



**MINUTES OF A MUNICIPAL PLANNING TRIBUNAL VIRTUALLY ON WEDNESDAY, 12 APRIL 2023  
AT 14:00**

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**PRESENT**

Internal members:

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

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

Town and Regional Planner and GIS, Mr H Olivier

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

**1. OPENING**

The chairperson opened the meeting and welcomed members.

**2. APOLOGY**

**RESOLVED** that cognisance be taken of the apologies received from the Municipal Manager and the Senior Manager: Development Management.

**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 8 MARCH 2023**

**RESOLUTION**

That the minutes of a Municipal Planning Tribunal Meeting held on 8 March 2023 are approved and signed by the chairperson.

**5. MATTERS ARISING FROM MINUTES**

None.

**6. MATTERS FOR CONSIDERATION**

**6.1 PROPOSED SUBDIVISION OF ERF 2076, YZERFONTEIN (15/3/6-14) (WARD 5)**

The author of the item, Mr H Olivier, gave background on the application for the subdivision of Erf 2076, Yzerfontein into Portion A (501 m<sup>2</sup> in extent) and Portion B (±651 m<sup>2</sup> in extent).

Mr Olivier confirmed that the application is in compliance with all relevant legislation and policy guidelines and is consistent with the minimum erf size of 500 m<sup>2</sup>.

Resolution/...

**RESOLUTION**

- A. The application for the subdivision of erf 2076, Yzerfontein be approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2021), subject to the conditions that:

**A1 TOWN PLANNING AND BUILDING CONTROL**

- (a) Erf 2076, Yzerfontein (1152m<sup>2</sup> in extent) be subdivided into portion A (501m<sup>2</sup> in extent) and portion B (±651m<sup>2</sup> in extent) as presented in the application;
- (b) A restriction be imposed on the title deed of portion A that a 3m building line be maintained on the southern boundary in favour of erven 2070, 2071 & 2075, Yzerfontein;
- (c) The legal certificate which authorises transfer of the subdivided portions in terms of Section 38 of the By-Law not be issued unless all the relevant conditions have been complied with;

**A2 WATER**

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

**A3 SEWERAGE**

- (a) Each erf be provided with a conservancy tank with a minimum capacity of 8000 litres which is accessible for the municipal sewerage truck from the street. The condition is applicable at building plan stage;

**A4 ELECTRICITY**

- (a) Each subdivided portion be provided with a separate electrical connection and meter for the account of the owner/developer. The Director: Electrical Engineering Services be contacted for a quotation;
- (b) Any relocation of electrical cables be for the owner/developer's account;
- (c) Any electrical inter-connection be isolated and completely removed;
- (d) The electrical connections be connected to the existing low-voltage network;

**A5 DEVELOPMENT CHARGES**

- (a) The owner/developer is responsible for a development charge of R5 445,25 per newly created erf towards the bulk supply of regional water, at clearance stage. The amount is payable to the Swartland Municipality, valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA 9/249-176-9210);
- (b) The owner/developer is responsible for the development charge of R4 502,25 per newly created erf towards bulk water distribution, at clearance stage. The amount is payable to the Municipality, valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA: 9/249-174-9210);
- (c) The owner/developer is responsible for the development charge of R5 612,00 per newly created erf towards sewerage, at clearance stage. The amount is payable to the Municipality, valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA: 9/240-184-9210).
- (d) The owner/developer is responsible for the development charge of R8 280,00 per newly created erf towards waste water treatment works, at clearance stage. The amount is payable to the Municipality, valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA: 9/240-183-9210);
- (e) The owner/developer is responsible for the development charge of R11 500,00 per newly created erf towards roads, at clearance stage. The amount is payable to the Municipality, valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA: 9/247-188-9210);
- (f) The owner/developer is responsible for the development charge of R3 414,35 per newly created erf towards storm water, at clearance stage. The amount is payable to the Municipality, valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA: 9/247-144-9210);
- (g) The owner/developer is responsible for the development charge of R10 419,00 per newly created erf towards electricity, at clearance stage. The amount is payable to the Municipality, valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA: 9/253-164-9210);

- (h) The Council resolution of May 2022 makes provision for a 35% discount on capital contributions to Swartland Municipality, except for condition A5(a), which is payable in full. The discount is valid for the financial year 2022/2023 and can be revised thereafter;

**B. GENERAL**

- (a) Any existing services connecting the remainder and/or new portions, be disconnected and relocated, in order for each erf to have a separate connection and pipe work;
- (b) Should it be deemed necessary to extend the existing services network in order to provide the subdivided portions with service connections, it will be for the cost of the owner/developer;
- (c) The approval is, in terms of section 76(2)(w) of the By-Law, valid for 5 years. All conditions of approval be implemented within these 5 years, without which, the approval will lapse. Should all the conditions of approval be met before the 5 year approval period lapses, the subdivision will be permanent and the approval period will not be applicable anymore;
- (d) Appeals against the Tribunal decision be directed, in writing, to the Municipal Manager, Swartland Municipality, Private Bag X52, Malmesbury, 7299 or by e-mail to swartlandmun@swartland.org.za, no later than 21 days after registration of the approval letter. A fee of R4 500, 00 is to accompany the appeal and section 90 of the By-Law complied with, for the appeal to be valid. Appeals received late and/or do not comply with the aforementioned requirements, will be considered invalid and will not be processed;

- C. The registration of a 4m wide right-of-way servitude over proposed portion B, in favour of the newly created Portion A of Erf 2076, Yzerfontein, 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 application be supported for the following reasons:

- (a) The proposal is consistent with the spatial proposals of the Municipal SDF, 2019;
- (b) The proposal is consistent with the minimum erf size determined by the SDF, namely 500m<sup>2</sup>;
- (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;
- (e) The zoning of the properties will remain unchanged and consistent with the character of the area;
- (f) The rights of the surrounding land owners will not be negatively impacted;
- (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 applicable rear building line is mitigated with the imposition of a condition of approval to maintain the 3m building line along the communal boundary of erven 2075 & proposed portion A;
- (k) The proposal have no impact on the existing street scape and character of the area.

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



**ITEM 6.1 OF THE AGENDA FOR THE MUNICIPAL PLANNING TRIBUNAL THAT WILL TAKE PLACE ON WEDNESDAY 7 JUNE 2023**

LAND USE PLANNING REPORT PROPOSED CONSENT USE ON ERF 257, MALMESBURY					
Reference number	15/3/10-8/Erf_257	Submission date	17 March 2023	Date finalised	26 May 2023

**PART A: APPLICATION DESCRIPTION**

The application for consent use for a house shop on Erf 257, Malmesbury in terms of section 25(2)(o) of Swartland Municipality : Municipal Land Use Planning By-Law (PK 8226 of 25 March 2020) has been received. It is proposed that the house shop (±25m<sup>2</sup>) will be operated from the existing garage on the premises

The owners E Basson & FRL Neethling are also the applicant.

