



**MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING HELD IN THE COMMITTEE ROOM:
CORPORATE SERVICES ON WEDNESDAY, 16 NOVEMBER 2022 AT 14:00**

PRESENT

Internal members:

Municipal Manager, Mr J J Scholtz

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:

Senior Manager: Built Environment, Mr A M Zaayman (advisor)

Director: Development Services, Ms J S Krieger

Senior Town and Regional Planner, Mr A J Burger

Town and Regional Planner and 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 apology was 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 12 OCTOBER 2022

RESOLUTION

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

That the minutes of a Municipal Planning Tribunal Meeting held on 12 October 2022 are approved and signed by the chairperson.

5. MATTERS ARISING FROM MINUTES

None.

6. MATTERS FOR CONSIDERATION

6.1 PROPOSED REZONING, DEPARTURE, REMOVAL OF RESTRICTIONS, CONSENT USE AND CONSOLIDATION ON ERF 461 AND ERF 462, KORINGBERG (15/3/3-7, 15/3/4-7, 15/3/5-7, 15/3/10-7, 15/3/12-7) (WARD 1)

Ms A de Jager/...

Ms A de Jager, as author, explained the various land use applications received on Erf 461 and Erf 462, Koringberg and motivated the reasons for the approval thereof.

Erf 461, Koringberg is already developed with a boutique wine cellar and tasting facility and the owner/developer wishes to expand and diversify the business through the establishment of a boutique hotel and restaurant.

Application is therefore made to consolidate Erf 461 and Erf 462, Koringberg to create more developable space, amongst others, to accommodate the required parking bays.

RESOLUTION

- A. Application for the rezoning of Erf 462, Koringberg, in terms of section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 25 March 2020) from Residential Zone 1 to Business Zone 1, be approved;
- B. Application for the consolidation of Erf 461 and Erf 462, Koringberg, in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), be approved;
- C. Application for the consent use of Erf 461 and Erf 462, Koringberg, in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), in order to accommodate a hotel, be approved;
- D. Approvals A. B. and C. are subject to the conditions that:

D1 TOWN PLANNING AND BUILDING CONTROL

- (a) Erf 462, Koringberg, be rezoned from Residential Zone 1 to Business Zone 1;
- (b) Erf 461 (997 m² in extent) and Erf 462 (832 m² in extent), Koringberg, be consolidated in order to create one property (1829 m² in extent) to accommodate the proposed uses and parking;
- (c) The consent use authorises a hotel on the property as presented in the application;
- (d) A minimum of twenty seven (27) on-site parking bays be provided and that parking bays be finished in a permanent dust free surface, whether it be tar, concrete, paving or any other material, as approved by the Director: Civil Engineering Services beforehand, and the parking bays be clearly demarcated, at building plan stage;
- (e) Building plans be submitted to the Senior Manager: Built Environment for consideration and approval;
- (f) A site development plan, including the parking layout, be submitted to the Senior Manager: Built Environment at building plan stage for consideration and approval;
- (g) A landscaping plan, detailing noise reducing and privacy promoting planting between the development and Erf 460, as well as landscaping that enhances the aesthetic of the parking lot, be submitted to the Senior Manager: Built Environment for consideration and approval;
- (h) Application be made to the Senior Manager: Built Environment for the right to construct or affix and display any signage;
- (i) Any signage be limited to 1 m² in area and may not project over a public street;
- (j) A contact number of the owner be displayed conspicuously on the premises at all times for emergency and/or complaint purposes;
- (k) A code of conduct for guests to the hotel be submitted to the Senior Manager: Built Environment for consideration and approval;
- (l) The owner/developer be responsible for enforcing the code of conduct;
- (m) A register of guests and lodgers be kept and completed when rooms are let, and the register be produced for inspection on request by a municipal official at any time;
- (n) Guest rooms not be converted to, or used as separate dwelling units;
- (o) A Certificate of Compliance be obtained from the West Coast District Municipality for the operation of the hotel and restaurant;
- (p) A trade license be obtained from Swartland Municipality for the operation of the hotel;

6.1/D...

- (q) The Western Cape Noise Control Regulations (PG 7141 dated 20 June 2013) be adhered to, to the satisfaction of the relevant authority;
 - (r) The provision of the Hotels Act, 1974 (Act 70 of 1965) be adhered to, to the satisfaction of the relevant authority;
- E. Application for the removal of restrictive conditions in terms of section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 25 March 2020), registered against Title Deed T14581/2012 for Erf 461 and Title Deed T27372/2020 for Erf 462, Koringberg, be approved:
 - (a) Conditions B.1a. and B.1b. in Title Deed T14581/2012 that read as follows:
 - “...B.1a. No business for the sale of intoxicating liquor of any kind shall be carried on on the said property until such time as a Village Management Board or a Municipality shall have been established in the Township of Koringberg unless the Kerkeraad for the time being of the Dutch Reformed Church at Koringberg shall have consented thereto or thereafter unless such Village Management Board or Municipality shall have consented thereto.*
 - B.1b. No business for the sale of intoxicating liquor commonly known as a canteen business shall at any time be carried on on the said property...”*
be removed; and
 - (b) Condition B.1b. in Title Deed T27372/2020 that reads as follows:
 - “...B.1 No business for the sale of intoxicating liquor commonly known as a canteen business shall at any time be carried on on the said property...”*
be removed;
 - (c) The following process be followed:
 - i. The applicant/owner applies to the Deeds Office to amend the Title Deed in order to reflect the removal of the restrictive conditions;
 - ii. The following minimum information must be provided to the Deeds Office in order to consider the application, namely:
 - Copy of the approval by Swartland Municipality;
 - Original Title Deed, and
 - Copy of the notice which was placed by Swartland Municipality in the Provincial Gazette;
 - (d) A copy of the amended Title Deed be provided to Swartland Municipality for record purposes;
- F. Application for the departure from development parameters, in terms of section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 25 March 2020), on the newly created property, Koringberg, be approved, subject to the conditions that:
 - (a) The minimum number of parking bays be departed from and 27 parking bays be provided in lieu of the required 33 parking bays;
 - (b) The eastern side building line of 3 m be departed from to 0,3 m for the extent of the storage building and container structure, as presented in the application;
- F1 WATER**
 - (a) The consolidated property be provided with a single water connection;
- F2 SEWERAGE**
 - (a) The consolidated property be provided with a conservancy tank of minimum 8 000 litre volume, that is accessible to the service truck from the street;

F3 ELECTRICITY

- (a) The owner/developer takes cognisance of the requirements formulated by Eskom, as stated in their letter with reference number 07054-22, dated 22 September 2022;

F4 DEVELOPMENT CHARGES

- (a) The owner/developer be responsible for the development charge of R4 893,89 towards bulk water supply. The amount is due 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 be responsible for the development charge of R4 356,20 towards bulk water distribution. The amount is due to Swartland Municipality, valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA 9/249-174-9210);
- (c) The owner/developer be responsible for the development charge of R2 421,05 towards sewerage. The amount is due to the Swartland Municipality, valid for the year of 2022/2023 and may be revised thereafter (mSCOA 9/240-184-9210);
- (d) The Council resolution of May 2022 makes provision for a 35% discount on development charges to Swartland Municipality. The discount is valid for the financial year 2022/2023 and may be revised thereafter. The discount is not applicable to F4(a).

G. GENERAL

- (a) Should the extension of any existing service be needed in order to provide the development with services, said extension be for the account of the owner/developer;
- (b) The approval is, in terms of section 76(2)(w) of the By-Law valid for a period of 5 years. All conditions of approval be complied with before the occupancy certificate be issued. Failure to comply will result in the approval expiring;
- (c) The approval does not exonerate the applicant from obtaining any necessary approval from any other applicable statutory authority;
- (d) Appeals against the Tribunal decision should 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.

H. The application be supported for the following reasons:

- (a) The development is consistent with the proposals of the SDF;
- (b) The development is sensitive in scale and nature to its context in Koringberg;
- (c) There are no physical restrictions on the property that will have a negative impact on the application;
- (d) The rezoning of Erf 462 to Business Zone 1 allows for the consolidation with Erf 461, which is already zoned Business Zone 1;
- (e) The number of parking bays provided are sufficient;
- (f) The building line departure may be considered advantageous in terms of noise control and privacy, and further mitigation may be established through landscaping;
- (g) The removal of the restrictive condition will not negatively impact on the rights of the owner/developer, nor on the rights of the previous holders;
- (h) The proposed development is not foreseen to impact negatively on the health or safety of the surrounding community;
- (i) The development will not have a negative impact on the cultural heritage of the area, nor on the biophysical environment;
- (j) The impact on the traffic volumes and movement of Koringberg is considered mild;
- (k) Services are available on the property and the increased load will be mitigated through development contributions;
- (l) The proposal is consistent with the principles of SPLUMA and LUPA.

6.2 APPLICATION FOR A CONSENT USE ON ERF 708, CHATSWORTH (15/3/10-2) (WARD 4)

Application is made for a consent use on Erf 708, Chatsworth in order to accommodate a house shop as an additional land use.

Mr H Olivier confirmed that, in accordance with the Municipal Land Use Planning By-law, the occupant(s) of the dwelling must operate the house shop, therefore the dwelling must first be completed before the house shop becomes operational.

RESOLUTION

- A. The application for the consent use on Erf 708, Chatsworth, 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) 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 along Cemetery Road, therefore at least one on-site parking bay for the house shop be provided from Cemetery Road;
- (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 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, be permitted to be engaged in retail activities on the land unit;
- (f) Only pre-packaged food products 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 license 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 authorisation from Swartland Municipality be displayed inside the house shop;
- (l) Operating hours of the house shop be limited from 07:00 to 22:00 daily;
- (m) The Western Cape Noise Control Regulations (PG 7141 dated 20 June 2013) be adhered to, to the satisfaction of the relevant authority;
- (n) The dwelling house be completed and an occupation certificate be obtained, prior to the house shop coming into operation;

A2 WATER

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

A3 SEWERAGE

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

A4 STREETS AND STORMWATER

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

B./...

B. GENERAL

- (a) The approval is in terms of section 76(2) (w) of the By-Law valid for a period of 5 years. All conditions of approval be complied with within the 60 days from the date of notice of the approval and that failing to do so will result in the lapsing of the approval;
- (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.

C. The application be supported for the following reasons:

- (a) The application complies with section 42 of SPLUMA and Principles referred to in Chapter VI of LUPA;
- (b) The application complies with the land uses proposed for this area of Chatsworth, as determined by the SDF;
- (c) The application supports the local economy and promotes entrepreneurship and local businesses, as a goal of the IDP;
- (d) The proposed house shop complies with the development parameters and requirements of the By-Law;
- (e) The development is envisioned to promote economic opportunities, shorter travel distances and amenities in the residential neighbourhood;
- (f) The proposed consent use will not negatively affect the character of the neighbourhood.

6.3 PROPOSED AMENDMENT OF AN APPROVED SUBDIVISION PLAN, AMENDMENT OF CONDITIONS OF APPROVAL, SUBDIVISION, PERMANENT DEPARTURE, PHASE AND EXEMPTION ON ERF 9468, MALMESBURY (15/3/4-8, 15/3/6-8, 15/3/13-8) (WARD 4)

Mr A J Burger, confirmed that the purpose of the application is the re-arrangement of phase 2A of the Mount Royal Golf Estate development.

The land use rights for the development as a whole was approved by Swartland Municipality in 2005 and the development was divided in 4 phases, which was also divided into sub-phases.

The re-arrangement of the layout of phase 2A will result in the provision of two additional single residential erven, the enlarging of the group housing erf and the reduction of private open spaces.

The Municipal Planning Tribunal emphasised the importance of creating accessible and functional open spaces as part of the design criteria of the group housing development.

RESOLUTION

- A. The application for the amendment of the approved subdivision plan on portion of Erf 327, Malmesbury and a portion of the Remainder of the farm Tweefontein no. 969, Division Malmesbury be approved in terms of section 70 of the By-Law. The subdivision plan for Phase 2A be amended as follows:

- (a) 11 x Residential Zone 1 erven;
- (b) 1 x General Residential Zone 1 erf;
- (c) 4 x Open space Zone 2 erven (private open space); and
- (d) 4 x Transport Zone 2 erven (private roads)

B./...

- B. The application for the amendment of conditions with regard to the existing approval on portion of Erf 327, Malmesbury and a portion of the Remainder of the farm Tweefontein no. 969, Division Malmesbury be approved in terms of section 70 of the By-Law. The conditions be amended as follows:
- ”...(a) That approval be granted in terms of the provision of section 16(1) of Ordinance 15 of 1985 for the rezoning of a portion of Erf 327, Malmesbury (33,82ha in extent) and a portion of the Remainder of Farm Tweefontein nr. 969 (75,03ha in extent), division Malmesbury to subdivisional area in order to establish the following land uses:
- (a) Residential Zone 1 : 501 erven;
 - (b) General Residential Zone 1 (Group housing) : 4 erven;
 - (c) General Residential Zone 3 (Flats) : 1 erf;
 - (d) Business Zone 1 : 2 erven
 - (e) Open Space Zone 2 : private open space
 - (f) Transport Zone 2 : private roads
- C. The application for subdivision of the group housing portion on Erf 6468, Malmesbury be approved in terms of section 70 of the By-Law, as follows:
- (a) 28 x portions between 350m² - 450m² in extent (General Residential Zone 1 : Group housing);
 - (b) 2 x portions between 195m² - 210m² in extent (Open Space Zone 2 : Private open space);
 - (c) 1 x portion of 2 490m² in extent (Transport Zone 2 : Private road);
- D. Application for a departure of the development parameters in order to depart from the required 1400m² open space on the group housing portion of Erf 9468, Malmesbury to 406m² open space, be approved in terms of section 70 of the By-law;
- E. The application for phasing of the subdivision plan on Erf 9468, Malmesbury be approved in terms of section 70 of the By-law, as follows:
- (a) Phase 2A.1: General Residential Zone 1 erf for further subdivision in 28 group housing erven; 2 open spaces and a road; 1 Open Space Zone erf (Private Open Space) and 1 Transport Zone 2 erf (road);
 - (b) Phase 2A.2: 4 Residential Zone 1 erven; 1 Open Space Zone 2 erf (private open space); 1 Transport Zone 2 erf (Road);
 - (c) Phase 2A.3: 7 Residential Zone 1 erven; 1 Open Space Zone 2 erf (private open space); 1 Transport Zone 2 erf (road);
 - (d) Phase 2A.4: 1 Open Space Zone 2 erf (private open space); 1 Transport Zone 2 erf (road) and a 2,5m wide pipe line servitude, subject to the condition that:
 - (i) Open Space Zone 2, Erf 16 (±1,415 ha in extent) be developed before clearance be given on Erven 5 to 12;
 - (ii) A detailed landscape plan be submitted to the Senior Manager: Built Environment for consideration and approval;
- F. A 2.5m wide pipe line servitude over Erf 9468, Malmesbury, is exempted from approval in terms of section 34(1)(g)(i) of the Swartland Municipality: Municipal Land Use Planning By-law (PG 8226 of 25 March 2020).
- G. GENERAL
- (a) The approval is, in terms of section 76(2)(w) of the By-Law valid for a period of 5 years. Failure to comply will result in the approval expiring;
 - (b) The approval does not exempt the owner/developer to comply with any other applicable legislation;

- (c) Appeals against the Tribunal decision should 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;

H. The application be supported for the following reasons:

- (a) Erf 9468 does not have any physical restrictions which will impact negatively on the proposed development;
- (b) The development proposal remains to complement the character of the surrounding area;
- (c) The development proposal is in compliance with the spatial planning of Malmesbury;
- (d) The application is in compliance with the planning principles of LUPA and SPLUMA;
- (e) The group housing development complies with density of 25 units/ha as required by the Planning By-law;
- (f) The impact of the reduced provision of private open space inside the group housing development is deemed low in context with the fast private open spaces provided in the development as a whole. This principle has already been implemented in another group housing development inside the estate;
- (g) The erf sizes of the single residential erven are compliant with minimum erf sizes for similar erven in Malmesbury as well as inside the estate;
- (h) The existing Service Level Agreement remains unchanged and in force;
- (i) The additional 9 holes for the golf course remain to be developed before the commencement of phase 3;
- (j) The approval of DEADP for possible amendments to the "Record of Decision" is not required to inform decision making on this application;
- (k) The development as a whole is still in the "Development Period" which enables the owner/developer to make changes to the undeveloped phases of the development.

6.4 APPLICATION FOR A CONSENT USE ON ERF 799, KALBASKRAAL (15/3/10-6) (WARD 7)

Mr H Olivier mentioned that a complaint was received regarding the operation of a house shop on Erf 799, Kalbaskraal and after an investigation it was found that the operation of the house shop is in contradiction with the zoning of the property.

A formal notice was issued on the owner with the instruction to seize the illegal land use and to apply for a consent use to legally operate the house shop.

RESOLUTION

- A. The application for the consent use on erf 799, Kalbaskraal, be approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020).

A1 TOWN PLANNING AND BUILDING CONTROL

- (a) The consent authorises a house shop, restricted to $\pm 17 \text{ m}^2$, 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 Sand or Calabash Streets, therefore at least one on-site parking bay be provided from Calabash Street;
- (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 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 license 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 authorisation from Swartland Municipality be displayed inside the house shop;
- (l) Operating hours of the house shop be limited from 07:00 to 22:00 daily;
- (m) The Western Cape Noise Control Regulations (PG 7141 dated 20 June 2013) be adhered to, to the satisfaction of the relevant authority;

A2 WATER

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

A3 SEWERAGE

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

A4 STREETS AND STORMWATER

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

A5 WEST COAST DISTRICT MUNICIPALITY

- (a) The applicant ensures compliance with the requirements of Regulation 638 of 22 June 2018 (Regulations Governing General Hygiene Requirements for Food Premises, The Transport of Food and Related Matters);
- (b) Food not be handled or permitted to be handled on the subject property without a valid certificate of acceptability, as required in terms of the above mentioned regulations;

B. GENERAL

- (a) The approval is in terms of section 76(2) (w) of the By-Law valid for a period of 5 years. All conditions of approval be complied with within the 60 days from the date of notice of the approval and that failing to do so will result in the lapsing of the approval;
- (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;

C. The application be supported for the following reasons:

- (a) The application complies with section 42 of SPLUMA and Principles referred to in Chapter VI of LUPA;
- (b) The application complies with the land uses proposed for this area of Kalbaskraal, as determined by the SDF;
- (c) The application supports the local economy and promotes entrepreneurship and local businesses, as a goal of the IDP;

6.4/C...

- (d) The proposed house shop complies with the development parameters and requirements of the By-Law;
- (e) The development is envisioned to promote economic opportunities, shorter travel distances and amenities in the residential neighbourhood;
- (f) The proposed consent use will not negatively affect the character of the neighbourhood.

6.5 APPLICATION FOR REZONING AND SUBDIVISION ON ERF 1220, MALMESBURY (15/3/3-8, 15/3/6-8) (WARD 8)

The subject property is owned by the National Government and currently contains two groupings of buildings. The one building is hosting the West Coast Stock Theft Unit of the South African Police Services and the other buildings are intended to be used as a Community Corrections Office by the National Department of Correctional Services.

The National Department of Public Works applied for the rezoning of Erf 1220, Malmesbury from Residential Zone 1 to Subdivisional Area to legalise the current and proposed office land uses.

The Municipal Planning Tribunal confirmed that the application is not complete in order to make an informed decision, amongst others, the uncertainty about the type of governmental functions that will be established on the property and the impact thereof on surrounding residential properties. Furthermore, the application is not in compliance with the planning legislation and can not be considered.

RESOLUTION

- A. The application for the rezoning and subdivision of Erf 1220, Malmesbury, be refused in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020).
- B. General
 - (a) It is recommended that the department seek an alternative solution or location for the proposed Community Corrections Office, in a location that could be considered favourable. It is advised that the department and the Municipality work together in identifying property that is ideally located, that is suitably zoned / consistent with the MSDF, will not have a negative impact on the character of the area, as well as would be in the interest of the community it serves.
 - (b) 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;
- C. The application be refused for the following reasons:
 - (a) The development proposal does not adhere to the spatial planning principles and can therefore be considered inconsistent with the spatial planning principles as contained in SPLUMA and LUPA;
 - (b) Spatial Justice: The proposal does not affect or address spatial and development imbalances through the improved access to and use of land. It is argued that the proposal to rezone a property with the extent of 1,3ha within the urban edge in order to accommodate administrative offices, only occupying 5% of the property and with the proposal restricting the use to the existing buildings, is not seen desirable. It is not in-line with the spatial planning goals as well as does not contribute to densification. As the rezoning effectively sterilises the property for any other development and will remain like that for years to come. This is deemed to be in contradiction with the MSDF, 2019 which promotes the effective use of property and services as well as supports densification;

- (c) It is recognized that the MSDF does accommodate Authority use within the area, however, as mentioned above, the proposal is deemed inconsistent with the goals of the local, district and provincial spatial policies as it will not promote the effective use of property and services as well as support densification. For these reasons the proposal does not contribute to spatial justice;
- (d) Spatial Sustainability: The proposal to rezone such a large property within a residential neighbourhood to accommodate administrative offices is deemed undesirable as it is in conflict with the general nature "sense of place" within the neighbourhood and will therefore detract from the character of the area. Furthermore, it could be argued that the proposed development will not result in a more spatially compact and resource-efficient settlement and will therefore not optimise the use of existing infrastructure. Although the proposal does include the use of under-utilised property the proposal is not seen as spatially sustainable;
- (e) Efficiency: The development proposal will not promote the optimal utilisation of services in the area. The applicant does motivate that the application seeks to regularise the existing stock theft unit as well as the potential cost saving should the office need to move to another location. Further, the applicant also motivates that in terms of efficiency the co-location of public services on the same property contribute to the principle of efficiency. However, the illegal land use cannot be used as motivation for the municipality to approve the proposed application, secondly due to the extent of the site, the amount of money needed to renovate the old dwelling in order to make it compliant with fire and safety regulations in order to specifically accommodate the use of it as offices, is not seen as effective. It is agreed that there is a number of advantages in co-locating public administration facilities and therefore more suitable locations are available to the department to co-locate its facilities, like the existing prison complexes as well as the existing police station in Malmesbury;
- (f) The municipality is also bound by timeframes with the processing of land use applications, and although it is agreed that the comments / conditions from Heritage Western Cape is critical information required to assist the decision making, the time frame provided by the Department that the information will only be provided in July 2023 is unacceptable. The Municipality need to finalise the application, ensuing compliance with the applicable By-Law as well as to ensure efficiency. Therefore this application does not comply with the principle of efficiency;
- (g) The development proposal is deemed inconsistent with the PSDF as the proposal will not achieve higher densities, will not result in the optimum use of land / space within the urban edge, will detract from the character of the area, it will negatively impact the sense of place within the residential neighbourhood it is located as well as will not improve accessibility;
- (h) The proposal is deemed to be in contradiction with the West Coast District SDF, 2020 as it will not result in the enhancement of the quality of life nor will it improve the access to amenities and opportunities of the residents affected by the application;
- (i) The proposal is deemed to be in contradiction with the MSDF, 2019 which rather promotes the effective use of property and services as well as supports densification;
- (j) Not one of the proposed offices have their access taken from the activity street, St Thomas Street. Both offices are accessed of Pinard Street which is a low order residential street;
- (k) In terms of section 42(1) of SPLUMA it is clear that the Municipal Planning Tribunal must make a decision which is consistent with the norms and standards, measures designed to protect and promote the sustainable use of agricultural land, national and provincial government policies and the Municipal Spatial

Development Framework. Due to the proposal being inconsistent with and in contradiction with the spatial planning policies as mentioned above, the application can therefore not be approved;

- (l) No site-specific circumstances were illustrated by the applicant to justify any departure from the MSDF, 2019;
- (m) The proposal to rezone such a large property within a residential neighbourhood to accommodate administrative offices is deemed undesirable as it is in conflict with the general nature “sense of place” within the neighbourhood and will therefore detract from the character of the area. The property, also accommodating the old residency, is of historical, architectural as well as contextual significance;
- (n) There are much more advantages in clustering public administration / functional facilities at existing locations;
- (o) The proposal is deemed not in the interest of the community affected by the application nor is it in the interest of the staff or the parolees that need to visit the property, as it will not improve accessibility;
 - (i) The proposal is inconsistent with the spatial planning proposals, is situated in a residential area and the rezoning of such a large property within a residential neighbourhood to accommodate administrative offices is deemed undesirable as it is in conflict with the general nature “sense of place” within the neighbourhood and will therefore detract from the character of the area;
 - (ii) Should the status quo remain there is a risk that the current state of the property will continue to deteriorate ultimately resulting in the complete loss of the heritage asset as well as the negative impact on neighbouring properties due to the lack of proper maintenance of the subject property. Should the application be approved the rezoning will effectively sterilise the property for any other development and will remain like that for the foreseeable future;
 - (iii) The proposal to rezone such a large property within a residential neighbourhood to accommodate administrative offices is deemed undesirable as it is in conflict with the general nature “sense of place” within the neighbourhood and will therefore detract from the character of the area;
 - (iv) The need for the DCS office in Malmesbury is recognised, the proposed location of it within a residential area on the other hand is not supported. Not only is it prejudicial to the interests of the residents in the area but also, it is not conveniently located next to transport routes, within the CBD, or clustered with other public administration facilities to be in the interest of the staff or the parolees that need to visit the offices;
 - (v) There is no long term benefit to the proposed development as it is not deemed sustainable. In the short term the Department will have a state owned building in which to accommodate the DCS office, however, the proposed repurposing of the historic building on the site in order to use it as offices as well as the potential negative impact on the area far outweighs the potential cost saving that the department claims to achieve;
- (p) The application contains no detail on the future developments on the rezoned erf, the impacts thereof on the residential neighbourhood can therefore not be determined;
- (q) The property, accommodating the old residency, is of historical, architectural as well as contextual significance and is therefore deemed an important heritage resource. Other than the proposed renovation of the buildings, the application does not contain detail on the proposed preservation of this significant heritage resource.

6.6 APPLICATION FOR BUILDING LINE DEPARTURE ON ERF 3402, MALMESBURY (15/4/2-8) (WARD 10)

Ms A de Jager confirmed that the application arised from a building plan application that was received. The supporting documents to the building plan application did not include a motivation or written consent from the affected property owners (Erf 3401) for the side building line departure by the carport as the owner/developer was not successful to obtain such consent.

The Municipality send a formal written notice to the affected property owners notifying them of the application for building line departure on Erf 3402, Malmesbury. The owners of Erf 3041 objected to the building line departure.

RESOLUTION

- A. The application for a departure from development parameters on Erf 3402, Malmesbury, 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) The approval authorises the departure from the 1,5 m eastern side building line to 0 m, restricted to the length of the proposed new carport structure;
- (b) Any stormwater run-off be managed on-site on Erf 3402 and discharged in the nearest municipal street;

B. GENERAL

- (a) The approval is, in terms of section 76(2)(w) of the By-Law valid for a period of 5 years. All conditions of approval be complied with before the occupancy certificate be issued. Failure to comply will result in the approval expiring;
- (b) Appeals against the Tribunal decision should 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;

- C. The application be supported for the following reasons:

- (a) The alternative available space on the property was evaluated and determined to be less suitable for the construction of the carport, than the proposed position;
- (b) The proposed location is considered the most practical approach, as it will utilise the existing dwelling as part of the structure, as well as make use of the existing entrance to the property;
- (c) The current, unauthorised carport comprises of a portion of the boundary wall, columns and shade netting on the eastern façade. It is argued the construction of a solid brick wall with a roll-up door will enhance the aesthetic impact of the carport, provide greater privacy between Erf 3401 and Erf 3402 and increase security for both parties;
- (d) The formalised, solid brick wall is foreseen to provide protection to Erf 3401 from western sunshine, without compromising the light quality inside the dwelling;
- (e) Stormwater from the carport will be managed via a gutter system and directed on-site to the nearest municipal stormwater system;
- (f) The proposal is consistent with similar departures in the area and the character of the neighbourhood is not negatively impacted.

6.7 PROPOSED REZONING AND SUBDIVISION OF ERF 1237, RIEBEEK KASTEEL (15/3/3-11, 15/3/6-11) (WARD 12)

Ms A de Jager, as author, tabled the item regarding the rezoning and subdivision of Erf 1237, Riebeeck Kasteel in order to establish a group housing development with 31 group housing erven, a private road and 7 private open spaces on the property.

The application was previously referred back by the Municipal Planning Tribunal in order to notify the Heritage Western Cape of the development and also to ensure that the proposed private open spaces are accessible and functional for the development.

RESOLUTION

- A. The application for the rezoning of Erf 1237, Riebeek Kasteel, from Residential Zone 1 to Subdivisional Area, be approved in terms of section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020);
- B. The application for the subdivision of Erf 1237, Riebeek Kasteel, be approved in terms of section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020);
- C. Approvals A and B above are subject to the conditions that:

C1 TOWN PLANNING AND BUILDING CONTROL

- (a) Erf 1237 (17 697m² in extent) be rezoned from Residential Zone 1 to Subdivisional Area in order to accommodate the following zoning categories, as presented in the application on Site Plan A101, dated 2022/06/09:
 - i. 31 x General Residential Zone 1 erven (12 968m² in extent); and
 - ii. 1 x Transport Zone 1: Private Road (2 672m² in extent);
 - iii. 7 x Open Space Zone 2: Private Open Space portions (2 057m² in extent);
- (b) Erf 1237 be subdivided as follows and as presented in the application on Site Plan A101, dated 2022/06/09:
 - i. 31 x General Residential Zone 1 erven between 400m² - 507m² in extent;
 - ii. 1 x Transport Zone 1: Private Road of 2 672m² in extent;
 - iii. 7 x Open Space Zone 2: Private Open Space portions between 24m² - 720m² in extent;
- (c) The required on-site parking bays be provided consistent with the requirements of General Residential Zone 1 and as presented on Site Plan A101, dated 2022/06/09;
- (d) A detailed Site Development Plan, be submitted to the Senior Manager: Built Environment for consideration and approval;
- (e) A Landscape Plan be submitted to the Senior Manager: Built Environment for consideration and approval, including:
 - i. Detailed landscaping proposals for communal open spaces and green strips within the development, specifying planting, materials, street furniture, play structures and any other such detail applicable to landscaping;
 - ii. Detailed landscaping proposals for the sidewalks outside of the development, for the entire perimeter of the boundary wall;
- (f) The green strips along the internal roads remain unobstructed, unfenced and maintained by the Owners' Association into perpetuity, and that the condition be included in the Owners' Association Constitution;
- (g) The construction and external landscaping of the boundary wall be completed before the transfer of the first residential property;
- (h) The landscaping of the shared internal open spaces be completed before the transfer of the tenth residential property;
- (i) The boundary wall be constructed with columns and permeable panels, as presented in the application;
- (j) The entrance gate to the development be located at least 10m from the property boundary in order to allow sufficient stacking distance for minimum two vehicles at a time;
- (k) The General Plan be submitted to the Surveyor-General for approval, including proof to the satisfaction of the Surveyor-General of—
 - i. the municipality's decision to approve the subdivision;
 - ii. the conditions of approval imposed in terms of section 76; and
 - iii. the approved subdivision plan;
 and copies of said diagrams be made available to the Municipality;
- (l) An Owners Association be established in terms of section 39 of the By-Law and that a constitution be compiled and submitted to the Senior Manager: Built Environment, for consideration and approval;

- (m) The constitution of an owners association be approved by the municipality before registration of the transfer of the first land unit and make provision for—
 - i. the owners association to formally represent the collective mutual interests of the area, suburb or neighbourhood set out in the constitution in accordance with the conditions of approval;
 - ii. control over and maintenance of buildings, services or amenities arising from the subdivision;
 - iii. the regulation of at least one annual meeting with its members;
 - iv. control over the design guidelines of the buildings and erven arising from the subdivision;
 - v. the ownership by the owners' association of all common property arising from the subdivision, including:
 - a. private open spaces;
 - b. private roads; and
 - c. land required for services provided by the owners association;
 - vi. enforcement of conditions of approval or management plans;
 - vii. procedures to obtain the consent of the members of the owners association to transfer an erf if the owners' association ceases to function; and
 - viii. the implementation and enforcement by the owners' association of the provisions of the constitution.
- (n) The Transport Zone 2 erf and the Open Space Zone 2 portions be transferred to the Owners Association, before transfer of the first residential property is approved;
- (o) The legal certificate which authorises transfer of the subdivided portions in terms of Section 38 of By-law will not be issued unless all the relevant conditions have been complied with;

C2 WATER

- (a) The development be provided with an internal water network that connects to the municipal water network;
- (b) The internal water network be designed by a professional engineer registered in terms of Act 46 of 2000 and that the design be submitted to the Director: Civil Engineering Services for consideration and approval;
- (c) Construction of the internal network be completed under the supervision of the appointed engineer at subdivision stage;
- (d) An analysis of the network be completed by the appointed engineer to ascertain whether elements of the Water Master Plan need to be implemented in order to accommodate the development, and the results be submitted to the Director: Civil Engineering Services;
- (e) The internal water network not be adopted by the Municipality and remain the responsibility of the Owners Association;

C3 SEWERAGE

- (a) The development be provided with an internal sewerage network that connects to the municipal sewerage network;
- (b) The internal sewerage network be designed by a professional engineer registered in terms of Act 46 of 2000 and that the design be submitted to the Director: Civil Engineering Services for consideration and approval;
- (c) Construction of the internal network be completed under the supervision of the appointed engineer at subdivision stage;
- (d) An analysis of the network be completed by the appointed engineer to determine whether elements of the Sewerage Master Plan need to be implemented in order to accommodate the development, and the results be submitted to the Director: Civil Engineering Services;
- (e) The internal sewerage network not be adopted by the Municipality and remain the responsibility of the Owners Association;

C4 STREETS AND STORMWATER

- (a) Stormwater be directed underground towards a suitable connection with the municipal stormwater system, to ensure that post-development volumes remain the same as pre-development stormwater volumes on the property;
- (b)/...

6.7/C4...

- (b) The internal private road be provided with a permanent, dust free surface, whether it be tar, concrete, paving or any other material previously approved by the Director: Civil Engineering Services;
- (c) Both the internal road network and stormwater network be designed by a professional engineer registered in terms of Act 46 of 2000 and that the design be submitted to the Director: Civil Engineering Services for consideration and approval;
- (d) Construction of the internal road and stormwater networks be completed under the supervision of the appointed, suitably qualified engineer at subdivision stage;
- (e) The internal stormwater and road networks not be adopted by the Municipality and remain the responsibility of the Owners Association;

C5 DEVELOPMENT CONTRIBUTIONS

- (a) The owner/developer is responsible for a development charge of R191 672,80 toward 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 R275 638,90 towards bulk water reticulation, at building plan 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 R384 139,10 towards sewerage, at building plan 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 R273 563,15 towards roads and storm water, at building plan 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).
- (e) The owner/developer is responsible for the development charge of R13 076, 70 towards electricity, at building plan 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);
- (f) The Council resolution of May 2022 makes provision for a 35% discount on development charges to Swartland Municipality, except for condition C5(a), which is payable in full. The discount is valid for the financial year 2022/2023 and may be revised thereafter;

D. GENERAL

- (a) Should the extension of any existing service be needed in order to provide the development with services, said extension be for the account of the owner/developer;
- (b) The approval is, in terms of section 76(2)(w) of the By-Law valid for a period of 5 years. All conditions of approval be complied with before the occupancy certificate be issued. Failure to comply will result in the approval expiring;
- (c) Appeals against the Tribunal decision should 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.

E. The application be supported for the following reasons:

- (a) The application is in compliance with the character and erf size for the specific portion of Riebeek Kasteel, as determined by the SDF;
- (b) The application is seen as densification which is supported by the SDF and PSDF;
- (c) The application complies with section 42 of SPLUMA and Principles referred to in Chapter VI of LUPA;

6.7/E...

- (d) The proposed subdivision will not negatively affect the character of the neighbourhood, as it is located outside the boundaries of the historic precinct of Riebeek Kasteel;
- (e) There is sufficient services capacity to accommodate the newly created erf;
- (f) The increase in traffic load, due to the development, is considered negligible;
- (g) The rights of surrounding property owners will not be negatively affected, as the developable area of the proposed portion will remain extensive;
- (h) All development parameters of the By-Law be adhered to.

6.8 PROPOSED CONSENT USE ON ERF 1900, RIEBEEK KASTEEL (15/3/10-11) (WARD 12)

Mr A J Burger confirmed that a building plan application for a dwelling with an unattached second dwelling (smaller than 60 m²) was approved on 8 September 2021. During the construction phase the owner/developer deviated from the approved building plan by moving the second dwelling and attaching it to the main dwelling as well as constructing a double storey.

The illegal building work was brought to the attention of the Municipality by the adjacent neighbour on Erf 2016, Riebeek Kasteel.

An application for a consent use for a double dwelling on Erf 1900, Riebeek Kasteel was therefore received.

RESOLUTION

- A. The application for a consent use on Erf 1900, Riebeek Kasteel, 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) The consent authorises a double dwelling on Erf 1900, as presented in the application;
- (b) The double dwelling complies with the applicable zoning parameters of the By-law;
- (c) At least 4 on-site parking bays be provided to the satisfaction of the Senior Manager: Built Environment;
- (d) Building plans be submitted to the Senior Manager: Built Environment for consideration and approval;

A2 WATER

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

A3 SEWERAGE

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

B. GENERAL

- (a) The approval is, in terms of section 76(2)(w) of the By-Law valid for a period of 5 years. Failure to comply will result in this approval expiring;
- (b) 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.

- C. The application be supported for the following reasons:

- (a) The application is in compliance with the planning principles of LUPA and SPLUMA;

6.8/...

- (b) The application is consistent with local, regional and provincial spatial planning policy;
- (c) The development proposal complies with all applicable zoning parameters of the Residential zone 1 zoning and will not have a negative impact on the privacy or property values of neighbouring properties;
- (d) Erf 1900 does not have any physical restrictions which may have a negative impact on this application;
- (e) The proposed double dwelling will complement and not have a negative impact on the character of the surrounding residential area;
- (f) The development proposal supports the optimal utilisation of the property;
- (g) The proposed land use is considered as a desirable activity within a residential neighbourhood, as it will accommodate residential activities compatible with that of the existing area;
- (h) The double dwelling will provide in a need for a larger variety of housing opportunities to the wider population;
- (i) Sufficient services capacity exists to accommodate the proposed double dwelling;
- (j) The views from Erf 2016 are deemed a privileged and not a right.

**(SIGNED) J J SCHOLTZ
CHAIRPERSON**

ITEM 6.1 VAN DIE AGENDA VAN 'N MUNISIPALE BEPLANNINGSTRIBUNAAL WAT GEHOU SAL WORD OP WOENSDAG, 8 FEBRUARIE 2023

LAND USE PLANNING REPORT PROPOSED REZONING OF ERF 331, MOORREESBURG					
Reference number	15/3/3-9/Erf_331	Application submission date	15 September 2022	Date report finalised	23 January 2023

PART A: APPLICATION DESCRIPTION

An application for the rezoning of erf 331, Moorreesburg 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 331 (6000m² in extent) be rezoned from Residential zone 1 to Community zone 3 in order to operate a social institution. The facility offers a place of safety for woman and children who are victims of violence and sexual offences.

The applicant is the Department of Public Works & Infrastructure which is also the owner of the property.

PART B: PROPERTY DETAILS

Property description (in accordance with Title Deed)	Erf no 331, Moorreesburg, geleë in die Munisipaliteit van Moorreesburg, in die Afdeling Malmesbury						
Physical address	16 Tuin Street			Town	Moorreesburg		
Current zoning	Residential Zone 1	Extent (m²/ha)		6000 m²	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 2021)						
Current land use	Safe house/shelter which offers protection for woman and children which are victims of violence and sexual offences.			Title Deed number & date		T10622/1961	
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	<input checked="" type="checkbox"/>	Permanent departure	<input type="checkbox"/>	Temporary departure	<input type="checkbox"/>	Subdivision	<input type="checkbox"/>
Extension of the validity period of an approval	<input type="checkbox"/>	Approval of an overlay zone	<input type="checkbox"/>	Consolidation	<input type="checkbox"/>	Removal, suspension or amendment of restrictive conditions	<input type="checkbox"/>
Permissions in terms of the zoning scheme	<input type="checkbox"/>	Amendment, deletion or imposition of conditions	<input type="checkbox"/>	Amendment or cancellation of an approved subdivision plan	<input type="checkbox"/>	Permission in terms of a	<input type="checkbox"/>

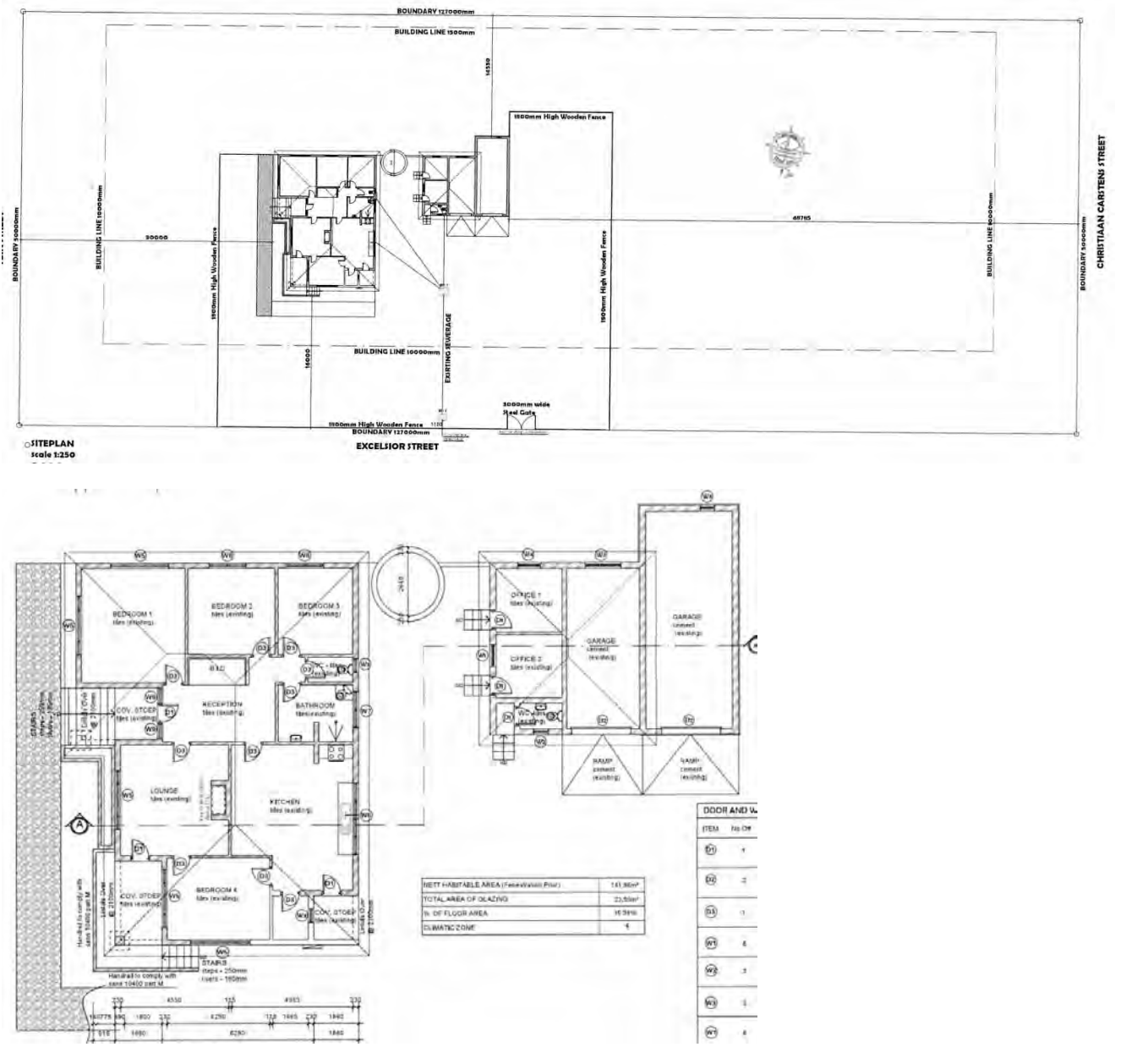
	in respect of existing approval		condition of approval	
Determination of zoning	Closure of public place	Consent use	Occasional use	
Disestablish a home owner's association	Rectify failure by home owner's association to meet its obligations	Permission for the reconstruction of an existing non-conforming use		

PART D: BACKGROUND

Erf 331 is zoned Residential zone 1 and accommodates a dwelling house which has been converted into a facility which offers protection for woman and children which are victims of violence and sexual offences.

Erf 331 was identified to be used as a safe house/shelter by the Western Cape Provincial Department of Social Development in line with the Presidential Strategy to protect woman and children against family violence and sexual offences.

The facility is operated by a NGO called Community Cohesion as an initiative of the Western Cape Provincial Department of Social development. The facility is called “Aalwyn Place of Safety” and has been in operation since May 2021 without land use approval.



PART E: PRE-APPLICATION CONSULTATION (ATTACH MINUTES)

Has pre-application consultation been undertaken?	Y	N
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PART F: SUMMARY OF APPLICANT'S MOTIVATION

1. The proposed development use enhances the principles of LUPA and SPLUMA.
2. The proposal is in compliance with the Swartland Spatial Development Framework.
3. The proposal complies with the zoning parameters of the Swartland Planning By-law.
4. The capacity for bulk services will not be increased and the existing capacity will therefore be sufficient to accommodate the proposed usage.
5. It is anticipated that the proposed use will not generate more additional traffic in the area.
6. The impact of the proposed use on the character on the surrounding area is deemed to be low.
7. Existing dilapidated buildings on the property were improved to a high standard to accommodate the shelter which has a positive impact on the area.

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 application was advertised in the local newspapers and Provincial Gazette as well as a total of 19 registered notices which were send to affected parties. The public participation process started on 26 September 2022 and ended on 28 October 2022. Where e-mail addresses were available, affected parties were notified via e-mail as well. 12 of owners were also notified via email. A total of 10 registered notices were not collected. Only 4 of the uncollected notices were not also send via email.

A total of 1 objection was received in the form of a petition which was referred to the applicant for comments on 29 November 2022. The applicant's comments on the objections were received on 12 December 2022.


Total valid comments	1	Total comments and petitions refused	0
Valid petition(s)	Y	N	If yes, number of signatures 21
Community organisation(s) response	Y	N	Ward councillor response Y N The application was forwarded to the councillor which indicated that he had no objection.
Total letters of support	1		

PART H: COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS

Name	Received	Summary of comments	Recomm.
Departement : Ontwikkelingsdienste	23 September 2022	1. Bouplanne aan die Senior Bestuurder: Ontwikkelingsbestuur vir oorweging en goedkeuring voorgelê word.	✓
Departement : Siviele Ingenieursdienste	11 Oktober 2022	1. Riolering Die bestaande rioolaansluiting gebruik word en dat geen addisionele aansluitings voorsien sal word nie. 2. Water Die bestaande wateraansluiting gebruik word end at geen addisionele aansluitings voorsien sal word nie. 3. Vullisverwydering Onbeperkte toegang tot vullis word vereis en vullis moet teen 07:30 op die dag van geskeduleerde versameling op die sygaardjie geplaas word.	✓

PART I: COMMENTS RECEIVED DURING PUBLIC PARTICIPATION		SUMMARY OF APPLICANT'S REPLY TO COMMENTS	MUNICIPAL ASSESSMENT OF COMMENTS
Petition	<p>1. The influx of people that does not necessarily belong in the neighbourhood will occur. This is already a general problem in Moorreesburg and leads to more and more housebreaking and theft.</p>	<p>1. It is unclear what is meant by people that does not necessarily belong in the neighbourhood. If the objectors are referring to abused woman and their children as people that does not necessarily belong in the neighbourhood', it is an insult and unacceptable and should be ignored with the contempt it deserves.</p> <p>Furthermore, the said statement is unsubstantiated. This shelter will accommodate a maximum of 8 persons (women and their children) and clients (residents) are able to reside for a 3-month period. There will be no influx of traffic or people entering and exiting the shelter.</p> <p>There are referral pathways with stakeholders and as such: Admissions are controlled and aligned to the shelter admission policy. As per admission policy, no personal visitors to residents are allowed. Stakeholders such as South Africa Police Service (SAPS), conducts regular patrols to ensure safety and security. The SAPS visibility ultimately benefits the entire neighbourhood, making the neighbourhood safer. The security firm contracted to the shelter, park outside the premises. The visibility of the security firm ultimately benefits the entire neighbourhood, making the neighbourhood safer.</p> <p>The objectors unfairly assume the worst social moral of the potential future residents. On this basis the comments are misleading, unsubstantiated and should be ignored. The facts therefore, are that the regular patrols of SAPS and the deployment of the security firm, which provides 24 hours surveillance, will enhance the safety and security of the neighbourhood.</p>	<p>1. According to the information provided by the applicant, no visitors are allowed to the shelter. It can therefore be argued that staff members are the only people permitted to enter and leave the premises on a daily basis.</p> <p>Victims are able to reside in the shelter for a 3 month period only. Thereafter the shelter will receive new residents.</p> <p>Without speculating too much, it can be assumed the people the objectors are referring too are the people that inflicted the abuse.</p> <p>The shelter is patrolled by SAPS and has security by means of a contracted security company which ensures the safety of the shelter and the immediate neighbourhood.</p>

	<p>2. Our properties' resale value could decline exponentially since prospective buyers would want peace and tranquillity and not random people and strangers who come and go at all times of the day.</p>	<p>2. This statement by the objector's is conjecture and unsubstantiated. The objectors provide no factual economic study to substantiate their concern. In fact, the improvements and renovations that was made to the property up to date, has been of a high standard. The objectors are unfairly and disingenuously anticipating that the residents of the shelter will be criminals. Why would the existence of the shelter (for abused women and their children) contribute to the decline of the peace and tranquillity of the neighbourhood? On the contrary, as already mentioned above it is more likely that the introduction of the shelter and the repairs that was made to the house will enhance security, as surveillance will be increased in the area throughout the day and night. The house was previously derelict, used as a place of disrepute where sex workers lived, and drugs was being used. The house was dilapidated and filthy which posed a risk to the community and impacted on the resale value of the community (see pictures of the house prior to the shelter being established).</p> <p>Further to the afore-mentioned there are referral pathways with stakeholders and as such: Admissions are controlled and aligned to the shelter admission policy. Each client and her children entering the shelter is screened according to the shelter admission policy. The facts are that the repair, renovation and controlled use of the house has added to the property value. It has not caused a decline in property values. Based on the afore mentioned it is measurable fact that the improvements will have a positive impact on the property values in the neighbourhood.</p>	<p>2. No evidence has been provided by the objectors to support their statement.</p> <p>As stated by the applicant the buildings on the property were improved and renovated to a high standard from a derelict state. This in itself can be deemed a positive impact on the surrounding property values.</p> <p>The impact of the property as a shelter on the surrounding neighbourhood is deemed to be low as the use of the shelter is similar to that of a dwelling house.</p> <p>See the comments at point 1.</p>
	<p>3. Then there is the safety aspect for us as residents and our children. The house is used as a place of safety for abused women and children. Obviously when the perpetrators start looking for these women and children, they will come into the neighbourhood and be a danger to us all.</p>	<p>3. Although this statement is a repeat of the previous objections it is conjecture and unsubstantiated. As stated, before admissions are controlled and aligned to the shelter admission policy. Stakeholders such as the South Africa Police Service, conducts regular patrols to ensure safety and security. The SAPS visibility ultimately benefits the entire neighbourhood, making the</p>	<p>3. The comments from the applicant is supported.</p>

		<p>neighbourhood safer. A comprehensive safety risk assessment is conducted with each client prior to admission. For safety reasons, the shelter does not admit clients from the immediate area but are referred to other shelters. In terms of the Generic Norms and Standards and the policy of the shelter, clients are restricted to make contact with external persons. Perpetrators are not aware of the whereabouts of clients.</p>	
	<p>4. We have no guarantee that the rest of Erf 331 will not be used for the erection of further buildings and structures to accommodate more people, which will lead to more traffic – pedestrian and vehicular alike.</p>	<p>4. This statement is unsubstantiated. It will be used for the intended purposes and as indicated above will at maximum capacity house 8 persons. It must further be noted that the Department of Public Works and Infrastructure (DPWI) as the owner of the property similarly have no guarantee that any of the existing owners in the neighbourhood will use their erven for the erection of further buildings and structures to accommodate more people. DPWI has shown with this application their intention and willingness to follow the legislative processes to obtain the necessary approval.</p> <p>Although there are currently no plans to extend the services, all due processes in terms of the relevant By-Laws, needs to be followed in the future if any further buildings and or structures are required. The statement that was made with regards to the increase of pedestrian and vehicular traffic is unsubstantiated conjecture and should be ignored. As stated above no personal visitors are allowed. Therefore, there would be no influx of pedestrian and or vehicular traffic.</p>	<p>4. The application is being considered only refers to the existing buildings and current use of the property. The Department of Public Works and Infrastructure has not indicated any plans for the future development of the property with specific reference to the vacant portion thereof. The future development of the vacant portion can be restricted by only rezoning the portion of the property which is being used by the shelter. Furthermore, the use of the rezoned portion can be restricted to the use of the existing shelter. This will ensure that land use rights need to be obtained once more if the Department wants to develop the rest of the property or use the existing buildings for a different use.</p> <p>The proposal below indicates an area of 1636m² which is proposed to be fenced off in order to provide additional safety for the shelter. This area could be the relevant area to be rezoned.</p> 
	<p>5. A Community premises does not belong in a residential area. We all bought our properties to have peace and tranquillity, and NOT be the middle of an area where people and</p>	<p>5. Again, although this statement is a repeat of the previous objections it is conjecture and unsubstantiated assumptions. As a shelter for abused women and their children are based at the shelter and movements to the Department of Health or the Department of Justice and</p>	<p>5. The Spatial Development Framework as applicable to Moorreesburg indicates that Erf 331 is situated in zone G. Zone G is a low density residential area with the golf course as a supportive sports facility. The expansion of the golf course in the southern direction is promoted. The area mainly provides opportunities</p>

	<p>strangers can come and go at all times.</p>	<p>Constitutional Development are monitored, controlled, done by prior arrangements and under the supervision of a staff member. Due to shelter policy, clients are not allowed to walk around in the community.</p> <p>There are referral pathways with stakeholders and as such: Admissions are controlled and aligned to the shelter admission policy. No unannounced admissions are done. The shelter accommodates a maximum of 8 persons (women and their children) and clients are able to reside for a 3month period. There are no influx of traffic or people entering and exiting the shelter. Clients are referred by either government departments or by a referring organization. All clients admitted to the shelter undergo exit strategies and exit to known addresses. The shelter has policies and Standard Operating Procedures in place which are geared towards the safety of all residing and working at the shelter. Lastly, from the Moorreesburg SDF, it is clear that the existing proposed zone allows for the proposed change, as it caters for institutional land uses such as a safe house/shelter.</p>	<p>for infill mixed density residential uses and other supporting social facilities.</p> <p>Institutions are a land use which are accommodated in zone G.</p> <p>The Swartland Planning By-law defines an institution as follows:</p> <p><i>“...institution, means premises used as or intended to be used as a <u>social</u>, health or <u>welfare facility</u>, or for the administration thereof, and includes a hospital, clinic, pharmacy, home for the aged, indigent or handicapped, <u>rehabilitation centre</u>, reformatory or place of detention, whether of a commercial or charitable nature, but does not include a jail...”</i></p> <p>The application is in compliance with the spatial planning of Moorreesburg.</p>
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PART J: MUNICIPAL PLANNING EVALUATION

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

An application for the rezoning of Erf 331, Moorreesburg 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 331 (6000m² in extent) be rezoned from Residential zone 1 to Community zone 3 in order to operate a social institution. The facility offers a place of safety for woman and children who are victims of violence and sexual offences.

