfontein does not suit all areas of the town and in the case of Pikkewyn Street will not provide an aesthetically pleasing impression.

The Swartland Municipal By-Law sets out specific development parameters for each zoning, complying with these development parameters ensures that the character (aesthetics) of the neighbourhood remains intact. Furthermore, it is within every property owner's right to subdivide their erven provided that the subdivision complies with the development parameters as set out in the Swarland Municipal By-Law.

The neighbourhood in which Erf 1262 is located, does not form part of an estate and is not subject to architectural design guidelines. Consequently, the property owners are not inclined to adhere to any other specific development parameters (architectural styles or building footprints) but those set out in the Swartland Municipal By-Law. Houses in the immediate surroundings of Erf 1262 do not appear to have the same architectural style and all have their unique character thus there is no specific vernacular which needs to be preserved.

The argument made by the owners of Erf 1264 stating that the proposed development will not provide an “*aesthetically pleasing impression*” is unfounded and unsubstantiated.

We therefore respectfully request the favorable consideration of the proposed subdivision of Erf 1262 Yzerfontein.

Regards



Nical Grobbelaar / Edwine Booysen

Pr. Pln A/2777/2019

CK Rumboll & Partners

VENNOTE / PARTNERS:

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

ADDRESS/ ADRES: leap@rumboll.co.za / PO Box 211 / Rainierstr 16, Malmesbury, 7299

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

VREDENBURG (T) 022 719 1014

18 July 2022

15/3/6-14/Erf_1876
15/3/13-14/Erf_1876

WYK: 5

ITEM 6.5 OF THE AGENDA FOR THE MUNICIPAL PLANNING TRIBUNAL THAT WILL TAKE PLACE ON WEDNESDAY 10 AUGUST 2022

LAND USE PLANNING REPORT PROPOSED SUBDIVISION AND EXEMPTION ON ERF 1876, YZERFONTEIN					
Reference number	15/3/6-14/Erf_1876 15/3/13-14/Erf_1876	Submission date	28 April 2022	Date finalised	2 Augustus 2022

PART A: APPLICATION DESCRIPTION

The application for the subdivision of erf 1876, Yzerfontein, in terms of section 25(2)(d) of Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020) has been received. The proposal entails the subdivision of Erf 1876 (1037m² in extent) into two portions, namely Portion A (500m² in extent) and the Remainder (536m² in extent).

Access to Portion A is proposed via a 4m wide right-of-way servitude, the registration of which is exempted from approval, in terms section 34(1)(g)(iv) of Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020).

The applicant is C K Rumboll & Partners and the owners are A. Jonker and E. Theron.

PART B: PROPERTY DETAILS

Property description (in accordance with Title Deed)	ERF 1876 YZERFONTEIN, SITUATE IN THE MUNICIPALITY OF SWARTLAND, MALMESBURY DIVISION, PROVINCE OF THE WESTERN CAPE				
Physical address	185 Dasseneiland Drive (Annexure A)	Town	Yzerfontein		
Current zoning	Residential Zone 1	Extent (m ² /ha)	1037m ²	Are there existing buildings on the property?	Y <input type="checkbox"/> N <input checked="" type="checkbox"/>
Applicable zoning scheme	Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 25 March 2020)				
Current land use	Vacant		Title Deed no. & date	T20627/2019	
Any restrictive title conditions applicable	Y <input type="checkbox"/>	N <input checked="" type="checkbox"/>	If Yes, list condition number(s)		
Any third party conditions applicable?	Y <input type="checkbox"/>	N <input checked="" type="checkbox"/>	If Yes, specify		
Any unauthorised land use/building work	Y <input type="checkbox"/>	N <input checked="" type="checkbox"/>	If Yes, explain		

PART C: LIST OF APPLICATIONS (TICK APPLICABLE)

Rezoning	<input type="checkbox"/>	Permanent departure	<input type="checkbox"/>	Temporary departure	<input type="checkbox"/>	Subdivision	<input checked="" 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 in respect of existing approval	<input type="checkbox"/>	Amendment or cancellation of an approved subdivision plan	<input type="checkbox"/>	Permission in terms of a condition of approval	<input type="checkbox"/>

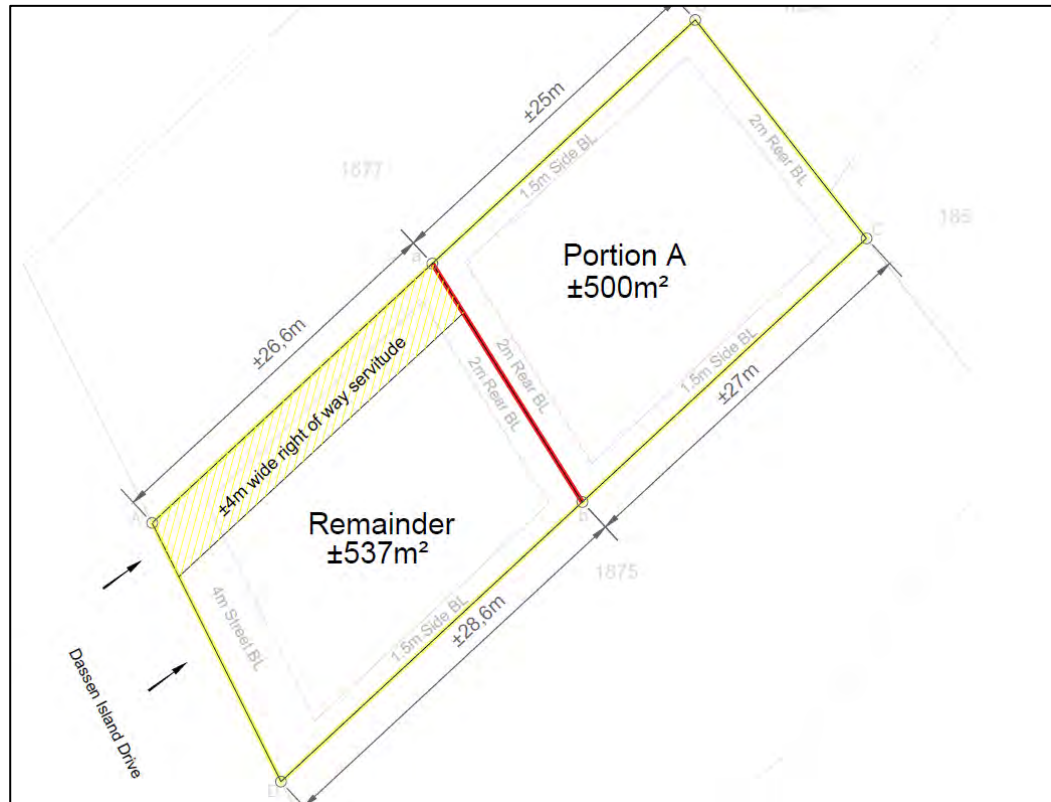
Determination of zoning		Closure of public place		Consent use		Occasional use	
Disestablish a home owner's association		Rectify failure by home owner's association to meet its obligations		Permission for the reconstruction of an existing building that constitutes a non-conforming use			

PART D: BACKGROUND

Erf 1876 located towards the southernmost portion of Yzerfontein in an area characterised by residential development and open spaces. The erf is zoned Residential Zone 1 and is currently vacant.



The minimum residential erf size determined by the Swartland Spatial Development Framework (SDF, 2020) for Yzerfontein is 500m². As the erf area is 1037m² and the geometry long and narrow, the applicant proposes the subdivision into two portions, with access to the rear portion via a right-of-way servitude, in order to maintain the minimum erf sizes.



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.
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PART F: SUMMARY OF APPLICANT'S MOTIVATION

1. The proposed development is consistent with the spatial proposals for Yzerfontein, as identified by the SDF.
2. The proposed subdivision is supported by the principles of LUPA and SPLUMA.
2. The subdivision promotes the creation of spatially efficient and compact urban forms through the application of sustainable infill development.
3. The optimal use of services leads to more affordable infrastructure provision.
4. The proposed subdivision will limit urban sprawl within the Yzerfontein area through the optimal use of available residential land.
5. The proposed development complies with the guidelines set by the Swartland SDF to promoting integration in the area.
6. The development also supports the SDF by promoting densification within the existing urban areas.
7. The current zoning of the property will remain unchanged.
8. The development is proposed in an existing residential area, within the urban edge, thereby not threatening the protected areas/biodiversity of the area.


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
A total of 15 registered notices were issued to affected parties on 6 May 2022 and e-mails were sent additionally where e-mail addresses were available. The commenting period concluded on 6 June 2022. Please refer to Annexure C for public participation map.					
Total valid comments	3		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
Department: Civil Engineering Services	16 May 2022	<p>1. <u>Water</u></p> <p>a) Elke onderverdeelde gedeelte voorsien word van 'n aparte aansluiting. Die voorwaarde is op blouplanstadium van toepassing;</p> <p>b) 'n Ontwikkelingsbydrae ten bedrae van R5 402,70 t.o.v. die grootmaat verspreiding van water en R6 543,30 t.o.v. die grootmaat voorsiening van water gemaak word.</p> <p>2. <u>Riolering</u></p> <p>a) Elke onderverdeelde gedeelte voorsien word van 'n aparte rioolsuigtenk met 'n min. kapasiteit van 8 000l;</p> <p>b) Die suigtenk moet vir die diensvragmotor vanuit die straat toeganklik wees. Die voorwaarde is op blouplanstadium van toepassing;</p> <p>c) 'n Ontwikkelingsbydrae t.o.v. riolering ten bedrae van R6 080,05 gemaak word;</p> <p>d) 'n Ontwikkelingsbydrae t.o.v. rioolsuiwering ten bedrae van R8 970,00 gemaak word;</p> <p>3. <u>Strate en stormwater</u></p> <p>a) 'n Ontwikkelingsbydrae t.o.v. strate ten bedrae van R11 500,00 gemaak word;</p> <p>b) 'n Ontwikkelingsbydrae t.o.v. stormwater ten bedrae van R4 560,90 gemaak word;</p> <p>4. <u>Algemeen</u></p> <p>Enige bestaande dienste wat die restant en onderverdeelde gedeeltes aan mekaar koppel, verskuif en/of ontkoppel word sodat elke erf se pypwerk op die betrokke erf geleë is. Dat indien die uitbreiding van enige bestaande dienste nodig sou wees om die onderverdeelde gedeelte van diensaansluitings te kan voorsien, dit vir die koste van die aansoeker sal wees.</p>	X	
Department: Electrical Engineering Services	6 May 2022	<p>5. <u>Elektries</u></p> <p>a) Elke onderverdeelde gedeelte van 'n afsonderlike elektriese aansluiting op koste van die eienaar of ontwikkelaar voorsien word;</p> <p>b) Enige verskuiwings van elektriese kables oor die betrokke onderverdeelde gedeelte verskuif sal word vir koste van die eienaar/ontwikkelaar;</p> <p>c) Enige elektriese tussenverbinding geïsoleer en ten volle verwyder word;</p> <p>d) Die elektrisiteitsaansluiting aan bestaande laagspanning netwerk gekoppel sal word;</p> <p>e) n Vaste koste ontwikkelingsbydrae t.o.v. grootmaat elektrisiteitsdienste ten bedrae van R10419,00 betaalbaar is op elke nuutgeskepte onderverdeelde gedeelte;</p> <p>f) addisioneel tot die bogenoemde die ontwikkelaar of eienaar betaal vir die elektrisiteitsaansluitings aan die onderverdeelde gedeelte. Kontak Daniel Mostert (078 711 0643) vir elektriese aansluiting kwotasie.</p>	X	

PART I: COMMENTS RECEIVED DURING PUBLIC PARTICIPATION	SUMMARY OF APPLICANT'S REPLY TO COMMENTS	MUNICIPAL ASSESSMENT OF COMMENTS
<p>MHI Attorneys o.b.o. Trylou Trust Erf 1855 Annexure D</p> <p>G. & S. Parker Erf 1853 Annexure E</p> <p>J.A. & E. Wiese Erf 1854 Annexure F</p>	<p>1. The average property size of 9 erven adjacent to Erf 1876 is 1013m² and the average property size of 7 erven south of Erf 1876 is 920m².</p> <p>The subdivision proposes to create erven which are half the size of the adjacent properties.</p>  <p>Figure 1: Surrounding erf sizes Sizes obtained from Western Cape Government Agriculture (Cape Farm Mapper)</p> <p>1. Considering figure 1 above, the properties indicated in red are all smaller than 800m² in extent, while the properties in green are all smaller than 700m² in extent. From the 78 properties located within the residential block, 43 of them are smaller than 800m², indicating that more than half of the surrounding area is smaller than the average size erven indicated by the objectors.</p> <p>Furthermore, According to the Swartland Spatial Development Framework, Erf 1876 is located in Zone B of the Yzerfontein Spatial Development Land Use Proposals plan, which earmarks the area for; "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 Swartland SDF for Yzerfontein:</p> <ul style="list-style-type: none"> • Increase density for next 20 years (which ends in 2028) from the current 6.8 units per hectare to 7.8 units per hectare in Yzerfontein. • Densify in accordance with zone proposals through: Subdivision (sectional title) Infill development and Renewal and restructuring Sectional title subdivision of existing houses on single residential erven. • Keep minimum single residential erf size of 500m². 	<p>1. Erf 1876 is exceptionally long and narrow. In addition, the erven in the area have long been under pressure to be subdivided, in order to create smaller, more affordable and more manageable properties.</p> <p>The proposed subdivision may be the first of its kind in the area, but ultimately the development of denser, spatially more compact urban areas is wholly consistent with the long term planning for any town in South Africa.</p> <p>The property is of the correct size to allow for two erven that still adhere to the minimum erf size prescribed by the SDF, namely 500m².</p> <p>The applicant supports the motivation thoroughly in terms of the applicable spatial planning policies and the proposal is thus supported.</p>

		<p>To ensure that each of the urban settlements is developed to their full potential, the following guidelines and strategies are proposed:</p> <p>Urban Area: Planning Guidelines and Directives PG4: Promote densification within urban areas.</p> <p>Densification: Planning Guidelines and Directives PG6: Support densification as depicted in the WCPSPDF and a compact town form supported in LUPA and SPLUMA within the spatial sustainable and spatial efficient planning principles D13: Support the following methods to promote densification in the Swartland: Infill of erven; Development of existing vacant ("Brownfield") areas in urban areas; Double storey and semi-detached dwelling units; Subdivision of erven, second dwellings and sectional title developments; Renewal of existing areas (demolish buildings for higher density developments or re-develop existing buildings); Support integrated</p> <p>Considering the above, the proposed subdivision of Erf 1876 is supported by the Swartland Spatial Development Framework for the area in which Erf 1876 is located. With the proposed development, 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 also complies with the minimum subdivision size.</p>	
	<p>2. The newly created sizes will not be in line with the character of the surrounding area, as the properties will be much smaller than the surrounding area.</p> <p>The proposal will turn the area into a high density neighbourhood.</p>	<p>2. As indicated in figure 1 above, the majority of the surrounding properties are between 700m² - 800m² in extent. The creation of the two ±500m² erven will therefore not have a major impact on the character of the area. According to the Swartland SDF; densification by means of subdivision is supported in Yzerfontein and the proposal complies with the minimum subdivision size in Yzerfontein and should therefore be encouraged.</p> <p>The zoning of the property will still remain Residential Zone 1 (low density) and does not propose a high density neighbourhood.</p>	<p>2. The new properties will indeed be smaller, but they will still adhere to the minimum erf size, as well as promote densification. An 'out of character' proposal is, in the current context, desirable. also, the objection is not 100% true, as the applicant demonstrated in response 1. Subdivision of the properties will perhaps increase the development density, but by no means create a high density development.</p>
	<p>3. The approval of the subdivision will have a negative impact on the value of the property.</p>	<p>3. There is no basis for assuming that approval of the application will result in the devaluation of adjacent property values. In terms of 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</p>	<p>3. The objection is conjecture and not supported.</p>

		exercise of its discretion solely on the ground that the value of land or property will be affected by the outcome."	
	4. Investors that want a large erf to build a single residential dwelling will not buy next to a subdivided property with limited open space.	4. It is uncertain how this statement can be made without proof thereof. The statement is therefore subjective and not objective.	4. The statement is conjecture and cannot be supported.
	5. The surrounding dwellings is built in such a way that the house lives / faces towards to sea. Should the subdivision be approved, the newly created property on the northern side will probably live / face towards erf 1854 and have a negative impact on its privacy.	<p>5. The dwelling units proposed on the newly proposed erven will most likely also face / live towards the sea, just like all the surrounding properties.</p> <p>The proposed dwelling units will also comply with the development parameters of Residential Zone 1 properties. Development parameters will therefore ensure that the privacy of the surrounding properties is protected.</p>  <p>Figure 2: Privacy of surrounding properties</p> <p>Furthermore, referring to figure 2 above, the dwelling units located to the northern side of Erf 1876 are all situated ± 20 from the boundary of Erf 1876. The privacy will therefore not be adversely affected.</p>	5. The proposal is for the subdivision of the erf, not the departure from any development parameters. Should the erf not have been subdivided, the owner would be free to develop a dwelling as close or as far from Erf 1854 as the development parameters would allow. The impact of the subdivision on the rear erven could potentially be the same as if the property was not subdivided at all.
	6. All the surrounding properties had strong single residential regulations when built to ensure that the area is not being overpopulated. The subdivision of the property will be inconsistent with the rules stipulated for the area and reason land owners invested here.	<p>6. As mentioned above, the zoning of the property will remain Residential Zone 1 and will also comply with the development parameters of Residential Zone 1 properties.</p> <p>The proposed subdivision is supported by the Swartland Spatial Development Framework (SDF) and should therefore be encouraged.</p>	6. The proposal does not depart from the minimum erf size, nor the density prescribed by the SDF. The subdivision is supported.
	7. Should the subdivision be approved it will increase traffic in the area and have an impact on the safety of pedestrians and cyclists. It will also have a negative impact on the owner's leisure and discourages buyers from investing here.	7. Residential development has the lowest traffic impact of all zonings. Since the zoning will remain unchanged and only one additional residential unit is proposed, it is not foreseen that the proposal will have any adverse impact on traffic in the area.	7. The increase in traffic caused by the creation of one additional property is deemed negligible.

		<p>According to the Swartland SDF; "Yzerfontein has grown into a prestigious holiday destination and is popular among retirees, holiday makers and tourists. Sixty percent (60%) of the population are permanent in Yzerfontein and residents commute to work."</p> <p>Furthermore, the fact that ±40% of the dwelling houses in Yzerfontein are holiday houses and are only used during weekends and holidays, the additional traffic the proposed additional dwelling unit may cause will not have a negative impact on 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 subdivision of erf 1876, Yzerfontein, in terms of section 25(2)(d) of Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020) was received. The proposal entails the subdivision of Erf 1876 (1037m² in extent) into two portions, namely Portion A (500m² in extent) and the Remainder (536m² in extent).

Access to Portion A is proposed via a 4m wide right-of-way servitude, the registration of which is exempted from approval, in terms section 34(1)(g)(iv) of Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020).

A total of 15 registered notices were issued to affected parties on 6 May 2022 and e-mails were sent additionally where e-mail addresses were available. The commenting period concluded on 6 June 2022.

The objections received were referred to the applicant for comment on 9 June 2022. The response to objections were provided to the Municipality on 10 June 2022.

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

The applicant is C.K. Rumboll & Partners and the owners are A. Jonker and E. Theron.

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 application promotes the availability of a wider variety of properties to a larger margin of the public, thereby promoting security of tenure. The application complies with the spatial planning of Yzerfontein and is therefore the application complies with the principal of spatial justice.
- b) Spatial Sustainability: The proposed subdivision will create a more spatially compact and resource-efficient town. The new land unit can be taxed by the municipality, creating an income for the municipality. Once developed, services can be sold to the new land unit. Existing services are deemed sufficient to accommodate the newly created erf and the proposal is deemed spatially sustainable.
- c) Efficiency: The proposed subdivision contributes to achieving the desired densification strategy of the municipality as advocated in provincial policy. It also ensures the optimal use of land and infrastructure. Therefore the application complies with the principle of efficiency.
- d) Good Administration: The application was communicated to the affected land owners through registered mail and e-mail, 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 timeous manner. It is therefore argued that the principles of good administration were complied with by the Municipality.
- e) Spatial Resilience: Creating smaller erven promotes manageable, affordable land units that are more likely to withstand economic and environmental shocks. The subdivision is considered spatially resilient.

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 Spatial Development Framework(SDF)

Erf 1876 is located in Area B, as indicated by the SDF for Yzerfontein. Area B is characterised by mainly low density residential development and open space, with limited instances of higher density development and a secondary business node. Densification of residential properties is promoted, with the minimum erf size of 500m². The proposed subdivision is seen as densification and the optimal use of land and infrastructure. It must be noted however, that while the subdivision will contribute to densification, the overall density of the area will remain extremely low. The application is therefore in compliance with the spatial planning of Yzerfontein.

2.3 Schedule 2 of the By-Law: Zoning Scheme Provisions

Erf 1876, Yzerfontein is zoned Residential zone 1. The proposed subdivision will not affect the zoning of the property.

3. Desirability of the proposed utilisation

Erf 1876, Yzerfontein is zoned Residential Zone 1 and is currently vacant. Erf 1876 is relatively flat with no physical restrictions which may negatively affect the application.

The character of the surrounding area includes single residential properties, some developed and others vacant. The proposed erf size of $\pm 500\text{m}^2$ is a little smaller than the average erf size in the area, but the applicant demonstrated that several erven are close in size ($\pm 700\text{m}^2$), while several other erven also have the potential of being subdivided. The proposal is consistent with the minimum erf size determined for the area, the subdivided portion will not be visible from the street and thus will have no impact on the street scape. The subdivision is considered in keeping with the character of the area.

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

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

There are no restrictions in the title deed of Erf 1876 which affects this application.

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

Access to Portion A is proposed via a 4m wide right-of-way servitude. The proposal is deemed desirable, as the minimum erf size will be maintained. The servitude registration is exempted from approval in terms of section 34 of the By-Law.

4. Impact on municipal engineering services

Sufficient services capacity exist in order to provide the newly created erf with services. Development contributions for the creation of the new erf is calculated in terms of the Yzerfontein Capital Contribution Policy.

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 1876, Yzerfontein, 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 that:

1. TOWN PLANNING AND BUILDING CONTROL

- Erf 1876, Yzerfontein (1037m^2 in extent) be subdivided into Portion A (500m^2 in extent) and the Remainder (537m^2 in extent) as presented in the application;
- The legal certificate which authorises 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;

2. WATER

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

3. SEWERAGE

- Each subdivided portion be provided with a conservancy tank with a minimum capacity of 8 000 litre;
- The conservancy tank be accessible for the sewerage truck from the municipality road.
- The conditions are applicable at building plan stage;

4. ELECTRICITY

- a) The subdivided portion be provided with a separate electrical connection point and related costs be for the account of the owner/developer;
- b) Any costs incurred through the relocation of electrical cables over the subdivided portions, be for the account of the owner/developer;
- c) Any electrical interconnection be isolated and completely removed;
- d) The electricity connection be joined to the existing low voltage network;
- e) Additional to the abovementioned, the owner/developer will be responsible for the costs incurred for the installation of the electricity meter on the subdivided portion/activation of electricity to the erf. Daniel Mostert may be contacted at 078 711 0643 for a quotation;

5. DEVELOPMENT CHARGES

- a) The owner/developer is responsible for a development charge of R6 543,30 towards the bulk supply of regional water, at clearance stage. The amount is payable to Swartland Municipality, valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA 9/249-176-9210);
- b) The owner/developer is responsible for the development charge of R5 402,70 towards bulk water distribution, at clearance stage. The amount is payable to the Municipality, valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA: 9/249-174-9210);
- c) The owner/developer is responsible for the development charge of R6 080,05 towards sewerage, at clearance stage. The amount is payable to the Municipality, valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA: 9/240-184-9210);
- d) The owner/developer is responsible for the development charge of R8 970,00 towards waste water treatment works, at clearance stage. The amount is payable to the Municipality, valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA: 9/240-183-9210);
- e) The owner/developer is responsible for the development charge of R11 500,00 towards roads, at clearance stage. The amount is payable to the Municipality, valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA: 9/247-188-9210);
- f) The owner/developer is responsible for the development charge of R4 560,90 towards storm water, at clearance stage. The amount is payable to the Municipality, valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA: 9/247-144-9210);
- g) The owner/developer is responsible for the development charge of R10 419,00 per newly created erf towards electricity, at clearance stage. The amount is payable to this Municipality, valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA: 9/253-164-9210);
- h) The Council resolution of May 2022 makes provision for a 35% discount on capital contributions to Swartland Municipality, except for condition 5.a), which is payable in full. The discount is valid for the financial year 2022/2023 and can be revised thereafter;

6. GENERAL

- a) Any existing services connecting the remainder and/or new portions, be disconnected and relocated, in order for each erf to have a separate connection and pipe work;
 - b) Should it be determined necessary to expand or relocate any of the engineering services in order to provide any of the portions with connections, said expansion and/or relocation will be for the cost of the owner/developer;
 - c) The approval is, in terms of section 76(2)(w) of the By-Law, valid for 5 years. All conditions of approval be implemented within these 5 years, without which, the approval will lapse. Should all the conditions of approval be met before the 5 year approval period lapses, the subdivision will be permanent and the approval period will not be applicable anymore;
- B.** The registration of a 4m wide right-of-way servitude over the Remainder of Erf 1876, Yzerfontein, in favour of Portion A of Erf 1876, Yzerfontein, 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;

PART M: REASONS FOR RECOMMENDATION

- 1. The proposal is consistent with the spatial proposals of the SDF.
- 2. The proposal is consistent with the minimum erf size determined by the SDF, namely 500m².
- 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 land owners will not be negatively impacted.
- 7. The proposal makes additional opportunities for rural residential development available and may create additional employment opportunities.
- 8. The subdivision promotes the optimal utilisation of land and the existing engineering services.

9. Property values of the surrounding properties will not be affected negatively.
10. The proposal realises the development potential of the property, as is also applicable to a number of erven in the area.
11. The right-of-way servitude is deemed an appropriate mechanism to provide access to Portion A, while maintaining the minimum property size.
12. The servitude complies with the conditions for exemption from approval.


PART N: ANNEXURES

Annexure A: Locality plan
 Annexure B: Subdivision plan
 Annexure C: Public participation plan
 Annexure D: Objection from MHI Attorneys
 Annexure E: Objections from G. & S.Parker
 Annexure F: Objections from J.A. & E Wiese
 Annexure G: Response to comments

PART O: APPLICANT DETAILS

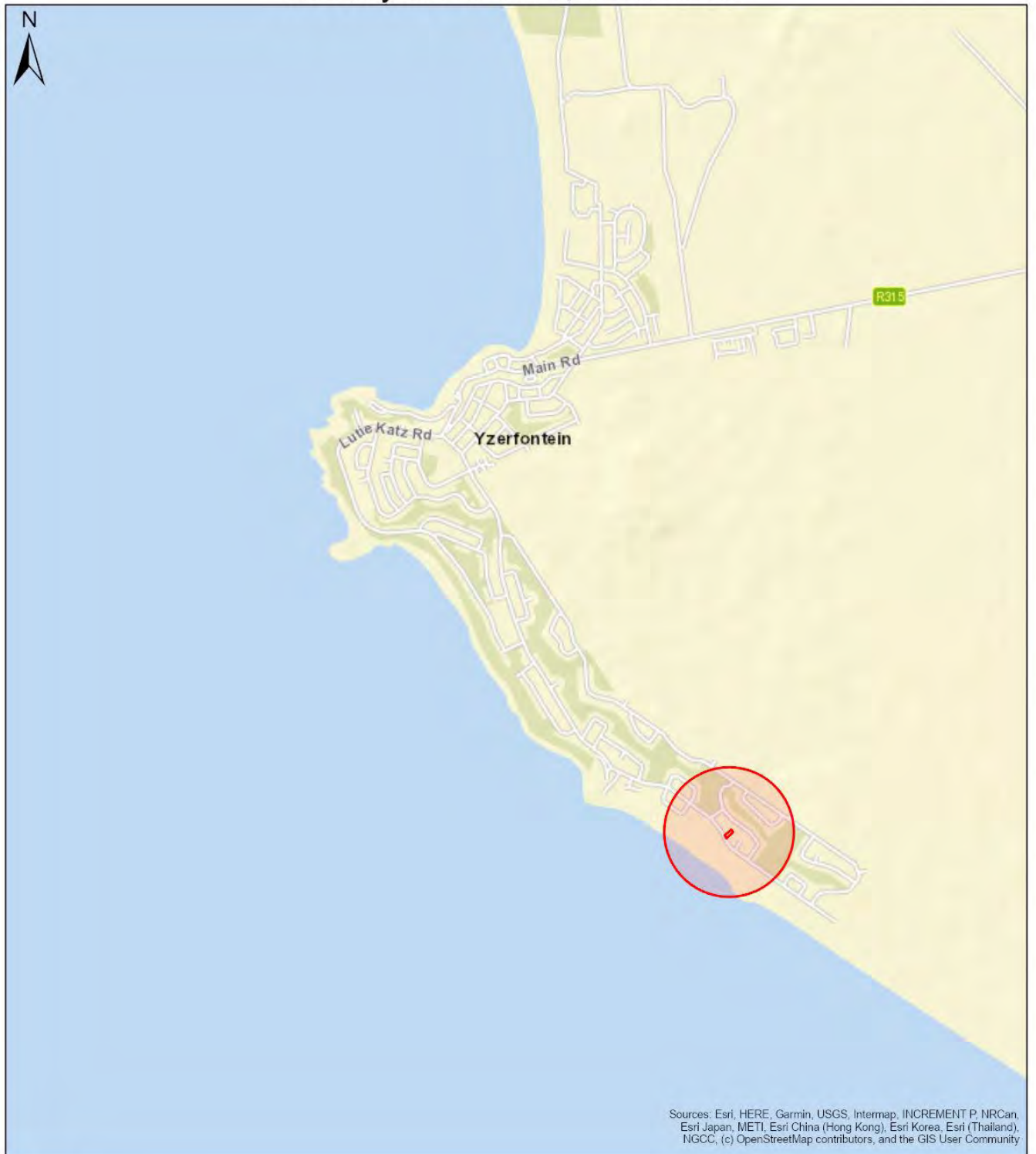
First name(s)	C.K. Rumboll and Partners			
Registered owner(s)	A. Jonker and E. Theron	Is the applicant authorised to submit this application:	Y	N

PART P: SIGNATURES

Author details: A de Jager Town & Regional Planner SACPLAN: A/2203/2015		Date: 3 August 2022		
Recommendation: Alwyn Zaayman Senior Manager: Built Environment SACPLAN: B/8001/2001	Recommended	<input checked="" type="checkbox"/>	Not recommended	
			Date: 3 August 2022	

