

MINUTES: STELLENBOSCH MUNICIPAL PLANNING TRIBUNAL 22 APRIL 2022

MINUTES OF THE STELLENBOSCH MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON FRIDAY, 22ND OF APRIL 2022 via MS TEAMS

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

2022-04-22

Deputy Chairperson

Ms C Havenga

External Members

Dr R Pool-Stanvliet

Mrs H Crooijmans-Lemmer

Mr E Delport

Mr J Knight

Internal Members

Mr A van der Merwe: Senior Manager - Community Services

Mr C Alexander: Senior Manager - Development Planning

Ms M Francis: Manager - Project Management Unit & Infrastructure Services

Mr M Williams: Legal Advisor

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 P April: Senior Town Planner

Ms B Zondo: Senior Town Planner

Ms L Olyn: Senior Town Planner

Ms O Sims: Administrative Officer

Mr Tyrone King: Manager – Development: Infrastructure Services

Mrs C Hauptfleish: Senior Spatial Planner (SMPT 05/04/22)

Applicants

Mr Colin Stevenson: Catwalk Investments 385 (Pty) Ltd (SMPT 05/04/22)

Mr Gideon Roos: First Plan Town Planners (SMPT 05/04/22)

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ITEM	SUBJECT
SMPT 01/04/22	OPENING AND WELCOME
	Deputy Chairperson, Ms C Havenga welcomed everyone. She will chair the meeting in the absence of Chairperson Dr Du Plessis who is unable to attend the meeting due to ill health.
SMPT 02/04/22	LEAVE OF ABSENCE
	Dr DJ Du Plessis Mr Chris Rabie Ms L Kamineth
SMPT 03/04/22	DISCLOSURE OF INTERESTS
	a) Ms C Havenga indicated that she has an interest in Item SMPT 05/04/22 and will recuse herself from the discussion of this item. b) Mr C Alexander indicated that he has an interest in Item SMPT 06/04/22 and will recuse himself from the discussion of this item.
SMPT 04/04/22	MINUTES OF THE PREVIOUS MEETING DATED 18 March 2022
	The minutes of the previous meeting was noted.
	MATTERS FOR CONSIDERATION
SMPT 05/04/22	APPLICATION FOR REZONING, SUBDIVISION, CONSENT USE, DEPARTURES, APPROVAL OF DEVELOPMENT NAME, APPROVAL OF SITE DEVELOPMENT PLAN AND ALLOCATION OF STREET NAMES AND NUMBERS: ERF 14601, STELLENBOSCH.
	Discussion: a) Ms C Havenga recused herself from the discussion of this item. b) Dr Pool-Stanvliet nominated Mrs Crooijmans-Lemmer who was appointed by the Meeting as Acting Chairperson for Item SMPT 05/04/22.

Oral presentation & Questions:

- c) Ms Crooijmans-Lemmer introduced Mr Roos as representative of the applicant who made an oral presentation. He was assisted by Mr Colin Stevenson.
- d) Clarity was sought by Mr van der Merwe on the differences between the former and amended Landscaping Plan and it was noted that the planting of Yellow Wood is not preferred in urban areas due to the attraction of bats.
- e) Mr Williams noted that the contents of the legal opinion submitted by the applicant relating to the requirement for an inclusionary housing option by the Municipality was fully considered and taken into consideration in the previous recommendations made by the MPT. The MPT did consider the applicant's voluntary inclusionary housing proposal in its decision at the previous MPT meeting and decided not to accept it for specific reasons.
- f) Clarity was sought around the offer to provide micro units for inclusionary housing and the option to cater for FLISP or a specific income group / price range. Mr Stevenson confirmed that the offer is made in terms of Option 2 of the City of Johannesburg Inclusionary Housing Policy (CJIHP) of which the focus is the provision of micro units.

Discussion continued:

- g) Mr April briefly introduced the item. He indicated that the amendments previously required by the MPT and the subsequent amendments made to the plans, required additional applications for building line and parking departures, which was submitted with the new additional information. The reasoning why no additional advertising was considered necessary was discussed in the report before the MPT.
- h) Mr Delpont asked whether the floodline was considered as it is not indicated on the plans. It was confirmed that the floodline was considered and that the development was aligned thereto.
- i) Members agreed that the matters identified to be addressed by the applicant at the previous MPT meeting relating to the public open space system next to the Plankenberg River, the minimum width of the Distillery public road, the pedestrian bridge and the revision of the proposal to facilitate active public streetscapes and places were all addressed satisfactorily.
- j) The applicant's offer to provide for only one option (i.e. micro units) in addressing the provision of Inclusionary Housing is questioned.
- k) It is noted that there is a conflict between the offer made by the applicant (to provide micro units in terms of the CJIHP) and the conditions as proposed by the Municipality in the item (to provide social housing for a targeted income group).

