



**MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING HELD IN THE MALMESBURY BANQUETING HALL, MALMESBURY ON WEDNESDAY, 8 SEPTEMBER 2021 AT 14:00**

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**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:

Ms C Havenga  
Mr C Rabie

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, Mr H Olivier  
Town and Regional Planner, Ms A de Jager

**1. OPENING**

The chairperson opened the meeting and welcomed members.

**2. APOLOGY**

No apology was 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 11 AUGUST 2021**

**RESOLVED**

(proposed by Ms M S Terblanche, seconded by Ms C Havenga)

That the minutes of a Municipal Planning Tribunal Meeting held on 11 August 2021 are approved and signed by the chairperson.

**5. MATTERS ARISING FROM MINUTES**

**5.1 MINUTES OF MUNICIPAL PLANNING TRIBUNAL HELD ON 11 AUGUST 2021**

None.

**6. MATTERS FOR CONSIDERATION**

6.1/...

## 6.1 APPLICATION FOR A CONSENT USE ON ERF 1182, YZERFONTEIN (15/3/10-14) (WARD 5)

The chairperson granted Ms A de Jager, as author, the opportunity to give a broad overview of the report on the proposed application for a consent use on Erf 1182, Yzerfontein in order to operate a guest house in the existing dwelling.

Ms De Jager confirmed that the objections received were evaluated and because of the objections certain approval conditions were added to address the concerns of the objectors.

Ms De Jager also referred to the desirability of the application and the specific criteria that is taken into account. It is emphasised that, if the operating of a guest house be allowed, the Municipality does not condone any land uses that do not fall within the parameters of the By-Law and which are related to the guest house. In other words, nobody that is not a paying guest at the guest house is allowed to use the facilities and the guest house is not allowed to be used as a venue.

The flow of traffic in the area was also considered and 5 parking bays (1 parking bay for each room) be proposed in order to mitigate on-street parking.

Ms De Jager emphasised that the Municipality reserves the right to retract any land use permission, should the owner/developer not comply with conditions or act unlawfully.

The chairperson confirmed that, if the owner of the property proceeds to utilise the facilities as a wedding venue, it will be in contradiction with the approval for a guest house.

### RESOLUTION

- A. The application for consent use on Erf 1182, Yzerfontein, in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), be approved, subject to the conditions that:

#### **A1 TOWN PLANNING AND BUILDING CONTROL**

- (a) The consent use authorises a guest house, as presented in the application as follows:
- (i) 5 x guest bedrooms for occupation by a maximum of 10 paying guests at any time;
  - (ii) 3 x en-suite bathrooms;
  - (iii) 1 x shared bathroom;
  - (iv) 1 x open plan kitchen, dining and living room;
  - (v) 1 x lounge / family room;
  - (vi) 1x gym;
  - (vii) 1x sauna;
  - (viii) 4 x patios/open deck areas;
  - (ix) 1 x double garage; and
  - (x) Laundry and store room;
- (b) A minimum of five (5) on-site parking bays be provided and that parking bays be finished in a permanent dust free surface, whether it be tar, concrete, paving or any other material, as approved by the Municipality beforehand, and the parking bays be clearly demarcated;
- (c) A site development plan, including parking layout and proposed landscaping that complement the residential character of the dwelling, be submitted to the Senior Manager: Built Environment before building plan stage;
- (d) Building plans indicating the change in use, i.e. guest room etc. be submitted to the Senior Manager: Built Environment for consideration and approval;
- (e) A contact number of the owner be displayed conspicuously on the premises at all times for emergency and/or complaint purposes;
- (f) A code of conduct for guests be submitted to the Senior Manager: Built Environment, for consideration and approval;
- (g) The owner/developer be responsible for enforcing the code of conduct;
- (h)/...

- (h) All amenities and provision of meals be for the sole benefit of bona fide lodgers. The approval does not authorise the use of the guest house or its amenities by individuals who are not bona fide lodgers as a venue for parties, weddings or any other such use restricted by the By-Law;
- (i) A register of guests and lodgers be kept and completed when rooms are let, and the register be produced for inspection on request by a municipal official at any time;
- (j) Guest rooms not be converted to, or used as separate dwelling units;
- (k) Application be made to the Senior Manager: Built Environment for the right to construct or affix and display any signage;
- (l) Any signage be limited to 1m<sup>2</sup> in area and may not project over a public street;
- (m) Any form of advertising that promotes the property as anything other than a guest house that adheres to the development parameters, be removed from electronic and other media;
- (n) A Certificate of Compliance be obtained from the West Coast District Municipality for the operation of the guest house;
- (o) A trade licence be obtained from Swartland Municipality for the operation of the guest house;
- (p) No off-site parking be allowed;
- (q) No person be restricted or prohibited from free use of the public open space and beach in front of the application property;
- (r) No photo shoots or filming activities may take place on the property unless the relevant permit from the Division: Law Enforcement Services be obtained;
- (s) The Western Cape Noise Control Regulations (PG 7141 dated 20 June 2013) be adhered to, to the satisfaction of the relevant authority;
- (t) Should the applicant fail to take effective steps to the satisfaction of the Senior Manager: Built Environment, to ensure proper compliance with the provisions of the approved code of conduct, or should unauthorised land uses on the property continue, the approval for the consent use may be withdrawn after following due process;

