



**MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING HELD IN THE BANQUETING HALL, MALMESBURY ON WEDNESDAY, 14 SEPTEMBER 2022 AT 13:30**

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**PRESENT**

Internal members:

Municipal Manager, Mr J J Scholtz (chairperson)

Director: Corporate Services, Ms M S Terblanche

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

Senior Town and Regional Planner, Mr A J Burger

Town and Regional Planner and GIS, Mr H Olivier

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

**1. OPENING**

The chairperson opened the meeting and welcomed members.

**2. APOLOGY**

**RESOLVED** that cognisance be taken of the apologies received from the Director: Protection Services, Mr P A C Humphreys and the Town and Regional Planner, Ms A de Jager.

**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 10 AUGUST 2022**

**RESOLUTION**

(proposed by Ms C Havenga, seconded by Mr C Rabie)

That the minutes of a Municipal Planning Tribunal Meeting held on 10 August 2022 are approved and signed by the chairperson.

**5. MATTERS ARISING FROM MINUTES**

None.

**6. MATTERS FOR CONSIDERATION**

**6.1 PROPOSED CONSENT USE ON ERF 1454, YZERFONTEIN (15/3/10-14) (WARD 5)**

The chairperson requested Mr A J Burger to give background on the application received for the consent use on Erf 1454, Yzerfontein in order to establish a second dwelling on the erf.

Mr Burger stated that Erf 1454, Yzerfontein is vacant and that the application adhered to all planning principles, policies and parameters applicable to the Residential Zone 1 zoning. The proposed development further contributes to densification.

## RESOLUTION

- A. The application for a consent use on Erf 1454, 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 erect a second dwelling on the property, subject to the conditions that:

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

- (a) The consent use authorises a second dwelling on Erf 1454, as presented in the application;
- (b) The second dwelling complies with the applicable zoning parameters of the By-law;
- (c) At least 4 on-site parking bays be provided as presented in the application;
- (d) Building plans be submitted to the Senior Manager: Built Environment for consideration and approval;

### **A2 WATER**

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

### **A3 SEWERAGE**

- (a) The property be provided with a conservancy tank of appropriate size (minimum capacity of 8000 l), as pre-approved by the Director: Civil Engineering Service;
- (b) The conservancy tank be accessible to the municipal vacuum truck from the street;

### **A4 DEVELOPMENT CHARGES**

- (a) The development charge towards the regional bulk supply of water amounts to R5 445,25 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 R4 502,25 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 owner/developer be responsible for the development charge towards waste water treatment, to the amount of R8 280,00, at building plan 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);
- (d) The fixed development charge towards sewerage amounts to R 5 612,00 and is payable by the owner/developer at building plan stage. The amount is due to the Municipality, valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA 9/240-184-9210);
- (e) The fixed 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 2022/2023 and may be revised thereafter. (mSCOA 9/249-188-9210);
- (f) The owner/developer be responsible for the fixed development charge towards storm water, to the amount of R3 192,40 at building plan stage. The amount is payable to the 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 makes provision for a 35% discount on development charges to Swartland Municipality. The discount is valid for the financial year 2022/2023 and may be revised thereafter. The discount is not applicable to A4(a);

- B. General/...

**B. GENERAL**

- (a) The approval is, in terms of section 76(2)(w) of the By-Law valid for a period of 5 years. All conditions of approval be complied with before the issuing of the occupancy certificate. Failure to comply will result in the approval expiring;
- (b) The applicant/objectors be informed of the right to appeal against the decision of the Municipal Planning Tribunal, within 21 days of the notice, in terms of section 89(2) of the By-Law;

**C. That the application be supported for the following reasons:**

- (a) The application is in compliance with the planning principles of LUPA and SPLUMA;
- (b) The application is consistent with local, regional and provincial spatial planning policy;
- (c) The development proposal complies with all applicable zoning parameters of the Residential zone 1 zoning and will not have a negative impact on the privacy of neighbouring properties;
- (d) Erf 1454 does not have any physical restrictions which may have a negative impact on the application;
- (e) The proposed second dwelling will complement and not have a negative impact on the character of the surrounding residential area;
- (f) The development proposal supports the optimal utilisation of the property;
- (g) The proposed land use is considered as a desirable activity within a residential neighbourhood, as it will accommodate residential activities compatible with that of the existing area;
- (h) The second dwelling may support the tourism industry in Yzerfontein, as well as the local economy;
- (i) The second dwelling will provide in a need for a larger variety of housing opportunities to the wider population;
- (j) Sufficient services capacity exists to accommodate the proposed second dwelling.

**6.2 APPLICATION FOR A CONSENT USE ON ERF 1466, ABBOTSDALE (15/3/10-1) (WARD 7)**

Mr A J Burger tabled the item and mentioned that it is the intention of the applicant to convert the existing garage and storeroom into a house tavern with a storeroom.

The property is located within the Abbotsdale CBD, as proposed by the SDF, thus Erf 1466 is optimally situated for the proposed land use of a house tavern.

Mr Burger confirmed that the dwelling on Erf 1466 is unfinished and the operating of the house tavern will be subject to the dwelling being completed and an occupancy certificate being issued.

**RESOLUTION**

- A. The application for consent use on Erf 1466, Abbotsdale, 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 operate a house tavern from the property, subject to the conditions that:

**A1 TOWN PLANNING AND BUILDING CONTROL**

- (a) The consent use be restricted to accommodate a house tavern and store room ( $\pm 44 \text{ m}^2$  in extent), in the existing garage as presented in the application;
- (b) The sale of liquor be restricted to off-premise consumption purposes;
- (c) The primary purpose of the dwelling remains that of the habitation by a single family;
- (d) The dwelling be occupied by the proprietor of the house tavern;
- (e) Building plans, clearly indicating the house tavern in relation to the house, be submitted to the Senior Manager: Built Environment for consideration and approval;

6.2/A1...

- (f) The dwelling house be completed and an occupation certificate be obtained, prior to the house tavern coming into operation;
- (g) The proposed tavern and store room under no circumstances be permitted for use as human habitation;
- (h) A minimum of four (4) on-site parking bays be provided and that each bay be finished in a permanent, dust free surface such as tar, concrete, paving, or any other material pre-approved by the Director: Civil Engineering Services, and that each bay be clearly marked;
- (i) The south-western street boundary of Erf 1466 be surveyed and correctly indicated and that access to the parking bays be kept unobstructed at all times;
- (j) The Western Cape Noise Control Regulations (PG 7141 dated 20 June 2013) be adhered to, to the satisfaction of the relevant authority;
- (k) Application for construction of or attaching an advertising sign to the building be submitted to the Senior Manager: Built Environment for consideration and approval. Only one sign, not exceeding 1 m<sup>2</sup> in area and not exceeding the land unit boundaries with any part of it, be permitted which only includes the name of the owner, name of the business and nature of the retail trade;

**A2 WATER**

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

**A3 SEWERAGE**

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

**A4 STREETS AND STORMWATER**

- (a) Deliveries may only be done by delivery vehicles with a maximum gross vehicle mass of 16000 kg;

**A5 GENERAL**

- (a) The approval be, in terms of section 76(2)(w) of the By-Law, valid for a period of 5 years. All conditions of approval be complied with before occupancy be granted and the operation of the tavern comes into effect;
- (b) Should the conditions of approval not be met or the development parameters be disregarded, administrative steps may be taken and the approval for the house tavern be revoked;
- (c) The approval does not exonerate the applicant from obtaining any necessary approval from any other applicable statutory authority;
- (d) The applicant/objectors be informed of the right to appeal against the decision of the Municipal Planning Tribunal, within 21 days of the notice, in terms of section 89(2) of the By-Law;

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

- (a) The application proposal is consistent with the SDF and promotes business uses along the activity corridor;
- (b) The location of the tavern is considered optimal in relation to the proposed CBD of Abbotsdale;
- (c) The proposed house tavern complies with the requirements of the zoning scheme regulations;
- (d) The proposed house tavern will not negatively impact on the health, safety, security or well-being of the community if the development parameters and legislative framework are adhered to. The business cannot be blamed for the existing social problems or the behavior of individuals;
- (e) The proposed house tavern is foreseen to have a complimentary impact on the surrounding residential land uses as well as the existing neighbouring shop by enhancing the shopping experience in the area;
- (f) The proposed house tavern is in the interest of the surrounding community.

6.3/...



### **6.3 APPLICATION FOR REZONING, CONSENT USE AND DEPARTURE ON ERF 7677, MALMESBURY (15/3/3-8, 15/3/4-8, 15/3/10-8) (WARD 8)**

Mr H Olivier (the author) confirmed that a scrap yard can only be accommodated as a consent use under the Industrial Zone 2 or Industrial Zone 3 zoning categories.

After an investigation regarding the scrapyard operated on Erf 7677, Malmesbury it was found that the zoning of Erf 7677 is Industrial Zone 1 which does not permit the land use.

A formal compliance notice was issued to the owner and tenant for the operating of the scrapyard to cease. An application was therefore received for the rezoning, consent use and departure on Erf 7677, Malmesbury in order to obtain the correct land use approval for operating a scrapyard.

Mr Olivier confirmed that the proposed application adhere to all principles of spatial planning and legislative requirements and is deemed desirable.

Mr Olivier also confirmed that correspondence was received from the SAPS confirming that regular weekly inspections were conducted on the premises and that the owner is in compliance with the Second Hand Goods Act.

#### **RESOLUTION**

- A. The application for the rezoning of Erf 7677, Malmesbury from Industrial Zone 1 to Industrial Zone 2, be approved in terms of section 70 of the Swartland Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020);
- B. The application for the consent use on Erf 7677, Malmesbury, be approved in terms of section 70 of the Swartland Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020);
- C. The application for the permanent departure of the development parameters applicable on Erf 7677, Malmesbury, be approved in terms of section 70 of the Swartland Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020);
- D. The approvals, A, B and C above are subject to the following conditions:

#### **D1 TOWN PLANNING AND BUILDING CONTROL**

- (a) The consent use be restricted to accommodate a scrap yard on the property as presented in the application;
- (b) The departure entails accommodating the existing building 1,5 m from the side boundary in-lieu of the 3 m requirement of the new zoning category;
- (c) The hours of operation of the scrapyard shall be limited to 08h00 to 17h00 from Monday to Friday and 08h00 to 12h00 on Saturdays;
- (d) No storing, sorting, depositing or collection of scrap material be permitted in front of the building / property, the road reserve along Industrie Crescent or anywhere other than inside the building or yard as indicated on the site development plan;
- (e) Building plans, including the necessary fire plan, be submitted to the Senior Manager: Built Environment for consideration and approval;
- (f) The illegal access on the eastern boundary which provides access to the municipal commonage be permanently closed with a wall similar to that which is currently on the perimeter of the property in order to close the illegal access as well as to ensure that no scrap material could be blown by the wind onto the municipal land as well as into the river;
- (g) No pollution be permitted;

#### **D2 STREETS AND STORMWATER**

- (a) The proposed parking area, be provided with a permanent dust free surface and the parking bays clearly demarcated as indicated on the site development plan. The material used be pre-approved by the Director: Civil Engineering services on building plan stage;

**D3 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 5 years. All conditions of approval be complied with within a period of 2 months after the date of the final decision, after which the 5 year period will no longer be applicable;
- (c) The applicant/objectors be informed of the right to appeal against the decision of the Municipal Planning Tribunal, within 21 days of the notice, in terms of section 89(2) of the By-Law;

E. The application be supported for the following reasons:

- (a) There are no physical restrictions on the property that will have a negative impact on the proposed application;
- (b) There are no restrictions registered against the title deed of the property that prohibits the proposed land use;
- (c) Possible negative impacts are mitigated through the fact that the building acts as a screen to the material stored at the back of the yard, the property is fenced off with a prefabricated wall and the back of the property consist of a permanent surface;
- (d) The application for rezoning to Industrial Zone 2 as well as the use of the property as a scrap yard is not in conflict with the MSDF, 2019;
- (e) The proposed application will not have a negative impact on the character of the area given the industrial as well as mixed use nature of the area;
- (f) 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;
- (g) The proposal will not have a significant impact on traffic in Industrie Crescent.

**6.4 PROPOSED REZONING OF ERF 10024, MALMESBURY (15/3/3-8) (WARD 10)**

Mr A J Burger stated that the proposed application entails the rezoning of Erf 10024, Malmesbury to Business Zone 1 in order to establish a business (office and skin care salon).

The property is currently vacant and the proposed development adhere to all principles of spatial planning, legislative requirements and development parameters for the applicable zoning.

**RESOLUTION**

- A. The application for the rezoning of erf 10024, Malmesbury from Residential zone 1 to Business zone 1, be approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), subject to the conditions that:

**A1 TOWN PLANNING AND BUILDING CONTROL**

- (a) Building plans be submitted to the Senior Manager: Built Environment for consideration and approval;
- (b) At least 11 on-site parking bays and 1 loading bay be provided with a permanent dust free surface being tar, concrete or paving to the satisfaction of the Director: Civil Engineering Services and that the parking bays and loading bay are clearly marked;

**A2 WATER**

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

A3/...

**A3 SEWERAGE**

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

**A4 REFUSE REMOVAL**

- (a) Waste to be put on kerbside by 07:30 on day of scheduled collection;

**B. GENERAL**

- (a) The approval is, in terms of section 76(2)(w) of the By-Law valid for a period of 5 years. Failure to comply will result in this approval expiring;
- (b) The applicant/objectors be informed of the right to appeal against the decision of the Municipal Planning Tribunal, within 21 days of the notice, in terms of section 89(2) of the By-Law;

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

- (a) The application complies with the planning principles of LUPA and SPLUMA;
- (b) The application complies with the spatial planning of Malmesbury;
- (c) The development proposal complies with all applicable zoning parameters of the Business zone 1 zoning;
- (d) The impact of the proposed development on surrounding properties are deemed low and will not have a negative impact;
- (e) Erf 10024 does not have any physical restrictions which may have a negative impact on this application;
- (f) The proposed development will complement and not have a negative impact on the character of the surrounding residential area;
- (g) The development proposal supports the optimal utilisation of the property;
- (h) The proposed land use is considered as a desirable activity within identified business area of the Voortrekker Road activity corridor, as it will accommodate use compatible with that of the existing area;
- (i) Sufficient services capacity exists to accommodate the proposed business;
- (j) The proposed businesses are not deemed to attract crime and violence to the area;
- (k) Access to the property is supported by the road authority (Department of Transport and Public Works);
- (l) Surrounding property values will not be affected negatively;
- (m) There are no restrictions in the title deed of erf 10024 which restricts the proposed development.

**(SIGNED) J J SCHOLTZ  
CHAIRPERSON**



**ITEM 6.1 VAN DIE AGENDA VAN 'N MUNISIPALE BEPLANNINGSTRIBUNAAL WAT GEHOU SAL WORD OP WOENSDAG, 12 OKTOBER 2022**

LAND USE PLANNING REPORT PROPOSED CONSENT USE ON ERF 1196, YZERFONTEIN					
Reference number	15/3/10-14/Erf_1196	Application submission date	30 June 2022	Date report finalised	30 September 2022

PART A: APPLICATION DESCRIPTION						
An application for consent use for a double dwelling on erf 1196, Yzerfontein in terms of section 25(2)(o) of Swartland Municipality : Municipal Land Use Planning By-law (PG 8226 of 25 March 2020) has been received.						
The applicant is CK Rumboll & Partners and the property owner is the WN & RA Scheepers.						
PART B: PROPERTY DETAILS						
Property description (in accordance with Title Deed)	Erf 1196, Yzerfontein in the Municipality Swartland, Division Malmesbury, Western Cape Province					
Physical address	125 Dassen Island Drive			Town	Yzerfontein	
Current zoning	Residential Zone 1	Extent (m <sup>2</sup> /ha)	794m <sup>2</sup>	Are there existing buildings on the property?	Y	N
Applicable zoning scheme	Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 25 March 2020)					
Current land use	Vacant			Title Deed number & date	T52652/2021	
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 non-conforming use		
<b>PART D: BACKGROUND</b>						
<p>Erf 1454, Yzerfontein is zoned Residential zone 1 and is currently vacant.</p> <p>It is the intention of the owner to erect a double dwelling on the property.</p>						
<b>PART E: PRE-APPLICATION CONSULTATION (ATTACH MINUTES)</b>						
Has pre-application consultation been undertaken?	Y	N				
<b>PART F: SUMMARY OF APPLICANT'S MOTIVATION</b>						
<ol style="list-style-type: none"> <li>It is argued that the proposal holds some positive socio-economic impacts in that: <ol style="list-style-type: none"> <li>an additional housing opportunity will be provided and</li> <li>may attract a wider income group which will reflect positively on the neighbourhood.</li> </ol> </li> <li>The proposal is considered contextually appropriate and compatible with the surrounding land uses.</li> <li>Both portions will have sufficient access to public streets. Additional traffic generation is considered negligible.</li> <li>Provision is made to provide on-site parking as per the requirements of the Development Management Scheme. It is therefore not foreseen that the proposal will lead to parking related issues.</li> <li>The proposed double dwelling complies with the Development Management Scheme with specific reference to the current zoning, the proposed uses and development parameters.</li> <li>There are existing engineering services available in the surrounding environment. The proposal is therefore regarded as being spatially sustainable as it promotes the optimal utilisation of existing services in the surrounding environment.</li> <li>It is not foreseen that the proposal will have a significant impact on external municipal engineering services.</li> <li>It is not foreseen that the proposal will have a negative impact on the biophysical environment.</li> <li>The proposed development is not perceived to have a detrimental impact on the health, safety and wellbeing of surrounding land owners.</li> <li>There are no physical restrictions that will hinder the proposal.</li> <li>The proposal is consistent with the Swartland Spatial Development Framework, Amendment 2018/2019.</li> <li>The application is compliant with the principles of LUPA and SPLUMA.</li> </ol>						
<b>PART G: SUMMARY OF PUBLIC PARTICIPATION</b>						
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 a total of 12 registered notices which were send to affected parties. The public participation process started on 15 July 2022 and ended on 15 August 2022. Where e-mail addresses were available, affected parties were notified via e-mail as well (9 emails were send).</p> <p>A total of 2 objections were received which was referred to the applicant for comments on 14 July 2022. The applicant's comments on the objections were received on 12 August 2022.</p>						
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	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	Received	Summary of comments	Recomm.																		
Departement : Ontwikkeling sdienste	8 Julie 2022	1. Bouplanne aan die Senior Bestuurder: Bou-Omgewing vir oorweging en goedkeuring voorgelê word.	✓																		
Departement : Siviele Ingenieursdi enste	5 Julie 2022	<div>1. <b>Riolering</b> Die eiendom voorsien word van 'n rioolsuigtenk met 'n minimum kapasiteit van 8000liter wat vir die diensvragmotor vanuit die straat toeganklik is.</div> <div>2. <b>Water</b> Die erf voorsien word van 'n enkele wateraansluiting.</div> <div>3. <b>Ontwikkelingsbydraes</b><table><tr><th>ITEM</th><th>BEDRAG</th></tr><tr><td>Grootmaat watervoorsiening</td><td>R5 445,25</td></tr><tr><td>Grootmaat waterverspreiding</td><td>R4 502,05</td></tr><tr><td>Riolering</td><td>R5 612,00</td></tr><tr><td>Riool suiweringsaanleg</td><td>R8 280,00</td></tr><tr><td>Paaie</td><td>R11 500,00</td></tr><tr><td>Stormwater</td><td>R3 192,40</td></tr><tr><td>Elektrisiteit</td><td>R10 419,00</td></tr><tr><td></td><td></td></tr></table></div>	ITEM	BEDRAG	Grootmaat watervoorsiening	R5 445,25	Grootmaat waterverspreiding	R4 502,05	Riolering	R5 612,00	Riool suiweringsaanleg	R8 280,00	Paaie	R11 500,00	Stormwater	R3 192,40	Elektrisiteit	R10 419,00			✓
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PART I: COMMENTS RECEIVED DURING PUBLIC PARTICIPATION (Map of objectors Annexure L)		SUMMARY OF APPLICANT'S REPLY TO COMMENTS	MUNICIPAL ASSESSMENT OF COMMENTS
DJ Denton, owner of erf 1111	<p>In my opinie is die versoek onvolledig en dat sekere inligting nie deur gegee was nie.</p> <ol style="list-style-type: none"> <li>1. In wie se naam is die tweede huis?</li> <li>2. Word die erf onder verdeel?</li> <li>3. Sal die tweede huis verhuur word?</li> <li>4. Wat van "TRADE LICENCE"?</li> <li>5. Wat van water gebruik en riool, twee huise op een erf?</li> <li>6. "Development charges"?</li> <li>7. Neem kennis dat U skrywe geen melding maak van my regte to appel of ander regte nie, Ek behou dus my reg voor om na die Premier te appeleer of enige ander manier volgens my mening.</li> <li>8. Wat van al die ander goed wat normaanheweg in so 'n versoek staan?</li> </ol>	<p>Neem kennis dat die aansoek beskikbaar was by Swartland Munisipaliteit vir besigtiging soos ook gemeld in die skrywe van die munisipaliteit.</p> <p>Met betrekking tot punte 1-3:</p> <p>Die aansoek behels die oprigting van 'n dubbelwoonhuis op Erf 1196 Yzerfontein in die eienaarskap van W.N and R.A Scheepers. Dit is nie die intensie van die grondeienaars om die voorgestelde dubbelwoonhuis vir ander doeleindes te gebruik as wat deur die Sonering skemaregulasies toegelaat word nie.</p> <p>Punt 4 het geen relevansie tot hierdie aansoek.</p> <p>Met betrekking tot punte 4 en 5:</p> <p>Die voorgestelde dubbelwoonhuis sal gebruik maak van 'n enkele wateraansluiting en rooiluitsuigtenk. Dit word aangevoer dat hierdie voorstel nie 'n noemenswaardige impak op eksterne munisipale ingenieursdienste sal hê nie. Verder sal daar ontwikkelingsheffings op die voorstel van toepassing wees.</p> <p>Hierdie kantoor neem kennis van die res van die kommentare wat deel vorm die beswaarmaker se skrywe.</p>	<p>Dit blyk te wees dat die beswaarmaker haar beswaar baseer op die kennisgewing wat sy ontvang het gedurende die publieke deelname proses en nooit die volledige aansoek onder oë gehad het of konsulteer het met die munisipaliteit of aansoeker rakende die detail van die aansoek.</p> <p>Die kommentaar van die aansoeker word ondersteun.</p>
Cluver Markotter Inc. on behalf of K Fussel and F Minnaar, owner of erf 1183	<b>Points 1-7</b> provides a background to the objection and outlines the policies/legislation applicable to this application.	The writer takes note of these points. Furthermore, please note that the numbering of the objections in this document is not in accordance with the numbering of the objection letter. Reference is made to the correct numbering as per the objection letter.	Noted.  (Please note that erf 1183 is currently vacant.)
	<p>Refer to <b>points 9-10</b> of the objection letter.</p> <ol style="list-style-type: none"> <li>1. It is stated on page 3 that the title deed does not contain any restrictive conditions which prohibits a double dwelling on the property. This</li> </ol>	<ol style="list-style-type: none"> <li>1. Condition B.7(a) reads as follows:  B. SUBJECT to the following conditions contained in Deed of Transfer Number T40387/2001 imposed by the Administrator of the Province of Good Hope in terms of Ordinance Number 33 of 1934, when approving of the establishment of</li> </ol>	<ol style="list-style-type: none"> <li>1. The comments from the applicant is supported.  Furthermore, this aspect has been discussed by the MPT several times and it is clear that the Town Planning Scheme (Planning By-law) makes provision for a double dwelling as a consent use under the same Residential zone 1 zoning. No change of</li> </ol>



<p>statement is incorrect. It is evident from the title deed attached to the application, Part B (paragraph 7) and Part C (paragraphs 1 &amp; 2) that —</p> <ul style="list-style-type: none"> <li>the erf shall be used solely for the purpose of erecting thereon one dwelling.</li> <li>the erf shall be used exclusively for single residential purposes.</li> </ul> <p>The applicant does not apply for the removal of the said restrictive title deed conditions. The restrictive title deed conditions prohibit the building of two dwellings on the property. It is submitted that these restrictive conditions prevent the Municipality from approving the application.</p>	<p>Yzerfontein Township Extension Number 5, namely:-</p> <p>7 (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> <p>Condition C.2 reads as follows: “This erf shall be used exclusively for single residential purposes.”</p> <p>These conditions restrict the use of the property for residential purposes. Erf 1196 Yzerfontein is included in the Swartland Municipality Development Management Scheme (DMS). The property is zoned Residential Zone 1 in accordance with the DMS and a double dwelling is permitted as a Consent Use under the current zoning of the property. The proposed building is a residential use and can be accommodated under the current zoning i.e the residential zoning remains unaltered.</p> <p>Furthermore, the proposal complies with all development parameters of the Development Management Scheme.</p> <p>It is argued that these conditions does not prohibit the development proposal hence the removal of these conditions are not required.</p>	<p>zoning is proposed which does not create a conflict with the title deed restrictions.</p>
<p>Refer to <b>points 11 and 12</b> of the objection letter.</p> <p>2. Our clients do not agree with the statement in the last paragraph that the proposal for a double dwelling is contextually appropriate residential densification and compatible with the surrounding land uses. The erven in</p>	<p>2. The spatial proposals, in terms of the Swartland Spatial Development Framework, indicate that residential densification is supported in this area. Residential densification can be achieved in many ways and includes, among others, the addition of a residential unit to a property. The zoning of Erf 1196 Yzerfontein is Residential Zone 1. A double dwelling is permitted under this zoning, i.e. the</p>	<p>2. The comments from the applicant is supported.</p> <p>A second dwelling on a Residential zone 1 property, either in the form of a second dwelling or double dwelling, remains to be in compliance with the objective of the SDF by offering protection to the quality and character of the area. A low to medium density residential development on the larger erven are ensured.</p>

<p>the area are all zoned Residential 1. The Spatial Development Framework clearly states that Residential Zone 1 has the objective “to provide low to medium density residential development on relatively large even and to protect the quality and character of such areas.</p> <p>A double dwelling on the property goes directly against the Municipality’s own legislative principles and prescripts in which it has to exercise its powers. In exercising these powers, the Municipality is obliged to respect the rights of owners who bought properties in the neighbourhood with the expectation that the Municipality will respect and enforce the principles and prescripts contained in the Spatial Development Framework.</p>	<p>zoning allows for additional opportunities for accommodation.</p> <p>Following the above, it is clear that the double dwellings are considered to be compatible within this area.</p> <p>Lastly it should also be noted that the proposed building is developed within the title deed building lines, which is more restrictive than the building lines prescribed by the Development Management Scheme. This further contributes to densification that is appropriate within the context of the area.</p>	
<p>Refer to <b>point 13</b> of the objection letter.</p> <p>3. The neighbours are negatively affected by vehicles parked in the street, the number of vehicles using the street, the congestion caused by parked vehicles in the street and the security risk caused by parked vehicles in the street.</p>	<p>3. The nature of the proposed land use is such that it will not cause a considerable increase in traffic generation i.e it will be in keeping with that of a residential area.</p> <p>On-site parking is provided in accordance with “Table: Off-Street Parking Requirements” which states that 2 bays per unit must be provided. This parameter is complied with given that both dwellings are designed with a double garage. Furthermore, the double garages are designed with a driveway which can comfortably accommodate 2 additional on-site parkings.</p> <p>The proposed double dwelling is therefore designed in such a way that each dwelling unit will be able to accommodate 4 on-site parkings which is more than what is required.</p> <p>The objectors comment regarding security risks of parked vehicles are noted.</p>	<p>3. The comments from the applicant is supported.</p> <p>Any safety risks posed by vehicles parked in the road reserve of transgressions of traffic laws must be reported to Law Enforcement to address.</p>

<p>Refer to <b>point 14</b> of the objection letter.</p> <p>4. The fact that only one water connection will provide water to the property and only one conservancy tank will be used for sewerage, is no support for the argument that the proposal will have a significant impact on external municipal engineering services. Two dwellings will of course have a more severe impact on external municipal engineering services than one. More water will be used and more sewerage services will be needed.</p>	<p>4. It should be noted that a dwelling house is allowed as a primary use right under the current zoning of the property. The application essentially aims to accommodate one additional dwelling. It is therefore still argued that the proposal will not have a significant impact on external municipal engineering services.</p>	<p>4. Only one service connection per service will be permitted to erf 1196. It is acknowledged that the usage of services on erf 1196 will increase as a result of the second dwelling (second user unit of the bulk infrastructure). However, a development contribution towards the upgrade of bulk infrastructure needs to be made by the owner/developer at building plan stage, if the application is approved.</p>
<p>Refer to <b>points 15.1-15.5</b> of the objection letter.</p> <p>5. Apart from the fact that our clients do not agree that the arguments put forward to support the desirability of the proposed utilisation of land, the applicants fail to address the aspects indicating that the proposal is in fact undesirable:</p> <ul style="list-style-type: none"> <li>• Two dwellings will cause more vehicles on the roads in the area. This aspect cannot be ignored.</li> <li>• There is a realistic possibility that the owners' visitors will have to park in the road. The roads in the area are not designed for street parking and vehicles parked in the street will be dangerous and inconvenient to other road users and in particular, to direct neighbours such as our clients.</li> <li>• As said, two dwellings will place a heavier burden on external municipal engineering services than one dwelling.</li> <li>• The dwellings will cover most of the land area of the property. This will barely leave space for</li> </ul>	<p>5. Refer to our responses under points 3 and 4.</p> <p>The management of activities during construction will be the responsibility of the appointed contractor.</p> <p>The spatial proposals, in terms of the Swartland Spatial Development Framework, indicate that residential densification is supported in this area. Residential densification can be achieved in many ways and includes, among others, the addition of a residential unit to a property. The zoning of Erf 1196 Yzerfontein is Residential Zone 1. A double dwelling is permitted under this zoning, i.e. the zoning allows for additional opportunities for accommodation.</p> <p>Following the above, it is clear that the double dwellings are considered to be compatible within this area.</p> <p>Lasly it should also be noted that the proposed building is developed within the title deed building lines, which is more restrictive than the building lines prescribed by the Development Management Scheme. This further contributes to densification that is appropriate within the context of the area.</p>	<p>5. Trip generation as a result of a second dwelling on erf 1196 will increase. The impact of the additional traffic is deemed to be low.</p> <p>Any safety risks posed by vehicles parked in the road reserve of transgressions of traffic laws must be reported to Law Enforcement to address.</p> <p>A development contribution towards the upgrade of bulk infrastructure needs to be made by the owner/developer if the application is approved.</p> <p>The total footprint of the proposed building work is 319m<sup>2</sup>. Erf 1196 is 794m<sup>2</sup> in extent which results in a coverage of 40% which less than the permitted 50% coverage for the Residential zone 1 zoning. Furthermore, the proposed double dwelling complies with all title deed restrictions and zoning parameters applicable to the Residential zone 1 zoning.</p> <p>It is not clear how the wellbeing of the objector can be affected as their and other Residential zone 1 properties in the surrounding area consist of the same land use rights as erf 1196.</p>

<p>building material and construction vehicles on the property. Inevitably the building material and construction vehicles will end up on the natural vegetation on municipal land or neighbouring properties. Of course, this will be detrimental to the environment and inconvenient to neighbouring owners.</p> <ul style="list-style-type: none"> <li>• It is our instructions that our clients wellbeing is already negatively affected by the possibility that another property will be granted a consent use permitting them to depart from the accepted norm for residences in the area.</li> </ul>	<p>Furthermore it is emphasised that the proposal does not depart from the conditions of the title deed and is compliant with all development parameters. Considering this, it is argued that the proposal will not have a negative impact on the wellbeing of the objectors' clients.</p>	
<p>Refer to <b>points 16.1-16.4</b> of the objection letter.</p> <p>6. Our clients submit that, by allowing two dwellings on the property, the Municipality will transgress all principles referred to in paragraph 5 above:</p> <ul style="list-style-type: none"> <li>• The Municipality will not be protecting the unique sense of place and character of the area. In fact, it will be actively destroying the low to medium density character of the neighbourhood.</li> <li>• The densification will be completely insensitive to the existing character of the neighbourhood.</li> <li>• The Municipality will not enhance a safe, healthy, liveable and sustainable community and neighbourhood.</li> <li>• The double dwelling will be detrimental to the wellbeing of</li> </ul>	<p>6. Refer to our responses under point 2.</p> <p>The statement regarding property values 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.</p> <p>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."</p> <p>For these reasons, Swartland Municipality may not base its decision solely on the possibility that property values may be affected.</p>	<p>6. Planning legislation applicable to Yzerfontein has since the late 1980's make provision for 2 dwelling units on one property by means of a consent use. The nature of a double dwelling is to provide an additional form of residential opportunities. The proposed land use is thus considered as a desirable activity within a residential neighbourhood, as it will accommodate residential activities compatible with that of the existing area.</p> <p>Planning policy promotes densification which is achieved by this application. As most properties in Yzerfontein does not have the potential to be subdivided (minimum erf size of 500m<sup>2</sup>), densification can only be achieved by permitting a 2nd dwelling on an erf by means of a second dwelling or double dwelling.</p> <p>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 application is consistent and not in contradiction with the Spatial Development</p>

residents and the value of their properties.		<p>Frameworks adopted on Provincial, District and Municipal levels.</p> <p>Property values in Yzerfontein according to the Municipal General Valuation increased from 2015 to 2019. The possible impact on the property value of the objectors property is speculation and has no merit.</p>
<p>Refer to <b>points 17.1-17.4, 18.1 – 18.2 and 19</b> of the objection letter.</p> <p>7. The following provisions in the Bylaw are relevant to this objection:</p> <ul style="list-style-type: none"> <li>The Definitions in the Bylaw provide that the total floor space, in relation to a building, means the sum of the floor space of all the storeys of such a building, including basements.</li> <li>Paragraph 1.1 .4 (b) (i) provides that the total floor space of a second dwelling unit shall not exceed 120m<sup>2</sup>, while the total floor space of a dwelling unit in a double dwelling is not subject to this restriction.</li> <li>A second dwelling unit shall not exceed one storey in height.</li> </ul> <p>The applicants' building plans show the following:</p> <ul style="list-style-type: none"> <li>Both units exceed 120m<sup>2</sup> in size.</li> <li>Both units have double storeys, whereas only one of the units may exceed one storey in height.</li> </ul> <p>It is submitted that the proposed structures will not comply with the applicable provisions of the Bylaw.</p>	<p>7. Application was submitted to obtain the necessary land use rights to erect a double dwelling on the property.</p> <p>Although the outcome is the same for a second dwelling or double dwelling i.e an additional dwelling unit, the By-Law does distinguish between the two land uses in terms of development parameters.</p> <p>The proposal complies with all development parameters in that:</p> <ol style="list-style-type: none"> <li>The double dwelling is not subject to a total floor space restriction.</li> <li>Both units in a double dwelling may have two storeys. Furthermore, the proposed building is below the height restriction for Residential Zone 1 properties.</li> </ol>	<p>7. Chapter 1.1.4(b)(i) and 1.1.4(b)(iv) states the following:</p> <p>“...(i) Total floor space of a second dwelling unit shall not exceed 120m<sup>2</sup>, <b>while the total floor space of a dwelling unit in a double dwelling is not subject to this restriction;</b>...”</p> <p>“...(iv) both dwelling units in a double dwelling shall be designed to give the appearance of a single large dwelling, <b>and both units may have a ground storey or one unit may be on the ground storey and one on the storey above;</b>...”</p> <p>The objector is incorrect with the interpretation of the Planning By-law.</p>
<p>Refer to <b>point 20</b> of the objection letter.</p> <p>8. It is not clear whether the applicants intend building two dwellings on the property for their own family purposes</p>	<p>8. Our client does not intend to use the proposed double dwelling for purposes other than what is permitted by the Development Management Scheme.</p>	<p>8. It is not clear from the comments from the applicant what the intention is of the owner. The Planning By-law permits the dwelling units to be used for the living accommodation of a single family.</p>

	<p>only, or whether they intend renting out one of the dwellings for commercial gain. Our clients are highly concerned about the possibility that the applicants intend renting out one or both the dwellings. Experience has shown that rental accommodation in the area causes major disturbances to neighbouring owners' use of their properties.</p>		
	<p>Refer to <b>points 21 and 22</b> of the objection letter.</p> <p>9. The building plans attached to the application are marked to be "provisional" building plans. The intended built structures, as depicted on the "provisional" plans, just fall within the permissible building lines. Our clients submit that a transgression of any of these building lines will have a severely impact on the privacy of the applicants' neighbours.</p> <p>In these circumstances our clients object strongly against the approval of the consent use application to allow a double dwelling on erf 1196.</p>	<p>9. The proposal complies with all development parameters in accordance with the DMS as well as title deed building line restrictions applicable to this property.</p>	<p>9. The comments from the applicant is supported.</p>

## PART J: MUNICIPAL PLANNING EVALUATION

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

An application for consent use for a double dwelling on erf 1196, Yzerfontein in terms of section 25(2)(o) of Swartland Municipality : Municipal Land Use Planning By-law (PG 8226 of 25 March 2020) has been received.

The application was advertised by means of a total of 12 registered notices which were sent to affected parties. The public participation process started on 15 July 2022 and ended on 15 August 2022. Where e-mail addresses were available, affected parties were notified via e-mail as well (9 emails were sent).

A total of 2 objections were received which was referred to the applicant for comments on 17 August 2022. The applicant's comments on the objections were received on 16 September 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: The proposed double dwelling supports higher density and enhances the availability of alternative residential opportunities, making the area more accessible to a wider range of society.
- b) Spatial Sustainability: The proposed development will promote the intensive utilisation of engineering services, without additional impact on the natural environment. Urban sprawl is contained through densification.
- c) Efficiency: The development proposal will promote the optimal utilisation of services on the property and enhance the tax base of the Municipality.
- d) Good Administration: The application was communicated to the affected land owners through registered mail. The application was also circulated to the relevant municipal departments for comment. Consideration was given to all correspondence received and the application was dealt with in a timely manner. It is therefore argued that the principles of good administration were complied with by the Municipality.
- e) Spatial Resilience: The proposed double dwelling can be used for the living accommodation of a single family either for short or long term accommodation and is deemed not to affect the character of the area negatively.

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

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

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

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

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

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

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

#### 2.4 Spatial Development Framework(SDF)

The application property is situated within a residential node, delineated as Area B, as per the spatial proposals for Yzerfontein contained in the SDF. Zone B, Pearl Bay area, consists mainly of low density residential uses along the coastal stretch to the south, with a proposed node along the beach front as well as areas for medium and high density housing opportunities. Double dwellings are specifically consistent with the character of the zone, as such a development will not alter the residential zoning of the property. The application is deemed to be in compliance with the spatial planning of Yzerfontein

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

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

## **2.6 Desirability of the proposed utilisation**

Erf 1196, Yzerfontein is zoned Residential zone 1 and is vacant. The property slopes from the north to south. The planning and design of the proposed building work takes the physical restrictions of the property into consideration. There are no physical restrictions on the property that will have a negative impact on the application.

Surrounding land uses include single residential dwellings, guesthouses and self-catering units. The proposed double dwelling will not have a negative impact on the character of the surrounding area.

The scale of the proposed double dwelling is less than the existing development potential of the property.

Planning legislation applicable to Yzerfontein has since the late 1980's made provision for 2 dwelling units on one property by means of a consent use. The nature of a double dwelling is to provide an additional form of residential opportunities. The proposed land use is thus considered as a desirable activity within a residential neighbourhood, as it will accommodate residential activities compatible with that of the existing area.

Planning policy promotes densification which is achieved by this application. As most properties in Yzerfontein do not have the potential to be subdivided (minimum erf size of 500m<sup>2</sup>), densification can only be achieved by permitting a 2nd dwelling on an erf by means of a second dwelling or double dwelling.

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.

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

The proposed double dwelling will have a positive economic impact as it will generate income for both the land owner, municipality (through rates and taxes) and tourism as a whole, through the spending of visitors to the area.

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

Sufficient services capacity exists to accommodate the proposed double dwelling.

The development proposal complies with all application zoning parameters and will not have an impact on the privacy of neighbouring properties.

The title deed of erf 1196 has no restrictions on this application.

The development proposal may be considered desirable.

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

Sufficient services capacity exists to accommodate the proposed second dwelling.

## **4. Comments of organs of state**

No comments were requested.

## **5. Response by applicant**

See Annexure H.



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

The financial or other value of the rights

N/A

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

N/A

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

N/A

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

N/A

**PART L: RECOMMENDATION WITH CONDITIONS**

The application for a consent use on Erf 1196, 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 establish a double dwelling on the property, subject to the conditions that:

**1. TOWN PLANNING AND BUILDING CONTROL**

- a) The consent authorises a double dwelling on Erf 1196, as presented in the application;
- b) The double dwelling to comply with the applicable zoning parameters of the By-law;
- c) At least 4 on-site parking bays be provided as presented in the application;
- d) Building plans be submitted to the Senior Manager: Built Environment, for consideration and approval;

**2. WATER**

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

**3. SEWERAGE**

- a) The property be provided with a conservancy tank of appropriate size (minimum capacity of 8000l), as previously approved by the Director: Civil Engineering Service;
- b) The conservancy tank be accessible to the municipal vacuum truck from the street;

**4. DEVELOPMENT CHARGES**

- a) The owner/developer is responsible for a development charge of R5 445,25 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 R4 502,25 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 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 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 streets, 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 R3 192,40 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;

## 5. GENERAL

- a) The approval is, in terms of section 76(2)(w) of the By-Law valid for a period of 5 years. All conditions of approval be complied with before occupancy certificate be issued. Failure to comply will result in this approval expiring;
- b) In terms of Chapter VII, Section 89 of the Swartland Municipality By-law relating Municipal Land Use Planning (PG 8226 of 25 March 2020), affected parties have a right to appeal the abovementioned decision within 21 days of date of registration of this letter to the appeal authority of the Swartland Municipality against Council's decision.

Should affected parties decide to appeal, you can write to the following address:

The Municipal Manager, Swartland Municipality, Private Bag X52, Malmesbury, 7299

Please note that an appeal fee of R4 500-00 is payable should you wish to appeal the decision. The appeal must be accompanied by the proof of payment and only then will the appeal be regarded as valid.

## PART M: REASONS FOR RECOMMENDATION

1. The application is in compliance with the planning principles of LUPA and SPLUMA.
2. The application is consistent with local, regional and provincial spatial planning policy.
3. The development proposal complies with all applicable zoning parameters of the Residential zone 1 zoning and will not have a negative impact on the privacy of neighbouring properties.
4. Erf 1196 does not have any physical restrictions which may have a negative impact on this application.
5. The proposed double dwelling will complement the surrounding residential area.
6. The development proposal supports the optimal utilisation of land and infrastructure.
7. The proposed land use is considered as a desirable activity within a residential neighbourhood, as it will accommodate residential activities compatible with that of the existing area.
8. The double dwelling supports the tourism industry in Yzerfontein, as well as the local economy.
9. The double dwelling will provide in a need for a larger variety of housing opportunities to the wider population.
10. Sufficient services capacity exists to accommodate the proposed double dwelling.