The application was advertised in the local newspapers and Provincial Gazette as well as a total of 19 registered notices which were sent to affected parties. The public participation process started on 26 September 2022 and ended on 28 October 2022. Where e-mail addresses were available, affected parties were notified via e-mail as well. 12 of owners were also notified via email. A total of 10 registered notices were not collected. Only 4 of the uncollected notices were not also sent via email.

A total of 1 objection was received in the form of a petition which was referred to the applicant for comments on 29 November 2022. The applicant's comments on the objections were received on 12 December 2022.

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: According to the Spatial Development Framework erf 331 is situated in an area where institutions can be accommodated as a land use, making the application in compliance with the spatial planning of Moorreesburg.
- b) Spatial Sustainability: Moorreesburg does not consist of any other similar facilities like this shelter. The facility is a first for Moorreesburg and for the Swartland Municipal area. The buildings on erf 331 was previously derelict and uninhabited, but was upgraded to accommodate the shelter. The Department of Public Works and Infrastructure has put the property in use again which is a positive impact on the neighbourhood and making Moorreesburg a more resource-efficient town.

Existing infrastructure are sufficient to accommodate the facility.
- c) Efficiency: As explained under Spatial Sustainability, the Department optimised the use of the property which was in a derelict state. The impact of the facility on the surrounding neighbourhood is deemed low as only a total of 8 residents are permitted at a time and no visitors are allowed. Furthermore, no local victims be accommodated in the facility which will ensure that perpetrators will not be able to visit the facility. This ensures that the neighbourhood will remain to function efficiently.
- d) Good Administration: The application was communicated to the affected landowners through registered mail and was advertised in the local newspapers and Provincial Gazette. The application was also circulated to the relevant municipal departments for comment. Consideration was given to all correspondence received and the application was dealt with in a timeous manner. It is therefore argued that the principles of good administration were complied with by the Municipality.
- e) Spatial Resilience: The buildings on erf 331 was used as a dwelling house in the past. The use of the buildings as a shelter for abused woman and children remains to be "residential" of nature even though it is classified as an institution. The change in use of the property remains to be compatible with the surrounding residential neighbourhood.

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

2.3 Spatial Development Framework(SDF)

The Spatial Development Framework as applicable to Moorreesburg indicates that Erf 331 is situated in zone G. Zone G is a low density residential area with the golf course as a supportive sports facility. The expansion of the golf course in the southern direction is promoted. The area mainly provides opportunities for infill mixed density residential uses and other supporting social facilities. Institutions are a land use which are accommodated in zone G. The application is in compliance with the spatial planning of Moorreesburg.

See the extract from the SDF below.



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

The proposal complies with all the development parameters determined by the By-Law.

On-site parking needs to be provide at 1 parking bay per bed. Clients of the shelter are brought to the shelter and are also moved again from the shelter. Sufficient space are provided on-site for the parking of staff.

2.5 Desirability of the proposed utilisation

Erf 331, Moorreesburg is zoned Residential zone 1 and is developed with a dwelling house and outbuildings. Since May 2021 the property has been used as a facility which offers protection for woman and children which are victims of violence and sexual offences. Erf 331 does not have any physical restrictions which may impact on the application.

Surrounding land uses are single residential. Even though the shelter is deemed an institution, it remains to be “residential” of nature. The shelter accommodates a maximum of 8 persons (women and their children) and clients are able to reside for a 3 month period. There are no influx of traffic or people entering and exiting the shelter. Clients are referred by either government departments or by a referring organization. All clients admitted to the shelter undergo exit strategies and exit to known addresses. The shelter has policies and Standard Operating Procedures in place which are geared towards the safety of all residing and working at the shelter. No unannounced admissions are done. Perpetrators are not aware of the whereabouts of the clients of the shelter. The impact of the shelter on the surrounding residential neighbourhood is deemed low.

Stakeholders such as the South Africa Police Service (SAPS), conducts regular patrols to ensure safety and security. The SAPS visibility ultimately benefits the entire neighbourhood, making the neighbourhood safer. There is also a security firm contracted by the shelter which provides additional safety and security.

The buildings on erf 331 was previously derelict and uninhabited, but was upgraded to a high quality to accommodate the shelter.

The concerns of the objectors are noted regarding the future use of the property if zoned to Community zone 3 in its entirety. A building plan, which was presented with the land use application, indicates the intention of the Department to fence a portion of the property with a 1,8m high wooden fence. This fence will further restrict movement of people who are accommodated/involved at the shelter. This fenced off area is 1636m² in extent in relation to the total erf being 6000m² in extent. The MPT is advised to consider restricting the area to be rezoned to 1636m². This will ensure that any future expansion of the facility will need to go through a land use process again.

No evidence has been provided by the objectors nor the municipality to give an indication if property values will be affected negatively by the shelter. As already stated, the impact of the shelter on the surrounding residential area is deemed to be low. It can therefore be predetermined that the possible impact on property values will also be low, if any.

The use of the property as an institution is in compliance with the spatial planning of Moorreesburg.

The proposed development complies with all zoning parameters applicable to the Community zone 3 zoning.

Existing services infrastructure are deemed sufficient to accommodate the shelter.

There are no restrictions in the title deed of erf 331 which are restrictive to this application.

The development proposal is considered desirable.

3. Impact on municipal engineering services

Sufficient services capacity exists to accommodate the proposed development.

4. Comments of organs of state

Letters of support was received from the Western Cape Department of Social Development in the form of the Western Cape Minister Sharna Fernanadez and the Regional Director: Department of Social Development: West Coast, Dr Willem du Toit.

5. Response by applicant

See Annexure H.

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 rezoning of erf 331, 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 conditions that:

1. TOWN PLANNING AND BUILDING CONTROL

- a) A portion (1636m² in extent) of erf 331 be rezoned from Residential zone 1 to Community zone 3;
- b) Building plans be submitted to the Senior Manager: Built Environment, for consideration and approval;
- c) The shelter be operated strictly according to the policies and SOP's of the Western Cape Department of Social Development;
- d) Clients at the shelter be restricted to a maximum of 8 people as presented in the application;

2. WATER

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

3. SEWERAGE

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

4. REFUSE REMOVAL

- a) Unrestricted access to waste be required and waste be put on kerbside by 07:30 on day of scheduled collection;

5. GENERAL

- a) The approval is, in terms of section 76(2)(w) of the By-Law valid for a period of 5 years. All conditions of approval be complied with within 90 days after the decision making process on the application ended and an occupancy certificate been issued, failing to comply will result in this approval expiring;
- b) In terms of Chapter VII, Section 89 of the Swartland Municipality By-law relating Municipal Land Use Planning (PG 8226 of 25 March 2020), affected parties have a right to appeal the abovementioned decision within 21 days of date of registration of this letter to the appeal authority of the Swartland Municipality against Council's decision.

Should affected parties decide to appeal, you can write to the following address:

The Municipal Manager, Swartland Municipality, Private Bag X52, Malmesbury, 7299

Please note that an appeal fee of R4 500-00 is payable should you wish to appeal the decision. The appeal must be accompanied by the proof of payment and only then will the appeal be regarded as valid.

PART M: REASONS FOR RECOMMENDATION

1. The application is in compliance with the planning principles of LUPA and SPLUMA.
2. The application is in compliance with the spatial planning of Moorreesburg.
3. The development proposal complies with all applicable zoning parameters of the Community zone 3 zoning.
4. The impact of the proposed shelter on surrounding residential area is deemed low.
5. Erf 331 does not have any physical restrictions which may have a negative impact on this application.
6. The development proposal supports the optimal utilisation of the property.
7. Existing services are deemed sufficient to accommodate the shelter.
8. The proposed shelter is deemed to not attract crime and violence to the area.
9. The impact of the shelter on property values of surrounding properties are deemed low to none.
10. There are no restrictions in the title deed of erf 331 which restricts the proposed development.

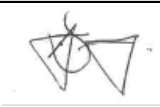

PART N: ANNEXURES

Annexure A	Locality Plan
Annexure B	Site development plan
Annexure C	Plan indicating the area to be rezoned
Annexure D	Public Participation Map
Annexure E	Letter of support from Gerdine van der Walt
Annexure F	Petition signed by 21 people
Annexure G	Comments from the applicant on the objections
Annexure H	Letter of support from Dr Willem du Toit
Annexure I	Letter of support from Minister Sharna Fernandez

PART O: APPLICANT DETAILS

First name(s)	Department of Public Works & Infrastructure (Mr Basson Geldenhuys)			
Registered owner(s)	Department of Public Works & Infrastructure	Is the applicant authorised to submit this application:	Y	N

PART P: SIGNATURES

Author details: AJ Burger Senior Town & Regional Planner SACPLAN: B/8429/2020		Date: 23 January 2023		
Recommendation: Alwyn Zaayman Senior Manager: Development Management SACPLAN: B/8001/2001	Recommended	<input checked="" type="checkbox"/>	Not recommended	
		Date: 1 February 2023		

Liggingsplan

Annexure A



Voorgestelde hersonering

Erf 331, Moorreesburg

Liggingsplan

Skaal: NVT



-32-

LEVELS AND DIMENSIONS :
Land surveyor to confirm all boundary pegs and to check all levels before construction commences.
The building to be laidout and erected in the position and to levels as indicated on site General.
All top soil must be removed from the area to be build upon.
All grading and levelling of ground will be done by qualified civil contractor.
All levels and dimensions to be checked on site prior to commencement of any building work or oredring of any building material.
Read figured dimensions in preference to scaling.
All work to comply with sans 10400. All fininishes to owners detail and specifications.

GENERAL PRINCIPLES AND REQUIREMENTS
BUILDING CLASSIFICATION :
Occupancy - H4 - Dwelling house
Population - 2 persons per bedroom

STRUCTURAL DESIGN : (SANS 10400 - Part B)
A competent person; Structural engineer will design, specify and certify Parts H, J, K, L, and M

DIMENSIONS : (SANS 10400 - Part C)
Minimum ceiling height to be 2400mm.
Minimum Habital Room size to be 6.00m².

PUBLIC SAFETY : (SANS 10400 - Part D)
CHANGE IN LEVEL
Any floor level higher than 1000mm above adjacent ground or floor level must be provided with a Balustrade or wall may not be less than 1000mm high, must not have openings that will permit the passage of a 1000mm diameter ball.

RAMPS AND DRIVEWAYS :
Dwelling house are exempted from specific gradient.

PAVING / DRIVEWAY :
Paving bricks to be laid on a leveled sand bed with a min 1°(degree) fall (driveway ramp with a max fall of 1:12) to mentsis grid channel and connected to storm water channel.

SITE OPERATIONS : (SANS 10400 - Part F)
PREPARATION OF SITE
Before any foundation is laid the area to be covered by any building shall be properly cleaned of vegetable, tree stumps, timber and other cellulose material, debris or refuse and and any material contaminated with faecal matter.
Any building that is situated on a site where water will drain towards it, drainage shall be provided to direct such water away from such site or building to a stormwater drain or to dispose of it in some afe approved manner.
Sanitary facilities must be provided by the owner and be available for use of any personnel employed for the work to be done.

EXCAVATIONS : (SANS 10400 - Part G)
Where any excavation related to a building is carried out or is to be carried out on any site and such excavations may impair the safety or stability of any property or service The owner of such site shall be take adequate precautionary measures to ensure that the safety and stability of such property or service is maintained.
While any excavation remains open, and during the placing of any foundation within it, the excavation shall be maintained in a safe condition by the owner or person carrying out the excavation.

FOUNDATIONS : (SANS 10400 - Part H)
Foundation mass concrete in-situ 1:4:5 nominal mix having a compressive strength of 20MPa at 28 days, consisting of ordinary Portland cement, sand and 26mm stone footings, for loadbearing walls.
Foundation walls to be filed with concrete up to floor level.
Minimun requirements : load bearing walls min. 800x300 and non loadbearing walls min. 600x250mm.
30mm Isoboard on inside of foundation wall between foundation and surfacebed. (Perimeter insulation, refer to XA- notes).
Foundation walls higher than 1000mm to be 340mm thick.
Foundation walls higher than 1500mm to be in accordance with Structural Engineers details and specifications. Provide min. 900x900x300 concrete footings to all freestanding columns.
- A competent person is required to design and inspect fills where the max. height of fill beneath floors measured at any point, exceeds 400mm.
- The foundation may be stepped in orde to reduce the extent of the excavation or fill, provided that at the change of elevation, the ground behind any step is adequately drained and the step waterproofed.
- A competent person is required to deisgn and inspect the installation of sub-surface drains that might be required to prevent the passage of moisture into the interior of the building footprint.
- Service trenches to be 1500mm away from building where possible

FLOORCONSTRUCTION : (SANS 10400 - Part J)
GENERAL NOTES
- The floor of any laundry, kitchen, shower-room, bathroom or room containing a toilet pan or urinal shall be water resistant.
- Any concrete floor slab supported on ground or filling must be constructed so that any moisture present is prevented from penetrating the concrete slab.
GROUND STOREY : (surface bed)
Floor finish as specified on plans on 25mm cement screed on 75mm concrete slab (grade 25 or higher) on 250micron U.S.B green waterproofing membrane - jointed with D.P.C. 50mm clean river sand bed on well compacted. Fill from suitable material compacted in layers in 95 MOD.A.S.S.H.T.O. Timber skirtings according to clients specifications nailed to walls at 900mm C-C max. Brick paving on stabilized sub-base with egde restraint. **Finished floor level to be min. 150mm above NGL.**

SANS 10400 - PART K :
WALL CONSTRUCTION
External: 270mm clay brick cavity walls. The internal and external skin must be tied together with butterfly ties $\frac{3}{8}$ 5sqm intervals. The cavity must be no less than 50mm wide and clean of any cement. Cavity to be filled with concrete between foundations and groun floor DPC and 3 brick courses below wall plate. Weepholes at floor level at 450mm centres and above windows at 450mm centres.
Internal plaster and painted. External: Smooth plastered and painted. No vertical face mac be higher than 6500mm measured externally from the NGL vertically below it.
Any wall measured more than 8000mm in length must be strengthened or supported by a wall, a wall stiffener or a brick column.

CONCRETE / PLASTER MIXTURE :
Structural concrete mix must be: 1 part cement. 4 parts sand and 5 parts gravel stone. A concrete strength of 10 mpa on day 28 is required.
Plaster cement must be mix: 1 part cement, 1.5 parts lime and 6 parts sand. Sand for plaster must be clean with no vegetable material like seeds, etc.

ROOF CONSTRUCTION : (SANS 10400- PART L)
ROOF - (House) - Core Building - Premanufactured Trusses
Pitch of roof 30°. Kliplok Metal Roof sheeting on 50x76mm purlin @1200mm c/c max. on sisalation 420 roof insulation laid per supliers specification on prefabricated gangnailed timber trusses at 12000mm c/c max on 114x38mm wallplate with 45 degree cross bracing, to manufacturers specifications.
Trusses to be tied down with 338x1.6mm hoop galvanized steel iron built minimum 600mm into brickwork @ 900mm c/c and to be wrapped in dpc. Couter flashing to be introduced where applicable (chimneys). Details of roof construction to be supplied by roof specialist. Sisalation 420 insulation between purlines and roofsheeting.
(See insulation construction, Refer to XA-notes)

SHADING : (SANS 204)
Where shading is used, the building shall :
a) have a permanent feature such as a verendah, balcony, fixed canopy, eaves or shading hood which.
1) extends horizontally on both sides of the glazing for the same projection distance, P or
2) provides the equivalent shading with reveal or other shading element.
b) have an external shading device, such as sutters, blind , vertical or horizontal building screen with blades, battens or slats , which :
1 is capable of restricting at least 80% of summer solar radiation, and
2 if adjustable, is readily operated either manually, mechanically or electronically by the building occupants. For glazing where Gexceeds 0.5m, the value of Pshall be halved.

NOTE : An adjustable shading device that is capableof completely covering the glazing may be considered to achieve a p/h Value of 2.

CEILING CONSTRUCTION - (SANS 10400 - PART L)
Skimmed and painted 6.4mm Rhino board ceiling on alucusion on 38x38mm brandering at max. 400mm c/c between rafters. Cornice to later specification.
Isotherm insulation over ceiling brandering. (Roof insulation, refer to XA-Notes.

CEILING CONSTRUCTION - (SANS 10400 - PART L)
Groundfloor : Concrete
Soffit of concrete slab to be skimmed and painted. Cornice to later spcified.

DOORS AND WINDOWS :
External doors and windows to be power coated alluminium. Internal doors to be solid hardcore timber doors (813x2100) with profile, in timber frames. **(door profile to be confirmed by client).**
Fire door between house and garage to be solid hardcore timber doors. Alluminium sectional overhead garage door (2400x2100mm) horizontal pattern.
Timber gates horizontal planking with self closing devise. Height to be same as adjacent boundary wall.

LINTELS :
Prestressed precast concrete lintelswith 230mm min. bearing on both sides, for plastered and painted walls. Brickforce as follows:
2.1m - 3.0m = 4 layers of brickforce
3.0m - 3.9m = 5 layers of brickforce
3.9m - 5.1m = 6 layers of brickforce
R.C Beams above openings wider then 3000mm according to Structural Engineer's specifications.

GLAZING / GLASS : (SANS 10400 - Part N)
Standard 4mm clear glass throuhout, except safety glass to all panels below 500mm above SFL and panels larger than 1.00m². Doors and sidelights shall be glazed with safety glazing.
Glass types according to Fenstration Schedule (Calculations, refer to XA-notes)

DRAINAGE : (SANS 10400 - PART P)
110mm uPVC drainpipe connected to existind manhole to min 1:60 and max 1:5 fall as indicated on site and groundfloor plans. Invert level to be min 450mm. Rodding Eye at every bend and min. every 25.0m. Each drainline ventilate with 50mm dia. ventpipe.
Drainage fixtures to be antisiphoned or deep seal traps provided (where applicable). Drainpipe to be encased in 300mm concrete surround when underneath construction floor and/pr driveway. No visipples on outside of building, all pipework to be concealed. Dual flush toilets to be used.

RAINWATER GOODS : (SANS 10400 - PART L)
Pre painted Aluminium "Ogee" gutters. fixed to 220x22mm nuteq fascia, at rafter ends with brass screws. 70mm Diameter Alluminium down pipes, fixed to walls with down pipe clips. Refer to plan for down pipe positions.

STORMWATER : (SANS 10400 - PART R)
New stormwater pipes to be routed to join up with 160mm diameter pipe stormwater lines kerbline roadlevel.
Stormwater emanating from the roof, paving or area in the immediate vicinity of a building shall not cause damage to the building interior, structure or structural elements, or accumulate in a manner that is an inconvenieces to the property. Stormwater disposal shall not result in the undercutting of foundations due to erosion or flooding and must drain away from the building under the action of gravity and shall not accumulate against or in close proximity to an external wall.

INSULATION & R-VALUES :
FLOOR PERIMETER :
Install Isoboard high density 32-36 kg/m³ rigid extruded polystyrene 100% closed cell insulation board **(R-VALUE 1.00)** of 50mm thickness and 600mm width with tongue and groove / butt-ended joints fixed to inner skin of block cavity wall such as to shed moisture.
Galvanized mild steel built into horizontal joints in wall at max 300mm centres along top and bottom edges. alternate ties are used to secure boards to the inner leaf.

CEILING :
Install 135mm thick flexible non-combustible light weight "Aerolite" insulation material **(R-VALUE 3.38)** between the roof trusses & over brandering in a completed roof & ceiling system. Installation strctly in accordance with the manufacturer's detail and specifications.

PIPES :
Install rigid non-combustible light "Geyser Pipe Insulation" Glasswool insulation **(R-VALUE 1.00)** with a wall thickness of 35m. Install in accordance with manufacturer's detail and specifications.

GEYSER :
Install 50mm thick, non-combustible, lightweight Glasswool "Geyser Blanket" **(R-VALUE 1.28)** around geyser or hot water cylinder. Seal edges with duct tape. Apply 2m pipe insulation on the incoming cold water pipes and insulate all outgoing hot water pipes. Install in accordance with manufacturer's detail and specifications.

ENERGY EFFICIENCY DEFINITIONS
R-Value - measurement of thermal resistance of a material which is the effectiveness of the material to resist the flow of heat, i.e. the thermal resistance (m².K/W) of a component calculated by dividing its the thickness by its thermal conductivity.

C-Value - thermal capacity (kJ/m².K) of a material, which is the ability to store heat energy, and is the arithmetical product of specific heat capacity (kJ/kg.K) and density (kg/m³) and thickness (m).

U-Value - thermal transmittance (W/m.K) of the composite element including the air space and associated surface transmittance.

NOTE 1 - The U-Value addresses the ability of a material to resist, while the R-Value measures the ability to resist heat flow; the higher the U-Value, the greater the amount of heat that can pass through the material. A lower value would mean a better insulator.

NOTE 2- The U-Value is measured under NFRC 110 test conditions but varies with environmental conditions to which the insulator is exposed (such as temperature, wind velocity and indoor air movement.

SHGC - (Solarheat gain coefficient) - measure of the amount of solar radiation (heat) passing through the glazing.
NOTE - SHGC is expressed as a number between 0.0 - 1.0; the lower the SHGC, the lower the heat gain.

Thermal capacity - Ability of a material to store heat energy.
NOTE - Thermal capacity is measured as a C-Value; The higher the C-Value the greater the heat storage capability.

Thermal Resistance - Resistance to heat transfer across material

NOTE - Thermal resistance is measured as an R-Value; the higher the R-Value, the better the ability of the material to resist heat flow.

NOTES

All dimensions on the drawings must be verified against the existing site conditions before the commencement of any work. It is the responsibility of the contractor to verify all dimensions not given or unclear on the plans. No scaling is permitted from the drawing and the architect will not take any responsibility if any damage or loss occurs due to this.

The vertical dimensions of brickwork based on the multiple centre lines of 85mm and the contractor must set out brickwork accordingly. Except where otherwise indicated, all given levels are unfinished levels.

It is the responsibility of the contractor that all existing services and servitude's etc. on and around the site will be pointed out to him by the authority concerned before the commencement of any work. The architect and owner will not accept any responsibility for damages to existing services. The contractor is responsible for site inspections by the building inspector of the local authorities.

The copyright of this drawing vests in the architect, unless otherwise indicated.

DRAINAGE NOTES

ALL WORK TO BE DONE BY A REGISTERED PLUMBER 100mm DIA P.V.C SOIL PIPE TO FALL 1:60-100mm DIA WENT VALVE AT HEAD (SEPAR. RE'S ON ALL BENDS & JUNCTIONS)-SEAL TRAPS ON ALL WASTE FITTINGS. ALL DRAINS UNDER BUILDING TO BE ENCASED IN CONCRETE. ALL WASTE FITTINGS TO BE FULLY ACCESSIBLE FOR REPAIR AND MAINTENANCE. BRANCHES OF DRAIN EXCEEDING 6m MUST BE VENTED WASTE PIPES TO BASINS TO BE MIN. 32mm DIA AND TO ALL OTHER FIXTURES MIN. 40mm DIA. INVERT LEVEL TO BE MIN DEPTH OF 450mm BELOW GROUND LEVEL.ALL RE'S TO HAVE MARKED CONCRETE COVERS ON GROUND LEVEL.

DEVELOPEMENT DATA :	
SITE AREA :	6350.00 m²
GROUND/FLOOR :	
- EXISTING HOUSE	170.12 m²
- EXISTING GARAGE	61.66 m²
- EXISTING OFFICES	22.76 m²
TOTAL FOOTPRINT	254.54 m²
COVERAGE	4.00 %
- PROPOSED BOUNDARY WALL - 23000mm	
BUILDING LINES :	
- STREET BUILDING LINE	- 10000 mm
- LATERAL BUILDING LINE	- 1500 mm
- BACK BUILDING LINE	- 2000 mm
ZONE REGULATIONS :	
ZONING :	SINGLE RESIDENTIAL 1
HEIGHT RESTRICTION :	8000mm From Ground Floor Level
BUILDING CLASSIFICATION : (SANS 10400 - PART A)	
OCCUPANCY - H5 - DWELLING HOUSE. POPULATION - 2 PESONS PER BEDROOM	
NOTE: THE SUBMISSION FOR THE EXISTING DWELLING, GARAGES AND EXISTING BRAAIROOM AND STORE WILL BE APPROVED FOR RECORD PURPOSES.	



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MALMESBURY OFFICE	MOORREESBURG OFFICE

PROJECT TITTLE

PROPOSED BOUNDARY WALL
ON ERF 331
EXCELSIOR STREET
MOORREESBURG

FOR: AALWYN HOUSE OF SAFETY

SCALE: 1:100

DATE 2022/03/08

DRAWN BY: DAVID PERSENS

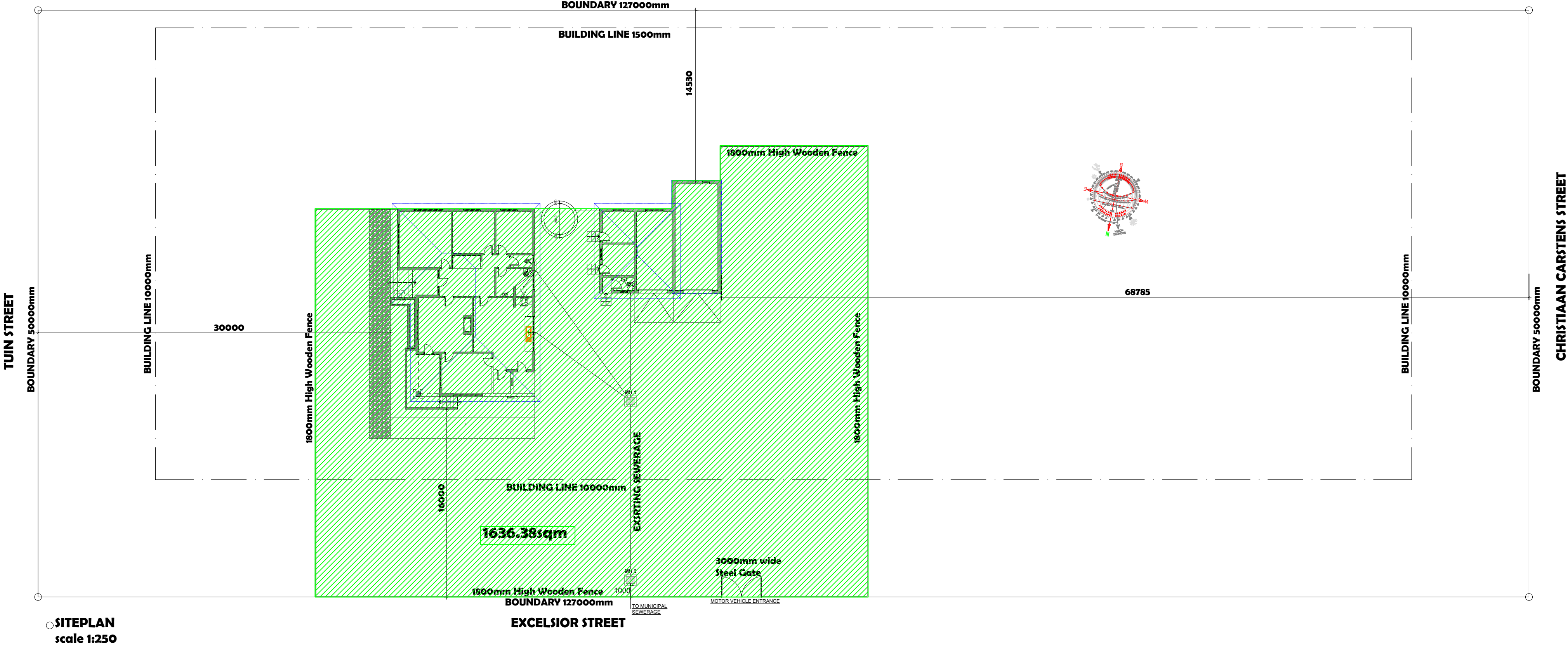
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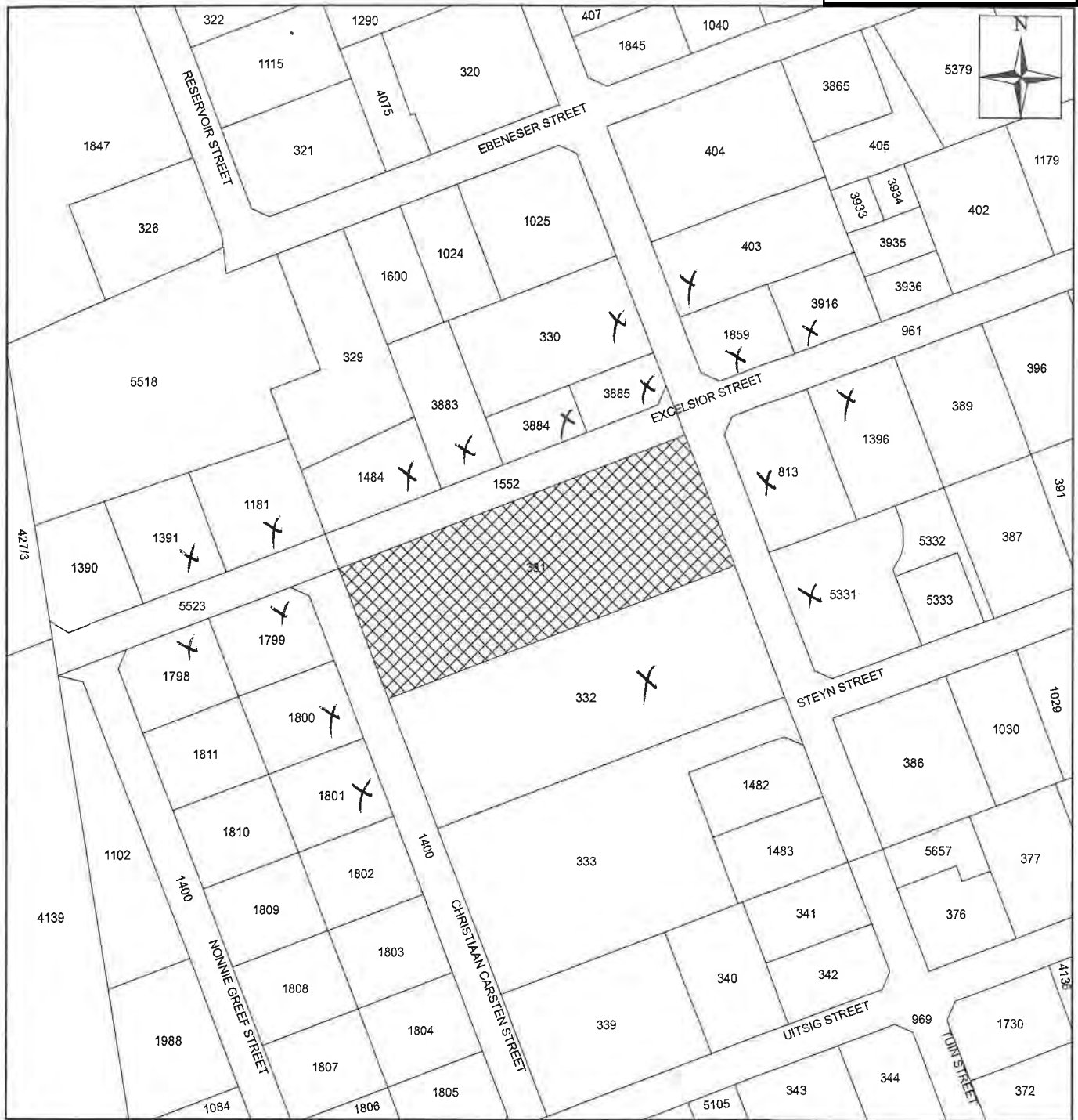
DRAWING NUMBER

:

1410-03-22

Annexure C





Voorgestelde hersonering

Erf 311, Moorreesburg

Publieke deelname

Skaal: NVT



From: Gerdine Smit <gerdinesmit6@gmail.com>
Sent: Thursday, 20 October 2022 09:12
To: Registrasie Email <RegistrasieEmail@swartland.org.za>
Subject: Voorgestelde hersonering van Erf 331 Moorreesburg

Die Munisipale Bestuurder,

Geagte Meneer,

Ek verwys na u skrywe gedateer 26 September 2022.

Ek en my man, Marius Van der Walt is die eienaars van Excelsiorstraat 13A.

Ons woon nou meer as 2 jaar in ons huis en ons wil net sê dat ons die hersonering van Erf 331 sterk aanbeveel/ondersteun. Die personeel wat daar werk is hoogs professioneel en die vrouens en kinders is nie vir ons 'n stoornis van enige aard nie. Dit is inteendeel vir ons baie aangenaam om te weet daar is 24/7 iemand wat 'n oë gooi in die buurt. Ons voel net dat die bestuur van die organisasie hulself goed van hul taak kwyd.

Aangesien dit 'n maatskaplike organisasie is is die SAPD meer paraat op patrolling in die area, wat ook vir ons baie gerusstellend is. Dit is 'n baie stil area en ons ondervind selde probleme met kwaaddoeners, soos in ander woongebiede.

Dit sal vir ons 'n hartseer saak wees indien hul nie sou voortgaan met die hersonering nie. Dit is iets wat werklik skort in vandag se samelewing - 'n veilige hawe vir verwaarloosde vrouens en kinders.

U kan ons kontak by 084 428 9996 of korrespondeer na : gerdinesmit6@gmail.com

By voorbaat dankie!

Vriendelike groete,

Gerdine Van der Walt

(Excelsiorstraat 13A)

PETISIE / PETITION

Huiseienaars gekant teen die Hersonerings van Erf 331 te Moorreesburg vanaf Residensiële Sone 1 (SRZ 1) na Gemeenskapsone 3 (CZ 3).

Homeowners against the Rezoning of Erf 331, Moorreesburg, from Residential Zone 1 (SRZ 1) to Community Zone 3 (CZ 3).

Redes vermeld:

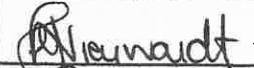

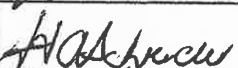
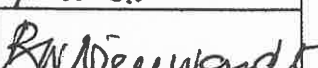
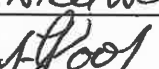

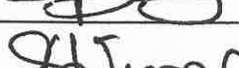
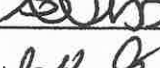

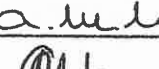
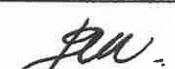



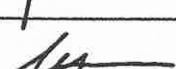
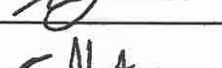
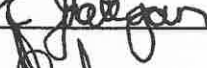
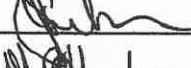
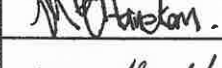

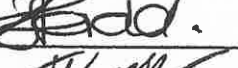
1. Aansienlik meer motors en mense wat nie noodwendig in die buurt hoort nie, gaan drasties toeneem. Hierdie is reeds 'n probleem op die dorp oor die algemeen, en lei tot al hoe meer huisbrake
2. Die herverkoopwaarde van die huise in die buurt kan drasties afneem aangesien nuwe intrekkers nie sal wil woon waar daar nie rustigheid en vrede is nie, maar 'n tydige en ontydige toeloop van vreemdelinge.
3. Die veiligheidsaspek vir ons as inwoners en ons kinders met betrekking tot die feit dat dit 'n huis vir veiligheid is vir kinders en vroue wie in gevaar is. Dit hou wesenlike gevare vir die inwoners en ons kinders in wanneer daardie geweldenaars die mense kom soek en dan in ons buurt rondbeweeg.
4. Ons het geen waarborg dat die res van ERF 331 nie gaan bebou word en allerhande mense op die erf geplaas word nie. As meer strukture opgerig gaan word om meer mense te akkommodeer, gaan dit lei tot al hoe meer mense en voertuie.
5. 'n Gemeenskapsperseel hoort nie in 'n Residensiële area nie. Ons het almal ons huise in hierdie buurt gekoop om rus en vrede te hê en reeds nie in die middel van 'n toeloop te wees nie.

Reasons stated:

1. An influx of vehicles and people that do not necessarily belong in our neighbourhood will occur. This is already a general problem in Moorreesburg and leads to more and more housebreaks and theft.
2. Our properties' resale value could decline exponentially since prospective buyers would want peace and tranquillity and not random people and strangers who come and go at all times of the day.
3. Then there is the safety aspect for us as residents and our children. The house is used as a place of safety for abused women and children. Obviously when the perpetrators start looking for these women and children, they will come into the neighbourhood and be a danger to us all.
4. We have no guarantee that the rest of Erf 331 will not be used for the erection of further buildings and structures to accommodate more people, which will lead to more traffic – pedestrian and vehicular alike.
5. A Community premises does not belong in a residential area. We all bought our properties to have peace and tranquillity, and to NOT be in the middle of an area where people and strangers can come and go at all times.

Vind aangeheg die inligting en handtekeninge van die huiseienaars wie gekant is teen die hersonerings.

Find attached the information and signatures of the homeowners who are against the rezoning.

Name and Surname	Telephone	Address	Signature
Yolande Nieuwoudt	0828351770	Excelsiorstr. 15, MRB	
NATASHA NIEMAND	0848189149	13 B EXCELSIOR STR. MRB	
H.A. SCHREUDER	082494637	17 EXCELSIORSTR MRB	
BWNIEUWOUT	0822186218	EXCIORSTRAAT 19	
A.J. Pool	0824935416	Christiaan Carstens str 14	
C. Koch	084506547	Excelsior 21 Moorreesburg	
C Visser	0832343388	Christiaan Carstens st 8	
C. Koch	0834674223	Nonnie Greeff Str. 11	
a.m. Meyn.	0827894829	Excelsiorstr. 23.	
A Olders	0814598935	Excelsiorstr. 20	
	0745233874		
J. Moster.	0745233874	EXCELSIOR 14	
L. Kriel	076364888	Steynstraat 20	
E KRIEL	0761834446	STEYNSTRAT 18	
P Moster	0739955466	Christiaan Carstens 12	
T SEROYN	0836500709	STEYNSTR. 22	
C. SATEGAN	0836544609	Tuinstraat 14	
C. Hanekom	0836334742	Uitsigstraat 17	
M E Hanekom.	0824511093	Tuinstraat 6	
M.W. ENGELBRECHT	0828794558	10 CHRISTIAAN CARSTENS STR.	
L. PEROLD	0836542930	10 CHRISTIAAN CARSTENS STR.	
J. Wium	0847765476	5 Tuinstraat	

Liggingsplan

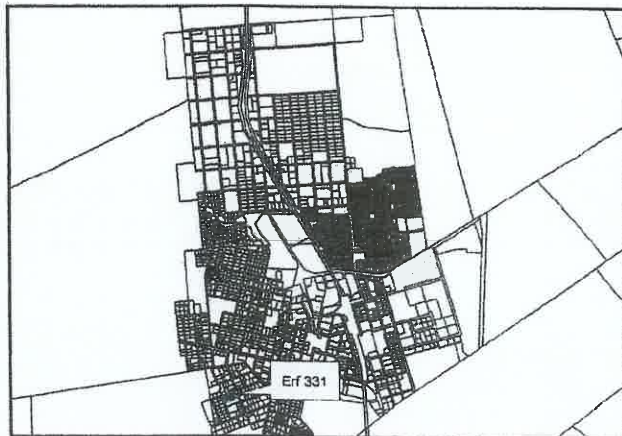


Voorgestelde herosnering

Erf 311, Moorreesburg

Publieke deelname

Skaal: NVT





Private Bag X9027, Cape Town, 8000 **Enquiries:** Basson Geldenhuys **Reference:** Case ID: 70449567 **Tel:** (021) 402-2174 **Fax:** 0862728660 **e-mail:** basson.geldenhuys@dpw.gov.za **website:** www.publicworks.gov.za

The Manager
Town Planning and Building Control
Swartland Municipality
PO Bag X52
MALMESBURY
7299

Attention: Ms Stallenberg

Dear Ms Stallenberg

**RE: RESPONSE TO THE PUBLIC COMMENTS REPORT ON THE PROPOSED REZONING OF
ERF 331, MOORESBURG**

1. Introduction & Background

Following the advertising and circulation process, as per the requirements of the Swartland Municipal Planning By-Law (2020, twenty one (21) public objection were received. Following an assessment of the public objections received, it became clear that the issue raised by the objectors are conjecture.

1.1 A place of safety is not welcomed in the neighbourhood

It appears from the email received from the objectors, that the report in which an explanation was provided for the need and reason for the said application, was not perused by the objectors. It is unclear as to why the objectors do not want a place of safety in the area other than for the reasons that it is currently a residential area and it might impede on their safety and security. It is clear that the objectors, ignored or chose to ignore the existing '***mixed uses***' in and around the subject properties of the objectors such as for instance La Dolce Vita further up in Excelsior Street, Die Stoor, Huis van Heerden, Guttos, De Stalle and Die Hut.

- 1.2 To recap what was indicated in my motivational report, the approach and findings of the 2012 SDF, with regard to densification therefore remain applicable. In particular, the proposal which was made on page 75, is very relevant to this application, as the Moorreesburg Golf club has been earmarked for a densification project and it states as follows: "***Behuising/ Residensiële Ontwikkeling: Brei die Moorreesburg Golfbaan aangrensend aan die 'No Go'***

rivier se vloedvlakte uit vir die voorsiening van gemengde behuising geleenthede en verfraaiing van die suidelike gedeelte van die dorp”.

In the table below, **(Figure 3)**, which was inserted from the Mooredsburg SDF, it is clear that the existing proposed zone allows for the proposed change as it caters for institutional land uses such as a safe house/shelter.

Figure 3:

Mooredsburg Sone Voorstelle

Verwys na Mooredsburg Sone Kaart: Die dorpsgebied van Mooredsburg is in sewe (7) sones (areas met gemeenskaplike kenmerke) ingedeel en die grondgebruike soos aanbeveel vir die onderskeie sones volg in die onderstaande tabel:

VOORGESTELDE GRONDGEBRUIKE	Lae Digtheid Residensiële Funksie	Medium Digtheid Residensiële Funksie	Hoe Digtheid Residensiële Funksies	Sekondêre Opvoedkundige Funksie (bv. crèches)	Institusionele Funksie (bv. ondergrondse)	Professionele Dienste	Sekondêre Professionele Dienste (bv. kantore)	Sakefunksie (winkel, supermark, diensstasie)	Sekondêre Sakefunksie (bv. kafee, huiswinkel)	Kerke	Afresoorde	Gastehuse	Overheid	Ontspanning Fasiliteite	Nywerheid
A Sone A bestaan uit 'n lae digtheid residensiële area bekend as Hooikraal met minimum erfgrootte van 1900m ² . Voorgestelde verdigting op die suidelike en oostelike rand van Hooikraal.	X			X	X		X		X	X	X	X	X	X	

- 1.3 **On this basis, it is our considered opinion that all the objections relating to the use of the site is irrelevant to the application at hand, and should be ignored.** Furthermore, the proposed application will enhance the safety in the area, which will have a positive impact in the surrounding precinct and environment (see explanation below).

2. List of Public Objectors

As mentioned above, 21 (twenty-one) public objections were received, see below the list as received from the Swartland Municipality.

	Name and Surname	Telephone	Address
1	Yolande Nieuwoudt	0828351770	Excelsior Str 15, MRB
2	Natasha Niemand	0848189149	13B Excelsior Str, MRB
3	HA Schreuder	0824946307	17 Excelsior Str, MRB
4	BW Nieuwoudt	0822186218	Excelsior Str 19
5	AJ Pool	0824935416	Christiaan Carstens Str 14
6	C Koch	0845065475	Excelsior Str 21, MRB
7	C Visser	0832343388	Christiaan Carstens Str 8
8	C Koch	0834674223	Nonnie Greeff Str 11
9	AM Meyer	0827894829	Excelsior Str 23
10	A Olckers	0814598935	Excelsior Str 20
11	J Morat?	0745233874	Excelsior Str 14
12	L Kriel	0763648082	Steyn Str 20
13	E Kriel	0761834446	Steyn Str 18
14	P Mostert	0739955465	Christiaan Carstens Str 12

15	T Serdyn	0836500701	Steyn Str 22
16	C Lategan	0836544604	Tuin Str 14
17	C Hanekom	0824511093	Uitsig Str 17
18	ME Hanekom	0824511093	Tuin Str 6
19	MW Engelbrecht	0828794558	Christiaan Carstens Str 10
20	L Perold	0836542930	Christiaan Carstens Str 10
21	J Wimm	0847765474	Tuin Str 5

3. Summary of Objections and the Response thereto

With reference to the objections received (as listed in the Table above), the objections that was received was carefully assessed and summarised thematically in order to respond to all aspects raised by objectors.

Objection theme	Response
1. Security	
The objection states that <i>'the influx of people that does not necessarily belong in the neighbourhood will occur. This is already a general problem in Moorreesburg and leads to more and more housebreaking and theft'</i> .	<p>It is unclear what is meant by people that does not necessarily belong in the neighbourhood. If the objectors are referring to abused woman and their children as <i>'people that does not necessarily belong in the neighbourhood'</i>, it is an insult and unacceptable and should be ignored with the contempt it deserves. Furthermore the said statement is unsubstantiated.</p> <p>This shelter will accommodate a maximum of 8 persons (women and their children) and clients (residents) are able to reside for a 3-month period. There will be no influx of traffic or people entering and exiting the shelter. There are referral pathways with stakeholders and as such: Admissions are controlled and aligned to the shelter admission policy. As per admission policy, no personal visitors to residents are allowed. Stakeholders such as South Africa Police Service (SAPS), conducts regular patrols to ensure safety and security. The SAPS visibility ultimately benefits the entire neighbourhood, making the neighbourhood safer. The security firm contracted to the shelter, park outside the premises. The visibility of the security firm ultimately benefits the entire neighbourhood, making the neighbourhood safer. The objectors unfairly assumes the worst social moral of the potential future residents. On this basis the comments are misleading, unsubstantiated and should be ignored. The facts therefore are that the regular patrols of SAPS and the deployment of the security firm, which provides 24</p>

	hours surveillance, will enhance the safety and security of the neighbourhood.
2. Decline in the value of properties	
The objector's states ' <i>Our properties' resale value could decline exponentially since prospective buyers would want peace and tranquility and not random people and strangers who come and go at all times of the day</i> '.	<p>This statement by the objector's are conjecture and unsubstantiated. The objectors provide no factual economic study to substantiate their concern. In fact, the improvements and renovations that was made to the property up to date, has been of a high standard. The objectors are unfairly and disingenuously anticipating that the residents of the shelter will be criminals. Why would the existence of the shelter (for abused women and their children) contribute to the decline of the peace and tranquillity of the neighbourhood? On the contrary, as already mentioned above it is more likely that the introduction of the shelter and the repairs that was made to the house will enhance security, as surveillance will be increased in the area throughout the day and night. The house was previously derelict, used as a place of disrepute where sex workers lived and drugs was being used. The house was dilapidated and filthy which posed a risk to the community and impacted on the resale value of the community (see pictures of the house prior to the shelter being established). Further to the afore-mentioned there are referral pathways with stakeholders and as such: Admissions are controlled and aligned to the shelter admission policy. Each client and her children entering the shelter is screened according to the shelter admission policy. The facts are that the repair, renovation and controlled use of the house has added to the property value. It has not caused a decline in property values. Based on the afore-mentioned it is measurable fact that the improvements will have a positive impact on the property values in the neighbourhood.</p>

Photo's before renovations



Photos after renovations was conducted



3. Security	
The objector's states <i>'then there is the safety aspect for us as residents and our children. The house is used as a place of safety for abused women and children. Obviously when the perpetrators start looking for these women and children, they will come into the neighbourhood and be a danger to us all'</i> .	Although this statement is a repeat of the previous objections it is conjecture and unsubstantiated. As stated before admissions are controlled and aligned to the shelter admission policy. Stakeholders such as the South Africa Police Service, conducts regular patrols to ensure safety and security. The SAPS visibility ultimately benefits the entire neighbourhood, making the neighbourhood safer. A comprehensive safety risk assessment is conducted with each client prior to admission. For safety reasons, the shelter does not admit clients from the immediate area but are referred to other shelters. In terms of the Generic Norms and Standards and the policy of the shelter, clients are restricted to make contact with external persons. Perpetrators are not aware of the whereabouts of clients.
4. Buildings/Structures	
The objector's states <i>'we have no guarantee that the rest of ERF331 will not be used for the erection of further buildings and structures to accommodate more people, which will lead to more traffic – pedestrian and vehicular alike.</i>	This statement is unsubstantiated. It will be used for the intended purposes and as indicated above will at maximum capacity house 8 persons. It must further be noted that the Department of Public Works and Infrastructure (DPWI) as the owner of the property similarly have no guarantee that any of the existing owners in the neighbourhood will use their erven for the erection of further buildings and structures to accommodate more people. DPWI has shown with this application their intention and willingness to follow the legislative processes to obtain the necessary approval. Although there are currently no plans to extend the services, all due processes into the relevant By-Laws, needs to be followed in the future if any further buildings and or structures are required. The statement that was made wrt to the increase of pedestrian and vehicular traffic is unsubstantiated conjecture and should be ignored. As stated above no personal visitors are allowed. Therefore there would be no influx of pedestrian and or vehicular traffic.
5. Applicability of Land-Use	
The objector's states <i>'A Community premises does not belong in a residential area. We all bought our properties to have peace and tranquility, and NOT be the middle of an area where people and strangers can come and go at all times'.</i>	Again although this statement is a repeat of the previous objections it is conjecture and unsubstantiated assumptions. As a shelter for abused women and their children are based at the shelter and movements to the Department of Health or the Department of Justice and Constitutional Development are monitored, controlled, done by prior arrangements and under the supervision of

	<p>a staff member. Due to shelter policy, clients are not allowed to walk around in the community. There are referral pathways with stakeholders and as such: Admissions are controlled and aligned to the shelter admission policy. No unannounced admissions are done. The shelter accommodates a maximum of 8 persons (women and their children) and clients are able to reside for a 3 month period. There are no influx of traffic or people entering and exiting the shelter. Clients are referred by either government departments or by a referring organization. All clients admitted to the shelter undergo exit strategies and exit to known addresses. The shelter has policies and Standard Operating Procedures in place which are geared towards the safety of all residing and working at the shelter. Lastly, from the Mooredsburg SDF, it is clear that the existing proposed zone allows for the proposed change, as it caters for institutional land uses such as a safe house/shelter.</p>
--	--

4. Conclusion

Following the above-mentioned assessment of the issues and concerns raised by the objectors, and the responses thereto, it can be concluded as follows:

It appears the objectors did not peruse the report in which the explanation was provided for the need and reason for the shelter for abused women and their children. Further to the aforementioned the objectors seems to be under a false impression that the application for the rezoning from *Residential Zone 1 (SRZ1)* to *Community Zone 3 (CZ 3)* will have a negative effect on the neighbourhood. On the contrary it would rather enhance the safety and security and the value of the properties in the neighbourhood and the street.

