



**MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING HELD IN THE COMMITTEE ROOM:
CORPORATE SERVICES ON WEDNESDAY, 8 FEBRUARY 2023 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 16 NOVEMBER 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 16 November 2022 are approved and signed by the chairperson.

5. MATTERS ARISING FROM MINUTES

None.

6. MATTERS FOR CONSIDERATION

6.1 PROPOSED REZONING OF ERF 331, MOORREESBURG (15/3/3-9) (WARD 1)

The chairperson welcomed officials from the Department of Social Development and from the NGO, Community Cohesion.

Mr A J Burger, as author of the item, explained that a dwelling house on Erf 331, Moorreesburg was converted into a safe house/shelter to accommodate the victims of gender base violence. Erf 331, Moorreesburg is a state owned property.

The application received entails the rezoning of a portion of Erf 331, Moorreesburg (6000 m² in extent) from Residential Zone 1 to Community Zone 3 in order to operate a social institution. A discussion followed on the desirability to rezone the entire property, but it was concluded that since the development proposal is applicable to a portion of the erf (1 636 m² in extent), only that portion be rezoned.

RESOLUTION

- A. 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:

A1 TOWN PLANNING AND BUILDING CONTROL

- (a) A portion (1636 m² in extent) of Erf 331 be rezoned from Residential Zone 1 to Community Zone 3;
- (b) Building plans be submitted to the Senior Manager: Development Management for consideration and approval;
- (c) The shelter be operated strictly according to the policies and Standing Operating Procedures (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;

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 connection be provided;

A4 REFUSE REMOVAL

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

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 met within 90 days before the occupancy certificate be issued. Failure to comply will result in the approval expiring;
- (b) 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.

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

- (a) The application is in compliance with the planning principles of LUPA and SPLUMA;
- (b) The application is in compliance with the spatial planning of Moorreesburg;
- (c) The development proposal complies with all applicable zoning parameters of the Community Zone 3 zoning;
- (d) The impact of the proposed shelter on surrounding residential area is deemed low;
- (e) Erf 331 does not have any physical restrictions which may have a negative impact on the application;
- (f) The development proposal supports the optimal utilisation of the property;

6.1/C...

- (g) Existing services are deemed sufficient to accommodate the shelter;
- (h) The proposed shelter is deemed to not attract crime and violence to the area;
- (i) The impact of the shelter on property values of surrounding properties are deemed low to none;
- (j) There are no restrictions in the title deed of Erf 331 which restricts the proposed development.

6.2 APPLICATION FOR AN AMENDMENT OF RESTRICTIVE TITLE CONDITIONS ON ERF 205, YZERFONTEIN (15/3/5-14) (WARD 5)

Mr H Olivier, as author, explained that an application for the amendment of restrictive title conditions on Erf 205, Yzerfontein was received in order for the side building line (sea front) to be relaxed from 3,15 m to 2,4 m to accommodate an existing unauthorised wooden deck.

Mr Olivier confirmed that the authorisation of the wooden deck will have little to no impact on any of the neighbouring property owners.

RESOLUTION

- A. 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:

A1 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 3,15 m of any street line which forms a boundary of the Erf hereby conveyed, or within 3,15 m 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 3,15 m of any street line which forms a boundary of the Erf hereby conveyed, or within 2,4 m 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 be submitted to the Senior Manager: Development Management, for consideration and approval;

B. 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;

6.2/B...

- (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 the application;

C. The application be supported for the following reasons:

- (a) 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 3,15 m to 2,4 m in terms of future development is deemed insignificant;
- (b) Any future development on Erf 205, Yzerfontein encroaching on the building lines will result in a new application and public participation process;
- (c) 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;
- (d) All costs relating to the application are for the account of the applicant and there is no impact on municipal services.

6.3 APPLICATION FOR REZONING OF ERF 975, DARLING (15/3/3-3) (WARD 6)

Mr H Olivier tabled the item and stated that an application for the rezoning of Erf 975, Darling from Industrial Zone 2 tot Business Zone 2 was received in order to accommodate business premises (offices and single shops).

Mr Olivier argued that the character of the area is predominantly industrial in nature and although business uses are supported within the area, the scale and intensity of the proposed development will compromise the general use, the character and sense of place of the industrial area.

The Municipal Planning Tribunal agreed with the argument of Mr Olivier and welcomed the proposed development to Darling, provided that it be accommodated on an alternative site.

RESOLUTUION

A. 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);

B. GENERAL

Appeals against the Municipal Planning Tribunal 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) 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;
- (c) 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

6.3/C(c)...

- nodes in neighbourhoods with specific reference to the secondary commercial nodes in higher density poorer neighbourhoods;
- (d) 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;
- (e) The location of the proposed usage is not desirable and furthermore no site specific circumstances have been submitted to deviate from the SDF;
- (f) The proposal, given its location, is deemed not to be in the interest of the community of Darling.

6.4 PROPOSED CONSENT USE ON ERF 9291, MALMESBURY (15/3/10-8) (WARD 10)

Ms A de Jager confirmed that application is made for a consent use on Erf 9291, Malmesbury in order to establish a double dwelling on the property. Ms de Jager stated that the erf is located between a single residential property and a group housing development and the low to medium density proposed by the double dwelling is thus in keeping with the character of the area.

RESOLUTION

- A. 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:

A1 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;

A2 WATER

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

A3 SEWERAGE

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

A4 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 the Municipality, valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA: 9/253-164-9210);

6.4/A4....

- (f) The Council resolution of May 2022 makes provision for a 35% discount on development charges to Swartland Municipality, except for condition A4(a), which is payable in full. The discount is valid for the financial year 2022/2023 and can be revised thereafter;

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) The approval does not exonerate the applicant from obtaining any necessary approval from any other applicable statutory authority;
- (c) Appeals against the Municipal Planning Tribunal 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 proposed double dwelling is a residential use and is therefore consistent with the proposals of the SDF;
- (b) A double dwelling is accommodated as a consent use under Residential Zone 1 of the By-Law;
- (c) The development proposal supports the optimal utilisation of the property;
- (d) The scale of the double dwelling is similar to a large, single dwelling unit and is therefore compatible with the character of the surrounding area;
- (e) The double dwelling will provide in a need for a larger variety of housing opportunities to the wider population;
- (f) The development proposal will not negatively impact on the character of the surrounding neighbourhood or the larger Malmesbury;
- (g) The development will not negatively impact traffic safety in the neighbourhood;
- (h) The double dwelling promotes densification, appropriate in the context and consistent with the earmarks of the SDF.

6.5 PROPOSED REZONING, DEPARTURE AND CONSENT USE ON ERF 1911, RIEBEEK KASTEEL (15/3/3-11, 15/3/4-11, 15/3/10-11) (WARD 12)

Ms A de Jager tabled the item and explained the application received on Erf 1911, Riebeeck Kasteel in order to facilitate businesses (including a restaurant in a portion of the business use), residential units on the ground floor and flats on the first floor.

RESOLUTION

- A. The application for the rezoning of Erf 1911, Riebeeck 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, Riebeeck 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);

B1 TOWN PLANNING AND BUILDING CONTROL

- (a) Erf 1911 (775 m² 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) Building plan 1911-06-2022, including the revised layout, sections and elevations presented in the response to objections, be submitted to the Senior Manager: Development Management for consideration and approval;

6.5/B1...

- (c) The operating hours of the restaurant be restricted to 7:00 – 19:00 from Monday to Saturday and be closed on Sundays;
- (d) The minimum of nine (9) on-site parking bays be provided and that the parking bays be clearly marked;
- (e) The parking bays, including the sidewalk, be finished in a dust-free, permanent surface, being gravel or paving to the satisfaction of the Director: Civil Engineering Services;
- (f) The northern-most parking bay be at least 10 metres removed from the street corner;
- (g) A detailed Site Development Plan be submitted to the Senior Manager: Development Management for consideration and approval;
- (h) A detailed Landscape Plan be submitted to the Senior Manager: Development Management for consideration and approval;
- (i) 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;
- (j) A Certificate of Compliance be obtained from the West Coast District Municipality for the operation of the restaurant;
- (k) A trade licence be obtained from Swartland Municipality for the operation of the business premises;
- (l) No off-site parking be allowed;

B2 WATER

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

B3 SEWERAGE

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

B4 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 B4(a), which is payable in full. The discount is valid for the financial year 2022/2023 and may be revised thereafter;

- C. The application for 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);

C1 TOWN PLANNING AND BUILDING CONTROL

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

D./...

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 Municipal Planning Tribunal 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;
- (d) 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;
- (e) The proposed mixed uses are considered appropriate within the context, while also rendering the development resilient and able withstand fluctuating market trends;
- (f) There are sufficient services capacity to accommodate the proposed uses on the property;
- (g) 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;
- (h) The increase in traffic load, due to the development, is considered negligible;
- (i) 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;
- (j) The development is intended to stimulate the local economy of Riebeek Kasteel;
- (k) 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.

**(SIGNED) J J SCHOLTZ
CHAIRPERSON**

ITEM 6.1 OF THE AGENDA FOR THE MUNICIPAL PLANNING TRIBUNAL THAT WILL TAKE PLACE ON WEDNESDAY 8 MARCH 2023

LAND USE PLANNING REPORT PROPOSED DEPARTURE OF DEVELOPMENT PARAMETERS ON ERF 3557, DARLING					
Reference number	15/4/2-2	Submission date	9 February 2023	Date finalised	27 February 2023

PART A: APPLICATION DESCRIPTION							
<p>Application for the departure of development parameters on Erf 3557, Darling, is made in terms of Section 25(2)(b) of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 25 March 2020). The proposal entails the departure of the following development parameters:</p> <ul style="list-style-type: none"> Departure of the 2m rear building line to 0m; Departure of the 1,5m side building line (north eastern boundary) to 0m; and Departure of the permissible coverage of 50% to 55%; <p>The applicant is JC Architectural Design Studio and the property owner is L Nankomar.</p> <p>Please note that this departure application forms part of a building plan application.</p>							
PART B: PROPERTY DETAILS							
Property description (in accordance with Title Deed)	Erf 3557, Darling in the Municipality Swartland, Division Malmesbury, Province of the Western Cape						
Physical address	Fairview Close 68		Town	Darling			
Current zoning	Residential Zone 1	Extent (m ² /ha)	801m 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	Dwelling house			Title Deed number & date	T30070/2019		
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	<input checked="" type="checkbox"/>	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		Amendment or cancellation of an		Permission in terms of a condition of approval	

		conditions in respect of existing approval	approved subdivision plan		
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		

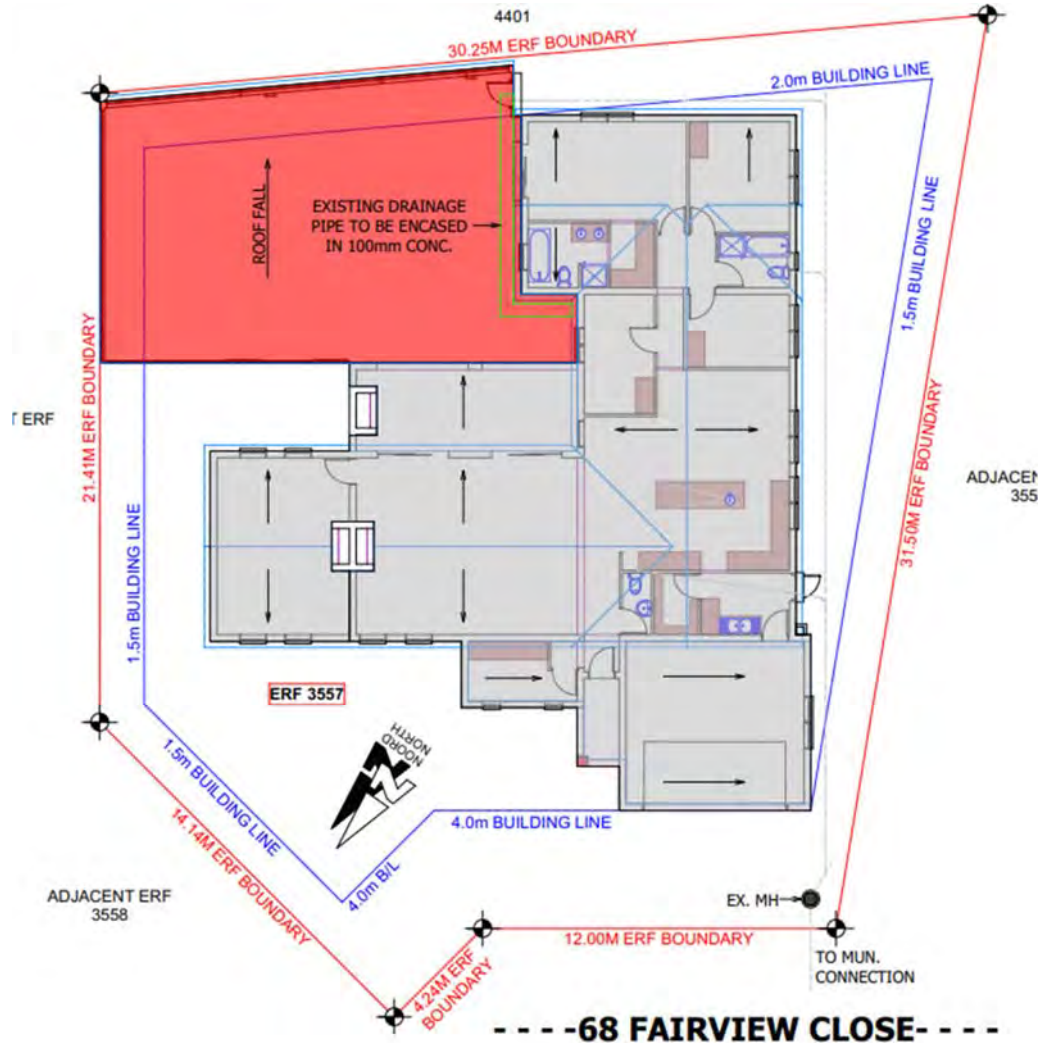
PART D: BACKGROUND

Erf 3557, Darling is zoned Residential Zone 1 and is developed with a double dwelling house.

The building plan for the dwelling and swimming pool was approved on 1 February 2021. See the site plan below.



Since the construction of the dwelling the owner enclosed the swimming pool area with a roof without building plan approval. The application is to legalise the illegal building work. See below the site plan for the covered swimming pool area.



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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PART F: SUMMARY OF APPLICANT'S MOTIVATION

We acknowledge that we have erected a roof illegally over our existing swimming pool at the back of our property but have done this without knowing that we had to submit building plans for approval. You will see that we had submitted building plans for all our previous building work and would therefore like to rectify this by submitting per proper plans in order to get it approved.

Our reasons for the erection of the roof and the sliding windows and doors was to have a proper protection from thieves constantly trying to invade our property from the back despite the electrical fence that we have installed. The roof also serves as protection against the elements especially when the swimming pool is used during the hot summer season.

Since we did not want to be a nuisance to our next door neighbour when we used the swimming pool and maybe have some friends over, we also installed sliding windows to the inside of our common boundary line. We have tried to construct a neat and durable building which would not have a negative impact on the rest of the development and believed that we have succeeded in this.

For this reason, our plea is that you look upon our application favourably and if possible, approve our application for the building line departure as well as exceeding the coverage.

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 applicant obtained the written consent from the affected parties of erven 4401, 3584, 3585 and 3566.						
The owner of erf 3588 does not support the departures.						
Total valid comments	1		Total comments and petitions refused	0		
Valid petition(s)	Y	N	If yes, number of signatures			
Community organisation(s) response	Y	N	Ward councillor response	Y	N	
			The application was not referred to the ward councillor.			
Total letters of support	0					

PART H: COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS				
Name	Date received	Summary of comments	Recommendation	
			Positive	Negative
Building Control Officer	24 February 2023	Safety distance of window opening in south east elevation and north east elevation does not meet the requirement of Table 2 of Part T of SANS 10400		X
PART I: COMMENTS RECEIVED DURING PUBLIC PARTICIPATION		SUMMARY OF APPLICANT'S REPLY TO COMMENTS	MUNICIPAL ASSESSMENT OF COMMENTS	
1.The Engelbrecht Family Trust	<p>Unfortunately, we cannot approve the departure/relaxations.</p> <p>Our expectations are that the structure be changed to within the allowed building regulations as set out.</p>	See the applicant's motivation.	Please see Part J, point 3.	