**PART B: PROPERTY DETAILS**

Property description (in accordance with Title Deed)	Erf 257, Malmesbury, situate in the Municipality and Division of Malmesbury, Province of the Western Cape				
Physical address	18 Dirkie Uys Street		Town	Malmesbury	
Current zoning	Residential Zone 1	Extent (m <sup>2</sup> /ha)	1086m <sup>2</sup>	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	Dwelling		Title Deed number & date	T29078/2021	
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		

**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			

<b>PART D: BACKGROUND</b>				
Application is made for a consent use to accommodate a house shop on Erf 257, Malmesbury in terms of Section 25(2)(0) of the Swartland Municipality By-law relating to Municipal Land Use Planning (PG 8226 of 25 March 2020). It is proposed that the house shop be operated from a portion 25m <sup>2</sup> from the existing building on the property.				
<b>PART E: PRE-APPLICATION CONSULTATION (ATTACH MINUTES)</b>				
Has pre-application consultation been undertaken?	Y	N	If yes, provide a brief summary of the outcomes below.	
<b>PART F: SUMMARY OF APPLICANT'S MOTIVATION</b>				
<p><i>(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)</i></p> <ul style="list-style-type: none"> <li>It is proposed that the house shop be operated from a portion of the existing building.</li> <li>There are no restriction registered against the title deed of the property prohibiting the proposal.</li> <li>The application is consistent with the Swartland Municipal Spatial Development Framework, 2019. <ul style="list-style-type: none"> <li>Land use zone E is a residential area with mixed density and various supporting social- and institutional uses as well as business uses near the CBD. Secondary Business Uses, including house shops are supported in this zone. The proposal is therefore consistent with the spatial planning of Malmesbury.</li> </ul> </li> <li>The proposal will not have a negative impact on the character of the surrounding area.</li> <li>Swartland High School is situated across the road from Erf 257 and has an positive and uplifting impact on the residential houses in the area</li> <li>All services to Erf 257 are existing and no additional services will be required.</li> <li>The application is consistent with the spatial planning of Malmesbury and complies with the requirements of the Swartland Planning By-law.</li> </ul>				
<b>PART G: SUMMARY OF PUBLIC PARTICIPATION</b>				
Was public participation undertaken in accordance with section 55- 59 of the Swartland Municipal: By-law on Municipal Land Use Planning?			Y	N
With reference to Section 55(1) (h) of the By-law, the application will not materially affect the public interest or the interest of the broader community of Malmesbury, therefore the application was not published in the newspapers or the Provincial Gazette. With reference to Section 56(2) of the By-Law, one notice was sent to the owners affected by the application which did not sign the letter of no objection provided by the applicant or whom did not provide a resolution that they are authorised to sign on behalf of the owners of the affected properties.				
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 councillor response	Y N The application was forwarded to councillor, but no comments were forthcoming.
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
Department : Civil Engineering Services	23 March 2023	No comment	X	
Department : Protection Services	26 March 2023	The owner to ensure that no traffic obstruction and parking facing oncoming traffic occurs. Visitors to shop always adhere to the rules and signs of the road. No obstruction of pedestrian traffic which can lead to compromising of pedestrian safety.	X	
Department : Electrical Engineering Services	22 March 2023	No comments	X	
Division Building control	27 March 2023	Building plans to be submitted to Building Control for consideration and approval	X	

PART I: COMMENTS RECEIVED DURING PUBLIC PARTICIPATION	SUMMARY OF APPLICANT'S REPLY TO COMMENTS	MUNICIPAL ASSESSMENT OF COMMENTS
<p>Schalk and Kathy Steenkamp On behalf of the WL Property Trust, owner of neighbouring property erf 253, Malmesbury</p>	<p>Mr and Mrs Steenkamp objects to the proposed application for the following reasons:</p> <p>The area in question is supposed to be an affluent neighbourhood and in their opinion the proposed house shop is more fitting in an informal residential area where residents don't always have the means to drive to the shops because the shops aren't always close by.</p> <p>In this case the objectors are of opinion that, the Spar supermarket is about 100m away and therefore they see no point in the applicant wanting to cater for parents and children. The school has its own tuckshop and the parents would rather stop at Spar where they can also get other necessities. The school will also not allow children to leave school grounds unattended for this purpose.</p> <p>The objectors argue that they purchased their property as an investment for their retirement and that they have to make sure that their tenants are happy and that there are no circumstances resulting in the tenants looking for alternative accommodation.</p> <p>They also state that they would have never bought the house if it was located next to a house shop as they are of opinion that it will have a negative impact on the character as well as the property values of the residential area.</p> <p>The objector states that Dirkie Uys Street is the route used by a number of vagrants responsible for petty crime as well as</p> <p>The applicant states that in her opinion the objectors completely have the wrong impression of what is proposed and unfortunately she could not explain exactly what is planned as she has done for all the other neighbours.</p> <p>The objector explain that the proposal is not a regular house shop and lists a number of products that she will be selling in her shop, including honey, free range eggs as well as fruit and vegetables. With the operation of the shop, the applicant explains that she will also be able to sell soft drinks, chips and sweets to the children and parents in the morning before school as well as in the afternoons after school.</p> <p>The applicant states that she will not be able to be open from the morning to the evening as she has a fulltime job and would like to, in the beginning, be in control of the shop herself. The operational hours will therefore be very limited at first.</p> <p>The applicant motivates that a house shop is there for convenience and that she did her market research thoroughly where it seems that the children or parents would rather support her than go to buy a soft drink or water at Spar before sports. Therefore in terms of her customers she is not worried at all and Spar is not a treat to her.</p> <p>The applicant motivates further that even the school's principal has given permission for her to operate the house shop being clearly aware of what is proposed.</p> <p>The applicant explains that the proposed house shop will not be serving the vagrants because they don't buy the type of products that she will be selling. In the evenings when the vagrants move to the bush it may be that the shop will not even be open. Secondly, the applicant also states that the vagrants are already moving through the neighbourhood and the proposed house shop is not going to make a difference.</p>	<p>The statement that the house shop is more fitting in an informal residential area is not factual. There are existing examples of house shops being operated in areas, other than the low cost housing areas, which has been operating successful for years.</p> <p>The proposed house shop / tuck shop is focusing on a specific target market, based on convenience for the children and parents visiting the school.</p> <p>The proposal will not have a negative impact on the character of the area nor will it have a negative impact on the value of neighbour properties. The statement made by the objector is not based on any evidence and is merely their opinion.</p> <p>The proposed house shop will not increase the number of vagrants frequenting the area or moving towards the eucalyptus plantation to the north of the site. As mentioned by the applicant the vagrants are already in the area.</p>

	<p>annoyances. The proposed house shop will also be visited by the vagrants where incidents may take place that may jeopardize the interests of the objectors.</p> <p>The objectors emphasize that they only want to protect their interests.</p>	<p>The applicant motivates that it is not certain whether the proposal will be successful, although she really hope so. Over time she will be able to determine the market / demand and change her stock accordingly.</p> <p>The applicant mentions all the provisions applicable to house shops that needs to be complied with and states that the proposal is more "upper class" than the usual R5 shop on the corner. She states that she has 15 years retail experience and believes that she knows how to run a shop as well as what the do's and don't are.</p> <p>The applicant concludes that she respects the objectors opinion however feels that there is a stigma attached to the objector's idea of a house shop and hope that the above comments gives a bit more clarity on the proposal.</p>	
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## PART J: MUNICIPAL PLANNING EVALUATION

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

Application for a consent use in order to operate a house shop from a portion of the existing dwelling on Erf 257, Malmesbury, 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).

