

MINUTES: STELLENBOSCH MUNICIPAL PLANNING TRIBUNAL 26 JANUARY 2024

MINUTES OF THE STELLENBOSCH MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON FRIDAY, 26TH OF JANUARY 2024 AT THE PARADYSKLOOF CLUBHOUSE, PARADYSKLOOF, STELLENBOSCH FROM 10H00-15H00

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

2024-01-26

Chairperson

Mrs H Crooijmans-Lemmer

Deputy Chairperson

Mr P van Zyl

External Members

Mrs C Havenga

Mr Dane Leo

Mr Stephen Boshoff

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

Officials

Mr S Carstens: Senior Manager: Development Management

Mrs C Kriel: Manager: Land Use Management

Ms B Zondo: Senior Town Planner

Mr P April: Senior Town Planner

Mr R Fooy: Senior Town Planner

Mr G Goosen: Senior Town Planner

Mrs C Hauptfleisch: Senior Spatial Planner

Mr G De Vries: Land Use Inspector

Ms M Fikeni: Land Use Inspector

Ms O Sims: Administrative Officer: MPT

Ms L Davids: Senior Administrative Officer: MPT

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ITEM	SUBJECT
SMPT 01/01/24	OPENING AND WELCOME
	Chairperson Crooijmans-Lemmer welcomed all present at the first meeting for 2024 with, a special welcome to Mrs Hauptfleisch who will do the presentation on the Inclusionary Zoning Policy.
SMPT 02/01/24	LEAVE OF ABSENCE
	Mr Munro Mrs Francis Mr Alexander
SMPT 03/01/24	DISCLOSURE OF INTERESTS
	None received
SMPT 04/01/24	MINUTES OF THE PREVIOUS MEETING DATED 29 SEPTEMBER 2023
	The minutes of the previous meeting was noted.
	MATTERS FOR CONSIDERATION
SMPT 05/01/24	APPLICATION FOR SUBDIVISION, CONSOLIDATION AND REZONING OF FARM 1041/27 AND FARM 1041/3, LA MOTTE (LU/14341)
	<p>Discussion:</p> <ul style="list-style-type: none"> a. Chairperson Crooijmans-Lemmer handed over to Mr Fooy to give a brief introduction of the application that served before the Tribunal. b. The members had a discussion with regard to the access road to the property. c. Further discussions followed amongst the members with regard to the subdivision of the property.

d. All members were in support of the application.

UNANIMOUSLY RESOLVED:

1. That the following application(s) in terms of Section 15(2) of the Stellenbosch Municipal Land Use Planning Bylaw namely:

1.1. **Subdivision** in terms of Section 15(2)(d) of the said bylaw, of Portion 7 of Farm 1041, into two portions, Portion 27 of Farm 1041, and Remainder Portion 7 of Farm 1041.

1.2. **Subdivision** in terms of Section 15(2)(d) of the said bylaw, of Portion 3 of Farm 1041, into two portions, Portion 28 of Farm 1041, and Remainder Portion 3 of Farm 1041.

1.3. **Consolidation** in terms of Section 15(2)(e) of the said bylaw, of the unregistered subdivided Portion 27 of Farm 1041 and Portion 28 of Farm 1041, La Motte, Stellenbosch.

1.4. **Rezoning** in terms of Section 15(2)(a) of the said bylaw, of the unregistered consolidated Portion 27 of Farm 1041 and Portion 28 of Farm 1041, La Motte, Stellenbosch, from Agriculture and Rural Zone to Subdivisional Area to create:

- a) 16 Conventional Residential Zone erven (±3.49 ha)
- b) 2 Public Open Space Zone erven (±0.52ha)
- c) 1 Public Road and Parking Zone erf (±0.59ha)

1.5. **Subdivision** in terms of Section 15(2)(d) of the said bylaw, of the unregistered consolidated Portion 27 of Farm 1041 and Portion 28 of Farm 1041, La Motte, Stellenbosch as indicated on Subdivision Plan, Drawing No: 3.018.01.05, Dated 04 July 2022, drawn by Sustainable Planning Solutions, and attached as Annexure B, into the following:

- a) 16 Conventional Residential Zone erven (±3.49 ha)
- b) 2 Public Open Space Zone erven (±0.52ha)
- c) 1 Public Road and Parking Zone erf (±0.59ha)

BE APPROVED in terms of Section 60 of the said By-law and subject to conditions of approval.