PART J: MUNICIPAL PLANNING EVALUATION

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

Application for the departure of development parameters on Erf 3557, Darling, is made in terms of Section 25(2)(b) of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 25 March 2020). The proposal entails the departure of the following development parameters:

- Departure of the 2m rear building line to 0m;
- Departure of the 1,5m side building line (north eastern boundary) to 0m; and
- Departure of the permissible coverage of 50% to 55%;

The applicant obtained the written consent from the affected parties of erven 4401, 3584, 3585 and 3566.

The owner of erf 3588 does not support the departures.

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: This principle is not evaluated.
- b) Spatial Sustainability: This principle is not evaluated.
- c) Efficiency: This principle is not evaluated.
- d) Good Administration: The application and public participation was administrated by Swartland Municipality and public and departmental comments obtained.
- e) Spatial Resilience: This principle is not evaluated.

2.2. Provincial Spatial Development Framework (PSDF, 2014)

Not applicable. Not evaluated.

2.3 West Coast District SDF (WCDSDF, 2014)

Not applicable. Not evaluated.

2.4 Spatial Development Framework(SDF)

Not applicable. Not evaluated.

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

The proposal entails the departure of the following development parameters:

- Departure of the 2m rear building line to 0m;
- Departure of the 1,5m side building line (north eastern boundary) to 0m; and
- Departure of the permissible coverage of 50% to 55%;

3. Desirability of the proposed utilisation

Erf 3557, Darling is zoned Residential Zone 1 and is developed with a dwelling house. The swimming pool has been illegally covered with a roof which encroaches the rear 2m rear building line to 0m, the 1,5m side building line (north eastern boundary) and increases the coverage of the property from 50% to 55%. The coverage of the property without the covered swimming pool area is 37,6% (301,16m²). The covered swimming pool is 140m² in extent which results in a total footprint of building work to 441,16m².

The existing dwelling complies with all zoning parameters.

Erf 3557 is relatively flat with no physical restrictions.

Erf 3557 is situated in Fairview Close and only has 2 adjoining residential erven (northern and southern sides). The adjoining erf 3558 is developed with a dwelling house. All other adjoining and surrounding properties are still vacant. A site inspection was conducted on 27 February 2023.

See below pictures of the inside of the covered swimming pool area.

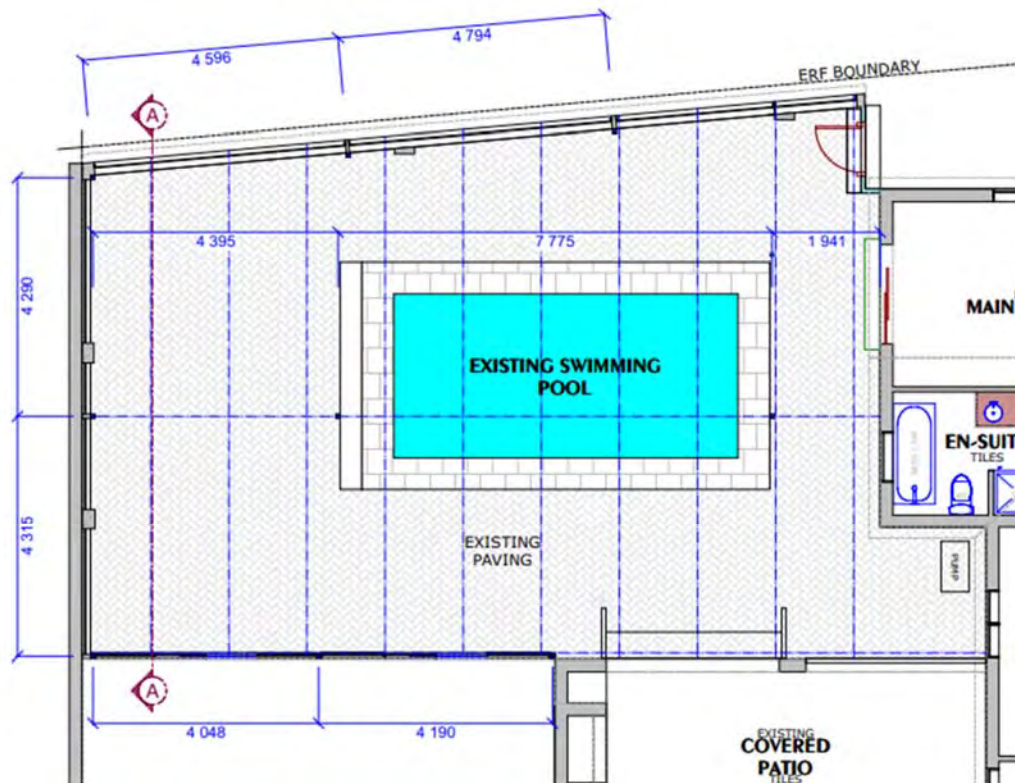


This picture indicates the departure of the rear building line. Windows and sliding windows are installed on the erf boundary.



This picture indicates the departure of the side building line. Windows and sliding windows are installed on the erf boundary. This picture also indicates the view to the erf 3558 (the objector).

The swimming pool has also not been erected in the position as approved. See below the existing position of the swimming pool.



Building line departures and departures from the permissible 50% coverage in the residential area next to the golf course area is unprecedented. The reason for this is that the average size of erven in this residential area are 800m² which gives a development footprint of 400m² single storey and 800m² double storey floor areas.

There are no similar rear and side building line, as well as coverage departures in Fairview Close. If the departures are approved, it will undoubtedly influence decision making on future departures of development parameters negatively.

The owner of Erf 3557 took a predetermined risk to erect the enclosed swimming pool area without building plan approval which is also outside the development rights of the property. By doing so, the adjoining property owner is negatively affected. Evidence of this is that the adjoining land owner objected to this application.

Furthermore, from a National Building Regulations point of view, the structure on the property boundaries are seen as a fire safety hazard. Safety distance of window openings in South East Elevation and North East Elevation does not meet the requirement of Table 2 of Part T of SANS 10400.

It is therefore recommended that the departures applied for be refused.

4. Impact on municipal engineering services

There is not impact.

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

A The application for the departure of the development parameters on Erf 3577, Darling be refused in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2021). The departures refused includes the following:

1. Departure of the 2m rear building line to 0m;
2. Departure of the 1,5m side building line (north eastern boundary) to 0m; and
3. Departure of the permissible coverage of 50% to 55%;


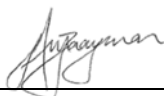
B GENERAL

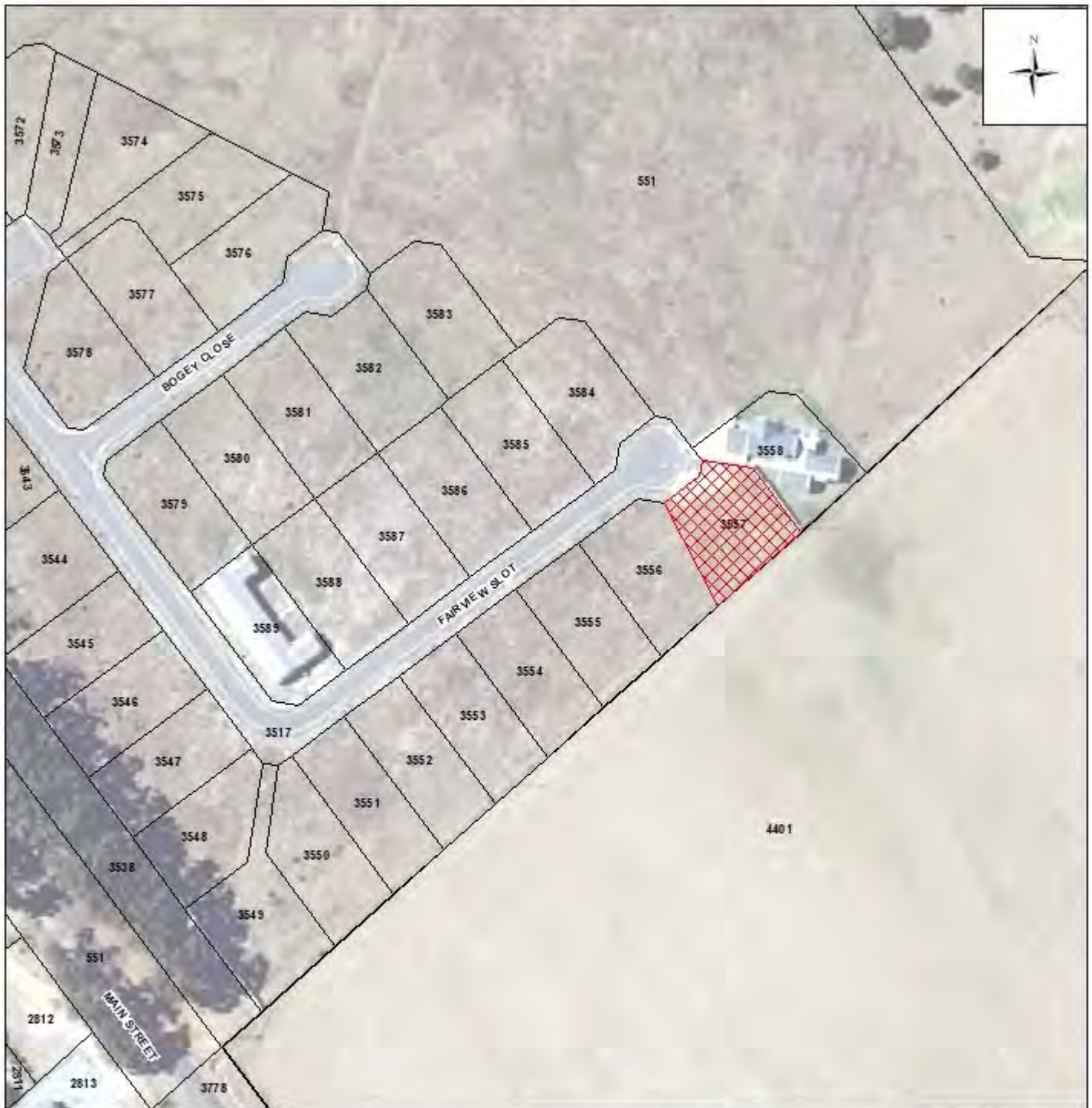
- a) The illegal building work inside the 2m rear and 1,5m side building lines be demolished within a period of 3 months after the decision making process on the application has been finalized.
- b) In terms of Chapter VII, Section 89 of the Swartland Municipality By-law relating Municipal Land Use Planning (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				
<ol style="list-style-type: none"> 1. There are no similar building line and coverage departures in Fairview Close. 2. The adjoining affected property owner objected to the proposed departures. 3. Departures from the permissible 50% coverage in this residential area is unprecedented. 4. The departure cannot be recommended as it will influence decision making on future departures of development parameters negatively. 5. The building work does not comply with the Safety distance of window openings in South East Elevation and North East Elevation and does not meet the requirement of Table 2 of Part T of SANS 10400. 				
PART N: ANNEXURES				
Annexure A: Locality plan Annexure B: Building plans Annexure C: Motivation letter and neighbours consent Annexure D: Objection from the Engelbrecht Family trust Annexure E: Photos				
PART O: APPLICANT DETAILS				
First name(s)	JC Architectural Design Studio			
Registered owner(s)	L Nankomar	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: 27 February 2023
Recommendation: Alwyn Zaayman Senior Manager: Built Environment SACPLAN: B/8001/2001		Recommended	Not recommended	<input checked="" type="checkbox"/>
				Date: 1 March 2023



Proposed departures

Erf 3557, Darling

Locality plan

Scale: N/A



Notes:

Legal requirements
Dimensions, descriptions & quantities on these drawings to be verified on site before ordering material or commencing with work.

All work to be carried out in strict accordance with the National Building Regulations & Standards Act (Act 103 of 1977 & SANS 10400). All timber sizes & grades to be verified & approved by supplier's engineer.
All trussels to be in accordance with supplier's engineer's design & approval, by client.
All materials to be built in applied strictly in accordance with manufacturers specifications and instructions.

All local authority, utility service provider requirements to be established in advance and adhered to.
All boundary pegs to be located, and marked before work is taken in hand.
Any discrepancies between these drawings & legislation, local authority, utility service provider & good construction practice to be referred to the Architectural Technologist / Designer before construction commences.
Any aspect deemed to be unclear to be referred to the Architectural Technologist / Designer for clarity.

These drawings do not constitute a comprehensive specification for the works. No dimensions to be scaled from these drawings.

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CONSTRUCTION NOTES:

Only applicable where deemed necessary to the material and construction detail. All discrepancies to be listed and indicated, in writing, to the Architectural Technologist / Designer prior to commencement of works.

AUTHORITIES:

Main Contractor and Sub Contractors to ensure that all work in done in strict accordance with the latest regulations and requirements of related authorities including:
a) National Building Regulations (NBR)
b) South African National Standards (SANS)
c) Local Municipal Authority (By-laws)
d) CSIR - Technical Guide to Good House Construction"

e) National House Building Registration Council (NHRCC)
All other relevant Authorities GENERAL

DRAWING STATUS:

The Contractor to ensure that the latest drawings are used on site prior to the commencement of work. Only the latest construction drawings issued by the Architectural Technologist / Designer as "Construction Drawings" with a date may be used for construction of the works. All superseded drawings must be removed from the site. One set of the Local Authority Approved Plan / Drawings to be kept on site at all times. One set of the latest construction drawings to be kept on site at all times, and available for the Architectural Technologist / Designer / Consultants and other Authorities.

GENERAL:

Quality of materials and workmanship to comply with the latest relevant Codes & Specifications of SABS and the minimum standards of Standard Preliminaries (JBCC) and the Model Preliminaries for Trades (ASAQS 2008) and where applicable Project Specifications and/or Bill of Quantities. This drawing to be read in conjunction with other Project Drawings. Construction Documents and building contract/ agreement documents. Contractors must view the site and works to allow for everything necessary to complete the works. Contractor(s) to check the details on this drawing for compliance with standards of good building practice with particular reference as per Clause "Authorities" and report any discrepancies in writing to the Architectural Technologist / Designer. No setting out is to commence before the site boundary pegs position are verified and pointed out by the Land Surveyor. The Contractor to ensure that the correct setting out, including that which is from the boundary and building lines is done prior to commencement of ANY work. The Contractor to verify all local council, utility service providers and existing work(s) which is the responsibility of the Contractor. The contractor to verify all levels, heights and dimensions on site and check the same against drawings before any work commences. Any errors, discrepancies or omissions as well as queries are to be immediately reported to the Architectural Technologist / Designer for clarification before any work is taken in hand.

BRICK TIES & REINFORCEMENT:

Approved SABS butterfly tie wires to be used in cavity walls. Where the cavity is greater than 50mm, but less than 100mm or the height of the wall is greater than 3m, approved SABS galvanized drip wall tie, to minimum specifications, to be used. Brickforce on parapets and gables and / or balustrade walls to be used at least every third brick course.

DRAINAGE:

Closed system to conform to national building regulations. First inspection eye (I.E.) to be min. 450mm below ground level with a min. fall of all 110mm diameter pipes 1:60 and a max. fall of 1:40 (SANS 10400 P). Rodding eyes (R.E.) to join drain in direction of flow at maximum angle 45 degrees and to be continued up to ground level & adequately, marked & protected.

ELECTRICITY:

All electrical cables & wires in the walls, floors, concrete soffits and ceilings shall run in SASS approved conduits and / or trunking and / or cable trays

HEALTH & SAFETY:

The Client is to ensure that the contractor, in terms of the Occupational Health and Safety Act, Act 85 of 1993, with specific reference to the Construction Regulations, complies with the minimum requirements.

WINDOWS & DOORS:

Refer to Window & Door Schedule. All windows and sliding fold-alide doors to be aluminum framed. All frames to be fixed to walls with galvanized hoop iron built into wall in 3:1 cement mix.

