



**MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING HELD IN THE BANQUETING HALL,
MALMESBURY ON WEDNESDAY, 9 SEPTEMBER 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
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

The chairperson opened the meeting and welcomed members.

2. APOLOGY

No apologies were received.

3. DECLARATION OF INTEREST

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

4. MINUTES

4.1 MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON 8 JULY 2020

RESOLVED

That the minutes of a Municipal Planning Tribunal Meeting held on 8 July 2020 are approved and signed by the chairperson.

5. MATTERS ARISING FROM THE MINUTES

None

6. MATTERS FOR CONSIDERATION

6.1 PROPOSED SUBDIVISION OF ERF 108, ABBOTSDALE (15/3/6-11) (WARD 7)

Ms A de Jager, as author, tabled the report regarding the subdivision of Erf 108, Abbotsdale (3 338 m² in extent) into six portions.

Ms de Jager/...

Ms de Jager mentioned that the objections received mainly deal with concerns regarding the alienation process of the newly created erven. However, the alienation process is a separate process to the land use application and will be dealt with as such by the Municipality.

RESOLUTION

- A. The application for the subdivision of Erf 108, Abbotsdale, be 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) Erf 108 (3 338m² in extent) be subdivided into the following portions, as presented in the application:
- (i) Portion A: 653m² in extent;
 - (ii) Portion B: 616m² in extent;
 - (iii) Portion C: 503m² in extent;
 - (iv) Portion D: 502m² in extent;
 - (v) Portion E: 502m² in extent;
 - (vi) Portion F: 641m² in extent;
- (b) The required on-site parking bays be provided on each erf at building plan stage;
- (c) Subdivision diagrams be submitted to the Surveyor-General for approval, including proof to the satisfaction of the Surveyor-General of:
- (i) the municipality's decision to approve the subdivision;
 - (ii) the conditions of approval imposed in terms of section 76;
 - (iii) the approved subdivision plan;
- and copies of said diagrams be made available to the Municipality;
- (d) The legal certificate which authorises transfer of the subdivided portion in terms of Section 38 of By-law will not be issued unless all the relevant conditions have been complied with;

A2 WATER

- (a) Each portion be provided with a water connection at building plan stage;

A3 SEWERAGE

- (a) Each portion be provided with a sewerage connection at building plan stage;

B. GENERAL

- (a) 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 must be complied with within the 5 year period and failing to do so will result in the 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 is supported for the following reasons:

- (a) The proposed subdivided erven will comply with the character and erf size of the surrounding neighbourhood and, as determined by the SDF for area G of Abbotsdale;
- (b) This application is seen as densification which is supported by the SDF and PSDF;
- (c) The application complies with section 42 of SPLUMA and Principles referred to in Chapter VI of LUPA;
- (d) The proposed subdivision will not negatively affect the character of the neighbourhood, supporting the semi-rural character of the area;
- (e) There is sufficient services capacity to accommodate the newly created erf;
- (f) The increase in traffic load, due to the development, is considered negligible;
- (g) The rights of surrounding property owners will not be negatively affected, as no existing amenities will be removed in order for the subdivision to take place;

- (h) The proposal is considered desirable;
- (i) The creation of additional erven is considered to be in the interest of the public, as it will unlock opportunities to own erven in Abbotsdale;
- (j) The provision of parks is addressed in the Integrated Development Plan;
- (k) The alienation of the newly created erven is a separate process;
- (l) All development parameters of the By-Law are adhered to.

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)

Ms A de Jager, as author, tabled the report and mentioned that the application for the rezoning and subdivision of a portion of Farm Rozenburg no 771 was approved in 2013. An application was received in 2017 for the extension of the 5 year validity period and extension was granted until 13 March 2022.

Ms de Jager confirmed that the application deals with the approval for the amendment and cancellation of the conditions of approval of July 2017 in order to operate an abattoir on Erf 12485, Malmesbury under a consent use.