## PART N: ANNEXURES

Annexure A	Locality Plan
Annexure B	Building Plans
Annexure C	Public Participation Map
Annexure D	Objection from DJ Denton
Annexure E	Objection from Cluver Markotter Inc. on behalf of K Fussel & F Minnaar
Annexure F	Comments from the applicant on the objections

## PART O: APPLICANT DETAILS

First name(s)	CK Rumboll & Partners			
Registered owner(s)	WN & RA Scheepers	Is the applicant authorised to submit this application:	Y	N

## PART P: SIGNATURES

<b>Author details:</b> AJ Burger Senior Town & Regional Planner SACPLAN: B/8429/2020		Date: 30 September 2022
---	---	-------------------------

Recommendation: Alwyn Zaayman Senior Manager: Built Environment SACPLAN: B/8001/2001	Recommended	<input checked="checked" type="checkbox"/>	Not recommended	
		Date: 5 September 2022		



Proposed consent use

Erf 1196, Yzerfontein

Locality plan

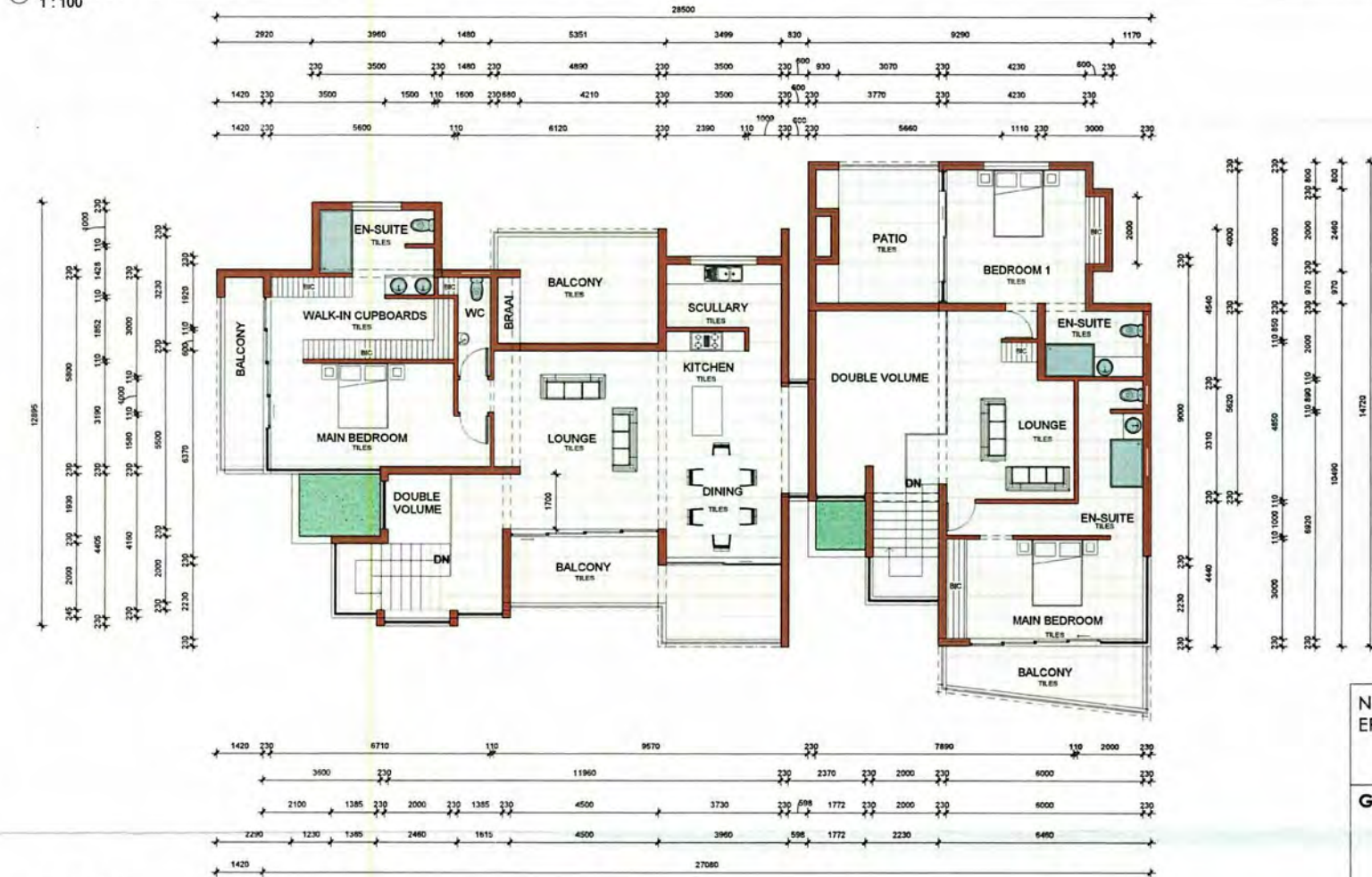
Scale: N/A







GROUND FLOOR  
1: 100



FIRST FLOOR  
1: 100

#### AREA CALCULATIONS:

<b>DWELLING 1:</b>	
GROUND FLOOR	87.138
HOUSE	41.732
GARAGE	17.872
PATIO	
<b>TOTAL</b>	<b>146.742</b>
<b>FIRST FLOOR</b>	<b>90.640</b>
HOUSE	28.531
BALCONY	
<b>TOTAL:</b>	<b>119.171</b>
<b>TOTAL</b>	<b>265.171</b>
<b>DWELLING 2:</b>	
GROUND FLOOR	103.680
HOUSE	43.530
GARAGE	37.859
PATIO	
<b>TOTAL</b>	<b>185.169</b>
<b>FIRST FLOOR</b>	<b>129.037</b>
HOUSE	43.156
BALCONY	
<b>TOTAL:</b>	<b>172.193</b>
<b>TOTAL:</b>	<b>357.362</b>
<b>OVERALL TOTAL:</b>	<b>622.533</b>

NEW DWELLING FOR MR. SCHEEPERS ON  
ERF 1196, YZERFONTEIN

#### GROUND FLOOR & 3D'S

OWNER'S SIGNATURE:

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L2 ARCHITECTURAL

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S.A.I.A.T. MEMBERSHIP NO 52705  
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Oostewal Business Centre, 146 Oostewal Road, Unit 8, Langebaam

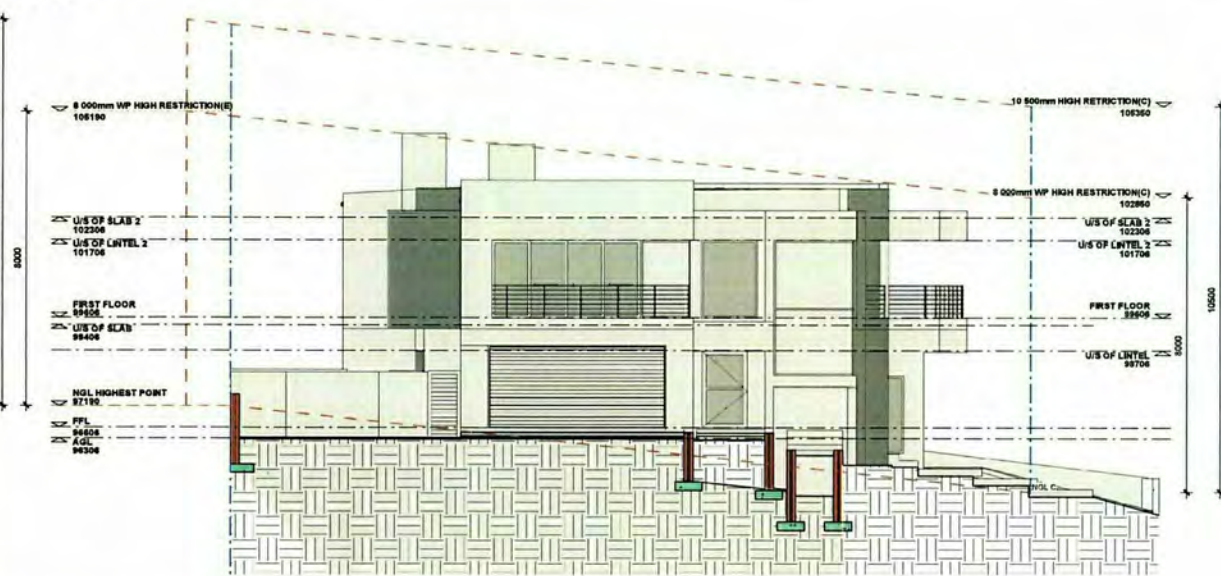
PROJECT NUMBER	1196/2022	SHEET 1 OF 2
DATE	MARCH 2020	
SCALE	1: 100	
DRAWN BY	I. HEYNEMAN / L. DE KLERK	



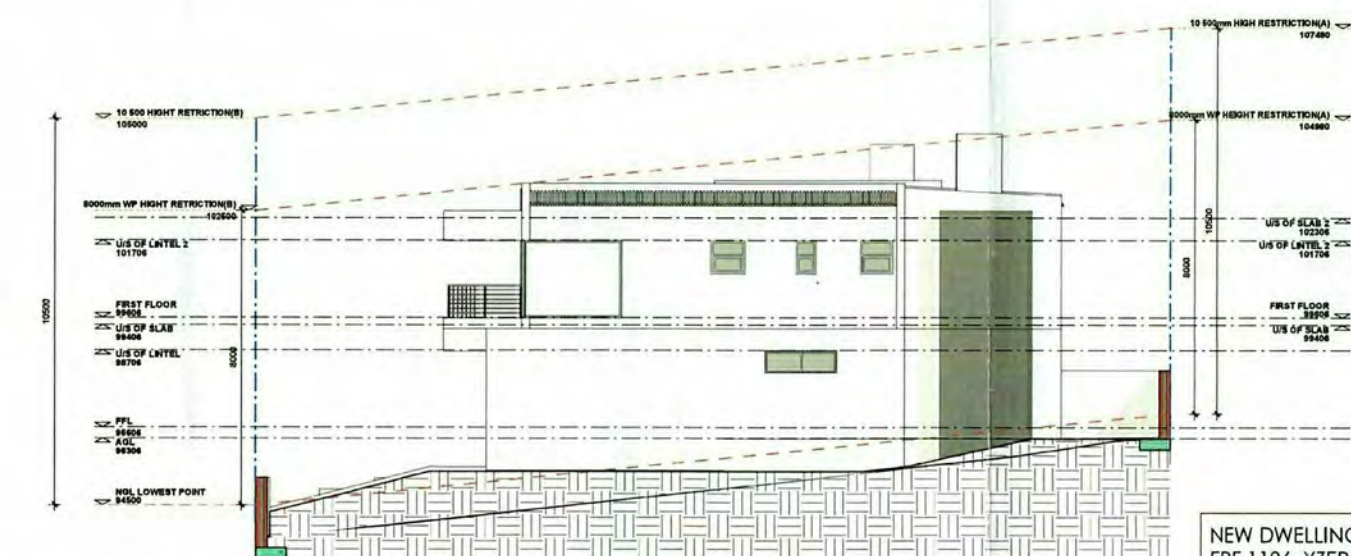




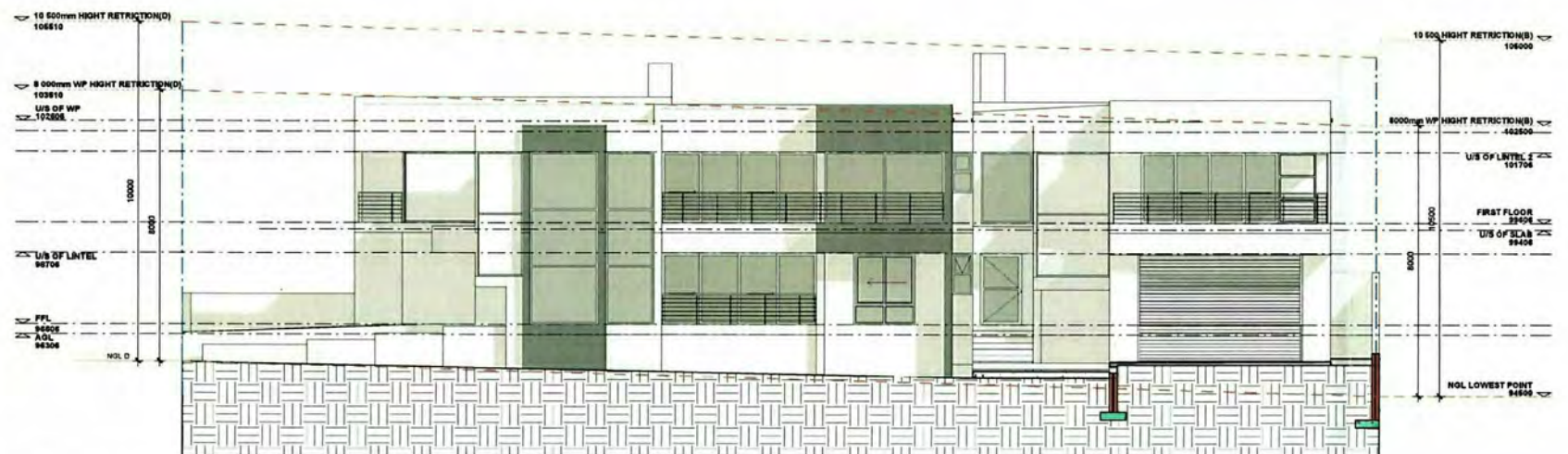
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1 : 100



○ NORTH WEST ELEVATION  
1 : 100



○ SOUTH EAST ELEVATION  
1 : 100



○ SOUTH WEST ELEVATION  
1 : 100



NEW DWELLING FOR MR. SCHEEPERS ON  
ERF 1196, YZERFONTEIN

## ELEVATIONS AND RENDERS

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I2 ARCHITECTURAL

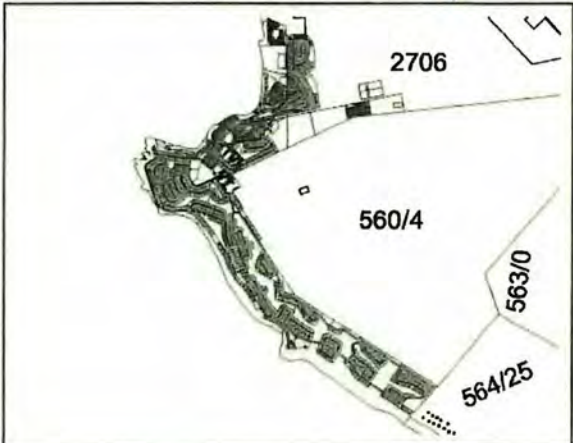
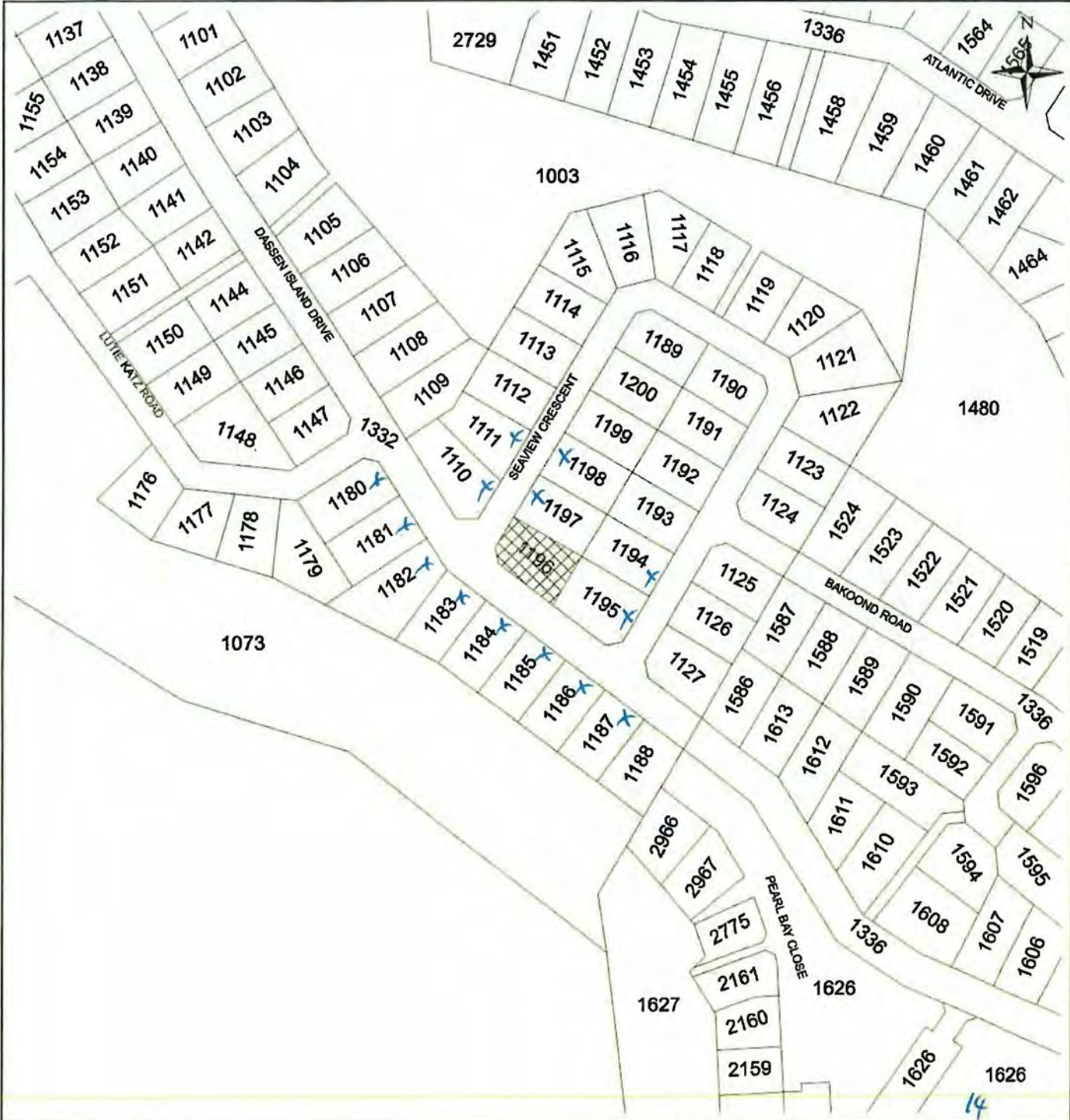
SINCE 1984

OWNER: LEONARD DE KLERK  
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Coastal Business Centre, 145 Coastal Road, Unit 8, Langebaan

PROJECT NUMBER	1196/2022	SHEET 2 OF 2
DATE	APRIL 2022	
SCALE	1 : 100	
DRAWN BY	I. HEYNEMAN / L. DE KLERK	



## Annexure C



**From:** jocelyn denton <jocelyndenton@outlook.com>  
**Sent:** Monday, 15 August 2022 11:44  
**To:** Registrasie Email <RegistrasieEmail@swartland.org.za>  
**Subject:** VOORGESTELDE VERGUNNINGSGEBRUIK OP ERF 1196 YZERFONTEIN.

Meneer/Mevrou

Verwysingsnommer: 15/3/10-14/ERF\_1196

Hierdie aansoek vir 'n dubbelwoonhuis op Erf 1196, kan ek nie goed keur nie.

In my opinie is die versoek onvolledig en dat sekere inligting nie deur gegee was nie.

- 1) In wie se naam is die tweede huis?
- 2) Word die erf onder verdeel?
- 3) Sal die tweede huis verhuur word?
- 4) Wat van "TRADE LICENCE"?
- 5) Wat van water gebruik en riool, twee huise op een erf?
- 6) "Development charges"?
- 7) Neem kennis dat U skrywe geen melding maak van my regte to appel of ander regte nie, Ek behou dus my reg voor om na die Premier te appeleer of enige ander manier volgens my mening.
- 8) Wat van al die ander goed wat normaanweg in so 'n versoek staan?

Die uwe  
Denton DJ  
Seaview Crescent 3  
Yzerfontein  
083 284 4288  
[jocelyndenton@outlook.com](mailto:jocelyndenton@outlook.com)



The Municipal Manager  
Swartland Municipality  
Attention: Ms DN Stallenberg

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

Date: 15 August 2022  
Your ref: 15/3/10-14/Erf\_1196  
Our ref: MIN37/0003 | LNK/ndv  
e-mail: [lorindan@cluvermarkotter.law](mailto:lorindan@cluvermarkotter.law)

Dear Sir/Madam

### OBJECTIONS AGAINST APPLICATION FOR CONSENT USE FOR A DOUBLE DWELLING ON ERF 1196, YZERFONTEIN

1. We address you on behalf of our clients, Mr Kenneth Fussell and Ms Florenske Minnaar, the registered owners of erf 1183, Yzerfontein.
2. It is our instructions that on or about 15 July 2022 the Swartland Municipality invited interested parties to comment on the application for a consent use submitted on behalf of Mr W.N. Scheepers and Mrs R.A. Scheepers, the registered owners of erf 1196, Yzerfontein ("the applicants").
3. Our clients are interested and affected parties. They are against the granting of the consent use application. We are instructed to submit their objections on their behalf.

#### Factual background

4. Erf 1196 is situated across the road from erf 1183. Erf 1196's western entrance is situated almost directly opposite erf 1196's entrance.
5. When our clients bought erf 1183 in 2000, they did it with the intention to build a holiday and retirement property in a tranquil and peaceful residential area. However, their expectations are being destroyed by the Municipality's concessions to allow large-scale development and extensive use rights in the area. Our clients already have to tolerate their direct neighbours on erf 1182 and erf 1184 providing commercial accommodation to tourists. It is submitted that the unique sense of place and character of the neighbourhood in question is already at risk and by ignoring this fact again, the rights of our clients and the other landowners in the area, will no doubt be negatively affected.

#### Legislative framework

6. The Spatial Development Framework and the Swartland Municipality: Municipal Land Use Planning By-Law—2020 ("the Bylaw") provides the background against which applications of this nature must be considered. Your attention is drawn to the following principles in the SDF:
  - 6.1. It is required in the Spatial Development Framework that the unique sense of place and character of each urban area in future developments should be protected;
  - 6.2. Safe, healthy, liveable and sustainable communities and neighbourhoods should be enhanced;

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PO Box 12 | Stellenbosch | 7599 | South Africa

#### Directors

AMJ Melck (Chairman) | L Brink | AL de Waal | JM Geyser | SM Geyser  
B Hess | PL Hill | JH Lamprecht | MM Loubser | L Pecoraro  
S Roberts | RA Stevens | L van Niekerk | MC Wild



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Senior Associates | PA Badenhorst | C Cox | Associates | B Blassoni  
| M Teessen | W Hussain | CF Petersen | JL Rutgers

Consultant | M Koen | Practice Manager | A Keyter

Cluver Markotter Incorporated | Registration Number 2000/002905/21

- 6.3. The Swartland should be branded as a good place to live;
- 6.4. The unique character of towns should be protected; material, physical and social wellbeing should be sustained.
- 7. The Bylaw provides that –
  - 7.1. **Residential Zone 1 has the objective “to provide low to medium density residential development on relatively large even and to protect the quality and character of such areas.**
  - 7.2. The general purpose of the residential zones is to present a comfortable, healthy, safe and pleasant environment for living and to promote the stability of residential areas by the protection of the character of the areas.
  - 7.3. Zone B in which erven 1196 and 1183 are situated, is such a low-density area. The planning guidelines and directives in the Spatial Development Framework states that densification in urban areas must be sensitive to the existing character, natural and historic environment of towns.
  - 7.4. Additional accommodation opportunities are possible provided that the dominant use of the land remains residential and the impact of such use does not adversely affect the surrounding residential area.

8. Comments on the application itself

Ad section 3

- 9. It is stated on page 3 that the title deed does not contain any restrictive conditions which prohibits a double dwelling on the property. This statement is incorrect. It is evident from the title deed attached to the application, Part B (paragraph 7) and Part C (paragraphs 1 & 2) that –
  - 9.1. the erf shall be used solely for the purpose of erecting thereon one dwelling.
  - 9.2. the erf shall be used exclusively for single residential purposes.
- 10. The applicant does not apply for the removal of the said restrictive title deed conditions. The restrictive title deed conditions prohibit the building of two dwellings on the property. It is submitted that these restrictive conditions prevent the Municipality from approving the application.

Ad section 4

- 11. Our clients do not agree with the statement in the last paragraph that the proposal for a double dwelling is contextually appropriate residential densification and compatible with the surrounding land uses. The erven in the area are all zoned Residential 1. The Spatial Development Framework clearly states that **Residential Zone 1 has the objective “to provide low to medium density residential development on relatively large even and to protect the quality and character of such areas.**

12. A double dwelling on the property goes directly against the Municipality's own legislative principles and prescripts in which it has to exercise its powers. In exercising these powers, the Municipality is obliged to respect the rights of owners who bought properties in the neighbourhood with the expectation that the Municipality will respect and enforce the principles and prescripts contained in the Spatial Development Framework. i
13. The neighbours are negatively affected by vehicles parked in the street, the number of vehicles using the street, the congestion caused by parked vehicles in the street and the security risk caused by parked vehicles in the street.

Ad section 5.4

14. The fact that only one water connection will provide water to the property and only one conservancy tank will be used for sewerage, is no support for the argument that the proposal will have a significant impact on external municipal engineering services. Two dwellings will of course have a more severe impact on external municipal engineering services than one. More water will be used and more sewerage services will be needed.

Ad section 5.5

15. Apart from the fact that our clients do not agree that the arguments put forward to support the desirability of the proposed utilisation of land, the applicants fail to address the aspects indicating that the proposal is in fact undesirable:
  - 15.1. Two dwellings will cause more vehicles on the roads in the area. This aspect cannot be ignored.
  - 15.2. There is a realistic possibility that the owners' visitors will have to park in the road. The roads in the area are not designed for street parking and vehicles parked in the street will be dangerous and inconvenient to other road users and in particular, to direct neighbours such as our clients.
  - 15.3. As said, two dwellings will place a heavier burden on external municipal engineering services than one dwelling.
  - 15.4. The dwellings will cover most of the land area of the property. This will barely leave space for building material and construction vehicles on the property. Inevitably the building material and construction vehicles will end up on the natural vegetation on municipal land or neighbouring properties. Of course, this will be detrimental to the environment and inconvenient to neighbouring owners.
  - 15.5. It is our instructions that our clients' wellbeing is already negatively affected by the possibility that another property will be granted a consent use permitting them to depart from the accepted norm for residences in the area.

Ad sections 6.1 & 6.3

16. Our clients submit that, by allowing two dwellings on the property, the Municipality will transgress all principles referred to in paragraph 6 above:
  - 16.1. The Municipality will not be protecting the unique sense of place and character of the area. In fact, it will be actively destroying the low to medium density character of the neighbourhood.
  - 16.2. The densification will be completely insensitive to the existing character of the neighbourhood.
  - 16.3. The Municipality will not enhance a safe, healthy, liveable and sustainable community and neighbourhood.
  - 16.4. The double dwelling will be detrimental to the wellbeing of residents and the value of their properties.

Ad section 6.2 and the proposed building plans

17. The following provisions in the Bylaw are relevant to this objection:
  - 17.1. The Definitions in the Bylaw provide that the total floor space, in relation to a building, means the sum of the floor space of all the storeys of such a building, including basements.
  - 17.2. Paragraph 1.1.4 (b) (i) provides that the total floor space of a second dwelling unit shall not exceed 120m<sup>2</sup>, while the total floor space of a dwelling unit in a double dwelling is not subject to this restriction.
  - 17.3. A second dwelling unit shall not exceed one storey in height.
18. The applicants' building plans show the following:
  - 18.1. Both units exceed 120m<sup>2</sup> in size.
  - 18.2. Both units have double storeys, whereas only one of the units may exceed one storey in height.
19. It is submitted that the proposed structures will not comply with the applicable provisions of the Bylaw.

General concerns

20. It is not clear whether the applicants intend building two dwellings on the property for their own family purposes only, or whether they intend renting out one of the dwellings for commercial gain. Our clients are highly concerned about the possibility that the applicants intend renting out one or both the dwellings. Experience has shown that rental accommodation in the area causes major disturbances to neighbouring owners' use of their properties.
21. The building plans attached to the application are marked to be "provisional" building plans. The intended built structures, as depicted on the provisional plans, just fall within the permissible

building lines. Our clients submit that a transgression of any of these building lines will have a severely impact on the privacy of the applicants' neighbours.

22. In these circumstances our clients object strongly against the approval of the consent use application to allow a double dwelling on erf 1196.

Yours faithfully

A handwritten signature in black ink, appearing to be 'Lorinda Van Niekerk', written in a cursive style.

LORINDA VAN NIEKERK  
CLUVER MARKOTTER INC

# CK RUMBOLL & VENNOTE / PARTNERS

Annexure F



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

**DATE:** 16 September 2022

**OUR REF:** YZE/12524/MH

**PER E-MAIL:**

**ATTENTION:** Mr A Zaayman

Municipal Manager  
Swartland Municipality  
Private Bag X52  
MALMESBURY  
7300

Sir,

**RESPONSE ON OBJECTIONS/COMMENTS:**

**APPLICATION FOR CONSENT USE IN TERMS OF THE SWARTLAND MUNICIPALITY LAND USE PLANNING BY-LAW (2020) IN RESPECT OF ERF 1196 YZERFONTEIN**

With reference to your letter dated 17 August 2022:

The table below provides a summary of the comments/objections that were received along with the response from CK Rumboll and Partners on behalf of our client, W.N and R.A Scheepers, as registered owner of Erf 1196 Yzerfontein. Comments/Objections were received from the following persons:

1. DJ Denton
2. Cluver Markotter INC on behalf of K Fussell and F Minnaar

**Kindly note that our response is given in the language that the objections was received.**

**VENNOTE / PARTNERS:**

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

**ADDRESS/ ADRES:** leap@rumboll.co.za / PO Box 211 / Rainierstr 16, Malmesbury, 7299  
**MALMESBURY** (T) 022 482 1845 (F) 022 487 3661  
**VREDENBURG** (T) 022 719 1014

Objector	Objection/Comments	Response on objections
<b>DJ Denton</b>	<p>In my opinie is die versoek onvolledig en dat sekere inligting nie deur gegee was nie.</p> <p>1) In wie se naam is die tweede huis?</p> <p>2) Word die erf onder verdeel?</p> <p>3) Sal die tweede huis verhuur word?</p> <p>4) Wat van "TRADE LICENCE"?</p> <p>5) Wat van water gebruik en riool, twee huise op een erf?</p> <p>6) "Development charges"?</p> <p>7) Neem kennis dat U skrywe geen melding maak van my regte to appel of ander regte nie, Ek behou dus my reg voor om na die Premier te appeleer of enige ander manier volgens my mening.</p> <p>8) Wat van al die ander goed wat normaanweg in so 'n versoek staan?</p>	<p>Neem kennis dat die aansoek beskikbaar was by Swartland Munisipaliteit vir besigtiging soos ook gemeld in die skrywe van die munisipaliteit.</p> <p><b>Met betrekking tot punte 1-3:</b></p> <p>Die aansoek behels die oprigting van 'n dubbelwoonhuis op Erf 1196 Yzerfontein in die eienaarskap van W.N and R.A Scheepers. Dit is nie die intensie van die grondeienaars om die voorgestelde dubbelwoonhuis vir ander doeleindes te gebruik as wat deur die Sonering skemaregulasies toegelaat word nie.</p> <p>Punt 4 het geen relevansie tot hierdie aansoek.</p> <p><b>Met betrekking tot punte 4 en 5:</b></p> <p>Die voorgestelde dubbelwoonhuis sal gebruik maak van 'n enkele wateraansluiting en rooiluitsuigtenk. Dit word aangevoer dat hierdie voorstel nie 'n noemenswaardige impak op eksterne munisipale ingenieursdienste sal hê nie. Verder sal daar ontwikkelingsheffings op die voorstel van toepassing wees.</p> <p>Hierdie kantoor neem kennis van die res van die kommentare wat deel vorm die beswaarmaker se skrywe.</p>

**VENNOTE / PARTNERS:**

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

<b>Cluver Markotter INC on behalf of K Fussell and F Minnaar</b>	<p>Points 1-7 provides a background to the objection and outlines the policies/legislation applicable to this application.</p>	<p>The writer takes note of these points. Furthermore, please note that the numbering of the objections in this document is not in accordance with the numbering of the objection letter. Reference is made to the correct numbering as per the objection letter.</p>
	<p><b><i>Refer to points 9-10 of the objection letter.</i></b></p> <p>1) It is stated on page 3 that the title deed does not contain any restrictive conditions which prohibits a double dwelling on the property. This statement is incorrect. It is evident from the title deed attached to the application, Part B (paragraph 7) and Part C (paragraphs 1 &amp; 2) that —</p> <ul style="list-style-type: none"> <li>• the erf shall be used solely for the purpose of erecting thereon one dwelling.</li> <li>• the erf shall be used exclusively for single residential purposes.</li> </ul> <p>The applicant does not apply for the removal of the said restrictive title deed conditions. The restrictive title deed conditions prohibit the building of two dwellings on the property. It is submitted that these restrictive conditions prevent the Municipality from approving the application.</p>	<p>1) <b>Condition B.7(a) reads as follows:</b></p> <p>B. SUBJECT to the following conditions contained in Deed of Transfer Number T40387/2001 imposed by the Administrator of the Province of Good Hope in terms of Ordinance Number 33 of 1934, when approving of the establishment of Yzerfontein Township Extension Number 5, namely:-</p> <p>7 (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, <b>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></p> <p><b>Condition C.2 reads as follows:</b></p> <p>"This erf shall be used exclusively for single residential purposes."</p>

**VENNOTE / PARTNERS:**

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



		<p>These conditions restrict the use of the property for residential purposes. Erf 1196 Yzerfontein is included in the Swartland Municipality Development Management Scheme (DMS). The property is zoned Residential Zone 1 in accordance with the DMS and a double dwelling is permitted as a Consent Use under the current zoning of the property. The proposed building is a residential use and can be accommodated under the current zoning i.e the residential zoning remains unaltered.</p> <p>Furthermore, the proposal complies with all development parameters of the Development Management Scheme.</p> <p>It is argued that these conditions does not prohibit the development proposal hence the removal of these conditions are not required.</p>
	<p><b>Refer to points 11 and 12 of the objection letter.</b></p> <p>2) Our clients do not agree with the statement in the last paragraph that the proposal for a double dwelling is contextually appropriate residential densification and compatible with the surrounding land uses. The erven in the area are all zoned Residential 1. The Spatial Development Framework clearly states that Residential Zone 1 has the objective "to provide low to medium density residential development on relatively large even and</p>	<p>2) The spatial proposals, in terms of the Swartland Spatial Development Framework, indicate that residential densification is supported in this area. Residential densification can be achieved in many ways and includes, among others, the addition of a residential unit to a property. The zoning of Erf 1196 Yzerfontein is Residential Zone 1. A double dwelling is permitted under this zoning, i.e. the zoning allows for additional opportunities for accommodation.</p>

**VENNOTE / PARTNERS:**

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

	<p>to protect the quality and character of such areas.</p> <p>A double dwelling on the property goes directly against the Municipality's own legislative principles and prescripts in which it has to exercise its powers. In exercising these powers, the Municipality is obliged to respect the rights of owners who bought properties in the neighbourhood with the expectation that the Municipality will respect and enforce the principles and prescripts contained in the Spatial Development Framework.</p>	<p>Following the above, it is clear that the double dwellings are considered to be compatible within this area.</p> <p>Lastly it should also be noted that the proposed building is developed within the title deed building lines, which is more restrictive than the building lines prescribed by the Development Management Scheme. This further contributes to densification that is appropriate within the context of the area.</p>
	<p><b><i>Refer to point 13 of the objection letter.</i></b></p> <p>3) The neighbours are negatively affected by vehicles parked in the street, the number of vehicles using the street, the congestion caused by parked vehicles in the street and the security risk caused by parked vehicles in the street.</p>	<p>3) The nature of the proposed land use is such that it will not cause a considerable increase in traffic generation i.e it will be in keeping with that of a residential area.</p> <p>On-site parking is provided in accordance with "Table: Off-Street Parking Requirements" which states that 2 bays per unit must be provided. This parameter is complied with given that both dwellings are designed with a double garage. Furthermore, the double garages are designed with a driveway which can comfortably accommodate 2 additional on-site parkings.</p> <p>The proposed double dwelling is therefore designed in such a way that each dwelling unit will be able to accommodate 4 on-site parkings which is more than what is required.</p>

**VENNOTE / PARTNERS:**

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

		The objectors comment regarding security risks of parked vehicles are noted.
	<p><b>Refer to point 14 of the objection letter.</b></p> <p>4) The fact that only one water connection will provide water to the property and only one conservancy tank will be used for sewerage, is no support for the argument that the proposal will have a significant impact on external municipal engineering services. Two dwellings will of course have a more severe impact on external municipal engineering services than one. More water will be used and more sewerage services will be needed.</p>	<p>4) It should be noted that a dwelling house is allowed as a primary use right under the current zoning of the property. The application essentially aims to accommodate one additional dwelling. It is therefore still argued that the proposal will not have a significant impact on external municipal engineering services.</p>
	<p><b>Refer to points 15.1-15.5 of the objection letter.</b></p> <p>5) Apart from the fact that our clients do not agree that the arguments put forward to support the desirability of the proposed utilisation of land, the applicants fail to address the aspects indicating that the proposal is in fact undesirable:</p> <ul style="list-style-type: none"> <li>• Two dwellings will cause more vehicles on the roads in the area. This aspect cannot be ignored.</li> <li>• There is a realistic possibility that the owners' visitors will have to park in the road. The roads in</li> </ul>	<p>5) Refer to our responses under points 3 and 4.</p> <p>The management of activities during construction will be the responsibility of the appointed contractor.</p> <p>The spatial proposals, in terms of the Swartland Spatial Development Framework, indicate that residential densification is supported in this area. Residential densification can be achieved in many ways and includes, among others, the addition of a residential unit to a property. The zoning of Erf 1196 Yzerfontein is Residential Zone 1. A double dwelling is permitted under this zoning, i.e.</p>

**VENNOTE / PARTNERS:**

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

	<p>the area are not designed for street parking and vehicles parked in the street will be dangerous and inconvenient to other road users and in particular, to direct neighbours such as our clients.</p> <ul style="list-style-type: none"> <li>• As said, two dwellings will place a heavier burden on external municipal engineering services than one dwelling.</li> <li>• The dwellings will cover most of the land area of the property. This will barely leave space for building material and construction vehicles on the property. Inevitably the building material and construction vehicles will end up on the natural vegetation on municipal land or neighbouring properties. Of course, this will be detrimental to the environment and inconvenient to neighbouring owners.</li> <li>• It is our instructions that our clients wellbeing is already negatively affected by the possibility that another property will be granted a consent use permitting them to depart from the accepted norm for residences in the area.</li> </ul>	<p>the zoning allows for additional opportunities for accommodation.</p> <p>Following the above, it is clear that the double dwellings are considered to be compatible within this area.</p> <p>Lasly it should also be noted that the proposed building is developed within the title deed building lines, which is more restrictive than the building lines prescribed by the Development Management Scheme. This further contributes to densification that is appropriate within the context of the area.</p> <p>Furthermore it is emphasised that the proposal does not depart from the conditions of the title deed and is compliant with all development parameters. Considering this, it is argued that the proposal will not have a negative impact on the wellbeing of the objectors' clients.</p>
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**VENNOTE / PARTNERS:**

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	<p><b>Refer to points 16.1-16.4 of the objection letter.</b></p> <p>6) Our clients submit that, by allowing two dwellings on the property, the Municipality will transgress all principles referred to in paragraph 6 above:</p> <ul style="list-style-type: none"> <li>• The Municipality will not be protecting the unique sense of place and character of the area. In fact, it will be actively destroying the low to medium density character of the neighbourhood.</li> <li>• The densification will be completely insensitive to the existing character of the neighbourhood.</li> <li>• The Municipality will not enhance a safe, healthy, liveable and sustainable community and neighbourhood.</li> <li>• The double dwelling will be detrimental to the wellbeing of residents and the value of their properties.</li> </ul>	<p>6) Refer to our responses under point 2.</p> <p>The statement regarding property values 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.</p> <p>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</p> <p>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> <p>For these reasons, Swartland Municipality may not base its decision solely on the possibility that property values may be affected.</p>
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**VENNOTE / PARTNERS:**

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	<p><b>Refer to points 17.1-17.4, 18.1 – 18.2 and 19 of the objection letter.</b></p> <p>7) The following provisions in the Bylaw are relevant to this objection:</p> <ul style="list-style-type: none"> <li>• The Definitions in the Bylaw provide that the total floor space, in relation to a building, means the sum of the floor space of all the storeys of such a building, including basements.</li> <li>• Paragraph 1.1 .4 (b) (i) provides that the total floor space of a second dwelling unit shall not exceed 120m<sup>2</sup>, while the total floor space of a dwelling unit in a double dwelling is not subject to this restriction.</li> <li>• A second dwelling unit shall not exceed one storey in height.</li> </ul> <p>The applicants' building plans show the following:</p> <ul style="list-style-type: none"> <li>• Both units exceed 120m<sup>2</sup> in size.</li> <li>• Both units have double storeys, whereas only one of the units may exceed one storey in height.</li> </ul> <p>It is submitted that the proposed structures will not comply with the applicable provisions of the Bylaw.</p>	<p>7) Application was submitted to obtain the necessary land use rights to erect a double dwelling on the property.</p> <p>Although the outcome is the same for a second dwelling or double dwelling i.e an additional dwelling unit, the By-Law does distinguish between the two land uses in terms of development parameters.</p> <p>The proposal complies with all development parameters in that:</p> <ol style="list-style-type: none"> <li>a) The double dwelling is not subject to a total floor space restriction.</li> <li>b) Both units in a double dwelling may have two storeys. Furthermore, the proposed building is below the height restriction for Residential Zone 1 properties.</li> </ol>
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**VENNOTE / PARTNERS:**

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	<p><b>Refer to point 20 of the objection letter.</b></p> <p>8) It is not clear whether the applicants intend building two dwellings on the property for their own family purposes only, or whether they intend renting out one of the dwellings for commercial gain. Our clients are highly concerned about the possibility that the applicants intend renting out one or both the dwellings. Experience has shown that rental accommodation in the area causes major disturbances to neighbouring owners' use of their properties.</p>	<p>8) Our client does not intend to use the proposed double dwelling for purposes other than what is permitted by the Development Management Scheme.</p>
	<p><b>Refer to points 21 and 22 of the objection letter.</b></p> <p>9) The building plans attached to the application are marked to be "provisional" building plans. The intended built structures, as depicted on the "provisional" plans, just fall within the permissible building lines. Our clients submit that a transgression of any of these building lines will have a severely impact on the privacy of the applicants' neighbours.</p> <p>In these circumstances our clients object strongly against the approval of the consent use application to allow a double dwelling on erf 1196.</p>	<p>9) The proposal complies with all development parameters in accordance with the DMS as well as title deed building line restrictions applicable to this property.</p>

**VENNOTE / PARTNERS:**

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

We trust you will take the above into consideration when assessing the application.

Yours faithfully,



Mornay Herling

**for CK Rumboll and Partners**

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**VENNOTE / PARTNERS:**

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

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**ADDRESS/ ADRES:** leap@rumboll.co.za / PO Box 211 / Rainierstr 16, **Malmesbury**, 7299  
**MALMESBURY** (T) 022 482 1845 (F) 022 487 1001 **4** **VREDENBURG** (T) 022 719 1014



**ITEM 6.2 OF THE AGENDA FOR THE MUNICIPAL PLANNING TRIBUNAL THAT WILL TAKE PLACE ON WEDNESDAY 12 OCTOBER 2022**

LAND USE PLANNING REPORT PROPOSED CONSENT USE ON ERF 2681, MALMESBURY					
Reference number	15/3/10-8/Erf_2681	Submission date	8 July 2022	Date finalised	5 October 2022

**PART A: APPLICATION DESCRIPTION**

The application for the consent use for a day care centre on Erf 2681, Malmesbury, in terms of section 25(2)(o) of Swartland Municipality : Municipal Land Use Planning By-law (PG 8226 of 25 March 2020) has been received. It is proposed that the day care centre will be operated from a portion of the dwelling (105m<sup>2</sup> in extent) with an outdoor play area of 356m<sup>2</sup> for a maximum of 10 children.

The day care centre is already in operation. This application aims to authorize the existing illegal land use.

The owners Johan Pieter and Lanique Elliot are also the applicant.

**PART B: PROPERTY DETAILS**

Property description (in accordance with Title Deed)	Erf 2681, Malmesbury, situate in the Swartland Municipality, Division Malmesbury, Western Cape Province				
Physical address	8 Skool Street		Town	Malmesbury	
Current zoning	Residential Zone 1	Extent (m <sup>2</sup> /ha)	909m <sup>2</sup>	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 (PK 8226, dated 25 March 2020)				
Current land use	Dwelling & day care centre (Pikkewouters)		Title Deed number & date	T17844/2013	
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 existing day care is un-authorised	

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

Rezoning	<input type="checkbox"/>	Permanent departure	<input type="checkbox"/>	Temporary departure	<input type="checkbox"/>	Subdivision	<input type="checkbox"/>
Extension of the validity period of an approval	<input type="checkbox"/>	Approval of an overlay zone	<input type="checkbox"/>	Consolidation	<input type="checkbox"/>	Removal, suspension or amendment of restrictive conditions	<input type="checkbox"/>
Permissions in terms of the zoning scheme	<input type="checkbox"/>	Amendment, deletion or imposition of conditions 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	<input type="checkbox"/>	Closure of public place	<input type="checkbox"/>	Consent use	<input checked="" type="checkbox"/>	Occasional use	<input type="checkbox"/>

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

In May 2022 the Municipality received an enquiry from a concerned neighbouring property owner whether the day care operating on the subject property is authorised. On inspection no evidence was found that a day care is indeed being operated on the property. In June 2022, Mr Wassermann owner of neighbouring property contacted the municipality again. On the second inspection Mrs Elliot confirmed that she is indeed operating a day care on the subject property.

A compliance notice was issued on the 1<sup>st</sup> of June 2022 and the owner was instructed to cease the illegal land use by the 1<sup>st</sup> of July 2022.

After several consultations with the owner of the subject property the Municipality received an application for consent use in order for the owner to get the necessary authorization.

With the application the applicant opted to consult with the neighbouring affected property owners in an attempt to obtain their consent / letters of no objection as provided for under Section 58(2)(f) of the By-Law. The applicant managed to obtain the consent from most of the affected property owners but did not provide the consent for the owners of erf 2973 as well as did not provide resolutions for the persons whom signed on behalf of the owners of erven 228 & 2598.

Formal notices were sent to the affected property owners of the three properties mentioned above and the Municipality received one objection.

Municipal tariffs for the continued illegal land use will be levied on this application.

#### 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

*(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 proposed development use enhances the principles of LUPA and SPLUMA.
- The proposal complies with the Swartland Spatial Development Framework (2019) as the main forward planning document for Malmesbury and the Swartland Municipal Area as a whole.
- The proposed development complies with the parameters of a day care centre as prescribed in the Swartland Municipal Land Use Planning By-Law (PG 8226).
- The development proposal will complement the character of the area and not adversely affect any natural conservation areas or surrounding agricultural practises.
- There are no physical restrictions on the property that will negatively affect the proposed use.
- With the proposed consent use, the owners of Erf 2681, Malmesbury, are granted an income opportunity.
- The development supports the Western Cape SDF by promoting compactness within the existing urban areas.
- The proposal will create job opportunities (and ultimately economic growth for area).
- By allowing for a dual land use, the property will be utilised optimally and efficiently.
- The proposed crèche will make use of existing infrastructure services and will not have any significant impact on external engineering services, nor will it negatively impact on environmental / heritage assets.
- The social function the proposal offer has a positive impact on the community and its character,
- The location of the proposed crèche makes it highly accessible to all residents.
- The proposed consent use supports and promotes a mixed use development as envisioned by the SDF for secondary educational uses in Malmesbury.

#### 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) (h) 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 3 notices were sent to the owners affected by the application which did not sign the letter of no objection provided by the applicant or whom did not provide a resolution that they are authorised to sign on behalf of the owners of the affected properties.				
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	19 July 2022	1. <u>Water</u> (a) The existing water connection be used and that no additional connections be provided; 2. <u>Sewerage</u> (a) The existing sewerage connection be used and that no additional connections be provided; 3. <u>Streets</u> (a) Free access to the two on-site parking bays for the pick-up and drop-off of children be maintained at all times 4. <u>Storm water</u> (a) In order 5. <u>Parks</u> 1) No comment	X	
Department : Protection Services	15 July 2022	During a site inspection it was found that there is sufficient parking around the dwelling. The facility is also in a very nice and clean condition. Therefore, the Department Protection Services has no objection to the intended application.	X	
Department : Electrical Engineering Services	8 July 2022	No comments	X	
Division Building control	11 July 2022	Building plans to be submitted to Building Control for consideration and approval	X	

PART I: COMMENTS RECEIVED DURING PUBLIC PARTICIPATION	SUMMARY OF APPLICANT'S REPLY TO COMMENTS	MUNICIPAL ASSESSMENT OF COMMENTS
<p>Martin Norman Wassermann as owner of neighbouring affected property, Erf 2973, Malmesbury</p>	<p>Mr Wasserman would like to register his serious objection to the proposed application on the basis of the following reasons;</p> <p>The objector states that the applicant admitted in 2021 that she is going to start a crèche at her home and that she is not going to apply to the municipality for it.</p> <p>The proposed day care is now in Skool Street directly opposite their living room and garden where they have a peaceful time because the applicant converted his garage into a school that wasn't there.</p> <p>The parents come and drop off the children right in front of my front gate, living room and garden with the cars that are less than 12 meters from the stop street and create a danger for all the cars that have to drive down Skool- and Rabiestraat.</p> <p>The applicant confirms that they did speak to the objector before stating that they need to move the existing school from Reservoir Street to their home due to the impact of the Covid 19 regulations on their finances. The number of children decreased from 50 to only 5 during the Covid pandemic. The applicant states that there is no advantage for her to operate a small school without the necessary authorizations and it is not something that can go unnoticed.</p> <p>The applicant respond that she does not understand the objection in this paragraph since Wassermann claims that they can now move about peacefully because they converted their garage into a school.</p> <p>The applicant states that if Mr Wassermann is of the opinion that there are traffic violations taking place in the street, he must call Law Enforcement and file a complaint.</p> <p>The children are dropped off in the morning between 7h00 and 7h30 and picked up between 17h00 and 17h30. There are also half-day children who are picked up between 12h30 and 13h00. For the rest of the day there is no extra traffic.</p> <p>The applicant also confirms that there are only 11 children at present.</p>	<p>Noted. It is the intention of the applicant to get the necessary authorization with the submission of the application.</p> <p>The comment made by the objector is confusing. With reference to the objection regarding the possible nuisance created by the children playing outside, it is believed that the objector intended to say that the proposal has a negative impact on the peace and tranquillity of the area.</p> <p>On all three occasions on which the author of this report made site inspections, it was found that the use of the property does not have any negative impact on the peace and tranquillity of the area. A day care is an acceptable use in a residential area which makes the possible impacts on affected parties, also acceptable</p> <p>The proposed drop-off area indicated on the site plan is deemed safe and will not be a disturbance to the objector. It is located further down where the objector has a boundary wall on the street in excess of 2,5m in height.</p>

	<p>The objector states that he and his wife are both pensioners who are at home all day and the children make noise, scream and shout continuously all day. It is disturbing when we are in our garden or in the living room with guests or when we want to rest.</p> <p>The objector states that he believe that if he were to possibly sell his house in a few years to move, a school with all the noisy and screaming children and blocking traffic would prevent any potential buyer from buying their house.</p> <p>Mr Wasserman state that he is not against the school, however suggest that Mr Elliot could make the school access in Rabie Street where his cars are now parked and in such a case the noise and car traffic would not bother him. The objector state</p>	<p>The applicant comments that Mr Wassermann and his wife are not pensioners. They are business owners running a guest house from their property, known as Almendra Guest House.</p> <p>Wassermann's operation on his property brings increased traffic. Couriers or some of their guests ask them where Almendra is located. Wassermann moved the entrance to his property to Rabie Straat and almost never comes to Skool Straat. However, we find this to be quite normal as the Guest House is operated from their property.</p> <p>The applicant denies that the children make noise, scream and shout continuously. They sometimes make noise, but she denies that it is a disturbance.</p> <p>The applicant confirms that the above-mentioned can be easily determined by a visit of municipal officers to the premises.</p> <p>Finally, the applicant would like to point out that the earliest day care-related activities start after 7h00 in the morning and stop by 18h00 in the afternoon. After hours there are no activities.</p> <p>The applicant states that this is a personal perspective of Wassermann.</p> <p>The applicant motivates that the positive of the slightly increased activity in the neighbourhood during the day are of course attractive to other buyers, especially the security that comes with it.</p> <p>The applicant quotes that some of their neighbours state that, "It's nice to know there are people at our house all day, while they're at work, to watch the movements in the street."</p> <p>The applicant argues that the basis of all objections falls away when the objector says that he does not have a problem with the school.</p> <p>Conclusion</p>	<p>Please refer to the comments above regarding the concern of noise or nuisance created by children playing outside.</p> <p>The applicant comment regarding the alleged illegal land use on the objector's property is noted. On investigation no evidence could be found that the property is indeed advertised or used as a guesthouse.</p> <p>The objection is un-substantiated.</p> <p>The comment that Mr Wasserman is not against the school is noted.</p>
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	that this is due to Rabie Street's traffic is much less due to it being a dead end, while Skool Street serves a large part of Amandelrug as well as the education department's offices three houses away.	The objector would like to point out that of the 12 properties affected by the application all have given permission except Mr Wasserman. This according to the applicant indicates that the objections is unsubstantiated.	The fact that most of the neighbouring affected property owners have given their consent with no other complaints being recorded due to disturbance or noise nuisance should also be noted.
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## PART J: MUNICIPAL PLANNING EVALUATION

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

Application for a consent use for a day care centre on Erf 2681, Malmesbury, is made in terms of Section 25(2)(o) of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 25 March 2020).

