

By e-mail

Ward Committee for Ward 22
c/o Clr Esther Groenewald esther.groenewald@stellenbosch.gov.za
24 October 2022

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Ms Geraldine Mettler
Municipal Manager
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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: OBJECTION TO THE APPROVAL OF THE APPLICATION

I refer to a notice in the Eikestad News on 1 September 2022 under Municipal Reference LU/13953 concerning the above, calling for comment on or before 3 October 2022, which date was later extended by you, in consultation with the Municipality, to 24 October 2022.

Because the above-mentioned property is situated outside the approved urban edge in terms of the current Municipal Spatial Development Framework (MSDF) dated November 2019, residents of Ward 22 are most concerned about the proposal to rezone and develop this property for urban purposes. At meetings of the Ward Committee held during September 2022, members of the Committee resolved to oppose the application in the strongest possible terms. Comments by the Ward Committee are accordingly listed below under the following four main headings.

- **Background history and non-compliance with Planning Principles**
- **Specific Responses during the revision of the 2019 MSDF**
- **Criteria for adjudicating the Application**
- **Conclusion**

1. BACKGROUND HISTORY AND NON-COMPLIANCE WITH PLANNING PRINCIPLES AND POLICIES

1.1 As a point of departure the rezoning from Agriculture to Subdivisional Area to subdivide the property, to accommodate a variety of urban land uses, should not be

permitted on high quality agricultural soil. In support of this statement reference is made below to **planning principles and policies which must be adhered to by both the Applicant and by the Municipality.**

1.2 This proposed rezoning application has been preceded by a long and unfortunate history and the previous applications were met with strong opposition and dissatisfaction by the local community and other interest groups because of the negative impact rezoning and subsequent development has had, not only on the rural scenic splendor and historic character of Stellenbosch, but also because of the notion (firmly entrenched in the Statutory Guide Plan of 1988) that valuable agricultural soil should be preserved and managed for the benefit of posterity (see paragraph 1.4 below).

1.3 At present the property is located outside the identified urban edge in terms of the approved 2019 Municipal Spatial Development Framework (MSDF) for Stellenbosch Town. This farm was an economic agricultural unit with well-kept vineyards when the statutory guide plan was approved in 1988 and for a considerable period thereafter. Since the end of the twentieth century, however, the Winelands area has been seriously threatened by a multitude of similar applications in the Stellenbosch region, because of the short-term financial gain that may be realized by the owners of such properties at the expense of posterity. The proposed nomination of the Cape Winelands as a World Heritage Site will also be compromised if a spate of similar rezoning applications and subsequent developments in the rural and agricultural hinterland of Stellenbosch are approved.

1.4 To safeguard the agricultural productivity and the cultural and historical significance of this property for posterity, the statutory Guide Plan approved in 1988, after years of consultation with all the stakeholders, designated the property in question to be preserved for agricultural production. In this respect it is important to note that this property was subject to the following policy guidelines as contained in the approved **Guide Plan of 1988**:

“Par 2. GUIDE-LINES FOR AN URBAN STRUCTURE

“Par 2.1 *The spatial ordering of Stellenbosch should be aimed at the retention of the present cultural and historical interaction between Stellenbosch and the Peninsula, as well as the nearby satellite towns in the fringe area of the Cape Metropolitan Area, namely Paarl/Wellington and the Hottentots-Holland Basin.*”

“Par 2.2 *Because of the existing restraints as regards the potential of Stellenbosch for long-term physical expansion, the urban development that does take place should be qualitative rather than quantitative and a compact urban structure with higher residential densities should be aimed at.*”

“Par 2.4 *The protection of the area’s good agricultural land should enjoy priority at all times.*”

“Par 2.6 *No subdivision of agricultural land may take place with a view to the creation of further smallholdings for extensive residential purposes.*”

“Par 1. *It is emphasized that the land-use pattern that these guidelines are expected to bring about is shown only approximately on Map A2. In terms of*

section 6A (12) of the said Act, it is the function of the Western Cape Regional Services Council to ensure that any changes within the guide plan area are consistent with the guidelines laid down in the Guide Plan.

