MINUTES OF THE STELLENBOSCH MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON FRIDAY, 28th OF MARCH 2025 AT THE STELLENBOSCH COUNCIL CHAMBERS, STELLENBOSCH MUNICIPALITY, PLEIN STREET, STELLENBOSCH FROM 10H00-15H00

Ref. no. 3/4/5/2/40
2025-03-28

Chairperson
Mrs H Crooijmans-Lemmer

Deputy-Chairperson
Mr P Van Zyl

External Members
Mrs C Havenga
Mr D Leo

Internal Members
Mr A Barnes: Director - Planning and Economic Development
Mr A van der Merwe: Senior Manager - Community Services
Mrs M Francis: Senior Manager - Infrastructure Planning, Development, and Implementation
Mr T King: Manager: Development - Infrastructure Services

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
Ms O Vergotine: Administrative Officer
Mrs N Dafeti: Town Planner
Mr R Fooy: Snr Town Planner
Ms B Zondo: Snr Town Planner
Ms G Makamu: Land Use Inspector
Ms M Fikeni: Land Use Inspector

ITEM	SUBJECT
SMPT 01/03/25	**OPENING AND WELCOME**
	Chairperson Crooijmans-Lemmer welcomed all present.

SMPT 02/03/25	**LEAVE OF ABSENCE**
	Mr S Boshoff Mr M Williams

SMPT 03/03/25	**DISCLOSURE OF INTERESTS**
	None received

SMPT 04/03/25	**MINUTES OF THE PREVIOUS MEETING DATED 28 FEBRUARY 2025**
	The minutes of the previous meeting was noted.

	MATTERS FOR CONSIDERATION
SMPT 05/03/25	**APPLICATION FOR REZONING AND SUBDIVISION OF FARM 717/1, PAARL DIVISION FROM AGRICULTURAL ZONE I TO SUB DIVISIONAL AREA WITH A DEPARTURE AND CONSENT FOR WAREHOUSING AND TRANSPORT USAGE** **Discussion:**

a. Chairperson Crooijmans-Lemmer handed over to Mr Robert Fooy to give a brief introduction of the application that served before the Tribunal. The proposal was amended since the item was before the MPT in October 2024.

b. Questions for clarity were asked about the phasing of the development, and it was proposed to consider a condition to ensure access to the adjoining property, Farm 749. Clarity was provided that the land for the road must be transferred to the Municipality. The development/construction of the road will be the responsibility of the developer and can be funded through development contributions which will form part of the conditions of approval as indicated in the comments and conditions proposed by the Directorate Infrastructure Services.

c. The revised proposal secured access to the land locked property through the planning application and the MPT was all in support of the application.

d. Discussions ensued regarding public access to the private open space land unit and its management as part of the open space system in the area. A condition of approval was included which stipulated that the property must be managed as part of the development and given the flood line, the involvement of the municipality would be triggered in this.

UNANIMOUSLY RESOLVED:

1. That it **BE DECIDED** that the application for Rezoning and Subdivision with Departures and Consent Use on the subject property, Farm 717/1, Paarl Division, **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 MSDF has identified the western portion of Farm 717/1, Paarl Division, for "Green Areas Retained".

	2. That it **BE DECIDED** that the application for Rezoning and Subdivision with Departures and Consent Use on the property on Farm 717/1, Paarl Division **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: 2.1 There are unique circumstances or considerations to serve as compelling justification to deviate from the Municipal Spatial Development Framework (MSDF), as the 2023 MSDF, did not consider the existing approvals granted for mixed use in the form of Group Housing and Industrial developments along the river corridor and surrounding area when being revised. 2.2 The proposal under consideration for Farm 717/1, Paarl Division, may not be aligned with the MSDF, but is not considered to be out of character with the surrounding land use approvals granted in the surrounding area. 2.3 The proposed development of Farm 717/1, Paarl Division, will have no impact on the urban growth management of the area, or the development agenda and strategy of the 2023 MSDF. 3. That the following application(s) in terms of Section 15(2) of the Stellenbosch Municipal Land Use Planning Bylaw on Farm 717/1, Paarl Division for: 3.1 Rezoning in terms of Section 15(2)(a) of the said by-law from *Agricultural Zone* I to *Sub-Divisional Area*, in order to accommodate a mixed-use development comprising the following zonings: 3.1.1 Residential Zone II (±1.57ha) 3.1.2 Transport Zone II (± 1.2ha) 3.1.3 Industrial Zone I (± 3.2206ha) 3.1.4 Open Space Zone II (± 1.3137ha), 3.2 Subdivision in terms of Section 15(2)(d) of the said by-law comprising the following: 3.2.1 Portion A measuring ±1.57ha for Group Housing purposes. 3.2.2 Portion B measuring ± 1.34ha for Industrial Zone I purposes.

