



STELLENBOSCH
STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNICIPALITY • UMASIPALA • MUNISIPALITEIT

Ref: 3/4/3/5/2/4

2016-05-06

MINUTES

PLANNING, ECONOMIC AND COMMUNITY DEVELOPMENT COMMITTEE MEETING

2016-05-03

MINUTES

PLANNING, ECONOMIC AND COMMUNITY DEVELOPMENT COMMITTEE MEETING

2016-05-03

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MINUTES OF THE PLANNING, ECONOMIC AND COMMUNITY DEVELOPMENT COMMITTEE MEETING HELD IN THE COUNCIL CHAMBER, TOWN HOUSE, PLEIN STREET, STELLENBOSCH ON TUESDAY, 2016-05-03 AT 14:00

PRESENT Alderman JP Serdyn (Ms) [Chairperson: Planning and Land-Use Management, Building Control, Air Pollution, Spatial Planning/Environmental Heritage and Cultural Management]

Councillor SJ Louw (Ms) [Portfolio: Agriculture, LED and Tourism]

Councillor AR Frazenburg [Portfolio: Community Services]

Aldermen DC Botha
EL Maree (Ms)

Councillors F Adams
JA Davids (from 14:05)
S Jooste (Ms)
N Ntsunguzi (Ms) (from 14:15)

Also present Alderman CJ Sidego

Officials Director: Planning and Economic Development
Senior Legal Advisor (M Williams)
Senior Town Planner (R Fooy)
Senior Town Planner (L Ramakuwela)
Senior Town Planner (P April)
Town Planner (Ms L Ollyn)
Committee Clerk (Ms T Samuels)

1. **APPLICATION FOR LEAVE OF ABSENCE** (3/4/3/3)

**PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE: 2016-05-03:
ITEM 1**

RESOLVED (nem con)

that permission be granted to Councillor N Ntsunguzi (Ms) to join the meeting later.

(HEAD: COMMITTEE SERVICES TO ACTION)

[Chairperson: Alderman JP Serdyn (Ms)]

[Portfolio: Planning and Land Use
Management, Building Control, Air Pollution, Spatial Planning/
Environmental Heritage and Cultural Management]

2.1 COMMUNICATION BY THE CHAIRPERSON (3/4/3/6)

The Director: Planning and Economic Development, on behalf of Council, expressed his condolences towards two officials in his Department, namely Ms C Williams who lost her Dad and Ms T Linders who lost her Mom recently. The Chairperson, Ms JP Serdyn requested the Committee to observe a moment of silence in honour of these two officials whose parents passed away.

(-)

2.2 DECLARATION OF INTEREST (3/6/2/2)

NONE

3. CONFIRMATION OF THE MINUTES (3/4/3/5/2/4)

3.1 CONFIRMATION OF THE MINUTES OF THE PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE MEETING HELD ON 2016-04-05 (3/4/3/5/2/4)

The above-mentioned minutes were previously distributed.

FOR CONFIRMATION

(HEAD: COMMITTEE SERVICES TO ACTION)

**PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE: 2016-05-03:
ITEM 3.1**

RESOLVED (nem con)

that the minutes of the Planning and Economic Development Committee meeting held on 2016-04-05, be confirmed.

(HEAD: COMMITTEE SERVICES TO ACTION)

4. REPORT BY THE DIRECTOR RE OUTSTANDING RESOLUTIONS TAKEN AT PREVIOUS MEETINGS (3/4/3/5/2/2)

The report on outstanding resolutions by the Director: Planning and Economic Development will be tabled at the next meeting of this Committee.

NOTED

[Chairperson: Alderman JP Serdyn (Ms)]

[Portfolio: Planning and Land Use
Management, Building Control, Air Pollution, Spatial Planning/
Environmental Heritage and Cultural Management]

5. REPORTS FROM OFFICIALS: PLANNING AND LAND USE
MANAGEMENT, BUILDING CONTROL, AIR POLLUTION, SPATIAL
PLANNING/ENVIRONMENTAL HERITAGE AND CULTURAL
MANAGEMENT

5.1 NON-DELEGATED MATTERS

NONE

5.2 DELEGATED MATTERS

5.2.1 DIRECTORATE PLANNING AND ECONOMIC DEVELOPMENT: MONTHLY
REPORT: MARCH 2016

File number: 8/1/4/2/5

Compiled by: Head: Customer interface and Administration

Report by: Director: Planning & Economic Development

Delegated Authority: Planning, Economic and Community Development
Committee

Strategic intent of item

<i>Preferred investment destination</i>	X
<i>Greenest municipality</i>	X
<i>Safest valley</i>	X
<i>Dignified Living</i>	X
<i>Good Governance</i>	X

1. PURPOSE OF REPORT

To provide feedback on the activities of the Directorate Planning and Economic Development for the month of March 2016.