ENERGY EFFICIENCY:

All work to comply with SANS 10400 Part XA & SANS 204. If under-floor heating is installed, the floor slab must be insulated with insulation material with a minimum r-value of 1.00. Hot water supply requirements: Geysers are to be wrapped in insulation blanket with an r-value to satisfy part XA of SANS 10400. A minimum of 50 of the annual average heating requirement for hot water must be provided by means other than electric resistive heating or fossil fuels. Check with manufacturer & subject to: SANS 1307, SANS 10106, SANS 6211-1, SANS 6211-2, SANS 10254, SANS 10251-1, SANS 10252-1, SANS 10253-1, SANS 10254-1, SANS 10255-1, SANS 10256-1, SANS 10257-1, SANS 10258-1, SANS 10259-1, SANS 10260-1, SANS 10261-1, SANS 10262-1, SANS 10263-1, SANS 10264-1, SANS 10265-1, SANS 10266-1, SANS 10267-1, SANS 10268-1, SANS 10269-1, SANS 10270-1, SANS 10271-1, SANS 10272-1, SANS 10273-1, SANS 10274-1, SANS 10275-1, SANS 10276-1, SANS 10277-1, SANS 10278-1, SANS 10279-1, SANS 10280-1, SANS 10281-1, SANS 10282-1, SANS 10283-1, SANS 10284-1, SANS 10285-1, SANS 10286-1, SANS 10287-1, SANS 10288-1, SANS 10289-1, SANS 10290-1, SANS 10291-1, SANS 10292-1, SANS 10293-1, SANS 10294-1, SANS 10295-1, SANS 10296-1, SANS 10297-1, SANS 10298-1, SANS 10299-1, SANS 10300-1, SANS 10301-1, SANS 10302-1, SANS 10303-1, SANS 10304-1, SANS 10305-1, SANS 10306-1, SANS 10307-1, SANS 10308-1, SANS 10309-1, SANS 10310-1, SANS 10311-1, SANS 10312-1, SANS 10313-1, SANS 10314-1, SANS 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MR. S. & MRS. L. NANKOMAR
68 FAIRVIEW CLOSE
DARLING
7345
15 DECEMBER 2021

The Building Control Officer/Official
Swartland Municipality
Private Bag X52
MALMESBURY
7299

Sr

DEPARTURE/RELAXATION: ERF 3557, DARLING.

As registered owner of the abovementioned erf I wish to apply for the departure/relaxation of the
☒ lateral building lines; ☐ street building lines; ☒ coverage ☐ 2nd dwelling as indicated on the
 plan. The departure/relaxation required, including the reasons for it, is:

We acknowledge that we have erected a roof illegally over our existing swimming pool at the back of our property but have done this without knowing that we had to submit building plans for approval. You will see that we had submit building plans for all our previous building work and would therefore like to rectify this by submitting the proper plans in order to get it approved.

Our reasons for the erection of the roof and the sliding windows and doors was to have proper protection from thieves constantly trying to invade our property from the back despite the electrical fence that we have installed. The roof also serves as protection against the elements especially when the swimming pool is used during the hot summer season.

Since we did not want to be a nuisance to our next door neighbor when we used the swimming pool and maybe have some friends over, we also installed sliding windows to the inside of our common boundary line. We have tried to construct a neat and durable building which would not have a negative impact on the rest of the development and believed that we have succeeded in this.

For this reason, our plea is that you look upon our application favourably and if possible, approve our application for the building line departure as well as exceeding of the coverage.

I, the undersigned, hereby confirm that the plan indicating the departure/relaxation has been shown and explained to the adjacent/affected owner(s). And also, the signatures reflected on the building plans are those of the registered owner(s) of the adjacent/affected erf/erven.

Owner of erf nr:

3557

Signature:

[Signature]

Signature:

Identity Number:

900130081685

Identity Number:

UNDERTAKING OF ADJACENT/AFFECTED OWNER

I hereby give approval that the abovementioned departure/relaxation on erf 3557 may be granted as indicated on the plan. Furthermore I confirm that the plan has been shown to me and signed, and that I am the registered owner of the adjacent/affected erf.

	Initial and Surname	Signature	Date
1. Erf 4401	Ralph Rabie obo At Darling Green Estate.	<i>R Rabie</i>	4 January 2022
2. Erf 3574	G.J. Dale	<i>[Signature]</i>	26/1/22
3. Erf 3585	G.X. Sonandi	<i>[Signature]</i>	2022/01/25
4. Erf 3556	T.J. SMITH	<i>[Signature]</i>	2022/01/25

21 NOVEMBER 2022

JC ARCHITECTURE
91 RUSSEL STR
WORCESTER
6850

THE ENGELBRECHT FAMILY TRUST
70 FAIRVIEW CLOSE/ ERF 3558
DARLING
7345

AND

THE BUILDING OFFICER/OFFICIAL
SWARTLAND MUNICIPALITY
P BAG X52
MALMESBURY
7299

DEPARTURE/RELAXATION ERF 3557, DARLING:

Unfortunately, we cannot approve the requested departure/relaxations as per attached document.

Our expectations are that the structure be changed to within the allowed building regulations as set out.

We would appreciate updates on the progress of this matter.

Kind regards.



J M Engelbrecht
Duly authorized on behalf of
The Engelbrecht Family Trust









Verslag ♦ Ingxelo ♦ Report

Kantoor van die Direkteur: Ontwikkelingsdienste
Departement : Ontwikkelingsbestuur

22 February 2023

15/3/6-6/Erf_505

WYK: 7

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

LAND USE PLANNING REPORT					
APPLICATION FOR SUBDIVISION OF ERF 505, KALBASKRAAL					
Reference number	15/3/6-6/Erf_505	Application submission date	31 October 2022	Date report finalised	23 February 2023

PART A: APPLICATION DESCRIPTION					
<p>Application for subdivision of Erf 505, Kalbaskraal in terms of section 25(2)(d) of Swartland Municipality : Municipal Land Use Planning By-law (PG 8226 of 25 March 2020), has been received. It is proposed that Erf 505 (4839m² in extent) be subdivided into a remainder (1129m² in extent), portion A (1291m² in extent), portion B (1291m² in extent) and portion C (1128m² in extent).</p> <p>The applicant is CK Rumboll & Partners and the property owners of the subject property are Rodney and Yula Adriana Franke.</p>					
PART B: PROPERTY DETAILS					
Property description (in accordance with Title Deed)	Erf 505, Kalbaskraal				
Physical address	De Oewer Crescent		Town	Kalbaskraal	
Current zoning	Residential zone 5	Extent (m ² /ha)	4839m 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		Title Deed number & date	T6087/2007	
Any restrictive title conditions applicable	Y	N	If Yes, list condition number(s)	N/A	
Any third party conditions applicable?	Y	N	If Yes, specify	N/A	
Any unauthorised land use/building work	Y	N	If Yes, explain	N/A	

PART C: LIST OF APPLICATIONS (TICK APPLICABLE)						
Rezoning		Permanent departure		Temporary departure		Subdivision <input checked="" type="checkbox"/>
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						
Application is made for the subdivision of erf 505, Kalbaskraal into 4 portions, each portion is proposed to be larger than 1000m ²						
PART E: PRE-APPLICATION CONSULTATION (ATTACH MINUTES)						
Has pre-application consultation been undertaken?	Y	N	If yes, provide a brief summary of the outcomes below.			
PART F: SUMMARY OF APPLICANTS MOTIVATION						
<p>(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)</p> <p>Erf 505 is located within the low density area in southern part of Kalbaskraal.</p> <p>The area can be characterised as a low density residential neighbourhood. The resultant land units will increase the density of the area to some degree, however it will still be classified as low density residential development.</p> <p>The proposed level of densification is reasonable and contextually appropriate and the proposal does not alter the current zoning or land use of the resultant land units.</p> <p>The property is surrounded by the majority of similar zoned properties which are also used for residential purposes.</p> <p>Access to Erf 505 Kalbaskraal is currently obtained from an unnamed street</p> <p>The Remainder and Portion C will obtain direct access whilst Portions A and B will obtain access via a panhandle from the same street.</p> <p>There is existing water and sewerage infrastructure available in the surrounding environment.</p> <p>It is not foreseen that the proposal will have a significant impact on external municipal engineering services</p> <p>It is argued that the proposal holds some positive socio-economic impacts in that;</p> <ul style="list-style-type: none"> i. Additional residential opportunities will be provided and ii. May attract a wider income group which will reflect positively on the neighbourhood. <p>It is not foreseen that the proposal will have a negative impact on heritage resources.</p>						

It is not foreseen that the proposal will have a negative impact on the biophysical environment as the property is located within a developed area.

All portions will have sufficient access to public streets. Additional traffic generation is considered to be low. All portions are large enough to provide onsite parking as per the requirements of the Development Management Scheme.

Development of the resultant land units will remain subject to the Development Management Scheme.

Further to the above, the resultant land units can be developed without having to depart from the development parameters of the current zoning.

The Swartland Spatial Development Framework, Amendment 2018/2019 supports low density residential development in this zone. The resultant land units will increase the density of the area to some degree; however it is still classified as low density residential development. The proposal is regarded as being consistent with the Swartland Municipal Spatial Development Framework, Amendment 2018/2019.

The proposal is considered desirable and is therefore submitted for your favourable consideration

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
With reference to Section 56(2) of the By-Law, a total of 21 notices were sent via registered post to the owners affected by the application.									
Total valid comments	5			Total comments and petitions refused					
Valid petition(s)	Y	N	If yes, number of signatures						
Community organisation(s) response	Y	N	N/A	Ward councillor response		Y	N	No response was received from the Ward Councillor	
Total letters of support	None								
PART H: COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS									
Name	Date received	Summary of comments						Recommendation	
								Positive	Negative
Division : Building Control	8 November 2022	No record of building plans to be found for existing outbuilding. Building plans for the existing outbuilding to be submitted to Building Control for consideration and approval.						X	
Department: Protection Services	2 November 2022	No comment						X	
Department Civil Engineering Services	7 November 2022	Water Each subdivided portion be provided with its own separate connection. This conditions is applicable on building plan stage. A development charge to the amount of R 22 022, 49 be made, with regards to the bulk distribution of water as well as R 22 870.05 (R10 890, 50 x 0.7 for single residential) with regards to the bulk provision of water. Sewerage						X	

		<p>Each subdivided portion be provided with a separate conservancy tank with a minimum capacity of 8000 litres that can be accessed by a service truck from the street. This conditions is applicable on subdivision stage.</p> <p>A development charge with regard to sewerage be made to the amount of R 10 894, 71.</p> <p>Streets and storm water</p> <p>A development charge with regard to streets and stormwater be made to the amount of R 7 468, 41.</p> <p>General</p> <p>Any existing services that link the remainder and the subdivided portions be moved or disconnected in order for each property to have its pipework located on the particular property.</p> <p>Should it be necessary for any existing services to be upgraded in order to provide the subdivided portions with service connections, it will be for the applicants account.</p>		
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PART I: COMMENTS RECEIVED DURING PUBLIC PARTICIPATION	SUMMARY OF APPLICANT'S REPLY TO COMMENTS	MUNICIPAL ASSESSMENT OF COMMENTS
<p>Lynne Goldstein and D Momberg as neighbouring property owners of erf 653, Kalbaskraal</p> <p>As owners of erf 653, Me Goldstein and Mr Momberg objects to the proposed subdivision for the following reasons;</p> <p>The objectors believe that the creation of two additional properties next to their plot will result in an invasion of their privacy.</p> <p>Secondly, the objectors are concerned that the proposal, if approved will have a negative impact on the value of their property.</p> <p>The two new properties where the neglect of buildings as well as multiple non-permanent structures could have a negative impact on value of their property. The existing fence between them and the neighbours serves no other purpose than indicating the property boundaries. With the two new smaller properties the objectors feel that they will need to, at great expense, erect a wall to ensure their privacy. Currently it is not a problem for them for the applicants dwelling is situated approximately 42m from their house.</p> <p>The objectors' state that they specifically purchased their property because of the rural lifestyle it presents and is certain of it that, should they wish to sell their property in the future, a potential buyer will be attracted to the property for the same reason.</p> <p>The objectors strongly oppose the proposed subdivision as they are of opinion that it will have a negative impact on their lifestyle, quality of life, privacy as well as their property value.</p>	<p>In terms of privacy the applicant responds as follows;</p> <p>For the applicant it is not clear how the proposed subdivision will affect the privacy of the objector.</p> <p>The applicant motivates that the proposal only involves subdivision of Erf 505 Kalbaskraal with no development proposals.</p> <p>The applicant continues to state that future development on the subdivided properties are subject to the applicable development management scheme. Building lines are in particular prescribed to protect privacy. With the building line restrictions applicable to the proposed land units being 6m in respect of all boundaries, regardless of the size of the property.</p> <p>In terms of the possible impact on the value of neighbouring properties the applicant motivates:</p> <p>The statement regarding property values is not based on any factual information, and there is no evidence to suggest that the value of surrounding properties will be adversely affected.</p> <p>Furthermore, the Spatial Planning and Land Use Management Act (SPLUMA) prescribes certain principles to guide land use planning. Under the principle of spatial justice Article 59 (1)(f) it is stated that: "A competent authority contemplated in this Act or other relevant authority considering an application before it may not be hindered or limited in the exercise of its discretion solely on the grounds that the value of land or property will be affected by the result."</p> <p>In light of the above, the applicant argues that the Municipal Planning Tribunal may not base its decision solely on the possibility that property values can be influenced.</p>	<p>As mentioned by the applicant the privacy of neighbouring property owners are protected by the required building lines and in this case with a building line requirement of 6m, the impact will be marginal to none.</p> <p>The proposal is deemed consistent with the character of the area and will therefore not have a negative impact on the value of properties in the vicinity.</p> <p>The proposal does not pose a threat to the quality of life, privacy or the value of surrounding properties.</p>

<p>Shelley Santos as owner of neighbouring property erf 509, Kalbaskraal</p>	<p>The objector states that as owners of erf 509 object to the subdivision of erf 505 based on the size proposed.</p> <p>Also the negative impact it will have on our investment in our plot. The reason people choose to buy and live out here is simple.....space and no living “on top” of each other. This will change if 1000m² start getting sold off.</p> <p>As the majority of the HOA has voted against the size due to privacy and negative impact on the value of our properties.</p>	<p>The applicant motivates that the, De Oewer Home Owners Association does not have a minimum property sizes. However, the spatial proposals in terms of the Swartland Spatial Development Framework (SDF), indicate that residential densification is supported in this area.</p> <p>According to the applicant the SDF provides clear guidelines in regards to subdivision sizes which are 1000m² for the area. Greater subdivision sizes are prescribed to protect the unique character of this area as opposed to the remainder of the town where a minimum subdivision size of 400m² is applicable. The resultant land units are all above the minimum subdivision size. In terms of the criteria for decision making.</p> <p>The applicant continues that the Swartland Municipal Planning Tribunal must have regard to the Spatial Development Framework when considering the application. The Council Resolution dated 2013 with regards to subdivision sizes also supports the subdivision proposal.</p> <p>The applicant is of opinion that the resultant land units with sizes of above 1000m² will maintain the low density character of the area.</p>	<p>As mentioned above the building line requirement of 6m applicable to all boundaries essentially result in a space of at least 12m between buildings.</p> <p>As will be discussed in more detail below, the proposal is consistent with the spatial planning proposals and objectives of the Municipal Spatial Development Framework, 2019.</p> <p>The comment regarding the majority of the members of the HOA having voted against the proposed size of the subdivided portions, is noted.</p>
<p>Andre Mathee as owner of neighbouring property erf 503, Kalbaskraal</p>	<p>Mr Mathee submits his objection in respect of the proposed subdivision of erf 505, Kalbaskraal;</p> <p>Mr Mathee is of opinion that the current zoning of rural residential will not be able to function effectively if all the properties in the street were subdivided to 1000m². People in their street like to keep animals such as horses, dogs, sheep, chickens and cattle and if the plots were to become so small, it would no longer be a pleasure to live here and it might even pose other problems such as health risks if people and animals lived so close to each other.</p>	<p>As mentioned above the applicant refers to the De Oewer owners association not having a minimum prescribed property size. The spatial proposals in terms of the SDF, 2019 does however support residential densification in the area.</p> <p>According to the applicant the SDF provides clear guidelines in regards to subdivision sizes which are 1000m² for the area. Greater subdivision sizes are prescribed to protect the unique character of this area as opposed to the remainder of the town where a minimum subdivision size of 400m² is applicable. The resultant land units are all above the minimum subdivision size. In terms of the criteria for decision making.</p>	<p>The objective of the Residential zone 5 zoning is to create rural residential opportunities where larger residential properties are created that may also be used for agricultural purposes where agriculture, is the secondary reason for occupation of the property.</p> <p>Although the minimum property size for the area is 1000m² it is highly unlikely that all the properties in the De Oewer development will be subdivided given the fact that residents all have different needs with regards to their property. The proposal does not alter the zoning of the property.</p> <p>With a maximum coverage of 40% and with an extent of approximately 1200m² there is sufficient space available to the occupant of the property to do small</p>

