



**MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON WEDNESDAY, 13 MARCH 2019
AT 14:00 IN THE COMMITTEE ROOM: CORPORATE SERVICES**

PRESENT

Internal members:

Director: Corporate Services, Ms M S Terblanche (acting Chairperson)
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 welcomed all members.

2. APOLOGY

Apology received from the Municipal Manager, Mr J J Scholtz.

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 FEBRUARY 2019

RESOLVED

(proposed by Mr C Rabie, seconded by Mr P A C Humphreys)

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

ITEM 6.1: REMOVAL OF TITLE RESTRICTIONS AND DEPARTURE ERF 465, YZERFONTEIN

F(j) Seeing that it does not relate to what is being applied for there is not enough motivation to remove all the conditions pertaining to building lines and use and therefore the removal of restrictive title conditions E6(a), E6(b)(i) and E6(b)(ii) of the Deed of Transfer T55296/2017 be refused;

5. MATTERS ARISING FROM THE MINUTES OF 13 MARCH 2019

None

6. MATTERS FOR CONSIDERATION

6.1 APPLICATION FOR THE SUBDIVISION OF PORTION 97 OF FARM GOEDE HOOP NO 758, DIVISION MALMESBURY (15/3/6-15; 15/3/13-15) (WARD 4)

The author, Mr A J Burger, presented an overview on policy development relevant to Tierfontein in order to address the market demand for smaller rural units. Tierfontein is for this purpose included in the Intensive Rural Development Corridor (IRDC) of Swartland Municipality.

The 2017-2022 SDF contains development directives for Tierfontein and further subdivision is allowed where land capacity and water capacity is adequate. The application is in line with the guidelines which specify a minimum subdivision size of 10 ha.

Mr Burger emphasised the importance to consider the impact of development on groundwater sources. Water in the Tierfontein smallholding area is mainly obtained from local groundwater sources served by two aquifers. There is existing boreholes on the relevant property and the indication is that sufficient drinking water for both domestic and for animals is available.

RESOLUTION

- A. The application for the subdivision of portion 97 of farm Goede Hoop no 758, Division Malmesbury is approved in terms of Section 70 of the Swartland Municipality Land Use Planning By-Law (PG 7741 of 3 March 2017), subject to the following conditions:

A1 TOWN PLANNING AND BUILDING CONTROL

- (a) Farm 758/97, Division Malmesbury is subdivided into a remainder ($\pm 10,3$ ha) and portion A ($\pm 10,2$ ha) as presented in the application;
- (b) A 6m side right of way servitude be registered on the remainder of farm 758/97 in order to provide access to the newly created portion;
- (c) The current water rights of farm 758/97, Division Malmesbury be shared between the remainder and newly created portion and be dealt with in terms of the requirements of the Department Water and Sanitation;
- (d) A services servitude be registered on the remainder in favour of the newly created portion for the use of water from the borehole if a new borehole is not made on the newly created portion. If a new borehole is made on the newly created portion, water use must be dealt with in accordance with condition A1(c);
- (e) The proposed registration of the right of way servitude on the remainder of farm 758/97, Division Malmesbury, complies with the requirements of Section 34 of the Swartland Municipal Land Use Planning By-Law (PG 7741 of 3 March 2017) and therefore does not require the approval from Swartland Municipality.
- (f) The legal certificate which authorises transfer of the subdivided portion in terms of Section 38 of By-law will not be issued unless all the relevant conditions have been complied with;

A2 WATER

- (a) The applicant and future owner of the newly created portion are responsible for their own water use which needs to comply with the SABS 241-1984 standard;

A3 SEWERAGE

- (a) Sewerage services be provided for household sewerage by means of a vacuum truck;
- (b) A conservancy tank of sufficient capacity be provided to the satisfaction of the Municipality;

A4 REFUSE REMOVAL

- (a) If any of the municipal dumpsites are to be used, pre-paid coupons must be bought at a municipal office and submitted at the dumpsite prior to dumping;

A5/...