2. The approval is subject to the following conditions imposed in terms of Section 66 of the said By-law:

2.1 The approval applies only to the application in question and shall not be construed as authority to depart from any other legal prescriptions or requirements from Council.

2.2 The development be undertaken in accordance with the subdivision and consolidation plans referenced as Plan 1, Drawing No: 3.018.01.01 and Plan 2, Drawing No: 3.018.01.02, and Plan 3, Drawing No: 3.018.01.03, Dated 17 June 2022, drawn by Sustainable Planning Solutions, and attached as **Annexure B**.

2.3 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 residential 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.

2.4 A Street Naming and Numbering plan be submitted for approval prior to the issuing of Section 28 Certification.

2.5 The applicant submits an electronic copy (shp,dwg,dxf) of the Subdivision Plan which was preliminary approved by the SG. The following information must be indicated:

2.5.1 Newly allocated Erf Numbers

2.5.2 Co-ordinates

2.5.3 Survey Dimensions

2.5.4 Street names (if approved by Council)

2.6 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 residential property or approval 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 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 approval of any building plans, whichever occurs first.

2.8 Compliance with the conditions relating to Directorate Infrastructure Services contained in memorandum, dated 2 June 2023 and attached as **Annexure E**.

2.9 All engineering services and infrastructure as required in terms of the conditions and services agreement be complied with to the satisfaction of the Municipality prior to the issuing of a Section 28 Certification.

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

3.1 The application is seen to be desirable from a town planning point of view as it is an existing development node located within the urban edge and to formalize the existing residential use of the property.

3.2 The application under consideration is to facilitate the transfer of the 16 newly created portions / erven with existing structures / house to the beneficiaries as identified by the Department of Public Works.

3.3 The approval of the proposal will have no impact on the character of the existing surrounding area as the existing houses with outbuildings were constructed during the construction of the Bergriver Dam in 2008.

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	<p>4. Matters to be noted:</p> <p>4.1 Compliance with the conditions relating to Department of Environmental Affairs and Development Planning as contained in the memorandum, Dated: 13 March 2023 and attached as Annexure F.</p> <p>4.2 Compliance with the conditions relating to Department Heritage Western Cape as contained in the memorandum, Dated: 9 May 2019 and attached as Annexure F.</p> <p>4.3 The subdivision only comes into effect once all suspensive conditions or relevant legislative provisions have been complied with.</p> <p>4.4 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>4.5 Building plans be submitted for approval by the Municipality for all existing buildings should no building plans be on record with the Municipality.</p>
<p>SMPT 06/01/24</p>	<p>APPLICATION FOR SUBDIVISION, CLOSURE OF PUBLIC SPACE AND CONSOLIDATION: ERVEN 2175,2183, 1832, KAYAMANDI AND FARMS NO. 175/5, 175/33, FARM NO. 181 AND REMAINDER FARM NO. 183, STELLENBOSCH DIVISION (LU/15991)</p> <p>Discussion:</p> <p>a. Chairperson Crooijmans-Lemmer handed over to Mr Carstens to give a brief introduction of the application that served before the Tribunal.</p> <p>b. A discussion followed with regard to the extension of the validity period and the fact that the applicant requested an extension of time on the validity period.</p> <p>c. Mr Carstens provided clarity to members in respect of the validity period.</p> <p>d. All members were in support of the application.</p>

UNANIMOUSLY RESOLVED:

1. That the following application(s) made in terms of the Stellenbosch Municipal Land Use Planning By-Law, 2023, on **Farm No. 175/5**, Farm No. 175/33, **Farm No. 181**, **Remainder Farm No. 183**, Stellenbosch and **Erven 1832**, 2175 and 2183, Kayamandi, for the following – the underlined text/conditions below relate to additional approvals to be added to the original MPT approval of this item on 27 November 2022:
 - 1.1 The **subdivision** in terms of Section 15(2)(d) of the said By-law of the following properties:
 - a) Erf 1832 into Portion A (± 0.14 ha) and Remainder (± 1.49 ha);
 - b) Farm No. 183 into Portion B (± 4.49 ha), Portion C (± 2.94 ha), and the Remainder (± 119.54 ha);
 - c) Farm No. 181 into Portion D (± 14.44 ha) and the Remainder (± 36.33 ha);
 - d) Farm No. 175/5 into Portion E (± 0.90 ha) and Remainder (0.13ha);
 - e) Remainder of Portion 33 of Farm No. 175/33 into Portion F (± 7.86 ha) and Remainder (± 14.84 ha).
 - f) Erf 2183, Kayamandi in two portions, namely Portion G (Unregistered Erf 1810, a portion of Erf 2183, Kayamandi) ($\pm 1,845\text{m}^2$ in extent) and the Remainder of Erf 2183, Kayamandi
 - 1.2 **Closure of a public place** in terms of section 15(2)(n) of the said bylaw of the proposed “Portion G (Unregistered Erf 1810, a Portion of Erf 2183, Kayamandi) ($\pm 1,845\text{m}^2$ in extent).
 - 1.3 **Closure of a public place** in terms of section 15(2)(n) of the said bylaw of Portion A (Unregistered Erf 5098, a Portion of Erf 1832, Kayamandi) ($\pm 1,436\text{m}^2$ in extent).

