



MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON WEDNESDAY, 1 MARCH 2017 AT 14:00 IN THE COMMITTEE ROOM: CORPORATE SERVICES

PRESENT

Internal members:

Director: Corporate Services, Ms M S Terblanche (acting chairperson)

Director: Protection Services, Mr P A C Humphreys

External members:

Mr C Rabie

Mr W Steyn

Other officials:

Sr Manager: Building Environment, Mr A M Zaayman (advisor)

Manager: Secretariat and Record Services, Ms N Brand (secretariat)

Director: Development Services (observer)

Sr 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 all members.

2. ABSENCE OF LEAVE

Apology received from the Municipal Manager, Mr J J Scholtz.

3. DECLARATION OF INTEREST

RESOLVED that cognisance is taken that no conflict of interests were declared.

4. MINUTES

4.1 MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON 1 FEBRUARY 2017

RESOLUTION

(proposed by Mr C Rabie, seconded by Mr P A C Humphreys)

That the minutes of a Municipal Planning Tribunal Meeting held on 1 February 2017 are approved and signed by the chairperson, subject to the following amendment of the preamble –

Item 6.3: Proposed consent use on the remainder of the farm La Rhine no 848, Division Malmesbury (15/3/10-15) (Ward 12)

Mr Rabie requested that, in future, the Department of Agriculture be asked to submit comments on the scientific report to the Municipality regarding the agricultural potential of the land. These information on the specialist report will equipped the committee to make an informed decision.

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5. MATTERS ARISING FROM THE MINUTES OF 1 FEBRUARY 2017

None

6. MATTERS FOR CONSIDERATION

6.1 PROPOSED CLOSURE OF A PUBLIC PLACE AND REZONING OF ERF 946, CHATSWORTH (15/3/3-2, 15/3/7-2) (WARD 4)

Swartland Municipality is the registered owner of erf 946, Chatsworth. Although no objections were received for the proposed closure of public place and the rezoning of erf 946, Chatsworth, the application must be considered by the Municipal Planning Tribunal in accordance with the By-law on Municipal Land Use Planning.

Mr Steyn mentioned that the Spatial Development Framework (SDF) makes a clear distinction between public open space and sports fields by classifying the two land uses in separate categories. Therefore, the proposed closure of public open space for the provision of sports fields is not consistent with the SDF. The fact is emphasised that the Municipal Planning Tribunal cannot approved an application which is not consistent with the SDF.

Mr H Olivier mentioned that the extent of the land identified for sports fields in the SDF is not adequate for the proposed facilities, and the land is furthermore privately owned. The existing sports fields are also on privately owned land, and no further developments can take place.

The Integrated Development Plan (IDP) and Area Plan for Ward 4 identified the need for formal sports facilities and erf 946, Chatsworth was identified as best situated for this purpose. Mr Olivier mentioned that during the basic impact assessment for the environmental authorisation, it was found that a large portion of the property is covered with indigenous vegetation which was determined to be critically endangered. As a result, Council decided to identify – as indicated in the report – biodiversity offset areas in exchange for the establishment of sports facilities on erf 946, Chatsworth.

RESOLVED

A The application for the closure of a public place also known as erf 946, Chatsworth be approved in terms of section 60 of Swartland Municipality: By-law on Municipal Land Use Planning (PG 7420 of 3 July 2015);

B The application for the rezoning of erf 946, Chatsworth be approved in terms of section 60 of the By-law from open space zone 1 to open space zone 2;

C The approval mentioned in A and B above is subject to the following conditions:

C1 TOWN PLANNING AND BUILDING CONTROL

(a) Building plans be submitted to the Director: Development Services for consideration and approval;

C2 WATER

(a) The municipality provide the water connection. This connection can only be used for the provision of potable water and for the ablution facilities;

(b) No municipal potable water may be used for the irrigation of sports fields. A borehole will be sunk as part of the development of the sports fields for irrigation purposes;

(c) A system for the recycling of gray water is installed at the ablution facilities so that gray water can be used for irrigation purposes;

C3 SEWERAGE

(a) The municipality install conservancy tanks that are of a sufficient size;

C4 REFUSE REMOVAL

(a) The basic refuse removal tariff be levied;