A5 ESKOM

Eskom approves the proposed work in principle subject to the following:

- (a) The approval is valid for **12 months** only, after which reapplication must be made if the work has not yet commenced;
- (b) 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 & 22 kV - 9.0 m
66kV - 11.0 m
132kV - 15.5 m
- (c) No construction work may be executed closer than **6 (SIX) metres** from any Eskom structure or structure-supporting mechanism;
- (d) No work or no machinery be allowed nearer than the following **distances from the conductors**:
Voltage Not closer than:
11kV & 22kV - 3.0 m
66kV - 3.2 m
132kV - 3.8 m
- (e) Natural ground level must be maintained within Eskom reserve areas and servitudes;
- (f) The **minimum ground clearance** of the overhead power line must be maintained to the following clearances:
Voltage Safety clearance above road:
11kV & 22kV – 6.3 m
66kV – 6.9 m
132kV – 7.5 m
- (g) The existing Eskom power lines and infrastructure are acknowledged as established infrastructure on the properties and any rerouting or relocation would be for the cost of the applicant/developer;
- (h) Eskom rights or servitudes, including agreements with any of the landowners, obtained for the operation and maintenance of these existing power lines and infrastructure be acknowledged and honoured throughout its lifecycle which include, but are not limited to:
 - (i) Having 24 hour access to its infrastructure according to the rights mentioned in (a) above,
 - (ii) To perform maintenance (structural as well as servitude – vegetation management) on its infrastructure according to its maintenance programmes and schedules,
 - (iii) To upgrade or refurbish its existing power lines and infrastructure as determined by Eskom,
 - (iv) To perform any other activity not listed above to ensure the safe operation and maintenance of the Eskom power lines or infrastructure.
- (i) Eskom must have at least a 10m obstruction free zone around all pylons (not just a 10m radius from the centre);
- (j) Eskom shall at all times have unobstructed access to and egress from its services;
- (k) Any development which necessitates the relocation of Eskom's services will be to the account of the developer;

A6 DEPARTMENT OF WATER AFFAIRS AND SANITATION

- (a) No pollution of surface water or ground water resources may occur due to any activity on the property;

6.1/A6...

- (b) No abstraction of surface or groundwater may be done without prior authorisation from this Department, unless it is a Schedule 1 Use or an Existing Lawful Use;
- (c) Storm-water runoff must be controlled to ensure that on-site activities do not culminate into off-site pollution;
- (d) All the requirements of the National Water Act, 1998 (Act 36 of 1998) in terms of water use and pollution control management must be adhered to at all times. If the property that receives water from an Irrigation Board or Water User Association is subdivided, sold or consolidated, the Board or Association and this Department must be notified within sixty (60) days after the said transaction has taken place;
- (e) Please note that if the subdivision will affect the allocation of a water use as registered by this Department, the owner(s) of the new property(ies) must enter into a written mutual agreement to determine each property's share in any allocated water or water use and this must be communicated to this Department;
- (f) If this subdivision (or consolidation) will affect the allocation of a water use as licensed by this Department, the Licensee must contact the Department for the amendment of this licence. This will also be necessary if the property description changes. The Licensee must provide full details of all changes with respect to the properties to the Responsible Authority within 60 days of said change taking place;

A7 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 must be complied with within the 5 year period and that failing to do so will result in this approval expiring;
- (b) The applicant/objector is informed of the right to appeal against the decision of the Municipal Planning Tribunal, in terms of section 89(2) of the By-Law;

B. The application is supported for the following reasons:

- (a) The proposed subdivision is in compliance with the MSDF which allows for the creation of additional land units in Tierfontein;
- (b) The subdivision promotes infill development inside the Intensive Rural Development Corridor which creates development opportunities for rural living;
- (c) The subdivision creates a more effective and efficient use inside Tierfontein where intensive and diversified agricultural uses are proposed;
- (d) The application complies with the principles of SPLUMA and LUPA;
- (e) The subdivision will have no negative impact on the character of area;
- (f) The remainder and newly created portion still complies with the minimum size of 10ha as prescribed by the Tierfontein Policy Framework and MSDF;
- (g) Sufficient water capacity is available in order to supply the newly created portion as the existing water rights will be shared between the remainder and newly created portion;
- (h) The creation of a new land unit in Tierfontein will not impact negatively on the smallholding development as a whole;
- (i) Only Farm 758/97, Division Malmesbury as well as 8 other properties consist of similar potential for future subdivision;
- (j) The departure from the Tierfontein Policy Framework can be justified for the following reasons:
 - (i) The proposed subdivision is in compliance with MSDF 2017-2022;
 - (ii) A minimum subdivision size of 10ha is maintained;
 - (iii) Adequate access is provided;
 - (iv) Future services installation can still be facilitated;
 - (v) The newly created portion will have a minimal impact on existing surrounding agricultural activities;
 - (vi) No additional impact of water use on the Tierfontein aquifer is expected given the share in allocation of the water use license.

