



MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON WEDNESDAY, 13 NOVEMBER 2019 AT 10:00 IN THE COMMITTEE ROOM: CORPORATE SERVICES

PRESENT

Internal members:

Municipal Manager, Mr J J Scholtz (chairperson)
Director: Protection Services, Mr P A C Humphreys

External members:

Mr C Rabie
Mr W Steyn

Other officials:

Senior Manager: Built Environment, Mr A M Zaayman (advisor)
Manager: Secretariat and Records, Ms N Brand (secretariat)
Director: Development Services, Ms J S Krieger
Snr 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

Mr P A C Humphreys, as acting chairperson, opened the meeting and mentioned that the Municipal Manager, Mr J J Scholtz will join the meeting soonest.

[Note: The Municipal Manager joined the meeting during the discussion of item 5.1.]

2. APOLOGY

That cognisance be taken of the apology received from the Director: Corporate Services, Ms M S Terblanche.

3. DECLARATION OF INTEREST

RESOLVED that cognisance be taken of the declarations by –

- (1) the Director: Protection Services, Mr P A C Humphreys in terms of item 6.4, namely that a family member is employed by the applicant;
- (2) the external member, Mr W Steyn in terms of item 6.6, namely that one of the objectors is an existing client of Mr Steyn.

4. MINUTES

4.1 MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON 14 AUGUST 2019

RESOLVED

(proposed by Mr C Rabie, seconded by Mr W Steyn)

That the minutes of a Municipal Planning Tribunal Meeting held on 9 October 2019 are approved and signed by the chairperson, subject to the following amendment –

ITEM 6.1: PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS AND DEPARTURES ON ERF 469, YZERFONTEIN (15/3/4-14; 15/3/5-14) (WARD 5)

Replacement of paragraph G(d) –

4.1/...

- (d) The title deed restrictions pertaining to the development parameters on the property be managed by the By-Law, once the restrictions have been removed from Title Deed T39667/2016.

5. MATTERS ARISING FROM THE MINUTES OF 9 OCTOBER 2019

5.1 ITEM 6.2: APPLICATION FOR REZONING, SUBDIVISION, PHASING AND CONSENT USE ON ERF 4401, DARLING (15/3/3-3; 15/3/10-3) (WARD 6)

Mr A J Burger, as author, confirmed that since the referral of the item, the owner of erf 4403 was informed on the proposed application and to what extent erf 4403 is affected by the development.

After discussions with the owner/developer the subdivisional plan was amended to accommodate the various residential erven in a more sensible manner. It was also clarified that the internal refuse removal function will not be done by the Municipality.

RESOLUTION (UNANIMOUSLY)

- A. The application for the rezoning of erf 4401, Darling from Residential Zone 1 to Subdivisional Area be approved in terms of Section 70 of Swartland Municipality: Municipal Land Use Planning By-Law (PG 7741 of 3 March 2017) in order to make provision for the following land uses:

Residential Zone 1, Residential Zone 3, Business zone 2, General residential zone 2, Open Space Zone 2 and Transport Zone 2.

- B. The application for the subdivision and registration of services servitudes of/on Erf 4401 (64,1520ha in extent), Darling, be approved in terms of section 70 of Swartland Municipality: Municipal Land Use Planning By-Law (PG 7741 of 3 March 2017), in order to create a remainder and 144 portions, as follows and as generally indicated on Annexures B and C tabled at the meeting:

- 11 Residential Zone 3 erven - ±1ha in extent erven
- 13 Residential Zone 3 erven - ±0,5ha in extent erven
- 60 Residential Zone 1 erven - ±800m² in extent erven
- 55 Residential Zone 1 erven - 1250m² in extent erven
- 1 Business zone 2 erf – Darling Trading Post (Food and Craft market)
- 1 Business Zone 2 erf – Cycling shop
- 2 Open Space zone 2 erven – the one erf is to accommodate the wetland area and the other for a swimming pool and clubhouse
- 1 General Residential zone 2 erf – De Oude Post Retirement Village (250 units)
- 1 General Residential zone 2 erf – Village and Mountain Bike Post (100 units)
- 1 Transport zone 2 erf – Roads
- Registration of 4 services servitudes of 2m wide each

- C. The application for the phasing of the development proposal on Erf 4401 Darling be approved in terms of section 70 of Swartland Municipality: Municipal Land Use Planning By-Law (PG 7741 of 3 March 2017), as follows and as generally indicated on Annexure D tabled at the meeting:

- Phase 1 – 11 plots of 1ha, 8 plots of ±0,5ha, 37 plots of ±1250m², 30 plots of ±800m², swimming pool and cycle shop
- Phase 2A – 18 plots of ±1250m² and 30 plots of ±800m²
- Phase 2B – 5 plots of ±0,5ha
- Phase 3 – De Oude Post Retirement Village
- Phase 4 – Mountain Bike Village
- Phase 5 – Darling Trading Post (Food and Craft Market)

- D. The application for consent uses on the Business Zone 2 portion, be approved in terms of section 70 of Swartland Municipality: Municipal Land Use Planning By-Law (PG 7741 of 3 March 2017) in order to operate a restaurant and a place of entertainment.
- E. Paragraphs A, B, C and D are subject to the following conditions:

