

MINUTES: STELLENBOSCH MUNICIPAL PLANNING TRIBUNAL 25 APRIL 2025

MINUTES OF THE STELLENBOSCH MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON FRIDAY, 25th OF APRIL 2025 AT THE STELLENBOSCH COUNCIL CHAMBERS, STELLENBOSCH MUNICIPALITY, PLEIN STREET, STELLENBOSCH FROM 10H00-15H00

**Ref. no. 3/4/5/2/40
2025-04-25**

Chairperson

Mrs H Crooijmans-Lemmer

Deputy-Chairperson

Mr P Van Zyl

External Members

Mr D 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

Technical Advisor

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

Officials

Mrs C Kriel: Manager: Land Use Management

Ms O Vergotine: Administrative Officer

Mr P April: Snr Town Planner

Ms B Zondo: Snr Town Planner

Mr T King: Manager: Development Infrastructure Services

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ITEM	SUBJECT
SMPT 01/04/25	OPENING AND WELCOME
	Chairperson Crooijmans-Lemmer welcomed all present.

SMPT 02/04/25	LEAVE OF ABSENCE
	Mrs C Havenga Mrs M Francis Mr S Boshoff

SMPT 03/04/25	DISCLOSURE OF INTERESTS
	None received

SMPT 04/04/25	MINUTES OF THE PREVIOUS MEETING DATED 28 MARCH 2025
	The minutes of the previous meeting was noted.

	MATTERS FOR CONSIDERATION
SMPT 05/04/25	APPLICATION FOR REZONING FROM CONVENTIONAL RESIDENTIAL ZONE TO SUBDIVISIONAL AREA AND SUBDIVISION OF ERF 3 JOHANNESDAL Discussion: <ol style="list-style-type: none"> a. Chairperson Crooijmans-Lemmer handed over to Mrs Zondo to give a brief introduction of the application that served before the Tribunal. b. It is noted that the planning assessment report incorrectly indicates on page 2 of page 10 (Page 28 of the Agenda) that an environmental authorisation is not required. The details of the authorisation and comments by the Department Environmental Affairs and Development Planning are included later in the report. c. Clarity was asked about the conditions by the Department Community Development on the restoration of endangered Boland Granite Fynbos on site and the timeous restoration. Conditions of approval to be included to address this, as well as the proposals made in the HIA and EIA.

- d. Members are positive about the proposed layout and that the proposal is no longer a gated development.
- e. Concerns were raised about the architectural style, the scale and design of buildings to create a harmonious development, especially in such a high-density small development. Conditions of approval to be included to mitigate the impact of a non-prescribed development style in a culturally sensitive rural landscape. Proposals made for the establishment of an owner's association and design guidelines for the developer and owners to control the design of the development were discussed.
- f. Access from Morgenster Street to the new erven was discussed, but due to the slope and difference in levels, access to the erven from Morgenster Street will be difficult and it will be better from the proposed new internal road.
- g. Concerns were raised about the functionality of the open space next to the busy Helshoogte Road and the general lack of play parks in Johannesburg, although it is agreed that it is a need from a wider planning perspective for the town - it cannot be expected from this development. The Municipality should consider this when the details of implementation proposals are considered as part of the site development plan to be submitted.

UNANIMOUSLY RESOLVED:

1. That the application(s) in terms of Section 15 (2) of the Stellenbosch Municipality Land Use Planning Bylaw, 2023 on Erf 3 Johannesburg, namely:

- 1.1 The **Rezoning** in terms of Section 15(2)(a) of the said Bylaw from Conventional Residential Zone to Subdivisional Area to allow for the following uses: -

- a) 20 Conventional Residential Zone erven (4 598 m²)
- b) 1 Open Space Zone (Public Open Space) (553 m²)
- c) 1 Public Roads and Parking Zone (Public Road) (2 087 m²)

- 1.2 The **Subdivision** in terms of Section 15(2)(d) of the said Bylaw in accordance with subdivision plan JD3_SUB01, drawn by: Headland Town Planners, dated: 14/10/2024 to allow for the development in accordance with the sub-divisional zone above.

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

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

- 2.1 The approval only applies to the proposed 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 Bylaws or Regulations that may be applicable.