The applicant succeeded in obtaining most of the consent / letters of no objection from all affected property owners as identified by the Municipality. One notice was issued with the commenting period starting on the 24<sup>th</sup> of March 2023 and closed on the 2<sup>nd</sup> of May 2023. One objection was received by the applicant which was responded to as part of the submission of the application. After the e-mail / comment on the objection Division Planning did contact the objector telephonically in order to determine if they were willing to withdraw their objection given the fact that the applicant has given more detail on what the proposal will entail, however, the objector stated that they stand by their objection.

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

- a) Spatial Justice: Due to circumstance the owner of the subject property identified the need for a house shop at the location opposite the existing high school being an additional source of income for her and her family. The proposal, however small may also in the future result in job creation should the operation of the house shop be successful.

With this application, the right of the owner of the property to apply for consent use is recognised.

- b) Spatial Sustainability: The proposed consent use will diversify the use of the property within the restrictions of the zoning.

Existing services are deemed sufficient to accommodate the day care centre.

- c) Efficiency: Should this application be approved it will result in the diversification of land uses on this specific site as well as the neighbourhood. This diversification will also result in the optimal use of land. Furthermore by processing the application within a reasonably quick timeframe, consistent with the provisions of the relevant legislation, all contribute to the principle of efficiency.

- d) Good Administration: The application is being processed and finalised timeously. Furthermore, a public participation process, as required by the relevant legislation, was followed as well as all valid comments and objections are being considered all contribute to the principle of good administration.

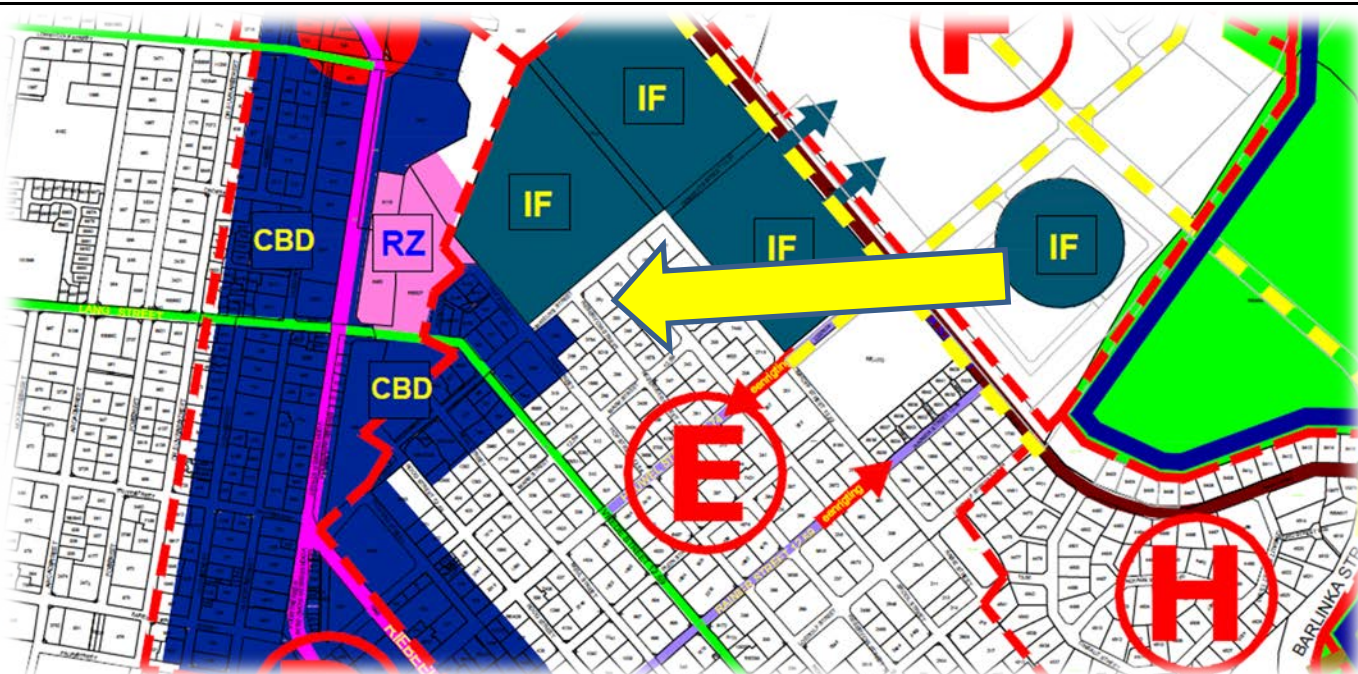
- e) Spatial Resilience: The house shop can easily revert back to the use of a garage, should it become necessary in future.

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

#### 2.2 Spatial Development Framework(SDF)

Erf 257 is according to the Swartland SDF situated in land use proposal zone E. Zone E, according to the SDF, is a residential area with mixed density and various supporting social- and institutional uses as well as business uses near the CBD. Secondary business uses are proposed as land uses in zone E, which makes this application consistent with the spatial planning of Malmesbury.

Please refer to the extract of the land use proposal map as well as the table below.



MALMESBURY LAND USE ZONES		Low Density Residential Uses	Medium Density Residential	High Density Residential	Secondary Educational Uses	Institutional Uses	Professional Services	Business Uses	Secondary Business Uses	Churches	Institution	Guest houses	Authority	Sport/Recreational Facilities	Industries & Service Trade
E	Zone E is a residential area with mixed density and various supporting social-and institutional uses as well as business uses near the CBD.	X	X	X 2	X	X	X 6	X 6	X	X	X	X		X 8	
(1) Flats along activity Streets (2) Only flats (3) Along activity streets and node (4) Along activity streets (5) At existing node (6) Adjacent to business node (7) Neighbourhood centre (8) Sport facility (9) Service trade and industries (10) Community facilities (11) Services and warehouse (12) Expand cemetery (13) Picnic area along Platteklip River (14) Parks		<b>Business Uses</b> e.g. shop, supermarket and service station <b>Institutional Uses</b> e.g. Schools, places of instruction <b>Professional Services</b> e.g. Office blocks <b>Secondary Business Uses</b> e.g. Cafés, house shops, small offices and home occupation. House taverns only to be allowed along activity streets in residential areas <del><b>Secondary Educational Uses</b> e.g. Crèches/day care</del> *Find description of proposed land uses for development zones in Annexure 7													

The development proposal complies with the zoning parameters of the Residential Zone 1 zoning as well as the provisions applicable to a house shop.