E1 TOWN PLANNING AND BUILDING CONTROL

- (a) The owner/developer establishes owners' associations with constitutions in terms of section 39 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 7741 of 3 March 2017), which shall consist of a Master Owners Association for the entire @Darling Green Development, erf 4403 and individual owners' associations for each phase. The Owners Association (OA) be registered for the entire @Darling Green Development managing the individual OA per phase. Each phase will have its own OA, subject to the Master OA, and will distribute internal services and take transfer of the communal properties per phase;
- (b) The constitution of the owners' associations must make provision for and distinguish between communal services and interest applicable to the development as a whole and the interest and services applicable to each phase and must inter alia be approved by the municipality before the transfer of the first land unit in that phase and must make provision for –
- (i) the owners' association to formally represent the collective mutual interests of the area, suburb or neighbourhood set out in the constitution in accordance with the conditions of approval;
 - (ii) control over and maintenance of buildings, services or amenities arising from the subdivision;
 - (iii) the regulation of at least one annual meeting with its members;
 - (iv) control over the design guidelines of the buildings and erven arising from the subdivision;
 - (v) the ownership by the owners' association of all common property arising from the subdivision, including—private open spaces, private roads; and land required for services provided by the owners' association;
 - (vi) enforcement of conditions of approval or management plans;
 - (vii) procedures to obtain the consent of the members of the owners' association to transfer an erf in the event that the owners' association ceases to function; and
 - (viii) the implementation and enforcement by the owners' association of the provisions of the constitution.
- (c) The constitution of the owners' association may have other objectives as set by the association but may not contain provisions that are in conflict with any law;
- (d) The constitution of the Master OA and phase 1 owners' associations takes effect on the registration of the first land unit;
- (e) The following design alternatives have to be implemented in the development, namely:
- (i) All appliances and lighting be used in the buildings be energy saving;
 - (ii) Construction works adhered to the Environmental Management Plan and Waste Management Plan to ensure that the natural areas are disturbed to a minimum and waste are recycled from the constructions works;
 - (iii) All buildings be equipped with water-efficient appliances and installation of sanitary fixture to use less water but are still effective;
 - (iv) The harvesting of rainwater be a fixed feature at all proposed buildings and include water tanks which will be screened off to ensure an aesthetically pleasing design;
 - (v) The water system be designed to use the harvested rainwater for irrigation, toilet flush systems, etc.;
 - (vi) Solar energy be the main green focus of the estate — the roofs of the buildings be used for solar panel energy generation by the HOA with agreement. The energy generated from the panels be used in the buildings and in future, maybe even pushed back into the grid. All solar panels be aligned with the roofs and solar geysers are also suggested for water heating;

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- (f) Minibus-taxi drop-off/loading be provided at the main entrance of the development to the satisfaction of the Director: Civil Engineering Services;
- (g) The legal certificate which authorises the transfer of the subdivided portions in terms of section 38 of the By-Law, will not be issued unless all the relevant conditions have been complied with;

E2 WATER

- (a) The subdivided portions be provided with separate water connections. The condition is applicable at subdivision stage;
- (b) The development be provided with an internal water distribution network in order to provide the subdivided portions with services connections. The developer appoints an engineer registered in terms of the requirements of Act 46 of 2000 to design the water distribution network. The design be submitted to the Director: Civil Engineering Services for approval after which installation be done under the supervision of the engineer;
- (c) The internal water distribution network be connected to the existing municipal water distribution network. The recommendations of the GLS Consulting Engineers report dated 10 December 2018 be executed;
- (d) The upgrades and extensions to the water distribution network be designed by an engineer registered in terms of the requirements of Act 46 of 2000. The design be submitted to the Director: Civil Engineering Services for approval after which installation be done under the supervision of the engineer;

E3 SEWERAGE

- (a) The subdivided portions be provided with separate sewerage connections. The condition is applicable at subdivision stage;
- (b) The development be provided with an internal sewerage distribution network. The developer appoints an engineer registered in terms of the requirements of Act 46 of 2000 to design the sewerage distribution network. The design be submitted to the Director: Civil Engineering Services for approval after which installation be done under the supervision of the engineer;
- (c) The internal distribution network be connected to the existing municipal sewerage distribution network. The recommendations in the report of GLS Consulting Engineers dated 10 December 2018 be executed;
- (d) The upgrades and extensions to the sewerage distribution network be designed by an engineer registered in terms of the requirements of Act 46 of 2000. The design be submitted to the Director: Civil Engineering Services for approval after which installation be done under the supervision of the engineer;

E4 STREETS AND STORMWATER

- (a) The internal streets and stormwater be designed by an engineer registered in terms of the requirements of Act 46 of 2000. The design be submitted to the Director: Civil Engineering Services for approval after which the installation be done under the supervision of the engineer;
- (b) The access road be designed in such a way that mud are not carried by vehicles from the internal gravel roads to the external road connection;
- (c) The road access be done in accordance with the requirements of the Department of Transport and Public Works;

E5 ELECTRICITY

- (a) Each subdivided portion be provided with a separate electrical connection for the cost of the owner/developer;
- (b) The electrical connection be to the existing medium tension network of which the pre-approved design, the construction and installation be done under the supervision of an consulting engineer;
- (c) The developer is responsible for external and internal electrical infrastructure, including a street lighting network. A registered professional electrical engineer be appointed by the developer for the design and project management. The design be approved by the Director: Electrical Engineering Services prior to the commencement of construction;

E6/...

