



**MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING HELD IN THE COMMITTEE ROOM:
CORPORATE SERVICES ON WEDNESDAY, 10 APRIL 2024 AT 14:00**

PRESENT

Internal members:

Municipal Manager, Mr J J Scholtz (chairperson)
Director: Corporate Services, Ms M S Terblanche
Director: Protection Services, Mr P A C Humphreys

External members:

Ms C Havenga
Mr C Rabie

Other officials:

Director: Development Services, Ms J S Krieger
Senior Manager: Development Management, Mr A M Zaayman
Senior Town and Regional Planner, Mr A J Burger
Town and Regional Planner & GIS, Mr H Olivier
Town and Regional Planner, Ms A de Jager (acting secretariat)

1. OPENING

The chairperson opened the meeting and welcomed members.

2. APOLOGY

No apologies were received.

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 13 MARCH 2024

RESOLUTION

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

That the minutes of a Municipal Planning Tribunal Meeting held on 13 March 2024 are approved and signed by the chairperson.

5. MATTERS ARISING FROM MINUTES

None.

6. MATTERS FOR CONSIDERATION

**6.1 PROPOSED REZONING AND DEPARTURE ON ERF 4310, MALMESBURY (15/3/3-8;
15/3/4-8) (WARD 8)**

Mr H Olivier explained the proposed rezoning and departure on Erf 4310, Malmesbury in order to authorise the existing shop and flat and to approve the departures that are caused by the position of the existing buildings with regard to the new zoning parameters.

6.1/...

RESOLUTION

- A. The application for the rezoning of Erf 4310, Malmesbury from Residential Zone 2 to Business Zone 2, be approved in terms of section 70 of the Swartland Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020);
- B. The application for the departure from side building line restriction (southern boundary) be approved in terms of section 70 of Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020);
- C. The application for the departure from the required on-site parking be approved in terms of section 70 of Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020);
- D. The decisions under paragraphs A, B and C above are subject to the following conditions:

D1 TOWN PLANNING AND BUILDING CONTROL

- (a) The use of the property be restricted to a shop and flat;
- (b) The building line departure be restricted to the existing building;
- (c) Three clearly demarcated parking bays be provided on the subject property. The existing gate not obstruct the parking bays during operation hours. The parking bays/parking area be finished with a permanent, dust free surface, whether it be tar, concrete, paving or any other material, as pre-approved by the Director: Civil Engineering Services;
- (d) The departure for the non-provision of the required parking bays be restricted to the 5 m² which is provided within the road reserve of Alfa Street;
- (e) A financial contribution be made to the amount of R1 935,00 (5m² x R387,00) for the partial provision of the required on-site parking;
- (f) The operation hours of the shop be restricted from 06:00 to 21:00;
- (g) Building plans be submitted to the Senior Manager: Development Management for consideration and approval;
- (h) Application be made to the Senior Manager: Development Management for the right to display the name board/sign of the facility on the site;
- (i) Application for a Certificate of Compliance be submitted to the West Coast District Municipality for consideration and approval;
- (j) Additional fees for the Unauthorised Land Use be levied in terms of the Municipal tariffs to the amount of R48 300,00;
- (k) Only pre-packaged food products may be sold;
- (l) No food preparation be allowed in the shop;
- (m) The following activities not be allowed for sale in the shop:
 - (i) The sale of wine and alcoholic beverages;
 - (ii) Storage or sale of gas and gas containers;
 - (iii) Vending machines;
 - (iv) Video games, and
 - (v) Snooker of pool tables;

D2 WATER

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

D3 SEWERAGE

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

D4 STREETS

- (a) Deliveries to the property may only be made by delivery vehicles not exceeding 16 000 kg gross vehicle mass;

D5/...

6.1/...

D5 REFUSE REMOVAL

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

E. GENERAL

- (a) The approval does not exempt the applicant from adherence to all other legal procedures, applications and/or approvals related to the intended land use, as required by provincial, state, parastatal and other statutory bodies;
- (b) Should it be determined necessary to expand or relocate any of the engineering services to provide the development with connections, said expansion and/or relocation will be for the cost of the owner/developer;
- (c) All conditions of approval be complied with before 10 June 2024. Failure to do so will result in the Municipality proceeding with the necessary legal action;
- (d) The approval is valid for a period of 5 years, in terms of section 76(2) of the By-Law from date of decision. Should an appeal be lodged, the 5-year validity period starts from the date of outcome of the decision against the appeal;
- (e) All conditions of approval be implemented before an occupancy certificate be issued and failing to do so will cause the approval to lapse. Should all conditions of approval be met within the 5-year period, the land use becomes permanent, and the approval period will no longer be applicable;
- (f) The applicant/objector be informed of the right to appeal against the decision of the Municipal Planning Tribunal in terms of section 89 of the By-Law. Appeals be directed, in writing, to the Municipal Manager, Swartland Municipality, Private Bag X52, Malmesbury, 7299 or by e-mail to swartlandmun@swartland.org.za, within 21 days of notification of the decision. An appeal is to comply with section 90 of the By-Law and be accompanied by a fee of R5 000,00 to be valid. Appeals that are received late and/or do not comply with the requirements, will be considered invalid and will not be processed;

F. 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) The SDF, 2023 supports the accommodation of business uses as well as secondary business uses along activity streets/corridors or at the existing node. Alfa Street is an identified activity street;
- (d) The proposed application is consistent with and not in contradiction to the Spatial Development Frameworks adopted on Provincial, District and Municipal levels;
- (e) The proposed application will not have a negative impact on the character 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 Alfa Street;
- (h) The departure of the building line (southern boundary) is only to accommodate the existing building within the parameters of the new zoning category;
- (i) Sufficient space exists to accommodate the required parking bays.

6.2 PROPOSED CONSENT USE ON ERF 2500, RIEBEEK KASTEEL (15/3/10-11) (WARD 12)

Ms A de Jager explained the proposed consent use on Erf 2500, Riebeek Kasteel in order to operate a house shop.

Erf 2500, Riebeek Kasteel is located on Swartberg Crescent in the latest subsidised residential development, known as New Rest. The owner rents the property to S. Gebire for a period of three years (36 months), for the purposes of operating a house shop, at the end of which the owner intends to retire and personally reside on the property.

RESOLUTION

- A. The application for a consent use on Erf 2500, 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) subject to the conditions that:

A1 TOWN PLANNING AND BUILDING CONTROL

- (a) The consent authorises a house shop, restricted to 18,93m², not exceeding 50% of the area of the dwelling unit (40m² in extent);
- (b) The house shop operator be required to reside on the property in a habitable dwelling unit of at least 20m², in accordance with the By-Law, for the duration of the rental agreement with the property owner;
- (c) The operating of the house shop by Mr. Gebire be permitted for a period of 36 months in accordance with the rental agreement with the property owner and that the house shop rights not be transferred to a new operator after the 36 months have concluded;;
- (d) The structure containing the dwelling and the house shop be upgraded to accommodate a shop that sells foodstuffs, according to the standards stipulated in the National Health Act, 2003 (Act 61 of 2003), to the satisfaction of the West Coast District Municipality: Department of Environmental Health, at building plan stage;
- (e) Any music played on the property only be audible inside the shop and dwelling and no appliances used for the broadcasting or amplification of sound may be positioned or affixed outside the house shop, including any awning, stoep or shade structure;
- (f) Building plans, clearly indicating the house shop in relation to the living area, be submitted to the Senior Manager: Development Management, for consideration and approval;
- (g) Application for construction of or attaching an advertising sign to the building be submitted to the Senior Manager: Development Management, for consideration and approval. Only one sign, not exceeding 1 m² in area and not exceeding the land unit boundaries, be permitted and it indicates only the name of the owner, name of the business and nature of the retail trade;
- (h) The operating hours of the house shop be restricted from 06:00 to 21:00;
- (i) No more than three persons, including the property owner, are permitted to be engaged in retail activities on the land unit;
- (j) Only pre-packaged food products be sold;
- (k) No food preparation be allowed in the house shop;
- (l) The following activities not be allowed for sale in the house shop:
 - (i) The sale of wine and alcoholic beverages;
 - (ii) Storage or sale of gas and gas containers;
 - (iii) Vending machines;
 - (iv) Video games, and
 - (v) Snooker or pool tables;
- (m) Application for a trade license be submitted to the Senior Manager: Development Management for consideration and approval;
- (n) Application for a Certificate of Acceptability be submitted to the West Coast District Municipality for consideration and approval;
- (o) The municipal approval from Swartland Municipality be displayed inside the house shop;

A2 WATER

- (a) The existing water connection be used;
- (b) No additional connections be provided;

A3 SEWERAGE

- (a) The existing sewerage connection be used;
- (b) No additional connections be provided;

A4 STREETS AND STORM WATER

- (a) Deliveries only be made with light delivery vehicles not exceeding 16 000kg;

A5/...

A5 REFUSE REMOVAL

- (a) The basic refuse removal tariff will be levied for the dwelling, as well as the business and in the case of the business the tariff be amended in accordance with the amount of refuse generated;
- (b) Refuse be placed in refuse bags on the nearest municipal sidewalk on the morning of refuse removal;

B. GENERAL

- (a) The approval does not exempt the owner/developer from compliance with all legislation applicable to the approved land use;
- (b) Should it in future be determined necessary to extend or upgrade any engineering service in order to provide the development with services, it will be for the account of the owner/developer;
- (c) The approval is valid for a period of 3 years, in accordance with the rental agreement and in terms of section 76(2) of the By-Law, from the date of decision. Should an appeal be lodged, the 3 year validity period starts from the date of outcome of the decision against the appeal. All conditions of approval be implemented by 1 June 2024, before the new land use comes into operation/or the occupancy certificate be issued and failing to do so will cause the approval to lapse. Should all conditions of approval be met by 1 June 2024, the land use becomes permanent and the approval period will no longer be applicable;
- (d) The applicant/objector be informed of the right to appeal against the decision of the Municipal Planning Tribunal in terms of section 89 of the By-Law. Appeals be directed, in writing, to the Municipal Manager, Swartland Municipality, Private Bag X52, Malmesbury, 7299 or by e-mail to swartlandmun@swartland.org.za, within 21 days of notification of decision. An appeal is to comply with section 90 of the By-Law and is to be accompanied by a fee of R5 000,00 in order to be valid. Appeals that are received late and/or do not comply with the aforementioned requirements, will be considered invalid and will not be processed.

C. The approval be supported for the following reasons:

- (a) The application complies with section 42 of SPLUMA and Principles referred to in Chapter VI of LUPA;
- (b) The application complies with the land uses proposed for this area of Riebeek Kasteel, as determined by the SDF;
- (c) This application supports the local economy and promotes entrepreneurship and local businesses, as a goal of the IDP;
- (d) The development parameters and requirements of the By-Law Zoning Scheme are complied with through imposing conditions of approval;
- (e) The development is envisioned to promote economic opportunities, shorter travel distances and amenities in the residential neighbourhood;
- (f) The additional income generated by the house shop may enable the property owner to expand the dwelling unit in the future, which in turn may improve financial security during retirement;
- (g) The anticipated impact of the house shop on the surrounding community may be mitigated by specific conditions of approval;
- (h) The large number of house shops in the area is foreseen to create healthy economic competition and over time eliminate superfluous businesses;
- (i) Individuals in the community retain their right to choose which business to frequent and cannot be forced to do business with one shop or another;
- (j) The house shops in the neighbourhood are largely unauthorised and the applicant seeks to rectify the situation and legalise the land use on Erf 2500;
- (k) The house shop is proposed to be operated by the current operator for a period of three years, which is temporary. The conditions of approval limit Mr. S. Gebire, the operator of the house shop, to a maximum of three years, in accordance with the rental agreement with Mrs. Daniels, the property owner.

**(SIGNED) J J SCHOLTZ
CHAIRPERSON**



Verslag ♦ Ingxelo ♦ Report

Office of the Director: Development Services
Division: Development Management

25 April 2024

15/3/3-14/Erf_2582
15/3/6-14/Erf_2582

Ward: 5

ITEM 6.1 OF THE AGENDA FOR THE MUNICIPAL PLANNING TRIBUNAL THAT WILL TAKE PLACE ON WEDNESDAY 8 MAY 2024

LAND USE PLANNING REPORT PROPOSED REZONING, SUBDIVISION AND REGISTRATION OF A SERVITUDE ON ERF 2582, YZERFONTEIN					
Reference number	15/3/3-14/Erf_2582 15/3/6-14/Erf_2582	Submission date	31 January 2024	Date finalised	26 April 2024

PART A: APPLICATION DESCRIPTION							
<p>Application is made for the rezoning of Erf 2582, Yzerfontein, in terms of section 25(2)(a) of Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226 of 25 March 2020). It is proposed that Erf 2582 be rezoned from General Residential Zone 3 to Subdivisional area in order to provide for 5 Residential Zone 1 erven.</p> <p>Consequently, application is also made for the subdivision of Erf 2585, Yzerfontein as well as the registration of a right of way servitude, in terms of section 25(2)(d) of Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226 of 25 March 2020). It is proposed that Erf 2582 (5000m² in extent) be subdivided into a remainder (928m² in extent), portion A (1001m² in extent), portion B (1242m² in extent), portion C (914m² in extent) and portion D (914m² in extent). The right of way servitude (7m wide) grant access to the subdivided portions from Buitenkant Street.</p> <p>The applicant is Planscape Town and Regional Planners and the owner is Yzerfontein Property Developers Pty Ltd</p>							
PART B: PROPERTY DETAILS							
Property description (in accordance with Title Deed)	Erf 2582 Yzerfontein, situated in the Swartland Municipality; Malmesbury Division, Province Western Cape						
Physical address	63 Buitenkant Street	Town	Yzerfontein				
Current zoning	General Residential Zone 3	Extent (m ² /ha)	5000m ²	Are there existing buildings on the property?	Y N		
Applicable zoning scheme	Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 25 March 2020)						
Current land use	Vacant	Title Deed number & date	T29167/2011				
Any restrictive title conditions applicable	Y	N	If yes, list condition number(s)				
Any third-party conditions applicable?	Y	N	If yes, specify				
Any unauthorised land use/building work	Y	N	If yes, explain				
PART C: LIST OF APPLICATIONS (TICK APPLICABLE)							
Rezoning	<input checked="" type="checkbox"/>	Permanent departure	<input type="checkbox"/>	Temporary departure	<input type="checkbox"/>	Subdivision	<input checked="" type="checkbox"/>
Extension of the validity period of an approval	<input type="checkbox"/>	Approval of an overlay zone	<input type="checkbox"/>	Consolidation	<input type="checkbox"/>	Removal, suspension or amendment of restrictive conditions	<input type="checkbox"/>

Permissions in terms of the zoning scheme	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 homeowner's association	Rectify failure by homeowner's association to meet its obligations	Permission for the reconstruction of an existing building that constitutes a non-conforming use	

PART D: BACKGROUND

The application site forms part of the Strandveld Villas group housing complex, as approved during August 2009.

The group-housing complex consists of 40 residential erven, as well as one erf, currently erf 2582, which was earmarked for the development of a community health care centre.

The initial intention was to donate the site to the Afrikaanse Christen Vroue Vereniging (ACVV), who would have developed the site in accordance with their needs, to potentially included a medical facility, inclusive of consulting rooms, 14 bed frail care section, approximately 23 double room flats and approximately 10 bachelor's flats.

According to the applicant, the ACVV declined the donation after protracted deliberations because the organisation did not have the capital to develop the site.

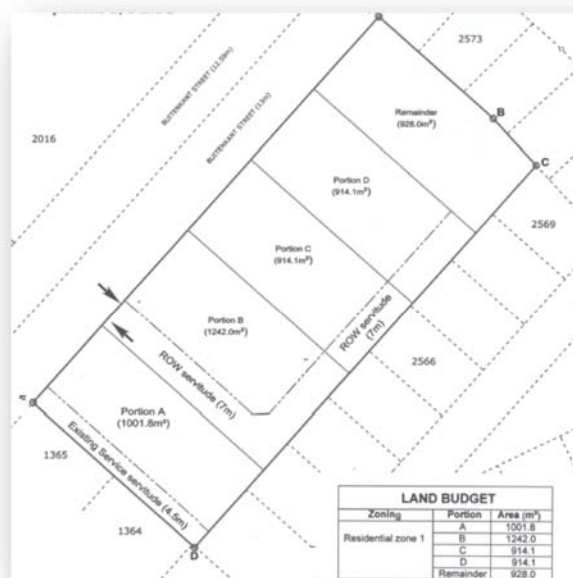
The owners recently secured a purchaser for erf 2582. All monies were paid into trust with Louw & Coetzee Attorneys.

The buyer, however, withdrew from the contract as they were not prepared to spend capital on professional fees (architects, engineers, planners, etc.) to prepare a detailed development proposal, in order to be able to comply with condition B8(f), calculation of development contributions, as imposed by the Swartland Municipality on Yzerfontein Property Developers (PTY) Ltd.

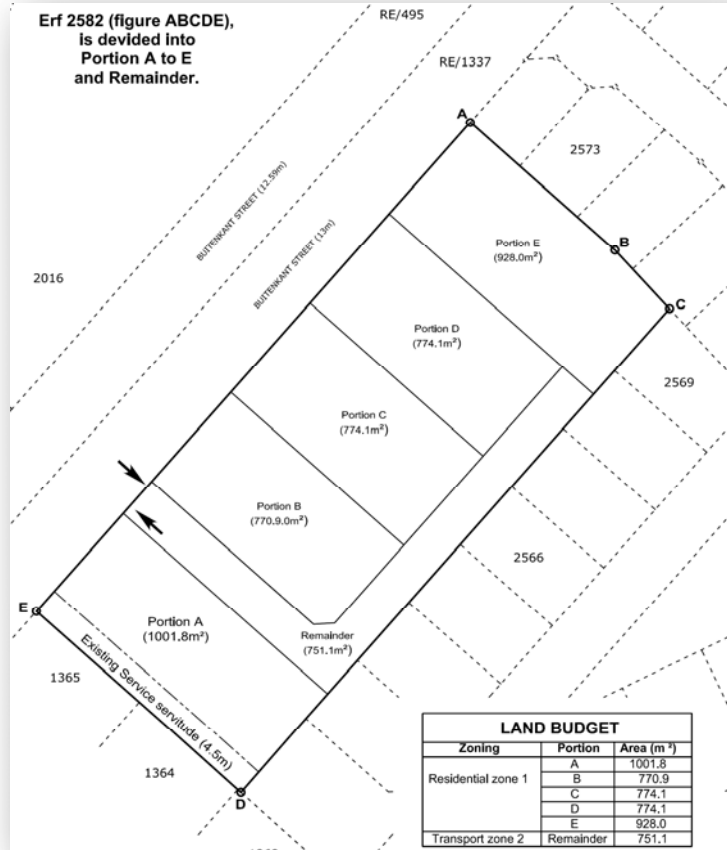
The fact that the buyer could not take transfer of the erf, meant that they would be spending money on land they did not own. Due to this clause being an obstacle to sell this erf to a 3rd party, Yzerfontein Property Developers (PTY) Ltd now wish to develop it themselves as 5 freestanding residential opportunities.

Erf 2582, Yzerfontein is zoned General Residential zone 3 and is currently vacant.

To accommodate the 5 freestanding residential opportunities the owner submits the application for rezoning and subdivision. Please see the proposed subdivision plan below as well as attached as Annexure B1.



With the finalisation of this report the applicant was requested to amend the site development plan in order to change the proposed right of way servitude to a private road. The amendment was deemed as such that it does not require a new public participation due to the fact that the right of way servitude in order to ensure access to the newly created portions will in essence be formalised with the new proposal, accommodated on its own property. The portion can then be transferred to an Owner's Association that will be responsible for the maintenance of the said private access road. As mentioned above, it is a private road that will not be transferred to the municipality, therefore the amended will also have no additional impact / cost in terms of municipal service delivery. Please see below as well as attached as Annexure B2.



PART E: PRE-APPLICATION CONSULTATION (ATTACH MINUTES)

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

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 applicant motivates that the proposed rezoning and subdivision is deemed desirable for the following reasons:
1. Socio-economic impact
 - The proposal contributes to the availability of housing opportunities in Yzerfontein.
 - The development will make a positive contribution to the local economy during both the construction and operational phases.
 - The municipal property tax base will be increased.
 - The site is centrally and conveniently located close to facilities and services.
 2. Compatibility with surrounding area
 - The proposal is not in contradiction to the residential character of the area and is compatible with surrounding land uses.
 - All future dwelling units on the sites will be of a similar architectural style and complementary to the Strandveld

3. Villas group housing complex and surrounding residential uses.
 - The proposed erven are integrated with the existing urban fabric.
 - The proposal does not impact on the residential land use rights of surrounding landowners.
4. Impact on external engineering services
 - The land development connects to and make optimal use of existing resources and infrastructure in the area.
 - The owner / developer will develop the proposed internal street (servitude) and connect to municipal engineering infrastructure.
 - The impact on engineering services of the proposed 5 units are much lower than the potential impact of the current land use rights, which allow for a much higher residential density.
5. Traffic impacts, parking, access and other transport related considerations
 - The site is well connected with the surrounding road network.
 - The existing access to Buitenkant Street will be used.
 - The low density will not impact on traffic flow in Buitenkant Street.
 - Sufficient onsite parking will be available.
6. Impact on safety, health, and wellbeing of the community
 - The proposal does not constitute an activity that will have an impact on the well-being, health or safety of the surrounding landowners or wider community.
7. Impact on heritage
 - No heritage or tourism resources are located in the vicinity of the application site.
8. Impact on biophysical environment
 - The site is located within the demarcated urban edge and zoned for development purposes and the proposal does not impact on the biophysical environment.
 - The site is not located on steep slopes, floodplains, and wetlands and is suitable for development.
9. It is furthermore pointed out that:
 - There are no restrictive title deed conditions that prohibit the proposed application.
 - The application is not in contradiction to the development principles as stipulated in Section 42 of SPLUMA.
 - The application is not in contradiction to the development principles as stipulated in chapter VI of LUPA.
 - The proposal is not in conflict with, nor undermine the main goals and objectives of the SDF. It is thus regarded that the proposal is consistent with the spatial development framework.

The applicant adds that:

- The internal road, the 7m wide right of way servitude, will have a 5.5-meter premix/brick paved surface.
- Erf 2582 was approved during August 2009, as part of the Strandveld Villas group housing complex.
- The availability of services for erf 2582, which was earmarked for the development of a community health care centre, was thus considered at that stage.
- The properties will be supplied with drinking water from the existing water network that is supplied from the municipal purification works.
- The Municipality do not have a waterborne sewer system for Yzerfontein. Each plot will be provided with a conservancy tank with a connection point at street level (Buitenkant Street), from where conservancy tanks will be emptied by the municipality.
- Stormwater run-off from the erven will be disposed of in the stormwater system in Buitenkant Street.
- Access is gained from Buitenkant Street, which is a double carriage way in both directions, at the existing access point.
- The Swartland Spatial Development Framework is the guiding spatial policy to which the application should respond.
- According to the SDF the application property is located in Zone C, the older residential area which allows for mixed uses, including low density residential uses.
- Although the land use proposal map for Yzerfontein indicate the erf as an institutional facility and does not specifically provide for the utilisation of the site for residential purposes, the proposal is not in conflict with, nor undermine the main goals and objectives of the SDF. It is thus regarded that the proposal is consistent with the spatial development framework.

Lastly the owner / developer will require, as a condition of sale, that the dwellings all be of a similar architectural style that complements the adjoining group housing complex. The existing boundary wall will be retained.

PART G: SUMMARY OF PUBLIC PARTICIPATION						
Was public participation undertaken in accordance with section 55- 59 of the Swartland Municipal: By-law on Municipal Land Use Planning?					Y	N
With reference to Section 56(2) of the By-Law, a total of 10 notices were sent via registered post and per e-mail to the owners affected by the application.						
Total valid comments	4		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	2					

PART H: COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS				
Name	Date received	Summary of comments	Recommendation	
			Positive	Negative
Department: Civil Engineering Services	13 February 2024	<p>Water That each subdivided portion be provided with a separate water connection from Buitenkant Street. This condition is applicable on building plan stage.</p> <p>Sewer That each subdivided section be provided with a separate sewage suction tank with a minimum capacity of 8,000l. The suction tank be accessible to the service truck from Buitenkant Street. This condition is applicable on building plan stage.</p> <p>Storm Water That storm water be directed to the nearest suitable underground municipal collection point.</p> <p>Roads That an internal road be built to a permanent surface standard. That the plots only have vehicle access from the internal servitude road.</p> <p>General That any existing services connecting the remainder and subdivided portions are moved and/or disconnected so that each portions piping is located on the relevant erf. That if the extension of any existing services would be necessary to provide the subdivided portion with service connections, this would be at the expense of the applicant.</p> <p>That Development charges are made as follows: Water R4 834,83 Bulk Water R53 230,46 Sewer R16 662,81 WWTW R40 432,82 Roads R25 693,30</p>	X	
Building control	9 February 2024	No comment	X	

Protection services	6 February 2024	No comment	X	
Cleaning Services	13 February 2024	No comment	X	
Department: Electrical Engineering Services	5 February 2024 18 April 2024	<p>The development can only continue once the bulk infrastructure at the Eskom Yzerfontein substation has been completed and made available to the municipality.</p> <p>The correspondence between the applicant and the Director: Electrical Engineering services, please refer to Annexure I, indicate that:</p> <p>The initial approval of the development of Strandveld Villas did make provision for plot 2582 Yzerfontein and it is therefore considered one of the approved vacant plots.</p> <p>In terms of the proposed subdivision of the plot, the following conditions apply in respect of the electrical network:</p> <ol style="list-style-type: none"> 1. Each plot be provided with a separate electrical connection, with a conventional meter. 2. The extension of the low-voltage network must be done from mini-substation B11. 3. The developer must appoint an authorized electrical contractor for the extension of the low voltage network 4. Provision must be made for street lighting. 5. The contractor can contact the Department: Electrical Engineering Services for the technical specifications regarding the extension of the low voltage network. 6. With transfer the Development contribution per plot is still payable. 	X	
PART I: COMMENTS RECEIVED DURING PUBLIC PARTICIPATION		SUMMARY OF APPLICANT'S REPLY TO COMMENTS	MUNICIPAL ASSESSMENT OF COMMENTS	
Graham Katz	<p>During the public participation process the developer provided the following comments;</p> <p>Residents living at Strandveld Villas, requested that some background information be provided as to why Company (Yzerfontein Property Developers Pty Ltd) will now develop Erf 2582.</p> <p>They have also been requested to provide an overview of the proposed development on Erf 2582 subject to Municipal approval of the rezoning application.</p> <p>Please see attached overview forwarded to all residents at Strandveld Villas on the 23rd of February 2024. Please refer to Annexure C.</p> <p>The developer confirms that they received several positive comments.</p>			

<p>Martus Claassen</p> <p>Baviaans Trust</p> <p>55 Buitenkant Street</p>	<p>1. Mr Claassen indicate that they have no objection to the proposal. It is understood that neither the servitude nor the subdivision will have any impact on them.</p> <p>2. Secondly, they are of opinion that the subdivision will be positive as it will enhance and beautify the current somewhat neglected site.</p>	<p>Noted</p>	<p>Noted</p>
<p>C Withington Erf 2541 (Strandveld Villas)</p>	<p>Mr Withington states that he wishes to record his support for the above-mentioned development and for the following reasons:</p> <p>3. New developments in Yzerfontein all seem focussed in fitting in as many people as legalities and land permit.</p> <p>4. While, in principle, he understands the need for development, such development must be within the capabilities of the infrastructure and specifically provision of water and for sewerage removal.</p> <p>5. The Developer in his application for rezoning has deliberately chosen to take the opposite route as to that of other group housing developers and put quality before quantity.</p> <p>6. By reducing the number of housing units from the 23 down to 5, the applicant effectively reduces the water and waste requirement by some 70%, which can only be for the greater good of the community.</p> <p>7. Stylish, functional and mid-size – this development provides an example of a development concept that is much suited to Yzerfontein, and he hope that the Swartland Municipality supports developments of this nature.</p>	<p>Noted</p>	<p>Noted</p>
<p>U Strydom Erf 2567 (Strandveld Villas)</p>	<p>Object to the construction of double storey houses.</p> <p>8. Double storey house will violate privacy.</p>	<p>8. The applicant motivates that the rear building lines applicable to Residential Zone 1, which allow for a height restriction of 10.5m, is 2m. Because a right</p>	<p>8. It could be argued that the development proposal made by the developer will clearly not have a significant impact on the privacy</p>

	<p>9. Noise levels will increase due to the houses being higher up than the Strandveld Villas properties.</p> <p>10. Value of property will decrease due to the high-rise building overlooking their property.</p> <p>11. Due to size of property only a few houses can be built and by building double storey houses the profit margin will increase. The proposal is for profit and not for the environment or people. The developer is the only one benefitting.</p> <p>12. A suitable erf should have been found to build double storey houses.</p> <p>13. Erf 2567 was bought as a holiday home and the developer assured us that development erf 2582 will be on the same level and that</p>	<p>of way servitude will be located along the rear boundary of erf 2582, the closest any building can be constructed thereto, is 7m.</p> <p>The applicant though is willing to implement a 13m rear building line pertaining to garages and single storey dwellings and 19 meters building line pertaining to double storey structures.</p> <p>Implementation of these building lines will not result in the violation of the privacy of the objector but enhance privacy for all parties.</p> <p>9. The potential noise impact of the proposed 5 units is positively lower than allowed in terms of the existing land use rights.</p> <p>10. There is no proof that the construction of 5 upmarket dwellings will result in the decrease of property values. In terms of Section 56(1)(f) of LUPA an 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>11. In terms of the existing land use rights the property can be developed with a 21m high residential building. The proposed residential erven are a reduction in development rights and potential profit.</p> <p>12. The erf is suitable for the proposed development as it is located in a predominantly low-density residential area where construction of double storey buildings area allowed and found.</p> <p>13. Since approval of the rezoning of erf 2582 the owners could not secure a sales agreement with a developer to develop a health care facility on the property.</p>	<p>of neighbouring property owners. As mentioned by the applicant the fact that a road, giving access to the properties is proposed on the rear boundary of the site, between Strandveld Villas and the proposed dwellings, further mitigate any privacy concerns. It should however be noted that given the fact that the developer has provided a development proposal as mitigation to the concerns of the objectors, the specifications should be contained in a design guideline that is able to assist decision making for the future development of these properties.</p> <p>9. The noise levels will not increase due to some of the proposed houses, which could be double storey.</p> <p>10. The possible impact is mitigated through a design proposal, and it is therefore argued that the proposed development would rather add value to the surrounding properties and Yzerfontein as a whole. Furthermore, it should be noted that the existing General Residential Zone 3 rights, allows for a much denser and much higher occupancy than what is considered with the proposal.</p> <p>11. Please refer to the comments above.</p> <p>12. The proposed properties are suited to accommodate double storey buildings and it will not detract from the character of the area nor affect the views of any of the neighbouring properties.</p> <p>13. Please refer to the comments above. The development as proposed will have a less of an impact than what is allowed on the property under the existing rights.</p>
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	<p>erf 2582 is not intended for a housing project.</p> <p>14. Do not object to building of single storey houses.</p>	<p>The owners recently secured a purchaser for erf 2582. The buyer, however, withdrew from the contract as they were not prepared to spend capital on professional fees (architects, engineers, planners, etc.) to prepare a detailed development proposal, in order to be able to comply with condition B8(f), calculation of development contributions, as imposed by the Swartland Municipality on Yzerfontein Property Developers (PTY) Ltd. The fact that the buyer could not take transfer of the erf, meant that they would be spending money on land they did not own. Due to this clause being an obstacle to sell this erf to a 3rd party, Yzerfontein Property Developers (PTY) Ltd now wish to develop it themselves as 5 freestanding residential opportunities or sell the 5 freestanding residential opportunities to a 3rd party.</p> <p>The purpose of the Land Use Planning Bylaw is to allow and consider the desirability of the change of land use. The developer never intimated that homes would not be built on erf 2582 as the original application proposed 23 double room flats and 10 bachelor flats as part of the health care centre.</p> <p>14. Noted</p>	<p>14. Noted</p>
<p>S.A. & T.J. Tweedale Erf 2571 (Strandveld Villas)</p>	<p>Mr and Mrs Tweedale first provide some background information wherein they confirm that: The proposal departs from what they were told would be developed on erf 2582, when purchasing into the Strandveld Villas development. Secondly, they were under the impression that the subject property is included in the constitution as well as subject to the provisions of the Strandveld Villas design guidelines which only permits single storey buildings.</p> <p>Mr and Mrs Tweedale state that the one of the reasons why the purchased in the Strandveld</p>		<p>The background and therefore the correspondence between the developer as well as the affected property owners in Strandveld Villas is noted.</p>

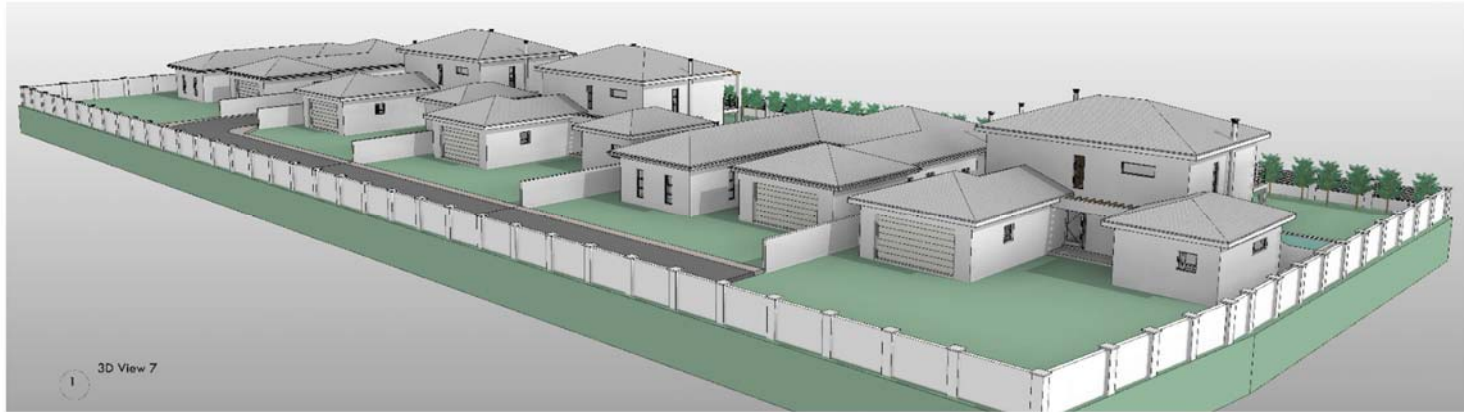
	<p>Villas complex was due to the proposed ACVV facility as well as the security such a facility provide.</p> <p>Mr and Mrs Tweedale refer to an email received by the owner / developer where a development proposal including a 3D design concept was presented.</p> <p>After receiving the above-mentioned, design proposal they confirm that they fully support the proposed development subject to:</p> <p>15. If building line distances proposed in the current concept site design and layout plan (attached) and reflected below are complied with and not manipulated, changed or shortened by the Developer/Owner/Builder on ERF2582.</p> <p>The building line must be no less than 13m from the rear boundary wall of ERF 2582 to the garages</p> <p>If double storey is proposed the building line must be no less than 19m from the rear boundary wall of ERF2582.</p> <p>A side building line of at least 2m be maintained between the proposed remainder and erven 2571-2573.</p> <p>16. The buildings should comply with the provisions of the development management scheme</p> <p>17. The building should comply with the National Building Regulations.</p> <p>18. Any changes/revisions to the concept site design and layout plan provided by the developer must first be provided to them for scrutiny.</p>	<p>15. The applicant is willing to implement the following building lines:</p> <ul style="list-style-type: none"> • Rear: 13m rear pertaining to garages and single storey dwelling and 19 meters pertaining to double storey structures. • Side: 1.5m as allowed in terms of the development Management scheme. <p>16. Accepted</p> <p>17. Accepted</p> <p>18. The "site design" is a version of the Ocean Villas development in Pearl Bay. Each landowner will design a dwelling on the site in accordance with the development design manual, the parameters</p>	<p>15. Noted</p> <p>16. Noted</p> <p>17. Noted</p> <p>18. It should be noted that with the implementation of a 13m rear building line as well as 19m, should a double storey be proposed, Mr and Mrs Tweeddale's property will not be affected by the development of a</p>
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	<p>19. They finally also request that they be provided with a digital copy of the building plan which are submitted to Swartland Municipality, prior to it being approved and construction being allowed.</p>	<p>of the Development Management Scheme and the building lines as proposed above.</p>	<p>dwelling on the portion abutting their property.</p> <p>19. Erf 2571 only abuts the subject property for a distance of 9,07m. Any departures of the above-mentioned building lines will be subject to a public participation process, it is therefore not seen as a requirement that any other building plan or development proposal, not affecting the objector's property, be provided for their input.</p> <p>The municipality may include the provision of a design manual that contain all the above-mentioned restrictions as well as design, as a condition of approval.</p>
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Extract of the development Proposal Provided to the residents of Strandveld Villas.







PART J: MUNICIPAL PLANNING EVALUATION

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

The application was submitted in terms of the By-Law on 31st of January 2024. The public participation process commenced on 15th of February 2024 and ended on 18th of March 2024 (affected parties and internal departments). Objections and comments were received and referred to the applicant for comment on 14 March 2024. It is confirmed that no other comments were received between the 14th and the 18th of March 2024. The municipality received the comments on the objections on the 12th of April 2024. Please refer to the comments attached as Annexure J.

It should be noted that a total of 32 letters were sent by registered mail as well as e-mail to the owners of properties deemed affected by the application. A total of 20 notices were returned unclaimed. Although the number of letters returned is significant, the public participation is deemed sufficient due to the emails sent by the municipality as well as correspondence between the Strandveld Villas Owners association and its members.

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 development does not result in the promotion of development imbalances.
- b) Spatial Sustainability: The proposed subdivision does not have an adverse impact on the fiscal, institutional as well as administrative capacity of the municipality. The property is located within the urban edge and is not agricultural land. However small, the application provides for housing opportunities in Yzerfontein.
- c) Efficiency: The development proposal promotes the optimal utilisation of services on the property and enhance the tax base of the Municipality;
- d) Good Administration: The application and public participation were administrated by Swartland Municipality and public and departmental comments obtained;
- e) Spatial Resilience: The development proposal changed due to the developer not being able to secure the sale of the property for the original intended use. Surely there is still a demand for a care facility in Yzerfontein, similarly there is a growing demand for residential property.

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 PSDF, 2014 also supports densification and the proposal is deemed appropriate, given its location as well as that it will contribute to the sense of place of Yzerfontein, especially with the development proposal presented by the owner / developer.

The development proposal is therefore deemed consistent with the PSDF.

2.3 West Coast District SDF (WCDSDF, 2020)

In the WCDSDF, 2020 it is stated that the functional classification for Yzerfontein is tourism and according to the growth potential study Yzerfontein has a medium growth potential.

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

The proposal is thus consistent with the WCDSDF.

2.4 Spatial Development Framework (SDF)

The subject property is situated in an area demarcated as Land use Proposal Area D, as per the spatial proposals for Yzerfontein contained in the SDF, 2023 which supports the development of low to medium density residential uses. The proposal complies with the minimum property size of 500m² for single residential erven. It is noted that under Objective 3 of the MSDF, 2023 the development of community facilities including the provision of a service centre for the aged as well as the provision of adequate primary health facilities are supported. It could be argued that the development proposal results in a loss of one of very few properties that has existing rights which could accommodate this social need. The proposal is however not in contradiction with the principles as set in the Municipal Spatial Development Framework (MSDF, 2023)

It is noted that the subject property is indicated as a proposed institutional function given the historical approval of the caring facility that was proposed, however, as a guiding document the MSDF, does not take rights away and the owner / developer is acting within their rights to apply for the rezoning of the property.



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

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

The proposal complies with the applicable development management scheme.

As presented in the application as well as required by the Department Civil Engineering Services, the internal road be built to a permanent surface standard. The Municipality will not take ownership of this road, as it is a private access to the properties within the development. Secondly, the proposal restricts access to only this private access road and lastly, the requirement of the Department: Electrical Engineering Services that provision is made for adequate street lighting, all contributes to the fact that ownership of the proposed private road as well as services need to vest in an Owners Association. The Owners Association could also attend to the design criteria as proposed by the developer with the implementation and enforcement of a constitution and design manual. It is proposed that the establishment of an owner's association be made a condition of approval for this development as well as that the proposed Right of Way Servitude, which is none other than a private access road, be transferred to the said Owners Association as it is in the mutual interest of all owners within the development.

2. Desirability of the proposed utilisation

Erf 2076 does not have any physical restrictions which may negatively affect the application.

The character of the surrounding area includes single residential properties, most of which have already been developed. The proposed erf sizes of >500m² are in keeping with the erf sizes of the surrounding properties and will not affect the character of the area.

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

Sufficient services capacity exists to provide the subdivided portions with service connections.

There are no restrictions in the title deed of the subject property which prohibits this application.

Surrounding property values are deemed not be affected as the proposed subdivision will not impact negatively on the character of the area. The building lines proposed by the developer mitigates any adverse impact on neighbouring Strandveld Villas development.

3. Impact on municipal engineering services

Sufficient services capacity exists to provide the newly created erf with services. Please refer to the comments from internal departments above.

PART K: ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

The financial or other value of the rights

N/A.

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

N/A

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

N/A

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

N/A

PART L: RECOMMENDATION WITH CONDITIONS

- A. The application for the rezoning of Erf 2582, Yzerfontein (5000m² in extent), from General Residential Zone 3 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 2582, Yzerfontein be approved in terms of section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020);

Decisions A & B above are subject to the following conditions;

1. TOWN PLANNING AND BUILDING CONTROL

- (a) Erf 2582, Yzerfontein be rezoned from General Residential Zone 3 to Subdivisional Area to accommodate the following zoning categories;
 - i. 5 Residential Zone 1 (±4225m² in total)
 - ii. 1 Transport Zone 2: private road (±775m² in extent)
- (b) Erf 2582 (5000m² in extent) be subdivided as follows:
 - i. Portion A (±1002m² in extent)
 - ii. Portion B (±771m² in extent)
 - iii. Portion C (±774m² in extent)
 - iv. Portion D (±774m² in extent)
 - v. Portion E (±928m² in extent)
 - vi. Remainder Road (±751m²)
- (c) The General Plan be submitted to the Surveyor-General for approval, including proof to the satisfaction of the Surveyor-General of—
 - (i). the municipality's decision to approve the subdivision;
 - (ii). the conditions of approval imposed in terms of section 76; and

- (iii). the approved subdivision plan;
- (iv). and copies of said diagrams be made available to the Municipality;
- (d) 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: Development Management, for consideration and approval;
- (e) The constitution of an owner's association be approved by the municipality before registration of the transfer of the first land unit and make provision for—
 - (i). the owner's 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;
 - (ii). control over and maintenance of buildings, services or amenities arising from the subdivision;
 - (iii). the regulation of at least one annual meeting with its members;
 - (iv). control over the design guidelines of the buildings and erven arising from the subdivision;
 - (v). the ownership by the owners' association of all common property arising from the subdivision, including:
 - a. private open spaces where applicable;
 - b. private roads; and
 - c. land required for services provided by the owners' association;
 - (vi). enforcement of conditions of approval or management plans;
 - (vii). procedures to obtain the consent of the members of the owners' association to transfer an erf if the owners' association ceases to function; and
 - (viii). the implementation and enforcement by the owners' association of the provisions of the constitution.
- (f) The Transport Zone 2 erf be transferred to the Owners Association, before transfer of the first residential property is approved;
- (g) 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) Each subdivided portion be provided with a separate water connection from Buitenkant street. This condition is applicable on building plan stage.

3. SEWERAGE

- (a) Each subdivided section be provided with a separate sewage suction tank with a minimum capacity of 8,000l. The suction tank be accessible to the service truck from Buitenkant Street. This condition is applicable on building plan stage.

4. STREETS & STORMWATER

- (a) The internal road be built to a permanent surface standard.
- (b) The vehicle access of the subdivided portion be restricted to internal road.
- (c) Storm water be conveyed underground to the nearest suitable municipal collection point.
- (d) The developer appoints an Engineer appropriately registered in terms of the provisions of Act 46 of 2000 to design the internal street and stormwater drainage.
- (e) The design be submitted to the Director: Civil Engineering Services for approval after which the construction work be carried out under the supervision of the Engineer.
- (f) The construction work be undertaken by a recognized civil construction firm.
- (g) The internal road and storm water network not be taken over by the Municipality and be transferred and maintained by the Owners' Association.

