

- MINUTES-

OF THE STELLENBOSCH MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON MONDAY,
3 FEBRUARY 2020, AT THE PARADYSKLOOF NATURE AREA CLUBHOUSE, PARADYSKLOOF
ROAD, PARADYSKLOOF AT 10H00

Ref. no. 3/4/5/2/40

2020-02-03

Chairperson

Dr DJ Du Plessis

Deputy-Chairperson

Ms C Havenga

External Members

Mr C Rabie

Dr R Pool-Stanvliet

Mrs H Crooijmans-Lemmer

Mr J Knight

Mr E Delport

Internal Members

Mr B de la Bat-Manager - Spatial Planning

Mr M Williams - Senior Legal Advisor

Mr S van der Merwe - Environmental Planner

Ms M Francis - Manager: Project Management Unit

Mr G Cain: Manager- IDP & Performance Management

Mr A van der Merwe: Senior Manager-Community Services

Technical Advisor

Mr K Munro- Director Environmental & Spatial Planning: Department of Environmental
Affairs and Development Planning

Officials

Mr Craig Alexander - Senior Manager: Development Planning

Mr P April: Acting Manager: Land-Use Management & Senior Town Planner

Mr R Fooy: Senior Town Planner

Ms L Kamineth: Senior Administrative Officer: MPT

Ms O Sims: Administrative Officer: MPT

ITEM	SUBJECT
<p>SMPT 11/01/20</p>	<p>OPENING AND WELCOME</p> <p>Chairperson Du Plessis welcomed all present to the sitting. He indicated that during the MPT sitting on Friday, the members of the Tribunal requested proof of the happy letter from Jakupa relating to the Dennesig application (Erven 141 & 142, 163-165, Stellenbosch). Chairperson enquired whether the said letter was provided. It was confirmed that the letter was in the custody of the MPT Secretariat.</p> <p>The Chairperson further indicated that he had an urgent meeting to attend later the afternoon. In the event that he must leave, the Deputy Chairperson, Mrs Havenga will chair the proceedings.</p>
<p>SMPT 12/01/20</p>	<p>LEAVE OF ABSENCE Ms Jerri-Lee Mowers</p>
	<p>MATTERS FOR CONSIDERATION</p>
<p>SMPT 13/01/20</p>	<p>APPLICATION FOR SPECIAL CONSENT OF COUNCIL ON FARM NO. 74/37, STELLENBOSCH (LU/8791)</p> <p>Chairperson Du Plessis handed over to Mr Alexander for a short summary of the application. Members of the Tribunal posed questions to Mr Alexander in respect of the application for the purpose of clarity. An in-depth discussion followed between the members of the Tribunal.</p> <p>UNANIMOUSLY RESOLVED:</p> <p>1 <u>Approval be granted</u> in terms of Section 60 of the Stellenbosch Municipal Land Use Planning Bylaw, 2015 promulgated by notice number 354/2015, dated 20 October 2015, for:</p> <p>1.1 Consent use in terms of Section 15(2)(o) for a tourist facility in order to accommodate a restaurant of ±334m² in extent, within the existing wine cellar, as per Layout Plan, Drawing No.: 2018/09/T02, drawn by Stephan Weyers Architects, attached as Appendix C; and</p>

