



**MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING HELD IN THE COMMITTEE ROOM:
CORPORATE SERVICES ON WEDNESDAY, 13 MARCH 2024 AT 14:00**

PRESENT

Internal members:

Municipal Manager, Mr J J Scholtz (chairperson)
Director: Corporate Services, Ms M S Terblanche
Director: Protection Services, Mr P A C Humphreys

External members:

Ms C Havenga
Mr C Rabie

Other officials:

Director: Development Services, Ms J S Krieger
Senior Manager: Development Management, Mr A M Zaayman
Senior Town and Regional Planner, Mr A J Burger
Town and Regional Planner & GIS, Mr H Olivier
Town and Regional Planner, Ms A de Jager
Manager: Secretariat and Records, Ms N Brand (secretariat)

1. OPENING

The chairperson opened the meeting and welcomed members.

2. APOLOGY

No apologies were received.

3. DECLARATION OF INTEREST

RESOLVED that cognisance be taken that no declarations of interest were received.

4. MINUTES

4.1 MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON 14 FEBRUARY 2023

RESOLUTION

(proposed by Mr P A C Humphreys, seconded by Ms C Havenga)

That the minutes of a Municipal Planning Tribunal Meeting held on 14 February 2023 are approved and signed by the chairperson.

5. MATTERS ARISING FROM MINUTES

None.

6. MATTERS FOR CONSIDERATION

6.1 PROPOSED AMENDMENT OF RESTRICTIVE TITLE CONDITION AND PERMANENT DEPARTURES ON ERF 1142, YZERFONTEIN (15/3/4-14; 15/3/5-14)

The chairperson tabled the item and requested the author, Ms A de Jager, to give background to the application. Ms De Jager confirmed that the application entails the legalisation of the

unauthorised building work and the amendment of the restrictive conditions in the Title Deed that prohibits the encroachments on the building lines. However, the unauthorised building work, namely the garage, encroaches the building lines, exceeds the permissible width at street front and does not allow for enough parking space in front of the garage as prescribed by the By-law. Ms de Jager explained that Dassen Island Drive is a high-order road and off-street parking is required in front of a garage.

RESOLUTION

- (a) The Municipal Planning Tribunal may only consider the details of the proposal presented in the application and the preliminary evaluation established that the garage cannot be approved. As a result, rather than refusing the application outright, the application be referred back to the applicant in order to consider the following options and to amend the application accordingly –

Option 1:

- (i) The unauthorised garage be refused and ordered to be demolished in totality, in which instance none of the amendments or departures will be applicable anymore and the application may be withdrawn;

Option 2:

- (i) The encroaching garage structure be reconstructed into a carport by removing both the side walls and street façade, to the satisfaction of the Senior Manager: Development Management;
- (ii) The street façade of the carport be restricted to a maximum width of 6,5 metres, measured from edge to edge of the roof;
- (iii) Restrictive condition B.7.(b) be amended to read as follows:
No building or structure or any portion thereof, except boundary walls and fences, shall, except with the consent of the Administrator, be erected nearer than 1,5m of the south-eastern lateral boundary, common to the adjoining erf, provided that with the consent of the local authority:...
- (iv) The 1,5 m north-western side building line be departed to 0 m;
- (v) The 4 m north-eastern street building line to be departed to 0 m;

Option 3:

- (i) An alternative design proposal be prepared and discussed with the Senior Manager: Development Management, in order to ensure desirability;
- (ii) That the application be amended to reflect the new proposal to the Senior Manager: Development Management;
- (iii) The applicable Title Deed amendments and building line departures remain in the application;
- (b) The proposed fire pit may be considered positively, subject to a number of conditions, such as raising and extending the screen wall.

6.2 PROPOSED CONSENT UE ONF ERF 1919, YZERFONTEIN (15/3/10-14) (WARD 5)

Ms A de Jager confirmed that the application is for a consent use on Erf 1919, Yzerfontein in order to establish a double dwelling.

The proposal is not consistent with the definition of a double dwelling as the designed does not reflect as a single architectural entity and recommendations will be made to the owner/developer to give the appearance of a single large dwelling as per the definition.

RESOLUTION

- A. The application for consent use on Erf 1919, Yzerfontein, in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020) be approved, subject to the conditions that:

A1 TOWN PLANNING AND BUILDING CONTROL

- (a) The consent use authorises a double dwelling, as presented in the application;

6.2(A1)/...

- (b) The street façade on the south-western border be re-designed to be more consistent with the façade of a single dwelling and the general street scape;
- (c) The parking bays in front of the garages, including the sidewalk, be finished in a permanent, dust free material such as concrete, tar or paving or any other such material pre-approved by the Director: Civil Engineering Services;
- (d) Building plans be submitted to the Senior Manager: Development Management for consideration and approval;

A2 WATER

- (a) The property be provided with a single water connection and that no additional connections be provided;

A3 SEWERAGE

- (a) The double dwelling be provided with a conservancy tank with the minimum capacity of 8 000 litre, to be installed on the property at a point that is accessible to the municipal vacuum truck, to the satisfaction of the Director: Civil Engineering Services;

A4 DEVELOPMENT CHARGES

- (a) The owner/developer is responsible for the development charge of R10 862,90 towards the supply of regional bulk water at building plan stage. The amount is due to the Swartland Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA: 9/249-176-9210);
- (b) The owner/developer is responsible for the development charge of R986,70 towards bulk water reticulation at building plan stage. The amount is due to the Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA 9/249-174-9210);
- (c) The owner/developer is responsible for the development charge of R4 946,15 towards sewerage at building plan stage. The amount is due to the Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA 9/240-184-9210);
- (d) The owner/developer is responsible for the development charge of R15 003,00 towards waste water treatment building plan stage. The amount is payable to the Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA 9/240-183-9210);
- (e) The owner/developer is responsible for the development charge of R10 275,25 towards roads at building plan stage. The amount is due to the Municipality, valid for the financial year of 2023/2024 and may be revised thereafter. (mSCOA 9/247-188-9210);
- (f) The owner/developer is responsible for the development charge of R11 044,14 towards electricity at building plan stage. The amount is payable to the Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA 9/253-164-9210);
- (g) The Council resolution of May 2023 makes provision for a 60% discount on development charges to Swartland Municipality. The discount is valid for the financial year 2023/2024 and can be revised thereafter;

B. GENERAL

- (a) The approval does not exempt the owner/developer from compliance with all legislation applicable to the approved land use;
- (b) Should it in future be determined necessary to extend or upgrade any engineering service in order to provide the development with services, it will be for the account of the owner/developer;
- (c) The approval is valid for a period of 5 years, in terms of section 76(2) of the By-Law, from the date of decision. Should an appeal be lodged, the 5 year validity period starts from the date of outcome of the decision against the appeal. All conditions of approval be implemented before the new land use comes into operation/or the occupancy certificate be issued and failing to do so will cause the approval to lapse. Should all conditions of approval be met within the 5 year period, the land use becomes permanent and the approval period will no longer be applicable;

6.2(B)/...

- (d) The applicant/objector be informed of the right to appeal against the decision of the Municipal Planning Tribunal in terms of section 89 of the By-Law. Appeals be directed, in writing, to the Municipal Manager, Swartland Municipality, Private Bag X52, Malmesbury, 7299 or by e-mail to swartlandmun@swartland.org.za, within 21 days of notification of decision. An appeal is to comply with section 90 of the By-Law and is to be accompanied by a fee of R5 000,00 in order to be valid. Appeals that are received late and/or do not comply with the aforementioned requirements, will be considered invalid and will not be processed;

C. The approval be supported for the following reasons:

- (a) The proposed double dwelling is a residential use and is therefore consistent with the proposals of the SDF;
- (b) A double dwelling is accommodated as a consent use under Residential Zone 1 of the By-Law;
- (c) The development proposal supports the optimal utilisation of the property;
- (d) The double dwelling promotes densification;
- (e) The double dwelling may support the tourism industry in Yzerfontein, as well as the local economy;
- (f) The double dwelling will provide in a need for a larger variety of housing opportunities to the wider population;
- (g) The development proposal will not negatively impact on the character of the surrounding neighbourhood or the larger Yzerfontein;
- (h) The concerns of the neighbouring and affected property owners are sufficiently addressed in the conditions of approval;
- (i) The design may be amended at building plan stage to improve the consistence with the definition of a double dwelling and to better integrate with the character of the surrounding area.

6.3 PROPOSED SUBDIVISION OF ERF 1809, RIEBEEK WEST (15/3/6-12; 15/3/13-12) (WARD 3)

Mr H Olivier gave background to the application and confirmed that there are no restrictions in the Title Deed of Erf 1809 prohibiting the proposed subdivision and that the proposal is consistent with the requirements of the Municipal SDF and the principles of LUPA and SPLUMA.

RESOLUTION

A. The application for the subdivision of erf 1809, Riebeeck West be approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), subject to the conditions that:

A1 TOWN PLANNING AND BUILDING CONTROL

- (a) Erf 1809, Riebeeck West (2843 m² in extent) be subdivided into a remainder (1610 m² in extent) and portion A (±1233 m² in extent) as presented in the application;

A2 WATER

- (a) Each subdivided portion be provided with a separate water connection and meter at building plan stage;

A3 SEWERAGE

- (a) Each subdivided portion be provided with a separate sewer connection at clearance stage;

A4 DEVELOPMENT CHARGES

- (a) The owner/developer is responsible for a development charge of R33 948,00 towards the bulk supply of regional water, at clearance stage. The amount is payable to the Swartland Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA 9/249-176-9210);

(b)/...

6.3(A4)/...

- (b) The owner/developer is responsible for the development charge of R32 030,95 towards bulk water distribution, at clearance stage. The amount is payable to the Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA: 9/249-174-9210);
- (c) The owner/developer is responsible for the development charge of R18 343,65 towards sewerage, at clearance stage. The amount is payable to the Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA: 9/240-184-9210).
- (d) The owner/developer is responsible for the development charge of R24 666,35 towards waste water treatment works, at clearance stage. The amount is payable to the Municipality, valid for the financial year of 2023/2024 and may be revised thereafter. (mSCOA: 9/240-183-9210);
- (e) The owner/developer is responsible for the development charge of R16 209,25 towards roads, at clearance stage. The amount is payable to the Municipality, valid for the financial year of 2023/2024 and may be revised thereafter. (mSCOA: 9/247-188-9210);
- (f) The Council resolution of May 2023 makes provision for a 60% discount on development charges to Swartland Municipality. The discount is valid for the financial year 2023/2024 and can be revised thereafter;

B. GENERAL

- (a) The legal certificate which authorises transfer of the subdivided portion in terms of Section 38 of the By-Law not be issued unless all the relevant conditions have been complied with;
- (b) The approval does not exempt the applicant from adherence to all other legal procedures, applications and/or approvals related to the intended land use, as required by provincial, state, parastatal and other statutory bodies.
- (c) Should it be determined necessary to expand or relocate any of the engineering services to provide the development with connections, said expansion and/or relocation will be for the cost of the owner/developer;
- (d) The approval is valid for a period of 5 years, in terms of section 76(2) of the By-Law from date of decision. Should an appeal be lodged, the 5-year validity period starts from the date of outcome of the decision against the appeal.
- (e) All conditions of approval be implemented before the new land uses come into operation/or occupancy certificate be issued and failing to do so the approval will lapse. Should all conditions of approval be met within the 5-year period, the land use becomes permanent, and the approval period will no longer be applicable.
- (f) The applicant/objectors be informed of the right to appeal against the decision of the Municipal Planning Tribunal in terms of section 89 of the By-Law. Appeals be directed, in writing, to the Municipal Manager, Swartland Municipality, Private Bag X52, Malmesbury, 7299 or by e-mail to swartlandmun@swartland.org.za, within 21 days of notification of the decision. An appeal is to comply with section 90 of the By-Law and be accompanied by a fee of R5000-00 to be valid. Appeals that are received late and/or do not comply with the requirements, will be considered invalid and will not be processed:

- C. The registration of a 5m wide right-of-way servitude over the remainder, in favour of the newly created Portion A of Erf 1809, Riebeeck West, complies with the requirements of Section 34 of Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020) and is thus exempted from approval from Swartland Municipality;

Kindly provide Swartland Municipality with copies of the approved Surveyor General diagram for record keeping purposes;

- D. The proposal be supported for the following reasons:

- (a) The proposal is consistent with the spatial proposals of the Municipal SDF, 2023;
- (b) The proposal is consistent with the minimum erf size determined by the SDF, namely 500 m²;
- (c) The development promotes densification in an urban area, consistent with national, provincial and local legislation and policy;
- (d) The proposal complies with the principles of LUPA and SPLUMA;

6.3(D)/...

- (e) The zoning of the properties will remain unchanged and consistent with the character of the area;
- (f) The rights of the surrounding landowners will not be negatively affected;
- (g) The subdivision promotes the optimal utilisation of land and the existing engineering services;
- (h) There are no physical restrictions that prevent the subdivision from being approved;
- (i) Property values of the surrounding properties will not be affected negatively;
- (j) The concern raised by the objector regarding the availability of services have been addressed with the confirmation by the Department: Civil Engineering Services that municipal engineering services networks with sufficient capacity are available in the vicinity for the property in order to accommodate the proposed subdivision. Should any services need upgrading it will be for the cost of the applicant/owner.

6.4 PROPOSED REZONING OF ERF 5662, MOORREESBURG (15/3/3-9) (WARD 1)

The author, Mr A J Burger, presented the report and confirmed that Erf 5662, Moorreesburg was created in order to establish a cemetery.

Mr Burger confirmed that Environmental Authorisation was obtained in February 2024 and included specialist studies, amongst others, on the impact, assessments and mitigation measures on freshwater, stormwater, etc. Mr Burger confirmed that compliance with the conditions of approval stipulated in the Environmental Management Programme are deemed sufficient to mitigate the potential detrimental environmental impacts which may result from the proposed cemetery.