## **2. Desirability of the proposed utilisation**

All costs relating to the application is for the account of the applicant.

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

Surrounding land uses includes single residential, flats, guesthouse as well as institutional (High School). The application will therefore not have a negative impact the character of the area. The house shop is considered a compatible use within a residential neighbourhood.

The proposed use is compliant with the spatial planning principles of the town of Malmesbury.

The parking of vehicles on-site from Reservoir Street is deemed sufficient.

The existing Residential zone 1 zoning accommodates a "house shop" as a consent use. The Land Use Planning By-law therefore makes provision for a house shop as a land use in a single residential area.

The public participation process of the application was done according to the prescribed timeframes of the Land Use Planning By-law.

Sufficient services capacity exists to accommodate the house shop.

Erf 257 does not have any title deed restrictions prohibiting the proposal.

Erf 257 has no heritage grading and is therefore not deemed a heritage asset.

The development proposal complies with the zoning parameters of the Residential zone 1 zoning.

The application is considered to be desirable

## **3. Impact on municipal engineering services**

Existing services is deemed sufficient and no additional services connections will be provided.

## **4. Public interest**

Public interest must be taken into account with reference to Section 42 of SPLUMA as well as Section 65 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG8226 of 25 March 2020) and can be summarised as follows:

### **The degree to which the development principles as well as the norms and standards of relevant legislation and policy will be promoted or prejudiced**

From the above information, the proposed consent use is promoted in terms of the development principles and norms and standards of the planning legislation and policy. The proposal is consistent with the spatial planning proposals, is situated in a residential area and the subject property can accommodate the proposed use without it having a negative impact on the neighbouring properties or the character of the area.

### **The degree of risk or potential risk**

There is no risk or potential risk to affected property owners.

The house shop is proposed in accordance with the parameters of the development management scheme.

### **Impact on existing and surrounding land uses**

The application, as proposed, will not have a negative impact on the surrounding land uses.

### **Whether the proposed development is prejudicial to the interests of the community**

The proposed house shop is there for convenience, focusing on children and parents visiting the school as well as during sport practice and events. It will not have a negative impact on the school nor on the character of the area. It is there deemed that the proposal, if approved will not be detrimental to the interests of the community.

### **The long term benefit of the proposed development, which at times may be in conflict with short terms gains**

The long term benefit of the proposal includes an economic activity, however small, provides an income for the owners of the property as well as a small shop / tuck shop that is easily accessible.

The proposed house shop will not have an adverse impact on the character of the area and also does not pose any risk to the health and safety of those affected in the immediate area. The facility does promote economic opportunities for the owner and possible their assistants in the future, therefore the positive impact outweighs any possible negative, resulting in the proposal to be in the interest of the community of Malmesbury.

#### **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 rights

N/A

#### **PART L: RECOMMENDATION WITH CONDITIONS**

The application for the consent use on erf 257, Malmesbury, be approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020).

##### **1. Town Planning and Building Control**

- (a) The consent authorises a house shop, restricted to  $\pm 25\text{m}^2$ , as presented in the application;
- (b) Building plans, clearly indicating the house shop in relation to the house, be submitted to the Senior Manager : Built Environment, for consideration and approval;
- (c) The operation of the house shop may not result in congestion / obstruction along Reservoir or Dirkie Uys Streets;
- (d) Application for construction of or attaching an advertising sign to the building be submitted to the Senior Manager: Built Environment, for consideration and approval. Only one sign, not exceeding  $1\text{m}^2$  in area and not exceeding the land unit boundaries with any part of it, be permitted and it indicate only the name of the owner, name of the business and nature of the retail trade;
- (e) No more than three persons, including the occupant of the property, are permitted to be engaged in retail activities on the land unit;
- (f) Only pre-packaged food products may be sold;
- (g) No food preparation be allowed in the house shop;
- (h) 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;
- (i) Application for a trade licence be submitted to the Director: Development Services for consideration and approval;
- (j) Application for a Certificate of Compliance be submitted to the West Coast District Municipality for consideration and approval;
- (k) The letter of authorization from Swartland Municipality be displayed inside the house shop;

##### **2. Water**

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

##### **3. Sewerage**

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

##### **4. Streets and storm water**

- (a) Deliveries may only be done by delivery vehicles of with a gross vehicle mass of  $16000\text{kg}$ ;

##### **5. General**

- (a) The approval is, in terms of section 76(2)(w) of the By-Law valid for 5 years. All conditions of approval be met before the house shop comes into operation and the occupancy certificate is issued, after which the 5 year period will no longer be applicable;
- (b) The approval does not exonerate the applicant from obtaining any necessary approval from any other applicable statutory authority.
- (c) Appeals against the Tribunal decision be directed, in writing, to the Municipal Manager, Swartland Municipality, Private Bag X52, Malmesbury, 7299 or by e-mail to swartlandmun@swartland.org.za, no later than 21 days after registration of the approval letter. A fee of R4 500, 00 is to accompany the appeal and section 90 of the By-Law complied with, for the appeal 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 Malmesbury, as determined by the SDF.
3. The application supports the local economy and promotes entrepreneurship and local businesses, as a goal of the IDP.
4. The proposed house shop complies with the development parameters and requirements of the By-Law.
5. The development is envisioned to promote economic opportunities, shorter travel distances and amenities in the residential neighbourhood.
6. The proposed consent use will not negatively impact the character of the neighbourhood.



#### PART N: ANNEXURES

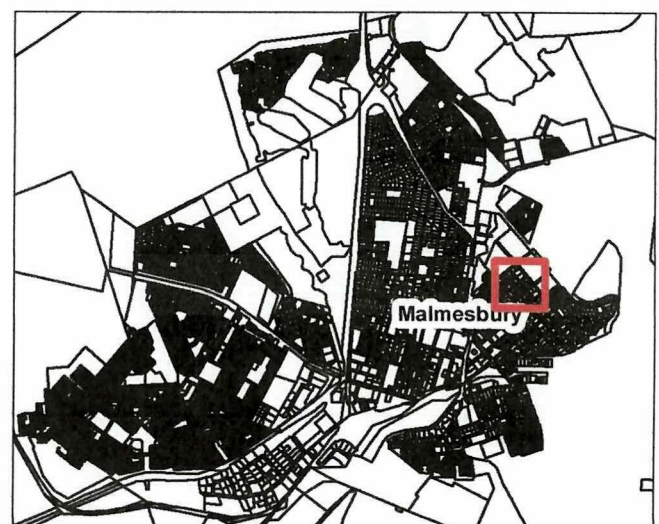
Annexure A: Locality plan  
 Annexure B: Site development plan  
 Annexure C: Public participation plan  
 Annexure D: Neighbouring property owners consent  
 Annexure E: Objection from WL Property trust  
 Annexure F: Comments from the applicant on the objections  
 Annexure G: Copy of the Title deed

