



**MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON WEDNESDAY, 10 APRIL 2019  
AT 14:00 IN THE COMMITTEE ROOM: CORPORATE SERVICES**

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**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:

Mr C Rabie  
Mr W Steyn

Other officials:

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

**1. OPENING**

The chairperson opened the meeting and thanked members for attending the site visits.

**2. APOLOGY**

No apologies received.

**3. DECLARATION OF INTEREST**

**RESOLVED** that cognisance is taken that no declaration of interest was received.

**4. MINUTES**

**4.1 MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON 13 MARCH 2019**

**RESOLVED**

That the minutes of a Municipal Planning Tribunal Meeting held on 13 March 2019 are approved and signed by the chairperson, subject to the correction of grammar and spelling errors and the following amendment –

ITEM 6.4: APPLICATION FOR REZONING AND DEPARTURE ON ERF 4136, MALMESBURY  
(15/3/3-8; 15/3/4-8) (WARD 8)

paragraph 3 of preamble: However, it was discussed with the owner ~~who attended the meeting~~ [delete] to erect a notice board with contact details for lodging of complaints, specially after-hours.

**5. MATTERS ARISING FROM THE MINUTES OF 13 MARCH 2019**

None

## 6. MATTERS FOR CONSIDERATION

### 6.1 APPLICATION FOR REZONING AND CONSENT USE ON PORTION 48 OF THE FARM BROOD KRAAL, NO 154, DIVISION MALMESBURY (WARD 1)

The author, Ms A de Jager, confirmed that the members of the Municipal Planning Tribunal are well known with the application after visiting the application property on date.

The application entails the rezoning of portions of Portion 48 of the Farm Brood Kraal, no. 154, from Agricultural Zone 1 to Leisure Accommodation Zone, Holiday Accommodation and Community Zone 2, as well as for the consent to operate a Tourist Facility, Resort Shop and a Conference Facility.

Ms de Jager confirmed that, although only a guideline, the Resort Development Guidelines was relied upon during the evaluation of the application. According to the standards of the Resort Development Guidelines and according to observations during the site visit the scale of the proposed development is considered medium.

Ms de Jager also confirmed that it was established during the site visit that the Site Development Plan handed in with the application was incomplete in terms of, amongst other, flood lines relevant to facilities, method of dealing with sewerage, etc. It is therefore

#### **RESOLVED**

- A. That the application be referred back to the applicant to address the following matters:
- (a) Although the flood lines were determined as prescribed by the Department of Water Affairs, another two diagonal cuts be done in order to confirm that the proposed camping sites (No 1 and No 2) located nearer to the riverbed are situated outside the flood lines;
  - (b) An Architectural Design Manual be submitted in order to confirm the design, building materials and color of the proposed buildings;
  - (c) Only temporary structures of material previously approved by the Municipality (such as wood, nu-tech) be erected for the purpose to easily remove the structures if the resort is not operated successfully;
  - (d) The non-alienation of the structures be confirmed in writing;
  - (e) The zoning of only two portions as resort be considered in order to allow for open spaces between the pockets, and not agricultural land;
  - (f) A Site Development Plan be submitted in accordance with the on-site situation, in other words, the Site Development Plan must represent everything that is going to be established, as well as the accurate location thereof, including:
    - (i) The correct number of camping sites, units, etc;
    - (ii) The sewerage system that is in use and/or the proposed sewerage system;
    - (iii) The correct location of the sewerage treatment plant as indicated on the service plan;
    - (iv) The location of the stables that will be operated as a "backpackers" facility;
    - (v) The location of the ESKOM-line in order to ensure that the requirements of ESKOM are adhered to;
  - (g) Confirmation of the sewerage system that will be used, as the current situation differs from what is proposed on the Site Development Plan and the Service Plan;
  - (h) Confirmation from the West Coast District Municipality that adequate capacity exists to provide the resort with drinking water before the application can be considered;
- B. That the following conditions are amended/added in the report when it is tabled to the Municipal Planning Tribunal together with above mentioned aspects, namely:

#### **TOWN PLANNING AND BUILDING CONTROL**

[numbering will be corrected in the final report]

6.1/B...