2. BACKGROUND

It is incumbent upon Directorates to report on the activities within their respective Directorates on a monthly basis.

[Chairperson: Alderman JP Serdyn (Ms)]

[Portfolio: Planning and Land Use
Management, Building Control, Air Pollution, Spatial Planning/
Environmental Heritage and Cultural Management]

3. DISCUSSION

The report of each Department within the Directorate Planning and Economic Development is submitted as outlined in the Appendices below:

Appendix 1	Community Development
Appendix 2	Building Development Management
Appendix 3	Customer Interface and Administration
Appendix 4	Spatial Planning, Heritage and Environment
Appendix 5	Land Use Management
Appendix 6	Local Economic Development

4. LEGAL IMPLICATION

None required

5. FINANCIAL IMPLICATION

None required

6. COMMENTS FROM OTHER RELEVANT DEPARTMENTS

None required

RECOMMENDED

that the report of the Directorate Planning and Economic Development for the month of March 2016, be noted.

**(DIRECTOR: PLANNING AND ECONOMIC
DEVELOPMENT TO ACTION)**

**PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE: 2016-05-03:
ITEM 5.2.1**

RESOLVED (nem con)

- (a) that the report of the Directorate Planning and Economic Development for the month of March 2016, be noted; and
- (b) that feedback on the following concerns raised in this report be submitted at the next meeting of this Committee:-

[Chairperson: Alderman JP Serdyn (Ms)]

**[Portfolio: Planning and Land Use
Management, Building Control, Air Pollution, Spatial Planning/
Environmental Heritage and Cultural Management]**

- (i) How are these programmes monitored?
- (ii) A comparison of financial contributions from Stellenbosch Municipality between Stellenbosch 360 and Kayamandi Creative District (KCD).

**(DIRECTOR: PLANNING AND ECONOMIC
DEVELOPMENT TO ACTION)**

[Chairperson: Alderman JP Serdyn (Ms)]

[Portfolio: Planning and Land Use
Management, Building Control, Air Pollution, Spatial Planning/
Environmental Heritage and Cultural Management]

5.2.2 APPLICATION FOR A DEPARTURE AND A DEVIATION FROM THE PROVISIONS OF THE BY-LAW RELATING TO THE CONTROL OF BOUNDARY WALLS AND FENCES (PROVINCIAL GAZETTE 6671, 30 OCTOBER 2009) ON ERF 5784, STELLENBOSCH

File number : 5784

Compiled by : Town Planner (L Olyyn)

Report by : Director: Planning and Economic Development

Delegated Authority : Planning, Economic and Community Development Committee

Strategic intent of item

Preferred investment destination	<input type="checkbox"/>
Greenest municipality	<input type="checkbox"/>
Safest valley	<input checked="" type="checkbox"/>
Dignified Living	<input type="checkbox"/>
Good Governance	<input checked="" type="checkbox"/>

1. PURPOSE OF REPORT

To enable the committee to make an informed decision on the application for a departure and a deviation from the By-Law relating to the control of Boundary Walls and Fences. The application is recommended for **approval**.

2. BACKGROUND

There is no relevant background information that has a bearing on the current application.

3. DISCUSSION

3.1 Application for consideration

Application is made in terms of Section 15(1)(a)(i) of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) for a departure to relax the street building line from **4,5m** to **0m** for the construction of an entrance gate on Erf 5784, Stellenbosch, as indicated on Drawing

[Chairperson: Alderman JP Serdyn (Ms)]

[Portfolio: Planning and Land Use
Management, Building Control, Air Pollution, Spatial Planning/
Environmental Heritage and Cultural Management]

No. 9991/15, dated 07 March 2015, drawn by GMA Architecture (see **APPENDIX 3**).

Application is made in terms of Clause 13 of the bylaw relating to the control of boundary walls and fences (Provincial Gazette 6671, 30 October 2009) to enable the owner to construct a **2,45m** high (instead of 2,1m) entrance gate on Erf 5784, Stellenbosch, as indicated on Drawing No. 9991/15, dated 07 March 2015, drawn by GMA Architecture (see **APPENDIX 3**).

3.2 Property details

Erf No.	5784, Stellenbosch
Location	28 Saffraan Avenue, Die Boord, Stellenbosch
Zoning/Zoning Scheme	Single Residential / Stellenbosch Municipality Zoning Scheme Regulations, July 1996
Property size	1353m ²
Owners	P.W & L Hancke
Applicant	P.W & L Hancke

3.3 Site description and immediate environs

The subject property is located in Saffraan Street in Die Boord which is a predominantly residential area in Stellenbosch. The property is currently developed with a dwelling house.