5. ELECTRICAL ENGINEERING SERVICES

- (a) Each subdivided portion be provided with a separate electrical connection with a conventional meter at the expense of the owner/developer;
- (b) Should it be necessary to relocate any electrical cables across the relevant subdivided properties, it be moved at the expense of the owner / developer;
- (c) Where applicable, any electrical interconnect be isolated and fully removed;

- (d) The existing low-voltage network be extended in order to service the proposed subdivided portions;
- (e) The extension of the low-voltage network be done from mini-substation B11;
- (f) The developer appoints an authorized electrical contractor for the extension of the low voltage network;
- (g) The contractor contacts the Department: Electrical Engineering Services for the technical specifications regarding the extension of the low voltage network;
- (h) Provision be made for street lighting to the satisfaction of the Department: Electrical Engineering Services;
- (i) The design of the low voltage electrical extension be submitted to the Director of Electrical Engineering Services for approval before construction may begin.

6. DEVELOPMENT CHARGES

(a) Applicable to Proposed portion A:

- (i). The owner/developer is responsible for a development charge of R33 948, 00 toward the bulk supply of regional water, at clearance stage. The amount is payable per newly created portion to Swartland Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA 9/249-176-9210);
- (ii). The owner/developer is responsible for the development charge of R 3 083, 15 towards bulk water reticulation, at clearance stage. The amount is payable per newly created portion to Swartland Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA: 9/249-174-9210);
- (iii). The owner/developer is responsible for the development charge of R10 627, 15 towards sewage at clearance stage. The amount is payable per newly created portion to Swartland Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA: 9/240-184-9210);
- (iv). The owner/developer is responsible for the development charge of R25 786, 45 towards wastewater treatment at clearance stage. The amount is payable per newly created portion to Swartland Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA: 9/240-184-9210);
- (v). The owner/developer is responsible for the development charge of R 12 846, 65 towards roads and storm water, at clearance stage. The amount is payable to Swartland Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA: 9/247-144-9210).
- (vi). The owner/developer is responsible for the development charge of R 11 044, 14 towards electricity, at clearance stage. The amount is payable per newly created portion to Swartland Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA: 9/253-164-9210);
- (vii). The Council resolution of May 2023 makes provision for a 60% rebate on development charges to Swartland Municipality. The discount is valid for the financial year 2023/2024 and may be revised thereafter;

(b) Applicable to Proposed portions B to E :

- (i). The owner/developer is responsible for a development charge of R 21 726, 95 toward the bulk supply of regional water, at clearance stage. The amount is payable per newly created portion to Swartland Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA 9/249-176-9210);
- (ii). The owner/developer is responsible for the development charge of R 1 973, 40 towards bulk water reticulation, at clearance stage. The amount is payable per newly created portion to Swartland Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA: 9/249-174-9210);
- (iii). The owner/developer is responsible for the development charge of R 6 801, 10 towards sewage at clearance stage. The amount is payable per newly created portion to Swartland Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA: 9/240-184-9210);
- (iv). The owner/developer is responsible for the development charge of R 16 503, 65 towards wastewater treatment at clearance stage. The amount is payable per newly created portion to Swartland Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA: 9/240-184-9210);
- (v). The owner/developer is responsible for the development charge of R 12 846, 65 towards roads and storm water, at clearance stage. The amount is payable to Swartland Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA: 9/247-144-9210).
- (vi). The owner/developer is responsible for the development charge of R 11 044, 14 towards electricity, at clearance stage. The amount is payable per newly created portion to Swartland Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA: 9/253-164-9210);

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

7. GENERAL



- (a) Any existing services connecting the remainder and subdivided portion be moved and/or disconnected so that each erf's piping is located on the relevant erf.
- (b) The approval does not exempt the applicant from adherence to all other legal procedures, applications and/or approvals related to the intended land use, as required by provincial, state, parastatal and other statutory bodies.
- (c) Should it be determined necessary to expand or relocate any of the engineering services to provide the development with connections, said expansion and/or relocation will be for the cost of the owner/developer;
- (d) The approval is valid for a period of 5 years, in terms of section 76(2) of the By-Law from date of decision. Should an appeal be lodged, the 5-year validity period starts from the date of outcome of the decision against the appeal.
- (e) All conditions of approval be implemented before the new land uses come into operation/or occupancy certificate be issued and failing to do so the approval will lapse. Should all conditions of approval be met within the 5-year period, the land use becomes permanent, and the approval period will no longer be applicable.
- (f) The applicant/objectors be informed of the right to appeal against the decision of the Municipal Planning Tribunal in terms of section 89 of the By-Law. Appeals be directed, in writing, to the Municipal Manager, Swartland Municipality, Private Bag X52, Malmesbury, 7299 or by e-mail to swartlandmun@swartland.org.za, within 21 days of notification of the decision. An appeal is to comply with section 90 of the By-Law and be accompanied by a fee of R5000-00 to be valid. Appeals that are received late and/or do not comply with the requirements, will be considered invalid and will not be processed.
- C. The application for the registration of a servitude right of way (7m wide) in favour of the subdivided portions be refused in terms of section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020);

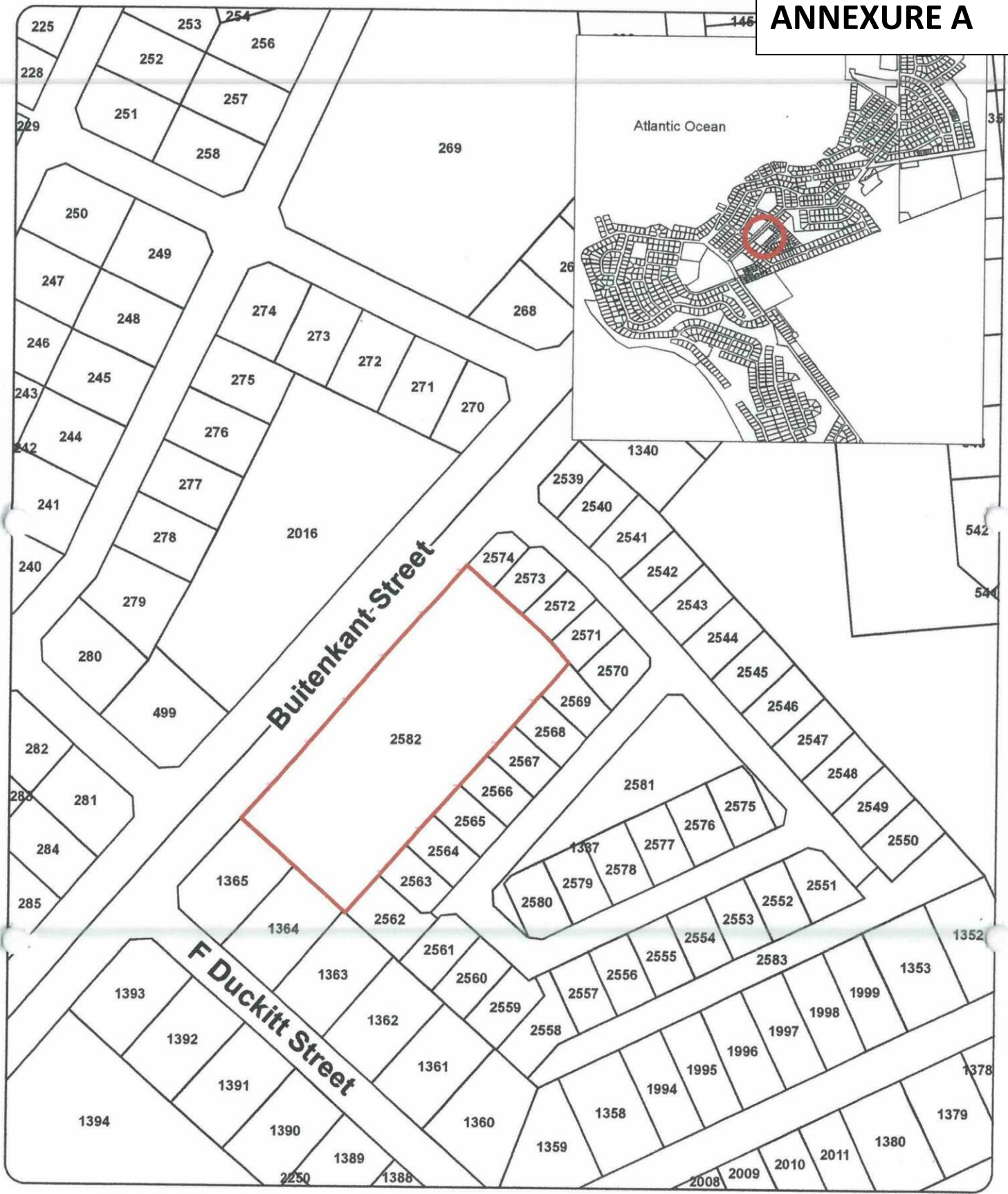
PART M: REASONS FOR RECOMMENDATION

1. There are no physical restrictions on the property that will have a negative impact on the proposed application.
2. There are no restrictions registered against the title deed of the property that prohibits the proposed subdivision or land use.
3. The proposed application is consistent with and not in contradiction to the Spatial Development Frameworks adopted on Provincial, District and Municipal levels.
4. The proposed application will not have a negative impact on the character of the area.
5. The proposed development is not perceived to have a detrimental impact on the health and safety of surrounding landowners, nor will it negatively impact on environmental/heritage assets.
6. The development proposal supports the optimal utilisation of the property.
7. Erf 2582 is situated inside the urban edge of Yzerfontein as well as located in an area earmarked for low to medium density residential land uses, as well as are well within the minimum property size supported for Residential zone 1 properties. The application is therefore in compliance with the provisions of the MSDF, 2023.
8. The development proposal is foreseen to create employment opportunities in the short, as well as the long term.
9. The application complies with the principles of LUPA (Land Use Planning Act) and SPLUMA (Spatial Planning and Land Use Management Act) (Spatial Planning and Land Use Management Act).
10. Sufficient services capacity exists to accommodate the proposed development.
11. The proposal is consistent with the applicable development parameters as contained in the development management scheme.
12. The concerns raised by the objectors have sufficiently been mitigated with the development proposal as well as the conditions of approval.
13. The registration of the servitude is refused as it is no longer necessary. The private access road needs to be surveyed and transferred to the Owners Association whom with ownership takes responsibility for the maintenance of the private road.

PART N: ANNEXURES

Annexure A: Locality plan
Annexure B1: Subdivision plan
Annexure B2: Amended Subdivision plan
Annexure C: Letter from the Developer
Annexure D: Public participation plan

Annexure E: Letter of Support from Mr Claasen Annexure F: Letter of Support From Mr Charles Whittington Annexure G: Objection Me U Strydom Annexure H: Objection SE & TJ Tweeddale Annexure I: Comment from the Department Electrical Engineering Services Annexure J: Comments on the objections received from the applicant.				
PART O: APPLICANT DETAILS				
First name(s)	Planscape Town and Regional Planners			
Registered owner(s)	Yzerfontein Property Developers Pty Ltd	Is the applicant authorised to submit this application:	Y	N
PART P: SIGNATURES				
Author details: Herman Olivier Town Planner SACPLAN: A/204/2010			Date: 26 April 2024	
Recommendation: Alwyn Zaayman Senior Manager Development Management SACPLAN: B/8001/2001	Recommended	<input checked="" type="checkbox"/>	Not recommended	
			Date: 29 April 2024	



LOCATION MAP

Erf 2582 , Yzerfontein

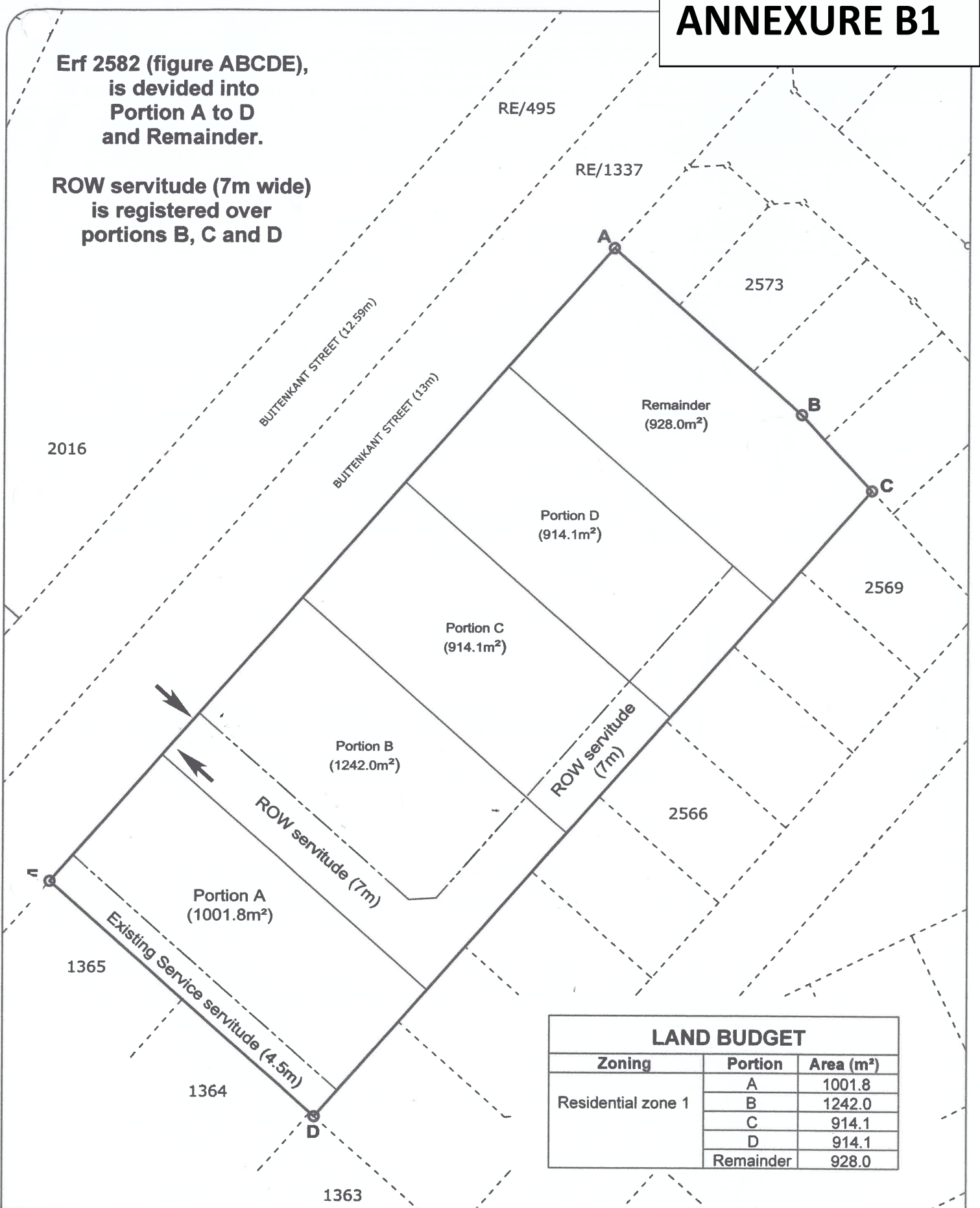


Date: 14/11/2023

ANNEXURE B1

Erf 2582 (figure ABCDE),
is divided into
Portion A to D
and Remainder.

ROW servitude (7m wide)
is registered over
portions B, C and D



LAND BUDGET		
Zoning	Portion	Area (m ²)
Residential zone 1	A	1001.8
	B	1242.0
	C	914.1
	D	914.1
	Remainder	928.0

Project: Erf 2582, Yzerfontein
Title: Subdivision Plan
Owner: Yzerfontein Property Developers

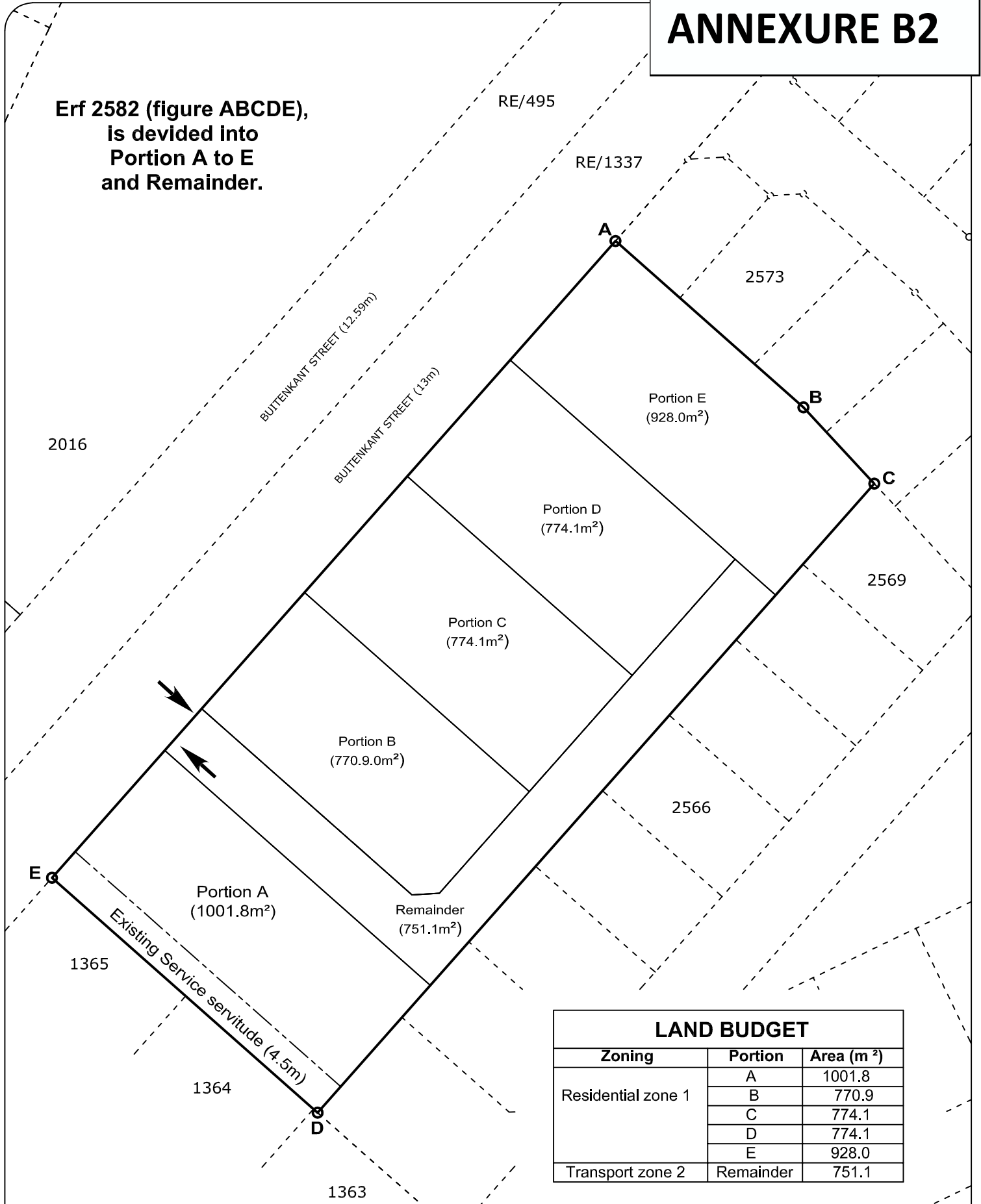


Notes:
Date: 16/11/2023
Reference: 327~2582-Yzer



ANNEXURE B2

Erf 2582 (figure ABCDE),
is divided into
Portion A to E
and Remainder.



LAND BUDGET		
Zoning	Portion	Area (m ²)
Residential zone 1	A	1001.8
	B	770.9
	C	774.1
	D	774.1
	E	928.0
Transport zone 2	Remainder	751.1

Project: Erf 2582, Yzerfontein
Title: Subdivision Plan
Owner: Yzerfontein Property Developers



Notes:
Date: 30/04/2023
Reference: 327~2582-Yzer



From: Graham Katz <g.k@iafrica.com>
Sent: Monday, 04 March 2024 08:56
To: Registrasie Email <RegistrasieEmail@swartland.org.za>
Cc: M Rangasamy <Speaker@swartland.org.za>; Alwyn Burger <alwynburger@swartland.org.za>; Igna Albertyn <yzerfont@mweb.co.za>; Graham Katz <g.k@iafrica.com>
Subject: Proposed re-zoning, subdivision and registration of a servitude on ERF 2582 Yzerfontein (Notice 58/2023/2024)

The Municipal Manager

Department of Development Management

Malmesbury

I trust you can assist.

Residents living at Strandveld Villas, have requested I share some background information as to why our Company will now develop Erf 2582. I have also been requested to provide an overview of the proposed development on Erf 2582 subject to Municipal approval of the rezoning application.

Please see attached overview forwarded to all residents at Strandveld Villas on the 23rd of February 2024.

We have received a number of positive comments which I am happy to forward.

I would also like to share an overview of the proposed development with parties who live outside Strandveld Villas.

These parties might have questions we can hopefully answer.

I would appreciate any assistance as to how I might share this information as we do not have these contact details.

Thanking you in advance.

Regards

Graham Katz
Yzerfontein Property Developers Pty Ltd.
0731905895

Proposed re-zoning, subdivision and registration of a servitude on ERF 2582 Yzerfontein.
(Notice 58/2023/20240)

Greetings Strandveld Villas.

Please see attached background information as to why Yzerfontein Property Developers (PTY) Ltd will now develop Erf 2582.

Background:

(Erf 2582. General Residential Zone 3, High Density. Proposed rezoning to Single Residential Zone 1, Low Density.)

Group Housing Complex consists of 40 residential erven, (now 39) as well as one erf currently erf 2582, which was earmarked for the development of the community healthcare centre.

The initial intention was to donate the site to the Afrikaanse Christelike Vroue Vereniging (ACVV), who would have developed the site in accordance with their needs, to potentially include a medical facility, inclusive of consulting rooms, 14 bed frail care section, approximately 23 double room flat and approximately 10 bachelor flats.

After protracted deliberations the ACVV declined the donation due to the fact that the organisation did not have the capital to develop the site.

Yzerfontein Property Developers (PTY) Ltd recently secured a purchaser for erf 2582 for a medical facility.

All monies were paid into trust with Louw & Coetzee Attorneys. The buyer, however, withdrew from the contract as they were not prepared to spend capital on professional fees (architects, engineers, planners et cetera) to a prepare detailed development proposal, in order to comply with B8(f), calculation of development contributions, as imposed by the Swartland Municipality on Yzerfontein Property Developers (Pty) Ltd.

The fact that the buyer could not take transfer of the erf, meant that they would be spending money on land they did not own.

Due to this clause being an obstacle to sell this erf to a third-party, Yzerfontein Property Developers (Pty) Ltd. now wish to develop it themselves as five Freestanding Residential Opportunities.

Please see Aerial View plan attached.

Currently your existing neighbours (most are double storey homes) are 2/3 metres away from your boundary lines with their prime views looking directly into Strandveld Villas.

Our proposed internal road positioned against the N/W boundary wall of Strandveld Villas will position these new homes +- 10 metres away from this N/W boundary wall giving Strandveld Villas residents and the homeowners on erf 2582 their desired privacy.

The advantage of placing the internal road against the northern boundary wall of Strandveld Villas is, instead of these homeowners looking into Strandveld Villas, their prime views are to the north-west completely in the opposite direction.

Owners will then enter their home from the north-west and live out onto their patio/garden/pool facing Buitenkant Street.

The Design Manual: Boutique Development / Low Density

The brief to my architect is to create an up market harmonious design that will complement and add additional value to Strandveld Villas and the surrounding neighbourhood.

We will stay away from the chromo deck Strandveld Villas roof & pitch and incorporate the roof pitch and Marley Tiles (charcoal tiles to match the colour of the roofs at SVV) we have utilised at our Beachfront Estate, Ocean Villas.

I have a design meeting set up for next week Friday where I will look at concept drawings and layouts.

Once I am happy with the design of these homes I will share them with any interested parties.

These 5 homes will be a similar in colour to our Ocean Villas development and will be well built and beautifully designed.

As like Ocean Villas (Single Resident Erven, average size +- 785 m2, as apposed to Group Housing Erven at Strandveld Villas, average size 310 m2 folks will have a choice of either a double or single storey home.

Please see attached an example of an Ocean Villas elevation for reference.

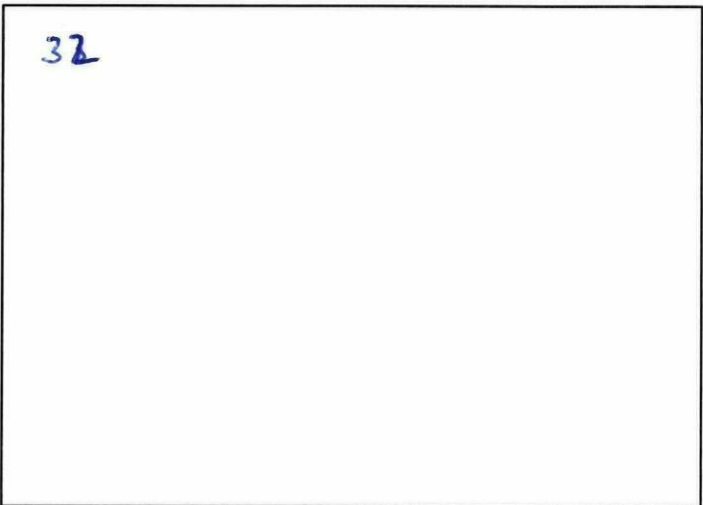
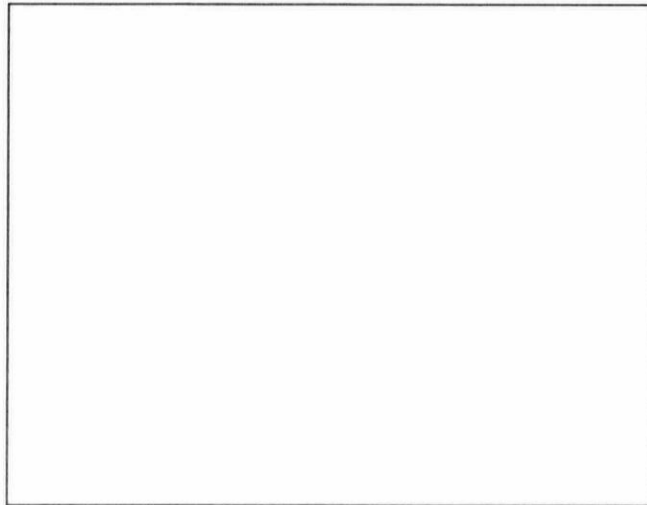
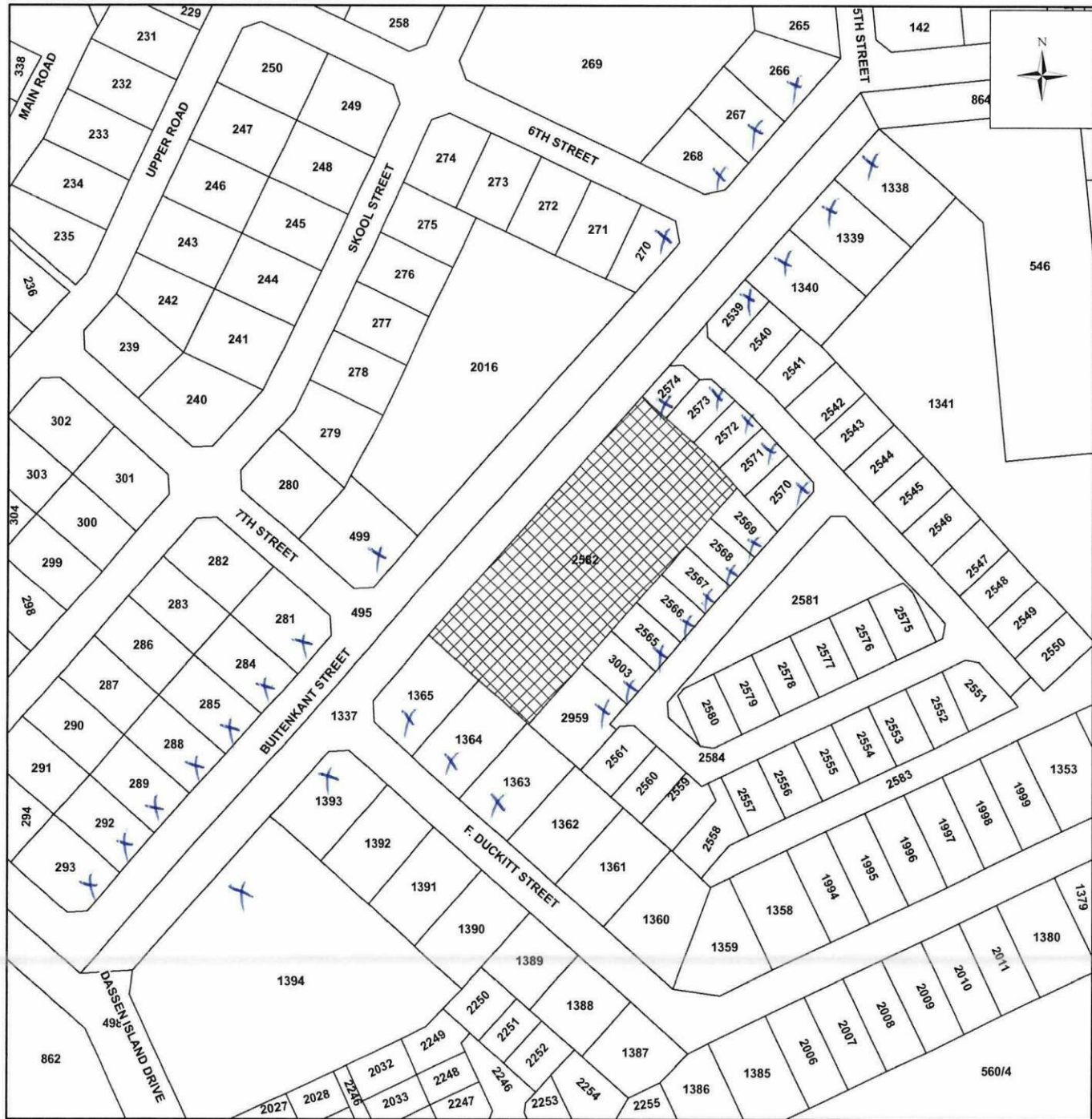
We currently do not have a name for this Boutique Development, we would certainly appreciate any suggestions.

Regards

Graham Katz
g.k@iafrica.com
0731905895



Liggingsplan



From: Martus Claassen <martus.claassen@gmail.com>
Sent: 29 February 2024 15:54
To: Delmary Stellenberg <StellenbergD@swartland.org.za>
Subject: Re: Proposed rezoning, subdivision and registration of a servitude on erf 2582, Yzerfontein

Beste Delmary,

Ek het gedink ek het al teruggeskryf, maar dit blyk nie so nie.

Ons as Baviaans Trust van 55 Buitenkant Straat het geen beswaar teen die aansoek nie.

Soos ek dit verstaan het nie die serwituut of die onderverdeling enige impak op ons nie. Ek is reg oor die serwituut gedeelte, nie waar nie?

Ons dink dat die onderverdeling positief sal wees omdat dit die huidige, ietwat verwaarloosde terrein baie sal verbeter en verfraai.

Beste groete,

Martus Claassen.

e-mail: martus.claassen@gmail.com

mobile: +27 82 453 6417

fax : 086 672 7140

From: Charles Withington <charles@withington.co.za>
Sent: Friday, 01 March 2024 17:11
To: Registrasie Email <RegistrasieEmail@swartland.org.za>
Cc: M Rangasamy <Speaker@swartland.org.za>
Subject: Support -Rezoning, subdivision and registration of a servitude on erf 2582, Yzerfontein

1 March 2024

The Municipal Manager
Department of Development Management
Swartland

I hereby wish to record my support for the above-mentioned development and for the following reasons:

- New developments in Yzerfontein all seem focussed in fitting in as many people as legalities and land permit.
- While I in principle understand the need for development such development must be within the capabilities of the infrastructure and specifically provision of water and for sewerage removal.
- The Developer in his application for rezoning has deliberately chosen to take the opposite route as to that of other group housing developers and put quality before quantity.
- By reducing the number of housing units from the 23 down to 5, the applicant effectively reduces the water and waste requirement by some 70% , which can only be for the greater good of the community.
- Stylish, functional and mid-size – this development provides an example of a development concept that is much suited to Yzerfontein, and I sincerely hope that the Swartland Municipality supports developments of this nature.

Yours sincerely

Charles Withington (Erf 2541)

3 Strandveld Villas Yzerfontein – South Africa

Ph: +27 74 194 1711

**Objection against the Proposed Rezoning, Subdivision and
Registration of a “Serwituut” on ERF 2582 Buitekant Street
Yzerfontein building of double storey houses**

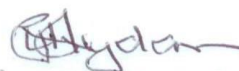
With reference to the *Swartland Municipality* letter dated 15th February 2024
I object to the rezoning for the purpose of building **double storey houses** on Erf
2582 for the following reasons:

- My Erf 2567 38 *Strandveld Villas* borders this Erf 2582
- If double storey houses are built, we won't have any privacy as the double storey will look down on our house
- The noise level will increase as the houses are higher up than the *Strandveld Villas* house
- The value of our property will go down because of the “high-rise” building overlooking our property
- One will be constantly aware of people in the “high-rise” building bordering our property
- Erf 2582 is a relatively small erf and only allows for a few houses to be built, so the developer knows by building double storey houses his profit margin will increase – it's about money – not the environment or people
- The developer is the only one benefiting from this as he sells houses “*with a view*” (if any) for more money than a one level house
- If the developer intended to build double storey houses a suitable erf should have been found for that purpose
- My Erf 2567 was bought in 2016 as a holiday home and the developer assured us that any construction on Erf 2582 would be on the *same level* and at that time, it wasn't indented for a housing project(?)
- I have no objection against building houses on ***the same level*** on Erf 2582 but not ***any double storey houses***

I object strongly against any **DOUBLE STOREY HOUSES** being built on **Erf 2582**
Buitekant Street Yzerfontein

Thank you

Ursula Strydom



Owner Erf 2567 38 *Strandveld Villas* Buitekant Street Yzerfontein

+264 81 277 2482 SMS/What's App 082 565 5535

ursulas@afol.com.na

21st February 2024

From: Sue Tweeddale <suetweeddale@gmail.com>
Sent: Monday, 11 March 2024 17:20
To: Registrasie Email <RegistrasieEmail@swartland.org.za>
Cc: Tom Tweeddale <tom.tweeddale@toast.net>; Graham Katz <g.k@iafrica.com>
Subject: COMMENTS: PROPOSED REZONING, SUBDIVISION AND REGISTRATION OF A SERVITUDE ON ERF 2582, YZERFONTEIN (NOTICE 57/2023/2024)

ATTENTION: The Municipal Manager, Private Bag x52, Malmesbury, 7299

Good morning to you Sir/Madam, what follows is said WITHOUT PREJUDICE but serves as a basis for OUR COMMENTS which contain certain requests and/or conditions with regards the proposed development on ERF2582, Yzerfontein.

Your emailed letter (**Ref:15/3/3-14/Erf 2582 and 15/3/6-14/Erf 2582**) dated 15 February 2024 has reference. (attached). **Please Note:** We are not sure if the correct NOTICE number reflected in the Subject line of this letter is correct, because it differs from the one used on the Swartland Municipality website which is **NOTICE 57/2023/2024**.

OUR BACKGROUND INFORMATION

Right from the outset, we would like to state that when we bought into Strandveld Villas in 2022, we were told by the Developer in 2022 at the Strandveld Villas Annual General Meeting on 4 October 2022, and the Selling Agent when purchasing, that the only buildings planned for construction on ERF2582 would be of a single storey nature and would be in line with the ERF1366 Strandveld Villas Architectural Design Guidelines as were issued in July 2016 (ACVV facility). These were the Architectural Design Guidelines lodged in July 2016 with Swartland Municipality for the whole of **ERF 1366** (Point 3.2 pg 7) (attached). Rightly, or wrongly, we understood that at the time of the conception of Strandveld Villas in 2009, ERF2582 formed a “**Remainder of ERF1366**” as shown in the attached Robert Leslie Drawing 091/050, 2009, (attached). This background was also briefly described in both the Planscape Application for Rezoning and then once again in an email we received from the Developer on 23 February 2024. This is also documented in Point 5.7 extracted from the Strandveld AGM Minutes dated 4 October 2022. (redacted extract from Minutes attached) The latter was one of the main deciding factors for us purchasing a property in Strandveld Villas, in addition to the fact that it offered adequate security and a more suitable lifestyle for us as we age, after having resided in Cape Town where I had previously had the regrettable experience of being held up by 3 armed gunmen in a previous home.

On **15 February 2024**, an email was sent out by our HOA attaching a similar Land Budget Plan, but one that differs from the one Swartland Municipality emailed with your letter and attachments (Ref:15/3/3-14/Erf 2582 and 15/3/6-14/Erf 2582). This also stated that double and single storey dwellings were now proposed for this site, and that there were Portions A, B, C, D and **E** (redacted extract from email attached).

On **23 February 2024**, an email from the Developer was received providing background and giving reasons why, and detail of how, they were going to develop ERF2852. (redacted extract from email attached).

To support of **our INITIAL stance and viewpoint** with regards the inclusion of double storey dwellings being proposed for the dwellings ERF2582, we wish to point out a statement made in the email dated 23 February 2024, namely: "**Currently your existing neighbours (most are double storey homes) are 2 to 3 metres away from your boundary lines with their prime views looking directly into Strandveld Villas.**" is not technically correct in view of the following:

- I took the initiative to do a physical count of dwellings that are double storey surrounding Strandveld Villas and as far as I could ascertain, there are only **6 double storey dwellings out of the nominal 15 dwellings that surround Strandveld Villas, and the distance between the building lines of these 6 double storey dwellings and the boundary line of ERF1366 Strandveld Villas, which I could only view from the curb, appeared to me, to be more than the 2 to 3 metres as was inferred in the email dated 24 February 2024.**
- In addition, and an important fact to point out is, that all the Strandveld Villas homeowners that bought Erven along that boundary line rereferred to on F Duckitt Street, to build their dwellings on, were fully aware of the fact if they had a double storey home overlooking their Erf and they chose this Erf despite knowing that. However, the same does not apply to all the Erven that border ERF2582, on the Buitekant Street side, who were not in the same position when they built or bought into the estate. In discussion with some homeowners, a number like us, based their purchase in Strandveld Villas on having the ACVV centre and/or single storey dwellings behind them as we were informed was going to be the case when purchasing.

On **7 March 2024** we received an email from Yzerfontein Property Developers, enclosing the Work in Progress re: their proposal to develop ERF2582 into a low density up-market development similar to Ocean Villas which is self-explanatory, which attached 3D design concept and site layout drawings. (attached).

We, Susan Anne Tweeddale and Thomas J Tweeddale, owners of ERF2571, #6 Strandveld Villas, Yzerfontein, 7351, now wish to add some positive comments with regards to the above proposed rezoning and subdivision and registration of servitude on ERF 2582, Yzerfontein (Notice 57/2023/2024) as follows:

OUR COMMENTS:

Despite what is contained in the **Background Information** above, we now feel the changes proposed from the Developer with regards the **design concept, layout and placement of the 5 properties on this Erf if they are positioned as reflected in the 3D view and site layout plan** that that were received by us in the **email dated 7 March 2024**, representing the layout, placement of dwellings on the Erven and concept design of those proposed dwellings, we believe if they remain as shown, they should not adversely infringe on the privacy of our Erf 2571, but may partially infringe on Erven 2572 and 2573, which we have no need to or are not in a position to comment about.

We feel the Developer has practiced due diligence in their proposals put forward for the development of ERF2582 in the email mentioned above, and commend and thank them for that so in view of this, we have decided to adopt a more lenient approach to these proposed changes.

Whilst a single storey dwelling on the "Remainder" portion of the Land Budget Plan attached to your correspondence dated 15 February 2024 Ref (attached), would still be more preferable to us on ERF2571 due to its much closer proximity to the Strandveld Villas ERVEN 2571, 2572 and 2573 that border that side boundary wall, than the Erven bordering on the rear boundary wall of ERF2582, we accept that this may not happen, unless a purchaser requests a single storey dwelling.

We are satisfied with and are willing to support the proposed changes as reflected in the 3D design concept plan put forward to us by the Developer on 7 March 2024 **on the following bases:**

A. If building line distances proposed in the current concept site design and layout plan (attached) and reflected below are complied with and not manipulated, changed or shortened by the Developer/Owner/Builder on ERF2582. We are referring to all the Erven but particularly the "Remainder" portion of Erf 2582 (928.0 sqm) on the Planscape Land Budget Plan dated 16/11/2023 that accompanied your letter dated 15 February 2024, and on the concept site design and layout plan supplied to us on 7 March 2024, on which a dwelling of 791 sq m in size is proposed. This is the Erf that is in close proximity to ERF 2571 and any dwelling placed on there could affect us adversely if changed.

That is,

- The **building line must be no less than 13m from the rear boundary wall of ERF 2582 to the garages** marked in **red** on the concept site plan received from the Developer.
- The **building line must be no less than 19m from the rear boundary wall of ERF2582** if the client wishes to have a duplex portion of the dwelling marked in **blue** on the concept site plan received from the Developer.
- The **building line must be no less than 2m from the side boundary wall between ERF1366 and ERF2582 where ERVEN 2751, 2752 and 2753 are situated.**

B. Compliance with the latest version of Zoning Regulations and By-Law for Residential Zone 1: Low Density (R1) as laid out in the Provincial Gazette Extraordinary 8226 dated 25 March 2020; and Swartland Municipality: Municipal Land Use Planning By-Law as published on the Swartland Municipality Website, paying attention to all aspects of this/these document/s regulating and/or governing Residential Zone 1: Low Density (R1) zoning, particularly with reference to CHAPTER 1: RESIDENTIAL ZONES, Land use Provisions, 1.1.1. Coverage (a) (i); and (b) (i) Height; and (c) (i), (ii) and (iii) Building lines AND compliance with any other relevant Swartland Municipality By-Laws not specified that govern such a development.

C. Compliance with regulations as laid down in the latest version of the National Building Regulations and Building Standards Act 103 of 1977 (as amended).

D. If there are any future changes/revisions to the concept site design and layout plan emailed to homeowners on 7 March 2024 by the Developer, we would like to be notified of and provided with the updated revision of these, in order evaluate and ascertain if there are any deviations from the original concept plan provided to us, that could then at that time, affect us, so it will allow us the opportunity of bringing this to the attention of Swartland Municipality. This request also extends to being provided with a digital copy of the final building plans which are submitted to the Swartland Municipality for approval, prior to them being approved and construction being allowed to take place.

We trust that this email is received in the good faith that it was sent and that our requests and Points A - D are noted and met. Should these be fully met and complied with, we will give our **FULL SUPPORT** for this development to proceed and wish the Developer the best of luck in succeeding with the sale and development of ERF2582, the owners of which will become our new neighbours.

We would appreciate acknowledgement of receipt of this email and its attachments.

Yours faithfully

S A Tweeddale

T J Tweeddale

S A TWEEDDALE

T J TWEEDDALE

082 495 1302

079 416 8617

Erf 2582 - development



Dear owners

As some of you may already know, YPD put in a development proposal for Erf 2582, adjacent to Strandveld Villas.

They tried to sell the stand last year, but the sale fell through and YPD is now planning to build five houses on the property. A proposal in this regard has been made to the Swartland Municipality and Graham Katz also shared it with the SVV trustees, with a request to inform the SVV homeowners. See plan attached.

They want to build the houses closer to the Buitenkant Street boundary and use the area adjacent to the boundary wall with SVV, for the internal road, which will create an open space of 7-10 metres between the SVV properties and the new houses.

Their proposal is in line with what they have done at Ocean Villas, namely to sell the plots and let owners build themselves, but within specific building guidelines and design and also in line with the look at SVV.

There is a possibility that owners may go to double story on the front part of their homes (closer to Buitenkant Street), but any double story will be in excess of 10 metres from the SVV boundary wall, according to Graham.

