

MINUTES: STELLENBOSCH MUNICIPAL PLANNING TRIBUNAL 26 JUNE 2020

MINUTES OF THE STELLENBOSCH MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON FRIDAY, 26TH OF JUNE 2020, via MS TEAMS 10H00-15H00

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

2020-06-26

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 J Mowers- Senior Manager: Development, Asset Management and Systems & Project Management Unit -Infrastructure Services

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 Development Management; Department of Environmental Affairs and Development Planning

Officials

Mr S Carstens: Senior Manager Development Management

Ms C Kriel: Manager Land Use Management

Ms L Guntz: Senior Town Planner

Mr R Fooy: Senior Town Planner

Mr P April: Senior Town Planner

Ms B Zondo: Senior Town Planner

Ms O Sims: Administrative Officer MPT

MINUTES: STELLENBOSCH MUNICIPAL PLANNING TRIBUNAL 26 JUNE 2020

ITEM	SUBJECT
SMPT 01/06/20	OPENING AND WELCOME
	The Chairperson welcomed all present and extended a special word of welcome to Chrizelle Kriel and Anthony Barnes who joined the Stellenbosch Municipality on 1 June 2020.
SMPT 02/06/20	LEAVE OF ABSENCE
	Apologies were received from Mervin Williams who joined the meeting at 11:30 and Lenacia Kamineth.
SMPT 03/06/20	DISCLOSURE OF INTERESTS
	No conflicts of interest were noted. Schalk van der Merwe noted his involvement in Item 5.4. He acted as a project administrator from the Stellenbosch Municipality. Albert van der Merwe also noted his involvement in the planning process of Item 5.4.
SMPT 04/06/20	MINUTES OF THE PREVIOUS MEETINGS DATED 28 FEBRUARY 2020 FEBRUARY 2019
	The Minutes of the previous meeting was approved.
SMPT 05/06/20	MATTERS FOR CONSIDERATION
	<p>APPLICATION FOR SUBDIVISION, FARM NO. 1460/1 PAARL DIVISION</p> <p>DISCUSSION: Concerns were raised on the uncertainty of the proposed use of the portion to be subdivided off the farm, specifically the smaller Portion A.</p> <p>UNANIMOUSLY RESOLVED:</p> <p>1. Approval not 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:</p>

MINUTES: STELLENBOSCH MUNICIPAL PLANNING TRIBUNAL 26 JUNE 2020

	<p>1.1 Cancellation of unregistered subdivisional diagrams section 15 (2) (k) in respect of portions 81 and 82 of the Farm Deltameer No. 1460 Paarl Division.</p> <p>1.2 Subdivision in terms of section 15 (2) (d) of the Remainder of portion 1 of the Farm Deltameer No. 1460 Paarl Division into:</p> <ul style="list-style-type: none"> • Portion A (± 1,25 hectares in extent) • Portion B (±11,58 hectares in extent) • The remainder Main Road No 191 (± 0.90 hectares in extent). <p>1.3 Registration of servitudes over subdivided portions as indicated on Plan No.3 Rev 7 and dated Sept 2018-Jan 2019.</p> <p>REASONS FOR NON-APPROVAL:</p> <ol style="list-style-type: none"> 1. The application proposal provides no rationale of the intentions in subdividing the property and how it will contribute towards the development of the area. 2. The application may compromise future development within the urban edge of the broader plan for the area. 3. No indication was given as to how the subdivision will improve agricultural viability as stated on the application motivation. 4. The proposed application does not motivate how it will fit in with the urban development as indicated in the MSDF. 5. Recognised that the area is indicated within the urban edge, but the fragmentation of the land within its agricultural zoning is not supported.
<p>SMPT 06/06/20</p>	<p>REMOVAL OF A RESTRICTIVE TITLE DEED CONDITION, REZONING, SUBDIVISION, PHASING, STREET NAME AND NUMBERING AND DEPARTURES ON ERF 1692, FRANSCHHOEK</p> <p>DISCUSSION:</p> <ol style="list-style-type: none"> a) A question was raised on the status of the land claim and it was confirmed that the land claim was resolved and that the claimants are participants in the proposed application. Portion 31 is reserved for the use by the claimants. b) Concerns were raised on the participation of the claimants in the process and it was confirmed that a resolution was signed by all the trustees of the Franschoek Claimant's Trust. <u>The power of attorney and resolution were emailed to the attendees during the meeting and are attached to the Minutes.</u> The potential defect of the Date and Place not indicated on the resolution is noted. c) Concerns were raised regarding the number of departures and limited size for the Private Open Space in the design. It was confirmed that the proposed layout is not inconsistent with the parameters in the Franschoek Zoning Scheme. d) Alternative proposals for layout, less hard surfaces and more open space may be investigated. It seems as if the open space is a buffer area and does not make spatial logical sense in the layout. It is noted that the