ANNEXURE A

Locality of Erf 1876, Yzerfontein



Legend

0 0.38 0.75 1.5 km

Map Center: Lon: 18°9'30.3"E
Lat: 33°21'22.4"S

Scale: 1:36 112

Date created: April 25, 2022

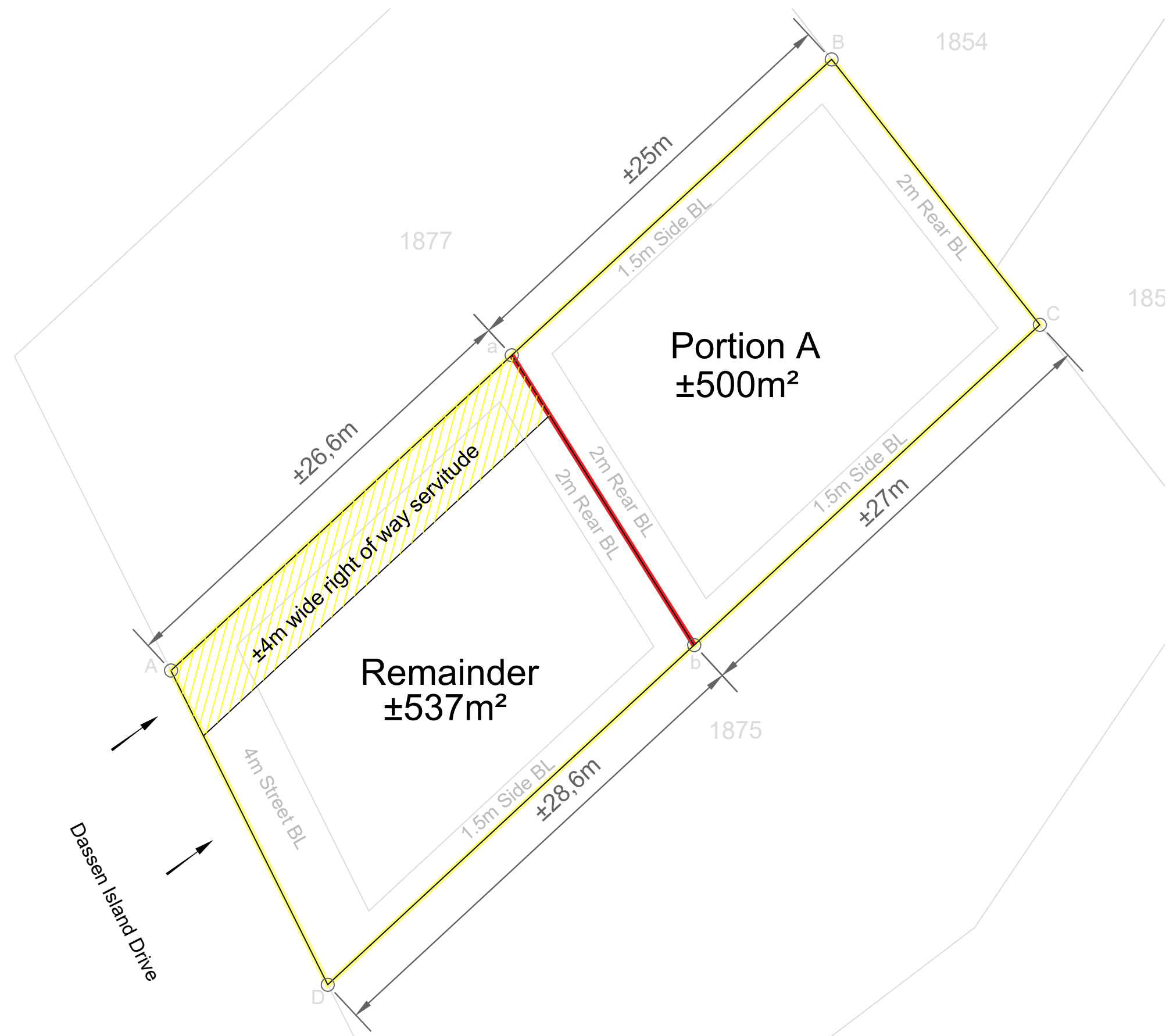


Western Cape
Government
FOR YOU

Agriculture



PLAN OF SUBDIVISION: ERF 1876, YZERFONTEIN



NOTES:

Figure **A B C D** represents Erf 1876 Yzerfontein which measures $\pm 1037\text{m}^2$. Erf 1876 is to be subdivided into:

- a) Portion A ($\pm 500\text{m}^2$) represented by Figure **a B C b**,
- b) Remainder ($\pm 537\text{m}^2$) represented by Figure **A a b D**

Erf boundary	
Subdivision Line	
$\pm 4\text{m}$ wide right of way servitude	

Drawing by:
NJ de Kock

ALL AREAS AND DISTANCES ARE SUBJECT TO



C.K. RUMBOLL &
TOWN PLANNER
PROFESSIONAL
16 RAINIER STR
Tel: 022 - 482184
Fax: 022 - 48716
Email: leap@rumb

DATE:
APRIL 2022

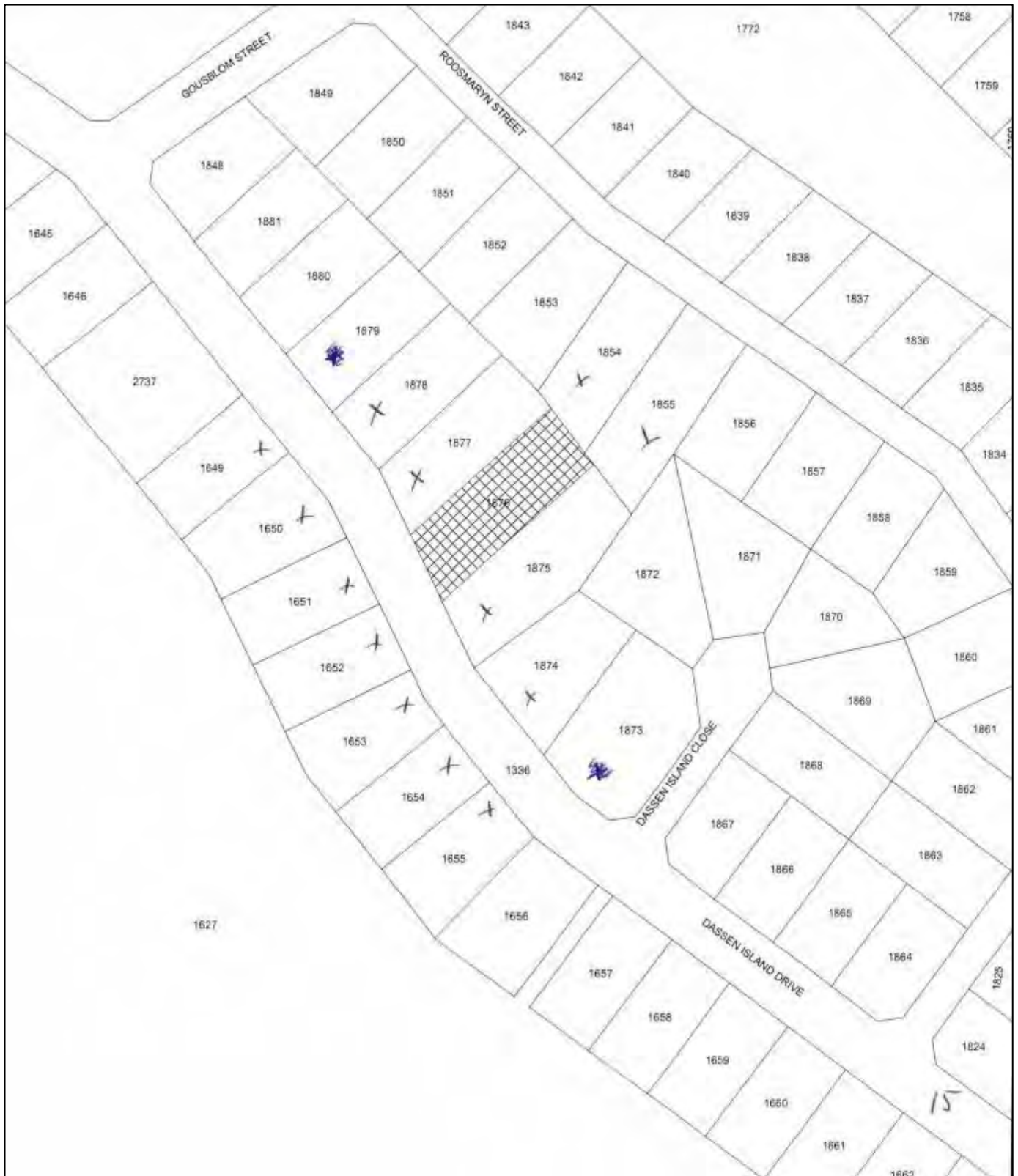
AUTH
SWARTLAN

REF:
YZER/12515/NJdK

SCA

ANNEXURE B

ANNEXURE C



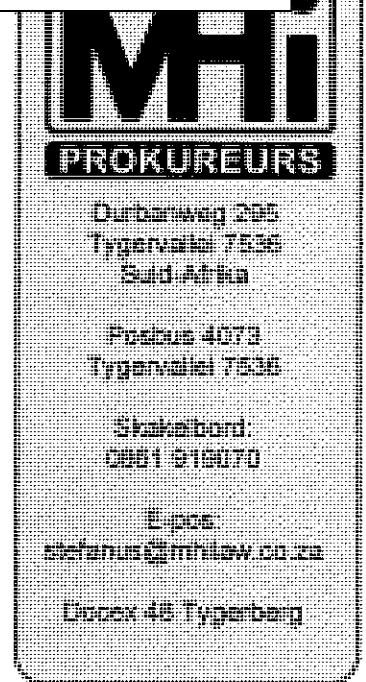
Ons Verw: S7096
 U Verw: 15/3/6 – 14/Erf 1876

6 JUNIE 2022

**DIE MUNISIPALE BESTUURDER
 SWARTLAND MUNISIPALITEIT**

PER EPOS: swartlandmun@swartland.org.za

Geagte Mnr./Me.



**INSAKE: VOORGESTELDE ONDERVERDELING VAN ERF 1876 YZERFONTEIN
 ONS KLIËNT: TRYVLOU TRUST**

Ons tree hierin op namens Tryvlou Trust (IT1/2004), die geregistreerde eienaar van Erf 1855 Yzerfontein ("ons kliënt"). Ons kliënt se eiendom is onmiddelik naasliggend aan die aansoek-eiendom (aan die noord-oostekant daarvan).

1. Kennisgewing van voorgenome onderverdeling van Erf 1876 Yzerfontein:

Ons is in besit gestel van 'n Kennisgewing (gedateer 6 Mei 2022), waarin ons kliënt ingelig is van 'n aansoek om die onderverdeling van Erf 1876 Yzerfontein (met ingeslote Liggingsplan).

Ons het instruksies om namens ons kliënt formeel beswaar aan te teken teen die voorgenome onderverdeling, en wel vir die redes hieronder aangespreek.

MALHERBE TUBB FAURE INGELYF: 1999/10849/21

Direkteure

Stefanus G. Malherbe B.Comm. LLB. • Jurgens J. Tubb Dip.Bem (IAH). B.Proc. • Leigh L. Vencencie LLB.

Professionele Assistentes

Marcelle Strydom BA. LLB. • Riëtte Smuts LLB. • Michelle Taljaard LLB.

Grantham Williams LLB. • Ashley B. Adonis LLB. • Marli Coetzee LLB.

Kandidaat Prokureur

Francois J. Malherbe B.Comm. LLB.

2. Ligging en grootte van onmiddelik naasliggende eiendomme:

Die Liggingsplan bevat aangemerkte eiendomme (met 'n "X" aangemerkt) wat die onmiddelik naasliggende eiendomme aandui (altesaam 16 eiendomme).

Die 16 eiendomme (die aansoek-eiendom ingesluit), kan ingedeel word in hoofsaaklik twee groepe:

- onmiddelik naasliggende eiendomme, in dieselfde straatblok (x 9); en
- eiendomme aan die suidwestekant van Dassen Eilandweg – regoorkant die aansoek-eiendom (x 7).

Die gemiddelde grootte van die gemerkte eiendomme is soos volg:

- die onmiddelik naasliggende eiendomme (x 9): 1 013 (eenduisend-en-dertien) vierkante meter; en
- al die aangemerkte eiendomme (x 16): 920 (negehonderd-en-twintig) vierkante meter.

3. Grootte van gedeeltes van aansoek-eiendom, indien suksesvol:

Die aansoek om onderverdeling sal, indien suksesvol, tot gevolg hê dat die groottes van die nuwe gedeeltes onderskeidelik 500 (vyfhonderd) en 537 (vyfhonderd sewe-en-dertig) vierkante meter onderskeidelik gaan wees.

Dit is met eerste oogopslag duidelik dat die voorgename aansoek ten doel het om eiendomme te skep waarvan die groottes minder as ½ (een-helfte) is van die groottes van die onmiddelik naasliggende eiendomme.



MALHERBE TUBB FAURE INGELYF: 1999/10849/21

Direkteure

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Grantham Williams LLB. • Ashley B. Adonis LLB. • Marii Coetzee LLB.

Kandidaat Prokureur

Francois J. Malherbe B.Comm. LLB.

4. Meriete van beswaar:

Dit is duidelik uit die inhoud van paragrawe 1 tot 3 hierbo, dat enige aansoek vir die skep van erwe waarvan die groottes minder as $\frac{1}{2}$ (een-helfte) van die onmiddelik naasliggende eiendomme is, geheel en al uit voeling is met die gees en onderverdelingsvereistes van die omgewing.

Ons kliënt het die eiendom (Erf 1855 Yzerfontein) destyds juis uitgesoek en gekoop, gebaseer op die grootte van nie alleen daardie eiendom nie, maar die groottes van die eiendomme in die omgewig.

Meer nog, ons kliënt kan hoegenaamd nie die meriete insien van 'n aansoek wat ten doel het om nuwe eiendomme te skep waarvan die groottes so drasties afwyk van wat die norm in die buurt is.

Sou die aansoek suksesvol wees, sal dit 'n merkbare negatiewe impak hê op die wesenlike belegging wat ons kliënt gemaak het (met die koop van die erf en die bou van hul huis).

Ons is van mening dat die aansoek heetemat uit voeling is met die norm in die buurt, en dat die aansoek geen redelike meriete dra nie.

5. Formele beswaar:

Gevolgtik teken ons hiermee formeel beswaar aan teen die aansoek, en plaas ons op rekord dat, sou die aansoek goedgekeur word, ons kliënt alles in sy vermoë sal doen om die besluit te beveg.

Neem dienooreenkomstig kennis.



MALHERBE TUBB FAURE INGELYF: 1999/10849/21

Direkteure

Stefanus G. Malherbe B.Comm. LLB. • Jurgens J. Tubb Dip.Bem (IAH). B.Proc. • Leigh L. Vencencie LLB.

Professionele Assistentes

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Grantham Williams LLB. • Ashley B. Adonis LLB. • Marli Coetzee LLB.

Kandidaat Prokureur

Francois J. Malherbe B.Comm. LLB.

6. Algemeen:

Ons sal dit waardeer indien u ontvangs sal erken van hierdie skrywe, en sal bevestig dat ons kliënt se beswaar aangeteken is.

Ons verneem graag mettertyd van u wat die uitslag is van hierdie aansoek.

Neem kennis dat hierdie skrywe aan u gestuur word sonder benadeling van enige van ons kliënt se regte, en dat al sodanige regte voorbehou word.

Die uwe

MH PROKUREURS

Per:

SG MALHERBE

MALHERBE TUBB FAURE INGELYF: 1999/10849/21

Direkteure

Stefanus G. Malherbe B.Comm. LLB. • Jurgens J. Tubb Dip.Bem (IAH). B.Proc. • Leigh L. Vencencie LLB.

Professionele Assistent

Marcelle Strydom BA. LLB. • Riëtte Smuts LLB. • Michelle Taljaard LLB.
Grantham Williams LLB. • Ashley B. Adonis LLB. • Marli Coetzee LLB.

Kandidaat Prokureur

Francois J. Malherbe B.Comm. LLB.

ANNEXURE E

Ghadija Parker and Shanaaz Parker
Owners 10 Roosmaryn Street
Erf number 1853
Pearl Bay
Yzerfontein 7531
ghadijaparker@gmail.com

22 May 2022

The Municipal Manager
Private Bag X52
Malmesbury 7299
swartlandmun@swartland.org.za

Dear Sir/Madam

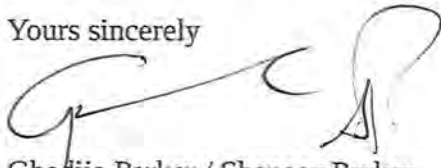
RE: Objection to Proposed Subdivision and Exemption on Erf 1876

We are writing to you with regards to the proposed subdivision and exemption on Erf 1876. We are the owners of property 10 Roosmaryn Street (Erf 1853) which is neighbouring Erf 1876.

We object to the proposal as it **does not fit within the established character of the area and is considered out of context for the locality**. The proposal will turn the area into a high density neighbourhood and this will directly impact our property value. It will also affect the aesthetic value of the area.

Our preferred method of communication is via email (ghadijaparker@gmail.com). I trust that this objection is given serious consideration and await your response.

Yours sincerely



Ghadija Parker / Shanaaz Parker

JA Wiese & E Wiese
Roosmarynstraat 12 (erf 1854)
Eienaars van erf 1854 ; Direkte bure van erf 1876
Tel no: 082 5754 249 of 072 640 2309
japiewiese@absamail.co.za (gekose manier van
kommunikasie)

Die Munisipale Bestuurder
Privaatsak X52
Malmesbury 7299

27 Mei 2022

BESWAAR TEEN ONDERVERDELING VAN ERF 1876 u Leër verw. 15/3/6-14/Erf 1876 15/3/13-14/Erf 1876

Ons staan die onderverdeling van erwe in hierdie area ten sterkste tee aangesien dit 'n unieke area is aan die voet van die heuwel langs die kus aan die suidelikste punt van Yzerfontein. Dis 'n unieke gebied met 'n gevoel van ruimte en min verkeer en mensgemaakte geraas, direk as gevolg van die groot erwe en enkelwoning-beleid. Onderverdeling sal die omliggende eiendomme se waarde negatief raak en die estetiese waarde van die gebied verminder. Vervolgens meer breedvoerige uiteensetting van besware:

- 1. LIGGING:** Die erwe tussen die voet van die heuwel en die strand is almal groot met genoeg ruimte vir tuin en ander ontspanning en skep 'n gevoel van ruimte en natuur eerder as 'n digbewoonde area. Dit is juis om dié rede dat ons hier gekoop en gebou het. Om die erf direk voor ons onder te verdeel sal die hele gevoel van ruimte omverwerp. 'n Onderverdeling sal daartoe lei dat die ander oop erwe direk langs erf 1876 ook waarskynlik onderverdeel sal word om sodoende finansiële voordeel uit verkoopstransaksies te trek, met die gevolg dat dit 'n hoë digtheid gebied kan word.
- 2. EIENDOMSWAARDE:** Indien die onderverdeling sou voortgaan sal dit 'n waardeverlaging van die buureiendomme veroorsaak aangesien dit heeltemal onvanpas is tussen die groot erwe en die meerderheid groot en duur huise van dié deel. Die gesegde van 'location, location' gaan hier 'n groot rol speel in eiendoms waarde aangesien toekomstige kopers wat 'n groot erf met enkelwoning verlang nie geneë sal wees om langs onderverdeelde erwe met min oop spasie te koop nie. Verder is die huise langs Roosmarynstraat hoër geleë as erf 1876 en en ander erwe langs Dasseneiland straat, en kyk gevolglik direk daarop. Onderverdeling van erwe langs Atlantic Drive, waar reeds heelwat onderverdeelde erwe is, is meer aanvaarbaar aangesien dit nie so opsigtelik is soos langs Dasseneiland waar ander huise direk van bo-af op hulle kyk nie.
- 3. ORIËNTASIE VAN HUISE OP ERWE IN DIE AREA:** Alle huise in die area is so gebou dat hulle seeaansig hulle woonareas en hoof-slaapkamers is met groot glasvensters, skuifdeure en stoepe om die uitsig op die see, Dasseneiland en Tafelberg maksimaal te benut. Die agterkant van die huise is gebou met kleiner venters vir privaatheid. Sou die verdeling van erf 1876 voortgaan sal die agterste huis waarskynlik sy woonarea in teenoorgestelde rigting laat kyk, wat beteken dat al die erwe aan hulle bokant baie privaatheid sal inboet en

veranderinge sal moet aanbring deur eenrigting-glas, of toebou van stoepe ens. om meer privaat te wees.

4. **STRENG ENKELWONING BOUREËLS:** Alle huise wat in dié area gebou is het gebuk gegaan onder baie streng enkelwoning regulasies soos een voordeur en een kombuis om te keer dat die gebied oorbewoon raak. Om nou onderverdeling toe te laat druis in teen die reëls wat vir die gebied neergelê en beplan is en waarvolgens eienaars hier belê het.
5. **DASSENEILAND STRAAT:** Die straat waar erf 1876 se uitgang is loop langs die strand en is baie gewild vir stappers, fietsryers en rolskaatsers van alle ouderdomme. Dis maklik vir hulle om toegang tot die strand, swemgat en rotse te kry vanaf Dasseneilandstraat. Daar is nie geboude sypaadjies nie en hulle gebruik die teerpad daarvoor. Besoekers en inwoners van Yzerfontein gebruik dié straat baie vir genoemde redes omdat dit veilige, gesonde ontspanning bied. Indien erwe hier opgedeel word gaan dit baie meer voertuie tot gevolg hê wat dié manier van ontspanning sal ontmoedig en besoekers en kopers sal verminder.

Ons hoop dat u genoemde besware in 'n ernstige lig sal oorweeg om nie die onderverdeling van erf 1876 toe te staan nie.

Die uwe,

JA & E Wiese

CK RUMBOLL & VENNOTE / PARTNERS

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

DATE: 10 June 2022

OUR REF: YZER/12515/NJdK

YOUR REF: 15/3/13-14/Erf_1876

PER HAND

Attention: Mr A Zaayman

The Municipal Manager
Swartland Municipality
Private Bag X52
MALMESBURY
7300

Sir

COMMENTS ON OBJECTIONS

PROPOSED SUBDIVISION AND EXEMPTION ON ERF 1876, YZERFONTEIN

Your letter dated 9 June 2022 refers (see annexure A attached). Please find attached our comments to objections as requested.

This office has been instructed by Anna Susanna Stefina Jonker and Elizabeth Theron as owners of Erf 1876 to handle all town planning actions regarding the application for subdivision and exemption of erf 1876, Yzerfontein.

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

- MHi Attorneys on behalf of Trylou Trust (Erf 1855)
- Ghadija & Shanaaz Parker (Erf 1853)
- J A & E Wiese (Erf 1854)

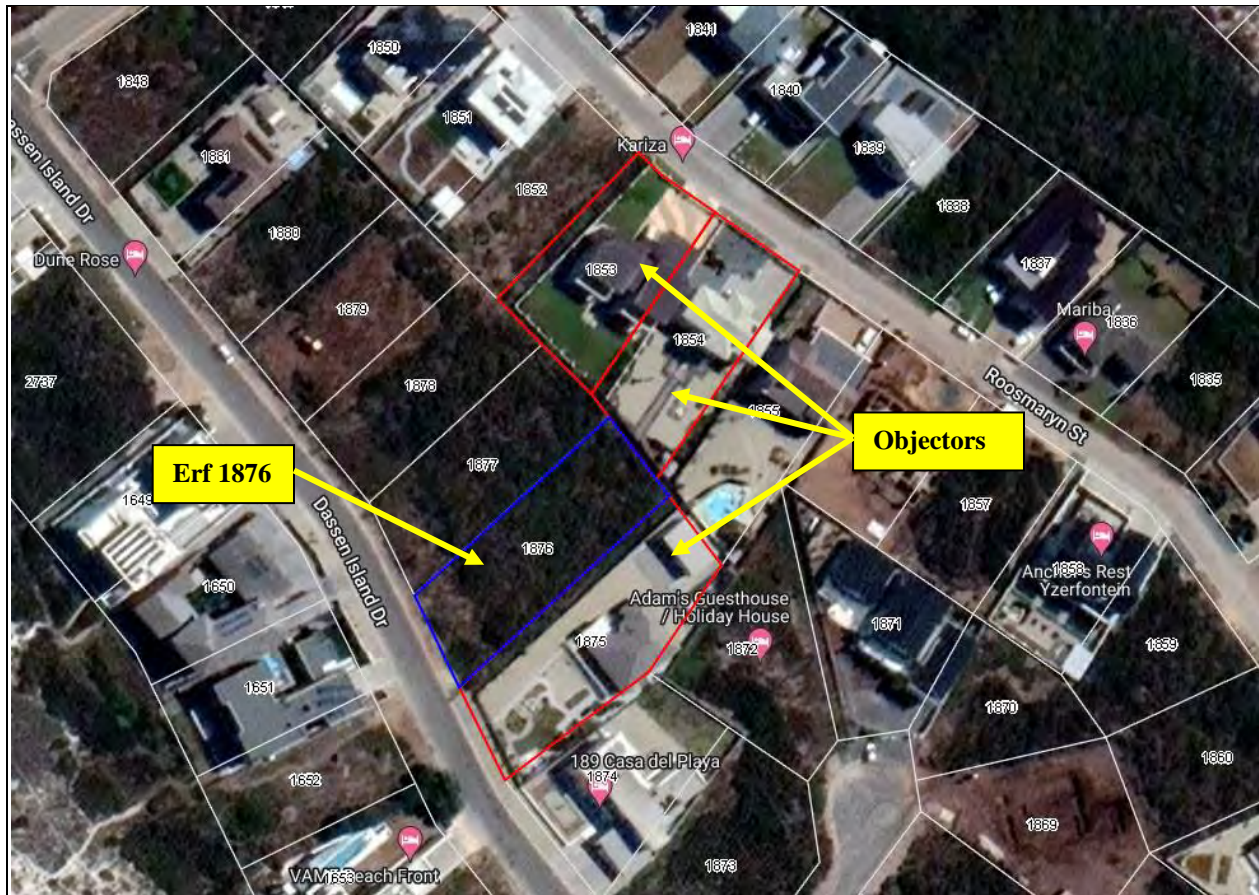



Figure 1: Layout of Erf 1876 and surrounding objectors.

Objector	Objection	Comment from CK Rumboll & Partners
MHi Attorneys (Erf 1855)	<p>1. The average property size of 9 erven adjacent to Erf 1876 is 1013m² and the average property size of 7 erven south of Erf 1876 is 920m².</p> <p>The subdivision proposes to create erven which is half the size of the adjacent properties.</p>	 <p>Figure 1: Surrounding erf sizes Sizes obtained from Western Cape Government Agriculture (Cape Farm Mapper)</p>

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>Considering figure 1 above, the properties indicated in red are all smaller than 800m² in extent, while the properties in green are all smaller than 700m² in extent. From the 78 properties located within the residential block, 43 of them are smaller than 800m², indicating that more than half of the surrounding area is smaller than the average size erven indicated by the objectors.</p> <p>Furthermore, According to the Swartland Spatial Development Framework, Erf 1876 is located in Zone B of the Yzerfontein Spatial Development Land Use Proposals plan, which earmarks the area for; <i>"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>The Swartland SDF, 2019, strives to guide current and future development in the region by determining strategic policy directives and proposals to ensure sustainable development. The following are extracts from the Swartland SDF for Yzerfontein:</p> <ul style="list-style-type: none"> • <i>Increase density for next 20 years (which ends in 2028) from the current 6.8 units per hectare to 7.8 units per hectare in Yzerfontein.</i> • <i>Densify in accordance with zone proposals through: Subdivision (sectional title) Infill development and Renewal and restructuring Sectional title subdivision of existing houses on single residential erven.</i> • <i>Keep minimum single residential erf size of 500m².</i> <p>To ensure that each of the urban settlements is developed to their full potential, the following guidelines and strategies are proposed:</p> <p>Urban Area: Planning Guidelines and Directives PG4: Promote densification within urban areas.</p>
--	--	--

		<p>Densification: Planning Guidelines and Directives</p> <p>PG6: Support densification as depicted in the WCPSDF and a compact town form supported in LUPA and SPLUMA within the spatial sustainable and spatial efficient planning principles LUPA and SPLUMA to ensure sustainable and viable urban areas.</p> <p>D13: Support the following methods to promote densification in the Swartland:</p> <p><i>Infill of erven; Development of existing vacant (“Brownfield”) areas in urban areas: Double storey and semi-detached dwelling units; Subdivision of erven, second dwellings and sectional title developments; Renewal of existing areas (demolish buildings for higher density developments or re-develop existing buildings); Support integrated</i></p> <p>Considering the above, the proposed subdivision of Erf 1876 is supported by the Swartland Spatial Development Framework for the area in which Erf 1876 is located. With the proposed development, 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 also complies with the minimum subdivision size.</p>
<p>MHi Attorneys (Erf 1855)</p> <p>Ghadija & Shanaaz Parker (Erf 1853)</p> <p>J A & E Wiese (Erf 1854)</p>	<p>2. The newly created sizes will not be in line with the character of the surrounding area, as the properties will be much smaller than the surrounding area.</p> <p>The proposal will turn the area into a high density neighbourhood.</p>	<p>2. As indicated in figure 1 above, the majority of the surrounding properties are between 700m² - 800m² in extent. The creation of the two ±500m² erven will therefore not have a major impact on the character of the area. According to the Swartland SDF; densification by means of subdivision is supported in Yzerfontein and the proposal complies with the minimum subdivision size in Yzerfontein and should therefore be encouraged.</p> <p>The zoning of the property will still remain Residential Zone 1 (low density) and does not propose a high density neighbourhood.</p>

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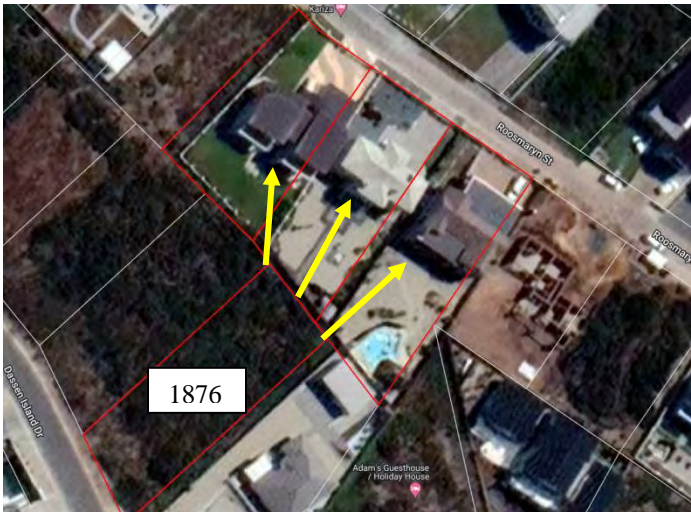
<p>MHi Attorneys (Erf 1855)</p> <p>Ghadija & Shanaaz Parker (Erf 1853)</p> <p>J A & E Wiese (Erf 1854)</p>	<p>3. The approval of the subdivision will have a negative impact on the value of the property.</p>	<p>3. There is no basis for assuming that approval of the application will result in the devaluation of adjacent property values. In terms of 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>J A & E Wiese (Erf 1854)</p>	<p>4. Investors that want a large erf to build a single residential dwelling will not buy next to a subdivided property with limited open space.</p>	<p>4. It is uncertain how this statement can be made without proof thereof. The statement is therefore subjective and not objective.</p>
<p>J A & E Wiese (Erf 1854)</p>	<p>5. The surrounding dwellings is built in such a way that the house lives / faces towards to sea. Should the subdivision be approved, the newly created property on the northern side will probably live / face towards erf 1854 and have a negative impact on its privacy.</p>	<p>5. The dwelling units proposed on the newly proposed erven will most likely also face / live towards the sea, just like all the surrounding properties.</p> <p>The proposed dwelling units will also comply with the development parameters of Residential Zone 1 properties. Development parameters will therefore ensure that the privacy of the surrounding properties is protected.</p> 

Figure 2: Privacy of surrounding properties

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		Furthermore, referring to figure 2 above, the dwelling units located to the northern side of Erf 1876 are all situated ± 20 from the boundary of Erf 1876. The privacy will therefore not be adversely affected.
J A & E Wiese (Erf 1854)	6. All the surrounding properties had strong single residential regulations when built to ensure that the area is not being overpopulated. The subdivision of the property will inconsistent with the rules stipulated for the area and reason land owners invested here.	6. As mentioned above, the zoning of the property will remain Residential Zone 1 and will also comply with the development parameters of Residential Zone 1 properties. The proposed subdivision is supported by the Swartland Spatial Development Framework (SDF) and should therefore be encouraged.
J A & E Wiese (Erf 1854)	7. Should the subdivision be approved it will increase traffic in the area and have an impact on the safety of pedestrians and cyclists. It will also have a negative impact on the owner's leisure and discourages buyers from investing here.	7. Residential development has the lowest traffic impact of all zonings. Since the zoning will remain unchanged and only one additional residential unit is proposed, it is not foreseen that the proposal will have any adverse impact on traffic in the area. According to the Swartland SDF; "Yzerfontein has grown into a prestigious holiday destination and is popular among retirees, holiday makers and tourists. Sixty percent (60%) of the population are permanent in Yzerfontein and residents commute to work." Furthermore, the fact that $\pm 40\%$ of the dwelling houses in Yzerfontein are holiday houses and are only used during weekends and holidays, the additional traffic the proposed additional dwelling unit may cause will not have a negative impact on the area.