RESOLUTION

- A. The application for the rezoning of erf 5662, Moorreesburg be approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), subject to the following conditions:

A1 TOWN PLANNING AND BUILDING CONTROL

- (a) Erf 5662 be rezoned from Agricultural zone 1 to Open Space 4, as presented in the application;
- (b) The cemetery be fenced and landscaped. Trees be planted on the southern and eastern boundaries of Erf 5662 in order to soften the visual impact of the cemetery;

B. GENERAL

- (a) Application be made for an exemption in terms of Chapter 2 section 2(a) of the National Health Act (Act 61 of 2003) to the Director General of the National Department of Health;
- (b) Cognisance be taken of the conditions of approval of the Environmental Authorization of the Department of Environmental Affairs and Development Planning with reference 16/3/3/1/F5/17/2025/23, dated 8 February 2024;
- (c) Cognisance be taken of the letter from Eskom with reference 05653-00, dated 19 May 2022;
- (d) The approval does not exempt the applicant from adherence to all other legal procedures, applications and/or approvals related to the intended land use, as required by provincial, state, parastatal and other statutory bodies;
- (e) The approval is valid for a period of 5 years, in terms of section 76(2) of the By-Law from date of decision. Should an appeal be lodged, the 5 year validity period starts from the date of outcome of the decision against the appeal;
- (f) All conditions of approval be implemented before the new land uses come into operation and failing to do so the approval will lapse. Should all conditions of approval be met within the 5 year period, the land use becomes permanent, and the approval period will no longer be applicable;
- (g) The applicant/objectors be informed of the right to appeal against the decision of the Municipal Planning Tribunal in terms of section 89 of the By-Law. Appeals be directed, in writing, to the Municipal Manager, Swartland Municipality, Private Bag X52, Malmesbury, 7299 or by e-mail to swartlandmun@swartland.org.za, within 21 days of notification of the decision. An appeal is to comply with section 90 of the By-Law and be accompanied by a fee of R5000,00 to be valid. Appeals that are received late and/or do not comply with the requirements, will be considered invalid and will not be processed.

6.4/...

C. The application be supported for the following reasons:

- (a) The existing cemeteries in Moorreesburg are nearing full capacity and cannot be expanded due to a variety of reasons;
- (b) Erf 5662 does not consist of any physical restrictions which may impact negative on the application;
- (c) The character of the area will not be affected negatively. The proposed cemetery will be fenced and landscaped which will make it less visible and more attractive;
- (d) Various specialist studies were conducted which found Erf 5662 suited for cemetery purposes;
- (e) The application is in compliance with the spatial planning of Moorreesburg;
- (f) The application complies with the principles of LUPA and SPLUMA;
- (g) An Environmental Authorisation from the Department of Environmental Affairs and Development Planning has been issued for the development of a cemetery;
- (h) The concerns of the objectors have sufficiently been addressed or mitigated;
- (i) Any disturbance cause by the cemetery (burials) on the surrounding area are temporary. The disturbance is deemed low;
- (j) The impact on surrounding property values are determined by market conditions and sales in the area. The proposed cemetery will not impact negatively on the surrounding property values;
- (k) Access to the proposed cemetery is deemed sufficient;
- (l) The loss of agricultural land is deemed to be of medium negative significance.

**(SIGNED) J J SCHOLTZ
CHAIRPERSON**

27 March 2024

15/3/3-8/Erf 4310

15/3/4-8/Erf 4310

WYK: 8

ITEM 6.1 OF THE AGENDA FOR THE MUNICIPAL PLANNING TRIBUNAL THAT WILL TAKE PLACE ON WEDNESDAY, 10 APRIL 2024

LAND USE PLANNING REPORT

PROPOSED REZONING AND DEPARTURE ON ERF 4310 MALMESBURY

Reference number	15/3/3-8/Erf 4310 15/3/4-8/Erf 4310	Submission date	22 November 2023	Date finalised	27 March 2024
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PART A: APPLICATION DESCRIPTION

An application for rezoning of Erf 4310, Malmesbury, in terms of section 25(2)(a) of Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020) has been received. It is proposed that Erf 4310 (275m² in extent) be rezoned from Residential Zone 2 to Business Zone 2 to authorize the existing shop and flat.

The proposal also includes an application for a departure of the development parameters on Erf 4310, Malmesbury in terms of section 25(2)(b) of Swartland Municipality: Municipal Land Use Planning By-law (PG 8226 of 25 March 2020). The departures entail the following:

- Departure of the 3m side building line (southern boundary) to 0m and 1.5m respectively
- Departure of the required 2 on-site parking bays to 1 parking bay with regard to the business use.

The departures are caused by the position of the existing buildings with regard to the new zoning parameters.

The applicant is C.K. Rumboll and Partners and the property owners is Ilyas Muse Hussein

PART B: PROPERTY DETAILS

Property description (in accordance with Title Deed)	ERF 4310 MALMESBURY, IN THE SWARTLAND MUNICIPALITY, MALMESBURY DIVISION, PROVINCE OF WESTERN CAPE				
Physical address	50 Alfa Street, Malmesbury		Town	Malmesbury	
Current zoning	Residential Zone 2	Extent (m ² /ha)	275m ²	Are there existing buildings on the property?	Y N
Applicable zoning scheme	Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 25 March 2020)				
Current land use	Shop & Flat		Title Deed number	T26928/2018	
Any restrictive title conditions applicable	Y	N	If yes, list condition number(s)		
Any third-party conditions applicable?	Y	N	If yes, specify		
Any unauthorised land use/building work	Y	N	If yes, explain		

PART C: LIST OF APPLICATIONS (TICK APPLICABLE)

Rezoning	✓	Permanent departure	✓	Temporary departure		Subdivision	
Extension of the validity period of an approval		Approval of an overlay zone		Consolidation		Removal, suspension, or amendment of restrictive conditions	
Permissions in terms of the zoning scheme		Amendment, deletion, or imposition of conditions in respect of existing approval		Amendment or cancellation of an approved subdivision plan		Permission in terms of a condition of approval	
Determination of zoning		Closure of public place		Consent use		Occasional use	
Disestablish a homeowner's association		Rectify failure by homeowner's association to meet its obligations		Permission for the reconstruction of an existing building that constitutes a non-conforming use			

PART D: BACKGROUND

A notice was issued on the 12th of May 2023 regarding the illegal land use.

The owner was instructed to seize the illegal operation of the shop by 12th June 2023.

After confirming that the illegal land use has not been seized instruction was given to the Department Corporate Services to proceed with legal action against the owner of the subject property.

The current zoning of the property only permits a dwelling house and therefore application is made to rezone the property to Business zone 2 to accommodate the shop as well as a flat on the property. As mentioned by the applicant in their motivation letter. It was determined that the shop is not consistent with the provisions of a house shop and therefore application is made for rezoning and not consent use.

PART E: PRE-APPLICATION CONSULTATION (ATTACH MINUTES)

Has pre-application consultation been undertaken?	Y	N	If yes, provide a summary of the outcomes below.
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PART F: SUMMARY OF APPLICANT'S MOTIVATION

(Please note that this is a summary of the applicant's motivation and it, therefore, does not express the views of the author of this report)

The applicant motivates that the proposed rezoning and departures are considered desirable based on the following:

- The proposed development use enhances the principles of LUPA and SPLUMA.
- The proposal complies with the Swartland Spatial Development Framework (2023-2027) as the main forward planning document for Malmesbury and the Swartland Municipal Area as a whole.
- With the application, the property will be subject to the regulations of a flat and a shop as set out in the Swartland Municipal Land Use Planning By-Law (PG 8226).
- The development proposal complements the character of the area and not adversely affect any natural conservation areas or surrounding agricultural practices.
- There are two other shops, like the unauthorized shop on Erf 4310, within ±500m from Erf 4310 in Alfa Street. The proposed development to accommodate a shop and a flat on Erf 4310 aims to integrate seamlessly with the surrounding environment by promoting mixed uses within the area. The land uses will complement the existing character of Alfa Street, consisting of residential and business uses.
- There are no physical restrictions on the property that will negatively affect the proposed uses.
- From the Title Deed of Erf 4310, Malmesbury, it is evident that there are no restrictions that will prohibit the proposed rezoning and departures to accommodate a shop and a flat on the property.
- With the proposed use, the owner of Erf 4310, Malmesbury, is granted an additional income opportunity and economic growth for area.
- The proposal combats urban sprawl by utilising an existing property within the Urban Edge.
- By allowing for a dual land use (residential and commercial), the property will be utilised optimally and efficiently.
- The proposed development will make use of existing infrastructure services and will not have any significant impact on external engineering services, nor will it negatively affect environmental / heritage assets.
- The shop meets a basic need within the community of Wesbank.
- The shop will run all day from 06h00 until 21h30, with the basic groceries offered for sale, and available in small sizes in the shop. The times therefore make it possible for residents who work shifts to make their purchases when other shops in the town are already closed.

- The shop will be operated as a convenience shop within the community. No alcohol will be sold from the premises, nor will any entertainment be provided such as pool tables or gambling machines.
- A sign not larger than 1m² is mounted above the garage door to display the name of the shop. The necessary application to obtain approval for the advertising sign will be lodged to Swartland Municipality for approval.
- Application is also made for the permanent departure to accommodate the existing building on the property. No new building work are proposed at this stage. The existing building consists of approved building plans.
- The Swartland Municipal Land Use Planning By-law (PG 8226) requires that at least one on-site parking bay should be provided per 25m² of Gross Leasable Area with regards to the shop therefore a minimum of two parking bays based on the prescribed criteria. The applicant motivates that currently only one parking bay is provided on Erf 4310, situated in front of the shop, and designated for shop visitors. The portion of the parking bay extending beyond the property boundary is 2.5m², which falls below the size of one parking bay at 12.5m²
- According to the applicant the owner of the shop resides in the flat on the property, rendering the additional parking spaces unnecessary for shop staff. While the Swartland Municipal Land Use Planning By-law (PG 8226) does not outline loading bay requirements for a Business Zone 2 property, it's noteworthy that product deliveries are handled personally by the owner, who utilizes his own vehicle for collecting and delivering products sold within the shop. Consequently, there is no need for a designated loading bay to be provided.

PART G: SUMMARY OF PUBLIC PARTICIPATION

Was public participation undertaken in accordance with section 55- 59 of the Swartland Municipal: By-law on Municipal Land Use Planning?					
				Y	N
A total of 12 registered notices were issued to affected parties however it should be noted that a total of 6 notices were returned unclaimed. Please refer to Annexure C for public participation map.					
Total valid comments	1			Total comments and petitions refused	0
Valid petition(s)	Y	N	If yes, number of signatures		
Community organisation(s) response	Y	N	Ward response	councillor	Y N Notice of the application was sent to councillor De Beer, but no comments were received.
Total letters of support	0				

PART H: COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS				
Name	Date received	Summary of comments	Recommendation	
			Positive	Negative
Building Control	30 November 2023	Building plans be submitted to Building Control for consideration of approval	Positive	
Protection Services	27 November 2023	The owner must take note of the following: All visitors to shop must adhere to Municipal By-laws and Regulations. No obstruction to be allowed by drivers of vehicles.	Comments only	
Electrical Engineering Services	22 November 2023	No comment	N/a	
Cleaning services	21 December 2023	No comment	N/a	
Department: Civil Engineering Services	23 October 2023	<ol style="list-style-type: none"> <u>Water</u> The existing water connection be used and that no additional connections be provided; <u>Sewerage</u> The existing sewer connection be used and that no additional connections be provided ; <u>Streets</u> Delivery vehicles be restricted to a maximum size of 16 000kg. Parks No comments <u>Other</u> 	Comments only	
PART I: COMMENTS RECEIVED DURING PUBLIC PARTICIPATION		SUMMARY OF APPLICANT'S REPLY TO COMMENTS	MUNICIPAL ASSESSMENT OF COMMENTS	
EE Liedeman as neighbouring affected property owner of erf 4309, Malmesbury	<p>The objector states that lately there has been a lot of negative activity regarding this premises.</p> <p>There were and are regular altercations with gangs in the corridor, which put pressure on shop owners and customers.</p>	<p>The applicant comments that the proposed development on Erf 4310 cannot be held accountable for criminal offenses or incidents that may occur outside its premises, as its responsibility is limited to ensuring safety and security within its boundaries.</p> <p>The owner is committed to ensuring safety and security within his premises. Law enforcement is</p>	It is agreed that the owner of the shop cannot take responsibility for the issues raised by the objector. Social problems in the community are noted and should any illegal activities be noted the community should report it to the relevant authorities.	

	<p>Rocks and bottles have previously been thrown at the shop only to end up in the objector's backyard.</p> <p>There have also been cases where shots were fired at the premises.</p> <p>Marijuana smoking in the corridor and from persons sitting on this porch of the subject property, hinders the well-being of residents including the objector's grandchild.</p> <p>The use of language is sometimes crude, and the environment has deteriorated, with the demolition of buildings in Roos street. According to the objector substantial amounts of rubbish blow up from Roos street which is a big nuisance.</p> <p>The objector concludes that they are currently looking at leaving the area, however, it is of the opinion that the above-mentioned has resulted in property values dropping considerably.</p>	<p>responsible for reacting to and addressing criminal activities that occur in the area.</p> <p>Roos Street is opposite the application property. The objection raised to refuse in Roos Street does not relate to the application.</p> <p>The applicant motivates that the proposed development aims to promote a mixed-use character adjacent to an activity Street (Alfa Street) in Malmesbury. It is the objective of the MSDF to proximate convenient and equal access to all residents and development by encouraging mixed uses to enhance social and economic integration.</p> <p>By accommodating both residential and business land uses on a specific property, the principle of mixed-use development is supported. This approach offers job opportunities and housing options, which aligns with the objective of promoting economic growth in the Swartland Municipal area. Moreover, the proposed land use offers an additional stream of income for the property owner, which is particularly important during these economically constrained times.</p> <p>The Swartland Municipal Land Use Planning By-law (PG 8226) and Swartland Municipal Spatial Development Framework (MSDF) (2023) are sufficient to coordinate development within the Swartland Municipal area. The proposed development is fully compliant with the land use proposals as envisaged by the Swartland MSDF.</p>	<p>It should be noted that the proposal is supported by the Municipal Spatial Development Framework, 2023, does not have a negative impact on the character of the area, as well as does not pose a threat to or is not detrimental to the health and safety of surrounding landowners, nor will it negatively impact on environmental/heritage assets.</p> <p>The shop is ideally located next to an identified activity street as well as conveniently located next to a pedestrian pathway servicing a substantial portion of the Wesbank community. The objector's property has a similar potential, and it is therefore argued that the approval of the rezoning may increase the value of property in the vicinity.</p>
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PART J: MUNICIPAL PLANNING EVALUATION

1. Type of application and procedures followed in processing the application

The application was submitted in terms of the By-law on 22 November 2023. The public participation process commenced on the 29th of November 2023 and ended on the 24th of January 2024. An objection was received and referred to the applicant for comment on the 2nd of February 2024. Comments were received on the objections on the 27th of February 2024.