There will also be a public participation process from the municipality in due course, but if you have any further questions that you would like answered, we suggest that you contact YPD directly.

Regards
SVV Trustees



LAND BUDGET		
Zoning	Portion Area (m²)	
Residential zone 1	A	1001.8
	B	1242.0
	C	914.1
	D	914.1
	E	928.0

PLANSCAPE
 16/11/2023
 Reference: 327-2582-Yzerf

Project: Erf 2582, Yzerfontein
 Title: Subdivision Plan
 Owner: Yzerfontein Property Developers



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



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

Swartland vooruitdenkend 2040 -
waar mense hul drome kan uitleef!

Lêerverw: 15/3/3-14/Erf 2582
15/3/6-14/Erf 2582

Me D N Stellenberg

15 February 2024

TWEEDDALE TJ & SA
6 STRANDVELD VILLAS
YZERFONTEIN
7351

suetweeddale@gmail.com

Per Geregistreerde Pos

**VOORGESTELDE HERSONERING, ONDERVERDELING EN REGISTRASIE VAN 'N SERWITUUT
OP ERF 2582, YZERFONTEIN (KENNISGEWING 57/2023/2024)**

**PROPOSED REZONING, SUBDIVISION AND REGISTRATION OF A SERVITUDE ON ERF 2582,
YZERFONTEIN (NOTICE 58/2023/2024) ??57/2023/24**

Aansoeker:	Planscape, Posbus 557, Moorreesburg, 7310. Tel no. 022-4334408
Eienaar:	Yzerfontein Property Developers, Posbus 44211, Claremont, 7623. Tel no. 0823380573
Verwysingsnommer:	15/3/3-14/Erf_2582 15/3/6-14/Erf_2582
Eiendomsbeskrywing:	Erf 2582, Yzerfontein
Fisiese Adres:	Buitenkantstraat 63, Yzerfontein

Volledige beskrywing van aansoek:

Die aansoek om hersonering van erf 2582, Yzerfontein, ingevolge artikel 25(2)(a) van Swartland Munisipaliteit : Verordening insake Munisipale Grondgebruikbeplanning (PK 8226 van 25 Maart 2020), is ontvang. Die voorstel is dat erf 2582 hersoneer word vanaf Algemene Residensiële sone 3 na Onderverdelingsgebied ten einde voorsiening te maak vir 5 Residensiële sone 1 erwe.

Die aansoek om die onderverdeling van erf 2582, Yzerfontein, asook die registrasie van 'n reg-van-weg serwituut, ingevolge artikel 25(2)(d) van Swartland Munisipaliteit : Verordening insake Munisipale Grondgebruikbeplanning (PK 8226 van 25 Maart 2020), is ontvang. Die voorstel is dat erf 2582 (groot 5000m²) onderverdeel word in 'n restant (groot 928m²), gedeelte A (groot 1001m²), gedeelte B (groot 1242m²), gedeelte C (groot 914m²) en gedeelte D (groot 914m²). Die reg-van-weg serwituut (7m wyd) gee toegang na die onderverdeelde gedeeltes.

Kennis word hiermee gegee ingevolge artikel 55(1) van Swartland Munisipaliteit : Verordening insake Munisipale Grondgebruikbeplanning dat bogenoemde aansoek ontvang is en beskikbaar is vir inspeksie vanaf Maandag tot Donderdag tussen 08:00-13:00 en 13:45 - 17:00 en Vrydag 08:00-13:00 en 13:45 - 15:45 by Department Ontwikkelingsdienste, kantoor van die Senior Bestuurder : Bou-

Rig asseblief alle korrespondensie aan:
Die Munisipale Bestuurder
Privaatsak X52
Malmesbury 7299

Darling Tel: 022 492 2237

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

Moorreesburg Tel: 022 433 2246

Kindly address all correspondence to:
The Municipal Manager
Private Bag X52
Malmesbury 7299

Yzerfontein Tel: 022 451 2366

Omgewing, Munisipale Kantoor, Kerkstraat, Malmesbury. Enige skriftelike kommentaar hetsy 'n beswaar of ondersteuning kan ingevolge artikel 60 van genoemde wetgewing aan Die Munisipale Bestuurder, Privaatsak X52, Malmesbury, 7299/Faks – 022-487 9440/e-pos – swartlandmun@swartland.org.za gestuur word voor of op **18 Maart 2024 om 17:00**. **Die kommentaar moet asseblief u naam, adres en kontakbesonderhede asook die voorkeurwyse waarop daar met u gekommunikeer moet word aandui, sowel as u belang by die aansoek asook redes vir u kommentaar.** Telefoniese navrae kan gerig word aan die stadsbeplanningsafdeling (Alwyn Burger of Herman Olivier) by 022-487 9400. Die Munisipaliteit mag kommentaar wat na die sluitingsdatum ontvang word weier. Persone wat nie kan skryf nie sal deur 'n munisipale amptenaar bygestaan word om hulle kommentaar op skrif te stel.

The application for rezoning of Erf 2582, Yzerfontein, in terms of section 25(2)(a) of Swartland Municipality : Municipal Land Use Planning By-Law (PK 8226 of 25 March 2020) has been received. It is proposed that Erf 2582 be rezoned from General Residential Zone 3 to Subdivisional area in order to provide for 5 Residential Zone 1 erven.

An application for the subdivision of Erf 2585, Yzerfontein as well as the registration of a right of way servitude, in terms of section 25(2)(d) of Swartland Municipality : Municipal Land Use Planning By-Law (PK 8226 of 25 March 2020) has been received. It is proposed that Erf 2582 (5000 in extent) be subdivided into a remainder (928m² in extent), portion A (1001m² in extent), portion B (1242m² in extent), portion C (914m² in extent) and portion D (91m² in extent). The right of way servitude (7m wide) grant access to the subdivided portions..

*Notice is hereby given in terms of section 55(1) of the By-law on Municipal Land Use Planning that the abovementioned application has been received and is available for inspection from Monday to Thursday between 08:00-13:00 and 13:45 - 17:00 and Friday 08:00-13:00 and 13:45 - 15:45 at the Department Development Services, office of the Senior Manager : Development Management, Municipal Office, Church Street, Malmesbury. **Any written comments whether an objection or support may be addressed in terms of section 60 of the said legislation to The Municipal Manager, Private Bag X52, Malmesbury, 7299/Fax – 022-487 9440/e-mail – swartlandmun@swartland.org.za on or before 18 March 2024 at 17:00, quoting your name, address or contact details as well as the preferred method of communication, interest in the application and reasons for comments.** Telephonic enquiries can be made to the town planning division (Alwyn Burger, Herman Olivier or Annelie de Jager) at 022-487 9400. The Municipality may refuse to accept comment received after the closing date. Any person who cannot write will be assisted by a municipal official by transcribing their comments.*

Die uwe/Yours faithfully



MUNISIPALE BESTUURDER
MUNICIPAL MANAGER
Per Departement Ontwikkelingsbestuur

/ds

Afskrifte : Raadslid M Rangasamy
Raadslid J H Cleophas

Liggingsplan

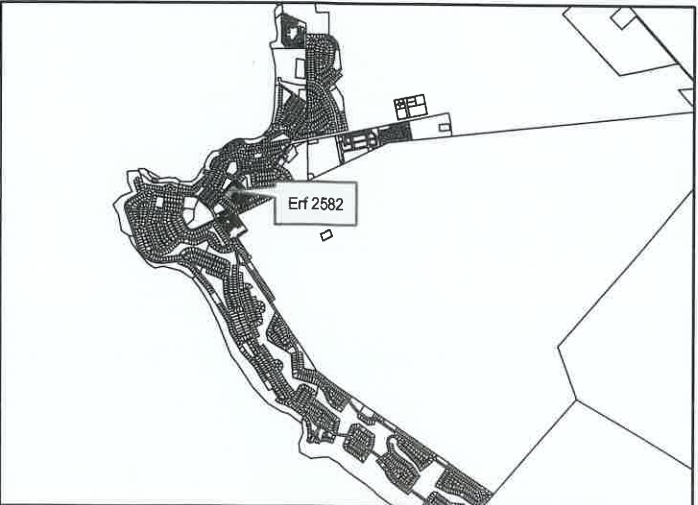


Voorgestelde hersonering, onderverdeling en serwituut

Erf 2582, Yzerfontein

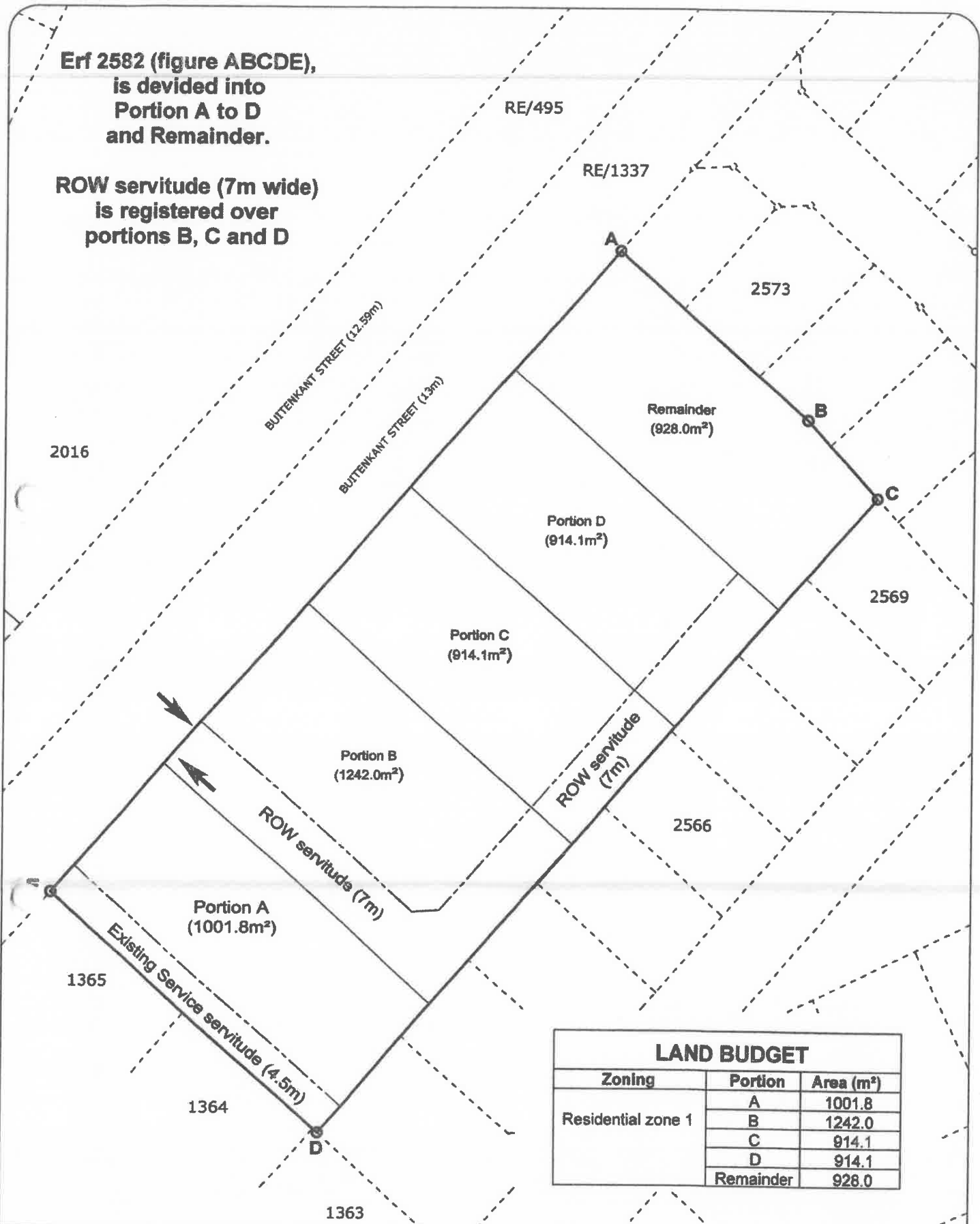
Publieke deelname

Skaal: NVT



Erf 2582 (figure ABCDE),
is divided into
Portion A to D
and Remainder.

ROW servitude (7m wide)
is registered over
portions B, C and D



LAND BUDGET		
Zoning	Portion	Area (m ²)
Residential zone 1	A	1001.8
	B	1242.0
	C	914.1
	D	914.1
	Remainder	928.0

Project: Erf 2582, Yzerfontein
Title: Subdivision Plan
Owner: Yzerfontein Property Developers



Notes:
Date: 16/11/2023
Reference: 327~2582-Yzer



Proposed re-zoning, subdivision and registration of a servitude on ERF 2582 Yzerfontein (Notice 58/2023/2024)

1 message

Greetings Strandveld Villas.

Please see attached background information as to why Yzerfontein Property Developers (PTY) Ltd will now develop Erf 2582.

Background:

(Erf 2582. General Residential Zone 3, High Density. Proposed rezoning to Single Residential Zone 1, Low Density.)

*Group Housing Complex consists of 40 residential erven, (now 39) as well as one erf currently erf 2582, which was earmarked for the development of the community healthcare centre.
The initial intention was to donate the site to the Afrikaanse Christelike Vroue Vereniging (ACVV), who would have developed the site in accordance with their needs, to potentially include a medical facility, inclusive of consulting rooms, 14 bed frail care section, approximately 23 double room flat and approximately 10 bachelor flats.
After protracted deliberations the ACVV declined the donation due to the fact that the organisation did not have the capital to develop the site.*

Yzerfontein Property Developers (PTY) Ltd recently secured a purchaser for erf 2582 for a medical facility.

All monies were paid into trust with Louw & Coetzee Attorneys. The buyer, however, withdrew from the contract as they were not prepared to spend capital on professional fees (architects, engineers, planners et cetera) to a prepare detailed development proposal, in order to comply with B8(f), calculation of development contributions, as imposed by the Swartland Municipality on Yzerfontein Property Developers (Pty) Ltd.

*The fact that the buyer could not take transfer of the erf, meant that they would be spending money on land they did not own.
Due to this clause being an obstacle to sell this erf to a third-party, Yzerfontein Property Developers (Pty) Ltd. now wish to develop it themselves as five Freestanding Residential Opportunities.*

Please see Aerial View plan attached.

Currently your existing neighbours (most are double storey homes) are 2/3 metres away from your boundary lines with their prime views looking directly into Strandveld Villas.

Our proposed internal road positioned against the N/W boundary wall of Strandveld Villas will position these new homes +- 10 metres away from this N/W boundary wall giving Strandveld Villas residents and the homeowners on erf 2582 their desired privacy.

The advantage of placing the internal road against the northern boundary wall of Strandveld Villas is, instead of these homeowners looking into Strandveld Villas, their prime views are to the north-west completely in the opposite direction.

Owners will then enter their home from the north-west and live out onto their patio/garden/pool facing Buitenkant Street.

The Design Manual: Boutique Development / Low Density

The brief to my architect is to create an up market harmonious design that will complement and add additional value to Strandveld Villas and the surrounding neighbourhood.

We will stay away from the chromo deck Strandveld Villas roof & pitch and incorporate the roof pitch and Marley Tiles (charcoal tiles to match the colour of the roofs at SVV) we have utilised at our Beachfront Estate, Ocean Villas.

I have a design meeting set up for next week Friday where I will look at concept drawings and layouts.

Once I am happy with the design of these homes I will share them with any interested parties.

These 5 homes will be a similar in colour to our Ocean Villas development and will be well built and beautifully designed.

As like Ocean Villas (Single Resident Erven, average size +- 785 m2, as apposed to Group Housing Erven at Strandveld Villas, average size 310 m2 folks will have a choice of either a double or single storey home.

Please see attached an example of an Ocean Villas elevation for reference.

We currently do not have a name for this Boutique Development, we would certainly appreciate any suggestions.

Regards



DIRECTOR

HEAD OFFICE: Tel: 021 683 3433 | Fax: 021 683 3199
P.O. Box 44211, Claremont, 7735 | www.strandveldvillas.com





[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Erf 2582 - [REDACTED]

[REDACTED] submitted a request by email for feedback on the inclusion or exclusion of erf 2582 in SVV HOA.

Mr [REDACTED] explained that erf 2582 is adjacent to the complex and was initially earmarked for sale to the ACVV for development of a frail care unit. This has not come to fruition due to the ACVV turning it down hence the property has fallen back to the developer. [REDACTED], town planners in Malmesbury, confirmed formally that the erf is not included in the SVV HOA.

Mr [REDACTED] assured residents that whatever happens in future, the use of erf 2582 will conform to the current standards and esthetic guidelines of SVV.

[REDACTED]

[REDACTED]

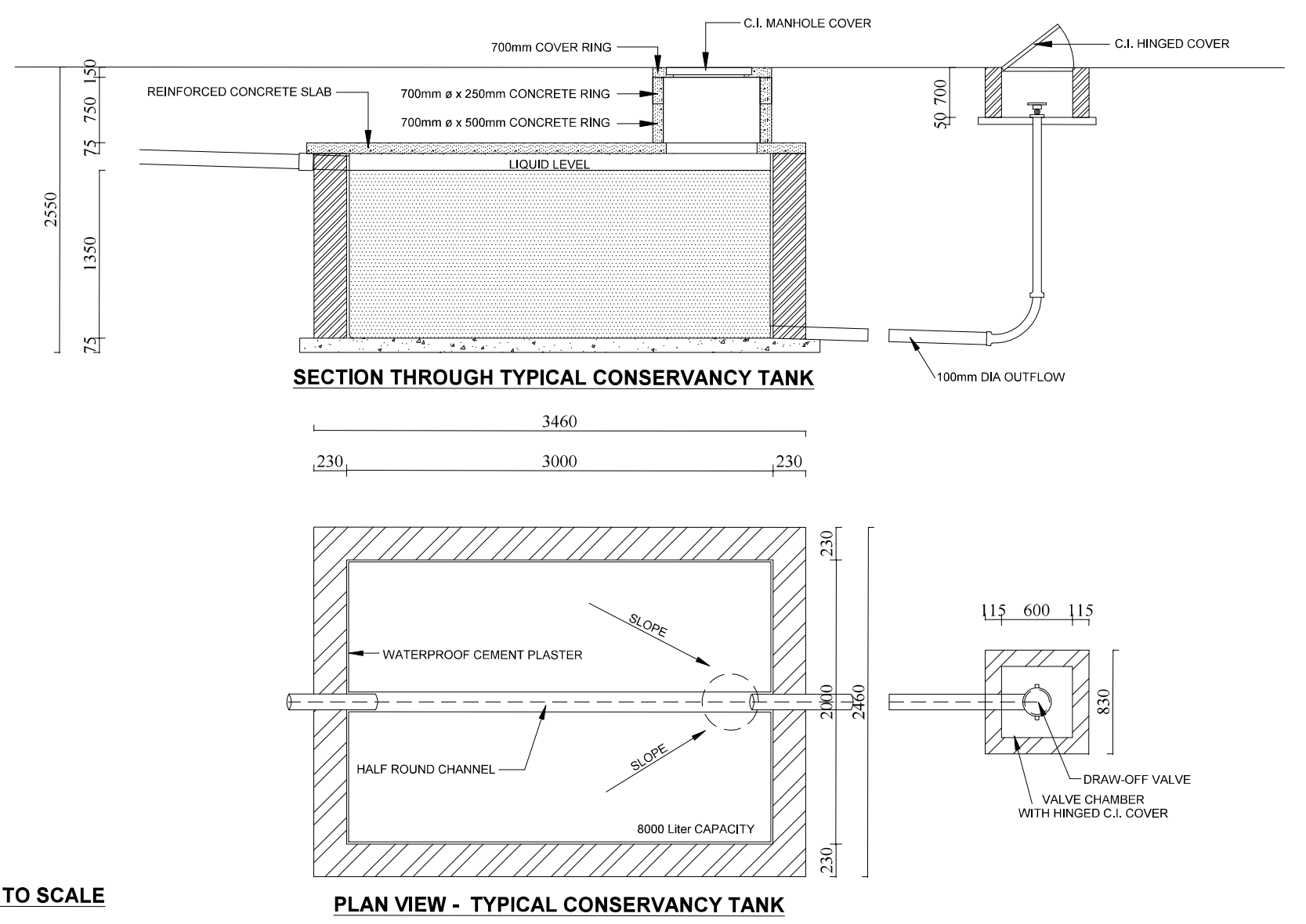
[REDACTED]

NOTES:

- 1) SEWER MANHOLES ARE PREFABRICATED FIBRE CEMENT OR CONCRETE MANHOLES (SEE RLS 25 OR 27)
- 2) BACKFILLING OF TRENCHES IN ACCORDANCE WITH SABS 1200 DB 5.6 AND 5.7 AS WELL AS SABS 1200 LB DRAWING LB-1 AND LB-2
- 3) SEWER PIPES ARE 160mm ϕ uPVC CLASS 34 PIPES
- 5) PROVIDE ANCHOR BLOCKS FOR SEWERS WITH SLOPES STEEPER THAN 1 : 10 IN ACC. WITH SABS 1200LD-1982, DRAWING LD-1

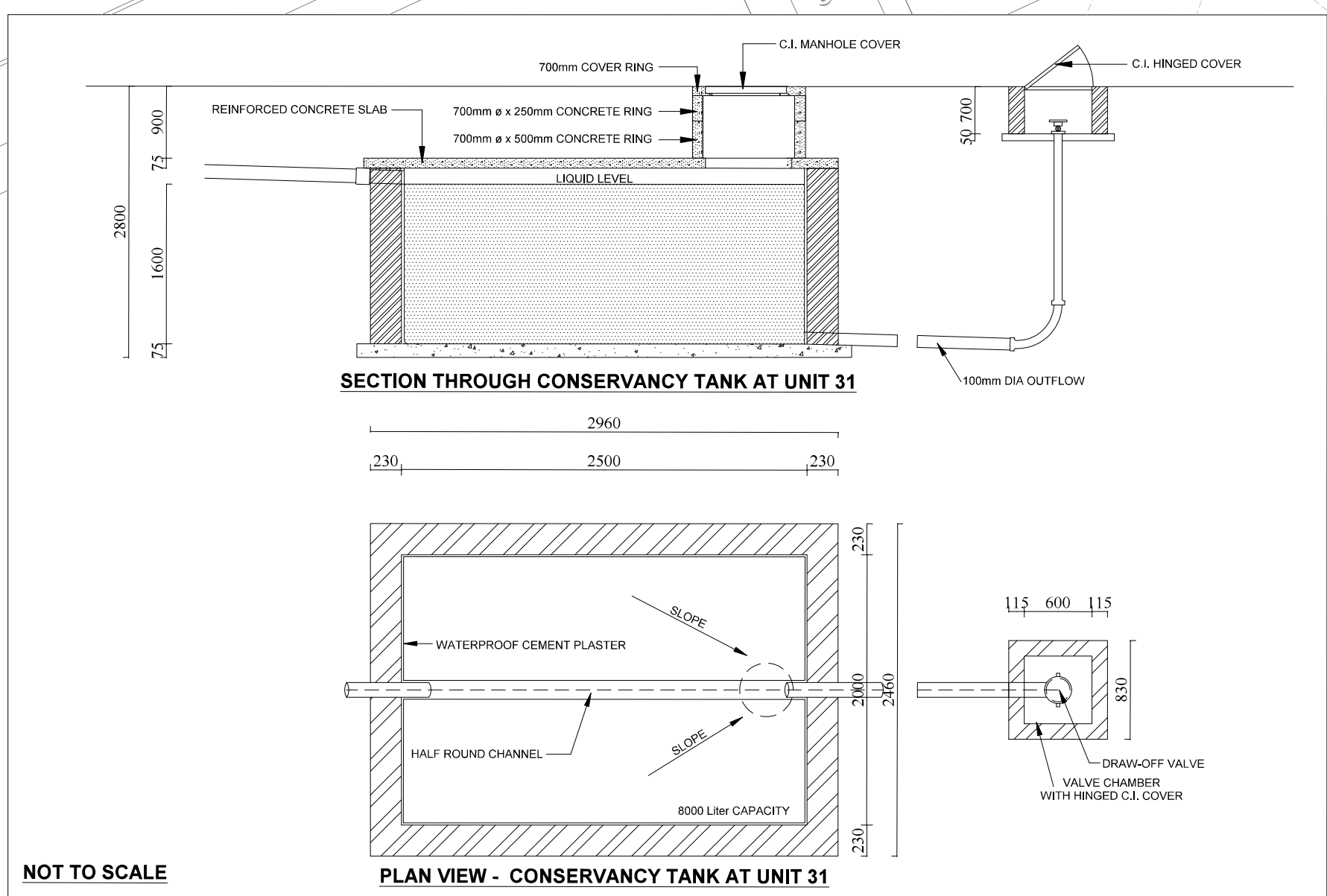
LEGEND:

- PROPOSED 160mm ϕ uPVC CLASS 34 SEWER PIPE
- PROPOSED SEWER MANHOLE
- EXISTING SEWER MANHOLE
- 110mm ϕ SEWER HOUSE CONNECTION
- CONSERVANCY TANK (3m x 2.0m x 1.3m) 8000m³ LIQUID CAPACITY - SEE DETAIL

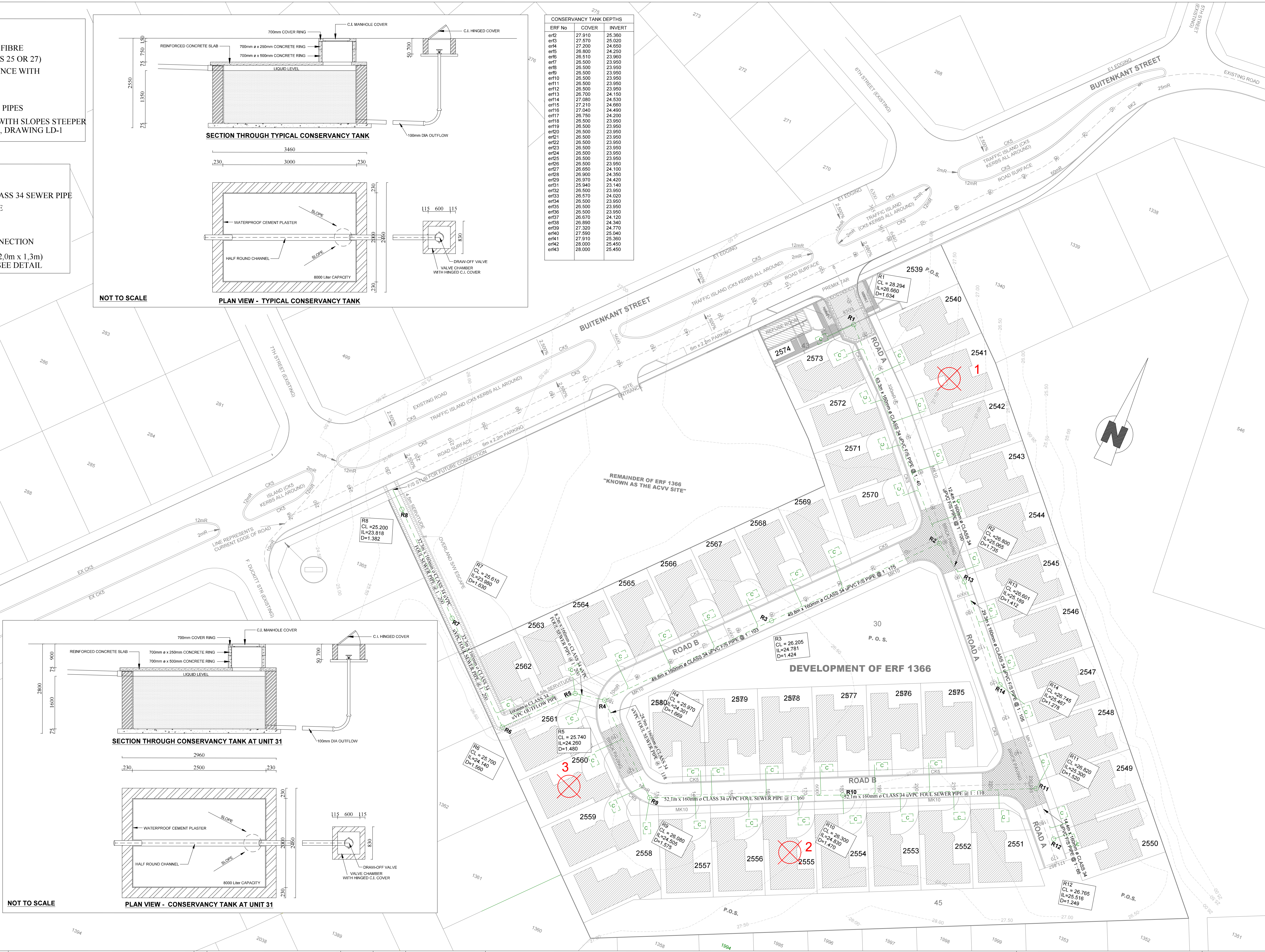


ERF No	COVER	INVERT
erf2	27 910	26 300
erf3	27 570	25 020
erf4	27 200	24 650
erf5	26 800	24 250
erf6	26 510	23 860
erf7	26 500	23 950
erf8	26 500	23 950
erf9	26 500	23 950
erf10	26 500	23 950
erf11	26 500	23 950
erf12	26 500	23 950
erf13	26 700	24 150
erf14	27 080	24 530
erf15	27 210	24 660
erf16	27 040	24 490
erf17	26 750	24 200
erf18	26 500	23 950
erf19	26 500	23 950
erf20	26 500	23 950
erf21	26 500	23 950
erf22	26 500	23 950
erf23	26 500	23 950
erf24	26 500	23 950
erf25	26 500	23 950
erf26	26 500	23 950
erf27	26 650	24 100
erf28	26 900	24 350
erf29	26 970	24 420
erf30	26 970	24 420
erf31	25 940	23 140
erf32	26 500	23 950
erf33	26 570	24 020
erf34	26 500	23 950
erf35	26 500	23 950
erf36	26 500	23 950
erf37	26 670	24 120
erf38	26 900	24 340
erf39	27 320	24 770
erf40	27 590	25 040
erf41	27 910	25 360
erf42	28 000	25 450
erf43	28 000	25 450

CO-ORDINATES SYSTEM WG 19	Constants ± 0.00	± 0.00
No	X	Y
R1	78447.585	3691615.829
R2	78402.776	3691600.474
R3	78435.757	3691607.742
R4	78468.288	3691735.408
R5	78476.282	3691739.962
R6	78490.583	3691753.136
R7	78514.768	3691731.740
R8	78538.950	3691710.344
R9	78448.625	3691754.575
R10	78399.259	3691732.968
R11	78322.328	3691710.420
R12	78342.943	3691723.946
R13	78392.450	3691687.260
R14	78372.487	3691688.735
R15	78431.027	3691619.918
ERF2HC	78436.646	3691628.728
ERF3HC	78420.702	3691629.360
ERF4HC	78427.218	3691636.121
ERF5HC	78410.720	3691640.117
ERF6HC	78416.826	3691644.175
ERF7HC	78400.739	3691650.854
ERF8HC	78406.433	3691656.830
ERF9HC	78390.757	3691661.591
ERF10HC	78395.031	3691665.564
ERF11HC	78380.776	3691672.328
ERF12HC	78384.511	3691678.801
ERF13HC	78370.794	3691683.065
ERF14HC	78374.530	3691689.538
ERF15HC	78363.720	3691681.478
ERF16HC	78351.764	3691703.536
ERF17HC	78344.192	3691712.385
ERF18HC	78338.807	3691717.474
ERF19HC	78329.235	3691719.397
ERF20HC	78321.694	3691715.616
ERF21HC	78370.192	3691724.661
ERF22HC	78372.852	3691720.280
ERF23HC	78383.174	3691730.898
ERF24HC	78385.834	3691726.518
ERF25HC	78397.267	3691731.115
ERF26HC	78407.858	3691742.669
ERF27HC	78410.602	3691738.142
ERF28HC	78420.041	3691748.963
ERF29HC	78422.906	3691743.755
ERF30HC	78432.915	3691754.742
ERF31HC	78435.901	3691749.863
ERF32HC	78445.080	3691760.642
ERF33HC	78450.531	3691758.402
ERF34HC	78455.531	3691752.004
ERF35HC	78465.009	3691749.125
ERF36HC	78460.016	3691742.727
ERF37HC	78473.557	3691741.471
ERF38HC	78474.597	3691736.634
ERF39HC	78437.054	3691742.300
ERF40HC	78434.392	3691748.966
ERF41HC	78434.448	3691741.111
ERF42HC	78431.786	3691747.808
ERF43HC	78421.234	3691734.762
ERF44HC	78418.445	3691741.720
ERF45HC	78418.020	3691738.413
ERF46HC	78405.105	3691735.635
ERF47HC	78394.806	3691722.064
ERF48HC	78391.936	3691723.401
ERF49HC	78381.592	3691715.716
ERF50HC	78378.622	3691723.053
ERF51HC	78491.987	3691747.679
ERF52HC	78478.687	3691733.138
ERF53HC	78473.803	3691729.153
ERF54HC	78473.388	3691736.395
ERF55HC	78461.471	3691714.875
ERF56HC	78455.605	3691720.223
ERF57HC	78452.856	3691705.140
ERF58HC	78447.107	3691710.884
ERF59HC	78444.240	3691665.405
ERF60HC	78438.609	3691701.045
ERF61HC	78435.627	3691685.672
ERF62HC	78430.036	3691691.777
ERF63HC	78427.151	3691676.093
ERF64HC	78422.078	3691682.285
ERF65HC	78416.830	3691662.564
ERF66HC	78417.798	3691677.449
ERF67HC	78425.574	3691642.909
ERF68HC	78423.045	3691640.279
ERF69HC	78434.917	3691633.538
ERF70HC	78432.275	3691631.082
ERF71HC	78445.022	3691623.803
ERF72HC	78442.763	3691620.633
ERF73HC	78452.913	3691621.713



NOT TO SCALE



CHECKED	LW(CAD)	OCT 2009	NAGHSEN	SCALE AS DRAWN
DRAWN	AVDS	OCT 2009	GETEKEN	1 : 500
DESIGNED	AVDS	OCT 2009	ONTWERP	SKAAL SOON GETEKEN
SURVEYED	WP SURVEYS	SEPT 2009	OPGEMET	SURVEY DATUM
SURV DISK No			OPM. SKYF Nr	M S L
CAD DISK No			CAD SKYF Nr	OPMET DATUM

ROBERT LESLIE
CONSULTING ENGINEERS - RAADGEWENDE ENGINERIERS

10 PINEHILL CENTRE
17 DE ROTTMAN STREET
PAROW, NORTH
7500

TEL: (021) 936-7354 FAX: (021) 936-6880 E-MAIL: info@rleslie.co.za

F			
D			
C			
B			
A	AS BUILT INFORMATION ADDED	JUNE 2010	H.A. MOSER Pr. ENG
	DESCRIPTION	BESKRYWING	DATE DATUM
	AMENDMENTS	WYSIGINGS	

CLIENT / KLIENT	
CONS. ENG. / RAADG. ING	H.A. MOSER Pr. ENG. FESA REG. NO 73077

YZERFONTEIN SEASIDE ESTATES (PTY)LTD

DEVELOPMENT OF ERF 1366, YZERFONTEIN

FOUL SEWER LAYOUT
AS BUILT INFORMATION

DRAWING No	09P/05/01
TEK Nr	
AMENDMENTS	
WYSIGINGS	

ERF 1366,

StrandveldVILLAS
YZERFONTEIN



Architectural Design Guidelines

July 2016

2576 Plot no 19	337	4 A/B 5 A/B SH A/B	Subject to approved plan	1 storey	Garage: 1/2 Drive way: 2
2577 Plot no 21	337	4 A/B 5 A/B SH A/B	Subject to approved plan	1 storey	Garage: 1/2 Drive way: 2
2578 Plot no 23	337	4 A/B 5 A/B SH A/B	Subject to approved plan	1 storey	Garage: 1/2 Drive way: 2
2579 Plot no 25	337	4 A/B 5 A/B SH A/B	Subject to approved plan	1 storey	Garage: 1/2 Drive way: 2
2580 Plot no 27	331	4 A/B 5 A/B SH A/B	Subject to approved plan	1 storey	Garage: 1/2 Drive way: 2

3. SCALE AND PROPORTIONS

3.1. Plans Shapes

House forms are simple rectangular or composite rectangular forms. All buildings are placed parallel to boundaries or at least one boundary on odd shaped sites.

3.2. Maximum heights

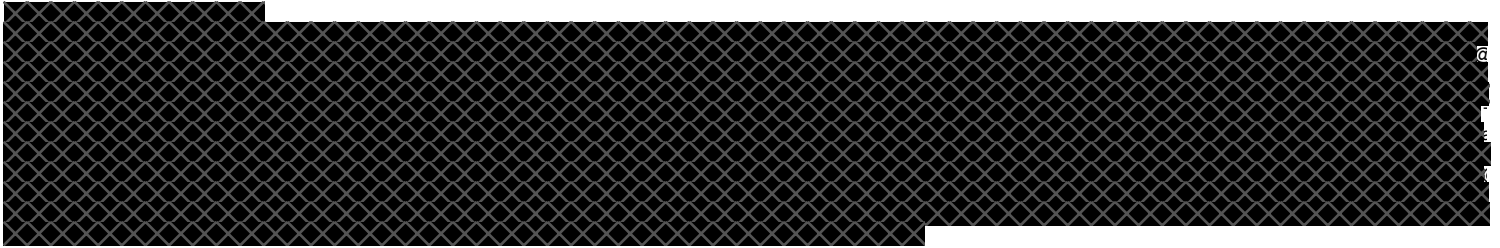
Only single storey buildings with a maximum height of 6,5m above finished floor level to the top of the roof ridge will be allowed. Conversion of roof spaces to accommodate loft rooms will not be entertained.

4. WALL CONSTRUCTION MATERIALS AND FINISHES

4.1. Wall construction

All external walls will be masonry constructed.
Timber, natural stone or any other construction type will not be used.

Proposed re-zoning, subdivision and registration of a servitude on ERF 2582 Yzerfontein (Notice 58/2023/2024)



Greetings Strandveld Villas

Further to my last email sent on the 23 February 2024, please see attached additional Work In Progress re our proposal to develop erf 2582 into a low density up market development similar to Ocean Villas.

From the Strandveld Villas boundary wall, there will be 13 m to the garages. If a client prefers a duplex, the duplex portion of the dwelling will start at around 19 m from the boundary wall.

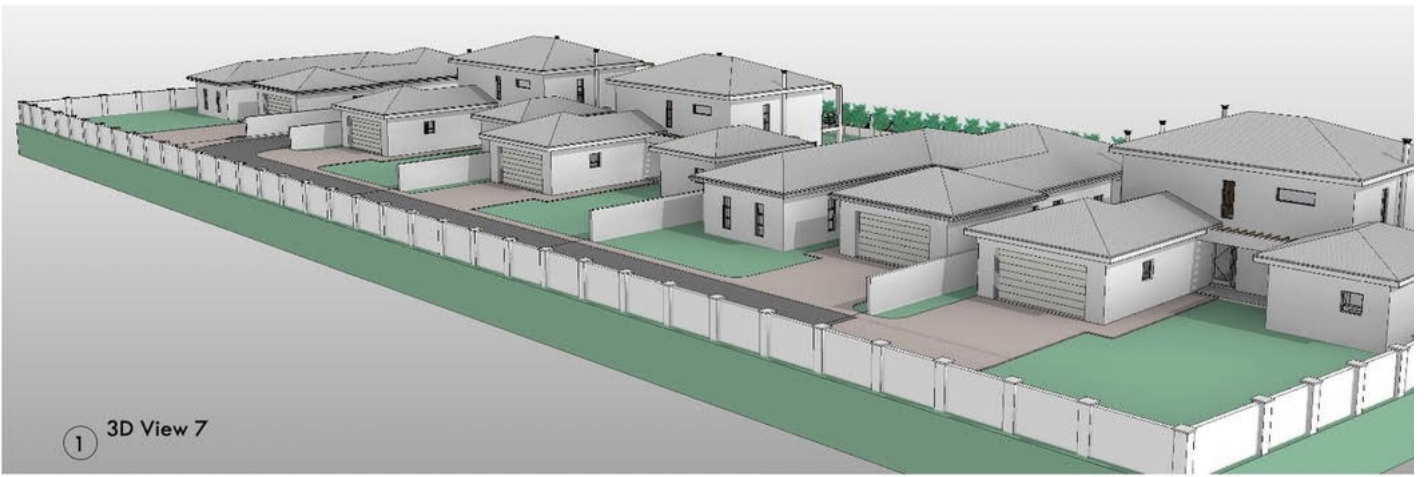
Just to put that into perspective, your current neighbours are 2 to 3 m away from your boundary walls.

Regards 



HEAD OFFICE: Tel: 021 683 3433 | Fax: 021 683 3199
P.O. Box 44211, Claremont, 7735 | www.strandveldvillas.com





planscape@telkomsa.net

From: Martin Vermeulen <mvermeulen@heroldgie.co.za>
Sent: 18 April 2024 15:19
To: graham katz
Cc: martin langenhoven
Subject: FW: ERF 2582 YZERFONTEIN - YZERFONTEIN PROPERTY DEVELOPERS

Hello Graham,

Further to our telephone conversation this afternoon, herewith below the email from Thys Moller and my reply thereto.

In short Thys Moller confirmed that Erf 2582 Yzerfontein is merely a subdivided erf of the Strandveld Villas development that was approved in 2009, accordingly sufficient electricity is immediately available for the proposed development.

Please note the standard conditions below, i.e.

1. Separate electrical connections for each erf,
2. Extension of (existing) low voltage network from substation,
3. Street lighting,
4. Payment of BICL's for each erf.

The meeting scheduled for tomorrow in Malmesbury will no longer take place.

Kind regards,

Martin Vermeulen

E: mvermeulen@heroldgie.co.za

Director



Herold Gie Attorneys

Bloemhof Square, cnr of Bloemhof Road and
Bill Bezuidenhout, Bellville, 7530
T +27(0) 21 464 4710 **F** +27(0) 21 465 1651

www.heroldgie.co.za



Disclaimer

IMPORTANT: Herold Gie will never notify you of a change in our banking details via email. Please always verify our banking details by oral communication before you make a payment. Be suspicious of emails from unknown or external senders and be aware of impersonations; do not click links or open attachments. Always check the sender's email address.

From: Martin Vermeulen
Sent: Thursday, April 18, 2024 3:09 PM
To: 'Thys Möller' <mollert@swartland.org.za>
Cc: Alwyn Zaayman <zaaymana@swartland.org.za>; MJ Swanepoel <SwanepoelM@swartland.org.za>; Daniel Mostert <MostertD@swartland.org.za>
Subject: RE: ERF 2582 YZERFONTEIN - YZERFONTEIN PROPERTY DEVELOPERS

Hallo Thys,

Dankie vir jou telefoonoproep en epos. Ek bevestig jou telefoniese advies dat genoegsame elektrisiteit onmiddellik beskikbaar is vir die beoogde ontwikkeling op bg. eiendom.

Ek bevestig ook dat ons vergadering wat geskeduleer is vir 19 April 2024 om 11h00 nie meer sal plaasvind nie.

Baie dankie.

Vriendelike groete,

Martin Vermeulen

E: mvermeulen@heroldgie.co.za

Direkteur



Herold Gie Prokureurs

Bloemhof Square, hoek van Bloemhofweg en
Bill Bezuidenhoutlaan, Bellville 7530
T +27(0) 21 464 4710 F +27(0) 21 465 1651

www.heroldgie.co.za



Vrywaring

BELANGRIK: Herold Gie sal u nooit per epos in kennis stel van 'n verandering van hul bankrekeningdetails nie. Verifieer asb altyd ons bankrekeningdetails telefonies voordat u betaling maak. Wees verdag op eposse van onbekende of eksterne versenders en wees bewus van nabootsings. Moenie skakels of aanhangsels oopmaak nie. Bevestig asb altyd die versender se eposadres.

