



STELLENBOSCH
STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNICIPALITY • UMASIPALA • MUNISIPALITEIT

Ref: 3/4/3/5/3/4

2017-09-04

**NOTICE OF AN
ECONOMIC DEVELOPMENT
AND PLANNING SERVICES
COMMITTEE MEETING
WEDNESDAY: 2017-09-06 AT 10:00**

TO Ald JP Serdyn (Ms) [Chairperson]

COUNCILLORS F Adams
FJ Badenhorst
AJ Hanekom
L Maqeba
RS Nalumango (Ms)
S Schäfer

Ex officio Executive Mayor, Ald G Van Deventer (Ms)

Notice is hereby given that an Economic Development and Planning Services Committee meeting will be held in the Council Chamber, Town House, Plein Street, Stellenbosch on **Wednesday, 2017-09-06 at 10:00** to consider the attached Agenda.

ALD JP SERDYN (MS)
CHAIRPERSON

**AGENDA
ECONOMIC DEVELOPMENT
AND PLANNING SERVICES
COMMITTEE MEETING**

2017-09-06

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1.	OPENING AND WELCOME	(3/4/3/3)
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1.1	COMMUNICATION BY THE CHAIRPERSON	(3/4/3/6)
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1.2	DISCLOSURE OF INTEREST	(3/6/2/2)
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2.	APPLICATION FOR LEAVE OF ABSENCE	(3/4/3/3)
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3.	CONFIRMATION OF THE MINUTES	(3/4/3/5/2/4)
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The minutes of the Planning and Economic Development Committee Meeting held on 2017-08-10 is distributed under separate cover.

FOR CONFIRMATION

4.	REPORT/S BY THE DIRECTOR: ECONOMIC DEVELOPMENT AND PLANNING SERVICES RE OUTSTANDING RESOLUTIONS TAKEN AT PREVIOUS MEETINGS	(3/4/3/5/2/2)
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NONE

5.	REPORTS FROM OFFICIALS: PLANNING, LAND USE MANAGEMENT, SPATIAL PLANNING, HERITAGE AND BUILDING CONTROL
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5.2.1	APPLICATION FOR REZONING: FARM NO. 130/3, STELLENBOSCH DIVISION
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1. PURPOSE OF REPORT

To enable the Committee to make an informed decision on the proposed rezoning. The application is **recommended for approval**.

2. BACKGROUND

An application for consent use for tourist facilities in order to establish a wine tasting and sales facility with farm offices was approved on 27 October 2009 (see **APPENDIX 6**). Advertising was waived at the time as the proposal was of such a nature that it would not have a negative impact on the surrounding property owners. A court order was issued on the Municipality thereafter. The court order indicated that the respondent shall be entitled to utilize the wine tasting and sales building on Farm No. 130/3, Stellenbosch Division as bona fide wine tasting, sales and marketing facilities and for office purposes (see **APPENDIX 19**).

3. DISCUSSION

3.1 Application for consideration

Application is made in terms of Section 17 of the Land Use Planning Ordinance, 1985 (No. 15 of 1985) for the rezoning of a portion of the existing "plaaswerf" (measuring ±1850m² in extent) from Agricultural Zone I to Agricultural Zone II in order to establish a 350ton wine cellar building and to use a portion of this building for the processing of olives. See **APPENDIX 3**.

3.2 Property information

Farm Number	130/3
Location	Access is taken via Zevenrivieren Road (Minor Road 5227) which intersects with Helshoogte Road (MR00172) APPENDIX 2
Zoning/Zoning Scheme	Agricultural Zone I with a consent use for a tourist facility / Zoning Scheme Regulations promulgated in terms of Section 8 of the Land Use Planning Ordinance, 1985 (15 of 1985)
Property size	35,6262ha
Owner	Oldenburg Vineyards PTY LTD
Applicant	P J Le Roux Town and Regional Planners
Unauthorized land use/building	No

work / date when notice served	
Title deed conditions	No

3.3 Site description and immediate environs

The subject property is located in the Banhoek Valley between Stellenbosch to the west and Kylemore to the east. The subject property forms part of the wine farms located against the lower eastern foothills of Botmaskop and is bounded by the Banghoek River to the east. The subject property together with the Remainder of Portion 2 of Farm No. 130, Stellenbosch, the Remainder of Portion 4 of the Farm No. 130, Stellenbosch and Portion 5 of the Farm No. 130, Stellenbosch collectively form the renowned Olden Vineyards.