Division: Planning is now in the position to present the application to the Swartland Municipal Planning Tribunal for decision-making.

2. Legislation and policy frameworks

2.1 Matters referred to in Section 42 of SPLUMA and Principles referred to in Chapter VI of LUPA

Spatial Justice: The proposed development is deemed consistent with the Swartland MSDF (2023) as well as the goals of the district and provincial spatial policies as will be further discussed below. The consideration of the application also realises the owner of the property's right to apply in terms of the relevant legislation.

Spatial Sustainability: The proposed development will result in a more spatially compact and resource-efficient settlement and will optimise the use of existing infrastructure and space. Seeing that the existing services will be used and that no upgrades to existing services / infrastructure is required to accommodate the development. The proposal will also not have a negative impact on critical biodiversity areas or high potential agricultural land and will in the long term contribute to the economy of Malmesbury through the improvement of the property as well as through job creation.

Efficiency: The development proposal promotes the optimal utilisation of services on the property and enhance the tax base of the Municipality. The proposed use will also strengthen the current mixed-use character of the area as well as the existing identified activity street. Therefore, the application complies with the principle of efficiency.

Good Administration: The application and public participation are administrated by Swartland Municipality and public and departmental comments were obtained. The decision making is guided by a number of considerations as required by the relevant By-law and Municipal Spatial Development Framework;

Spatial Resilience:

The proposal to accommodate mixed uses along an identified activity street is not only supported from a spatial planning point of view but also makes the property more resilient as it creates opportunity for a wider range of uses. With the above in mind the use of the property for commercial purposes is justified in the long term and is therefore deemed spatial resilient.

It is subsequently clear that the development proposal adheres to the spatial planning principles and is thus consistent with the abovementioned legislative measures.

2.2. Provincial Spatial Development Framework (PSDF, 2014)

According to the PSDF (2014), the average densities of cities and towns in the Western Cape is low by international standards, despite policies to support mixed-use and integration. There is unmistakable evidence that urban sprawl and low densities contribute to unproductive and inefficient settlements as well as increase the costs of municipal and Provincial service delivery.

The PSDF suggest that by prioritising a more compact urban form through investment and development decisions, settlements in the Western Cape can become more inclusionary, widening the range of opportunities for all.

It is further mentioned in the PSDF that the lack of integration, compaction, and densification in urban areas in the Western Cape has serious negative consequences for municipal finances, for household livelihoods, for the environment, and the economy. Therefore, the PSDF provides principles to guide municipalities towards more efficient and sustainable spatial growth patterns.

One of the policies proposed by the PSDF is the promotion of compact, mixed-use, and integrated settlements. This according to the PSDF can be achieved by doing the following:

- 1) Target existing economic nodes (e.g., CBDs (Central Business District), township centres, modal interchanges, vacant and under-utilised strategically located public land parcels, fishing harbours, public squares, and markets, etc.) as levers for the regeneration and revitalisation of settlements.
- 2) **Promote functional integration and mixed-use as a key component of achieving improved levels of settlement liveability and counter apartheid spatial patterns and decentralization through densification and infill development.**
- 3) Locate and package integrated land development packages, infrastructure, and services as critical inputs to business establishment and expansion in places that capture efficiencies associated with agglomeration.
- 4) Prioritise rural development investment based on the economic role and function of settlements in rural areas, acknowledging that agriculture, fishing, mining, and tourism remain important economic underpinnings of rural settlements.
- 5) **Respond to the logic of formal and informal markets in such a way as to retain the flexibility required by the poor and enable settlement and land use patterns that support informal livelihood opportunities rather than undermine them.**
- 6) Delineate Integration Zones within settlements within which there are opportunities for spatially targeting public intervention to promote more inclusive, efficient, and sustainable forms of urban development.
- 7) Continue to deliver public investment to meet basic needs in all settlements, with ward level priorities informed by the Department of Social Development's human development indices.
- 8) Municipal SDFs (Spatial Development Framework) (Spatial Development Framework) to include growth management tools to achieve SPLUMA's spatial principles. These could include a densification strategy and targets appropriate to the settlement context; an urban edge to protect agricultural land of high potential and contain settlement footprints; and a set of development incentives to promote integration, higher densities, and appropriate development typologies.

The PSDF further states that scenic landscapes, historic settlements, and the sense of place which underpins their quality are being eroded by inappropriate developments that detracts from the unique identity of towns. These are caused by inappropriate development, a lack of adequate information and proactive management systems.

The Provincial settlement policy objectives according to the PSDF are to:

- (a) **Protect and enhance the sense of place and settlement patterns**
- (b) **Improve accessibility at all scales**
- (c) **Promote an appropriate land use mix and density in settlements**
- (d) Ensure effective and equitable social services and facilities
- (e) Support inclusive and sustainable housing

The development proposal is therefore deemed consistent with the PSDF.

2.3 West Coast District SDF (WCDSDF, 2020)

In the WCDSDF, 2020 it is stated that the functional classification for Malmesbury is a regional centre and according to the growth potential study, only Malmesbury and Vredenburg has been classified as towns with an extremely high growth potential index.

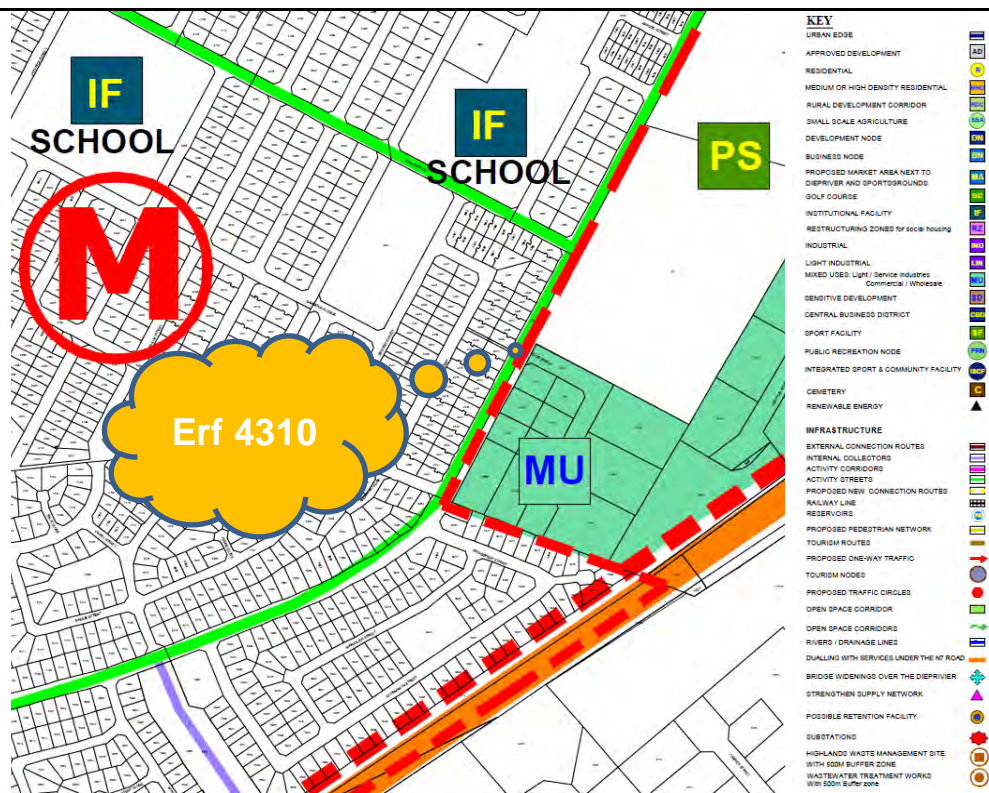
In terms of the built environment policy of the WCDSDF, local municipalities should plan sustainable human settlements that comply with the objectives of integration, spatial restructuring, residential densification, and basic service provision. Priority should also be given to settlement development in towns with the highest economic growth potential and socio-economic need.

The WCDSDF rightfully looks at spatial development on a district level. However, the WCDM SDF promotes the approach that local municipalities in the WCDM should focus on spatial integration, efficiency, equal access, sustainability, and related planning principles, to inform planning decisions (as required in terms of SPLUMA and recommended in the PSDF, 2014), to improve quality of life and access to amenities and opportunities to all residents in the WCDM.

It is thus clear that the proposed development is not in conflict with the principles as set out in the WCDSDF, 2020.

2.4 Municipal Spatial Development Framework (SDF), 2023

The subject property is situated in land use proposal zone M as indicated on the land use proposal map of Malmesbury. Please refer to the extract below.



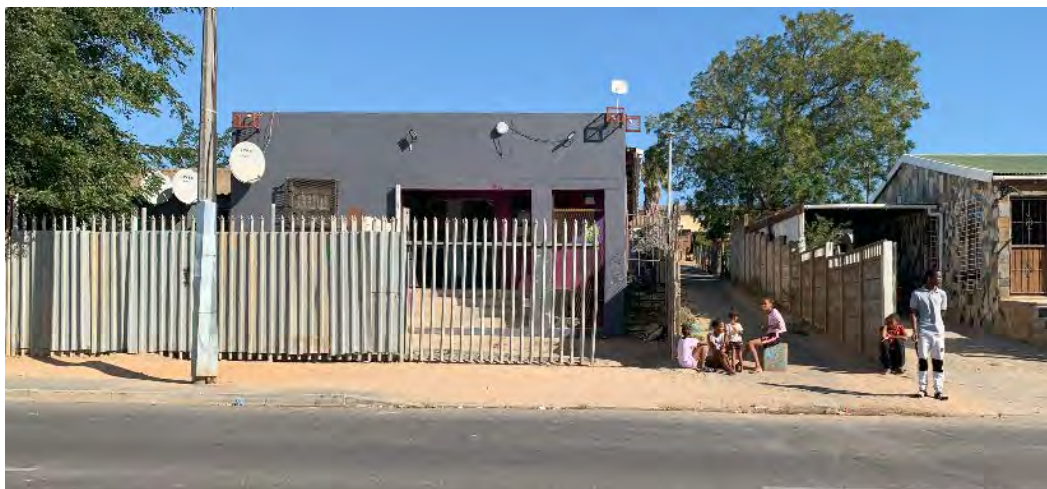
Zone M has a medium to high density residential character. The MSDF supports social, and neighbourhood orientated commercial services. Business use is supported however should be located along activity streets and corridors. As seen above, Alfa Street is an identified activity street and therefore the proposal is consistent with the MSDF, 2023.

2.5 Schedule 2 of the By-Law: Zoning Scheme Provisions

As mentioned above application is made for departure of the provisions applicable to the Business zone 2 zoning due to the position of the existing structure on the property as well as the fact that the required amount of parking bays cannot be provided on the property as there is not enough space.

Application is therefore made for a departure of the applicable building lines from the required 3m to 0m to accommodate the existing semi-detached building within the parameters of the new zoning.

Secondly, the shop being $\pm 55\text{m}^2$ in extent requires that at least 2 parking bays to be provided @ $1/25\text{m}^2$ GLA and the proposed flat requiring only 1 parking bay. Therefore, 3 parking bays need to be provided on the property. The proposal entails that only 2 parking bays fit in front of the existing building of which one bay is only partially on-site. Please refer to the site development plan as well as the photos below.





From the site inspection it was found that there is sufficient space available to accommodate the 3 parking bays although 2 will be partially on site as the existing building is approximately 4m from the street boundary. Fortunately, the road reserve of Alfa Street, being 20m wide provides sufficient space to accommodate a vehicle without obstructing pedestrian movement. Therefore, the parking bays are supported only being partially on-site and it is not required to depart from the specific provision. This will also minimise the financial contribution the applicant would need to pay for the non-provision of parking as only 5m² is within the road reserve. Calculated at a value of R 387.00 per m², the contribution will only be R 1935.00 in lieu of the contribution of R 5 805.00 should only two bays be provided.



3. Desirability of the proposed utilisation

There are no physical restrictions on the property that will have a negative impact on the application.

The proposed application is consistent with and not in contradiction to the Spatial Development Frameworks adopted on Provincial, District and Municipal levels as discussed above.

The proposed application will not have a negative impact on the character of the area.

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.

4. Impact on municipal engineering services

The proposed development will not have a significant impact on municipal engineering services. Should any services need upgrading to accommodate the proposed development, it will be for the developer's account.

5. Comments from other organs of state/departments

The comments from the Department Protection Services that the owner must take note that all visitors must adhere to the Municipal By-Laws and Regulations as well as that no obstruction to be allowed by drivers of vehicles. Is noted and can be included in the conditions should the application be approved.

6. Municipal tariffs for illegal land use / contravention penalty

After instruction was given that the illegal operation of the shop needed to stop on the 12th of June 2023 and the applicant only submitting the application on the 21st of November 2023 a total of 161 days passed. In terms of the Municipal tariff structure a fine of R 300.00 per day should be levied. This contravention penalty can be included as a condition of approval.

PART K: ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

Not relevant to development proposal currently being considered.