	<p>1.2 Consent use in terms of Section 15(2)(o) for a tourist facility to accommodate a wine shop of and curio shop of ±238m² in extent, and a restaurant of ±562m² in extent with the existing dwelling house, as per Layout Plans, Drawing No(s) 2018/09/T02; 2018/09/T100; 2018/09/T302; 2018/09/T301, drawn by Stephan Weyers Architects, attached as Appendix C.</p> <p>2. The approval(s) granted in Section 1. is subject to the following conditions in terms of Section 66 of the above-mentioned By-law;</p> <p>2.1 The approval applies only to the application in question as shown on drawing, drawn by Stephan Weyers Architects, Dated August 2018, (See APPENDIX C) and shall not be construed as authority to depart from any other legal prescriptions or requirements from Council;</p> <p>2.2 The applicant to submit building plans to be approved by this municipality, prior to any building work commencing on sites;</p> <p>2.3 The condition imposed by the Director: Infrastructure Services, attached as Appendix F, be adhered to;</p> <p>2.4 The conditions imposed by the WCG: Department of Transport and Public Works (“DT&PW”) Road Network Management, attached as Appendix G be adhered to;</p> <p>2.5 A Site Development Plan and a Landscaping plan be submitted for approval to the Director Planning and Economic Development and the Director: Community Services;</p> <p>2.6 Landscaping around parking areas to be provided to ensure that these areas are shielded from their surroundings to further reduce the impact of the parking area on its surroundings;</p> <p>2.7 All outside lighting to be downlighting to reduce the impact to the</p>
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	<p>parking area on its surroundings at night;</p> <p>REASONS FOR APPROVAL</p> <ol style="list-style-type: none"> 1. Land outside of existing and proposed urban settlements should be used for agricultural production, biodiversity conservation, scenic quality and agri-tourism. 2. Intensification of agriculture, biodiversity conservation and agri-tourism should be promoted in farming areas outside of the urban settlements. 3. The proposed development will be located within existing buildings and use existing structures for its ancillary uses, i.e. parking. 4. The proposal is consistent with the Municipal IDP and SDF and its strategic objectives for the rural areas of Stellenbosch Municipality.
<p>SMPT 14/01/20</p>	<p>APPLICATION FOR THE AMENDMENT OF CONDITIONS OF APPROVAL, AMENDMENT OF THE SITE DEVELOPMENT PLAN AND THE SUBDIVISIONAL PLAN, FARM 1307/2 AND 1307/3, STELLENBOSCH DIVISION(LU/8130)</p> <p>Chairperson Du Plessis handed over to Mr April to provide a short summary of the application. Members of the Tribunal posed questions to Mr April in respect of the application for the purpose of clarity. An in-depth discussion followed between the members of the Tribunal.</p> <p>UNANIMOUSLY RESOLVED:</p> <p>The Application for the amendment of conditions of approval, amendment of the site development plan and the subdivisional plan, Farm 1307/2 and 1307/3, Stellenbosch division be REFUSED in terms of Section 60 of the Stellenbosch Municipal Land Use Planning By-Law, promulgated by notice number 354/2015, dated 20 October 2015.</p> <p>REASONS FOR THE REFUSAL</p> <ol style="list-style-type: none"> 1. There is a considerable lack of spatial logic in terms of legibility, accessibility, connectivity and integration which does not conform to the planning principles referred to in Section 59 of LUPA. The proposal should support spatial justice. 2. There is no legal certainty that the existing 5 m servitude right of way over

	<p>the property owned by Digteby Home Owners Association in favour of Portion 3 of Farm 1307 Stellenbosch would constitute acceptable access to the proposed Chantecler Residential Estate. Irrespective of the legal interpretation by the different legal practitioners of the right of way servitude, the MPT is of the view that an approved public access in terms of the Stellenbosch Zoning Scheme By-law is also required for an access of this nature. Such public access application can only be initiated by the owner of the property or the municipality and should be holistically planned. In the absence of such alternate public access, the current condition which determines that access is to be provided over the Digteby Estate Development should remain in place.</p>
<p>SMPT 15/01/20</p>	<p>APPLICATION OF SUBDIVISION, CONSOLIDATION, REZONING & DEPARTURE FOR ERF NO. 1714, REMAINDER OF ERF NO. 2183 AND UNREGISTERED ERVEN 863 & 873, KAYAMANDI (LU/8633)</p> <p>Chairperson Du Plessis handed over to Mr Alexander to provide a short summary of the application. Mr Alexander posed a request to Chairperson that the maps he provided, be included as part of Appendix 5 of the application.</p> <p>Members of the Tribunal posed questions to Mr Alexander in respect of the application for the purpose of clarity. An in-depth discussion followed between the members of the Tribunal.</p> <p>UNANIMOUSLY RESOLVED:</p> <p>1. Approval be granted in terms of Section 60 of the Stellenbosch Municipal Land Use Planning By-Law, promulgated by notice number 354/2015, dated 20 October 2015, for the following applications:</p> <p>1.1 Subdivision in terms of Section 15(2)(d) of Erf 1714, Kayamandi into two (2) portions, namely Portion A and the Remainder of Erf 1714, Kayamandi, as per Proposed Subdivision Plan, Plan 3 dated 11 September 2018, drawn by NuPlan Africa attached as Appendix 2;</p> <p>1.2 Subdivision in terms of Section 15(2)(d) of the Remainder of Erf 2183, Kayamandi, into three (3) portions, namely Portion A, Portion B and the Remainder of Erf 2183, Kayamandi, as per Proposed Subdivision Plan,</p>