	3.2.3 Portion C measuring ± 1.88ha for Industrial Zone I purposes. 3.2.4 Portion D measuring ± 1.31ha for Open Space Zone II purposes. 3.2.5 Portion E measuring ± 0.18ha for Transport Zone II purposes (Public Road) 3.2.6 Portion F measuring ± 0.19ha for Transport Zone II purposes (Public Road) 3.2.7 Portion G measuring ± 0.84ha for Transport Zone II purposes (Public Road) 3.3 *Departure* in terms of Section 15(2)(b) of the said by-law comprising the following: 3.3.1 To permit a density of *25 units / hectare* in lieu of the permitted *20 units / hectare on* Portion A. 3.3.2 *To provide only 30m² of communal open space per dwelling unit in lieu of the required* 80m² *of communal open space* per dwelling unit *on* Portion A, 3.3.3 To provide *20% of private outdoor space* of the gross floor space of the unit, *in lieu of the* required 40% *on* Portion A. 3.4 *Consent Use* in terms of Section 15(2)(o) of the said by-law to permit warehousing and transport usage of the Industrial Zone I properties. **BE APPROVED** in terms of Section 60 of the said Bylaw and subject to conditions of approval. 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 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. 4.2 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. 4.3 The subdivision only comes into effect once all suspensive conditions or relevant legislative provisions have been complied with.

	4.4 The development must be undertaken in accordance with the zoning and subdivision plan, Ref: PA717-1, Dwg: PROP_REV15, Dated December 2024 and attached as **Annexure B**. 4.5 All land designated for the provision of municipal service infrastructure and amenities on the subdivision plan including the road portions E, F and G 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. 4.6 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 property or approval of any building plans or as may be agreed on in writing with the Director Infrastructure Services. 4.7 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 includes and complies with the conditions as imposed by the *Directorate Infrastructure Services* in their Memo / letter with R*eference 2169 CIVIL LU and Dated February 2025 and attached as* ***Annexure D.*** 4.8 All engineering services and infrastructure as required in terms of the 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. 4.9 The conditions of approval as imposed by the Western Cape Government, Infrastructure, Chief Directorate: Road Planning be complied with as imposed in their letter Dated 8 August 2023, Ref TPW/CFS/LUD/REZ/SUB-25/335 (Job 27206), attached as **Annexure E**. 4.10 An electronic copy (shp, dwg, dxf) of the approved General Plan be submitted to the Directorate Planning and Economic Development for record keeping purposes, which plan indicate the following information: 4.10.1 Newly allocated erf numbers 4.10.2 Co-ordinates 4.10.3 Survey dimensions 4.10.4 Street names and numbering 4.11 A Street Numbering and Naming Plan to be submitted to the Municipality for approval prior to the registration of the first land unit within the subdivision.

	4.12 The ***industrial zoned properties use*** be ***limited to activities that are light industrial in nature which includes warehousing and transport purposes with associated activities as approved in terms of the consent use*** *and that all industrial* activities do not have any negative impact on the surrounding residential area in terms of noise and air pollution. 4.13 An owner's association to be established in terms of section 29(1) of the subject Bylaw to manage the communal property as required. 4.14 A constitution for the owner's association be submitted and approved by the municipality in terms of Section 29(3) of the subject Bylaw prior to the transfer of the first land unit, which constitution must make provision for the relevant matters in Section 29 of the subject Bylaw. 4.15 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. 4.16 That should the applicant propose to phase the development a phasing plan be submitted to the Municipality for approval prior to the transfer or registration of the first land unit. 5. The **reasons** for the above decision are as follows: 5.1 The application under consideration is not out of character with its surroundings. 5.2 The proposal will provide access to adjoining properties that are currently land locked and thereby facilitate the development of these properties. 5.3 Additional work and residential opportunities will be created for the residents of Klapmuts and surroundings. 6. Matters **to be noted**: 6.1 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. 6.2 All electrical requirements be directed to Eskom.