E6 ESKOM

- (a) Should alterations or relocation of existing infrastructure be required, such work will be done at the request and cost of the applicant;
- (b) Eskom be notified within 21 working days from this letter of acceptance and if any alternative proposal is available or if a recoverable work should commence;
- (c) The office be notified within 30 days of completion of the construction work. Confirmation is required on completion of construction as per agreed requirements;
- (d) Should OpenServe infrastructure be damaged while work is undertaken, the representative be contacted immediately;
- (e) All OpenServe rights remain reserved;

E7 DEPARTMENT OF TRANSPORT AND PUBLIC WORKS

- (a) All Geometric and material plans for access be submitted to the Design Directorate (Ms M Hofmeyr 021 483 5713) of the Branch for approval;
- (b) Sight lines be improved by clearing vegetation within road reserve with assistance of the District Roads Engineer, Ceres;

E8 CAPITAL CONTRIBUTIONS

- (a) Fixed capital contributions for sewerage is payable and calculated for a total of 505 provisional units at R1 833 942-85. The amount is subject to amendments according the final number of units, actual cost capital contributions and the installation of bulk external services by the developer. The amount is payable in accordance with the service level agreement;
- (b) Fixed capital contributions for water is payable and calculated for a total of 505 provisional units at R3 707 119-15 for the bulk distribution of water and R3 849 791-75 for the bulk provision of water. The amount is subject to amendments according the final number of units, actual cost capital contributions and the installation of bulk external services by the developer. The amount is payable in accordance with the service level agreement;
- (c) Fixed capital contributions for streets and stormwater is payable and calculated for a total of 505 provisional units at R3 023 828-90. The amount is subject to amendments according the final number of units, actual cost capital contributions and the installation of bulk external services by the developer. The amount is payable in accordance with the service level agreement;

E9 GENERAL

- (a) The connection of the internal distribution networks to the existing municipal networks is subject thereto that the developer executes all recommendations for upgrades and extensions which may be stemming from the final engineering designs. These upgrades and extensions can be set off against the fixed capital contributions where applicable;
- (b) The municipality will not take over any internal services nor the refuse removal service;
- (c) The internal services of the development be managed, operated and maintained by the home owners association which includes a refuse removal services and dumping at the Highlands dumpsite in accordance with the coupon system.
- (d) All conditions of approval of the Environmental Authorisation from the Department of Environmental Affairs and Development Planning dated 6 August 2019 be complied with (reference 16/3/3/1/F5/5/2063/18 & WCP/EIA/0000519/2018);
- (e) The approval is, in terms of section 76(2)(w) of the By-Law, only valid for a period of 5 years. 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 approval does not exempt the applicant from adherence to any and all other legal procedures, applications and/or approvals related to the intended land use, as required by provincial, state, parastatal and other statutory bodies.

- F. The proposed street names and numbering as indicated on the subdivision plan marked "C" is approved in terms of section 108 of the Swartland Municipality: Municipal Land Use Planning By-law (PG 7741 of 3 March 2017). The following street names are approved:

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- Paddock Lane
- Conservation Drive
- Craft Close
- Club Drive
- Bird walk Street
- Pedal Lane
- Orchid Close

G. The application be supported for the following reasons:

- (a) Erf 4401 is situated inside the urban edge of Darling as well as located in an area earmarked for mixed density residential and commercial land uses which will integrate with the other developments in the area, making this application in compliance with the provisions of the SDF;
- (b) The existing surrounding land uses and proposed development will be mutually complementary in character;
- (c) The development proposal is foreseen to create employment opportunities in the short, as well as the long term;
- (d) The development will make a larger variety of housing typologies available to a broader section of the public, creating greater equity;
- (e) A number of business opportunities, as well as social amenities will form part of the development, thereby impacting positively on the social fabric of the town;
- (f) The phasing of the project minimises the financial risk, while moderating the physical and visual impact on the surrounding area;
- (g) The application complies with the principles of LUPA and SPLUMA;
- (h) Public interest is deemed to be addressed in a positive manner and the development is foreseen to contribute, rather than detract from the existing development of Darling;
- (i) Sufficient services capacity exists to accommodate the proposed development;
- (j) An Environmental Authorisation has been issued by the Department of Environmental Affairs and Development Planning;
- (k) The impact of the development on the environment and any potentially detrimental environmental impacts resulting from the proposed development can be mitigated to acceptable levels.

6. MATTERS FOR CONSIDERATION

6.1 APPLICATION FOR REZONING AND CONSENT USE ON PORTION 48 OF THE FARM BROOD KRAAL, NO 154, DIVISION MALMESBURY (15/3/3-15; 15/3/10-15) (WARD 1)

Ms A de Jager mentioned that the application was referred back by the Municipal Planning Tribunal at a meeting that was held on 10 April 2019 in order to address shortcomings in the application – amongst others –

- to submit a complete and accurate site development plan;
- re-determining of flood line and incorporate in site development plan;
- amendment of rezoning plan to establish private open spaces between resort zone footprints;
- West Coast District Municipality to confirm availability of water, etc.

Ms de Jager tabled the amended application for discussion.

