



MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON TUESDAY, 11 SEPTEMBER 2018 AT 14:00 IN THE COMMITTEE ROOM: CORPORATE SERVICES

PRESENT

Internal members:

Director: Corporate Services, Ms M S Terblanche (acting chairperson)

Director: Protection Services, Mr P A C Humphreys

External members:

Mr C Rabie

Mr W Steyn

Other officials:

Sr Manager: Building Environment, Mr A M Zaayman (advisor)

Manager: Secretariat and Records, Ms N Brand (secretariat)

Director: Development Services, Mr J T Steenkamp

Town and Regional Planner and GIS Administrator, Mr H Olivier

Town and Regional Planner, Ms A de Jager

1. OPENING

The chairperson opened the meeting and welcomed all members.

2. APOLOGY

An apology was received from the Municipal Manager, Mr J J Scholtz.

3. DECLARATION OF INTEREST

RESOLVED that cognisance is taken that no declaration of interest was received.

4. MINUTES

4.1 MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON 18 JULY 2018

RESOLVED

That the minutes of a Municipal Planning Tribunal Meeting held on 18 July 2018 are approved and signed by the chairperson.

5. MATTERS ARISING FROM THE MINUTES OF 18 JULY 2018

None

6. MATTERS FOR CONSIDERATION

6.1 PROPOSED CONSENT USE OF ERF 3795, MOORREESBURG (15/3/10-9) (WARD 1)

Ms A de Jager, as author, tabled the item on request of the chairperson. Ms de Jager mentioned that during a site inspection it was observed that the owner satisfy all the requirements of a house shop. The proposed application is for consent to operate a house shop ($\pm 13 \text{ m}^2$ in extent) from the property.

Ms de Jager/...

6.1/...

Ms de Jager, in response to Mr Humphreys, mentioned that the initial application in 2017 was for a house tavern but the application was not accepted for consideration as the property is not situated adjacent to an activity street and the proposal was thus in contradiction with the Swartland Spatial Development Framework.

UNANIMOUSLY RESOLVED

- A. The application for a consent use on Erf 3795, Moorreesburg, is approved in terms of section 70 of the Swartland Municipal Land Use Planning By-Law (PG 7741 of 3 March 2017) subject to the conditions that:

A1 TOWN PLANNING AND BUILDING CONTROL

- (a) The consent authorises a house shop, restricted to $\pm 13\text{m}^2$, as presented in the application;
- (b) Building plans, clearly indicating the house shop in relation to the house, be submitted to the Director: Development Services, for consideration and approval;
- (c) Application for construction of or attaching an advertising sign to the building be submitted to the Director: Development Services, for consideration and approval. Only one sign shall be permitted and shall not exceed 1 m^2 in area, and shall not exceed the land unit boundaries with any part of it, while it shall indicate only the name of the owner, name of the business and nature of the retail trade;
- (d) No more than three persons, including the property owner, are permitted to be engaged in retail activities on the land unit;
- (e) Only pre-packaged food products may be sold;
- (f) No food preparation be allowed in the house shop;
- (g) The following activities not be allowed for sale in the house shop:
 - (i) The sale of wine and alcoholic beverages;
 - (ii) Storage or sale of gas and gas containers;
 - (iii) Vending machines;
 - (iv) Video games; and
 - (v) Snooker or pool tables;
- (h) Application for a trade licence be submitted to the Director: Development Services for consideration and approval;
- (i) Application for a Certificate of Compliance be submitted to the West Coast District Municipality for consideration and approval;
- (j) The municipal approval from Swartland be displayed inside the house shop;
- (k) The approval is valid for a period of five (5) years in terms of section 76(2)(w) of the By-Law. All conditions of approval must be complied with by 28 February 2019 and failing to do so will result in this approval expiring;

A2 WATER

- (a) The existing water connection be used;
- (b) No additional connections will be provided;

A3 SEWERAGE

- (a) The existing sewerage connection be used;
- (b) No additional connections will be provided;

A4 STREETS AND STORM WATER

- (a) Deliveries only be made with light delivery vehicles;
- (b) In view of future development adjacent to the property on the northern boundary, access will only be obtained from Bougainvillea Crescent;

A5 REFUSE REMOVAL

- (a) The basic refuse removal tariff will be levied for the dwelling, as well as the business and in the case of the business the tariff will be amended in accordance with the amount of refuse generated;
- (b) Refuse be placed in refuse bags on the nearest municipal sidewalk on the morning of refuse removal;

B. GENERAL

- (a) The applicant/objector be informed of the right to appeal against this decision of the Municipal Planning Tribunal, in terms of section 89(2) of the By-Law;

6.1/B...

