



**MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING HELD IN THE BANQUETING HALL,
MALMESBURY ON TUESDAY, 11 NOVEMBER 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 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 6 OCTOBER 2020

RESOLVED

That the minutes of a Municipal Planning Tribunal Meeting held on 6 October 2020 are approved and signed by the chairperson, subject to the following amendments:

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

Paragraph A1(f): [A tariff for] Additional fees for an unauthorised land use ... are calculated at R255,00 per day.

Paragraph A6(b): On complying with all conditions [and notifying] the owner/developer must notify the Municipality accordingly, after which the validity periof of 5 years lapses.

5. MATTERS ARISING FROM MINUTES

None.

6./...

6. MATTERS FOR CONSIDERATION

6.1 PROPOSED REZONING AND SUBDIVISION OF ERF 5, RIEBEEK KASTEEL (15/3/3-11, 15/3/6-11) (WARD 12)

The chairperson requested the author, Ms A de Jager, to table the item. Ms de Jager mentioned that a portion of the property is situated inside the urban edge of Riebeek Kasteel, while the remainder of agricultural land is situated outside the urban edge.

Ms de Jager explained that the property is accessed via an informal extension of Main Street, over municipal land. Although the road has vested over time, the extension has never been surveyed.

Ms Havenga requested that the motivation by the applicant be included in the report, especially where the application is of a more complex nature.

RESOLUTION

- A. The application for the rezoning of Erf 5, Riebeek Kasteel, from Agricultural Zone 1 to Subdivisional Area, be approved in terms of section 70 of the Swartland Municipal Land Use Planning By-Law (PG 7741 of 3 March 2017);
- B. The application for the subdivision of Erf 5, Riebeek Kasteel, be approved in terms of section 70 of the Swartland Municipal Land Use Planning By-Law (PG 7741 of 3 March 2017);
- C. Approvals A and B above are subject to the conditions that:

C1 TOWN PLANNING AND BUILDING CONTROL

- (a) Erf 5 be rezoned from Agricultural Zone 1 to Subdivisional Area in order to accommodate the following as presented in the application:
 - (i) Remainder: Agricultural Zone 1 (8,4959 ha in extent); and
 - (ii) Portion A: Residential Zone 1 (6 715 m² in extent);
- (b) Erf 5 be subdivided as follows and as presented in the application:
 - (i) Remainder: 8,4959 ha in extent;
 - (ii) Portion A: 6 715 m² in extent;
- (c) The required on-site parking bays be provided on the Residential Zone 1 portions, once development takes place;
- (d) 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;
 - (iv) and copies of said diagrams be made available to the Municipality;
- (e) The legal certificate which authorises transfer of the subdivided portion in terms of Section 38 of the By-Law not be issued unless all the relevant conditions have been complied with;
- (f) Official access to the subdivided portion be formalised through a land use planning process for the cost of the owner/developer;
- (g) Should any heritage resources, including evidence of graves and human burials, archaeological material and paleontological material be discovered during the execution of the activities above, all works be stopped immediately and Heritage Western Cape be notified without delay;

C2 WATER

- (a) Portion A be provided with a water connection at building plan stage;

C3 SEWERAGE

- (a) Portion A be provided with a sewerage connection at clearance stage;

C4/...

C4 ELECTRICITY

- (a) Portion A be provided with an electrical connection at building plan stage;
- (b) No mechanical plant be used within 3 m of an underground electrical cable;
- (c) All services be verified on site;
- (d) Cross trenches be dug by hand to locate all underground services before construction commences;
- (e) A minimum parallel separation distance of 1000 mm be maintained between proposed services and underground power cables;
- (f) A minimum vertical separation distance of 300 mm be maintained where services cross underground power cables, preferably by means of a concrete slab;
- (g) No manholes, pits or any structure be build on top of existing underground power cables;
- (h) No work or machinery takes place nearer than the following distances from conductors:

Voltage:	Separation distance:
11 kV	3 m
66 kV	3,2 m
132 kV	3,8 m

C5 DEVELOPMENT CHARGES

- (a) The owner/developer is responsible for the development charge of R10 890,50 for the bulk supply of regional water. The development charge is payable to Swartland Municipality at clearance stage. The amount is valid for the financial year of 2020/2021 and may be revised thereafter (mSCOA: 9/249-176-9210);
- (b) The fixed development charge of R19 008,35 be made towards water reticulation to the Municipality at clearance stage. The amount is valid for the 2020/2021 financial year and may be revised thereafter (mSCOA: 9/249-174-9210);
- (c) The fixed development charge of R9 111,45 be made towards sewerage to the Municipality at clearance stage. The amount is valid for the financial year of 2020/2021 and may be revised thereafter (mSCOA: 9/240-184-9210);
- (d) The fixed development charge of R9 487,50 be made towards waste water treatment works to the Municipality at clearance stage. The amount is valid for the financial year of 2020/2021 and may be revised thereafter (mSCOA: 9/249-144-9210);
- (e) The fixed development charge of R8 974,60 be made towards roads to the Municipality at clearance stage. The amount is valid for the financial year of 2020/2021 and may be revised thereafter (mSCOA: 9/249-144-9210);
- (f) The fixed development charge towards storm water be made to the Municipality to the amount of R4 516,90 at clearance stage. The amount is valid for the financial year of 2020/2021 and may be revised thereafter (mSCOA: 9/248-144-9210);
- (g) Council's resolution dated May 2020 makes provision for a 40% rebate applicable to development charges to Swartland Municipality. The rebate is valid for the 2020/2021 financial year and may be revised thereafter. The rebate is not application to paragraph C5(a);

C6 GENERAL

- (a) Any existing services connecting the Remainder and Portion A be disconnected and relocated, in order for each portion to have its own pipeline;
- (b) Should the extension of any existing service be needed in order to provide the subdivided portion with services, said extension be for the account of the owner/developer;
- (c) 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 within the 5 year period and failing to do so will result in the approval expiring;
- (d) The approval does not exonerate the owner/developer from obtaining any necessary approval from any other applicable statutory authority;
- (e) The applicant/objector be informed of the right to appeal against the decision of the Municipal Planning Tribunal, in terms of section 89(2) of the By-Law;

6.1/...

- D. The application is supported for the following reasons:
- (a) The application is in compliance with the character and erf size for the specific portion of Riebeek Kasteel, as determined by the SDF;
 - (b) The 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 IV 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 new 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 the developable area of the proposed portion will remain extensive;
 - (h) All development parameters of the By-Law will be adhered to;
 - (i) The Portion A of the Subdivisional Area is within the urban edge of Riebeek Kasteel and therefore the conditions of the Act on Subdivision of Agricultural Land, Act 70 of 1970 is not applicable.

6.2 APPLICATION FOR THE CLOSURE OF A PUBLIC PLACE: PORTION OF FARM 637, DIVISION MALMESBURY (RIEBEEK WEST) (15/3/7-15) (WARD 3)

An application was received for the temporary closure of a portion of Smuts Street, Riebeek West. The relevant portion of Smuts Street provides access to the Riebeek Valley Special School and Huis Maree Boarding House (erven 10 and 2035 respectively) as well as to erf 1090. Smuts Street separates the school and boarding house and scholars need to cross the road between the two facilities. After school hours the scholars use the portion of road to play.

Smuts Street is commonly used as access point to Kasteelberg, but is not the only access route. According to the principal of the school there are activities and incidents which take place on a regular basis which poses many challenges for the safety of the learners. The only objective of the school to apply for the temporary closure of the portion of Smuts Street is to ensure the safety of the learners.

Mr Rabie mentioned that one of the relevant considerations in accordance with SPLUMA and LUPA is the safety and welfare of residence. The "Protocol for Access to the Mountain" presented by the principal of the school determines the procedure to be followed when using the road to access the forest and mountain, and allows for controlled access.

RESOLUTION

That the application be referred back in order to allow for a further opportunity to collaborate with the relevant parties, especially the owner of Erf 1090, in order to emphasise the objective of the temporary closure of portion of Smuts Street, Riebeek West, namely to ensure the safety of learners.

