



**MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING HELD IN THE COMMITTEE ROOM:
CORPORATE SERVICES ON WEDNESDAY, 8 FEBRUARY 2023 AT 14:00**

PRESENT

Internal members:

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

External members:

Ms C Havenga
Mr C Rabie

Other officials:

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

1. OPENING

The chairperson opened the meeting and welcomed members.

2. APOLOGY

No apology was received.

3. DECLARATION OF INTEREST

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

4. MINUTES

4.1 MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON 16 NOVEMBER 2022

RESOLUTION

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

That the minutes of a Municipal Planning Tribunal Meeting held on 16 November 2022 are approved and signed by the chairperson.

5. MATTERS ARISING FROM MINUTES

None.

6. MATTERS FOR CONSIDERATION

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

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

6.1/...

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

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

RESOLUTION

A. The application for the rezoning of Erf 331, Moorreesburg, be approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), subject to the conditions that:

A1 TOWN PLANNING AND BUILDING CONTROL

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

A2 WATER

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

A3 SEWERAGE

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

A4 REFUSE REMOVAL

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

B. **GENERAL**

- (a) The approval is in terms of section 76(2)(w) of the By-Law valid for a period of 5 years. All conditions of approval be met within 90 days before the occupancy certificate be issued. Failure to comply will result in the approval expiring;
- (b) Appeals against the Municipal Planning Tribunal should be directed, in writing, to the Municipal Manager, Swartland Municipality, Private Bag X52, Malmesbury, 7299 or by e-mail to swartlandmun@swartland.org.za, no later than 21 days after registration of the approval letter. A fee of R4 500,00 is to accompany the appeal and section 90 of the By-Law complied with, for the appeal to be valid. Appeals that are received late and/or do not comply with the aforementioned requirements, will be considered invalid and will not be processed.

C. The application be supported for the following reasons:

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

6.1/C...

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

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

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

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

RESOLUTION

- A. The application for the amendment of restrictive condition C1(5) from Deed of Transfer T9212/2020 be approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), subject to the following conditions:

A1 TOWN PLANNING AND BUILDING CONTROL

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

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

be amended as follows:

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

- (b) The following process be followed:
- (i) The applicant/owner applies to the Deeds Office to amend the Title Deed in order to reflect the amendment of the restrictive condition;
 - (ii) The following minimum information be provided to the Deeds Office in order to consider the application, namely:
 - Copy of the approval by Swartland Municipality;
 - Original Title Deed, and
 - Copy of the notice which was placed by Swartland Municipality in the Provincial Gazette;
 - (iii) A copy of the amended Title Deed be provided to Swartland Municipality for record purposes;
- (c) Building plans be submitted to the Senior Manager: Development Management, for consideration and approval;

B. GENERAL

- (a) Appeals against the Municipal Planning Tribunal should be directed, in writing, to the Municipal Manager, Swartland Municipality, Private Bag X52, Malmesbury, 7299 or by e-mail to swartlandmun@swartland.org.za, no later than 21 days after registration of the approval letter. A fee of R4 500,00 is to accompany the appeal and section 90 of the By-Law complied with, for the appeal to be valid. Appeals that are received late and/or do not comply with the aforementioned requirements, will be considered invalid and will not be processed;

6.2/B...

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

C. The application be supported for the following reasons:

- (a) The proposal is specifically applied for to accommodate the existing deck. The deck has no impact on neighbouring properties nor the town as a whole. The possible impact of the amendment of the restriction from 3,15 m to 2,4 m in terms of future development is deemed insignificant;
- (b) Any future development on Erf 205, Yzerfontein encroaching on the building lines will result in a new application and public participation process;
- (c) The proposed development is not perceived to have a detrimental impact on the health and safety of surrounding landowners, nor will it negatively impact on environmental/heritage assets;
- (d) All costs relating to the application are for the account of the applicant and there is no impact on municipal services.

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

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

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

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

RESOLTUION

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

B. GENERAL

Appeals against the Municipal Planning Tribunal be directed, in writing, to the Municipal Manager, Swartland Municipality, Private Bag X52, Malmesbury, 7299 or by e-mail to swartlandmun@swartland.org.za, no later than 21 days after registration of the approval letter. A fee of R4 500, 00 is to accompany the appeal and section 90 of the By-Law complied with, for the appeal to be valid. Appeals that are received late and/or do not comply with the aforementioned requirements, will be considered invalid and will not be processed;

C. The application be refused for the following reasons:

- (a) The development proposal does not adhere to the spatial planning principles and can therefore be considered inconsistent with the spatial planning principles as contained in SPLUMA and LUPA;
- (b) The development proposal is deemed inconsistent with the PSDF as it will detract from the character of the area as well as negatively impact the sense of place. Decision making should target existing economic nodes (CBDs or township centres) to accommodate development of this scale and nature;
- (c) The proposal is deemed to be in contradiction with the MSDF, 2019 which supports concentration of mixed use development along identified main activity corridors and streets to support integration. It also rather support the strengthening of the primary commercial node along Main Street and secondary

6.3/C(c)...

- nodes in neighbourhoods with specific reference to the secondary commercial nodes in higher density poorer neighbourhoods;
- (d) It is acknowledged that business uses are supported within the industrial area as the By-Law makes provision for numerous commercial uses as primary as well as consent uses. The proposed development is deemed to be in conflict with the objective of the Industrial Zone 2 zoning as it will compromise the general use of the area zoned for industry;
 - (e) The location of the proposed usage is not desirable and furthermore no site specific circumstances have been submitted to deviate from the SDF;
 - (f) The proposal, given its location, is deemed not to be in the interest of the community of Darling.

