

# MINUTES: STELLENBOSCH MUNICIPAL PLANNING TRIBUNAL 20 MARCH 2024

## MINUTES OF THE STELLENBOSCH MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON WEDNESDAY, 20<sup>TH</sup> OF MARCH 2024 AT THE PARADYSKLOOF CLUBHOUSE, PARADYSKLOOF, STELLENBOSCH FROM 10H00-15H00

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

**2024-03-20**

### Chairperson

Mrs H Crooijmans-Lemmer

### External Members

Mrs C Havenga

Mr Dane Leo

### Internal Members

Mr A Barnes: Director - Planning and Economic Development

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

Ms B Zondo: Senior Town Planner

Ms O Sims: Administrative Officer:

Ms L Davids: Senior Administrative Officer

### Attendee

Mr W Esterhuizen: Observer

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<b>ITEM</b>	<b>SUBJECT</b>
<b>SMPT 01/003/24</b>	<b>OPENING AND WELCOME</b>
	Chairperson Crooijmans-Lemmer welcomed all present. The Chairperson also welcomed Mr Esterhuizen who attended the meeting as an observer.
<b>SMPT 02/003/24</b>	<b>LEAVE OF ABSENCE</b>
	Mr Van Zyl Mr Boshoff Mr Munro
<b>SMPT 03/003/24</b>	<b>DISCLOSURE OF INTERESTS</b>
	None received
<b>SMPT 04/003/24</b>	<b>MINUTES OF THE PREVIOUS MEETING DATED 01 MARCH 2024</b>
	The minutes of the previous meeting was noted.
	<b>MATTERS FOR CONSIDERATION</b>
<b>SMPT 05/003/24</b>	<b>APPLICATION FOR CONSENT USE, DEPARTURE, &amp; PERMISSION ON FARM 528/5 STELLENBOSCH DIVISION (LU/14500)</b>
	<p><b>Discussion:</b></p> <ul style="list-style-type: none"> <li>a. Chairperson Crooijmans-Lemmer handed over to Ms Zondo to give a brief introduction of the application that served before the Tribunal.</li> <li>b. The history regarding the zoning violations and unauthorised buildings were noted and a Building Inspector to serve notice to the applicant today.</li> </ul>

- c. Members agreed that the intention of the application is not in support of primary agricultural and caution is to be taken against creating a secondary node in the rural area with reference to the WCG Land Use Planning Guidelines: Rural Areas.

**UNANIMOUSLY RESOLVED:**

1. That the applications made in terms of Stellenbosch Municipal Land Use Planning By-Law, 2023, on Farm 528/5 Stellenbosch Division for the following:

- 1.1 **Consent Uses** in terms of Section 15 (2)(o) of the said by-law, for:

- a) Tourist facilities to facilitate the following:

- i. New function/wedding venue (68-seater Chapel) (325 m<sup>2</sup>);
- ii. Convert the existing second dwelling into a Farm stall/shop (96 m<sup>2</sup>); and
- iii. Wellness centre/spa for the guests (583 m<sup>2</sup>).

- b) Tourist Accommodation Establishment for three (3) bedrooms in the second dwelling with a capacity of six guests.

- 1.2 **Permanent Departure** in terms of Section 15 (2)(b) of the said by-law for the following:

- a) To construct a 2.1m high brick wall on eastern boundary of the property (adjacent to R44)
- b) To relax the building line from 5m to 0m in order to accommodate the new wellness centre/spa

**BE REFUSED** in terms of Section 60 of the said By-law.

**2. Reasons for the above decision:**

- 2.1 The accumulative scale and form of the proposed uses that would result from permitting new buildings/structures in addition to the existing building structures and its associated land uses are not in keeping with the rural landscape as it will lead to the overdevelopment and crowdedness of non-

agricultural land uses on an agricultural and rural zoned property that will not be subservient to the primary land use and farming activities.

2.2 The conversion of the second dwelling to provide guest accommodation will result therein that there is no main residence on the property for the use of the owner. The conversion of existing buildings to other uses can only be supported if there are adequate buildings to cater for the primary uses of the subject property.

2.3 The boundary wall (proposed 2,1m palisade fence with brick piers) will detract from the rural character of the area and the scenic value of R44.

3. That the applications made in terms of Stellenbosch Municipal Land Use Planning By-Law, 2023, on Farm 528/5 Stellenbosch Division for the following:

3.1 **Consent Uses** in terms of Section 15 (2)(o) of the said by-law, for:

a) Tourist Accommodation Establishment for the following:

- i. Twelve (12) bedrooms with a capacity of 24 guests in the converted main dwelling
- ii. Three (3) bedrooms with a capacity of six guests in the converted manager's / additional dwelling

b) Tourist facilities to facilitate a:

- i. Restaurant limited to 90 m<sup>2</sup> providing seating for 30 guests; and

ii. Outdoor garden venue limited to 314 m<sup>2</sup> providing seating and picnics to 110 guests.

3.2 **Occasional uses** to allow for a maximum of 24 events per calendar year on Farm 528/5 for live music, art exhibition and functions not extending beyond 18:00 in the restaurant and outdoor garden venue.

**BE APPROVED** in terms of Section 60 of the said bylaw, subject to conditions in terms of Section 66 of the said Bylaw.