The said properties are farmed and managed as one agricultural entity and comprise an extent of 56,7ha. Access to the subject property is taken from Minor Road 5227 which intersects with the R310 (Helshoogte Road) approximately 2,5km north of the subject property and ends approximately 1km short of the subject property before it is substituted by a servitude gravel road providing access to a few properties. The built environment consists of the manor house, manager's house, cottage, wine tasting and sales building, farm buildings and three (3) staff housing units.

3.4 Legal requirements

Applicable laws and ordinances:

- Land Use Planning Ordinance, 1985 (Ordinance No. 15 of 1985)

3.5 Public participation

The application was submitted in terms of Section 17 of the Land Use Planning Ordinance (No. 15 of 1985) for a rezoning and was advertised according to Council's Policy on Public Participation for Land Development Applications. The application was advertised in the Eikestad News and the government gazette and notices were served on the surrounding property owners. Although four objections were received, all the objections originated from the same landowner - GW Woodland - (see **APPENDIX 4**). See **APPENDIX 5** for the applicant's comments on the objection.

3.6 Summary of objections and comments on objections

Issues raised	No	Applicant's comments	Departmental response
Was not informed of the application.	1	An email was received by the applicant from the abutting neighbour on 02 February 2016 at 15h00 that they have received the registered mail from the Stellenbosch Municipality informing them of the application. Since the notices were sent via registered mail, it	Registered letters were served on the surrounding property owners on 22 January 2016 (see Appendix 21) and the application was also advertised in the newspaper (Eikestad News).

		is the obligation of each recipient to collect the registered mail from the post office immediately. This process cannot be held ransom if a recipient failed to collect his/her mail in time.	
<p>The application is contrary to the underlying intention of a Court order granted by the Western Cape High Court on Friday 26 August 2011.</p> <p>The previous application for a tourist facility (wine tasting and sales) resulted in litigation against the applicant. The objector was never notified of the application for consent use.</p> <p>This matter was settled on the basis that the usage of the tourist and wine tasting facility would be limited. This was incorporated in a Court Order. The present application will frustrate the very purpose of the Court Order.</p> <p>The underlying reason for the grant of the Court order was to limit the traffic to the applicant's property and to limit the influx of tourist and other visitors to the applicant's property. The rezoning of the property for the construction of a wine cellar will dramatically increase the traffic and visitors to the property. This will also mean the influx of heavy construction vehicles during the construction of the winery.</p> <p>The Court Order naturally binds the municipality.</p>	1	<p>The previous legal process has no relevance to his process since the subject application is a totally new application for a winery which has no reference to any previous litigation.</p> <p>There is nothing in the title deed of the subject farm which prevents the approval and construction of a winery thereon.</p>	<p>The purpose of the court order was to limit the traffic to the applicant's property and to limit the influx of tourist and other visitors to the applicant's property. This was specifically linked to the wine tasting and sales facility (tourist facility). A tourist facility is generally seen as a geographic feature, commercial enterprise or scenic route which is <i>mainly of interest to tourists</i>.</p> <p>A winery will not necessarily attract visitors and tourists as it is used for the processing of the owners grapes. The only visitors who can be connected to a winery are the trucks for the collection of the bottled wines which were manufactured on the property.</p> <p>The applicant submitted written confirmation from Cluver Markotter indicating that the proposal does not fall within the scope and ambit of the limitations as set out in the deed of settlement because the use is naturally part and parcel of the current viticulture (and general agricultural) activities conducted on the farm. (See Appendix 20).</p> <p>Our internal legal department also confirmed that the court order referred to the wine tasting and sales facility only and every new application has to be assessed on its own merits (see Appendix 22).</p>
<p>An industrial-type complex such as a winery is undesirable in an area close to numerous residential dwellings.</p> <p>The proposed winery will be a substantial processing enterprise, unsuited for a</p>	1	<p>The location of the proposed winery has taken many criteria into account which inter alia include the utilization of already disturbed land, limit the use of cultivated agricultural land and accessibility and proximity to existing infrastructure and services. The proposed position on the existing farmstead has to</p>	<p>The concept where an owner of a property erects a building (i.e wine cellar, olive press, packing shed, etc) to process his own products is a common phenomenon in agriculture areas.</p> <p>The objector undertook a similar process for the rezoning of a</p>

