



MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING VIRTUALLY HELD ON WEDNESDAY, 20 SEPTEMBER 2023 AT 14:00

PRESENT

Internal members:

Municipal Manager, Mr J J Scholtz (chairperson)

Director: Corporate Services, Ms M S Terblanche

External members:

Ms C Havenga

Other officials:

Director: Development Services, Ms J S Krieger

Senior Manager: Development Management, Mr A M Zaayman

Senior Town and Regional Planner, Mr A J Burger

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

1. OPENING

The chairperson opened the meeting and welcomed members.

2. APOLOGY

COGNISANCE BE TAKEN of the apologies received from Ms A de Jager and Mssrs C Rabie, P A C Humphreys and H Olivier.

3. DECLARATION OF INTEREST

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

4. MINUTES

4.1 MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON 8 AUGUST 2023

RESOLUTION

That the minutes of a Municipal Planning Tribunal Meeting held on 8 August 2023 are approved and signed by the chairperson, subject to the following deletion:

ITEM 6.5: APPLICATION FOR REZONING OF ERF 155, ABBOTSDALE (15/3/3-1) (WARD 7)

That paragraph A6: Development Charges be deleted.

5. MATTERS ARISING FROM MINUTES

None.

6. MATTERS FOR CONSIDERATION

6.1 APPLICATION FOR THE REZONING AND SUBDIVISION OF ERF 327, MALMESBURY (15/3/3-8, 15/3/6-8 – ERF 327)

Mr A J Burger gave background on the application in order to establish the appropriate land uses to accommodate a Place of Education.

The proposed subdivided portion will be sufficient to accommodate all the development parameters required by the By-law, e.g. the 10 m building lines, 26 parking bays and two bus parking bays, coverage of maximum 60% (8% is proposed), etc.

The proposed developable area is adjacent to the Swartland High School, which will enhance the institutional character of the area.

RESOLUTION

- A. The application for the rezoning of Erf 327, Malmesbury, in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226, dated 25 March 2020), from Split Zoning (Transport Zone 1 and Authority Zone) to Subdivisional Area, be approved;
- B. The application for the subdivision of Erf 327, Malmesbury, in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226, dated 25 March 2020), be approved;
- C. The recommendations in A. and B. above are subject to the conditions that:

C1 TOWN PLANNING AND BUILDING CONTROL

- (a) Erf 327 (770,1666 ha in extent) be rezoned from Split Zoning (Transport Zone 1 and Authority Zone) to Subdivisional Area in order to accommodate the following zoning categories, as presented in the application on Plan MAL/12111/NJdK A101, dated 15/09/2021:
 - (i) 1 x Split Zoning erf (766,1666 ha in extent); and
 - (ii) 1 x Community Zone 1 erf (4,0 ha in extent);
- (b) Erf 327 be subdivided as follows and as presented in the application on Plan MAL/12111/NJdK A101, dated 15/09/2021:
 - (i) Portion A of 4,0 ha in extent;
 - (ii) The Remainder of 766,1666 ha in extent;
- (c) The Community Zone 1 zoning of Portion A authorises the development of a Place of Education (private secondary school), as presented in the application;
- (d) The required on-site parking bays be provided consistent with the requirements of Community Zone 1 and as presented in the application;
- (e) A detailed Site Development Plan, be submitted to the Senior Manager: Development Management, for consideration and approval;
- (f) A detailed Landscape Plan be submitted to the Senior Manager: Development Management, for consideration and approval;
- (g) Building plans be submitted to the Senior Manager: Development Management for consideration and approval;
- (h) Application be made to the Senior Manager: Development Management for consideration and approval of the right to affix, construct and/or display the name of the Place of Education on an on-site advertising sign;
- (i) The General Plan be submitted to the Surveyor-General for approval, including proof to the satisfaction of the Surveyor-General of—
 - (i) the Municipality's decision to approve the subdivision;
 - (ii) the conditions of approval imposed in terms of section 76; and
 - (iii) the approved subdivision plan;
 and copies of said diagrams be made available to the Municipality;

C2 WATER

- (a) The owner/developer submits copies of the detailed building plans to the Director: Civil Engineering Services for the calculation of development contributions towards bulk water provision and bulk water reticulation, at the pre-submission check stage of the building plan approval process;

C3 SEWERAGE

- (a) The owner/developer submits copies of the detailed building plans to the Director: Civil Engineering Services for the calculation of development contributions towards sewerage and waste water treatment, at the pre-submission check stage of the building plan approval process;

C4 ROADS AND STORMWATER

- (a) The owner/developer submits copies of the detailed site development plan to the Director: Civil Engineering Services for the calculation of development contributions towards roads and stormwater, at the pre-submission check stage of the building plan approval process;

C5 ELECTRICITY

- (a) The owner/developer submits copies of the detailed site development plan to the Director: Electrical Engineering Services for the calculation of development contributions towards electricity, at the pre-submission check stage of the building plan approval process;

D. GENERAL

- (a) Cognisance be taken of the Environmental Authorisation from the Department of Environmental Affairs and Development Planning, with reference number 16/3/3/1/F5/16/2062/21, dated 15 July 2022;
- (b) The land use approval will not cause exemption from complying with any other legal procedures, applications and/or approvals related to the intended land use;
- (c) The legal certificate which authorises transfer of the subdivided portions in terms of Section 38 of By-law will not be issued unless all the relevant conditions have been complied with;
- (d) The approval is valid for a period of 5 years, in terms of section 76(2) of the By-Law, from the date of decision. Should an appeal be lodged, the 5 year validity period starts from the date of outcome of the decision against the appeal. All conditions of approval be implemented before the new land uses come into operation/or the occupancy certificate be issued and failing to comply will cause the approval to lapse;
- (e) The applicant/objector be informed of the right to appeal against the decision of the Municipal Planning Tribunal in terms of section 89 of the By-Law. Appeals be directed, in writing, to the Municipal Manager, Swartland Municipality, Private Bag X52, Malmesbury, 7299 or by e-mail to swartlandmun@swartland.org.za, within 21 days of notification of the decision. An appeal is to comply with section 90 of the By-Law and be accompanied by a fee of R5 000-00 in order to be valid. Appeals that are received late and/or do not comply with the aforementioned requirements, will be considered invalid and will not be processed.

E. The application be supported for the following reasons:

- (a) The proposed development is consistent with the Spatial Development Frameworks adopted on Provincial, District and Municipal levels;
- (b) There are no physical restrictions on the property that will have a negative impact on this application. In fact, the physical characteristics render the property uniquely suited to accommodate the proposed Place of Education and facilities;
- (c) The proposed Place of Education is consistent with the character and zoning of the properties in the surrounding area;
- (d) The proposed activity will have a positive economic impact as it will generate income for the land owner, Municipality (through rates and taxes) and tourism as a whole, through the spending of visitors to the area;
- (e) The proposal will generate a number of employment opportunities;
- (f) The Place of Education will increase access to education opportunities and alleviate the pressure of over-enrolment at High School Swartland;
- (g) The Bloekombos is not of environmental significance, as the plant life is not of conservation value, but also because only a small portion of the land is proposed for development;
- (h) An Environmental Authorisation was issued to support the development;
- (i) The development of the larger Erf 372 over time is inevitable and the prospect has been illustrated in the SDF for a number of iterations already;
- (j) The development proposal does not trigger an EIA and will have no detrimental impact on the environment;
- (k) The development proposal is considered desirable within its context, i.e. spatially, culturally, environmentally and economically.

6.2 PROPOSED REZONING OF ERF 353, MALMESBURY (15/3/3-8, 15/3/4-8 – ERF 353)

Mr A J Burger explained that an application was received for the rezoning of Erf 353, Malmesbury in order to convert the existing dwelling into a healthcare (frail care) facility.

After the owner was unsuccessful to establish the facility elsewhere in Malmesbury, the facility was located in 2022 to Erf 353, Malmesbury. A notice was served on the owner to cease the operation of the facility and the application is therefore aimed to legalise the healthcare facility.

RESOLUTION

- A. The application for rezoning on Erf 353, Malmesbury, from Residential Zone 1 to Community Zone 3, be approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), subject to the conditions that:

A1 TOWN PLANNING AND BUILDING CONTROL

- (a) Erf 353 (862 m² in extent) accommodates the existing dwelling that is to be converted into a health care facility for the aged, as presented in the application;
- (b) The health care facility provides accommodation for 10 patients while receiving medical care;
- (c) Development charges for the health care facility be calculated at building plan stage;
- (d) A minimum of five (5), clearly demarcated on-site parking bays be provided 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;
- (e) Building plans be submitted to the Senior Manager: Development Management for consideration and approval;
- (f) Application be made to the Senior Manager: Development Management for the right to affix/display/construct the name board/sign of the facility on the site;
- (g) Application be made to the Senior Manager: Development Management for a business licence;
- (h) Application be made to the West Coast District Municipality for a Compliance certificate;
- (i) The Health Norms and Standards of 24 December 2015 be complied with to the satisfaction of the West Coast District Municipality;
- (j) Application be made to the West Coast District Municipality for a health certificate;
- (k) Provision be made for the disposal of medical waste, to the satisfaction of the West Coast District Municipality;
- (l) The owner/developer be liable for the amount of R29 400,00 towards the fine levied per day calculated from 14 February 2023 to 13 September 2023, in terms of section 96(3) of the By-Law. The amount is payable to the Swartland Municipality at building plan stage, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA 9/222-462-9192);

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;

- B. The application for building line departure on Erf 353, 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:

B2 TOWN PLANNING AND BUILDING CONTROL

- (a) Relaxation of the north-western street building line from 10m to 7,2m to accommodate a portion of the existing dwelling;
- (b) Relaxation of the north-eastern street building line from 10m to 5m to accommodate the existing double garage;

6.2/B2...

- (c) Relaxation of the south-eastern side building line from 5m to 1m to accommodate the existing carport;
- C. The application for departure on Erf 353, 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:

C1 TOWN PLANNING AND BUILDING CONTROL

- (a) The departure authorises the non-provision of five (5) parking bays on Erf 353;

D. GENERAL

- (a) The approval does not exempt the owner/developer from compliance with all legislation applicable to the facility;
 - (b) The approval is valid for a period of 5 years, in terms of section 76(2) of the By-Law, from the date of decision. Should an appeal be lodged, the 5 year validity period starts from the date of outcome of the decision against the appeal. All conditions of approval be implemented by 30 November 2023 and before the new land use comes into operation/or the occupancy certificate be issued and failing to do so will cause the approval to lapse. Should all conditions of approval be met, the land use becomes permanent and the approval period will no longer be applicable.
 - (c) The applicant/objector be informed of the right to appeal against the decision of the Municipal Planning Tribunal in terms of section 89 of the By-Law. Appeals be directed, in writing, to the Municipal Manager, Swartland Municipality, Private Bag X52, Malmesbury, 7299 or by e-mail to swartlandmun@swartland.org.za, within 21 days of notification of decision. An appeal is to comply with section 90 of the By-Law and is to be accompanied by a fee of R5 000,00 in order to be valid. Appeals that are received late and/or do not comply with the aforementioned requirements, will be considered invalid and will not be processed.
- E. The application be supported for the following reasons:
- (a) The application complies with the planning principles of LUPA and SPLUMA;
 - (b) The application is compliant with the spatial planning of Malmesbury, as directed by the SDF;
 - (c) The proposed community facility will complement and not have a negative impact on the residential character of the surrounding area;
 - (d) The development proposal supports the optimal utilisation of the property;
 - (e) Sufficient services capacity exists to accommodate the proposed facility;
 - (f) Sufficient on-site parking bays can be provided for the proposed facility;
 - (g) Health and safety issues will be regulated by rigorous applicable legislation;
 - (h) The proposed use is considered a low impact, low-risk, low noise activity;
 - (i) The traffic impact of the facility on the tranquillity of the neighbourhood is deemed to be negligible;
 - (j) The development is foreseen to create employment opportunities and to subsequently assist in strengthening the local economy;
 - (k) The health care facility provides a much needed social amenity in the community;
 - (l) The health care facility is a non-profit organization which provides an important service to the frail elderly in the Swartland where these type of facilities are limited. For this reason the owner/developer is exempted from the provisions to make a financial contribution for the non-provision of on-site parking.

**(SIGNED) J J SCHOLTZ
CHAIRPERSON**



Verslag ♦ Ingxelo ♦ Report

Kantoor van die Direkteur: Ontwikkelingsdienste
Afdeling: Ontwikkelingsbestuur

28 September 2023

15/3/4-3/Erf_4318

15/3/10-3/Erf_4318

WYK: 6

ITEM 6.1 VAN DIE AGENDA VAN 'N MUNISIPALE BEPLANNINGSTRIBUNAAL WAT GEHOUD SAL WORD OP WOENSDAG 11 OKTOBER 2023

LAND USE PLANNING REPORT					
APPLICATION FOR A CONSENT USE & DEPARTURE ON ERF 4318, DARLING					
Reference number	15/3/4-3/Erf_4318 15/3/10-3/Erf_4318	Application submission date	29 June 2023	Date report finalised	29 September 2023

PART A: APPLICATION DESCRIPTION						
<p>Application is made for a consent use in order to operate a house tavern on a portion of Erf 4318 ($\pm 18\text{m}^2$ in extent), in terms of section 25(2)(o) of Swartland Municipality : Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020). The house tavern will be operated from an proposed extension to the existing house.</p> <p>Application is also made for the departure from development parameters applicable to Erf 4318, Darling, in terms of section 25(2)(b) of Swartland Municipality : Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020). The departure entails the departure from the requirement 2 on-site parking places to provide only providing 1 parking place.</p> <p>The house tavern will be operated as a facility for the off-consumption of liquor. In other words the liquor sold at the subject property will be taken away and not consumed on the premises.</p> <p>The applicant is CK Rumboll and Partners on behalf of the Mr J Brian.</p>						
PART B: PROPERTY DETAILS						
Property description (in accordance with Title Deed)	Erf 4318, Darling in Swartland Municipality, Division Malmesbury, Western Cape Province					
Physical address	Madeliefie Street		Town	Darling		
Current zoning	Residential zone 2	Extent (m^2/ha)	160 m^2	Are there existing buildings on the property?	<input checked="" type="checkbox"/> Y	<input type="checkbox"/> N
Applicable zoning scheme	Swartland Municipal By-Law on Municipal Land Use Planning (PG 8226 of 25 March 2020)					
Current land use	Dwelling house		Title Deed number & date	T22890/2022		
Any restrictive title conditions applicable	<input type="checkbox"/> Y	<input checked="" type="checkbox"/> N	If Yes, list condition number(s)			
Any third party conditions applicable?	<input type="checkbox"/> Y	<input checked="" type="checkbox"/> N	If Yes, specify			
Any unauthorised land use/building work	<input type="checkbox"/> Y	<input checked="" type="checkbox"/> N	If Yes, explain			

PART C: LIST OF APPLICATIONS (TICK APPLICABLE)							
Rezoning		Permanent departure	✓	Temporary departure		Subdivision	
Extension of the validity period of an approval		Approval of an overlay zone		Consolidation		Removal, suspension or amendment of restrictive conditions	
Permissions in terms of the zoning scheme		Amendment, deletion or imposition of conditions in respect of existing approval		Amendment or cancellation of an approved subdivision plan		Permission in terms of a condition of approval	
Determination of zoning		Closure of public place		Consent use	✓	Occasional use	
Disestablish a home owner's association		Rectify failure by home owner's association to meet its obligations		Permission for the reconstruction of an existing building that constitutes a non-conforming use			
PART D: BACKGROUND							
<p>Erf 4318, Darling is zoned Residential zone 2. Residential zone 2 permits a dwelling house as primary use right. A tavern can only be accommodated as a consent use (with the special permission from the municipality).</p> <p>The purpose of the application is therefore to obtain the necessary approval in order for the owner of the property to operate the proposed tavern.</p>							
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><i>(Please note that this is a summary of the applicant's motivation and it, therefore, does not express the views of the author of this report)</i></p> <p>The applicant states that a house tavern, is defined as a premises for the conducting of an enterprise from a dwelling or outbuilding, by the occupant of the dwelling concerned, for the sale of alcoholic beverages, and may include consumption of alcoholic beverages by customers on the land unit, provided that the dominant use of the dwelling concerned shall remain for the living accommodation of a single family.</p> <p>According to the applicant the subject property is situated in an area which has complimentary zonings (business and residential) which makes the mixed land use proposal a perfect fit into the surrounding area.</p> <p>Erf 4318, Darling, is situated in an area in Darling, gaining access from an Activity Street, which offers great opportunity for secondary business uses, such as a house tavern (as desired by the SDF).</p> <p>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.</p> <p>The owner of the subject property will be granted an income opportunity.</p> <p>Employment opportunities will be created.</p> <p>The proposed tavern will be operated from a relatively small area (±18.2m²).</p>							

The applicant motivates that one of the concerns, when it comes to operating a house tavern, is managing noise and nuisance that might realise because of the land use. The prescribed trading/operating hours will be adhered to as set out by the local authority. The proposed house tavern will however operate in such a manner that as little as possible impact will be imposed in terms of noise given that the no on-site consumption will occur. An influx of traffic will not be a nuisance since most of the customers will be within walking distance of the house tavern.

The applicant motivates that the proposed application should be supported for the following reasons;

1. The size of the house tavern ($\pm 18.2\text{m}^2$) is reasonably small making it easier to manage.
2. The proposal satisfies the development principles as set out in LUPA and SPLUMA.
3. The proposal is supported by the Swartland Spatial Development Framework, Amendment 2018/2019, especially given the provision of the proposed land uses as a consent use under the DMS.
4. The Consent Uses promote the optimal use of the existing building/site location.
5. The proposal will generate income opportunities for the owner (and job opportunities for locals) in a low income area.
6. There are no physical (or title deed) restrictions present which can prohibit the development of the property for the intended uses.
7. The dominant use of the existing dwelling will remain for residential purposes.
8. The location of the property (along an activity corridor), lends itself to be utilised for a more intensive use.
9. All building line parameters applicable to the proposed consent use will be adhered to.
10. The proposal will complement the mixed use character as envisaged for the area.
11. The proposed infill development will limit urban sprawl.
12. The property is located adjacent to an activity street, where house taverns are encouraged.
13. Proposed development fits into the existing area.
14. Departing from parking has no impact on traffic or streetscape and most residents walk to desired location and finally owner nor family owns a vehicle; 1 parking is thus sufficient.
15. The proposal will not have any significant impact on external engineering services, nor will it negatively impact on environmental / heritage assets.

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 55(1) (f) of the By-law, the application will not materially affect the public interest or the interest of the broader community of Darling, therefore the application was not published in the newspapers or the Provincial Gazette. With reference to Section 56(2) of the By-Law, a total of 19 notices were sent to the owners affected by the application as well as the South African Police Service.									
Total valid comments	1			Total comments and petitions refused			0		
Valid petition(s)	Y	N	If yes, number of signatures				N/A		
Community organisation(s) response	Y	N	N/A	Ward councillor response		Y	N	An email was received stating that the item was referred to the Ward Committee for Ward 6. It is confirmed that during the discussion the committee indicated that they do not support the application for the house tavern. No reasons have been provided.	
Total letters of support	0								
PART H: COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS									
Name	Date received		Summary of comments					Recommendation	
Department Civil Engineering Services	27-07-2023		Water The existing connection be used and that no additional connections be provided;					Positive	

		<p>Sewerage</p> <p>The existing connection be used and that no additional connections be provided;</p> <p>Streets and storm water</p> <p>Deliveries may only be done by delivery vehicles of with a gross vehicle mass of 16000kg;</p> <p>Parks - No comments</p>		
Department Protection Services	31-07-2023	<p>Do not approve.</p> <p>There are not enough space for parking and motorist parking in front of the facility will cause obstruction to other road users and pedestrians to walk in the middle of the street.</p>		Negative
Electrical Engineering Services	30-06-2023	<p>The proposed additions may not be closer than 3m from the existing 11kV power line</p>	Positive	
Department Development Services : Building Control	07-07-2023	<p>Building plans to be submitted to building control for consideration and approval.</p>	Positive	

PART I: COMMENTS RECEIVED DURING PUBLIC PARTICIPATION		SUMMARY OF APPLICANT'S REPLY TO COMMENTS	MUNICIPAL ASSESSMENT OF COMMENTS
<p>Apostle BF Gordon on behalf of the Jubilee Ministries of South Africa owner of erf 4049, Darling</p>	<p>As a Christian institution, they object to the operation of a house tavern on Erf 4318, Darling.</p>	<p>The applicant comments that the proposed development entails the establishment of a house tavern which will solely focus on the sale of alcohol for off-site consumption.</p>	<p>The application being considered will not contribute to alcohol abuse and violence, but could rather be seen as an attempt by the owner to get the necessary land use rights as well as liquor license to operate a legal liquor outlet.</p>
	<p>The objector deems the location of the proposed tavern in a residential area in the immediate vicinity of churches and crèches unwise and inappropriate.</p>	<p>The establishment will be in compliance with the sales hours as set out in the Swartland Municipality's Bylaw relating to Control of Undertakings that Sell Liquor to the Public, 2022.</p>	<p>It could be argued that the operation of the proposed house tavern may actually have a positive social impact as it not only result in convenience to the community it serves but also result in job creation as well as local economic development.</p>
	<p>It is their vision and intension to make a difference in Darling by helping the youth and less fortunate by keeping them busy with religious activities.</p>	<p>The sale of alcohol for off-site consumption will greatly limit the common negative assumptions associated with house taverns as consumption is not permitted on the premises.</p>	<p>The application 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.</p>
	<p>In their opinion the town of Darling is currently already caught in the stranglehold of crime, alcohol and drug abuse and they are therefore concerned that the approval and establishment of house taverns will contribute to a further increase in social issues such as poverty, alcohol and drug abuse as well as crime.</p>	<p>It is argued that this application cannot be rejected on the basis of existing social issues in Darling and in South Africa. In addition to the latter concerns, there is no concrete evidence which can prove that the social issues will worsen due to the proposed house tavern, thus it could be derived that the granting of the required land use rights to operate the proposed house tavern will not worsen the existing social issues, however the establishment will provide two additional employment opportunities within the area which in return could help lower the poverty concerned by the objector.</p>	<p>The fact that people will continue to purchase alcohol, whether the application is approved or not, should be noted.</p>
		<p>The applicant continues by stating that under Chapter VI, Section 59 (1)(g), of the Land Use Planning Act, Act 3 of 2014 it is stated that the rights of owners to develop land in accordance with current use rights should be recognised.</p>	<p>The subject property is situated next to an identified activity street as well as in close proximity to the existing business zoned properties. The proposal will therefore contribute to the strengthening of the existing business node as well as the establishment of mixed uses along activity streets.</p>
		<p>The application property is currently zoned as Residential Zone 2. The proposed house tavern is permitted as a consent use under Residential Zone 2 according to Swartland Municipality Land Use Planning By-law, 2020. The fact that the landowner followed procedure in obtaining the necessary land use rights and approvals, must be viewed in a positive light and</p>	

		serves as proof that the owner/ operator is dedicated to effectively manage the proposed house tavern.	
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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 the 29th of June 2023. The public participation process commenced on the 14th of July 2023 and ended on the 14th of August 2023 (affected parties and internal departments). The objections received were referred to the applicant for comments on the 16th of August 2023. The municipality received the comments on the objections on the 21st of August 2023.

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

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

- a) Spatial Justice: As will be discussed in detail below the proposed application is deemed to be consistent with the MSDF, 2023, secondly, an opportunity is presented by the proposed application to create a legal liquor outlet in the Darling North Area in order to service the community. The application therefore complies with the principle of spatial justice.
- b) Spatial Sustainability: Existing services are sufficient to accommodate the proposed tavern. The mixed use may result in the optimal use of space and services and strengthen the existing underdeveloped business node.
- c) Efficiency:

Surrounding land uses mainly includes dwellings, however there are a number of vacant business zoned properties as well as a property zoned for a place of worship as well as a crèche, respectively. The proposed land use change may be seen as a contribution to mixed land uses along an identified activity street. It may be assumed that most of the clientele to the facility will frequent the property by foot. The proposed house tavern has sufficient access from Madeliefie Street and provision is made for one on-site parking bay. The nature of the business as well as the layout is clearly not for people to congregate or spend a lot of time. The proposal will therefore not result in mayor congestion in the street or frustration in neighbouring property owners. The proposed tavern can therefore effectively be accommodated from the proposed addition to the existing dwelling as proposed.
- d) Good Administration: Public participation was done by Swartland Municipality in terms of the provisions of the By-Law. Those affected by the application were sent notices as required in terms of the By-Law. The comments from the relevant municipal departments were also obtained. Consideration is given to all correspondence received and the application is dealt with in a timeously manner. It can therefore be argued that the Municipality comply with the principles of good administration.
- e) Spatial Resilience: The house tavern, as local business, supports the local economy and promotes entrepreneurship. Darling North does not have a large number of formal liquor outlets / facilities and therefore it could be argued that there is a definite need as such in the community. The applicant identified the need and wishes to get the necessary authorisations. Like house shops, house taverns play an important role in communities as it is situated within walking distance for customers, which normally need to travel to visit liquor outlets in business areas. Therefore, the application complies with the principle of spatial resilience. Should the house tavern not be successful, the outbuilding can easily be incorporated with the existing dwelling.

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

The SDF indicates that Erf 4318, Darling is situated in land use proposal Zone E. Zone F is described as a high density residential area with supporting social facilities and commercial facilities including GAP opportunities. Secondary business uses, e.g. house taverns are only allowed along activity streets in residential areas on the discretion of the Municipality. Please refer to the extract below;

Table 1: Extract from the MSDF, 2023

DARLING LAND USE ZONES		Low Density Residential Uses	Medium Density Residential	High Density Residential Uses	Secondary Educational Uses	Place of Education	Professional Uses	Business Uses	Secondary Business Uses	Place of Worship	Institution	Guest houses	Authority	Sport/Recreational Facilities	Industries & Service Trade
E	Zone E is a high density residential area with supporting social and commercial facilities. Include GAP opportunities along the eastern periphery. Expand the Sport and Recreational node around the swimming pool and include educational component. Create a public recreational node with picnic areas on the eastern periphery around the dam. Allow limited industrial uses on the south eastern periphery of zone.	X	X	X	X	X	X	X 1,2,9 11	X 1,2,9 11	X	X	X	X	X 5	X 10
(1) Along activity streets/corridors (2) At identified business nodes (3) Flats along activity streets (4) Public square (5) Public recreation, sport and educational node (6) Tourism node (7) Only service trade and light industries (8) Provincial high school (9) At identified mixed use nodes (10) Only services trades (11) At proposed future residential development nodes		Business Uses e.g. shop, supermarket, restaurant, offices, service station Place of Education e.g. Schools, places of instruction Professional Uses e.g. offices like doctors, dentists, attorneys, architects, engineers and town planners. Secondary Business Uses e.g. neighbourhood business uses such as house shops, small offices and home occupation. House taverns only to be allowed along activity streets in residential areas on discretion of the Municipality. Secondary Educational Uses e.g. Crèches/day care *Find description of proposed land uses for development zones in Annexure 4													

Figure 1: Extract from the land use proposal map of Darling



From the table as well as the extract from the land use proposal map above, the application is clearly consistent with the proposals of the MSDF, 2023.

The SDF forms an integral part of the IDP. Applications like these are measured according to the principles of the SDF to determine whether it is in compliance. Secondly, it could be argued that the proposal supports strategic goal 1 and 2 by ensuring community safety and wellbeing as well as economic transformation. This is achieved by bringing opportunity closer to the people as well as through the creation of job opportunities.

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

Except for the provision of parking, the proposal complies with all applicable zoning parameters.

Application is made for the departure of the required parking bays. Although no additional parking is required for the tavern, a total of 2 parking bays need to be provided for the dwelling. Given the extent of the property as well as the position of the existing dwelling only 1 parking bay can be accommodated.

The nature of the proposed use as well as the fact that it is proposed in an area where very few residents have motor vehicles, the application for departure can be recommended. It is not anticipated that the facility will generate large numbers of vehicles or significant congestion in Madeliefie Street. Furthermore the nature of the business is that people buy liquor and then take it away for consumption somewhere else meaning that they do not spend a lot of time at the facility.

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

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

Surrounding land uses are mostly single residential. The property is however situated in close proximity to an existing secondary business node and along an identified activity street. The application will therefore not have a negative impact the character of the area.

Erf 4318 has no heritage grading.

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

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

From the above information, the proposed consent use is promoted in terms of the development principles and norms and standards of the planning legislation and policy. Due to the scale and nature of the business it will not have an adverse impact on the street nor the safety of road users. Being situated next to an identified activity street as well as in close proximity to the secondary business node, the proposal will not have a negative impact on the character of the area.

The degree of risk or potential risk

The operation of a house tavern selling liquor for off-consumption purposes do pose a degree of risk for the community in the form of social problems associated with alcohol abuse. However, the business of operating a house tavern cannot be held accountable for the social problems. It is also acknowledged that the application is an attempt from the owner of erf 4318 to obtain land use approval for a house tavern to put them in a position to obtain a liquor license to be able to sell liquor legally.

If approved, the owners of erf 4318 will be in a position to obtain a liquor license. If a liquor license is obtained, the house tavern will need to operate according to the conditions of approval of the land use approval, conditions of the liquor license as well as comply with the trading days and hours of Swartland Municipality's By-law relating to control of undertakings that sell liquor to the public.

There is a fine balance between accommodating a business in a residential area, thereby enhancing the shopping experience of residents, bringing business and opportunities closer to the community and the impact that such a business will have on the properties and community directly affected by the business. In this case, the potential risk of the facility having a negative impact is deemed low given its location next to an identified activity street as well as in close proximity to the secondary business node. Sufficient space exist to accommodate the facility within the parameters of the By-Law.

Impact on existing and surrounding land uses

The surrounding area to erf 4318 is currently residential in nature as the business properties have not yet developed.

As mentioned above the proposed business cannot be held accountable for the claimed alcohol abuse in the community of Darling and the general anti-social behaviour experienced at other facilities. The application being considered will not contribute to alcohol abuse and violence, but could rather be seen as an attempt by the owner to get the necessary land use rights as well as liquor license to operate a legal liquor outlet.

It could therefore be argued that the proposed house tavern will not have an adverse impact on the existing use of the property nor will it negatively impact on the surrounding land uses. In fact, the proposed use might even have a positive impact on the existing neighbourhood stimulating the further development of mixed use along the activity street.

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

As mentioned above there is a definite need for a legal liquor outlet in Darling North which is therefore in the interest of the community as the community currently need to travel some distance to the CBD or support the illegal trade in alcohol to fulfil this need. The application is consistent with the MSDF, 2023 and will not have a negative impact on the existing use of the property nor the surrounding land uses. Therefore the development will not be prejudicial to the interests of the community.

It should also be noted that a total of 19 notices were sent, none of which returned unclaimed. Only one objection was received which suggests that the majority of property owners deemed to be affected does not oppose the proposed application.

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

The proposed house tavern will be accommodated on a small portion of the property. Short and long-term benefits for the owners of erf 4318 include a sustained income generated from the operation of the house tavern. Short and long term benefits for the community includes an enhanced shopping experience with no long distances that needs to be travelled to visit a shop that sells liquor.

4. Impact on municipal engineering services

The existing services connections are used, which are seen as sufficient.

5. Response by applicant

Refer to Annexure I.

6. Comments from other organs of state/departments

See the comments of internal departments at Part I.