PART L: RECOMMENDATION WITH CONDITIONS

- A. The application for the rezoning of Erf 4310, Malmesbury from Residential Zone 2 to Business Zone 2, be approved in terms of section 70 of the Swartland Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020):
- B. The application for the departure from side building line restriction (southern boundary) be approved in terms of section 70 of Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020):
- C. The application for the departure from the required on-site parking be approved in terms of section 70 of Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020):

Decisions A, B & C above are subject to the following conditions;

1. TOWN PLANNING AND BUILDING CONTROL

- (a) The use of the property be restricted to a shop and flat;
- (b) The building line departure be restricted to the existing building;
- (c) Three clearly demarcated parking bays be provided on the subject property. The existing gate should not obstruct the parking bays during operation hours. The parking bays / parking area be finished with a permanent, dust free surface, whether it be tar, concrete, paving or any other material, as pre-approved by the Director: Civil Engineering Services;
- (d) The departure for the non-provision of the required parking bays be restricted to the 5m² which is provided within the road reserve of Alfa Street;
- (e) A financial contribution be made to the amount of R 1935.00 (5m² x R387.00) for the partial provision of the required on-site parking;
- (f) The operation hours of the shop be restricted to 6h00 – 21h00;
- (g) Building plans be submitted to the Senior Manager: Development Management for consideration and approval;
- (h) Application be made to the Senior Manager: Development Management for the right to display the name board/sign of the facility on the site;
- (i) Application for a Certificate of Compliance be submitted to the West Coast District Municipality for consideration and approval;
- (j) Additional fees for the Unauthorised Land Use be levied in terms of the Municipal tariffs to the amount of R 48 300.00;

2. WATER

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

3. SEWERAGE

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

4. STREETS

- (a) Deliveries to the property may only be made by delivery vehicles not exceeding 16 000kg gross vehicle mass;

5. REFUSE REMOVAL

- (a) A built refuse area be constructed and provided with clean running water as well as a catchment point for dirty water that is connected to the sewer network. The refuse should be easily accessible to refuse removal workers but should not be accessible to animals / birds and unauthorised individuals;

D. GENERAL


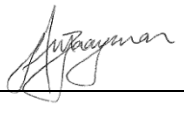
- (a) The approval does not exempt the applicant from adherence to all other legal procedures, applications and/or approvals related to the intended land use, as required by provincial, state, parastatal and other statutory bodies;
- (b) Should it be determined necessary to expand or relocate any of the engineering services to provide the development with connections, said expansion and/or relocation will be for the cost of the owner/developer;
- (c) All conditions of approval be complied with before 10 July 2024. Failure to do so will result in the Municipality proceeding with the necessary legal action;
- (d) The approval is valid for a period of 5 years, in terms of section 76(2) of the By-Law from date of decision. Should an appeal be lodged, the 5-year validity period starts from the date of outcome of the decision against the appeal;
- (e) All conditions of approval be implemented before an occupancy certificate be issued and failing to do so will cause the approval to lapse. Should all conditions of approval be met within the 5-year period, the land use becomes permanent, and the approval period will no longer be applicable;
- (f) The applicant/objector be informed of the right to appeal against the decision of the Municipal Planning Tribunal in terms of section 89 of the By-Law. Appeals be directed, in writing, to the Municipal Manager, Swartland Municipality, Private Bag X52, Malmesbury, 7299 or by e-mail to swartlandmun@swartland.org.za, within 21 days of notification of the decision. An appeal is to comply with section 90 of the By-Law and be accompanied by a fee of R5000-00 to be valid. Appeals that are received late and/or do not comply with the requirements, will be considered invalid and will not be processed;

PART M: REASONS FOR RECOMMENDATION

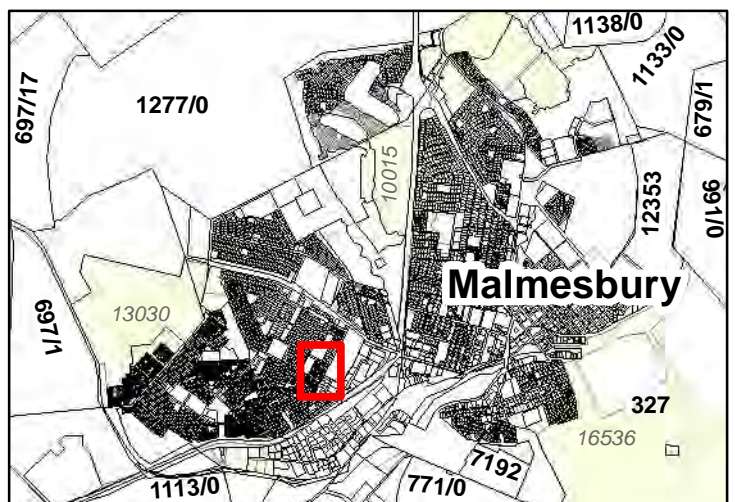
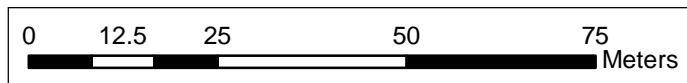
1. There are no physical restrictions on the property that will have a negative impact on the proposed application.
2. There are no restrictions registered against the title deed of the property that prohibits the proposed land use.
3. The SDF, 2023 supports the accommodation of business uses as well as secondary business uses along activity streets / corridors or at the existing node. Alfa Street is an identified activity street.
4. The proposed application is consistent with and not in contradiction to the Spatial Development Frameworks adopted on Provincial, District and Municipal levels.
5. The proposed application will not have a negative impact on the character of the area.
6. 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.
7. The proposal will not have a significant impact on traffic in Alfa Street.
8. The departure of the building line (southern boundary) is only to accommodate the existing building within the parameters of the new zoning category.
9. Sufficient space exists to accommodate the required parking bays.

PART N: ANNEXURES

Annexure A	Locality plan
Annexure B	Proposed Site Plan
Annexure C	Public participation plan
Annexure D	Objection from EE Liedeman
Annexure E	Applicants comments on the objections
Annexure F	Copy of the approved building plan
Annexure G	Photos

PART O: APPLICANT DETAILS				
First name(s)	C.K. Rumboll and Partners			
Registered owner(s)	Ilyas Muse Hussein	Is the applicant authorised to submit this application:	Y	N
PART P: SIGNATURES				
Author details: Herman Olivier Town Planner SACPLAN: A/204/2010				Date: 28 March 2024
Recommendation: Alwyn Zaayman Senior Manager: Development management SACPLAN: B/8001/2001		Recommended	<input checked="" type="checkbox"/>	Not recommended
				Date: 2 April 2024

LOCATION PLAN OF ERF 4310, MALMESBURY



SITE DEVELOPMENT PLAN: ERF 4310, MALMESBURY



LEGEND:

Subject property

Existing cadastral boundaries

Building Lines / Setback Regulation



ZONING I.T.O. THE ZONING SCHEME:

Existing: Residential Zone 2

Proposed: Business Zone 2

NOTES:

This diagram illustrates Erf 4310, Malmesbury, with an extent of 275m².

The land uses on this property includes a shop and a flat.



Drawing:
SITE DEVELOPMENT PLAN

ALL AREAS AND DISTANCES ARE SUBJECT TO SURVEYING



C.K. RUMBOLL & VENNOTE
TOWN PLANNERS
PROFESSIONAL SURVEYORS

Tel: 022 - 4821845
Fax: 022 - 4871661
Email: planning1@rumboll.co.za

DATE:
NOVEMBER 2023

AUTHORITY:
SWARTLAND MUNICIPALITY

REF:
MAL/13469/MC

ANNEXURE C

Locality plan



13

EE Liedeman

48 Alfa straat

Malmesbury

7300

Swartland Munisipaliteit

Die Munisipaliteits Bestuurder

Epos-swartlandmun@swartland.org.za

Re -Hersonering ERF4310(15/3/3-8erf_4310

Geagte Heer/Dame

Die afgelope tydperk,het hier heelwat negatiewe aktiwiteit plaasgevind,met betrekking tot hierdie perseel.Daar was en is gereeld onderonsies met bendes in gang,wat druk plaas op winkel eienaars en klante.Klippe en bottels was voorheen na geggooi na winkel en het beland in my agterplaas.Daar was gevalle waar daar geskiet was na perseel .Dagga rokerie in gang en van persone wat op hierdie winkel stoep sit,belemmer die welstand van inwoners en my klein kind. Die taal gebruik is soms kru en die omgewing het heelwat versleg,met die afbreuk van geboue in Roos st.Daar is heelwat, vullis wat van Roos st opwaai en is n groot kopseer.Huidiglik is dit n kopseer en my gesin is besig om te kyk om area te verlaat,dit het te weeg gebring dat verkoopwaarde heel wat gedaal het.

EE Liedeman

PROFESSIONELE LANDMETERS ~ ENGINEERING AND MINE SURVEYORS ~ STADS- EN STREEKSBEPLANNERS ~ SECTIONAL TITLE CONSULTANTS

OUR REF: MAL/13469/MC
YOUR REF: 15/3/3-8/Erf_4310
15/3/4-8/Erf_4310

15 | 3 | 3-8 | Erf. 4310

SSSB
cc Del

15 | 3 | 4-8 | Erf. 4310

Comments on Objections

1. Introduction

Your letter dated 2 February 2024 refers.

CK Rumboll and Partners have been appointed by Mr. Ilyas Muse Hussein, owner of Erf 4310, Malmesbury, to attend to all town planning actions regarding the proposed rezoning of the property. The application further includes departures from certain development parameters, specifically building lines and parking restrictions, to accommodate business premises (a shop) and a flat on the property.

During the public participation period, objections were received from the following surrounding neighbour:

A. E.E. Liedeman (48 Alfa Street)

2. Comments on objections

Please see our office's response to the objections received below in tabular form.



VENNOTE / PARTNERS:

ADDRESS/ ADRES: planning1@rumboll.co.za / PO Box 211 / Rainierstr 16, Malmesbury, 7299
MALMESBURY (T) 022 482 1845 (F) 022 487 1661

Table 1: Comments on Objections

Objectors	Objections	Comments from CK Rumboll & Partners
A	<p>1. "Die afgelope tyd het hier heelwat negatiewe aktiwiteit plaasgevind, met betrekking tot hierdie perseel. Daar was en is gereeld onderonsies met bendes in die gang wat druk plaas op winkeleienaars en klante. Klippe en bottels was voorheen na die winkel gegooi en beland dan in my agterplaas. Daar was ook al gevalle waar daar op die perseel geskiet is. Daggarokery in die gang en van persone wat op hierdie winkel se stoep sit, belemmer die welstand van inwoners en my kleinkind. Die taalgebruik is soms kru en die omgewing het heelwat versleg, met die afbreuk van geboue in Roos Straat. Daar is heelwat vullis wat van Roos straat opwaai en is 'n groot kopseer. Huidiglik is dit 'n kopseer en my gesin is besig om te kyk om area te verlaat. Dit het teweeggebring dat verkoopswaarde heelwat gedaal het."</p>	<p>1. The proposed development on Erf 4310 cannot be held accountable for criminal offenses or incidents that may occur outside its premises, as its responsibility is limited to ensuring safety and security within its boundaries. The owner is committed to ensuring safety and security within his premises. Law enforcement is responsible for reacting to and addressing criminal activities that occur in the area.</p> <p>Roos Street is opposite the application property. The objection raised towards refuse in Roos Street does not relate to the application.</p>

VENNOTE / PARTNERS:

IHJ Rumboll PrL (SA), BSc (Surv), M.I.P.L.S., AP Steyl PrL (SA), BSc (Surv), M.I.P.L.S.
 ADDRESS/ ADRES: planning1@rumboll.co.za / PO Box 211 / Rainierstr 16, Malmesbury, 7299
 MALMESBURY (T) 022 482 1845 (F) 022 487 1661

3. Conclusion

The proposed development aims to promote a mixed-use character adjacent to an Activity Street (Alfa Street) in Malmesbury. It is the objective of the *MSDF* to proximate convenient and equal access to all residents and development by encouraging mixed uses to enhance social and economic integration. By accommodating both residential and business land uses on a single property, the principle of mixed-use development is supported. This approach offers job opportunities and housing options, which aligns with the objective of promoting economic growth in the Swartland Municipal area. Moreover, the proposed land use offers an additional stream of income for the property owner, which is particularly important during these economically constrained times.

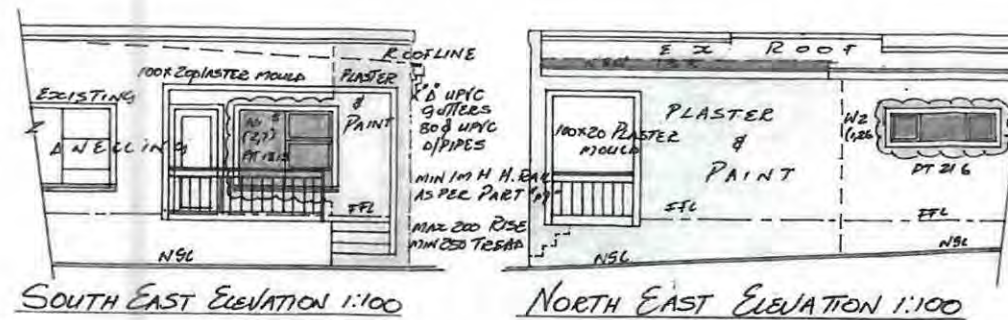
The *Swartland Municipal Land Use Planning By-law (PG 8226)* and *Swartland Municipal Spatial Development Framework (MSDF) (2023)* are sufficient to coordinate development within the Swartland Municipal area. The proposed development is fully compliant with the land use proposals as envisaged by the *Swartland MSDF*.

We trust you will find the above in order when considering the application.

Kind regards,



Mandri Crafford (Pr. Pln. 3241/2022)
For CK RUMBOLL & PARTNERS



AREAS: PLOT: 275m² EX DWELLING: 134.5m²
COVER: 49 %
NET AREA: 52m² WINDOW AREA 5,58m²
FENESTRATION: 11 %
PROPOSED INTERNAL ALTERATIONS TO
THE HOUSE OF MR. ILYAS MUSA
HUSSEIN IN ALFA STR. NR 50 ON ERF
4310 IN MALMESBURY
SIGNATURE: ILYAS JAN 2022
TEL: CELL: 0833 295432.

