



MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON WEDNESDAY, 15 MAY 2019 AT 08:30 IN THE COMMITTEE ROOM: CORPORATE SERVICES

PRESENT

Internal members:

Municipal Manager, Mr J J Scholtz (chairperson)
Director: Corporate Services, Ms M S Terblanche
Director: Protection Services, Mr P A C Humphreys

External members:

Mr 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
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.

2. APOLOGY

Apology received from Mr C Rabie.

3. DECLARATION OF INTEREST

RESOLVED that cognisance be taken of the declaration by the Director: Protection Services, Mr P A C Humphreys – see item 6.1.

4. MINUTES

4.1 MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON 12 APRIL 2019

RESOLVED

That the minutes of a Municipal Planning Tribunal Meeting held on 12 April 2019 are approved and signed by the chairperson, subject to the correction of grammar and spelling errors and the following amendment –

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

B: SEWERAGE

- The owner/developer be instructed (instead of, requested) to, ...

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

D1 TOWN PLANNING AND BUILDING CONTROL

4.1/...

(f) The boundary walls or fences be constructed of building materials ~~previously~~ [delete] approved by ...

5. MATTERS ARISING FROM THE MINUTES OF 12 APRIL 2019

None

6. MATTERS FOR CONSIDERATION

6.1 APPLICATION FOR CONSENT USE AND AMENDMENT OF AN EXISTING APPROVAL ON ERF 423, DARLING (15/3/10-3) (WARD 5)

[Mr P A C Humphreys withdrew from the meeting for the discussion of the item because of his son-in-law's involvement at Ormonde Cellar.]

Mr Herman Olivier, as author, tabled the item and explained the background to the application as a previous application to accommodate a wine tasting and sales facility was received in 2002 and approved with conditions. One of the conditions was that the facility be restricted to 39 m² within the existing homestead.

A new application was received in 2015 to extend the tourist facility to include a larger area as well as associated activities, including an outside seating area as well as a venue. The facility moved from a portion of the existing dwelling to the administrative building on the farm.

Application is now made to again expand the existing tourist facility to ±4 477,5 m² (752,5 m² within the existing and proposed buildings as well as ±3 752 m² of the outside area).

Mr Oliver mentioned that the objections mainly deals with the scale of the development, but confirmed that the impact will be minimal as the application serves to formalise the surrounding outdoor spaces (3 752 m²) as an ancillary function to the tourist facility.

A discussion followed on the desirability to accommodate the service industry as a consent use, with specific reference to the definition of a service industry in accordance with the zoning scheme and the precedent that it might create for future applications.

RESOLUTION

- A. The application for the amendment of an existing approval on Erf 423, Darling in terms of section 70 of the Swartland Municipality: By-Law on Municipal Land Use Planning (PG 7741 of 3 March 2017), be approved;
- B. The application for a consent use for a service industry on Erf 423, Darling in terms of section 25(2)(o) of Swartland Municipality: By-law on Municipal Land Use Planning (PG 7741 of 3 March 2017) be referred back, for the applicant to amend the application to accommodate a rezoning to Agricultural Zone 2;
- C. The decision in paragraph A is subject to the following conditions:

C1 TOWN PLANNING/BUILDING CONTROL

- (a) The conditions as contained in the letters of approval dated 6 November 2002 as well as 4 August 2015 be replaced with the following conditions;
- (b) The tourist facility includes a wine tasting and –sales facility, a restaurant, outside seating and garden area as well as parking and is restricted to ±7500 m²;
- (c) The outdoor area may only be used as an ancillary facility and parking for the restaurant as presented in the application;
- (d) An application be made at the West Coast District Municipality for a compliance certificate as well as at Swartland Municipality for a business license;
- (e) The tourist facility may not be used as a place of assembly or a place of entertainment and not no amplified music be played outdoors;
- (f) Building plans/...

6.1/C1...

- (f) Building plans for the alteration of the existing buildings as well as any new buildings be submitted to the Director: Development Services for consideration and approval;
- (g) The site development plan be amended to include the existing parking at the main entrance to the facility as part of the tourist facility;
- (h) Any new structure be designed as such to complement the existing character and style of the heritage buildings on the property;
- (i) The tasting facility be restricted to wines produced by the owners;
- (j) The facility provides the necessary sanitary amenities for visitors;
- (k) The paved parking area be clearly marked and the grass parking area only be clearly indicated with signage;

C2 WATER

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

C3 SEWERAGE

- (a) The existing sewer connection is used and that no additional connections will 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 may occur due to any activity on the property;
- (b) No abstraction of surface or groundwater may 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 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;

C6 TELKOM

- (a) Important cables are affected and the Telkom representative should be contacted prior to commencement of construction work;
- (b) Any changes or deviations from the original planning during or prior to construction must immediately be communicated to Telkom;
- (c) Should alterations or relocation of existing infrastructure be required, such work will be done at the request and cost of the applicant;
- (d) Kindly contact the Telkom representative immediately should any Openserve infrastructure be damaged while work is undertaken;
- (e) All Openserve rights remain reserved;
- (f) No mechanical plant or vibrator type compactors may 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 will be regarded as gross negligence and the applicant will 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 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/...