design is not submitted for approval, and only the rezoning and subdivision of the property. A Site Development Plan needs to be submitted as a condition of approval. It was suggested that the possible reconfiguration of the units in the General Residential Components be investigated and that a proposal for a functional open space should be considered.

- e) Concerns raised on the size of the properties are noted. It is mentioned that the proposed property size conforms to other property sizes in the surrounding area. The proposal supports spatial transformation strategies such as the integration of communities and the creation of more affordable properties and is in line with the spatial proposals in the MSDF.
- f) Concerns were raised on the lack of assessment by the planner on NMT and parking requirements, the traffic impact, the natural state of the development and the biodiversity impact.
- g) Clarity is sought on the discrepancy of the proposed phasing of the development as indicated on page 142 between Phase 2 and Paragraph 6.5.

UNANIMOUSLY RESOLVED:

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:

- 1.1 The **removal of a restrictive title deed condition** in terms of Section 15(2)(f) of the said Bylaw of condition A.6 as contained in Title Deed Nr. T60152/2008 which reads *"that a general right of way from and to the adjoining Crown land over the whole of the land hereby granted is reserved in favour of the Government."*

- 1.2 The **rezoning** of the subject property from Undetermined Zone to Subdivisional Area in terms of Section 15(2)(a) of the said Bylaw to allow for the following uses (and in accordance with the land use framework plan and such phasing as depicted in plan with reference "Subdivision Plan/1692/02/1", dated May 2018 and "Phasing/1692/04/02", dated January 2019 November 2019, drawn by Headland Town Planners:

- a. Twenty-eight (28) Single Residential zone erven (portions 1- 28) and approximately 0,6061ha in extent for purposes of single dwelling units;
- b. Three (3) General Residential Zone erven (portions 29-31) and approximately 0,6630ha in extent, for apartment buildings;
- c. One (1) Business zone property (portion 32) and approximately 0,0908ha in extent, for office purposes;
- d. Three (3) Private Open Spaces erf (portions 33 and 34 and approximately 0,1321ha in extent for open space purposes and portion 35 approximately 0,5076 in extent for road purposes); and
- e. The phasing of the development into six (6) phases.

MINUTES: STELLENBOSCH MUNICIPAL PLANNING TRIBUNAL 26 JUNE 2020

1.3 The **subdivision** in terms of Section 15(2)(d) of the said Bylaw in accordance with the subdivision plan "Subdivision Plan/1692/02/1", dated May 2018 and "Phasing/1692/04/02", dated January 2019 November 2019, drawn by Headland Town Planners.