26 March 2024

15/3/10-11/Erf 2500

WYK: 12

ITEM 6.2 OF THE AGENDA FOR THE MUNICIPAL PLANNING TRIBUNAL THAT WILL TAKE PLACE ON WEDNESDAY, 10 APRIL 2024

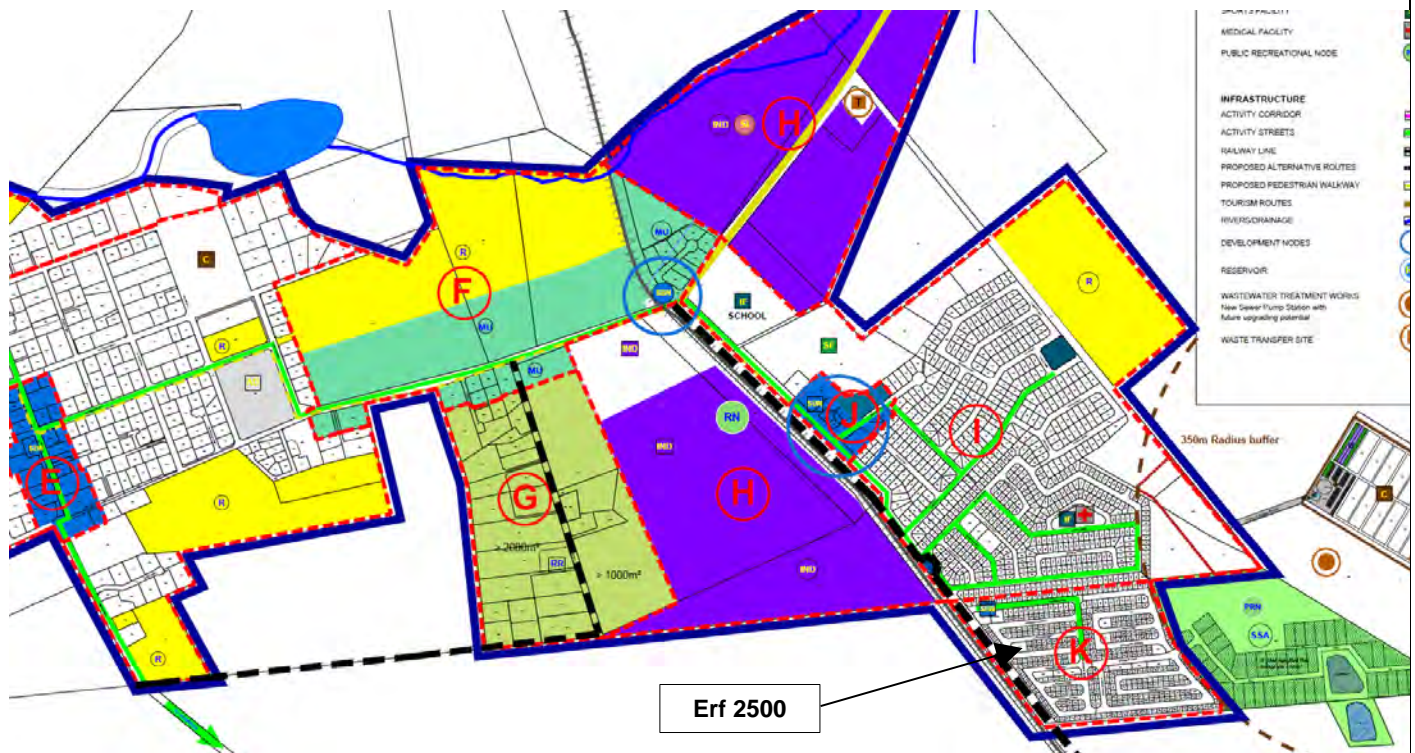
LAND USE PLANNING REPORT PROPOSED CONSENT USE OF ERF 2500, RIEBEEK KASTEEL					
Reference number	15/3/10-11/Erf 2500	Application submission date	22 January 2024	Date report finalised	27 March 2024

PART A: APPLICATION DESCRIPTION						
Application for consent use on Erf 2500, Riebeek Kasteel, is made in terms of section 25(2)(o) of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 25 March 2020), in order to operate a house shop from a portion of the dwelling structure on the property.						
The applicant and property owner is D. Daniels and the operator of the house shop is S. Gebire.						
PART B: PROPERTY DETAILS						
Property description (in accordance with Title Deed)	ERF 2500 RIEBEEK KASTEEL, in the Swartland Municipality, Division Malmesbury, Province of Western Cape					
Physical address	35 Swartberg Crescent			Town	Riebeek Kasteel	
Current zoning	Residential Zone 4	Extent (m²/ha)	100m²	Are there existing buildings on the property?	Y	N
Applicable zoning scheme	Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 25 March 2020)					
Current land use	House shop			Title Deed number & date	T18021/2021	
Any restrictive title conditions applicable	Y	N	If Yes, list condition number(s)			
Any third party conditions applicable?	Y	N	If Yes, specify			
Any unauthorised land use/building work	Y	N	If Yes, explain		The proposed structure was already constructed and the house shop is in operation.	
PART C: LIST OF APPLICATIONS (TICK APPLICABLE)						
Rezoning		Permanent departure		Temporary departure		Subdivision
Extension of the validity period of an approval		Approval of an overlay zone		Consolidation		Removal, suspension or amendment of restrictive conditions
Permissions in terms of the zoning scheme		Amendment, deletion or imposition of conditions in respect of existing approval		Amendment or cancellation of an approved subdivision plan		Permission in terms of a condition of approval
Determination of zoning		Closure of public place		Consent use	✓	Occasional use
Disestablish a home owner's association		Rectify failure by home owner's association to meet its obligations		Permission for the reconstruction of an existing building that		

constitutes a non-conforming use

PART D: BACKGROUND

Erf 2500 is a Residential Zone 4 erf of 100m² in extent, located on Swartberg Crescent, in the south-eastern portion of Riebeeck Kasteel. The area is the latest subsidised residential development in Riebeeck Kasteel, known as New Rest.



The Swartland Spatial Development Framework (SDF, 2023) identifies the new portion of town as Area K, characterised by serviced sites, all of which have been transferred to the designated beneficiaries. Some of the erven contain dwelling structures, while others are vacant or still being developed. The application property is located in close proximity to a public open space and a community business erf at the opposite ends of the street. The business erf is the property of Swartland Municipality and is undeveloped.

The house shop is proposed to be contained in a structure of 40m². Section 1.2.7.(a) of Schedule 2 of the By-Law states:

“...The extent and position of the retail component must be clearly defined on a plan, and shall not exceed 25m² or 50% of total floor space (excluding any toilet, change room and storeroom), whichever is the lesser area...”

The structure is thus divided into two portions, namely a living portion of 19,70m² in extent, separated from the shop area of 18,93m² in extent.

The owner rents the property to S. Gebire for a period of three years (36 months), for the purposes of operating a house shop, at the end of which the owner intends to retire and personally reside on the property.

The application was submitted by the property owner, D. Daniels, and includes the written agreement providing permission to the shop owner to operate a house shop on the property on a temporary basis.

Various actions have been taken by the Ward Councillor and Law Enforcement against the unauthorised house shops in New Rest and the application at hand is an attempt to legalise the dwelling structure and house shop on Erf 2500, Riebeeck Kasteel.

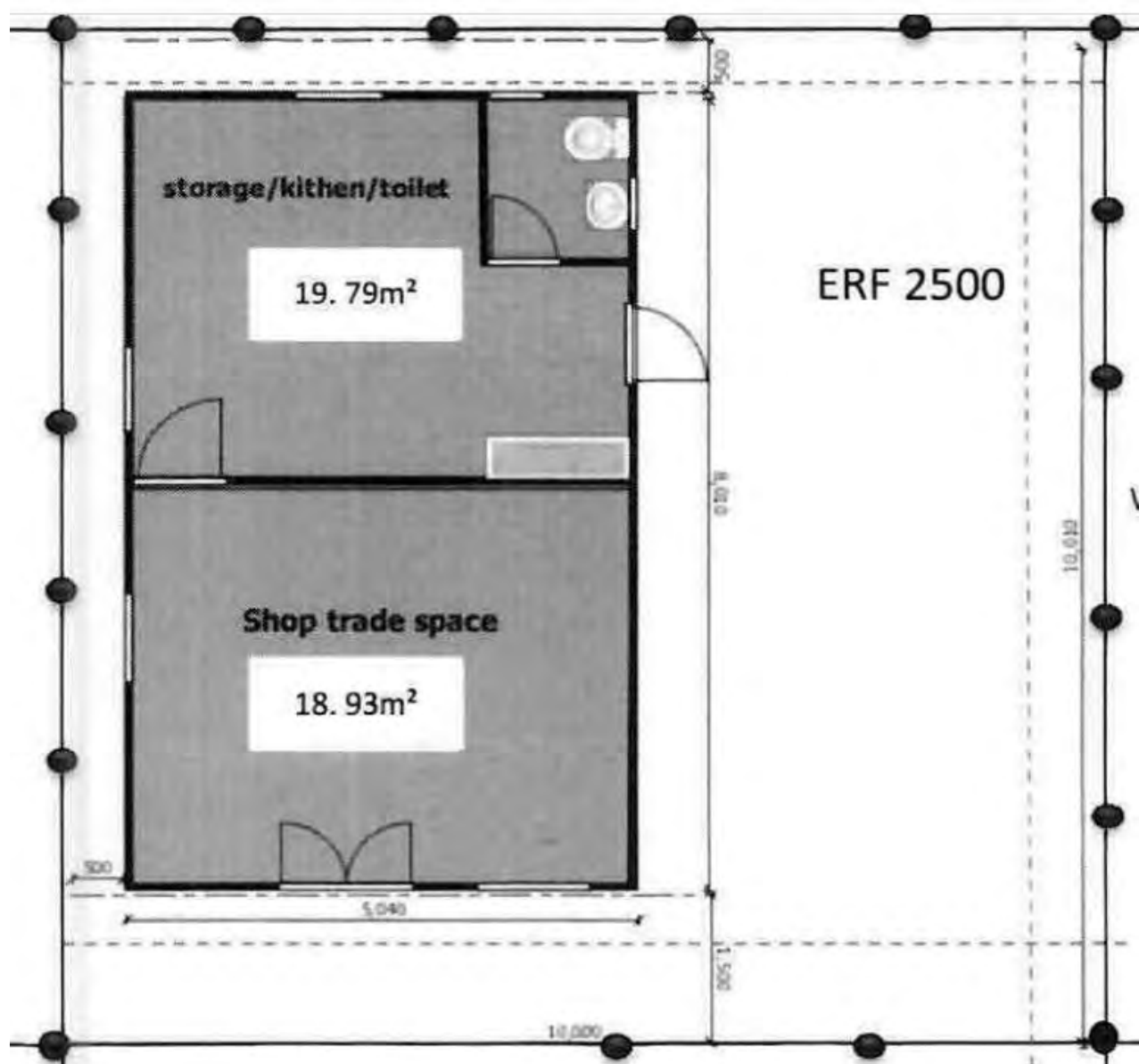
PART E: PRE-APPLICATION CONSULTATION (ATTACH MINUTES)

Has pre-application consultation been undertaken? ☐ Y ☒ N If yes, provide a brief summary of the outcomes below.

PART F: SUMMARY OF APPLICANT'S MOTIVATION

The application property is zoned Residential Zone 4: Incremental Housing, dwelling, second dwelling unit, bed and breakfast establishment and a shelter. A house shop is a permissible consent use within the zoning category.

The size of the property is 100m². The dwelling and house shop are proposed to be operated from a 40m² building, internally divided into two portions, constructed from corrugated iron sheets on a concrete slab.



The proposed house shop will provide in the need for basic groceries, such as bread, sweets, vegetables, beverages, canned goods and miscellaneous household products in small quantities.

The shop is intended to provide in the needs of the immediate community and to shorten travel distances for customers located further from the CBD.

The application property is located in Area K of the Swartland Spatial Development Framework (SDF, 2023). The area is the latest residential expansion of Riebeeck Kasteel. The character of area K is that of high density serviced sites with designated properties for amenities such as places of worship, early childhood development facilities and neighbourhood business developments, high density residential development and supportive social infrastructure. The area also allows for the development of secondary businesses such as house shops. The proposal is thus consistent with the spatial planning of Riebeeck Kasteel.

PART G: SUMMARY OF PUBLIC PARTICIPATION

Was public participation undertaken in accordance with section 55- 59 of the Swartland Municipal: By-law on Municipal Land Use Planning?

Y N

The property owners obtained written consent for operating a house shop on Erf 2500 from 24 individuals in the affected area, as identified by the Municipality and 1 written notice was delivered by hand to the affected property owner who

could not be reached otherwise, in terms of Section 56(1) & (2) of the By-Law. Please refer to Annexure C for the public participation map. The commenting period for or against the application, came to an end on 26 February 2024.

Five objections were received, including a petition signed by 78 individuals. The applicant was afforded 30 days, from 27 February 2024 to 27 March 2024, to respond to comments and objections received by affected parties. The applicant elected not to respond to the objections within the allocated time.

Total valid comments	5			Total comments and petitions refused			0		
Valid petition(s)	Y	N	If yes, number of signatures	78					
Community organisation(s) response	Y	N	Ward councillor response	Y	N	The application was circulated to Councillor Bess and discussed during the ward committee meeting. The objections from the committee were formalised and submitted by Cllr. Bess.			
Total letters of support	0								

PART H: COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS				Recommendation	
Name	Date received	Summary of comments		Positive	Negative
Department: Civil Engineering Services	28 Jul. 2019	<p><u>Water:</u></p> <ol style="list-style-type: none"> 1. Die bestaande wateraansluiting gebruik word; 2. Geen bykomende aansluitings voorsien word nie; <p><u>Riolering:</u></p> <ol style="list-style-type: none"> 1. Die bestaande wateraansluiting gebruik word; 2. Geen bykomende aansluitings voorsien word nie; <p><u>Strate en stormwater:</u></p> <ol style="list-style-type: none"> 1. Aflewerings slegs met ligte afleweringsvoertuie, wat nie 16 000kg oorskry nie, gedoen word; <p><u>Vullisverwydering:</u></p> <ol style="list-style-type: none"> 1. 'n Basiese vullisverwyderingstarief vir die woning sowel as die besigheid gehef word, wat in die geval van die besigheid aangepas sal word volgens die hoeveelheid vullis verwyder . 2. Vullis op die oggend van verwydering op die naaste munisipale sypaadjie in vullissakke geplaas word. 		✓	