RESOLUTION (UNANIMOUSLY)

- A. The application for the rezoning of portions of Portion 48 of the Farm Brood Kraal, no. 154, Division Malmesbury, from Agricultural Zone I to Resort Zone, in order to establish Holiday Accommodation, 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 rezoning of a portion of Portion 48 of the Farm Brood Kraal, no. 154, Division Malmesbury, in terms of Section 25(2)(a) of the Swartland Municipal Land Use Planning By-Law (PK 7741, dated 3 March 2017), from Agricultural Zone I to Open Space Zone 2, in order to establish private open space

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between the Resort Zone footprints, 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 rezoning of a portion of Portion 48 of the Farm Brood Kraal, no. 154, Division Malmesbury, from Agricultural Zone 1 to Community Zone 2, in order to establish a Place of Worship, be approved in terms of section 70 of the Swartland Municipal Land Use Planning By-Law (PG 7741 of 3 March 2017);
- D. The application for the registration of a servitude over the Remainder of the Farm Brood Kraal, no. 154, Division Malmesbury, in favour of Portion 48 of the Farm Brood Kraal, no. 154, Division Malmesbury, be approved in terms of section 70 of the Swartland Municipal Land Use Planning By-Law (PG 7741 of 3 March 2017);
- E. The application for a consent use within the Resort Zone portion of Portion 48 of the Farm Brood Kraal, no. 154, Division Malmesbury, be approved in terms of section 70 of the Swartland Municipal Land Use Planning By-Law (PG 7741 of 3 March 2017);
- F. Approvals A, B, C, D and E are subject to the conditions that:

F1 TOWN PLANNING AND BUILDING CONTROL

- (a) Two portions (5,1088 ha in extent) of Portion 48 of the Farm Brood Kraal, no. 154, be rezoned from Agricultural Zone 1 to Resort Zone, as presented in the application, with reference to the Site Development Plan (SDP) dated Sep. 2019, reference number MAL/9795/AC/NG, including the following:
 - (i) 2 existing buildings to be renovated into holiday accommodation units;
 - (ii) 3 existing wooden structures to be renovated into holiday accommodation;
 - (iii) 16 new units for holiday accommodation, limited to a maximum floorspace of 120m² per unit;
 - (iv) 23 campsites for short term accommodation, limited to 300m² per campsite;
 - (v) 8 toilet as basin sheds on designated camp sites;
 - (vi) 3 x ablution facilities (2 existing and 1 new facility of 245m² in extent);
 - (vii) 1 Existing Stable to be renovated for a backpackers' facility (± 410m² in extent), as presented in the application;
- (b) The consent use within the Resort Zone footprint be granted to accommodate the following, with reference to the Site Development Plan and as presented in the application:
 - (i) 1 x Resort Shop (± 185m² in extent);
 - (ii) 1 x Conference Facility (± 325m² in extent);
- (c) A portion (6,2575 ha in extent) of Portion 48 of the Farm Brood Kraal, no. 154, be rezoned from Agricultural Zone 1 to Open Space Zone 2, as presented in the application, with reference to the Zoning Plan dated Sep. 2019, reference number MAL/9795/AC/NG;
- (d) A portion (173m² in extent) of Portion 48 of the Farm Brood Kraal, no. 154, be rezoned from Agricultural Zone 1 to Community Zone 2 to accommodate a Place of Worship, as presented in the application, with reference to the Site Development Plan;
- (e) Architectural Design Guidelines, which include parameters on the design and extent of the buildings, and which are consistent with the Provincial Rural Guidelines (2019), be compiled and submitted to the Senior Manager: Built Environment for consideration and approval, prior to building plan approval;
- (f) The height of the holiday accommodation units be restricted to one storey and a total height of 6m from gradient line to highest point of roof;
- (g) Building plans for the existing, as well as new building works be submitted to the Senior Manager: Built Environment for consideration and approval;
- (h) The required number of parking bays be provided per existing and proposed land use, in compliance with Section 13 of the By-Law, at building plan stage;
- (i) Each parking bay be clearly marked;
- (j) An Environmental Management Plan be submitted to the Senior Manager: Built Environment for consideration and approval;

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- (k) The Environmental Management Plan will form part of any civil and building contracts for development on the land;
- (l) Application be made to the Senior Manager: Built Environment for the right to display advertising and tourism signs;
- (m) A Certificate of Compliance be obtained from the West Coast District Municipality for the operation of the function venue;
- (n) A trade license be obtained from Swartland Municipality for the operation of the function venue;
- (o) A 6m wide right of way servitude of 250m be registered over the Remainder of Farm 154, as presented in the application;
- (p) No pollution of the river, surface or groundwater resources may occur due to any activity on the property;
- (q) All the requirements of the National Water Act, 1998 (Act 36 of 1998) regarding water use and pollution management must be adhered to at all times, including access to the beach area;
- (r) Only non-motorised vehicles be allowed on the river, as presented in the application;
- (s) The Western Cape Noise Regulations be complied with at all times;
- (t) All engineering services be consistent with the engineering services report, as presented in the application;
- (u) No permanent occupation of any of the structures will be allowed, except for the existing main dwelling unit;
- (v) Building plans of all existing buildings be submitted within 90 days of the approval of the application;

F2 SEWERAGE

- (a) A copy of the approval by the Department of Water and Sanitation, in terms of Section 21 of the National Water Act, (Act 36 of 1998) be provided to the Municipality;
- (b) A copy of the general authorisation provided by the Department of Water and Sanitation, in terms of Section 39 of the Act, be provided to the Municipality;
- (c) The disposal of sewerage, whether it be grey or black water, complies with the conditions and requirements of the Department of Water and Sanitation;

F3 REFUSE REMOVAL

- (a) The owner/developer be responsible for refuse removal and that the proposed removal process be described in the Environmental Management Plan;
- (b) Prepaid vouchers be submitted, should any of the landfills in the municipal area be utilised. The vouchers are obtainable from any municipal office in the municipal area;

F4 CAPITAL CONTRIBUTIONS

- (a) The owner/developer be responsible for the capital contribution of R130 686,00 (12 x R10 890,50) for the bulk supply of regional water. This capital contribution is payable to Swartland Municipality at building plan stage. The amount is valid for the financial year of 2019/2020 and may be revised thereafter (mSCOA: 9/249-176-9210);