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

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

RESOLUTION

- A. The application for consent use on Erf 9291, Malmesbury, in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), be approved, subject to the conditions that:

A1 TOWN PLANNING AND BUILDING CONTROL

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

A2 WATER

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

A3 SEWERAGE

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

A4 DEVELOPMENT CHARGES

- (a) The owner/developer is responsible for a development charge of R6 534,30 (R10 890,50 x 0.6 for Single Res) towards the bulk supply of regional water, at building plan stage. The amount is payable to the Swartland Municipality, valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA 9/249-176-9210);
- (b) The owner/developer is responsible for the development charge of R7 340,83 towards bulk water reticulation, at building plan stage. The amount is payable to the Municipality, valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA: 9/249-174-9210);
- (c) The owner/developer is responsible for the development charge of R3 631,57 towards sewerage, at building plan stage. The amount is payable to this Municipality, valid for the financial year of 2022/2023 and may be revised thereafter. (mSCOA: 9/240-184-9210);
- (d) The owner/developer is responsible for the development charge of R5 410,05 towards roads and stormwater at building plan stage. The amount is payable to the Municipality, valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA: 9/247-144-9210);
- (e) The owner/developer is responsible for the development charge of R4 358,90 towards electricity, at clearance stage. The amount is payable to the Municipality, valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA: 9/253-164-9210);

6.4/A4....

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

B. GENERAL

- (a) The approval is, in terms of section 76(2)(w) of the By-Law valid for a period of 5 years. All conditions of approval be complied with before the occupancy certificate be issued. Failure to comply will result in the approval expiring;
- (b) The approval does not exonerate the applicant from obtaining any necessary approval from any other applicable statutory authority;
- (c) Appeals against the Municipal Planning Tribunal be directed, in writing, to the Municipal Manager, Swartland Municipality, Private Bag X52, Malmesbury, 7299 or by e-mail to swartlandmun@swartland.org.za, no later than 21 days after registration of the approval letter. A fee of R4 500,00 is to accompany the appeal and section 90 of the By-Law complied with, for the appeal to be valid. Appeals that are received late and/or do not comply with the aforementioned requirements, will be considered invalid and will not be processed.

C. The application be supported for the following reasons:

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

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

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

RESOLUTION

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

B1 TOWN PLANNING AND BUILDING CONTROL

- (a) Erf 1911 (775 m² in extent) be rezoned from Residential Zone 1 to Business Zone 2, in order to accommodate a business premises on the property, as well as four (4) flats, as presented in the application;
- (b) Building plan 1911-06-2022, including the revised layout, sections and elevations presented in the response to objections, be submitted to the Senior Manager: Development Management for consideration and approval;

6.5/B1...

- (c) The operating hours of the restaurant be restricted to 7:00 – 19:00 from Monday to Saturday and be closed on Sundays;
- (d) The minimum of nine (9) on-site parking bays be provided and that the parking bays be clearly marked;
- (e) The parking bays, including the sidewalk, be finished in a dust-free, permanent surface, being gravel or paving to the satisfaction of the Director: Civil Engineering Services;
- (f) The northern-most parking bay be at least 10 metres removed from the street corner;
- (g) A detailed Site Development Plan be submitted to the Senior Manager: Development Management for consideration and approval;
- (h) A detailed Landscape Plan be submitted to the Senior Manager: Development Management for consideration and approval;
- (i) Application be made to the Senior Manager: Development Management for the right to construct or affix and display any signage and that the signage be limited to 1m² in area and may not project over a public street;
- (j) A Certificate of Compliance be obtained from the West Coast District Municipality for the operation of the restaurant;
- (k) A trade licence be obtained from Swartland Municipality for the operation of the business premises;
- (l) No off-site parking be allowed;

B2 WATER

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

B3 SEWERAGE

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

B4 DEVELOPMENT CONTRIBUTIONS

- (a) The owner/developer is responsible for a development charge of R18 513,85 towards the bulk supply of regional water, at clearance stage. The amount is payable to the Swartland Municipality, valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA 9/249-176-9210);
- (b) The owner/developer is responsible for the development charge of R26 614,45 towards bulk water reticulation, at building plan stage. The amount is payable to the Municipality, valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA: 9/249-174-9210);
- (c) The owner/developer is responsible for the development charge of R37 886,75 towards sewerage, at building plan stage. The amount is payable to the Municipality, valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA: 9/240-184-9210);
- (d) The owner/developer is responsible for the development charge of R24 634.15 towards roads and storm water, at building plan stage. The amount is payable to the Municipality, valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA: 9/247-144-9210).
- (e) The Council resolution of May 2022 makes provision for a 35% discount on development charges to Swartland Municipality, except for condition B4(a), which is payable in full. The discount is valid for the financial year 2022/2023 and may be revised thereafter;

- C. The application for a departure on Erf 1911, Riebeeck Kasteel, be approved in terms of section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020);

C1 TOWN PLANNING AND BUILDING CONTROL

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

D./...

D. **GENERAL**

- (a) Should the extension of any existing service be needed in order to provide the development with services, said extension be for the account of the owner/developer;
- (b) The approval is, in terms of section 76(2)(w) of the By-Law valid for a period of 5 years. All conditions of approval be complied with before the occupancy certificate be issued. Failure to comply will result in the approval expiring;
- (c) Appeals against the Municipal Planning Tribunal be directed, in writing, to the Municipal Manager, Swartland Municipality, Private Bag X52, Malmesbury, 7299 or by e-mail to swartlandmun@swartland.org.za, no later than 21 days after registration of the approval letter. A fee of R4 500,00 is to accompany the appeal and section 90 of the By-Law complied with, for the appeal to be valid. Appeals that are received late and/or do not comply with the aforementioned requirements, will be considered invalid and will not be processed;

E. The application be supported for the following reasons:

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

**(SIGNED) J J SCHOLTZ
CHAIRPERSON**