1.5 With the amendment of planning legislation following the democratic elections of 1994, planning controls were not strictly enforced by various levels of Government and because Land Reform legislation provided for certain property rights in respect of on-farm labour, Brandwacht Farm became one of many farms to cease employing on-farm labour. The owners of Brandwacht Farm, rather than continuing to farm, sought to develop the property for more financially profitable urban purposes. On 30 April 2009, the owners succeeded in gaining approval for the rezoning and subsequent development on an 18,5ha portion of the farm for office purposes, residential erven, and a hotel. This highly controversial approval was granted by the then Minister of Environmental Affairs and Development Planning, Mr Pierre Uys on his last day in office (see **Appendix A**). This happened although planning decisions had become a local authority competence in terms of the 1996 Constitution of the Republic of South Africa.

It is however of crucial importance to note that **condition 3.11** of the letter of approval explicitly states that; **“the remainder of the property must be retained for agricultural purposes and no further urban development be allowed.”**

Since the 2009 approval, the guide-lines contained in the Guide Planning process (referred to in paragraph 1.4 above) have been replaced by an Integrated Development Planning (IDP) process. **The Municipal Spatial Development Framework (MSDF) for Stellenbosch is a key element of the IDP and contains similar if not identical principles to those contained in the statutory Guide Plan.**

As already mentioned, **in terms of the approved MSDF the subject property has been excluded from urban development and the proposal can accordingly also not be recommended for approval in terms of such document.**

1.6 On page 67 of the approved 2019 MSDF the following statement in relation to the possible future use of the Remainder of Brandwacht Farm No. 1049 is of critical importance: ***“Redevelopment offers the opportunity to accommodate many more residents within Stellenbosch town, without a negative impact on agricultural land, nature areas, historically significant precincts, or “choice” lower density residential areas.”***

Based on this statement, Brandwacht Farm was excluded from the urban edge as **its inclusion would have a negative impact on agricultural land, nature areas, historically significant precincts, and “choice” lower density residential areas.**

This conclusion is in line with the core principles and policies listed on page 52 of the MSDF which can be summarised as follows:

- maintain and grow our natural assets;
- respect and grow our cultural heritage;
- direct growth to areas of less natural and cultural significance as well as movement opportunity;

- clarify and respect the different roles and functions of settlements;
- clarify and respect the roles and functions of different elements of the movement structure;
- ensure balanced, sustainable communities; and
- focus collective energy on critical catalytic projects.

1.7 The Ward Committee for Ward 22 holds the same opinion, based on the seven principles above and six other very well-defined policy statements in the MSDF (quoted below):

Rezoning and development proposals that do not conform to these principles and policy statements should in principle not be approved. One cannot have principles and policies and then adjust them for different situations.

“Even if difficult, it is a matter of now or never. We cannot behave and live like before. We cannot afford to lose more nature and agricultural land, develop at low densities, and prioritize building roads for private cars more than public transport. If we do that, the system will fail. Material wealth will not assist.” (Page 9 of the MSDF preamble)

“Containing settlement footprints by curtailing the further development of peripheral dormitory housing projects.” (Page 25 of the MSDF)

“Containment of settlements to protect nature / agricultural areas and enable public and non-motorized transport and movement.” (Page 26 of the MSDF)

“A focus on public and non-motorized transport and movement.” (Page 26 of the MSDF)

“Maintain and grow the assets of the Stellenbosch Municipality’s natural environment and farming areas.” (Page 51 of the MSDF)

“Respect and grow our cultural heritage, the legacy of physical artefacts and intangible attributes of society inherited from past generations maintained in the present and preserved for future generations.” (Page 51 of the MSDF)

1.8 The reason for emphasizing the above principles and policy statements deals with the fact that policy has now progressed from simplistic statements that land is either within or outside the urban edge, to a more reasoned level of policy, based on principles of sustainable development.