3.4 Legal requirements

Applicable laws and ordinances

- By-Law relating to the control of boundary walls and fences (Provincial Gazette 6671, 30 October 2009)
- Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985)

3.5 Public participation

Advertising took place in terms of Council's Advertising and Public Participation Policy and letters of no objection were received from the surrounding property owners.

3.6 Comments from internal and external departments

The **Manager: Spatial Planning, Heritage and Environment** supported the application (see **APPENDIX 5**).

[Chairperson: Alderman JP Serdyn (Ms)]

[Portfolio: Planning and Land Use
Management, Building Control, Air Pollution, Spatial Planning/
Environmental Heritage and Cultural Management]

3.7 Planning Assessment

Clause 5 of the bylaw stipulates that the height of a boundary wall or fence, *including* entrance structures and columns, may not exceed a height of 2.1m on a single residential property (see **APPENDIX 4** for an extract of the By-law).

The applicant wishes to erect a roof over the pedestrian/visitor's entrance to shelter visitors against the weather. The proposed roof will be constructed on the street boundary and is 2.45m in height, hence the application for the departure and deviation of the bylaw. The existing boundary wall on the property consists of a solid wall on a portion of the street boundary and a palisade fence on the other portion of the street boundary.

The proposed encroachment of the street building line for the construction of a roof over this portion of the property will have no impact on the streetscape as it is set back from the actual tarred road. The proposed entrance will not have a impact on the aesthetics of the surrounding properties as the existing boundary wall and entrance gate can be seen as one entity. Similar proposals exist within the neighbourhood (see **APPENDIX 7**).

A restrictive title deed condition exists on the property and reads as follow: *“geen gebou of struktuur of enige gedeelte daarvan, behalwe grensmure en heinings, mag nader as 4,6m van die straatlyn wat 'n grens van hierdie erf uitmaak, asook nie binne 3m van die agtergrens of 2,3m van die sygrens gemeet aan enige aangrensende erf opgerig word nie”* (Clause C(6)(b)).

It is important to note that the applicant also needs to remove this restriction before he can act on the outcome of a favorable Council decision. A condition will be imposed in this regard.

3.8 Conclusion

The proposed entrance gate will not have a negative impact on the streetscape as it is set back from the actual tarred road. The proposal will also not have a negative impact on the surrounding properties as similar approvals have been granted in the area. Given the above discussion as well as the absence of any material impact, the proposal is considered to have planning merit and the deviation from the By-law is therefore recommended for approval.

4. LEGAL IMPLICATIONS

Council may grant a waiver to any of the provisions of this By-law if in Council's opinion; the specific site topographical conditions are such

[Chairperson: Alderman JP Serdyn (Ms)]

[Portfolio: Planning and Land Use
Management, Building Control, Air Pollution, Spatial Planning/
Environmental Heritage and Cultural Management]

that the granting of a waiver will not result in the erection of a wall or fence that will materially detract from the character of the area. In granting such a waiver, Council shall have due regard to the built form that may result if abutting neighbours request similar waivers as well as the impact such waiver may have on traffic safety (both pedestrian and vehicular).

5. FINANCIAL IMPLICATIONS

None

RECOMMENDED

- (a) that **approval be granted** for a departure to relax the street building line from 4,5m to 0m to construct an entrance gate on Erf 5784, Stellenbosch, attached as Drawing No. 9991/15, dated 07 March 2015, drawn by GMA Architecture, attached as Appendix 3, subject to the conditions contained in **APPENDIX 1**; and
- (b) that **approval be granted** for a waiver in terms of Section 13 of the By-law Relating to the Control of Boundary Walls and Fences, in order to deviate from Section 5 of the bylaw to construct a 2.45m high (in lieu of 2.1m) entrance gate on Erf 5784, Stellenbosch, attached as Drawing No. 9991/15, dated 07 March 2015, drawn by GMA Architecture, attached as **APPENDIX 3**, subject to the conditions contained in **APPENDIX 1**.