PART I: COMMENTS RECEIVED DURING PUBLIC PARTICIPATION		
SUMMARY OF OBJECTION		MUNICIPAL ASSESSMENT OF COMMENTS
<p><u>J. de Bruin</u> <u>Erf 759</u> (Annexure E)</p>	<p>1. Ek het 26 jaar as wykskomiteelid gedien. Ek maak sterk beswaar dat daar nog 'n huiswinkel in Sewartbergsingel opgerig word, want dit is 'n buitelander. Daar is alreeds 'n huiswinkel. Ek hoop u tree sterk teen die persoon op.</p>	<p>1. Die huiswinkels in New Rest is, met die uitsondering van Erf 2480, nie goedgekeur nie en word ongemagtig bedryf. Die huidige aansoek word gebring deur die erfeienaar, Me. Daniels, wat 'n Suid-Afrikaner is en 'n jarelange inwoner van Riebeeck Kasteel. Me. Daniels werk tans uitsteding, maar sy tree oor drie jaar af, waarna sy na Erf 2500 wil verhuis. Om die rede is die huiswinkel voorstel slegs vir 3 jaar.</p> <p>Die huiswinkeloperateur is wel nie Suid-Afrikaans nie, maar hy is 'n wettige inwoner van die land en die Suid-Afrikaanse Grondwet is baie duidelik daaroor dat diskriminasie op grond van herkoms, nie geduld word nie.</p>
<p><u>T. de Bruin</u> <u>Erf 841</u> (Annexure D)</p>	<p>2. Ek is ten volle teen die oopmaak van nog 'n huiswinkel. Ons gemeenskap is alreeds so besmet van al die huiswinkels wat ons plaaslike gemeenskap se besighede (huiswinkels) in die afgrond in dryf. Werk is baie skaars en ons gemeenskap maak huiswinkels oop om 'n tweede inkomste te genereer. Ek is dus totaal gekant daarteen dat nog 'n huiswinkel oopmaak.</p>	<p>2. Die erfeienaar verhuur juis die eiendom met die doel om 'n neseier op te bou vir haar aftrede oor 3 jaar.</p> <p>Die grootste aantal huiswinkels in New Rest is ongemagtig en stappe word tans deur die Munisipaliteit geneem teen diesulke besighede.</p>
<p><u>W.P. and S. Pietersen</u> <u>Erf 2482</u> (Annexure F)</p>	<p>3. Ons wil graag die volgende onder u aandag bring:</p> <ul style="list-style-type: none"> a) Die huiswinkeleienaar het alreeds 5 ander huiswinkels. Ons voel dit is verregaande in 'n klein gemeenskap soos Riebeeck Kasteel; b) Soggens en saans word klipharde musiek gespeel; c) Minderjarige kinders sit op die stoepe gebruik vuil taal en sigarette word aan die kinders verkoop; d) Daar is konstante konflik tussen die huiswinkeleienaar, lede van die gemeenskap en ander huiswinkeleienaars; e) Die eienaars is onbeskof en ignoreer versoeke om die harde musiek onder beheer te hou; f) Lede van die gemeenskap se huiswinkels ly skade a.g.v. huiswinkels wat opskiet soos sampioene; g) Ons voel dat sy huiswinkel oorbodig is aangesien ons alreeds met so baie huiswinkels moet saamleef wat aan hom behoort. 	<p>3. a) Die erfeienaar en winkel operateur is beide binne hul reg om vir die huiswinkel aansoek te doen. Verder is Suid-Afrika se ekonomie onderhewig aan die vryemarkstelsel. Die stelsel is daarop gebaseer dat enigeen met die reg om wettige sake te doen in S.A. met hul sake mag voortgaan, ongeag of 'n soortgelyke besigheid reeds bestaan. Sodoende word gesonde kompetisie tussen die besighede geskep wat eienaars noop om kreatief te bemark en verkoop en billike pryse te vra. Sodoende word klante gelok deur die besigheid wat die beste aanbod kan bied op die vraag na produkte en diegene wat nie aan die vereistes kan voldoen nie, word organies uitgeskakel. 'n Ooraanbod in winkels word dus voorsien om oor tyd te verminder en te normaliseer.</p> <p>b) Die huiswinkeleienaar is ewe onderhewig aan bepalings rondom hindernisse as die geaffekteerde partye in die omgewing. Deur 'n huiswinkel toe te laat word daar nie outomaties toestemming gegee vir die operateur om buite die toepaslike beperkings op te tree nie.</p> <p>c) Sigaret verkope is onderhewig aan streng wetgewing en moet deur wetstoepassing en die SAPD gepolisieer word.</p> <p>d) – e) Die geskille tussend die huiswinkel operateur en lede van die gemeenskap is persoonlik van aard en is nie van toepassing op die grondgebruiksaansoek nie.</p>

		f) – g) Verwys na antwoord 3.a). Die redenasie word verder gevoer dat die kliënte van die huiswinkel uit die omliggende gemeenskap bestaan wat aanhou om van die winkel gebruik te maak en sodoende die besigheid aan die gang hou. Die kliënte skep self die aanvraag en maak dit vir die winkeleienaar winsgewend om in Riebeek Kasteel sake te doen.
<u>A Thomas</u> <u>Erf 763</u> <u>Representative</u> <u>of the New</u> <u>Rest</u> <u>community</u> <u>78 Signatories</u> <u>(Annexure G)</u>	4. Ons as gemeenskap spreek ons ontevredenheid uit met die oprigting van 'n nuwe huiswinkel, want daar is alreeds so baie huiswinkels in die area. Die persoon in besit van die winkel is 'n buitelanders en Riebeek Kasteel behoort aan ons en nie aan buitelanders nie. Ons as gemeenskap staan saam dat daar geen wikels moet oopmaak nie.	4. Verwys na antwoorde 1 en 3.
<u>D. Bess</u> <u>Ward</u> <u>Councillor</u>	5. Dit is by die jongste wykskomitee vergaderings besluit dat Riebeek Kasteel nou genoeg huiswinkels het. Verder is die winkeleienaar onbeskof met die gemeenskap. Die winkel is reeds in bedryf en is oopgemaak sonder dat die gemeenskap insae gehad het.	5. Verwys na antwoorde 1 en 3. Dit is reeds toegegee dat dit huiswinkel onwettig bedryf word. Die aansoeker oefen egter haar reg uit om die fout reg te stel en die grondgebruik te probeer wettig, soos deur die Verordening bepaal. Die geaffekteerde erfeienaars is wel tydens die publieke deelname proses vir toestemming gevra, terwyl die wyer publiek dertig dae gegun is om enige besware te opper. Die proses is effektief toegepas, soos deur die terugvoer van die wykskomitee en die getekende petisie bewys is.

PART J: MUNICIPAL PLANNING EVALUATION

1. Type of application and procedures followed in processing the application

Application for a consent use on Erf 2500, Riebeek Kasteel was submitted in terms of Section 25(2)(o) of the Swartland Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020).

The property owner requested and obtained consent for operating a house shop on Erf 2500 from 24 individuals in the affected area and 1 written notice was delivered by hand to the affected property owner who could not be reached otherwise, in terms of Section 56(1) & (2) of the By-Law.

Five objections were received, including a petition signed by 78 individuals.

The applicant was afforded 30 days, from 27 February 2024 to 27 March 2024, to respond to comments and objections received by affected parties. However, the applicant elected not to respond to the objections within the allocated time.

The applicant and property owner is D. Daniels and the operator of the house shop is S. Gebire.

2. Legislation and policy frameworks

2.1 Matters referred to in Section 42 of SPLUMA and Principles referred to in Chapter VI of LUPA (Act 3 of 2014)(LUPA)

- a) Spatial Justice: Granting the land use of a house shop on the property, will facilitate optimal utilisation of the erf, making economic opportunities available to the owner and providing a service to a previously disadvantaged community.

All the relevant facts and considerations surrounding the application have been taken into account during the decision-making process. Therefore, the application may be deemed consistent with spatial justice.

- b) Spatial Sustainability: The proposed consent use will enable the owner to develop the property to its full potential and the spatially more compact and resource efficient utilisation of the property.

- c) Efficiency: The proposal ensures the optimisation of resources, through the practise of a wider variety of land uses on a residential property. The house shop will make retail opportunities and convenience available to the population of the area on a small scale

The application property is of sufficient size to accommodate both the dwelling unit and the house shop, should one or both be developed to its maximum capacity. The development approach is thus seen as holistic and integrated and deemed spatially efficient.

- d) Good Administration: The applicant obtained written consent from affected property owners and written notices were sent via registered mail to other affected parties. The application was also circulated to the relevant municipal departments and West Coast District Municipality for comment. Consideration was given to all correspondence received. It is therefore argued that the principles of good administration were complied with by the Municipality.

- e) Spatial Resilience: The portion of the dwelling house to be used as a house shop is a front room of ±18,93m² and no structural changes are proposed to the dwelling. The existing accesses to the property will also be used. The house and property can easily be converted back into a residence and the proposal is thus considered spatially resilient.

2.2 Integrated Development Plan (IDP) and Spatial Development Framework (SDF 2023)

IDP Goal 2 for ward 12 (Riebeek Kasteel) is to support the local economy through certain strategies, including supporting entrepreneurship and promoting local businesses.

The proposed development will contribute to the local economy, both directly and indirectly and is thus considered consistent with the IDP.

Erf 2500 is situated in area K of Riebeek Kasteel, as indicated by the SDF. This zone is a medium to high density residential area with relevant supporting services and infrastructure. The expansion of business and other related mixed land uses are supported in this zone, as well as house shops as secondary business ventures.

2.3 Land Use Planning By-Law: Schedule 2

The Zoning Scheme, contained as Schedule 2 of the By-Law, makes provision for house shops as consent uses within the Residential Zone 4 zoning.

The proposed house shop adheres to all the development parameters of a Residential Zone 4 property, as well as the specific requirements for house shops, as stipulated in the scheme.

3. Desirability of the proposed utilisation

There are no physical restrictions on the property that will have a negative impact on this application.

Erf 2500 is a residential property of 100m² in extent, located in New Rest, the south-eastern neighbourhood of Riebeeck Kasteel. The property is situated in a peripheral area, at least 3km from the CBD. The area is characterised by high density subsidised residential serviced erven. The application property is thus ideally located for operating the proposed house shop from a portion of the property. The house shop is proposed to be constructed as close to the street as possible, in order to improve access and not impair future expansion of the dwelling house. The zoning allows for the departure from one of the side building lines to 0m, but the rear building line (1m) will also be departed from. The additional departure is not attended to in the application, but may be addressed during the building plan stage, as a condition of approval. The 2m street building line will not be encroached upon.

The size of the house shop will be limited to the proposed 18,93m², which is roughly half of the dwelling structure and smaller than 25m², as restricted by the By-Law. Following the evaluation of the comments and objections received, it is clear that the objections do not deal with the land use directly, but rather the fact that the operator will be a foreign national. The basis of the objections appear to be discriminatory against an individual, rather than clearly based on the technical facts and the actual detrimental effects on the community.

The alleged adverse impact of the house shop may be mitigated through the imposition of conditions of approval, such as:

- a) Limiting the retail products sold from the house shop;
- b) Prescribing business hours;
- c) Restricting the use of audio-visual appliances;
- d) Specifying the building materials/construction of the structure containing the shop;
- e) Requiring the shop operator to reside on the property itself, as stipulated in the By-Law;

The house shop is proposed to be temporary, for a maximum period of 3 years, as presented in the application. The temporary nature of the business further strengthens the desirability of the land use, as the house shop is ensured to come to an end and the approval may even be repealed before the 3 years have lapsed, should the non-compliance of the operator necessitate additional administrative actions.

It is anticipated that, should the shop owner reside on the property, the discomfort caused by loiterers, loud music and other abuses, will also be experienced by the shop owner and may motivate him to manage the shop with improved consideration of the surrounding community.

The property owner and house shop operator are acting within their rights when applying for the house shop. Also, the agreement between the erf owner and the house shop operator is for a term of 36 months and will be stipulated as such in the conditions of approval. The impact on the community is thus considered to be short term.

The petition submitted by the community was considered not only with regard to the number of signatures obtained, but also the content of the objections. It should be noted that the vast majority of signatories reside in the neighbourhood directly north of New Rest, not deemed to be impacted by the house shop in any way. A number of the impacted individuals, in close proximity to the house shop - in Swartberg Crescent- signed the petition but also signed the consent form during the public participation process. Certain names appeared on the list more than once and certain addresses were repeated up to 5 times. The aforementioned renders the validity of the objections questionable at best.

The proposed house shop will, like any legal business, operate within the free market of South Africa and supply and demand will determine whether the business is successful or not. Additionally, the community is free to frequent and spend money at any business to their choosing. If the community decides to favour other house shops, it stands to reason that the shop on Erf 2500 will lose business and may become less profitable over time, causing the business to close. In short, if the community does not buy from the house shop, the reason for the shop disappears. The land use process is not the correct platform to oppose the house shop for the reasons that were cited by the objectors, i.e. community/social issues.

Erf 2500 is located within a developing residential area, within the urban edge of Riebeeck Kasteel, and the proposal will not negatively affect any environmental resources, either biophysically or culturally (heritage). The By-Law requires that the character of the area must be taken into account when considering development proposals and this proposal is not foreseen to have any detrimental impact.

The development proposal is consistent with the land use proposals of the SDF and principles of local, Provincial and National policies.

All development parameters of the Zoning Scheme will be adhered to through imposing conditions of approval.

The development proposal does not negatively affect the rights of the surrounding owners and may therefore be considered desirable in a spatial context.

The proposal will have no additional impact on exiting municipal services and infrastructure and all costs relating to this application are for the account of the applicant.

4. Impact on municipal engineering services

The existing engineering services will remain unchanged and no additional impact will be generated by the proposal.

5. Response by applicant

None forthcoming.

PART K: ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

The financial or other value of the rights

N/A

The personal benefits which will accrue to the holder of rights and/or to the person seeking the removal

N/A

The social benefit of the restrictive condition remaining in place, and/or being removed/amended

N/A

Will the removal, suspension or amendment completely remove all rights enjoyed by the beneficiary or only some of those rights

N/A

PART L: RECOMMENDATION WITH CONDITIONS

The application for a consent use on Erf 2500, Riebeek Kasteel, is approved in terms of section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020) subject to the conditions that:

1. TOWN PLANNING AND BUILDING CONTROL

- a) The consent authorises a house shop, restricted to 18,93m², not exceeding 50% of the area of the dwelling unit (40m² in extent);
- b) The house shop operator be required to reside on the property, in accordance with the By-Law, for the duration of the rental agreement with the property owner;
- c) The operating of the house shop by Mr. Gebire be permitted for a period of 36 months in accordance with the rental agreement with the property owner;
- d) The structure containing the dwelling and the house shop be upgraded to accommodate a shop that sells foodstuffs, according to the standards stipulated in the National Health Act, 2003 (Act 61 of 2003, to the satisfaction of the West Coast District Municipality: Department of Environmental Health, at building plan stage;
- e) Any music played on the property may only be audible inside the shop and dwelling and no appliances used for the broadcasting or amplification of sound may be positioned or affixed outside the house shop, including any awning, stoep or shade structure;
- f) Building plans, clearly indicating the house shop in relation to the living area, be submitted to the Senior Manager: Development Management, for consideration and approval;
- g) Application for construction of or attaching an advertising sign to the building be submitted to the Senior Manager: Development Management, for consideration and approval. Only one sign, not exceeding 1m² in area and not exceeding the land unit boundaries, shall be permitted and it shall indicate only the name of the owner, name of the business and nature of the retail trade;
- h) The operating hours of the house shop be restricted from 6:00 to 21:00;
- i) No more than three persons, including the property owner, are permitted to be engaged in retail activities on the land unit;
- j) Only pre-packaged food products may be sold;
- k) No food preparation be allowed in the house shop;
- l) 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;
- m) Application for a trade licence be submitted to the Senior Manager: Built Environment for consideration and approval;
- n) Application for a Certificate of Acceptability be submitted to the West Coast District Municipality for consideration and approval;

- o) The municipal approval from Swartland Municipality be displayed inside the house shop;

2. WATER

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

3. SEWERAGE

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

4. STREETS AND STORM WATER

- a) Deliveries only be made with light delivery vehicles not exceeding 16 000kg;

5. 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;

6. GENERAL

- a) The approval does not exempt the owner/developer from compliance with all legislation applicable to the approved land use;
- b) Should it in future be determined necessary to extend or upgrade any engineering service in order to provide the development with services, it will be for the account of the owner/developer;
- c) The approval is valid for a period of 5 years, in terms of section 76(2) of the By-Law, from the date of decision. Should an appeal be lodged, the 5 year validity period starts from the date of outcome of the decision against the appeal. All conditions of approval be implemented by 1 June 2024, before the new land use comes into operation/or the occupancy certificate be issued and failing to do so will cause the approval to lapse. Should all conditions of approval be met by 1 June 2024, the land use becomes permanent and the approval period will no longer be applicable.
- d) The applicant/objector be informed of the right to appeal against the decision of the Municipal Planning Tribunal in terms of section 89 of the By-Law. Appeals be directed, in writing, to the Municipal Manager, Swartland Municipality, Private Bag X52, Malmesbury, 7299 or by e-mail to swartlandmun@swartland.org.za, within 21 days of notification of decision. An appeal is to comply with section 90 of the By-Law and is to be accompanied by a fee of R5 000,00 in order to be valid. Appeals that are received late and/or do not comply with the aforementioned requirements, will be considered invalid and will not be processed.

