



MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING HELD IN THE BANQUETING HALL, MALMESBURY ON WEDNESDAY, 10 AUGUST 2022 AT 14:00

PRESENT

Internal members:

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

External members:

Ms C Havenga
Mr C Rabie

Other officials:

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

1. OPENING

The chairperson opened the meeting and welcomed members.

2. APOLOGY

No apologies were received.

3. DECLARATION OF INTEREST

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

4. MINUTES

4.1 MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON 8 JUNE 2022

UNANIMOUSLY RESOLVED

That the minutes of a Municipal Planning Tribunal Meeting held on 8 June 2022 are approved and signed by the chairperson.

5. MATTERS ARISING FROM MINUTES

5.1 MINUTES OF MUNICIPAL PLANNING TRIBUNAL HELD ON 8 JUNE 2022

None.

6. MATTERS FOR CONSIDERATION

6.1 PROPOSED DEPARTURES OF DEVELOPMENT PARAMETERS ON ERF 1774, YZERFONTEIN (15/3/4-14) (WARD 5)

The chairperson requested the author of the item, Mr A J Burger, to give background on the application received for the departures of development parameters on Erf 1774, Yzerfontein.

Mr Burger mentioned that the sunroom on Erf 1774 is illegally erected and together with the proposed carport a total of four zoning parameters are encroached.

It is confirmed that the departure from the permissible 50% coverage in Pearl Bay area is unprecedented even though there are many large double storey dwellings. The proposed carport is excessive in size resulting in a coverage (excluding the illegal sunroom) of 56,25%. The illegal sunroom of 45 m² results in a coverage of 54,4%. Mr Burger stated that there is not merit in permitting coverage of 63% (carport and illegal sunroom) on Erf 1774, Yzerfontein.

The Municipal Planning Tribunal, considering the application received, discussed the options available and the impact thereof on the objectors. It is proposed that the sunroom be cut back in order to comply with the 2 m rear building line resulting in a coverage of 52,6% which is more acceptable.

RESOLUTION

- A. The application for the departures of the development parameters on Erf 1774, Yzerfontein applicable to the proposed carport, be refused in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), including the following:
 - 1. Departure of the 4 m street building line to 0 m for the erection of a carport;
 - 2. Departure of the 1,5 m side building line (south western boundary) to 0 m for the erection of a carport;
 - 3. Departure of the permissible width of 6,5 m for a carport to allow a 8,56 m wide carport;
- B. The application for the departure of the development parameters on Erf 1774, Yzerfontein applicable to the sunroom, be refused in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), including the following:
 - 1. Departure of the 2 m rear building line to 0 m for the erection of a sunroom;
- C. The application for the departure of the development parameters on Erf 1774, Yzerfontein applicable to the coverage in respect of the sunroom, be approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), including the following:
 - 1. Departure of the permissible coverage of 50% to 52,6% (sunroom complying with 2 m rear building line);
- D. **GENERAL**
 - (a) The illegal building work (sunroom) inside the 2 m rear building line be demolished within a period of 3 months after the decision making process on the application has been finalised;
 - (b) The applicant/objectors be notified of the outcome and their right to appeal in terms of Chapter VII, Section 89 of the By-law;
- E. Reasons for the refusal of the proposed carport:
 - (a) The proposed carport is excessive in size;
 - (b) The coverage (excluding the illegal sunroom and including the proposed carport) is 56,25%. Departures from the permissible 50% coverage in the Pearl Bay area are unprecedented;
 - (c) There are no street building line departures in Fynbos Street;
- F. Reasons for the refusal in respect of the sunroom:
 - (a) The sunroom is an illegal structure without building plan approval;
 - (b) The illegal building work has been done outside the permitted land use rights of the Residential Zone 1 zoning;

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- (c) The coverage (including the illegal sunroom and excluding the proposed carport) is 54,4%. Departures from the permissible 50% coverage in the Pearl Bay area are unprecedented;
- (d) Adjoining affected property owners object to the proposed departures as their right to views and possible impact on property values have been affected negatively;
- (e) The departure cannot be recommended as it will influence decision making on future departures of development parameters negatively;

G. Reasons for the approval in respect of the sunroom (if complying with 2 m rear building line):

- (a) By demolishing a portion of the sunroom to comply with the 2 m rear building line will bring the total footprint of the existing building work to 379 m². This results in a coverage of 52,6 % which is more acceptable in the context of the Pearl Bay area where departures of the permissible 50% coverage is unprecedented;
- (b) The objectors concerns regarding the possible impacts on their property values and rights to views are respected;
- (c) The objectors did not object to the departure of the permissible coverage.

6.2 PROPOSED PERMANENT DEPARTURES ON ERF 2123, YZERFONTEIN (15/3/4-14) (WARD 5)

The author, Ms A de Jager, discussed the various departures applied for on Erf 2123, Yzerfontein and the reasons why some of the departures are not supported.

It is confirmed that the erf is vacant and that the development is subject to the legislative framework that is applicable at the time of the development. Ms de Jager stated that if the entire dwelling is designed to adhere to the prescribed street building lines (excluding the garage to encroach on the side building line) it will have a minimal impact on the circulation space inside the dwelling and will further result in a coverage of $\pm 51\%$ instead of 59%.

RESOLUTION

- A. Application for departure on Erf 2123, Yzerfontein, 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 depart from the 4 m northern street building line to 3 m on both the ground floor and first floor level, be refused;
- B. Application for departure on Erf 2123, Yzerfontein, 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 depart from the 3 m eastern street building line to 2,5 m on ground floor level and from 3 m to 2,37 m on first floor level, be refused;
- C. Application for departure on Erf 2123, Yzerfontein, 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 depart from the 1,5 m western side building line to 1 m on ground floor and first floor level, in order to accommodate the proposed bedroom and pool, be refused;
- D. Application for departure on Erf 2123, Yzerfontein, 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 exceed the maximum permissible erf coverage to 59%, be refused;
- E. Application for departure on Erf 2123, Yzerfontein, in terms of Section 25(2)(b) of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 25 March 2020), is made in order to depart from the 1,5 m southern and western side building lines to 0 m, be approved, subject to the conditions that:

E1 TOWN PLANNING AND BUILDING CONTROL

- (a) The 1,5 m southern building line be departed from to 0 m;
- (b) The 1,5 m western side building line be departed from to 0 m;

- (c) Both (a) and (b) above be restricted to the portions of the garage that encroaches on the building line, as presented in the application;
- (d) Building plans be submitted to the Senior Manager: Built Environment for consideration and approval;
- (e) No openings, windows or doors, be allowed in the façades that encroach on the building lines;
- (f) The roof of the garage that encroach on the building lines be in no way utilised as terraces, balconies or any such use and that said portions be made inaccessible for such use;
- (g) Storm water be managed on the property itself and construction measures be taken to ensure no storm water run-off is directed to the abutting properties;

F. GENERAL

- (a) The approval be, in terms of section 76(2)(w) of the By-Law, valid for 5 years. All conditions of approval must be implemented within these 5 years, without which, the approval will lapse and occupation will not be granted. Should all the conditions of approval be met before the 5 year approval period lapses, the approval period will not be applicable anymore;
- (b) The applicant/objector be informed of the right to appeal against the decision of the Municipal Planning Tribunal, within 21 days of the notice, in terms of section 89(2) of the By-Law;

G. The application be partially supported for the following reasons:

- (a) Application for departure is an acceptable mechanism provided for by the By-Law, in order to deviate from the required development parameters;
- (b) The impact of the garage departures has been evaluated and deemed to have either minimal or no impact on the surrounding area with regards to views, safety, access, privacy and health concerns;
- (c) The proposed garages optimally utilise the narrowest portion of the property while providing the required number of parking bays on the property;
- (d) The side building line departure will have no impact on the residential character of the area, as the land use will remain unchanged;
- (e) The approved side building line departures are considered desirable within the spatial context;
- (f) The departure by the proposed garage will have no impact on the views from southern properties, as the erf is located much lower than said erven;

H. The application be partially refused for the following reasons:

- (a) An increase in coverage to 59% will constitute an over-development of the property, beyond the intended capacity. Such a high coverage is more suited to another zoning category, which is not consistent with the spatial planning of the area;
- (b) Application for departure from coverage may again be made at building plan stage, if the design has been amended and the proposed coverage remains above 50%, but is more consistent with the parameters of Residential Zone 1;
- (c) The property area was known at time of purchase and the decision could have been made at that point that it did not suit the needs of the owner/developer;
- (d) The property is vacant and subject to the current applicable legislative framework, thus no claims may be made on development parameters that were previously applicable;
- (e) The street building line departures are not consistent with the departure criteria stipulated in section 12 of the By-Law;
- (f) The By-Law restricts building line departure to the ground floor and departure from any building line on first floor level is considered undesirable, due to its impact on privacy, views, the street scape, human scale within a residential neighbourhood, blocking of natural light, the character of the area, etc.

6.3 APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE CONDITIONS AS WELL AS REZONING OF ERF 515, YZERFONTEIN (15/3/3-14, 15/3/5-14) (WARD 5)

Mr H Oliver mentioned that the application was referred back by the Municipal Planning Tribunal in March 2022 in order for the application to include the removal of restrictive title conditions, as well as the rezoning of Erf 515, Yzerfontein.

The purpose of the application is to rezone the property from Residential Zone 1 to Business Zone 2 in order to utilise the property for commercial purposes.

RESOLUTION

- A. The application for the removal of title deed restrictions on Erf 515, Yzerfontein, in order to remove the restrictive conditions C3 and C6(a) registered in Title Deed T51963/2021, be approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), subject to the conditions that:

A1 TOWN PLANNING AND BUILDING CONTROL

- (a) The restrictions to be removed read as follows:

3. No building on this erf shall be used or converted to use for any purpose other than permitted in terms of these conditions.

6. (a) This erf shall be used solely for the purpose of erecting thereon one dwelling or other buildings for such purposes as the Administrator may, from time to time after reference to the Townships Board and the local authority, approve, provided that if the erf is included within the area of a Town Planning Scheme, the local authority may permit such other buildings as are permitted by the scheme subject to the conditions and restrictions stipulated by the scheme.

- (b) The applicant/owner applies to the Deeds Office to amend the title deed in order to reflect the removal of the restrictive conditions;
- (c) The following minimum information be provided to the Deeds Office in order to consider the application, namely:
- (i) Copy of the approval by Swartland Municipality;
 - (ii) Original title deed, and
 - (iii) Copy of the notice which was placed by Swartland Municipality in the Provincial Gazette;
- (d) A copy of the amended title deed be provided to Swartland Municipality for record purposes, prior to final consideration of building plans;

- B. The application for the rezoning of Erf 515, Yzerfontein from Residential Zone 1 to Business Zone 2, be approved in terms of section 70 of the Swartland Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), subject to the conditions that:

B1 TOWN PLANNING AND BUILDING CONTROL

- (a) The use of the business premises be restricted to shops and/or offices;
- (b) Building plans be submitted to the Senior Manager: Built Environment for consideration and approval;

B2 WATER

- (a) A single water connection be provided and no additional water connections be provided;

B3 SEWERAGE

- (a) The property be provided with a conservancy tank of minimum 8 000 litre capacity and that the tank be accessible to the municipal service truck via the street;

B4 STREETS AND STORMWATER

- (a) The proposed parking area, including the access to Buitenkant Street, be provided with a permanent dust free surface in accordance with the plan in Annexure "C". The materials used be pre-approved by the Director: Civil Engineering Services on building plan stage;

B5 REFUSE REMOVAL

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

B6 DEVELOPMENT CHARGES

- (a) The development charge towards the regional bulk supply of water amounts to R9 788.80 and be for the account of the owner/developer payable at building plan stage. The amount is due to the Swartland Municipality, is valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA: 9/249-176-9210);
- (b) The fixed development charge towards bulk water reticulation amounts to R7 985.60 and be for the account of the owner/developer payable at building plan stage. The amount is due to the Municipality, is valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA 9/249-174-9210);
- (c) The fixed development charge towards wastewater treatment to the amount of R16 486,40 be for the account of the owner/developer payable at building plan stage. The amount is due to the Municipality, is valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA 9/240-183-9210);
- (d) The fixed development charge towards sewerage amounts to R 11 076.80 and be for the account of the owner/developer payable at building plan stage. The amount is due to the Municipality, is valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA 9/240-184-9210);
- (e) The fixed development charge towards streets amounts to R12 880,00 and be for the account of the owner/developer payable at building plan stage. The amount is due to the Municipality, is valid for the financial year of 2022/2023 and may be revised thereafter. (mSCOA 9/249-188-9210);
- (f) The fixed development charge towards storm water to the amount of R15 198,40 be for the account of the owner/developer payable at building plan stage. The amount is due to the Municipality, is valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA 9/248-144-9210);
- (g) The Council resolution of May 2022 provides for a 35% discount on development charges to Swartland Municipality. The discount is valid for the financial year 2022/2023 and may be revised thereafter. The discount is not applicable to B6(a);

C. GENERAL

- (a) Should it be necessary to upgrade any existing services in order to accommodate the access or service connections of the proposed development, the cost thereof be for the developer's account;
- (b) The approval is, in terms of section 76(2)(w) of the By-Law, valid for a period of 5 years. The owner/developer be responsible to ensure that every condition of approval is complied with. Should all conditions not be met by the end of 5 years, the land use approval will lapse. However, should the conditions of approval be met before the 5 year period lapses, the land use will be permanent and the approval period will not be applicable anymore;
- (c) The applicant/objectors be informed of the right to appeal against the decision of the Municipal Planning Tribunal, within 21 days of the notice, in terms of section 89(2) of the By-Law;

D. The application be supported for the following reasons:

- (a) There are no physical restrictions on the property that will have a negative impact on the proposed application;
- (b) The SDF, 2019 supports the accommodation of professional services, business uses as well as secondary business uses along activity streets or at the existing node. Buitenkant Street is an identified activity street;
- (c) The proposed application is consistent with and not in contradiction to the Spatial Development Frameworks adopted on Provincial, District and Municipal levels;
- (d) The proposed application will not have a negative impact on the character of the area;
- (e)/...

6.3/D...

- (e) 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;
- (f) The proposal will not have a significant impact on traffic in Buitenkant Street;
- (g) The amended site plan was approved by the Director: Civil Engineering Department with regard to the parking layout.

6.4 PROPOSED SUBDIVISION ON ERF 1262, YZERFONTEIN (15/3/6-14) (WARD 5)

The application entails the subdivision of Erf 1262, Yzerfontein into portion 1 (506 m² in extent) and portion 2 (529 m² in extent). Mr Burger confirmed that the subdivided portions complies with the Spatial Development Framework and is seen as low density residential development.

RESOLUTION

- A. The application for the subdivision of Erf 1262, Yzerfontein be approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2021), subject to the conditions that:

A1 TOWN PLANNING AND BUILDING CONTROL

- (a) Erf 1262, Yzerfontein (1036m² in extent) be subdivided into portion 1 (506m² in extent) and portion 2 (529m² in extent) as presented in the application;
- (b) The legal certificate which authorises transfer of the subdivided portions in terms of Section 38 of the By-Law will not be issued unless all the relevant conditions have been complied with;

A2 WATER

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

A3 SEWERAGE

- (a) Each subdivided portion be provided with a conservancy tank which is accessible for the sewerage truck from the municipality road. This condition is applicable at building plan stage;

A4 ELECTRICITY

- (a) The subdivided portion be provided with a separate electrical connection point and related costs be for the account of the owner/developer;
- (b) Any costs incurred through the relocation of electrical cables over the subdivided portions, be for the account of the owner/developer;
- (c) Any electrical interconnection be isolated and completely removed;
- (d) The electricity connection be joined to the existing low voltage network;

A5 DEVELOPMENT CHARGES

- (a) The development charge of R5 445,25 towards the bulk supply of regional water be for the account of the owner/developer payable at clearance stage. The amount is due to the Swartland Municipality, is valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA 9/249-176-9210);
- (b) The development charge of R4502,25 towards bulk water distribution be for the account of the owner/developer payable at clearance stage. The amount is due to the Municipality, is valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA: 9/249-174-9210);
- (c) The development charge of R5 612,00 towards sewerage be for the account of the owner/developer payable at clearance stage. The amount is due to the Municipality, is valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA: 9/240-184-9210);
- (d) The development charge of R8 280,00 towards waste water treatment works be for the account of the owner/developer payable at clearance stage. The amount is due to the Municipality, is valid for the financial year of 2022/2023 and may be revised thereafter. (mSCOA: 9/240-183-9210);
- (e) The development charge of R11 500,00 towards roads be for the account of the owner/developer payable at clearance stage. The amount is due to the

6.4/A5(e)...

- Municipality, is valid for the financial year of 2022/2023 and may be revised thereafter. (mSCOA: 9/247-188-9210);
- (f) The development charge of R3 414,35 towards stormwater be for the account of the owner/developer payable at clearance stage. The amount is due to the Municipality, is valid for the financial year of 2022/2023 and may be revised thereafter. (mSCOA: 9/247-144-9210);
 - (g) The development charge of R10 419,00 towards electricity be for the account of the owner/developer payable at clearance stage. The amount is due to the Municipality, is valid for the financial year of 2022/2023 and may be revised thereafter. (mSCOA: 9/253-164-9210);
 - (h) The Council resolution of May 2022 makes provision for a 35% discount on development charges to Swartland Municipality, except for condition A5(a), which is payable in full. The discount is valid for the financial year 2022/2023 and can be revised thereafter;

B. GENERAL

- (a) Any existing services connecting the remainder and/or new portions, be disconnected and relocated, in order for each erf to have a separate connection and pipe work;
- (b) Should it be determined necessary to expand or relocate any of the engineering services in order to provide any of the portions with connections, said expansion and/or relocation be for the cost of the owner/developer;
- (c) The owner/developer be responsible for the costs incurred for the installation of the electricity meter on the subdivided portion/activation of electricity to the erf. The Municipality may be contacted for a quotation;
- (d) The approval is, in terms of section 76(2)(w) of the By-Law, valid for 5 years. All conditions of approval be implemented within these 5 years, without which, the approval will lapse. Should all the conditions of approval be met before the 5 year approval period lapses, the subdivision will be permanent and the approval period will not be applicable anymore.

C. The application be supported for the following reasons:

- (a) The proposal is consistent with the spatial proposals of the SDF;
- (b) The proposal is consistent with the minimum erf size determined by the SDF, namely 500 m²;
- (c) The development promotes densification in an urban area, consistent with national, provincial and local legislation and policy;
- (d) The proposal complies with the principles of LUPA and SPLUMA;
- (e) The zoning of the properties will remain unchanged and consistent with the character of the area;
- (f) The rights of the surrounding land owners will not be negatively impacted;
- (g) The proposal makes additional opportunities for rural residential development available and may create additional employment opportunities;
- (h) The subdivision promotes the optimal utilisation of land and the existing engineering services;
- (i) Property values of the surrounding properties will not be affected negatively;
- (j) The development potential of the newly created erven are surely in keeping with the character of Pikkewyn Crescent;
- (k) Erf 1262 has the development potential to be subdivided unlike many other properties in Yzerfontein.

6.5 PROPOSED SUBDIVISION AND EXEMPTION ON ERF 1876, YZERFONTEIN (15/3/6-14, 15/3/13-14) (WARD 5)

The application entails the subdivision of Erf 1876, Yzerfontein into portion A (500 m² in extent) and the Remainder (536 m² in extent). The minimum residential erf size determined by the Swartland Spatial Development Framework, 2020 for Yzerfontein is 500 m².

Ms de Jager confirmed that the applicant proposes the subdivision into two portions, with access to the rear portion via a right-of-way-servitude, in order to maintain the minimum erf sizes.

RESOLUTION

- A. The application for the subdivision of Erf 1876, Yzerfontein, in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2021), be approved, subject to the conditions that:

A1 TOWN PLANNING AND BUILDING CONTROL

- (a) Erf 1876, Yzerfontein (1037 m² in extent) be subdivided into Portion A (500 m² in extent) and the Remainder (537 m² in extent) as presented in the application;
- (b) The legal certificate which authorises transfer of the subdivided portions in terms of Section 38 of the By-Law not be issued unless all the relevant conditions have been complied with;

A2 WATER

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

A3 SEWERAGE

- (a) Each subdivided portion be provided with a conservancy tank with a minimum capacity of 8 000 litre;
- (b) The conservancy tank be accessible for the sewerage truck from the municipal road;
- (c) The conditions are applicable at building plan stage;

A4 ELECTRICITY

- (a) The subdivided portion be provided with a separate electrical connection point and related costs be for the account of the owner/developer;
- (b) Any costs incurred through the relocation of electrical cables over the subdivided portions, be for the account of the owner/developer;
- (c) Any electrical interconnection be isolated and completely removed;
- (d) The electricity connection be joined to the existing low voltage network;

A5 DEVELOPMENT CHARGES

- (a) The development charge of R6 543,30 towards the bulk supply of regional water be for the account of the owner/developer payable at clearance stage. The amount is due to Swartland Municipality, is valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA 9/249-176-9210);
- (b) The development charge of R5 402,70 towards bulk water distribution be for the account of the owner/developer payable at clearance stage. The amount is due to the Municipality, is valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA: 9/249-174-9210);
- (c) The development charge of R6 080,05 towards sewerage be for the account of the owner/developer payable at clearance stage. The amount is due to the Municipality, is valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA: 9/240-184-9210);
- (d) The development charge of R8 970,00 towards waste water treatment works be for the account of the owner/developer payable at clearance stage. The amount is due to the Municipality, is valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA: 9/240-183-9210);
- (e) The development charge of R11 500,00 towards roads be for the account of the owner/developer payable at clearance stage. The amount is due to the Municipality, is valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA: 9/247-188-9210);
- (f) The development charge of R4 560,90 towards storm water be for the account of the owner/developer payable at clearance stage. The amount is due to the Municipality, is valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA: 9/247-144-9210);
- (g) The development charge of R10 419,00 towards electricity be for the account of the owner/developer payable at clearance stage. The amount is due to the Municipality, is valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA: 9/253-164-9210);

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

B. GENERAL

- (a) Any existing services connecting the remainder and/or new portions, be disconnected and relocated, in order for each erf to have a separate connection and pipe work;
 - (b) Should it be determined necessary to expand or relocate any of the engineering services in order to provide any of the portions with connections, said expansion and/or relocation be for the cost of the owner/developer;
 - (c) The owner/developer be responsible for the costs incurred for the installation of the electricity meter on the subdivided portion/activation of electricity to the erf. The Municipality may be contacted for a quotation;
 - (d) The approval is, in terms of section 76(2)(w) of the By-Law, valid for 5 years. All conditions of approval be implemented within these 5 years, without which, the approval will lapse. Should all the conditions of approval be met before the 5 year approval period lapses, the subdivision will be permanent and the approval period will not be applicable anymore;
- C. The registration of a 4 m wide right-of-way servitude over the Remainder of Erf 1876, Yzerfontein, in favour of Portion A of Erf 1876, Yzerfontein, complies with the requirements of Section 34 of Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020) and is thus exempted from approval from Swartland Municipality;
- D. The application be supported for the following reasons:
- (a) The proposal is consistent with the spatial proposals of the SDF;
 - (b) The proposal is consistent with the minimum erf size determined by the SDF, namely 500m²;
 - (c) The development promotes densification in an urban area, consistent with national, provincial and local legislation and policy;
 - (d) The proposal complies with the principles of LUPA and SPLUMA;
 - (e) The zoning of the properties will remain unchanged and consistent with the character of the area;
 - (f) The rights of the surrounding land owners will not be negatively impacted;
 - (g) The proposal makes additional opportunities for rural residential development available and may create additional employment opportunities;
 - (h) The subdivision promotes the optimal utilisation of land and the existing engineering services;
 - (i) Property values of the surrounding properties will not be affected negatively;
 - (j) The proposal realises the development potential of the property, as is also applicable to a number of erven in the area;
 - (k) The right-of-way servitude is deemed an appropriate mechanism to provide access to Portion A, while maintaining the minimum property size;
 - (l) The servitude complies with the conditions for exemption from approval.

6.6 APPLICATION FOR BUILDING LINE DEPARTURE ON ERF 11354, MALMESBURY (15/4/2-8) (WARD 10)

The application for departure of development parameters on Erf 11354, Malmesbury entails a departure from the 1,5 m western side building to 0 m in order to construct a store room between the existing garage and the property boundary.

Ms A de Jager confirmed that the proposed store room is a logical extension of the existing garage to that area of the property and is deemed meaningful and practical.

Resolution/...

RESOLUTION

- A. The application for a departure from development parameters on Erf 11354, Malmesbury, in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), be approved, subject to the conditions that:

A1 TOWN PLANNING AND BUILDING CONTROL

- (a) The departure authorises the encroachment on the 1,5 m western side building line to 0 m, restricted to the length of the proposed new store room;
- (b) Building plans in order to indicate the proposed security measures, such as barbed wire and that said measures adhere to the requirements of SANS 10400 be submitted to the Senior Manager: Built Environment for consideration and approval;
- (c) Building plans in order to include the proposed boxed gutter, as presented in the application be submitted to the Senior Manager: Built Environment for consideration and approval;
- (d) Storm water run-off be managed on Erf 11354 and discharged in the nearest municipal street;
- (e) The use of the store room be restricted to storage purposes and that no other uses such as hobbies, social gatherings or any other noise generating activity be permitted in the storage space;

B. GENERAL

- (a) The applicant and objector be informed of their right to appeal against the decision of the Municipal Planning Tribunal, in terms of section 89(2) of the By-Law;

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

- (a) The owner/applicant asserted the right to rectify the fact that building work was commenced without authorisation, through building plan submission via the correct portal;
- (b) The proposed building work complies with the requirements of the National Building Regulations;
- (c) The proposed store room is located in a practical position on the property to accommodate the applicants need;
- (d) Any perceived security issues will be addressed by the applicant at building plan stage;
- (e) The proposed use is limited to storage, being a low impact, low noise generating activity;
- (f) The design of the store room compliments the style of the existing garage and will therefore not have a negative impact on the street front / character of Pedro Street;
- (g) The development of outbuildings in side building lines is standard practice and furthermore, as the store room will not be visible from the street, or Erf 4514, the proposal is considered in keeping with the residential character of the area.

6.7 APPLICATION FOR DEPARTURE ON ERF 425, MALMESBURY (15/3/4-8) (WARD 10)

The author, Mr H Olivier, submitted the background regarding the development of Erf 425 since 1998 from single residential zone to business zone to accommodate flats and businesses.

The application is made to depart from the required 12 on-site parking bays by only providing 8 on-site parking bays.

RESOLUTION

- A. The application for the departure for the non-provision of the required on-site parking on Erf 425, Malmesbury, be approved in terms of section 70 of the Swartland Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), subject to the following conditions:

A1 TOWN PLANNING AND BUILDING CONTROL

- (a) Building plans be submitted to the Senior Manager Built Environment for consideration and approval;
- (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 3 on-site parking bays including the portion of the 2 parking bays partially provided on the road reserve in Hill Street at R843/m²; $(5 \times 12,5) - 11,7 \times 843 = R\ 42\ 824,40$;

A2 WATER

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

A3 SEWERAGE

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

A4 STREETS & STORMWATER

- (a) The existing parking area, including the sidewalk that provide access to the parking bays, be provided with a permanent surface and the parking bays be clearly demarcated. The materials used be pre-approved by the Director: Civil Engineering Services on building plan stage and the parking area be finalised before the occupation certificate be issued for the proposed new flats;

A5 DEVELOPMENT CHARGES

- (a) The development charge towards the regional bulk supply of water of R6534,30 (R10 890,50 x 0.6 for High density) per dwelling unit be for the account of the owner/developer payable at building plan stage. The amount is due to the Swartland Municipality, is valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA: 9/249-176-9210);
- (b) The development charge towards water to the amount of R7 340,83 per dwelling unit be for the account of the owner/developer payable at building plan stage. The amount is due to the Municipality, is valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA: 9/249-174-9210);
- (c) The development charge towards sewerage to the amount of R3 631,57 per dwelling unit be for the account of the owner/developer payable at building plan stage. The amount is due to the Municipality, is valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA: 9/240-184-9210);
- (d) The development charge towards streets and storm water to the amount of R5 410,05 per dwelling unit be for the account the owner/developer payable at building plan stage. The amount is due to the Municipality, is valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA: 9/247-144-9210);
- (e) The development charge towards electricity to the amount of R4 358,90 per dwelling unit be for the account of the owner/developer payable at building plan stage. The amount due to the Municipality, is valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA: 9/253-164-9210);
- (f) The Council's resolution dated May 2022 makes provision for a 35% rebate applicable on the development charges of Swartland Municipality. The rebate is valid for the 2022/2023 financial year and may be revised thereafter. The rebate is not applicable to point A5(a);

B. GENERAL

- (a) Should it be necessary to upgrade any existing services in order to accommodate the access or service connections of the proposed development, the cost thereof be for the developer's account;
- (b) The approval is, in terms of section 76(2)(w) of the By-Law, valid for a period of 5 years. Building plans can only be approved once all conditions of approval have been met. The owner/developer is responsible to ensure that every condition of approval is complied with. Should all conditions not be met by the end of 5 years, the land use approval will lapse. However, should the conditions of approval be met before the 5 year period lapses, the land use will be permanent and the approval period will not be applicable anymore;

6.7/B...

- (c) The applicant/objectors be informed of the right to appeal against the decision of the Municipal Planning Tribunal, within 21 days of the notice, in terms of section 89(2) of the By-Law;

C. The application be supported for the following reasons:

- (a) The proposal to accommodate flats under the Business Zone 1 zoning situated within the CBD of Malmesbury will not have a negative impact on the character of the area;
- (b) The proposed application is consistent with and not in contradiction to the Spatial Development Frameworks adopted on Provincial, District and Municipal levels;
- (c) The proposal will not have a significant impact on traffic along Biccard and Hill Street and as confirmed by the Department: Civil Engineering services, a study done in 2020 by an independent traffic engineer confirmed that the Malmesbury CBD has sufficient parking available for this application to be considered favourable;
- (d) There are no restrictions registered against the title deed of the property that has a negative impact on the proposed application;
- (e) 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;
- (f) There are currently space in front of the property as well as ample space for parking next to Hill Street. This is mainly due to the very large road reserve. During the site inspection it was also found that people already use the side of the road to park their vehicles and that it does not cause any obstruction of vehicle or pedestrian traffic. It can therefore be argued that the non-provision of on-site parking in this case will not have a detrimental impact on the neighbouring properties.

6.8 PROPOSED REZONING AND DEPARTURE ON ERF 3428, MOORREESBURG (15/3/3-9) (WARD 1)

Mr A J Burger confirmed that Erf 3428, Moorreesburg is zoned Residential Zone 1 and is currently vacant and that the owner intends to establish a pre-primary and Grade R school on the property.

It is envisaged that the proposed place of education will accommodate a maximum of four classes of 20 learners (amended to accommodate comments from objectors), employ four teachers, two assistant teachers and one cleaner.

Mr Burger confirmed that although the development proposal does not adhere to the principles of LUPA and SPLUMA, the main reason for refusal be the lack of information provided by the applicant in respect of traffic impact assessments in order to ensure informed decision making by the Department: Civil Engineering Services.

RESOLUTION

- A. The application for the rezoning of Erf 3428, Moorreesburg be refused in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020);
- B. The application for a departure of development parameters on Erf 3428, Moorreesburg, be refused in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020);
- C. **GENERAL**
 - (a) The applicant/objectors be notified of the outcome and their right to appeal in terms of Chapter VII, Section 89 of the By-law;

D./...

6.8/...

- D. The application for rezoning be refused for the following reasons:
 - (a) The flow of traffic to and from the property will cause an annoyance to the surrounding property owners;
 - (b) The geometric layout of the street is not favourable;
 - (c) The layout of the site development plans does not comply with design standards;
 - (d) Insufficient information is provided to enable informed decision making due to the lack of the information of a traffic impact statement;
- E. The application for departure of development parameters be refused for the following reasons:
 - (a) The placement of the school building will not complement the streetscape of the single residential neighbourhood which has a 4 m street building line;
 - (b) The applicant incorreced indicated that the zoning requirement for bus parking bays are 1 bus parking bay for every 20 students and not for every 200 students;
 - (c) The rezoning of the property is not supported, therefore the departure of development parameters can automatically not be supported.

**(SIGNED) J J SCHOLTZ
CHAIRPERSON**

ITEM 6.1 VAN DIE AGENDA VAN 'N MUNISIPALE BEPLANNINGSTRIBUNAAL WAT GEHOU SAL WORD OP WOENSDAG, 14 SEPTEMBER 2022

LAND USE PLANNING REPORT PROPOSED CONSENT USE ON ERF 1454, YZERFONTEIN					
Reference number	15/3/10-14/Erf_1454	Application submission date	31 May 2022	Date report finalised	2 September 2022

PART A: APPLICATION DESCRIPTION						
An application for consent use for a second dwelling on erf 1454, Yzerfontein in terms of section 25(2)(o) of Swartland Municipality : Municipal Land Use Planning By-law (PG 8226 of 25 March 2020) has been received.						
The applicant is CK Rumboll & Partners and the property owner is the De Kijker Trust.						
PART B: PROPERTY DETAILS						
Property description (in accordance with Title Deed)	Erf 1454 Yzerfontein, in the Swartland Municipality, Division Malmesbury, Province of the Western Cape					
Physical address	52 Atlantic Drive			Town	Yzerfontein	
Current zoning	Residential Zone 1	Extent (m ² /ha)	713m 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	T22613/2020	
Any restrictive title conditions applicable	Y	N	If Yes, list condition number(s)			
Any third party conditions applicable?	Y	N	If Yes, specify			
Any unauthorised land use/building work	Y	N	If Yes, explain			
PART C: LIST OF APPLICATIONS (TICK APPLICABLE)						
Rezoning		Permanent departure		Temporary departure		Subdivision
Extension of the validity period of an approval		Approval of an overlay zone		Consolidation		Removal, suspension or amendment of restrictive conditions
Permissions in terms of the zoning scheme		Amendment, deletion or imposition of conditions in respect of existing approval		Amendment or cancellation of an approved subdivision plan		Permission in terms of a condition of approval
Determination of zoning		Closure of public place		Consent use	✓	Occasional use

Disestablish a home owner's association		Rectify failure by home owner's association to meet its obligations		Permission for the reconstruction of an existing non-conforming use		
PART D: BACKGROUND						
<p>Erf 1454, Yzerfontein is zoned Residential zone 1 and is currently vacant.</p> <p>It is the intention of the owner to erect a main dwelling and a second dwelling on the property.</p>						
PART E: PRE-APPLICATION CONSULTATION (ATTACH MINUTES)						
Has pre-application consultation been undertaken?	Y	N				
PART F: SUMMARY OF APPLICANT'S MOTIVATION						
<ol style="list-style-type: none"> 1. It is argued that the proposal holds some positive socio-economic impacts in that i) an additional residential opportunity will be provided and ii) may attract a wider income group which will reflect positively on the neighbourhood. 2. The proposal is considered contextually appropriate and compatible with the surrounding land uses. 3. Both portions will have sufficient access to public streets. Additional traffic generation is considered negligible. On-site parking is provided as per the requirements of the Development Management Scheme. It is not foreseen that the proposal will lead to parking related issues. 4. The proposed second dwelling complies with the Development Management Scheme with specific reference to the current zoning, the proposed uses and development parameters. 5. There are existing engineering services available in the surrounding environment. The proposal is therefore regarded as being spatially sustainable as it promotes the optimal utilisation of existing services in the surrounding environment. 6. It is not foreseen that the proposal will have a significant impact on external municipal engineering services. 7. It is not foreseen that the proposal will have a negative impact on the biophysical environment. 8. The proposed development is not perceived to have a detrimental impact on the health, safety and wellbeing of surrounding land owners. 9. There are no physical restrictions that will hinder the proposal. 10. The proposal is consistent with the Swartland Spatial Development Framework. 11. The application is compliant with the principles of LUPA and SPLUMA. 						
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
<p>The application was advertised by means of a total of 12 registered notices which were send to affected parties. The public participation process started on 6 June 2022 and ended on 11 July 2022. Where e-mail addresses were available, affected parties were notified via e-mail as well. 3 Notices were not collected, however all 3 owners were also notified via email.</p> <p>A total of 2 objections were received which was referred to the applicant for comments on 14 July 2022. The applicant's comments on the objections were received on 12 August 2022.</p>						
Total valid comments	2		Total comments and petitions refused		0	
Valid petition(s)	Y	N	If yes, number of signatures			
Community organisation(s) response	Y	N	Ward councillor response	Y	N	The application was forwarded to councillor, but no comments were forthcoming.
Total letters of support	0					

PART H: COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS																					
Name	Received	Summary of comments	Recomm.																		
Departement : Ontwikkeling sdienste	7 June 2022	1. Bouplanne aan die Senior Bestuurder: Bou-Omgewing vir oorweging en goedkeuring voorgelê word.	✓																		
Departement : Siviele Ingenieursdi enste	8 June 2022	1. Riolering Die eiendom voorsien word van 'n rioolsuigtenk met 'n minimum kapasiteit van 8000liter wat vir die diensvragmotor vanuit die straat toeganklik is.	✓																		
		2. Water Die erf voorsien word van 'n enkele wateraansluiting.																			
		3. Ontwikkelyngsbydraes																			
		<table><tr><th>ITEM</th><th>BEDRAG</th></tr><tr><td>Grootmaat watervoorsiening</td><td>R5 445,25</td></tr><tr><td>Grootmaat waterverspreiding</td><td>R4 502,05</td></tr><tr><td>Riolering</td><td>R5 612,00</td></tr><tr><td>Riool suiweringsaanleg</td><td>R8 280,00</td></tr><tr><td>Paaie</td><td>R11 500,00</td></tr><tr><td>Stormwater</td><td>R3 192,40</td></tr><tr><td>Elektrisiteit</td><td>R10 419,00</td></tr><tr><td></td><td></td></tr></table>		ITEM	BEDRAG	Grootmaat watervoorsiening	R5 445,25	Grootmaat waterverspreiding	R4 502,05	Riolering	R5 612,00	Riool suiweringsaanleg	R8 280,00	Paaie	R11 500,00	Stormwater	R3 192,40	Elektrisiteit	R10 419,00		
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Elektrisiteit	R10 419,00																				

PART I: COMMENTS RECEIVED DURING PUBLIC PARTICIPATION (Map of objectors Annexure L)	SUMMARY OF APPLICANT'S REPLY TO COMMENTS	MUNICIPAL ASSESSMENT OF COMMENTS
<p>F & M Kloppers, owner of erf 1455</p>	<ol style="list-style-type: none"> 1. Gegewe die voorstel (woonhuise met spitsdakke) word die hoogte van die geboue beperk tot 10,5m gemeet parallel vanaf die gradiëntlyn tot die hoogste punt van die dak. Dit is duidelik vanaf die bouplanne dat die voorgestelde woonhuise nie die hoogtebeperking oorskry nie. 2. Die beswaarmakers demonstreer nie hoe die voorstel hul privaatheid gaan beïnvloed nie. Ontwikkelingsparameters word juis in plek gestel om aangrensende bure se regte te beskerm mbt privaatheid. Die eiendom word ontwikkel binne die parameters van die huidige sonering. Hierdie kantoor is dus van mening dat die ontwikkelingsvoorstel nie 'n wesenlike impak op die privaatheid van die beswaarmaker sal hê nie. 3. Die ruimtelike voorstelle, in terme van die Swartland Ruimtelike Ontwikkelingsraamwerk, dui daarop dat residensiële verdigting ondersteun word in hierdie area. Residensiële verdigting kan op vele wyses bewerkstellig word en sluit onder andere in die byvoeging van 'n wooneenheid op 'n eiendom. Die sonering van Erf 1454 Yzerfontein is Residensiële Sone 1. 'n Tweede wooneenheid resorteer as 'n vergunningsgebruik onder hierdie sonering m.a.w die sonering maak voorsiening vir addisionele geleenthede vir akkomodasie. 4. Na aanleiding van bogenoemde is dit duidelik dat tweede wooneenhede geag word as versoenbaar te wees binne hierdie area. Hierdie aansoek behels slegs die verbetering van die eiendom ten einde 'n primêre woning asook 'n tweede wooneenheid op die eiendom te akkomodeer. 	<ol style="list-style-type: none"> 1. Swartland Munisipaliteit beskik oor kontoer inligting vir erf 1454, sowel as vir erf 1455. Beide eiendomme beskik oor amper dieselfde fisiese eienskappe met die natuurlike grondvlak wat val vanaf die straatgrens na die agtergrens. 'n Woonhuis is reeds in aanbou op erf 1455. Dit is onduidelik waarna die beswaarmaker verwys ten opsigte van 'n hoogte verskil op die gemeenskaplike sygrens tussen die eiendomme en hoe dit tot voordeel is van die eienaar van erf 1454. 2. Die hoogtemeting inligting is aangedui op die bouplanne soos voorgehou in die publieke deelname proses. Die voorgestelde bouwerke op erf 1454 voldoen aan alle soneringsparameters (bv. boulyne, dekking en hoogte van geboue). 3. Die "slaapkamer 3" waarna verwys word is deel van die tweede wooneenheid. Die tweede woonheid voldoen aan alle soneringsparameters, nie net ten opsigte van die bepaling van toepassing op 'n tweede wooneenheid nie, maar ook aan die boulyne. Die plasing van die tweede wooneenheid kon net sowel die plasing van 'n woonhuis op die perseel gewees het. Gegewe die bouwerke voldoen aan die soneringsparameters word die erf ontwikkel binne die grondbuikregte van die perseel. Privaatheid is in hierdie geval nie 'n kwessie nie. 4. 'n Tweede wooneenheid kleiner as 60m² is 'n addisionele gebruiksreg op 'n Residensiële sone 1 erf. 'n Tweede wooneenheid groter as 60m², maar kleiner as 120m² is 'n vergunningsgebruik en word spesiale toestemming daarvoor benodig vanuit 'n grondgebruiksoogpunt. Die verhoging in dightheid word nie as problematies beskou, soos deur die beswaarmaker uitgewys word nie. Verdigting word op provinsiale en munisipale vlak aangemoedig. Dit

			<p>voorkom stedelikekruip en het die optimale gebruik van bestaande infrastruktuur tot gevolg. Tweede wooneenheide of dubbelwoonhuis is 'n baie populêre vorm van verdigting in Yzerfontein omrede daar baie min erwe is met die potensiaal om onderverdeel te word.</p> <p>Dit is nie duidelik hoe die eienaar van erf 1454 die tweede wooneenheid gaan aanwend nie, maar die moontlikheid bestaan dat die tweede wooneenheid verhuur sal word op 'n adhoc basis, hetsy vir korttermyn of langtermyn akkommodasie.</p> <p>Die gebruik van die tweede wooneenheid as 'n gastehuis vorm nie deel van hierdie aansoek nie en word as spekulasies beskou deur die beswaarmaker.</p>
E Reyneke, owner of erf 1558	<p>5. Ek maak beswaar dat daar twee eiendomme (huise) op een erf gaan wees.</p> <p>Ek het Yzerfontein toe verhuis uit die Stad uit om rustig te bly en nou gaan daar oorkant my huis 'n "gastehuis" gebou word, want dit is al wat dit tog gaan wees. Ek sien nie kans vir die geraas en moeilikheid met gaste wat tans die probleem is in Yzerfontein.</p>	<p>5. Hierdie kantoor neem kennis van die beswaarmaker se kommentaar en word dit beklemtoon dat hierdie aansoek slegs ten doel het om die nodige grondgebruiksregte te bekom ten einde 'n tweede wooneenheid op die eiendom te akkomodeer.</p>	<p>5. Sien die kommentaar by punt 4.</p> <p>Die bewoning van die tweede wooneenheid deur 'n enkele gesin, hetsy by wys van kort- of langtermyn verhuring, word geag om 'n lae steurings potensiaal te hê wat nie die karakter van die omgewing negatief sal beïnvloed nie.</p>

PART J: MUNICIPAL PLANNING EVALUATION

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

An application for consent use for a second dwelling on erf 1454, Yzerfontein in terms of section 25(2)(o) of Swartland Municipality : Municipal Land Use Planning By-law (PG 8226 of 25 March 2020) has been received.

The application was advertised by means of a total of 12 registered notices which were sent to affected parties. The public participation process started on 6 June 2022 and ended on 11 July 2022. Where e-mail addresses were available, affected parties were notified via e-mail as well. 3 Notices were not collected, however all 3 owners were also notified via email.

A total of 2 objections were received which was referred to the applicant for comments on 14 July 2022. The applicant's comments on the objections were received on 12 August 2022.

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

2. Legislation and policy frameworks

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

- a) Spatial Justice: The proposed second dwelling supports higher density and enhances the availability of alternative residential opportunities, making the area more accessible to a wider range of society.
- b) Spatial Sustainability: The proposed development will promote the intensive utilisation of engineering services, without additional impact on the natural environment. Urban sprawl is contained through densification.
- c) Efficiency: The development proposal will promote the optimal utilisation of services on the property and enhance the tax base of the Municipality
- d) Good Administration: The application was communicated to the affected land owners through registered mail. 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 timely manner. It is therefore argued that the principles of good administration were complied with by the Municipality.
- e) Spatial Resilience: The proposed second dwelling can be used for the living accommodation of a single family either for short or long term accommodation and is deemed not to affect the character of the area negatively.

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

2.2. Provincial Spatial Development Framework (PSDF, 2014)

The PSDF describes tourism as one of the underpinning factors within the urban space economy. The development proposal can contribute to providing in the need for tourist accommodation in Yzerfontein, while minimally impacting on the character of its environment.

The development proposal may therefore be deemed consistent with the PSDF.

2.3 West Coast District SDF (WCDSDF, 2014)

Yzerfontein is one of the major tourist attractions throughout the West Coast District. One of the strategies contained in the WCDSDF is to promote and develop tourism infrastructure within the District. The development proposal can provide in the need for accommodation by various tourists who visit the district, and thus contribute to the income derived from tourism.

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

2.4 Spatial Development Framework(SDF)

The application property is situated within a residential node, delineated as Area B, as per the spatial proposals for Yzerfontein contained in the SDF. Zone B, Pearl Bay area, consists mainly of low density residential uses along the coastal stretch to the south, with a proposed node along the beach front as well as areas for medium and high density

housing opportunities. Second dwellings are specifically consistent with the character of the zone, as such a development will not alter the residential zoning of the property.

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

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

2.6 Desirability of the proposed utilisation

Erf 1454, Yzerfontein is zoned Residential zone 1 and is vacant. The property slopes from the street front to the rear of the property. The planning and design of the proposed building work takes the physical restrictions of the property into consideration. There are no physical restrictions on the property that will have a negative impact on the application.

Surrounding land uses includes single residential dwellings, guesthouses and self-catering units. The proposed second dwelling will not have a negative impact on the character of the surrounding area.

The scale of the proposed dwelling and second dwelling is less than the existing development potential of the property.

Planning legislation applicable to Yzerfontein has since the late 1980's make provision for 2 dwelling units on one property by means of a consent use. The nature of a double dwelling is to provide additional residential opportunities. The proposed land use is thus considered as a desirable activity within a residential neighbourhood, as it will accommodate residential activities compatible with that of the existing area.

Planning policy promotes densification which is achieved by this application. As most properties in Yzerfontein does not have the potential to be subdivided (minimum erf size of 500m²), densification can only be achieved by permitting a 2nd dwelling on an erf by means of a second dwelling or double dwelling.

Spatial planning of Yzerfontein intends to increase the density of the town to 7.8 units/ha by 2028. This remains to be lower than the proposed 15 units/ha for low density residential developments.