<p>quiet farming area.</p> <p>The use of the Oldenburg Property for purposes of conducting a winery will have a prejudicial effect on the privacy and security of those who reside on the Mount Joy Farms properties.</p>		<p>comply with all these criteria and is also supported by the Department of Agriculture.</p>	<p>portion of Farm No. 1370. Stellenbosch (±1925m²) from Agricultural Zone I to Agricultural Zone II for the construction of a fruit packing shed. This application was approved on 25 February 2004. It is important to note that the packing shed is also in close proximity to the Kylemore residential area.</p>
<p>No adequate access to the proposed winery. The only access is by way of unsuitable, shared, servitude dirt roads.</p> <p>The access road to the winery is simply unable to accommodate this kind of traffic and the grant of the application will be grossly prejudicial to the Mount Joy Farm framing operations.</p> <p>The statement that the access road serves 2 farms is not correct and is misleading.</p> <p>The poor state of the road is not disclosed in the application. The condition of the road will further deteriorate with the increased traffic to the proposed winery including heavy vehicles which will be required to deliver bottles and other goods.</p> <p>No proper traffic impact assessment has been undertaken by the applicant.</p> <p>Most wineries have easy and suitable access from public roads and are located in appropriate areas. The nearby cellars such as Zorgvliet, Boschendal, Camberley, Bartinney Tokara, Thelema, Delaire Graff and Neil Ellis all have direct access to the R310, a public road.</p>	<p>1</p>	<p>It is important to note that there is an existing road providing access to the subject property as well as to other properties which include those of the objector. No new roads are proposed and the proposed winery is an extension to the existing wine farm which will use the same road network which will be more than sufficient. Grapes from the subject property are currently removed from the property during harvesting season to a wine cellar in Stellenbosch where wines are made. This means that during the harvesting season many heavy vehicles travel along this road continuously. The final product (wine) is then again transported back to the farm afterwards. With the new winery, all the grapes harvested will be delivered directly to the winery via internal farm roads. Only the final bottled product will leave the farm as is already the case with the existing wine tasting and sales facility on the farm. This will significantly reduce traffic along the roads.</p> <p>Mount Joy pack shed is built away from the farm and they use the servitude over Oldenburg to go between their pack shed and the part of the farm adjacent to Oldenburg.</p> <p>The gravel section of the road has been repaired by the applicant with no cost to the objector despite the fact that the road is also used extensively on a daily basis by the vehicles from the objector's property.</p> <p>The applicant did basic maintenance to a section of the road in February 2016 and introduced slot-box drains to drain surface water away and</p>	<p>The proposal was supported by the Engineering Department and the Department of Transport and Public Works.</p> <p>The Traffic Impact Statement indicated that the effect and impact of the construction and operations of the wine cellar on traffic and both road sections is low and does not change the traffic character of the valley in the long term (Appendix 18).</p>

		<p>curb erosion.</p> <p>Special care will be taken from the applicant's side to ensure that the road is still functional during the construction phase of the winery. Since the applicant is anyway the only one contributing to the repair of the gravel road, it will be in his own interest to ensure that the road will still be usable.</p> <p>As much as there are many wine farms and wineries for that matter which have easy and suitable access, there are also many wine farms with no direct access on which wineries have been constructed. Since Oldenburg is already a productive wine farm, the development of a winery thereon is a logical and natural action.</p>	
Run-off rainwater from the proposed winery and its environs, is conducted through the property owner by Seven Rivers Farms.	1	No comment given.	Council may impose conditions of approval to manage such activities.
What has been completely ignored is that the servitude road runs over the property of Seven Rivers Farms, for a distance of 74meters. This servitude, which is unregistered, is only in favour of the four farms in the Banhoek Valley and only for the purposes of access and bona fide farming activities.	1	There will be no changes to the existing road network or to the existing servitude road. Since the proposed winery is ancillary to the existing viticulture practices on the farm, the proposed Agricultural Zone II zoning will not change anything. It is important to note that since the servitude road traverses the applicant's property also, the existing wine making facility on the objector's property must then be evaluated on the same grounds.	<p>The wine cellar is directly connected to the main agricultural activity (cultivation of grapes & olives) of the farm.</p> <p>The applicant submitted an opinion from Cluver Markotter Inc indicating that the servitude road will not be affected by the proposed winery (see Appendix 20).</p>
<p>The high volume of traffic which will be generated along these roads will have a deleterious effect on the environment. The effects include undue dust which will be generated by traffic; lighting pollution in what is a rural area, danger to animals, litter, pollution and the like.</p> <p>Dust will have a substantial negative impact on the plum orchards of the Mount Joy farms and neighbouring</p>	1	The proposed winery will not generate any dust, noise, light, water or any other pollution as indicated by the objector. All activities will be confined to the inside of the proposed building which will in any event be subject to specific legislation.	<p>Currently the grapes grown on the application property are transported to an offsite winery for wine making purposes. The proposed winery will provide the owner the opportunity to produce his own wine thereby reducing the volume of traffic on the road during harvest season.</p> <p>The transporting of grapes to an offsite winery for processing and the transporting of the end product (i.e wine) to the different businesses will have the same effect on the existing road with</p>