1.4 The **consolidation** in terms of Section 15(2)(e) of the said Bylaw of Portions A, B, C,D, E, F, G, in order to form one erf, namely proposed Portion H (Unregistered Erf 5104) (±32,1189ha in extent), known as Enkanini Development Area.

1.5 The **rezoning** in terms of Section 15(2)(a) of the said Bylaw of the consolidated Area H as the development area from Agricultural Zone to Subdivisional Area in order to accommodate the following development of the subject land as indicated on the Plan Nr. 9 attached as **ANNEXURE "B"** and as compiled by Urban Dynamics URP, dated September 2018:

a) 1 x **Public Roads and Parking Zone** measuring ±7.3ha in extent (Road Network: 14m & 8m Reserves);

b) 18 x **Public Open Space Zone** erven measuring ±10.59ha in extent (Public Open Space);

c) 18 x **Conventional Residential Zone** erven measuring ±9.36ha in extent (Subdivided Erven);

d) 5 x **Multi-Unit Residential Zone** erven measuring ±3.18ha in extent (Flats);

e) 10 x **Community Zone** erven ±1.04ha in extent (Place of Worship/Educational institution);

f) 8 x **Local Business Zone** erven measuring ±0.72ha in extent (Mixed use incl. retail).

1.6 The **extension of the validity period** of the MPT decision (LU/8597) taken on 27 November 2020 in terms of Section 15(2)(i) of the Stellenbosch Municipal Land Use Planning By-Law.

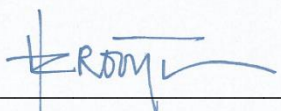
BE APPROVED in terms of Section 60 of the said By-law and subject to conditions of approval.

2. The approval is subject to the following conditions imposed in terms of Section 66 of the said By-law:


- 2.1 The approval only applies to the proposed development under consideration 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 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.
- 2.3 The development be implemented in accordance with the Subdivisional Plan/s and Consolidation Plan attached as **ANNEXURE B.**
- 2.4 New erf diagrams or general plans for the newly created land units be submitted to this municipality for clearance and record purposes.
- 2.5 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
- 2.6 A phasing plan be submitted together with the first application for subdivision.
- 2.7 All other conditions as imposed in Council's approval letter dated 02 December 2022, be complied with.

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	<p>3. The reasons for the above decision are as follows:</p> <p>3.1 The proposal will allow the Municipality to proceed with the registration of the relevant Subdivision and Consolidation Diagrams with the Surveyor-General.</p> <p>3.2 The desirability of the development was already confirmed by the Municipality and the current application is basically to address the omissions of the previous land use application (LU/8597).</p> <p>3.3 The proposed development will formalise an existing informal settlement.</p> <p>4. Matters to be noted:</p> <p>4.1 Building plans be approved by the Municipality.</p> <p>4.2 A Street Name and Numbering Plan to be submitted for approval by the delegated authority.</p>
<p>SMPT 07/01/24</p>	<p>OTHER MATTERS</p>
<p>7.1</p>	<p>PLANNING POLICIES (REVIEWED OR APPROVED BY COUNCIL) - PRESENTATION: INCLUSIONARY ZONING POLICY- Mrs. C Hauptfleisch</p>
<p>7.2</p>	<p>APPEALS RECEIVED AGAINST MPT DECISIONS</p>



Mrs H Crooijmans-Lemmer
CHAIRPERSON: MUNICIPAL PLANNING TRIBUNAL



Mr P van Zyl
DEPUTY CHAIRPERSON: MUNICIPAL PLANNING TRIBUNAL