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C5 GENERAL

(a) The conditions of the Environmental Authorisation of the Department of Environmental Affairs and Development Planning dated 27 January 2017 with reference number 16/3/3/1/F5/4/2112/16 be adhered to;

D The reasons for the approval of the proposed application are:

- (a) The physical restriction on the property has been mitigated;
- (b) The proposed application is consistent with the existing planning in the area;
- (c) The proposed sports fields will not have a negative impact on the character of the area;
- (d) The property was earmarked for recreational purposes since 1903;
- (e) The proposal will result in the optimum utilisation of land;
- (f) No objections were received from affected property owners;4
- (g) The development of erf 946, Chatsworth as formal sports facilities is a priority of the Council, as identified in Ward 4's Area Plan (an annexure to the IDP), and therefore approval in principle has been granted by Council for the amendment of the SDF accordingly.

6.2 PROPOSED CLOSURE OF A PUBLIC OPEN SPACE, SUBDIVISION, REZONING AND DEPARTURE OF ERF 1071, CHATSWORTH (15/3/3-2) (WARD 4)

Ms A de Jager, as author, tabled the item. Ms de Jager mentioned that no objections were received from the public and that the application is tabled in accordance with the By-law on Municipal Land Use Planning.

Mr W Smit mentioned that the proposed closure of a public open space for clinic purposes is not consistent with the Spatial Development Framework, which indicates the public open space as a "market place".

Mr A M Zaayman confirmed that although erf 1071 is indicated to be used as "market place", it is situated in a larger identified area which allows for mixed uses.

The chairperson mentioned that the existing clinic in Chatsworth is inadequate in fulfilling the needs of the community, and a request was received from the Western Cape Government to identify suitable land to erect a replacement clinic. Council therefore identified the relevant property for clinic purposes.

RESOLVED UNANIMOUSLY

A The application for the subdivision of Erf 1071, Chatsworth, into Portion A and the Remainder, is approved in terms of section 60 of the Swartland Municipal Land Use Planning By-law (PG 7420, dated 3 July 2015);

B The application for the closure of a public open space on Portion A of Erf 1071, Chatsworth, is approved in terms of section 60 of the Swartland Municipal Land Use Planning By-law (PG 7420, dated 3 July 2015);

C The application for the rezoning of a portion of Erf 1071 (1500m² in extent), Chatsworth, is approved in terms of section 60 of the Swartland Municipal Land Use Planning By-law (PG 7420, dated 3 July 2015);

D The abovementioned approvals are granted, subject to the conditions that:

D1 TOWN PLANNING AND BUILDING CONTROL

- (a) Erf 1071, Chatsworth be subdivided into two portions, namely Portion A (±1500 m² in extent) and the remainder (±3556 m² in extent);
- (b) The Municipality notifies the Surveyor-General of the approval of the closure of a public place on Portion A and the Surveyor-General must endorse the records of the Surveyor-General's office to reflect the closure of the public place;

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- (c) Portion A of erf 1071 is rezoned from Open Space Zone 1 to Community Zone 3;
- (d) Building plans for the new building on the property be submitted to the Director: Development Services for consideration and approval;
- (e) The required amount of parking be provided, surfaced with a permanent, dust free material, to the satisfaction of Council;
- (f) This approval is in terms of section 66 (2) (w) of the By-law valid for a period of 5 years;

D2 WATER

- (a) Each subdivided portion be provided with a separate water connection. This condition is applicable at building plan stage;
- (b) A system for the recycling of gray water is installed at the clinic so that gray water can be used for irrigation purposes.

D3 SEWERAGE

- (a) Each subdivided portion be provided with a separate sewerage connection;
- (b) This condition is applicable at building plan stage;

D4 REFUSE REMOVAL

- (a) The basic refuse removal tariff will be levied for each of the properties;
- (b) Refuse be disposed of in refuse bags and placed on the nearest municipal side walk on the morning of removal.

E The application for building line departure on Erf 1071, Chatsworth, is **approved** in terms of section 60 of the Swartland Municipal Land Use Planning By-law (PG 7420, dated 3 July 2015) as follows:

- (a) The 10m street building lines along the northern, southern and western boundaries of Portion A be reduced to 5m.