6.2/...

6.2 APPLICATION FOR THE REZONING, CONSOLIDATION AND DEPARTURE ON ERVEN 1153 AND 1837, CHATSWORTH (15/3/3-2; 15/3/4-2; 15/3/12-2) (WARD 4)

Mr A J Burger, as author, tabled the item and confirmed that erf 1153, Chatsworth is zoned Community Zone 2 and is currently used as a masque and madrassa. Erf 1837, Chatsworth is zones Residential Zone 1 and is currently vacant.

The consolidated land will accommodate the madrassa, residence of religious leader and a new mosque.

RESOLUTION

- A. The application for the rezoning of erf 1837, Chatsworth from Residential Zone 1 to Community Zone 2 in order to erect a place of worship be approved in terms of Section 70 of the Swartland Municipality Land Use Planning By-Law (PG 7741 of 3 March 2017), subject to the following conditions that:

A1 TOWN PLANNING AND BUILDING CONTROL

- (a) The approval restricts the Community zone 2 zoning to a place of worship as presented in the application;
- (b) Building plans be submitted to the Director: Development Services for consideration and approval;
- (c) The illegal structure be demolished prior to the consideration of building plans for any new building work on the consolidated erf;
- (d) The consolidated erf be provided with a 5 m x 5 m splay on the corner of Third Avenue and Malmesbury Road, which must be cleared of all vegetation, fencing, ect. for the account of the owner/developer. The splay must be transferred to Swartland Municipality simultaneously with the registration of the consolidated erf. All costs regarding the registration of the splay is for the account of the owner/developer;
- (e) At least 45 on-site parking bays be provided as presented in the application. These parking bays must be provided with a permanent dust free surface being tar, concrete or paving or a material pre-approved by Swartland Municipality and the parking bays must be clearly marked;
- (f) Any noise that is created on the property as a result of the operation of the place of worship must comply with the requirements of the Western Cape Noise Control Regulations, Act 205 of 2013;

A2 WATER

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

A3 SEWERAGE

- (a) The erf be provided with a conservancy tank of suitable size to the satisfaction of the Municipality;

A4 STREETS AND STORMWATER

- (a) The parking area be provided with a suitable surface to the satisfaction of the Municipality;

A5 ESKOM

Eskom approves the proposed work in principle subject to the following:

- (a) The approval is valid for **12 months** only, after which reapplication must be made if the work has not yet commenced;
- (b) The following building and tree restriction on **either side of centre line** of overhead power line must be observed:
Voltage & Building restriction either side of centre line
11kV & 22 kV - 9.0 m
66kV - 11.0 m
132kV - 15.5 m

6.2/A5...

- (c) No construction work may be executed closer than **6 (SIX) metres** from any Eskom structure or structure-supporting mechanism;
- (d) No work or no machinery be allowed nearer than the following **distances from the conductors**:
Voltage Not closer than:
11kV & 22kV - 3.0 m
66kV - 3.2 m
132kV - 3.8 m
- (e) Natural ground level must be maintained within Eskom reserve areas and servitudes;
- (f) That a **minimum ground clearance** of the overhead power line must be maintained to the following clearances:
Voltage Safety clearance above road:
11kV & 22kV - 6.3 m
66kV - 6.9 m
132kV - 7.5 m
- (g) The existing Eskom power lines and infrastructure are acknowledged as established infrastructure on the properties and any rerouting or relocation would be for the cost of the applicant/developer;
- (h) Eskom rights or servitudes, including agreements with any of the landowners, obtained for the operation and maintenance of these existing power lines and infrastructure be acknowledged and honoured throughout its lifecycle which include, but are not limited to:
 - (i) Having 24 hour access to its infrastructure according to the rights mentioned in (a) above,
 - (ii) To perform maintenance (structural as well as servitude – vegetation management) on its infrastructure according to its maintenance programmes and schedules,
 - (iii) To upgrade or refurbish its existing power lines and infrastructure as determined by Eskom,
 - (iv) To perform any other activity not listed above to ensure the safe operation and maintenance of the Eskom power lines or infrastructure.
- (h) Eskom must have at least a 10 m obstruction free zone around all pylons (not just a 10 m radius from the centre);
- (i) Eskom shall at all times have unobstructed access to and egress from its services;
- (j) Any development which necessitates the relocation of Eskom's services will be to the account of the developer;