6.1/E...

- E. The application is supported for the following reasons:
- (a) The proposed development will enhance the economic role and function of Darling as tourism destination;
 - (b) 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;
 - (c) All activities are clustered at the main homestead which is in the urban edge of Darling. The proposed expansion, as well as consent use, will result in the efficient use of land and infrastructure within the urban edge of Darling;
 - (d) The proposal is not for another residential development but rather the diversification of the farming activities without impacting negatively on the environment;
 - (e) New structures to complement the existing historic buildings on the property;
 - (f) Erf 423 has no physical restrictions that will have a negative impact on this application;
 - (g) The proposed upgraded tourist facility will not have a negative impact on the character of the surrounding area;
 - (h) The proposed application is consistent and not in contradiction with the existing planning and spatial planning objectives in the area as mentioned above;
 - (i) There are no conditions registered against the title deed of the property that will have a negative impact on the proposed application;
 - (j) The application complies with all the requirements of the relevant zoning scheme;
 - (k) On-site parking is seen as sufficient.

6.2 PROPOSED REZONING, DEPARTURE AND CONSENT USE ON ERF 804 (15/3/3-3, 15/3/3-6, 15/3/3-10) (WARD 6)

The author, Ms A de Jager, confirmed that the application is on behalf of *The Darling Veldblombewaring Trust* to accommodate a centre for education in indigenous flora. The facility may not be used as a place of assembly or a place of entertainment.

Ms de Jager addressed the objection received and confirmed the low impact of the facility and that it is regarded as supplementary to residential developments and also adjoining land uses such as the school and sports facilities.

RESOLUTION

- A. Application for the rezoning of Erf 804, Darling, from Residential Zone 1 to Community Zone 1 be approved in terms of section 70 of the Swartland Municipality: By-Law on Municipal Land Use Planning (PG 7741 of 3 March 2017);
- B. Application for the consent use for a conference facility on Erf 804, Darling, be approved in terms of section 70 of the Swartland Municipality: By-Law on Municipal Land Use Planning (PG 7741 of 3 March 2017);
- C. Application for building line departure on Erf 804, Darling, be approved in terms of section 70 of the Swartland Municipality: By-Law on Municipal Land Use Planning (PG 7741 of 3 March 2017);
- D. Approvals A, B and C are subject to the conditions that:

D1 TOWN PLANNING AND BUILDING CONTROL

- (a) The rezoning of Erf 804, Darling makes provision for the development of a Place of Instruction, as presented in the application, including the following:
 - (i) A herbarium and library;
 - (ii) Store rooms;
 - (iii) Offices;
 - (iv) Tourism office/ticket sales;
 - (v) A reception room;
 - (vi) A conference room;

6.2/D1...

- (b) Consent is granted for a conference facility to be restricted to lectures, presentation and information sessions, as presented in the application and that the facility may not be made available for rental purposes and other functions;
- (c) A minimum of 14 on-site parking bays and 1 bus parking bay be provided, as presented in this application;
- (d) Building plans be submitted to the Director: Development Services for consideration and approval;
- (e) The building be restricted to a height of 2 storeys;
- (f) Application be made to the Director: Development Services for the right to display advertising and tourism signs;
- (g) A Certificate of Compliance be obtained from the West Coast District Municipality for the serving of food on the premises;

D2 WATER

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

D3 SEWERAGE

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

D4 STREETS AND STORM WATER

- (a) The access points over sidewalks, the parking area and parking bays be provided with a permanent, dust free surface, be it tar, concrete, paving or any other material approved by the Director: Civil Engineering Services, and that all parking bays be clearly marked;
- (b) The owner/developer appoint an engineer, appropriately registered in terms of Act 46 of 2000 for the design of the kerb, entrance, exit and parking;
- (c) The design be submitted to the Director: Civil Engineering Services for consideration and approval and that construction be completed under the supervision of the appointed engineer;

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 failing to do so will result in the approval expiring;