	<p>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.</p> <p>2.3 The development be undertaken in accordance with the subdivision plan JD3_SUB01, drawn by: Headland Town Planners, dated: 14/10/2024 attached as Annexure C.</p> <p>2.4 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 should include and comply with the conditions as imposed by the Directorate Infrastructure Services in their memorandum with reference Civil LU 2517 and dated 19 July 2023 and 06 June 2023, attached as Annexure H.</p> <p>2.5 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 approval of any building plans, whichever occurs first, or as may be agreed on in writing with the Director Infrastructure Services.</p> <p>2.6 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>2.7 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:</p> <ul style="list-style-type: none"> a) Newly allocated erf numbers b) Co-ordinates c) Survey dimensions d) Street names and numbering <p>2.8 A detailed site development plan as contemplated in terms of Section 16 of the Zoning Scheme Bylaw, 2019 be submitted to the Municipality and approved prior to the registration of the first property/ issuing of a Section 28 clearance certificate, which site development plan satisfactorily addresses, but is 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 following matters:</p> <ul style="list-style-type: none"> 2.8.1 With regards to Annexure H, NMT Infrastructure. 2.8.2 The harmonious architectural design in support of the existing built character of the neighborhood. 2.8.3 Elevations and sections showing the architectural designs of the proposed houses. 2.8.4 A landscaping plan which landscaping plan satisfactorily addresses, but is not necessarily limited to, <ul style="list-style-type: none"> a) Adhering to mitigation measures recommended by studies done, See Annexure Q. b) Screening in the form of appropriate landscaping be provided along the turning circles to soften the road reserve.
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	<p>2.9 The landscaping plan be implemented at the cost of the developer and to the satisfaction of the Municipality prior to 50% of the erven being transferred or 50% of building plans being approved, whichever occurs first.</p> <p>2.10 Street naming and numbers be approved by the Municipality prior to the issuing of a Section 28 Certification.</p> <p>3. The reasons for the above decision are as follows:</p> <p>3.1 The scale and nature of the proposed development will not compromise the existing character of the surrounding landscape considering that it will in fact offer residential opportunities in the area.</p> <p>3.2 The proposed development constitutes infill development and is in line with the principles of the SDF.</p> <p>3.3 Additional traffic can be accommodated on the local road network and there is capacity in infrastructure and services to accommodate the development.</p> <p>4. Matters to be noted:</p> <p>4.1 All engineering services and infrastructure required in terms of the conditions and services agreement 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>4.2 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>4.3 The conditions imposed by the Western Cape Regional office: Water & Sanitation as contained in their letter dated 12 July 2023, attached as Annexure P, be complied with.</p> <p>4.4 The conditions imposed by the Department of Infrastructure: Road Planning as contained in their letter dated 15 November 2023, attached as Annexure J, be complied with.</p>
<p>SMPT 06/04/25</p>	<p>APPLICATION FOR CONSENT USE: FARM NO 1252, STELLENBOSCH</p> <p>Discussion:</p> <p>a. Chairperson Crooijmans-Lemmer handed over to Mr April to give a brief introduction of the application that served before the Tribunal. Mr April referred to building plans that were submitted for the construction of a dwelling house and agricultural building which are primary rights. The dwelling house has already been constructed.</p> <p>b. Questions of clarity were asked about the restrictions for the construction of buildings above the 300m contour line and intensive agriculture above the 380m contour line and it was confirmed. The new buildings (primary right) was constructed on the best position on the lowest point of the property. Land for agricultural activities are limited on site. Historic developments on the neighbouring property are an example of what should not be allowed, rather than a precedent.</p>

- c. The spatial impact of allowing development above the 300m contour line were discussed and it was agreed that this development will be visually intrusive and is not in line with the various studies referenced in the planning assessment report and which were approved by Council as policy guidelines.
- d. The restricted access to the property via a private right of way over an agricultural property as was agreed to privately between the parties was also noted as this a legal matter that has not been resolved.