A6 GENERAL

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 must be complied with within the 5 year period and that failing to do so will result in this approval expiring;

- B. The application for the consolidation of erf 1837 and erf 1153, Chatsworth is approved in terms of Section 70 of the Swartland Municipality Land Use Planning By-Law (PG 7741 of 3 March 2017), subject to the following condition:

B1 TOWN PLANNING AND BUILDING CONTROL

- (a) Swartland Municipality be provided with an approved Surveyor General diagram of the consolidated erf by the applicant;
- C. The application for the departure of building lines on the consolidated erf is approved in terms of Section 70 of the Swartland Municipality Land Use Planning By-Law (PG 7741 of 3 March 2017), as follows:
 - (a) Departure from the 10 m street building line (3rd Avenue) to 2.5 m

6.2/C...

- (b) Departure from the 10 m street building line (Malmesbury road) to 2.6 m
- (c) Departure from the 5 m side building line (southern boundary) to 1.5 m
- (d) Departure from the 5 m side building line (western boundary) to 2.5 m

D. 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 must be complied with within the 5 year period and that failing to do so will result in this approval expiring;
- (b) The applicant/objector is informed of the right to appeal against this decision of the Municipal Planning Tribunal, in terms of section 89(2) of the By-Law;

E. The application is supported for the following reasons:

- (a) The proposed extension of the existing place of worship is consistent with the residential character of the surrounding area;
- (b) The departure of building lines will have a minimal impact on surrounding properties;
- (c) All zoning parameters are complied with except building lines;
- (d) No objections were received from adjoining affected parties directly affected by the building line departures;
- (e) Sufficient services capacity exists to accommodate the proposed extension of the place of worship;
- (f) The application complies with the principles of LUPA and SPLUMA.

6.3 APPLICATION FOR REZONING AND DEPARTURE ON ERF 888, YZERFONTEIN (15/3/3-8; 15/3/4-8) (WARD 5)

Ms A de Jager, as author of the item, explained that the current owner bought the property in 2016 and was under the impression that the property possesses the correct land use rights for the operating of a quest house.

Only when building plans were submitted in order to affect a number of structural and use changes to the existing dwelling it were realised that no previous approval has been granted for the operating of a quest house.

The application is therefore made for the rezoning and building line departures in order for the existing use to be duly authorised.

RESOLUTION

- A. The application for the rezoning Erf 888, Yzerfontein, be approved in terms of section 70 of the Swartland Municipal Land Use Planning By-Law (PG 7741 of 3 March 2017), subject to the following conditions:

A1 TOWN PLANNING AND BUILDING CONTROL

- (a) Erf 888, Yzerfontein be rezoned from Residential Zone 1 to General Residential Zone 3, in order to establish a guest house and a dwelling unit on the property;
- (b) The guest house be limited to the development proposal presented in the application, as follows:
 - (i) 1 x main dwelling unit with bathroom and kitchen;
 - (ii) x guest bedrooms;
 - (iii) 1 x communal kitchen;
 - (iv) 1 x outbuilding (with guest bedroom and bathroom);
 - (v) Five on-site parking bays be provided (2 bays for the dwelling unit and 3 bays for the guest house), subject to the parking areas being provided with a permanent dust free surface whether it be tar, concrete, paving or any other material, as approved by the Director: Civil Services beforehand, and the parking bays need to be clearly demarcated;
- (c) Building plans be submitted to the Director: Development Services for consideration of approval;
- (d) All amenities and provision of meals shall be for the sole benefit of bona fide lodgers;

- (e) A register of guests and lodgers be kept, and completed when rooms are let, and the register must be produced for inspection on request by a municipal official;
- (f) Guest rooms may not be converted to, or used as separate dwelling units;
- (g) Application be made to Director: Development Services for the right to display of an advertising sign;
- (h) No advertising sign shall be displayed other than a sign or notice not projecting over a public street, and such sign may not exceed 1 m² in area;
- (i) A Certificate of Compliance be provided by the applicant obtainable from the West Coast District Municipality for the operation of the guest house before an occupancy certificate be issued;
- (j) A trade licence be provided by the applicant obtainable from Swartland Municipality for the operation of the guest house before an occupancy certificate be issued;

A2 WATER

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

A3 SEWERAGE

- (a) A conservancy tank of a volume previously approved by the Director: Civil Engineering Services, be provided on the property;