<p>wine farms. Dust from the farm road is already a problem for the farming operation in consequence whereof hedges have had to be planted to protect the orchards.</p>			<p>regards to the dust issue.</p> <p>The grapes will now be transported via the internal farm road network to the processing facility.</p>
<p>The main irrigation line for the Mount Joy Farms farming enterprise is located under the Access Road on one of the properties owned by Seven Rivers Farms. The irrigation line was not laid down to cope with the envisaged additional and continuous traffic load to and from the winery. Additional traffic carries a real risk of damage to the irrigation line.</p>	<p>1</p>	<p>No comment given.</p>	<p>As mentioned previously, the construction of a wine cellar will not necessarily lead to an influx of traffic to the subject property and put unnecessary strain on the road network.</p>
<p>There is an adverse socio-economic consequence of the proposed winery. As part of the process of developing its wine tasting facilities the applicant persuaded the occupiers to vacate their homes and systematically bulldozed down the worker's houses. The bulldozing down of the houses was undesirable from a social-economic point of view particularly in view of the national housing shortage.</p>	<p>1</p>	<p>This has no relevance to the application at hand. The process which was followed by the applicant included voluntary repatriation of farm workers into their own communities where they were given a house with own title. The process and action should rather be commended since it provides a secure of tenure to the farm workers.</p>	<p>This has no bearing on the current application.</p> <p>It is however important to note that the proposed building will be placed on the existing werf and no houses will be demolished.</p>
<p>The material excavated during construction of the winery will be dumped in a visible area next to the boundary of the property owned by Seven Rivers Farms.</p>	<p>1</p>	<p>No comment given.</p>	<p>The objector is assuming that the material be dumped in an unsuitable area. This issue will however be addressed by the building department when scrutinizing building plans.</p>
<p>The owner and wine maker does not reside on the property and will not have to suffer the invasive and prejudicial effect, and loss of amenities which will result from the construction of the winery and olive press of substantial magnitude and the extensive operations which are envisaged in the estimated production of a 350ton/252000 bottle winery.</p>	<p>1</p>	<p>This statement about the applicant and wine maker's origin is of no relevance and does not challenge the desirability of the proposed land use.</p> <p>The reference made by the objector that nor the applicant or wine maker "have to suffer the invasive and prejudicial effect, and loss of amenities, which will result from the construction of a winery" is subjective.</p>	<p>Noted.</p>

<p>The applicant does not state in the report how the additional capacity of 123 tons is to be utilized (350 tons – 227 ton = 123 tons). The applicant's production will only account for 64% of the capacity. I can only infer that the applicant proposes to bring in grapes for outside sources to utilize this extra capacity.</p>	<p>1</p>	<p>The tonnages reflected in the Platter guide is only an indication of the amount of grapes used for own label wines. Oldenburg also sells grapes to producers such as Ken Forrester, Graham Beck and KWV. For the record Oldenburg has 29,49ha under grapes. The average production of the farm is 10 tons per hectare but we have already seen an increase in 2016 due to the vines being established and getting older. The reason for planning a 350 ton winery is to cater for possible increase production in our own vineyards and not for buying in grapes.</p>	<p>The ratio of 1ha = 10 ton is a norm used to determine if the size of the winery is in proportion to the size of the vineyards. The proposed winery capacity of 350 ton could therefore be sustained by the current ±30ha irrigated vineyards.</p> <p>The applicant also indicated that they still have vacant land which could be planted with vines if necessary.</p>
<p>The winery will produce large quantities of effluent waste water resulting from the fermentation tanks, barrel washing, barrel soaking, bottling line and grape crushing. No tangible information is provided by the applicant as to how water effluent and wastage is to be treated or disposed of. The natural flow of runoff water from the applicant's property is to the Dwars River which is approximately 450m away from the proposed winery. There is a real risk of pollution to the river.</p> <p>The applicant has allowed chemical effluent to spill onto the Mount Joy property into a stream situated between its employee houses.</p> <p>The objector was compelled to address the applicant about animal waste on the applicant's property and the resultant invasion of flies. At present the applicant has a difficulty dealing with its limited waste because of the lack of a suitable dumping area and the proximity of dwelling houses.</p>	<p>1</p>	<p>Professional engineering consultants were appointed to address the issues pertaining to the waste water treatment of the proposed winery. A formal process to obtain the relevant approvals from the Department of Water and Sanitation is in process and final approval is awaited.</p> <p>The chemical spillage mentioned was harmless blue dye used as a marker for chemical sprays. This was inadvertently washed down a storm water drain by one of the workers and it was a once-off occurrence.</p> <p>The matter regarding the flies was immediately addressed at the time and the compost heap in question was moved to another location. There is no existing threat. This however is a common problem on all the properties. The statement that Oldenburg has difficulty dealing with their waste is untrue. There are two sites available which are at least 1000m away from the objector's property.</p>	<p>The proposal was supported by the Director: Engineering Services subject to maintenance agreement for the package plant between the owner and the package plant service provider (see Appendix 13). The Department of Water and Sanitation also supported the application (see Appendix 15).</p>