PART K: ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

The financial or other value of the rights

N/A

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

N/A

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

N/A

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

N/A

PART L: RECOMMENDATION WITH CONDITIONS

- A. The application for consent use on erf 4318, Darling be approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), subject to the conditions that:

1. TOWN PLANNING AND BUILDING CONTROL

- (a) The consent use be restricted to accommodate a house tavern ($\pm 18\text{m}^2$ in extent);

- (b) Liquor only be sold for off-consumption purposes;
- (c) In addition to the house tavern, the land unit contains a dwelling which is occupied by the proprietor of the house tavern;
- (d) Building plans, clearly indicating the house tavern in relation to the house, be submitted to the Senior Manager: Development Management, for consideration and approval;
- (e) The Western Cape Noise Control Regulations (PG 7141 dated 20 June 2013) be adhered to, to the satisfaction of the relevant authority;
- (f) Application for construction of or attaching an advertising sign to the building be submitted to the Senior Manager: Development Management, for consideration and approval. Only one sign, not exceeding 1m² in area and not exceeding the land unit boundaries with any part of it, be permitted and it shall indicate only the name of the owner, name of the business and nature of the retail trade;
- (g) Trading hours of the house tavern are determined by the Swartland Municipality: By-law relating to control of undertakings that sell liquor to the public (PG7394 of 22 May 2015);

2. WATER

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

3. SEWERAGE

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

4. STREETS AND STORMWATER

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

5. Electrical Engineering Services

- (a) The proposed additions may not be closer than 3m from the existing 11kV power line

- B. The application for the departure from development parameters applicable to erf 4318, Darling is hereby approved in terms of section 70 of the By-Law, as follows:

1. TOWN PLANNING AND BUILDING CONTROL

- (a) The provision of on-site parking be departed from in order to allow only one parking on the subject property in lieu of the 2 parking bays per unit requirement;
- (b) In terms of section 13.1.2(c) of the development management scheme the owner / developer pay a cash sum for the non-provision of the 1 on-site parking bay as well as the portion of the proposed parking bay not provided on the property at R163/m²; (12,5m² x 163) = R2 037.50. This condition is applicable on building plan stage;

C. GENERAL

- (a) The approval does not exonerate the applicant from obtaining any necessary approval from any other applicable statutory authority.
- (b) The approval is valid for a period of 5 years, in terms of section 76(2) of the By-Law from date of decision. Should an appeal be lodged, the 5 year validity period starts from the date of outcome of the decision against the appeal.
- (c) All conditions of approval be implemented before the new land uses come into operation/or occupancy certificate be issued and failing to do so the approval will lapse. Should all conditions of approval be met within the 5 year period, the land use becomes permanent and the approval period will no longer be applicable.
- (d) The applicant/objectors be informed of the right to appeal against the decision of the Municipal Planning Tribunal in terms of section 89 of the By-Law. Appeals be directed, in writing, to the Municipal Manager, Swartland Municipality, Private Bag X52, Malmesbury, 7299 or by e-mail to swartlandmun@swartland.org.za, within 21 days of notification of the decision. An appeal is to comply with section 90 of the By-Law and be accompanied by a fee of R5000-00 in order to be valid. Appeals that are received late and/or do not comply with the aforementioned requirements, will be considered invalid and will not be processed.

PART M: REASONS FOR RECOMMENDATION

1. There are no physical restrictions on the property that will have a negative impact on the proposed application.
2. There are no restrictions registered against the title deed of the property that prohibits the proposed land use.
3. The application is in compliance with the SDF and promotes mixed uses along activity streets
4. The proposed house tavern complies with the requirements of the zoning scheme regulations.
5. The house tavern will not increase the risk and safety of the community as the business cannot be blamed for the existing social problems.
6. Have a complimentary impact on the surrounding residential land uses as well as the existing neighbouring shop by enhancing the shopping experience in the area.
7. Is in the interest of the surrounding community.



PART N: ANNEXURES

Annexure A	Locality plan
Annexure B	Site plan
Annexure C	Proposed building plan
Annexure D	Plan indicating the public participation process
Annexure E	Objection from BF Gordon Jubilee Ministries SA
Annexure F	Applicant's comment on the objections
Annexure G	Photos

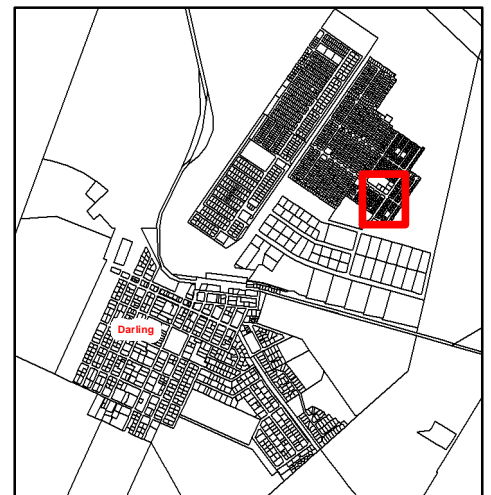
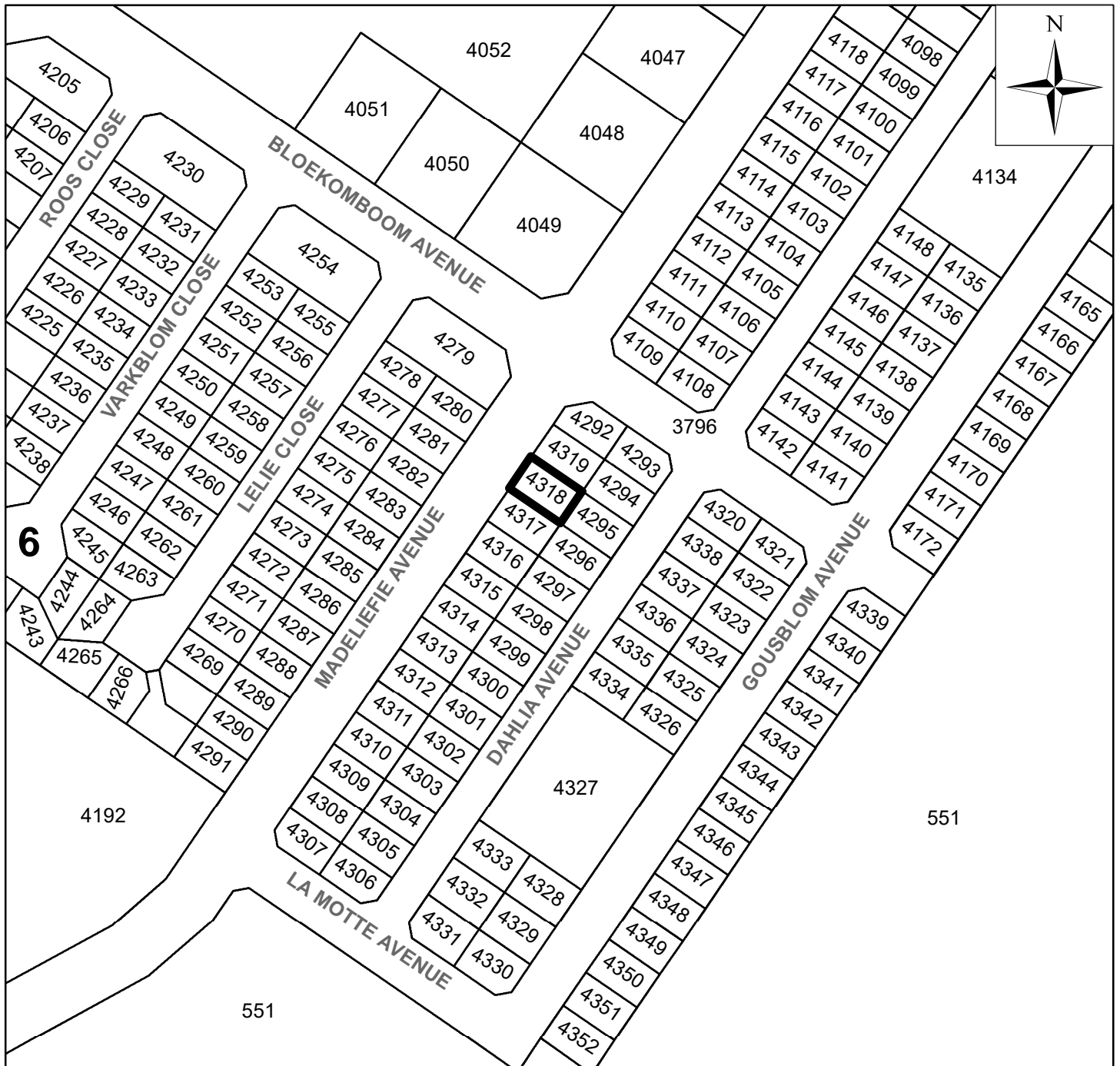
PART O: APPLICANT DETAILS

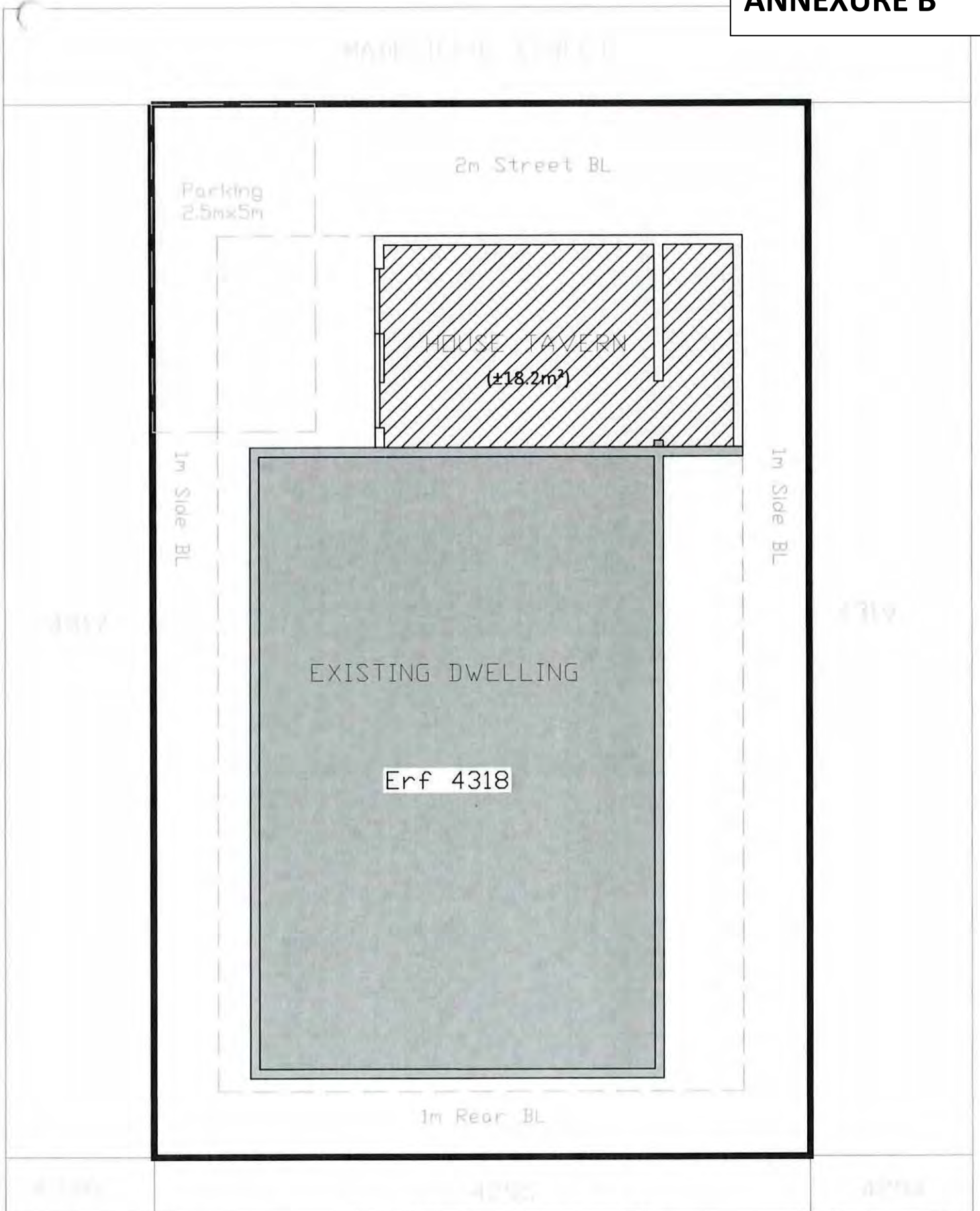
Name	CK Rumboll and Partners			
Registered owner(s)	J Brian	Is the applicant authorised to submit the application:	Yes	N

PART P: SIGNATURES

Author details: Herman Olivier Town Planner SACPLAN: A/204/2010		Date: 29 September 2023		
Recommendation: Alwyn Zaayman Senior Manager Development Management SACPLAN: B/8001/2001	Recommended	<input checked="" type="checkbox"/>	Not recommended	
		Date: 3 rd of October 2023		

LOCATION PLAN OF ERF 4318, DARLING





COMPILED BY:



C.K. RUMBOLL & VENNOTE
TOWN PLANNERS
PROFESSIONAL SURVEYORS
16 RAINIER STREET, MALMESBURY
Tel: 022 - 482 1845
Fax: 022 - 487 1661
Email: planning3@rumboll.co.za

NOTE:

ALL AREAS AND DISTANCES ARE SUBJECT TO SURVEYING
PHYSICAL ADDRESS:

ERF 4318 MADELIEFIE STREET, DARLING

TITLE: SITE PLAN ERF 4318, DARLING

NOTES:

Property Zoning: Residential Zone 2

Total property area: ±160m²
Proposed House Tavern: ±18.2m²
Permitted Coverage: 96m² (60%)
Proposed Coverage: ±78.72m² (49%)

KEY:

Relevant boundary



Dwelling



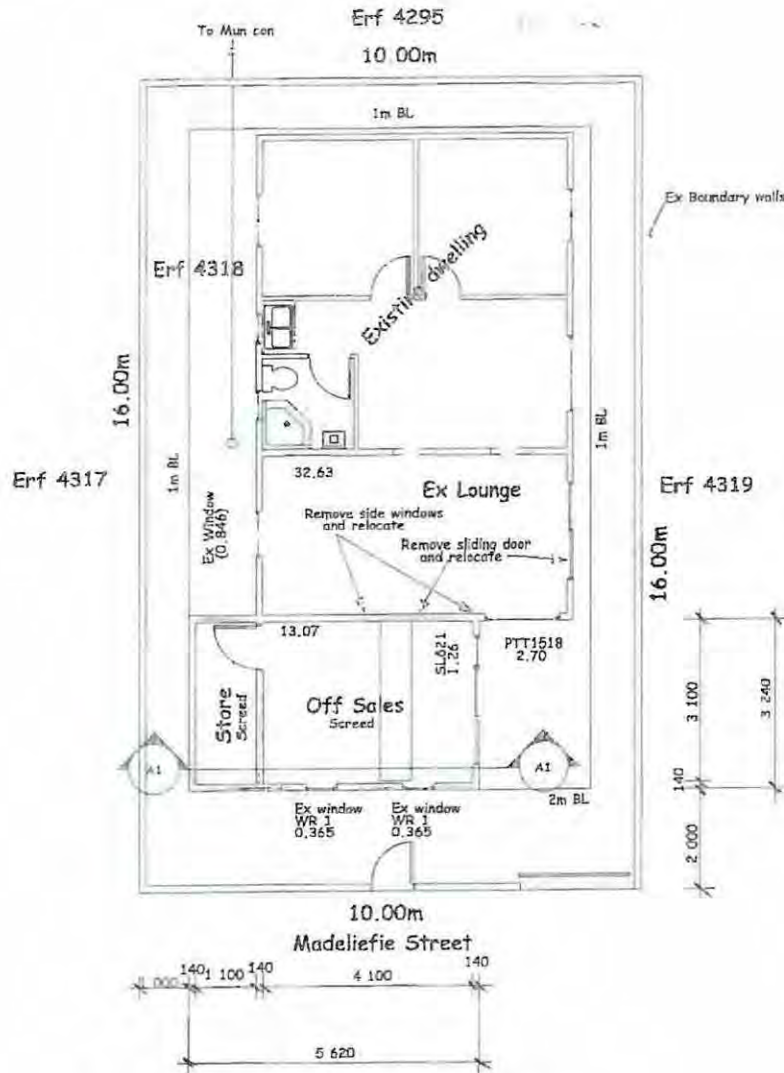
House tavern



REF: DAR/13235/NG-GT
DATE: JUNE 2023

AUTHORITY:
SWARTLAND MUNICIPALITY



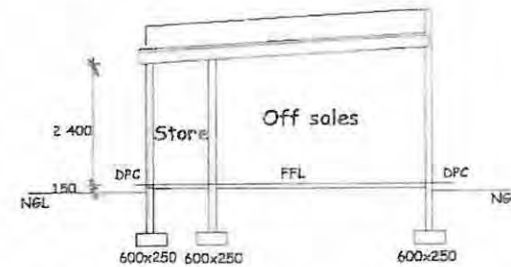


Ground Storey and Site Plan
Scale 1:100

Fenestration areas
Windows area - 5.53m²
Floor area - 45.70m²
Fenestration - 12.11%

Drainage and Plumbing
- All drainage to be done according NBR
- All levels and dimensions to be checked and verified with the author before commencement of any works
- All drainage pipes under building and closer than 450mm to ngl, to be enclosed in 200x200 concrete casing
- RE to all ends
- 1c to all bends
- Soil pipe to be minimum 110mm thick
- Waste pipes to be minimum 50mm thick
- Min fall of all pipes to 1:40 (new and existing)
- All material used to be SANS approved
- Fit gutters and down pipes where necessary
- Disposal of storm water to comply to the requirements of Part R of NBR and BS (Act 103 of 1977)


Edit Text...
Roof notes A - A
Carr sheets on 75x50 purlins @ 1.2c/c on 128x50 (G+2)
rafters built into walls @ 1400c/c fixed to 114x38 wall plate and fixed with hoop iron 600 deep into brick work.
Roof slope to be min 3
U Value - 0.25

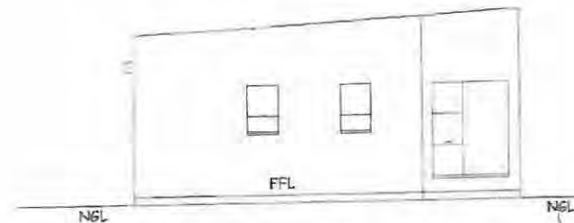


Section A - A
Scale 1:100

Floor notes
75mm Concrete bed on 100mm floor insulation on dpc on clean well compacted filling compacted in 150mm layers to comply to Part J of SANS 10400

Edit Text...
Note to owner and builder
1) As discussed verbally between client and author, inspections on these phases to do inspections
i) Foundations,
ii) Halfway window height,
iii) window height
iv) when hoop iron is built into walls, I must be notified during these phases to do inspections
2) Should I not be contacted for any of the above inspections, I cannot be held responsible for any damage to building in that regard and I CANNOT issue completion certificate for the works
3) In order for me to supply completion certificate, all these inspections must be done. For double storeys the above will be 2x.

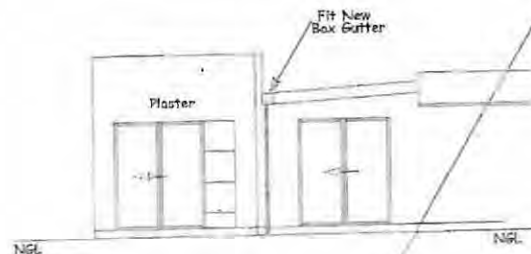
Client name:	J Brain	
Address:	24 Madeliefie Street Darling	Contact number:
Project:	Alterations and additions on Erf 4318 Darling	
Author:	M. Erasmus 53 Beaulieu Street Malmesbury	0810894392
Drawing type:	Section Ground Storey Site Plan	Areas Ex Structures - 60.52m ² Add - 18.20m ²
Page	Scale	Date drawn
1-2	As shown	June 2023
Client signature:		
Author signature:		
Author registration number:	D0606	
	Total new footprint - 78.72m ² Coverage - 49.20% Erf area - 160.00m ² Total new area - 18.20m ²	



North West Elevation
Scale 1:100

- General notes
- All levels and dimensions to be checked, corrected and verified with the author before commencements of any works
 - All works to be done according NBR
 - Brick force in every 3rd course
 - Pre stressed concrete lintels over all openings of less than 3m
 - Engineer designed beams over all openings of more than 3m
 - Light area to be min 10% and ventilation area to be 5% of all habitable rooms
 - All glazing to comply to part N of the NBR
 - Safety glass in all panes bigger than 1m and closer than 300mm to FFL
 - All dry wall construction to SANS 10082:2007
 - DPC to be min 375 mic SANS 10 400 approved
 - DPM to be min 250 mic SANS 10 400 approved
 - All timber build into brick work to be coated with pink primer
 - Flashing to be applied to all roof joints with a min overlap of 300mm
 - Parapet walls to be min 500mm above roof covering and max 500mm high or to comply with the rule KK3.3 ii of the NBR

- Parapet walls to be plastered sloped on top to the inside and covered with an approved waterproof
- Brick force in every row of bricks above lintels
- Brick force must be placed from the foundation to ffl every course and every 2 course until roof height
- On cavity wall for double storey buildings above lintel height wall to be filled with concrete under first floor floor
- DPC in all window frames
- All balustrades to comply to SANS 10400 Part D
- All stair treads to be min 250mm and risers 200 mm max and to comply to Part M of SANS 10400
- All staircases to have a 2100mm head height clearance



South West Elevation
Scale 1:100

- 135mm Flexible fibre glass insulation in roof
- All walls to be plastered and painted to manufacturers specs
- No foundations to stretch beyond any boundaries
- All retaining walls to comply with the NBR
- All walls, floors and roofs to be insulated according to SANS 10400
- All chimneys to be min 1m above highest exit point on roof and max 3.5m high
- All Sanitary fixtures to comply to Table 4:5 or 6 Of Part P of SANS 10400
- Frosted glass to bathrooms sealer

Copy right is vested in this plan. No unauthorised copies of or part of this plan is to be made without the written consent of the author of this plan. This plan remains the property of the author and therefor does not need any consent of any stage to draw copies from municipality archives.

Client name: J Brain	
Address: 24 Madeliefie Street	Contact number:
Dorling	
Project: Alterations and additions on Erf 4318 Dorling	
Author: M. Erasmus	0810894392
53 Begonia Street	Areas
Malmesbury	Ex Structures - 60,52m ²
	Add - 18,20m ²
Drawing type: Elevations	Total new footprint - 78,72m ²
Page	Scale
2-2	As shown
Date drawn	June 2023
Client signature: [Signature]	
Author signature:	
Author registration number: D0606	Total new area - 18,20m ²

Liggingsplan



19

APOSTEL B. GORDON
MIMOSA STAAT NR 4
DARLING
7345
Cell: 0781858768

SECRETARY: C GORDON
Cell: 0725492355

NRIC/20180409/449/18

**JUBILEE MINISTRIES OF
SOUTH AFRICA**

09 AUGUSTUS 2023

DIE MUNISIPALE BESTUURDER

Privaatsak X52

Malmesbury

7299

Meneer/Mevrou

BESWAAR TEEN VOORGESTELDE VERGUNNINGSGEBRUIK EN AFWYKING OP ERF 4318, DARLING

Hiermee rig ons graag die skrywe om misnoe teen die bogenoemde afwyking soos aan ons gestel in u brief gedateer 14 Julie 2023.

Eienaar van **ERF 4049 (KERKGROND)** h/v Bloekomboom en Madeliefie Laan, vind die goedkeuring vir die bedrywing van huis tavernes in die woongebied ASLA en in die onmiddellike omgewing van Kerke en kleuterskole onwys en onvanpas.

Ons visie en voorneme met die Stigting van (Jubilee Ministries) en die bou van ons Kerk(**Erf 4049**) is juis om 'n verskil te maak in ons dorp. Spesifiek om ons jeug en ook minder bevoorregtes te help en hulle besig te hou met godsdienstige bedrywighe.

Ons dorp Darling is huidiglik reeds in die wurggreep van misdaad, drank- en dwelmmisbruik vas gevang.

Ons bekommernis is dus dat die goedkeuring en oprigting van huis tavernes sal bydra tot 'n verdere toename in sosiale kwessies soos armoede, drank- en dwelmmisbruik asook misdaad in ons dorp.

As Christelike instansie maak ons beswaar teen die bedrywing van die huis taverne op Erf 4318, Darling.

Seën Groete,

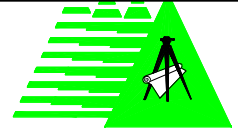
Apostle BF Gordon


Kontak nommer - 0781858768

VAN KRAG TOT KRAG!

Lukas 4:18 - "Die Gees van die Here is op My omdat Hy my gesalf het om die evangelie aan armes te verkondig, Hy het my gestuur om vrylating van gevangenes uit te roep en herstel van gesig vir blindes, om onderdrukte in Vryheid uit te stuur, om die genadejaar van die Here aan te kondig"

CK RUMBOLL & VENNOTE / PARTNERS



PROFESIONELE LANDMETERS - ENGINEERING AND MINE SURVEYORS - STADS- EN STREEKSBEPLANNERS - SECTIE

DATE: 18 August 2023

ONS VERW / OUR REF: DAR/13235/NG-GT

PER E-MAIL

ATTENTION: Mr. A. Zaayman

Municipal Manager
Swartland Municipality
Private Bag X52
MALMESBURY
7300

Sir,

APPLICATION FOR CONSENT USE AND PERMANENT DEPARTURE: ERF 4318, DARLING

With reference to the comments/objections received during the public participation in your letter dated 16 August 2023:

The following table sets out the comments/objections that were received from the party below along with the response from CK Rumboll and Partners on behalf of our client, Mr. Jason Brian as owner of Erf 4318, Darling. Objections/comments were received from the following party:

- Apostel B. Gordon on behalf of Jubilee Ministries of South Africa (Erf 4049, Darling)

Objector	Objection/Comments	Comments on objections
Apostel B. Gordon	<p>The Objector states that he finds the approval for the operation of home taverns in the residential area ASLA and in the immediate vicinity of churches and kindergartens unwise and inappropriate.</p> <p>The Objector is also concerned that the approval and construction of a house tavern will contribute to an increase in the existing social issues like poverty, alcohol and drug abuse, as well as an increase in crime in Darling.</p>	<p>The proposed development entails the establishment of a house tavern which will solely focus on the sale of alcohol for off-site consumption. The establishment will be in compliance with the sales hours as set out in the Swartland Municipality's By-law relating to Control of Undertakings that Sell Liquor to the Public, 2022.</p> <p>The functionality of the proposed House Tavern only involves the sale of alcohol and does not permit on-site consumption. This will greatly limit the common negative assumptions associated with house Taverns as consumption is not permitted on the premises.</p> <p>Considering the content of the objector's writing and the existing social issues located within the town of Darling, it is argued that this application cannot be rejected on the basis of existing social issues in Darling and in South Africa.</p> <p>In addition to the latter concerns, there is no concrete evidence which can prove that the social issues will worsen due to the proposed house tavern, thus it could be derived that the granting of the required land use rights to operate the proposed house tavern will not worsen the existing social issues, however the establishment will provide two additional employment opportunities within the area which in return could help lower the poverty concerned by the objector.</p> <p>Chapter VI, Article 59 (1)(g), of the Land Use Planning Act, Act 3 of 2014 states that the rights of owners to develop land in accordance with current use rights should be recognised. The application property is currently zoned as Residential Zone 2. The proposed house tavern is permitted as a consent use under Residential Zone 2 according to Swartland Municipality Land Use Planning By-law, 2020.</p> <p>The fact that the landowner followed procedure in obtaining the necessary land use rights and approvals, must be viewed in a positive light and serves as proof that the owner/ operator is dedicated to effectively manage the proposed house tavern.</p>

We trust you will take the above into account when considering the application.



Roeben Pienaar

On behalf of CK Rumboll and Partners

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: planning3@rumboll.co.za / PO Box 211 / Rainierstr 16, Malmesbury, 7299
MALMESBURY (T) 022 482 1845 (F) 022 487 1661





28 September 2023

15/3/3-14/Erf_123

15/3/4-14/Erf_123

WYK: 5

ITEM 6.2 OF THE AGENDA FOR THE MUNICIPAL PLANNING TRIBUNAL THAT WILL TAKE PLACE ON WEDNESDAY 11 OCTOBER 2023

LAND USE PLANNING REPORT PROPOSED REZONING AND DEPARTURE ON ERF 123, YZERFONTEIN					
Reference number	15/3/3-14/Erf_123 15/3/4-14/Erf_123	Submission date	25 July 2023	Date finalised	29 September 2023

PART A: APPLICATION DESCRIPTION					
Application for the rezoning of Erf 123, Yzerfontein, 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 establish a business premises and a flat on the property;					
Application for permanent building line departure on Erf 123, Yzerfontein, 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), in order to accommodate the existing building within the new, more restrictive building lines;					
The applicants are P-J le Roux town Planners (Pty) Ltd and the property owner is Marina D'Aquiar.					

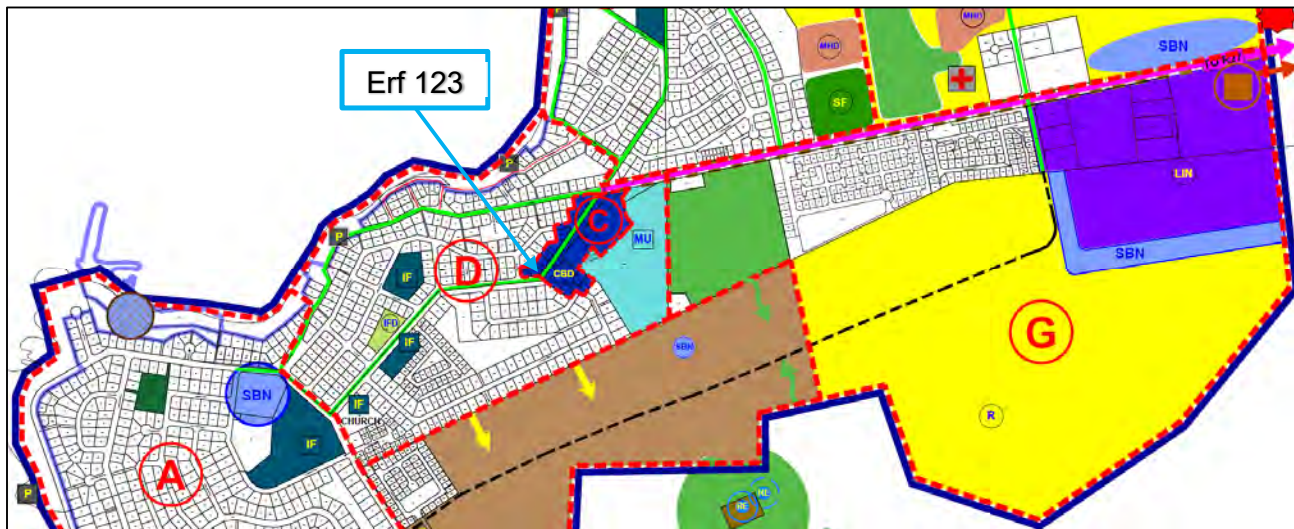
PART B: PROPERTY DETAILS					
Property description (in accordance with Title Deed)	REMAINDER OF ERF 123 YZERFONTEIN, SITUATED IN THE SWARTLAND MUNICIPALITY, DIVISION MALMESBURY, PROVINCE OF THE WESTERN CAPE				
Physical address	48 Buitenkant Street		Town	Yzerfontein	
Current zoning	Residential Zone 1	Extent (m ² /ha)	929m 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	Offices and warehouse for product storage		Title Deed number & date	T52763/2022	
Any restrictive title conditions applicable	Y	N	If Yes, list condition number(s)		
Any third party conditions applicable?	Y	N	If Yes, specify		
Any unauthorised land use/building work	Y	N	If Yes, explain	The property was rezoned during 2017 from Residential Zone 1 to Business Zone 1, limited to shops and offices. The conditions of approval were not completely adhered to within the allocated 5 year period and the rezoning lapsed.	

PART C: LIST OF APPLICATIONS (TICK APPLICABLE)					
Rezoning		Permanent departure	✓	Temporary departure	
Extension of the validity period of an approval		Approval of an overlay zone		Consolidation	
				Removal, suspension or amendment of restrictive conditions	

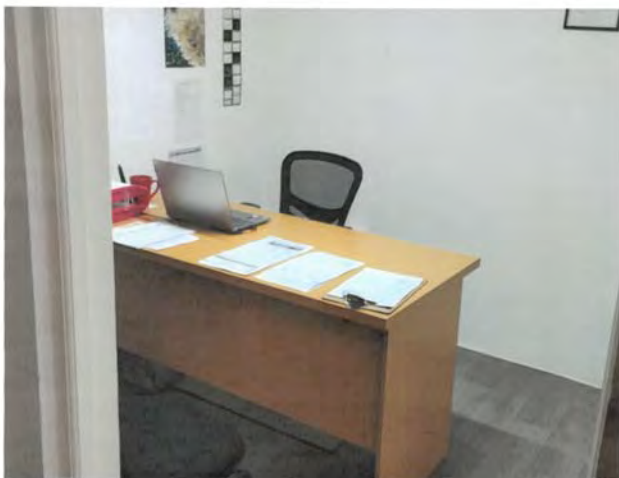
Permissions in terms of the zoning scheme		Amendment, deletion or imposition of conditions in respect of existing approval		Amendment or cancellation of an approved subdivision plan		Permission in terms of a condition of approval	
Determination of zoning		Closure of public place		Rezoning	✓	Occasional 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 123, Yzerfontein is zoned Residential Zone 1. The erf is located along an activity route (Buitenkant Street) in the CBD, central to Yzerfontein. Area C, as delineated by the Swartland Municipal Spatial Development Framework (2023). Area C is characterised by businesses – a supermarket, shops, offices and filling station.



