

MINUTES: STELLENBOSCH MUNICIPAL PLANNING TRIBUNAL 28 FEBRUARY 2020

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OF THE STELLENBOSCH MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON FRIDAY, 28 FEBRUARY 2020, AT THE STELLENBOSCH LIBRARY HALL, 1ST FLOOR, STELLENBOSCH LIBRARY, PLEIN STREET, STELLENBOSCH AT 10H00

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

2020-02-28

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

Councillor

Esther Groenewald: Mayco: Planning, LED & Corporate Services

Officials

Mr S Carstens- Senior Manager: Development Management

Mr C 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

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ITEM	SUBJECT
SMPT 01/02/20	OPENING AND WELCOME Chairperson Du Plessis welcomed all present to the sitting. He extended a special welcome to Mr Stiaan Carstens who recently joined Stellenbosch Municipality as Senior Manager: Development Management.
SMPT 02/02/20	LEAVE OF ABSENCE Mr Kobus Munro - Technical Advisor
SMPT 03/02/20	DISCLOSURE OF INTERESTS The Chairperson enquired whether any member wanted to declare a conflict of interest regarding any item on the agenda. No conflicts of interest were noted.
SMPT 04/02/20	MINUTES OF THE PREVIOUS MEETINGS DATED 31 JANUARY AND 03 FEBRUARY 2020 The minutes of previous meetings were included and noted.
	MATTERS FOR CONSIDERATION
SMPT 05/02/20	APPLICATION FOR REZONING, SUBDIVISION, PHASING OF THE DEVELOPMENT, ESTABLISHMENT OF A HOMEOWNERS ASSOCIATION, APPROVAL OF THE SITE DEVELOPMENT & ARCHITECTURAL GUIDELINES, AND APPROVAL OF THE DEVELOPMENT NAME, STREET NAMES & NUMBERS ON ERF NO. 445, KYLEMORE (LU/7355) Chairperson Du Plessis introduced the first item and handed over to Mr Craig Alexander to present a summary of the application. Chairperson declared the item open for discussion. Dr Pool-Stanvliet referred to page 98 of the agenda which was a letter from the church. She suggested that inclusionary housing be included. The name of the proposed development "Mountain Whisper" was spelled incorrectly. Mr Rabie referred to a previous similar application that was approved by the previous Tribunal. Mr Rabie posed a question as to the width of the area that connects the 2 properties to the open space. Mr van der Merwe enquired whether the application was circulated to the Department of

Water Affairs for comments. Mr Williams stated that as far as new developments in areas such as Kylemore are concerned, the developers must indicate how they will provide for middle income residents of these areas. Mr Alexander stated that inclusionary housing can range from R350 000 to R1,2 million which would still not be affordable to middle income buyers. Mr Williams stated that if the developer was willing to accommodate middle income applicants, and such a condition is not part of the conditions of approval then he is not willing to support the application.

Mrs Crooijmans-Lemmer noted she has a very strong sense from the local community that people would like to be able to stay in areas such as Kylemore. She further indicated that the Tribunal must consider the input of the community. A further in-depth discussion followed between the members of the Tribunal.

UNANIMOUSLY RESOLVED:

1 Approval be granted 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:

1.1 **Rezoning** in terms of Section 15(2)(a) of Erf No. 445, Kylemore from Agricultural Zone I to **Subdivisional Area** to accommodate the zonings of Residential Zone III (Town houses erven); Residential Zone II (Group housing erven); and Open Space Zone II (private open space), as per Proposed Subdivision Plan, Plan No. ERF445 KYLEMORE dated October 2017, attached as **Appendix 2**.

