



**MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING HELD IN THE COMMITTEE ROOM:  
CORPORATE SERVICES ON WEDNESDAY, 14 FEBRUARY 2024 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

Other officials:

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  
Manager: Secretariat and Records, Ms N Brand (secretariat)

**1. OPENING**

The chairperson opened the meeting and welcomed members.

**2. APOLOGY**

**COGNISANCE BE TAKEN** of the apologies received from the external member, Mr C Rabie.

**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 15 NOVEMBER 2023**

**RESOLUTION**

(proposed by Mr P A C Humphreys, seconded by Ms C Havenga)

That the minutes of a Municipal Planning Tribunal Meeting held on 15 November 2023 are approved and signed by the chairperson.

**5. MATTERS ARISING FROM MINUTES**

None.

**6. MATTERS FOR CONSIDERATION**

**6.1 PROPOSED CONSENT USE, AMENDMENT OF CONDITIONS OF APPROVAL AND DEPARTURE OF DEVELOPMENT PARAMETERS ON ERF 3034, MALMESBURY (15/3/4-8, 15/3/10-8, 15/3/3-8) (WARD 8)**

Mr A J Burger discussed the application and confirmed that the expansion of the guest house to 7 bedrooms be supported, but not the consent use for a place of assembly.

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The place of assembly is in contradiction with the SDF of Swartland Municipality as well as the planning principles of SPLUMA and LUPA.

Furthermore, the facilities at a guest house is to be used by the guests only and are not available to be used by the general public.

## **RESOLUTION**

- A. The application for consent use for a place of assembly on erf 3034, Malmesbury be refused 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 amendment of condition A.1(a) of the rezoning of erf 3034, Malmesbury 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:

### **B1 TOWN PLANNING AND BUIDLING CONTROL**

- (a) Condition A.1(a) be amended to read as follows:

“...A.1(a) dat die gastehuis binne die bestaande gebou akkommodeer word en die volgende fasiliteite sal bied:

- 7 slaapkamers;
- binne en buite leefareas...”

The following additional conditions are made applicable:

### **B2 TOWN PLANNING**

- (a) The occupancy of the guest house be restricted to 13 guests;
- (b) A contact number of the owner be displayed conspicuously on the premises at all times for emergency and/or complaint purposes;
- (c) A code of conduct for guests be submitted to the Senior Manager: Development Management for consideration and approval;
- (d) The owner/developer be responsible for enforcing the code of conduct to the satisfaction of the Department: Law Enforcement;

### **B3 DEVELOPMENT CHARGES**

- (a) The development charge towards the bulk water supply amounts to R 7 627,95 and is payable by the owner/developer at building plan stage. The amount is due to Swartland Municipality, is valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA: 9/249-176-9210);
- (b) The development charge towards water reticulation amounts to R 13 579,20 and is payable by the owner/developer building plan stage. The amount is due to Swartland Municipality, is valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA 9/249-174-9210);
- (c) The development charge towards sewer reticulation amounts to R 4 743,52 and is payable by the owner/developer building plan stage. The amount is due to Swartland Municipality, is valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA 9/240-184-9210);
- (d) The development charge towards waste water treatment amounts to R 5 142,34 and is payable by the owner/developer building plan stage. The amount is due to Swartland Municipality, is valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA 9/240-183-9210);
- (e) The development charge towards roads amounts to R 11 552,90 and is payable by the owner/developer at building plan stage. The amount is due to the Municipality, valid for the financial year of 2023/2024 and may be revised thereafter. (mSCOA 9/247-188-9210);
- (f) The Council resolution of May 2023 provides for a 60% discount on development charges to Swartland Municipality. The discount is valid for the financial year 2023/2024 and may be revised thereafter.

C./...

6.1/...

C. The application for a departure from the development parameters on Erf 3034, Malmesbury, be approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020) as follows:

- Departure of the permissible coverage of 40% to 41%.
- Departure of the 5m side building line to 0m (southern boundary) and 2.9m (northern boundary) respectively.

The decision under paragraph C is subject to the following condition:

**C1 TOWN PLANNING AND BUILDING CONTROL**

(a) All building work that encroaches the street boundary of erf 3034 be removed within 90 days of the date of the final decision on the application.

D. The application for a departure from the development parameters on Erf 3034, Malmesbury, be refused in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020) as follows:

- Departure of the required on-site parking bays from 7 to 1 (non-provision of 6 parking bays).

**E. GENERAL**

(a) 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](mailto: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.

