



**MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON WEDNESDAY, 14 AUGUST 2019
AT 15:00 IN THE COMMITTEE ROOM: CORPORATE SERVICES**

PRESENT

Internal members:

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

External members:

Mr C Rabie
Mr W Steyn

Other officials:

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

2. APOLOGY

Cognisance be taken of the apology received from the Director: Protection Services, Mr P A C Humphreys.

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 17 JULY 2019

RESOLVED

That the minutes of a Municipal Planning Tribunal Meeting held on 17 July 2019 are approved and signed by the chairperson.

5. MATTERS ARISING FROM THE MINUTES OF 17 JULY 2019

**5.1 APPLICATION FOR A CONSENT USE ON ERF 1649, RIEBEEK WEST (15/3/3-12)
(WARD 3)**

The author, Mr A J Burger, tabled the item. Mr A M Zaayman gave feedback regarding the meeting held with the SAPS and liquor officer and confirmed that a new liquor licence, without the conditions e.g. sound proofing, operating hours, parking, etc, was issued. It is the authority of the Municipality to impose conditions and to ensure the compliance thereof.

Mr Zaayman mentioned that the SAPS are comfortable with the way the facility is currently operated. The SAPS undertook to monitor the area on a regular basis, but also requested the Municipality's support in this matter, especially over weekends.

RESOLUTION

- A. The application for a consent use on erf 1649, Riebeeek West 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:

A1 TOWN PLANNING AND BUILDING CONTROL

- (a) The approval is restricted to the consent use as a place of entertainment (172m² in extent) as presented in the application;
- (b) Application for an entertainment licence be made to the Director: Development Services;
- (c) Any noise created by the facility on or in the vicinity of the property be compliant with the Western Cape Noise Control Regulations, 2013;
- (d) Building plans be submitted to the Senior Manager: Built Environment for consideration and approval;
- (e) The doors identified as emergency exits, but which must be closed for soundproofing, must still be able to function as emergency exits to the satisfaction of the Municipality's Fire Services.
- (f) The agreement between Swartland Municipality, the applicant, the Riebeeek West Community Forum, the Weltevreden Home Owners Association and owner of the place of entertainment, regarding mitigation and management measures for the activities on the premises, be adhered to at all times;
- (g) Mitigation and management measures are as follows:
 - (i) The pub owner/operator is responsible to ensure that the parking at the rear of the building is not used by clients of the pub.
 - (ii) The owner is responsible to install a light in the parking area equipped with a day-and-night switch. The installation to comply with the requirements of and be to the satisfaction of Swartland Municipality.
 - (iii) An accredited security guard be appointed by the owner/operator of the pub to oversee the activities on the parking area during the operation times of the pub, in order to ensure that the premises not be used inappropriately, causing a nuisance to the Weltevreden HOA and residents.
 - (iv) The place of entertainment area be made soundproof to the satisfaction of the Municipality at building plan stage in accordance with the Western Cape Noise Regulations, 2013.
 - (v) The door and windows opening to the back of the property onto the parking area must be closed during the hours when the place of entertainment is operational.
 - (vi) The smoking area be soundproofed in accordance with the National Building Regulations (SANS 10400 Regulations).
 - (vii) A self-closing and lockable gate/door be installed at the refuse building on the property to the satisfaction of the Cleansing Division of Swartland Municipality in order to ensure no trespassing of unwanted elements and said gate/door be locked at all times.
 - (viii) The collection and disposal of bottles from the bar to the refuse building be restricted to take place between 08:00 and 18:00 and disposing of any glass objects from the pub outside these times are strictly prohibited.

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 property makes use of the existing sewerage connection and that no additional connections will be provided;

5.1/...

B. GENERAL

- (a) The approval is, in terms of section 76(2)(w) of the By-Law, valid for a period of one (1) year from date of approval;
- (b) No activities associated with the place of entertainment may take place before all conditions of approval have been met;
- (c) An application for an extension of the approval period prior to the one year period expires in accordance with section 76(2)(w) of the By-Law be made to the Senior Manager: Built Environment.
- (d) 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 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 is supported for the following reasons:

- (a) Erf 1649 is situated inside the CBD of Riebeeck West making this application in compliance with the provisions of the SDF;
- (b) Existing uses and the proposed consent use complies with the zoning parameters of the business zone 1 zoning;
- (c) The existing uses and the proposed consent use complement each other within the CBD of Riebeeck West;
- (d) Mitigation and management measures are in place for the place of entertainment which will ensure that the facility has a minimal impact on the surrounding residential properties;
- (e) Any nuisance created outside erf 1649 needs to be addressed by the Division: Law Enforcement and SAPS. The owner of the pub cannot be held responsible;
- (f) The application complies with the principles of LUPA and SPLUMA;
- (g) Public interest is regarded positively towards the proposed consent use for the place of entertainment.

6. MATTERS FOR CONSIDERATION

6.1 APPLICATION FOR REZONING OF ERF 3451, DARLING (15/3/3-3) (WARD 6)

Mr H Olivier, as author, mentioned that the purpose of the application is to rezone Erf 3451, Darling from Residential Zone 1 to Business Zone 1 in order to convert the existing dwelling house into a restaurant as well as a dwelling unit.

The application property, Erf 3451, is located within the Central Business District of Darling on c/o of Main Road and Van Riebeeck Street, Darling.