Plan 4 dated 11 September 2018, drawn by NuPlan Africa attached as **Appendix 3**;

1.3 **Consolidation** in terms of Section 15(2)(e) of Portion A of Erf No.1714, Portion A of Remainder of Erf No. 2183, Portion B of Remainder of Erf No. 2183, Kayamandi, Unregistered Erf No.: 863, Kayamandi, Unregistered of Erf 873, Kayamandi, as per Proposed Consolidation Plan, Plan 5 dated 11 September 2018, drawn by NuPlan Africa attached as **Appendix 4**;

1.4 Rezoning and Subdivision in terms of Section 15(2) (a) and 15(2)(d) of the consolidated property from **Agriculture, Informal Residential and Residential I** to **Subdivisional Area**. That the **Subdivisional Area** accommodate the following zonings and subdivided even as per Site Development Plan for the southern portion and the proposed subdivision plan, plan number 3 and 8, dated 11 and 27 September 2018, respectively, drawn by Nu Plan Africa attached as **Appendix 4**:

- 532 Group housing erven
- 178 General Residential erven (row housing)
- 13 General Residential erven (communal court yards)
- 2 Public Open Space erven
- 6 Private Open Space erven
- 1 Place of Worship
- 1 Educational institution erf
- 4 Local Authority erven (mini-substations, and
- 4 Local Authority erven (public roads);

1.5 **Departure** in terms of Section 15(2)(c) for the relaxation of the **street building line** for all Group housing erven from **2m** to **1m**, common building line from **1,5m** to **1m** on one side and **0m** on the other;

1.6 **Departure** in terms of Section 15(2)(c) for the relaxation of the **street building line** for all the General Residential erven from **7,6m** to **0m**, common building line from **4,6m** to **0m**;

1.7 **Departure** in terms of Section 15(2)(c) for the relaxation of the open space requirement to provide $\pm 1\ 535\text{m}^2$ in lieu of $21\ 280\text{m}^2$;

1.8 **Departure** in terms of Section 15(2)(c) for relaxation of the **parking requirements** to provide **no parking bays** in lieu of **2 parking bays** per group housing dwelling unit, and **0,6 parking bays** per dwelling for **on-street parking**, and **no parking** for **on-site parking bay**, in lieu of **2 parking bays** per dwelling unit;

1.9 **Departure** in terms of 15(2)(c) from the permissible coverage of **25%** to **100%**;

1.11 **Departure** in terms of Section 15(2)(d) for the registration of the following **right-of-way servitudes** in order to access the group housing and general residential units:

- Right-of-way servitude to be registered over Portion 551 in favour of Portions 549 and 550;
- Right-of-way servitude to be registered over Portion 552 in favour of Portions 531 and 532;
- Right-of-way servitude to be registered over Portion 540 in favour of Portion 539;
- Right-of-way servitude to be registered over Portion 541 in favour of Portions 542 and 543;
- Right-of-way servitude to be registered over Portion 554 in favour of Portions 555 and 556;
- Right-of-way servitude to be registered over Portion 561 in favour of Portions 559 and 560;
- Right-of-way servitude to be registered over Portion 567 in favour of Portions 568 and 569;
- Right-of-way servitude to be registered over Portion 566 in favour of Portions 564 and 565;
- Right-of-way servitude to be registered over Portion 576 in favour of Portions 574 and 575;
- Right-of-way servitude to be registered over Portion 577 in favour of Portions 578 and 579;
- Right-of-way servitude to be registered over Portion 581 in favour of Portions 582 and 583;
- Right-of-way servitude to be registered over Portion 590 in favour of Portions 588 and 589;
- Right-of-way servitude to be registered over Portion 592 in favour of Portions 593 and 594;
- Right-of-way servitude to be registered over Portion 599 in favour of Portions 597 and 598;

- Right-of-way servitude to be registered over Portion 603 in favour of Portions 601 and 602;
- Right-of-way servitude to be registered over Portion 604 in favour of Portions 605 and 606;
- Right-of-way servitude to be registered over Portion 610 in favour of Portions 608 and 609;
- Right-of-way servitude to be registered over Portion 611 in favour of Portions 612 and 613;
- Right-of-way servitude to be registered over Portion 615 in favour of Portions 616 and 617;
- Right-of-way servitude to be registered over Portion 621 in favour of Portions 619 and 620;
- Right-of-way servitude to be registered over Portion 627 in favour of Portions 625 and 626;
- Right-of-way servitude to be registered over Portion 628 in favour of Portions 629 and 630;
- Right-of-way servitude to be registered over Portion 636 in favour of Portions 634 and 635;
- Right-of-way servitude to be registered over Portion 639 in favour of Portions 640 and 641;
- Right-of-way servitude to be registered over Portion 646 in favour of Portions 644 and 645;
- Right-of-way servitude to be registered over Portion 650 in favour of Portions 648 and 649;
- Right-of-way servitude to be registered over Portion 651 in favour of Portions 652 and 653;
- Right-of-way servitude to be registered over Portion 659 in favour of Portions 657 and 658;
- Right-of-way servitude to be registered over Portion 660 in favour of Portions 661 and 662;
- Right-of-way servitude to be registered over Portion 663 in favour of Portions 664 and 665;
- Right-of-way servitude to be registered over Portion 671 in favour of Portions 669 and 670;
- Right-of-way servitude to be registered over Portion 676 in favour of Portions 674 and 675;
- Right-of-way servitude to be registered over Portion 677 in favour of Portions 678 and 679;
- Right-of-way servitude to be registered over Portion 685 in favour of Portions 683 and 684;
- Right-of-way servitude to be registered over Portion 689 in favour of Portions 690 and 691;
- Right-of-way servitude to be registered over Portion 697 in favour of Portions 695 and 696;
- Right-of-way servitude to be registered over Portion 698 in favour of Portions 699 and 700;

2. The approval granted in Section 1 above is subject to the following conditions in terms of Section 66 of the above-mentioned by-law:

2.1 The approval applies only to the application under consideration and

shall not be construed as authority to depart from any other legal prescriptions or requirements from Council;

2.2 The conditions of approval as imposed by the Manager: Development (Infrastructure Services) in its memo dated 21 October 2019, attached as **Appendix 7** be adhered to and complied with;

2.3 The conditions of approval as imposed by the Manager: Electrical Engineering Services in its memo dated 19 February 2019, attached as **Appendix 6** be adhered to;

2.4 The conditions imposed by the Department: Water and Sanitation in their letter dated 19 March 2019, attached as **Appendix 10** be adhered to;

2.5 The applicant submits an electronic copy (shp,dwg,dxf) of the consolidation diagram which was preliminary approved by the SG indicating the newly allocated Erf Number, Co-ordinates and Survey Dimensions;

2.6 A Site Development Plan be submitted for approval to the Director: Planning and Economic Development and the development be undertaken generally in accordance with the approved site development plan.