From: Thys Möller <mollert@swartland.org.za>

Sent: Thursday, April 18, 2024 3:02 PM

To: Martin Vermeulen <mvermeulen@heroldgie.co.za>

Cc: Alwyn Zaayman <zaaymana@swartland.org.za>; MJ Swanepoel <SwanepoelM@swartland.org.za>; Daniel Mostert <MostertD@swartland.org.za>

Subject: RE: ERF 2582 YZERFONTEIN - YZERFONTEIN PROPERTY DEVELOPERS

Hallo Martin

Ons telefoon gesprek vroeër vanmiddag verwys. Na 'n interne gesprek vandag is daar vasgestel dat die nutste/opdateerde inligting nie deurgee is aan die ontwikkelaar nie.

Essensieël kom dit neer op die volgende:

Dat die aanvanklike goedkeuring van die ontwikkeling wel voorsiening gemaak het vir erf 2582 Yzerfontein. Dit word dus ge-ag as een van die goedgekeurde vakante erwe.

In terme van voorgestelde onderverdeling van die erf geld die volgende voorwaardes ten opsigte van die elektriese netwerk:

1. Elke erf moet van 'n aparte elektriese aansluiting, met 'n konvensionele meter voorsien word.
2. Die uitbreiding van die laagspannings netwerk moet vanaf minisubstasie B11 gedoen word.
3. Die ontwikkelaar moet 'n gemagtigde elektriese kontrakteur aanstel vir die uitbreiding van die laagspanning netwerk
4. Voorsiening moet gemaak word vir straatbeligting.
5. Die kontrakteur kan met Mr Daniel Mostert op Yzerfontein (078 711 0643) kontak maak vir die tegniese spesifikasies rakende die uitbreiding van die laagspannings netwerk.

Ek vertrou u vind dit so in orde.

Let wel dat met oordrag die Ontwikkelings bydrae per erf steeds betaalbaar is.

Groete

From: Martin Vermeulen <mvermeulen@heroldgie.co.za>

Sent: Tuesday, 09 April 2024 08:01

To: Thys Möller <mollert@swartland.org.za>

Subject: RE: ERF 2582 YZERFONTEIN - YZERFONTEIN PROPERTY DEVELOPERS



CONSULTING TOWN AND REGIONAL PLANNERS RAADGEWENDE STADS- EN STREEKBEPLANNERS

• PO Box 557 • Moorreesburg • 7310 • Tel: 022 4334408 • Fax: 0866972069 • e-mail: planscape@telkomsa.net •

CC Reg No. 2007/087087/23

12 April 2024

Reference: 327~2582-Yserf

Mr. A Zaayman
Swartland Municipality
Private Bag X52
Malmesbury
7299

PROPOSED REZONING, SUBDIVISION AND REGISTRATION OF SERVITUDE ON ERF 2582, YZERFONTEIN

You letter reference number 15/3/3-14/Erf_2582, dated 14 March 2024, has reference.

Hereby to respond to the comments as received.

Swartland Municipality Electrical Engineering Services	
Comment	Response
The development can only continue once the bulk infrastructure at the Eskom Yzerfontein substation has been completed and made available to the municipality.	<p>The application site forms part of the Strandveld Villas group housing complex, as approved during August 2009¹.</p> <p>The group housing complex consists of 40 residential erven, as well as the application site, erf 2582, which was earmarked for the development of a community health care centre, to potentially included a medical facility, inclusive of consulting rooms, 14 bed frail care section, approximately 23 double room flats and approximately 10 bachelor flats.</p> <p>The availability of engineering services, including electricity, were considered during evaluation and subsequent approval of the group housing complex and community health care centre (Erf 2582).</p> <p>In terms of the existing land use rights, namely General Residential zone 3 (restricted to a residential building²), the development of a</p>

¹ Ref 15/3/3-14/erf_1366 dated 26/08/2009

² **residential building**, means a building (excluding a dwelling, a group house, a town house or flats) for occupation by persons, together with such outbuildings as are ordinarily used therewith, and includes a boarding house, lodging rooms, a licensed hotel

	<p>residential building to a maximum site coverage of 40% and a height of 21m are allowed on site.</p> <p>The applicant believes that the site should have access to electricity and views the inability to service the site as an infringement of pre-existing development rights.</p> <p>The impact of the proposed 5 units on electricity services are significantly lower than allowed in terms of the existing land use rights.</p> <p>The applicant is in process of discussing the issue with the Department Electrical Engineering Services.</p>
<p>Swartland Municipality Civil Engineering Services</p>	
<p>Comment</p>	<p>Response</p>
<p>Dat stormwater gevoer word tot die naaste geskikte ondergrondse munisipale versamelpunt.</p> <p>Dat 'n interne pad gebou word tot 'n permanente oppervlak standaard.</p> <p>Dat die erwe slegs vanaf die interne serwituut pad voertuig toegang verkry.</p> <p>Dat elke onderverdeelde gedeelte voorsien word van 'n aparte rioolsuigtenk met 'n minimum kapasiteit van 8 000l. Die suigtenk moet vir die diensvragmotor vanuit die Buitenkantstraat toeganklik wees. Hierdie voorwaarde is op bouplanstadium van toepassing.</p> <p>Dat elke onderverdeelde gedeelte voorsien word van 'n aparte aansluiting vanuit Buitenkantstraat. Hierdie voorwaarde is op bouplanstadium van toepassing.</p> <p>Dat enige bestaande dienste wat die restant en onderverdeelde gedeeltes aan mekaar koppel, verskuif en/of ontkoppel word sodat elke erf se pypwerk op die betrokke erf geleë is. Dat indien die uitbreiding van enige bestaande dienste nodig sou wees om die onderverdeelde gedeelte van diensaansluitings te kan</p>	<p>The conditions are accepted.</p>

(excluding an off-sales facility), an old-age home, a children's home and a hostel, but does not include buildings which, either by means of inclusion or exclusion, are mentioned in the definition of "place of education" or "institution";

voorsien, dit vir die koste van die aansoeker sal wees.	
Dat Kapitale bydraes as volg gemaak word: Water R4 834,83 Bulk Water R53 230,46 Sewer R16 662,81 WWTW R40 432,82 Roads R25 693,30	
Martus Claassen Baviaans Trust 55 Buitenkant Street	
Comment	Response
Support as the subdivision will be positive as the site will be improved	Noted
C Withington Erf 2541 (Strandveld Villas)	
Kommentaar	Response
Application is supported	Noted
U Strydom Erf 2567 (Strandveld Villas)	
Comment	Response
<p>Object to the construction of double storey houses.</p> <ul style="list-style-type: none"> • Double storey house will violate privacy. <ul style="list-style-type: none"> • Noise levels will increase. • Value of property will decrease. 	<ul style="list-style-type: none"> • Rear building lines applicable to Residential zone 1, which allow for a height restriction of 10.5m, is 2m. Due to the fact that a right of way servitude will be located along the rear boundary of erf 2582, the closest any building can be constructed thereto, is 7m. <p>The applicant though is willing to implement a 13m rear building line pertaining to garages and single storey dwellings and 19 meters building line pertaining to double storey structures.</p> <p>Implementation of these building lines will not result in the violation of the privacy of the objector but enhance privacy for all parties.</p> <ul style="list-style-type: none"> • The potential noise impact of the proposed 5 units is positively lower than allowed in terms of the existing land use rights. • There is no proof that the construction of 5 upmarket dwellings will result in the decrease of property values. In terms of Section 56(1)(f) of LUPA an 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

<ul style="list-style-type: none"> • Due to size of property only a few houses can be built and by building double storey houses the profit margin will increase. The proposal is for profit and not for the environment of people. The developer is the only one benefitting. • A suitable erf should have been found to build double storey houses. • Erf 2567 was bought as a holiday home and the developer assured us that development erf 2582 will be on the same level and that erf 2582 is not intended for a housing project. 	<p>property will be affected by the outcome of the application.</p> <ul style="list-style-type: none"> • In terms of the existing land use rights the property can be developed with a 21m high residential building. The proposed residential erven are a reduction in development rights and potential profit. • The erf is suitable for the proposed development as it is located in a predominantly low-density residential area where construction of double storey buildings area allowed and found. • Since approval of the rezoning of erf 2582 the owners could not secure a sales agreement with a developer to develop a health care facility on the property. <p>The owners recently secured a purchaser for erf 2582. The buyer, however, withdrew from the contract as they were not prepared to spend capital on professional fees (architects, engineers, planners, etc) to prepare a detailed development proposal, in order to be able to comply with condition B8(f), calculation of development contributions, as imposed by the Swartland Municipality on Yzerfontein Property Developers (PTY) Ltd. The fact that the buyer could not take transfer of the erf, meant that they would be spending money on land they did not own. Due to this clause being an obstacle to sell this erf to a 3rd party, Yzerfontein Property Developers (PTY) Ltd now wish to develop it themselves as 5 freestanding residential opportunities or sell the 5 freestanding residential opportunities to a 3rd party.</p> <p>The purpose of the Land Use Planning By-Law is to allow and consider the desirability of the change of land use. The developer never intimated that homes would not be built on erf 2582 as the original application proposed 23 double room flats and 10 bachelor flats as part of the health care centre.</p>
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<ul style="list-style-type: none"> Do not object to building of single storey houses. 	<ul style="list-style-type: none"> Noted
S.A. & T.J. Tweedale Erf 2571 (Strandveld Villas)	
Comment	Response
<p>The application is supported on the following basis:</p> <ul style="list-style-type: none"> Building lines proposed in concept site design and layout must be complied with, namely: Rear – 13m to garage Rear: 19m if duplex unit Side: 2m adjacent to erven 2751 - 2753 Compliance with development parameters applicable to Residential zone 1 Compliance with Building regulations. Revisions of the concept site design and layout must be provided for inputs. 	<ul style="list-style-type: none"> The applicant is willing to implement the following building lines: Rear: 13m rear pertaining to garages and single storey dwelling and 19 meters pertaining to double storey structures. Side: 1.5m as allowed in terms of the development Management scheme Accepted Accepted The “site design” is a version of the Ocean Villas development in Pearl Bay. Each landowner will design a dwelling on the site in accordance with the development design manual, the parameters of the Development Management Scheme and the building lines as proposed above.

Yours faithfully



M Langenhoven



Office of the Director: Development Services
 Department: Development Management

24 April 2024

15/3/4-14/Erf 2119

Ward: 5

ITEM 6.2 OF THE AGENDA FOR THE MUNICIPAL PLANNING TRIBUNAL THAT WILL TAKE PLACE ON WEDNESDAY, 8 MAY 2024

LAND USE PLANNING REPORT PROPOSED DEPARTURES ON ERF 2119, YZERFONTEIN					
Reference number	15/3/4-14/Erf 2119	Application submission date	14 December 2023	Date report finalised	24 April 2024

PART A: APPLICATION DESCRIPTION

Application for departure on Erf 2119, Yzerfontein, in terms of Section 25(2)(b) of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 25 March 2020), is made in order to exceed the maximum permissible erf coverage of 50% by 1,2%% (total of 51,2% coverage).

Application for departure on Erf 2119, Yzerfontein, in terms of Section 25(2)(b) of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 25 March 2020), is made in order to depart from the northern 4m street building line to 1m.

Application for departure on Erf 2119, Yzerfontein, in terms of Section 25(2)(b) of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 25 March 2020), is made in order to depart from the eastern 1,5m lateral building line to 1m.

Application for departure on Erf 2119, Yzerfontein, in terms of Section 25(2)(b) of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 25 March 2020), is made to depart from general provision 12.1.1(c)(i) in order to allow for a two storey portion of the dwelling to encroach on the eastern side and northern street building lines, in lieu of the permissible one storey.

The applicant is Integrated Development Solutions and the property owner is M.M. Donaggi.

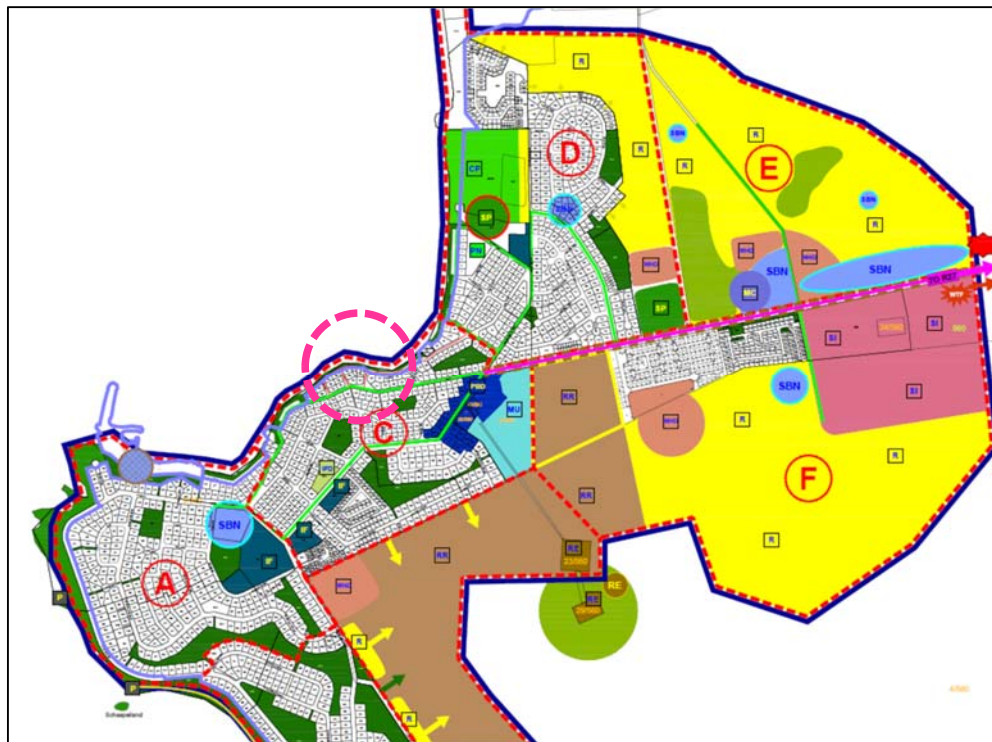
PART B: PROPERTY DETAILS

Property description (in accordance with Title Deed)	ERF 2119 (Portion of Erf 2014) YZERFONTEIN, in the Municipality of SWARTLAND, Division MALMESBURY, Western Cape Province				
Physical address	9 th Street (locality plan attached as Annexure A).	Town	Yzerfontein		
Current zoning	Residential Zone 1	Extent (m ² /ha)	398m ²	Are there existing buildings on the property?	Y N
Applicable zoning scheme	Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 25 March 2020)				
Current land use	Dwelling house and garage	Title Deed number & date	T98331/2005		
Any restrictive title conditions applicable	Y N	If Yes, list condition number(s)	Deed attached as Annexure D.		
Any third party conditions applicable?	Y N	If Yes, specify			
Any unauthorised land use/building work	Y N	If Yes, explain			

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

PART D: BACKGROUND

The application property is situated along the north-western coastline of Yzerfontein, in close proximity to a long existing tidal pool on 9th Street, in area C, as identified by the Swartland Municipal Spatial Development Framework (SDF, 2023).



The mother erf of the application property was originally Erf 332. The process to subdivide the property commenced in 1985 and at that stage a number of restrictive conditions were removed from the Title Deed; that the erf may not be subdivided, that only one dwelling may be constructed on the erf and that the street building line was 3,15m. It is supposed that the owners believed the removal process to be completed and it was only discovered to be unfinished once construction on the erf was bound to begin. Subsequently, the Title Deed of 1985 was only endorsed in June 2000.

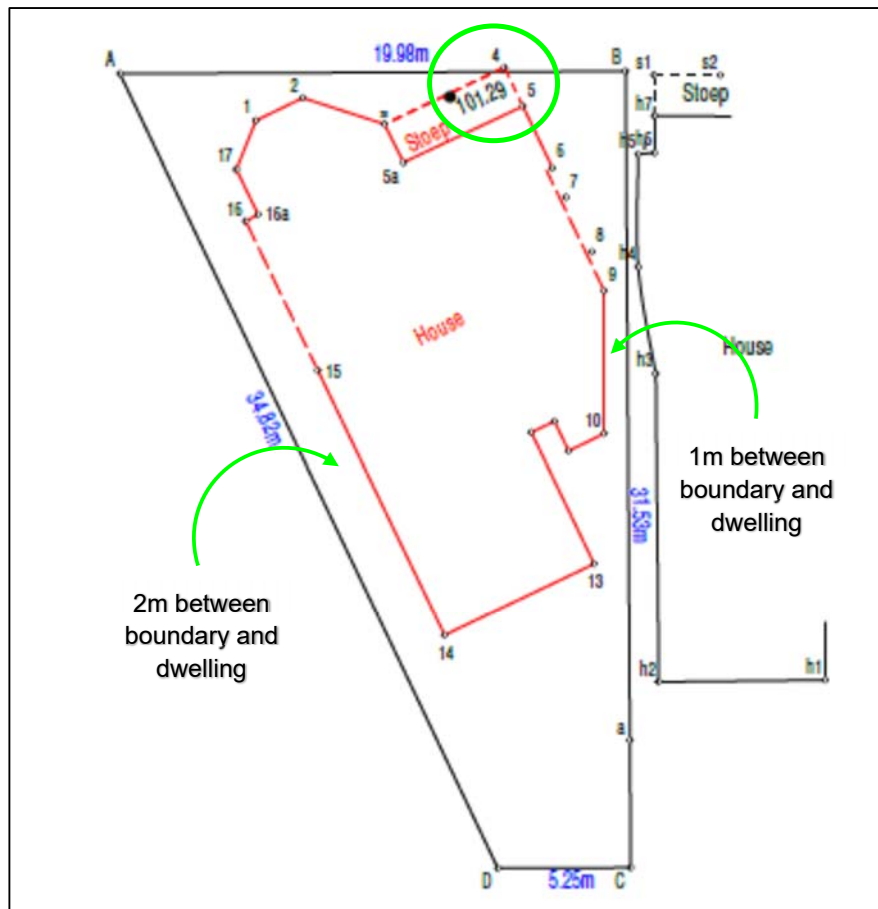
As the removed and amended restrictions allowed for three dwellings to be constructed on Erf 332 and the erf was jointly owned by three family members, it seemed unnecessary to continue with a subdivision process. Two dwellings were originally built on Erf 332 around 2001 and only after their completion did the owners revisit the notion of subdivision and finally formalised the three portions, namely Erven 2119, 2122 and 2123.

The portion of 9th Street in front erven 333, 2711, 2119, 2122 and 2123 was never formally subdivided from the commonage and proclaimed as a road, but historically had been used as an extension of 9th Street, providing visitors with access to the tidal pool. As a consequence, due to the portion of road being zoned as Public Open Space, the

northern building lines of the adjacent properties were considered side building lines. The Yzerfontein Town Planning Scheme was applicable at that stage and the building lines on the property were 2m on the sides and 3m at the rear.

During 2015 the Swartland Municipality: Municipal Land Use Planning By-Law was promulgated, integrating the various zoning schemes of the Swartland towns and prescribing uniform development parameters within each of the applicable zones. The building lines for Residential Zone 1 were described as 4m (street), 1,5m (lateral/side) and 2m (rear). The following year (July 2016) the Municipality completed the process of formalising the informal road portion, effectively extending 9th Street and connecting it with Beach Road. The formation of a street caused Erven 333, 2711, 2119, 2122 and 2123 to have street boundaries and corresponding building lines where there were previously side boundaries and building lines.

Taking the aforementioned property history into account, it is perhaps not surprising that a number of 'mistakes' were made during the construction of the dwelling on Erf 2119, resulting in the incorrect position of the dwelling on the erf and the resultant encroachment of the "new" street building line and the eastern side building line. The extent of the discrepancies became apparent only once the owner/developer decided to make improvements to the existing structure and a new survey was conducted for the purpose. In fact, it came to light that not only is the street building line encroached upon, but a support column of the balcony is located outside the property boundaries.



Due to the erroneous positioning of the original structure on the erf, some of the newly proposed improvements and amendments will inevitably also cause departures. The application at hand aims at, if not totally rectifying, then at least improving on past mistakes, updating the existing dwelling and positively contributing to the character of the street scape.

PART E: PRE-APPLICATION CONSULTATION (ATTACH MINUTES)

Has pre-application consultation been undertaken?	Y	N	The applicants attended a meeting with the planning officials and conducted several telephone conversations prior to submitting the application. It was explained and understood that an application may be submitted, but that the outcome cannot be pre-determined and is dependent on thorough evaluation and consideration in terms of the relevant legislation and the applicants' motivation.
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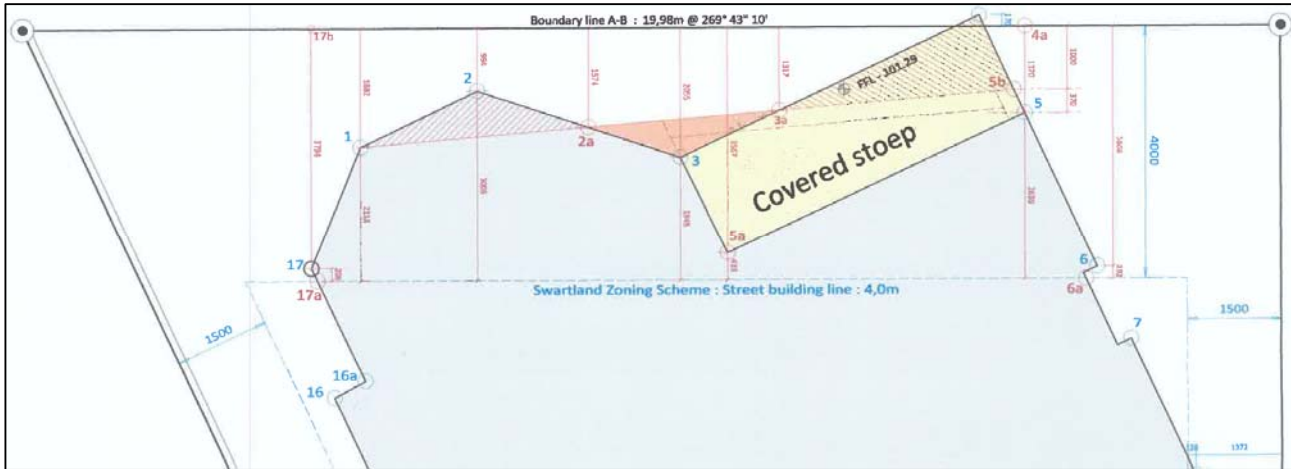
PART F: SUMMARY OF APPLICANT'S MOTIVATION

1. Summary

The purpose of the application on Erf 2119, Yzerfontein, is to apply for the following:

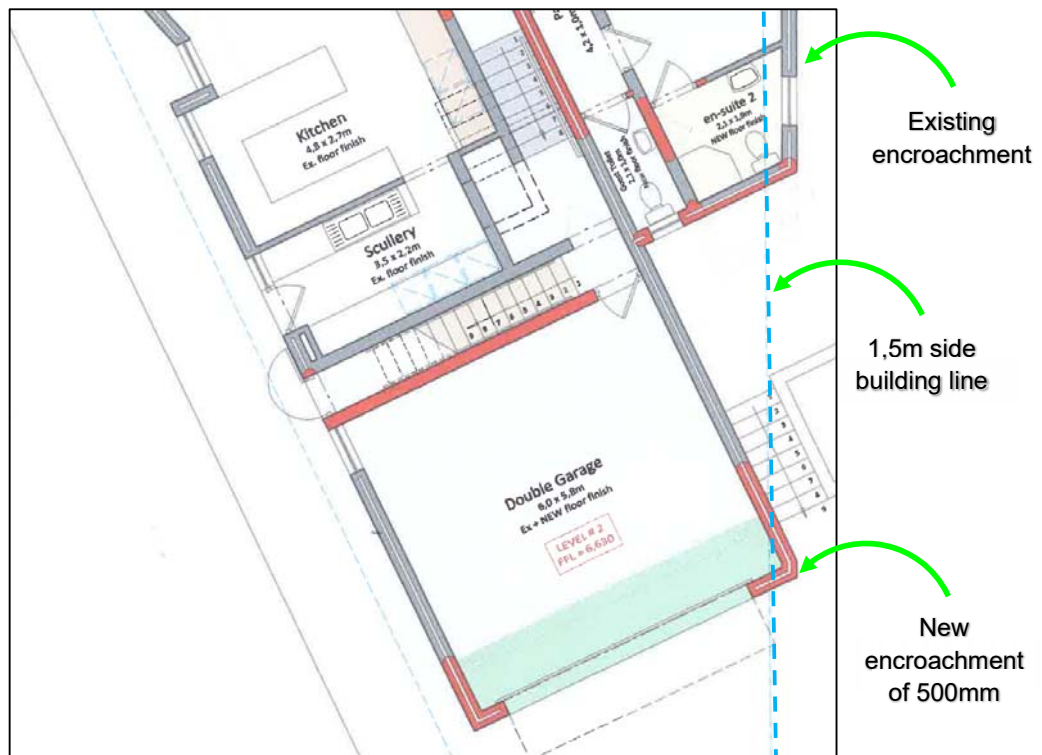
- a) Departure from the 4m street building line:

The existing structure already encroaches on the street building line quite severely and exceeds the property boundary at its northern-most point. The intension of the proposed new design is to recede the façade away from the street boundary by at least 1m, as well as to create a straight street façade. The goal is to enhance the street scape by improving the alignment of the street front with the facades of the neighbouring properties.



- b) Departure from the 1,5m side building line:

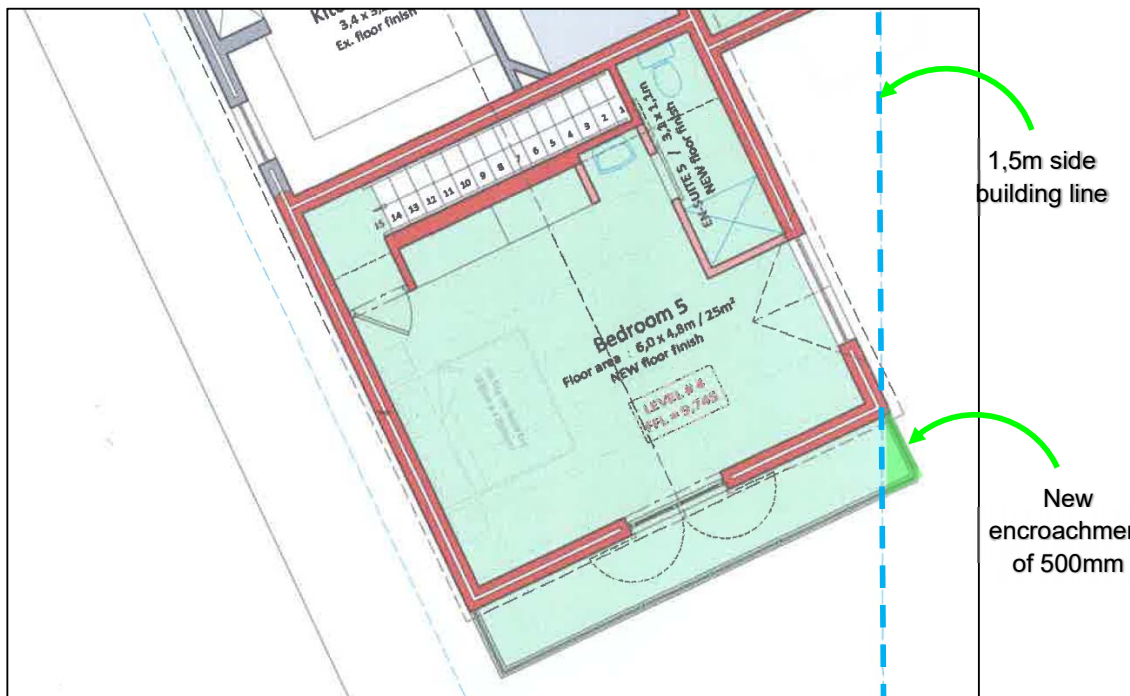
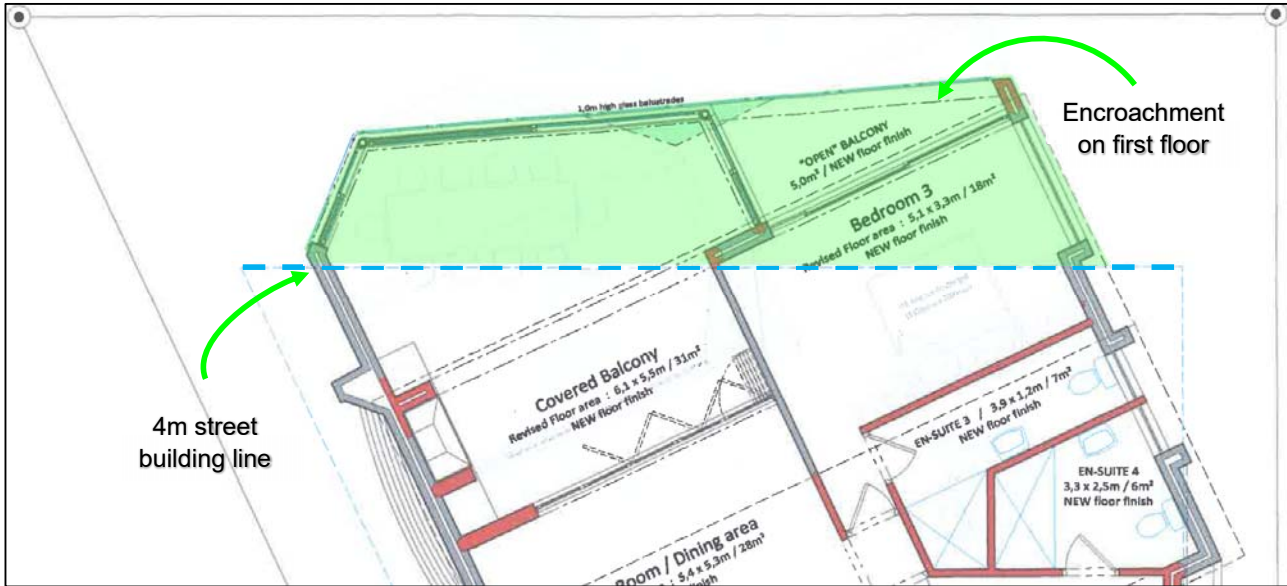
The existing dwelling already encroaches on the 1,5m side building line by 500mm. The owner wishes to improve en-suite 2, as well as to extend the existing double garage by 1m on ground floor level. The subsequent encroachment aligns with the existing encroaching façade, constituting an encroachment of 500mm. The impact is regarded as no more than that of the existing dwelling.



c) Departure from general provision 12.1.1(c)(i)

The proposal also includes the addition of a new bedroom and balcony on top of the garage. As the bedroom and balcony are proposed on the footprint of the extended garage, the balcony will also encroach on the building line by 500mm. General provision 12.1.1(c)(i) of the By-Law states that building line departures are only permitted on ground floor level. Therefore, the departure is intended to allow for the corner of the balcony to encroach on the 1,5m wide building line by 500mm.

The same provision is applicable to the street front balcony. Even though the structure already exists, the footprint is proposed to be amended and as such the impact may change. It is therefore considered prudent that the new, straight balcony be included in the application, in order for it to be subjected to scrutiny and to formalise the departure.



d) Departure from the maximum permissible coverage

The extension of the garage causes the coverage to increase to 51,2%. The increase is considered marginal, as the property size is much smaller than the minimum erf size of 500m² for Residential Zone 1 properties, as prescribed by

the SDF. The footprint of the dwelling ($\pm 200\text{m}^2$) itself is comparable and even much smaller than the average dwelling size in the immediate surroundings.

1. Planning policy

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

- a) Spatial Justice: The use of the property for residential purposes is in line with the applicable zoning as well as SDF proposals for the area in which the property is located.
- b) Spatial Sustainability: The departure from development parameters will not adversely affect the property or the surrounding environment, as the dwelling unit is existing and will only be slightly extended. No land use change is proposed with the application, no additional pressure will be added to municipal services, as there are existing services on the property. No prime, unique or agricultural land will be adversely affected with the proposed application.
- c) Efficiency: Allowing the departures will allow the property to be legally developed to its full potential as determined in the Swartland SDF. Following the departure, the property will still be subject to the remaining parameters of the Swartland Zoning Scheme and By-Law. The zoning scheme regulations can be considered sufficient in regulating future development.
- d) Spatial Resilience: More flexible opportunities promote sustainable livelihoods.
- e) Good administration: All decision-making regarding the outcome of the application will be guided by relevant statutory land use planning systems.

2.1 Swartland Municipal Spatial Development Framework (SDF, 2019)

Erf 2119 is situated on area C of the SDF, characterised by residential, business, commercial and social uses. The proposal will not impact negatively on the existing character and is consistent with the objectives and guidelines contained within the SDF.

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

The property is zoned Residential Zone 1 and the development proposal will not affect the land use of the property, but the development parameters of the zoning will be departed from.

- a) Building line departure: relaxation of the 4m northern street building line to 1m is proposed and relaxation of the 1,5m eastern side building line to 1m is proposed.

Section 12.2(e) of the By-Law states that a street building line departure may be considered positively if the departure contributes to enhance the architectural effect of the streetscape. The existing dwelling not only does not align with the facades of the adjacent properties, but exceeds the property boundaries. The departure will not only allow for the re-alignment of the façade, but also improve the sight lines from the street past the dwellings.

The departure from the 1,5m side building line to 1m will have no greater impact than that of the existing dwelling and the sight corridor between erf 2119 and 2122 will be maintained, both on ground floor and on first floor level.

The ocean view of the surrounding properties will also not be negatively affected, as the property slopes approximately 1.5m downward towards the ocean.

- b) First floor building line departure: The privacy of surrounding owners will not be negatively affected, as the encroachment is toward the street and along the eastern boundary where it already encroaches. Should the departure of either one of the balconies be removed, it would have very little effect on the neighbouring properties, as the balconies will still be used for the intended purposes. The owner will, however, be responsible for high design and construction fees, especially if the street balcony and bedroom portions were to be demolished. Such an option would be counterproductive.

Sight lines will not be negatively impacted by the street building line encroachment on first floor level for obvious reasons and the sight corridor along the eastern façade will be maintained, as the proposed departure is equal to the existing departure of the eastern façade.

- c) Departure from coverage: Due to the small extent of the seafront properties in Yzerfontein, most of the properties surrounding Erf 2119 exceed the maximum coverage of 50%. It is a tendency for seafront properties, due to the

locality and the value, to be developed to their full potential and the owners intend to expand the footprint of the existing dwelling to ±200m², i.e. 51,2% of the property area. The departure is applied for due to the limited developable space on the property, but the increase in coverage is still considered marginal.

2.3 Section 25(2)(f) of the By-Law: Removal of Restrictive Title Deed Conditions

The removal and amendment of restrictive conditions were endorsed in 2000 and no conditions remain in the Title Deed that may restrict the proposed development.

2.3 Access and parking

The property is accessed via a right-of-way servitude over Erf 2123 and 2122, along the southern border. At least three on-site parking bays can be provided.

2.4 Services

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

PART G: SUMMARY OF PUBLIC PARTICIPATION

Was public participation undertaken in accordance with section 55- 59 of the Swartland Municipal: By-law on Municipal Land Use Planning?

Y	N
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The owner/developer endeavoured to obtain written consent from the affected property owners, but were unsuccessful. A total of 6 written notices were issued to the affected parties on 7 March 2024. Please refer to Annexure C for public participation map.

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

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

Name	Date received	Summary of comments	Recommend.	
			Pos.	Neg.
Building Control	6 March 2024	Bouplanne moet aan die Senior Bestuurder : Ontwikkelingsbestuur vir oorweging vir goedkeuring voorgelê word.	✓	
Department: Law enforcement	17 January 2024	Verkeer en wetstoepassing het geen beswaar teen die aansoek nie. Dit is n reeds bestaande gebou en sal voordelig wees vir alle partye.	✓	

PART I: COMMENTS RECEIVED DURING PUBLIC PARTICIPATION (Map of objectors Annexure E)	SUMMARY OF APPLICANT'S REPLY TO COMMENTS	MUNICIPAL ASSESSMENT OF COMMENTS
<p>DKVG Attorneys o.b.o. H. van der Merwe Trust Erf 2711 (Annexure E)</p>	<p>1. The By-Law does not allow for the owner/developer to submit an application to rectify work that was already done illegally.</p> <p>2. The street building line departure will obstruct the sea view from Erf 2711.</p> <p>3. The increase coverage will have a negative impact on our property value.</p>	<p>1. The By-Law does make provision for any property owner to submit a land use application, and in this case an application for departure.</p> <p>2. The re-alignment of the street façade on Erf 2119 is more likely to improve the view from Erf 2711, than to obstruct it.</p> <p>3. The statement is not proven by supporting data or other evidence.</p>
<p>R. Orchard Erf 196 (Annexure F)</p>	<p>1. The applicant is supported. Any land owner has the right to submit an application for any land use that may be applicable to the property, including to formalise or legalise previously unauthorised actions.</p> <p>Such applications are received in the same spirit and evaluated according to the same principles as new applications on vacant properties, the difference being that the owner/developer of the unauthorised land use (departure, zoning, consent use etc.) is at greater risk, should the application be deemed undesirable and denied.</p> <p>2. The statement by the objector is blatantly false and considered malicious.</p> <p>3. The statement is unproven and considered conjecture.</p>	<p>4. Departure of coverage from 50% to 51,2% is setting a precedent for future applications.</p> <p>4. The maximum coverage for Residential zone 1 properties under the Swartland Municipal Land Use Planning By-Law is 50%. The owners of Erf 2119 would like to extend their dwelling unit's footprint to a total area of 200m², which includes balconies, with a coverage of 51,2%. It is a tendency for seafront properties (due to the locality and value) to be developed to their full potential, but due to the small extent of the seafront properties in Yzerfontein, many of the properties surrounding Erf 2119 exceed the maximum coverage of 50%. (e.g. Erf 199, 200 and 203).</p> <p>4. Land use planning is not reliant on precedent, but rather on a case-to-case approach, taking site specific circumstances into account. The objector can thus not be supported.</p> <p>The three "sister" properties (Erf 2119, 2122 and 2123) were subdivided before the minimum erf size of 500m² were required by the SDF. Subsequently the erven are slightly smaller (±350m²) than the surrounding properties.</p> <p>When it is realised that the footprint allone of the dwelling on Erf 2711 is already 300m², the proposal for a coverage departure of 1,2%, to create a 200m² house, is considered marginal and acceptable in the context.</p>

		 <p style="text-align: center;">Locality of deviation of coverage</p> <p>The encroachment will not make the house look abnormally large as the street façade will in fact be pushed backward, away from the street and the side building line departure will be aligned with the existing departure, the impact being negligible.</p>	
<p>I. Smit Erf 2122 (Annexure G)</p>	<p>5. The relatively large erven in the residential area should be protected and the proposed departures threaten the character of the area.</p>	<p>5. The objector herself benefitted from the subdivision of the properties, none of which are larger than 420m², below the minimum erf size of 500m², as required by the SDF. Likewise, the objector relied on a building line encroachment on the western boundary, but now sites that the applicant will negatively impact on the character of the area for doing the same.</p>	<p>5. The development proposal will have no impact on the property size, which was historically determined.</p> <p>The increase in coverage is considered marginal, while a dwelling of more than 400m² floor area is considered wholly consistent with the size of dwellings in the surrounding area.</p> <p>The application is intended to improve the streetscape and increase the value of the property, thereby rather contributing to the area than detracting from it.</p>

PART J: MUNICIPAL PLANNING EVALUATION

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

Application for departure on Erf 2119, Yzerfontein, in terms of Section 25(2)(b) of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 25 March 2020), is made in order to exceed the maximum permissible erf coverage of 50% by 1,2%% (total of 51,2% coverage).

Application for departure on Erf 2119, Yzerfontein, in terms of Section 25(2)(b) of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 25 March 2020), is made in order to depart from the northern 4m street building line to 1m.

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The owner/developer endeavoured to obtain written consent from the affected property owners, but were unsuccessful. A total of 6 written notices were issued to the affected parties on 7 March 2024 and e-mails were also sent where the addresses were available. The public participation process commenting period officially closed on 8 April 2024. No notices were returned unclaimed.

Objections received were referred to the applicant for comment on 12 April 2024 and the response to comments was received on 22 April 2024.

The applicant is Integrated Development Solutions and the property owner is M.M. Donaggi.

2. Legislation and policy frameworks

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

- a) Spatial Justice: All the relevant facts and considerations surrounding the application have been taken into account during the decision-making process. The proposal will not cause any inequality nor the exclusion of any groups. Therefore, the application may be deemed consistent with spatial justice.
- b) Spatial Sustainability: The development proposal will enable the property to be optimally developed. No new services will need to be provided and the development proposal is not foreseen to put an additional financial burden on the municipality.
- c) Efficiency: The proposal ensures the optimisation of existing resources, in this instance the available space on the application property and existing services. It may thus be deduced that the development proposal is deemed efficient.
- d) Good Administration: The application was communicated to the affected land owners through registered mail and the application was also circulated to the relevant municipal departments for comment. Consideration was given to all correspondence received and the application was dealt with in a timeous manner. It is therefore argued that the principles of good administration were complied with by the Municipality.
- e) Spatial Resilience: The development proposal will enable the property owner to provide additional amenities on the property, thereby possibly raising the market value of the property. The proposal is thus deemed spatially resilient.

2.2 Spatial Development Framework (SDF)

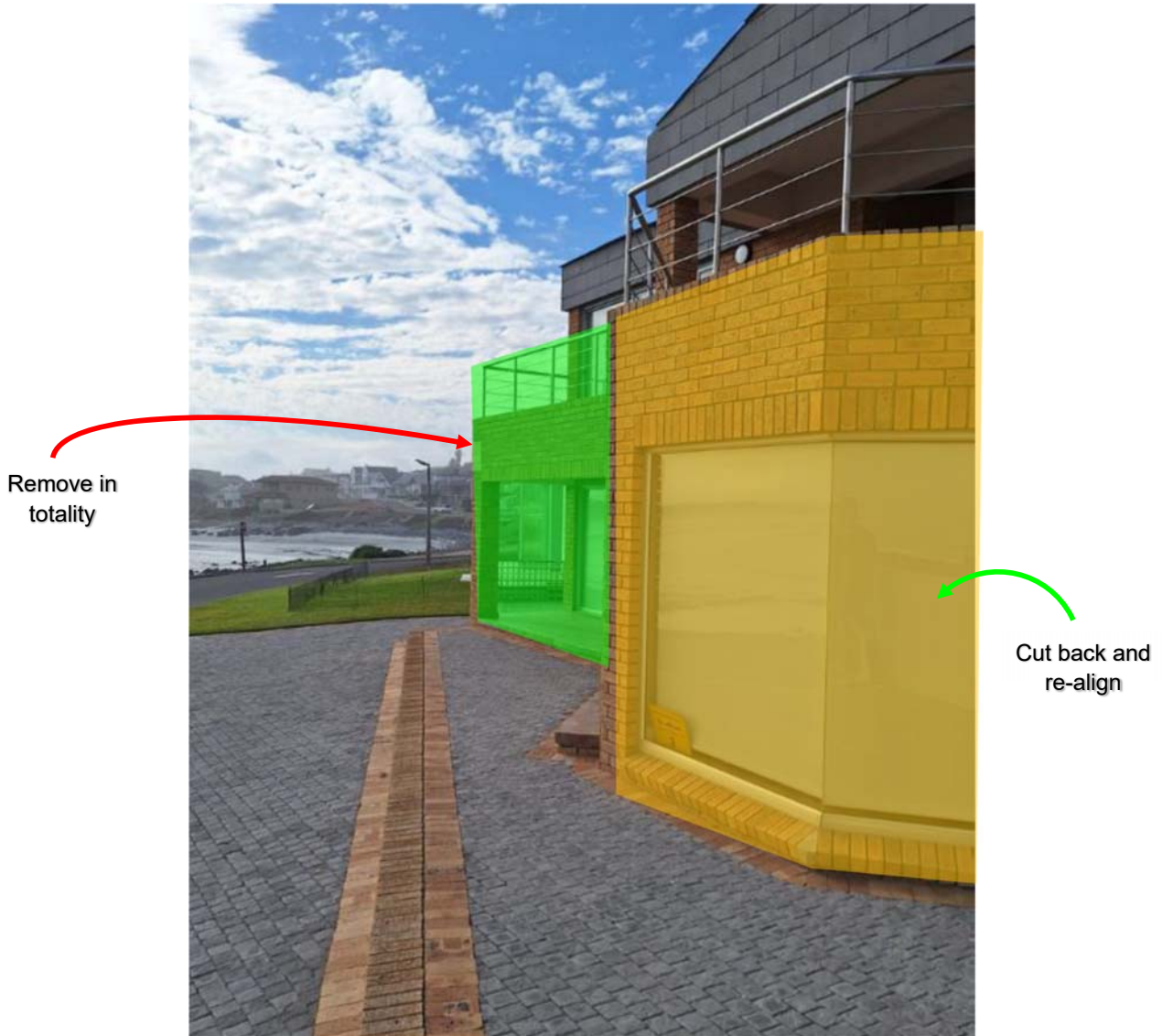
The SDF is a high level spatial guideline and does not make provision for building line departures. The development proposal will not alter the land use and the residential character of the property will thus remain consistent with that of the area, namely residential, commercial, business and social uses. The proposal is thus consistent with the SDF.