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

The proposed second dwelling will have a positive economic impact as it will generate income for both the land owner, municipality (through rates and taxes) and tourism as a whole, through the spending of visitors to the area.

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

Sufficient services capacity exists to accommodate the proposed second dwelling.

The development proposal complies with all application zoning parameters and will not have an impact on the privacy of neighbouring properties.

The development proposal may be considered desirable.

3. Impact on municipal engineering services

Sufficient services capacity exists to accommodate the proposed second dwelling.

4. Comments of organs of state

No comments were requested.

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

<u>The personal benefits which will accrue to the holder of rights and/or to the person seeking the removal</u>
N/A
<u>The social benefit of the restrictive condition remaining in place, and/or being removed/amended</u>
N/A
<u>Will the removal, suspension or amendment completely remove all rights enjoyed by the beneficiary or only some rights</u>
N/A

PART L: RECOMMENDATION WITH CONDITIONS

The application for a consent use on Erf 1454, Yzerfontein, be approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), in order to erect a second dwelling on the property, subject to the conditions that:

1. TOWN PLANNING AND BUILDING CONTROL

- a) The consent use authorises a second dwelling on Erf 1454, as presented in the application;
- b) The double dwelling complies with the applicable zoning parameters of the By-law;
- c) At least 4 on-site parking bays are provided as presented in the application;
- d) Building plans be submitted to the Senior Manager: Built Environment, for consideration and approval;

2. WATER

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

3. SEWERAGE

- a) The property be provided with a conservancy tank of appropriate size (minimum capacity of 8000l), as previously approved by the Director: Civil Engineering Service;
- b) The conservancy tank be accessible to the municipal vacuum truck from the street;

4. DEVELOPMENT CHARGES

- a) The development charge towards the regional bulk supply of water amounts to R5 445,25 and is for the account of the owner/developer at building plan stage. The amount is due to the Swartland Municipality, valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA: 9/249-176-9210);
- b) The fixed development charge towards bulk water reticulation amounts to R4 502,25 and is payable by the owner/developer at building plan stage. The amount is due to the Municipality, valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA 9/249-174-9210);
- c) The owner/developer is responsible for the development charge towards waste water treatment, to the amount of R8 280,00, at building plan stage. The amount is payable to the Municipality, valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA 9/240-183-9210);
- d) The fixed development charge towards sewerage amounts to R 5 612,00 and is payable by the owner/developer at building plan stage. The amount is due to the Municipality, valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA 9/240-184-9210);
- e) The fixed development charge towards streets amounts to R11 500,00 and is payable by the owner/developer at building plan stage. The amount is due to the Municipality, valid for the financial year of 2022/2023 and may be revised thereafter. (mSCOA 9/249-188-9210);
- f) The owner/developer is responsible for the fixed development charge towards storm water, to the amount of R3 192,40 at building plan stage. The amount is payable to the Municipality, valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA 9/248-144-9210);
- g) The Council resolution of May 2022 makes provision for a 35% discount on development charges to Swartland Municipality. The discount is valid for the financial year 2022/2023 and may be revised thereafter. The discount is not applicable to 4.a).

5./...

5. GENERAL

- a) The approval is, in terms of section 76(2)(w) of the By-Law valid for a period of 5 years. All conditions of approval be complied with by 20 May 2022. Failure to comply will result in this approval expiring;
- b) In terms of Chapter VII, Section 89 of the Swartland Municipality By-law relating Municipal Land Use Planning (PG 8226 of 25 March 2020), affected parties have a right to appeal the abovementioned decision within 21 days of date of registration of this letter to the appeal authority of the Swartland Municipality against Council's decision.

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

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

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

PART M: REASONS FOR RECOMMENDATION

1. The application is in compliance with the planning principles of LUPA and SPLUMA.
2. The application is consistent with local, regional and provincial spatial planning policy.
3. The development proposal complies with all applicable zoning parameters of the Residential zone 1 zoning and will not have a negative impact on the privacy of neighbouring properties.
4. Erf 1454 does not have any physical restrictions which may have a negative impact on this application.
5. The proposed second dwelling will complement and not have a negative impact on the character of the surrounding residential area.
6. The development proposal supports the optimal utilisation of the property.
7. The proposed land use is considered as a desirable activity within a residential neighbourhood, as it will accommodate residential activities compatible with that of the existing area.
8. The second dwelling may support the tourism industry in Yzerfontein, as well as the local economy.
9. The second dwelling will provide in a need for a larger variety of housing opportunities to the wider population.
10. Sufficient services capacity exists to accommodate the proposed double dwelling.



PART N: ANNEXURES

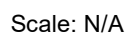
Annexure A	Locality Plan
Annexure B	Building Plans
Annexure C	Public Participation Map
Annexure D	Objection from F & M Kloppers
Annexure E	Objection from E Reyneke
Annexure F	Comments from the applicant on the objections

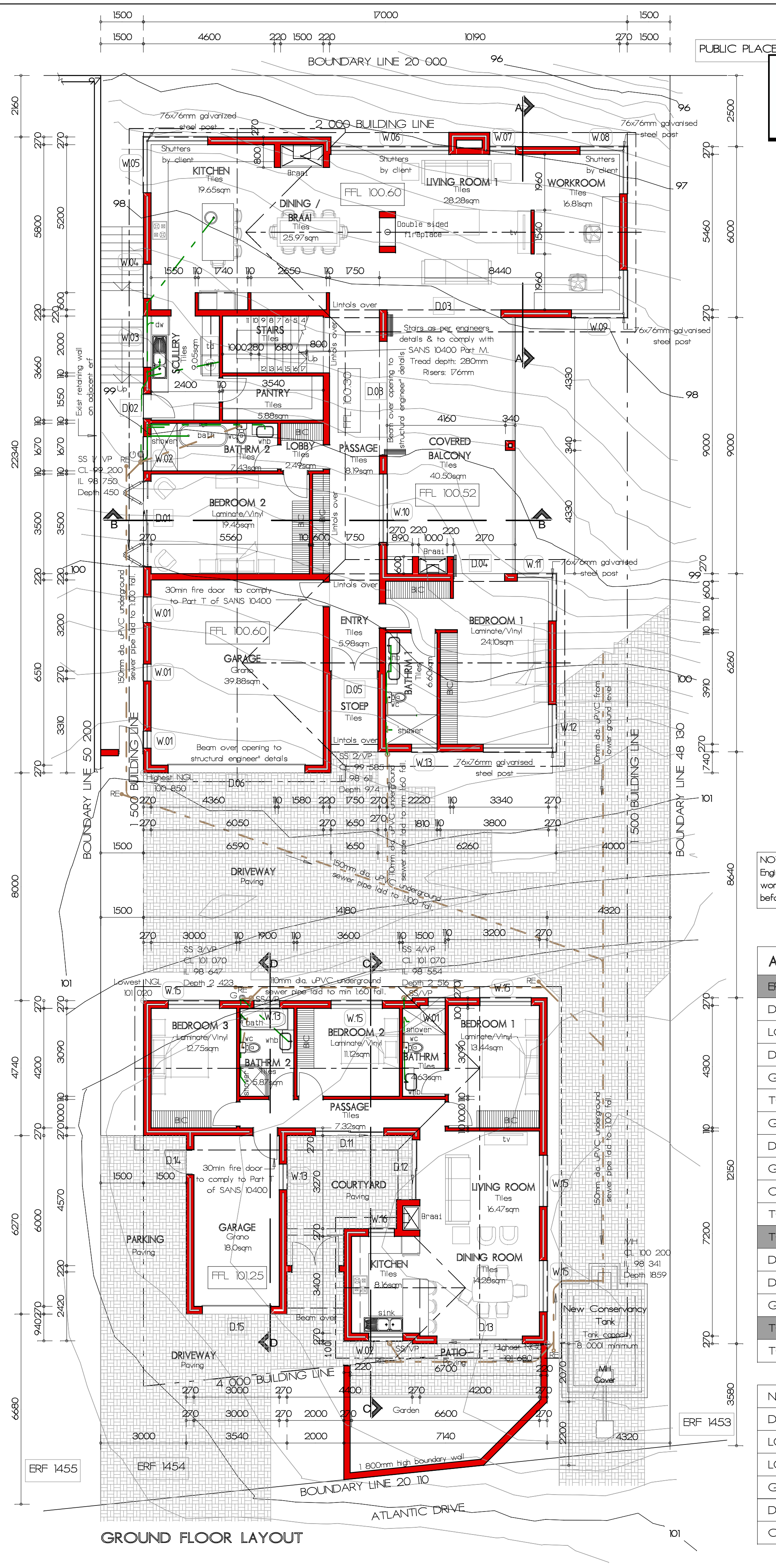
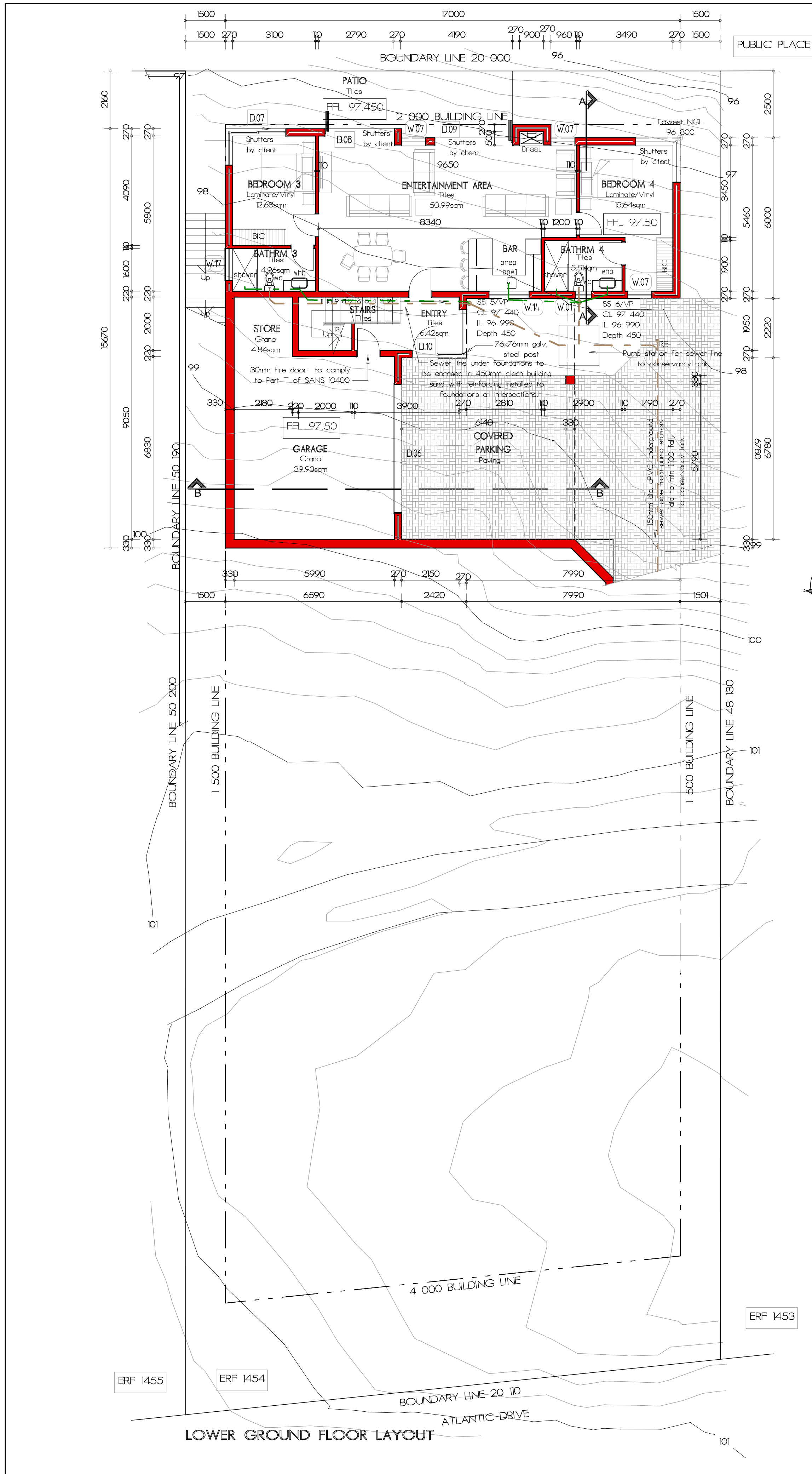
PART O: APPLICANT DETAILS

First name(s)	CK Rumboll & Partners			
Registered owner(s)	De Kijker Trust	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: 30 August 2022		
Recommendation: Alwyn Zaayman Senior Manager: Built Environment SACPLAN: B/8001/2001	Recommended	<input checked="" type="checkbox"/>	Not recommended	
		Date: 5 September 2022		





Annexure B

NOTE:
Engineer's drawings for all reinforced structural works, structural steelworks etc. to be submitted before commencement of such works.

AREA CALCULATION

ERF	983.0 sqm
DWELLING 1	
LOWER GROUND FLOOR	
DWELLING	17.39 sqm
GARAGE	54.15 sqm
TOTAL	71.54 sqm
GROUND FLOOR	
DWELLING	227.85 sqm
GARAGE	44.85 sqm
COVERED BALCONY	40.5 sqm
TOTAL	312.75 sqm
TOTAL DWELLING 1	484.29 sqm
DWELLING 2	
DWELLING	11.80 sqm
GARAGE	22.67 sqm
TOTAL DWELLING 2	134.47 sqm
TOTAL COVERAGE	46.58%

Not included in calculations:

DWELLING 1	
LG covered parking	52.12 sqm
LG open patio	27.83 sqm
GF covered entry	4.25 sqm
DWELLING 2	
Covered entry	6.0 sqm

NOTES

ALL WORK TO BE CARRIED OUT STRICTLY IN ACCORDANCE WITH MUNICIPAL REGULATIONS.

FIGURED DIMENSIONS TO BE TAKEN IN PREFERENCE TO SCALING DRAWINGS.

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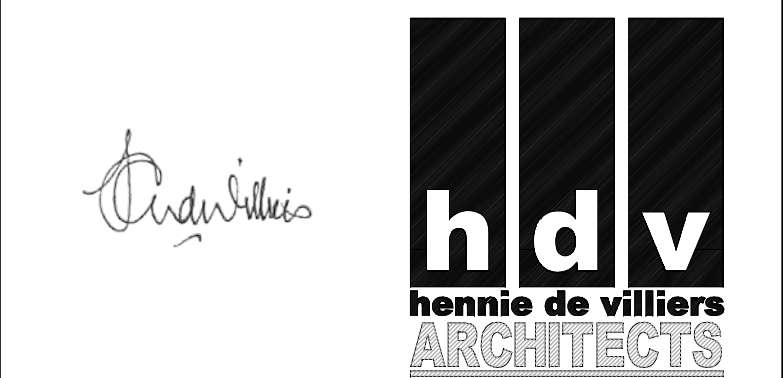
REVISIONS

REV NO.	DATE	DESCRIPTION
A	24/02/2022	Amend: Layout of dwelling 1 lower ground floor & dwelling 2 ground floor revised as per local authority recommendations.

OWNER'S SIGNATURE

[Signature]

ARCHITECT



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c/o Vrede & Gladstone Streets,
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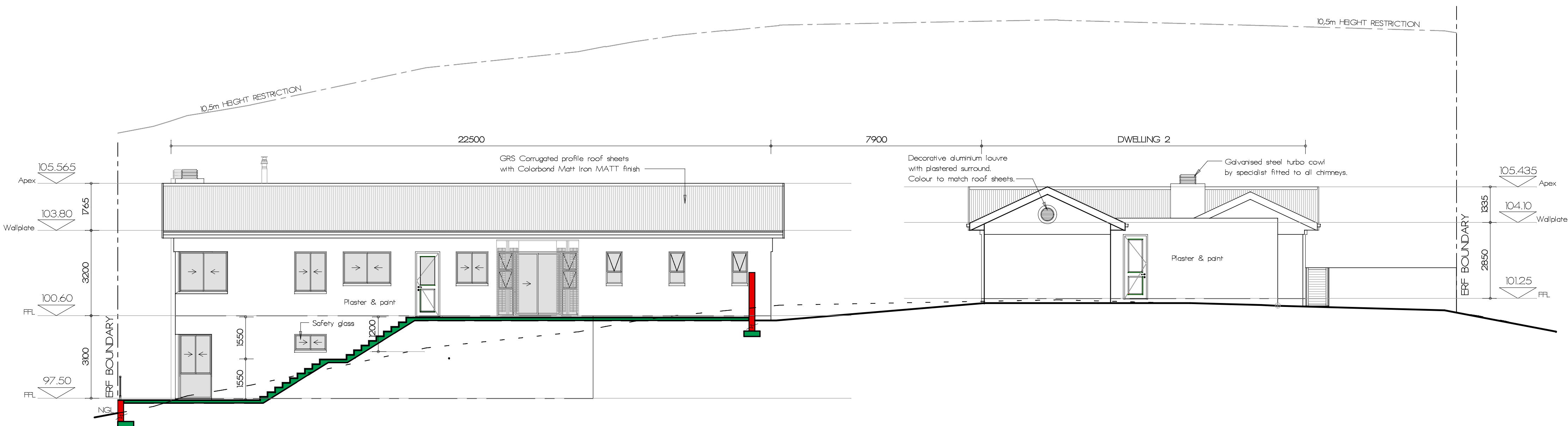
PROJECT

**PROPOSED NEW
RESIDENCES FOR
DE KIJKER TRUST
ERF 1454
ATLANTIC DRIVE
YZERFONTEIN**

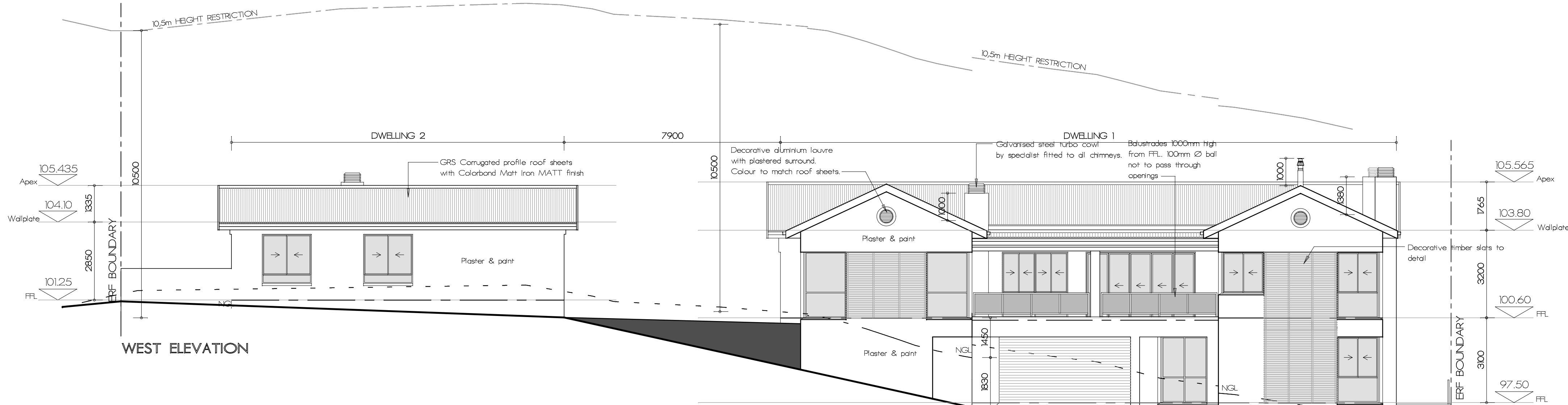
DESCRIPTION

**LOWER GROUND &
GROUND FLOOR LAYOUT**

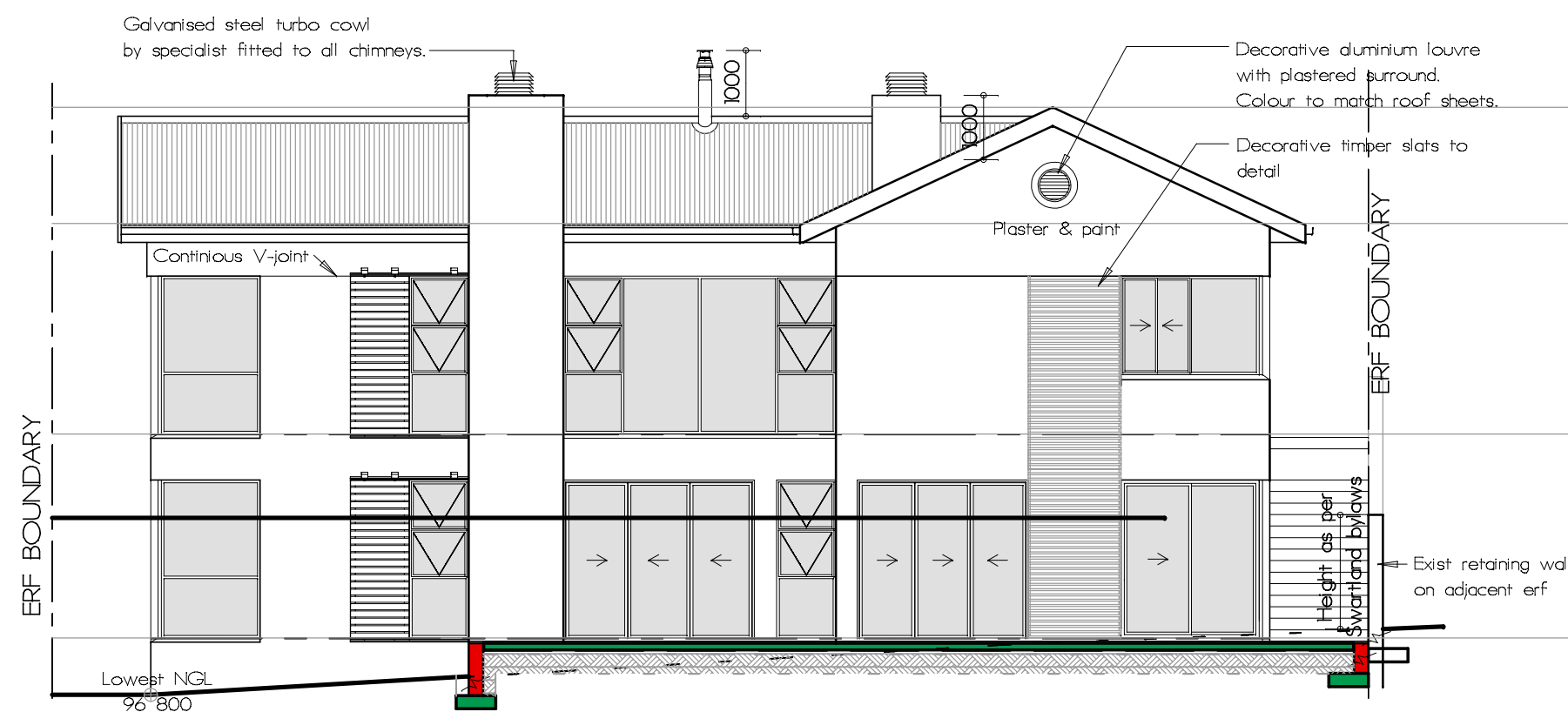
DATE	25/11/2021	SCALE	1 : 100
SKETCH	COUNCIL	TENDER	CONTRACTOR
DRAWN	EK	DRAWING	1692/CS/200
CHECKED	H DE VILLIERS	A	



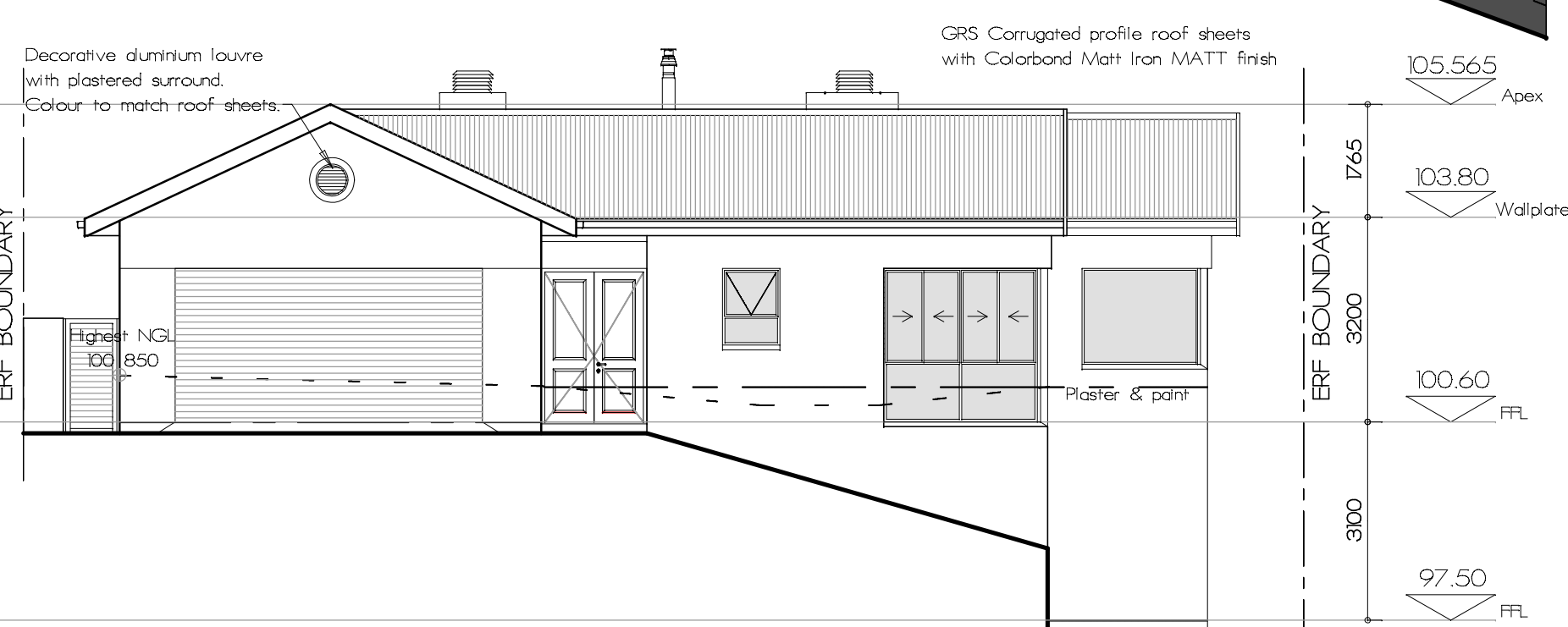
EAST ELEVATION



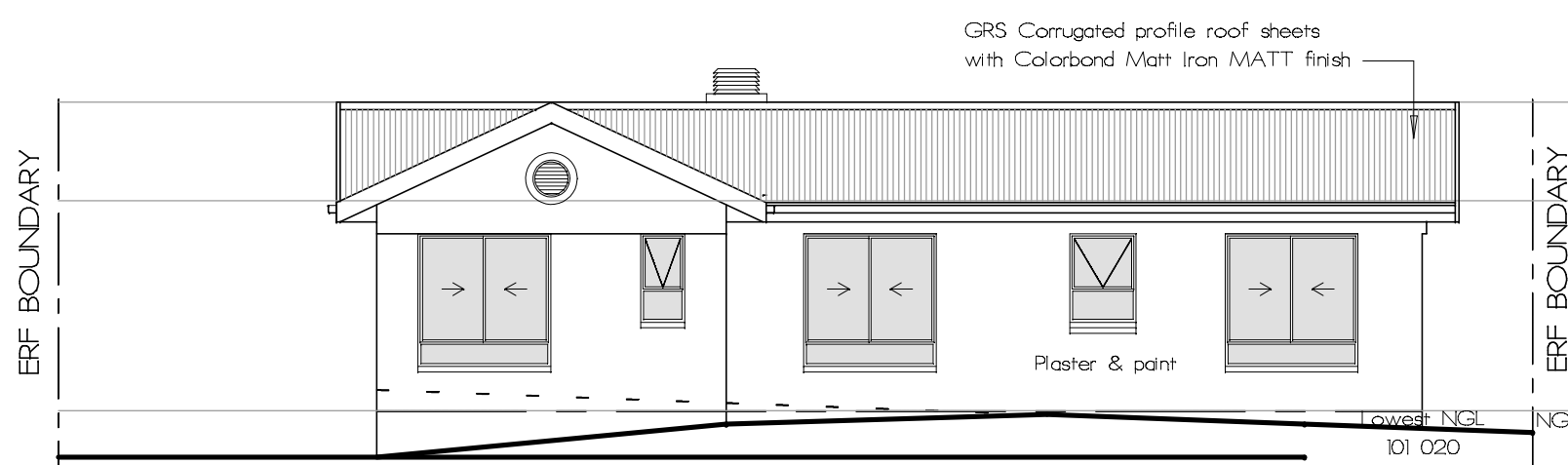
WEST ELEVATION



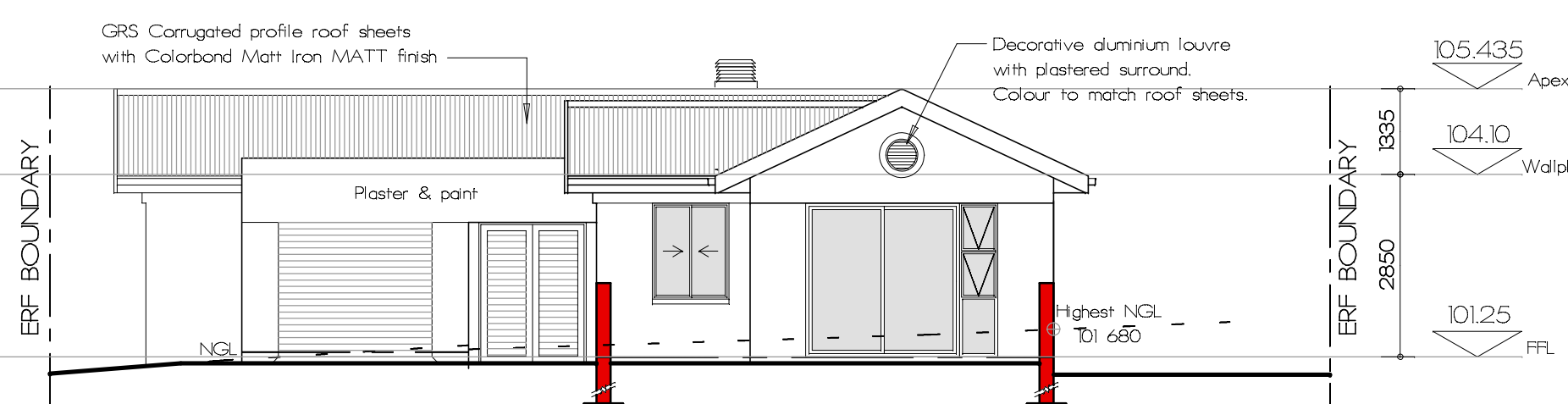
DWELLING 1 - SOUTH ELEVATION



DWELLING 1 - NORTH ELEVATION



DWELLING 2 - SOUTH ELEVATION



DWELLING 2 - NORTH ELEVATION

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[Signature]

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SACAP REG. No: 2759

PROJECT

**PROPOSED NEW
RESIDENCES FOR
DE KIJKER TRUST
ERF 1454
ATLANTIC DRIVE
YZERFONTEIN**

DESCRIPTION

ELEVATIONS

DATE	25/11/2021	SCALE	1 : 100
SKETCH	COUNCIL	TENDER	CONTRACTOR
DRAWN	EK	DRAWING	1692/CS/201
CHECKED	H DE VILLIERS		

Building Envelope – Fenestration

SANS 10400-XA Compliance:

	Storey Level	Nett area (m²)	Fenestration area (m²)	Percentage (%) fenestration
	Ground Storey:	111.80	38.52	34.45

Compliance Achieved:

Ground Storey:	Calculate compliance in accordance with SANS 204
----------------	--

Building Envelope – Fenestration – Summary

Element	Storey Level	Identifier No.	No. of Units	Width (m)	Height (m)	Area
1	Ground Storey	W.15	3	1.800	1.800	9.720
	Framing System			Glass Desc.	U-value	SHGC
	Aluminium			Single - low E	5.730	0.660
	Glass Material			Thickness (mm)	Orientation	Projection-P (m)
	4	South	0.760	2.080	0.280	
PH	Factor (E)	C _g	C _g	C _g	S _g	S _g
0.370	0.372	-0.870	0.380	0.150	0.530	0.680
			Fenestration Element Values:	Conductance	SHG	Energy Value
				55.696	2.386	5.309

Element	Storey Level	Identifier No.	No. of Units	Width (m)	Height (m)	Area
2	Ground Storey	W.01	1	0.600	1.200	0.720
	Framing System			Glass Desc.	U-value	SHGC
	Aluminium			Single - low E	5.730	0.660
	Glass Material			Thickness (mm)	Orientation	Projection-P (m)
	4	South	0.760	1.480	0.280	
PH	Factor (E)	C _g	C _g	C _g	S _g	S _g
0.510	0.328	-0.870	0.380	0.150	0.500	0.845
			Fenestration Element Values:	Conductance	SHG	Energy Value
				4.126	0.156	0.399

Element	Storey Level	Identifier No.	No. of Units	Width (m)	Height (m)	Area
3	Ground Storey	W.13	1	0.900	1.200	1.080
	Framing System			Glass Desc.	U-value	SHGC
	Aluminium			Single - low E	5.730	0.660
	Glass Material			Thickness (mm)	Orientation	Projection-P (m)
	4	South	0.760	1.480	0.280	
PH	Factor (E)	C _g	C _g	C _g	S _g	S _g
0.510	0.328	-0.870	0.380	0.150	0.500	0.845
			Fenestration Element Values:	Conductance	SHG	Energy Value
				6.188	0.234	0.599

Element	Storey Level	Identifier No.	No. of Units	Width (m)	Height (m)	Area
4	Ground Storey	W.16	1	0.900	1.200	1.080
	Framing System			Glass Desc.	U-value	SHGC
	Aluminium			Single - low E	5.730	0.660
	Glass Material			Thickness (mm)	Orientation	Projection-P (m)
	4	South	0.760	1.480	0.280	
PH	Factor (E)	C _g	C _g	C _g	S _g	S _g
0.510	0.328	-0.870	0.380	0.150	0.500	0.845
			Fenestration Element Values:	Conductance	SHG	Energy Value
				6.188	0.234	0.599

Element	Storey Level	Identifier No.	No. of Units	Width (m)	Height (m)	Area
5	Ground Storey	W.15	2	1.800	1.800	6.480
	Framing System			Glass Desc.	U-value	SHGC
	Aluminium			Single - low E	5.730	0.660
	Glass Material			Thickness (mm)	Orientation	Projection-P (m)
	4	West	0.760	2.080	0.280	
PH	Factor (E)	C _g	C _g	C _g	S _g	S _g
0.370	0.930	-0.850	1.070	0.080	0.910	0.850
			Fenestration Element Values:	Conductance	SHG	Energy Value
				37.130	3.977	3.952

Element	Storey Level	Identifier No.	No. of Units	Width (m)	Height (m)	Area
6	Ground Storey	D.13	1	3.000	2.400	7.200
	Framing System			Glass Desc.	U-value	SHGC
	Aluminium			PFG Low E safety glass	3.650	0.550
	Glass Material			Thickness (mm)	Orientation	Projection-P (m)
	6	North	0.760	2.680	0.280	
PH	Factor (E)	C _g	C _g	C _g	S _g	S _g
0.280	0.456	-0.370	1.530	-0.010	0.975	0.860
			Fenestration Element Values:	Conductance	SHG	Energy Value
				26.280	1.806	3.519

Element	Storey Level	Identifier No.	No. of Units	Width (m)	Height (m)	Area
7	Ground Storey	W.02	1	1.200	1.200	1.440
	Framing System			Glass Desc.	U-value	SHGC
	Aluminium			Single - low E	5.730	0.660
	Glass Material			Thickness (mm)	Orientation	Projection-P (m)
	4	North	0.760	1.480	0.280	
PH	Factor (E)	C _g	C _g	C _g	S _g	S _g
0.510	0.327	-0.370	1.530	-0.010	0.920	0.715
			Fenestration Element Values:	Conductance	SHG	Energy Value
				9.251	0.311	0.634

Element	Storey Level	Identifier No.	No. of Units	Width (m)	Height (m)	Area
8	Ground Storey	D.11	1	2.400	2.400	5.760
	Framing System			Glass Desc.	U-value	SHGC
	Aluminium			PFG Low E safety glass	3.650	0.550
	Glass Material			Thickness (mm)	Orientation	Projection-P (m)
	6	North	0.760	2.680	0.280	
PH	Factor (E)	C _g	C _g	C _g	S _g	S _g
0.280	0.456	-0.370	1.530	-0.010	0.975	0.860
			Fenestration Element Values:	Conductance	SHG	Energy Value
				21.024	1.445	2.815

Element	Storey Level	Identifier No.	No. of Units	Width (m)	Height (m)	Area
9	Ground Storey	D.12	1	2.100	2.400	5.040
	Framing System			Glass Desc.	U-value	SHGC
	Aluminium			PFG Low E safety glass	3.650	0.550
	Glass Material			Thickness (mm)	Orientation	Projection-P (m)
	6	East	0.760	2.680	0.280	
PH	Factor (E)	C _g	C _g	C _g	S _g	S _g
0.280	0.816	-0.590	1.390	0.030	0.945	0.905
			Fenestration Element Values:	Conductance	SHG	Energy Value
				18.396	2.262	2.493

SANS 204 Compliance:

Fenestration Compliance – Natural Environmental Control

Conductance (C _U) constant:	1.4
Solar Heat Gain (C _{SHGC}) constant:	0.13

Storey Level	Permissible Max. -		Calculated	
	Conductance	SHGC	Conductance	SHGC
Ground Storey:	156.62	14.53	183.28	12.81

Compliance Achieved:

Storey Level	SANS 204 Compliance ?	
	Conductance	SHGC
Ground Storey:	SANS 204 NOT satisfied	SANS 204 satisfied

SANS 204 Compliance: STRICT

Roof Construction – Roof Type 1

Roof assembly ventilated ?	Yes
----------------------------	-----

Roof construction:

Metal cladding @ 22-45° pitch w/ horiz. ceiling

Roof Pitch:	22° to 45°
-------------	------------

Roof construction:	R-value (m²K/W)
Component	Up
Outdoor air film (7m/s)	0.03
Metal cladding	0.00
Roof air space (non-reflective)	0.00
Plasterboard, gypsum (10 mm, 880 kg/m³)	0.06
Indoor air film (still air)	0.11
Reflective foil / radiant barrier:	
Emissivity :	0.9 outer & 0.05 inner
Insulation:	
Cellulose fibre loose-fill	
Thickness :	130 mm
Density :	27.5 kg/m³
R-value of Typical Roof Construction	0.00
	3.25
	0.00
	3.85
	Acceptable

Total Energy Demand / Consumption – Whole Building Summary

Energy Demand

Max. Permissible -

Energy Demand – Building (kW):	Non-specified
--------------------------------	---------------

Energy Demand – Lighting (kW):	0.56
--------------------------------	------

Utilised -

Energy Demand – Lighting (kW):	0.27
--------------------------------	------

Energy Demand – Hot Water (kW):	4.78
---------------------------------	------

Available -

Energy Demand – Building (kW):	Non-specified
--------------------------------	---------------

Energy Demand – Lighting (kW):	0.29	Energy demand acceptable.
--------------------------------	------	---------------------------

Hot Water Services

Hot water design requirement – Energy and storage capacity

Building Occupancy:	Dwelling house.	H4
---------------------	-----------------	----

Type of Accommodation?	Dwelling house - Low rental – Low demand
------------------------	--

Hot water demand – Assumed:	80.00	L/capita/day
-----------------------------	-------	--------------

No. of Persons ?	6
------------------	---

Daily Hot Water Demand:	4032.00	L – Incl. 20% allowance for heat loss
-------------------------	---------	---------------------------------------

Annual Hot Water Demand:	1467.65	KL – Based on design occupancy
--------------------------	---------	--------------------------------

50 % of Annual Hot Water Demand:	733.82	KL – incl. 20% allowance for heat loss
----------------------------------	--------	--

Energy design consumption – Electrical resistance heating

Energy consumption – Calculated @ 60 °C :

Summer	Autumn	Winter	Spring
17052.13	18489.17	20443.73	19002.41
			kWh

Energy Consumption – Daily	205.30	kWh – Calculated @ 60 °C
----------------------------	--------	--------------------------

Energy Consumption – Annual:	74987.44	kWh – Calculated @ 60 °C
------------------------------	----------	--------------------------

50 % of Annual Energy Consumption:	37493.72	kWh – Calculated @ 60 °C
------------------------------------	----------	--------------------------

Hot water storage requirement

Minimum Hot Water Storage Volume:	150	L
-----------------------------------	-----	---

Hot water storage tank system – Adopted

Tank Storage Volume:	250.00	L
----------------------	--------	---

Rated Power Input:	4.00	kW
--------------------	------	----

Reheat Time:	3.18	h
--------------	------	---

Heat Pump System – Total HW demand – Design Requirement

Reheat Time :	3.00	h
---------------	------	---

Heat Pump Capacity:	68.34	kW – Calculated
---------------------	-------	-----------------

Circulation Pump Size :	1347.62	L/h – Calculated
-------------------------	---------	------------------

Heat pump system – Total HW demand – Solution Adopted

Heat Pump Capacity :	3.10	kW
----------------------	------	----

Rated Power Input:	0.78	kW
--------------------	------	----

Hot Water Yield:	75.00	L/h
------------------	-------	-----

COP:	3.97
------	------

NOTE : Stand-by heating system shall be provided as a backup in the event of failure of the heat pump. Refer SANS 10252-1 (6.4.2).

NOTE : Heat pumps should be positioned to ensure exposure to the maximum incident solar radiation – preferably on northern side of building. Refer SANS 1352 (4.3.5).

Energy Consumption – Heat Pump – Total HW demand – Solution Adopted

Energy consumption – Assumed:

Summer	Autumn	Winter	Spring
4290.53	4652.11	5143.91	5143.91
			kWh

Energy Consumption – Daily:	52.65	kWh
-----------------------------	-------	-----

Energy Consumption – Annual:	19230.46	kWh
------------------------------	----------	-----

50 % (by volume) of annual average hot water heating – Achieved

Heat Pump System – 50% Annual Energy demand – Design Requirement

Min. Heat Pump Capacity:	17.08	kWh – Calculated
--------------------------	-------	------------------

Recovery Rate:	336.90	L/h – Calculated
----------------	--------	------------------

NOTE : 50% (by volume) of annual average hot water heating requirement satisfied by adoption of HP system equivalent or greater than above Min. Heat Pump Capacity calculated.

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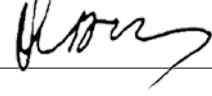
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REVISIONS

No.	DATE	DESCRIPTION
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OWNER'S SIGNATURE



ARCHITECT



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SACAP REG. No: 2759

PROJECT

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RESIDENCES FOR
DE KIJKER TRUST
ERF 1454
ATLANTIC DRIVE
YZERFONTEIN**

DESCRIPTION

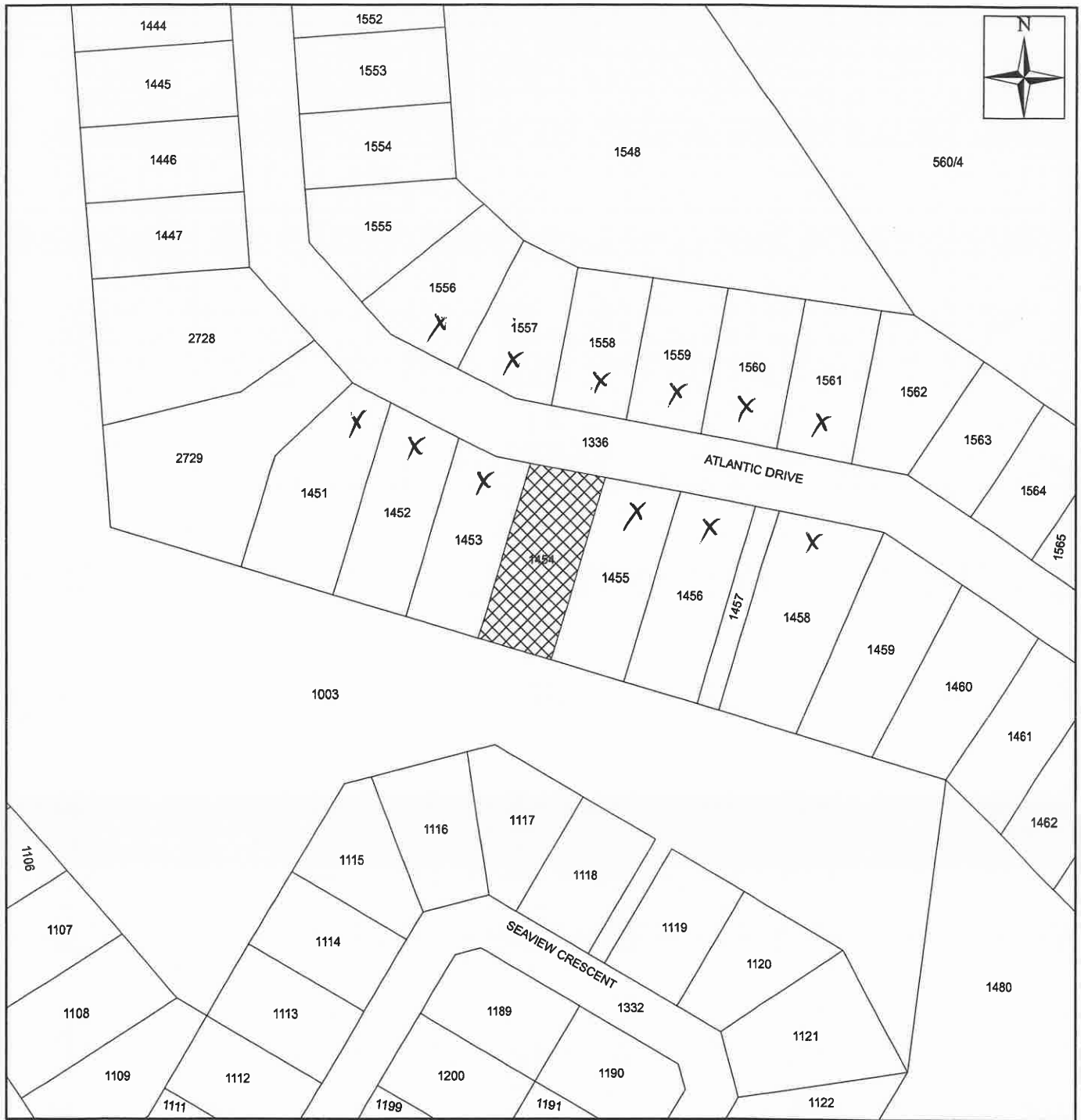
**DWELLING 2
ENERGY CALCULATIONS**

DATE	25/11/2021	SCALE	NTS
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SKETCH	COUNCIL	COSTING	CONSTRUCTION
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DRAWN	EK	DRAWING	1692/CS/206
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CHECKED	H DE VILLIERS		
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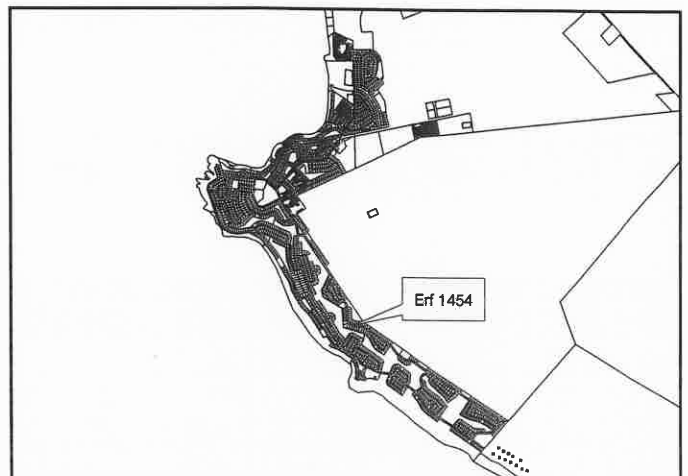


Voorgestelde vergunningsgebruik

Erf 1454, Yzerfontein

Publieke deelname

Skaal: NVT



Die Munisipale bestuurder

Munisipaliteit Swartland

Private Bag X52

Malmesbury 7299

PER: EPOS Swartland

Meneer

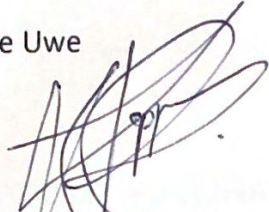
VOORGESTELDE VERGUNNINGSGEBRUIK OP ERF 1454, YZERFONTEIN

1. U Kennisgewing 15/3/10-14 Erf_1454 aan ons FM en ME Kloppers eienaars van Erf 1455 gedateer 6 Junie 2022 het betrekking.
2. Die volgende sake tot ons kommer in antwoord welke tensy nie bevredigend beantwoord, as beswaar aangeteken en hanteer moet word asseblief.
 - 2.1 'n Landmeterssertifikaat ontbreek- dit wil voorkom of ongeveer 'n meter (in hoogte) verskil bestaan tot voordeel van die aansoeker op ons gemeenskaplike grenslyn.
 - 2.2 Ons merk in samehang met voorafgaande nie die hoogtebeperking besonderhede aangetoon op die bouplan onder bespreking. Verskaf asb.
 - 2.3 Ons merk 'n Slaapkamer(nr3) met dubbeldeur uitgang direk teenoor ons voorstoep. Dit sal ernstige invloed hê op ons privaatheid en versoek derhalwe dat die aansoek vir 'n lengte tot ons goedkeuring, die bestaande muur (deur ons opgerig) van dieselfde standard (baksten) verhoog tot 2.1 meter gemeet vertikaal vanaf die stoepvlak van erf 1454
 - 2.4 Ons maak in beginsel beswaar teen die toelating van twee wooneenhede op ons buurgrens. Die verhoogde digtheid skep oa potensiaal vir 'n gastehuis of naweek verhurings(soos wat die aansoekers reeds by hulle vorige woonplek gedoen het) en dus verlaging van die doel waarvoor ons , ons eiendom bekom het.

