



Belangegroep Stellenbosch Interest Group

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Mr Stiaan Carstens
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Dear Mr Heys

APPLICATION IN TERMS OF SECTION 15.2 (a) OF THE STELLENBOSCH MUNICIPALITY LAND USE PLANNING BY-LAW, 2015 FOR THE REZONING OF THE REMAINDER OF THE FARM BRANDWACHT No. 1049 FROM AGRICULTURE AND RURAL ZONE TO SUBDIVISIONAL AREA TO PERMIT A VARIETY OF URBAN LAND USES, AND DEVIATION FROM THE SPATIAL DEVELOPMENT FRAMEWORK: OPPOSITION TO THE APPROVAL OF THE APPLICATION

The Stellenbosch Interest Group (SIG) refers you to your e-mail of 1 September 2022 calling for comment on the above-mentioned application, under reference LU/13953, on or before 3 October 2022.

The SIG is firmly opposed to the approval of the application to adjust the urban edge so as to include the Remainder of the Farm Brandwacht, Farm No.1049 ("the property") and to rezone the property – currently zoned as agricultural and rural – so as to allow for urban development on it.

The SIG submits that the proposal A) runs counter to the recommendations of the *Conservation Management Plan for the Tangible Heritage Resources in the Stellenbosch Municipality* (CMP), B) is open to two weighty, principled objections, and C) is supported by shaky and misleading arguments.

A. The *Conservation Management Plan for the Tangible Heritage Resources in the Stellenbosch Municipality* or CMP (later called the *Conservation Management Tool*), which forms part of the *Stellenbosch Heritage Inventory*, was endorsed by HWC in May 2018 (letter from HWC dated 25 June 2018). It deals in detail with the "Eerste River Helderberg Footslopes", the area within which the property is located. By saying that

this layered landscape has “historical, scenic and high social significance *that is under threat from excessive development*” (our emphasis), it unequivocally establishes its position as part of the heritage of Stellenbosch.

The CMP assigns great importance to the “unique character” of the landscape, created by “the interplay between Urban, Rural and Wilderness areas”. Therefore, it states that land uses that will “likely erode landscape character” should be discouraged. These include “gated residential estates” and “suburban development”. **“Large-scale business-park development and suburban expansion, together with increased transport infrastructure, threatens the character of this landscape unit”** (emphasis in the original). “Non-agricultural development should be located along the R44 and not allowed to spread up the mountain slopes.”

Whereas the application justifies the development as “urban infill development” giving the town a compact shape, the CMP maintains that “The threshold of agricultural fields between the mountain and the edge of town is an important element to enhance and maintain” and that “This landscape unit forms part of the green transitions conservation system, so maintenance of its green and open agricultural character is important.” As noted above, the interplay between urban, agricultural and wilderness is part of the heritage of Stellenbosch that lends a “special rural character” to the town.

It is particularly disturbing that the draft for the proposed development locates large plots at the highest (most easterly) part of the property, the part with the highest visibility. The houses on these plots will no doubt be large and imposing. The CMP specifically warns against the construction of “overscaled private dwellings” in “visually sensitive” places.

In brief, the proposed development runs counter to the recommendations of the CMP and seriously erodes the heritage elements identified in that document. It is precisely the type of “insensitive” and “dominating” development that erodes “the natural-agricultural continuum found on the rolling foothills of the study area” against which the management plan warns.

B. It is the view of the SIG that there are two weighty, principled reasons why the application should be turned down.

1. The MSDF for Stellenbosch, which was adopted as recently as 2019 (accepted by Council in August, published in October), placed the property *outside* the urban edge. This decision was clearly not lightly taken: the draft MSDF had placed the property within the urban edge, but Council deliberately amended the draft to exclude it.

The application states that this amendment was made without further public consultation. However, at that stage public feedback on the draft had already been solicited. The developer and the owner, both with an immediate financial interest in the matter, had supported the draft. Many more Interested and Affected Parties (IAPs) had opposed the inclusion of the property within the urban edge. In placing the property outside the urban edge, *the Council had in effect rejected the developer’s proposal.*

As a general principle of good governance, decisions taken by a legislative body should not be overturned by an executive or administrative body. That this can lead

to abuses is glaringly obvious. The application rightly cites SPLUMA section 22 (1) stating that bodies that are authorized to make planning decisions may not act in contravention of municipal spatial development frameworks. SPLUMA then adds section 22 (2) which allows such bodies to depart from the frameworks if site-specific circumstances justify it. If section 22 (2) is not to be in flat contradiction to section 22 (1), it has to be assumed that such cases will be *exceptional and based on clear necessity*. No such necessity exists.