1.4 **Departure** in terms of section 15(2)(b) of the said Bylaw:

a) Portion 29

- i. to exceed the permissible coverage from **25%** to **31%**;
- ii. to allow for a minimum street front of **13m** instead of **15m**;
- iii. to relax the common building lines (adjacent to Erf 2850 and Erf 2835, Franschoek) from **4,6m** to **3,0m** and **2,8m** respectively for building C;
- iv. to relax the common building line (adjacent to Erf 2835, Franschoek) from **4,6m** to **2,8m** and **3,1m** for building D;
- v. relax the common building line (adjacent to Erf 2835, Franschoek) from **4,6m** to **3,1m** and **3,3m** for building E;
- vi. relax the common building line (adjacent to Erf 2835, Franschoek) from **4,6m** to **3,0m** for building F.

b) Portion 30

- i. to exceed the permissible coverage from **25%** to **28%**;
- ii. from the provisions 8.3.5.1 of the Franschoek Zoning Scheme to permit a building to be constructed on a general residential site abutting a street with of **8,5m** in lieu of **12,5m**;
- iii. relax the street building line (Rue De Vie Street) from **7,6m** to **4,7m** and **3,9m** for building A;
- iv. relax the street building lines (Reservoir & Rue De Vie Streets) from **7,6m** to **4,7m** respectively for building B;
- v. relax the common building line (adjacent to Erf 1693, Franschoek) from **4,6m** to **3,8m** for building C;
- vi. **4,7m** in lieu of the **11,7m** from the street boundary of Rue De Vie for the portion that is less than 16m wide.

c) Portion 31

- i. to exceed the permissible coverage of **25%** to **37%**;
- ii. to exceed the permissible bulk of **0.4** to **0.74**;
- iii. from the provision 8.3.1 of the Franschoek Zoning Scheme Regulations to permit portion 31 to be **459m²** in lieu of **1000m²**;
- iv. from the provision 8.3.5.1 of the Franschoek Zoning Scheme Regulations to permit a building to be constructed on a general residential site abutting a street with a width of **8,5m** in lieu of **12,5m**;
- v. **7,0m** in lieu of **11,7m** from the Rue De Vie street boundary;
- vi. relax the common building line (adjacent to Portion 30) from **4,6m** to **3,3m**;
- vii. relax the common building line (adjacent to Portion 33) from **4,6m** to **2,1m**;
- viii. relax the common building line (adjacent to Erf 1693, Franschoek) from **4,6m** to **3,4m**.

REASONS FOR APPROVAL:

1. The proposal will develop underutilized land within the urban edge for urban development.
 2. The proposed residential development constitutes infill development and is therefore in line with the principles of the SDF.
 3. The scale and nature of the proposed development will not compromise the existing character of the surrounding landscape.
 4. Additional affordable residential opportunities will be made available within the area.
 5. The development will allow previously disadvantaged individuals of the Franschhoek Claimants Trust, to develop land that has been acquired through a land claim process.
 6. The proposed development will have a positive impact on the town's local economy as it will create new employment opportunities during the construction phase.
 7. The proposed business zone site allowing for general practitioners will not be out of character and will provide for the convenience of and service to the surrounding residential community.
 8. As the title restrictions are not for the benefit of any specific property or person, and the development parameters will still be governed by the applicable Zoning Scheme, the deletion of condition A.6 as contained in Title Deed Nr. T60152/2008 which reads "that a general right of way from and to the adjoining Crown land over the whole of the land hereby granted is reserved in favour of the Government will not negatively impact on the personal benefits of any surrounding property owner within this township development.
2. That the approval in Section 1 is **SUBJECT TO** the following conditions in terms of Section 66 of the said Bylaw:
- 2.1 The approval only applies to the proposed development in question, as indicated on attached **Subdivision Plan (Plan nr Subdivision/922/1 Revision 1, dated November 2019)** and the **Phasing Plan (Plan nr Phasing/922/1 Revision 1, dated November 2019)** 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 the 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:
 - a) Newly allocated Erf Numbers
 - b) Co-ordinates
 - c) Survey Dimensions
 - d) Street names (if approved by Council).

