



**MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING HELD IN THE BANQUETING HALL,
MALMESBURY ON TUESDAY, 6 OCTOBER 2020 AT 14:00**

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
Ms C Havenga

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

The chairperson opened the meeting and addressed a special word of welcome to Ms C Havenga who was appointed as new external member of the Municipal Planning Tribunal effective from 1 October 2020.

2. APOLOGY

No apologies were received.

3. CONFIRMATION IN CHANGE OF MEMBERSHIP

The chairperson, with reference to the notice in the Provincial Gazette, confirmed the publishing of the change in membership of the Municipal Planning Tribunal of Swartland Municipality in the Provincial Gazette (PG 8326 dated 25 September 2020).

FOR COGNISANCE

4. DECLARATION OF INTEREST

RESOLVED that cognisance is taken that no declarations of interest were received.

5. MINUTES

5.1 MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON 9 SEPTEMBER 2020

RESOLVED

That the minutes of a Municipal Planning Tribunal Meeting held on 9 September 2020 are approved and signed by the chairperson, subject to the following amendment:

Item 6.2/...

5.1/...

ITEM 6.2: PROPOSED AMENDMENT AND DELETION OF CONDITIONS OF APPROVAL, CONSENT USE AND EXEMPTION ON ERF 12485, MALMESBURY AND THE REMAINDER OF FARM 771, DIVISION MALMESBURY (15/3/10-15 – Erf 771(b), Erf 12485) (WARD 7)

Paragraph E: The right of way servitude [~~over~~ in favour of Erf 12485 complies with the requirements of section 34 of Swartland Municipal Land Use Planning By-Law (PG 7741 of 3 March 2017) and is thus exempted from approval from Swartland Municipality;

6. MATTERS ARISING FROM THE MINUTES

None

7. MATTERS FOR CONSIDERATION

7.1 APPLICATION FOR A CONSENT USE ON ERF 2897, DARLING (15/3/10-3) (WARD 6)

The author, Mr A J Burger, explained that the application for a consent use on Erf 2897, Darling to operate a house tavern (off-consumption purposes) was approved by the Municipal Planning Tribunal on 2 November 2016. The validity period was two years and lapsed on 18 December 2018.

Mr Burger confirmed that it came to the attention of the Municipality that the house tavern is still in operation without land use approval. However, the owner complied with all the conditions of the previous approval, amongst others, approved buildings plans and is in possession of a liquor licence dated 13 February 2019.

RESOLUTION (UNANIMOUSLY)

A. The application for a consent use for a house tavern on Erf 2897, Darling, is approved in terms of section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), subject to the conditions that:

A1 TOWN PLANNING AND BUILDING CONTROL

- (a) The house tavern be restricted to $\pm 20\text{m}^2$ as presented in the application;
- (b) Liquor may only be sold for off-consumption purposes in accordance with the By-law relating to the Control of Undertakings that Sell Liquor to the Public (PG 7394 dated 22 May 2015);
- (c) The operation of the house tavern be restricted to the owner and resident (Kayrovna Viliessa Thomas) of Erf 2897 and is not transferable;
- (d) The dominant use of the buildings on the property remains as a dwelling house for the living accommodation of a single family;
- (e) Only one sign be permitted, and not exceed 1 m^2 in area, and not exceed the land unit boundaries with any part of it, and only indicates the name of the owner, name of the business and nature of the retail trade;
- (f) A tariff for additional fees for an unauthorised land use (per day after the closing date of the final notice) are calculated at R255,00 per day. The final notice ended on 1 July 2020 and the land use application was received on 20 July 2020. The additional fee is therefore calculated on 19 days @ R255,00 = R4 845,00;

A2 WATER

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

A3 SEWERAGE

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

A4 STREETS AND STORMWATER

- (a) Deliveries only be done by vehicles of which the bruto vehicle mass not exceeds 16 000kg;

A5 REFUSE REMOVAL

- (a) The basic refuse removal tariff be levied for the dwelling house and the business and in the case of the business the tariff be amended according to the amount of refuse removed;

A6 GENERAL

- (a) 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;
- (b) The approval is in terms of section 76(2)(w) of the By-Law valid for a period of 5 years. All conditions of approval be complied with before the house tavern comes into operation. On complying with all conditions and notifying the Municipality accordingly, the validity period of 5 years lapses;
- (c) The applicant/objectors be notified of the outcome and their right to appeal in terms of Chapter VII, section 89 of the By-law;

B. The application is supported for the following reasons:

- (a) The application is in compliance with the SDF and promotes mixed uses along the activity street;
- (b) The proposed house tavern complies with the requirements of the zoning scheme regulations;
- (c) The house tavern will not increase the risk and safety of the community as the business cannot be blamed for the existing social problems;
- (d) The house tavern have a complementary impact on the surrounding residential land uses by enhancing the shopping experience in the area;
- (e) The house tavern operation will in the short or long term be in the best interest of the community;
- (f) No objections were received regarding the operation of the house tavern for the past years.

7.2 APPLICATION FOR REZONING AND DEPARTURE ON ERF 3031, MALMESBURY (15/3/3-8, 15/3/4-8) (WARD 8)

Mr H Olivier, as author, mentioned that the purpose of the application is to unlock the potential of the property on Erf 3031, Malmesbury for student accommodation purposes.

Mr Olivier mentioned that the Municipality does not have a Student Accommodation Policy and Mr Olivier relied on the conditions and standards contained in the policies of other municipalities in order to mitigate the possible problems and complaints relating to the accommodation of students.