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

Erf 2119, Yzerfontein is zoned Residential Zone 1. The development proposal will not impact on the land use of the property, but several applications were made for departures from the development parameters.

- a) Building line departure: relaxation of the 4m northern street building line to 1m was proposed and relaxation of the 1,5m eastern side building line to 1m was proposed.

The applicant successfully motivated that the departure from the 4m street building line should be considered positively, as the re-alignment of the street façade will improve the streetscape by enhancing sight lines and uniformity between the properties in the street. The By-Law allows for street building line departure by structures other than garages and carports, only under such circumstances and the proposal is considered consistent with the legislative requirement. It should also be noted that the departure is proposed on a portion of the existing dwelling footprint and that the impact will be less than that of the current façade encroachment.



The existing, approved dwelling already departs from the eastern side building line and the impact of the corner of the garage, as well as the corner of the balcony on first floor level to align with the existing departure is considered to be negligible. The photograph below illustrates the sight corridor from Erf 196 and Erf 194. The red line indicates the extent of the proposed departure.



- b) Departure from maximum coverage of 50% to 51,2%: Erf 2119 is 395m² in extent, slightly smaller than the minimum erf size for Yzerfontein i.e. 500m². the dwelling size, however, is compatible with those of the immediate area. The departure from the maximum coverage is considered so limited that it is unlikely to even be observable by the naked eye. The impact is thus considered negligible.
- c) Departure from height restriction over building lines: The building line departure on first floor level will be allowed over the street building line as the impact of the departure is considered positive. The streetscape, sight lines from the street and views from affected properties will in all likelihood be improved.

The side building line departure on the first floor level may be restricted by moving the balustrade 500mm inward to adhere to the building line. However, such a restriction will have no effect whatsoever, other than creating an aesthetically awkward element. Conversely, the impact of the departure of a tiny portion of the balcony over the side building line is considered to have no negative impact and is considered acceptable in the context.

2.4 Section 25(2)(f) of the By-Law: Removal of Restrictive Title Deed Conditions

The relevant restrictions have been removed from the Title Deed and no conditions remain that may constrain the development proposal.

2.5 Desirability of the proposed utilisation

The existing dwelling on Erf 2119 was historically constructed to not only encroach on the street building line, but also to exceed the property boundaries. However, the abutting properties in the same street have encroached equally, creating the current streetscape. The application at hand does not propose that the encroaching portions of the dwelling to be totally

demolished to adhere to the 4m street building line. Such an action would be wasteful and excessively expensive. Rather, the owner/developer proposes an upgrade to the street facade in order to – while still encroaching on the building line – better align with the facades of the neighbouring properties, effectively also improving the streetscape.



The proposed expansion of the dwelling house on Erf 2119 is expected to increase the value of the property considerably. Increased property value translates to higher income for the Municipality through rates and taxes and the higher property value is likely to increase the average value of surrounding properties as well, which will also increase their rates and taxes. The economic impact of the proposal is thus considered positive.

The proposed amendments to the dwelling is well below the maximum permissible height of a dwelling, in terms of the 2020 By-Law. Furthermore, the property is situated on a slope and consequently the development will not have a negative impact on the views of affected land owners.

The increase in coverage is considered marginal and the impact negligible.

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

The development property is not considered a heritage asset, according to the 2009 Swartland Heritage Survey and the development will thus not have a negative impact on any heritage resources.

Vehicular access to the property will continue to be obtained via the 4m right-of-way servitude over Erf 2123 and 2122, along the southern property boundary. The development proposal includes a double garage and parking space for at least one more vehicle on the southern portion of the property, consistent with the parking requirements of Residential Zone 1.

Limiting the street building line encroachment to 1m will contribute to keeping sight lines unobstructed for motor vehicles. The proposed balcony will be above the sight line and thus poses no threat to traffic safety.

Existing resources will be optimally utilised, through the appropriate use of the available space on the property and the utilisation of existing engineering services on the property.

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

In conclusion, the proposal for departures on Erf 2119, Yzerfontein, is deemed desirable in terms of the above-mentioned criteria.

3. Impact on municipal engineering services

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

4. Comments of organs of state

No comments were requested.

5. Response by applicant
See Annexure H
PART K: ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS
<u>The financial or other value of the rights</u> N.A.
<u>The personal benefits which will accrue to the holder of rights and/or to the person seeking the removal</u> N.A.
<u>The social benefit of the restrictive condition remaining in place, and/or being removed/amended</u> N.A.
<u>Will the removal, suspension or amendment completely remove all rights enjoyed by the beneficiary or only some rights</u> N.A.

PART L: RECOMMENDATION WITH CONDITIONS
<p>A. The application for departure on Erf 2119, 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 encroach on the northern street building line;</p> <p>B. The application for departure on Erf 2119, 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 encroach on the eastern lateral building line;</p> <p>C. The application for departure from Section 12.1.1(c) of the By-Law, on Erf 2119, 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 allow for portions of the first storey to encroach on the northern and eastern building line;</p> <p>D. The application for departure on Erf 2119, 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 exceed the maximum permissible coverage;</p> <p><u>Approvals A. B. C. and D. above are subject to the conditions that:</u></p> <p>1. TOWN PLANNING AND BUILDING CONTROL</p> <p>a) The 4m street building line be departed from and reduced to 1m;</p> <p>b) The 1,5m eastern lateral building line be departed from and reduced to 1m;</p> <p>c) That the building line departures be restricted to the portions of the dwelling that encroach on the building lines, as presented in the application;</p> <p>d) The encroachment of the street and side building lines be allowed on first floor level to the same extent and on the same footprint as the ground floor departures, as presented in the application;</p> <p>e) The maximum permissible coverage of 50% be departed from and increased to 51,3%, as presented in the application;</p> <p>f) Building plans clearly indicating the existing structure and the proposed amendments be submitted to the Senior Manager: Development Management for consideration and approval;</p> <p>2. GENERAL</p> <p>a) The approval does not exempt the owner/developer from compliance with all legislation applicable to the approved land use;</p> <p>b) Should it in future be determined necessary to extend or upgrade any engineering service in order to provide the development with services, it will be for the account of the owner/developer;</p> <p>c) The approval is valid for a period of 5 years, in terms of section 76(2) of the By-Law, from the date of decision. Should an appeal be lodged, the 5 year validity period starts from the date of outcome of the decision against the appeal. All conditions of approval be implemented by 1 June 2024, before the new land use comes into operation/or the occupancy certificate be issued and failing to do so will cause the approval to lapse. Should all conditions of approval be met by 1 June 2024, the land use becomes permanent and the approval period will no longer be applicable.</p> <p>d) The applicant/objector be informed of the right to appeal against the decision of the Municipal Planning Tribunal in terms of section 89 of the By-Law. Appeals be directed, in writing, to the Municipal Manager, Swartland Municipality, Private Bag X52, Malmesbury, 7299 or by e-mail to swartlandmun@swartland.org.za, within 21 days of notification of decision. An appeal is to comply with section 90 of the By-Law and is to be accompanied by a fee of R5 000,00 in</p>

order to be valid. Appeals that are received late and/or do not comply with the aforementioned requirements, will be considered invalid and will not be processed.

PART M: REASONS FOR RECOMMENDATION

1. Application for departure is a mechanism provided for by the By-Law, in order to deviate from the required development parameters;
2. The impact of the permissible departures have been evaluated and deemed to have either minimal impact on the surrounding area with regards to views, safety, access, privacy and health concerns, or the impacts were considered manageable and mitigated through conditions of approval;
3. The approved departures will have little impact on the residential character of the area, as the land use will remain unchanged;
4. The approved departures are considered desirable within the spatial context;
5. The proposed street building line departure is considered to enhance the streetscape;
6. The impact of the proposed coverage departure is considered negligible in the context.



PART N: ANNEXURES

Annexure A	Locality Plan
Annexure B	Site Development Plan
Annexure C	Map indicating interested/affected parties
Annexure D	Title Deed
Annexure E	Objections from DKVG Attorneys
Annexure F	Objections from R. Orchard
Annexure G	Objections from I. Smith
Annexure H	Response to comments
Annexure I	Building plans

PART O: APPLICANT DETAILS

First name(s)	Integrated Development Solutions			
Registered owner(s)	M.M. Donaggi	Is the applicant authorised to submit this application:	Y	N

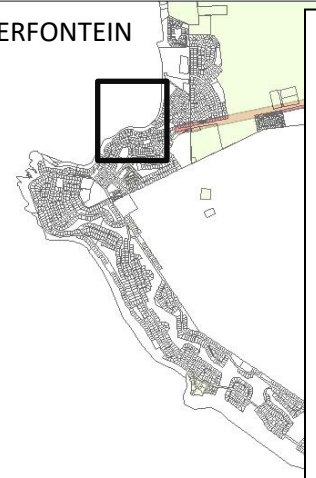
PART P: SIGNATURES

Author details: Annelie de Jager Town Planner SACPLAN: (A/2203/2015)			Date: 25 April 2024	
Recommendation: Alwyn Zaayman Senior Manager: Development Management SACPLAN: (B/8001/2001)	Recommended	<input checked="" type="checkbox"/>	Not recommended	
			Date: 26 April 2024	

**LOCALITY PLAN:
ERF 2119,
YZERFONTEIN**

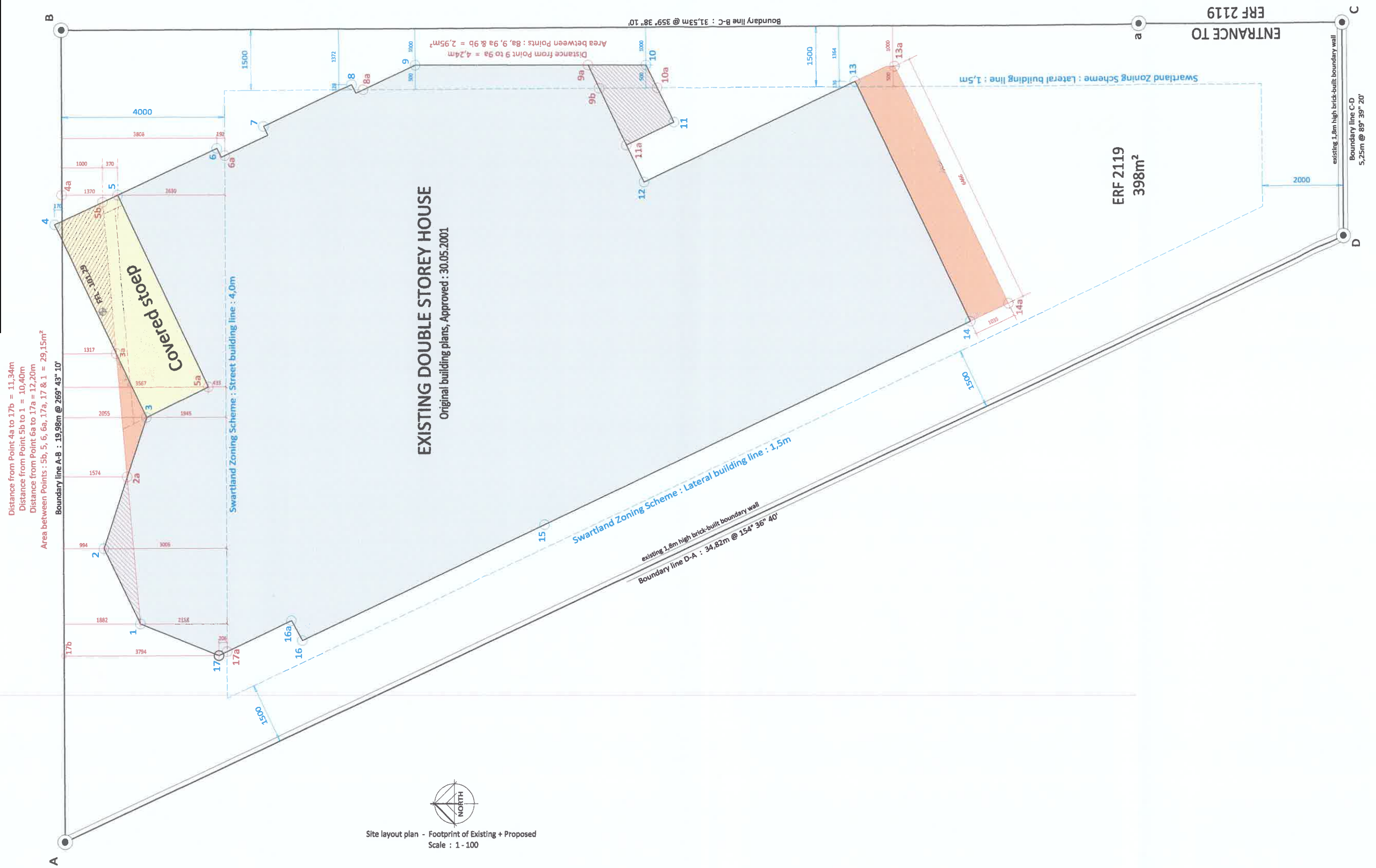


YZERFONTEIN



ANNEXURE A

ANNEXURE B



Site layout plan - Footprint of Existing + Proposed
Scale : 1 - 100

SITE LAYOUT PLAN
Layout of existing + alterations + additions
Scale 1:100

The design on this drawing remains the property of the Designer. Copyright is strictly reserved. No part of this drawing may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or by any information storage and retrieval system, without the prior written permission of the Designer. The Designer shall not be held responsible for any errors or omissions on this drawing. The Designer shall not be held responsible for any alterations or additions made to this drawing after the date of issue. The Designer shall not be held responsible for any alterations or additions made to this drawing after the date of issue.

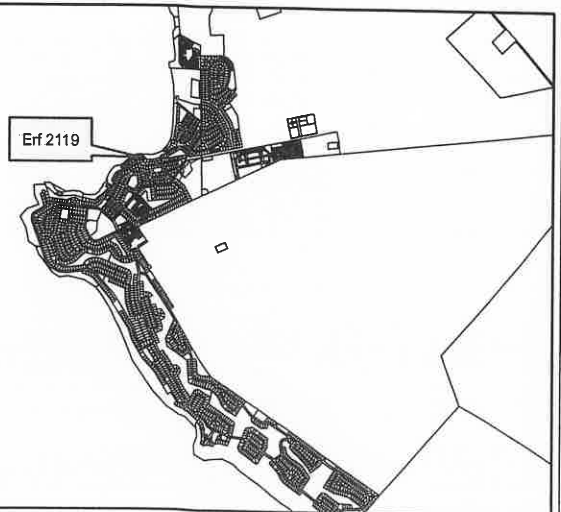
CONCEPT PROPOSAL			
10.02.2023	Site survey / As-built drawings - To determine position of the existing house on the property		
15.09.2023	Consultation, Documentation & Revised Report - Application for an encroachment of the Street & Side building lines + Proposed alterations & additions		
1:100	Apr 21	314-21	1 - 100(A) 01

House DONAGGI
Proposed alterations and additions to the existing house.
Erf 2119 at No. 3 9th Street, Yzerfontein, Western Cape.
For : Mrs M.M. Donaggi

hardie van schalkwyk
ARCHITECTURE
P.O. Box 1, Breda (DRA) 6020
08481 7970 / 08481 8171
19 dora dr. veldheid 7550 / 082 757191 / hardie@hvs.co.za



Voorgestelde afwykings
Erf 2119, Yzerfontein
Publieke deelname
Skaal: NVT



FEE
R. 95,00

Prepared by me

ANNEXURE D

CONVEYANCER
VAN ZYL, J.A.

BC000053653/2014
GEKANSLEER
CANCELLED
14 OCT 2015

VERBIND MORTGAGE
VIR FOR R. 3 900 000,00
B0037018/2007
2007-04-25
REGISTRAR/REGISTRAR

DEED OF PARTITION TRANSFER

[In terms of Section 26 of the Deeds Registry Act, 1937 (No 47 of 1937)]

Be it hereby made know,

00098331/2005

That LYNNE BOTHA appeared before me, the Registrar of Deeds, Cape Town, he, the said Appearer, being duly authorized thereto by a Power of Attorney granted to him by

1. MARIA MAGDALENA DONAGGI
Identity Number 420923 0044 086
Married out of community of property
2. HESTER ANNA JOHANNA THERON
Identity Number 480221 0062 084
Married out of community of property
3. THE TRUSTEES FOR THE TIME BEING OF
CHRISTIE SMIT FAMILIE TRUST
NO. IT4612/1996

DATA / CAPTURE
12 JAN 2006
WENTZEL L.

Dated the 3rd day of MARCH 2005 and signed at GOODHOPE

DATA / VERIFY
01 FEB 2006
COMBRINK A

And the said Appearer declared that whereas his said principals heretofore held and possessed in joint ownership the property:

ERF 2014 YZERFONTEIN, in the Municipality of SWARTLAND, Division MALMESBURY, Western Cape Province

MEASURING: 1214 (ONE THOUSAND TWO HUNDRED AND FOURTEEN) square metres

HELD BY Certificate of Consolidated Transfer No. T72797/2004 regarding the 1/3 (one-third) share of the undermentioned transferee.

AND WHEREAS the said joint owners have agreed on the 3rd March 2005 to partition the said land by sub-dividing the same according to their respective interests therein and receiving transfer in severalty of such sub-divided portions.

NOW therefore, the said Appearer in his capacity aforesaid and in pursuance of the above in part recited agreement, declared that he did by these presents, cede and transfer in full and free property unto and on behalf of the said

MARIA MAGDALENA DONAGGI
Identity Number 420923 0044 086
Married out of community of property

Her heirs, executors, administrators or assigns

ERF 2119 (Portion of Erf 2014) YZERFONTEIN in the Municipality of SWARTLAND, Division MALMESBURY, Western Cape Province

MEASURING: 398 (THREE HUNDRED AND NINETY EIGHT) square metres

AS WILL appear from Diagram L.G. No. 5754/2003 annexed thereto; and

HELD BY Certificate of Consolidated Title No. T72797/2004.

- A. **SUBJECT** to the conditions referred to in Deed of Transfer No. T10028/1951.
- B. **FURTHER** subject to the special conditions contained in Crown Grant No. 78/1926, numbers 5 and 6 whereof read as follows:

"(5) Alle regte op enige minerale, van watter aard ook, en op enige olie in of op die grond hierby toegeken word uitdruklik aan die Staat voorbehou, tesame met die reg van toegang na alle myne of werk vir myn- of prospekteerdoeleindes onderneem deur iemand wat behoorlik daartoe gemagtig is. Die grond is onderhewig aan sodanige verdere regte wat die publiek of die Regering nou of hierna mag besit, of geregtig is om te verkry ingevolge of kragtens enige Wet betreffende die prospekteer, delwe, myn of ontginning van enige minerale, van watter aard ook, en van enige olie in of op die grond hierby toegeken, watter regte nie deur die grondbrief verkort of op enige manier aangetas word nie. Voorts, word die reg aan die Staat voorbehou om soveel van die grond hierby toegeken te beset of te laat beset en om soveel water op daardie grond te gebruik of te laat gebruik as wat nodig mag om na enige minerale of olie te prospekteer of te myn, teen betaling as vergoeding van sodanige somme geld as wat die betrokke partye by onderlinge ooreenkoms mag bepaal, of, by gebreke van sodanige ooreenkoms as wat deur 'n skeidsregterlike uitspraak vasgestel mag word.

(6) Dat geen gebou op die grond binne 15,74 meter van die Hoogwatermerk van die see opgerig sal word nie, en dat 'n oop ruimte van 15,74 meter bo die Hoogwatermerk van die see vir die ongehinderde gebruik van die publiek vrygelaat sal word."

Die oorblywende voorwaardes vervat in genoemde Grondbrief Nr. 78/1936 verwys na en maak voorsiening vir:-

- "(a) Existing roads and thoroughfares to remain free and uninterrupted.
- (b) The granting of ways of necessity and the making of new roads.
- (c) The making of public roads, railways, dams, aqueducts and furrows, the erection of telegraph and telephone lines and the establishment of outspans.
- (d) Re-occupation of the said land or portion thereof by the Governor-General on certain conditions."

C. **FURTHER SUBJECT** to the following special conditions contained in Deed of Transfer No. T18218/1950 imposed by the Administrator with the approval of the said Yzerfontein Township and applicable to the whole of said Remainder by virtue of an Order of the High Court of South Africa (C.P.D.) dated 18th May 1951.

I. As being in favour of the registered owner of any Erf in the said Township:

(3) That not more than three dwellings together with the necessary outbuildings and appurtenances be erected on the erf hereby conveyed.

II As being in favour of the Local Authority:

(6) That the owner of each erf whether the applicant for the establishment of the township or any future owner, shall be obliged to allow the drainage or sewerage of any other erf or erven to be conveyed over such erf if deemed necessary by the Local Authority, and in such manner and in such position as may from time to time be reasonably required by the Local Authority.

D. **SUBJECT FURTHER** to the following conditions contained in Deed of Transfer No. T18218/1950 imposed by Yzerfontein Seaside Estates (Proprietary) Limited in favour of themselves as long as they own any erven in Yzerfontein Township, and in favour of any Local Authority that may come into force in Yzerfontein Township and any registered owner of any erf in the Township:-

1. That no building shall be erected on any erf until the plans and specifications thereof have been submitted to and approved of by the Company, or in the event of a Local Authority being established at Yzerfontein, by such Local Authority.
2. That the owner of this erf and his successors in title shall be entitled with other owners of erven in Yzerfontein Township Site to take an equal share of the water in the reservoir erected by the Company on Lot No. 102 Yzerfontein Township.

E. ENTITLED to a servitude, right of way, as indicated by the figures and C on annexed diagram S.G. No. 5754/2003 over Erf 2122 Yzerfontein, measuring 451 (four hundred and fifty one) square metres and held by Deed of Partition Transfer No. T

WHEREFORE the Appearer, renouncing all right and title which his principals heretofore jointly had to the premises on behalf as aforesaid, did in consequence, also acknowledge his said principals with the exception of the above transferee to be entirely dispossessed of and disentitled to the land hereby transferred;

And that by virtue of these presents, the said

MARIA MAGDALENA DONAGGI
Identity number 420923 0044 086
Married out of community of property

Her heirs, executors, administrators or assigns, now is and henceforth shall be entitled thereto conformably to local custom, the State, however, reserving its rights;

And finally, acknowledging his remaining principals to have received as a consideration transfer on this day of their respective share in the landed property portioned as aforementioned.

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

2 [Handwritten signature] [Handwritten signature]

.....
SIGNATURE OF APPEARER

.....
REGISTRAR OF DEEDS

20

179

153 RAYNÉ STRAASS & WINDAGE
Erekrantz
Voortrekkerweg 70
GOODWOOD

VR ENDORSEMENTE KAK BLADSY
FOR ENDORSEMENTS 870 PAGE _____ ET 870

VERWYSING: C.L.THERON.

MICRO FILMED—MIKROVERFILM	
DATE—DATUM	OPERATOR—OPERATEUR
1985-03-11	MS

Handwritten scribbles

T 8042/85

TRANSPORTAKTE

KRAGTENS 'N PROKURASIE

Opgetrek deur my.

/sb

Handwritten signature
Transportbesorger.
W. L. B. JACOB

SY DIT KENNELIK AAN ALMAL WIE DIT MAG AANGAAN

DAT MARTHIEUS OUBELIS DE JAGER

verskyn het voor my, Registrateur van Aktes, Hy die gesegde Komparant synde daartoe
behoorlik gemagtig deur 'n volmag uitgevoer te GOODWOOD

op die 29ste dag van JANUARIE 1985, deur

DIE PROKURATOR IN DIE
BOEDIEL WYLE ANNA MAGDALENA SMIT
NR 2122/84

BAANHE | GROEP

d

welke volmag, geteken in die teenwoordigheid van getuie ooreenkomstig die Wet, my
hede getoon is;

En die / .. d

En die Komparant het verklaar dat

NADEMAAL die hiernavermelde eiendom die hiernagenoemde transportneemsters toekom kragtens die testament van wyle Anna Magdalena Smit gedateer 13 Julie 1981 en 'n herverdelingsooreenkoms gedateer 5 September 1984 aangegaan deur die erfgename daargestel kragtens gesegde testament

So is dat Hy, in sy hoedanigheid as voorsegde Prokureur, deur hierdie Akte, gesedeer en getranspoteer het in volle en vrye eiendom aan en ten behoewe van

1. MARIA MAGDALENA DUNNAGI
Identiteitsnommer 429923 0044 003
getroud buite gemeenskap van goed
maritale mag uitgesluit
 2. HESTER ANNA JOHANNA THERON
Identiteitsnommer 480221 0062 001
getroud buite gemeenskap van goed
maritale mag uitgesluit
 3. ANNETTE MADALEIN VAN DER WESTHUIZEN
Identiteitsnommer 521002 0067 005
getroud buite gemeenskap van goed
maritale mag uitgesluit
- Almal Blanke Groep -
- in gelyke aandele -

Hulle erfgename, eksekuteurs, administrateurs of gemagtigdes

RESTANT ERF 332 YZERFONTEIN in die Plaaslike Gebied van Ysterfontein Afdeling Malmesbury;

GROOT : 1125 (eenduisend eenhonderd vyf en twintig) vierkante meter

CORSPRONKLIK oorgedra kragtens Sertifikant van Verenigde Titel nr T18219/1950 met 'n Kaart nr 10046/49 daaraan geheg en genou kragtens transportakte nr T9639/1977;

A. ORDERHEWIG / .. 3

- A. ONDERHEWIG aan die voorwaardes waarna verwys word in transpotaakte gedatee. 14 Julie 1951 nr 10029;
- B. ONDERHEWIG VERDER aan die volgende spesiale voorwaardes vervat in Kroongrondbrief nr 78/1926, Nrs 5 en 6 waarvan soos volg lui :-

- "(5) Alle regte op enige mineraal, van watter aard ook, en op enige olie in of op die grond hierby toegaken, word uitdruklik aan die Staat voorbenou, tesame met die reg van toelating na alle mine of werk vir myn- of prospekterbeheindes ondernoom deur iemand wat besit rick daartoe geregtig is. Die grond is onderhewig aan sodanige verdere regte wat die publiek of die Republiek nou of hierna mag besit, of geregtig is te verkry ingevolge of kragtens enige Wet betreffende die prospekter, delwe, myn of ontginning van enige mineraal, van watter aard ook, en van enige olie in of op die grond hierby toegaken, watter regte nie deur die grondbrief verkort of op enige manier aanstas word nie. Voorts, word die reg aan die Staat voorbenou om soveel van die grond hierby toegaken te beset of te laat beset en om soveel water op daardie grond te gebruik of te laat gebruik as wat benodig mag wees om na enige mineraal of olie te prospekter of te myn, teen betaling as vergoeding van sodanige somme geld as wat die betrokke partye by onderlinge ooreenkoms mag bepaal, of, by gebreke van 'n sodanige ooreenkoms as wat deur 'n skiederegterlike uitspraak voorgestel mag word.
- (6) Dat geen gebou op die grond binne 15,74 meter van die Hoogwatermerk van die see opgerig sal word nie, en dat 'n oop ruimte van 15,74 meter bo die Hoogwatermerk van die see vir die ongehinderde gebruik van die publiek vrygelaat sal word."

Die oorblywende voorwaardes vervat in genoemde Grondbrief Nr. 78/1936 verwys na en maak voorsiening vir :-

- "(a) Existing roads and thoroughfares to remain free and uninterrupted.
- (b) The granting of ways of necessity and the making of new roads.
- (c) The making of public roads, railways, dams, aqueducts and furrows, the erection of telegraph and telephone lines and the establishment of outspans.

(d) Re-occupation / ...

(13) Reservation of the said land or portion thereof by the Governor-General on certain conditions."

C. ONDERSKRYWIG VERDER aan die volgende spesiale voorwaardes vervat in Transportakte gedateer 23 November 1950 Nr 18218 opgelê deur die Administrateur tydens die goedkeuring van genoemde Yzerfontein Dorpsgebied en van toepassing op die hele van bogenoemde restant kragtens 'n Bevel van die Hooggeregshof van Suid-Afrika (C.P.D.) van dateer 18 Mei 1951 :-

I. As being in favour of the registered owner of any Erf in the said Township :

- (1) That the erf hereby conveyed be used for residential purposes only.
- (2) That the erf hereby conveyed be not subdivided.
- (3) That not more than one dwelling, together with the necessary outbuildings and appurtenances be erected on the erf hereby conveyed.
- (4) That not more than one half of the area of the erf hereby conveyed be built upon.
- (5) That no building shall be erected within 3,15 metres of any street line which forms a boundary of the erf hereby conveyed or within 3,15 metres of the open space where it forms a boundary of the said erf on the sea front.

II. As being in favour of the Local Authority :

- (6) That the owner of each erf whether the applicant for the establishment of the Township or any future owner, shall be obliged to allow the drainage or sewerage of any other erf or erven to be conveyed over such erf if deemed necessary by the local authority, and in such manner and in such position as may from time to time be reasonably required by the Local Authority.

D. ONDERSKRYWIG VERDER aan die volgende voorwaardes vervat in Transportakte gedateer 23 November 1950 nr 18218, opgelê deur Yzerfontein Seaside Estates (Proprietary) Limited ten gunste van hulle self vir solang hulle enige erwe in Yzerfontein Dorpsgebied besit, en ten gunste van enige plaaslike owerheid wat ingestel mag word in Yzerfontein Dorp en enige geregistreerde eienaar van enige erf in die Dorp :-

"1. That / .. 5

- "1. That no building shall be erected on any erf until the plans and specifications thereof have been submitted to and approved of by the Company, or in the event of a local authority being established at Yzerfontein, by such local authority.

3. That the owner of this erf and his successors in title shall be entitled with other owners of erven in Yzerfontein Township Site to take an equal share of the water in the reservoir created by the Company on Lot No. 102 Yzerfontein Township."

DIE / . . G

A

DIE Komparant doen des hiermee afstand van al die regte, aanspraak en titel wat hy op hede vir die goeie naam van die goeie naam

voorteen op gemeentelike eieendom gehad het, en verklaar erken die Komparant ook dat die genoemde boedel geheel en al van die besit daarvan onthef en nie meer daarop geregtig is nie, en dat kragtens hierdie akte, bogenoemde transportneemsters

van die goeie naam, Eksekuteurs, Administrateurs of Remerkrygendes hier en voorteen deure geregtig is, ooreenkomstig plaaslike gebruik, behalwe die Regte van die Staat en ten slotte erken hy dat die goeie naam van die goeie naam gewaardeer is teen 'n bedrag van R25 700,00 (TWANWENTY FIVE THOUSAND SEVEN HUNDRED AND SEVENTY) en dat hierdie bedrag slegs betaal is van die betaling van versuigde draagsters artikel 241 (1) van Wet 40 van 1949.

65

LEN BEWYSE waarvan ek, die genoemde Registrateur, tesame met die Komparant, hierdie Akte onderteken en dit met die Ampseël bekragtig het

ALDUS GEDOEN en verly op die Kante van die Registrateur van Aktes, te

op hede die 6 dag van Maart in die jaar van ons Heer, Eenduisend Negehonderd negentien en Twee-honderd

[Handwritten signature]
G. J. van der Merwe

In my teenwoordigheid.

[Handwritten signature]
REGISTRATEUR VAN AKTES.

Geregistreer in die Register van Boekdeel Folio

[Handwritten mark]

Klerk-in-Bevel.

1. Hereregte Kwitansie Nr.
te	uitgereik
op	vir
R
2. Belastingcertifikaat uitgereik
geldig tot
Napasien: 1.
2.

62191:87

VERPAND
 MOEDERGED

vir (out-proviesie)
 for (out-proviesie)

vir to
 for an 1957-11-24

REGISTRAR

BC 63697196

GEKANSLEER
 CANCELLEER

Mw

REGISTRAR

16 12 76

1/2 share of TRANSFEREE NO 3

TRANSPORTEER AAN TRANSFERRED TO

Christie Smit Familie Trust

RESIDANT/REMAINDER

T 79681:96

16 10 96

Mw

REGISTRAR

1/2 share of TRANSFEREE NO 3

Share of Transvaal No. 1 and 2

ENDOSSEMENT, ARTIKEL 6 VAN WET 34 VAN 1937
 ENDORSEMENT SECTION 6 OF ACT 34 OF 1937

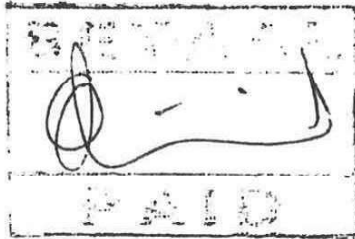
Voorwaardes Hierin is
 Conditions herein are
~~generaal / generally~~ generally
~~in die / in~~ in
~~aanwysing / in~~ in
 Proklamasie No. 226 datum 3-12-99
 in Offisiele Koerant No. 5398
 in Offisiele Koerant No. 5398
 onderworpe aan voorwaardes diarin vermeld
 subject to conditions mentioned therein

Datum 1999-12-08 *[Signature]*
 Date Director of Deeds

of minors conditions (1), (4) and (5), and
 inserts "one dwelling" in condition
 (1) (3) to read "two dwellings".

VZ ENDOSEMENTE KYK ELADY
 FOR ENDORSEMENTS SEE PAGE 9

9



V3304 / 2000

Certified a true copy of the duplicate original
 Gesertifiseer 'n ware afskrif van die duplikaat-
 oorspronke in bewaring gelyk op 'n oorspronke
 plaas van die oorspronke te oorspronke in bewaring gelyk op 'n oorspronke
 Deeds Registry Registrar of Deeds
 Cape Town
 2000-08-2

**ENDORSEMENT, ARTIKEL 6 (1) VAN WET 84 VAN 1957.
 ENDORSEMENT, SECTION 6 (1) OF ACT 84 OF 1957.**

Voorwaarde ~~in~~ hierin is
 Conditions ~~in~~ herein are
~~revoerse / gesekose / opgesel~~ / Alministrateurs
~~afgekan / verander / verwyder~~ / removed in terms of Administrator's
 Proklamasie Nr. 272 gedateer 9.6.2000
 Proclamation No. 272 dated 9.6.2000
 in Offisiële Koerant Nr. 5533
 in Official Gazette No. 5533

onderworpe aan voorwaarde PN 426/1999
 subject to conditions mentioned therein
 (Dated 3-12-1999) IS HEREBY CANCELLED

Deeds Registrar van ABTS
 Registrar of Deeds
 Date: 2000-08-2

* REMOVES CONDITIONS C1 (4) AND (5)
 AND AMENDS THE WORDING CONTAINED
 IN CONDITIONS C.1. (3) WHICH
 READS "ONE DWELLING" TO READ "THREE
 DWELLINGS"

Our Ref: RMC/MAT108331

Your Ref: 15/3/4-14Erf_2119

Date: 8 April 2024

MUNICIPAL MANAGER SWARTLAND MUNICIPALITY

Via Department Development Services

Private Bag X52, Malmesbury, 7299

Per email: swartlandmun@swartland.org.za

Dear Sir/Madam

RE: OBJECTION TO THE PROPOSED DEPARTURE OF DEVELOPMENT PARAMETERS ON ERF 2119, YZERFONTEIN

1. Your letter of 7 March 2024 regarding an application for the proposed departure of development parameters on Erf 2119, Yzerfontein, in terms of Section 25(2)(b) of the Swartland Municipality: Municipal Land Use Planning By-Law – 2020: To regulate and control municipal land use planning ('the application') ('the By-Law') ('your letter') refers.
2. We act on behalf of the Henk van der Merwe Trust ('the Trust'), being the owner of Erf 2711, the property adjacent to Erf 2119 and an interested party in the application.
3. All correspondence and notices may be sent to the Trust's attorneys, being De Klerk en Van Gend ('DKVG') details, of which, are as follows:

Directors: DS Duffell B.A. LL.B (Chairperson) • HP Serfontein B.Comm. LL.B • CA Albertyn B.A. LL.B • GC Van Niekerk B.A. LL.B • MF Bardiën B.Iuris. LL.B • MI Higgins B.A. LL.B • JW Odendaal B.Iuris. LL.B LL.M • M Koorfs B.A. LL.B • CS Gersbach LL.B • G Van Gaalen B.Comm. LL.B LL.M • J Steyn LL.B • NM Msomi LL.B • N Sishuba B.Soc.Sci LL.B • A King LL.B • J Van Gesselleen B.Comm. LL.B **Associates:** CA Warr B.Comm. LL.B • HM Visser LL.B • CK Wilmot B.Comm. LL.B • SJ Haynes B.Comm. LL.B LL.M • M Delani LL.B • C Gibson-Pienaar B.Sc. LL.B • M Snyders B.A. LL.B • M Gouws B.A. LL.B • MT Jedaar LL.B • N Mani B.Comm. LL.B • C Van Lill LL.B LL.M • MA Manley LL.B **Assisted by:** RM Coetzee B.Comm. LL.B • Kl Pillay B.Comm. LL.B • Kl De Vries LL.B • CJ Van Zyl LL.B **Consultants:** S Claassen B.A. LL.B **Financial Manager:** JA Vlijoen BAP (SA) B.Comm.(Hons) Acc. BTech. (IA)

DKVG ATTORNEYS

Est. 1921

- 3.1. Address: 10th Floor, the Terraces, 34 Bree Street, Cape Town, Western Cape Province
- 3.2. Email address: rcoetzee@dkvg.co.za / calbertyn@dkvg.co.za / estelle@dkvg.co.za
- 3.3. Contact person(s): Rosslee Coetzee / Callie Albertyn
- 3.4. Contact number: (021) 424 9200
4. The application entails the following departures to the development parameters:
- 4.1. Departure of the coverage of 50% to 51,2% ('the first departure');
- 4.2. Departure of the 4m street building line to 1m and 1,88m respectively on ground and first floor level ('the second departure');
- 4.3. Departure of the 1,5 side building line (eastern boundary) to 1m on ground and first floor level ('the third departure'); and
- 4.4. Departure in order to allow building works on first floor level within building lines ('the fourth departure').
5. The Trust hereby submits a formal objection in terms of Section 60 of the By-Law against the first, second and fourth departure as sought for in the application, the details, grounds and reasons for the objection will be set out in detail hereinbelow.
6. As mentioned earlier, the application is brought in terms of Section 25(2)(b) of the By-Law, and the departure plan was drafted in terms of Section 28(1)(a) of the By-Law.

7. Section 25 of the By-Law, *inter alia*, reads:

- '(1) No person may commence, continue, or cause the commencement or continuation of, land development, other than the subdivision or consolidation of land referred to in section 34, without the approval of the municipality in terms of subsection (2).
- (2) The owner or his or her agent may apply to the municipality in terms of this Chapter for the following in relation to the development of the land concerned:...
- (b) a permanent departure from the development parameters of the Development Management Scheme...'

8. Section 28(1)(a) provides that:

- '(1) An applicant may apply to the municipality in terms of section 25(2):
- (a) For a departure from the development parameters of a zoning or an overlay zone.'

9. The Trust draws your attention to the fact that neither Section 25(2)(b) nor Section 28(1)(b) of the By-Law makes provision for the bringing of an application to excuse/ratify 'building mistakes' that were made after the construction of a building. The purpose of these sections is to allow an applicant to obtain a departure of the development parameters before the commencement or continuation of the building, and not after the fact.

10. The first reason for the objection is, therefore, that the applicant cannot bring an application in terms of Section 25 and 28 of the By-Law seeking the departure sought in this application.

11. With respect to the first departure sought, being a departure of the coverage of 50% to 51,2%, the Trust objects for the following reasons:

- 11.1. Allowing this departure will negatively influence the natural light to the Trust's property; and
- 11.2. Restricting such natural light to the Trust's property, causes the property value to diminish and it negatively effects the Trust's right to use and enjoyment of its property.

12. With respect to the second departure sought, being a departure of the 4m street building line to 1m and 1,88m respectively on ground and first floor level, the Trust objects for the following reasons:

- 12.1. This departure cannot be allowed as it was previously not accepted. A letter was transmitted on behalf of the applicant by Swemmer & Levin Attorneys ('SLA') to the Municipality on 12 May 2020, from which it is evident that the applicant had previously applied for the aforementioned departure and the Municipality did not accept it (*vide* paragraph 4.1). The letter reflecting the aforesaid is annexed as "A", and, *inter alia*, reads:

'Op die aangrensende Erf 2119 was daar 'n ou woonhuis uit die 1800 wat so geleë was dat dit op die 4m boulyn oorskry het. Met vervanging van die ou gebou het ons kliënt so onlangs as 1996 aansoek gedoen om die nuwe gebou te plaas op dieselfde ligging as die ou gebou. Ten spyte van die feit dat op Erf 2119 daar 'n bestaande voetspoor was wat op die boulyn oorskry het, was ons kliënt se aansoek afgekeur en moes sy dit so aanvaar.'

- 12.2. Allowing this departure will limit the property's view of the ocean, especially the view of the main beach, causing the property's value to decrease; and

12.3. Should the departure be allowed, it will set a precedent regarding the departure of street line parameters.

13. With respect to the purpose of the fourth departure that the applicants seek, being to allow building works on the first-floor level within the building lines, the Trust objects for the following reasons:

13.1. The applicants, in their application state that they are seeking to 'ratify' building mistakes that were made in the past, that will not necessarily entail granting new rights to the applicant, when, in fact, they are planning to build on the property within the building lines that they seek to be 'ratified';

13.2. The Trust submits that the Municipality should not allow the fourth departure, allowing the applicant to build within the building lines, which building lines are already a departure of the development parameters, viz building on departure one and two;

13.3. The allowance of such a departure will have all the negative effects as mentioned in the first and second proposed departure; and

13.4. Should the Municipality allow the departure, it will become a precedent and more homeowners will attempt to obtain acceptance for their departures in the aforesaid manner.

14. We therefore request that the application be denied / dismissed.

DKVG

ATTORNEYS

Est. 1921

Yours faithfully



DE KLERK & VAN GEND INC

Per: RM Coetzee

Cape Town

10th floor, The Terraces, 34 Bree Street, Cape Town, 8001
PO Box 1857, Cape Town, 8000
Docex 33, Cape Town

Claremont

2 Oakdale Road, Claremont, 7700
PO Box 23844, Claremont, 7735
Docex 6, Claremont

Bellville

Springfield Office Park, 109 Jip de Jager Drive,
Bellville, 7530
PO Box 4333, Tyger Valley, 7536
Docex 10, Tygerberg

"A"

12 Mei 2020

Die Munisipale Bestuurder
Department Ontwikkelingsdienste
Swartland Munisipaliteit

Per e-pos: DelmarieStellenberg@swartland.org.za
asook na: alwynburger@swartland.org.za

Geagte meneer

**OPHEFFING VAN TITELVOORWAARDES EN AFWYKINGS OP ERF 2711
YZERFONTEIN (KENNISGEWING NO. 61/2019/2020)**

Ons verwys na ons skrywe van 25 Maart 2020 en wens soos volg uit te brei tot ons beswaar op die aansoek soos vervat in u skrywe aan MM Donaggi van 28 Februarie 2020.

1. Beperkende voorwaarde C1(1) in Transportakte nr T66779/2015:
Die beperkende voorwaarde moet behoue bly sodat die doel en die karakter van hierdie gedeelte van Yzerfontein as residensiële kUSDorp nie geskend en verydél word nie.
2. Beperkende voorwaarde C1(4) in Transportakte nr T66779/2015:
Ons kliént het nie 'n beswaar teen hierdie opheffing nie.
3. Beperkende voorwaarde C1(4) in Transportakte nr T66779/2015:
Die beperkende voorwaarde moet behoue bly vir die redes soos uiteengesit onder paragraaf 4 hieronder.
4. Straatboulyn verminder van 4m na 1.5m:
Ons kliént maak beswaar hierteen om die volgende redes:
 - 4.1 Die boulyn van 4m is van owerheidsweë vasgestel vir goeie redes en moet behoue bly.