F. The reasons for the refusal of the application for a place of assembly are the following:

- (a) Guest houses are permitted in residential neighbourhoods due to its low disturbance potential. Guest houses provides facilities and amenities like a conference facility, venue facility, gym, restaurant, swimming pool, ect. These facilities are restricted to be used by guests of the guest house and are not available to be used by the general public;
- (b) The proposed place of assembly is deemed not to be a low-intensity commercial activity. The scope of the proposed place of assembly does not integrate well with the adjacent residential neighbourhood as it adversely affects the integrity of the area;
- (c) Complaints has been received since 2014 regarding the illegal operation of a place of assembly (function facility) on Erf 3034;
- (d) The proposed place of assembly (function facility) is deemed to be in contradiction with the spatial planning of Zone R of the SDF as well as the principles of LUPA and SPLUMA;
- (e) The place of assembly can be operated separately from the guest house as a business. It is therefore better suited in a business node or in the CBD of a town;
- (f) Sufficient on-site parking for the place of assembly cannot be provided;
- (g) Even though the proposed on-street parking is supported by the Department: Civil Engineering Services, the place of assembly as a business use is found not to be desirable on the property;
- (h) Enforcement of the proposed mitigation measures are questioned as a result of the history of the property;
- (i) Affected property owners do not consent to the operation of the place of assembly;

G. The reasons for the approval of the amendment of conditions and departure of development parameters are the following:

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- (a) Lodging capacity at the guest house is increased;
- (b) The use of the property for guest house purposes remains to be deemed in compliance with the SDF and principles of LUPA and SPLUMA;
- (c) It is foreseen that the two additional bedrooms will have little to no impact on the character of the surrounding area;
- (d) Sufficient on-site parking is provided to accommodate guests of the two additional bedrooms;
- (e) The departure of building lines and coverage are as a result of the placement and scale of the existing buildings which have not been considered before. The impact of these departures on the surrounding residential properties are deemed low to none.

**6.2 PROPOSED AMENDMENT OF CONDITIONS OF APPROVAL ON ERF 7431, MALMESBURY (15/3/10-8) (WARD 8)**

Ms A de Jager explained that the application is for the expansion of the existing rights of the Place of Entertainment on portion of Erf 7431, Malmesbury to accommodate 20 limited pay-out machines (there were 5), 4 additional pool tables (there were 2) and occasional live entertainment.

Erf 7431, Malmesbury is located inside the Central Business District and the property block is bordered by an activity corridor and activity street/collector route as indicated in the SDF.

Ms De Jager confirmed that the proposed expansion of the consent uses will be contained inside the footprint of the existing night club and as such the impact on the surrounding properties will remain unchanged.

**RESOLUTION**

- A. The application for the amendment of conditions of approval pertaining to the Place of Entertainment on Erf 7431, Malmesbury, 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) Condition 1.a) of approval letter 15/3/10-8Erf 7431, dated 13 August 2019, be amended to read as follows:

“The consent use granted for extending the existing place of entertainment on Erf 7431, in order to facilitate limited pay-out machines, pool tables and live entertainment and performances”;

- (b) Condition 1.b) of approval letter 15/3/10-8Erf 7431, dated 13 August 2019, be amended to read as follows:

“The proposed gambling facility be limited to 20 limited pay-out machines, 6 pool tables and the live entertainment and performances be restricted to the allocated internal area, as presented in the application”;

- (c) The external doors to the club be kept closed from 22:00 in the evenings;
- (d) Live entertainment and performances be not allowed to continue later than midnight;
- (e) No form of entertainment be permitted outside the existing club and that no sound enhancing equipment be allowed outside the club;
- (f) Building plans be submitted to the Senior Manager: Development Management, for consideration and approval;
- (g) The minimum number of parking bays be maintained to the satisfaction of the Director: Civil Engineering Services;

**B. GENERAL**

- (a) The approval does not exempt the owner/developer from compliance with all legislation applicable to the approved land use;

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- (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 5 years, in terms of section 76(2) of the By-Law, from the 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. All conditions of approval be implemented 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 within the 5 year period, 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](mailto: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 application be supported for the following reasons:

- (a) The application is in compliance with the planning principles of LUPA and SPLUMA;
- (b) The application is in compliance with the spatial planning of Malmesbury;
- (c) The development proposal complies with all applicable zoning parameters of Business Zone 1;
- (d) The expansion of rights will be contained inside the existing footprint of the club;
- (e) The external facades of the building will remain unchanged, thus the heritage value of the building will not be negatively impacted;
- (f) No additional services or parking bays will be required;
- (g) The activities are restricted to the interior of the club and the doors to the club are closed at 22:00 to further contain any noise;
- (h) The noise generated by the club is expected to be mitigated by the fact that the club is located at a lower level than the objectors, the doors will be kept closed after 22:00, live entertainment will not continue after 24:00, no entertainment will be allowed outside of the club, no sound enhancement such as speakers are allowed outside the club;
- (i) The owner still needs to comply with all other relevant legislation applicable to the various amenities on offer;
- (j) Erf 7431 does not have any physical restrictions which may have a negative impact on the application;
- (k) The development proposal supports the optimal utilisation of the property;
- (l) Existing services are deemed sufficient to accommodate the development;
- (m) The impact of the development on property values of surrounding properties is deemed low to none;
- (n) There are no restrictions in the Title Deed of Erf 7431 which restricts the proposed development.

### **6.3 PROPOSED CONSENT USE ON ERF 10654, MALMESBURY (15/3/10-8) (WARD 10)**

Mr H Olivier confirmed that the application is made for a consent use on Erf 10654, Malmesbury in order to accommodate a double dwelling house on the property.

Mr Olivier stated that it is not the first application for a double dwelling house in the Glen Lily Development and that the Glen Lily Owners Association does not object to the proposal to accommodate two unit on one erf.

#### **RESOLUTION**

- A. The application for consent use on Erf 10654, Malmesbury, in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2021), be approved, subject to the conditions:

**A1 TOWN PLANNING AND BUILDING CONTROL**

- (a) The consent use authorises a double dwelling house, as presented in the application;
- (b) The double dwelling adheres to the applicable development parameters;
- (c) Building plans be submitted to the Senior Manager: Development Management for consideration and approval;

**A2 WATER**

- (a) A single water connection be provided, and no additional connections be provided;

**A3 SEWERAGE**

- (a) A single sewer connection be provided, and no additional connections be provided;

**A4 DEVELOPMENT CHARGES**

- (a) The development charge towards the supply of regional bulk water amounts to R10 862,90 and is for the account of the owner/developer at building plan stage. The amount is due to the Swartland Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA: 9/249-176-9210);
- (b) The development charge towards bulk water reticulation amounts to R6 101,90 and is payable by the owner/developer at building plan stage. The amount is due to the Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA 9/249-174-9210);
- (c) The development charge towards sewerage amounts to R3 795,00 and is payable by the owner/developer at building plan stage. The amount is due to the Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA 9/240-184-9210);
- (d) The development charge towards wastewater treatment amounts to R4 113,55 and is for the account of the owner/developer at building plan stage. The amount is payable to the Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA 9/240-183-9210);
- (e) The development charge towards streets amounts to R11 938,15 and is payable by the owner/developer at building plan stage. The amount is due to the Municipality, valid for the financial year of 2023/2024 and may be revised thereafter. (mSCOA 9/249-188-9210);
- (f) The development charge towards electricity amounts to R4 620,01 and is payable by the owner/developer at building plan stage. The amount is payable to the Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA 9/253-164-9210);
- (g) The Council resolution of May 2023 makes provision for a 60% discount on development charges to Swartland Municipality. The discount is valid for the financial year 2023/2024 and may be revised thereafter.

**B. 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) 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;
- (d) All conditions of approval be implemented before the new land uses come into operation/or occupancy certificate be issued and failing to do so the approval will 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;
- (e) The applicant/objectors 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

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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 R5000,00 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.

C. The application be supported for the following reasons:

- (a) The proposed second dwelling is a residential use and is therefore consistent with the proposals of the MSDF;
- (b) A double dwelling is accommodated as a consent use under Residential Zone 1 of the Development Management Scheme and there are no restrictions registered against the title deed of the property or contained in the design guideline of the Estate prohibiting the proposal;
- (c) The development proposal supports the optimal utilisation of the property;
- (d) The second dwelling provides in a need for a larger variety of housing opportunities to the wider population;
- (e) The development proposal will not negatively impact on the character of the Glen Lily Estate or the larger Malmesbury;
- (f) The application is supported by the Glen Lily Owners Association.

#### **6.4 PROPOSED CONSENT USE AND DEPARTURE ON ERF 461, RIEBEEK KASTEEL (15/3/10-11) (WARD 12)**

Ms A de Jager mentioned that the application is made to accommodate a guest house on Erf 461, Riebeek Kasteel.

