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- MINUTES -

**OF THE CITY OF CAPE TOWN MUNICIPAL PLANNING TRIBUNAL:
SOUTH EASTERN REGIONAL PANEL MEETING HELD ON 23 JULY 2024
AT 10:00 VIA SKYPE FOR BUSINESS**

MEMBERS PRESENT:

Mr S Holden	Chairperson
Mr B Burger	
Mr P Terblanche	
Mr N Titus	
Ms C Havenga	

COUNCILLORS:

Carl Punt	Ward 83
Norman McFarlane	Ward 84

OFFICIALS:

Mr J Van Der Westhuizen	Manager: Development Management
Ms D De Klerk	Development Management
Ms J Williams	Development Management
Mr B Jones	Development Management
Mr B Mzamo	Development Management
Mr J Brand	Development Management
Ms M Wansbury	Development Management
Mr N Thuvana	Development Management
Mr J Jacobs	Development Management: Tygerberg District
Mr A Gingcana	Development Management: Northern District

COMMITTEE SUPPORT:

Ms R Petersen	MPT Secretariat
Mr N Sikiti	MPT Secretariat

PUBLIC AND GUESTS:

Mischker, C
Berry, F (Councillor)
Fourie, G (Alderman)

MPTSE 01/07/24 OPENING AND MOMENT OF SILENCE

While the Chairperson had connectivity issues, Mr Terblanche welcomed all present to the meeting of the South Eastern Panel of the Municipal Planning Tribunal. He requested that a moment of silence be observed and then declared the meeting as officially opened. Mr Holden joined the meeting at 10:15 and chaired the meeting.

NOTED

MPTSE 02/07/24 APOLOGIES / LEAVE OF ABSENCE

An apology was received from Councillor Sean Stacey

MPTSE 03/07/24 DECLARATION OF INTEREST AND READING OF AGENDA

That it **BE NOTED** that the agenda has been read. Ms Havenga declared interest in agenda item 10 and 13 and will recuse herself from panel discussion. Mr Terblanche declared that agenda item 7 and 14 are within his district but that he was not involved in those applications. Mr Burger declared interest in agenda item 6, 11, 12, 13 and 14 and will recuse himself from panel discussion. Mr Holden declared interest in agenda item 9 and will recuse himself from panel discussion

PDT

No other member of the Municipal Planning Tribunal, South Eastern Panel declared any interest.

MPTSE 04/07/24 NOTING OF COFIRMED MINUTES OF PREVIOUS MEETING
That the confirmed minutes of the previous meeting **BE NOTED**.

MPTSE 05/07/24 MATTERS RECEIVING ATTENTION
That it be NOTED that the meeting of the MPT is recorded

MPTSE 06/07/24 APPLICATION FOR AN ADMINISTRATIVE PENALTY IN TERMS OF THE CITY OF CAPE TOWN MUNICIPAL PLANNING BY-LAW, 2015 IN RESPECT OF ERF 33791 MITCHELLS PLAIN, 99 DE LA REY CRESCENT, EASTRIDGE

Mr Burger recused himself from panel discussion

UNANIMOUSLY RESOLVED that:
An administrative penalty of R 2 000.00 **BE DETERMINED** for the unauthorised building work in terms of Section 98(b) of the City of Cape Town Municipal Planning By-Law, 2015 at Erf 33791 Mitchells Plain.