- l) Mrs C Hauptfleish provided clarity on the reasoning behind imposing the proposed condition of approval relating to the inclusionary housing provision and why the latest option now proposed by the applicant was not acceptable. The proposed condition of approval will allow the municipality and the developer to negotiate the final requirements for the inclusionary housing option in the development. The matter was discussed and the proposal as contained in the conditions of approval was supported.

UNANIMOUSLY RESOLVED:

1. That the following applications made in terms of the Stellenbosch Municipal Land Use Planning By-Law, promulgated by notice number 354/2015, dated 20 October 2015, on Erf 14601, Stellenbosch, namely:

- 1.1. **Rezoning** in terms Section 15(2)(a) of Erf 14601, Stellenbosch from Industrial Zone to Subdivisional Area allowing for;

- 1.1.1. Three (3) Mixed-Use Zone properties for business and flats, inclusive of roads:

(a) Portion 1 ($\pm 20291\text{m}^2$)

(b) Portion 2 ($\pm 1320\text{m}^2$)

(c) Portion 4 ($\pm 2090\text{m}^2$)

- 1.1.2. One (1) Public Road and Parking Zone property for public road purposes (Portion 3 = $\pm 3200\text{m}^2$).

- 1.2. **Subdivision** in terms of Section 15(2)(d) of Erf 14601, Stellenbosch into 4 portions, as depicted in subdivisions plan dated 14 February 2022, File Number FP/0220/977, drawn by First Plan Town Planners, namely;

1.2.1. Portion 1 ($\pm 20291\text{m}^2$ - Mixed-Use Zone),

1.2.2. Portion 2 ($\pm 1320\text{m}^2$ - Mixed-Use Zone),

1.2.3. Portion 3 ($\pm 3200\text{m}^2$ - for a 16m road reserve zoned Public Road and Parking Zone) and

1.2.4. Portion 4 ($\pm 2090\text{m}^2$ - Mixed-Use Zone).

1.2.5. The registration of a 3m wide pedestrian servitude on the southern boundary of Portion 1, in favor of the general public and the municipality.

1.2.6. The registration of a pedestrian access servitude which average from 2.8m to 6m on the western boundary of Portion 1, in favor of the general public and the municipality.

- 1.3. **Departures** in terms of Section 15(2)(b) on Portion 1 (Mixed-Use Zone erf), as indicated on the plans described as

“SDP_OVERALL”, “SDP_RESIDENTIAL”, “SDP_BUSINESS PREMISES” and “SDP_PARKING” dated 15/02/2022 and drawn by Boogerman Partners attached as part of **APPENDIX 13**, to relax on;

Portion 1 (Mixed Use Development – flats and commercial land uses)

- 1.3.1. To relax the common building line (adjacent to Erf 7602) from 4.5m to 3.0m for Block 3, 4 and 6.
- 1.3.2. To relax the street building line (adjacent to the newly created Portion 3) from 4.5m to 1.5m to allow for the Mill House.
- 1.3.3. To provide 405 parking bays in lieu of 454 parking bays for the residential (flats) components of the Mixed-Use development on Portion 1.

Portion 2 (Manor House)

- 1.3.4 To provide only 22 parking bays in lieu of 24 parking bays.

Portion 4 (The Shed)

- 1.3.5 To provide 22 parking bays in lieu of 27 parking bays.

1.4. **Consent Use** in terms of Section 15(2)(o) of Land Use Planning By-law to allow a Place of Entertainment (pub) in the existing storage facility located on Portion 4.

1.5. A **permission** required in terms of the zoning scheme, in terms of Section 15(g); to allow for flats on the ground floors in a Mixed-Use Zone for Blocks 1, 2, 3 and 4 and partially for blocks 5 and 6 on Portion 1.

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

2. Conditions of approval:

- 2.1. The approval applies only to the rezoning, subdivision, departures and consent use in question (See **APPENDIX 13 and 14**) and shall not be construed as authority to depart from any other legal prescriptions or requirements from Council and external authorities.
- 2.2. The development be undertaken in accordance with the Subdivisional Plan dated 14 February 2022, File Number FP/0220/977 and attached as **APPENDIX 13**.
- 2.3. An electronic copy (shp, dwg, dxf) of the approved General Plan be submitted to the Directorate Planning and Economic

