



**MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING HELD IN THE COMMITTEE ROOM:
CORPORATE SERVICES ON WEDNESDAY, 10 APRIL 2024 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:

Ms C Havenga
Mr C Rabie

Other officials:

Director: Development Services, Ms J S Krieger
Senior Manager: Development Management, Mr A M Zaayman
Senior Town and Regional Planner, Mr A J Burger
Town and Regional Planner & GIS, Mr H Olivier
Town and Regional Planner, Ms A de Jager (acting secretariat)

1. OPENING

The chairperson opened the meeting and welcomed members.

2. APOLOGY

No apologies were received.

3. DECLARATION OF INTEREST

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

4. MINUTES

4.1 MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON 13 MARCH 2024

RESOLUTION

(proposed by Mr C Rabie, seconded by Ms C Havenga)

That the minutes of a Municipal Planning Tribunal Meeting held on 13 March 2024 are approved and signed by the chairperson.

5. MATTERS ARISING FROM MINUTES

None.

6. MATTERS FOR CONSIDERATION

**6.1 PROPOSED REZONING AND DEPARTURE ON ERF 4310, MALMESBURY (15/3/3-8;
15/3/4-8) (WARD 8)**

Mr H Olivier explained the proposed rezoning and departure on Erf 4310, Malmesbury in order to authorise the existing shop and flat and to approve the departures that are caused by the position of the existing buildings with regard to the new zoning parameters.

6.1/...

RESOLUTION

- A. The application for the rezoning of Erf 4310, Malmesbury from Residential Zone 2 to Business Zone 2, be approved in terms of section 70 of the Swartland Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020);
- B. The application for the departure from side building line restriction (southern boundary) be approved in terms of section 70 of Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020);
- C. The application for the departure from the required on-site parking be approved in terms of section 70 of Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020);
- D. The decisions under paragraphs A, B and C above are subject to the following conditions:

D1 TOWN PLANNING AND BUILDING CONTROL

- (a) The use of the property be restricted to a shop and flat;
- (b) The building line departure be restricted to the existing building;
- (c) Three clearly demarcated parking bays be provided on the subject property. The existing gate not obstruct the parking bays during operation hours. The parking bays/parking area be finished with a permanent, dust free surface, whether it be tar, concrete, paving or any other material, as pre-approved by the Director: Civil Engineering Services;
- (d) The departure for the non-provision of the required parking bays be restricted to the 5 m² which is provided within the road reserve of Alfa Street;
- (e) A financial contribution be made to the amount of R1 935,00 (5m² x R387,00) for the partial provision of the required on-site parking;
- (f) The operation hours of the shop be restricted from 06:00 to 21:00;
- (g) Building plans be submitted to the Senior Manager: Development Management for consideration and approval;
- (h) Application be made to the Senior Manager: Development Management for the right to display the name board/sign of the facility on the site;
- (i) Application for a Certificate of Compliance be submitted to the West Coast District Municipality for consideration and approval;
- (j) Additional fees for the Unauthorised Land Use be levied in terms of the Municipal tariffs to the amount of R48 300,00;
- (k) Only pre-packaged food products may be sold;
- (l) No food preparation be allowed in the shop;
- (m) The following activities not be allowed for sale in the shop:
 - (i) The sale of wine and alcoholic beverages;
 - (ii) Storage or sale of gas and gas containers;
 - (iii) Vending machines;
 - (iv) Video games, and
 - (v) Snooker or pool tables;

D2 WATER

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

D3 SEWERAGE

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

D4 STREETS

- (a) Deliveries to the property may only be made by delivery vehicles not exceeding 16 000 kg gross vehicle mass;

D5/...

6.1/...