REASONS FOR DECISION
The MPT APPROVED the application for the reasons set out in the Planner's Report

FOR INFORMATION: FISHER / DE KLERK

MPTSE 07/07/24 WARD 105: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS, AMENDMENT OF THE TOWNSHIP ESTABLISHMENT CONDITIONS, DEVIATION OF THE NORTHERN DISTRICT PLAN, SUBDIVISION, SITE DEVELOPMENT PLAN APPROVAL AND DEPARTURES IN TERMS OF THE MUNICIPAL PLANNING BY-LAW, 2015: ERF 2048 AT 23 HIBISCUS WAY, DURBANVILLE (NORTHERN DISTRICT)

UNANIMOUSLY RESOLVED that:

- a. The application for deletion of conditions B.6 and B.7 registered in Deed of Transfer T35458/2023 of Erf 2048 Durbanville **BE APPROVED** in terms of Section 98(b) of the City of Cape Town Municipal Planning By-Law, 2015 (as amended);
- b. The application for the amendment of the township conditions to exclude Erf 2048 Durbanville from compliance with the restrictions on the number of dwelling units and building lines as contained in title deed conditions B.6 and B.7 **BE APPROVED** in terms of Section 98(b) of the City of Cape Town Municipal Planning By-Law, 2015 (as amended);
- c. The application for deviation from the 2023 Northern District Spatial Development Framework to permit a group housing development on erf 2048 Durbanville **BE APPROVED** in terms of Section 98(b) of the City of Cape Town, Municipal Planning By-Law, 2015 (as amended);

- d. The application for the rezoning of erf 2048 Durbanville from Single residential Zoning 1: Conventional Housing (SR1) to General Residential Subzoning 1 (GR1) **BE APPROVED** in terms of Section 98(b) of the City of Cape Town, Municipal Planning By-Law, 2015 (as amended), subject to the conditions set out in Annexure A;
- e. The application for the subdivision of the Erf 2048 Durbanville into six (6) portions **BE APPROVED** in terms of Section 98(b) of the City of Cape Town, Municipal Planning By-Law, 2015 (as amended), subject to the conditions set out in Annexure A;
- f. The site development plan for the development of Erf 2048 Durbanville **BE APPROVED** in terms of Section 98(b) of the City of Cape Town, Municipal Planning By-Law, 2015 (as amended), subject to the conditions set out in Annexure A;
- g. The permanent departures to permit a carriageway crossing width of 10.5m in lieu of 8.0m and to relax the eastern common building line from 3m to 2m to allow for the proposed development on Erf 2048, Durbanville **BE APPROVED** in terms of Section 98(b) of the City of Cape Town, Municipal Planning By-Law, 2015 (as amended), subject to the conditions set out in Annexure A.

REASONS FOR DECISION

The MPT APPROVED the application for the reasons set out in the Planner's Report

Annexure A:

Amend condition 2.5 as follows:

- 2.5 The landscaping shall be implemented by, and at the cost of the owner/developer to the satisfaction of the authorised official, in accordance with the approved landscape plan (Drawing No.: 23608-LP-001; Rev: B; dated 1 March 2023 as compiled by Viridian Consulting Landscape Architects) before occupation or transfer of the first subdivided property, or whichever comes first.

Amend condition 2.6 as follows:

- 2.6 None of the trees identified for retention on the landscape plan (Drawing No.: 23608-LP-001; Rev: B; dated 1 March 2023) may be removed, lopped, chopped or felled during construction without the prior approval from the authorised official.

FOR INFORMATION: GINGCANA / MARAIS

MPTSE 08/07/24 WARD 84: APPLICATION FOR REZONING, SUBDIVISION AND CONSENT USE IN TERMS OF THE MUNICIPAL PLANNING BY-LAW, 2015: REMAINDER FARM 920, STELLENBOSCH

Ms Wansbury introduced the application

UNANIMOUSLY RESOLVED that:

- a. The application for the rezoning of Remainder Farm 920 Stellenbosch (Sir Lowry's Pass Village) from Rural to Subdivisional Area Overlay Zone with underlying rights for Single Residential Zone 2, Community Zone 2, Open Space zone 2, Utility Zone and Transport Zone 2 **BE APPROVED** in terms of Section 98(b) of the Municipal Planning By-Law, 2015 subject to the conditions contained in Annexure A.
- b. The for the subdivision of the property into 539 single residential portions, 2 community portions (for a Place of Worship and a Place of Assembly), 4 utility portions, 7 open space portions and 3 road portions **BE APPROVED** in terms of Section 98(b) of the Municipal Planning By-Law, 2015 subject to the conditions contained in Annexure A.
- c. The application for consent for Urban Agriculture under Open Space Zone 2 **BE APPROVED** in terms of Section 98(b) of the Municipal Planning By-Law, 2015 subject to the conditions contained in Annexure A.