PART M: REASONS FOR RECOMMENDATION

1. The application complies with section 42 of SPLUMA and Principles referred to in Chapter VI of LUPA.
2. The application complies with the land uses proposed for this area of Riebeek Kasteel, as determined by the SDF.
3. This application supports the local economy and promotes entrepreneurship and local businesses, as a goal of the IDP.
4. The development parameters and requirements of the By-Law Zoning Scheme are complied with through imposing conditions of approval.
5. The development is envisioned to promote economic opportunities, shorter travel distances and amenities in the residential neighbourhood.
6. The additional income generated by the house shop may enable the property owner to expand the dwelling unit in the future, which in turn may improve financial security during retirement.
7. The anticipated impact of the house shop on the surrounding community may be mitigated by specific conditions of approval;
8. The large number of house shops in the area is foreseen to create healthy economic competition and over time eliminate superfluous businesses;
9. Individuals in the community retain their right to choose which business to frequent and cannot be forced to do business with one shop or another;
10. The house shops in the neighbourhood are largely unauthorised and the applicant seeks to rectify the situation and legalise the land use on Erf 2500;
11. The house shop is proposed to be operated by the current operator for a period of three years, which is temporary. The conditions of approval limit Mr. S. Gebire, the operator of the house shop, to a maximum of three years, in accordance with the rental agreement with Mrs. Daniels, the property owner.

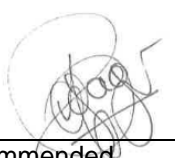
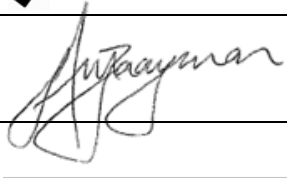
PART N: ANNEXURES

Annexure A	Locality Plan
Annexure B	Site Development Plan
Annexure C	Public participation map
Annexure D	Objection by J. de Bruin
Annexure E	Objections by T. de Bruin
Annexure F	Objections by W.P. and S. Pietersen
Annexure G	Objections by A Thomas
Annexure H	Objections by D. Bess

PART O: APPLICANT DETAILS

First name(s)	House shop operator:			
Registered owner(s)	D. Daniels	Is the applicant authorised to submit this application:	Y	N

PART P: SIGNATURES

Author details: Annelie de Jager Town Planner A/2203/2015		Date: 28 March 2024
	Recommended ✓	Not recommended
Recommendation: Alwyn Zaayman Senior Manager: Development Management A/8001/2001		Date: 3 April 2024

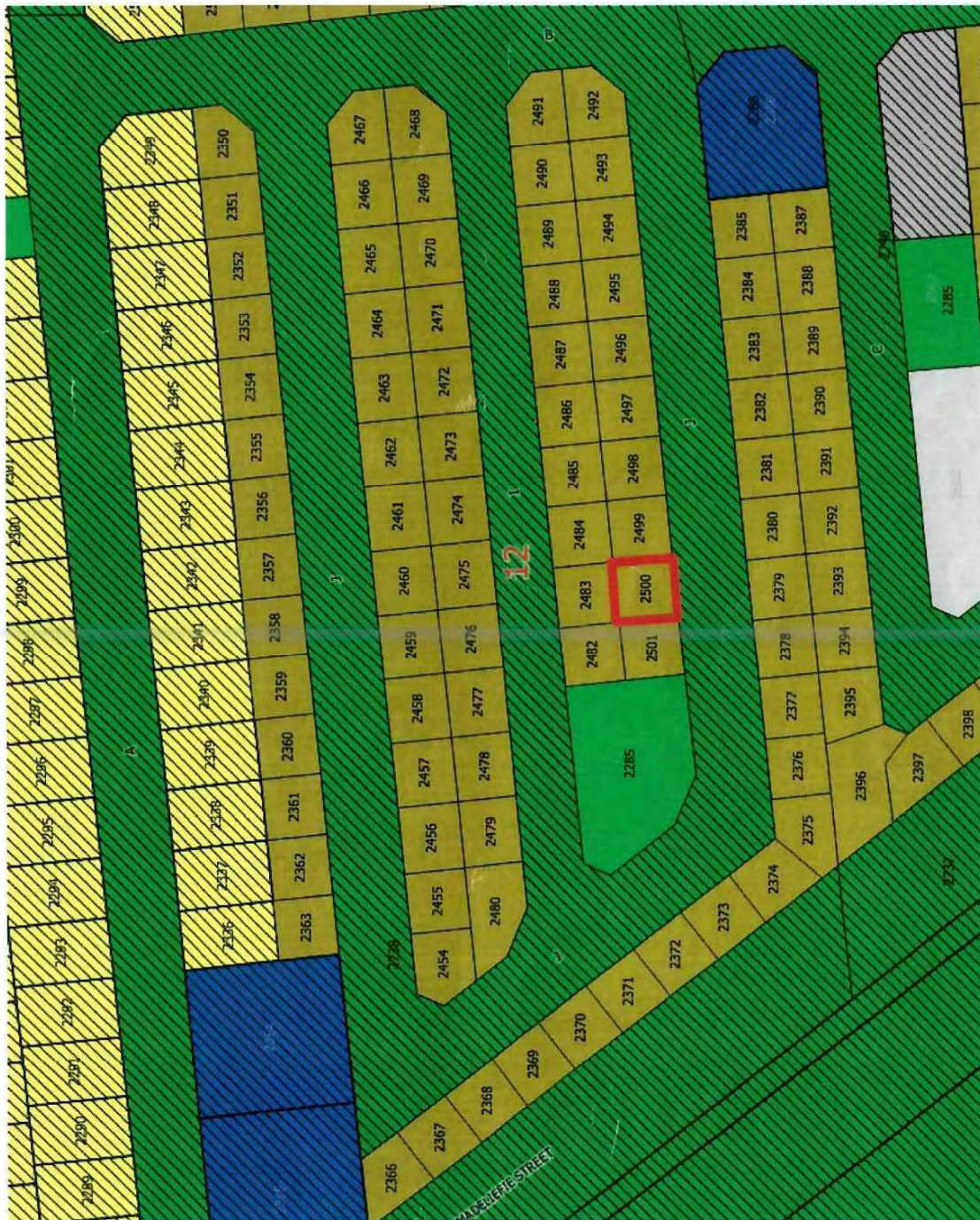
ANNEXURE A

ZONING PLAN: ERF 2500, RIEBEEK KASTEEL

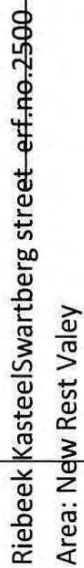
LEGEND:



- Agricultural Zone 1
- Residential Zone 2
- Residential Zone 4
- Community Zone 1
- Community Zone 2
- Open Space Zone 1
- Business Zone 2



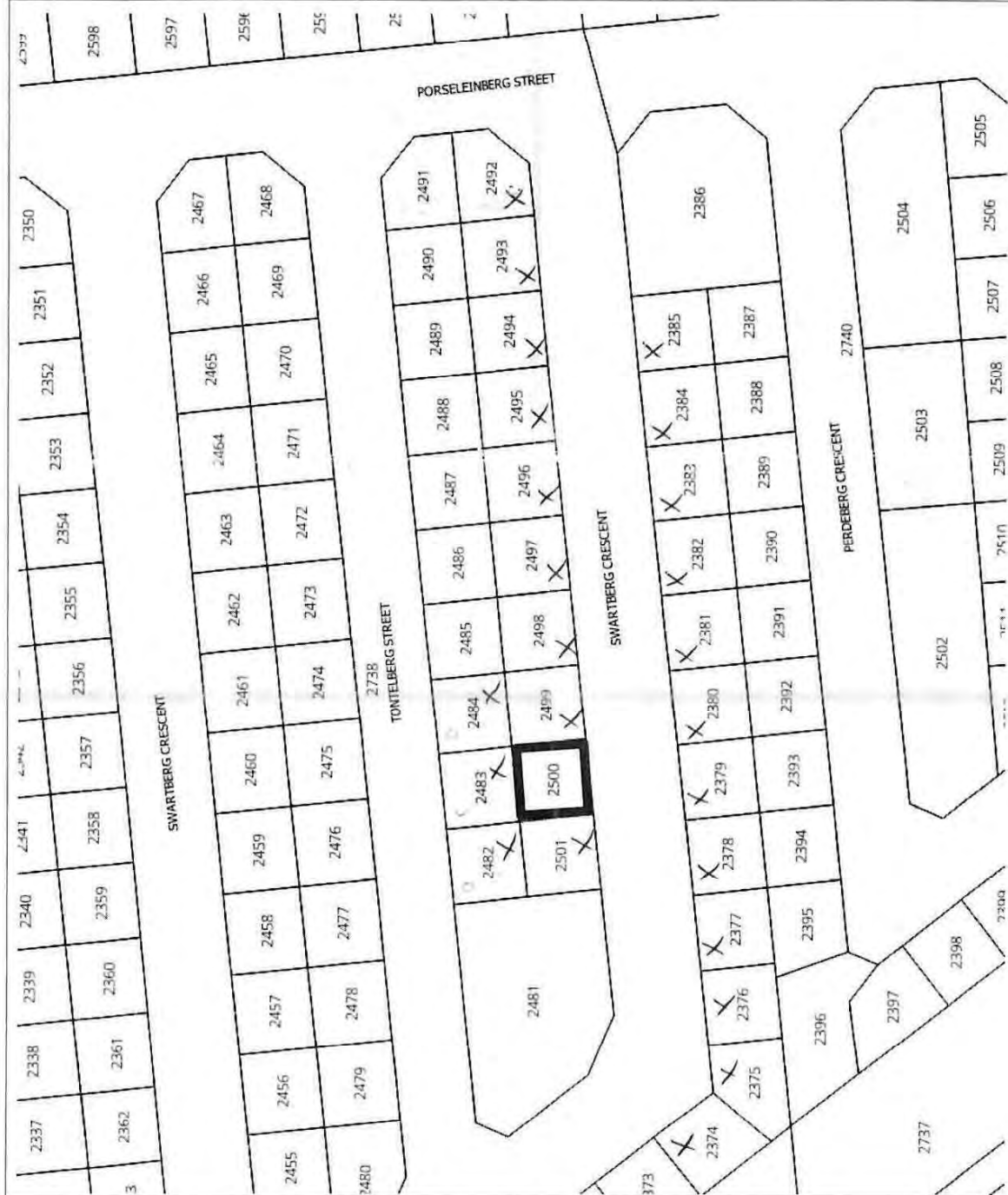
Swartberg straat



**NEIGHBOURS' CONSENT:
ERF 2500,
RIEBEEK KASTEEL**



ANNEXURE C



18310-11/Erf-2500

SSSB

ce del

ANNEXURE D

Anders C. Pedersen



Ek is Mnr. Jacobus de Bruin en woon agtig
in Tulpstraat 17, Kiebeek-Kasteel.

as gemeenskap leier, Het ek 20 jaar as

wykekomitee lid gedien. Ek maak
sterk beswaar dat daar nog in huiswinkel
in Swartberg Cres. 2500 op gerig word want
dit is 'n bunte lander. Daar is alreeds 'n
Huiswinkel. Ek hoop u tree sterk op teen
~~die~~ die persoon af.

my Sel 0673800277

Erf 2500 RK

Geteken: J. de Bruin

ANNEXURE E

MOEDSTAP 1: 15/3/10 - 11/ET - 200				
LEER NO:	15/3/10	-11/ET	-200	
Verwys N:	Inligting	Verlaag	Araandui	Kom/Taar
SSSB				
cc Del				
Ander Opdrag:				
PRESENTUM				Test/BK



Ek Tessalene De Bruin woonagtig in Asterstraat 8
is ten volle teen die oopmaak van nog 'n huiswinkel.
Ons gemeenskap is alreeds so besmet van al die
huiswinkels wat ons plaaslike gemeenskap se
bedrigte (huiswinkels) in die afgrond bedryf. Werk
is baie skaars en ons gemeenskap maak
huiswinkels oop om 'n tweede inkomste te genereer.
A.g.v. bogenoemde is ek totaal enal gekant
teen die reorganiseer huiswinkel te Swartberg
pres 2500 om eensins te open.