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	<p>Development for record purposes, which plan must indicate the following information:</p> <ul style="list-style-type: none">a) Newly allocated erf numbersb) Co-ordinatesc) Survey dimensionsd) Street names and numbering <p>2.4. A phasing plan which indicates the spatial phasing and associated timeframe of the development be submitted to the Municipality for approval.</p> <p>2.5. All land designated for the provision of municipal service infrastructure and amenities on the subdivision plan be transferred to the Municipality upon transfer of the first unit/erf in the subdivision, of which the cost for the surveying and transfer of such public land will be for the account of the applicant/developer.</p> <p>2.6. The servitude rights for pedestrian right of way in favor of the general public and the municipality be registered in the title deeds of the applicable property/ies on registration.</p> <p>2.7. 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 must include and comply with the conditions as imposed by the Directorate Infrastructure Services in their letter attached as APPENDIX 9.</p> <p>2.8. Development charges be 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 Director Infrastructure Services.</p> <p>2.9. 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 will be levied in accordance with the extent to which the development rights will be implemented, provided that the remaining development contributions will be levied for the remaining permissible development rights when implemented in future. Remaining Development Charges will 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, whichever occurs first, or as may be agreed on in writing with the Director Infrastructure Services.</p>
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- 2.10. A detailed site development plan as contemplated in terms of Section 16 of the Zoning Scheme Bylaw, 2019 which is substantially in accordance with the plans described as "SDP Overall, SDP Residential, SDP Business Premises and SDP Parking" dated 15 02 22 by Boogertman Partners, be submitted for approval to the Municipality prior to the submission of any building plans, which site development plan must satisfactorily address, 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 Bylaw, and the following specific matters to illustrate the conformity of the development to any prevailing principles of the Adam Tas Corridor development:
 - 2.10.1. Development parameters conforming to the zoning scheme provisions and taking the principles of the Adam Tas Corridor into account,
 - 2.10.2. provide and promote strong internal and external public and NMT connections with the surrounding area,
 - 2.10.3. provide adequate social facilities for the daily retail needs of residents,
 - 2.10.4. a 16m road reserve to provide sufficient space for a dedicated NMT to ensure that public transport and NMT routes are addressed pro-actively,
 - 2.10.5. provide a public open space system next to the Plankenberg River with public access points between the public road and open space system.
- 2.11. Building plans be submitted for all changes of use in the existing buildings and which building plan(s) must be approved and related occupancy certificates be issued prior to the vesting of any of the related approvals.
- 2.12. The revised Traffic Impact Assessment be submitted to the Western Cape Government: Transport and Public Works for their consideration, their recommendations be considered with the finalization of the service-level agreement with the municipality, if need to, and all conditions be adhered to.
- 2.13. Building plans for any future proposed alterations to the "Manor" House and the warehouse building be submitted to Heritage Western Cape for approval, prior to the submission of final building plans to the Municipality for approval.
- 2.14. Archaeological monitoring of the subsurface excavations when demolition of the large warehouse occurs, to confirm the presence or footprint of the original mill remains.
- 2.15. The retention and display of the mill workings within the Mill House to the satisfaction of Heritage Western Cape.

- 2.16. A landscaping plan (as part of the site development plan), which is substantially in accordance with Drawing no LAN/sdp13 Rev 13 dated 12/02/2022 by JDV Landscape Studio be submitted for approval by the Municipality prior to the registration of the first property or the submission of any building plan application, whichever occurs first.
- 2.17. The approved landscaping plan be implemented at the cost of the developer and to the satisfaction of the municipality prior to 50% of the erven be transferred or 50% of building plans be approved, whichever occurs first. Such landscaping plan to illustrate the use of suitable indigenous vegetation.
- 2.18. The developer contacts the Municipal Department: Community Services whilst the site is being prepared for construction and access to the river is imposed, to identify trees and biomass to be removed and implement such maintenance work prior to the implementation of the proposed development.
- 2.19. Blocks 5, 6 and the Manor House may not be fenced in to impede the access of the business interface with Distillery Road.
- 2.20. The developer and the municipality, represented by the Director: Planning and Economic Development or his delegated official, enter into an agreement on the satisfactory provision of inclusionary housing within 12 months from final notification of the approval and prior to the submission of building plans, which agreement must inter alia, but not necessarily limit thereto, address the following matters:
 - 2.20.1. The proposed development to contain a fair and reasonable number of dwelling units, of no less than 31%, falling within the affordability thresholds for rental or ownership within the new mixed-use development (i.e. 87 units out of the 285 dwelling units proposed).
 - 2.20.2. The inclusionary housing units be provided on-site as part of the market-related development i.e. in the same building or on the same land parcel and should be spread throughout the development as indicated on the subject Site Development Plan.
 - 2.20.3. Building plans submitted in terms of the National Building Regulations and Building Standards Act No. 103 of 1977 shall indicate the location of the units.
 - 2.20.4. The type of housing typologies of the inclusionary housing units to be bachelor/ studio units with a minimum floor area of 28m², and each unit to include at least one bedroom, a kitchen, and a bathroom.