Considering the above, it is evident that the proposed development will not have a significant impact on the surrounding properties or built environment. The development can be considered sustainable as it complies with the principles and guidelines of the Swartland SDF. The subdivision is therefore highly recommended by this office.

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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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Verslag ♦ Ingxelo ♦ Report

Office of the Director: Development Services
Division: Built Environment

2 Augustus 2022

15/4/2-8

WYK: 10

ITEM 6.6 OF THE AGENDA FOR THE MUNICIPAL PLANNING TRIBUNAL THAT WILL TAKE PLACE ON WEDNESDAY, 10 AUGUST 2022

LAND USE PLANNING REPORT APPLICATION FOR BUILDING LINE DEPARTURE ON ERF 11354, MALMESBURY					
Reference no.	15/4/2-8	Application submission date	31 May 2022	Date report finalised	2 August 2022

PART A: APPLICATION DESCRIPTION

An application for the departure of development parameters on Erf 11354, Malmesbury, in terms of section 25(2)(b) of Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), has been received. The application entails a departure from the 1,5m western side building line to 0m in order to construct a store room between the existing garage and the property boundary.

Please note that the departure application was submitted as part of a building plan application.

The owner of Erf 11354, Malmesbury, is K. Laing

PART B: PROPERTY DETAILS

Property description (in accordance with Title Deed)	Erf 11354, Malmesbury in the Swartland Municipality, Division Malmesbury, Province Western Cape				
Physical address	4 Pedro Street		Town	Malmesbury	
Current zoning	Residential Zone 1	Extent (m ² /ha)	1171m ²	Are there existing buildings on the property?	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N
Applicable zoning scheme	Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020)				
Current land use	Dwelling house, two garages, granny flat, shed and shade port (previously approved).		Title Deed number & date	T16762/2015	
Any restrictive title conditions applicable	<input type="checkbox"/> Y	<input checked="" type="checkbox"/> N	If Yes, list condition number(s)		
Any third party conditions applicable?	<input type="checkbox"/> Y	<input checked="" type="checkbox"/> N	If Yes, specify		
Any unauthorised land use/building work	<input checked="" type="checkbox"/> Y	<input type="checkbox"/> N	If Yes, explain	The proposed store room was in the process of construction, at which time the building inspector issued a cease and desist order and building plans were submitted.	

PART C: LIST OF APPLICATIONS (TICK APPLICABLE)

Rezoning	<input type="checkbox"/>	Permanent departure	<input checked="" 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 in respect of existing approval	<input type="checkbox"/>	Amendment or cancellation of an approved subdivision plan	<input type="checkbox"/>	Permission in terms of a condition of approval	<input type="checkbox"/>

The applicant endeavoured to obtain the consent from the owners of Erf 4514, but the latter were not willing to provide consent. Subsequently, an official written notification was issued to the owners, in order to afford them the opportunity to formally object to the proposal and for the applicant to address the objection. The issue is ultimately referred to the Planning Tribunal for a decision as the owner and objector are at a stalemate.

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 APPLICANTS MOTIVATION

(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)

The applicant motivates that the storeroom is necessary for the secure storing of miscellaneous items.

The position of the room is considered optimal, as it is an extension of an existing outbuilding (garage) and utilises an otherwise unused space on the erf.

The storeroom wall will be too close to the boundary to allow for a person to access the space, therefore safety and security is not compromised.

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
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With reference to Section 55(1) (f) of the By-law, the application will not materially affect the public interest or the interest of the broader community of Malmesbury, therefore the application was not published in the newspapers or the Provincial Gazette. It was required of the owner to, in terms of Section 58(2)(f) of the By-Law, conduct his own public participation process by obtaining the consent from neighbouring and affected property owners.

In this instance the owner requested the Municipality to issue an official notice and said notice was forwarded to the owners of Erf 31 May 2022.

Total valid comments	1			Total comments and petitions refused	0		
Valid petition(s)	Y	N	If yes, number of signatures	0			
Community organisation(s) response	Y	N	N/A	Ward councillor response	Y	N	The application was not referred to the Ward Councillor.
Total letters of support	None						

PART H: COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS

Name	Date received	Summary of comments	Recommendation
Comments were not requested from any organ of state and internal municipal departments.			N/A

PART I: COMMENTS RECEIVED DURING PUBLIC PARTICIPATION		SUMMARY OF APPLICANT'S REPLY TO COMMENTS	MUNICIPAL ASSESSMENT OF COMMENTS
J.E. & K. Schep (Erf 4514) Malmesbury	1. They already have the original garage now converted into a rental accommodation unit at 0m towards Pedro street 6, a store room build by the previous owner without official deviation approvals at 0m against our Eastern boundary their Western boundary and this behaviour should not be seen as the norm and this stopped.	1. Mr Schep mentions an original garage which is built on the southern boundary. The garage does not have any negative effect on Erf 4514 and other building work were approved when the erf was in different ownership.	1. The garage converted into a dwelling unit was submitted and approved by the Municipality. No objections were received.
	2. The ask to potentially have the complete Western boundary line set to a 0m building line is and will under no circumstance be supported or accepted by us.	2. The proposal is only for the new storage area and not for the whole 1,5m building line to be reduced to 0m.	2. The departure will never be granted for the entire building line and will be limited to the length of the storeroom, by means of conditions of approval.
	3. During initial prior dialogs we made it clear that such a request will not be supported as it creates a security risk for our property.	3. The applicant is willing to install barbed wire along the length of the roof of the new storage area for added security. The original store room which was built by the previous owner has never posed a threat or contribute to any burglaries. The applicant's property is secured by a spiked steel gate. It is unlikely that criminals will climb over the gate, scale a 2,3m high store room wall with 1m barbed wire in order to access Erf 4514. The difference in ngl is such that the roof of the store room will be below the boundary wall and additional measures such as barbed wire will deter criminals.	3. It is noted that the applicant is willing to contribute additional security measure. Said measures may be imposed via conditions of approval. Furthermore, the proposed departure will be on the innermost property boundary, completely surrounded by other properties. It is considered to be the most unlikely way to gain access to Erf 4514, which is located directly adjacent to an open space.
	4. The store room height and perimeter wall height being equal will create a point of entry into our property which can only be secured with additional capital expense which will not be required if the adherence to the set building lines is honoured. Mr Laing started to construct the store room illegally prior to any approvals and would have completed it if the building inspector did not make an out of cycle visit.	4. The applicant measured the difference in height between the two erven, for the length of the store room and concluded that Erf 4514 is in fact higher than Erf 11354.	4. Refer to comment 3. Building work was halted upon order and the applicant is using the opportunity to legalise the unauthorised building work before completing the store room.
	5. The property (Erf 11354) slopes strongly towards our eastern boundary and the additional storm water will impact our property. If the departure is granted additional cost and engineering will be required to convert our boundary wall to a storm water management level to avoid	5. Storm water will be retained on Erf 11354 by installing a boxed gutter over the length of the roof, to flow into an underground down pipe towards the street.	5. The proposed storm water management measures proposed by the applicant is deemed sufficient and will be imposed through the conditions of approval.

	<p>structural and flood damage in the unforeseen case of a major downpour.</p> <p>6. Property resell value have a heavy weighted dependency on privacy, security, unsecure entry points and by supporting the store room we will be undermining our ability to resell our property at the maximum potential future value.</p> <p>7. From the site plan it is clear that there is ample space within the building lines to build a store room adjacent / connected to the garage on the North Eastern side of the property without impacting any adjacent properties.</p> <p>8. Properties need to be fully detached and not semi-detached with non-critical structures within building lines.</p>	<p>6. The store room will not be visible from Erf 4514, as Erf 11354 is lower. The installation of barbed wire will be for the safety and security of both erven. Erf 4514 is already accessible from other weak spots in the boundary fence, rather than from Erf 11354.</p> <p>7. The location of the storeroom is intended to form a cluster of buildings, rather than scattering structures over the erf.</p> <p>8. N.a.</p>	<p>6. The statement is conjecture and not supported by proof.</p> <p>7. The By-Law specifically makes provision for the departure from side building lines by outbuildings. The proposed store room is a practical extension of the existing garage.</p> <p>8. Refer to comment 7.</p>
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PART J: MUNICIPAL PLANNING EVALUATION

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

The building plans were submitted to the Municipality on 17 May 2022, following instruction from the Division: Built Environment. The public participation process was initially conducted by the applicant, but the affected owners opposed the development and did not want to communicate further with the applicant.

An official written notice (Annexure D) was consequently sent to the affected owners on 31 May 2022, to afford them the opportunity to formally object to the proposed departure and for the objections to be evaluated by the delegated official and Municipal Planning tribunal.

Written objections were received on 1 June 2022 (Annexure E) and forwarded to the applicant for a response on the same day. The applicant responded to comments on 10 June 2022. The tribunal did not convene during July and the application is thus presented at the August sitting.

The draughtsperson is M. Erasmus and the erf owner and applicant is K. Laing.

2. Legislation and policy frameworks

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

The application is evaluated according to the principles of spatial planning, as contained in the abovementioned legislation.

- a) Spatial Justice: Considered not relevant to this specific application.
- b) Spatial Sustainability: Considered not relevant to this specific application.
- c) Efficiency: Considered not relevant to this specific application.
- d) Good Administration: The application was processed in a timeous and effective manner and is considered good administrative practice.
- e) Spatial Resilience: Considered not relevant to this specific application.

2.2 Integrated Development Plan (IDP) and Spatial Development Framework (SDF)

Considered not relevant to this specific application.

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

The existing unauthorised building work departs from the 1,5m side building line to 0m for the length of the proposed store room (7,66m) .

All other zoning parameters are complied with.

3. The desirability of the proposed utilisation

Erf 11354, Moorreesburg is zoned Residential zone 1 and is developed with a dwelling house, a second dwelling, two garages, two carports and a shed.

The owner of erf 11354 has a need for safe and secure space to store things such as garden implements, materials etc.

The proposed building work needs to comply with all the requirements of the National Building Regulations prior to approval by Swartland Municipality, which will be ensured at building plan stage.

The store room is proposed on an area of Erf 11354 which would otherwise not be utilised, but which is a logical extension of the existing garage. It is therefore meaningful and practical to extend the existing garage to that area of the property.

Die Wingerd is an established neighbourhood that has a low density residential character. There are no design guidelines applicable to the area. In terms of the development management scheme the objective of Residential Zone 1 is to provide low to medium density residential development on relatively large erven and to protect the quality and character of such areas. Building lines are control measures that not only accommodate services but also preserve the nature and character of the area. From the site inspection to the Die Wingerd area it was found that the erf is developed in accordance with previously approved plans. The proposed store room is not visible from the street, nor from Erf 4514. The character of the area is thus not impacted upon.

Erf 11354 has no conditions registered against its title deed that negatively impacts on the proposed application.

Erf 11354 has no heritage grading.
4. <u>Impact on municipal engineering services</u>
Existing services to erf 11354 will not be affected.
5. <u>Response by applicant</u>
See Annexure F for the applicants' response to comments.
6. <u>Comments from other organs of state/departments</u>
No comments were requested.

PART K: ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

<u>The financial or other value of the rights.</u> N/A
<u>The personal benefits which will accrue to the holder of rights and/or to the person seeking the removal.</u> N/A
<u>The social benefit of the restrictive condition remaining in place, and/or being removed/amended.</u> N/A
<u>Will the removal, suspension or amendment completely remove all rights enjoyed by the beneficiary or only some of those rights?</u> N/A

PART L: RECOMMENDATION WITH CONDITIONS

The application for a departure from development parameters on Erf 11354, Malmesbury, 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:

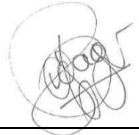

1. TOWN PLANNING AND BUILDING CONTROL

- The departure authorises the encroachment on the 1,5m western side building line to 0m, restricted to the length of the proposed new store room;
- The plans currently being considered be amended in order to indicate the proposed security measures, such as barbed wire and that said measures adhere to the requirements of SANS 10400;
- The plans currently being considered include the proposed boxed gutter, as presented in the application;
- Storm water run-off be managed on Erf 11354 and discharged in the nearest municipal street;
- The use of the store room be restricted to storage purposes and that no other uses such as hobbies, social gatherings or any other noise generating activity be permitted in the storage space;
- The applicant and objector be informed of their right to appeal against the decision of the Municipal Planning Tribunal, in terms of section 89(2) of the By-Law.

PART M: REASONS FOR RECOMMENDATION

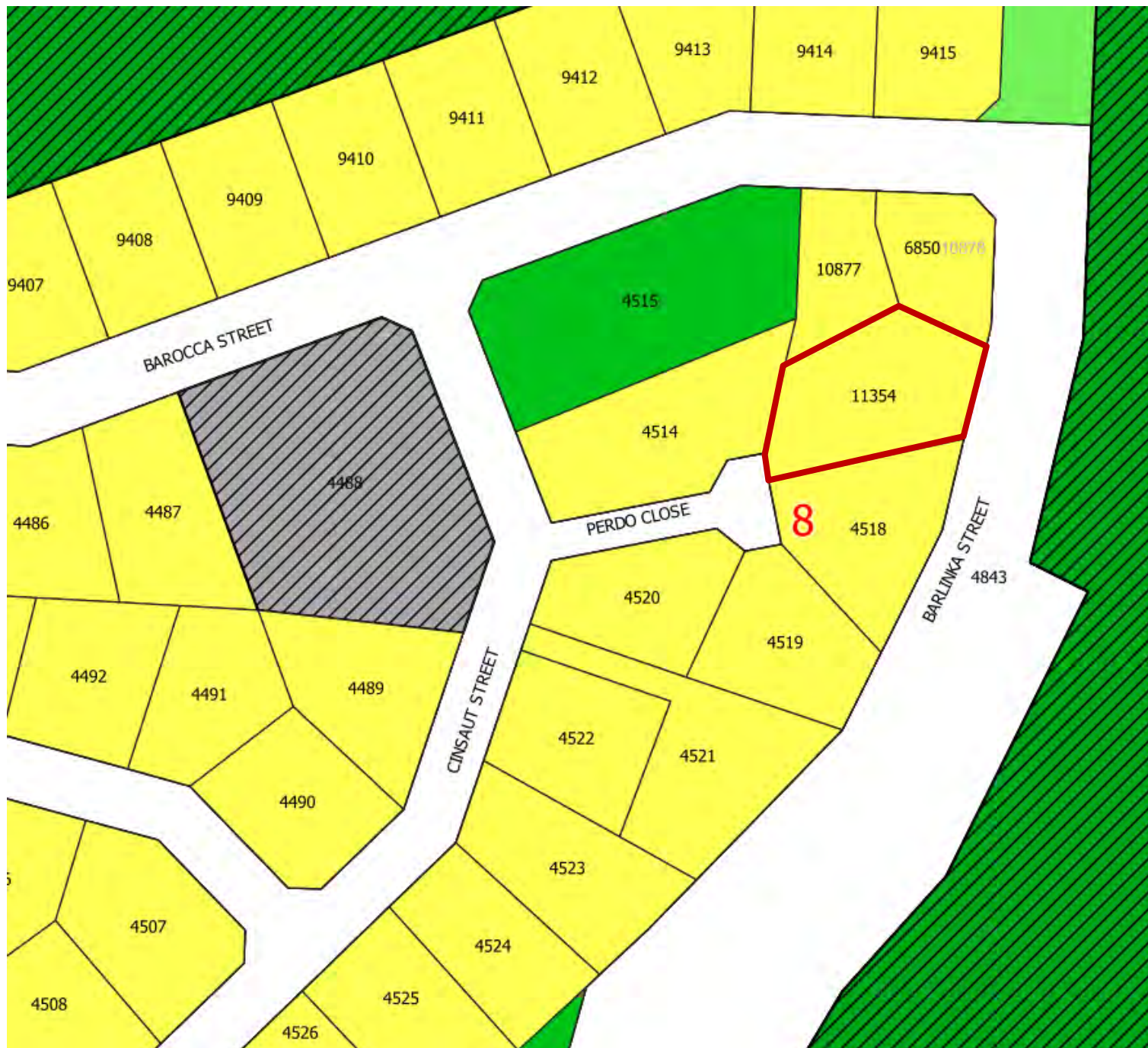
Reasons for the approval

- The owner/applicant asserted the right to rectify the fact that building work was commenced without authorisation, through building plan submission via the correct portal.
- The proposed building work complies with the requirements of the National Building Regulations.
- The proposed store room is located in a practical position on the property to accommodate the applicants need.
- Any perceived security issues will be addressed by the applicant at building plan stage.
- The proposed use is limited to storage, being a low impact, low noise generating activity.
- The design of the store room compliments the style of the existing garage and will therefore not have a negative impact on the street front / character of Tosca Street.
- The development of outbuildings in side building lines is standard practice and furthermore, as the store room will not be visible from the street, or Erf 4514, the proposal is considered in keeping with the residential character of the area.

PART N: ANNEXURES				
Annexure A	Locality Plan			
Annexure B	Cease and Desist Order			
Annexure C	Building Plans			
Annexure D	Written Notice			
Annexure E	Objections from J.E. & K. Schep			
Annexure F	Response to Comments			
PART O: APPLICANT DETAILS				
Name	K. Laing			
Registered owner(s)	K. Laing	Is the applicant authorised to submit the application?	Yes	N
PART P: SIGNATURES				
Author details: Annelie de Jager Town Planner SACPLAN A/2203/2015			Date: 2 Aug 2022	
Recommendation: Alwyn Zaayman Senior Manager: Built Environment SACPLAN B/8001/2001	Recommended	✓	Not recommended	
			Date: 2 Aug 2022	

LOCALITY MAP: ERF 11354, MALMESBURY

-  COMMUNITY ZONE 2
-  COMMUNITY ZONE 3
-  GENERAL RESIDENTIAL ZONE 1
-  GENERAL RESIDENTIAL ZONE 2
-  GENERAL RESIDENTIAL ZONE 3
-  INDUSTRIAL ZONE 1
-  INDUSTRIAL ZONE 2
-  INDUSTRIAL ZONE 3
-  OPEN SPACE ZONE 1
-  OPEN SPACE ZONE 2
-  OPEN SPACE ZONE 3
-  OPEN SPACE ZONE 4
-  RESIDENTIAL ZONE 1
-  RESIDENTIAL ZONE 2



ANNEXURE A

ANNEXURE B

Lêer verw/
File ref: 15/4/2/1

Navrae/Enquiries:
Mr BJ Groeneveld

24 March 2022

Laing Langkloof Familie Trust
Auctionstraat 29
MALMESBURY
7300

Sir / Madam

NOTICE TO STOP BUILDING WORK FORTHWITH (IMMEDIATELY): ERF 11354 MALMEBSURY

An inspection conducted on 23 MARCH 2022 revealed that you are in process of erecting a STRUCTURE on Erf No 11354 at MALMESBURY.

The work being (description and extend of the work) _AFDAK STRUCTURE

in the area of Swartland Municipality (being the local authority in question) this is in contravention of the Section 4(1) read with Section 4(4) of the National Building Regulation and Building Standards Act No103 of 1977 (the Act), as no prior written approval for the erection of such STRUCTURE has been obtained from the said local authority.

In terms of Section 4(1) of the Act, no person shall without the prior approval in writing of the local authority in question, erect any building in respect of which plans and specifications are to be drawn and submitted in terms of this Act.

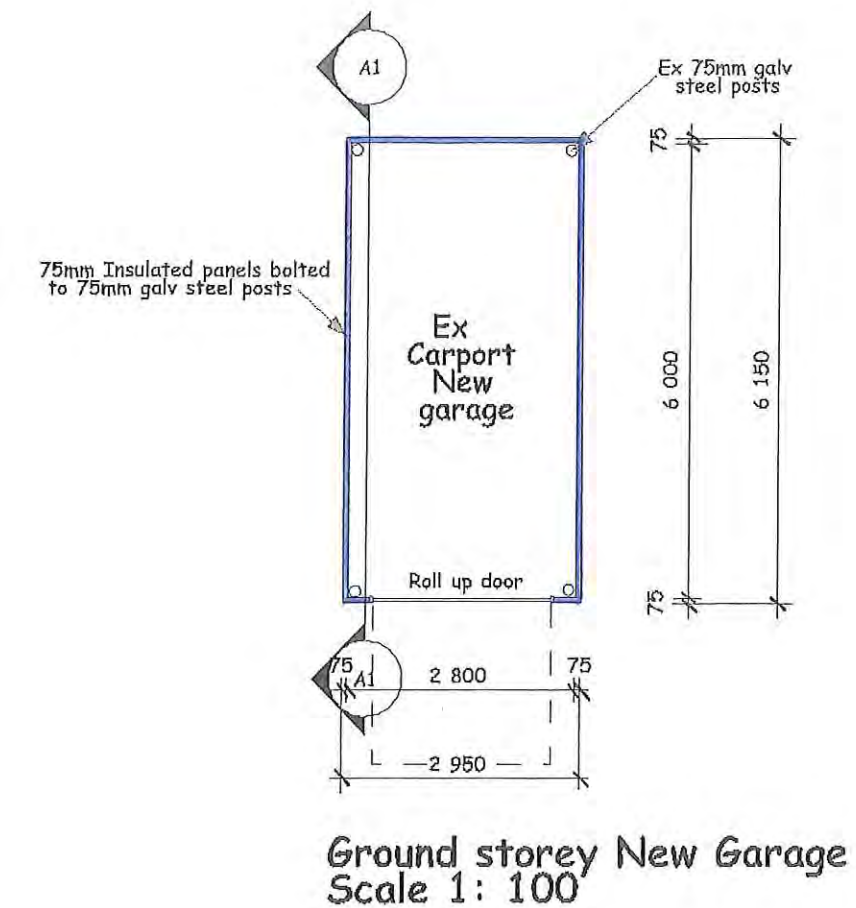
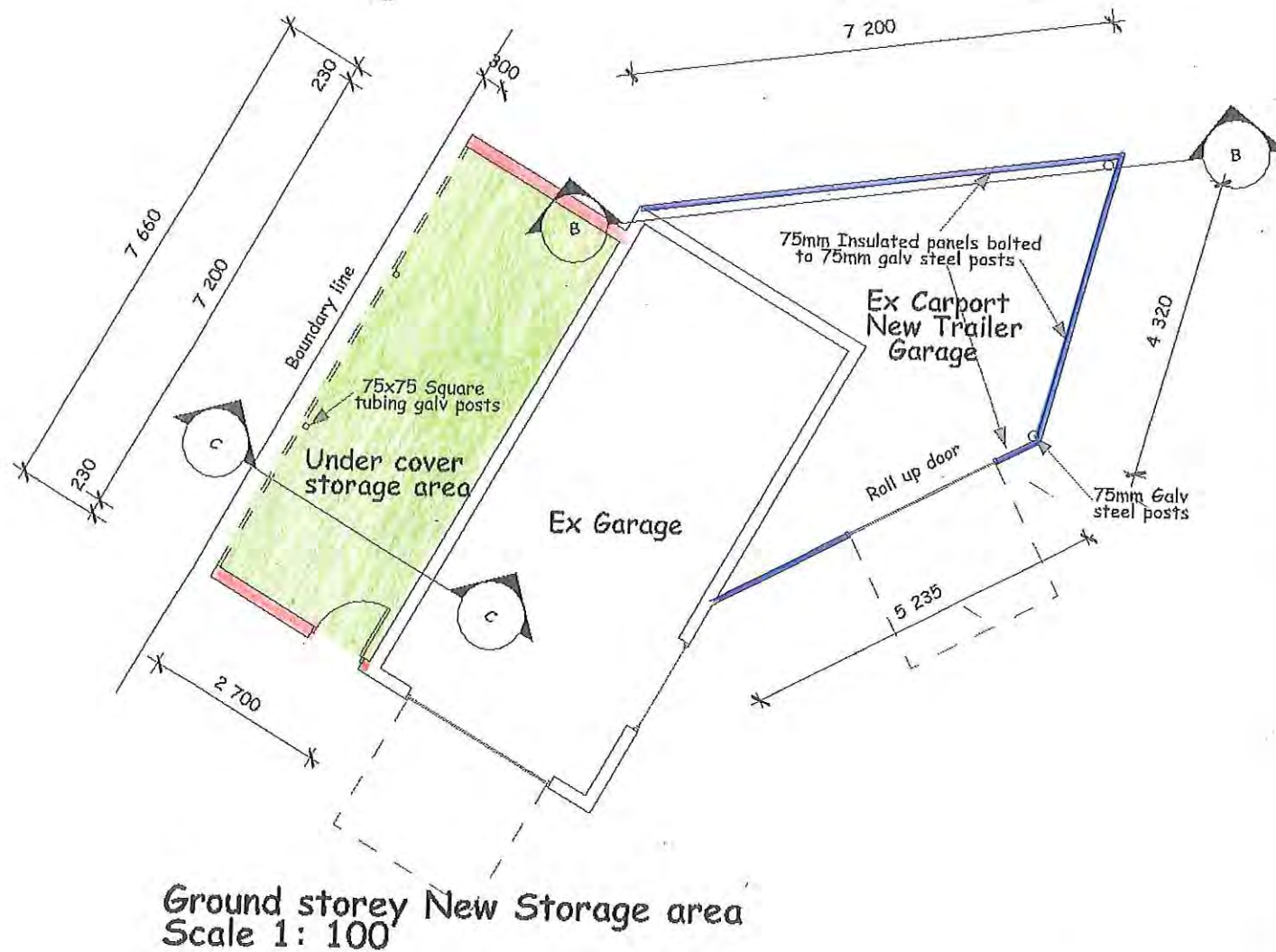
In terms of Section 4(4) of the Act, any person erecting any building in contravention of the provisions of Section 4(1) shall be guilty of an offence.

Acting under delegated powers, I hereby order you in terms of Regulation A25 (6) and (7) of the National Building Regulations as amended promulgated under Section 17(1) of the Act, **to stop** forthwith the erection of said building immediately.

FAILURE TO COMPLY WITH THIS NOTICE CONSTITUTES A CRIMINAL OFFENCE IN TERMS OF REGULATION A25 (11) OF THE NATIONAL BUILDING REGULATIONS as amended. Swartland Municipality may, without further notice, institute legal proceedings against you, which will result in demolishing order.


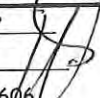
Yours faithfully

MUNICIPAL MANAGER
per Department Development Services
HJK/cd



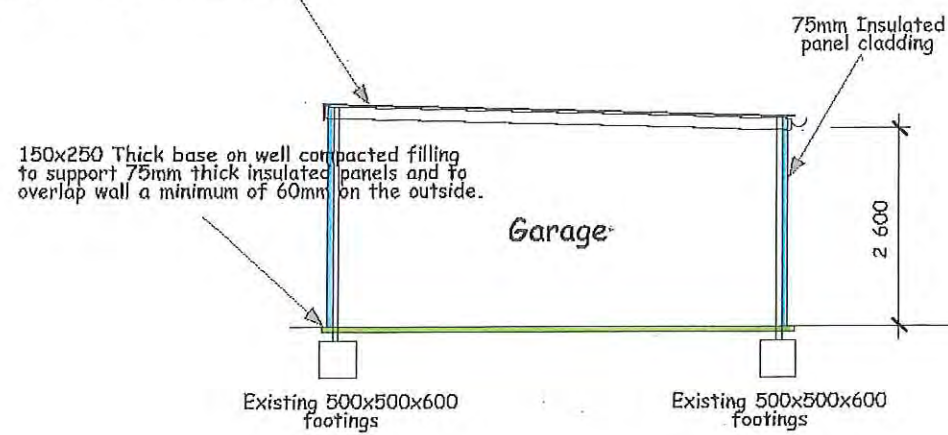
General notes

- All levels and dimensions to be checked, corrected and verified with the author before commencements of any works
- All works to be done according NBR
- Brick force in every 3rd coarse
- Pre stressed concrete lintels over all openings of less than 3m
- Light area to be min 10% and ventilation area to be 5% of all habitable rooms
- All glazing to comply to part N of the NBR
- Safety glass in all panes bigger than 1m² and closer than 300mm to FFL.
- DPC to be min 375 mic SABS approved
- DPM to be min 250 mic SABS approved
- All timber build into brick work to be coated with pink primer
- Flashing to be applied to all roof joints with a min overlap of 300mm
- Parapet walls to be min 300mm above roof covering and max 300mm high or to comply with the rule KK3.3 ii of the NBR
- Parapet walls to be plastered sloped on top to the inside and covered with an approved waterproof sealer
- Brick force in every row of bricks above lintels
- DPC in all window frames
- All stair treads to be min 250mm and risers 200 mm max
- 135mm Flexible fibre glass insulation in roof.
- All walls to be plastered and painted to manufacturers specs
- No foundations to stretch beyond any boundaries
- All retaining walls to comply with the NBR.
- All walls, floors and roofs to be insulated according to SANS 10 400
- All chimneys to be min 1m above highest exit point on roof and max 3.5m high.
- Frosted glass to bathrooms.

Client name: Liang Family Trust			Areas Existing footprint - 328.25m ² Additions - 20.68m ² Total new footprint - 348.93m ² Coverage - 29.79% Erf area - 1171.00m ² Total new area - 20.68m ²
Address: 4 Pedro Street Malmesbury			
Project: Alterations and additions on Erf 11354 Malmesbury			
Author: M. Erasmus 53 Begonia Street Malmesbury		081 0894392	
Drawing type: Floor plans			
Page	Scale	Date drawn	
1-3	As shown	May 2022	
Client signature: 			
Author signature: 			
Author registration nmbr: D0606			

ANNEXURE C

Existing roofstructure approved on previous plan number 1487302.