The property will be under constant surveillance and will not be left unattended. The application is in line with the SDF for Mooredsburg, a fact which the objectors are disingenuously ignoring (please see figure of below for the different uses within 100m from the subject site).

It is my submission that the objector failed to provide a substantive reason for the objection and it is therefore on this basis, that the objection relating to the use of the site is irrelevant and should be disregarded.

Figure: Indicating some of the existing uses and amenities in the area

Community related Institutions	
1.	West Coast District Municipality
2.	Church
3.	Huis van Heerden (Which I assume is zoned Community 3)
Business 2	
1.	La Dolce Vita
2.	Die Stoor
3.	De Stalle
4.	Guttos
5.	Die Hut



It should be emphasised that the proposed development is fully consistent with the Swartland Municipality's Spatial and Economic policy directives. Lastly, the proposed application is **fully compliant with the decision criteria of Sections 75 and 76 of the Swartland Municipality: By-Law on Municipal Land Use Planning, 2020**, as described in the motivation report of the application.

Yours faithfully,

Mr Basson Geldenhuys Pr. Pln

Chief Town Planner: Department of Public Works and Infrastructure

Date: 12/12/2022

The Municipal Manager

Swartland Municipality

Malmesbury

7299

Proposed Rezoning of Erf 331, Moorreesburg (15/3/3-9/Erf_331)

Your letter dated 29 November 2022 on the proposed rezoning of the above property in Moorreesburg refers.

I compile the following letter of support to the proposed action in my capacity as Regional Director of Department of Social Development West Coast.

Department of Social Development currently funded the Alwyn safehouse for victims of Gender Base Violence that operates on the property. The facility provides shelter to women and children that need to vacate their homes due to severe incidence of family violence. Not only does the facility provide support to victims of gender base violence but it also plays an important role in service delivery of the residence of the Swartland Municipal areas and specific the town of Moorreesburg.

Department of Social Development has a well-established partnership with the facility and all actions are controlled via an agreed referral pathway and admission criteria. The safehouse are regulate by relevant legislation and policies pertaining service to victims of gender base violence. The closing of the facility will severely impact on the availability of safe houses in the community.

I trust that you will take the above in the account when you consider their application for rezoning.

Dr Willem du Toit

Regional Director: Department of Social Development: West Coast

8 December 2022



WESTERN CAPE DEPARTMENT OF SOCIAL DEVELOPMENT

Sharna Fernandez

Provincial Minister of Social Development

Email: Sharna.Fernandez@westerncape.gov.za

Union House, 14 Queen Victoria Street, Cape Town, 8000

Tel: 021 483 5208

**OFFICE OF THE MINISTER
SOCIAL DEVELOPMENT
SHARNA FERNANDEZ**

6 December 2022

Mr. Joggie Scholtz

Municipal Manager

Swartland Municipality

RE: 16 TUIN STREET: MOOREESBURG/ AALWYN PLACE OF SAFETY

Dear Mr. Scholtz,

I trust that you are well.

In May 2021 I had the honour of opening the much-needed Aalwyn Place of Safety with the NGO partners as well as the local and District Municipality in Moreesburg. Sadly, I have recently been informed that nearby homeowners have lodged objections to the operation of this said shelter.

In light of the heightened levels of GBV, there is a dire need for safe spaces for survivors especially within rural areas. Though the need exists, the Swartland Municipal area did not have such a shelter before Aalwyn- as this is the first of its kind.

The Swartland Municipality has made great strides with their successful GBV Ambassador programme and therefore closing this shelter would be a major setback.

I am therefor in support of the submission made by the Provincial Department of Social Development. Survivors of GBV have taken this brave step to seek assistance and we have a statutory and moral obligation to ensure that we enable these brave women and children to have a better and safer future.

Kind regards,

A handwritten signature in black ink, appearing to be 'Sharna Fernandez', with a large, stylized loop at the bottom.

Sharna Fernandez

Western Cape Minister for Social Development

6 December 2022



Verslag ♦ Ingxelo ♦ Report

Kantoor van die Direkteur: Ontwikkelingsdienste
Afdeling: Ontwikkelingsbestuur

26 January 2023

15/3/5-14/Erf_205

WYK: 5

ITEM 6.2 VAN DIE AGENDA VAN 'N MUNISIPALE BEPLANNINGSTRIBUNAAL WAT GEHOU SAL WORD OP WOENSDAG 8 FEBRUARIE 2023

LAND USE PLANNING REPORT					
APPLICATION FOR AN AMENDMENT OF RESTRICTIVE TITLE CONDITIONS ON ERF 205, YZERFONTEIN					
Reference number	15/3/5-14/Erf_205	Application submission date	31 August 2022	Date report finalised	26 January 2023

PART A: APPLICATION DESCRIPTION						
<p>The application for the amendment of restrictive conditions on Erf 205 Yzerfontein, in terms of section 25(2)(f) of Swartland Municipality: Municipal Land Use Planning By-law (PG 8226 of 25 March 2020) has been received. It is proposed that condition C.1.5 of Title Deed T9212/2020, be amended from the relevant deed so that the side building line (sea front) is relaxed from 3,15m to 2.4m in order to accommodate an existing wooden deck.</p> <p>The applicant is CK Rumboll and Partners and the owner of erf 205, Yzerfontein is the Mauro Delle Donne Familie Trust.</p>						
PART B: PROPERTY DETAILS						
Property description (in accordance with Title Deed)	Erf 205, Yzerfontein in the Swartland Municipality, Malmesbury Division, Province of the Western Cape					
Physical address	No 3, 11 th Street		Town	Yzerfontein		
Current zoning	Residential zone 1	Extent (m ² /ha)	629m ²	Are there existing buildings on the property?	Y	N
Applicable zoning scheme	Swartland Municipal By-Law on Municipal Land Use Planning (PG 8226 of 25 March 2020)					
Current land use	Dwelling house		Title Deed number & date	T9212/2020		
Any restrictive title conditions applicable	Y	N	If Yes, list condition number(s)	B(6), C1(1), C1(2), C1(3), C1(4), C1(5) D(7)		
Any third party conditions applicable?	Y	N	If Yes, specify			
Any unauthorised land use/building work	Y	N	If Yes, explain	The deck and pergolas have already been constructed		

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 an owner's association		Rectify failure by owner's association to meet its obligations		Permission for the reconstruction of an existing building that constitutes a non-conforming use			

PART D: BACKGROUND

In 2020 an application was received for the removal of numerous restrictions from the title deed of the property. The application was refused by the MPT on 21 April 2021 for the following reasons;

- (a) *Seeing that the proposal does not relate to what is being applied for, there is not enough motivation to remove all the conditions pertaining to the use of the property, subdivision of the property, the number of dwellings on the property, the permissible coverage or building lines and therefore the removal of restrictive title conditions C1(1), C1(2), C1(3), C1(4) and C1(5) of the Deed of Transfer T9212/2020 be refused;*
- (b) *Where the proposal does relate to restriction C1 (5), (the 0.75m where the deck was constructed over the building line restriction), the applicants need for larger outdoor space could have easily been accommodated consistent with the building line restriction. The fact that it was erected without the necessary authorisation is not sufficient motivation to approve the application. Unlike an application for departure where the encroachment is restricted to the specific structure being applied for, the removal of the building line restriction from the title deed, will remove the condition in its entirety. The proposed departure of the deck, 750mm over the building line, therefore does not warrant the removal of the restriction from the title deed. The result would be that future extensions of which the impact is not currently considered, will be able to be constructed up to the 1,5m building line for the whole side boundary. These extensions may negatively impact on affected properties, erven 203, 204 & 1334. "*

After the application was refused the applicant submitted an appeal against the decision of the MPT only to withdraw the appeal a few days later.

Application is now made for the amendment of restrictive conditions on Erf 205 Yzerfontein, in terms of section 25(2)(f) of Swartland Municipality: Municipal Land Use Planning By-law (PG 8226 of 25 March 2020). It is proposed that condition C.1.(5) of Title Deed T9212/2020, be amended from the relevant deed in order for the side building line (sea front) to be relaxed from 3,15m to 2.4m to accommodate an existing unauthorised wooden deck.

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 APPLICANTS 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)

1. The applicant motivates that the Swartland Municipal Land Use Planning By-law (PG 8226) prescribes that the building lines which are the most restrictive between the Title Deed and Scheme are the buildings lines which should be followed.

2. The applicant further states that the applicable building lines are too restrictive as it does not provide sustainable space for maximum potential development.
3. With regards to restrictive condition C.1.(5), which refers to building line restrictions, it is argued that the amendment of the Title Deed building line of 3.15m to 2.4m should be considered, as the Scheme building line is less restrictive, being only 1.5m.
4. The applicant provides examples of properties encroaching building lines in a similar manner onto the Public Open Space building line. Refer to image below.



5. Erf 199, according to the applicant has a "stoep balcony", just over two meters away from the erf boundary line.
6. The amendment of the restrictive condition from 3.15m to 2.4m to accommodate the existing building work, is strongly encouraged by the applicant. This is due to the shape of the property, the limited development potential to the south as well as that the property already contains a dwelling unit facing north.
7. The applicant motivates that the erf is further limited with a 50% coverage restriction and taking into consideration the existing building there is only 50m² left for building expansion to the north. The applicant confirms that there are no plans to expand the building any further at this stage.
8. The applicant states that with the encroachment of the deck of 0.75m over the Title Deed building line, it only limits 7% of the total view shed of Erf 1334 which in the view of the applicant is not significant enough to cause any property value loss or personal loss. The amendments of the building line to 2.4m will further ensure that there cannot be any further view loss from Erf 1334.
9. The applicant states that the MPT approved the complete removal of the same condition on erf 2711 meaning that there is already a precedent created regarding building lines within this area of Yzerfontein.
10. The applicant states that the owners of erf 203 & 204, Yzerfontein had no objection against the proposed development and the owners of erven 1334, 203 and 204 Yzerfontein support the application to amend the title building line restriction from 3.15 to 1.5m. The applicant attached the consent letters to their motivation report. Please refer to annexure E.
11. The applicant conclude that the impact of possible future extensions and the effect on surrounding properties, especially erven 1334, 203 and 204 is insignificant. In the applicants opinion there will be similar sea views and no property value or personal loss. The proposed amendment will allow the owner of Erf 205 to accommodate the unauthorised built deck and for future development within the Land Use Scheme building line restrictions.
12. The applicant refers to the provisions of Section 43(4)(a)-(f) of the Swartland Municipal Land Use Planning By-law (PG 8226 of 25 March 2020).
 - (a) In terms of the financial or other value of the rights the restrictive conditions enjoyed by a person or entity, the applicant states that the conditions were imposed by the Administrator for the benefit of the town and had no financial or other value for the beneficiary. The applicant states that keeping the restrictive conditions have no value to the town anymore. However, the purpose of this application is only to amend a restrictive condition within the Title Deed.
 - (b) In terms of the personal benefits which accrue to the holder of the rights in terms of the restrictive conditions, the applicant motivates that there are no personal benefits to the holder of rights seeing as the rights are in favour of the town as explained in the previous point.
 - (c) In terms of the personal benefits received by the applicant should the application be approved, the applicant motivates that the amendment of the said restrictive condition will enable the property to be developed to its full potential as determined and guided by spatial policies such as the Swartland SDF.

- (d) In terms of the social benefit of the said conditions, should it remain in place, the applicant motivates that there is no social benefit. If the conditions remain as it is, the applicant motivates that it will not allow the property owners to exercise their land use rights to develop the erf.
- (e) Regarding the social benefit of the amendment of the conditions, as proposed, the applicant motivates further that it will result in more compact, diverse and resilient development on the property and enable the property to be developed to its full potential.
- (f) Lastly, the applicant motivates that the application is only for the amendment of the development parameters applicable to the northern side building line.

The applicant provides the following illustration of the proposed development:



The applicant concludes that the proposed amendment of the restrictive condition complies with the overall guidelines and proposals for development in Yzerfontein when taking into consideration the impact and scale of the proposal. It is deemed consistent with the applicable planning policies and guidelines as it results in properties that will still maintain the character of the area whilst supporting densification within the Urban Edge of Yzerfontein. With the proposed development, the property will be used to its full potential and contribute to limiting urban sprawl having little to no impact on the neighbouring property owners.

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 application was published in local newspapers and the Provincial Gazette on the 16th of September 2022, in terms of Section 55 of the By-law. The commenting period, for or against the application, closed on 17th of October 2022. It is noted that in the English version of the notice published in the newspaper and gazette there was a typing error with the title deed number referring to 2022 instead of 2020 as well as the applicable restriction referring to 3,5m instead of the 3,15m. This error is not seen as material and therefore re-publication of the notice is not deemed necessary.

As mentioned above, in addition to the publication, a total of 18 written notices were sent via registered mail to the owners of affected properties, in term of Section 56(1) & (2) of the By-Law (refer to Annexure D).

The notices were registered at the post office on the 14th of September 2022 and opportunity was given to comment up until the 17th of October 2022. It was however noted that a total of 7 notices were returned unclaimed.

Total valid comments	2			Total comments and petitions refused	0			
Valid petition(s)	Y	N	If yes, number of signatures		0			
Community organisation(s) response	Y	N	N/A	Ward councillor response		Y	N	No comments were received.
Total letters of support	None							
PART H: COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS								
Name	Date received			Summary of comments			Recommendation	
Division : Building Control	7 September 2022			Building plans to be submitted to Building Control for consideration and approval			Comment only	
Department: Electrical Engineering Services	1 September 2022			No comments			No comments	
Department: Civil Engineering Services	12 September 2022			1. <u>Water</u> No comments 2. <u>Sewerage</u> No comments 3. <u>Streets</u> No comments			No comments	
Department Protection Services	9 September 2022			No comments			No comments	

PART I: COMMENTS RECEIVED DURING PUBLIC PARTICIPATION	SUMMARY OF APPLICANT'S REPLY TO COMMENTS	MUNICIPAL ASSESSMENT OF COMMENTS
<p>Objection by J Viglietti registered owner of erf 202, Yzerfontein</p> <p>After providing a comprehensive history on the specific application as well as appeal process the objector confirms that the decision of the Tribunal came into operation when the appeal was withdrawn. The objector is also of opinion that the direction of the Tribunal also came into effect and that building plans needed to be submitted and the unauthorised building work should have been demolished 60 days from the date of the decision. The objector notes that more than a year later the structure continues to stand in contravention of the tribunals order.</p> <p>The objector refers to the legal principal of Res Judicata, "which means that once a final judgment has been handed down, subsequent judges who are confronted with a suit that is identical to, or substantially the same as the earlier one will apply the res judicata doctrine to preserve the effect of the first judgment."</p> <p>The objector submits that the first and second applications are substantively the same in that the issue and/or intention of both applications was to retrospectively legalise the structure which was built in contravention of restrictive condition C1(5).</p> <p>The objector states that it is to be noted that no alternative remedy was prayed for by the applicant in the first application and that it was in fact her submission that, should just cause be found for the relaxation of the building lines, that the restrictive condition rather be amended rather than being removed in its entirety.</p> <p>The objector argues that although not prayed for by the applicant the remedy was placed before the Tribunal for their consideration and the tribunal decided that neither a removal of the restrictive condition nor a relaxation of the restrictive condition were appropriate relief in the circumstances. Therefore the objector is of opinion that the Tribunal has already adjudicated the issue and in terms of the law is precluded from re-adjudicating the matter.</p>	<p>The applicant responds that the first and second applications, as referred to by the objector, are not the same.</p> <p>Initially, this firm submitted an application to Swartland Municipality for the Removal of restrictive Title Deed conditions (C.I.1, C.I.2, c.i.3, c.i.4, and c.i.5) of the Title Deed no T9212/2020 on Erf 205, Yzerfontein.</p> <p>A new application have been submitted to apply for the amendment of a restrictive title deed condition to authorise the encroachment of a portion of the wooden deck over the prescribed Title Deed building line mentioned in Section C.I.5 of the Title Deed.</p> <p>The Municipal Planning Tribunal could not have considered the amendment of the restrictive condition, as it was not formally applied for in the first application and only a suggestion by the objector. Through this application, the Municipal Planning Tribunal will be requested to consider the amendment of the restrictive condition as mentioned in Section C.I.5 of the Title Deed and not the removal of the conditions mentioned in Sections C.I.1 — C.I.5, as previously applied for.</p>	<p>The first application was for the complete removal of conditions that did not relate to the development proposal. The proposed amendment of condition C.1 (5) is specifically applied for to accommodate the existing deck. The deck has no impact on the objector and the possible impact of the amendment of the restriction from 3.15 to 2,4m in terms of future development is deemed insignificant due to the distance and location of the objectors' property.</p>

	<p>In conclusion the objector states that the applicant continues to bring frivolous applications which serve to undermine the authority of the Municipal Manager and cause the incurrence of unnecessary costs to the Swartland Municipality and affected parties. With the decision already made, in relation to the second application, it is the responsibility of the Municipal Manager to enforce the Tribunal's decision and ensure that the unauthorised building work is removed without further unnecessary delay.</p>		
<p>NH Loubser Owner of erven 203 & 204 Yzerfontein</p>	<p>Mr Loubser agree that the 3.15m building line on the north-west boundary can be relaxed to 2.4m, on condition that a no development servitude is registered on the north-east boundary as per the accompanying sketch.</p> <p>The distance from the northern corner on the north eastern boundary must maintain 6m.</p> 	<p>The applicant states that the amendment of the restrictive title deed condition is applied for to authorise the encroachment of an existing wooden deck over the northern side title deed building line (sea front).</p> <p>The applicant argues that the amendment of the title deed building line should be considered, as the scheme building line is even less, being only 1.5m.</p> <p>The applicant states that examples of properties encroaching building lines onto the public open space building line, in a similar manner in this area of Yzerfontein and refers to erven 2119 and 2122 in the vicinity of the subject property. Another example include erf 199 which has a "stoep balcony", just over two meters away from the erf boundary line.</p> <p>The applicant concludes that the impact of possible future extensions and the effect on surrounding properties, especially erven 203 & 204 is insignificant. The neighbouring property owners, in the applicant's opinion, will still have similar sea views and there will be no property value or personal loss.</p> <p>The applicant is of opinion that, for the reasons provided, a no-development servitude as required by the neighbouring property owner is excessive and not necessary. The no- development servitude will take away allowed developable space from the owner, although no current expansion of the building is proposed. By amending the building line in the title deed, there is still sufficient space which cannot be developed to allow sufficient view shed to the owner of Erven 203 and 204.</p>	<p>The conditions from Mr Loubser is noted however it is agreed that the registration of a servitude restricting any development, as proposed, is deemed excessive. The possible negative impact of such a servitude on the value of the subject property is not reasonable and fair. The existing building line restrictions as well as title deed building restrictions already limits development to such an extent that is covers approximately 90% of the no development servitude the objector is requesting. The objector should note that with any new land use application, it is required in terms of legislation that the municipality follows a new public participation process. Each application is considered on its own merit.</p>

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 31 of August 2022. The public participation process commenced on the 16th of September 2022 and ended on the 17th of October 2022. Objections were received and referred to the applicant for comment on the 21st of October 2022. The municipality received the comments on the objection from the applicant on the 16th of November 2022.

Division: Development Management 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

The application is evaluated according to the principles of spatial planning, as contained in the abovementioned legislation.

- Spatial Justice: All the relevant facts and considerations surrounding the application is taken into account during the decision-making process. The proposal does not cause any inequality nor exclusion of any groups. Therefore, the application is deemed consistent with the principle of spatial justice.
- Spatial Sustainability: The proposal is to amend a condition registered against the title deed however, the parameters of the development management scheme is still applicable. No new services will need to be provided and the development proposal is not foreseen to put an additional financial burden on the municipality.
- Efficiency: The application intends to make the title deed less restrictive. This will enable the owner of the property to apply for building plan approval for a wooden deck that has already been erected as well as any future development consistent with the applicable restrictions. However small, should the application be approved the owner will have a little more space to accommodate existing as well as future extensions to his dwelling, optimising the use of their property.
- Good Administration: The application was communicated to the affected landowners through registered mail and advertisement in local newspapers and the Gazette. The application was also circulated to the relevant municipal departments for comment. Consideration is given to all correspondence received and the application is dealt with in a timeous manner. It is therefore argued that the principles of good administration were complied with by the Municipality.
- Spatial Resilience: The development proposal will enable the property owner to provide additional amenities on the property, thereby possibly raising the market value of the property and will not suffer the financial loss of demolishing a portion of the existing deck. The proposal is thus deemed spatially resilient.

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

Considered not relevant to this specific application.

2.3 Schedule 2 of the By-Law (Zoning Scheme Provisions)

All zoning parameters are complied with.

3. **The desirability of the proposed utilisation**

The first application was deemed not to be desirable as the application sought to remove conditions from the title deed without a development proposal supporting the application. The applicant also clearly state in the motivation report that at this point in time there are no plans to expand the building any further.

It should be noted that the fact that the structure has already been erected cannot be used as motivation to authorise the building work, however the authorisation of the wooden deck will have little to no impact on any of the neighbouring property owners.

The applicant referring to approvals granted / historical departures on properties in the vicinity is recognised however, one cannot state that the application should be considered favourable due to a precedent having already been set as each application is considered on its own merit.

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.

The proposal for the amendment of title deed conditions on Erf 205, Yzerfontein is deemed desirable.

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

4. **Impact on municipal engineering services**

Existing services to erf 205 are not affected.

5. **Response by applicant**

See Part F in terms of the motivation as well as part I in terms of the comments on the objections received.

6. **Comments from other organs of state/departments**

No comments were received.

PART K: ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

The financial or other value of the rights.

The amendment of the restrictive conditions may affect positively on the value of the property, albeit minimal, rather than the restrictive conditions having a positive economic impact.

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

The rights do not relate to private rights. The By-Law and title deed does continue to perform its function even after restrictions have been amended, however in this case the restrictions are more restrictive than the parameters of the zoning scheme. The owner will not have the financial loss of demolishing portion of the exiting deck which has little to no impact on the neighbouring property owners.

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

There is no social benefit identified with the specific restriction. The proposed deck does not impact on any of the affected properties identified in the public participation process.

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

The proposal is to amend a specific condition relating to a side building line, making it less restrictive than it was however still more restrictive than the applicable development management scheme.

PART L: RECOMMENDATION WITH CONDITIONS

The application for the amendment of restrictive condition C1(5) from Deed of Transfer T9212/2020 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:

1. TOWN PLANNING AND BUILDING CONTROL

(a) Conditions C.1.(5) as contained in Deed of Transfer T9212/2020 which read as follows:

That no building shall be erected within 3,15m of any street line which forms a boundary of the Erf hereby conveyed, or within 3,15m of the open space where it forms a boundary of the said Erf on the sea front.

be amended as follows;

That no building shall be erected within 3,15m of any street line which forms a boundary of the Erf hereby conveyed, or within 2,4m of the open space where it forms a boundary of the said Erf on the sea front.

(b) The following process be followed:

- i. The applicant/owner applies to the Deeds Office to amend the Title Deed in order to reflect the amendment of the restrictive condition;
- ii. The following minimum information be provided to the Deeds Office in order to consider the application, namely:
 - Copy of the approval by Swartland Municipality;
 - Original Title Deed, and
 - Copy of the notice which was placed by Swartland Municipality in the Provincial Gazette;

iii. A copy of the amended Title Deed be provided to Swartland Municipality for record purposes.

(c) Building plans to be submitted to Building Control for consideration and approval

2. GENERAL

(a) Appeals against the Municipal Planning Tribunal should 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.

(b) The approval is, in terms of section 76(2)(w) of the By-Law, valid for a period of 5 years. Building plans can only be approved once all conditions of approval have been met. The owner/developer is responsible to ensure that all condition of approval is complied with within 60 days of the final decision on this application.

PART M: REASONS FOR RECOMMENDATION

The proposal is specifically applied for to accommodate the existing deck. The deck has no impact on neighbouring properties nor the town as a whole. The possible impact of the amendment of the restriction from 3.15m to 2,4m in terms of future development is deemed insignificant.

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.

All costs relating to the application are for the account of the applicant and there is no impact on municipal services.



PART N: ANNEXURES

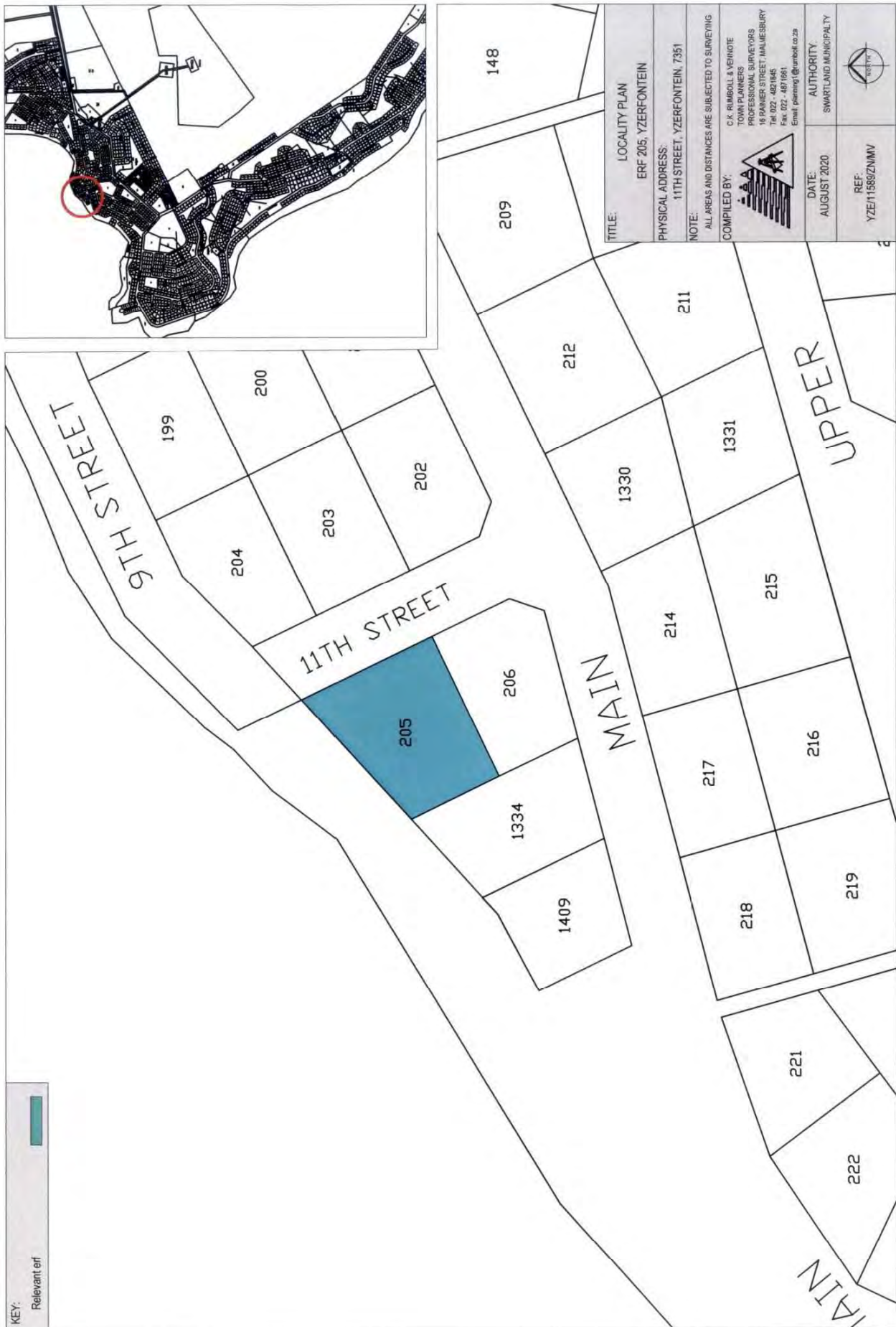
Annexure A Locality plan
 Annexure B Site development plan
 Annexure C Proposed Building plans
 Annexure D Public Participation Plan
 Annexure E Letters of support provided as part of application
 Annexure G Objection from J Viglietti
 Annexure H Conditional letter of support from Mr NH Loubser
 Annexure I Applicants comments on the objections
 Annexure J Previous letter of refusal

PART O: APPLICANT DETAILS

Name	CK Rumboll and Partners			
Registered owner(s)	Mauro Delle Donne Familie Trust.	Is the applicant authorised to submit the application?	Yes	N

PART P: SIGNATURES

Author details: Herman Olivier Town Planner SACPLAN: A/204/2010		Date: 26 January 2023		
Recommendation: Alwyn Zaayman Senior Manager Development Management SACPLAN: B/8001/2001	Recommended	<input checked="" type="checkbox"/>	Not recommended	
		Date: 30 January 2023		



SITE DEVELOPMENT PLAN OF ERF 205, YZERFONTEIN



LEGEND:

- Scheme Building Lines
- Title Deed Building Lines
- Access

NOTES

This diagram illustrates Erf 205, Yzerfontein, with an extent of 629m², zoned Residential Zone 1.

Application is made for the amendment of a restrictive Title Deed condition to authorise a portion of the wooden deck encroaching the Title Deed building line of 3.15m.

Locality Insert A



Locality Insert B



Drawing by:

MANDRI VILJOEN

ALL AREAS AND DISTANCES ARE SUBJECTED TO SURVEYING



C.K. RUMBOLL & VENNOTE
TOWN PLANNERS
PROFESSIONAL SURVEYORS
16 RAINIER STREET, MALMESBURY
Tel: 022 - 4821845
Fax: 022 - 4871661
Email: planning1@rumboll.co.za

DATE:
AUGUST 2022

AUTHORITY:
SWARTLAND MUNICIPALITY

REF:
YZE/11589/ZN/MV

02



DATUM: 5 Mei 2021

Munisipale Bestuurder
Swartland Munisipaliteit
Privaatsak X52
MALMESBURY
7299

Meneer,

INSAKE:

VOORGESTELDE OPHEFFING VAN BEPERKENDE TITELVOORWAARDES OP ERF 205, YZERFONTEIN

Hiermee het ek geen beswaar teen enige ontwikkeling op Erf 205, Yzerfontein, wat binne perke van die regulasies uiteengesit in die Swartland Munisipale Verordening op Grondgebruiksbeplanning (2020), plaasvind nie.

Die uwe,



NH Loubser
Eienaar van Erwe 203 en 204, Yzerfontein
Posbus 15, Darling, 7345
082 783 6452

DATE: 5 May 2021

Municipal Manager
Swartland Municipality
Private Bag X52
MALMESBURY
7299

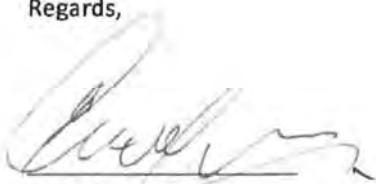
Mr,

REGARDING:

PROPOSED REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS ON ERF 205, YZERFONTEIN

Herewith, I have no objection to ^{the current} ~~any~~ development on Erf 205, Yzerfontein, which takes place within the limits set out in the regulations of the Swartland Municipal By-law on Land Use Planning (2020).

Regards,



D. & M. Wightman
Owners of Erf 1334, Yzerfontein
P.O. Box 301, Yzerfontein, 7351
076 454 5881

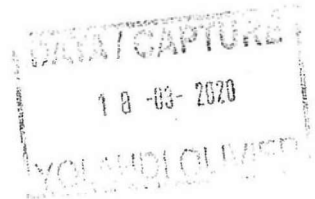
94

1st Floor, Rondebosch Medical Centre
85 Klipfontein Road
Rondebosch
7700
Cape Town

Prepared by me

CONVEYANCER
EDWIN JOHN PETERSEN

Deeds Office Registration fees as per Act 47 of 1937		
	Amount	Office Fee
Purchase Price	R. 7 500 000,00	R. 2 293,00
Reason for exemption	Category Exemption.....	Exemption i t o. Sec/Reg..... Act/Proc.....



T 000009212 / 2020


DEED OF TRANSFER

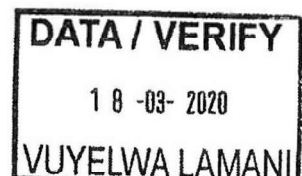
BE IT HEREBY MADE KNOWN THAT

MARTINUS CHRISTOFFEL COETZER

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

Certified as a true copy
of the original
Gesertifiseer 'n ware afskrif
van die oorspronklike

 (PS1223) 2022/08/05
Commissioner of Oaths/Kommissar van Ede
Professional Land Surveyor/Professionele Landmeter
G K Rumbold & Partners, Box 217, Melbourn, 730.



1. **ARNOLD ALBERT SWART**
Identity Number 500413 5149 08 3
Married out of community of property
2. **AGNES NICOLETTE SWART**
Identity Number 540720 0035 08 9
Unmarried
3. **THEODORE EDUARD SWART**
Identity Number 560326 5048 08 8
Married out of community of property
4. **ELIZABETH DOREEN SLABBER**
Identity Number 570524 0081 08 2
Unmarried

which said Power of Attorney was signed at CAPE TOWN on 17 DECEMBER 2019

And the appearer declared that his/her said principal had, on 16 AUGUST 2019, 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:

The Trustees for the time being of MAURO DELLE DONNE FAMILIE TRUST
Registration Number IT963/98

its Successors in Office or assigns, in full and free property

ERF 205 YZERFONTEIN IN THE SWARTLAND MUNICIPALITY, MALMESBURY DIVISION, PROVINCE OF THE WESTERN CAPE

IN EXTENT: 629 (SIX HUNDRED AND TWENTY NINE) SQUARE METRES.

FIRST TRANSFERRED by Deed of Transfer No T13738/1938 with Diagram No 738/1937 relating thereto and held by Deed of Transfer No T 25635/2010.

SUBJECT:

- A. To such conditions as are referred to in Deed of Transfer No T3729/1937.
- B. To the special conditions contained in Deed of Grant No 78/1936, which special conditions apply to that portion of the abovementioned land as originally formed portion of "**ANNEX YZERFONTEIN**" formerly held by said Deed of Grant No 78/1936, as stated in said Deed of Transfer No T3729/1937, No 6 of the said condition reads as follows:

"(6) **DAT** geen gebou op die grond binne vyftien komma sewe vier (15,74) meter van die Hoogwatermerk van die see opgerig sal word nie, end at 'n oop ruimte van vyftien komma sewe vier (15,74) meter bo die Hoogwatermerk van die see vir ongehinderde gebruik van die publiek vrygelaat sal word."

THE remaining conditions contained in said Deed of Grant No 78/1936 relate to and provide for:-

THE remaining conditions contained in said Deed of Grant No 78/1936 relate to and provide for:-

- (a) **EXISTING** roads and thoroughfares to remain free and uninterrupted.
- (b) **THE** granting of ways of necessity and the making of new roads.
- (c) **THE** making of public roads, railways, dams, aqueducts, and furrows, the erection of telegraph and telephone lines, and the establishment of outspans.
- (d) **RE-OCCUPATION** of the said land or portion thereof by the State President on certain conditions.

C. To the following special conditions contained in said Deed of Transfer No T13738/1938 imposed by the **ADMINISTRATOR** when approving of **YZERFONTEIN TOWNSHIP**:

1. **AS** being in favour of the **REGISTERED OWNER** of an Erf in the said Township:

- 1) **THAT** the Erf hereby conveyed be used for residential purposes only.
- 2) **THAT** the erf hereby conveyed be not subdivided.
- 3) **THAT** not more than one dwelling, together with the necessary outbuildings and appurtenances, be erected on the Erf hereby conveyed.
- 4) **THAT** not more than one half of the area of the Erf hereby conveyed be built upon.
- 5) **THAT** no building shall be erected within 3,15 metres of any street line which forms a boundary of the Erf hereby conveyed, or within 3,15 metres of the open space where it forms a boundary of the said Erf on the sea front.

2. **AS** being in favour of the **LOCAL AUTHORITY**:

THAT the owner of each Erf, whether the applicant for the establishment of the Township or any future owner, shall be obliged to allow the drainage or sewerage of any other erf or erven to be conveyed over such Erf if deemed necessary by the local authority and in such manner and in such position as may from time to time reasonably be required by the local authority.

D. To the following conditions contained in said Deed of Transfer No T13738/1938 imposed by **YZERFONTEIN SEASIDE ESTATES (PROPRIETARY) LIMITED** in favour of itself, as long as it owns any erven in **YZERFONTEIN TOWNSHIP**, and in favour of any local authority which may be established at **YZERFONTEIN TOWNSHIP** and any registered owner of an Erf in the **TOWNSHIP**:

- (7) **THAT** no building shall be erected on an erf until the plans and specifications thereof have been submitted to and approved of by the Company or in the event of Local Authority being established at **YZERFONTEIN TOWNSHIP** by such Local Authority.

E.

Certified as a true copy
of the original.
Gesertifiseer 'n ware afskrif
van die oorspronklike

W. J. J. (P. 51223) 2022/08/05
Commissioner of Deeds/Kommissaris van Eda
Professional Land Surveyor/Professionele Landmeter
G K Rumbell & Partners, Cox 211, Welmesbury, 7500

5

[Handwritten signature]

[Handwritten signature]

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

1. **ARNOLD ALBERT SWART, Married as aforesaid**
2. **AGNES NICOLETTE SWART, Unmarried**
3. **THEODORE EDUARD SWART, Married as aforesaid**
4. **ELIZABETH DOREEN SLABBER, Unmarried**

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

The Trustees for the time being of MAURO DELLE DONNE FAMILIE TRUST

Registration Number IT963/98

its Successors in Office or assigns, now is 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 R7 500 000,00 (SEVEN MILLION FIVE HUNDRED 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 13 March 2020.



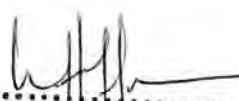
q.q.

In my presence



REGISTRAR OF DEEDS

**Certified as a true copy
of the original
Gesertifiseer 'n ware afskri'
van die oorspronklike**


..... (PS/223) 2022/08/05
Commissioner of Oaths/Kommissaris van Ede
Professional Land Surveyor/Professionele Landmetser
C K Rumboll & Partners, Box 211, Malmesbury, 7600

Jean Viglietti

21 de Bron Avenue, Kenridge
Cell phone number: 082 899 1637
Email: jean.viglietti@gmail.com

Your Reference: 15/3/5-14/ERF_205

19 September 2022

THE MUNICIPAL MANAGER

Private Bag X52

Malmesbury

7299

Per fax: 022 487 9440

Per email: swartlandmun@swartland.org.za ; alwynburger@swartland.org.za

ATTENTION: ALWYN BURGER

Dear Sir

**RE: OBJECTION IN RESPECT OF THE APPLICATION FOR THE AMENDMENT OF THE
RESTRICTIVE CONDITION ON ERF 205, YZERFONTEIN**

The above matter refers.

I confirm that I am the owner of 2, Eleventh Street, Yzerfontein, (Erf 202), a property situated diagonally opposite from Erf 205, the owners of which having made application for the amendment of the restrictive condition C1(5) of Title deed T9212/2022.

THE HISTORY OF THE MATTER

The applicant first made application to the Municipal Manager for the removal of certain title deed restrictions in 2020 ("the first application"). The applicant published a Notice in the

Provincial Gazette (Notice 47/2020/2021) dated 11 December 2020 regarding the proposed removal of the restrictive conditions of title on Erf 205 Yzerfontein as follows:

“C1(1) That the erf hereby conveyed be used for residential purposes only.

C1(2) That the erf hereby conveyed be not subdivided.

C1(3) That not more than one dwelling, together with the necessary outbuildings and appurtenances, be erected on the Erf hereby conveyed.

C1(4) That not more than one half of the area of the Erf hereby conveyed be built upon.

C1(5) That no building shall be erected within 3.15 metres of any street line which forms a boundary of the erf hereby conveyed, or within 3.15 metres of the open space where it forms a boundary of the said Erf on the sea front.”

On 25 January 2021 I addressed a letter of objection to the Municipal Manager in respect of the first application. A copy of that letter is annexed hereto for your ease of reference.

On 7 April 2021 the Municipal Planning Tribunal (“the Tribunal”) resolved not to approve the application for the removal of restrictive conditions C1(1), C1(2), C1(3), C(4) and C1(5) from Deed of Transfer T921/2020 in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (“the by-law”).

The reasons provided for not approving the removal of restrictive condition C1(5) specifically were as follows:

“Where the proposal does relate to restriction C1(5), (the 0.75m where the deck was constructed over the building line restriction), the applicants need for larger outdoor space could have easily been accommodated consistent with the building line restriction. The fact that it was erected without the

necessary authorization is not sufficient motivation to approve the application. Unlike an application for departure where the encroachment is restricted to the specific structure being applied for, the removal of the building line restriction from the title deed, will remove the condition in its entirety. The proposed departure of the deck, 750mm over the building line, therefore does not warrant the removal of the restriction from the title deed. The result would be that future extensions of which the impact is not currently considered, will be able to be constructed up to the 1,5m building line for the whole side boundary. These extensions may negatively impact on affected properties, erven 203, 204 & 1334.”

THE APPEAL PROCESS

In terms of Section 89 of the by-law the applicant had the right to appeal the decision made by the Tribunal to the appeal authority of the Swartland Municipality within 21 days of date of registration of the letter advising the applicant of the Tribunal’s decision, the letter having been dated 19 April 2021.

A letter which was dated 7 May 2021 was sent to me by registered post advising me that the applicant intended to appeal the Tribunal’s decision for refusal of the removal of restrictive condition C1(5) from Deed of transfer T9212/2020. Further to the appeal in respect of the blanket removal of the restrictive condition, the applicant submitted that the “relaxation of the title deed building line of 3.15m to 1.5m which is the Land Use Scheme building line should be considered.”

On 11 June 2021 I addressed a further letter of objection to the Municipal Manager in respect of the applicant’s appeal. A copy of that objection is attached hereto for your ease of reference and thoroughly sets out my reasoning in respect of my objection to the appeal and similarly to this application.

On 15 September 2021 the applicant addressed a letter to the Municipal Manager withdrawing the appeal.

In terms of the by-laws the decision of the Tribunal comes into operation if no appeal has been lodged within the designated time period, or by inference, when the appeal has been withdrawn.

Therefore on withdrawal of the appeal on 15 September 2021 the decision of the Tribunal came into effect, meaning that the restrictive conditions referred to above remained enforceable.

In addition thereto the Tribunal's direction, as follows, came into effect:

“Building plans submitted for the unauthorised alterations and additions to the existing building and the **unauthorised building work that encroaches the title building lines be removed within 60 days** from the date of the notice of the decision.”(own emphasis added)

In terms of the Tribunal's decision the unauthorised structure should therefore have been removed by 14 November 2021.

To date, more than one year after the withdrawal of the appeal, the structure continues to stand in contravention of the Tribunal's order.

THE APPLICATION FOR THE PROPOSED AMENDMENT OF RESTRICTIVE CONDITIONS ON ERF 205 (“THE SECOND APPLICATION”)

I confirm that I received a letter by registered mail dated 12 September 2022 which provided notice of the applicant's current application to amend restrictive condition C1(5) so that “the side building line (sea front) is relaxed from 3.5m to 2.4m in order to accommodate an existing wooden deck.”

THE LEGAL PRINCIPALS – RES JUDICATA

Reference is made to the legal principal of res judicata which means that once a final judgment has been handed down, subsequent judges who are confronted with a suit that is identical to, or substantially the same as the earlier one will apply the res judicata doctrine to preserve the effect of the first judgment.

The general rule is that an applicant who has obtained a valid final judgment is not able to initiate another motion where:

1. the claim is based on the same transaction that was at issue in the first motion;
2. the applicant seeks a different remedy, or further remedy, than was obtained in the first motion;
3. the claim is of such nature as could have been joined in the first motion.

I submit that the first and second applications are substantively the same in that the issue and/or intention of both applications was to retrospectively legalise the structure which was built in contravention of restrictive condition C1(5).

The second application seeks a slightly different remedy from the first application in that it requests a relaxation of the restrictive condition instead of the removal of the restrictive condition in its entirety.

It is to be noted that no alternative remedy was prayed for by the applicant in the first application. It was in actual fact my submission that should just cause be found for the relaxation of the building lines, which was opposed, that the restrictive condition be amended and that the restrictive condition not be removed in its entirety. Although not prayed for by the applicant the remedy was placed before the Tribunal for their consideration and was adjudicated on. The Tribunal decided that neither a removal of the restrictive condition nor a relaxation of the restrictive condition were appropriate relief in the circumstances.

As such the Tribunal has already adjudicated the issue raised in the second application and in terms of the law is precluded from re-adjudicating the matter.

CONCLUSION

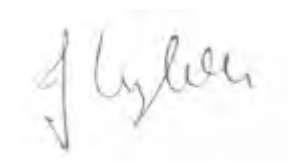
The applicant continues to bring frivolous applications which serve to undermine the authority of the Municipal Manager and cause the incurrence of unnecessary costs to the Swartland Municipality and affected parties.

It is abundantly clear that a decision has already been made in relation to the second application and the onus now falls on the Municipal Manager to enforce the Tribunal's decision and ensure that the unauthorised building work is removed without further unnecessary delay.

I request that you kindly acknowledge receipt, in writing, of my formal objection to the second application for the reasons stated above and as detailed further in the attached documents.

Kindly address all future communication to jean.viglietti@gmail.com.

Yours faithfully

A handwritten signature in dark ink, appearing to read 'J. Viglietti', is written over a light blue rectangular background.

Jean Viglietti

Jean Viglietti

21 de Bron Avenue, Kenridge, 7550

Cell phone number: 082 899 1637

Email: jean.viglietti@gmail.com

Your Reference: 15/3/5-14/ERF_205

25 January 2021

MUNICIPAL MANAGER

Private Bag X52

Malmesbury

7299

Per fax: 022 487 9440

Per email: swartlandmun@swartland.org.za

ATTENTION: JJ SCOLTZ

Dear Sir

RE: OBJECTION IN RESPECT OF THE REMOVAL OF THE RESTRICTIVE TITLE CONDITIONS
ON ERF 205, YZERFONTEIN
SWARTLAND MUNICIPALITY NOTICE 47/2020/2021

The above matter refers.

I confirm that I am the owner of 2, Eleventh Street, Yzerfontein (Erf 202) a property situated diagonally opposite from Erf 205, the owners of which having made application for the removal of the restrictive conditions relating to the usage of the premises, subdivision, coverage and building lines of the erf.

Erf 205 is in direct view from my property and is situated at the end of Eleventh Street, Yzerfontein and is therefore the property closest to the ocean. I attach hereto a diagram of Eleventh Street, indicating the locations of Erf 202 and Erf 205 marked "A". Given the

proximity of my own property to Erf 205 and the fact that Erf 205 lies within the line of sight of my property and the ocean I have a vested financial and personal interest in the current application before the Swartland Municipality and must, in the strongest terms, object to the removal of all of the restrictive conditions being: C1(1), C1(2), C1(3), C1(4) and C1(5) in the Deed of Transfer T9212/2020.

NON-COMPLIANCE WITH SECTION 57(b) OF SWARTLAND MUNICIPALITY: MUNICIPAL LAND USE PLANNING BY-LAW ("THE BY-LAW")

In terms of Section 55(1)(g) of the by-law, notice of an application in respect of a restrictive condition must be published or served in terms of this by-law, the notice **MUST**, in terms of Section 57(b) of the by-law, identify the land or land unit to which the application relates by giving the property description and the physical address.

I refer you to Swartland Municipality Notice 47/2020/2021, a copy of which is attached hereto for your ease of reference as annexure "B". You will note therefrom that the property is described as "situated at 31 Seaview Crescent, Yzerfontein". This residential address is incorrect, the property description should read "3, 11th Street, Yzerfontein".

Notice 47/2020/2021 is therefore defective and is non-compliant with the by-law in that it fails to correctly identify the physical address of the property. It is therefore evident that adequate public notice, in terms of the by-law, has not been given and the application cannot proceed until such time as Section 57(b) has been complied with; affording members of the public the stipulated time period in which to inspect, review and comment on the proposed application.

THE APPLICATION

The Applicants, being C.K. Rumboll & Partners acting on behalf of the Mauro Delle Donne Familie Trust, have made application to remove five restrictive conditions from Deed of Transfer T9212/2020 the purpose being, according to the present application, to enable the erection of a "wooden deck and pergolas on the subject property."

It is to be noted that to date significant renovations have already taken place to the house situated on Erf 205 including the erection of a wooden deck and pergolas. Photographs of the house before and after the renovations are attached hereto marked "C".

It appears that the already erected wooden deck and pergolas are the same as those structures proposed on the building plans which were attached to the present application. Photographs of the wooden deck and pergolas, as already erected, are attached hereto marked "D".

Restrictive condition C1(5), being the only restrictive condition actually related to the purpose set out in the present application, reads as follows:

"That no building shall be erected within 3.15 metres of any street line which forms a boundary of the erf hereby conveyed, or within 3.15 metres of the open space where it forms a boundary of the said Erf on the sea front."

It is estimated from the submitted building plan that the wooden deck would encroach the 3.15m building line by approximately 0.75m and only at the far end of the deck. The submitted diagram showing the proposed encroachment is attached hereto marked "E".

No compelling reason has been provided by the Applicant in respect of the purpose or necessity behind extending the building lines. It is apparent from the already built structure that the wooden deck provides ample living / entertainment space. The current wooden deck is estimated to be 5m in depth. From the building plans it appears that the Applicant could easily have complied with the title deed restrictions whilst still keeping the functionality of the deck. It is submitted that the size of the deck which would fit within the building lines would be large enough for the full use and enjoyment of the property.

As the wooden deck and pergolas have already been erected, the Applicant is acting retrospectively in applying now, after the erection of the structure, for the structure to be legalised by the removal of C1(5) of the title deed. Furthermore, reference is made to the "Land use planning application form" which was submitted with the present application. On

page 1 thereof the Applicant has indicated the there are No existing unauthorized buildings and/or land use on the subject property. This is an attempt from the Applicant to deceive the Swartland Municipality as the structure, relevant to the present application for removal of the restrictive conditions, has already been built.