- Building plans for the existing illegal structures, as well as all new structures be submitted to the Director: Development Services for consideration and approval;
- No permanent occupation of any of the structures will be allowed;
- The approval of the resort will in no way give any rights to the applicant to object to agricultural activities practised on the surrounding farms, as agriculture remains the primary land use right of all the properties in the area, including the application property;
- The owner/developer enter into a written agreement with the owners of the Remainder of Farm 154, Broodkraal and Portion 12 of the Farm Soetdraai, no 154, that would restrict the development of a resort on either of the properties and that the agreement be registered as development restrictions in the respective Title Deeds;

#### **SEWERAGE**

[numbering will be corrected in the final report]

- The owner/developer be requested to, until the sewerage system indicated on the Site Development Plan and Services Plan is fully operational, dispose of sewerage at an approved licensed sewerage plant;
- The owner/developer ensures that no pollution of water resources, underground as well as surface water, take place;

#### **GENERAL**

[moved from town planning and building control] The approval is valid for a period of 5 years in terms of section 76(2)(w) of the By-Law. All conditions of approval must be complied with within the 5 year period and failing to do so will result in the approval expiring;

C. That the following reasons be added in support of the application:  
[numbering will be corrected in the final report]

- The site inspection showed that the resort development has no impact on the objector due to the slope of the river relevant to the location of the objector's property, as well as the distance between the two properties;
- The uniqueness of the site for resort development can be attributed to:
  - o access to the river and sandbank formed at a specific location due to the weir;
  - o the application property with no opportunities for expansion being surrounded by farms with intensive farming practices up to the riverbed and being pushed against the river;
  - o the 58 ha farm cannot be operated as an economic agricultural unit, hence the application for other uses to establish a more financially sustainable unit;
  - o The proposed resort promotes the cluster development principle adjacent to Broodkraal Estate, rather than to impede on high potential agricultural land elsewhere.

### **6.2 APPLICATION FOR DEPARTURE ON ERF 2035, RIEBEEK KASTEEL (15/3/4-11) (WARD 12)**

Mr H Olivier tabled the item which entails the application for the departure of the 4 m street building line to 1.5 m (Wilde Olyf Street) on erf 2035, Riebeek Kasteel in order to accommodate an existing building on the property.

#### **RESOLUTION**

A. The application for the departure on erf 2035, Riebeek Kasteel in terms of section 70 of the Swartland Municipality: By-law on Municipal Land Use Planning (PG 7741 of 3 March 2017), be approved to depart from the required 4 m street building line to 1.5 m (Wilde Olyf Street), in order to accommodate the existing building on the property;

B./...

6.2/...

**B. GENERAL**

(a) The objectors are 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 is supported for the following reasons:

- (a) There are physically no restrictions on the property that will have a negative impact on the application.
- (b) There are no restrictions registered against the title deed of the property that will negatively impact the proposed development;
- (c) The proposed departure 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.

**6.3 APPLICATION FOR REZONING, CONSOLIDATION AND SUBDIVISION OF ERVEN 46, 87, 91, 200, 619, 620 AND 621, KALBASKRAAL (15/3/3-6, 15/3/6-6, 15/3/12-6) (WARD 7)**

The application properties were visited by the members of the Municipal Planning Tribunal on date. The author, Mr A de Jager, stated that the application is for the establishment of a housing project, with a total of 134 erven, in Kalbaskraal.

A discussion followed on the objections received and means to mitigate the concerns. It is important to start with the housing project as soon as possible, keeping in mind the protests that recently occurred in Kalbaskraal. The main concern of the objectors is the impact on the value of their property, the visual impact as well as the security impact of the housing development.

Mr Rabie confirmed, as done in the consideration of many other applications, that in accordance with the development principles of SPLUMA, a Municipal Planning Tribunal may not be impeded or restricted in the exercise of its discretion solely on the ground that the value of the land or property is affected by the outcome of the application.

The chairman confirmed that the formalisation of informal settlements in Kalbaskraal and the addressing of housing needs will have a positive impact and refute the objections raised. Ms de Jager also mentioned that the concerns raised by the objectors are further addressed by the development conditions.

**RESOLUTION**

- A. The application for the rezoning of Erf 46, Erf 87, Erf 91, Erf 200, Erf 619, Erf 620 and Erf 621, Kalbaskraal, from Residential Zone 1 to Subdivisional Zone, be approved in terms of section 70 of the Swartland Municipal Land Use Planning By-Law (PG 7741 of 3 March 2017);
- B. The application for the consolidation of Erf 619, Erf 620 and Erf 621, Kalbaskraal, be approved in terms of section 70 of the Swartland Municipal Land Use Planning By-Law (PG 7741 of 3 March 2017);
- C. The application for the subdivision of Erf 46, Erf 87, Erf 91, Erf 200 and the newly consolidated Erf A, Kalbaskraal, be approved in terms of section 70 of the Swartland Municipal Land Use Planning By-Law (PG 7741 of 3 March 2017), into the following portions:
  - (i) 134 x Residential Zone 4 erven;
  - (ii) 2 x Open Space Zone 1 erven; and
  - (iii) 6 x Transport Zone 2 erven;
- D. Approvals A, B and C are subject to the conditions that:

**D1 TOWN PLANNING AND BUILDING CONTROL**

- (a) Erf 46, Erf 87, Erf 91, Erf 200, Erf 619, Erf 620 and Erf 621, Kalbaskraal, be rezoned from Residential Zone 1 to Subdivisional Zone, in order to accommodate a subsidised residential development, as presented in the application;