Beantwoord asb so spoedig as moontlik sodat ons verder kan oorweeg.

Erken asb ontvangs.

Die Uwe

A handwritten signature in black ink, appearing to be 'FM Kloppers', written over a horizontal line.

FM Kloppers

A handwritten signature in black ink, appearing to be 'ME Kloppers', written over a horizontal line.

ME Kloppers

From: Emmie Reyneke <EReyneke@dsclaw.co.za>
Sent: Monday, 11 July 2022 09:29
To: Registrasie Email <RegistrasieEmail@swartland.org.za>
Subject: Beswaar teen: Voorgestelde vergunningsgebruik op erf 1454, Yzerfontein

Aan wie dit mag aangaan

Die Munisipale Bestuurder

Ek erken ontvangs van u skrywe rakende vergunningsgebruik op Erf 1454, Yzerfontein.

Ek maak beswaar dat daar twee eiendomme op een erf gaan wees.

Ek het Yzerfontein toe verhuis uit die Stad uit om rustig te bly en nou gaan daar oorkant my huis 'n "gastehuis" gebou word want dit is al wat dit tog gaan wees. Ek sien nie kans vir die geraas en moeilikheid met gaste wat tans die probleem is in Yzerfontein.

Ek stem nee.

Kind regards

Emmie Reyneke
 Secretary to Carla Griffith

	<ul style="list-style-type: none">  0861 465 879  International +27 21 410 1200  086 604 4041  ereyneke@dsclaw.co.za  www.dsclaw.co.za  10th Floor, Touchstone House, 7 Bree Street, Cape Town, South Africa  P.O. Box 1456, Cape Town, 8000  Docex 146, Cape Town 	
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Reg no.: 2004/033368/Z1

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CK RUMBOLL & VENNOTE / PARTNERS



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

DATE: 12 August 2022

PER HAND

ATTENTION: Mr A Zaayman

Municipal Manager
Swartland Municipality
Private Bag X52
MALMESBURY
7300

Sir,

MUNISIPALITEIT SWARTLAND					REG
LEER NO:	Verwys Na	Inligting	Verslae	Afhandel	Kom/Taar
15/3/10-14/ErF-1454	SSSB				
	oel				
Ander Opdrag:					
SPERDATUM:					(get)BK

OUR REF: YZE/12514/MH

APPLICATION FOR CONSENT USE IN TERMS OF THE SWARTLAND MUNICIPALITY LAND USE PLANNING BY-LAW (2020) IN RESPECT OF ERF 1454 YZERFONTEIN: RESPONSE ON OBJECTIONS

With reference to your letter dated 14 July 2022:

The table below provides a summary of the comments/objections that were received along with the response from CK Rumboll and Partners on behalf of our client, the De Kijker Trust, as registered owner of Erf 1454 Yzerfontein. Comments/Objections were received from the following persons:

1. FM and ME Kloppers
2. E Reyneke

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



VENNOTE / PARTNERS:

IHJ Rumboll PrL (SA), BSc (Surv), M.I.P.L.S., AP Steyl PrL (SA), BSc (Surv), M.I.P.L.S.

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

Objector	Objection/Comments	Response on objections
1. FM and ME Kloppers	<p>1. Die volgende sake tot ons kommer in antwoord welke tensy nie bevredigend beantwoord, as beswaar aangeteken en hanteer moet word asseblief.</p> <p>'n Landmeterssertifikaat ontbreek- dit wil voorkom of ongeveer 'n meter (in hoogte) verskil bestaan tot voordeel van die aansoeker op ons gemeenskaplike grenslyn.</p> <p>Ons merk in samehang met voorafgaande nie die hoogtebeperking besonderhede aangetoon op die bouplan onder bespreking. Verskaf asb.</p> <p>Ons merk 'n Slaapkamer(nr3) met dubbeldeur uitgang direk teenoor ons voorstoep. Dit sal ernstige invloed hê op ons privaatheid en versoek derhalwe dat die aansoek vir 'n lengte tot ons goedkeuring, die bestaande muur (deur ons opgerig) van dieselfde standard (baksten) verhoog tot 2.1 meter gemeet vertikaal vanaf die stoepvlak van erf 1454.</p> <p>Ons maak in beginsel beswaar teen die toelating van twee wooneenhede op ons buurgrens. Die verhoogde digtheid skep oa potensiaal vir 'n gastehuis of naweek verhurings(soos wat die aansoekers reeds by hulle vorige woonplek gedoen het) en dus verlaging van die doel waarvoor ons, ons eiendom bekom het.</p>	<p>Gegewe die voorstel (woonhuise met spitsdakke) word die hoogte van die geboue beperk tot 10,5m gemeet parallel vanaf die gradiëntlyn tot die hoogste punt van die dak. Dit is duidelik vanaf die bouplanne dat die voorgestelde woonhuise nie die hoogtebeperking oorskry nie.</p> <p>Die beswaarmakers demonstreer nie hoe die voorstel hul privaatheid gaan beïnvloed nie. Ontwikkelingsparameters word juis in plek gestel om aangrensende bure se regte te beskerm mbt privaatheid. Die eiendom word ontwikkel binne die parameters van die huidige sonering. Hierdie kantoor is dus van mening dat die ontwikkelingsvoorstel nie 'n wesenlike impak op die privaatheid van die beswaarmaker sal hê nie.</p> <p>Die ruimtelike voorstelle, in terme van die Swartland Ruimtelike Ontwikkelingsraamwerk, dui daarop dat residensiële verdigting ondersteun word in hierdie area. Residensiële verdigting kan op vele wyses bewerkstellig word en sluit onder andere in die byvoeging van 'n wooneenheid op 'n eiendom. Die sonering van Erf 1454 Yzerfontein is Residensiële Sone 1. 'n Tweede wooneenheid resorteer as 'n vergunningsgebruik onder hierdie sonering m.a.w die sonering maak voorsiening vir addisionele geleenthede vir akkomodasie.</p> <p>Na aanleiding van bogenoemde is dit duidelik dat tweede wooneenhede geag word as versoenbaar te wees binne hierdie area.</p> <p>Hierdie aansoek behels slegs die verbetering van die eiendom ten einde 'n primêre woning asook 'n tweede wooneenheid op die eiendom te akkomodeer.</p>

VENNOTE / PARTNERS:

IHJ Rumboll PrL (SA), BSc (Surv), M.I.P.L.S., AP Steyl PrL (SA), BSc (Surv), M.I.P.L.S.

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MALMESBURY (T) 022 482 1845 (F) 022 487 1861 VREDENBURG (T) 022 719 1014

2. E Reyneke	<p>2. Ek maak beswaar dat daar twee eiendomme op een erf gaan wees.</p> <p>Ek het Yzerfontein toe verhuis uit die Stad uit om rustig te bly en nou gaan daar oorkant my huis 'n "gastehuis" gebou word want dit is al wat dit tog gaan wees. Ek sien nie kans vir die geraas en moeilikheid met gaste wat tans die probleem is in Yzerfontein.</p> <p>Ek stem nee.</p>	<p>Hierdie kantoor neem kennis van die beswaarmaker se kommentaar en word dit beklemtoon dat hierdie aansoek slegs ten doel het om die nodige grondgebruiksregte te bekom ten einde 'n tweede wooneenheid op die eiendom te akkomodeer.</p>
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We trust you will take the above into consideration when assessing the application.



Mornay Herling

for 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: leap@rumboll.co.za / PO Box 211 / Rainierstr 16, Malmesbury, 7299
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VREDENBURG (T) 022 719 1014



Verslag ♦ Ingxelo ♦ Report

Office of the Director: Development Services
Division: Built Environment

30 August 2022

15/3/10-1/Erf_1466

WYK: 7

ITEM 6.2 OF THE AGENDA FOR THE MUNICIPAL PLANNING TRIBUNAL THAT WILL TAKE PLACE ON WEDNESDAY, 14 SEPTEMBER 2022

LAND USE PLANNING REPORT APPLICATION FOR A CONSENT USE ON ERF 1466, ABBOTSDALE					
Reference number	15/3/10-1/Erf_1466	Application submission date	13 June 2022	Date report finalised	30 August 2022

PART A: APPLICATION DESCRIPTION

Application for a consent use on Erf 1466, Abbotsdale, in terms of section 25(2)(o) of Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), has been received. The application is aimed at procuring the right to operate a house tavern on the property from a portion of the existing dwelling (44m² in extent).

The applicant is C.K. Rumboll and Partners and the owners are D.J. and M.J. Hendriks.

PART B: PROPERTY DETAILS

Property description (in accordance with Title Deed)	Erf 1466, Gedeelte van Erf 409 Abbotsdale, in die Swartland Munisipaliteit, Afdeling Malmesbury, Provinsie Wes-Kaap				
Physical address	Darling Road		Town	Abbotsdale	
Current zoning	Residential zone 1	Extent (m ² /ha)	428m ²	Are there existing buildings on the property?	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N
Applicable zoning scheme	Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020)				
Current land use	Dwelling house		Title Deed number & date	T31582/2019	
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	<input type="checkbox"/>	Permanent departure	<input type="checkbox"/>	Temporary departure	<input type="checkbox"/>	Subdivision	<input type="checkbox"/>
Extension of the validity period of an approval	<input type="checkbox"/>	Approval of an overlay zone	<input type="checkbox"/>	Consolidation	<input type="checkbox"/>	Removal, suspension or amendment of restrictive conditions	<input type="checkbox"/>
Permissions in terms of the zoning scheme	<input type="checkbox"/>	Amendment, deletion or imposition of conditions in respect of existing approval	<input type="checkbox"/>	Amendment or cancellation of an approved subdivision plan	<input type="checkbox"/>	Permission in terms of a condition of approval	<input type="checkbox"/>
Determination of zoning	<input type="checkbox"/>	Closure of public place	<input type="checkbox"/>	Consent use	<input checked="" type="checkbox"/>	Occasional use	<input type="checkbox"/>
Disestablish a home owner's association	<input type="checkbox"/>	Rectify failure by home owner's association to meet its obligations	<input type="checkbox"/>	Permission for the reconstruction of an existing building that constitutes a non-conforming use	<input type="checkbox"/>		<input type="checkbox"/>

PART D: BACKGROUND

Erf 1466 is zoned Residential Zone 1 in terms of Schedule 2 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020). The property is being improved with a dwelling house and outbuildings. The applicant proposes to convert the existing garage and store room into the tavern with a storeroom. The house tavern will sell liquor for off-consumption purposes. The erf is situated central to Abbotsdale (Annexure A).

The By-Law defines a house tavern 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"*. The intended use is accommodated as a consent use under the Residential Zone 1 zoning and the owner intends to reside in the remainder of the dwelling. The proposal is thus consistent with the provisions of the applicable zoning category.

The property is accessed from the south-western most point via Darling Road, with the road reserve widening towards the west. It is speculated that the property fence, in its current position, encroaches on the road reserve, as illustrated by the photos, building plan, site plan and unscaled diagrams below:



Figure 1: Excerpt from GIS map indicating property boundaries vs. road reserve



Figure 2: Perceived real property boundary line



Figure 3: Portion of road reserve that is perceived to be encroached upon

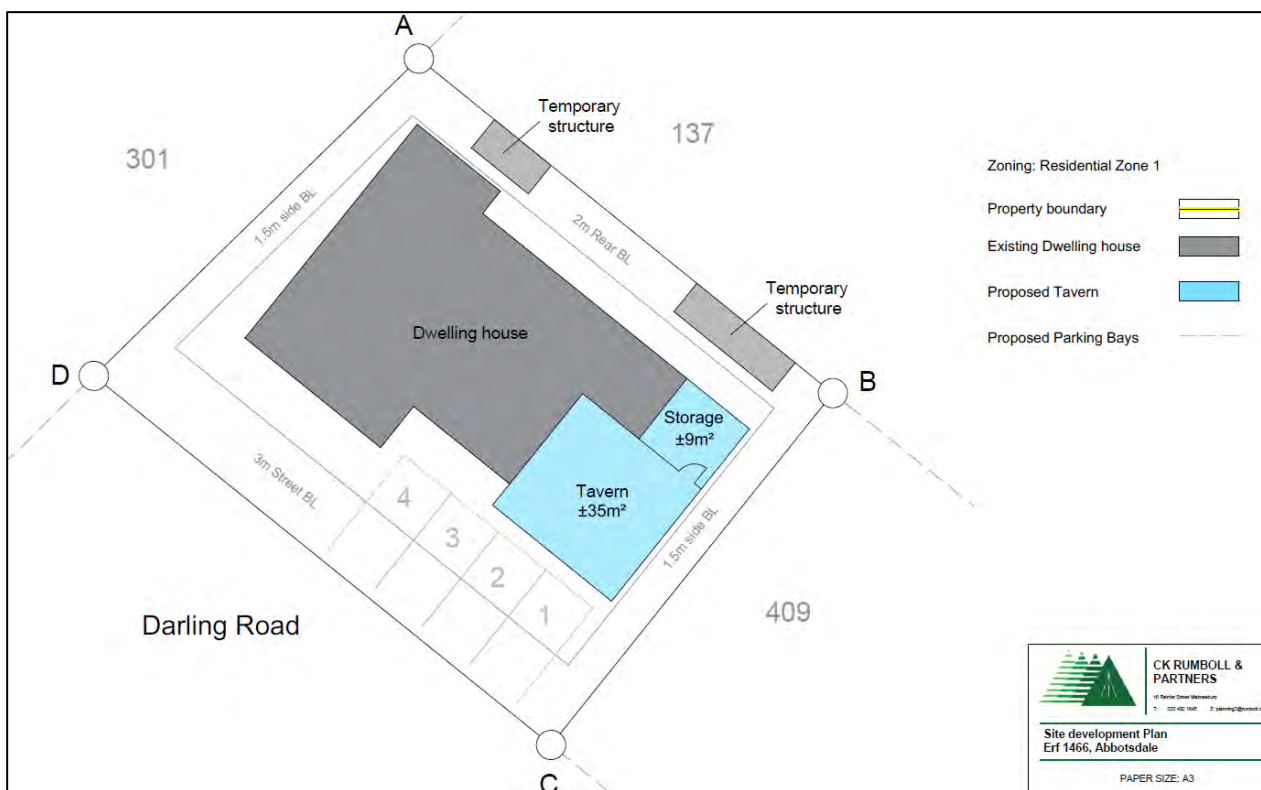


Figure 4: Proposed site development plan (Refer to Annexure B)

PART E: PRE-APPLICATION CONSULTATION (ATTACH MINUTES)

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

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

The applicant motivates that Abbotsdale is directly accessible from the N7 and the application property is located on Darling Road, which is an activity corridor that in turn directly links with the N7. Furthermore, the property is located within the Abbotsdale CBD, as proposed by the SDF, thus Erf 1466 is optimally situated for the proposed land use of a tavern.

The property is bordered by residential properties on the north- and south-eastern boundaries, while the south- and north-western boundaries abut vacant land next to Darling Road and the river respectively. The prospect of these vacant portions ever being developed is considered unlikely.

Secondly, the applicant motivates that, although the property is located within a residential area, the proposed business activities will in no way adversely affect the community of the neighbourhood. On the contrary, the applicant is of opinion

that the residents of Abbotsdale will benefit from the proposed business, as the nearest liquor store is 5,8km away, in the CBD of Malmesbury. Erf 1466 is located in Area F, as identified by the SDF and the area is characterised as part of the Abbotsdale CBD, with support for sport, recreational and higher density residential uses.

The approval of the proposed consent use will be consistent with the provisions and proposals of the Swartland Municipality IDP, as well as the local Spatial Development Framework.

Thirdly, the applicant motivates that the owner and his family will reside on the property.

The applicant confirms that they are aware that a liquor license is required for house taverns and that all conditions determined by the Western Cape Liquor Authority will strictly be adhered to. They are also aware that, should the application be approved, both the consent and the liquor licence may be revoked, should the enterprise fail to adhere to legislation of prove to be a nuisance in the community.

The applicant states that the proposal will not cause any damage to the community of Abbotsdale, nor is it intended to violate the image of the town or have any other negative impact. The applicant aims to adhere to all laws and guidelines as contained in LUPA and SPLUMA on a national, provincial and local level.

The applicant states that the application will ensure the promotion and integration of infrastructure and social facilities.

Sufficient parking is also proposed / provided for the proposed liquor outlet, as well as the dwelling.

With the approval of the consent use, the applicant is of the opinion that the tavern will have little to no impact on municipal engineering services.

The applicant states that there are no public transport, except for the occasional taxis and the costs resulting in transport and expenses made with regards to the purchase of consumer goods are extravagant especially if you do not have your own transport. With most of the residents in Abbotsdale being previously disadvantaged and with the increasing rate of unemployment, families are searching for more and more opportunities to earn an income / additional income. The applicant motivates that they will consequently provide a much more convenient and accessible service to potential clients.

The applicant states that they are clearly aware of the social issues associated with alcohol abuse, including drunkenness and violence, however feels that liquor as such is not the cause of social issues, but rather that the misuse of liquor is to blame and individuals should take responsibility for their own behaviour.

PART G: SUMMARY OF PUBLIC PARTICIPATION

Was public participation undertaken in accordance with section 55- 59 of the Swartland Municipality: **Y** Municipal Land Use Planning By-Law. **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 Abbotsdale, 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 by hand to the owners affected by the application (Refer to Annexure C for Public Participation Map). The South African Police Service was also issued a notice letter but no response was forthcoming.

Total valid comments	6	Total comments and petitions refused	0
Valid petition(s)	Y N	If yes, number of signatures	20
Community organisation(s) response	Y N	Ward councillor response (Basil Stanley)	Y N No comments were forthcoming from councillor Stanley
Total letters of support	0		

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

Name	Date received	Summary of comments	Positive
Department Civil Engineering Services	4 July 2022	a) <u>Water</u> : The existing connection be used and that no additional connections be provided; b) <u>Sewerage</u> : The existing connection be used and that no additional connections be provided;	Positive
Division: Built Environment	21 July 2021	Building plans be submitted to the Senior Manager: Built Environment, for consideration and approval.	Positive

PART I: COMMENTS RECEIVED DURING PUBLIC PARTICIPATION		SUMMARY OF APPLICANT'S REPLY TO COMMENTS	MUNICIPAL ASSESSMENT OF COMMENTS
E. & M. Williams Erf 115 Annexure D	<p>1. My partner and I are in the same line of business and after long hours of research it came to our attention as per DTI, the limit set would be 500m from schools, places of worship and health. Currently the proposal on Erf 1466 is the following distances:</p> <ul style="list-style-type: none"> a. St Michaels Primary (±500m) b. Bambinos Crèche (±250m) c. Anglican Church (±200m) d. Abbotsdale Civic Centre (±210m) e. Abbotsdale Satellite Clinic (±200m) 	<p>1. The property of Edgar Williams & Monique Williams are located within the residential area of Abbotsdale and not within the Central Business District (CBD) as in the case with Erf 1466, Abbotsdale. Although the property may be located in close proximity to a church, crèche and clinic, there is not a more suitable location for the selling of liquor than within the CBD. The location of schools, clinics and churches often occur within 500m from facilities that sell alcohol.</p> <p>An example of this is in Malmesbury with "Ultra Liquors Malmesbury" (Erf 477), which is located ±120m from the church, ±115m from an old age home and ±250m from a pre-school. The liquor store works in the same manner as the proposed house tavern and can therefore be supported.</p>	<p>1. It is supposed that the objector refers to the Department of Trade and Industry as regulator of liquor legislation in South Africa and the mentioned regulations are those applicable to places that sell alcohol to the public, i.e. the National Liquor Act, 2003 (Act 59 of 2003) and the associated norms and standards (Government Gazette 38459 dated 13 February 2015).</p> <p>None of the abovementioned documents restrict the proximity of a business that sells alcohol to the uses listed by the objector. Other provinces such as Kwazulu Natal have formulated policy along this vein, but no such legislation have as of yet been approved in the Western Cape.</p>
	<p>2. We do not object the endeavour or the business, we object to the location in close proximity to the school, churches and clinic.</p>	<p>2. Erf 1466 is located within Zone F of the Swartland Spatial Development Framework (SDF) which is a node on the eastern bank of the Diep River that supports sport and commercial uses as well as higher density residential uses.</p> <p>Secondary Business Uses are identified as follows by the Swartland SDF (2019): "Allow for low intensity commercial and mixed uses to provide for the needs of the local neighbourhood in terms of consumer goods and personal services (including house shop, home occupation, small offices, house tavern, cafe, but not limited to these uses)." The property is located directly adjacent to an activity corridor (Darling Road) and within the CBD of town, making the property highly accessible. The small business opportunities within this area provide an ideal opportunity for entrepreneurs to start a business and earn an income.</p>	<p>2. The applicant is wholly supported in the argument. If ever an erf was optimally located for the development of a house tavern, then it would be Erf 1466, Abbotsdale. The town does not have a formal CBD, but the SDF identifies the area central to the river and Darling Road as the optimal location. A business premises already exists across the road of the application property. Also refer to comment 1.</p>
<p>HE Liedeman Erf 92 Annexure E</p> <p>SH & DL Jonkers Erf 138 Annexure F</p> <p>H Howburg Annexure G</p>	<p>3. The house tavern will increase, traffic, burglary, noise and rest disturbance.</p>	<p>3. Since the property is located within the central business district (CBD) of town, which encourages commercial development, the increase in traffic and noise is unavoidable. Even with the proposed house tavern, the increase in traffic and noise will still be limited, as the majority of the customers will be the surrounding residents which is in walking distance from the property.</p>	<p>3. Darling Road is arguably the busiest, highest order road within Abbotsdale, directly connecting with the N7 and being characterised as an activity corridor by the SDF. Furthermore, the location of Erf 1466 is central to one of the two business nodes of the CBD proposed along Darling Road, on either side of the Diep River. It should therefore be expected that the character of the area will evolve over time. The increase in crime in the area, however, can neither be anticipated nor proven. Any patron of the proposed tavern will remain subject</p>

	<p>4. The value of our properties will decrease.</p> <p>5. The proposal states that it will be a buy and go, but it is never the case.</p>	<p>It is uncertain how the statement can be made that the proposed house tavern will increase burglary in the area.</p> <p>4. 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>5. The owner of the property has been selling liquor from his mother's property (Erf 409, adjacent to Erf 1446) for ±6 years now, it has always been a buy and go and will not change now. The selling of the liquor has now moved to Erf 1466 and the proposal to obtain the land use rights is now requested.</p>	<p>to all legislation that is applicable in South Africa, including nuisance regulations, laws against burglary etc.</p> <p>4. The statement is conjecture, the objectors do not provide any proof to support their argument. It is also argued that the establishment of the liquor outlet may add value as the community will find it convenient to support this business instead of driving all the way to Malmesbury.</p> <p>All the other properties along Darling Road, westward to the old Malmesbury Road, have the same development potential as Erf 1466.</p> <p>5. The application under consideration is an attempt by the property owner to obtain the necessary land use rights in order to run a legal liquor outlet.</p> <p>The conditions of approval may be formulated in such a manner as to restrict the sale of liquor for off-consumption. The liquor licence will then be issued in the same manner and should the owner not adhere to the regulations set out, the licence, as well as the consent use, may be revoked.</p>
A & P van Harte Annexure H	<p>6. It will change the residential atmosphere of the area.</p> <p>7. It will encourage underage drinking amongst community members.</p> <p>8. Drinking often leads to domestic abuse, unemployment and lawlessness.</p>	<p>6. As mentioned in point 1, the property is located within the CBD of town and will therefore contribute to the commercial character of the area.</p> <p>7. Noted, it is illegal to sell liquor to underage children. The owner will therefore not do it.</p> <p>8. The business owner cannot be held responsible for any activities the residents do outside his property.</p>	<p>6. Please refer to comments 1 and 2.</p> <p>7. It is a serious offence to sell liquor to underage persons. The owner will be subject to all the same legislation regarding the sale of liquor and will run the risk of losing the liquor licence, obtaining a fine or even criminal prosecution and a prison sentence.</p> <p>8. The mere presence of a regulated substance or the availability thereof in a community cannot force an individual to misuse it or resort to violence, abuse and lawlessness. Every South African holds the right to choose his/her own morality and behaviour. The law is very clear regarding the correct and legal way to distribute and use alcohol and it is the responsibility of the owner and the patrons to operate within the confines of the law.</p> <p>The proposed off-consumption facility cannot in itself contribute to alcohol abuse. It will, however, ensure that the community of Abbotsdale will have a legal liquor outlet to support, rather than the illegal shebeens.</p>

<p>RD Manuel Erf 139 Annexure I</p>	<p>9. Alcohol has been sold unauthorised for some time now. Fridays and Saturdays loud music is played until 02:00-03:00 in the mornings. It is therefore not a buy and go tavern.</p> <p>10. It is stated that the tavern is run from a portion of the property, but the owners currently live in the garage and the house is still being built. How will this work?</p>	<p>9. The owner confirmed that the illegal house tavern which is referred to is located on Erf 134 and not on either Erf 409 or Erf 1466. As stated in point 5, the proposed tavern will be a buy and go.</p> <p>10. The owner currently lives in the area earmarked as the garage. Once the building is finalised, he will continue living in the dwelling house and utilise the garage area to as the house tavern to sell liquor.</p>	<p>9. The application under consideration is an attempt by the owner of the property to obtain the necessary land use rights in order to run a legal liquor outlet.</p> <p>Application is made for an off-consumption facility and not a place of entertainment, therefore no loud music relating to the facility will be permitted to be generated on the property.</p> <p>10. Building plans for the dwelling were already approved in 2019. Should the tavern application be approved, the owner will be required to submit new building plans indicating the change in use of the building. The building plans are subject to adhere to SANS 10400, which prescribes the minimum requirements for human habitation and for obtaining an occupancy certificate. Occupancy of the dwelling and operating of the tavern will not be granted, prior to the minimum requirements being met.</p>
<p>H. Howburg Erf 1465 Annexure G</p>	<p>11. We have had problems with house taverns located near our property and in the same street.</p>	<p>11. Noted. Each land use application should be evaluated on its own merits. This land use application cannot be negatively affected due to the disturbances of the surrounding land uses.</p>	<p>11. The taverns referred to by the objector have more than likely been unauthorised. Also, the application under consideration is evaluated on its own merit and the proposal presented adheres to the legal requirements and development parameters applicable to a house tavern. Any possible future contraventions will be dealt with in terms of the relevant legislation.</p>
<p>Petition Annexure J</p>	<p>12. The location of the tavern is not suitable, due to the fact that it will be in close proximity (closer than 500m) from a primary school, crèche, church, clinic and civic centre.</p>	<p>12. In terms of section 59.(1) of the By-Law, comments in respect of an application submitted by the public in the form of a petition must clearly state -</p> <ul style="list-style-type: none"> a. the contact details of the authorised representative of the signatories of the petition; b. the full name and physical address of each signatory; and c. the comments and reasons therefore. <p>(2) Notice to the person contemplated in subsection (1)(a) constitutes notice to all the signatories to the petition.</p> <p>Considering the fact the more than half of the petitioners did not give their physical address, indicates that the majority of the petitioners does not even live in this area and will have no effect on them.</p>	<p>12. In terms of the by-law the petition is valid – the relevant information is available on the cover letter. The petition also clearly states that a large number of the signatories are employees of the school, crèche, church, clinic and civic centre, therefore it is assumed that the individuals are not necessarily local to Abbotsdale. Furthermore, the proximity of individuals to a development is not applicable when evaluating an objectors' interest in a development.</p> <p>Ironically, the argument around the proximity of the tavern to social and education land uses has also been refuted.</p>

PART J: MUNICIPAL PLANNING EVALUATION

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

Application for a consent use on Erf 1466, Abbotsdale, in terms of Section 25(2)(o) of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 25 March 2020), was submitted on 13 June 2022, in order to accommodate a house tavern from a portion of the dwelling.

A total of 19 written notices were issued to affected parties via registered mail on 22 June 2022 and e-mails were sent additionally where e-mail addresses were available. The commenting period concluded on 25 July 2022.

Six objections and one petition were received and referred to the applicant for comment on 27 July 2022. Comments from the applicant on the objections were returned to the Municipality on 16 August 2022.

The applicant is C.K. Rumboll and Partners and the property owners are D.J. and M.J. Hendriks.

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: According to the SDF, 2019 the subject property is situated in Area F, adjacent to Darling Road, a designated activity corridor. The SDF identifies the area as the future CBD of Abbotsdale, with medium to high density residential opportunities. The proposal is fully consistent with the goals of the SDF, especially in establishing a CBD node along the road, next to the river.

The application further promotes access to security of tenure for the land owners through additional rights and associated income on a residential property. The application aims at formalising and legalising a land use type that has historically been managed less than legally throughout Abbotsdale.

All considerations and facts have been taken into account and the application therefore complies with the principle of spatial justice.

- b) Spatial Sustainability: Existing services are sufficient to accommodate the existing dwelling, as well as the proposed house tavern. The mixed use may result in the optimal use of space and services. The proposal makes a needed service/amenity available to a larger range of income groups, some of who otherwise would have had to travel to Malmesbury at additional costs.

The diversification of uses on the property promotes economic resilience. The location of the erf next to the river flood plain may also, over time, contribute to the attraction of the tavern and may have a positive impact on tourism.

The development proposal, at its core, absolutely supports the development path of the Municipality and the establishment of a formal CBD in Abbotsdale.

- c) Efficiency: Surrounding land uses mainly include single residential properties and a large Business Zone 1 property across the road from Erf 1466. The proposed consent use may be seen as a contribution to business uses along an identified activity corridor.

It is assumed that most of the clientele to the facility will frequent the property by foot, however, four on-site parking bays will be provided. The proposed house tavern is accessed directly from Darling Road, with a widening road reserve along its street border. The business layout is clearly for customers to move in and out and not to linger. Once the property fence is repositioned in the correct position, the wide road reserve will enhance the traffic safety on the property by providing clear sight lines to oncoming traffic, as well as ample vehicular manoeuvre space, before returning to main stream traffic. The proposal will therefore not result in major congestion in the street or frustration in neighbouring property owners. The proposed tavern can therefore effectively be accommodated within a portion of the existing garage.

- d) Good Administration: Public participation was done by Swartland Municipality in terms of the provisions of the By-Law. Consideration is given to all correspondence received and the application is dealt with in a timeous manner. It is thus argued that the Municipality complies with the principles of good administration.

- e) Spatial Resilience: The house tavern, as local business, supports the local economy and promotes entrepreneurship. Abbotsdale does not have many formal liquor outlets/facilities and therefore there is a definite need as such in the community. The applicant identified the need and wishes to obtain the necessary

authorisations. Like house shops, house taverns play an important role in communities as it is situated within walking distance for customers, who normally need to travel to visit liquor outlets in business areas. In the case of Abbotsdale, people need to travel to Malmesbury for that purpose. Therefore, the application complies with the principle of spatial resilience. Should the house tavern not be successful, the outbuilding can easily be converted back into a garage as part of the primary use.

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

The SDF indicates that Erf 1466, Abbotsdale to be situated in land use proposal Area F. The application is clearly consistent with the proposals of the SDF, 2019.

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 3 by ensuring quality and sustainable living environments, bringing opportunity closer to the people.

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

The proposed consent use complies with all applicable zoning parameters.

3. The desirability of the proposed development

Abbotsdale currently has one legal business for the sale of liquor, in the form of a house tavern. There are numerous other such enterprises, but none of them authorised. The illegal 'shebeens' are often also migrant in nature, rendering the apprehension of guilty parties and enforcing of the relevant legislation, notoriously difficult. However, the fact that said businesses continue to flourish, is an indication that the need for such facilities is unquestionable.

Erf 1466 is zoned Residential Zone 1, and the zoning makes provision for the owner to apply for a secondary use (consent use) to accommodate a house tavern. Surrounding land uses are mostly single residential with an existing Business Zone 1 property across the road from Erf 1466. Also, the erf is located in the portion of Abbotsdale that is earmarked for development of the Abbotsdale CBD. The application will therefore not have a negative impact the character of the area. The proposed house tavern will be situated in the Abbotsdale CBD, directly accessed via an activity corridor, as identified by the SDF.

Application for a house tavern, such as the one at hand, provides a number of opportunities to the owner, as well as the Local Authority and Liquor Board:

- a. The owner may generate an income from the business on the property;
- b. The risk of fines and prosecution to the owner is minimised, as the legislative framework is transparent and the 'may and may not' of the operation is clear;
- c. The legislative bodies also provide supportive functions to owners, improving the business;
- d. The Local Authority and Liquor Board can regulate the negative aspects associated with the business, ensuring the impact on the community is minimised and the proposed uses benefits the largest possible number of people;
- e. Should the business not operate within the framework of the applicable laws and conditions, the approval may lapse or be withdrawn.

The objectors argue that a house tavern will give rise to a number of social issues, such as domestic violence, drunken behaviour, alcoholism and poverty. It is argued that the proposed business cannot be held accountable for the claimed alcohol abuse in the community of Abbotsdale, as every individual is responsible for his/her own restraint in relation to alcohol use. The application being considered is not intended to contribute to alcohol abuse and violence, but could rather be seen as an attempt by the owner to obtain the necessary land use rights as well as liquor license to operate a legal liquor outlet.

Locating the tavern in Abbotsdale will minimise the travel distance and time from places that sell liquor elsewhere, thereby greatly contributing to the traffic safety both in and around Abbotsdale.

It could also be argued that the fact that the applicant will reside on the property, contributes to the desirability of this specific case.

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

Sufficient space is provided for parking in front of the proposed house tavern. Due to the scale and nature of the proposed business, it will not have a negative impact on the vehicle or pedestrian safety. The boundary fence will need to be relocated to allow vehicle access to the proposed parking bays, at which point it is recommended that the property street boundary be re-surveyed to ensure the correct position. However, the additional road reserve area in front of the erf works in favour of the applicant, as it allows for clear sight lines and vehicle manoeuvrability, thereby optimising the traffic safety on and around the property.

Erf 1466 has no heritage grading.

The development proposal complies with the zoning parameters of the Residential Zone 1 zoning as well as the regulations applicable to house taverns.

The public participation process resulted in, amongst others, a petition signed by 20 signatories. The petition was not against the tavern as such, but rather the location in close proximity to social and educational facilities. The objections and petition was refuted, as there are no legislative restrictions regarding the proximity of places that sell liquor to social and educational facilities. The property is perfectly located in terms of the SDF and the foreseen CBD. The proposal is thus considered consistent with the spatial planning of the area.

In addition the above, the public interest is perceived to have been addressed.

From the above information, the proposed consent use is promoted in terms of the development principles and norms and standards of the planning legislation and policy. The provision of adequate on-site parking is provided and 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 corridor, as well as an existing business premises, the proposal will not have a negative impact on the character of the area.

Health and safety and wellbeing

Alcohol abuse poses a risk for the community in the form of associated social problems. 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 1466 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.

It is acknowledged that, if approved, the owners of erf 1466 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.

Impact on existing and surrounding land uses

The surrounding area to erf 1466 is mainly residential in nature. Opportunities exist to accommodate formal business along the identified activity corridor consistent with the land use proposals made in the MSDF, 2019.

As mentioned above the proposed business cannot be held accountable for the claimed alcohol abuse in the community of Abbotsdale 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 shop next to the property.

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 Abbotsdale which will definitely be in the interest of the community as the community currently need to travel to Malmesbury or support the illegal trade in alcohol to fulfil this need. The application is consistent with the MSDF, 2019 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.

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 in a portion of the existing outbuilding. Short and long-term benefits for the owners of erf 1466 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.

Although the proposed house tavern is situated along an activity street which promotes mixed uses along such street and that the application is in compliance with the SDF the public interest plays an important role in the decision making of the application.

The information regarding public interest such as:

Although identified in terms of the MSD, Abbotsdale does not have a central business district. The property is located next to an identified activity corridor and the tavern is proposed next to an existing neighbourhood shop. The application will therefore not have a negative impact on the character of the area. This together with the fact that sufficient space exist on the property for the provision of on-site parking, it could be argued that the proposal will not have a negative impact on the

health and safety of the community. Furthermore, the business will promote economic opportunities, shorter travel distances and amenities in the residential neighbourhood, therefore the positive impact in this specific case outweighs the possible negative resulting in the proposal deemed to be in the public's interest.

4. Impact on municipal engineering services

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

5. Response by applicant

Refer to Annexure K.

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

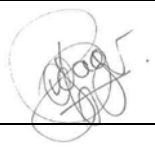
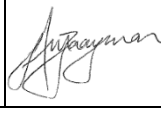
PART L: RECOMMENDATION WITH CONDITIONS

The application for consent use on erf 1466, Abbotsdale, be approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), in order to operate a house tavern from the property, subject to the conditions that:

1. TOWN PLANNING AND BUILDING CONTROL

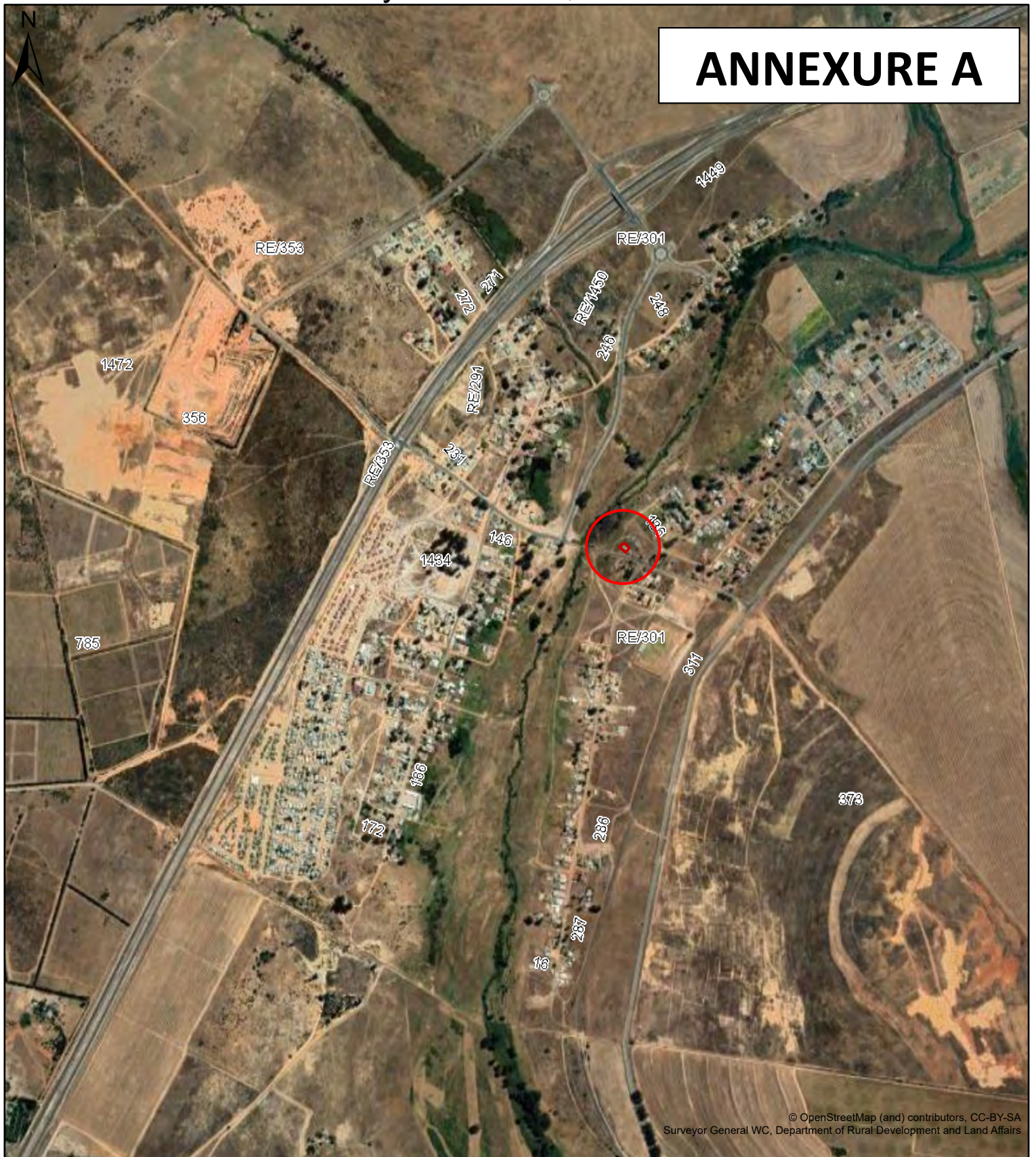
- a) The consent use be restricted to accommodate a house tavern and store room ($\pm 44\text{m}^2$ in extent), in the existing garage as presented in the application;
- b) The sale of liquor be restricted to off-premise consumption purposes;
- c) The primary purpose of the dwelling remains that of the habitation by a single family;
- d) The dwelling be occupied by the proprietor of the house tavern;
- e) Building plans, clearly indicating the house tavern in relation to the house, be submitted to the Senior Manager : Built Environment, for consideration and approval;
- f) The dwelling house be completed and an occupation certificate be obtained, prior to the house tavern coming into operation;
- g) The proposed tavern and store room under no circumstances be permitted for use as human habitation;
- h) A minimum of four (4) on-site parking bays be provided and that each bay be finished in a permanent, dust free surface such as tar, concrete, paving, or any other material previously approved by the Director: Civil Engineering Services, and that each bay be clearly marked;
- i) The south-western street boundary of Erf 1466 be surveyed and correctly indicated and that access to the parking bays be kept unobstructed at all times;
- j) The Western Cape Noise Control Regulations (PG 7141 dated 20 June 2013) be adhered to, to the satisfaction of the relevant authority;
- k) Application for construction of or attaching an advertising sign to the building be submitted to the Senior Manager: Built Environment, for consideration and approval. Only one sign, not exceeding 1m^2 in area and not exceeding the land unit boundaries with any part of it, shall be permitted and it shall indicate only the name of the owner, name of the business and nature of the retail trade;

2./...