Should just cause be found for the relaxation of the building lines, which is opposed, then it is submitted that the length of 3.15m in the restrictive condition be amended, but that the restrictive condition not be removed in its entirety.

RESTRICTIVE CONDITIONS (C1(1) TO C1(4))

In addition to the aforementioned restrictive condition, the Applicant has further applied for the removal of restrictive conditions C1(1) to C1(4). The restrictive conditions read as follows:

“C1(1) That the erf hereby conveyed be used for residential purposes only.

C1(2) That the erf hereby conveyed be not subdivided.

C1(3) That not more than one dwelling, together with the necessary outbuildings and appurtenances, be erected on the Erf hereby conveyed.

C1(4) That not more than one half of the area of the Erf hereby conveyed be built upon.”

It is to be noted that none of the aforementioned restrictive conditions are in anyway relevant to the declared purpose of the application in that none of the restrictive conditions have any bearing on the erection of a wooden deck or pergolas. This reasoning alone should cause the application for the removal of these restrictive conditions to be rejected by the Swartland Municipality.

The application refers, vaguely, to the need for the removal of the restrictive conditions as “future opportunities for the property is limited”. No further or specific information is provided regarding what those opportunities may be.

For the purpose of completeness the aforementioned restrictive conditions are objected to on the following basis:

C1(1): Residential purposes only:

No motivation or indication has been provided as to why it would be necessary to remove the restriction related to use of the property for residential purposes only. No other land use application has been submitted simultaneously with this application indicating how the land would be altered or used should the restriction be removed.

C1(2): No sub-division

No application has been made, in terms of the by-law, to subdivide the land. Additionally no motivation or supporting documents have been submitted for the purposes of subdivision.

The Applicant points out, in detriment to their own argument, that the current zoning of Erf 205 is Residential Zone 1: low density and has the objective: “to provide low to medium density residential development on relatively large erven and to protect the quality and character of such areas.” Subdivision would therefore be in complete contravention of the Swartland Municipality objectives.

The Applicant submits that the “proposed development will limit urban sprawl and support densification within the urban edge of Yzerfontein by creating an overall more compact town.”

The aforementioned argument is ludicrous in the circumstances. Yzerfontein is a coastal town where the majority of houses remain holiday houses. There are numerous undeveloped plots in close proximity to Erf 205, inclusive of Erf 204, Erf 214 and Erf 21, as well as countless others

in the more recently developed areas of Yzerfontein, thus rendering the Applicant's argument regarding the containment of urban sprawl unsubstantiated and spurious.

C1(3) Not more than one dwelling

No motivation has been provided for the erection of more than one dwelling on Erf 205 and no reference to a second dwelling has been indicated on the plans that were submitted to the Swartland Municipality and that form the basis for the removal of the restrictive condition. No application for the consent of council has been either submitted or advertised.

C1(4) Only half of area may be built upon

No motivation has been provided for the removal of this restrictive condition and the removal bears no relevance to the purpose of the current application.

The argument proffered by the Applicant is that the removal of this restrictive condition will "promote densification and the containment of urban sprawl" and again that "the proposed development will limit urban sprawl and support densification within the urban edge of Yzerfontein by creating an overall more compact town." It is unfathomable as to how the erection of a wooden deck would limit urban sprawl. The Applicant seems to be referring to some other intention and "proposed development", which is not disclosed in the present application, with respect to the removal of this restrictive condition.

TRUE INTENTION OF THE PROPOSED APPLICATION

It is evident when comparing the purported purpose of the current application and the actual submissions for removal of the restrictive conditions that there is little to no correlation between the two. It has become apparent that the true intention of the purchase of the property and the present application is to lay the foundation for future, as yet undisclosed, plans to subdivide and ultimately monetise the division of Erf 205. This is supported by the Applicant's assertion at page 9 of their application that "the owner will be able to sell the newly created portion and capital contributions will be paid to the Municipality." This is a

poor attempt to manipulate the Swartland Municipality by proposing a once-off monetary gain which will ultimately have serious financial implications for many property owners.

The owners of Erf 205 have made their intentions abundantly clear with respect to their disregard for the title deed restrictions, boundary lines and by-law. On purchase of the property they immediately tore down the property's boundary wall and have continued to extend their garden onto municipal land. In addition thereto they have removed protected plant species.

It would be unconscionable of the Swartland Municipality to blanketly remove all restrictive conditions when there has been no proper case made out by the Applicant for the removal of the restrictive conditions. Without the submission of supporting documentation and plans which necessitate the need for the removal of the restrictive conditions the Swartland Municipality is unable to adequately assess the merits of the application and the potential consequences of the removal of the restrictive conditions on the rights of the land owners, community and environment.

It is to be noted that Eleventh Street, as one of the oldest streets in Yzerfontein, is steeped in history. All of the houses in Eleventh Street have, apart from Erf 205, remained within the same families since they were first built and therefore hold sentimental as well as economic value to their owners. Removal of the restrictive conditions will materially affect all involved and would be both unfair and unreasonable in the circumstances; the application should accordingly be refused.

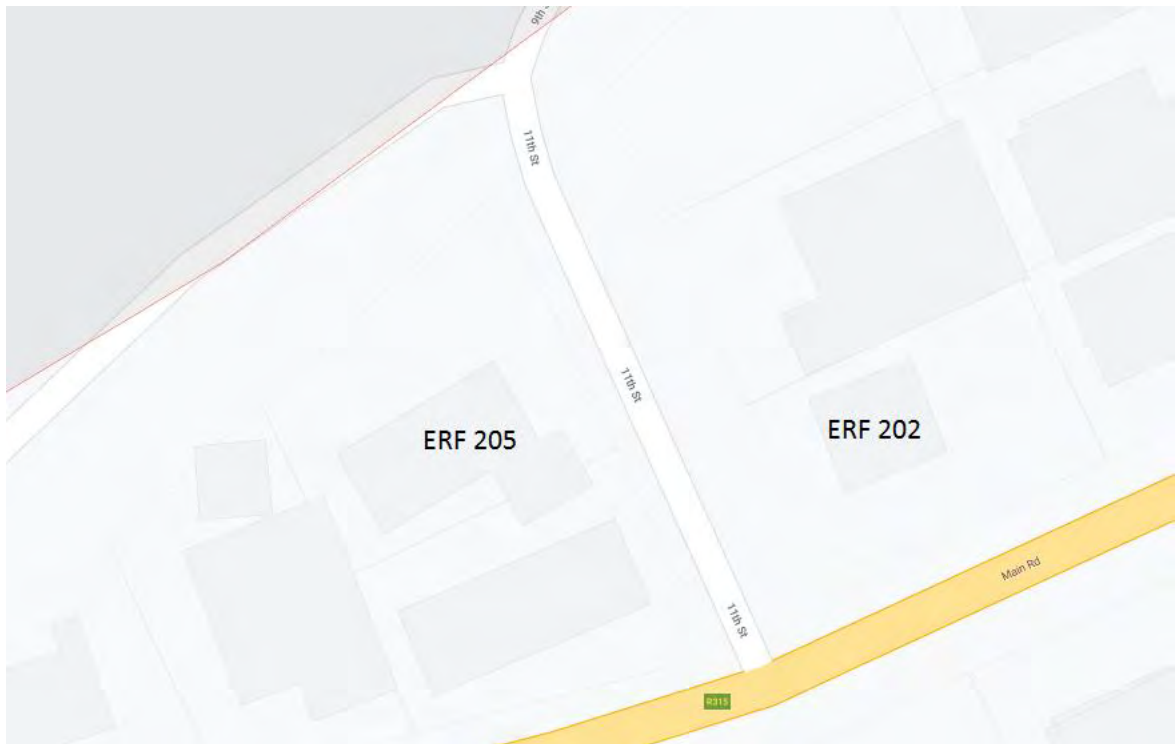
I request that you kindly acknowledge receipt, in writing, of my formal objection in terms of Section 60 of the by-law. Kindly address all future communication to jean.viglietti@gmail.com.


Yours faithfully



Jean Viglietti

“A”



**NOTICE 47/2020/2021**

**PROPOSED REMOVAL OF RESTRICTIVE TITLE
CONDITION ON ERF 205, YZERFONTEIN**

Applicant: C K Rumboll & Vennote, Posbus 211, Malmesbury, 7299.
Tel no. 022-4221845

Owner: Mauro Delle Donne Familie Trust, P O Box 94, Durbanville, 7551.
Tel no. 021-9767850

Reference number: 15/3/5-14/Erf_205

Property Description: Erf 205, Yzerfontein

Physical Address: Situated at 31 Seaview Crescent, Yzerfontein

Detailed description of proposal:

An application for the removal of restrictive title conditions on erf 205, Yzerfontein, in terms of section 25(2)(f) of Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020) has been received. It is proposed that the restrictive conditions, C1(1), C1(2), C1(3), C1(4), C1(5) be removed from Deed of Transfer T9212/2020. The purpose of the application is to remove restrictive conditions which relates to the usage of the premises, subdivision, coverage and building lines of the erf.

Notice is hereby given in terms of section 55(1) of the By-law on Municipal Land Use Planning that the abovementioned application has been received and is available for inspection from Monday to Thursday between 08:00-13:00 and 13:45 - 17:00 and Friday 08:00-13:00 and 13:45 - 15:45 at the Department Development Services, office of the Senior Manager: Built Environment, Municipal Office, Church Street, Malmesbury. **Any written comments whether an objection or support may be addressed in terms of section 60 of the said legislation to The Municipal Manager, Private Bag X52, Malmesbury, 7299/Fax - 022-487 9440/e-mail - swartlandmun@swartland.org.za on or before 29 January 2021 at 17:00, quoting your name, address or contact details as well as the preferred method of communication, interest in the application and reasons for comments.** Telephonic enquiries can be made to the town planning division (Alwyn Burger or Herman Olivier) at 022-487 9400. The Municipality may refuse to accept comment received after the closing date. Any person who cannot write will be assisted by a municipal official by transcribing their comments.

Municipal Office
Church Street
MALMESBURY,
7200

J J SCHOLTZ
Municipal Manager
4 December 2020

"C"



1. Photograph of Erf 205 dated 2020



2. Photograph of Erf 205 dated 2021

“D”





Jean Viglietti

21 de Bron Avenue, Kenridge, 7550

Cell phone number: 082 899 1637

Email: jean.viglietti@gmail.com

Your Reference: 15/3/5-14/ERF_205

11 June 2021

MUNICIPAL MANAGER

Private Bag X52

Malmesbury

7299

Per fax: 022 487 9440

Per email: swartlandmun@swartland.org.za

ATTENTION: JJ SCOLTZ

Dear Sir

**RE: APPEAL IN RESPECT OF THE REMOVAL OF THE RESTRICTIVE TITLE CONDITIONS ON
ERF 205, YZERFONTEIN
SWARTLAND MUNICIPALITY NOTICE 47/2020/2021**

I refer to the above matter in which the Municipal Planning Tribunal resolved at a meeting held on 7 April 2021 not to approve the application for the removal of restrictive conditions C1(1), C1(2), C1(3), C1(4) and C1(5) from deed of transfer T9212/2020 ("the decision") and furthermore to the letter dated 7 May 2021 from CK Rumboll & Vennote / Partners on behalf of the applicant and which was received by me via registered post on 25 May 2021. The letter contained Notice in terms of Section 90(4) of the Of Swartland Municipality: Municipal Land Use Planning By-Law ("The By-Law") of the applicant's intention to appeal the decision of the Municipal Planning Tribunal.

NON-COMPLIANCE WITH SECTION 90(6) OF THE BY-LAW

In terms of Section 90(6) of the by-law, the notice contemplated in subsection (5), being notice of the appeal served on any person who commented on the application, **must** invite persons to comment on the appeal within 21 days of the date of notification.

I note that the letter as received by me from the applicant failed to invite comment on the appeal or to notify me of the time period for comment and is therefore non-compliant with the by-law.

ISSUE IN DISPUTE

The applicant has accepted the decision of the Municipal Planning Tribunal in respect of the refusal of the removal of restrictive conditions C1(1), C1(2), C1(3), C1(4) and is only appealing of the removal of restrictive condition C1(5) from deed of transfer T9212/2020.

Restrictive condition C1(5) reads as follows:

“That no building shall be erected within 3.15 metres of any street line which forms a boundary of the erf hereby conveyed, or within 3.15 metres of the open space where it forms a boundary of the said Erf on the sea front.”

The applicant has agreed that restrictive condition C1(5) should not be removed in its entirety and has rather submitted that the restrictive condition be amended by the replacement of “3.15 meters” with “2.4 meters”.

It is to be noted that the applicant’s motivation for this amendment to the restrictive condition is to “accommodate the existing building work and future expansion if needed.”

I again reiterate that the amendment of the restrictive condition for the purposes of accommodating a structure which was built in contravention of the restrictive condition, was built without first seeking approval from the Municipal Planning Tribunal and which was

purposefully misrepresented to the Municipal Planning Tribunal as being a “proposed” structure does not provide sufficient grounds for the amendment.

An amendment to the restrictive condition would essentially be a reward for non-compliance and misrepresentation and would serve to undermine the authority of the Swartland Municipality and set a troublesome precedent and perception of the by-laws lack of power and enforcement.

Whilst I acknowledge that the current portion of the structure which extends over the building lines does not impact the use and enjoyment of my own property I remain of the view that the amendment to the restrictive condition will affect my property negatively and I therefore must uphold my objection to the proposed amendment.

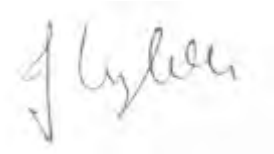
Due to the irregular shape of the property an extension on the left-hand side of the property, when facing the ocean, when blanketly applied simultaneously allows for the extension on the right-hand side of the property which will further impede the view of the ocean from my property. Specifically, and as referred to above, the amendment would be for the purposes of “future expansion if needed”, meaning that the applicant could extend the building structure by 0.75m. I note that at present the front portion of the house contains a deck; however there is nothing in the building regulations from restricting the applicant from building a solid wall on the building line and thereby significantly limiting my ocean view.

I therefore confirm that I object to the amendment of restrictive condition C1(5).

Should the Municipal Planning Tribunal be of the view that the applicant’s appeal has sufficient merit then it is submitted that, if it is within the Municipal Planning Tribunal’s powers, that instead of amending the restrictive condition an allowance be made for the current structure which overlaps the building lines, but that any future alterations or building plans remain within the specified building lines.

I request that you kindly acknowledge receipt hereof.

Yours faithfully

A handwritten signature in dark ink, appearing to read "J. Viglietti", written in a cursive style.

Jean Viglietti

DATUM: 11 Oktober 2022

Munisipale Bestuurder
Swartland Munisipaliteit
Privaatsak X52
MALMESBURY
7299

Meneer,

INSAKE:

VOORGESTELDE WYSIGING VAN BEPERKENDE TITELVOORWAARDE OP ERF 205, YZERFONTEIN

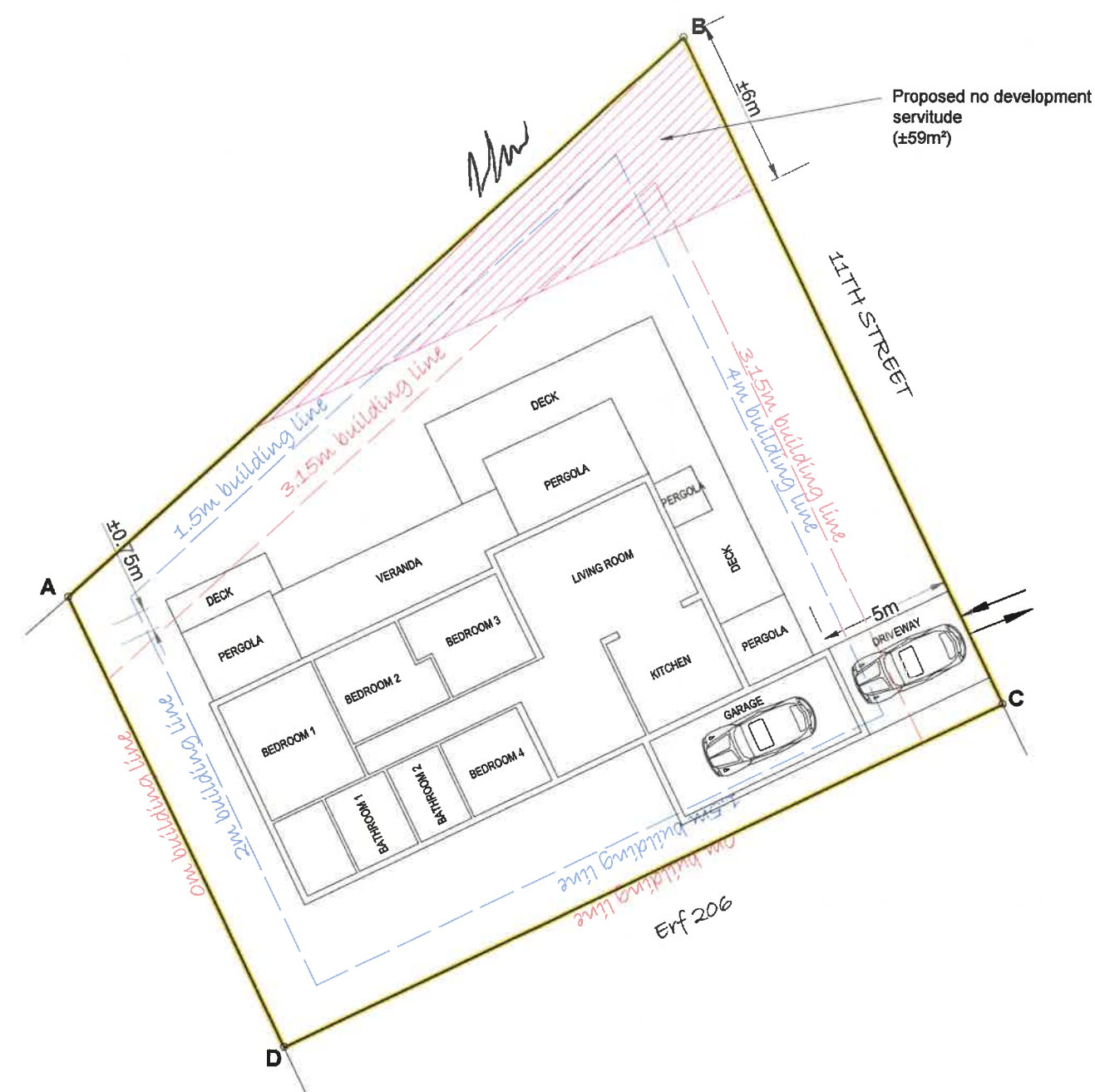
Hiermee stem ek toe dat die 3.15m boulyn op die noordwestelike grens verslap kan word na 2.4m, mits 'n geen ontwikkeling serwituut gerigistreer word op die noordoostelike grens soos op die meegaande skets. Die afstand van die noordelike hoek op die noordoostelike grens moet 6m handhaaf.

Die uwe,



NH Loubser
Eienaar van Erwe 203 en 204, Yzerfontein
Posbus 15, Darling, 7345
082 783 6452

SITE DEVELOPMENT PLAN OF ERF 205, YZERFONTEIN



- LEGEND:**
- Scheme Building Lines
 - Title Deed Building Lines
 - Access

NOTES

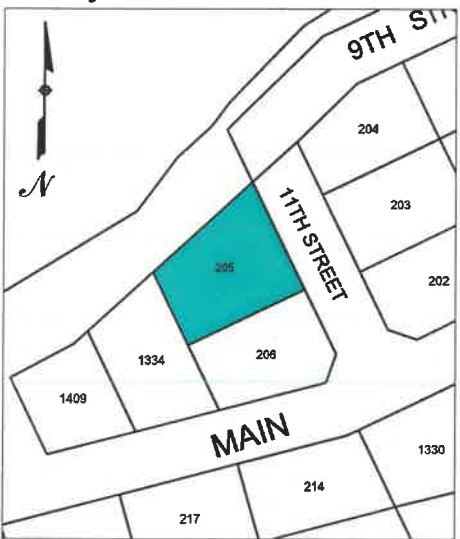
This diagram illustrates Erf 205, Yzerfontein, with an extent of 629m², zoned Residential Zone 1.

Application is made for the amendment of a restrictive Title Deed condition to authorise a portion of the wooden deck encroaching the Title Deed building line of 3.15m.

Locality Insert A



Locality Insert B



Drawing by: MANDRI VILJOEN	
ALL AREAS AND DISTANCES ARE SUBJECT TO SURVEYING	
 <div>C.K. RUMBOLL & VENNOTE TOWN PLANNERS PROFESSIONAL SURVEYORS 16 RAINIER STREET, MALMESBURY Tel: 022 - 4821845 Fax: 022 - 4871661 Email: planning1@rumboll.co.za</div>	
DATE: OCTOBER 2022	AUTHORITY: SWARTLAND MUNICIPALITY
REF: YZE/11589/ZN/MV	

CK RUMBOLL & VENNOTE / PARTNERS



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

DATE: 15 November 2022

OUR REF: YZE/11589/ZN/MV
YOUR REF: 15/3/5-14/Erf_205

BY HAND

Attention: Mr A. Zaayman
The Municipal Manager
Swartland Municipality
Private Bag X52
MALMESBURY
7300

Mr,

MUNISIPALITEIT SWARTLAND				
Verreks No	Insig	Rechts	Aanspreek	Kont/Taar
SSSB				
a Del				
Indel Opdrag				
ERDITITEL				(getuig)

Comments on Objections

PROPOSED AMENDMENT OF RESTRICTIVE CONDITIONS ON ERF 205, YZERFONTEIN

1. Introduction

Your letter dated 21 October 2022 refers.

CK Rumboll and Partners have been approached by Mr Mauro Delle Donne, representative of the Mauro Delle Donne Familie Trust (owners of Erf 205, Yzerfontein) to attend to all town planning actions regarding the amendment of a restrictive title deed condition on Erf 205, Yzerfontein. The application is made to authorise the encroachment of a portion of a wooden deck over the prescribed Title Deed building line on the mentioned property. During the public participation period, comments were received from the following surrounding neighbours:

- A. J. Viglietti (Erf 202)
- B. N.H. Loubser (Erven 203 and 204)

The Locality Map is attached as **Annexure A**.

2. Comments on objections

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



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

Table 1: Comments on Objections

Objectors	Objections	Comments from CK Rumboll & Partners
A	<p><u>Legal principles:</u></p> <ol style="list-style-type: none"> 1. Reference is made to the legal principal of res judicata which means that once a final judgment has been handed down, subsequent judges who are confronted with a suit that is identical to, or substantially the same as the earlier one will apply the res judicata doctrine to preserve the effect of the first judgment. <p>The general rule is that an applicant who has obtained a valid final judgment is not able to initiate another motion where:</p> <ol style="list-style-type: none"> 1. the claim is based on the same transaction that was at issue in the first motion; 2. the applicant seeks a different remedy, or further remedy, than was obtained in the first motion; 3. the claim is of such nature as could have been joined in the first motion. <p>I submit that the first and second applications are substantively the same in that the issue and/or intention of both applications was to retrospectively legalise the structure which was built in contravention of restrictive condition C1(5).</p>	<ol style="list-style-type: none"> 2. The first and second applications, as referred to by the objector, are not the same. Initially, this firm submitted an application to Swartland Municipality on the 12th of November 2020 in terms of Section 25(2) (f) of the <i>Swartland Municipal By-law on Municipal Land Use Planning (PG 8226 of 25 March 2020)</i>, for the <u>Removal</u> of restrictive Title Deed conditions (C.1.1, C.1.2, C.1.3, C.1.4, C.1.5) of the Title Deed no T9212/2020 on Erf 205, Yzerfontein. <p>A new application is submitted to apply for the <u>Amendment of a restrictive Title Deed condition</u> to authorise the encroachment of a portion of the wooden deck over the prescribed Title Deed building line mentioned in Section C.1.5 of the Title Deed.</p> <p>The Municipal Planning Tribunal could not have considered the <u>amendment</u> of the restrictive condition, as it was not formally applied for in the first application and only a suggestion by the objector. Through this application, the Municipal Planning Tribunal will be requested to consider the amendment of the restrictive condition as mentioned in Section C.1.5 of the Title Deed and not the removal of the conditions mentioned in Sections C.1.1 – C.1.5, as previously applied for.</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

	<p>The second application seeks a slightly different remedy from the first application in that it requests a relaxation of the restrictive condition instead of the removal of the restrictive condition in its entirety.</p> <p>It is to be noted that no alternative remedy was prayed for by the applicant in the first application. It was in actual fact my submission that should just cause be found for the relaxation of the building lines, which was opposed, that the restrictive condition be amended and that the restrictive condition not be removed in its entirety. Although not prayed for by the applicant the remedy was placed before the Tribunal for their consideration and was adjudicated on. The Tribunal decided that neither a removal of the restrictive condition nor a relaxation of the restrictive condition were appropriate relief in the circumstances.</p> <p>As such the Tribunal has already adjudicated the issue raised in the second application and in terms of the law is precluded from re-adjudicating the matter.</p>	
B	<p><u>Recommendation:</u></p> <p>2. I hereby agree that the 3.15m building line on the North-Western boundary can be relaxed to 2.4m provided a no-development-servitude is registered on the North-Eastern boundary as indicated in the</p>	<p>3. The current restrictive Title Deed (Section C.1.5 of the Title Deed) condition which is proposed to be amended reads as follows:</p> <p><i>"That no building shall be erected within 3.15 metres of any street line which forms a boundary of the Erf hereby conveyed,</i></p>

sketch below. The distance from the Northern corner on the North-Eastern boundary must maintain 6m.



or within 3.15 metres of the open space where it forms a boundary of the said Erf on the sea front."

The amendment of the restrictive Title Deed condition is applied for to authorise the encroachment of an existing wooden deck over the northern side Title Deed building line (sea front).

The amendment applied for will amend the above restriction as follows:

"That no building shall be erected within 3.15 metres of any street line which forms a boundary of the Erf hereby conveyed, or within 2.4 metres of the open space where it forms a boundary of the said Erf on the sea front."

With regards to the restrictive condition listed in Section C.1.5, which refers to building line restrictions, it is argued that the amendment of the Title Deed building line of 3.15m to 2.4m should be considered, as the Scheme building line is even less, being 1.5m. Examples of properties encroaching building lines in a similar manner in this area of Yzerfontein, onto the Public Open Space building line, are Erven 2119 and 2122 down the road (see the figure below for visual illustration). The aerial photo is also attached as **Annexure B**.

Another example is Erf 199 which has a "stoep balcony", just over two meters away from the erf boundary line (see building plans attached as **Annexure C**). The figure below illustrates the location of the mentioned properties in relation to Erf 205.



Figure 1: Locality of Erven 199, 2119 and 2122

Due to the shape of the property, the amendment of the restrictive condition, regarding the Public Open Space building line, from 3.15m to 2.4m to accommodate the existing building work, is strongly encouraged, as the property consists of limited development potential to the south and already contains a dwelling unit facing the northern side (seafront). The erf is further limited to 50% coverage and taking into consideration the existing building there is only 50m² left for building expansion to the north. There are no plans to expand the building any further at this stage.

With regards to the northern building line on the surrounding properties, application was approved by the Municipal Planning Tribunal of Erf 2711 for the complete removal of the restrictive Title Deed Condition from Title Deed T66779/2015 which read as follows:

		<p><i>C.I.(5) That no building shall be erected within 10 feet (3.15m) of any street line which forms a boundary of the erf hereby conveyed or within 10 feet (3.15m) of the open space where it forms a boundary of the said erf on the erf front."</i></p> <p>This means that there is already a precedent created in the past to remove the Title Deed restriction regarding building lines within this area of Yzerfontein. The compromise to only <u>amend</u> the Title Deed condition and not remove it is further supported as positive by this application.</p> <p>As mentioned, Erf 205, Yzerfontein, still has the ability to expand 50m² to reach 50% coverage. If a hypothetical scenario is created that the maximum expansion is taken up and to the north-eastern corner of the property and, as suggested, according to the 2.4m side building line and 4m street building line, such a scenario will have the following impacts on Erf 203 and 204. View sheds were determined either by existing building view sheds of the erven concerned or erf boundaries (not building lines) giving the benefit to the owners of the erven concerned. The View Shed maps are also attached as Annexure D.</p> <p><u>Erf 203:</u> If the building line is amended to 2.4m from 3.15m and the maximum building scenario is considered, Erf 203 will have a 3% view loss of the total view shed. If the building remains as is it gains an addition 20% to the total view shed, see diagram below:</p>
--	--	--

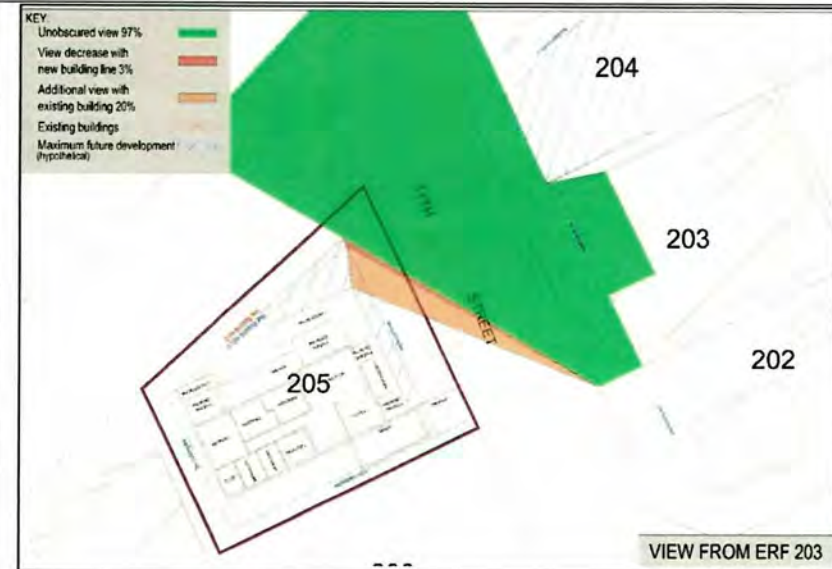


Figure 2: View from Erf 203

Erf 204: If the building line is amended to 2.4m from 3.15m and the maximum building scenario is considered and Erf 204 is built to its maximum limit, Erf 204 will have a 3% view loss of the total view shed. If the building remains as is it gains an addition 18% to the total view shed, see diagram below:



Figure 3: View from Erf 204

It is concluded that the impact of possible future extensions and the effect on surrounding properties, especially Erven 203 and 204, is not significant. They will still have similar sea views and there will be no property value or personal loss. The proposed amendment will allow the owner of Erf 205 to accommodate the unauthorised built deck and for future development within the Land Use Scheme building line restrictions.

For the above reasons, it is believed that a no-development-servitude to be registered on Erf 205 is not necessary and excessive. The no-development-servitude will take away allowed developable space from the owner, although no

		<p>current expansion of the building is proposed. By amending the building line in the Title Deed, there is still sufficient space which cannot be developed to allow sufficient view shed to the owner of Erven 203 and 204.</p>
--	--	---

3. Conclusion

It is evident that the proposed development will not have a significant impact on the surrounding properties or built environment seeing that the *Swartland Municipal Land Use Planning By-law (PG 8226)* makes provision for Residential Zone 1 properties, such as Erf 205, Yzerfontein. This office is of opinion that the amendment of the restrictive title condition on Erf 205, Yzerfontein, will maximise the development potential of the property, without encroaching on the social benefits of the building line restriction. The proposed development will be in accordance with the *Swartland Municipal Land Use Planning By-law (PG 8226)*.

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

Kind regards



Zanelle Nortje / Mandri Viljoen
For CK RUMBOLL & PARTNERS

Annexure A
Locality Map



Locality Map: Erf 205, Yzerfontein

Legend

- Erf
- Application property (Erf 205)
- J. Viglietti (Erf 202 - objector)
- N.H. Loubser (Erven 203 & 204)

Map Center: Lon: 18°9'23.7"E
Lat: 33°20'41.6"S

Scale: 1:1 128

Date created: November 7, 2022



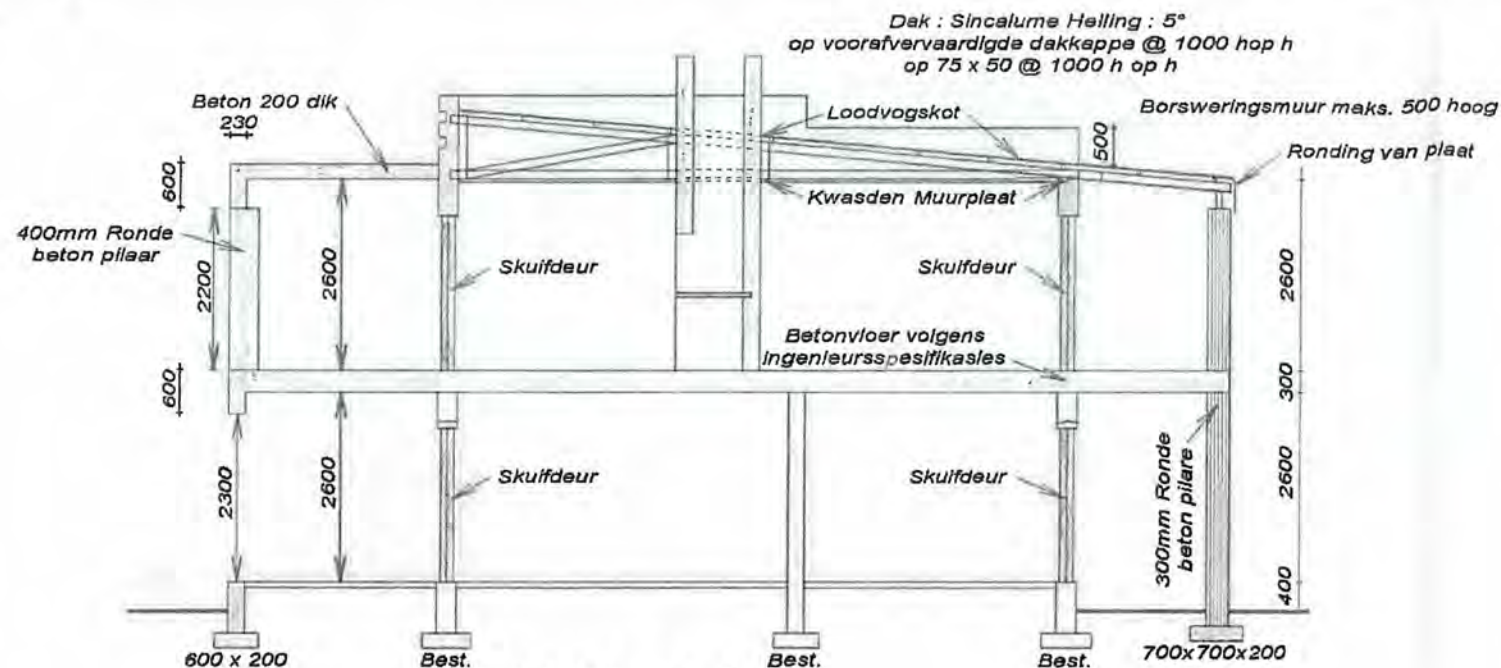
**Western Cape
Government**
FOR YOU

Agriculture

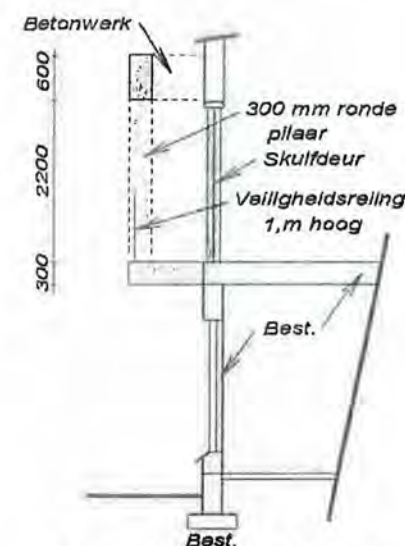
Annexure B
Aerial Photo



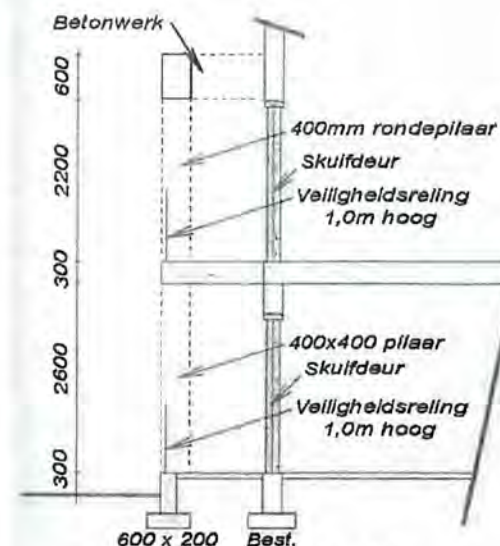
Annexure C
Erf 199 Building Plans



DEURSNEE A - A



DEURSNEE B - B



DEURSNEE C - C

Oorhang : 300

Plafon op 38 x 38 @ 400 h op h (Plafonne in slaapkamers op 1ste vloer : Rhino board)

Dakhoute in mure ingebou moet voldoende teen vog beskerm word met 250 micron V.L. (waar van toepassing)

Venstergrates moet 10% van vloerarea wees en 'n min. van 5% van vloeropp. moet kan oopmaak

127 mm H.R. P.V.C. geut

75 P.V.C. afleypyp

Voorsien stootaanluiting

X Kragpunt (Alle kragpunte moet voorsien word van dubbel kragproppe)

© Ligpunt

S.A.B.S. Voglaag

114 x 38 Muurplaat

Graad 4 Hout vir Dakkonstruksie

Glas laer as 500 mm vanaf vloervlak en groter as 1,00 m moet S.A.B.S. veiligheidsglas wees

(Deel N van SABS 0137)

Dakverankerung : Anker dakkonstruksie aan mure met hoepel 30mm breed en 1,2mm dik en 600mm in muur ingebou

Gewelmuurverankerung (waar van toepassing) : Anker gewelmuur met hoepel, 30mm breed en 1,2mm dik, 600mm h op h aan 2 kappe geheg, omgebuig, en 600mm in muur ingebou

Waar van toepassing moet fondasies nie erfgrens oorskry nie

Voorafvervaardigde beton lateie om gebruik te word bokant alle deure en venster openinge

en gelê volgens vervaardiger spesifikasies met 4 lae steen

Waar van toepassing moet rioolpyp onder gebou of oprit beskerm word volgens SABS 0400 pp 24.5 a & b

Voglaag moet min. van 150mm bokant grondvlak wees

Trappe : Maks. styging per trap is 200mm en min. loopvlak is 250mm

Kontrakteur moet homself vergewis van alle afstande en hoogtes alvorens met werk begin word

Afwerking van nuwe werke om aan te pas by bestaande

Skoorsteen min. 1,0m bokant dak, waar van toepassing

Afstande soos op plan aangetoon moet gebruik word en moet nie geskaal word nie

Alle kamers moet van T.V. punte voorsien word

2 x 150 liter W.W.S. elk vir elke vloer

Alle betonwerk om gedoen te word volgens ingenieurs spesifikasies

Veiligheidsrellings min. hoogte met maks. openinge van 100mm

Areas Erf : 535,00m²Huis & Motorhuis : 234,80m² (Op grondvlak)1ste Vloer : 113,35m² (Bestaande)Aanbouings : 108,50m² (1ste vloer)Stoepe & balkonne : 72,87m²

% Besetting : 51,23%

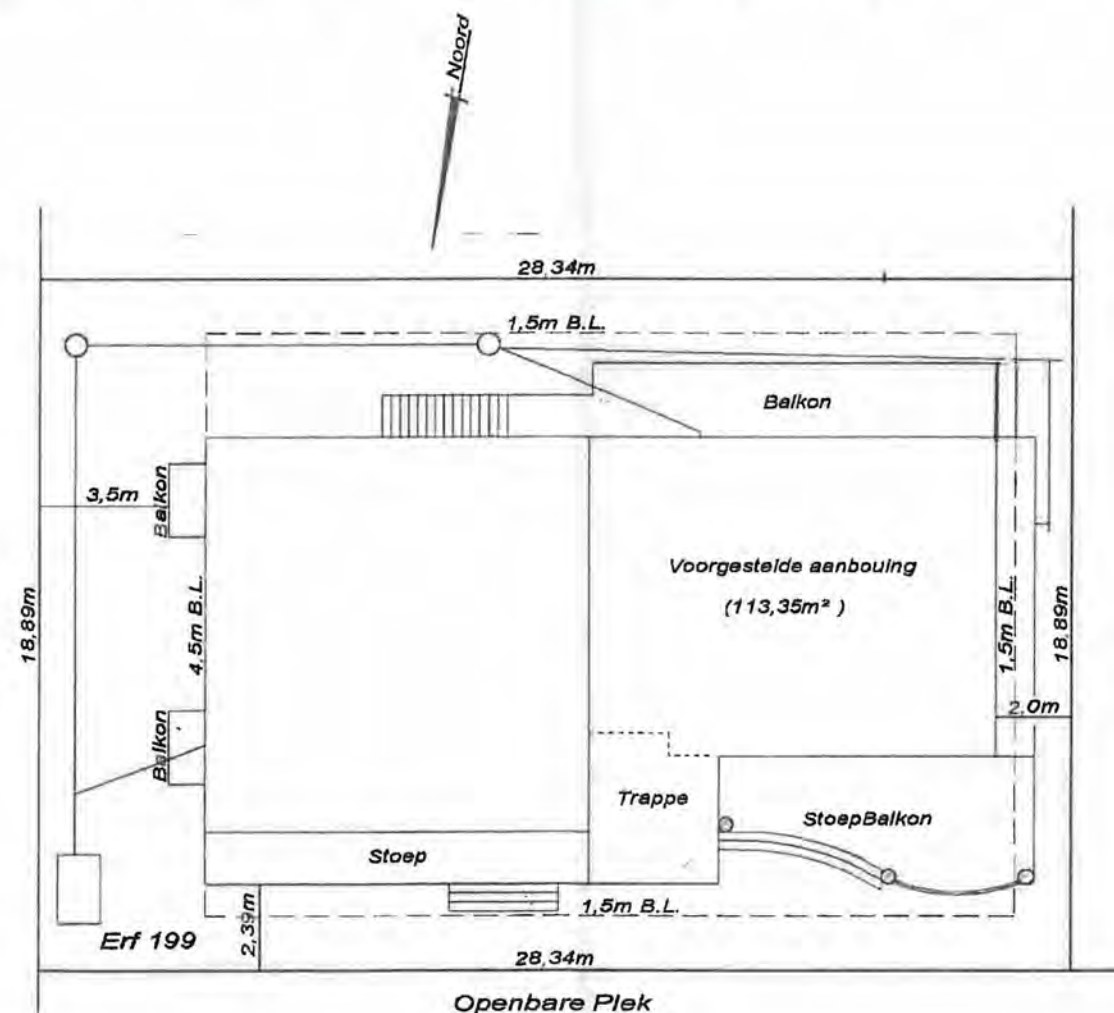
1150/06

199

15/02/07

* INGENIEURSPLANNE VIR ALLE GEWAPENDE
BETONWERK MOET VOOR AANVANG VAN SULKE
WERK BY HIERDIE KANTOOR INGEHANDIG WORD.

Tiende Straat



ERFPLAN SKAAL : 1/200

L.W. HURTER

Professionele Argitekstekenaar
LID VAN DIE SUID-AFRIKAANSE
RAAD VIR DIE ARGITEKTUURPROFESSIE
(REG. No. D0158)

van Wykstraat 17
KUILSRIVIER 7580
TEL. (021) 903-3730
SEL. No. 083-338-2003

Voorgestelde veranderings vir J.C.R. Quality Meat

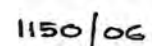
op Erf 199, Yzerfontein.

Datum : 2006-12-04

Eienaar :

Ontwerper :

PLAN No. Y. 199



199

15/02/07

L. W. HURTER

Professionele Argitekstekenaar
LID VAN DIE SUID-AFRIKAANSE
RAAD VIR DIE ARGITEKTUURPROFESSIE
(REG. No. D0158)

van Wykstraat 17
KUILSRIVIER 7580
TEL. (021) 903-3730
SEL. No. 083-338-2003

Voorgestelde veranderinge vir J.C.R. Quality Meat
op Erf 199, Yzerfontein.

Datum : 2006-12-04

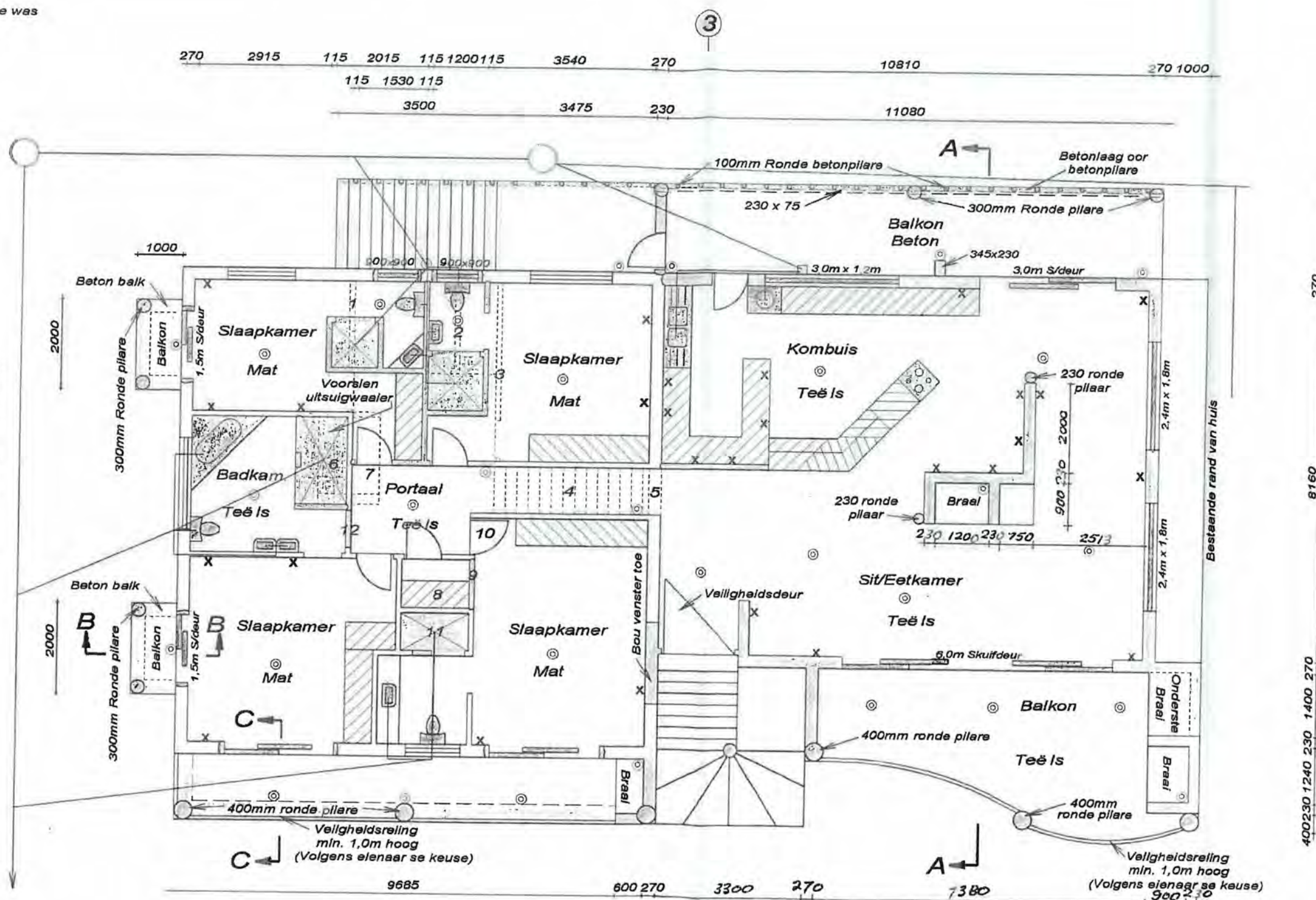
Eienaar :

Ontwerper :

PLAN No. Y. 199

1. Breek muur uit
2. Breek muur uit
3. Breek muur uit
4. Bou gat toe waar trappe was
5. Breek deur muur
6. Breek l.g.k. uit
7. Breek l.g.k. uit
8. Nuwe rakke
9. Bou toe
10. Nuwe deur
11. Nuwe stort
12. Bou deur toe

2000
270
1915
115870115
1920
115870115
1920
115
1950
115
1920
4090
1449
270



PLAN SKAAL : 1/100
EERSTE VLOER

L.W. HURTER
Professionele Argitekstekenaar
LID VAN DIE SUID-AFRIKAANSE
RAAD VIR DIE ARGITEKTUURPROFESSIE
(REG. No. D0158)

van Wykstraat 17
KUILSRIVIER 7580
TEL. (021) 903-3730
SEL. No. 083-338-2003

Voorgestelde veranderings vir J.C.R. Quality Meat
op Erf 199, Yzerfontein.

Datum : 2006-12-04

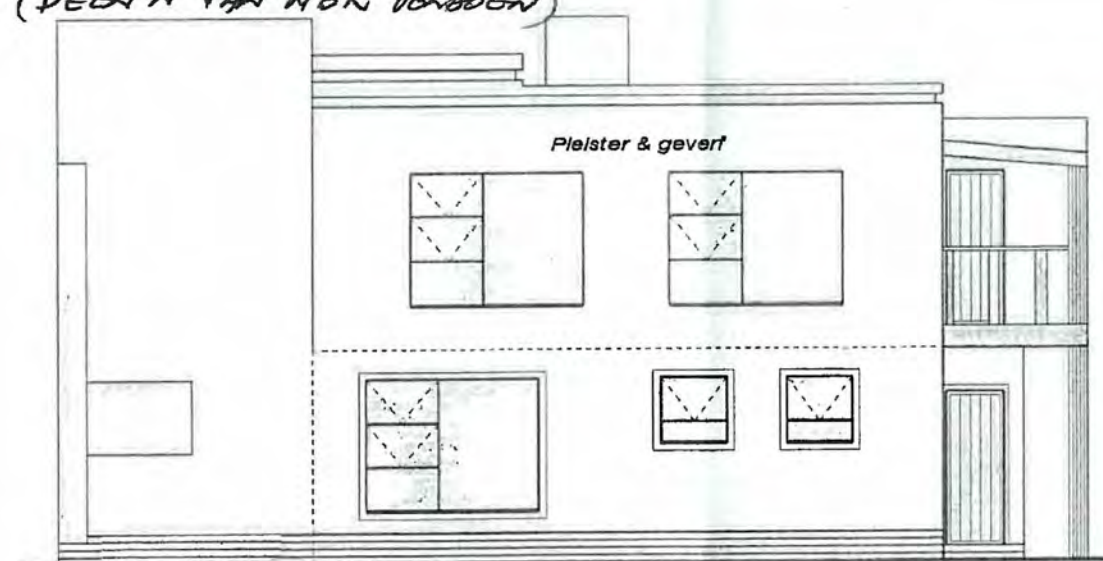
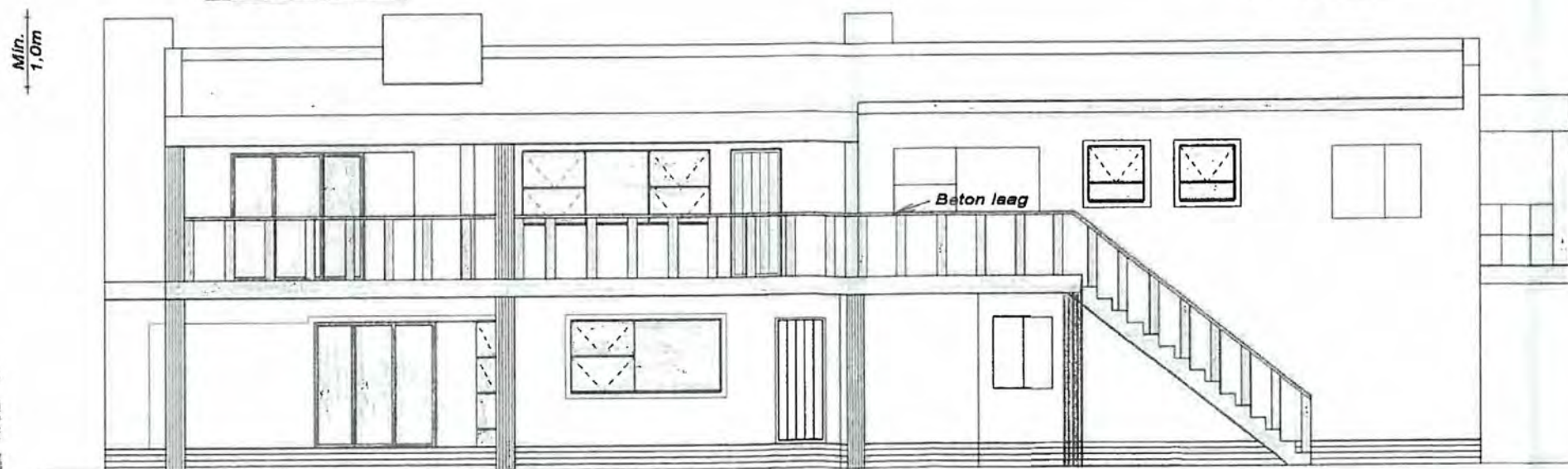
Eienaar :

Ontwerper :

PLAN No. Y. 199

**AANSIG 1**

Glaspanele geïnstalleer
volgens vervaardiger spesifikasies
(DEEN VAN NBR VOORBOEN)

**AANSIG 2****AANSIG 4****AANSIG 3**

1150/06

199

15/02/07

L.W. HURTER
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Eienaar:

Ontwerper:

L.W. Hurter

PLAN No. Y. 199

Annexure D

View Shed maps

KEY:

- Unobscured view 97%
- View decrease with new building line 3%
- Additional view with existing building 20%
- Existing buildings
- Maximum future development (hypothetical)







CONSECUTIVE CLEAN AUDITS



*Ons gee gestalte aan 'n beter toekoms!
We shape a beter future!
Sibumba ikamva elingcono!*

Lêer verw/
File ref: 15/3/5-14/Erf_205

Navrae/Enquiries:
Ms D N Stallenberg

19 April 2021

C K Rumboll & Partners
P O Box 211
MALMESBURY
7299

By Registered Mail

Sir/Madam

PROPOSED REMOVAL OF RESTRICTIVE TITLE CONDITIONS ON ERF 205, YZERFONTEIN

Your application with reference YZE/11589/ZN/MV dated 12 November 2020 on behalf of Mauro Delle Donne Family Trust has reference.