Elements or parts of the approved MSDF can therefore not be viewed in isolation or simplistically. In cases such as this, where the proposed rezoning and subsequent development does not comply with the above-mentioned principles and policies, the application should not be considered any further. This is also the view of the Ward Committee for Ward 22, because approval would defeat the principles and policies contained within the approved 2019 MSDF.

2. SPECIFIC RESPONSES DURING THE REVISION OF THE 2019 MSDF

In dealing with public comment received on advertising the draft MSDF, certain challenges arose when various role players sought to deviate from the principles and policies on which the MSDF is based to facilitate unprincipled applications for rezoning and subsequent development. This was done by introducing semantics and providing ambiguous, confusing and/or incomplete information. Examples can be found in Appendix B of the approved MSDF under the heading “Public Comment Received Following Advertising of the Draft MSDF” on pages 149 to 186 of the document. The following extracts are relevant to this application.

2.1 In Section 12 on page 155 of the MSDF, the applicant’s consultant TV3, in representations dated 25 April 2019 recorded its satisfaction that the Remainder of the Farm Brandwacht had been included in the urban edge. The Municipal response was as follows, “The proposed urban edge was adjusted to include a smaller more rational development area”

2.2 In Section 15 on page 156 Cape Nature, in representations dated 29 April 2019 stated that, Brandwacht/Paradyskloof water courses and buffer should be excluded from the urban edge or indicated as green areas to be retained. The Municipal response was as follows, “Stellenbosch Municipality regards the Stellenbosch Environmental Management Framework (SEMF) as a sound biodiversity for the MSDF.”

2.3 In Section 50 on page 169, the Stellenbosch Ratepayers Association (SRA) in representations dated 8 May 2019, expressed concern about the fact that the upper portion of Brandwacht Farm (Farm 1049) and a 20ha portion of Farm 369 (south of Brandwacht Farm) had inadvertently been included in the urban edge in Fig. 27 on page 66 and Fig. 28 of the Draft MSDF. **The Municipal response was an ambiguous and confusing “Not supported.”**

2.4 In Section 51 on page 170, Friends of Stellenbosch Mountain in representations dated 8 May 2019 referred to the inexplicable inclusion of Brandwacht Farm and a 20ha portion of Farm 369 in the urban edge, notwithstanding its high agricultural soil potential and they requested that such inclusion be rescinded. The Municipal response was that a smaller portion adjoining Brandwacht is regarded as suitable for appropriate infill development.

2.5 In a second round of comments contained in Section 4 on page 174, representations dated 19 June 2019, Mr Merwe Botha objected to the further development of Brandwacht Farm because it would exacerbate traffic congestion and increase pressure to build the eastern by-pass. The Municipal response was that; “it was necessary to actively seek infill residential opportunity. **Prior to implementing any such opportunity (if at all) numerous studies and investigations are required.**”

2.6 In the second round of comments contained in Section 7 on page 175, in representations dated 20 June 2019, TV3 stated that their client supports the draft MSDF proposal to include the Farm Brandwacht No. 1049, Stellenbosch as a cadastral entity into the Stellenbosch urban edge. The Municipal response was that the portion of the farm as indicated (not necessarily a cadastral entity) will be require further studies.

2.7 Also in the second round of comments contained in Section 22 on page 179, in representations dated 4 July 2019 the SRA noted that while the upper part of Brandwacht Farm and a 20ha portion of Farm 369 has been removed from Fig. 28 the same cannot be said of Fig. 27. There was no Municipal response other than the statement, "the need for small infill development and associated process requirements has been commented on fully before.

Had Council, however, not picked up the fact that Brandwacht Farm had continued to be included in the urban edge in the final version of the 2019 MSDF, it would inadvertently have approved such inclusion, notwithstanding the multiple objections from many spheres of the community and representations not to do so.