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 of with a gross vehicle mass of 16000kg;				
5. GENERAL				
a) The approval be, in terms of section 76(2)(w) of the By-Law, valid for a period of 5 years. All conditions of approval be complied with before occupancy be granted and the operation of the tavern comes into effect;				
b) Should the conditions of approval not be met or the development parameters be disregarded, administrative steps may be taken and the approval for the house tavern be revoked;				
c) The approval does not exonerate the applicant from obtaining any necessary approval from any other applicable statutory authority;				
d) The objectors be informed of their right to appeal against the decision by the Municipal Planning Tribunal, in terms of section 89(2) of the By-Law.				
PART M: REASONS FOR RECOMMENDATION				
a) The application proposal is consistent with the SDF and promotes business uses along the activity corridor.				
b) The location of the tavern is considered optimal in relation to the proposed CBD of Abbotsdale.				
c) The proposed house tavern complies with the requirements of the zoning scheme regulations.				
d) The house tavern will not negatively impact on the health, safety, security or well-being of the community if the development parameters and legislative framework are adhered to. The business cannot be blamed for the existing social problems or the behaviour of individuals.				
e) The proposed house tavern is foreseen to 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.				
f) Is in the interest of the surrounding community.				
PART N: ANNEXURES				
Annexure A	Locality plan			
Annexure B	Site plan			
Annexure C	Public Participation Plan			
Annexure D	Objection by E. & M. Williams			
Annexure E	Objection by H.E. Liedeman			
Annexure F	Objection by S.H. & D.L. Jonkers			
Annexure G	Objection by H. Houwburg			
Annexure H	Objection by A. & P. van Harte			
Annexure I	Objection by R.D. Manuel			
Annexure J	Petition			
Annexure K	Response to comments			
PART O: APPLICANT DETAILS				
Name	C.K. Rumboll and Partners			
Registered owner(s)	D.J. and M.J. Hendriks	Is the applicant authorised to submit the application:	Yes	N
Author details: Annelie de Jager Town Planner SACPLAN: A/2203/2015			Date: 2 September 2022	
Recommendation: Alwyn Zaayman Senior Manager Built Environment SACPLAN: B/8001/2001	Recommended	<input checked="" type="checkbox"/>	Not recommended	
			Date: 5 September 2022	

Locality of Erf 1466, Abbotsdale

ANNEXURE A



Legend

0 0.17 0.35 0.7 km

Map Center: Lon: 18°40'34.1"E
Lat: 33°29'27.4"S

Scale: 1:18 056

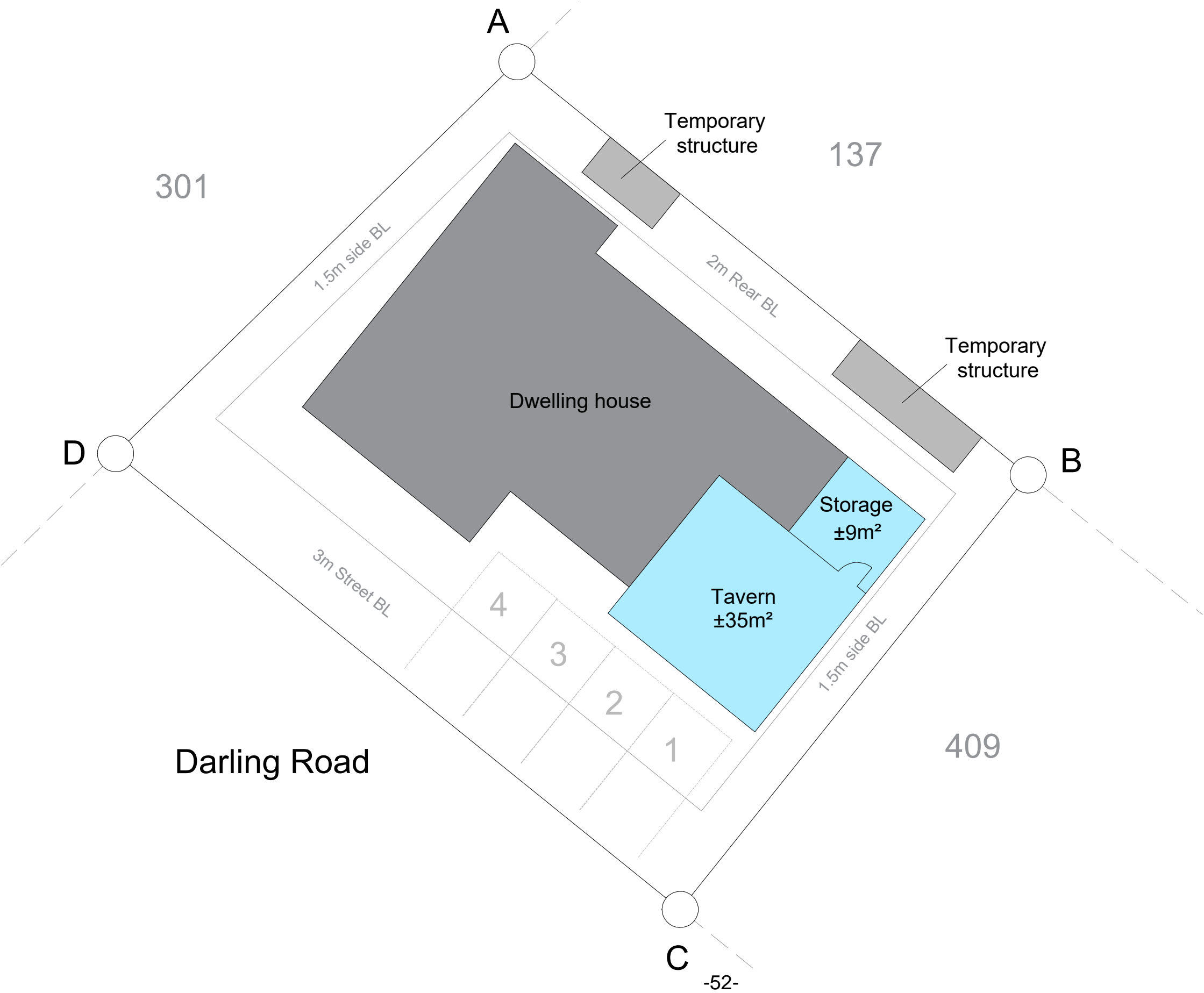
Date created: June 6, 2022



**Western Cape
Government**
FOR YOU


Agriculture

SITE DEVELOPMENT PLAN: ERF 1466, ABBOTSDALE




Zoning: Residential Zone 1

Property boundary 

Existing Dwelling house 

Proposed Tavern 

Proposed Parking Bays 

ANNEXURE B



CK RUP
PARTNERS
16 Rainier Street M
T: 022 482 184
l.co.za

Site development Plan
Erf 1466, Abbotsdale

PAPER SIZE: A3

REF:12577

Date: 03/06/2022

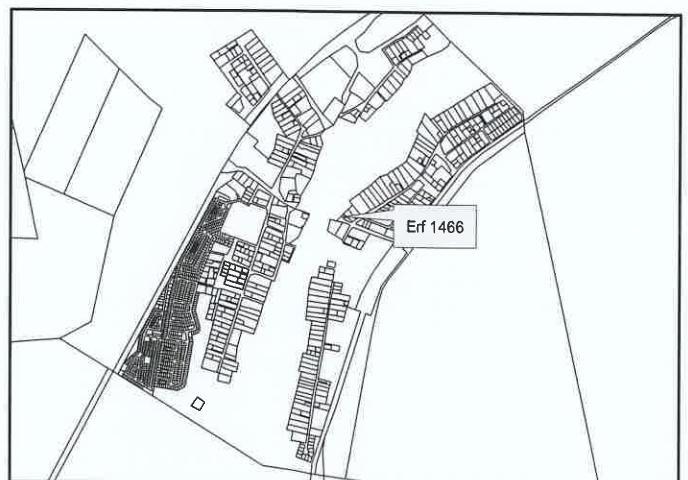


Voorgestelde vergunningsgebruik

Erf 1466, Abbotsdale

Publieke deelname

Skaal: NVT



ANNEXURE D

As a entrepreneur I support the free market, willingness and hardwork it takes for a individual to start a business.

When I started out in the same line of business my partner and I set out to open our off-consumption house tavern on darling road

After long hours, research it came to our attention as per DTI on 05/08/2015, the limit set out would be 500m from schools, place of worship and health.

We changed our initial plan to fall within framework of by-laws and regulations.

Currently the location (erf 1466) is withing the following distances

1. ST Michaels Primary +/-500m
2. Bambinos Creche +/-250m
3. Anglican Church +/-200m
4. Abbotsdale Civiic Cente +/-210m
5. Abbotsdale Satalite Clinic +/-200m

Due to the proximity of the house tavern to above institutions the location is the reason for the objection. As owners of a liquor license and a landuse zoning approval we understand there are laws, by-laws and regulations which need be followed. We change our location and obtained our license. Next to our shop is a house shop owned by Muslims, since alcohol is considered haram we also contacted the owner of the shop and consulted the employees as well. We have their support. Moral is the community is your business, your customers and also your neighbors. To open a business where there already is so much negative propaganda surrounding the idea, best thing to do is never give up, keep within the law and always do proper research.

We do not object the en-devour or the business we object to the location

Any question can be answered via email or phone 0833064497

Monique Williams
Winkel Liquor Store , 130 Winkel Street Abbotsdale

ANNEXURE E

Die Munisipale Bestuurder
Swartland Munisipaliteit
Privaatsak X52
Malmesbury
7299

MUNISIPALITEIT SWARTLAND		REC	
LEER No.	15/3/10-1	ERF	1466
Verslag	Inligting	Verslag	Afwandel
SSSB			
α Del			
Ander Opdrag			
SPERDADUM			(get)BK

Beswaar teen vergunningsgebruik vir huistaverne op erf 1466

Ek is woonagtig te Abbotsdale, ERF 92. Vind hiermee my beswaar teen bogenoemde plan om 'n huistaverne te bedryf uit gebou te erf 1466, geleë te Darlingweg, Abbotsdale.

Ons gemeenskap gaan reeds gebuk onder geweldige sosiale probleme soos misdaad en armoede. Dus, kan voorgestelde plan net bydra tot verdere probleme. Ons arm mense word reeds uitgebuit deur soortgelyke taverns wat wettig/onwettig bedryf word. Die mense se finansies word onderdruk geplaas met drank wat op skuld verkoop word teen belaglike pryse.

Verdagte elemente/mense gaan in ons woonbuurt begin rondhang wat baie stil en rustig is en dit gaan ons kinders uitlewer aan hierdie elemente. Ons sal nou gedwing word om hul nou binne in die huise te hou waar hul eens onskuldig in die strate kon speel. Saam met dit kom ook diefstal. Skielik gaan hier meer mense rondbeweeg. Op die stadium is hier nie baie beweging in ons straat nie en kyk ons as bure nog uit vir mekaar veral waar niemand per dag by die huis is nie.

By dit gese, gaan daar baie lawaai gepaard met bogenoemde bedryfwighede wat dan lei tot rusversteuring vir ons eens rustige woonbuurt – wat meestal deur bejaard inwoners bewoon word.

Addisioneel, gaan ons huiswaardasies draties afneem met toelating van hierdie bedryf.

Ek weet daar word gesê die mense gaan net koop en loop. Dit het ongelukkig nog nooit so gewerk nie. Geskiedenis word telkemale herhaal waar taverns of sulke bedryfwighede bedryf word en as ons gaan kyk na statistieke, verhoog misdade en sosiale probleme in gebiede waar dit toegelaat word.

Vir ons is dit 'n definitiewe NEE vir 'n huistavern in ons straat en eens rustige woonbuurt.

Groete

Geteken deur:

Naam en van:	Teken:
H.E. LIEDEMAN ERF 92	<i>H.E. Liedeman</i>
SPORWEGSTRAAT 147	
ABBOTSDALE	
7301	
} pos adres	
Kommunikeer asseblief met my	per pos



ANNEXURE F

MUNISIPALITEIT SWARTLAND				
REF NO	15/3/10-1	Erf-1466		
Verwys tot	Inligting	Verst.	Wekend	Publiek
SSSB				
o del				
Anders Omtrek				
SPERDITUM				

Mr S H & D L Jonkers
25 Elk Lane
Sherwood Park
Atlantis
7349

The Municipal Manager
Private Bag x52
Malmesbury
7299

Re: OPPOSING IN RESPECT OF OPERATING A HOUSE TAVERN(Proposed consent use on Erf 1466, Abbotsdale)

To whom it may concern

My wife and I are the owners of 167 Boltneystreet, Abbotsdale and I strongly object to a proposal of a tavern and busy with renovating our property. We planning on residing permanently at this address from next year 2023 onwards with my kids and grandchildren. At this moment my sister-in law with her family is staying on the property.

The proposed tavern location is situated opposite the road from my residency. I have an objection towards granting a license to operate a tavern, as it will lead to the flocking and attracting unsavoury characters. This will lead to different crimes being committed in the area such as fights breaking out in the tavern, smuggling and dealing of drugs and gang-related activities. This is based on activities and cases opened at police station as a result of the operation of different shebeens (taverns) in the area of Abbotsdale.

I am concerned of the noise level as my property is situated few metres away from the proposed tavern. Even though it is suggested to shop and go, our past experiences showed the buyers do not adhere to the regulations. Instead, they remain at the tavern, drinks, making loud music and noise causing uncontrollable behavior.

I am fearing for the life of my family as my grandchildren will be exposed to the unruly behavior. The area is very quiet and reserved with mostly of the inhabitants are elderlies and small kids. I strongly object to oppose proposal of a tavern.

My wife and I are the owners of 167 Boltneystreet, Abbotsdale, contact numbers: Mr S H Jonkers, 0780011412 and Mrs D L Jonkers 0718004366 and be contacted via phone calls or registered mail.

Yours faithfully



Mr S H Jonkers
Owner of property, 167 Boltneystreet, Abbotsdale



Mrs D L Jonkers
Co-owner of property, 167 Boltneystreet, Abbotsdale



ANNEXURE G

1465 Shop Street
Abbotsdale
7301
18 July 2022

The Municipal Manager
Private Bag X52
Malmesbury
7299

RE: Ref.15/3/10-1/Erf 1466, Owner DJ & MJ Hendriks – Application for consent use for a house tavern

Hereby I, Hanszeline Howburg a community citizen of Abbotsdale give my rejection for the consent use for a house tavern. We already experienced huge problems with a house tavern that is also located near us in the same street, opposite diagonally.

Seeing many youngsters come out of this house taverns and the domestic violence that increases in our community, this negatively affects us all. The drunk pedestrians passed by our home, urinating by the trees and on the sideways of the roads are very disgusting. Also, many forms of illegality are created by these activities. Children and the youth are our future, and we all need to invest in them by positive activities and this is not one of them.

I would like you to reconsider the application of the applicant and how it negatively will influence our community and our children. Thank you for taking the time to put my problems in consideration.

Yours sincerely,



Hanszeline Howburg
Email: hanszeline@gmail.com
Cell: 0718993898

ANNEXURE H

From: Stephanie van Harte <stephanievh@just.property>
Sent: Friday, 22 July 2022 12:45
To: Registrasie Email <RegistrasieEmail@swartland.org.za>
Subject: Proposed consent use on erf 1466, Abbotsdale

Dear Sir / Madam

We, Andre and Persephone van Harte do not give consent use for a house tavern on ERF 1466

- **Reasons being:**
- **It will change the quiet residential atmosphere of the area.**
- **It will encourage under age drinking amongst community members**
- **Drinking often leads to domestic abuse in households, unemployment and lawlessness**

Thank you for the opportunity to comment.
Concerned residents

Mr AJ & Mrs PP van Harte
18 Richmond Street
Bellville
7530

Our contact details are as follows:
Andre 0711186217

Persephone 0843584663

ANNEXURE I

Boltneystraat 168
ABBOTSDALE
7301
19 Julie 2022

Die Munisipale Bestuurder
Privaatsak X52
MALMESBURY
7299

Geagte Heer

i.s BESWAAR TEEN DIE AANSOEK OM VERGUNNINGSGEBRUIK OP ERF 1466, ABBOTSDALE

Hiermee maak ek, Ronelle Darlene Manuel, beswaar teen die lisensiëring van 'n huistaverne op Erf 1466 te ABBOTSDALE.

Hierdie mense verkoop reeds die afgelope klompie op 'n onwettige en ongelisensieerde manier drank aan die gemeenskap van ABBOTSDALE. Drank was ook **soms** tydens die staat van inperking verkoop.

Vrydae- en Saterdag aande word ons rus tot 2 uur en 3 uur in die oggende versteur met harde musiek wat gespeel word, dan word daar gepraat van koop en loop?

Mense in ons gemeenskap is reeds so verarm, dan word drank nog aan pensioenarisse, ouers met jong kinders en jeugdige verkoop.

Hierdie tavernes is die oorsaak van misdaad soos huismoles, geslags gebaseerde geweld, inbrake en derglike misdade in ons samelewing.

Is die slagting in die Oos-Kaap, Soweto en KwaZulu-Natal nie genoeg motivering vir u as Munisipale Bestuurder om nie lisensies aan hierdie tipe ondernemings toe te ken nie?

Daar is mos baie ander maniere waarop inkomstes gegenereer kan word.

Ten laaste: Die Bybel waarsku ons in Habukuk 2: 15 Weë hom wat aan sy naaste drank gee, onheil sal hom agtervolg. Is dit nie die onheil wat die eienaars van die tavernes in die ander provinsies, getref het nie.

Daar word gesê dat die taverne in 'n gedeelte van die huis bedryf gaan word: Die huis is dan onklaar en die mense bewoon die 'motorhuis' gedeelte van die huis. Hoe verstaan ek dan dit? Nee, 'n duisend maal nee. Ek sal **NOOIT** goedkeuring verleen aan so 'n onderneming nie.

Die uwe

Me R. D. Manuel e-pos adres: manuelronelle28@gmail.com

ANNEXURE J

The following serves as a petition regarding the opening of a houstavern(off-consumption liquor store) on Darling Rd Abbotsdale

The following concerns are met by by-laws and regulation standards

The location of outlet is not suitable due to the following institutions.

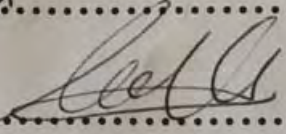
ST Michaels Primary +/-500m
Bambinos Creche +/-250m
Anglican Church +/- 200m
Abbotsdale Satilite Clinic+/-210m
Civic Centre +/-200m

Employees of the institutions express concers

The Primary Person for this petition is Edgar Williams,130 Vinkel street Abbotsdale,0833064497,edgarw666@gmail.com

We the signed induviduals understand this petition and what we are signing for completely

Start Date-.....July 2022.....

Signed- Edgar Williams..........

ME	ADDRESS	CONTACT	OCCUPATION	REASON
Charles Sedgwick	374 Kloof Street	0784217866	Tech	Location
EDDIE WILSON	130 WINKEL STR	0833064497	Director	Location
Monique Williams	130 Winkel Str	0738841818	Entrepreneur	Location, Not Sur
Larry Smith	137 Winkel St.	0651642025	A.M.	Location Not Sur
Prado Appellus	137 Winkel St.	0799682336	Entrepreneur	Location Not Sur
MARIE Forum	156 RAINWAY STR.	0719593901	Entrepreneur	Location
T. Worship	143 Church Str.	0722255090	Crèche	Location No
S Paulus	"	0651449477	"	"
S Schierhout	"	0767687855	"	"
C. Peters	"	0720993385	"	"
E. Arendse	"		"	"
E. Abrahams	"	0631387188	"	"
C. Van Rooyen	"	0612481068	"	"
P. Onverwacht	"	0768281606	"	"
P. Onverwacht	"	0224857053	"	"
B. Erasmus	"	0745794073	"	"
Hosni	Abbotsdale Mini Mkts	0642803456	Shop Owner	"
V. Erasmus	"	↑	Resident	LOCATION.
P. ESAU	"	0780777491	"	"
130 Winkel St / 130b		0717192451	Resident	LOKASR
				</



DATE: 15 August 2022

ONS VERW / OUR REF: Abb/12577/NJdK

PER E-MAIL

ATTENTION: Mr. A. Zaayman

Municipal Manager
Swartland Municipality
Private Bag X52
MALMESBURY
7300

Sir,

APPLICATION FOR CONSENT USE: ERF 1466, ABBOTSDALE

With reference to the comments/objections received during the public participation in your letter dated 27 July 2022:

The following table sets out the comments/objections that were received from the below parties along with the response from CK Rumboll and Partners on behalf of our client, Ms and Ms Hendricks as owners of Erf 1466, Abbotsdale. Objections/comments were received from the following parties:

- Edgar Williams & Monique Williams, (Erf 115)
- H E Liedeman, (Erf 92)
- Andre and Persephone van Harte, (Erf Unknown - lives in Bellville)
- S H & DL Jonkers,
- RD Manuel,
- Hanszeline Howburg

Objector	Objection/Comments	Comments on objections
1. Edgar Williams & Monique Williams	<p>1. My partner and I are in the same line of business and after long hours of research it came to our attention as per DTI, the limit set would be 500m from schools, places of worship and health. Currently the proposal on Erf 1466 is the following distances:</p> <ul style="list-style-type: none"> • St Micheals Primary (±500m) • Bambinos Crèche (±250m) • Anglican Church (±200m) • Abbotsdale Civic Centre (±210m) • Abbotsdale Satellite Clinic (±200m) 	<p>1. The property of Edgar Williams & Monique Williams are located within the residential area of Abbotsdale and not within the Central Business District (CBD) as in the case with Erf 1466, Abbotsdale. Although the property may be located in close proximity to a church, crèche and clinic, there is not a more suitable location for the selling of liquor than within the CBD. The location of schools, clinics and churches often occur within 500m from facilities that sell alcohol.</p> <p>An example of this is in Malmesbury with "Ultra Liquors Malmesbury" (Erf 477), which is located ±120m from the church, ±115m from an old age home and ±250m from a pre-school. The liquor store works in the same manner as the proposed house tavern and can therefore be supported.</p>
	<p>2. We do not object the endeavour or the business, we object to the location in close proximity to the school, churches and clinic.</p>	<p>2. Erf 1466 is located within Zone F of the Swartland Spatial Development Framework (SDF) which is a node on the eastern bank of the Diep River that supports sport and commercial uses as well as higher density residential uses.</p> <p>Secondary Business Uses are identified as follows by the <i>Swartland SDF (2019)</i>: <i>"Allow for low intensity commercial and mixed uses to provide for the needs of the local neighbourhood in terms of consumer goods and personal services (including house shop, home occupation, small offices, <u>house tavern</u>, cafe, but not limited to these uses)."</i> The property is located directly adjacent to an activity corridor (Darling Road) and within the CBD of town, making the property highly accessible. The small business opportunities within this area provide an ideal opportunity for entrepreneurs to start a business and earn an income.</p>

VENNOTE / PARTNERS:

IHJ Rumboll PrL (SA), BSc (Surv), M.I.P.L.S., AP Steyl PrL (SA), BSc (Surv), M.I.P.L.S.

<p>2. H E Liedeman (Erf 92)</p> <p>S H & DL Jonkers</p> <p>Hanszeline Howburg</p>	<p>3. The house tavern will increase, traffic, burglary, noise and rest disturbance.</p>	<p>3. Since the property is located within the central business district (CBD) of town, which encourages commercial development, the increase in traffic and noise is unavoidable. Even with the propose house tavern, the increase in traffic and noise will still be limited, as the majority of the customers will be the surrounding residents which is in walking distance from the property.</p> <p>It is uncertain how the statement can be made that the proposed house tavern will increase burglary in the area.</p>
	<p>4. The value of our properties will decrease.</p>	<p>4. 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: <i>"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."</i></p>
	<p>5. The proposal states that it will be a buy and go, but it is never the case.</p>	<p>5. The owner of the property has been selling liquor from his mother's property (Erf 409, adjacent to Erf 1446) for ±6 years now, it has always been a buy and go and will not change now. The selling of the liquor has now moved to Erf 1466 and the proposal to obtain the land use rights is now requested.</p>
<p>3. Andre and Persephone van Harte</p>	<p>6. It will change the residential atmosphere of the area.</p>	<p>6. As mentioned in point 1, the property is located within the CBD of town and will therefore contribute to the commercial character of the area.</p>
	<p>7. It will encourage underage drinking amongst community members.</p>	<p>7. Noted, it is illegal to sell liquor to underage children. The owner will therefore not do it.</p>
	<p>8. Drinking often leads to domestic abuse, unemployment and lawlessness.</p>	<p>8. The business owner cannot be held responsible for any activities the residents do outside his property.</p>

VENNOTE / PARTNERS:

IHJ Rumboll PrL (SA), BSc (Surv), M.I.P.L.S., AP Steyl PrL (SA), BSc (Surv), M.I.P.L.S.

4. RD Manuel,	9. Alcohol has been sold unauthorised for some time now. Fridays and Saturdays loud music is played until 02:00-03:00 in the mornings. It is therefore not a buy and go tavern.	9. The owner confirmed that the illegal house tavern which is referred to is located on Erf 134 and not on either Erf 409 or Erf 1466. As stated in point 5, the proposed tavern will be a buy and go.
	10. It is stated that the tavern is run from a portion of the property, but the owners currently live in the garage and the house is still being built. How will this work?	10. The owner currently lives in the area earmarked as the garage. Once the building is finalised, he will continue living in the dwelling house and utilise the garage area to as the house tavern to sell liquor.
5. Hanszeline Howburg	11. We have had problems with house taverns located near our property and in the same street.	11. Noted. Each land use application should be evaluated on its own merits. This land use application cannot be negatively affected due to the disturbances of the surrounding land uses.
6. Petition	12. See petition attached as Annexure B.	<p>12. In terms of section 59. (1) of the Swartland Municipal Land Use Planning By-Law, Comments in respect of an application submitted by the public in the form of a petition must clearly state -</p> <p>(a) the contact details of the authorised representative of the signatories of the petition;</p> <p>(b) the full name and physical address of each signatory; and</p> <p>(c) the comments and reasons therefore.</p> <p>(2) Notice to the person contemplated in subsection (1)(a) constitutes notice to all the signatories to the petition.</p> <p>Considering the fact the more than half of the petitioners did not give their physical address, indicates that the majority of the petitioners does not even live in this area and will have no affect on them.</p>

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

NJ de Kock

for 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.

2 September 2022

15/3/3-8/Erf_7677
15/3/4-8/Erf_7677
15/3/10-8/Erf_7677

WYK: 8

ITEM 6.3 VAN DIE AGENDA VAN 'N MUNISIPALE BEPLANNINGSTRIBUNAAL WAT GEHOU SAL WORD OP WOENSDAG 14 SEPTEMBER 2022

LAND USE PLANNING REPORT

APPLICATION FOR REZONING, CONSENT USE AND DEPARTURE ON ERF 7677, MALMESBURY

Reference number	15/3/3-8/Erf_7677 15/3/4-8/Erf_7677 15/3/10-8/Erf_7677	Application submission date	10 June 2022	Date report finalised	2 September 2022
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PART A: APPLICATION DESCRIPTION

The application for rezoning of Erf 7677, Malmesbury, in terms of section 25(2)(a) of Swartland Municipality : Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020) has been received. It is propose that Erf 7677 (2814m² in extent) be rezoned from Industrial Zone 1 to Industrial Zone 2 in order to operate a scrap yard.

The application for consent use for a scrap yard on Erf 7677, Malmesbury in terms of section 25(2)(o) of Swartland Municipality : Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020) has been received.

The application for a departure from the development parameters on Erf 7677, Malmesbury, in terms of section 25(2)(b) of Swartland Municipality : Municipal Land Use Planning By-law (PG 8226 of 25 March 2020) has been received. The departure entails the departure from the 3m side building line (eastern boundary) to 1,5m.

The departure from the building line is due to the placement of the existing buildings with regard to the new zoning parameters.

The applicant is CK Rumboll and Partners and the owner of the property is Francois Johannes Everhardus Roux.

PART B: PROPERTY DETAILS

Property description (in accordance with Title Deed)	Erf 7677, Malmesbury, in the Swartland Municipality, Division Malmesbury, Province of the Western Cape				
Physical address	31 Industrie Crescent. Please refer to the location plan attached as Annexure A	Town	Malmesbury		
Current zoning	Industrial zone 1	Extent (m ² /ha)	2814m ²	Are there existing buildings on the property?	Y N
Applicable zoning scheme	Swartland Municipal By-Law on Municipal Land Use Planning (PG 8226 of 25 March 2020)				
Current land use	Scrap yard	Title Deed number & date	T70142/2001		

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 checked="" type="checkbox"/>	Temporary departure		Subdivision	
Extension of the validity period of an approval		Approval of an overlay zone		Consolidation		Removal, suspension or amendment of restrictive conditions	
Permissions in terms of the zoning scheme		Amendment, deletion or imposition of 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	<input checked="" type="checkbox"/>	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

It was brought to the Municipality's attention that a scrap yard is being operated on the subject property. After investigation it was found that the properties in Industrie Crescent is indeed zoned Industrial zone 1 which does not permit the operation of a scrap yard.

A formal compliance notice was sent on the 19th of May 2022 ordering the owner as well as the tenant to cease the illegal land use by 19 June 2022. Swartland Municipality received the application in order to authorise the existing unauthorised use on the 10th of June 2022.

Scrap yard, is defined in the applicable development management scheme as a building or land which is utilised for one or more of the following purposes:

- (a) storing, depositing or collecting of junk or scrap material or articles of which the value depends mainly or entirely on the material used in the manufacture thereof;
- (b) the dismantling of second-hand vehicles or machines to recover components or materials, and
- (c) the storing or sale of second-hand parts, pipes, poles, steel, wire, lumber, tyres, bricks, containers or other articles which are suitable to be left in the open without any serious damage being incurred;

A scrap yard can only be accommodated as a consent use under the Industrial zone 2 as well as Industrial zone 3, zoning categories, hence the proposed application.

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.
The applicant did consult with the Municipality regarding the current zoning as well as what is required in order to accommodate the proposed use on the property. No minutes were kept of the pre-application consultation.			

PART F: SUMMARY OF APPLICANTS MOTIVATION

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

The applicant motivates that the proposed application for rezoning, consent use, and departure is considered desirable on the basis of the following;

1. There are no restrictive conditions within the title deed of erf 7677 that prohibit the proposed development.
2. The proposed development does not affect the existing servitude registered against the property.
3. Sufficient space is available for the required amount of parking bays for the proposed use;

4. The property is screened entirely by means of a vibracrete wall and an existing building, serving as mitigation measure to prevent unsightly environments within the area.
5. The application for departure is only to accommodate the existing building within the parameters of the new zoning category.
6. The proposed development use enhances the principles of LUPA and SPLUMA.
7. The proposal complies with the Swartland Spatial Development Framework (2019) as the main forward planning document for Malmesbury and the Swartland Municipal Area as a whole.
8. The proposal complies with the Swartland Municipal Land Use Planning By-Law (PG 8226).
9. The development proposal will complement the character of the area and not adversely affect any natural conservation areas or surrounding agricultural practises.
10. There are no physical restrictions on the property that will negatively affect the proposed use.
11. With the proposed use, the owners of Erf 7677, Malmesbury, is granted an income opportunity.
12. The development supports the Western Cape PSDF by promoting compactness within the existing urban areas.
13. The proposal will create job opportunities and ultimately economic growth for area.
14. By allowing for a dual land use, the property will be utilised optimally and efficiently.
15. The proposed scrap yard will make use of existing infrastructure services and 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
The application was published in local newspapers and the Provincial Gazette on 22 nd of June 2022, in terms of Section 55 of the By-law. The commenting period, for or against the application, closed on 25 th of June 2022.						
In addition to the abovementioned publication, a total of 10 written notices were sent via registered mail to the owners of affected properties, in terms of Section 56(1) & (2) of the By-Law (refer to Annexure C).						
Total valid comments	6			Total comments and petitions refused	0	
Valid petition(s)	Y	N	If yes, number of signatures		N/A	
Community organisation(s) response	Y	N	N/A	Ward councillor response	Y	N
The application was referred to the Ward Councillor and no specific comments were received. One of the objections was received from the Ward committee of Ward 8						
Total letters of support	None					

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

Name	Date received	Summary of comments	Recommendation	
Electrical Engineering Services	14-06-2022	No comment	Positive	Negative
Department: Civil Engineering Services	17-06-2022	In order	Positive	Negative
Development Services: Building Control	23-06-2022	No record of a fire plan to be found. -Submit a Fire Plan to Building Control for consideration for approval.	Positive	Negative
Protection Services	23-06-2022	No comment	Positive	Negative

PART I: COMMENTS RECEIVED DURING PUBLIC PARTICIPATION		SUMMARY OF APPLICANT'S REPLY TO COMMENTS	MUNICIPAL ASSESSMENT OF COMMENTS
1. Andre Lund on behalf of Leliedal 20 Bk as the owner of erf 4898, Malmesbury	<p>Mr Lund on behalf of the Leliedal 20 Bk strongly objects to the proposed rezoning of erf 7677, Malmesbury given the following reasons:</p> <p>Should the current zoning of Industrial Zone 1 change, it will have a negative impact on the general nature of the area.</p> <p>The businesses, like Takealot, Mobi Lodge, BKB, Rola Volkswagen, Massy Ferguson, Swartland Staal, MSM Kitchens and HDM to name a few, currently trading in the street are all light industrial undertakings. A scrap yard just does not fit in and it will have a negative impact on all the businesses and property owners should the Municipality approve the change in zoning.</p> <p>Since the illegal trading of this scrap yard commenced, approximately 2 months ago, the vandalism and theft to property of the owner of erf 4898, Malmesbury has escalated to intolerable levels</p> <p>Persons that come to sell scrap at the premises litter everywhere in the surrounding area resulting in the value of the property being impacted negatively.</p> <p>These garbage being littered sometimes consist of hard and sharp objects that have already damaged a number of vehicles.</p> <p>Businesses currently renting from the owner of erf 4898, Malmesbury are threatening to move their businesses elsewhere seeing that they are already struggling to stay profitable.</p> <p>During a site inspection on the 5th of July 2022, a group of approximately 5 people were seen leaving the scrapyard and as they were walking in a westerly direction, they were busy looking where they can get scrap. The objector also warns that they peeked over the vibracrete wall of the Municipal Sewer Works.</p>	<p>As the concerns raised by the objectors are very similar, the applicant has summarised the objections into different categories and they respond to the different concerns collectively.</p> <p>Pollution:</p> <p>1. In terms of pollution the applicant states that the land use proposals applicable to Malmesbury as contained in the MSDF, identifies the area in which Erf 7677 is located as Zone N2. Zone N2 consists mostly of industry-, business- and government functions with the proposed expansion of the industrial area south of the N7. The MSDF proposed that heavy industries should only be allowed south of Bokomo Road. The applicant is therefore of opinion that the proposed development to accommodate a scrap yard on Erf 7677 is consistent with the land use proposals for Malmesbury, as set out in the Swartland MSDF (2019).</p> <p>The applicant continues to motivate that Erf 7677 is screened entirely by means of vibracrete walls and an existing building, serving as a mitigation measure to prevent unsightly environments within the area and keeping scrap materials within the site. According to the applicant no materials, that can be picked-up by the wind and carried over the wall, will be stored openly outside, but in closed bins.</p> <p>Further on the point of pollution the applicant motivates that the scrap yard is restricted to Erf 7677, and therefore, it cannot be held responsible for pollution caused by people who wander outside the scrap yard. If the objectors feel that SAPS is not controlling the area it cannot be forced on the owner of Erf 7677 to act on behalf the authorities.</p>	<p>Pollution:</p> <p>1. It is agreed that the proposed premises is entirely screened off by the building on the street front as well as that it is entirely fenced off with a prefabricated wall. During the several site visits conducted it was found that the streets and area surrounding the facility are generally clean. All items / scrap is received within the building. The items is clearly sorted and stacked / bagged to be distributed / sold off and there are therefore no concern for any pollution caused by the proposed facility.</p>

	<p>Leliedal 20 Bk and its members will do everything within its power in order to stop this unfair infringement of their rights. They would like to put on record that they will require evidence from the Council to ensure that the appropriate fines are levied for the offenses by the owner of Erf 7677, Malmesbury</p>	<p>The scrap yard will be secured properly to keep people from entering the premises unauthorised.</p> <p>Crime, theft and vandalism:</p> <p>2. In terms of the comments on crime, theft and vandalism the applicant responds by stating that the application cannot be considered unfavourable on the basis of assumptions. The applicant motivates further that the establishment of the scrap yard will rather create job opportunities which will help alleviate unemployment and poverty and grow the industrial area.</p> <p>The applicant adds that no objections were received from Swartland Municipality with regards to the sewerage works site.</p> <p>The applicant concludes, in terms of crime, theft and vandalism, that the scrap yard cannot be held responsible for criminal offences caused outside of the premises or in other towns.</p> <p>Illegal land use:</p> <p>3. In terms of the comments and objections relating to the illegal land use the applicant firstly refers to Point 1. The proposal to utilise Erf 7677 for the use of a scrap yard is consistent with the land use proposals as set out in the Swartland MSDF (2019). The proposal will integrate with the surrounding industrial area, where the subject property is located.</p> <p>Furthermore, job opportunities are created by the proposal, which enhances the objective to grow economic prosperity in the Swartland Municipal area.</p> <p>In terms of the Swartland Municipal Land Use Planning By-law (PG 8226), the mentioned property is zoned Industrial Zone 1 which does not allow a scrap yard. Accordingly, a Land Use Application for the rezoning of Erf 7677,</p>	<p>Crime, theft and vandalism:</p> <p>2. Within the current economic climate the objectors has clearly seen an increase in theft / vandalism in the area and it seems that it is not only a problem in Industrie Crescent but also the whole country. However, no proof was provided by any of the objectors that the owner or operator of the facility is dealing in stolen goods.</p> <p>The theft and vandalism can therefore not be directed at the proposed facility as well as cause the proposed facility to be viewed as undesirable. Clearly there is a need in the community for the proposed facility.</p> <p>Illegal land use:</p> <p>3. On first inspection the operator indicated that he received a permit for the operation of his facility from the South African Police Services. This permit was indeed issued in terms of the Second Hand Goods Act, 2009 (Act No. 6 of 2009). It was indicated to him that the Municipality would need to do its own investigation with regards to the zoning of the property where it was found that the current zoning does not permit the use of the property as a scrap yard. It is therefore the purpose of the application. With reference to the appropriate fines to be levied for the offences by the owner we can confirm that the municipal tariff for illegal land use has been made applicable to the site as the owner failed to comply with the notice ordering him to cease the operation of</p>
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Hanlie van Wyk VWE Installasies BK Schoonspruitweg 31	<p>Mrs van Wyk object to the proposed application in order to operate a scrap yard on erf 7677, Malmesbury.</p> <p>The objector state that they have already highlighted concerns to the Municipality in a letter from "Schoonspruit Veiligheid" (joint communication from the business owners in Schoonspruit industrial area)</p>	<p>Negative impact on surrounding erven</p> <p>7. With regards to the objection relating to the possible negative impact on neighbouring properties the applicant refers to the comments made under Point 1 above as well as adds that the scrap yard integrates</p>	<p>Negative impact on surrounding erven</p> <p>7. It is noted that the properties on the eastern side of the railway line is zoned Industrial zone 1 as well as that they accommodate light industrial uses including warehousing as well as service trade industries. Looking at the</p>

	<p>dated 19 May 2022. Specific reference were made to safety, littering and pollution, public participation as well as the operation of good business.</p> <p>A letter from Mr A Zaayman (23 June 2022) in response refers to the services of law enforcement and SAPS to address the problems. This solution falls far short. We know that these services are inadequate in terms of manpower availability, quick response time and appropriate training.</p> <p>In the Sunday Times of 10 May 2022, an article appeared that the South African government is working on a new bill that wants to impose a 15-year prison sentence on dealers in scrap metal. The objector quotes that, ...“Transport minister Fikile Mbalula has called for a ban on the trade of scrap metal, saying theft and vandalism of critical rail infrastructure sabotage SA's economy. Mbalula made the call during a briefing on the recently approved National Rail Policy White Paper. He said trade and industry minister Ebrahim Patel is working on a law that will see scrap metal dealers jailed for 15 years.”</p> <p>The objector state that the assumption can be made that the Minister identifies the dealers as the root of the problem with regards to theft of railway infrastructure (metal).</p> <p>The objector further refers a comprehensive study that was done in America, published as Section 58 of “Problem-Oriented Guides for Police – Problem – Specific Guides Series, under the auspices of the US Department of Justice and the Office of Community-Oriented Policing Services:</p> <p><i>“Theft of scrap metal “Scrap metal buyers provide the necessary link for creating profit from scrap metal theft. The scrap metal theft problem is driven entirely by the ability to sell stolen goods to recyclers, and often these recyclers facilitate crime.”</i></p> <p><i>“Thieves and sellers of scrap metal succeed when they find vulnerable targets at particular places</i></p>	<p>with the surrounding industrial area, where the subject property is located.</p> <p>Safety:</p> <p>8. In terms of safety the applicant states that the scrap yard cannot be held responsible for the safety of women in the area. If any criminal offence are detected, the police</p>	<p>objective of the industrial zone 1 zoning, it is clear that it is uses that could be exercised without nuisance to other land or the general public. It is also uses that may be located next to business uses and near residential areas, and do not present a potentially negative impact on the character or amenity of such areas.</p> <p>With the municipal sewer works as well as the brick factory in the area the uses specifically in the vicinity of the subject property becomes mixed in nature. Although the said uses are historical or have been in operation for a very long time, respectively, the brick factory is specifically excluded from the definition of a service trade which implies that it is rather a uses accommodated under the Industrial zone 2 zoning.</p> <p>It can therefore be argued that the proposed zoning and land use will not have a negative impact on the character of the area as it is already mixed in nature.</p> <p>The proposal is also not in conflict with the Municipal Spatial development framework, 2019 as will be discussed later in the report.</p> <p>The letter referring to Mr A Zaayman is indeed a letter from Swartland Municipality and not the officials</p> <p>Safety:</p> <p>8. The municipality cannot restrict the public's free movement in public roads and open spaces.</p> <p>Access:</p>
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	<p>during particular times when capable guardianship is lacking.”</p> <p><i>“Scrap/salvage metal dealers often become targets of metal thieves if their inventory is left unsecured. Scrap metal dealers are in a peculiar position of both contributing as offenders and being victims of scrap metal theft. Indeed, it becomes a challenge for the police and the wider community to determine which role each scrap metal dealer is playing, and it is likely that scrap metal dealers may be taking on both roles. Regardless, unregulated scrap metal dealers are likely to contribute to outlying community crime.”</i></p> <p>The objector states that the entire article provides informative reading on addressing the problem and makes pertinent reference to the fact that these offenses are usually not considered serious, do not receive much attention and are often not reported.</p> <p>The objector request that, in order to determine the impact and damage, a comprehensive study must be done in respect of a specific area with reference to theft of vacant buildings and premises, replacement of manhole covers and repair of other looted infrastructure, as well as damage caused to people. Possibly also the amount of goods that are taken away from the municipal landfill to scrapyards?</p> <p>The objector states that there are a number of proposed solutions of which the involvement of different role players is most important because all measures, including camera footage must be checked and policed.</p> <p>The objector notes that one of the measures that is of particular interest to her is one that SA Metal is also proposing on their website: no cash for goods and only electronic payments or cheques be used as it discourages persons that steal for an immediate return and it strengthens the paper trail of transactions.</p> <p>The objector states that she accepts that the owners of the proposed scrap yard have noble intentions to</p>	<p>department of Malmesbury can assist the community.</p> <p>Access:</p> <p>9. In terms of the concern regarding access the applicant motivates that the Takealot pickup point is located in a light industrial area of Malmesbury. Referring to Point 1, the proposal to utilise Erf 7677 for the use of a scrap yard is consistent with the land use proposals as set out in the Swartland SDF (2019). No objection were received from Takealot.</p> <p>Takealot also offers a drop-off facility which means that customers have a choice to collect their packages at the pick-up point or at another location of their choice.</p> <p>Noticeable increase in theft, damage to property, littering as well as safety concerns due to increase in pedestrians</p> <p>10. The applicant refers to the comments made under point 1 above and states that not only is the proposal consistent with the MSDF, 2019 it will also result in job opportunities, enhancing the objective of growing economic prosperity in the Swartland Municipal area.</p> <p>The applicant continues that if any criminal offences are detected, the police department of Malmesbury can assist the community and on this point concludes that the nearest residential area is ±325m away from Erf 7677 in an eastern direction opposite the Diep River.</p> <p>Lack of a "strong set of measures" for scrap yards</p> <p>11. The applicant comments that the objectors refer to a lack of a "strong set of measures" for scrap yards in Malmesbury and in the</p>	<p>9. No issues regarding the existing access to and from the property is noted. The department Civil Engineering services as well as Protection services also did not have any negative comment regarding the proposal. It will however be required of the applicant to close off the access to the eastern side of the property as the access is currently also un-lawfull. This may be included as a condition of approval.</p> <p>Noticeable increase in theft, damage to property, littering as well as safety concerns due to increase in pedestrians</p> <p>10. Please refer to the comments above regarding the use of the public street as well as the assumption that the scrapyards is the cause of the littering taking place.</p> <p>Swartland Municipality supports the creation of a safe environment for our communities and appreciates the contributions that community safety forums make in terms of vigilance and mutual support. Swartland Municipality is bound by legislation and processes that we must comply with.</p> <p>Lack of a "strong set of measures" for scrap yards</p> <p>11. The trade in second hand goods as well as recycling is subject to the Second Hand Goods Act, 2009 (Act No. 6 of 2009) as well as the applicable regulations enforced by the SAPS. The specific operation is therefore regulated and according to SAPS</p>
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	<p>do regulated business and to never take any stolen goods. According to the objectors, the onus, nevertheless, rests on the institutions that issue the licences to control and police the industry and she is of opinion that it is something that is not possible in 2022 in Malmesbury.</p> <p>The owners of surrounding businesses also do not want the task of keeping an eye on and reporting irregularities.</p> <p>The objector states that she is uncertain of the amount of scrap metal available for another viable scrap yard, but wonder if our town can provide what is needed without stolen goods being a significant part of it?</p> <p>The objector states that she does now that, it would be a mistake to have a premises which;</p> <ul style="list-style-type: none"> • is not suitable • is not zoned accordingly • is hidden and poorly located in a cul-de-sac • is located next to a river that can be polluted • accessible off the beaten track <p>To be rezoned now for a scrap yard in an industrial area;</p> <ul style="list-style-type: none"> • which has good occupancy of tenants • which has good participating business people who create jobs and wealth in the community • who are seriously involved in combating problems • which work together within structures for safety and security • which has caused damage and is causing damage due to looting and theft since the scrap yard came into operation • who immediately informed the authorities of the visible effects and problems experienced since the scrapyards came into operation • who doesn't want another scrap yard as there's already enough here • who wants to pour energy into the more positive operation of business than just blocking and screening for harm and unpleasantness 	<p>Nation. The application cannot be refused on the basis of inadequate national legislation with regards to scrap yards. If new legislation or list of "measures" is published by the government, the owner will adhere to these rules and regulations.</p> <p>Swartland Municipality and municipal officials are not being held accountable for money spent on court cases. Officials who give rise to court cases through negligence are protected. Ward 8 will not support Swartland Municipality in a court case should the application be approved.</p> <p>12. Noted.</p> <p>13. The applicant concludes that the major concerns of the surrounding neighbours are based on the increase in crime, pollution, and vandalism, and the decrease in safety. The applicant is of opinion that the objectors' concerns are adequately addressed and that the owners of the scrap yard on Erf 7677 cannot be held responsible for criminal offence that occurs within Malmesbury.</p>	<p>regular visits are held to ensure compliance.</p> <p>Swartland Municipality and municipal officials are not being held accountable for money spent on court cases. Officials who give rise to court cases through negligence are protected. Ward 8 will not support Swartland Municipality in a court case should the application be approved.</p> <p>12. The objectors should know that the Municipality is bound by certain processes as required by the applicable legislation. The application being considered by the tribunal has followed due process and is deemed to be administratively and procedurally fair.</p> <p>As the municipality received an application within the notice period, the municipality did not seek an urgent interdict from the competent court.</p> <p>The outcome of this application is the decision of the Municipal Planning Tribunal as required in terms of the applicable By-Law.</p> <p>13. Noted</p> <p>14. This statement by the applicant does not make any sense.</p>
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	<ul style="list-style-type: none"> who cannot afford to keep on protecting and upgrading fences and security. 	<p>14. The proposal may lead to a decrease in theft as the residents now have to provide less scrap to obtain the same amount of money for their goods.</p> <p>15. Referring to Case: MPTSE14/09/17 from the City of Cape Town Municipal Planning Tribunal where a similar case was dealt with, the application for a scrap yard was approved for the reason that one business cannot solely be responsible for theft and vandalism in a town.</p> <p>16. Considering the above, the applicant motivates that the proposed development will not have a significant impact on the surrounding properties, or built environment, seeing that the Swartland Municipal Land Use Planning By-law (PG 8226) and Swartland Spatial Development Framework (2019) are sufficient to coordinate development within the Swartland Municipal area.</p> <p>17. The applicant is of opinion that the proposed development on Erf 7677, Malmesbury, will not have a negative impact on surrounding properties, but will maximize the development potential of Erf 7677 and contribute to economic growth in Malmesbury by not only providing new job opportunities, but also by aiming to provide a resourceful product at a lower price than retailers for the community of Malmesbury.</p>	<p>15. The applicant refers to a case considered by the Municipal Planning Tribunal of the City of Cape Town. It is noted that the reason mentioned by the applicant is not one of the reasons for the decision as contained in Par. 7 of that specific case.</p> <p>16. Please refer to the comments above regarding the impact on the surrounding area as well as suitability of the property to accommodate the proposed use.</p> <p>17. It is uncertain what "...resourceful products" the applicant is referring to. It is however agreed that clearly there is a need for the proposed business in Malmesbury as well as that the proposed business does have a positive socio- economic impact.</p>
<p>JI van Aarde Derko Eiendomme BK</p>	<p>Mr JI van Aarde states that as shareholders of Derko Eiendomme Inc., owners of erf 4897 they would like to seriously object to the proposed application on behalf of not only themselves but also 11 tenants on their property.</p> <p>The objector is of opinion that Industrie Crescent has light industrial properties and are all dependent on the one entrance.</p> <p>They state that they have had serious break-ins and thefts at their premises, over a number of years and with great difficulty and great expense they secured</p>		<p>Please refer to the comments above</p>

	<p>their premises, only to find, in the first week after the opening of this illegal scrap yard, break-ins, theft, trucks that are robbed of their electrical wiring and mechanical parts, an influx of unwanted people who pass by with any rubbish on the street to this so-called scrap yard.</p> <p>This business is unfortunately established on the banks of the Dieprivier, which as the municipality is aware, is overgrown with reeds and trees, which is an ideal escape opportunity and storage place for the illegal material which includes copper and steel. This unwanted influx has caused everyone to start from scratch in their planning to secure their businesses.</p> <p>Malmesbury already has 2 scrap yards. One above the N7 and one below the N7. Opening one right next to the river will result in a further influx through the industrial area, increasing the rubbish on the streets where people have clean their copper wire, radiators are looted and vandalized and any other rubbish imaginable.</p> <p>The objectors would like to know why the Municipality haphazardly allows this business. The business was operated illegally until the objectors complained, then it was shut down by law enforcement for a full day. The next day it was back in full swing and now an application is being made for rezoning from Zone 2 to Zone 1, as you see fit, with the consequences well known to the municipality.</p> <p>The objectors request that this permission is first put on hold, and that the municipality should first meet and engage in discussion with the relevant owners of businesses in that area. They emphasize that therefore they object to the rezoning, and await the reply from the municipality.</p>		
Mr Lennard van Wyk, as business owner in the Schoonspruit Industrial area as well as a person with a long term	<p>Mr Lennard van Wyk objects to the proposed application.</p> <p>Mr van Wyk is of opinion that it cannot be allowed that one owners' application is approved against the objection of an entire area's business owners.</p>		Please refer to the comments above

<p>interest in a safe and clean town and business environment,</p>	<p>According to Mr van Wyk the objections and opposition in this case have merit:</p> <p>After complaints about plastic and waste lying around, it has not yet been cleaned up. Law enforcement and SAPS are not getting it right.</p> <p>The increase in theft and damage indicates greater unsafety in the area.</p> <p>Swartland Municipality's own sewage works is suffering damage that needs to be repaired.</p> <p>Known crooks gain interest in the area at the scrapyard and despite charges and convictions are not sent to prison for long - which puts the whole area under greater pressure in terms of security.</p> <p>The dense vegetation around the river and the accessibility to the scrap yard make it an attractive place for thieves to get rid of stolen goods. A gate directly from the relevant erf behind the building provides access from the river out of sight from the street. The river remains a defenceless target for pollution and the dumping of unwanted waste.</p> <p>The signs are clear that the scrap yard is contributing to the dumping and they want to prevent a polluted river from happening under their watch.</p> <p>The objector conclude that the industrial plots are mainly bought by residents of Malmesbury and the Swartland. The reason for this is that they as well as their children want to stay here. This is where their interest lies and hence the reason for this objection.</p>		
<p>Mr WA Theron</p>	<p>Mr WA Theron object to the proposed application for the rezoning of erf 7677, Malmesbury in order to accommodate a scrapyard.</p> <p>Mr Theron states that they have several tenants in Industrie Crescent, including; The Sasko Bread depo, Takealot, Swartland Steel as well as Lategan's Cement Works. The objection is a result of the increase in complaints from tenants, due to the operation of the scrapyard.</p>		<p>Please refer to the comments above</p>

	<p>Mr Theron state that these businesses all have women working in their offices. The role they play and their safety play a direct role in the success of day to day proceedings. The type of customer that attracts a scrap yard means that staff who could previously work alone at reception can no longer do so.</p> <p>According to Mr. Theron, Takealot receives several people from Malmesbury and surrounding towns and the increase in people asking their customers for money on the way to the Takealot 'Pick-up Point' came to their attention when the scrapyard opened.</p> <p>Mr Theron adds that the perception that the Malmesbury Takealot branch is in a bad neighbourhood can cause them to not do as much business as they could furthermore, even people who don't know Malmesbury that well, may be given the wrong impression about the whole town.</p> <p>Lategan's Cement Works has the most exposure to the customer base serviced by the scrap yard because they do business across the road from the scrap yard. The cleanliness and decency of Lategan's Cement works is degraded by pollution left in the road and made by people on their way to the scrap yard.</p> <p>The objector state that they hope the objection is received positively, not to hinder business in Malmesbury, but to protect the image and success of the established businesses.</p>		
<p>Members of the ward committee of Ward 8</p> <p>Councillor Anet De Beer Dr. Anita Jacobs Eben Sieberhagen Me Hetta Scott Me Jacoba Titus Lennard van Wyk and</p>	<p>Mr Eben Siebernagel sent a letter of objection as compiled by Mr L van Wyk on behalf of the ward committee of Ward 8.</p> <p>As ward committee members of ward 8 whom represent the neighbourhoods surrounding the industrial area, as well as the Schoonspruit Industrial Area, the committee wish to object to the proposed rezoning of 7677 for the following reasons:</p> <p>Since the scrapyard began its operations:</p> <ul style="list-style-type: none"> • There has been noticeably more damage done to premises where metal has been stolen and looted. 		Please refer to the comments above

Rico Kruger	<ul style="list-style-type: none"> • Rubbish soils the area around the scrap yard and especially the river embankment • An increase in pedestrians is noticed in the street • Office staff (mostly ladies) feel unsafe, unhappiness, vigilance and security drain energy and money - especially during load shedding • The residential town objects, because a scrap yard offers an outlet for so-called waste and scrap that is often stolen. • Neighbourhood groups attest to constant action to chase people out of yards where they search without permission. • The surrounding businesses in the cul-de-sac are opposing the zoning to try to stop the scrap yard, which is already doing business, from establishing; • Malmesbury has existing scrap yards which need to be monitored and policed. The objectors feel that it is enough. • Unfortunately, in the past, Swartland Municipality was not held critically accountable for money spent on court cases to settle cases. According to the objectors, officials who give rise to court cases through negligence and poor management are protected and civilian persons who stand up against the municipality regarding the procedures that have been followed are ignored and recommended to make a court case - which the municipality then opposes with taxpayers' money. The objectors are of opinion that this case may also lead to such a scenario and they confirm that Ward 8 will not support Swartland Municipality in a court case should the application for rezoning and departure be approved. They conclude that they will mobilize their communities to recover legal costs from the applicable officials, should the court case against Swartland Municipality be won. 		
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PART J: MUNICIPAL PLANNING EVALUATION

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

The application in terms of the By-law was submitted on 10th of June 2022. The public participation process commenced on the 22nd of June 2022 and ended on the 25th of July 2022. Objections were received and referred to the applicant for comment on 27th of July 2022 and the municipality received the comments on the objections from the applicant dated on Monday, 29 August 2022.

