



**STELLENBOSCH**  
STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNICIPALITY • UMASIPALA • MUNISIPALITEIT

3/5/4/1

2018-03-09

# **MINUTES**

**COUNCIL APPEAL COMMITTEE MEETING**

**2018-03-09**

# MINUTES

2018-03-09

## COUNCIL APPEAL COMMITTEE MEETING

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**MINUTES OF THE COUNCIL APPEAL COMMITTEE MEETING HELD ON FRIDAY,  
2018-03-09 AT 10:00 IN THE COUNCIL CHAMBER, TOWN HOUSE PLEIN STREET,  
STELLENBOSCH**

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<b>PRESENT</b>	Councillor DD Joubert [Chairperson]
<b>Councillors</b>	MD Oliphant Q Smit
<b>Officials</b>	Acting Manager: Land Use Management (L Ramakuwela) Senior Town Planner (P April) Senior Town Planner (R Fooy) Committee Clerk (T Samuels (Ms)) Interpreter (J Tyatyeka)

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<b>1.</b>	<b>OPENING AND WELCOME</b>
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The Speaker, Councillor DD Joubert, welcomed all present and requested a moment of silent reflection.

<b>2.</b>	<b>APPLICATION FOR LEAVE OF ABSENCE</b>
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**ABSENT:**

Cllr Bakubaku-Vos (Ms) - 9 March 2018  
Cllr MB De Wet - 9 March 2018

<b>3.</b>	<b>DISCLOSURE OF INTERESTS</b>	<b>(3/6/2/2)</b>
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NONE

<b>3.</b>	<b>CONFIRMATION OF MINUTES</b>
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<b>3.1</b>	<b>CONFIRMATION OF THE MINUTES OF THE COUNCIL APPEAL COMMITTEE MEETING HELD ON 2018-02-09</b>
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The minutes of the Council Appeal Committee Meeting held on **2018-02-09**, were **confirmed as correct.**

3.1	<b>CONFIRMATION OF THE MINUTES OF THE CONTINUATION COUNCIL APPEAL COMMITTEE MEETING HELD ON 2017-11-24</b>
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**COUNCIL APPEAL COMMITTEE MEETING: 2018-02-09: ITEM 3.1**

The minutes of the Council Appeal Committee Meeting held on 2017-09-12 and continued on 2017-11-24, were confirmed, subject to verification of the following:

Continuation Council Appeal minutes: 2017-11-24: Page 10: Reasons for dismissal

Verify the correctness of the reasons for the dismissal of the Appeal.

**FURTHER COMMENTS BY THE ADMINISTRATION**

Subsequent to verification of the Continuation Council Appeal minutes of 2017-11-24 (page 10: Reasons for dismissal), the Administration listened to the recording of said meeting. It was clear from the recording that no reasons by the Committee were provided. However, the Committee went off record and it could well be that the discussion that followed (off-line) included the reasons – which the Committee want to be included in the Minutes. The only inference that could be made is that the reasons were discussed off record.

**FOR CONSIDERATION****COUNCIL APPEAL COMMITTEE MEETING: 2018-03-09: ITEM 3.1****FURTHER COMMENTS BY THE APPEAL COMMITTEE:**

The Committee conducted a site visit where the appellant showed the Committee members certain issues of concern. During the appeal meeting the appellant stated that the Committee cannot make a legal decision on an illegal activity. The appellant further argued that the Committee must consider the new evidence relating to rubble that was dumped on the site. The Appeal Committee subsequently requested a legal opinion which stated that the Committee should only consider the original appeal that was submitted. The Appeal Committee did not consider the new submissions that were made.

The Appeal Committee considered the appeal against the Economic Development and Planning Committee decision dated 2016-05-31 to approve an application for subdivision, rezoning and departure on Erf 872, Franschoek. The Committee was not convinced that the appeal submissions made, changed their minds to come to a different decision than the decision of the Economic Development and Planning Committee, dated 2016-05-31. The appeal was **dismissed**.

