

LA BELLA VITA WINE ESTATE

CONDITIONS OF APPROVAL FOR REZONING OF 791/39

NO.	CONDITION	CURRENT POSITION	COMPLIANCE	ACTION REQUIRED
1.	The Resort Zone I zoning pertains to the guesthouse, accommodating a reception area, breakfast room for guests only, 5 double bedrooms, and 10 cottages for short term leasing, i.e. 15 units in total (to accommodate maximum 50 people)	There has been Approval for Rezoning, Consent Use and Departure from the Site Development Plan		
2.	All areas within the facility which are utilized for the preparation or processing of any foodstuffs must comply with the prescriptions of Regulation 918 date 30 July 1999. A certificate of Acceptability must be obtained from the Winelands District Council.		Y	
3.	The necessary license for the preparation of food for public consumption must be obtained as required in terms of the Business Act, No 71 of 1991.		Y	
4.	The Resort Zone 11 zoning applies to the 15 units (250m ² in size-outbuildings, garages and undercover stoeps included) on individual erven limited in size to 300m ² .	Most, if not all, of the Villas exceed the permitted size	N	
5.	Should the farming operation on any one of the 15 Resort Zone 11 units at any time cease to operate, the owner is compelled to submit an application for the rezoning of such portion to Open Space II to the municipality within 3 months after the farming operation has ceased. If the owner fails to initiate the rezoning process, the municipality may act in terms of section 18 of the said Ordinance to rezone the relevant property. Such portion of land shall then be appropriately landscaped by the Property Owners Association	Farming operations are currently being carried out on all relevant portions of land referred to		

6.	The Resort Zone II units will not be utilized as permanent residential units, but must be made available to tourists on a continual basis through a recreational letting scheme controlled by the Home Owners' Association.	Three Villas are permanently occupied The hotel controls the recreational letting scheme in terms of the rental pool agreements	N	Letter of appointment in terms of which the LBV-POA appoints the hotel to operated the Villas an rental pool scheme
7.	No walls, fences or any other structures are to be erected around these units.	Villa on 791/57 has a boundary wall	N	
8.	The landscaping of the individual units must be treated as forming an integral part with the remainder of the development. The purpose of the landscaping must be to enhance the rural agricultural landscape to the satisfaction of the Council.		Y	
9.	The Open Space Zone 11 zoning is to accommodate public facilities such as a communal area, park, bird spotters hide, horse trails, tennis courts and a golf driving range. The development of these facilities is to be phased to ensure simultaneous completion of the guest house, individual units and facilities. A development and implementation programme, indicating the phases, must be submitted for Council's approval.	There are no such facilities on the La Bella Vita Wine Estate A development and implementation programme was never approved by Council	N	
10.	None of the development mentioned above is to take place on medium potential agricultural land as indicated on map 791/39/1 herewith attached. Only the excavated area and the Ka and Kd3 soil types on portion 39 are to be developed.	Have no knowledge of whether this was done	Not certain	
11.	The medium potential agricultural land on portion 39 of Farm 791 must form part of the planting, maintenance and harvesting programme of the remainder of the total farm. The programme is to be submitted to Council for approval.	The La Bella Vita Farming Association has been formed to oversee the farming activities on 791/27. Membership is compulsory for owners of portions of 791/39 and voluntary for owners of portions of 791/27. 791/40 and 791/42 have withdrawn This appears contrary to Council's condition	N	