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

2. Legislation and policy frameworks

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

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

Spatial Justice: The proposed development is deemed consistent with the Swartland MSDF (2019) as well as the goals of the district and provincial spatial policies as will be further discussed below. The consideration of the application also realises the owner of the property's right to apply in terms of the relevant legislation.

Spatial Sustainability: The operation of the proposed scrap yard will have a positive socio-economic impact through the creation of job opportunities as well as being a source of income to people trading in all sorts of materials. The proposal does not pose a threat to the environment as well as the concerns regarding pollution is mitigated through the fact that the property is finished with a permanent concrete surface as well as that the property is fenced with a pre-fabricated wall. The proposal is located within an industrial area and is also consistent with the MSDF, 2019.

Efficiency: The development proposal will promote the optimal utilisation of land and services. The proposed use will also strengthen the current mixed-use character of the area without having a minimal impact on existing municipal services or the municipality's constitutional mandate. Therefore this application complies with the principle of efficiency.

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

Spatial Resilience: As described above the property is deemed adequate to accommodate the proposed use. Although the use of the property can be restricted to that what is proposed in the application, should the scrap yard not be feasible in the future the property can easily accommodate a number of industrial uses as the area is industrial in nature. The use of the property as a scrap yard is justified in the long term and is therefore deemed spatially resilient.

The development proposal clearly adheres to the spatial planning principles and is consistent with the abovementioned legislative measures.

Provincial Spatial Development Framework (PSDF, 2014)

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

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

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

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

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

The PSDF, 2014 also refers that the increasing waste generation in the Western Cape, if not recycled, gives rise to the need for more waste disposal sites – especially in proximity to urban concentrations. New waste disposal sites are not needed if recovery / recycling facilities and related awareness programmes are rolled-out. The Cape Metro functional region, as the primary waste generator, is the priority area for upscaling waste recovery and recycling.

The PSDF, 2014 therefore supports an innovative approach in the waste sector to increase recycling and reuse, including the adoption of waste-to-energy in the longer term.

The proposed application is therefore deemed consistent and not in contradiction with the PSDF.

West Coast District SDF (WCDSDF, 2020)

The WCDSDF rightfully looks at spatial development on a district level. In terms of the built environment policy of the WCDSDF, 2020 it is proposed that local municipalities should implement and promote the minimisation of waste and promote and encourage recycling (concerted effort by Local Municipalities, based on the principle of “reduce, re-use, rethink, recycle”).

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

Municipal Spatial Development Framework (SDF), 2019

Erf 7677, Malmesbury is located in land use proposal zone N2 as indicated in the land use proposal map for Malmesbury. Land use proposal zone N2 consist mainly of industrial uses, business as well as government functions. It is proposed that the industrial area be expanded to the south along the N7. The MSDF, 2019 also propose that heavy industries only be allowed south of Bokomo Road. Please refer to the extract below:



MALMESBURY LAND USE ZONES		Low Density Residential Uses	Medium Density Residential	High Density Residential	Secondary Educational Uses	Institutional Uses	Professional Services	Business Uses	Secondary Business Uses	Churches	Institution	Guest houses	Authority	Sport/Recreational Facilities	Industries & Service Trade
N2	Zone N2 consists mostly of industry-, business- and government functions with the proposed expansion of the industrial area south of the N7. Heavy industries should only be allowed south of Bokomo Road.								X				X		X

The proposal is clearly not in conflict with the land use proposals of the MSDF, 2019.

2.4 Zoning Scheme Provisions

In terms of Par. 4.2.1(e) of the development management scheme a 3m building line is applicable on the eastern side of the property as the property abuts the municipal commonage which is not industrially zoned.

Except for the departure of the side building line all other provision of the proposed zoning is complied with;

3. Desirability of the proposed utilisation

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

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

Given the current mixed use nature of the area, the proposed application will not have a negative impact on the character of the area.

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

4. Impact on municipal engineering services

The proposed development will not have a significant impact on municipal engineering services. Should any services need upgrading in order to accommodate the proposed development it will be for the developers account.

5. Public interest

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

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

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

The degree of risk or potential risk

The operation of a scrap yard do pose a degree of risk for the community in the form of social problems associated with theft and vandalism. However, the business of operating the scrap yard cannot be held accountable for the social problems. It is also acknowledged that the application is an attempt from the owner of erf 7677 to obtain land use approval for a scrap yard in order for his tenant to operate legally. The trade in second hand goods as well as recycling is monitored and managed in terms of the Second Hand Goods Act, 2009 (Act No. 6 of 2009).

Impact on existing and surrounding land uses

Erf 7677, Malmesbury is located within the industrial area of Malmesbury. In terms of the zoning category of the Development Management Scheme as well as the land use proposals of the MSDP, 2019 a scrap yard can only be accommodated within the industrial area. As discussed above, the fact that the yard is screened by the building as well as that the whole yard is fenced with a wall, contributes to the desirability of the proposal. It is therefore argued that the operation of a scrap yard on the subject property will not have a negative impact on the character of the street or negatively impact the health and safety of the people in the area.

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

As mentioned above there is a definite need for such a facility as well as that the facility does have a positive socio economic impact. In this specific case, it could be argued that the proposal is not prejudicial to the interest of those directly affected. The trade in second hand goods as well as recyclables is thoroughly policed and managed by SAPS through the implementation of the Second Hand Goods Act, 2009 (Act No. 6 of 2009).

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

The long term benefit of the proposal includes a facility, however small, contributes to the minimisation of waste that fills up the landfill and encourage recycling. The proposal therefore assist in extending the life of the Municipal Solid Waste Facility. The proposal not only creates job opportunities for the proprietor but also a source of income for its clients.

In this case, in an area and street that is predominantly industrial in nature, it is argued that the proposed scrap yard will not increase the risk and safety of the community. It will also not have an adverse impact on the character of the area. It is also envisioned that the business does promote economic opportunities for individuals to get an income from scrap and recyclables and therefore the positive impact outweighs the negative resulting in the proposal to be in the interest of the community of Malmesbury.

6. Response by applicant

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

7. Comments from other organs of state/departments

The comments from the SAPS were requested during the compilation of this report. Detail will be provided once received. It is noted that, should the application be approved it does not exonerate the developer or occupants from the proposed shops and offices to comply with any other legislation.

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 the rezoning of Erf 7677, Malmesbury from Industrial Zone 1 to Industrial Zone 2, be approved in terms of section 70 of the Swartland Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020).
- B The application for the consent use on Erf 7677, Malmesbury, be approved in terms of section 70 of the Swartland Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020).
- C The application for the permanent departure of the development parameters applicable on Erf 7677, Malmesbury, be approved in terms of section 70 of the Swartland Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020).

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

1. TOWN PLANNING AND BUILDING CONTROL

- (a) The consent use be restricted to accommodate a scrap yard on the property as presented in the application;
- (b) The departure entails accommodating the existing building 1,5m from the side boundary in-lieu of the 3m requirement of the new zoning category;
- (c) The hours of operation of the scrapyard shall be limited to 08h00 to 17h00 from Monday to Friday and 08h00 to 12h00 on Saturdays;
- (d) No storing, sorting, depositing or collection of scrap material is permitted in front of the building / property, the road reserve along Industrie Crescent or anywhere other than inside the building or yard as indicated on the site development plan.
- (e) Building plans including the necessary fire plan be submitted to the Senior Manager Built Environment for consideration and approval;
- (f) The gate on the eastern boundary giving access over the municipal commonage be permanently closed with a wall similar to that which is currently on the perimeter of the property in order to close the illegal access as well as to ensure that no scrap material could be blown by the wind onto the municipal land as well as into the river.

2. STREETS & STORMWATER

- (a) The proposed parking area, be provided with a permanent dust free surface and the parking bays clearly demarcated as indicated on the site development plan. The material used be pre-approved by the Director Civil Engineering services on building plan stage;

3. GENERAL

- (a) Should it be necessary to upgrade any existing services in order to accommodate the access or service connections of the proposed development, the cost thereof will be for the developer's account;
- (b) The approval is, in terms of section 76(2)(w) of the By-Law valid for 5 years. All conditions of approval be complied with within a period of 2 months after the date of the final decision, after which the 5 year period will no longer be applicable;
- (c) The applicant/objectors be informed of the right to appeal against this decision of the Municipal Planning Tribunal, within 21 days of this notice, in terms of section 89(2) of the By-Law;



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) Possible negative impacts are mitigated through the fact that the building acts as a screen to the material stored at the back of the yard as well as
- 4) The application for rezoning to Industrial zone 2 as well as the use of the property as a scrap yard is not in conflict with the MSDP, 2019.
- 5) The proposed application will not have a negative impact on the character of the area given the industrial as well as mixed use nature of the area.
- 6) The proposed development is not perceived to have a detrimental impact on the health and safety of surrounding landowners, nor will it negatively impact on environmental/heritage assets.
- 7) The proposal will not have a significant impact on traffic in Industrie Crescent.

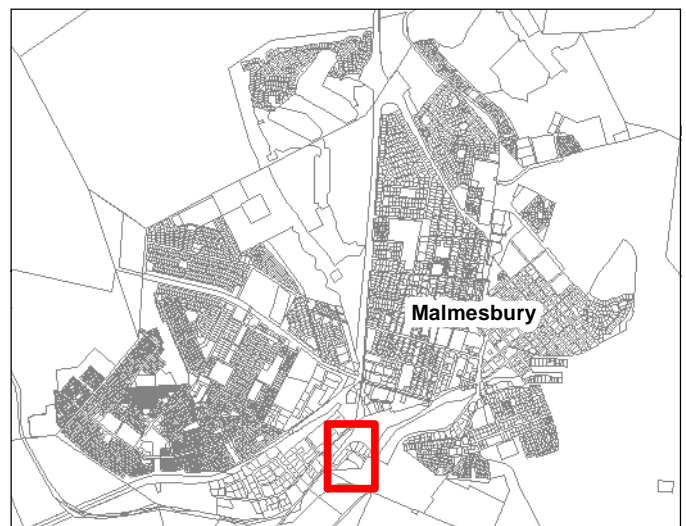
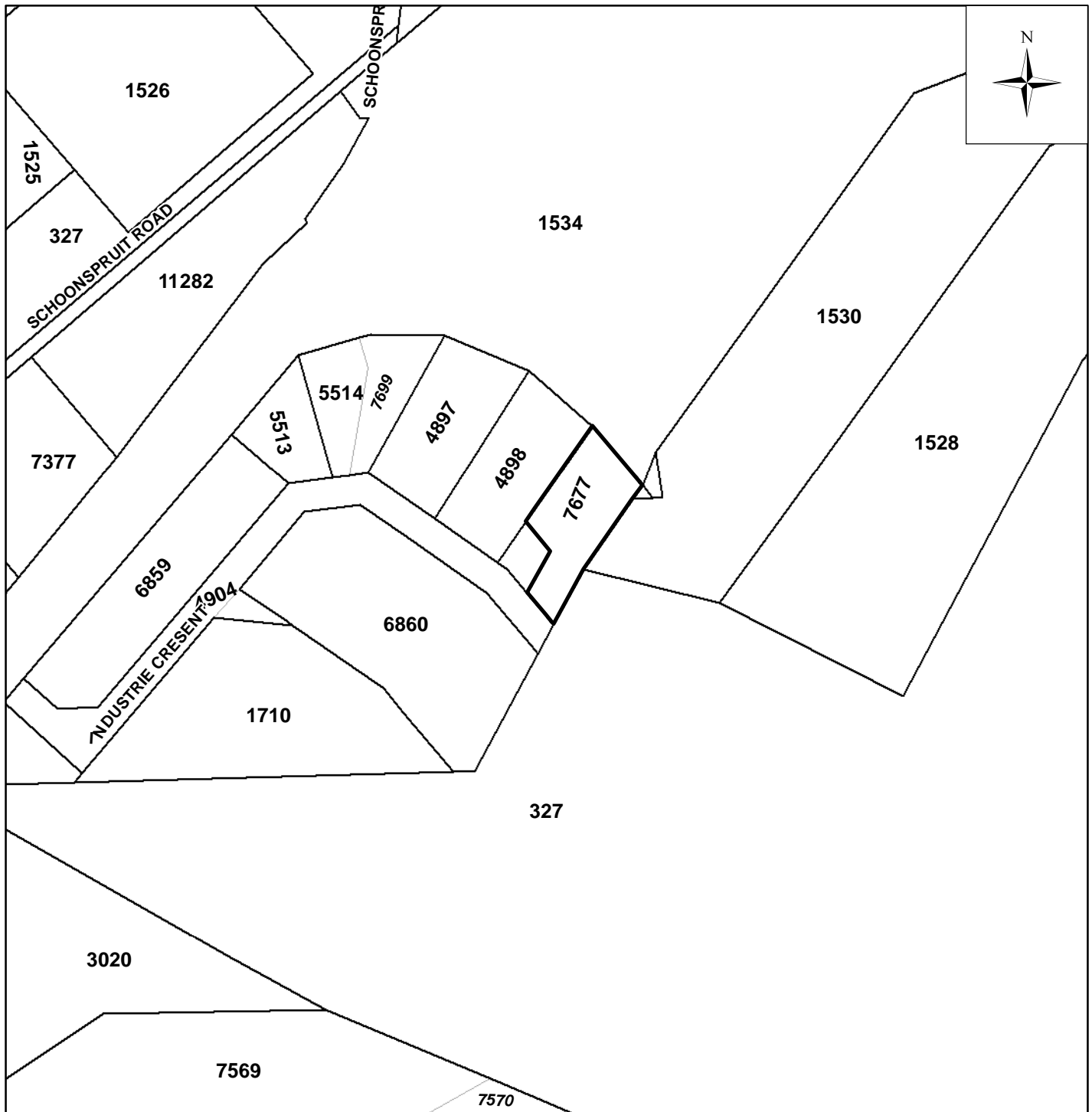
PART N: ANNEXURES

Annexure A	Locality Map
Annexure B	Site development plan
Annexure C	Public Participation Plan
Annexure D	Objections by Mr A Lund
Annexure E	Objections by Mrs H van Wyk
Annexure F	Objections by Mr JI van Aarde
Annexure G	Objections by Mr WA Theron
Annexure H	Objections by Mr L van Wyk
Annexure I	Objections by the Ward committee of Ward 8
Annexure J	Applicants comment on the objections
Annexure K	Copy of the title deed
Annexure L	Comment from Malmesbury SAPS
Annexure M	Photos

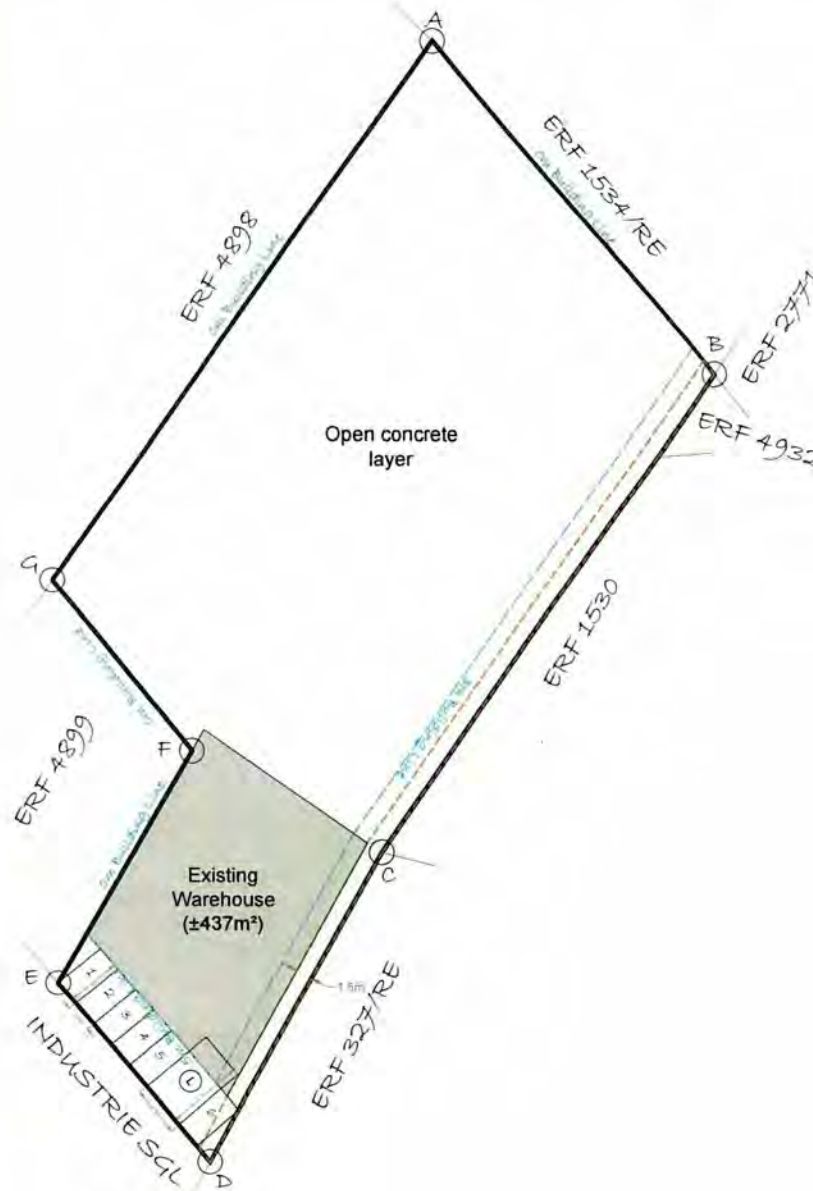
PART O: APPLICANT DETAILS

Name	CK Rumboll and Partners			
Registered owner(s)	Francois Johannes Everhardus Roux	Is the applicant authorised to submit this application?	Y	N
PART P: SIGNATURES				
Author details: Herman Olivier Town Planner SACPLAN: A/204/2010			Date: 2 September 2022	
Recommendation: Alwyn Zaayman Senior Manager Built Environment SACPLAN: B/8001/2001	Recommended	<input checked="" type="checkbox"/>	Not recommended	
			Date: 6 September 2022	

LOCATION PLAN OF ERF 7677, MALMESBURY Annexure A



SITE DEVELOPMENT PLAN: ERF 7677, MALMESBURY



KEY:

Subject property	
Existing buildings	
Existing cadastral boundaries	
Building lines	
Existing 1.5m wide cable servitude	

ZONING I.T.O. THE ZONING SCHEME:

Current: Industrial Zone 1
Proposed: Industrial Zone 2

NOTES:

Figure ABCD represents Erf 7677, Malmesbury, with an extent of 2814m².

Application is made for the consent use to accommodate a scrap yard on Erf 7677, Malmesbury.

Drawing by:

Mandi Viljoen

ALL AREAS AND DISTANCES ARE SUBJECT TO SURVEYING



C.K. RUMBOLL & VENNOTE
TOWN PLANNERS
PROFESSIONAL SURVEYORS

Tel: 022 - 4821845
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DATE:
JUNE 2022

AUTHORITY:
SWARTLAND MUNICIPALITY

REF:

MAL/12587/ZN/MV



From: Andre Lund <Andre.Lund@consultm.co.za>
Sent: Wednesday, 06 July 2022 11:53
To: Registrasie Email <RegistrasieEmail@swartland.org.za>
Cc: Kobus van Aarde <vanaarde1947@gmail.com>; admin@vanwyke.co.za
Subject: Notice 06/2022/2023

Die Munisipale Bestuurder: Swartland Mun.

Hersonering van erf: 7677

Hiermee teken Leliedal 20 Bk. as eienaar van erf 4898, Malmesbury ten sterkste beswaar aan teen die hersonering van erf: 7677 as gevolg van die volgende redes:

Indien die huidige sonering (Nywerheid tipe 1) verander word, sal dit die algemene aard van die uitbereiding negatief beïnvloed. Die besighede wat op die oomblik sake dryf in die straat is ligte nywerheids ondernemings. Besighede soos Takealot, Mobi Lodge, BKB, Rola Volkswagen, Massey Ferguson, Swartland Staal, MSM Kitchens en HDM om maar net 'n paar te noem. 'n Skrootwerf pas eenvoudig nie in nie en dit sal al hierdie ondernemings en grondeienaars negatief raak indien die Raad hierdie sonering verander.

- Sedert die onwettige bedryf van hierdie skrootwerf, ongeveer 2 maande gelede, het vandalisering en diefstal aan die eiendom van die Bk. onuithoudbaar toegeneem.
- Die persone wat skoot kom verkoop by die perseel strooi rommel oral in die nabye omgewing wat daartoe lei dat die waarde beleggingseiendom negatief geraak word.
- Hierdie rommel is soms harde en skerp voorwerpe wat reeds verskeie voertuie beskadig het.
- Die besighede wat hierdie eiendom by die Bk. huur dreig om hulle bedrywe elders te verstig aangesien hulle reeds sukkel om winsgewend te bly.
- Tydens 'n ter plaatse besoek op 5/7/2022 is 'n groep mense, van ongeveer 5, gesien wat die onwettige skrootwerf verlaat en in 'n westelike rigting stap. Soos wat hulle stap, is hulle besig om te kyk waar hulle skroot kan kry. Hulle het ook oor die vibracrete heining by die munisipale rioolwerke geloer. Wees dus gewaarsku dat hulle reeds planne het!

Leliedal 20 Bk. en sy lede gaan alles in sy vermoë doen om hierdie onregverdige benadeling van ons regte stop te sit. Ons plaas dit ook op rekord dat ons bewyse van die Raad sal vereis om seker te maak dat die gepaste boetes opgele word vir die oortredings deur die eienaar van erf: 7977 Malmesbury.

Vriendelike Groete | Kind Regards

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Consult Zwartland

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consult
by momentum



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VWE Installasies BK

(Reg. 2008/028766/23)

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Malmesbury

7299

11 Julie 2022

Die Munisipale Bestuurder
Swartland Munisipaliteit
Privaartsak X52
Malmesbury
7299

Re Kennisgewing 06/2022/2023 – erf 7677, Malmesbury - BESWAAR

Geagte Mnr Scholtz

Hiermee my beswaar teen die hersonering, vergunningsgebruik en afwykings van ontwikkelingsparameters op erf 7677, Malmesbury ten einde 'n skrootwerf te bedryf.

Kommer en besorgdheid ten opsigte van probleme is reeds aan u uitgelig in 'n brief vanaf Schoonspruit Veiligheid (gesamentlike mondstuk van besigheidseienaars in Schoonspruit industriële gebied) gedateer 19 Mei 2022 met verwysing na veiligheid, rommelstrooiing en besoedeling, openbare deelname en die bedryf van gesonde besigheid.

'n Skrywe van Mnr A Zaayman (23 Junie 2022) in reaksie verwys na die dienste van die wetstoepassers en SAPS om die probleme aan te spreek. Hierdie oplossing skiet baie ver te kort. Ons weet dat hierdie dienste ontoereikend is wat wil, beskikbaarheid van manskappe, vinnige reaksietyd en toepaslike opleiding betref.

In die Sunday Times van 10 Mei 2022 het 'n artikel verskyn dat die Suid-Afrikaanse regering besig is met 'n nuwe wetsontwerp wat handelaars in afval-metaal tronkstraf van 15 jaar wil ople.

“Transport minister Fikile Mbalula has called for a ban on the trade of scrap metal, saying theft and vandalism of critical rail infrastructure sabotage SA’s economy.

Mbalula made the call during a briefing on the recently approved National Rail Policy White Paper.

He said trade and industry minister Ebrahim Patel is working on a law that will see scrap metal dealers jailed for 15 years.”

Ek lei af dat die ministers handelaars dus as wortel van die probleem tov diefstal van (spoorweg)metale identifiseer.

Lede: L van Wyk en JJ van Wyk

'n Omvattende studie is in Amerika gedoen en gepubliseer as artikel 58 van *Problem-Oriented Guides for Police - Problem-Specific Guides Series* onder die vaandels van die Amerikaanse Regsdepartement en die kantoor van gemeenskapsgeörien-teerde polisiedienste: *Theft of scrap metal*

“Scrap metal buyers provide the necessary link for creating profit from scrap metal theft. The scrap metal theft problem is driven entirely by the ability to sell stolen goods to recyclers, and often these recyclers facilitate crime.”

“Thieves and sellers of scrap metal succeed when they find vulnerable targets at particular places during particular times when capable guardianship is lacking.”

“Scrap/salvage metal dealers often become targets of metal thieves if their inventory is left unsecured. Scrap metal dealers are in a peculiar position of both contributing as offenders and being victims of scrap metal theft. Indeed, it becomes a challenge for the police and the wider community to determine which role each scrap metal dealer is playing, and it is likely that scrap metal dealers may be taking on both roles. Regardless, unregulated scrap metal dealers are likely to contribute to outlying community crime.”

Die hele artikel bied insiggewende leesstof tov die aanspreek van die probleem en verwys pertinent daarna dat hierdie oortredings gewoonlik nie as ernstig beskou word nie, nie veel aandag kry nie en ook dikwels nie aangemeld word nie.

Om die impak en skade te bepaal moet 'n omvattende studie ten opsigte van 'n spesifieke area gedoen word met verwysing na diefstal van leegstaande geboue en persele, vervanging van manganatdeksels en herstel van ander geplunderde infrastruktuur, asook skade wat mense lei.

Moontlik ook die hoeveelheid goedere wat van die munisipale stortingsterrein weggedra word na skrootwerwe?

As oplossings is daar heelwat voorstelle, waarvan betrokkenheid van verskillende rolspelers die meeste is – want alle maatreëls (selfs kamerabeeldmateriaal) moet gekontroleer en gepolisieer word.

Die enigste maatreël wat my aandag trek is dieselfde as wat ook deur SA Metal op hulle webwerf voorgestel word: geen kontant vir goedere nie, slegs elektroniese betalings (of voorheen tjeks). Hierdie ontmoedig persone wat steel-vir-'n-onmiddellike-geldjie en versterk 'n duidelike 'paper trail' van transaksies.

“SA Metal Group has proposed to the appropriate authorities that it be made mandatory that scrap metal is paid for by cheque or bank transfer, and not in cash, to ensure that a proper record of the seller remains. This measure has been adopted in the UK and many other jurisdictions and it is hoped that it will be adopted in South Africa soon.”

Ek aanvaar die eienaars van die voorgenome scrapyard het edele intensies om gereguleerd sake te doen en om nooit gesteelde goedere in te neem nie. Desnieteenstaande berus die onus op die instansies wat die lisensies uitreik om die bedryf te kontroleer en te polisieer en ek dink nie dat dit in 2022 in Malmesbury moontlik is nie.

Die eienaars van omliggende besighede wil ook nie die taak hê om 'n oog te hou en onreëlmatighede aan te meld nie.

Ek is onkundig oor die hoeveelheid afval-metaal wat beskikbaar is vir nog 'n lewensvatbare skrootwerf, maar ek wonder of ons dorp kan voorsien in wat nodig is, **sonder dat gesteelde goedere 'n wesenlike deel daarvan uitmaak?**

Ek weet wel dat dit 'n fout sal wees om 'n perseel wat:

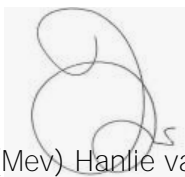
- nie geskik is nie
- nie gesoneer is nie
- **weggesteek en swak geleë is in 'n doodloopstraat**
- **langs 'n rivier geleë is wat besoedel kan word**
- bereikbaar is af van die gebaande weë

...nou te hersoneer vir 'n skrootwerf in 'n industriële gebied:

- wat goeie okkupasie van huurders het
- wat goeie deelnemende besigheidsmense het wat werk en welvaart skep in die gemeenskap
- wat ernstig betrokke is by die bekamping van probleme
- wat saamwerk binne strukture vir veiligheid en beveiliging
- wat skade gelei het en lei as gevolg van plundering en diefstal sedert die skrootwerf in bedryf gekom het
- wat onmiddelik die owerhede ingelig het oor die sigbare gevolge en probleme wat ervaar is sedert die skrootwerf in bedryf gekom het
- **wat nie nog 'n skrootwerf te midde wil hê nie** - hier is reeds genoeg
- wat energie in die meer positiewe bedryf van besigheid wil stort as om net te keer en skerm vir skade en onplesierigheid
- wat nie kan bekostig om te bly keer en beskerm en heinings en beveiliging op te gradeer nie.

My versoek aan u is dus: "Stop asb die hersoneringsaansoek en keur dit af".

Die uwe



(Mev.) Hanlie van Wyk

<https://www.timeslive.co.za/news/south-africa/2022-05-10-government-working-on-a-new-law-that-will-see-scrap-metal-dealers-jailed-for-15-years-says-mbalula/>

<https://cops.usdoj.gov/RIC/Publications/cops-p180-pub.pdf>

<https://sametal.co.za/metal-theft>

From: vanaarde1947@gmail.com <vanaarde1947@gmail.com>
Sent: Thursday, 14 July 2022 17:24
To: Registrasie Email <RegistrasieEmail@swartland.org.za>
Cc: andre.lund@consultm.co.za; admin@vanwyke.co.za; henniestrekkers@telkomsa.net;
fhkolbe@telkomsa.net
Subject: Notice 06/2022/2023 / Hersonerig Erf 7677

Vir Aandag: Mnr Joggie Scholtz
Mnr Herman Olivier
Raadslid Anet de Beer

Hersonering van erf: 7677

Na aanleiding van aansoek om hersonering Erf 7677, Malmesbury wil ons naamlik Derko Eiendomme BK, Erf nr: 104897000; 25a Industrie singel, Malmesbury, as aandeelhouers u aandag daarop vestig dat ons naamens onself, en 11 huurders van persele op ons eiendom ernstig beswaar maak teen die aansoek wat ingebring is om 'n skrootwerf te vestig op die perseel van Constantia Lintels.

Soos u kan sien, is Industrie singel ligte nywerheid persele en is almal afhanklik van die ingang naamlik Industrie singel wat ook lei na die Lategan Sementwerke en die Munisipaliteit se Riool plaas. Ons het erge diefstalle gehad by ons persele, oor die aantal jare, en met 'n groot gesukkel en baie kostes het ons, ons plekke beveilig, net om te kan vind in die eerste week na die oopmaak van hierdie onwettige skrootwerf, inbrake van diefstal, vragmotors wat geplunder word van hul elektriese bedrading en meganiese dele, 'n toeloop van ongewense persone wat met enige rommel op die straat verby kom na hierdie sogenaamde skrootwerf.

Hierdie besigheid is ongelukkig gevestig op die walle van die Dieprivier, wat soos u self bewus is, toegegroeï is van riete en bome, wat 'n ideale wegkom geleentheid en bergplek vir die ongewettige materiaal wat insluit koper en staal. Hierdie ongewenste toeloop het veroorsaak dat almal nou van vooraf moes beplan om hul besighede te beveilig. Malmesbury het alreeds 2 skrootwerwe. Een bokant die N7 en een onderkant die N7. Deur nou een oop te maak reg langs die rivier, en 'n verdere toeloop deur die industriële gebied wat veroorsaak, rommel op die strate waar persone hulle koper draad skoonmaak, verkoellers plunder en opbreuk en enige ander rommel denkbaar.

Wil ons weet hoekom die Munisipaliteit op lukrake manier hierdie besigheid toelaat. Die besigheid is onwettig bedryf tot ons kaspie gemaak het, toe is dit deur die wets toepassers vir 'n volle dag gesluit. Die volgende dag was dit weer in volle swang en nou word daar aansoek gedoen vir hersonering vanaf Zone 2 na Zone 1, soos dit u pas, met die gevolge daarvan wat goed bekend is aan u.

Ons versoek u om hierdie vergunning op ys te plaas, en eers met die betrokke eienaars van besighede in daardie omgewing bymekaar te kom en in gesprek te tree. Ons maak dus beswaar teen die hersonering weereens, en wag vir u terug antwoord.

Byvoorbaat dank

Vriendelike Groete

Jl van Aarde
083 301 4933
Vanaarde1947@gmail.com

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Beswaar teen herosnering van erf 7677, Malmesbury - Kennisgewing 06/2022/2023

LEER No	Verslag (V)	Inligting	Verslag	Afwandig	Kom/Taar
15/3/3-8/Erf-7677	SSSB				
15/3/4-8/Erf-7677	Del				
15/3/10-8/Erf-7677					

Die Munispale Bestuurder
 Swartland Munisipaliteit
 Privaatsak X52
 Malmesbury
 7299

Hiermee beswaar teen die herosnering van erf 7677 vir die skrootwerf vergunning.

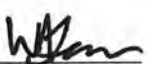
Ons het verskeie huurders in Industriesingel wat Sasko Brood Depo, TakeAlot, Swartland Staal en Lategans Sementwerke insluit. Die toename in klagtes vanaf die huurders gegewe die skrootwerf wat alreeds besigheid bedryf op erf 7677 het gely tot hierdie beswaar.

Hierdie besighede het almal vrouens wat in hulle kantore werk. Die rol wat hulle vertolk en die veiligheid van hulle speel 'n direkte rol op die sukses van dag tot dag verigtinge. Die tipe kliënt wat 'n skrootwerf trek veroorsaak dat personeel wat voorheen alleen kon werk by die ontvangs nie meer so kan doen nie.

TakeAlot ontvang verskeie mense vanaf Malmesbury en omliggende dorpe. Die toename in mense wat hulle kliënte oppad na die TakeAlot 'Pick-Up Point' vra vir geld het onder hulle aandag gekom met die skrootwerf se oopmaak. Die persepsie dat die Malmesbury TakeAlot tak in n slegte buurt is kan veroorsaak dat hulle nie soveel besigheid doen soos wat hulle kan nie. Dus ook mense wat Malmesbury nie so goed ken nie kan die verkeerde indruk gegee word oor die hele dorp.

Lategans Sementwerke het die meeste bloodstelling aan die kliënte basis wat die skrootwerf diens omdat hulle erf oorkant die skrootwerf besigheid doen. Die netheid en ordentlikheid van Lategans Sementwerke word afbreek aan gemaak deur besoedeling wat in die pad gelos en gemaak word deur mense oppad na die skrootwerf.

Ons hoop die beswaar word positief ontvang, nie om besigheid in Malmesbury te belemmer nie, maar om die beeld en sukses van gevestigde besighede te beskerm.


 WA THERON



Vergenoegslot 22
Malmesbury
7300

12 Julie 2022

Die Munispale Bestuurder
Swartland Munisipaliteit
Privaatsak X52
Malmesbury
7299

Beswaar – Hersonerings van erf 7677, Malmesbury - Kennisgewing 06/2022/2023

Geagte Mnr Scholtz

Hiermee teken ek beswaar aan teen die aansoek vir hersonerings, vergunningsgebruik en afwykings van ontwikkelingsparameters op erf 7677, Malmesbury vir 'n skrootwerf,

Ons kan nie toelaat dat 1 eienaar se aansoek teen die beswaar van 'n hele gebied se besigheidseienaars goedgekeur word nie.

Die besware en teenstand het meriete:

Na klagtes oor plastiek en afval wat gemors lê is dit nog nie opgeruim nie.

Die wetstoepassers kry dit nie reg nie.

SAPS?

Toename in diefstal en beskadiging dui op groter onveiligheid in die gebied.

Selfs Swartland Munisipaliteit se rioolplaas loop deur en ly skade wat herstel moet word.

Bekende skelms kry belang tot die gebied na die skrootwerf en word ten spyte van aanklagte en skuldigbevindings nie vir lank tronk toe gestuur nie – wat die hele gebied onder groot druk plaas tot beveiliging.

Die digte plantegroei om die rivier en die toeganklikheid na die skrootwerf maak dit 'n aanloklike adres vir diefstal om van gesteelde goedere ontslae te raak. 'n Hek direk uit die betrokke erf agter die gebou bied toegang vanaf die rivier uit sig van die straat af.

Die rivier bly 'n weerlose teken vir besoedeling en die storting van ongewenste afval.

Die tekens is duidelik daar dat die skrootwerf tot die storting bydra en ons wil voorkom dat 'n besoedelde rivier onder ons waak gebeur.

Industriële erwe word hoofsaaklik deur inwoners van Malmesbury en die Swartland gekoop. Die rede hiervoor is dat ons en ons kinders hier wil bly. Ons belang lê hier. En hierdie skrywe is uit belang.

Dankie

Die uwe

A handwritten signature in black ink, consisting of two tall, vertical strokes and a horizontal line across the middle, with some additional scribbles below.

Lennard van Wyk

WYKSKOMMITTEE WYK 8 - SWARTLAND MUNISIPALITEIT

18 Julie 2022

Die Munispale Bestuurder
Swartland Munisipaliteit
Privaatsak X52
Malmesbury
7299

Beswaar aangeteken teen hersonering van erf 7677 vir 'n skrootwerf - Kennisgewing 06/2022/2023

Geagte Mnr Scholtz

As wyksraadkommitteede van wyk 8 wat die woonbuurtes omliggend tot die nywerheidsgebied, asook die Schoonspruit Nywerheidsgebied verteenwoordig wil ons graag beswaar aanteken teen die voorgestelde hersonering van 7677 en die volgende motivering aan u deurgee:

Die omliggende besighede in die doodloopstraat staan die sonering teen om te probeer keer dat die skrootwerf - wat reeds besigheid doen – vestig.

Sedert die skrootwerf met bedrywighede begin het:

- is daar opmerklik baie skade aan persele aangerig waar metaal gesteel en gestroop is.
- bemors rommel die gebied om die skrootwerf en veral die rivierwal
- word „n toename in voetgangers in die straat opgemerk
- voel kantoorpersoneel (meestal dames) onveilig
- tap ongelukkigheid, waaksaamheid en beveiliging energie en geld - veral gedurende beurtkrag

Die residensiële dorp teken beswaar aan, omdat „n skrootwerf afset bied vir sg afval en skroot wat dikwels gesteel is.

Buurtgroepe getuig van konstante optrede om mense te verjaag uit erwe waar hulle ongemagtig aas.

Selfs vragmotorbestuurders , wat gaste is in ons dorp, ly onder diefstal van die vragmotor se batterye, pype, gereedskap, brandblussers ens.

Met die skrootwerk is ons besig om geleenthede vir misdaad te skep in plaas daarvan om misdaad te bekamp.

Swartland Munisipaliteit mag pryse wen vir die skoonste dorp – en ons is trots daarop – maar hoe lyk die misdaadstatistiek?

Is daar al „n opname gedoen deur „Survey Monkey“ wat Swartland Munisipaliteit gereeld gebruik vir opnamers onder die inwoners oor talle kwessies?

Die skrootwerk skep werk op „n roterende metode in die hart van die nywerheidsgebied.

Die skrootwerk skep afsetgebied vir kleiner omliggende dorpe se misdaad - Riebeek Kasteel, Riebeek Wes, Darling en die sateliete se goedere word hier verkwansel.

Voordat ons nie volhoubare oplossings vir die probleme van misdaad, bendes, en die onderliggende oorsake van werkloosheid, haweloosheid, armoede en verslawing in ons gemeenskap kry nie kan ons nie „n skrootwerk toelaat wat volgens statistiek tot groter misdaad kan bydra nie.

Min Pravin Gordhan, het in Mei vanjaar tydens „n vraag en antwoord sessie in die parlement gesê dat die uitvoere van skroot-metaal vir „n tydperk gestop moet word om die krimminele stroping van infrastruktuur wat deur die market aangemoedig word te stuit.

“It is my firm view that the export of scrap must be banned for a while. That will ensure that there is no market externally for the theft of infrastructure,”

“The sooner we have a strong set of measures, I believe it will begin to change the face of theft of infrastructure as well,”

Ons beskik nie oor die ‘*strong set of measures*’ nie.

Drastiese stappe en sterk leierskap is nodig om die aftakeling van infrastruktuur te stuit en om diefstal en beskadiging van eiendom en besttings te stop. Ook van die kant van Swartland Munisipaliteit in hierdie geval waar die afkeuring van die hersonering dalk een besigheid se deure gaan toemaak, maar „n gemeenskap se belange eerste gaan stel.

Ons gemeenskappe is so moeg van regmaak en opdok.

Ons SAPS en veiligheidsdienste het meer as genoeg sake om aan aandag te gee.

Hulle hoef nie nog verder belas word met die polisiëring van „n skrootwerk onder in „n doodloopstraatjie buite sig en van hoofroetes af nie.

Hulle het reeds hulle kant gebring met al die gevare en onwettigheid by die Liedeman skrootwerf.

Malmesbury het bestaande skrootwerwe wat gemoniteer en gepolisieer moet word. Dit is genoeg. Kom ons volstaan hierby.

Ongelukkig is Swartland Munisipaliteit in die verlede nie krities aanspreeklikheid gehou vir gelde gespandeer op hofsake om sake te besleg nie.

Amptenare wat tot hofsake aanleiding gee deur nalatigheid en swak bestuur is beskerm.

Burgerlike persone wat teen die munisipaliteit opstaan ten opsigte van porsedures wat gevolg is word geïgnoreer en aanbeveel om „n hofsak te maak - wat die munisipaliteit dan met belastingsbetalers se geld teenstaan.

Hierdie saak stuur ook moontlik op derglike scenario af. Wyk 8 sal nie vir Swartland Munisipaliteit ondersteun in „n hofgeding sou die aansoek om hersonering en afwyking goedgekeur word nie. Ons sal ook ons gemeenskappe mobiliseer om regskostes van die betrokke amptenare te verhaal sou die hofsak teen Swartland Munisipaliteit gewen word.