**4. Conditions of Approval:**

4.1 The approval only applies to the consent use application under consideration and shall not be construed as authority to depart from any other legal prescriptions or requirements from Council or other legislation or By-laws or Regulations that may be applicable.

4.2 A detailed site development plan as contemplated in terms of Section 16 of the Zoning Scheme Bylaw, 2023 be submitted within 3 months to the Municipality and approved prior to the submission of any building plans, which site development plan satisfactorily addresses, but are not necessarily limited to, all the conditions of this approval, compliance with relevant development parameters of the said Bylaw, any relevant matters relating to Section 16 (4) of the said By-law and specifically illustrate:

- a) that sufficient on-site parking is provided in accordance with the provisions of the subject Zoning Scheme By-law;
- b) that the boundary fence is provided in accordance with the provisions of the subject Zoning Scheme By-law;

- c) the area of the outdoor garden venue;
- d) areas and buildings used for agricultural activities;
- e) the building lines in terms of the Zoning Scheme By-law as well as Title Deed; and
- f) include appropriately labelled floor plans depicting all approved land uses as well as ancillary uses within the corresponding approved floor size limitations.

4.3 The enclosed gazebo in the garden be used only as an extended serving point of the Restaurant in the Tourist Accommodation Establishment to the outdoor garden venue and not be operated as a separate kitchen or restaurant.

4.4 No permanent structures be allowed in the outdoor garden venue except the existing enclosed gazebo.

4.5 An accurate register of events be kept and presented on request from an authorised official of the Municipality.

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

4.7 A service agreement regarding the responsibilities for the provision of engineering services be entered into with the Municipality prior to the construction of any Engineering services or infrastructure in terms of Section 66(3) and Section 82(4) of the said Bylaw, which service agreement includes and complies with the conditions related to the approval as imposed by the Directorate Infrastructure Services in their memo dated 17 January 2024, attached as **Annexure H**.

4.8 No directional, advertisement, or any other signage be erected without the prior approval of the competent authority and the Municipality.

4.9 Development contributions are payable in accordance with the prevailing and applicable Council Tariffs at the time of payment prior to submission of any building plans, or as may be agreed on in writing with the Director Infrastructure Services.

4.10 The land use shall not create any undue noise or be a nuisance to the neighbourhood and that precautionary measures be taken 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).

4.11 All doors and windows must strictly be kept closed after 18:00 when the Restaurant makes use of amplified sound.

4.12 Building plans be submitted within three months after the approval of the Site Development Plan 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.

4.13 Building plans be submitted within three months after the approval of the Site Development Plan for all changes of use in the existing buildings and which building plans be approved and related occupancy certificates be issued prior to the vesting of any of the related approvals.

4.14 The conditions related to the approval as imposed by the Western Cape Government: Transport Infrastructure contained in their letter dated 20 December 2023, attached as **Annexure G**, be complied with. Should revised comments be agreed in relation to the approval between the applicant and the commenting body, the said revised conditions be submitted to the Municipality with the Site Development Plan.

**5. The reasons for the above decision:**

5.1 The scale and nature of the proposed activities in the existing structures will not further compromise the rural character of the surrounding landscape.

5.2 The development proposal will be accommodated within existing structures and will consequently have no additional impact on the agricultural potential of the subject land unit as no viable agricultural land will be lost.

5.3 The necessary mitigation is proposed to limit any noise or nuisance impact relating to scheduled events.

**6. Matters to be noted:**

6.1 Event permits be obtained for any events proposed on the subject property as prescribed in the relevant policy or bylaw of the Municipality.

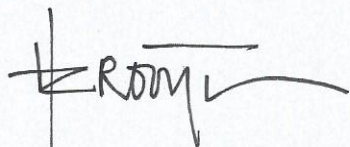
6.2 Should, after following due process -

- a) The subject approved land use remains in breach of complying with any of the conditions of approval required for the vesting of the subject approval, and/ or



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	<p>b) The operational use of the tourist facilities be in breach of any of the conditions of approval, inclusive of persistent complaints of undue noise levels, and/ or</p> <p>c) The property be used for any unauthorised uses not permitted in terms of this approval, the authorised official of the Municipality will exercise its discretion in terms of Section 90(c) of the Municipal Land Use Planning By-Law (2023) to withdraw the subject approval granted and the building structures to be reverted to uses in line with the primary use of the property.</p> <p>6.3 The delegated official to consider the permission required in terms of restrictive title deed condition clauses D (3) - (4) on page 2 of Title Deed No T18186/2016, to facilitate the approved land uses.</p>
<b>SMPT 06/003/24</b>	<b>OTHER MATTERS</b>
<b>6.1</b>	<b>PLANNING POLICIES (REVIEWED OR APPROVED BY COUNCIL)</b> A request was received to share new information with MPT members on policy matters or changes considered relating to the review of the IDP, SDP and CEF.
<b>6.2</b>	<b>APPEALS RECEIVED AGAINST MPT DECISIONS</b> No appeals were submitted against MPT decisions taken in 2024.
<b>6.3</b>	<b>GENERAL</b> Mr Carstens announced the resignation of Lenacia Davids, and the Chairperson thanked her for the work done for the MPT and wished her well for future endeavors.  The meeting adjourned.



Mrs H Crooijmans-Lemmer

**CHAIRPERSON: MUNICIPAL PLANNING TRIBUNAL**