RESOLUTION

- A. Application for the amendment of approvals on Erf 12485, Malmesbury and the Remainder of Farm 771, Division 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) Decision **A** of approval letter 15/3/6/-15/Farm 771 dated 4 April 2017 that authorises the rezoning of the property from Agricultural Zone 1 to Subdivisional Area in order to accommodate:
- (i) 19 x Industrial Zone 1 erven (17,3ha in extent);
 - (ii) 1 x Transport Zone 1 erf: Road (2,6ha in extent);
 - (iii) 1 x Agricultural Zone 1 property (1 037ha in extent);

be amended to accommodate only:

- (i) 1 x Industrial Zone 3 erf (19,9ha in extent);
- (ii) 1 x Agricultural Zone 1 property (1 037ha in extent);

- B. Application for the deletion of approvals on Erf 12485, 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:

B1 TOWN PLANNING AND BUILDING CONTROL

- (a) Decision **C** of approval letter 15/3/6/-15/Farm 771 dated 4 April 2017 that authorises the subdivision of Portion A (Erf 12485) into:
- (i) 19 x Industrial Zone 1 erven of 9 150m² in extent each;
 - (ii) 1 x Transport Zone 1 erf of 2,6ha in extent;

be cancelled in its entirety;

- C. Application for a consent use on Erf 12485, 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:

C1 TOWN PLANNING AND BUILDING CONTROL

- (a) The consent use authorises an abattoir on the property, as presented in the application;
- (b) Waste treatment methods be applied, as presented in the application;
- (c) Building plans be submitted to the Senior Manager: Built Environment for consideration and approval;

- (d) Application for the construction and fitting of advertising signs be made to the Senior Manager: Built Environment for consideration and approval;
- (e) The Municipality be provided with a noise impact assessment from a suitably qualified acoustic engineer, within 60 days after the facility is brought into operation, to identify 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 to be implemented/installed within a reasonable time as, determined by the Senior Manager: Built Environment;
- (f) No pollution of surface or groundwater resources may occur due to any activity on the property and the applicable requirements with respect to relevant legislation pertaining to water be met;
- (g) On-site water treatment be conducted in accordance with the methods presented in the application and that the water quality be subject to testing and standards to the satisfaction of the Manager: Civil Engineering Services;
- (h) The conduct of construction activities, as far as possible, be limited to the dry/summer season to minimize impacts on the Diep River;
- (i) The main building be articulated into smaller visual units by stepping the building to reduce the extensive roof ridgeline;
- (j) Building materials and finishes be visually recessive and non-reflective to the satisfaction of the Building Control Officer;
- (k) A landscape plan be submitted to the Senior Manager: Built Environment for consideration and approval, to reduce the visual impact of the building from sensitive receptors;
- (l) An Operation Management Plan for buildings, infrastructure and landscaping be compiled that prescribes maintenance requirements to retain the good condition of buildings, infrastructure, and the landscape, and be submitted to the Senior Manager: Built Environment for consideration and approval;

C2 WATER

- (a) The development be provided of an internal water reticulation network, including sufficient storage capacity;
- (b) Water Master Plan items SMW1.1 – SMW1.4 and SMW2.1 – SMW2.3 be installed as a minimum requirement in order to provide the development of a water connection;
- (c) The internal and external water services be designed by an engineer appropriately registered in terms of the provisions of the Engineering Profession Act, Act 46 of 2000;
- (d) The design be submitted to the Director: Civil Engineering Services for consideration and approval;
- (e) The internal water services be installed in accordance with the approved design under the supervision of the registered Engineer;
- (f) The external water services be planned in accordance with the water master plan for Malmesbury. For this, the developer must contact GLS Consulting Engineers for details regarding the water master plan;
- (g) The fixed development contributions in respect of bulk services be payable in accordance with the Municipality's "Greenfields" policy for the levying of fixed development contributions and be calculated as soon as the required information for the calculations is available;

C3 SEWERAGE

- (a) The development be provided with separate internal sewage distribution networks for industrial effluent and domestic sewage that jointly connect to the Malmesbury sewage system, at a suitable place, to the satisfaction of the Director: Civil Engineering Services;
- (b) Sewer Master Plan items SMS3.1 – SMS3.4 be installed as a minimum requirement, in order to provide a service connection to the development;
- (c) The internal sewage distribution network for industrial effluent be provided with a flow meter and equipment for taking samples, to the standard and satisfaction of the Director: Civil Engineering Services;

- (d) The internal sewerage services including the flow meter and sampling equipment and pre-treatment plant and external sewerage services be designed by an engineer duly registered in terms of the provisions of the Engineering Profession Act, Act 46 of 2000 and that the design be submitted for consideration and approval by the Director: Engineering Services;
- (e) The design must be approved by the office of the Director: Civil Engineering Services and the services be installed in accordance with the approved design under the supervision of the Engineer;
- (f) The industrial effluent be pre-treated in accordance with the specifications of the Waste Management Plan and any additional requirements imposed by the Director: Civil Engineering Services;
- (g) The external sewerage services must be planned in accordance with the sewerage master plan for Malmesbury. For this, the developer must contact GLS Consulting Engineers for details regarding the sewer master plan;
- (h) Fixed capital contributions in respect of bulk services have been assessed in accordance with the Municipality's "Greenfields" policy for the levying of fixed development contributions and will be calculated as soon as information is available for the calculation;