APPENDICES

Appendix 1 :	Conditions of approval
Appendix 2:	Locality plan
Appendix 3:	Proposed Site Plan
Appendix 4:	Extract from bylaw
Appendix 5:	Comments from the Manager: Spatial Planning, Heritage and Environment
Appendix 6:	Photos of application property
Appendix 7:	Photos of similar scenarios in the area
Appendix 8:	Copy of title deed

(DIRECTOR: PLANNING AND ECONOMIC
DEVELOPMENT TO ACTION)

[Chairperson: Alderman JP Serdyn (Ms)]

[Portfolio: Planning and Land Use
Management, Building Control, Air Pollution, Spatial Planning/
Environmental Heritage and Cultural Management]

**PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE: 2016-05-03:
ITEM 5.2.2**

RESOLVED (nem con)

- (a) that **approval be granted** for a departure to relax the street building line from 4,5m to 0m to construct an entrance gate on Erf 5784, Stellenbosch, attached as Drawing No. 9991/15, dated 07 March 2015, drawn by GMA Architecture, attached as Appendix 3, subject to the conditions contained in **APPENDIX 1**; and
- (b) that **approval be granted** for a waiver in terms of Section 13 of the By-law Relating to the Control of Boundary Walls and Fences, in order to deviate from Section 5 of the bylaw to construct a 2.45m high (in lieu of 2.1m) entrance gate on Erf 5784, Stellenbosch, attached as Drawing No. 9991/15, dated 07 March 2015, drawn by GMA Architecture, attached as **APPENDIX 3**, subject to the conditions contained in **APPENDIX 1**.

**(DIRECTOR: PLANNING AND ECONOMIC
DEVELOPMENT TO ACTION)**

[Chairperson: Alderman JP Serdyn (Ms)]

[Portfolio: Planning and Land Use
Management, Building Control, Air Pollution, Spatial Planning/
Environmental Heritage and Cultural Management]

APPENDIX 1

FILE NO: 5784

In this approval document:

"Council" means the Stellenbosch Municipality

"the owner" means the registered owner of the property.

"the site" means **ERF 5784, STELLENBOSCH**

"scheme regulation" has the meaning assigned thereto by the Land Use Planning Ordinance (15 of 1985).

EXTENT OF APPROVAL:

Departure to relax the street building line from **4,5m** to **0m** to construct an entrance gate on Erf 5784, Stellenbosch (see **APPENDIX 3**).

Deviation in terms of Section 13 of the By-law Relating to Control of Boundary Walls and Fences, in order to deviate from Section 5 of the By-law to construct a **2.45m** high (in lieu of 2.1m) entrance gate on Erf 5784, Stellenbosch (see **APPENDIX 3**).

CONDITIONS IMPOSED:

1. The approval applies only to the departure and the deviation of the bylaw relating to the control of boundary walls and fences as per Drawing No. 9991/15, dated 07 March 2015, drawn by GMA Architecture, attached as **APPENDIX 3**;
2. The approval granted shall not exempt the applicant from complying with other legal prescriptions or requirements that might have a bearing on the activity;
3. The applicant take cognizance of the restriction as contained in Title Deed Nr. T67997/2014 (Clause C(6)(b)) which must be removed prior to building plans being submitted to and approved by Council;
4. The building plans be submitted to this municipality for approval once the restrictive title deed condition has been removed;
5. The approval for the departure and deviation shall lapse if not exercised within 2 years from date of final notification;
6. Council reserves the right to impose further conditions if deemed necessary.

[Chairperson: Alderman JP Serdyn (Ms)]

[Portfolio: Planning and Land Use
Management, Building Control, Air Pollution, Spatial Planning/
Environmental Heritage and Cultural Management]

5.2.3 APPLICATION FOR A WAIVER FROM THE BY-LAW RELATING TO THE CONTROL OF BOUNDARY WALLS AND FENCES: ERF 1453, FRANSCHHOEK

File number : 1453 FH

Compiled by : Senior Town Planner (L.S Ramakuwela)

Report by : Director: Planning and Economic Development

Delegated Authority : Planning and Economic Development Committee

Strategic intent of item

<i>Preferred investment destination</i>	X
<i>Greenest municipality</i>	
<i>Safest valley</i>	X
<i>Dignified Living</i>	X
<i>Good Governance</i>	

1. PURPOSE OF REPORT

To enable the Committee to make an informed decision on the proposed application to deviate from the By-law relating to the control of boundary walls and fences. The application is **recommended for approval**.

2. BACKGROUND

There is no relevant background information that has a bearing on the current application.

3. APPLICATION FOR CONSIDERATION

Application is made for a waiver from the by-law relating to the control of boundary walls and fences, in order to deviate from Section 5 of the By-law, to construct a sectional solid boundary wall with a height of 2.4m on the street and side boundary of Erf 1453, Franschhoek. See **APPENDIX 3** for the proposed boundary wall.

