



MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON WEDNESDAY, 12 FEBRUARY 2020 AT 14:00 IN THE COMMITTEE ROOM: CORPORATE SERVICES

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
Mr W Steyn

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 meeting and extended a special word of welcome to the external members on the first meeting of the Municipal Planning Tribunal of 2020.

2. APOLOGY

No apologies were received.

3. DECLARATION OF INTEREST

RESOLVED that cognisance is taken that no declaration of interest was received.

4. MINUTES

4.1 MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON 13 NOVEMBER 2019

RESOLVED

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

That the minutes of a Municipal Planning Tribunal Meeting held on 13 November 2019 are approved and signed by the chairperson, subject to the following amendment –

ITEM 6.4: REVISED APPLICATION: APPLICATION FOR REZONING AND DEPARTURE ON ERF 423, DARLING (15/3/3-3) (WARD 5)
[adding of paragraph C1(h)]

C1(h) A lease agreement be registered regarding the Agricultural Zone 2 portion, in favour of Farm 1220, to the satisfaction of the Municipality.

5. MATTERS ARISING FROM THE MINUTES

None

6. MATTERS FOR CONSIDERATION

6.1 APPLICATION FOR REZONING ON ERF 2095, RIEBEEK WEST (15/3/3-12) (WARD 3)

The chairperson tabled the item and a discussion followed on the reasons why the author dealt with the objections received after the deadline, with specific reference to the objection of Mr Weideman who also indicated his intention to make a representation to the Municipal Planning Tribunal.

The chairperson confirmed in accordance with section 88(5) of the Swartland Municipality: Municipal Land Use Planning By-law (PG 7741 of 3 March 2017) that the application can be adequately determined in the absence of the parties. Furthermore, Mr Weideman, will have the opportunity as interested party to lodge an appeal and to further participate in the process.

The author, Mr H Olivier, mentioned that the applicant wishes to develop the subject property to accommodate 28 flats on the property. Mr Olivier referred to the applicant's motivation for the development and emphasised the following matters, amongst others, (1) the development is consistent with the principles of LUPA and SPLUMA and strategies on infill and densification, (2) the aim of the development is not to "over" develop the property, (3) the proposal includes mainly double-storey buildings with only a small portion being three storeys in height and will have a low height impact considering the difference in height between the subject property and Voortrekker Road.

A discussion followed on the applicants contribution to social justice and the Municipal Planning Tribunal is of the opinion that it is adequately addressed through the mixed housing typologies the development is offering which will also accommodate the new entrants to the housing market.

RESOLUTION

A. The application for the rezoning of Erf 2095, Riebeeck Wes from Residential Zone 1 to General Residential Zone 3, be approved in terms of section 70 of the Swartland Municipal Land Use Planning By-Law (PG 7741 of 3 March 2017), subject to the following conditions:

A1 TOWN PLANNING AND BUILDING CONTROL

- (a) No more than 28 flats be accommodated as part of the development proposal;
- (b) At least 42 onsite parking bays be provided in accordance with condition A4 below;
- (c) The architectural design be of such a nature as to complement the character of the surrounding built environment;
- (d) Building plans be submitted to the Senior Manager Built Environment for consideration and approval;

A2 WATER

- (a) The proposed development be connected to the existing water network as recommended in the GLS Consulting Engineers' report of 30 September 2019;
- (b) The network enhancement as recommended in the GLS Consulting Engineers' report dated 30 September 2019 be implemented;
- (c) An internal water distribution network be established in accordance with Broadco Consulting's report dated 17 October 2019;
- (d) An additional fire hydrant be installed at the Main Street (Voortrekker Road) Smuts Street intersection;
- (e) The internal water network, including the connection to the existing municipal network, together with the addition of the hydrant and network reinforcements be designed by an engineer appropriately registered in accordance with the provisions of Act 46 of 2000;
- (f) The design be submitted to the Director: Civil Engineering Services for approval after which the extension be installed under the supervision of the Engineer concerned;

A3/...

A3 SEWERAGE

- (a) The proposed development be connected to the existing sewer network as recommended in the GLS Consulting Engineers' report of 30 September 2019;
- (b) An internal sewerage distribution network be established in accordance with Broadco Consulting's report dated 17 October 2019;
- (c) The internal sewer network including the connection to the existing municipal network be designed by an Engineer appropriately registered in terms of the provisions of Act 46 of 2000;
- (d) The design be submitted to the Director: Civil Engineering Services for approval and the connection be done under the supervision of the Engineer concerned;
- (e) A capital contribution towards sewage services be made according to the table in paragraph 5 of the comments by the Department: Civil Engineering Services;