Swemmer & Levin Ingelyf / Incorporated – Nr 1999/007044/21

Est 1918 Gestig

Direkteure/Directors: Jan Myburgh Fourie, B.A. LL.B (STELL); Johann Adriaan Francois Marsé, B.A. LL.B (STELL);
Izak Rudolph Nel, B.A.(STELL) B.Proc (UNISA); Richard De Wet Phillips, B.Com B.Proc (UPE); Pieter Philip Smit, B.A.(STELL) LL.B (NWU-Potchefstroom)
Konsultant / Consultant: Kobus Potgieter, B.Proc (UPE);
Professionele Assisente / Professional Assistants: Johannes Frederik Smith, LL.B (NWU-Potchefstroom); Heinrich Erasmus, LL.B (UV)
Kandidaatprokureurs / Candidate attorneys: Harmann J Potgieter, LL.B (NWU-Potchefstroom)
Ook te / Also at
VREDENBURG Tel (022) 713-2221 | LANGEBAAN Tel (022) 772-2600 | VELDDRIF Tel (022) 783-1001

Op die aangrensende Erf 2119 was daar 'n ou woonhuis uit die 1800 wat so geleë was dat dit op die 4m boulyn oorskry het. Met vervanging van die ou gebou het ons kliënt so onlangs as 1996 aansoek gedoen om die nuwe gebou te plaas op dieselfde ligging as die ou gebou. Ten spyte van die feit dat op Erf 2119 daar 'n bestaande voetspoor was wat op die boulyn oorskry het, was ons kliënt se aansoek afgekeur en moes sy dit so aanvaar.

- 4.2 Kusweg aan die seekant van Erf 2711 en 2119 loop in 'n kurwe op so 'n manier dat motoriste wat Kusweg gebruik se uitsig vorentoe beperk is wat 'n gevaar skep vir voetgangers wat Kusweg wil oorsteek. Die plasing van bouwerk op Erf 2711 buite die huidige 4m boulyn, sal hierdie gevaar aansienlik vererger en publieke veiligheid ernstig in gedrang bring.
- 4.3 Die feit dat Kusweg 'n eenrigting verkeer het van wes na oos vererger gemelde gevaar verder deurdat voertuie vanuit die westelike rigting nie noodwendig aan die linkerkant van die pad ry nie, maar oor die volle breedte van die pad beweeg dit wil sê tot teen die sypaadjie teenaan Erwe 2711 en 2119.

'n Voetganger wat Kusweg vanaf Erf 2119 wil oorsteek sal dus ongeveer slegs 2.5m beweeg voordat 'n motoris vanaf die westekant hom sal kan sien teenoor die 5m met die 4m boulyn. Dit kan die verskil maak tussen lewe en dood.

Goedkeuring van verslapping van die boulyn sal onses insiens die risiko en verantwoordelikheid van hierdie addisionele gevaar voor die deur van alle betrokke partye lê.

- 4.4 Daar is geen nadeel vir die eienaar van Erf 2711 daarin om by die bestaande boulyn van 4m te hou nie. Daarbenewens is daar ook geen noodsaaklikheid uitgemaak om die boulyn van 4m te verslap nie.
- 4.5 Met die 4m boulyn op die voorkant van al die eiendomme in Kusweg volg alle geboue 'n natuurlike lyn soos deur die kuslyn bepaal wat bydrae tot die harmoniese voorkoms van die gebied. Om die 4m boulyn te verslap sal hierdie natuurlike vloei skend.
5. Westelike grens boulyn verminder van 1.5m na 0m.
Die oorspronklike woonhuis op Erf 2711 en die aangrensende Erf 333 was 'n beskeie skakelhuis wat ingepas het by die rustige karakter van die omgewing. Dit het ook nie afbreuk gedoen aan die estetiese voorkoms van die ontwikkeling nie.

Om nou egter 'n hipermoderne kollosale tweeverdieping gebou vas aan die bestaande gebou op Erf 333 te bou sal esteties totaal onaanvaarbaar wees. Die enigste manier om hierdie wanbalans te versag, is om die eiendomme apart te hou as aparte woonplekke. Dan sal elkeen in eie reg sy eie identiteit behou.

Swemmer & Levin Ingelyf / Incorporated – Nr 1999/007044/21

Est 1918 Gestig

Direkteurs/Directors: Jan Myburgh Fourie, B.A. LL.B (STELL); Johann Adrian Franco's Maree, B.A. LL.B (STELL);
Izak Rudolph Nel, B.A. (STELL) B.Proc (UNISA); Richard De Wet Phillips, B.Com B.Proc (UPE); Pieter Philip Smit, B.A. (STELL) LL.B (NWU-Potchefstroom)
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Ook te / Also at

VREDENBURG Tel (022) 713-2221 | LANGEBAAN Tel (022) 772-2600 | VELDDRIF Tel (022) 783-1001

Om die twee geboue op 'n nul boulyn vas aanmekaar te bou, sal 'n addisionele brandgevaar skep wat baie erger is as die brandgevaar met die huidige skakelhuis wat relatief baie kleiner is as die nuwe beoogde gebou.

6. Dekking van 50% verhoog na 58%:
Kliënt het nie beswaar hierteen nie op die uitdruklike basis dat u Munisipaliteit kliënt te alle tye kan verseker dat die 58% nie oorskry word nie.
7. Verdiepinghoogte (grondvloer) verhoog van 3m na 3.06m:
Ons kliënt maak geen beswaar hierteen nie.
8. Gradiëntlyn van plafon verhoog van 6m na 6.7m:
Ons kliënt maak beswaar hierteen om die volgende redes:
 - 8.1 Die huidige hoogte van 6m is van owerheidsweë vasgestel vir goeie redes en moet behoue bly.
 - 8.2 'n 700mm hoër hoogte sal onnodige addisionele skaduwee en koue op ons kliënt se eiendom gooi wat tot nadeel van ons kliënt sal wees.
 - 8.3 Daar is geen nadeel vir die eienaar van Erf 2711 daarin om by die bestaande hoogtebepaling van 6m te hou nie. Daarbenewens is daar ook geen noodsaaklikheid dat hy daarvan afwyk nie.
9. Oorskryding van boulyn op eerste vloervlak:
Ons kliënt maak beswaar hierteen om die volgende redes:
 - 9.1 Oorskryding op die bestaande 1.5m boulyn sal ons kliënt se privaatheid, wat met die 1.5m boulyn al nadelig geaffekteer word, maar wat mens uit die aard van die saak moet aanvaar, baie ernstig verder nadelig affekteer tot totaal nul. Enigiemand wat bo-op die eerstevloer staan buite die huidige 1.5m boulyn sal reg bo-op sy buurman staan waar hy rustig staan en vleisbraai. Dis onaanvaarbaar.

Ook oorskryding op die 4m boulyn aan die voorkant sal ons kliënt se privaatheid erf benadeel deurdat iemand op die eerste verdieping op Erf 2711 dan sal kan terugkyk vanaf die voorkant binne in ons kliënt se woning. Ook dit is onaanvaarbaar.
 - 9.2 Die gevaar van afvalmateriaal vanaf so 'n struktuur op ons kliënt se eiendom is onaanvaarbaar groot.
 - 9.3 Dit sal buitengewoon koue skaduwee en donkerte op ons kliënt se eiendom veroorsaak.

Swemmer & Levin Ingelyf / Incorporated – Nr 1999/007044/21

Est 1918 Gestig

Direkteure/Directors: Jan Myburgh Fourie, B.A. LL.B (STELL); Johann Adrian Franco's Maree, B.A. LL.B (STELL);
Izak Rudolph Nel, B.A.(STELL); B.Proc (UNISA); Richard De Wet Phillips, B.Com B.Proc (UPE); Pieter Philip Smit, B.A.(STELL) LL.B (NWU-Potchefstroom)
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Kandidaatprokureurs / Candidate attorneys: Harmann J Potgieter, LL.B (NWU-Potchefstroom)

Ook te / Also at

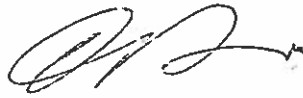
VREDENBURG Tel (022) 713-2221 | LANGEBAAN Tel (022) 772-2600 | VELDDRIF Tel (022) 783-1001

10. Brandgevaar
Ten spyte wat reeds hierintevore gemeld is, wys ons daarop dat bykans al die versoeke tot opheffing of afwyking ernstige gevolge sal inhou vir die brandgevaar op die eiendomme in die omgewing. Op 'n plek soos Yzerfontein waar die munisipale brandbestrydings fasiliteite baie beperk of afwesig is, is dit 'n ernstige aspek.

Ons verneem graag van u.

Die uwe
SWEMMER & LEVIN

Per:



a.a Mnr U Donaggi

Swemmer & Levin Ingelyf / Incorporated - Nr 1999/007044/21

Est 1918 Gestig

Direkteure/Directors: Jan Myburgh Fourie, B.A. LL.B (STELL); Johann Adrian Francois Maree, B.A. LL.B (STELL);
Izak Rudolph Nel, B.A.(STELL) B.Proc (UNISA); Richard De Wet Phillips, B.Com B.Proc (UPE); Pieter Philip Smit, B.A.(STELL) LL.B (NWU-Potchefstroom)
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Kandidaatprokureurs / Candidate attorneys: Harmann J Potgieter, LL.B (NWU-Potchefstroom)

Ook te / Also at

VREDENBURG Tel (022) 713-2221 | LANGEBAAN Tel (022) 772-2600 | VELDDRIF Tel (022) 783-1001

ANNEXURE F

From: robert@malmesburytoyota.co.za <robert@malmesburytoyota.co.za>

Sent: Monday, 08 April 2024 17:04

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

Subject: Voorgestelde afwyking van ontwikkelingsparameters erf 2119 verwysing 15/3/4-14Erf _2119

VIR AANDAG DIE MUNISIPALE BESTUURDER:

Hiermee teken ons beswaar aan tov voorgestelde afwykingsaansoek soos bo genoem. Weereens word daar 'n presedent geskep itv dekkingafwyking na 51.2m indien goedgekeur. Verdermeer verwys die plan na 'n balkon van die nuwe slaapkamer op die motorhuis wat suid wys wat ons heeltemal van ons privaatheid sal ontnem aangesien dit die area is waar ons buitentoe leef

GW ORCHARD 36 MAINROAD YZERFONTEIN 7351

0837750402 en kommunikasie via e-pos

Groete

Namens GW

ORCHARD

ROBERT ORCHARD
CEO And Director

robert@malmesburytoyota.co.za
www.malmesburytoyota.co.za
C: 083 775 0402

88 Voortrekker Road, Malmesbury, 7300

MALMESBURY | 
TOYOTA |
YOUR JOURNEY, OUR PROMISE

MalmesburyToyota  

ANNEXURE G

Die Munisipale Bestuurder
Privaatsak X52
Malmesbury
7299
4 April 2024

Geagte

DIE AANSOEK OM AFWYKING VAN ONTWIKKELINGSPARAMETERS OP ERF 2119, YZERFONTEIN, ingevolge artikel 25(2)(b) van Swartland Munisipaliteit : Verordening insake Munisipale grondgebruik beplanning (PK 8226 van 25 Maart 2020), is ontvang.

Die volgende afwykings word voorgestel:

- Afwyking van dekking van 50% na 51.2%;
- Afwyking van 4m straat boulyn na 1m en 1.88 onderskeidelik op grond- en eerstevloer vlak;
- Afwyking van die 1.5m syboulyn (oostelike grens) na 1m op grond- en eerstevloer vlak;
- Afwykinge ten einde bouwerke op eerstevloervlak binne boulyne toe te laat.

My verweer en kommentaar op hierdie aansoek 15/3/4-14/erf_2119, Erf 2119 Yzerfontein, word gedoen eerstens as geaffekteerde persoon; tweedens as Trustee van die Smit Familie Trust; en derdens as begunstigde van die Smit Familie Trust, eienaar Erf 2122, Yzerfontein.

My verweer en kommentaar op bostaande aansoek is as volg:

1. Afwyking van dekking van 50% na 51.2%:

Verwys na *Provinsie Wes-Kaap Buitengewone Spesiale Koerant. 8226 gedateer 25 Maart 2020:*

Residensiële sone 1: lae digtheid (R1)

“Die doel met hierdie sone is om lae tot medium digte residensiële ontwikkeling op relatiewe groot erwe te voorsien en om die kwaliteit en karakter van sulke gebiede te beskerm. Beperkte werkverskaffing en addisionele akkommodasie- geleenthede is moontlik as primêre en vergunningsgebruike, op voorwaarde dat die dominante gebruik van die

grond residensieel bly en die impak van sulke gebruike nie die omliggende residensiële omgewing negatief beïnvloed nie”

Dit is duidelik dat die beperkende voorwaarde soos hierbo omskryf juis bestaan om die lae digtheid sone te beskerm. Die onlangse goedkeuring deur Swartland Munisipaliteit vir oorskryding van hierdie beperkende voorwaarde op Erf 2123 aan die oostekant van Erf 2122 skep nou n presedent. Omliggende eienaars verwag dat dieselfde opheffing van beperkende voorwaardes aan hul toegestaan word. Die gevolg dat hierdie area besig is om te kruip na sone 2.

Ek staan hierdie aansoek vir oorskryding teen met redes soos hierbo genoem.

2. Afwyking van 4m straat boulyn na 1m en 1.88 onderskeidelik op grond- en eerstevloer vlak.

Sien hierby aangeheg **Aanhangsel “A”**: goedgekeurde bouplan vir ontwikkeling van Erf 2122 (voorheen 332) wat ook die posisie van woonhuis op Erf 2119 aandui.

Die woonhuise op Erwe 2122 en 2119 is tesame ontwikkel.

Sien ook **Aanhangsel “B”**: Landmeter Generaal diagram van Erf 332 – nou Erf 2122.

Die stelling van die aansoeker dat hierdie aansoek deels is om ‘bouers foute’ reg te stel, is misleidend. Geen bouer sal onwetend en as ‘n fout ‘n woonhuis 4m oor n boulyn en selfs op munispale grond bou nie. Dit blyk eerder te wees dat die eienaar die woonhuis nader aan die see wou bou tot eie voordeel, bv om groter parkeer ruimte te skep aan die suide/agter kant van sy woonhuis op Erf 2119. Hierdie oorskryding is op een of ander wyse oorgesien deur Swartland Munisipaliteit.

Hoewel die terugbreek van die bestaande oorskryding te wense is, moet alle nuwe bouwerk egter binne die voorgeskrewe ontwikkelings parameters bly. Oorskrydings op bestaande oorskrydings kan nie toegestaan word nie.

Ek staan hierdie aansoek teen vir redes soos hierbo genoem.

3. Afwyking van die 1.5m syboulyn (oostelike grens) na 1m op grond- en eerstevloer vlak.

Die onlangse goedkeuring van aansoek om oorskryding van 1.5m aan die westelike grens van Erf 2123 (oostelike grens van Erf 2122) tot 0m en 1m boulyn op grondvlak deur Swartland Munisipaliteit, het tot gevolg dat die eienaars van Erf 2122 letterlik geen toegang op hul erf van voor na agter het nie. Die oostelike kant van Erf 2122 is nou ontoeganklik; en aan die westelike kant is toegang slegs moontlik oor Erf 2119. Verdere vernouing van hierdie loopgang is tot nadeel van die inwoners van Erf 2122, maar ook Erf 2119.

Oorskryding van 0.5m op grond- en eerstevloer vlak veroorsaak n verdere ingehokte gevoel wat geaksensueer word deur die oorskrydings onlangs toegestaan op Erf 2123. Hierdie verhoging van digtheid is nie wenslik in 'n area waar duur seefront erwe ontwikkel word nie, en het n lang termyn nadelige effek op die waarde van eiendomme in die area.

Verwys *Provinsie Wes Kaap Buitengewone Spesiale Koerant, 8226 gedateer 25 Maart 2020*:

"...’n ander toegang as deur ’n gebou, minstens 1m breed, van ’n straat na elke ander onbeboude gedeelte van die betrokke grondeenheid, uitgesonderd ’n binnehof, voorsien word."

Sien **Aanhangsel "C"** wat duidelike uiteensetting van boulyne en toegang rondom die woonhuis op Erf 2122 aantoon.

Erfpenne is eers in 2004 met ander woorde 3 jaar na konstruksie van die wonings op Erwe 2119 en 2122 geplaas, teenstrydig met die goedgekeurde bouplanne. Swartland Munisipaliteit kan dus nie nou oorskrydings van boulyne toelaat op reeds benadeelde boulyne nie. Dit is tot nadeel van al 3 erwe – 2119; 2122; en 2123. Dit veroorsaak ook 'n presedent vir toekomstige aansoeke vir ontwikkeling en oorskryding.

Ek staan hierdie aansoek teen vir die redes hierbo genoem.

4. Afwykinge ten einde bouwerke op eerstevloer vlak binne boulyne toe te laat.

Voornemende bouwerke binnekant van woning op Erf 2119 is nie volledig omskryf nie en ek kan dus nie kommentaar daarop lewer nie.

Alle binne bouwerk moet binne die beperkende voorwaardes gedoen word soos uiteengesit in die *Provinsie Wes Kaap Buitengewone Spesiale Koerant*, 8226 gedateer 25 Maart 2020.

Groete,

Ilze Smít

22 April 2024

Die Senior Bestuurder: Bou-omgewing
Swartland Munisipaliteit
Malmesbury

Vir aandag: Alwyn Burger

My verw: CP23-2119-01.1
U verw: 15/3/4-14/Erf_2119E-pos: alwynburger@swartland.org.za**ANTWOORD OP BESWARE: VERSLAPPING VAN BOULYNE EN DEKKING OP
ERF 2119, YZERFONTEIN**

Hierdie antwoord op drie besware teen 'n aansoek vir geringe afwykings op 'n voorgestelde bouplan vir Erf 2119, Yzerfontein, soos ingesluit in u geskrewe versoek van 12 April 2024, word namens die Danoggi familie voorsien.

Die doel van die aansoek is om geringe verslappings van boulyne en die oorskryding van die voorgeskrewe dekking op Erf 2119, Yzerfontein (sien Figuur 1) ingevolge die Verordeninge insake Munisipale Grondgebruikbeplanning, 2020 te motiveer. Die aansoek is vir:

1. Verhoging van dekking met 0,4%.
2. Verslapping van die straatboulyn langs 'n diagonale lyn van 4m na 1,882m van die straatgrens aan die westelike kant en 1,0m aan die oostelike kant.
3. Verslapping van gedeeltes van die syboulyn langs Erf 2122 van 1,5m na 1m op grondvloer- en eerstevoervlakke.
4. Toestemming vir bouwerk binne boulyne op eerstevoervlak (herhaal eintlik #2 en #3).

Figuur 1: Ligging van Erf 2119, Yzerfontein



1. ARTIKEL 60 VEREISTES

Artikel 60(4) van die Verordeninge insake Munisipale Grondgebruikbeplanning van 2020 vereis die volgende van beswaarmakers om te verseker dat die munisipaliteit se besluitnemende prosedures regverdig is, dat rasonale en wettige besluite geneem word en die munisipaliteit nie sy magte oorskry nie:

- (a) die feite en omstandighede aan te dui wat die kommentaar verduidelik;
- (b) waar ter sake, die ongewenste uitwerking wat die aansoek sal hê indien dit goedgekeur word, uit te lê;
- (c) waar ter sake, enige aspek van die aansoek uit te lê wat nie bestaanbaar met die toepaslike beleid geag word nie; en
- (d) die aansoeker in staat te stel om op die kommentaar te antwoord.

Die (b) gedeelte vereis dat 'n beswaarmaker die omvang van die ongewenste uitwerking op sy eiendom, indien nuwe regte goedgekeur sou word, moet verduidelik in meetbare proporsies (*dit uit te lê*). Wanneer 'n beswaarmaker nie aan hierdie vereiste voldoen nie mag die besluitnemer dit geïgnoreer.

Na aanleiding van Figuur 4, sou die eienaar van Erf 333 byvoorbeeld, destyds kon beswaar maak teen die 2020 aansoek van Erf 2711 omrede die verslapping van die syboullyn saamgelees met die vertikale dimensie van die grensmuur aan daardie kant, 'n middag skaduwee sou gooi oor ongeveer 35% van Erf 333. Die eienaar van Erf 333 sou die ongewenstheid hiervan in meetbare terme kon verduidelik en die aansoeker so in staat stel om alternatiewe voorstelle te maak om hierdie impak te versag. Die toets in so 'n proses is of remediërende stappe suksesvol geneem kan word.

2. DIE BESWARE

Die motivering van 30 November 2023 gee 'n kort oorsig van die geskiedenis van Erf 332 van 1125m² wat in drie erwe verdeel is (waarvan Erwe 2119 en 2122, onderskeidelik die aansoeker en een van die beswaarmakers, deel is) en dat beperkende titelvoorwaardes in ongeveer 2002 vir al drie die erwe opgehef is. Die veronderstelling is dat bouwerk op Erf 2711 nie sonder 'n soortgelyke proses van opheffing van titelbeperkings moontlik sou wees nie (*dit het in ±2020 gebeur*). Enige verwysing na beperkende titelvoorwaardes deur die beswaarmakers is gevolglik irrelevant in hierdie aansoek. Daar is geen rede om weer vir die opheffing van beperkende voorwaardes aansoek te doen nie. Dit is afgehandel.

Tabel 1 som die besware op met die nommers van 1 tot 4 wat die vier aansoek tipes verteenwoordig soos op bladsy 1 uiteengesit.

Tabel 1: Waarteen beswaar gemaak word

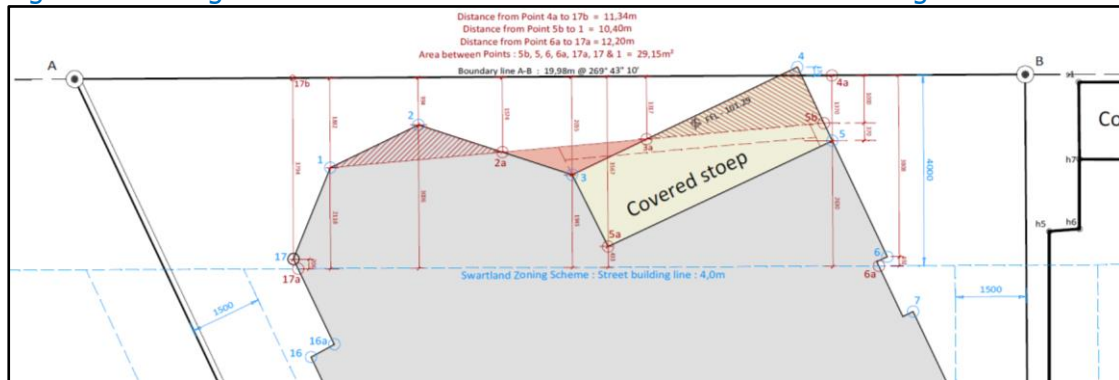
NR	AANSOEK	ERF 196	ERF 2122	ERF 2711	OPMERKINGS
1	Dekking	√	√	√	Dit gaan oor 1,592m ²
2	Straatboullyn		√	√	
3	Syboullyn	√	√		
4	Bouwerk bo grondvloer		Sien opmerking	√	Erf 2122 verstaan nie hierdie punt nie, daarom geen beswaar.

Die tweede beswaar handel oor die straatboulyn waar die aansoeker eintlik volgens Figuur 6b uit die aansoek onderneem om strukture af te breek en terug te skuif. Die gedeelte tussen punte 2a, 3a en 3 is wel uitbreiding, maar dit is minder as die twee gedeeltes wat afgebreek word. Daar is geringe kompensasie hiervoor op die eerste vloer en die waarskynlikheid is dat hierdie beswaar hoofsaaklik oor die voorstel op die eerste verdieping handel en nie 'n beswaar teen die goedgunstelige terugskuif van strukture op grondvlak is nie. Beswaar teen die afbreek van strukture soos in Figuur 6b uiteengesit, kan soos 'n opsetlike doel in jou eie doelhof vertolk word.

Accidental own goals are common in the game but deliberate own goals are a rarer occurrence and unsurprisingly frowned upon. It can be difficult to discern what constitutes a deliberate own goal and hard to prove but they tend to be linked with underhand activities such as match-fixing.

By its very nature an own goal is a counter-productive thing and, interestingly, the term has slipped into general use outside of football to denote when something has backfired on an individual or a group.

Figuur 6b: Voorgestelde see fasade vir die woonhuis na onderhandelings met die bure



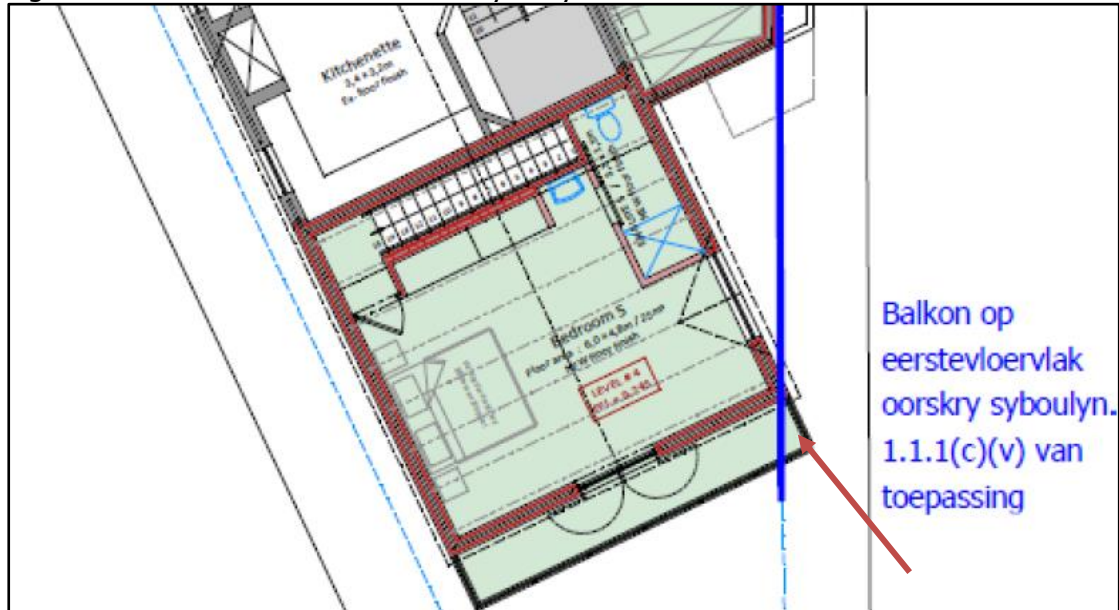
1.1 Erf 196

Die eienaar van Erf 196 bly op Hoofweg en hy maak beswaar dat die goedkeuring van 1,592m² addisionele dekking op 'n erf waarvan hy nie veel meer as die smal agterkant en die dak kan sien nie, 'n presedent sal skep. Die huidige dekking op Erf 2119 is 202,184m² (50,8%) en die voorgestelde dekking is 203,776m² (51,2%). Hy beweer gevolglik dat 1,592m² addisionele dekking op Erf 2119 'n presedent sal skep en hom sy privaatheid sal ontnem.

Hy maak verder beswaar teen die klein gedeelte van die nuwe balkon in die syboulyn bokant die garage (sien die blou lyn wat die syboulyn verteenwoordig en die klein driehoek van die balkon aangedui met 'n rooi pyl in Figuur 2). Indien die aansoeker hierdie stukkie van die balkon sou weglaat en nie meer aansoek doen vir die afwyking nie, sal dit niks verander aan die privaatheid waaroor die beswaarmaker besorg is nie.

Die beswaarmaker eien homself 'n reg toe van uitsig wat hy nie self aan 'n laerliggende erfeienaar wil gun nie. Dis onredelik, want met die uitsondering van die klein driehoek, is die res van die balkon buite boulyne en binne die regte van die eienaar van Erf 2119.

Figuur 2: Klein stukkie balkon in die syboullyn



2.2 Erf 2122

Punt 1 van die beswaar van Erf 2122 is 'n pleidooi om die relatiewe groot erwe van die lae digtheid residensiële sone te "beskerm". Maar, Erf 2122 was deel van die onderverdelingsproses van ongeveer 2002 toe Erf 332 van 1125m² in drie erwe onderverdeel is. Die beswaarmaker se beskrywing van erwe van 398m² en 419m² as groot woonerwe tipies van lae digtheid woonbuurte moet met 'n knippie sout gelees word. Dit lyk of die een erfgenaam wat direk bevoordeel is in die proses van onderverdeling, nie meer saamstem met die gevolge van onderverdeling nie. Die beswaarmaker sukkel moontlik om die paradigmaskuif te maak van die werklikhede wat hierdie onderverdeling meebring en dit beïnvloed waarskynlik haar nugtere oordeelsvermoë.

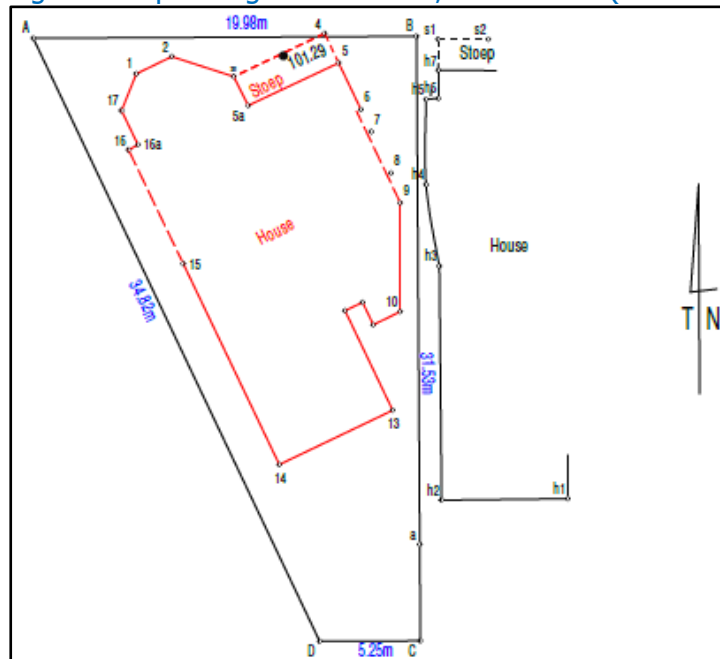
Punt 3 van hierdie beswaar is teen die verslapping van die syboullyn wat volgens Figuur 2 (hierbo) net die klein driehoek van die balkon en die hoek van die garage verlenging behels (by punt 13 in Figuur 5). Figuur 5 kom uit die motivering van 30 November en wys dat die beswaarmaaker nie op sy eie erf langs die grens van Erf 2119 van noord na suid kan beweeg nie agv die verslapping van die syboullyn by punte h5 en h6. Erf 2119 handhaaf 'n 1,5m syboullyn tussen punte 14 tot 16 aan die westekant en tussen punte 9 en 10 in Figuur 5 is die geboue 1m weg van die erfrens. Die beswaarmaker eien haarself 'n reg toe om 'n boulynverslapping teen te staan, terwyl 'n soortgelyke verslapping aan haar eiendom toegestaan is. Boonop verwag sy dat die aansoeker die syboullyn moet handhaaf sodat die beswaarmaker oor die aansoeker se erf kan loop tussen voor en agter. Dis hoogs aanmatigend en selfsugtig terwyl Erf 2122 die een is wat 'n presedent geskep het in hierdie opsig.

1.3 Erf 2711

Hierdie beswaar is in Engels en word vryelik vertaal en opgesom vir doeleindes van die hele aansoek. Die eerste beswaar volgens paragraaf 10 van die brief is dat die aansoeker nie die aansoek mag indien nie. Klousule 28(1)(a) van die Verordeninge insake Munisipale Grondgebruikbeplanning, 2020 laat grondeienaars toe om aansoek te doen vir permanente afwykings van die ontwikkelingsparameters van 'n sonering.

Die punt is reeds verwerp toe die munisipaliteit die aansoek aanvaar het nadat 'n aansoekfooi betaal is en dit geadverteer het vir besware en intern gesirkuleer het vir departementele kommentaar.

Figuur 5: Opmeting van Erf 2119, Yzerfontein (uit motivering)



Verder beweer die beswaarmaker in paragraaf 11 dat 'n toegewing op dekking (van 1,592m²) die natuurlike lig (natural light), eiendoms waarde en sy gebruiksreg, plesier en pret na/van sy eiendom nadelig sal beïnvloed. Hy gee egter geen aanduiding van die mate waartoe dit sal plaasvind nie. Indien die dekking op die erf met 0,4% gaan toeneem, aanvaar die aansoeker dat die waarneembare effek moontlik ook in die orde grootte van 0,4% mag wees. Aangesien die syboullyn op Erf 2711 reeds deur die bevoegde gesag verslap is, verwag die aansoeker dat dieselfde oorweegreds sal geld met hierdie aansoek en dat die beswaarmaker se bekommernis oor natuurlike lig en eiendoms waarde nie eers relevant is nie.

Die verslapping van die straatboullyn (die bedoeling is waarskynlik net op eerstevloervlak) sal volgens die beswaarmaker uitsig na die hoofstrand beperk, die eiendoms waarde van Erf 2711 nadelig beïnvloed en 'n presedent skep. Hy voorsien geen bewyse hiervoor nie.

Betreffende die straatboullyn, heg die beswaarmaker 'n 2020 brief aan waarin die aansoeker opvolg kommentaar lewer op 'n bouplanaansoek van Erf 2711 (die beswaarmaker). Daar is 9 items in daardie aansoek en die brief ondersteun 3 en maak beswaar teen 6 items. Die eienaar van Erf 2119 ondersteun ondermeer die verhoging van dekking van 50% na 58% en dat gebouhoogte verslap mag word. Die brief maak beswaar teen die verslapping van die syboullyn of Erf 2711 van 1,5m na 0m, maar dit blyk onsuksesvol te wees want die munisipaliteit het dit oplaas goedgekeur.

Dit wil voorkom of vergelding vir die 2020 beswaarpunte deel uitmaak van die motivering agter hierdie beswaar want die beswaarmaker gun sy buurman nie dieselfde of soortgelyke toegewings as wat hy ontvang het nie.

3. LUGFOTO-STUDIE

Dit is belangrik om die breër konteks van enige aansoek te verstaan. Figuur 3 verduidelik hoe die stedelike morfologie van hierdie gedeelte van die strandfront sedert ongeveer die jaar 2000 verander het. Dis ewe belangrik om te verstaan dat daar reeds voor die ontstaan van die dorp in 1937 geboue opgerig kon gewees het (in alle waarskynlikheid is die oorspronklike gebou op Erf 2119 voor 1900 opgerig).

Figuur 3: Morfologie van die strandfront 2000 tot 2023



Die een opmerkbare verskil uit 'n stedelike ontwerp oogpunt is dat geen een van die geboue 'n skaduweebeeld gooi oor 'n aanliggende gebou nie, met die uitsondering van die 2021 foto. Een van die huise reageer nie op 'n sensitiewe wyse op die bestaande straatlandskap (gebou hoogte, omvang, plasing oor die hele erf, die voortsetting van vertikale en horisontale ritmes en die styl van aanliggende geboue) nie.

Hierdie huis forseer liniêre, ondeurdringbare fisiese versperrings, skep karakterlose fasades en skreiende ongemak. Dit is duidelik dat die nuwe huis op Erf 2711 die status quo, identiteit, harmonie, tradisionele en intrinsieke waarde, karakter, permeabiliteit of deursigtigheid en die natuurlike ontwikkelingsproses bedreig en die waarde van die ander eiendomme in die straat ondermyn.

Die karakter-vernietigende bouplan, gegewe die negatiewe impak op die aanliggende huise en die publieke ruimte, moes in alle waarskynlikheid nooit goedgekeur gewees het nie want dit pas nie by die res van die straatlandskap in nie.

Dit het 'n transformerende en vernietigende impak op die ander huise al langs die seefront. Die oordonderende aard van die gebou op Erf 2711 word doeltreffend geïllustreer in Figuur 4 en die skaduwee-effek op Erf 333 is duidelik sigbaar.

Figuur 4: Huidige situasie



4. FOTO-STUDIE

Aanvullend tot die morfologiese gang van ontwikkeling, kan profiel-foto's ook bydra om die breër konteks te verstaan. Figuur 5 illustreer die onsensitiewe 0m syboullyn aan die ander kant van Erf 2119 wat die vertikale ritme in die straatlandskap versteur met 'n liniêre, ondeurdringbare fisiese versperring wat 'n karakterlose fasade en skreiende ongemak skep. Dit plaas ook die bewering dat die verslapping van die straatboullyn die beswaarmaker se uitsig op die hoofstrand sal beperk in die regte perspektief (sien paragraaf 12.2 in beswaar). Geen bewys vir hierdie stelling is by die beswaar ingesluit nie. Figuur 5 bewys die teendeel.

Figuur 5: Ongemak van 'n liniêre, ondeurdringbare fisiese versperring



Figuur 6, saamgelees met Figuur 3, illustreer dat die drie huise min of meer in 'n reguit lyn ten opsigte van mekaar geplaas is. Die voorgestelde straatboullyn op Erf 2119 wil hierdie straatfrontlyn nog meer reguit maak deur strukture af te breek en op ander plekke in te vul.

Figuur 6: 'n Reguit straatfrontlyn



Figuur 7 bevestig dat Erf 194 (siersteenhuis) onbelemmerde seeuitsig het bo-oor die dakke van die onderste huise. Figuur 8 illustreer hoe die daklyn van Erf 2711 die dakprofiel van die onderste ry huise versteur en Figuur 9 is 'n ou foto van hoe die 3 eiendomme in die verlede langs mekaar gelyk het. Beide Erwe 2122 en 2711 is intussen aangepas. Nog foto's is op bladsye 16-19.

Figuur 7: Onbelemmerde seeuitsig



Figuur 8: Dakprofiel versteur die matige daklyn



Figuur 9: Ou foto van straatfront



5. CIMCHA TRUST

Die Stadsraad van Kaapstad het 'n eenparige uitspraak in die sogenaamde Simcha saak, geskryf deur Regter Theron van die Konstitusionele Hof in Februarie 2019, verloor. Die 2 aansoeke (CCT125/18 en CCT 128/18) handel oor die regte vertolking van die diskwalifiserende faktore in Artikel 7(1)(b)(ii)(aa) (in hierdie geval - afbreuk sal doen aan die waarde van aangrensende eiendomme) in die wettige verwagtinge toets van die Nasionale Bouregulasies, Wet No. 103 van 1977.

In die geval van Simcha Trust het die Boubeheerbeampte verkeerdlik besluit dat voldoening aan die Soneringskema voldoende motivering is om 'n bouplan goed te keur. Hy het nagelaat om die diskwalifiserende faktore in Artikel 7(1)(b)(ii)(aa) in oorweging te neem. Die Boubeheerbeampte moet, alvorens hy 'n bouplan goedkeur, uiters tevrede (positively satisfied) wees dat die bouplan nie afbreuk sal doen aan die waarde van aangrensende eiendomme nie (of dit onaansienlik of steurend is – unattractive or intrusive) soos gesien uit die oogpunt van die aangrensende erfeienaars. Die doel van die wettige verwagtinge toets is om te verseker dat dorpsgebiede harmonieus, veilig en doeltreffend ontwikkel in belang van al die inwoners.

STAATSKOERANT, 6 JULIE 1977		No. 5640	11
WET OP NASIONALE BOUREGULASIES EN BOUSTANDAARDE, 1977.		Wet No. 103, 1977	
<p>7. (1) Indien 'n plaaslike bestuur na oorweging van 'n aanbeveling bedoel in artikel 6 (1) (a)—</p> <p>(a) oortuig is dat die betrokke aansoek aan die vereistes van hierdie Wet en enige ander toepaslike wet voldoen, moet hy binne 30 dae na ontvangs van daardie aansoek sy goedkeuring ten opsigte daarvan verleen;</p> <p>(b) (i) nie aldus oortuig is nie; of</p> <p>(ii) oortuig is dat die gebou waarop die betrokke aansoek betrekking het—</p> <p>(aa) op so 'n wyse opgerig sal word of van so 'n aard of voorkoms sal wees dat—</p> <p>(aaa) die omgewing waarin dit opgerig gaan word waarskynlik of inderdaad daardeur ontsier sal word;</p> <p>(bbb) dit waarskynlik of inderdaad onoglik of aanstootlik sal wees;</p> <p>(ccc) dit waarskynlik of inderdaad afbreuk sal doen aan die waarde van aangrensende of naburige eiendomme;</p> <p>(bb) waarskynlik of inderdaad gevaarlik vir lewe of eiendom sal wees,</p> <p>moet daardie plaaslike bestuur, binne 30 dae na ontvangs van daardie aansoek, weier om sy goedkeuring ten opsigte daarvan te verleen en redes vir sodanige weiering verstrek:</p>	<p>'n Goedkeuring deur plaaslike bestuure ten opsigte van oprigting van geboue.</p>		

Die bouplan van Erf 2711 is op een of ander wyse goedgekeur, waarskynlik sonder dat al die relevante faktore in die wettige verwagtinge toets een-vir-een oorweeg is, maar dit is nou water onderdeur die brug. Die goedkeuring van hierdie bouplan (Erf 2119) kan na afhandeling van hierdie aansoek aan die wettige verwagtinge toets van uitsers tevrede wees (oor die bouplan) onderwerp word – dat dit nie onaansienlik of steurend is nie (disfiguring, objectionable or unsightly). In vergelyking, die voorstelle vir Erf 2119 sal nie die status quo, identiteit, harmonie, tradisionele en intrinsieke waarde, karakter, permeabiliteit of deursigtigheid en die natuurlike ontwikkelingsproses bedreig of die waarde van die ander eiendomme in die straat ondermyn nie.

6. KOMMENTAAR OP DIE BESWARE

Elke beswaarmaker, om te slaag in sy aksie, het volgens die inhoud van paragraaf 1 in hierdie skrywe 'n regsplig om voldoende en meetbare redes te gee van die omvang van die ongewenste uitwerking van die aansoeker se voorstelle op sy eiendom.

6.1 Dekking

Opgesom gaan die beswaar teen die verslapping van dekking - dat dit 'n presedent mag skep, dit die karakter van 'n lae digtheid woonbuurt gaan verander, dit natuurlike lig sal blokkeer en gevolglik eiendoms waarde negatief sal beïnvloed. Op een of ander manier het die eienaars van Erf 2711, 2119 en 2122 in die verlede voordeel getrek uit soortgelyke goedkeurings wat hulle addisionele regte gegee het, selfs meer as waarvoor die eienaar van Erf 2119 nou aansoek doen (aansoek vir 58% dekking op Erf 2711).

Beswaarmaak gaan egter nie net oor die opstel van 'n inkopielys van vae bewerings nie. Die verlies wat verwag word moet uiteengesit word in meetbare terme. Nie een van die 3 besware voldoen hieraan nie. Waarskynlik omrede dit onmoontlik is om die direkte meetbare verlies van 'n eksta 1,592m² dekking te bepaal op natuurlike lig en eiendoms waarde. Hulle kon ook nie enige afwykings van beleid of prosedures uitwys of uitdaag nie.

Gevolglik misluk die beswaarmakers om rasionele kritiek, hulp met die formulering van toepaslike voorwaardes, of bemagtigtende inligting aan die aansoeker en die besluitnemers te verskaf ten einde by 'n beter uitkoms wat almal tevrede kan stel uit te kom. Daarby moet elke aansoek op eie meriete en wenslikheid oorweeg word en hier fouteer die beswaarmakers want die aansoeker verduidelik in eenvoudige taal wat die besluitnemers alles moet oorweeg voor 'n rasonale besluit geneem word (sien hoofstukke 4 tot 8 in die motivering van November 2023).

6.2 Straatboulyn

Dit is duidelik dat die 2 beswaarmakers jaloers waak oor hul seeuitsig en dat hulle nie eers beseft dat hulle 'n eie doel aanteken met die beswaar nie. Daar kan min of meer 'n reguit lyn getrek word op die straatfront van die drie huise (sien Figuur 4). Indien hierdie straatboulyn aanpassing goedgekeur word sal dit nie een van die 3 eienaars 'n onregverdigde voorsprong of nadeel gee nie. Teenstrydig met die bewering dat die straatboulyn-aansoek die uitsig van Erf 2711 op die hoofstrand mag benadeel, wys Figuur 5 die teendeel. Daarby is al drie erwe se primêre uitsig reguit noord en kan dit nie van enige van die beswaarmakers weggeneem word met hierdie aansoek nie.