MINUTES: STELLENBOSCH MUNICIPAL PLANNING TRIBUNAL 26 JUNE 2020

- 2.4 All relevant owners' associations be established in terms of Section 29(1) of the said bylaw.
- 2.5 A constitution for each of the entities be submitted for approval to the Municipality and which constitution take into account the requirements stipulated in Section 29(3) of the said bylaw.
- 2.6 That the constitution for each of the relevant Owners Associations, inclusive of Architectural and Aesthetic guidelines, be submitted for approval by the Director: Planning and Economic Development and that the relevant Owners Associations comply with such requirements as may be imposed by these architectural and aesthetic guidelines;
- 2.7 That all public places and public streets be transferred to the Local Authority upon transfer of the first unit/erf in each phase of the subdivision. All cost for the surveying and transfer of public land will be for the account of the applicant/developer.
- 2.8 The existing municipal water line across Erf 1692, Franschoek be located in the road reserve of Rue de Vie Road and be protected by means of registration of a servitude to be undertaken by the developer at his cost prior to the vesting of the development rights.
- 2.9 All new servitude rights be registered in the title deeds of the applicable property/ies.
- 2.10 The conditions imposed by the **Director: Engineering Services** as contained in their memo dated 18 December 2019, attached as **ANNEXURE Q** be complied with.
- 2.11 The development contributions are payable before the transfer of the property or approval of building plans, whichever occurs first, and which amount will be calculated in accordance with the approved council tariffs in force at the time of payment.
- 2.12 A formal application be submitted for the erection of advertising signs and that all signage be in line with the signage policy of the municipality and be approved by the Municipality prior to any signage being erected.
- 2.13 A Site Development Plan be submitted for approval to the Directorate of Planning and Economic Development for portions 29, 30, 31 & 32 prior to the submission of any building plans.
- 2.14 The Site Development Plan referred to in paragraph 2.13 to adhere to spatial logic in the placement of buildings, clustering of parking and open space in a better revised configuration that will reduce the hard

MINUTES: STELLENBOSCH MUNICIPAL PLANNING TRIBUNAL 26 JUNE 2020

	<p>surfaces and include more natural open space area.</p> <p>2.15 That Portion 32 be restricted for the exclusive use of medical consulting rooms (offices for general practitioners, specialists, etc) and with a gross leasable area of ±366m².</p> <p>2.16 Landscape plan be developed in accordance with the revised Site Development plan and submitted to the Director: Community & Protection Services.</p> <p>2.17 The approval not be acted upon prior to the issuing of a certificate of consolidated title and endorsement of the relevant title deed by the Registrar of Deeds.</p> <p>2.18 Consideration be given to the provision of Inclusionary housing units in order to expand housing opportunity for a broader range of income groups.</p> <p>2.19 Building plans only be submitted for approval when all conditions have been complied with.</p> <p>3. Matters on the application TO BE NOTED:</p> <p>3.1 The approval on the name of the development and the naming and number of streets as per the proposed subdivision plan, with reference to ANNEXURE C, BE OBTAINED from the Executive Mayor of Stellenbosch as the duly authorised decision maker on such matters.</p> <p>3.2 The conditions stated in letter 16/3/3/1/B4/12/1067/18 by the Department of Environmental Affairs and Development Planning, dated 18 April 2018, BE NOTED. See ANNEXURE I.</p>
<p>SMPT 07/06/20</p>	<p>APPLICATION FOR SUBDIVISION: ERF 721, PNIEL</p> <p>DISCUSSION:</p> <p>a) Clarity is sought on the zoning of the property. It is noted that the zoning is "Authority Use" in terms of the previous Zoning Scheme Regulations which is applicable as the application was submitted before the new Zoning Scheme Bylaw of 2019 came into effect. The zoning will be converted to "Utility Services" in terms of the Stellenbosch Zoning Scheme Bylaw.</p> <p>b) Concerns were raised as there is no access to the site and no provision made for parking but it was noted that parking requirements can be addressed on Portion A.</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:</p>