A4 REFUSE REMOVAL

- (a) The basic refuse removal rate be levied for the dwelling unit, as well as the guest house and the tariff be amended in accordance with the amount of refuse generated;

A5 CAPITAL CONTRIBUTIONS

- (a) The owner/developer is responsible for the capital contribution toward district bulk water supply, to the amount of R3 630,17. This amount is payable to the Swartland Municipality, valid for the financial year of 2018/2019 and may be revised thereafter (mSCOA: 9/249-176-9210);
- (b) The fixed capital contribution towards bulk water reticulation amounts to R3 001,50 and is payable by the owner/developer at clearance stage. This amount is payable to the Municipality, valid for the financial year of 2018/2019 and may be revised thereafter (mSCOA: 9/249-174-9210);
- (c) The owner/developer is responsible for the capital contribution toward sewerage, to the amount of R3 741,33. This amount is payable to the Swartland Municipality, valid for the financial year of 2018/2019 and may be revised thereafter (mSCOA: 9/240-184-9210);
- (d) The owner/developer is responsible for the capital contribution toward waste water treatment, to the amount of R5 520,00. This amount is payable to the Swartland Municipality, valid for the financial year of 2018/2019 and may be revised thereafter (mSCOA: 9/240-183-9210);
- (e) The owner/developer is responsible for the capital contribution toward streets, to the amount of R7 666,67. This amount is payable to the Swartland Municipality, valid for the financial year of 2018/2019 and may be revised thereafter (mSCOA: 9/249-144-9210);
- (f) The owner/developer is responsible for the capital contribution toward stormwater, to the amount of R2 128,27. This amount is payable to the Swartland Municipality, valid for the financial year of 2018/2019 and may be revised thereafter (mSCOA9/248-144-9210);
- (g) Council's resolution dated May 2018 makes provision for a 40% rebate applicable on the capital contributions to Swartland Municipality. This rebate is valid for the 2018/2019 financial year and may be revised thereafter. The rebate is not applicable to point 5(a);

A6 GENERAL

- (a) All conditions of approval must be complied with within 6 months of approval, in terms of Section 76(2)(x) of the By-Law and failing to do so will result in this approval expiring;

6.3/...

- B. The application for the departure from development parameters on Erf 888, Yzerfontein, be approved in terms of section 70 of the Swartland Municipal Land Use Planning By-Law (PG 7741 of 3 March 2017), subject to the conditions that:
- (a) The 5 m lateral building line reduced to 0 m along the northern boundary, restricted to the portion of the building that encroaches the building line, as presented in the application;
 - (b) The 5 m lateral building line reduced to 0 m along the eastern boundary, restricted to the portion of the building that encroaches the building line, as presented in the application; and
 - (c) The 5 m lateral building line reduced to 2 m along the southern boundary restricted to the portion of the building that encroaches the building line, as presented in the application;
- C. The application is supported for the following reasons:
- (a) There are no physical restrictions on the property that will have a negative impact on this application;
 - (b) 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;
 - (c) The proposal is spatially resilient, as the property can revert to a dwelling for a single family, should the proposed land use cease;
 - (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 proposed development is not perceived to have a detrimental impact on the health and safety of surrounding land owners, nor on environmental assets;
 - (f) The approval of the departures from development parameters are recommended, as it will accommodate the existing buildings on the property and optimise the utilisation of the existing infrastructure.

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

Mr H Olivier confirmed that the application is made by the owner to acquire the necessary land use authorisation to use the existing building on the property as a guesthouse.

The biggest concern from the objections received is the proposed parking being partially on-site with the larger part of the parking bays being proposed in the road reserve of Reservoir Street. Mr Olivier confirmed that there is ample space available in the road reserve to accommodate vehicles as well as pedestrians.

The scale of the guesthouse, restricted to 4 bedrooms, is of such a nature that it does not necessitate a residing manager. However, it was discussed with the owner who attended the meeting to erect a notice board with contact details for lodging of complaints, especially after-hours.