The applicant succeeded in obtaining most of the consent / letters of no objection from all affected property owners as identified by the Municipality. A total of three notices were issued with the commenting period starting on the 18<sup>th</sup> of July 2022 and closed on the 19<sup>th</sup> of August 2022. One objection was received and was sent to the applicant for comment on the 23<sup>rd</sup> of August 2022. The Municipality received the comment on the objection from the application on the 15<sup>th</sup> of September 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: Due to circumstance the owner of the crèche needed to move the existing facility to their residence. There is an increasing need for ECD facilities in Malmesbury and approving the application will contribute to the residents of Malmesbury, whether poor or not having access to this social service.

With this application, the right of the owner of the property to apply for consent use is recognised.

- b) Spatial Sustainability: The proposed consent use will diversify the use of the property within the restrictions of the zoning

Existing services are deemed sufficient to accommodate the day care centre.

- c) Efficiency: Should this application be approved it will result in the diversification of land uses on this specific site as well as the neighbourhood. This diversification will also result in the optimal use of land. Furthermore by processing the application within a reasonably quick timeframe, still being in-line with the relevant legislation, all contribute to the principle of efficiency.

- d) Good Administration: The application is being processed and finalised timeously. Furthermore, a public participation process, as required by the relevant legislation, was followed as well as all valid comments and objections are being considered all contribute to the principle of good administration.

- e) Spatial Resilience: The place of education can easily revert back to the use of a dwelling house for a single family, should it become necessary in future.

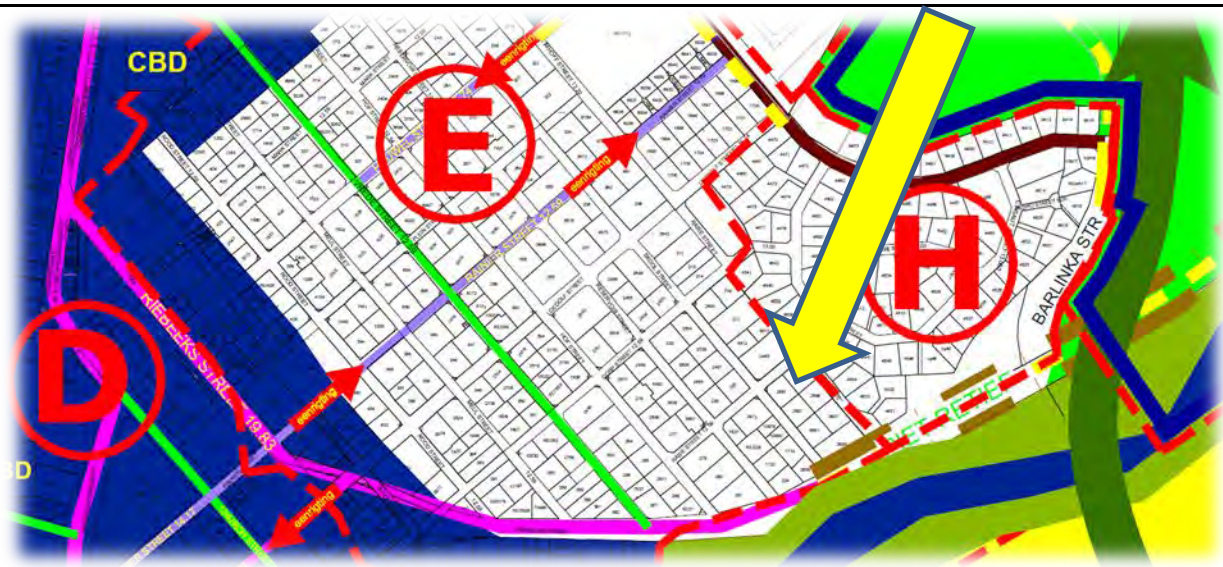
It is subsequently clear that the development proposal supports the spatial planning principles and is thus consistent with the abovementioned legislative measures.

#### 2.2 Spatial Development Framework(SDF)

Erf 2681 is according to the Swartland SDF situated in land use proposal zone E. Zone E, according to the SDF, is a residential area with mixed density and various supporting social- and institutional uses as well as business uses near the CBD. Secondary educational uses and institutional uses are proposed as land uses in zone E, which makes this application consistent with the spatial planning of Malmesbury.

Please refer to the extract of the land use proposal map as well as the table below.





MALMESBURY LAND USE ZONES		Low Density Residential Uses	Medium Density Residential	High Density Residential	Secondary Educational Uses	Institutional Uses	Professional Services	Business Uses	Secondary Business Uses	Churches	Institution	Guest houses	Authority	Sport/Recreational Facilities	Industries & Service Trade
E	Zone E is a residential area with mixed density and various supporting social- and institutional uses as well as business uses near the CBD.	X	X	X 2	X	X	X 6	X 6	X	X	X	X		X 8	
(1) Flats along activity Streets (2) Only flats (3) Along activity streets and node (4) Along activity streets (5) At existing node (6) Adjacent to business node (7) Neighbourhood centre (8) Sport facility (9) Service trade and industries (10) Community facilities (11) Services and warehouse (12) Expand cemetery (13) Picnic area along Platteklip River (14) Parks		Business Uses e.g. shop, supermarket and service station Institutional Uses e.g. Schools, places of instruction Professional Services e.g. Office blocks Secondary Business Uses e.g. Cafés, house shops, small offices and home occupation. House taverns only to be allowed along activity streets in residential areas Secondary Educational Uses e.g. Crèches/day care *Find description of proposed land uses for development zones in Annexure 7													

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

The development proposal complies with the zoning parameters of the Residential Zone 1 zoning as well as the regulations applicable to a day care centre.

### 2. Desirability of the proposed utilisation

All costs relating to the application is for the account of the applicant.

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

Surrounding land uses are mostly single residential. The application will therefore not have a negative impact the character of the area. The day care is considered a compatible use within a residential neighbourhood.



The proposed use is compliant with the spatial planning principles of the town of Malmesbury.

The parking of vehicles on-site from Skool Street as proposed in the application is deemed sufficient.

Outside play time are restricted to specific times. Taking into consideration that the outside play areas not be in use the whole day, the noise impact on the tranquillity of the neighbourhood is deemed to be low.

The existing Residential zone 1 zoning accommodates a “day care” as a consent use. The Land Use Planning By-law therefore makes provision for a day care as a land use in a single residential area.

The public participation process of the application was done according to the prescribed timeframes of the Land Use Planning By-law.

Sufficient services capacity exists to accommodate the day care.

A day care is an acceptable use in a residential area which makes the possible impacts on affected parties, also acceptable.

Erf 2681 does not have any title deed restrictions which impacts on the application.

Erf 2681 has no heritage grading.

The development proposal complies with the zoning parameters of the Residential zone 1 zoning.

The application is considered to be desirable



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

Existing services is deemed sufficient and no additional services connections will be provided.

### **4. Public interest**

Public interest must be taken into account with reference to Section 42 of SPLUMA as well as Section 65 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG8226 of 25 March 2020) and can be summarised as follows:

#### **The degree to which the development principles as well as the norms and standards of relevant legislation and policy will be promoted or prejudiced**

From the above information, the proposed consent use is promoted in terms of the development principles and norms and standards of the planning legislation and policy. The proposal is consistent with the spatial planning proposals, is situated in a residential area and the subject property can accommodate the proposed use without it having a negative impact on the neighbouring properties or the character of the area.

#### **The degree of risk or potential risk**

There is no risk or potential risk to affected property owners.

The day care is proposed in accordance with the parameters of the development management scheme as well as will be registered and monitored by the Department of Social Development.

#### **Impact on existing and surrounding land uses**

The application, as proposed, will not have a negative impact on the surrounding land uses.

#### **Whether the proposed development is prejudicial to the interests of the community**

There is a definite need for ECD's in Malmesbury. Accommodating the day-care within the residential area brings this social facility closer to community it is serving. This increase in accessibility as well as the additional ECD facility for Malmesbury is in the interest of the community.

#### **The long term benefit of the proposed development, which at times may be in conflict with short terms gains**

The long term benefit of the proposal includes a facility, however small, provides an income for the owners of the property as well as a day care facility that is easily accessible.

The proposed day care will not have an adverse impact on the character of the area and also does not pose any risk to the health and safety of those affected in the immediate area. The facility does promote economic opportunities for the owner and possible their assistants therefore the positive impact outweighs any possible negative resulting in the proposal to be in the interest of the community of Malmesbury.

Section 96(3) of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020) authorises the institution of a fine for every day the illegal land use continues. Municipal tariffs for the continued illegal land use on erf 2681 will be levied from 2 July 2022 to the date of the MPT meeting on 12 October 2022. A tariff of R275,00 per day is levied for 102 days which amounts to a total of R28 050,00. With the submission of the application the applicant already paid R 1650.00. The Director Financial Services will be instructed to levy the remaining R 26 400,00 on the municipal account.

(Please note that if the administrative process of the application continues by means of appeals and the illegal land use continues, the tariff will be levied until such time as the Appeal Authority has taken a decision on the application.

### **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 consent use on Erf 2681, Malmesbury be approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), subject to the conditions that:

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

- a) The consent use authorises a day care centre (Pikkewouters), as presented in the application;
- b) No more than 10 children be enrolled at the day care centre at any time, or be present on the relevant land unit;
- c) Indoor play space be provided as follows;
  - i. A play space for play, eat and sleep be provided;
  - ii. An indoor play space for each child, with a minimum of 1.5m<sup>2</sup> free, unlimited floor space be available;
  - iii. If no outside play space is available on the premises, an indoor play space with a free, unlimited floor space of 3m<sup>2</sup> per child be provided;
  - iv. The play space not create a health nuisance.
- d) Outdoor play space be provided as follows;
  - i. An outdoor play space of at least 2m<sup>2</sup> be provided for each child;
  - ii. Separate outdoor play spaces be provided for different age groups.
- e) The service provided be primarily day care or educational in nature and not medical;
- f) The provision of the day care service is restricted to the hours of 07H00 to 18h00
- g) The dominant use of the dwelling remain for the living accommodation purposes of a single family;
- h) Building plans be submitted to the Senior Manager: Built Environment for consideration and approval;
- i) Application for the display of advertising signs be submitted to the Senior Manager: Built Environment for consideration for approval;
- j) The day care complies with the requirements of Department Social Services and be registered at the Department;
- k) Application be made to the West Coast District Municipality for a compliance certificate for an early childhood development facility as well as a second compliance certificate for the preparation of food;

### **2. WATER**

- a) The existing single water connection be used and that no additional connections be provided;

### **3. SEWERAGE**

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

### **4. STREETS**



- a) Free access to the two on-site parking bays for the pick-up and drop-off of children be maintained at all times;

### **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 complied within a period of 2 months, by 12 December 2022, 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 this outcome and their right to appeal in terms of Chapter VII, Section 89 of the By-law.

## **PART M: REASONS FOR RECOMMENDATION**

- 1. The application is in compliance with the planning principles of LUPA and SPLUMA.
- 2. The application is consistent with the Swartland MSDF, 2019.
- 3. The proposed day care will complement and not have a negative impact on the character of the surrounding residential area.
- 4. The development proposal supports the optimal utilisation of the property.
- 5. A day care is an acceptable use in a residential area which makes the possible impacts on affected parties, also acceptable.
- 6. Sufficient services capacity exists to accommodate the day care.
- 7. The noise impact of the day care on the tranquillity of the neighbourhood is deemed to be low.

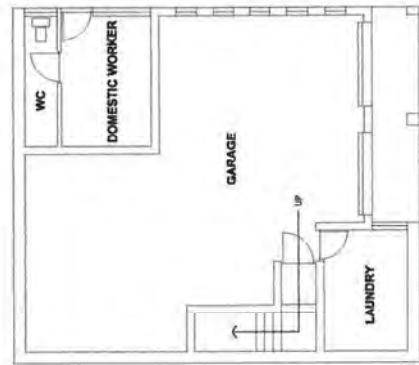
PART N: ANNEXURES				
Annexure A: Locality plan Annexure B: Site development plan Annexure C: Public participation plan Annexure D: Neighbouring property owners consent Annexure E: Objection from Martin Norman Wassermann Annexure F: Comments from the applicant on the objections Annexure G: Compliance notice dated 1 June 2022				
PART O: APPLICANT DETAILS				
First name(s)	Lanique Elliott			
Registered owner(s)	JP & L Elliott	Is the applicant authorised to submit this application:	Y	N
PART P: SIGNATURES				
Author details: Herman Olivier Town Planner SACPLAN: A/204/2010			Date: 5 October 2022	
Recommendation: Alwyn Zaayman Senior Manager Built Environment SACPLAN: B/8001/2001	Recommended	<input checked="" type="checkbox"/>	Not recommended	
			Date: 6 October 2022	



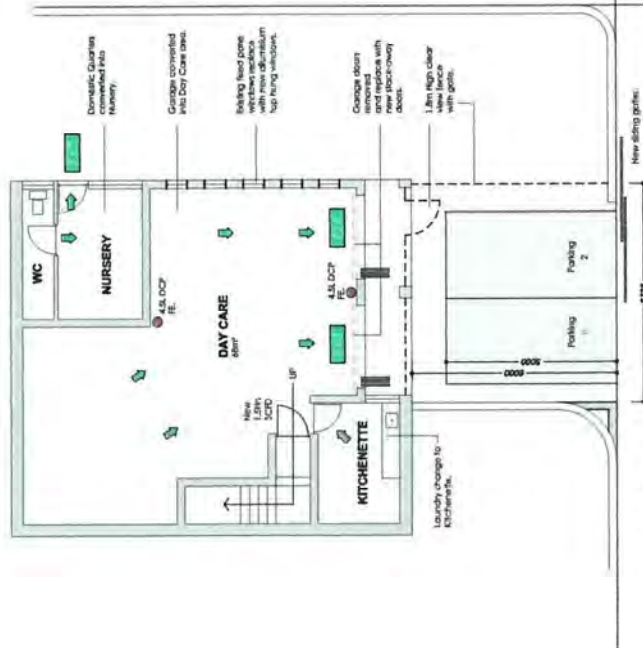
# LOCATION PLAN OF ERF 2681, MALME







EXISTING GARAGE LAYOUT



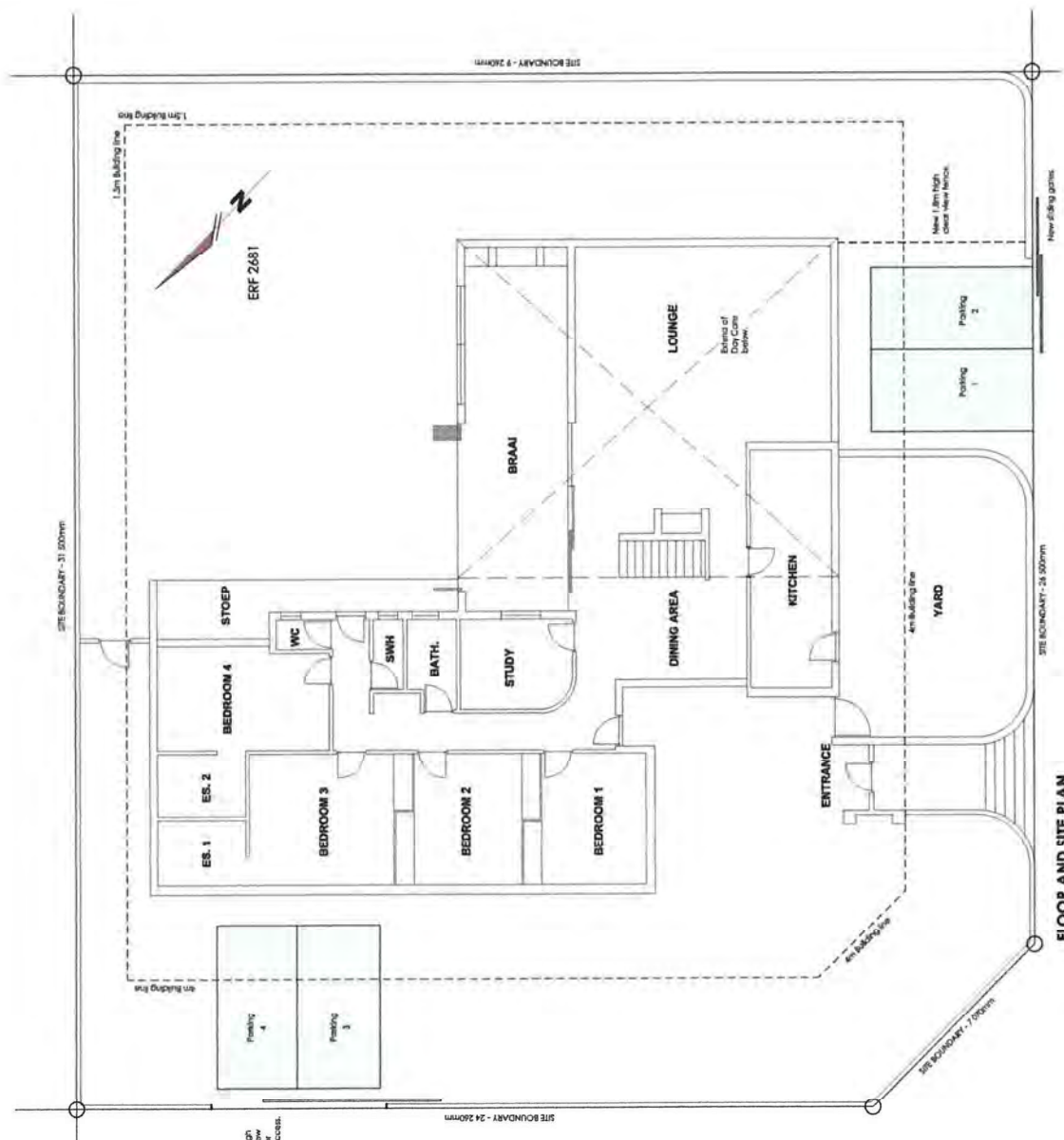
DAY CARE LAYOUT + FIRE ESCAPE

PROPOSED DAY CARE  
LAYOUT FOR  
J ELLIOTT  
ON ERF 2861  
MALMESBURY.



Wilfred Mc Carids  
Call: 083 433 7350  
Email: wilfred@wilfredmc.com

File saved as: C:\Documents\Drawings\J. ELLIOTT 2861.dwg  
Scale: 1:100 Date: JULY '23  
Drawing No: LE/2307/2861

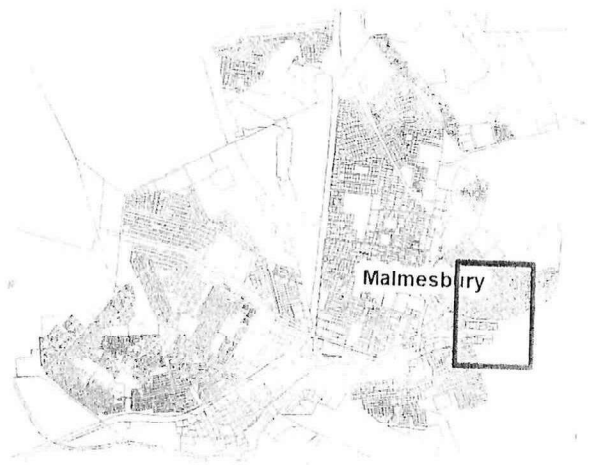


FLOOR AND SITE PLAN

4.5L DCP ORACHAL POINER
DIRECTION OF FIRE ESCAPE
FIRE ESCAPE ROUTE
EXIT

FIRE LEGEND

## PUBIC PARTICIPATION PLAN PROPOSED CONSENT USE ON ERF 2681, MALMESBURY



## Neighbor's Consent

Date: 8 June 2022

We, the undersigned are the neighbors around the daycare (Pikkewouters Creche) located at 8 Skool Street, Erf 2681.

We have NO objection/complaint for the daycare/business and future operation of the said structure to this applicant namely, Lanique Elliott trading as Pikkewouters Creche as the location given above.

### Name and Address of Neighbor:

### Signature:

- ✓ 10880 1. Schaan Rabie, Skool se SA
- ✓ 10879 2. " Skool se SB
- ✓ 10878 3. CORRIE V. NIEKERK Skool St 9
- ✓ 2641 4. Michiel Johannes Lucas Skoolstraat 4
- ✓ 2457 5. Elize Zwiigelaar Skoolstraat 11
- ✓ 1719 6. Derrick Grootboom, 03 Skool Street, Malmesbury
- ✓ 2591 7. Retha + Len de Beer, 6 Skoolstraat, Malmesbury
- ✓ 2208 8. Habib Street/Christoffel van Zyl
- ✓ 2403 9. R.L. Tomlinson-Buirski 3 Rabie Street
- ✓ 10871 10. L. Strauss 6 Rabie Street, Malmesbury
- ✓ 4912 11. A Young 12 Skool St Malmesbury

*[Signatures of neighbors]*

E. Zwiigelaar

R.L. Tomlinson-Buirski

12. 2473

*[Signature of Applicant]*

Signature of Applicant

L. Elliott Trading as Pikkewouters Creche



**From:** Martin Wassermann <blynetkalm@gmail.com>

**Sent:** 26 July 2022 11:11 AM

**To:** Delmarie Stellenberg <StellenbergD@swartland.org.za>; Herman Olivier <OlivierH@swartland.org.za>; Registrasie Email <RegistrasieEmail@swartland.org.za>

**Subject:** Re: Voorgestelde vergunningsgebruik op erf 2681, Malmesbury

Die Munisipale Bestuurder  
Privaatsak X52  
MALMESBURY  
7299

INSAKE:GESKREWE BESWAAR TEEN VOORGESTELDE VERGUNNINGSGEBRUIK OP ERF 2681, MALMESBURY (VERWYSING NOMMER 15/3/10 - 8/ERF\_ 2681)

Ek, Martin Norman Wassermann met ID nommer 5906105015088, die buurman van Mnr. en Mev. Elliot van Skoolstraat 8 en woonagtig is in Skoolstraat 7, Amandelrug, MALMESBURY teken hiermee skriftelik ernstig beswaar aan teen hierdie bogenoemde voorgestelde vergunningsgebruik op erf 2681 op grond van die volgende redes;

1. Mev. Elliot het in 2021 aan ons erken dat sy 'n skooltjie by haar huis gaan begin en dat sy nie by die munisipaliteit daarvoor gaan aansoek doen nie. Hulle motorhuis se ingang was in Skoolstraat reg oorkant my sitkamer. Gedurende Augustus 2021 het Mnr Elliot begin met bouwerk aan sy motorhuis en het 'n hek voor opgesit wat grens aan Skoolstraat. Daarna het hy 'n opening gebreek in sy grensmuur wat aan Rabiestraat grens om die motors in Rabiestraat te parkeer. Toe ek hom vra wat hy besig was om te doen wou hy my nie vertel nie. Die voorgestelde skooltjie is dus nou in Skoolstraat reg oorkant my sitkamer en tuin waar ons rustig verkeer omdat hy sy motorhuis omskep het in 'n skool wat nie daar was nie.
2. Ek het hierdie verwickelinge telefonies aan Clerise du Plessis (gemeenskap Ontwikkelingswerker vir die departement van gemeenskap Ontwikkeling) gerapporteer in die week voor 16 November 2021. Sy het op 16 November 2021 vir my 'n epos gestuur en laat weet dat sy en Grassroots die volgende week 'n besoek by die skooltjie sou aflê. 'n sekere Volante Isaacs en Madelene Junies was gekopieer in die epos. Sy het op 'n tweede epos vir my bedank en laat weet in haar woorde dat dit, ".....immers ons werk om op te volg en seker te maak dat die prosesse reg gevolg word." Sy het nooit na my toe teruggekom om te laat weet of sy opgevolg het en of daar enige prosesse sou volg om die skool stop te sit nie.
3. Op 3 Mei 2022, toe ek nie meer die geraas van die kinders kon verdra nie en omdat ek niks van Clerise gehoor het nie, het ek vir Herman Olivier geskakel en die hele aangeleentheid telefonies verduidelik. Hy het laat weet dat hy sal opvolg en my laat weet.
4. Op 01 Junie 2022 toe ek niks van Herman Olivier gehoor het nie, het ek weer vir Herman Olivier geskakel om op te volg oor die aangeleentheid. Hy het gesê dat hy sal die saak ondersoek en my laat weet.
5. Intussen het Mnr. Elliot sy groot swart nommer 8 vanaf sy grensmuur langs sy grensmuur hekkie verwyder. Ek weet nie hoekom nie, maar dit het net by my agterdog gewek.

6. Daar is 'n uiters gevaarlike pitbul terrier op erf 2681 wat op 2 Augustus 2021 uit hulle erf ontsnap het en beide my Schnauser honde waarmee my vrou op leibande gaan stap het, in Rabiestraat aangeval en gebyt het. Die eienaar het geen poging aangewend om die hond te verwyder nie en nadat ek in my huis op my vrou se gille gereageer het, het ek die hond geskop, geslaan en aan sy stert van my honde weggetrek. In die proses het ek geval en my arm gebreek omdat die pitbull terrier geen halsband of leiband aangehad het nie en moes ek hom aan sy stert wegtrek. Hierdie hond op die erf het die vermoë om enige kind op erf 2681 dood te byt.

7. Die ouers kom laai die kinders reg voor my voorhekkie, sitkamer en tuin af met die motors wat minder as 12meter vanaf die stopstraat is en 'n gevaar skep vir al die motors wat in Skool- en Rabiestraat moet afry.

8. Ek en my vrou is pensionarisse wat heeldag by die huis is en die kinders raas, gil en skree deurlopend die hele dag. Dit is steurend wanneer ons of in ons tuin, of in die sitkamer kuier met gaste of as ons wil rus.

9. Ek glo dat indien ek moontlik my huis oor 'n paar jaar sou wou verkoop om te trek sal 'n skool met al die raserige en gillende kinders en blokkende verkeer enige potensiële koper verhoed om my huis te koop.

10. Mev. Elliot het by my besoek afgelê om te vra of ek sal teken om toestemming te gee vir die bedryf van 'n skool. Ek het haar meegedeel dat ek dit baie streng afkeur oor bogenoemde redes en dat ek nie gaan teken nie.

11. Aangesien Mnr Elliot nie wou sê waarmee hulle besig is nie (die voorbereiding van die skool in die motorhuis wat in Skoolstraat oorkant my grens voel ek dat as hy van die begin af eerlik was en mens kon met hom onderhandel en kyk of daar nie 'n ander moontlikheid is nie sal ek nie toestemming gee nie. Ek is nie teen die skool nie, maar dalk sou Mnr Elliot die skool gedeelte kon maak in Rabiestraat waar sy motors nou parkeer word en in so 'n geval sou die geraas en motorverkeer my nie gehinder het nie, want Rabiestraat se verkeer is baie minder (doodloopstraat), terwyl Skoolstraat 'n groot gedeelte van Amandelrug bedien asook die onderwysdepartement se kantore drie huise verder.

Ek wil graag skriftelik per epos kommunikeer oor bogenoemde saak.

Ek hoop en glo dat u my beswaar gunstig sal oorweeg.

Groete

Martin Wassermann  
Tel: (+27) 0224871890  
Cell: (+27) 0825251658  
E-Mail: [blynetkalm@gmail.com](mailto:blynetkalm@gmail.com)

Lanique Elliott  
8 Skoolstraat  
MALMESBURY  
7300

7 September 2022

Swartland Munisipaliteit  
Privaatsak X52  
MALMESBURY  
7299

Aandag: Ms D N STALLENBERG

Geagte Meneer

**VOORGESTELDE VERGUNNINGSGEBRUIK: ERF 2681 MALMESBURY**  
**LÊER VERW: 15/3/10-8/Erf\_2681**

Dankie vir U skrywe van 23 Augustus 2022 verwys.

Ek wil graag paragraafsgewys antwoord op die beswaar van Mnr Martin Norman Wassermann (hierna Wassermann) met telefoonnommer 022- 4871890 en e-pos adres [blynetkalm@gmail.com](mailto:blynetkalm@gmail.com), ons bure.

**RE 1:**

Ek het vir Mev Wassermann gesê dat ek my bestaande skooltjie vanaf Reservoirstraat skuif na ons huis te Skoolstraat, weens die impak van die Covid-19 inperkingsregulasies op ons finansies.

My getalle by die skooltjie het verminder van 50 plus kinders tot net 5 tydens Covid en moes ek die skooltjie skuif. Ons as gesin en die Wassermanns is nie op goeie terme tans nie vanweë 'n voorval wat ek hieronder sal aanspreek. Dis 'n blote leuen dat ek gesê het ek gaan nie aansoek doen vir toestemming nie. Daar is geen voordeel vir my om 'n skooltjie te bedryf sonder die nodige magtigings nie en dis nie iets wat ongesiens kan verbygaan nie. Ek dink Wassermann probeer my uitmaak as skelm of so iets.

Ek verstaan egter nie die beswaar in hierdie paragraaf 1 nie aangesien Wassermann beweer dat hulle (ek aanvaar die Wassermanns) nou rustig kan verkeer **omdat** ons ons motorhuis omskep het in 'n skool wat nie daar was nie.

#### **RE 2:**

Ek dra nie kennis van die gesprekke tussen Wassermann, Clerise du Plessis, Volante Isaacs of Madelene Junies, of hulle ondernemings teenoor Wassermann nie.

Nie een van die betrokke partye het my gekontak nie.

Ek het, toe ek die skriftelike beswaar van Wassermann ontvang, vir Clerise du Plessis gekontak en ek was ontsteld dat hulle my nie vroeër in kennis gestel het van Wassermann se korrespondensie nie.

#### **RE 3:**

Ek vind die bewering van Wassermann vreemd.

Dit lyk as of sy onvermoë om die beweerde geraas van die kinders te verdraag gekoppel is aan Clerise se stilte.

Ek dra nie kennis van die gesprekke tussen Wassermann en Herman Olivier nie, maar wel 'n besoek van Herman Olivier om 'n afspraak te maak het wat die volgende dag plaasgevind het. In Herman se eie woorde tydens sy besoek-volgens Herman was hy blykbaar meer as een keer by my woning, maar daar was geen beweging en kon geensins sien dat hier 'n skool bedryf word omdat dit so stil was. Met ons vasgestelde afspraak het ek die nodige dokumentasie ontvang om die aansoek voor te sit.

Ek vind dit ook laakbaar dat Wassermann oral gaan kla het oor sy beweerde probleem, maar nooit met my of my man kom praat het nie. Indien daar 'n probleem was, kon ons dit lankal aanspreek.

#### **RE 4:**

Ek dra nie kennis van hierdie gesprekke nie.

#### **RE 5:**

Ek ontken dat ons 'n groot swart 8 vanaf ons grensmuur verwyder het.

Ons het wel die mosaïek nr. 8 van ons huis vervang, maar suiwer om estetiese redes.

Ek verseker u dat daar geen, maar absoluut geen, sinistere of alternatiewe bedoelings is/was met die vervanging van die nommer nie.

Dit gaan tot 'n groot mate my verstand te bowe waarom die verandering van 'n nommer, al bly dit 'n "8", by iemand agterdog sal wek, en verder wat dit met enigiemand te make het hoe 'n eienaar verkies om sy straat nommer te vertoon.

#### **RE 6:**

Hier is miskien die werklike die rede vir ons ongemaklike buurmanskap.

In kort: Ten tye van die voorval was Wassermann se honde nie op 'n leiband nie. Mev Wassermann het met die leibande in haar hand geloop en die honde het los geloop;

Ons honde het uitgebreek uit ons erf en Wassermann se honde gebyt;

Wassermann het ons hond aan sy stert gegryp en getrek;

Wassermann het sy greep verloor en agtertoe geval;

Ons het Wassermann se veearts rekeninge betaal;

Wassermann is versoek om sy eie mediese rekords aan ons te verskaf vir ons versekering om te ondersoek, maar ons het dit tot op hede nog nie ontvang nie;

Wassermann se dreigemente met regsaksie het tot niks gekom, ten spyte daarvan dat hy regsverteenvoerdig gehad het;

Wat wel oorbly van die voorval is dat Wassermann klaarblyklik nog steeds ontsteld is oor hierdie aangeleentheid ten spyte van ons pogings om dit vriendskaplik op te los.

Ons het nog nooit probleme gehad met die hond ten opsigte van mense of kinders nie.

Die hond is baie vredeliewend teenoor mense.

Hierdie gedrag van die hond teenoor mense word bevestig deur die feit dat die hond nie vir Wassermann of sy vrou aangeval het tydens die honde voorval, selfs nie nadat Wassermann die hond aan sy stert probeer wegtrek het van die ander honde nie.

Wanneer die munisipaliteit beamptes inspeksie doen van die perseel, sal hulle ook sien dat die hond geen toegang tot die skoolarea het nie.

**RE 7:**

As Wassermann van mening is dat daar verkeersoortredings plaasvind in die straat, moet hy Wetstoepassing skakel en 'n klag lê.

Die kinders word afgelaai in die oggende tussen 7 en 7h30 en opgetel tussen 17h00 en 17h30. Daar is ook halfdag kinders wat opgetel word tussen 12h30 en 13h00. Vir die res van die dag is daar geen ekstra verkeer nie.

Daar is ook net 11 kinders tans.

**RE 8:**

Wassermann en sy vrou is nie pensionaris is nie. Hulle is besigheidsmense wie 'n gastehuis bedryf vanaf Skoolstraat 7, bekend as Almendra Gastehuis.

Wassermann se bedryf op sy erf bring verhoogde verkeer mee. Koeriers of van hul gaste vra by ons Almendra is. Wassermann het die ingang van sy erf geskuif na Rabiestraat en kom omtrent nooit in Skoolstraat nie.

Ons vind dit egter as heel normaal aangesien die gastehuis vanaf sy eiendom bedryf word.

Ek ontken dat die kindertjies raas, gil en deurlopend skree. Hulle raas soms, maar ek ontken dat dit 'n steurnis is. Hierdie aspek kan maklik vasgestel word deur 'n besoek van munisipale beamptes aan die perseel.

Ek wil laastens daarop wys dat die vroegste dagsorgverwante aktiwiteite begin na 7h00 in die oggende en staak teen 18h00 in die namiddag. Na-ure is daar geen aktiwiteite.

#### **RE 9:**

Hierdie is 'n persoonlike perspektief van Wassermann.

Die pluspunte van die effe verhoogde aktiwiteit in die buurt gedurende die dag is natuurlik vir ander kopers aantreklik, veral sekuriteit wat daarmee gepaard gaan. Soos van ons bure sê *“Dis lekker om te weet daar is heeldag mense by ons huis, terwyl hulle by die werk is, om die bewegings in die straat dop te hou.”*

#### **RE 10:**

Wassermann is nie heeltemal korrek nie. Sy woorde was: “Ek keur die nie goed want ek hou nie van julle as bure nie en julle het vir die prokureur gelieg oor die honde voorval.”

Ek het nie gejoj oor enige van die gebeure met die honde nie.

#### **RE 11:**

Wassermann self sê: *“Ek is nie teen die skool nie, ...”*.

Sy probleem is duidelik dat hy voorskriftelik wil wees oor wat op ons erf aangaan. Die basis van al sy besware val eintlik weg as hy sê dat hy nie 'n probleem het met die skool nie.

Wassermann is 'n beheer vraat en raak onnodig agterdogtig.



**SLOTSOM**

Ek wil graag daarop wys dat van die 12 huise om ons, wie almal genader is vir toestemming, het hulle almal skriftelik toestemming gegee, behalwe Wassermann.

Dit wys dat Wassermann se besware ongegrond is.

Die “bottom line” is egter dat Wassermann nie teen die skool is nie, maar teen my en my man se onbereidwilligheid om onderdanig aan sy beheer te wees.

Ek versoek dat Wassermann se beswaar van die hand gewys word.

Ek dank u vir die geleentheid om te kon antwoord op Wassermann se geskrewe beswaar.

Groete

Lanique Elliott

Lêer verw/  
File ref: 15/3/1

Navrae/Enquiries:  
Mnr H L Olivier

1 Junie 2022

**Per hand**

JP & L Elliott  
Skoolstraat 8  
MALMESBURY  
7300

[lanique.elliott@yahoo.com](mailto:lanique.elliott@yahoo.com)

Meneer/ Dame  
Sir/Madam

**ONGEMAGTIGDE GRONDGEBRUIK : ERF 2681, MALMESBURY**

Swartland Munisipaliteit se rekords dui daarop dat u die geregistreerde eienaar van erf 2681, Skoolstraat No. 8, Malmesbury is.

Tydens 'n terreininspeksie uitgevoer op 1 Junie 2022 is dit bevestig dat 'n dagsorg vanuit 'n gedeelte van die bestaande woonhuis op die perseel bedryf word.

Erf 2681, Malmesbury is ingevolge die Swartland Munisipaliteit: Verordening insake Munisipale Grondgebruikbeplanning (PK8226 van 25 Maart 2020) soneer Residensiële sone 1. Hierdie sonering magtig nie die bedryf van 'n plek van onderrig nie.

Die bedryf van 'n plek van onderrig soos genoem is dus teenstrydig met die Verordening en is ongemagtig.

Ingevolge Artikel 96 van die Verordening is die bedryf van 'n plek van onderrig in hierdie omstandighede of dat die bedryf van 'n plek van onderrig toegelaat word inderdaad 'n misdryf en by skuldigvinding strafbaar met 'n boete of gevangenisstraf of met beide sodanige boete sowel as gevangenisstraf.

U word onder die omstandighede hiermee versoek om die bedryf van die plek van onderrig teen 1 Julie 2022 te staak. U moet ook voortaan nie meer toelaat dat die bedryf van die plek van onderrig voortgaan nie. U word ook hiermee in kennis gestel dat u ingevolge Artikel 99 van die Verordening, skriftelik mag beswaar aanteken by Swartland Munisipaliteit teen hierdie kennisgewing maar nie later as 1 Julie 2022.

**ILLEGAL LAND USE : ERF 2681, MALMESBURY**

*Swartland Municipality's records indicate that you are the registered owner of Erf 2681, 8 Skool Street, Malmesbury.*

*During a site inspection held on 1 June 2022 it was confirmed that a day care centre is being operated from a portion of the existing dwelling on the property.*

*Erf 2681, Malmesbury is in terms of the Swartland Municipality: Municipal Land Use Planning By-law (PG 8226 of 25 March 2020) zoned Residential zone 1. This zoning does not authorise a place of education.*

*The operation of a place of education as mentioned above is in contradiction with the By-law and is unlawful.*

*In terms of Section 96 of the By-law the operation of a place of education in these circumstances or allowing the operation of a place of education is indeed an offence and on conviction you may be liable to a fine or imprisonment or to both such a fine and such imprisonment.*

*We hereby request under the circumstances, to seize the operation of the place of education by the 1<sup>st</sup> of July 2022. You must also in future refrain from operating the place of education. You are also hereby notified that you may object to this notice in terms of Section 99 of the By-law, by making written representations to the Swartland Municipality by no later than 1 July 2022.*

<p>Die Verordening, ingevolge Artikel 98, maak voorsiening dat die volgende waarskuwing aan u gerig word:</p> <ol style="list-style-type: none"> <li>1. U kan vervolg en skuldig bevind word vir 'n misdryf soos beoog in Artikel 96 van die bogenoemde Verordening;</li> <li>2. By skuldigbevinding aan 'n misdryf strafbaar sal wees met 'n boete of gevangenisstraf of met beide sodanige boete sowel as gevangenisstraf.</li> <li>3. Die hofbevel mag bepaal dat alle toerusting wat verband hou met die ongemagtigde gebruik op die perseel verwyder word en dat die ongemagtigde aktiwiteite gestaak word.</li> </ol> <p>In die lig van die bogenoemde word u dringend versoek teen 1 Julie 2022 aan die kennisgewing te voldoen.</p> <p>Die nie-voldoening daaraan sal Swartland Munisipaliteit genoodsaak wees om met 'n aansoek vir 'n relevante hofbevel, asook met vervolging ingevolge Artikel 96 van die Verordening voort te gaan.</p> <p>Die Munisipale tariewe vir die finansiële jaar van 2021/2022 maak voorsiening dat 'n bedrag van R270-00 per dag gehef word vanaf die datum van die verstryking van hierdie kennisgewingtydperk indien die ongemagtigde grondgebruik voortgaan.</p> <p>Die boete sal vermeerder per dag tot en met die dag wat u wel goedkeuring ontvang vir die grondgebruiksverandering of tot en met die dag wat u hierdie Munisipaliteit skriftelik in kennis stel dat u die ongemagtigde bedryf gestaak het.</p>	<p><i>The By-law, in terms of Section 98, makes provision that the following warning be issued to you:</i></p> <ol style="list-style-type: none"> <li>1. <i>You may be prosecuted for and convicted of an offence contemplated in Section 96 of the aforementioned By-laws;</i></li> <li>2. <i>On conviction of an offence you may be liable to pay a fine or to imprisonment or to both such a fine and such imprisonment;</i></li> <li>3. <i>You may be required by an order of court to remove all equipment related to the illegal land use and to seize the illegal activity.</i></li> </ol> <p><i>In view of the above we hereby urgently request you to comply with this notice by 1 July 2022.</i></p> <p><i>Failure to do so will compel the Swartland Municipality to proceed with an application for the relevant court order and with a prosecution in terms of Section 96 of the By-law.</i></p> <p><i>The Municipal tariffs for the financial year 2021/2022 makes provision that an amount of R270-00 per day be levied from the date of the lapsing of this notice period if the illegal land use has not been stopped.</i></p> <p><i>The fine will accumulate per day until the day you obtain approval for the change in land use or until that day you notify this Municipality in writing that the illegal land use has been stopped.</i></p>
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Die uwe

**MUNISIPALE BESTUURDER**  
per Departement Ontwikkelingsdienste

HLO/ds

Afskrif: Departement: Beskermingsdienste (Claudia Lakey)  
Rdl Anet de Beer



19 September 2022

15/3/5-8/Erf\_7657  
15/3/10-8/Erf\_7657

WYK: 10

**ITEM 6.3 OF THE AGENDA FOR THE MUNICIPAL PLANNING TRIBUNAL THAT WILL TAKE PLACE ON WEDNESDAY 12 OCTOBER 2022**

LAND USE PLANNING REPORT PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS AND CONSENT USE ON ERF 7657, MALMESBURY					
Reference number	15/3/5-8/Erf_7657 15/3/10-8/Erf_7657	Submission date	19 July 2022	Date finalised	26 September 2022

PART A: APPLICATION DESCRIPTION						
<p>An application for the removal of restrictive title conditions on Erf 7657, Malmesbury, in terms of section 25(2)(f) of Swartland Municipality : Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020) has been received. It is proposed that the condition C(c) of Deed of Transfer T51239/2019 be removed from the relevant deed. The purpose of the removal is to remove restriction regarding the use of the premises only for residential purposes.</p> <p>The application for consent use for a home occupation on Erf 7657, Malmesbury, in terms of section 25(2)(o) of Swartland Municipality : Municipal Land Use Planning By-law (PG 8226 of 25 March 2020) has been received. The proposal entails that the home occupation (physiotherapist practice) will be operated from a portion (49,36m<sup>2</sup> in extent) of the premises.</p> <p>The applicant is C.K. Rumboll and Partners and the property owner is JJ &amp; M Bierman.</p>						
PART B: PROPERTY DETAILS						
Property description (in accordance with Title Deed)	REMAINDER ERF 7657 MALMESBURY, SITUATED IN THE SWARTLAND MUNICIPALITY DIVISION MALMESBURY, PROVINCE WESTERN CAPE					
Physical address	65 Bergzicht Street		Town	Malmesbury		
Current zoning	Residential Zone 1	Extent (m <sup>2</sup> /ha)	1142m <sup>2</sup>	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 (PK 8226, dated 25 March 2021)					
Current land use	Dwelling house and outbuildings		Title Deed number & date	T51239/2019		
Any restrictive title conditions applicable	<input checked="" type="checkbox"/> Y	<input type="checkbox"/> N	If Yes, list condition number(s)	Condition C(a) – Hierdie erf mag slegs vir bewoningsdoeleindes gebruik word;		
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 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	<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

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

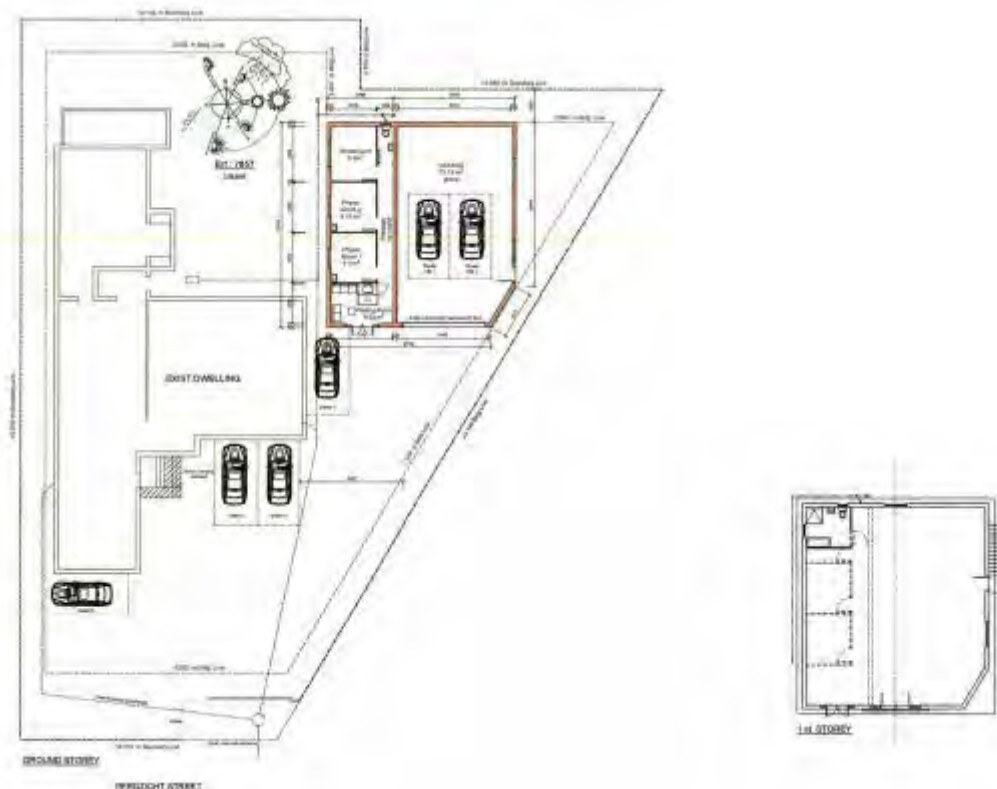
Erf 7657, Malmesbury is zoned Residential zone 1 and is developed with a dwelling house and outbuildings.

The owner (Mrs Bierman) of erf 7657 is a physio therapist of occupation and is currently employed by Marlene Hanekom Physiotherapy, which is situated on erf 7659, 7 Percheron Street, Malmesbury. Erf 7659 is zoned Residential zone 1 with a consent use for a home occupation which includes a physiotherapist practise and pilates classes which is offered for the rehabilitation of patients.

Marlene Hanekom Physiotherapy closes its doors at the end of 2022.

Mrs Bierman wants to continue to practise her occupation from her residential property where she and her family lives on erf 7657, 65 Bergzicht Street.

It is proposed the existing outbuilding (garages) will be partially demolished and a new building erected which will make provision for the home occupation (physiotherapy practice – 49m<sup>2</sup> in extent) and garages on ground floor level and storage space on first floor level. See the development proposal below.



Condition C(a) of Deed of Transfer no T51239/2019 restricts the use of the property for residential purposes only.

This application is therefor to remove the restrictive condition to permit the home occupation as allowed for as land use right by the Swartland Planning By-law.

#### 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

The proposed removal of a restrictive Title Deed condition and consent use are considered desirable on the basis of the following;

1. The proposed development use enhances the principles of LUPA and SPLUMA.
2. The proposal does not contradict the Swartland Spatial Development Framework (2019) as the main forward planning document for Malmesbury and the Swartland Municipal Area as a whole.
3. The development proposal will complement the character of the area and not adversely affect any natural conservation areas or surrounding agricultural practises.
4. With the proposed development, the owners of Erf 7657/RE, Malmesbury, are granted an income opportunity.
5. The optimal utilisation of existing services, as it reduces past expenditure on infrastructure. This development uses an existing plot within the Urban Edge to its optimal potential.

It is clear that in terms of the above, the application for the proposed removal of a restrictive Title Deed condition and consent use of Erf 7657/RE, Malmesbury, can be adequately supported. It is therefore requested that the application 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?	<b>Y</b>	N
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A total of 24 registered notices were issued to affected parties, of which 17 of the same notices were also sent via e-mail. No notices were returned uncollected.