<p>Tons of organic waste from the crushed grapes will be produced as by-products of the winemaking process. Nothing is said as to where these industrial quantities of organic waste are to be stored or how it is to be disposed of. The odours arising from the decomposition of the organic material and the potential fly problems arising in such close proximity to the Mount Joy Farms export fruit orchards is obvious.</p>	1	<p>It has been confirmed by a Professional Environmental Consultant that the proposed application for rezoning of the winery does not trigger any listed activities in terms of the National Environmental Management Act, therefore no Environmental Authorization is required.</p>	<p>Debris from the winery must be disposed of or treated in such a manner not to create a nuisance. Storage and/or treatment of waste must be done so that it does not create a smell (See Appendix 7 for the Health Department's comment). Also see Appendix 16 for confirmation from the Department of Environmental Affairs and Development Planning that the proposal does not trigger any listed activities in terms of NEMA.</p>
<p>The applicant has no connection to the municipal sewerage system.</p>	1	<p>The concern is incorrect since only one new toilet will be provided inside the winery which will be connected to the existing conservancy tank which is serviced by the Stellenbosch Municipality on a regular basis.</p>	<p>Domestic sewerage is to be collected in existing conservancy tanks which are serviced by the Municipality (see Appendix 13).</p>
<p>Given the scale and nature of the applicant's intended winery and olive pressing operation, it has serious potential adverse environmental impacts. The applicant has failed to have an environmental impact assessment undertaken and has failed to obtain an environmental report.</p>	1	<p>It has been confirmed by a Professional Environmental Consultant that the proposed application for rezoning of the winery does not trigger any listed activities in terms of the National Environmental Management Act, therefore no Environmental Authorization is required.</p>	<p>The proposal does not trigger any listed activities in terms of NEMA as stipulated by the Department of Environmental Affairs and Development Planning (see Appendix 16).</p>
<p>Parking is already a problem when tourist buses visit the applicant's wine tasting facility. They are sometimes forced to park on the servitude road obstructing its use by Mount Joy and Rainbow's End residents and employees.</p>	1	<p>The reference to parking area and the lack thereof for tourist busses is not relevant to the proposed winery since the winery will not attract any tourists. In any way a formal parking area has been developed at the approved wine tasting and sales facility.</p>	<p>It is unlikely that the winery will attract any more visitors than the existing wine tasting and sales facility already approved on the subject property. It is the intention of the applicant to built an utilitarian cellar and not for public viewing, so the wine cellar will not be open for public visitation. Thus the only parking required will be for the delivery vehicles.</p>
<p>Besides the production of wine, the applicant refers to the production of olive oil which suggests that other olive by-products are planned for the industrial facility. Therefore, it is not unreasonable to assume that the proposed structure will be used for many additional purposes other than for winemaking and the making of olive oil. Likewise it is not wrong to suggest</p>	1	<p>The olive press will enable the applicant to make his own olive oil from the trees on his farm. The applicant has no intention to buy any additional olives from other farms for processing. Apart from the olive oil, the olives will also be processed as fruit, which is an existing primary right. All these activities will be confined into the new winery building.</p>	<p>See planning assessment.</p>

<p>that Oldenburg Vineyards, with only 900 olive trees on its property, plans to services other olive farmers or buy in olives from other farmers, in order to justify the installation of an olive press. It is a well-known fact that the pressing of olives is an expensive process and olives can be used not only for the production of olive oil but also the production of grappa, olive paste and the like.</p>			
<p>The single storey manor house is a historic building which the applicant partly demolished and rebuilt and which is now a double storey mansion which is rented out at great cost.</p>	1	<p>The manor house was a Heritage approved restoration preserving its original line. The picture was taken on 20 October 2015 when preparing the application for rezoning.</p>	<p>This has no bearing on the application.</p>
<p>No facts are stated as to how many people are to be employed or in what capacities.</p>	1	<p>It is evident that any additional activity on a farm will create more employment. Currently all the grapes are transported off the farm, while with the new winery, the grapes will be processed on the farm. New employment opportunities will be created for the staff working inside the winery as well as collecting and sorting the grapes.</p> <p>According to the information obtained Oldenburg currently employs a total of 50 staff (permanent and casual) all from the local communities. The proposed winery will create more employment which will again be drawn from the local communities since Oldenburg has a long history with the local communities.</p>	<p>Noted.</p> <p>It is a fact that the construction of any building will indeed provide employment opportunities especially in the construction phase.</p>

3.7 Comments from internal and external departments

Cape Winelands District Municipality: Health Department has no objection to the application subject to conditions (see **APPENDIX 7**).