#### PART O: APPLICANT DETAILS

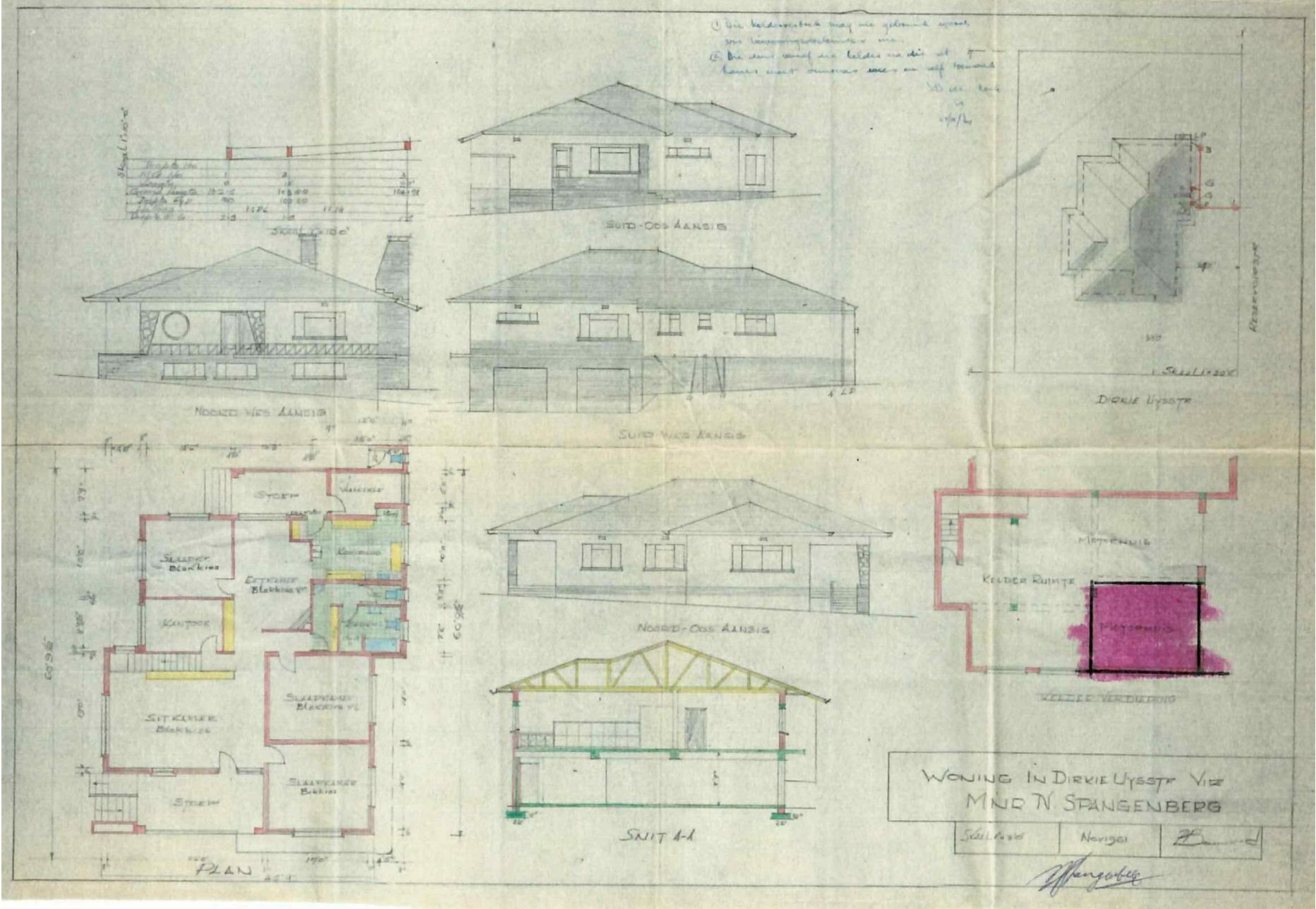
First name(s)	Elizna Basson & Frederick Ryk Ludolph Neethling			
Registered owner(s)	E Basson & FRL Neethling	Is the applicant authorised to submit this application:	Y	N

#### PART P: SIGNATURES

Author details: Herman Olivier Town Planner SACPLAN: A/204/2010		Date: 26 May 2023		
Recommendation: Alwyn Zaayman Senior Manager Built Environment SACPLAN: A/8001/2001	Recommended	<input checked="" type="checkbox"/>	Not recommended	
		Date: 29 May 2023		