	6.3 The land use shall not create any undue noise or be a nuisance to the neighbourhood and precautionary measures be taken 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). 6.4 An application for the erection of advertising signs be submitted for approval to the Municipality and that all signage on the property be erected to the satisfaction of the Municipality OR be in line with the signage policy of the Municipality. 6.5 No directional signage be erected without the prior approval of the Provincial Roads Engineer and the Municipality. 6.6 Compliance to the condition of the Environmental Authorization granted.
SMPT 06/03/25	**APPLICATION IN TERMS OF SECTION 15 (2)(O) OF THE STELLENBOSCH MUNICIPALITY LAND USE PLANNING BYLAW, 2023 ON FARM 1119/2 PAARL DIVISION FOR CONSENT USE TO EXPAND THE TOURIST ACCOMMODATION ESTABLISHMENT BY CONVERTING THE EXISTING COTTAGES TO ADDITIONAL TOURIST ACCOMMODATION UNITS ALLOWING 9 TOURIST DWELLING UNITS** **Discussion:** 1. Chairperson Crooijmans-Lemmer handed over to Ms Bongiwe Zondo to give a brief introduction of the application that served before the Tribunal. 2. Questions for clarity were asked about the current operations. It was confirmed that all buildings on the property do have approved building plans. The cottages were used as tourist units by the previous owner and ceased to operate after the Covid pandemic. The new landowner seek approval for the proposed land uses before leasing it out as tourist units. 3. Concerns were raised by some members about the site-specific motivation which is not convincing. An alternative viewpoint was raised that although it is not a policy position to support alternative uses for existing buildings, the impact of not maintaining empty buildings in the rural landscape and lost economic opportunities should also be considered. 4. After discussions the members were all in support of the proposal.

UNANIMOUSLY RESOLVED:

1. That it **BE DECIDED** that the application for Consent Use on Farm 1119/2 Paarl Division to allow additional tourist units within the existing cottages **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 prescribed by the MSDF for agricultural properties and thus conflicts with the spatial planning objectives of the MSDF.

   1.2 Considering the footprint of the labourer's cottages as per the NEMA 24G Application, the coverage of two of the cottages exceeds the maximum floor area of 175m² prescribed in the MSDF.

2. That it **BE DECIDED** that the application for Consent Use on Farm 1119/2 Paarl Division to allow additional tourist units within the existing cottages **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:

   2.1 There are unique circumstances or considerations to serve as compelling justification to deviate from the prescribed number of additional dwelling units as well as the associated footprint / floor area as the proposal is to convert existing buildings to ensure that the farming landscape does not change and that the primary agricultural use remains intact.

3. That the application in terms of Section 15 (2)(o) of the Stellenbosch Municipality Land Use Planning Bylaw, 2023 on Farm 1119/2 Paarl Division for **Consent Use** to expand the tourist accommodation establishment by converting the existing cottages to additional tourist accommodation units allowing 9 tourist dwelling units

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

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 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.

4.2 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.

4.3 The tourist accommodation establishment be limited to 12 bedrooms accommodating a maximum of 24 paying guests at any time and be confined to nine tourist accommodation units in the existing buildings, i.e. 6 Garden Cottages and 3 River Cottages.

4.4 The development be implemented generally in accordance with the Site Development Plan Drawing No P001 dated 06/08/2024 and cottage floor plans referenced as Drawing No: P002 – P008 drawn by: JLV (JV Planning Consultants), dated: 01/11/2023 attached as **Annexure C**.

4.5 No employee housing for farm workers may be developed in the place of the former employee housing units that has been converted to the tourist dwelling units approved in this application, and should the need arise for such employee housing units for farm workers in the future, the existing tourist dwelling units must be converted back to its original use as employee housing units.

4.6 Development charges are payable in accordance with the prevailing and applicable Council Tariffs at the time of payment prior to the approval of any building plans or as may be agreed on in writing with the Director Infrastructure Services.