The **Director: Traffic Engineering Services** has no objection to the application (see **APPENDIX 8**).

The **Manager: Spatial Planning, Heritage and Environment** has no objection to the application (see **APPENDIX 9**).

The **Department of Transport and Public Works** has no objection to the application (see **APPENDIX 10**).

The **Department of Agriculture (Western Cape Government)** has no objection to the application (see **APPENDIX 11**).

The **Director: Electrical Engineering Services** has no objection to the application (see **APPENDIX 12**).

The **Director: Civil Engineering Services** has no objection to the application subject to conditions (see **APPENDIX 13**).

The **Stellenbosch Agricultural Society** has no objection to the application (see **APPENDIX 14**).

The **Department of Water and Sanitation** has no objection to the application subject to conditions (see **APPENDIX 15**).

The **Department of Environmental Affairs and Development Planning** has no objection to the application (see **APPENDIX 16**).

The **Department of Agriculture, Forestry & Fisheries** has no objection to the application (see **APPENDIX 17**).

3.8 Planning Assessment

Proposal

The application is to rezone a portion of the existing “plaaswerf” ($\pm 1850\text{m}^2$) from Agricultural Zone I to Agricultural Zone II for purposes of 350 tonne wine cellar building and to use a portion of this building for the processing of olives.

The proposal will provide the opportunity for the applicant to replace and extend an existing farm building to expand their existing viticulture practices. The proposed new wine cellar building will link with the existing wine tasting and sales facility already built on the farm.

The activities inside the new proposed wine cellar building with a total footprint measuring $\pm 1850\text{m}^2$ in extent will comprise a fermentation cellar, a maturation cellar, an area for an olive press and ancillary uses (administration, laboratory, etc). The fermentation cellar component with an extent of $\pm 400\text{m}^2$ will have a maximum capacity of 350tons. With an average yield of 10tons/ha the proposed $\pm 30\text{ha}$ of vineyards will provide $\pm 300\text{tons}$ which is enough wine grapes to sustain the proposed cellar. The grapes will no longer have to be transported off the farm to a different location and facility to make wine. Currently all the grapes cultivated on the farm is transported to an external wine cellar where the wine is made.

The maturation cellar component with a total extent of $\pm 1050\text{m}^2$ will provide an opportunity to owner to mature the wines made on the farm in barrels ($\pm 700\text{m}^2$) and bottles ($\pm 350\text{m}^2$) within the same building where it was made. This component is very important in the wine making process

to ensure high quality wines stored at the correct temperatures and under controlled circumstances.

The ancillary uses will be located inside the proposed new addition and will measure $\pm 400\text{m}^2$ in extent and comprise finished goods store, administration, and ablution and laboratory facilities.

Apart from the vineyards there is also ± 900 olive trees planted on the farm which is also harvested for oil. The intention is also to provide a small facility for an olive press inside the new wine cellar building.

Compliance with applicable planning frameworks/policy

The proposal complies with the principles of the Stellenbosch Spatial Development Framework which states that land outside of existing and proposed urban settlements is to be used for agricultural production, biodiversity conservation, scenic quality and agri-tourism. It is evident that the proposal is directly related to the agricultural activity on the farming unit and will not be in conflict with the guidelines set by the Spatial Development Framework.

The definition for “agricultural industry” means an enterprise or concern for the processing of agricultural products on a farming unit owing to the nature, perishableness and fragility of such agricultural products and includes, inter alia, wineries and farm pack stores, but does include service trades. The proposed facility is directly connected to the main agricultural activity (i.e cultivation of grapes and olives) and will not interfere with the daily running of the farming activities. All activities will be restricted to the “plaaswerf” and will have no impact on the existing agricultural practices on the farm.

Compatibility of the proposal with the character of the area and adjacent development

The subject property is located in an area that predominantly comprises agricultural activities and associated infrastructure. This inter alia includes a winery located approximately 1km to the south of the application property and a packing Shed (the objector) approximately 900m to the south west of the property.

This area reflects a true agricultural character with low density developments and since it is the intention to retain all the current agricultural activities on the farm, the existing character will be retained. The existing plaaswerf will also be retained and only the proposed conversion and extension of an existing farm building into a wine and maturation cellar. The proposal will diversify the agricultural potential whilst not impacting on the existing agricultural activities. Wine cellars are a common phenomenon on wine farms in the Stellenbosch rural area and since the subject property is renowned for their high quality of grapes, the proposed wine cellar will add value to the existing farming operations.