Total valid comments	<b>1</b>	Total comments and petitions refused	<b>0</b>
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Valid petition(s)	<b>Y</b>	<b>N</b>	If yes, number of signatures	
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Community organisation(s) response	<b>Y</b>	<b>N</b>	Ward councillor response	<b>Y</b>	N	The application was forwarded to ward councillor Van Essen which has no objection to the application.
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Total letters of support	<b>0</b>
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PART H: COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS				
Name	Date received	Summary of comments	Recommendation	
			Positive	Negative
Department: Civil Engineering Services	4 October 2021	<p>1. <u>Water</u></p> <p>Die erf gebruik maak van die bestaande aansluiting en dat geen addisionele aansluitings voorsien sal word nie.</p> <p>2. <u>Riool</u></p> <p>Die erf gebruik maak van die bestaande rioolaansluiting en dat geen addisionele aansluitings voorsien sal word nie.</p> <p>3. <u>Ander kommentaar</u></p> <p>Die voorgestelde parkeerplekke voorsien word van 'n permanente oppervlakte.</p>	X	



Department: Development Services – Building Control	28 July 2022	1. Building plans be submitted to the Senior Manager: Built Environment for consideration and approval.	X	
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PART I: COMMENTS RECEIVED DURING PUBLIC PARTICIPATION		SUMMARY OF APPLICANT'S REPLY TO COMMENTS	MUNICIPAL ASSESSMENT OF COMMENTS
Johan & Elmarie Jordaan, owners of erf 9240	<p>1. Privacy:</p> <p>Our property is a subdivided erf with Erf 7657 and, therefore, our house and the dwelling on the application property are located very close to each other. The associated constructions on Erf 7657 (double storey) as a result of the physiotherapy practice they want to operate (where the garage is currently located) will directly look onto our private residence.</p> <p>Because the plot is subdivided, it is only a few meters apart and the second floor will look directly into our home's front elevation (front</p>	<p>1. In terms of the Swartland Municipal By-law on Land Use Planning (PG 8226), Erf 7657/RE, Malmesbury, is zoned Residential Zone 1 and currently used for residential purposes for the use of a dwelling unit. The proposed extension will adhere to all development parameters, such as height, coverage, building lines, parking, and floor factor as set out in Schedule 2 of the Swartland Municipal By-law on Land Use Planning (PG 8226). All properties zoned Residential Zone 1 has a primary right to erect a second storey as prescribed in the Swartland Scheme Regulations on the erf with Municipal building plan approval.</p> <p>Application is made in accordance with the Swartland Municipal By-law on Land Use Planning (PG 8226) for the consent use to accommodate a home occupation (physiotherapy</p>	<p>1. The development proposal on erf 7657 complies with all the zoning parameters applicable to the Residential zone 1 zoning.</p> <p>The development of a double storey building which complies with the height restrictions are within the development rights of the property. No detail of compliance with the height restriction has been provided as part of the application. However, compliance be verified at building plan stage.</p> <p>The impact on the privacy on erf 9240 is deemed to be low as the physiotherapy practice has only a toilet window facing towards erf 9240. The proposed garage on ground floor level and the storage space on first floor level are not habitation spaces.</p>

	<p>door/windows to living room/braai room and bedrooms) and will intrude on our right to privacy.</p> <p>2. View:</p> <p>The proposed double storey building as a result of the physiotherapy practice will completely obstruct the only view from our home which we have been used to for the past 17 years and pose a greater safety risk as our home will not be visible at all from the driveway to the home.</p> <p>3. Blocked Access Point:</p> <p>Traffic flow and parking near the entrance to our residence is already a problem due to businesses operating from 62 Bergzicht Street (JOIE Laser Designs) and 60 Bergzicht Street (Markus Koen Bouers).</p> <p>If the practice continues, the problem around parking/access will only get worse because we have a joint entrance due to the services servitude's rain water drainage lids on the pavement and we have already encountered problems every time where cars park in such a way that we cannot access our house.</p> <p>Cars park at in front of our entrance gates (had to wait up to 7 minutes for a car to be moved) and then we have to use the abutting property's (67 Bergzicht Street) entrance of which:</p> <p>1) the owners/visitors park in the driveway;</p>	<p>practice) on Erf 7657, Malmesbury. An area (<math>\pm 49.36\text{m}^2</math>) on the ground floor is proposed to be used for the home occupation, while the area on the first floor will be used as a loft for personal use, as part of the dwelling.</p> <p>2. Refer to Point 1. The owners of Erf 7657/RE, Malmesbury, are allowed to develop their property within the prescribed development parameters as set out in the Swartland Municipal By-law on Land Use Planning (PG 8226). All erven are given the right to develop within the Scheme Regulations, as per the owner of Erf 7657/RE's proposed construction of a second storey.</p> <p>3. The owners of Erf 7657/RE cannot be held responsible for traffic problems caused by other factors/businesses within Bergzicht Street.</p> <p>On-site parking bays will be provided in accordance with Section 13 of the Swartland Municipal By-law on Land Use Planning (PG 8226). 2 bays per dwelling unit are required for dwellings. 2 parking bays will be accommodated within the garage, which will be dedicated to the residents of the dwelling. The proposed home occupation will consist of two staff members, being two physiotherapists. One of the two physiotherapists resides on the property. Both physiotherapists will use the garage parking, which are also dedicated to the dwelling. 4 on-site parking bays will be provided for the home occupation to be used by the patients. Only 1 patient can be accommodated at a physiotherapist at a time. Patients will only be accommodated if an appointment is made beforehand. A maximum of two patients can be accommodated at a time. The 4 parking bays dedicated to the patients of the proposed home occupation is deemed sufficient as the current two patients will have parking bays, as well as the two following patients. Since provision is made for adequate on-site parking bays, it is not foreseen</p>	<p>2. The development proposal complies with all the applicable zoning parameters. Compliance with the height restriction be verified at building plan stage. As erf 7657 will be developed within the development rights of the property, views from erf 9420 are deemed a privilege and not a right.</p> <p>3. The other business which are referred to does not consist of land use approval. Traffic problems created by these businesses are not relevant to this application and will be dealt with separately.</p> <p>The impact of traffic generated by the physio therapist practise is deemed to be low as patients are treated by appointment only. Only 2 patients can be accommodated at a time.</p> <p>2 On-site parking bays for the staff members of the physiotherapy practise (2 physio therapists) is provided in the garage. An additional 4 parking bays are provided for patients. Patients are visited by appointment which implicates that at most 4 vehicles will be on the property at the change of appointments. The provision of on-site parking is deemed sufficient.</p> <p>The access to erf 7657, the pan handle access to erf 9240 and the access to erf 1589 are next to each other. Direct access from the street to erf 9240 are partially obstructed by a stormwater gully. The stormwater gully forms part of a services servitude, which also accommodates electrical services, which runs along the panhandle portion of erf 9240. Access to erf 9240 are obtained over the driveway of erf 7657, the street front in front of the panhandle of erf 9240 (partial access) and the driveway of erf 1589.</p>
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	<p>2) our one vehicle does not have 'Power Steering' which means that I have to make a 130 degree turn with difficulty to get into my own erf.</p>	<p>that the proposed physiotherapy practice will cause any traffic-related problems in Bergzicht Street.</p>	<p>If a vehicle is parked in front of the access gate on the driveway of erf 7657, there are still sufficient access from the street to erf 9240. The access is taken next to the stormwater gully.</p>
	<p>4. Property Value:</p> <p>Our property value will decrease because of an increase in businesses that is operated in a residential area. This leads to traffic and parking problems, a safety risk with more people moving around who don't live here. If we were to put our home on the market, we would not get the market value, because no one would want to buy a home where a business is operating a few meters from their front door.</p>	<p>4. The relevant authority may not restrict the application on grounds of the potential financial implications as specified under Section 59(1)(f) of Chapter VI of The Land Use Planning Act:</p> <p>"a competent authority contemplated in this Act or other relevant authority considering an application before it, may not be impeded or restricted in the exercise of its discretion solely on the ground that the value of land or property will be affected by the outcome of the application."</p> <p>Furthermore, the consent use will be restricted to a home occupation (physiotherapy practice) of <math>\pm 49.36\text{m}^2</math> in extent. With approval of this application, it will not grant the property with business rights. Sufficient parking bays will be provided on-site to accommodate the proposed home occupation, as mentioned in Point 3.</p> <p>The Swartland Spatial Development Framework (SDF) (2019) determines the strategic policy guidelines for future development in the</p>	 <p>4. The property value of erf 9240 increased from the municipal valuations in 2015 to 2019. Home occupations are uses permitted in residential areas due to its low disturbance potential. The proposed physiotherapy practise is no different and is deemed to have a low impact on the residential area.</p> <p>It is not foreseen that the property values of surrounding properties to erf 7657 will be impacted on negatively.</p> <p>The comments from the applicant is supported.</p>

		<p>Swartland region and in this case, in Malmesbury. With regard to the land use proposals applicable to Malmesbury, Erf 7657/RE is located in Zone C, which has a mixed land use character consisting of low and medium residential uses and also supporting social functions, such as crèches, schools, hostels, and a hospital. Densification and mixed uses are allowed for in transition areas next to the commercial and industrial areas and along activity streets. Erf 7657/RE is situated in close proximity (<math>\pm 135\text{m}</math>) to an activity street (Lowry Cole Street), which provides the ideal opportunity for a home occupation to take place, due to its accessibility.</p> <p>The proposed home occupation will be a low intensity secondary business use in a residential area of Malmesbury. The proposed development will not negatively impact the surrounding residential environment, mainly due to its small scale. The main component of the subject property will remain a residential use, being a single dwelling unit. The Swartland SDF (2019) supports the development of home occupations in residential areas of Malmesbury.</p>	
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## PART J: MUNICIPAL PLANNING EVALUATION

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

Application for the removal of restrictive title conditions on Erf 7657, Malmesbury, in terms of section 25(2)(f) of Swartland Municipality : Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020) is made. It is proposed that the condition C(c) of Deed of Transfer T51239/2019 be removed from the relevant deed. The purpose of the removal is to remove restriction regarding the use of the premises only for residential purposes.

Application for consent use for a home occupation on Erf 7657, Malmesbury, in terms of section 25(2)(o) of Swartland Municipality : Municipal Land Use Planning By-law (PG 8226 of 25 March 2020) is made. The proposal entails that the home occupation (physiotherapist practice) will be operated from a portion (49,36m<sup>2</sup> in extent) of the premises.

A total of 24 registered notices were issued to affected parties, of which 17 of the same notices were also sent via e-mail. No notices were returned uncollected. 1 Objection was received.

The objection received was referred to the applicant for comment on 5 September 2022 and the response to objections were provided to the Municipality on 14 September 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: Home occupations are uses that are accommodated in a residential area due to its low disturbance potential. The Swartland Planning By-law specifically makes provision for a home occupation as a consent use under the Residential zone 1 zoning.
- b) Spatial Sustainability: The proposed home occupation is deemed to be consistent with the spatial planning of Malmesbury.
- c) Efficiency: The proposed home occupation will make use of the existing services connections and no additional services will be required which will promote the optimal utilisation of services on the property.
- d) Good Administration: The application and public participation was administrated by Swartland Municipality and public and departmental comments obtained.
- e) Spatial Resilience: Not addressed.

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 application property is situated in Zone C in terms of the spatial proposals for Malmesbury as contained in the SDF. Zone C has a mixed land use character consisting of low and medium density residential uses and also supporting functions like crèches, schools, hostels and a hospital. Intensification and mixed uses are allowed for in the transition areas next to the commercial and industrial areas and along the activity streets. Home occupations are specifically consistent with the character of the zone, as such a development will not alter the residential zoning of the property. The proposed use is consistent with the spatial planning of Malmesbury.

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

Erf 7657 is zoned Residential zone 1. The Residential zone 1 zoning makes provision for a home occupation as a consent use.

The proposed new structure in which the home occupation will be accommodated complies with all the zoning parameters of the Residential zone 1 zoning. Furthermore, the proposed home occupation complies with all the provisions of the Swartland Planning By-law.

#### 2.3 Desirability of the proposed utilisation

Erf 7657, Malmesbury is zoned Residential zone 1 and is developed with a dwelling house and outbuilding (garage). The existing garage will partially be demolished, and a new building will be erected which will accommodate the physiotherapy practise and garage on ground floor level and a storage space on first floor level. There are no physical restrictions on the property that will have a negative impact on the application.

Surrounding land uses are single residential which consist of dwelling houses. There are also unauthorised businesses (for example JOIE Lazer Designs) operated in Bergzicht Street. The impact of the proposed home occupation on the residential area is deemed low and will not have a negative impact on the character of the area.

The proposed home occupation is deemed to be in compliance with the spatial planning of Malmesbury.

The proposed building work in which the home occupation will be accommodated complies with all applicable zoning parameters and the home occupation itself complies with all the provisions applicable to a home occupation. The proposed building's compliance with the height restrictions will be verified at building plan stage.

The impact on the privacy on erf 9240 is deemed to be low as the physiotherapy practice has only a toilet window facing towards erf 9240. The proposed garage on ground floor level and the storage space on first floor level are not habitual spaces.

Views from erf 9240 will be obstructed by the proposed new building. In this case views are deemed a privilege and not a right as the erf 7657 is developed with a building which complies with all applicable zoning parameters.

The impact of traffic generated by the proposed home occupation is deemed to be low and sufficient on-site parking is provided.

Even though access from the street to erf 9240 are partially obstructed by a stormwater gully (services servitude), sufficient access is provided to erven 7657, 9240 and 1589.

Home occupations are uses that can be permitted in residential areas due to its low disturbance potential. The proposed physiotherapy practise is no different and is deemed to have a low impact on the residential area and it not foreseen to have a negative impact on property values of the area.

There are 1 title deed restriction which impacts on the application which is addressed at Part K.

Erf 7657 has no heritage grading according to the Swartland Heritage Register.

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

Existing service connections will be used which is deemed sufficient to accommodate the proposed home occupation.

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

### **The financial or other value of the rights**

The restrictive conditions were imposed in favour of the neighbourhood and no person or entity is foreseen to profit financially from the removal.

The conditions were imposed during a time when land use management measures were lacking at a municipal level and land use was largely governed by title deed restrictions.

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

The restrictive conditions were imposed in favour of the larger development/township establishment. The personal benefit for the applicant will be to operate a home occupation (physiotherapy practise) from the property.

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

The proposed removal will not entail social benefits.

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

Only the restrictions pertaining to land use management and that can be regulated by means of the By-Law, are proposed for removal.

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

**A.** The application for the removal of restrictive condition C(c) of Deed of Transfer T51239/2019, registered against Erf 7657, Malmesbury, is hereby approved in terms of section 70 of the By-Law.

The following process needs to be followed:

- (a) The applicant/owner applies to the Deeds Office to amend the title deed in order to reflect the removal of the restrictive conditions;
- (b) 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;
- (c) A copy of the amended title deed be provided to Swartland Municipality for record purposes, prior to final consideration of building plans;

**B.** The application for a consent use on Erf 7657, Malmesbury, is hereby approved in terms of section 70 of the By-Law, subject to the following conditions:

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

- a) The consent use authorises a home occupation (physiotherapy practice), restricted to 49,36m<sup>2</sup>, as presented in the application;
- b) Building plans be submitted to the Senior Manager: Built Environment for consideration and approval;
- c) No advertising sign shall be displayed other than a single un-illuminated sign or notice not projecting over a street, and such sign shall not exceed 2m<sup>2</sup> in area and shall indicate only the name, telephone number and profession or occupation of the occupant;
- d) No more than four persons in total may be engaged in home occupation activities on a land unit, including the occupant or occupants and any assistants;
- e) On-site parking needs to be provided as follows: 2 parking bays for the physiotherapists inside the garage and 4 parking bays for clients;
- f) The hours of operation shall not extend beyond the hours of 07h30 to 17h30;

### **2. WATER**

- a) The existing water connection be used and that no additional connections will be provided;

### **3. SEWERAGE**

- a) The existing sewerage connection be used and that no additional connection will be provided;

### **4. STREETS**

- a) On-site parking be provided with a permanent dust free surface being tar, concrete or paving or a material pre-approved by Swartland Municipality and that the parking bays are clearly marked;

## **C. GENERAL**

- a) The approval is in terms of section 76(2)(w) of the By-Law valid for a period of 5 years. All conditions of approval be complied with before an occupancy certificate be issued and that failing to do so will result in the lapsing of this approval;
- b) In terms of Chapter VII, Section 89 of the Swartland Municipality By-law relating Municipal Land Use Planning (PG 8226 of 25 March 2020), affected parties have a right to appeal the abovementioned decision within 21 days of date of registration of this letter to the appeal authority of the Swartland Municipality against Council's decision.

Should affected parties decide to appeal, you can write to the following address:

The Municipal Manager, Swartland Municipality, Private Bag X52, Malmesbury, 7299

Please note that an appeal fee of R4500-00 is payable should you wish to appeal the decision. The appeal must be accompanied by the proof of payment and only then will the appeal be regarded as valid.

#### PART M: REASONS FOR RECOMMENDATION

1. The home occupation is in compliance with the spatial planning of Malmesbury.
2. The home occupation complies with the principles of LUPA and SPLUMA.
3. The home occupation practices have a low impact on the character of the surrounding area.
4. The impact of additional traffic to and from the property as a result of the home occupation is deemed to be low.
5. The development proposal of the new building to comply with all the applicable zoning parameters.
6. The home occupation to comply with all the provision of a home occupation as determined by the Swartland Planning By-law.
7. Views from erf 9240 are deemed a privilege and not a right.
8. The impact of the home occupation on the privacy of erf 9240 is deemed to be very low.
9. The home occupation is deemed not to have a negative effect on property values of surrounding properties.
10. The removal of the relevant restrictive condition will enable home occupation on the property as provided for by the land use rights applicable to the property.
11. The removal of the relevant restrictive condition will not impact negatively or disadvantage surrounding/affected owners.


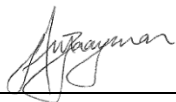
#### PART N: ANNEXURES

Annexure A: Locality plan  
 Annexure B: Site development plan  
 Annexure C: Public participation plan  
 Annexure D: Objection from Johan & Elmarie Jordaan  
 Annexure E: Comments from the applicant on the objections  
 Annexure F: Title deed of erf 7657, Malmesbury  
 Annexure G : Photos

#### PART O: APPLICANT DETAILS

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

#### PART P: SIGNATURES

<b>Author details:</b> AJ Burger Senior Town & Regional Planner SACPLAN: B/8429/2020			Date: <b>26 September 2022</b>	
Recommendation: Alwyn Zaayman Senior Manager: Built Environment SACPLAN: B/8001/2001	Recommended	✓	Not recommended	
			Date: <b>5 October 2022</b>	





Proposed removal of restrictions and  
consent use

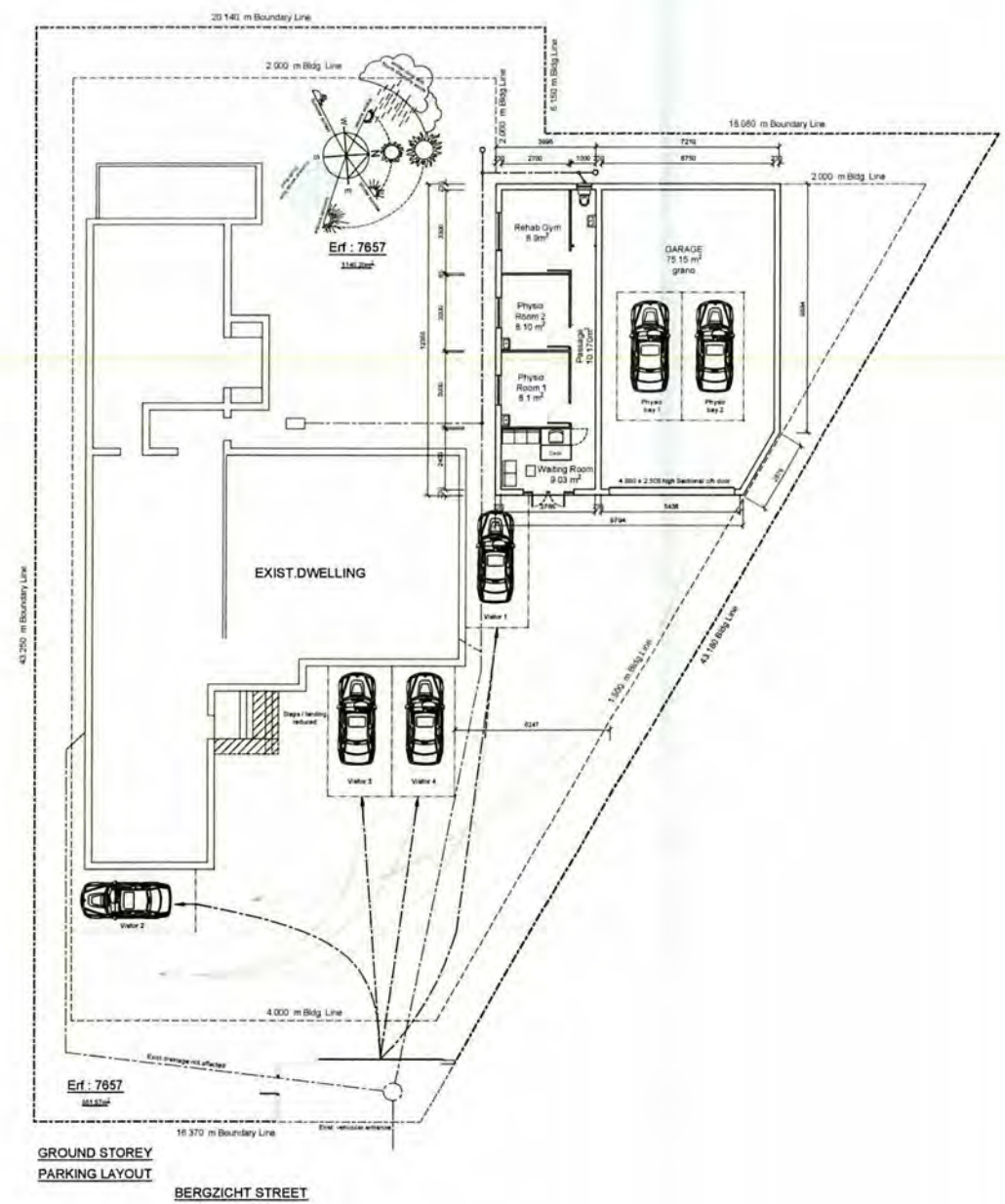
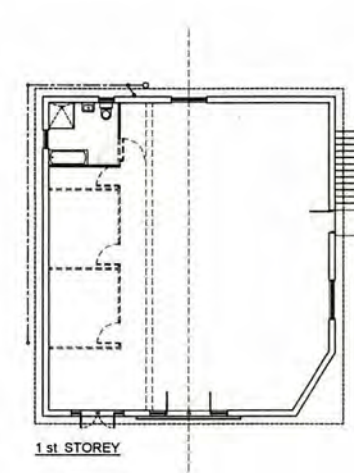
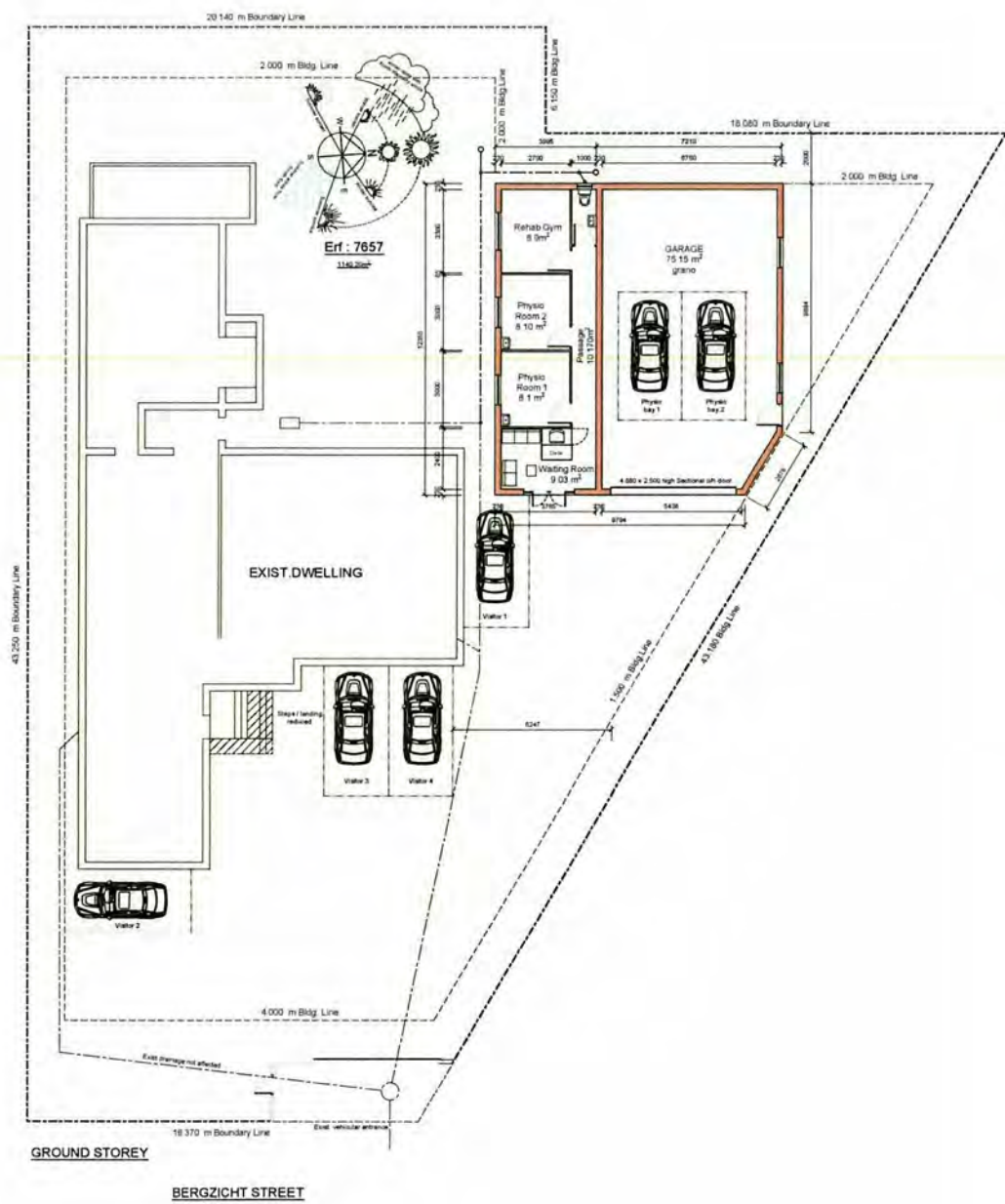
Erf 7657, Malmesbury

Locality plan

Scale : N/A







**GENERAL NOTES:**

All work to be carried out in strict accordance with local authority regulations & by-laws. Contractor must check all levels & dimensions on site before the commencement of any work. Any such discrepancy resulting in errors in levels or dimensions will be the responsibility of the contractor. Offshore dimensions should be used in preference to bearing the dimensions. All work to be carried out in strict accordance with the drawings. Change correction point & level to be verified by the planning contractor before commencement of any work.

**SPECIFICATIONS:**

Any part of building to project over boundary lines. All interior walls to be smooth plastered and painted. Exterior walls to be smooth plastered and painted to clients spec.

**FOUNDATIONS:**

750x225mm mass concrete strip footings to external & load bearing walls & 600x225mm mid slab thickening to all walls. No footings to protrude over boundary line.

**FLOORS:**

Four finish to clients spec, on 25mm cast spread on 75mm thick sub-slab to be bearing on 200mm DPM on 20mm sand bedding on min 150mm wet and well compacted subgrade.

**WALLS:**

All brickwork to be 80-90mm cement bricks 225mm thick, internal skin. Slown cover cavity with 25 battens for air gap. 250mm deep DPC to min 10mm wide widge holes of max 800mm cut. PFL min 100mm above H.G.L. Vertical walls to be finished with 250mm plastic. PFL line obtained online and to manufacturers spec. over brickwork openings with min 4 courses gain brick face over. Walls painted throughout.

**CEILING:**

6mm Diamond Dignum Rhino board & all 30mm closed cornice. Fixed to manufacturer's spec.

**WINDOWS & GLAZING:**

All windows & doors to be Aluminium to owners specification. Natural light to each habitable room to be min 10% of floor area and natural ventilation min 1% of floor area. Windows min 800mm from floor throughout, except for bathroom windows with obscure glass & doors & windows larger than 1m high or less than 100mm above H.G.L. to be safety glass.

**RAINFALL GOODS:**

125x150 Type profile stainless gutter with 75mm downpipes. All water to discharge into storm water pipes.

REVISIONS			
Date	Revision No.	Issued By	Drawn By

Checked by: Kevin Sampson

Drawn: \_\_\_\_\_

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)

Designed by: Kevin Sampson  
 kevin@alterplan.co.za  
 Cell: 083 590 7676  
 Checked by: Kevin Sampson  
 SACAP Reg. No. D0736

Project: **Proposed New Physio centre  
 Garages and 2nd Dwelling.**

Client: **Mr. & Mrs. M.Bierman**  
 Address: **65 Bergzicht Street  
 Malmesbury**  
 Erf: **7657**

Dwg. No: **P 2022 - 1103** Scale: **1:100 @ A0**

Date: **12.07.2022** Page: **1 of 1** Rev: \_\_\_\_\_

Annexure B

# Liggingsplan

## Annexure C

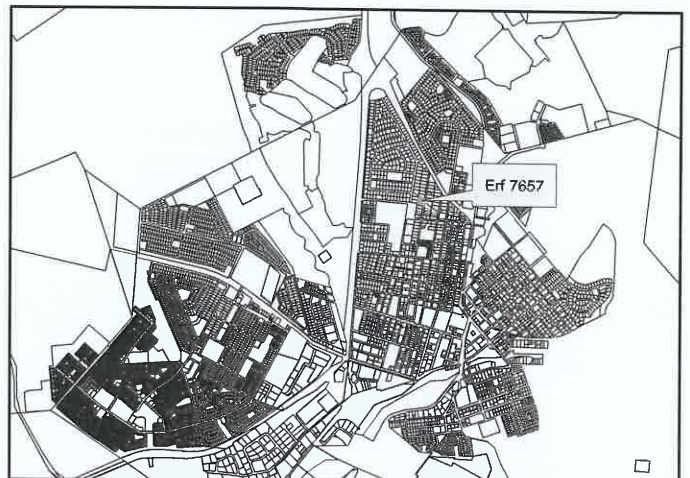


Voorgestelde opheffing van beperkings en vergunningsgebruik

Erf 7657, Malmesbury

Publieke deelname

Skaal: NVT





28/08/2022  
J & E Jordaan  
Bergzichtstraat 65B  
Malmesbury, 7300  
Sel: 0832740637/0662142888  
Email: [elmarie@myfg.co.za](mailto:elmarie@myfg.co.za)

Die Munisipale Bestuurder

**RE: Verwysingsnommer 15/3/5-8/Erf\_7657**

**15/3/10-8/Erf\_7657**

Hiermee teken ons beswaar aan teen die voorgestelde aansoek om fisioterapeut praktyk te bedryf/besigheids regte op die perseel geleë te Bergzichtstraat 65, Malmesbury.

Soos u kan sien is ons adres (Bergzichtstraat 65B) – Erf 9240 wat beteken ons is 'n onderverdeelde erf met die aansoeker en is ons huise baie na aan mekaar geleë.

Die gepaardgaande gebouery op perseel (dubbel verdieping) as gevolg van die praktyk wat hulle wil bedryf (waar garage tans geleë is) gaan direk inkyk op ons privaat woning. Omdat die erf onderverdeel is, is dit slegs 'n paar meter uitmekaar en die 2de verdieping sal direk inkyk op ons woning se voorkant (voor deur/vensters na leef vertrek/braaikamer en slaap kamers) en sal inbraak maak op ons reg tot privaatheid.

Die dubbel verdieping gepaardgaande bouery agv praktyk gaan die enigste uistig vanaf ons woning heeltemal belemmer waaraan ons die afgelope 17 jaar gewoond is en 'n groter veiligheids risiko inhou aangesien ons woning glad nie sigbaar gaan wees vanaf die oprit na woning nie.

Verkeers vloei en parkering naby ons ingang tot woning is reeds 'n probleem agv besighede wat bedryf word vanaf Bergzicht straat 62 (JOEI) en Bergzicht straat 60 (Markus Koen Bouers). Indien die praktyk voortgaan sal die probleem rondom parkering/toegang net erger word omdat ons 'n gesamentlike ingang het agv dienste serwituut se reen water drein deksels op die sypaadjie en ons reeds telke male probleme ondervind het waar motors so parkeer dat ons nie toegang kan kry tot ons woning nie. Motors parkeer by Bergzicht straat 65 / voor ons ingang hekke (moes al tot 7 minute wag vir motor om geskuif te word) en dan moet ons gebruik maak van Bergzicht straat 67 se ingang waarvan: 1) die eienaars / besoekers in die inry parkeer wat beteken ons het geen toegang tot ons woning nie, 2) ons een voertuig beskik nie oor 'Power Steering' nie wat beteken dat ek met moeite 'n 130 grade draai moet maak om by my eie erf in te kom.

Ons eiendoms waarde gaan afneem omdat die Residensiële gebied al hoe meer besighede bedryf en dit lei tot meer verkeer, parkeer probleme, veiligheids risiko met meer vreemde mense wat in buurt rondbeweeg wat nie hier woon nie. Indien ons woning in die mark sou sit sal ons nie die mark waarde kry nie want niemand sal 'n woning wil koop waar 'n besigheid bedryf word 'n paar meter vanaf hulle voor deur nie.

Ons versoek dus dat die aansoek om Praktyk te bedryf afgekeur word agv bogenoemde redes gelys.

U is welkom om ons te kontak vir enige verder informasie by [elmarie@myfg.co.za](mailto:elmarie@myfg.co.za)

By voorbaat dank



Johan en Elmarie Jordaan

# CK RUMBOLL & VENNOTE / PARTNERS



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

DATE: 14 September 2022

OUR REF: MAL/12613/ZN/MV

YOUR REF: 15/3/5-8/Erf\_7657

15/3/10-8/Erf\_7657

## BY HAND

Attention: Mr A. Zaayman  
The Municipal Manager  
Swartland Municipality  
Private Bag X52  
MALMESBURY  
7300

MUNICIPALITEIT SWARTLAND				
15/3/5-8/Erf_7657	Inligting	Verslag	Afkeuring	Kom/Taar
SSSB				
cc Del				
15/3/10-8/Erf_7657				
(get)BK				

Mr,

Comments on Objections

## PROPOSED REMOVAL OF RESTRICTIVE TITLE CONDITION AND CONSENT USE ON ERF 7657/RE, MALMESBURY

### 1. Introduction

Your letter dated 5 September 2022 refers.

CK Rumboll and Partners have been appointed by Jeremia Jesaja Bierman and Melinda Bierman, owners of Erf 7657/RE, Malmesbury, to attend to all town planning actions to operate a home occupation (physiotherapy practice) on the mentioned property. The application included the removal of a restrictive title deed condition and a consent use.

During the public participation period, objections were received from the following surrounding neighbour:

A. Johan and Elmarie Jordaan (Erf 9420)

The following figure illustrates the location of the objectors' property in relation to Erf 7657/RE, Malmesbury.



### VENNOTE / PARTNERS:

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

ADDRESS/ ADRES: [planning1@rumboll.co.za](mailto:planning1@rumboll.co.za) / PO Box 211 / Rainierstr 16, Malmesbury, 7299  
MALMESBURY (T) 022 482 1845 (F) 022 487 1661



Figure 1: Locality Map

## 2. Comments on objections

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



Table 1: Comments on Objections

Objectors	Objections	Comments from CK Rumboll & Partners
A	<p><b>1. Privacy:</b></p> <p>Our property is a subdivided erf with Erf 7657 and, therefore, our house and the dwelling on the application property are located very close to each other. The associated constructions on Erf 7657 (double storey) as a result of the physiotherapy practice they want to operate (where the garage is currently located) will directly look onto our private residence.</p> <p>Because the plot is subdivided, it is only a few meters apart and the second floor will look directly into our home's front elevation (front door/windows to living room/braai room and bedrooms) and will intrude on our right to privacy.</p>	<p>1. In terms of the <i>Swartland Municipal By-law on Land Use Planning (PG 8226)</i>, Erf 7657/RE, Malmesbury, is zoned Residential Zone 1 and currently used for residential purposes for the use of a dwelling unit. The proposed extension will adhere to all development parameters, such as height, coverage, building lines, parking, and floor factor as set out in Schedule 2 of the <i>Swartland Municipal By-law on Land Use Planning (PG 8226)</i>. All properties zoned Residential Zone 1 has a primary right to erect a second storey as prescribed in the Swartland Scheme Regulations on the erf with Municipal building plan approval.</p> <p>Application is made in accordance with the <i>Swartland Municipal By-law on Land Use Planning (PG 8226)</i> for the consent use to accommodate a home occupation (physiotherapy practice) on Erf 7657, Malmesbury. An area (<math>\pm 49.36\text{m}^2</math>) on the <u>ground floor</u> is proposed to be used for the home occupation, while the area on the first floor will be used as a loft for personal use, as part of the dwelling. The Site Development Plan is attached as <b>Annexure A</b>.</p>
A	<p><b>2. View:</b></p> <p>The proposed double storey building as a result of the physiotherapy practice will completely obstruct the only view from our home which we have been used to for the past 17 years and pose a greater safety risk as our home will not be visible at all from the driveway to the home.</p>	<p>2. Refer to Point 1. The owners of Erf 7657/RE, Malmesbury, are allowed to develop their property within the prescribed development parameters as set out in the <i>Swartland Municipal By-law on Land Use Planning (PG 8226)</i>. All erven are given the right to develop within the Scheme Regulations, as per the owner of Erf 7657/RE's proposed construction of a second storey.</p>

VENNOTE / PARTNERS:

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

A	<p><b>3. <u>Blocked Access Point:</u></b></p> <p>Traffic flow and parking near the entrance to our residence is already a problem due to businesses operating from 62 Bergzicht Street (JOIE Laser Designs) and 60 Bergzicht Street (Markus Koen Bouers).</p> <p>If the practice continues, the problem around parking/access will only get worse because we have a joint entrance due to the services servitude's rain water drainage lids on the pavement and we have already encountered problems every time where cars park in such a way that we cannot access our house.</p> <p>Cars park at in front of our entrance gates (had to wait up to 7 minutes for a car to be moved) and then we have to use the abutting property's (67 Bergzicht Street) entrance of which:</p> <ol style="list-style-type: none"> <li>1) the owners/visitors park in the driveway;</li> <li>2) our one vehicle does not have 'Power Steering' which means that I have to make a 130 degree turn with difficulty to get into my own erf.</li> </ol>	<p>3. The owners of Erf 7657/RE cannot be held responsible for traffic problems caused by other factors/businesses within Bergzicht Street.</p> <p>On-site parking bays will be provided in accordance with Section 13 of the <i>Swartland Municipal By-law on Land Use Planning (PG 8226)</i>. 2 bays per dwelling unit are required for dwellings. 2 parking bays will be accommodated within the garage, which will be dedicated to the residents of the dwelling. The proposed home occupation will consist of two staff members, being two physiotherapists. One of the two physiotherapists resides on the property. Both physiotherapists will use the garage parking, which are also dedicated to the dwelling. 4 on-site parking bays will be provided for the home occupation to be used by the patients. Only 1 patient can be accommodated at a physiotherapist at a time. Patients will only be accommodated if an appointment is made beforehand. A maximum of two patients can be accommodated at a time. The 4 parking bays dedicated to the patients of the proposed home occupation is deemed sufficient as the current two patients will have parking bays, as well as the two following patients. Since provision is made for adequate on-site parking bays, it is not foreseen that the proposed physiotherapy practice will cause any traffic-related problems in Bergzicht Street.</p>
A	<p><b>4. <u>Property Value:</u></b></p> <p>Our property value will decrease because of an increase in businesses that is operated in a residential area. This leads to traffic and parking</p>	<p>4. The relevant authority may not restrict the application on grounds of the potential financial implications as specified under <i>Section 59(1)(f) of Chapter VI of The Land Use Planning Act</i>:  <i>"a competent authority contemplated in this Act or other relevant"</i></p>

	<p>problems, a safety risk with more people moving around who don't live here. If we were to put our home on the market, we would not get the market value, because no one would want to buy a home where a business is operating a few meters from their front door.</p>	<p><i>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>Furthermore, the consent use will be restricted to a home occupation (physiotherapy practice) of ±49.36m<sup>2</sup> in extent. With approval of this application, it will not grant the property with business rights. Sufficient parking bays will be provided on-site to accommodate the proposed home occupation, as mentioned in Point 3.</p> <p>The <i>Swartland Spatial Development Framework (SDF) (2019)</i> determines the strategic policy guidelines for future development in the Swartland region and in this case, in Malmesbury. With regard to the land use proposals applicable to Malmesbury, Erf 7657/RE is located in Zone C, which has a mixed land use character consisting of low and medium residential uses and also supporting social functions, such as crèches, schools, hostels, and a hospital. Densification and mixed uses are allowed for in transition areas next to the commercial and industrial areas and along activity streets. Erf 7657/RE is situated in close proximity (±135m) to an activity street (Lowry Cole Street), which provides the ideal opportunity for a home occupation to take place, due to its accessibility.</p> <p>The proposed home occupation will be a low intensity secondary business use in a residential area of Malmesbury. The proposed development will not negatively impact the surrounding residential environment, mainly due to its small scale. The main</p>
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		<p>component of the subject property will remain a residential use, being a single dwelling unit. The <i>Swartland SDF (2019)</i> supports the development of home occupations in residential areas of Malmesbury.</p>
--	--	--

### 3. Conclusion

Considering the above, it is evident that the proposed development will not have a significant impact on the surrounding properties, or built environment, seeing that the *Swartland Municipal Land Use Planning By-law (PG 8226)* and *Swartland Spatial Development Framework (2019)* are sufficient to coordinate development within the Swartland Municipal area. This office is of opinion that the proposed development on Erf 7657, Malmesbury, will not have a negative impact on surrounding properties, but rather maximize the development potential of Erf 7657/RE and contribute to economic growth in Malmesbury by, amongst others, providing new job opportunities in Malmesbury.

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

Kind regards



Zanelle Nortje / Mandri Viljoen  
For CK RUMBOLL & PARTNERS



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**Annexure A**  
Site Development Plan





A. VIR AKTEBESORGER SE GEBRUIK / FOR CONVEYANCER'S USE:																																													
(a) Gelyktydiges met ander registrasiekantore / deeltitels: Simult with other registries / sectional titles:																																													
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(b) Klient afskrifte van aktes permanent in Aktekantoor gelasseer: Client copies of deeds filed permanently in Deeds Office:																																													
Aard en nommer van akte / Nature and number of deed		Cover No. / Omslag Nr.	Parawe van ondersoeker Initials of Examiners																																										
(c) Notas / Notes:																																													
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Deeds Reg A/C No:  
CTN.  
**153**  
Akte Kant. Nr.

**VISAGIE VOS.**

TELEPHONE : 021 591 9221

EXECUTION/  
UITVOERING

Ref No / Verw. Nr. **18-11-2019**

A. VIR AKTEKANTOOR GEBRUIK / FOR DEEDS OFFICE USE:

Datum van indiening / Date of lodgement



25 NOV 2019

RATES CLEARANCE CERTIFICATE  
EXPIRES 28.12.2019

Onsersokers / Examiners	Komers Rooms	Skakeling / Linking	Reject Verwerp	Passer Pass
1 M.FABRIK	134	2	1	
2 J.J. WILLIAMS	127			
3				

B. VIR AKTEKANTOOR GEBRUIK / FOR CONVEYANCER'S USE:

Aard van Akte / Nature of Deed Transport

A.L. Barnard

f.g.v./i.f.o. JJ & M Bierman

T000051239/2019

Skakeling / Linking	Titelaakte / Title deeds within
2	T 2940 / 2008

GELYKTYDIGES / SIMULS

No. in stel batch	Kode / Code	Name van Partye / Names of Parties	Naam van Firma / Name of Firm	Firma Firm No.
1	T	Barnard / Bierman	visagievos	153
2	B	Bierman / FNB	HARTEBESORGER FOR EXECUTION	11
3			28 NOV 2019	
4			CAPE TOWN	
5			HANDED IN FOR EXECUTION	
6				
7				
8				
9				
10				
11				
12				

EXAMINER'S NOTES



Registrasie versoek deur /  
Registration requested by:

Datum /  
Date:

[Kort beskrywing van eiendom (slegs para 1 in Akte) / Brief description of property (merely para 1 in Deed)]

RESTANT Erf 7657 Malmesbury

Annexure F


① Amend title ref. in PA & initial.  
M. FABRIK  
25/11/2014  
done.



153

Visagie Vos & Partners  
181 Vasco Boulevard  
Goodwood  
7460

Prepared by me

  
CONVEYANCER  
DAVID ERASMUS ROUX  
WERNER GREEFF

Deeds Office Registration fees as per Act 47 of 1937		
	Amount	Office Fee
Purchase Price	R. 1 900 000,00	R. 1 146,00
Reason for exemption	Category Exemption	Exemption No. Sec/Reg Act/Proc.

CAPTURE  
03-12-2019  
YOLANDI OLIVIER

<b>VERBIND MORTGAGED</b>	
R. 1 740 000,00	
<b>B</b> 000027430 / 2019	
29 NOV 2019	REGISTRAR STRAAT

T000051239 / 2019

## DEED OF TRANSFER

BE IT HEREBY MADE KNOWN THAT

~~DAVID ERASMUS ROUX~~ PETRUS JOHANNES CILLIE


appeared before me, REGISTRAR OF DEEDS at CAPE TOWN, the said appearer being duly authorised thereto by a Power of Attorney granted to him/her by

ADA LAMARQUE BARNARD  
Identity Number 800328 0233 087  
Married out of community of property

which said Power of Attorney was signed at Malmesbury on 23 October 2019

DATA / VERIFY  
03-12-2019  
FATGEYAH LARNEY

lexis® Convey 17.1.14.6

  
EX OFFICIO: COMMISSIONER OF OATHS (RSA)  
DEON CRAFFORD  
ATTORNEY RSA  
KWV BUILDING, La CONCORDE  
57 MAIN ROAD, PAARL, 7646

CERTIFIED TRUE COPY  
-100% OF THE ORIGINAL



And the appearer declared that his/her said principal had, on 12 September 2019, truly and legally sold by Private Treaty, and that he/she, the said Appearer, in his/her capacity aforesaid, did, by virtue of these presents, cede and transfer to and on behalf of:

1. **JEREMIA JESAJA BIERMAN**  
Identity Number 850707 5143 087  
Married out of community of property
2. **MELINDA BIERMAN**  
Identity Number 880104 0024 088  
Married out of community of property

their Heirs, Executors, Administrators or Assigns, in full and free property

REMAINDER ERF 7657 MALMESBURY SITUATE IN THE SWARTLAND  
MUNICIPALITY  
DIVISION MALMESBURY  
PROVINCE OF THE WESTERN CAPE


IN EXTENT 1142 (ONE THOUSAND ONE HUNDRED AND FORTY TWO)  
Square metres

FIRST REGISTERED by Certificate of Consolidated Title Number  
T42549/2003 with a Diagram LG Number 698/2001 relating thereto and HELD  
by Deed of Transfer Number T29407/2008

A. **SUBJECT** to the conditions as contained in Deed of Transfer Number  
T13568/1954.

B. **SUBJECT FURTHER** to the following conditions as contained in Deed of Grant  
dated 23 April 1918 (Malmesbury Ground Lease Volume 4 nr 6) namely:-

- "2. That all roads and thoroughfares over the land, whether or not  
described in the plan or diagram thereof, shall remain free and  
uninterrupted unless closed, diverted, or altered by competent authority.
4. That the land shall be subject to all rights and servitudes which now  
affect or at any time hereafter may be bound to affect the title of the land  
hereby granted or which may be binding on the Government in respect  
of the said land as at the state hereof."

  
**EX OFFICIO: COMMISSIONER OF OATHS (RSA)**  
**DEON CRAFFORD**  
**ATTORNEY RSA**  
**KWV BUILDING, La CONCORDE**  
**57 MAIN ROAD, PAARL, 7646**


  
Lexis® Convey 17.1.14.6

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- C. **SUBJECT FURTHER** and **ENTITLED** to the conditions of, as the case may be, the following special conditions contained in Deed of Transfer Number T13568/1954; imposed by the Administrator of the Cape of Good Hope (provided that if the Administrator, after consultation with the Village committees and the local authority consider it advisable that the restriction in such condition should at any time be suspended or mitigated if he can approve the necessary suspension or mitigation subject to such conditions as he may impose) namely:

"Alle woorde en uitdrukkings wat in die volgende voorwaardes gebesig word het dieselfde betekenis as wat daaraan geheg word in die regulasies afgekondig by kennisgewing van die Provinsiale Administrasie No. 401 van 17 Oktober 1935, en in die memorandum wat genoemde regulasies vergesel het.