The property was rezoned from Residential Zone 1 to General Residential Zone 3 in June 2016 in order to establish a guest house on the property. The guest house came into operation, but the remainder of the conditions of approval was not met within the allocated 5 year approval period and subsequently the rezoning lapsed.

During the amendment of the Swartland Municipality: Municipal Land Use Planning By-Law, 2020 a guest house was included as a consent use under Residential Zone 1 and therefore it is no longer necessary to apply for a rezoning to accommodate the use.

#### **RESOLUTION**

A. The application for consent use on Erf 461, Riebeek Kasteel, 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) 10 x guest bedrooms for occupation by a maximum of 20 paying guests at any time;
  - (ii) 10 x en-suite bathrooms;
  - (iii) 1 x kitchen and scullery;
  - (iv) 1 x braai/sun room;
  - (v) 2 x living rooms;
  - (vi) 1 x shade port and wendy structure for storage;
- (b) A minimum of nine (9) on-site parking bays be provided and, including the sidewalk that provides access, 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) Building plans be submitted to the Senior Manager: Development Management for consideration and approval;
- (d) A contact number of the owner be displayed conspicuously on the premises at all times for emergency and/or complaint purposes;
- (e) A code of conduct for guests be submitted to the Senior Manager: Development Management for consideration and approval;

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- (f) The owner/developer be responsible for enforcing the code of conduct to the satisfaction of the Department: Law Enforcement;
- (g) 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;
- (h) 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;
- (i) Guest rooms not be converted to, or used as separate dwelling units;
- (j) Application be made to the Senior Manager: Development Management for the right to construct or affix and display any signage;
- (k) Any signage be limited to 1 m<sup>2</sup> in area and may not project over a public street;
- (l) A Certificate of Compliance be obtained from the West Coast District Municipality for the operation of the guest house;
- (m) A trade licence be obtained from Swartland Municipality for the operation of the guest house;
- (n) Should the applicant fail to take effective steps to the satisfaction of the Senior Manager: Development Management, to ensure proper compliance with the provisions of the approved code of conduct, or should unauthorised land uses on the property occur, 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) The existing connection be used and no additional connections be provided;

**A4 DEVELOPMENT CHARGES**

- (a) The owner/developer is responsible for the development charge of R19 010,88 towards bulk water supply, at building plan stage. The amount is due to the Swartland Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA: 9/249-176-9210);
- (b) The owner /developer is responsible for the development charge of R17 937,01 towards bulk water reticulation at building plan stage. The amount is due to Swartland Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA 9/249-174-9210);
- (c) The owner/developer is responsible for the development charge of R14 941,44 towards sewerage at building plan stage. The amount is due to the Swartland Municipality, valid for the year of 2023/2024 and may be revised thereafter (mSCOA 9/240-184-9210);
- (d) The owner/developer is responsible for the development charge of R20 092,16 towards waste water treatment at building plan stage. The amount is due to the Swartland Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA 9/240-183-9210);
- (e) The owner/developer is responsible for the development charge of R16 145,08 towards roads, at building plan stage. The amount is due to Swartland Municipality, valid for the financial year of 2023/2024 and may be revised thereafter. (mSCOA 9/247-188-9210);
- (f) The Council resolution of May 2023 provides for a 60% discount on development charges to Swartland Municipality. The discount has already been applied to conditions 4.a) – 4.e), is valid for the financial year 2023/2024 and may be revised thereafter.

- B. The application for departures on Erf 461, Riebeek Kasteel, in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), be approved as follows:

**B1 TOWN PLANNING AND BUILDING CONTROL**

- (a) Departure from the 4 m southern street building line, reduced to 3,2 m;
- (b) Departure from the 4 m western street building line, reduced to 0 m;
- (c) Departure from the 1,5 m eastern side building line, reduced to 0,45 m;



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- (d) Departure from the 40% permissible coverage, increased to 40,65%;
- (e) Each of the departures are restricted to the portion of the building or structure that encroaches, as presented in the application;

**C. GENERAL**

- (a) The approval does not exempt the owner/developer from compliance with all legislation applicable to the approved land use;
- (b) Should it 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 5 years, in terms of section 76(2) of the By-Law, from the date of decision. Should an appeal be lodged, the 5 year validity period starts from the date of outcome of the decision for or against the appeal. All conditions of approval be implemented 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 within the 5 year period, 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](mailto: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;

**D. 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 guest house 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 guest house will support the tourism industry in Riebeeck Kasteel, as well as the local economy;
- (e) The development proposal will not negatively impact on the character of the surrounding neighbourhood or the larger Riebeeck Kasteel;
- (f) The building line departures of the street building lines adhere to the requirements for building line departure prescribed by the By-Law;
- (g) A guest house is predominantly a residential land use, and therefore considered appropriate on a Residential Zone 1 property, while also located in the CBD of Riebeeck Kasteel;
- (h) The concerns of the neighbouring and affected property owners are sufficiently addressed in the conditions of approval.

