

MINUTES: STELLENBOSCH MUNICIPAL PLANNING TRIBUNAL 18 NOVEMBER 2022

MINUTES OF THE STELLENBOSCH MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON FRIDAY, 18 NOVEMBER 2022, AT THE FRANSCHHOEK COUNCIL CHAMBERS, 27 HUGUENOT STREET, FRANSCHHOEK AT 10H00-15H00

Ref. no. 3/4/5/2/40
2022-11-18

Chairperson

Dr DJ Du Plessis

Deputy Chairperson

Ms C Havenga

External Members

Mr C Rabie

Mrs H Croijmans-Lemmer

Mr E Delpont

Internal Members

Mr A van der Merwe: Senior Manager - Community Services

Mr M Williams: Senior Legal Advisor

Mrs M Francis: Senior Manager - Infrastructure Planning, Development, and
Implementation

Technical Advisor

Mr K Munro: Director - Development Management, Department Environmental
Affairs and Development Planning

Officials

Mr S Carstens: Senior Manager- Development Management

Mrs C Kriel: Manager-Land Use Management

Mr Tyrone King: Manager-Development-Infrastructures Services

Mr P April: Senior Town Planner

Ms B Zondo: Senior Town Planner

Ms O Sims: Administrative Officer

Ms L Kamineth: Senior Administrative Officer

Attendees

Mr J Yntema

Mrs K Yntema

Mr N van der Merwe

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ITEM	SUBJECT
SMPT 01/11/22	OPENING AND WELCOME
	Chairperson Du Plessis welcomed all.
SMPT 02/11/22	LEAVE OF ABSENCE
	Mr Craig Alexander Dr Pool -Stanvliet Mr Jason Knight
SMPT 03/11/22	DISCLOSURE OF INTERESTS
	None Received.
SMPT 04/11/22	MINUTES OF THE PREVIOUS MEETING DATED 23 SEPTEMBER 2022
	The minutes of the previous meeting was noted.
	MATTERS FOR CONSIDERATION
SMPT 05/11/22	APPLICATION FOR SUBDIVISION, REZONING, CONSENT USE, APPROVAL OF SITE DEVELOPMENT PLAN AND DEVIATION FROM THE STELLENBOSCH MUNICIPAL SPATIAL DEVELOPMENT FRAMEWORK: FARM NO 1101, STELLENBOSCH DIVISION (LU/7684)
	<p>Discussion:</p> <ul style="list-style-type: none"> a) Chairperson Du Plessis handed over to Mr April to provide a brief introduction in respect of the application that served before the Tribunal. b) Mr April gave a short summary of the application, which is located in Faure, around 6km from Raithby. c) It was established that the subject property is located directly next to the City of Cape Town boundaries.

- d) Members of the tribunal posed several questions to Mr King from Infrastructure services about development contributions and municipal services, to which Mr King provided clarity to.
- e) An in-depth discussion followed between the members of the Tribunal about the Development Contributions payable and the possibility of written agreement between Stellenbosch Municipality, City of Cape Town and the Developers.
- f) It was agreed that the approval be made subject to an Engineering Service Agreement be reached amongst the Developer, Stellenbosch Municipality and the City of Cape Town.

UNANIMOUSLY RESOLVED

1. That the following application in terms of Section 15(2) of the Stellenbosch Municipal Land Use Planning Bylaw, promulgated by notice number 354/2015, dated 20 October 2015, namely:
 - 1.1 Rezoning in terms Section 15(2)(a) of Farm No. 1101, Stellenbosch Division from Agriculture and Rural Zone to Subdivisional Area allowing for;
 - 1.1.1 One (1) property for Industrial use (Portion A = ±5.9622ha) and;
 - 1.1.2 One (1) property for Agriculture and Rural Zone (Remainder = ±134,3286ha).
 - 1.2 the subdivision in terms of Section 15(2)(d) of Farm No. 1101, Stellenbosch Division into 2 Portions of;
 - 1.2.1 Portion A (±5.9622ha – Industrial Zone) and
 - 1.2.2 Remainder (±134,3286ha – Agriculture and Rural Zone).

1.3 a consent use in terms Section 15(2)(o) to permit warehousing under the proposed industrial zoning on Portion A of Farm No. 1101, Stellenbosch Division.

BE APPROVED in terms of Section 60 and subject to the conditions of approval in terms of Section 66.

2. The approval is subject to the following conditions imposed in terms of Section 66 of the bylaw:

Conditions of approval which should be complied with as required in terms of Section 66(11) of the subject by-Law, before the approval comes into effect and any required building plans is submitted:

2.1 A detailed site development plan with architectural guidelines as contemplated in terms of Section 16 of the Zoning Scheme Bylaw, 2019 as required in terms of Section 196(3) of the said bylaw, be submitted to the Municipality for approval prior to the submission of any building plans or earthwork's being done. The site development plan satisfactorily, address, but are not necessarily limited to, all the conditions of this approval, compliance with relevant development parameters of the bylaw, any relevant matters relating to Section 16(4) of the said Bylaw.