4.7 Building plans be submitted for all changes of use in the existing buildings and which building plan(s) be approved and related occupancy certificates be issued prior to the vesting of any of the related approvals.

4.8 A contravention penalty of R10 000 per dwelling unit (x 4) in accordance with the approved tariffs of Council, is payable within 30 days from date of the subject approval.

4.9 The land use shall not create any undue noise or be a nuisance to the neighbourhood and that precautionary measures be taken 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).

4.10 The conditions imposed by the **Director: Infrastructure Services** as contained in their memo dated 18 March 2024, attached as **Annexure H**, be complied with.

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

5.1 The proposal is of appropriate scale and confined to existing structures previously approved.

5.2 The proposal is in line with the current use of the property and will not have a negative impact on the character of the surrounding area or compromise the development goals of the rural landscape.

5.3 The proposed use is subservient to the agricultural activities on the farm and helps to diversify the land use on the farm without affecting potential agricultural production.

6. Matters to **be noted**:

6.1 Building plans be approved by the municipality prior to any building work commencing.

6.2 No directional signage be erected without the prior approval of the Provincial Roads Engineer and the Municipality.

6.3 Should, after following due process –

	a) The subject approved land use remains in breach of complying with any of the conditions of approval required for the vesting of the subject approval, and/ or, b) The operational use of the facilities be in breach of any of the conditions of approval, inclusive of persistent complaints of undue noise levels, and/ or, c) The property be used for any unauthorised uses not permitted in terms of this approval, the 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.
SMPT 07/03/25	**APPLICATION IN TERMS OF SECTION 15 (2)(O) OF THE STELLENBOSCH MUNICIPALITY LAND USE PLANNING BYLAW, 2023 ON FARM 1377 PAARL DIVISION FOR CONSENT USE TO EXPAND THE TOURIST ACCOMMODATION ESTABLISHMENT IN THE ESTABLISHED GUESTHOUSE (1735 M²) AND IN THE CONVERTED GARAGE AND OUTBUILDING (169M²) ALLOWING 12 BEDROOMS** **Discussion:** 1. Chairperson Crooijmans-Lemmer handed over to Ms Bongiwe Zondo to give a brief introduction of the application that served before the Tribunal. 2. Questions for clarity were asked about the possibility for the owner to build new garages if it is converted to a different use through this application and it was confirmed that such a building plan will be circulated for town planning input who will consider the outcome of the application. **UNANIMOUSLY RESOLVED:** 1. That it **BE DECIDED** that the application for Consent Use on Farm 1377 Paarl Division to allow additional dwelling units within the existing triple garage building and outbuilding **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 prescribed by the MSDF for agricultural properties and thus is in conflict with the spatial planning objectives of the MSDF. 2. That it **BE DECIDED** that the application for Consent Use on Farm 1377 Paarl Division to allow additional dwelling units within the existing triple garage building and outbuilding **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: 2.1 There are unique circumstances or considerations to serve as compelling justification to deviate from the prescribed number of additional dwelling units as the; a) The proposal will utilise the existing buildings as approved, and the context of the development is the same and is subservient to agricultural activities on the farm. b) The proposed tourist units are confined within the existing buildings thus the agricultural viability of the farm will not be impacted on. 3. That the following application in terms of Section 15 (2)(o) of the Stellenbosch Municipality Land Use Planning Bylaw, 2023 on Farm 1377 Paarl Division for Consent Use to expand the tourist accommodation establishment in the established guesthouse (1735 m^2) and in the converted garage and outbuilding (169m^2) allowing 12 bedrooms; **BE APPROVED** in terms of Section 60 of the said Bylaw, subject to conditions in terms of Section 66 of the said Bylaw. 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 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. 4.2 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. 4.3 The tourist accommodation establishment be limited to 12 bedrooms accommodating a maximum of 24 paying guests at any time and be confined to the established guesthouse (second dwelling and outbuilding) in the extent of 1735m^2 and the five (5) new tourist units to the extent of 169m^2 in the converted garage and outbuilding. 4.4 A contravention penalty of R10 000 per dwelling unit (x 1) in accordance with the approved tariffs of Council, is payable within 30 days from date of the subject approval. 4.5 Development charges are payable in accordance with the prevailing and applicable Council Tariffs at the time of payment prior to the approval of any building plans or as may be agreed on in writing with the Director Infrastructure Services. 4.6 The development be implemented in accordance with the Site Development Plan, referenced as File No: No: V 30-131, drawing No: 4, dated April 2024, drawn by: PJ le Roux, and Floor plans referenced as Project No: 1605, sheet No: 004, 001 & 002, Rev 2, drawn by a3d architects, dated September 2022, attached as **Annexure C**. 4.7 Building plans be submitted for all changes of use in the existing buildings and which building plan(s) be approved and related occupancy certificates be issued prior to the vesting of any of the related approvals. 4.8 The conditions imposed by the **Director: Infrastructure Services** as contained in their memo dated 24 July 2024, attached as **Annexure F**, be complied with. 5. The **reasons** for the above decision are as follows:

	5.1 The proposal is in line with the existing land use of the property and will not have a negative impact on the character of the surrounding area. 5.2 The proposed tourist units are confined within the existing buildings thus the agricultural viability of the farm will not be impacted on. 5.3 The proposal conforms to the policy guidelines for the placement of buildings, in that the buildings should be clustered together within or near the farmstead precinct. 5.4 The proposed uses are subservient to the agricultural use of the property and surrounding farms. 5.5 The proposal will assist to diversify the land uses on the farm without impacting on the existing agricultural activities. 6. Matters **to be noted**: 6.1 Building plans be approved by the municipality prior to any building work commencing. 6.2 No directional signage be erected without the prior approval of the Provincial Roads Engineer and the Municipality. 6.3 Should, after following due process – a) The subject approved land use remains in breach of complying with any of the conditions of approval required for the vesting of the subject approval, and/ or, b) The operational use of the facilities be in breach of any of the conditions of approval, inclusive of persistent complaints of undue noise levels, and/ or, c) The property be used for any unauthorised uses not permitted in terms of this approval, the 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.

SMPT 08/03/25	**APPLICATION IN TERMS OF SECTION 15(2)(O) AND 15(2)(B) OF THE STELLENBOSCH MUNICIPAL LAND USE PLANNING BY-LAW, 2023 FOR A CONSENT USE FOR A TOURIST ACCOMMODATION ESTABLISHMENT AND DEPARTURE ON FARM NO. 266/11, STELLENBOSCH DIVISION (LU/16630 & TP589/2023)** **Discussion:** a. Chairperson Crooijmans-Lemmer handed over to Mrs Louisa Engelbrecht to give a brief introduction of the application that served before the Tribunal. b. Concerns were raised about the current dilemma of the size of the property due to a subdivision approval in the past, limiting the option to use it as a farm. The refusal of a similar application in 2013 is noted as well as the illegal construction and use of the building. c. There was consensus on the recommendation to refuse the application and it is recognised that the enforcement of illegal activities and building works must be pursued by the Municipality as a separate process. **UNANIMOUSLY RESOLVED:** 1. That it **BE DECIDED** that the application for Consent Use and Departure on Farm No. 266/11, Stellenbosch Division to utilize an existing building (which consist of two dwelling units comprising five bedrooms) as an extension to the existing approved guest house to allow for a tourist accommodation establishment with a total of 18 bedrooms, **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 proposed development exceeds the number of dwelling units prescribed by the MSDF for Agricultural properties and thus is in conflict with the spatial planning objectives of the MSDF. 2. That it **BE DECIDED** that the application for Consent Use and Departure on Farm No. 266/11, Stellenbosch Division to utilize an existing building (which consist of two

dwelling units comprising five bedrooms) as an extension to the existing approved guest house to allow for a tourist accommodation establishment with a total of 18 bedrooms **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 The size of the subject property (1,0756ha) does not allow the number of units proposed and there are not any unique circumstances or considerations to serve as compelling justification to deviate from the prescribed number of additional dwelling units

2.2 The subject proposed development will become primary use of this property as it will not be subservient to the agricultural use that the property is zoned for.