[Chairperson: Alderman JP Serdyn (Ms)]

[Portfolio: Planning and Land Use
Management, Building Control, Air Pollution, Spatial Planning/
Environmental Heritage and Cultural Management]

4. PROPERTY INFORMATION

Farm number	Erf 1453, Franschoek
Location	The subject property is located in Franschoek on Heidi Street and Lambrecht Road (R45). (APPENDIX 2)
Zoning/Zoning Scheme	Single Residential Zone / Franschoek Zoning Scheme
Current Land Use	Vacant
Property size	2.1766ha
Applicant	Surrey Holmes (PTY) LTD
NHRA Applicable	No
Unauthorized building works	The boundary wall has already been built without approval.
Title deed conditions	No

5. DISCUSSION

5.1 Legal Requirements

Applicable laws and ordinances:

- By-law Relating to the Control of Boundary Walls and Fences (30 October 2009).
- Franschoek Zoning Scheme

In the Single Residential zoning the following uses are permitted:

Normal Development	Special Development
<ul style="list-style-type: none"> • Dwelling house 	<ul style="list-style-type: none"> • Educational building • Place of public worship

5.2 Public participation

Notices were served to the surrounding property owners. The application was further circulated to relevant municipal departments for comments. No objections were received from both municipal departments and surrounding neighbours.

[Chairperson: Alderman JP Serdyn (Ms)]

[Portfolio: Planning and Land Use
Management, Building Control, Air Pollution, Spatial Planning/
Environmental Heritage and Cultural Management]

5.3 Planning Assessment

All building plans submitted to Council for boundary walls must comply with the promulgated By-law, unless a deviation from the By-law is approved by Council.

The applicant seeks approval for an existing fence which was built prior Council approval to enclose a recently approved residential estate. The fence consists of permeable and solid structures on the street and side boundary. It measures 2.4m in height. The proposal is therefore not in line with Section 5 of the subject By-law, which stipulates the following;

*"5. For **residential zoned** properties the height of any wall or fence (including the entrance structure and columns) shall be regulated as follows:*

- (a) *on a **street boundary**: - 2.1m high, on condition that 50% of the height of the wall or fence, including gates on residential zoned properties **must consists of open decorative work to create transparency**. The solid construction shall not interfere with sight lines of vehicles entering or leaving the property, or passing traffic."*
- (b) *on a boundary **other than street boundary**:- 2.1 m high and shall comprise of materials as described in section 9 below, except where the screening of backyards or swimming pools are concerned, in which case the height may at the discretion of Council be increased to 2.5m.*

The property was recently subdivided and rezoned from undetermined to single residential in order establish a residential estate. Conditions (Condition 87 & 94) by the Municipal Directorate: Engineering Services, attached as **APPENDIX 4**, instructed that a refuse storage area, with a solid wall be accessible from the public road side of the property. The height of the refuse storage area on the boundary shall not be less than 2.21m in height. The applicant is therefore requesting approval from Council for the solid wall in order to screen the refuse room as requested by the Directorate: Engineering Services.

Section 13 of the subject By-law allows Council to consider deviations and stipulates the following;

"13. Council may grant a waiver to any of the provisions of this By-law if in Council's opinion; the specific site topographical conditions are such that the granting of a waiver will not result in the erection of a wall or fence that will materially detract from the character of the area. In granting such a waiver, Council shall have due regard to the built

[Chairperson: Alderman JP Serdyn (Ms)]

[Portfolio: Planning and Land Use
Management, Building Control, Air Pollution, Spatial Planning/
Environmental Heritage and Cultural Management]

form that may result if abutting neighbours request similar waivers as well as the impact such waiver may have on traffic safety (both pedestrian and vehicular)."

The subject property is surrounded by residential properties. Two of the properties to the south of the development are Single Residential with solid boundary walls. Therefore, the existing boundary wall has no negative effect on the aesthetic appearance of the area. Heide Street is a straight road with sufficient width for pedestrian movement. Therefore, the proposal will have no effect on traffic safety for both pedestrians and vehicles. The 2.1m height deviation was requested by the Municipal Directorate: Engineering Services to screen the refuse storage area.

5.4 Concluding Planning Comments

The boundary wall will not have a negative impact on the aesthetic character of the area. The linear street pattern and width of the road will allow sufficient space for both pedestrian and vehicle movement. The property is surrounded by residential properties. For this reason the boundary wall will have no impact on the existing streetscape. The proposed deviation from the By-law is therefore supported from a planning point of view.

RECOMMENDED

that **approval be granted** in terms of Section 13 of the By-Law Relating to Control of Boundary Walls and Fences, in order to deviate from Section 5 of the by-law applicable to residential zoned properties, for a 2.4m high solid wall on the street and side boundary of Erf 1453, Franschoek, Heidi Street, as indicated on Drawing No: 20668, dated 18 May 2015, drawn by Stephen Lew, attached as **APPENDIX 3**.