Byvoorbaat dankie vir u aandag.

Raadslid Anet De Beer

Dr. Anita Jacobs

Eben Sieberhagen

Me Hetta Scott

Me Jacoba Titus

Lennard van Wyk

Rico Kruger

Lede van die Wykskommittee – Wyk 8.


-103-

Table 1: Comments on Objections

Objectors	Objections	Comments from CK Rumboll & Partners
A, B, D, E, F	<p>1. Pollution:</p> <p>After complaints about plastic and waste littering, it has not been cleaned up yet. Law enforcement, such as SAPS, does not succeed in this task.</p> <p>Malmesbury already has 2 scrap yards (one above the N7 and one below the N7). By opening one right next to the river, and a further encroachment through the industrial area which causes litter on the streets where people clean their copper wire, radiators looted and broken into and any other rubbish imaginable.</p> <p>The river remains a vulnerable target for pollution and the dumping of unwanted waste. The dense vegetation around the river and the accessibility to the scrap yard make it an attractive address for thieves to dispose of stolen goods. A gate directly from the relevant property behind the building provides access from the river out of sight from the street.</p> <p>Pollution in the area results in the value of the investment property being negatively affected. This litter is sometimes hard and sharp objects that have already damaged several vehicles. The</p>	<p>1. With regard to land use proposals applicable to Malmesbury, the <i>SDF</i> identifies the area in which Erf 7677 is located as Zone N2, which consists mostly of industry-, business- and government functions with the proposed expansion of the industrial area south of the N7. Heavy industries should only be allowed south of Bokomo Road. The proposed development to accommodate a scrap yard on Erf 7677 is consistent with the land use proposals for Malmesbury, as set out in the <i>Swartland SDF (2019)</i>. The land use proposals for Malmesbury as set out in the <i>Swartland SDF (2019)</i> is attached as Annexure A.</p> <p>Erf 7677 is screened entirely by means of vibracrete walls and an existing building, serving as a mitigation measure to prevent unsightly environments within the area and keeping scrap materials within the site. Further no materials that can be picked-up by the wind and carried over the wall will be stored openly outside, but in closed bins. The scrap yard will be restricted to Erf 7677, and therefore, it cannot be held responsible for pollution caused by people who wander outside the scrap yard. If the objectors feel that SAPS is not controlling the area it cannot be forced on the owner of Erf 7677 to act on their behalf.</p> <p>The scrap yard will be secured properly to keep people from entering the premises unauthorised.</p>

VENNOTE / PARTNERS:

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

		 <p>Figure 1: Distance between the scrap yard on Erf 7677 and the nearest residential area</p>
F	<p>11. In May 2022, Mr Pravin Gordhan stated the following in a Q&A-session:</p> <p><i>"It is my firm view that the export of scrap metal must be banned for a while. That will ensure that there is no market externally for the theft of infrastructure."</i></p> <p><i>"The sooner we have a strong set of measures, I believe it will begin to change the face of theft of infrastructure as well."</i></p>	<p>11. The objector refers to a "strong set of measures" which does not exist for scrap yards in Malmesbury or in the Nation. The application cannot be refused on the basis of inadequate national legislation with regards to scrap yards. If new legislation or list of "measures" is published by the government, the owner will adhere to these rules and regulations.</p>

	businesses that rent their properties from the Bk. threatens to locate their industries elsewhere as they are already struggling to remain profitable.	
A, B, D, F	<p>2. <u>Crime, Theft, and Vandalism:</u></p> <p>An increase in theft and damage will lead to greater insecurity in the area. Even the municipal sewerage site leads to damage that needs to be repaired.</p> <p>Industrie Crescent has light industrial properties and is all dependent on the same entrance that also leads to the Lategan Cement Works and the Municipality's Sewage Farm. We have had serious thefts at our premises, over the number of years, and with great difficulty and great expense, we secured our premises, only to find out in the first week after the opening of this illegal scrap yard, burglaries of theft, trucks that are robbed of their electrical wiring and mechanical parts, an influx of unwanted persons who pass by with any rubbish on the street to this so-called scrap yard. This unwanted influx caused everyone to plan in advance to secure their businesses.</p> <p>This business is unfortunately established on the bank of the Diep River which is overgrown with reeds and trees. It provides an ideal escape opportunity and storage space for the illegal material which includes copper and steel.</p>	<p>2. The objector assumes that the proposed land use will lead to theft and damage and that people were looking for scrap as they walk in Industrie Crescent. The application cannot be considered unfavourable on the basis of assumptions. The establishment of the scrap yard will rather create job opportunities which will help alleviate unemployment and poverty and grow the industrial area.</p> <p>No objection was received from Swartland Municipality regarding the sewerage works site.</p> <p>The scrap yard cannot be held responsible for criminal offences caused outside of the premises or in other towns.</p>

	<p>During a site visit on 5/7/2022, a group of people, of approximately 5, were seen leaving the illegal scrap yard and walking in a westerly direction. As they walk, they are looking where they can find scrap. They also peered over the vibracrete fence at the municipal sewage works. So be warned that they already have plans! Leliedal 20 Bk. and its members are going to do everything in their power to put a stop to this unfair infringement of our rights. We also put it on record that we will require evidence from the Council to ensure that the appropriate fines are levied for the offenses by the owner of plot: 7977 Malmesbury.</p> <p>Known crooks gain interest in the area after the scrapyard and despite charges and convictions are not sent to prison for long - putting the whole area under great pressure in terms of security.</p> <p>Swartland Municipality may win prizes for the cleanest town and we are proud of that — but what does the crime statistics look like? Has there already been a survey done by 'Survey Monkey' which Swartland Municipality regularly uses for surveys among the residents on numerous issues?</p> <p>The scrapyard creates an outlet for the crime of smaller surrounding towns - Riebeek Kasteel, Riebeek Wes, Darling and the satellite towns'</p>	
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	<p>goods are squandered here.</p> <p>Until we find sustainable solutions to the problems of crime, gangs, and the underlying causes of unemployment, homelessness, poverty and addiction in our community, we cannot allow a scrap yard that statistically leads to greater crime.</p>	
B	<p>3. <u>Illegal Land Use:</u></p> <p>We want to know why the Municipality allows this business. The business was operated illegally until we capitulated, then it was shut down by the law enforcers for a whole day. The next day it was back in full swing and now an application is being made for rezoning from Zone 2 to Zone 1 with the consequences of which are well known to you.</p>	<p>3. Refer to Point 1. The proposal to utilise Erf 7677 for the use of a scrap yard is consistent with the land use proposals as set out in the <i>Swartland SDF (2019)</i>. The proposal will integrate with the surrounding industrial area, where the subject property is located. Furthermore, job opportunities are created by the proposal, which enhances the objective to grow economic prosperity in the Swartland Municipal area.</p> <p>Swartland Municipality held a site inspection on the 21st of April 2022 where it came to their attention that a scrapyard exists on Erf 7677, Malmesbury. On the 19th of May 2022, the owner of Erf 7677, Malmesbury, received a letter (Ref.: 15/3/1) from Swartland Municipality stating that the operation of a scrap yard on Erf 7677, is in contradiction with the <i>Swartland Municipal By-law on Municipal Land Use Planning</i> and is currently unlawful.</p> <p>The letter further states that the Municipality urgently request the owner to comply with the notice by 19 June 2022. The illegal land use letter is attached as Annexure B.</p> <p>In terms of the <i>Swartland Municipal Land Use Planning By-law</i></p>

		<p>(PG 8226), the mentioned property is zoned Industrial Zone 1 which does not allow a scrap yard. Accordingly, a Land Use Application for the rezoning of Erf 7677, Malmesbury, was submitted to Swartland Municipality on the 10th of June 2022 in an attempt to authorise the existing scrap yard on the property.</p>
C	<p>4. <u>Stolen Goods:</u></p> <p>Concerns regarding problems have already been highlighted to Swartland Municipality in a letter from Schoonspruit Safety (joint mouthpiece of business owners in Schoonspruit Industrial area) dated 19 May 2022, with reference to safety, littering and pollution, public participation and the operation of a healthy business.</p> <p>A letter from Mr A. Zaayman (23 June 2022) in response refers to the services of law enforcement and SAPS to address the problems. This solution falls far short. We know that these services are inadequate in terms of manpower availability, quick response time and appropriate training.</p> <p>In the Sunday Times of 10 May 2022, an article appeared that the South African government is busy with a new bill that wants to impose a 15-year prison sentence on dealers in scrap metal.</p> <p><i>"Transport minister Fikile Mbalula has called for a ban on the trade of scrap metal, saying theft and vandalism of critical rail infrastructure sabotage</i></p>	<p>4. The proposed development will contribute to the economic growth of the town. The proposed development on Erf 7677 cannot be held responsible for criminal problems in Malmesbury. If any crime is detected, the police department of Malmesbury can assist the town.</p> <p>As mentioned in Point 1, the proposal to utilise Erf 7677 for the use of a scrap yard is consistent with the land use proposals as set out in the <i>Swartland SDF (2019)</i>. The proposal will integrate with the surrounding industrial area, where the subject property is located. Furthermore, job opportunities are created by the proposal, which enhances the objective to grow economic prosperity in the Swartland Municipal area. The location of the site is deemed suitable for the use of a scrap yard as it will be located out of site and in a light industrial area of Malmesbury.</p> <p>Although Minister Fikile Mbalula made the statement regarding a ban on the trade of scrap metal, no legislation or rules were set in place to date. No action was taken to close all scrap yards. Just because the scrap yards do not adhere to certain rules, does not mean that all scrap yards should be shut down.</p> <p>The objector refers to a comprehensive study that was</p>

	<p><i>SA's economy. Mbalula made the call during a briefing on the recently approved National Rail Policy White Paper. He said trade and industry minister Ebrahim Patel is working on a law that will see scrap metal dealers jailed for 15 years."</i></p> <p>I conclude that the ministers therefore identify traders as the root of the problem of theft of (railway) metals.</p> <p>A comprehensive study was conducted in America and published as Article 58 of <i>Problem-Oriented Guides for Police - Problem-Specific Guides Series</i> under the auspices of the US Department of Justice and the Office of Community Orientated Policing Services: <i>Theft of scrap metal</i>.</p> <p><i>"Scrap metal buyers provide the necessary link for creating profit from scrap metal theft. The scrap metal theft problem is driven entirely by the ability to sell stolen goods to recyclers, and often these recyclers facilitate crime."</i></p> <p><i>"Thieves and sellers of scrap metal succeed when they find vulnerable targets at particular places during particular times when capable guardianship is lacking."</i></p> <p><i>"Scrap/salvage metal dealers often become targets of metal thieves if their inventory is left unsecured.</i></p>	<p>conducted in America, which is a first world country. One cannot compare studies conducted in a first world country to a third world country such as South Africa, with other priorities and problems.</p> <p>It is clear that there is a bigger problem than just in Malmesbury and the role players referred to by the objector are not only at a local level, but rather at a national level as the objector highlights. The owner of Erf 7677 cannot be penalized for a national problem with no legislation to stop it.</p> <p>The proprietors of the scrap yard on Erf 7677 will not accept any goods for cash as it poses a security problem to themselves.</p>
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	<p><i>Scrap metal dealers are in a peculiar position of both contributing as offenders and being victims of scrap metal theft. Indeed, it becomes a challenge for the police and the wider community to determine which role each scrap metal dealer is playing, and it is likely that scrap metal dealers may be taking on both roles. Regardless, unregulated scrap metal dealers are likely to contribute to outlying community crime."</i></p> <p>The entire article provides informative reading material for addressing the problem and makes pertinent reference to the fact that these offenses are usually not considered serious, do not receive much attention and are often not attempted.</p> <p>To determine the impact and damage, a comprehensive study must be carried out in respect of a specific area with reference to theft of vacant buildings and premises, replacement of manhole covers and repair of other looted infrastructure, as well as damage caused to people. Possibly also the amount of goods that are taken away from the municipal landfill to scrapyards?</p> <p>As solutions, there are quite a few proposals, of which involvement of different role players is the most important — because all measures (even camera footage) must be checked and policed.</p>	
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	<p>The only measure that catches my attention is the same as also proposed by SA Metal on their website: no cash for goods, only electronic payments (or cheques before). This discourages persons who steal-for-instant money and reinforces a clear 'paper trail' of transactions.</p> <p><i>"SA Metal Group has proposed to the appropriate authorities that it be made mandatory that scrap metal is paid for by cheque or bank transfer, and not in cash, to ensure that a proper record of the seller remains. This measure has been adopted in the UK and many other jurisdictions and it is hoped that it will be adopted in South Africa soon."</i></p>	
C	<p>Responsible parties:</p> <p>5. I accept the owners of the proposed scrap yard have noble intentions to do regulated business and to never take in stolen goods. Nevertheless, the onus rests on the institutions that issue the licenses to control and police the industry and I don't think that is possible in 2022 in Malmesbury. The owners of surrounding businesses also do not want the task of keeping an eye on and reporting irregularities.</p> <p>I am ignorant of the amount of scrap metal that is available for another viable scrap yard, but I wonder if our town can supply what is needed without stolen goods taking up a substantial part of it?</p>	<p>5. It is noted that the onus rests on the institutions that issue the licenses to control and police the scrap yard.</p>

C	<p><u>Unsuitable property for a scrap yard:</u></p> <p>6. I do know that it would be a mistake to have a premises that:</p> <ul style="list-style-type: none"> - is not suitable - not zoned - hidden and poorly located in a cul-de-sac - is located next to a river that can be polluted - accessible off the beaten track <p>...now to be rezoned for a scrap yard in an industrial area:</p> <ul style="list-style-type: none"> - which has good occupancy of tenants - which has good participating business people who create jobs and wealth in the community - who are seriously involved in combating problems - who work together within structures for safety and security - which caused damage and is causing damage due to looting and theft since the scrapyard came into operation - who immediately informed the authorities about the visible consequences and problems experienced since the scrap yard came into operation - who doesn't want another scrap yard in in our vicinity - there's already enough here - who want to pour energy into the more positive running of business than just blocking and 	<p>6. - <i>Is not suitable</i> – Refer to Point 1. The proposal to utilise Erf 7677 for the use of a scrapyard is consistent with the land use proposals as set out in the <i>Swartland SDF (2019)</i>.</p> <p>- <i>Not zoned</i> – The purpose of the land use application submitted to Swartland Municipality is to apply for the rezoning, consent use, and departure from development parameters, namely the prescribed building lines, to accommodate a scrapyard on Erf 7677, Malmesbury. After approval of the land use application, the property will consist of the necessary land use rights to accommodate a scrap yard.</p> <p>- <i>Hidden and poorly located in a cul-de-sac</i> – the location of Erf 7677 rather makes the scrap yard less vulnerable for theft as it is located out of site.</p> <p>- <i>Is located next to a river that can be polluted</i> – As mentioned in Point 1, no materials that can be picked-up by the wind and carried over the wall will be stored openly outside, but in closed bins. No pollution from the scrapyard will occur.</p> <p>- <i>Accessible off the beaten track</i> – the property will be properly secured with the necessary security.</p> <p>The objector mentions that the community in the area works together to ensure safety and security. The community can work together with the scrap yard as well.</p>
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	<p>screening for harm and unpleasantness</p> <ul style="list-style-type: none"> - who cannot afford to keep stopping and protecting and upgrading fences and security. 	
D, E	<p>7. <u>Negative impact on surrounding erven:</u></p> <p>If the property is rezoned from Industrial Zone 1 to another zoning, it will negatively affect the general nature of the area. The current businesses in the street are light industrial enterprises. Businesses such as Takealot, Mobi Lodge, BKB, Rola Volkswagen, Massey Ferguson, Swartland Staal, MSM Kitchens and HDM to name just a few. A scrap yard simply does not fit in and it will affect all these businesses and landowners negatively if the Council changes this zoning.</p>	<p>7. As mentioned in Point 1, the proposal to utilise Erf 7677 for the use of a scrap yard is consistent with the land use proposals as set out in the <i>Swartland SDF (2019)</i>. The proposal will integrate with the surrounding industrial area, where the subject property is located.</p>
E	<p>8. <u>Safety:</u></p> <p>The businesses in Industrie Crescent all have women working in their offices. The role they play and their safety play a direct role in the success of day-to-day proceedings. The type of customers who are attracted to a scrap yard means that staff who could previously work alone at the reception can no longer do so.</p>	<p>8. The scrap yard cannot be held responsible for the safety of women in the area. If any criminal offences are detected, the police department of Malmesbury can assist the town.</p> <p>As mentioned of Point 1, the <i>Swartland SDF (2019)</i> supports the development of a scrap yard on Erf 7677, Malmesbury.</p>
E	<p>9. <u>Access:</u></p> <p>TakeAlot receives several customers from Malmesbury and surrounding towns. The increase in people asking their customers for money on the way to the TakeAlot 'Pick-Up Point' came to their</p>	<p>9. The TakeAlot pickup point is located in a light industrial area of Malmesbury. Referring to Point 1, the proposal to utilise Erf 7677 for the use of a scrap yard is consistent with the land use proposals as set out in the <i>Swartland SDF (2019)</i>. No objection were received from TakeAlot.</p>

	<p>attention when the scrapyard opened. The perception that the Malmesbury TakeAlot branch is in a bad neighborhood can cause them to not do as much business as they could. So even people who don't know Malmesbury that well can be given the wrong impression about the whole town.</p>	<p>TakeAlot also offers a drop-off facility which means that customers have a choice to collect their packages at the pick-up point or at another location of their choice.</p>
F	<p>10. Since the scrapyard began operations:</p> <ul style="list-style-type: none"> - there has been noticeably a lot of damage done to premises where metal has been stolen and stripped. - Littering in the area around the scrap yard and especially the river embankment - an increase in pedestrians is noticed in the street - office staff (mostly ladies) feel unsafe - unhappiness, vigilance and security drain energy and money - especially during load shedding <p>The residential town objects, because a scrap yard offers an outlet for waste and scrap that is often stolen. Neighborhood groups attest to constant action to chase people out of yards where they forage without permission.</p>	<p>10. Refer to Point 1. The proposal to utilise Erf 7677 for the use of a scrap yard is consistent with the land use proposals as set out in the <i>Swartland SDF (2019)</i>. The proposal will integrate with the surrounding industrial area, where the subject property is located. Furthermore, job opportunities are created by the proposal, which enhances the objective to grow economic prosperity in the Swartland Municipal area.</p> <p>If any criminal offences are detected, the police department of Malmesbury can assist the town.</p> <p>The nearest residential area is ±325m away from Erf 7677 in an eastern direction opposite the Diep River (refer to Figure 1 for visual illustration).</p>

	<p>We do not consist of the “strong set of measures”.</p> <p>Drastic steps and strong leadership are needed to stop the degradation of infrastructure and to stop theft and damage to property and belongings. Also on the part of Swartland Municipality in this case where the disapproval of the rezoning may close one business's doors, but put a community's interests first.</p> <p>Our communities are so tired of fixing and paying. Our SAPS and security services have more than enough business to attend to. They don't need to be further burdened with policing a scrap yard down a dead end street out of sight and off main routes. They have already done a good job assisting with all the dangers and illegalities at the Liedeman scrap yard.</p>	
F	<p>12. Unfortunately, in the past, Swartland Municipality was not held critically accountable for money spent on court cases to settle cases. Officials who give rise to court cases through negligence and poor management are protected. Civilians who stand up against the municipality regarding procedures that have been followed are ignored and used to make a court case - which the municipality then opposes with taxpayers' money. This case may also point to such a scenario. Ward 8 will not support Swartland Municipality in a court</p>	<p>12. Noted.</p>

	<p>case should the application for rezoning and variance be approved. We will also mobilize our communities to recover legal costs from the relevant officials, should the court case against Swartland Municipality be won.</p>	
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3. Conclusion

The major concerns of the surrounding neighbours are based on the increase in crime, pollution, and vandalism, and the decrease in safety. It is believed that the objectors' concerns are adequately addressed. The owners of the scrap yard on Erf 7677 cannot be held responsible for criminal offence that occurs within Malmesbury. The proposal may lead to a decrease in theft as the residents now have to provide less scrap to obtain the same amount of money for their goods. Referring to Case: MPTSE14/09/17 from the City of Cape Town Municipal Planning Tribunal where a similar case was dealt with, the application for a scrap yard was approved for the reason that one business cannot solely be responsible for theft and vandalism in a town. The Tribunal Decision is attached as **Annexure C**.

Considering the above, it is evident that the proposed development will not have a significant impact on the surrounding properties, or built environment, seeing that the *Swartland Municipal Land Use Planning By-law (PG 8226)* and *Swartland Spatial Development Framework (2019)* are sufficient to coordinate development within the Swartland Municipal area. This office is of opinion that the proposed development on Erf 7677, Malmesbury, will not have a negative impact on surrounding properties, but will maximize the development potential of Erf 7677 and contribute to economic growth in Malmesbury by not only providing new job opportunities, but also by aiming to provide a resourceful product at a lower price than retrailers for the community of Malmesbury.

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

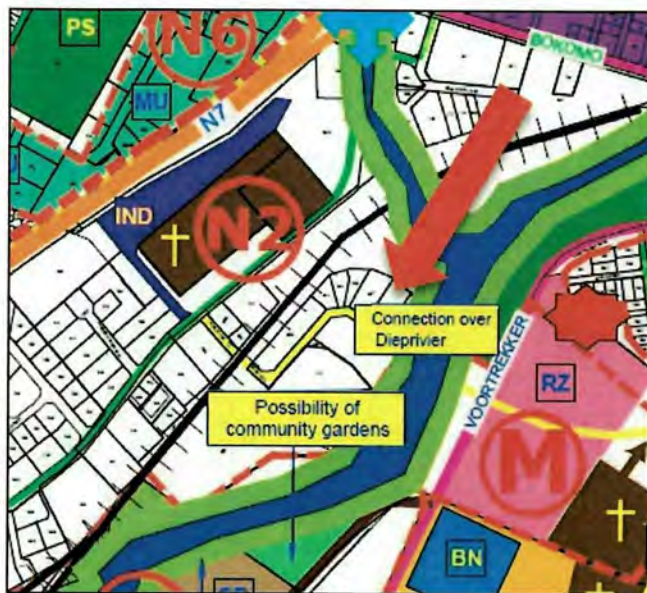
Kind regards



Zanelle Nortje / Mandri Viljoen
For CK RUMBOLL & PARTNERS

Annexure A
Malmesbury SDF (2019) Land Use Proposals

Extract from Swariland Spatial Development Framework (2019):
Malmesbury Land Use Proposals



KEY	
URBAN EDGE	[Symbol]
RESIDENTIAL	[Symbol]
MEDIUM HIGH DENSITY RESIDENTIAL	[Symbol]
RURAL DEVELOPMENT	[Symbol]
URBAN AGRICULTURE	[Symbol]
DEVELOPMENTAL NODE	[Symbol]
BUSINESS NODE	[Symbol]
COMMERCIAL	[Symbol]
PROPOSED MARKET AREA NEXT TO DIEPRIVER AND SPORTSGROUNDS	[Symbol]
MEDICAL PRECINCT	[Symbol]
INSTITUTIONAL FACILITY	[Symbol]
RESTRUCTURING ZONES for social housing	[Symbol]
INDUSTRIAL	[Symbol]
LIGHT INDUSTRIAL	[Symbol]
MIXED USES: Light / Service Industries Commercial / Wholesale	[Symbol]
SENSITIVE DEVELOPMENT	[Symbol]
CENTRAL BUSINESS DISTRICT	[Symbol]
PUBLIC SPORT FACILITY	[Symbol]
PUBLIC RECREATION NODE	[Symbol]
INTEGRATED SPORT & COMMUNITY FACILITY	[Symbol]
CEMETERY EXPANSIONS	[Symbol]
INFRASTRUCTURE	
EXTERNAL CONNECTION ROUTES	[Symbol]
INTERNAL COLLECTORS	[Symbol]
ACTIVITY CORRIDORS	[Symbol]
ACTIVITY STREETS	[Symbol]
PROPOSED NEW CONNECTION ROUTES	[Symbol]
RAILWAY CONNECTION	[Symbol]
RESERVOIRS	[Symbol]
PROPOSED PEDESTRIAN NETWORK	[Symbol]
TOURISM ROUTES	[Symbol]
ONEWAY TRAFFICFLOW PROPOSAL	[Symbol]
TOURISM NODES	[Symbol]
PROPOSED TRAFFIC CIRCLES	[Symbol]
DIEPRIVER OPEN SPACE CORRIDOR	[Symbol]
NATURAL OPEN SPACE STRIPS	[Symbol]
OPEN SPACE CONNECTION CORRIDOR	[Symbol]
RIVERS / DRAINAGE LINES	[Symbol]
DUALING WITH SERVICES UNDER THE N7 ROAD	[Symbol]
BRIDGE WIDENINGS OVER THE DIEPRIVER	[Symbol]
STRENGTHEN SUPPLY NETWORK	[Symbol]
POSSIBLE RETENTION FACILITY	[Symbol]
NEW RESERVOIR	[Symbol]
SUBSTATIONS	[Symbol]
HIGHLANDS WASTE MANAGEMENT SITE WITH 500M BUFFER ZONE	[Symbol]

MALMESBURY LAND USE ZONES		Low Density Residential Uses	Medium Density Residential	High Density Residential	Secondary Educational Uses	Institutional Uses	Professional Services	Business Uses	Secondary Business Uses	Churches	Institution	Guest houses	Authority	Sport/Recreational Facilities	Industries & Service Trade
N2	Zone N2 consists mostly of industry-, business- and government functions with the proposed expansion of the industrial area south of the N7. Heavy industries should only be allowed south of Bokomo Road.								X				X		X

Annexure B
Illegal Land Use Letter



CLEAN AUDITS SINCE 2010/11



Munisipaliteit
Municipality
Umasipala

Ons gee gestalte aan 'n beter toekoms!
We shape a better future!
Sibumba ikamva elingconol

Lêer verw!
File ref: 15/3/1

Navraag/Enquiries:
Mnr H L Olivier

19 Mei 2022

Mr Matthew de Vos
Industrie Crescent 31
MALMESBURY
7300

Per Hand

Meneer/ Dame
Sir/Madam

ONGEMAGTIGDE GRONDGEBRUIK : ERF 7677, MALMESBURY

Tydens 'n terplaatsse inspeksie gehou 21 April 2022 het u bevestig dat u die huurder van die bogenoemde eiendom is en was dit bevestig dat die bogenoemde eiendom as 'n skrootwerf aangewend word.

Erf 7677, Malmesbury is ingevolge die Swartland Munisipaliteit: Verordening insake Munisipale Grondgebruikbeplanning (PK 8226 van 25 Maart 2020) soneer Nywerheidsone 1. Hierdie sonering magtig nie die bedryf van 'n skrootwerf op die perseel nie.

'n Skrootwerf word gedefinieer as 'n gebou of grond wat aangewend word vir een of meer van die volgende doeleindes:

- (a) die opberg, stort of versameling van rommel of afvalmateriaal of artikels waarvan die waarde hoofsaaklik of geheel en al afhang van die materiaal waaruit dit vervaardig is;
- (b) die aftakeling van tweedehandse voertuie of masjinerie met die doel om onderdele of materiaal daaruit te herwin, en
- (c) die opberg of verkoop van tweedehandse onderdele, pype, pale, staal, draad, timmerhout, buitebande, bakstene, houters of ander artikels wat geskik is om in die opelug gelaat te word sonder dat enige ernstige skade daaraan veroorsaak word;

Die bedryf van die skrootwerf soos genoem is dus teenstrydig met die Verordening en is dus ongemagtig.

Ingevolge Artikel 96 van die Verordening is die skrootwerf, in hierdie omstandighede, sowel as dat u toelaat dat 'n skrootwerf op die perseel bedryf word, inderdaad 'n misdryf en by skuldigvinding strafbaar met 'n boete of gevangenisstraf of met beide sodanige boete sowel as gevangenisstraf.

Rug asseblief alle korrespondensie aan:

Die Munisipale Bestuurder
Privaatsak X52
Malmesbury 7299

Darling Tel: 022 492 2237

ILLEGAL LAND USE : ERF 7677, MALMESBURY

During a site inspection held 21 April 2022 you confirmed that you are the tenant of the abovementioned property. It was also confirmed that the subject property are being used as a scrapyard.

Erf 7677, Malmesbury is in terms of the Swartland Municipality: Municipal Land Use Planning By-law (PG 8226 of 25 March 2020) zoned Industrial zone 1. This zoning does not authorise the operation of a scrap yard on the property.

A scrap yard is defined as a building or land which is utilised for one or more of the following purposes:

- (a) storing, depositing or collecting of junk or scrap material or articles of which the value depends mainly or entirely on the material used in the manufacture thereof;
- (b) the dismantling of second-hand vehicles or machines to recover components or materials, and
- (c) the storing or sale of second-hand parts, pipes, poles, steel, wire, lumber, tyres, bricks, containers or other articles which are suitable to be left in the open without any serious damage being incurred;

The operation of the scrap yard as mentioned is in contradiction with the By-Law and is therefore unlawful.

In terms of Section 96 of the By-law, the scrap yard in this circumstances as well as that you are allowing a scrap yard to operate on the subject property is indeed an offence and on conviction you may be liable to a fine or imprisonment or to both such a fine and such imprisonment.

Kindly address all correspondence to:

The Municipal Manager
Private Bag X52
Malmesbury 7299

Yzerfontein Tel: 022 451 2366

Tel: 022 487 9400
Faks/Fax: 022 487 9440
Epos/Email: swartlandmun@swartland.org.za

Moorreesburg Tel: 022 433 2246

U word onder die omstandighede versoek om die ongemagtigde gebruik van die perseel teen 19 Junie 2022 te staak. U moet ook voortaan seker maak dat die bedryf van die skrootwerf nie voortgaan nie. U word ook hiermee in kennis gestel dat u skriftelik mag beswaar aanteken teen hierdie kennisgewing by Swartland Munisipaliteit voor 19 Junie 2022 ingevolge Artikel 99 van die Verordening.

Die Verordening, ingevolge Artikel 98, maak voorsiening dat die volgende waarskuwing aan u gerig word:

1. U kan vervolg en skuldig bevind word vir 'n misdryf soos beoog in Artikel 96 van die bogenoemde Verordening;
2. By skuldigbevinding aan 'n misdryf strafbaar sal wees met 'n boete of gevangenisstraf of met beide sodanige boete sowel as gevangenisstraf.
3. Die hofbevel mag bepaal dat alle skroot en toerusting wat verband hou met die ongemagtigde gebruik op die perseel verwyder word en dat die ongemagtigde aktiwiteite gestaak word.

In die lig van die bogenoemde word u dringend versoek teen 19 Junie 2022 aan die kennisgewing te voldoen.

Die nie-voldoening daaraan sal Swartland Munisipaliteit genoodsaak wees om met 'n aansoek vir 'n relevante hofbevel, asook met vervolging ingevolge Artikel 96 van die Verordening voort te gaan.

Die Munisipale tariewe vir die finansiële jaar van 2021/2022 bepaal dat 'n bedrag van R270-00 per dag gehef word vanaf die datum van die verstryking van hierdie kennisgewingtydperk indien die ongemagtigde grondgebruik voortgaan.

Die boete sal vermeerder per dag tot en met die dag wat u wel goedkeuring ontvang vir die grondgebruiksverandering of tot en met die dag wat u hierdie Munisipaliteit skriftelik in kennis stel dat u die ongemagtigde bedryf gestaak het.

We hereby request you under the circumstances, that you cease the unauthorised use of the property by 19 June 2022. You must also in future refrain from using the property as a scrap yard. You are also hereby informed that you may object to this notice by making written representations to the Swartland Municipality before 19 June 2022 in terms of Section 99 of the By-law.

The By-law, in terms of Section 98, makes provision that the following warning be issued to you:

1. *You may be prosecuted for and convicted of an offence contemplated in Section 96 of the aforementioned By-laws;*
2. *On conviction of an offence you may be liable to pay a fine or to imprisonment or to both such a fine and such imprisonment;*
3. *You may be required by an order of court to remove all scrap as well as equipment related to the illegal land use and that the illegal activity be ceased.*


In view of the above we hereby urgently request you to comply with this notice by 19 June 2022.

Failure to do so will compel the Swartland Municipality to proceed with an application for the relevant court order and with a prosecution in terms of Section 96 of the By-law.

The Municipal tariffs for the financial year 2021/2022 determines that an amount of R270-00 per day be levied from the date of the lapsing of this notice period if the illegal land use has not been stopped.

The fine will accumulate per day until the day you obtain approval for the change in land use or until that day you notify this Municipality in writing that the illegal land use has been stopped.

Die uwe


MUNISIPALE BESTUURDER
per Departement Ontwikkelingsdienste

HLO/ds

Afskrif: Departement Beskermingsdienste (Claudia Lakey)

Rdl Anet de Beer

Attention Colonel MB Gqabi, SAPS Malmesbury, Piketberg Road, MALMESBURY, 7300

Annexure C
Tribunal Decision (Case: MPTSE14/09/17)



REPORT TO: **MUNICIPAL PLANNING TRIBUNAL**

ITEM NO **MPTSE14/09/17**

WARD 116: APPLICATION FOR A CONSENT USE IN TERMS OF THE MUNICIPAL PLANNING BY-LAW, 2015: ERF 29432, MITCHELL'S PLAIN, 4 ELEVENTH AVENUE

Case ID	70345736
Case Officer	Adeeb Allie
Case Officer phone number	021 360 1108
District	Khayelitsha/Mitchell's Plain
Ward	116
Ward Councillor	Michael Pieterse
Report date	11/09/2017

1. EXECUTIVE SUMMARY

Property description	Erf 29432, Mitchell's Plain				
Property address	4 Eleventh Avenue, Mitchell's Plain				
Application components / description	Application for consent use to permit a scrap yard to operate from erf 29432, Mitchell's Plain.				
Site extent	1084.73 m²				
Current zoning	Mixed use subzone 1 MU1				
Current land use	Scrap yard				
Overlay zone applicable	None				
PHRA or SAHRA heritage	None				
Public participation outcome summary	Notice to neighbours. 1 objection received				
Recommended decision					
Approval	✓	Refusal		Approval in part & Refusal in part	

2. BACKGROUND FACTS

2.1. None

3. SUMMARY OF APPLICANT'S MOTIVATION

3.1. The applicant's motivation for the proposed development (**see Annexure D**) may be summarised as follows:

- The scrap yard has been operating for the past 29 years and contributes positively towards economic development within the area.
- 11 staff members are permanently employed.

- The owner serves on the second hand dealer's board, Mitchell's Plain police forums and strives to eradicate theft and resale of stolen property.
- Operating times are Monday to Thursday from 8:00 to 17:00 and 08:00 to 16:00 on a Friday and 08:00 to 12:00 on a Saturday.
- Adequate parking is provided.

4. PUBLIC PARTICIPATION

		Applicable	Dates / Comments
Advertising	Notice in the media (s81)		
	Notice to a person (s82)	✓	13/04/2017
	Notice to Community organization (s83)		
	Notice to Ward Councillor (s83)	✓	13/04/2017
	Notice of no objection (s84)		
	Notice to Provincial Government (s86)		
	Notice to an Organ of State (s87)		
	Public meeting		
	On-site display		
Outcome	Objections	✓	1
	Objection petition		
	Support / No objection		
	Comments		
	Ward Councillor response		

Summary of objection received

- 4.1. Objection received in respect of the application (**see Annexure E**) may be summarised as follows:

- There is a major rat and mouse infestation due to the close proximity of scrap yards.
- The scrap yards are the source of litter in the area.
- The sidewalks have been damaged due to patrons of the scrap yards dismantling objects to sell for scrap.
- The scrap yard contributed to loitering and criminal activity in and around the area and has resulted in many vehicle break-ins.
- Since the activity on the subject property has been ceased, there has been a major improvement with regards to the abovementioned issues.

Summary of applicant's response to public participation

- 4.2. The applicant's response to objections received (**see Annexure F**) may be summarised as follows:

- There are many other contributors towards a rat and mouse infestation i.e. wholesalers.
- The litter issues are not derived from scrap yards.
- Vandalism to public or private property is not tolerated.
- The scrap yard is not the only contributor towards crime in the area.
- The reduction in crime cannot be linked to the closure of the scrap yard.

5. BACKGROUND TO PROPOSAL 320

Background

5.1. None

Description of the area and surrounding land uses

- 5.2. The subject property is located within an area characterized by a mix of land uses such as commercial, service trade and light industrial which collectively forms a small industrial node.

Property description

- 5.3. The subject property form part of a mixed use node within Mitchell's Plain Town Centre. The property is developed with a single storey building utilised as a scrapyard. The property is accessed off 11th Avenue and 4 onsite parking bays are provided.

Proposed development

- 5.4. The proposal is for a consent use in order to permit a scrapyard to operate on the subject property from an existing building, which will operate from 08:00 to 17:00 Monday to Thursday, 08:00 to 16:00 on Fridays and 08:00 to 12:00 on Saturdays.

6. PROPOSAL ASSESSMENT

Criteria for deciding application

6.1. Consideration of criteria in terms of Section 99(1):

6.1.1. Compliance with the requirements of the MPBL :

- The application complies with the general requirements of the MPBL in that the correct application has been made, and all the process and procedures, including public participation, have been followed.
- The existing scrapyard is unauthorised and an administrative penalty was approved by the Municipal Planning Tribunal on 25/07/2017, and has been paid.

6.1.2. Compliance or consistence with the municipal spatial development framework:

- N/A

6.1.3. Consideration in terms of Section 99(3) of the desirability of the following criteria:

a. Socio -economic impact:

Approval of the proposal will have a positive impact in this regard by providing economic opportunities.

b. Compatibility with surrounding uses:

The proposed use is compatible with the surrounding uses as it is situated in an area comprising a mix of similar light industrial uses such as motor repairs, scrap yards, recycling centre etc.

c. Impact on the external engineering services:

N/A

d. Impact on safety, health and wellbeing of the surrounding community:

The approval of the proposed allocation will not have a negative impact on the safety, health and wellbeing of the surrounding community. The aforementioned has been confirmed by the fact that DEADP has confirmed that a waste licence is not required for the activity (**see Annexure G**). The aforementioned correspondence also confirms the applicant's responsible management of the facility by using skips and working on concrete surfaces. In addition just viewing aerial photography it is clearly evident that in terms of waste and health threats the subject property is much better managed than when compared to the two other scrapyards/recycling centres found in close proximity (**see Annexure H**).

e. Impact on heritage:

N/A

f. Impact on the biophysical environment:

N/A

g. Traffic impacts, parking, access and other transport related considerations:

The approval of the proposed application will have an insignificant traffic impact.

h. Conditions that can mitigate an adverse impact of the proposed land use:

Conditions are imposed to mitigate potential negative impacts of the proposal.

6.1.4. Would approval of the application have the effect of granting the property the development rules of the next subzone within a zone?

- N/A

I am satisfied that the decision making criteria in Section 99(1) have been complied with.

I am satisfied that the considerations in Section 99(3) have been assessed and that the proposed land use is desirable.

6.2. Consideration of criteria in terms of Section 99(2)

6.2.1. Any applicable spatial development framework:

- The Khayelitsha / Mitchell's Plain and Greater Blue Downs Spatial Development Plan's (SDP) spatial objectives are aimed at addressing key spatial challenges that are relevant to the district in relation to the economy, social, human and capital development. The subject property is designated for mixed use intensification.

Sub-district 2: Mitchell's Plain

(c) Economic opportunities

10. Ensure that the informal sector and small businesses are not excluded from formal economic development.

The proposed activity is situated in an area with a mix of uses and contributes positively to economic development. The subject property complies with the principles of the District Plan.

6.2.2. Relevant criteria contemplated in the DMS:

- N/A

6.2.3. Applicable policy approved by the City:

- The approval of this proposal supports the Economic Growth Strategy by creating employment and by generating income for the public by disposing of unwanted waste and material.

6.2.4. Consideration in terms of Section 99(3) of the extent of desirability of the following criteria:

a. Socio-economic impact

- Approval of the proposal will have a positive impact by providing economic and employment opportunities.

b. Compatibility with surrounding uses

- The proposed use is compatible with the surrounding uses as it is situated in an area comprising a mix of similar light industrial uses such as motor repairs, scrap yards, recycling centre etc.

c. Impact on the external engineering services

- N/A

d. Impact on safety, health and wellbeing of the surrounding community

- The proposal will not impact on the health or wellbeing of neighbours given the building form and location, the size of the property, existing rights and the proposed conditions. It must be noted that there are no residential properties in the vicinity. The Department of Environmental Affairs and Development Planning has confirmed that the proposed

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activity does not trigger any listed activity in terms of the NEMA Regulations, 2014.

e. Impact on heritage

- N/A

f. Impact on the biophysical environment

- N/A

g. Traffic impacts, parking, access and other transport related considerations

- The site is located within 300m to AZ Berman Drive and public transport facilities such as the railway line, taxi and bus routes. It is located within a PTI area with reduced parking requirements. The proposal will not impact negatively on traffic access or parking as adequate on-site parking and manoeuvring space is provided. Council's Transport Planning has no objection to the proposal (**see Annexure G**) and only imposed a condition that no loading or off-loading will be permitted on 11th Avenue.

h. Conditions that can mitigate an adverse impact of the proposed land use

- The conditions contained in Annexure A will mitigate the impact.

6.2.5. Impact on existing rights

- The proposal will not impact on existing rights.

6.2.6. Impact of consolidation of land units

- N/A

6.2.7. Other considerations prescribed in relevant national or provincial legislation.

- The development principles in section 7 of SPLUMA and section 59 of LUPA have been taken into consideration and the applicant has been found to be in compliance therewith.

I am satisfied that the decision making criteria in Section 99(2) have been complied with.

7. REASONS FOR DECISION

7.1. Reasons for the recommended decision for **approval** relating to the application for the consent use may be summarised as follows:

- 7.1.1. The proposal will not impact on the character of the area or the neighbouring properties.
- 7.1.2. Conditions are proposed to mitigate the potential impact of this activity.
- 7.1.3. The proposal is consistent with the District Plan and the Municipal Spatial Development Framework.

- 7.1.4. The proposal supports the Economic Growth Strategy.

8. RECOMMENDATION

In view of the above, it is recommended that:

- 8.1. The application for consent use in terms of section 42(i) of the City of Cape Town, Municipal Planning By-Law, 2015 in order to permit a scrapyard to operate from of Erf 29432, Bravo Street, Mitchell's Plain, **be approved** in terms of section 98(b)iii of the City of Cape Town Municipal Planning By-Law, 2015 subject to conditions as contained in Annexure A.

ANNEXURES

Annexure A	Application details and approval conditions to be imposed
Annexure B	Locality plan / Public participation map
Annexure C	Site development plan
Annexure D	Applicant's motivation
Annexure E	Objection
Annexure F	Applicant's response to objection
Annexure G	Internal departmental comments
Annexure H	Aerial photography
Annexure I	List of relevant parties

In this annexure:

"City" means the City of Cape Town

"The owner" means the registered owner of the property

"The property" means **Erf 29432, Mitchell's Plain, 4 Eleventh Avenue**

"Bylaw" & "Development Management Scheme" has the meaning assigned thereto by the City of Cape Town Municipal Planning Bylaw, 2015

"Item" refers to the relevant section in the Development Management Scheme

Case: 70345736

1.1 CONSENT GRANTED IN TERMS OF SECTION 98(B) OF THE BY-LAW:

1.1.1 Item 63(b): To permit a scrapyard on the property.

2. CONDITIONS IMPOSED IN TERMS OF SECTION 100 OF THE BY-LAW, 2015

2.1 TRANSPORT AND URBAN DEVELOPMENT AUTHORITY: DEVELOPMENT MANAGEMENT

2.1.1 The hours of operation of the scrapyard shall be limited to 08:00 to 17:00 Monday to Thursday and 08:00 to 17:00 on Fridays and 08:00 to 12:00 on Saturdays.

2.1.2 The scrapyard shall be limited to the areas as indicated on the site development plan attached as Annexure C to the Departmental report with Drawing Number 29432, dated 08/09/2017.

2.1.3 The applicant shall submit building plans for approval of the Section Head: Building Development Management which shall be generally in accordance with Drawing Number 29432, dated 08/09/2017.

2.1.4 No storing, sorting, depositing or collection of scrap material is permitted in the parking area, road reserve (along 11th Avenue) and anywhere other than inside the buildings and in the yard as shown on plan with Drawing Number 29432, dated 08/09/2017.