The application property of 929m² in extent is currently developed with a double volume garage/storage structure, measuring 109m². The building is utilised as a business (Thorne Solar), including offices, but largely for the storage of materials. The remainder of the property is paved and serves as parking for clients and business vehicles, as well as a gathering point for labourers before being transported to various sites.





Application was originally made and approved on 14 September 2017 for:

- a) The removal of restrictive conditions B.1(1) and B1(3) from the Title Deed;
- b) Rezoning of the property from Residential Zone 1 to Business Zone 1, restricted to shops and offices;
- c) Building line departure to accommodate the existing building.

The approval was issued subject to the normal conditions, but only the conditions of approval pertaining to the removal of Title Deed were adhered to within the five year approval period. Subsequently, a new, endorsed Title Deed was registered, but the rezoning and departure lapsed, due to the non-compliance with conditions of approval.

In addition to the land use rights lapsing, the activities on the property fall outside the purview of the original approval and a number of complaints were issued by property owners in the area, regarding the manner in which the business is managed e.g. noise generated by delivery vehicles, industrial vehicles such as forklifts, as well as employees loitering outside the office building, conversing loudly early in the morning.

A notice of illegal land use on Erf 123, Yzerfontein, was issued by Swartland Municipality on 14 June 2023, and an on-site inspection was completed on 5 July 2023, confirming that the land use did not cease. However, the owner/ developer confirmed that a new land use application was being prepared and would reach SM before 31 July 2023. The application was received 25 July 2023.

The objective of the application is to optimise the subject property to the fullest potential by re-instating the previously approved land uses, as well as to apply for additional uses and new departures.

PART E: PRE-APPLICATION CONSULTATION (ATTACH MINUTES)

Has pre-application consultation been undertaken?

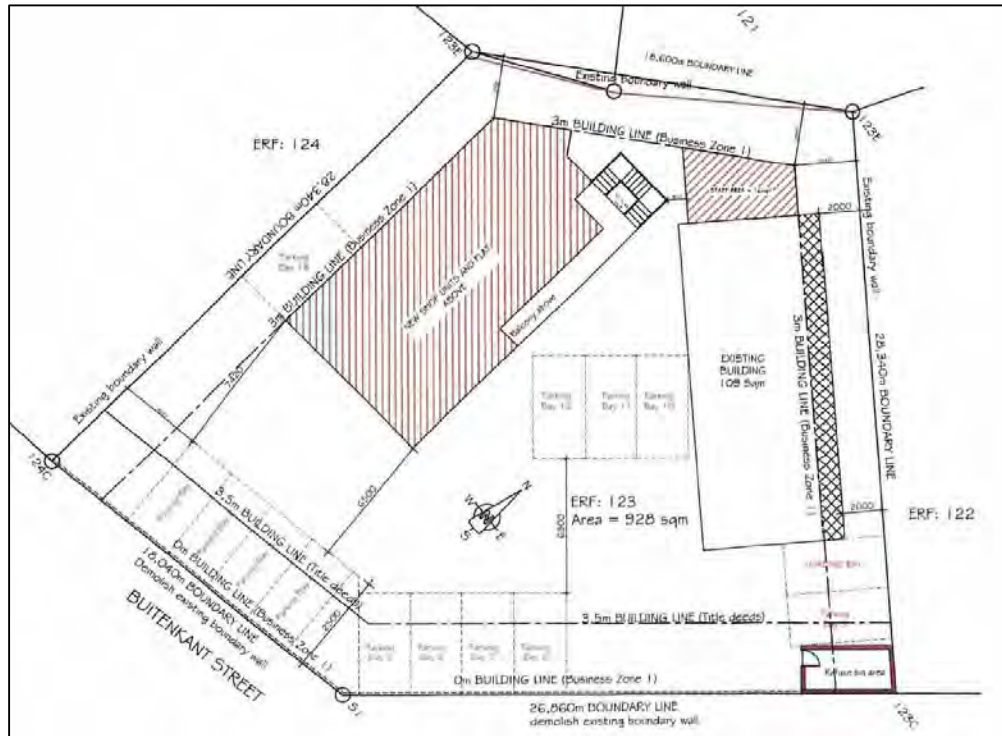
Y

N

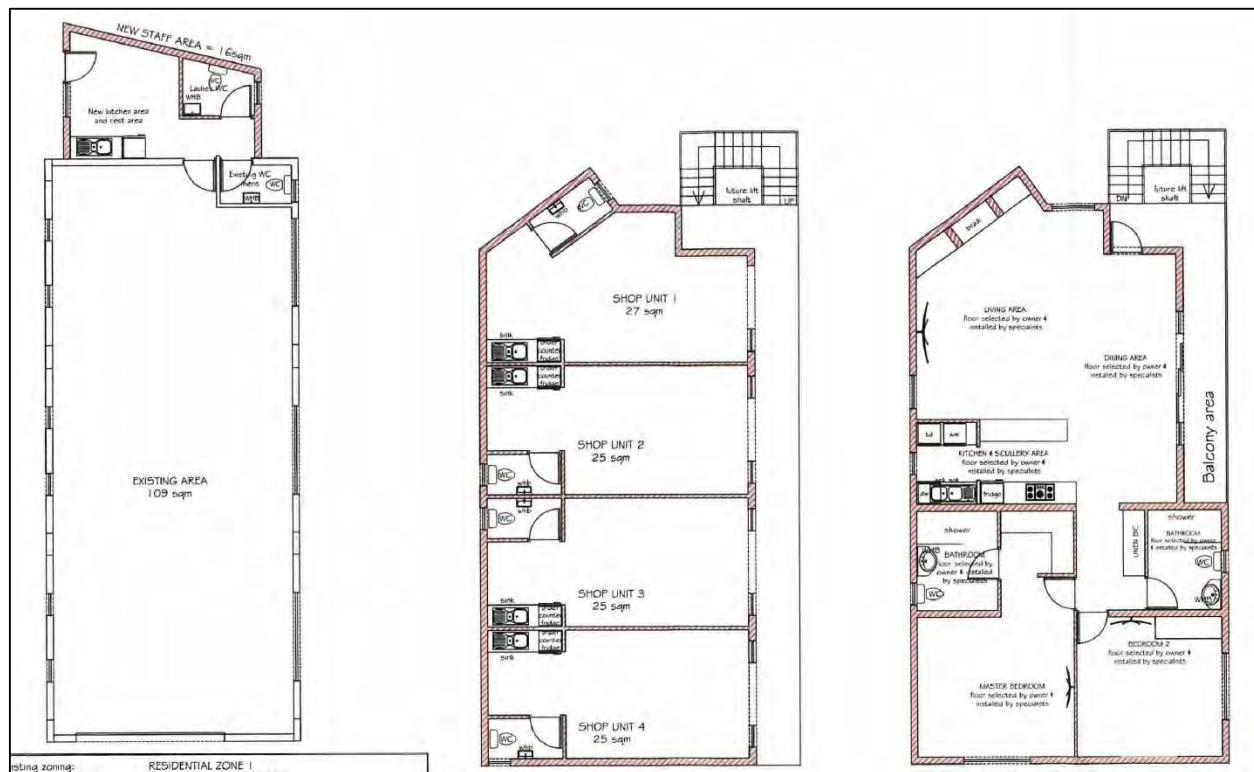
If yes, provide a brief summary of the outcomes below.

PART F: SUMMARY OF APPLICANT'S MOTIVATION

The objective of the application is to optimise the subject property to its fullest potential by re-instating the previously approved business rights. The existing building is already suitable for business purposes and the intention is to make additions to the existing building, as well as to create a separate new building.



Proposed Site Plan



The new structure will be a double storey building located along the northern and western boundaries of the property. The ground floor will contain four shops with ablution facilities in each, and the first floor will contain one large flat.

An addition is proposed to the existing garage structure, to include a rest room, kitchen area and ablution facilities for staff members.

As the applicant intends to utilise the property in a more intensive manner than previously approved, it is necessary to amend the previous proposal to facilitate the new business and other uses.

The new proposed building will adhere to the 3m side building line and the number of parking bays (13 bays) exceed the required number as well as a loading bay.

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

- a) Spatial Justice: The spatial justice principal requires that the past spatial and development imbalances be redressed through improved access to and utilisation of land. Access to land for all should be facilitated. As the subject property is privately owned, the proposed rezoning promotes the principle by optimising the use of the property and the existing building thereon.
- b) Spatial Sustainability: The proposed rezoning of the subject property embodies the principle through the optimal use of land without compromising the surrounding area. Although the application is directed to one erf to improve the utilisation thereof, no additional pressure is placed on any natural or man-made resources.

The proposal promotes land development that is spatially compact and resource frugal through developing a mixed use property.

- c) Efficiency: The proposed rezoning will optimise the use of the existing resources, infrastructure and facilities within the established urban edge of Yzerfontein;

The property is not only located inside the business area of Yzerfontein, but was previously rezoned for business purposes, which confirms the desirability of the new zoning.

The proposed rezoning will not compromise the surrounding land uses.

- d) Spatial Resilience: The proposed development will promote mixed-land uses that contribute in creating more sustainable livelihoods.
- e) Good Administration: The proposed application will be taken through the public process by the Swartland Municipality whereas all relevant departments will be approached. The decision making process will be guided by statutory land use planning systems.

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

1.2 Desirability

The proposed development can be considered favourably on the basis of the following:

The subject property is currently an existing residential zoned property and falls within the urban edge of Yzerfontein and comprises an existing well-constructed building which was previously zoned for business purposes.

Since the subject property is already fully transformed there are no physical features or any conservation worthy vegetation present which will be impacted upon.

The subject property is located within the CBD and is included in the existing and approved urban edge. The property is bound by Buitenkant Street to the south, which is an existing activity street and the area along Buitenkant Street, including the subject property, were included in the CBD earmarked by the SDF.

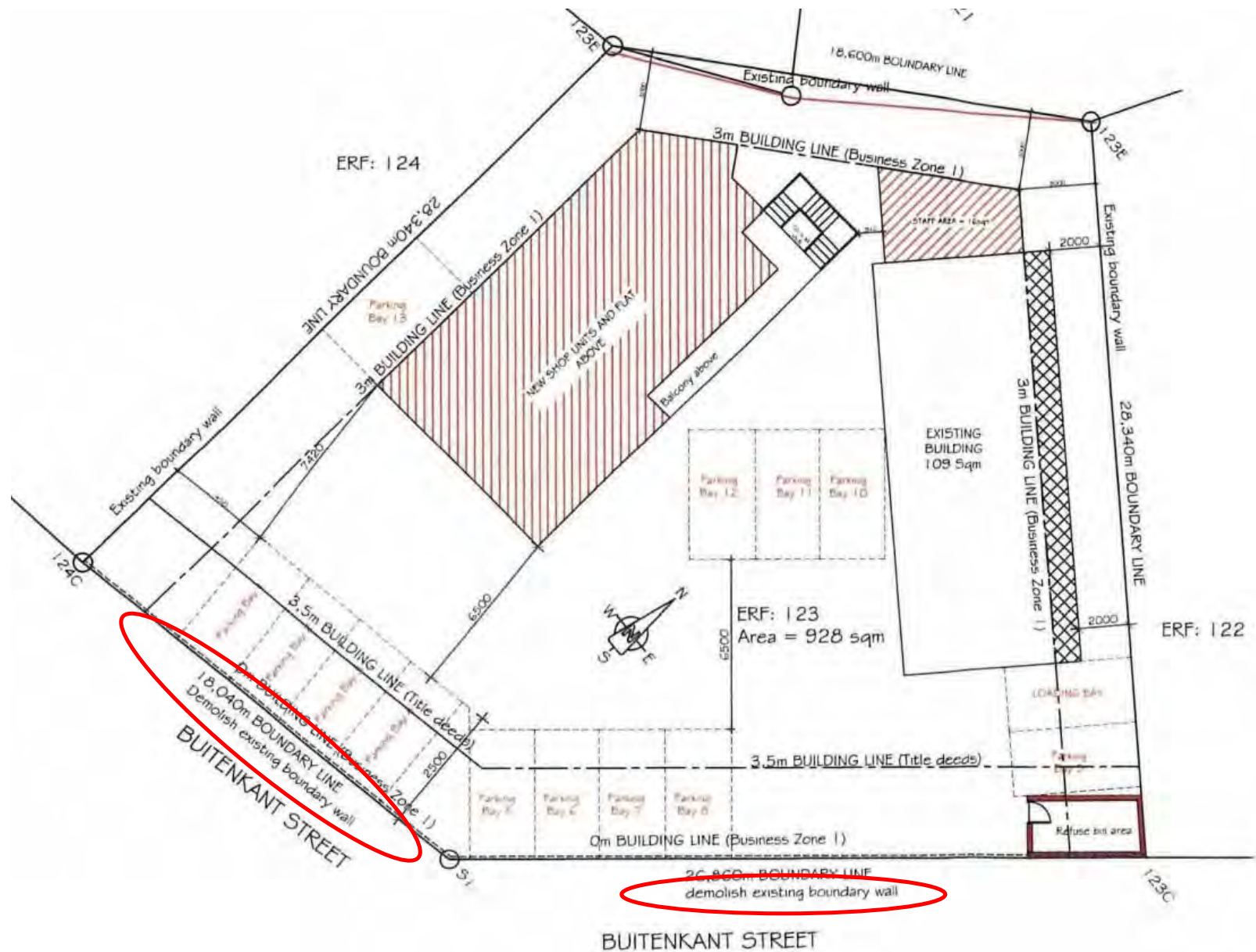
Buitenkant Street forms the southern boundary of the property and access is obtained from said street. Access is taken via Buitenkant Street. Though new additions will be added to the existing development, no changes are proposed to the erf entrance. The proposed on-site parking is more than sufficient to serve the proposed development.

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
<p>The application was published in local newspapers and the Provincial Gazette on 11 August 2023, in terms of Section 55(1) of the By-Law. The commenting period, for or against the application, closed on 11 September 2023.</p> <p>In addition to the abovementioned publications, 25 written notices were sent via registered mail to the affected property owners in the area, in terms of Section 56(1) & (2) of the By-Law. Where e-mail addresses were available on the municipal system, supplementary notices were sent via e-mail. One notice was returned unclaimed. Please refer to Annexure C for the public participation map.</p> <p>One objection was received against the proposal. The applicant was afforded 30 days, from 12 September 2023 to 12 October 2023 to respond to the objection and comments were received back on 19 September 2023. (Annexure E).</p>						
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 Rangasamy was informed, but no comments were forthcoming.			
Total letters of support	0					

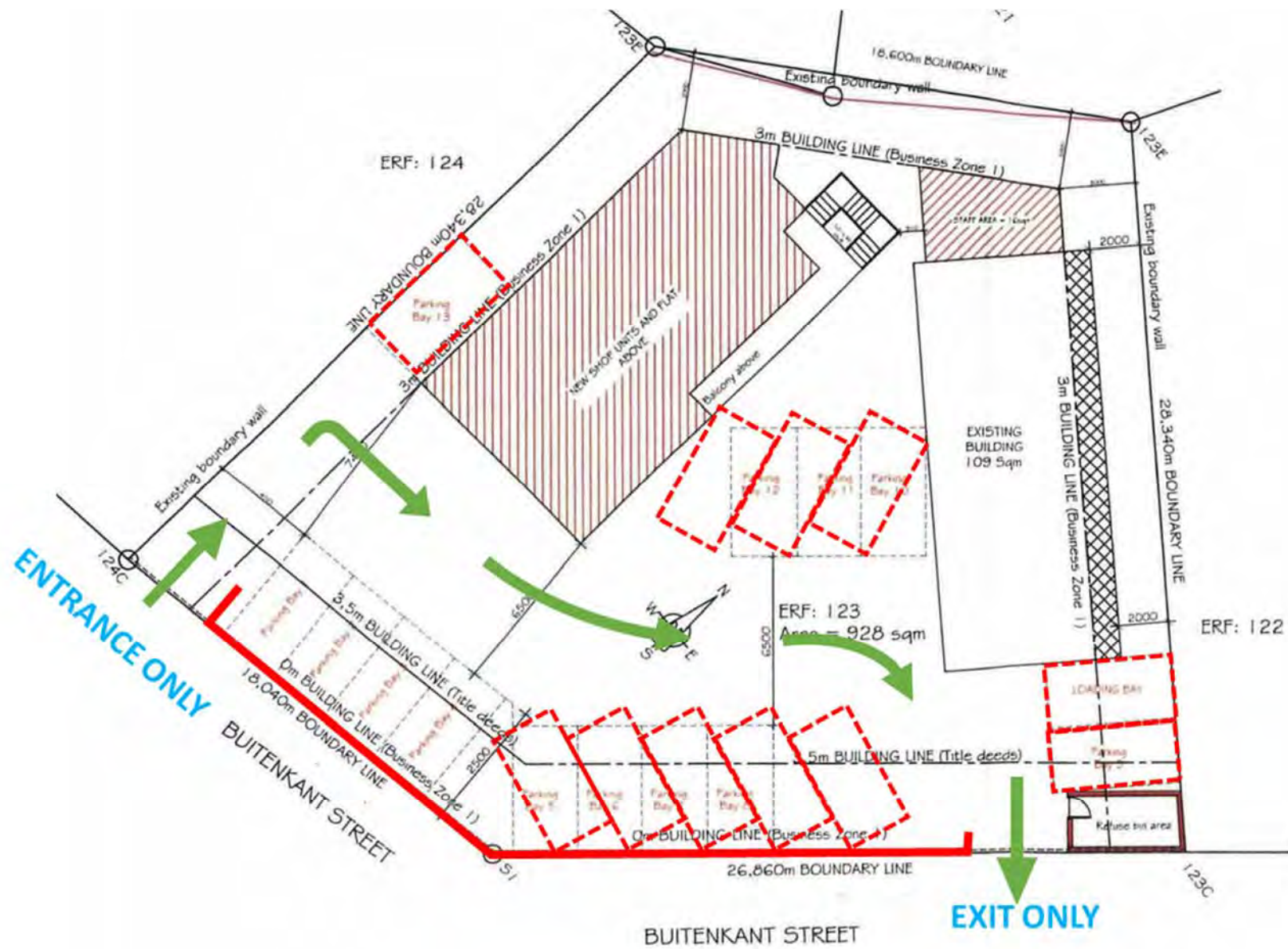
PART H: COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS					
Name	Date received	Summary of comments	Recommendation		
			Pos.	Neg.	
Dept:Civil Engineering Services	2 Aug 2023	<p>1. <u>Water</u></p> <p>Die bestaande aansluiting gebruik word en dat geen addisionele aansluitings voorsien sal word nie.</p> <p>2. <u>Riolering</u></p> <p>Die eiendom voorsien word van 'n enkele rioolsuigtenk met minimum grootte van 8 000l wat vir die diensvragmotor vanuit die straat toeganklik is.</p> <p>3. <u>Strate en stormwater</u></p> <p>Die 90° parkeerplekke wat toegang verkry uit Buitekantstraat word nie ondersteun nie. Gegewe dat Buitekantstraat 'n Klas 4 straat is en voertuie in 'n agteruitbeweging toegang tot die straat verkry skep dit onveilige toestande.</p> <p>Die terreinuitleg en parkeerplekke moet sodanig ontwerp word dat voertuie die erf binnekom en verlaat in vorentoe beweging by 'n toegang/ingang.</p> <p>4. <u>Ontwikkelyngsydraes</u></p> <p>Vaste kapiatel bydraes is bereken vir 378m2 GLA soos aangedui in die aansoek en is as volg: Water R 1 756,33 Bulk Water R 19 336,78 Sewer R 9 558,70 WWTW R 23 194,48 Roads R 43 229,65.</p>	X		X
Building Control	8 Aug 2023	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
<p>RC Smith & Associates on behalf of anonymous objector (Annexure D)</p>	<p>1. It is abundantly clear from the submitted Site Development Plan that all the parking provided for the Property will be on the Property itself and accessible only from the already existing Property entrance on Buitekant Street. The allegation that "...vehicles will be required to reverse..." is clearly an incorrect interpretation of the Site Development Plan that was submitted. The existing perimeter wall of the Property will remain as is, and no direct access, apart from the existing erf entrance onto Buitekant Street, is envisaged or discernible from the Site Development Plan that was submitted.</p> <p>The objection to possible traffic congestion is neither founded in fact, is unsubstantiated, fails to follow a correct reading of the submitted Site Development Plan and remains unsubstantiated. It therefore falls to be dismissed.</p> <p>2. As is categorically stated, land use applicability clearly refers to "business" activities as adumbrated previously. The Site Development Plan clearly depicts the existing building and new shops with a residential apartment on first floor.</p> <p>Nowhere does the existing and proposed land use depict, reference and/or propose the land use as being a warehouse or industrial activity.</p> <p>It is therefore self-evident that the zoning and proposed land uses do not represent any of these activities and indeed, it clearly refers to "business" activities.</p> <p>To reiterate: the Site Development Plan clearly depicts the existing building and new shop businesses together with a residential component on first floor. The allegation that the land use is intended for warehousing and industrial activities is unsubstantiated, follows incorrect suppositions and fails in law. As such, it stands to be dismissed.</p> <p>3. By way of explanation purely to assist the Objector, the immediate history of the property is such that Mr. AM and Mrs. M.D D'Aguiar were the registered owners of the property. Upon the passing of Mr. A.M.</p>	<p>1. The proposed site development plan submitted with the application (plan dated July 2023) clearly indicates the boundary wall along Buitekant Street to be demolished and parking bays to be directly accessed via the street.</p> <p>The statement from the applicant is thus false and the objector is supported. It is recommended that the conditions of approval clearly state that the existing boundary wall is to remain intact and that the Site Development Plan be amended to illustrate the extent of the boundary wall.</p> <p>Furthermore, in relation to entrance and exit points on the property – as pointed out by the Department: Civil Engineering Services – it is recommended that a single entrance point to the property (4m wide) be created on the southern property boundary at point 124C of the Site Development Plan and that the existing access point be limited to an exit only, so as to adhere to the requirements of the Department.</p> <p>2. The objector is not completely wrong and the applicant is not completely correct. While the proposed land use cannot be defined as "industrial" in nature, the existing building is predominantly used for storage of materials used in the rendering of a service and is definitely defined as "warehousing." Warehousing is not permissible within Business Zone 1 and the applicant will no longer be allowed to store construction materials on premise, unless proof can be provided that the structure is converted into a shop where hand-to-hand sale of goods takes place. In other words, a client must be able to walk into the existing structure, it must adhere to the safety regulations for a shop, and the same client must be able to choose an item, pay for it on-premise and leave with the item in hand.</p> <p>3. The ownership of the property was stated as A.M. and M. D'Aguiar in the Title Deed. A.M. D'Aguiar since passed away and the property is now registered in the name of M. D'Aguiar alone. The passing of one of the owners had no</p>

		<p>D'Aguiar the deceased's undivided half-share was transferred to his widow Mrs. M.D D'Aguiar, leaving her as the sole owner of the property.</p> <p>It is therefore mischievous of the Objector to assert that (s)he/it is unaware of the exact property which forms the subject of the application. We are of the firm view that the Objector has full knowledge of these facts, or could easily obtain the true facts though a simple request. Notwithstanding the Objector being economical with the truth, his/her/its objection has no basis or bearing on the matter at hand, that being the desirability of the application.</p> <p>It therefore lacks merit stands to be dismissed out of hand.</p>	<p>bearing whatsoever on the nature and detail of the application.</p>
	<p>4. Our client does not consent to the building line departure. Though the Planning Framework provides for the area to become a business hub, it must be considered that most of the properties in the area are, and will remain, residential.</p> <p>If the local authority allows business premises to be built as close as two meters to a residential property, the noise alone would be disruptive to the lives of families occupying homes bordering such properties. Our client already contends with vulgar language from workers early in the mornings.</p> <p>Relaxing building lines will be aesthetically damaging to the area. The culmination of the aforementioned will negatively affect the value of our client's property and properties around Erf 123.</p>	<p>4. The concern regarding the relaxation of the building line to facilitate a portion of the existing building (1 metre) encroachment is simply a matter of form following function and after the fact. The previous approval on the same property for the same relaxation, was granted to enable the construction of the existing building. Notwithstanding the fact that the approval was granted and the present building exists according to plan, the relevant municipal has taken the view that the existing departure then granted, lapsed simultaneously with the lapse of the previous Business Zone 1 zoning.</p> <p>It therefore follows that a fresh departure application must, of necessity, be lodged as a function of the previous one having administratively lapsed.</p> <p>Of equal relevance, is that the property forming the subject matter of the objections forms part and parcel of the same and other properties situate along Buitenkant Street which are all earmarked for business purposes and included into the central business district (CBD) of Yzerfontein as depicted in the Yzerfontein SDF. What this means is that, notwithstanding a default residential zoning. The inevitable intention and direction is inextricably progressing toward the change of zoning to that of business purposes.</p>	<p>4. The existing structure was approved on a Residential Zone 1 property, the building lines of which are determined at 1,5m from the side boundary. The existing structure will by default encroach on the more restrictive building line of 3m, as determined by Business Zone 1.</p> <p>The proposed new buildings on the property will not depart from any building lines and will thus not have any additional impacts.</p> <p>The proposed departure is considered to be consistent with the aesthetic and character of the surrounding land uses.</p> <p>The placement of the new building and the addition of a staff room are expected to improve noise disturbances to neighbouring properties.</p> <p>The statement that property values will be negatively impacted upon, is conjecture.</p>



Site Plan submitted as part of the application, dated July 2023



Proposed amendments to the Site Plan re. entrance and exit

PART J: MUNICIPAL PLANNING EVALUATION

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

Application for the rezoning of Erf 123, Yzerfontein, 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 establish a business premises and a flat on the property;

Application for permanent building line departure on Erf 123, Yzerfontein, 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), in order to accommodate the existing building within the new, more restrictive building lines;

The application was published in local newspapers and the Provincial Gazette on 11 August 2023, in terms of Section 55(1) of the By-Law. The commenting period, for or against the application, closed on 11 September 2023.

In addition to the abovementioned publications, 25 written notices were sent via registered mail to the affected property owners in the area, in terms of Section 56(1) & (2) of the By-Law. Where e-mail addresses were available on the municipal system, supplementary notices were sent via e-mail. One notice was 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 12 September 2023 to 12 October 2023 to respond to the objection and comments were received back on 19 September 2023 (Annexure E).

The applicants are P-J le Roux town Planners (Pty) Ltd and the property owner is Marina D'Aquiar.

2. Legislation and policy frameworks

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

a) Spatial Justice: According to the Spatial Development Framework (SDF) erf 123 is situated inside the identified primary business node of Yzerfontein and is also situated on Buitenkant Street which is an activity street. The proposed development will strengthen the business node, as well as provide alternative residential opportunity to a wider range of the community. The proposed development is therefore in compliance with the SDF which makes it compliant with the principle of spatial justice.

b) Spatial Sustainability: The primary business node of Yzerfontein is currently not developed to its full potential. The proposed development will strengthen the business node making Yzerfontein a more spatially compact, resource-efficient town.

Sufficient services capacity exists to accommodate the proposed development which can be seen as the optimal use of existing infrastructure.

Swartland Municipality will be able to tax the property and receive an income through the delivering of services, promoting the financial viability of the Municipality.

Yzerfontein is a popular tourism destination along the West Coast. The proposed development will promote commercial and residential opportunities in Yzerfontein, therefore enhancing the tourism character of the town.

The application therefore complies with the principle of spatial sustainability.

c) Efficiency: Sufficient services capacity exists to accommodate the proposed development which can be seen as the optimal use of existing infrastructure.

The proposed development will promote commercial and residential opportunities, therefore contributing to achieving the desired mix of business and residential uses inside the primary business node of the town.

The application therefore complies with the principle of efficiency.

d) Good Administration: The application was advertised in the local newspaper and Provincial Gazette and notices were sent to surrounding/affected land owners by means of registered mail. The comments from the relevant municipal departments were also obtained. Consideration was given to all correspondence received and the

application was dealt with in a timeously manner. It is therefore argued that the principles of good administration were complied with by the Municipality.

- e) **Spatial Resilience:** The development proposal will enable the property owner to generate an additional income, thereby strengthening the ability to deal with economic challenges. The land use mix on the property also promotes the ability of the development to withstand shocks to individual economic sectors, i.e. residential vs. commercial vs. tourism.

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 Integrated Development Plan (2023)

The application is consistent with outcome 5.2 of the IDP, which promotes the healthy management of the urban area.

2.3 Municipal Spatial Development Framework (MSDF, 2023)

Erf 123 is situated inside the identified CBD of Yzerfontein, on Buitenkant Street, which is an activity street along which business and residential uses can be accommodated.. The proposed development supports the business node, while simultaneously contributing to a highly desirable mix of commercial and residential opportunities on a business property.

Yzerfontein is a popular tourism destination along the West Coast. Tourism needs to be promoted in Yzerfontein. The proposed development is foreseen to enhance commercial opportunities for tourists, thereby increasing spending from outside the region. The proposed flat will furthermore make additional residential opportunities available for either long-term residents or tourists to the town.

Through its intended support of the economy, promotion of tourism and the creation of a mixed use development along an activity street, the proposal is deemed consistent with the spatial proposals of the SDF.

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

The proposed development complies with all applicable zoning parameters of Business Zone 1, except for a building line departure. The departure is caused by the existing building encroaching the new 3m side building line in lieu of the 1,5m side building line previously applicable within Residential Zone 1. No new departures are proposed and the existing departure of the building line is considered to have no impact on the surrounding character.

On-site parking needs to be provided at 4 parking bays/100m² of the total floor space on the development. A loading bay must also be provided at 1 loading bay/0-2500m² floor space. 1,5 parking bays are required for the proposed flat.

A total of 13 on-site parking bays and 1 loading bay are provided and deemed sufficient to serve the development.

3. Impact on municipal engineering services

Sufficient engineering services exist to accommodate the proposed development. The increased load on existing infrastructure is mitigated through development charges levied in terms of the Swartland Development Charges Policy (2017), and is for the account of the owner/developer.

4. Desirability of the proposed utilisation

The existing building on Erf 123 is a boat-garage that was converted into offices and storage space. The development proposal also includes a new staff-room and ablution facilities to be added to the existing building, as well as a new building containing four shops on the ground floor and a flat on the first floor.

The departure of the 3m side building line to 2m (northern boundary) is to accommodate the exiting boat garage according to the new Business Zone 1 zoning parameters. The placement of the boat garage complied with the previous Residential Zone 1 zoning parameters. While the existing building already encroach on the side building line, the encroachment was previously approved and reversing the approval at this stage – especially since the encroachment has no greater impact than that of a dwelling house – would be impractical and costly.

The proposed new building (shops and flat) will adhere to the building lines of Business Zone 1 and the height will be limited to two storeys, as is the norm for the surrounding area.

The property has been previously developed, is flat and paved and there are no other physical restrictions or topographical issues which may have a negative impact on the application.

Seeing that erf 123 is situated inside the primary business node of Yzerfontein as well as located on Buitenkant Street as activity street, it has the potential to be developed for business uses as presented in the application. The use of the property for warehousing will be restricted through the formulation of conditions of approval.

Erf 123 is situated in an area with mixed uses which includes business uses and dwelling houses. The proposed business use and flat are complementary to the existing mixed use character of the area.

A double storey development is proposed which complies in scale and placement on-site with the scale and placement of buildings on surrounding properties. Therefore there will be no negative impact on views.

The placement of the new building and the fact that the new building is proposed to be positioned with its rear façade towards the adjacent residential properties, is expected to limit any noise disturbances that have been experienced to date. The addition of a staff room to the existing building, is expected to assist in achieving the same.

Landscaping will be proposed as part of the site development plan for the business development in order to further ensure that the activities of the business uses have a minimal impact on the privacy and noise disturbance to surrounding residential properties.

Given that Buitenkant Street is an activity street, other properties on the street have similar development potential as Erf 123. Properties on Boweg are not as accessible as Buitenkant Street and are likely to remain residential. It is subsequently not possible to predict the loss of property value.

Yzerfontein is a popular tourism destination along the West Coast. The proposed development will strengthen the shopping experience opportunities in Yzerfontein, therefore enhancing the tourism character of the town. The proposed flat will also support the availability of residential opportunities for permanent resident or tourists.

The public participation process of the application was completed 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 Yzerfontein.