APPENDIXES

- Appendix 1 : Conditions of Approval
- Appendix 2 : Locality Map
- Appendix 3 : Boundary Wall Plan
- Appendix 4 : Comments from Municipal Directorate: Engineering Services
- Appendix 5 : Comments from Legal Consultant
- Appendix 6 : Street View Photos of the Subject Property

(DIRECTOR: PLANNING AND ECONOMIC
DEVELOPMENT TO ACTION)

[Chairperson: Alderman JP Serdyn (Ms)]

[Portfolio: Planning and Land Use
Management, Building Control, Air Pollution, Spatial Planning/
Environmental Heritage and Cultural Management]

**PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE: 2016-05-03:
ITEM 5.2.3**

RESOLVED (nem con)

that the **application be refused** in terms of Section 13 of the By-Law Relating to Control of Boundary Walls and Fences, in order to deviate from Section 5 of the By-law applicable to residential zoned properties, for a 2.4m high solid wall on the street and side boundary of Erf 1453, Franschoek, Heidi Street, as indicated on Drawing No: 20668, dated 18 May 2015, drawn by Stephen Lew, attached as **APPENDIX 3**.

**(DIRECTOR: PLANNING AND ECONOMIC
DEVELOPMENT TO ACTION)**

[Chairperson: Alderman JP Serdyn (Ms)]

[Portfolio: Planning and Land Use
Management, Building Control, Air Pollution, Spatial Planning/
Environmental Heritage and Cultural Management]

**5.2.4 APPLICATION FOR THE AMENDMENT OF A CONDITION OF APPROVAL:
FARM NO. 510/748, STELLENBOSCH DIVISION**

File number : 510/748 JT

Compiled by : Senior Town Planner (PA)

Report by : Director: Planning & Economic Development

Delegated Authority : Planning, Economic and Economic Development
Committee

Strategic intent of item

Preferred investment destination	<input checked="" type="checkbox"/>
Greenest municipality	<input type="checkbox"/>
Safest valley	<input type="checkbox"/>
Dignified Living	<input type="checkbox"/>
Good Governance	<input type="checkbox"/>

1. PURPOSE OF REPORT

To enable the Committee to make an informed decision on the proposed application for the amendment of a condition of approval on Farm No. 510/748, Stellenbosch Division. The application is **recommended for approval**.

2. BACKGROUND

Approval was granted on 19 April 2002 by the Department of Planning, Local Government and Housing for the rezoning of Farm No. 510/593 & 594, Stellenbosch Division to Subdivisional area (Business Zone I, III and V and Transport Zone II & III), and adopted the conditions of approval in Councils resolution dated 11 December 2001 (See **APPENDIX 4**).

A zoning of Business Zone I has been allocated to Farm No. 510/748, Stellenbosch Division, on condition that parking be provided at a ratio of 6 parking bays per 100m².

[Chairperson: Alderman JP Serdyn (Ms)]

[Portfolio: Planning and Land Use
Management, Building Control, Air Pollution, Spatial Planning/
Environmental Heritage and Cultural Management]

3. DISCUSSION

3.1 Application for consideration

Application is made in terms of Section 42 of the Land Use Planning Ordinance (15 of 1985) for the amended of condition of approval number 30 of Councils letter dated 11-12-2001 “30. Parking must be provided at a ratio of six (6) parking bays per 100m² of gross leasable floor area applicable to the retail center only;” in order to reduce the parking requirements to read as follows; 30. Parking must be provided at a ratio of 4.5 parking bays per 100m² of gross leasable floor area applicable to the retail center only.

The applicant’s motivation is attached as **APPENDIX 5**.

3.2 Property details

Farm No.	510/748, Stellenbosch Division.
Location	R44 / Strand Road, Jamestown. See APPENDIX 2 .
Zoning/Zoning Scheme	Business Zone I/ Zoning Scheme Regulations promulgated in terms of Section 8 of the Land Use Planning Ordinance (15 of 1985).
Property size	3,4753ha.
Owners	Stellenbosch Square Inv. (Pty) Ltd & SA Retail Prop (Pty) Ltd.
Applicant	TV3 Projects (Pty) Ltd.

3.3 Site description and immediate environs

The Stellenbosch Square has been developed and all parking bays constructed.

3.4 Legal requirements

Land use management on this property is administrated in terms of the Zoning Scheme Regulations promulgated in terms of Section 8 of the Land Use Planning Ordinance (15 of 1985 - LUPO).

3.5 Public participation

Registered notices were served on the surrounding property owners and interested and affected parties and one objection were received from the Stellenbosch Interest Group (SIG), see **APPENDIX 6**. The applicant’s comment on the objection is attached as **APPENDIX 7**.