Registered Planner

Name: Adeeb Allie

326

SACPLAN NO: Pr.Plan A/2170/2015

Section Head

Name:

Tel no: 021 360 432

Date:

District Manager

Name:

Tel no: 021 360 432

Date: 11.9.2017

ANNEXURE I
List of Relevant Parties**Applicant:**

N Thompson
4 11th Avenue
Mitchell's Plain
7798
Email: nsa.recycling@gmail.com
Cell: 064 161 0472

Objector:

M Parker
1 11th Avenue
Mitchell's Plain
7798
Email: mansoorparker20@gmail.com
Cell: 083 357 4099

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Annexure

A

In this annexure:

329

"City" means the City of Cape Town

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"The property" means **Erf 29432, Mitchell's Plain, 4 Eleventh Avenue**

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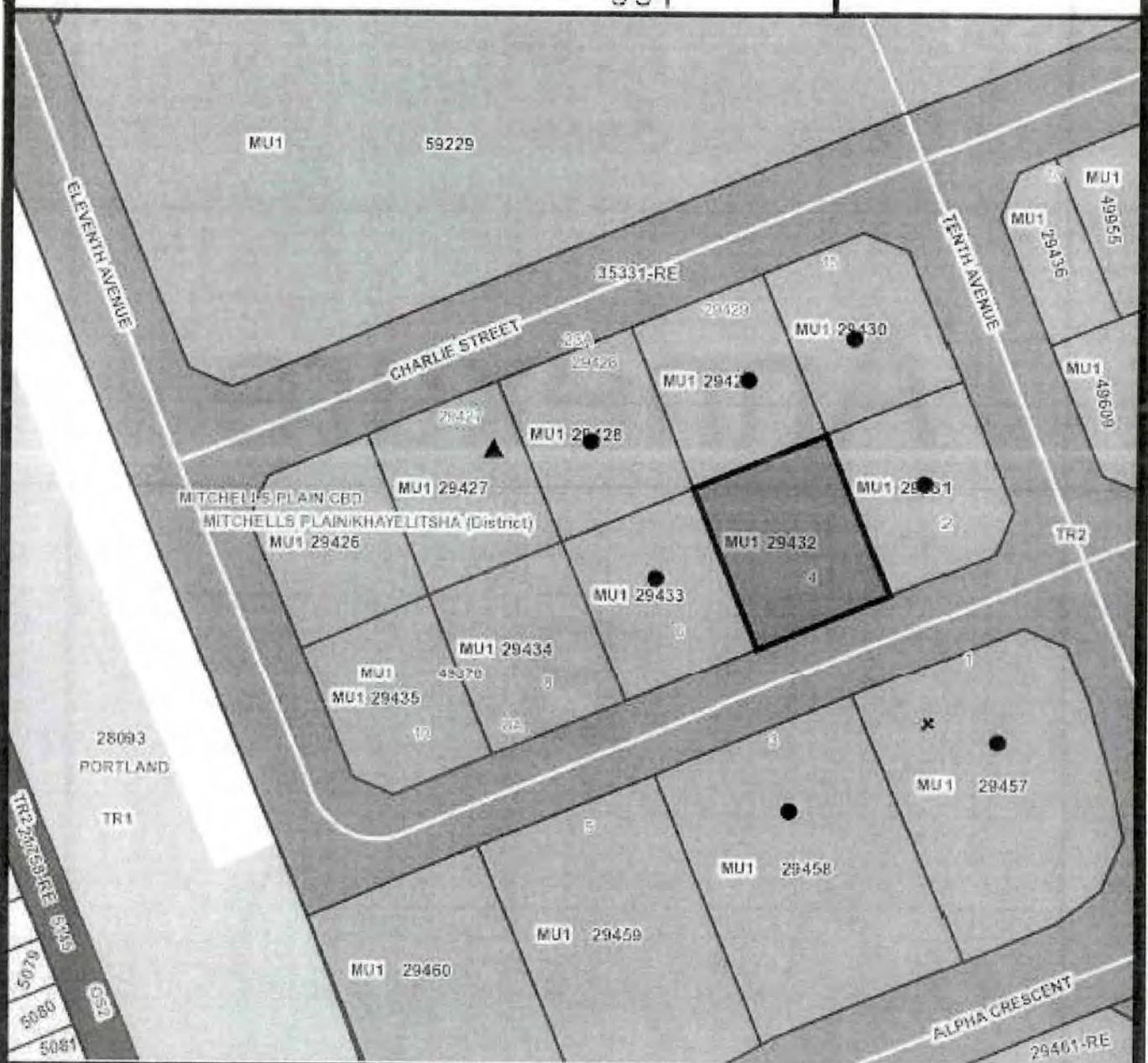
Annexure

B

PLANNING AND BUILDING DEVELOPMENT MANAGEMENT
LOCALITY MAP

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ANNEXURE :



Overview

Erf:

District:

Alotment:

Suburb:

Ward:

Sub Council:



1:1 200

Notices Served



Support
Received



Petition
Signatory



Objections
Received



Generated by:

Date: 08 September 2017

File Reference:



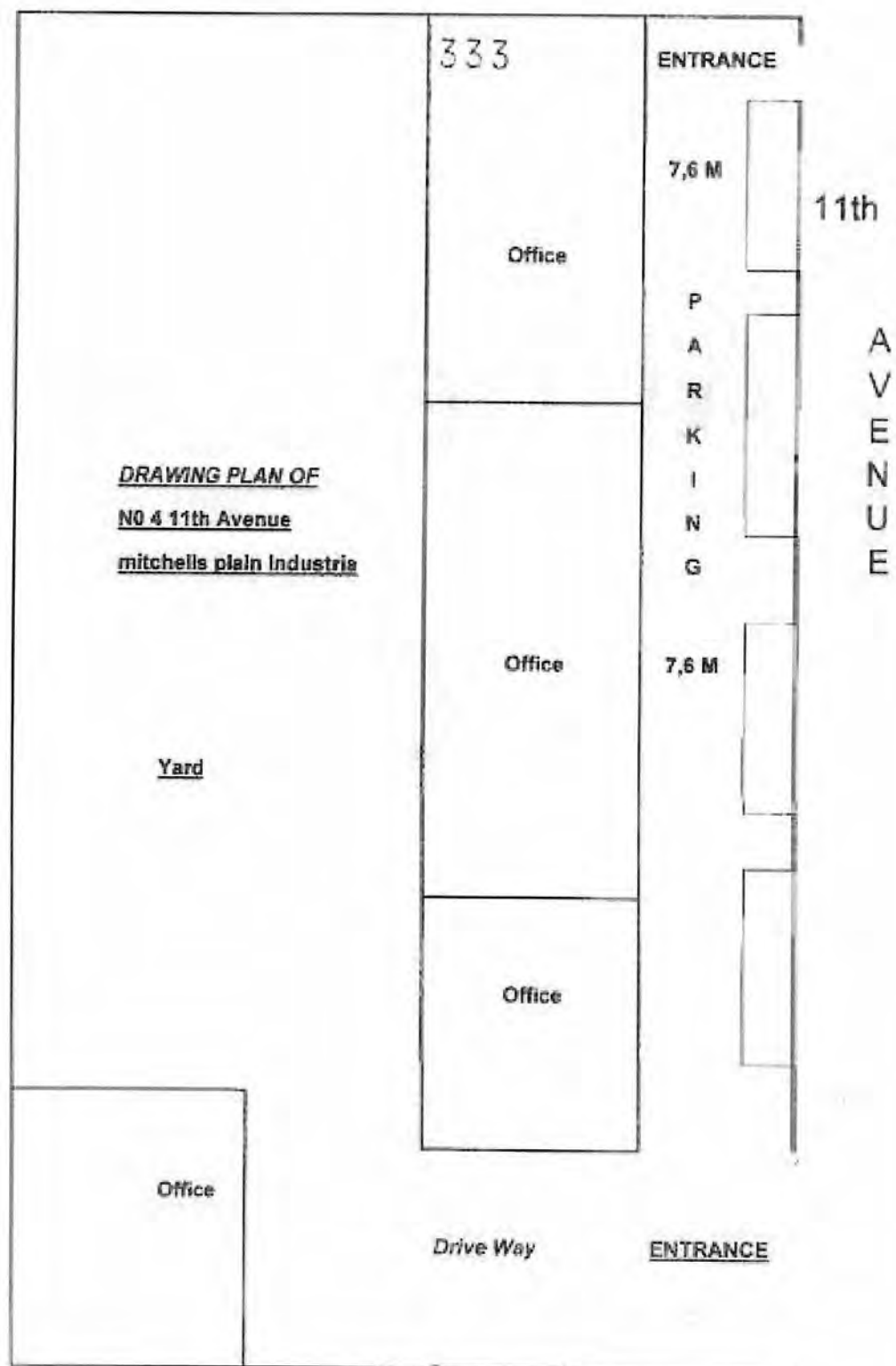
CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

Making progress together

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Annexure

C



Drawing Number: 29432
Date: 08/09/2017

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Annexure

D

RE: Motivational letter for DJ Wastecc trading as NSA Recycling (PTY) (LTD)

We the above mentioned company would like the Councils consideration to approve our consent to operate a scrap yard.

We have been operating in the area for 29 years now and have provided a valuable service to the greater Mitchells Plain Community.

We provide a vital income to the poor and underprivileged

I am on the Second Hand dealer's board at the Mitchells plain police station and in this forum we strive to eradicate theft and re sale of stolen property.

Our operating times are Monday to Thursday 8 am to 5 pm and 8 am to 12.30 pm. 2 pm to 4 pm on a Friday and 8am to 12 pm on Saturday.

There are 4 parking bays.

We have 11 staff members working for us and 8 out of the 11 have been working for us for more than 10 years.

Hoping this will act in our favour.

Regards

Nurdeen Thomson



Annexure

E

Adeeb Allie

From: Comments_Objections Khayemitch
Sent: 28 April 2017 03:27 PM
To: Melissa Humphries
Cc: Adeeb Allie
Subject: FW: Objection

Melissa, please upload objection to case
 Thank you
 Marlenette

From: Adeeb Allie
Sent: 28 April 2017 08:24 AM
To: Comments_Objections Khayemitch
Cc: Marlenette van Schalkwyk
Subject: FW: Objection

From: mansoor parker [<mailto:mansoorparker20@gmail.com>]
Sent: 27 April 2017 09:47 PM
To: Adeeb Allie
Subject: Objection

Dear sir

With reference to proposed application for scrap yard case Id 70345736.

The members of rapidough properties 71cc erf29457 object to the opening or running of a scrapyard at 4 eleventh Ave Mitchell's plain erf 29432.

Reasons:

1. We currently have a major problem with rat and mouse infestation at out premises due to having 2 scrapyards within close proximity.
2. Another major problem is dirt such as plastic bags, office paper etc in the road and on our property that blows from out of the scrapyards yard till on to our property and into our tenants premises. We have complained to Council but with no resolution we have to sweep up 3 times a day and remove waist at our cost.
3. The condition of the pavements in the road including the paving on our property that have been destroyed over the years by customers of the scrapyard bashing various items as to seperate the copper from the plastic etc.
4. The bad elements that loiter around the scrapyard also play against other bussiness in the area. Lots of cars and delivery vehicles have been broken into as a result. You can't pin point who is loitering and who is a customer of the scrapyard.
5. Our Ancor tenant Parkers parts center forced us to put up a fence on the boundary around there shop because of car break-in on a daily basis. Cost of fence R100k.

Since the scrapyard next door have been closed for 2 months we have clearly seen a major reduction in all of the above problems.

Regards
Mansoor Parker
Contact 0833574099

representing
Rapidough properties 71cc
Erf 29457

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Annexure

F

From: Nurdeen Thomson <nurdeen1974@gmail.com>
Sent: 09 June 2017 09:01 AM
To: Adeeb Allie
Cc: Melissa Humphries
Subject: Response to objection
Attachments: IMG-20170604-WA0001.jpg; IMG-20170604-WA0002.jpg; IMG-20170604-WA0003.jpg; IMG-20170604-WA0004.jpg; IMG-20170604-WA0005.jpg; IMG-20170604-WA0006.jpg; IMG-20170604-WA0008.jpg; IMG-20170604-WA0009.jpg; IMG-20170604-WA0010.jpg; IMG-20170604-WA0011.jpg

In response to the objection by Mr Parker.

We operate an honest business and have been trading for over 30 years in the same area and have good relationships with other businesses in the area. I agree that the issues listed by Mr Parker are valid but that our business is the cause of the problem is untrue.

The most important statement made is the fact that there are 2 scrapyards in close proximity; I would like to know how only ours has contributed to such an array of issues.

Is he suggesting that both be closed or only ours?

Rats / mouse infestation

Beside the two scrapyards, there are ___ wholesalers who store boxes, paper & food products that are more likely to be the cause of this problem. We have a turnaround of 2 days in which we sell our paper products so there is hardly any chance for nests to form.

Dirt:

Our customers literally scratch through bins for these items so in all likelihood they would be picking it up & trying to sell it to us. We have a fence around our property and all waste is stored in containers that would prevent the amount of dirt he is claiming. If you have a look at the area as a whole, this problem is hardly caused by the scrapyards but by the 1000's of public that think nothing of littering not to mention the unlicensed businesses that operate in the street.

Pavements:

If we were closed, it would not stop the business of scrap since there is another scrapyard 100 meters from where we are located. It would only serve to send all our existing customers to the other scrapyard. We've been trading for over 30 years and are very strict about the kind of behavior we allow on or close to our premises. So we do not allow nor do we encourage this.

Bad elements / Fence

Again; we operate in a crime ridden area and have ourselves been victims. The Promenade Mall is a crime hotspot, Beacon Valley is a crime hotspot, having drug merchants dealing in Town Centre & areas like Beacon Valley & Tafelsig are the reasons for the high level of crimes in our communities and businesses, not operating a scrap yard! We offer an opportunity for income for many impoverished people that rely on dealing in scrap for a living.

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Does Mr Parker have police reports to show the major reduction in crime, dirt & rats due to the closure of of the scrapyard? Is Mr Parker going to object to the existing scrapyard and attempt to get their trading licence revoked as well?

Is Mr Parker going to object to the liquor licence and drunks that loiter and gamble at the tote around the corner that brings its own set of unsavoury characters?

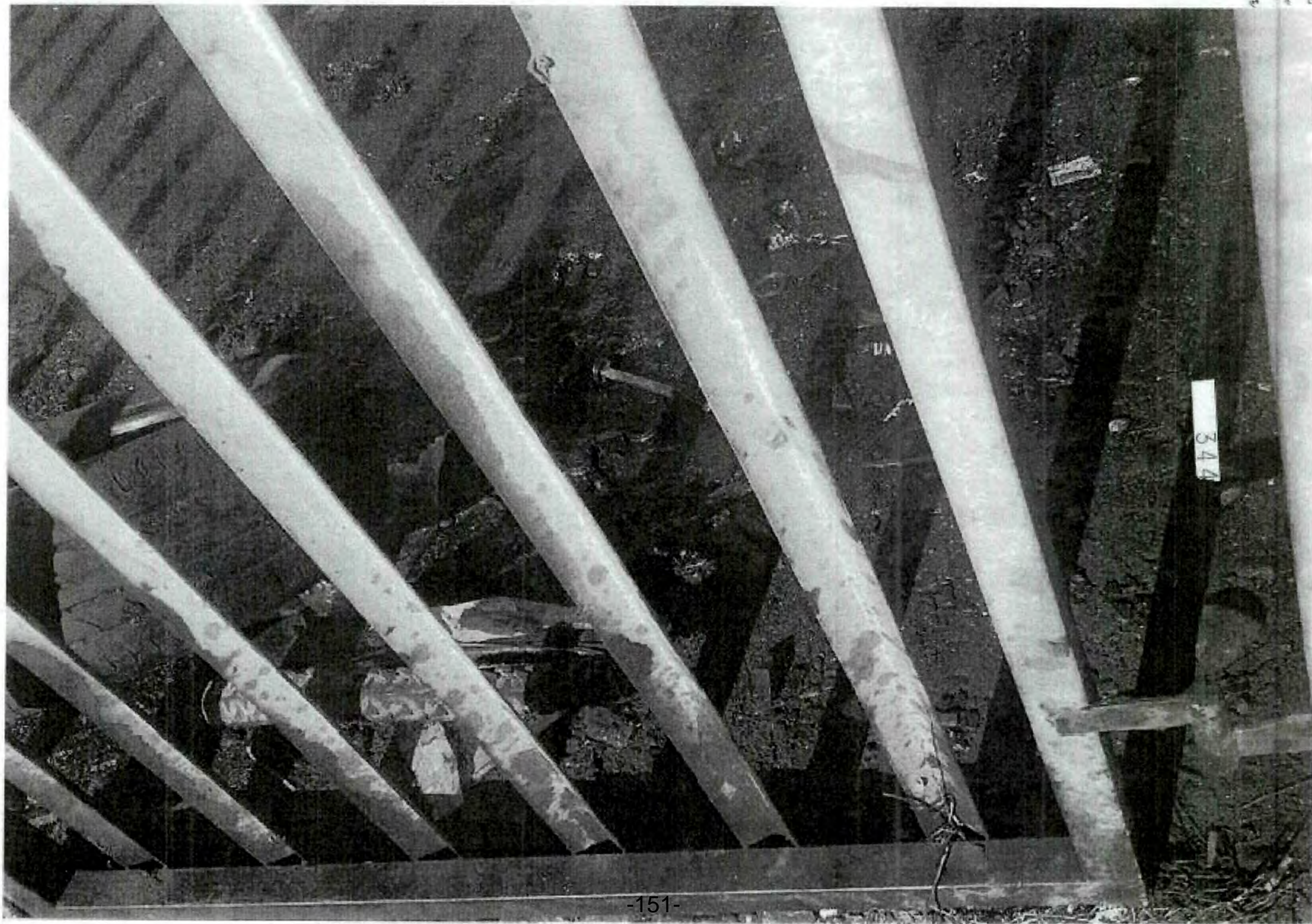
I have also attached pics of the area that are dirty & littered and as you can see most of the dirt generated are from the guys doing the window tinting and the mechanics and those types of material are not recyclable and are generated from the tinting rolls sold at Parkers Auto. I have included a letter from the environmental office that shows that our premises and conduct are on board.

In addition to the above, I think that the business of recycling is very important and should be encouraged as neither the government nor the environment can manage to get rid of the excessive waste that is part of our society.

Please let me know if you need any additional information.

With thanks
Nurdeen Thomson

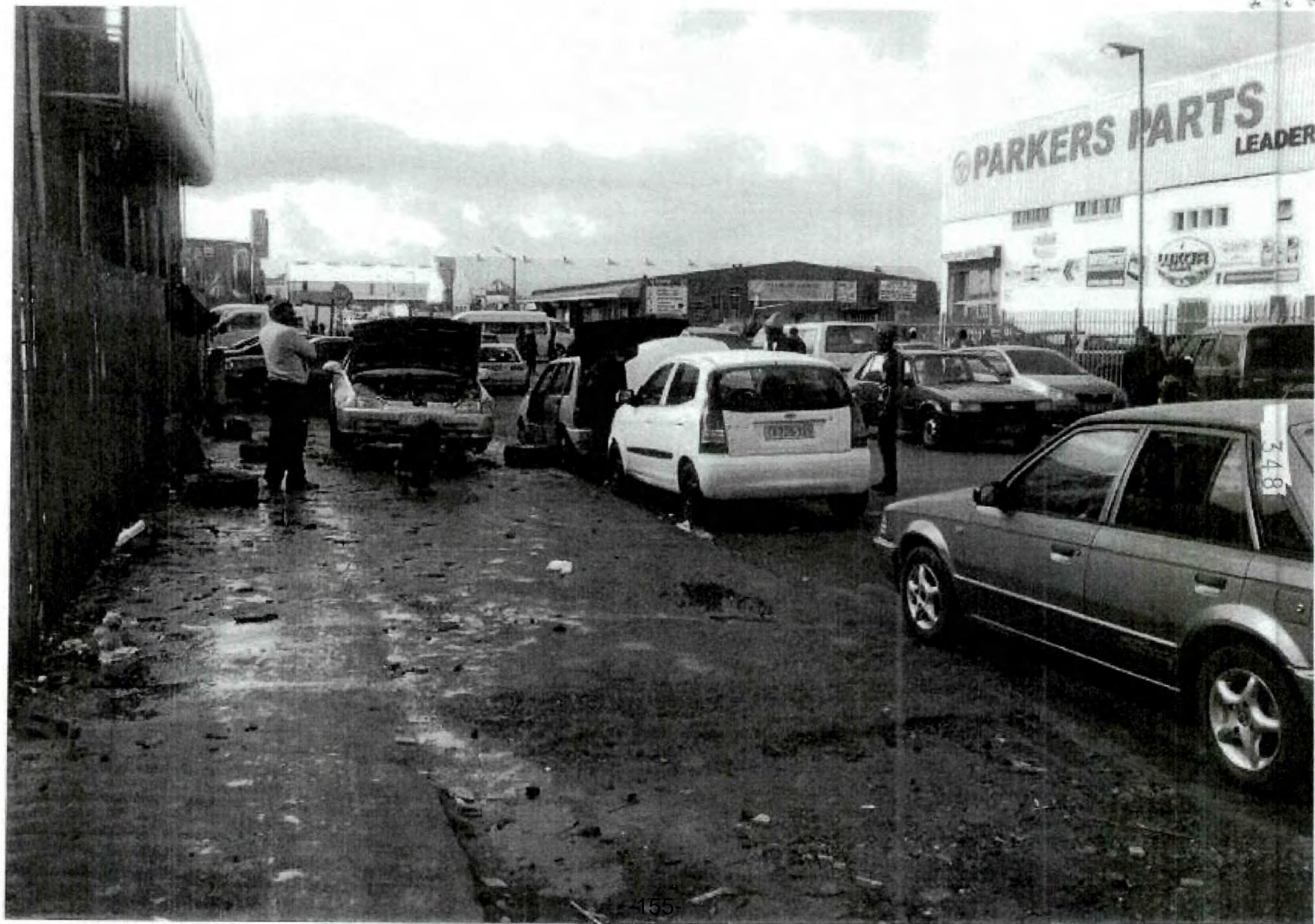




















Annexure

G



**Western Cape
Government**
Environmental Affairs and
Development Planning

354 Directorate: Development Management
Region 1

REFERENCE NUMBER: 16/3/3/6/1/A4/73/3125/17

ENQUIRIES: MS. K. ADRIAANSE

DATE OF ISSUE: 05 JUN 2017

The Proponent
No. 4 11th Avenue
BEACON VALLEY
7798

For Attention: Mr. N. Thomson

Cell: (064) 161 0472

Email: NSA.Recycling@gmail.com

Dear Sir

APPLICABILITY OF THE NEMA EIA REGULATIONS, 2014 (AS AMENDED) WITH RESPECT TO THE RECYCLING FACILITY AND ASSOCIATED INFRASTRUCTURE ON ERF 29432, BEACON VALLEY, MITCHELL'S PLAIN.

The checklist for the determination of the applicability of the NEMA EIA Regulations, 2014 (as amended) dated 15 May 2017 and received by this Department on 19 May 2017, the site inspection conducted by officials of this Directorate, an official of this Department's Directorate: Waste Management on 01 June 2017, this Directorate's electronic mail dated 02 June 2017 and your electronic mail dated 02 June 2017, refer.

1. This letter serves as an acknowledgement of receipt of the aforementioned checklist and confirmation of the applicability of the NEMA EIA Regulations, 2014.
2. On 07 April 2017, the Minister of Environmental Affairs made amendments to the Environmental Impact Assessment ("EIA") Regulations, 2014, published under Government Notice No. 982 in Gazette No. 3822 of 04 December 2014, in terms of sections 24(2), 24(5), 24D and 44 read with section 47A(1)(b) of the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA"). Please note that the amended Regulations came into effect on 07 April 2017.
3. Based on the site inspection conducted on 01 June 2017 and your electronic mail dated 02 June 2017, the following is noted:
 - 3.1. A recycling facility was established on Erf 29432, Beacon Valley, Mitchell's Plain;
 - 3.2. Recyclable waste includes white paper, newspaper, cardboard, plastic, glass and light steel, which is collected, weighed and temporarily stored in waste skips;
 - 3.3. A maximum of 2 tons of recyclable waste is collected per month;
 - 3.4. An existing building and concreted area is currently being used for the recycling facility;
 - 3.5. The site is zoned Mixed Use 1 and is located within an industrial area;
 - 3.6. The recycling activities commenced on 29 April 2017; and

7th Floor, 1 Dorp Street, Cape Town, 8001
tel: +27 21 483 3763 fax: +27 21 483 4372

Private Bag X9066, Cape Town, 8000
www.westerncape.gov.za/eadp

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- 3.7. No watercourses or indigenous vegetation is located on the site.
4. You are hereby informed that the proposed development **does not** trigger a listed activity in terms of the NEMA EIA Regulations, 2014 (as amended).
 5. This determination is based on the fact that an existing building and concreted area is being used for the recycling facility and no watercourses or indigenous vegetation is located on the site.
 6. Written Environmental Authorisation is therefore not required from the competent authority (in this instance this Directorate) prior to the undertaking of the said development.
 7. However, should any revision of your proposed development comprise any activities that constitute a listed activity as defined in Listing Notices 1, 2 and 3 of the NEMA EIA Regulations, 2014 (as amended), an application for environmental authorisation must be submitted to the competent authority and authorisation obtained before such activity(ies) may commence.
 8. You are reminded of the general duty of care towards the environment in terms of Section 28(1) of the NEMA which states: *"Every person who causes, has caused or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment."*

This Department reserves the right to revise or withdraw comments or request further information based on any information received.

Your interest in the future of our environment is greatly appreciated.

Yours faithfully



HEAD OF DEPARTMENT

Copies to: (1) Mr. A. Forbes (City of Cape Town: Environmental Resource Management)
(2) Ms. H. Peck (DEA&DP – Directorate: Waste Management)
(3) Mr. I. Mohammed (Landowner)

Fax: (086) 624 8526
Fax: (021) 483 3186
Email: info@n.798live.com

Alexander Forbes
Professional Officer
Areas: Environment

T + 27 21 360 1124 F + 086 624 8526
E alexander.forbes@capetown.gov.za
W www.capetown.gov.za

CASE ID: 70345736

DATE	10 May 2017
TO	LAND USE PLANNING
ATTENTION	A Allie

ENVIRONMENTAL AND HERITAGE MANAGEMENT (ENVIRONMENTAL MANAGEMENT) COMMENTS: APPLICATION FOR AT CONSENT USE TO PERMIT A SCRAPYARD ON ERF 29432- MIRCHELLS PLAIN.

"It should be noted that the above proposal may include activities listed in the Environmental Impact Assessment (EIA) Regulations in terms of the National Environmental Management Waste Act (NEMWA) which may not commence without Environmental Authorization being granted by the competent authority.

Therefore, the Branch: Environmental and Heritage Management cannot consider the above application in terms of the Land Use Planning ACT (LUPA), until Environmental Authorization has been granted by the competent authority, i.e. the Department of Environmental Affairs and Development Planning (DEA&DP) or written confirmation is received from the DEA&DP confirming that the EIA regulations are not applicable.

Please contact DEADP regarding the necessary application forms and the perceived process to be followed (DEADP: Private Bag X9086, Cape Town, 8000 / 1st Floor Utilitas Building, 1 Dorp Street, Cape Town / Tel. 021 483 4094)".

A Forbes *ascher*
Environmental Management Section
Environmental and Heritage Management: Eastern Region
Environmental Resource Management Department
CITY OF CAPE TOWN



11th April 2017

To – A Allie
Khayelitsha – FBDM
Land Use Management
Stocks & Stocks
Khayelitsha

RE: PROPOSED – CONSENT USE FOR A SCRAP YARD (RECYCLING) - ERF
29432 MITCHELL'S PLAIN CBD

Case ID: 70345736

Your notice to the above refers:

Please be advice that this department has no objections to the above with the following conditions:

- Appropriate building plans via BDM to be submitted for approval.
- The building must comply with the NBR and By-Law Relating to community Fire Safety, and any other applicable legislation.
- The appropriate firefighting equipment to be provided for the occupancy concerned as per NBR.

Yours Sincerely

P Lewis
for CFO: I Schnetler
City of Cape Town: Fire & Rescue Services



TDA
CAPE TOWN

The City of Cape Town's Transport
and Urban Development Authority

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Bill Jones
Regional Coordinator: TDA

T +27 21 444 1916 F +27 21 850 4510
E-mail: bill.jones@capetown.gov.za

Address: Cnr Andries Pretorius Street & Victoria Road, 2nd Floor, Somerset West, 7129

Application No: 70345736

Integrated Transport Planning Department
Transport Impact Assessment and Development Control

DATE / DATUM: 07 April 2017
TO / AAN: Town Planning
ATT / AANDAG: Adeeb Allie (City of Cape Town, BDM Branch)

ERF 29432 – MITCHELL'S PLAIN

* Application for Consent use in order to permit a scrap yard

Comments from the Department: Transport, based on details, specifications and information reflected on the Site Plans for Erf 29432, Mitchell's Plain, are as follows:

The Department: Transport supports the abovementioned application, subject to the following condition(s) being imposed:

- I. That loading/off-loading of scrap metal, not take place within 11th Avenue road reserve.

Yours faithfully

Bill Jones
Regional Coordinator
Transport & Urban Development Authority

Annexure

H

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Annexure

I

ANNEXURE I 362
List of Relevant Parties

Applicant:

N Thompson
4 11th Avenue
Mitchell's Plain
7798
Email: nsa.recycling@gmail.com
Cell: 064 161 0472

Objector:

M Parker
1 11th Avenue
Mitchell's Plain
7798
Email: mansoorparker20@gmail.com
Cell: 083 357 4099

V. ANDERSPUY

DE KLERK & VAN GEND
POSBUS 1857 KAAPSTAD 8000

Opgestel deur my,

TRANSPORTBESORGER
/ SERFONTEIN HP

BC	VERBOD
ONTAFSEL RELEASED	VR FOR R 500 000,00
REGISTRATIEUR/REGISTRAR	000048141/2001

2001-09-04

GELEAG
OUTY R.FOOI
FEE R. 200,00

T

070142-2001

TRANSPORTAKTE

SY DIT KENNELIK AAN ALMAL WIE DIT MAG AANGAAN

Dat HENDRIK PETRUS SERFONTEIN **STEPHANUS ESIAS CLAASSEN**

verskyn het voor my, Registrateur van Aktes te KAAPSTAD, Hy die gesegde
Komparant synde daartoe behoorlik gemagtig deur 'n volmag geteken te
MALMESBURY op 7de dag van JUNIE 2001 aan hom verleen deur


**DIE TRUSTEES INDERTYD VAN DIE
LOUW VAN DER SPUY FAMILIETRUST**
REGISTRASIENOMMER: IT4409/97

welke volmag, geteken in die teenwoordigheid van getuie ooreenkomstig die
Wet, my hede getoon is;

VIR ENDOSSEMENTE KYK BLADSY 4
FOR ENDORSEMENTS SEE PAGE

BEKENAAN DATAVASLEGINGSKOP FÜR DATA CAPTURE	
DATE/TIME	SIGNATURE
13/09/01	[Signature]
OPGECREËERD	
GESTATIFIEERD	

-4-

VERBIND		MORTGAGED	
VIR		230 00000	
FOR R			
B	002537 / 07		
2007-10-01		REGISTRATEUR/REGISTRAR	

For Information Only

En die Komparant het verklaar dat voormelde TRANSPORTGEWER waarlik en wettiglik verkoop het op 7 MAART 2001 en dat Hy, in sy hoedanigheid as voormeld hiermee in volle en vrye eiendom seeder en transporteer aan en ten behoeve van

FRANCOIS JOHANNES EVERHARDUS ROUX
IDENTITEITSNOMMER: 520201 5080 08 5
GETROUD BUITE GEMEENSAP VAN GOED

Sy Erfgename, Eksekuteurs, Administrateurs of Regverkrygendes

ERF 7677, GEDEELTE VAN ERF 4899 MALMESBURY
IN DIE SWARTLAND MUNISIPALITEIT,
AFDELING MALMESBURY, PROVINSIE WES-KAAP;

GROOT: 2 814 (TWEEDUISEND AGTHONDERD EN VEERTIEN) VIERKANTE
METER;

SOOS AANGEDUI op aangehegte Kaart L.G. No. 2266/2001 en GEHOU kragtens Transportakte Nr T4097/1998.

A. ONDERHEWIG soos vermeld in Grondbrief Nr T44771/1989 aan 'n kabelserwituut 1,5 meter wyd ten gunste van die Suid-Afrikaanse Vervoerdienste, die oostelike grense van welke serwituut deur die lyne BC en CD op gesegde kaart No 2027/1990 voorgestel is, (welke serwituut voorgestel word deur die lyn BCD op Kaart No 2266/2001)

B. ONDERHEWIG VERDER aan die volgende spesiale voorwaarde opgele deur die Malmesbury Plaaslike Oorgangsraad vir sy Voordeel, soos vervat in Transportakte Nr T4097/1998, naamlik:

"Die eienaar van voormelde erf sal nie geregtig wees om 'n voedselverwerkingsaanleg en/of 'n verwante nywerheid en/of 'n gifvervaardigingsaanleg daarop op te rig of daarop te bedryf nie en sal ook nie geregtig wees om gifstowwe op die erf op te berg nie."

For Information Only

3.

Die Komparant doen dus hiermee afstand van al die reg, titel en aanspraak wat sy genoemde Prinsipale voorheen op genoemde eiendom gehad het, en gevolglik erken die Komparant ook dat sy Prinsipale geheel en al van die besit daarvan onthef is en nie meer daarop geregtig is nie, en dat kragtens hierdie Akte, genoemde

TRANSPORTNEMER

sy Erfgename, Eksekuteurs, Administrateurs of Regsvkrygendes tans en voortaan daartoe geregtig is, ooreenkomstig plaaslike gebruik, behoudens die regte van die Staat,

En ten slotte erken hy dat die hele koopsom ten bedrae van
R126 630,00 (EENHONDERD SES EN TWINTIGDUISEND SESHONDERD EN DERTIG
RAND)
behoorlik betaal of verseker is.

TEN BEWYSE WAARVAN EK, die genoemde Registrateur, tesame met die Komparant hierdie Akte onderteken en dit met die Ampseël bekragtig het.

ALDUS GEDOEN en verly op die Kantoor van die Registrateur van Aktes te Kaapstad op

4 September 2011

q.q.

In my teenwoordigheid

REGISTRATEUR VAN AKTES











ITEM 6.4 VAN DIE AGENDA VAN 'N MUNISIPALE BEPLANNINGSTRIBUNAAL WAT GEHOU SAL WORD OP WOENSDAG, 14 SEPTEMBER 2022

LAND USE PLANNING REPORT PROPOSED REZONING OF ERF 10024, MALMESBURY					
Reference number	15/3/3-8/Erf_10024	Application submission date	29 June 2022	Date report finalised	2 September 2022

PART A: APPLICATION DESCRIPTION						
<p>An application for the rezoning of erf 10024, Malmesbury in terms of section 25(2)(a) of Swartland Municipality : Municipal Land Use Planning By-law (PG 8226 of 25 March 2020) has been received. It is proposed that erf 10024 (725m² in extent) be rezoned from Residential zone 1 to Business zone 1 in order to develop the property as a business premises (office and skin care salon).</p> <p>The applicant is CK Rumboll & Partners and the property owner is H Baumgarten.</p>						
PART B: PROPERTY DETAILS						
Property description (in accordance with Title Deed)	Erf 10024, Malmesbury (gedeelte van Erf 838) Malmesbury in die Swartland Munisipaliteit, Afdeling Malmesbury, Provinsie Wes-Kaap					
Physical address	155 Voortrekker Road		Town	Malmesbury		
Current zoning	Residential Zone 1	Extent (m ² /ha)	725m 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	T33462/2007		
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	<input type="checkbox"/>	Amendment, deletion or imposition of conditions in respect of existing approval	<input type="checkbox"/>	Amendment or cancellation of an approved subdivision plan	<input type="checkbox"/>	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 10024 is zoned Residential zone 1 and is currently vacant.

It is the intention of the owner to rezone the erf from Residential zone 1 to Business zone 1 in order to develop the property as a business premises (offices and skin care salon).



EERSTEVLOER
SKAAL 1:100
BUITE OPPERVLAKE - 138 M²
- 8000 KLEI STEEN
STAAL EN HOUT TRAP
KANTOOR 1 EN 2 WORD AFAPART VERHUUR EN DEEL
TOILETTE, KOKKEKUIS EN RAADSZAAL HET KANTOOR 3 TOT 6

PART E: PRE-APPLICATION CONSULTATION (ATTACH MINUTES)

Has pre-application consultation been undertaken?

Y N

PART F: SUMMARY OF APPLICANT'S MOTIVATION

1. The proposed development use enhances the principles of LUPA and SPLUMA.
2. The proposal complies with the Swartland Spatial Development Framework (2019) as the main forward planning document for Malmesbury and the Swartland Municipal Area as a whole.
3. The proposal complies with the Swartland Municipal By-Law on Land Use Planning.
4. The development proposal will complement the character of the area and not adversely affect any natural conservation areas or surrounding agricultural practises.
5. There are no physical restrictions on the property that will negatively affect the proposed use.
6. The proposed development will limit urban sprawl in Malmesbury.
7. With the proposed development, the owners of Erf 10024, Malmesbury, are granted an income opportunity.
8. The optimal utilisation of existing services, as it reduces past expenditure on infrastructure.
9. This development uses an existing plot within the Urban Edge to its optimal potential.

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
<p>The application was advertised by means of a total of 6 registered notices which were send to affected parties as well as the application was advertised in the local newspapers and Provincial Gazette. The public participation process started on 4 July 2022 and ended on 8 August 2022. Where e-mail addresses were available, affected parties were notified via e-mail as well. All 6 owners were also notified via email.</p> <p>A total of 3 objections were received which was referred to the applicant for comments on 11 August 2022. The applicant's comments on the objections were received on 29 August 2022.</p>						
Total valid comments	3		Total comments and petitions refused	0		
Valid petition(s)	Y	N	If yes, number of signatures			
Community organisation(s) response	Y	N	Ward councillor response	Y	N	
			The application was forwarded to the councillor which indicated that he had no objection.			
Total letters of support	0					

PART H: COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS			
Name	Received	Summary of comments	Recomm.
Departement : Ontwikkeling sdienste	7 Julie 2022	1. Bouplanne aan die Senior Bestuurder: Bou-Omgewing vir oorweging en goedkeuring voorgelê word.	✓
Departement : Siviele Ingenieursdi enste	4 Julie 2022	1. Riolering Die erf voorsien word van 'n enkele rioolaansluiting 2. Water Die erf voorsien word van 'n enkele wateraansluiting. 3. Vullisverwydering Onbeperkte toegang tot vullis word vereis en vullis moet teen 07:30 op die dag van geskeduleerde versameling op die sypaadjie geplaas word.	✓
Department of Transport and Public Works	27 July 2022	1. Main Road 174 (Voortrekker Road), of which the Swartland Municipality is the Road Authority is affected by your proposal. 2. This Branch is therefore only involved in terms of Section 17 of the Roads Ordinance 19 of 1976 (5m building line) which is not affected. 3. Accordingly this Branch offers no objection to the proposal.	✓

PART I: COMMENTS RECEIVED DURING PUBLIC PARTICIPATION	SUMMARY OF APPLICANT'S REPLY TO COMMENTS	MUNICIPAL ASSESSMENT OF COMMENTS
<p>A. SD & CA de Kock, owners of erf 840</p> <p>B. M Ritter, owner of erf 838</p> <p>C. TG Turner, owner of erf 841</p>	<p>1. <u>Negative effect on Residential Area:</u></p> <p>The rezoning of Erf 10024 to business premises will affect the atmosphere of the area. Residential areas are characterized for privacy, peaceful atmosphere, safety and a sense of togetherness. The character of the area will be changed by a business premises. All the mentioned reasons will cause the quality of life of the families currently living in the area to be reduced.</p> <p>The cramped office block is totally alien to the current environment. There is sufficient office space available within the town centre to accommodate the needs of this type of development.</p> <p>The previous development proposal for this erf was for cluster housing which shows a serious disregard for the general ambience of the area, and is purely profit-orientated.</p> <p>The Swartland Spatial Development Framework (SDF) (2019) determines the strategic policy guidelines for future development in the Swartland region and in this case, in Malmesbury. The land use proposals for Malmesbury identifies Erf 10024 to be located on the border between Zone C and D. Zone C has a mixed land use character consisting of low and medium density residential uses and also supporting functions like crèches, schools, hostels, and a hospital. Densification and mixed uses are allowed in the transition areas next to the commercial and industrial areas and along the activity streets. Zone D is the Central Business District (CBD) with a commercial character. This zone also includes a restructuring zone identified for potential development of social housing.</p> <p>The proposed development to develop Erf 10024 for the use of business premises (offices and a skin care salon) is consistent with the proposals of the Swartland SDF (2019). Furthermore, the property's location directly bordering the CBD and adjacent to an activity corridor (Voortrekker Road), makes the property highly accessible and suitable for commercial development. The Swartland SDF (2019) promotes commercial development specifically along Voortrekker Road, which is an important commercial axis in Malmesbury.</p> <p>The property will gain access from Voortrekker Road on its northern boundary, away from the residential area located towards the property's eastern, southern, and western boundaries. The proposed building to be used for the purpose of a skin care salon on the ground floor and offices on the first floor will rather have an effect of a double storey residential building than an office block.</p> <p>The proposed development will utilise Erf 10024 to its optimal potential and conforms to the land use proposals of the Swartland SDF (2019). It is</p>	<p>1. The comments from the applicant is supported.</p> <p>It must be noted that the owner of erf 838 operates a business from his residential property called Ritter Gas Services & Supplies. The business is a supplier of all LPG related products and service as well as LP Gas cylinder supply and delivery. The operation of this business is an illegal land use.</p> <p>Access to erf 838 is obtained from Ford Street. The business activities on erf 838 already impacts on the character of the surrounding residential.</p> <p>According to the SDF the properties identified with mixed use/business potential along the Voortrekker Road activity corridor stretches ±250m to the north of erf 10024. Erf 1581 which is the most northern property has been rezoned for business purposes and accommodates a motor dealership. To the south of erf 10024 the closest business is on erf 711 (Malmesbury Animal Hospital) which is ±100m away.</p> <p>The majority of uses along this portion of the Voortrekker Road activity corridor are residential. As mixed uses/businesses establish in the activity corridor it might be seen as alien at first, but as properties take up the mixed use/business development potential over time and the corridor develops to its full potential, it will become acceptable.</p>

		not foreseen that the proposed development on Erf 10024 will have an adverse negative effect on the surrounding residential area.	
<p>A. SD & CA de Kock, owners of erf 840</p> <p>B. M Ritter, owner of erf 838</p>	<p>2. <u>Safety:</u></p> <p>Erf 10024 is located in a quiet residential area and is surrounded by plots where families live. We have young children who play outside every day. Our outside area is set up for our children to play. With strange/unfamiliar a character on a business premises right next to us, we will not be able to let our children play outside unsupervised in our own yard. A business premises will attract many people to the area. Unfortunately, we live in a society where children are often the target of violence and crime.</p>	<p>2. The owner of Erf 10024 cannot be held responsible for violence and crime in Malmesbury or in the greater society. One should also take into consideration that the proposed development to accommodate business premises for the land uses of offices and a skin care salon, will attract much less customers than what business premises, such as a shop or a restaurant will attract. Therefore, the proposed development will not have an adverse negative effect on the surrounding residential atmosphere.</p>	<p>2. The access to erf 10024 is from Voortrekker Road. The proposed business are offices and a skin care salon. Clients to both these types of businesses are mostly by appointment only. These type of business has a low disturbance potential. The impact of these type of businesses are deemed low. It cannot be seen that these type of business will have to effect that children playing outside on adjoining residential erven need to be supervised due to the potential of the businesses attracting crime and violence to the area.</p> <p>The illegal gas business on erf 838 poses a much higher safety risk to adjoining properties.</p>
<p>A. SD & CA de Kock, owners of erf 840</p> <p>B. M Ritter, owner of erf 838</p> <p>C. TG Turner, owner of erf 841</p>	<p>3. <u>Traffic and Parking problems:</u></p> <p>The proposed business premises will change the road usage in the area. With 6 offices on the upper level, there is a minimum requirement of 11 parking spaces for the staff alone. There is insufficient parking for the clients, which will lead to off street parking in the adjacent streets.</p> <p>There is a public area/park on the corner of Ford and Lowry Cole Street. Children riding bikes in the street and walking will be affected by an increase in vehicles.</p> <p>The entrance to Voortrekker Road can also pose a potential danger to oncoming traffic in the busy Voortrekker Road. The vehicular access to Voortrekker Road will be obscured, and therefore pose a serious hazard to oncoming traffic.</p>	<p>3. Parking bays will be provided in accordance with the Swartland Municipal Land Use Planning By-law (PG 8226). 1 parking bay per 25m² Gross Leasable Area (GLA) is required for primary uses under the Business Zone 1 zoning. For a total GLA of ±202m², at least 8 on-site parking bays are needed for the proposed business premises. A total of 11 parking bays will be accommodated on Erf 10024. It is clear than more than sufficient provision is made for on-site parking bays, minimising traffic problems in adjacent streets.</p> <p>The intersection of Ford Street and Lowry Cole Street is located within a residential neighbourhood that requires a low average speed. As illustrated in the Figure 2 below, there is a two-way junction with stop signs located at this intersection. Thus, each motorist will have to stop at the junction and adhere to the road rules, as well as any pedestrians or cyclists who use the road. There is also a speed bump located in Ford Street between Erf 10024 and the public open space that will contribute to lowering the speed of vehicles in this area. It is also perceived that the</p>	<p>3. Access to erf 10024 is taken to and from Voortrekker Road. It is not foreseen that Ford and Lowey Cole Streets will be affected by the trip generation from the proposed business.</p> <p>The Department of Transport and Public Works, the road authority of Voortrekker Road, has no objections to the proposed rezoning.</p> <p>Sufficient on-site parking is provided in accordance with the zoning parameters of the Swartland Planning By-law and is deemed sufficient.</p>

		<p>majority of traffic generation that the proposed development might cause will occur in Voortrekker Road which is an activity corridor, and where access to Erf 10024 will be obtained from. The proposed development will therefore, have a low impact on the area where the public open space is located, which is between 175m and 230m away from Erf 10024.</p> <p>A letter is sent to the Provincial Department of Roads and Public Works to obtain their comments on the proposed access point to Erf 10024 from Voortrekker Road (Erf 10024). The Department confirmed that they offer no objection to the proposal.</p> <p>Erf 10024 only borders a street on its northern boundary, and therefore, cannot obtain direct access from any other street than Voortrekker Street. The access point to Erf 10024 will not be obscured as it is located at least 150m away from the nearest turn in Voortrekker Road in a north-western direction and more than 155m from the south-eastern direction. Erven 835 and 836 that is located in the same block as Erf 10024 towards a south-eastern direction from Erf 10024 also gains access from Voortrekker Road.</p>	
<p>A. SD & CA de Kock, owners of erf 840</p> <p>B. M Ritter, owner of erf 838</p>	<p>4. <u>Property Value:</u></p> <p>The proposed business premises will adversely affect the value of our property. We have lived in our current property for over 10 years and many other families have lived in the area for much longer. As a result, we have done a lot of renovation work on our property. Several longstanding properties' values will be lowered for the benefit of one business premises.</p>	<p>4. The relevant authority may not restrict the application on grounds of the potential financial implications as specified under Section 59(1)(f) of Chapter VI of The Land Use Planning Act:</p> <p><i>"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 of the application."</i></p>	<p>4. The comments from the applicant is supported.</p> <p>The illegal gas business on erf 838 poses a much higher safety risk which may impact on surrounding property values.</p>
<p>A. SD & CA de Kock, owners of erf 840</p>	<p>5. <u>Privacy:</u></p> <p>According to my knowledge, this premise will be a double story building</p>	<p>5. The proposed double storey building will be located on the northern side of the property, having a parking area at the back where Erf 840 (a residential property) is located. The proposed</p>	<p>5. The comments from the applicant is supported.</p> <p>Furthermore, the impact on privacy on adjoining properties may be much higher if a double storey</p>

B. M Ritter, owner of erf 838	with offices on the second floor. Our privacy will be directly affected as these offices will overlook our property. As previously mentioned, our children will no longer be able to play outside in the privacy of our backyard without being exposed to potential threats. The proposed rezoning will be an infringement of the right to privacy.	development will adhere to all prescribed building lines as prescribed in the Swartland Municipal By-law on Land Use Planning (PG 8226). The building is proposed on the specific location on the property to have the least possible impact on surrounding residential properties. As mentioned in Point 2, the owner of Erf 10024 cannot be held responsible for violence and crime in Malmesbury or in the greater society that may be a threat for children.	dwelling be erected which can be place 1,5m from the side boundaries and 2m from the rear boundary of erf 10024 according to the existing Residential zone 1 land use rights.
B. M Ritter, owner of erf 838	<p>6. Privacy and Interests:</p> <p>The proposed rezoning will therefore directly affect me and my family, consisting of a husband, wife and two daughters residing on Erf 838 bordering erf 10024 towards its western boundary. Malmesbury is a town characterized by good residential areas and this certainly has a positive impact on the influx of people into the environment and consequently the local economy. Malmesbury already has planned development such as the proposed large shopping centre outside the town where numerous businesses can be housed.</p> <p>In principle, I am not opposed to the rezoning, but request that our privacy and interests be taken into account.</p>	<p>6. As mentioned in Point 1, the proposed development is consistent with the land use proposals as set out in the Swartland SDF (2019) for Malmesbury. The proposed development to accommodate business premises (offices and a skin care salon) will create job opportunities, contributing to economic growth in Malmesbury.</p> <p>It is noted that the objector is not opposed to the rezoning of Erf 10024, Malmesbury. The interests of the surrounding environment is taken into account as the proposed development is consistent with all development parameters for a Business Zone 1 property as prescribed in the Swartland Municipal By-law on Land Use Planning.</p>	<p>6. The comments from the applicant is supported.</p> <p>It remains the prerogative of the owner of erf 10024 to develop the property to its full development potential.</p>
B. M Ritter, owner of erf 838	<p>7. <u>Proposals:</u></p> <p>If written undertaking is given that:</p> <ul style="list-style-type: none"> • there shall be no windows, etc. to our elevation; • that the shared boundary wall be altered at their expense to a 2.4m, measured from my erf, high plastered and painted brick wall with security measures in place; and 	<p>7. <u>Windows:</u></p> <p>The Swartland Municipal By-law on Land Use Planning stipulates development parameters for all properties in the Swartland Municipal Area, including Erf 10024, which is proposed to be rezoned to Business Zone 1.</p> <p>The objector's property is located on Erf 10024's western side boundary. Section 3.1.1 (f) of the mentioned By-law states the following:</p>	<p>7. The comments from the applicant is supported.</p> <p>The applicant stands with the development proposal and will not adhere to the requirements of the objector.</p>

	<ul style="list-style-type: none"> • parking if sufficiently certified; I will take my objection into possible reconsideration. 	<p><i>“The side and rear building lines may be zero, provided that:</i></p> <ol style="list-style-type: none"> <i>a building or portion of a building which is erected on the side boundary of a land unit shall have no doors, windows, ventilation openings or other openings inserted in any wall on such boundary, unless the municipality is satisfied that such opening will not adversely affect any future development on adjacent land units, and</i> <i>where the side boundary of a Business Zone 1 land unit abuts a residential zone land unit, the side building line on the business zone shall be 3m from that side of the rear or side boundary, subject to paragraph 12.2.1.”</i> <p>The western side building line is therefore subject to a 3m restriction from Erf 838. The Site Development Plan, which is also attached as Annexure C, illustrates that the proposed building will be located more than 3m away from the boundary between Erven 10024 and 838, with a driveway passing the building towards a parking area at the back. According to the Swartland Municipal By-law on Land Use Planning (PG 8226), the owner is allowed to have windows towards its western elevation.</p> <p><u>Boundary Wall:</u> Section 5. (1) of the Swartland Municipal By-Law relating to Boundary Walls and Fences (PG 7638) states that:</p> <ol style="list-style-type: none"> <i>“The height of any wall or fence situated on street boundaries or abutting upon public land shall not exceed the measurements as described in Tables 17 and 18 of SANS 10400;</i> <i>Walls and fences comprising of materials not described in the tables referred to in paragraph (a) shall not exceed a height of 2.1 metres.”</i> <p>The boundary wall should therefore comply with the above-mentioned legislation relating to boundary walls.</p> <p><u>Parking:</u> As mentioned in Point 3, parking bays will be provided in accordance with the Swartland Municipal Land Use Planning By-law (PG 8226). More than</p>	
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		sufficient provision is made for the proposed development in terms of on-site parking bays.	
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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 10024, Malmesbury in terms of section 25(2)(a) of Swartland Municipality : Municipal Land Use Planning By-law (PG 8226 of 25 March 2020) has been received. It is proposed that erf 10024 (725m² in extent) be rezoned from Residential zone 1 to Business zone 1 in order to develop the property as a business premises (office and skin care salon).