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 or some rights enjoyed by the beneficiary? N/A

PART L: RECOMMENDATION WITH CONDITIONS

A. The application for rezoning of Erf 123, Yzerfontein, from Residential Zone 1 to Business Zone 1, be approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), subject to the conditions that:

1. TOWN PLANNING AND BUILDING CONTROL

- a) The approval is limited to the development of a business premises and a flat, as presented in the application;
- b) Warehousing, as defined by the By-Law, not be permitted on the property;
- c) Building plans to be submitted to the Senior Manager: Development Management, for consideration and approval;
- d) An amended Site Development Plan, clearly indicating the boundary wall along Buitenkant Street, be submitted to the Senior Manager: Development Management, for consideration and approval;
- e) The Site Development Plan further be amended to indicate a single entry way (4m in width) on the most western point of the southern street boundary and that the existing access be limited to an exit way only;
- f) The proposed parking layout be re-configured to accommodate the new entrance and exit, as well as circulation area, and that at least 10 on-site parking bays and 1 loading bay be provided, with a permanent dust free surface

being tar, concrete or paving or a material pre-approved by Swartland Municipality and that the parking bays and loading bay are clearly marked to the satisfaction of the municipality;

- g) Application for the construction or affixing of advertising signs be submitted to the Senior Manager: Development Management for consideration and approval;
- h) Application be made and approval obtained at the West Coast District Municipality for a compliance certificate as well as at Swartland Municipality for a business license if food is to be prepared and sold;
- i) Application be made to the Director: Development Services for a business licence;
- j) A landscaping plan be submitted to the Senior Manager: Development Services for consideration and approval in order to minimize the impact of the proposed development on adjoining/surrounding properties;

2. WATER

- a) The property utilises the existing water connection and that no additional connections be provided;

3. SEWERAGE

- a) A conservancy tank of 8 000 litre capacity be provided and said tank be accessible to the vacuum truck from the street;

4. STREETS AND STORMWATER

- a) The run-off water from the development be taken to the nearest municipal collection point without overloading the existing systems;

6. CAPITAL CONTRIBUTION

- a) The owner/developer is responsible for a development charge of R19 336,78 toward the bulk supply of regional water, at clearance stage. The amount is payable to the Swartland Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA 9/249-176-9210);
- b) The owner/developer is responsible for the development charge of R1 756,33 towards bulk water reticulation, at clearance stage. The amount is payable to the Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA: 9/249-174-9210);
- c) The owner/developer is responsible for the development charge of R9 558,70 towards sewerage, at clearance stage. The amount is payable to the Municipality, valid for the financial year of 2023/2024 and may be revised thereafter. (mSCOA: 9/240-184-9210);
- d) The owner/developer is responsible for the development charge of R23 194,48 towards the waste water treatment works, at clearance stage. The amount is payable to the Municipality, valid for the financial year of 2023/2024 and may be revised thereafter. (mSCOA: 9/240-184-9210);
- e) The owner/developer is responsible for the development charge of R43 229,65 towards roads and storm water, at clearance stage. The amount is payable to the Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA: 9/247-144-9210);
- f) The Council resolution of May 2023 makes provision for a 60% discount on development charges to Swartland Municipality. The discount is valid for the financial year 2023/2024 and can be revised thereafter;

- B.** The application for building line departure on Erf 123, Yzerfontein, be approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), subject to the conditions that:

1. TOWN PLANNING AND BUILDING CONTROL

- a) The northern side building line of 3m be departed from and relaxed to 2m for the extent of the existing building, as presented in the application;

5. GENERAL

- a) The approval does not exempt the owner/developer from compliance with all legislation applicable to the approved land use;
- b) The approval is valid for a period of 5 years, in terms of section 76(2) of the By-Law, from the date of decision. Should an appeal be lodged, the 5 year validity period starts from the date of outcome of the decision against the appeal. All conditions of approval be implemented by 30 November 2023 and before the new land use comes into operation/or the occupancy certificate be issued and failing to do so will cause the approval to lapse. Should all conditions of approval be met within the 5 year period, the land use becomes permanent and the approval period will no longer be applicable.

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

PART M: REASONS FOR RECOMMENDATION

1. Erf 123 is situated in the primary business node of Yzerfontein as well as on Buitenkant Street which is an activity street as identified by the SDF. The proposed development will strengthen retail opportunities in Yzerfontein, as well as mixed uses along an activity street, thereby enhancing the tourism character of the town as identified by the SDF. The application is therefore in compliance with the spatial planning of Yzerfontein.
2. The application complies with the principles of SPLUMA and LUPA.
3. No physical restrictions exist on the property which may have a negative impact on the development proposal.
4. Erf 123 is situated inside the primary business node of Yzerfontein as well as located on Buitenkant Street as activity street, it has the potential to be developed for business uses.
5. The proposed business use is complimentary to the existing mixed use character of the area.
6. The development proposal complies in scale and placement on-site with the scale and placement of buildings on surrounding residential properties. Therefore there will be no negative impact on views.
7. A landscaping plan is proposed which ensure that the activities of the business uses have a minimal impact on affecting the privacy and noise disturbance to adjoining/surrounding properties.
8. Surrounding property values will not be negatively affected by the proposed development.
9. The departure of the building line is seen to have no impact on adjoining/surrounding properties as it is an existing building.
10. Sufficient engineering services exist to accommodate the proposed business development.
11. The removal of restrictive deed of transfer conditions will enable the owner of erf 123 to obtain business rights and develop the property with business uses.



PART N: ANNEXURES

ANNEXURE A	Locality Plan
ANNEXURE B	Site Plans
ANNEXURE C	Public Participation Map
ANNEXURE D	Objections from RC Smith & Associates
ANNEXURE E	Response to Comments
ANNEXURE F	Previous Approval

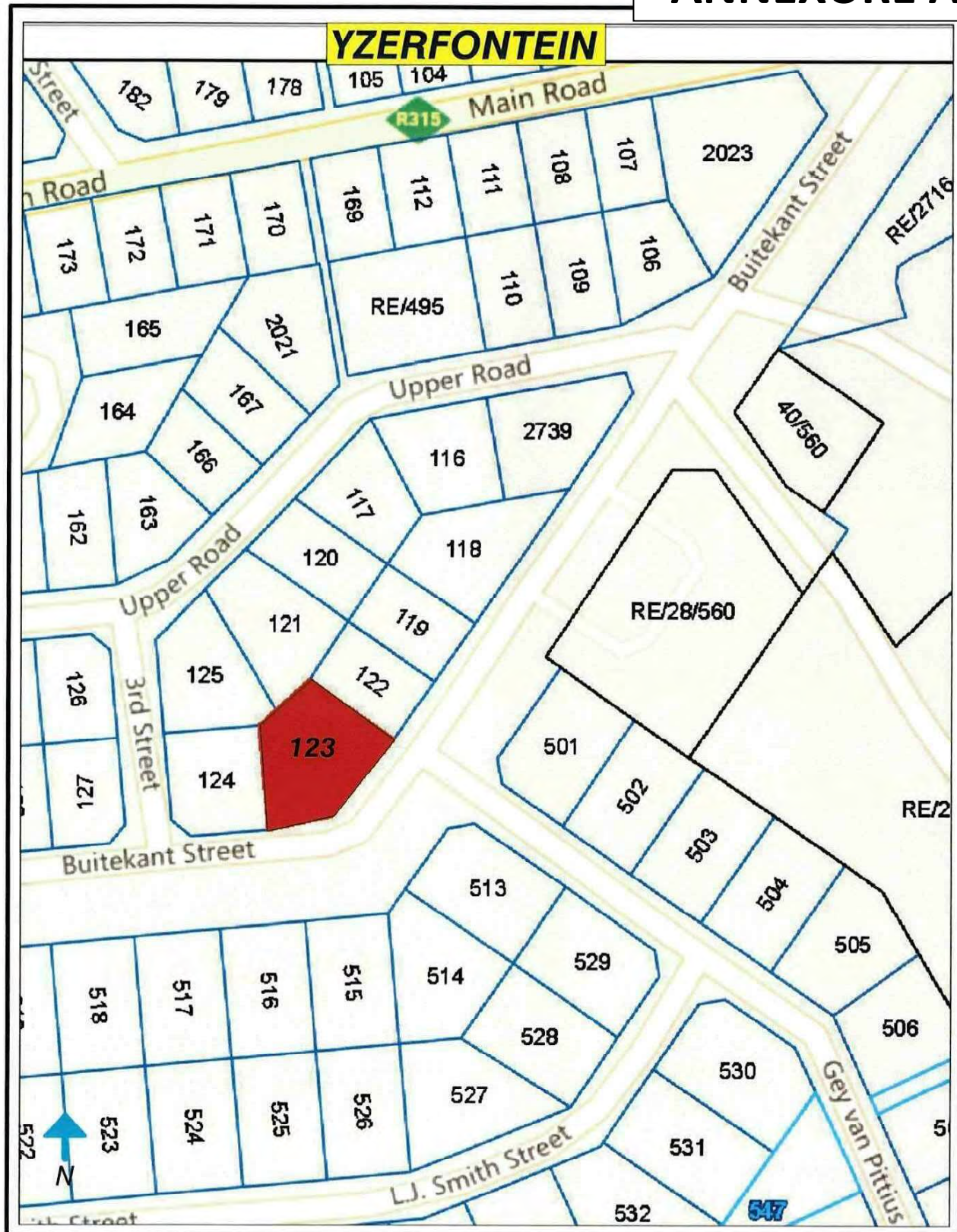
PART O: APPLICANT DETAILS

First name(s)	C.K. Rumboll and Partners			
Registered owner(s)	Ostiprop 1222 Pty Ltd.	Is the applicant authorised to submit the application:	Y	N

PART P: SIGNATURES

Author details: A. de Jager Town & Regional Planner SACPLAN: A/2203/2015			Date: 29 September 2023
Recommendation: Alwyn Zaayman Senior Manager: Development Management SACPLAN: B/8001/2001	Recommended	<input checked="" type="checkbox"/> Not recommended	
			Date: 4 October 2023

ANNEXURE A



P-J le Roux

Stads- en Streekbeplanners/
Town and Regional Planners

Hooftraat 262 Main Road Paarl
(Ph) 021-8722499 (Cell) 076 031 7607
(email) pj@pjleroux.co.za

Project: Application for
Rezoning &
Departure:
Erf 123
Yzerfontein

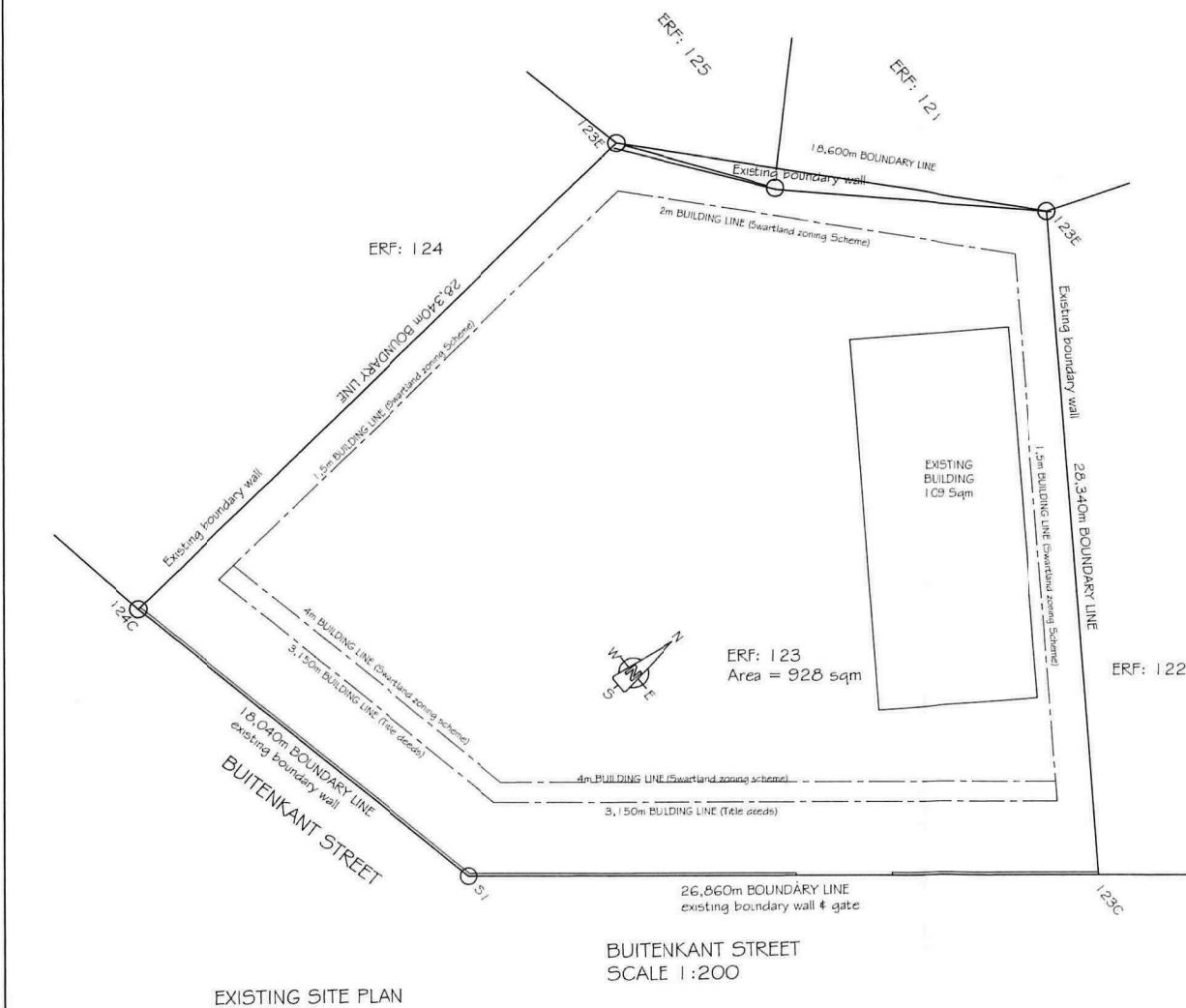
Description:

Locality Plan

D'AGUIAR

Skema	N.T.S.	Laat nr.	H 10-182
Teken	PJLR	Datum	JULY 2023
Kleur	PJLR	Tekening nr.	1

ANNEXURE B



ZANTHè RADEMEYER
PrArchT

~~Rademeyer~~

A

Zanthè Seaton Design

CELL: 083 651 8359

zanthos@telkomsa.net

PROJECT

EXISTING SITE LAYOUT

ON LK 125,
BUITENKANT STREET

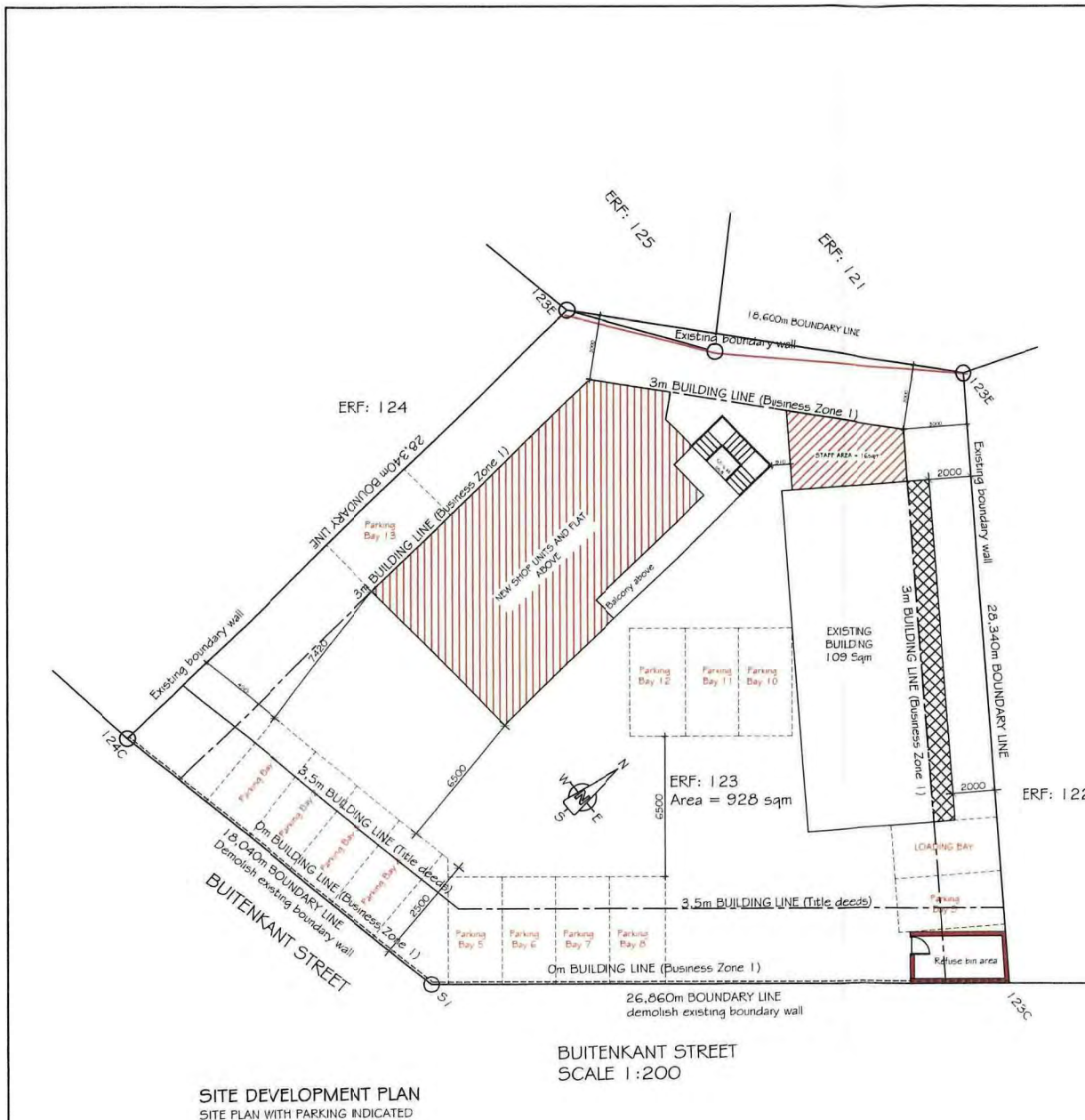
YZERFONTEIN

INDEX

DATE
JULY 2023

SCALE
AS SHOWN

DRAWN BY
Z.R.



Existing zoning:	RESIDENTIAL ZONE 1
Existing coverage:	109 / 928 sqm = 11,74 %
New zoning:	BUSINESS ZONE 1
Existing building:	109 sqm
Proposed new buildings:	Ground floor shops = 112 sqm
	Covered walk way = 21 sqm
	First floor flat = 120 sqm
	Balcony area = 20 sqm
	Staff area = 16 sqm
Proposed new building areas:	=269 sqm
Proposed new coverage area:	= 258 / 928 sqm = 27,80%
Parking bay ratio for shop units	= 1 Bay per 25 sqm
Loading bays	= 1 loading bay
Parking bay ration for flat area	= 1,5 Bay per flat
Parking bays required	= 10
Parking bays provided	= 13
Loading bay provided	= 1
Encroachment of existing building	= 15,8 sqm

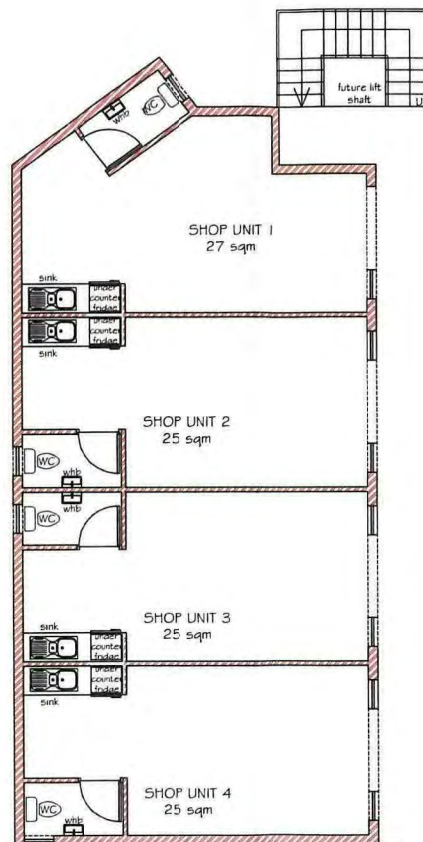
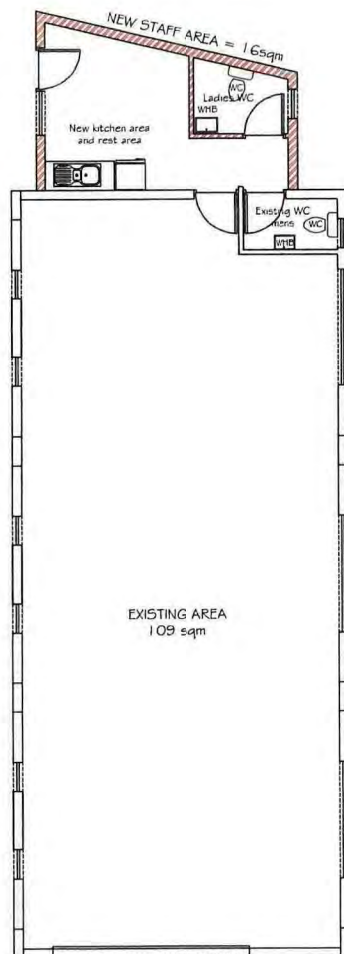
ZANTHÈ RADEMEYER
PrArchT

Zanthè Rademeyer

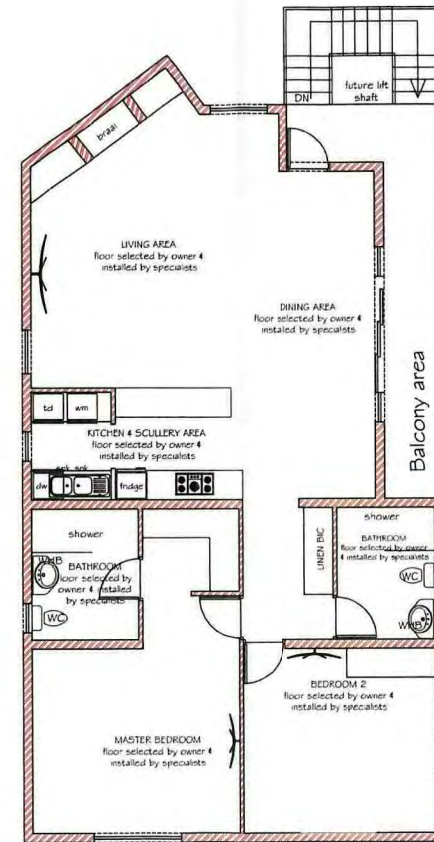
A
Zanthè Seaton Design
CELL: 083 651 8359
zanthes@telkomsa.net

PROJECT
CONCEPT PLAN
ON ERF 123,
BUIENKANT STREET
YZERFONTEIN

DATE JULY 2023 SCALE AS SHOWN DRAWN BY Z.R.



SHOP UNIT x 4 = 112 sqm
UNDERCOVER WALK WAY AREA = 21 sqm



FLAT ABOVE SHOPS = 120 sqm
BALCONY = 12 sqm

ZANTHÈ RADEMEYER
PrArchT

Zanthè Rademeyer

Existing zoning:	RESIDENTIAL ZONE 1
Existing coverage:	109 / 928 sqm = 11,74 %
New zoning:	BUSINESS ZONE 1
Existing building:	109 sqm
Proposed new buildings:	Ground floor shops = 112 sqm
	Covered walk way = 21 sqm
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Parking bays required	= 10
Parking bays provided	= 13
Loading bay provided	= 1

3. Encroachment of existing building = 15,8 sqm

A
Zanthè Seaton Design
CELL: 083 651 8359
zantnes@telkomsa.net

PROJECT
CONCEPT PLAN
ON ERF 123,
BUITENKANT STREET
YZERFONTEIN

DATE JULY 2023	SCALE A5 SHOWN	DRAWN BY Z.R.
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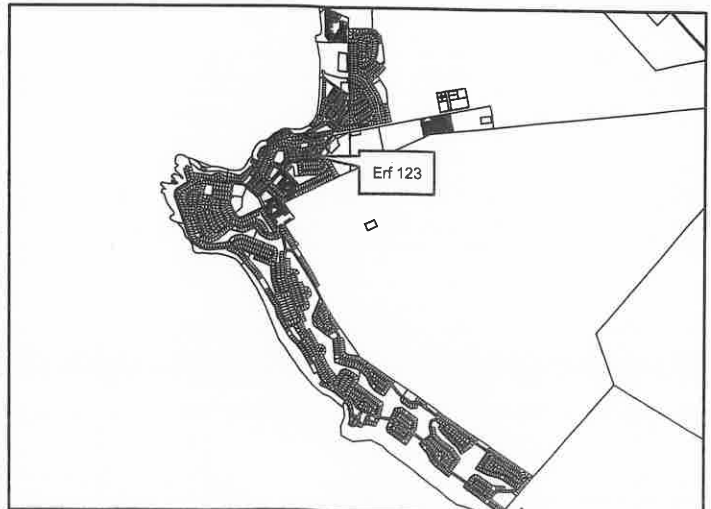


Voorgestelde hersonering en afwyking

Erf 123, Yzerfontein

Publieke deelname

Skaal: NVT



YOUR REF. / U VERW.:

OUR REF. / ONS VERW.:

DATE:

RCS/mlb/1716

21 August 2023

**TO: ANNELIE DE JAGER
DEPARTMENT OF DEVELOPMENT MANAGEMENT
SWARTLAND MUNICIPALITY**

**AND TO LAW ENFORCEMENT OPERATIONS
YZERFONTEIN
SWARTLAND MUNICIPALITY**

**AND TO MUNICIPAL MANAGER
SWARTLAND MUNICIPALITY
PRIVATE BAG X52
MALMESBURY
7299**

**AND TO PJ LE ROUX TOWN PLANNERS
PO BOX 3457
PAARL
7620**

**AND TO MD D'AGUIAR
PO BOX 229
YZERFONTEIN
7351**

Email: swartlandmun@swartland.org.za; dejagera@swartland.org.za; pj@pjlroux.co.za

PER EMAIL, NORMAL AND REGISTERED POST

Good day,

ERF 123, YZERFONTEIN

**RE: UTILISATION OF LAND IN CONTRAVENTION OF MUNICIPAL LAND USE PLANNING
BY-LAW—2020; AND
OBJECTION OF PROPOSED REZONING AND DEPARTURE OF DEVELOPMENT PARAMETERS**

We refer to the abovementioned matter and correspondence from your offices dated the 28th of June, 11th of July 2023 and 18th of July 2023, as well as the Notice of the Proposed Rezoning and Departure of Development Parameters.

CONTRAVENTION OF MUNICIPAL LAND USE PLANNING BY-LAW—2020

Our client grateful that the municipality has taken steps to inform the owners and / or occupiers of ERF 123 Yzerfontein to cease the unlawful utilisation of land.

Unit 1 Roslyn Corner, Roslyn Street, Brackenfell, 7560 | PO Box 35, Brackenfell, 7561 | Docex 8, Brackenfell
T +27 (0)21 202 5965 | E info@rcslaw.co.za
www.rcslaw.co.za

RC Smith and Associates, Inc. + 2019/206674/21 + VAT No. 4350295442 + Director: R.C Smith LL.B



Our client is, further, cognisant of the fact that that pending legal action in anticipation of the Land Use Application could seem to be the pragmatic approach. We respectfully submit that it is the incorrect position for the reasons set out below.

According to the Notice of the Proposed Rezoning and Departure of Development Parameters on Erf 123, issued to our client on the 11 of August 2023, the owners are applying for Business Zone 1 as set out in the Municipal Land Use Planning By-Law—2020. As mentioned in our prior correspondence the primary uses permissible in respect of Business Zone 1 as set out in the Municipal Land Use Planning By-Law—2020 is business premises, shopping centre, flats, offices, office park, restaurant, service trade, medical consulting rooms, public parking, animal hospital, nursery, rooftop base station, wine shop, filming, tasting facility and bottle store.

The business currently operating upon Erf 123 falls in none of the aforementioned categories, neither does the business fall within any of the categories set out in the consent uses. We attach hereto two images dated the 18th of July 2023 and 31st of July 2023, respectively. These images clearly illustrate the occupiers using the property for industrial / warehousing purposes.

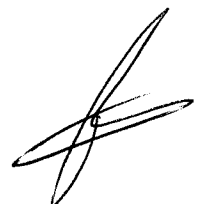
Even if the Municipality approves the Proposed Rezoning, this type of business would still not be allowed operate on Erf 123 and, therefore, no reason exists to pend legal action.

It is, therefore, our instructions to plead with yourselves to enforce compliance and instruct the relevant persons to cease the unlawful utilisation of land.

OBJECTION OF PROPOSED REZONING AND DEPARTURE OF DEVELOPMENT PARAMETERS

It is our instructions to object to the Proposed Rezoning and Departure of Development Parameters on Erf 123, issued to our client on the 11 of August 2023, on the following grounds:

1. The proposed parking along Buitenkant Street poses a safety risk, as vehicles will be required to reverse out of a parking bay into Buitenkant Street and potentially into traffic passing by the property. This is particularly troubling if one considers that this is an exceptionally busy Street. Moreover, it is within the planning of the Municipality for Buitenkant Street to become a dual road, which will only serve to add to the volume of traffic using this road. The high risk of accidents occurring and road user injury is simply too great a price to pay in the name of development.
2. The existing building to be used as a warehouse and / or industrial building is completely inappropriate for the area and, further, Business Zone 1 as set out in the Municipal Land Use Planning By-Law-2020, does not permit the property to be used for that purpose. The Applicant may submit that it is not the intention of the owners and / or occupiers to use the building for warehousing and / or industrial purposes. We would counter the position the design certainly lending itself to such an intended use and, further, the property is currently being used for that purpose – what better way to establish the intended use.



3. The names of owner/s listed in the notice is incorrect and, therefore, does not comply with the provisions setting out proper notice in terms of the Municipal Land Use Planning By-Law-2020.
4. Our client does not consent to the building line being relaxed. Even though the Planning Framework provides for this area to become a business hub, it must be considered that most of the properties in the area are, and will remain, residential properties. It is, therefore, imperative to maintain building lines. If the local authority now establishes a precedent to allow business premises to be built as close as two meters to residential property, the noise pollution alone would be disruptive to the lives of families occupying homes bordering such properties. Our client already needs to contend with workers using the most vulgar language early in the morning, while the workers gather at the boundary wall separating his property from Erf 123. Further, relaxing the building liens would be aesthetically damaging to the residential properties in the area. The culmination of the aforementioned will negatively affect the value of our client's property and the properties around ERF 123.

We wish to remind the Municipality of the duty placed upon local authorities to consider the rights of neighbouring landowners in terms section 7 of the National Building Regulations and Building Standards Act, which duty was confirmed by the Constitutional Court in *Walele v City of Cape Town and Others*.

Should the Municipality approve the application, we hold instructions to apply for judicial review of the administrative decision in the Western Cape High Court.

Yours sincerely,
RC SMITH & ASSOCIATES INC.

Per: **RALPH SMITH**
Email: ralph@rcslaw.co.za



Our Ref: RKH2010
Telephone no.: 021 557 9287
Fax no.: 086 603 5726

Your Ref: RCS/mlb/1716
Enquiries: R.K. Hall
Email: ronan@halls.org.za
Date: 19 September 2023

To **Ms. ANNELIE DE JAGER**
Department of Development Management
Swartland Municipality
dejagera@swartland.org.za

And To **Ms. OLIVIA FRANSMAN**
The Municipal Manager (Strategic Management)
Swartland Municipality
swartlandmun@swartland.org.za

And To **Mr. ROMAN STEYN**
Law Enforcement Services
Swartland Municipality
swartlandmun@swartland.org.za

MUNISIPALITEIT SWARTLAND				
Naam	Adres	Telefoon	E-pos	Opmerkinge
15/3/3-14/Erf-123				
SSSB				
cc Del				
15/3/4-14/Erf-123				

Carbon Copy

PJ LE ROUX
TOWN PLANNERS
pi@pilleroux.co.za

RALPH SMITH
RC Smith & Associates
ralph@rcslaw.co.za



2 Pienaar Road, Milnerton, 7441
Cell: 082 774 0066
Tel: +27 21 557 9287
Fax: 086 603 5726
email: ronan@halls.org.za

Dear Madam and Sir ,

**RE: APPLICATION FOR REZONING OF & DEPARTURE: TO ERF 123
YZERFONTEIN
APPLICANT'S COMPREHENSIVE REPLY TO WRITTEN
OBJECTIONS**

We refer to the abovementioned matter and confirm that we act on the instruction of Ms. D'Aguiar (our "Client"/the "Applicant") relating to the written objections submitted by RC Smith & Associates (the "Objector") to the rezoning and departure application to Erf 123 Yzerfontein (the "Property").