2.7 Building plans be submitted to the Municipality for approval prior to any building work taking place on the property;

REASONS FOR APPROVAL

1. Formalise the existing informal settlement.
2. Aligned with the Municipal IDP, SDF and IHSP.
3. Proposal will result in the implementation of basic services, including the

	<p>construction of roads.</p> <p>4. Will be in character with the immediate surrounding area;</p> <p>5. The upgrading of the settlement promotes the implementation of Council's strategic objective of dignified living for all its residents;</p>
<p>SMPT 16/01/20</p>	<p>APPLICATION FOR THE AMENDMENT OF AN EXISTING APPROVAL OF A REZONING, SUBDIVISION AND DEPARTURE ON PORTION 20 OF FARM NO. 82, STELLENBOSCH DIVISION (LU/8805)</p> <p>Deputy Chairperson Havenga chaired the proceedings as Chairperson Du Plessis excused himself from the meeting due to attend and urgent meeting. Deputy Chairperson Havenga handed over to Mr Fooy to do a short summary of the application. Members of the Tribunal posed questions to Mr Fooy in respect of the application for the purpose of clarity. An in-depth discussion followed between the members of the Tribunal.</p> <p>UNANIMOUSLY RESOLVED:</p> <p>1. Approval be granted on Portion 20 of Farm 82, Stellenbosch in terms of Section 60 of the Stellenbosch Municipality Land Use Planning By-Law (2015) for the following:</p> <p>1.1 Amendment of the approved subdivision Plan, in order to subdivide Portion 20 of Farm 82 for the following:</p> <p>1.1.1 12 Residential Zone IV (Flats) erven;</p> <p>1.1.2 1 Open Space Zone II erf to accommodate the following land uses (access road/access control/ guard house, refuse area and parking purposes;</p> <p>As reflected in the Subdivision/ Zoning Plans (Plan No 3 Subdivision and Zoning; Plan No 4: Subdivision and Servitudes; Plan No 5: Subdivision and Building Lines; Plan No 7: Composite Subdivision Plan).</p> <p>1.2 Approval for the Phasing of the Development into two phases as indicated on the Subdivision Plan and Site Development Plan;</p>

- 1.3 Departures for the relaxation of the street, rear and side building lines applicable to the newly created properties as depicted on the proposed Site Development and Subdivision Plan. [Plan No 5 Building lines; Plan No 7 Composite Subdivision Plan and Site Development Plan No 1108SDP13N-Typical SDP;
- 1.4 Departures for the relaxation of the internal building and setback lines on Erven 1-13 as indicated on Plan Nr 5 (Building lines) in lieu of half the height of the building or 4m whichever is the greater;
- 1.5 Departures to relax the Street building lines along Long Street and Welgevonden Boulevard from 8m to 5m as depicted on the proposed Site Development and Subdivision Plan. [Plan No 5 Building lines; Plan No 7 Composite Subdivision Plan and Site Development Plan No 1108SDP13N-Typical SDP;
- 1.6 Departure for the under provision of 1 onsite parking bay for the proposed subdivided erven, portions 3, 8,9, 10 and 11 of the subdivision. (Provision has been made to provide these parking bays on portion 13 of the subdivision and they will be linked to the subdivided erven / buildings, located on portion 3, 8, 9,10 and 11, indicated on Plan Nr 7 (Subdivision Plan- Composite);
- 1.7 Servitudes as depicted on the proposed Subdivision (Plan Nr 4 Servitudes) and Site Development Plans. In order to permit the following servitude areas over these portions;
 - 1.7.1 7.5m wide Servitude Access and Services area(s) to be registered over Erven 1 to 12 for road and services area(s) purposes in terms of Section 15(2)d of the Stellenbosch Municipality's Planning By-law (2015) of the Stellenbosch Municipality's Planning By-law (2015) to accommodate the following traffic and engineering services. {Servitude Services area, ESKOM underground 3m cable servitude

area (re-alignment of existing power line); Electricity servitude area on Erf 13 (electrical Substation));

1.7.2 A Site Development plan be submitted for approval to the Director: Planning and Economic Development and the development be undertaken generally in accordance with the approved site development plan.