REASONS FOR DECISION

The MPT APPROVED the application for the reasons set out in the Planner's Report and agreed to the following changes:

- Amend reason 6.1.3 as follows:
 - 6.1.3 The proposed development represents a significant investment in infrastructure, and provides for much needed additional housing opportunities and social facilities for Sir Lowry's Pass Village.
- Amend reason 6.1.6 as follows:
 - 6.1.6 Measures are in place to ensure that adequate infrastructure will exist to support the development proposal. The necessary development contributions have been determined to address the additional requirements
- Add reason 6.1.8 as follows:
 - 6.1.8 The objections received have been comprehensively addressed through the design and mitigating conditions have been imposed to ensure an acceptable development
- Add reason 6.1.9 as follows:
 - 6.1.9 The housing development/construction will be undertaken to coincide with the upgrading of the Macassar Wastewater Treatment Works
- Add reason 6.1.10 as follows:
 - 6.1.10 The proposed development satisfied the development principles contained in the Spatial Planning and Land Use Management Act and the Land Use Planning Act

Annexure A:

Replace condition 2.1 with the following:

- 2.1 That a 4m wide pedestrian access servitude be registered over the proposed public open space to Rawbone Road and that provision be made for pedestrian access from the proposed development to Barnabas Shaw Road and William Sergeant Street intersection to ensure better connectivity to shops and community facilities.

Delete condition 2.3

Amend condition 2.4 as follows:

- 2.4 That a detailed site development plan shall be submitted for approval prior to building plan approval for any structures to be erected on the Community facility erf and that cognizance be taken of the non-motorised/pedestrian connection between the development and Rawbone Road

Delete condition 2.16

Correct condition 2.38.3 as follows:

- 2.38.3 A 2.0 metre sidewalk on the northern side of Rawbone Road between the proposed development and William Sergeant Road, and along the eastern side of William Sergeant Road between Rawbone Street and the existing sidewalk on William Sergeant Road north of Barnaba Shaw Road

Amend condition 2.45 as follows:

- 2.45 That a detailed landscaping plan, compiled by a registered Landscape Architect, for the property concerned shall be submitted by the Developer for approval by the authorised official

Amend condition 2.47 as follows:

- 2.47 The approved Detailed Landscape Plan shall be implemented by, and at the cost of the developer to the satisfaction of the authorised official and prior to transfer of the last 20 land units

FOR INFORMATION: WANSBURY / WILLIAMS



MPTSE 09/07/24 WARD 83: APPLICATION FOR REMOVAL OF TITLE DEED CONDITIONS, CONSENT USE AND PERMANENT DEPARTURES IN TERMS OF THE MUNICIPAL PLANNING BY-LAW, 2015: ERF 5215 AT 64 MILLS STREET, STRAND

Mr Holden recused himself from panel discussion.
Mr Terblanche was nominated to chair the application

Mr Thuvana introduced the application

In paragraph 4 of the report, correct the date under the section 'notice to ward councillor' to be 2/02/2024 – 6/03/2024

UNANIMOUSLY RESOLVED that:

- a. The application for Removal of the title deed condition as contained in Title Deed T118 950/2022 being Clause A (8) (b) and relaxation of Clause A (8) (d) relating to the north-western lateral building line (from 1.57 m to 0.92m) to permit a place of instruction on erf 5215 Strand **BE APPROVED** in terms of Section 98(b) of the Municipal Planning By-Law, 2015.
- b. The application for Council's permission to be granted for the deletion and relaxation of township conditions deemed to have been granted **BE APPROVED** in terms of Section 98(b) of the Municipal Planning By-Law, 2015.
- c. The application for Consent Use to accommodate a Place of Instruction (small-scale school facility) for 43 children to operate from the existing dwelling house **BE APPROVED** in terms of Section 98(b) of the Municipal Planning By-Law, 2015.
- d. The application for Relaxation of the north-western and south-eastern lateral boundary building line from 3m to 1.56m and 1.9m, respectively **BE APPROVED** in terms of Section 98(b) of the Municipal Planning By-Law, 2015.