**RESOLVED**

that the minutes of the Council Appeal Committee Meeting held on 2017-09-12 and continued on 2017-11-24, were **confirmed as correct, subject to the following corrections:**

**REASONS FOR DISMISSAL OF THE APPEAL**

1. The property is situated within a “new development area” as designated by the MSFD;
2. The subdivision of the property and subsequent sizes of the relevant erven would not be out of character of the surrounds where the property is situated, as the proposed subdivision would divide the property into similar size erven as those surrounding the property;
3. Any development (done within the building regulations) would not be out of character for that area, as the houses in the property's street are all already developed, and in fact it is almost only the subject property which seems empty. It would therefore also not be undesirable;
4. In line with the legal opinion that this committee received from the legal department, the appeals committee did not consider, what seem to be the appellants main contention during oral arguments, that the property is being used as an illegal dumping site, and therefore only applied themselves to the original grounds of appeal as raised by the appellants in their written notice of appeal; and
5. In light of the fact that building plans still need to be submitted to the relevant building authority for any development on the property, the appeal committee feels comfortable with the original approval of the application by the planning department, because the proposed development would still have to be in line with all the current building regulations.

4.1	<b>APPEAL IN TERMS OF SECTION 62 OF THE MUNICIPAL SYSTEMS ACT (ACT 32 OF 2000) AGAINST COUNCILS DECISION TO APPROVE AN APPLICATION FOR REZONING OF A PORTION OF FARM NO. 130/3, STELLENBOSCH DIVISION</b>
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Collaborator No: LU/4442

IDP KPA Ref No: MFA3 – LAND USE MANAGEMENT

Meeting Date: JANUARY/FEBRUARY 2018

## 1. SUBJECT

**APPEAL IN TERMS OF SECTION 62 OF THE MUNICIPAL SYSTEMS ACT (ACT 32 OF 2000) AGAINST COUNCILS DECISION TO APPROVE AN APPLICATION FOR REZONING OF A PORTION OF FARM NO. 130/3, STELLENBOSCH DIVISION.**

## 2. PURPOSE

That the Council Appeals Committee take a decision on the appeals submitted against the decision taken by the Planning and Economic Development Committee dated 06 September 2017, in terms of Section 16 of the Land Use Planning Ordinance, 1985 (No. 15 of 1985) for the:

- 2.1 Rezoning of a portion of the existing "plaaswerf" (measuring ±1850m<sup>2</sup> 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.

## 3. DELEGATED AUTHORITY

**FOR DECISION BY THE COUNCIL APPEALS COMMITTEE**

### **COUNCIL APPEAL COMMITTEE: 2018-03-09: ITEM 4.1**

The Acting Manager: Land Use Management, Mr L Ramakuwela, read into the record a letter from GW Woodland on behalf of the Appellants, stating that the appeal be withdrawn. **(see APPENDIX 1).**

**RESOLVED** (nem con)

that this matter be withdrawn.

<b>Meeting: Ref No: Collab</b>	Council Appeal Committee: 2018-03-09	<b>Submitted by Directorate: Author: Referred from:</b>	Planning and Economic Development Town Planner (Ms L)
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# **APPENDIX 1**

## G. W. Woodland SC

Advocate of the High Court  
of South Africa

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Huguenot Chambers  
40 Queen Victoria Street  
Cape Town 8001

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28 February 2018

The Director  
Planning & Economic Development  
Stellenbosch Municipality  
Ground Floor, Municipal Building  
Plein Street  
STELLENBOSCH, 7600

Your Ref: LU/4442/ L Ollyn/B Mdoda

Per Email: [louisa.ollyn@stellenbosch.gov.za](mailto:louisa.ollyn@stellenbosch.gov.za)

Dear Sir/Madam

### **APPEAL AGAINST REZONING PORTION 3 OF THE FARM NO. 130 STELLENBOSCH**

1. I refer to the appeals which were lodged against the decision of the Stellenbosch Municipality of 6 September 2017 for the rezoning of the abovementioned property from Agricultural 1 to Agricultural 2, in order to establish a 350ton wine cellar.
2. I represent the following appellants:
  - (a) Mrs K A Woodland;
  - (b) Seven Rivers Farms (Pty) Ltd;
  - (c) The Kühle Family Trust.
3. Please note that the parties have resolved matters between themselves and therefore the appeal has been rendered unnecessary.
4. In the circumstances, the abovementioned appellants hereby withdraw their appeal against the rezoning decision.

Yours faithfully



**G W Woodland**



**5. CONFIRMATION OF MINUTES: COUNCIL APPEAL COMMITTEE MEETING: 2018-03-09**

The minutes of the Council Appeal Committee meeting held on 2018-03-09 were displayed on the screen.

**RESOLVED** (nem con)

that the minutes of the Council Appeal Committee Meeting held on 2018-03-09, were **confirmed as correct**.

The meeting adjourned at 10:20.

**CHAIRPERSON:** .....

**DATE:** .....

**Confirmed on** .....