1.2 **Subdivision** in terms of Section 15(2)(d) of Erf No. 445, Kylemore into 35 erven to establish twelve (12) Residential Zone III (Town housing) erven, 21 Residential Zone II (Group housing) erven and 2 Open Space Zone II (private road and private open space) erven, as per Proposed Subdivision Plan, Plan No. ERF445 KYLEMORE dated October 2017, attached as **Appendix 2**;

1.3 **Subdivision** in terms of Section 15(2)(d) of Erf No.445,

Kylemore to enable the phasing of the proposed development into two (2) phases, namely Phase 1 consisting of erven 1-6 and 28-33 with a portion of the private road, and the Phase 2 consisting of the Remaining proposed erven, as per Phasing Plan, Plan No. ERF445 KYLEMORE dated October 2018, attached as **Appendix 3**;

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;

2.1 The approval applies only to the application in question and shall not be construed as authority to depart from any other legal prescriptions or requirements from Council;

2.2 Building plans be approved by this municipality, prior to any building work commencing on site;

2.3 The conditions imposed by the Director: Infrastructure Services, attached as Appendix 10 to this report, be adhered to;

2.4 The perimeter fence to comply with Council's Bylaw relating to Boundary Walls and Fences;

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 Numbers, Co-ordinates and Survey Dimensions;

2.6 A certificate of compliance in terms of Section 28 only be granted once all the conditions of approval for the development have been complied with;

2.7 The development be undertaken generally in accordance with the approved site development plan attached as Appendix 4 to this report, Drawing No. 1373/03, Compiled by Bart Senekal Civil & Structural Engineering Consultants;

2.8 The **Establishment of a Homeowners Association** ("HOA") in terms of Section 29(1) for the proposed Mountain Whisper Estate and the constitution of the home owners association be submitted for approval and endorsement;

2.9 A detailed landscaping plan be submitted to the Department of Community Services for approval; The landscaping plan to be implemented to the satisfaction of this Department to the cost of the developer and prior to the issuing of the first occupancy certificate.

2.10 **Architectural Guidelines** for the Mountain Whisper Estate Development be submitted to the Municipality for approval;

2.11 Twelve (12) Residential Zone 2 units to be developed for middle income buyers. A section should be included in the sales agreement with the developer that Kylemore residents should have the first option to buy one of these units at market related valued, should they be interested.

REASONS FOR APPROVAL

1. Land inside of existing and proposed urban settlements should developed to promote densification and infill development to prevent urban sprawl.
2. The location of the subject property lends itself to be developed as an enclosed development.

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	<p>3. The proposal is consistent with the Municipal IDP and SDF and its strategic objectives for the development of existing nodes within Stellenbosch Municipality.</p>
<p>SMPT 06/02/20</p>	<p>APPLICATION FOR CONSENT USE FARM NO 571/6, STELLENBOSCH DIVISION(LU/5680)</p> <p>Chairperson Du Plessis handed over to Mr April to present a summary of the application. Members of the Tribunal posed questions in respect of the application for clarity purposes. An in-depth discussion followed.</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 PN 354/2015, dated 20 October 2015, for consent use for a tourist facility (Restaurant) and to extend the existing wine tasting and sales facility on Farm No 571/6, Stellenbosch Division.</p> <p>2. The approvals granted are 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 applications for consent use in question for a tourist facility (Restaurant of ±702m²) and to extend the existing wine tasting and sales facility from 100m² to ±500m² on Farm no 571/6, Stellenbosch Division, and shall not be construed as authority to depart from any other legal prescriptions or requirements from Council;</p> <p>2.2 The following municipal engineering services conditions be adhered to;</p> <p>2.2.1 It is the owner's responsibility to ensure that potable water be stored and distributed in such a manner that it complies with the SANS 241 Drinking Water Quality Standards.</p>