REASONS FOR DECISION

The MPT APPROVED the application for the reasons set out in the Planner's Report

Annexure A:
Delete condition 4 (administrative notes)

FOR INFORMATION: THUVANA / WILLIAMS

MPTSE 10/07/24 WARD 100: APPLICATION FOR AMENDMENT OF APPROVED SITE DEVELOPMENT PLAN IN TERMS OF THE MUNICIPAL PLANNING BY-LAW, 2015: ERF 7392 AT 10 SAN JUAN CLOSE, SAN JUAN, GORDONS BAY

The updated report, including all omitted pages, were circulated to the panel members and published

Mr Thuvana introduced the application

Ms Havenga recused herself from panel discussion

UNANIMOUSLY RESOLVED that:

- a. The application in terms of Section 42 (i) of the Municipal Planning By-Law, for the amendment of the approved Site Development Plan for Erf 7392, Gordon's Bay **BE REFUSED** in terms of Section 98(c) of the Municipal Planning By-Law, 2015.
- b. The application in terms of Section 42 (j) for the amendment of condition of approval to introduce a new Site Development Plan **BE REFUSED** in terms of Section 98(c) of the Municipal Planning By-Law, 2015.

REASONS FOR DECISION

The MPT REFUSED the application for the reasons set out in the Planner's Report and agreed to the following changes:

Correct reason 7.1.1 as follows:

- 7.1.1 The proposal is in conflict with the principles contained in Section 7 and Section 59 of the Spatial Planning and Land Use Management Act and the Land Use Planning Act, respectively.

Add reason 7.1.5 as follows:

- 7.1.5 Whereas the additional unit type in San Juan may be deemed acceptable, it is not considered appropriate or desirable to follow an ad-hoc approach which could undermine the legitimate expectations of property owners, the built form and the character of the precinct

Add reason 7.1.6 as follows:

- 7.1.6 The proposal does not satisfy the desirability criteria contained in Section 99(3) of the Municipal Planning By-Law

Add reason 7.1.7 as follows:

- 7.1.7 Although the City is authorised to consider and decide these applications, the owner will remain prohibited in terms of title condition C2 from making alterations and additions to his buildings without the consent of the Home Owner's Association. The applicant has failed to obtain such consent and in turn the Home Owner's Association has objected to this proposal

FOR INFORMATION: THUVANA / WILLIAMS

MPTSE 11/07/24 WARD 15: APPLICATION FOR AN ADMINISTRATIVE PENALTY IN TERMS OF THE CITY OF CAPE TOWN MUNICIPAL PLANNING BY-LAW, 2015: ERF 9704, SOMERSET WEST, 11 SCHOONGELEGEN STREET, HELDERVUE

Mr Burger recused himself from panel discussion

UNANIMOUSLY RESOLVED that:

An administrative penalty of R 2 000.00 **BE DETERMINED** for the unlawful building work in terms of Section 129 of the City of Cape Town Municipal Planning By-Law, 2015 in respect of Erf 9704, Somerset West as shown on the plans drawn by KD Architect with Drawing Number 4128 AP, Dated 23 April 2024.

REASONS FOR DECISION

The MPT APPROVED the application for the reason set out in the Planner's Report and agreed to the following changes:

- Correct reason 6.2 as follows:
- 6.2 The total duration for both structures is approximately 2 years which can be considered to be relatively long.
- Correct reason 6.3 as follows:
- 6.3 The extent of the contravention of 42m² is considered to be moderate.

