



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

PRESENT

Internal members:

Municipal Manager, Mr J J Scholtz (chairperson)
Director: Corporate Services, Ms M S Terblanche

External members:

Ms C Havenga

Other officials:

Director: Development Services, Ms J S Krieger
Senior Manager: Development Management, Mr A M Zaayman
Senior Town and Regional Planner, Mr A J Burger
Manager: Secretariat and Records, Ms N Brand (secretariat)

1. OPENING

The chairperson opened the meeting and welcomed members.

2. APOLOGY

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

3. DECLARATION OF INTEREST

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

4. MINUTES

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

RESOLUTION

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

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

That paragraph A6: Development Charges be deleted.

5. MATTERS ARISING FROM MINUTES

None.

6. MATTERS FOR CONSIDERATION

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

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

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

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

RESOLUTION

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

C1 TOWN PLANNING AND BUILDING CONTROL

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

C2 WATER

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

C3 SEWERAGE

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

C4 ROADS AND STORMWATER

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

C5 ELECTRICITY

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

D. GENERAL

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

E. The application be supported for the following reasons:

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

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

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

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

RESOLUTION

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

A1 TOWN PLANNING AND BUILDING CONTROL

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

A2 WATER

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

A3 SEWERAGE

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

B. The application for building line departure on Erf 353, Malmesbury, be approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), subject to the conditions that:

B2 TOWN PLANNING AND BUILDING CONTROL

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

6.2/B2...

- (c) Relaxation of the south-eastern side building line from 5m to 1m to accommodate the existing carport;

- C. The application for departure on Erf 353, Malmesbury, be approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), subject to the conditions that:

C1 TOWN PLANNING AND BUILDING CONTROL

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

D. GENERAL

- (a) The approval does not exempt the owner/developer from compliance with all legislation applicable to the facility;
- (b) The approval is valid for a period of 5 years, in terms of section 76(2) of the By-Law, from the date of decision. Should an appeal be lodged, the 5 year validity period starts from the date of outcome of the decision against the appeal. All conditions of approval be implemented by 30 November 2023 and before the new land use comes into operation/or the occupancy certificate be issued and failing to do so will cause the approval to lapse. Should all conditions of approval be met, the land use becomes permanent and the approval period will no longer be applicable.
- (c) The applicant/objector be informed of the right to appeal against the decision of the Municipal Planning Tribunal in terms of section 89 of the By-Law. Appeals be directed, in writing, to the Municipal Manager, Swartland Municipality, Private Bag X52, Malmesbury, 7299 or by e-mail to swartlandmun@swartland.org.za, within 21 days of notification of decision. An appeal is to comply with section 90 of the By-Law and is to be accompanied by a fee of R5 000,00 in order to be valid. Appeals that are received late and/or do not comply with the aforementioned requirements, will be considered invalid and will not be processed.

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

- (a) The application complies with the planning principles of LUPA and SPLUMA;
- (b) The application is compliant with the spatial planning of Malmesbury, as directed by the SDF;
- (c) The proposed community facility will complement and not have a negative impact on the residential character of the surrounding area;
- (d) The development proposal supports the optimal utilisation of the property;
- (e) Sufficient services capacity exists to accommodate the proposed facility;
- (f) Sufficient on-site parking bays can be provided for the proposed facility;
- (g) Health and safety issues will be regulated by rigorous applicable legislation;
- (h) The proposed use is considered a low impact, low-risk, low noise activity;
- (i) The traffic impact of the facility on the tranquillity of the neighbourhood is deemed to be negligible;
- (j) The development is foreseen to create employment opportunities and to subsequently assist in strengthening the local economy;
- (k) The health care facility provides a much needed social amenity in the community;
- (l) The health care facility is a non-profit organization which provides an important service to the frail elderly in the Swartland where these type of facilities are limited. For this reason the owner/developer is exempted from the provisions to make a financial contribution for the non-provision of on-site parking.

**(SIGNED) J J SCHOLTZ
CHAIRPERSON**