

MINUTES: STELLENBOSCH MUNICIPAL PLANNING TRIBUNAL 22 JULY 2022

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

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

2022-07-22

Chairperson

Dr DJ Du Plessis

Deputy Chairperson

Ms C Havenga

External Members

Mr C Rabie

Dr R Pool-Stanvliet

Mrs H Crooijmans-Lemmer

Mr E Delpont

Mr J Knight

Internal Members

Mr A van der Merwe: Senior Manager - Community Services

Mr M Williams: Senior Legal Advisor

Mr C Alexander: Senior Manager - Development Planning

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. A. Barnes: Director Planning and Economic Development

Mr S Carstens: Senior Manager- Development Management

Mrs C Kriel: Manager-Land Use Manager

Mr S Van der Merwe: Environmental Planner

Mr P April: Senior Town Planner

Mrs N Dafeti: Town Planner

Ms O Sims: Administrative Officer

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ITEM	SUBJECT
SMPT 01/07/22	OPENING AND WELCOME
	Chairperson Du Plessis welcomed all.
SMPT 02/07/22	LEAVE OF ABSENCE
	None recorded.
SMPT 03/07/22	DISCLOSURE OF INTERESTS
	No interests were declared.
SMPT 04/07/22	MINUTES OF THE PREVIOUS MEETING DATED 24 JUNE 2022
	The minutes of the previous meeting was noted.
	MATTERS FOR CONSIDERATION
SMPT 05/07/22	APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND CONSENT USE ON FARM 1653, PAARL DIVISION (LU/9520)
	<p>Discussion:</p> <ul style="list-style-type: none"> a) Mrs Dafeti gave a brief introduction to the Tribunal members in respect of the application. b) Mrs Crooijmans-Lemmer noted that the information requested on the position of other existing towers is partially indicated on the map on page 44 but the map is of a poor quality and better information is expected from a applicant/service provider for an application like this. She noted concerns relating alternative sites that must be

investigated and the fact that it has not been properly discussed in the application. The Municipality is requested to communicate the need for such information to applicants of future developments of this nature.

c) The opinion that a tree-like mast will look unnatural in the location was supported and members would prefer a grey painted mast.

d) Mr Rabie proposed the inclusion of conditions relating to the monitoring of radio frequency and radiation which was discussed. As it is not clear which other departments/institutions also monitor radiation levels, it was proposed to include conditions in this regard and it was proposed that it should also be included in the relevant municipal policy to inform decisions of this nature in future.

UNANIMOUSLY RESOLVED

1. That the application in terms of Section 15(2)(f) for the **removal of the restrictive title deed conditions** of the Stellenbosch Municipal Land Use Planning Bylaw, promulgated by notice number 354/2015, dated 20 October 2015 on Farm No. 1653, Paarl Division.

BE REFUSED in terms of Section 60 of the said Bylaw.

2. The **reasons** for the above decision are as follows:

- 2.1 The title deed of the subject property makes provisions for the proposed development as telecommunication base stations are regarded as infrastructure related to township development.

3. That the application for a **Consent Use** in terms of Section 15(2)(o) of the Stellenbosch Municipality Land Use Planning By-Law, promulgated by notice number 354/2015, dated 20 October 2015, on Farm No. 1653, Paarl Division to allow for a 15m high freestanding base telecommunication station with associated equipment

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

4. The approval is subject to the following **conditions** imposed in terms of Section 66 of the said Bylaw:

4.1 The approval only applies to the Consent Use under consideration, as indicated on Drawing ATSA1134 (Sheet 2 – 6), dated 8 March 2019 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.

4.2 The development be implemented substantially in accordance with the Site Development Plan (**Annexure C**) Drawing ATSA1134 (Sheet 2 – 6), dated 8 March 2019 and drawn by D. Loots of WPP town & regional planning consultants, allowing:

- a) 1 x 15m high monopole mast;
- b) 12 x antennae attached to the mast;
- c) microwave dishes attached to the mast; and
- d) 4 x equipment containers.

4.3 Building plans be generally in accordance with the Drawing ATSA1134 (Sheet 2 - 6), dated 8 March 2019 and attached as Annexure C.

4.4 Natural areas disturbed during construction be rehabilitated with indigenous water-wise plants to the satisfaction of the Municipality.

4.5 Access to the telecommunication infrastructure and associated equipment be strictly controlled at all times by means of a fence or wall with a locked door or gate to the satisfaction of the Municipality.

4.6 No unauthorized person be permitted within 5m in front of the panel antennae.

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- 4.7 Adequate warning signs in the three official languages be displayed on the access door or gate, defining it as a no-go zone.
- 4.8 Access be granted to the Municipality at all reasonable times to the installation, for the purpose of monitoring inspection and compliance certification.
- 4.9 The finishing and colour of the panel antennae be kept in keeping with the building to which it is attached and the surrounding environment.
- 4.10 The consent use be restricted to the fenced compound of the mast and equipment room as depicted on the approved site development plan attached as Annexure C.
- 4.11 The mast, equipment room or any boundary enclosure is not utilised for outdoor advertising purposes.
- 4.12 The service provider be willing to co-host with other service providers.
- 4.13 The applicant/operator is responsible for ongoing maintenance of the entire installation as well as all costs with respect to such maintenance or future decommissioning of the telecommunication infrastructure.
- 4.14 If the site is decommissioned the applicant/operator to remove all site infrastructure and the site to be rehabilitated to its former state or to a condition that is in line with the land use and character of the area at the time of decommissioning to the satisfaction of the Municipality.
- 4.15 The radio frequency (RF) exposure emanating from the telecommunication infrastructure be monitored by the service provider / operator / lessee, not exceed the public exposure guidelines as set by the International Commission on Non-Ionising Radiation Protection (ICNIRP).
- 4.16 The service provider / operator / lessee within 1 month of the request of the Municipality, submit documentary evidence completed by an independent certified person / body that the radio frequency (RF) electromagnetic energy (EME) levels

emitted by the telecommunication infrastructure on the property is lower than the ICNIRP guidelines (for a continuous period of not less than 3 months preceding this request). Evidence to the contrary will result in the immediate shut down / decommissioning of the installation.