D5 REFUSE REMOVAL

- (a) A built refuse area be constructed and provided with clean running water as well as a catchment point for dirty water that is connected to the sewer network. The refuse be easily accessible to refuse removal workers but not be accessible to animals/birds and unauthorised individuals;

E. GENERAL

- (a) The approval does not exempt the applicant from adherence to 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 determined necessary to expand or relocate any of the engineering services to provide the development with connections, said expansion and/or relocation will be for the cost of the owner/developer;
- (c) All conditions of approval be complied with before 10 June 2024. Failure to do so will result in the Municipality proceeding with the necessary legal action;
- (d) The approval is valid for a period of 5 years, in terms of section 76(2) of the By-Law from date of decision. Should an appeal be lodged, the 5-year validity period starts from the date of outcome of the decision against the appeal;
- (e) All conditions of approval be implemented before an occupancy certificate be issued and failing to do so will cause the approval to lapse. Should all conditions of approval be met within the 5-year period, the land use becomes permanent, and the approval period will no longer be applicable;
- (f) The applicant/objector be informed of the right to appeal against the decision of the Municipal Planning Tribunal in terms of section 89 of the By-Law. Appeals be directed, in writing, to the Municipal Manager, Swartland Municipality, Private Bag X52, Malmesbury, 7299 or by e-mail to swartlandmun@swartland.org.za, within 21 days of notification of the decision. An appeal is to comply with section 90 of the By-Law and be accompanied by a fee of R5 000,00 to be valid. Appeals that are received late and/or do not comply with the requirements, will be considered invalid and will not be processed;

F. The application be supported for the following reasons:

- (a) There are no physical restrictions on the property that will have a negative impact on the proposed application;
- (b) There are no restrictions registered against the title deed of the property that prohibits the proposed land use;
- (c) The SDF, 2023 supports the accommodation of business uses as well as secondary business uses along activity streets/corridors or at the existing node. Alfa Street is an identified activity street;
- (d) The proposed application is consistent with and not in contradiction to the Spatial Development Frameworks adopted on Provincial, District and Municipal levels;
- (e) The proposed application will not have a negative impact on the character of the area;
- (f) 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;
- (g) The proposal will not have a significant impact on traffic in Alfa Street;
- (h) The departure of the building line (southern boundary) is only to accommodate the existing building within the parameters of the new zoning category;
- (i) Sufficient space exists to accommodate the required parking bays.

6.2 PROPOSED CONSENT USE ON ERF 2500, RIEBEEK KASTEEL (15/3/10-11) (WARD 12)

Ms A de Jager explained the proposed consent use on Erf 2500, Riebeek Kasteel in order to operate a house shop.

Erf 2500, Riebeek Kasteel is located on Swartberg Crescent in the latest subsidised residential development, known as New Rest. The owner rents the property to S. Gebire for a period of three years (36 months), for the purposes of operating a house shop, at the end of which the owner intends to retire and personally reside on the property.

RESOLUTION

- A. The application for a consent use on Erf 2500, Riebeeck Kasteel, 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) The consent authorises a house shop, restricted to 18,93m², not exceeding 50% of the area of the dwelling unit (40m² in extent);
- (b) The house shop operator be required to reside on the property in a habitable dwelling unit of at least 20m², in accordance with the By-Law, for the duration of the rental agreement with the property owner;
- (c) The operating of the house shop by Mr. Gebire be permitted for a period of 36 months in accordance with the rental agreement with the property owner and that the house shop rights not be transferred to a new operator after the 36 months have concluded;;
- (d) The structure containing the dwelling and the house shop be upgraded to accommodate a shop that sells foodstuffs, according to the standards stipulated in the National Health Act, 2003 (Act 61 of 2003), to the satisfaction of the West Coast District Municipality: Department of Environmental Health, at building plan stage;
- (e) Any music played on the property only be audible inside the shop and dwelling and no appliances used for the broadcasting or amplification of sound may be positioned or affixed outside the house shop, including any awning, stoep or shade structure;
- (f) Building plans, clearly indicating the house shop in relation to the living area, be submitted to the Senior Manager: Development Management, for consideration and approval;
- (g) Application for construction of or attaching an advertising sign to the building be submitted to the Senior Manager: Development Management, for consideration and approval. Only one sign, not exceeding 1 m² in area and not exceeding the land unit boundaries, be permitted and it indicates only the name of the owner, name of the business and nature of the retail trade;
- (h) The operating hours of the house shop be restricted from 06:00 to 21:00;
- (i) No more than three persons, including the property owner, are permitted to be engaged in retail activities on the land unit;
- (j) Only pre-packaged food products be sold;
- (k) No food preparation be allowed in the house shop;
- (l) The following activities not be allowed for sale in the house shop:
 - (i) The sale of wine and alcoholic beverages;
 - (ii) Storage or sale of gas and gas containers;
 - (iii) Vending machines;
 - (iv) Video games, and
 - (v) Snooker of pool tables;
- (m) Application for a trade license be submitted to the Senior Manager: Development Management for consideration and approval;
- (n) Application for a Certificate of Acceptability be submitted to the West Coast District Municipality for consideration and approval;
- (o) The municipal approval from Swartland Municipality be displayed inside the house shop;