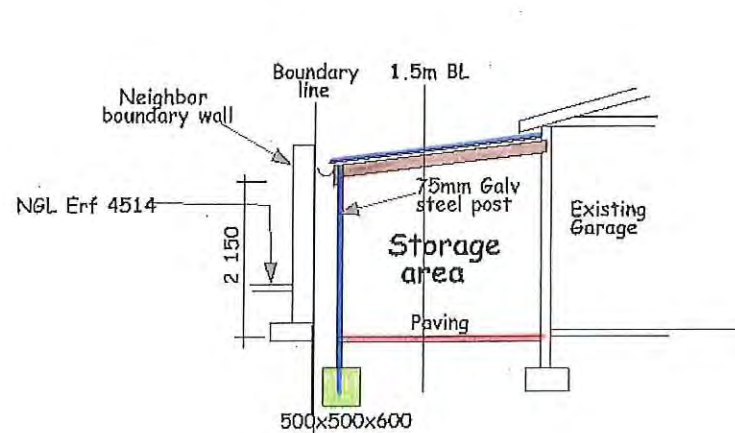


Section A - A
Scale 1: 100

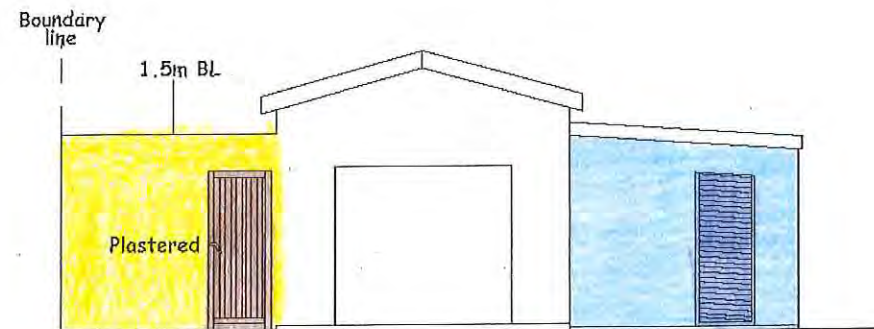
West elevation
Scale 1: 100

South elevation
Scale 1: 100

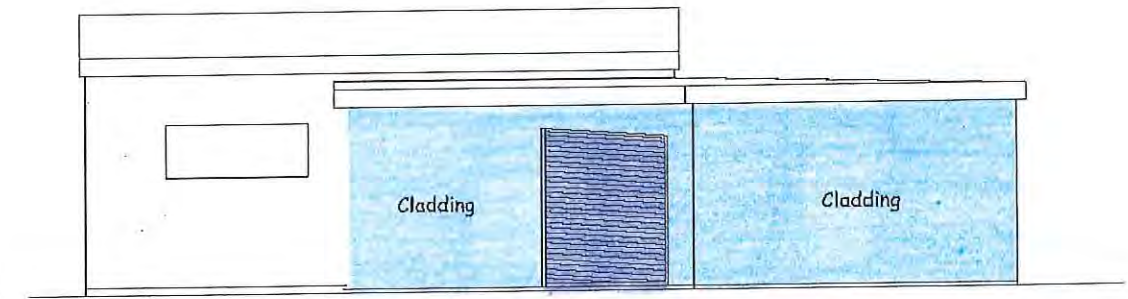
Roof notes
Corr sheets on 75x50 pultrins @ 1.2c/c fixed to 152x38 rafters @ 1.4c/c fixed to 228x38 facia bearer beam fixed to 75x75 galv steel posts in 500x500x600 conc footings.
Roof slope min 3



Section B - B
Scale 1: 100



South elevation
Scale 1: 100

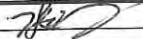



West elevation
Scale 1: 100

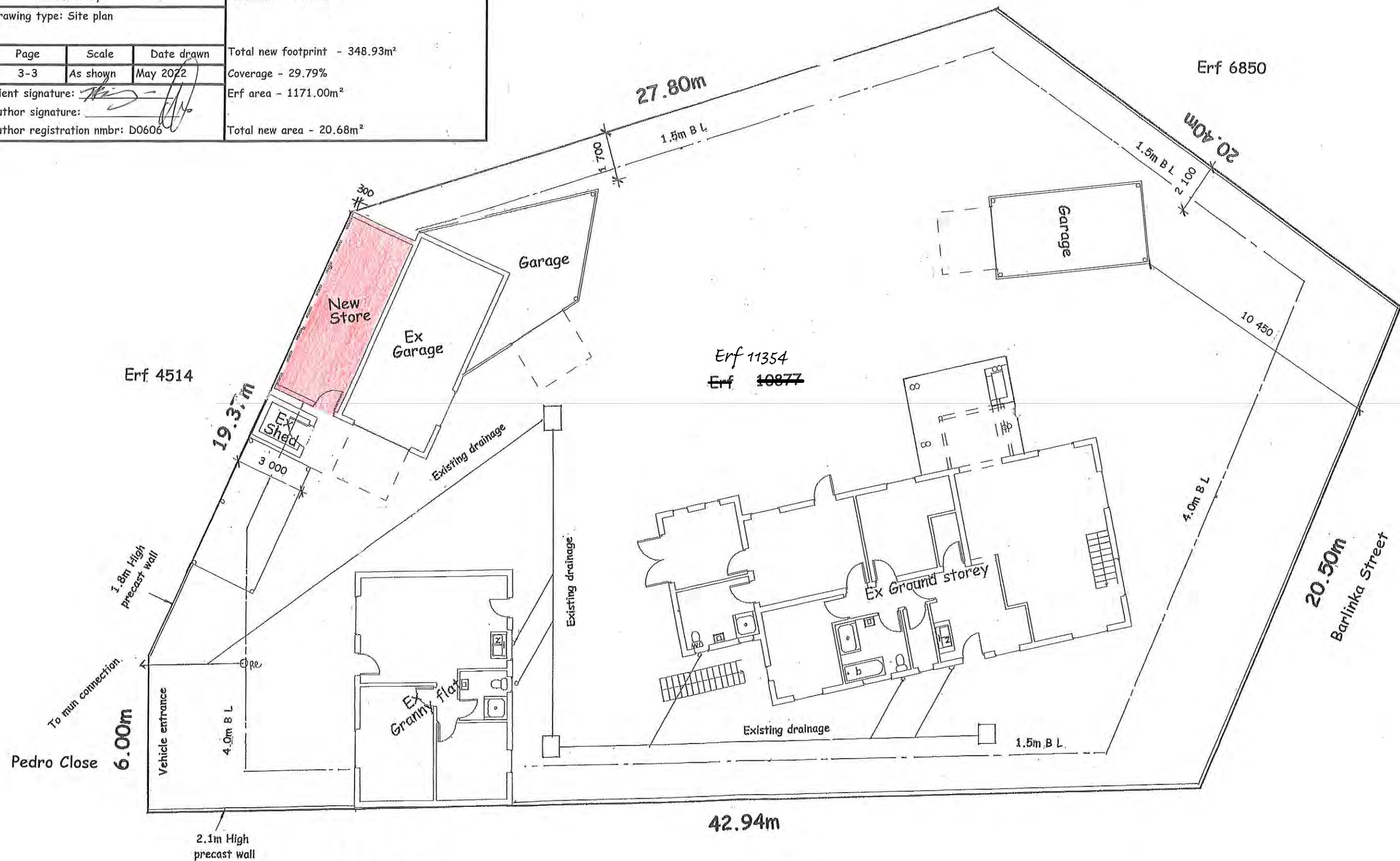
Wall system (To comply with SANS 10400:J and 517:2013)

- 1) Thermal structured insulated panel 100mm thick.
- 2) 100mm EPS sheathed on both sides with 0.50mm pre painted galvanised panel anchored at 600 c/c intervals with Class 3 fasteners - Panel is inserted into 0.50mm U floor channel and wall plate channel fastened into steel floor plate @ 600c/c with class 3 fasteners.
- 3) As endorsed by AAMSA and Panel Manufacturers Association with attached building system.
- 4) Thermal Value R 2.6

Copy right is vested in this plan. No unauthorised copies of or part of this plan or amendments is to be made without the written consent of the author. This plan remains the property of the author and therefore he does not need any consent from a second party to draw plans from municipal archives for his use.

Client name: Liang Family Trust			
Address: 4 Pedro Street Malmesbury		Contact nmbr:	
Project: Alterations and additions on Erf 11354 Malmesbury			
Author: M. Erasmus 081 0894392 53 Begonia Street Malmesbury		Areas Existing footprint - 328.25m ² Additions - 20.68m ²	
Drawing type: Sections and elevations			
Page	Scale	Date drawn	
2-3	As shown	May 2022	
Client signature: 		Total new footprint - 348.93m ²	
Author signature: 		Coverage - 29.79%	
Author registration nmbr: D0606		Erf area - 1171.00m ²	
		Total new area - 20.68m ²	

Client name: Liang Family Trust		
Address: 4 Pedro Street Malmesbury		Contact nmbr:
Project: Alterations and additions on Erf 11354 Malmesbury		
Author: M. Erasmus 081 0894392 53 Begonia Street Malmesbury		Areas Existing footprint - 328.25m ² Additions - 20.68m ²
Drawing type: Site plan		
Page	Scale	Date drawn
3-3	As shown	May 2022
Client signature: <i>[Signature]</i>		Total new footprint - 348.93m ²
Author signature: <i>[Signature]</i>		Coverage - 29.79%
Author registration nmbr: D0606		Erf area - 1171.00m ²
		Total new area - 20.68m ²



Site plan
Scale 1: 150

Erf 4518



CLEAN AUDITS SINCE 2010/11



Ons gee gestalte aan 'n beter toekoms!
We shape a beter future!
Sibumba ikamva elingcono!

Lêer verw/
File ref: 15/4/2-8

Navrae/Enquiries:
A. de Jager

30 May 2022

J.E. & K. Schep
P.O. Box 776
MALMESBURY
7299

Per registered post

Sir/Madam

PROPOSED DEPARTURE ON ERF 11354, MALMESBURY

Applicant: M. Erasmus, 53 Begonia Street, Malmesbury, 7300
Owner: Liang Family Trust, 4 Pedro Street, Malmesbury, 7300
Reference number: 15/4/2-8
Property description: Erf 11354, Malmesbury
Physical Address: 4 Pedro Street, Malmesbury

An application for a building line departure on Erf 11354, Malmesbury, in terms of section 25(2)(b) of Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), has been received. The departure entails the following :

- a) Departure from the 2m north-western rear building line to 0m in order to accommodate an outbuilding containing a storage room.

Notice is hereby given in terms of section 56(2) of the By-Law, that the abovementioned application has been received and is available for inspection from Monday to Thursday between 08:00-13:00 and 13:45 - 17:00 and Friday 08:00-13:00 and 13:45 - 15:45 at the Department Development Services, office of the Senior Manager: Built Environment, Municipal Office, Church Street, Malmesbury. **Any written comments, whether an objection or support, may be addressed in terms of section 60 of the said legislation to The Municipal Manager, Private Bag X52, Malmesbury, 7299/Fax – 022-487 9440 /e-mail – swartlandmun@swartland.org.za on or before 1 July 2022 at 17:00, quoting your name, address or contact details as well as the preferred method of communication, interest in the application and reasons for comments.** Telephonic enquiries can be made to the town planning division (Alwyn Burger or Herman Olivier) at 022-487 9400. The Municipality may refuse to accept comment received after the closing date. Any person who cannot write will be assisted by a municipal official by transcribing their comments.

Yours sincerely

MUNICIPAL MANAGER

via Department Development Services
Adj/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

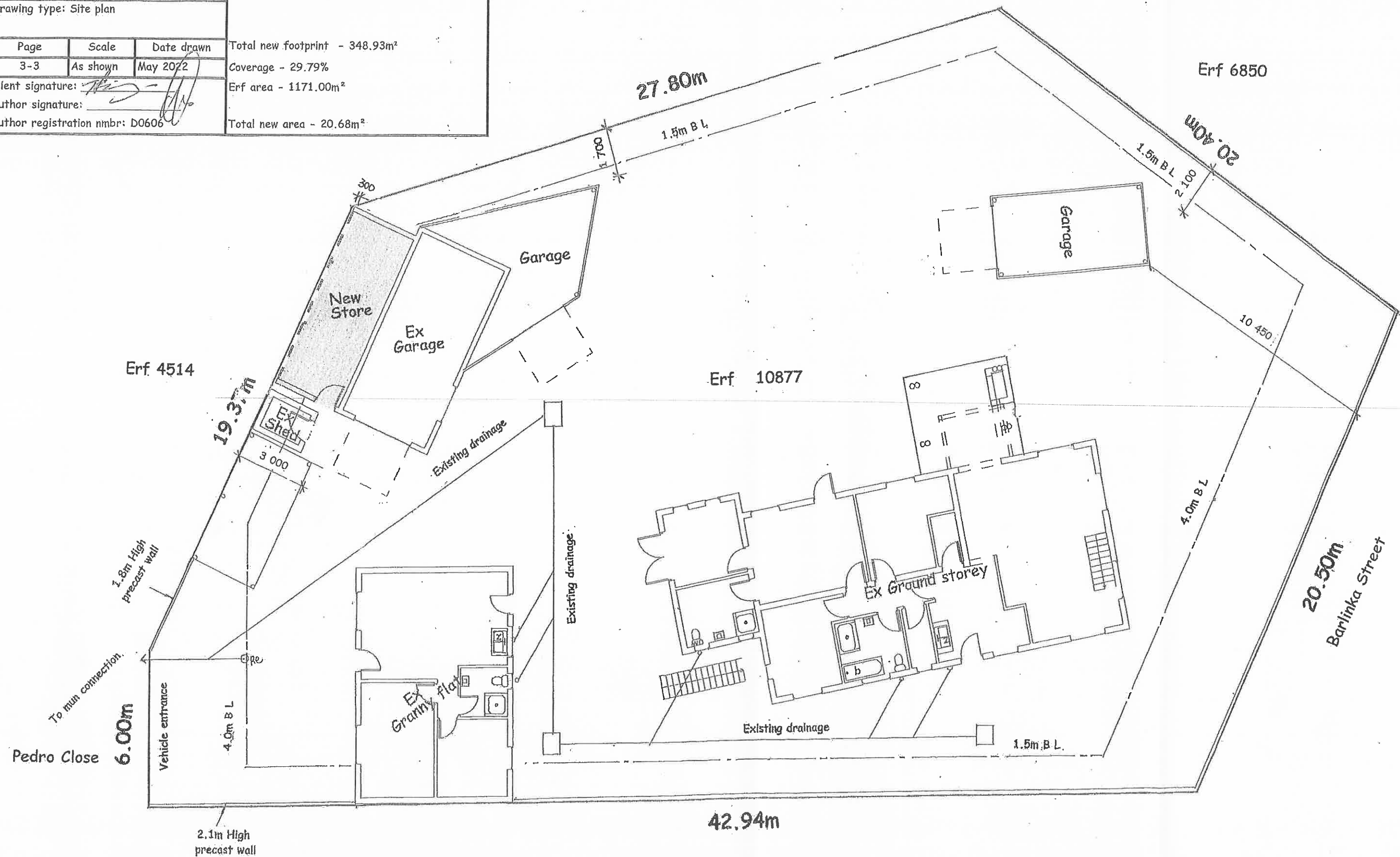
Kindly address all correspondence to:

The Municipal Manager
Private Bag X52
Malmesbury 7299

Yzerfontein Tel: 022 451 2366

ANNEXURE D

Client name: Liang Family Trust		
Address: 4 Pedro Street Malmesbury		Contact nmr:
Project: Alterations and additions on Erf 11354 Malmesbury		
Author: M. Erasmus 081 0894392 53 Begonia Street Malmesbury		Areas Existing footprint - 328.25m ² Additions - 20.68m ²
Drawing type: Site plan		
Page	Scale	Date drawn
3-3	As shown	May 2022
Client signature: <i>[Signature]</i>		Total new footprint - 348.93m ²
Author signature: <i>[Signature]</i>		Coverage - 29.79%
Author registration nmr: D0606		Erf area - 1171.00m ²
		Total new area - 20.68m ²



Site plan
Scale 1: 150

Erf 4518

ANNEXURE E

From: Schep, Jacques <jacques.schep@philips.com>
Sent: 01 June 2022 11:20 AM
To: Annelie de Jager <dejagera@swartland.org.za>
Cc: Registrasie Email <RegistrasieEmail@swartland.org.za>; Delmarie Stellenberg <StellenbergD@swartland.org.za>
Subject: RE: Afwyking Erf 11354, Malmesbury

Dear Delmarie, Annelie & The Municipal Manager

Please find our feedback as per the mail shared yesterday enriched with the now correct erf number as per this e-mail subject trail and the more comprehensive site plan reflecting a contradictory erf number of 10877

We have been in dialog with the owner of Pedro Street 4 / erf 11354 namely Koos Liang and made it clear prior to him submitting a deviation request that we do not support a request to have the building line reduced to 0m along the western side of their property. They already have the original garage now converted into a rental accommodation unit at 0m towards Pedro street 6, a store room build by the previous owner without official deviation approvals at 0m against our Eastern boundary their Western boundary and this behaviour should not be seen as the norm and this stopped.

The ask to potentially have the complete Western boundary line set to a 0m building line is and will under no circumstance be supported or accepted by us.

Rational for the rejection / non-acceptance of the Proposed departure on Erf 11354, Malmesbury

- During initial prior dialogs we made it clear that such a request will not be supported as it creates a security risk for our property
 - o The store room height and perimeter wall height being equal will create a point of entry into our property which can only be secured with additional capital expense which will not be required if the adherence to the set building lines is honoured.
 - o Mr Liang started to construct the store room illegally prior to any approvals and would have completed it if the building inspector did not make an out of cycle visit after we flagged to Mr Liang that he is out of line with this construction
- The property (erf 11354) slope strongly towards our Eastern boundary and the additional storm water will impact our property. It is clear from KZN that climate change is a reality hence the rules for building lines and clear defined perimeter building lines mitigating this risk. If this deviation is granted additional cost and engineering will be required to convert our boundary wall to a storm water management level to avoid structural and flood damage in the unforeseen case of a major downpour.
- Property resell value have a heavy weighted dependency on privacy, security, unsecure entry points and by supporting the store room we will be undermining our ability to resell our property at the maximum potential future value.
- From the site plan it is clear that there is ample space within the building lines to build a store room adjacent / connected to the garage on the North Eastern side of the property without impacting any adjustment properties

- I can only assume that this option is not sketched-up as the requested “New Store” is presently more than 80% completed prior to any approvals granted.
- Boundary lines is critical to keep the requirements for a suburbia layout versus a cluster development and properties need to be fully detached and not semi-detached with non-critical structures within building lines.

In summary we reject the request to Proposed departure on Erf 11354 linked to 0m building line and will not deviate from this stand point.

Please inform us if we have to transpose this feedback onto an official objection document or if this communication suffice as an official objection.

Kind regards

Jacques & Karina Schep

082 456 3038

Preferred method of communication is by email to jacques.schep@philips.com alternative for quick connect telephonically on 0824563038

ANNEXURE F

Response to "Objection letter" dated 31 May 2022 by Mr J. Schep.

Ref. 4 Pedro Street, Malmesbury, Erf 11354

1. Mr Schep is mentioning an original garage which is already built on the Southern boundary.
 - a) This garage does not have any negative effect on him thus this argument cannot be used to strengthen his case for not supporting our request. Permission for this was granted by the affected owners previously.
2. Mr Schep mentions that we are asking for a complete setback of the existing 1.5m building line to a permanent 0m building line.
 - a) We are not asking for a permanent setback of the 1.5m building line as he mentions. We only request a setback of 0m for the new storage area.
3. The building of the storeroom is seen by them as a security risk
 - a) If they feel that their property will be entered via the roof of our building, I will install barbed wire along the length of the roof of the new storage area. This will give an additional height of about 1.4m which includes the height of the wall above the roof.
 - b) The original "illegal" store room which he refers to which was built without their consent by the previous owner have never to my knowledge posed a threat of burglaries or did it contribute to any burglaries on his property and that is without any gates or security measures which was not in place.
 - c) We have a 1.6m high steel gate with sharp tips on top to secure our own property. I do not see how a prospective burglar will want to enter our neighbor's property via our property and then still scale a 2.3m high store room with a 1m high barbed wire fence on top of the roof and then make it back thru our property. The total height which the thief will have to scale is about 5.3m before he can enter Mr Schep's property.
 - d) The difference in levels is as such that the roof of the store room will be below their boundary wall and with additional measures like barbed wire along the roof will deter any burglaries as it will be a great effort to scale the wall and wire and get back into our property.
4. Mr Schep make mention of a slope of our property towards his property.
 - a) As measured by myself, at the rear the difference in height between our ground and his is 600mm at the rear and 250mm in front over the length of the store room. His property is higher by these measurements on both ends over the length of the store room. His property in fact slopes towards ours.

- b) Water falling from our roof is also not a problem as I will install a boxed gutter over the length of the roof and the water flows down into an underground down pipe leading to the street where the water is carried away from his property.
5. He makes mention of resell value.
- a) This is not a factor as the roof cannot be seen from his property when you stand on the ground so it is not unsightly.
 - b) The barbed wire is additional security for both erven.
 - c) It is easier to enter his property from the open field on the other side where he has a dilapidated, unsightly wired fence than entering through our property with all the security measures in place into his property.
6. Mr. Schep referred to the cluster development on my property but if you go on Google earth you will see that Mr. Schep's property is much more clustered than mine.

I kindly invite you to come and have a look to see for yourself the layout of the property.

I hope that our defense above meets your requirements.

Regards

Mr K. Laing



10 June 2022

ITEM 6.7 VAN DIE AGENDA VAN 'N MUNISIPALE BEPLANNINGSTRIBUNAAL WAT GEHOUD SAL WORD OP WOENSDAG 10 AUGUSTUS 2022

LAND USE PLANNING REPORT					
APPLICATION FOR DEPARTURE ON ERF 425, MALMESBURY					
Reference number	15/3/4-8/Erf_425	Application submission date	29 April 2022	Date report finalised	28 July 2022

PART A: APPLICATION DESCRIPTION						
<p>The application for a departure from the development parameters on Erf 425, Malmesbury in terms of section 25(2)(b) of Swartland Municipality: Municipal Land Use Planning By-law (PG 8226 of 25 March 2020) has been received. It is proposed to depart from the development parameters as follows:</p> <ul style="list-style-type: none"> Departure from the required 12 on-site parking bays by only providing 8 on-site parking bays. <p>The departure is caused by the proposed construction of two apartments on the premise.</p> <p>The applicant is CK Rumboll and Partners and the owners of the property is CLISA 33 CC.</p>						
PART B: PROPERTY DETAILS						
Property description (in accordance with Title Deed)	Erf 425, Malmesbury in the Swartland Municipality, Division Malmesbury, Province of the Western Cape					
Physical address	2 Biccard Street Please refer to the location plan attached as Annexure A		Town	Malmesbury		
Current zoning	Business Zone 1	Extent (m ² /ha)	622m ²	Are there existing buildings on the property?	<input checked="" type="checkbox"/> Y	<input type="checkbox"/> N
Applicable zoning scheme	Swartland Municipal By-Law on Municipal Land Use Planning (PG 8226 of 25 March 2020)					
Current land use	Flats and offices		Title Deed number & date	T6671 /2006		
Any restrictive title conditions applicable	<input type="checkbox"/> Y	<input checked="" type="checkbox"/> N	If yes, list condition number(s)			
Any third party conditions applicable?	<input type="checkbox"/> Y	<input checked="" type="checkbox"/> N	If yes, specify			
Any unauthorised land use/building work	<input type="checkbox"/> Y	<input checked="" type="checkbox"/> N	If yes, explain			
PART C: LIST OF APPLICATIONS (TICK APPLICABLE)						
Rezoning	<input type="checkbox"/>	Permanent departure	<input checked="" type="checkbox"/>	Temporary departure	<input type="checkbox"/>	Subdivision
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

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 425 was rezoned in 1998 from single residential zone to business zone subject to certain conditions of approval including the provision of 10 on-site parking bays as well as submission of building plans. The owner responded to the letter of approval that, due to an agreement with the neighbour, they will only be able to provide 8 onsite parking bays. The departure was presented to Council on 22 October 1998 in which it was decided that the application for departure be approved subject to the payment of a financial contribution of R 2250.00 for the non-provision of two on-site parking bays. It was determined that building plans were submitted, the financial contribution paid as well as that the parking bays were created but not formalised.

In 2017 after investigation to complaints received, it was determined that the owner of the property converted the building into 5 dwelling units. This was in contradiction with the zoning of the property, at that time. A compliance notice was issued and after some time the owner submitted the necessary application for consent use. The consent use application was considered by the Municipal Planning Tribunal on the 5th of September 2018 and was approved subject to conditions. As the owner did not give effect to the conditions of approval, the approval consequently lapsed on the 1st of March 2019.

With the 2020 amendment of the development management scheme the definition of flats was amended as follows:

2017 *“Flats, means a building of more than one storey containing three or more dwelling units as living accommodation for persons, where one or more dwelling units do not have a ground floor, together with such outbuildings as are ordinarily associated therewith. This excludes double dwelling houses or group houses, provided that in those zones where flats are permissible, one dwelling unit shall be permissible without the consent of the municipality, in a building approved for other purposes than for flats.”*

2020 *“Flats, means a building containing three or more dwelling units, together with such outbuildings as are ordinarily associated therewith; provided further that in those zonings where flats are permissible a building with less than three dwelling units shall also be permissible in a building approved for flats or purposes other than for flats.”*

The proposal can therefore be accommodated given the fact that flats is a primary right under the Business zone 1 zoning.

The application considered now is for the departure for the non-provision of on-site parking in order to allow the owner of the property to accommodate a total of 6 flats of which 4 is existing on the property as well as offices with a total GLA of 120m². In 1997, with the rezoning of the property, the required on-site parking was calculated at 2 parking bays per 60m². This equates to a total of 4 parking bays in respect of the offices. On the other hand, the flats are considered in terms of the Business Zone 1 zoning parameters. In terms of the Business Zone 1 zoning, on-site parking needs to be provided in accordance with Par. 13 of the development management scheme. It is therefore required that at least 1.25 parking bays provided for the flats as well as an additional 0.25 per unit being provided for visitors.

The total number of on-site parking bays required for the property is therefore 13, however as mentioned above, in respect of the business use the Municipality has already approved the departure for not providing 2 onsite parking bays. Therefore it is argued that the total required in terms of this specific case is 11.

Application is therefore made for the departure of the required on-site parking by only providing 8 parking bays in lieu of the 11 that should be provided. It should also be noted that 2 of the parking bays proposed, as well as currently used, are only partially on the specific property. Please refer to the site plan below.



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.
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PART F: SUMMARY OF APPLICANTS MOTIVATION

(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)

The applicant motivates that Erf 425 is located within the Central Business District of Malmesbury on the corner of Biccard and Hill Street, making the property highly accessible.

In their opinion it is evident that the required on-site parking bays cannot be accommodated on Erf 425 which is primarily due to Erf 425 being located in one of the oldest parts of Malmesbury, within the CBD of town as well as that it has a Heritage grading of 3C in terms of the Swartland Urban Heritage Survey. It is also clear that surrounding properties does not have sufficient on-site parking with some even having no on-site parking. Given the historical situation of the CBD, departure from on-site parking requirements, are generally unavoidable.

The applicant motivates that in terms of section 13.1.7 of the Swartland Land Use Planning By-Law, the following provisions for combined parking apply:

"(a) Where two or more land uses share a common parking area, the municipality may reduce the amount of parking bays required for the respective uses, provided that the municipality is satisfied that the utilisation of the parking area by different uses, is not concurrent and that the total number of bays may not be less than the minimum number of bays required for that use, which legally requires the larger number of bays;"

Considering the above, the departure is also considered desirable for the following reasons:

- (a) Since Erf 425 is utilised by two different uses (flats and offices) and use the same parking area, the parking requirements may be reduced by consent from Swartland Municipality. The two uses on the property will not use the parking area at the same time, as the offices will use it during normal office hours and the flats mostly after business hours.
- (b) The application does not entail a change of land use.
- (c) A total of 8 on-street parking bays are provided along Biccard Street of which two is located directly in front of Erf 425. A total of 4 on street parking bays are also located along Hill Street. Therefore a total of 12 on-street parking bays is available in close proximity ($\pm 50\text{m}$) to the Erf 425, Malmesbury.
- (d) A parking area is also available $\pm 120\text{m}$ southwest of Erf 425;
- (e) The proposal complies with all other development parameters, except for the parking requirements and should be favourably considered.
- (f) The relaxation of parking will allow the erection of two additional residential units within the CBD, as encouraged by the Swartland SDF.
- (g) Since the proposed additional flats will be located within the CBD, it will present the opportunity for residents without vehicles to have easy access to work, social activities and everyday needs.
- (h) A large majority of the surrounding business / commercial uses also do not have sufficient on-site parking (or even any on-site parking) but are approved and function flawlessly. The relaxation of parking to provide additional dwelling units must therefore be treated the same.
- (i) The title deed pertaining to Erf 425 Malmesbury contains no restrictive conditions which prohibits the proposed departure on the property.
- (j) Adequate and lawful provision is made for access to public streets.
- (k) Further to the above it is not foreseen that the proposal will have a significant impact on external municipal engineering services.
- (l) The proposed departure will not have a negative impact on heritage resources. The proposed relaxation of parking will allow the property to be developed to its full potential, without any negative effect on the environment, heritage or surrounding neighbours.

In view of the foregoing the applicant motivates that it is clear that the application for permanent departure for the partial non-provision of the required on-site parking bays in respect of Erf 425, Malmesbury is considered desirable.

The applicant concludes that the proposal is in line with the Swartland SDF by promoting commercial renewal within the CBD. It is important to use the existing plots within the urban edge to their optimal potential through compactness to prevent urban sprawl. The development further, according to the applicant, complies with the criteria for the assessment of the application as per the Land use Planning Act, 2014 (Act 3 of 2014) and the Spatial Planning Land Use Management Act, 2013 (Act 16 of 2013). The proposed development will have a positive long-term effect on the economy of Malmesbury and the sustainable use of the site. Lastly, the applicant is of opinion that sufficient parking bays on and around Erf 425 is available to accommodate the proposed additional flats as well as the surrounding land uses and therefore the application should be considered favourable.