0728082619 J. Bruin

Erf. 2500 RK

15/3/10-11/Erf-2500

Verk. No	Inligting	Verk. No	Verk. No	Verk. No
SSSB				
del				
Ander Opdrag				
SPERDADUM:				(get)PK



Aan die Leser

07.02.2024

Griewe brief met betrekking tot die huiswinkel ^{as}

→ Swartberg Cres. 2500

Klaagsters: Wilfred Pietersen → id.nr. → 8605235213087

Su-Arn Pietersen → id.no → 8210310076085

Adres: Tontelbergstraat nr. 19

Graag wil ons die volgende onder u aarstig bring:

- (1) Die bogendeende huiswinkel se eienaar het alreeds 5 ander huiswinkels. Ons voel dat dit verregaande is in so'n klein gemeenskap.
- (2) Daar word soggens baie vroeg tot soons laat klipharde musiek gespeel.
- (3) Minderjarige kinders word toegelaat om op die huiswinkel se steepe te sit en die vieslikste taal word dan daar gebruik. Sigarette word aan skoolgaande, minderjarige kinders verkoop.
- (4) Daar is konstante konflikte tussen die huiswinkel-eienaar en lede van die gemeenskap asook ander huiswinkel eienaars.
- (5) Die eienaar is baie onbeskof en ignoreer lede van die gemeenskap wat hom nader oor harde musiek ens.
- (6) Lede van ons gemeenskap wat huiswinkels bedryf en absoluut afhanklik is daarvan, se besigheid lei skade a.g.v. al die huiswinkels wat deesdae opskiet soos sampioene.
- (7) Ons voel dat sy huiswinkel oorbodig is aangesien ons alreeds met so baie huiswinkels moet saamleef wat aan hom behoort.

Goie dankie dat u tyd afgestaan het om
ons as bekommerde ouers en gemeenskaplike se
kwellinge te lees.

Ons het volle vertroue in u wat ons pleidooie
lees met wyse verstand, goeie geheue en 'n
gemoedkomende hart.

By voorbaat dank.

Die uwe : W. Pieterse = 074 379 7828

S. Pieterse = 063 794 2027

ANNEXURE G

15/3/10-11 | Erf - 2500

Verslag No	Inligting	Verslag	Handel	Kom/Taar
SSSB				
del				

Ander Opdrag:

SPERDATION: (getide)



New Rest Valley
Riebeek - Kasteel

Amelia Thomas
078 081 74 97

amelia.thomas803@gmail.com

Tulpstr 16
Riebeek-Kasteel

Hiermee Wil ons as gemeenskap ontevredenheid uitspreek met die oprigting van nuwe Huis Winkel gelee te Swartberg Cres 2500. Daar is alreeds so baie huiswinkels in die bostaande area. Die persoon in besit van die Winkel is n buitelanders, en ons as gemeenskap voel dat Riebeek - Kasteel behoort aan ons en Nie aan buitelanders Nie. Op die ou einde van die dag verkoop Al die winkels dieselfde produkte en Wie maak geld en Wie Nie ?

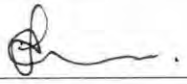

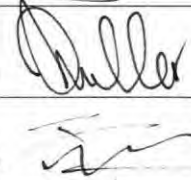
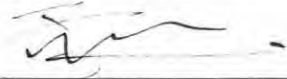


So ons as gemeenskap voel dat die winkel moet toe maak.




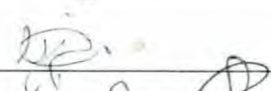

En ons as Gemeenskap staan Saam dat daar geen Winkel of winkels Moet oopmaak Nie.

Baie dankie

Naam & Van	Address	Phone nommer	Hantekening
1. KEHESHA JOHANNES	16 GLADIOLA STR.	078 455 1094	R. Johannes
2. Suzette Thomas	17 Madeliefie str	012 098 4911	Thomas
3. Suzette Thomas	16 Tulp str.		Thomas
4. Fiona Synders	Tafelbergstr 17	083 868 1051	Synders
5. Sue-Anne Petersen	Tontelbergstr 19	063 794 2027	S. Petersen
6. Hannelie Amerika	Tafelbergstr 2329 /	-	H. Amerika
7. Franzelle Swartz	Tontelbergstr 13	-	Swart
8. Madole	Marta Gys	Tafelbergstr 2340 /	Madole
9. Juanita Swartz	Tontelbergstr	073 51 88 75	Juanita.
10. Bernedene Smith	Swartberg singel 22 /	081 083 6970	Smith
11. PHILANCIA GYSMAN	SWARTBERG CRES 2371		P. GYSMAN
12. Griet Mentoor	Swartberg singel 21 /	083 207 4314	G. Mentoor
13. Charlotte Pieters	Tafelberg 2327	-	C. Pieters
14. Marie Petersen	tontelberg 2479	-	M. Petersen
15. Salmon Alexander	Swartberg cres 2379		S. Alexander
16. Dean Damon	Swartberg 36	073 697 4031	Damon.
17. Melissa Titus	Heuningberg 2633 /	064 678 3877	Titus.

18.	Lisa Snyders	Angelierstr 13	071 140 3673	Snyders
19.	Rodger Isaacs	Madeliefie 150	062 929 7931	Isaacs
20.	Gerald Thomas	Tulpstraat 16	✓	G. Thomas
21.	Winston Coetsee	Tulpstraat 22	078 512 3654	W. Coetsee
22.	Felicia Adonis.	Tulpstraat 34	✓	F. Adonis.
23.	Jocine Philander	Aanblom 7	✓	J. Philander
24.	Jessetha v.d. Merwe	Leeubekkie st 11	084 766 7426	J. v.d. Merwe
25.	Clashion Petersen	Tulpstraat 14	073 078 2605	C. Petersen
26.	Jacquin Heinse	Madeliefie 45	076 562 6551	J. Heinse
27.	Leverd Junier	Vygierstraat 54	064 232 6077	L. Junier
28.	Gernick Heynse	Mimosastraat 28	074 323 5154	G. Heynse
29.	LIZANNA MINNAAR	TULPSTRAAT 19	084 318 0021	L. Minnaar
	N. K. L. M. S. HEYNSE	Leeubekkie 3	071 442 3281	L. Minnaar
30.	N. K. L. M. S. HEYNSE	Leeubekkie 3	✓	N. K. L. M. S. HEYNSE
31.	JACOBS de Bruijn	Tulpstr 17	0673 800277	J. de Bruijn
32.	ABRAHAM WEST	MADLIEFIE STR. 96	0722323793	A. West
33.	CHRIS GRANT	VYGIE STR. 16	072 853 4893	C. Grant
34.	Bianca Joubert	Tafelberg 2449	065 737 2110	B. Joubert
35.	Lionel Cloete	Swartberg Cres 2496	069 249 1537	L. Cloete
36.	KOZAN SWARTZ	TULPSTRAAT 19	084 318 0021	K. Swartz
37.	Caruska Amerika	Tulpstraat 25	082 675 1117	C. Amerika
38.	Edith Heynse	Leeubekkie 3	076 456 0060	E. Heynse

39.	JEREMY VAN WYK	Tulpstraat 13	068 658 6657	
40.	Beatrice Markus	Asterstr 15	083 232 3577	B. Markus
41.	Jubaymore Schaff	Daisy Str 3	018 139 7974	J. Schaff
42.	Jonathan vd Merwe	Leeubekkie Str 11	073 972 1262	J. Merwe
43.	Ilylo-Jade Isaacs	Leeubekkie 7	079 3877 838	Isaacs
44.	Leticia Syter	asterstr 18	-	Syter
45.	Alliston Faro	Leeubekkie 5	06215 02969	Alliston Faro
46.	Pieter De Bruin	18 Tulp Str	072 682 8452	P. Bruin
47.	Christianus Waterboer	4 Tulp Str	076 576 2330	C. Waterboer
48.	Leticia Syter	Asterstr 18	071 838 6397	Syter
49.	Edith Heyse	Leeubekkie 3	076 456 0060	E. Heyse
50.	Johan Schaff	Daisy Str 3	06215 66981	
51.	Sam Carolus	Madeliefie Str 74	082 397 5807	
52.	Anthia Muller	Petunia Str 21	063 064 2049	A. Muller
53.	JASON CERPER	Hygie Str 25	073 284 9445	
54.	Jonathan Bokser	Mimosa 30	076 026 6314	J. Bokser
55.	Conwill Vd Merwe	Cederberg Str 2714	071 018 01357	
56.	TESSALENE DE BRUIN	ASTERSTR. 8	072 808 2619	T. Bruin
57.	Elaine Jooste	21 Nooitjies Str.	078 663 3455	
58.	Finesha Daniels	179 Madeliefie Str.	083 308 4448	F. Daniels
	Megan Botha	Heiningberg 40	081 344 6856	M. Botha

Naam & Van	Address	Telephone nommer	handtekening
59. Yolise Gwando	41 GROSBLUM STR	078 271 1374	T. Gwando
60. Darryl	43 Tafelberg str	082 370 3400	
61. Julian Junier	Rondebergproch	061 206 6579	
62. Norbeni Aswala	Jasmen no 10	083 281 0579	ASWALA
63. Sphesethu	20 Jasmyn str	064 608 6456	Sphesethu
64. Alvirno Roems	32 Tulpstreet	079 844 9096	Alvirno
65. Gurchwin Coetsee	09 Aster street	061 399 2058	G. Coetsee
66. Christihano La Meyer	31 Tafelberg str	078 434 0984	
67. Charl-lee Erasmus	10 Tonnalberg str	071 802 8923	C. Erasmus
68. G. James	16 Gladiolastr	079 305 1041	James
69. Monique Koordom	105 Jasmyn	N/A	M. Koordom
70. James Fink	Modeliefie Str	079 273 0110	J. Fink
71. Declan Braaf	Gladiola Str. 16	079 128 3781	
72. Geneco Johannes Gladiola Str 15		071 915 3078	
73. Patrick-John Daffner		073 736 2987	P. Daffner
74. Olivine Daniels	Gladiola str 14	/	O. Daniels
75. Duane Hector	Petunia 21	076 444 1362	D. Hector
76. M. Geduld	Grosblom str 5	078 273 2849	M. Geduld
77. RICHARD ADONIS	TULSTRAAT 39	062 170 6586	Adonis.
78. Thembile Ndoko	Modeliefie Str 35	084 514 2536	

ANNEXURE H

From: D Bess <ubk2@swartland.org.za>
Sent: 13 February 2024 11:02
To: Alwyn Zaayman <zaaymana@swartland.org.za>
Subject: RE: Photo from Desiree

More

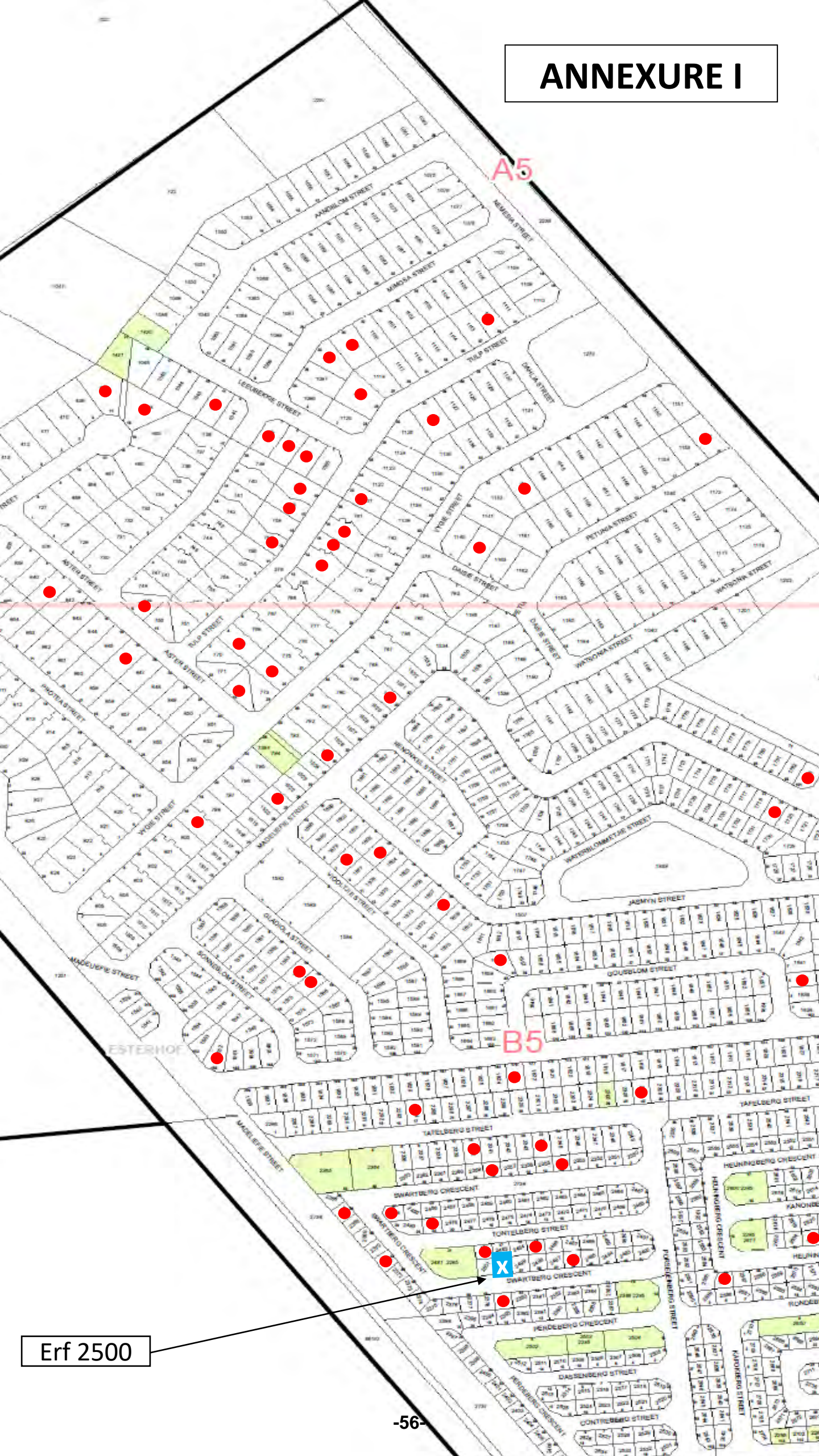
By ons laaste Wykskomitee vergadering was die aansoek van die Huiswinkel in Swartberg straat, Riebeek Kasteel, hanteer, en dit was besluit dat ons dorp nou genoeg van hierdie huiswinkels het en dat ons nie nog een nodig het nie.

Die rede hoekom die komitee en ek myself, so omgekrap is, is omdat die eienaar van hierdie huiswinkel baie arrogant en ombeskof is met die gemeenskap en ook die res van die gemeenskap uitdaag. Ons het nie hierdie type attitude nodig in ons gemeenskap nie. Hy het ook sy intrek geneem nog voordat die gemeenskap insae gehad het oor sy aansoek.

Dus ondersteun ek die besluit van die Wykskomitee om die aansoek af te keer en dat hierdie winkel toe gemaak moet word.

Byvoorbaat dank.

ANNEXURE I



Erf 2500