3. CRITERA FOR ADJUDICATING APPLICATIONS IN TERMS OF THE STELLENBOSCH MUNICIPAL BY-LAW 2015: PLANNING MOTIVATION

The current owners of the subject property have over years neglected the vineyards on the farm. Some vineyards have even been removed and the soil left barren. It became obvious to the adjacent community that the owners had another goal in mind for the property, which is very different from its former verdant ambience as a luxuriant and profitable wine farm. **The proposed rezoning application therefore confirms the intention to be the short-term financial enrichment of the owners.**

The acclaimed architect, Mr Piet Louw has, however, stated publicly that agricultural land in the Stellenbosch region should be protected at all costs. He has further stated that **people who do not wish to farm should sell their land to people who do and not to developers.**

In terms of paragraph 65 of the Municipal Planning By-Law 2015, **the Municipality, however, has an obligation to evaluate the proposal in terms of a set of criteria.**

In paragraph 65 on page 51 and 52 of the Stellenbosch Municipality Land Use Planning By-Law 2015, approximately twenty general criteria for considering applications are listed.

The Applicant has submitted motivation in relation to fourteen of these criteria to justify the submission and adjudication of this site-specific application. Motivation by the Applicant and comment on such motivation by the Ward Committee is as follows:

3.1 The Applicant submits that **the need and desirability of the proposed rezoning is fully motivated.**

The comments below by the Ward Committee will, however, demonstrate that the Applicant confuses “need” with “demand.” There may be a market demand for low density urban development, but **the Applicant is, however, unable to demonstrate why it is desirable that such demand should be met on this specific site.**

3.2 The Applicant submits that **the proposed rezoning and subsequent development of the subject property is an infill urban development.** The proposed development, however, cannot be considered as an urban infill development. As such, **the proposal constitutes a further green field and gated development,** something that cannot be interpreted as an urban infill development.

3.3 The Applicant submits that **the proposed land use is compatible with the surrounding development.** The proposed development is, however, **not compatible** with the important viticulture practiced on the adjacent Grondves Farm. Such development is also not compatible with the scenic splendour on the slopes of Stellenbosch Mountain, the latter being protected within the principles of the MSDF. The application seeks to accomplish exactly the opposite of their submission mentioned above.

3.4 The Applicant refers to the possibility (during 2015) that 20ha of the adjoining Grondves Farm would be set aside as a **Paradyskloof Special Development Area** for an innovation project. **The mentioned project had, however, not been taken forward** by the time that the 2019 MSDF was approved and the statement by the Applicant can therefore be deemed to be irrelevant.

3.5 The Applicant submits that approval **will assist in creating a compact urban form** for Stellenbosch Town. **All towns, however, have diverse land uses and complex spatial structures for a variety of reasons** which contribute to the ambience and quality of life enjoyed in the town concerned. For example, the large areas of historic vineyards close to the center of Paarl, or of olive groves close to the center of Florence in Italy, contribute to the visual amenity of such towns. The site in question, situated on the scenic slopes of Stellenbosch Mountain is one of the natural green attractions that encourages many tourists to revisit Stellenbosch annually. This was a further reason for excluding it from the urban edge in the approved Guide Plan of 1988 and why it is still protected in the principles contained within the 2019 MSDF.

3.6 The Applicant submits that the proposed rezoning and subsequent development **provides for the future construction of the proposed Eastern Link Road.** With reference to **Appendix “C,”** however, the proposed link road, if it were to be built would constitute one of the most destructive environmental acts committed by the Municipality to date. In the well-reasoned 2018 letters by Dr P E Claassen, a former professor of town planning at the University of Stellenbosch, it is submitted that the negative consequences of building **such a road, even if it were financially feasible to build, would have a disastrous impact on the environment.** A site inspection will clearly demonstrate that the alignment is incompatible with the scenic splendor of the mountainous topography, not to mention the destructive effect it will have on the

built environment. The applicant also fails to mention the Todeschini Heritage Report, approved by Heritage Western Cape in this regard.

3.7 The Applicant submits that **the use of the property for Agricultural purposes is not feasible** and quotes the opinions of various so-called experts. Surprisingly, the applicant, however, admits that in 1988 the property was excluded from urban development precisely because of the relatively high agriculture soil potential.