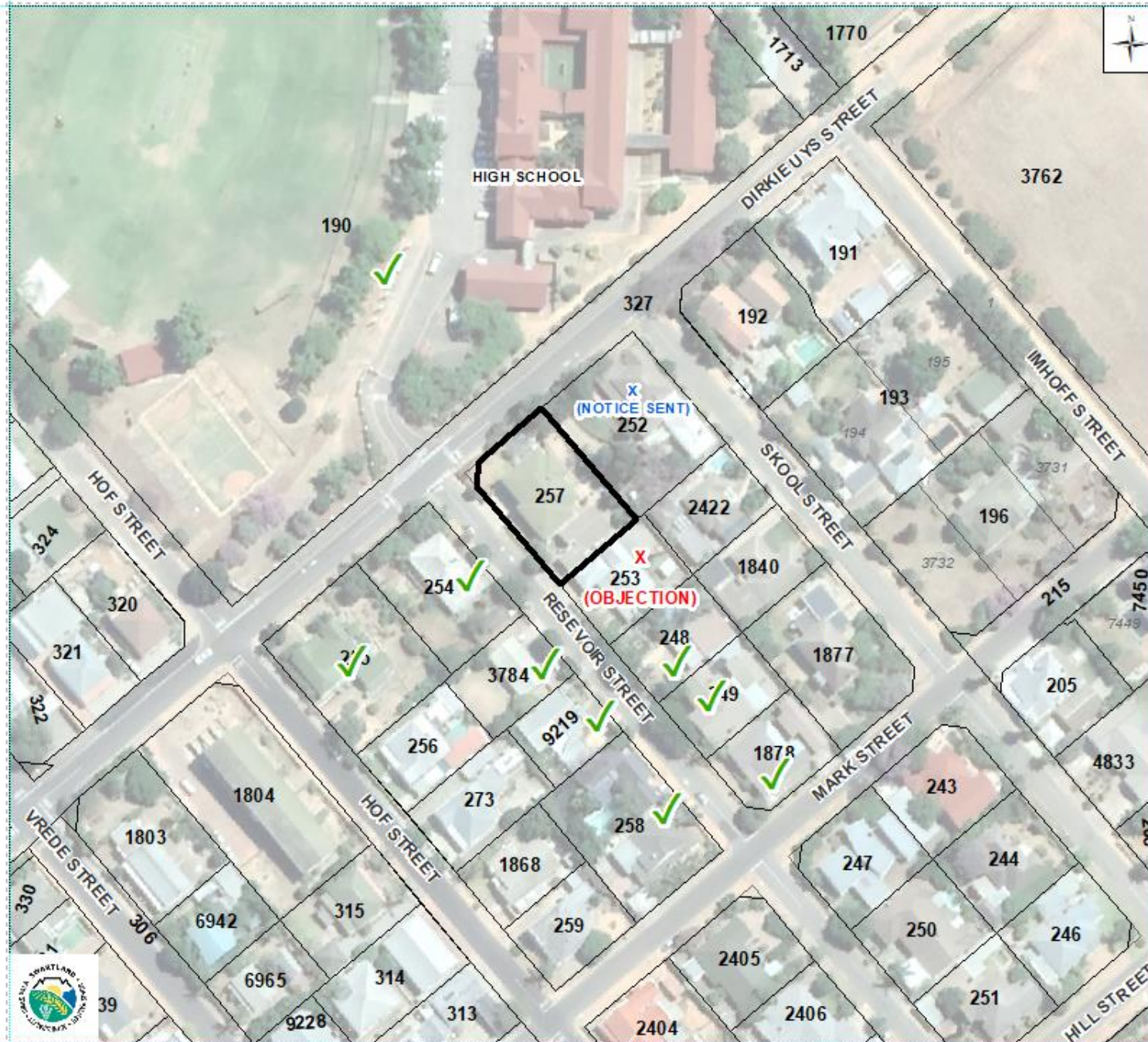


**-15-**



## PUBLIC PARTICIPATION PLAN

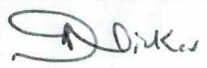

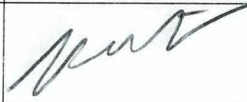

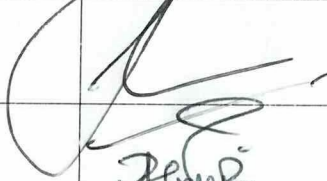
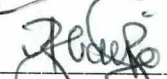
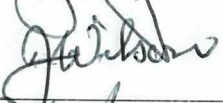

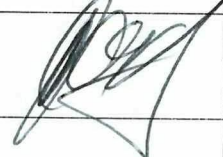
APPLICATION  
FOR CONSENT USE  
ON ERF 257, MALMESBURY



## HUISWINKELAANSOEK

1. Verklaring: Ek Elizna Basson is van voorneme om vir 'n Vergunningsgebruik aansoek te doen, vanaf my eiendom, Erf 257, in Malmesbury.

2. Toestemming: Hiermee gee ek, die ondergetekende, toestemming aan die bogenoemde persoon om 'n huiswinkel vanaf die genoemde erf te bedryf en aan alle munisipale regulasies te voldoen.

NAAM EN VAN	ADRES	ERFNOMMER	HANDTEKENING
DINIE VAN NIEKERK	RESERVOIRSTR. 26	248 + 249	
TOKKIE BREDENHARD	RESERVOIRSTR. 15	258	
Rudolf Knoetzen	Reservoirstr 24	1878	
S. Roux	Reservoirstr. 17	9219	
HOËLSKOO SWARTLAND J. SCHOONVLAAD	ERF 190, DIRKIE UYS STR HOËLSKOO SWARTLAND	190	
Brian de Beer	ERF 191 Dirkie Uys 24	191	
jean wibrow	16 Dirkie Uys str Malmesbury.	254	
Ina Handker	Dirkie Uysstr 19 Malmesbury.	255	
I.H. O'KENNEY	DIRKIE UYSSTR. 20 - 22	252 192	

Lloyd Cornell  
Familie Trust  
Lloyd EC

# HUISWINKELAANSOEK

1. Verklaring: Ek Elizna Basson is van voorneme om vir 'n  
Vergunningsgebruik aansoek te doen, vanaf my eiendom, Erf 257, in  
Malmesbury.

2. Toestemming: Hiermee gee ek, die ondergetekende, toestemming aan die bogenoemde persoon  
om 'n huiswinkel vanaf die genoemde erf te bedryf en aan alle munisipale regulasies te voldoen.

NAAM EN VAN	ADRES	ERFNOMMER	HANDEKENING
DINIE VAN NIEKERK	RESERVOIRSTR. 26	248 + 249	D. Dink.
TOKKIE BREDENHANS	RASDAUSTR. 15	258	T. Bred.
Rudolf Knoetzen	Reservoirstr. 24	1878	R. Knoetzen
S. Roux	Reservoirstr. 17	921	S. Roux
Hofleerle Swartland	ERF 190, Diek 435 str.	190	H. Swartland
J. Schooneman	Hofleerle Swartland		J. Schooneman
Brian de Beer	ERF 191	191	B. de Beer
jean Willem	Pirbiellys 24		J. Willem
	16 Dinkie lys str.	254	J. Willem
Grina Human	Reservoir str. 19	3784	G. Human



Elizna Basson &lt;elizna77@gmail.com&gt;

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**Vergunningsgebruik ERF257**

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**Schalk Steenkamp** <steenkampswj@gmail.com>

To: Elizna Basson &lt;elizna77@gmail.com&gt;

Cc: olivierH@swartland.org.za

Fri, Feb 24, 2023 at 11:41 AM

Goeiedag Elizna

Met betrekking tot jou versoek om goedkeuring van 'n "huiswinkel" kan ek nie my goedkeuring daarvoor uitspreek nie en wel om die volgende redes.

Die betrokke area is veronderstel om 'n goeie woonbuurt te wees en 'n huiswinkel voel ek hoort tuis in 'n meer informele woongebied waar inwoners nie altyd die middele het om winkel toe te ry nie omdat winkels nie altyd vir hulle naby is nie. In hierdie geval is die Spar ongeveer 100 meter weg en ek sien geen sin daarin dat jy vir ouers en kinders wil voorsiening maak nie. Die skool oorkant die pad het 'n snoepie vir die kinders en ouers sal eerder by die Spar stop waar hul ander benodighede ook kan kry. Die skool sal nie toelaat dat kinders die skoolterrein ongekontroleerd verlaat vir hierdie doel nie.

My eiendom is aangrensend van jou en die eiendom is deel van my besigheid waaruit ek voorsiening vir my aftrede gemaak het. Ek moet sorg dat my huurdres gelukkig is en dat daar nie omstandighede is wat hul gaan laat besluit om ander heenkome te soek nie. Terloops ek sal sal nooit 'n woonhuis koop wat aangrensend van 'n huiswinkel is nie. Die rede is dat 'n huiswinkel nie 'n woongebied se aansien verhoog nie maar dit eerder benadeel wat eiendomswaardes ens. aan betref.

Dirkie Uysstraat is die roete wat menige bosslaper daaglik gebruik. Hulle is verantwoordelik vir klein misdade en irretasies. Jou huiswinkel sal ook besoek word deur hulle en daar kan voorvalle plaasvind wat my belange in gedrang kan bring.

Ek wil dit graag benadruk dat ek nie 'n geleentheid vir jou wil misgun nie maar slegs my eie belang ook wil beskerm. Ek doen 'n beroep op jou om my siening en mening te respekteer en te aanvaar.