RESOLUTION

- A. The application for the rezoning of erf 4136 (302m² in extent), Malmesbury from residential zone 1 to general residential zone 3 in terms of section 70 of Swartland Municipality: By-law on Municipal Land Use Planning (PG 7741 of 3 March 2017) be approved, subject to the following conditions:

A1 TOWN PLANNING/BUILDING CONTROL

- (a) The guesthouse be restricted to 4 guest rooms;
- (b) Building plans for the alteration of the existing dwelling into a guesthouse be submitted to the Director: Development Services for consideration and approval;
- (c) If a firewall have not yet been installed on the communal boundary of the semi-detached houses it needs to be included on the above mentioned building plans as well as that it needs to be installed before the operation of the proposed guesthouse;

- (d) All amenities and provision of meals will be for the sole benefit of bone-fide overnight guests and must comply with the provisions of the Businesses Act (Act 71 of 1991), and further that the applicant must apply for a Certificate of Compliance from the West Coast District Municipality;
- (e) A register of guests and lodgers be kept, and completed when rooms are let, and the register must be produced for inspection on request by a Swartland Municipality official;
- (f) No advertising sign shall be displayed other than a sign or notice not projecting over a public street and such sign may not exceed 1m² in area. An application for the erection of advertising signs needs to be submitted to the Director: Development Services for consideration and approval;
- (g) The 3 parking bays as presented in the application must be clearly demarcated;
- (h) A notice board be put up on the premises to the satisfaction of the Municipality clearly displaying the contact details where after-hours complaints can be lodged;

A2 WATER

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

A3 SEWERAGE

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

A4 STREETS AND STORMWATER

- (a) The proposed parking bays, including the area of the pavement giving access to the parking, is provided with a permanent dust-free surface to the satisfaction of the Municipality. The municipality, for the cost of the developer, will lower the curb that gives access to the parking spaces;

A5 REFUSE REMOVAL

- (a) The basic refuse removal tariff for the business be levied and that the tariff be amended given the amount of refuse that is being removed;

- B. The application for a departure on erf 4136, Malmesbury in terms of Section 70 of the Swartland Municipality Land Use Planning By-Law (PG 7741 of 3 March 2017) be approved in order to depart from the prescribed coverage from 40% to 54%;
- C. The application for a departure on erf 4136, Malmesbury in terms of Section 70 of the Swartland Municipality Land Use Planning By-Law (PG 7741 of 3 March 2017) be approved in order to depart from the 5 m street building line to 2,2 m (Reservoir street), 5 m street building line to 0 m (Hill Street), 5 m side building line to 0 m (northwestern boundary) as well as the 5 m side building line to 0 m (southwestern boundary) in order to accommodate the existing buildings on the property;
- D. The application for a departure on erf 4136, Malmesbury in terms of Section 70 of the Swartland Municipality Land Use Planning By-Law (PG 7741 of 3 March 2017) be approved in order to depart from the prescribed number of parking bays from 3 to not providing any, subject to the following condition;

D1 TOWN PLANNING/BUILDING CONTROL

- (a) In terms of paragraph 13.1.2(c) of the relevant zoning scheme a financial contribution to the amount of R13 867,00 be made to Swartland Municipality on building plan stage to vote number 9/222-303-9212;

E. GENERAL

- (a) 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 that failing to do so will result in this approval expiring;
- (b) The applicant/objector is informed of the right to appeal against this decision of the Municipal Planning Tribunal, in terms of section 89(2) of the By-Law;

F./...

6.4/...

- F. The application is supported for the following reasons:
- (a) The proposed application is consistent with the land use proposals of the Swartland Municipal SDF (2017-2022);
 - (b) The proposed departures of the building lines are to accommodate the existing structures on the property within the building line parameters of the new zoning and no external alterations are proposed;
 - (c) Being a 4 bedroom guesthouse, the scale of the development is such that it will not have a negative impact on the character of the surrounding area. The proposed use will also not have a significant impact on traffic;
 - (d) The proposed guesthouse supports the development of tourism opportunities in Malmesbury as well as that it will result in job creation;
 - (e) Given the space available in the road reserve of Reservoir Street the proposed parking is deemed sufficient and it will not jeopardise the safety of road users.

6.5 PROPOSED SUBDIVISION AND SERVITUDE REGISTRATION OF ERF 1329, RIEBEEK KASTEEL (15/3/6-11; 15/3/8-11) (WARD 12)

Ms A de Jager, as author, tabled the application and elaborated on the amendment of the development proposal to accommodate the right of way servitude to the satisfaction of the Department: Civil Engineering Services.