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	<p>2.20.5. Units to be spread throughout the development and its architectural style of the units be similar to the rest of the development, with differences in the interior allowed.</p> <p>2.20.6. Residents of the inclusionary housing units to have indiscriminate access to all entrances and amenities of the development.</p> <p>2.20.7. The inclusionary housing units are not intended for community residential buildings, communes, employee housing, hostels, and less formal residential. The inclusionary housing units should only be used for permanent residence and excludes any of the land uses associated with transient guest (i.e. home lodging, bed and breakfast, hotel, tourist accommodation establishment, tourist dwelling units, etc.)</p> <p>2.20.8. The inclusionary housing units will be reserved for qualifying recipients with a total combined monthly household income with a maximum of R15 000 (social housing) for rental, and R3 501 to R22 000 (FLISP subsidy measure) or to a maximum of the Financial Services Charter Measure as defined and updated yearly for ownership (e.g. R26 100 2020 rates);</p> <p>a) Monthly rent or repayments may not be more than 30% of the total monthly household income; and</p> <p>b) The sale price or rental amount may not escalate annually beyond inflation, based on the Consumer Price Index (CPIX) as published by StatsSA.</p> <p>2.20.9 The inclusionary housing units be retained as such in perpetuity using a suitable management mechanism, to the satisfaction of the Director: Planning and Economic Development.</p> <p>a) Prior to the approval of any building plan, the developer shall submit to the Director: Planning and Economic Development for approval, a mechanism to ensure the abovementioned condition (insert condition nr.), as well as the affordability criteria of the qualifying recipients. The approval mechanism shall be implemented to the satisfaction of the Director prior to the occupation of any building on the relevant portion.</p> <p>b) If rented, the qualifying household income criteria and rent may not escalate annually beyond inflation (based on the CPIX). Lease agreements need to ensure that the tenants are subject to annual income certification and the units as allocated remains available to the intended income group; or</p>
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c) If sold, a restrictive condition must be included in the deed of sale capping the sale price to comply with the definition of affordability and must only be sold to pre-approved buyers that meet the affordability criteria.

d) Approval on resale prices of units needs to be sought from the Director: Planning and Economic Development before such a transaction take place.

2.20.10 The developer or managing agent (HOA or Body Corporate) to provide the Director: Planning and Economic Development with the list of registered inclusionary housing units, annually.

2.20.11 If in due course, the Stellenbosch Municipal policy on Inclusionary Zoning is adopted and the provisions and requirements thereof are preferred to the above conditions, the developer/owner has the option (but no obligation) to adopt and adhere to the policy requirements instead.

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

3.1. The development proposal for a high-density mixed-use development on Erf 14601, Stellenbosch, with minor parking shortfalls, is not out of character in the context of the identified Adam Tas Corridor initiative and are subsequently promoted by the principles of the Stellenbosch Municipal Spatial Development Framework.

3.2. Access to the property is obtained over existing public road infrastructure which are in process of being upgraded to standards that will provide safe access to the proposed development, while the proposed development also makes provision for new road infrastructure to improved road linkage, movement collector streets and accesses to the property and the Adam Tas Corridor.

3.3. Provision has been made for Inclusionary Housing as subsidized student rental accommodation.

3.4. The development of a public open space system next to the Plankenberg River with public access points between the public road and open space system and the provision for flats on the ground floor facilitate the development of active public streetscapes and places.

4. Matters to be noted:

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	<p>4.1 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.</p> <p>4.2 The subdivision only comes into effect once all suspensive conditions or relevant legislative provisions have been complied with.</p> <p>4.3 All engineering services and infrastructure as required in terms of the conditions and services agreement must be complied with to the satisfaction of the municipality and/ or the relevant authority prior to the issuing of a Section 28 Certification.</p> <p>4.4 Building plans must 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>4.5 Development proposal plans, landscaping plans and development names does not represent application requiring an approval in terms of Section 15 of the Stellenbosch Municipal Land Use Planning Bylaw (2015) and could all be finalized with the submission of the Site Development Plans for considering an approval, prior to the building plan submission.</p> <p>4.6 Application for the Approval of the development's name: The Mill and the naming and numbering of streets as per the Street Naming and Numbering Plan, be obtained from the Authorised Official.</p> <p>4.7 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>4.8 The selling or supply of liquor to non-guests of the place of entertainment is prohibited and the operation of video games or pinball tables is not permitted on the premises.</p>
<p>SMPT 06/04/22</p>	<p>APPLICATION FOR REZONING AND PARTIAL CLOSURE OF A PUBLIC PLACE AND A TEMPORARY DEPARTURE ON ERF 2751, STELLENBOSCH.</p> <p>Discussion:</p> <p>a) Mr Alexander recused him from the discussion of this item.</p> <p>b) Mr April briefly introduced the item.</p> <p>a) Mr Delport asked whether the floodline was considered and raised further concerns on the proposal and the risks to allow the operation of a business under the floodline.</p>

- b) The matter was discussed, and based on the fact that an existing building is used, that no additional construction is envisaged and that it will not be used for human habitation, there are no material risk to support the proposal.

