



MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON WEDNESDAY, 17 JULY 2019 AT 14:00 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 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

No apologies were received.

3. DECLARATION OF INTEREST

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

4. MINUTES

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

RESOLVED

(proposed by Ms M S Terblanche, seconded by Mr W Steyn)

That the minutes of a Municipal Planning Tribunal Meeting held on 12 June 2019 are approved and signed by the chairperson, subject to the proposed corrections.

5. MATTERS ARISING FROM THE MINUTES OF 12 JUNE 2019

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

Mr H Olivier tabled the item on behalf of the author, Mr A J Burger.

Mr A Zaayman referred to Annexure Q of the report and mentioned that the Western Cape Liquor Authority granted a liquor licence to Duke's Pub under certain conditions. The conditional approval does not allow for the trading of liquor until such time that the conditions have been fulfilled, amongst other, the sound proofing of the licenced area.

5.1/...

Despite the fact that the pub owner does not adhere to the conditions imposed, the law enforcement officers of the Liquor Authority and the SAPS also fail to fulfil their obligations in preventing the selling of liquor.

A meeting will be convened between Swartland Municipality, the Liquor Authority, the designated Liquor Officer and the SAPS (Capt Madjiedt) in order to clarify responsibilities in handling the nuisances caused by the operating of the facility on Erf 1649, Riebeeck West.

The illegal operations is not consider to be a relevant consideration in terms of planning legislation, but conditions may be imposed to mitigate and manage the problems experienced with the operating of the facility. It is therefore advisable to conduct a site inspection to ensure that the proposed conditions are feasible.

RESOLUTION

That the item be referred back in order for the Municipal Planning Tribunal to conduct a site inspection on Erf 1648, Riebeeck West on Wednesday, 14 August 2019 at 13:30.

6. MATTERS FOR CONSIDERATION

6.1 APPLICATION FOR A CONSENT USE ON ERF 1858, MALMESBURY (15/3/10-8) (WARD 8)

Ms A de Jager, as author, explained that the application aims to obtain consent to establish a day care centre on the property. The proposed day care centre will be operated from the existing outbuilding (30m²).

The application property, Erf 1858, is situated in Victoria Street, Malmesbury.

RESOLUTION

A. The application for consent use on Erf 1858, Malmesbury, 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 consent authorises a day care centre, restricted to the existing outbuilding (30m² in extent) on the property, as presented in the application;
- (b) The dominant use of the dwelling house remain for the living accommodation purposes of a single family;
- (c) The owner ensures that the shared wall of the outbuilding between Erf 1858 and Erf 1857 be up to the standard of a fire wall and that the wall extends into the roof space to the apex to the satisfaction of the Municipality;
- (d) Building plans be submitted to the Senior Manager: Built Environment for consideration and approval;
- (e) Should advertising signs be displayed on the property, application be made to the Senior Manager: Built Environment for consideration and approval;
- (f) No more than 16 children be registered at a time, or be present on the land unit concerned at any time;
- (g) The service provided be of a day care and educational nature and may not be medical;
- (h) The day care centre may only operate between 06h00 and 18h00;
- (i) Application be made to the West Coast District Municipality for compliance certificates for the day care centre and the preparation of food (if applicable);

A2 WATER

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

A3 SEWERAGE

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

B. GENERAL

- (a) The land use approval will not cause exemption from complying with any other legal procedures, applications and/or approvals related to the intended land use;
- (b) The approval is, in terms of section 76(2)(w) of the By-Law, valid for a period of 5 years;
- (c) All conditions of approval must be complied with within 90 days and failing to do so will result in the approval expiring;
- (d) In terms of Chapter VII, section 89 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 7741 of 3 March 2017), the applicant and objector(s) have a right to appeal within 21 days of date of registration of this letter to the appeal authority of the Swartland Municipality against Council's decision;

C. 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;
- (b) There are no physical restrictions on the property that will have a negative impact on this application. In fact, the property and existing buildings are adequately suited to accommodate the proposed day care centre;
- (c) The proposal is spatially resilient, as the diversification of land uses on the property will strengthen its resistance against environmental and economic shocks, but the buildings can easily revert back to the original uses, should the day care cease to exist;
- (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, the Municipality (through rates and taxes) and employees, as well as creating a platform for training would-be child care professionals;
- (f) The anticipated traffic impact can be sufficiently managed through the on-site and off-street parking and the fact that the increased traffic will not be present for the entirety of the day;
- (g) Affected property owners can expect to experience some noise from the day care centre, but the noise is not expected to be outside the bounds of legal limits, nor will children be playing outside for an entire day – their activities are scheduled. Moreover, the legal rights of property owners will not be impeded, should any activities on the property cause a legitimate nuisance;
- (h) The day care centre must adhere to any and all legal safety requirements by the applicable child care legislation and the By-Law, thus imposing no threat of damage to other properties in the vicinity;
- (i) The development will enable the property owner to legally utilise the property to generate an additional income, as well as provide a social service to the community.

**(SIGNED) J J SCHOLTZ
CHAIRPERSON**