The application states that Council's decision was "unreasonable". Coming from a developer with a financial interest in the matter, this statement is obviously in questionable taste. The point, however, is that to overturn this decision would amount to saying that Council, quite recently and with a development proposal that is essentially the same as this one before it, reached an unreasonable decision. To the SIG it appears that the decision was perfectly reasonable in view of the condition imposed when a western portion of the farm was sold off for development in 2009, namely, "the remainder of the property must be retained for agricultural purposes and no further urban development be allowed."

2. The threat to valuable agricultural land in the Western Cape is well known and many warnings have been issued in this regard. To this the SIG wishes to add that a major threat is posed by the following extremely harmful practice:

Property zoned for agriculture is acquired (at a price commensurate to the agricultural zoning) with the sole purpose of lobbying to have the property rezoned for housing. No attempt is made to farm the land. Indeed, existing resources (vineyards, for instance) are neglected to such an extent that it can subsequently be argued that it would be too costly to restore the agricultural potential. In some cases, parts of the property are sold off and it is subsequently argued that the remainder is no longer a viable agricultural unit. The point is obvious: *All agricultural properties in the Winelands District (and in many parts of the Western Cape) would yield their owners more if they were rezoned and subdivided for housing.*

All of this applies in the present case, except that the sale of part of the property took place before the present owner(s) acquired it. The owner, significantly named Brandwacht Land Development, has made no attempt to farm the land but has allowed it to become a wilderness, completing the destruction of resources (vineyards) initiated by the previous owner.

Such practices should, as a matter of principle, not be encouraged. There has been at least one precedent, which is understandable given the huge financial incentive. That is why the CMP states: "Care should be taken that vineyards are not needlessly destroyed, and replaced by non-agricultural development. *The potential agricultural use of the land should be retained for the future*" (our emphasis). Accepting this application will encourage owners to neglect or uproot vineyards (or other agricultural resources) in order to lobby for rezoning, thereby destroying our agricultural heritage.

- C. The application cites many supposedly site-specific circumstances to support a deviation from the MSDF. Some of these are by no means site specific and all the others are open to challenge.

1. Reading subsections 1 and 2 of SPLUMA section 22 together, “site-specific circumstances” must refer to circumstances pertaining to a particular site and not to other sites. The provision of “a balanced housing stock”, the (supposedly) limited visual and heritage impact and impact on critical bio-diversity, and the socio-economic benefits can be achieved equally well or better at other sites. The development will do nothing to address the housing backlog in the most critical area – lower-cost housing. *It is most unlikely that it will provide housing to more than a few people currently residing or employed in Stellenbosch.*

Mention is made of the Eastern Link Road and the Paradyskloof Special Development Area. The latter project has been shelved. The Eastern Link Road was proposed more than fifty years ago, but nothing has been done about it. In the current economic climate, nothing will be done about it for many years. *If the idea were ever to be resurrected, it would evoke fierce opposition.* The CMP states that “the eastern bypass threatens the inherent character of this landscape unit”. In any case, proposals cannot be justified by appealing to site-specific circumstances if these circumstances do not currently exist.

The statements that this will be an urban-infill development, compatible with the surrounding environment and desirable because it yields a “compact urban shape”, has been partly been dealt with above. That “use for agricultural purposes [is] not feasible” will be challenged below.

2. It is stated (*ad nauseam*) that this is urban-infill development. It is not. On two sides, the southern and the eastern, the surroundings are *purely* rural. From most of the parts of the extension of Trumali Road that runs along the property, houses in Paradyskloof are not even visible in the distance. To the west, the spaced buildings with extensive open spaces do not create a typical urban impression. To the north, the aspect is not typically urban either, except where Brandwacht-aan’t-Rivier has been built. A part of Brandwacht facing the property is parkland. Elsewhere trees and shrubs, either along the Brandwacht Stream or on the properties in Brandwacht, provide a screen. In the far eastern part, there are no houses to the north of the property. The surrounding environment is simply not urban.
3. The SIG cannot challenge the statement that roughly 40 hectares are needed to constitute an economically viable agricultural unit, though no specific studies are cited to support it. *This does not, however, imply that it is not feasible to use smaller pieces of land for agricultural purposes.* It merely means that a smaller unit may not, by itself, be able to provide an owner with a reasonable living. Owners with other sources of income and those who, for instance, buy in grapes or rent other pieces of land can and do farm such small units lucratively.

The Platter wine guide usefully provides data on the total size of wine farms and the area under vines. It shows that some well-known wine estates in the Stellenbosch area cover less than 30 hectares and have less than 20 hectares under vines. Haskell Vineyards and Grangehurst are two examples from the slopes of Stellenbosch Mountain. Boutique wineries in the Winelands District are sometimes tiny – Gilga is a case in point. Moreover, the statement that only “±20 hectares” would be suitable for planting vines is not substantiated. The draft development plans suggest that a larger area will be available.