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 55(1) (f) of the By-law, the application will not materially affect the public interest or the interest of the broader community of Malmesbury, therefore the application was not published in the newspapers or the Provincial Gazette. With reference to Section 56(2) of the By-Law, a total of 14 notices were sent 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
			N/A

Community organisation(s) response	Y	N	N/A	Ward councillor response	Y	N	Cllr Tijmen van Essen stated that he sees no problem with the proposal.
Total letters of support	None						
PART H: COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS							
Name	Date received	Summary of comments				Recommendation	
Department: Civil Engineering Services	21-06-2022	Water (a) The existing water connection be used and that no additional water connections be provided. (b) A development charge to the amount of R 14 681.66 be made with regards to the bulk distribution of water as well as R 13 068.60 (R 10 890.50 x 0.6 for high density) with regards to the bulk supply of water. Sewerage (a) The existing sewer connection be used and that no additional sewer connections be provided. (b) A development charge to the amount of R 7 263.14 be made. Streets and storm water (a) The proposed parking bays be provided with a suitable permanent surface. (b) The parking investigation of ITS consulting Engineers, report ITS4159 of 27 February 2020 has concluded that there exists sufficient parking in the central business district of Malmesbury. Therefore, there is no objection against the application for departure of the required on-site parking from 12 to 8. (c) A development charge with regards to streets and stormwater be made to the amount of R 11 975.56.				Positive	Negative
Protection Services	20-01-2022	No comments				Positive	Negative
Electrical Engineering Services	18-01-2022	No comments				Positive	Negative
Development Services: Building Control	18-05-2022	Building plans be submitted to Building Control for consideration and approval.				Positive	Negative
Development Services: Property valuation	28-07-2022	Land value R 558 000 Property extent 662m² Land value / m² = R 843/m²				Comments only	

PART I: COMMENTS RECEIVED DURING PUBLIC PARTICIPATION		SUMMARY OF APPLICANT'S REPLY TO COMMENTS	MUNICIPAL ASSESSMENT OF COMMENTS
Neville & Mariaan Quickfall as owners of neighbouring affected property, erf 3015, Malmesbury	<p>Mr. and Mrs. Quickfall states that they respectfully object to the proposed departure on Erf 425 Malmesbury to the following reasons:</p> <p>The Objector states that the majority of the 8 existing parking bays on-site are not demarcated and are not being used. The objector states further that the access, demarcation and utilisation of the 8 on-site parking bays should be addressed first, before this application can be considered.</p>	<p>According to the applicant the tenants of the existing flats and office space each have a gate key to access the parking area on site. This will be the same for the tenants of the newly proposed flats. Once the newly proposed flats are built, the new parking bay areas as illustrated on the building plans attached as Annexure B will be established.</p> <p>Flat number 1, 2, 3, 5 and 6 will each receive 1 parking bay, and will all be accessible from Biccarrd Street, while flat number 4 will be accessible from Hill Street and its parking bay will receive access directly from Hill Street (See building plans attached as Annexure B).</p> <p>The existing offices have one parking bay (parking bay number 5) within the gated area and one parking bay receives access from Hill Street (parking bay number 8).</p>	<p>The outcome of this application will determine whether construction is going to take place at the back of the property or not. It is therefore more sensible to consider the application first.</p>
	<p>The objector is of the opinion that the majority of the 8 existing parking bays on-site are inaccessible therefore being the cause of it not being used.</p>	<p>The applicant states that according to the owner the tenants of the existing flats and offices all have gate keys to access the parking area.</p> <p>It is also confirmed that, once the proposed two new flats are built, the parking bays will be clearly demarcated.</p>	<p>As confirmed by the applicant all residents of the flats as well as the owner of the business has access to the parking area.</p>
	<p>The objectors state that residents of Erf 425 and clients of adjoining businesses in Biccarrd Street are already making use of the parking in Hill Street and in front of their house.</p> <p>According to the objector the sidewalk in Hill Street is, in many instances, being used for parking space and in some cases, their private entrance to their garage is also being use as a parking bay.</p> <p>The objectors note that Biccarrd Street to the west of the subject property only provides a few public parking bays making the need for on-site parking on Erf 425 essential.</p>	<p>The applicant emphasize that the subject property is located in one of the oldest parts of Malmesbury, it has a heritage grading of 3C as well as forms part of the central business district of town.</p> <p>Referring to figure 2 below, there are areas identified by Swartland Municipality to provide sufficient on-street parking, which include Hill Street. The applicant continues to state that on-street parking for all is therefore essential to ensure sustainable commercial and mixed-use development within the CBD of town.</p> <p>As confirmed by the owner the applicant states further that the tenants of Erf 425 rarely to never park on the on-street parking bays as there are sufficient parking bays on site. Some tenants do not even have vehicles and make use of public transport or walk to the desired locations.</p>	<p>Illegal parking can be mitigated with the necessary road signs and paint.</p> <p>The fact that the property is located in the CBD of Malmesbury with historical uses as well as the general non-provision of sufficient parking is not a motivation for the approval of the application.</p> <p>Section 13.1.7 states that “Where two or more land uses share a common parking area, the municipality <u>may</u> reduce the amount of parking bays required for the respective uses, provided that the municipality is satisfied that the utilisation of the parking area by different uses, is not concurrent and that the total number of bays may not be less than the minimum number of bays required for that use, which legally requires the larger number of bays...”.</p>

	<p>The objector also wish to note that Biccard Street is a narrow, one way street and that there are at least 3 other businesses, a block of flats as well as three residential properties that all have a need for public parking in Biccard and Hill Street.</p>	<p>The development on Erf 425 can therefore not be held responsible for surrounding businesses that park within Hill Street or in front of Mr. Quickfall's private garage.</p> <p>Since Erf 425 is utilised by two different uses (flats and offices) and use the same parking area, the parking requirements may be reduced by consent from Swartland Municipality.</p> <p>The two uses on the property will not utilise the parking area at the same time, as the offices will use it during normal office hours (08:00 17:00), while the flats mostly after business hours.</p> <p>As mentioned above, residents living in these flats, located within the CBD, generally do not consist of vehicles as they have easy access to work, social activities and everyday needs. Just like the 3 businesses, a block of flats and three residential properties (which in some cases have zero on-site parking space), Erf 425 also has the right to utilise these on-street parking bays. The precedent to deviate from the required parking space has already been established in this area and the impact the development on Erf 425 will have on the surrounding area is minimal.</p>	<p><i>Section 13.1.7 is not applicable in this specific case as parking bays are clearly allocated to specific flats, the public do not have access to the parking area as well as that in the case of the flats the total number of bays is less than the minimum number of bays required.</i></p> <p>The Department Civil Engineering Services has recently concluded through a traffic impact statement with reference to the parking situation within the CBD of Malmesbury, that sufficient parking exists within the CBD and as such the proposed departure can be considered.</p>
	<p>Allowing the proposed departure for an additional 4 off-site parking bays will worsen the parking problem in both Biccard- and Hill Street and might influence the safety of both vehicles and pedestrians in the area.</p>	<p>It is uncertain how the safety of the vehicles and pedestrians will be affected with the relaxation of the parking bays, as the tenants will continue to park on site.</p> <p>The relaxation of the parking bays will merely allow Erf 425 to be developed to its full potential as encouraged by the Swartland Spatial Development Framework.</p>	<p>The impact of the proposed departure is deemed minimal. The wide road reserve in Hill street also allows for a number of parking bays to be accommodated within the road reserve.</p>
		<p>The applicant concludes that, it is evident that the proposed development will not have a significant impact on the surrounding properties or built environment. The development can be considered sustainable as it complies with the principles and guidelines of the Swartland SDF. The relaxation is therefore highly recommended by this office.</p>	<p>It is agreed that the proposed application, if approved will not have a significant impact on the surrounding properties or built environment. With the mitigation using signage and road-markings the problem of people parking in front of the objector's property, can be addressed.</p>

PART J: MUNICIPAL PLANNING EVALUATION

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

The application in terms of the By-law was submitted on 9th of May 2022. The public participation process commenced on the 23rd of May 2022 and ended on the 27th of June 2022. The objection was received and referred to the applicant for comment on the 1st of July 2022 and this municipality received the comments on the objection from the applicant on 14th of July 2022.

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

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

The application is evaluated according to the principles of spatial planning, as contained in the abovementioned legislation.

Spatial Justice: The proposed application is deemed consistent with the Swartland MSDF (2019) as well as the goals of the district and provincial spatial policies as will be further discussed below. The consideration of the application also realises the owner of the property's right to apply in terms of the relevant legislation.

Spatial Sustainability: The proposed development will result in a more spatially compact and resource-efficient settlement and will optimise the use of existing infrastructure. Seeing that the existing services will be used and that no upgrades to existing services / infrastructure is required to accommodate the development. The proposal will also not have a negative impact on critical biodiversity areas or high potential agricultural land and will in the long term contribute to the economy of Malmesbury through the improvement of the property as well as through job creation.

Efficiency: The development proposal will promote the optimal utilisation of services on the property and enhance the tax base of the Municipality. The proposed use will also strengthen the current mixed-use character of the area as well as the existing identified activity street. Therefore this application complies with the principle of efficiency.

Good Administration: The application and public participation are administrated by Swartland Municipality and public and departmental comments were obtained. The decision making is guided by a number of considerations as required by the relevant By-law and MSDF;

Spatial Resilience: The property is currently improved with flats and offices. It could be argued that the proposal to accommodate two additional dwelling units makes the property more resilient as it creates opportunity for additional income for the owner as well as creates additional affordable housing in the CBD of Malmesbury.

The development proposal clearly adheres to the spatial planning principles and is consistent with the abovementioned legislative measures.

Provincial Spatial Development Framework (PSDF, 2014)

The PSDF (2014) indicates that the average densities of cities and towns in the Western Cape is low by international standards, in spite of policies to support mixed-use and integration. There is clear 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, 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 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.

In order 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 and 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 consistent with the PSDF.

West Coast District SDF (WCDSDF, 2020)

The built environment policy of the WCDSDF 2020 determines that 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. It is however noted that poor access to social facilities often relate to spatial patterns, lack of spatial integration, limited mix-use development, disconnect between economic and social opportunities, car-dependent developments far from public transport and a 'business as usual' approach with the emphasis on greenfield development and low-density sprawl.

It is thus clear that the proposed development is not in conflict with the principles as set out in the WCDSDF, 2020.

Municipal Spatial Development Framework (SDF), 2019

The subject property is located in Land use Proposal zone E. The property is however located in the demarcated CBD on the map. Zone E is defined in the MSDF as a residential area with mixed density and various supporting social- and institutional uses, as well as business, uses near the CBD. In terms of the land use proposal table, it is clear that the MSDF supports the densification of the CBD of Malmesbury with the development of flats.

The development of flats in the CBD is the ideal, as it brings people closer to the services making them less dependent on motorised transport. It could, therefore, be argued that the proposed application is not in contradiction with the proposals of the MSDF

2.4 Zoning Scheme Provisions

As mentioned above, application is made for the non-provision of 3 parking bays all other provisions are being complied with.

3. Desirability of the proposed utilisation

The only physical restriction on the property is that the space available for the provision of on-site parking is limited. There is however existing parking in the road reserve as well as potential space for parking in the wide road reserve of Hill Street.

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

The proposed application will not have a negative impact on the character of the area.

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



Photo 1: View in Hill Street

Photo 2: Corner of Biccard and Hill Street



Photo 3: View of Hill Street in front of Erf 425



Photo 4: View of the objectors property

Photo 5: View of the Objectors driveway with existing red road markings



Photo 6: View of erf 425 from Biccard Street

Photo 7: Access gate



Photo 8: View of the parking area



Photo 9: View of the parking



Photo 10: Existing retaining structure limiting access to parking bay 4

Clearly there are currently space in Biccard Street in front of the property as well as ample space for parking next to Hill Street due to the very large road reserve. During the site inspection it was also found that people already use the side of the road to park their vehicles and that it does not cause any obstruction of vehicle or pedestrian traffic. It can therefore be argued that the non-provision of on-site parking in this case will not have a detrimental impact on the neighbouring properties and that the departure can therefore be considered favourable.

It was however noted that further down Hill Street provision is made for road markings clearly demarcating the available space for parking. It is therefore suggested that as part of the owner's financial contribution made previously as well as the contribution made as part of the proposed departure, that the parking bays be clearly marked in Hill Street.

4. **Impact on municipal engineering services**

The proposed development will not have a significant impact on municipal engineering services. Should any services need upgrading in order to accommodate the proposed flats it will be for the developer's account.

5. **Response by applicant**

See Part F in terms of the motivation as well as part I in terms of the comments on the objections received.

6. **Comments from other organs of state/departments**

The department Protection Services had no comment as well as the Department: Civil Engineering Services confirmed that there is sufficient space for parking in the CBD of Malmesbury and the application for departure can therefore be considered favourably.

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 of those rights

N/A

PART L: RECOMMENDATION WITH CONDITIONS

The application for the departure for the non-provision of the required on-site parking on Erf 425, Malmesbury, be approved in terms of section 70 of the Swartland Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), subject to the following conditions:

1. TOWN PLANNING AND BUILDING CONTROL

- (a) Building plans be submitted to the Senior Manager Built Environment for consideration and approval;
- (b) In terms of section 13.1.2(c) of the development management scheme the owner / developer pay a cash sum for the non-provision of the 3 on-site parking bays including the portion of the 2 parking bays partially provided on the road reserve in Hill Street at R843/m²; (5 x 12,5)-11.7 x 843 = R 42 824.40;

2. WATER

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

3. SEWERAGE

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

4. STREETS & STORMWATER



- (a) The existing parking area, including the sidewalk that provide access to the parking bays, be provided with a permanent surface and the parking bays be clearly demarcated. The materials used be pre-approved by the Director Civil Engineering services on building plan stage and the parking area be finalised before the occupation certificate is issued for the proposed new flats;

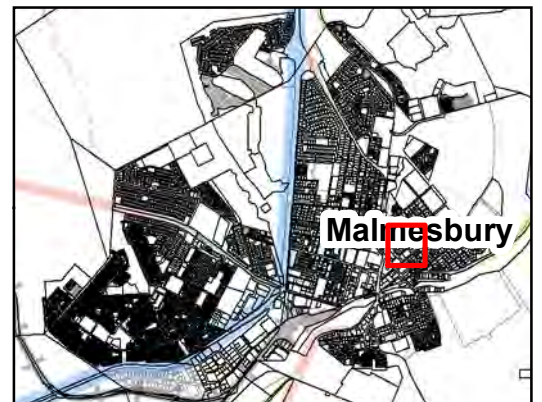
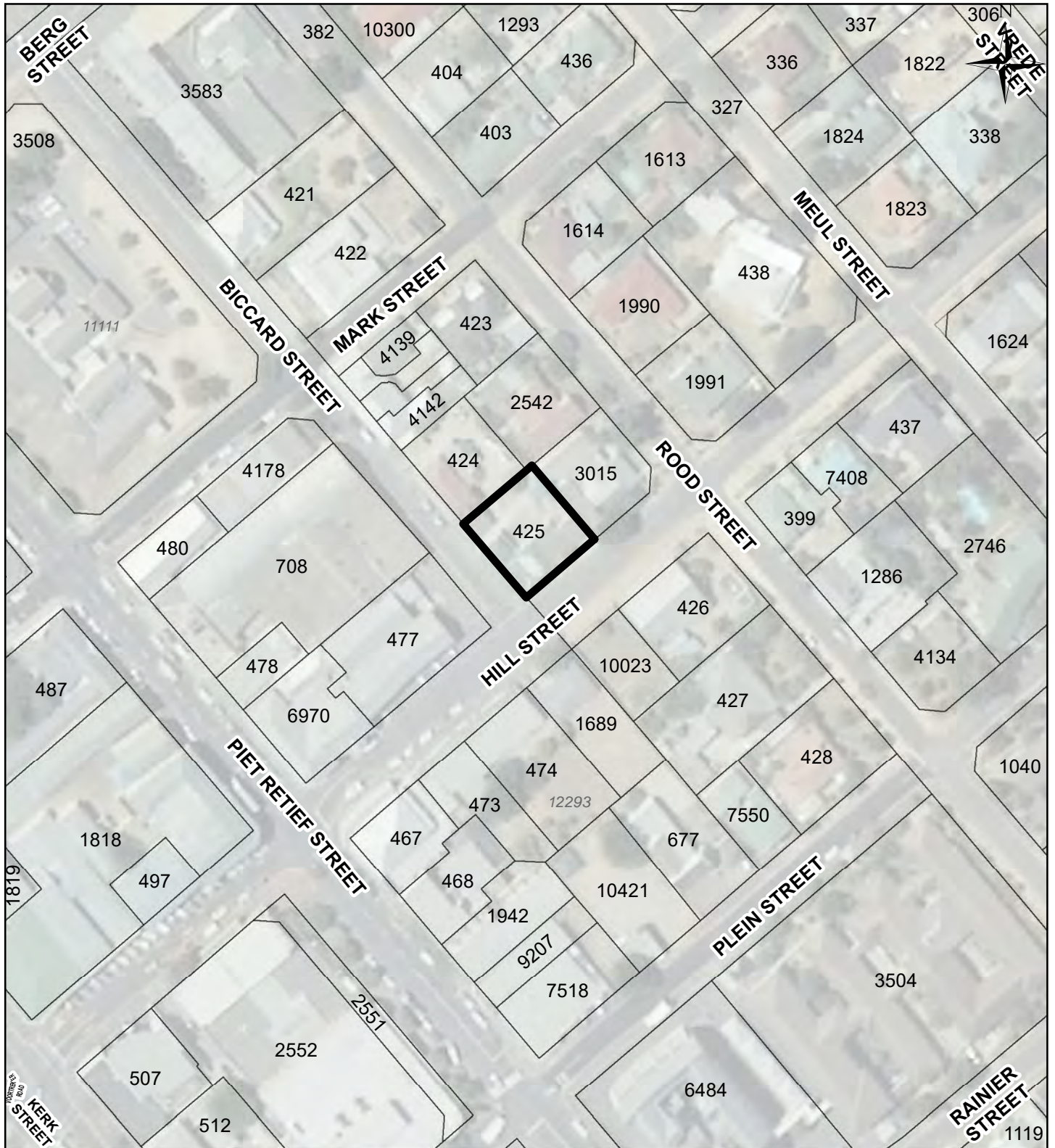
5. DEVELOPMENT CHARGES

- (a) The owner/developer is responsible for the development charge towards the regional bulk supply of water of R6534,30 (R10 890,50 x 0.6 for High density) per dwelling unit. This development charge is payable to Swartland Municipality at building plan stage. This amount is payable to vote number 9/249-176-9210 and is valid for the financial year of 2022/2023 and may be revised thereafter;
- (b) The owner/developer is responsible for the development charge towards water to the amount of R7 340,83 per dwelling unit at building plan stage. This amount is payable to vote number 9/249-174-9210 and is valid for the financial year of 2022/2023 and may be revised thereafter;
- (c) The owner/developer is responsible for the development charge towards sewerage to the amount of R3 631,57 per dwelling unit at building plan stage. This amount is payable to vote number 9/240-184-9210 and is valid for the financial year of 2022/2023 and may be revised thereafter;
- (d) The owner/developer is responsible for the development charge towards streets and storm water to the amount of R 5 410,05 per dwelling unit at building plan stage. This amount is payable to vote number 9/247-144-9210 and is valid for the financial year of 2022/2023 and may be revised thereafter;
- (e) The owner/developer is responsible for the development charge towards electricity to the amount of R 4 358,90 per dwelling unit at building plan stage. This amount is payable to vote number 9/253-164-9210 and is valid for the financial year of 2022/2023 and may be revised thereafter;
- (f) The Council's resolution dated May 2022 makes provision for a 35% rebate applicable on the development charges of Swartland Municipality. This rebate is valid for the 2022/2023 financial year and may be revised thereafter. The rebate is not applicable to point 5(a);

6. GENERAL

- (a) Should it be necessary to upgrade any existing services in order to accommodate the access or service connections of the proposed development, the cost thereof will be for the developer's account;
- (b) The approval is, in terms of section 76(2)(w) of the By-Law, valid for a period of 5 years. Building plans can only be approved once all conditions of approval have been met. The owner/developer is responsible to ensure that every condition of approval is complied with. Should all conditions not be met by the end of 5 years, the land use approval will lapse. However, should the conditions of approval be met before the 5 year period lapses, the land use will be permanent and the approval period will not be applicable anymore.
- (c) The applicant/objectors be informed of the right to appeal against this decision of the Municipal Planning Tribunal, within 21 days of this notice, in terms of section 89(2) of the By-Law;

PART M: REASONS FOR RECOMMENDATION				
<ol style="list-style-type: none"> 1) The proposal to accommodate flats under the Business Zone 1 zoning situated within the CBD of Malmesbury will not have a negative impact on the character of the area. 2) The proposed application is consistent with and not in contradiction to the Spatial Development Frameworks adopted on Provincial, District and Municipal levels. 3) The proposal will not have a significant impact on traffic along Biccard and Hill Street and as confirmed by the Department: Civil Engineering services, a study done in 2020 by an independent traffic engineer confirmed that the Malmesbury CBD has sufficient parking available for this application to be considered favourable. 4) There are no restrictions registered against the title deed of the property that has a negative impact on the proposed application. 5) The proposed development is not perceived to have a detrimental impact on the health and safety of surrounding landowners, nor will it negatively impact on environmental/heritage assets. 6) There are currently space in front of the property as well as ample space for parking next to Hill Street. This is mainly due to the very large road reserve. During the site inspection it was also found that people already use the side of the road to park their vehicles and that it does not cause any obstruction of vehicle or pedestrian traffic. It can therefore be argued that the non-provision of on-site parking in this case will not have a detrimental impact on the neighbouring properties. 				
PART N: ANNEXURES				
Annexure A	Locality Map			
Annexure B	Site development plan			
Annexure C	Public Participation Plan			
Annexure D	Objections by N & M Quickfall			
Annexure E	Applicants comment on the objections			
PART O: APPLICANT DETAILS				
Name	CK Rumboll and Partners			
Registered owner(s)	CLISA 33 CC	Is the applicant authorised to submit this application?	Y	N
PART P: SIGNATURES				
Author details: Herman Olivier Town Planner SACPLAN registration number: A/204/2010		Date: 27th of July 2022		
Recommendation: Alwyn Zaayman Senior Manager Built Environment SACPLAN : B/8001/2001	Recommended	<input checked="" type="checkbox"/>	Not recommended	
		Date: 29th of July 2022		



ANNEXURE B

GENERAL NOTE:

All levels, dimensions and property beacons as shown on these drawings are to be verified on site by the contractor prior to commencement of any work.

Use written dimensions in preference to scaling.

Any discrepancies found on this drawing are to be reported to the architect.

All work to be done in accordance with local authority by-laws, DMS, NBR and SANS 10400 XA / 2014 & 10082 Specifications. Please note this drawing is intended as a local authority submission drawing only, and as such does not reflect or constitute a comprehensive specification for the works.

As such the architect's responsibility and liability will terminate on local authority approval of this drawing.

SPECIFICATIONS:

Foundations:

700x230 concrete 20 mpa strip footing
No part of building work to project over boundary line.

Floor:
25 mm screed on 75 mm concrete slab on 250 # dpc on clean well compacted fill sand.

Walls:
External walls: All brickwork to be 90-90 mm cement bricks, 230mm thick, internal skin 50 mm clean cavity with 5 x butterfly flies per sqm. 250 #stapled dpc, 10 mm weepholes @ max 600 mm c.c. FFL, min 150 mm above ESL.

Windowills to be benched with 250# plastic PCL.lintels laid to manufacture specifications over all brick openings, min 4 courses brickwork with brickforce to every course.

Internal Walls: All drywalling by specialist in accordance with SANS 10082, all walls plastered / skimmed and painted.

Roof:
Zincalume longspan sheeting (double lapped with lapsel between on sillation on 50x75 S.A. Pine purlins @ max 1.0 m c.c. on 50x228 S.A. Pine rafters @ max 1.2 m c.c. Roof pitch @ min 3 deg. All timber ppg treated.

Ends fixed to walls with M10x65 rawbolts. Head & sidewalls to be waterproofed by specialist - Sika Cemflex to manufacturer specs.

Windows: All white epoxy coated aluminium in accordance with SANS Part "N."

Roof:
Zincalume longspan sheeting (double lapped with lapsel between on sillation on 50x75 S.A. Pine purlins @ max 1.0 m c.c. on 50x228 S.A. Pine rafters @ max 1.2 m c.c. Roof pitch @ min 3 deg. All timber ppg treated.

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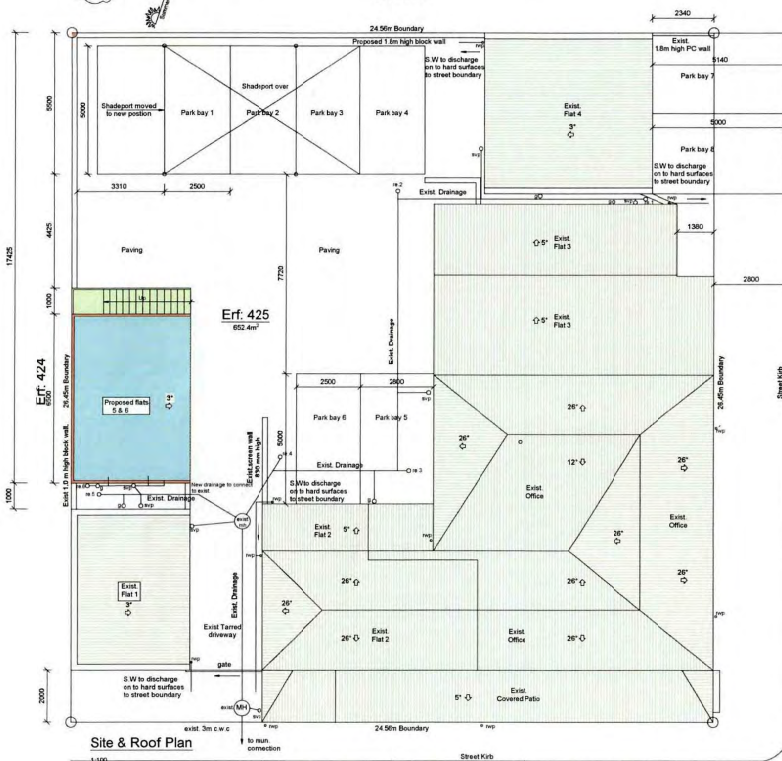
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Erf 3015



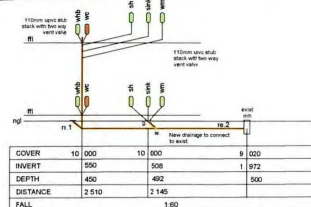
Site & Roof Plan

Scale 1:100



South West Elevation / Biccard Road

Scale 1:100

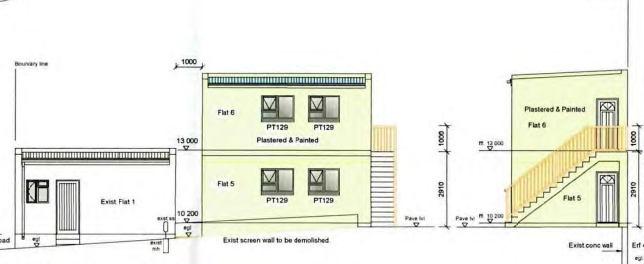


Drainage Section

Not to scale

South East Elevation (Flat)

Scale 1:100



Section B-B

Scale 1:100

Section B-B

Scale 1:100



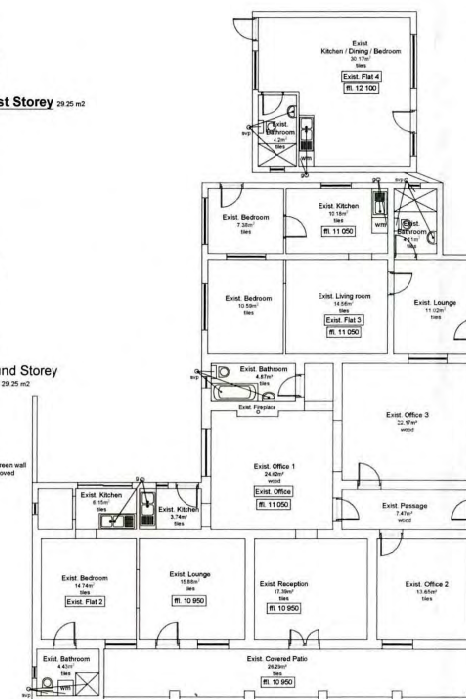
1st Storey

29.25 m2



Ground Storey

29.25 m2



SANS 10400 XA Calculations (Zone 4)

PENETRATION:

GROUND STOREY:

Net floor area = 734.40m².
Total area of glazed element = 1.80 m² (7.30%).
Glazed type window: aluminium thermal break framing Single - Clear.

1ST STOREY:

Net floor area = 734.40m².
Total area of glazed element = 1.80 m² (7.30%).
Glazed type window: aluminium thermal break framing Single - Clear.

Total Penetration does not exceed maximum deemed to satisfy value of 5% of net floor area.

ROOF INSULATION:

Typical data is recorded to early thicknesses of generic insulation as per Table 10 SANS 204:2011.

Minimum required total R-Value Target Value: 2.7

Estimated total R-value of roof & ceiling materials (Roof covering & plaster board) R-Value: 0.35

Minimum added R-Value of insulation: R-Value = 2.35

Therefore a 150mm of Cellular Glass fibre Loose fill insulation to be installed into the ceiling space (Deemed-to-satisfy)

A layer of reflective foil laminate (RFL) between the purlins & rafters.

Ceiling: Rhinobond with standard cornice all skimmed and painted fixed to 38 x 38 battens @ max 450 mm c.r. nailed drops.

HOT WATER REQUIREMENTS:
2 x 100L Solar hot water system are to be installed on the roof (1 PER UNIT).
Hot water demand as per SANS 10252-1.
All specifications & materials will be done in accordance with SANS 10252-1 & SANS 10106.

ELECTRICAL:

Installation by a registered person who is to provide a certificate of compliance on completion of the installation.

PLUMBING:

Installation by a registered plumber who is to provide a certificate of compliance on completion of the installation.

Roof:
Zincalume longspan sheeting (double lapped with lapsel between on sillation on 50x75 S.A. Pine purlins @ max 1.0 m c.c. on 50x228 S.A. Pine rafters @ max 1.2 m c.c. Roof pitch @ min 3 deg. All timber ppg treated.

Ends fixed to walls with M10x65 rawbolts. Head & sidewalls to be waterproofed by specialist - Sika Cemflex to manufacturer specs.

Windows: All white epoxy coated aluminium in accordance with SANS Part "N."

Roof:
Zincalume longspan sheeting (double lapped with lapsel between on sillation on 50x75 S.A. Pine purlins @ max 1.0 m c.c. on 50x228 S.A. Pine rafters @ max 1.2 m c.c. Roof pitch @ min 3 deg. All timber ppg treated.