A4 STREETS AND STORMWATER

- (a) Stormwater drainage be installed in accordance with the Broadco Consulting's report of 17 October 2019;
- (b) The proposed parking area, including the junction with Smuts Street, be provided with a permanent surface to the satisfaction of the Director: Civil Engineering Services;
- (c) The stormwater drainage, parking area and road connection be designed by an engineer appropriately registered in terms of the provisions of Act 46 of 2000. The design be submitted to the Director: Civil Engineering Services for approval after which the extension be installed under the supervision of the said Engineer;

A5 REFUSE REMOVAL

- (a) The basic refuse removal tariff be levied for each dwelling unit;
- (b) A built refuse area be build and be provided with clean running water as well as a catchment point for dirty water that is connected to the sewer network. The refuse should be easily accessible to refuse removal workers but should not be accessible to unwanted animals and elements;

A6 CAPITAL CONTRIBUTIONS

- (a) The owner/developer is responsible for the payment of capital contributions towards the bulk supply of regional water, water distribution, sewerage, wastewater treatment, roads as well as stormwater as determined by the relevant capital contributions policy;
- (b) The capital contributions be calculated on building plan stage and the applicable amount be paid before the building plans are approved;

A7 ESKOM

- (a) Underground services indicated are only approximate and the onus is on the applicant to verify its location;
- (b) There may be LV overhead services/connections not indicated on the drawing;
- (c) The successful contractor applies for the necessary agreement forms and additional cable information not indicated on the included drawing, in order to start construction;
- (d) Should it be necessary to move, relocate or support any existing services for possible future needs, it will be at the developer's cost;
- (e) Works be carried out as indicated on plans;
- (f) No mechanical plant be used within 3.0 m of Eskom underground cables;
- (g) All services be verified on site;
- (h) Cross trenches be dug by hand to locate all underground services before construction work commences;
- (i) If Eskom underground services cannot be located or are grossly misplaced from where the wayleave plan indicates, then all work is to be stopped and the Land Development Office be contacted on 021 980 3551, to arrange the capturing of such services;
- (j) In cases where proposed services run parallel with existing underground power cables the greatest separation as possible should be maintained with a minimum of 1000 mm;
- (k)/...

6.1/...

- (k) Where proposed services cross underground power cables the separation should be a minimum of 300 mm with protection between services and power cables (preferably a concrete slab);
- (l) No manholes, catch-pits or any structure be built on top of existing underground services;
- (m) Only walk-behind (2-ton Bomac type) compactors be used when compacting on top of and 1 m either side of underground cables;
- (n) If underground services cannot be located then the Customer Network Centre (CNC) should be consulted before the commencement of any work;
- (o) No work or no machinery may be carried out or operated nearer than 3.0 m from 11 kV conductors;
- (p) Where applicable, no work or no machinery may be carried out or operated nearer than 3.2 m from 66 kV conductors;
- (q) Where applicable, no work or no machinery may be carried out or operated nearer than 3.8 m from 132 kV conductors;
- (r) Wayleaves, Indemnity form (working permit) and all as-built drawings issued by Eskom be kept on-site at all times during the construction period;

A8 GENERAL

- (a) Should it be necessary to upgrade any existing services in order to accommodate the access or service connections of the proposed development, the cost thereof will be for the developer's account;
- (b) This approval is in terms of section 76(2)(w) of the By-Law valid for a period of 5 years, during which time the rezoned land use be utilised, and all conditions of approval adhered to for the new zoning to be established;
- (c) The applicant/objectors are informed of the right to appeal against the decision of the Municipal Planning Tribunal, within 21 days of the notice, in terms of section 89(2) of the By-Law;
- (d) The developer notes that network reinforcement can be offset against the capital contributions in terms of bulk water distribution and that the calculation will be done when the final costs are known;

B. The application is supported for the following reasons:

- (a) There are no physical restrictions on the property that will have a negative impact on the application;
- (b) The proposed application is consistent with and not in contradiction to the Spatial Development Frameworks adopted on Provincial, District and Municipal levels;
- (c) The proposed application will not have a negative impact on the character of the area;
- (d) The proposed buildings will not disfigure the nature and appearance of the area concerned, it will not be unsightly or objectionable nor will it derogate from the value of adjoining/neighbouring properties;
- (e) 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;
- (f) The proposed application adhered to the development principles according to Chapter 2 of SPLUMA;
- (g) The proposed application contributes to the principle of spatial justice as per SPLUMA and LUPA;
- (h) The part of the development consisting of three storeys is adjacent to the existing business and flat developments adjacent to Voortrekker Road and thus adheres to the principles of densification along important roads;
- (i) Due to the difference in height between the subject property and Voortrekker Road, as well as the development being situated adjacent to existing business and high density uses it will therefore not disfigure the nature and appearance of the area concerned.

6.2/...