MINUTES: STELLENBOSCH MUNICIPAL PLANNING TRIBUNAL 26 JUNE 2020

	<p>1.1 Subdivision of Erf 721, Pniel into two portions, Portion A (±2702 m²) and Remainder (±5511m²).</p> <p>REASONS FOR APPROVAL:</p> <ol style="list-style-type: none"> 1. The proposal will not adversely impact on the surrounding environment, uses, property values or the character of the area. 2. The zoning and land use will remain the same. 3. The proposal will not have any impact on municipal services as no additional buildings or land use rights will be granted by the approval of the subdivision. 4. Sufficient parking bays will still be provided to support the existing land uses. 5. The proposed subdivision will only facilitate in the location of the existing Municipal building on a land unit with the remainder still being accessible to the public for road and parking purposes. <p>2. The approval granted in Section 1 above, is SUBJECT TO the following conditions in terms of Section 66 of the said by-law:</p> <ol style="list-style-type: none"> 2.1 The subdivision diagram together with the Municipality's decision and conditions of approval be submitted to the Surveyor-General for approval within five (5) years from date of final notification. 2.2 The application submits an electronic copy (shp, dwg, dxf) or A4 hard copy of the SG diagrams, which were preliminary approved by the SG. The following information must be indicated on the subdivision plan: <ol style="list-style-type: none"> a) Newly allocated Erf Numbers b) Co-ordinates c) Survey Dimensions. 2.3 Raised kerbing be installed along the street boundary line of Portion 1 and Main Road No 172 and Hill Street to restrict direct access to the parking area located in front of the existing building from Main Road No 172 as required by the Department: Transport and Public Works, as contained in their letter dated 16 October 2017, attached here as ANNEXURE G. 2.4 All servitudes applicable to Erf 721 be carried over to Remainder of Erf 721 to ensure that existing accesses are retained, and no portion of land is land locked by the proposal.
<p>SMPT 08/06/20</p>	<p>REZONING FROM AGRICULTURAL ZONE 1 TO OPEN SPACE ZONE II FOR THE ESTABLISHMENT OF A PUBLIC CEMETERY AND MEMORIAL PARK: REMAINDER FARM NO. 29, STELLENBOSCH DIVISION</p> <p>DISCUSSION:</p> <ol style="list-style-type: none"> a) Concerns were raised on the provision of sufficient parking for private vehicles. It was noted that access of private vehicles was taken into consideration when the layout was prepared, and provision is made for

parking throughout the cemetery development within the width of the roads and circular routes not to create bottlenecks.

- b) Clarity was sought on the number of burial opportunities and it was noted that provision is made for the next 30 years for between 30 000 and 35 000 burial opportunities to be created.
- c) Compliments were given to the project team leaders as well as the number of specialist studies which informed this development and the design proposal for of the cemetery and memorial park.
- d) Concerns were raised on the distance of the cemetery from town. It was noted that various sites were investigated and different criteria were considered.
- e) A question was raised on the compliance of health regulations and whether all approvals were obtained. It was noted that it will be followed up and compliance ensured.
- f) Questions were raised on the agricultural potential of the land, the biodiversity value, freshwater impact and surface run-off water. It was noted that the recommendation of specialist studies and comments were taken into consideration in the Environmental Authorization and addressed and informed the different zones in the layout of the development.

UNANIMOUSLY RESOLVED:

- 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:
 - 1.2 **Rezoning** of Remainder Farm No. 29, Stellenbosch Division from **Agricultural Zone I** to **Open Space Zone II** to allow for a public cemetery and memorial park.