Ek wens vir jou voorspoed toe vir enige ander onderneming wat jy sal aanpak ten einde jou doelwitte te bereik.

Groete

Schalk en Kathy Steenkamp  
Trustees WL Property Trust.

[Quoted text hidden]



Elizna Basson &lt;elizna77@gmail.com&gt;

**Vergunningsgebruik ERF257**

Elizna Basson &lt;elizna77@gmail.com&gt;

Sat, Feb 25, 2023 at 5:09 PM

To: Schalk Steenkamp &lt;steenkampswj@gmail.com&gt;, Frikkie Neethling &lt;frikkie@darlingcellars.co.za&gt;

Cc: olivierH@swartland.org.za

Goeie Middag oom Schalk

Ek het baie lank hieroor nagedink maar ek voel dit lê op my hart om hierdie epos aan oom te stuur.

Oom het heeltemal 'n wanindruk van wat ek beplan om te doen. Ek het die geleentheid gehad om na al die ander bure te gaan en mooi te verduidelik wat ek beplan om te doen.  
Oom ken my glad nie en ek voel dat ek beoordeel word.

Ek moet aansoek doen vir 'n vergunningsgebruik om 'n "huiswinkel" te bedryf soos oom reeds weet.  
Nie noodwendig 'n huiswinkel wat mens in 'n informele woongebied kry nie maar 'n meer "upper class" een as ek dit so mag stel.  
Soos oom gesê het is ons bevoorreg genoeg om in 'n meer gegoede woonbuurt te woon.

Ek verkoop reeds 'n geruime tyd heuning en het begin om vrugte en groente ook te verkoop:

Druive  
Waatlemoen  
Free Range eiers  
Kalamata olywe  
Extra virgin olyf olie  
Butternut

Hierdie is maar net 'n paar van die produkte wat ek kan opnoem. (seisoen verbonde)  
Om dit nie van uit my huis te bedryf nie moet ek aansoek doen om dit van uit die "garage" te doen. (Ek is werklik geseënd en doen baie goed op die oomblik)

Daarom het ek gedink terwyl ek nou besig is met die aansoek, om dan ook sommer soggens voor skool en middag na skool aan die kinders en ouers koeldrank, chips en sweets te verkoop. Ek sal nie van soggens tot saans kan oop wees nie aangesien ek 'n voltydse werk het en graag self in beheer wil wees van die winkel se bedrywighede aan die begin. Die ure sal aan die begin maar baie beperk wees.

'n Huiswinkel is daar vir iemand se gerief wat gou vinnig iets wil koop. Ek het my marknavorsing deeglik gedoen. Dit wil tog voorkom dat die kinders / ouers my eerder sal ondersteun as om vinnig 'n koeldrank of 'n water by die Spar te gaan koop voor sport. So oor my kliënte is ek glad nie bekommerd nie en Spar is nie vir my 'n bedreiging nie.

Nerens het ek ooit gesê dat die winkel voldag oop gaan wees nie, dit het ek met almal bespreek in ons ontmoeting. Die skool se hoof het toestemming gegee vir my om die huiswinkel te bedryf so ek glo mnr Schoonraad is deeglik bewus van presies wat ek wil doen aangesien hy my die geleentheid gegee het om dit mooi aan hom te verduidelik. Ek verwys hier na "Die skool sal nie toelaat dat kinders die skoolterrein ongekontroleerd verlaat vir hierdie doel nie"

Ook wil ek hierdie aanspreek "Dirkie Uysstraat is die roete wat menige bosslaper daagliks gebruik. Hulle is verantwoordelik vir klein misdaad en irretasies. Jou huiswinkel sal ook besoek word deur hulle en daar kan voorvalle plaasvind wat my belange in gedrang kan bring"

My huiswinkel gaan nie hierdie bosslapers bedien nie, want hulle koop nie die tipe produkte wat ek gaan aan nou nie. Saans wanneer hulle op beweeg bos toe is ek heel moontlik nie eers meer oop nie sou ek dalk beplan om in die toekoms na 5 ook rukkies oop te wees. Die bosslapers is reeds hier in die buurt. Hier vind reeds voorvalle plaas in ons woonbuurt so my huiswinkel gaan werklik geen verskil maak nie. Ek moet noem dat in die afgelope jaar hier werklik bitter min bosslapers op en afloop in Dirkie Uys. Indien hulle hier loop, loop hulle die hele buurt vol.

Soos genoem of dit suksesvol gaan wees weet ek nie, maar ek hoop regtig so. Ek sal ook met verloop van tyd eers kan sien waarvoor daar 'n mark of aanvraag is. Wat beteken dat my voorraad heeltyd gaan verander, soos die aanvraag verhoog.

Ek sit ook onderaan die bepalings uit een waaraan ek moet voldoen. (soos deur die munisipaliteit voorgeskryf)  
Wat ek ingedagte het is iets meer "upper class" as die gewone R5 winkel op die hoek.

Ek het 15jaar retail ondervinding so ek glo ek weet hoe om 'n winkel te bedryf en wat die moets en moenies daarvan is.

My ouers het my met die regte en goeie waardes groot gemaak en ek glo uit 'n professionele oogpunt gaan my winkel anders wees as 'n gewone huiswinkel in Wesbank of Llingeletu.

Die bepalings met betrekking tot 'n huiswinkel is soos volg:

- (a) die omvang en ligging van die sakekomponent moet duidelik op 'n plan aangetoon word en mag nie 25m<sup>2</sup> of 50% van die totale vloerruimte oorskry nie (uitgesluit enige toilet, aantrekkamer en stoorkamer), watter ook al die kleiner oppervlakte is;
- (b) addisioneel tot die huiswinkel moet die grondeenheid 'n woonhuis wat deur die eienaar van die huiswinkel bewoon moet word, bevat;
- (c) enige nuwe struktuur of verandering aan die bestaande woonhuis of buitegebou moet by die residensiële karakter van die betrokke gebied aanpas;
- (d) nie meer as drie persone, insluitend die bewoner van die woonhuis, mag toegelaat word om by sake-aktiwiteite op die grondeenheid betrokke te wees nie;
- (e) slegs een teken wat nie groter as 1m<sup>2</sup> in oppervlakte is nie en wat aan die muur van die woonhuis of buitegebou vas is, sal toegelaat word, en geen gedeelte daarvan mag die erfgrense oorskry nie terwyl die teken slegs die naam van die eienaar, naam van die besigheid en aard van die kleinhandelbesigheid mag aandui;
- (f) die volgende word nie in 'n huiswinkel toegelaat nie:
  - (i). verkoop van wyn en alkoholiese drank;
  - (ii). stoor of verkoop van gas en gashouers;
  - (iii). muntmasjiene;
  - (iv). video speletjies, en
  - (v). snoeker- en potspeltafels.

Ek respekteer oom se siening en mening maar daar klou 'n siegma vas aan oom se idee van 'n 'huiswinkel'.