For ease of reference, we attach hereto marked "A" the Cape Town Deeds Office records indicating our Client as the owner of the Property, as well as the Objector's objections set out in the letter of Messrs. RC Smith & Associates and annexed hereto marked "B"

At the outset, it needs to be noted that the Objector has chosen to remain anonymous, having engaged the services of RC Smith Associates which naturally, makes it somewhat cumbersome to determine the veracity and the true material interest that Objector may or may not have in the posits (s)he puts forward as grounds for same.

The objection submitted largely contain allegations which are neither not supported by fact nor in law, all of which shall be dealt with hereunder in the headings of "Business Zoning," "Process Followed" and "Ground(s) of Objection", respectively:

1. BUSINESS ZONING

1.1. The allegation that the existing and proposed activities do not correspond with the land use rights in Business Zone 1 (as applied for) is with respect, misguided. Clearly the test relating to this allegation is an objective one and cannot stand as that which is subjectively perceived by an anonymous Objector. The objectivity of the notion is founded in law and logic for obvious reasons.

1.2. Factually, “business premises” are a primary right afforded to the Applicant in a zoning determined to be that of Business Zone 1. Moreover, the very definition of “business premises” includes references to a wide variety of business activities, including that of the Applicant.

1.3. More specifically defined:

“business premises, means a building or land from which business is conducted, and includes a shop, supermarket, restaurant, office, financial institution and buildings for similar uses, but does not include a place of assembly, place of entertainment, institutions, service station, motor repair garage, industry, industrial hive, noxious trade, risk activity, adult entertainment enterprise or bottle store.”

1.4. As is to be deduced from the abovementioned definition, it is abundantly clear that the primary emphasis is on the prohibitory practices and which may not be conducted from the premises, rather than those which may. Practically and

logically, it could never have been intended for the above definition to produce, nor would it be practically possible, a closed defined list of permissible trades and practices permissible from business premises.

1.5. Following on from the above and according to the dictates of logic, the meaning of “business” would include a substantially greater amount and variety of permissible practices or activities. It simply is not possible nor practically desirable to list each and every permissible business activity in the abovementioned definition. Indeed, it is common for legislation to provide for a broad definition under these circumstances as the aim is to promote business and commercial activities whilst protecting against activities it views as undesirable given the location of the land and the surrounding benefits. Conversely, it is practical to focus on and provide a group of activities that are specifically excluded as activities for the zoned land usage.

1.6. Clearly then, to posit that business activities **solely be limited** to the exact land uses circumscribed in the introductory remarks - *videlicet* shopkeeping, retail, financial activities and the like – is purely subjective and one which, objectively cannot be sustained.

1.7. Finally, the wording surrounding the permissible activities differs remarkable from that of the expressly prohibited activities. When referencing the permissible land

uses, it references the language “... *and includes a shop...and buildings of similar uses*”. The wording surrounding the prohibitory exclusions expressly and only states “...*but does not include...*” This is clear and direct evidence of the view that the permitted activities are to be afforded the wide interpretation as a list that is not all-inclusive, as opposed to those that are prohibited which is represented by explicit, closed inclusive list which is incapable of further expansion and interpretation.

2. PROCESS FOLLOWED

It bears particular mention that a formal pre-consultation process was followed with the Swartland Municipality to confirm that the correct zoning was applied for to facilitate the existing and future activities.

3. GROUND(S) OF OBJECTION

As regards the grounds of objection, these are dealt with below, *ad seriatum*:

- 3.1. It is abundantly clear from the submitted Site Development Plan that all the parking provided for the Property will be on the Property itself and accessible only from the already existing Property entrance on Buitekant Street. The allegation that “...*vehicles will be required to reverse...*” is clearly an incorrect interpretation of the Site Development Plan that was submitted. The existing perimeter wall of the Property will remain as is, and no direct access, apart from the existing erf entrance

onto Buitekant Street, is envisaged or discernible from the Site Development Plan that was submitted.

This objection to possible traffic congestion is neither founded in fact, is unsubstantiated, fails to follow a correct reading of the submitted Site Development Plan and remains unsubstantiated. It therefore falls to be dismissed.

- 3.2. As is categorically stated, land use applicability clearly refers to “business” activities as adumbrated above. The Site Development Plan clearly depicts the existing building and new shops with a residential apartment on first floor.

Nowhere does the existing and proposed land use depict, reference and/or propose the land use as being a warehouse or industrial activity.

Moreover, the Swartland Municipality Development Management Scheme explicitly defines “warehouse” and “industry” as follows.

“warehouse, means premises used primarily for the storage of goods, except those that are offensive or dangerous, and includes premises used for business of predominantly wholesale nature, as well as for rendering of services, but does not include premises used for business or predominantly retail nature”; and

“Industry, means premises which in the municipality’s opinion are used as a factory and in which:

- (a) An article or part of such article is made, manufactured, produced, built, assembled, compiled, printed, ornamented, processed, treated, adapted, repaired, renovated, rebuilt, altered, painted (including spray painting), polished, finished, cleaned, dyed, washed, broken up, disassembled, sorted, packed, chilled, frozen or stored in cold storage.*
- (b) Livestock (including poultry) is slaughtered; or*
- (c) Electricity is generated for use in processes referred to in (a) and (b) above, provided that industry includes an office, caretaker’s quarters or other uses which are subservient and ancillary to the use of the land as a factory but does not include noxious trade or risk activity.”*

Consequently, it is therefore self-evident that the zoning and proposed land uses do not represent any of these activities and indeed, it clearly refers to “business” activities.

To reiterate: the Site Development Plan clearly depicts the existing building and new shop businesses together with a residential component on first floor. The allegation that the land use is intended for warehousing and industrial activities is unsubstantiated, follows incorrect suppositions and fails in law. As such, it stands to be dismissed.

- 3.3. The Property is currently registered solely in the name of M.D D'Aguiar as is evident from the Deed of Transfer № T52768/2022 and registered at the Deeds Office, 90 Plein Street, Cape Town City Centre, Cape Town as per the attached annexure "A" .

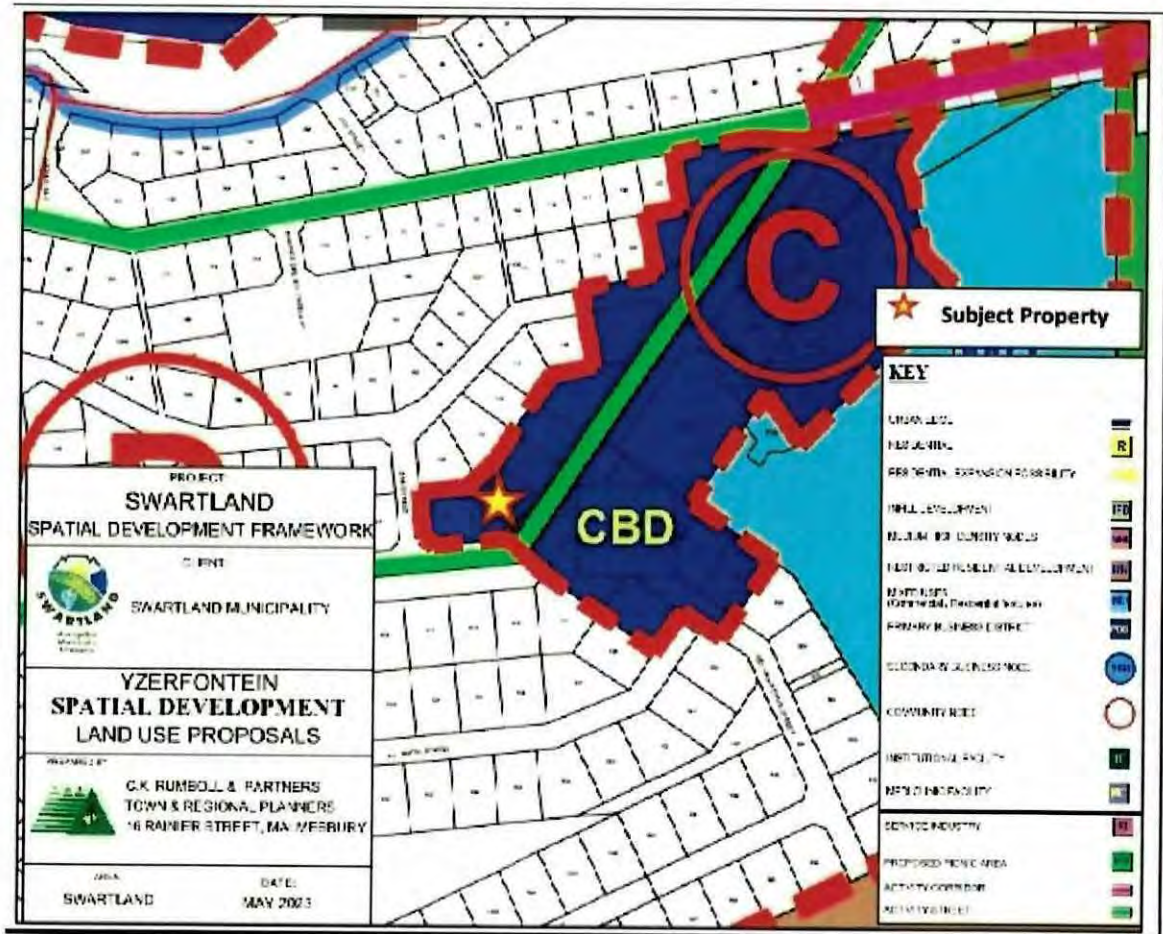
By way of explanation purely to assist the Objector, the immediate history of the property is such that Mr. AM and Mrs. M.D D'Aguiar were the registered owners of the property. Upon the passing of Mr. A.M. D'Aguiar the deceased's undivided half-share was transferred to his widow Mrs. M.D D'Aguiar, leaving her as the sole owner of the property..

It is therefore mischievous of the Objector to assert that (s)he/it is unaware of the exact property which forms the subject of this application. We are of the firm view that the Objector has full knowledge of these facts, or could easily obtain the true facts though a simple request. Notwithstanding the Objector being economical with the truth, his/her/its objection has no basis or bearing on the matter at hand, that being the desirability of the application.

It therefore lacks merit stands to be dismissed out of hand.

3.4. The concern regarding the relaxation of the building line to facilitate a portion of the existing building (1 metre) encroachment is simply a matter of form following function and after the fact. The previous approval on the same property for the same relaxation, was granted to enable the construction of the existing building. Notwithstanding the fact that the approval was granted and the present building exists according to plan, the relevant municipal authority (in this instance the Swartland Municipality) has taken the view that the existing departure then granted, lapsed simultaneously with the lapse of the previous Business Zone 1 zoning. It therefore follows that a fresh departure application must, of necessity, be lodged as a function of the previous one having administratively lapsed.

Of equal relevance, is that the property forming the subject matter of the objections forms part and parcel of the same and other properties situate along Buitekant Street which are all earmarked for business purposes and included into the central business district (CBD) of Yzerfontein as depicted in the Yzerfontein Spatial Development Land Use Proposals authored by CK Rumble & Partners dated May 2023 (*vide infra*). What this means is that, notwithstanding a default residential zoning. The inevitable intention and direction is inextricably progressing toward the change of zoning to that of business purposes.



The proposition that the relaxation of the building line “..would be aesthetically damaging to the residential properties in the area” is a zero sum argument given the precedent set prior and the current direction zoning is headed. The fact that the building already exists under a departure that has lapse for administrative reasons read together with the present departure sought being no more than what was previously granted, negates any challenge which may be perceived by the Objector.

As an aside, according to the Management Scheme the side building line for residential properties is pegged at 1,5 metres. Currently, a 2 metre space exists

between Erf 122 Yzerfontein the abutting existing building and is already greater than what is permissible should it maintain its residential zoning.

It is also evident from the Site Development Plan that no other departures are being sought and that the new building respects the new 3m building lines.

It is therefore our humble opinion that any concern regarding the relaxation of the building line is ill founded and does not challenge the desirability of the application – it had previously granted and no significant developments in the immediate area have occurred which warrant a different outcome from the inevitable.

We thank you in advance for your time and consideration of these, our composite reply to the concerns raised.

Yours faithfully

R.K. Hall & Associates

Per.

R.K. HALL

ANNEXURE "A"

WinDeed Database D/O Property

YZERFONTEIN, 123, O, CAPE TOWN

Lexis® WinDeed



Any personal information obtained from this search will only be used as per the Terms and Conditions agreed to and in accordance with applicable data protection laws including the Protection of Personal Information Act, 2013 (POPI), and shall not be used for marketing purposes.

SEARCH CRITERIA

Search Date	2023/09/18 17:16	Erf Number	123
Reference	-	Portion Number	-
Report Print Date	2023/09/18 17:17	Township Remaining Extent	NO
Township	YZERFONTEIN	Search Source	WinDeed Database
Deeds Office	Cape Town		

PROPERTY INFORMATION

Property Type	ERF	Diagram Deed Number	T18082/1973
Township	YZERFONTEIN	Local Authority	YZERFONTEIN MUN
Erf Number	123	Province	WESTERN CAPE
Portion Number	0	Remaining Extent	NO
Registration Division	MALMESBURY RD	Extent	929.000SQM
Previous Description	-	LPI Code	C04600150000012300000

OWNER INFORMATION (2)

D'AGUIAR MARINA		Owner 1 of 2	
Person Type	PRIVATE PERSON	Document	T44343/2018
ID Number	5010090067087	Microfilm / Scanned Date	-
Name	D'AGUIAR MARINA	Purchase Price (R)	2 750 000
Multiple Owners	NO	Purchase Date	2018/08/11
Multiple Properties	NO	Registration Date	2018/09/21
Share (%)	-		
D'AGUIAR MARINA		Owner 2 of 2	
Person Type	PRIVATE PERSON	Document	T52768/2022
ID Number	5010090067087	Microfilm / Scanned Date	-
Name	D'AGUIAR MARINA	Purchase Price (R)	-
Multiple Owners	NO	Purchase Date	-
Multiple Properties	NO	Registration Date	2022/10/25
Share (%)	-		

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ENDORSEMENTS (1)

#	Document	Institution	Amount (R)	Microfilm / Scanned Date
1	NOW SUBDIVISION	TOWN YZERFONTEIN ,ERF 2134 ,PRTN 0	-	-

HISTORIC DOCUMENTS (9)

#	Document	Institution	Amount (R)	Microfilm / Scanned Date
1	T77332/2002	SCHALKWYK HENDRIK CORNELIUS HUGO VAN	95 000	2003 0360 2277
2	T41950/1994	ALVEY WENDY NOEL	58 000	2002 074 6 :40:55
3	T15893/2003	WHEATLEY DOUGLAS MCNEIL	125 000	2006 101 6 :11:26
4	T24524/2006	LIEBENBERG RIKA	530 300	2008 0088 3075
5	T18693/1983	LOEDOLFF MATTHYS JOHANNES	Unknown	1994 0491 5118
6	T19119/1976	LOEDOLFF	Unknown	-
7	B33707/2006	A B S A BANK LTD	531 000	2008 0088 3112
8	T89219/2007	WHEATLEY CECIL CHARLES MCNEIL	600 000	2010 0099 0528
9	T44343/2018	D'AGUIAR ALFRED MICHAEL	2 750 000	-

DISCLAIMER

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YOUR REF. / U VERW.:
OUR REF. / ONS VERW.:
DATE:

RCS/mlb/1716
21 August 2023

TO: **ANNELIE DE JAGER**
DEPARTMENT OF DEVELOPMENT MANAGEMENT
SWARTLAND MUNICIPALITY

AND TO **LAW ENFORCEMENT OPERATIONS**
YZERFONTEIN
SWARTLAND MUNICIPALITY

AND TO **MUNICIPAL MANAGER**
SWARTLAND MUNICIPALITY
PRIVATE BAG X52
MALMESBURY
7299

AND TO **PJ LE ROUX TOWN PLANNERS**
PO BOX 3457
PAARL
7620

AND TO **MD D'AGUIAR**
PO BOX 229
YZERFONTEIN
7351

Email: swartlandmun@swartland.org.za; dejagera@swartland.org.za; pj@pjlroux.co.za

PER EMAIL, NORMAL AND REGISTERED POST

Good day,

ERF 123, YZERFONTEIN

**RE: UTILISATION OF LAND IN CONTRAVENTION OF MUNICIPAL LAND USE PLANNING BY-LAW—2020; AND
OBJECTION OF PROPOSED REZONING AND DEPARTURE OF DEVELOPMENT PARAMETERS**

We refer to the abovementioned matter and correspondence from your offices dated the 28th of June, 11th of July 2023 and 18th of July 2023, as well as the Notice of the Proposed Rezoning and Departure of Development Parameters.

CONTRAVENTION OF MUNICIPAL LAND USE PLANNING BY-LAW—2020

Our client grateful that the municipality has taken steps to inform the owners and / or occupiers of ERF 123 Yzerfontein to cease the unlawful utilisation of land.

Unit 1 Roslyn Corner, Roslyn Street, Brackenfell, 7560 | PO Box 35, Brackenfell, 7561 | Docex 8, Brackenfell
T +27 (0)21 202 5965 | E info@rcslaw.co.za
www.rcslaw.co.za

RC Smith and Associates, Inc. + 2019/205674/21 + VAT No. 4350295442 + Director: R C Smith LL B



Our client is, further, cognisant of the fact that that pending legal action in anticipation of the Land Use Application could seem to be the pragmatic approach. We respectfully submit that it is the incorrect position for the reasons set out below.

According to the Notice of the Proposed Rezoning and Departure of Development Parameters on Erf 123, issued to our client on the 11 of August 2023, the owners are applying for Business Zone 1 as set out in the Municipal Land Use Planning By-Law—2020. As mentioned in our prior correspondence the primary uses permissible in respect of Business Zone 1 as set out in the Municipal Land Use Planning By-Law—2020 is business premises, shopping centre, flats, offices, office park, restaurant, service trade, medical consulting rooms, public parking, animal hospital, nursery, rooftop base station, wine shop, filming, tasting facility and bottle store.

The business currently operating upon Erf 123 falls in none of the aforementioned categories, neither does the business fall within any of the categories set out in the consent uses. We attach hereto two images dated the 18th of July 2023 and 31st of July 2023, respectively. These images clearly illustrate the occupiers using the property for industrial / warehousing purposes.

Even if the Municipality approves the Proposed Rezoning, this type of business would still not be allowed operate on Erf 123 and, therefore, no reason exists to pend legal action.

It is, therefore, our instructions to plead with yourselves to enforce compliance and instruct the relevant persons to cease the unlawful utilisation of land.

OBJECTION OF PROPOSED REZONING AND DEPARTURE OF DEVELOPMENT PARAMETERS

It is our instructions to object to the Proposed Rezoning and Departure of Development Parameters on Erf 123, issued to our client on the 11 of August 2023, on the following grounds:

1. The proposed parking along Buitenkant Street poses a safety risk, as vehicles will be required to reverse out of a parking bay into Buitenkant Street and potentially into traffic passing by the property. This is particularly troubling if one considers that this is an exceptionally busy Street. Moreover, it is within the planning of the Municipality for Buitenkant Street to become a dual road, which will only serve to add to the volume of traffic using this road. The high risk of accidents occurring and road user injury is simply too great a price to pay in the name of development.
2. The existing building to be used as a warehouse and / or industrial building is completely inappropriate for the area and, further, Business Zone 1 as set out in the Municipal Land Use Planning By-Law-2020, does not permit the property to be used for that purpose. The Applicant may submit that it is not the intention of the owners and / or occupiers to use the building for warehousing and / or industrial purposes. We would counter the position the design certainly lending itself to such an intended use and, further, the property is currently being used for that purpose – what better way to establish the intended use.



3. The names of owner/s listed in the notice is incorrect and, therefore, does not comply with the provisions setting out proper notice in terms of the Municipal Land Use Planning By-Law-2020.
4. Our client does not consent to the building line being relaxed. Even though the Planning Framework provides for this area to become a business hub, it must be considered that most of the properties in the area are, and will remain, residential properties. It is, therefore, imperative to maintain building lines. If the local authority now establishes a precedent to allow business premises to be built as close as two meters to residential property, the noise pollution alone would be disruptive to the lives of families occupying homes bordering such properties. Our client already needs to contend with workers using the most vulgar language early in the morning, while the workers gather at the boundary wall separating his property from Erf 123. Further, relaxing the building liens would be aesthetically damaging to the residential properties in the area. The culmination of the aforementioned will negatively affect the value of our client's property and the properties around ERF 123.

We wish to remind the Municipality of the duty placed upon local authorities to consider the rights of neighbouring landowners in terms section 7 of the National Building Regulations and Building Standards Act, which duty was confirmed by the Constitutional Court in *Walele v City of Cape Town and Others*.

Should the Municipality approve the application, we hold instructions to apply for judicial review of the administrative decision in the Western Cape High Court.

Yours sincerely,
RC SMITH & ASSOCIATES INC.

Per: **RALPH SMITH**
Email: ralph@rcslaw.co.za

ANNEXURE F

Lêer verw/ 15/3/3-14/Erf_123
 File ref: 15/3/5-14/Erf_123
 15/3/4-14/Erf_123

Navrae/Enquiries:
 Ms D N Stallenberg

14 September 2017

Integrated Development Solutions
 6 Collins Road
 OOSTERSEE
 7500

AFSKNIF
 COPY

By Registered Mail

Sir

PROPOSED REMOVAL OF RESTRICTIONS, REZONING AND DEPARTURE ON ERF 123, YZERFONTEIN

Your application with reference CP27-123-01 dated 21 April 2017 with regard to the abovementioned application has reference.

A The Municipal Planning Tribunal has resolved at a meeting held on 6 September 2017 to approve the removal of restrictive conditions B.1(1) and B. 1(3) of Deed of Transfer T89219/2007 on erf 123, Yzerfontein, in terms of section 70 of the Swartland Municipality Land Use Planning By-Law (PG 7741 of 3 March 2017) subject to the following process and conditions:

- (a) The applicant/owner must apply to the Deeds Office to amend the title deed in order to indicate the removal of the restrictive conditions;

The following minimum information must be provided to the Deeds Office in order to consider the application, namely:

- Copy of the approval by Swartland Municipality;
- Original title deed, and
- Copy of the notice which was placed by Swartland Municipality in the Provincial Gazette;

- (b) A copy of the amended title deed must be provided to Swartland Municipality for record purposes, prior to final consideration of building plans.

Please take note of the following:

- (c) This approval is only valid for a period of 5 years in terms of section 76(2)(w) of the By-Law from the date of the approval letter. All conditions of approval must be complied with within the 5 year period and failing to do so will result in this approval expiring.
- (d) The applicant/objector is informed of the right to appeal against this decision of the Municipal Planning Tribunal, in terms of section 89(2) of the By-Law.

B The application for the rezoning of erf 123, Yzerfontein is approved in terms of Section 70 of the Swartland Municipality Land Use Planning By-Law (PG 7741 of 3 March 2017) from residential zone 1 to business zone 1 in order to operate shops and offices, subject to the following conditions that:

B1 TOWN PLANNING AND BUILDING CONTROL

- (a) The proposal accommodates shops and offices as presented in this application;

- (b) Building plans to be submitted to the Director: Development Services for consideration and approval;
- (c) At least 14 on-site parking bays and 1 loading bay are provided as presented in this application, with a permanent dust free surface being tar, concrete or paving or a material pre-approved by Swartland Municipality and that the parking bays and loading bay are clearly marked to the satisfaction of the municipality;
- (d) An application for the erection of advertising signs be submitted to the Director: Development Services for consideration and approval;
- (e) An application be made and approval obtained at the West Coast District Municipality for a compliance certificate as well as at Swartland Municipality for a business license if food is to be prepared and sold;
- (f) A landscaping plan be submitted to the Director: Civil Engineering Services for consideration and approval in order to minimize the impact of the proposed development on adjoining/surrounding properties;
- (g) This approval is in terms of section 76(2)(w) of the By-Law valid for a period of 5 years from the date of the approval letter. All conditions of approval must be complied with within the 5 year period and that failing to do so will result in this approval expiring;
- (h) The applicant/objector is informed of the right to appeal against this decision of the Municipal Planning Tribunal, in terms of section 89(2) of the By-Law;

B2 WATER

- (a) The property makes use of a single water connection and that no additional connections will be provided;

B3 SEWERAGE

- (a) A conservancy tank of sufficient capacity be provided and said tank be accessible to the vacuum truck from the street;

B4 REFUSE REMOVAL

- (a) The basic refuse removal tariff be levied for each business, which will be amended according to the amount of refuse removed;
- (b) A washable build refuse area be created with clean running water supply and dirty water run-off to the sewerage tanks;
- (c) The area must be inaccessible to unwanted elements, human and animal, but must be accessible for refuse removal personal and a 30ton refuse truck;

B5 STREETS AND STORMWATER

- (a) The parking area be provided with a suitable permanent surface;
- (b) The run-off water from the development be taken to the nearest municipal collection point without overloading the existing systems;

B6 CAPITAL CONTRIBUTION

- (a) The owner/developer take note of the capital contribution for the regional bulk supply of water at R6 078,48. This capital contribution is payable to Swartland Municipality at building plan stage. This amount is payable to vote number 9/249-176-9210 and is valid for the financial year of 2017/2018 and may be revised thereafter;
- (b) The fixed capital contribution towards roads be made to this municipality to the amount of R7 843,20 at building plan stage. This amount is payable to vote number 9/247-144-9210 and is valid for the financial year of 2017/2018 and may be revised thereafter;
- (c) The fixed capital contribution towards stormwater be made to this municipality to the amount of R4 705,92 at building plan stage. This amount is payable to vote number 9/247-144-9210 and is valid for the financial year of 2017/2018 and may be revised thereafter;
- (d) The fixed capital contribution towards water be made to this municipality to the amount of R7 451,04 at building plan stage. This amount is payable to vote number 9/249-174-9210 and is valid for the financial year of 2017/2018 and may be revised thereafter;
- (e) The fixed capital contribution towards sewerage be made to this municipality to the amount of R8 431,44 at building plan stage. This amount is payable to vote number 9/240-184-9210 and is valid for the financial year of 2017/2018 and may be revised thereafter;

- (f) The fixed capital contribution towards waste water treatment be made to this municipality to the amount of R12 549,12 at building plan stage. This amount is payable to vote number 9/240-183-9210 and is valid for the financial year of 2017/2018 and may be revised thereafter;
- (g) The fixed capital contribution towards electricity be levied at R870,82/kVA and is payable at building plan stage. This amount is payable to vote number 9/253-164-9210 and is valid for the financial year of 2017/2018 and may be revised thereafter;
- (h) The Council's resolution dated May 2017 makes provision for a 40% rebate applicable on the capital contributions of Swartland Municipality. This rebate is valid for the 2017/2018 financial year and may be revised thereafter. Please note that this rebate is not applicable on point 6(a);

B7 GENERAL

- (a) Should the expansion of any existing services prove necessary in order to provide the development with services, it will be for the cost of the owner/developer.
- C The application for a departure on erf 123, Yzerfontein is approved in terms of Section 70 of the Swartland Municipality Land Use Planning By-Law (PG 7741 of 3 March 2017), in order to depart from the 3m side building line to 2m (northern boundary) in order to accommodate the existing building according to the new business zone 1 zoning parameters.

Please take note of the following:

- (a) This approval is in terms of section 76(2)(w) of the By-Law valid for a period of 5 years from date of letter of approval. All conditions of approval must be complied with within the 5 year period and that failing to do so will result in this approval expiring;
 - (b) The applicant/objector is informed of the right to appeal against this decision of the Municipal Planning Tribunal, in terms of section 89(2) of the By-Law.
- D The application is supported for the following reasons:
- (a) Erf 123 is situated in the primary business node of Yzerfontein as well as on Buitenkant Street which is an activity street as identified by the SDF;
- Yzerfontein is a popular tourism destination along the West Coast. Tourism needs to be promoted in Yzerfontein. The proposed development will strengthen the shopping experience opportunities in Yzerfontein, therefore enhancing the tourism character of the town as identified by the SDF.
- This application is therefore in compliance with the spatial planning of Yzerfontein;
- (b) This application complies with the principles of SPLUMA and LUPA;
 - (c) There are no other physical restrictions on the property which may have a negative impact on the development proposal;
 - (d) Seeing that erf 123 is situated inside the primary business node of Yzerfontein as well as located on Buitenkant Street as activity street, it has the potential to be developed for business uses;
 - (e) The proposed business use is complimentary to the existing mixed use character of the area;
 - (f) The development proposal complies in scale and placement on-site with the scale and placement of buildings on surrounding residential properties. Therefore there will be no negative impact on views;
 - (g) A landscaping plan is proposed which ensure that the activities of the business uses have a minimal impact on affecting the privacy and noise disturbance to adjoining/surrounding properties;
 - (h) Surrounding property values will not be negatively affected by the proposed development;
 - (i) The departure of the building line is seen to have no impact on adjoining/surrounding properties as it is an existing building;
 - (j) Sufficient engineering services exist to accommodate the proposed business development;

- (k) The removal of restrictive deed of transfer conditions will enable the owner of erf 123 to obtain business rights and develop the property with business uses.

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

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

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

Please note that if the applicant/objector does appeal, an appeal fee of R2000-00 is payable. The appeal must be accompanied by the proof of payment and only then will the appeal be regarded as valid.

Yours faithfully



MUNICIPAL MANAGER
via Department Development Services

/ds

Copies : C C M & I E S Wheatley, P O Box 11, Yzerfontein, 7351
Director : Development Services (Building Control Officer)
Director : Civil Engineering Services
Director : Financial Services

15/3/3-14/Erf_123

15/3/5-14/Erf_123

15/3/4-14/Erf_123

16

2825683

PROPOSED REMOVAL OF RISTRCTIONS, REZONING AND DEPARTURE ON ERF 123, YZERFONTEIN

Via registered Mail

Name	Address Line 1	Address Line 2	Postal Code
Integrated Development Solutions	6 Collins Road	OOSTERSEE	7500

REGISTERED LETTER
(with a domestic insurance option)

RC279605620ZA
A BOOK COPY

DATE of DELIVERY
DATUM van AFLEWERING

IDENTIFICATION REQUIRED - IDENTIFIKASIE VERLANG

Post Office

Receipt of INSURED PARCEL

Ontvangs van VERSEKERDE PAKKET

No.

316252

Handed in at:

Ingelewer te:

Addressed to:

Geadresseer aan:

Municipal
1/one list

Issuing Officer / Uirelkingsbeampste

Signature of recipient/Handtekening van ontvanger

Identification/Identifikasie

The article will be returned to the sender if not collected within 21 days of the date of issue of the original delivery advice.
Hierdie posstuk sal aan die afsender teruggestuur word as dit nie binne 21 dae na die uitreikingsdatum van die oorspronklike afleweringadvies afgehaal is nie.

INITIALS of DELIVERY OFFICER
VOORLETTERS van
AFLEWERINGSBEAMPTTE

Please collect at:
Haal asseblief af te:

Post Office Counter No.:

Poskantoor Toonbank Nr.:

Date-stamp
Datumstemple

A.P.C.T.