6.3 PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS AND SUBDIVISION ON ERF 4355, DARLING (15/3/5-3; 15/3/6-3) (WARD 5)

Ms A de Jager, as author of the item, explained that the application is made for the subdivision of Erf 4355, Darling (1 586 m² in extent) in order to subdivide the property into Portion A (781 m² in extent) and Remainder (781 m²) and two road splays of 12 m² each.

The current parameters provided in the Title Deed limit the development potential of the property, amongst others, that the subject property may not be subdivided, and therefore the owner of Erf 4355, Darling wishes to remove the restrictive conditions.

RESOLUTION

- A. The application for the removal of title deed restrictions on Erf 4355, Darling, be approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020);

- B. The application for the subdivision of Erf 4355, Darling, be approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020);
- C. Approvals A and B are subject to the conditions that:

C1 TOWN PLANNING AND BUILDING CONTROL

- (a) Conditions B.5.(a), B.5.(b), B.5.(c) and B.5.(d) that read as follows:

“...B.5. Hierdie erf is onderworpe aan die volgende verdere voorwaardes met dien verstande dat indien die Administrateur, na oorleg met die Dorpekommissie en die plaaslike owerheid, dit raadsaam ag dat die beperking in enige sodanige voorwaarde te eniger tyd opgeskort of versag behoort te word, hy die nodige opskorting of versagting kan goedkeur onderworpe aan die voorwaardes wat hy oplê:-

- (a) *Dit mag nie onderverdeel word nie;*
- (b) *Dit mag allen gebruik word vir die doel om een woning tesame met die buitegeboue wat gewoonlik in verband daarmee gebruik word daarop (sic) te rig;*
- (c) *Nie meer as die helfte van die opvlakte (sic) daarvan mag bebou word nie;*
- (d) *Geen gebou of struktuur of enige gedeelte daarvan, behalwe grensmure en heinings, mag nader as 4,72 meter van die straatlyn wat 'n grens van hierdie erf uitmaak, opgerig word nie, asook nie binne 3,15 meter van die agtergrens of 1,57 meter van die sygrens gemeen daaraan en aan 'n aangrensende erf nie, met dien verstande dat 'n buitegebou an nie hoër as 3,05 meter nie, gemeet van die vloer tot by die muurplaat en waarvan geen gedeelte deur mense bewoon gaan word nie, met toestemming van die plaaslike owerheid binne die hierbo voorgeskrewe agterruimte opgerig mag word. Wanneer enige twee erwe gekonsolideer word, is hierdie voorwaarde op die gekonsolideerde oppervlakte as een erf van toepassing.”*

be completely removed from Title Deed T6201/2020;

- (b) The applicant/owner applies to the Deeds Office to amend the title deed in order to reflect the removal of the restrictive conditions;
- (c) The following minimum information be provided to the Deeds Office in order to consider the application, namely:
- (i) Copy of the approval by Swartland Municipality;
 - (ii) Original title deed, and
 - (iii) Copy of the notice which was placed by Swartland Municipality in the Provincial Gazette;
- (d) A copy of the amended title deed be provided to Swartland Municipality for record purposes, prior to final consideration of building plans;
- (e) Erf 4355, Darling (1 586 m² in extent), be subdivided into Portion A (781 m² in extent) with a corner splay (12 m² in extent) and the Remainder (781 m² in extent) with a corner splay (12 m² in extent);
- (f) The owner/developer be responsible for the transfer of the corner splays to the Swartland Municipality, at her own cost;

C2 WATER

- (a) The subdivided portion be provided with a separate water connection at clearance stage;
- (b) Any pipework connecting the Remainder and Portion A be disconnected and relocated, for each portion to have separate pipework;
- (c) The owner/developer is responsible for the capital contribution of R7 340,83 toward bulk water reticulation, at clearance stage;

C3 SEWERAGE

- (a) The subdivided portion be provided with a separate sewerage connection at clearance stage;
- (b) Any pipework connecting the Remainder and Portion A be disconnected and relocated, for each portion to have separate pipework;

C4 ELECTRICITY

- (a) The subdivided portion be provided with a separate electrical connection;
- (b) Any electrical interconnections between the subdivided portions be disconnected, isolated and completely removed;
- (c) The electrical connection be linked to the existing low voltage network;
- (d) Additional to the development charges, the owner/developer is responsible for the payment of electrical connections for the subdivided erf;