- A. The Municipal Planning Tribunal has resolved at a meeting held on 7 April 2021 not to approve the application for the removal of restrictive conditions C1(1), C1(2), C1(3), C1(4) and C1(5) from Deed of Transfer T9212/2020 not be approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020);
- B. **GENERAL**
- (a) The applicant and objectors be informed of their right to appeal against the decision of the Municipal Planning Tribunal, in terms of section 89(2) of the By-Law;
- (b) Building plans be submitted for the unauthorised alterations and additions to the existing building and the unauthorised building work that encroaches the title building lines be removed within 60 days from the date of the notice of the decision;
- C. The reasons for not approving the applications are:
- (a) Seeing that the proposal does not relate to what is being applied for, there is not enough motivation to remove all the conditions pertaining to the use of the property, subdivision of the property, the number of dwellings on the property, the permissible coverage or building lines and therefore the removal of restrictive title conditions C1(1), C1(2), C1(3), C1(4) and C1(5) of the Deed of Transfer T9212/2020 be refused;
- (b) Where the proposal does relate to restriction C1 (5), (the 0.75m where the deck was constructed over the building line restriction), the applicants need for larger outdoor space could have easily been accommodated consistent with the building line restriction. The fact that it was erected without the necessary authorisation is not sufficient motivation to approve the application. Unlike an application for departure where the encroachment is restricted to the specific structure being applied for, the removal of the building line restriction from the title deed, will remove the condition in its entirety. The proposed departure of the deck, 750mm over the building line, therefore does not warrant the removal of the restriction from the title deed. The result would be that future extensions of which the impact is not currently considered, will be able to be constructed up to the 1,5m building line for the whole side

boundary. These extensions may negatively impact on affected properties, erven 203, 204 & 1334.

In terms of Chapter VII, Section 89 of the Swartland Municipality By-law relating Municipal Land Use Planning (PG 7741 of 3 March 2017), you as well as the objectors have a right to appeal within 21 days of date of registration of this letter to the appeal authority of the Swartland Municipality against Council's decision.

Should you decide to appeal, you can write to the following address:

The Municipal Manager, Swartland Municipality, Private Bag X52, Malmesbury, 7299

Please note that if the applicant/objector does appeal, an appeal fee of R2260-00 is payable. The appeal must be accompanied by the proof of payment and only then will the appeal be regarded as valid.

Yours faithfully



MUNICIPAL MANAGER
via Department Development Services

/ds

ITEM 6.3 VAN DIE AGENDA VAN 'N MUNISIPALE BEPLANNINGSTRIBUNAAL WAT GEHOUD WORD OP WOENSDAG 8 FEBRUARIE 2023

LAND USE PLANNING REPORT

APPLICATION FOR REZONING OF ERF 975, DARLING

Reference number	15/3/3-Erf_975	Application submission date	13 October 2022	Date report finalised	31 January 2023
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PART A: APPLICATION DESCRIPTION

The application for rezoning of Erf 975, Darling 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 975 (9134m² in extent) be rezoned from Industrial Zone 2 to Business Zone 2 in order to develop the premises as a business premises consisting of shops and offices.

Erf 975, Darling, is zoned Industrial Zone 2, which does not permit the proposed use of shops and offices.

The applicant is CK Rumboll and Partners and the owner of the property is M M R N Family Trust.

PART B: PROPERTY DETAILS

Property description (in accordance with Title Deed)	Erf 975, Darling, in the Swartland Municipality, Division Malmesbury, Province of the Western Cape						
Physical address	Caledon Street, Darling. Please refer to the location plan attached as Annexure A			Town	Darling		
Current zoning	Industrial zone 2		Extent (m²/ha)	9134m²	Are there existing buildings on the property?	Y	N
Applicable zoning scheme	Swartland Municipal By-Law on Municipal Land Use Planning (PG 8226 of 25 March 2020)						
Current land use	Vacant			Title Deed number & date		T1440/2017	
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	<input checked="" type="checkbox"/>	Permanent departure	<input type="checkbox"/>	Temporary departure	<input type="checkbox"/>	Subdivision	<input type="checkbox"/>
Extension of the validity period of an approval	<input type="checkbox"/>	Approval of an overlay zone	<input type="checkbox"/>	Consolidation	<input type="checkbox"/>	Removal, suspension or amendment of restrictive conditions	<input type="checkbox"/>

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

The rezoning of Erf 975, Darling, from Industrial Zone 2 to Business Zone 2 is applied for to accommodate business premises (offices and single shops) on the property as primary rights

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.
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Not deemed necessary

PART F: SUMMARY OF APPLICANTS 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)

1. According to the applicant, the proposed business premises (offices and shops) will provide a mixed-use development near the entrance of a higher density residential area at the northern part of Darling.
2. Being vacant, the property is currently underutilised and the owners wish to utilise the property better.
3. The establishment of a Business Zone 2 property will contribute to create a mixed land use development area where Erf 975 is located in Darling.
4. 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.
5. The Swartland SDF supports the Western Cape Spatial Development Framework's principle of densification within existing urban areas. The applicant is of opinion that by providing additional business uses within an established built environment of Darling could be regarded as effective spatial planning. The area in which Erf 975, Darling, is situated supports the provision of business uses.
6. The applicant motivates that, infill-development on underutilised or vacant land throughout the built area of the town is one of the suggested ways in which densification in urban areas can occur.
7. The applicant is of opinion that the proposed development enhances the principles of LUPA and SPLUMA.
8. The proposal complies with the Swartland Spatial Development Framework (2019) as the main forward planning document for Darling and the Swartland Municipal Area as a whole.
9. The proposed development complies with the Swartland Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020).
10. The development supports the Western Cape SDF by promoting compactness within the existing urban areas.
11. The development proposal will complement the character of the area and not adversely affect any natural conservation areas or surrounding agricultural practises.
12. There are no physical restrictions on the property that will negatively affect the proposed use.
13. The optimal utilisation of existing services, as it reduces past expenditure on infrastructure.
14. The proposed application will limit urban sprawl in Darling.
15. This development uses an existing plot within the Urban Edge to its optimal potential.
16. An income opportunity will be created for the landowners through the provision of business premises on Erf 975, Darling.
17. The proposal will create job opportunities and ultimately economic growth for area.

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 application was published in local newspapers and the Provincial Gazette on 28 th of October 2022, in terms of Section 55 of the By-law. The commenting period, for or against the application, closed on 28 th of November 2022.									
In addition to the abovementioned publication, a total of 16 written notices were sent via registered mail to the owners of affected properties, in terms of Section 56(1) & (2) of the By-Law (refer to Annexure C).									
Total valid comments	1			Total comments and petitions refused			0		
Valid petition(s)	Y	N	If yes, number of signatures		N/A				
Community organisation(s) response	Y	N	N/A	Ward councillor response		Y	N	The application was referred to the Ward Councillor and no comments were received.	
Total letters of support	None								
PART H: COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS									
Name	Date received		Summary of comments					Recommendation	
Department: Civil Engineering Services	17-11-2022 & 01-02/2023		<p>Water The development be provided with a single water connection.</p> <p>Sewerage The sewer network need to be expanded in order to provide the proposed development with a sewer connection. For this, the developer appoint an Engineer appropriately registered in terms of the provisions of Act 46 of 2000 to design the extension. The design be submitted to the Director: Civil Engineering Services for approval after which the construction work be done under the supervision of the engineer.</p> <p>Streets and storm water The proposed parking surfaces with due consideration of the access to the parking area, be provided with a suitable dust-free surface.</p> <p>Parks No comment</p> <p>General Should it be determined necessary to expand or relocate any of the engineering services in order to provide any of the portions with connections, said expansion and/or relocation will be for the cost of the owner/developer;</p> <p>An engineering report addressing the connection to existing services, the handling of storm water and the traffic impact be provided. Further comments regarding civil engineering services will be provided with consideration of the engineering report.</p>					Positive	Negative
Cleaning Services	07-11-2022		<p>Refuse must be placed on kerbside on collection days not later than 07:30.</p> <p>If waste must be collected inside the premises, the refuse storage areas must be easily accessible for the refuse compactor truck and refuse must be placed outside the storage areas. The truck has an approximate turning radius of 10m and a loaded weight of 20 tons.</p> <p>The refuse storage areas must have sealed floor surfaces with drainage connected to the sewer system and a water point for washing the storage areas.</p>					Positive	Negative

Protection Services	17-10-2022	No comments	Positive	Negative
Electrical Engineering Services	25 January 2023	The real cost of expanding the electrical network is for the developers account. The developer provide for a mini-substation that is cut into the existing 11kV network.	Positive	Negative
Development Services: Building Control	22-03-2022	Building plans be submitted to Building Control for consideration and approval.	Positive	Negative

PART I: COMMENTS RECEIVED DURING PUBLIC PARTICIPATION	SUMMARY OF APPLICANT'S REPLY TO COMMENTS	MUNICIPAL ASSESSMENT OF COMMENTS
<p>Mr Paul Loubser on behalf of the Paul Loubser Trust</p> <p>Mr Loubser states that they wish to object to the proposed rezoning and, for the following reasons, request that the Municipality should not approve the proposal;</p> <p>Erf 975 is situated in the industrial area of Darling and falls within zone "D" as per SDF (Spatial Development Framework) of Darling. According to the objector, the above mentioned area is primarily the industrial area of Darling and includes supportive social infrastructure.</p> <p>The objector is of opinion that commercial / retail businesses, as proposed in the application, should be accommodated in the CBD of the town. The proposal is therefore deemed to be in conflict with the existing industrial area and will not be supporting as such. Zone "D" as per SDF of Darling accommodate various industrial uses, as well as agricultural industries which are providing the local community with job opportunities.</p> <p>The objector asks that the area be kept industrial as per the SDF principals for the town of Darling.</p>	<p>The applicant agrees that the land use proposals for Darling identify Erf 975 to be located in Zone D, which is the industrial area with supportive social infrastructure. Referring to the table in the SDF document, the applicant motivates that business uses are supported within the land use proposals.</p> <p>Furthermore the applicant argues that the proposed development support commercial development adjacent to an activity street and is within walking distance from a higher density residential neighbourhood.</p> <p>The applicant therefore argues that the proposed development is consistent with the proposals of the Swartland SDF (2019).</p> <p>The applicant adds that the proposal will contribute to creating a mixed-use development area serving as a transitional zone between the industrial area and the residential neighbourhood. The principle of creating a mixed-use development along identified activity streets in Darling to support integration is, according to the applicant, also promoted by the SDF (2019).</p> <p>The applicant argues that due to this transitional zone that will be created, the proposal will have a positive impact on the surrounding environment.</p> <p>The applicant also refers to the property, erf 4404 on which the Darling Brew, brewery is situated and adds that the said property is not only used as a brewery but also a restaurant and tasting facility and with the occasional events taking place at the facility, it attracts large numbers of tourists to the area.</p>	<p>It is agreed that in terms of the MSDF, 2019 Zone D is the industrial area of Darling. It is also clear from the land use proposal table that Business use is supported in the area.</p> <p>It could however be argued that it is not for the proposed scale or intensity. Given the character of the area, being predominantly industrial in nature, business use in the area should not detract from the nature or sense of place of the area.</p> <p>It is noted that under the Industrial zone 2 zoning, being the predominant zoning for the general industrial area, commercial uses are accommodated as primary rights, including service trade, car wash, public parking, service station as well as public garage. The following consent uses (with special permission), which are commercial in nature, are also accommodated under the Industrial zone 2 zoning including a shop, bottle store, place of entertainment, adult entertainment enterprise, restaurant and funeral parlour. With all these commercial uses accommodated under the Industrial zone 2 zoning the support for business use in this land use proposal zone is deemed consistent with the applicable By-Law, however the business use should not be in conflict with the objective of the Industrial zone 2 zoning and therefore it should not compromise the general use of the area zoned for industry.</p> <p>Given the intensity of the proposed commercial development being ±2566m² GLA in extent, it is deemed in contradiction with the MSDF, 2019.</p> <p>The MSDF further does support the concentration of mixed use development along identified activity corridors and streets in order to support integration.</p>



Figure 2: Surrounding land uses

The proposed development fully complies with the development parameters of Business Zone 2 properties, as stipulated in the Swartland Municipal By-law on Land Use Planning (PG 8226).

According to the mentioned By-law the purpose of Business Zone 2 is as follows: "the objective of this zone is to provide for low intensity commercial and mixed-use development which satisfies the needs of the local precinct for commodities and personal services." The proposed development complies with this objective and will fit into the surrounding area creating a mixed use, walkable, sustainable area.

The applicant concludes that the Swartland SDF supports the Western Cape Spatial Development Framework's principle of densification within existing urban areas.

Providing additional business uses within an established built environment of Darling could be regarded as effective spatial planning.

The Covid-19 pandemic has had a severe impact on everyone's lives (especially economically). The proposal

With the identified activity street merely touching the corner spay of the subject property, the proposed development not taking its access from the activity street, as well as the fact that there are no other commercial development of this nature in the vicinity, does not result in consistency with the objectives of the MSDF.

It could further be argued that the position of the above mentioned activity street was done in error as the street, although indicated on a general plan, has never been built. Activity streets are normally not planned for, they evolve due to the location / connection the road provides between two or more commercial / mixed use nodes. Activity streets, as defined in the Guidelines for Human Settlement Planning and Design, are streets which are experiencing mixed traffic and intense fronting land use activity. Many activity streets start as high-mobility arterials but, because of their high accessibility, become congested and attract commercial land use. This is one of the key issues currently being investigated with the revision of the MSDF, 2019.

Other objectives of the MSDF include the strengthening of the primary commercial node along Main Street and secondary nodes in neighbourhoods with specific reference to the secondary commercial nodes in higher density poorer neighbourhoods.

		creates job opportunities which in turn will alleviate economic stress and improve socio economic circumstance. The proposal, in the applicant's opinion therefore redresses the spatial imbalances and realizes the principle of spatial justice. Access for all (including low income communities) to business opportunities are promoted.	
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PART J: MUNICIPAL PLANNING EVALUATION

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

The application in terms of the By-law was submitted on 13th of October 2022. The public participation process commenced on the 28th of October 2022 and ended on the 28th of November 2022. An objection was received and referred to the applicant for comment on 30th of November 2022 and the municipality received the comments on the objection on the 19th of December 2022.

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

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

The application is evaluated according to the principles of spatial planning, as contained in the abovementioned legislation.

Spatial Justice: The proposed development could redress past spatial development imbalances if successful / feasible. The property is fairly large and the proposed development will certainly result in the improvement of access to economic opportunities to the people of the low income area of Darling North.

All the relevant facts and considerations surrounding the application is taken into account during the decision-making process. The proposal does not cause any inequality nor exclusion of any groups. Therefore, the application is deemed consistent with the principle of spatial justice.

Spatial Sustainability: The proposed application is deemed undesirable as it is in conflict with the general nature "sense of place" within the general industrial area and will therefore detract from the character of the area. Although the proposal does include the use of under-utilised property is not spatially sustainable as the proposal will not result in the promotion of an appropriate land use mix as the scale and intensity proposed as well as the potential cumulative impact, should the application be approved will fragment the industrial area of Darling.

Efficiency: The development proposal will promote the optimal utilisation of services on the property and enhance the tax base of the Municipality. However, given the uncertainty regarding the impact on the Municipal services and especially the road network the contribution of the proposal to the principle of efficiency is questioned. The proposal will result in a diverse combination of land uses however due to its scale and intensity development of this nature is more suited within the primary business node or along main activity corridors / streets. Therefore the application does not contribute to the principle of efficiency.

Spatial Resilience: Spatial resilience relates to flexibility in spatial plans, policies and land use management to ensure sustainable livelihoods most likely to suffer impacts of economic & environmental shocks. This is considered irrelevant to the proposal.

Good Administration: The application was communicated to the affected landowners through registered mail and advertisement in local newspapers and the Gazette. The application was also circulated to the relevant municipal departments for comment. Consideration is given to all correspondence received and the application is dealt with in a timeous manner. It is therefore argued that the principles of good administration were complied with by the Municipality. The decision making is guided by a number of considerations as required by the relevant By-law and MSDF;

The development proposal clearly does not adhere to the spatial planning principles and can therefore be considered inconsistent with the abovementioned legislative measures.

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, in spite of policies to support mixed-use and integration. There is clear 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, 2014 refers to the lack of integration, compaction and densification in urban areas in the Western Cape which 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, 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 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:

1. **Protect and enhance the sense of place and settlement patterns**
2. **Improve accessibility at all scales**
3. **Promote an appropriate land use mix and density in settlements**
4. Ensure effective and equitable social services and facilities
5. Support inclusive and sustainable housing

In order to secure a more sustainable future for the Province the PSDF also propose that settlement planning and infrastructure investment achieves:

1. Higher densities
2. A shift from a suburban to an urban development model
3. More compact settlement footprints to minimise environmental impacts, reduce the costs and time impacts of travel and enhance provincial and municipal financial sustainability in relation to the provision and maintenance of infrastructure, facilities and services.
4. Address apartheid spatial legacies by targeting investment in areas of high population concentration and socio-economic exclusion.

The development proposal is therefore deemed inconsistent with the PSDF as the proposal is not within an existing economic node, CBD or the township centre. It can also be argued that given the scale of the development, it will not result in functional integration as it is not situated next to a main road / main activity corridor. The proposal will most certainly have a negative impact on the sense of place as the proposed high intensity commercial is deemed contradictory to the current industrial nature of the area. The proposal will not result in the promotion of an appropriate land use mix as the scale and intensity proposed as well as the potential cumulative impact, should the application be approved will fragment the industrial area of Darling.

West Coast District SDF (WCDSDF, 2020)

In the WCDSDF, 2020 it is stated that the functional classification for Darling is an Agricultural service centre. Agriculture plays such an important part that Darling is also identified as an Agri-tourism destination.

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, (as required in terms of SPLUMA and recommended in the PSDF,

2014), to inform planning decisions. Improving the quality of life as well as access to amenities and opportunities to all residents in the WCDM is some of the main development goals identified by the said document.

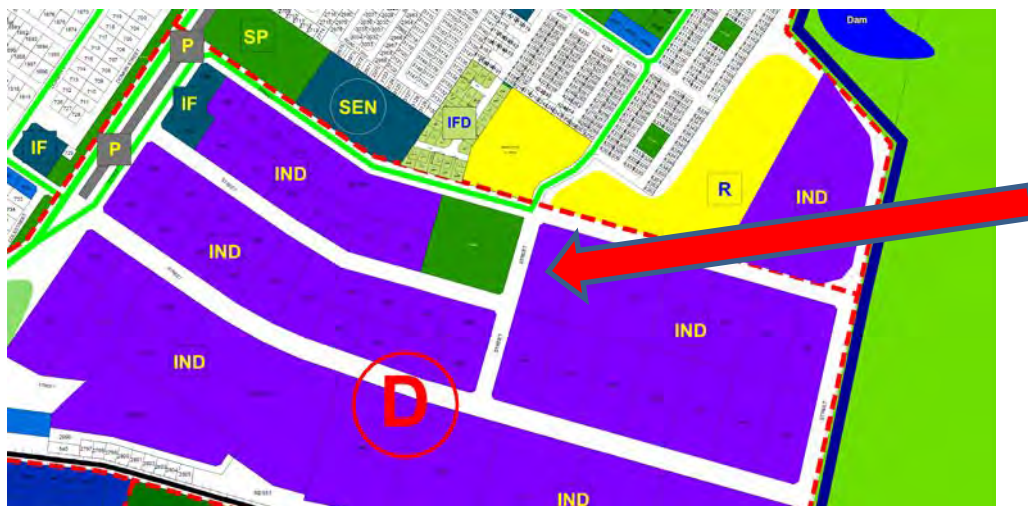
In terms of the built environment policy of the WCDSDF, local municipalities should plan sustainable human settlements that comply with the objectives of integration, spatial restructuring, residential densification and basic service provision. Priority should also be given to settlement development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

With reference to the evaluation of the planning principles mentioned above as well as the reference to it within the WCDSDF, 2020 as well as the principles of effective and sustainable development, locating high intensity development on higher order activity corridors / streets where it is deemed appropriate, it could be argued that the proposal is not consistent with the spatial planning policies of the WCDSDF, 2020.

Municipal Spatial Development Framework (SDF), 2019

According to the MSDF, 2019 Darling was and is primarily established as a service centre for the surrounding rural community. It is stated that the CBD area is accessible for all residents of Darling, except for those in the north. Hence house shops frequent the northern precinct. Mixed uses, social and industrial, are located in close proximity to northern precinct.

Erf 975, Darling is located in land use proposal zone D as indicated in the land use proposal map for Darling. Please refer to the extract below:



Zone D is the industrial area of Darling with supportive social infrastructure. The table below indicate the land use proposals for the different land use zoned identified for Darling.

LAND USE ZONE PROPOSALS FOR DARLING

Refer to the land use zone map for Darling: The urban area of Darling is divided into eight (8) zones (areas with common features) and the recommended land uses for the different zones are listed in the table below:

DARLING LAND USE ZONES		Low Density Residential Uses	Medium Density Residential	High Density Residential Uses	Secondary Educational Uses	Institutional Uses	Professional Services	Business Uses	Secondary Business Uses	Churches	Institution	Guest houses	Authority	Sport/Recreational Facilities	Industries & Service Trade
A	Zone A is the commercial core of the town with supportive social and residential uses.	X	X	X	X	X	X	X	X	X	X	X	X	X	X 7
B	Zone B consists mainly of low and medium density residential uses with supportive community and institutional facilities and a tourism node. Limited expansion opportunities.	X	X	X 3	X	X	X 2	X 2	X	X	X	X	X	X 6	
C	Zone C expansion area for low and medium density residential development including institutional functions and recreational facilities	X	X	X 3	X	X	X	X 2	X	X	X	X	X	X	
D	Zone D is the industrial area of Darling with supportive social infrastructure. Support development of a public recreational node north of the station							X	X				X	X 4	X
E	Zone E is a high density residential area with														

Business use is clearly supported within the area, however, it could be argued that it is not for the proposed scale or intensity. Given the character of the area, being predominantly industrial in nature, business use in the area should not detract from the nature or sense of place of the area.

It is noted that under the Industrial zone 2 zoning, being the predominant zoning for the general industrial area, commercial uses accommodated as primary rights are service trade, car wash, public parking, service station, public garage. The following consent uses (with special permission), which are commercial in nature are also accommodated under the Industrial zone 2 zoning, including a shop, bottle store, place of entertainment, adult entertainment enterprise, restaurant and funeral parlour. With all these commercial uses accommodated under the Industrial zone 2 zoning the support for business use in this land use proposal zone is deemed consistent with the applicable By-Law, however the business use should not be in conflict with the objective of the Industrial zone 2 zoning and therefore it should not compromise the general use of the area zoned for industry.

Given the intensity of the proposed commercial development being $\pm 2566\text{m}^2$ GLA in extent, it is deemed in contradiction with the MSDF, 2019.

The MSDF does support the concentration of mixed use development along identified main activity corridors and streets to support integration. However, with the identified activity street merely touching the corner spay of the subject property, the proposed development not taking its access from the activity street, as well as the fact that there are no other commercial development in the vicinity, does not result in consistency with the objectives of the MSDF.

It could further be argued that the position of the above mentioned activity street was done in error as the street, although indicated on a general plan, has never been built. Activity streets are normally not planned for, they evolve due to the location / connection the road provides between two or more commercial / mixed use nodes. Activity streets, as defined in the Guidelines for Human Settlement Planning and Design, are streets which are experiencing mixed traffic and intense fronting land use activity. Many activity streets start as high-mobility arterials but, because of their high accessibility, become congested and attract commercial land use. This is one of the key issues currently being investigated with the revision of the MSDF, 2019.

Other objectives of the MSDF include the strengthening of the primary commercial node along Main Street and secondary nodes in neighbourhoods with specific reference to the secondary commercial nodes in higher density poorer neighbourhoods.

For the above reasons the proposal is deemed to be in contradiction with the objectives of the MSDF, 2019

2.4 Zoning Scheme Provisions

It is however noted that the applicant applies for shops and offices and indicates a total of 37 commercial units on the site development plan. In the Development Management Scheme a shopping centre is defined as, "...a group of three or more retail stores or service establishments usually with ample parking facilities and designed to serve a community or neighbourhood". It is believed that the proposal is more accurately described as a shopping centre rather than just shops and offices.

It is noted that shopping centre is a primary right under the Business zone 2 zoning being applied for however, the objective of Business zone 2 is to provide for low intensity commercial and mixed-use development which satisfies the needs of the local precinct for commodities and personal services. Such development should be limited in extent and must be able to integrate with the adjacent precinct without adversely affecting the amenities of the residential precinct.

Therefore in the context of Darling the proposed shopping centre with a GLA of $\pm 2566\text{m}^2$ is deemed to be in contradiction with the objective of the Business zone 2 zoning.

3. Desirability of the proposed utilisation

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

The proposed application is deemed to be in contradiction to the Spatial Development Frameworks adopted on Provincial, District and Municipal levels as discussed above.

The proposed development however 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.

The proposal will have a negative impact on the character of the area due to the nature and intensity of the proposed commercial development within a predominant industrial area.

A development of this scale and intensity is deemed appropriate at primary business nodes, existing secondary business nodes within neighbourhoods as well as along main activity corridors or streets. As discussed above the identified activity street within the industrial area of Darling is questioned as well as given the fact that the proposed development does not take its access from the activity street, the proposal will not result in appropriate land use mix.



In the context of Darling the proposed shopping centre with a GLA of $\pm 2566\text{m}^2$ is deemed to be in contradiction with the objective of the Business zone 2 zoning.

4. **Impact on municipal engineering services**

The impact on municipal engineering services could not effectively be evaluated as the applicant did not provide any information in this regard. The statement made by the applicant that sufficient capacity of services is available to accommodate the proposed development is not supported by any specialist report e.g. Services report or Traffic Impact Assessment. It is noted that this extension of Caledon / Madeliefie Street is an un-surfaced road. With the proposed development not being situated next to a main activity corridor as well as that the developer makes no proposal to mitigate any potential impact on the municipal road network, it could be argued that in the long run the cost of potential upgrades to the Evita Bezuidenhoudt Boulevard / Caledon Street intersection as well as the formalisation of the Caledon – Madeliefie Street extension will put additional financial burden on the municipality.

5. **Response by applicant**

See Part F in terms of the motivation as well as part I in terms of the comments on the objections received.

6. **Comments from other organs of state/departments**

Please refer to the comments received by the internal departments as contained in Part H of this report. No comments were requested from external departments.

Should the application be approved it does not exonerate the department to comply with any other legislation.

7. **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 application is not promoted in terms of the development principles and norms and standards of the planning legislation and policy. The proposal is inconsistent with the spatial planning proposals, is situated in an industrial area and the scale and intensity of the proposed commercial use within an industrial area is deemed undesirable as it is in conflict with the general nature "sense of place" of the area.

The degree of risk or potential risk

Development of this scale and intensity is deemed appropriate at existing primary or secondary business nodes as well as along main activity corridors / streets. Not only does it bring forth functional integration due to the supporting movement networks it also optimises the use of existing infrastructure. There is a degree of risk that, should the application be approved, the proposal will place a negative financial burden on the Municipality.

Impact on existing and surrounding land uses

The proposal is seen as detrimental to the character of the area being predominantly industrial in nature. It is agreed that business use is supported, however the business use should not be in conflict with the objective of the Industrial zone 2 zoning and therefore it should not compromise the general use of the area zoned for industry.

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

It is agreed that the position will result in bringing commercial opportunities closer to the low cost housing / highly populated area of Darling. The impact on the said community is difficult to evaluate with the lack of information provided. It is recommended that the developer seek an alternative location for the proposed shopping centre, in a location that could be considered favourable. It is advised that the developer and the Municipality work together in identifying property that is ideally located, that is suitably zoned / consistent with the MSDF, will not have a negative impact on the character of the area, as well as would be in the interest of the community it serves.

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

As explained above, development of this scale and nature is warranted at existing business nodes or next to main activity corridors / streets. This is mainly due to accessibility, impact on engineering services as well as public transport. The proposal may result in an increase in property value as well as a large amount of scrutiny fees for the municipality but will put a burden on the Municipality for the upgrading and formalisation of certain roads and infrastructure which does not form part of the proposal made by the applicant.

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 the rezoning of Erf 975, Darling, be refused in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020).

General

1. 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 development proposal does not adhere to the spatial planning principles and can therefore be considered inconsistent with the spatial planning principles as contained in SPLUMA and LUPA.
2. The development proposal is deemed inconsistent with the PSDF as it will detract from the character of the area as well as negatively impact the sense of place. Decision making should target existing economic nodes (CBDs or township centres) to accommodate development of this scale and nature.
3. The proposal is deemed to be in contradiction with the MSDF, 2019 which supports concentration of mixed use development along identified main activity corridors and streets to support integration. It also rather support the strengthening of the primary commercial node along Main Street and secondary nodes in neighbourhoods with specific reference to the secondary commercial nodes in higher density poorer neighbourhoods.
4. It is acknowledged that business uses are supported within the industrial area as the By-Law makes provision for numerous commercial uses as primary as well as consent uses. The proposed development is deemed to be in conflict with the objective of the Industrial zone 2 zoning as it will compromise the general use of the area zoned for industry.
5. The statement that sufficient services exist to accommodate the proposed development is not supported by any specialist studies. The real impact and possible contributions could not effectively be evaluated due to the lack of information.
6. The proposal, given its location, is deemed not to be in the interest of the community of Darling.



PART N: ANNEXURES

Annexure A	Location plan
Annexure B	Site development plan
Annexure C	Public Participation Plan
Annexure D	Objection Mr P Loubser
Annexure E	Applicants comments on the objection

PART O: APPLICANT DETAILS

Name	CK Rumboll and Partners			
Registered owner(s)	MMRN Familie Trust	Is the applicant authorised to submit this application?	Y	N

PART P: SIGNATURES

Author details: Herman Olivier Town Planner SACPLAN: A/204/2010			Date: 31 th January 2023	
Recommendation: Alwyn Zaayman Senior Manager Development management SACPLAN : B/8001/2001	Recommended		Not recommended	<input checked="" type="checkbox"/>
			Date: 1 st February 2023	

[illegible]

Erf

Map Center: Lon: 18°23'2.3"E

Lat: 33°22'15.8"S

Scale: 1:18 056

Date created: September 16, 2022



Western Cape
Government

FOR YOU

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 Mapbox, Department of Rural Development and Land Affairs
 Department of Rural Development and Land Affairs

SITE DEVELOPMENT PLAN: ERF 975, DARLING

KEY:

- Subject property
- Existing cadastral boundaries
- Building lines
- Proposed Access Point

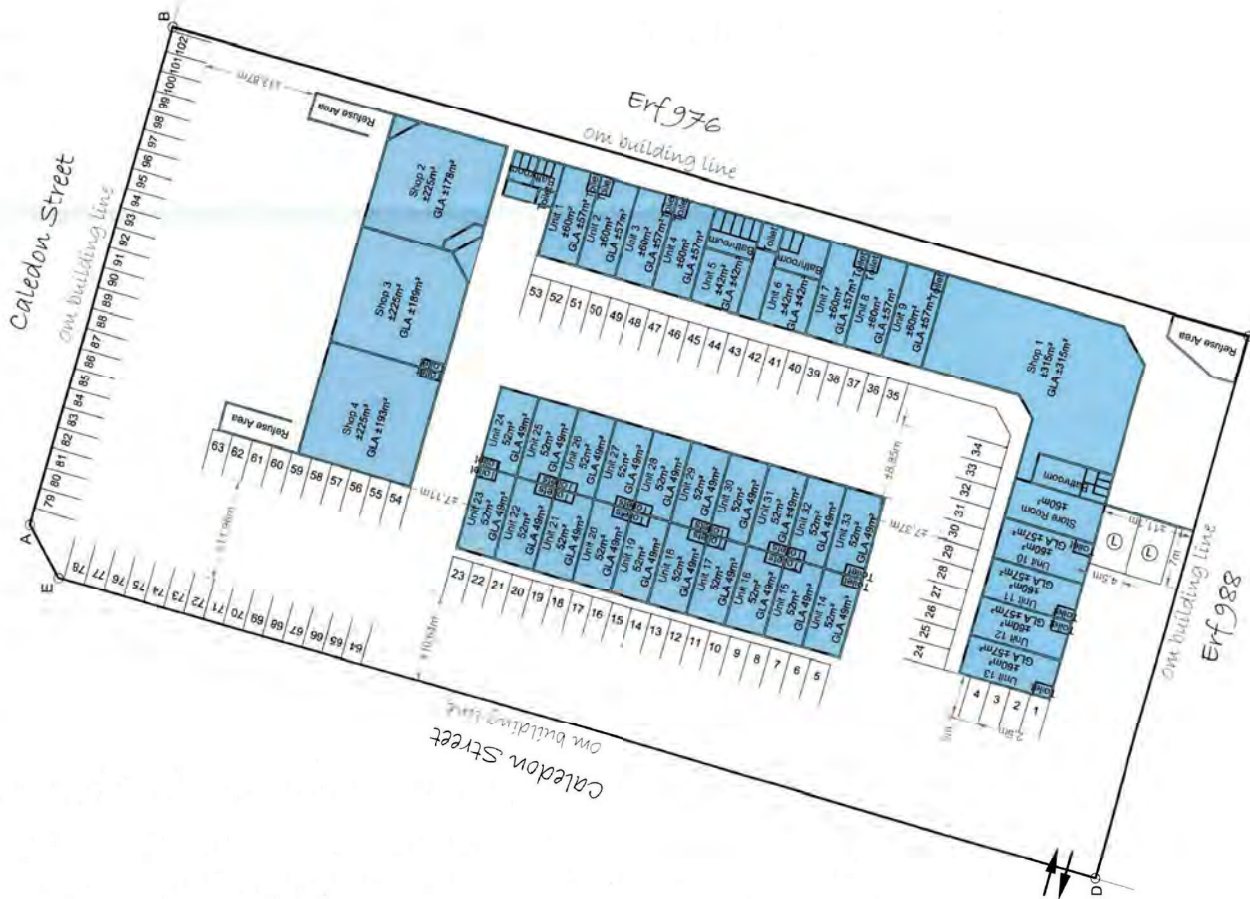
ZONING I.T.O. THE ZONING SCHEME:

Current: Industrial Zone 2
Proposed: Business Zone 2

NOTES:

Figure ABCDE represents Erf 975, Darling, with an extent of 9134m².

Business premises (Offices and shops) are proposed to be accommodated on Erf 975, Darling.



ANNEXURE B

Drawing by:

Miranda Viljoen

ALL AREAS AND DISTANCES ARE SUBJECT TO SURVEYING

C.K. RUMBOLD & VENNOTE

TOWN PLANNERS

PROFESSIONAL SURVEYORS

Tel: 022-4821845

Fax: 022-4821661

Email: planning1@rumbold.co.za



DATE:

SEPTEMBER 2022

AUTHORITY:

SWARTLAND MUNICIPALITY

REF:

DAR/12/492NMV

ANNEXURE C

Legend

☐ Farm Portions

☐ Erf

Map Center: Lon: 18°23'31.8"E
Lat: 33°22'22.4"S

Scale: 1:9 028

Date created: September 22, 2022



Western Cape
Government
FOR YOU



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General WC Department of Rural Development and Land Affairs
Chief Surveyor-General (DROUR)
Department of Rural Development and Land Reform

PAUL LOUBSER TRUST

Posbus 116
DARLING
7345

Tel: 022-4512824
Faks: 022-4512414
E-pos: mml@xsinet.co.za

REG NO: T1277/93

28 October 2022

The Municipal Manager

Email: swartlandmun@swartland.org.za

Sir/Madam

PROPOSED REZONING OF ERF 975, DARLING (NOTICE 35/2022/2023)

We have received the above notice of rezoning and which to place our objection to this proposed rezoning on record.

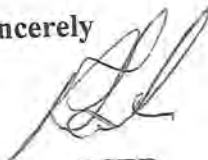
This area "D" supports development of industries within existing industrial area which is compatible within such area. The proposed commercial/retail development will be in conflict with the existing industrial area and not be supportive as such. Businesses relating to industrial and agricultural industry to be supportive to the area and not commercial retail, which locality factors are within the CBD's of towns.

Erf 975 is situated in the industrial area of Darling and falls within zone "D" as per SDF (Special Development Framework) of Darling, which is primarily the industrial area of Darling, with supportive social infrastructure. Commercial / retail businesses as proposed in the application to be accommodated in the CBD of the town. Zone "D" as per SDF of Darling accommodated various industrial uses, as well as agricultural industries provided local community with job opportunities.

Therefore, Swartland Municipality is requested not to approve the application due to the factors mentioned above.

Please keep our zone "D" as industrial as per your SDF principals for the town of Darling.

Yours sincerely



PAUL F LOUBSER

CK RUMBOLL & VENNOTE / PARTNERS



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

DATE: 14 December 2022

OUR REF: DAR/12749/ZN/MV

YOUR REF: 15/3/3-3/Erf_975

BY HAND

Attention: Mr A. Zaayman
The Municipal Manager
Swartland Municipality
Private Bag X52
MALMESBURY
7300

Mr,

Comments on Objections

PROPOSED REZONING OF ERF 975, DARLING

1. Introduction

Your letter dated 30 November 2022 refers.

CK Rumboll and Partners have been appointed by Cassim Mota, representative of the M M R N Family Trust, owners of Erf 975, Darling, to attend to all town planning actions regarding the rezoning of Erf 975, Darling. The application is made to accommodate business premises (offices and shops) on the mentioned property. During the public participation period, objections were received from the following surrounding neighbour:

- A. Paul F. Loubser on behalf of the Paul Loubser Trust

2. Comments on objections

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




MUNISIPALITEIT SWARTLAND				
LEER NO: 15/3/3-3/Erf_975				
Verreks No.	Intekening	Verreks	Aangemerkte	Aangemerkte
SSSB (A3)				
cc Del				
Aangemerkte				
SPORDATUM:				

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

Table 1: Comments on Objections

Objectors	Objections	Comments from CK Rumboll & Partners
A	<p>1. Erf 975 is situated in Zone D of Darling as per the SDF proposals, which is primarily the industrial area of the town that includes supportive social infrastructure. This zone also includes agricultural industries that provide the local community with job opportunities.</p> <p>Zone D supports development of industries within existing industrial area which is compatible within such area. The proposed commercial/retail development will be in conflict with the area. Commercial/retail businesses, as proposed in the application, should be accommodated in the CBD of the town.</p>	<p>1. The <i>Swartland Spatial Development Framework (SDF) (2019)</i> determines the strategic policy guidelines for future development in the Swartland region and in this case, in Darling. The land use proposals for Darling identify Erf 975 to be located in Zone D, which is the industrial area of Darling with supportive social infrastructure. Development of a public recreational node north of the station is supported within this zone. The zone also allows Business Uses as illustrated on the Land Use Proposals for Darling attached as Annexure A.</p> <p>As illustrated in Figure 1, Erf 975 borders Industrial Zone 2 properties, utilised for general industrial purposes, towards its eastern and southern boundaries. A vacant Community Zone 1 property (Erf 4192) is located between a higher-density residential area of Darling and Erf 975. According to the <i>Swartland SDF (2019)</i>, Erf 4192 and a portion of Erf 551/RE, which is located to Erf 975's northern boundary, are proposed for residential development (refer to Figure 1 below).</p>  <p>Figure 1: Extract from the Swartland SDF (2019)</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

		<p>Erf 975 will gain access from an identified Activity Street, which makes the property highly accessible and provides great opportunity for commercial land uses to be established.</p> <p>Directly opposite to Erf 975 in a western direction, Darling Brewery is located on Erf 4404. Erf 4404 is zoned Industrial Zone 2 and is used for the purpose of a brewery, restaurant and a tasting facility. From time-to-time, events, such as, but not limited to, mountain bike racing, trial runs, craft markets, music and art festivals are held on this premises, which attract many tourists.</p> <p>The establishment of a Business Zone 2 property comprising of offices and shops, will contribute to creating a mixed-use development area serving as a transitional zone between the industrial area and the residential neighbourhood. The principle of creating a mixed-use development along identified activity streets in Darling to support integration is promoted by the <i>SDF (2019)</i>.</p> <p>Erf 975 is well-located in Darling to accommodate business uses due to its proximity to a higher-density residential area of Darling, being within walking distance ($\pm 135\text{m}$) from Erf 975. Erf 975 is located at one of the entrances to the residential neighbourhood (refer to Figure 2). The proposed development is deemed to have minimal negative impact on the surrounding environment and rather have a positive impact by creating a transitional zone between the existing industrial and residential areas.</p>
--	--	--



Figure 2: Surrounding land uses

The proposed development to utilise Erf 975 for the establishment of business premises (offices and shops) is consistent with the proposals of the *Swartland SDF (2019)*. The proposed development will support commercial development adjacent to an Activity Street and within walking distance from a higher-density residential neighbourhood of Darling. Job opportunities will be created, which will ultimately contribute to economic growth of Darling.

		<p>The proposed development also fully complies with the development parameters of Business Zone 2 properties, as stipulated in the <i>Swartland Municipal By-law on Land Use Planning (PG 8226)</i>. According to the mentioned By-law the purpose of Business Zone 2 is as follows: <i>“the objective of this zone is to provide for low intensity commercial and mixed-use development which satisfies the needs of the local precinct for commodities and personal services.”</i> The proposed development complies with this objective and will fit into the surrounding area creating a mixed-use, walkable, sustainable area.</p>
--	--	--

3. Conclusion

The *Swartland SDF* supports the *Western Cape Spatial Development Framework's* principle of densification within existing urban areas. Providing additional business uses within an established built environment of Darling could be regarded as effective spatial planning. The area in which Erf 975, Darling, is situated supports the provision of business uses. Infill-development on underutilised or vacant land throughout the built area of the town is one of the suggested ways in which densification in urban areas can occur.

The Covid-19 pandemic has had a severe impact on everyone's lives (especially economically). The proposal creates job opportunities which in turn will alleviate economic stress and improve socio-economic circumstance. The proposal thus redresses the spatial imbalances and realizes the principle of spatial justice. Access for all (including low income communities) to business opportunities are promoted.

Considering the above, it is evident that the proposed development will not have a significant impact on the surrounding properties, or built environment, seeing that the *Swartland Municipal Land Use Planning By-law (PG 8226)* and *Swartland Spatial Development Framework (2019)* are sufficient to coordinate development within the Swartland Municipal area. This office is of opinion that the proposed development on Erf 975, Darling, will maximize the development potential on the mentioned property and contribute to economic growth in Darling by providing new job opportunities. The owners of Erf 975, Darling, is also granted an income opportunity.

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

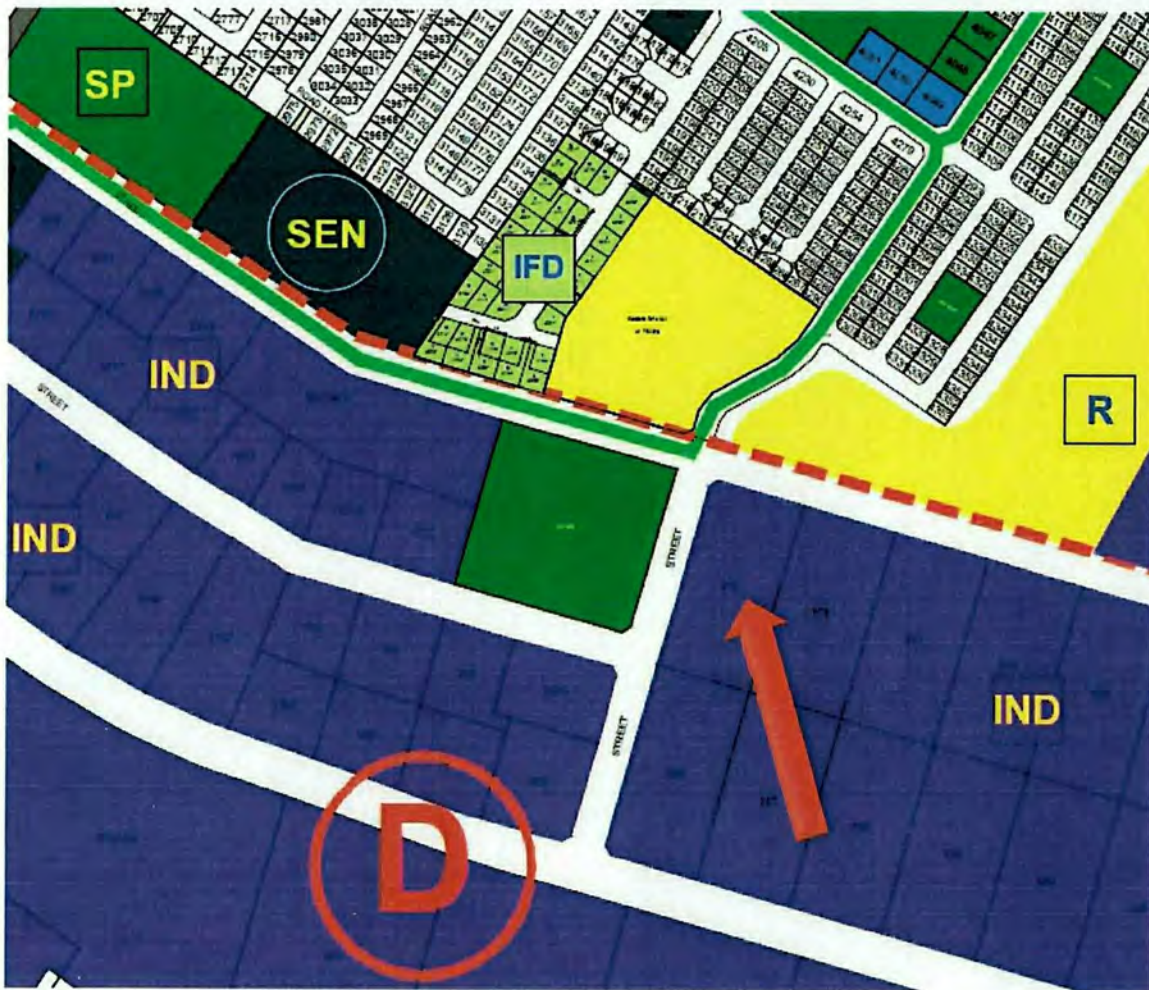
Kind regards,



Zanelle Nortje / Mandri Crafford
For CK RUMBOLL & PARTNERS

Annexure A
Land Use Proposals

Darling Land Use Proposals



DARLING LAND USE ZONES		Low Density Residential Uses	Medium Density Residential	High Density Residential Uses	Secondary Educational Uses	Institutional Uses	Professional Services	Business Uses	Secondary Business Uses	Churches	Institution	Guest houses	Authority	Sport/Recreational Facilities	Industries & Service Trade
D	Zone D is the industrial area of Darling with supportive social infrastructure. Support development of a public recreational node north of the station.							X	X				X	X 4	X

ITEM 6.4 OF THE AGENDA FOR THE MUNICIPAL PLANNING TRIBUNAL THAT WILL TAKE PLACE ON WEDNESDAY, 8 FEBRUARY 2023

LAND USE PLANNING REPORT PROPOSED CONSENT USE ON ERF 9291, MALMESBURY									
Reference number	15/3/10-8/Erf 9291		Submission date	20 Sept 2022		Date finalised	20 January 2023		
PART A: APPLICATION DESCRIPTION									
Application for a consent use on Erf 9291, 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), in order to establish a double dwelling on the property.									
The applicant is C.K. Rumboll and Partners and the property owner is the Jurie Hanekom Familietrust.									
PART B: PROPERTY DETAILS									
Property description (in accordance with Title Deed)	ERF 9291 MALMESBURY, IN THE SWARTLAND MUNICIPALITY, DIVISION MALMESBURY, PROVINCE OF WESTERN CAPE								
Physical address	76 Simmentaler Street (locality plan attached as Annexure A).				Town	Malmesbury			
Current zoning	Residential Zone 1		Extent (m ² /ha)	834m 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	Vacant property					Title Deed no. & date	T36740/2022		
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				
PART D: BACKGROUND									

Erf 9291 is located in Simmentaler Street, in the north-western portion of the neighbourhood known as Tafelzicht. The neighbourhood itself is situated towards the northern portion of Malmesbury, bordered by Voortrekker Road that connects with the N7. The area is characterised by single residential properties of predominantly similar sizes, interspersed by higher density group housing developments, open spaces and amenities, such as places of worship and places of education. The application property is one of the last remaining vacant erven, as the area has in recent years experienced rapid development. The Swartland Municipal Spatial Development Framework (SDF, 2020) identifies the area as area A, with low to medium density residential development and ancillary uses.

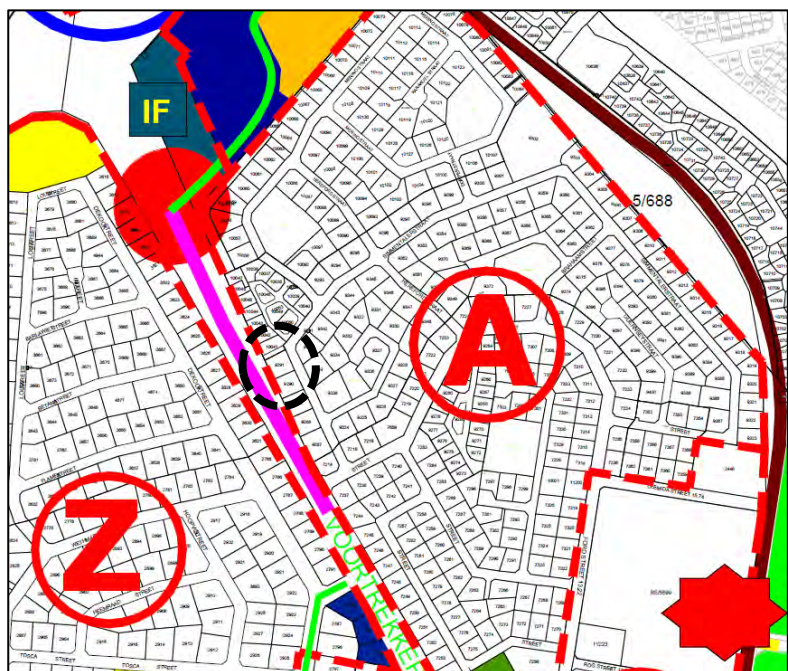


Figure 1: Area A (SDF; 2020)

Erf 9291 is zoned Residential Zone 1 and is currently vacant. The property slopes slightly downward from north to south and is accessed directly from Simmentaler Street on the eastern boundary.