- (a) Hierdie erf mag slegs vir bewoningsdoeleindes gebruik word;
  - (b) Net een woning, tesame met die nodige buitegeboue, mag op hierdie erf opgerig word;
  - (c) Op nie meer as een helfde van die oppervlakte van hierdie erf mag gebou word nie;
  - (d) Die eienaar van hierdie erf is verplig om sonder betaling van vergoeding toe te laat dat die rioolvuil en dreinerings insluitende reënwater van enige ander erf of erwe oor hierdie erf gevoer word indien dit deur die plaaslike owerheid nodig geag word en wel op die wyse en plek wat van tyd tot tyd redelikerwys vereis word. Dit sal die reg op toegang te alle redelike tye tot die eiendom insluit met die doel om riole, mangate, vore, waterleidings en ander werke behorende daartoe te bou, onderhou, verander, verwyder of te inspekteer.
  - (e) Die eienaar van hierdie erf is verplig om sonder vergoeding op die erf die materiaal te ontvang of uitgrawings op die erf toe te laat al na vereis word sodat die volle wydte van die straat genruik kan word en die wal veilig en behoorlik afgeskuins kan word omrede van die verskil tussen die hoogtes van die straat soos finaal aangelê en die erf, tensy hy verkies om steunmure te bou ten genoë van die plaaslike owerheid en binne 'n tydperk wat die plaaslike owerheid bepaal."
- D. **SUBJECT FURTHER** to the following conditions contained in Deed of Transfer Number T13568/1954 and the provisions imposed by the Municipality for its benefit and the benefit as their successors in title namely:
- (i) Die koper of sy opvolgers in regte sal nie geregtig wees om die erf wat hy aangekoop het aan 'n ander persoon te verkoop tensy of alvorens die erf aan die Munisipaliteit van Malmesbury vir aankoop aangebied word teen dieselfde koopprys naamlik R120,00 min oordragkoste wat die Munisipaliteit sal moet betaal in hierdie verband.
  - (j) Die Munisipaliteit van Malmesbury besit die reg om die koper mag te verleen om die erf aan 'n ander persoon te verkoop op voorwaardes dat hierdie nuwe eienaar onderworpe sal wees aan hierdie voorwaardes soos die geval was met die koper of sy opvolgers in regte.

  
EX OFFICIO: COMMISSIONER OF OATHS (RSA)  
DEON CRAFFORD  
ATTORNEY RSA  
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- (k) Die koper of sy opvolgers in regte moet binne 'n tydperk van agtien maande gereken vanaf datum van oordrag 'n woning soos omskrywe in Kennisgewing van die Provinsiale Administrasie No 401 van 17 Oktober 1935, opsig tot 'n waarde van 'n Munisipale waardering van minstens R2500.00 en indien sodanige woonhuis opgerig is en daarna gedeeltelik of geheel en al vernietig word, moet dit binne 'n tydperk van twee jaar, bereken vanaf datum van vernietiging, herstel word of opnuut opgerig word na gelang van die geval sodat dit aan bogemelde vereistes voldoen.
- (l) Indien sodanige woonhuis nie soos gemeld, opgerig word of herstel of heropgerig word nie, moet die erf terug aan die Munisipaliteit deur die koper of sy opvolger in regte oorgedra word teen dieselfde koopprijs wat daarvoor betaal is, naamlik R120.00 min oordragkoste wat die Munisipaliteit Raad van Malmesbury sal moet aangaan in verband met die teruggawe van hierdie erf."

  
EX OFFICIO: COMMISSIONER OF OATHS (RSA)  
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WHEREFORE the said Appearer, renouncing all rights and title which the said

**ADA LAMARQUE BARNARD, Married as aforesaid**

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

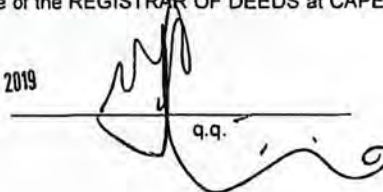
1. **JEREMIA JESAJA BIERMAN, Married as aforesaid**
2. **MELINDA BIERMAN, Married as aforesaid**

their Heirs, Executors, Administrators or Assigns, now are and henceforth shall be entitled thereto, conformably to local custom, the State, however reserving its rights, and finally acknowledging the purchase price to be the sum of R1 900 000,00 (ONE MILLION NINE HUNDRED THOUSAND RAND) .


IN WITNESS WHEREOF, I the said Registrar, together with the Appearer, have subscribed to these presents, and have caused the Seal of Office to be affixed thereto.


THUS DONE and EXECUTED at the Office of the REGISTRAR OF DEEDS at CAPE TOWN on

29 NOV 2019


  
q.q.

In my presence

  
REGISTRAR OF DEEDS

  
EX OFFICIO: COMMISSIONER OF OATHS (RSA)  
DEON CRAFFORD  
ATTORNEY RSA  
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153

Visagie Vos & Partners  
181 Vasco Boulevard  
Goodwood  
7460

Y 1-60  
①

Prepared by me

  
CONVEYANCER  
DAVID ERASMUS ROUX

## POWER OF ATTORNEY TO PASS TRANSFER

I, the undersigned

**ADA LAMARQUE BARNARD**  
Identity Number 800328 0233 087  
Married out of community of property

do hereby nominate and appoint JOHANN FRANCOIS VOS and/or DAVID ERASMUS ROUX and/or WERNER GREEFF and/or ELENE GOOSEN and/or PETRUS JOHANNES CILLIE and/or GABRIEL GIDEON CILLIE

with power of substitution to be my true and lawful Attorney and Agent in my name, place and stead to appear at the Office of the REGISTRAR OF DEEDS at CAPE TOWN or any other competent official in the Republic of South Africa and then and there to act as my Attorney and Agent and to pass transfer to:

1. **JEREMIA JESAJA BIERMAN**  
Identity Number 850707 5143 087  
Married out of community of property
2. **MELINDA BIERMAN**  
Identity Number 880104 0024 088  
Married out of community of property


the property described as:

REMAINDER ERF 7657 MALMESBURY SITUATE IN THE SWARTLAND MUNICIPALITY, DIVISION MALMESBURY, PROVINCE OF THE WESTERN CAPE

IN EXTENT 1142 (ONE THOUSAND ONE HUNDRED AND FORTY TWO) Square metres

HELD BY Deed of Transfer Number ~~T 29407/2008~~ T 29407/2008

  
EX OFFICIO: COMMISSIONER OF OATHS (RSA)  
DEON CRAFFORD  
ATTORNEY RSA  
KWV BUILDING, La CONCORDE  
57 MAIN ROAD, PAARL, 7646

  
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the said property having been sold by me on 12 September 2019, to the said transferee/s for the sum of R1 900 000,00 (One Million Nine Hundred Thousand Rand);

and further cede and transfer the said property in full and free property to the said Transferee; to renounce all right, title and interest which the Transferor heretofore had in and to the said property, and generally, for effecting the purposes aforesaid, to do or cause to be done whatsoever shall be requisite, as fully and effectually, to all intents and purposes, as the Transferor might or could do if personally present and acting therein; hereby ratifying, allowing and confirming all and whatsoever the said Agent/s shall lawfully do or cause to be done in the premises by virtue of these presents.

Signed at Malmesbury on 23 October 2019  
in the presence of the undersigned witnesses.

AS WITNESSES :

1.    
ADA LAMARQUE BARNARD
2. 

  
EX OFFICIO: COMMISSIONER OF OATHS (RSA)  
DEON CRAFFORD  
ATTORNEY RSA  
KWV BUILDING, La CONCORDE  
57 MAIN ROAD, PAARL, 7646

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Transfer Duty  
Declaration

TDREP

Reference Details

Transfer Duty Reference Number: TDE036F4A5

Details	
<b>Details of Seller / Transferor / Time Share Company</b>	
Surname / Registered Name ID Number Company / CC / Trust Reg No. Marital Notes if applicable	BARNARD 800328233087  South Africa
<b>Details of Purchaser / Transferee</b>	
Full Name Date of Birth (CCYYMMDD) Company / CC / Trust Reg No. Marital Status	ADAM LAMARQUE 1985-03-20  M.O.C. OF PROPERTY
<b>Details of Purchaser / Transferee</b>	
Full Name Date of Birth (CCYYMMDD) Company / CC / Trust Reg No. Marital Status	BIERMAN 850707143087  M.O.C. OF PROPERTY
<b>Details of the Property</b>	
Date of Transaction/Acquisition (CCYYMMDD) Total Fair Value	2018-05-12 R 1900000.00
<b>Calculation of Duty and Penalty / Interest</b>	
Transfer Duty Payable on Natural Person	R 1900000.00
<b>Property Description</b>	
1 REMAINDER ERF 7857 MALMESBURY SITUATE IN THE SWARTLAND MUNICIPALITY DIVISION MALMESBURY PROVINCE OF THE WESTERN CAPE IN EXTENT 1142 (ONE THOUSAND ONE HUNDRED AND FORTY TWO) Square metres	

Receipt	
<b>Receipt Details</b>	
Transfer Duty Reference Number Receipt Amount	TDE036F4A5 R 52500.00
Receipt No.	1200693970

Declaration by Conveyancer / Attorney	
I certify that this is a true copy of the transfer duty declaration / receipt / exemption certificate drawn from the SARS eFiling site, which will be retained by me for 5 years from the date of registration of transfer. Weiner Grief	 Please ensure you sign over the 2 lines of 'X's above R54066a2c882e508a508 ac3d772589c3088771 For enquiries go to www.sars.gov.za or call 0800 00 SARS (7277)
Date (CCYYMMDD)	2019/11/15

EX OFFICIO: COMMISSIONER OF OATHS (RSA)  
DEON CRAFTFORD  
ATTORNEY RSA  
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REF. NO: TDE036F4A5

Page 001/001

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(20)

**SERTIFIKAAT INGEVOLGE ARTIKEL 118 VAN DIE WET OP PLAASLIKE REGERING:  
MUNISIPALE STELSELS, 2000 (WET NO. 32 VAN 2000)  
(SOOS VOORGESKRYF INGEVOLGE ARTIKEL 120 VAN WET NO. 32 VAN 2000)  
UITGEREIK DEUR SWARTLAND MUNISIPALITEIT MUNISIPALITEIT**

Ingevolge Artikel 118 (1) van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet No. 32 van 2000), word hiermee gesertifiseer dat alle bedrae wat verskuldig geraak het aan SWARTLAND MUNISIPALITEIT MUNISIPALITEIT in verband met die bovermelde eiendom wat binne daardie munisipaliteit geleë is, vir munisipale dienstegelede, bobelasting op gelde, eiendomsbelasting en ander munisipale belastinge, heffings en aksyns gedurende die twee jaar wat die datum van aansoek om hierdie sertifikaat voorafgaan, ten volle betaal is.

**EIENDOMSBEKRYWING:**

**RESTANT ERF 7657 MALMESBURY**  
GELEë IN DIE SWARTLAND MUNISIPALITEIT  
AFDELING MALMESBURY  
PROVINSIE WES-KAAP

**GROOT: 1142** (EEN DUISEND EEN HONDERD TWEE EN VEERTIG) Vierkante meter

**MUNISIPALE VERWYSINGSNOMMER: 101076570038**

**SONERING:** Residensieel  
**VERKOOPSPRYS:** R1 800 000.00  
**VERKOOPDATUM:** 12 SEPTEMBER 2019  
**AARD VAN TRANSAKSIE:** TRANSPORT : VERKOPING  
**BESITDATUM:** 1 DESEMBER 2019  
**TRANSPORTBESORGER:** DAVID ERASMUS ROUX  
**TRANSPORTGEWER(S):** ADA LAMARQUE BARNARD  
Identiteit Nommer : 800328 0233 087  
**TRANSPORTNEMER(S):** 1. JEREMIA JESAJA BIERMAN  
Identiteit Nommer : 850707 5143 087  
2. MELINDA BIERMAN  
Identiteit Nommer : 880104 0024 088

**ADRES NA BESITDATUM:** 65 BERGZICHTSTRAAT,  
MALMESBURY

**KONTAK PERSON EN TELEFOON NOMMERS** Mnr J J Bierman : 061 466 2080  
Mev M Bierman : 082 697 7312

**Handtekening van Applikant:** *[Handtekening]* **Datum:** 5/11/2019

Hierdie sertifikaat is geldig tot 28 Desember 2019

Gegee onder my hand te MALMESBURY op 29 Oktober 2019

**MUNISIPALE BESTUURDER**

**SWARTLAND MUNISIPALITEIT  
MUNISIPALITEIT**



*[Handtekening]*  
Gemagtigde Beampte

GhostConvey 15.7.7.2

**EX OFFICIO: COMMISSIONER OF OATHS (RSA)**  
**DEON CRAFTFORD**  
**ATTORNEY RSA**  
**KWV BUILDING, La CONCORDE**  
**57 MAIN ROAD, PAARL, 7646**

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PROD DEEDS REGISTRATION SYSTEM - CAPE TOWN  
PREPARED BY : DRS8887 - LARNEYFATGEYAH

DATE : 20191118 TIME : 12:29:24.1 PAGE : 1

TRACK NUMBER : 88997288492

BLACK-BOOKING ENQUIRY ON NAME - BARNARD ADA LAMARQUE  
ID NUMBER - 8863288233887  
BIRTH DATE - 19880828  
MARITAL STATUS - MARRIED OUT  
MAIDEN NAME -  
TYPE OF PERSON - PRIVATE PERSON

OTHER REFERENCES LINKED TO THIS PERSON :  
NONE ADA LAMARQUE

PERSON NAME AND ID

BARNARD ADA LAMARQUE  
BARNARD ADAM

ID: 8863288233887 (ACTIVE)  
CONTRACTS/INTERDICTS  
IN  
8863288233887 H5331/2007  
1-182/1927 REH RET  
1-1436/1921R-21/9/921  
154-129/1927WH-15125-9/8/927

NOTED ON SCAN/PCORD REF  
20071024 20071204181639  
8  
8  
8

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FOR MORE DETAILED INFORMATION, PLEASE REFER TO THE REGISTERED SOURCE DOCUMENTS.

\*\*\* END OF REPORT \*\*\*



PROD DEEDS REGISTRATION SYSTEM - CAPE TOWN  
 PREPARED BY : DRS8887 - LARNEYFATGEYAH

50

DATE : 20191118 TIME : 12:20:28.8 PAGE : 1

TRACK NUMBER : 8887280492

PROPERTY DETAILS (PRINT FOR PORTION 8 "B" (1/5)  
 ERF NO 7657  
 TOWNSHIP MALMESBURY  
 REG CITY NOT AVAILABLE

PROVINCE WESTERN CAPE  
 PREV DESCRIPTION 742549/2883  
 DIAGRAM DEED NO 11421504  
 EXTENT MALMESBURY MUN  
 CLEARANCE

ORIGIN REASON  
 CONSOLIDATE FROM MALMESBURY , 1598 , 8  
 CONSOLIDATE FROM MALMESBURY , 765471 8

SUBDIVISION TO  
 TOWN/MALMESBURY , ERF 9048 , PART 8

NO INTERDICTS

NO DOCUMENTS

OWNER DETAILS  
 FULL NAME & SHARE  
 BARBED AND LAMARQUE

PURCH DATE 20080811  
 PURCH PRICE 10888888.00  
 PURCH REASON 0/P/A-IDENTITY  
 TITLE DEED 8883288213887  
 TITLE DEED 129487/2883

PROD 8438  
 MICROFILM REF 28888527114514

\* 0/P/A - 0 - MULTIPLE OWNER  
 P - MULTIPLE PROPERTY  
 A - MULTIPLE OWNER AND PROPERTY

\*\* PLEASE NOTE : THE INFORMATION APPEARING ON THIS PRINTOUT IS FURNISHED FOR PURPOSES OF INFORMATION ONLY.  
 FOR MORE DETAILED INFORMATION, PLEASE REFER TO THE REGISTERED SOURCE DOCUMENTS.

\*\*\* END OF REPORT \*\*\*

IK E: IXARRA IK E

C.K.Rumball &amp; Vennote, Pr.Landmeters, Malmesbury

SYE Meter	RIGTINGS- HOEKE	L.G. No.  698/2001 Goedgekeur  <i>f. L. van.</i> nms. LANDMETER- GENERAAL 2001-03-01
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**Komponente**  
 1. Die figuur ABCF synde Erf 7654 Malmesbury;  
 Kaart No. 695/2001  
 2. Die figuur FCDE synde Erf 1590 Malmesbury;  
 Kaart No. 626/1953 ; T/A 13568/1954

**Serwituutnota**  
 Die figuur ABCF stel voor 'n diensteserwituut; Kaart No. 695/2001  
 (Erf 7654)

Skaal 1:1000

Die figuur **ABCF**

Stel voor **2285 vierkante meter** grond, synde

**ERF 7657 MALMESBURY** en bevat 1 en 2 hierbo

Munisipaliteit Swartland  
 geleë in die Dorp Malmesbury Uitbr. No.1 in die Malmesbury Plaaslike Oorgangsraad  
 Administratiewe Distrik Malmesbury  
 Provinsie Wes-Kaap

Saamgestel in Oktober 2000 deur my *A.P. Steyl*  
 PLS 0761 A.P.Steyl  
 Professionele Landmeter

Hierdie diagram is geheg aan No. ged. CCT 42649/2003 t.g.v. Registrateur van Aktes	Die oorspronklike diagram is soos hierbo aangehaal	Lêer S/8738/151 M.S. Saamgestel A.P. TP 674LD Komp. BHNY-4122(7033)
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VIR ENDOSSEMENTE  
SIE KEERSY VAN KAART

Malmesbury erf 7657



DIE VOLGENDE AFTREKKING IS VAN HIERDIE KAART GEDOEN						
MEET- STUKKE	KAARTNO.	ONDERVER- DELING	GROOTTE HA./VK. M.	AKTENO.	GEPARA- FEEK	RESTANT
E2079/2004	4669/2004	9240	1143 m <sup>2</sup>	125374/05		1142 m <sup>2</sup>



















30 September 2022

15/3/3-11/Erf 1237  
15/3/6-11/Erf 1237

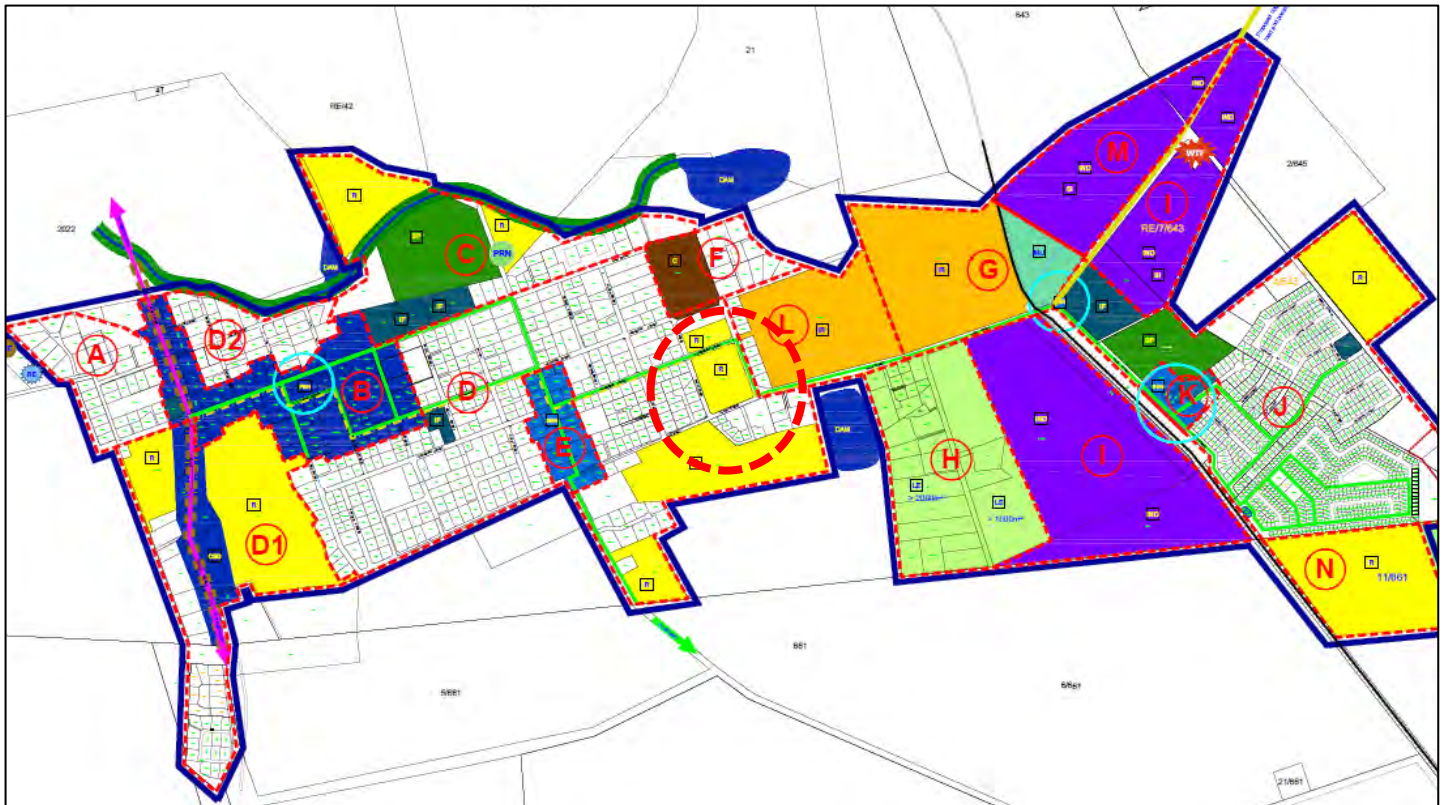
WYK: 12

**ITEM 6.4 VAN DIE AGENDA VAN 'N MUNISIPALE BEPLANNINGSTRIBUNAAL WAT GEHOUD SAL WORD OP WOENSDAG, 12 OKTOBER 2022**

LAND USE PLANNING REPORT PROPOSED REZONING AND SUBDIVISION OF ERF 1237, RIEBEEK KASTEEL									
Reference number	15/3/3-11/Erf 1237 15/3/6-11/Erf 1237		Application submission date	10 June 2022		Date report finalised	4 October 2022		
<b>PART A: APPLICATION DESCRIPTION</b>									
<p>Application for the rezoning of Erf 1237, Riebeek Kasteel, in terms of section 25(2)(a) of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 25 March 2020) from Residential Zone 1 to Subdivisional Area, in order to facilitate a group housing development.</p> <p>Application for the subdivision of Erf 1237, Riebeek Kasteel (17 698m<sup>2</sup> in extent), in terms of section 25(2)(d) of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 25 March 2020), into 31 group housing erven (400m<sup>2</sup> - 523m<sup>2</sup> in extent), private road (2 672m<sup>2</sup> in extent) and 7 private open spaces (24m<sup>2</sup> - 720m<sup>2</sup> in extent) was made.</p> <p>The applicant is Interactive Town and Regional Planning and property is owned by the Johan Vlok Familietrust.</p>									
<b>PART B: PROPERTY DETAILS</b>									
Property description (as in Title Deed)	Erf 1237 Riebeek Kasteel, in die gebied van die Malmesbury Plaaslike Oorgangsraad, Afdeling Malmesbury, Provinsie Wes-Kaap								
Physical address	Van Riebeek Street (locality plan attached as Annexure A).			Town	Riebeek Kasteel				
Current zoning	Residential Zone 1	Extent (m <sup>2</sup> /ha)	17 698m <sup>2</sup>	Are there existing buildings on the property?			Y	N	
Applicable zoning scheme	Swartland Municipal Land Use Planning By-Law (PK 8226, dated 25 March 2020)								
Current land use	Residential purposes			Title Deed number & date	T69777/95				
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, elaborate						
<b>PART C: LIST OF APPLICATIONS (TICK APPLICABLE)</b>									
Rezoning	<input checked="" type="checkbox"/>	Permanent departure		Temporary departure		Subdivision	<input checked="" type="checkbox"/>		
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 1237 is located centrally to Riebeeck Kasteel, on a pivotal point of the town, within Area D of the Swartland Spatial Development Framework (SDF, 2019). The site is identified for residential development and is bordered by activity streets along the northern and eastern borders.



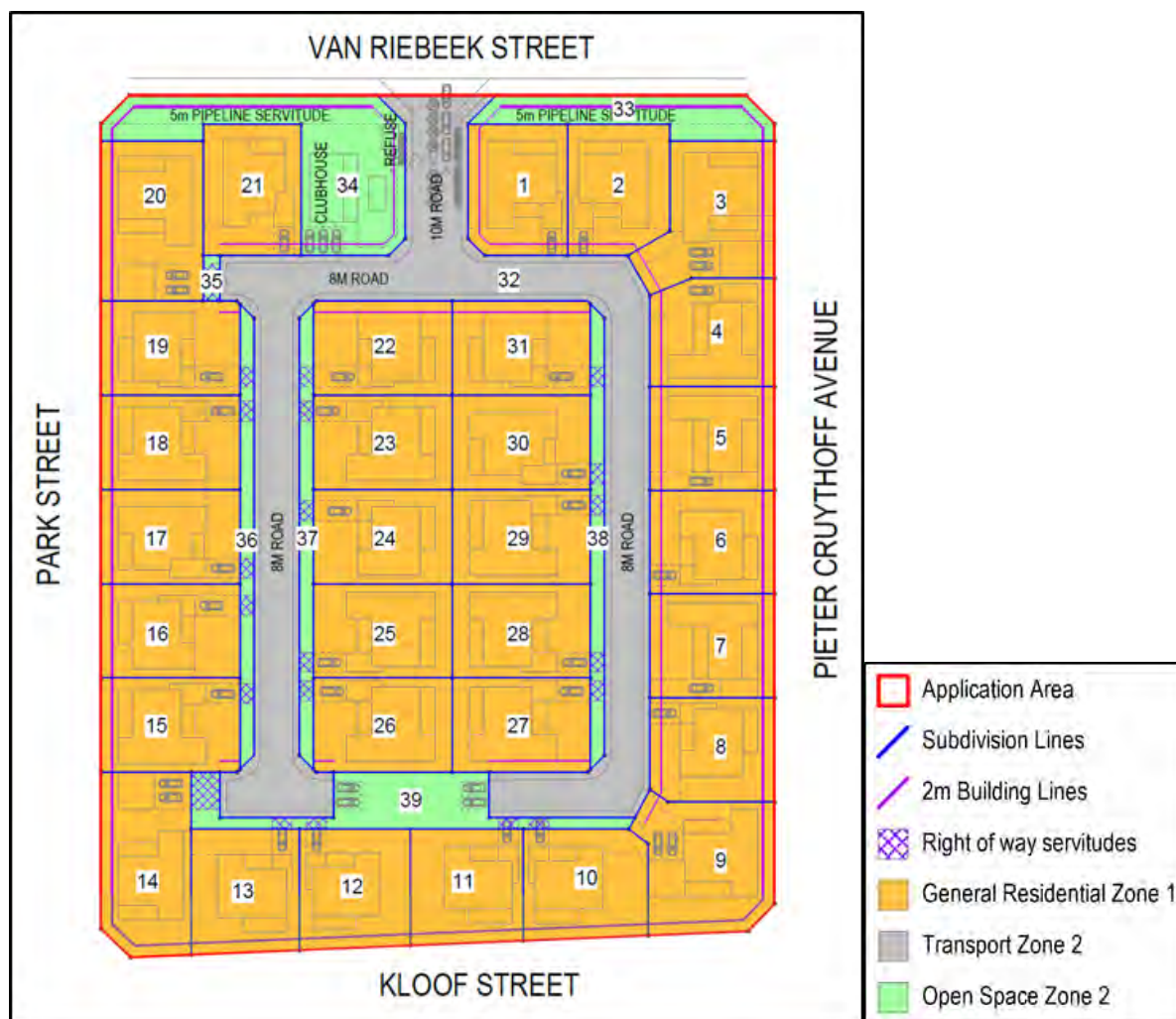
Erf 1237 is currently planted with vines, but the property by itself is too small to be agriculturally viable. It should also be noted that the property is zoned Residential Zone 1 and the planting of vines are coincidental.





The property is accessed via Van Riebeeck Street, the activity street along the northern boundary. The Department Civil Engineering Services offered no objection against the continued use of the road for access purposes to the new development.

The application entails the rezoning and subdivision of Erf 1237, Riebeeck Kasteel into 31 group housing erven, public open space and a road.



Twenty-two objections were received against the proposal, which are addressed in due course of the report.

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

Has pre-application consultation been undertaken?	Y	N	A meeting was held between the developer and the relevant municipal officials regarding the various development possibilities and the availability of services to any potential development. Group housing was determined to be the best suited land use option for the property and some discussion was had regarding the functionality of the open spaces, roads and servitudes.
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#### PART F: SUMMARY OF APPLICANT'S MOTIVATION

The applicant motivates that the objective of the proposal is to establish a gated small lifestyle estate with 31 residential erven of between 400m2 and 500m2 in size with well-structured and functional open space. The proposal includes a clubhouse and communal open space.

The application is for:

- The subdivision of the application area into 39 erven.
- The rezoning of subdivided erven 1 – 31 to General Residential Zone 1: Group Housing.
- The rezoning of subdivided erf 32 to Transport Zone 2: Roads
- The rezoning of subdivided erven 33 to 39 to Open Space Zone 2: Private Open Space
- Registration of right of way servitudes to allow for driveways over the Private Open Space erven
- Establishment of a homeowner's association.

The following images illustrate the proposed development in 3D:



There are no title deed conditions restricting the development proposal.

The application property is used for agriculture whilst the surrounding land uses consist of single residential, general residential, agriculture uses as well as vacant erven. The proposal is for general residential purposes and subsequently considered consistent with the land use of the area.

The application area is zoned Residential Zone 1 whilst the surrounding properties are zoned Residential Zone 1 and General Residential Zone 1, 2 and 3. The proposal for a General Residential Zone 1 development is thus also consistent with the zoning of the area. Refer to Annexure B for a zoning map of the area.

From a Spatial Policy perspective the application is consistent with the Integrated Urban Development Framework, 2016 – 2019, the West Coast District Municipality IDP, 2017 – 2022, the Swartland Municipality IDP 2022 and the Swartland Municipality SDF revised in 2019 with specific reference to the following objectives:

- a. Cities and towns that grow through investments in land and property, providing income for municipalities, which allows further investments in infrastructure and services, resulting in inclusive, multi-functional urban spaces;
- b. Creating “A quality destination of choice through an open opportunity society” and the mission is to ensure outstanding service delivery on the West Coast;
- c. Enhance tourism and agri-tourism, and protect heritage resources, provide residential land for Human Settlement housing schemes and private development and maintain and strengthen agricultural service centre;
- d. Enhance sustainable, liveable urban environments which include the following characteristics:
  - i. Work, education, housing and recreation is easily accessible;
  - ii. Efficient use of resources;



- iii. A variety of housing types and densities are available;
- iv. Reliable and affordable public transport as well as local areas which are accessible by foot, reduces the dependability on motor vehicles;
- v. Public areas of high quality are available;
- vi. All residents experience a positive place identity;

For Ward 12, specific for Riebeek Kasteel:

- a. Developed to serve the surrounding agricultural community which remains its main function at present. In recent years, Riebeek Vallei with its beautiful vistas and Kasteelberg as background has developed as a tourism growth node and has become a haven for retirees and residents searching for an alternative rural lifestyle. Many people live in the valley while working in Cape Town and other towns in the area. The tourism and residential development components are still able to be expanded.
- b. Increase the density from 8.2 dwelling units per hectare to a gross density of 8.5 dwelling units per hectare.
- c. Higher density residential developments must be encouraged along activity streets to form a part of areas with mixed uses.

In terms of residential development in Riebeek Kasteel:

- a. Support the provision of integrated residential development.
- b. Spatially all forms of housing should be provided.
- c. Develop erven in accordance with availability of bulk services.
- d. Develop sustainable and integrated residential developments to ensure housing options for all members of the community.
- e. Promote densification within the urban areas which is sensitive to the historical character of the town and provide densification guidelines.
- f. Densify Riebeek-Kasteel through subdivision, infill development and renewal.
- g. Promote densification according to the zone suggestions with higher density developments along the activity streets.
- h. Sustain infill, urban renewal and integration in the town centre.
- i. Allow subdivision of single residential erven with minimum sizes of 500m<sup>2</sup> or in accordance with the context of the area and immediate environment.
- j. Integration of residential areas through infill development which consists of integrated residential development.
- k. Create change through higher residential developments and mixed uses along activity streets in the town and Support densification through Subdivision, Infill development and Renewal and restructuring.
- l. Develop 171.7ha for future growth over next 20 years, of which 67.3ha is vacant land including the vacant land between Esterhof and central Riebeek Kasteel, provide adequate land for different housing topologies, provide and support development of housing for retirees.
- m. Develop Area D as part of a mixed density residential development which includes medium to high density residential uses.

Summary of civil services:

- a. This facility will discharge at a peak of 0.188 m<sup>3</sup>/s from the site if the run-off is concentrated during the 1:20-year storm.
- b. The stormwater will discharge through a pipe which will traverse along Pieter Cruythoff Avenue to the East towards an existing attenuation pond on stand outside of the development.
- c. Access to the site will be from Van Riebeek Street.
- d. The roads inside the development will remain private.
- e. The peak water demand will be 1.677 l/s (excluding fire flow). A water connection point is available along both the northern and southern site boundary. The municipality should indicate the capacity available in the network in order to confirm that the line will be adequate.
- f. The peak sewage generated will be 0.623 l/s. A sewer connection point is available along north eastern and southern boundary. The municipality should indicate the capacity available in the network to confirm that the line will be sufficient.

Desirability:

The application area is cultivated land and there are no environmental triggers applicable.

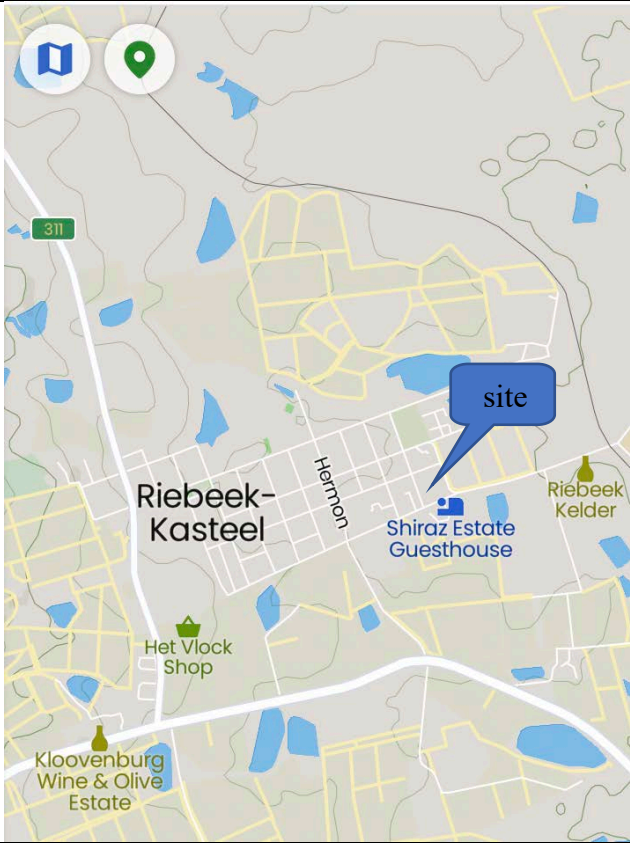
From a heritage perspective the proposal aims to reach a balance between preserving the historic character of the area and incorporating new trends in urban growth and planning.

As motivation for the development, it caters for "lock-up and go" units for young, single or elderly people and also for those who prefer secure estate living and smaller erven with lower maintenance requirements as well as for elderly people who are not yet ready to settle into a retirement village, and also contributing towards increasing the density towards the desired gross density and the integration between Esterhof and the central Riebeek Kasteel. The development makes provision for the open market but is most likely to attract local residents wanting to reside on smaller properties within a safe a secure area but also retirees and weekend owners from Cape Town.

PART G: SUMMARY OF PUBLIC PARTICIPATION						
Was public participation undertaken in accordance with section 55- 59 of the Swartland Municipality: Municipal Land Use Planning By-Law.					Y	N
<p>The application was published in local newspapers and the Provincial Gazette on 27 June 2022, in terms of Section 55 of the By-Law. The commenting period, for or against the application, closed on 1 August 2022.</p> <p>In addition to the abovementioned publication, 20 written notices were sent via registered mail to the affected property owners in the area, in terms of Section 56(1) &amp; (2) of the By-Law, as well as e-mails, where e-mail addresses were available. Two notices were returned unclaimed. Please refer to Annexure D for the public participation map.</p> <p>A total of 22 objections were received against the proposal. The applicant was afforded 30 days, from 4 August 2022 to 4 September 2022, to respond to comments and objections received by affected parties. The response to comments was received on 2 September 2022. (Annexure Z).</p>						
Total valid comments	22			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	
				Councillor Bess requested that Kloof Street be tarred by the developer, but had no other objections against the proposal.		
Total letters of support	0					

PART H: COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS			Recommendation
Name	Date received	Summary of comments	
Eskom		No comments received.	
Department: Civil Engineering Services	4 July 2022	<p>1. <u>Water:</u></p> <p>a) Die die ontwikkeling voorsien word van 'n interne waternetwerk wat aansluit by die munisipale waternetwerk. Hiervoor moet die ontwikkelaar 'n ingenieur toepaslik geregistreer ingevolge die bepalings van Wet 46 van 2000 aanstel om die uitbreiding te ontwerp;</p> <p>b) Die ontwerp moet aan die Direkteur: Siviele Ingenieursdienste voorgelê word vir goedkeuring waarna die konstruksiewerk onder die toesig van die ingenieur gedoen moet word. Hierdie voorwaarde is op onderverdelingstadium van toepassing;</p> <p>c) 'n Netwerk analise moet gedoen word om te bepaal of daar elemente van die meesterplan is wat geïmplementeer moet word om die ontwikkeling te kan akkomodeer;</p> <p>d) 'n Ontwikkelingsbydrae vir grootmaat waterverspreiding ten bedrae van R275 638,90 gemaak word en R191 672,80 ten opsigte van grootmaat watervoorsiening gemaak word;</p> <p>e) Die interne waternetwerk nie deur die Munisipaliteit oorgeneem word nie;</p> <p>2. <u>Riolering:</u></p> <p>a) Die dat die ontwikkeling voorsien word van 'n interne rioolnetwerk wat aansluit by die munisipale rioolnetwerk; Hiervoor moet die ontwikkelaar 'n ingenieur toepaslik geregistreer ingevolge die bepalings van Wet 46 van 2000 aanstel om die uitbreiding te ontwerp;</p> <p>b) Die ontwerp moet aan die Direkteur: Siviele Ingenieursdienste voorgelê word vir goedkeuring waarna die konstruksiewerk onder die toesig van die ingenieur gedoen moet word. Hierdie voorwaarde is op onderverdelingstadium van toepassing;</p> <p>c) 'n Netwerk analise moet gedoen word om te bepaal of elemente van die meesterplan geïmplementeer moet word ten einde die ontwikkeling te kan akkomodeer;</p> <p>d) 'n Vaste ontwikkelingsbydrae ten opsigte van riool ten bedrae van R384 139,10 gemaak word;</p> <p>e) Die interne waternetwerk nie deur die Munisipaliteit oorgeneem word nie;</p> <p>3. <u>Strate en stormwater:</u></p> <p>a) Die ontwikkeling se stormwaterafloop ondergronds gevoer word tot by 'n geskikte aansluiting by die munisipale stormwater stelsel en dat die na-ontwikkeling afloop beperk word tot die voorontwikkeling afloop;</p> <p>b) Die interne pad van 'n geskikte permanente oppevlak voorsien word;</p> <p>c) Die ontwikkelaar 'n ingenieur toepaslik geregistreer ingevolge die bepalings van Wet 46 van 2000 aanstel om die stormwaterstelsel en interne pad te ontwerp;</p> <p>d) Die ontwerp moet aan die Direkteur: Siviele Ingenieursdienste voorgelê word vir goedkeuring waarna die konstruksiewerk onder die toesig van die ingenieur gedoen moet word. Hierdie voorwaarde is op onderverdelingstadium van toepassing.</p> <p>e) Die interne pad en stormwaterstelsel nie deur die Munisipaliteit oorgeneem word nie.</p> <p>f) 'n Vaste ontwikkelingsbydrae ten opsigte van strate en stormwater van R273 563,15 gemaak word.</p>	✓

		4. <u>Algemeen:</u> Dat indien die uitbreiding van enige bestaande dienste nodig sou wees om die ontwikkeling van diensaansluitings te kan voorsien, dit vir die koste van die aansoeker sal wees. Dat kapitale bydraes as volg gemaak word: Capital Contribution: subdivision of erf 1237 Riebeek Kasteel (31 units) Contribution Roads & Stormwater R 273 563,15 Water R 275 638,90 Sewer & WWTW R 384 139,10 Bulk Water R 191 672,80.	
Department: transport and Public Works	3 Aug 2022	No objections.	✓
PART I: COMMENTS RECEIVED DURING PUBLIC PARTICIPATION		SUMMARY OF APPLICANT'S REPLY TO COMMENTS (Annexure Z)	MUNICIPAL ASSESSMENT OF COMMENTS
Note: the applicant summarised and addressed comments thematically. The evaluation is thus approached in the same manner.			
JF Le Grange, Peter Voigt, Karen Rosser, Mrs Beverly Voigt, Micheal & Anica Jones, Ingrid & Gioacchino Gasparre, Philippe den Beer Poortgael and Prisca Ilagostera Saludes, Mike Eldridge, Wessel Johannes De Wet, Neil and Josie Hogben, JJ Erasmus, Elmarie Mouton, Malcolm Bushell	<b>1. <u>Character</u></b> <ul style="list-style-type: none"> <li>- The development does not fit into a rural town being creating a dense, gated, impersonal lifestyle.</li> <li>- Local and international research indicated that the trend for most residential developments is away from typical "town house / cluster developments". Towards eco-friendly estates focusing on sustainability and minimum impact on the environment.</li> <li>- The town has a distinct grid pattern with large erven of approximately 1000m<sup>2</sup> which makes the town appealing for tourists, retirees and those wishing to escape stresses of city life hence the proposed density and erf sizes do not promote or conserve the identity of Riebeek Kasteel and will damage the character of the town,</li> <li>- The development will affect the peace and quiet of Riebeek Kasteel</li> <li>- Due to the size of the development, it will take the charm and character away</li> <li>- The ambience and attractiveness for the tourist at Eden Estate will detrimentally be affected by the increase of the traffic.</li> <li>- The layout pattern of the development is not aligned with the current pattern of the town</li> <li>- The development will create a feeling of over-crowdedness</li> <li>- The removal of the vineyard will destroy</li> </ul>	<b>1. In terms of the Swartland Spatial Development Framework, 2018/2019 the application area is identified as part of Zone D which is identified for development for a variety of options and inter alia includes low, medium and high-density residential uses, institutional uses, secondary business uses and even sport and recreational facilities.</b> <p>It is apparent that the objectors do not understand that in order to increase the net density of the town, increased densities are required. Areas has been identified for urban development which specifically includes the application area.</p> <p>Therefore, the objections raised against the character is in essence against the SDF and should have been addressed at the stage of the SDF public participation process.</p> <p>From the above it is evident that the application is fully consistent with the SDF and the objections is invalid.</p> <p>Apart from the above, it is also considered that the objections in general are considered an exaggeration of concerns in the sense that the proposal fits into the existing road network and that the density increase being restricted to an enclosed area and activity on the periphery of the village which forms part of the transitional area of the town in line with the spatial policy vision of creating integration with Esterhof.</p>	<b>1. The applicant is supported.</b> <p>National, provincial and local policies all promote and support densification of existing towns, inside the urban edge. The application is aimed at achieving densification and thus consistent with the principle.</p> <p>In addition to densification, the concept of integration and rectifying the spatial disparities of the past, is of utmost importance. Erf 1237 is located optimally in the centre of Riebeek Kasteel, creating a unique opportunity for a higher density development that may provide smaller residential opportunities to a larger portion of society, such as young professionals, first time property owners, etc.</p> <p>The property is zoned Residential Zone 1 and the fact that it contains vineyards, was a decision of the owner, not the right of the surrounding land owners. The proposed development will remain residential in character, which is consistent with that of the area.</p>

	<p>the most characteristic element of Riebeek Kasteel</p> <ul style="list-style-type: none"> <li>- The development is located on the transition zone between the town and the rural landscape which is a low-density characteristic and makes provision for the transition between the urban and rural area. This is against the low-density character of such transition zone and will create a detrimental precedent for the Riebeek Kasteel village.</li> <li>- Access obtain from the inside of the development without an active integrated edge will be similar to other urban areas, The housing complex will disturb the low agricultural activities and will be detrimental to the current quality of life.</li> </ul>		
<p>Riebeek Valley Ratepayers Association, JF Le Grange, Viviane van Zijl-Schumacher, Andrew Olivier, Christine Roos, Peter Voigt, Karen Rosser, Wessel Johannes de Wet, NJA Laubscher</p>	<p><b>2. Architectural Style</b></p> <ul style="list-style-type: none"> <li>- More variety of architectural styles are proposed,</li> <li>- The architectural style has no characteristics associated with a rural village.</li> <li>- The development is not aesthetically pleasing</li> <li>- The settlement typology is not aligned with the current identity and will be the first to be not align with the rest of the residential area.</li> <li>- No consideration was given to the reticulation of roof landscapes and the designs are repetitive and not aligned with the surrounding settlement patterns.</li> <li>- Units to have only single volume roof height,</li> </ul>	<p>2. The objections provided is not considered valid, given that no specific statutory architectural guidelines exist for Riebeek-Kasteel and the objection is considered to be merely personal subjective opinions.</p> <p>However, the developer indicated in collaboration with the Swartland Municipality that he is willing to consider some changes to the architecture as part of the Site Development Plan submission at that stage.</p> <p>The developer does not need to belong to the Green Building Council of South Africa but will ensure that when doing the development all statutory requirements be complied with.</p>	<p>2. The aesthetic qualities of the development may be addressed in detail upon the submission of a Site Development Plan and subsequent building plans.</p> <p>Care has been taken to provide ample, functional private open spaces on each erf, as well as for the larger development, in order to create an open, uncluttered environment within the group housing scheme.</p> <p>Note that the erf is not located within the proposed historical precinct of Riebeek Kasteel.</p>