Mr Olivier suggested that a policy relating to student accommodation be developed for Swartland Municipality, keeping in mind that the West Coast College does not provide student accommodation and the opportunity exists to establish student hubs in the vicinity of the college.

RESOLUTION (UNANIMOUSLY)

A. The application for the rezoning of Erf 3031, Malmesbury from Residential Zone 1 to General Residential Zone 3, be approved in terms of section 70 of the Swartland Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), subject to the following conditions:

A1 TOWN PLANNING AND BUILDING CONTROL

- (a) The use of the property be restricted to a boarding house for student accommodation including a dwelling unit for a live-in supervisor;
- (b) Not more than six (6) rooms in the boarding house be used for student accommodation as proposed in the application;
- (c) At least 5 onsite parking bays be provided in accordance with condition A4(a) below;

7.2 A1/...

- (d) Building plans be submitted to the Senior Manager: Built Environment for consideration and approval;
- (e) Not more than two (2) students be accommodated in any double bedroom and such double bedroom to have a floor area of not less than fourteen square metres (14 m²);
- (f) In cases where students are accommodated in single bedrooms, such single bedrooms to have a floor area of not less than six square metres (6 m²);
- (g) No cooking of meals be permitted in individual bedrooms or any common area except in an area designated on an approved building plan as a kitchen or braai area;
- (h) A legally binding draft management agreement between the owner/s and/or the agent and/or occupant and all the students, intending to, or residing in the student accommodation facility/establishment be submitted to the Senior Manager: Built Environment for consideration and approval;
- (i) The owner/s of the student accommodation facility/establishment furnishes the Senior Manager: Built Environment within three (3) months of operating the student accommodation facility/establishment with a copy of the said management agreement;
- (j) The management agreement, between the agent or occupant and all the students intending to, or residing in the student accommodation facility/establishment, shall have clauses dealing with:
 - (i) House rules;
 - (ii) Behaviour which will cause a public nuisance which the students as well as their visitors should refrain from;
 - (iii) A 24 hour contact number to which residents can report any contraventions;
 - (iv) The number of students to be accommodated in the student accommodation facility/establishment as well as in each room;
 - (v) Rules for general maintenance of the student accommodation facility/establishment;
 - (vi) Rules for cleaning, neatness and upkeep of, at all times, of the subject property and its immediate surroundings;
 - (vii) Measures for the management of the facility/establishment during the tertiary institution holidays;

A2 WATER

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

A3 SEWERAGE

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

A4 STREETS & STORMWATER

- (a) The proposed parking area be provided and demarcated with a permanent surface to the satisfaction of the Director: Civil Engineering Services;

A5 DEVELOPMENT CONTRIBUTIONS

- (a) The owner/developer is responsible for the development contribution of R7 623,35 (R10 890,50 x 0.7) towards the bulk supply of regional water, at building plan stage. The amount is payable to the Swartland Municipality, valid for the financial year of 2020/2021 and may be revised thereafter (vote number 9/249-176-9210);
- (b) The owner/developer is responsible for the development contribution of R7 340,83 towards bulk water reticulation at building plan stage. The amount is payable to the Municipality, valid for the financial year of 2020/2021 and may be revised thereafter (vote number 9/249-174-9210);
- (c) The owner/developer is responsible for the development contribution of R3 631,57 towards sewerage, at building plan stage. The amount is payable to the Municipality, valid for the financial year of 2020/2021 and may be revised thereafter (vote number 9/240-184-9210);

7.2 A5/...

- (d) The Council resolution of May 2020 makes provision for a 40% discount on development contributions to Swartland Municipality, except for condition A5(a), which is payable in full. The discount is valid for the financial year 2020/2021 and can be revised thereafter;

A6 GENERAL

- (a) 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;
- (b) 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;
- (c) The approval is in terms of section 76(2)(w) of the By-Law valid for a period of five (5) years, during which time the rezoned land use be utilised, and all conditions of approval adhered to for the new zoning to be established. On complying with all conditions and notifying the Municipality accordingly, the validity period of five (5) years lapses;
- (d) The applicant/objectors are informed of the right to appeal against the decision of the Municipal Planning Tribunal, within 21 days of the notice, in terms of section 89(2) of the By-Law;

- B. The application for the permanent departures on Erf 3031, Malmesbury, be approved in terms of section 70 of the Swartland Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), subject to the following conditions:

B1 TOWN PLANNING AND BUILDING CONTROL

- (a) The departures entail accommodating the existing building resulting in the departure of the side building line (northern boundary) from 5 m to 1.5 m, the departure of the side building line (southern boundary) from 5 m to 3 m as well as the departure of the street building line (western boundary) from 5 m to 0 m;

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

- (a) There are no physical restrictions on the property that will have a negative impact on the application;
- (b) The proposed application is consistent with and not in contradiction to the Spatial Development Frameworks adopted on Provincial, District and Municipal levels;
- (c) The proposed application will not have a negative impact on the character of the area;
- (d) 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;
- (e) The proposed application will optimise the use of existing infrastructure and municipal engineering services and will not have a negative impact on the existing network or the Municipality's ability to provide services to the community of Malmesbury;
- (f) The degree of risk or potential risk can be mitigated through the application of and enforcement of suitable conditions of approval including a management agreement.

**(SIGNED) J J SCHOLTZ
CHAIRPERSON**