Mr Delpont does not support the approval of the application.

RESOLVED:

1. That the 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 on Erf 2751, Stellenbosch and a portion of the road known as "Die Laan", for a **temporary departure** in terms of Section 15(2)(c) of the said bylaw in order to use portions of the afore-mentioned properties for a one-day event (Heritage festival) on 24 September for five years (2021 – 2026).

NOT BE APPROVED in terms of Section 60 of the said Bylaw.

2. The reason for the above decision is as follows:

- 2.1 The temporary departure could not be approved more than once for the same use as previously approved, as in this instance where approval was granted in 2016.
3. That the following applications in terms of Section 15(2) of the Stellenbosch Municipal Land Use Planning Bylaw, promulgated by notice number 354/2015, dated 20 October 2015 on Erf 2751, Stellenbosch, namely:
- 3.1 **Closure of a public place** in order to close a part of the Public Open Space being Lease Area 1 (1020m²) and Lease Area 2 (1517m²) over Erf 2751, Stellenbosch in terms of Section 15(2)(n) of the said bylaw.
- 3.2 **Rezoning** of Lease Area 1 (1020m²) over Erf 2751, Stellenbosch from Public Open Space to Local Authority (Public Parking Area) in order to accommodate a public parking area, in terms of Section 15(2)(a) of the said bylaw.
- 3.3 **Rezoning** of Lease Area 2 (1517m²) over Erf 2751, Stellenbosch from Public Open Space to General Business, in terms of Section 15(2)(a) of the said bylaw, to establish a Local Economic Development (LED) Hub to accommodate a restaurant, tourist

craft and art shops and offices in support of entrepreneurs and start-up businesses.

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

4. Conditions of approval:

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:

- 4.1 The entrance/exit indicated on Plan 3 (See **ANNEXURE B**) within 5.5m of the Pastorie Street and Die Laan intersection be closed.
- 4.2 A revised parking layout plan be submitted to the satisfaction of the municipal traffic engineering section, only using the entrance/exit indicated at 21.5m from the Pastorie Street and Die Laan intersection and a vehicle circulation plan be present to access parking bays P1-P15 or similar proposed alternative parking layout.
- 4.3 The required parking bays for Lease Area 2 be provided on Lease Area 1 and these requirements be addressed in the revised parking layout plan to ensure that parking provision for the business buildings is always provided on Erf 2751, Stellenbosch.
- 4.4 A detailed site development plan as contemplated in terms of Section 16 of the Zoning Scheme Bylaw, 2019 be submitted to the Municipality for approval prior to the submission of any building plans, which site development plan must satisfactorily address, 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 Bylaw, and specifically the requirements as listed in 4.1 and 4.2 above.

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:

- 4.5 The approval applies only to the rezoning, closure of public space in question and shall 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.
- 4.6 The rezoning of the property is restricted to the current lease areas only and will not include the remainder of the public open space.
- 4.7 Business hours be restricted to normal office working hours from 08h00 till 19h00.

- 4.8 The portion being used for public parking purposes remains attached to the rezoned area and may not be used for unrelated long-term public parking.
- 4.9 The parking area may not be fenced or tarred and should a hard surface be envisaged in future; the surface must consist of laterite or alternatively a material that gives the impression of laterite to preserve the appearance of the original surface to the satisfaction of the Municipal Heritage Section.
- 4.10 No alterations, additions to the structures which is Graded IIIA and the construction of additional building may be done without a permit from Heritage Western Cape (HWC).
- 4.11 The conditions of approval listed in **ANNEXURE F** from the Municipal Directorate: Infrastructure Services be adhered to.
- 4.12 Building plans must be submitted for all changes of use in the existing buildings and which building plan(s) must be approved and related occupancy certificates be issued prior to the vesting of any of the related approvals.

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

- 5.1 The proposals are in line with the objectives and principles of the Integrated Development Plans and the Stellenbosch Municipal Spatial Development Framework.
- 5.2 Sufficient services can be provided to the satisfaction of the municipal engineering section.
- 5.3 The portion of a public open space to closed, has always been used for the proposed business uses and this application just regularizing the current use.