6.2 APPLICATION FOR CONSENT USE, DEPARTURE AND REMOVAL OF RESTRICTIONS ON ERF 801, DARLING (15/3/4-3; 15/3/10-3) (WARD 6)

Ms A de Jager, the author, confirmed that the application for abovementioned land uses is made in order to permit a transmission tower on the property.

Ms De Jager confirmed that, in the absence of a policy regulating transmission towers, each application is evaluated on merit, considering the placement of existing towers and coverage.

RESOLUTION

- A. The application for the removal of restrictive conditions from Title Deed T24825/1967 of Erf 801, Darling, in terms of section 25(2)(b) of Swartland Municipality: Municipal Land Use Planning By-law (PG 7741 of 3 March 2017), be approved;

The approval grants the removal of restrictive condition B.(1) from Title Deed T24825/1967, that reads as follows:

“B.(1) The land shall be used only for or in connection with educational purposes”.

The approval be subject to the following process:

- (a) The applicant/owner applies to the Deeds Office to amend the Title Deed in order to reflect the removal of the restrictive condition;
- (b) 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 in the Provincial Gazette by Swartland Municipality;
- B. The application for departures on Erf 801, Darling, in terms of section 25(2)(b) of Swartland Municipality: Municipal Land Use Planning By-law (PG 7741 of 3 March 2017), be approved, subject to the conditions that:

B1 TOWN PLANNING AND BUILDING CONTROL

- (a) The 9 m height restriction be departed from and increased to a maximum height of 20 m;
- (b) The transmission tower be constructed and camouflaged as a tree which, as presented in the application;
- (c) The 10 m southern building line be departed from and reduced to 0 m, restricted to the extent of the transmission tower and the encampment, as presented in the application;
- (d) The 10 m eastern building line be departed from and reduced the 0 m, restricted to the extent of the transmission tower and the encampment, as presented in the application;
- C. The application for a consent use on Erf 801, Darling, in terms of section 25(2)(o) of Swartland Municipality: Municipal Land Use Planning By-law (PG 7741 of 3 March 2017), in order to construct a telecommunication mast and encampment, be approved, subject to the conditions that:

C1 TOWN PLANNING AND BUILDING CONTROL

- (a) The approval authorises the construction of a transmission tower and encampment, that makes provision for the following, as presented in the application:
- (i) Construction of a 20 m high transmission tower, camouflaged as a tree, situated in the south western corner of the property;
 - (ii) Installation of 9 triband antennae on the proposed 20 m transmission tower mitigated as a tree;
 - (iii) Installation of 3 transmission dishes on the proposed 20 m transmission tower mitigated as a tree;
 - (iv)/...

- (iv) Construction of 2 x 3.0 m (L) x 3.0 m (W) concrete plinths and installation of 2 x telecommunications equipment containers measuring 2.4 m (L) X 2.8 m (W) at ground level;
- (v) Lightning spike and Navigation lights;
- (vi) The mast and equipment containers be placed inside an 80 m² encampment, enclosed by a 2.4 m high palisade fence;
- (b) Proposed access gate to the encampment be designed at such a position at least 10 m from the corner of the intersection, if the intersection is not splayed, or 5 m from the point where the splay meets the road boundary if the intersection is splayed;
- (c) Building plans be submitted to the Senior Manager: Built Environment for consideration and approval;
- (d) Building materials be stored on Erf 801 and no excess building materials be placed on road reserves or open spaces;
- (e) Application for the construction of attaching of advertising signs to any of the structures be made to the Senior Manager: Built Environment for consideration and approval;
- (f) 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;
- (g) The service provider/operator/lessee shall maintain the requirements of Section 13.3.2 of the Swartland Zoning Scheme Regulations pertaining to Radio Frequency Emissions and in the event that such measurement shows that the ICNIRP public exposure standard is exceeded, the approval shall lapse and the Municipality shall cause the cellular telecommunication infrastructure to be decommissioned at the cost of the service provider/operator/lessee;

D. GENERAL

- (a) The Darling Wild Flower Society be notified prior to the commencement of trenching, in order to ensure environmentally friendly practice;

E. The application is supported for the following reasons:

- (a) The removal of restrictive conditions will not negatively affect the rights of any parties;
- (b) While Swartland Municipality does not possess a policy regarding the construction of transmission towers, it is nonetheless believed that sufficient information was submitted to strategically evaluate the development proposal and determine the optimal placement of a new tower;
- (c) The transmission tower is strategically placed on the property;
- (d) The placement of the transmission tower in context to the broader telecommunication network for Darling will create optimum coverage for the town;
- (e) The proposed transmission tower is a permissible consent use under Community Zone 1;
- (f) The application is regarded as being consistent with all planning legislation;
- (g) No substantial proof can be provided that surrounding property values will be affected negatively by the approval of the application for departure;
- (h) The proposed transmission tower provides the broader community of Darling with better access to the telecommunication networks;
- (i) The transmission tower is limited to 20 m height and is to be disguised as a tree, in an effort to render it less visually intrusive;
- (j) Extensive argument was made against the perceived health risks of a transmission tower and proven to be conjecture. The proposed tower is thus perceived as safe;
- (k) The conditions of approval make provision for the possibility that, if the tower is proven to be detrimental to health in the future, it will be amended or removed.