	<p>The small plots of 1000m² would also change the appearance of de Oewer development in such a way that it would have a negative economic impact on property prices, as people move to, de Oewer, precisely because of the space that the properties offer.</p> <p>Smaller properties will therefore sell cheaper and bring property prices down.</p>	<p>The applicant continues that the Swartland Municipal Planning Tribunal must have regard to the Spatial Development Framework when considering the application. The Council Resolution dated 2013 with regards to subdivision sizes also supports the subdivision proposal.</p> <p>The applicant is of opinion that the proposed land units in excess of 1000m² will maintain the low density character of the area.</p> <p>The applicant also refers to their comment on the possible impact on property values mentioned above.</p>	<p>scale farming. Note that the keeping of animals are still subject to the provision of Par. 12.6 of the by law as well as the Swartland Municipality By-Law relating to Public Nuisances.</p> <p>As mentioned above, the proposal does not pose a threat to the quality of life, privacy or the value of surrounding properties.</p>
<p>Jerome and Gerty Pekeur as neighbouring affected property owners of erf 506, Kalbaskraal</p>	<p>Mr and Mrs Pekeur object to the proposed application for subdivision below 2000m² for the following reasons;</p> <p>Mr and Mrs Pekeur state that they moved to De Oewer Crescent, Kalbaskraal, to get away from the city life and have the space available around them to feel part of nature and not to feel so cramped up with constant neighbour feuds.</p> <p>They also approached the municipality a year ago, to subdivide half of their 8000m² plot into 4x 1000m² erfs and decided against it, because everybody here wants their space, and they are of opinion that they were going to deprive the neighbours as well as themselves of that privilege.</p> <p>They have thus abandoned their plans of 1000m² subdivision and planning on sub dividing into 2000m² plots in future.</p>	<p>The applicant refers to their comments above referring to the concern the objectors have regarding the property sizes.</p>	<p>The proposal that the objector would also like to subdivide their property is noted. The proposal is deemed desirable for the reasons mentioned above and the subdivision of the objector's property into 2000m² plots is supported for the same reasons. It is however also subject to the submission of a formal land use application and public participation process.</p> <p>Please refer to the comments above regarding the potential impact on the quality of life, privacy or the value of surrounding properties.</p>
<p>De Oewer Owners Association</p>	<p>Mr Andre Mathee objects to the proposed subdivision as chairman of the De Oewer Owners Association for the following reasons:</p> <p>The De Oewer owners association has, at a recent meeting voted against the size of the</p>	<p>The applicant states that they take note of the letter.</p> <p>They do however argue that, as previously mentioned, this proposal is being considered in terms of the current Spatial Development Framework of Swartland Municipality. The subdivision proposal in question is not</p>	<p>The objective of the Residential zone 5 zoning is to create rural residential opportunities where larger residential properties are created that may also be used for agricultural purposes where agriculture, as secondary reason for occupation of the property.</p>

	<p>proposed subdivided portions. Mr Mathee states that they are aware that Swartland Municipality will in the first term of 2023 revise the minimum property sized for Kalbaskraal. The De Oewer Owners Association would like to partake in the process in order to, in conjunction with the municipality, work towards the prevention of similar problems by determining a minimum property size which the majority of owners within the development, agree with. Mr Mathee refers to the minutes of the meeting that was recently held by the owners association.</p> <p>Secondly, Mr Mathee states that the proposed subdivision will have a negative impact on the appearance of the development in such a way that it will break down the identity of the development due to the view and feeling of smallholdings that will be lost due to the creation of the smaller properties as proposed.</p>	<p>in conflict and is considered to be viable with the guidelines of the Swartland Municipality Spatial Development Framework.</p>	<p>The comment regarding that the De Oewer Owners Association would like to partake in the revision of the Spatial Development Framework is noted. The Public Participation Process closes on the 28th of February and the request was registered.</p> <p>With a maximum coverage of 40% and with an extent of approximately 1200m² there is sufficient space available to the occupant of the property to do small scale farming. Note that the keeping of animals are still subject to the provision of Par. 12.6 of the by law as well as the Swartland Municipality By-Law relating to Public Nuisances.</p> <p>As mentioned above the proposed subdivision will not have a negative impact on the sense of place or the settlement pattern of Kalbaskraal.</p>
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PART J: MUNICIPAL PLANNING EVALUATION

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

The application was submitted in terms of the By-Law on 31st of October 2022. The public participation process commenced on 18th of November 2022 and ended on 19th of December 2022 (affected parties and internal departments) as well as 19 January 2023 for ESKOM. The objections were received and referred to the applicant for comments on 28 December 2022 with the exception of one letter. During the compilation of this report it was noted that the objection of the Owners Association was not part of the information sent to the applicant on the 28th of December 2022, it was however sent on the 21st of February 2023. The municipality received the comments on the objections on the 27th of January 2023 and 24th of February 2023 respectively. Please refer to the comments attached as annexure I.

Department : 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: The proposed subdivision will promote access to development and economic opportunity through creating more affordable properties to a wider income group, specifically previously disadvantaged people. 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.
- Spatial Sustainability: The proposed subdivision will enable the owner to develop the property each to its full potential, while adhering to the minimum property size proposed for the area as proposed in the Municipal Spatial Development Framework. The subdivision will create the spatially more compact and resource efficient utilisation of the residential property, making housing opportunities while limiting urban sprawl.

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

- 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.
- Good Administration: The application was communicated to the public through sending written notices per registered mail to affected land owners. The application was also circulated to the relevant municipal departments as well as Eskom for comment. Consideration was 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 is complied with by the Municipality.
- Spatial Resilience: The proposed development will not limit any future benefits of the application property or those of the surrounding area. Smaller erven support better land management and create more economic units, promoting diversity to better withstand future economic shocks.

2.2 Provincial Spatial Development Framework (PSDF, 2014)

The PSDF (2014) mentions that 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.
3. 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.
4. 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.
5. 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.
6. 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.
7. 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.
8. 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.
9. 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 consistent with the PSDF as the proposal will result in densification, will improve accessibility and will not have a negative impact on the sense of place or the settlement pattern of Kalbaskraal.

2.3 West Coast District SDF (WCDSDF, 2020)

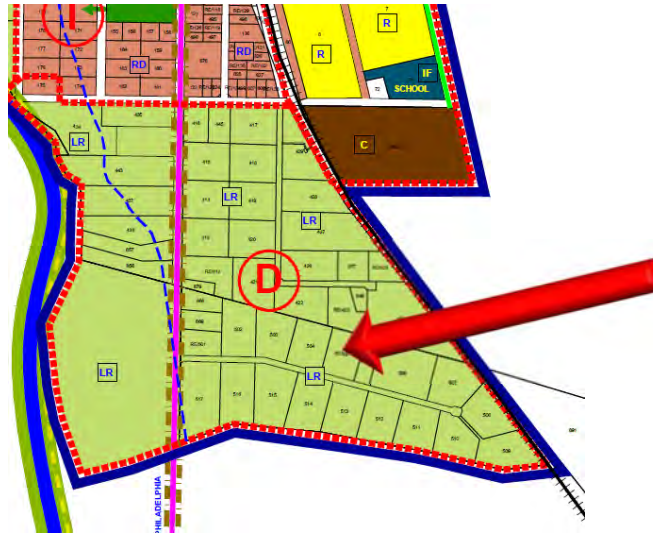
The WCDSDF rightfully looks at spatial development on a district level. However the WCDM SDF promotes the approach that local municipalities in the WCDM should focus on spatial integration, efficiency, equal access, sustainability, and related planning principles, (as required in terms of SPLUMA and 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 it could be argued that the proposal is consistent with the spatial planning policies of the WCDSDF, 2020.

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

The SDF indicates that erf 505 is situated in land use proposal Zone D.



Due to its close proximity as well as high accessibility to Cape Town, Kalbaskraal provides mainly a residential function to people that prefer the rural lifestyle but work in Cape Town / Atlantis. In terms of the land use proposals made in the MSDF, 2019, erf 505 is located in Zone D. Zone D is defined as a low density residential area with limited potential for densification. The prescribed minimum erf sizes are 1000m². It is stated in the MSDF, 2019 that the minimum erf sizes of 1000m² will maintain the rural character of Kalbaskraal while promoting densification at the same time.

It is clear that densification through subdivision is supported in accordance with the zone proposals. The proposal of properties ranging between 1128m² and 1291m² is deemed consistent with the development proposals and objectives of the MSDF, 2019.

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

The objective of the Residential zone 5 zoning is to create rural residential opportunities where larger residential properties are created that may also be used for agricultural purposes where agriculture, as secondary reason for occupation of the property.

In order to ensure privacy as well as to maintain the rural character of the area building lines in respect of all boundaries are 6m.

It is noted that the subdivision line between the remainder and portion A is proposed to be only 5m, with no application submitted for departure a condition of approval can be included to ensure that the required distance is maintained.

10. The desirability of the proposed development

There are no physical restrictions of the property that limits the proposal.

There are no conditions registered against the title deed of the property that prohibits the proposed subdivision.


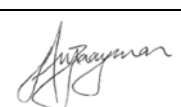
The compliance with the 1000m² minimum property size maintain the rural character of Kalbaskraal while promoting densification.

The proposed subdivision is consistent with local, provincial and national policy, supporting densification of urban areas.

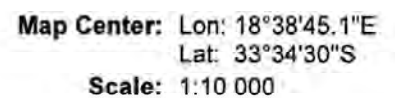
The proposed subdivision will not put additional financial burden on the municipality.

11.	<u>Impact on municipal engineering services</u>
	The proposed subdivision will not have a significant impact on Municipal Engineering Services.
12.	<u>Response by applicant</u>
	Refer to part I.
13.	<u>Comments from other organs of state/departments</u>
	See the comments of internal and external departments at Part H.
PART K: ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS	
	<u>The financial or other value of the rights</u> N/A
	<u>The personal benefits which will accrue to the holder of rights and/or to the person seeking the removal</u> N/A
	<u>The social benefit of the restrictive condition remaining in place, and/or being removed/amended</u> N/A
	<u>Will the removal, suspension or amendment completely remove all rights enjoyed by the beneficiary or only some of those rights</u> N/A

PART L: RECOMMENDATION WITH CONDITIONS	
The application for the subdivision of erf 505, Kalbaskraal, 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 505, Kalbaskraal (4839m ² in extent), be subdivided into Portion A (±1291m ² in extent), Portion B (±1291m ² in extent), Portion C (±1128m ² in extent), as well as a Remainder (±1129m ² in extent), as indicated on the approved subdivision plan;
(b)	The panhandles giving access to portions A and B, be at least 4m wide;
(c)	Building plans for all existing unauthorised building work on the subject property be submitted to the Senior Manager: Development Management for consideration and approval.
(d)	With reference to condition 3(a) below, the necessary building plans be submitted to the Senior Manager: Development Management for consideration and approval for the conservancy tanks at clearance stage;
2.	WATER
(a)	The subdivided portions be provided with separate water connections at building plan stage;
3.	SEWERAGE
(a)	The subdivided portions be provided with separate conservancy tanks with minimum capacity of 8000 litres, to the satisfaction of the Director: Civil Engineering Services, at clearance stage;
4.	DEVELOPMENT CHARGES
(a)	The owner/developer is responsible for a development charge of R7 623, 35 (R10 890, 50 x 0.7 for Single Res) per newly created portion, towards the bulk supply of regional water, at clearance stage. The amount is payable to Swartland Municipality, is 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 per newly created portion, towards bulk water reticulation, at clearance stage. The amount is payable to Swartland Municipality, is 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 per newly created portion, towards sewerage and waste water treatment, at clearance stage. The amount is payable to the Municipality, is valid for the financial year of 2022/2023 and may be revised thereafter. (mSCOA: 9/240-184-9210);

<p>(d) The owner/developer is responsible for the development charge of R2 489, 47 per newly created portion, towards roads and storm water, at clearance stage. The amount is payable to Swartland Municipality, is valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA: 9/247-144-9210).</p> <p>(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 can be revised thereafter.</p>				
5. GENERAL				
<p>(a) The approval does not exempt the owner / developer from compliance with any other legislation;</p> <p>(b) The legal certificate which authorises transfer of the subdivided portions in terms of Section 38 of the By-Law will not be issued unless all the relevant conditions have been complied with;</p> <p>(c) Any existing services connecting the remainder and/or new portions, be disconnected and relocated, in order for each erf to have a separate connection and pipe work;</p> <p>(d) Should it be determined necessary to expand or relocate any of the engineering services in order to provide the development with connections, said expansion and/or relocation will be for the cost of the owner/developer;</p> <p>(e) The approval is, in terms of section 76(2) (w) of the By-Law, valid for 5 years. All conditions of approval be implemented before transfer can take place, without which, the approval will lapse. However, should all the conditions of approval be met before the 5 year approval period lapses, the subdivision will be permanent and the approval period will not be applicable anymore.</p>				
PART M: REASONS FOR RECOMMENDATION				
<p>1. The proposed subdivision is consistent with local, provincial and national policy, supporting densification of urban areas.</p> <p>2. The development proposal is considered consistent with the provisions of the SDF.</p> <p>3. The proposed property sizes are consistent with the minimum erf size determined for the area, namely 1000m².</p> <p>4. The development will optimally connect to the existing services network.</p> <p>5. The proposal will generate new residential opportunities.</p> <p>6. The development proposal supports the optimal utilisation of the properties.</p> <p>7. The development proposal will not negatively impact on the character of the specific portion of Kalbaskraal.</p>				
PART N: ANNEXURES				
<p>Annexure A Locality plan</p> <p>Annexure B Proposed subdivision plan</p> <p>Annexure C Plan indicating the public participation process</p> <p>Annexure D Objection from L Goldstein & D Momberg</p> <p>Annexure E Objection from S Santos</p> <p>Annexure F Objection from A Mathee</p> <p>Annexure G Objection from J Pekeur</p> <p>Annexure H Objection from De Oewer Owners Association</p> <p>Annexure I Applicant's comment on the objections</p>				
PART O: APPLICANT DETAILS				
Name		CK Rumboll & Partners		
Registered owner(s)		Rodney and Yula Adriana Franke	Is the applicant authorised to submit the application:	Yes N
PART P: SIGNATURES				
Author details: Herman Olivier Town Planner SACPLAN: A/204/2010				Date: 22 February 2023
Recommendation: Alwyn Zaayman Senior Manager Built Environment SACPLAN: B/8001/2001		Recommended	<input checked="" type="checkbox"/>	Not recommended
				Date: 28 February 2023

ANNEXURE A



SUBDIVISION PLAN: ERF 505, KALBASKRAAL

NOTES:

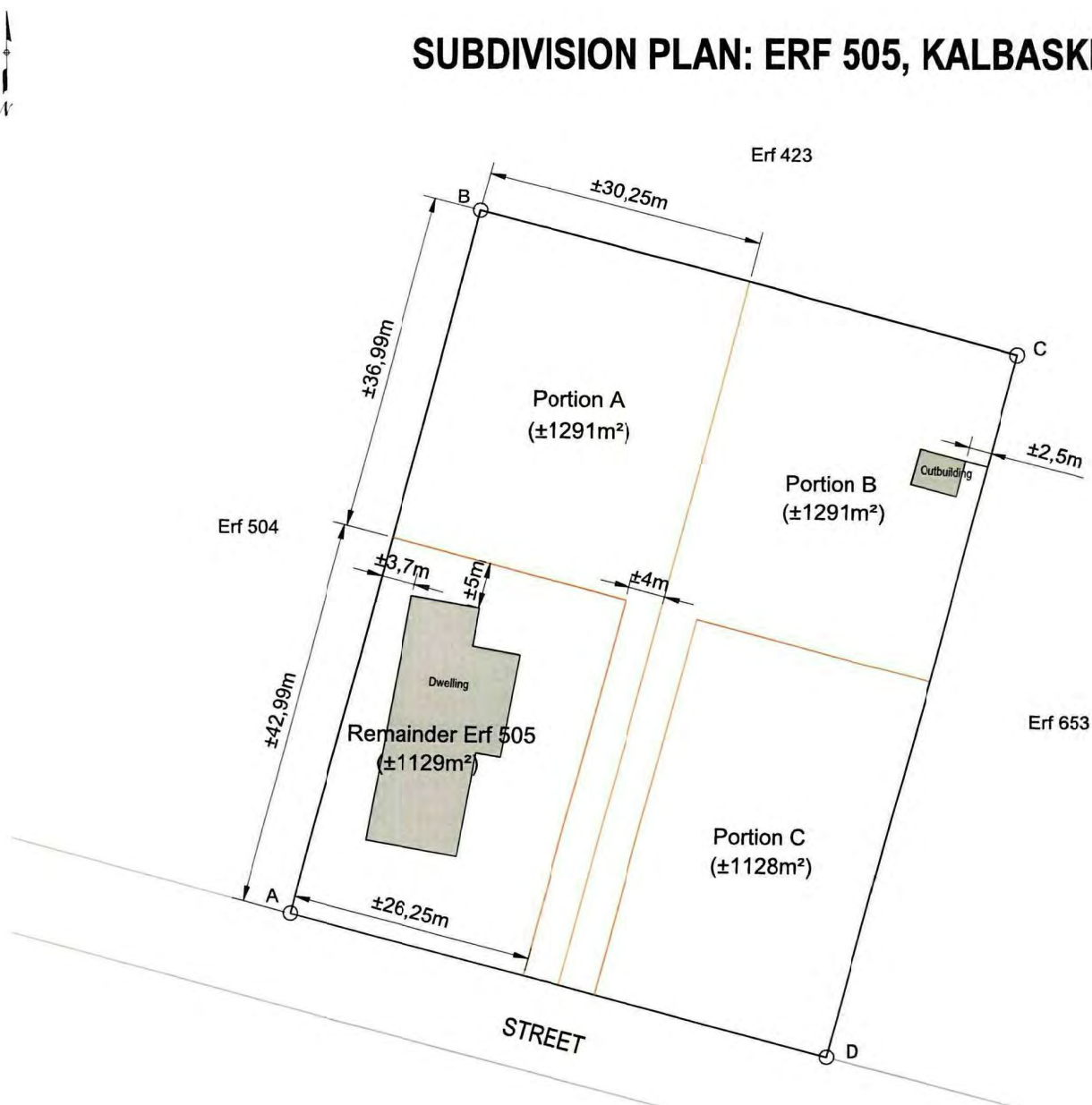
Figure A B C D represents Erf 505 Kalbaskraal with an extent of $\pm 4839\text{m}^2$.

KEY:

Existing buildings

Subdivision Line

Zonings	
Portion A	Residential Zone 5
Portion B	Residential Zone 5
Portion C	Residential Zone 5
Remainder Erf 505	Residential Zone 5



Drawing by:

ALL AREAS AND DISTANCES ARE SUBJECT TO SURVEYING



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

DATE:
October 2022

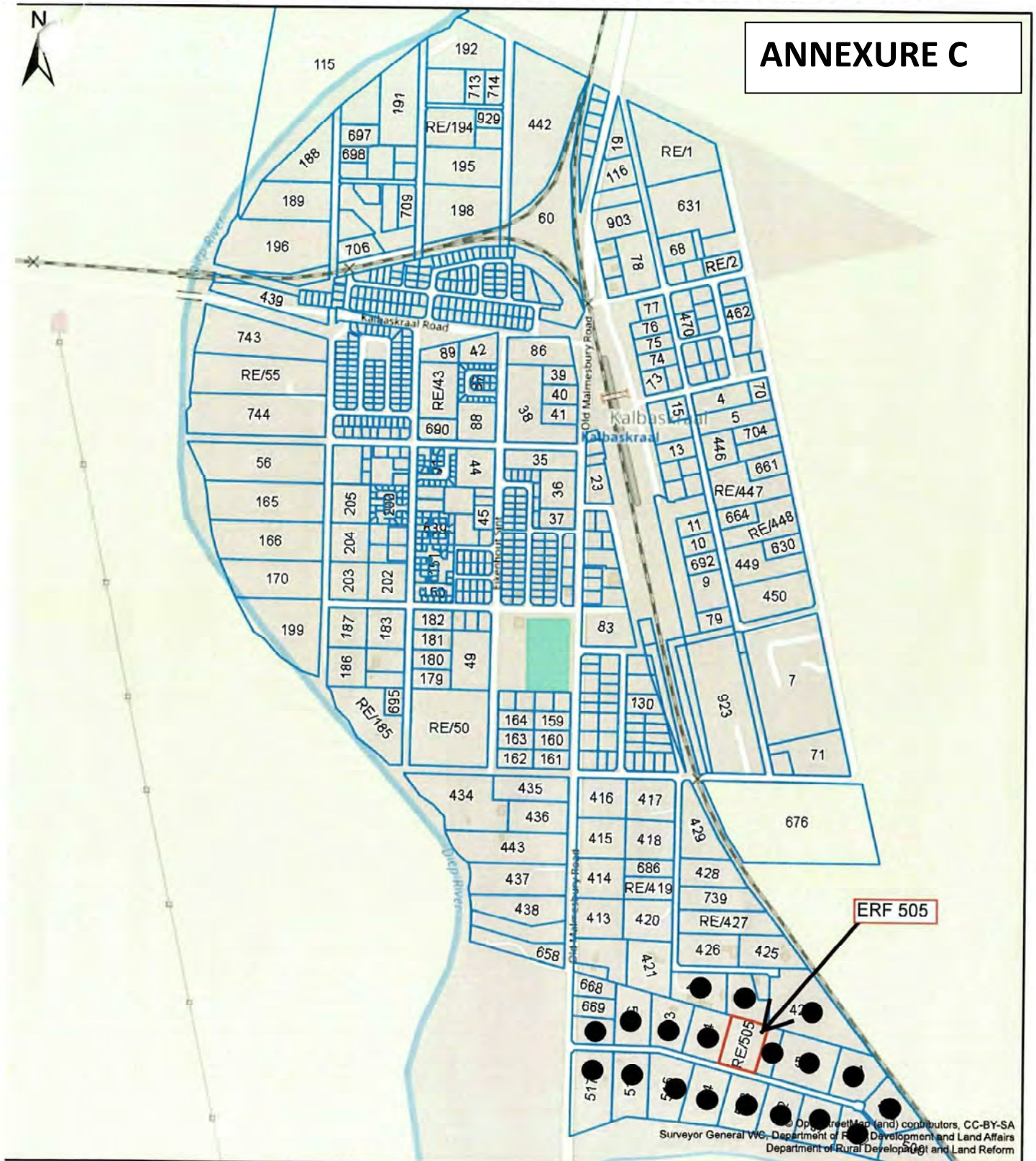
AUTHORITY:
SWARTLAND MUNICIPALITY

REF:
KAL/12857/MH

SCALE: NTS

PPP LOCALITY PLAN - ERF 505 KALBASKRAAL

ANNEXURE C



From: Lynne Goldstein <lynnegoldstein95@gmail.com>
Sent: Thursday, 15 December 2022 11:27
To: Registrasie Email <RegistrasieEmail@swartland.org.za>
Cc: andremathee@gmail.com
Subject: Teenwerping van die voorgestelde onderverdeling van erf 505 De Oewer Crescent, Kalbaskraal.

Goeie middag,

Sien onder ons beswaar aangaande onderverdeling van erf 505.

1. Aanheg van 2 nuwe erwe aan ons erf sal inbraak maak op ons privaatheid
2. Aanheg van 2 nuwe erwe aan ons erf sal ons eiendom se waarde negatief afekteer.
3. Aanheg van 2 nuwe erwe aan ons erf waar die afskeep van geboue op hierdie erwe of meervoudige, nie permanente, strukture op hierdie erwe ons eiendom se waarde negatief kan affekteer.
4. Die heining tussen die 2 erwe is draad en dien geen doel behalwe om grens tussen ons en mnr Franke se erf aan te dui nie, omdat die onderverdeling in 2 erwe van net meer as 1000m² is sal daar geen privaatheid wees nie, dus sal dit n baie groot onkoste wees vir ons om n muur te bou wanneer 2 nuwe bure so naby aan grens is. Huidiglik is dit nie n probleem nie aangesien Mr Franke se huis 42m van die bou lyn af is.

Ons het getrek na n meer landelike area vir die leefstyl wat daarmee gepaart gaan. Ons het soos ander bure besluit om hierdie eiendom te koop sodat ons hierdie landelike leefstyl kan leef. Dit is ons sterk opinie dat sou ons besluit om ons eiendom te verkoop dat dit die trekpleister sal wees vir die volgende koper. Die voorgestelde onderverdeling van erf 505 sal dus die waarde van ons eiendom en ons leefstyl negatief beïnvloed.

Ons sal dus hierdie onder verdeling sterk teen staan vir die rede dat die byvoeg van 2 nuwe kleiner erwe wat grens aan ons eiendom ons lewens kwaliteit, privaatheid en ons eiendom se waarde negatief sal afekteer.

Vriendelike groete,

Lynne Goldstein & Dean Momberg
11 de oewer crescent, kalbaskraal.

From: Shelley Santos <santosshelley564@gmail.com>
Sent: Monday, 19 December 2022 12:31
To: Registrasie Email <RegistrasieEmail@swartland.org.za>
Subject: Plot 505

To whom it may concern

We owners of plot 509 object to the subdivision of plot 505 based on the size proposed.

Also the negative impact it will have on our investment in our plot. The reason people choose to buy and live out here is simple.....space and no living "on top" of each other.

This will change if 1000m2 start getting sold off.

As the majority of the HOA has voted against the size due to privacy and negative impact on the value of our properties.

Regards

Owners of plot 509

From: Andre Mathee <andremathee@gmail.com>
Sent: Monday, 19 December 2022 14:42
To: Alwyn Burger <alwynburger@swartland.org.za>; Registrasie Email
<RegistrasieEmail@swartland.org.za>
Subject: Voorgestelde onderverdeling van Erf 505, Kalbaskraal

Vir aandag; die munisipale bestuurder

Hiermee dien ek graag my besware in as eienaar van erf 503, Kalbaskraal, ten opsigte van die voorgestelde onderverdeling van erf 505, Kalbaskraal. My besware is as volg;

- 1) Die huidige sonering van residensieel met landdelike voorkoms sal nie doeltreffend funksioneer indien alle erwe in die straat sou onderverdeel tot 1000m² nie. Mense in ons straat hou graag diere soos perde, honde, skape, hoenders en beeste aan. Indien die erwe so klein sou word, sou dit nie meer 'n plesier wees om hier te woon nie en mag dit selfs ander probleme soos bv gesondheidsrisikos inhou indien mens en dier so naby aan mekaar sou woon.
- 2) Die klein erwe van 1000m² sou ook die voorkoms van de Oewer HOA sodanig verander dat dit 'n negatiewe ekonomiese impak op eiendoms pryse sou he, aangesien mense juis na de Oewer verhuis as gevolg van die ruimte wat die eiendomme bied.
- 3) Kleiner erwe sal goedkoper verkoop en eiendomspryse afbring.

Kontak my gerus per epos by andremathee@gmail.com indien u enige navrae of terugvoer het.

Groetnis

Andre' Mathee

The Municipal Manager
Private Bag X52
Malmesbury
7299

19 December 2022

Dear Sir / Madam

PROPOSED SUBDIVISION OF ERF 505 KALBASKRAAL

We the owners of erf 506, hereby object the application of Erf 505 to subdivide below 2000m²

We moved to De Oewer Crescent, Kalbaskraal, to get away from the city life and have the space available around us to feel part of nature and not to feel so cramped up with constant neighbour feuds

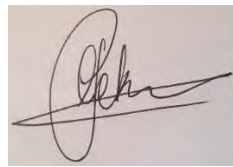
We also approached the municipality a year ago, to subdivide half of our 8000 m² plot into 4x 1000m² erfs. We have decided against it, because everybody here wants their space, and we were going to deprive them as well as ourselves of that privilege. We have thus abandoned our plans of 1000 m² subdivision and planning on sub divide into 2000 m² plots in future.

Yours sincerely

Jerome Pekeur



Gerty Pekeur



From: Lynne Momberg <de.oewer.crescent@gmail.com>
Sent: Monday, 19 December 2022 14:58
To: Alwyn Burger <alwynburger@swartland.org.za>; Registrasie Email
<RegistrasieEmail@swartland.org.za>
Cc: Lynne Goldstein <lynnegoldstein95@gmail.com>
Subject: Voorgestelde onderverdeling van erf 505, Kalbaskraal

Vir aandag; Die Munisipale Bestuurder

Hiermee stel ek graag die teenkanting namens die De Oewer HOA ten opsigte van die onderverdeling van erf 505, Kalbaskraal om die volgende redes;

1) De Oewer HOA het tydens 'n onlangse vergadering teen die grootte van die voorgestelde onderverdeling gestem. Ons neem kennis dat Swartland munisipaliteit tydens die eerste kwartaal van 2023 die erf groottes in Kalbaskraal gaan hersien. Ons sal graag wil deelneem aan die proses en sodoende saam met die munisipaliteit werk om soortgelyke probleme vooraf te verhoed deur 'n minimum grootte te bepaal waarmee die meerderheid eienaars van de Oewer HOA saamstem. Sien notule van onlangse vergadering aangeheg.

2) Die voorgestelde onderverdeling sal die voorkoms van de Oewer HOA sodanig nadelig beïnvloed dat dit die identiteit van die vereniging sou skend as gevolg van die aansig en gevoel van kleinhoewes wat verhinder sou word deur klein erwe soos in die voorgestelde onderverdeling.

Ek hoop en vertrou dat u bogenoemde in orde sal vind.

Kontak my gerus per epos indien u enige navrae het by andremathee@gmail.com

Die Uwe

Andre' Mathee
Voorsitter
De Oewer HOA

Meeting Minutes

Attendees: HOA Members

I. Call to order

Andre' Mathee called to order the general meeting of De Oewer HOA at 18:30 on 14 December at 516 De Oewer, Kalbaskraal, Malmesbury, commonly known as Kobus Vermeulen's residence.

II. Roll call

Shelley Santos conducted a roll call. The following erf numbers were represented; 503, 504, 505, 653, 506, 508, 509, 511, 512, 514, 516 & 517.


A quorum was established.

III. Approval of minutes from last meeting

Minutes from previous meeting were not read.

IV. Open issues

- a) Nomination and voting for chairperson, secretary and treasurer for the year 2023 were conducted. The following members were elected.
 - i) Secretary – Lynne Goldstein
 - ii) Treasurer – Shelley Santos
 - iii) Chairperson – Andre' Mathee
- b) Security gate at entrance to De Oewer
 - i) It was agreed that the subject requires no further discussion as the gate has already been agreed to during a previous meeting
- c) Maintenance of road
 - i) All members will contribute R100 per month to the general maintenance of de Oewer HOA
 - ii) Treasurer to open a bank account at Capitec Bank for de Oewer HOA

- 
- iii) Chairperson to obtain quotes for maintenance of potholes in road
 - iv) Chairperson to contact Municipality and enquire should de Oewer HOA agree to hand the road over to the municipality whether the municipality will;
 - (1) take over maintenance of road
 - (2) tar or scrape the road
 - (3) provide commitments of dates to fix the potholes etc.
 - d) Proposed subdivision of erf 505
 - i) De Oewer HOA conducted a vote and rejected the minimum erf size of 1000m² as established by the municipality
 - ii) A minimum erf size has not been established yet and must be agreed to during the next meeting
 - iii) Proposals received thus far;
 - (1) Karl Nienaber proposed that properties may only be subdivided once. It is noted that 505 has already been subdivided
 - (2) Lynne Goldstein proposed that the minimum erf size should not be smaller than 2000m²

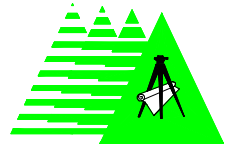
V. New business

- a) Chairperson to enquire the cost of deregistering the HOA

VI. Adjournment

Minutes submitted by: Andre' Mathee

CK RUMBOLL & VENNOTE / PARTNERS



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

DATE: 27 January 2023

OUR REF: KAL/12857/MH

PER E-MAIL:

ATTENTION: Mr A Zaayman

Municipal Manager
Swartland Municipality
Private Bag X52
MALMESBURY
7300

Sir,

RESPONSE ON OBJECTIONS/COMMENTS:

APPLICATION FOR SUBDIVISION IN TERMS OF THE SWARTLAND MUNICIPALITY LAND USE PLANNING BY-LAW (2020) IN RESPECT OF ERF 505, KALBASKRAAL

With reference to your letter dated 28 December 2022:

The table below includes the comments/objections that were received along with the response from CK Rumboll and Partners on behalf of our client, R and YA Franke, as registered owner of Erf 505 Kalbaskraal. Comments/Objections were received from the following persons:

1. Lynne Goldstein
2. Shelley Santos
3. Andre Mathee
4. Jerome and Gerty Pekeur

Kindly note that our response is given in the language that the objections was received.