F5 GENERAL

- (a) The approval of the resort does not provide the right of the owner to object against agricultural activities practised on surrounding farms, as agriculture remains the primary use of the properties in the area;
- (b) The land use approval will not cause exemption from complying with any and all other legal procedures, applications and/or approvals related to the intended land use;
- (c) 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;

G. 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 levels as discussed above;

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- (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 resort and facilities;
- (c) The proposal for rezoning is spatially resilient, as the diversification of land uses on the property will strengthen its resistance against environmental and economic shocks;
- (d) The proposed consent use is consistent with the character and zoning of the property and surrounding area;
- (e) 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;
- (f) The proposal will generate a number of employment opportunities;
- (g) The development proposal does not trigger an EIA and will have no detrimental impact on the environment, but Duty of Care is taken by the owner/developer and environmental concerns will be addressed through the proposed EMP and Water Use Licenses respectively;
- (h) The cultural and natural heritage of the area is not negatively impacted upon and the visual impact of the development proposal is considered minimal;
- (i) The development will enable the property owner to legally utilise the land for tourism activities, as well as optimally utilise agricultural land that has been left uncultivated in the past;
- (j) The proposed land use supports agri-tourism and the associated economic benefits thereof;
- (k) The proposed development is not perceived to have a detrimental impact on the health and safety, nor the rights of surrounding land owners;
- (l) The agricultural practices of neighboring farms are not foreseen to impact negatively on the proposed resort and facilities;
- (m) The development proposal is considered desirable within its context, i.e. spatially, culturally, environmentally and economically;
- (n) The site inspection conducted by members of the Tribunal concluded that the resort will have no impact on the objector, due to the slope of the river bank, the height and the distance of the objectors' property from the proposed development;
- (o) The uniqueness of the resort site can be attributed to:
 - (i) Access to the river and the sandbank that formed, due to its proximity to the weir;
 - (ii) The application property has limited opportunity for expansion, as it is wedged between intensive agricultural practices and the river;
 - (iii) The 58 ha farm portion cannot be successfully operated as an economically viable agricultural unit and the application promotes a diversified, financially more sustainable development;
 - (iv) The proposed resort promotes the principle of cluster development, as it is situated adjacent to the Broodkraal Estate, rather than encroaching on high potential agricultural land;
 - (v) The surrounding land uses consist of agricultural development right down to the river bank. None of the farms along the river, either north or south of the proposed resort, possess the same collection of advantages as the application property.

6.2 PROPOSED CONSENT USE OF ERF 3784, MOORREESBURG (15/3/10-9) (WARD 1)

The author, Ms A de Jager, tabled the item and mentioned that the proposed consent use entails the establishment of a house shop on erf 3784, Moorreesburg.

RESOLUTION (UNANIMOUSLY)

- A. The application for a consent use on Erf 3784, Moorreesburg, is 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:

A1 TOWN PLANNING AND BUILDING CONTROL

- (a) The consent authorises a house shop not to exceed 50% of the area of the dwelling unit, but limited to 25 m²;

- (b) Building plans, clearly indicating the house shop in relation to the house, be submitted to the Senior Manager: Built Environment, for consideration and approval;
- (c) Application for construction of or attaching an advertising sign to the building be submitted to the Senior Manager: Built Environment, for consideration and approval. Only one sign, not exceeding 1 m² in area and not exceeding the land unit boundaries with any part thereof be permitted indicating only the name of the owner, name of the business and nature of the retail trade;
- (d) A maximum of three persons, including the property owner, be permitted to be engaged in retail activities on the land unit;
- (e) Only pre-packaged food products may be sold;
- (f) No food preparation be allowed in the house shop;
- (g) The following activities not be allowed for sale in the house shop:
 - (i) The sale of wine and alcoholic beverages;
 - (ii) Storage or sale of gas and gas containers;
 - (iii) Vending machines;
 - (iv) Video games; and
 - (v) Snooker or pool tables;
- (b) Application for a trade license be submitted to the Senior Manager: Built Environment for consideration and approval;
- (c) Application for a Certificate of Compliance be submitted to the West Coast District Municipality for consideration and approval;
- (d) The municipal approval by Swartland Municipality be displayed inside the house shop;

A2 WATER

- (a) The existing water connection be used;
- (b) No additional connections will be provided;

A3 SEWERAGE

- (a) The existing sewerage connection be used;
- (b) No additional connections will be provided;

A4 STREETS AND STORM WATER

- (a) Deliveries only be made with light delivery vehicles not exceeding 16 000kg;

A5 REFUSE REMOVAL

- (a) The basic refuse removal tariff will be levied for the dwelling, as well as the business and in the case of the business the tariff will be amended in accordance with the amount of refuse generated;

B. 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. The application be supported for the following reasons:

- (a) The application complies with section 42 of SPLUMA and Principles referred to in Chapter VI of LUPA;
- (b) The application complies with the land uses proposed for this area of Moorreesburg, as determined by the SDF;
- (c) This application supports the local economy and promotes entrepreneurship and local businesses, as a goal of the IDP;
- (d) The development parameters and requirements of the By-Law Zoning Scheme are complied with through imposing conditions of approval;
- (e) The development is envisioned to promote economic opportunities, shorter travel distances and amenities in the residential neighbourhood;
- (f) The proposed consent use will not negatively affect the character of the neighbourhood. Photographs of the area are included in the application;

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- (g) The additional income generated by the house shop may enable the property owner to expand the dwelling unit in the future, which in turn will make it possible to expand the house shop.