The application was advertised by means of a total of 6 registered notices which were sent to affected parties as well as the application was advertised in the local newspapers and Provincial Gazette. The public participation process started on 4 July 2022 and ended on 8 August 2022. Where e-mail addresses were available, affected parties were notified via e-mail as well. All 6 owners were also notified via email.

A total of 3 objections were received which was referred to the applicant for comments on 11 August 2022. The applicant's comments on the objections were received on 29 August 2022.

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

2. Legislation and policy frameworks

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

- a) Spatial Justice: The use of the property for commercial purposes is consistent with the applicable zoning regulations as well as SDF proposals for the area in which the property is located. The physical footprint supports an urban type of development, promoting an integrated settlement. Job opportunities will be created by the proposed development. The proposed development does not support further segregation within the community.
- b) Spatial Sustainability: The proposed development promotes spatial compactness and resource frugal development, whilst protecting the environment. The proposed application supports sustainable use of resources and falls within an area earmarked for commercial use. The proposal limits urban sprawl by optimising the utilisation of existing land within the urban periphery. The proposed development will benefit from existing infrastructure and services which are deemed sufficient to provide the development with services. The proposed development will strengthen the activity Voortrekker Road activity corridor.
- c) Efficiency: Infill development is an effective spatial planning tool that promotes sustainable development by making optimal use of available opportunities. The proposed development contributes to the integration of the settlement, which includes economic and land use integration with adequate business opportunities. The proposal will also ensure an overall a more compact town by developing vacant land within the Urban Edge of Malmesbury and will also create employment opportunities.
- d) Good Administration: The application was communicated to the affected land owners 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 principle of spatial resilience allows more flexibility in spatial plans, policies and systems. More flexible development opportunities promote sustainable livelihoods. The proposed land use change will still be resilient in terms of the multiple uses that are allowed if the business rights are obtained. The proposed development does not limit any future benefits of the property or surrounding area. The location of the property adjacent to an activity corridor within Malmesbury increases flexibility with regard to land uses allowed on the property.

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)

Erf 10024 is situated in zone C. Zone C has a mixed land use character consisting of low and medium density residential uses and also supporting functions like crèches, schools, hostels and a hospital. Densification and mixed uses are allowed for in the transition areas next to the commercial and industrial areas and along the activity streets inside the identified CBD of Malmesbury. Erf 10024 is situated on the transition area next to the CBD as well as on Voortrekker Road with is an activity corridor. The proposed business use is in compliance with the spatial planning of Malmesbury. 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 10024, Malmesbury is zoned Residential zone 1 and is vacant. The property is relatively flat. There are no physical restrictions on the property that will have a negative impact on the application.

Surrounding land uses includes single residential dwellings, a LP gas business, government buildings (SAPS offices) and a public open space. To the north and south of erf 10024 there are existing businesses inside the Voortrekker Road activity corridor which makes the proposed use complimentary to the mixed use character of the area.

The proposed business use is in compliance with the spatial planning of Malmesbury.

The proposed development complies with all zoning parameters of the Business zone 1 zoning.

The proposed building has a total floorarea of 276m². The provision of on-site parking needs to be provided at 1 parking bay/25m² gross leasable area. A total of 11 on-site parking bays are provided which is in compliance with the parking requirement.

Sufficient services capacity exist to accommodate the proposed development.

The impact of the businesses proposed on erf 10024 are deemed low on the adjoining/surrounding residential properties. It cannot be seen that these type of business will attract crime and violence to the area.

Erf 10024 gets access from Voortrekker Road. The Department of Transport and Public Works as the road authority has no objection to the proposed development.

The property values of the surrounding residential erven to erf 10024 has increased since the municipality valuation in 2015 to 2019. It is highly unlikely that the proposed business on erf 10024 will affected the property values negatively of the adjoining/surrounding residential properties.

Erven 838 and 840 have similar development potential as erf 10024 according to the spatial planning of Malmesbury.

The impact on the privacy of the adjoining residential erven is deemed to be low as business hours will be restricted. If erf 10024 is developed with a double storey dwelling according to the existing land use rights the impact will be similar or even higher.

The proposals of the objector from erf 838 are noted. The applicant stands with the development proposal and will not adhere to the requirements of the objector.

There are no restrictions in the title deed of erf 10024 which are restrictive to this application.

The development proposal is considered desirable.

3. Impact on municipal engineering services

Sufficient services capacity exists to accommodate the proposed development.

4. Comments of organs of state

Comments were received from the Department of Transport and Public Works which had not objection.

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 10024, Malmesbury 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), in order to establish a second dwelling on the property, subject to the conditions that:

1. TOWN PLANNING AND BUILDING CONTROL

- a) Building plans be submitted to the Senior Manager: Built Environment, for consideration and approval;
- b) At least 11 on-site parking bays and 1 loading bay be provided with a permanent dust free surface being tar, concrete or paving to the satisfaction of the Director: Civil Engineering Services and that the parking bays and loading bay are clearly marked;

2. WATER

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

3. SEWERAGE

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

4. REFUSE REMOVAL

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

5. GENERAL

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

- b) In terms of Chapter VII, Section 89 of the Swartland Municipality By-law relating Municipal Land Use Planning (PG 8226 of 25 March 2020), affected parties have a right to appeal the abovementioned decision within 21 days of date of registration of this letter to the appeal authority of the Swartland Municipality against Council's decision.

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

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

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

PART M: REASONS FOR RECOMMENDATION

1. The application complies with the planning principles of LUPA and SPLUMA.
2. The application complies with the spatial planning of Malmesbury
3. The development proposal complies with all applicable zoning parameters of the Business zone 1 zoning.
4. The impact of the proposed development on surrounding properties are deemed low and will not have a negative impact.
5. Erf 10024 does not have any physical restrictions which may have a negative impact on this application.
6. The proposed development will complement and not have a negative impact on the character of the surrounding residential area.
7. The development proposal supports the optimal utilisation of the property.
8. The proposed land use is considered as a desirable activity within identified business area of the Voortrekker Road activity corridor, as it will accommodate use compatible with that of the existing area.
9. Sufficient services capacity exists to accommodate the proposed business.
10. The proposed businesses are not deemed to attract crime and violence to the area.
11. Access to the property is supported by the road authority (Department of Transport and Public Works).
12. Surrounding property values will not be affected negatively.
13. There are no restrictions in the title deed of erf 10024 which restricts the proposed development.

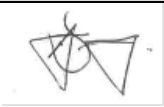
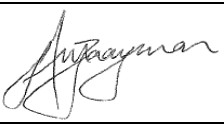
PART N: ANNEXURES

Annexure A	Locality Plan
Annexure B	Site development plan
Annexure C	Public Participation Map
Annexure D	Objection from SD & CA Kock
Annexure E	Objection from M Ritter
Annexure F	Objection from TG Turner
Annexure G	Comments from the Department of Transport and Public Works
Annexure H	Comments from the applicant on the objections
Annexure I	Photos of site

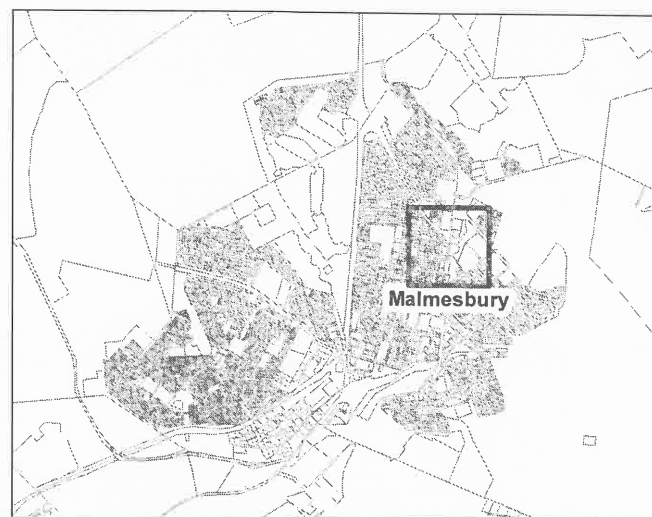
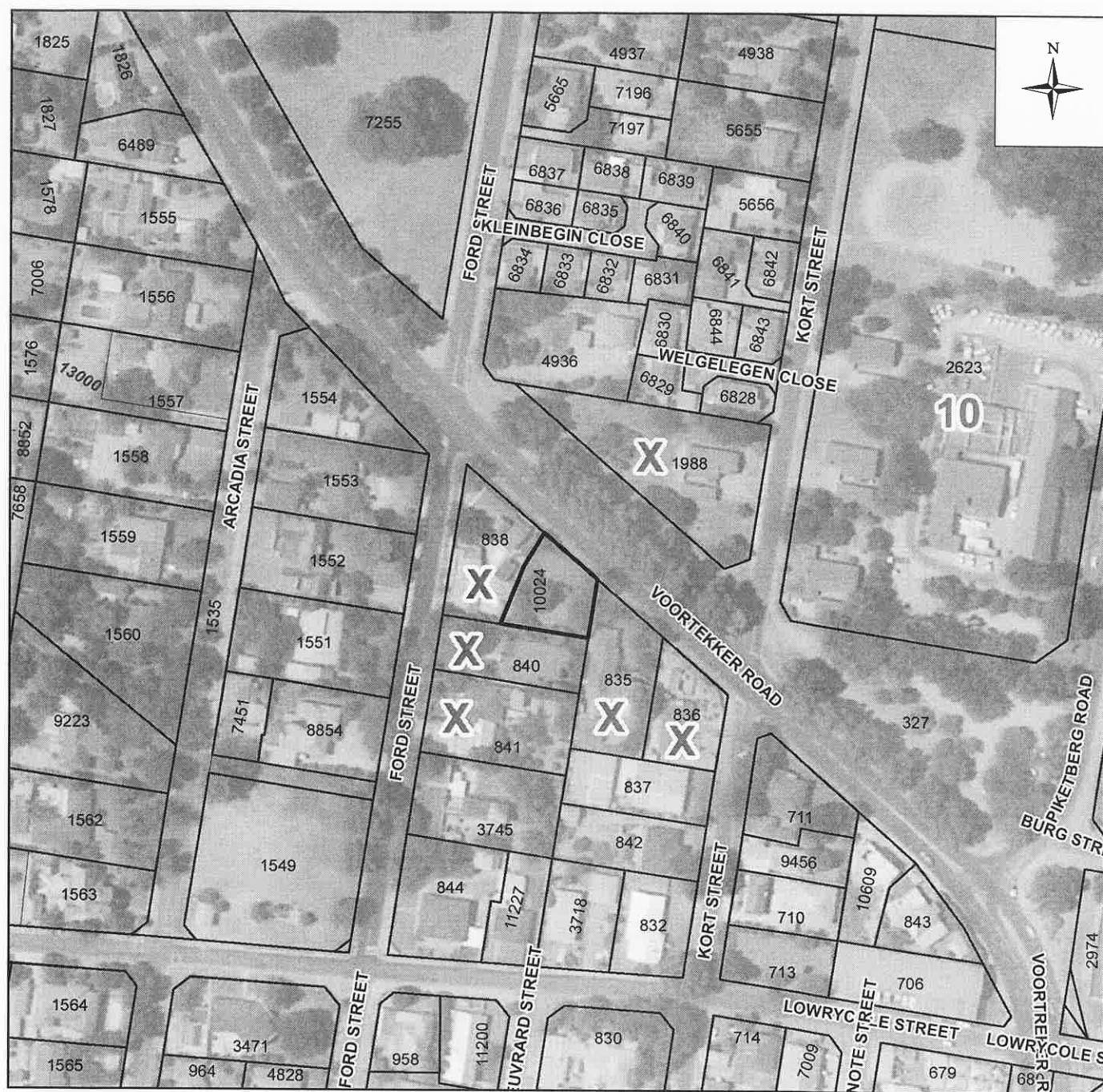
PART O: APPLICANT DETAILS

First name(s)	CK Rumboll & Partners			
Registered owner(s)	H Baumgarten	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: 2 September 2022		
Recommendation: Alwyn Zaayman Senior Manager: Built Environment SACPLAN: B/8001/2001	Recommended	<input checked="" type="checkbox"/>	Not recommended	
		Date: 5 September 2022		

LOCATION PLAN OF ERF 10024, MALMESBURY



0 25 50 100 Meters

SD & CA de Kock

Ford street 60

Malmesbury

7300

Phone: 0798783117/

0848590785

e-pos: sddekock@gmail.com/

carmen.lategan@gmail.com

► The Municipal Manager

Private Bag X52,

Malmesbury,

7299

Phone: 022-487 9400/Fax: 022-487 9440

e-mail: swartlandmun@swartland.org.za

OBJECTION TO REZONING OF Erf 10024, MALMESBURY

This letter serves to object to the proposed rezoning of Erf 10024, Malmesbury (reference number 15/3/3-8/Erf_10024) from Residential Zone I to Business Zone I to use the plot as a business premises. Erf 10024 is directly adjacent to our plot (Erf 840). The rezoning of Erf 10024 to a business premises will therefore have a direct impact on our premises. The reasons for our objection are as follows:

- Residential area:
 - o The rezoning of Erf 10024 to a business premises will affect the atmosphere of the area.
 - o Residential areas are characterized for privacy, peaceful atmosphere, safety and a sense of togetherness.
 - o The character of the area will be changed by a business premises.
 - o All the above reasons will cause the quality of life of the families currently living in the area to be reduced.
 - Safety:
 - o Erf 10024 is located in a quiet residential area and is surrounded by plots where families live.
 - o We have young children who play outside every day. Our outside area is set up for our children to play. With strange / unfamiliar characters on a business premises right next to us, we will not be able to let our children play outside unsupervised in our own yard.
 - o A business premises will attract many people to the area. Unfortunately, we live in a society where children are often the target of violence and crime.
 - Road consumption:
 - o The proposed business premises will change the road usage in the area.
 - o The proposed plan for the business premises does not have sufficient parking for possible activities that come with a business premises. If there is too little parking, visitors will start to park in the adjacent streets.
-

-
- The entrance to Voortrekker Road can also pose a potential danger to oncoming traffic in the busy Voortrekker Road.
 - There is a public area / park on the corner of Ford and Lowry Cole Street. Children riding bikes in the street and walking will be affected by an increase in vehicles.
 - Property value:
 - The proposed business premises will adversely affect the value of our property.
 - We have lived in our current property for over 10 years and many other families have lived in the area for much longer.
 - As a result, we have done a lot of renovation work on our property.
 - Several longstanding properties' values will be lowered for the benefit of one business premises.
 - Privacy:
 - According to my knowledge, this premises will be a double story building with offices on the second floor.
 - Our privacy will be directly affected as these offices will overlook our property.
 - As previously mentioned, our children will no longer be able to play outside in the privacy of our backyard without being exposed to potential threats.
 - The proposed rezoning will be an infringement of the right to privacy.

We would like to maintain the residential area and right to privacy. Malmesbury is a town characterized by good residential areas. This feature attracts families to the town and has a positive influence on the local economy. Malmesbury already has planned development such as the planned shopping mall outside the town with ample space for new businesses. Additionally, there are already several business premises in the town. The proposed rezoning seems to be profit orientated. I strongly object to the proposed rezoning for all the reasons stated above and trust that the municipality will act in the best interest of all parties concerned.

Thank you in advance

A handwritten signature in black ink, appearing to read 'S. de Kock' followed by a stylized flourish or second name.

SD & CA de Kock
Date: 25 July 2022

Mr Martin Ritter
 Fordstraat 62
 Malmesbury
 7300
 Tel: 0828751806
 mpos11@martin@franchise.co.za

Die Municipale Bestuurder

Privaatsak X52,
 Malmesbury,
 7299
 Tel: 022-487 9400/Faks: 022-487 9440
 e-pos: swartknammun@kwartland.org

KOMMENTAAR/BESWAAR T O V VOORGESTELDE HERSONERING VAN ERF 10024, MALMESBURY

Hierdie brief dien om beswaar aan te teken teen die voorgestelde hersonering van Erf 10024, Malmesbury (verwysings nommer I 5/3/3-8/Erf_10024) vanaf Residensiële Sone I na Sakesone I ten einde die erf aan te wend as 'n sakeperseel, en wel om die volgende redes.

Erf 10024 is direk aangrensend aan ons Erf 838. Die hersonering van Erf 10024 na 'n sakeperseel sal my en gesin gevolglik direk raak. Die hersonering van Erf 10024 na 'n sakeperseel sal die atmosfeer van die area affekteer. Ons area word gekenmerk vir privaatheid, rustige atmosfeer, veiligheid en 'n gevoel van samesyn.

Erf 10024 is omring deur familie wonings. 'n Sakeperseel sal baie mense na die area lok insluitend verdagte karakters wat tot inbrake en misdaad kan lei. Die voorgestelde sakeperseel sal die padverbruik verander in die area. Daar is ook onvoldoende parkering vir aktiwiteite wat met 'n sakeperseel gepaard gaan. As daar 'n te kort aan parkering is sal mense in die aangrensende strate parkeer. Die ingang na Vootrekker weg kan ook 'n potensiële gevaar inhou vir aankomende verkeer. Daar is 'n publieke area/park op die hoek van Ford en Lowry Cole straat. Die area se kinders ry fiets in die strate en loop dikwels na die park. Die voorgestelde sakeperseel sal die waarde van ons eiendom nadelig beïnvloed. Eiendom langs 'n sakeperseel is nie aantreklik vir families nie.

Hierdie voorgestelde dubbel verdieping sakeperseel gaan ons privaatheid binnedring. Die perseel kyk direk op ons swembad en buite leefarea, en gegewe dat dit 'n dubbelverdieping gebou is, word ons van alle sprake van privaatheid ontnem.

Die voorgestelde hersonering sal my en my gesin, bestaande uit 'n man, vrou en twee dogters dus direk negatief raak. Malmesbury is 'n dorp wat gekenmerk word deur goeie residensiële areas en dit het beslis 'n positiewe invloed op die invloed van mense na die omgewing en gevolglik plaaslike ekonomie. Malmesbury het reeds beplande ontwikkeling soos die voorgestelde groot winkelsentrum buite die dorp waar talle besighede gehuisves kan word. In beginsel is ek nie gekant teen die hersonering nie, maar versoek dat ons privaatheid en belange in ag geneem word.

Indien skriftelike onderneming gegee word dat:

1. daar geen vensters, ens na ons aansig sal wees nie,
2. dat die gedeelde omheiningsmuur ten volle op hul koste na 'n 2.4m, gemeet uit my erf, hoë afgepleisterde en gevefde baksteenmuur met veiligheidsmaatreëls in plek, verander word,
3. en parkering as voldoende gesertifiseer word, sal ek my beswaar in moontlike heroorweging neem.

► [Type the sender company name]

By voorbaat dank



Martin Ritter

Datum: 27 Julie 2022

From: Glyn Gunter <glyn.gunter@gmail.com>
Sent: Thursday, 21 July 2022 07:00
To: Registrasie Email <RegistrasieEmail@swartland.org.za>
Subject: Rezoning of ERF 10024, Malmesbury

The Municipal Manager,

Dear Sir,

I would like to formally register my objection to the proposed rezoning and development of the above mentioned property.

My reasons for the objection are as follows:

The site is in a prime residential area, typified by large plots and single dwellings. This cramped double storey office block is totally alien to the current environment.

The plan shows a reception area, and four consulting rooms, which suggests that there will be a flow of clients visiting the premises. With the six offices on the upper level, there is a minimum requirement of eleven parking spaces for the staff alone. There is insufficient parking for the clients, which will result in off street parking in the adjacent streets.

The vehicular access to Voortrekker Road will be obscured, and therefore pose a serious hazard to oncoming traffic.

There is sufficient office space available within the town centre to accommodate the needs of this type of development.

The previous development proposal for this ERF was for cluster housing, which shows a serious disregard for the general ambience of the area, and is purely profit orientated.

Kind regards,

TG Gunter

ERF 841

From: Devlin Fortuin <Devlin.Fortuin@westerncape.gov.za>
Date: Wed, Jul 27, 2022 at 10:48 AM
Subject: (Job 29667) - Erf 10024, Malmesbury
To: planning1@rumboll.co.za <planning1@rumboll.co.za>
Cc: Vanessa Stoffels <Vanessa.Stoffels@westerncape.gov.za>

Good Day Mandri

1. Your email to this Branch referenced MAL/12463/ZN/MV dated 29 June 2022 refers.
2. Main Road 174 (Voortrekker Road), of which the Swartland Municipality is the Road Authority is affected by your proposal.
3. This Branch is therefore only involved in terms of Section 17 of the Roads Ordinance 19 of 1976 (5m building line) which is not affected.
4. Accordingly this Branch offers no objection to the proposal.

Kind Regards

Devlin Fortuin, PrEng

Production Engineer: Road Use Management
Chief Directorate: Road Planning
Transport and Public Works
Western Cape Government

3rd Floor, 9 Dorp Street, Cape Town

Tel: +27 21 483 2012

Fax: +27 21 483 2205

Email: devlin.fortuin@westerncape.gov.za

Website: www.westerncape.gov.za



Be 110% Green. Read from the screen.

CK RUMBOLL & VENNOTE / PARTNERS



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

DATE: 29 August 2022

OUR REF: MAL/12463/ZN/MV
YOUR REF: 15/3/3-8/Erf_10024

BY HAND

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

MUNICIPALITEIT SWARTLAND				
LEI	15/3/3-8	Erf	10024	
1	2	3	4	5
SSSB				
Del				
Ander Opmerking				(get)BK

Mr,

Comments on Objections

PROPOSED REZONING OF ERF 10024, MALMESBURY

1. Introduction

Your letter dated 11 August 2022 refers.

CK Rumboll and Partners have been appointed by Mr Hein Baumgarten, owner of Erf 10024, Malmesbury, to attend to all town planning actions regarding the rezoning of Erf 10024 to accommodate business premises (offices and a skin care salon) on the property. During the public participation period, objections were received from the following surrounding neighbours:

- A. SD & CA Kock (Erf 840)
- B. Martin Ritter (Erf 838)
- C. TG Gunter (Erf 841)

Figure 1 illustrates the locality of the objectors' properties in relation to Erf 10024, Malmesbury.



VENNOTE / PARTNERS:

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

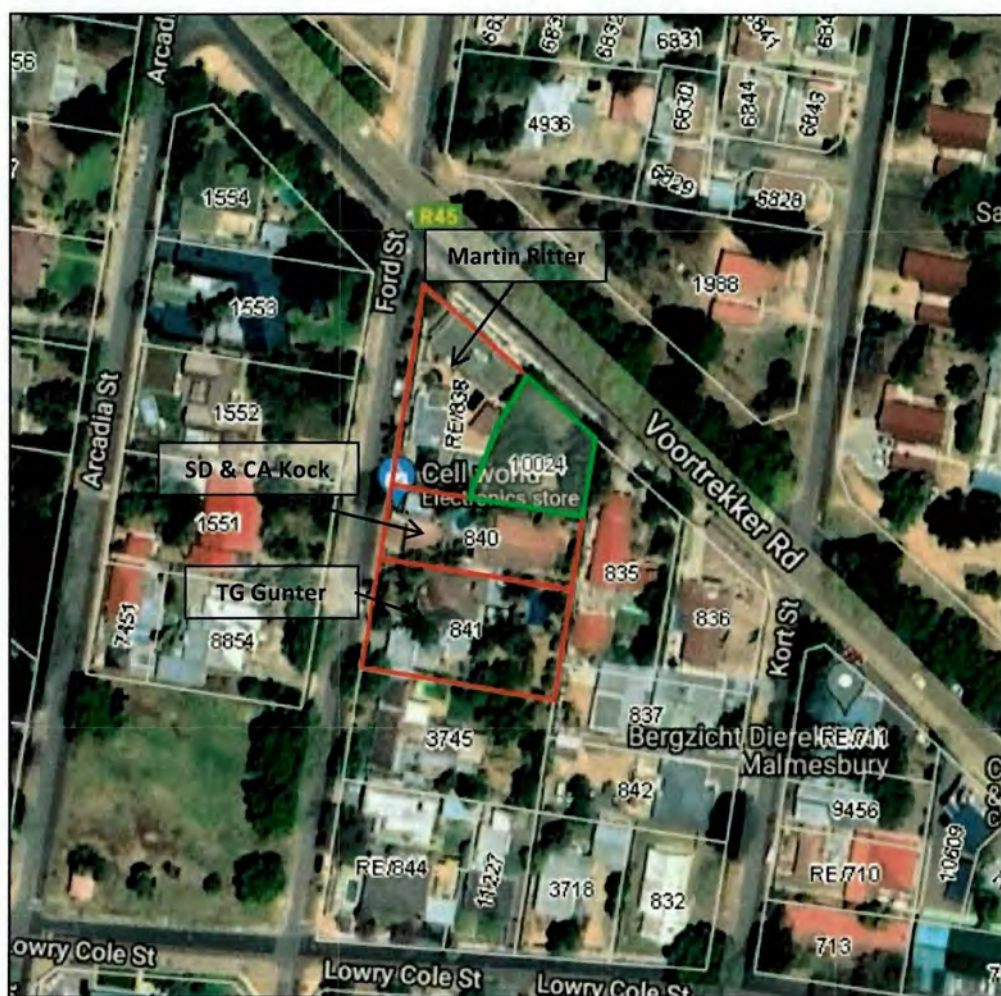


Figure 1: Locality of objectors' properties and Erf 10024, Malmesbury

2. Comments on objections

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

Table 1: Comments on Objections

Objectors	Objections	Comments from CK Rumboll & Partners
A, B, C	<p>1. Negative effect on Residential Area: The rezoning of Erf 10024 to business premises will affect the atmosphere of the area. Residential areas are characterized for privacy, peaceful atmosphere, safety and a sense of togetherness. The character of the area will be changed by a business premises. All the mentioned reasons will cause the quality of life of the families currently living in the area to be reduced.</p> <p>The cramped office block is totally alien to the current environment. There is sufficient office space available within the town center to accommodate the needs of this type of development.</p> <p>The previous development proposal for this erf was for cluster housing which shows a serious disregard for the general ambience of the area, and is purely profit-orientated.</p>	<p>1. The <i>Swartland Spatial Development Framework (SDF) (2019)</i> determines the strategic policy guidelines for future development in the Swartland region and in this case, in Malmesbury. The land use proposals for Malmesbury identifies Erf 10024 to be located on the border between Zone C and D. Zone C has a mixed land use character consisting of low and medium density residential uses and also supporting functions like crèches, schools, hostels, and a hospital. Densification and mixed uses are allowed in the transition areas next to the commercial and industrial areas and along the activity streets. Zone D is the Central Business District (CBD) with a commercial character. This zone also includes a restructuring zone identified for potential development of social housing. The Land Use Proposals Map is attached as Annexure A.</p> <p>The proposed development to develop Erf 10024 for the use of business premises (offices and a skin care salon) is consistent with the proposals of the <i>Swartland SDF (2019)</i>. Furthermore, the property's location directly bordering the CBD and adjacent to an activity corridor (Voortrekker Road), makes the property highly accessible and suitable for commercial development. The <i>Swartland SDF (2019)</i> promotes commercial development specifically along Voortrekker Road, which is an important commercial axis in Malmesbury.</p> <p>The property will gain access from Voortrekker Road on its northern boundary, away from the residential area located</p>

VENNOTE / PARTNERS:

IHJ Rumboll PrL (SA), BSc (Surv), M.I.P.L.S., AP Steyl PrL (SA), BSc (Surv), M.I.P.L.S.

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

		<p>towards the property's eastern, southern, and western boundaries. The proposed building to be used for the purpose of a skin care salon on the ground floor and offices on the first floor will rather have an effect of a double storey residential building than an office block.</p> <p>The proposed development will utilise Erf 10024, Malmesbury, to its optimal potential and conforms to the land use proposals of the <i>Swartland SDF (2019)</i>. It is not foreseen that the proposed development on Erf 10024 will have an adverse negative effect on the surrounding residential area.</p>
A, B	<p>2. <u>Safety:</u></p> <p>Erf 10024 is located in a quiet residential area and is surrounded by plots where families live. We have young children who play outside every day. Our outside area is set up for our children to play. With strange/unfamiliar a character on a business premises right next to us, we will not be able to let our children play outside unsupervised in our own yard. A business premises will attract many people to the area. Unfortunately, we live in a society where children are often the target of violence and crime.</p>	<p>2. The owner of Erf 10024 cannot be held responsible for violence and crime in Malmesbury or in the greater society. One should also take into consideration that the proposed development to accommodate business premises for the land uses of offices and a skin care salon, will attract much less customers than what business premises, such as a shop or a restaurant will attract. Therefore, the proposed development will not have an adverse negative effect on the surrounding residential atmosphere.</p>
A, B, C	<p>3. <u>Traffic and Parking problems:</u></p> <p>The proposed business premises will change the road usage in the area. With 6 offices on the upper level, there is a minimum requirement of</p>	<p>3. Parking bays will be provided in accordance with the <i>Swartland Municipal Land Use Planning By-law (PG 8226)</i>. 1 parking bay per 25m² Gross Leasable Area (GLA) is required for primary uses under the Business Zone 1 zoning. For a total GLA of ±202m², at least 8</p>

	<p>11 parking spaces for the staff alone. There is insufficient parking for the clients, which will lead to off street parking in the adjacent streets.</p> <p>There is a public area/park on the corner of Ford and Lowry Cole Street. Children riding bikes in the street and walking will be affected by an increase in vehicles.</p> <p>The entrance to Voortrekker Road can also pose a potential danger to oncoming traffic in the busy Voortrekker Road. The vehicular access to Voortrekker Road will be obscured, and therefore pose a serious hazard to oncoming traffic.</p>	<p>on-site parking bays are needed for the proposed business premises. A total of 11 parking bays will be accommodated on Erf 10024. It is clear than more than sufficient provision is made for on-site parking bays, minimising traffic problems in adjacent streets.</p> <p>The intersection of Ford Street and Lowry Cole Street is located within a residential neighbourhood that requires a low average speed. As illustrated in the Figure 2 below, there is a two-way junction with stop signs located at this intersection. Thus, each motorist will have to stop at the junction and adhere to the road rules, as well as any pedestrians or cyclists who use the road. There is also a speed bump located in Ford Street between Erf 10024 and the public open space that will contribute to lowering the speed of vehicles in this area. It is also perceived that the majority of traffic generation that the proposed development might cause will occur in Voortrekker Road which is an activity corridor, and where access to Erf 10024 will be obtained from. The proposed development will therefore, have a low impact on the area where the public open space is located, which is between 175m and 230m away from Erf 10024.</p>
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Figure 2: Locality of the public open space

A letter is sent to the Provincial Department of Roads and Public Works to obtain their comments on the proposed access point to Erf 10024 from Voortrekker Road (Erf 10024). The Department confirmed that they offer no objection to the proposal. The letter from the Department of Roads and Public Works is attached as **Annexure B**.

Erf 10024 only borders a street on its northern boundary, and therefore, cannot obtain direct access from any other street than Voortrekker Street. The access point to Erf 10024 will not be

obscured as it is located at least 150m away from the nearest turn in Voortrekker Road in a north-western direction and more than 155m from the south-eastern direction. Erven 835 and 836 that is located in the same block as Erf 10024 towards a south-eastern direction from Erf 10024 also gains access from Voortrekker Road (refer to Figure 3 below).

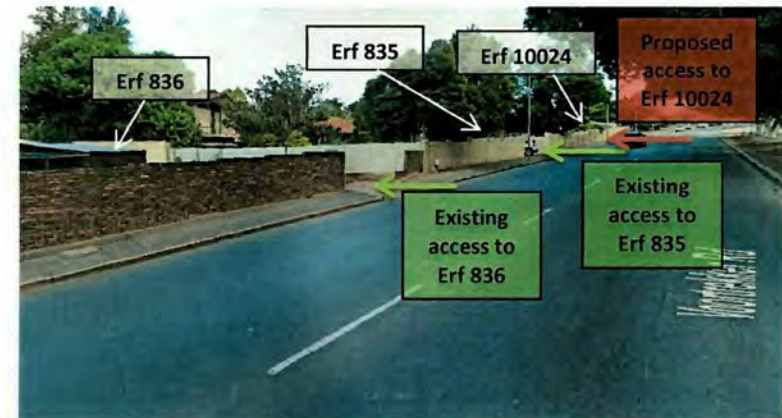


Figure 3: Access points from Voortrekker Road

A, B	<p>4. <u>Property Value:</u></p> <p>The proposed business premises will adversely affect the value of our property. We have lived in our current property for over 10 years and many other families have lived in the area for much longer. As a result, we have done a lot of renovation work on our property. Several longstanding properties' values will be lowered for the benefit of one business premises.</p>	<p>4. The relevant authority may not restrict the application on grounds of the potential financial implications as specified under <i>Section 59(1)(f) of Chapter VI of The Land Use Planning Act</i>:</p> <p><i>"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 of the application."</i></p>
A, B	<p>5. <u>Privacy:</u></p> <p>According to my knowledge, this premise will be a double story building with offices on the second floor. Our privacy will be directly affected as these offices will overlook our property. As previously mentioned, our children will no longer be able to play outside in the privacy of our backyard without being exposed to potential threats. The proposed rezoning will be an infringement of the right to privacy.</p>	<p>5. The proposed double storey building will be located on the northern side of the property, having a parking area at the back where Erf 840 (a residential property) is located. The proposed development will adhere to all prescribed building lines as prescribed in the <i>Swartland Municipal By-law on Land Use Planning (PG 8226)</i>. The building is proposed on the specific location on the property to have the least possible impact on surrounding residential properties. The Site Development Plan is attached as Annexure C.</p> <p>As mentioned in Point 2, the owner of Erf 10024 cannot be held responsible for violence and crime in Malmesbury or in the greater society that may be a threat for children.</p>
B	<p>6. <u>Privacy and Interests:</u></p> <p>The proposed rezoning will therefore directly affect me and my family, consisting of a husband, wife and two daughters residing on Erf 838 bordering Erf 10024 towards its western boundary. Malmesbury is a town characterized</p>	<p>6. As mentioned in Point 1, the proposed development is consistent with the land use proposals as set out in the <i>Swartland SDF (2019)</i> for Malmesbury. The proposed development to accommodate business premises (offices and a skin care salon) will create job opportunities, contributing to economic growth in Malmesbury.</p>

	<p>by good residential areas and this certainly has a positive impact on the influx of people into the environment and consequently the local economy. Malmesbury already has planned development such as the proposed large shopping centre outside the town where numerous businesses can be housed.</p> <p>In principle, I am not opposed to the rezoning, but request that our privacy and interests be taken into account.</p>	<p>It is noted that the objector is not opposed to the rezoning of Erf 10024, Malmesbury. The interests of the surrounding environment is taken into account as the proposed development is consistent with all development parameters for a Business Zone 1 property as prescribed in the <i>Swartland Municipal By-law on Land Use Planning (PG 8226)</i>.</p>
B	<p>7. <u>Proposals:</u></p> <p>If written undertaking is given that:</p> <ol style="list-style-type: none"> there shall be no windows, etc. to our elevation; that the shared boundary wall be altered at their expense to a 2.4m, measured from my erf, high plastered and painted brick wall with security measures in place; and parking if sufficiently certified; <p>I will take my objection into possible reconsideration.</p>	<p>7. <u>Windows:</u></p> <p>The <i>Swartland Municipal By-law on Land Use Planning (PG 8226)</i> stipulates development parameters for all properties in the Swartland Municipal Area, including Erf 10024, which is proposed to be rezoned to Business Zone 1.</p> <p>The objector's property is located on Erf 10024's western side boundary. Section 3.1.1 (f) of the mentioned <i>By-law</i> states the following:</p> <p><i>"The side and rear building lines may be zero, provided that:</i></p> <ol style="list-style-type: none"> <i>a building or portion of a building which is erected on the side boundary of a land unit shall have no doors, windows, ventilation openings or other openings inserted in any wall on such boundary, unless the municipality is satisfied that such opening will not adversely affect any future development on adjacent land units, and</i> <i>where the side boundary of a Business Zone 1 land unit abuts a residential zone land unit, the side building line on the business</i>

		<p><i>zone shall be 3m from that side of the rear or side boundary, subject to paragraph 12.2.1."</i></p> <p>The western side building line is therefore subject to a 3m restriction from Erf 838. The Site Development Plan, which is also attached as Annexure C, illustrates that the proposed building will be located more than 3m away from the boundary between Erven 10024 and 838, with a driveway passing the building towards a parking area at the back. According to the <i>Swartland Municipal By-law on Land Use Planning (PG 8226)</i>, the owner is allowed to have windows towards its western elevation.</p> <p><u>Boundary Wall:</u></p> <p>Section 5. (1) of the <i>Swartland Municipal By-Law relating to Boundary Walls and Fences (PG 7638)</i> states that:</p> <p><i>"(a) The height of any wall or fence situated on street boundaries or abutting upon public land shall not exceed the measurements as described in Tables 17 and 18 of SANS 10400;</i></p> <p><i>(b) Walls and fences comprising of materials not described in the tables referred to in paragraph (a) shall not exceed a height of 2.1 metres."</i></p> <p>The boundary wall should therefore comply with the above-mentioned legislation relating to boundary walls.</p> <p><u>Parking:</u></p> <p>As mentioned in Point 3, parking bays will be provided in accordance with the <i>Swartland Municipal Land Use Planning By-law (PG 8226)</i>. More than sufficient provision is made for the proposed development in terms of on-site parking bays.</p>
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3. Conclusion

The major concerns of the surrounding neighbours are based on the potential negative effect on the proposed commercial development will have on the surrounding residential environment, with reference to traffic and privacy, as well as a possible decrease of safety to the children residing in the area. It is believed that the objectors' concerns are adequately addressed.

Considering the above, it is evident that the proposed development will not have a significant impact on the surrounding properties, or built environment, seeing that the *Swartland Municipal Land Use Planning By-law (PG 8226)* and *Swartland Spatial Development Framework (2019)* are sufficient to coordinate development within the Swartland Municipal area. This office is of opinion that the proposed development on Erf 10024, Malmesbury, will not have a negative impact on surrounding properties, but rather maximize the development potential of Erf 10024 and contribute to economic growth in Malmesbury by, amongst others, providing new job opportunities in Malmesbury.

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

Kind regards

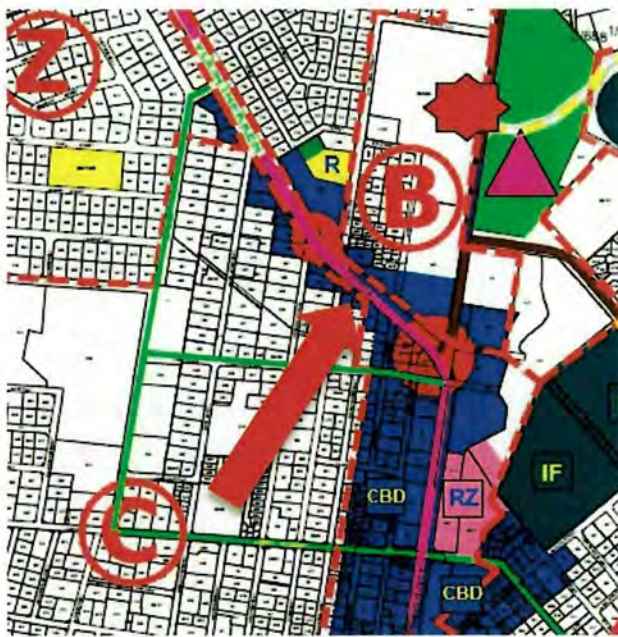


Zanelle Nortje / Mandri Viljoen
For CK RUMBOLL & PARTNERS

Annexure A
Malmesbury SDF (2019) Land Use Proposals

Extract from Swartland Spatial Development Framework (2019): Malmesbury

Land Use Proposals



KEY	
URBAN EDGE	
RESIDENTIAL	R
MEDIUM HIGH DENSITY RESIDENTIAL	RHD
RURAL DEVELOPMENT	RD
URBAN AGRICULTURE	UA
DEVELOPMENTAL NODE	DN
BUSINESS NODE	BN
COMMERCIAL	COM
PROPOSED MARKET AREA NEXT TO DIEPRIVER AND SPORTSGROUNDS	MA
MEDICAL PRECINCT	MD
INSTITUTIONAL FACILITY	IF
RESTRUCTURING ZONES for social housing	RZ
INDUSTRIAL	IND
LIGHT INDUSTRIAL	LI
MIXED USES: Light / Service Industries Commercial / Wholesale	MU
SENSITIVE DEVELOPMENT	SD
CENTRAL BUSINESS DISTRICT	CBD
PUBLIC SPORT FACILITY	PSF
PUBLIC RECREATION NODE	PRN
INTEGRATED SPORT & COMMUNITY FACILITY	ISCF
CEMETERY EXPANSIONS	
INFRASTRUCTURE	
EXTERNAL CONNECTION ROUTES	
INTERNAL COLLECTORS	
ACTIVITY CORRIDORS	
ACTIVITY STREETS	
PROPOSED NEW CONNECTION ROUTES	
RAILWAY CONNECTION	
RESERVOIRS	
PROPOSED PEDESTRIAN NETWORK	
TOURISM ROUTES	
ONEWAY TRAFFICFLOW PROPOSAL	
TOURISM NODES	
PROPOSED TRAFFIC CIRCLES	
DIEPRIVER OPEN SPACE CORRIDOR	
NATURAL OPEN SPACE STRIPS	
OPEN SPACE CONNECTION CORRIDOR	
RIVERS / DRAINAGE LINES	
DUALLING WITH SERVICES UNDER THE N7 ROAD	
BRIDGE WIDENINGS OVER THE DIEPRIVER	
STRENGTHEN SUPPLY NETWORK	
POSSIBLE RETENTION FACILITY	
NEW RESERVOIR	
SUB-STATIONS	
HIGHLANDS WASTE MANAGEMENT SITE WITH 500M BUFFER ZONE	

MALMESBURY LAND USE ZONES		Low Density Residential Uses	Medium Density Residential	High Density Residential	Secondary Educational Uses	Institutional Uses	Professional Services	Business Uses	Secondary Business Uses	Churches	Institution	Guest houses	Authority	Sport/Recreational Facilities	Industries & Service Trade
C	Zone C has a mixed land use character consisting of low and medium density residential uses and also supporting functions like crèches, schools, hostels and a hospital. Densification and mixed uses are allowed for in the transition areas next to the commercial and industrial areas and along the activity streets.	X	X	X 1	X	X	X 4	X 4	X 4	X	X	X	X	X	X
D	Zone D is the Central Business District with a commercial character. Include a restructuring zone identified for potential development of social housing.	X	X	X 2	X	X	X	X	X	X	X	X	X	X	X

(4) Along activity streets

Annexure B
Western Cape Department of Roads Letter



CK Rumboll & Partners <planning1rumboll@gmail.com>

(Job 29667) - Erf 10024, Malmesbury

1 message

Devlin Fortuin <Devlin.Fortuin@westerncape.gov.za>
To: "planning1@rumboll.co.za" <planning1@rumboll.co.za>
Cc: Vanessa Stoffels <Vanessa.Stoffels@westerncape.gov.za>

Wed, Jul 27, 2022 at 10:48 AM

Good Day Mandri

1. Your email to this Branch referenced MAL/12463/ZN/MV dated 29 June 2022 refers.
2. Main Road 174 (Voortrekker Road), of which the Swartland Municipality is the Road Authority is affected by your proposal.
3. This Branch is therefore only involved in terms of Section 17 of the Roads Ordinance 19 of 1976 (5m building line) which is not affected.
4. Accordingly this Branch offers no objection to the proposal.

Kind Regards

Devlin Fortuin, PrEng

Production Engineer: Road Use Management

Chief Directorate: Road Planning

Transport and Public Works

Western Cape Government

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Annexure C
Site Development Plan

KOPIEREG WORD VOORBEHOU.
GESKREWE MATES GENIET VOORKEUR
BO GESKAALDE MATES.
KONTROLEER ALLE MATES EN HOOGTES
OP TERREIN VOOR WERK BEGIN.



GROND - EN TERREINPLAN
SKAAL 1:100
BUITE OPPERVLAKE - 138 M²
- ROOI KLEI SIERSTEEN
STAAL EN HOUT TRAP



EERSTEVLOER
SKAAL 1:100
BUITE OPPERVLAKE - 138 M²
- ROOI KLEI SIERSTEEN
STAAL EN HOUT TRAP
KANTORE 1 EN 2 WORD APART VERHUUR EN DEEL
TOILETTE, KOMBUIS EN RAADSAA MET KANTORE 3 TOT 6

eienaar se handtekening

ANTON DE KLERK
PROFESIONELE SENIOR
ARGITEKSTEGNOLOOG
EN BOUKONSULTANT
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Tiaan 082 392 2246
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kantore vir
H Baumgarten
op erf 10024
Voortrekkerstraat
Malmesbury

tek titel:
sketsplan 1

skaal
getoon
datum
22/06/22
getek
Anton
de Klerk

tek no. 2206 0000
hierdie A1 vel alleen