FOR INFORMATION: ESAU / WILLIAMS

MPTSE 12/07/24 APPLICATION FOR ADMINISTRATIVE PENALTY IN TERMS OF THE CITY OF CAPE TOWN MUNICIPAL PLANNING BY-LAW, 2015 IN RESPECT OF ERF 9059 AT 55 JENNINGS STREET, STRAND

Mr Burger recused himself from panel discussion

Ms Williams introduced the application

After discussion, the panel agreed that this application be REFERRED BACK in order for the officials to investigate the history of the property, whether the correct zoning was allocated and to determine the status of building plan approval

FOR INFORMATION: MZAMO / WILLIAMS



MPTSE 13/07/24 APPLICATION FOR ADMINISTRATIVE PENALTY IN TERMS OF THE CITY OF CAPE TOWN MUNICIPAL PLANNING BY-LAW, 2015 IN RESPECT OF ERF 14775 AT 199 MAIN ROAD, AUDAS ESTATE, SOMERSET WEST

Ms Havenga and Mr Burger recused themselves from panel discussion.

Ms Williams introduced the application

UNANIMOUSLY RESOLVED that:

An administrative penalty of R 10 000.00 **BE DETERMINED** for the unauthorised building use in terms of Section 98(b) of the City of Cape Town Municipal Planning By-Law, 2015 in respect of Erf 14775 at 199 Main Road, Audas Estate, Somerset West.

REASONS FOR DECISION

The MPT APPROVED the application for the reasons set out in the Planner's Report and agreed to:

Amend reason 6.1.3 as follows:

- 6.1.3 The conduct of the owner is not to be condoned as he was well aware of the Development Management Scheme requirements with respect to Home Occupation yet continued to expand his practice without obtaining the required approvals.

FOR INFORMATION: MZAMO / WILLIAMS

LATE ITEM

MPTSE 14/07/24 APPLICATION FOR THE DETERMINATION OF AN ADMINISTRATIVE PENALTY IN TERMS OF SECTION 42(R) OF THE CITY OF CAPE TOWN MUNICIPAL PLANNING BY-LAW, 2015 IN RESPECT OF ERF 3578, PAROW, 35 GEORGE STARCK ROAD, OOSTERZEE (TYGERBERG DISTRICT)

Mr Burger recused himself from panel discussion

UNANIMOUSLY RESOLVED that:

An administrative penalty of R 500.00 **BE DETERMINED** for the unauthorised building work in terms of Section 129 of the City of Cape Town Municipal Planning By-Law, 2015 in respect of Erf 3578, Parow in accordance with Annexure B.

REASONS FOR DECISION

The MPT APPROVED the application for the reasons set out in the Planner's Report

FOR INFORMATION: JACOBS / KOTZE

MPTSE 15/07/24 MEETING CLOSING

The Chairperson thanked the Councillors, MPTSE Panel members and Officials for their input and for logistical arrangements of the meeting.

MPTSE 16/07/24 NEXT MEETING DATE

Date of next meeting: 27 August 2024

The meeting ended at 12:13

Items were discussed in the following sequence:

MPTSE01/07/24	MPTSE02/07/24	MPTSE03/07/24
MPTSE04/07/24	MPTSE05/07/24	MPTSE14/07/24
MPTSE06/07/24	MPTSE07/07/24	MPTSE08/07/24
MPTSE09/07/24	MPTSE10/07/24	MPTSE11/07/24
MPTSE12/07/24	MPTSE13/07/24	MPTSE15/07/24
MPTSE16/07/24		



MR SYDNEY HOLDEN
CHAIRPERSON: ITEM 6-8, 10-13

26 JULY 2024

DATE



MR PIETER TERBLANCHE
CHAIRPERSON: ITEM 1-5, 9 and 14

26 JULY 2024

DATE