Beswaarmaak gaan nie net oor die opstel van 'n inkopielys van vae bewerings nie. Die verlies wat verwag word moet uiteengesit word in meetbare terme. Nie een van die 2 besware voldoen hieraan nie. Waarskynlik omrede dit onmoontlik is om die direkte meetbare verlies van die straatboulyn-voorstel te bepaal op natuurlike lig en eiendoms waarde. Die beswaarmakers kon ook nie enige afwykings van beleid of prosedures uitwys of uitdaag nie.

Gevolglik misluk die beswaarmakers om rasionele kritiek, hulp met die formulering van toepaslike voorwaardes, of bemagtigtende inligting aan die aansoeker en die besluitnemers te verskaf ten einde by 'n beter uitkoms wat almal tevrede kan stel uit te kom.

Daarby moet elke aansoek op eie meriete en wenslikheid oorweeg word en hier fouteer die beswaarmaker want die aansoeker verduidelik in eenvoudige taal wat die besluitnemers alles moet oorweeg voor 'n rasonele besluit geneem word.

6.3 Syboullyn

Indien die 2 beswaarmakers die inligting in Figuur 2 goed bestudeer, sal hulle moontlik besef hoe lagwekkend die beswaar teen 'n klein voorgestelde driehoekie in die syboullyn is. Dit lyk of die eienaar van Erf 2711 albei sygrense verslap gekry het na 0m op grond en eerstevloervlak. Die eienaar van Erf 2122 het die syboullyn (sien die inset van Figuur 5 uit die motivering) langs Erf 2119 ook afgeknyp en moet oor Erf 2119 loop om tussen voor en agter op sy erf te beweeg. Die beswaar gaan moontlik daaroor dat dit nou nie meer moontlik mag wees nie. Albei hierdie besware is kortsigtig, selfsugtig en aanmatigend.

Beswaarmaak gaan nie net oor die opstel van 'n inkopielys van vae bewerings nie. Die verlies wat verwag word moet uiteengesit word in meetbare terme. Nie een van die 2 besware voldoen hieraan nie. Hulle gun iemand anders nie dit wat hulle reeds gekry het nie en beweer dan die toestaan van die syboullynverslapping sal hul eiendoms waarde benadeel. Die beswaarmakers kon ook nie enige afwykings van beleid of prosedures uitwys of uitdaag nie.

Gevolgtik misluk die beswaarmakers om rasionele kritiek, hulp met die formulering van toepaslike voorwaardes, of bemagtigende inligting aan die aansoeker en die besluitnemers te verskaf ten einde by 'n beter uitkoms wat almal tevrede kan stel uit te kom. Daarby moet elke aansoek op eie meriete en wenslikheid oorweeg word en hier fouteer die beswaarmakers want die aansoeker verduidelik in eenvoudige taal wat die besluitnemers alles moet oorweeg voor 'n rasonele besluit geneem word (sien hoofstukke 4 tot 8 in die motivering).

6.4 Bouwerk in boulyne bo grondvlak

Net 1 beswaar is teen hierdie aspek ontvang en is grootliks 'n herhaling van die inhoud van paragrawe 6.2 en 6.3, waarmee dit oorvleuel, hoewel dit net op die eerste verdieping betrekking het. Gevolgtik misluk die beswaarmaker weer om rasionele kritiek, hulp met die formulering van toepaslike voorwaardes, of bemagtigende inligting aan die aansoeker en die besluitnemers te verskaf ten einde by 'n beter uitkoms wat almal tevrede kan stel uit te kom. Daarby moet elke aansoek op eie meriete en wenslikheid oorweeg word en hier fouteer die beswaarmakers want die aansoeker verduidelik in eenvoudige taal wat die besluitnemers alles moet oorweeg voor 'n rasonele besluit geneem word (sien hoofstukke 4 tot 8 in die motivering).

7. ALGEMENE KOMMENTAAR

Die aansoeker het moeite gedoen om die potensiële beswaarmakers in die motivering te lei na die korrekte evaluering van die 4 aansoek-tipes. Dit sluit in:

'n Soneringskema is volgens die Verordeninge insake Munisipale Grondgebruikbeplanning, 2020 'n instrument om geördende ontwikkeling en die welstand van elke woonbuurt of dorp (klousule 14(b)) te verseker deur onder andere grondgebruiksregte te reguleer (14(c)) en om toekomsgerigte (14(a)), effektiewe, volhoubare en ekonomiese aanwending van grond (14(e)) te verseker. Dit word ondersteun deur nasionale, provinsiale en munisipale beginsels en beleid (14(d)).

'n Soneringskema waak verder ook oor die omgewing en die impak van ontwikkeling (14(f)) deur seker te maak dat algemene beginsels van grondgebruiksregte en ontwikkelingsparameters ingesluit word by grondgebruikbesluite (14(g)).

Die Swartland soneringskema sluit algemene reëls vir ontwikkeling in wat in sekere gevalle beperkend is. Dit sluit boulyne, die persentasie van 'n erf wat bebou mag word en hoogtebeperkings in. Hierdie reëls skep 'n mate van sekerheid en gemoedsrus tussen erfeienaars oor wat hulle kan verwag langsaan hulle huise gebou mag word. Enige oorskryding of afwyking van hierdie algemene reëls kan nie plaasvind sonder die vooraf medewete van ander erfeienaars wat moontlik op een of ander manier daardeur geraak mag word nie. Die impak van enige afwyking of oorskryding moet gemeet word aan sekere wenslikheidskriteria.

Klousule 19 van die Verordeninge insake Munisipale Grondgebruikbeplanning, 2020 maak voorsiening vir die beginsel van regstelling van foute. Indien dit vir foute op die soneringskaart voorsiening kan maak, is dit ingelyks ook van toepassing op foute soos boulyn oorskrydings wat oorleef van een soneringskema na die volgende. Hierdie aansoek wil sulke foute wat waarskynlik in 2003 gemaak is regstel by wyse van skriftelike aansoek soos voorsien in klousule 19(1) en (2). Hierdie aansoek en motivering is daarom ook verhoë soos voorsien in klousule 19(7)(c) van die Verordeninge insake Munisipale Grondgebruikbeplanning, 2020.

Soneringskemas waak oor die karakter, leefstyl, standaard en stabiliteit van woonbuurte deur 'n gemaklike, gesonde, veilige en aangename leefomgewing te probeer verseker, terwyl daar met die goedkeuring van die stadsraad ook heelwat vryhede toelaatbaar is. Die aansoek om die dekking te verhoog van 50,8% na 51,2% is 'n desimale afwyking van net 0,4% en meer van tegniese waarde as enigsins anders. Die verslapping van die syboulyn (oostelike sy) is deels 'n bestaande oorskryding en behels net 'n baie klein nuwe gedeelte by die garage se hoek. Volgens klousule 12.2(e) mag straatboulyne verslap word met inagneming van die volgende voorwaardes:

- (ii) indien, volgens die mening van die munisipaliteit, die argitektoniese effek van die boulynverslapping die voorkoms van 'n openbare straat sal verbeter, of*
- (iii) indien, na die mening van die munisipaliteit, daar ander spesiale omstandighede is, soos die topografie van die terrein.*

Die verslapping van die straatboulyn is van toepassing op die bestaande woonhuis wat sedert 2003 die straatgrens oorsky. Die voorgestelde verbeterings sal die bestaande gebou effens terugsit van die straatgrens en die modernisering van die fasade insluit. Die voorstel is een van gee en neem en die uiteinde behoort niemand 'n onregverdigde voordeel of nadeel te bied teenoor die huidige situasie nie.

Die Nasionale Bouregulasies voorsien in Artikels 6(1) en 7(1) van die Wet (Wet op Nasionale Bouregulasies en Boustandaarde Wet 103 van 1977, soos gewysig, vir die goedkeuring van bouplanne wat aan sekere voorwaardes (insluitend vereistes in ander wetgewing) voldoen. Hierdie voorwaardes sluit in dat dit nie die omgewing sal ontsier nie, nie onooglik of aanstootlik sal wees nie en nie afbreuk sal doen aan die waarde van naburige eiendomme nie. Die plaaslike owerheid moet in sulke gevalle weier om 'n bouplan goed te keur en redes verskaf vir die besluit.

Swartland Munisipaliteit moet volgens klousule 75 van die Verordeninge insake Munisipale Grondgebruikbeplanning minstens 6 van 20 algemene maatstawwe in ag neem voor besluite geneem mag word:

1. *Die bepalings van die soneringskema.*
2. *Enige beperkende voorwaardes van toepassing op die erf of woonbuurt.*
3. *Die indieningsvereistes en prosesering van 'n aansoek volgens die verordening.*
4. *Die wenslikheid van die aansoek.*
5. *Die reaksie op kommentaar van staatsorgane en munisipale departement.*
6. *Die skriftelike professionele evaluering van die aansoek.*

Alhoewel die oorweging van afwykings van dekking en boulyne redelik algemeen voorkom ingesluit die aanliggende erwe, is dit nodig om die vereistes vir besluitneming onder buitengewone omstandighede in ag te neem. Sulke besluite moet op feite gebasseer word en is nie diskresionêre besluite nie (waar iemand net 'n waardeoordeel maak op grond van eie denke). Alle relevante kriteria moet sorgvuldig oorweeg word, ondermeer moet almal wie moontlik onherstelbare skade sal lei deur die toestaan of weiering van die afwyking geïdentifiseer word (en dit sluit die aansoeker in indien die aansoek afgekeur sou word). Daarteenoor mag die rigiede weiering van 'n aansoek om afwyking die aansoeker se reg op administratiewe geregtigheid wat rasideel, wettig en regverdig is skend.

'n Afwyking moet op sy eie meriete oorweeg word en omstandighede wat in een geval gewoon mag voorkom, mag buitengewone wees in ander omstandighede. Die feite bepaal of buitengewone omstandighede bestaan. 'n Paar van die buitengewone omstandighede waarna klousule 12.2(e)(ii) en (iii) verwys is:

- *Die toestaan van 'n afwyking kan die potensiaal van 'n erf beter benut.*
- *Die toestaan van 'n afwyking kan 'n meer omgewingsensitiewe gebouvorm toelaat.*
- *Die toestaan van 'n afwyking kan beter op plaaslike- en terreinomstandighede reageer.*
- *Die toestaan van 'n afwyking kan 'n groter verskeidenheid en meer buigbare gebouontwerpe toelaat.*

Die eienaar en argitek het afsprake met die aangrensende erfeienaars gemaak en aanpassings aan die bouplan begin maak sodat hulle geen-beswaar vorms kan teken. Een van die aanliggende grenseienaars wou ongelukkig nie die geen-beswaar vorm teken nie en dit is nie meer 'n haalbare opsie om die direkte deelnameproses te volg nie. Die aansoeker reken dat 'n uitgerekte proses, waarin doelpale gereeld geskuif mag word, nie in sy belang is nie en dat die munisipaliteit eerder die aansoek op meriete moet oorweeg.

8. GEVOLGTREKKING

- *Soneringskemas, anders as die beswaarmakers, waak oor die karakter, leefstyl, standaard en stabiliteit van woonbuurte deur 'n gemaklike, gesonde, veilige en aangename leefomgewing te probeer verseker, terwyl daar met die goedkeuring van die stadsraad ook heelwat addisionele vryhede toelaatbaar is.*
- *Die siening dat die aansoeker nie eers die aansoek mag indien nie (paragraaf 10 in DKVG), is strydig met Klousule 28(1)(a) van die Verordeninge insake Munisipale Grondgebruikbeplanning, 2020, is ergerlik en is reeds deur die munisipaliteit verwerp.*

- Al drie beswaarmakers beskryf hulle eie belange by die aansoek sonder inagneming van die inhoud van paragraaf 7 (twee van die drie besware kom van prokureurs). In die proses gee hulle geen erkenning aan die toegeeflikheid van die aansoeker om die strukture op grondvlak terug te skuif nie en teken 'n eie doel aan. Daar is by die beswaarmakers geen holistiese begrip van die straatlandskap en 'n waardering vir goeie ontwerpriglyne nie.
- Die inhoud van die skynbaar professionele besware slaag nie om die direkte impak of die onherstelbare skade van die aansoek, indien goedgekeur, op hulle eiendom en belange te kwantifiseer en te kwalifiseer nie (die voorbeeld in paragraaf 1, saamgelees met Figuur 4, beskryf die effek van middag skaduwee wat ongeveer 35% van Erf 333 in skaduwee hul). Die aansoeker kan so die beswaar verstaan en stappe neem om die impak te versag, wat hier ontbreek.
- Die beswaarmakers gebruik irrelevante inligting soos verwysings na beperkende titelvoorwaardes en dat die aansoek 'n presedent sal skep. Indien hulle die motivering van November 2023 eerder goed bestudeer het, kon irrelevante oorwegings weggelaat word. Inteendeel, die ophaal hiervan verswak die integriteit van die besware en skiet die beswaarmakers hulself in die voet.
- Die beswaar teen die klein stukkie balkon in die syboullyn grens aan eiegeregtigheid, is onredelik en getuig van 'n onvermoeë om 'n bouplan behoorlik te lees of om 'n behoorlike begrip van impak te hê, by name die vertolking van Figuur 2. Die afguns oor die erf langsaan wat syboullyne moet handhaaf terwyl die beswaarmaker se eie syboullyne voorheen verslap is, getuig van selfsugtigheid, kwaadwilligheid en 'n gebrek aan waardering van regverdigheid en wat moontlik in die breë gemeenskapsbelang mag wees.
- Die aansoeker wys, by wyse van vergelyking, op die nadelige impak van die bestaande gebou op Erf 2711. Hierdie huis reageer nie op 'n sensitiewe wyse op die straatlandskap (gebouhoogte, omvang, plasing oor die hele erf, die voorsetting van vertikale en horisontale rimtes en die styl van aanliggende geboue) nie. Dit forseer liniêre, ondeurdringbare fisiese versperrings, skep karakterlose fasades en skreiende ongemak. Dit ondermyn die status quo, identiteit, harmonie, tradisionele en intrinsieke waarde, karakter, permeabiliteit of deursigtigheid en bedreig die natuurlike ontwikkelingsproses en ondermyn die waarde van die ander eiendomme in die straat.
- Die karakter-vernietigende bouplan (Erf 2711), gegewe die negatiewe impak op die aanliggende huise en oop ruimtes, moes waarskynlik nooit goedgekeur gewees het nie want dit pas nie by die res van die straatlandskap in nie.
- Die aansoeker verwys na die uitspraak van die Grondwetlike Hof na die manier waarop die Boubeheerbeampte die diskwalifiserende faktore in Artikel 7(1)(b)(ii)(aa) van die Wet op Nasionale Bouregulasies in oorweging moet neem. Die Boubeheerbeampte moet, alvorens hy 'n bouplan goedkeur, uiters tevrede wees (positively satisfied) dat die bouplan nie afbreuk sal doen aan die waarde van aangrensende eiendomme nie (of dit onaansienlik of steurend is – unattractive or intrusive) soos gesien uit die oogpunt van die aangrensende erfeienaars. Die doel van die wettige verwagtinge toets is om te verseker dat dorpsgebiede harmonieus, veilig en doeltreffend ontwikkel in belang van al die inwoners.

- Indien Erf 2119 met Erf 2711 vergelyk sou word, sal die voorstelle (Erf 2119) nie die status quo, identiteit, harmonie, tradisionele en intrinsieke waarde, karakter, permeabiliteit of deursigtigheid en die natuurlike ontwikkelingsproses bedreig of die waarde van die ander eiendomme in die straat ondermyn nie. Dieselfde bevinding sou nie vir Erf 2711 gemaak kon word nie.
- Die beswaarmakers slaag nie daarin om rasionele kritiek, hulp met die formulering van toepaslike voorwaardes, of bemagtigende inligting aan die aansoeker en die besluitnemers te verskaf ten einde 'n beter uitkoms te verseker nie.
- Die beswaarmakers verwar die skep van 'n moontlike presedent met die wetlike prosesse om die meriete en wenslikheid van elke aansoek te oorweeg en wat duidelik in die motivering uiteengesit is (*bepalings van die soneringskema, beperkende voorwaardes van toepassing op die erf of woonbuurt, indieningsvereistes en prosesering van 'n aansoek volgens die verordening, die wenslikheid van die aansoek, die reaksie op kommentaar van staatsorgane en munisipale departement en die skriftelike professionele evaluering van die aansoek*).
- Sommige aspekte van die besware is sonder betekenisvolle inhoud en dus sterflik (moribund), kortsigtig, kwaadwillig, selfsugtig en aanmatigend, soos in hierdie skrywe uiteengesit.
- Die beswaarmakers slaag nie daarin om relevante negatiewe faktore teen die aansoek op te bou nie.
- Die beswaarmakers slaag nie daarin om enige onherstelbare skade ten opsigte van die veiligheid en welsyn van die gemeenskap te identifiseer nie.
- Die beswaarmakers misluk om enige versagende maatreëls aan te beveel.
- Die beswaarmakers misluk om die wenslikheid van die aansoek te bevraagteken.

9. SLOT

Die beswaarmakers kon nie die meriete van die motivering uitdaag nie en hul besware verdien om verwerp te word deur die bevoegde gesag.

Die uwe



SJ KRYNAUW
IDS

FOTO'S OM WETTIGE VERWAGTINGE TOETS TE HELP BEPAAL

ERF 196





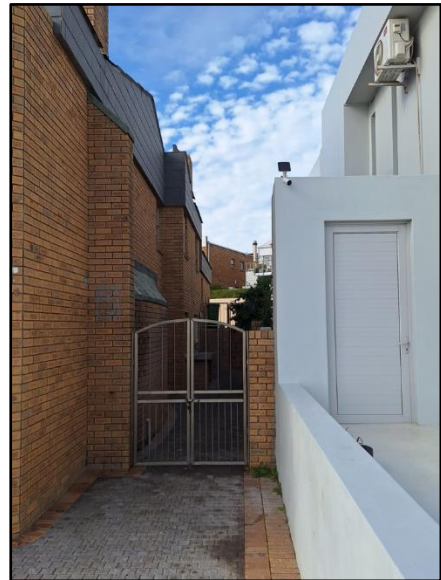
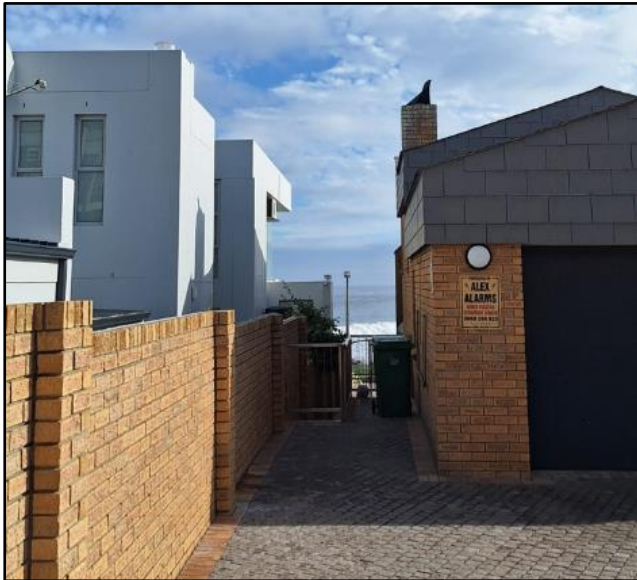
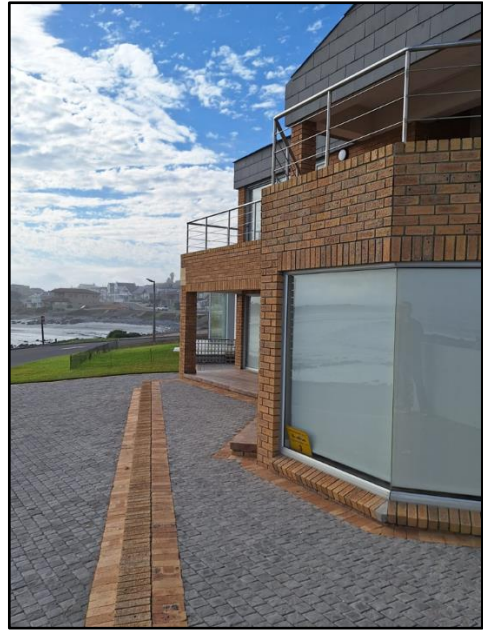
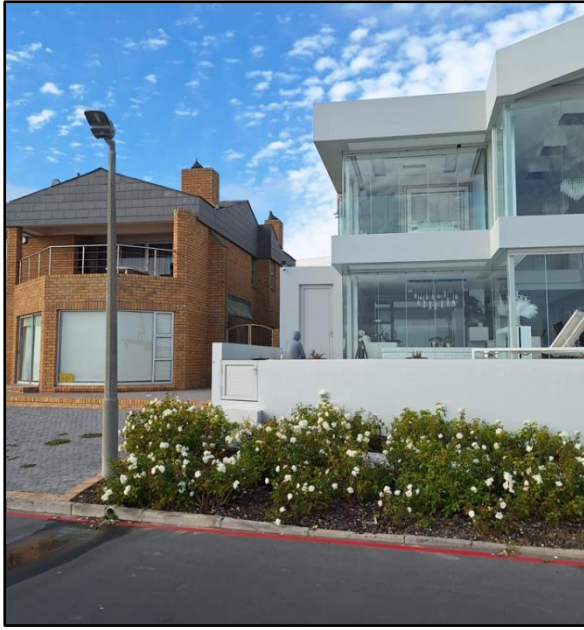
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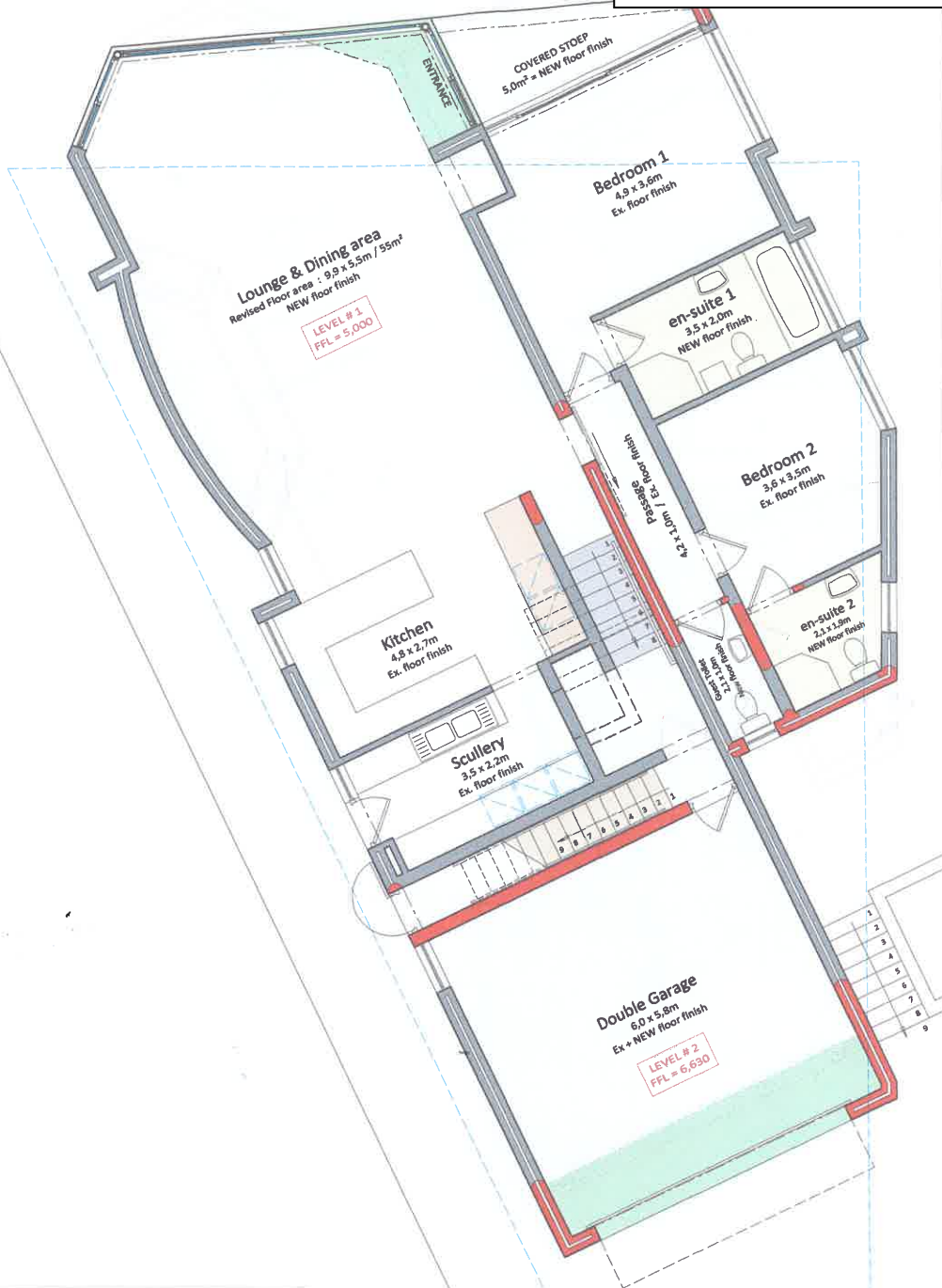


ERF 2711





ANNEXURE I



FLOOR AREA CALCULATIONS	EXISTING	REVISED
- GROUND STOREY AREAS		
- Main house area	151,4m ²	152,1m ²
- Covered stoep	008,8m ²	005,0m ²
- Garage	042,1m ²	046,6m ²
- TOTAL Footprint	202,3m²	203,7m²
- FIRST STOREY AREAS		
- Main house area	104,6m ²	151,2m ²
- Covered balcony area	029,1m ²	035,3m ²
- Open balcony area	008,8m ²	011,9m ²
- TOTAL Footprint	142,5m²	198,4m²
- TOTAL FLOOR AREA OF THE PROPERTY	344,8m²	402,1m²
- HABITABLE AREAS		
- Ground Storey	127,2m ²	125,5m ²
- First Storey	083,8m ²	160,7m ²

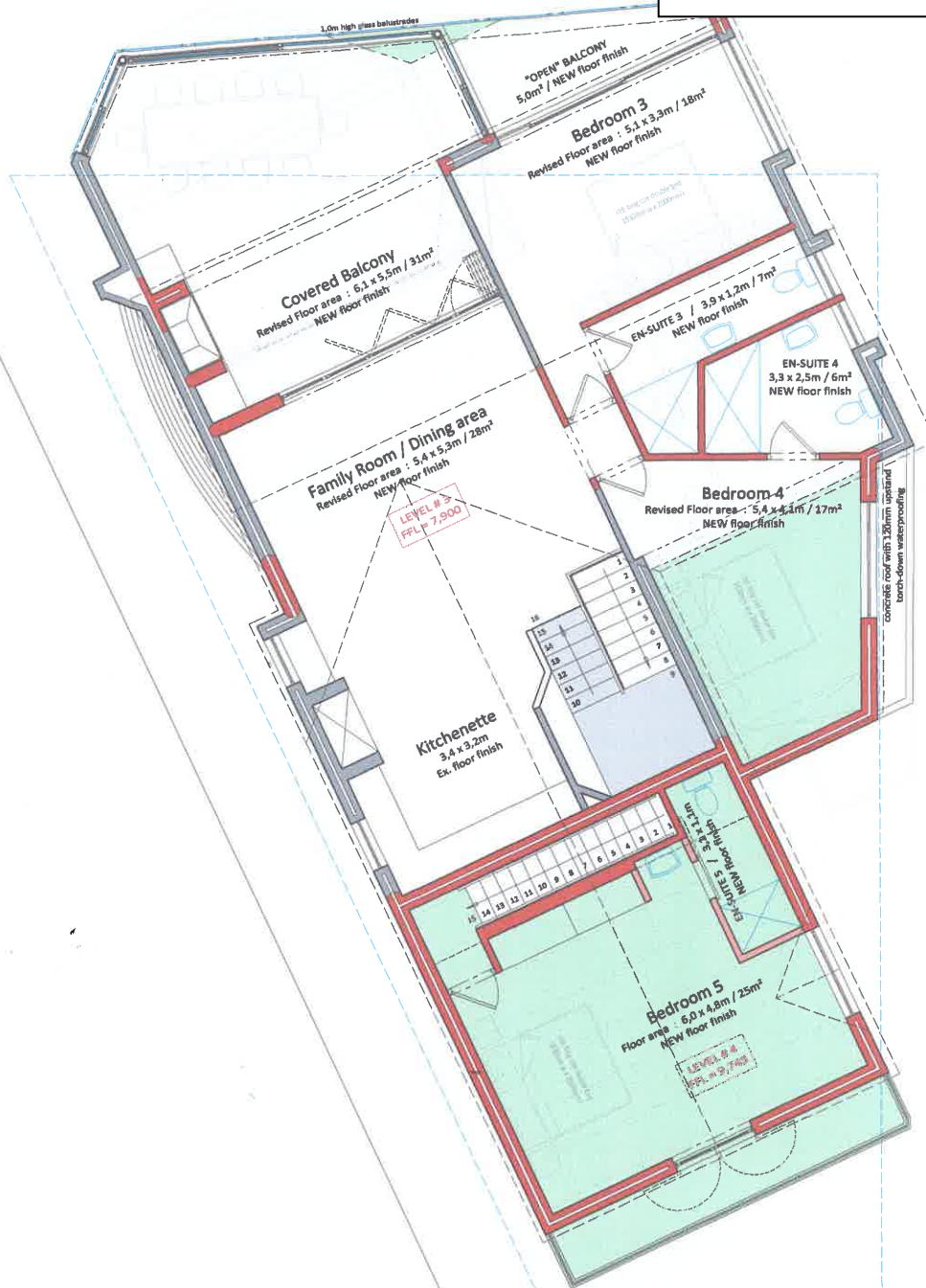
House DONAGGI

Proposed alterations and additions to the existing house.
Eri 2119 at No. 2 9th Street, Yzerfontein, Western Cape.
For : Mrs M.M. Donaggi

hardie van schalkwyk
ARCHITECTURE

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House DONAGGI

Proposed alterations and additions to the existing house.
Erf 2119 at No. 3 9th Street, Yzerfontein, Western Cape
For : Mrs M.M. Donaghi



22 April 2024

15/4/2-8

WYK: 10

ITEM 6.3 VAN DIE AGENDA VAN 'N MUNISIPALE BEPLANNINGSTRIBUNAAL WAT GEHOU SAL WORD OP WOENSDAG, 8 MEI 2024

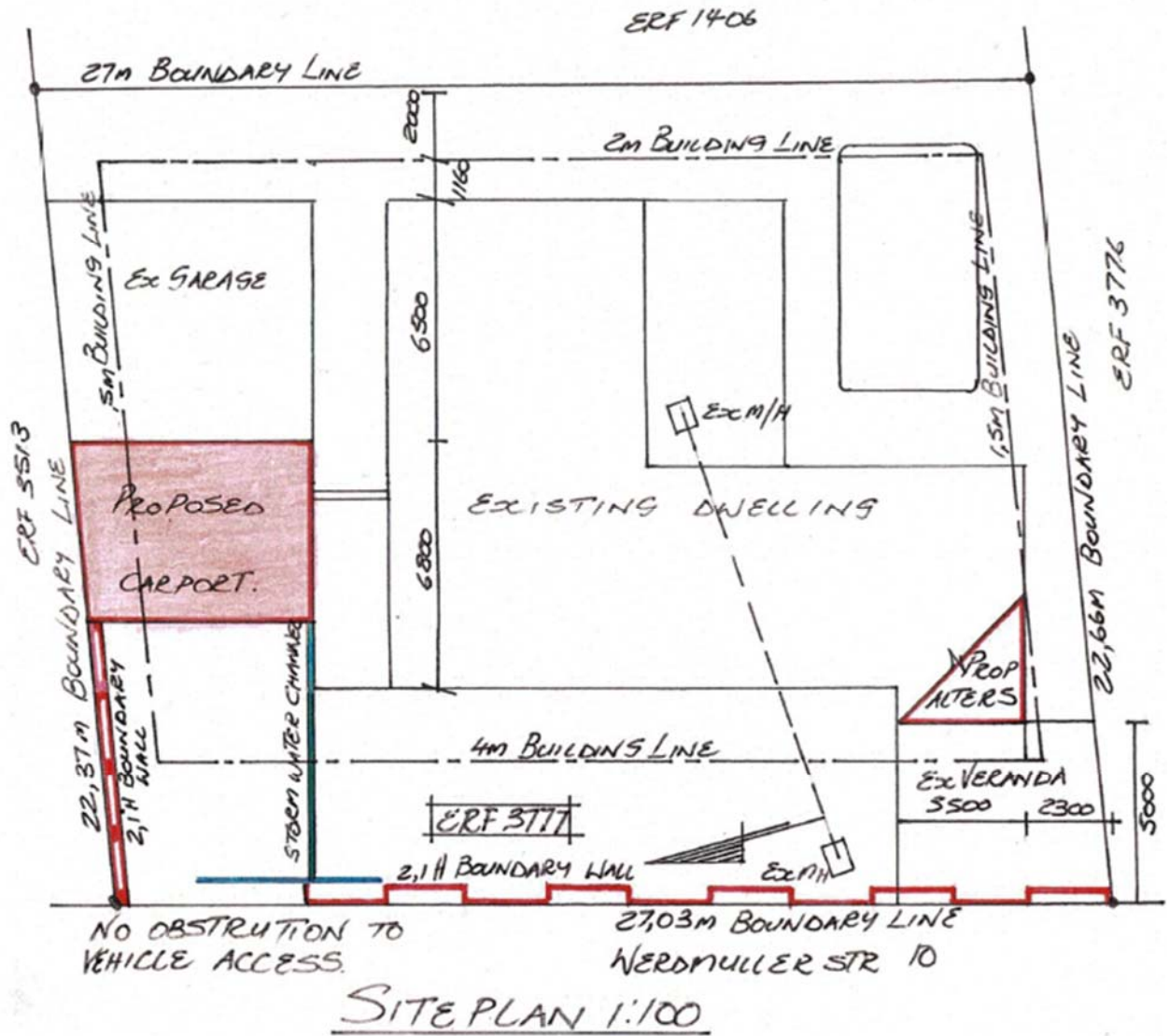
LAND USE PLANNING REPORT PROPOSED DEPARTURE OF DEVELOPMENT PARAMETERS ON ERF 3777, MALMESBURY					
Reference number	15/3/4-8	Application submission date	10 April 2024	Date report finalised	22 April 2024

PART A: APPLICATION DESCRIPTION					
<p>The application for the departure of development parameters on erf 3777, Malmesbury in terms of section 25(2)(b) of Swartland Municipality : Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020) has been received. The departure entails the departure of the 1,5m side building line for the erection of a carport.</p> <p>The applicant and owners are HL & SM Liedeman.</p> <p>Please note that the departure of development parameters application forms part of a building plan application that was submitted for consideration and approval.</p>					
PART B: PROPERTY DETAILS					
Property description (in accordance with Title Deed)	Erf 3777 Malmesbury in die Swartland Munisipaliteit, Afdeling Malmesbury, Provinsie Weskaap				
Physical address	10 Werdmuller Street		Town	Malmesbury	
Current zoning	Residential zone 1	Extent (m ² /ha)	605m ²	Are there existing buildings on the property?	<input checked="" type="radio"/> Y <input type="radio"/> N
Applicable zoning scheme	Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226, dated 25 March 2020)				
Current land use	Dwelling house and outbuildings		Title Deed number & date	T70643/2001	
Any restrictive title conditions applicable	<input type="radio"/> Y	<input checked="" type="radio"/> N	If Yes, list condition number(s)		
Any third party conditions applicable?	<input type="radio"/> Y	<input checked="" type="radio"/> N	If Yes, specify		
Any unauthorised land use/building work	<input type="radio"/> Y	<input checked="" type="radio"/> N	If Yes, explain		
PART C: LIST OF APPLICATIONS (TICK APPLICABLE)					
Rezoning	<input type="checkbox"/> Permanent departure		<input checked="" type="checkbox"/> Temporary departure		<input type="checkbox"/> Subdivision
Extension of the validity period of an approval	<input type="checkbox"/> Approval of an overlay zone		<input type="checkbox"/> Consolidation		<input type="checkbox"/> Removal, suspension or amendment of restrictive conditions

Permissions in terms of the zoning scheme	Amendment, deletion or imposition of conditions in respect of existing approval	Amendment or cancellation of an approved subdivision plan	Permission in terms of a condition of approval
Determination of zoning	Closure of public place	Consent use	Occasional use
Disestablish a home owner's association	Rectify failure by home owner's association to meet its obligations	Permission for the reconstruction of an existing non-conforming use	

PART D: BACKGROUND

The owners of erf 3777 has a need for additional covered parking space in front of their existing double garage. The existing double garage has been erected on the communal side boundary with erf 3513. The proposed carport in front of the existing garage is also proposed on the communal side boundary with erf 3513 which results in the departure of the 1,5m side building line to 0m on erf 3777. See the site plan below.



Please see below a photo of the area in front of the existing garage where the proposed carport will be accommodated.



The vibrecrete wall that can be seen on the communal boundary between erven 3513 and 3777 on the photo above, has been erected by the owner of erf 3513. The vibrecrete wall deviates from the approved building plans on erf 3513 which indicates a 2,3m high wall build with 230 blocks which was to be plastered and painted. When the erf pegs were placed by the owner of erf 3777 it was found that the vibrecrete wall has been erected on erf 3777 and not on erf 3513. Building plan records show that there was no foundation inspection requested or done for the vibrecrete wall. See below the photo indicating the erf peg marked in blue.



The Division: Land Use and Town Planning has consulted with the owners of erf 3513 regarding the possible withdraw of their objection as well as the encroachment of the vibrecrete wall over their erf boundary. The owners of erf 3513 do not want to withdraw their objection.

The owner of erf 3513 has also appointed a land surveyor which indicates that the erf pegs are on the correct position and that the boundary wall encroaches onto erf 3777. This matter will be dealt separately to the building plan application on erf 3777.

PART E: PRE-APPLICATION CONSULTATION (ATTACH MINUTES)

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

1. Die motorafdak voorstel is iets wat ek nou 'n geruime tyd beoog. Dan kan ons ouers en vriende langer kuier en oorslaap en gerus wees hulle voertuie is veilig. Nou omdat my motorhuis reeds op die grenslyn gebou is, sal dit net logies wees om die afdak ook daar te bou. Maar dan moet ek weer die belangrike boulyn oorbou. Ek doen my bes om alles te doen om buurman te verseker dat ons besittings veilig is. Deur 'n 500mm hoë parrapet muur en 'n 2,1m hoë grensmuur alles van brandvaste materiaal te bou, om die kans van brandverspreiding te neutraliseer. Baie dankie aan die raad en my buurman om my planne te rugsteun.

PART G: SUMMARY OF PUBLIC PARTICIPATION

Was public participation undertaken in accordance with section 55- 59 of the Swartland Municipal: By-law on Municipal Land Use Planning?	Y	N
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The owner of erf 3777 requested the municipality to undertake the public participation process in obtaining the written comments from the affected party – owner of erf 3513. A letter dated 24 January 2024 was send to the owner of erf 3513 by the municipality with a closing date of 26 February 2024. An objection from the owners of erf 3513 was received on 26 February 2024.

The objection was sent to the applicant for comments. The comments from the applicant on the objection was received on 7 March 2024.

Total valid comments	1	Total comments and petitions refused	0
Valid petition(s)	Y	N	If yes, number of signatures N/A
Community organisation(s) response	Y	N	Ward councillor response Y N No objection.
Total letters of support	0		

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

No comments were requested from internal or external departments.			
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PART I: COMMENTS RECEIVED DURING PUBLIC PARTICIPATION	SUMMARY OF APPLICANT'S REPLY TO COMMENTS	MUNICIPAL ASSESSMENT OF COMMENTS
<p>RJ Heinen & L Lewis (Owners of erf 3513)</p> <ol style="list-style-type: none"> 1. This in fact will constitute a solid wall of 3,500m high over a total distance of ±10,5m. 2. This raises the question of why is it necessary to have a wall at this height for the sole purpose of a carport. No ordinary vehicle nor garage is 3,5m high. 3. The second question is that a normal person that intends to erect a "carport" which is normally constructed with uprights manufactured with steel poles/wooden beams and 80% shade cloth, or similar, and not a solid built wall. 4. In lieu of this we are of the opinion that the actual intention of the high I large wall is to convert this into a further fully enclosed garage at a later stage. 5. It is also noted that there is already a fully built/existing carport on the south side of the property with a correct height of 2,1m. (in front of the existing modified garage) 6. We will be subjected to looking at a solid 3,5m high x 10,5m long wall which exceeds the current vibrecrete boundary. Why can a normal carport not be built 2,4m height to match the boundary wall which is ample height for vehicles? 7. We also notice that the existing building on this erf already exceeds the prescribed coverage (unless the municipality has modified this regulation). This will also be more like a carport should be with 3 open sides, it is our opinion that the intention is to add a garage door at a later stage. We 	<p>Met spyt moet ek die geaffekteerde eienaar se beswaar as ongegrond afmaak.</p> <p>Ek bewerkstellig juis dat die motorafdak se geut in my erf is.</p> <p>Die bestaande stoep afdak voor my deur se draer op die pale se onderkant is minimum 2,1m vanaf FFL tot onderkant draer, soos bouregulasies dit vereis. D.w.s. die IBR plaat sal dan 2,3m hoog wees. 'n IBR dakplaat se minimum helling moet 5° wees. Dus 1, loop is 87mm hys. Dus 6m/522mm hys. 2300mm +522mm = 2822mm. Steeds minder as die toegelate 3m vanaf die FFL tot bokant die sinkplaat soos bepaling 12.2.1(c)(iv). Die 500mm parapet muur is ook 'n minimum volgens bouregulasies. Ek sal verseker dat nie 'n druppel reënwater vanaf my kant na buurman sal oorwaai nie.</p> <p>Die hoogte van die motorafdak word gewoonlik by die deurnit aangebring soos gesien op DRG. NR 02-H. LIEDEMAN/3777.</p>	<ol style="list-style-type: none"> 1. A building plan for a boundary wall on erf 3513 was approved by the municipality on 10 October 2020. The wall that was to be erected is 2,3m high and build from ROK bricks which is to be plastered and painted. This wall has never been build. Instead a vibrecrete wall 2,4m high has been erected and not for the full length of the side boundary. There is no record that a foundation inspection was requested or done by the municipality. The vibrecrete wall is seen as a deviation from the approved plan and illegal building work 2. The vibrecrete wall erected on erf 3513 is actually erected on erf 3777. The vibrecrete wall needs to be moved to erf 3513 or demolished. 3. The proposed carport and boundary wall on erf 3777 cannot be build as indicated on plan as the boundary wall on erf 3513 encroaches the erf boundary. The objector is speculating regarding the type of carport they have in mind. However, the construction and materials of carports differ. It remains the pejorative of the owner of erf 3777 which ever carport they see fit according to their requirements. 4. The vibrecrete wall on erf 3513 is 2,4m high. The proposed boundary wall on erf 3777 is 2,1m high. Only a portion of the proposed boundary wall at the carport will be similar height as the existing garage. This is the only portion of wall which will be visible from erf 3513 keeping in mind the height of the approved boundary wall on erf 3513. This will only be the case if the existing large trees on erf 3513 are removed, as currently it makes the existing garage on erf 3777 not visible. 5. It is not clear how erf 3513 will be affected at all by the building work on erf 3777 from a view point of view. As mentioned at point 4 the garage on erf 3777 is not visible from erf 3513 as it is hidden behind large

	<p>in view of the above OBJECT to this proposal.</p>		<p>trees on erf 3513. Furthermore, the area adjacent to the garage and proposed carport is used for storage purposes. Next to this storage area is a double garage. The dwelling on erf 3513 fronts towards Lang Street. The outside living area to the rear of the dwelling on erf 3513 towards erf 3777 has no view as it is blocked by the large trees and double garage. IN other words, the buildings on erf 3777 are almost not visible from the dwelling or rear outside living area on erf 3513.</p> <p>6. The area where the carport is proposed is already used for the parking of motor vehicles and will be continued to be used as such. In general carports are placed in front of garages. By doing so the under cover parking area is extended/enlarged. In this case the proposed carport is also placed in front of the existing garage. As the garage is built on to the erf boundary, the proposed carport encroaches the 1,5m side building line. The position of the proposed carport in front of the existing garage is practical and functional. Furthermore, the proposed carport complies with the definition of a carport as stipulated in the Swartland Planning By-law.</p> <p>7. Coverage calculations indicate a total building footprint (existing and proposed) of 304m² on an erf of 605m². This gives coverage of 50.2% which is rounded off to 50%. There is complied with the requirement of 50% coverage.</p>
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PART J: MUNICIPAL PLANNING EVALUATION

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

The application for the departure of development parameters on erf 3777, Malmesbury in terms of section 25(2)(b) of Swartland Municipality : Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020) has been received. The departure entails the departure of the 1,5m side building line for the erection of a carport.