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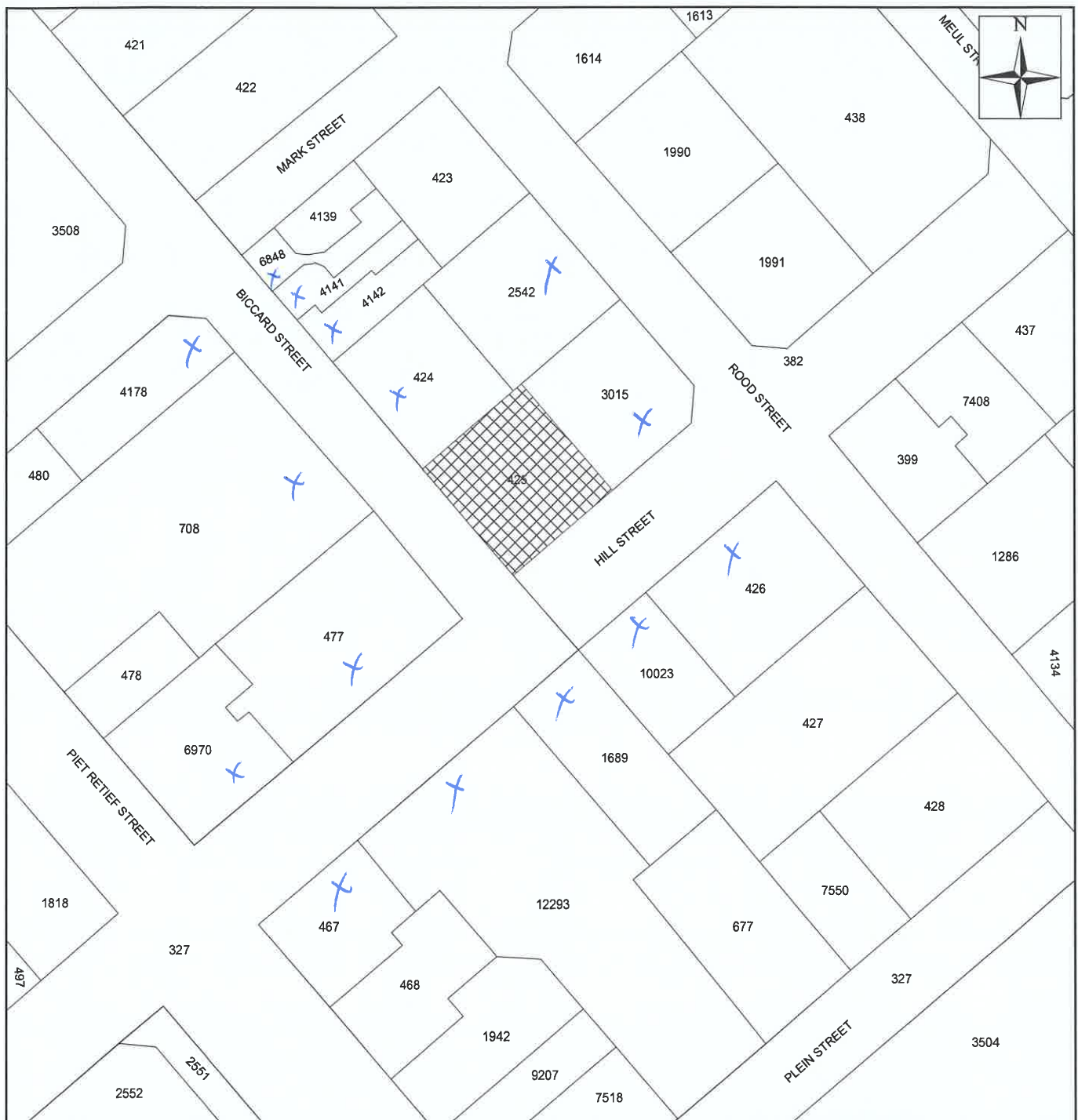
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Liggingsplan

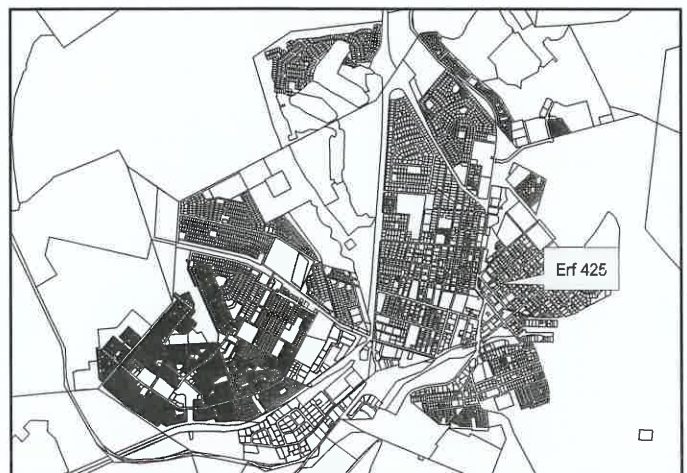


Voorgestelde afwijking

Erf 425, Malmesbury

Publieke deelname

Skaal: NVT



From: Neville N. Quickfall <neville@swartland.org.za>
Sent: Wednesday, May 25, 2022 5:20 PM
To: Chanice Dyason <PlanIntern1@swartland.org.za>
Cc: mariaanquickfall@gmail.com; Alwyn Burger <alwynburger@swartland.org.za>
Subject: FW: Voorgestelde afwyking op erf 425, Malmesbury

Hallo Chanice

I respectfully object to the proposed departure on Erf 425 Malmesbury to provide 8 parking bays on the premises instead of the required 12 for the following reasons:

1. The majority of the 8 existing parking bays on-site are not demarcated and are not being used.
2. Access, demarcation and utilisation of the existing 8 on-site parking bays should be addressed first, before this application can be considered.
3. The majority of the 8 existing parking bays on-site are not accessible and in my opinion, is the cause of it not being used.
4. Residents of Erf 425 and clients of adjoining businesses in Biccard Street are already making use of the public parking in Hill Street and in front of our house. In many instances the sidewalk in Hill Street is being utilised as a parking space and in some cases, the entrance to my private garage is also used as a parking bay.
5. Biccard Street adjoins Erf 425 on the Western boundary and provides only a few parking public parking bays making the need for on-site parking on Erf 425 essential. Please keep in mind that Biccard Street is a narrow, one-way Street and that there are at least 3 businesses, a block of flats and three residential properties that all have a need to public parking in Biccard- and Hill Street.
6. Allowing the proposed departure for an additional 4 offsite parking bays will worsen the parking problem in both Biccard- and Hill Street and might influence the safety of both vehicles and pedestrians in the area.

Regards

Neville & Mariaan Quickfall
7 Hill Street
Malmesbury
Cell. Contact : 072 900 2131

Email correspondence via this email address is preferred.

CK RUMBOLL & VENNOTE / PARTNERS

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

DATE: 14 July 2022

OUR REF: MAL/12521/NJdK
YOUR REF: 15/3/4-8/Erf_425

PER HAND

Attention: Mr A Zaayman

The Municipal Manager
Swartland Municipality
Private Bag X52
MALMESBURY
7300

Sir

COMMENTS ON OBJECTIONS

PROPOSED DEPARTURE ON ERF 425, MALMESBURY

Your letter dated 1 July 2022 refers (see annexure A attached). Please find attached our comments to objections as requested.

This office has been instructed by Thys Carstens as representative of CLISA 33 CC, the owners of Erf 425 to handle all town planning actions regarding the application for departure on erf 425, Malmesbury.

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

- Neville & Mariaan Quickfall (Erf 3015)



MUNISIPALITEIT SWARTLAND				REG	
LEER No. 15/3/4-8/Erf_425		Aanvraag No.			
Verwys Na	Inligting	Verslag	Afwandeling	Kom/Taar	
5658(A3)					
cc Delmar					
Ander Opdrag					
SPERDATUM					(get)BK

VENNOTE / PARTNERS:

IHJ RumbollPrL (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 / PO Box 211 / Rainierstr 16, Malmesbury, 7299
MALMESBURY (T) 022 482 1845

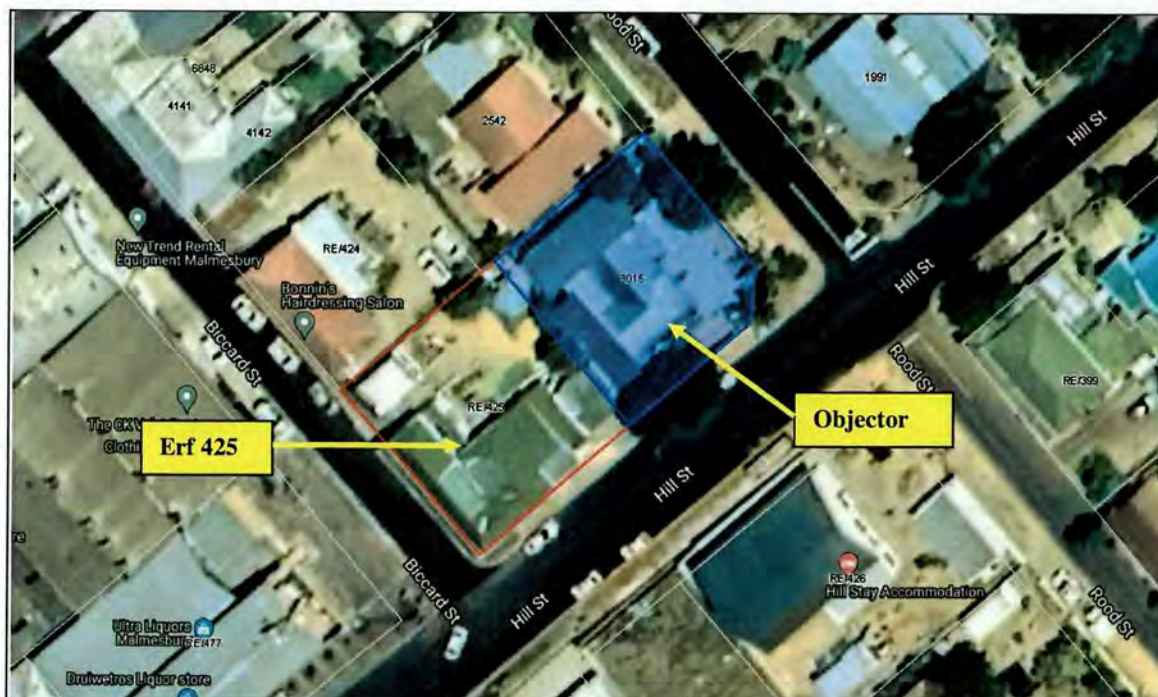


Figure 1: Layout of Erf 425 and surrounding objects.

The primarily reasons for the relaxation of required on-site parking bays are that Erf 425 is located in one of the oldest parts of Malmesbury, and located within the CBD of town and has a Heritage grading of 3C in terms of the Swartland Urban Heritage Survey. It is also clear that surrounding properties does not have sufficient on-site parking with some even consisting of no on-site parking. Given the heritage grading and historical situation of the CBD, departure from on-site parking requirements, are generally unavoidable and should be positively considered by council, as development within the central business district (CBD) of town is encouraged within the SDF.

Objector	Objection	Comment from CK Rumboll & Partners
Neville & Mariaan Quickfall (Erf 3015)	1. The majority of the 8 existing parking bays on-site are not demarcated and are not being used. Access, demarcation and utilisation of the 8 on-site parking bays should be addressed first, before this application can be considered.	1. The tenants of the existing flats and office space each have a gate key to access the parking area on site. This will be the same for the tenants of the newly proposed flats. Once the newly proposed flats are built, the new parking bay areas as illustrated on the building plans attached as Annexure B will be established. Flat number 1, 2, 3, 5 and 6 will each receive 1 parking bay and will all be accessible from Biccard Street, while flat number 4 will be accessible from Hill Street and its

VENNOTE / PARTNERS:

IHJ RumbollPrL (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 / PO Box 211 / Rainierstr 16, Malmesbury, 7299

MALMESBURY (T) 022 482 1845

		<p>parking bay will receive access directly from Hill Street (See building plans attached as Annexure B).</p> <p>The existing offices have one parking bay (parking bay number 5) within the gated area and one parking bay the receives access from Hill Street (parking bay number 8).</p>
	<p>2. The majority of the 8 existing parking bays on-site are not accessible and in my opinion, is the cause of it not being used.</p>	<p>2. The owner confirmed that both the tenants of the existing flats and offices have gate keys to access the parking area. Once the proposed two new flats are built, the parking bays will be clearly demarcated.</p>
	<p>3. Residents of Erf 425 and clients of adjoining businesses in Biccard Street are already making use of the parking in Hill Street and in Front of our house. In many instances the sidewalk in Hill Street is being utilised as a parking space and in some cases, the entrance to my private garage is also use as a parking bay.</p> <p>Biccard Street adjoins Erf 425 on the Western Boundary and provides only a few public parking bays making the need for on-site parking on Erf 425 essential. Please keep in mind that Biccard Street is a narrow, one way Street and there are at least 3 businesses, a block of flats and three residential properties that all have a need to public parking in Biccard and Hill Street.</p>	<p>3. As mentioned above, these erven are located in one of the oldest parts of Malmesbury, has a heritage grading of 3C and form part of the central business district of town. Referring to figure 2 below, there are areas identified by Swartland Municipality to provide sufficient on-street parking, which include Hill Street. On-street parking for all is therefore essential to ensure sustainable commercial and mixed-use development within the CBD of town. The owner of Erf 425 confirmed that the tenants of Erf 425 rarely to never park within the on-street parking bays as there are sufficient parking bays on site. Some of the tenants do not even consist of vehicles and make use of public transport or walk to the desired locations. The development on Erf 425 can therefore not be held responsible for surrounding businesses that park within Hill Street or in front of Mr Quickfall's private garage.</p> <p>Since Erf 425 is utilised by two different uses (flats and offices) and use the same parking area, the parking requirements may be reduced by consent from Swartland Municipality. The two uses on the property will not utilise the parking area at the same time, as the offices will use it during normal office hours (08:00 - 17:00), while the flats mostly after business hours.</p>

VENNOTE / PARTNERS:

IHJ RumbollPrL (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 / PO Box 211 / Rainierstr 16, Malmesbury, 7299
MALMESBURY (T) 022 482 1845

		<p>As mentioned above, residents living in these flats, located within the CBD, generally do not consist of vehicles as they have easy access to work, social activities and everyday needs.</p> <p>Just like the 3 businesses, a block of flats and three residential properties (which in some cases have zero on-site parking space), Erf 425 also has the right to utilise these on-street parking bays. The precedent to deviate from the required parking space has already been established in this area and the impact the development on Erf 425 will have on the surrounding area is minimal.</p>
	<p>4. Allowing the proposed departure for an additional 4 off-site parking bays will worsen the parking problem in both Biccard- and Hill Street and might influence the safety of both vehicles and pedestrians in the area.</p>	<p>4. It is uncertain how the safety of the vehicles and pedestrians will be affected with the relaxation of the parking bays, as the tenants will continue to park on site.</p> <p>The relaxation of the parking bays will merely allow Erf 425 to be developed to its full potential as encouraged by the Swartland Spatial Development Framework.</p>

VENNOTE / PARTNERS:

IHJ RumbollPrL (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 / PO Box 211 / Rainierstr 16, Malmesbury, 7299
MALMESBURY (T) 022 482 1845

Annexure A

Objections



CONSECUTIVE CLEAN AUDITS



*Ons gee gestalte aan 'n beter toekoms!
We shape a beter future!
Sibumba ikamva elingcono!*

File ref: 15/3/4-8/Erf_425

Enquiries:
Ms D N Stellenberg

1 July 2022

C K Rumboll & Partners
P O Box 211
MALMESBURY
7299

Dear Sir/Madam

PROPOSED DEPARTURE ON ERF 425, MALMESBURY

Your application with reference MAL/12521/NJdK dated 29 April 2022 refers.

Kindly find attached the objection received by Neville and Mariaan Quickfall 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: Neville N. Quickfall <neville@swartland.org.za>
Sent: Wednesday, May 25, 2022 5:20 PM
To: Chanice Dyason <PlanIntern1@swartland.org.za>
Cc: mariaanquickfall@gmail.com; Alwyn Burger <alwynburger@swartland.org.za>
Subject: FW: Voorgestelde afwyking op erf 425, Malmesbury

Hallo Chanice

I respectfully object to the proposed departure on Erf 425 Malmesbury to provide 8 parking bays on the premises instead of the required 12 for the following reasons :

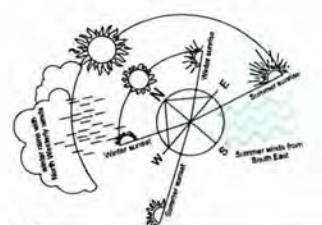
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Regards

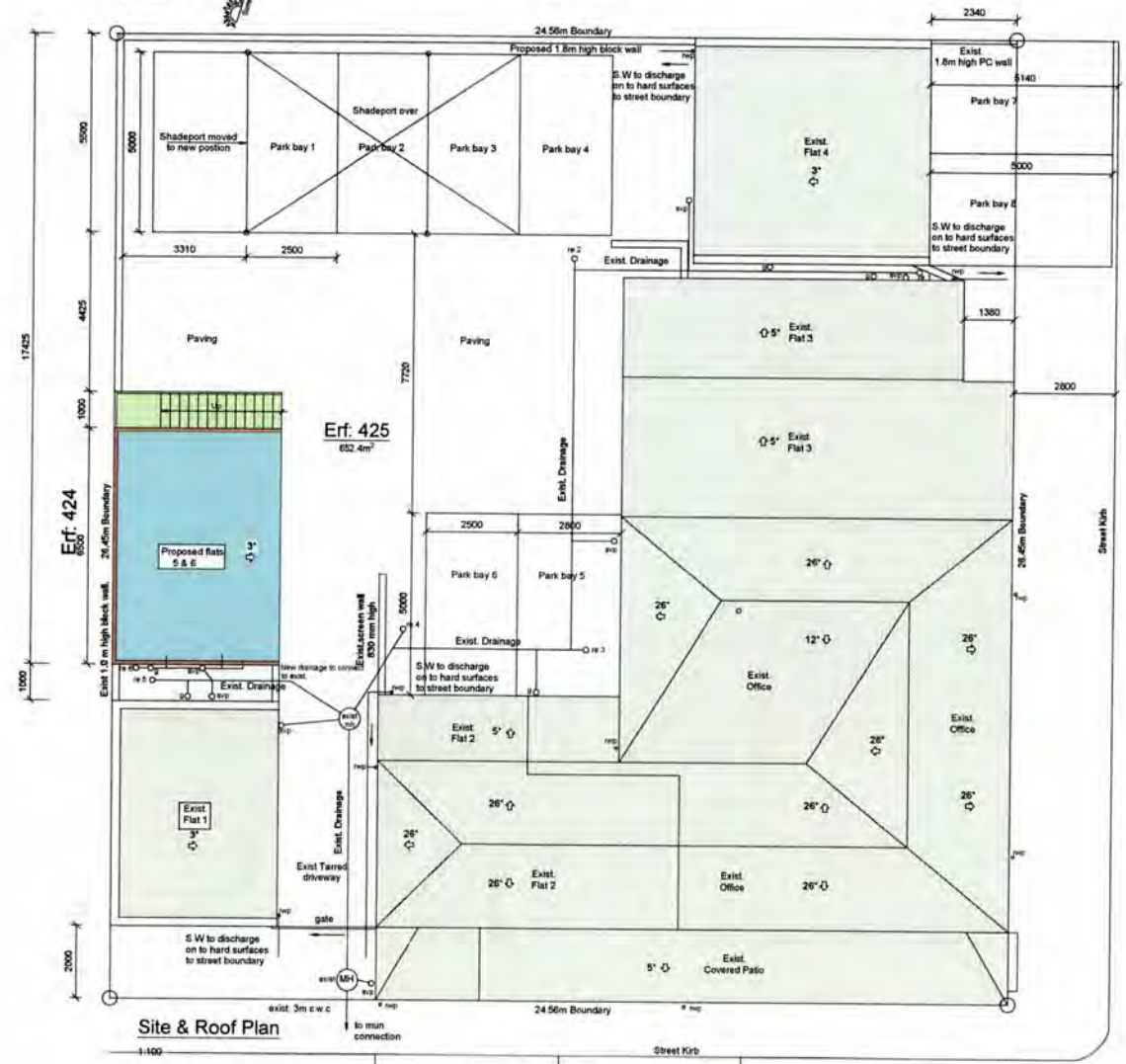
Neville & Mariaan Quickfall
7 Hill Street
Malmesbury
Cell. Contact : 072 900 2131
Email correspondence via this email address is preferred.

Annexure B

Building Plans



Erf. 3015

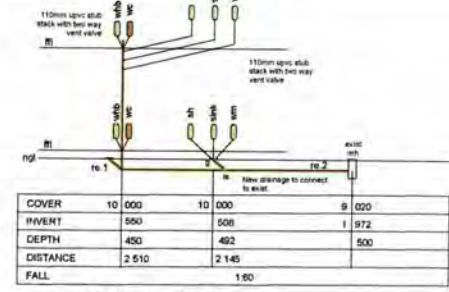


Site & Roof Plan



South West Elevation / Biccarrd Road

Scale 1:100

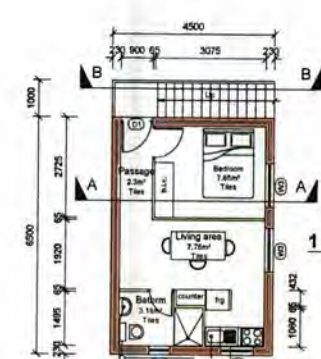


Drainage Section

Not to scale

South East Elevation (Flat)

Scale 1:100



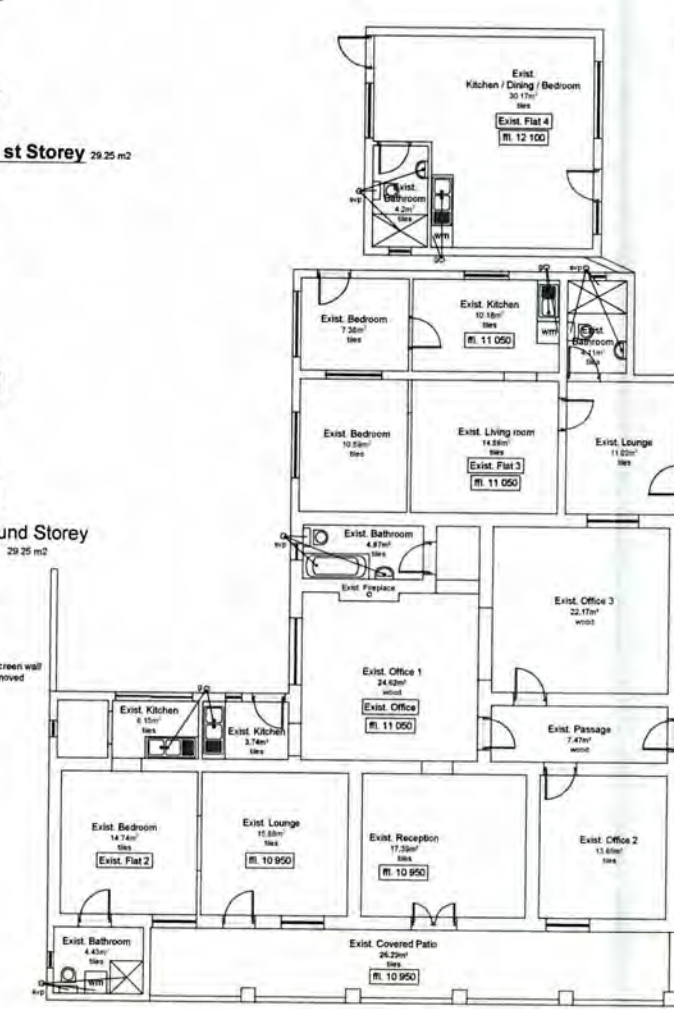
1st Storey

29.25 m²



Ground Storey

29.25 m²



SANS 10400 XA Calculations (Zone 4)

FENESTRATION:

GROUND STOREY:
Net floor area = 24.40m².
Total area of glazed element = 1.80 m² (7.30%).
Glazed type windows, aluminum thermal break framing Single - Clear.

1ST STOREY:
Net floor area = 24.40m².
Total area of glazed element = 1.80 m² (7.30%).
Glazed type windows, aluminum thermal break framing Single - Clear.

Total Fenestration does not exceed maximum deemed to satisfy value of 15% of net floor area.

ROOF INSULATION:
Typical data & deemed-to-satisfy thicknesses of generic insulation as per Table 10 SANS 204:2011.

Minimum required total R-Value: Target Value 3.7.
Estimated total R-Value of roof & ceiling materials (Roof covering & plaster board) R-Value 0.35.
Minimum added R-Value of insulation: R-Value = 3.35.
Therefore a 125mm of Cellulose fibre Loose-fill insulation to be installed into the ceiling space (Deemed-to-satisfy).

A layer of reflective foil laminate (RFL) between the rafters & rafters.

Ceiling: Rhinoboard with standard cornice all skinned and painted fixed to 38 x 38 battens @ max 450 mm c.c. nailed droppers.

HOT WATER REQUIREMENTS:
2 x 100L Solar hot water system are to be installed on the roof (1 PER UNIT).
Hot water demand as per SANS 10252-1.
All specifications & installations will be done in accordance with SANS 10252-1 & SANS 10106.

ELECTRICAL:
Installation by a registered person who is to provide a certificate of compliance on completion of the installation.

PLUMBING:
Installation by a registered plumber who is to provide a certificate of compliance on completion of the installation.

GENERAL NOTE:
All levels, dimensions and property beacons as shown on these drawings are to be verified on site by the contractor prior to commencement of any work.
Use written dimensions in preference to scaling.
Any discrepancies found on this drawing are to be reported to the architect.
All work to be done in accordance with local authority by-laws, DMS,NBR and SANS 10400 XA / 2014 & 10082 Specifications.
Please note this drawing is intended as a local authority submission drawing only, and as such does not reflect or constitute a comprehensive specification for the works.
As such the architect's responsibility and liability will terminate on local authority approval of this drawing.

SPECIFICATIONS:

Foundations:
700x230 concrete 20 mpa strip footing
No part of building work to project over boundary line.

Floor:
25 mm screed on 75 mm concrete slab on 250 # dpc on clean well compacted fill sand.

Walls:
External walls: All brickwork to be 90-90 mm cement bricks .230mm thick, internal skin,50 mm clean cavity with 5 x butterfly ties per sqm.250 #stepped dpc.10 mm weepholes @ max 600 mm c.c.FFL min 150 mm above EGL.

Windowcills to be benched with 250# plastic.PCL lintels laid to manufacturer specifications over all brick openings, min 4 courses brickwork with brickforce to every course.

Internal Walls: All drywalling by specialist in accordance with SANS 10082, all walls plastered / skimmed and painted.

Roof:
Zincalume longspan sheeting (double lapped with lapselap between, on sisalation on 50x76 S.A.Pine purlins @ max 1.0 m.c.c. on 50x228 S.A.Pine rafters @ max 1.2 m.c.c.Roof pitch @ min 3 deg.All timber pcg treated.

Ends fixed to walls with Teco hangers rawbolted in with M10x65 rawbolts.

Head & sidewalls to be waterproofed by specialist - Sika Cemflex to manufacturer specs.

Windows: All white epoxy coated aluminium in accordance with SANS Part "N."

Coverage Calculations

Site area:	852.40m²
Existing office:	120.23m²
Existing covered patio:	28.91m²
Existing flat 1:	28.01m²
Existing flat 2:	49.84m²
Existing flat 3:	66.85m²
Existing flat 4:	40.44m²
Total existing floor area:	334.08m²
New flat 5 & 6:	28.25m²
Stairs:	4.50m²
Total additional coverage:	55.75m² = 5.17%
Total coverage:	389.83m² = 55.38%

Revisions

Date	Revision No.	Case No.	Issued to:	Date:

Copyright of this plan is in terms of the copyright act, 1978(Act no.98 of 1978 as amended up to copyright amendment act 2002)

Drawn by: Kevin Sampson
Phone: 083 590 7676
kevin@alterplan.co.za

Checked by: Kevin Sampson
Cell: 083 590 7676
SACAP Reg. No: D0736

Project: Proposed new living units

Client: Thys Carstens

Address: 1 Biccarrd Street, Malmesbury 425

Erf:

Drg. No: AP 2021 - 999

Scale: 1:100 @ A1

Date: 26.01.2022

Page: 1 of 1

Rev:

ALTERPLAN

25 July 2022

15/3/3-9/Erf_3428

15/3/4-9/Erf_3428

WYK: 1

ITEM 6.8 OF THE AGENDA FOR THE MUNICIPAL PLANNING TRIBUNAL THAT WILL TAKE PLACE ON WEDNESDAY 10 AUGUST 2022

LAND USE PLANNING REPORT PROPOSED REZONING AND DEPARTURE ON ERF 3428, MOORREESBURG					
Reference number	15/3/3-9/Erf_3428 15/3/4-9/Erf_3428	Submission date	23 March 2022	Date finalised	27 May 2022

PART A: APPLICATION DESCRIPTION

The application for rezoning of Erf 3428, Darling, 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 3428 (990m² in extent) be rezoned from Residential Zone 1 to Community Zone 1 in order to use the erf as a place of education (combined day care centre and crèche).

The application for a departure from the development parameters on Erf 3428, Moorreesburg, in terms of section 25(2)(b) of Swartland Municipality : Municipal Land Use Planning By-law (PG 8226 of 25 March 2020) has been received. The proposal to depart from the development parameters entails the following:

- Departure from the 10m street building line (eastern boundary) to 6,6m;
- Departure from the required 6 on-premises bus parking bays by only providing 2 on-site bus parking bays.

The applicant is Planscape and the owner is GJ Romijn.

PART B: PROPERTY DETAILS

Property description (in accordance with Title Deed)	Erf 3428, Moorreesburg in the Swartland Municipality, Division Malmesbury, Province of the Western Cape				
Physical address	7 Wildevy Crescent		Town	Moorreesburg	
Current zoning	Residential Zone 1	Extent (m ² /ha)	990m ²	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		Title Deed number & date	T28382/2016	
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 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	
Permissions in terms of the zoning scheme		Amendment, deletion or imposition of		Amendment or cancellation of an		Permission in terms of a condition of approval	

		conditions in respect of existing approval	approved subdivision plan		
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 3428, Moorreesburg is zoned Residential Zone 1 and is currently vacant.

The owner intends to develop erf 3428 with a pre-primary and Grade R school.

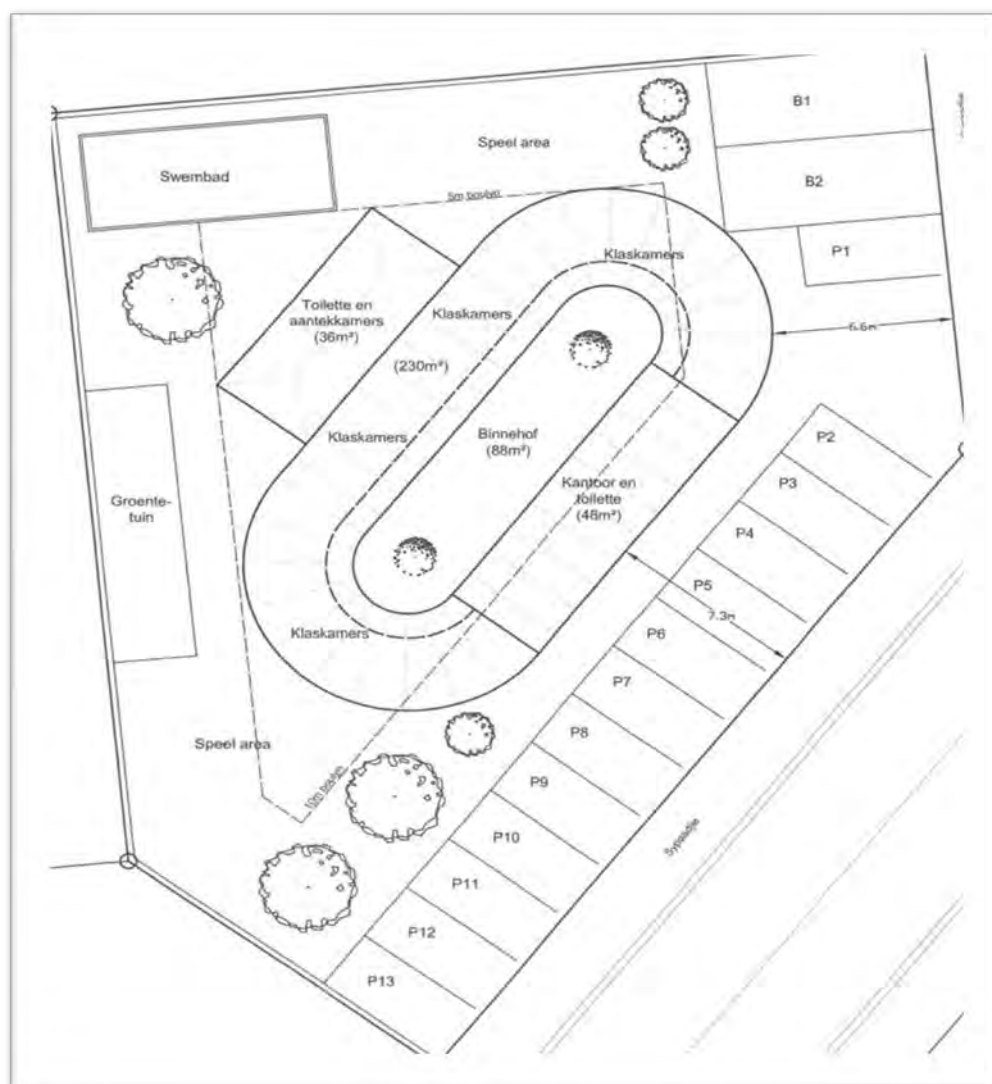
It is envisaged that the proposed place of education will accommodate a maximum of 4 classes of 30 learners (total of 120 learners), who will employ 4 teachers, 2 assistant teachers and one cleaner.

Classes are offered between 7:30 and 13:00 with after-school care which will be available from 13:00 to 17:00.