F. The application be supported for the following reasons:

- (a) The proposed development complies with the requirements of the Swartland Planning By-law as well as existing planning norms and principles and is being seen as consistent with the SDF;
- (b) The proposed place of education and conference facility is compliant with the principles of SPLUMA and LUPA;
- (c) The proposed place of instruction will provide access to educational opportunities to the wider community of Darling, as well as the general public;
- (d) Tourism will be stimulated through the provision of tourism infrastructure, which in turn may stimulate the local economy;
- (e) The nature and scale of the development is ancillary to residential uses and is in an area where other sports and educational facilities are located and is therefore not foreseen to impact negatively on the character of the surrounding area;
- (f) The building line encroachment will have no effect on the health or safety of the affected property owner;
- (g) Sufficient engineering services exist to accommodate the proposed land use, but the applicant also proposes the utilization of alternative water and electricity sources, further supporting sustainable development;
- (h) There are no restrictions in the title deed of Erf 804 which impacts on this application.

6.3/...

6.3 APPLICATION FOR A DEPARTURE ON ERF 3318, MALMESBURY (15/4/2/8) (WARD 10)

Mr A J Burger, as author, explained that the application for a departure of building lines forms part of a building plan application that was submitted to legalise the unauthorised outside braai and pergola on the property.

Mr Burger focussed on the objection received and confirmed that the concerns are mitigated by the proposed conditions of approval.

RESOLUTION

The application for the departure of building lines on Erf 3318, Malmesbury be approved in accordance with section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law, as follows:

- A. The departure of the 1,5 m side building line (western boundary) to 0,7 m for the erection of a pergola;
- B. The departure of the 2 m rear building line to 0 m for the erection of a braai;
- C. Approvals A and B are subject to the conditions that:

C1 TOWN PLANNING AND BUILDING CONTROL

- (a) The braai be plastered and painted;
- (b) The chimney of the braai be provided with a "sparks control" device of steel;

D. GENERAL

- (a) The objector be informed of the right to appeal against this decision of the Municipal Planning Tribunal, within 21 days of this notice, in terms of section 89(2) of the By-Law;
- E. The application be supported for the following reasons:
 - (a) The placement of the braai and the pergola is regarded as meaningful and practical as it integrates with the existing outside living area at the swimming pool;
 - (b) The visual impact from Erf 3323 will be mitigated by plastering and painting the braai;
 - (c) Providing the chimney with a "sparks control" device will eliminate any potential fire hazards for adjacent properties and the Telkom line;
 - (d) There are no restrictions registered against the title deed of Erf 3318 that will negatively impact the application;
 - (e) No municipal services are affected.

6.4 PROPOSED REZONING AND SUBDIVISION OF ERF 3715, MOORREESBURG (15/3/3-9, 15/3/6-9) (WARD 2)

The Senior Manager: Building Environment, Mr A M Zaayman, discussed the report with specific reference to the layout of the Moorreesburg Housing Project, including the Sibanye Square development that will be provided with shared services. Although funding has only been secured for the Sibanye Square development, the approval of the application will enable the Municipality to be prepared when funding is allocated for the Moorreesburg Housing Project.

The Senior Manager: Building Environment confirmed that the site development plan was amended to provide for corridors for future housing developments on the adjacent land towards the N7 national road.

The committee should further note that the layout of the sports ground is not restricted to the subdivisional plan submitted and will be considered during the building plan stage in accordance with sections 8.3.1 of the Swartland Municipality Zoning Scheme.

Resolution/...

RESOLUTION

- A. The application for the rezoning of Erf 3715 (21.2323ha in extent), Moorreesburg from residential zone 1 to sub-divisional area in terms of section 70 of Swartland Municipality: By-law on Municipal Land Use Planning (PG 7741 of 3 March 2017) be approved;
- B. The application for the subdivision of Erf 3715 (21.2323ha in extent), Moorreesburg in terms of section 70 of Swartland Municipality: By-law on Municipal Land Use Planning (PG 7741 of 3 March 2017) be approved;
- C. The further subdivision Erf 3715, Moorreesburg as well as portion A and portion B in terms of section 70 of Swartland Municipality: By-law on Municipal Land Use Planning (PG 7741 of 3 March 2017) be approved;
- D. A, B and C above are subject to the following conditions:

D1 TOWN PLANNING/ BUILDING CONTROL

- (a) The above rezoning makes provision for the following land uses:

Residential Zone 1
 Residential Zone 2
 Residential Zone 4
 Open Space Zone 1
 Open Space Zone 2
 Community Zone 1
 Community Zone 2
 Business Zone 1
 Authority Zone and
 Transport Zone 2

- (b) Erf 3715 be subdivided into a remainder ($\pm 1,2899$ ha), portion A ($\pm 2,1494$ ha) as well as portion B ($\pm 17,7930$ ha) as presented in the amended subdivisional plan;
- (c) Portion A ($\pm 2,1242$ ha) be subdivided as phase 1 in order to accommodate incremental housing as part of the expansion of the existing Sibanye Informal Settlement, as presented in the amended site development plan, and which consist of the following:

115 Residential Zone 4 erven— $\pm 1,1829$ ha
 1 Community zone 2 erf— ± 376 m²
 1 Community zone 1 erf— ± 376 m²
 1 Open space zone 1 erf— ± 376 m²
 1 Transport Zone 2 erf— ± 8537 m²

- (d) Portion B ($\pm 17,7930$ ha) be subdivided in order to accommodate a mixed-use mixed density residential development as part of phase 2 of the development, which consist of the following:

180 Residential Zone 4 erven— $\pm 1,8439$ ha in extent (UISP housing)
 229 Residential Zone 2 erven— $\pm 3,9388$ ha in extent (IRDP housing)
 204 Residential Zone 2 erven— $\pm 2,3397$ ha in extent (Walk-up housing)
 27 Residential Zone 1 erven— ± 7735 m² in extent (affordable housing)
 6 Open Space Zone 1 erven— $\pm 1,1219$ ha
 1 Open Space Zone 2 erf— $\pm 2,4203$ ha (sports facilities and fields)
 1 Business Zone 1 erf— ± 2559 m²
 2 Community Zone 1 erven— ± 1719 m² (Crèche)
 2 Community Zone 2 erven— ± 2180 m² (Church)
 2 Transport zone 2 erven— $\pm 4,7091$ ha (Roads)

D2 WATER

- (a) The internal water distribution network be properly designed by an Engineer that is registered in terms of the provisions of Act 46 of 2000. The design must be presented to the Director: Civil Engineering Services for approval and the services must be installed under the supervision of the said engineer;

- (b) Following a complete investigation to determine the capacity of the external water network, the network be upgraded to the satisfaction of the Director: Civil Engineering Services in accordance with the recommendations made in such investigation;

D3 SEWERAGE

- (a) The internal sewer distribution network be properly designed by an Engineer that is registered in terms of the provisions of Act 46 of 2000. The design must be presented to the Director: Civil Engineering Services for approval and the services must be installed under the supervision of the said engineer;
- (b) Following a complete investigation to determine the capacity of the sewer services network, the network be upgraded to the satisfaction of the Director: Civil Engineering Services in accordance with the recommendations made in such investigation;

D4 STREETS AND STORMWATER

- (a) The internal streets and stormwater be properly designed by an Engineer that is registered in terms of the provisions of Act 46 of 2000. The design must be presented to the Director: Civil Engineering Services for approval and the services must be installed under the supervision of the said engineer;

D5 DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

- (a) An integrated waste management approach must be used that is based on waste minimisation and should incorporate reduction, recycling, re-use and disposal where appropriate. Any solid waste shall be disposed of at a landfill licenced in terms of section 20 of the Environment Conservation Act, 1989 (Act No. 73 of 1989);
- (b) No surface or groundwater pollution may occur as a result of any activities on site. The requirements of the National Water Act (Act No 36 of 1998) must be adhered to at all times;
- (c) The Western Cape Nature Conservation Board (WCNCB): West Coast Region must be contacted for advice regarding landscaping and screening of the proposed development with locally available indigenous trees, endemic to the area;
- (d) Members of the Moorreesburg Community must be given preference when the time comes to allocate plots, prior to those coming from outside of Moorreesburg;

E. Please take note of the following:

- (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 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;

F. The application be supported for the following reasons:

- (a) There are no physical restrictions on the property that will have a negative impact on the proposed development. The small watercourse on the northern boundary has been accommodated in the layout of the development;
- (b) There are no conditions or servitudes registered against the title deed of the property that prohibits the proposed development;
- (c) The proposed development is seen as a natural extension of the existing Rosenhof neighbourhood and the proposal will therefore not have a negative impact on the character of the area;
- (d) The layout of the proposed housing development consists of a range of residential topologies including larger properties that forms the transitional zone between the higher densities to the east as well as the neighbourhood of Hooikraal to the west;
- (e) The proposed development is consistent with local as well as provincial spatial planning principles and policy;

6.4/F...

- (f) It is not foreseen that the proposed development will have a negative impact on the biodiversity of the area as the property was previously disturbed by agricultural activities and no natural vegetation was found on the property;
- (g) Access to the development is deemed sufficient as it will integrate with the existing municipal road network of Moorreesburg. Different classes of roads are also proposed in order to ensure safe pedestrian and vehicular movement;
- (h) The proposed development, due to its location can easily connect to the existing services network of Rosenhof and Hooikraal;
- (i) Access to the development is seen as sufficient.

**(SIGNED) J J SCHOLTZ
CHAIRPERSON**