A2 WATER

- (a) The existing water connection be used;
- (b) No additional connections be provided;

A3 SEWERAGE

- (a) The existing sewerage connection be used;
- (b) No additional connections be provided;

A4 STREETS AND STORM WATER

- (a) Deliveries only be made with light delivery vehicles not exceeding 16 000kg;

A5 REFUSE REMOVAL

- (a) The basic refuse removal tariff will be levied for the dwelling, as well as the business and in the case of the business the tariff be amended in accordance with the amount of refuse generated;
- (b) Refuse be placed in refuse bags on the nearest municipal sidewalk on the morning of refuse removal;

B. GENERAL

- (a) The approval does not exempt the owner/developer from compliance with all legislation applicable to the approved land use;
- (b) Should it in future be determined necessary to extend or upgrade any engineering service in order to provide the development with services, it will be for the account of the owner/developer;
- (c) The approval is valid for a period of 3 years, in accordance with the rental agreement and in terms of section 76(2) of the By-Law, from the date of decision. Should an appeal be lodged, the 3 year validity period starts from the date of outcome of the decision against the appeal. All conditions of approval be implemented by 1 June 2024, before the new land use comes into operation/or the occupancy certificate be issued and failing to do so will cause the approval to lapse. Should all conditions of approval be met by 1 June 2024, the land use becomes permanent and the approval period will no longer be applicable;
- (d) The applicant/objector be informed of the right to appeal against the decision of the Municipal Planning Tribunal in terms of section 89 of the By-Law. Appeals be directed, in writing, to the Municipal Manager, Swartland Municipality, Private Bag X52, Malmesbury, 7299 or by e-mail to swartlandmun@swartland.org.za, within 21 days of notification of decision. An appeal is to comply with section 90 of the By-Law and is to be accompanied by a fee of R5 000,00 in order to be valid. Appeals that are received late and/or do not comply with the aforementioned requirements, will be considered invalid and will not be processed.

C. The approval be supported for the following reasons:

- (a) The application complies with section 42 of SPLUMA and Principles referred to in Chapter VI of LUPA;
- (b) The application complies with the land uses proposed for this area of Riebeek Kasteel, as determined by the SDF;
- (c) This application supports the local economy and promotes entrepreneurship and local businesses, as a goal of the IDP;
- (d) The development parameters and requirements of the By-Law Zoning Scheme are complied with through imposing conditions of approval;
- (e) The development is envisioned to promote economic opportunities, shorter travel distances and amenities in the residential neighbourhood;
- (f) The additional income generated by the house shop may enable the property owner to expand the dwelling unit in the future, which in turn may improve financial security during retirement;
- (g) The anticipated impact of the house shop on the surrounding community may be mitigated by specific conditions of approval;
- (h) The large number of house shops in the area is foreseen to create healthy economic competition and over time eliminate superfluous businesses;
- (i) Individuals in the community retain their right to choose which business to frequent and cannot be forced to do business with one shop or another;
- (j) The house shops in the neighbourhood are largely unauthorised and the applicant seeks to rectify the situation and legalise the land use on Erf 2500;
- (k) The house shop is proposed to be operated by the current operator for a period of three years, which is temporary. The conditions of approval limit Mr. S. Gebire, the operator of the house shop, to a maximum of three years, in accordance with the rental agreement with Mrs. Daniels, the property owner.

**(SIGNED) J J SCHOLTZ
CHAIRPERSON**