UNANIMOUSLY RESOLVED:

- 1. That the following application(s) in terms of Section 15(2(o) of the Stellenbosch Municipal Land Use Planning Bylaw for a **consent use** on Farm No. 1252, Stellenbosch Division, namely:

- 1.1 A tourist accommodation establishment to allow five (5) guest accommodation units of one (1) and two (2) bedroom units, single storey on $\pm 120\text{m}^2$ coverage with a building footprint of $\pm 45\text{m}^2$ and
- 1.2 Tourist facilities in order to establish a restaurant (coffee shop/deli) and a wine tasting facility on $\pm 350\text{m}^2$ and an additional restaurant (Bistro/Breakfast area on $\pm 100\text{m}^2$).

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

- 2. The **reasons** for the above decision are as follows:
 - 2.1 The proposal does not conform to the intent of the purpose and development parameters of the applicable zoning of the zoning scheme bylaw for the Agricultural and Rural zoning, as the proposed tourist related activities as secondary uses will become the primary use of the property and dominate the landscape.
 - 2.2 The subject property has a high cultural landscape significance based on its location and the protection and preservation of the agricultural, cultural and rural landscapes will be severely compromised by the proposed siting of the proposed buildings and land uses.
 - 2.3 The siting of the five (5) tourist accommodation units above the permitted 300m contour line is not appropriate for the exposed locational context, it is not clustered, not proposed in existing buildings nor proposed on existing disturbed footprints and its location will have a negative visual impact on the rural landscape, mountain slopes and therefore do not take the natural and heritage significance of the site and its immediate surroundings into consideration.
 - 2.4 Having regard to the desirability of the proposed development, it does not uphold the provisions in the Municipal Spatial Development Framework and the purpose of the applicable zoning in terms of the Zoning Scheme Bylaw.
 - 2.5 The proposed development will have a detrimental impact on the receiving environment and may create an undesirable precedent with a cumulative detrimental impact for the overall productive, cultural and rural landscape.

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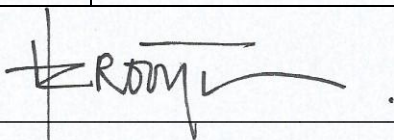
	<p>2.6 The proposed development therefore contradicts the overall vision, strategic objectives, or principles outlined in the Stellenbosch Municipality's approved Spatial Development Framework as it relates to agricultural land in general and the development of tourist facilities on agricultural properties in particular.</p> <p>3. Matters to be noted</p> <p>3.1 The restricted access to the property via a private right of way over agricultural property as was agreed to between the parties is a legal matter that has not been resolved.</p>
<p>SMPT 07/04/25</p>	<p>DIVISION APPLICATION FOR REZONING, CONSENT USE, DEPARTURE AND PERMISSION IN TERMS OF THE ZONING SCHEME: ERF 295, FRANSCHHOEK.</p> <p>Discussion:</p> <ol style="list-style-type: none"> a. Chairperson Crooijmans-Lemmer handed over to Mr April to give a brief introduction of the application that served before the Tribunal. b. Questions of clarity were asked about provisions in the zoning scheme to limit street access width to only one access point to guard against the erosion of the streetscape when 90-degree parking directly from the street is allowed. It was confirmed that the zoning scheme does not provide for such restrictions. <p>UNANIMOUSLY RESOLVED:</p> <ol style="list-style-type: none"> 1. That the following application(s) in terms of Section 15(2) of the Stellenbosch Municipal Land Use Planning Bylaw on Erf 295, Franschhoek namely: <ol style="list-style-type: none"> 1.1 the rezoning of Erf 295, Franschhoek from Conventional Residential Zone to Local Business Zone limited for the purpose to permit a consent use for a Hotel, in terms of Section 15(2)(a) Stellenbosch Municipal: Bylaw on Municipal Land Use Planning 2023, 1.2 a consent use to permit a Hotel on Erf 295, Franschhoek in terms of Section 15(2)(c) of the said bylaw. 1.3 Departure in terms of Section 15(2)(b) of the said bylaw to relax the 4.5m building line to 3m from the south-eastern common boundary with Erf 3809 and Remainder Erf 492, Franschhoek, 4.5m to 3m from the street boundary along Akademie Street for plunge pools and from 4.5m to 0m on the Union Street boundary lines for plunge pools. <p>BE APPROVED in terms of Section 60 of the said Bylaw and subject to conditions of approval.</p> 2 The approval is subject to the following conditions imposed in terms of Section 66 of the said Bylaw: <ol style="list-style-type: none"> 2.1 The approval only applies to the proposed applications under consideration and shall not be construed as authority to depart from any other legal prescriptions