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[Portfolio: Planning and Land Use
Management, Building Control, Air Pollution, Spatial Planning/
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Issues raised	No.	Applicants response	Departmental response
In the short term the demand for parking may not have resulted in the available parking being used, but the consequence of reducing the parking below the accepted standard will have a detrimental effect in the long term which will be impossible to reverse.	1	<p>The reality at the Stellenbosch Square shopping center is that currently parking is utilized at only 2.2 bays per 100m² GLA. The Zoning Scheme Regulations requires that parking be provided at 4 bays per 100m² GLA. The condition of approval requires that parking be provided at 6 bays per 100m² GLA.</p> <p>Based on AECOM's parking survey and analysis, it is concluded that by reducing the shopping center's parking requirement from 6 bays per 100m² GLA to 5 bays per 100m² GLA, the commercial facilities viability will not be compromised.</p>	See Planning Assessment comments below.
The center is almost entirely dependent on customers who travel to it by car.	1	This statement is incorrect. A significant portion of the shopping center's customers are from Jamestown and La Clémence. Many of these customers walk to the center.	A site inspection revealed that not all clients to the facility travel by car, considering that the nearby Jamestown and other residential developments are within walking distance of the mall.
With this application, parking will be reduced by 25% in favor of future development.	1	This statement is incorrect. By reducing the parking requirement from 6 bays to 5 bays, the parking will be reduced by only 17%. The proposed extension to the shopping center will be primarily internal. The land owner's aim is to utilize the existing buildings floor space more optimal by increasing the shopping center's GLA internally, rather than	Noted.

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		constructing a new building.	
This will lead to landscaped areas being used for parking in the long term.		If you look at the application area's (i.e. Farm 510/748) cadastral boundaries, then it is clear that there are no landscaped areas on the site that can (in future) be converted into informal parking areas.	The landscape areas referred to are situated on Farm No. 510/819 and are anyway inaccessible for parking purposes for clients to the mall due to the steep slope of it.

3.7 Comments from internal and external departments

Municipal Directorate: Engineering Services (Traffic Engineering) – Recommended for approval (see **APPENDIX 8**). No further advertising and external comments were deemed necessary, considering that no new access area proposed and all existing services will be used.

3.8 Planning Assessment

The owners of Stellenbosch Square are currently in process to redevelop and to reorganize the internal retail space to make it more functional to clients. The proposals entails the demolishing of a part of the courtyard building at the front entrance of the center to create a better public space as you enter the center, to relocate and extend internal shops space and making additions to certain shops. The owner therefore only intends to redesign the development in order to add to the shopping experience and viability of the Stellenbosch Square Development.

The proposed extension to the facility from the current ±10908m² to 11 871,15m² gross leasable areas (GLA) will result in the loss of 31 parking bays if fully developed (See **APPENDIX 3**). The development currently provides 660 parking bays, but with the loss of 31 parking bays only a maximum of 629 parking bays will be provide onsite.

Current and proposed parking requirements for the proposed GLA:

- **Currently** for 11 871,15m² at 6/100m² = 713 bays needed – 629 provided = **84 shortfall of parking bays.**
- **Proposed** for 11 871,15m² at 5/100m² = 594 bays needed – 629 provided = **35 more parking bays then required will be provided.**

If 629 parking bays are provided for a gross leasable area of 11 871.15m², parking is therefore still provided at a ratio 5.29 parking

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bays per 100m² (5.29/100m²) and therefore not substantially less than the required ratio of 6/100m².

All parameters of the Business Zone I zoning in terms of the current applicable zoning scheme regulations e.g. 3.0 floor factor, 100% coverage and 1 parking bay per 25m² (4/100m²) total floor space of the property will still be complied with. No departure from the scheme regulation parameters are therefore applied for and will still be complied with. It is also noticeable that parking requirements for business premises in the town of Stellenbosch are also calculated at 1 gross parking space for every 25m² of gross leasable space, which also amounts to 4/100m².

The applicant's request of 5/100m² is therefore higher than the norm of existing zoning schemes applicable on the subject property and the zoning scheme for the close by town of Stellenbosch. The proposed increase in floor space will predominantly be internal alterations with minimal external extensions. It should also be mentioned that site inspections revealed that the basement parking of 109 parking's is underutilized at most times of the day and could easily accommodate any overflow parking from the front of the square.

With the total amount of 629 parking bays to be provided on site, the applicant can still built up to 12580m² gross leasable areas.

The proposal therefore does not lack desirability and is recommended for approval for the following reasons.