6. Matters to be noted:

- 6.1. A business license, liquor license and any other applicable activities requiring a separate approval, licence, or permit must be obtained.
- 6.2. 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.
- 6.3. Building plans must 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.
- 6.4. An application for the erection of advertising signs be submitted for approval to the municipality and that all signage on the

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	<p>property be erected to the satisfaction of the Municipality or be in line with the signage policy of the Municipality and no signage may be displayed without the written approval of the municipality.</p> <p>6.5. Any signage must consider the heritage significance of the buildings and the residential character of the immediate surroundings.</p> <p>6.6. No directional signage may be erected without the prior approval of the Municipality.</p> <p>6.7. That the conditions of approval listed in ANNEXURE G from the Cape Winelands District Municipalities Health Services be adhered to.</p>
<p>SMPT 07/04/22</p>	<p>PLANNING REPORT: LAND USE AND LAND DEVELOPMENT APPLICATION: APPLICATION FOR REZONING AND SUBDIVISION ON ERF 407, RAITHBY</p> <p>Discussion:</p> <p>a) Ms Zondo briefly introduced the item.</p> <p>b) It was confirmed that no owners' association is to be established and that it will not be a gated development, and therefore it will be difficult to enforce any architectural guidelines.</p> <p>UNANIMOUSLY RESOLVED:</p> <p>1. That the following applications in terms of the Stellenbosch Municipality Land Use Planning By-law, promulgated by notice number 354/2015, dated 20 October 2015 on Erf 407, Raithby, namely:</p> <p>1.1 The Rezoning in terms of Section 15 (2)(a) of the said by-law, from Agriculture and Rural Zone to Subdivisional Area in order to allow for the following land uses:</p> <p>a) 9 Conventional Residential Zone erven (dwelling house) b) 1 Public roads and parking zone erven (public road) c) 1 Local Business Zone erven (Restaurant)</p> <p>1.2 The Subdivision of Erf 407, Raithby in terms of Section 15 (2) (d) of the said by-law in accordance with the subdivision plan No: C6035/SubA2 & C6035/SubB3, dated March 2022 to allow for the development in accordance with the subdivisional zone above.</p> <p>BE APPROVED in terms of Section 60 of the said bylaw, subject to conditions in terms of Section 66 of the said Bylaw.</p>

2. Conditions of Approval:

- 2.1 The approval applies only to the proposed development under consideration as indicated on Subdivisional Plans No: C6035/SubA2 & C6035/SubB3, dated March 2022, drawn by Diesel & Munns Inc attached as **Annexure C** and shall 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;
- 2.2 The development be undertaken in accordance with the Subdivisional Plans No: C6035/SubA2 & C6035/SubB3, dated March 2022, drawn by Diesel & Munns Inc, attached as **Annexure C** to this report;
- 2.3 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 must indicate the following information:
 - a) Newly allocated erf numbers
 - b) Co-ordinates
 - c) Survey dimensions
 - d) Street names and numbering
- 2.4 The stormwater and services servitude rights be registered in the title deeds of the applicable property/ies on registration.
- 2.5 All land designated for the provision of municipal service infrastructure and amenities on the subdivision plan be transferred to the Municipality upon transfer of the first unit/erf in the subdivision, of which the cost for the surveying and transfer of such public land will be for the account of the applicant/developer.
- 2.6 Development contributions 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 Director Infrastructure Services.
- 2.7 Should the full extent of permissible development rights, as approved herein-above, not be implemented initially or development is phased, a pro rata development contribution will be levied in accordance with the extent to which the development rights will be implemented, provided that the remaining development contributions will be levied for the remaining permissible development rights when implemented in future. Remaining Development Contributions will 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, whichever occurs first, or as may be agreed on in writing with the Director Infrastructure Services.

2.8 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 must include and comply with the conditions as imposed by the Directorate Infrastructure Services in their letter with reference 2090 CIVIL LU and dated 01 February 2022 and attached as **Annexure J**.

2.9 The conditions imposed by the Department of Transport and Public Work: Western Cape Government as contained in their memo dated 21 January 2021, attached as **Annexure M**, be complied with to the satisfaction of said department.

2.10 The Local Business Zone even is specifically for the existing restaurant, no any other primary uses in the Local Business Zone may be permitted without the Municipality's approval.

3. Matters to be noted:

3.1 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.

3.2 All engineering services and infrastructure as required in terms of the conditions and services agreement must be complied with to the satisfaction of the municipality and/ or the relevant authority prior to the issuing of a Section 28 Certification.

3.3 The subdivision only comes into effect once all suspensive conditions or relevant legislative provisions have been complied with.