		There does not appear to be any planting, maintenance and harvesting programme		
12.	An amended Site Development Plan and a Landscaping Plan must be submitted for Council's approval, indicating the exact position, size and architectural style of the guest house, the 10 guest house cottages, the 15 individual erven, public facilities, traffic circulation, parking areas and agricultural areas. The development plan must be accompanied with landscaping plans and architectural drawings which indicate inter alia the proposed building materials.		Not certain	
13.	A Home Owners Association must be established in terms of Section 29(1) of Ordinance 15 of 1985, the constitution of which is to be approved by Winelands District Council. This constitution is to include all the owners involved in the entire property.	The La Bella Vita Wine Estate Property Owners' Association (LBV-POA) has been formed and is operational. Membership comprises owners of portions of 791/39. A reference to "entire property" is probably a reference to the whole of 791/27 when considering condition 14 above and therefore the current membership structure is not in accordance with the condition.	Y	
14.	A compulsory membership of the Home Owner's Association must be registered against the title deed of each unit (the 15 individual Resort Zone 11 units, the guest house as well as the individual farm portions: 791/36, 791/37, 791/38, 791/39, 791/40, 791/41 and 791/42).	See comment immediately above. It does not however in our opinion seem logical for the owners of the portions of 791/27 to be members of the LBV-POA	N	Engage with Council
15.	The remainder of portion 39 as well as the other 6 portions of the farm mentioned above, is to retain its Agricultural 1 zoning and must be utilized accordingly. The Constitution of the Home Owners' Association is to address the operation of the agricultural section in conjunction with the guest house	See comment under condition 11 above. It is evident that in terms of the conditions of approval it was not a requirement to establish the La Bella Vita Farming Association but was done as the vehicle	N	Bring farming activities and management under the jurisdiction of the Akarana Master Home Owners Association <u>Rationale:</u> every

	and individual units to the satisfaction of Council.	through which to manage farming. The structure is however deficient as it does not make membership compulsory for owners of portions of 791/27 D Delaney, in his report of 21 May 2003 in respect of the Application for Rezoning and Subdivision of Kunnenberg states that a Farming Association has been approved by the Winelands District Council		owner of portions of 791/27 and 791/39 must, as a condition of title, be members of this association and accordingly will have to submit to the issues of farming laid down by the association. Concern = it is a condition of approval of Kunnenberg that all agricultural land units within Kunnenberg are to be members of the LBV Farming Association. Council must be engaged on this issue.
16.	No pollution of surface water of groundwater resources may occur as a result of any activities on the farm.		Y	
17.	The requirements of the National Water Act, 1998 the Water Service Act 1997 and the Environmental Conservation Act (No 73 of 1989), must be adhered to at all times. The conditions stipulated by the Department of Water Affairs and Forestry in the letter dated 07 April 2000, must be adhered to.	We have not been presented with a copy of this letter and have not been able to source same Reference is made in the title deeds of the portions of 791/27 and 791/39 to compulsory membership of the Akarana Water User Association, a water user association to be approved by the Minister of Water Affairs and Forestry in terms of the National Water Act, 1998. No flow-through meter /measuring device has been installed We have not been presented with a copy of the Akarana Water User Association and there is uncertainty as to whether it has in fact been formally established.	N	Bring water management under the jurisdiction of the Akarana Master Home Owners Association Engage with Council on this issue <u>Rationale:</u> every owner of portions of 791/27 and 791/39 must, as a condition of title, be members of this association and accordingly will have to submit to the directions of the association in relation to water affairs.
18.	Septic tanks are not acceptable. The disposal of sewerage must be	The sewerage plant was erected on 791/38, which	Y	Developer obligations and legal impact

	either through a conservancy tank system (as is done at present), or by linking to the Klappmuts water borne sewerage reticulation system. A detailed sewerage layout and disposal network plan indication all details for the collection and disposal of domestic and industrial effluent is to be submitted to the Chief Engineer Winelands District Council for approval, prior to the approval of any building plans or before existing structures are to be occupied.	falls outside of the La Bella Vita Wine Estate A lease agreement is to be entered into between the owner of 791/38 and the LBV-POA		Was paid for by Young
19.	The developer must apply in writing for participation in the domestic refuse removal service managed by the Winelands District Council. A common collection point, which is easily acceptable, must be determined on site. Refuse will be collected at this point only.	All 6 portions of 791/27 as well as the LBV-POA participate. LBV-POA is liable for the payment of the costs and claims a contribution from the owners of the 6 portions of 791/27	Y	Bring within the AMHOA Outsource to LBV-POA in terms of a contract between the two parties
20.	The disposal of solid waste must be in accordance with Section 20 of the Environmental Conservation Act (No 73 of 1989)		Not certain	
21.	No wetlands/moist depressions may be filled in without the prior consent of the Department of Environmental and Cultural Affairs and Sport.		Not certain	
22.	No trees shall be removed without prior permission of the Winelands District Council.		Y	
23.	Stormwater runoff from the site must comply with legislated standards prior to release into any drainage systems. Litter-traps must be installed at the outlets into the dam of any stormwater drains		Not certain	
24.	The developer must submit a development and construction programme to the Chief Engineer of the Winelands District Council wherein proposals for the maintenance on Divisional Road 1103 is detailed for the duration of the construction period. This aspect has to be finalized prior to any development activities taking place on the property.	The maintenance of the road remains a problem	Not certain	
25.	The existing main access off Divisional Road 1103 to the farm Akarana must be utilized as the only access off the said road		Y	