	<p>2.2.2 No building plans be approved if a formal engineering drawing, indicating the sewer reticulation layout including positioning of treatment facilities and outlet of treated water is not submitted simultaneously with the building plan.</p> <p>2.2.3 Proof is provided of approval from the Department of Water and Sanitation for disposal of treated effluent by irrigation/discharge of treated effluent into a water course.</p> <p>2.2.4 A maintenance agreement be entered into between the owner and the Clarus Fusion waste water treatment system service provider and proof thereof be furnished to the Municipality's Water Services Department.</p> <p>2.2.5 Details of additional conservancy tanks be provided and only Stellenbosch Municipality is allowed to empty conservancy tanks.</p> <p>2.2.6 A services contract be entered into with Stellenbosch Municipality to service the conservancy tanks on a regular basis.</p> <p>2.2.7 Wastewater and sewage may not pollute any groundwater, storm water or surface water.</p> <p>2.2.8 No new septic tanks and soak-aways be permitted and the use of existing septic tanks to collect and treat sewage generated by the proposed development is not allowed.</p> <p>2.2.9 Solid waste be removed from the site to a lawful solid waste disposal site in accordance with the requirement of section 26 of the National Environment Management Waste Act 2008 (Act 59 of 2008).</p> <p>2.2.10 Sufficient parking be provided and indicated on the site plan at the building plan submission stage.</p>
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	<p>2.2.11 Development contributions be payable and calculate in terms of the municipal Development Contribution policy for the applicable financial years tariffs.</p> <p>2.2.12 Development Contribution are payable prior to the erf or portion thereof being put to the approved use or building plan approval whichever comes first.</p> <p>2.3 All relevant sections and regulations of the National Water Act, 1998 (Act 36 of 1998) regarding water use and pollution management be adhered to.</p> <p>2.4 Building plans for all alterations and extensions be submitted to this municipality for approval;</p> <p>2.5 Any proposed extension, maintenance and traffic calming measure on the servitude access road be agreed by the applicants and the owners over which properties these servitudes are aligned as per the title deed conditions. A copy of the agreement be submitted to the Municipality before the construction of building starts.</p> <p>2.6 Application is made for a certificate of acceptability from the Cape Winelands District Municipalities Health Department for all food preparation premises, if not already obtained.</p> <p>2.7 The existing and proposed buildings at all times comply with SANS 10400 - Part S "Facilities for disabled persons" to the satisfaction of the municipal building management department.</p> <p>2.8 All electrical requirements be directed to Eskom, considering that the property falls outside the Stellenbosch area of supply.</p>
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2.9 The proposed landscaping plan to be implemented to the satisfaction of the Department of Community Services, prior to the issuing of the occupancy certificate and should additional landscaping be required in future to soften the visual impact of the proposed structures from the surrounding properties and roads, it be implemented at the cost of the owners;

2.10 Site development plan to be submitted to department for approval

2.11 58 Parking bays to be provided in two phases of 38 for Phase I and 20 Parking bays for phase II as indicated in the development proposal.

REASONS FOR APPROVAL

1. The proposed land use is in conformance with the principles of the Stellenbosch Municipal Spatial Development Framework in relation to agri-tourism activities.
2. The intended facilities and its location on the property will be of a nature that should not be detrimental to the immediate and surrounding areas, if all conditions of approval are complied with.
3. No significant heritage and environmental impacts are envisaged by the development.
4. Existing access point and access road to the property will be used.
5. All parking to be provided will be onsite and adequately screened.
6. Existing services will be used, upgraded or newly built to the satisfaction of the engineering department for the development.

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	<p>7. There are no restrictive title deed conditions registered against the title deed that prohibit the proposed development of the property.</p> <p>8. The proposed land uses are low intensity tourist activities which would not impact negatively on the property and area.</p> <p>9. An agreement has been reached with regards to the maintenance of the access road.</p>
<p>SMPT 07/02/20</p>	<p>APPLICATION FOR REZONING AND PERMANENT DEPARTURES ON ERF 290, FRANSCHHOEK (LU/8817)</p> <p>Chairperson Du Plessis announced items 5.3 and 5.4 on the agenda which were discussed simultaneously. He further stated that the applicants requested to do an oral presentation which was subsequently granted. Chairperson welcomed the applicants Mr Mons and Mr Kinney, as well Ms Borrias who represented the objectors in respect of the application. Oral presentations were made by both parties. Members of the Tribunal posed questions in respect of the application for the purpose of clarity.</p> <p>An in-depth discussion followed between the members of the Tribunal on the application and the following concerns were noted by the members of the MPT:</p> <p>The nature and scale of the proposed development portrayed a function venue and accordingly:</p> <ul style="list-style-type: none">o The scale of the uses within the proposed building were not in line with the number of beds it intends to serve;o in nature as a standalone facility does not comply with the definition of a guest house facility with a primary use for residential purposes;o the proposed height of the building departs from the provisions with regard to height for the Franschhoek Urban Conservation Zone.