C4 STREET AND STORMWATER

- (a) The first section of the right-of-way servitude be surfaced and adequate stormwater infrastructure be provided to aid in traction for especially large heavy vehicles to the satisfaction of the Director: Civil Engineering Services;
- (b) The surface of the proposed right-of-way servitude over Farm 771 be maintained by the owner/developer of Erf 12485, from the point of intersection with District Road 1111;
- (c) All newly constructed roads be finished with blacktop widths of at least 7,4 metres, as presented in the application;
- (d) Bellmouths be provided with radii of at least 15 metres, as presented in the application;

C5 GENERAL

- (a) The approval, in terms of section 76(2)(w) of the By-Law, be valid for a period of 5 years. All conditions of approval be complied with within said period and failing to do so will result in the approval expiring;
- (b) The applicant/objector be 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;
- (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, inter alia:
 - (i) Letter from Western Cape Department of Agriculture: Land Use Management, dated 16 October 2019, reference number 20/9/2/2/5/278;
 - (ii) Comments from the West Coast District Municipality, dated 19 November 2019, reference 13/2/12/1/1;
 - (iii) The Waste Management Licence, number 19/2/5/2/F5/16/WL0011/20, issued by the Western Cape Department of Environmental Affairs and Development Planning: Directorate: Waste Management on 17 June 2020;
 - (iv) The Environmental Authorisation issued by the Western Cape Department of Environmental Affairs and Development Planning: Directorate: Development Management, on 12 June 2020;
 - (v) Approval from the Western Cape Department of Transport and Public Works: Road Network Management of 13 March 2020, with reference number TPW/CFS/RP/LUD/REZ/SUB-26/102;

- D. Application for the deletion of approvals on Erf 12485, Malmesbury and the Remainder of Farm 771, Division Malmesbury, be not approved in terms of Section 25(2)(h) of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 7741, dated 3 March 2017);

D1 TOWN PLANNING AND BUILDING CONTROL

- (a) Decision **B** from approval letter 15/3/6/-15/Farm 771 dated 4 April 2017, that authorises the subdivision of Farm 771 into a Remainder (1 037ha in extent) and portion A (19,9ha in extent) cannot be deleted, as Erf 12485 was registered on Portion A and the subdivision vested;
- (b) Erf 12485 will accommodate the abattoir and deleting the subdivision will negate the land unit necessary to accommodate the development;

D2 GENERAL

- (a) The applicant/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 right of way servitude **over**¹ 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;

F. Reasons for the approval:

- (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;
- (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 labourers is provided on-site;
- (e) The proposed development is located within the urban edge;
- (f) Due to the extent of the property, the distance from the nearest neighbouring homestead, the recommendations and mitigation measures as contained in the EMPr, and the fact that the proposed development is located in an area that will be used for industrial purposes regardless, it not perceived to have a detrimental impact on the health and safety of surrounding landowners, nor will it negatively impact on environmental / heritage assets;
- (g) The cutting edge technology proposed for waste management forms the crux of the development and enables the municipality to regard the development positively;
- (h) The proposed activity will have certain primary as well as spill-over economic advantages through the creation of employment opportunities at the facility as well as in the external sectors. It is therefore expected to contribute to growing economic prosperity, not only for the Swartland area, but also for the Western Cape;

G. Reasons for refusal/non-approval:

- (a) The subdivision of Farm 771 into a Remainder (1 037ha in extent) and portion A (19,9ha in extent) cannot be deleted, as Erf 12485 was registered on Portion A and the subdivision vested;
- (b) Erf 12485 will accommodate the abattoir and deleting the subdivision will negate the land unit necessary to accommodate the development.

Before closing the meeting, the chairperson confirmed the resignation of Mr Willie Steyn as external member of the Municipal Planning Tribunal of Swartland Municipality. Mr Scholtz thanked Mr Steyn for his willingness to share his knowledge and for his valuable inputs in contributing to the matters of the Municipal Planning Tribunal.

**(SIGNED) J J SCHOLTZ
CHAIRPERSON**

¹ Replace 'over' with 'in favour of'