C5 DEVELOPMENT CHARGES

- (a) The owner/developer is responsible for the development charge of R7 623,35 (R10 890,50 x 0.7 for Single Res) toward the bulk supply of regional water, at clearance stage. The amount is payable to the Swartland Municipality, valid for the financial year of 2020/2021 and may be revised thereafter (mSCOA 9/249-176-9210);
- (b) The owner/developer is responsible for the development charge of R7 340,83 towards bulk water reticulation, at clearance stage. The amount is payable to the Municipality, valid for the financial year of 2020/2021 and may be revised thereafter (mSCOA: 9/249-174-9210);
- (c) The owner/developer is responsible for the development charge of R2 219,29 towards roads and storm water, at clearance stage. The amount is payable to the Municipality, valid for the financial year of 2020/2021 and may be revised thereafter (mSCOA: 9/247-144-9210);
- (d) The owner/developer is responsible for the development charge of R3 631,58 towards sewerage, at clearance stage. The amount is payable to the Municipality, valid for the financial year of 2020/2021 and may be revised thereafter (mSCOA: 9/240-184-9210);
- (e) The owner/developer is responsible for the development charge of R4 358,90 towards electricity, at clearance stage. The amount is payable to the Municipality, valid for the financial year of 2020/2021 and may be revised thereafter (mSCOA9/253-164-9210);
- (f) The Council resolution of May 2020 makes provision for a 40% discount on development charges to Swartland Municipality – except for condition 5(a) – which is payable in full. The discount is valid for the financial year 2020/2021 and can be revised thereafter;

C6 GENERAL

- (a) Should the expansion of any of the existing services be required, the associated costs will be for the account of the developer;
- (b) The legal certificate which authorises transfer of the subdivided portions in terms of Section 38 of the By-Law will not be issued unless all the relevant conditions have been complied with;
- (c) The approval is, in terms of section 76(2)(w) of the By-Law, valid for 5 years. All conditions of approval must be implemented within these 5 years, failing which, the approval will lapse;

D. The application is supported for the following reasons:

- (a) The proposed subdivision is consistent with local, provincial and national policy, supporting densification of urban areas;
- (b) The development proposal is considered consistent with the provisions of the SDF, that earmarks the area for low and medium density residential development, as well as amenities and a tourism node;
- (c) The proposed property sizes are consistent with the minimum erf size determined for the area, namely 500 m²;
- (d) The development will optimally connect to the existing services network;
- (e) The proposal is foreseen to generate residential opportunities;
- (f) The development proposal supports the optimal utilisation of the properties;

6.3(D)/...

- (g) The development proposal will not negatively impact on the character of the specific portion of Darling;
- (h) The owner/developer act within her rights to develop the property and no departures are applied for;
- (i) The rights of the affected property owners are not negatively affected;
- (j) The subdivision will have no effect on the neighbouring nature reserve;
- (k) Development parameters such as building lines and coverage are governed by the By-Law, even after the restrictive conditions have been removed from the title deed;
- (l) The subdivision is in line with the pattern of subdivisions that already exists in the area.

6.4 APPLICATION FOR REZONING, CONSENT USE AND DEPARTURE ON ERF 110, MALMESBURY (15/3/3-8, 15/3/4-8, 15/3/10-8) (WARD 8)

The author, Mr H Olivier, explained the application received in order to use the existing building on Erf 110, Malmesbury as a residential building (boarding house) for student accommodation.

Application is made to rezone Erf 110, Malmesbury from Residential Zone 1 to Business Zone 1 in order to allow the owner of the property to use the property for business purposes. A separate application is made for a consent use under the Business Zone 1 zoning to allow the owner to be able to use the property as a boarding house for student accommodation.

Mr Olivier motivated why it would be appropriate to rather apply for a General Residential Zone 3 zoning as it primarily makes provision for the intended use, namely student accommodation in the form of a residential building (boarding house).

RESOLUTION

That the item be referred back to discuss the appropriate zoning with the applicant to accommodate a residential building for the purpose to establish student accommodation (boarding house).

**(SIGNED) J J SCHOLTZ
CHAIRPERSON**