3. That the application in terms of Section 15(2)(o) of the Stellenbosch Municipality Land Use Planning By-Law, 2024 for a:

3.1 **Consent Use** for to utilize an existing building (which consist of two dwelling units comprising five bedrooms) as an extension to the existing approved guest house to allow for a tourist accommodation establishment with a total of 18 bedrooms Farm No. 266/11, Stellenbosch Division; and

3.2 **Departure** to relax the **5,0m** common building line (adjacent to Farm No. 266/10, Stellenbosch Division) to **0,3m** and **0,9m** to accommodate the existing building on the subject property

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

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

4.1 The scale of the proposed tourist accommodation is considered to be an overdevelopment of the subject property and does not fully consider the purpose of the Agriculture & Rural Zone.

4.2 The proposal is not in line with the existing agricultural character of the area, as the proposal gives rise to urban development within the rural area.

	4.3 The scale of the proposed development in relation to the size of the property is not in line with the objectives of the zoning of the property. 4.4 The size of the subject property does not allow the proposed number of dwelling units. 4.5 The proposed number of dwellings is not justifiable, and as a result, the relaxation of the building lines cannot be permitted. 4.6 The proposed land use is deviating from the MSDF and not in compliance with the objectives of the zoning scheme bylaw.
SMPT 09/03/25	**APPLICATION IN TERMS OF SECTION 15(2)(O) AND (G) OF THE STELLENBOSCH MUNICIPAL LAND USE PLANNING BYLAW, 2023 FOR A CONSENT USE FOR A TOURIST ACCOMMODATION ESTABLISHMENT AND TOURIST FACILITIES AND PERMISSION IN TERMS OF THE ZONING SCHEME FOR AN AGRICULTURAL INDUSTRY ON FARM NO. 1832, PAARL DIVISION (LU/16357 & TP515/2023)** **Discussion:** a. Chairperson Crooijmans-Lemmer handed over to Mrs Louisa Engelbrecht to give a brief introduction of the application that served before the Tribunal. b. Questions of clarity were asked about the illegal uses and what is newly proposed and there was consensus with the recommendation. **UNANIMOUSLY RESOLVED:** 1. That it **BE DECIDED** that the application for Consent Use on Farm No. 1832, Paarl Division to establish ten (10) 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 45,8ha as prescribed by the MSDF for agricultural properties and thus conflicts with the spatial planning objectives of the MSDF.

	2. That it **BE DECIDED** that the application for Consent Use on Farm No. 1832, Paarl Division to establish ten (10) 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 is not any unique circumstances or considerations to serve as compelling justification to deviate from the prescribed number of additional dwelling units. 3. That the following applications in terms of the Stellenbosch Municipality Land Use Planning Bylaw, 2023 on Farm No. 1832, Paarl Division: 3.1 Application in terms of Section 15(2)(o) of the said Bylaw for Consent Use to construct and establish ten (10) new **tourist accommodation** units; 3.2 Application in terms of Section 15(2)(o) of the said Bylaw for Consent Use for a **tourist facility** for purposes of an art gallery; 3.3 Application is terms of Section 15(2)(o) of the said Bylaw for Consent Use for a tourist facility to utilize the existing second dwelling unit for a **wellness center**; **BE REFUSED** in terms of Section 60 of the said Bylaw for the following reasons: 4. The **reasons** for the above decision are as follows: 4.1 The nature and scale of the subject proposed land uses is not consistent with the broader spatial planning principles as set out in LUPA and SPLUMA and consequently deviates from the provisions of the prevailing development agenda and strategy of the Stellenbosch MSDF as contemplated in terms of Section 19 of LUPA and there are no site-specific circumstances as contemplated in terms of section 22(2) of SPLUMA that warrant justifiable grounds to deviate from the MSDF. 4.2 The tourist accommodation establishment exceeds the number of dwelling units permitted on a property which is 45,8ha in extent and there are no exceptional or unique considerations that would warrant to deviate from the prescribed provisions on the number of additional dwelling units.