RESOLUTION

- A. The application for the subdivision of Erf 1329, Riebeek Kasteel, be approved in terms of section 70 of the Swartland Municipal Land Use Planning By-Law (PG 7741 of 3 March 2017), subject to the following conditions:

A1 TOWN PLANNING AND BUILDING CONTROL

- (a) Erf 1329 ($\pm 4\ 850\text{m}^2$ in extent) be subdivided into a remainder ($\pm 2\ 425\text{m}^2$ in extent) and Portion A ($\pm 2\ 425\text{m}^2$ in extent), as presented in this application;
- (b) The owner(s) is responsible for the maintenance of the portion of the right of way servitude over Erf 1330 that provides access to Erf 1329;
- (c) A formal and binding agreement be reached and implemented between the current and future land users of the applicable right of way servitude from Pieter Cruythoff Street, for the maintenance of said servitude;
- (d) The legal certificate which authorises transfer of the subdivided portion in terms of Section 38 of 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 connection. This condition is applicable at building plan stage;

A3 SEWERAGE

- (a) Each subdivided portion be provided with a separate sewerage connection. This condition is applicable at subdivision stage;

A4 ROADS

- (a) The right of way servitude, including two embayments, as proposed in drawing RK/10699/AC/NJdK of the application, be accepted and implemented;

A5 REFUSE REMOVAL

- (a) The basic refuse removal tariff will be levied for each erf, being it vacant or built-up, as well as for each dwelling unit separately;

A6 CAPITAL CONTRIBUTIONS

- (a) The owner/developer is responsible for the capital contribution of R10 890,50 for the bulk supply of regional water. The capital contribution is payable to Swartland Municipality at clearance stage. The amount is valid for the financial year of 2018/2019 and may be revised thereafter (vote number: 9/249-176-9210);

6.5/A6...

- (b) The fixed capital contribution of R19 008,35 be made to this municipality towards water distribution, at clearance stage. The amount is valid for the financial year of 2018/2019 and may be revised thereafter (vote number 9/249-174-9210);
- (c) The fixed capital contribution of R9 111,45 be made towards sewerage at clearance stage. The amount is valid for the financial year of 2018/2019 and may be revised thereafter (vote number: 9/240-184-9210).
- (d) The fixed capital contribution of R9 487,50 be made towards waste water treatment works, at clearance stage. This amount is valid for the financial year of 2018/2019 and may be revised thereafter (vote number: 9/240-184-9210).
- (e) The fixed capital contribution towards roads be made to this municipality to the amount of R8 974,60 at clearance stage. The amount is valid for the financial year of 2018/2019 and may be revised thereafter (vote number: 9/247-144-9210);
- (f) The fixed capital contribution towards stormwater be made to this municipality to the amount of R4 516,05 at clearance stage. The amount is valid for the financial year of 2018/2019 and may be revised thereafter (vote number: 9/248-194-9210);
- (g) Council's resolution dated May 2018 makes provision for a 40% rebate applicable on the capital contributions to Swartland Municipality. The rebate is valid for the 2018/2019 financial year and may be revised thereafter. The rebate is not applicable to point 6(a);

A7 GENERAL

- (a) 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 this approval expiring;
 - (b) The applicant/objector be informed of the right to appeal against this decision of the Municipal Planning Tribunal, in terms of section 89(2) of the By-Law;
 - (c) Any existing services which connect the remainder and subdivided portion be relocated or disconnected to ensure that each erf's pipe work is situated on the separate erven;
 - (d) Should the extension of any existing services be deemed necessary to provide the subdivided portion with services connections, it will be for the cost of the applicant/owner/developer.
- B. The proposed registration of a right of way servitude over the Remainder of Erf 1329, complies with the requirements of Section 34 of Swartland Municipal Land Use Planning By-Law (PG 7741 of 3 March 2017) and does not require an approval from Swartland Municipality.
- C. The application is supported for the following reasons:
- (a) The application is in compliance with the minimum erf size for the specific portion of Riebeek Kasteel, as determined by the SDF;
 - (b) This 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 subdivision will not negatively affect the character of the neighbourhood, as the proposal complies with the minimum erf size of 2000m², supporting the semi-rural character of the area;
 - (e) Surrounding properties consist of similar development potential as Erf 1329;
 - (f) There is sufficient services capacity to accommodate the newly created erf;
 - (g) The amended right of way servitude to Erf 1329 and Portion A is of sufficient capacity to accommodate the increase in traffic load over the servitude;
 - (h) The privacy of surrounding property owners will not be negatively affected, as the developable area of the remainder, as well as portion A, will remain extensive;
 - (i) All development parameters of the By-Law will be adhered to.

**(SIGNED) M S TERBLANCHE
ACTING CHAIRPERSON**