	serving the proposed development. This access must be upgraded by the applicant to radii of 15m, access width of 6,8m with sufficient drainage so as not to flood Divisional Road 1103.			
26.	The Winelands District Council reserves the right to determine a further condition for the applicant to address the dust problem on the access road should the dust caused by traffic to the cellar become a nuisance for the adjacent owner.	To our knowledge no further condition has been imposed		
27.	The 95m building restriction line in terms of Section 9 of Act 21 of 1940 is applicable along Divisional Road 1103.	A guard house has been built within the p5m line. Not certain whether permission was obtained	Not certain	
28.	The 5m building line in terms of Section 17 of Roads Ordinance 19 of 1976 is applicable along Divisional Road 1103.		Y	
29.	No advertisement or any other signs visible from the proclaimed road may be erected without the written approval of the Chief Engineer of the Winelands District Council.	Assume complied with	Y	
30.	The developer must enter into negotiations with the Winelands District Council and Cape Metropolitan Council to obtain and implement a water scheme off the Wemmershoek pipeline. This matter must be finalized prior to approval of any building plans or groundwork being given. A detailed development plan indicating the water reticulation network, must be submitted to the Chief Engineer Winelands District Council for approval	Submitted and approved		
31.	The approval applies only to the rezoning in question and shall not be construed as authority to depart from any other legal prescriptions of requirements.			
32.	Building plans must be submitted for approval before any building work may commence.	A base plan was submitted and approved by Council Approximately 60% of the Resort Zone II units were not built in accordance with the base plan or any other approved plans and accordingly Council has not	N	

		issued occupancy certificates for these properties Notwithstanding this fact the hotel is placing people in these Villas		
33.	No buildings shall be erected within the 1 to 50 year flood line. Council will not be held responsible for any flood damage.	Mr Young has dammed a flood furrow on 791/41		
34.	The planned removal of the labourers currently residing on the farm to Klapmuts must comply with the provisions of ESTA (Extension of Security of Tenure Act, 1997 (Act 62 of 1997)). The applicant shall obtain proof of the compliance of the provisions of the said Act from the Department of Land Affairs to the satisfaction of Council before building plans will be approved. One of the provisions of the Act determines that if labourers are to be settled "off farm" they must at least be provided with housing of at least a similar standard.	The labourers have been relocated No compliance certificate was obtained	Y	Obtain certificate from the Department of Land Affairs
35.	The current owner and successive owners in title forfeit the right to build dwellings for labourers on the 7 portions of this farm. Should such a need arise in future, the Resort Zone 1 cottage have to revert back to such a use.			
36.	The applicant must, if applicable, register for the payment of levies as prescribed in the Regional Services Council Act, No 109 of 1985	The Farming Association has registered for RSC The LBV-POA is in the process of registering for RSC levies		
37.	This approval does not include the proposed 500 ton wine cellar, wine shop, tourist wine centre, cheesery, conference facilities, a wellness centre, restaurant facilities and farm stall mentioned in subsequent documents as it did not form part of this application nor was it mentioned in the advertisement. A separate application must be submitted to Council should the applicant want to establish the above mentioned facilities on the farm	This application was submitted by Dewgro (Pty) Ltd and is currently before Council The application relates to 791/38		