The applicant also fails to define what is feasible or to mention that the current owners have purposely sought to neglect the agricultural viability of the Farm.

The subject property nevertheless continues to be highly valuable, irrespective of its current zoning. There are many buyers both in SA and abroad who would pay good money to acquire the property and retain it for agricultural use if it came onto the market.

As already mentioned, Piet Louw, the acclaimed Cape architect has for good reasons stated publicly that ***agricultural land in the Stellenbosch region should be protected at all costs.***

3.8 As if the applicant knew what he was trying to achieve, he submits that **Brandwacht Farm has already succumbed to urban development over the past years.**

This comment however cannot justify the destruction of additional agricultural Land. Each application should be evaluated against the principles of the approved MSDF and zoning regulations.

3.9. The Applicant submits that **the proposal will greatly contribute towards addressing the housing needs and backlog.** For the reasons elaborated upon in paragraph 3.10 below, the proposal will, if approved, lead to an increase in the housing backlog, particularly at the lower end of the market. As mentioned in paragraph 2 above it was stated in 1988 that, *“because of the existing restraints as regards the potential of Stellenbosch for long-term physical expansion, the urban development that does take place should be qualitative rather than quantitative and a compact urban structure with higher residential densities should be aimed at.”*

3.10 The Applicant refers to **the need to provide balanced housing stock** and cites the northward expansion of Stellenbosch providing for 5200 housing opportunities ranging from subsidized housing to GAP housing. One, however, only needs to look at the shack developments of Watergang and Nkanini, where it is self-evident that these settlements are the result of the need to accommodate the labour force (comprised of domestic workers gardeners, painters, plumbers, bricklayers, etc.) required to meet the needs of higher income residents living in low density developments. Because of the existing restraints as regards the potential of Stellenbosch for long-term physical expansion, higher income buyers will have to compete for the available housing stock in the existing **“choice” lower density residential areas referred to on page 67 of the 2019 approved MSDF.** Nowhere in the world is it possible or feasible to fully meet the demand for low density, high income residential development. It is also a natural economic phenomenon that choice lower

density residential areas are recycled as higher income residents redevelop properties, vacated by pensioners and the elderly who find more suitable accommodation elsewhere.

3.11 The Applicant submits that **the property is not an environmentally sensitive site and states that there will be no loss of a critical biodiversity area. If the applicant had any knowledge of the contents of the Todeschini Heritage Management Plan, the application would have rather steered away from this unsubstantiated statement. The loss of open mountainous, natural landscape and space to urban uses will always have an impact on the biodiversity of the surrounding area.**

3.12 The Applicant submits that **the proposed rezoning and subsequent development will have limited impact on heritage resources** and the heritage practitioner states that, “the recent developments that have been allowed on the remains of the original Brandwacht farm, particularly **the subdivision of the werf and the development of large office buildings along the R44 have eroded what was remaining of the heritage value of the Remainder of Farm 1049.**

This latter statement is simply not true, especially because **the original Brandwacht Manor House on a 2,3ha site remains intact** (see **Appendix B**” attached).

As mentioned above, this portion of the Farm (Portion 3 of the Farm Brandwacht 1049), approved for the development of a hotel in the 2009 decision by Minister Pierre Uys, **is currently used for Conventional Residential purposes.**

Members of the Ward Committee understand that the current owner of this property is also strongly opposed to the proposed rezoning and subsequent development of the Remainder of the Farm.

It may further be mentioned that the 2,3ha Brandwacht Manor portion of the Farm is valued at R16,0 million, whereas the Remainder of the Farm, 30,0ha in extent, is valued at only R11,6 million. **There is accordingly no financial pressure on the owners, from a property rates perspective, to develop the remainder of the farm for urban purposes.**

As will be seen from the following extract, which appears in the **Heritage Management Plan by Professor Fabio Todeschini, contained in the Heritage Inventory for Stellenbosch Municipality, as approved by Heritage Western Cape (HWC) in a letter dated 18 March 2019, there will be a major negative impact on the environment if this application were to be approved:**

“C30 STELLENBOSCH BERG (Guidelines approved by Heritage Western Cape, 18 March 2019)

This layered landscape has historic, scenic and high social significance under threat of excessive development. The Eastern Bypass threatens the inherent character of the land unit, and access via the dairy farm is significant for maintenance of this rural and recreational edge to town.