- (b) Erf 619 (1 080m<sup>2</sup> in extent), Erf 620 (1 101m<sup>2</sup> in extent) and Erf 621 (1 131m<sup>2</sup> in extent), Kalbaskraal, be consolidated into one erf, namely Erf A (3 312m<sup>2</sup> in extent), as presented in the application;
- (c) Erf 46, Erf 87, Erf 91, Erf 200 and the newly consolidated Erf A, Kalbaskraal, be subdivided as follows, as presented in the application:
  - (i) Erf 46: 37 x Residential Zone 4 erven, 2 x Open Space Zone 1 erven and 1 Transport Zone 2 erf;
  - (ii) Erf 87: 25 x Residential Zone 4 erven and 1 Transport Zone 2 erf;
  - (iii) Erf 91: 28 x Residential Zone 4 erven and 1 x Transport Zone 2 erf;
  - (iv) Erf 200: 25 x Residential Zone 4 erven and 1 x Transport Zone 2 erf;
  - (v) Erf A: 19 x Residential Zone 4 erven and 1 x Transport Zone 1 erf;
- (d) A total of ±681 running metres of boundary walls or fencing, 1,8m in height, be provided around each of the developments on the boundaries that abut differently zoned properties;
- (e) Building plans for said fences be submitted to the Director: Development Services for consideration and approval;
- (f) The boundary walls or fences be constructed of building materials previously approved by the Director: Development Services for consideration and approval;

**D2 WATER**

- (a) The water reticulation system be designed by an engineer, appropriately registered in terms of Act 46 of 2000;
- (b) The design be submitted to the Director: Civil Engineering Services for consideration and approval and that said services be provided under his supervision;

**D3 SEWERAGE**

- (a) The sewerage system be designed by an engineer, appropriately registered in terms of Act 46 of 2000;
- (b) The design be submitted to the Director: Civil Engineering Services for consideration and approval and that said services be provided under his supervision;

**D4 STREETS AND STORM WATER**

- (a) The streets and storm water be designed by an engineer, appropriately registered in terms of Act 46 of 2000;
- (b) The design be submitted to the Director: Civil Engineering Services for consideration and approval and that said services be provided under his supervision;

**D5 ELECTRICITY**

- (a) The following building and tree restriction on either side of centre line of overhead power line be observed:

Voltage	Building restriction either side of centre line
11kV	9.0 m

- (b) No construction work may be executed closer than 6 (six) metres from any Eskom structure or structure-supporting mechanism;
- (c) No work or no machinery be allowed nearer than the following distances from the conductors:

Voltage	Not closer than:
11kV	3.0 m

- (d) Natural ground level must be maintained within Eskom reserve areas and servitudes;
- (e) That a minimum ground clearance of the overhead power line must be maintained to the following clearances:

Voltage	Safety clearance above road:
11kV	6.3 m

**E. GENERAL**

- (a) The land use approval does not constitute exemption from complying with any and all other legal procedures, applications and/or approvals related to the intended land use;
- (b) The approval is valid for a period of 5 years in terms of section 76(2)(w) of the By-Law. All conditions of approval must be complied with within the 5 year period and failing to do so will result in the approval expiring;

**F. The application is supported for the following reasons:**

- (a) The proposed application is consistent and not in contradiction with the Spatial Development Frameworks adopted on Provincial, District and Municipal spheres as discussed above;
- (b) There are no physical restrictions on the property that will have a negative impact on this application. The area is relatively flat and within the urban edge;
- (c) The proposal constitutes infill development and densification, both of which are principles promoted by legislation of all government spheres;
- (d) The development will assist in alleviating the housing need in Kalbaskraal, through providing 134 serviced erven to previously and currently disadvantaged people;
- (e) The development proposal is consistent with the residential character of the surrounding area;
- (f) The proposed land use will have a positive economic impact as it will provide access to recipients of erven to their own piece of land, on which entrepreneurship is encouraged;
- (g) The provision of serviced erven will provide an organised, safe and healthy environment to disadvantaged people;
- (h) The cultural and natural heritage of the area is not negatively impacted upon and the visual impact of the development may be mitigated by the construction of boundary walls;
- (i) The development will enable each property owner to legally utilise his/her erf for residential purposes, thereby alleviating back yard dwelling and illegal settlement on privately owned land;
- (j) The proposed development is not foreseen to have a detrimental impact on the health and safety, nor the rights of surrounding land owners, but formalising the development is rather intended to ensure that these aspects of community life are protected;
- (k) The development proposal is considered desirable within its context, i.e. spatially, culturally, environmentally and economically;
- (l) The boundary walls/fences be proposed as a mitigating measure in order to accommodate the effected land-owners.

**(SIGNED) J J SCHOLTZ  
CHAIRPERSON**