**6.5 PROPOSED REZONING, SUBDIVISION, CONSENT AND DEPARTURE OF DEVELOPMENT PARAMETERS ON ERF 361, RIEBEEK KASTEEL (15/3/3-11, 15/3/4-11, 15/3/6-11, 15/3/10-11) (WARD 12)**

The Dutch Reform Church of Riebeeck Kasteel decided to release the church hall on Erf 361, Riebeeck Kasteel and to focus on developing the open area near the historic church on Erf 436 on Main Street to better accommodate the congregation's needs and activities.

Mr Olivier explained that the purpose of the application is to convert the existing church hall building into 12 flats, to keep the existing rooftop base station and to create two new single residential erven.

The income generated by the sale of the developments on Erf 361, Riebeeck Kasteel, coupled with the savings resulting from no longer having to maintain the church hall and surrounding grounds will contribute to funding the further development of Erf 436.

## RESOLUTION

- A. The application for the rezoning of erf 361, Riebeeck Kasteel from Community Zone 2 to Sub divisional Area be approved in terms of Section 70 of Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020) to make provision for the following land uses:
- Residential zone 1 (Dwelling houses) and General Residential Zone 3 (Flats)
- B. The application for the subdivision of Erf 361 (3785m<sup>2</sup> in extent), Riebeeck Kasteel, be approved in terms of section 70 of Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), to create a total of 3 portions, as follows:
- Portion A: Residential Zone 1 (668m<sup>2</sup> in extent)
  - Portion B: Residential Zone 1 (644m<sup>2</sup> in extent)
  - Remainder: General Residential Zone 3 (2469m<sup>2</sup> in extent)
- C. Decisions A and B are subject to the following conditions:
- C1 TOWN PLANNING AND BUILDING CONTROL**
- (a) Building plans to be submitted to the Senior Manager: Development Management for consideration and approval;
- (b) The legal certificate which authorises the 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;
- C2 WATER**
- (a) Each subdivided portion be provided with a separate water connection. This condition applies to building plan stage.
- C3 SEWERAGE**
- (a) Each subdivided portion be provided with a separate sewer connection. This condition applies at subdivision stage for portions A and B as well as on building plan stage for the Remainder (proposed flats).
- C4 STREETS AND STORMWATER**
- (a) The proposed parking spaces, including the sidewalk that provides access, be provided with permanent surfaces to the satisfaction of the Director Civil Engineering Services.
- C5 SOLID WASTE**
- (a) Waste wheelie bin storage area to be easily accessible by the refuse collection officials and vehicle. The storage area floor must be slanted towards a grid inlet that is connected to the sewer reticulation for washing and sanitising purposes;
- C6 DEVELOPMENT CHARGES**
- (a) In terms of the proposed portion A the development charges be levied as follows:
- (i) The development charge towards the bulk water supply amounts to R18 892,80 and is payable by the owner/developer at clearance stage. The amount is due to Swartland Municipality, is valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA: 9/249-176-9210);
  - (ii) The development charge towards water reticulation amounts to R17 825,60 and is payable by the owner/developer at clearance stage. The amount is due to Swartland Municipality, is valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA 9/249-174-9210);
  - (iii) The development charge towards sewer reticulation amounts to R10 208,44 and is payable by the owner/developer at clearance stage. The amount is due to Swartland Municipality, is valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA 9/240-184-9210);
  - (iv) The development charge towards wastewater treatment amounts to R13 727,56 and is payable by the owner/developer at clearance stage. The amount is due to Swartland Municipality, is valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA 9/240-183-9210);

6.5/C6(a)...