General conditions of approval with no requirement for compliance prior to the development of the land as contemplated in terms of Section 66(11) of the subject By-Law:

- 2.2 The approval applies only to the subdivision, rezoning and consent use in question and not be construed as authority to depart from any other legal prescriptions or requirements from Council or other legislation or Bylaws or Regulations that may be applicable.
- 2.3 The development be undertaken in accordance with the Subdivisional Plan dated March 2018, Job No. 4400 and attached as **APPENDIX B**.
- 2.4 An electronic copy (shp, dwg, dxf) of the approved General Plan be submitted to the Directorate Planning and Economic Development for record purposes, which plan indicate the following information:
- a) Newly allocated erf numbers
 - b) Co-ordinates
 - c) Survey dimensions
 - d) Street names and numbering
- 2.5 Where required, development charges are payable in accordance with the prevailing and applicable Council Tariffs at the time of payment prior to the transfer of the first property or submission of any building plans, whichever occurs first, or as may be agreed on in writing with the relevant Authority.
- 2.6 Should the full extent of permissible development rights, as approved herein-above, not be implemented initially or development is phased, a pro rata Development Charges I be levied in accordance with the extent to which the development rights be implemented, provided that the remaining development contributions be levied for the remaining permissible development rights when implemented in future. Remaining Development Charges be levied in accordance with the prevailing and applicable Council Tariffs at the time of payment prior to the transfer of the first property or submission of any building plans,

	<p>whichever occurs first, or as may be agreed on in writing with the Relevant Authority.</p> <p>2.7 The required upgrades to the road infrastructure as stipulated in the City of Cape Town letter dated 11 March 2022, attached as APPENDIX H be implemented in consultation with the applicable road's authority.</p> <p>2.8 The conditions of approval from Department: Transport and Public Works in their letter dated 31 October 2022 and attached as APPENDIX I be adhered to.</p> <p>2.9 The conditions of approval from Eskom in their letter dated 05 November 2018 and signed 06 November 2018 and attached as APPENDIX K be adhered to.</p> <p>2.10 The conditions of the Department: Water & Sanitation (RSA) in their letter dated 21 August 2018 attached as APPENDIX L be adhered to</p> <p>2.11 The conditions of the Municipal Directorate: Infrastructure services in their memorandum dated 24 March 2022 attached as APPENDIX N be adhered to.</p> <p>2.12 An Engineering Services agreement be signed between the City of Cape Town, Stellenbosch Municipality and the Developer before any property is transferred or any construction takes place and that the agreement contains the relevant conditions of approval as imposed by the City of Cape Town in their memorandum dated 11 March 2022 attached as APPENDIX H and imposed by the Stellenbosch Municipal Directorate: Infrastructure Service in their memorandum dated 24 March 2022 attached as APPENDIX N be complied with.</p> <p>2.13 All services at all times be provided to the satisfaction of the applicable engineering departments.</p> <p>3. The reasons for the above decision are as follows:</p>
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	<p>3.1 There is adequate site-specific justification to deviate from the provisions of the Stellenbosch MSDF, namely:</p> <ul style="list-style-type: none">(a) The separation of Portion A (5.9622ha) from the Remainder of the main, productive part of Farm No 1101, Stellenbosch Division and its proximity to urban development along the border with City of Cape Town, diminishes the agricultural value of this land parcel because of the security threat to agricultural produce and infrastructure.(b) The proposed development will therefore have a negligible impact on the agricultural productivity of the farm and area, as confirmed by the Agricultural Departments.(c) Portion A is alienated and surrounded by clearly defined physical constraints including a road, a bridge, a railway line, a river and an electrical substation, which will prevent potential creep of further urban development on to productive agricultural land.(d) Proximity and accessibility to public transport facilities. <p>3.2 Eskom confirmed that there is sufficient capacity available to supply the proposed development with electricity.</p> <p>3.3 Safe access to the development will be obtained from upgraded access points off public roads.</p> <p>3.4 Portion A is an undeveloped and a nonviable agricultural portion of Farm No 1101, Stellenbosch with a low to medium agricultural suitability.</p> <p>3.5 The proposed light industrial activities are not a foreign land use in the area, considering that Farm No. 1101, Stellenbosch is bordered by urban development in the City of Cape Town and in specific similar industrial activities and residential development. No precedent is therefore created.</p>
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3.6 The proposed development provides for a higher level of employment creation land use than agriculture, which will be beneficial to the area.

3.7 All development parameters for the subject zoning will be complied with, and the height of buildings will be in line with the requirement for primary agricultural buildings in its vicinity and will therefore not detract from the aesthetic appearance of the area. A set of architectural guidelines be approved together with the site development plan to ensure that the development does not detract from the area's sense of place.