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	Response on objections
1. Lynne Goldstein	<p>a) Aanheg van 2 nuwe erwe aan ons erf sal inbraak maak op ons privaatheid.</p> <p>Aanheg van 2 nuwe erwe aan ons erf sal ons eiendom se waarde negatief afekteer.</p> <p>Aanheg van 2 nuwe erwe aan ons erf waar die afskeep van geboue op hierdie erwe of meervoudige, nie permanente, strukture op hierdie erwe ons eiendom se waarde negatief kan afekteer. Die heining tussen die 2 erwe is draad en dien geen doel behalwe om grens tussen ons en mnr Franke se erf aan te dui nie, omdat die onderverdeling in 2 erwe van net meer as 1000m2 is sal daar geen privaatheid wees nie, dus sal dit n baie groot onkoste wees vir ons om n muur te bou wanneer 2 nuwe bure so naby aan grens is. Huidiglik is dit nie n probleem nie aangesien Mr Franke se huis 42m van die bou lyn af is.</p> <p>Ons het getrek na n meer landelike area vir die leefstyl wat daarmee gepaart gaan. Ons het soos ander bure besluit om hierdie eiendom te koop sodat ons hierdie landelike leefstyl kan leef. Dit is ons sterk opinie dat sou ons besluit om ons eiendom te verkoop dat dit die trekpleister sal wees vir die volgende koper. Die voorgestelde onderverdeling van erf 505 sal dus die waarde van ons eiendom en ons leefstyl negatief beïnvloed.</p>	<p>a) <u>Privaatheid:</u></p> <p>Dit is nie duidelik hoe die voorgestelde onderverdeling die privaatheid van die beswaarmaker gaan affekteer nie. Hierdie voorstel behels slegs onderverdeling van Erf 505 Kalbaskraal met geen ontwikkelingsvoorstelle nie.</p> <p>Ontwikkeling van die grondeenhede sal onderhewig wees aan die Ontwikkelingsbestuurskema van Swartland Munisipaliteit. Boulyne in besonder word voorgeskryf om, onder andere, privaatheid te beskerm. Die boulynbeperkings van toepassing op die voorgestelde grondeenhede is 6m ten opsigte van alle grense, ongeag die grootte van die eiendom.</p> <p><u>Eiendomswaardes:</u></p> <p>Die stelling aangaande eiendomswaardes is nie gegrond op enige feitelike inligting nie, en daar is geen bewyse wat daarop dui dat die waarde van omliggende erwe nadelig beïnvloed sal word nie.</p> <p>Verder, die Wet op Ruimtelike Beplanning en Grondgebruikbestuur (SPLUMA) skryf sekere beginsels voor om grondgebruikbeplanning te rig. Onder ruimtelike geregtigheid Artikel 59 (1)(f) lui dat: "<i>n Bevoegde owerheid beoog in hierdie Wet of ander relevante owerheid wat 'n aansoek voor hom oorweeg, mag nie belemmer of beperk word in die uitoefening van sy diskresie uitsluitlik op grond</i></p>

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	<p>Ons sal dus hierdie onder verdeling sterk teen staan vir die rede dat die byvoeg van 2 nuwe kleiner erwe wat grens aan ons eiendom ons lewens kwaliteit, privaatheid en ons eiendom se waarde negatief sal afekteer.</p>	<p><i>daarvan dat die waarde van grond of eiendom sal deur die uitslag geraak word."</i></p> <p>In die lig van bogenoemde mag die besluitnemings struktuur nie sy besluit net grond op die moontlikheid dat eiendomswaardes beïnvloed kan word nie.</p>
<p>2. Shelley Santos</p>	<p>b) We owners of plot 509 object to the subdivision of plot 505 based on the size proposed.</p> <p>Also the negative impact it will have on our investment in our plot. The reason people choose to buy and live out here is simple.....space and no living "on top" of each other. This will change if 1000m2 start getting sold off.</p> <p>As the majority of the HOA has voted against the size due to privacy and negative impact on the value of our properties.</p>	<p>b) The De Oewer Home Owners Association does not have a minimum property size. However, the spatial proposals in terms of the Swartland Spatial Development Framework (SDF), indicate that residential densification is supported in this area. Furthermore, the SDF provides clear guidelines in regards to subdivision sizes which are 1000m² in this area. Greater subdivision sizes are prescribed to protect the unique character of this area as opposed to the remainder of the town where a minimum subdivision size of 400m² is applicable. The resultant land units are all above the minimum subdivision size. In terms of the criteria for decision-making, the decision making structure must have regard to the Spatial Development Framework when considering the application. The Council Resolution dated 2013 in regards to subdivision sizes also supports the subdivision proposal.</p> <p>It is the opinion of this office that the resultant land units with sizes of above 1000m² will maintain the low density character of the area.</p>

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<p>3. Andre Mathee</p>	<p>c) Hiermee dien ek graag my besware in as eienaar van erf 503, Kalbaskraal, ten opsigte van die voorgestelde onderverdeling van erf 505, Kalbaskraal. My besware is as volg; Die huidige sonering van residensieel met landdelike voorkoms sal nie doeltreffend funksioneer indien alle erwe in die straat sou onderverdeel tot 1 000m² nie. Mense in ons straat hou graag diere soos perde, honde, skape, hoenders en beeste aan. Indien die erwe so klein sou word, sou dit nie meer plesier wees om hier te woon nie en mag dit selfs ander probleme soos by gesondheidsrisikos inhou indien mens en dier so naby aan mekaar sou woon. Die klein erwe van 1000m² sou ook die voorkoms van de Oewer HOA sodanig verander dat dit 'n negatiewe ekonomiese impak op eiendoms pryse sou he, aangesien mense juis na de Oewer verhuis as gevolg van die ruimte wat die eiendomme bied. Kleiner erwe sal goedkoper verkoop en eiendomspryse afbring.</p>	<p>c) Die De Oewer Huiseienaarsvereniging het nie 'n minimum eiendomsgrootte nie. Die ruimtelike voorstelle ingevolge die Swartland Ruimtelike Ontwikkelingsraamwerk (ROR) dui egter daarop dat residensiële verdigting in hierdie gebied ondersteun word. Verder verskaf die ROR duidelike riglyne met betrekking tot onderverdelingsgroottes wat 1000m² in hierdie area is. Groter onderverdelingsgroottes word juis voorgeskryf om die unieke karakter van hierdie area (asook die areas aangrensend tot die Dieprivier) te beskerm, in teenstelling met die res van die dorp waar 'n minimum onderverdelingsgrootte van 400m² van toepassing is. Die voorgestelde grondeenhede is almal bo die minimum onderverdelingsgrootte. In terme van die kriteria vir besluitneming, moet die besluitnemingstruktuur die Ruimtelike Ontwikkelingsraamwerk in ag neem wanneer die aansoek oorweeg word. Die Raadsbesluit gedateer 2013 met betrekking tot onderverdelingsgroottes ondersteun ook die onderverdelingsvoorstel.</p> <p>Dit is die mening van hierdie kantoor dat die voorgestelde grondeenhede met groottes van meer as 1000m² die lae digtheid karakter van die area sal handhaaf.</p> <p>Verwys na kommentaar onder punt 1(a) aangaande eiendomswaardes.</p>
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<p>4. Jerome and Gerty Pekeur</p>	<p>d) We the owners of erf 506, hereby object the application of Erf 505 to subdivide below 2000m². We moved to De Oewer Crescent, Kalbaskraal, to get away from the city life and have the space available around us to feel part of nature and not to feel so cramped up with constant neighbor feuds</p> <p>We also approached the municipality a year ago, to subdivide half of our 8000 m² plot into 4x 1000m² erfs. We have decided against it, because everybody here wants their space, and we were going to deprive them as well as ourselves of that privilege. We have thus abandoned our plans of 1000 m² subdivision and planning on sub divide into 2000 m² plots in future.</p>	<p>d) Refer to comment under point 2(b) in regards property sizes.</p>
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The above response is submitted for your favourable consideration.

Yours faithfully,



Mornay Herling

FOR CK RUMBOLL AND PARTNERS

VENNOTE / PARTNERS:

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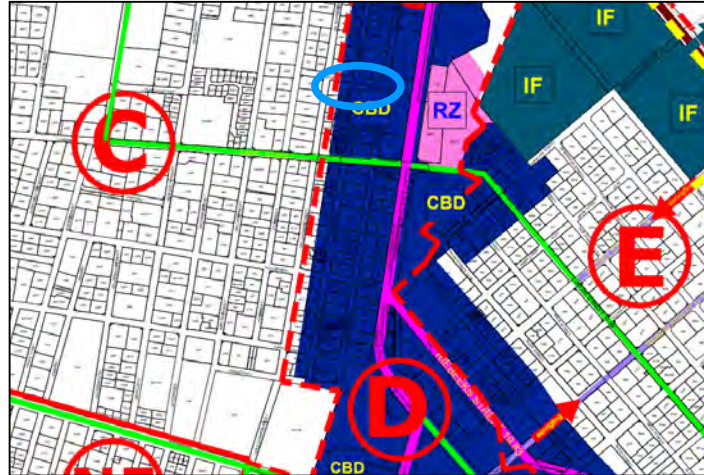
ITEM 6.3 OF THE AGENDA FOR THE MUNICIPAL PLANNING TRIBUNAL THAT WILL TAKE PLACE ON WEDNESDAY 8 MARCH 2023

LAND USE PLANNING REPORT PROPOSED REZONING OF ERF 722, MALMESBURY					
Reference number	15/3/3-8/Erf_722	Submission date	16 November 2022	Date finalised	24 February 2023

PART A: APPLICATION DESCRIPTION							
Application for a rezoning of Erf 722, Malmesbury, from Residential Zone 1 to Business Zone 1, is made in terms of Section 25(2)(a) of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 25 March 2020), in order to convert the existing dwelling to accommodate offices on the property.							
The applicants are C.K. Rumboll and Partners and the property owner is Flagstone Investments 35 CC.							
PART B: PROPERTY DETAILS							
Property description (in accordance with Title Deed)	REMAINDER ERF 722 MALMESBURY, in the Swartland Municipality, Division Malmesbury, Western Cape Province						
Physical address	5 Croeser Avenue			Town	Malmesbury		
Current zoning	Residential Zone 1	Extent (m ² /ha)	1 152m 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	Residential dwelling used as offices			Title Deed number & date	T26340 /2019		
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		Rezoning	✓	Occasional use	
Disestablish a home owner's association		Rectify failure by home owner's association to meet its obligations		Permission for reconstruction of an existing building that constitutes a non-conforming use			

PART D: BACKGROUND

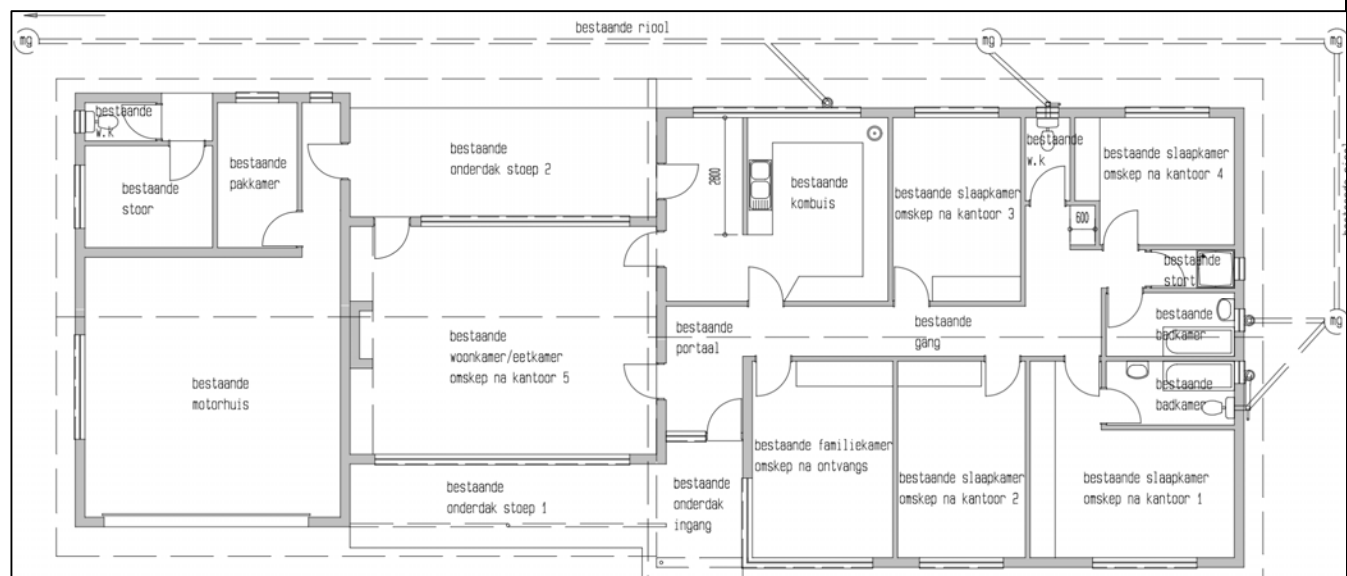
Erf 722, Malmesbury is zoned Residential Zone 1. The erf is located in Bergzicht, towards the northern portion of Malmesbury, straddling Area C and Area D, as delineated by the Swartland Municipal Spatial Development Framework (2019). Area C is characterised by low and medium density residential development with amenities such as churches, ECD and healthcare facilities (hospital). Area D delineates the existing and proposed expansion of the Malmesbury CBD, northward along Voortrekker Road towards the N7. A number of commercial developments have come to fruition in the area over the last 5 years, strengthening the trend and indicating the need for commercial opportunities in the area.



The application property of 1 152m² in extent is currently developed with a four bedroom dwelling house with family rooms, a double garage, kitchen, storerooms etc. and a footprint of 294,96m².



The proposal entails the conversion of the proposed dwelling house into five (5) offices, without making major structural changes to the house.



Thirteen on-site parking spaces will be available, when taking the existing garage into account. (refer to floor and site plan, Annexure B).



The proposal is limited to offices and the desirability will be evaluated as such.

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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PART F: SUMMARY OF APPLICANT'S MOTIVATION

The applicant states the following as motivation for the development proposal:

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

- Spatial Justice:** The physical footprint promotes an urban-type development, promoting an integrated settlement. The proposal will create job opportunities and will alleviate economic stress. The development is consistent with the spatial proposals of the SDF and does not support further segregation.
- Spatial Sustainability:** The proposed development will promote the intensive utilisation of an existing building and engineering services, without additional impact on the natural environment, while creating employment opportunities. The proposal promotes spatial compactness and resource frugal development. No heritage resources are negatively impacted upon.

Existing services are deemed sufficient to accommodate the proposed offices.

- Efficiency:** The development will promote commercial functions in the designated CBD. Optimal use will be made of the existing buildings, services and infrastructure, promoting short, medium and long term financial sustainability of the property.
- Good Administration:** The application and public participation was administrated by Swartland Municipality and public and departmental comments obtained.