Ek hoop dit gee 'n bietjie meer duidelikheid oor my projek!

Groete Elizna

On Fri, Feb 24, 2023 at 11:41 AM Schalk Steenkamp <steenkampswj@gmail.com> wrote:

[Quoted text hidden]

1063

Boshoff Njokweni  
10th Floor  
Vunani Chambers  
33 Church Street  
CAPE TOWN  
Tel: 021 422 4855

Prepared by me



CONVEYANCER  
LOUIS BOSHOFF  
LPCM 12808

Deeds Office Registration fees as per Act 47 of 1937		
	Amount	Office Fee
Purchase Price	R. 1 680 000,00	R. 1283,00
Reason for exemption	Category Exemption	Exemption i t o. Sec/Reg. Act/Proc.

VERBOD	MONTGARD
VIA FOR R. 1 680 000,00	
B 000016440 / 2021	DATA / CAPTURE
14 JUN 2021	15-06-2021
	LINDA NCAPAI
	DATA / VERIFY
	15-06-2021
	NOI LIMO MTYATYAMPA

T 000029078 / 2021

## DEED OF TRANSFER

BE IT HEREBY MADE KNOWN THAT

~~LOUIS BOSHOFF~~

LYNNE BOTHA LPCM 82076

appeared before me, REGISTRAR OF DEEDS at CAPE TOWN, the said appearer being duly authorised thereto by a Power of Attorney granted to him/her by

1. Jacobus Zandberg Spangenberg, duly authorised hereto by virtue of a Special Power of Attorney granted to me at Cape Town on 09 of April 2021 by

ALETHEA ROOS (Previously Spangenberg)  
Identity Number 841221 0092 085  
Married out of community of property

(as bare dominium owners)

2. Jacobus Zandberg Spangenberg, duly authorised hereto by virtue of a Special Power of Attorney granted to me at Cape Town on 09 of April 2021 by

ELSIE SOPHIA ESTERHUIZEN  
Identity Number 371004 0016 082  
Widow

(as bare dominium owners)

3. Jacobus Zandberg Spangenberg, duly authorised hereto by virtue of a Special Power of Attorney granted to me at Cape Town on 09 of April 2021 by

GAVIN SPANGENBERG  
Identity Number 861031 5124 089  
and  
SAMANTHA JANE SPANGENBERG  
Identity Number 880112 0122 083  
Married in community of property to each other

(as bare dominium owners)

4. JACOBUS ZANDBERG SPANGENBERG  
Identity Number 560104 5078 086  
Married out of community of property

(as bare dominium owners)

5. Jacobus Zandberg Spangenberg, duly authorised hereto by virtue of a Special Power of Attorney granted to me at Cape Town on 09 of April 2021 by

JOHANNES PETRUS PAULES SPANGENBERG  
Identity Number 411003 5034 084  
Married out of community of property

(as bare dominium owners)

6. Jacobus Zandberg Spangenberg, duly authorised hereto by virtue of a Special Power of Attorney granted to me at Cape Town on 09 of April 2021 by

JOLANDIE SCHOEMAN (Previously Spangenberg)  
Identity Number 800910 0073 082  
Married out of community of property

(as bare dominium owners)

7. Jacobus Zandberg Spangenberg, duly authorised hereto by virtue of a Special Power of Attorney granted to me at Cape Town on 09 of April 2021 by

NICOLAAS SPANGENBERG  
Identity Number 750803 5007 082  
and

29

**GILLIAN LEE SPANGENBERG**  
Identity Number 781024 0104 088  
Married in community of property to each other  
  
(as bare dominium owners)

8. **Jacobus Zandberg Spangenberg**, duly authorised hereto by virtue of a Special Power of Attorney granted to me at Cape Town on 09 of April 2021 by

**WESSEL JOHANNES JACOBUS SPANGENBERG**  
Identity Number 771123 5049 082  
and  
**YULIA SPANGENBERG**  
Born on 28 June 1979  
Married in community of property to each other  
  
(as bare dominium owners)

which said Power of Attorney was signed at CAPE TOWN on 20 MAY 2021

And the appearer declared that his/her said principal had, on 29 October 2020, truly and legally sold by Private Treaty, and that he/she, the said Appearer, in his/her capacity aforesaid, did, by virtue of these presents, cede and transfer to and on behalf of:

1. **FREDERICK RYK LUDOLPH NEETHLING**  
Identity Number 751102 5081 083  
Unmarried
2. **ELIZNA BASSON**  
Identity Number 800318 0085 082  
Unmarried

their Heirs, Executors, Administrators or Assigns, in full and free property

ERF 257 MALMESBURY  
SITUATED IN THE MUNICIPALITY AND DIVISION OF MALMESBURY  
PROVINCE OF THE WESTERN CAPE

IN EXTENT 1086 (ONE THOUSAND AND EIGHTY SIX) Square metres

First Transferred by Deed of Transfer No. T6739/1962 with Diagram No. 8898/1961 relating thereto and held by Deed of Transfer No. T32760/1992.

- A. SUBJECT to the conditions referred to in Deed of Transfer No. 1179/1921.

20

WHEREFORE the said Appearer, renouncing all rights and title which the said

1. ALETHEA ROOS, Married as aforesaid
2. ELSIE SOPHIA ESTERHUIZEN, Widow
3. GAVIN SPANGENBERG and SAMANTHA JANE SPANGENBERG, Married as aforesaid
4. JACOBUS ZANDBERG SPANGENBERG, Married as aforesaid
5. JOHANNES PETRUS PAULUS SPANGENBERG, Married as aforesaid
6. JOLANDIE SPANGENBERG, Married as aforesaid
7. NICOLAAS SPANGENBERG and GILLIAN LEE SPANGENBERG, Married as aforesaid
8. WESSEL JOHANNES JACOBUS SPANGENBERG and YULIA SPANGENBERG, Married as aforesaid

heretofore had to the premises, did in consequence also acknowledge them to be entirely dispossessed of, and disentitled to the same, and that by virtue of these presents, the said

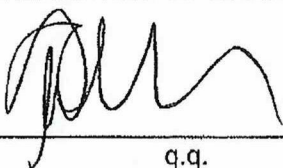
1. FREDERICK RYK LUDOLPH NEETHLING, Unmarried
2. ELIZNA BASSON, Unmarried

their Heirs, Executors, Administrators or Assigns, now are and henceforth shall be entitled thereto, conformably to local custom, the State, however reserving its rights, and finally acknowledging the purchase price to be the sum of R1 680 000,00 (ONE MILLION SIX HUNDRED AND EIGHTY THOUSAND RAND).

IN WITNESS WHEREOF, I the said Registrar, together with the Appearer, have subscribed to these presents, and have caused the Seal of Office to be affixed thereto.

THUS DONE and EXECUTED at the Office of the REGISTRAR OF DEEDS at CAPE TOWN on

14 June 2021.

  
\_\_\_\_\_  
q.q.

In my presence

  
\_\_\_\_\_  
REGISTRAR OF DEEDS