4. Matters to be noted:

4.1 All electrical requirements should be directed to Eskom.

4.2 Should any revision of the proposed development constitute a listed activity(ies) in terms of the NEMA EIA Regulations, 2014 as defined in GN No. 327,325 and/or 324 an application must be submitted and environmental authorisation obtained before such activity(ies) may commence.

4.3 Should any heritage resources, including evidence of graves and human burials, archaeological material and paleontological material be discovered during the execution of the activities above, all works must be stopped immediately, and Heritage Western Cape must be notified without delay.

4.4 The Department of Agriculture, Land Reform & Rural Development (RSA) be notified of the decision in order to enable them to issue the Act 70 of 1970 approval for the subdivision.

4.5 The support of PRASA be obtained and all conditions be adhered, relating to development along the railway line.

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	<p>4.6 The land use shall not create any undue noise or be a nuisance to the neighbourhood and that precautionary measures be taken in order to avoid environmental noise pollution in terms of the Noise Control Regulations (PN627 dated 20 November 1998) made in terms of Section 25 of the Environmental Conservation Act, 1989 (Act No 73 of 1989).</p> <p>4.7 Building plans be submitted and approved by the Municipality prior to the commencing of any building works, including the preparation of land, which will only be approved when all relevant (or qualified) conditions of approval have been complied with.</p>
<p>SMPT 06/11/22</p>	<p>APPLICATION FOR CONSOLIDATION AND SUBDIVISION ON FARM 516/9 & 12, STELLENBOSCH DIVISION (LU/12237)</p> <p>Discussion:</p> <ul style="list-style-type: none">a) Chairperson Du Plessis handed over to Ms Zondo to provide a brief introduction in respect of the application currently before the Tribunal.b) Deputy Chairperson Havenga had a concern regarding the refusal of the subdivision and enquired in respect of the reasons why the condition prohibiting the second dwelling on each subdivided properties, would not be sufficient. Mr Carstens and Mr Munro provided clarity relating to Deputy Chairperson Havenga's concern.c) An in-depth discussion followed between the members of the Tribunal about the access road and the minimum size in agricultural zones for subdivision. <p>UNANIMOUSLY RESOLVED</p> <ul style="list-style-type: none">1. That the application in terms of the Stellenbosch Municipal Land Use Planning By-Law, promulgated by notice number 354/2015, dated 20 October 2015, for the:-

1.1 **Consolidation** in terms of Section 15 (2)(e) of the said By-law, 2015 for the Portion 9 and Portion 12 of the Farm 516, Stellenbosch division to create one large unit of 8.6 ha in extent.

BE APPROVED in terms of Section 60 of the said Bylaw and subject to the following conditions of approval in terms of Section 66 of the said Bylaw:

2. Conditions of approval:

2.1 The approval applies only to the proposed consolidation under consideration and not be construed as authority to depart from any other legal prescriptions or requirements from Council.

2.2 The approval granted not exempt the applicant from complying with any other legal prescriptions or requirements that might have a bearing on the proposed use.

2.3 An amended consolidation plan be submitted for approval.

2.4 Servitude rights be carried over to the new title deed to ensure permanent, legal, and unfettered access to Portions 11, 42 and 46 of Farm 516, Stellenbosch Farms.

2.5 An electronic copy of approved diagram be submitted to this Department for record purposes.

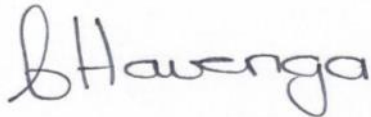
3. The reasons for the above decision are as follows:

	<p>3.1 The proposed consolidation will not result in land use activity that is out of character with the surrounding properties.</p> <p>4. That the application in terms of the Stellenbosch Municipal Land Use Planning By-Law, promulgated by notice number 354/2015, dated 20 October 2015, for the:-</p> <p>4.1 Subdivision of the consolidated portion in terms of Section 15 (2) (d) of the said By-law, 2015, into;</p> <p>(a) Portion A (4.60 ha in extent)</p> <p>(b) Portion B (4.00 ha in extent)</p> <p>BE REFUSED in terms of Section 60 of the said Bylaw for the following reasons:</p> <ul style="list-style-type: none"> i. The proposed subdivision will compromise the existing character of the surrounding agricultural area. ii. The creation of two properties as motivated is not regarded as an adjustment of boundaries between the two properties.
<p>SMPT 07/11/22</p>	<p>OTHER MATTERS</p> <ul style="list-style-type: none"> 1. Mr Carstens confirmed that the meeting dated 8 December 2022 was cancelled. 2. Mr Carstens further indicated to members that the advertisement for the office of the New MPT did not receive the desired attention and must be re-advertised, which will result in the contracts of the current MPT members to be extended. An item will hence be submitted to Council to extend the contracts of the current MPT members.



Dr D du Plessis

CHAIRPERSON: MUNICIPAL PLANNING TRIBUNAL



Mrs C Havenga

DEPUTY CHAIRPERSON: MUNICIPAL PLANNING TRIBUNAL