- (b) The approval does not exempt the applicant from adherence to any and all other legal procedures, applications and/or approvals related to the intended land use;

C. The application is supported for the following reasons:

- (a) The application complies with section 42 of SPLUMA and Principles referred to in Chapter VI of LUPA;
- (b) The application complies with the land uses proposed for this area of Moorreesburg, as determined by the SDF;
- (c) This application supports the local economy and promotes entrepreneurship and local businesses, as a goal of the IDP;
- (d) The proposed house shop complies with all the development parameters and requirements of the By-Law Zoning Scheme;
- (e) The development is envisioned to promote economic opportunities, shorter travel distances and amenities in the residential neighbourhood;
- (f) A sight inspection confirmed that the proposed consent use will not negatively affect the character of the neighbourhood. Photographs taken during site visit attached as Annexure F.

6.2 APPLICATION FOR CONSENT USE ON ERF 425, MALMESBURY (15/3/10-8) (WARD 8)

The author of the item, Mr H Olivier, briefly explained the content of the report and highlighted the important matters in addressing the comments received on the application.

The existing business zone 1 zoning with the proposed consent use will authorise the use of the premises for an office, apartment and residential building.

A discussion followed whether the application is in compliance with the Spatial Development Framework and if not, whether the site-specific circumstances justify a departure from the municipal spatial development as allowed by section 22(2) of the Spatial Planning and Land Use Management Act, 2013 (SPLUMA).

The committee agreed that the application is regarded compliant with the general objectives of the SDF and that it may be handled as a site-specific departure from the SDF in accordance with section 22(2) of SPLUMA and section 19 LUPA for the following reasons.

- (1) After a thorough studying of the definitions of land uses applicable to the application in the SDF, the narrow interpretation of the SDF with regard to land uses permissible in Zone E is noted – which stipulates that only high density residential development (only flats) can be accommodated. However, the application falls within the Central Business District (CBD) and mixed uses with different housing types should be encouraged in order to achieve high density development within the CBD, and not only flats can give effect hereto as stipulated in the SDF;
- (2) Compliance with the development principles set out in Chapter 2 of SPLUMA, the public interest, the respective rights of those affected and the impact on engineering services have been adequately addressed in the registered planner's assessment report of the application;
- (3) A further motivation to regard this application as a site-specific circumstance is that only business zone 1 allows for a consent use to establish a residential building within the CBD. This is an indication of the intent to achieve high density residential development within the CBD with a variety of housing types allowed;

UNANIMOUSLY RESOLVED

A. The application for the consent use on erf 425, Malmesbury be approved in terms of section 70 of the Swartland Municipality: By-law on Municipal Land Use Planning (PG 7741 of 3 March 2017), subject to the following conditions that:

A1 TOWN PLANNING AND BUILDING CONTROL

- (a) The consent use authorise the accommodation of a residential building on the property.
- (b) At least 8 onsite parking bays be provided in accordance with condition 4(a) below;

- (c) Building plans for the proposed flat, business building and the residential building be submitted to the Director: Development Services for consideration and approval;
- (d) An additional fee be levied for the unauthorized land use, calculated per day after the closing date of the compliance notice to the date of submission of the application. This amounts to a total of R 36 400.00 (R200.00 x 182) which will be levied on the municipal account of erf 425, Malmesbury;
- (e) The approval is valid for a period of five (5) years in terms of section 76(2)(w) of the By-Law. All conditions of approval must be complied with by 28 February 2019 and failing to do so will result in this approval expiring;

A2 WATER

- (a) The existing water connection be used and that no additional connections will be provided;

A3 SEWERAGE

- (a) The existing sewer connection be used and that no additional connections will be provided;

A4 STREETS AND STORMWATER

- (a) The parking area be provided with a permanent dust free surface to the satisfaction of the Municipality;
- (b) The parking bays be clearly demarcated;

A5 REFUSE REMOVAL

- (a) The basic refuse removal tariff be levied for each dwelling unit as well as for every business and in the case of businesses, that the tariff be amended in accordance with the amount of refuse that is removed;
- (b) Refuse to be placed in refuse bags on the nearest municipal sidewalk on the morning of refuse removal;

A6 CAPITAL CONTRIBUTIONS

- (a) The capital contribution for the regional bulk supply of water be made to the Municipality to the amount of R 6 534,30 at building plan stage. This amount is payable to vote number 9/249-176-9210 and is valid for the financial year of 2018/2019 and may be revised thereafter;
- (b) The fixed capital contribution towards water be made to the Municipality to the amount of R 7 340,83 at building plan stage. This amount is payable to vote number 9/249-174-9210 and is valid for the financial year of 2018/2019 and may be revised thereafter;
- (c) The fixed capital contribution towards sewerage be made to the Municipality to the amount of R 3 631,58 at building plan stage. This amount is payable to vote number 9/240-184-9210 and is valid for the financial year of 2018/2019 and may be revised thereafter;
- (d) The fixed capital contribution towards roads be made to the Municipality to the amount of R 5410,04 at building plan stage. This amount is payable to vote number 9/247-144-9210 and is valid for the financial year of 2018/2019 and may be revised thereafter;
- (e) In terms of the Council's resolution dated 23 May 2018 there is a 40% rebate on the capital contributions. This rebate is not applicable to point 6(a) and is valid for the 2018/2019 financial year and may be revised thereafter.