Figure 2: Erf 9291 seen from Simmentaler Street

A broad, undeveloped road reserve separates the erf from Voortrekker Street along the south-western boundary.

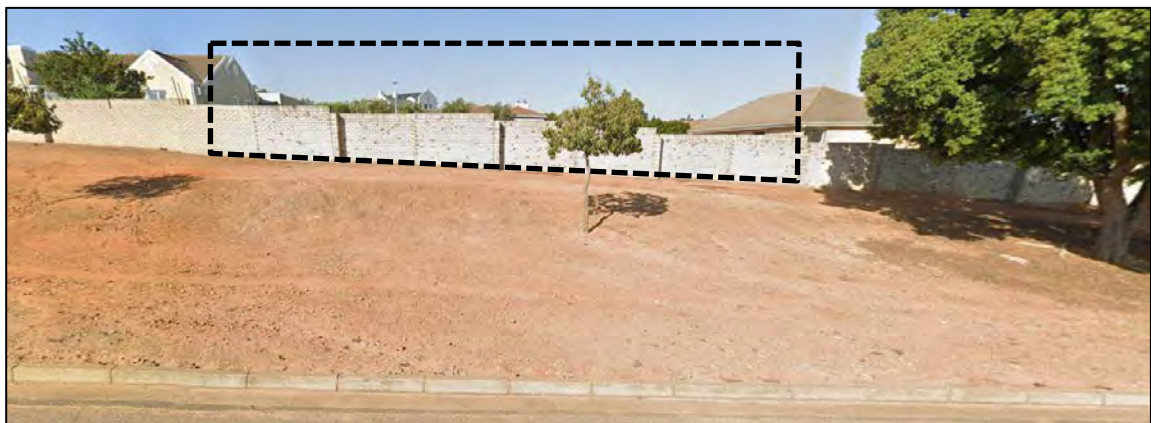


Figure 3: View to Erf 9291 from Voortrekker Road

The owners intend to develop the property with a single storey double dwelling, the building plans of which have not been approved yet, but which are proposed to resemble the plans illustrated in Figure 4.

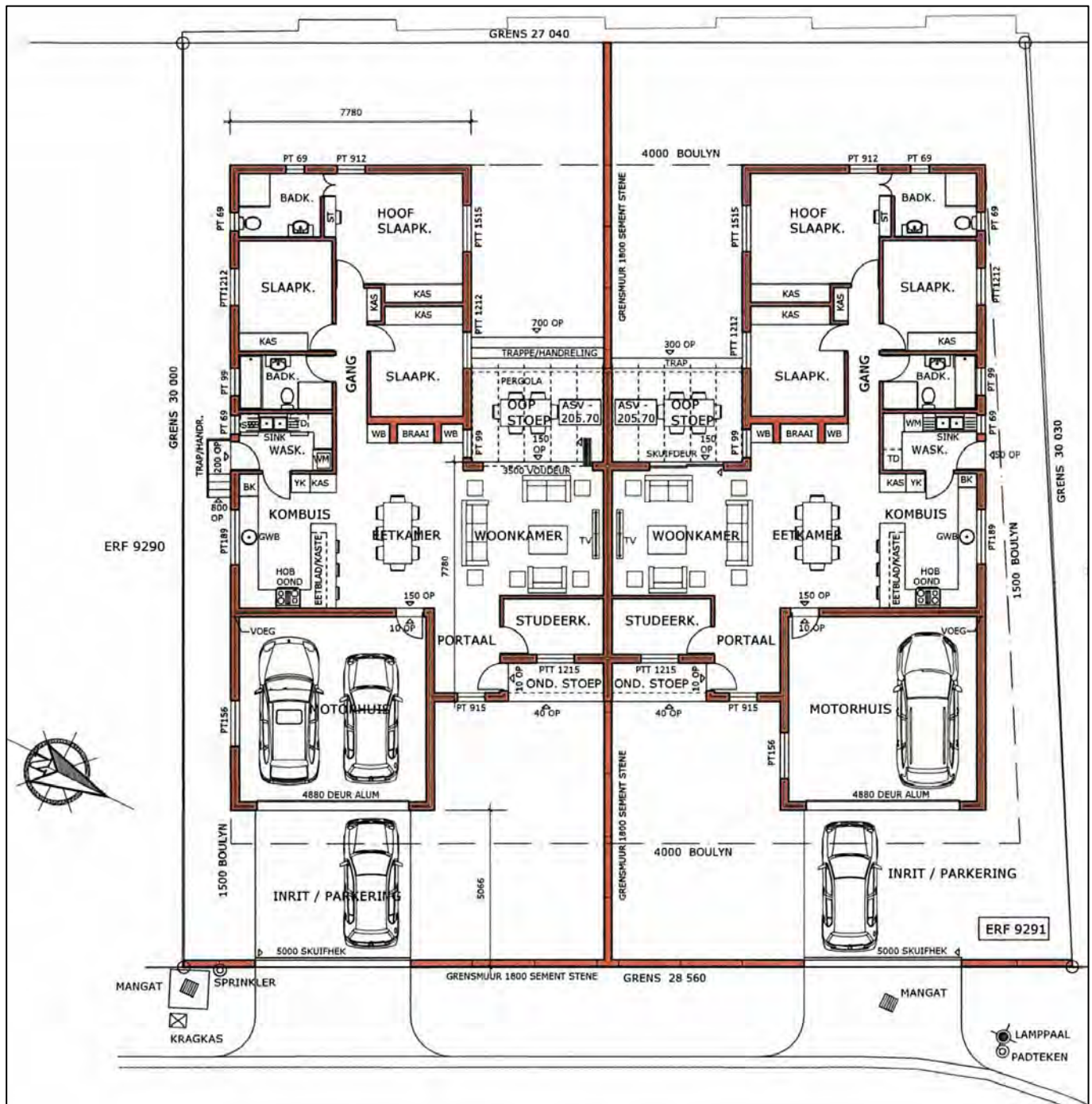


Figure 4a: Proposed floor- / site plan

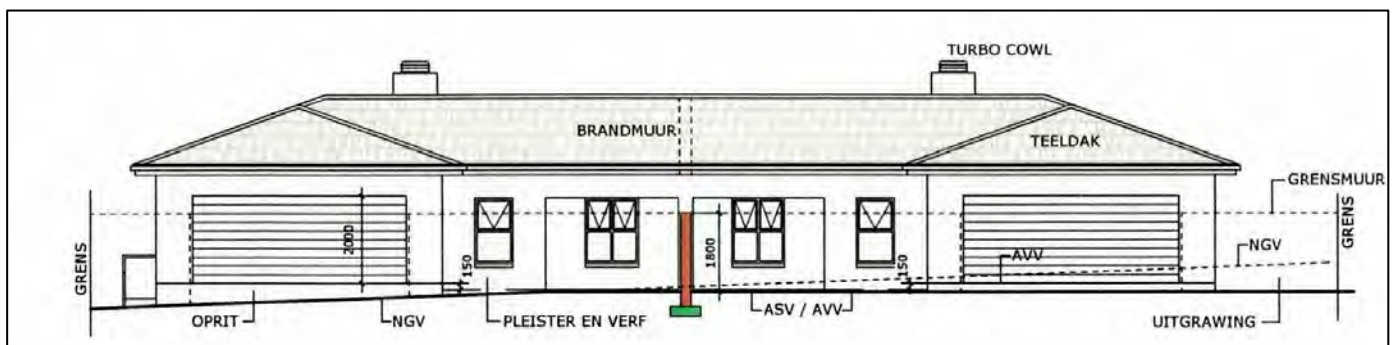


Figure 4b: Eastern elevation from Simmentaler Street

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				
1. The applicant states the following as motivation for the development proposal:				
a) Additional housing opportunities are provided through the proposed development; b) The proposed development combats urban sprawl; c) The proposed development supports the notion of infill development; d) The proposed development is aligned with the proposals of the MSDF; e) The proposed development supports the principles of LUPA and SPLUMA; f) The existing services will be used to its full potential;				
2. <u>Legislation and policy frameworks</u>				
2.1 <u>Matters referred to in Section 42 of SPLUMA and Principles referred to in Chapter VI of LUPA</u>				
a) <u>Spatial Justice</u> : The proposed development complies with spatial development proposal and guidelines, justifying the right of the owner to develop the land for the proposed residential use. The property concerned will be used to its full potential and will make a positive contribution to housing provision in Malmesbury. b) <u>Spatial Sustainability</u> : The proposal promotes spatial compactness and resource frugal development, whilst protecting the environment. It proposes the sustainable use of resources and limits urban sprawl. The double dwelling will not affect any sensitive vegetation, conservation areas or heritage resources. c) <u>Efficiency</u> : The consent use will promote residential and economic opportunities. Creating additional dwelling units promotes a combination of residential densities within the existing area. It further supports the development of more compact towns. d) <u>Spatial Resilience</u> : The development will be resilient in terms of the multiple uses that may be allowed on the property with the relevant authorisation. The proposed development does not limit any future benefits of the properties or the surrounding area. The proposed development will have no negative impact on previously disadvantaged communities. e) <u>Good administration</u> : Swartland Municipality will manage the administrative and public participation processes consistent with the requirements of the By-Law.				
2.2 <u>Swartland Municipal Spatial Development Framework (SDF, 2019)</u>				
The application property is located in Area A of the SDF that identifies the area for low, medium and high-density residential opportunities. The proposed land use is thus consistent with the proposals of the SDF.				
2.3 <u>Schedule 2 of the By-Law (Zoning Scheme Provisions)</u>				
A double dwelling is a consent use that may be considered within the zoning category of Residential Zone 1. The proposal is thus consistent with the development parameters of the By-Law.				
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 six registered notices were issued to affected parties and the same notices were also sent via e-mail, where possible. Please refer to Annexure C for public participation map.				
Total valid comments	2		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 Van Essen, 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	27 Sep 2022	<p>1. <u>Water</u></p> <p>a) Die erf voorsien word van 'n enkele wateraansluiting en dat geen bykomende aansluitings voorsien sal word nie;</p> <p>b) Ontwikkelingsbydrae ten bedrae van R7 340.83 t.o.v. die grootmaat verspreiding van water en R 6 534.30 (R10 890.5 x 0.6) t.o.v. die grootmaat voorsiening van water gemaak word.</p> <p>2. <u>Riolering</u></p> <p>a) Die erf voorsien word van 'n enkele rioolaansluiting en dat geen addisionele aansluitings voorsien sal word nie;</p> <p>b) Ontwikkelingsbydrae ten bedrae van R3 631.57 t.o.v. riolering gemaak word;</p> <p>3. <u>Strate en stormwater</u></p> <p>a) Ontwikkelingsbydrae ten bedrae van R5 410.05 ten opsigte van strate en stormwater gemaak word;</p>		
PART I: COMMENTS RECEIVED DURING PUBLIC PARTICIPATION		SUMMARY OF APPLICANT'S REPLY TO COMMENTS	MUNICIPAL ASSESSMENT OF COMMENTS	
Stralendorf Family Trust Erf 9290 Annexure E	1. When we purchased our property we also wanted to build a double dwelling at that time so that our parents could independently live on the same property as us, but was told that these erven were for single residential use only.	1. The property was bought back in 2005 and since then the dynamics and atmosphere of the area has changed. The Swartland Municipal Land Use Planning By-Law now makes provision to accommodate a double dwelling house as a consent use under Residential Zone 1.	1. The applicant is supported. The development of a double dwelling unit on a single residential erf is considered acceptable densification, while maintaining the low density character of the area. Densification and optimal utilisation of resources are concepts supported on national, provincial and local levels and consistent with the spatial planning objectives for Malmesbury. Even after the development, the density of the area will remain very low and the proposal is consistent with current spatial planning.	
		The proposal is also supported by the Swartland Spatial Development Framework for the area in which the property is located. Table 1 below illustrates how the proposal is compliant with the SDF:		
		<table><tr><th>Extract From Swartland SDF</th><th>Comments</th></tr><tr><td>Increase density for next 20 years (which ends in 2028) from the current 10.8 units per hectare to 18 units per hectare in Malmesbury</td><td>The proposed development supports the notion of infill development though adding two additional units to the property. The proposal supports densification while maintaining a "single residential" character and</td></tr></table>		
Extract From Swartland SDF	Comments			
Increase density for next 20 years (which ends in 2028) from the current 10.8 units per hectare to 18 units per hectare in Malmesbury	The proposed development supports the notion of infill development though adding two additional units to the property. The proposal supports densification while maintaining a "single residential" character and			

		<table><tr><td></td><td>without further subdivision of the property.</td></tr><tr><td>Apply minimum erf sizes in Malmesbury and Abbotsdale to protect the character of precincts.</td><td>Since the property will not be subdivided, the minimum erf sizes will be maintained.</td></tr><tr><td>Provide different housing types to allow for integration and spatial justice. Provide land for GAP housing to develop agri-villages, opportunities for private developers and provide different housing typologies.</td><td>The proposal provides a different housing typology as opposed to the normal freestanding single dwelling.</td></tr><tr><td>Provide for housing for retirees</td><td>Additional residential units will be available in Malmesbury for retirees.</td></tr><tr><td>Support medium density developments such as group housing and town houses.</td><td>The proposal will be a medium density development and similar to town housing.</td></tr><tr><td>Provide adequate land for private and public residential development.</td><td>With the proposed development, the vacant residential land will be optimised and used to its full potential.</td></tr><tr><td>Develop areas according to available infrastructure capacity.</td><td>The property already has access to services. Infill development which results in efficient use of land and services.</td></tr><tr><td>Support densification in Malmesbury, Wesbank and Abbotsdale through: Other forms of medium and higher density residential neighbourhood developments</td><td>This approach to densification eliminates the need for developing natural areas in order to achieve higher densities. The proposal will contribute to densification of Malmesbury through the provision of two dwelling units on one land unit.</td></tr></table>		without further subdivision of the property.	Apply minimum erf sizes in Malmesbury and Abbotsdale to protect the character of precincts.	Since the property will not be subdivided, the minimum erf sizes will be maintained.	Provide different housing types to allow for integration and spatial justice. Provide land for GAP housing to develop agri-villages, opportunities for private developers and provide different housing typologies.	The proposal provides a different housing typology as opposed to the normal freestanding single dwelling.	Provide for housing for retirees	Additional residential units will be available in Malmesbury for retirees.	Support medium density developments such as group housing and town houses.	The proposal will be a medium density development and similar to town housing.	Provide adequate land for private and public residential development.	With the proposed development, the vacant residential land will be optimised and used to its full potential.	Develop areas according to available infrastructure capacity.	The property already has access to services. Infill development which results in efficient use of land and services.	Support densification in Malmesbury, Wesbank and Abbotsdale through: Other forms of medium and higher density residential neighbourhood developments	This approach to densification eliminates the need for developing natural areas in order to achieve higher densities. The proposal will contribute to densification of Malmesbury through the provision of two dwelling units on one land unit.	
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2. Allowing a double residential unit to be built in this area has a negative financial effect on the established houses in the area.	<p>2. This statement is subjective and no physical evidence of this is provided.</p> <p>Also, In terms of the Spatial Planning Land Use Management Act (SPLUMA) which prescribes the principles for guiding land use planning, Section 59 (1), which divulges principles of spatial justice,</p>	2. The statement is conjecture. The applicant is supported.																	

		specifies in subsection (f) that: "A competent authority contemplated in this Act or other relevant authority considering an application before it, may not be impeded or restricted in the exercise of its discretion solely on the ground that the value of land or property will be affected by the outcome."	
H. & M.F Lourens Erf 9340 Annexure F	<p>3. We bought in Tafelzicht as it is a low density residential area and should the owners of Erf 9291 erect a double dwelling house on the property, it will have an adverse impact on the way we enter and exit our property. Our property is situated on a corner and the increased traffic will worsen the current situation.</p> <p>4. The two units will be leased to tenants and will cause families to come visit them, the owners also bought two other properties and also applied for double dwelling units. They do not live there and either sells them or lease them.</p>	<p>3. As stated by the objector, Tafelzicht is a low density residential area. This low density residential area will therefore have limited traffic flow. With the erection of a double dwelling house on Erf 9291, it will have limited traffic impact as only two additional properties are proposed.</p> <p>Although Erf 9340 is situated on a corner, the access to their property is located at the furthest point from the corner and access to and from the property will still be maintained even with the erection of the double dwelling house on Erf 9291.</p> <p>4. Noted. The application for a double dwelling house cannot be adversely affected based on the fact that the owners are capitalizing on a business opportunity.</p>	<p>3. It is considered common practice for driveways to be positioned opposite each other in residential neighbourhoods.</p> <p>The entrances to Erf 9291 will not physically obstruct the entrance to Erf 9340 and the objection is considered invalid. Furthermore, the additional traffic generated by and double dwelling unit is considered negligible and will not have a negative impact on the traffic volumes and safety of Tafelzicht.</p> <p>4. The property owners are within their rights to apply for the optimal development of their property – the same right afforded to any of the residential property owners in Area A.</p> <p>Objecting against possible visitors to the future inhabitants of the double dwelling is considered baseless and prejudicial. The objection is therefore negated.</p>

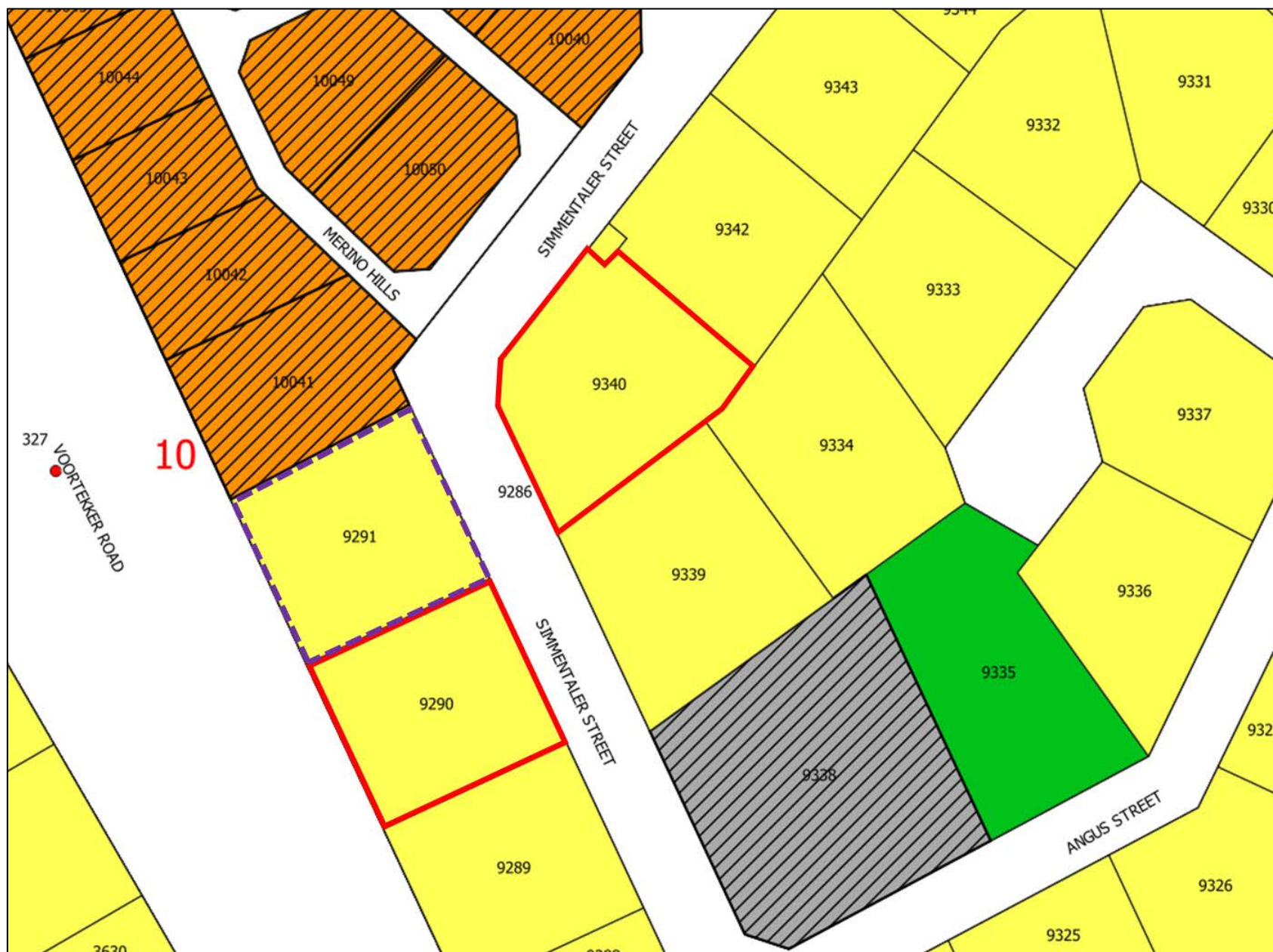


Figure 5: Location of applicant vs objectors

PART J: MUNICIPAL PLANNING EVALUATION

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

Application for a consent use on Erf 9291, 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), in order to establish a double dwelling on the property.

A total of 6 registered notices were issued to affected parties on 26 September 2022 and the same notices were also sent via e-mail, where possible. The commenting period for the application concluded on 28 October 2022 and two objections were received. Two posted notices were returned unclaimed, but these were also sent via the available e-mail addresses.

The objections received were referred to the applicant for comment on 1 November 2022 and the response to objections were provided to the Municipality on 15 November 2022, well within the statutory time frame. The application was, however, not in time for the closing of the final Municipal Planning Tribunal agenda, on 11 November 2022.

The applicant is C.K. Rumboll and Partners and the property owner is the Jurie Hanekom Familietrust.

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: The proposed double dwelling supports higher density and enhances the availability of alternative residential opportunities, making the area more accessible to a wider range of society;
- b) Spatial Sustainability: The proposed development will promote the intensive utilisation of engineering services, without additional impact on the natural environment. Urban sprawl is contained through densification;
- c) Efficiency: The development proposal will promote the optimal utilisation of services on the property and enhance the tax base of the Municipality;
- d) Good Administration: The application and public participation was administrated by Swartland Municipality and public and departmental comments obtained and processed;
- e) Spatial Resilience: The proposed double dwelling can easily revert to the use of a dwelling house for a single family, should it become necessary in future.

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)

The PSDF supports the principle of densification. A second dwelling/double dwelling promotes the principle, optimising the use of resources and limiting urban sprawl. The proposal is thus consistent with the PSDF.

2.3 Spatial Development Framework(SDF)

The application property is situated within a residential node, delineated as Area A, as per the spatial proposals for Malmesbury contained in the SDF. The area is characterised as residential with ancillary uses. Double dwellings are specifically consistent with the character of the zone, as such a development will not alter the residential zoning of the property.

The MSDf restricts the subdivision of erven in Tafelzicht, but densification is nonetheless promoted from 10,8 units per hectare to 18 units per hectare. The development proposal will contribute to the densification of the area, without contradicting the development earmarks for the area.

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

The application property is zoned Residential Zone 1 and a double dwelling may be accommodated within the zoning category as a consent use. The proposal is consistent with the development parameters determined by the By-Law.

The By-Law prescribes on-site parking at a ratio of two parking bays for a single dwelling and one additional parking bay for a double dwelling. The development proposal includes four parking bays – one double garage per unit – thus an over-provision of parking bays. The over-provision will ensure that sufficient parking is available for the inhabitants of the dwellings, as well as future visitors. All remaining zoning parameters are also adhered to.

3. Desirability of the proposed utilisation

There are no physical restrictions on the property that will have a negative impact on the application. The property slopes slightly downwards from north to south, but the impact of the slope is considered negligible.

The overall height of the double dwelling is lower than the maximum allowable 8m wall plate height, as the proposal is for a single storey building, consistent with the character of the surrounding dwellings. The street façade of the double dwelling is considered to be compatible with that of a large, single dwelling unit, with two entrances.

The proposed application is consistent and not in contradiction with the Spatial Development Frameworks adopted on Provincial, District and Municipal levels. The erf is located between a single residential property and a group housing development. The low to medium density proposed by the double dwelling is thus in keeping with the densities of surrounding erven.

The character of the surrounding area is that of a low density residential neighbourhood. The nature of a double dwelling is to provide additional residential opportunities. The proposed land use is thus considered as a desirable activity within a residential neighbourhood, as it will accommodate residential activities compatible with that of the existing area.

The proposal is spatially resilient, as the property can revert to a dwelling for a single family, should the proposed land use cease.

The proposed activity will have a positive economic impact as it will generate income for both the land owner, municipality (through rates and taxes) and house buyers in general, as it will provide in the need for varied housing typologies to a larger section of income groups.

The proposed development is not perceived to have a detrimental impact on the health and safety of surrounding land owners, nor will it negatively impact on environmental assets.

Access to the property is obtained directly from Simmentaler Street. The proposal entails two entrances to the erf on opposite ends of the eastern boundary. The southern-most entrance may be positioned roughly opposite the entrance to Erf 9340. It is, however, considered common practice for driveways of dwellings across the road from each other to be in aligned or in close proximity. The image below are of the two neighbouring properties to Erf 9291 and Erf 9340, illustrating the point:



Figure 6: Example of driveways situated across from each other

The speed at which a driveway is used, together with traffic laws, ensure that the entrances to erven so not pose threats to the traffic safety of individuals or larger neighbourhoods. The northern-most entrance will be visible from at least a 40m distance, ensuring traffic safety.

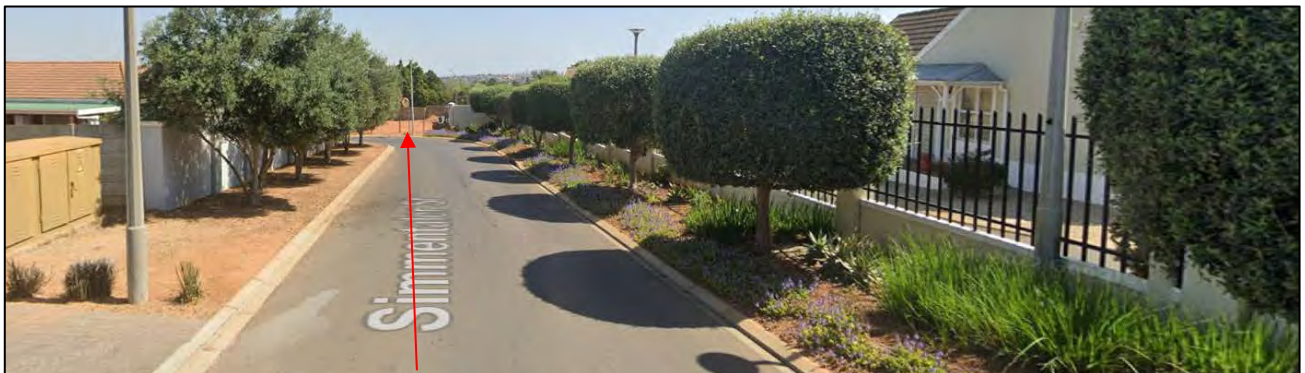


Figure 7: ±40m sight distance

The development proposal may be considered desirable.

4. Impact on municipal engineering services

The proposed application is intended to optimise the use of existing infrastructure and municipal engineering services. Development charges will be levied in accordance with the Swartland Capital Contribution By-Law for Malmesbury (2017).

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 consent use on Erf 9291, Malmesbury, 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:

1. TOWN PLANNING AND BUILDING CONTROL

- a) The consent use authorises a double dwelling, as presented in the application;
- b) Building plans be submitted to the Senior Manager: Development Management for consideration and approval;

2. WATER

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

3. SEWERAGE

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

4. DEVELOPMENT CHARGES

- a) The owner/developer is responsible for a development charge of R6 534,30 (R10 890,50 x 0.6 for Single Res) towards the bulk supply of regional water, at building plan 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 R7 340,83 towards bulk water reticulation, at building plan 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 R3 631,57 towards sewerage, at building plan stage. The amount is payable to this 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 R5 410,05 towards roads and stormwater at building plan 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).
- e) The owner/developer is responsible for the development charge of R4 358,90 towards electricity, at clearance stage. The amount is payable to this Municipality, valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA: 9/253-164-9210);
- f) The Council resolution of May 2022 makes provision for a 35% discount on development charges to Swartland Municipality, except for condition 4.a), which is payable in full. The discount is valid for the financial year 2022/2023 and can be revised thereafter;

5. GENERAL

- a) The approval is, in terms of section 76(2)(w) of the By-Law valid for a period of 5 years. All conditions of approval be complied with before the occupancy certificate be issued. Failure to comply will result in the approval expiring;
- 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 should 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 proposed double dwelling is a residential use and is therefore consistent with the proposals of the SDF.
- 2) A double dwelling is accommodated as a consent use under Residential Zone 1 of the By-Law.
- 3) The development proposal supports the optimal utilisation of the property.
- 4) The double dwelling will provide in a need for a larger variety of housing opportunities to the wider population.
- 5) The development proposal will not negatively impact on the character of the surrounding neighbourhood or the larger Malmesbury.
- 6) The development will not negatively impact traffic safety in the neighbourhood.
- 7) The double dwelling promotes densification, appropriate in the context and consistent with the earmarks of the SDF.


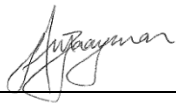
PART N: ANNEXURES

Annexure A	Locality Plan
Annexure B	Site Development Plan
Annexure C	Public Participation Map
Annexure D	Title Deed
Annexure E	Objections from Stralendorf Familie Trust
Annexure F	Objections from H. & M.F. Lourens
Annexure G	Response to Comments

PART O: APPLICANT DETAILS

First name(s)	C.K. Rumboll and Partners			
Registered owner(s)	Jurie Hanekom Familietrust.	Is the applicant authorised to submit this application:	Y	N

PART P: SIGNATURES

Author details: Annelie de Jager Town Planner SACPLAN: A/2203/2015		Date: 25 January 2022		
Recommendation: Alwyn Zaayman Senior Manager: Development Management SACPLAN: B/8001/2001	Recommended	✓	Not recommended	
		Date: 27 January 2022		



Locality of Erf 9291, Malmesbury

Legend

Map Center: Lon: 18°43' Lat: 33°27'

Scale: 1:36 112

Date created: September 2012



Western Cape
Government
FOR YOU

ANNEXURE A

Surveyor General WC, Department of Rural Development and Land Affairs
Esri South Africa, Esri, HERE, Garmin, NGA, USGS

0 0.38 0.75 1.5 km -163-

ANNEXURE C




BOX 8 / CTN 1536

WILLIAM KOCH ATTORNEYS
95 Voortrekker Road
Malmesbury
7300

ANNEXURE D

Prepared by me


CONVEYANCER
LISA VAN DER MERWE (94271)

Deeds Office Registration fees as per Act 47 of 1937		
	Amount	Office Fee
Purchase Price	R 665 000-00	R 1063-00
Reason for exemption	Category Exemption	Exemption i t o. Sec/Reg. Act/Proc.

DATA / CAPTURE
08 -08- 2022
PHUMELELA MNAMATA

T 036740 / 22

DEED OF TRANSFER

BE IT HEREBY MADE KNOWN THAT

LISA VAN DER MERWE (94271)

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

The Trustees for the time being of B.R. SIEBRITZ BELEGGINGS TRUST
Registration Number IT218/2008

which said Power of Attorney was signed at MALMESBURY on 27 June 2022

DATA / VERIFY
08 -08- 2022
PENELOPE NGOGWANA

And the appearer declared that his/her said principal had, on 23 May 2022, 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:

**The Trustees for the time being of JURIE HANEKOM FAMILIETRUST
Registration Number IT3111/1995**

its Successors in Office or assigns, in full and free property

ERF 9291 MALMESBURY
IN THE SWARTLAND MUNICIPALITY
DIVISION MALMESBURY, PROVINCE OF WESTERN CAPE

IN EXTENT 834 (EIGHT HUNDRED AND THIRTY FOUR) Square metres

**FIRST TRANSFERRED BY DEED OF TRANSFER NO T13877/2005 WITH
GENERAL PLAN NO 2334/2004 RELATING THERETO AND HELD BY
DEED OF TRANSFER NO T57168/2008.**

A. SUBJECT to the conditions contained in Deed of Grant dated 23 April 1918 (Malmesbury Freehold Volume 4 No 6) namely:

1.
2. That all roads and thoroughfares over the land, whether or not described in the plan or diagram thereof, shall remain free and uninterrupted unless closed, diverted or altered by competent authority.
3.
4. That the land shall be subject to all rights and servitudes which now affect or at any time hereafter may be found to affect the title deed of the land hereby granted or which may be binding on the Government in respect of the said land as at date hereof.

B. SUBJECT FURTHER to the following special conditions contained in Deed of Transfer No T13877/2005, imposed by and for the benefit of Swartland Municipality, namely:

1. Die erf of enige konsolidasie van die erf met enige ander eiendom, mag nie onderverdeel word nie;
2. Die erf mag nie sonder die voorafverkreë skriftelike toestemming van Swartland Munisipaliteit met 'n aanliggende eiendom gekonsolideer word nie.

(P)

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

The Trustees for the time being of B.R. SIEBRITZ BELEGGINGS TRUST
Registration Number IT218/2008

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

The Trustees for the time being of JURIE HANEKOM FAMILIETRUST
Registration Number IT3111/1995

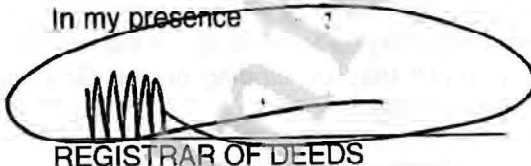
its Successors in Office or assigns, now is and henceforth shall be entitled thereto, conformably to local custom, the State, however reserving its rights, and finally acknowledging the purchase price to be the sum of R665 000,00 (SIX HUNDRED AND SIXTY FIVE THOUSAND RAND) .

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 04 AUG 2022



In my presence


REGISTRAR OF DEEDS

Strahlendorf Family Trust

ANNEXURE E

P O Box 878 / 56 Sherston Avenue, Mount Royal Golf & Country Estate, Malmesbury, 7300
Registration #: IT2743/2003
E-mail: tracey@milking.co.za / kurt@milking.co.za
Mobile: 083 6177787 / 083 4564846

13/10/2022

To:
The Municipal Manager
Private Bag X52
Malmesbury
7299

We refer to our letter to you, dd 28/09/2022,

Ref: 15/3/10-8/Erf 9291, address: 76 Simmentaler Street, Malmesbury.

Regarding the mail, which we received with the above reference number, and as the owners of Erf 9290, which is the property next door.

We do not give our consent for the application for a double dwelling on Erf 9291.

Reasons:

- When we purchased our ERF 9290 on auction from the Swartland Municipality, we also wanted to build a double dwelling at that time, so that our parents could live independently, but on the same property as us. Unfortunately, on enquiry, we were told that one of the stipulations when purchasing these erven, was that they were for SINGLE residential use only.
- We feel that when someone makes a massive life changing investment such as buying or building a family home, the local authority obligation will be to protect this investment. By allowing a double residential unit to be built in this area has a negative financial effect on all the established houses in the area. The by-laws are clear in this regard and as a purchaser of a property one should be aware of these laws. We feel it's unfair and irresponsible to change the laws to suit individuals who want to manipulate these laws for their own financial gains at the cost to others.

Trusting that the above is in order,



Kurt Strahlendorf
Trustee



Tracey Strahlendorf
Trustee

SWARTLAND MUNISIPALITEIT

BESWAAR TEEN VERGUNNINGSGEBRUIK OP ERF 9291 MALMESBURY

Hiermee wil ons, Hano & Mari Lourens, mede eienaars van Simmentalerstraat 61, ons beswaar teen die vergunningsgebruik op Erf 9291 Malmesbury indien.

Die vergunningsgebruikaansoek gaan 'n direkte inpakking op ons eiendom te weeg bring en daarom voel ons sterk dat die vergunningsgebruik nie oorweeg kan word nie.

Die erwe in Tafelzicht, waarvan Erf 9291 Malmesbury deelvorm, is oorspronklike vir enkel fase residensiële zone 1 verkoop. Dis as 'n lae digtheid behuisingsontwikkelings geklasifiseer en is Tafelzicht een van die mees gesogte woonbuurte in Malmesbury.

Ons het juis daar gekoop aangesien Tafelzicht is 'n rustige buurt is waar elkeen sy eie ding doen en niemand pla nie.

Ons eiendom, Erf 9340 Malmesbury, is regoor Erf 9291 Malmesbury wat nou ter sprake is.

Ons sukkel reeds om elke dag in en uit ons erf te kom, aangesien dit op 'n draai is waar die sig baie sleg is.

Indien daar 2 wonings opgerig word, gaan die in en uitkom vir ons en hulle 'n probleem wees en daar gaan 'n ongeluk gebeur.

Die 2 wonings gaan uitverhuur word en met dit is daar 2 huisgesinne met hul vriende wat daar gaan kom kuier.

Dit het ook onder my aandag gekom dat dieselfde eienaars nog 2 ander erwe in Tafelzicht gekoop het en waar hulle dieselfde wil doen. Hulle koop die erwe om te spekuleer en nie daar te bly nie.

Indien die aansoek goedgekeur word, sal die ander 2 nie geweier kan word nie, maar indien ons nou dit kan stop sal dit beter wees vir almal wat in die rustige Tafelzicht area bly.

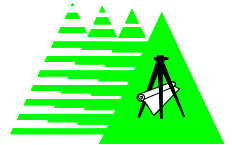
Ons is streng teen die goedkeuring van die vergunningsgebruik en hoop dat ons redes voldoende sal wees om hierdie aansoek af te keur.

Baie dankie vir u vriendelike oorweging van ons beswaar teen die vergunningsgebruik op Erf 9291 Malmesbury.

Die uwe

H LOURENS & MF LOURENS
SIMMENTALERSTRAAT 61
MALMESBURY

CK RUMBOLL & VENNOTE / PARTNERS



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

DATE: 10 November 2022

OUR REF: MAL/12741/NJdK

PER E-MAIL:

ATTENTION: Mr A Zaayman

Municipal Manager
Swartland Municipality
Private Bag X52
MALMESBURY
7300

Sir,

RESPONSE ON OBJECTIONS/COMMENTS:

APPLICATION FOR CONSENT USE ON ERF 9291, MALMESBURY

With reference to your letter dated 1 November 2022:

The table below provides a summary of the comments/objections that were received along with the response from CK Rumboll and Partners on behalf of our client. Comments/Objections were received from the following persons:

1. Strahlendorf family Trust
2. H & MF Lourens

The objections received are attached as **Annexure A**.

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: leap@rumboll.co.za / PO Box 211 / Rainierstr 16, Malmesbury, 7299
MALMESBURY (T) 022 482 1845 (F) 022 487 1661 **VREDENBURG** (T) 022 719 1014

Objector	Objection/Comments	CK Rumboll Response on objections	
Strahlendorf family Trust (Erf 9290)	1. When we purchased our property we also wanted to build a double dwelling at that time so that our parents could independently live on the same property as us, but was told that these erven was for single residential use only.	1. The property was bought back in 2005 and since then the dynamics and atmosphere of the area has changed. The Swartland Municipal Land Use Planning By-Law now makes provision to accommodate a double dwelling house as a consent use under Residential Zone 1.	
		The proposal is also supported by the Swartland Spatial Development Framework for the area in which the property is located. Table 1 below illustrates how the proposal is compliant with the SDF:	
		Extract From Swartland SDF	Comments
		Increase density for next 20 years (which ends in 2028) from the current 10.8 units per hectare to 18 units per hectare in Malmesbury	The proposed development supports the notion of infill development though adding two additional units to the property. The proposal supports densification while maintaining a "single residential" character and without further subdivision of the property.
		Apply minimum erf sizes in Malmesbury and Abbotsdale to protect the character of precincts.	Since the property will not be subdivided, the minimum erf sizes will be maintained.
		Provide different housing types to allow for integration and spatial justice. Provide land for GAP housing to develop agri-villages, opportunities for private developers and provide different housing typologies.	The proposal provides a different housing typology as opposed to the normal freestanding single dwelling.
		Provide for housing for retirees	Additional residential units will be available in Malmesbury for retirees.
		Support medium density developments such as group housing and town houses.	The proposal will be a medium density development and similar to town housing.
		Provide adequate land for private and public residential development.	With the proposed development, the vacant residential land will be optimised and used to its full potential.
		Develop areas according to available infrastructure capacity.	The property already has access to services. Infill development which results in efficient use of land and services.
		Support densification in Malmesbury, Wesbank and Abbotsdale through: Other forms of medium and higher density residential neighbourhood developments	This approach to densification eliminates the need for developing natural areas in order to achieve higher densities. The proposal will contribute to densification of Malmesbury through the provision of two dwelling units on one land unit.

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	2. By allowing a double residential unit to be built in this area has a negative financial effect on the established houses in the area.	2. This statement is subjective and no physical evidence of this is provided. Also, In terms of the Spatial Planning Land Use Management Act (SPLUMA) which prescribes the principles for guiding land use planning, Section 59 (1), which divulges principles of spatial justice, specifies in subsection (f) that: "A competent authority contemplated in this Act or other relevant authority considering an application before it, may not be impeded or restricted in the exercise of its discretion solely on the ground that the value of land or property will be affected by the outcome."
H & MF Lourens (Erf 9340)	3. We bought in Tafelzicht as it is a low density residential area and should the owners of Erf 9291 erect a double dwelling house on the property, it will have an adverse impact on the way we enter and exit our property. Our property is situated on a corner and the increased traffic will worsen the current situation.	3. As stated by the objector, Tafelzicht is a low density residential area. This low density residential area will therefore have limited traffic flow. With the erection of a double dwelling house on Erf 9291, it will have limited traffic impact as only two additional properties are proposed. Although Erf 9340 is situated on a corner, the access to their property is located at the furthest point from the corner and save access to and from the property will still be maintained even with the erection of the double dwelling house on Erf 9291.
	4. The two units will be leased to tenants and will cause families and friends to come visit them. The owners also bought two other properties and also applied for double dwelling units. They do not live there and either sells them or lease them.	4. Noted. The application for a double dwelling house cannot be adversely affected based on the fact that the owners are capitalizing on a business opportunity.

We trust you will take the above into consideration when assessing the application.

Yours faithfully,



NJ de Kock

for CK Rumboll and Partners

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VREDENBURG (T) 022 719 1014

26 January 2023

15/3/3-11/Erf 1911

15/3/4-11/Erf 1911

15/3/10-11/Erf 1911

WYK: 12

ITEM 6.5 OF THE AGENDA FOR THE MUNICIPAL TRIBUNAL THAT WILL TAKE PLACE ON WEDNESDAY, 8 FEBRUARY 2023

LAND USE PLANNING REPORT									
PROPOSED REZONING, DEPARTURE AND CONSENT USE ON ERF 1911, RIEBEEK KASTEEL									
Reference number	15/3/3-11/Erf 1911 15/3/4-11/Erf 1911 15/3/10-11/Erf 1911		Application submission date	23 September 2022		Date report finalised	26 January 2023		
PART A: APPLICATION DESCRIPTION									
<p>Application for the rezoning of Erf 1911, Riebeeck Kasteel, in terms of section 25(2)(a) of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 25 March 2020) from Residential Zone 1 to Business Zone 2: Neighbourhood Business, in order to facilitate business and residential units on the ground floor and flats on the first floor.</p> <p>Application for the departure of Erf 1911, Riebeeck Kasteel, in terms of section 25(2)(b) of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 25 March 2020) from the 3m southern side building line to 1m to accommodate a garage on the property.</p> <p>Application for the consent use of Erf 1911, Riebeeck Kasteel, 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 accommodate a restaurant in a portion of the business use, on the ground floor of the building.</p> <p>The applicant is KSD Architecture and Interiors and the property is owned by the S.J Mercer and R.P. Hornebo.</p>									
PART B: PROPERTY DETAILS									
Property description (as in Title Deed)	Erf 1911 RIEBEEK KASTEEL IN THE SWARTLAND MUNICIPALITY, DIVISION MALMESBURY, WESTERN CAPE PROVINCE								
Physical address	25 Royal Street (locality plan attached as Annexure A).			Town	Riebeeck Kasteel				
Current zoning	Residential Zone 1	Extent (m ² /ha)	775m ²	Are there existing buildings on the property?	Y	N			
Applicable zoning scheme	Swartland Municipal Land Use Planning By-Law (PK 8226, dated 25 March 2020)								
Current land use	Residential purposes			Title Deed number & date	T14755/22				
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, elaborate						
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		
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PART D: BACKGROUND

Erf 1911 is located centrally, in Area B of Riebeeek Kasteel, inside the earmarked CBD, as identified by the Swartland Spatial Development Framework (SDF, 2020). The site is located along an activity street and currently utilised for residential purposes.



Figure 1: Excerpt from SDF map of Riebeeek Kasteel, indicating the site location



Figure 2: The zoning map of the area surrounding Erf 1911

The current zoning map of the area surrounding Erf 1911 indicates that, while the erven south of Piet Retief Street area still predominantly residential, the area north and north-west of the erf have already followed the development trend towards businesses and mixed uses. The proposed change in land use of Erf 1911 is thus considered a natural progression, given the location in the designated CBD, along an activity street, clustered in close proximity to other existing mixed uses.



Figure 3: Current view from Royal Street to the site

The property is accessed via Royal Street, perpendicular to Piet Retief Street, the activity street along the northern boundary. The Department Civil Engineering Services offered no objection against the continued use of the road for access purposes to the new development.

The owners/developers intend to convert and add to the existing dwelling on the property to create a business premises on the ground floor, which is envisioned to function as dual purpose spaces containing offices and studio apartments. The ground floor will also include a restaurant in the form of a coffee shop. The proposed first floor will contain two living units/flats.

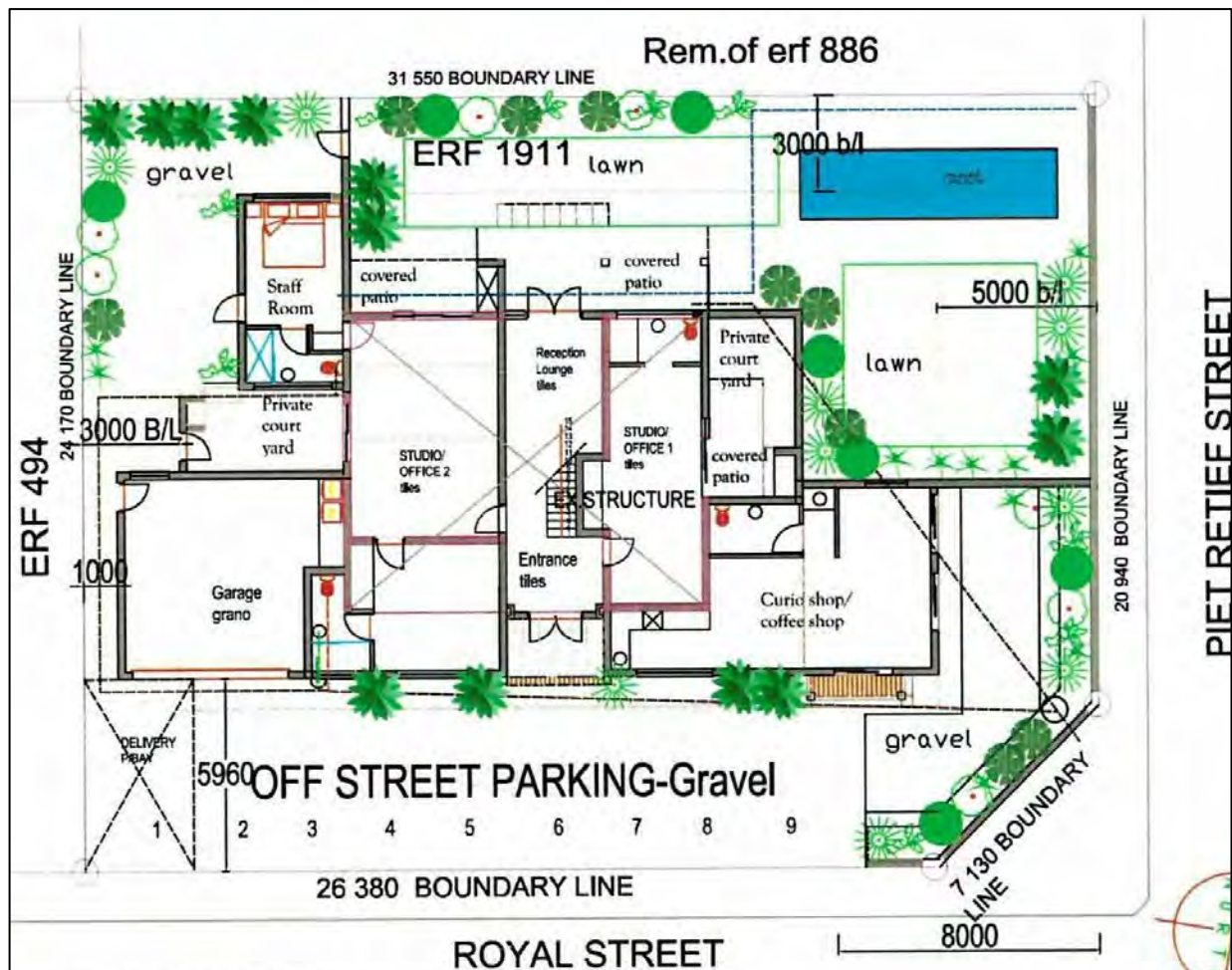


Figure 4: Ground floor layout



Figure 5: First floor layout



Figure 6: Elevations

PART E: PRE-APPLICATION CONSULTATION (ATTACH MINUTES)

Has pre-application consultation been undertaken?

Y	N
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PART F: SUMMARY OF APPLICANT'S MOTIVATION

The applicant motivates that the objective of the proposal is to establish a mixed use business premises through the amendment of and additions to the existing dwelling on the property. The proposed uses include a restaurant in the form of a coffee shop on the ground floor and two flats/work spaces. The first floor contains two flats. The proposal further includes the required number of off-street parking bays, a new garage (proposed to depart from the southern building line), garden space and a swimming pool.

A business premises and flats are primary uses in Business Zone 2, while a consent use is applied for to accommodate the proposed restaurant. The proposal is presented as consistent with all the development parameters associated with Business Zone 2, with regard to off-street parking, height and coverage. One side building line is proposed for departure in order to allow for a new garage on the southern portion of the property. The development is unpacked as follows:

- a) The maximum coverage is 75% (581m²) and the proposed coverage is 260,47m², within the permitted range. The total floor area is 455,40m²;
- b) The height is two storeys, each being a maximum of 4m high;
- c) The two street building lines are 5m each, none of which are encroached;
- d) The side building lines are 3m each and application is made for the departure from the 3m southern side building line to 1m, in order to establish a new garage on the property;
- e) A portion of the ground floor is intended to be used as a coffee shop and arts and crafts area, therefore the consent use for a restaurant is being applied for;
- f) The proposed units will each have an open plan kitchen, and an en-suite bedroom with open balconies and pergolas;
- g) The building is proposed to have a modern aesthetic and to appear as a single architectural unit;
- h) Parking requirements are 1,25 bays per flat and 1 bay per 4 seats of a restaurant, equalling 9 parking bays. Taking the proposed garage into account also, the total number of parking bays provided equals 11, which is more than the required number;

There are no title deed conditions restricting the development proposal. There are also no topological factors that may restrict further development of the property.

The application property is used for residential purposes and the surrounding land uses consist of single residential, general residential and business uses as well as vacant erven. The proposal is considered consistent with the land use of the area.