	The developer does not belong to the Green Building Council of South Africa and does not comply with green building requirements.		
Riebeeck Valley Ratepayers Association, JF Le Grange, Viviane van Zijl-Schumacher, Andrew Olivier, Christine Roos, Mrs Beverly Voigt, Micheal & Anica Jones, Ingrid & Gioacchino Gasparre, Philippe den Beer Poortgaal and Prisca Ilagostera Saludes, Mike Eldridge, Bo Nilsson, Wessel Johannes De Wet, Neil and Josie Hogben, JJ Erasmus, Malcolm Bushell	<p><b>3. <u>Density</u></b></p> <p>The density proposed of 18.08 units per hectare is 113% higher than that of the surrounding areas and not appropriate nor supportive of the key principles or aligned with the SDF of a low density rate to be preserved of the unique character of Riebeeck Kasteel. A density of 8.5 units per hectare are proposed Erven must not be smaller than 650m<sup>2</sup></p>	<p>3. The density of the proposed development should be taken into perspective of the target of the SDF and the general fact that even a town / village like Riebeeck Kasteel cannot remain stagnant in terms of population growth, natural as well as external growth.</p> <p>It is evident that the objectors see the increase in density in isolation.</p> <p>Although a density of 18 units per hectare is proposed, the development is isolated and contributes to the required increase in density as well as the integration between the existing Esterhof and the existing Riebeeck Kasteel Village.</p> <p>Furthermore, the objectors should acknowledge that should the increase in density as proposed in the SDF, be allowed within the existing core residential areas, the historic character of the central Riebeeck Kasteel will be affected detrimentally, hence the reason and motivation for increased densities outside the historical areas of Riebeeck Kasteel village.</p> <p>Thus, the relatively low increase in density creates an evenly increase towards the desired density of the town in terms of the approved SDF.</p> <p>The concern of the density should be looked at in perspective. The density of the application site is 17.5 dwelling units per hectare which is substantial lower than the 25 dwelling units per hectare identified for the medium density developments.</p>	<p>3. The permissible density for Residential Zone 1 properties, versus that of General Residential Zone 1 properties differ vastly in nature. While Res 1 properties are limited to 500m<sup>2</sup> minimum size – and much larger in specifically designated areas – the same restriction is not applicable to group housing.</p> <p>The application for rezoning takes place specifically to enable the developer to provide a higher density residential development. In addition, the proposed higher density is much lower than the maximum permissible 25 units per hectare.</p> <p>Other similar developments already exist in the immediate area and the proposal is made due to growing demand for such housing opportunities.</p> <p>Objectors cannot prohibit land owners to develop their land consistent with current spatial planning and other legislative measures.</p>
JF Le Grange, Andrew Olivier, Councillor DG Bess, Christine Roos, Peter Voigt, Karen Rosser, Mrs Beverly Voigt, Mike Eldridge, Bo Nilsson, Neil and Josie Hogben, JJ Erasmus, Elmarie Mouton, NJA Laubscher	<p><b>4. <u>Engineering Infrastructure</u></b></p> <ul style="list-style-type: none"> <li>- Infrastructure challenges are not addressed in terms of maintenance, upgrade and capacity of roads, street lighting, sewerage capacity and stormwater.</li> <li>- The traffic impact will be undesirable with dangerous speeding</li> <li>- Kloof Street need to be tarred in order to prevent it becoming the municipality's responsibility,</li> <li>- The entrance should be from another point from proposed position- road is not wide enough or in a good condition</li> </ul>	<p>4. As part of a pre-submission meeting on 24 May 2022 with inter alia the relevant municipal engineers it was confirmed that electricity is provided by Eskom and that sufficient electricity capacity is available for the project and also that sufficient water capacity exists and the same should apply for sewerage, however the WWTW is close to capacity.</p> <p>The Swartland Municipality has however requested a GLS report, hence the sewerage and water capacity requirements will be guided by the GLS report which will follow after the consideration of the application and is suggested to be included as a condition of approval.</p> <p>The GLS report will indicate whether any bulk upgrades are necessary in the external infrastructure to account for</p>	<p>4. The availability of engineering services was confirmed prior to application submission and where availability could not be confirmed, reports were requested by the Municipality to determine if bulk upgrades will be necessary.</p> <p>The detailed design of the various systems will be required in the conditions of approval, to be submitted to the Director: Civil Engineering Services to ensure compliance with all Municipal requirements.</p> <p>The increase in traffic will be regulated by the same traffic legislation that is applicable in the rest of Riebeeck Kasteel.</p>

		<p>the proposed development.</p> <p>The stormwater management plan ensures that the pre- and post- development flows are the same and stormwater attenuation which is required is handled through necessary attenuation measures and is included in the accompanied services report.</p> <p>The internal civil service requirements have been designed in accordance with the municipal guidelines.</p> <p>With regards to the objections relating to the traffic, as previously also mentioned, the increase in traffic will be nominal as discussed with the municipal engineers at the above-mentioned a pre-submission meeting.</p>	
Christine Roos, Karen Rosser, Mrs Beverly Voigt	<p><b>5. <u>Community Infrastructure</u></b></p> <ul style="list-style-type: none"> <li>- With the influx of new residents of the new developments, how will they be accommodated in terms of schools?</li> <li>- The current protection services cannot accommodate additional residents</li> </ul>	<p>5. The influx as a result of the proposed development will likely be relatively small.</p> <p>Furthermore, the increase must be taken in the background that the provision of additional housing must be made, for the natural and incoming housing.</p> <p>In terms of the SDF provision should be made for approximately 435 housing units of which this development represents less than 8% of the number of units.</p> <p>The increase in community infrastructure is the function of the local authority to ensure that sufficient community facilities are provided.</p>	<p>5. Community infrastructure provision is largely guided by the CSIR Guidelines for the provision of social facilities in South African settlements (2015). The aim of the document is to provide a quantitative and rational framework for the provision of key social facilities for various levels of settlements. The proposed development does not require the provision of a school, according to the standards.</p> <p>The comment regarding protection services is conjecture.</p>
JF Le Grange, Peter Voigt, Ingrid & Gioacchino Gasparre, Philippe den Beer Poortgaal and Prisca Ilagostera Saludes, JJ Erasmus, Elmarie Mouton, Malcolm Bushell	<p><b>6. <u>Economic And Tourism</u></b></p> <ul style="list-style-type: none"> <li>- The development is not community orientated in terms of money are taken out of the town resulting that the socio-economic impact in terms of job creation is limited.</li> <li>- Is there requirements for use of local labour, material and vernacular architecture.</li> <li>- The development will devalue the current properties.</li> <li>- The proposed large development will make the proposed boutique hotel on the Shiraz development unfeasible.</li> <li>- The development will put off prospective buyers,</li> <li>- Riebeek Kasteel is dependant of tourists, and the development will not attract tourists as tourists would want to come away from their locked in and overcrowded areas.</li> </ul>	<p>6. The proposed development will contribute to the economy, also in the form of tourism. The proposed development will not only create employment through the development and construction, but also through the addition of middle to high income residents which is subsequently likely to provide further direct employment through house-keeping jobs, the maintenance of the complex, and also indirectly through additional business to existing and future businesses. The proposed residential complex can potentially also draw tourists in the form of providing holiday and weekend housing.</p> <p>With the above said it is evident that the objectors are <b>not correct</b> in their statement that the development is (1) not community orientated, (2) money taken out of town or (3) having a negative impact on the socio-economic impact or (4) limit job creation.</p> <p>Several objections were received that the development will devalue the current properties. No proof, motivation or evidence was provided. It is considered rather evident that the objectors do not want change and disregard the need</p>	<p>6. The statements by the objectors are unfounded.</p> <p>The development is foreseen to provide employment opportunities during the construction phase and continuous income to the Municipality from rates and taxes in future.</p>

		<p>and desirability for more housing and a variety of housing typologies aligned with the approved statutory SDF.</p> <p>The marketing and pre-sales of the proposed development have proved the objectors wrong that prospector buyers will be put off by the development. Furthermore, the location and extent of the development are of such that it will not affect the character of the village materially.</p> <p>The matter regarding that the proposed development will make the Shiraz development unfeasible has no merit, as the proposed development is an isolated gated development. In essence the objector denies other the opportunity to develop their properties. The owners of the Shiraz Estate should have been aware of the fact that they are located within the urban edge and that the possibility exist that the adjacent land may develop at one or another stage.</p>	
<p>Andrew Olivier, Bo Nilsson, Neil and Josie Hogben, JJ Erasmus</p>	<p><b>7. <u>Environmental</u></b></p> <ul style="list-style-type: none"> <li>- The development is not environmentally friendly nor sustainable,</li> <li>- What can be done to preserve the village square as tourism hub?</li> <li>- The traffic will create noise - exit at Van Riebeek Street will increase the sound load.</li> <li>- The ambience and attractiveness for the tourist at Eden Estate will detrimentally be affected by the increase of the traffic.</li> <li>- The development will create light pollution</li> </ul> <p>The construction period will bring large numbers to the development causing noise, dust and smoke to the detriment of the adjacent existing high-quality dwellings</p>	<p>7. The objections in terms of "environment" are considered completely subjective and inappropriate.</p> <p>The application area is located on an existing cultivated vineyard and therefore not classified as environmentally sensitive land in terms of the National Environmental Management Act, 1998.</p> <p>The application site is more than 1 kilometer from the centre of the historical centre of the village and will not affect the village square of the town.</p> <p>The ambience and attractiveness of the Eden Estate will also not be affected by the development as the proposed Klein Kasteel development is a gated development. It is most inappropriate and prescriptive of the owners of the Eden Estate to expect that adjacent properties should not be developed or developed in the same way as their property.</p> <p>The objection regarding light pollution, is invalid given that the proposed development is located within the urban edge and forms part of the statutory development area.</p> <p>The anticipated dust and smoke forms part of the development conditions that need to be mitigated and will be managed and controlled by safety and security officers during the construction period. This point of objection is thus not applicable.</p>	<p>7. Comments regarding the environmental friendliness of the development is unsupported. The development is similar to numerous such endeavours countrywide.</p> <p>The noise created by the development is to be expected and considered as ambient noise normally present in a residential neighbourhood. The same is applicable to the perceived potential light pollution.</p>
<p>Christine Roos</p>	<p><b>8. <u>Heritage</u></b></p> <p>Is the development heritage compatible?</p>	<p>8. The proposed development is fully heritage compatible in terms of its layout as well as the architectural design, hence this point of objection should thus be ignored.</p>	<p>8. Noted.</p>

Christine Roos, JJ Erasmus	<b>9. <u>Social</u></b> <ul style="list-style-type: none"> <li>- Where will the workers be housed during construction?</li> <li>- The lack of schools is likely to attract older persons and an undesirable demography.</li> </ul> <p>Management of workers and security is in general poor within the vicinity of the development and the owners / developer will have purposeful and definite enforceable measures proposed and implemented under the supervision of the municipality.</p>	<p>9. These points of objections appear to be distracting objections in an effort to prevent any development within the Riebeeck Kasteel town.</p> <p>With regards to where workers will be housed during construction, is not relevant to a land-use application given that it is a temporary short-term situation as workers will most likely be integrated in the local social environment during this construction period.</p> <p>With regards to schools and other infrastructure as previously mentioned is a local authority / provincial government responsibility to ensure sufficient facilities accordingly. With specific reference to schools home-schooling becomes more popular which potentially can limit the need for new schools.</p>	9. The objections are not relevant to the application.
Ingrid & Gioacchino Gasparre, Philippe den Beer Poortgael and Prisca Ilagostera Saludes, Wessel Johannes De Wet, Neil and Josie Hogben, JJ Erasmus, Malcolm Bushell	<b>10. <u>Views</u></b> <ul style="list-style-type: none"> <li>- The development obstructs the views of the Shiraz estate,</li> <li>- The views over the grape farming and vineyards will be replaced with buildings, structures and streets which will have a detrimental effect on the property value,</li> <li>- The proposed height and of the buildings will obstruct the view from his property,</li> <li>- The development will interrupt and clutter views of the rural landscape</li> </ul>	<p>10. Currently in South African Law the consensus view is that there is no natural entitlement, based on ownership of land, to enjoy a view over or across adjacent land.</p> <p>Based on the fact that there is no natural entitlement of view over or across adjacent land, these points of objections can be ignored.</p> <p>In addition to the above, the decision-makers should also take cognizance that the proposed development is proposed as a single storey development which makes the points of objections in completely unjustified and invalid.</p>	10. The proposal will adhere to the development parameters of the zoning, thus surrounding land owners may lay no claim on views from affected properties in the area.
Ingrid & Gioacchino Gasparre, Elmarie Mouton	<b>11. <u>Catalyst for further developments</u></b> <ul style="list-style-type: none"> <li>- The development will serve as catalyst for further large developments.</li> <li>- Such development is in contradiction with the character of the town and will create a precedent to the detriment of the future of the town.</li> </ul>	<p>11. Several of the objectors made the objection point of the proposed development potentially creating a precedent for similar developments.</p> <p>Firstly, this proposed development will be an asset for the town being a relatively small development on the periphery of the town.</p> <p>Secondly this proposed development provides for a variation of housing types not found elsewhere in the town, but still within the character of the town given that the street patterns are not affected, and the architectural typologies is aligned with the town's architecture but within a gated development, hence not clearly and conspicuous. The variety of housing typologies is also a SDF requirement.</p> <p>Thirdly, limited land for future expansion is available, thus limiting the possibility of creating a precedent for similar developments.</p>	11. South Africa is a democratic republic that affords freedom of movement and association to all citizens. Subsequently, any development that occurs naturally, but within the confines of the Law, is permissible and will not be restricted.

<p>Wessel Johannes De Wet, Elmarie Mouton</p>	<p>12. <b><u>Spatial Development Policy</u></b></p> <ul style="list-style-type: none"> <li>- The SDF should be adhere to in terms thereof that new developments should be sympathetic in terms of heritage building and the conservation of the character of the town.</li> <li>- The development is contradictory with the Swartland Spatial development Framework</li> </ul>	<p>12. The objections made regarding the Spatial Development Plan appears to be own deliberately incorrect interpretations of the mentioned SDF.</p> <p>The proposed development is fully aligned with the SDF and inter alia supported by the vision of the SDF in terms of the following goals for Riebeek-Kasteel Residential Development:</p> <ul style="list-style-type: none"> <li>• Support the provision of integrated residential development</li> <li>• Spatially all forms of housing should be provided</li> <li>• Develop erven in accordance with availability of bulk services</li> <li>• Develop sustainable and integrated residential developments to ensure housing options for all members of the community</li> <li>• Promote densification within the urban areas which is sensitive to the historical character of the town and provide densification guidelines</li> <li>• Densify Riebeek-Kasteel through a) subdivision (sectional title), b) infill development and c) renewal,</li> <li>• Promote densification according to the zone suggestions with higher density developments along the activity streets</li> <li>• Sustain the “cupcake principle” through infill, urban renewal and integration in the town centre</li> <li>• Allow subdivision of single residential erven with minimum sizes of 500m<sup>2</sup> or in accordance with the context of the area and immediate environment</li> <li>• Integration of residential areas through infill development which consists of integrated residential development.</li> </ul> <p>Change</p> <ul style="list-style-type: none"> <li>• Higher residential developments and mixed uses should be encouraged along activity streets in the town.</li> <li>• Support densification through Subdivision, Infill development and Renewal and restructuring</li> </ul> <p>Develop</p> <ul style="list-style-type: none"> <li>• Provide 171.7ha in Riebeek-Kasteel for future growth over next 20 years, of which 67.3ha is vacant land as identified per Vacant Land Audit.</li> <li>• Develop vacant land between Esterhof and central Riebeek Kasteel Provide adequate land for different housing topologies.</li> <li>• Provide and support development of housing for</li> </ul>	<p>12. Refer to comments 1,2, and 3.</p>
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		<p>retirees</p> <ul style="list-style-type: none"> <li>• Provide residential opportunities for ±435 serviced sites that can be upgraded with top structures. Support integrated housing opportunities (including BNG) in Zone G and L.</li> <li>• Allow for minimum subdivision size of single residential erven of 500m².</li> </ul> <p>The application area is earmarked for residential development and is on a corner of two activity streets. The subject property is within zone D of the Spatial Development Plan.</p>	
Wessel Johannes De Wet, Malcolm Bushell	<p><b>13. Urban Design</b></p> <ul style="list-style-type: none"> <li>- Access obtain from the inside of the development without an active integrated edge will be similar to other urban areas</li> <li>- No consideration were given to the reticulation of roof landscapes and the designs are repetitive and not aligned with the surrounding settlement patterns.</li> <li>- The proposed settlement typology is not consistent with the existing residential character of the town,</li> <li>- The development will be the first estate in the town, and out of character with the rest of the town,</li> <li>- No green belts between houses for residents to walk through to enjoy open views are provided.</li> </ul>	<p>13. Some objections in terms of urban design were also received.</p> <p>The objections received were merely personal opinions and not based on any statutory guidelines or policies.</p> <p>The development's layout design is done as an enclosed gated complex for safety and security reasons, which is the need of many people. This design inter alia forms part of the SDF directives of (1) "Spatially all forms of housing should be provided" (2) "Support the provision of integrated residential development" (3) "Promote densification according to the zone suggestions with higher density developments along the activity streets"</p> <p>In contrast with the objector's opinion, particular consideration was given to the roof landscapes and designs, hence providing for a certain character to co-inside with the current character of the town.</p> <p>Furthermore, the design was specifically done to provide for an internal green belt with limited fences and thereby optimizing the use of the land as is evident in the layout plan and sketches proving for the look and feel of the development.</p> <p>The points of objections are thus considered not valid and should be ignored.</p>	13. The applicant is supported. Also refer to comment 2.

## PART J: MUNICIPAL PLANNING EVALUATION

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

Application for the rezoning of Erf 1237, Riebeek Kasteel, in terms of section 25(2)(a) of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 25 March 2020) is made from Residential Zone 1 to Subdivisional Area, in order to facilitate a group housing development.

Application for the subdivision of Erf 1237, Riebeek Kasteel (17 698m<sup>2</sup> in extent), in terms of section 25(2)(d) of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 25 March 2020), into 31 group housing erven (400m<sup>2</sup> - 523m<sup>2</sup> in extent), private road (2 672m<sup>2</sup> in extent) and 7 private open spaces (24m<sup>2</sup> - 720m<sup>2</sup> in extent) is made.

The application was published in local newspapers and the Provincial Gazette on 27 June 2022, in terms of Section 55 of the By-Law. The commenting period, for or against the application, closed on 1 August 2022.

In addition to the abovementioned publication, 20 written notices were sent via registered mail to the affected property owners in the area, in terms of Section 56(1) & (2) of the By-Law, as well as e-mails, where e-mail addresses were available. Two notices were returned unclaimed.

A total of 22 objections were received against the proposal. The applicant was afforded 30 days, from 4 August 2022 to 4 September 2022, to respond to comments and objections received by affected parties. The response to comments was received on 2 September 2022.

The applicant is Interactive Town and Regional Planning and property is owned by the Johan Vlok Familietrust.

### 2. Legislation and policy frameworks

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

- a. Spatial Justice: The proposed rezoning and subdivision will promote access to development and economic opportunity through creating smaller, potentially more affordable property in a historically high income area. All the relevant facts and considerations surrounding the application have been taken into account during the decision-making process. Therefore, the application may be deemed consistent with spatial justice.
- b. Spatial Sustainability: The proposed rezoning and subdivision will enable the owner to develop the property to its full potential, while adhering to the residential character of this specific area of Riebeek Kasteel. The subdivision will create the spatially more compact and resource efficient utilisation of the residential property that is not agriculturally viable.

The proposal constitutes infill development and will connect to the existing infrastructure of the area. The proposed rezoning is thus considered as spatially sustainable.

- c. Efficiency: The proposal ensures the optimisation of existing resources, while contributing to the densification target as advocated by local, provincial and national policy. The development proposal is thus deemed efficient.
- d. Good Administration: The application was communicated to the public through advertising and sending written notices per registered mail and e-mail to affected land owners. The application was also circulated to the relevant municipal departments and Eskom 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 proposed development will not limit any future benefits of the application property or those of the surrounding area. Smaller erven support better land management and create more economic units, promoting diversity to better withstand future economic shocks.

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

This application contributes to healthy management of the urban and rural area. IDP outcome 5.2.

The proposed subdivision is in compliance with the character and land uses prescribed by the SDF as well as the principle of densification which is supported by the SDF and PSDF. This application affects optimal and more intensive use of land and existing infrastructure.

### 2.3 Zoning Scheme Provisions

All zoning parameters will be adhered to.

### 3. Heritage

The proposed development is located outside the heritage precinct identified for Riebeek Kasteel during the draft heritage survey of 2022.

### 4. Desirability of the proposed utilisation

The proposed development is relatively small, located on the edge of the historical Riebeek Kasteel but centrally located between the historical town and Esterhof, potentially serving as an integration point between the two separated areas. The impact of the proposed single storey enclosed development will be limited due to its design, location, and proposed density. Indications are that all services are available but need to be confirmed through studies and designs. The proposed development is fully consistent with the relevant Swartland Spatial Development Framework, 2019 visions and objectives and is considered to be an asset towards the future of Riebeek Kasteel.

There are no physical restrictions on the property that will have a negative impact on the application, as the erf is relatively flat and has been disturbed with vineyard.

The rezoning of the application property to Subdivisional Area is the mechanism provided by the By-Law, in order to allow for various zonings on one property. The provision of 31 residential properties, ample private open space and roads, will contribute to providing in the growing need for such properties in Riebeek Kasteel, without negatively affecting the residential character of the area.

The property size resulting from the proposed subdivision will increase the density of the area, consistent with national, provincial and local policy, but will remain below the maximum permissible density within General Residential Zone 1. Similar developments already exist in the immediate vicinity.

The development proposal will ensure the optimal utilisation of existing resources and the impact on traffic volumes is considered to be acceptable within a residential neighbourhood, along an activity street.

The proposed subdivision may impact positively on the economy of the surrounding neighbourhood, as it will make residential opportunities available to a wider income group, as well as through densification within the area. The construction phase is foreseen to create employment opportunities, while rates and taxes will provide continuous income to the Municipality in future.

The proposed development encourages optimal use of the property as the property is currently vacant – albeit planted with vineyard – thus optimal use of resources, infrastructure, land and functionality is promoted by the development.

Open spaces are provided and designed to promote pedestrian movement, strengthen the feeling of wide roads and space and to prevent a cluttered built-up environment. The 5m wide pipeline servitude along Van Riebeek Street creates the opportunity for landscaping and softening the impact of the development edge on the activity street.

The development proposal is wholly consistent with the land use proposals of the SDF and principles of local, Provincial and National policies.

All development parameters of the Zoning Scheme will be adhered to.

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

In conclusion, the proposal to rezone and subdivide Erf 1237, Riebeek Kasteel, is deemed desirable in terms of the above-mentioned criteria.

### 5. Impact on municipal engineering services

Sufficient engineering services exist to accommodate the proposed development. Further studies, proposals and designs will be submitted to the Director: Civil Engineering Services, to ensure that all civil services comply with standards and are not detrimental to the services network of Riebeek Kasteel.

Development contributions were calculated in terms of the capital contributions policy for Riebeek Kasteel (2005).

### 6. Comments of organs of state

The application was circulated to Eskom, but no comments were forthcoming.

**7. Response by applicant**

See Annexure Z.

**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 remove all rights enjoyed by the beneficiary or only some of those rights  
N/A

**PART L: RECOMMENDATION WITH CONDITIONS**

**A.** The application for the rezoning of Erf 1237, Riebeek Kasteel, from Residential Zone 1 to Subdivisional Area, be approved in terms of section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020);

**B.** The application for the subdivision of Erf 1237, Riebeek Kasteel, be approved in terms of section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020);

Approvals A and B above are subject to the conditions that:

**1. TOWN PLANNING AND BUILDING CONTROL**

- a) Erf 1237 (17 697m<sup>2</sup> in extent) be rezoned from Residential Zone 1 to Subdivisional Area in order to accommodate the following zoning categories, as presented in the application on Site Plan A101, dated 2022/06/09:
- 31 x General Residential Zone 1 erven (12 968m<sup>2</sup> in extent); and
  - 1 x Transport Zone 1: Private Road (2 672m<sup>2</sup> in extent);
  - 7 x Open Space Zone 2: Private Open Space portions (2 057m<sup>2</sup> in extent);
- b) Erf 1237 be subdivided as follows and as presented in the application on Site Plan A101, dated 2022/06/09:
- 31 x General Residential Zone 1 erven between 400m<sup>2</sup> - 507m<sup>2</sup> in extent;
  - 1 x Transport Zone 1: Private Road of 2 672m<sup>2</sup> in extent;
  - 7 x Open Space Zone 2: Private Open Space portions between 24m<sup>2</sup> - 720m<sup>2</sup> in extent;
- c) The required on-site parking bays be provided consistent with the requirements of General Residential Zone 1 and as presented on Site Plan A101, dated 2022/06/09;
- d) A detailed Site Development Plan, including landscaping details, be submitted to the Senior Manager: Built Environment, for consideration and approval;
- e) The entrance gate to the development be located at least 10m from the property boundary in order to allow sufficient stacking distance for minimum two vehicles at a time;
- f) The General Plan be submitted to the Surveyor-General for approval, including proof to the satisfaction of the Surveyor-General of—
- the municipality's decision to approve the subdivision;
  - the conditions of approval imposed in terms of section 76; and
  - the approved subdivision plan;
- and copies of said diagrams be made available to the Municipality;
- g) An Owners Association be established in terms of section 39 of the By-Law and that a constitution be compiled and submitted to the Senior Manager: Built Environment, for consideration and approval;
- h) The constitution of an owners association be approved by the municipality before registration of the transfer of the first land unit and make provision for—
- the owners association to formally represent the collective mutual interests of the area, suburb or neighbourhood set out in the constitution in accordance with the conditions of approval;
  - control over and maintenance of buildings, services or amenities arising from the subdivision;
  - the regulation of at least one annual meeting with its members;
  - control over the design guidelines of the buildings and erven arising from the subdivision;
  - the ownership by the owners' association of all common property arising from the subdivision, including:
    - private open spaces;
    - private roads; and
    - land required for services provided by the owners association;
  - enforcement of conditions of approval or management plans;
  - procedures to obtain the consent of the members of the owners association to transfer an erf if the owners' association ceases to function; and
  - the implementation and enforcement by the owners' association of the provisions of the constitution.

- ix. The Transport Zone 2 erf and the Open Space Zone 2 portions be transferred to the Owners Association, before transfer of the first residential property is approved;
- x. The legal certificate which authorises transfer of the subdivided portions in terms of Section 38 of By-law will not be issued unless all the relevant conditions have been complied with;

## **2. WATER**

- a) The development be provided with an internal water network that connects to the municipal water network;
- b) The internal water network be designed by an engineer, suitably qualified in terms of Act 46 of 2000 and that the design be submitted to the Director: Civil Engineering Services for consideration and approval;
- c) Construction of the internal network be completed under the supervision of the appointed, suitably qualified engineer at subdivision stage;
- d) An analysis of the network be completed in order to ascertain whether elements of the Water Master Plan need to be implemented in order to accommodate the development;
- e) The internal water network will not be adopted by the Municipality and will remain the responsibility of the Owners Association;

## **3. SEWERAGE**

- a) The development be provided with an internal sewerage network that connects to the municipal sewerage network;
- b) The internal sewerage network be designed by an engineer, suitably qualified in terms of Act 46 of 2000 and that the design be submitted to the Director: Civil Engineering Services for consideration and approval;
- c) Construction of the internal network be completed under the supervision of the appointed, suitably qualified engineer at subdivision stage;
- d) An analysis of the network be completed in order to ascertain whether elements of the Sewerage Master Plan need to be implemented in order to accommodate the development;
- e) The internal sewerage network will not be adopted by the Municipality and will remain the responsibility of the Owners Association;

## **4. STREETS AND STORMWATER**

- a) Stormwater be directed underground towards a suitable connection with the municipal stormwater system, to ensure that post-development volumes remain the same as pre-development stormwater volumes on the property;
- b) The internal private road be provided with a permanent, dust free surface, whether it be tar, concrete, paving or any other material previously approved by the Director: Civil Engineering Services;
- c) Both the internal road network and stormwater network be designed by engineers, suitably qualified in terms of Act 46 of 2000 and that the design be submitted to the Director: Civil Engineering Services for consideration and approval;
- d) Construction of the internal road and stormwater networks be completed under the supervision of the appointed, suitably qualified engineer at subdivision stage;
- f) The internal stormwater and road networks will not be adopted by the Municipality and will remain the responsibility of the Owners Association;

## **5. DEVELOPMENT CONTRIBUTIONS**

- a) The owner/developer is responsible for a development charge of R191 672,80 toward 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 R275 638,90 towards bulk water reticulation, at building plan 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 R384 139,10 towards sewerage, at building plan 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 R273 563,15 towards roads and storm water, at building plan 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).
- e) The owner/developer is responsible for the development charge of R13 076, 70 towards electricity, at building plan stage. The amount is payable to the Municipality, valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA: 9/253-164-9210);
- f) The Council resolution of May 2020 makes provision for a 40% discount on development charges to Swartland Municipality, except for condition 4.a), which is payable in full. The discount is valid for the financial year 2022/2023 and may be revised thereafter;

## **6. GENERAL**

- a) Should the extension of any existing service be needed in order to provide the development with services, said extension will be for the account of the owner/developer;



- b) The approval is, in terms of section 76(2)(w) of the By-Law, valid for a period of 5 years. All conditions of approval be complied with within the 5 year period and failing to do so will result in the approval expiring;
- c) The applicant/objector be informed of the right to appeal against this decision of the Municipal Planning Tribunal, in terms of section 89(2) of the By-Law;

#### PART M: REASONS FOR RECOMMENDATION

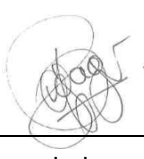
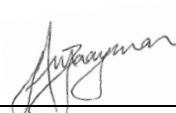
1. The application is in compliance with the character and erf size for the specific portion of Riebeek Kasteel, as determined by the SDF.
2. The application is seen as densification which is supported by the SDF and PSDF.
3. The application complies with section 42 of SPLUMA and Principles referred to in Chapter VI of LUPA.
4. The proposed subdivision will not negatively affect the character of the neighbourhood, as it is located outside the boundaries of the historic precinct of Riebeek Kasteel.
5. There is sufficient services capacity to accommodate the newly created erf.
6. The increase in traffic load, due to the development, is considered negligible.
7. The rights of surrounding property owners will not be negatively affected, as the developable area of the proposed portion will remain extensive.
8. All development parameters of the By-Law be adhered to.

#### PART N: ANNEXURES

Annexure A	Locality Plan
Annexure B	Zoning Plan
Annexure C	Subdivision Plan
Annexure D	Public participation map
Annexure E	Objection from Bess
Annexure F	Objection from Bushell
Annexure G	Objection from de Wet
Annexure H	Objection from Eldridge
Annexure I	Objection from Erasmus
Annexure J	Objection from Gasparre
Annexure K	Objection from Hogben
Annexure L	Objection from JF le Grange
Annexure M	Objection from Jones
Annexure N	Objection from Kamerman
Annexure O	Objection from Lang
Annexure P	Objection from Loubscher
Annexure Q	Objection from Mouton
Annexure R	Objection from Nilsson
Annexure S	Objection from Olivier
Annexure T	Objection from PCU Voigt
Annexure U	Objection from Poortugael
Annexure V	Objection from Ratepayers
Annexure W	Objections from Roos
Annexure X	Objections from Rosser
Annexure Y	Objections from Voigt
Annexure Z	Response to objections

First name(s)	Interactive Town and Regional Planning			
Registered owner(s)	Johan Vlok Familietrust	Is the applicant authorised to submit this application:	Y	N

#### PART P: SIGNATURES

<b>Author details:</b> Annelie de Jager Town Planner SACPLAN registration number: (A/2203/2015)		Date: <b>5 October 2022</b>		
<b>Recommendation:</b> Alwyn Zaayman Senior Manager: Built Environment SACPLAN registration number: (A/8001/2001)	Recommended	✓	Not recommended	
		Date: <b>6 October 2022</b>		



# Local Context

A4 Scale 1 : 2000

PROJECT  
Erf 1237 Riebeeck  
Kasteel

TITLE  
Locality Plan  
Local Context

Application Area



## ANNEXURE A

INTERACTIVITY TOWN & REGIONAL PLANNING  
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CLIENT

DRAWN BY  
Author

CHECKED BY  
Checker

SCALE (B4)  
A4 Indicated

DRAWING NUMBER

A/01

InterActive Town & Regional Planning

Andre Winkler P.Eng. 48271895  
B.Eng. & Sc. (Town and Regional Planning)  
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PROJECT  
Erf 1237 Riebeeck  
Kasteel

TITLE  
Zoning Plan

- Application Area
- Residential Zone 1
  - General Residential Zone 1
  - General Residential Zone 2
  - General Residential Zone 3
  - Business Zone 2
  - Industrial Zone 1
  - Agricultural Zone 1



# ANNEXURE B

INTERACTIVE TOWN & REGIONAL PLANNING  
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CLIENT

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Author

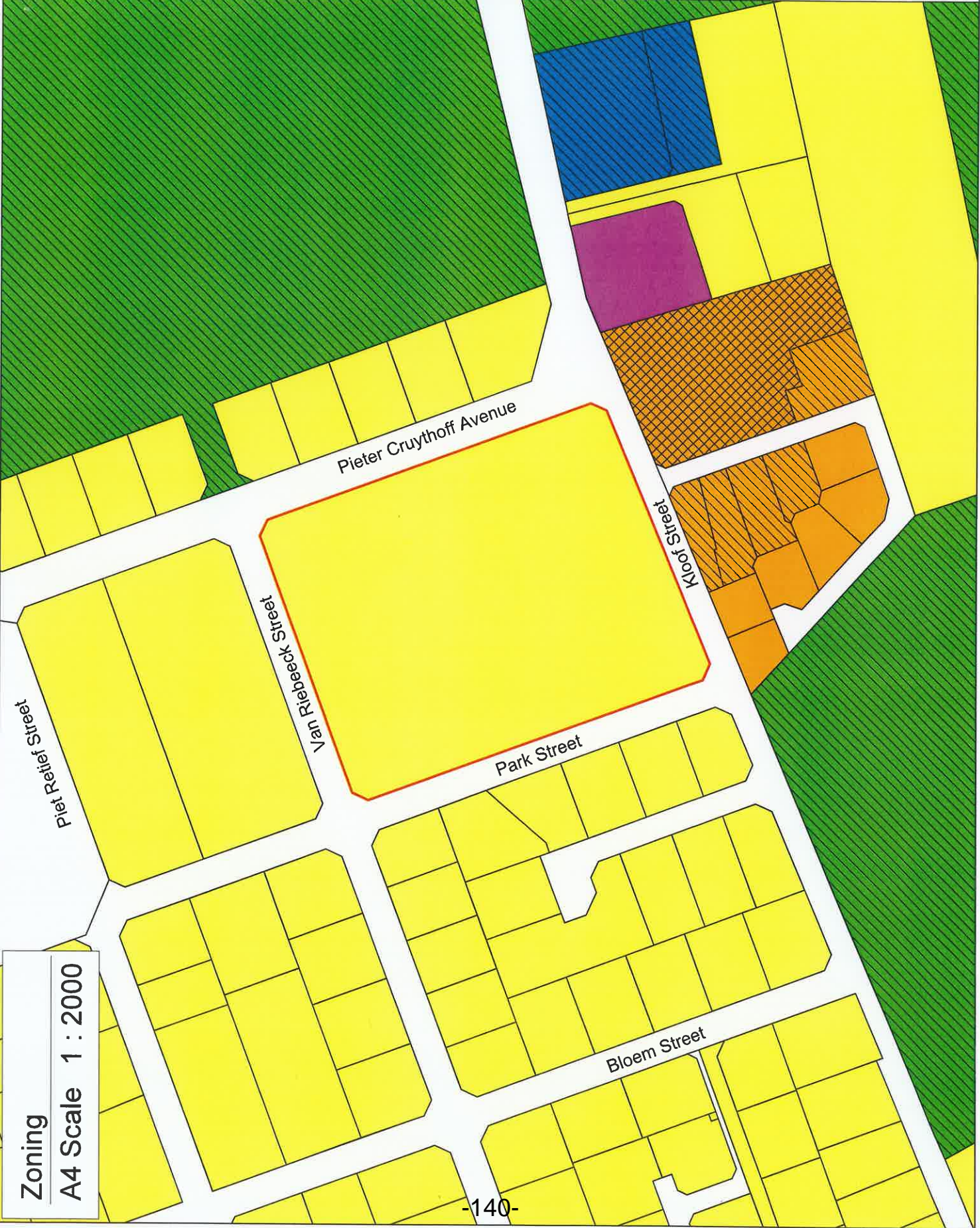
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SCALE (B4)  
As indicated

PROJ  
0001

DRAWING NUMBER  
A121

InterActive Town & Region  
Andre Wachaba Pte A22771999  
B Ait & Co (Town and Regional Planning)  
Telephone 228 312 1888  
E-Mail: wachaba@gmail.com



Zoning  
A4 Scale 1 : 2000



# Site Plan

A4 Scale 1 : 1000

Erf No	Zoning	Area
1	General Residential Zone 1	404m <sup>2</sup>
2	General Residential Zone 1	402m <sup>2</sup>
3	General Residential Zone 1	501m <sup>2</sup>
4	General Residential Zone 1	408m <sup>2</sup>
5	General Residential Zone 1	400m <sup>2</sup>
6	General Residential Zone 1	400m <sup>2</sup>
7	General Residential Zone 1	400m <sup>2</sup>
8	General Residential Zone 1	400m <sup>2</sup>
9	General Residential Zone 1	523m <sup>2</sup>
10	General Residential Zone 1	416m <sup>2</sup>
11	General Residential Zone 1	401m <sup>2</sup>
12	General Residential Zone 1	408m <sup>2</sup>
13	General Residential Zone 1	413m <sup>2</sup>
14	General Residential Zone 1	504m <sup>2</sup>
15	General Residential Zone 1	408m <sup>2</sup>
16	General Residential Zone 1	406m <sup>2</sup>
17	General Residential Zone 1	408m <sup>2</sup>
18	General Residential Zone 1	406m <sup>2</sup>
19	General Residential Zone 1	406m <sup>2</sup>
20	General Residential Zone 1	507m <sup>2</sup>
21	General Residential Zone 1	401m <sup>2</sup>
22	General Residential Zone 1	405m <sup>2</sup>
23	General Residential Zone 1	405m <sup>2</sup>
24	General Residential Zone 1	405m <sup>2</sup>
25	General Residential Zone 1	405m <sup>2</sup>
26	General Residential Zone 1	405m <sup>2</sup>
27	General Residential Zone 1	405m <sup>2</sup>
28	General Residential Zone 1	405m <sup>2</sup>
29	General Residential Zone 1	405m <sup>2</sup>
30	General Residential Zone 1	405m <sup>2</sup>
31	General Residential Zone 1	405m <sup>2</sup>
32	Transport Zone 2	2672m <sup>2</sup>
33	Open Space Zone 2	301m <sup>2</sup>
34	Open Space Zone 2	720m <sup>2</sup>
35	Open Space Zone 2	24m <sup>2</sup>
36	Open Space Zone 2	199m <sup>2</sup>
37	Open Space Zone 2	199m <sup>2</sup>
38	Open Space Zone 2	199m <sup>2</sup>
39	Open Space Zone 2	415m <sup>2</sup>
Total		17697m <sup>2</sup>

Criteria	Zoning
Zoning	General Residential Zone 1: Group Housing
Primary Use	Group housing, Dwelling. Additional use right: Filming.
Density	25 dwelling units per hectare limitation. 20 dwelling units per hectare proposed.
Height	8m
Open Space	1550m <sup>2</sup> communal open space required & 1567m <sup>2</sup> communal open space provided.
Building lines	2m on the perimeter and internal streets. 0m for common building lines.
Parking	1.75 bays per unit plus 0.25 bays per unit for visitors required. 2 bays per unit plus 0.25 bays per unit for visitors provided.

## Site Development Plan

PROJECT

Erf 1237 Riebeek Kasteel

TITLE

Site Development Plan

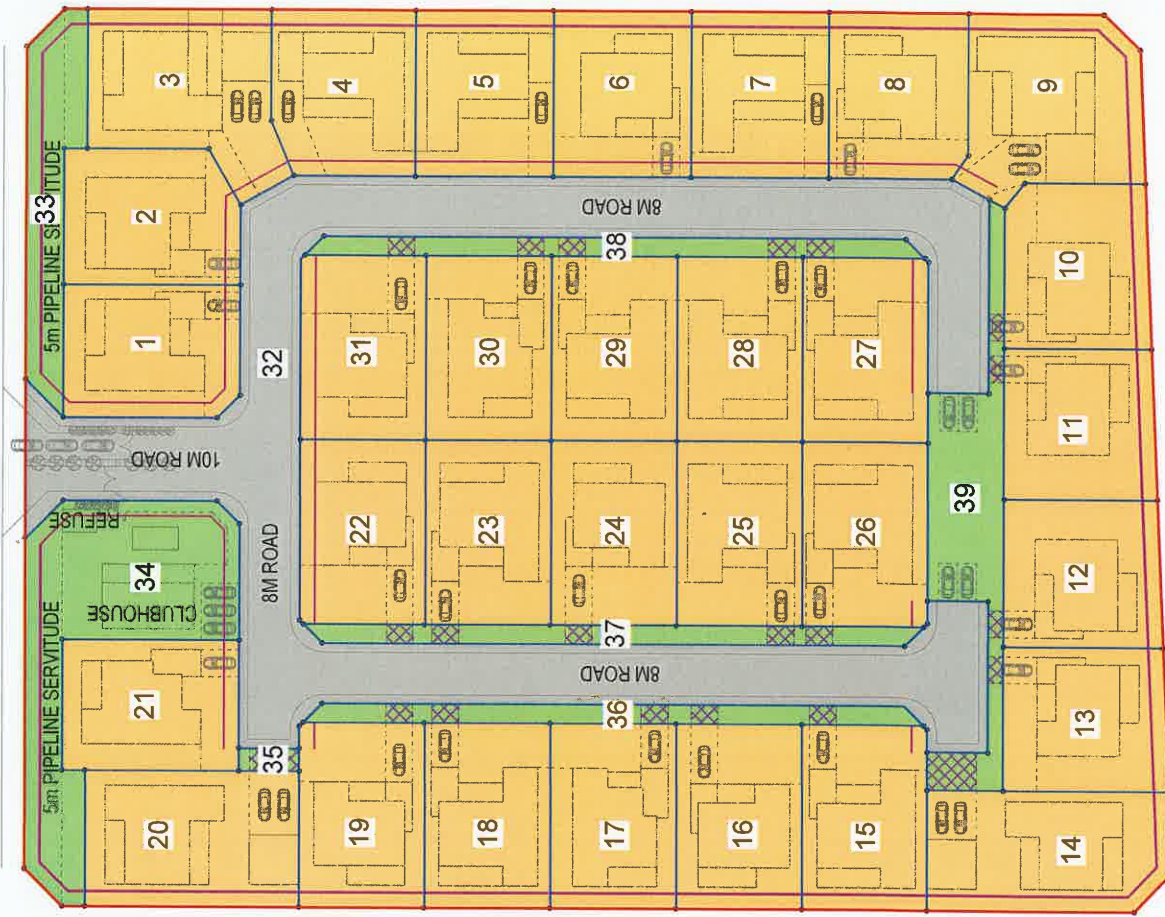
Application Area

Subdivision Lines

2m Building Lines

Right of way servitudes

PIETER CRUYTHOFF AVENUE



## ANNEXURE C

INDemnITY  
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CLIENT

DRAWN BY  
Author

CHECKED BY  
Checker

DATE  
2022/06/09

SCALE (B4)

PROJECT NUMBER  
0001

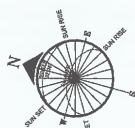
DRAWING NUMBER  
A/01

InterActive Town & Regional Planning

Andre Winkler P. Eng. A20271588  
B.A. et al. (Town and Regional Planning)  
Telephone 078 312 1688  
Cell 078 312 1688  
E-Mail: winkler@interactiveplanning.com



Only dry, air-dried, or compressed air is to be supplied to the specified immediately. All work is to be carried out strictly in accordance with the PWS 27 specifications and standards. The contractor is to be responsible for the correct interpretation of the PWS 27 specification. All work to be deemed to be incorporated herein. The contractor is to work from formal dimensions only. The contractor is to verify all levels, heights and dimensions on the site and to check the same against drawing before commencing any work. All dimensions are in millimetres unless otherwise noted. Meters and workmanship shall be the basis of their respective notes. Only new and undamaged materials shall be used in the work. It is the contractor's responsibility to ensure that all materials used are of the correct type and specification. All materials are to be approved by the manufacturer's written instruction. All specifications are to be followed as approved by the manufacturer's written instruction. The approval of the Principal Agent shall be obtained prior to any substitution and where products or materials, other than those specified are used.



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**"KLEIN KASTEEL"  
ERF 1237, RIEBEEK KASTEEL,**

Drawing title

## SITE DEVELOPMENT PLAN

jobs no	designed
22-02	JVN
scale	drawn
1:250	JVN
date	checked
MARCH 2022	
drawing type	
SKETCH PLAN	
drawing number	revision
SP_02	

## FRONT OPEN SPACE - INDIVIDUAL DWELLINGS



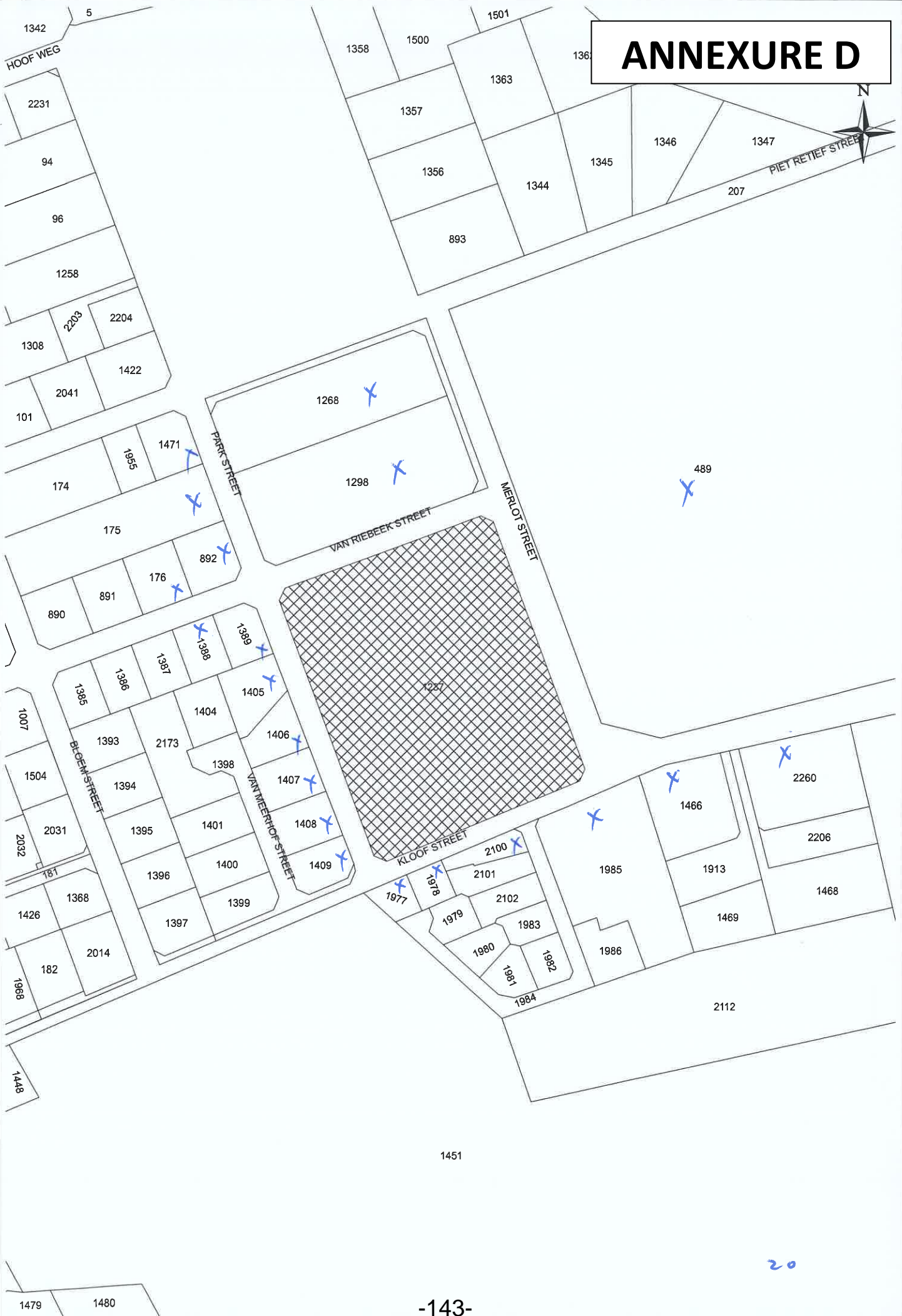
VAN RIEBEEK STREET

PARK STREET

KLOOF STREET



# ANNEXURE D



## ANNEXURE E

**From:** Desiree Bess <[desireevgk@gmail.com](mailto:desireevgk@gmail.com)>

**Sent:** Tuesday, June 28, 2022 8:40 AM

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

**Subject:** Re: Voorgestelde hersonering en onderverdeling op Erf 1237, Riebeek Kasteel

Goeie more

Net 'n voorwaarde vanaf Raadslid is dat die ontwikkelaar asseblief eers Kloofstraat moet teer sodat dit nie ook terug val na die munisipaliteit nie, soos al die ander ontwikkelings in die area nie. Verder is dit 'n baie mooi uitleg en baie gepas vir die area.

By voorbaat dank.

Rdl. D G Bess

## ANNEXURE F

**From:** Malcolm Bushell <info@cafefelix.co.za>

**Sent:** Monday, 18 July 2022 14:34

**To:** Registrasie Email <RegistrasieEmail@swartland.org.za>; Registrasie Email <RegistrasieEmail@swartland.org.za>; Herman Olivier <OlivierH@swartland.org.za>

**Subject:** Objection to Proposed ReZoning/ Development of Erf 1237 Riebeek Kasteel

Dear sirs,

I wish to communicate my objection to the above proposed rezoning and development.