6.3 APPLICATION FOR DEPARTURE ON ERF 1130, MOORREESBURG (15/4/2-9) (WARD 1)

Mr A J Burger tabled the item and confirmed that a building plan application has been received from the owner of erf 1130, Moorreesburg.

The replacement of the existing roof over the braairoom and a double garage are Proposed. The proposed double garage encroaches the 1,5 m side building line (southern boundary) to 0 m.

RESOLUTION (UNANIMOUSLY)

The application for a departure from development parameters on erf 1130, Moorreesburg be approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 7741 of 3 March 2017), as follows:

- Departure from the 1,5m side building line (southern boundary) to 0m.
- A. The approval is subject to the following conditions:
 - A1 TOWN PLANNING AND BUILDING CONTROL**
 - (a) No building work on erf 1130 may encroach the property's erf boundaries;
 - (b) Rain water from the roof of the building on the erf boundary of erf 1130 be transferred on the erf to the nearest municipal street;
 - (c) No vehicles that relate to the owner's taxi/bus transport business may be parked on the premises;
 - B. GENERAL**
 - (a) 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. The application be supported for the following reasons:
 - (a) The proposed building work complies with the requirements of the National Building Regulations;
 - (b) The proposed double garage is proposed on an area on erf 1130 which is already used for parking purposes. It is therefore meaningful and practical to extent the existing single garage to that area;
 - (c) The adjoining erf (erf 1296) has building work which encroaches the 4m street building (carport) and 1,5m side building line (garage) to 0m respectively;
 - (d) The proposed building work (double garage) is proposed with a similar architectural style as the existing buildings on erf 1296;
 - (e) The proposed building work will have little to no impact on the existing character of Moorrees Street as the building work complies with the street building line;
 - (f) The different street fronts of erven 1130 and 1296 create an effect of depth which softens the streetfront of the building work on both erven;
 - (g) Concerns of the objector as mentioned in Part I of this report is unfound and speculative as the existing buildings on erf 1296 has the same impact on erf 1130 as feared by the objector on his property.

[Note: The chairperson arranged for item 6.4 to be discussed lastly to excuse the Director: Protection Services, Mr P A C Humphreys from the meeting due to interest declared.]

6.5 APPLICATION FOR A CONSENT USE ON ERF 987, DARLING (15/3/10-3) (WARD 6)

Mr A J Burger explained the background to the application and confirmed that the application is an attempt from the owner of erf 987, Darling to obtain land use rights to operate a scrapyards.

The proposed scrapyard is situated in the existing industrial area of Darling and the recycling of metals will have large environmental, economic and sustainability benefits.

RESOLUTION (UNANIMOUSLY)

- A. The application for a consent use on erf 987, Darling be approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 7741 of 3 March 2017), subject to the following conditions:

A1 TOWN PLANNING AND BUILDING CONTROL

- (a) The approval is restricted to the consent use for a scrapyard as presented in the application;
- (b) Building plans be submitted to the Senior Manager: Built Environment for consideration and approval for any alterations to the existing building work and any proposed building works;
- (c) Premises or any portion of premises used as a scrapyard be fenced or screened entirely or in relation to that portion of the premises used as a scrap yard, as the case may be, with a suitable brick or concrete wall at least 1,8m high, measured from the natural height of the land abutting such fence;
- (d) The owner of the scrapyard obtains a permit from the South African Police Service in terms of The Second Hand Goods Act (Act 6 of 2009);
- (e) That if engines be stripped a hard surface with oil sump pit be constructed;
- (f) Business hours be limited from 07:30 to 17:30 during week days and from 07:30 to 13:00 on Saturdays;
- (g) No activities of the business be allowed on the sidewalk;

A2 REFUSE REMOVAL

- (a) The refuse removal service be restricted to household and general refuse;

B. 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) The approval does not exempt the applicant from adherence to any and all other legal procedures, applications and/or approvals related to the intended land use, as required by provincial, state, parastatal and other statutory bodies;

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

- (a) Erf 987 is situated inside the industrial area of Darling. The proposed scrapyard is compatible with the surrounding industrial uses, therefore being complimentary to the character of the area;
- (b) The proposed scrapyard is a land use which is accommodated under the Industrial zone 2 zoning inside the identified industrial area, which makes this application compliant with the spatial planning of Darling;
- (c) The economic growth of Darling is supported by creating employment for locals at the scrapyard and by creating an income for the public by disposing of unwanted waste and material;
- (d) Theft in Darling is a problematic crime at the time. The scrapyard cannot be solely held responsible for theft and vandalism in the town;
- (e) A scrapyard is an industry that is responsible for the recovering, processing and recycling of metals/materials no longer in use. Recycling of metals/material is critical to society as it has large environmental, economic and sustainability benefits;
- (f) The application complies with the principles of LUPA and SPLUMA;
- (g) Public interest is regarded positively towards the proposed consent use for the scrapyard.

6.6 APPLICATION FOR REZONING OF A PORTION OF PORTION 2 OF THE FARM GRENSPLAAS NO 964, MALMESBURY RD (15/3/3-15) (WARD 12)

[Mr W Steyn withdrew from meeting due to interest declared.]

Mr H Olivier, as author, gave a comprehensive review of the report as the application for the establishment of a carbonisation plant is a first of its kind for the Swartland municipal area.

Mr Olivier discussed the objective of the Agricultural Zone 2 as determined in the By-law and highlighted that it allows for activities that are best situated within an agricultural area, as opposed to an urban or industrial area. The carbonisation plant is not regarded as a noxious trade in accordance with specialise studies undertaken.

