

MINUTES: STELLENBOSCH MUNICIPAL PLANNING TRIBUNAL 30 MAY 2025

MINUTES OF THE STELLENBOSCH MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON FRIDAY, 30th OF MAY 2025 AT THE STELLENBOSCH COUNCIL CHAMBERS, STELLENBOSCH MUNICIPALITY, PLEIN STREET, STELLENBOSCH FROM 10H00-15H00

**Ref. no. 3/4/5/2/40
2025-05-30**

Chairperson

Mrs H Crooijmans-Lemmer

Deputy-Chairperson

Mr P Van Zyl

External Members

Mr D Leo

Mrs C Havenga

Mr S 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

Mrs M Francis: Senior Manager - Infrastructure Planning, Development, and Implementation

Officials

Mr S Carstens: Senior Manager Development Management

Mrs C Kriel: Manager: Land Use Management

Ms O Vergotine: Administrative Officer

Ms N Dafeti: Town Planner

Ms B Zondo: Senior Town Planner

Mr R Fooy: Senior Town Planner

Observers

Mr Wilhelm Esterhuizen (Applicant)

Mr Louw (Owner)

Ms De Freitas (Student)

MINUTES: STELLENBOSCH MUNICIPAL PLANNING TRIBUNAL 30 MAY 2025

ITEM	SUBJECT
SMPT 01/05/25	OPENING AND WELCOME
	Chairperson Crooijmans-Lemmer welcomed all present.

SMPT 02/05/25	LEAVE OF ABSENCE
	Mr K Munro

SMPT 03/05/25	DISCLOSURE OF INTERESTS
	None received

SMPT 04/05/25	MINUTES OF THE PREVIOUS MEETING DATED 25 APRIL 2025
	The minutes of the previous meeting was noted.

	MATTERS FOR CONSIDERATION
SMPT 05/05/25	<p>APPLICATION IN TERMS OF SECTION 15(2)(O) OF THE STELLENBOSCH MUNICIPALITY BYLAW ON MUNICIPAL LAND USE PLANNING, 2023 FOR CONSENT USE FOR TOURIST ACCOMMODATION ESTABLISHMENT ON FARM NO. 1471/6, STELLENBOSCH DIVISION</p> <p>Discussion:</p> <ul style="list-style-type: none"> a. Chairperson Crooijmans-Lemmer handed over to Mrs Dafeti to give a brief introduction of the application that served before the Tribunal. b. The implementation of policy guidelines and the requirement for a motivation for site-specific circumstances and the uniqueness thereof to justify deviation in comparison to general circumstances were discussed. c. An email request from the Applicant requesting the "Chairperson of the MPT to consider and maybe request a description from the Planning

Department of how they acted on the previous MPT resolution to assist us in *working out a desirable urban design solution*" was briefly discussed and the Chairperson referred the matter to the Department for direct response as it relates to a technical matter.

UNANIMOUSLY RESOLVED:

1. That it **BE DECIDED** that the application for Consent Use on Farm No. 1471/6, Stellenbosch Division to establish four (4) tourist accommodation units deviates from the provisions of the Stellenbosch Municipality SDF as contemplated in terms of Section 19 of the Western Cape Land Use Planning Act, 2014 (Act 3 of 2014), for the following reasons:
 - 1.1 The proposal exceeds the number of dwelling units permitted on a property to the extent of 4,35ha as prescribed by the MSDF for agricultural properties and thus conflicts with the spatial planning objectives of the MSDF.
 - 1.2 The proposal will lead to the loss of agricultural land and compromise the existing farming activities.
2. That it **BE DECIDED** that the application for Consent Use on Farm No. 1471/6, Stellenbosch Division to establish two (2) new tourist accommodation units **does not** warrant site specific circumstances as contemplated in terms of Section 22(2) of Spatial Planning and land Use Management Act, 2013 (Act 16 of 2013) for the following reasons:
 - 2.1 There are not any unique circumstances or considerations to serve as compelling justification to deviate from the prescribed number of additional dwelling units and the location / placement of the proposed units.
3. That it **BE DECIDED** that the application for Consent Use on Farm No. 1471/6, Stellenbosch Division to convert existing buildings into two (2) tourist accommodation units and one bedroom with en-suite **does** warrant site specific circumstances as contemplated in terms of Section 22(2) of Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) for the following reasons:
 - 3.1 The proposal will utilize the existing manager's dwelling (second dwelling) and farm store located on the farm werf and within the disturbed and approved building footprint as tourist accommodation units.
4. That the following application in terms of Section 15(2)(o) of the Stellenbosch Municipality Land Use Planning Bylaw, 2023 on Farm No. 1471/6,