	4.3 The proposed art gallery and wellness center are not land uses that are associated with agricultural zoning and the agricultural activities in general and tourist related uses in the rural context in particular as it is deemed as pure commercial undertakings and urban uses. 4.4 The extent and nature to which the subject property will be commercialized if these developments are permitted will result therein that these non-agricultural uses will not be deemed as subservient to the agricultural activity and result in an undesirable development in terms of the impact on the agricultural resource and rural context. 5. That the following application in terms of the Stellenbosch Municipality Land Use Planning Bylaw, 2023 on Farm No. 1832, Paarl Division: 5.1 Application in terms of Section 15 (2)(o) of the said Bylaw for Consent Use to allow for a tourist facility for purposes of a **restaurant** and **wine tasting and sales facility**; **BE APPROVED** in terms of Section 60 of the said Bylaw and subject to conditions of approval. 6. The approval is subject to the following **conditions** imposed in terms of Section 66 of the said Bylaw. 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. 6.2 The approval granted does not exempt the applicant/operator from complying with any other legal prescriptions or requirements that might have a bearing on the activity. 6.3 An amended Site Development Plan as contemplated in terms of Section 16 of the Zoning Scheme Bylaw, 2023 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 following matters:

a) The Site Development Plan must reflect the accurate extent of the development rights in accordance with the approvals granted.

b) All structures/buildings must comply with the parameters for Zoning Scheme Bylaw (i.e height; coverage, etc).

c) Elevations and sections of proposed structures (as well as for basement level showing access to the basement)

d) A stacking space of 25m must be provided for access to the development on the Site Development Plan.

6.4 Development contributions are payable in accordance with the prevailing and applicable Council tariffs at the time of payment prior to submission of any building plans, or as may be agreed on in writing with the Directorate Infrastructure Services.

6.5 The conditions imposed by the Manager: Electrical Services in their memo dated 30 January 2024, attached as **ANNEXURE F** be adhered to.

6.6 The conditions imposed by the Department Community & Protection Services (Environmental Planner) in their memo dated 07 February 2024, attached as **ANNEXURE G** be adhered to.

6.7 No main dwelling may be constructed in place of the dwelling house that has been converted into a farm building (office building) as proposed in this application. If a main dwelling is required in the future, the proposed farm office must be reverted to its original use as a dwelling unit.

6.8 That no event, function, conferences, etc. be operated or hosted on the property without the prior written approval of the Municipality.

6.9 The proposed facilities be restricted to:

b.	Restaurant	±114m²
c.	Wine tasting and sales facility	±244m²

6.10 An application for the erection of advertising signs be submitted for approval to the municipality and that all signage on the property be erected to the satisfaction of the Municipality OR be in line with the signage policy of the Municipality.

6.11 Sufficient on-site parking must be provided in accordance with the provisions of the subject Zoning Scheme Bylaw and to be illustrated on the subject site development plan of the development to the satisfaction of the Municipality.

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

7.1 The proposed uses will help to diversify the land uses on the farm without impacting on the existing agricultural activities.

7.2 The primary use of the farm should still remain agricultural with all the other proposed uses remaining subservient to the primary bono fide agricultural activities on the farm.

7.3 The extended facilities will further enhance the tourism potential of the region and contribute to the extension of the secondary agricultural activities.

7.4 The proposal also complies with the principles of the Stellenbosch Spatial Development Framework which states that agri-tourism should be promoted in farming areas outside of urban settlements.

8. Matters **to be noted**:

8.1 That the approval for permission required in terms of the zoning scheme to allow for an agricultural industry (wine cellar), be obtained from the Authorized Official.

8.2 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.

8.3 The necessary approval be obtained in terms of the applicable liquor act, liquor by-laws or regulations.

8.4 An application for a business licence must be submitted.

	8.5 Should, after following due process – 8.5.1 The subject approved land use remains in breach of complying with any of the conditions of approval required for the vesting of the subject approval, and/ or 8.5.2 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 8.5.3 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.
SMPT 10/03/25	**OTHER MATTERS**
6.1	**PLANNING POLICIES (REVIEWED OR APPROVED BY COUNCIL)**
6.2	**APPEALS RECEIVED AGAINST MPT DECISION**
	No new appeals against MPT decisions were received.
6.3	**GENERAL** Questions were asked about public access to the municipal GIS layers and the GIS Manager will be asked to present the capabilities of the GIS system at the next MPT meeting.

Mrs H Crooijmans-Lemmer
CHAIRPERSON: MUNICIPAL PLANNING TRIBUNAL

Mr P van Zyl
DEPUTY-CHAIRPERSON: MUNICIPAL PLANNING TRIBUNAL