**A2 WATER**

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

**A3 SEWERAGE**

- (a) A conservancy tank of sufficient capacity be installed on the property at a point that is accessible to the municipal vacuum truck, to the satisfaction of the Director: Civil Engineering Services;

**A4 DEVELOPMENT CHARGES**

- (a) The owner/developer be responsible for the development charge of R3 630,17 towards bulk water supply payable at building plan stage. The amount is due to the Swartland Municipality, valid for the financial year of 2021/2022 and may be revised thereafter (mSCOA: 9/249-176-9210);
- (b) The owner/developer be responsible for the development charge of R3 001,50 towards bulk water distribution payable at building plan stage. The amount is due to Swartland Municipality, valid for the financial year of 2021/2022 and may be revised thereafter (mSCOA 9/249-174-9210);
- (c) The owner/developer be responsible for the development charge of R3 741,33 towards sewerage payable at building plan stage. The amount is due to the Swartland Municipality, valid for the year of 2021/2022 and may be revised thereafter (mSCOA 9/240-184-9210);
- (d) The owner/developer be responsible for the development charge of R5 520,00 towards waste water treatment payable at building plan stage. The amount is due to the Swartland Municipality, valid for the financial year of 2021/2022 and may be revised thereafter (mSCOA 9/240-183-9210);
- (e) The owner/developer be responsible for the development charge of R7 666,67 towards roads payable at building plan stage. The amount is due to Swartland Municipality, valid for the financial year of 2021/2022 and may be revised thereafter. (mSCOA 9/247-188-9210);

(f)/...

6.1/A4...

- (f) The owner/developer be responsible for the development charge of R2 128,27, towards storm water payable at building plan stage. The amount is due to Swartland Municipality, valid for the financial year of 2021/2022 and may be revised thereafter (mSCOA 9/247-144-9210);
- (g) The Council resolution of May 2021 makes provision for a 40% discount on development charges to Swartland Municipality. The discount is valid for the financial year 2021/2022 and may be revised thereafter. The discount is not applicable to A4(a);

**B. GENERAL**

- (a) The approval is, in terms of section 76(2)(w) of the By-Law valid for 5 years. All conditions of approval be met within 90 days before the guest house comes into operation and the occupancy certificate be issued, after which the 5 year period will no longer be applicable;
- (b) The approval does not exonerate the applicant from obtaining the necessary approval(s) from any other applicable statutory authority;
- (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:

**C. The application be supported for the following reasons:**

- (a) The proposed guest house is a residential use and is therefore consistent with the proposals of the SDF;
- (b) A guesthouse is accommodated as a consent use in the Residential Zone 1 zoning category;
- (c) The development proposal supports the optimal utilisation of the property;
- (d) The guesthouse will support the tourism industry in Yzerfontein, as well as the local economy;
- (e) The development proposal will not negatively impact on the character of the surrounding neighbourhood or the larger Yzerfontein;
- (f) Additional parking bays will be provided to mitigate on-street parking;
- (g) The owner/developer runs the risk of losing the land use approval, should any unauthorised land use continue;
- (h) The concerns of the neighbouring and affected property owners are sufficiently addressed in the conditions of approval;
- (i) The desirability factors considered are consistent with those applied during the evaluation of similar, previous applications;
- (j) The illegal activities cannot be taken into account when an application for land use is considered, as only desirable factors must be taken into account.

**6.2 APPLICATION FOR A CONSENT USE ON ERF 997, ABBOTSDALE (15/3/10-1) (WARD 5)**

Mr H Olivier, as author, discussed the proposed application for a consent use on Erf 997, Abbotsdale for a house tavern. The tavern will be operated from a portion ( $\pm 4\text{m}^2$  in extent) within the existing dwelling and liquor will only be sold for off-consumption purposes.

Mr Olivier referred to the objections received from important roleplayers in the community, such as the ward councillor, the Abbotsdale Neighbourhood Watch and a petition signed by 58 signatories. The application is furthermore not supported by the SAPS and Swartland Municipality's law enforcement division.

Mr Olivier mentioned that, although the proposed house tavern is situated along an activity street which promotes mixed uses and is in compliance with the SDF, the negative impact thereof on the community, character of the area and street and safety of road users must be taken into consideration.

**RESOLUTION**

- A. The application for the consent use on Erf 997, Abbotsdale, be rejected in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020);

6.2/A...

**A1 GENERAL**

(a) The applicant be informed of their right to appeal against the decision of the Municipal Planning Tribunal, in terms of section 89(2) of the By-Law;

B. That the application be rejected for the following reasons:

- (a) The sheer lack of space as well as the position of existing ESKOM services supporting structure restricts the provision of adequate on-site parking and loading bays for the proposed land use;
- (b) The operation of a house tavern will increase the risk and safety those directly affected;
- (c) The proposed consent use will have a negative impact on the surrounding residential land uses;
- (d) The proposed consent use will be prejudicial to the interest of the surrounding community;
- (e) The benefit of operating the house tavern for the owner of Erf 997 will not be in the short or long term in the interest of the community.

**(SIGNED) J J SCHOLTZ  
CHAIRPERSON**