RESOLUTION

- A. The application for the rezoning of Erf 3451, Darling in terms of section 70 of the Swartland Municipality: Municipal Land Use Planning By-law (PG 7741 of 3 March 2017) be approved from Residential Zone 1 to Business Zone 1, be approved subject to the following conditions

A1 TOWN PLANNING AND BUILDING CONTROL

- (a) At least 14 onsite parking bays and one loading zone be provided in accordance with condition 4(a) below;
- (b) The applicant to apply for departure of building lines in accordance with parameters of Business Zone 1 at building plan stage;
- (c) Building plans be submitted to the Senior Manager: Built Environment for consideration and approval;
- (d) Application to display advertising signage be made to Senior Manager: Built Environment;
- (e) A Certificate of Compliance for the preparation and provision of food be obtained from the West Coast District Municipality for the preparation and provision of food;

6.1(e)/...

- (f) A trade licence for the operation of the restaurant be obtained from Swartland Municipality;

A2 WATER

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

A3 SEWERAGE

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

A4 STREETS AND STORMWATER

- (a) The proposed parking area must be provided with a suitable dust-free surface to the satisfaction of the Director Civil Engineering Services;

A5 REFUSE REMOVAL

- (a) The basic refuse removal fee be levied and in the case of the business the tariff be adjusted given the amount of refuse that is removed;
- (b) A built refuse area, with clean running water and wastewater drainage that is connected to the sewer system, be provided on-site;
- (c) The refuse area should be easily accessible to waste disposal workers, but inaccessible to unwanted elements and animals;

A6 WEST COAST DISTRICT MUNICIPALITY

- (a) Building plans be provided to the Division: Municipal Health Services for comments.
- (b) Application for a compliance certificate for a food premises must be submitted to the Division and all health requirements must be complied with before such a certificate will be issued.

B. GENERAL

- (a) Should it be necessary to upgrade any existing services in order to accommodate the access or service connections of the proposed development, the cost thereof will be for the developer's account;
- (b) The approval is in terms of section 76(2)(w) of the By-Law, valid for a period of 5 years. This means that all conditions of approval must be complied with within the 5 year period and that failing to do so will result in the lapsing of the approval;
- (c) The applicant/objectors are informed of the right to appeal against this decision of the Municipal Planning Tribunal, within 21 days of the notice, in terms of section 89(2) of the By-Law;
- (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 is supported for the following reasons:

- (a) There are physically no restrictions on the property that will have a negative impact on this application;
- (b) There are no restrictions registered against the title deed of the property that will negatively impact the proposed development;
- (c) The proposed application is consistent with and not in contradiction to the Spatial Development Frameworks adopted on Provincial, District and Municipal levels as discussed in the Land Use Planning Report;
- (d) The proposed development will definitely have a positive impact on the economy of Darling through the creation of numerous job opportunities;
- (e) 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 property has sufficient access to and from Main and Van Riebeek Streets which are public roads.

6.2 PROPOSED CONSENT USE ON ERF 98, ABBOTSDALE (15/3/10-1) (WARD 7)

The author, Ms A de Jager, tabled the item regarding the application for a consent use on Erf 98, Abbotsdale in order to operate a liquor store on the Business Zone 2 property.

RESOLUTION

- A. The application for a consent use on Erf 98, Abbotsdale, 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 conditions that:

A1 TOWN PLANNING AND BUILDING CONTROL

- (a) The size of the liquor store and store room be restricted to 120 m² as presented in the application;
- (b) The sale of liquor be restricted to off-consumption only;
- (c) Building plans be submitted to the Senior Manager: Built Environment for consideration and approval;
- (d) Application for advertising signs be submitted to the Senior Manager: Built Environment for consideration and approval;
- (e) At least 15 parking bays and 1 loading bay be provided on-site, as presented in the application;
- (f) The parking bays and loading bay be finished with a permanent, dust free surface, being tar, concrete or paving or a material pre-approved by the Director: Civil Engineering Services and that the parking bays and loading bay be clearly marked;
- (g) The approval will not cause exemption from adherence to any other legal procedures, applications and/or approvals related to the intended land use;

A2 WATER

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

A3 SEWERAGE

- (a) The existing sewerage connection be utilised and that no additional connections will be provided;

A4 STREETS AND STORM WATER

- (a) Deliveries may only be made by delivery vehicles with a gross mass not exceeding 16 000kg.

B. GENERAL

- (a) Should the expansion of any existing services prove necessary in order to provide the development with services, it will be for the cost of the owner/developer;
- (b) The approval is, in terms of section 76(2)(w) of the By-Law, valid for a period of 5 years. This means that all conditions of approval must be complied with within the 5 year period and that failing to do so will result in the approval expiring;
- (c) The applicant/objector is informed of the 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;
- (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 is supported for the following reasons:

- (a) The consent for a liquor store is compatible with the land use proposals of the SDF for Abbotsdale, as the property is already utilised for business purposes and is situated along an activity street;

C./...

- (b) The consent use of a liquor store is compatible with the permissible land uses of Business Zone 2, through consent from Council;
- (c) The proposed expansion and scale of the commercial functions on the property are consistent with the character of the surrounding area;
- (d) The application property is of sufficient size to accommodate the proposed use and associated required parking bays;
- (e) The proposed expansion of the facilities will ensure the optimal utilisation of the property;
- (f) The proposal will not negatively affect any biophysical or cultural environmental resources;
- (g) The impact of the development on traffic patterns is negligible;
- (h) A liquor store operated within the prescribed legal perimeters is deemed a regular commercial use. Formalising the proposed liquor store is foreseen to promote the legal sale of liquor in the area and consequently minimising the need for illegal establishments;
- (i) The consent use is thus considered desirable within the spatial context.

**(SIGNED) J J SCHOLTZ
CHAIRPERSON**