My name is Malcolm Bushell. I live at 7 Shiraz Estate, Riebeek Kasteel. My contact details are this email address and my cell phone - number 0766084884

My reasons for raising an objection are as follows:

- 1) The proposed development is not in keeping with the residential character of the area. Looking to crowd 31 houses onto the plot will be totally out of character with all of the surrounding area and does not meet your own Swartland Spatial Development Framework (SDF);
- 2) I moved to Riebeek Kasteel to get away from the crowding of the city and enjoy a rural country lifestyle. This overcrowded development will damage that lifestyle and negatively affect other people from choosing to move here;
- 3) Riebeek Kasteel relies on tourists for its survival and this development will damage tourism into the valley;
- 4) The development will ruin the views of mountains and vineyards that I, and many like me, came to Riebeek to enjoy;
- 5) Putting a high density development in a transitional area between the town and rural surroundings will set a precedent which will no doubt lead to further similar developments which will ruin the character of Riebeek kasteel.

I am not against a development per se. I am just against an overcrowded development which will damage our beautiful town. If the development was in line with the surrounding properties - which would be more like 15 properties, not 31, I would welcome it.

Kind regards,  
Malcolm Bushell

## **Voorgestelde hersonering en onderverdeling op Erf 1237, Riebeek Kasteel**

Naam: Wessel Johannes De Wet

ID nr 5708025051080

Adres: 19 Park straat Riebeek Kasteel

Kontak nommer: 0828921644

Epos adres: wesseldewet@gmail.com

Hiermee die redes vir my beswaar teen die voorgestelde ontwikkeling.

1. Die Swartland Ruimtelike Ontwikkelingsraamwerk (ROR) vereis dat “nuwe ontwikkelings simpatiek is met erfenisgeboue en dat die plaaslike karakter beskerm word” en dat “die lae digtheidsyfer die unieke identiteit en karakter van Riebeek Kasteel bewaar” soos per doelstellings 1 en 4 met betrekking tot geboude ruimte.
2. Die voorgestelde ontwikkeling tov erf 1237 Riebeek kasteel is volgens die ROR gelee in Ontwikkelingszone D ,wat 'n residensiële en institusionele karakter het. Hierdie voorgestelde ontwikkeling word nie geag om die plaaslike karakter te beskerm of om die unieke karakter van Riebeek Kasteel te bewaar nie weens die volgende punte:
  - a) Riebeek Kasteel het 'n kenmerkende patroonuitleg met groot residensiële erwe van gemiddeld 800 tot 1000m<sup>2</sup> groot. Hierdie eienskappe maak Riebeek Kasteel 'n aantreklike dorp vir toeriste, afgetredenes en diegene wat die spanning van die stadslewe wil ontsnap. Die voorgestelde digtheid en erfgruottes bevorder en bewaar nie die identiteit van Riebeek Kasteel nie. Dit berokken eerder skade aan die identiteit.
  - b) Die huidige patroonuitleg is een van die vernaamste redes waarom buitelandse bellegers in Riebeek kasteel bele.
  - c) Die voorgestelde nedersettingstipologie druis in teen karakterestieke identiteit van die woongebiede in Riebeek Kasteel en sal die eerste landgoed wees en uit karakter met die res van die woongebiede.
  - d) Ek en mense wat in Riebeek Kasteel woonagtig is het na Riebeek Kasteel verhuis om weg te kom van die stad en 'n plattelandse leefstyl te geniet. Myself en verskeie ander mense woonagtig in Riebeek Kasteel kon kies tussen dorpe soos Grayton, Tulbagh, Stanford, McGreager om n paar te noem. Indien hierdie ontwikkelings voorstel sou slaag kan dit tot gevolg he dat sulke mense hulle besluitneming kan heroorweeg. Verder lyk die ontwikkelingsvoorstel nie soos n nedersettingstipologieë wat by plattelandse dorpe aanklank vind nie, sulke tipologieë sal meer gepas wees in metropolitaanse gebiede en nie die karakter van Riebeek Kasteel versterk nie.

d) Die ontwikkeling sal uitsigte oor die landelike landskap onderbreek en meer spesifiek wooneenhede in die omliggende omgewing van die voorgestelde ontwikkeling. Die gevoel van ingeprop/ Volgeprop en verwydering van wingerd sal Riebeek kasteel se mees karakteristieke element vernietig.

e) Die ontwikkelingsvoorstel is geleë in 'n oorgangsgebied tussen die dorp en die landelike landskap. Hierdie gebied het 'n kenmerkende lae-digtheid karakter wat voorsiening maak vir 'n samehangende oorgang tussen die dorp en landelike ruimtes. Die ontwikkeling gaan teen die laedigheidskarakter van die oorgangsgebied en sal 'n presedent skep wat hoër digthede langs oorgangsgebiede aanmoedig word. Sodanige presedent word as nadelig vir Riebeek Kasteel beskou



**Figuur 1:** Aanduiding van lae-digtheid oorgangsgebied tussen die dorp en landelike gebiede.

f) Wonings sal gerig wees op, en slegs toeganklik wees vanaf die binnekant van die ontwikkeling wat afbreuk sal doen aan die straatkoppelvlak en nie 'n positiewe, aktiewe en geïntegreerde rand sal verseker wat voel en lees soos ander stedelike gebiede in Riebeek Kasteel nie;

g) Geen oorweging is aan die artikulasie van daklandskappe gegee nie. Dakontwerpe is herhalend en boots nie die omliggende nedersettingspatrone na nie;



# ANNEXURE H

**From:** eldridge@swartlandmail.co.za <eldridge@swartlandmail.co.za>

**Sent:** Thursday, 21 July 2022 13:56

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

**Cc:** info@cafefelix.co.za; jennifer@midpoint.co

**Subject:** APPLICATION FOR REZONING OF ERF 1237, RIEBEEK KASTEEL (PROPOSED ESTATE DEVELOPMENT: KLEIN KASTEEL)

Dear Sir

I am a Swartland Municipality ratepayer, resident at Shiraz Estate, Kloof Street, Riebeek Kasteel.

At the outset, I wish to make it clear that I wholly accept that controlled and sensitive change is a necessary and ongoing part of Riebeek Kasteel's future development.

There are doubtless many shortcomings and other priorities here in Riebeek Kasteel that will always need expert Town Planning. I am no expert and I am generally only made aware of these matters as I am confronted with them on a day to day basis.

I live directly opposite Erf 1237 and given the possible unfavourable deviations from the developers current proposals and the future reality I have the following concerns and objections :

- (1) The **densification principal** that is proposed here by the developer will largely only benefit the Swartland Municipal coffers and the owner/seller of Erf 1237, at the expense of the surrounding current ratepaying neighbours and the village at large.

Your village ratepayers are here having generally sought to leave densified city living behind them, seeking to escape just what you now propose to reinstate for them here, in the form of densified rural village living!

**No! I strongly object!**

- (2) Apart from all the other necessary Municipal infrastructure installations for this development, no mention is made regarding future traffic flows and roadworks around the proposed Estate. This is an important omission in the Site Development Plan and if omitted at this stage it will again have to be submitted for public scrutiny and comment in the future. The roads within Riebeek Kasteel have recently been largely resurfaced with the notable exception of the areas around Erf 1237 which now requires **transparent intent** by the Swartland Public Services.

Shiraz Estate Owners/Ratepayers and the Shiraz Guesthouse within the Estate and our neighbours are wholly opposed to having a tarred lower Kloof Street with fast moving traffic directly opposite its gates and boundary walls as a result of this proposed Estate development

There is much support by residents and International visitors to the Shiraz Guesthouse for this portion of Kloof Street to be resurfaced and redesignated as a **pedestrian walkway** closed at the Pieter Cruythoff hairpin junction to motorised traffic other than residents/guests accessing via Bloem Street. Despite numerous appeals for consideration this has not gone beyond Municipal site visits. No reason given.

**I strongly object to any consideration** to any future traffic planning that will increase both traffic volumes, noise and speeds along Kloof Street.

- (3) The proposed development confirms only single storey dwellings. Please be aware that design Guidelines at Shiraz Estate are limited to ridge heights at 5.2m above natural ground level. **I do object** to neighbouring properties devaluation by lack of privacy/sunlight caused by surrounding new and unnecessary high buildings.

Regards

Mike Eldridge

082 871 5324

Account Number 1-05-01982-003-1

Street address Shiraz Estate. Erf 1982. Kloof Street. Riebeek Kasteel

Die Munisipale Bestuurder  
Swartland Munisipaliteit  
Privaatsak X52  
Kerkstraat  
Malmesbury  
7299

Per E-pos: swartlandmun@swartland.org.za

Verw Nr: 15/3/3-11/Erf\_1237

Aandag Me D N Stallenberg

Meneer / Mev / Mej

## ERF 1237, Riebeek Kasteel

Kennis is geneem van die aansoek om hersonering en onderverdeling van die betrokke erf [Erf 1237] soos per skrywe van u Munisipaliteit gedateer 27 Junie 2022 en beswaar word aangeteken teen die betrokke aansoeke.

Die redes in hierdie verband is soos volg:

Ek woon reeds vir 'n geruime tyd op Erf 1406, Riebeek-Kasteel in 'n stil en rustige atmosfeer langs die druiweplaas.

'n Aansienlike bedrag is al bestee om die eiendom soos die langsliggende eiendom te verbeter om 'n hoë gehalte huis met normale geboue en 'n swembad daarop op te rig.

Die voorstel vir die ontwikkeling soos aangedui deur Inter Active Town & Regional Planning het 'n besliste skadelike invloed op my eiendom deur die volgende:

1. Die huidige lae-aksie landbou-aktiwiteite wat stil en rustig is sal versteur word met 'n behuisingskompleks met 'n nadelige invloed op die lewenskwaliteit wat op die oomblik geniet kan word.
2. Die waarde van my eiendom sal nadelig geraak word deur die voorgestelde ontwikkeling weens die verlies aan estetiese waarde.
3. Die huidige uitsig oor die druiwe boerdery en wingerde sal vervang word met geboue, strukture en strate wat 'n nadelige invloed sal uitoefen op my huis en sy waardasie.
4. Die voorsiening van infrastruktuur vir die ontwikkeling is onder verdenking en as voorbeeld kan die huidige swak voorsiening van elektrisiteit genoem word.

'n Nuwe kompleks en die verhoogde aanvraag na elektrisiteit sal die bestaande situasie drasties vererger en benadeel.

5. Die verhoogde beweging en aktiwiteite in die ontwikkeling sal die huidige rustige atmosfeer totaal nadelig verander.
6. Die konstruksie tydperk sal veroorsaak dat werkers in groot getalle na die ontwikkeling gebring word wat geraas, stof, rook, ens sal veroorsaak tot nadeel van die aanliggende bestaande hoë gehalte huise.
7. Beheer oor werkers en sekuriteit in hierdie verband is oor die algemeen swak in die omgewing van nuwe ontwikkelings en die ontwikkelaar/eienaar sal doelgerigte en besliste afdwingbare maatreels moet voorstel en implementeer onder toesig van die Munisipaliteit wat verantwoordelikheid moet aanvaar.
8. Die voorgestelde hoogte van die geboue sal my uitsig vanaf my erf totaal belemmer.
9. Die bestaande infra-struktuur, en meer besonder Van Riebeeck Straat in huidige toestand is onvoldoende vir die addisionele verkeer wat gegenereer gaan word as gevolg van die ontwikkeling.  
Gaan die ontwikkelaar ook toesien tot die opgradering van gemelde straat om voorsiening te maak vir die addisionele verkeer wat gegenereer gaan word as gevolg van die beoogde ontwikkeling?
10. Die natuurlike val van die grond waarop die ontwikkeling beoog word, is in die rigting van Kloof Straat (grondpad). Hoe gaan die reen afloop-water wat gegenereer gaan word agv die paaie en geboue, hanteer word, om te verhoed dat die bestaande grondpad wat reeds in swak toestand is, nie verder tot niet gaan en toegang tot Van Meerhof straat verder gaan belemmer nie?
11. Gaan die ontwikkelaar die gedeelte van Park Straat, wat aan die Weste kant van die ontwikkeling grens en tans net 'n onbegaanbare grondpad is, ook opgradeer en teer?
12. Die beoogde onderverdeling in 31 erwe van 400+ vkm is na my mening baie hoe digtheid wat nie by die omgewing en grootte van die perseel sal aanpas nie.

Hierdie aspekte verteenwoordig die hoof-elemente van die beswaar en sal uitvoeriger behandel word in die geval van 'n inspeksie, verhoor, Raadsitting of tribunaal-sitting.

Geliewe ontvangs hiervan te erken.

Die uwe  
JJ Erasmus

Van Meerhof Straat nr 8

Riebeek-Kasteel 7307

Selfoon nommer: 082 552 062

E-Pos: kerasmus123@gmail.c

:9

om

9

# ANNEXURE J

**From:** Ingrid Gasparre <posticino@mweb.co.za>

**Sent:** Monday, 25 July 2022 15:00

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

**Cc:** Herman Olivier <OlivierH@swartland.org.za>; jennifer@midpoint.co.za

**Subject:** OBJECTION TO PROPOSED REZONING AND SUBDIVISION OF ERF 1237, RIEBEEK KASTEEL

Dear Sirs/Madam

The above matter has reference.

We hereby submit our formal objections to the above proposed rezoning and development.

The writer's hereof are Ingrid and Gioacchino Gasparre, the co-owners of No. 1, The Gate House, Shiraz Estate Riebiek Kasteel (hereinafter referred to as "RK"). Should you wish to contact the writers hereof, their contact details will be at the end of the mail.

The reasoning behind our objection are as follows:

1. The proposed development is not keeping with the residential character and aesthetic of the area. The characteristics unique to RK will be affected by a large development. This harms the current and possible future residents of RK who live there for the specific atmosphere and lifestyle it provides.
2. An overcrowded development will damage the rural country lifestyle of RK, negatively affecting the future buyers market of RK, directly devaluing not only the area as a whole but the value of the properties of those who are already owners, for personal use or investment purposes.
3. Tourism is essential to the economic survival of RK, a large aesthetically out of place building will hamper the desirability of the rural getaway that is RK. Tourism is a large part of RK's economy.
4. The development will directly obstruct the views from the writers property as well as the views of each property in the Shiraz estate and more. This devalues not only the monetary value of the property but also prevents the full use and enjoyment of the property as agreed on when purchasing within the estate.
5. Allowing this estate to move forward will open the floodgates for further large developments which will change the landscape of RK in a negative manner permanently.

We are amenable to a round table to discuss the development and come to a compromise that is suitable for both parties, alternatively we will have no choice but to proceed with more formal processes.

Yours faithfully

Ingrid Gasparre - 083 703 7990

Gioacchino Gasparre - 082 308 8282



# ANNEXURE K

**From:** Josie Hogben <josiehogben@gmail.com>

**Sent:** Wednesday, 20 July 2022 13:32

**To:** Registrasie Email <RegistrasieEmail@swartland.org.za>; Registrasie Email <RegistrasieEmail@swartland.org.za>; Herman Olivier <OlivierH@swartland.org.za>

**Subject:** Rezoning of Erf 1237

Mr. N A Hogben

ERF: 1405

Street Address: 10 Van Meerhof Street

Riebeek Kasteel

7307

Contact number: 082 783 3694

20<sup>th</sup> July 2022

## **REF: Rezoning of Erf 1237, Riebeek Kasteel**

Dear Sirs

I moved from Fish Hoek to Riebeek Kasteel in Aug 2004, with the "promise" of country living. When purchasing my property, I was told that Erf 1237 would never be built on in my life time.

I do not object to "a development" on this property, but I strongly object to this proposed development.

The development is just not in keeping with the town; to have a high density housing estate in a country village will turn the quaint town into another populated suburb. We want more "Val de Vie" and less "Parklands".

The proposed rezoning of Erf 1237 has a huge impact on my property; this is a high density estate.

- The plots are far too small
- There are far too many proposed houses in this development
- Huge effect on traffic on Van Riebeek Road, which is already a very busy road
- Light pollution
- Spoil the views
- The high density estate destroys the appeal and atmosphere of the village

Yours Sincerely

Neil and Josie Hogben

## Objection too Proposed Rezoning Erf 1237 Riebeek Kasteel

## ANNEXURE L

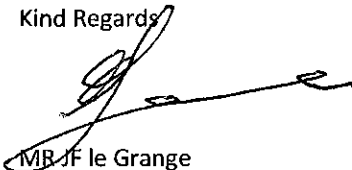
I have been a resident of Riebeek Valley for the past 15 years and want to raise my objection to this proposed rezoning, especially in the light of the significant number of applications for rezoning in the Valley recently submitted.

My objections are based on the following:

1. Most residents of the Valley have moved here to enjoy an exceptional quality of life away from a typical city environment, which sadly has become very densely populated areas with large clusters of gated-communities being the norm. The typical character of these developments is very impersonal where an anonymous life style is the defacto norm and neighbours hardly engage with others or socialise together. Sadly, a development like this does not fit into a rural town where most resident know one another by name and socialisation at neighbours' homes is a regular occurrence.
2. The architecture, style and layout of the development has no characteristics one would associate with a rural village or town and can be found in any other large town in South Africa, let alone the Western Cape. There is nothing in this designs that indicate it might be in the Western Cape, or even a rural setting.
3. Most local and international research indicated that the trend for most residential developments is away from typically "town house/cluster developments" to sustainable eco-friendly estates where the focus is on sustainability and minimum impact on the environment. 2022 global luxury property trends and the rise of co-primary living - Market News, News (property24.com)
4. At an infrastructure level the following substantial challenges are not addressed:
  - a. Pieter Retief Street and its extension Merlot Street has not been maintenance or upgraded in the 15 years that I have been living on this street, and will most certainly NOT cope with an estimated 30 new residents (assuming they are single dwellers). The streets are not even wide enough for two vehicles to pass properly, and there is no room to widen them.
  - b. The street lights on this section has not work for over 10 years and neither have they been maintained. Again there is not sufficient space on these roads to add more.
  - c. 90% of all the residential properties in this area still rely on septic tanks and when we approached the council way back in 2007, the indication as that there are NO budget to add pumphouse in this area. So I doubt this will change, with an additional 30 units.
5. The proposed landscaping and layout is certainly not in keeping with a water-scares area and will place substantial burden on water resources in the area.
6. These type of security/gated communities do not serve the community at large as they are usually purchased by "buy-to-let" investors with the intention to let they units out on long-term or short-term basis (i.e Airbnb rentals), hence not retaining the spending power of money in the town – it is taken out of the community into the pockets of investors that do not live in the Valley. The socioeconomic impact in terms of job creation is limited.

In conclusion, Im not against development, but support smaller scale developments that are less dense, larger plots and with building guidelines that is in keeping with a country town.

Kind Regards



MR JF le Grange

Property Owner

Erf 1358 Piet Retief Street

Riebeek Kasteel

Email: [kobielegrange@gmail.com](mailto:kobielegrange@gmail.com)

Mobile nr 082 333 4717

31/07/22

# ANNEXURE M

**From:** Anica Jones <nica.13@live.co.za>

**Sent:** Monday, 25 July 2022 17:31

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

**Cc:** Registrasie Email <RegistrasieEmail@swartland.org.za>; Herman Olivier <OlivierH@swartland.org.za>; jennifer@midpoint.co.za

**Subject:** Objection to the Proposed Rezoning and Subdivision on Erf 1237 Riebeek Kasteel

Dear Sirs,

We would like to strongly object against the proposed rezoning and subdivision of erf 1237 in Riebeek Kasteel.

We are, Michael & Anica Jones, of 10 Shiraz Estate Riebeek Kasteel. (Erf 1978)

This e-mail can be used as a method of contact along with our cellphone numbers 078 457 8787 and/or 072 615 4342.

A few years ago we chose Riebeek Kasteel for its charm, small town feel and quaintness, unfortunately we feel that this development will rob the town of the characteristics we so value.

To crowd as many houses into the allotted space will ruin the residential character of Riebeek Kasteel. We also chose our area for the views of mountains and vineyards, and would not like to look straight onto an overcrowded residential block.

Please feel free to contact us

Regards

Michael & Anica Jones

# ANNEXURE N

**From:** Jennifer Kamerman <jennifer@midpoint.co.za>

**Date:** 29 July 2022 at 13:38:50 SAST

**To:** jennifer@midpoint.co.za

**Subject:** RE: PROPOSED REZONING AND SUBDIVISION OF ERF 1237 RIEBEEK KASTEEL - COMMENTARY SUBMISSION DEADLINE REQUEST

Dear Mr Scholtz

The Letter of Notification regarding the proposed rezoning and subdivision of Erf 1237, Riebeek Kasteel – your reference 15/3/3 – 11/Erf\_1237 – refers.

The proposed rezoning was brought to the attention of the Riebeek Valley Ratepayers Association Committee yesterday. A group of property owners has requested urgent support from the RVRA in this matter, in terms of section 3.8 of the RVRA Constitution. The Committee requires sufficient time to become familiar with the details of the rezoning application. As such, we respectfully request that you extend the deadline for public commentary to Monday 8th August, 2022. Please can you let me have your decision before close of business today.

Furthermore, neither I, nor other members of my Committee, have been successful in locating any billboards/signage from the Swartland Municipality to notify the broader Riebeek Kasteel public of the proposed rezoning and subdivision, so that they too are able to contribute to the decision-making process regarding this application. Please can you direct me to where these have been placed.

Thanking you in anticipation.

Yours sincerely

Jennifer Kamerman

Chairperson: Riebeek Valley Ratepayers Association

+27 63 388 5266 (mobile)

jennifer@midpoint.co.za (email)

## **Objection to Proposed rezoning Erf 1237 Riebeek Kasteel**

1. According to Swartland Spatial Development Framework (SDF), Erf 1237 Riebeek Kasteel is located in Development Zone D which has a residential and institutional character. There are mixed density residential uses with opportunities for infill development.

2. The SDF requires that *“new developments are sympathetic to heritage buildings and that the local character is protected”* and that *“the low-density rate preserves the unique identity and character of Riebeek Kasteel”* as per objectives 1 and 4 relating to build space.

3. The proposed development is not considered to protect the local character or as preserving the unique character of Riebeek Kasteel on account of the following points:

a) Riebeek Kasteel has a distinctive grid pattern layout with large residential erven averaging 1000m<sup>2</sup> in size. These qualities make Riebeek Kasteel an appealing town for tourists, retirees and those wishing to escape the stresses of city life. The proposed density and erf sizes do not to promote or conserve the identity of Riebeek Kasteel and will damage the character of the town.

b) The proposed settlement typology is not consistent with other residential areas in Riebeek Kasteel and will be the first estate in town and out of character with the rest of the residential areas.

c) People move to Riebeek Kasteel to get away from the city and enjoy a rural country lifestyle. The development proposal does not resemble settlement typologies that resonate with rural towns, such typologies would be more appropriate in metropolitan areas and do not enhance the character of Riebeek Kasteel.

d) The development will interrupt and clutter views of the rural landscape and remove a vineyard all of which thereby decreases and devalues the distinct

e) Developer does not belong to the GREEN BUILDING COUNCIL OF SOUTH AFRICA

f) No green belts between houses for residents to walk through to enjoy open views

g) House architecture has no inclusion of green technology ,double glazed windows , insulation in the floors, walls and ceiling to reduce the r -values to generate warmth and comfort reducing the electricity demand.

h) Houses must have Gas hobs and solar geysers form part of green building

i) It takes away the sense of place for immediate surrounding residents.

j) The development proposal is located in a transitional area between the town and the rural landscape. This area has a distinctive low-density character that allows for a coherent transition between the town and rural spaces. The development goes against the low-density character of the transition area and will establish a precedent that encourages higher densities along transitional areas. Such precedent is considered to be detrimental to Riebeek Kasteel

k) is there enough capacity at the sewer works to accommodate loas on bottleneck at bottom of Pieter Cruythof.



l) traffic study for additional noise of +- 60 vehicles

m) Dwellings will be oriented towards, and only be accessible from, the inside of the development which will detract from the street interface and will not ensure a positive, active and integrated edge that feels and reads like other urban areas in Riebeek Kasteel.

n) No consideration has been given to the articulation of roofscapes. Roof designs are repetitive and do not emulate the surrounding settlement patterns.

# ANNEXURE P

Van Meerhofstraat 6  
Posbus 41  
RIEBEEK KASTEEL  
7307

18 Julie 2022

Die Stadsbeplanner  
Swartland Munisipaliteit  
MALMESBURY  
7300

Geagte Heer/Dame

## IS: VOORGESTELDE ONTWIKKELING VAN ERF 1237, VAN RIEBEEKSTRAAT, RIEBEEK KASTEEL

Hiermee wil ek, Nicolaas Johannes Albertus Laubscher, as eienaar van NJMH Ontwikkeling en dus van erf 1407, die volgende opper t.o.v. die voorgestelde ontwikkeling van erf 1237, Riebeek Kasteel.

Tydens die ontwikkeling van erf 1977 in die 21 erwe nr's 1385-1389 en 1393 – 1409 wat ons gedoen het in 2004, was die volgende oorwegings vir ons van kardinale belang:

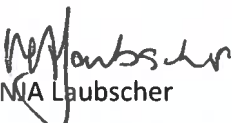
- Dat erwe se grootte sodanig moet wees dat genoeg ruimte tussen huise sal wees om privaatheid van eienaars te verseker;
- Dat die landelike gevoel van die omgewing behoue sal bly;
- Dat alle eienaars/bewoners steeds uitsigte op die omliggende landskap en berge sal kan hê.

In beginsel is ons nie teen 'n ontwikkeling op erf 1237 nie, maar met die volgende voorbehoude:

- Erwe nie kleiner as  $\pm 650 \text{ m}^2$  elk sal wees nie;
- Eenhede slegs enkel volume dakhoogte sal wees;
- Die algemene gevoel van landelikheid behoue moet bly, wat nie die geval is met 31 eenhede op klein erfies wat dig op mekaar is en die totale uitsig van aangrensende huise versper;
- Omliggende grondpaaie, wat reeds baie verkeer dra, gaan nie die toename in verkeer kan akkommodeer nie, dus sal die paaie rondom die ontwikkeling asb. geteer moet word;
- Afloopwater gedurende reënseisoen impakteer reeds negatief op die omliggende grondpaaie, wat met voorgestelde ontwikkeling net meer afloopwater tot gevolg gaan hê en grondpaaie verder gaan laat verweer.

Ek vertrou dat u oorweging sal skenk aan die besware wat hiermee geopper word.

Die uwe

  
NJA Laubscher

Kontak: [njmh@telkomsa.net](mailto:njmh@telkomsa.net); tel 082-5759509

# ANNEXURE Q

**From:** emouton@netralink.com <emouton@netralink.com>

**Sent:** Tuesday, 19 July 2022 12:32

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

**Subject:** Beswaar teen die hersonering en onderverdeling van erf1237, Riebeek Kasteel

Geagte Munisipale Bestuurder

Ek wil hiermee sterk beswaar aanteken teen die bogenoemde hersonering en ontwikkeling.

My naam is Elmarie Mouton en ek woon in Van Riebeek straat nr 51.

My redes vir 'n beswaar aanteken is die volgende:

1. Die voorgestelde ontwikkeling is totaal uit lyn met die plattelandse residensiële karakter van die omgewing en ook teenstrydig met jul eie Swartland Ruimtelike Ontwikkelingsraamwerk.
2. Mense trek reeds Riebeek – Kasteel toe vir die landelike omgewing, spasie, die uitsig op die berge en die omliggende wingerde. Die ontwikkeling sal voornemende kopers totaal afsit van hier koop.
3. Die idee om 31 huise op die erf in te prop is totaal teen alles waarvoor Riebeek – Kasteel bekend is en waarvoor stadsbewoners hiernatoe trek. My groot oorweging was juis om weg te kom van sulke oorbevolkte, raserige en toegeboude gebiede.
4. Van Riebeek straat ervaar reeds 'n groot hoeveelheid verkeer wat groot trokke en tankers insluit, alhoewel daar 'n teken is wat dit verbied. Deur 31 huise by te voeg, gee potensieel omtrent 62 ekstra voertuie op 'n pad wat veronderstel is om rustige verkeer te geniet. Ons huidige inwoners kan skaars veilig by ons hekke uitkom soos wat die voertuie op en af jaag.
5. Hierdie deel van Riebeek – Kasteel word juis gekies vir die rustigheid, spasie en stilte. Die ontwikkeling sal moontlik jonger mense trek met honde en kinders tussen ouer afgetrede inwoners.
6. So 'n hoë dighheidsontwikkeling is teen die karakter van die dorp en sal 'n presedent skep wat baie nadelig sal wees vir die toekoms.
7. Riebeek-Kasteel is total afhanklik van toerisme en sulke ontwikkelings sal geen besoekers trek nie. Hulle wul juis vir 'n naweek wegkom van hul eie ingeperkte, oorbevolkte gebiede.

Ontwikkeling sal altyd daar wees, maar daar moet baie goed gekyk word na wat bereik word met elke soort ontwikkeling en hoe dit positief tot die dorp en sy gemeenskap sal bydra.

Ek kan bereik word deur epos – [emouton@netralink.com](mailto:emouton@netralink.com) of op my selnommer 082 776 9712.

Ek wil ook hiermee versoek dat RKRA ook namens my beswaar maak.

Groete

Elmarie Mouton

## ANNEXURE R

**Swartland Municipality**  
**Chanice Dyason, Division Planning**  
**The Municipal Manager, Private Bag X52 Malmesbury**  
**swartlandmun@swartland.org.za**  
**PlanIntern1@swartland.org.za**  
**scan@swartland.org.za**

### **“OBJECTION / COMMENTS on proposed rezoning and subdivision of Erf 1237, Riebeek Kasteel”**

Dear Sirs & Madams

As the owners of the adjacent properties, Erven 1268 and 1298, known as the Eden Estate, we wish to object to the proposed rezoning and subdivision of Erf 1237 (the “Plot”) based on the following reasons:

We are next door to the planned expansion along Van Riebeek Street. As an international investment group that has developed Eden Estate – a guest house with 24 beds in a unique garden offering activities including picnic concerts, exhibitions, family events and other events for the tourism industry in the valley.

We acquired Eden Estate in 2017 and have since invested heavily in this garden developed a well-functioning guest house, hired staff and attract visitors from all over South Africa and overseas every week who spend money in the area.

We have plans and ambitions to further support and contribute to the development of the tourism industry in the area. We evaluated many places but chose Riebeek Kasteel for the quality of life, character with larger plots and detached houses – a place of harmony.

Groundwater is key to our business as well as surrounding neighbours and we are all dependent on water access through borehole water. This will need to be guaranteed if more people are to take part in the water supply.

We protest against this expansion of the Plot, which we believe does not strengthen the positive development of the village, the valley and the wider region. 31 small sub-divided plots are far too many in this area, it creates a great impact on the traffic environment which is already very strained today, with noise and a lot of traffic. The exit towards Van Riebeek Street will increase the sound load west-facing towards the unique garden with visiting guests, which is the reason why you visit the village to experience peace and quiet, it will be



impossible now with an entrance and exit a few meters from the guests' place. The entrance should be from another part of the Plot. This makes the business uncertain and we cannot continue to invest and will demand compensation for any adverse impact.

1. The proposal provides for 31 dwellings, which will result in at least a further 62 persons living in this area, with a possibility of at least 62 vehicles which will be using the joint entrance/exit to the development, which is in Van Riebeek Street. 31 dwellings are too many and not in proportion to plots of similar size, where a maximum of 20 has been observed, and is therefore not reasonable from a visual nor practical point of view with the unproportionate impact on water, sewage, roads and other infrastructure crucial to the existence of Riebeek Kasteel.
2. The entrance should be from another road surrounding the Plot other than the current proposal. This as Van Riebeek Street already experience significant heavy vehicular traffic and this will definitely make it far worse and the road is not wide enough or in as good a condition as would be required, to accommodate cars turning in and exiting the Plot, at the same time that the taxi and other vehicles are making their way up and down to and from the lower part of the village, and Esterhof.
3. The ambience and attractiveness of our tourist business at Eden Estate is the tranquility of the guest accommodation and our entertainment area, which is closest to Van Riebeek Street. This is also going to be detrimentally affected by the increased traffic.

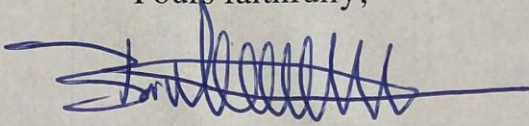
Whilst development is a good thing, in most instances, in this particular case, it would be our recommendation that the proposal be adjusted for larger sized and fewer properties – thereby reducing the impact on the road infrastructure, walking people and traffic – and we believe that a balance between progress and preserving the quaint village atmosphere which Riebeek Kasteel has, can certainly be achieved – with the co-operation of the developers.

Kindly keep us informed of the progress of the application, and we would appreciate receiving copies of any other objections or comments which are made in this regard. Please confirm this mail.



Riebeek Kasteel 2022-07-18

Yours faithfully,



Bo Nilsson

CEO Cetabsa reg. No 2013/117140/07

34 Piet Retief Street 7307 Riebeek Kasteel

bo.nilsson@cetabse.com

+46 70 527 61 12

# ANNEXURE S

**From:** Andrew Olivier <[Andrew@theworkingjourney.com](mailto:Andrew@theworkingjourney.com)>

**Sent:** Wednesday, June 29, 2022 3:36 AM

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

**Subject:** Re: Voorgestelde hersonering en onderverdeling op Erf 1237, Riebeek Kasteel

**Attention: The Municipal Manager. (400-500m2)**

Objection to planned development on Erf 1237.

Dear Sir/Madam

I wish to object to this development on the grounds that;

1. ?The minute size of each plot. (400-500sm2) This type of development is suited to suburbia not a country village.
2. The minimum should be 700m2 preferably bigger. Shiraz Estate next to this has plots of an average of 800 .
3. No body looks for this type of development. In fact city dwellers all want to escape Home owners Assoc. I suggest make them bigger and own title.
4. The impact on an already very busy traffic area is going to impact us all. The road is dangerous as it is, with speeding vehicles. The infrastructure cannot cope with mass density housing like this.
5. It is not environmentally friendly nor sustainable. What is the environmental impact assessment on having this type of sewage, power, internet connectivity added into the equation?

thank you

Andrew Olivier.

# ANNEXURE T

**From:** Peter Voigt <tvnewscamera@yahoo.com>

**Sent:** Tuesday, 26 July 2022 16:39

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

**Subject:** Fw: Proposed rezoning and subdivision of erf 1237 Riebeek Kasteel.

PCU Voigt  
33 Sarel Cilliers St  
Riebeek Kasteel

The Municipal Manager  
Swartland Municipality

Dear Sir

As a property owner who has retired to Riebeek Kasteel, I would like to **object** to the proposed development of **Erf 1237** to be known as **Klein Kasteel**. for the following reasons:

1. the proposed cluster development of these small 31 homes will change the face of the village which is desirable to live for its quant character.
2. The small properties are more than half the size of existing residential properties.
3. The style of buildings proposed represent the sort of development more suitable to a satellite suburb in greater Cape Town, not a country town.
4. The town can barely sustain its infrastructure in terms of reliable electricity and water supply with frequent breakdowns in this supply which is simply just patched up.
5. Will the towns sewerage system be adequate?
6. The increased traffic of new residents will present problems as will there be inadequate parking for potential visitors to this development as the area is so tightly packed and simply too small. The surrounding narrow streets will become congested parking areas.
7. This development is clearly not conforming to the aesthetic nature of the town and should be scrapped.
8. The great majority of residents and property owners have moved to this town for its uniques character and this tacky development will devalue our properties

Yours Sincerely

PCU VOIGT  
0834409804

# ANNEXURE U

**From:** Philippe | BearField <philippe@bearfield.com>

**Sent:** Saturday, 23 July 2022 10:53

**To:** Registrasie Email <RegistrasieEmail@swartland.org.za>; Registrasie Email <RegistrasieEmail@swartland.org.za>; Herman Olivier <OlivierH@swartland.org.za>

**Cc:** Prisca Llagostera <prisca@lovellanegra.com>

**Subject:** Objection to Proposed ReZoning/ Development of Erf 1237 Riebeek Kasteel

Dear sirs,

We would like to send in our objections on the proposed development of Erf 1237 Riebeek Kasteel.

Our names are Philippe den Beer Poortugael and Prisca Llagostera Saludes. I, Philippe, just became the proud owner of erven 1985 and 1986, Shiraz Estate, which is a boutique hotel overlooking Erf 1237. Prisca, is my business partner and will be renovating and running the hotel. Prisca is a very experience hotelier whom started a beautiful boutique hotel in Andorra, Spain called L'Ovella Negra (<https://lovellanegra.com/>) which is one of the top boutique hotels in the world.

Prisca and I took over the current hotel, to turn it into a more up-market off the beaten track small luxury hotel.

The idea was the invest in the hotel and make it a nice boutique hotel in the middle of the vineyards for people to get away from city life.

A week after taking ownership we received the proposal on the rezoning of Erf 1237, this really shocked us.

Below in bullets the reasoning behind our objections:

- We are not against the land being developed, we just do not understand why so many properties on that size of land (I would develop maybe 4 to 6 houses, not 31 houses....)
- Riebeek Kasteel is known for it's open spaces, why such a crowded development when there is so much land (in Europe we do not have the space &#128522;, you do, that is the whole attraction of the region)
- The reason I bought the property is for the peace and quite, that is the magic of Riebeek Kasteel and what attracted me to buy the property, now I am unsure to invest in the property (better to wait and see how the new development across the street will affect us)
- This development takes all that charm and character away from Riebeek Kasteel, mainly due to the size of it.
- In order to be able to turn Shiraz into an up market off the beaten track charming little hotel, means the location needs to be quiet, and at the same time authentic and interesting. Having a big development next to it takes that away. People want to travel to Riebeek Kasteel, not to an overdeveloped town.
- The view of the property will be ruined, it takes away from the peace and quiet, it will not be a very appealing area to host guests
- We also do not understand how 31 units on a plot that size can be of interest and upscale, for buyers as they say on their website, we looked at the proposed pricing per unit, having looked at several properties in the region it makes no sense to us
- We really hope you understand our objections, again, we understand if the owner wants to develop the land, that is his/her right but please make sure it fits the area and does not ruin it for the community around them as well as take away from why people come to Riebeek Kasteel in the first place

Kind regards,

Philippe den Beer Poortugael and Prisca Llagostera Saludes

**Philippe den Beer Poortugael**  
**Frederiksplein 43**  
**1017XL Amsterdam**  
**the Netherlands**

[philippe@bearfield.com](mailto:philippe@bearfield.com)  
+31 6 466 151 48



## Letter of Objection

1 August 2022

Mr J. J. Scholtz  
The Municipal Manager,  
Private Bag X52,  
Malmesbury, 7299

Dear Mr Scholtz

**Re: OBJECTION TO PROPOSED REZONING AND SUBDIVISION OF ERF 1237,  
RIEBEEK KASTEEL (NOTICE 07/2022/2023)**

I submit this Letter of Objection without prejudice.

### Introduction:

1. On behalf of the membership of the Riebeek Valley Ratepayers Association (RVRA), and as enabled by Section 3.8 of the RVRA's Constitution, the RVRA Committee wish to place on record our objection to the proposed rezoning for Erf 1237, Riebeek Kasteel, as set out below.
2. Please refer to the attached folder for Letters of Mandate from RVRA members, appointing and authorising the RVRA to submit this Letter of Objection on their behalf.
3. Please ensure that the following points raised in objection against this rezoning application are read in conjunction with the independent submissions made by several of our RVRA members with regard to this matter. Please note that as we are in agreement with the objections set out in these individual letters, it is superfluous to reiterate these points.
4. Please note that all communications from the Swartland Municipality, with regard to this matter, must be emailed to both [jennifer@midpoint.co.za](mailto:jennifer@midpoint.co.za) and [william@phd.co.za](mailto:william@phd.co.za)



5. We wish it to be known that we do not object to the proposal that Erf 1237 land use be changed from an agricultural land use to a residential land use, as this is in alignment with the approved Spatial Development Framework (SDF) for Riebeek Kasteel.

However, we object outright to the proposal to change the zoning from Residential 1 to Subdivision Area, with the proposed density of development.

**Points in Objection:**

**1. Objection to proposed development on grounds of architectural uniformity**

We object outright to the proposed uniformity of architectural style.

Objective 4 (SPACE, BUILT), as set out in the SDF, has reference:

***“Objective 4: Protect and grow place identity and cultural integrity***

**Heritage and Tourism:**

- *Ensure new developments are sympathetic to heritage buildings and the local character is protected.*

**Residential:**

- *Increase density for next 20 years from 8.5 units per ha to 8.2 units per ha in Riebeek Kasteel.*
- *The low density rate preserves the unique identity and character of Riebeek Kasteel.”*

The proposed development clearly violates these principles and commitments as set out in the approved SDF. A plan view and artist’s impression from within the proposed development, (see Figure 1 below), noticeably illustrates a development that has no parallel in Riebeek Kasteel and violates the preservation of “the unique identity and character of Riebeek Kasteel”, as aptly recognized in the SDF.

If approved, the proposed development will create the first high density group housing scheme of this “cookie cutter” nature in Riebeek Kasteel, one that is more appropriate to city suburbs, or larger more commercial towns like Malmesbury, rather than a country village that relies on its rural ambience to attract residents, tourists and associated business.



**Figure 1: Proposed Development on Erf 1237, Riebeek Kasteel**

The artists impression shown in Figure 1 above and as shown abundantly on the developer's website [www.kleinkasteel.co.za](http://www.kleinkasteel.co.za) show an architectural style that is aligned with a typical architectural style characteristic of Riebeek Kasteel. However, the objection is that an identical style is being proposed for all the units, albeit it with minor changes in layout and size. Figure 3 below shows a small selection of the variety of architectural styles, both traditional and modern, that can be found in Riebeek Kasteel. While we do not wish to propose or promote any particular style, we do propose that there be a much greater variety of architectural styles on offer to purchasers of property within the development. The variety can still be cohesive in order that the development remains aesthetically pleasing.



**Figure 3: Variety of Architectural Styles in Riebeek Kasteel**

## **2. Objection to proposed development on grounds of development density**

An assessment of the nature and character of the areas adjoining Erf 1237 are shown in Figure 2 below, with specific reference to the development density of these areas.



**Figure 2: Density Assessment of Areas Adjoining Erf 1237, Riebeek Kasteel**

The average density of all the residential areas adjoining Erf 1237 is 8.50 units/ha which is perfectly aligned with the SDF. The proposed density for the new development of Klein Kasteel is 18.08 units/ha which is 113% higher than that of the surrounding areas. This is not at all appropriate nor supportive of the following key principle published in the SDF:

*“The low density rate preserves the unique identity and character of Riebeek Kasteel.”*

The proposed high density rate is not aligned with and will destroy the unique identity and character of Riebeek Kasteel.

**We therefore specifically propose that the density of the Klein Kasteel development on Erf 1237 be restricted to the average density of 8.5 units/ha of the surrounding areas and that a maximum of 15 units (including the “Clubhouse”) be permitted for this development.**

Yours sincerely

Jennifer Kamerman  
Chairperson: Riebeek Valley Ratepayers Association  
6 Long Street  
Riebeek West  
+27 (0) 63 885 266 (mobile)

# ANNEXURE W

**From:** Christine Roos <christine@roos.co.za>

**Sent:** Monday, 25 July 2022 21:03

**To:** Registrasie Email <RegistrasieEmail@swartland.org.za>; Registrasie Email <RegistrasieEmail@swartland.org.za>; Herman Olivier <OlivierH@swartland.org.za>

**Subject:** Klein Kasteel Development Public Participation

## SWARTLAND MUNICIPALITY

To whom it may concern

Dear Sir

I am a property owner in the close vicinity of the proposed Klein Kasteel development.

Herewith my objections to the project:

Development and the associated work opportunities in the Riebeek Valley are welcomed when growth happens organically.

My objection stems from the scale on which housing developments are proposed in the Valley and whether the total impact thereof is well considered. At present, I am aware of the following developments which are simultaneously in rezoning and / or proclamation stages:

- Allesverloren Retirement Village,
- The development between Main Street and Fontein Street
- Erf 2111 development (across Riebeek Cellars)
- Klein Kasteel

Of these 4, Klein Kasteel is the smallest, with 31 units. If all goes well, these projects will in total release a disproportionate number (300?) of residential units in the near future.

1. Is the release of so many units feasible?
2. How does this massive expansion fit into the historical context and unique character of the Valley? Was there a Heritage impact assessment done for these proposals in total?
3. The area attracts a lot of tourism. What steps are taken to protect the Riebeek Kasteel village square and surrounds, to ensure that it remains a tourism hub?
4. How will roads be upgraded? The Erf 2111 and Klein Kasteel developments will add the vehicles of at least 150 additional units to the stop street crossing at the Bloem Street / Van Riebeek Street intersection. This is 2 properties away from my property.
5. For these 2 developments, how will roads be upgraded to allow heavy vehicles to bypass Riebeek Kasteel village and onto the Gouda dirt road? Kloof Street (from Van Riebeek, Piet Retief or Hoof Streets) is the only access to the Erf 2111 development. Adding this number of construction and delivery vehicles through these streets will destruct the village character.
6. Is there any requirement for the use of local labour, suppliers, materials, vernacular architecture?
7. With the scale of construction, there will also be an influx of construction workers, temporary workers and job seekers. Where will these people be housed?
8. With the influx of new residents to both these developments and to the existing village, I don't see any mention of new schools proposed. The existing primary schools are fairly full. The only secondary school is in Malmesbury and already bursting at the seams.
9. The fact that there are not sufficient schools, is a negative sales factor. Potential buyers would tend to be older persons without school aged children. This will in the long term not be a desired demography that will promote continued growth.

My concern is that the scale of the growth spurt may be detrimental to the character and economy of the Valley if it is not considered and managed holistically. For lack of any information to prove that this is the case, I hereby object to the Klein Kasteel development.

Vriendelike groete / Kind regards,

**CHRISTINE ROOS**  
**Christine Roos Architect**

071 122 7239 – [christine@roos.co.za](mailto:christine@roos.co.za)  
22 Bloem Street, Riebeek Kasteel



26 July 2022

**Swartland Municipality**

To whom it may concern

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

[registrasieemail@swartland.org.za](mailto:registrasieemail@swartland.org.za)

[olivierh@swartland.org.za](mailto:olivierh@swartland.org.za)

Dear Sir / Madam

## **OBJECTION TO KLEIN KASTEEL RESIDENTIAL DEVELOPMENT IN RIEBEEK KASTEEL**

My husband and I have been residents of Riebeeck Kasteel since December 2021. Our decision to relocate from Durban was not taken lightly, I took a lot of time to research towns in the Cape and the financial stability of the municipalities, as well as the weather, proximity to Cape Town, tourist potential and various other factors. One of the primary considerations was the size of the town as well as the limited area for further development, as we wanted a country feel to the town. Our understanding was that the town was surrounded by working farms and development would be very limited, however this is proving to be untrue.

I do not have an aversion to natural growth of an area, however there are at least three other potential developments proposed for the area; namely Allesverloren Retirement Village, the development on the land adjacent to The Barn and the development opposite the Riebeeck Cellars.

My concern is that the development of 31 units on a very small piece of land is not aesthetically pleasing and does not tie in with the country feel of the town. The development requires enormous infrastructure and will ultimately affect the water consumption of the area as well as the demand on the sewage system. The roads will need to be upgraded in the surrounding area to accommodate the increased traffic flow on an already very busy road. I like the fact that some of the roads are still sand roads. It adds to the charm of the town. Who will fit the bill for the upgrades to these systems? I presume the rate payers, which is the residents of the town.

Is it assumed that the children that come with the families will attend the local school? If so, can the school cope with an additional classroom or two?

If the proposed development does forge ahead, numerous residents, myself included, will reevaluate our place in the town, and should other opportunities cross our path, perhaps consider another move to a small town. This point is possibly a consideration by other residents, which will negatively impact the economy of the town.

Your consideration of my objection is much appreciated.

Kind regards

Karen Rosser

072 4252732



# ANNEXURE Y

**From:** beverley voigt <beverleyvgt@gmail.com>  
**Sent:** Tuesday, 26 July 2022 15:01  
**To:** Registrasie Email <RegistrasieEmail@swartland.org.za>  
**Subject:** Rezoning of ERF 1237 Riebeek Kasteel

## OBJECTION TO THE ABOVE REZONING AND DEVELOPMENT

Good day

As a resident of Riebeek Kasteel, I would like to record my objection to the rezoning of this land as proposed, as well as the development of 31 dwellings on the land.

We left Cape Town to come and live in Riebeek because we loved the character of this Village. The proposed development reminds me of areas like Table View, Parklands, Edgemoor and parts of Durbanville. Why would we want our beautiful Country Village to become like those areas that we all thought we had left behind in the City??