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

- a) Spatial Justice: The proposed development is aimed at a mid-income group, making property available to a wider range of people, than only high income individuals;
- b) Spatial Sustainability: The proposed rezoning will enable the owner to develop the property to its full potential, while adhering to the land use character of this specific area of Riebeek Kasteel. The creation of more living units and businesses will create the spatially more compact and resource efficient utilisation of the property;

The proposal constitutes infill development and will connect to the existing infrastructure of the area. The proposed rezoning is thus considered as spatially sustainable;

- c) Efficiency: The proposal ensures the optimisation of existing resources, while contributing to the densification target as advocated by local, provincial and national policy. Furthermore, the development poses no financial, environmental or social threats to the area and the development proposal is thus deemed efficient;
- d) Spatial Resilience: The proposed development will not limit any future benefits of the application property or those of the surrounding area. The mixed uses on the property and the design of the building enables the property to be utilised for various uses, should any of the current proposed uses prove redundant in future;
- e) Good Administration: The application was processed by Swartland Municipality in a timeous fashion, in accordance with the requirements of the applicable legislation and it is therefore considered to comply with the principles of good administration.

1.2 Western Cape Provincial Spatial Development Framework

The application proposes densification, a principle that is supported by the PSDF and thus considered consistent with the broader context shaped by the PSDF.

1.3 Swartland Municipal Spatial Development Framework (2020)

The proposed development adheres to the following goals set by the SDF for the various areas within Riebeek Kasteel:

- a) Economic development is stimulated through creating more opportunities in the real estate market;
- b) The development supports the provision of housing opportunities in an integrated manner;
- c) The use of available infrastructure is optimised through the various uses and densification;
- d) The proposed commercial node (CBD) is strengthened by providing a mixed use opportunity within the designated CBD.

1.4 Swartland Land Municipal Land Use Planning By-Law (2020)

The application is made for the departure from the 3m side building line to 1m, in order to accommodate the new proposed garage. Other than the departure, all development parameters within the Business Zone 2 zoning, will be adhered to.

The proposed mixed use building is designed in such a way as to resemble a large, double storey dwelling. The design will ensure that the character of the building is consistent with that of any other double storey building in Riebeek Kasteel and the character of the surrounding area will not be negatively impacted upon.

The property is located along an activity street, on the periphery of the earmarked CBD of Riebeek Kasteel and as such, the mixed use character is considered especially appropriate, as it serves as a buffer between the purely business and purely residential uses of the area.

The property is accessed from Royal street and the required number of off-street parking bays are provided on the property, without negatively impacting on the prevailing traffic safety of the residential neighbourhood. The increase in vehicles to the property is also not considered to be noticeable or unsafe in the context.

The additions and changes proposed to the existing dwelling are expected to contribute positively to the aesthetic impact of the erf in its surroundings, as the current site circumstances are considered slightly unkempt and dilapidated.

The property is not graded as a heritage resource and the development is not expected to have any impact on the heritage value of any of the other properties in the area.

In conclusion, the low-impact, mixed use development proposed by the application, is considered to be highly compatible with its surroundings, consistent with the applicable spatial legislation and therefore considered desirable within the context.

PART G: SUMMARY OF PUBLIC PARTICIPATION

Was public participation undertaken in accordance with section 55- 59 of the Swartland Municipality: Municipal Land Use Planning By-Law.	Y	N
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The application was published in local newspapers and the Provincial Gazette on 3 October 2022, in terms of Section 55 of the By-Law. The commenting period, for or against the application, closed on 7 November 2022.

In addition to the abovementioned publication, 25 written notices were sent via registered mail to the affected property owners in the area, in terms of Section 56(1) & (2) of the By-Law, as well as e-mails, where e-mail addresses were available. Ten written notices were returned unclaimed. Please refer to Annexure C for the public participation map.

A total of 8 objections were received against the proposal. The applicant was afforded 30 days, from 11 November 2022 to 11 December 2022, to respond to comments and objections received by affected parties. The response to comments was received on 21 November 2022. (Annexure M).

Total valid comments	8		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
Total letters of support			0		
			Councillor Bess was informed, but no comments were forthcoming.		

PART H: COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS			Recommendation																								
Name	Date received	Summary of comments																									
Eskom	28 Oct. 2022	<p>1. <u>Electricity</u></p> <p>a) Works be carried out as indicated on plans; b) No mechanical plant to be used within 3.0m of Eskom underground cables; c) All services to be verified on site; d) Cross trenches to be dug by hand to locate all underground services before construction work commences; e) If Eskom underground services cannot be located or are grossly misplaced from where indicated, all work to be stopped an Eskom: Land Development Office be contacted; f) No work to take place within the servitude of a 66kV Cable or 13kV Cable if indicated; g) The following building and tree restriction on either side of a centre line of overhead power line be observed:</p> <table><tr><th>Voltage</th><th>Building restriction on either side of the centre line</th></tr><tr><td>11kV & 22kV & LV lines</td><td>9m</td></tr><tr><td>66kV</td><td>11m</td></tr><tr><td>132kV</td><td>15,5m</td></tr></table> <p>h) No construction work may be executed closer than 6m from any Eskom structure or structure supporting mechanism; i) No work or machinery permitted nearer than the following distances from conductors:</p> <table><tr><th>Voltage</th><th>Building restriction on either side of the centre line</th></tr><tr><td>11kV & 22kV & LV lines</td><td>3m</td></tr><tr><td>66kV</td><td>3,2m</td></tr><tr><td>132kV</td><td>3,8m</td></tr></table> <p>j) The natural ground level must be maintained within the Eskom reserve areas and servitudes; k) The minimum ground clearance of the overhead power line be maintained to the following clearance distance:</p> <table><tr><th>Voltage</th><th>Building restriction on either side of the centre line</th></tr><tr><td>11kV & 22kV & LV lines</td><td>6,3m</td></tr><tr><td>66kV</td><td>6,9m</td></tr><tr><td>132kV</td><td>7,5m</td></tr></table> <p>l) A 10m obstruction free zone to be maintained around all pylons.</p>	Voltage	Building restriction on either side of the centre line	11kV & 22kV & LV lines	9m	66kV	11m	132kV	15,5m	Voltage	Building restriction on either side of the centre line	11kV & 22kV & LV lines	3m	66kV	3,2m	132kV	3,8m	Voltage	Building restriction on either side of the centre line	11kV & 22kV & LV lines	6,3m	66kV	6,9m	132kV	7,5m	
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132kV	7,5m																										
Department: Civil Engineering Services	27 Sep. 2022	<p>1. <u>Water;</u></p> <p>a) Die erf gebruik maak van die bestaande aansluiting en dat geen addisionele aansluitings voorsien sal word nie. b) 'n Ontwikkelingsbydrae t.o.v. water ten bedrae van R26 614.45 ten opsigte van die grootmaat verspreiding van water en R18 513.85 ten opsigte van die grootmaat voorsiening van water gemaak word.</p> <p>2. <u>Riolering:</u></p>	✓																								

		<p>a) Die erf gebruik maak van die bestaande aansluiting en dat geen addisionele aansluitings voorsien sal word nie.</p> <p>b) 'n Ontwikkelingsbydrae t.o.v. riool ten bedrae van R37 886.75 gemaak word.</p> <p>3. <u>Strate en stormwater:</u></p> <p>a) 'n Ontwikkelingsbydrae t.o.v. strate en stormwater ten bedrae van R24 634.15 gemaak word.</p> <p>b) Die parkeerplekke met inbegrip van die sygaardjie wat toegang tot die parkeerplekke verleen van 'n permanente oppervlak voorsien word.</p> <p>4. <u>Algemeen:</u></p> <p>Indien die uitbreiding van enige bestaande dienste nodig sou wees om die ontwikkeling van diensaansluitings te kan voorsien, dit vir die koste van die aansoeker sal wees.</p>	
Department: transport and Public Works	26 Jan. 2023	No objections.	✓
PART I: COMMENTS RECEIVED DURING PUBLIC PARTICIPATION		SUMMARY OF APPLICANT'S REPLY TO COMMENTS (Annexure M)	MUNICIPAL ASSESSMENT OF COMMENTS
Note: the applicant summarised and addressed comments thematically as the content of the objections were similar, if not identical. it is clear that a general pro forma / basic objection was used in this regard and the evaluation is thus approached in the same manner.			
<p>RJ Diab (Erf 1310)</p> <p>Lezel van der Walt, Royal Street</p> <p>C Ball & C Creamer (Erf 2261 & 2262),</p> <p>A A Sieni (Erf 497)</p> <p>S Andreasen (Erf 2233)</p> <p>J Kamerman o.b.o. Riebeek Valley Ratepayers Association</p>	<p>1. <u>Character</u></p> <p>The exterior appearance and aesthetics of intended development is not considered in keeping with the character of the sensitive historical character of the town.</p> <p>The character of Riebeek Kasteel is unique with timeless building styles.</p> <p>The exterior appearance and aesthetics of intended development are not considered to adhere to, nor is it conducive to the promotion of the historical character.</p>	<p>1. The architect's response clearly addresses and shows the changes to the proposal to address concerns. The proposal has been downscaled, which will have a positive impact on the area and surrounding property owners. Due to the significant changes made to the proposal, we are of the opinion that the proposal should now find support from the Riebeek Valley Ratepayers Association</p> <p>As per the revised SDP, the following changes were made to address concerns:</p> <p>a. Critically, the ground floor units are now being proposed with a lean-to veranda, which significantly improves the streetscape and street interaction.</p> <p>b. The number of parking bays have been reduced to 7 off-street parking bays with a double garage (as per Zoning scheme) and are located on Royal Street side of the property.</p> <p>c. The existing vehicular access point is also being retained, which leads to the parking bays.</p> <p>d. The front façade first floor flat roofs have been changed to pitched roofs, creating a cape vernacular style.</p> <p>e. The structure proposed in the central portion of the building, which contributed towards the perceived</p>	<p>1. The applicant demonstrates a willingness to address the concerns raised by the rate payers, even though the erf itself is not considered to be of historical importance. Furthermore, the erf is bordered by trees and shrubs, as well as a future perimeter wall, further reducing the impact of the architecture on the character of the area, as visibility from the Piet Retief Street will be obscured.</p> <p>Nonetheless, the owner/developer affected a number of changes to the design, to be even more consistent with the character of the historical context, and is therefore commended. Detailed input and design criteria will be applied by the Municipality once formal building plans have been submitted for approval.</p>

<p>Soanes/Prest (Erf 1261)</p> <p>L & G Barrett (Erf 886)</p>		<p>“modern” look, have been addressed by adding a pitched roof gable entrance with lean-to veranda structures on ground floor.</p> <p>f. The roof has also been “broken-up” into separate roof structures on the front and back portion, addressing scale and height.</p> <p>g. Roof loft windows (600 x 600mm) have been added below the pitch of the gable wall. The pitched roofs have an eave overhang of min. 200mm.</p> <p>h. The proportions of the façade of the building have been addressed as explained in the architect’s motivation.</p> <p>i. The window proportions have been altered to create a vertical look with plaster band surrounds.</p>	
	<p>2. <u>Heritage area</u></p> <p>The new building will impact negatively on the sensitive heritage area of Riebeek West.</p> <p>There is an understanding between Swartland Tourism and SM (Dept. of development services) that the character and architectural styles of the sensitive historic core of the town will be taken into account when structures are designed for the area. Erf 1911 falls within the earmarked sensitive area.</p>	<p>2. Erf 1911 does not have Heritage Status G3 HWC, which (to some extent) negates the client having to abide by Heritage laws and the Heritage vernacular. However, the concern regarding the heritage character of the area and the integration of the proposal into this vernacular, has been noted and the client has agreed to alter the total look of the intended build, to be more in keeping with some of the Heritage aspects of the surrounding area.</p> <p>Importantly, and as explained above, the proposal has now been amended, addressing the various concerns regarding the modern vernacular/style of architecture and ground floor interaction with the street.</p> <p>The building now effectively “reads” as a 2-storey home, which is not out of keeping with the character of the area and is comparable to surrounding built forms.</p> <p>Detailed criteria for the new facades in Royal & Piet Retief Street as part of “Heritage surrounding buildings” has been addressed by the Architect, which included a character analysis, etc. The detailed building criteria resulted in the proposed build form (now even further amended and improved).</p>	<p>2. Refer to comment 1.</p>
	<p>3. <u>Privacy and sunlight</u></p> <p>Placing flats directly adjacent to residential properties is not acceptable.</p> <p>The flats will have a negative impact on the privacy and sunlight to the abutting properties, as people will be able to look into our erven from their balconies.</p>	<p>3. Importantly, as per the revised SDP, the rear portions of the building are setback at least 4m from erf 886 and 1m from the southern lateral common boundary, limiting the impact on adjacent properties.</p> <p>In terms of privacy concerns, brick wall balconies (meant for seating privacy) are proposed on the balconies facing the western and southern common boundaries, which portions trigger the setback departure only on the southern boundary. This will limit any “overlooking” concerns from the surrounding property owners.</p>	<p>3. The proposed double storey building will have no greater impact on the surrounding properties than that of a two storey single residential home. In fact, the building lines for a Business Zone 2 property is even more restrictive than that of a dwelling.</p> <p>The portion of the proposed building that departs from the building line is for the proposed garage, which is only on ground storey and will have no impact on the privacy of the neighbouring properties.</p>

		<p>The portions of the building triggering the common boundary departures are minor in nature. These portions are located to the lateral side of the building and only relate to a small portion of the ground floor garage space. The portions do not result in any additional overlooking or overbearing features.</p>	<p>Furthermore, the erf is bordered by shrubs and trees, which in turn form a green buffer between erven, as well as a form of privacy screen.</p> <p>Lastly, the proposal includes a 1,8m high boundary wall around the perimeter of the erf.</p>
	<p>4. <u>Parking and traffic impact</u></p> <p>The development will cause an increase in traffic to the neighbourhood, creating dangerous traffic situations.</p> <p>It is not necessary for so many parking bays on the property.</p>	<p>4. Only 4 dwelling units are proposed within the building and sufficient on-site parking opportunities have been provided in accordance with the Swartland Municipality requirements.</p> <p>The parking proposal complies fully with the requirements of 1.25 bays/unit and 1/p/bay per 4 seats for the small shop.</p> <p>The provision of some bays on site (off street parking) should therefore benefit the area by reducing on-street parking, which is prevalent.</p> <p>This is a small-scale house, internally divided into 4 apartments (guest accommodation) and therefore the parking layout / design should not result in any access and egress issues.</p> <p>The proposal directly supports Council's Densification Policy and given the location of the subject property should result in facilitating the use of public transport for tourists visiting Riebeek Kasteel.</p> <p>Given that Royal Street is a two-way street, there is sufficient space for on-street parking that still allows for vehicles to manoeuvre in the street.</p> <p>The existing pavement width is about 2.5m wide for any pedestrians to walk freely past the parking bays.</p>	<p>5. Frankly, it is unfathomable as to why someone would object to the creation of two additional of-street parking bays in a town where parking requirements can regularly not be met.</p> <p>The 'increase in traffic' is considered to be negligible, but all additional drivers will nonetheless be subject to the same traffic legislation as any other road user.</p>
	<p>5. <u>Removal of trees</u></p> <p>The removal of any trees is strongly opposed, as trees provide shade, screening/privacy between erven a connection to nature.</p>	<p>5. The large Blue Gum tree on the boundary line in front of the subject property on Piet Retief Street will be removed. Blue gums are alien trees, use a lot of water and the government are currently removing them from all farms and riverbeds around the country. New trees will be planted. There appears to be a misconception by the objectors that all the trees will be removed.</p> <p>A new Boundary wall of 1.8m high will be built along Piet Retief Street for security and privacy. Minor trees to the rear of the property, which have no impact on the public realm may have to be removed and some smaller trees will also need to be removed to build the boundary wall and make way for parking bays. These trees will be replanted elsewhere on the property and trees/plants will also be</p>	<p>5. Refer to comment 3.</p>

		planted along the boundary walls to bring back the nature and soften the landscape.	
	<p>6. <u>Devaluation of properties</u></p> <p>Our properties will lose value due to the proposed business development.</p>	6. The statement is conjecture and no proof has been provided.	<p>6. The claim on the devaluation of properties is not supported by facts or proof.</p> <p>Additionally, the impact of a development on the value of surrounding properties may not be used as a reason to refuse a land use application.</p>
	<p>7. <u>Viability of the proposed business</u></p> <p>Various objections were raised against the proposed restaurant, stating that the town already has enough restaurants and another such business is not necessary.</p>	7. Noted.	<p>7. The land use applied for is within the permissible uses identified by the spatial planning for the area. Furthermore, the proposed restaurant only encompasses a small portion of the larger development. Whether or not the restaurant is successful is determined by the market and a calculated risk taken by the owner/developer.</p> <p>The municipal policy is to support and promote the local economy wherever appropriate and consistent with spatial planning. Developments such as the one under discussion have over time proven to be resilient, due to the fact that mixed uses are proposed and the building is designed in such a way as to easily respond to changing needs within the market.</p>

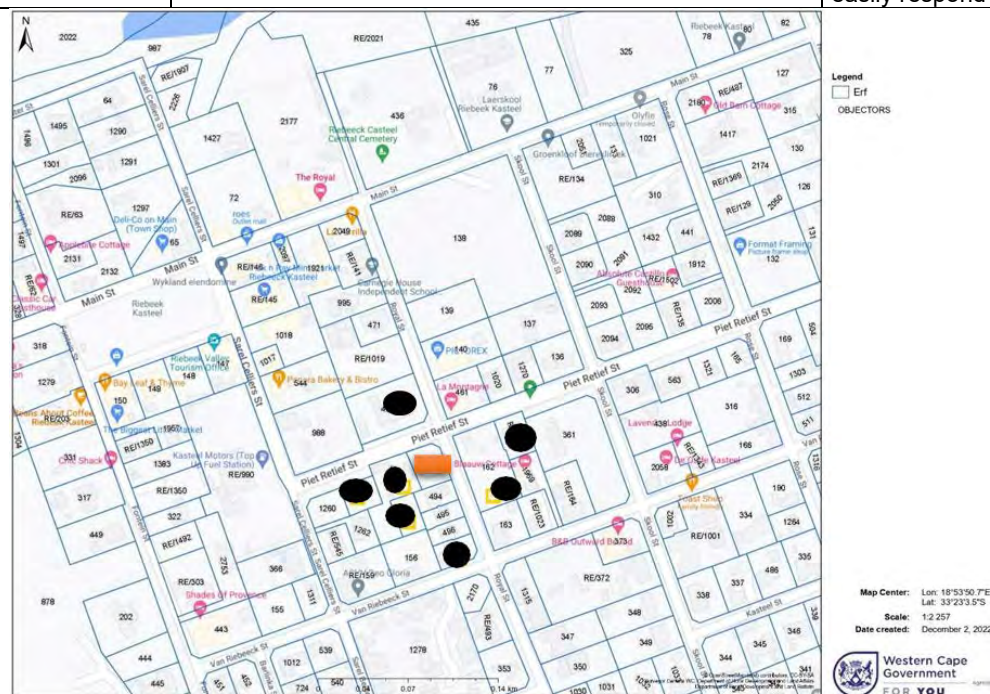


Figure 7: Location of objectors in relation to the site.

PART J: MUNICIPAL PLANNING EVALUATION

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

Application for the rezoning of Erf 1911, Riebeek Kasteel, in terms of section 25(2)(a) of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 25 March 2020) from Residential Zone 1 to Business Zone 2: Neighbourhood Business, in order to facilitate business and residential units on the ground floor and flats on the first floor.

Application for the departure of Erf 1911, Riebeek Kasteel, in terms of section 25(2)(b) of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 25 March 2020) from the 3m southern side building line to 1m to accommodate a garage on the property.

Application for the consent use of Erf 1911, Riebeek Kasteel, 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 accommodate a restaurant in a portion of the business use, on the ground floor of the building.

The application was published in local newspapers and the Provincial Gazette on 3 October 2022, in terms of Section 55 of the By-Law. The commenting period, for or against the application, closed on 7 November 2022.

In addition to the abovementioned publication, 25 written notices were sent via registered mail to the affected property owners in the area, in terms of Section 56(1) & (2) of the By-Law, as well as e-mails, where e-mail addresses were available. Ten written notices were returned unclaimed.

A total of 8 objections were received against the proposal. The applicant was afforded 30 days, from 11 November 2022 to 11 December 2022, to respond to comments and objections received by affected parties. The response to comments was received on 21 November 2022.

The applicant is KSD Architecture and Interiors and the property is owned by the S.J Mercer and R.P. Hornebo.

3. Legislation and policy frameworks

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

- a. Spatial Justice: The proposed development will promote access to economic opportunity through creating smaller, potentially more affordable property in a historically high income area. Access will also be provided for a small business owner. 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 rezoning and consent use will enable the owner to develop the property to its full potential, while adhering to the character of the specific area of Riebeek Kasteel. The various land uses – flats, studios/offices, coffee shop – will create the spatially more compact and resource efficient utilisation of the residential property.

The proposal constitutes infill development and will connect to the existing infrastructure of the area. The proposed rezoning is thus considered as spatially sustainable.

- c. Efficiency: The proposal ensures the optimisation of existing resources, while contributing to the densification target as advocated by local, provincial and national policy. The development proposal is thus deemed efficient.
- d. Good Administration: The application was communicated to the public through advertising and sending written notices per registered mail and e-mail to affected land owners. The application was also circulated to the relevant municipal departments and Eskom for comment. Consideration was given to all correspondence received and the application was dealt with in a timeous manner. It is therefore argued that the principles of good administration were complied with by the Municipality.
- e. Spatial Resilience: The proposed development will not limit any future benefits of the application property or those of the surrounding area. The proposed building lends itself to various uses, promoting diversity to better withstand future economic shocks.

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

The application contributes to healthy management of the urban and rural area. IDP outcome 5.2.

The proposed development is in compliance with the character and land uses prescribed by the SDF as well as the principle of densification which is supported by the SDF and PSDF. The application affects optimal and more intensive use of land and existing infrastructure.

2.3 Zoning Scheme Provisions

All zoning parameters will be adhered to, apart from the building line departure from the southern building line – from 3m to 1m.

4. Heritage

The proposed development is located inside the heritage precinct identified for Riebeek Kasteel during the heritage survey of 2022. However, the property itself is not classified as having heritage significance.

Following objections and concerns raised by the public, the owner/developer revised the architectural elements of the original design to be more informed by the prevailing architecture of the area and thus more consistent with the heritage vernacular of the context.

The revised proposal does not overpower the adjacent dwellings and buildings. It incorporates clues in terms of horizontal and vertical building elements and rhythms into the design, to improve the visual integration into the area and surrounding properties.

As part of the revised SDP, the flat roofs have now been limited when viewing the building from the street.



Figure 8: Revised eastern elevation

The images below illustrate examples of the relevant historical architectural style:



5. Desirability

The proposed development is small, located on the edge of the CBD of Riebeeck Kasteel, along an activity street. The impact of the proposed development will be similar to that of a regular two storey house and thus deemed negligible. The proposed development constitutes a mix of uses on the property and densification and as such is considered consistent with the MSDF visions and objectives for the future of Riebeeck Kasteel.

There are no physical restrictions on the property that will have a negative impact on the application, as the erf is relatively flat. The property is bordered by trees and shrubs, effectively creating a natural buffer between the erf and its surroundings.

The rezoning of the application property is the mechanism provided by the By-Law, in order to allow for the various land uses on one property, while remaining consistent with the land uses in the area. In addition to the rezoning, the application for a consent use further provides the Municipality with the opportunity to evaluate the proposed restaurant, to investigate the nature and operation thereof and anticipate the impact on the surrounding community. The Municipality is then able to regulate the operation of the restaurant via conditions of approval, to ensure the proposal is appropriate within its context.

The mixed uses on the property, i.e. business premises, a restaurant and flats, is foreseen to benefit the owners in future, should the market fluctuate and require a more elastic approach in response. The concerns of the objectors regarding the success of the restaurant are consequently addressed.

The removal of trees from the property was likewise dealt with, as the owner/developer proposes to only remove alien species and trees that may hinder construction. Most of the removed trees will be re-planted elsewhere on the property. Compliance with the proposal will be ensured through requiring a landscape plan as a condition of approval. Existing trees and shrubs already effectively shield the property from its surroundings, ensuring the privacy of those on the erf itself, as well as the affected surrounding erven. The proposed boundary wall will further promote the privacy, health and safety of all parties involved.



Access to the property will continue to be from Royal Street and the proposed parking bays will be located in roughly the same position as is currently the case.

The addition of nine parking bays in total is not foreseen to create a detrimental increase in traffic to the erf and any potential inhabitants and visitors will be required to adhere to the same traffic legislation. The development proposal will ensure the optimal utilisation of existing resources and the impact on traffic volumes is considered to be acceptable within a residential neighbourhood, along an activity street.

The proposed rezoning may impact positively on the economy of the surrounding neighbourhood, as it will make residential opportunities available to a wider income group, as well as through densification within the area. The construction phase is foreseen to create employment opportunities, while rates and taxes will provide continuous income to the Municipality in future.

The proposed development encourages optimal use of the property as the property is currently under-developed and neglected. The optimal use of resources, infrastructure, land and functionality is foreseen to be promoted by the development.

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

The development parameters of the Zoning Scheme will be adhered to. The one parameter that will be departed from, namely the southern side building line, is not considered to have any detrimental impact on the neighbouring property. The encroaching garage will only be a ground storey structure, with no openings along the encroaching wall. The effect is thus considered to be comparable with that of a regular residential dwelling.

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

In conclusion, the proposal to rezone Erf 1911, Riebeek Kasteel, and to provide for a consent use (restaurant) is deemed desirable in terms of the above-mentioned criteria.

6. Impact on municipal engineering services

Sufficient engineering services exist to accommodate the proposed development.

The application was submitted to the Director: Civil Engineering Services, to ensure that all civil services comply with standards and are not detrimental to the services network of Riebeek Kasteel and development contributions were calculated in terms of the capital contributions policy for the town (2005).

7. Comments of organs of state

The application was circulated to Eskom. Comments were provided in the letter with reference number 07640-22 dated 28 October 2022.

8. Response by applicant

See Annexure M.

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 remove all rights enjoyed by the beneficiary or only some of those rights N/A

PART L: RECOMMENDATION WITH CONDITIONS

A. The application for the rezoning of Erf 1911, Riebeek Kasteel, from Residential Zone 1 to Business Zone 2, be approved in terms of section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020);

B. The application for a consent use on Erf 1911, Riebeek Kasteel, to authorise a restaurant, as presented in the application, 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) Erf 1911 (775m² in extent) be rezoned from Residential Zone 1 to Business Zone 2, in order to accommodate a business premises on the property, as well as four (4) flats, as presented in the application;
- b) The operating hours of the restaurant be restricted to 7:00 – 19:00 from Monday to Saturday and be closed on Sundays;
- c) The minimum of nine (9) on-site parking bays be provided and that the parking bays be clearly marked;
- d) The parking bays, including the sidewalk, be finished in a dust-free, permanent surface, being tar, concrete, paving or any other material previously approved by the Director: Civil Engineering Services;
- e) The northern-most parking bay be at least 10 metres removed from the street corner;
- f) A detailed Site Development Plan be submitted to the Senior Manager: Development Management, for consideration and approval;
- g) A detailed Landscape Plan 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 construct or affix and display any signage and that the signage be limited to 1m² in area and may not project over a public street;
- i) A Certificate of Compliance be obtained from the West Coast District Municipality for the operation of the place of assembly;
- j) A trade licence be obtained from Swartland Municipality for the operation of the business premises;

- k) No off-site parking be allowed;

2. WATER

- a) The existing water connection be utilised and no additional connections be provided;

3. SEWERAGE

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

4. DEVELOPMENT CONTRIBUTIONS

- a) The owner/developer is responsible for a development charge of R18 513,85 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 R26 614,45 towards bulk water reticulation, at building plan 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 R37 886,75 towards sewerage, at building plan 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 R24 634.15 towards roads and storm water, at building plan 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).
- e) The Council resolution of May 2022 makes provision for a 35% discount on development charges to Swartland Municipality, except for condition 4.a), which is payable in full. The discount is valid for the financial year 2022/2023 and may be revised thereafter;
- C. The application a departure on Erf 1911, Riebeek Kasteel, 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 CONSTROL



- a) The 3m southern side building line be departed from and reduced to 1m to accommodate the portion of the proposed garage that encroaches on the building line;

2. GENERAL

- a) Should the extension of any existing service be needed in order to provide the development with services, said extension be for the account of the owner/developer;
- b) The approval is, in terms of section 76(2)(w) of the By-Law valid for a period of 5 years. All conditions of approval be complied with before the occupancy certificate be issued. Failure to comply will result in the approval expiring;
- c) Appeals against the Tribunal decision should 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

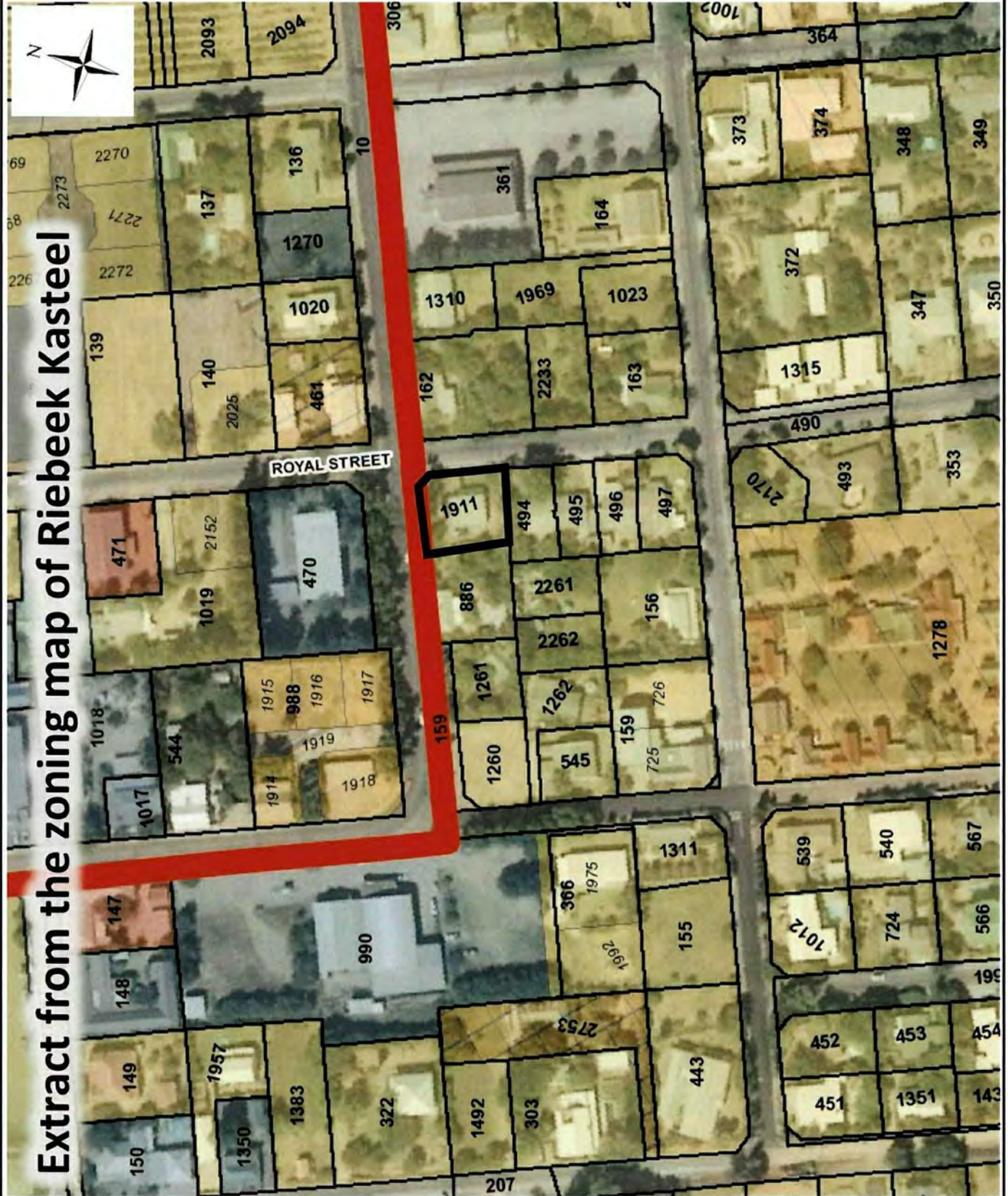
1. The application is in compliance with the character and erf size for the specific portion of Riebeek Kasteel, as determined by the SDF.
2. The application is seen as densification which is supported by the SDF and PSDF.
3. The application complies with section 42 of SPLUMA and Principles referred to in Chapter VI of LUPA.
4. The proposed rezoning will not negatively affect the character of the neighbourhood, as it is designed to be consistent with the vernacular of the historic precinct of Riebeek Kasteel.
5. The proposed mixed uses are considered appropriate within the context, while also rendering the development resilient and able withstand fluctuating market trends.
6. There are sufficient services capacity to accommodate the proposed uses on the property.
7. The operating hours of the restaurant are restricted, in order to ensure that the business is compatible with the normal day-to-day activities associated with a residential neighbourhood.
8. The increase in traffic load, due to the development, is considered negligible.
9. The rights of surrounding property owners will not be negatively affected, as the development will take a form resembling a large two storey house, such as can be expected in a residential neighbourhood.
10. The development is intended to stimulate the local economy of Riebeek Kasteel.
11. The effect of the building line departure is considered minimal and similar to that of a regular residential dwelling with a garage. All remaining development parameters of the By-Law will be adhered to.

PART N: ANNEXURES				
Annexure A	Locality Plan			
Annexure B	Site Development Plan			
Annexure C	Public participation map			
Annexure D	Objection from Diab			
Annexure E	Objection from van der Walt			
Annexure F	Objection from Ball and Creamer			
Annexure G	Objection from Sieni			
Annexure H	Objection from Andreasin			
Annexure I	Objection from Kamerman			
Annexure J	Objection from Soanes			
Annexure K	Objection from Barret			
Annexure L	Objection from Muntingh			
Annexure M	Response to objections			
First name(s)	KSD Architecture and Interiors			
Registered owner(s)	S.J. Mercer and R.P. Hornebo	Is the applicant authorised to submit this application:	Y	N
PART P: SIGNATURES				
Author details: Annelie de Jager Town Planner SACPLAN registration number: (A/2203/2015)			Date: 31 January 2023	
Recommendation: Alwyn Zaayman Senior Manager: Development Management SACPLAN registration number: (B/8001/2001)	Recommended	✓	Not recommended	
			Date: 1 February 2023	

ANNEXURE A

Legend

- AGRICULTURAL ZONE 1
- AGRICULTURAL ZONE 2
- AGRICULTURAL ZONE 3
- AUTHORITY ZONE
- BUSINESS ZONE 1
- BUSINESS ZONE 2
- BUSINESS ZONE 3
- COMMUNITY ZONE 1
- COMMUNITY ZONE 2
- COMMUNITY ZONE 3
- GENERAL RESIDENTIAL ZONE 1
- GENERAL RESIDENTIAL ZONE 2
- GENERAL RESIDENTIAL ZONE 3
- INDUSTRIAL ZONE 1
- INDUSTRIAL ZONE 2
- INDUSTRIAL ZONE 3
- INDUSTRIAL ZONE 4
- OPEN SPACE ZONE 1
- OPEN SPACE ZONE 2
- OPEN SPACE ZONE 3
- OPEN SPACE ZONE 4
- RESIDENTIAL ZONE 1
- RESIDENTIAL ZONE 2
- RESIDENTIAL ZONE 3
- RESIDENTIAL ZONE 4
- RESIDENTIAL ZONE 5
- RESORT ZONE
- SPECIAL ZONE
- SPLIT ZONING
- SUBDIVISIONAL AREA
- TRANSPORT ZONE 1
- TRANSPORT ZONE 2
- TRANSPORT ZONE 3
- UNDETERMINED ZONE
- National
- Divisional
- Main
- Trunk
- Minor

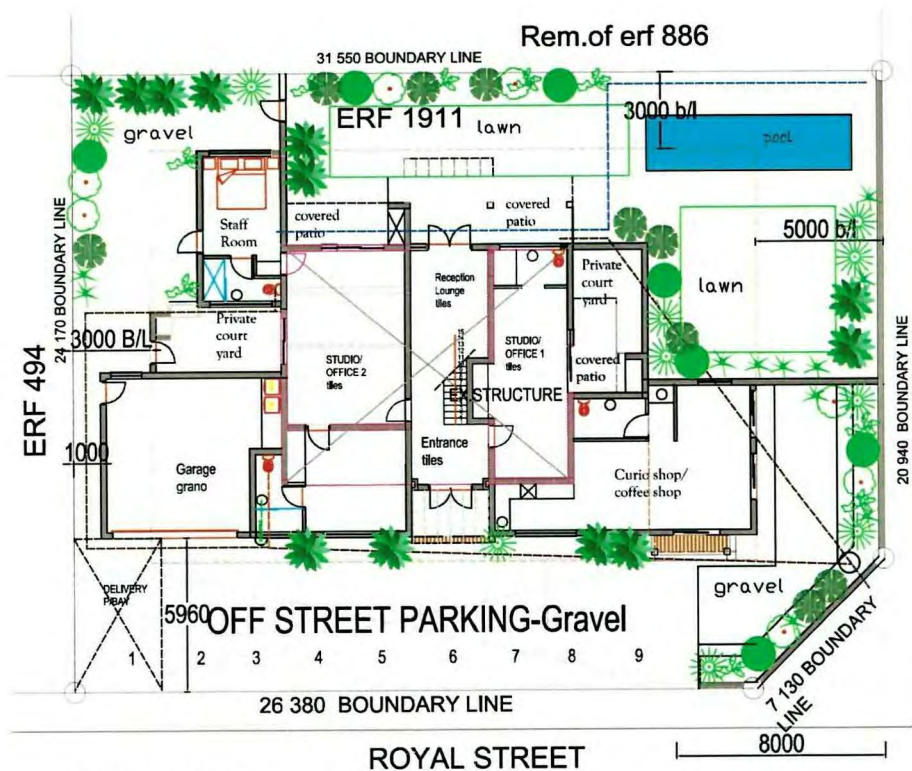






FIRST FLOOR LAYOUT
1 : 100





SDP LAYOUT
1 : 200

PIET RETIEF STREET

PLANLIST:	
LAWN	
HEDGE SPECIES:	
PLUMBAGO AURICULATA (LOW HEDGE)	
& RHUS CRENATA	
SHRUBS	
CARISSA SPP	
PASSERINA RIGIDA	
TECOMA CAPENSIS	
BULPS	
AMARYLLIS BELLADONNA	
GROUND COVERS	
AGAPANTHUS PREACOX	
DIETES GRANDIFLORA	

KSD ARCH & INTERIORS



KARIN SNYMAN Pr.SArchT.
Principal

SAIBD /SD487/c 1 FYNBOS CLOSE
SAIAT / 33182 ALBERTINIA 6695
SACAP FAX 086 580 7236
ST 0171 CELL 083 754 9870
Pr.SArchT. E- karinsnyman.ks@gmail.com
CLIENT/ KLIENT ksd@telkomsa.net

HOUSE MERCER/
PEDERSEN HORNEBO

ERF DESCRIPTION/ BESKRYWING

erf 1911
Royal street
RIEBECK KASTEEL

PLAN DESCRIPTION / BESKRYWING

SDP LAYOUT
PLANT LIST

PLAN No.		SHEET NO:
1911-06-2022		004
		VEL NO:
DATE	DRAWN	REVISION
JUNE 2022	K. S.	000
DATUM	GETEKEN	WYSIGING
COPYRIGHT RESERVED KOPIEREG VOORBEHOUD		

ANNEXURE C

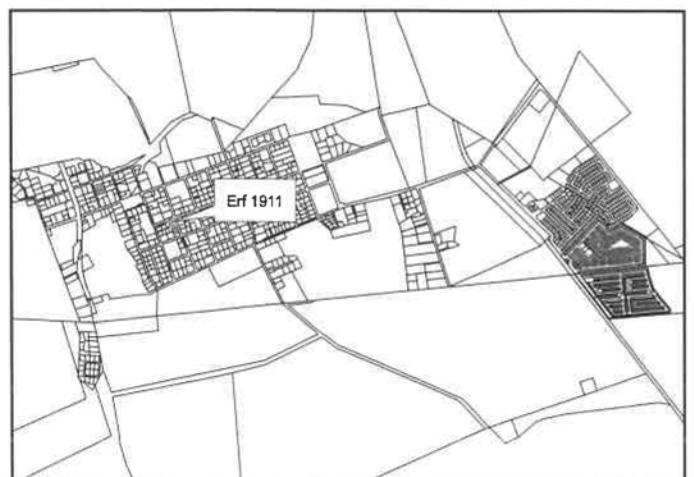


Voorgestelde hersonering, vergunningsgebruik
en afwyking

Erf 1911, Riebeek Kasteel

Publieke deelname

Skaal: NVT



ANNEXURE D

From: Rose Diab <rose.diabrk@gmail.com>

Sent: Thursday, 20 October 2022 09:42

To: Registrasie Email <RegistrasieEmail@swartland.org.za>

Subject: Proposed Rezoning on Erf 1911, Riebeeck Kasteel (Notice 31/2022/2023)

Good day,

I am the owner of Erf 1310 at 8 Piet Retief St, Riebeeck Kasteel, 7307.

I wish to object most strongly to the rezoning on Erf 1911 as per the abovementioned notice.

The reasons for this are:

1. A business in this area will increase traffic and the noise it makes is unacceptable.
2. The problem with street children will be exacerbated by the increased commercial activity.
3. Flats overlooking domestic homes is completely unacceptable.
4. If the shop proposed is to be a restaurant, we have enough restaurants in Riebeeck Kasteel.

I prefer to be contacted via email.

Yours faithfully

R J DIAB

082 6877149

(Municipal Account No. 105013100038)

ANNEXURE E

From: Lezel van der Walt <vanderwaltlezel@gmail.com>

Sent: Friday, 21 October 2022 16:31

To: Registrasie Email <RegistrasieEmail@swartland.org.za>

Subject: RE Beswaar teen hersonering Erf 1911 te Riebeek Kasteel

Geagte Mnr Scholtz

Ek neem kennis van die aansoek om hersonering na 'n besigheidsperseel, asook aansoek om 'n koffiewinkel en woonstelte op te rig op die bg erf.

Ek woon in Royal Straat, en erf 1911 is op die hoek van Royal Straat en Piet Retief straat.

Die strate, beide Piet Retief en Royal Straat, is nie geskik vir parkering vir 'n besigheid nie. Ons plattelandse kinders loop, ry fiets of ry skaatsplank skool toe (daar is 2 laerskole in 'n 200m radius van die perseel) en 'n ophoop van voertuie sal 'n gevaar wees vir die kinders.

Hier is reeds n hele aantal koffie winkels of deli's/ restaurante wat koffie bedien: Beans About Coffee, Bayleaf & Thyme Deli, Aardvark, Panera Bakery, Valley Kitchen, Cheers Cafe, The Coffee Tramp in 'n 300m radius van die betrokke erf. Ek sien nie die nut om nog 'n koffie winkel so naby oop te maak nie.

Is daar nie genoeg besigheids persele in die dorp sentrum nie, 'n plek wat hulle daar kan koop en hulle winkel oopmaak nie?

Dit is my besware - dit is maar hoofsaaklik teen die verandering van residensiële erwe na besigheids erwe, en die gevolg daarvan op die paaie en omliggende omgewing en onmiddellike bure.

Groete
Lezel van der Walt

Lezel van der Walt
076 023 3521

ANNEXURE F

Crystal Ball and Dr Catherine Creamer
49 Primula Avenue
Wellway Park East
Durbanville
7550
0741031746 | 0823869345
crystalfarmerclb@gmail.com | cathyfarmer@me.com
6 November 2022

JJ Scholtz
Municipal Manager
Municipal Office
1 Church Street
Malmesbury
7300

Dear Mr Scholtz

Objection to proposed rezoning and consent use on Erf 1911, Riebeek Kasteel. Ref: 15/3/3-11/Erf_1911 and 15/3/4-11/Erf_1911

We, Crystal Ball and Catherine Creamer, joint owners of both Erf 2261 and Erf 2262, respectfully object to the proposed rezoning of Erf 1911 from a Residential Zone 1 to a Business Zone 2, and the consent use for a restaurant in the form of a coffee shop. We object for the following reasons:

- We gain access to our adjoining plots from Piet Retief Street via a panhandle that skirts erf 886, the Erf adjacent to Erf 1911. Piet Retief is already a very busy road, and we have found that cars turning left into the Piet Retief from Sarel Celliers street do not have a good line of vision, and there is no stop sign. Thus, it is quite dangerous to manoeuvre and park a vehicle, or turn into driveways on that block. The addition of a business – with related activities such as deliveries – on the corner of Royal and Piet Retief could further exacerbate this concern, and could increase unpredictable traffic flow on the tricky bend. This poses a potential danger to local motorists and pedestrians.
- We purchased plots 2261 and 2262 because of Riebeek Kasteel's unique artistic character, pedestrian-friendly layout, and delightful existing coffee shops and local establishments. We fear that allowing the rezoning of the plot to accommodate a business could compromise the authentic character of the town.

For any further correspondence, please contact us via either of the email addresses above.

Yours Faithfully,

Crystal Ball and Catherine Creamer



ANNEXURE G

15 Van Riebeek Street
(Cnr Van Riebeek Str & Royal Str)
Riebeek Kasteel
17 October 2022

The Municipal Manager
Private Bag X52
Malmesbury
7299

Objection in terms of section 60

Propose developmen of erf 1911 (cnr Piet Retief Str & Royal Str) Riebeek Kasteel.
I am a property owner, resident and rates & taxes payer.

My objection is as follows:

This is a residential area, (quiet part of town).

Over bulking a 775 sq m plot with a double storey - 4 studio apartment, 8m swimming pool, & 9 proposed parking bay development is unacceptable.

Business premises in a residential area increases crime. There is already a major crime issue in Riebeek Kasteel. There is no SAPS office in Riebeek Kasteel.

Business of this nature is noisy and disruptive in a residential area. (traffic, music, etc)

Peace and quiet will be gone - The main reason why I moved, is that it is a tranquil town.

The planned construction and building is out of character, style and balance on a plot of this size. It certainly does not enhance the town.

The building line of 1m and a double storey is an invasion of privacy of the residents in the close surrounding area. I am, at most, 200m down the road.

The town is already overtraded with restaurants, especially when this proposed development is not near the town centre which attracts the tourists. There is enough space for this in the confines in the town business hub. There are premises standing empty in town.

Nature will be interrupted with , trees uprooted. It will become a concrete overpopulated area.

Kind Regards



A.A. Sieni

0836507881

ANNEXURE H

From: shaun@protongroup.co.za <shaun@protongroup.co.za>

Sent: Monday, 03 October 2022 17:30

To: Registrasie Email <RegistrasieEmail@swartland.org.za>

Cc: Chanice Dyason <PlanIntern1@swartland.org.za>

Subject: Re: Voorgestelde hersonering, vergunningsgebruik en afwyking op erf 1911, Riebeek Kasteel

Dear Sir/Madam,

I am in receipt of your email with regards to the rezoning of Erf 1911 for which I thank you.

I am the owner of Erf 2233 at number 22 Royal street the immediate neighbour.

I strongly oppose this application for the following reasons:

1. Riebeek Kasteel has a business area/footprint with many retail spaces standing vacant and many businesses having closed down, NOT due to COVID.
2. The village is losing the village feel with ongoing development, which means an impacts on tourism.
3. Four double story townhouses is densifying the footprint of the residential area, thereby detracting from the village as we know it.
4. A restaurant/coffee shop if anyone would care to do some research is a certain failure, Riebeek Kasteel is overtraded with eateries.
5. Tin Roof in Hermon street has been on the market for years, they just cannot survive, make a profit being so removed from the village.
6. I have recently spent several hours and had numerous meetings with a view to opening a restaurant, no additional restaurant/coffee shop can trade well with 2 days a week of business, this space is over traded.
7. The impact on allowing more business premises, will ultimately impact negatively on the already struggling retail sector.
8. Why not focus on developing the business area, upgrade the square, fix the sidewalks/pavements ?
9. Why encroach further on the residential area ?

If need be I will rally support from the neighbourhood.

Sincerely

Shaun Andreassen

ANNEXURE I



Riebeek Valley
Ratepayers Association

10 Oktober 2022

Die Munisipale Bestuurder

Privaatsak X 52

Malmesbury

7299

Geagte Mnr,

**Is VOORGESTELDE HERSONERING EN VERGUNNINGSGEBRUIK EN AFWYKING
VAN ONTWIKKELINGS PARAMETERS OP ERF 1911 RIEBEEK KASTEEL
(KENNISGEWING 31/2022 2023)**

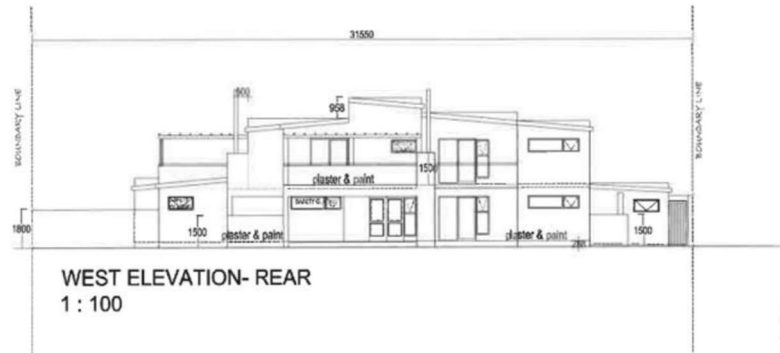
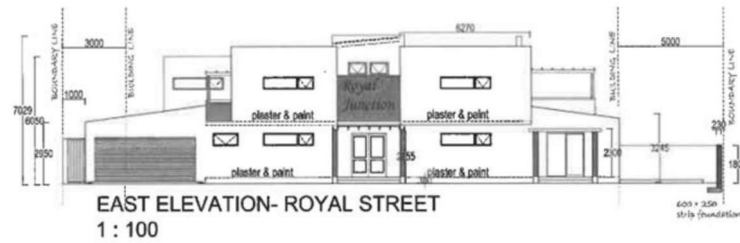
Agtergrond,

1. Namens die lede van die Riebeek Valley Ratepayers Association (RVRA) en soos vervat in Afdeling 3.8 van die RVRA grondwet wil die Bestuur van die RVRA graag op rekord plaas ons beswaar rakende die buite aansig en estetika van beoogde ontwikkeling op Erf 1911
2. Beswaar word geillustreer daar onderstaande voorstelling van suid, oos, noord aansigte in bouplanne soos voorgelê aan Swartland Munisipaliteit (SM); Departement van Ontwikkelingsdienste.
3. Neem kennis ons maak nie beswaar ten opsigte van die afwyking van die ontwikkelingsparameters op Erf 1911 nie.
4. Sal dit op prys stel indien u enige korrespondensie vanf SM kan rig aan beide jennifer@midpoint.co.za en henk@vnboerdery.co.za

Beswaar,

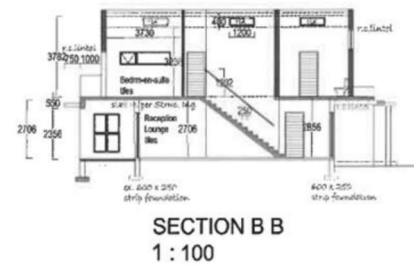
1. Riebeek Kasteel as dorp het sy eie unieke karakter wat onder andere oor tyd neerslag gevind het in tipiese tydlose boustyl wat ons gekiedkundige erfenis weerspieël. Dit het bygedra tot die trots wat ons vandag het vir ons dorp en wat ook sag op die oog van Toeriste val.
2. Die voorgestelde fassade en boustyl wat voorgestel word op Erf 1911 voldoen glad nie aan hierdie norms nie en sal nie vir Riebeek Kasteel tot eer strek nie en trouens sal afbrekend wees tot wat tot nou toe grootliks in Riebeek Kasteel aanwesig is. (Sien onderstaande boutekeninge)
3. Ook is daar 'n verstandhouding bereik tussen Swartland Toerisme en SM (Dept. van Ontwikkelingsdienste) dat daar sekere sensitiewe areas in Riebeek Kasteel en in ander Swartlandse dorpe is waar die erfenis geskiedenis bewaar moet vir die nageslag maar ook ten bate van Toerisme. Afskrifte van hierdie sensitiewe areas in Riebeek Kasteel en die ander dorpe is aan SM oorhandig. Die beoogde nie toepaslike ontwikkeling op Erf 1911 val binne hierdie voorgestelde geormerkte sensitiewe area. Ons voorstel is dat dit gerespekteer word.
4. Ons kan nie in die Swartland bekostig dat die karakter en identiteit van 'n dorp soos Riebeek Kasteel agterweë bly nie. Dit is tans nog 'n sterk aantrekkings krag van potensiële nuwe intrekke en besoekers.