The process and technology involved in producing charcoal are explained in order to consider the application. The estimated alien biomass resource in the vicinity is sufficient to supply the plant for 20 years. If no longer in operation, the plant will be able to be dismantled and relocated.

RESOLUTION (UNANIMOUSLY)

- A. The application for the rezoning of a portion of portion 2 of the farm Grensplaas no 964, Malmesbury Registration Division be approved in terms of section 70 of the Swartland Municipality: Municipal Land Use Planning By-law (PG 7741 of 3 March 2017) from Agricultural zone 1 to Agricultural zone 2, subject to the following conditions:

A1 TOWN PLANNING AND BUILDING CONTROL

- (a) The rezoned area be restricted to ± 4.2 ha as proposed in the application;
- (b) Building plans be submitted to the Senior Manager: Built Environment for consideration and approval;
- (c) Application for the erection of advertising signs be made to the Senior Manager: Built Environment for consideration and approval;
- (d) The Municipality be provided within 60 days after the facility is brought into operation of a noise impact assessment from a suitably qualified acoustic engineer which determine if there is any contravention of the Western Cape Noise Control Regulations, PN 200. The acoustic engineer should also make recommendations in order for the facility to comply with the said regulations. Such recommendations are implemented/installed within a reasonable time as determined by the Municipality;
- (e) No pollution of surface or groundwater resources may occur due to any activity on the property;

A2 WATER

- (a) No municipal drinking water be provided;
- (b) The conditions of the Department of Water and Sanitation be adhered to as set out in condition A6 below;

A3 SEWERAGE

- (a) A Package Sewerage Treatment Plant ("PSTP") with a maximum design capacity of 5m^3 be installed to provide the necessary sewerage services for the development proposal as required in terms of the Environmental Authorization;

A4 REFUSE REMOVAL

- (a) If any of the waste disposal sites be used in the Swartland Municipal area, pre-paid coupons be bought at any municipal office. The coupons be handed in at the relevant waste disposal site before any refuse is dumped;

A5 DEPARTMENT OF TRANSPORT AND PUBLIC WORKS: ROAD NETWORK MANAGEMENT

- (a) The existing main farm access at Km12.25 be permanently closed;
- (b) Access to the property be taken at the existing secondary farm access at Km 12.72 on Divisional Road 1131;
- (c) The Km12.72 access be upgraded and maintained in accordance with the specifications of the District Roads Engineer, Ceres;

- (d) The plant may not be brought into production prior to the District Roads Engineer, Ceres certifying that the Km 12.25 access has been permanently closed and the Km12.72 access has been upgraded to his satisfaction;

A6 DEPARTMENT OF WATER AFFAIRS AND SANITATION

- (a) The activities as proposed trigger a water use in terms of section 21(g) "disposing of waste in a manner which may detrimentally impact on a water resource" and 21(f) discharge waste or water containing waste into a water resource through a pipe, canal, sewer, sea outfall or other conduit" of the National Water Act, 1998;
- (b) A water-use authorisation and registration be applied for and obtained prior to commencing with the activities;
- (c) No pollution of surface or groundwater resources may occur due to any activity on the property;
- (d) All the requirements of the National Water Act, 1998 (Act 36 of 1998) regarding water use and pollution management be adhered to at all times;

A7 WEST COAST DISTRICT MUNICIPALITY

- (a) The facility be registered as a Controlled Emitter in terms of Section 23(1) of the NEM: Air Quality Act (Act 39 of 2004);
- (b) An application be submitted to the relevant competent authority in terms of Section 14(1) of the West Coast District Municipality's Air Quality Management Bylaw dated 6 September 2013, for consideration and approval;
- (c) An Atmospheric Emissions License be applied for since charcoal plants also trigger listed activity Category 3: Carbonization and Coal Gasification, Subcategory 3.4: Char, Charcoal and Carbon Black Production in terms of the NEM: Air Quality Act, Listing Notice no 893, dated 22 November 2013;
- (d) An application for an atmospheric emission license be submitted to the relevant competent authority in terms of Section 36(5)(e) of the NEM: Air Quality Act. The Atmospheric Emissions License application be processed on the South African Atmospheric Emissions Licencing and Inventory Portal (SAAELIP). <https://saaelip.environment.gov.za/SAAELIP/SAAELIP/FACILITY/Go vEnt/Shared/Pages/Main/Login.aspx>;

A9 DEPARTMENT ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

- (a) The applicant/developer complies with the conditions of the Environmental Authorisation of the Department of Environmental Affairs and Development Planning dated 29 August 2019 with reference number 16/3/3/1/F5/16/2023/19;
- (b) The listed activities that have been authorised be carried out on the site described in Section C of the authorization in terms of the approved Environmental Management Programme ("EMPr");

B. GENERAL

- (a) The approval is in terms of section 76 (2) (w) of the By-Law valid for a period of 5 years, during which time the land use must be utilised and all conditions of approval adhered to for the land use rights to be established;
- (b) The applicant/objectors are informed of their right to appeal against the decision of the Municipal Planning Tribunal, within 21 days of this notice, in terms of section 89(2) of the By-Law;
- (c) The owner/developer takes note of the contents of the letter from Telkom dated 13 June 2017, with reference number WWIP_WMY+2493_17 and that the approval has lapsed;
- (d) The approval does not exempt the applicant from adherence to any and all other legal procedures, applications and/or approvals related to the intended land use, as required by provincial, state, parastatal and other statutory bodies;

C. The application be supported for the following reasons:

- (a) The proposal adheres to the spatial planning principles referred to in Chapter VI of LUPA and is consistent with the legislative measures mentioned in Section 42 of SPLUMA;

6.6/C...