Note: Demurrage at the applicable rate is payable as from

Opm: Lêgeld teen die toepaslike tarief is vanaf:

betalbaar

701965





27 September 2023

15/3/3-121/Erf_2260

WYK: 12

ITEM 6.3 VAN DIE AGENDA VAN 'N MUNISIPALE BEPLANNINGSTRIBUNAAL WAT GEHOU SAL WORD OP WOENSDAG, 11 OKTOBER 2023

LAND USE PLANNING REPORT PROPOSED REZONING OF ERF 2260, RIEBEEK KASTEEL					
Reference number	15/3/3-11/Erf_2260	Application submission date	30 June 2023	Date report finalised	29 September 2023

PART A: APPLICATION DESCRIPTION						
<p>An application for the rezoning of erf 2260, Riebeeck Kasteel in terms of section 25(2)(a) of Swartland Municipality : Municipal Land Use Planning By-law (PG 8226 of 25 March 2020) has been received. It is proposed that erf 2260 (2637m² in extent) be rezoned from Business zone 2 to Industrial zone 1 in order to use the property for warehouse purposes.</p> <p>The applicant is the CK Rumboll & Partners and the owner is Expifin International Pty Ltd.</p>						
PART B: PROPERTY DETAILS						
Property description (in accordance with Title Deed)	Erf 2260 (Portion of Erf 2206) Riebeeck Kasteel, in the Swartland Municipality, Division Malmesbury, Province of the Western Cape					
Physical address	74 Kloof Street		Town	Riebeeck Kasteel		
Current zoning	Business zone 2	Extent (m ² /ha)	2637 m 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 2021)					
Current land use	Vacant		Title Deed number & date	T1021/2021		
Any restrictive title conditions applicable	Y	N	If Yes, list condition number(s)			
Any third party conditions applicable?	Y	N	If Yes, specify			
Any unauthorised land use/building work	Y	N	If Yes, explain			
PART C: LIST OF APPLICATIONS (TICK APPLICABLE)						
Rezoning	<input checked="" type="checkbox"/>	Permanent departure	<input type="checkbox"/>	Temporary departure	<input type="checkbox"/>	Subdivision
Extension of the validity period of an approval	<input type="checkbox"/>	Approval of an overlay zone	<input type="checkbox"/>	Consolidation	<input type="checkbox"/>	Removal, suspension or amendment of restrictive conditions

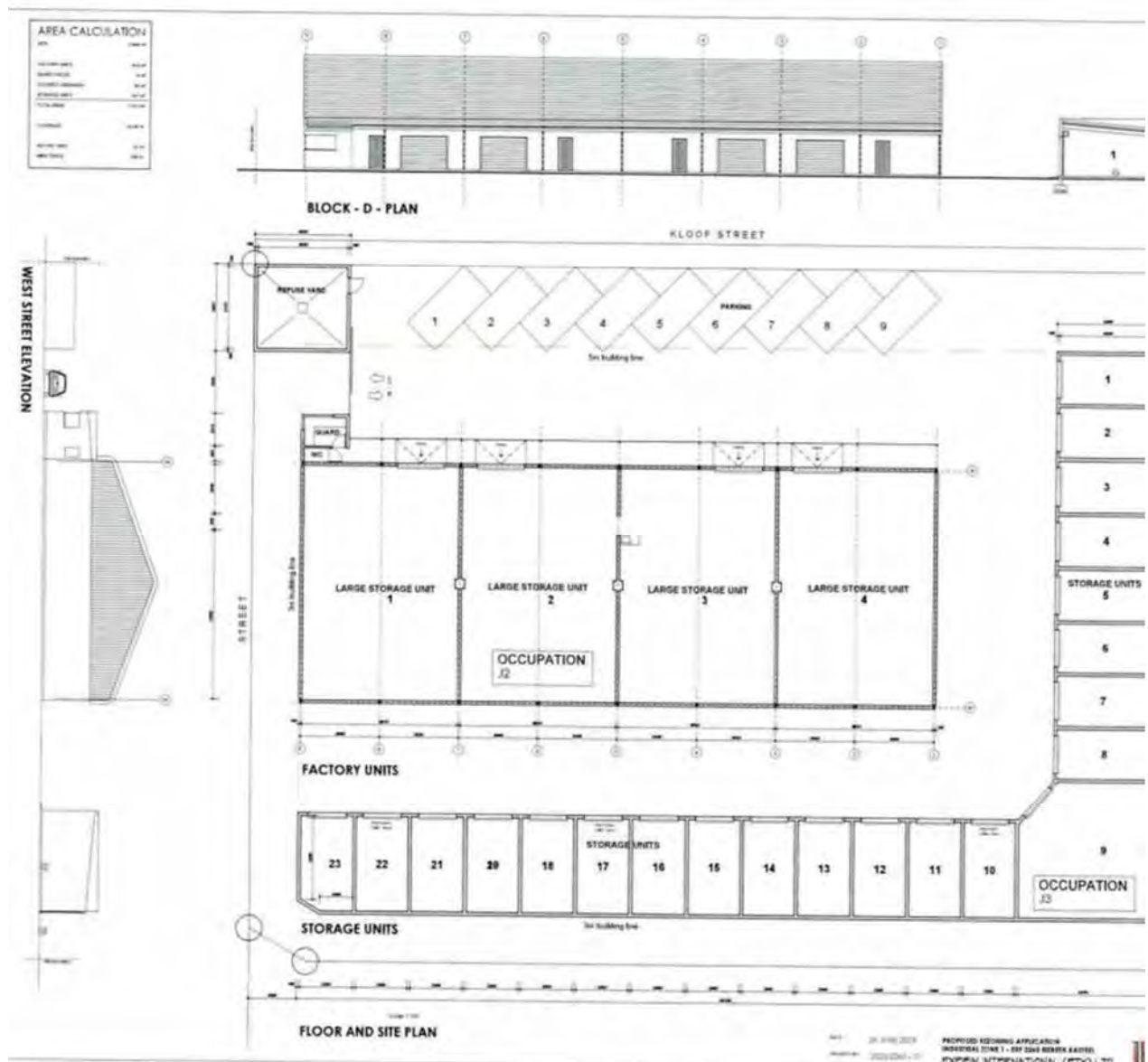
Permissions in terms of the zoning scheme	Amendment, deletion or imposition of conditions in respect of existing approval	Amendment or cancellation of an approved subdivision plan	Permission in terms of a condition of approval	
Determination of zoning	Closure of public place	Consent use	Occasional use	
Disestablish a home owner's association	Rectify failure by home owner's association to meet its obligations	Permission for the reconstruction of an existing non-conforming use		

PART D: BACKGROUND

Erf 2260 is zoned Business zone 2 and is currently vacant.

Erf 2260 originated as a result of various subdivisions and consolidations. Until 2015 erf 1467 (previous erf number from which erf 2260 originated) was zoned Industrial zone 1. Thereafter it was rezoned to Business zone 2. At that stage there was none of the primary rights under the Industrial zone 1 zoning that established on the property.

The application deals with the rezoning of erf 2260 from Business zone 2 to Industrial zone 1 in order to use the property for warehouse purposes (small storage). See the development proposal below.



Industrial zone 1 make provision for the following primary uses, namely: service trade, industrial hive, **warehouse**, car wash, service station, public parking, transmission tower, rooftop base station, filming subject to paragraph 4.1.6 of the By-law. The following additional uses rights are also made provision for, namely:

“The occupants of light industrial or service trade premises may sell goods which have been completely or partially manufactured on the land unit, and such other goods as the municipality may permit, provided that:

(i) the total floor space devoted to the sale of goods shall not exceed 10% of the total floor space of all the buildings on the land unit, and

(ii) such other goods that are offered for sale but that have not been manufactured on the land, relating to the goods that are manufactured or partially completed on the land...”

In this case application is made for a warehouse and for no other primary uses. The use of the property will therefore be restricted to that of a warehouse, if the application is successful.

A warehouse is defined as follows:

“...warehouse, means premises used primarily for the storage of goods, except those that are offensive or dangerous, and includes premises used for business of a predominantly wholesale nature, as well as for rendering of services, but does not include premises used for business of a predominantly retail nature;...”

The development proposal for a warehouse has a low disturbance potential. There will only be people on the property when they want to store something or remove something.

The aesthetics of development is important which need to compliment the character of Riebeeck Kasteel which may include landscaping to soften the street scape on Kloof Street.

PART E: PRE-APPLICATION CONSULTATION (ATTACH MINUTES)

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

The application for the Rezoning of Erf 2260, Riebeeck Kasteel is considered desirable on the basis of the following:

1. The proposal is supported by the Swartland Spatial Development Framework, 20232027 in that this Rezoning promotes densification within the mixed-use areas of Zone F in Riebeeck Kasteel.
2. The Rezoning promotes the optimal use of available space and services. Further densification through Rezoning is a way of supplying demand for storage solutions and providing better security and ensuring meaningful utilization of available services in the environment.
3. The proposed Rezoning is consistent with the sustainable land use planning principles of LUPA and SPLUMA.
4. In conclusion, rezoning the vacant property from Business Zone I to Industrial Zone 1 to develop a self-storage facility presents a unique opportunity for the town's growth, economic prosperity, and meeting the community's storage needs

It is therefore clear that in terms of the above, the proposed application for Rezoning of Erf 2260, Riebeeck Kasteel can be adequately supported. It is therefore requested that the application for Rezoning of the property concerned be considered favourably.

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
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The application was advertised in the local newspapers and Provincial Gazette as well as a total of 9 registered notices which were sent to affected parties. The public participation process started on 14 July 2023 and ended on 14 August 2023. Where e-mail addresses were available, affected parties were notified via e-mail as well. All 9 of owners were also notified via email. None registered notices were returned uncollected.

A total of 5 objections were received. The applicant's comments on the objections were received on 16 August 2023.

Total valid comments	5			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 Ward Committee of Ward 12 had some questions regarding the detail of the application which was communicated via administration to them.	
Total letters of support	0								

PART H: COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS			
Name	Received	Summary of comments	Recomm.
Directorate: Development Management	7 July 2023	1. Building plans to be submitted to Building Control for consideration and approval.	✓
Departement : Civil Engineering Services	27 July 2023	1. The erf be provided with a single water connection and that no additional connections be provided. 2. The erf be provided with a single sewerage connection and that no additional connections be provided. 3. The parking areas, including the internal roads, be provided with a permanent dust free surface. 4. If the upgrading or extension of existing services are required in order to provide the development with services connections, it will be for the account of the owner/developer.	✓

PART I: COMMENTS RECEIVED DURING PUBLIC PARTICIPATION	SUMMARY OF APPLICANT'S REPLY TO COMMENTS	MUNICIPAL ASSESSMENT OF COMMENTS
<p>1. Joshua Geldenhuys, owner of erf 1448</p>	<p>1. Neither the Swartland Municipal Spatial Development Framework (SDF) nor the Development Management Scheme offers explicit definitions for the term "mixed use." Consequently, it would be incorrect to assume that "mixed use" inherently rules out industrial activities. Rather, the term "mixed use" is utilized in these documents to signify a blend of various land uses without prescribing specific combinations or restrictions. Notably, the SDF permits service trades and light industries within development zone F, the location of the subject property. However, it's crucial to observe that development zone F lacks any designated areas earmarked specifically for industries, as indicated by the color purple. Consequently, the logical inference is that the only plausible locations to consider the mentioned service trades and light industries are within areas designated for mixed-use development.</p> <p>It is important to note further that the designation of industrial areas in the SDF does not translate that industrial activities will exclusively be permitted in these areas and cannot be accommodated anywhere else. It is also apparent that the areas earmarked for industrial development, for the most part, have agricultural zoning, are far too large for the needs of the proposed development, and lack services juxtaposed to the subject property which is of a more appropriate size and has access to services.</p> <p>These areas are ideal for grouping, not only industrial uses which required more intensive services (such as electricity and wider road widths) but are also well suited to group industries that cannot be located near other land uses due to their noxious or disturbing activities. The</p>	<p>1. The spatial planning of Riebeek Kasteel erf 2260 is situated in zone F. Zone F is earmarked for residential infill development supported by mixed uses. This zone is earmarked for integrated development between Esterhof and central Riebeek Kasteel. Mixed density residential development with commercial opportunities along activity axis and at intersection of Kloof & Lelie Streets is proposed. Also allow for Place of Education in this zone.</p> <p>Zone F makes provision for the full spectrum of permitted land uses which relates the term "mixed use". However, only service trades and light industries are permitted under the land use for "Industries & Service Trades".</p> <p>A warehouse is a primary right under the Industrial zone 1 zoning. A warehouse is defined as follows:</p> <p><i>"...warehouse, means premises used primarily for the <u>storage of goods</u>, except those that are offensive or dangerous, and includes premises used for business of a predominantly wholesale nature, as well as for rendering of services, but does not include premises used for business of a predominantly retail nature;..."</i></p> <p>The proposed small storage facility complies with the definition of a warehouse and is seen as a light industry.</p> <p>The application is therefore in compliance with the spatial planning of Riebeek Kasteel.</p>

	<p>2. The proposal is in conflict with the IDP because it fails to integrate Riebeek Kasteel and the eastern part of Riebeek Kasteel based on the following points:</p> <p>i. Functional Integration: Industrial zoning and activity bordering this area would impact the prospects of safe and formal pedestrian walkways along this route</p> <p>ii. Social Integration: Industrial Development and activity between Riebeek Kasteel East and Town does not aid social integration, it tends to create further divisions. In contrast, residential and commercial opportunities (Mixed Use) would better aid social integration;</p>	<p>proposed use is not considered to be of such nature and can thus be permitted in proximity of residential or other land uses.</p> <p>2. A walkway has already been created along the northern part of Kloof Street to facilitate safe and formal pedestrian travel. By creating the walkway, it encourages pedestrians to walk along this route as opposed to walking on the opposite side of Kloof Street, from where the proposed land use will obtain access and where no infrastructure is provided for pedestrians. Due to having the walkway on the opposite side of Kloof it reduces the interaction between pedestrians and vehicles wanting to access the proposed development.</p> <p>ii. The proposal will not be of such a scale that the development acts as a barrier between Riebeek Kasteel and the Eastern portion of the town. Furthermore, there is no evidence that the proposed development will cause a social division in Riebeek and Esterhof. To maximize their positive impact, self-storage operators could engage with the community, contribute to local initiatives, and prioritize aesthetics, security, and safety. This integration can lead to a harmonious coexistence and a mutually beneficial relationship between the facility and the local community just as any other commercial facility can.</p>	<p>2. The proposal is deemed not to be in conflict with the IDP for the following reasons:</p> <p>i. The development proposal entails a small storage facility which is accommodated under the Industrial zone 1 zoning. The development proposal for small storage has a low disturbance potential. It is clear that the objector associates different industrial uses with the industrial zoning that is applied for. It is therefore unclear how the proposed use will impact the pedestrian movements along Kloof Street as the access to the property will not be changed. Furthermore, the existing paved pedestrian walkway on Kloof Street is situated on the opposite side of the street to where erf 2260 obtain access.</p> <p>ii. Once again, the objector associates different industrial uses with the industrial zoning that is applied for. The spatial planning of Riebeek Kasteel clearly identifies where industrial development may take place which is not situated between Riebeek Kasteel East and the town.</p> <p>The proposed small storage facility will not influence the social integration between the communities negatively. On the other hand, it will not influence it positively either due the scale of the development that is proposed.</p> <p>Larger erven to the northern side of Kloof Street are much more suited to accommodate development which can promote social integration between the two communities. One example is the development proposal on erf 2111 which is currently being considered by the municipality.</p>
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	<p>iii. Wider variety of Housing Types: The IDP makes provisions for higher density development along the connecting route, which includes Erf 2260. Industrial Zoning and activity does not qualify as higher density development.</p> <p>iv. Erf 2260 is currently surrounded by new business, residential properties, and agricultural land. The visual aspect, noise and traffic generated by industrial activity would negatively impact the properties surrounding Erf 2260, which may result in adjacent property devaluation and lower rates.</p>	<p>iii. It is important to take note that this particular goal/objective of the IDP exclusively prescribes different densities of housing types and the infill of higher density housing along the connecting route. Thus this goal/objective is not applicable to Industrial Zoning and focused more on the provision of higher density residential areas. This goal is an overarching objective and does not necessarily require that development of all individual erven needs to promote this. Although the proposal does not create residential opportunities, it will result in economic- and socio-opportunities which are also a core focus of the IDP. Furthermore, there is also an application in process at Swartland Municipality to establish residential uses on Erf 2111 and an application for a residential development has been approved on Erf 1237 Riebeek Kasteel. The higher densities required by the IDP are therefore being addressed in other land use proposals</p> <p>iv. The purpose of the proposed facility is not to accommodate noxious trades that allows for activities which may be a source of nuisance for surrounding land owners. Nor is the purpose of the proposal to allow for repair work or manufacturing which involves heavy machinery that can disturb surrounding property owners. The purpose is to allow for self-storage which is an activity where individuals only visit from time to time and primarily use the facility to store goods. As such, the facility will yield little to no noise.</p> <p>In regard to the visual impact of the proposed facility, it is crucial to take note that regardless of the zoning of Erf 2260, the type of development will impact the visibility of the properties. The properties behind Erf 2260 will inevitably be impacted on the visibility from the direction of Kloof Street. However, the visual impact or value of the properties in question originates from the</p>	<p>iii. The comment from the applicant is supported.</p> <p>iv. The proposed small storage facility has a low disturbance potential. The existing adjoining agriculture chemicals business (Nexus) on erf 1466 has been operating for many years. Erf 1466 is also zoned Industrial zone 1 and accommodates an industrial use which the objector associates this application with.</p> <p>The visual impact of the storage facility can be mitigate by the architectural finishing of the buildings as well as landscaping which can soften the street scape of Kloof Street.</p> <p>The impact of the proposed small storage facility is deemed to be low.</p> <p>Property values in Riebeek Kasteel has increased over the past two general evaluations of the municipality. It is anticipated that the proposed development will not impact negatively on surrounding property values. No proof has been provided by the objector to support the statement.</p>
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		<p>opposite direction of Kloof Street or to the south-west of the area.</p> <p>Furthermore, the proposed facility will only be visible from a certain distance in relation to the corner of Kloof Street. The following figures will illustrate the points along Kloof Street where the visibility of the proposed facility will become visible from the road. This is due to the agricultural landscape and shade netting (from the north) and tree lines (from the east) that reduce the overall visible reception of the proposed facility</p> <p>Riebeek Kasteel does indeed have a heritage character and identity; however the surrounding area in proximity (the transition area between Riebeek Kasteel and Esterhof) is comprised of different uses that do not promote this heritage character of the town in comparison to the western and central parts of Riebeek Kasteel.</p>	
	<p>v. The informal storm channel and farm dam adjacent to Erf 2260 is already used at its maximum capacity, so much so that the recent rains in June 2023 resulted in large-scale flooding in Herron Close due to the farm dam and storm channel overflowing. The said rezoning application does not make any provisions for water flows and storm management, which is particularly concerning given that the plan being applied for includes warehouses with large roofs.</p> <p>vi. Kloof Street, the activity street adjacent to Erf 2260, is not wide enough to accommodate additional industrial traffic turning off it and it lacks traffic signage and speed curbing measures. The said rezoning application makes</p>	<p>v. Swartland Municipality's services department is responsible for evaluating the proposals' storm water specifications. This department did not raise any object in this regard. Should this department deem it necessary, they can request a storm water management plan as a condition of approval which must be in place before building plan approval can be obtained. There is thus sufficient opportunity to address storm water should council deem it essential.</p> <p>vi. Swartland Municipality's services department is responsible for evaluating the proposals' access. This department did not object to proposed access arrangement. It should be noted further that, as previously mentioned, self-storage facilities have low traffic flow due to the nature of the land use; therefore traffic impact will be minimal. The nature</p>	<p>v. The Department: Civil Engineering Services were silent on the issue of stormwater generated on erf 2260. Generally, stormwater generated on a property must be taken to the nearest municipal street. In this case erf 2260 is situated adjacent to Kloof Street. Stormwater generated on erf 2260 will need to be channelled to Kloof Street to be taken up in the municipal stormwater system.</p> <p>vi. Warehousing, small storage in this case, is deemed to have a low trip generation to the property. The Department: Civil Engineering Services deems it not necessary to do any upgrades to Kloof Street due to the proposed development.</p>

	<p>no provision for improvements on Kloof Street or an additional turning lane.</p> <p>vii. The gravel road accessed via Kloof Street, which would be used to access Erf 2260, is not sufficient to accommodate additional traffic, particularly industrial traffic. The said rezoning application does not include an assessment of the quality of the road to access the property, and makes no provisions for improvements required on this road.</p>	<p>of the proposed land use will not be such that trucks are constantly moving to and from the property because storage will be the focus of the land use. The request to upgrade Kloof Street and to provide turning lanes is therefore unfounded, especially when considering that a large industry such as Riebeek Cellar does not even have dedicated turning lanes.</p> <p>vii. See response to point 1(b)(vi) above.</p>	<p>vii. Erf 2260 obtains access from Kloof Street via a right of way servitude over erven 1913 and 1468. This servitude is for the common use by the owners of the properties and the general public together with their vehicles, which use will be at each user's own risk, with the obligation to maintain said road proportional to its use.</p>
2. Don King	<p>1. I would like to formally support Josh's objection to this development and the rezoning. It makes no sense to have a residential site, a retail site, and agricultural site (the dam) and an industrial site all within a 5000m² area. I trust that the affected residents will be asked for input and would like to know why they were not informed of the rezoning or the proposed development as required.</p>	<p>1. Please refer to the Section 1 of this response for the responses to the points raised by Mr. J Geldenhuys.</p> <p>As far as identification of interested and affected parties are concerned, Swartland Municipality identifies the interested and affected parties during the public participation process, all interested and affected parties have been identified and given notice, furthermore, applications that include rezoning of land must include the advertising of the application through the local newspaper of the relevant town/municipality as stated in Sections 55 (1) and (2) of the Swartland Municipal Land Use Planning By-Law (2020) thus, the advertising/notice of the application was "far-reaching".</p>	<p>1. See the comments made on the comments from Josh Geldenhuys.</p> <p>The application was advertised in the local newspapers and Provincial Gazette as well as a total of 9 registered notices which were sent to affected parties. The public participation process started on 14 July 2023 and ended on 14 August 2023. Where e-mail addresses were available, affected parties were notified via e-mail as well. All 9 of owners were also notified via email. None registered notices were returned uncollected.</p>
3. Cindy Pflocks-Walker, owner of erf 1913	<p>1. Would like to have more detailed information, which shows what exactly the ERF will be used for and wanted to know the impact this development will be on my view, safety and value of my property. Industrial zoning was never</p>	<p>1. Mrs Walker has been contacted via email on Thursday 7th of September 2023 at 11:11 am to provide the requested engagement and information. Please refer to Annexure B for the email sent that addresses her comments along with her response.</p>	<p>1. The comments from the applicant is supported.</p>

	<p>mentioned to me upon purchasing my property.</p>	<p>The property in question is proposed to be used exclusively for self-storage units, in which will have low levels of daily activity and minimal noise or emissions. There are no plans for heavy industry or any other industrial activities on the premises. The primary purpose of the rezoning is to allow for the operation of self-storage facilities, which are designed to be low-impact and compatible with surrounding areas.</p> <p>Self-storage units are designed to have a minimal visual impact. The facility will be designed and constructed with aesthetics in mind and aim to blend into the surrounding environment. In terms of height, the facilities may be of similar height premises north of the objector's property (Erf 1466). In regard to safety, self-storage facilities typically have limited daily activity and do not generate a lot of daily foot traffic, which can lead to a quieter neighbourhood compared to other commercial or industrial properties. Storage Facilities have sufficient safety measures as they are designed and operated with security and safety in mind. Self-storage units, which are generally considered low-impact and should not devalue surrounding properties. Well-maintained facilities may have a more positive visual impact and thus potentially increase the property value. There is no grounds to suggest that any of the surrounding property values will be affected, notwithstanding that the Spatial Planning Land Use Management Act (SPLUMA) which prescribes the principles for guiding land use planning specifies in Section 59 (1), subsection (f) that: "A competent authority contemplated in this Act or other relevant authority considering an application before it, may not be impeded or restricted in the exercise of its discretion solely on the ground that the value of land or property will be affected by the outcome."</p>	
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4. Johann Kotze, owner of erf 1469	<p>1. The objector does not want to live in an industrial area which will also reduce their property value. Having a residential property in an industrial area does not make sense.</p> <p>2. The access is too narrow to accommodate the influx of traffic and the increased traffic will result in deterioration of the access.</p>	<p>1. The proposed land use for the development on Erf 2260 will entail self-storage that will result in low impact activity on the facility. It is important to note and as previously mentioned in the response to Mr J Geldenhuys' comments that Erf 1466 is currently zoned as Industrial Zone 1 as well. The rezoning of a single property does not directly result in the surrounding area to become a "industrial zone", as the land uses of Erf 1466 (Service Trade) and the proposed Erf 2260 habit low-impact as opposed to the heavier industrial properties. There is no basis for assuming that approval of the application will result in the devaluation of adjacent property values. In terms of the Spatial Planning Land Use Management Act (SPLUMA) prescribes the principles for guiding land use planning. Among other principles, Section 59 (1), which divulges principles of spatial justice, specifies in subsection (f) that: "A competent authority contemplated in this Act or other relevant authority considering an application before it, may not be impeded or restricted in the exercise of its discretion solely on the ground that the value of land or property will be affected by the outcome."</p> <p>2. In regard to the influx of traffic, due to the low active nature of self storage facilities that typically have limited daily activity and do not generate a lot of daily vehicular or foot traffic, which can lead to a quieter neighbourhood compared to other commercial or industrial properties. Thus the impact of a limited increase in traffic will have minimal impact on the road. As part of the land use process the application is circulated to the municipal service department which will prescribe the requirements pertaining to services which include road surface requirements.</p>	<p>1. The comments from the applicant is supported.</p> <p>2. See the comments made at point 2vii on the comments of Josh Geldenhuys.</p>

<p>5. Katja Weck & Andrew Reynolds, owner of erf 2206</p>	<p>1. We purchased property with the understanding that our neighbouring property is commercial; otherwise we would not have bought and invested this amount of money. Our Investment will definitely devalue.</p> <p>2. Our building will not be visible from the road and as we are reliant on tourism, an Industrial site definitely will affect our success.</p> <p>3. The access road is definitely not adequately surfaced for Industrial Use, and no provision or assessment for road improvements was made.</p> <p>4. There is a reason why lower part of Kloof Street in Riebeek Kasteel is proposed for mixed use and not for Industry as we need to integrate the greater community between Riebeek Kasteel East and Town, you can't do that with an Industrial property, in my eyes it is just dead space, does not serve the greater community it just serves the owners of the property.</p>	<p>1. There is no grounds to suggest that any of the surrounding property values will be affected, notwithstanding that the Spatial Planning Land Use Management Act (SPLUMA) which prescribes the principles for guiding land use planning specifies in Section 59 (1), subsection (f) that: "A competent authority contemplated in this Act or other relevant authority considering an application before it, may not be impeded or restricted in the exercise of its discretion solely on the ground that the value of land or property will be affected by the outcome."</p> <p>2. Due to the position of Erf 2206 behind Erf 2260, the possibility always exists that any type of development, not just the proposal, would result in affecting the visual exposure of Erf 2206. Additionally, Erf 2206 has no inherent right or claim to be visible from Kloof Street.</p> <p>3. Refer to points 1(b)(vi) and a(b) above.</p> <p>4. As previously discussed, the Industrial areas identified in the SDF do not entail industrial activities exclusively to solely be permitted in these areas. Furthermore, the areas identified in the SDF for industrial development have not been serviced. The areas which have been identified are therefore unsuitable at this stage to accommodate industrial uses compared to Erf 2260.</p> <p>Self-storage industrial properties have the potential to integrate with the local community by creating jobs, generating tax revenue, supporting local businesses, and offering storage solutions that benefit residents and businesses.</p>	<p>1. The objectors took transfer of ownership of erf 2206 in 2016 at which time erf 2260 was zoned Business zone 2.</p> <p>It remains the prerogative of the owner of erf 2260 to apply to change the land use rights of the property. For that reason the objector were informed of the application during the public participation process.</p> <p>Property values in Riebeek Kasteel increased during the past 2 general valuations. It is unlikely that the development proposal on erf 2260 will impact negatively on the values of surrounding properties.</p> <p>2. The comment from the applicant is supported.</p> <p>3. See the comments made at point 2vii on the comments of Josh Geldenhuys.</p> <p>4. See the comments made on the comments from Josh Geldenhuys.</p>
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	<p>5. There are properties earmarked for industrial, why on earth put Industrial between Mixed Use, residential and agriculture?</p>	<p>5. Erf 2260 and its surrounding properties consist out of different zonings and land uses, such as Industrial (Erf 1466), Residential (Erven 1913, RE/1469 and RE/1468) and Commercial (Erf RE/2206). As previously discussed in the response (Section 1) to Mr J Geldenhuys' comments, the term "mixed use" is utilized in these documents to signify a blend of various land uses without prescribing specific combinations or restrictions where Zone F from the SDF permits service trades and light industries. However, development Zone F lacks any designated areas earmarked specifically for industries, thus the only plausible locations to consider the mentioned service trades and light industries are within areas designated for mixed-use development.</p> <p>It is important to note further that the designation of industrial areas in the SDF does not translate that industrial activities will exclusively be permitted in these areas and cannot be accommodated anywhere else. The objective for Industrial Zone 1 of the Swartland Municipal Land Use Planning By-Law (2020) (pg 108) states the following: "The objective of this zone is to accommodate industrial uses and service trades that may be exercised without nuisance to other land or the general public. Such uses may be located next to business uses and near residential areas, and do not present a potentially negative impact on the character or enmity of such areas".</p> <p>Therefore, along with the provisions of the SDF and the objective of the Planning By-Law, is industrial suitable to be included within mixed use and can be appropriately incorporated within the context of the surrounding area of Erf 2260.</p>	<p>5. See the comments made on the comments of Josh Geldenhuys.</p>
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PART J: MUNICIPAL PLANNING EVALUATION

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

An application for the rezoning of erf 2260, Riebeek Kasteel in terms of section 25(2)(a) of Swartland Municipality : Municipal Land Use Planning By-law (PG 8226 of 25 March 2020) has been received. It is proposed that erf 2260 (2637m² in extent) be rezoned from Business zone 2 to Industrial zone 1 in order to use the property for warehouse purposes..

The application was advertised in the local newspapers and Provincial Gazette as well as a total of 9 registered notices which were sent to affected parties. The public participation process started on 14 July 2023 and ended on 14 August 2023. Where e-mail addresses were available, affected parties were notified via e-mail as well. All 9 of owners were also notified via email. None registered notices were returned uncollected.

A total of 5 objections were received. The applicant's comments on the objections were received on 16 August 2023.

Division: Land Use and Town Planning is now in the position to present the application to the Swartland Municipal Planning Tribunal for decision making.

2. Legislation and policy frameworks

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

- a) Spatial Justice: According to the Spatial Development Framework erf 2260 is situated in an area where light industries (warehouse) can be accommodated as a land use, making the application in compliance with the spatial planning of Riebeek Kasteel.
- b) Spatial Sustainability: Riebeek Kasteel currently does not have similar storage facilities. This will be a first for Riebeek Kasteel. A service will be provided which was not available previously in Riebeek Kasteel.

Existing infrastructure are sufficient to accommodate the proposed development.

- c) Efficiency: Small storage being a first in Riebeek Kasteel contribute to achieving the desired mix of land uses in the town.
- d) Good Administration: The application was communicated to the affected landowners through registered mail and was advertised in the local newspapers and Provincial Gazette. The application was also circulated to the relevant municipal departments for comment. Consideration was given to all correspondence received and the application was dealt with in a timeous manner. It is therefore argued that the principles of good administration were complied with by the Municipality.
- e) Spatial Resilience: The proposal of a different land use on a property of which the land use is deemed to be in compliance with the spatial planning of the town, is evidence that need for a specific service/land use is deemed more beneficial to the needs of a community than another.

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

2.3 Spatial Development Framework(SDF)

According to the spatial planning of Riebeek Kasteel erf 2260 is situated in zone F. Zone F is earmarked for residential infill development supported by mixed uses. This zone is earmarked for integrated development between Esterhof and central Riebeek Kasteel. Mixed density residential development with commercial opportunities along activity axis and at intersection of Kloof & Lelie Streets is proposed. Also allow for Place of Education in this zone.

Zone F makes provision for the full spectrum of permitted land uses which relates the term "mixed use". However, only service trades and light industries are permitted under the land use for "Industries & Service Trades".

A warehouse is a primary right under the Industrial zone 1 zoning. A warehouse is defined as follows:

"...warehouse, means premises used primarily for the storage of goods, except those that are offensive or dangerous, and includes premises used for business of a predominantly wholesale nature, as well as for rendering of services, but does not include premises used for business of a predominantly retail nature;..."

The proposed small storage facility complies with the definition of a warehouse and is seen as a light industry.

The application is therefore in compliance with the spatial planning of Riebeek Kasteel.

See the extract from the SDF below.



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

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

2.5 Desirability of the proposed utilisation

Erf 2260 is zoned Business zone 1 and is currently vacant. The property has no physical restrictions which may impact negatively on the application.

The character of the area includes single residential, business, industrial and agricultural land uses. The proposed light industrial land use is deemed complimentary to the existing mixed use character of the area.

The impact of the proposed small storage facility on the surrounding area is deemed to be low.

The development proposal for small storage has a low disturbance potential. It is clear that the objector associates different industrial uses with the industrial zoning that is applied for.

The proposed small storage facility will not influence the social integration between the communities of Riebeek Kasteel East and the Town.

The visual impact of the storage facility can be mitigate by the architectural finishing of the buildings as well as landscaping which can soften the street scape of Kloof Street and the residential properties to the south of the property.

Property values in Riebeek Kasteel has increased over the past two general evaluations of the municipality. It is anticipated that the proposed development will not impact negatively on surrounding property values.

The proposal is deemed not to be in conflict with the IDP.

The use of the property as a warehouse is in compliance with the spatial planning of Riebeek Kasteel.

The proposed development complies with all zoning parameters applicable to the Industrial zone 1 zoning.

Exiting services infrastructure are deemed sufficient to accommodate the proposed use. Stormwater generated on the property will need to be taken to nearest municipal street.