The assessment of the property’s agricultural potential provided with the application is in many ways unsatisfactory. It is stated that the property “has an urban character” but also that a municipal development to the south (now shelved) will “*change* the character of the area from rural to urban” (our emphasis). Contrary to what the report states, vandalism and petty theft will be *less* of a problem in areas

near high-end developments. Black south-easterly winds are cited as a challenge to farming the property. They may cause flash floods! How many of these have been reported in the area recently? *Moreover, given the location, the property is largely shielded from all south-easterly winds.* Other farms along the R44 are *more* exposed and seem to operate well.

Though the report says much about factors that have nothing to do with agriculture, it provides no soil analysis. This matters because the CMP speaks of “the high quality of soil for the cultivation of vines” on these very slopes. There is no history of farming activity on the land, which was formerly planted with vines. Many of the statements in it are not backed up by arguments or data. In fact, large parts of it read as if it were an advertisement for the development.

The shortage of water does indeed pose a problem, as it does for many other farmers in the area. This problem, however, must have been known to the current owner when the property was bought *as land zoned for agriculture*. That the owner hoped that it would be rezoned is no argument for rezoning it.

4. The application refers frequently to the *demand* for housing for the “middle to higher income group”, sometimes confusing it with a *need*. The SIG submits, first, that the development will cater virtually exclusively for the *higher income group*. If the basic model is to be Brandwacht-aan’t-Rivier, it is most unlikely that, for instance, newly appointed academics will be able to afford a house there – much less those whose income is at or slightly above the median for the town. The “housing backlog” concerns *primarily* the need for economic and GAP housing. Vague undertakings by the developer in this regard should not carry weight: they do not commit him to anything.

The SIG submits, secondly, that only a tiny proportion of the demand, which is indeed there, comes from people currently residing or working in Stellenbosch. What is planned is, in fact, a dormitory village for the wealthy. This is borne out by other similar developments. Should Stellenbosch become a town surrounded by dormitory villages for the wealthy? This is a political decision, not an administrative one.

The *demand* for expensive housing in a scenic setting will always be there. It does not have to be met.

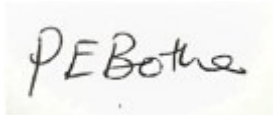
5. Many other features of the application are unsatisfactory. The Traffic Impact Statement is said to support the proposal. The TIS adds, however, that “at least a section of the Eastern Link Road would be required” to handle the traffic. This section does not exist and will probably never exist. Suggestions about public transport and NMT are disingenuous. The inhabitants of such developments do *not* use mini-bus taxis and will cycle or walk only for exercise or pleasure. The statement that “the resulting traffic impact will be limited” is *at best* misleading.

The statement that the development will have “limited visual impact” seems based on a tendentious reading of the Draft Visual Impact Report. The concluding sentence of the latter does indeed say that “visually sensitive” development may take place on the site. Earlier, however, it speaks at length about necessary mitigating measures. To enforce these will be practically impossible. Once houses have been sold, the owners will not be bound by any earlier undertakings. After years, Brandwacht-aan’t-Rivier is in no way screened from view. In fact, the draft Visual Impact Report is all but enthusiastic. It regards the visual intrusion as

“moderate” (not low), but quite high in the upper parts. It notes that the development will be visible from three scenic routes. It cites the *Inventory of Heritage Resources of the Rural Cape Winelands*, which proposes that the upper half of the Brandwacht RE/1049 site is of “Very High Heritage Significance”.

The Draft Heritage Impact Report dates from before the completion of the CMP. Unlike the Visual Impact Report it does not consider the heritage value or the “unique character” of the unit as a whole and the danger that this will be impaired. Instead, it relies almost solely on older studies.

To conclude: The proposed development will have a highly negative effect on heritage resources. That can be denied only if “heritage” is interpreted narrowly so as to exclude the “unique character” of an area. The application requires the overturning of a recent, deliberate decision by Council, a dubious procedure, and asks that a practice that threatens our heritage be rewarded, thereby setting a precedent. The arguments presented in favour of the development are weak and to some extent misleading. In particular, it assumes that the Eastern Link Road will be built in the near future, which is wildly unlikely and highly undesirable from a heritage perspective. Developments such as the one proposed threaten the unique character of Stellenbosch in its rural setting.

A handwritten signature in dark ink, appearing to read 'PE Botha', on a light-colored rectangular background.

Kind regards

Patricia Botha (Chairperson)