<p>e) <u>Spatial Resilience</u>: The spatial resilience of the property is increased by allowing a more flexible development opportunity (higher order zoning). Multiple uses may be obtained over time and subject to the correct land use procedures.</p> <p>It is subsequently clear that the development proposal adheres to all spatial planning principles and is thus considered consistent with the abovementioned legislative measures.</p> <p>1.2 <u>Spatial Development Framework(SDF)</u></p> <p>Erf 722 forms part of Area D of the designated SDF for Malmesbury, as delineated by the SDF. Limiting the proposed use on the property to offices ensures that the proposed development remains consistent with the existing residential character of the area, while promoting the establishment of the Malmesbury CBD.</p> <p>1.3 <u>Schedule 2 of the By-Law: Zoning Scheme Provisions</u></p> <p>Erf 722 is currently zoned Residential Zone 1. The existing dwelling will adhere to the new building lines, coverage and height parameters and required parking bays of Business Zone 1 and no additional land use applications are necessary to establish any departures or consent uses.</p> <p>1.4 <u>Desirability</u></p> <p>a) The proposal satisfies and supports the development principles as set out in LUPA and SPLUMA.</p> <p>b) The proposal adheres and conforms to the vision and spatial planning strategies/objectives of the SDF.</p> <p>c) The rezoning complies with the Land Use Proposals of the SDF for Malmesbury which allows for professional services in Area D, as the identified CBD of Malmesbury.</p> <p>d) The proposed rezoning complies with the development parameters as set out in the Swartland Municipal Planning By-law (March 2020).</p> <p>e) The proposed rezoning will have no adverse impact on the neighbouring properties or character of the surrounding area.</p> <p>f) The proposal may create employment opportunities and stimulate the economic growth of the area.</p> <p>g) The proposed offices will make use of the existing infrastructure services and will not have any significant impact on external engineering services, nor will it negatively impact on environmental/heritage assets.</p>

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
The application was published in local newspapers and the Provincial Gazette on 28 November 2022, in terms of Section 55 of the By-law. The commenting period, for or against the application, closed on 27 January 2023.							
In addition to the abovementioned publication, 16 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. Where e-mail addresses were available on the municipal system, supplementary notices were sent via e-mail. No notices were returned unclaimed. Please refer to Annexure C for the public participation map.							
One objection was received against the proposal. The applicant was afforded 30 days, from 2 February 2023 to 6 March 2023, to respond to comments and objections received by affected party. The response to comments was received on 19 February 2023. (Annexure E).							
Total valid comments	1		Total comments and petitions refused			0	
Valid petition(s)	Y	N	If yes, number of signatures				
Community organisation(s) response	Y	N	Ward councillor response		Y	N	Councillor van Essen was informed, 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	28 November 2022	<p>1. <u>Water</u></p> <p>Die bestaande wateraansluiting gebruik word en dat geen addisionele aansluitings voorsien sal word nie;</p> <p>2. <u>Riolering</u></p> <p>Die bestaande rioolaansluiting gebruik word en dat geen addisionele aansluitings voorsien sal word nie;</p> <p>3. <u>Strate en stormwater</u></p> <p>Die voorgestelde parkeerplekke met inbegrip van die sypaadjie wat toegang tot die parkeerplekke verleen van 'n permanente oppervlak voorsien word.</p>	X	
Building Control	29 Nov 2022	a) Building plans be submitted to the Senior Manager: Development Management for consideration and approval;	X	
PART I: COMMENTS RECEIVED DURING PUBLIC PARTICIPATION		SUMMARY OF APPLICANT'S REPLY TO COMMENTS	MUNICIPAL ASSESSMENT OF COMMENTS	
D. Malan Erf 854 Annexure D	<p>1. <u>Negative effect on Residential Area:</u></p> <p>When I made my decision to buy my property in Malmesbury and to support the municipality, I took the following factors into account:</p> <ul style="list-style-type: none"> - Location/environment/tranquility - Safety/security - People/community - Service delivery <p>I bought the property as a primary residence for myself and my family to be safe. I specifically chose the neighborhood and specific property for the reasons mentioned above.</p> <p>For its location, safety, and tranquility, Dr Euvrard Street is one of the best areas in Malmesbury for any family to live in. There is not much traffic in our area, which makes it safe for us as owners and also our children. There is less noise pollution. There is also no reason for any non-residential owners to be in our neighborhood. All these reasons are why I enjoy</p>	<p>1. Spatial Development Framework: The Swartland SDF (2019) determines the strategic policy guidelines for future development in the Swartland region. The land use proposals for Malmesbury identify Erf 722 to be in Zone D, which is the Central Business District (CBD) of Malmesbury, having a commercial character. The area allows for Professional Services as a Land Use Proposal in the area. The SDF defines Professional Services as "office buildings to accommodate professional services under Business Zones 1 and 2."</p> <p>Erf 722 abuts Zone C towards its western boundary. This zone has a mixed land use character consisting of low- and medium-density residential uses and also supporting functions like crèches, schools, hostels, and a hospital. In an eastern direction from Erf 722, and also within the same block as Erf 722, several business uses, such as shops, restaurants, and offices, are existing within Hugenote Street. All the mentioned commercial uses can be found within a radius of less than 150m from the subject property also proposed for a commercial use. The proposed development to accommodate offices on Erf 722 will not have a detrimental effect on the surrounding built</p>	<p>1. A. SDF: The property is located on the border of a low density residential are and the designated CBD of Malmesbury.</p> <p>Rezoning of the property to Business Zone 1 will be consistent with the spatial proposals of the SDF, regarding the responsible expansion of the CBD. However, limiting the land use to that of offices, ensures that it is compatible with the tranquil nature and residential character of the existing neighbourhood.</p> <p>B: Safety: The operating hours of the offices are proposed between 6:00am and 6:00pm, standard business hours, causing more activity in the neighbourhood during the day, when most inhabitants are at school or work. The consequence will be that there will be more surveillance of the residential properties during the day, due to movement of people utilising the offices, while residents returning from work in the evenings enhance night-time security of the neighbourhood. The proposal is thus considered to promote safety and security, rather than hinder it.</p>	

	<p>staying here and pay my monthly municipal fees.</p> <p>With the proposal, there will be a business close to my home, which means that the above may change. A business means more feet, more traffic, noise pollution, and a reason for non-residential owners to wander/be on our streets.</p> <p>A residential area is there for families to live and experience a place of safety and tranquility. A business is specifically located in a business zone, precisely because it involves more feet, traffic, and noise. These are the reasons why town planners distinguish the zones and keep them away from each other.</p>	<p>environment and character of the area, since the property is located within the CBD of Malmesbury and near existing commercial uses.</p> <p>The development will rather have a positive impact on the surrounding area by creating a mixed-use development area serving as a transitional zone between the established CBD and the residential neighbourhood towards Erf 722's western side.</p> <p>The proposed development will utilise Erf 722 to its optimal potential and conforms to the land use proposals of the SDF. The proposed development also fully complies with the development parameters of Business Zone 1 properties, as stipulated in the By-Law.</p> <p><u>Traffic:</u> Access to the property will be gained from Croeser Avenue on the northern boundary, away from the residential area located towards the property's western boundary. Due to the access point it is more likely that traffic will increase slightly on Croeser Street and not on Dr Euvrard Street, which is mainly a residential street.</p> <p>The By-Law requires 1 parking bay for every 25m² Gross Leasable Area (GLA). At least 8 on-site parking bays are required to accommodate the offices with a GLA of ±210m². Provision will be made for 11 on-site parking bays, which is more than sufficient according to the By-Law. The existing garage provides an additional 2 parking bays, ensuring more than sufficient parking bays will be accommodated on-site, minimising traffic accumulation on Croeser Avenue.</p> <p>The establishment of offices on Erf 722 will be one of the least intrusive land uses from a traffic perspective of all allowable land uses for the property.</p> <p><u>Noise Pollution:</u> The noise generation of the proposed offices will not be more than a large family home. The land use will be subject to the prescriptions set out in the <i>Swartland By-Law relating to Public Nuisances (12 April 2019)</i>, that regulates noise pollution.</p> <p><u>Safety:</u></p>	<p>As the office activities will take place during the day and residents will mostly return in the early evening after work, the two land uses are unlikely to overlap in a detrimental manner.</p> <p>More than the required number of on-site parking bays will be provided and any traffic to the property will be managed by means of the traffic laws, ensuring that the roads surrounding the erf remain relatively empty and safe for children to play, move around and drive bicycles, as is currently the case. The impact of the development on the neighbourhood is not foreseen to be much different from that of a large residential family.</p> <p>C: Tranquillity: The nature of offices are not noise inducing operations and the development is in no way expected to contribute to noise levels in the area.</p>
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		<p>The proposed offices cannot be held responsible for non-residential owners that may wander in the residential neighbourhoods. If any criminal offenses are detected, the police department of Malmesbury can assist the town.</p> <p>One should also take into consideration that the proposed development to accommodate offices will attract much fewer customers than business premises, such as a shop or a restaurant will attract. Therefore, the proposed development will not have an adverse negative effect on the surrounding residential atmosphere.</p>	
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Objector in relation to the application erf



PART J: MUNICIPAL PLANNING EVALUATION

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

Application for a rezoning of Erf 722, Malmesbury, from Residential Zone 1 to Business Zone 1, is made in terms of Section 25(2)(a) of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 25 March 2020), in order to convert the existing dwelling to accommodate offices on the property.

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The applicants are C.K. Rumboll and Partners and the property owner is Flagstone Investments 35 CC.

2. Legislation and policy frameworks

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

f) Spatial Justice: Erf 722 is located on the periphery between Area D and C, as identified by the SDF. Area D accommodates commercial uses, as the designated CBD of Malmesbury, while Area C is characterised as a residential area with supporting uses. Allowing the rezoning to Business Zone 1 is consistent with the proposals for Area D, while limiting the permissible use to offices, will ensure that the low-impact of the proposed business is acceptable within the residential context as well. The scale and nature of the proposal renders it consistent with the spatial proposals for Malmesbury and thus spatially just.

g) Spatial Sustainability: The proposed development will promote the intensive utilisation of an existing building and engineering services, without additional impact on the natural environment, while creating employment opportunities.

The rezoning of the property will enhance its flexibility and ability to respond to future spatial trends, through simplified land use application procedures, such as consent uses.

Existing services are deemed sufficient to accommodate the proposed offices.

h) Efficiency: The existing infrastructure and resources on Erf 722 will be used optimally by the proposed offices.

i) Good Administration: The application and public participation was administrated by Swartland Municipality and public and departmental comments obtained.

j) Spatial Resilience: Even though the current approval will be limited to offices, the rezoning to Business Zone 1 will unlock a greater variety of possible land uses that may be applied – following the correct land use application procedures – should it become necessary in future. The property would thus be much more capable of withstanding natural and economic shocks and is subsequently regarded as spatially resilient.

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

2.2 Spatial Development Framework(SDF)

Erf 722 is located on the border between Area C and Area D, as delineated by the SDF. While the rezoning to Business Zone 1 is consistent with the spatial proposals of Area D, as the designated CBD of Malmesbury, offices are considered a low impact commercial use. Restricting the land use to offices is thus an appropriate response to the predominantly residential character of Area C on the opposite side of the property.

The proposal is deemed consistent with the spatial proposals of the SDF.

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

The proposal adheres to all the development parameters, including building lines, coverage and required parking bays.

3. Impact on municipal engineering services

The impact of the offices on the existing engineering services is expected to be similar to that of a residential dwelling and sufficient engineering services exist to accommodate the proposed development.

4. Desirability of the proposed utilisation

The major concerns of the objector, which is a nearby neighbour of Erf 722, are based on the potential negative effect the proposed commercial development will have on the surrounding residential environment, with reference to tranquillity, traffic, and safety. It is believed that the objector's concerns are adequately addressed.

Although the proposal is to rezone the property to Business Zone 1 because of its locality within the CBD, the proposed development is still deemed as a low-intensity commercial use. The proposed offices will not have a detrimental effect on the surrounding residential erven and are consistent with the land use proposals for Malmesbury as set out in the Swartland MSDF. Furthermore, job opportunities are created by the proposal, which enhances the objective to grow economic prosperity in the Swartland Municipal area. The land use will also provide an additional stream of income to the property owners.

Both the By-Law and the SDF are sufficient to coordinate development within the Swartland Municipal area. The proposed development is fully compliant with the mentioned planning legislation and policy.

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

The predominant land use in the area is residential dwellings with amenities towards the west and large commercial development towards the east that is slowly moving westward. It is not expected that any noise disturbance may be generated by the operation of offices and the offices will furthermore only be in use during business hours. It is unlikely that the tranquillity of the neighbourhood will be disturbed and the development is not expected to have a negative impact on the character of the area. The proposal is considered wholly compatible with the permissible land uses within a residential neighbourhood, as well as being a commercial property.

A maximum of eleven additional vehicles may be expected to be present on the property from time to time, although it is not expected to be the permanent. It should also be noted that any traffic generated by the development will be during business hours, while residents are mostly also at work/school. Any traffic generated by the development will be subject to the normal traffic laws and it is unlikely that the traffic safety of the neighbourhood will be negatively impacted.

The noise generation by the proposed offices is foreseen to be minimal, especially since the scale of the proposal is so limited. Furthermore, the business hours of the offices will be limited, ensuring that night time disturbances will be unlikely.

The public participation process of the application was done according to the prescribed timeframes of the By-Law.

Sufficient services capacity exists to accommodate the proposal.

The property is not registered as a heritage asset and the development proposal will have no impact on the cultural or natural historical assets of Malmesbury.

The Title Deed contains no restrictive conditions to prohibit the proposed rezoning.

The application is considered to be desirable.

PART K: ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

The financial or other value of the rights


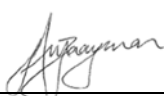
N/A.

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

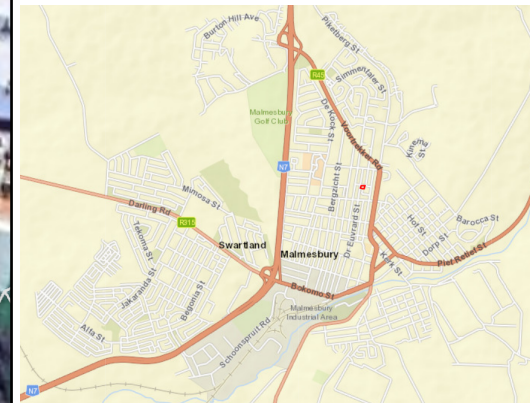
PART L: RECOMMENDATION WITH CONDITIONS
<p>The application for rezoning on Erf 722, Malmesbury be approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), subject to the conditions that:</p> <p>1. TOWN PLANNING AND BUILDING CONTROL</p> <ul style="list-style-type: none"> a) Erf 722 (862m² in extent) be rezoned from Residential Zone 1 to Business Zone 1, in order to convert the existing dwelling into offices, as presented in the application; b) A minimum of eight (8), clearly demarcated on-site parking bays be provided as presented in the application and that the parking area and sidewalk be finished with a permanent, dust free surface, whether it be tar, concrete, paving or any other material pre-approved by the Director: Civil Engineering Services; c) Building plans be submitted to the Senior Manager: Development Management for consideration and approval; d) The operating hours of the offices be restricted to 06:00am – 18:00pm from Monday to Friday, 08:00am – 17:00pm on Saturday and closed on Sundays and closed days; e) Application be made to the Senior Manager: Development Management for the right to display the name board/sign of the facility on the site; f) Application be made to the Senior Manager: Development Management for a business licence; <p>2. WATER</p> <ul style="list-style-type: none"> a) The property be provided with a single water connection and that no additional connections be provided; <p>3. SEWERAGE</p> <ul style="list-style-type: none"> b) The property be provided with a single sewerage connection and that no additional connections be provided; <p>4. GENERAL</p> <ul style="list-style-type: none"> 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.
PART M: REASONS FOR RECOMMENDATION
<ul style="list-style-type: none"> 1. The application complies with the planning principles of LUPA and SPLUMA. 2. The application is compliant with the spatial planning of Malmesbury, as directed by the SDF. 3. The proposed offices will complement and not have a negative impact on both the earmarked CBD, but also the residential character of the surrounding area. 4. The development proposal supports the optimal utilisation of the property. 5. Sufficient services capacity exists to accommodate the proposed offices. 6. Sufficient on-site parking bays are provided for the proposed offices. 7. Health and safety issues are not concerns, as the proposed offices are considered a low impact, low-risk, low noise activity. 8. The noise impact of the offices on the tranquillity of the neighbourhood is deemed to be negligible. 9. The development is foreseen to create employment opportunities and to subsequently assist in strengthening the local economy.