Access to erf 2260 is deemed sufficient to accommodate the proposed use. The upgrade of any road infrastructure is not required.

There are no restrictions in the title deed of erf 2260 which are restrictive to this application.

The public participation process that was followed is deemed compliant with the requirements of the Planning By-law.

A small storage facility is a first for the town of Riebeek Kasteel which will be beneficial to the communities of the Riebeek Valley.

The development proposal is considered desirable.

3. Impact on municipal engineering services

Sufficient services capacity exists to accommodate the proposed development.

4. Comments of organs of state

A letters of no objection was received from the Department of Transport and Public Works.

5. Response by applicant

See Annexure H.

PART K: ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

The financial or other value of the rights

N/A

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

N/A

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

N/A

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

N/A

PART L: RECOMMENDATION WITH CONDITIONS

The application for the rezoning of erf 2260, Riebeek Kasteel, be approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), subject to the conditions that:

1. TOWN PLANNING AND BUILDING CONTROL

- a) Erf 2260 (2637m² in extent) be rezoned from Business zone 2 to Industrial zone 1;
- b) The land use of the Industrial zone 1 zoning be restricted to a warehouse (small storage), as presented in the application;
- c) Building plans be submitted to the Senior Manager: Development Management, for consideration and approval;
- d) The visual impact of the proposed small storage facility be mitigated by means of architectural design elements which is complimentary to the character of Riebeek Kasteel. Flat roofs and garage type structures are not permitted;
- e) The visual impact of the proposed storage facility be mitigated by means of landscaping to soften the impact on the street scape of Kloof Street and the residential properties towards the south of the property;
- f) Application be made to the Senior Manager: Development Management for the display of advertising signs;
- g) At least 9 on-site parking bays be provided as presented in the application. The parking bays and internal areas used for traffic flow be provided with a permanent dust free surface being tar, concrete or paving or a material pre-approved by the Director: Civil Engineering Services and that the parking bays are clearly marked;

2. WATER

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

3. SEWERAGE



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

4. GENERAL

- a) Should it be determined necessary to expand or relocate any of the engineering services in order to provide any of the portions with separate connections, said expansion and/or relocation will be for the cost of the owner/developer;
- b) The approval is valid for a period of 5 years, in terms of section 76(2) of the By-Law from date of decision. Should an appeal be lodged, the 5 year validity period starts from the date of outcome of the decision against the appeal;
- c) All conditions of approval be implemented before the new land uses come into operation/or occupancy certificate be issued and failing to do so the approval will lapse. Should all conditions of approval be met within the 5 year period, the land use becomes permanent and the approval period will no longer be applicable;
- d) The applicant/objectors be informed of the right to appeal against the decision of the Municipal Planning Tribunal in terms of section 89 of the By-Law. Appeals be directed, in writing, to the Municipal Manager, Swartland Municipality, Private Bag X52, Malmesbury, 7299 or by e-mail to swartlandmun@swartland.org.za, within 21 days of notification of the decision. An appeal is to comply with section 90 of the By-Law and be accompanied by a fee of R5000-00 in order to be valid. Appeals that are received late and/or do not comply with the aforementioned requirements, will be considered invalid and will not be processed.

PART M: REASONS FOR RECOMMENDATION

1. The application is in compliance with the planning principles of LUPA and SPLUMA.
2. The application is in compliance with the spatial planning of Riebeek Kasteel.
3. The development proposal complies with all applicable zoning parameters of the Industrial zone 1 zoning.
4. The impact of the proposed small storage facility on surrounding area is deemed low.
5. The visual impact of the proposed development will be mitigated as proposed in this report.
6. Erf 2260 does not have any physical restrictions which may have a negative impact on this application.
7. The development proposal supports the optimal utilisation of the property.
8. Existing services are deemed sufficient to accommodate the proposed small storage facility.
9. Property values of surrounding properties will not be affected negatively.
10. There are no restrictions in the title deed of erf 2260 which restricts the proposed development.

PART N: ANNEXURES				
Annexure A	Locality Plan			
Annexure B	Site development plan			
Annexure C	Plan indicating the area to be rezoned			
Annexure D	Public Participation Map			
Annexure E	Objection from Joshua Geldenhuys			
Annexure F	Objection from Don King			
Annexure G	Objection from Cindy Pflocks-Walker			
Annexure H	Objection from Johan Kotze			
Annexure I	Objection from Katja Weck & Andres Reynolds			
Annexure J	Comments from the applicant on the objections			
Annexure K	Comments from the Department of Transport and Public Works			
PART O: APPLICANT DETAILS				
First name(s)	CK Rumboll & Partners			
Registered owner(s)	Expifin International Pty Ltd	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: 29 September 2023
Recommendation: Alwyn Zaayman Senior Manager: Development Management SACPLAN: B/8001/2001		Recommended	<input checked="" type="checkbox"/>	Not recommended
				Date: 4 October 2023



Voorgestelde hersonering

Erf 2260, Riebeeck Kasteel

Liggingsplan

Skaal: NVT





Warwick Publishing

PROJECT NO: 2023/2260 - D1
29 JUNE 2023



Annexure C

TITLE:

ERF 2260, RIEBEEK KASTEEL
ZONING PLAN

SHEET 1 OF 1

NOTES:

Existing Zoning: Business Zone 2

Proposed Zoning: Industrial Zone 1

Total property area: $\pm 2637\text{m}^2$

Service Servitude (3m wide): $\pm 50\text{m}^2$

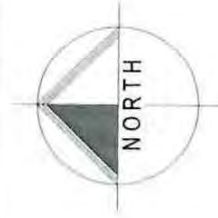
KEY:

Relevant boundary

ROW & Service Servitude

Building Lines

Proposed Zoning



Drawn by:

Elaine Moller

ALL AREAS AND DISTANCES ARE SUBJECTED
C.K. RUMBOLD & SONS
TOWN PLANNERS
PROFESSIONAL 3



Tel: 022-4821845
Fax: 022-4871661
Email: planning@ckr.co.za

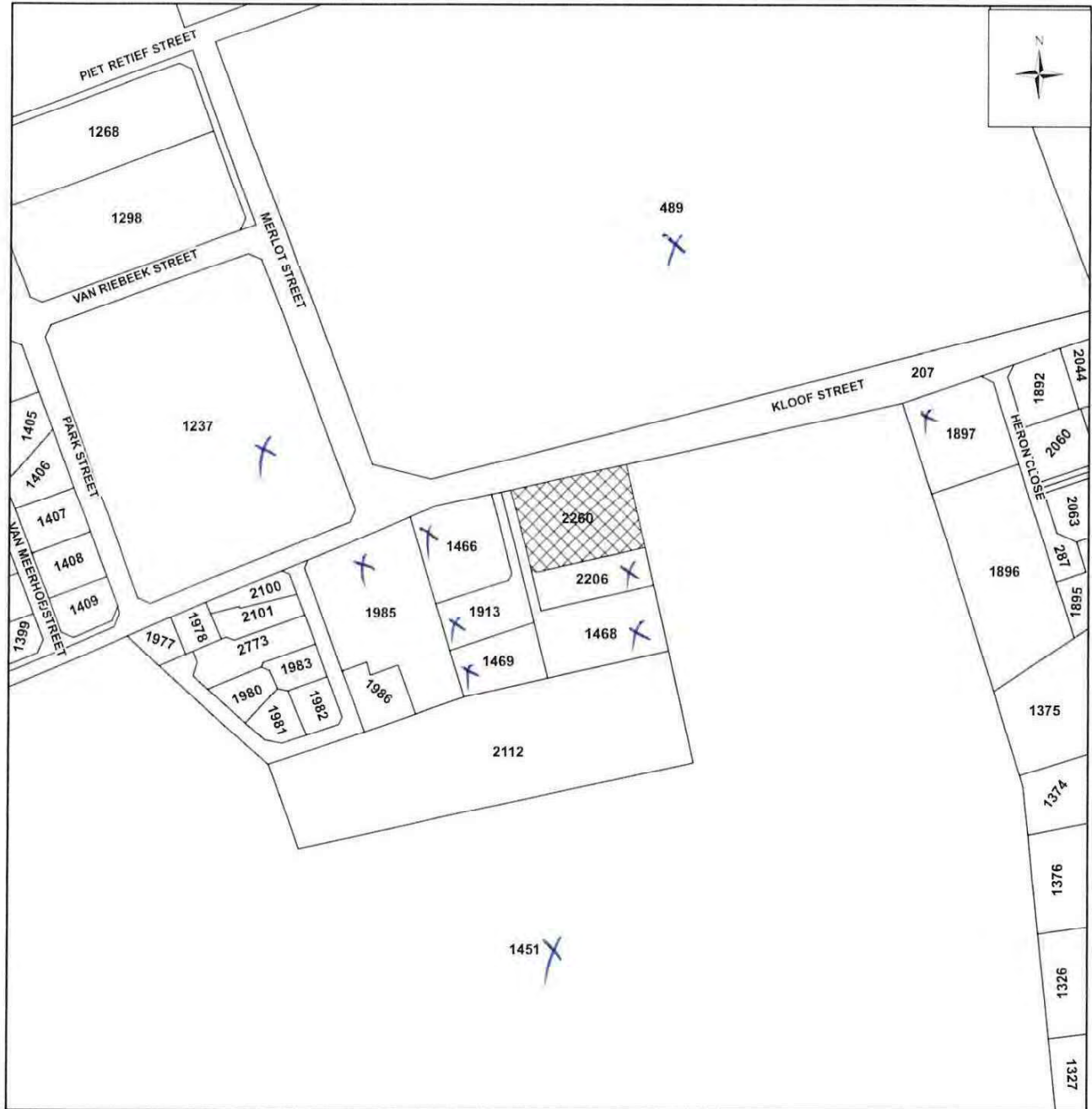
DATE:
JUNE 2023

AUTH:
SWARTLAND

REF:

13181RIEBEEK/UEM





From: Joshua Geldenhuys <joshuageldenhuys1@gmail.com>
Sent: Monday, 07 August 2023 14:19
To: Registrasie Email <RegistrasieEmail@swartland.org.za>
Subject: Objection to Rezoning Application - ERF 2260, Riebeek Kasteel

Hello,

To The Swartland Municipal Manager and Town Planning Department:

I am writing this email to submit my objection to the rezoning application of ERF 2260 in Riebeek Kasteel from Business Zone 2 to Industrial Zone 1.

I have noted the above mentioned rezoning application in my capacity as Ward 12 committee member, where the application was submitted for review during our recent committee meeting held on 1 August 2023. I have attached a copy of the application for reference. My details as required are below.

Name: Joshua Geldenhuys

Address: Vleitjies, 86 Kloof Street, Riebeek Kasteel

Contact details: joshuageldenhuys1@gmail (preferred contact), 0724601970

Interest in application: I am a Ward 12 committee member, and my residence is in the nearby proximity of ERF 2260 and is adjacent to the same road (Kloof Street)

Reasons for comments: I am concerned about the rezoning of ERF 2260 to Industrial Zone 1 and how that fits into the Municipality's plans for Ward 12. Substantiating reasons are below:

1. Conflict with spatial plans and land use proposals

With reference to the land use proposals for Riebeek Kasteel, which can be found on the Swartland Municipality website at this link:

http://www.swartland.org.za/media/docs/2023/Ontwikkelingsdienste_2023/Riebeek_Kasteel_Land_Use_Proposals_May_2023.pdf

Most land bordering either side of the lower part of Kloof Street in Riebeek Kasteel is proposed for Mixed Use ("MU" in turquoise in the map excerpt attached below). ERF 2260, the subject of the rezoning application, is part of this Mixed Use plan.

Mixed Use does not make provisions for such land to be used for Industrial Zone 1 activity, hence why the said rezoning application conflicts with Riebeek Kasteel's land use proposals.

Additionally, the land use proposal map makes sufficient land available for industrial usage in other parts of the eastern Riebeek Kasteel, as indicated with "IND" in purple on the map, and industrial development should be encouraged in these areas only.



2. Conflict with Swartland IDP

With reference to the Swartland Integrated Development Plan (IDP) 2023, which can be found on the Swartland Municipality website at this link:

http://www.swartland.org.za/media/docs/2023/IDP_and_PMS/IDP_2023_Final_May_2023-05-24_.pdf

While the IDP makes provisions for various plans in Ward 12 (Riebeek Kasteel), it puts significant emphasis on the point of integrating Riebeek Kasteel East (also referred to as Esterhof) with Riebeek Kasteel Town.

Page 60 of the linked IDP summarizes the related goals and milestones for integrating Riebeek Kasteel East with the Town, shown in the excerpt below:

Wards	Towns	Functional Integration	Social Integration	Offer a wider variety of housing types	Spatial Integration
Ward 7	Kalbaskraal & Abbotsdale	Improved social infrastructure in central location accessible to community.	Public areas along Diep River to be integrated into an open space system.	Support subdivisions of larger erven to increase densities.	
Wards 8 to 11	Malmesbury, Wesbank & Ilings Lethu	More social and commercial services in Wesbank and Ilings Lethu along activity streets within walking distance.	An integrated and active open space network along Diep and Platteklip Rivers. Integrated community sport facilities.	Different housing typologies and densities in brown field developments.	Mixed uses along Bokomo/Darling Road to integrate Malmesbury and Wesbank. Develop between Malmesbury and Abbotsdale.
Ward 12	Riebeeck Kasteel	A commercial and social node in Riebeeck Kasteel East. Promote formal pedestrian walkways between Riebeeck Kasteel and Riebeeck Kasteel East.	Development reinforced along connecting route between Riebeeck Kasteel and Riebeeck Kasteel East.	Different housing typologies densities in brown field developments. Infill higher density development along connecting route.	Mixed use along link road between Riebeeck Kasteel East and central part of Riebeeck Kasteel.

BULK INFRASTRUCTURE CAPACITY

The development of land is dependent on availability of bulk infrastructure and services and contributes to the economy and future development in Swartland settlements. The need for water and sewerage infrastructure is very high in Chatsworth and Riverlands. Overall there is a need for upgraded water infrastructure in all settlements except Malmesbury. Improved sewerage capacity is required in Koringberg, Moorreesburg, Kalbaskraal, Darling and Yzerfontein. The need for increased electrical capacity, although indicated as medium, is high in Ilings Lethu (9) and Saamstaan (11) as it is also required to unlock the catalytic project planned at De Hoop. Electricity upgrades are also required in Riebeeck West and Kasteel.

Green / renewable projects for Swartland are provided for in Malmesbury and Darling.

The application for rezoning ERF 2260 to Industrial Zone 1 conflicts with the IDP on the following points:

- **Functional Integration:** Industrial zoning and activity bordering this area would impact the prospects of safe and formal pedestrian walkways along this route.
- **Social Integration:** Industrial development and activity between Riebeeck Kasteel East and Town does not aid social integration, it tends to create further divisions. In contrast, residential and commercial opportunities (Mixed Use) would better aid social integration.
- **Wider variety of housing types:** The IDP makes provisions for higher density development along the connecting route, which includes ERF 2260. Industrial zoning and activity does not qualify as higher density development.
- **Spatial Integration:** This issue is dealt with by the proposed land usage (Mixed Use) and in my first point in this email.

3. Additional reasons for objection

- ERF 2260 is currently surrounded by new businesses, residential properties, and agricultural land. The visual aspect, noise and traffic generated by industrial activity would negatively impact the properties surrounding ERF 2260, which may result in adjacent property devaluation and lower rates.
- The informal storm channel and farm dam adjacent to ERF 2260 is already used at its maximum capacity, so much so that the recent rains in June 2023 resulted in large-scale flooding in Herron Close due to the farm dam and storm channel overflowing. The said rezoning application does not make any provisions for water flows and storm management, which is particularly concerning given that the plan being applied for includes warehouses with large roofs.
- Kloof Street, the activity street adjacent to ERF 2260, is not wide enough to accommodate additional industrial traffic turning off it and it lacks traffic signage and speed curbing measures. The said rezoning application makes no provision for improvements on Kloof Street or an additional turning lane.
- The gravel road accessed via Kloof Street, which would be used to access ERF 2260, is not sufficient to accommodate additional traffic, particularly industrial traffic. The said rezoning

application does not include an assessment of the quality of the road to access the property,
and makes no provisions for improvements required on this road.
Please reply to this email to confirm receipt.

Kind regards,

Joshua Geldenhuys

From: Don King <donk@vipnet.co.za>
Sent: Monday, 07 August 2023 22:59
To: Nicolette Brand <BrandN@swartland.org.za>; Desiree Bess <desireevgk@gmail.com>; Alwyn Burger <alwynburger@swartland.org.za>
Cc: 'Joshua Geldenhuys' <joshuageldenhuys1@gmail.com>; Johann Joubert <johann@calibrapmcs.co.za>
Subject: RE: Kommentaar vanaf Wykskomitee: Voorgestelde hersonering vanaf Sakesone 2 na Nywerheidsone 1, Erf 2260, Riebeek Kasteel

Hi Nicolette and Des

Further to my emails to Nicolette and Mr Burger on Friday morning (4th Aug) I would like to formally support Josh's objection to this development and the rezoning.

It makes no sense to have a residential site, a retail site, an agricultural site (the dam) and an industrial site all within a 5000 sq m area!

I trust that the affected residents will be asked for input and would like to know why they were not informed of the rezoning or the proposed development as required.

Kind regards

Don King

From: Cindy Pflocks-Walker <syddieb@gmail.com>
Sent: Sunday, 06 August 2023 11:22
To: Delmary Stellenberg <StellenbergD@swartland.org.za>; Registrasie Email <RegistrasieEmail@swartland.org.za>
Subject: Re: Voorgestelde hersonering van Erf 2260, Riebeek Kasteel

Dear Madam/Sir

My name is Cindy Pflocks-Walker, I reside at 1913 Kloof Street Riebeek Kasteel.

I have the following Comments/Objections regarding property ERF 2260 (please see attachment) and the development that will be happening in front of my house.

1.) I would like to have more detailed information, which shows what exactly the ERF will be used for.

2.) I would like to know the impact this development will be on my view, safety and value of my property. Industrial zoning was never mentioned to me upon purchasing my property.

I look forward to hearing from you and would appreciate more clarity in this regard.

I trust this is in order

Kindest Regards

Cindy Pflocks Walker

From: Kotze, Johann <JKotze@fnb.co.za>
Sent: Monday, 07 August 2023 16:23
To: Registrasie Email <RegistrasieEmail@swartland.org.za>
Cc: Kotze, Mariana <Mariana.Kotze@fnb.co.za>
Subject: FW: Voorgestelde hersonering van Erf 2260, Riebeek Kasteel - [External Email]

Good day Swartland Municipality.

I trust you are well?

My Name is Johann Kotze and im the owner of ERF 1469 Kloof Street Riebeek Kasteel. My contact number is 072 637 2942 and I prefer to be contacted via this email being used.

Me and my wife Mariana Kotze bought the property in December 2022 to raise our child in a safe and farm environment. We knew about Nexus on the edge of the property and the type of business they are, and we accept that. What we don't want is to live in an industrial area where it would bring down the value of my property/investment at the end of the day due the property being in an industrial zone. No one builds a house in an industrial environment. It does not make sense.

I do not see that the narrow part of Kloof street that ERF 2260 is next to will be wide enough to handle the influx of traffic this rezoning will have in affect, not even to mention the gravel road that is leading towards our property. The amount of traffic it is currently receiving and the winter rains we received thus far washed part of the gravel away and we had to contact the Municipality to come fix. Can you imagine what damage the increased traffic will have?

Please note that with this email I **OBJECT AGAINST** the rezoning of ERF 2260 Riebeek Kasteel from Business Zone 2 to Industrial Zone 1.

Please can you confirm receipt of my email and objection against the rezoning.

Regards



Johann Kotze

From: Katja Emanuel <katja@hotmail.co.za>
Sent: Monday, 07 August 2023 17:54
To: Registrasie Email <RegistrasieEmail@swartland.org.za>
Cc: Herman Olivier <OlivierH@swartland.org.za>
Subject: Objection to Rezoning Application- erf 2260 Riebeek Kasteel

This email comes from KATO2 (PTY) LTD
we are the owners from erf 2206. Katja Weck and Andrew Reynolds.
Date 7/8/2023.
Please send all correspondence to katja@hotmail.co.za
Phone no 0834598953

Good Afternoon.

I am writing this email to submit my objection
to the rezoning application of erf 2260 in Riebeek Kasteel from Business Zone to Industrial Zone 1.

The following reasons I have a concern with:

- 1) We purchased property with the understanding that our neighboring property is Commercial, otherwise we would not have bought and invested this amount of money. Our Investment will definitely devalue.
- 2) Our building will not be visible from the road and as we are reliant on tourism, an Industrial site will definitely affect our success.
- 3) The access road is definitely not adequately surfaced for Industrial use, and no provision or assessment for road improvements were made.
- 4) There is a reason why lower part of Kloof Street in Riebeek Kasteel is proposed for mixed use and not for Industry as we need to integrate the greater community between Riebeek Kasteel East and town, you can't do that with an Industrial property, in my eyes it is just dead space, does not serve the greater community, it just serves the owners whose property it is.
- 5) There are properties earmarked for Industrial, why on earth put Industrial between Mixed use, residential and agriculture ?

Please acknowledge the receipt of this email.

I thank you

Katja Weck/ Andrew Reynolds

CK RUMBOLL & VENNOTE / PARTNERS



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

Date: 14 September 2023

REF: 13181/RIEBK/JL/EM

Per Email

Attention: Mr A. Zaayman

The Municipal Manager

Swartland Municipality

Private Bag X52

MALMESBURY

7300

MUNISIPALITEIT SWARTLAND				
KLIP NO.	STREEK	VESTIGING	STADSTYPER	NUMMER
15/3/3-11	Erf	2260		
SSSB				
α	oe			
Ander Opdrag				
SPERDATUM				(ontv)

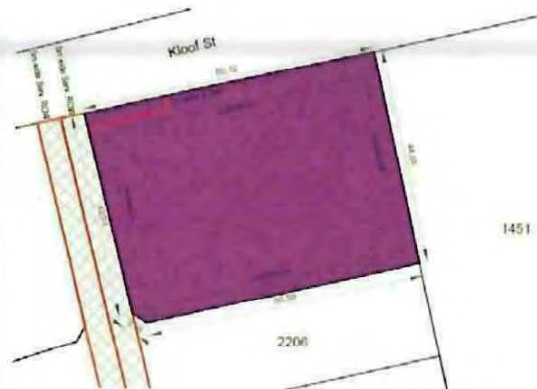
RESPONSE TO OBJECTIONS:

PROPOSED REZONING OF ERF 2260, RIEBEEK KASTEEL

Herewith formal response to the objection received from the owner(s) and/or interested parties, in relation to the application for the rezoning of Erf 2260, Riebeeck Kasteel, from Business Zone 2 to Industrial Zone 1 to allow for self-storage (warehouse). The objections (attached as **Annexure A**) were received on 16th August 2023. This response is arranged so that points raised by the objectors are embolden and numbered which is followed the respective response.



Erf 2260, Riebeeck Kasteel



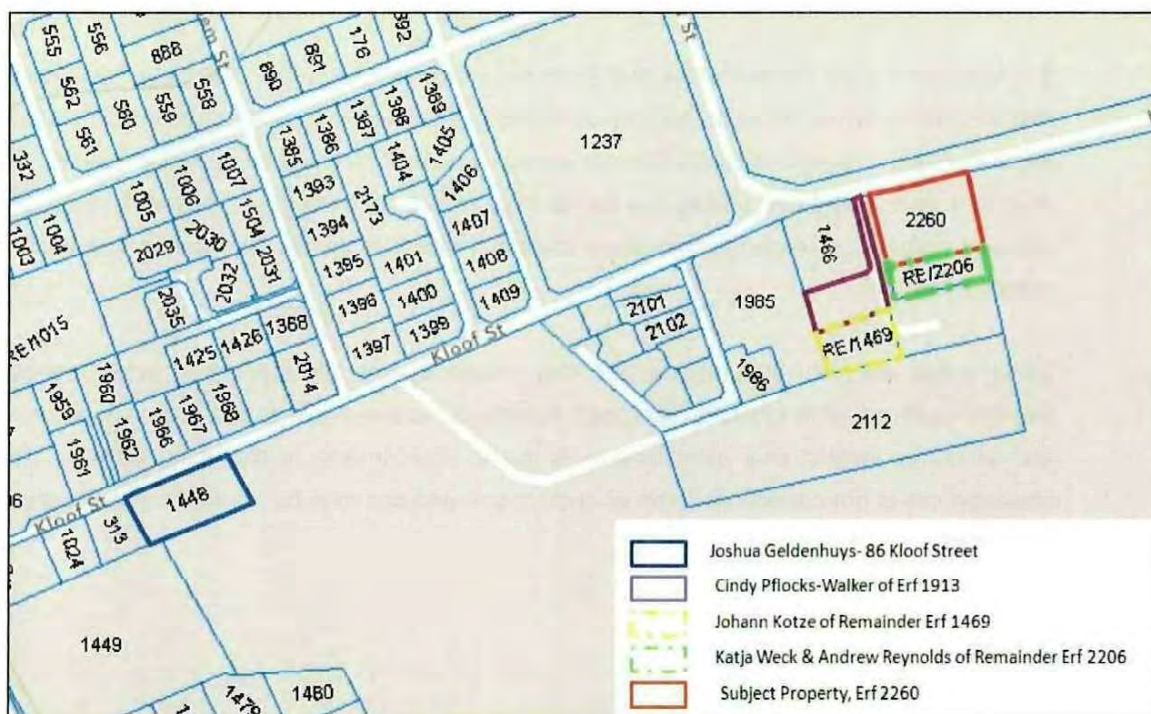


Figure 1: Localities of Public Participants

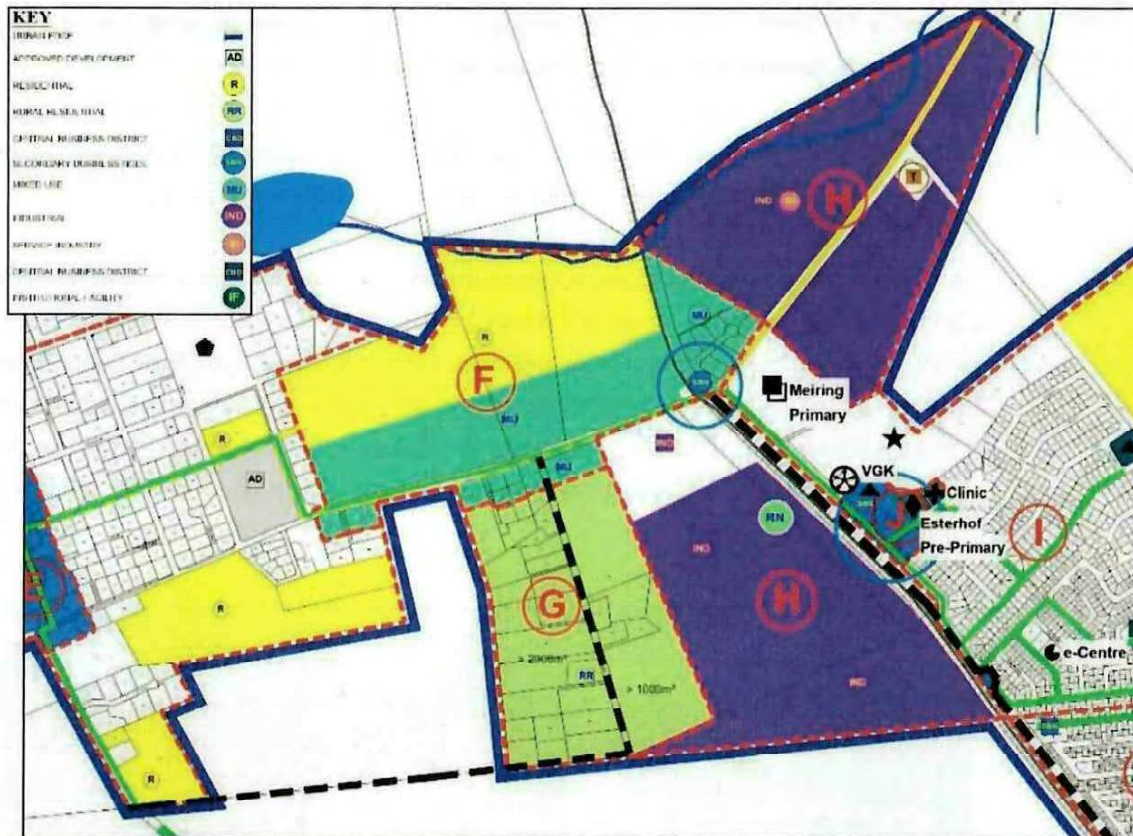
1. Joshua Geldenhuys - Vleitjies 86 Kloof Street

- a) *The proposal is in conflict with the Spatial Plans and Land Use Proposals because, according to the SDF, the subject property is earmarked for mixed use development. The term "Mixed Use" does not include uses relating to industrial development and thus the proposal is conflicts with the SDF. In addition, the SDF clearly identifies land elsewhere for industrial uses.*

Neither the Swartland Municipal Spatial Development Framework (SDF) nor the Development Management Scheme offers explicit definitions for the term "mixed use." Consequently, it would be incorrect to assume that "mixed use" inherently rules out industrial activities. Rather, the term "mixed use" is utilized in these documents to signify a blend of various land uses without prescribing specific combinations or restrictions. Notably, the SDF permits service trades and light industries within development zone F, the location of the subject property. However, it's crucial to observe that development zone F lacks any designated areas earmarked specifically for industries, as indicated by the color purple. Consequently, the logical inference is that the only plausible locations to consider the mentioned service trades and light industries are within areas designated for mixed-use development.

It is important to note further that the designation of industrial areas in the SDF does not translate that industrial activities will exclusively be permitted in these areas and cannot be accommodated anywhere else. It is also apparent that the areas earmarked for industrial development, for the most part; have agricultural zoning, are far too large for the needs of the proposed development, and lack services juxtaposed to the subject property which is of a more appropriate size and has access to services.

These areas are ideal for grouping, not only industrial uses which required more intensive services (such as electricity and wider road widths) but are also well suited to group industries that cannot be located near other land uses due to their noxious or disturbing activities. The proposed use is not considered to be of such nature and can thus be permitted in proximity of residential or other land uses.



RIEBEEK KASTEEL LAND USE ZONES		Low Density Residential Uses	Medium Density Residential Uses	High Density Residential Uses	Secondary Educational Uses	Place of Education	Professional Uses	Business Uses	Secondary Business Uses	Place of Worship	Institution	Guest houses	Authority	Sport/Recreational Facilities	Industries & Service Trade
F	Zone F is earmarked for residential infill development supported by mixed uses. This zone is earmarked for integrated development between Esterhof and central Riebeek Kasteel. Mixed density residential development with commercial opportunities along activity axis and at intersection of Kloof & Lelie Streets is proposed. Also allow for Place of Education in this zone.	X	X	X	X	X	X	X	X	X	X	X	X	X	X 3
(1) Along activity streets/corridors		Business Uses e.g. shop, supermarket, restaurant, offices, service station.													
(2) Service Trade		Place of Education e.g. Schools, places of instruction.													
(3) Service Trade and Light Industries		Professional Uses e.g. offices like doctors, dentists, attorneys, architects, engineers and town planners.													
(4) In accordance with historical character		Secondary Business Uses e.g. neighbourhood business uses such as house shops, small offices and home occupation. House taverns only to be allowed along activity streets in residential areas on discretion of the Municipality.													
(5) At identified business nodes		Secondary Educational Uses e.g. Crèches/day care.													
(6) Aimed at tourism		*Find description of proposed land uses for development zones in Annexure 4.													
(7) Sports facility															
(8) At identified mixed use node															
(9) At proposed future residential development nodes															

Figure 2: Riebeek Kasteel Land Use Zones, Swartland SDF 2023-2027

b) The proposal is in conflict with the IDP because it fails to integrate Riebeek Kasteel and the eastern part of Riebeek Kasteel based on the following points:

- i. Functional Integration: Industrial zoning and activity bordering this area would impact the prospects of safe and formal pedestrian walkways along this route;**

A walkway has already been created along the northern part of Kloof Street to facilitate safe and formal pedestrian travel. By creating the walkway, it encourages pedestrians to walk along this route as opposed to walking on the opposite side of Kloof Street, from where the proposed land use will obtain access and where no infrastructure is provided for pedestrians. Due to having the walkway on the opposite side of Kloof it reduces the interaction between pedestrians and vehicles wanting to access the proposed development.