B. GENERAL

- (a) Should it be necessary to upgrade any existing services in order to accommodate the access or service connections of the proposed development, the cost thereof will be for the developer's account;
- (b) The applicant/objectors are informed of the right to appeal against this decision of the Municipal Planning Tribunal, within 21 days of this notice, in terms of section 89(2) of the By-Law;
- (c) The approval does not exempt the applicant from adherence to any and all other legal procedures, applications and/or approvals related to the intended land use;

- C. The application is supported for the following reasons:
- (a) In addition to the report, the Municipal Tribunal considered it as a site specific deviation from the SDF, as the application complies with the requirements of section 42(1) of SPLUMA as mentioned in the report. Furthermore, the only zone where a residential building is permissible in terms of the zoning scheme is in the business zone 1 zoning as a consent use;
 - (b) The proposal to accommodate a residential building under the business zone 1 zoning situated within the CBD of Malmesbury will not have a negative impact on the character of the area;
 - (c) There are no physical restrictions in converting the existing building into a residential building and sufficient space exist on the property to provide for the required on-site parking;
 - (d) There are no restrictions registered against the title deed of the property that has a negative impact on the proposed application;
 - (e) The development of accommodation units in the CBD of Malmesbury is also seen as consistent with the spatial planning proposals and policy;
 - (f) Access is obtained from a municipal street and the property is well located in the centre of town, contributing to its potential of accommodating the proposed use;
 - (g) The proposed development is not perceived to have a detrimental impact on the health and safety of surrounding landowners, nor will it negatively impact on environmental / heritage assets.

6.3 PROPOSED EXTENSION OF VALIDITY PERIOD: CONSENT USE ON ERF 3024, MALMESBURY (15/3/3-10) (WARD 10)

Mr A J Burger, as author of the item, tabled the proposed application for the extension of the validity period of a consent use for a place of assembly on erf 3024, Malmesbury. This application requests permanent land use rights for the place of assembly.

UNANIMOUSLY RESOLVED

- A. The application for the extension of the validity period of a consent use on erf 3024, Malmesbury in order to obtain permanent land use rights, is approved in terms of Section 70 of the Swartland Municipality Land Use Planning By-Law (PG 7741 of 3 March 2017), subject to the following conditions, that:

A1 TOWN PLANNING AND BUILDING CONTROL

- (a) The consent use authorise a place of assembly;
- (b) The conditions of approval of the Municipal Planning Tribunal regarding the consent use on erf 3024, Malmesbury dated 1 June 2016, remains applicable, except conditions A1(d) and A1(e);
- (c) The place of assembly be strictly operated according to the leasing rules of the Swartland Voortrekkers;
- (d) Any noise generated from the place of assembly be restricted within the boundaries of erf 3024;
- (e) No noise be permitted after 24:00;
- (f) The approval is in terms of section 76(2)(w) of the By-Law valid for a period of five (5) years. All conditions of approval must be complied with by 28 February 2019 and that failing to do so will result in this approval lapsing;

B. GENERAL

- (a) The applicant/objectors is informed of the right to appeal against this decision of the Municipal Planning Tribunal, in terms of section 89(2) of the By-Law;
- (b) The objectors are informed that in future, any complaints regarding the operation of the place of assembly must be lodge to Swartland Municipality;
- (c) The approval does not exempt the applicant from adherence to any and all other legal procedures, applications and/or approvals related to the intended land use;

6.3/...

- C. The application is supported for the following reasons:
- (a) The place of assembly has been operating over the past two years without the lodging of any noise complaints to Swartland Municipality;
 - (b) There was a real improvement in the conditions of the property over the past two years;
 - (c) The place of assembly provides an additional facility to be used by the community of Malmesbury;
 - (d) All future complaints regarding the activities of the place of assembly must be lodged to Swartland Municipality which will ensure the noise generated by the place of assembly is restricted to within the boundaries of erf 3024.

**(SIGNED) M S TERBLANCHE
ACTING CHAIRPERSON**