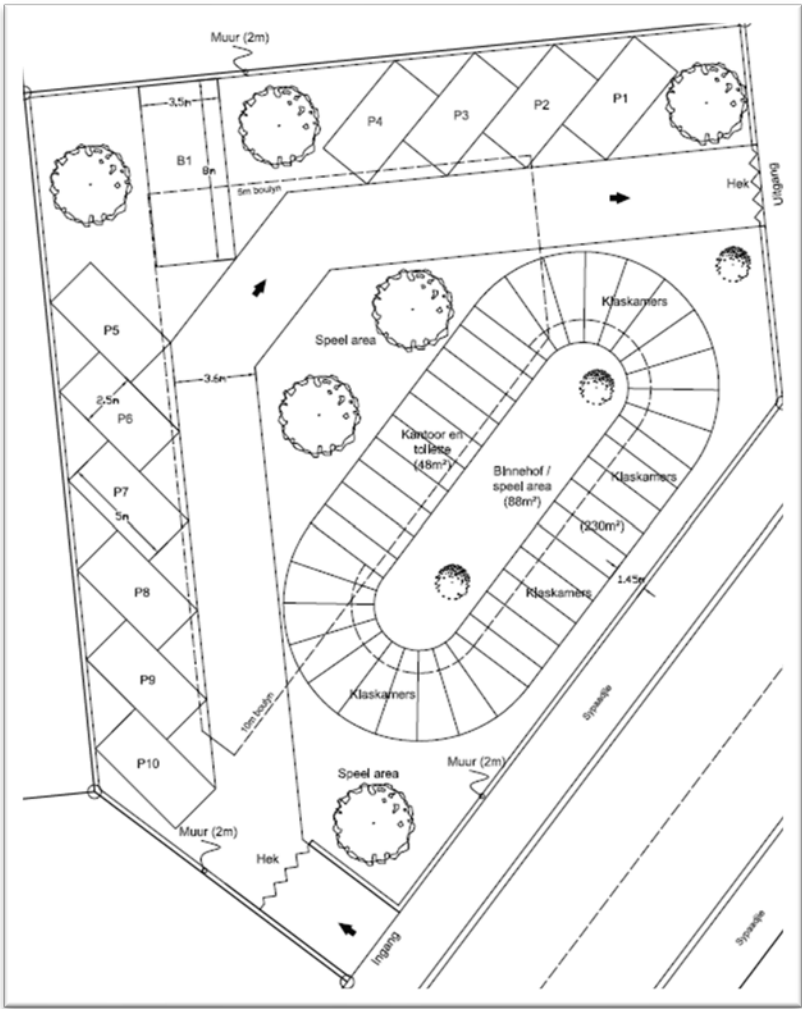
The proposed facilities, which consists of the following:

- Four (4) open-plan classrooms ($\pm 230\text{m}^2$) arranged around an open courtyard.
- A courtyard ($\pm 88\text{m}^2$) used as a playground and offices and toilets ($\pm 48\text{m}^2$)
- Swimming pool and associated dressing room and toilets ($\pm 36\text{m}^2$). Outside play areas and vegetable garden.
- Boundary wall (2m high).

The total footprint of the structures (excluding courtyard) is $\pm 313\text{m}^2$.



Please note that the application was amended once the applicant addressed the comments on the objections. The total number of learners are reduced to 80 learners (4 classes with 20 learners each). This also implies that departure of the required bus parking bays changes from 6 to 4 as well as the departure of the street building lines from 10m to 1,45m. The site development plan was also amended to the plan below.



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.
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PART F: SUMMARY OF APPLICANT’S MOTIVATION

1. Hier volg die opsomming van die aansoeker se motivering:
 - a) Met die vestiging van 'n plek van onderrig word daar 'n diens aan die plaaslike gemeenskap gelewer waarvoor daar reeds 'n wesenlike behoefte bestaan.
 - b) Met aanvaarding van die Basic Education Amendment Law wat graad R onderrig verpligtend maak, sal die behoefte aan onderrig fasiliteite verder toeneem.
 - c) Die voorgestelde plek van onderrig sal 'n positiewe bydrae lewer tot die sosiale welstand van die gemeenskap.
 - d) Pre-primêre onderrig is krities in die verbetering van kwaliteit opvoeding en die langtermyn vooruitsigte van toekomstige generasies.
 - e) Die bestuur en onderrig sal deur gekwalifiseerde en geregistreerde onderwyser behartig word.
 - f) Die vestiging van pre-primêre onderrig fasiliteite binne residensiële areas kom algemeen voor en word as wenslik geag aangesien dit maklik toeganklik is.
 - g) Dit word geag dat die voorgestelde aantal parkeerplekke voldoende is, aangesien dit die norm is dat ouers van voorskoolse kinders, self of by wyse van 'n "ryklub", kinders aflaai.
 - h) Die voorgestelde boulyn oorskryding het nie 'n wesenlike impak op die straat nie, aangesien die voorgestelde struktuur 'n enkel verdieping gebou is en daar ook parkeerplekke op die straatfront voorsien word. Die oorskryding van die boulyn het nie 'n negatiewe impak op enige van die aanliggende eiendomme nie.
 - i) Die voorstel is geleë binne 'n bestaande stedelike gebied en het nie 'n negatiewe impak op die biofisiese omgewing nie.
 - j) Die voorstel het nie 'n impak op die gesondheid en veiligheid van die omliggende gemeenskap nie.

k) Die aansoek het nie 'n noemenswaardige impak op munisipale ingenieursdienste nie. l) Die aansoek is nie teenstrydig met grondontwikkelingsbeginsels in hoofstuk 2 van SPLUMA of hoofstuk VI van LUPA nie. m) Die voorstel is nie teenstrydig met die Ruimtelike Ontwikkelingsraamwerk nie.						
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 newspapers and Provincial Gazette. A total of 13 registered notices were issued to affected parties, of which 9 of the same notices were also sent via e-mail. 0 posted notices were returned uncollected.						
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
Department: Civil Engineering Services	14 April 2022	<p>1. <u>Water</u></p> <p>Die erf voorsien word van 'n enkele aansluiting en dat geen addisionele aansluitngs voorsien sal word nie.</p> <p>2. <u>Riolering</u></p> <p>Die erf voorsien word van 'n enkele aansluiting en dat geen addisionele aansluitngs voorsien sal word nie.</p> <p>3. <u>Strate en stormwater</u></p> <p>Die ligging van die voorgestelde plek van onderrig wat voorsiening maak vir 120 voorskoolse leerders in 'n residensiele dorpsuitbreiding is problematies vanuit verkeersvloei en –veiligheid oogpunt. Die straat met inbegrip die nadygeleë kruising het nie die kapasiteit om die addisionele ritte te akkomodeer sonder dat dit 'n ergernis vir omliggende eienaars gaan veroorsaak nie. Die geometriese uitleg van die straat is ook nie gunstig om die voorgetselde parkeeruitleg veilig te akkomodeer nie.</p> <p>Die aansoek word derhalwe nie ondersteun nie.</p> <p><u>Kommentaar op die gewysigde voorstel (26 Mei 2022)</u></p> <p>Die voorgestelde 80 leerders is steeds baie en die vermindering in leerders verbeter natuurlik nie die geometriese uitleg nie. In welke geval die aansoeker wil voortgaan sal alternatiewe geïdentifiseer moet word deur 'n spesialis ingenieur.</p> <p><u>Kommentaar op die gewysigde voorstel (13 Julie 2022)</u></p> <p>Die uitleg voldoen nie aan ontwerpstandaard nie. Volgens my vorige versoek moet 'n vervoer ingenieur betrek word vir die uitleg en 'n vervoer impak stelling (traffic impact statement).</p> <p>(Die aansoeker dui aan dat geen verdere insette gaan lewer nie en nie 'n vervoer impak stelling gaan onderneem nie en dat die MPT met voort gaan om 'n besluit te neem.)</p>		X

Department: Electrical Engineering Services	24 March 2022	Indien die elektriese aansluiting moet vergroot is die koste vir die eienaar.	X	
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West Coast District Municipality	1 February 2022	<p>Die Weskus Distriksmunisipaliteit is ten gunste van die vestiging van bykomende bewaarskool en pre-primêre fasiliteite in Moorreesburg, maar die ligging, toeganklikheid en grootte van sulke fasiliteite verdien noukeurige oorweging. In hierdie verband word die volgende genoem:</p> <ol style="list-style-type: none"> 1. Die ligging van die voorgestelde perseel wek kommer, siende dat dit in 'n gevestigde woonbuurt is waar die eienaars van omliggende woonerwe nie noodwendig die aktiwiteite van 120 kinders sal waardeer nie. Hierdie tipe gebruike het 'n eiesoortige geraas wat steurend vir omliggende eienaars kan wees. 2. Die straat wat Erf 3428 bedien is slegs 13 meter breed en bykomende verkeer om 120 kinders op- en af te laai, selfs indien van saamryklubs en minibusse gebruik gemaak word, mag verkeersprobleme tot gevolg hê, veral indien die omliggende residensiële erwe ten volle ontwikkel/bebou is. 3. Die getal kinders wat geakkommodeer sal word, is buite verhouding tot die grootte van die erf. Die voorgestelde speelterrein van 88m² (0.73m²/kind) word as onvoldoende beskou, tensy die speelterrein beurtelings gebruik sal word. Aangesien geen terreinplan van die voorstel voorsien is nie, is die grootte van die bykomende buite-speelareas, soos genoem op bl 7 van die aansoek, nie bekend nie. 4. Die volgende kommentaar is van die Afdeling Omgewingsgesondheid van hierdie munisipaliteit ontvang: <ol style="list-style-type: none"> a) Volledige bouplanne moet vir kommentaar aan die Afdeling voorgelê word alvorens dit deur Swartland Munisipaliteit goedgekeur word. b) Ingevolge die Munisipale Gesondheidsverordeninge moet aansoek gedoen word vir 'n geskiktheidsertifikaat ten einde 'n kinderversorgingsfasiliteit te bedryf. c) Indien voedsel op die perseel voorberei gaan word, moet aansoek vir 'n geskiktheidsertifikaat gedoen word ingevolge Regulasie 638. d) Alle wetlike bepalings moet nagekom word alvorens geskiktheidsertifikate uitgereik kan word. 		
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PART I: COMMENTS RECEIVED DURING PUBLIC PARTICIPATION		SUMMARY OF APPLICANT'S REPLY TO COMMENTS	MUNICIPAL ASSESSMENT OF COMMENTS
ALJ Simpson & CM Dillon, owners of erven 3479 and 3463	<ol style="list-style-type: none"> 1. Erven 3479 and 3463 were bought with the view of retiring there. 2. The site is within a residential area and will forever change the current tranquillity of the area. 	<ol style="list-style-type: none"> 1. Erf 3463 is sowat 80m wes van die aansoek perseel geleë. Erf 3479 is nie aanliggend tot die aansoek perseel geleë nie en is oorkant Wildevystraat. 2. Dit is 'n algemene verskynsel dat kleuter en pre-primêre skole binne 'n woonbuurt bedryf word. So bo uiteengesit sal die nodige bestuursmaatreëls ingestel word om die potensiële impak op omliggende eiendomme te mitigeer, naamlik: <ul style="list-style-type: none"> • Vermindering van die aantal leerders tot die minimum getal wat ekonomies lewensvatbaar is, vanaf 120 na 80. • Beperking van die aantal leerders (40) wat op 'n slag buite sal speel. 	<ol style="list-style-type: none"> 1. Noted. 2. The Department: Civil Engineering Services is of the opinion that flow of traffic to and from the property will cause an annoyance to the surrounding property owners. Furthermore, the geometric layout of the street is also not favourable and the layout does not comply with design standards. The Department is also of the opinion that an traffic engineer needs to be appointed to do the design of the layout and to issue a traffic impact statement. Without this information the Department cannot provide informed comments. For the reasons

	<p>3. We had first-hand experience of living next to a school ... we had parents and scholars peering over our garden wall, plus constant noise, which was unacceptable.</p> <p>4. The area offers alternate land for consideration.</p>	<ul style="list-style-type: none"> • Verspreiding van aflaai en optel tye van die onderskeie ouderdomsgroepe. • Omheining van die perseel met 'n 2m hoë muur. <p>3. Die perseel word met 'n 2m hoë muur omring.</p> <p>4. Die aansoekers het 'n uitgebreide soektog geloods om beskikbare grond te identifiseer. Sover bewus is geen alternatiewe persele beskikbaar nie.</p>	<p>mentioned above, the application is not supported by the department.</p> <p>3. Even though the property will be surrounded by a 2m high wall, the concerns of the objector is noted.</p> <p>4. It appears that the property is not best suite from an engineering point of view as mentioned at point 2.</p>
West Coast District Municipality	<p>1. Die ligging van die voorgestelde perseel wek kommer, siende dat dit in 'n gevestigde woonbuurt is waar die eienaars van omliggende woonerwe nie noodwendig die aktiwiteite van 120 kinders sal waardeer nie. Hierdie tipe gebruike het 'n eiesoortige geraas wat steurend vir omliggende eienaars kan wees.</p>	<p>1. Die aansoekers het besluit om die maksimum aantal kinders wat die skool sal kan bywoon tot 80 leerders te beperk, naamlik 4 klasse van 20 leerders elk.</p> <p>Twee ouderdomsgroepe sal akkommodeer word, naamlik 'n 4 – 5 jaar klas (voorskools) en 5 - 6 jaar klas (Graad R).</p> <p>Ten einde “geraas” tot die minimum te beperk word die aantal leerders wat op een slag buite die gebou vry speletyd sal hê, tot 40 beperk deurdat die onderskeie ouderdomsgroepe se pouses nie op dieselfde tyd is nie, soos aangedui in die aangehegte klas skedule.</p> <p>Dit word verder uitgewys dat pouses wat buite plaasvind (indien weersomstandighede dit toelaat) beperk is tot 1 uur in die voormiddag (10:00 – 11:00).</p> <p>Aktiwiteite sal oorwegend binnenshuis plaasvind, of andersins in die binnehof. Die skoolterrein sal in sy totaliteit met 'n 2m hoë muur omring word wat “geraas” verder sal beperk.</p>	<p>The comments from the West Coast District Municipality is noted and will be made part of the conditions of approval if this application is approved by the MPT.</p>

	<p>2. Die straat wat Erf 3428 bedien is slegs 13 meter breed en bykomende verkeer om 120 kinders op- en af te laai, selfs indien van saamryklubs en minibusse gebruik gemaak word, mag verkeersprobleme tot gevolg hê, veral indien die omliggende residensiële erwe ten volle ontwikkel/bebou is.</p> <p>3. Die getal kinders wat geakkommodeer sal word, is buite verhouding tot die grootte van die erf. Die voorgestelde speelterrein van 88m² (0.73m²/kind) word as onvoldoende beskou, tensy die speelterrein beurtelings gebruik sal word. Aangesien geen terreinplan van die voorstel voorsien is nie, is die grootte van die bykomende buite-speelareas, soos genoem op bl 7 van die aansoek, nie bekend nie.</p> <p>4. Volledige bouplanne moet vir kommentaar aan die Afdeling voorgelê word alvorens dit deur Swartland Munisipaliteit goedgekeur word.</p> <p>5. Ingevolge die Munisipale Gesondheidsverordeninge moet aansoek gedoen word vir 'n geskiktheidsertifikaat ten einde 'n kinderversorgingsfasiliteit te bedryf.</p> <p>6. Indien voedsel op die perseel voorberei gaan word, moet aansoek vir 'n geskiktheidsertifikaat gedoen word ingevolge Regulasie 638.</p>	<p>2. Die maksimum aantal kinders wat die skool sal kan bywoon word verminder van 120 na 80 leerders.</p> <p>Soos uiteengesit in die aangehegte klas skedule is die aanvangstyd van klasse vir die 2 verskillende ouderdomsgroepe op verskillende tye wat verkeersvloei van en na die perseel versprei oor tyd.</p> <p>Elders in die dorp is beide 'n laerskool en hoërskool, waar minimale op perseel parkering en optel geriewe voorsien word, binne 'n residensiële gebied (met 13m wye strate) geleë en blyk verkeersprobleme nie 'n oorwegende faktor te wees nie.</p> <p>3. Die totale oppervlakte van speelterreine beskikbaar is 308m², soos aangedui op die aangepaste terreinontwikkelingsplan.</p> <p>Gesien in die lig daarvan dat slegs 40 leerders per tydgleuf vry speelyd sal hê, is 7,7m² per leerder beskikbaar, wat as voldoende geag word.</p> <p>4. Volledige bouplanne sal ingedien word voordat ontwikkeling plaasvind.</p> <p>5. Kennis word geneem.</p> <p>6. Geen voedsel sal op perseel voorberei word nie.</p>	
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	7. Alle wetlike bepalings moet nagekom word alvorens geskiktheidsertifikate uitgereik kan word.	7. Kennis word geneem.	
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PART J: MUNICIPAL PLANNING EVALUATION

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

The application for rezoning of Erf 3428, 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 3428 (990m² in extent) be rezoned from Residential Zone 1 to Community Zone 1 in order to use the erf as a place of education (combined day care centre and crèche).

The application for a departure from the development parameters on Erf 3428, Moorreesburg, in terms of section 25(2)(b) of Swartland Municipality : Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020) has been received. The proposal to depart from the development parameters entails the following:

- Departure from the 10m street building line (eastern boundary) to 1,45m;
- Departure from the required 4 on-premises bus parking bays by only providing 2 on-site bus parking bays.

A total of 13 registered notices were issued to affected parties, of which 9 of the same notices were also sent via e-mail. 0 posted notices were returned uncollected. The commenting period for the application started on 5 April 2022 and concluded on 9 May 2022 and 1 objection was received.

The objections received were referred to the applicant for comment on 11 May 2022. The response to objections were provided to the Municipality on 24 May 2022.

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

- Spatial Justice: According to the spatial planning of Moorreesburg erf 3428 is situated in an area which accommodate secondary educational and institutional uses which makes the application compliant with the spatial planning of Moorreesburg.
- Spatial Sustainability: Erf 3428 is situated in an area with mixed uses which includes single residential properties, grouphousing and vacant single residential erven. Even though the surrounding area has been cadastrally subdivided, not all erven to the north of erf 3428 have been serviced with a road, water, sewerage and electricity. The proposed place of education is deemed not be in conflict with the character of the area.

Sufficient engineering services capacity exist in order to provide the erf with water, sewerage and electricity connections. The Department: Civil Engineering Services does not support the site development plan as it does not meet design standards. The department requires that a traffic impact statement be undertaken by the owner/developer in order to determine whether the flow of traffic to and from the property as well as the on-site parking situation can be practically workable. The owner/developer indicated that they are not going to undertake the traffic impact statement.

- Efficiency: The existing infrastructure and resources on erf 3428 will be used optimally by the place of education. Given the undeveloped state (vacant single residential erven) and limited services infrastructure (specifically roads) to the north of erf 3428, the impact of the flow of traffic to and from the property is questioned by the Department: Civil Engineering Services.
- Good Administration: The application and public participation was administrated by Swartland Municipality and public and departmental comments obtained.
- Spatial Resilience: The place of education may be compliant with the spatial planning of Moorreesburg, but the location of the property and the development proposal are not best suited from an engineering perspective. The proposal may not have a negative impact on the surrounding area in its fairly undeveloped state, but when fully developed the place of education is not best suited in this area

It is subsequently clear that the development proposal does not adhere to all the spatial planning principles and is thus inconsistent with the abovementioned legislative measures.

2.2 Spatial Development Framework(SDF)

The Swartland SDF indicates that erf 3428 is situated in zone F. Zone F is mainly a residential area with supportive social services and business functions along the activity axis. Secondary educational uses and institutional uses are proposed as land uses in zone F, which makes this application compliant with the spatial planning of Moorreesburg.

2.3 Schedule 2 of the By-Law: Zoning Scheme Provisions

Erf 3428 is zoned Residential Zone 1 and will be rezoned to Community Zone 1 in order to accommodate the proposed place of education.

Due to the new zoning parameters the following departures are created:

- Departure from the 10m street building line (eastern boundary) to 1,45m;
- Departure from the required 4 on-premises bus parking bays by only providing 2 on-site bus parking bays.

The departure of the 10m street building line is required to make provision for the flow of traffic on the property as well as on-site parking. The street building line of the surrounding Residential zone 1 properties are 4m. The streetscape created by the 4m building set a certain character for the neighbourhood. The placement of the school building 1,5m from the street boundary will not compliment the streetscape neighbourhood and is not supported.

On-site parking needs to be provided at 1 parking bay per classroom/office and 1 bus parking bay for every 200 students. 4 Classrooms are proposed which requires 4 on-site parking bays. 10 On-site parking bays are proposed which are deemed sufficient. The applicant incorrectly indicated that the zoning requirement for bus parking bays are 1 bus parking bay for every 20 students and not for every 200 students. 1 Bus parking bay is provided which is compliant with the zoning parameters.

Sufficient indoor and outdoor play space is provided which complies with the requirements of the Planning By-law.

Given that the street building line departure is not supported, the site development plan will have to be amended which may have new departures to effect.

2. Desirability of the proposed utilisation

Erf 3428, Moorreesburg is zoned Residential zone 1 and is vacant. There are no other physical restrictions on the property that will have a negative impact on the application.

Erf 3428 is situated in an area with mixed uses which includes single residential properties, grouphousing and vacant single residential erven. Even though the surrounding area has been cadastrally subdivided, not all erven to the north of erf 3428 have been serviced with a road, water, sewerage and electricity. The proposed use of a place of education is deemed not be in conflict with the character of the area.

The proposed use is compliant with the spatial planning of Moorreesburg.

Erf 3428 does not have any title deed restrictions which impacts on the application.

Sufficient services capacity exists to accommodate the proposed use of a place of education.

The public participation process of the application was done according to the prescribed timeframes of the Planning By-law.

The Department: Civil Engineering Services is of the opinion that flow of traffic to and from the property will cause an annoyance to the surrounding property owners. Furthermore, the geometric layout of the street is also not favourable and the layout does not comply with design standards.

The Department is of the opinion that a traffic engineer needs to be appointed to do the design of the layout and to issue a traffic impact statement. Without this information the Department cannot provide informed comments. The applicant indicated that they are not going to do a traffic impact statement. For the reasons mentioned above, the application is not supported by the department.

Taking into consideration that the street building line departure is not supported as well as the application is not supported by the Department: Civil Engineering Services, the application is considered to be undesirable and not supported.

3. Impact on municipal engineering services



Existing services is deemed sufficient and no additional services connections will be provided.

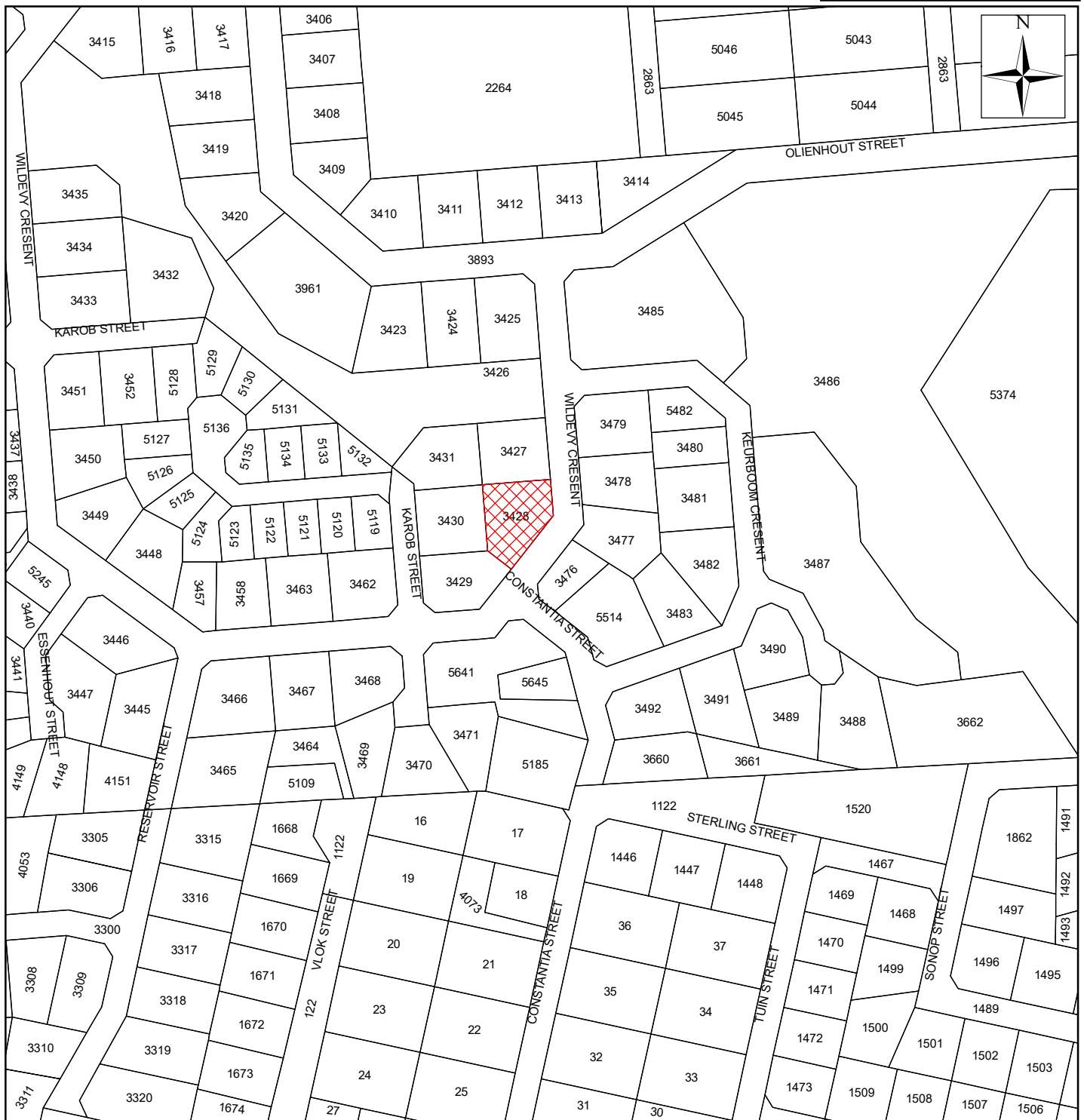
PART K: ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS
<u>The financial or other value of the rights</u> N/A.
<u>The personal benefits which will accrue to the holder of rights and/or to the person seeking the removal</u> N/A
<u>The social benefit of the restrictive condition remaining in place, and/or being removed/amended</u> N/A
<u>Will the removal, suspension or amendment completely remove all rights enjoyed by the beneficiary or only some rights</u> N/A

PART L: RECOMMENDATION WITH CONDITIONS
<p>A The application for the rezoning of Erf 3428, Moorreesburg be refused in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020).</p> <p>B The application for a departure of development parameters on Erf 3428, Moorreesburg, be refused in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020).</p> <p>C GENERAL</p> <p>a) The applicant/objectors be notified of this outcome and their right to appeal in terms of Chapter VII, Section 89 of the By-law.</p>

PART M: REASONS FOR RECOMMENDATION
<p>A. <u>Reasons:</u></p> <ol style="list-style-type: none"> 1. The development proposal does not adhere to all the spatial planning principles of LUPA and SPLUMA and is thus inconsistent with the legislative measures. 2. The flow of traffic to and from the property will cause an annoyance to the surrounding property owners. 3. The geometric layout of the street is not favourable. 4. The layout of the site development plans does not comply with design standards. 5. Insufficient information is provided to enable informed decision making due to the lack of the information of a traffic impact statement. <p>B. <u>Reasons:</u></p> <ol style="list-style-type: none"> 1. The placement of the school building will not compliment the streetscape of the single residential neighbourhood which has a 4m street building line. 2. The applicant incorreced indicated that the zoning requirement for bus parking bays are 1 bus parking bay for every 20 students and not for every 200 students. 3. The rezoning of the property is not supported, therefore the departure of development parameters can automatically not be supported.