REASONS FOR APPROVAL:

- 1. There is a great need for cemeteries in the Stellenbosch area.
 - 2. The property will be put to better use to provide a much needed social service to Stellenbosch Municipality and its inhabitants.
 - 3. The proposed rezoning will have limited affect on natural habitats, ecological corridors or high potential agricultural land and no viable agricultural land will be lost.
 - 4. The proposed development will optimise the use of existing resources and infrastructure.
- 2. The approval granted in Section 1 is **SUBJECT TO** the following conditions in terms of Section 66 of the said Bylaw:
 - 2.1 The approval applies only to the rezoning in question, and shall not be construed as authority to depart from any other legal prescriptions or requirements from Council.
 - 2.2 The neighbouring farms right to farm and that what is normally

MINUTES: STELLENBOSCH MUNICIPAL PLANNING TRIBUNAL 26 JUNE 2020

associated with that (including boreholes, farm infrastructure and day to day farming activities but not limited to) be protected at all cost and that the cemetery and use thereof not impede in any way and that the owners/managers and successors in title agree to that.

2.3 The following conditions imposed by the **Manager: Spatial Planning** in their memo dated 14 November 2019, attached as **Annexure Q** be adhered to:

a) *The mitigation recommendation as contained in the visual impact assessment be implemented.*

b) *The mitigation measures contained in the Heritage Impact assessment be implemented.*

2.4 The following conditions imposed by the **Director: Engineering Services** in their memo dated 18 October 2019, attached as **ANNEXURE R** be adhered to:

a) *Wastewater and Sewage*

A technical report by a suitable qualified professional, regarding the "package plant" proposed in your letter be submitted for approval, prior to the acceptance of any building plans, and prior to the installation thereof.

b) *Water*

The quality of the water for human use stored and distributed by the owner has to comply with SANS 241 Drinking Water Quality Standards. Current proof of compliance must be available on request.

c) *Solid Waste*

Solid waste be removed from the site to a lawful solid waste disposal site in accordance with the requirements of section 26 of the National Environmental Management Waste Act 2008 (Act 59 of 2008).

d) *Roads*

Prior to commencement of any demolition/construction work, a traffic accommodation plan for the surrounding roads be submitted to the Directorate: Infrastructure Services for approval.

e) *Storm Water Management*

The geometric design of the roads, parking area and grave layout ensures that no trapped low-points are created with regard to storm water management.

2.5 A detailed landscaping and site development plan, indicating the details of the proposed land development be submitted to the Directorate of Planning and Economic Development for approval.

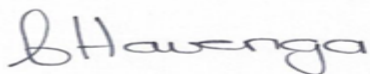
MINUTES: STELLENBOSCH MUNICIPAL PLANNING TRIBUNAL 26 JUNE 2020

	<p>2.6 The approval will lapse if not implemented within the timeframe stipulated in the subject Bylaw.</p> <p>2.7 Building plans will only be approved when all conditions of approval have been complied with.</p> <p>2.8 The conditions stated in letter TPW/CFS/RP/LUD/REZ/SUB-25/342 by the Department of Transport and Public Works dated 15 November 2019, Paragraph 7, attached as ANNEXURE K, be adhered to.</p> <p>3. Matters on the application TO BE NOTED:</p> <p>3.1 The conditions imposed by the Department of Environmental Affairs and Development Planning in their letter dated 20 September 2019 (Environmental Authorisation), attached as ANNEXURE G BE NOTED.</p> <p>3.2 The conditions stated in letter 20/9/2/5/6/904 by the Department of Agriculture (Eisenburg), dated 17 January 2020, BE NOTED. See ANNEXURE H.</p> <p>3.3 The conditions stated in letter TPW/CFS/RP/LUD/REZ/SUB-25/342 by the Department of Transport and Public Works dated 15 November 2019, BE NOTED. See ANNEXURE K.</p> <p>3.4 A water use licence application (WULA) must be applied for and obtained prior to construction taking place.</p>
SMPT 09/06/20	OTHER MATTERS The Meeting Adjourned at 14:52.



Dr D du Plessis

CHAIRPERSON: MUNICIPAL PLANNING TRIBUNAL



Mrs C Havenga

DEPUTY CHAIRPERSON: MUNICIPAL PLANNING TRIBUNAL