Onderstaande die buiteaansigte van die beoogde Erf 1911 ontwikkeling.



Sl. No.	Description	Quantity	Material	Remarks	Unit
1	600 x 250 strip foundation	1000	Concrete	Foundation	m ²
2	600 x 250 strip foundation	1000	Concrete	Foundation	m ²
3	600 x 250 strip foundation	1000	Concrete	Foundation	m ²
4	600 x 250 strip foundation	1000	Concrete	Foundation	m ²
5	600 x 250 strip foundation	1000	Concrete	Foundation	m ²
6	600 x 250 strip foundation	1000	Concrete	Foundation	m ²
7	600 x 250 strip foundation	1000	Concrete	Foundation	m ²
8	600 x 250 strip foundation	1000	Concrete	Foundation	m ²
9	600 x 250 strip foundation	1000	Concrete	Foundation	m ²
10	600 x 250 strip foundation	1000	Concrete	Foundation	m ²

DOOR & WINDOW SCHEDULE



ALL SPECIFICATIONS RELATE TO THE SANS-1040, NATIONAL BUILDING REGULATIONS. ALL RELEVANT BOUNDARY PEGS TO BE POINTED OUT TO THE BUILDING INSPECTOR PRIOR TO COMMENCEMENT OF ANY BUILDING WORK.

THIS DRAWING DOES NOT CONSTITUTE A COMPREHENSIVE SPECIFICATION FOR THE WORKS. NO DIMENSIONS TO BE SCALED FROM THIS DRAWINGS. THESE DRAWINGS REMAINS THE COPY RIGHT OF KSD ARCH & INTERIORS.

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KSD ARCH & INTERIORS



KARIN SWYMAN P-35461
Principal

SHR / 12487/e
SHR / 12487/e
SHR / 12487/e
SHR / 12487/e
SHR / 12487/e
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SHR / 12487/e

HOUSE MERCER/
PEDERSEN HORNEBO

erf 1911
Royal street
RIEBECK KASTEEL

PLAN DESCRIPTION / BESKRYWING
ELEVATIONS & SECTIONS

PLAN No. 1911-03-2022
1911-03-2022
1911-03-2022
1911-03-2022
1911-03-2022
1911-03-2022
1911-03-2022
1911-03-2022
1911-03-2022
1911-03-2022

Aanbeveling ;

Ons wil aanbeveel dat die bogenoemde ontwikkelaar van Erf 1911 kyk na die estetiese Fassades wat in Riebeek Kasteel teenwoordig is van ou en nuwe geboue wat die bestaande estetiese karakter respekteer om sodoende 'n toepaslike ontwerp op die tafel te plaas wat alle rolspelers gemaklik laat voel.

Hieronder voorbeelde van slegs 'n paar tipes boustyle in Riebeek Kasteel wat erfenis en esteties vriendelik is.



Teen hierdie agtergrond wil ons egter sterk beswaar maak teen die huidige fassade en argitektoniese styl van die ontwikkeling op Erf 1911

Die uwe,

A handwritten signature in cursive script, reading 'Jennifer Kamerman'.

Jennifer Kamerman

Voorsitter: Riebeek Valley Ratepayers Association

6 Long Street

Riebeek West

ANNEXURE J

From: Alison Prest <alisonprest@gmail.com>
Sent: Tuesday, 25 October 2022 11:16
To: Registrasie Email <RegistrasieEmail@swartland.org.za>
Subject: Objection to Development ERF 1911 Riebeek Kasteel

Attention: Swartland Town Planning Division
From: Alison Soanes/Prest
4 Piet Retief Street Riebeek Kasteel ERF 1261
Cell: 0828991461
Preferred communication is e-mail

25 October 2022

Objection to Development Erf No 1911

My objection are the following:

- This is a residential area and I am not in favour of business development.
- Business will bring an increase of traffic, noise and parking congestion. Already we are contending with the huge trucks that come down our road with animals for the abattoirs, in harvest time the grapes and trucks that miss read google maps and come through the town.
- I object to the style of architecture and complex use, it is out of character for a small "dorp", and out of balance to the plot and town. I reject building 1m from the boundary wall and having flats looking down into neighbours yards.
- I also question the validity for such a build .. Restaurants are struggling, and this development is not in the flow to the present business hub. Seldom do you see tourists walk down Piet Retief Street. Also question the need for offices post COVID.
- I reject business coming into residential areas. Already with the gym hall we have seen a deterioration and lack of aesthetics in our street. Trees have been cut down, nature has not been replaced, lack of personal pride , properties not fenced brings increased security issues and breaks down neighborliness.

I am in favour of cost effective living units for people who come and work in this area, like that of the old police station and home industry where people live on the premises.

Regards
Alison Soanes/Prest

ANNEXURE K

SUBMISSION IN RESPONSE TO PROPOSED REZONING, CONSENT USE AND DEPARTURE OF DEVELOPMENT PARAMETERS ON ERF 1911, RIEBEEK KASTEEL SWARTLAND MUNICIPALITY NOTICE 31/2022/2023

We are the owners of Erf 886 Riebeek Kasteel, the house situated next to ERF 1911 on Piet Retief Street, no 6. We have been living here full time since mid 2020.

We were unfortunately not directly notified of the proposed development, but rather informed via the local paper and from a fellow neighbour, who was emailed directly from the Swartland Municipality. The municipal notice included elevations of the proposed dwellings.

The notice indicated 3 applications namely:

- It is proposed that Erf 1911 (775m² in extent) be rezoned from Residential Zone 1 to Business Zone 2 in order to accommodate a shop and 4 flats on the premises..
- The application for consent use for a restaurant on Erf 1911. It is proposed that the restaurant be operated in the form of a coffee shop.
- The application for a departure from the development parameters on Erf 1911. Departure from the 3m side building line (southern boundary) to 1m in order to erect a garage

As the direct neighbours to ERF 1911, we have would like to raise our objection as follows:

The proposed “modern looking” structure on Erf 1911 is directly surrounded by 3 Heritage buildings, namely ERF 886 Grad 3C, ERF 182 Grade 3C and Erf 461 Grade 3B. This raises the concern as to what aesthetical consideration has been taken in wanting to build a modern structure amongst heritage houses. One might deem this to be somewhat irresponsible and removes any of the “old charm” present in the direct area.



*Yellow indicates 3C Listings
Orange indicates 3B Listings
Red arrow indicates Erf 1911*

Excerpt from the Swartland Heritage Survey, 2009.

Whilst we agree that the existing dwelling is in need of development. A 7.5m tall modern structure is not in keeping with its direct surroundings and not respecting the heritage status of its neighbours properties and broader town design. The proposed dwelling seems too large for a plot size of only 775sqm.

We request that more consideration is taken into the aesthetic appearance of the proposed structure, for the greater good of our beautiful town - Riebeek Kasteel.

The second part of our objection is for the proposal of the property to be used in the form of a restaurant / coffee shop and the rezoning from Residential Zone 1 to Business Zone 2. What sort of research has been done by the developers in evaluating if there is a requirement / additional market for yet another restaurant or coffee shop? - we request conclusive evidence that supports this need. The town is already over-saturated with struggling restaurants and coffee shops which a new business could further damage the little existing economic growth there is in the main business hub. Please may we have some guidance into the idea behind this proposed usage?

Lastly, the requirement for 9 parking bays in Royal street is concerning. 9 parking bays on the corner of a truck heavy road of Piet Retief will certainly bring an element of congestion and cause for concern for the foot traffic that passes up and down Piet Retief.

CONCLUSION:

We are not objecting to the development of a residential property of erf 1911, but rather viewing concerns and objections to the potential negative impact to both the core business district, by rezoning and thus expanding the struggling core hub, increase in traffic and congestion in a road that has not been designed for large volumes of traffic and the negative curve appeal and undesirable aesthetics of a modern designed multi-purpose property that is surrounded by heritage properties - one of the many factors contributing to the quaint country town of the Swartland which attracts many tourists to the area.

We are further proposing that the rezoning of business rights are limited to the north side of Piet Retief to contain and develop the existing struggling business economic hub and protect the status and safety of the residential area of town.

Please may we request that Erf 1911 is not listed at 6 Piet Retief as this is our address on Erf 886.

Submitted by:

Lesley Barrett and Gillian Barrett

gfdanvers@gmail.com

0662641514

4 November 2022

ANNEXURE L

SUBMISSION IN RESPONSE TO PROPOSED REZONING, CONSENT USE AND DEPARTURE OF DEVELOPMENT PARAMETERS ON ERF 1911, RIEBEEK KASTEEL (NOTICE 31/2022/2023)

1. I am the owner of Erf 163 Riebeek Kasteel, situated on the corner of Royal and Riebeek streets, as indicated on the locality plan in the notice dated 3 Oct 2022. I acquired the property in 2000 and initially used it as a weekend place, but have been living here fulltime since 2010. The submission below is thus informed by my residence in and association with Riebeek Kasteel over a period in excess of 20 years.
2. The submission concerns the proposed departure and rezoning of erf 1911 situated on the corner of Royal and Piet Retief Streets, Riebeek Kasteel. This is described in the notice as follows: “It is proposed that Erf 1911 (775 m² in extent) be rezoned from Residential Zone 1 to Business Zone 2 in order to accommodate a shop and 4 flats on the premises.”.
3. The following observations are made:
 - a) Units 3 and 4, on the first floor consist of two bedrooms-*en suites* and a small living area each
 - b) Units 1 and 2 on the ground floor consist of two studio offices, the proposed shop and the garage.
 - c) Although not a hundred per cent clear on the map, it seems that nine parking bays of 2.5 by 5 m each are provided for on the Royal Street side (east) of the property.
4. Units 3 and 4 therefore have space each, in principle, for an adult couple and their children or two adult couples for example. There is thus scope to accommodate eight adults, each with a vehicle and therefore eight vehicles. It is of course not inconceivable that one or more, and even all eight adults may have more than one vehicle, bicycles or motorcycles and/or trailers.

Commercial district creep

5. The proposed rezoning of erf 1911 and its use for commercial purposes would signify a significant change in the character of this part of Riebeek Kasteel (south-side of Piet Retief Street) and a notable expansion of the commercial area currently restricted to the area around the town square (Fontein, Sarel Cilliers, Hoof and Plein Streets) and in front of the Royal Hotel (Main Street).
6. Attention is drawn to Schedule 2 of the by-law as it concerns the objective of the zone being applied for, being Business Zone 2 (Neighbourhood business):

The objective of this zone is to provide for low intensity commercial and mixed-use development which satisfies the needs of the local precinct for commodities and personal

services. Such development should be limited in extent and must be able to integrate with the adjacent precinct without adversely affecting the amenities of the residential precinct.¹

7. In what follows it will be submitted that the rezoning, the intended use and the consequences thereof will adversely affect the surrounding residential area. It is furthermore submitted that the onus rests with the Applicant to show that the proposed rezoning and intended use will not have adverse consequences on the surrounding residential area.
8. Erf 1911 has on both sides older dwellings typical of the area and this lends a particular character reflective of a small Swartland village and one that is prized by many. The proposed structure is simply not in harmony with the surroundings. The existing dwelling is equally out of character and the application therefore presents an opportunity for remedial steps to be taken.
9. Moreover, the erf is 775 m² in size making it on the smaller side if compared to my own erf (163), erf 886 on the western side, and erf 162 on the opposite corner. The intention is to increase the footprint and thus densify the area (i.e., south side of Piet Retief) characterised by single story low-density residential dwellings. The proposed design (double story with increased footprint) would be out of character with the surroundings and jut out like a poorly placed anachronism.
10. The plan, in particular the east, north and west elevations show a variety of windows to be used; some in landscape and others in portrait and of varying sizes. A flat roof is also proposed. Irrespective of the zoning application, the developers ought to be encouraged to design a structure that would be in line with the surroundings in support of the overall character of Riebeek Kasteel as a rural village.
11. The large lettering indicated on the plan (see east elevation) on the building “Royal Junction” is simply out of character with the surroundings and is rather associated with a railway station. Attention is thus drawn to the provisions in Schedule 2 concerning advertising and something more discreet, if at all, would be in line with the surroundings.² This also seems like a deliberate effort not to integrate as required by the by-law as cited in para 6 above.
12. One may also ask if there is a shortage of business zone property in Riebeek Kasteel which, if it was the case, would lend support for the rezoning application. In assessing this issue, the current state of play needs to be taken into account:
 - a) The former *Kasteelberg Restaurant* near the crossing of Fontein and Main Streets (opposite tennis court) have been redeveloped into at least four commercial units as well as some accommodation units; all indications are that the available space is not yet fully occupied.

¹ ‘Swartland Municipality: Municipal Land Use Planning By-Law: To Regulate and Control Municipal Land Use Planning’ (2020), Schedule 2 sec. 3.2.

² Swartland Municipality: Municipal Land Use Planning By-Law: To regulate and control municipal land use planning, Schedule 2 sec. 3.2.1(l).

- b) The shop in Fontein Street formerly known as the *Biggest Little Market*, closed its doors and merged into a redevelopment of the *Bay Leaf and Thyme Restaurant* as the *Bay Leaf and Thyme Deli*, indicating that businesses are under pressure and innovative solutions are being tested, consequently relying what is there in the core business district.
 - c) I observed a vacant shop in the Plein Street complex in Plein Street on the Square on 6 Oct 2022.
 - d) The pottery shop at the bottom of Short Street development (Main Road opposite Hotel) closed its doors and a clothing shop is opening there; again, indicative of the precarious state of the local economy, but simultaneously the availability of rental space.
 - e) There is vacant land on Main Street (opposite *The Gallery*) which would be ideal for commercial development. The size is estimated to be some 1000 m².
 - f) The premises between the Deli-Co shop and the take away shop are available for rental (corner Main and Sarel Cilliers Streets).
 - g) Plans are apparently afoot for the commercial development of the area around Kasteel Motors (Sarel Cilliers Street) as well as the area behind Panera Restaurant (Sarel Cilliers Street). Indeed, the showroom of Kasteel Motors has now been converted into a hardware store, again indicative of the availability of rental space as well as the pressure under which existing businesses are to make ends meet.
 - h) There are also two plots with substantial vacant areas in Sarel Cilliers Street, being erven 988 and 990. These are in the core business district and one plot (990) already has Kasteel Motors (using about half of the plot), and 988 is also partially used by Kasteel Motors; both erven 988 and 990 thus contain large areas that are vacant and in principle available for development.
 - i) A plot (some 1000 m²) with commercial rights has been set out on the large vacant land below (south of) the Dutch Reformed Church (between Royal, Main, Piet Retief and Skool Streets).
 - j) A major new development, with business properties, is planned for the area west of Fontein Street and east of the R311 road.
 - k) Many local businesses suffered during the COVID-19 lockdown and the full effect is still being felt. It is not totally unforeseeable that other commercial property will become available in the not-too-distant future.
13. The *Swartland Spatial Development Framework* indicate on the map titled “*Land use proposals and social amenities*” that erf 1911 is on the edge of the core business district.³ The application

³ Swartland Municipality, ‘Swartland Spatial Development Framework (2017-2022)’ (Malmesbury: Swartland Municipality, 2017), 260.

for rezoning should thus be seen in this context, namely that it is made within the context of a larger plan, but that does not mean,

- a. all the implications and consequences of the plan have been carefully analysed and assessed, and
 - b. that there has been public consultation on such more detailed implications and consequences.
14. The notice issued by Swartland Municipality of the application and this submission form part of the more detailed consultation and assessment process. It is indeed a constitutional requirement that the public must be given a meaningful opportunity to engage in the processes of government.⁴ Moreover, that the views of the public must not be ridden over roughshod, but that they must be given proper consideration.
15. In paragraph 12 above, an assessment of available or imminently available commercial property was given. To this it should be added that there is a part of Hermonweg that is also classified as a secondary business node (from Piet Retief crossing south to the edge of town). Given the oversupply of properties with business rights in the core business district and vacant land, as set out in paragraph 12 as well as the plans related to the part of Hermonweg, the question must therefore be asked what is to be gained in the larger scheme of things by affording business rights to a property on the fringes of the core business district in a context where there is an oversupply of commercial property? It should furthermore be asked if the granting of more business rights will not devalue existing business zones due to oversupply?
16. The feasibility of another coffeeshop is also questionable. A quick count of existing coffeeshops and shops that sell coffee, identified at least ten such facilities. Vacant commercial space does not instil confidence from investors.
17. The *Swartland Spatial Development Framework* covers the period 2017 to 2022. It did not anticipate COVID-19 and the devastating economic impact it would wreak on the economy, and the Swartland was not spared. There is perhaps good reason to consolidate and support what is there, and save and support businesses as opposed to over-supplying the market with a resource that is already present in abundance. Keeping the core business district concentrated in its current active area and investing in that area to make it as attractive as possible for investors and their customers seem to be the more prudent and business-supportive approach, as opposed to expanding the core business district to the fringes as indicated in the *Spatial Development Framework*. It may in effect undermine the existing businesses.
18. There is undoubtedly value in having the business district concentrated in a relatively small area as it makes tourist-reliant business accessible by foot; in other words, visitors can park in

⁴ *Doctors for Life International v Speaker of the National Assembly and Others*, No. (CCT12/05) [2006] ZACC 11; 2006 (12) BCLR 1399 (CC); 2006 (6) SA 416 (CC) (17 August 2006) (7 August 2006).

one spot (e.g., at the square or opposite the church) and walk around. Moreover, it creates a particular atmosphere that tourists seemingly enjoy. Expanding the core business area across Piet Retief Street into a residential area is not supported by a general need for more properties with business rights.

19. While the intended use may be as it is stated in the application (flats and a coffee shop), there is little standing in the way of the present or future owners using the coffee shop or the flats for other purposes and may even apply for a liquor licence, a matter that the Municipality has limited control over.
20. The application for rezoning from Residential Zone 1 to Business Zone 2 is also made without any substantiating motivation – it merely states that this application is being made, but is void of presenting any reasons that may clarify issues or address anticipated concerns from surrounding owners. Should there not be a pro-active disclosure by the applicant of possible risks and adverse impacts as well as articulating mitigating measures?
21. The change in zoning would also be significant as the two zoning types and their respective consent uses are set out as follows in the by-law:⁵

Table 1

Zone type	Primary uses	Consent uses
Residential Zone 1: Low Density	Dwelling <i>Additional use right:</i> Filming.	Second Dwelling or Double Dwelling House, Bed & Breakfast Establishment, Guest House, Day Care Centre, Place of Education, Place of Worship, Home Occupation, House Shop, House Tavern
Business Zone 2: Neighbourhood Business	Business Premises, Shopping Centre, Medical Consulting Rooms, <u>Offices</u> , <u>Flats</u> , Public Parking, Animal Clinic,	Place of Assembly, Place of Entertainment, <u>Restaurant</u> , Bottle store, Service Trade, Car wash, Nursery, Lodge,

⁵ Swartland Municipality: Municipal Land Use Planning By-Law: To regulate and control municipal land use planning.

Zone type	Primary uses	Consent uses
	Rooftop Base Station, Filming.	Tasting Facility, Transmission Tower.

22. Table 1 shows the differences between the two zoning types and the differences are not insignificant as indicated under the column “Primary uses”. Moreover, the listed consent uses also differ substantially, with Residential Zone 1 generally keeping to office hours on weekdays, bar a few exceptions. Business Zone 2 lists businesses attracting more customers and traffic, creating more noise and waste, and operating for longer hours.
23. Clarification is being sought on if the rezoning proceeds, what the conditions for the consent use will be. ⁶ In this regard, particular clarification is being sought in respect of deliveries, waste removal and vector control.

Traffic and parking

24. In recent years there has been an increase in traffic in Riebeek Kasteel and it is part of a larger problem requiring attention. More residents as well as visitors in addition to daily and seasonal activities have all played a part in placing increased pressure on roads and traffic management. The proposals concerning erf 1911 should thus be seen in this context; in isolation it is perhaps not a major issue, but seen within context, the implications are significant, adverse and avoidable.
25. Piet Retief Street is the primary route used by vehicles and pedestrians alike between the eastern to western parts of Riebeek Kasteel. Piet Retief Street is also the primary link between prominent businesses such as Riebeek Cellar, Deli-Co (on Sonkwasdraft road) and Tomis abattoirs east of Riebeek Kasteel, and to Riebeek West and further beyond. These businesses have substantial vehicle fleets and also attract vehicular traffic. Piet Retief Street is also the primary route linking Esterhof with the commercial area of Riebeek Kasteel and further beyond. There are certain times of the year (e.g., pruning and harvesting) when Piet Retief Street carries higher volumes of vehicular traffic, especially trucks and other agricultural vehicles.
26. It should be added that there are substantial numbers of people (adults and children) who walk the streets of Riebeek Kasteel or use bicycles to get around either for work, attending school or leisure. In short, Piet Retief Street is a busy road at the best of times and as a resident of Royal Street I am acutely aware of the risks involved crossing Piet Retief Street by foot or in a vehicle.

⁶ Swartland Municipality: Municipal Land Use Planning By-Law: To regulate and control municipal land use planning, sec. 29(5).

27. Adding high density housing with offices and a shop dependent on high volumes of customers (i.e., a coffee shop) to a busy crossing then seems to be creating safety risks as opposed to reducing such risks. To this end attention is drawn to Schedule 2 of the by-law which reads:
- (i) *Street corners*: The municipality may require that the owner of a building, situated at a public street corner which the municipality considers to be significant, shall incorporate in the building architectural features which focus visual interest on the corner, and which emphasize the importance of pedestrian movement around the corner. Such features may include building cut-offs, walkthrough covered arcades, plazas or other elements.⁷
28. As set out above, the crossing of Royal and Piet Retief carries a significant amount of vehicular and pedestrian traffic and the Municipality is thus requested to treat it as a ‘significant’ corner as provided for in the by-law. In view of this, the intended nine parking bays on the Royal Street side then seem to increase an existing risk in their close proximity to the crossing.
29. Piet Retief Street is simply too narrow to accommodate additionally parked vehicles and it is simply presumptuous to accept that the Royal Street residents south of Piet Retief will happily accept the overflow of vehicles and associated noise that cannot be accommodated on the premises of erf 1911 as proposed.

Correspondence from Abrahamse (Hornebo)

30. On 20 October 2022 a letter was forwarded to me purporting to be a response from one or more of the owners (Mercert and Hornebo) and not the applicant (KSD Architects) to the surrounding owners. The letter was drafted by a certain Deborah Abrahamse identifying herself as the wife of one of the owners, R Hornebo. A copy is attached as Appendix 1. If this was not from Abrahamse (and Hornebo), then what follows in paras 31-34 can be discarded.
31. This was seemingly an effort to address some concerns from residents that was articulated in a letter and circulated. I have not had sight of the first letter except as replicated in the reply from Abrahamse and seems to include extracts thereof.
32. The letter, as per Appendix 1, raises procedural and substantive concerns. On a procedural level it is firstly not clear on what basis Abrahamse is entering the process as she is not indicated as an owner or the applicant. Moreover, the notice from the Swartland Municipality concerning this application read with the by-law set out the procedure for applications of this kind. There does not seem to be scope in those provisions for an external party to lobby the surrounding property owners, as Abrahamse is appearing to do.
33. As a property owner in the Swartland one needs to have the assurance that the process and procedure for handling matters such as this one is not only secure, but also has integrity. In short, it would mean that property owners need to be protected against harassment and possible

⁷ Swartland Municipality: Municipal Land Use Planning By-Law: To regulate and control municipal land use planning, Schedule 2 sec. 3.2.1 (i).

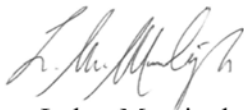
intimidation because they have concerns about a particular application. There is a procedure to be followed and we all need to follow it. One would assume that correspondence with the surrounding owners concerning the application would then flow through the Municipality to ensure the integrity and transparency of the process.

34. On a substantial level, although this is somewhat superfluous in light of the procedural issues raised, there is little doubt that the letter from Abrahamse is an attempt to put the application in the best possible light. It is, however, also the case that it has contradictions and makes claims that are vague and unsubstantiated.

Proposal

35. This submission is not intended to be counter or anti-development, but rather to place on record the anticipated impact and risks associated with the concerned application if successful.
36. The application for rezoning is opposed as set out in the above.
37. It is furthermore submitted that the south side of Piet Retief Street, west of Skool Street be removed from the proposal as part of the core business district as indicated *Swartland Spatial Development Framework*.⁸
38. There is no objection to the redevelopment of erf 1911 as a residential property, but an effort should be made to design a building that is more in line with its immediate surroundings and adds value for all.

Submitted by:



Lukas Muntingh

lmuntingh@uwc.ac.za

082 200 6395

24 Oct 2022

⁸ Swartland Municipality, 'Swartland Spatial Development Framework (2017-2022)', 260.

Appendix 1

Dear Neighbours (hopefully soon to be friends) residents & local Riebeek Kasteelers

It has come to our attention that the attached letter, hand delivered by Gill (our neighbour, who resides at 6 Piet Retief) has been doing the rounds regarding our intended build at 1 Royal Road.

You must have been horrified at the contents! I certainly was, having just read it! The language is inciting, the information inflammatory and false!

Please allow me to introduce myself. My name is Deborah Abrahamse and my husband is René Hornebo. We've bought Eckhardt's old house and would like to renovate and improve the building and surrounds.

The letter states that we are building, and I quote: "4 studio offices, a restaurant shop complex AND 4 apartments with an 8m swimming pool".

The FACTS: We are building a double storey house. It will consist of 4 interleading units, 2 at the top (units 3 & 4 on plan) and 2 at the bottom (studio/office on plan) which will have the dual purpose of an "interior design" office for myself, where I can meet prospective clients and collaborate. We have incorporated a small space, no bigger than a garage, where I can showcase my décor/curio wares. This will be very tastefully done, as I do building & interiors for a living. With this in mind, we called it a coffee/curio shop, as it has been a dream of mine to create a small "boutique" space with a welcoming ambience, with the option of serving a hot "cuppa" to whomever pops in to peruse/buy. This is in keeping with what others are doing in the village eg. PictorEx, ROF and others who, just up the road/around the corner, use the front of their building as a showcase and also live in the same building.

The letter mentions low-cost housing and compares us to the old police station across the road, which, I presume, the residents dislike with a passion and therefore, I imagine, incites negativity. It certainly did for me when I read the letter!

The FACTS: Our building will be beautiful when complete and will NOT be low-cost housing for anyone! This will be our home. We would like the option of renting out a room or two, in order to supplement our retirement income. Therefore I am designing in a way that we can lock off some rooms, have weekend rentals and enjoy the balance of our home in privacy. I am not alone in wanting this, as I know many who are currently enjoying the duality of living in Riebeek Kasteel and supplementing their income in the same way.

The letter states that we are building a restaurant shopping complex.

The FACTS: **100% incorrect!** This is grossly inflammatory and would have everyone believe we are building a massive commercial construction, but I guess this is what the writer intended. How else can one get people to sign a petition, if not emotionally driven to anger and indignation?

The letter further states, and I quote: "We reject building 1m from the boundary and having us look into neighbour's yards"

THE FACTS: The only structure intended 1m from the boundary is the single storey garage with no overlooking features. Most of Riebeek Kasteel have garages built this way. I signed the same permissions for our neighbour, Michelle Nichols, at 29A Royal Road, who has their carport within the boundary line and Gill's house, 6 Piet Retief, ALSO has her garage 1m from our boundary!

The letter states concern for plants/trees & nature to grow.

The FACTS: We will need to remove vegetation in order to put in a swimming pool and a boundary wall, but we will be planting many trees, shrubs and plants in return, in order for us to enjoy privacy from the street and between our neighbours.

We know that change and new people arriving to your village can be uncomfortable for some, but what we are wanting, is to be a part of the community and the culture and we hope to be given the chance to integrate. We look forward to adding value to our Riebeeck Kasteel community.

In conclusion:

- We are NOT building a massive complex / block of apartments. We are simply building a double storey house.
- We are NOT building 4 separate Townhouses as one neighbour has stated. We are building 4 interleading units, within 1 building with 1 main entrance.
- We are NOT building a restaurant shopping complex.

If anyone wishes to speak to me, I invite you to please call me directly on 082 569 1869 and I'll meet you and share our plans with you over a cup of coffee or a glass of wine on our next visit.

Honestly neighbours, we love Riebeeck Kasteel!! We spend a lot of time (most weekends) in the village and Riebeeck Kasteel is where we envision our future. We simply want to improve our building and build something that works for us.

We look forward to meeting you all and being part of your community.

Kindest Regards
Deb & René

ANNEXURE M

File Ref: 15/3/3-11 Erf-1911

15/3/4-11 Erf-1911

15/3/10-11 Erf-1911

Date: -2022-11-21

PrSArchT ST0171 /SACAP/SAIAT



1 Fynbos Close ALBERTINIA
ksd@telkomsa.net 0837549870

Swartland Municipality
Planning & Building Development Management
Private Bag X52
MALMESBURY
7299

FOR ATTENTION: **Mr Alwyn Burger**

Dear Sir

APPLICATION FOR DEPARTURES AND THE SWARTLAND APPROVAL IN TERMS OF THE MUNICIPAL PLANNING BY-LAW: ERF 1911 Piet Retief Street RIEBEEK KASTEEL

With reference to your letter dated 2022-11-11 and the above application, you indicated that objections have been received relating to the proposal / application and that a written response is required in this regard. The purpose of this letter and various supporting documents is to provide the required written response on the objections and comments received for this application to be further assessed in terms of the relevant legislation. Please find our responses below in the languages the objections were received, therefore some responses have been written in Afrikaans.

1. Background

We have been requested by the owner of the subject property ("our client") to prepare a response to the objections received, relating to the application submitted.

2 Revised proposal to address the objectors:

Municipal Ratepayers concerns:

The Riebeek Valley Ratepayers Association raised concerns with the proposal, relating to:

- a. Die buite aansig en estetika van be-oogde ontwikkeling
- b. Unieke karakter van die dorp met tydlose boustyl.
- c. 'n Verstandhouding tussen Swartland Toerisme en SM (Dept. van ontwikkelingsdienste.) Erf 1911 val binne hierdie ge-oormerkte sensitiewe area.

3. Terugvoering:

- a. Die klient en argitek neem kennis van die terugvoering. Aansigte van die voorgestelde ontwikkeling is aangepas om binne die tydlose boustyl van die area in te pas. Sien asseblief aangehegte gewysigde aansigte.
- b. Die boustyl is verander na landelik met staan dakke en verandas, om die gebou se hoogte en aansigte te versag, asook die nodige koelte/skaduwee te verleen.

The architect's response clearly addresses and shows the changes to the proposal to address concerns. The proposal has been downscaled, which will have a positive impact on the area and surrounding property owners. Due to the significant changes made to the proposal, we are of the opinion that the proposal should now find support from the Riebeek Valley Ratepayers Association

As per the revised SDP, the following changes were made to address concerns (see architect's responses for more details):

CHANGES MADE TO ELEVATIONS:

- a. Critically, the ground floor units are now being proposed with a lean-to veranda, which significantly improves the streetscape and street interaction.
- b. The number of parking bays have been reduced to 7 off-street parking bays with a double garage (as per Zoning scheme) and are located on Royal Street side of the property.
- c. The existing vehicular access point is also being retained, which leads to the parking bays.
- d. The front façade first floor flat roofs have been changed to pitched roofs, creating a cape vernacular style.
- e. The structure proposed in the central portion of the building, which contributed towards the perceived "modern" look, have been addressed by adding a pitched roof gable entrance with lean-to veranda structures on ground floor.
- f. The roof has also been "broken-up" into separate roof structures on the front and back portion, addressing scale and height.
- g. Roof loft windows (600 x 600mm) have been added below the pitch of the gable wall. The pitched roofs have an eave overhang of min. 200mm.
- h. The proportions of the façade of the building have been addressed as explained in the architect's motivation.
- i. The window proportions have been altered to create a vertical look with plaster band surrounds.

4. General Objections / comments received

Objections have been received from the following parties and surrounding property owners:

RJ Dia b (Erf 1310) 8 Piet Retief Street,

Lezel van de r Walt (Erf?), Royal Street

C Ball & C Creamer (Erf 2261 & 2262), Panhandle entrance via Piet Retief street, next to erf 886

A A Sieni(Erf 497) c/o Royal and Van Riebeek street

S Andreasen (erf 2233) Royal Street

J Kamerman on behalf of Riebeek Valley Ratepayers Association

A Soanes/Prest (erf 1261) 4 Piet Retief Street

L & G Barrett (erf 886) 6 Piet Retief Street

We are of the opinion that the revised SDP now significantly addresses the concerns raised.

Note: (It should be noted that the objections submitted are very similar, if not the same, and it is clear that a general proforma / basic objection was used in this regard.)

The locations of the objectors are indicated on the map below.

4.1 Map indicating the location of the subject property and objectors



4.2 The following should be noted, regarding the issue of impact of the building on the heritage area:

- Erf 1911 does not have Heritage Status G3 HWC, which (to some extent) negates the client having to abide by Heritage laws and the Heritage vernacular. However, the concern regarding the heritage character of the area and the integration of the proposal into this vernacular, has been noted and the client has agreed to alter the total look of the intended build, to be more in keeping with some of the Heritage aspects of the surrounding area.
- Importantly, and as explained above, the proposal has now been amended, addressing the various concerns regarding the modern vernacular/style of architecture and ground floor interaction with the street.

- c. The building now effectively “reads” as a 2-storey home, which is not out of keeping with the character of the area and is comparable to surrounding build forms.
- d. Detailed criteria for the new facades in Royal & Piet Retief Street as part of "Heritage surrounding buildings" has been addressed by the Architect, which included a character analysis, etc. The detailed building criteria resulted in the proposed build form (now even further amended and improved).
- e. The revised proposal does not overpower the adjacent dwellings and buildings. It incorporates clues in terms of horizontal and vertical building elements and rhythms into the design, to improve the visual integration into the area and surrounding properties.
- f. As part of the revised SDP, the flat roofs have now been limited when viewing the building from the street.
- g. As a result of the abovementioned amendments, we believe that the application would be positively supported by the objectors.

4.3 Regarding the issues of privacy and sunlight impact because of departures & setbacks, the following should be noted:

As a result of the overall adding of verandas to various components of the building, any possible impact of privacy on surround properties have been significantly reduced.

- a. The objectors are mistaken that any setback departures are required from the street boundary. There are no street setback departures required and the proposal complies with the Zoning scheme in this regard.
- b. Importantly, as per the revised SDP, the rear portions of the building are setback at least 4m from erf 886 and 1m from the lateral common boundary, limiting the impact on adjacent properties.
- c. In terms of privacy concerns, brick wall balconies (meant for seating privacy) are proposed on the balconies facing the western and southern common boundaries, which portions trigger the setback departure only on the southern boundary. This will limit any “overlooking” concerns from the surrounding property owners.
- d. The portions of the building triggering the common boundary departures are minor in nature (see sketch below). These portions are located to the lateral side of the building and only relate to a small portion of the ground floor garage space. The portions do not result in any additional overlooking or overbearing features.

4.3.1 sketch showing minor portion of building triggering setback departure



The western and Northern boundaries appear to be well treed, which will contribute to the screening of the building from surrounding property owners. New Landscaping will be done around the new 1.8m high boundary wall on Piet Retief Street to create total privacy for the occupants of erf 1911.

In terms of the sunlight issue mentioned by the objectors, it should be noted that the subject property is located to the south of most of the objectors' properties, which means there will be a very limited, if no impact, in terms of sunlight. Also, as indicated above, the departures required from the common boundaries are for a very minor portion of the building, which portions have now even further been reduced as a result of the lowering of the previously intended building parapets.

The owner of the affected subject property located to the south has not objected to the proposal.

4.4 Regarding the issue of parking and traffic impact:

- Only 4 dwelling units are proposed within the building and sufficient on-site parking opportunities have been provided in accordance with the Swartland Municipality requirements.
- The parking proposal complies fully with the requirements of 1.25 bays/unit and 1/p/bay per 4 seats for the small shop
- The provision of some bays on site (off street parking) should therefore benefit the area by reducing on-street parking, which is prevalent.
- This is a small-scale house, internally divided into 4 apartments (guest accommodation) and therefore the parking layout / design should not result in any access and egress issues.
- The proposal has been amended and now utilises the existing c.w.c on the property.
- This proposal directly supports Council's Densification Policy and given the location of the subject property should result in facilitating the use of public transport for tourists visiting Riebeeck Kasteel

- g. Given that Royal Street is a two-way street, there is sufficient space for on-street parking that still allows for vehicles to manoeuvre in the street.
- h. The existing pavement width is about 2.5m wide for any pedestrians to walk freely past the parking bays.
- i. A significant parking embayment is in close proximity to the subject property, in Piet Retief Street which allows for public parking of at least 4 vehicles.

4.5 Regarding the issue of removal of trees.

In this regard, the following should be noted:

- a. The large Blue Gum tree on the boundary line in front of the subject property on Piet Retief Street will be removed. Blue gums are alien trees, use a lot of water and the government are currently removing them from all farms and riverbeds around the country. New trees will be planted. There appears to be a misconception by the objectors that all the trees will be removed.
- b. A new Boundary wall of 1.8m high will be built along Piet Retief Street for security and privacy.
- c. Minor trees to the rear of the property, which have no impact on the public realm may have to be removed and some smaller trees will also need to be removed to build the boundary wall and make way for parking bays. These trees will be replanted elsewhere on the property and trees/plants will also be planted along the boundary walls to bring back the nature and soften the landscape.

5. SPECIFIC OBJECTIONS RELATED TO OBJECTORS LISTED UNDER SECTION/CLAUSE 4. ABOVE

5.1 Objection received from R.J. DIAB (Erf 1310)

Note: It should be noted that some of the issues raised as part of this objection are exactly the same as the objections addressed above and therefore our response above is reiterated. Any additional points raised are addressed below.

Regarding the issue of privacy (i.e., top floor looking into garden) traffic, etc

- a. The objector's property is not located directly adjacent to the subject property, which limits any possible "overlooking" impacts.
- b. Importantly, because of the veranda's added on three facades of the building, any possible viewing from the Western facade on surrounding property owners has been significantly reduced.
- c. The rear portions of the building are setback at least 4.0m from the various common boundaries, limiting the impact on adjacent properties.
- d. The viewing from the Eastern and Northern facades will face Royal and Piet Retief Streets. The South facade has no impact on the adjacent erf and these owners had no objection.
- e. The "increase in traffic" is irrelevant.
- f. The very small "commercial" section will be walled with a double garden gate to create privacy and security for any visitor.
- g. The shop has a very small footprint and will be a decor/coffee bar area.

5.2 Objection received from Lezel van der Walt (Erf?)

It should be noted that the issues raised as part of this objection are basically the same as the objections addressed above and therefore our response above is reiterated. Any additional points raised are addressed below.

- a. Verwys na skrywe gedateer 21-10-2022. Me. van der Walt se hoof rede van beswaar is skool kinders en die hoeveelheid koffie winkels in Riebeeck Kasteel. Die grootte van die besigheids oppervlakte is minimaal in vergelyking met die oppervlakte van die eenhede wat vir selfsorg toeriste gebruik sal word.
- b. Parkering op terrein met 'n wyd genoeg sygaardjie is voorskrifte van die sonering aansoek wat aan voldoen moet word.
- c. Die eienaar van erf 1911 se oogmerk is om 'n dubbel verdieping woning, (4 selfsorg eenhede) met 'n uitstal ruimte van decor items te kombineer en 'n klein "koffie stasie" in die uitstal area om potensieel kliente 'n koppie koffie te kan bedien.

5.3 Objection received from C Ball & C Creamer (Erf 2261 & 2262)

(It should be noted that, again, the issues raised as part of this objection are the same as the objections addressed above and therefore our response above is reiterated.)

They also refer to traffic congestion in Piet Retief Street.

- a. There will be no access via Piet Retief Street c.w.c for erf 1911. The only access to the property will be via Royal Street, with sufficient off-street parking for visitors staying at erf 1911.
- b. The scale of the decor/arts/coffee shop is small and off-street parking bays are provided as per the requirements of the Swartland Zoning scheme.
- c. The appearance of the proposed development will look like a single residential double storey house. The facades have been changed to suit the character of the area.

5.4 Objection received from A A Sieni (erf 497) (Corner of Royal and Van Riebeeck street)

(Once again, please note that the issues raised as part of this objection are exactly same as the objections addressed above and therefore our responses above are reiterated.)

Regarding the issues of privacy, views, noise & devaluation - In this regard, the following should be noted:

- a. The footprint of the proposed dwelling, - which consists of 4 self-catering units for tourists as overnight accommodation, with the small decor/coffee bar/shop, will not affect erf 497.
- b. The proposed development will be enclosed with new 1.8m high boundary walls that create privacy and security for erf 1911 and surrounding owners.
- c. The style and facade of the proposed building has been addressed.
- d. The issue around privacy and 1m setback next to the single garage has been addressed.
- e. The concerns around landscaping have also been addressed.

5.5 Objection received from S Andreason (Erf 2233 – 50m from proposed development)

(It should be noted that the issues raised as part of this objection are the same as the objections addressed above and therefore our response above is reiterated.)

- a. Regarding the issues of privacy, views, noise & devaluation – the following should be noted: It should be noted that no departures are required from the Eastern Street boundary, with the building setback 5.0m from this boundary. Therefore, there will be no privacy issues relating to Royal Street.

- b. Given that no setback departures from the western common boundary and the actual setback of the building are required, there will be no noise issues affecting erf 2233.
- c. Considering the location of the proposed building, the south boundary setback on ground floor is 1.0m for the garage and the first floor is +- 7.0m away from the lateral boundary. This distance limits privacy and noise impact.
- d. It should be noted that the building does not trigger any height departure with this application and the building's facade has been significantly altered, to "read" as a double-storey house. The impact on views from Royal Street will therefore be limited, especially given no height departure is required.
- e. Importantly, no departures are required for the portion of the building within 5m from the street boundary, which means that this "envelope" is already set. The small portions of the building requiring setback departures at the lateral side of the building, therefore does not result in the "widening" of the view corridor and will have no impact on views from Royal Street.
- f. Devaluation/densifying has just been arbitrarily mentioned by the objector without good reason/explanation.
- g. The internal layout of the proposed development creates a 4-unit self-catering opportunity. The appearance in the design does not, on any elevation, detract from the village feel. As mentioned above the use of the decor/coffee shop will be minimal.
- h. The revised layout also shows a garden 1.8ht wall with entrance to a private secure space for any prospective client/visitor.
- i. As indicated previously, in terms of a negative impact on property values; no empirical proof in this regard has been provided and it is more likely that the opposite will be true, given the investment into the area.

5.5.1 Regarding possible conditions to be imposed in this regard, the following should be noted:

- a. The proposal has now been amended to utilise the existing c.w.c. width in Royal Street. This "required" condition has therefore been complied with, showing only the required 9 parking bays. 7 off-street and 2 indoor (garage) parking areas.
- b. The development has been "revised" as indicated above, basically "reading" as a double storey building and limiting impact.

5.6 Objection received from A Soanes/Prest (Erf 1 261)

(It should be noted that the issues raised as part of this objection are basically exactly the same as the objections addressed above and therefore our response above is reiterated.)

Regarding the issues of privacy, views, noise & devaluation

- a. The building does not trigger any height departure with this application and the building has again been significantly altered so the front facade "reads" as a double-storey house.
- b. No height departure is required, therefore the impact on Views from Royal Street will be limited.
- c. No departures are required for the portion of the building within 5m from the street boundary. The small portions of the building requiring setback departures at the lateral side of the building therefore does not result in the "widening" of the view corridor and will have no impact on views from Royal Street.
- d. Re: Devaluation/densifying - The internal layout of the proposed development creates a 4-unit self-catering opportunity. The appearance and design are in keeping with the village vernacular.

- e. The revised layout shows a 1.8m high garden wall with entrance to a private secure space for any prospective client/visitor.
- f. As previously mentioned above, in terms of a negative impact on property values; no empirical proof in this regard has been provided and it is likely that the opposite will be true, given the investment into the area.

5.7 Objections - (L&G Barret - erf 886)

(Note: It should be noted that the issues raised as part of this objection are the same as the objections addressed above and therefore our response above is reiterated.)

- a) This property owner was disappointed that they were not informed of the proposed building by the owner of Erf 1911. All notifications were sent directly from the Municipality and were not sent to each individual by the owner.
- b) Erf 1911 is not earmarked as a Heritage site.
- c) Critically, the ground floor units are now being proposed with a lean-to veranda, which significantly improves the streetscape and street interaction.
- d) The aesthetic appearance has been addressed to form a harmonious design in line with the surrounding 3C Heritage design.
- e) The number of parking bays have been reduced to 7 off-street parking bays with a double garage (as per Zoning scheme) and are located on the Royal Street side of the property.
- f) The existing vehicular access point is also being retained, which leads to the parking bays.
- g) The front facade first floor flat roofs of the building have been changed to pitched roofs, creating a visual cape vernacular.
- h) The structure proposed in the central portion of the building, which contributed towards the perceived “modern” look have been addressed, by adding a pitched roof gable entrance with lean-to veranda structures on ground floor. The roof has also been “broken-up” into separate roofing structures at the front and back portions, addressing scale and heights. The overall parapet heights have been reduced. Roof loft windows (600 x 600mm) have been added below the pitch of the gable. The pitched roofs have overhanging eaves of a minimum of 200mm, thereby adding to the historical vernacular.
- i) The proportions of the facade of the building have been addressed as explained in the architect’s motivation. The window proportions are changed to create a vertical look with plaster band surrounds.
- j) Importantly, the parking layout and configuration have been amended as per the revised SDP and now addresses the issues of concerns raised. The existing wide pavement with off-street parking should not cause any traffic congestion.
- k) The revised proposal complies with the parking layout standards as listed in the Zoning Scheme.
- l) In terms of the existing trees impeding sight, the following should be noted:
The existing c.w.c will now be used for vehicular access to the property, reducing the possible impact of “sight lines” due to the existing traffic in Piet Retief Street.

Heritage Resources Section

The Heritage Management Branch (HMB) - effectively there are no concerns with the proposal, relating to:

- (1) the dominant visual appearance of the roof of the building,
- (2) the height of the central portion of the building.

Conclusion

Given the revised / downscaled proposal and our responses above providing clarity that the objections received by the community are unfounded, it should be appreciated that the objections received, be considered answered by the Municipality and that our application please be recommended for approval.

We would greatly appreciate, that our documented response be positively considered, and the required recommendations / documentation forwarded to the Municipal Planning Tribunal for a decision at your/their earliest convenience please.

We thank you for your time and giving us the opportunity to respond and clarify our intentions for Erf 1911.

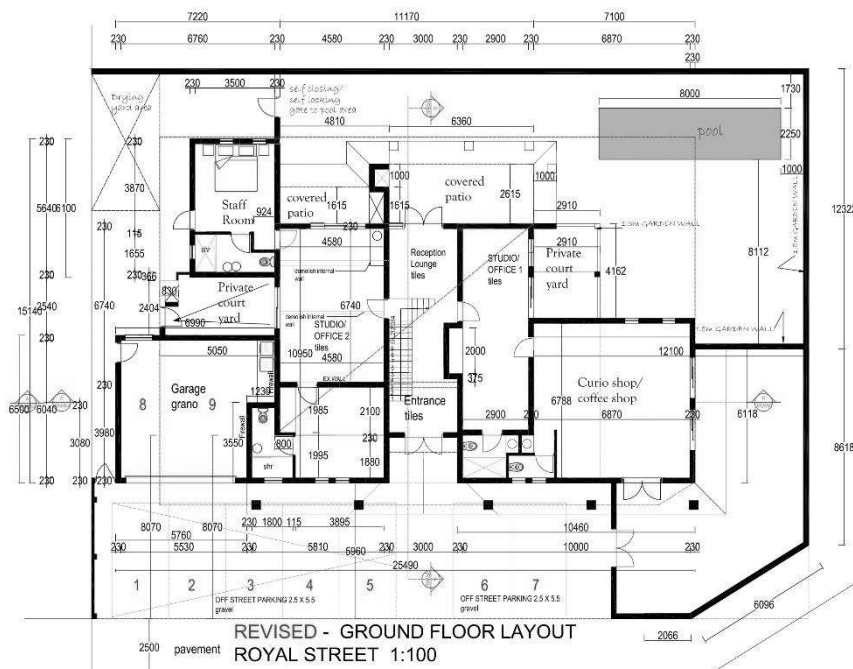
Yours faithfully

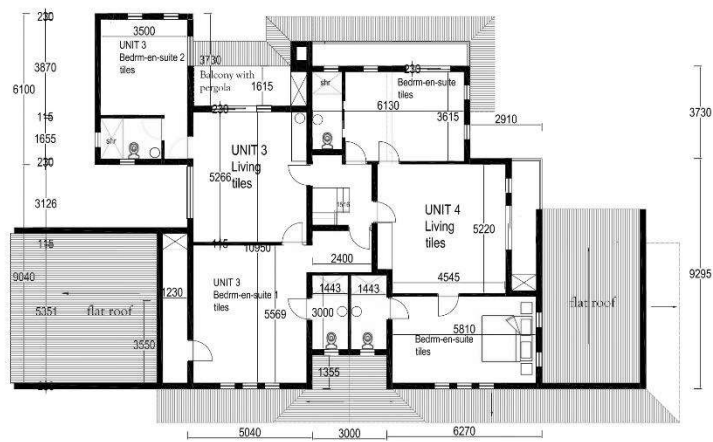
Karin Snyman
Principal
KSD Arch & Interiors

2022-12-02

ATTACHED: REVISED ELEVATIONS & LAYOUTS 1:100

REVISED LAYOUTS AND ELEVATIONS: -

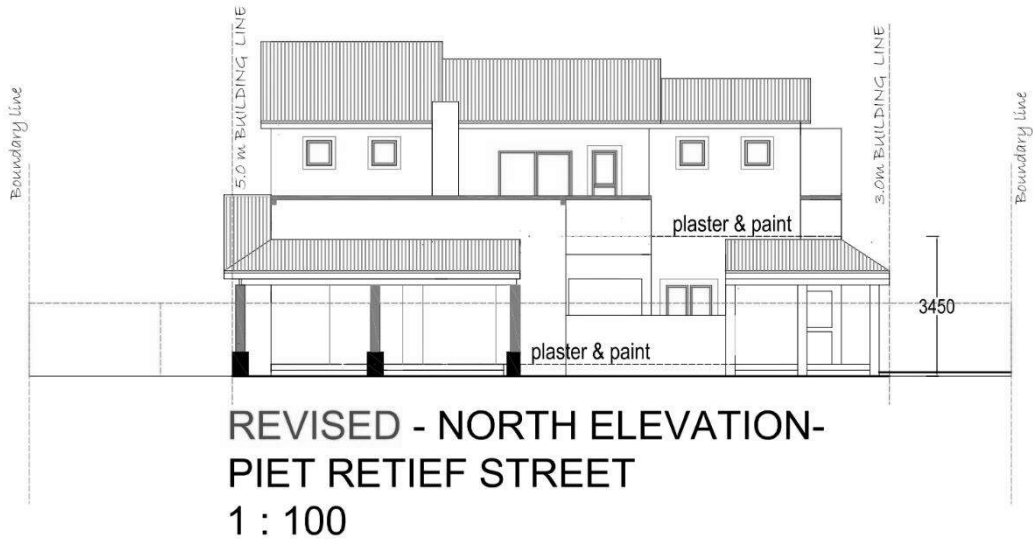




REVISED - FIRST FLOOR LAYOUT
ROYAL STREET 1:100



REVISED - EAST ELEVATION-
ROYAL STREET
1 : 100



ORIGINAL ELEVATIONS: -