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	<p>or requirements from Council or other legislation or Bylaws or Regulations that may be applicable.</p> <p>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.</p> <p>2.3 The development be undertaken in accordance with the Site and Building Plans with reference; Drawing 210-SK-001 to 004 and 006, 007, dated 05/03/2024 and 26/07/2024 and drawn by Young Architecture and attached as APPENDIX 2.</p> <p>2.4 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 conditions of approval have been complied with.</p> <p>2.5 Compliance with the conditions relating to approval of Heritage Western Cape in their approval dated 20 March 2024 and attached as APPENDIX 5.</p> <p>2.6 Compliance with the conditions relating to infrastructure services contained in memorandum (Civil LU2703, dated 07 October 2024) and attached as APPENDIX 6.</p> <p>2.7 Compliance with the conditions relating to Electrical Services Department contained in email dated 07 May 2024 attached as APPENDIX 6.</p> <p>2.8 Compliance with the conditions relating to infrastructure services contained in memorandum dated 12 July 2024 and attached as APPENDIX 7.</p> <p>2.9 Sufficient on-site parking be provided in accordance with the provisions of the Zoning Scheme Bylaw and to be illustrated on the building plans.</p> <p>2.10 The rezoning and consent use only grants the right to operate an eight (8) bedroom hotel from Erf 295, Stellenbosch and any other land uses listed in the zoning categories will require a new application for processing and a decision by the municipal decision maker.</p> <p>2.11 The dining facility of the hotel may only be available to paying guest in the accommodation rooms and may not be open for the public.</p> <p>3 The reasons for the above decision are as follows:</p> <p>3.1 The development will enhance tourism and the local economy without significantly disrupting the residential environment.</p> <p>3.2 Sufficient municipal services will be provided for the development.</p> <p>3.3 All required parking will be provided onsite.</p> <p>3.4 The zoning, consent use applied for, relevant departures, sufficient parking provision, access off quiet roads and proposed architectural style will ensure that the 8-bedroom hotel is compatible with the surrounding land uses and will minimize the potential conflict with residents of the area it is located in.</p> <p>4 Matters to be noted:</p> <p>4.1 The following applications revert back to the Authorized Employee for a decision in terms of the approved system of delegations.</p>
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	<p>4.1.1 Permission in terms of Section 246(1) of the Zoning Scheme Bylaw 2023 for an application made in terms of Section 15(2)(g) of the said bylaw for Councils to permit the proposed alterations and additions (including the demolition of structures, the removal of a mature tree and the removal of some garden space for parking), within the Urban Conservation Overlay Zone (Franschhoek Urban Conservation area) on Erf 295, Franschhoek.</p> <p>4.1.2 Permission in terms of the provisions of Section 252(2)(a) & (c) of the Zoning Scheme Bylaw (2023) for an application made in terms of Section 15(2)(g) of the said bylaw, to increase the building height from 8.5m to 9.2m in the Franschhoek Urban Conservation Area and to permit the proposed boundary wall/fence along Akademie Street to be 1.3m in height and along Union Street to be 1.2m in height, in lieu of 1m height restriction for boundary walls in the Franschhoek Urban Conservation Area on Erf 295, Franschhoek.</p> <p>4.2 When the new zoning scheme bylaw is implemented for Stellenbosch Municipality, the property's zoning will be converted to the most restrictive use permitted under the new bylaw.</p>
SMPT 08/02/25	OTHER MATTERS
8.1	PLANNING POLICIES (REVIEWED OR APPROVED BY COUNCIL)
	No new policies to be noted.
8.2	APPEALS RECEIVED AGAINST MPT DECISION
	No new appeals against MPT decisions were received.
8.3	GENERAL



Mrs H Crooijmans-Lemmer
CHAIRPERSON: MUNICIPAL PLANNING TRIBUNAL



Mr P van Zyl
DEPUTY-CHAIRPERSON: MUNICIPAL PLANNING TRIBUNAL