I have become aware of the fact that the SAPS in Riebeek West are unable to adequately service the area they cover at the moment (Riebeek West, Riebeek Kasteel, Hermon and about 200 farms) Now it is proposed to add another 31 families/homes and create an even greater workload for the police who already cannot cope.

Our electricity and water supply is often erratic due to cable thefts, burst pipes etc - and yet developers think adding another large burden on the system will be to the improvement of the Village - I think NOT !! Not to mention sewerage demands becoming even greater.

The size of the plots in the proposed housing scheme are far too small to fall in with the usual standards within our Village - cramming SO many tiny homes onto an Erf this size seems to me like greed on the part of all those trying to push this through.

I most strongly urge the Municipality to DENY this development .

Yours sincerely  
Mrs Beverley Voigt  
33 Sarel Cilliers Street, Riebeek Kasteel  
Phone :083 284 5734  
[beverleyvgt@gmail.com](mailto:beverleyvgt@gmail.com) (preferred contact method)



## InterActive Town & Regional Planning

PO Box 980

Hermanus

7200

Reference: Riebeek-Kasteel 1237

Date: 3 September 2022

**For Attention: The Municipal Manager**

### **ERF 1237 RIEBEEK-KASTEEL: APPLICATION FOR REZONING AND SUBDIVISION: RESPONSE TO OBJECTIONS**

Your letter dated 4 August 2022, requesting a response to the public comments/objections refers.

#### 1. **Background**

The objective of this application proposal is to establish a gated small lifestyle estate with 31 residential erven of between 400m<sup>2</sup> and 500m<sup>2</sup> in size with well-structured and functional open space. The proposal includes a clubhouse and communal open space.

The application is for the subdivision of the application area into 31 General Residential Zone 1: Group Housing erven, a private road, two private open space erven of which one is proposed to accommodate a clubhouse.

The following reflects extracts from the application site's Site Development Plan for Erf 1237 Riebeek Kasteel



**ANNEXURE Z**





For the Municipal Planning Tribunal the following matters need to be kept in mind when considering the application proposal against the objections received:

The subject application is consistent with the Swartland Spatial Development Framework where the location of the application site has specifically inter alia been identified for:

- The support of the provision of integrated residential development, specifically between the existing original Riebeek Kasteel town and Esterhof,
- That spatially all forms of housing should be provided, hence this includes group housing with individual own title erven also meaning that sustainable and integrated residential developments be provided to ensure housing options for all members of the community and subsequently also middle to high income population groups,
- To promote densification according to the zone suggestions with higher density developments along the activity streets. The application area is located along an activity street and identified for inter alia higher density development as shown in the adjacent table in the following extract from the Swartland Spatial Development Framework, 2019 which allows a density of 25 dwelling units per hectare. The application proposal makes provision for 18 dwelling units per hectare.
- That Riebeek-Kasteel be densified through a) subdivision, b) infill development and c) renewal. The application proposal for densification is specifically through subdivision, infill development and bringing about renewal. The renewal however acknowledges the existing character of the town through the architectural language being applied in the urban design layout proposal. The renewal also caters for a block development inward design resulting that the historic grid pattern is conserved but ensuring a more secure development. The remainder of the town is not affected by the proposed development at all apart from contributing toward the envisioned increase in density and contributing the general economy. The application area is earmarked for residential development and is on a corner of two activity streets. The subject property is within zone D of the Spatial Development Plan.

Riebeek Kasteel		Low Density Residential Uses	Medium Density Residential Uses	High Density Residential Uses	Secondary Educational Uses	Institutional Uses	Professional Services	Business Uses	Secondary Business Uses	Churches	Institution	Guest houses	Authority	Sport/Recreational Facilities	Industries & Service Trade
D	Zone D consists of a residential as well as institutional character. There are mixed density residential uses with opportunities for infill development.	X	X	X	X	X			X	X	X	X	X	X	



It evident that the proposed development is consistent with the vision of the Swartland Municipality. This proposal was discussed at depth with the Swartland municipality.

The main objections are the concern that the character of the town will be affected because of the proposed increase in density and the proposed architecture, with a number of lesser related objections. **It is apparent that the main objections are thus opposing the statutory approved Swartland Spatial Development Framework, 2019.**

**The local authority on the other hand should also acknowledge that the proposed development can potentially accumulate for the 31 properties between R2,5 and R3 million income for rates and taxes, which can subsequently be utilized to upgrade the Riebeek Kasteel roads and infrastructure.**

## 2. Methodology of Response

In response to the objections and/ or comments received, a summary of comments and objections are compiled, followed by a thematic summary of the comments and objections with responses to each of the summarised thematic points of objection / comments. Finally a conclusion is made and a recommendation.

## 3. Summary of Comments/Objection and Response to Comments/Objection

A summary of the comments and objections of each of the objectors are tabled here-below:

No	Name of objector	Summary of objection
1.	Riebeek Valley Ratepayers Association with specific mandates from: B Liebenberg, JF Le Grange C Roos PCU Voigt WJ de Wet KM Rosses P Seba J Fourie	<p>The objection is not to the change from agricultural to a residential land use as it is in alignment with the approved Spatial Development Framework (SDF) for Riebeek Kasteel.</p> <p>The objection is to the proposal to change the zoning from Residential 1 to Subdivisional area with the <u>proposed density of development</u></p> <p><u>Specific points of objection:</u></p> <ul style="list-style-type: none"> <li>• Uniform Architectural Style- a much greater variety of architectural styles are proposed</li> <li>• Development density- The density proposed of 18.08 units per hectare is 113% higher than that of the surrounding areas and not appropriate nor supportive of the key principles or aligned with the SDF of a low-density rate to be preserved of the unique character of Riebeek Kasteel.</li> </ul> <p>Propose that the density be restricted to 8.5 units per hectare</p>
2.	JF Le Grange	<p>In summary the objector indicated that he is in favour of smaller scale developments that are less dense, larger plots and with building guidelines that is in keeping with a country town.</p> <p>The specific points of objections are summarized as follows:</p> <ul style="list-style-type: none"> <li>• The development does not fit into a rural town being creating a dense, gated, impersonal lifestyle.</li> </ul>



		<ul style="list-style-type: none"> <li>• The architectural style and layout has no characteristics associated with a rural village.</li> <li>• Local and international research indicated that the trend for most residential developments is away from typical “town house / cluster developments”. Towards eco-friendly estates focusing on sustainability and minimum impact on the environment.</li> <li>• Infrastructure challenges are not addressed in terms of maintenance, upgrade and capacity of roads, street lighting and sewerage capacity.</li> <li>• The proposed landscaping and layout is not in keeping with a water-scares area and questions the water provision capacity.</li> <li>• The development is not community orientated in terms of money are taken out of the town resulting that the socio-economic impact in terms of job creation is limited.</li> </ul>
3.	Viviane van Zijl-Schumacher	The density is too high, the architecture too uniform that will undermine the village atmosphere that will attract poor quality purchasers.
4.	Andrew Olivier	<ul style="list-style-type: none"> <li>• The erven are too small</li> <li>• The development is not suited for a country village</li> <li>• The development should be an own title development</li> <li>• The traffic impact will be undesirable with dangerous speeding</li> <li>• The development is not environmentally friendly nor sustainable</li> </ul>
5.	Councillor DG Bess	The proposed development has a pleasing layout and is very suited for the area. Do however require that the developer tar Kloof Street in order to prevent it becoming the municipality’s responsibility
6.	Christine Roos	<p>The scale of the development is questioned also with specific reference to the following:</p> <ul style="list-style-type: none"> <li>• Is the release of the number of units (including the other developments) feasible?</li> <li>• Is the development heritage compatible?</li> <li>• What can be done to preserve the village square as tourism hub?</li> <li>• How will the roads be upgraded?</li> <li>• Is there any requirements for use of local labour, suppliers, material, vernacular architecture?</li> <li>• Where will the workers be housed during construction?</li> <li>• With the influx of new residents of the new developments, how will they be accommodated in terms of schools?</li> <li>• The lack of schools is likely to attract older persons and an undesirable demography.</li> </ul>

7.	Peter Voigt	<ul style="list-style-type: none"> <li>• The small homes will change the face of the village</li> <li>• The style of the proposed buildings not suitable for a country town</li> <li>• The infrastructure is questioned in terms of reliable electricity, water and sewerage and roads</li> <li>• The development is not conforming to the aesthetic nature of the town,</li> <li>• The proposed development is not aligned with the character</li> <li>• The development will devalue the current properties.</li> </ul>
8.	Karen Rosser	<ul style="list-style-type: none"> <li>• The development is not aesthetical pleasing</li> <li>• The development does not tie in with the country feel of the town- character</li> <li>• Enormous infrastructure will be required that will ultimately affect the water consumption and demand on the sewerage system and the roads will need to be upgraded to accommodate the increased traffic flow.</li> <li>• The development will cost the rate payers for the infrastructure upgrade</li> <li>• Can the schools accommodate the additional children moving to the town</li> </ul>
9.	Mrs Beverly Voigt	<ul style="list-style-type: none"> <li>• The proposed development is not aligned with the character of Riebeek Kasteel</li> <li>• The current SAPS cannot adequately service the current area and the new development will increase their workload even further.</li> <li>• The current services infrastructure will not be able to cope with additional development</li> <li>• The sizes of the erven are too small compared to the standards of the village</li> </ul>
10.	Micheal & Anica Jones	<ul style="list-style-type: none"> <li>• The development will rob the town of the characteristics</li> <li>• The development is too cramped (dense).</li> </ul>
11.	Ingrid & Gioacchino Gasparre	<ul style="list-style-type: none"> <li>• The development is not in keeping with the residential character and aesthetics of the area</li> <li>• The overcrowded development will damage the rural country lifestyle</li> <li>• The development will devalue not only the area as a whole but the value of the existing owners (investments)</li> <li>• A large development as proposed will hamper the tourism and economy of the town.</li> <li>• The development obstruct the views of the Shiraz estate</li> <li>• The development will serve as catalyst for further large developments</li> </ul>

12.	Philippe den Beer Poortgael and Prisca Ilagostera Saludes	<ul style="list-style-type: none"> <li>• High density of the development will affect the character of Riebeek Kasteel</li> <li>• The development will affect the peace and quite of Riebeek Kasteel</li> <li>• Due to the size of the development, it will take the charm and character away</li> <li>• The proposed large development will make the proposed boutique hotel on the Shiraz development unfeasible.</li> <li>• The view of the property will be ruined</li> </ul>
13.	Mike Eldridge	<ul style="list-style-type: none"> <li>• The densification will take place at the expense of the current ratepaying neighbours and the village at large</li> <li>• The proposed development is not consistent with the character of the existing area.</li> <li>• Do not want a tarred lower Kloof Street with fast moving traffic directly opposite the gates and boundary of the Shiraz Estate development</li> <li>• The traffic infrastructure is an omission on the Site Development Plan</li> </ul>
14.	Bo Nilsson	<ul style="list-style-type: none"> <li>• Too high density- larger and less erven required</li> <li>• Impacts traffic substantially</li> <li>• Creates noise and a lot of traffic- exit at Van Riebeek Street will increase the sound load.</li> <li>• The entrance should be from another point from proposed position- road is not wide enough or in a good condition</li> <li>• Impact unproportionate on the infrastructure in terms of water, sewerage and roads to the existence of Riebeek Kasteel</li> <li>• The ambience and attractiveness for the tourist at Eden Estate will detrimentally be affected by the increase of the traffic.</li> </ul>
15.	Wessel Johannes De Wet	<ul style="list-style-type: none"> <li>• The SDF should be adhere to in terms thereof that new developments should be sympathetic in terms of heritage building and the conservation of the character of the town.</li> <li>• Low densities should be implemented to respected to retain the character of the town</li> <li>• The layout pattern of the development is not aligned with the current pattern of the town</li> <li>• The settlement typology is not aligned with the current identity and will be the first to be not align with the rest of the residential area.</li> <li>• The development is not aligned with that of a rural town</li> <li>• The development will hamper the views from the town</li> <li>• The development will create a feeling of over-crowdedness</li> <li>• The removal of the vineyard will destroy the most characteristic element of Riebeek Kasteel</li> </ul>

		<ul style="list-style-type: none"> <li>• The development is located on the transition zone between the town and the rural landscape which is a low-density characteristic and makes provision for the transition between the urban and rural area. This is against the low-density character of such transition zone and will create a detrimental precedent for the Riebeek Kasteel village.</li> <li>• Access obtain from the inside of the development without an active integrated edge will be similar to other urban areas.</li> <li>• No consideration was given to the reticulation of roof landscapes and the designs are repetitive and not aligned with the surrounding settlement patterns.</li> </ul>
16.	Neil and Josie Hogben	<ul style="list-style-type: none"> <li>• Was informed that Erf 1237 would never be built in his lifetime</li> <li>• The development is not in keeping with the town having too high density- plots are too small</li> <li>• Too many houses proposed</li> <li>• Will have a huge effect on the traffic</li> <li>• Create light pollution</li> <li>• Spoil the views</li> <li>• Destroy the appeal and atmosphere of the village</li> </ul>
17.	JJ Erasmus	<ul style="list-style-type: none"> <li>• The housing complex will disturb the low agricultural activities and will be detrimental their current quality of life,</li> <li>• Due to the loss of aesthetical value, the property values will detrimentally be affected,</li> <li>• The views over the grape farming and vineyards will be replaced with buildings, structures and streets which will have a detrimental effect on the property value,</li> <li>• The provision of infrastructure is questioned given the already poor electrical provision, as well as the roads in terms of traffic- will the developer upgrade the roads?</li> <li>• The increased movement and activities within the development will change the current tranquil atmosphere,</li> <li>• The construction period will bring large numbers to the development causing noise, dust and smoke to the detriment of the adjacent existing high-quality dwellings,</li> <li>• Management of workers and security is in general poor within the vicinity of the development and the owners / developer will have purposeful and definite enforceable measures proposed and implemented under the supervision of the municipality,</li> <li>• The proposed height and of the buildings will obstruct the view from his property,</li> <li>• The current slope of the development is towards Kloof Street and the stormwater management is questioned given that the existing gravel road is already in a poor condition.</li> </ul>

		<ul style="list-style-type: none"> <li>• The objector question whether the portion of Park Street, currently an impassable gravel road, be upgraded and tarred.</li> <li>• The proposed subdivision into 31 erven of 400m<sup>2</sup> is too dense that does not fit into the character of the environment and size of the property.</li> </ul>
18.	Elmarie Mouton	<ul style="list-style-type: none"> <li>• The development is completely incompatible with the rural residential character of the area,</li> <li>• The development is contradictory with the Swartland Spatial development Framework</li> <li>• The development will put off prospective buyers,</li> <li>• The development is not aligned with the character of Riebeek Kasteel,</li> <li>• Van Riebeek Street already accommodates large amounts of traffic,</li> <li>• The part of Riebeek Kasteel is specific preferred for its tranquillity, space and peacefulness,</li> <li>• Such development is in contradiction with the character of the town and will create a precedent to the detriment of the future of the town.</li> <li>• Riebeek Kasteel is dependant of tourists, and the development will not attract tourists as tourists would want to come away from their locked in and overcrowded areas.</li> </ul>
19.	Malcolm Bushell	<ul style="list-style-type: none"> <li>• The development is not in keeping with the residential character of the area.</li> <li>• The overcrowded development will damage the lifestyle of Riebeek Kasteel and negatively affect people from living in the rural town</li> <li>• The town relies on tourists for its survival and the development will damage tourism in the valley</li> <li>• The development will ruin the views of the mountains and vineyards</li> <li>• The high density development in a transitional zone between the town and the rural area will set a precedent for further developments which will ruin the character of Riebeek Kasteel.</li> </ul>
20.	NJA Laubscher	<p>The development is supported subject to the following:</p> <ul style="list-style-type: none"> <li>• Erven must not be smaller than 650m<sup>2</sup></li> <li>• Units to have only single volume roof height,</li> <li>• The general rural character must be retained,</li> <li>• The roads will have to be upgraded,</li> <li>• Provision be made for the stormwater management</li> </ul>



21.	Unknown	<p>The proposed development is not considered to protect the local character or preserving the unique character based on the following points:</p> <ul style="list-style-type: none"> <li>• The town has a distinct grid pattern with large erven of approximately 1000m<sup>2</sup> which makes the town appealing for tourists, retirees and those wishing to escape stresses of city life hence the proposed density and erf sizes do not promote or conserve the identity of Riebek Kasteel and will damage the character of the town,</li> <li>• The proposed settlement typology is not consistent with the existing residential character of the town,</li> <li>• The development will be the first estate in the town, and out of character with the rest of the town,</li> <li>• The development proposal does not resemble settlement typologies that resonate with rural towns</li> <li>• The development will interrupt and clutter views of the rural landscape</li> <li>• The removal of the vineyard decreases and devalue the distinct,</li> <li>• The developer does not belong to the Green Building Council of South Africa and does not comply with green building requirements,</li> <li>• No green belts between houses for residents to walk through to enjoy open views are provided,</li> <li>• The development goes against the low-density character of the transition area and will establish a precedent that encourages higher densities along transitional areas to the detriment of Riebeek Kasteel.</li> <li>• The sewerage capacity as well as the road infrastructure is questioned,</li> <li>• Dwellings will be orientated towards and only be accessible from inside the development which will detract from the street interface and deny a positive active integrated edge similar to other urban areas in Riebeek Kasteel,</li> <li>• No consideration has been given to the articulation of roofscapes. Roof designs are repetitive and do not emulate the surrounding settlement patterns.</li> </ul>
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## Overview of the application:

Prior to the response to the objections and comments it is considered necessary to mirror the content from the motivation report.

- The **objective** of this application proposal is to establish a gated small lifestyle estate with 31 residential erven of between 400m<sup>2</sup> and 500m<sup>2</sup> in size with well-structured and functional open space. The proposal includes a clubhouse and communal open space.
- The application is for:
  - The subdivision of the application area into 39 erven.
  - The rezoning of subdivided erven 1 – 31 to General Residential Zone 1: Group Housing.
  - The rezoning of subdivided erf 32 to Transport Zone 2: Roads
  - The rezoning of subdivided erven 33 to 39 to Open Space Zone 2: Private Open Space
  - Registration of right of way servitudes to allow for driveways over the Private Open Space erven
  - Establishment of a homeowner's association.
- There are no title deed conditions restricting the development proposal.
- The land use of the application area is agriculture whilst the surrounding properties land-use consists of single residential, general residential, agriculture uses as well as vacant erven. The proposal is for general residential purposes. And subsequently consistent with the land use of the area.
- The application area is zoned Residential Zone 1 whilst the surrounding properties are zoned Residential Zone 1 and General Residential Zone 1, 2 and 3. The proposal for a General Residential Zone 1 development is thus also consistent with the zoning of the area.
- From a Spatial Policy perspective the application is consistent with the Integrated Urban Development Framework, 2016 – 2019,, the West Coast District Municipality IDP, 2017 – 2022, the Swartland Municipality IDP 2022 and the Swartland Municipality SDF revised in 2019 with specific reference to the following objectives:
  - Cities and towns that grow through investments in land and property, providing income for municipalities, which allows further investments in infrastructure and services, resulting in inclusive, multi-functional urban spaces.
  - Creating “A quality destination of choice through an open opportunity society” and the mission is to ensure outstanding service delivery on the West Coast.
  - Enhance tourism and agri-tourism, and protect heritage resources, provide residential land for Human Settlement housing schemes and private development and maintain and strengthen agricultural service centre
  - Enhance sustainable, liveable urban environments which include the following characteristics:

- Work, education, housing and recreation is easily accessible;
  - Efficient use of resources;
  - A variety of housing types and densities are available;
  - Reliable and affordable public transport as well as local areas which are accessible by foot, reduces the dependability on motor vehicles;
  - Public areas of high quality are available;
  - All residents experience a positive place identity;
- For Ward 12, specific for Riebeek Kasteel
    - Developed to serve the surrounding agricultural community which remains its main function at present. In recent years, Riebeek Vallei with its beautiful vistas and Kasteelberg as background has developed as a tourism growth node and has become a haven for retirees and residents searching for an alternative rural lifestyle. Many people live in the valley while working in Cape Town and other towns in the area. The tourism and residential development components are still able to be expanded.
    - Increase the density from 8.2 dwelling units per hectare to a gross density of 8.5 dwelling units per hectare
    - Higher density residential developments must be encouraged along activity streets to form a part of areas with mixed uses.
    - In terms of residential development,
      - Support the provision of integrated residential development
      - Spatially all forms of housing should be provided
      - Develop erven in accordance with availability of bulk services
      - Develop sustainable and integrated residential developments to ensure housing options for all members of the community
      - Promote densification within the urban areas which is sensitive to the historical character of the town and provide densification guidelines
      - Densify Riebeek-Kasteel through a) subdivision (sectional title), b) infill development and c) renewal,
      - Promote densification according to the zone suggestions with higher density developments along the activity streets
      - Sustain the “cupcake principle” through infill, urban renewal and integration in the town centre
      - Allow subdivision of single residential erven with minimum sizes of 500m<sup>2</sup> or in accordance with the context of the area and immediate environment
      - Integration of residential areas through infill development which consists of integrated residential development.
  - Create change through higher residential developments and mixed uses along activity streets in the town and Support densification through Subdivision, Infill development and Renewal and restructuring

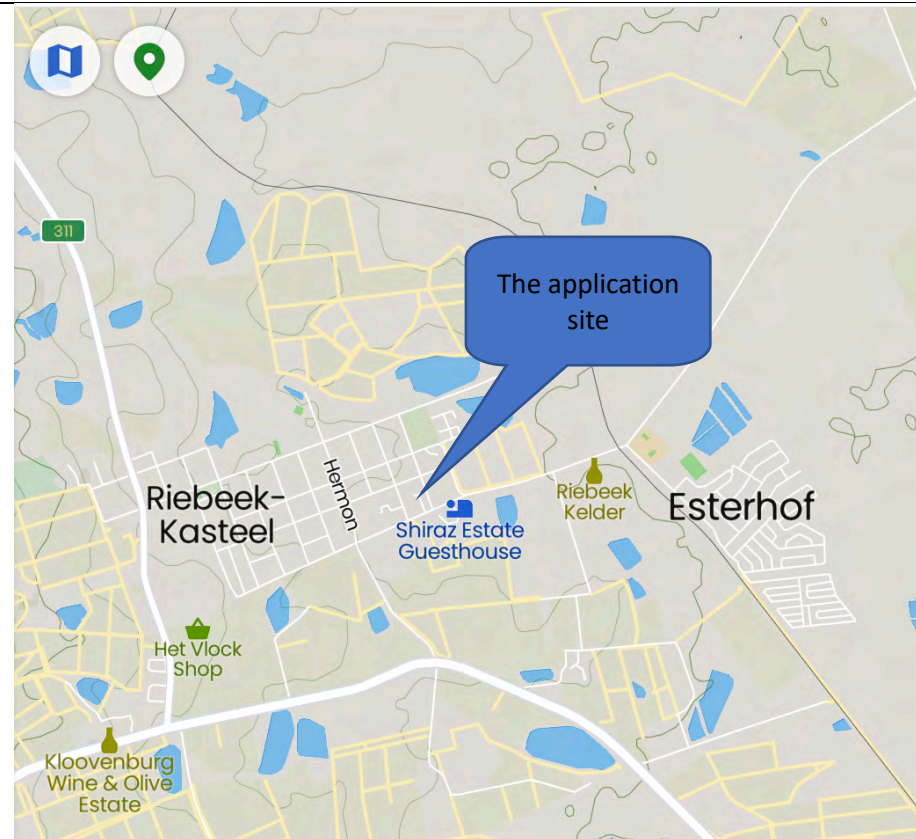
- **Develop** 171.7ha for future growth over next 20 years, of which 67.3ha is vacant land including the vacant land between Esterhof and central Riebeek Kasteel , provide adequate land for different housing topologies, provide and support development of housing for retirees
  - Develop Zone as part of a mixed density residential development which includes medium to high density residential uses.
- From a civil services point of view the following summary is provided
  - This facility will discharge at a peak of 0.188 m<sup>3</sup>/s from the site if the run-off is concentrated during the 1:20-year storm.
  - The stormwater will discharge through a pipe which will traverse along Pieter Cruythoff Avenue to the East towards an existing attenuation pond on stand outside of the development.
  - Access to the site will be from Van Riebeek Street.
  - The roads inside the development will remain private.
  - The peak water demand will be 1.677 ℓ/s (excluding fire flow). A water connection point is available along both the northern and southern site boundary. The municipality should indicate the capacity available in the network in order to confirm that the line will be adequate.
  - The peak sewage generated will be 0.623 ℓ/s. A sewer connection point is available along north eastern and southern boundary. The municipality should indicate the capacity available for in the network in order to confirm that the line will be adequate.
- The application area is cultivated land and there are no environmental triggers applicable.
- From a heritage perspective the proposal aims to reach a balance between preserving the historic character of the area and incorporating new trends in urban growth and planning,
- As motivation for the development, it caters for “lock-up and go” units for young, single or elderly people and also for those who prefer secure estate living and smaller erven with lower maintenance requirements as well as for elderly people who are not yet ready to settle into a retirement village, and also contributing towards increasing the density towards the desired gross density and the integration between Esterhof and the central Riebeek Kasteel. The development makes provision for the open market but is most likely to attract local residents wanting to reside on smaller properties within a safe a secure area but also retirees and weekend owners from Cape Town.

**In the following section a thematic summary of all the objections is provided:**

<b><u>Names of the objectors</u></b>	<b><u>Combined theme and motivation of objections</u></b>	<b><u>Response by applicant</u></b>
JF Le Grange, Peter Voigt, Karen Rosser, Mrs Beverly Voigt, Micheal & Anica Jones, Ingrid & Gioacchino Gasparre, Philippe den Beer Poortgael and Prisca Ilagostera Saludes, Mike Eldridge, Wessel Johannes De Wet, Neil and Josie Hogben, JJ Erasmus, Elmarie Mouton, Malcolm Bushell	<b><u>Character</u></b> <ul style="list-style-type: none"> <li>- The development does not fit into a rural town being creating a dense, gated, impersonal lifestyle.</li> <li>- Local and international research indicated that the trend for most residential developments is away from typical "town house / cluster developments". Towards eco-friendly estates focusing on sustainability and minimum impact on the environment.</li> <li>- The town has a distinct grid pattern with large erven of approximately 1000m<sup>2</sup> which makes the town appealing for tourists, retirees and those wishing to escape stresses of city life hence the proposed density and erf sizes do not promote or conserve the identity of Riebeek Kasteel and will damage the character of the town,</li> <li>- The development will affect the peace and quiet of Riebeek Kasteel</li> <li>- Due to the size of the development, it will take the charm and character away</li> </ul>	<p>In terms of the Swartland Spatial Development Framework, 2018/2019 the application area is identified as part of Zone D which is identified for development for a variety of options and inter alia includes low, medium and high-density residential uses, institutional uses, secondary business uses and even sport and recreational facilities.</p> <p>It is apparent that the objectors do not understand that in order to increase the net density of the town, increased densities are required. Areas has been identified for urban development which specifically includes the application area.</p> <p>Therefore, the objections raised against the character is in essence against the SDF and should have been addressed at the stage of the SDF public participation process.</p> <p>From the above it is evident that the application is fully consistent with the SDF and the objections is invalid.</p> <p>Apart from the above, it is also considered that the objections in general are considered an exaggeration of concerns in the sense that the proposal fits into the existing road network and that the density increase being restricted to an enclosed area and activity on the periphery of the village which forms part of the transitional area of the town in line with the spatial policy vision of creating integration with Esterhof.</p>



- The ambience and attractiveness for the tourist at Eden Estate will detrimentally be affected by the increase of the traffic.
- The layout pattern of the development is not aligned with the current pattern of the town
- The development will create a feeling of over-crowdedness
- The removal of the vineyard will destroy the most characteristic element of Riebeek Kasteel
- The development is located on the transition zone between the town and the rural landscape which is a low-density characteristic and makes provision for the transition between the urban and rural area. This is against the low-density character of such transition zone and will create a detrimental precedent for the Riebeek Kasteel village.
- Access obtain from the inside of the development without an active integrated edge will be similar to other urban areas,
- The housing complex will disturb the low agricultural activities and will be detrimental to the current quality of life.



The increase in traffic is considered to be nominal given that it is likely that some or the owners will only use the properties for weekend or holiday homes.

The proposed development will also not create a precedent as the future development is managed and guided by the SDF.

The argument used by some of the objectors that the development is against the low-density character is considered irrational in the sense that increasing the densities in the centre or existing developed area, will cause serious harm to the historic character of the village.

<p>Riebeek Valley Ratepayers Association, JF Le Grange, Viviane van Zijl-Schumacher, Andrew Olivier, Christine Roos, Peter Voigt, Karen Rosser, Wessel Johannes de Wet, NJA Laubscher</p>	<p><b><u>Architectural Style</u></b></p> <ul style="list-style-type: none"> <li>- More variety of architectural styles are proposed,</li> <li>- The architectural style has no characteristics associated with a rural village.</li> <li>- The development is not aesthetical pleasing</li> <li>- The settlement typology is not aligned with the current identity and will be the first to be not align with the rest of the residential area.</li> <li>- No consideration was given to the reticulation of roof landscapes and the designs are repetitive and not aligned with the surrounding settlement patterns.</li> <li>- Units to have only single volume roof height,</li> <li>- The developer does not belong to the Green Building Council of South Africa and does not comply with green building requirements,</li> </ul>	<p>The objections provided is not considered valid, given that no specific statutory architectural guidelines exist for Riebeek-Kasteel and the objections is considered to be merely personal subjective opinions.</p> <p>However, the developer indicated in collaboration with the Swartland Municipality that he is willing to consider some changes to the architecture as part of the Site Development Plan submission at that stage.</p> <p>The developer does not need to belong to the Green Building Council of South Africa but will ensure that when doing the development all statutory requirements be complied with.</p>
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<p>Riebeek Valley Ratepayers Association, JF Le Grange, Viviane van Zijl-Schumacher, Andrew Olivier, Christine Roos, Mrs Beverly Voigt, Micheal &amp; Anica Jones, Ingrid &amp; Gioacchino Gasparre, Philippe den Beer Poortgael and Prisca Ilagostera Saludes, Mike Eldridge, Bo Nilsson, Wessel Johannes De Wet, Neil and Josie Hogben, JJ Erasmus, Malcolm Bushell, NJA Laubscher</p>	<p><b><u>Density</u></b></p> <ul style="list-style-type: none"> <li>- The density proposed of 18.08 units per hectare is 113% higher than that of the surrounding areas and not appropriate nor supportive of the key principles or aligned with the SDF of a low density rate to be preserved of the unique character of Riebeek Kasteel. A density of 8.5 units per hectare are proposed</li> <li>- Erven must not be smaller than 650m<sup>2</sup></li> </ul>	<p>This is probably the concern raised by the objectors.</p> <p>However, the density of this proposed development should be taken into perspective of the target of the SDF and the general fact that even a town / village like Riebeek Kasteel cant remain stagnant in terms of population growth, natural as well as external growth.</p> <p>It is evident that the objectors do see the increase in density in isolation.</p> <p>Although a density of 18 units per hectare is proposed, the development is isolated and contributes to the required increase in density as well as the integration between the existing Esterhof and the existing Riebeek Kasteel Village.</p> <p>Furthermore, the objectors should acknowledge that should the increase in density as proposed in the SDF, be allowed within the existing core residential areas, the historic character of the central Riebeek Kasteel will be affected detrimentally, hence the reason and motivation for increased densities outside the historical areas of Riebeek Kasteel village.</p> <p>Thus, the relatively low increase in density creates an evenly increase towards the desired density of the town in terms of the approved SDF.</p> <p>The concern of the density should be looked at in perspective. The density of the application site is 17.5 dwelling units per hectare which is substantial lower than the 25 dwelling units per hectare identified for the medium density developments.</p>
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<p>JF Le Grange, Andrew Olivier, Councillor DG Bess, Christine Roos, Peter Voigt, Karen Rosser, Mrs Beverly Voigt, Mike Eldridge, Bo Nilsson, Neil and Josie Hogben, JJ Erasmus, Elmarie Mouton, NJA Laubscher</p>	<p><b><u>Engineering Infrastructure</u></b></p> <ul style="list-style-type: none"> <li>- Infrastructure challenges are not addressed in terms of maintenance, upgrade and capacity of roads, street lighting, sewerage capacity and stormwater.</li> <li>- The traffic impact will be undesirable with dangerous speeding</li> <li>- Kloof Street need to be tarred in order to prevent it becoming the municipality's responsibility,</li> <li>- The entrance should be from another point from proposed position- road is not wide enough or in a good condition</li> </ul>	<p>As part of a pre-submission meeting on 24 May 2022 with inter alia the relevant municipal engineers it was confirmed that electricity is provided by Eskom and that sufficient electricity capacity is available for the project and also that sufficient water capacity exists and the same should apply for sewerage, however the WWTW is close to capacity.</p> <p>The Swartland Municipality has however requested a GLS report, hence the sewerage and water capacity requirements will be guided by the GLS report which will follow after the consideration of the application and is suggested to be included as a condition of approval.</p> <p>The GLS report will indicate whether any bulk upgrades are necessary in the external infrastructure to account for the proposed development.</p> <p>The stormwater management plan ensures that the pre- and post-development flows are the same and stormwater attenuation which is required is handled through necessary attenuation measures and is included in the accompanied services report.</p> <p>The internal civil service requirements have been designed in accordance with the municipal guidelines.</p> <p>With regards to the objections relating to the traffic, as previously also mentioned, the increase in traffic will be nominal as discussed with the municipal engineers at the above-mentioned a pre-submission meeting.</p>
<p>Christine Roos, Karen Rosser, Mrs Beverly Voigt</p>	<p><b><u>Community Infrastructure</u></b></p> <ul style="list-style-type: none"> <li>- With the influx of new residents of the new developments, how will they be accommodated in terms of schools?</li> <li>- The current protections services cannot accommodate additional residents</li> </ul>	<p>The influx as a result of the of the proposed development will likely be relatively small.</p> <p>Furthermore, the increase must be taken in the background that the provision of additional housing must be made, for the natural and incoming housing.</p> <p>In terms of the SDF provision should be made for approximately 435 housing units of which this development represents less than 8% of the number of units.</p> <p>The increase in community infrastructure is the function of the local authority to ensure that sufficient community facilities are provided</p>

<p>JF Le Grange, Peter Voigt, Ingrid &amp; Gioacchino Gasparre, Philippe den Beer Poortgael and Prisca Ilagostera Saludes, JJ Erasmus, Elmarie Mouton, Malcolm Bushell</p>	<p><b><u>Economic And Tourism</u></b></p> <ul style="list-style-type: none"> <li>- The development is not community orientated in terms of money are taken out of the town resulting that the socio-economic impact in terms of job creation is limited.</li> <li>- Is there requirements for use of local labour, material and vernacular architecture.</li> <li>- The development will devalue the current properties.</li> <li>- The proposed large development will make the proposed boutique hotel on the Shiraz development unfeasible.</li> <li>- The development will put off prospective buyers,</li> <li>- Riebeek Kasteel is dependant of tourists, and the development will not attract tourists as tourists would want to come away from their locked in and overcrowded areas.</li> </ul>	<p>The proposed development will contribute to the economy, also in the form of tourism. The proposed development will not only create employment through the development and construction, but also through the addition of middle to high income residents which is subsequently likely to provide further direct employment through house-keeping jobs, the maintenance of the complex, and also indirectly through additional business to existing and future businesses. The proposed residential complex can potentially also draw tourists in the form of providing holiday and weekend housing.</p> <p>With the above said it is evident that the objectors are <b>not correct</b> in their statement that the development is (1) not community orientated, (2) money taken out of town or (3) having a negative impact on the socio-economic impact or (4) limit job creation.</p> <p>Several objections were received that the development will devalue the current properties. No proof, motivation or evidence was provided. It is considered rather evident that the objectors do not want change and disregard the need and desirability for more housing and a variety of housing typologies aligned with the approved statutory SDF.</p> <p>The marketing and pre-sales of the proposed development have proved the objectors wrong that prospector buyers will be put off by the development. Furthermore, the location and extent of the development are of such that it will not affect the character of the village materially.</p> <p>The matter regarding that the proposed development will make the Shiraz development unfeasible has no merit, as the proposed development is an isolated gated development. In essence the objector denies other the opportunity to develop their properties. The owners of the Shiraz Estate should have been aware of the fact that they are located within the urban edge and that the possibility exist that the adjacent land may develop at one or another stage.</p>
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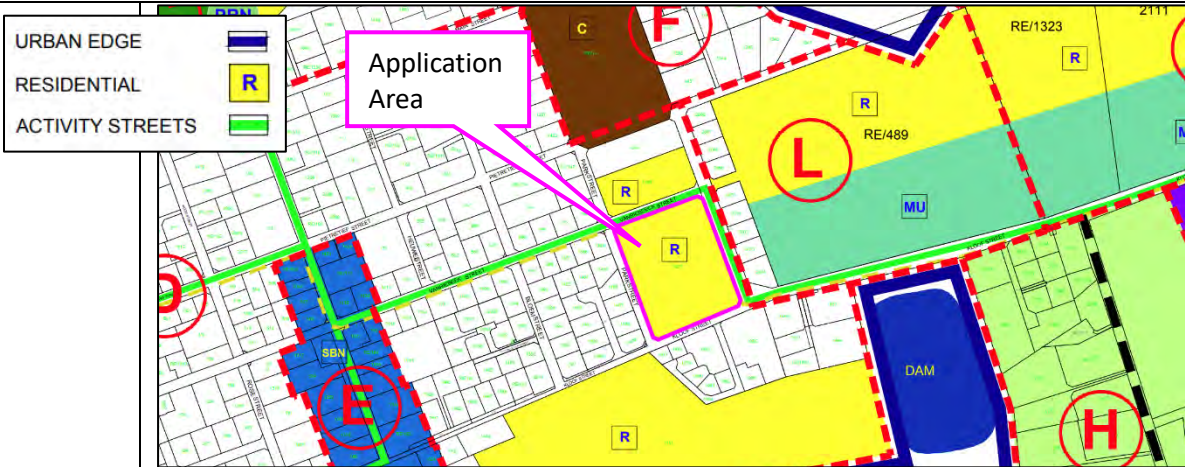


<p>Andrew Olivier, Bo Nilsson, Neil and Josie Hogben, JJ Erasmus</p>	<p><b><u>Environmental</u></b></p> <ul style="list-style-type: none"> <li>- The development is not environmentally friendly nor sustainable,</li> <li>- What can be done to preserve the village square as tourism hub?</li> <li>- The traffic will create noise - exit at Van Riebeek Street will increase the sound load.</li> <li>- The ambience and attractiveness for the tourist at Eden Estate will detrimentally be affected by the increase of the traffic.</li> <li>- The development will create light pollution</li> <li>- The construction period will bring large numbers to the development causing noise, dust and smoke to the detriment of the adjacent existing high-quality dwellings</li> </ul>	<p>The objections in terms of “environment” are considered completely subjective and inappropriate.</p> <p>The application area is located on an existing cultivated vineyard and therefore not classified as environmentally sensitive land in terms of the National Environmental Management Act, 1998.</p> <p>The application site is more than 1 kilometer from the centre of the historical centre of the village and will not affect the village square of the town.</p> <p>The ambience and attractiveness of the Eden Estate will also not be affected by the development as the proposed Klein Kasteel development is a gated development. It is most inappropriate and prescriptive of the owners of the Eden Estate to expect that adjacent properties should not be developed or developed in the same way as their property.</p> <p>The objection regarding light pollution, is invalid given that the proposed development is located within the urban edge and forms part of the statutory development area.</p> <p>The anticipated dust and smoke forms part of the development conditions that need to be mitigated and will be managed and controlled by safety and security officers during the construction period. This point of objection is thus not applicable.</p>
<p>Christine Roos</p>	<p><b><u>Heritage</u></b></p> <ul style="list-style-type: none"> <li>- Is the development heritage compatible?</li> </ul>	<p>The proposed development is fully heritage compatible in terms of its layout as well as the architectural design, hence this point of objection should thus be ignored.</p>

Christine Roos, JJ Erasmus	<p><b><u>Social</u></b></p> <ul style="list-style-type: none"> <li>- Where will the workers be housed during construction?</li> <li>- The lack of schools is likely to attract older persons and an undesirable demography.</li> <li>- Management of workers and security is in general poor within the vicinity of the development and the owners / developer will have purposeful and definite enforceable measures proposed and implemented under the supervision of the municipality.</li> </ul>	<p>These points of objections appear to be distracting objections in an effort to prevent any development within the Riebeek Kasteel town.</p> <p>With regards to where workers will be housed during construction, is not relevant to a land-use application given that it is a temporary short-term situation as workers will most likely be integrated in the local social environment during this construction period.</p> <p>With regards to schools and other infrastructure as previously mentioned is a local authority / provincial government responsibility to ensure sufficient facilities accordingly. With specific reference to schools home-schooling becomes more popular which potentially can limit the need for new schools.</p>
Ingrid & Gioacchino Gasparre, Philippe den Beer Poortgael and Prisca Ilagostera Saludes, Wessel Johannes De Wet, Neil and Josie Hogben, JJ Erasmus, Malcolm Bushell	<p><b><u>Views</u></b></p> <ul style="list-style-type: none"> <li>- The development obstructs the views of the Shiraz estate,</li> <li>- The views over the grape farming and vineyards will be replaced with buildings, structures and streets which will have a detrimental effect on the property value,</li> <li>- The proposed height and of the buildings will obstruct the view from his property,</li> <li>- The development will interrupt and clutter views of the rural landscape</li> </ul>	<p>Currently in South African Law the consensus view is that there is no natural entitlement, based on ownership of land, to enjoy a view over or across adjacent land.</p> <p>Based on the fact that there is no natural entitlement of view over or across adjacent land, these points of objections can be ignored.</p> <p>In addition to the above, the decision-makers should also take cognizance that the proposed development is proposed as a single storey development which makes the points of objections in completely unjustified and invalid.</p>

<p>Ingrid &amp; Gioacchino Gasparre, Elmarie Mouton</p>	<p><b><u>Catalyst for further developments</u></b></p> <ul style="list-style-type: none"> <li>- The development will serve as catalyst for further large developments.</li> <li>- Such development is in contradiction with the character of the town and will create a precedent to the detriment of the future of the town.</li> </ul>	<p>Several of the objectors made the objection point of the proposed development potentially creating a precedent for similar developments.</p> <p>Firstly, this proposed development will be an asset for the town being a relatively small development on the periphery of the town.</p> <p>Secondly this proposed development provides for a variation of housing types not found elsewhere in the town, but still within the character of the town given that the street patterns are not affected, and the architectural typologies is aligned with the town's architecture but within a gated development, hence not clearly and conspicuous. The variety of housing typologies is also a SDF requirement.</p> <p>Thirdly, limited land for future expansion is available, thus limiting the possibility of creating a precedent for similar developments.</p> <p>Thus, is it clear that the points of objection have no merit and should be omitted.</p>
<p>Wessel Johannes De Wet, Elmarie Mouton</p>	<p><b><u>Spatial Development Policy</u></b></p> <ul style="list-style-type: none"> <li>- The SDF should be adhere to in terms thereof that new developments should be sympathetic in terms of heritage building and the conservation of the character of the town.</li> <li>- The development is contradictory with the Swartland Spatial development Framework</li> </ul>	<p>The objections made regarding the Spatial Development Plan appears to be own deliberately incorrect interpretations of the mentioned SDF.</p> <p>The proposed development is fully aligned with the SDF and inter alia supported by the vision of the SDF in terms of the following goals for Riebeek-Kasteel Residential Development:</p> <ul style="list-style-type: none"> <li>• Support the provision of integrated residential development</li> <li>• Spatially all forms of housing should be provided</li> <li>• Develop erven in accordance with availability of bulk services</li> <li>• Develop sustainable and integrated residential developments to ensure housing options for all members of the community</li> <li>• Promote densification within the urban areas which is sensitive to the historical character of the town and provide densification guidelines</li> <li>• Densify Riebeek-Kasteel through a) subdivision (sectional title), b) infill development and c) renewal,</li> </ul>

		<ul style="list-style-type: none"> <li>• Promote densification according to the zone suggestions with higher density developments along the activity streets</li> <li>• Sustain the “cupcake principle” through infill, urban renewal and integration in the town centre</li> <li>• Allow subdivision of single residential erven with minimum sizes of 500m<sup>2</sup> or in accordance with the context of the area and immediate environment</li> <li>• Integration of residential areas through infill development which consists of integrated residential development.</li> </ul> <p>Change</p> <ul style="list-style-type: none"> <li>• Higher residential developments and mixed uses should be encouraged along activity streets in the town.</li> <li>• Support densification through Subdivision, Infill development and Renewal and restructuring</li> </ul> <p>Develop</p> <ul style="list-style-type: none"> <li>• Provide 171.7ha in Riebeek-Kasteel for future growth over next 20 years, of which 67.3ha is vacant land as identified per Vacant Land Audit.</li> <li>• Develop vacant land between Esterhof and central Riebeek Kasteel Provide adequate land for different housing topologies.</li> <li>• Provide and support development of housing for retirees</li> <li>• Provide residential opportunities for ±435 serviced sites that can be upgraded with top structures. Support integrated housing opportunities (including BNG) in Zone G and L.</li> <li>• Allow for minimum subdivision size of single residential erven of 500m<sup>2</sup>.</li> </ul> <p>The application area is earmarked for residential development and is on a corner of two activity streets. The subject property is within zone D of the Spatial Development Plan.</p>
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Wessel Johannes De Wet, Malcolm Bushell	<p><b>Urban Design</b></p> <ul style="list-style-type: none"> <li>- Access obtain from the inside of the development without an active integrated edge will be similar to other urban areas</li> <li>- No consideration were given to the reticulation of roof landscapes and the designs are repetitive and not aligned with the surrounding settlement patterns.</li> <li>- The proposed settlement typology is not consistent with the existing residential character of the town,</li> <li>- The development will be the first estate in the town, and out of character with the rest of the town,</li> <li>- No green belts between houses for residents to walk through to enjoy open views are provided.</li> </ul> <p>Some objections in terms of urban design were also received.</p> <p>The objections received were merely personal opinions and not based on any statutory guidelines or policies.</p> <p>The development's layout design is done as an enclosed gated complex for safety and security reasons, which is the need of many people. This design inter alia forms part of the SDF directives of (1) "Spatially all forms of housing should be provided" (2) "Support the provision of integrated residential development" (3) "Promote densification according to the zone suggestions with higher density developments along the activity streets"</p> <p>In contrast with the objector's opinion, particular consideration was given to the roof landscapes and designs, hence providing for a certain character to co-exist with the current character of the town.</p> <p>Furthermore, the design was specifically done to provide for an internal green belt with limited fences and thereby optimizing the use of the land as is evident in the layout plan and sketches proving for the look and feel of the development.</p> <p>The points of objections are thus considered not valid and should be ignored.</p>



#### 4. Conclusion

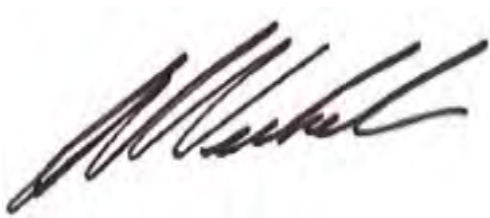
This is a relatively small development located on the edge of the historical Riebeek Kasteel but centrally located between the historical town and Esterhof, hence serving thus as integration land between these two land parcels. The impact of this proposed single storey enclosed development will be limited due to its design, location, and proposed density. Indications are that all services are available but need to be confirmed through a GLS study. The proposed development is fully consistent with the relevant Swartland Spatial Development Framework, 2019 visions and objectives and is considered to be an asset towards the future of Riebeek Kasteel.

#### 5. Recommendation

**In the light of the above it is requested that the deciding authority favourably consider this application for Erf 1237 Riebeek Kasteel for:**

- 1. the Rezoning** in terms of Chapter IV, Section 25.2(a) of the Swartland Municipal Land Use Planning By-Law, 2020 from Residential Zone 1: Low Density to Subdivisional Area.
- 2. the Subdivision** in terms of Chapter IV, Section 25.2(d) of the Swartland Municipal Land Use Planning By-Law, 2020 of the subdivisional area which is approximately 17698m<sup>2</sup> into 39 portions and simultaneous **rezoning** the subdivided portions in terms of Chapter IV, Section 25.2(a) of the Swartland Municipal Land Use Planning By-Law, 2020, from Residential Zone 1: Low Density to the following zonings as illustrated in the plans below:

Kind Regards



**Andre Wiehahn** Pr Pln A/927/1996B Art et Sc (Town and Regional Planning)