- 4.17 Should it be proven that there are negative health effects from base stations, and this base station falls within those guidelines, the landowner is responsible for the rectification of non-compliance and if not done within a reasonable time, the Municipality may request that the base station be decommissioned with immediate effect.

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

- 5.1. The telecommunication base mast will benefit the users of cellular phones as well as the internet as it will continue increased effectiveness and efficiency of the network in the area.
- 5.2. The proposed use is in line with the objectives of the Stellenbosch Municipality Telecommunication mast policy.
- 5.3. Existing established trees on the property mitigate visual appearance of the mast on the property.

6. **Matters to be noted:**

- 6.1. 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.
- 6.2. 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.

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<p>SMPT 06/07/22</p>	<p>APPLICATION FOR REZONING, CONSENT USE, CONSOLIDATION AND CLOSURE OF A PUBLIC PLACE: ERF 21 AND 22, KYLEMORE(LU/13621).</p> <p>Discussion:</p> <ul style="list-style-type: none">a) Mr April gave a brief introduction to the members in respect of the application that also served before the Tribunal on the 24th of June 2022.b) Mr Rabie raised concerns regarding the soil conditions and geology formation of the site and the need for cut-off drains to be constructed.c) It was noted that a specialist soil study has been done and the site has been identified as suitable. The Environmental Authorisation (EA) however did not include the conditions of the soil study related to cut-off drains. The study report indicates that the water table might cause problems and based on further discussions, it was decided to include a condition to mitigate the impact the cemetery may have on underground water sources and the river. <p>UNANIMOUSLY RESOLVED:</p> <ul style="list-style-type: none">1. That the application in terms of Section 15(2)(n) of the Stellenbosch Municipal Land Use Planning Bylaw, promulgated by notice number 354/2015, dated 20 October 2015 for the closure of a public place, Erf 22 Kylemore NOT BE APPROVED in terms of Section 60.2. The reasons for the above decision are as follows:<ul style="list-style-type: none">2.1 A Status Report from the Surveyor Generals Office: Western Cape, confirming that Erf 22, Kylemore is shown as an Ordinary Erf in their records and do not require a closure process, but only rezoning.
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3 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:

3.1 Rezoning of Erf 21, Kylemore to Private Open Space Zone, in terms of Section 15(2)(a).

3.2 Rezoning of Erf 22, Kylemore from Public Open Space Zone to Private Open Space Zone, in terms of Section 15(2)(a).

3.3 Consent use in order to accommodate a cemetery on Erf 21 and 22, Kylemore, in terms of Section 15(2)(o).

3.4 Consolidation Erf 21 and 22, Kylemore to form a ±1.5886ha land unit to be used for cemetery purposes, in terms of Section 15(2)(e).

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

4 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:

4.1 A detailed site development plan 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, inclusive of a landscaping plan satisfactorily, addresses, 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, and specifically the requirement from the Spatial Planning Department. That a buffer zone be created between the cemetery and the backyards of the adjacent housing units.

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:

- 4.2 The approval applies only to the rezoning, consent use and consolidation 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.
- 4.3 The consolidation of the erven 21 and 22 Kylemore and a certificate of consolidated title and endorsement of the relevant title deed by the Registrar of Deeds be proceeded with.
- 4.4 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.
- 4.5 Details of service connection be indicated on the building plans.
- 4.6 The Municipality implements regular monitoring of levels of potential pollution and takes reasonable measures to prevent pollution of underground water and the river.

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

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	<p>5.1 The neighbouring properties have already been approved and developed for cemetery purposes.</p> <p>5.2 The proposals are consistent with the objectives and principles of the Stellenbosch Municipal Spatial Development Framework.</p> <p>5.3 Sufficient Services can be provided to the satisfaction of the municipal engineering section if required.</p> <p>5.4 The portion of a public open space to be rezoned, has never been developed as a communal recreational space and a public sportsground and public open space is located less than ±100m from this site and is currently being used for sport and recreational purposes by the community.</p> <p>5.5 Safe vehicular access could be obtained from two public streets.</p> <p>6 Matters to be noted:</p> <p>6.1 All electrical requirements should be directed to Eskom.</p> <p>6.2 The conditions imposed by the Cape Winelands District Municipalities Health Section comes directly from the National Health Act (61 of 2003), which needs to be complied with and it will be the applicant's and owner's responsibility to apply for any exemptions from this legislation.</p>
<p>SMPT 07/07/22</p>	<p>OTHER MATTERS</p> <p>The term of the current members of the MPT lapses at the end of August 2022. Mr. Carstens reported that a submission was made to Council for their consideration and the outcome will be communicated as soon as possible to the members.</p> <p>Chairperson Du Plessis thanked all present for attending and for the valuable discussions.</p>

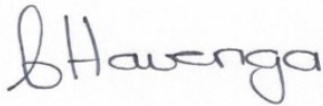
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	<p>The next meeting is scheduled for 19 August 2022.</p> <p>The meeting adjourned at 11:55</p>
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Dr D du Plessis

CHAIRPERSON: MUNICIPAL PLANNING TRIBUNAL



Mrs C Havenga

DEPUTY CHAIRPERSON: MUNICIPAL PLANNING TRIBUNAL