- All existing services will be sufficient to accommodate the proposed 11 871,15m² gross leasable areas (GLA).
- The aesthetic appearance of the building and surroundings would not be negatively impacted upon.
- Notwithstanding the conditions of approval requiring 6/100m² parking boys, the proposed 5/100m² will still be substantially more than the 4/100m² required by the applicable zoning scheme.
- No departure from the zoning parameters for the subject property is therefore applied for and all parameters will still be complied with. Only a condition of approval is requested to be amended.
- The proposed parking ratio of 5/100m² was also evaluated and supported by the Municipal Traffic Engineering Section, therefore considering the proposal desirable from a traffic safety perspective.
- Sufficient parking can still be provided and the economic viability of the commercial units and the mall will not be

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compromised by reducing the parking requirements from 6/100m² to 5/100m².

4. BASIS FOR REFUSAL OF APPLICATIONS AND PARTICULARS APPLICABLE AT GRANTING THEREOF

Under Section 36 (1) & (2) of the Land Use Planning Ordinance 1985 (Ordinance 15 of 1985) Chapter V: General Provisions, the basis of refusal of land use applications and particulars applicable at the granting thereof, is given. Planning principles prescribe that land use amendments be motivated in terms of their desirability. This means the degree of acceptability of the proposed development on the property and its environment. In terms of subsection (1) land use applications shall be refused solely on the basis of a lack of desirability of the contemplated utilization of land concerned including the guideline proposals included in relevant structure plans in so far as it relates to desirability, or on the basis of its effect on existing rights concerned (except any alleged right to protection against trade competition). Subsection (2) states that where a land use application is not refused by virtue of the matters referred to in subsection (1), regard shall be had, in considering relevant particulars, to only the safety and welfare of the members of the community concerned, the preservation of the natural and developed environment concerned or the effect of the application on existing rights concerned (with the exception of any alleged right to protection against trade competition).

5. CONCLUSION

Application was made to provide parking at a ratio of 4.5 parking bays per 100m² of gross leasable floor area applicable to the retail center only. In the motivation of the applicants traffic engineer report a parking ratio of 4.5 to 5/100m² was proposed. In the response on the objection the applicant however motivated a parking ratio reduction of 5/100m². It is recommended that Council consider the application for a 5/100m² parking ratio instead of the advertised 4.5/100m².

The proposed reduction in the parking requirements of the mall will not compromise traffic safety of the facility or the economic viability of the commercial units or the mall and could be recommended for approval.

6. LEGAL IMPLICATIONS

Supported the application.

FINANCIAL IMPLICATIONS

None required

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RECOMMENDED

that the application for the amended of condition of approval number 30 of Councils letter dated 11-12-2001 "30. Parking must be provided at a ratio of six (6) parking bays per 100m² of gross leasable floor area applicable to the retail center only;" in order to reduce the parking requirements to read as follows; 30. Parking must be provided at a ratio of 5 parking bays per 100m² of gross leasable floor area applicable to the retail center only, **be approved** in terms of Section 42 of the Land Use Planning Ordinance (15 of 1985).

APPENDICES

- Appendix 1 Approval and conditions
- Appendix 2 Locality plan
- Appendix 3 Site Development Plan
- Appendix 4 Letter of approval
- Appendix 5 Applicant's motivation
- Appendix 6 Letter of objection
- Appendix 7 Comments of applicant on objection
- Appendix 8 Comments of the Municipal Traffic Engineering Section.

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE: 2016-05-03: ITEM 5.2.4

RESOLVED (majority vote with 1 abstention)

that this matter be referred back to allow the Director: Planning and Economic Development to deal with it as a delegated matter to ensure that the original intent of the development and approval is accomplished.

Councillor F Adams requested that it be minuted that he abstained from voting, pending the outcome of the Director: Planning and Economic Development's handling of the matter.

**(DIRECTOR: PLANNING AND ECONOMIC
DEVELOPMENT TO ACTION)**

[Chairperson: Councillor SJ Louw (Ms)]

[Portfolio: Agriculture, LED and Tourism]

6. REPORTS FROM OFFICIALS: AGRICULTURE, LED AND TOURISM

6.1 NON-DELEGATED MATTERS

NONE

6.2 DELEGATED MATTERS

NONE

[Chairperson: Councillor AR Frazenburg]

[Portfolio: Community Development]

7. REPORTS FROM OFFICIALS: COMMUNITY DEVELOPMENT

7.1 NON-DELEGATED MATTERS

NONE

7.2 DELEGATED MATTERS

NONE

8. REPORTS SUBMITTED BY THE MUNICIPAL MANAGER

NONE

9. NOTICES OF MOTIONS AND NOTICES OF QUESTIONS RECEIVED BY THE MUNICIPAL MANAGER

NONE

10. MOTIONS OF EXIGENCY

NONE

11. MATTERS TO BE CONSIDERED IN-COMMITTEE

NONE

Meeting adjourned at 15:10.

CONFIRMED

CHAIRPERSON

(Signature & date)