The definition of a guest house as set out by the Stellenbosch Municipality Zoning Scheme By-Law(2019) was intensely discussed:

Guest House (*gaste-huis*) means the use of furnished bedrooms or suites in a dwelling house and/or second dwelling, for the accommodation of transient guests, where accommodation is rented out on an individual room-by-room basis, where no proprietor is required to live on the property as a permanent resident, and where no self-catering facilities are provided, subject to the following:

- o In the zones where this Scheme permits a dwelling house or second dwelling house but not flats or hotel, the scale of any one building may not exceed that of a dwelling house or second dwelling house which would ordinarily accommodate one family and must be able to revert back to a dwelling house when no longer used for a guest house;
- o up to one meeting room and one room for beauty treatments per land unit may be provided on properties which are zoned other than Conventional Residential zone, provided that the facilities may only serve resident guests of that specific land unit, and may not be used by residents of the same enterprise who reside on different land units;
- o at least one communal bathroom shall be provided to guests, but rooms may be an en-suite; one kitchen per dwelling unit will be retained from which the establishment may serve meals to guests who are resident on that same land unit; it is not compulsory for the establishment to have staff present on a 24-hour basis, but the operation may include such staff;
- o a guest house premises may be licensed to sell liquor for consumption on the property in a Local Business zone, Mixed-use Zone, Agriculture and Rural Zone, and Open Space Zone. In any other zones, a consent use application must first be approved before such a license may be issued;

- o a guest house may not include a shop for sale of alcohol for off-site consumption;
- o alcohol may only be served to resident guests and the facility may not include a pub;)

The Tribunal indicated that the following be addressed in the application prior to the application being referred back to the MPT for consideration:

- o Manager facilities be provided onsite;
- o All onsite facilities to be scaled down and the facilities provided are only for guests of the establishment located on the property;
- o The scales of the buildings are to be reduced to comply with the existing residential character of the area as well as the provisions of the Franschhoek Urban Conservation Area. (This includes the setback lines, building lines, coverage, height of the buildings and number of storeys to comply with those of a dwelling house);
- o All parking to be provided onsite and to have minimal impact on the streetscape;
- o Landscaping including outside lighting and boundary walls to be in line with those in the area, existing trees on the property and within the road reserve to be retained.

The Tribunal indicated that the revised application needs to be re-advertised to the objectors for comments.

UNANIMOUSLY RESOLVED:

THE MATTER BE REFERRED BACK TO THE ADMINISTRATION FOR ADDITIONAL INFORMATION AND THAT THE FOLLOWING ASPECTS SHOULD BE ADDRESSED:

1. A revised conveyancer's certificate which is accompanied by the checklist as provided for by the Department;

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	<ol style="list-style-type: none"> 2. The registration of a notarial tie of this property with the guesthouse facilities on Erven 290, 291 and 571 with which it is associated; 3. A revised Site Development Plan which needs to comply with the definition and guidelines as provided for in the definition for a guest house as depicted in the Stellenbosch Municipality Zoning Scheme By-Law November 2019 as a guideline. 4. The provisions of the Franschoek Urban Conservation area be taken into consideration regarding the scale and nature of the development proposal. 5. The revised applications to be re-advertised to the objectors only. 6. A site inspection to be conducted by the members of the Tribunal prior to the revised application serving before the committee Tribunal for consideration.
<p>SMPT 08/02/20</p>	<p>APPLICATION FOR REZONING AND PERMANENT DEPARTURES ON ERF 292, FRANSCHHOEK(LU8817)</p> <p>Items 5.3 and 5.4 of the agenda were discussed simultaneously and be read in conjunction with each other.</p>
<p>SMPT 09/02/20</p>	<p>OTHER MATTERS</p> <p>The Chairperson thanked all for attending the meeting.</p> <p style="text-align: center;">Meeting adjourned at 14h40.</p>



Dr D du Plessis

CHAIRPERSON: MUNICIPAL PLANNING TRIBUNAL



Mrs C Havenga

DEPUTY CHAIRPERSON: MUNICIPAL PLANNING TRIBUNAL