MAIN AIM: ENHANCE (MANAGE) AND INTERVENE (CHANGE): *Improve land parcels by strengthening or reinforcing agricultural use and its characteristic elements and features, most importantly the tree-lines and windbreaks between properties, as well as vineyards and farmstead/werf areas. Non-agricultural development should be located along the R44, and not be allowed to spread up the mountain slopes.*

MAIN VALUE: ECOLOGICAL – *This landscape unit exhibits pockets of critical biodiversity, in natural condition, as well as historic tree copses and ecological support areas around the river. Access to the mountain should be at all times be valued and displayed in any development proposal. The threshold of agricultural fields between the mountain and the edge of town is an important element to enhance and maintain.*

CONSERVATION SYSTEM: *This landscape unit forms part of the green transitions conservation system, so maintenance of its green and open agricultural character is important. It also is part of the foothill system around protected areas. It also has a coverage of more than 70% visibility from a grade II scenic drive.*

DEVIATED LAND USE/USES THAT WILL LIKELY ERODE LANDSCAPE CHARACTER: *Over scaled private dwellings, cluttered properties, gated residential estates, large-scale industrial structures, suburban development, mining, landfill or sewage plant, parking lot, business park, isolated shopping center. **Large-scale business-park development and suburban expansion, together with increased transport infrastructure, threatens the character of this landscape unit.***

3.13 The Applicant submits that the proposed development will have a limited visual impact. In the report it is, however, conceded that while the lower lying areas are not visually sensitive, **the higher lying areas are more visually sensitive.** It is further stated that this impact can be mitigated through, development rules, residential densities, erf sizes, building form and style, colour and landscaping.

It can accordingly be concluded that the proposal, if approved will have a significant visual impact requiring considerable mitigating intervention to reduce the impact.

3.14 In the section dealing with **Socio-economic benefits** the Applicant submits that **the current supply of higher income housing is unable to meet demand.**

Nothing in the report, however, motivates why the specific site should be sacrificed to meet such demand.

As stated in paragraph 3.10 above it is not economically or environmentally feasible to match the provision of low-density housing with the demand generated by high income earners. The best that can be achieved would be to develop higher density high income housing. This is happening increasingly in suburbs such as Dalsig where there has been a proliferation of applications for second dwellings.

The focus should also be on **critical catalytic projects**, such as the draft **Spatial Development framework for the Adam Tas Corridor.**

3.15 In addition to commenting on the above-mentioned motivation provided by the Applicant it is necessary to stress that the approved November 2019 MSDF is aligned with the principles and policies contained in the Spatial Development Frameworks (SDFs) of both the Winelands District Municipality and the Provincial Government.

4. CONCLUSION

4.1 **Contrary to the conclusion reached by the Applicant on page 44 of the Report," that the proposed (rezoning and subsequent) development can be deemed to be desirable", it is self-evident from the information and comments contained in paragraph 3 above, that this is not the case.**

Nothing contained in the information nor in the arguments submitted by the Applicant, in any way supports or justifies the approval of this application for rezoning, to permit the subsequent development of the subject property.


4.2 For the above-mentioned reasons the Ward Committee for Ward 22 respectfully requests that the Municipality observes and enforces its own guidelines as contained in the Spatial Development Framework of the IDP and refuses to approve the above-mentioned rezoning application.

As concerned citizens the world over know, it is important to protect the environment from property speculation and over-development.

For this reason, it is necessary to vehemently oppose speculative greed which subdivides, cuts, and detracts from the natural habitat and scenic splendour of the environment.

Let us therefore save the beauty and scenic splendor of Stellenbosch as a heritage and tourist destination for future generations!

Proudly the Ward Cllr. for Ward 22 and Ward Committee


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