F The application is supported for the following reasons:

- (a) There are no physical restrictions on the property that will have a negative impact on this application or vice versa;
- (b) The proposed application is consistent with and not in contradiction to LUPA, the Swartland SDF or as discussed above;
- (c) The proposed clinic is envisioned to have a notable, positive impact on the character of the surrounding area by improving the aesthetic quality of the square, as well as partially formalising the space, possibly preventing future unlawful land uses;
- (d) The proposed activity will have a positive social impact as it will be accessible for the larger Chatsworth community, whether pedestrian or per automobile;
- (e) The proposed clinic will provide a much needed social service in Chatsworth and replace the existing, lacking facilities;
- (f) The proposal contributes to optimal use of vacant land and densification, thus containing development inside the urban edge and limiting urban sprawl;
- (g) The proposed development is consistent with the principle of mixed land uses within residential areas, as is proposed for the area by the SDF;
- (h) The character of the surrounding neighbourhood is primarily residential, with street building lines of 4m and less;
- (i) The building line departure from 10m to 5m will thus be more consistent with the existing building lines of the area. The departure will furthermore enable the developer to optimally utilise the available space for the clinic;
- (j) The Council has already given approval in principle for a portion of erf 1071, Chatsworth, to be alienated to the Western Cape Department of Transport and Public Works for the replacement of the existing clinic in Chatsworth, and accordingly approved in principle the amendment of the SDF when it is revised;
- (k) The development of the clinic will occupy a portion of ±10% of erf 1071, leaving a substantial portion to be utilised as "market square" as indicated on the SDF diagrams.

6.3 PROPOSED CONSENT USE ON ERF 171, GROTTO BAY (15/3/10-4) (WARD 5)

On request by Mr W Steyn, it is confirmed that the zoning conditions applicable to Grotto Bay remained unchanged when Swartland Municipality proceeded from the Section 8 Zoning Scheme Regulations to the Integrated Zoning Scheme Regulations.

The committee agreed that a decision cannot be taken which is in contravention with the Constitution and Building Manual of the Grotto Bay Home Owners Association (HOA), as these policies were approved by Council. In this instance a request must be received from the HOA to amend the above mentioned policies, in order to accommodate the consent use on erf 171, Grotto Bay.

RESOLVED UNANIMOUSLY

- (a) The application for a consent use for a lodge on erf 171, Grotto Bay, not be approved in terms of section 60 of the Swartland Municipality: By-law on Municipal Land Use Planning (PG 7420 of 3 July 2015) for a lodge;
- (b) The applicant/objectors be notified of their right to appeal in terms of Chapter VII, Section 79 of the Swartland Municipality By-law relating Municipal Land Use Planning (PG 7420 of 3 July 2015);
- (c) The application is not approved for the following reasons:
 - (i) The land use approval for the Grotto Bay resort development by the Provincial Administration of the Cape of Good Hope dated 18 June 1991 states that "...1. 'n Maksimum van 220 wooneenhede sal binne die Oordsone II gedeelte toegelaat word..."

A dwelling unit is defined according the Swartland Integrated Zoning Scheme Regulations as follows:

"...means a self-contained inter-leading group of rooms with not more than one kitchen, used for the living accommodation and housing of a single family, together with such outbuildings as are ordinarily used therewith..."

A lodge is defined according the Swartland Integrated Zoning Scheme Regulations as follows:

"...means premises, not exceeding 450m², floor space, single storey, or 350m² footprint, double storey, used as a temporary residence for transient guests, where lodging and meals are provided, and may include associated conference and entertainment facilities that are subservient and ancillary to the dominant use of the premises as a lodge. 'Lodge' also implies that there are premises on site which are licensed to sell liquor to be consumed on that same land unit, however does not include an off-sales facility..."

- (ii) It is clear that the land use approval does not make provision for the renting of individual rooms for residential accommodation/lodging for transient guests;
- (iii) The constitution and architectural design manual of the Grotto Bay Home Owners Association does not make provision for the renting of individual rooms for residential accommodation/lodging for transient guests;
- (iv) Due to the number of objections received it is clear that the proposed consent use is not in the public interest of the Grotto Bay resort development.

**(SIGNED) M S TERBLANCHE
ACTING CHAIRPERSON**