PART N: ANNEXURES
<p>Annexure A: Locality plan Annexure B: Site development plan 1 Annexure C: Site development plan 2 Annexure D: Public participation plan Annexure E: Objection from ALJ Simpson & CM Dillon Annexure F: Comments from the West Coast District Municipality Annexure G: Comments from the applicant on the comments/objections Annexure H: Comments from the applicant to the Director: Civil Engineering Services</p>

PART O: APPLICANT DETAILS				
First name(s)	Planscape			
Registered owner(s)	GJ Romijn	Is the applicant authorised to submit this application:	Y	N
PART P: SIGNATURES				
Author details: AJ Burger Senior Town & Regional Planner SACPLAN: B/8429/2020				Date: 29 July 2022
Recommendation: Alwyn Zaayman Senior Manager: Built Environment SACPLAN: B/8001/2001		Recommended		Not recommended
				Date: 1 August 2022

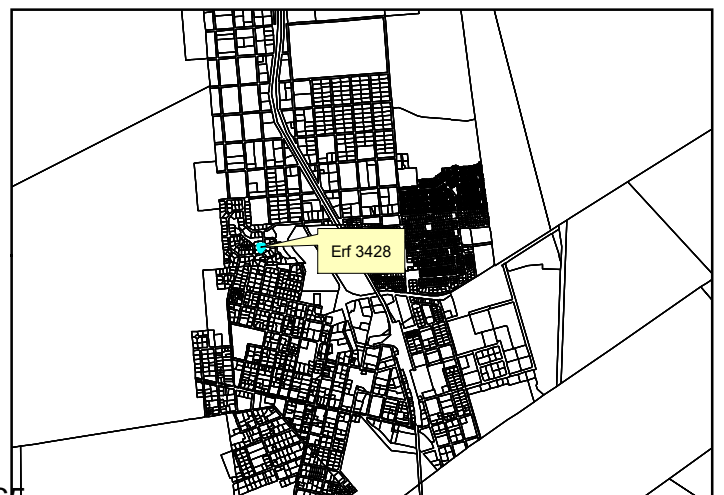


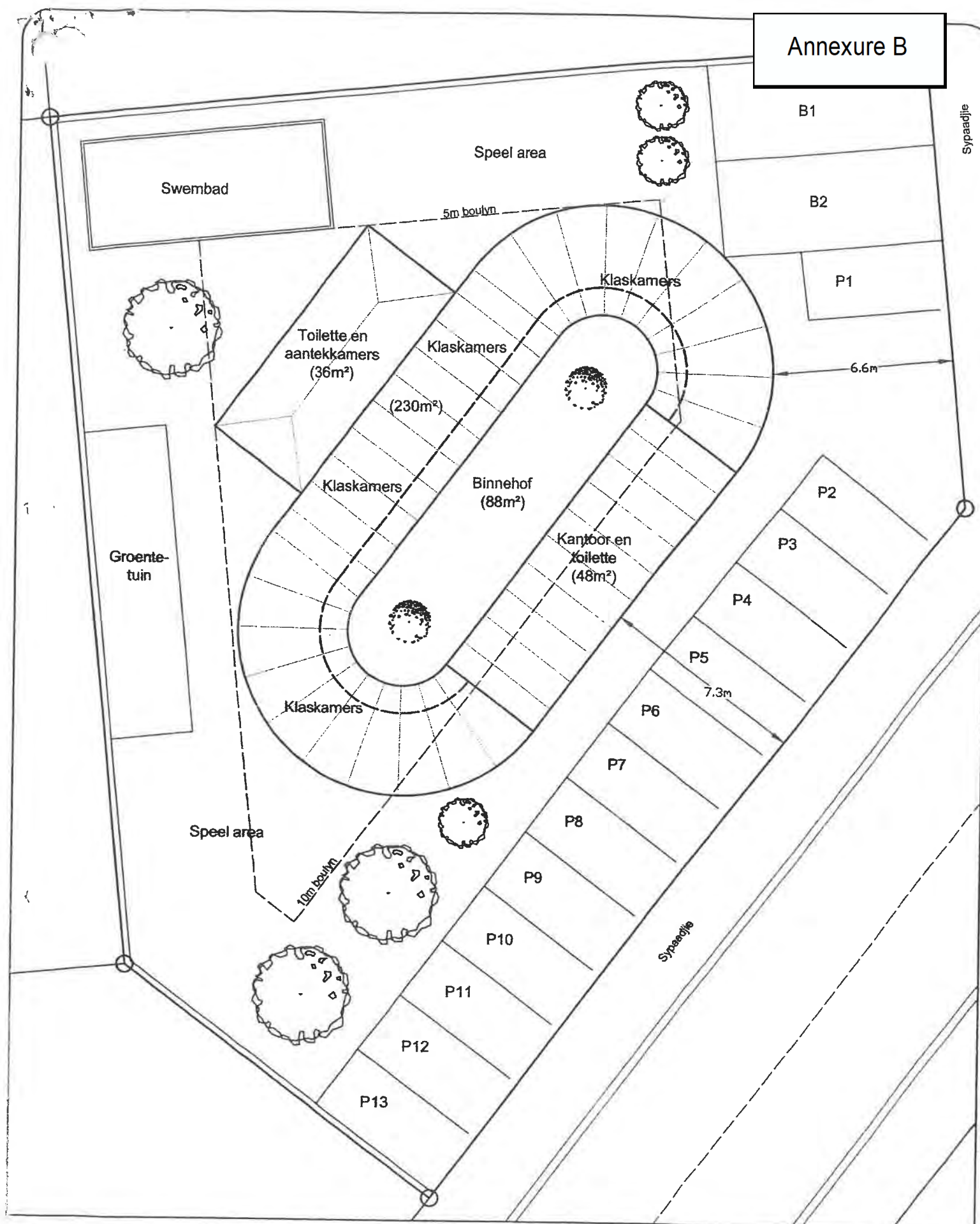
Proposed rezoning and departure

Erf 3428, Moorreesburg

Locality plan

Scale: N/A





Project: Erf 3428, Moorreesburg

Title: Terreinontwikkelingsplan

Applicant: J Ferreira



Notes:

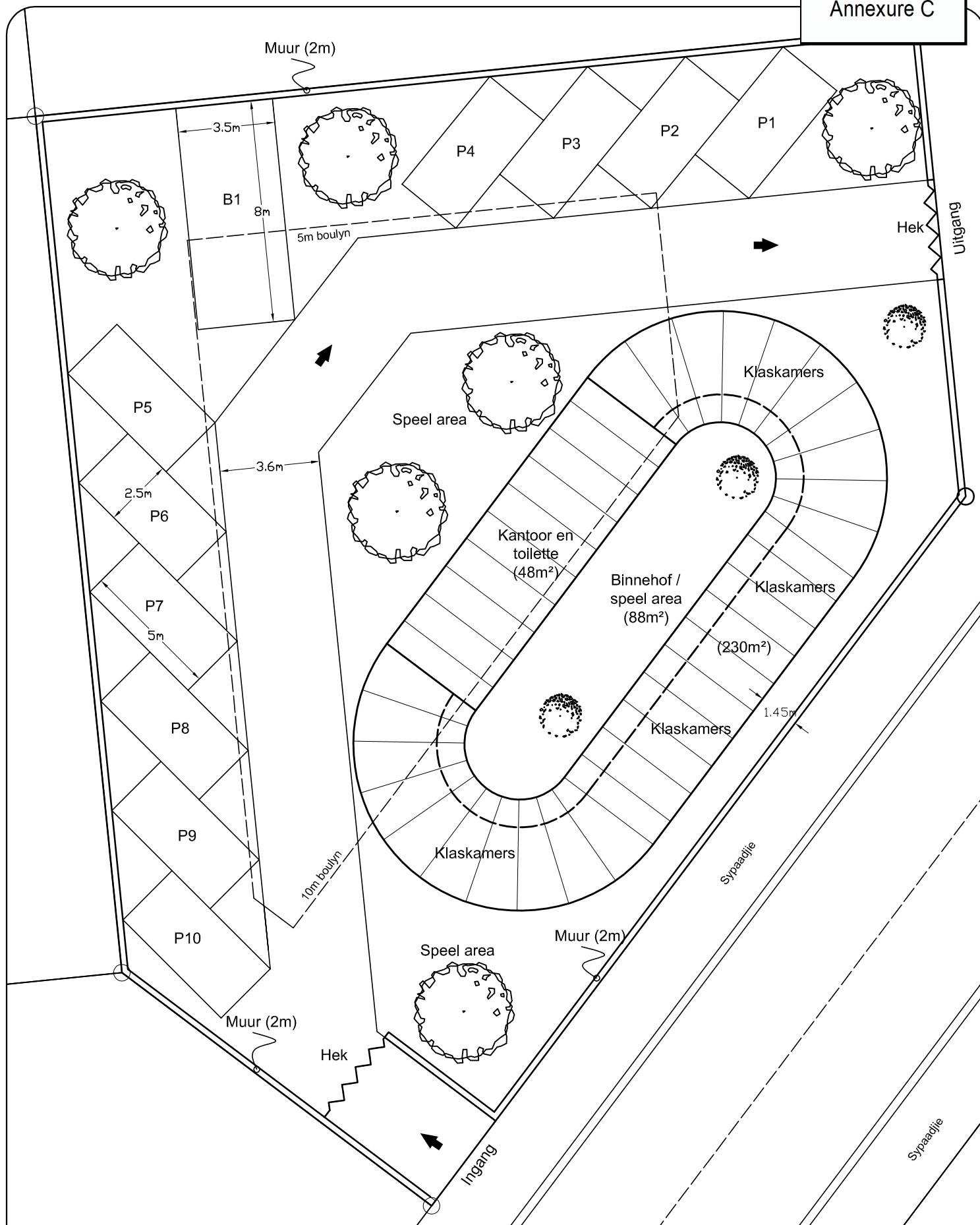
Datum: 28/02/2022

Reference: 296~3428-Mrb



PLANScape

Tel: 022 4334408
planscape@telkomsa.net



Project: Erf 3428, Moorreesburg

Title: Terreinontwikkelingsplan (gewysig)

Applicant: J Ferreira



Notes:

Datum: 06/07/2022

Reference: 296~3428-Mrb

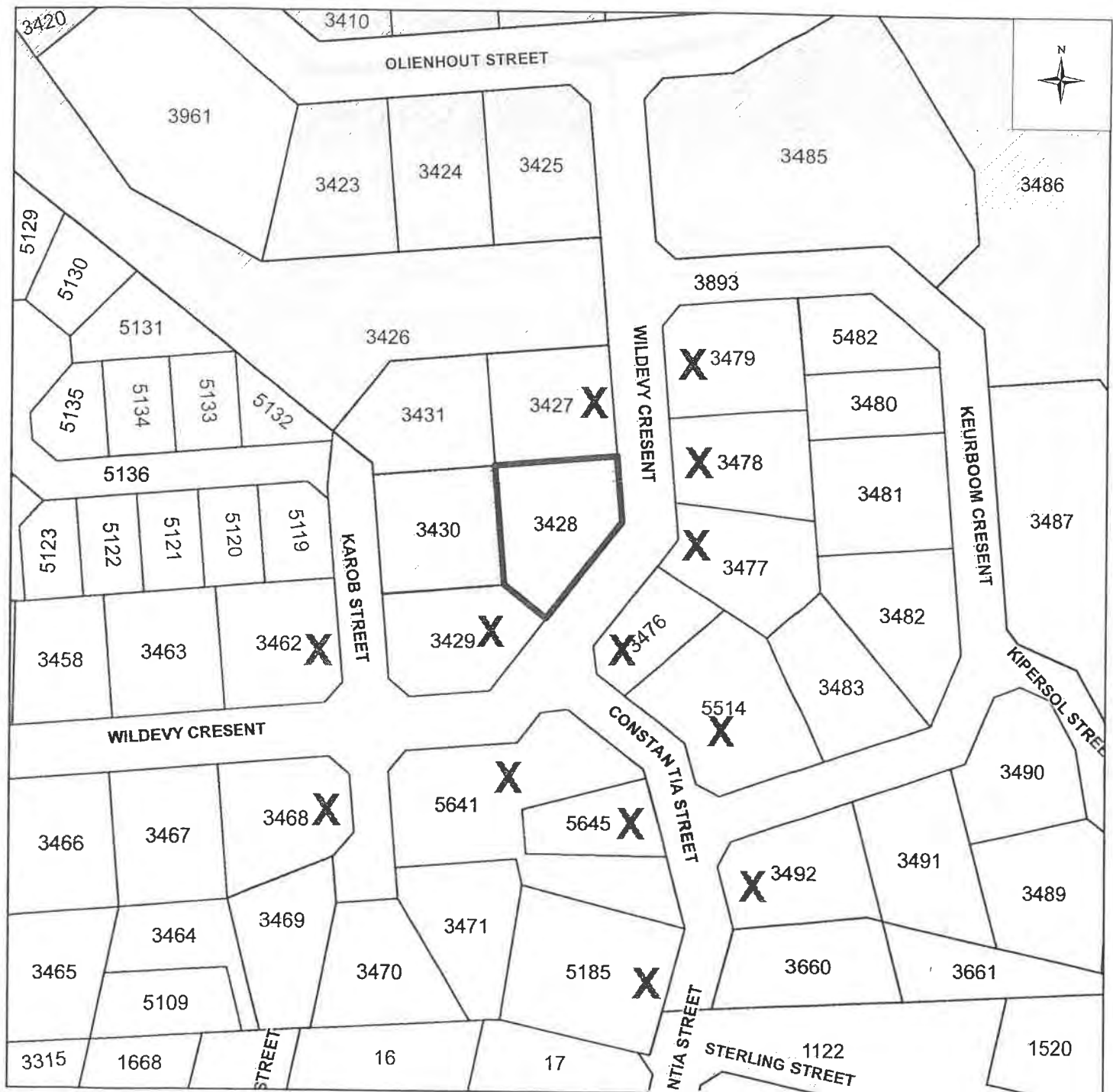


PLANSCAPE

Tel: 022 4334408
planscape@telkomsa.net

PUBLIEKE DEELNAME PLAN VOORGESTELDE HERSONERING EN AFWYKING OP MOORREESBURG

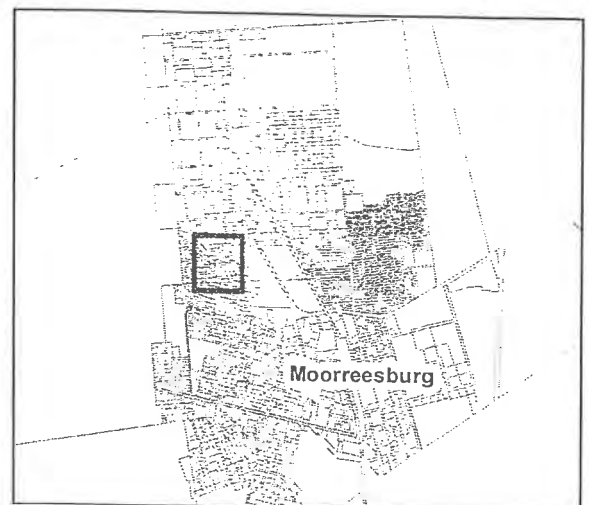
Annexure D



Legend

NAME

MUN PROP



32 Promenade Road
Lakeside
7945

7 April 2022

The Municipal Manager
Department Development Services
Swartland Municipality
Private Bag X52
Malmesbury
7299

APPLICATION FOR REZONING OF ERF 3428, MOORREESBURG

We thank you for affording us the opportunity to participate in this process.

We purchased our plots in 2005, with the view to retiring to the area. We own Erf number 3479 & 3463.

Whilst we recognize and welcome the growth within the country town of Moorreesburg, we are quite alarmed by this application, since it is well within a residential area and will forever change the current tranquility of the area. We purposefully purchased the plots with retirement firmly in mind and we have had first hand experience of living next door to a school during 2004 to 2013. We sold to move to a quieter and less intrusive area – we had parents and scholars peering over our garden wall, plus constant noise, which was unacceptable.

We reiterate that whilst it is clear the area is growing, hence the need for a school, the choice of site is not in the interests nor the benefit of homeowners and or investors. The area does, however, offer alternate land for consideration and for this reason we strongly object to the rezoning of the erf.

Kindly keep us abreast of any and all developments and if necessary, we will participate in any public meeting called.

Yours sincerely



ALJ SIMPSON



CM DILLON

From: Doretha Kotze <dkotze@wcdm.co.za>
Sent: 29 April 2022 11:20 AM
To: Delmarie Stellenberg <StellenbergD@swartland.org.za>
Cc: WCDM Correspondence <mun@wcdm.co.za>
Subject: WDM Kommentaar: Hersonerig & Afwyking, Erf 3428, Moorreesburg

Verw: 13/2/12/1/1 & 13/2/12/1/3

Mevrou

U skrywe 15/3/3-9/Erf_3428 gedateer 5 April 2022 en die aansoek van Planscape vir die Hersonerig en Afwyking op Erf 3428, Moorreesburg ten einde 'n gekombineerde bewaarskool en pre-primêre skool te ontwikkel, verwys.

Die Weskus Distriksmunisipaliteit is ten gunste van die vestiging van bykomende bewaarskool en pre-primêre fasiliteite in Moorreesburg, maar die ligging, toeganklikheid en grootte van sulke fasiliteite verdien noukeurige oorweging. In hierdie verband word die volgende genoem:

1. Die ligging van die voorgestelde perseel wek kommer, siende dat dit in 'n gevestigde woonbuurt is waar die eienaars van omliggende woonerwe nie noodwendig die aktiwiteite van 120 kinders sal waardeer nie. Hierdie tipe gebruike het 'n eiesoortige geraas wat steurend vir omliggende eienaars kan wees.
2. Die straat wat Erf 3428 bedien is slegs 13 meter breed en bykomende verkeer om 120 kinders op- en af te laai, selfs indien van saamryklubs en minibusse gebruik gemaak word, mag verkeersprobleme tot gevolg hê, veral indien die omliggende residensiële erwe ten volle ontwikkel/bebou is.
3. Die getal kinders wat geakkommodeer sal word, is buite verhouding tot die grootte van die erf. Die voorgestelde speelterrein van 88m² (0.73m²/kind) word as onvoldoende beskou, tensy die speelterrein beurtelings gebruik sal word. Aangesien geen terreinplan van die voorstel voorsien is nie, is die grootte van die bykomende buite-speelareas, soos genoem op bl 7 van die aansoek, nie bekend nie.
4. Die volgende kommentaar is van die Afdeling Omgewingsgesondheid van hierdie munisipaliteit ontvang:
 - 4.1 Volledige bouplanne moet vir kommentaar aan die Afdeling voorgelê word alvorens dit deur Swartland Munisipaliteit goedgekeur word.
 - 4.2 Ingevolge die Munisipale Gesondheidsverordeninge moet aansoek gedoen word vir 'n geskiktheidsertifikaat ten einde 'n kinderversorgingsfasiliteit te bedryf.
 - 4.3 Indien voedsel op die perseel voorberei gaan word, moet aansoek vir 'n geskiktheidsertifikaat gedoen word ingevolge Regulasie 638.
 - 4.4 Alle wetlike bepalings moet nagekom word alvorens geskiktheidsertifikate uitgereik kan word.

Groete

D o r e t h a K o t z e

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



CONSULTING TOWN AND REGIONAL PLANNERS RAADGEWENDE STADS- EN STREEKBEPLANNERS

CC Reg No. 2007/087087/23

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23 Mei 2022

Verwysingsnommer: 296~3428-Mrb

Vir aandag: Mnr. A Zaayman

Swartland Munisipaliteit
Privaatsak X 52
Malmesbury
7299

Geagte meneer

AANSOEK OM HERSONERING EN AFWYKING – ERF3428, MOORREESBURG

Die skrywe verwysingsnommer 15/3/3-9/Erf_3428, gedateer 11/5/2022, verwys

Hiermee te reageer op die kommentare soos ontvang.

Weskus Distriksmunisipaliteit	
Kommentaar	Reaksie
Die ligging van die voorgestelde perseel wek kommer, siende dat dit in 'n gevestigde woonbuurt is waar die eienaars van omliggende woonerwe nie noodwendig die aktiwiteite van 120 kinders sal waardeer nie. Hierdie tipe gebruike het 'n eiesoortige geraas wat steurend vir omliggende eienaars kan wees.	<p>Die aansoekers het besluit om die maksimum aantal kinders wat die skool sal kan bywoon tot 80 leerders te beperk, naamlik 4 klasse van 20 leerders elk.</p> <p>Twee ouderdomsgroepe sal akkommodeer word, naamlik 'n 4 – 5 jaar klas (voorskools) en 5 - 6 jaar klas (Graad R).</p> <p>Ten einde “geraas” tot die minimum te beperk word die aantal leerders wat op een slag buite die gebou vry speelyd sal hê, tot 40 beperk deurdat die onderskeie ouderdomsgroepe se pouses nie op dieselfde tyd is nie, soos aangedui in die aangehegte klas skedule.</p> <p>Dit word verder uitgewys dat pouses wat buite plaasvind (indien weersomstandighede dit toelaat) beperk is tot 1 uur in die voormiddag (10:00 – 11:00).</p> <p>Aktiwiteite sal oorwegend binnenshuis plaasvind, of andersins in die binnehof. Die skoolterrein sal in</p>

	sy totaliteit met 'n 2m hoë muur omring word wat "geraas" verder sal beperk.
Die straat wat Erf 3428 bedien is slegs 13 meter breed en bykomende verkeer om 120 kinders op- en af te laai, selfs indien van saamryklubs en minibusse gebruik gemaak word, mag verkeersprobleme tot gevolg hê, veral indien die omliggende residensiële erwe ten volle ontwikkel/bebou is.	<p>Die maksimum aantal kinders wat die skool sal kan bywoon word verminder van 120 na 80 leerders.</p> <p>Soos uiteengesit in die aangehegte klas skedule is die aanvangstyd van klasse vir die 2 verskillende ouderdomsgroepe op verskillende tye wat verkeersvloei van en na die perseel versprei oor tyd.</p> <p>Elders in die dorp is beide 'n laerskool en hoërskool, waar minimale op perseel parkering en optel geriewe voorsien word, binne 'n residensiële gebied (met 13m wye strate) geleë en blyk verkeersprobleme nie 'n oorwegende faktor te wees nie.</p>
Die getal kinders wat geakkommodeer sal word, is buite verhouding tot die grootte van die erf. Die voorgestelde speelterrein van 88m ² (0.73m ² /kind) word as onvoldoende beskou, tensy die speelterrein beurtelings gebruik sal word. Aangesien geen terreinplan van die voorstel voorsien is nie, is die grootte van die bykomende buite-speelareas, soos genoem op bl 7 van die aansoek, nie bekend nie.	<p>Die totale oppervlakte van speelterreine beskikbaar is 308m², soos aangedui op die aangepaste terreinontwikkelingsplan.</p> <p>Gesien in die lig daarvan dat slegs 40 leerders per tydgleuf vry speeltijd sal hê, is 7,7m² per leerder beskikbaar, wat as voldoende geag word.</p>
Volledige bouplanne moet vir kommentaar aan die Afdeling voorgelê word alvorens dit deur Swartland Munisipaliteit goedgekeur word.	Volledige bouplanne sal ingedien word voordat ontwikkeling plaasvind.
Ingevolge die Munisipale Gesondheidsverordeninge moet aansoek gedoen word vir 'n geskiktheidsertifikaat ten einde 'n kinderversorgingsfasiliteit te bedryf.	Kennis word geneem.
Indien voedsel op die perseel voorberei gaan word, moet aansoek vir 'n geskiktheidsertifikaat gedoen word ingevolge Regulasie 638	Geen voedsel sal op perseel voorberei word nie.
Alle wetlike bepalings moet nagekom word alvorens geskiktheidsertifikate uitgereik kan word.	Kennis word geneem.

ALJ Simpson	
Erven 3479 and 3463 were bought with the view of retiring there.	<p>Erf 3463 is sowat 80m wes van die aansoek perseel geleë.</p> <p>Erf 3479 is nie aanliggend tot die aansoek perseel geleë nie en is oorkant Wildevystraat.</p>
The site is within a residential area and will forever change the current tranquillity of the area.	<p>Dit is 'n algemene verskynsel dat kleuter en pre-primêre skole binne 'n woonbuurt bedryf word.</p> <p>So bo uiteengesit sal die nodige bestuursmaatreëls ingestel word om die potensiële impak op omliggende eiendomme te mitigeer, naamlik:</p> <ul style="list-style-type: none"> • Vermindering van die aantal leerders tot die minimum getal wat ekonomies lewensvatbaar is, vanaf 120 na 80. • Beperking van die aantal leerders (40) wat op 'n slag buite sal speel. • Verspreiding van aflaai en optel tye van die onderskeie ouderdomsgroepe. • Omheining van die perseel met 'n 2m hoë muur.
We had first hand experience of living next to a school ... we had parents and scholars peering over our garden wall, plus constant noise, which was unacceptable.	Die perseel word met 'n 2m hoë muur omring.
The area offers alternate land for consideration.	Die aansoekers het 'n uitgebreide soektog geloods om beskikbare grond te identifiseer. Sover bewus is geen alternatiewe persele beskikbaar nie.

Dit word ook uitgewys dat gesien in die lig daarvan dat die aantal leerders vanaf 120 na 'n maksimum van 80 verminder is, dat die gepaardgaande aansoek om afwyking ten einde minder as die vereiste aantal bus parkeerplekke te voorsien, nou behels dat daar 4 parkeerplekke voorsien moet word en dat daar dus 'n tekort aan 2 (en nie 4) bestaan.

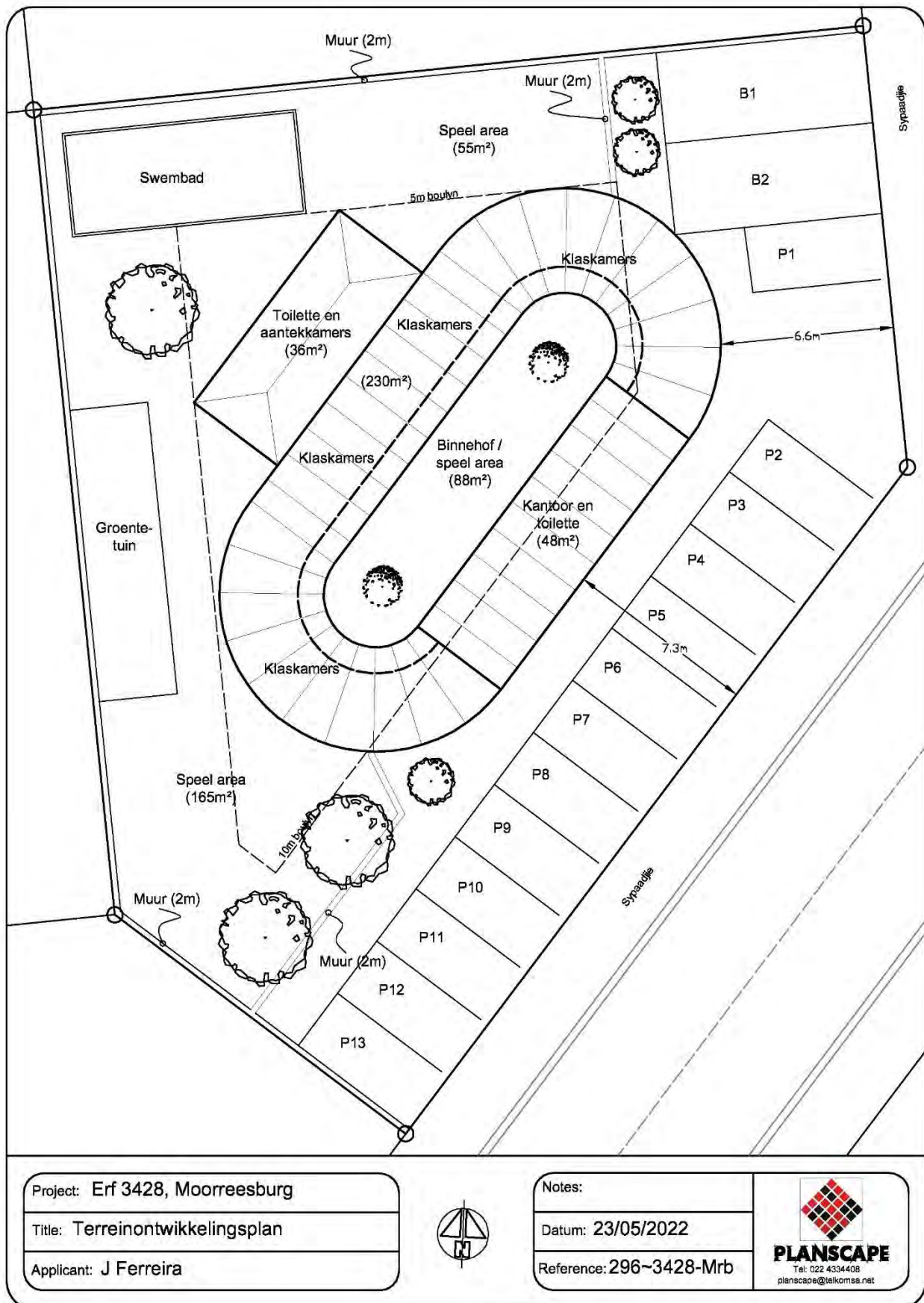
Die Uwe



M Langenhoven
(0722026587)

Voorgestelde Klas skedules

	4-5 Jaar klas (Maksimum 2 klasse van 20)	5-6 Jaar klas (Maksimum 2 klasse van 20)
7:00 – 7:30		Ontvangs / vry spel
7:30 – 8:00	Ontvang /Vry spel	Bybel / Oggend sirkel
8:00 – 9:00	Bybel / Oggend sirkel	STEM – Aktiwiteit
9:00 – 10:00	STEM – Aktiwiteit	Musiek/Kuns/Kultuur tyd
10:00 – 10:30	Pouse – Vry spel	Pouse – eet tyd (binnenshuis)
10:30 – 11:00	Pouse – eet tyd (binnenshuis)	Pouse – Vry spel
11:00 – 12:00	Musiek/Kuns/Kultuur tyd	Taal - Aktiwiteit
12:30 – 13:00	Huis toe tyd / Slaap	Gestruktureerde spel
13:00 – 14:00		Huis toe tyd / Slaap
14:00 – 17:30	Na skool aktiwiteit	Na skool aktiwiteit



From: martin langenhoven <planscape@telkomsa.net>

Sent: Wednesday, July 06, 2022 9:44 AM

To: Louis Zikman <Zikmanl@swartland.org.za>; Louis Zikman <Zikmanl@swartland.org.za>

Cc: Alwyn Burger <alwynburger@swartland.org.za>; 'Jacqueline Ferreira' <jfer@hotmail.co.za>; 'Beulah Ferreira' <bf@hotmail.co.za>

Subject: RE: Voorgestelde hersonering en afwyking op Rrf 3428, Moorreesburg

Mnr Zikman

Onderstaande eposse waarmee beswaar gemaak word teen die hersonering van erf 3428, Moorreesburg, verwys.

Ingesluit vind 'n alternatiewe terreinontwikkelingsplan waarmee 10 op-perseel parkeerplekke en 'n minibus staanplek voorsien word.

Eenrigting verkeersvloei word bewerkstellig deur middel van die voorgestelde aparte toegang- en uitgangshekke.

Die maksimum aantal kinders wat die skool sal kan bywoon word verminder van 120 na **80 leerders**.

Die aanvangstyd van klasse vir die 2 verskillende ouderdomsgroepe is op verskillende tye wat verkeersvloei van en na die perseel versprei oor tyd.

Die 5-6 jaar groep word ontvang / afgelaai tussen 7:00 to 7:30 terwyl die 4-5 groep tussen 7:30 – 8:00 ontvang word.

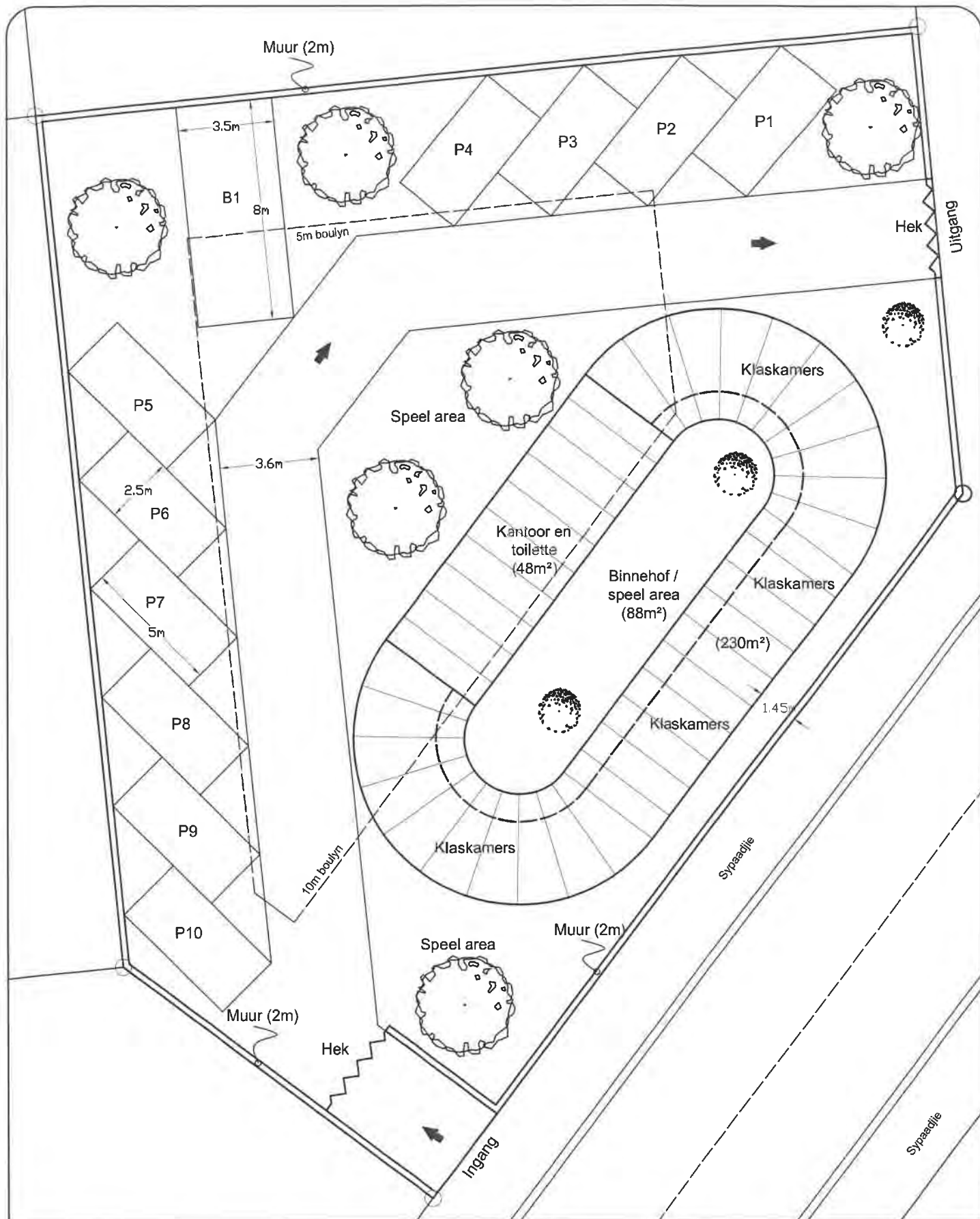
Die optel tye word ook tussen 12:30 tot 14:00 versprei.

Hiermee te versoek om u kommentaar te heroorweeg ten einde die aansoeker in staat te stel om die plek van onderrig waarvoor daar 'n wesenlike behoefte bestaan, van die perseel te kan bedryf.

Verneem graag van U

Martin Langenhoven

Pr.Pln. A/048/2007



Project: Erf 3428, Moorreesburg

Title: Terreinontwikkelingsplan (gewysig)

Applicant: J Ferreira



Notes:

Datum: 06/07/2022

Reference: 296~3428-Mrb



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