- (v) The development charge towards roads amounts to R14 591,00 and is payable by the owner/developer at clearance stage. The amount is due to the Municipality, valid for the financial year of 2023/2024 and may be revised thereafter. (mSCOA 9/247-188-9210);
  - (vi) The Council resolution of May 2023 provides for a 60% discount on development charges to Swartland Municipality. The discount is valid for the financial year 2023/2024 and may be revised thereafter.
- (b) In terms of the proposed portion B the development charges be levied as follows;
- (i) The development charge towards the bulk water supply amounts to R 14 169,60 and is payable by the owner/developer at clearance stage. The amount is due to Swartland Municipality, is valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA: 9/249-176-9210);
  - (ii) The development charge towards water reticulation amounts to R13 369,20 and is payable by the owner/developer at clearance stage. The amount is due to Swartland Municipality, is valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA 9/249-174-9210);
  - (iii) The development charge towards sewer reticulation amounts to R 9 744,42 and is payable by the owner/developer at clearance stage. The amount is due to Swartland Municipality, is valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA 9/240-184-9210);
  - (iv) The development charge towards wastewater treatment amounts to R 13 103,58 and is payable by the owner/developer at clearance stage. The amount is due to Swartland Municipality, is valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA 9/240-183-9210);
  - (v) The development charge towards roads amounts to R 13 132,00 and is payable by the owner/developer at clearance stage. The amount is due to the Municipality, valid for the financial year of 2023/2024 and may be revised thereafter. (mSCOA 9/247-188-9210);
  - (vi) The Council resolution of May 2023 provides for a 60% discount on development charges to Swartland Municipality. The discount is valid for the financial year 2023/2024 and may be revised thereafter.
- (c) In terms of the proposed flats on the Remainder the development charges be calculated and levied on building plan stage;
- D. The application for the consent use on the Remainder of erf 361, Riebeek Kasteel be approved in terms of section 70 of Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), in order to accommodate the existing transmission tower under the new zoning category, subject to the following conditions:
- D1 TOWN PLANNING**
- (a) The transmission tower be restricted to its current 15m in height designed to complement the existing building to the satisfaction of the Senior Manager: Development Management;
- E. The application for the departure from the height restriction applicable to a roof-top base station be refused in terms of section 70 of Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), as it is deemed not applicable to the proposal;
- F. 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), subject to the following conditions:
- F1 TOWN PLANNING**
- (a) The departure entails the relocation of existing supporting infrastructure (ground mounted equipment) on the property boundary in lieu of the 5m building line restriction, for a distance of 10m, as presented in the application.
  - (b) A screen wall be constructed around the ground-mounted equipment in order to mitigate any impact from the view from the street or from the abutting property, to the satisfaction of the Senior Manager: Development Management;

**G. 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) 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.
- (d) All conditions of approval be implemented before the new land uses come into operation/or occupancy certificate be issued and failing to do so the approval will 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.
- (e) The applicant/objectors 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 R5000-00 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:

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

- (a) The proposal will expand the housing opportunities in Riebeeck Kasteel;
- (b) The development also results in densification which in turn limits urban sprawl as well as due to the location of the subject property, creates residential opportunities within the centre of Riebeeck Kasteel;
- (c) The proposal is deemed consistent with the Municipal Spatial Development Framework (MSDF), 2023;
- (d) The proposal will achieve higher densities, will result in the optimum use of land/space within the urban edge, will not have a negative impact on the character of the area as well as not adversely affect the sense of place;
- (e) The development will have a positive economic impact as well as result in the creation of numerous job opportunities in the short and long term;
- (f) The two single residential erven will integrate seamlessly into the existing urban fabric;
- (g) The proposed apartments complement the denser residential land use activities already featured in the vicinity;
- (h) The title deed of Erf 361 does not contain any restrictions that prohibits the development proposal;
- (i) There are no physical restriction on the property that negatively impacts the proposal;
- (j) As confirmed by the Director Civil Engineering services as well as supported by the services reports, the proposed development will not have a negative impact on the existing services networks within town and sufficient capacity exist to accommodate the proposed new 14 units. The developer is responsible for development charges that will be used as the proportional contribution to the municipality's planned upgrades to the existing services network in terms of water as well as sewerage;
- (k) The consent use is proposed in order to confirm an existing lawful use and the impact of the proposed departure of the building line on neighbouring properties, in order to accommodate ground mounted supporting equipment for the existing transmission tower, is deemed minimal to none;
- (l) The proposed development will not have a negative impact on any heritage or environmental resources. The existing building was identified not being of any conservation value, although older than 60 years. The application for the change in use can be considered as the alterations to the building will only be confirmed on building plan stage were the comments / consent from Heritage Western Cape be required before the building plan can be recommended for approval;

6.5/H...

- (m) The application complies with the principles of LUPA (Land Use Planning Act) and SPLUMA (Spatial Planning and Land Use Management Act) (Spatial Planning and Land Use Management Act).

**(SIGNED) J J SCHOLTZ  
CHAIRPERSON**