PART N: ANNEXURES				
ANNEXURE A	Locality Plan			
ANNEXURE B	Site Plan			
ANNEXURE C	Public Participation Map			
ANNEXURE D	Objections from D. Malan			
ANNEXURE E	Response to comments			
PART O: APPLICANT DETAILS				
First name(s)	C.K. Rumboll and Partners			
Registered owner(s)	Flagstone Investments 35 CC	Is the applicant authorised to submit this application:	Y	N
PART P: SIGNATURES				
Author details: A. de Jager Town & Regional Planner SACPLAN: A/2203/2015				Date: 24 February 2023
Recommendation: Alwyn Zaayman Senior Manager: Development Management SACPLAN: B/8001/2001		Recommended	<input checked="" type="checkbox"/>	Not recommended
				Date: 28 February 2023



Locality Map: Erf 722, Malmesbury

Legend



Map Center: Lon: 18°43'41.2"E
Lat: 33°27'24.6"S

Scale: 1:2 257

Date created: November 9, 2022



Western Cape
Government

FOR YOU

ANNEXURE A

© OpenStreetMap (and) contributors, CC-BY-SA
Submitted to: General WC, Department of Rural Development and Land Affairs
Department of Rural Development and Land Reform

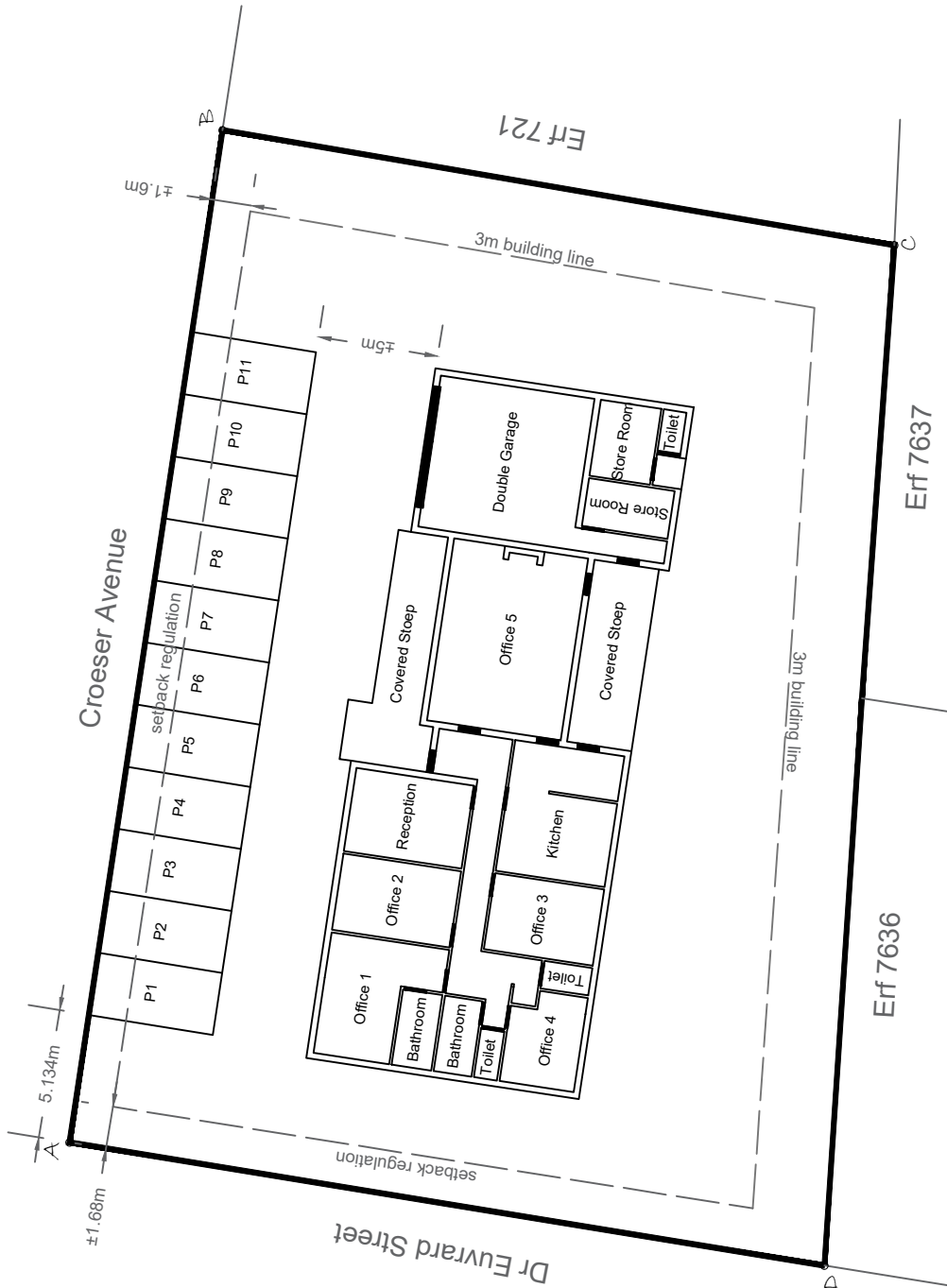
SITE DEVELOPMENT PLAN: ERF 722, MALMESBURY



- LEGEND:
- Subject property
 - Existing cadastral boundaries
 - Building lines

ZONING IT.O. THE ZONING SCHEME:
Existing: Residential Zone 1
Proposed: Business Zone 1

NOTES:
Figure ABCD represents Erf 722, Malmesbury, with an extent of 1152m².
The existing dwelling will be converted into offices.



ANNEXURE B

Drawing by: Mandla Crafford

ALL AREAS AND DISTANCES ARE SUBJECTED TO SURVEYING
C.K. RUMBOLD & PARTNERS
TOWN PLANNERS & ARCHITECTS
PROFESSIONAL SURVEYORS
Tel: 022 - 4821845
Fax: 022 - 4871661
Email: planning@ckrumba.com

DATE: NOVEMBER 2022

AUTHORITY: SWARTLAND MUNICIPALITY

REF: MAU/2802/Z/MV



ANNEXURE D

From: Daniël Malan <dmalan@wauko.com>
Sent: Thursday, 01 December 2022 12:06
To: Registrasie Email <RegistrasieEmail@swartland.org.za>
Subject: Voorgestelde hersonering van Erf 722, Malmesbury

Goeie dag

Ek Daniël Malan, eienaar van Dr Euvrard straat 101 (Erf854), het gister 'n geskrewe ontvang, vanaf die munisipaliteit, vir 'n voorgestelde hersonering van erf 722, vanaf 'n residensiële sone 1 na 'n sakesone 1 toe.

Ek is nie tengunste van die voorstel nie en sal graag my kommer/mening wil uitlig. Ek het die saak ook met my mede bure bespreek, wat self nie tengunste van die besluit is nie.

Toe ek die besluit geneem het om my eiendom in Malmesbury te koop en Malmesbury se Munisipaliteit te ondersteun, het ek die volgende faktore in ag geneem:

1. Ligging/omgewing/rustigheid
2. Veiligheid /Sekuriteit
3. Mense/gemeenskap
4. Dienslewering

Ek het die eiendom gekoop as 'n primêre woning vir myself en my gesin om veilig te kan wees. Ek het juis die buurt en spesifieke eiendom gekies vir die redes soos hierbo genoem. Dr Euvrard straat is vir sy ligging, veiligheid en rustigheid een van die beste areas in Malmesbury vir enige gesin om in te bly. Daar is nie veel verkeer in ons omgewing nie, wat dit veilig maak vir ons as eienaars en ook ons kinders. Dit beteken ook dat daar minder geraas besoedeling is. Daar is ook geen rede vir enige nie residensiële eienaars om in ons buurt te wees nie. Al die redes is juis waarom ek dit so geniet om hier te kan bly en maandeliks my munisipale fooie met 'n glimlag te verheffen.

Met die voorstel, sal daar dus nou 'n besigheid naby aan my woonhuis wees, wat beteken dat die bogenoemde moontlik kan verander.

'n Besigheid beteken meer voete, wat beteken meer verkeer, geraasbesoedeling en 'n rede vir nie residensiële eienaars om in ons strate te dwaal/wees.

'n Residensiële area is daar vir gesinne om te woon en rustigheid te kan ervaar na 'n lang dag se werk. 'n Plek van veiligheid en rustigheid. 'n Besigheid is spesiaal gelee in 'n sakesone, juis omdat dit meer voete, verkeer en geraas behels. Dit is juis die redes waarom julle as stadsbeplanners die sones onderskei en van mekaar hou?

Ek sal dus graag as huiseienaar van erf 854 kopsie wil maak teen die beplande hersonering van erf 722. Ek is nie ten gunste van die besluit nie en sal regtig ontevrede wees indien daar voort gegaan word met die besluit.

Indien julle enige addisionele terugvoer benodig, kan julle my skakel by : 083 538 2187

Hoop om van julle te hoor.

Groete

Daniël

Malan

Director of WauFM

+27 (0)21 819 7803 (Direct Number)

+27 (0)21 882 8033 (Office Number)

+27 (0)83 538 2187 (Cell)

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DATE: 13 February 2023

OUR REF: DAR/12749/ZN/MV
YOUR REF: 15/3/3-8/Erf_722

BY HAND

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

Mr,

Comments on Objections

PROPOSED REZONING OF ERF 722, MALMESBURY

1. Introduction

Your letter dated 2 February 2022 refers.

CK Rumboll and Partners have been appointed by Mr. Hendri Kok on behalf of Flagstone Investments 35 C C, owners of Erf 722, Malmesbury, to attend to all town planning actions regarding the rezoning of Erf 722, Malmesbury, from Residential Zone 1 to Business Zone 1. The application is made to accommodate offices within the existing building on the property. During the public participation period, objections were received from the following surrounding neighbour:

A. Daniël Malan (Erf 854, Malmesbury)

The following figure illustrates the locality of the objector's property in relation to the application property (Erf 722).



Figure 1: Locality Map

2. Comments on objections

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

Table 1: Comments on Objections

Objectors	Objections	Comments from CK Rumboll & Partners
A	<p>1. <u>Neagitive effect on Residential Area:</u></p> <p>When I made my decision to buy my property in Malmesbury and support Malmesbury's Municipality, I took the following factors into account:</p> <ul style="list-style-type: none"> - Location/environment/tranquility - Safety/security - People/community - Service delivery <p>I bought the property as a primary residence for myself and my family to be safe. I specifically chose the neighborhood and specific property for the reasons mentioned above.</p> <p>For its location, safety, and tranquility, Dr Euvrard Street is one of the best areas in Malmesbury for any family to live in. There is not much traffic in our area, which makes it safe for us as owners and also our children. This also means that there is less noise pollution. There is also no reason for any non-residential owners to be in our neighborhood. All these reasons are precisely why I enjoy being able to stay</p>	<p>1. <u>Spatial Development Framework:</u></p> <p>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 Malmesbury. The land use proposals for Malmesbury identify Erf 722 to be in Zone D, which is the Central Business District (CBD) of Malmesbury, having a commercial character. This area also includes a restructuring zone identified for potential development of social housing. The zone also allows Professional Services as illustrated on the Land Use Proposals for Malmesbury attached as Annexure A. The <i>Swartland SDF (2019)</i> states that Professional Services include "office buildings to accommodate professional services under Business Zones 1 and 2."</p> <p>Erf 722 abuts Zone C towards its western boundary. This zone has a mixed land use character consisting of low- and medium-density residential uses and also supporting functions like crèches, schools, hostels, and a hospital. Professional Services, such as offices, are allowed along Activity Streets in this zone as well. In an eastern direction from Erf 722, and also within the same block as Erf 722, several business uses, such as shops, restaurants, and offices, are existing within Hugenate Street (refer to Figure 2). All the mentioned commercial uses can be found within a radius of less than 150m from the subject property also proposed for a commercial use. The proposed development to accommodate offices on Erf 722 will not have a detrimental effect on the surrounding built environment and character of the area, since the property is located within the CBD of Malmesbury and near existing commercial uses.</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

here and pay my monthly municipal fees with a smile.

With the proposal, there will now be a business close to my home, which means that the above may change. A business means more feet, which means more traffic, noise pollution, and a reason for non-residential owners to wander/be on our streets.

A residential area is there for families to live and experience tranquility after a long day's work - a place of safety and tranquility. A business is specifically located in a business zone, precisely because it involves more feet, traffic, and noise. These are precisely the reasons why you, as town planners, distinguish the zones and keep them away from each other.

The development will rather have a positive impact on the surrounding area by creating a mixed-use development area serving as a transitional zone between the established CBD and the residential neighbourhood towards Erf 722's western side.



Figure 2: Surrounding land uses

The proposed development will utilise Erf 722 to its optimal potential and conforms to the land use proposals of the *Swartland SDF (2019)*. The proposed development also fully complies with the development parameters of Business Zone 1 properties, as stipulated in the *Swartland Municipal By-law on Land Use Planning (PG 8226)*.

Traffic:

Access to the property is currently and will be, gained from Croeser Avenue on the property's northern boundary, away from the residential area located towards the property's western boundary. Due to the access point and front of the existing building proposed for offices, it is more likely that traffic will increase slightly on Croeser Street and not on Dr Euvrard Street,

		<p>which is mainly a residential street.</p> <p>The <i>Swartland Municipal Land Use Planning By-law (PG 8226)</i> requires 1 parking bay for every 25m² Gross Leasable Area (GLA). At least 8 on-site parking bays are required to accommodate the offices with a GLA of ±210m². Provision will be made for 11 on-site parking bays for customers, which is more than sufficient according to the <i>Swartland Municipal Land Use Planning By-law (PG 8226)</i>. Additionally, a double garage is also existing on Erf 722. Thus, more than sufficient parking bays will be accommodated on-site, which will contribute to minimising possible traffic accumulation on Croeser Avenue. The establishment of offices on Erf 722 will be one of the least intrusive land uses from a traffic perspective of all allowable land uses for this property. The Site Development Plan is attached as Annexure B.</p> <p><u>Noise Pollution:</u></p> <p>The noise generation of the proposed offices will not be more than a large family home. The owners will be obligated to the regulations set out in the <i>Swartland By-law relating to Public Nuisances (12 April 2019)</i>. The proposed offices will need to adhere to these regulations as well. This will ensure low noise pollution.</p> <p><u>Safety:</u></p> <p>The proposed offices cannot be held responsible for non-residential owners that may wander in the residential neighbourhoods. If any criminal offenses are detected, the police department of Malmesbury can assist the town.</p> <p>One should also take into consideration that the proposed development to accommodate offices will attract much fewer customers than business premises, such as a shop or a restaurant will attract. Therefore, the proposed development will not have an adverse negative effect on the</p>
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		surrounding residential atmosphere.
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3. Conclusion

The major concerns of the objector, which is a nearby neighbour of Erf 722, are based on the potential negative effect the proposed commercial development will have on the surrounding residential environment, with reference to tranquillity, traffic, and safety. It is believed that the objector's concerns are adequately addressed.

Although the proposal is to rezone the property to Business Zone 1 because of its locality within the CBD, the proposed development is still deemed as a low-intensity commercial use. The proposed offices will not have a detrimental effect on the surrounding residential erven and are consistent with the land use proposals for Malmesbury as set out in the *Swartland SDF (2019)*. Furthermore, job opportunities are created by the proposal, which enhances the objective to grow economic prosperity in the Swartland Municipal area. The land use will offer an additional stream of income to the property owners in a constrained economic time.

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. The proposed development is fully compliant with the mentioned planning legislation and policy.

The *Swartland SDF* also supports the *Western Cape Spatial Development Framework's* principle of densification within existing urban areas. Providing a commercial use within an established built environment of Malmesbury could be regarded as effective spatial planning. Infill development on underutilised land throughout the built area of the town is one of the suggested ways in which densification in urban areas can occur.

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

Annexure B
Site Development Plan