3.4 The rates clearances will only be granted once the conditions of approval have been complied with,

3.5 Building plans must 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.

3.6 That the approval for the naming and numbering of streets as per the proposed subdivision plan, be obtained.

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

4.1 The scale and nature of the proposed development will not compromise the existing character of the surrounding landscape

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	<p>considering that it will in fact offer residential opportunities in the area;</p> <p>4.2 The proposed development constitutes infill development and is therefore in line with the principles of the SDF.</p> <p>4.3 There will be no negative impact on existing infrastructure and additional traffic can be accommodated on the local road network.</p> <p>4.4 The proposal will result in more efficient utilisation of the subject property which cannot be viably utilised in terms of its current zoning.</p>
<p>SMPT 08/03/22</p>	<p>APPLICATION FOR SUBDIVISION AND DEPARTURE ON FARM NO. 81/29, STELLENBOSCH DIVISION</p> <p>Discussion:</p> <p>a) Ms Ollyn briefly introduced the item.</p> <p>b) The traffic impact of the development and the importance of the dualling of the road was emphasised.</p> <p>c) It is noted that the dualling of the road is a priority for the Municipality and the new access intersection is crucial and included in the conditions of approval.</p> <p>d) The proposal does not specifically include any specific reference to the provision and management of inclusionary housing although the complete development is earmarked towards the targeted social housing income group.</p> <p>UNANIMOUSLY RESOLVED:</p> <p>1. That, in compliance with condition 3.1 as stipulated in the letter of approval, dated 27 August 2021 the following application(s) in terms of Section 15(2) of the Stellenbosch Municipal Land Use Planning Bylaw, promulgated by notice number 354/2015, dated 20 October 2015 on Farm No. 81/29, Stellenbosch Division, namely:</p> <p>1.1 The Subdivision in terms of Section 15(2)(d) of the said Bylaw in accordance with subdivision plan "Subdivisional Plan Nr 4", dated 30 November 2021, and drawn by TV3 Architects and Town Planners to allow for the following:</p> <p>(a) 119 x Multi-Unit Residential Zone erven (portions 1 – 119), and ±10 398m² in extent, for group housing purposes;</p> <p>(b) 1 x Multi-Unit Residential Zone erf (portion 120), and ±4 548m² in extent, for purposes of a block of flats consisting of 60 units;</p> <p>(c) 5 x Private Open Space erven (portions 121 - 125), and ±1 672m² in extent, for private open space purposes,</p>

- (d) 1 x **Private Open Space** (portion 126), and $\pm 5\,798\text{m}^2$ in extent, for private road purposes.
- (e) registration of a **servitude right of way** over portion 20 for access to the flat component.

1.2 **Departure** in terms of Section 15(2)(b) of the said Bylaw to exceed the maximum density of **50** dwelling units per hectare to **60** dwelling units per hectare.

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

2. Conditions of approval:

- 2.1 The development be undertaken in accordance with the Subdivisional Plan Nr 4, dated 30 November 2021, and drawn by TV3 Architects and Town Planners, attached as **ANNEXURE B**.
- 2.2 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 must indicate the following information:
 - a) Newly allocated erf numbers
 - b) Co-ordinates
 - c) Survey dimensions
 - d) Street names and numbering
- 2.3 An owner's association for the subject development be established in terms of section 29(1) of the subject Bylaw.
- 2.4 All common property, inclusive of private road/s and open space/s and land required for services by the owner's association, be transferred at his cost by the applicant to the owners' association, prior to or simultaneously with the transfer or registration of the first land unit or prior to the first building plan approval, whichever occurs first.
- 2.5 A Phasing Plan which indicates the spatial phasing and associated timeframe of the development be submitted to the Municipality for approval together with the Site Development Plan information (as indicted in conditions 2,6, 2.7 and 2.9).
- 2.6 A detailed Site Development Plan as contemplated in terms of Section 16 of the Zoning Scheme Bylaw, 2019 be submitted for the development to the Municipality for approval prior to the submission of any building plans which must satisfactorily address, but are not necessarily limited to, all the conditions of this approval, compliance with relevant development parameters of the said Bylaw and any relevant matters relating

to Section 16(4) of the said Bylaw, and specifically the following matters:

- 2.6.1 access control gates with associated infrastructure
 - 2.6.2 perimeter boundary wall/fencing for the development
 - 2.6.3 compliance to conditions of Heritage Western Cape
 - 2.6.4 A Landscaping Plan
- 2.7 An updated traffic impact statement and a civil engineering services report (to assist the municipal engineers in calculation the development charges) be submitted with each Site Development Plan.
- 2.8 Architectural/Aesthetic Guidelines be submitted for the group housing component and approved by the Municipality prior to the registration of the first property or the submission of any building plans application. These guidelines must take the conditions of Heritage Western Cape into consideration (see **ANNEXURE J**).
- 2.9 All public places and public streets on the subdivision plan be transferred to the Municipality upon transfer of the first unit/erf within the subdivision of which the cost for the surveying and transfer of such public land will be for the account of the applicant/developer.
- 2.10 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 an any building plans, whichever occurs first, or as may be agreed on in writing with the Director Infrastructure Services.
- 2.11 Should the full extent of permissible development rights, as approved herein-above, not be implemented initially or development is phased, a pro rate Development Charge will be levied in accordance with the extent to which the development rights will be implemented, provided that the remaining Development Charges will be levied for the remaining permissible development rights when implemented in future. Remaining Development Charges will 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, whichever occurs first, or as may be agreed on in writing with the Director Infrastructure Services.
- 2.12 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 must include and comply with the conditions as imposed by the Directorate Infrastructure

Services in their memo dated 09 February 2022 and attached as **ANNEXURE H.**

2.13 The conditions of approval as imposed by the Road Network Management of the Department of Transport and Public Works be complied with to the satisfaction of said department as attached as **ANNEXURE K.**

2.14 The servitude rights be registered in the title deeds of the applicable property/ies on registration.

2.15 The developer and the municipality, represented by the Director: Planning and Economic Development or his delegated official, enter into an agreement on the satisfactorily provision and management of inclusionary housing within 12 months from final notification of the approval and prior to the submission of building plans which agreement must inter alia, but not necessarily limited thereto, address the following matters:

2.15.1 the provision of fair and reasonable number of dwelling units, of no less than 30% falling within the affordability thresholds for rental and/or ownership within the new development;

2.15.2 the form of affordable housing options provided on-site as part of the development;

2.15.3 the designated income group for either rental and/or ownership;

2.15.4 the measures to ensure that the designated inclusionary housing units be retained for the designated income groups;

2.15.5 the measures to ensure that affordability be retained over the long term to prevent the units from being traded on the open market;

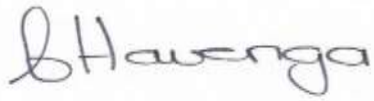
2.16. If in due course, the Stellenbosch Municipal policy on Inclusionary Zoning is adopted and the provisions and requirements thereof are preferred to the above conditions, the developer/owner has the option (but no obligation) to adopt and adhere to the policy requirements instead.

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

3.1 The intention of the Adam Tas Corridor is to facilitate higher density developments and promote affordable housing within Stellenbosch. This proposal is therefore compliant with the requirements of the ATC as it allows for different housing typologies.

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	<p>3.2 The revised subdivision plan is in line with the requirements of “Precinct 10” of the Adam Tas Corridor in terms of the density that is proposed by the revised subdivision application.</p> <p>3.3 The MPT has already approved the rezoning of the subject property for urban development purposes and the proposed subdivision plan is in line with the approval granted for the rezoning of the subject property.</p> <p>4. Matters to be noted:</p> <p>4.1. Permission required in terms of the title deed condition D(a-e) of the Title Deed No. T52460/99, be obtained from the Authorised Official.</p> <p>4.2. Application for the Approval of the development’s name: Redwood Estate and the naming and numbering of streets as per the Street Naming and Numbering Plan, be obtained from the Authorised Official.</p> <p>4.3. 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.</p> <p>4.4. The subdivision only comes into effect once all suspensive conditions or relevant legislative provisions have been complied with.</p> <p>4.5. All engineering services and infrastructure as required in terms of the conditions and services agreement must be complied with to the satisfaction of the municipality and/or relevant authority prior to the issuing of a Section 28 Certification.</p> <p>4.6. Building plans must 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>4.7. The development must comply with the conditions of approval as imposed by Heritage Western Cape as set out in their approval letter of 14 October 2020, as attached as ANNEXURE J of this report.</p> <p>4.8. The conditions stated in the letter TPW/CFS/RP/LUD/REZ/SUB-25/75 (Job 22720) by the Department of Transport and Public Works, dated 19 October 2020 and 14 February 2022, BE NOTED. See ANNEXURE K.</p>
<p>SMPT 10/03/22</p>	<p>OTHER MATTERS The next meeting is scheduled for 20 May 2022.</p>



Mrs C Havenga

DEPUTY CHAIRPERSON: MUNICIPAL PLANNING TRIBUNAL



Mrs H Crooijmans-Lemmer

ACTING DEPUTY CHAIRPERSON: MUNICIPAL PLANNING TRIBUNAL