Figure 3: Existing walkway along Kloof Street

- ii. Social Integration: Industrial Development and activity between Riebeek Kasteel East and Town does not aid social integration, it tends to create further divisions. In contrast, residential and commercial opportunities (Mixed Use) would better aid social integration;**

The proposal will not be of such a scale that the development acts as a barrier between Riebeek Kasteel and the Eastern portion of the town. Furthermore, there is no evidence that the proposed development will cause a social division in Riebeek and Esterhof. To maximize their positive impact, self-storage operators could engage with the community, contribute to local initiatives, and prioritize aesthetics, security, and safety. This integration can lead to a harmonious coexistence and a mutually beneficial relationship between the facility and the local community just as any other commercial facility can.

- iii. ***Wider variety of Housing Types: The IDP makes provisions for higher density development along the connecting route, which includes Erf 2260. Industrial Zoning and activity does not qualify as higher density development.***

It is important to take note that this particular goal/objective of the IDP exclusively prescribes different densities of housing types and the infill of higher density housing along the connecting route. Thus this goal/objective is not applicable to Industrial Zoning and focused more on the provision of higher density residential areas. This goal is an overarching objective and does not necessarily require that development of all individual erven needs to promote this. Although the proposal does not create residential opportunities, it will result in economic- and socio-opportunities which are also a core focus of the IDP. Furthermore, there is also an application in process at Swartland Municipality to establish residential uses on Erf 2111 and an application for a residential development has been approved on Erf 1237 Riebeek Kasteel. The higher densities required by the IDP are therefore being addressed in other land use proposals.

- iv. ***Erf 2260 is currently surrounded by new business, residential properties, and agricultural land. The visual aspect, noise and traffic generated by industrial activity would negatively impact the properties surrounding Erf 2260, which may result in adjacent property devaluation and lower rates.***

The purpose of the proposed facility is not to accommodate noxious trades that allows for activities which may be a source of nuisance for surrounding land owners. Nor is the purpose of the proposal to allow for repair work or manufacturing which involves heavy machinery that can disturb surrounding property owners. The purpose is to allow for self-storage which is an activity where individuals only visit from time to time and primarily use the facility to store goods. As such, the facility will yield little to no noise.

In regard to the visual impact of the proposed facility, it is crucial to take note that regardless of the zoning of Erf 2260, the type of development will impact the visibility of

the properties. The properties behind Erf 2260 will inevitably be impacted on the visibility from the direction of Kloof Street. However, the visual impact or value of the properties in question originates from the opposite direction of Kloof Street or to the south-west of the area. The figure below illustrates that properties receive more visual value from the opposite perspective.

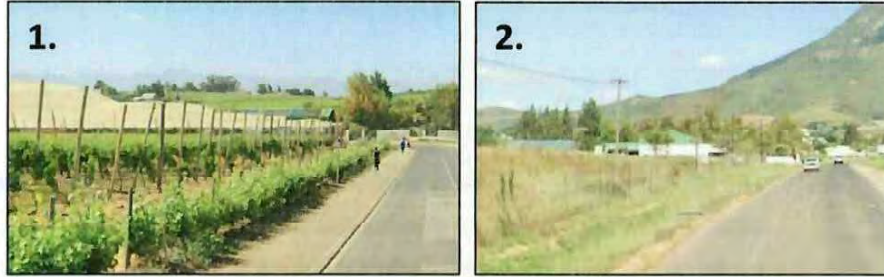


Figure 4: Visual receptors surrounding properties

Furthermore, the proposed facility will only be visible from a certain distance in relation to the corner of Kloof Street. The following figures will illustrate the points along Kloof Street where the visibility of the proposed facility will become visible from the road. This is due to the agricultural landscape and shade netting (from the north) and tree lines (from the east) that reduce the overall visible reception of the proposed facility.



Figure 5: Visual Reception from Kloof Street



Riebeek Kasteel does indeed have a heritage character and identity; however the surrounding area in proximity (the transition area between Riebeek Kasteel and Esterhof) is comprised of different uses that do not promote this heritage character of the town in comparison to the western and central parts of Riebeek Kasteel.

- v. ***The informal storm channel and farm dam adjacent to Erf 2260 is already used at its maximum capacity, so much so that the recent rains in June 2023 resulted in large-scale flooding in Herron Close due to the farm dam and storm channel overflowing. The said rezoning application does not make any provisions for water flows and storm management, which is particularly concerning given that the plan being applied for includes warehouses with large roofs.***

Swartland Municipality's services department is responsible for evaluating the proposals' storm water specifications. This department did not raise any object in this regard. Should this department deem it necessary, they can request a storm water management plan as a condition of approval which must be in place before building plan approval can be obtained. There is thus sufficient opportunity to address storm water should council deem it essential.

- vi. ***Kloof Street, the activity street adjacent to Erf 2260, is not wide enough to accommodate additional industrial traffic turning off it and it lacks traffic signage and speed curbing measures. The said rezoning application makes no provision for improvements on Kloof Street or an additional turning lane.***

Swartland Municipality's services department is responsible for evaluating the proposals' access. This department did not object to proposed access arrangement. It should be noted further that, as previously mentioned, self-storage facilities have low traffic flow due to the nature of the land use; therefore traffic impact will be minimal. The nature of the proposed land use will not be such that trucks are constantly moving to and from the property because storage will be the focus of the land use. The request to upgrade Kloof Street and to provide turning lanes is therefore unfounded, especially when considering that a large industry such as Riebeek Cellar does not even have dedicated turning lanes.

- vii. ***The gravel road accessed via Kloof Street, which would be used to access Erf 2260, is not sufficient to accommodate additional traffic, particularly industrial traffic. The said rezoning application does not include an assessment of the quality of the road to access the property, and makes no provisions for improvements required on this road.***

See response to point 1(b)(vi) above.

1. **Don King**

- a) ***I would like to formally support Josh's objection to this development and the rezoning. It makes no sense to have a residential site, a retail site, and agricultural site (the dam) and an industrial site all within a 5000m² area. I trust that the affected residents will be asked for input and would like to know why they were not informed of the rezoning or the proposed development as required.***

Please refer to the Section 1 of this response for the responses to the points raised by Mr. J Geldenhuys.

As far as identification of interested and affect parties are concerned, Swartland Municipality identifies the interested and affected parties during the public participation process, all interested and affected parties have been identified and given notice, furthermore, applications that include rezoning of land must include the advertising of the application trough the local newspaper of the relevant town/municipality as stated in Sections 55 (1) and (2) of the Swartland Municipal Land Use Planning By-Law (2020) thus, the advertising/notice of the application was " far- reaching".

Publication of notices

55. (1) Subject to section 54, the municipality must, in accordance with subsection (2), cause public notice to be given of the following applications:

(a) an application for a rezoning;

(2) Public notice of an application referred to in subsection (1) must be given by—

(a) publishing a notice with the contents contemplated in section 57 in newspapers with a general circulation in the area concerned in at least two of the official languages of the Province most spoken in the area concerned;

2. **Cindy Pflocks-Walker – Erf 1913**

- a) **Would like to have more detailed information, which shows what exactly the ERF will be used for and wanted to know the impact this development will be on my view, safety and value of my property. Industrial zoning was never mentioned to me upon purchasing my property.**

*Mrs Walker has been contact via email on Thursday 7th of September 2023 at 11:11 am to provide the requested engagement and information. Please refer to **Annexure B** for the email sent that addresses her comments along with her response.*

The property in question is proposed to be used exclusively for self-storage units, in which will have low levels of daily activity and minimal noise or emissions. There are no plans for heavy industry or any other industrial activities on the premises. The primary purpose of the rezoning is to allow for the operation of self-storage facilities, which are designed to be low-impact and compatible with surrounding areas.

Self-storage units are designed to have a minimal visual impact. The facility will be designed and constructed with aesthetics in mind and aim to blend into the surrounding environment. In terms of height, the facilities may be of similar height premises north of the objector's property (Erf 1466). In regard to safety, self-storage facilities typically have limited daily activity and do not generate a lot of daily foot traffic, which can lead to a quieter neighbourhood compared to other commercial or industrial properties. Storage Facilities have sufficient safety measures as they are designed and operated with security and safety in mind. Self-storage units, which are generally considered low-impact and should not devalue surrounding properties. Well-maintained facilities may have a more positive visual impact and thus potentially increase the property value. There is no grounds to suggest that any of the surrounding property values will be affected, notwithstanding that the Spatial Planning Land Use Management Act (SPLUMA) which prescribes the principles for guiding land use planning specifies in Section 59 (1), subsection (f) that: "*A competent authority contemplated in this Act or other relevant authority considering an application before it, may not be impeded or restricted in the exercise of its discretion solely on the ground that the value of land or property will be affected by the outcome.*"

It's important to note that rezoning applications and property disclosures can evolve over time, and sometimes, information may not be readily available at the time of purchase.

3. **Johan Kotze – Erf 1469**

- a) ***The objector does not want to live in an industrial area which will also reduce their property value. Having a residential property in an industrial area does not make sense.***

The proposed land use for the development on Erf 2260 will entail self-storage that will result in low impact activity on the facility. It is important to note and as previously mentioned in the response to Mr J Geldenhuys' comments that Erf 1466 is currently zoned as Industrial Zone 1 as well. The rezoning of a single property does not directly result in the surrounding area to become a "industrial zone", as the land uses of Erf 1466 (Service Trade) and the proposed Erf 2260 habit low-impact as opposed to the heavier industrial properties. There is no basis for assuming that approval of the application will result in the devaluation of adjacent property values. In terms of the Spatial Planning Land Use Management Act (SPLUMA) prescribes the principles for guiding land use planning. Among other principles, Section 59 (1), which divulges principles of spatial justice, specifies in subsection (f) that: "A competent authority contemplated in this Act or other relevant authority considering an application before it, may not be impeded or restricted in the exercise of its discretion solely on the ground that the value of land or property will be affected by the outcome."

- b) ***The access is too narrow to accommodate the influx of traffic and the increased traffic will result in deterioration of the access.***

In regard to the influx of traffic, due to the low active nature of self storage facilities that typically have limited daily activity and do not generate a lot of daily vehicular or foot traffic, which can lead to a quieter neighbourhood compared to other commercial or industrial properties. Thus the impact of a limited increase in traffic will have minimal impact on the road. As part of the land use process the application is circulated to the municipal service department which will prescribe the requirements pertaining to services which include road surface requirements.

4. **Katja Weck and Andrew Reynolds – Erf 2206**

- a) ***We purchased property with the understanding that our neighbouring property is commercial; otherwise we would not have bought and invested this amount of money. Our Investment will definitely devalue.***

There is no grounds to suggest that any of the surrounding property values will be affected, notwithstanding that the Spatial Planning Land Use Management Act (SPLUMA) which prescribes the principles for guiding land use planning specifies in Section 59 (1), subsection (f) that: *"A competent authority contemplated in this Act or other relevant authority considering an application before it, may not be impeded or restricted in the exercise of its discretion solely on the ground that the value of land or property will be affected by the outcome."*

- b) *Our building will not be visible from the road and as we are reliant on tourism, an Industrial site definitely will affect our success.***

Due to the position of Erf 2206 behind Erf 2260, the possibility always exists that any type of development, not just the proposal, would result in affecting the visual exposure of Erf 2206. Additionally, Erf 2206 has no inherent right or claim to be visible from Kloof Street.

- c) *The access road is definitely not adequately surfaced for Industrial Use, and no provision or assessment for road improvements was made.***

Refer to points 1(b)(vi) and a(b) above.

- d) *There is a reason why lower part of Kloof Street in Riebeek Kasteel is proposed for mixed use and not for Industry as we need to integrate the greater community between Riebeek Kasteel East and Town, you can't do that with an Industrial property, in my eyes it is just dead space, does not serve the greater community it just serves the owners of the property.***

As previously discussed, the Industrial areas identified in the SDF do not entail industrial activities exclusively to solely be permitted in these areas. Furthermore, the areas identified in the SDF for industrial development have not been serviced. The areas which have been identified are therefore unsuitable at this stage to accommodate industrial uses compared to Erf 2260.

Self-storage industrial properties have the potential to integrate with the local community by creating jobs, generating tax revenue, supporting local businesses, and offering storage solutions that benefit residents and businesses.

e) *There are properties earmarked for industrial, why on earth put Industrial between Mixed Use, residential and agriculture?*

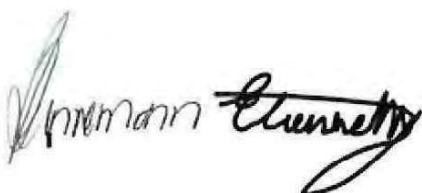
Erf 2260 and its surrounding properties consist out of different zonings and land uses, such as Industrial (Erf 1466), Residential (Erven 1913, RE/1469 and RE/1468) and Commercial (Erf RE/2206). As previously discussed in the response (Section 1) to Mr J Geldenhuys' comments, the term "mixed use" is utilized in these documents to signify a blend of various land uses without prescribing specific combinations or restrictions where Zone F from the SDF permits service trades and light industries. However, development Zone F lacks any designated areas earmarked specifically for industries, thus the only plausible locations to consider the mentioned service trades and light industries are within areas designated for mixed-use development.

It is important to note further that the designation of industrial areas in the SDF does not translate that industrial activities will exclusively be permitted in these areas and cannot be accommodated anywhere else. The objective for Industrial Zone 1 of the Swartland Municipal Land Use Planning By-Law (2020) (pg 108) states the following: *"The objective of this zone is to accommodate industrial uses and service trades that may be exercised without nuisance to other land or the general public. Such uses may be located next to business uses and near residential areas, and do not present a potentially negative impact on the character or enmity of such areas"*.

Therefore, along with the provisions of the SDF and the objective of the Planning By-Law, is industrial suitable to be included within mixed use and can be appropriately incorporated within the context of the surrounding area of Erf 2260.

It is respectfully requested that Swartland Municipality consider the application favourably and finalize the decision for the proposed rezoning of Erf 2260, Riebeeck Kasteel.

Regards



Jolandie Linnemann/Etienne Malan
for **CK RUMBOLL & PARTNERS**

ANNEXURE A: OBJECTION LETTER



CLEAN AUDITS SINCE 2010/11
SKOON OUDITS SEDERT 2010/11



Ons gee gestalte aan 'n beter toekoms!
We shape a better future!
Sakha ikusasa elingcono!

File ref: 15/3/3-11/Erf_2260

Enquiries:
Ms D N Stallenberg

16 August 2023

C K Rumboll & Partners
P O Box 211
MALMESBURY
7299

Dear Sir/Madam

PROPOSED REZONING OF ERF 2260, RIEBEEK KASTEEL

Your application with reference 13181/RIEBIEKL/JL/EM dated 30 June 2023 refers.

Kindly find attached the objections received by Don King, Joshua Geldenhuys, Cindy Pflocks-Walker, Johann Kotze and Katja Weck & Andrew Reynolds, during the commenting period.

Your comment on the objections is requested within 30 days from the date of this letter in order for Swartland Municipality to make a decision.

Yours sincerely

MUNICIPAL MANAGER
per Department Development Services

/ds

Hi Nicolette and Des

Further to my emails to Nicolette and Mr Burger on Friday morning (4th Aug) I would like to formally support Josh's objection to this development and the rezoning.

It makes no sense to have a residential site, a retail site, an agricultural site (the dam) and an industrial site all within a 5000 sq m area!

I trust that the affected residents will be asked for input and would like to know why they were not informed of the rezoning or the proposed development as required.

Kind regards

Don King

From: Joshua Geldenhuys [<mailto:joshuageldenhuys1@gmail.com>]

Sent: Monday, 07 August 2023 14:25

To: Johann <johann@calibrapmcs.co.za>

Cc: Nicolette Brand <BrandN@swartland.org.za>; Don King <donk@vipnet.co.za>; willemerika0@gmail.com; Manfred.Smit@westerncape.gov.za; elmienlameyer69@gmail.com; Helen Weber <h.m.weber@gmail.com>; D Bess <ubk2@swartland.org.za>

Subject: Re: Kommentaar vanaf Wykskomitee: Voorgestelde hersonering vanaf Sakesone 2 na Nywerheidsone 1, Erf 2260, Riebeek Kasteel

Hi All,

I have submitted my objection via email regarding the rezoning application of ERF 2260.

For reference, I have attached my submission here.

Kind regards,

Josh

Ulynn Julies

From: Joshua Geldenhuys <joshuageldenhuys1@gmail.com>
Sent: Monday, 07 August 2023 14:19
To: Registrasie Email
Subject: Objection to Rezoning Application - ERF 2260, Riebeek Kasteel
Attachments: Rezoning Application - ERF 2260 Riebeek Kasteel.pdf

Hello,

To The Swartland Municipal Manager and Town Planning Department:

I am writing this email to submit my objection to the rezoning application of ERF 2260 in Riebeek Kasteel from Business Zone 2 to Industrial Zone 1.

I have noted the above mentioned rezoning application in my capacity as Ward 12 committee member, where the application was submitted for review during our recent committee meeting held on 1 August 2023. I have attached a copy of the application for reference. My details as required are below.

Name: Joshua Geldenhuys

Address: Vleitjies, 86 Kloof Street, Riebeek Kasteel

Contact details: joshuageldenhuys1@gmail (preferred contact), 0724601970

Interest in application: I am a Ward 12 committee member, and my residence is in the nearby proximity of ERF 2260 and is adjacent to the same road (Kloof Street)

Reasons for comments: I am concerned about the rezoning of ERF 2260 to Industrial Zone 1 and how that fits into the Municipality's plans for Ward 12. Substantiating reasons are below:

1. Conflict with spatial plans and land use proposals

With reference to the land use proposals for Riebeek Kasteel, which can be found on the Swartland Municipality website at this link:

[http://www.swartland.org.za/media/docs/2023/Ontwikkelingsdienste_2023/Riebeek Kasteel Land Use Proposals May 2023.pdf](http://www.swartland.org.za/media/docs/2023/Ontwikkelingsdienste_2023/Riebeek_Kasteel_Land_Use_Proposals_May_2023.pdf)

Most land bordering either side of the lower part of Kloof Street in Riebeek Kasteel is proposed for Mixed Use ("MU" in turquoise in the map excerpt attached below). ERF 2260, the subject of the rezoning application, is part of this Mixed Use plan.

Mixed Use does not make provisions for such land to be used for Industrial Zone 1 activity, hence why the said rezoning application conflicts with Riebeek Kasteel's land use proposals.

Additionally, the land use proposal map makes sufficient land available for industrial usage in other parts of the eastern Riebeek Kasteel, as indicated with "IND" in purple on the map, and industrial development should be encouraged in these areas only.



2. Conflict with Swartland IDP

With reference to the Swartland Integrated Development Plan (IDP) 2023, which can be found on the Swartland Municipality website at this link:

<http://www.swartland.org.za/media/docs/2023/IDP and PMS/IDP 2023 Final May 2023-05-24 .pdf>

While the IDP makes provisions for various plans in Ward 12 (Riebeeck Kasteel), it puts significant emphasis on the point of integrating Riebeeck Kasteel East (also referred to as Esterhof) with Riebeeck Kasteel Town.

Page 60 of the linked IDP summarizes the related goals and milestones for integrating Riebeeck Kasteel East with the Town, shown in the excerpt below:

Wards	Towns	Functional Integration	Social Integration	Offer a wider variety of housing types	Spatial Integration
Ward 7	Kalbaskraal & Abbotsdale	Improved social infrastructure in central location accessible to community.	Public areas along Diep River to be integrated into an open space system.	Support subdivisions of larger erven to increase densities.	
Wards 8 to 11	Malmesbury, Wesbank & Illege Lethu	More social and commercial services in Wesbank and Illege Lethu along activity streets within walking distance.	An integrated and active open space network along Diep and Platteklip Rivers. Integrated community sport facilities.	Different housing typologies and densities in brown field developments	Mixed uses along Bokomo/Darling Road to integrate Malmesbury and Wesbank. Develop between Malmesbury and Abbotsdale.
Ward 12	Riebeeck Kasteel	A commercial and social node in Riebeeck Kasteel East. Promote formal pedestrian walkways between Riebeeck Kasteel and Riebeeck Kasteel East.	Development reinforced along connecting route between Riebeeck Kasteel and Riebeeck Kasteel East.	Different housing typologies densities in brown field developments. Infill higher density development along connecting route.	Mixed use along link road between Riebeeck Kasteel East and central part of Riebeeck Kasteel.

BULK INFRASTRUCTURE CAPACITY

The development of land is dependent on availability of bulk infrastructure and services and contributes to the economy and future development in Swartland settlements. The need for water and sewerage infrastructure is very high in Chatsworth and Riverlands. Overall there is a need for upgraded water infrastructure in all settlements except Malmesbury. Improved sewerage capacity is required in Koringberg, Moormeisburg, Kalbaskraal, Darling and Yzerfontein. The need for increased electrical capacity, although indicated as medium, is high in Illege Lethu (9) and Saamstaan (11) as it is also required to unlock the catalytic project planned at De Hoop. Electricity upgrades are also required in Riebeeck West and Kasteel.

Green / renewable projects for Swartland are provided for in Malmesbury and Darling.

60

The application for rezoning ERF 2260 to Industrial Zone 1 conflicts with the IDP on the following points:

- **Functional Integration:** Industrial zoning and activity bordering this area would impact the prospects of safe and formal pedestrian walkways along this route.
- **Social Integration:** Industrial development and activity between Riebeeck Kasteel East and Town does not aid social integration, it tends to create further divisions. In contrast, residential and commercial opportunities (Mixed Use) would better aid social integration.
- **Wider variety of housing types:** The IDP makes provisions for higher density development along the connecting route, which includes ERF 2260. Industrial zoning and activity does not qualify as higher density development.
- **Spatial Integration:** This issue is dealt with by the proposed land usage (Mixed Use) and in my first point in this email.

3. Additional reasons for objection

- ERF 2260 is currently surrounded by new businesses, residential properties, and agricultural land. The visual aspect, noise and traffic generated by industrial activity would negatively impact the properties surrounding ERF 2260, which may result in adjacent property devaluation and lower rates.
- The informal storm channel and farm dam adjacent to ERF 2260 is already used at its maximum capacity, so much so that the recent rains in June 2023 resulted in large-scale flooding in Herron Close due to the farm dam and storm channel overflowing. The said rezoning application does not make any provisions for water flows and storm management, which is particularly concerning given that the plan being applied for includes warehouses with large roofs.
- Kloof Street, the activity street adjacent to ERF 2260, is not wide enough to accommodate additional industrial traffic turning off it and it lacks traffic signage and speed curbing measures. The said rezoning application makes no provision for improvements on Kloof Street or an additional turning lane.
- The gravel road accessed via Kloof Street, which would be used to access ERF 2260, is not sufficient to accommodate additional traffic, particularly industrial traffic. The said rezoning application does not include an assessment of the quality of the road to access the property, and makes no provisions for improvements required on this road.

Please reply to this email to confirm receipt.

Kind regards,

Joshua Geldenhuys

Delmary Stellenberg

From: Cindy Pflocks-Walker <syddieb@gmail.com>
Sent: 06 August 2023 11:22 AM
To: Delmary Stellenberg; Registrasie Email
Subject: Re: Voorgestelde hersonering van Erf 2260, Riebeek Kasteel
Attachments: SKM_75823071414592 - ERF 2260 Riebeek Kasteel.pdf

Dear Madam/Sir

My name is Cindy Pflocks-Walker, I reside at 1913 Kloof Street Riebeek Kasteel.

I have the following Comments/Objections regarding property ERF 2260 (please see attachment) and the development that will be happening in front of my house.

- 1.) I would like to have more detailed information, which shows what exactly the ERF will be used for.
- 2.) I would like to know the impact this development will be on my view, safety and value of my property. Industrial zoning was never mentioned to me upon purchasing my property.

I look forward to hearing from you and would appreciate more clarity in this regard.

I trust this is in order

Kindest Regards

Cindy Pflocks Walker

On Mon, Jul 17, 2023 at 3:08 PM Delmary Stellenberg <StellenbergD@swartland.org.za> wrote:

Goeiedag/ Good Day

Aangeheg vind skrywe rakende die hersonering van Erf 2260, Riebeek Kasteel vir u aandag.

Attached find letter regarding the rezoning of Erf 2260, Riebeek Kasteel for your attention.

Vriendelike groete/ Kind regards

From: scan@swartland.org.za <scan@swartland.org.za>
Sent: Friday, 14 July 2023 15:00

To: Delmary Stellenberg <StellenbergD@swartland.org.za>
Subject: Message from KM_758

This e-mail is subject to an e-mail disclaimer. Read email disclaimer notice:

<http://www.swartland.org.za/pages/english/disclaimer.php> Alternatively please contact us on +27 22 487 9400

****POPIA DISCLAIMER****

POPIA DISCLAIMER: Swartland Municipality complies with the Protection of Personal Information Act, Act 4 of 2013 (POPIA) and has adopted a privacy policy to this effect. Data Subjects who submit their personal information to the municipality's Responsible Parties or Processors confirm that they have read and understand the municipality's POPIA Policy. Such Data Subjects agree that their personal information may be recorded and processed by the municipality in executing its day-to-day activities. Swartland Municipality only collects as much information as is necessary to fulfil the intended purpose for which the information is collected. Data Subjects submitting personal information confirm that they are aware of their rights, such as the right to request that their personal information be amended or removed from the municipality's records at any time.

From: Kotze, Johann <JKotze@fnb.co.za>
Sent: Monday, 07 August 2023 16:23
To: Registrasie Email <RegistrasieEmail@swartland.org.za>
Cc: Kotze, Mariana <Mariana.Kotze@fnb.co.za>
Subject: FW: Voorgestelde hersonering van Erf 2260, Riebeek Kasteel - [External Email]

Good day Swartland Municipality.

I trust you are well?

My Name is Johann Kotze and im the owner of ERF 1469 Kloof Street Riebeek Kasteel. My contact number is 072 637 2942 and I prefer to be contacted via this email being used.

Me and my wife Mariana Kotze bought the property in December 2022 to raise our child in a safe and farm environment. We knew about Nexus on the edge of the property and the type of business they are, and we accept that. What we don't want is to live in an industrial area where it would bring down the value of my property/investment at the end of the day due the property being in an industrial zone. No one builds a house in an industrial environment. It does not make sense.

I do not see that the narrow part of Kloof street that ERF 2260 is next to will be wide enough to handle the influx of traffic this rezoning will have in affect, not even to mention the gravel road that is leading towards our property. The amount of traffic it is currently receiving and the winter rains we received thus far washed part of the gravel away and we had to contact the Municipality to come fix. Can you imagine what damage the increased traffic will have?

Please note that with this email I **OBJECT AGAINST** the rezoning of ERF 2260 Riebeek Kasteel from Business Zone 2 to Industrial Zone 1.

Please can you confirm receipt of my email and objection against the rezoning.

Regards



Johann Kotze
Relationship Manager
Corporate Growth, Merchant Services,

○ JKotze@fnb.co.za
○ +27 87 335 6168 / 072 637 2942

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For more information regarding the full legal disclaimer pertaining to this email, visit our website or download the FNB App.

From: Katja Emanuel <katja@hotmail.co.za>
Sent: 07 August 2023 17:54
To: Registrasie Email <RegistrasieEmail@swartland.org.za>
Cc: Herman Olivier <OlivierH@swartland.org.za>
Subject: Objection to Rezoning Application- erf 2260 Riebeek Kasteel

This email comes from KATO2 (PTY) LTD
we are the owners from erf 2206. Katja Weck and Andrew Reynolds.
Date 7/8/2023.
Plse send all correspondence to katja@hotmail.co.za
Phone no 0834598953

Good Afternoon.

I am writing this email to submit my objection
to the rezoning application of erf 2260 in Riebeek Kasteel from Business Zone to Industrial
Zone 1.

The following reasons I have a concern with:

- 1) We purchased property with the understanding that our neighboring property is
Commercial, otherwise we would not have bought and invested this amount of money. Our
Investment will definitely devalue.
- 2) Our building will not be visible from the road and as we are reliant on tourism, a Industrial
site definitely affect our success.
- 3) The access road is definitely not adequately surfaced for Industrial use, and no provision or
assessment for road improvements were made.
- 4) There is a reason why lower part of Kloof Street in Riebeek Kasteel is proposed for mixed
use and not for Industry as we need to integrate the greater community between Riebeek
Kasteel East and town, you can't do that with an Industrial property, in my eyes it is just dead
space, does not serve the greater community, it just serves the owners who's property it is.
- 5) There are properties earmarked for Industrial, why on earth put Industrial between Mixed
use, residential and agriculture ?

Please acknowledge the receipt of this email.

I thank you

Katja Weck/ Andrew Reynolds

ANNEXURE B: CORRESPONDENCE FROM ERF 1913

Planning Rumboll

From: Planning Rumboll [planning4@rumboll.co.za]
Sent: 07 September 2023 11:11 AM
To: 'syddieb@gmail.com'
Subject: Proposed Rezoning of Erf 2260, Riebeek Kasteel- Response to Public Comments

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: Red Category

Dear Cindy,

I trust this finds you well.

Thank you for reaching out and sharing your comments and concerns sent to Swartland on the 6th of August 2023, regarding the land use application for the rezoning of Erf 2260. Your input is valuable, and we appreciate your engagement in this matter.

I would like to address the points you raised:

1. *I would like to more detailed information, which shows what exactly the ERF will be used for:*

The property in question is proposed to be used exclusively for self-storage units, in which will have low levels of daily activity and minimal noise or emissions. There are no plans for heavy industry or any other industrial activities on the premises. The primary purpose of the rezoning is to allow for the operation of self-storage facilities, which are designed to be low-impact and compatible with surrounding areas. We aim to be as transparent as possible about the intended use of the property, and I hope this clarifies any doubts you may have had.

2. *I would like to know the impact this development will be on my view, safety and value of my property. Industrial Zoning was never mentioned to me upon purchasing my property:*

❖ **Impact on Your View**

We understand that the view from your property is a significant consideration. I can assure you that self-storage units are designed to have a minimal visual impact. The facility will be designed and constructed with aesthetics in mind and aim to blend into the surrounding environment. In terms of height, the facilities may be of similar height premises north of your property (Erf 1466).

❖ **Safety Concerns**

While I understand that safety remains a paramount concern. Self-storage facilities typically have limited daily activity and do not generate a lot of daily foot traffic, which can lead to a quieter neighborhood compared to other commercial or industrial properties. Storage Facilities have sufficient safety measures as they are designed and operated with security and safety in mind. Such measures include surveillance, access control, on-site management, fire safety regulations and maintenance regulations that should be up to a certain standard in the respective regulations relating to safety.

❖ **Property Value**

We understand your concern about the potential impact on property values. While rezoning can have an effect on property values, the impact can vary depending on various factors, including the type of development, location, and market conditions. As mentioned earlier, the rezoning is for self-storage units, which are generally considered low-impact and should not significantly devalue surrounding properties. Well-maintained facilities may have a more positive visual impact and thus potentially increase the property value.

Regarding the mention of industrial zoning not being communicated during your property purchase. It's important to note that rezoning applications and property disclosures can evolve over time, and sometimes, information may not be readily available at the time of purchase. We appreciate your understanding in this matter.

If you have any further questions or require additional information, please do not hesitate to reach out.

Kind Regards,

Etienne Malan

Town Planner

CK Rumboll and Partners

16 Rainier Street, Malmesbury

022 482 1845





Infrastructure
Vanessa Stoffels
Chief Directorate: Road Planning
Vanessa.Stoffels@westerncape.gov.za | Tel: 021 483 4669

Ref: DOI/CFS/RP/LUD/REZ/SUB-26/... (Job 30495)

The Municipal Manager
Swartland Municipality
Private Bag X52
MALMESBURY
7299

Attention: Ms DN Stallenberg

Dear Madam

ERF 2260, RIEBEEK KASTEEL: PROPOSED REZONING

1. Your letter to this Branch referenced 15/3//3-11/Erf_2260 dated 14 July 2023 refers.
2. In terms of Section 66(3), of the Roads Ordinance 19 of 1976 has Divisional Road 1154 (Pieter Cruythoff Avenue), ceased to exist as a Divisional Road under the jurisdiction of this Branch and continues to exist as a municipal street under the sole jurisdiction of the Swartland Municipality.
3. Notwithstanding this Branch offers no objection to the proposal.

Yours Sincerely

A handwritten signature in black ink, appearing to read "SW Carstens".

SW CARSTENS

For DEPUTY DIRECTOR-GENERAL: TRANSPORT INFRASTRUCTURE BRANCH

DATE: 3 August 2023

ENDORSEMENTS

1. Swartland Municipality
Attention: Ms DN Stallenberg (e-mail: swartlandmun@swartland.org.za)
2. CK Rumboll & Partners
Attention: Mr E Malan (e-mail: reception@rumboll.co.za)
3. District Roads Engineer
Paarl
4. Mr E Smith (e-mail)
5. Mr D Fortuin (e-mail)
6. Mr S Carstens (e-mail)