2. The approval granted in Section 1 above is subject to the following conditions in terms of Section 66 of the Stellenbosch Municipality Land Use Planning By-Law (2015);

2.1 The approval only applies to the proposed development in question, as indicated on attached Site Development Plan (Plan Nr 1108SDP13N-Typical SDP) and Subdivision/Zoning Plan Nrs 3,4,5 and 7 respectively and shall not be construed as authority to depart from any other legal prescriptions or requirements from Council;

2.2 New erf diagrams or general plans for the newly created land units be submitted to this municipality for clearance and record purposes;

2.3 The applicant submits an electronic copy (shp,dwg,dxf) of the General Plan which was preliminary approved by the SG. The following information must be indicated:

2.3.1 Newly allocated Erf Numbers

2.3.2 Co-ordinates

2.3.3 Survey Dimensions

2.3.4 Street names (if approved by Council)

2.4 The first AGM of the Home Owners Association be held within 12 months from approval of the said Constitution to the satisfaction of the Director Planning and Development;

2.5 Building plans be submitted for approval by the Municipality for the entrance gates and boundary walls and that these structures to be completed prior to the first property being transferred;

2.6 A detailed landscaping plan be submitted as part of the SDP with the building plans for approval and the Open Space areas within the development be landscaped in accordance with the landscaping

- plan prior to the first residential property being transferred;
- 2.7 The external sidewalk to be landscaped, constructed and maintained by the developer for 12 months after completion of construction of the complete development and that non motorised forms of transport be accommodated on the sidewalk in terms of the landscaping plan for this area to the satisfaction of the Municipality ;
- 2.8 The conditions imposed by the Director: Infrastructure Services as contained in their memo dated 18 March 2019, attached as Annexure N be complied with;
- 2.9 Building plans be approved for the residential units when all conditions of subdivision have been complied with and proof of transfer of the subject property is submitted with the building plan;
- 2.10 No building plan be submitted for approval prior to the applicable conditions of approval being adhered to in totality by the developer for each portion / property;
- 2.11 Building plans be substantially in accordance with the approved SDP;
- 2.12 Inclusionary housing component be included to expand housing opportunity for a broader range of income groups.
- 2.13 A Master Home Owners Association be established. The constitution and Architectural Design Guidelines be submitted to the Municipality for approval.

REASONS FOR APPROVAL

1. The subject property is located in an area where high density development is promoted by Council.
2. The proposed development is not seen to be out of scale or character with its surroundings.
3. The proposal promotes Council policy as noted in the SDF of densification within the urban edge.
4. The proposal will contribute to the provision to allow for residential opportunities for middle to upper middle-income groups.
5. The development will be compatible with the surrounding land uses and built environment.

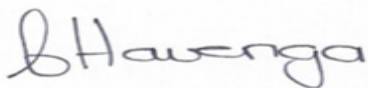
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	<ol style="list-style-type: none">6. The applicant has followed due process for public participation.7. The proposal will make optimal use of existing infrastructure.8. The proposal is in line with the Stellenbosch MSDP, IDP and other relevant planning legislation.9. The proposed development of the subject property complies with the land use planning principles referred to in section 59 (spatial justice, spatial sustainability, spatial resilience, efficiency and good administration) of LUPA.
SMPT 17/01/20	<p>OTHER MATTERS</p> <p>Deputy Chairperson Havenga thanked all role-players for attending the meeting.</p> <p style="text-align: right;">Meeting Adjourned at 15h05.</p>



Dr D du Plessis

CHAIRPERSON: MUNICIPAL PLANNING TRIBUNAL



Mrs C Havenga

DEPUTY CHAIRPERSON: MUNICIPAL PLANNING TRIBUNAL