It is important to note that the objector went through a similar process for the rezoning of a portion of Farm No. 1370, Stellenbosch from Agricultural

Zone I to Agricultural Zone II for the construction of a fruit packing shed of $\pm 1925\text{m}^2$. There is thus no reason to believe that the proposed winery will change the character of the area.

The desirability of a land use is defined by the acceptance of that specific land use within the surrounding area. Since the proposed land use is a winery which is proposed on a wine farm, it is evident that it can be regarded as desirable since it is a rational extension of the existing land uses.

It is evident that the proposed use of the property will not be out of character with its surroundings and will not have a negative impact on the character of the area with regards to the proposed use.

Impact on existing rights, community health, safety and well-being

The scale of the facility is such that it will not have any detrimental impact on the built- and natural environment as it will be clustered with the other farm buildings. It is not envisaged that the proposed winery will generate dust, noise, light, water or any other pollution.

The fact that any agri-industrial building measuring 2000m^2 and less in extent is not a listed activity in terms of the Environmental legislation, confirms the limited impact the 1850m^2 winery will have on the surrounding area.

Access and Traffic impact

One of the primary concerns relates to the impact that the development of the winery may have on the condition of the existing access road, the associated increase in heavy vehicle and vehicle traffic and safety of road and pedestrian users.

Access to the property is obtained from the R310 via Minor Road 5227 (tarred section of road). The road (from the bridge over the Dwars River) turns into a gravel road with a length of 1,72km to the boundary of Remainder Farm No. 130, Stellenbosch. This gravel road abuts and traverses the following properties: Farm No. 1326/1; Farm No. 1370; Farm No. 1370/3 and Farm No. 130/3, Stellenbosch.

Grapes grown on the application property are currently transported to other wineries for wine making purposes. The development of a winery will provide the owner the opportunity to produce his own wine thereby reducing the volume of traffic on the road, especially during harvest season. Heavy transport resulting from the short term construction period will impact on the traffic volume but it will be periodic in nature that in any event can occur with the development of bona-fide infrastructure on the application property.

The application was supported by the Director: Civil Engineering Services and the Department of Transport and Public Works. The said department in their letter dated 23 February 2016 indicated that they offer no objection

to the development as it will reduce traffic on Minor Road 5227 as well as the servitude (gravel road).

The Traffic Impact Statement, compiled by Louis Roodt Pr Eng, stated that the effect and impact of the construction and operations of the wine cellar on traffic on both road sections is low and does not change the traffic character of the valley in the long term (see **APPENDIX 18**).

Basis of refusal of applications and particulars applicable at granting thereof

In terms of Section 36 (1) & (2) of the Land Use Planning Ordinance 1985 (Ordinance 15 of 1985) Chapter V: General Provisions, land use applications shall be refused solely on the basis of a lack of desirability of the contemplated utilization of land concerned, or on the basis of its effect on existing rights concerned (except any alleged right to protection against trade competition). Subsection (2) states that where a land use application is not refused by virtue of the matters referred to in subsection (1), regard shall be had, in considering relevant particulars, to only the safety and welfare of the members of the community concerned, the preservation of the natural and developed environment concerned of the effect of the application on existing rights concerned (with the exception of any alleged right to protection against trade competition). The application at hand does not fit the criteria for refusal in terms of the Land Use Planning Ordinance (Ordinance 15 of 1985) as the application is desirable.

Conclusion

It is clearly evident that the proposal will not be out of character with the development on adjacent properties and nearby properties as similar activities exist (i.e Delaire Graff Estate, Tokara Estate, Zorgvliet Estate, etc). The proposed use will not have a negative impact on the character of the area as it is ancillary to the activities and buildings on the subject property. The proposed use will help to diversify the land uses on the farm without impacting on the existing agricultural activities. It is evident that the proposal is directly related to the agricultural activity on the farming unit and will not be in conflict with the guidelines set by the Spatial Development Framework.

In the light of the above discussion, the application can be supported from a Land Use Management point of view.

4. LEGAL IMPLICATIONS

The legal department confirmed that the court order referred to the wine tasting and sales facility only and every new application has to be assessed on its own merits (see **APPENDIX 22**).

5. FINANCIAL IMPLICATIONS

None required.