	<p>Stellenbosch Division for Consent Use to construct and establish two (2) new tourist accommodation units:</p> <p>BE REFUSED in terms of Section 60 of the said Bylaw for the following reasons:</p> <p>4.1 The proposed development deviates from the provisions of the prevailing development agenda and strategy of the Stellenbosch MSDP as contemplated in terms of Section 19 of LUPA.</p> <p>4.2 The proposed development does not warrant site specific circumstances as contemplated in terms of section 22(2) of SPLUMA.</p> <p>4.3 The proposed development is not consistent with the broader spatial planning principles as set out in LUPA and SPLUMA.</p> <p>4.4 The proposal exceeds the number of dwelling units permitted on a property which is 4.35ha in extent.</p> <p>4.5 The proposed application does not conform to the guidelines for the placement of the proposed dwelling units in that the buildings are proposed on productive agricultural land which will lead to the loss of agricultural land and compromise existing or potential farming activities.</p> <p>5. That the following application in terms of Section 15 (2)(o) of the Stellenbosch Municipality Land Use Planning Bylaw, 2023 on Farm No. 1471/6, Stellenbosch Division for Consent Use to utilize the existing manager's house (second dwelling) as two tourist accommodation units (a two-bedroom unit and a one-bedroom suite) with a reception area and the existing farm store as a one-bedroom tourist accommodation unit:</p> <p>BE APPROVED in terms of Section 60 of the said Bylaw and subject to conditions of approval.</p> <p>6. The approval is subject to the following conditions imposed in terms of Section 66 of the said Bylaw.</p> <p>6.1 The approval only applies to the 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> <p>6.2 The proposed tourist accommodation establishment shall be limited to the existing manager's house (second dwelling) and the existing farm store and no new buildings be constructed.</p> <p>6.3 The development be implemented generally in accordance with the site & floor layout plan referenced as TZ – 2045, Revision A, Page 1 – 3 drawn by Tim Ziehl Architects, dated 3 December 2024 attached as Annexure B.</p>
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- 6.4 The tourist accommodation establishment be subservient to the dominant agricultural use of the property.
- 6.5 Development contributions are payable in accordance with the prevailing and applicable Council Tariffs at the time of payment prior to the approval of any building plans.
- 6.6 Conditions as imposed by the Directorate Infrastructure Services in their memo dated 7 October 2024 be adhered to. See **Annexure J**.
- 6.7 Conditions as imposed by WCG Department Infrastructure in their letter dated 11 January 2024 be adhered to. See **Annexure H**.
- 6.8 Building plans be submitted for all changes of use in existing buildings and which building plans be approved and related occupancy certificates be issued prior to the vesting of any of the related uses.

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

- 7.1 The proposal is confined to existing structures and in line with the current land use of the property and will not negatively impact on the character of the surrounding area.
- 7.2 The proposed use is of appropriate scale, on the farm werf and subservient to the agricultural use of the property and surrounding farms.
- 7.3 The proposal will assist in diversifying the land use on the farm without impacting on the existing agricultural activities.

8. Matters to **be noted**:

- 8.1 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.
- 8.2 Should, after following due process –
 - 8.2.1 The subject approved land use remain in breach of complying with any of the conditions of approval required for the vesting of the subject approval, and/ or
 - 8.2.2 The operational use of the facility and establishment be in breach of any of the conditions of approval, inclusive of persistent complaints of undue noise levels, and/ or
 - 8.2.3 The property be used for any unauthorised uses not permitted in terms of this approval, authorised official of the Municipality will exercise its discretion in terms of Section 90(c) of the Municipal Land Use Planning By-Law to withdraw the subject approval granted and the building structures to be reverted to uses in line with the primary use of the property.

MINUTES: STELLENBOSCH MUNICIPAL PLANNING TRIBUNAL 30 MAY 2025

SMPT 08/05/25	OTHER MATTERS
8.1	PLANNING POLICIES (REVIEWED OR APPROVED BY COUNCIL)
	<ol style="list-style-type: none"> 1. A general discussion followed on the implementation of policy with specific reference to site-specific justification for tourist accommodation and the impact of development in general on not only agriculture but also on the rural landscape based on its cultural, historic can scenic value. 2. The Department indicated that the Spatial Planning section is working on rural guidelines that is Stellenbosch specific. 3. It was reported that a report on the draft zoning scheme bylaw and the comments received and how it will be addressed must be submitted to Council in June.
8.2	APPEALS RECEIVED AGAINST MPT DECISION
	<p>APPEAL AGAINST A PART OF AND THE CONDITIONS OF APPROVAL OF THE APPLICATION FOR THE REZONING AND SUBDIVISION OF PORTION 1 OF FARM GROENFONTEIN NO. 717, PAARL DIVISION IN KLAPMUTS (LU9820)</p> <p>Discussion:</p> <ol style="list-style-type: none"> a. Chairperson Crooijmans-Lemmer handed over to Mr Carstens to give a brief introduction of the appeal and decision to be taken by the Tribunal. b. The Appellant has lodged a request to not suspend the approval regardless of the appeal. The reference in the subject letter of the Appellant to Section 51(3) of LUPA however finds application to the equivalent provision in the Municipal Bylaw in terms of Section 61(6) which stipulates that <i>"If an appeal is lodged only against conditions imposed in terms of section 66, the Tribunal or the authorized employee may determine that the approval of the application is not suspended"</i>. c. The need for firm conditions of approval were discussed and confirmed to be necessary to ensure the implementation of the development in accordance with land use planning principles and infrastructure requirements. It was agreed that the approval for the rezoning to Subdivisional Area and the subdivision of the property cannot be separated from the conditions of approval. <p>UNANIMOUSLY RESOLVED:</p> <ol style="list-style-type: none"> 1. That the request to not suspend the approval regardless of the appeal BE REFUSED, for the following reasons: <ol style="list-style-type: none"> 1.1. The conditions being appealed are materially attached to the approval and in pursuance of implementing the approval that was granted.

MINUTES: STELLENBOSCH MUNICIPAL PLANNING TRIBUNAL 30 MAY 2025

8.3	GENERAL
	None to note.

A handwritten signature in black ink, appearing to read 'P van Zyl', with a horizontal line underneath.

Mr P van Zyl

DEPUTY CHAIRPERSON: MUNICIPAL PLANNING TRIBUNAL