The owner of erf 3777 requested the municipality to undertake the public participation process in obtaining the written comments from the affected party – owner of erf 3513. A letter dated 24 January 2024 was sent to the owner of erf 3513 by the municipality with a closing date of 26 February 2024. An objection from the owners of erf 3513 was received on 26 February 2024.

The objection was sent to the applicant for comments. The comments from the applicant on the objection was received on 7 March 2024.

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

2. Legislation and policy frameworks

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

- a) Spatial Justice: Not considered due to the nature of the application.
- b) Spatial Sustainability: Not considered due to the nature of the application.
- c) Efficiency: Not considered due to the nature of the application.
- d) Good Administration: Not considered due to the nature of the application.
- e) Spatial Resilience: Not considered due to the nature of the application.

2.3 Spatial Development Framework(SDF)

Not considered due to the nature of the application.

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

The proposed carport on erf 3777 encroaches the 1,5m side building line (northern boundary) to 0m.

2.5 Desirability of the proposed utilisation

Erf 3777, Malmesbury is zoned Residential zone 1 and is developed with a dwelling, garage and carport.

Erf 3777 is 605m² in size. The proposed addition of the carport brings the total footprint of building work to 304m². Coverage is calculated as 50,2% which is rounded off to 50%. There is complied with the requirement of 50% coverage.

The existing dwelling and swimming pool complies with all building lines. The existing garage and existing carport encroaches the 4m street and 1,5m building lines respectively. Building plan approval has been obtained and departures of development parameters approved for all of these structures.

The applicant requires additional covered parking space in order to protected their vehicles from the elements. As part of the building plan application 2,1m high boundary walls are proposed with a sliding gate giving access to the property. It is evident that it is the intention of the owners of erf 3777 to increase the security at their property.

The proposed carport is located in front of the existing garage. The position of the carport in front and in line with the existing garage is logical and practical, as this space is already being used for the parking of vehicles.

The proposed carport complies with the definition of a carport.

The existing vibrecrete wall on erf 3513 is 2,4m high. The proposed boundary wall on erf 3777 is 2,1m high. Only a portion of the proposed parapet wall at the carport will be similar height as the existing garage. This is the only portion of wall which will be visible from erf 3513 keeping in mind the height of the boundary wall on erf 3513. The existing large trees on erf 3513 also screens the existing garage.

See the photos below.



The area on erf 3513 adjacent to erf 3777 is used as a storage area and is deemed unsightly in the context of the residential area it is situated in.

The type of structure and materials used for the proposed carport remains the prerogative of the owners of erf 3777.

The existing vibrecrete wall on erf 3513 encroaches the communal erf boundary with erf 3777. It will be move by the owners of erf 3513. This matter will be dealt with separately to this application.

Taking into consideration the above mentioned the impact of the proposed carport on erf 3513 is deemed to be low to none.

<p>3. <u>Impact on municipal engineering services</u></p> <p>No impacts are anticipated.</p> <p>4. <u>Comments of organs of state</u></p> <p>N/A</p> <p>5. <u>Response by applicant</u></p> <p>See Annexure H.</p>
<p>PART K: ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS</p>
<p><u>The financial or other value of the rights</u></p> <p>N/A</p>
<p><u>The personal benefits which will accrue to the holder of rights and/or to the person seeking the removal</u></p> <p>N/A</p>
<p><u>The social benefit of the restrictive condition remaining in place, and/or being removed/amended</u></p> <p>N/A</p>
<p><u>Will the removal, suspension or amendment completely remove all rights enjoyed by the beneficiary or only some rights</u></p> <p>N/A</p>

<p>PART L: RECOMMENDATION WITH CONDITIONS</p>
<p>A. The application for the departure of development parameters on erf 3777, Malmesbury be approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), as follows:</p> <p>Departure of the 1,5m side building line (northern boundary) to 0m.</p> <p>B. GENERAL</p> <p>a) The approval is valid for a period of 5 years, in terms of section 76(2) of the By-Law from date of decision. Should an appeal be lodged, the 5 year validity period starts from the date of outcome of the decision against the appeal;</p> <p>b) The applicant/objectors be informed of the right to appeal against the decision of the Municipal Planning Tribunal in terms of section 89 of the By-Law. Appeals be directed, in writing, to the Municipal Manager, Swartland Municipality, Private Bag X52, Malmesbury, 7299 or by e-mail to swartlandmun@swartland.org.za, within 21 days of notification of the decision. An appeal is to comply with section 90 of the By-Law and be accompanied by a fee of R5000,00 to be valid. Appeals that are received late and/or do not comply with the requirements, will be considered invalid and will not be processed.</p>
<p>PART M: REASONS FOR RECOMMENDATION</p>

1. The proposed carport complies with the definition of a carport as defined by the Swartland Planning By-law.
2. The carport is proposed in an area which is already being used for the parking of motor vehicles.
3. The position of the carport in front and in line with the existing garage is logical and practical.
4. Only a portion of the proposed parapet wall of the carport will be visible from erf 3513. This is due to existing large trees and a boundary of 2,4m in height on erf 3513.
5. Building work on erf 3777 complies with the permitted 50% coverage.
6. The type of structure and materials used for the proposed carport remains the prerogative of the owners of erf 3777.
7. The area on erf 3513 adjacent to erf 3777 is used as a storage area and not an outdoor living area
8. The impact of the proposed carport on erf 3513 is deemed to be low to none.



PART N: ANNEXURES

Annexure A	Locality Plan
Annexure B	Building plan of erf 3777
Annexure C	Motivation from the owner of erf 3777
Annexure D	Objection from RJ Heinen & L Lewis
Annexure E	Comments from the applicant on the objection
Annexure F	Photo's
Annexure G	Building plan of erf 3513

PART O: APPLICANT DETAILS

First name(s)	HL & SM Liedeman				
Registered owner(s)	HL & SM Liedeman	Is the applicant authorised to submit this application:	<table border="1"> <tr> <td>Y</td> <td>N</td> </tr> </table>	Y	N
Y	N				

PART P: SIGNATURES

Author details: AJ Burger Chief Town & Regional Planner SACPLAN: B/8429/2020		Date: 22 April 2024	
Recommendation: Alwyn Zaayman Senior Manager: Development Management SACPLAN: B/8001/2001	Recommended	<input checked="" type="checkbox"/>	<input type="checkbox"/> Not recommended
		Date: 26 April 2024	

Locality plan

Annexure A



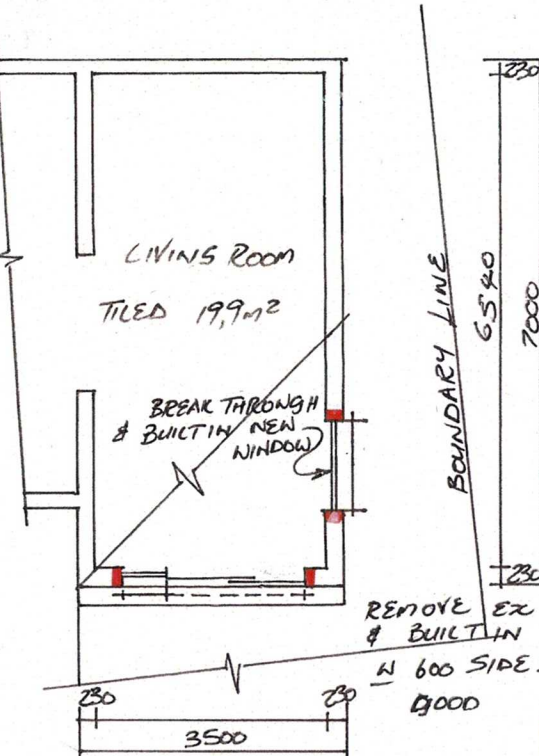
Locality plan

Building plan application

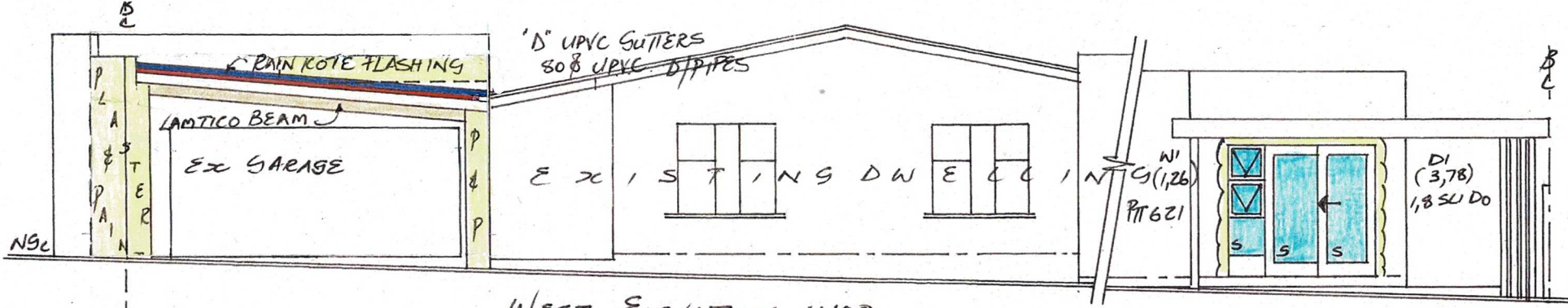
Departure of development parameter

Scale: N/A





GROUND STOREY PLAN VIEW
LIVING ROOM ALTERATIONS
1:100

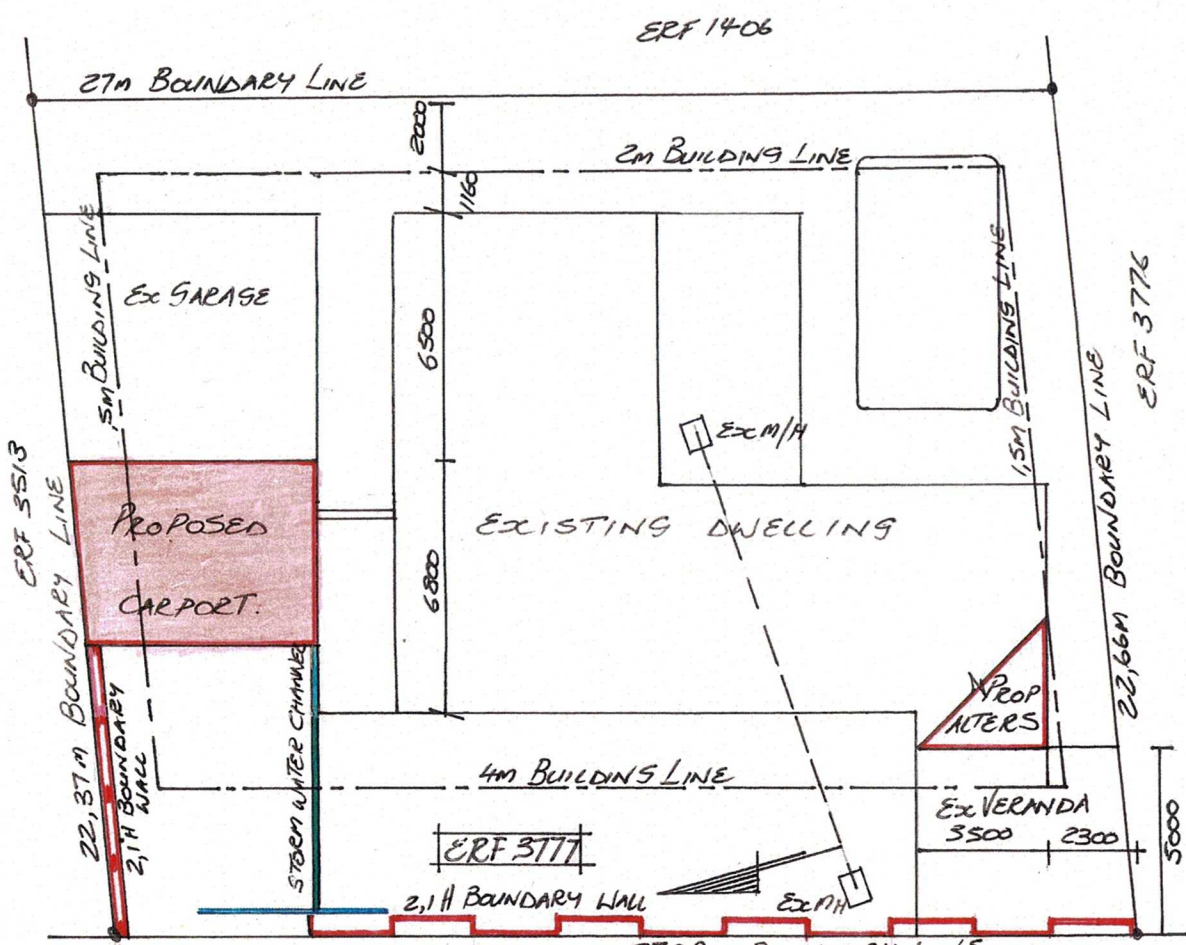


WEST ELEVATION 1:100

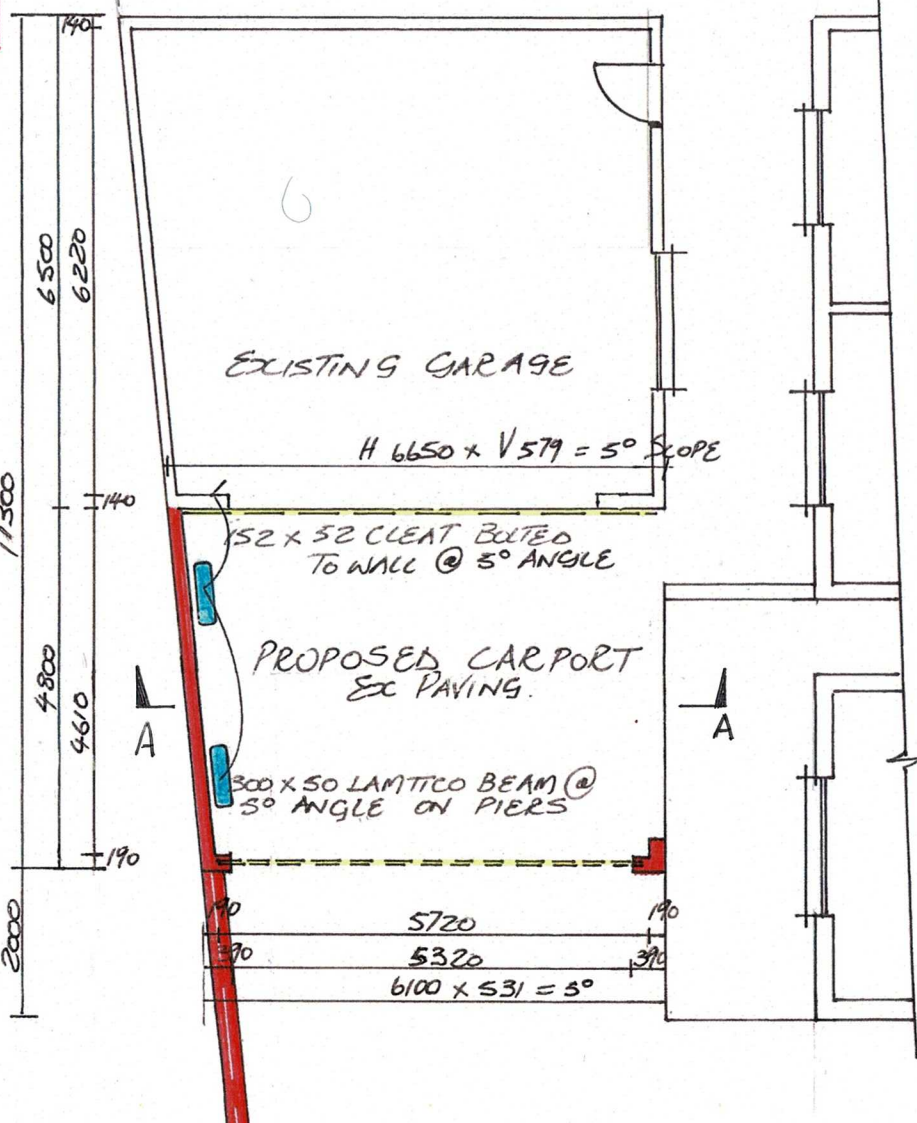
ELECTRIC LEGEND			
○	220V-11W - CFL CEILING LIGHTS		
●	220V-11W - CFL WALL LIGHTS		
■	220V-2x32W - DF CEILING LIGHTS		
∇	LIGHT SWITCHES	∇	DIMMERS
+	450H WALLPLUGS	+	1050H
□	DISTRIBUTION BOARD		
■	230V-6W-50HZ DOWN LIGHTERS		

ENDORSEMENT
BUILDING INSPECTOR TO
EVALUATE BOUNDARY PEGS
PRIOR COMMENCING ANY
CONSTRUCTION.
NO PART OF ANY CONSTRUCTION TO ENCRATCH
BOUNDARY LINES.

ALL DIMENSIONS & LEVELS TO BE CHECKED ON SITE PRIOR COMMENCING OF ANY CONSTRUCTION: WRITTEN DIMENSIONS OVERULES SCALED MEASUREMENTS ALL DISCREPANCIES TO REPORT TO AUTHOR.
RAINWATER GOODS: 130'D" UPVC. GUTTERS
80 Ø UPVC. DOWN PIPES
AS FAR AS POSSIBLE STORM WATER TO RETAIN & REUSE FOR IRRIGATION & CAR WASH: OTHER WISE DISPOSE TO THE ROAD BY 110 UPVC. PIPE OR CONCRETE CHANNELS & TO COMPLY BY PART R OF SANS 10400
WALLS: ONLY SABS. APPROVED M140 & M90 CEMENT BLOCKS TO BE USE: U 3 COURSES BRICK FORCE IN FIRST ABOVE FOUNDATION; UNDER ALL WINDOWS & ALL THE WAY OVER ALL LINTOLS & GABLE WALLS; ALL OPENING WIDER THAN 600 TO BE LINTOLED ON 300MM SADDLE EITHER SIDE: ALL WALLS EXT. TO BE WOOD FLOAT & PAINT & INT. STEEL FLOAT & PAINT. & TO COMPLY BY PART K OF SANS 10400 & TABLE 6
GLAZING: ALL GLASSPANS GREATER THAN 1m² OR LOWER THAN 500 ABOVE FFL. TO BE SAFETY GLASS & CLEARLY MARKED: ALL OTHERS 3MM CLEAR OR OBSCURE TO COMPLY BY PART N OF SANS 50572 & SANS 10400
MIN 10% LIGHTING AREA W 5% OPENABLE PER ROOM AS PER REQUIREMENTS OF PART O OF SANS 10400



SITE PLAN 1:100



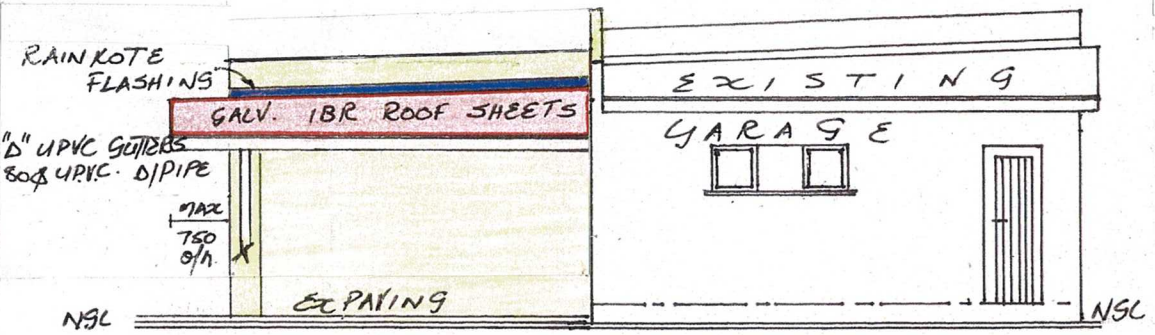
GROUND STOREY PLAN VIEW CARPORT.

NETT AREA: 19.9 m²
NETT WINDOW 5.4 m²
FENESTRATION: 25%
DRS. NR. 01-H.LIEDEMAN/3777 TO READ WITH
DRS. NR. 02-H.LIEDEMAN/3777
AREAS: PLOT: 605 m² EX DWELLING: 271 m²
PROP ADDITIONS: 31 m² PROP B/WALL: 33 m
OCC. CLASS: H4 TOT. B/UP: 302 m² COVER: 50%
CUI ZONE: 4

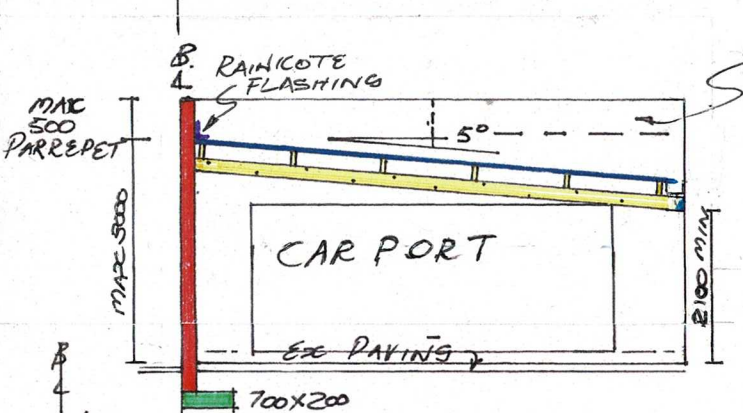
PROPOSED ADDITIONS & ALTERATIONS
THE HOUSE OF MR. H. LIEDEMAN IN
WERD MULLER STR ON ERF 3777
MALMESBURY
SIGNATURE: *[Signature]*
TEL: CELL: 082 473

C.R. JANUARY DE
Koljander Street
Malmesbury
Cell: 072-673-

Annexure B



SOUTH ELEVATION CARPORT 1:100

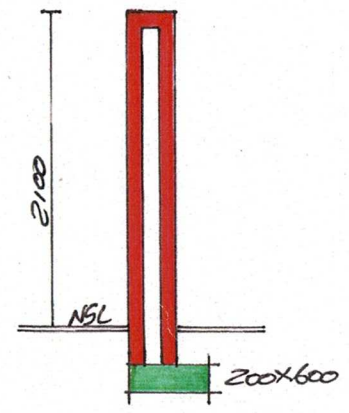


SECTION A:A 1:100

ADDITIONS ON PARAPET WALL
 GALV. 1BR ROOF SHEETS
 228x52 PURLIN RAFTERS
 152x52 CLEAT SLEEVE ANCHORED TO WALL: NO CEILING
 190x190x39 CEMENT BLOCK WALL
 RAINKOTE FLASHING STRICTLY AS PER MANU'S SPEC'S

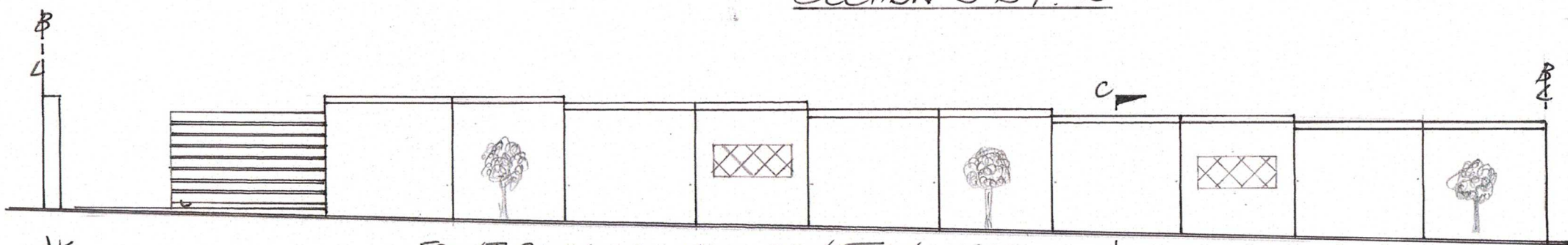


SOUTH ELEVATION L. ROOM ALTERS: 1:100

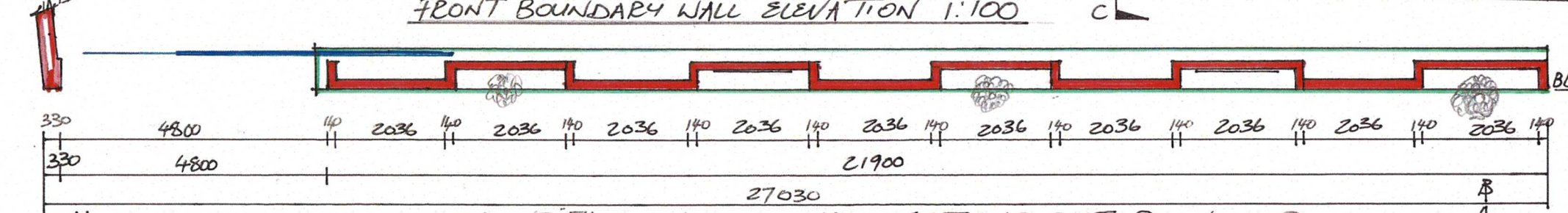


SECTION B B 1:50

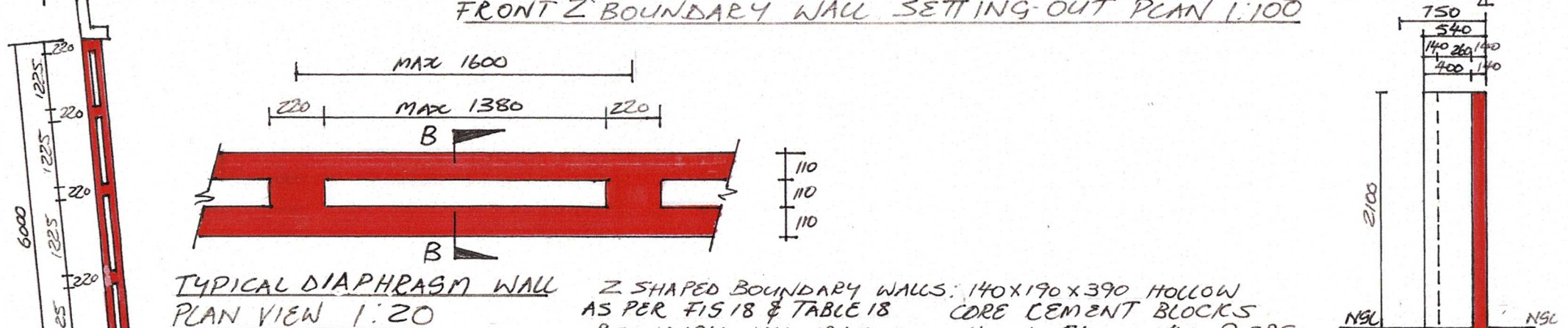
ROOF: GALV. 1BR SHEETS @ 5° PITCH SCREWED THRU REFLECTIVE FOIL MEMBRANE ONTO 228x52 PURLIN RAFTERS @ 1,2 M C/C "H" CLIPPED TO 152x52 CLEAT THATS SLEEVE ANCHORED STAGGERED 600 APART TO EXC WALL; AND ON 300x50 LAMTICO BEAM ON ENTRANCE SIDE BOUND DOWN 600 DEEP INTO PIERS w HOOPIRON. NO CEILING, AND TO COMPLY BY SANS 10400 PARTS K & L.
 BOUNDARY WALLS: Z SHAPED & DIAPHRAMM WALL STRICTLY AS PER TABLE 18 & FIGURE 18: DIAPHRAMM WALL TO CONSTRUCT W: 70x210x110 RED R.O.K. CLAY BRICKS 2,1 M H w 330x220 PIERS MAX 1,6 M C/C AS PER TABLE 17 AND NOT TO RETAIN SOIL



FRONT BOUNDARY WALL ELEVATION 1:100



FRONT Z BOUNDARY WALL SETTING-OUT PLAN 1:100



TYPICAL DIAPHRAGM WALL PLAN VIEW 1:20

Z SHAPED BOUNDARY WALLS: 140x190x390 HOLLOW AS PER FIS 18 & TABLE 18 CORE CEMENT BLOCKS BOUNDARY WALL; MAX 2,1 M H w 540x140 PIERS MAX 2,2 M C/C ON 750x200 STRIP FOOTINGS

SIDE BOUNDARY WALL SET-OUT 1:100

TYPICAL FRONT BOUNDARY WALL SECTION CC 1:50

DRG. NR. 02 - H. LIEDEMAN / 3777 TO READ WITH DRG. NR. 01 - H. LIEDEMAN / 3777
 ELEVATIONS: SECTIONS & BOUNDARY WALLS. SCALES: 1:100 & 1:50. SIGNATURE: *[Signature]* 1:20

C.R. JANUARY DESIGNS
 Koljander Street, Nr 19
 Malmesbury
 Cell: 072-673-6248
 Reg. NR. D0125 S.A.C.A.P. Pr. Dr.

The Building Control Officer/Official
 Swartland Municipality
 Private Bag X52
 MALMESBURY
 7299

MR. H. LIEDEMAN
 10 WERD MULLER STR
 MALMESBURY
 Date: 17/10/23

Sir

DEPARTURE/RELAXATION: ERF 3777 TOWN: MALMESBURY

As registered owner of the abovementioned erf I wish to apply for the departure/relaxation of the
 lateral building line/s; street building lines; coverage; 2nd dwelling as indicated on
 the plan. The departure/relaxation required, including the reasons for it, are:

Sy Boulyn:

Die motor-afdek voorstel is iets wat ek nou in geruime tyd beoog. Dan kan ons ouers en vriende sanger, kuier en oorskop. En gerus was hulle oertaie is veilig. Nou omdat my motorhuis reeds op die grenslyn gebou is, sal dit net logies om die afdek ook daar te bou. Maar dan moet ek weer die belangrike boulyn oerbou. Ek doen my bes om alles te doen om buurman te versker dat ons besittings veilig is. Daar is 500mm hoe parapet muur en in 2,1m hoe grensmuur alles van brandvaste materiaal te bou, om die kans van brandverspreiding te neutraliseer. Baie dankie aan die raad en my buurman om my planne te rugstem. By voorbaat mr H. Liedeman.

The undersigned, hereby confirm that the plan indicating the departure/relaxation has been shown and explained to the adjacent/affected owner(s). And also, the signatures reflected on the building plans, are those of the registered owner(s) of the adjacent/affected erf/erven.

Owner of erf nr: 3777
 Signature: [Signature]
 Identify Number: 7303205067026

UNDERTAKING OF ADJACENT/AFFECTED OWNER.

I hereby give approval that the abovementioned departure/relaxation on erf _____ may be granted as indicated on the plan. Furthermore I confirm that the plan has been shown to me and signed, and that I am the registered owner of the adjacent/affected erf.

	Initials and Surname	Signature	Date
1. Erf <u>3513</u>	_____	_____	_____
2. Erf _____	_____	_____	_____
3. Erf _____	_____	_____	_____
4. Erf _____	_____	_____	_____

R.J.Heinen & L.Lewis
12 Werd Muller Street
Malmesbury
7299

Cell : 081 490 0813 / 081 444 4641

DATE : 25/02/2024

Swartland Municipality
1 Kerk Street
Malmesbury
7299

Dear Sirs

Consent required for building line infringement :
Ref no.15/4/1 - 10A Werdmuller Street ERF 3777 Malmesbury.

Carport to North boundary of property from 1.5 m to 00.00 metres.
I / we have no objection to this proposal _____

I/we have an objection : reason:

The proposed new wall is 3.500 high which will be erected along the North boundary over a distance of 4.800 metres which will adjoin the existing garage.

1. This in fact will constitute a solid wall of 3.500 metre high over a total distance of +- 10.500 metres.
2. This raises the question of why is it necessary to have a wall at this height for the sole purpose of a car port. No ordinary vehicle nor garage is 3.5 metres high.
3. The second question is that a normal person that intends to erect a "car port" which is normally constructed with uprights manufactured with steel poles / wooden beams and 80% shade cloth, or similar, and not a solid built wall.
4. In lieu of this we are of the opinion that the actual intention of the high / large wall is to convert this into a further fully enclosed garage at a later stage.
5. It is also noted that there is already a fully built / existing carport on the South Side of the property with a correct height of 2.1 metres. (in front of the existing modified garage) (Attached pic)
6. We will be subjected to looking at a solid 3.500 metre high x 10.500 metre long wall which exceeds the current vibcrete boundry. Why can a normal Carport not be built 2.400 height to match the boundary wall which is ample height for vehicles?



7. We also notice that the existing building on this erf already exceeds the prescribed 50% coverage. (Attached pic) (unless the municipality has modified this regulation)

This will also be more like a carport should be with 3 open sides, it is our opinion that the intention is to add a garage door at a later stage.

We in view of the above OBJECT to this proposal.

Address:

12 Werd Muller Straat, Malmesbury _____ Erf no. 103513 _____

Signed  _____ Date 25/02/2024

Louise Lewis

Signed  _____ Date 25/02/2024

Rolf Heinen

The Building Control Officer/Official
Swartland Municipality
Private Bag X52
MALMESBURY
7299

Mr. H. Liedeman
10 Nerdmuller str.
Malmesbury.

Sir

Date: 07/03/24

DEPARTURE/RELAXATION: ERF 3777 TOWN: Malmesbury.

As registered owner of the abovementioned erf I wish to apply for the departure/relaxation of the
 lateral building line/s; street building lines; coverage; 2nd dwelling as indicated on
the plan. If a departure/relaxation required, including the reasons for it, are:

Met spyt moet ek die geafekteerd eienaar se beswaar as ongegrond afmaak. Ek bewerkstellig juis dat motor afdak se gent in my erf is. Die bestaande stoep afdak voor my deur, se draer op pale se onderkant is min 2,1m vanaf F.V.V. tot onderkant draer, soos bouregulasie dit vereis. Dns. die IBR. Plaat sal dan 2,3 Hoog wees 'n IBR dakplaat se minimum helling moet 5° wees. ∴ 1m loop is 87mm hys. ∴ 6m / 522 hys $2300 + 522 = 2822\text{mm}$ steeds minder as die toegelate 3m vanaf F.V.V. tot bokant die sink plaat soos bepaling 12.2.1(c)(iv). Die 500 parapet muur is ook 'n minimum. volgens bou regulasies. En sal verseker die nie 'n druppel reënwater vanaf my kant na buurman sal oer-vaai nie.

Die hoogte van die motor afdak word gewoonlik by die deursnit aangebring soos gesien op. DRB.NR. 02 - H. LIEDEMAN / 3777.

By voorbaat dankie Mr. H. Liedeman







Plan No: 1796313 DATE: 2022-10-10 16:55:00
 Erf/Farm: 3513
 DECISION MAKER: ZAYYMANA
 SIGNATURE: 
 In terms of Section 7 of the National Building Regulations and Standards 103 of 1977
 This Building Plan is Valid for One Year

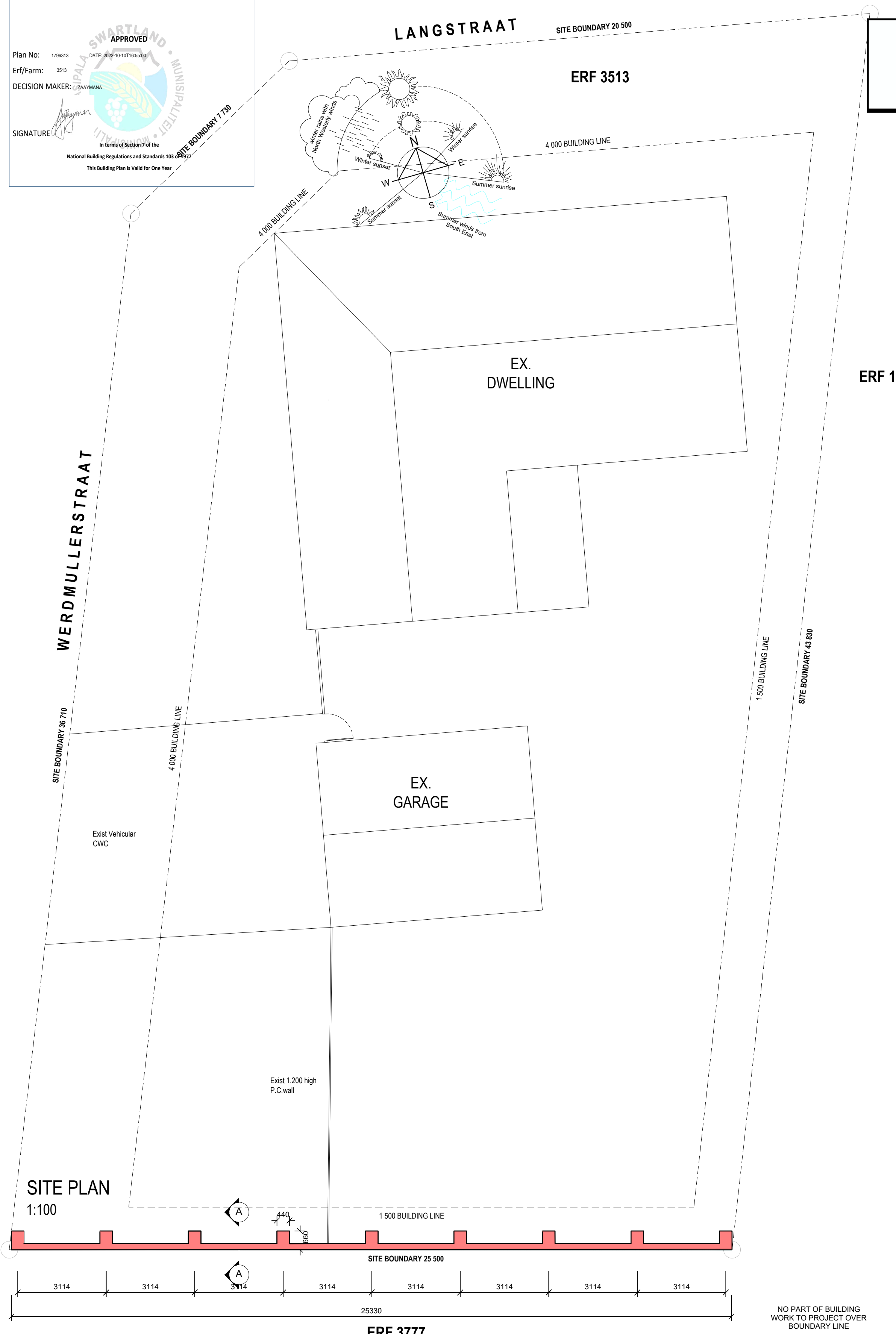
GENERAL NOTES:
 All work to be carried out in accordance with SANS 10 400 XA

Annexure G

SPECIFICATIONS:
 No part of building to project over boundary lines. Walls to be smooth plastered and painted.

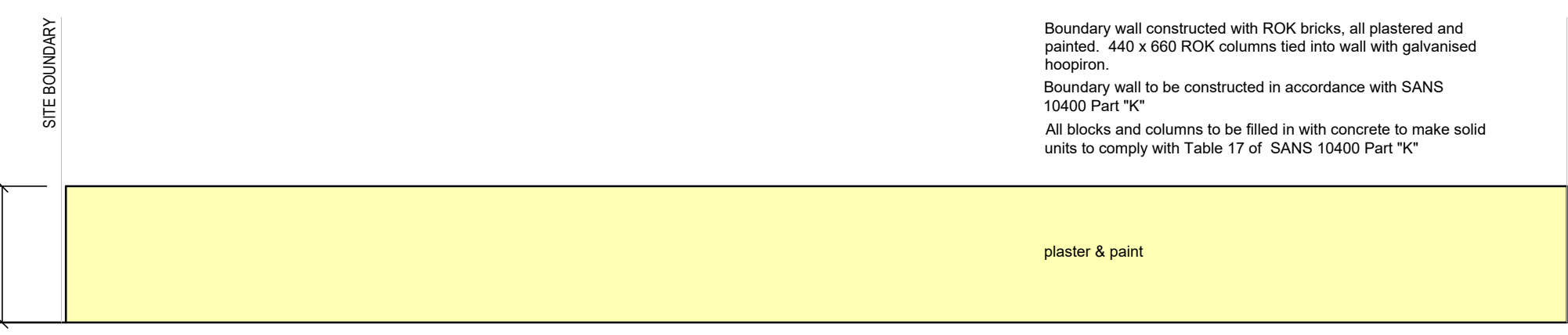
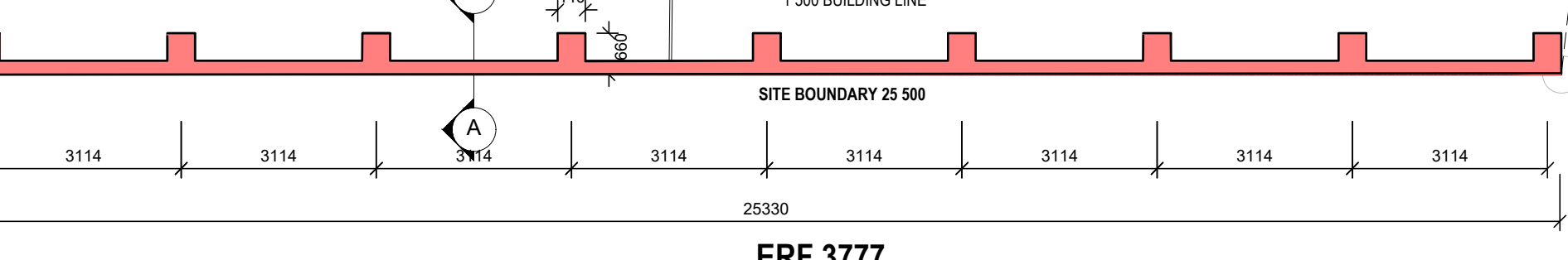
FOUNDATIONS:
 700 x 230mm mass concrete strip footings to walls & 640 x 860 foundations to columns. No footings to protrude over boundary line.

WALLS:
 Boundary wall constructed with ROK bricks, all plastered and painted. 440 x 660 ROK columns tied into wall with galvanised hoopiron. Walls to be smooth plastered and painted and neighbour side bagged and painted.



ERF 1

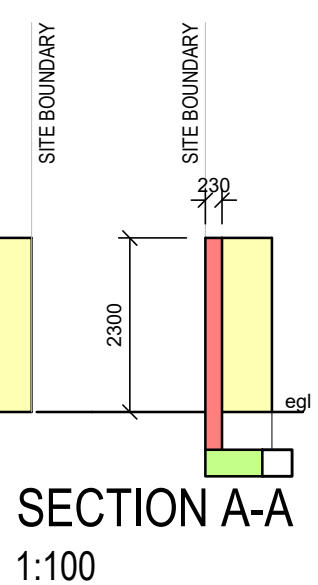
SITE PLAN
 1:100





SOUTH ELEVATION
 1:100

Boundary wall constructed with ROK bricks, all plastered and painted. 440 x 660 ROK columns tied into wall with galvanised hoopiron.
 Boundary wall to be constructed in accordance with SANS 10400 Part "K"
 All blocks and columns to be filled in with concrete to make solid units to comply with Table 17 of SANS 10400 Part "K"

NO PART OF BUILDING WORK TO PROJECT OVER BOUNDARY LINE



SECTION A-A
 1:100

Checked by: 
 Kevin Sampson
 Owner: 

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: K.H.
 Cell: 063 658 0575
 alterplansa@gmail.com
 Checked by: Kevin Sampson
 SACAP Reg. No: D0736

Project: **Proposed Boundary Wall**

Client: **Louise Lewis**
 Address: **12 Werdmuller Street Malmesbury 3513**
 Erf: **3513**

Drng. No: **AP 2022 - 1110** Scale: **1:100 @ A2**

Date: **19.07.2022** Page: **1 of 1** Rev: **C3-10-22**