APPENDICES

- Appendix 1 : Conditions of Approval
 Appendix 2 : Locality Plan
 Appendix 3 : Site Plan
 Appendix 4 : Objection
 Appendix 5 : Comment on Objection
 Appendix 6 : Previous approval
 Appendix 7 : Comment from Cape Winelands District Municipality: Health Department
 Appendix 8 : Comment from the Director: Traffic Engineering Services
 Appendix 9 : Comment from the Manager: Spatial Planning, Heritage and Environment
 Appendix 10 : Comment from the Department of Transport and Public Works
 Appendix 11 : Comment from the Department of Agriculture (Western Cape Government)
 Appendix 12 : Comment from the Director: Electrical Engineering Services
 Appendix 13 : Comment from the Director: Civil Engineering Services
 Appendix 14 : Comment from the Stellenbosch Agricultural Society
 Appendix 15 : Comment from the Department of Water and Sanitation
 Appendix 16 : Comment from the Department of Environmental Affairs and Development Planning
 Appendix 17 : Comment from the Department of Agriculture, Forestry & Fisheries
 Appendix 18 : Traffic Impact Statement
 Appendix 19 : Summons & Deed of Settlement
 Appendix 20 : Legal Opinion relating to the use of the servitude right of way for agricultural industrial purposes (Cluver Markotter)
 Appendix 21 : Proof of registered letters served on surrounding property owners
 Appendix 22 : Internal legal comment

NB: FOR THE APPENDICES, KINDLY REFER TO THE ATTACHMENTS INCLUDED IN THE AGENDA OF 2017-08-10.

RECOMMENDED

that **approval be granted** in terms of Section 16 of the Land Use Planning Ordinance, 1985 (No 15 of 1985) for the rezoning of a portion of the existing “plaaswerf” (measuring ±1850m² in extent) from Agricultural Zone I to Agricultural Zone II in order to establish a 350 ton wine cellar building and to use a portion of this building for the processing of olives as indicated in **APPENDIX 3**, subject to the conditions contained in **APPENDIX 1**.

Meeting:	ED & PS Committee: 2017-09-06	Submitted by Directorate:	Economic Development & Planning Services
Ref No:	130/3	Author:	Director: Economic Development and Planning
Collab:	529273	Referred from:	

APPENDIX A**FILE NO: PL 130/3 S**

In this approval document:

"Council" means the Stellenbosch Municipality

"the owner" means the registered owner of the property.

"the site" means **FARM NO. 130/3, STELLENBOSCH DIVISION**

"scheme regulation" has the meaning assigned thereto by the Land Use Planning Ordinance (15 of 1985).

EXTENT OF APPROVAL: Rezoning of a portion of the existing "plaaswerf" (measuring $\pm 1850\text{m}^2$ in extent) from Agricultural Zone I to Agricultural Zone II in order to establish a 350ton wine cellar building and to use a portion of this building for the processing of olives as indicated in **APPENDIX 3**, in terms of Section 16 of the Land Use Planning Ordinance, 1985 (No.15 of 1985).

CONDITIONS IMPOSED IN TERMS OF SECTION 42(1) OF THE LAND USE PLANNING ORDINANCE NO 15 OF 1985:

1. That the approval applies only to the rezoning and shall not be construed as authority to depart from any other legal prescriptions or requirements from Council;
2. That the approval granted does not exempt the applicant/operator from complying with any other legal prescriptions or requirements that might have a bearing on the activity;
3. That the approval for the rezoning shall lapse if not exercised within 2 years from date of final notification;
4. That the necessary licenses be obtained in terms of the applicable liquor licensing legislation;
5. That no pollution may occur on the property and that all other health regulations must be complied with;
6. That building plans for the proposed building be submitted, prior to building work commencing on site;
7. That no tourist related activities be operated from the subject wine cellar building without prior approval from the municipality;
8. That the conditions of the Cape Winelands District Municipality (Health Department) as specified in their letter dated 08 February 2016 shall be complied with (see **APPENDIX 7**);
9. That the conditions of the Director: Engineering Services as specified in their memo dated 29 March 2016 shall be complied with (see **APPENDIX 13**);
10. That the conditions of the Department of Water and Sanitation as specified in their letter dated 5 April 2016 shall be complied with (see **APPENDIX 15**); and
11. That this Council reserves the right to impose further conditions if deemed necessary.

6.	REPORTS FROM OFFICIALS: PLANNING, LAND USE MANAGEMENT, SPATIAL PLANNING, HERITAGE AND BUILDING CONTROL
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NONE

7.	REPORTS FROM OFFICIALS: COMMUNITY DEVELOPMENT
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NONE

8.	REPORTS SUBMITTED BY THE MUNICIPAL MANAGER
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NONE

9.	NOTICES OF MOTIONS AND NOTICES OF QUESTIONS RECEIVED BY THE MUNICIPAL MANAGER
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NONE

10.	URGENT MATTERS
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11.	MATTERS TO BE CONSIDERED IN-COMMITTEE
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NONE