- (b) The proposed application is compliant with the provisions of the relevant zoning scheme;
- (c) The proposal is deemed consistent and not in contradiction with the Spatial Planning on a provincial, district and local scale;
- (d) No accommodation for workers or laborers relating to the facility is provided on-site;
- (e) Due to the extent of the property, the distance from the nearest neighbouring homestead, the recommendations and mitigation measures as contained in the EMP, the proposed development is not perceived to have a detrimental impact on the health and safety of surrounding landowners, nor will it negatively impact on environmental / heritage assets;
- (f) The proposed activity has certain primary as well as spill-over economic advantages through the creation of job opportunities at the facility as well as in the external sectors. It will, therefore, contribute to growing economic prosperity not only for the Swartland area but also the Western Cape.

6.4 REVISED APPLICATION: APPLICATION FOR REZONING AND DEPARTURE ON ERF 423, DARLING (15/3/3-3) (WARD 5)

[The Director: Protection Services, Mr P A C Humphreys, withdrew from meeting.]

Ms A de Jager confirmed that the application was referred back by the Municipal Planning Tribunal on 15 May 2019 to revise the application.

The Tribunal argued that due to the nature of the proposed land use, a service industry is not the appropriate mechanism to incorporate the use on the property, but rather a footprint rezoning to Agricultural Zone 2.

RESOLUTION (UNANIMOUSLY)

- A. The application for rezoning of a portion of Erf 423, Darling from Agricultural Zone 1 to Agricultural Zone 2, in terms of section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 7741 of 3 March 2017), be approved;
- B. The application for the permanent departure on Erf 423, Darling in terms of section 25(2)(o) of Swartland Municipality: Municipal Land Use Planning By-law (PG 7741 of 3 March 2017), be approved;
- C. The decisions in A and B above is subject to the conditions that:

C1 TOWN PLANNING/ BUILDING CONTROL

- (a) A portion (772m²) of Erf 423, Darling be rezoned from Agricultural Zone 1 to Agricultural Zone 2 as presented in the application;
- (b) The service industry be restricted to the storage and distribution of wines;
- (c) Building plans for the alteration of the existing buildings as well as any new buildings be submitted to the Snr Manager: Building Environment for consideration and approval;
- (d) Any new structure be designed as such to complement the existing character and style of the heritage buildings on the property;
- (e) A minimum of 32 parking bays and 3 loading bays be provided as presented in the application;
- (f) The paved parking area and the loading bays be clearly marked and the grass parking area be clearly indicated with signage to the satisfaction of the Municipality;
- (g) The Agricultural Zone 2 portion of Erf 423, Darling (772m² in extent), be notorially linked to Farm 1220 by the owner/developer;

C2 WATER

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

C3/...

C3 SEWERAGE

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

C4 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;

C5 DEPARTMENT OF WATER & SANITATION

- (a) No pollution of surface water or groundwater resources occur due to any activity on the property;
- (b) No abstraction of surface or groundwater be done without prior authorisation from the Department of Water and Sanitation unless it is a Schedule 1 Use or an Existing Lawful Use;
- (c) Storm-water runoff 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 be adhered to at all times;

C6 TELKOM

- (a) Telkom representative be contacted prior to commencement of construction work;
- (b) Any changes or deviations from the original planning during or prior to construction be communicated to Telkom;
- (c) Should alterations or relocation of existing infrastructure be required, such work be done at the request and cost of the applicant;
- (d) Telkom representative be contacted should any OpenServe infrastructure be damaged while work is undertaken;
- (e) All OpenServe rights remain reserved;
- (f) No mechanical plant or vibrator type compactors be used within three meters of any OpenServe (i.e. any Telecommunications equipment above or below ground level);
- (g) Failing to comply with the conditions or any special conditions addendum mentioned by Telkom in their letter dated 8 March 2019 be regarded as gross negligence and the applicant be held responsible for any damage or loss as a result thereof;

D. 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;

E. The application be supported for the following reasons:

- (a) The proposed development supports the economic security of the property through the diversification of agricultural activities;
- (b) Storage and distribution form part of the manufacturing process and are considered compatible with agricultural industry;
- (c) The proposed agricultural industry promotes the efficiency of the business and prevents complicated logistical processes;
- (d) All activities are clustered at the main homestead which is in the urban edge of Darling. The proposed rezoning will result in the efficient use of land and infrastructure within the urban edge of Darling;
- (e) The use of the existing buildings and the inclusion of the large garden area complement the historical character of the homestead as well as protect the sense of place;
- (f) The proposal is not for another residential development but rather the diversification of the farming activities without impacting negatively on the environment;

6.4/E...

- (g) New structures are required to complement the existing historic buildings on the property;
- (h) Erf 423 has no physical restrictions that will have a negative impact on this application;
- (i) The proposed wine distribution facility will not have a negative impact on the character of the surrounding area;
- (j) The proposed application is consistent and not in contradiction with the existing planning and spatial planning objectives in the area as mentioned above;
- (k) There are no conditions registered against the title deed of the property that will have a negative impact on the proposed application;
- (l) The proposed number of loading bays (3) is deemed sufficient as the requirement in the By-Law is accepted as a misprint. The requirement should have read 1 bay per 500m², and the area of the proposed storage facility is 772m².

**(SIGNED) J J SCHOLTZ
CHAIRPERSON**