6.3 APPLICATION FOR CONSENT USE AND DEPARTURE ON ERF 19, RIEBEEK KASTEEL (15/3/4-11; 15/3/10-11) (WARD 12)

Mr A J Burger, the author, confirmed that an application was received for consent use and departure on Erf 19, Riebeeck Kasteel in order to accommodate a transmission tower in the shape of a tree.

Mr Burger emphasised that Erf 19, Riebeeck Kasteel is situated within the Central Business District of Riebeeck Kasteel and on Kerk Street which is an identified activity street.

RESOLUTION

- A. The application for a consent use on Erf 19, Riebeeck Kasteel be approved in terms of Section 70 of Swartland Municipality: Municipal Land Use Planning By-Law (PG 7741 of 3 March 2017), subject to the following conditions:

A1 TOWN PLANNING AND BUILDING CONTROL

- (a) The consent use authorises a transmission tower which makes provision for the following:
- (i) Erection of a 18 m transmission tower camouflaged as a tree situated in the north western corner of the property;
 - (ii) Installation of 12 triband antennae hidden behind the branches of the dummy tree proposed at a height between 12 m and 18 m of the transmission tower;
 - (iii) Installation of 3 transmission dishes on the proposed 18 m transmission tower camouflaged as a tree;
 - (iv) Construction of 3 x telecommunications equipment containers at ground level;
 - (v) Lightning spike and Navigation lights;
 - (vi) Portable fire extinguishers (3 x 9 kg portable fire extinguishers);
 - (vii) The mast and equipment containers will be placed inside a +/-25 m² compound enclosed off by a 2.4 m high palisade fence;
- (b) The transmission tower be erected in the form of a tree which fits in with the natural vegetation of the surrounding area;
- (c) Building plans be submitted to the Senior Manager: Built Environment for consideration and approval;
- (d) Application for the erection of advertising signs for the service providers be made to the Senior Manager: Built Environment for consideration and approval;
- (e) The service provider/operator/lessee shall maintain the requirements of Section 13.3.2 of the Swartland Zoning Scheme Regulations pertaining to Radio Frequency Emissions and in the event that such measurement shows that the ICNIRP public exposure standard is exceeded, the approval shall lapse and the Municipality shall cause the cellular telecommunication infrastructure to be decommissioned at the cost of the service provider/operator/lessee;

A2 ESKOM

- (a) Works be carried out as indicated on plans;
- (b) No mechanical plant be used within 3.0 m of Eskom underground cables;
- (c) All services be verified on site;
- (d) Cross trenches be dug by hand to locate all underground services before construction work commences;
- (e) If Eskom underground services cannot be located or is grossly misplaced from where the wayleave plan indicates, then all work is to be stopped and Graham Hector from the Land Development Office be contacted on 021 980 3551 / HectorG@eskom.co.za, to arrange the capturing of such services;
- (f) In cases where proposed services run parallel with existing underground power cables the greatest separation as possible should be maintained with a minimum of 1000 mm;
- (g) Where proposed services cross underground power cables the separation should be a minimum of 300 mm with protection between services and power cables (preferably a concrete slab);
- (h) No manholes, catch-pits or any structure be built on top of existing underground services;
- (i)/...

6.3/A2...

- (i) Only walk-behind (2 ton Bomac type) compactors be used when compacting on top of and 1 m either side of underground cables;
- (j) If underground services cannot be located then the Customer Network Centre (CNC) should be consulted before commencement of any work;
- (k) O.H. Line Services, no work or no machinery nearer than the following distances from the conductors:

Voltage	Not closer than:
11kV	3.0 m
66kV	3.2 m
132kV	3.8 m

- B. The application for the departure of development parameters on Erf 19, Riebeek Kasteel, be approved in terms of section 70 of Swartland Municipality: Municipal Land Use Planning By-Law (PG 7741 of 3 March 2017), as follows:
 - (a) Departure from the 5 m side building line (northern boundary) to 0 m, and
 - (b) Departure from the 5 m rear building line (western boundary) to 0 m;
- C. The application is supported for the following reasons:
 - (a) The proposed transmission tower is an acceptable land use inside the CBD of Riebeek Kasteel;
 - (b) The transmission tower is strategically placed on the property;
 - (c) The placement of the transmission tower in context to the broader telecommunication network for Riebeek Kasteel will create optimum coverage for the town;
 - (d) The visual impact of the transmission tower is deemed to be low;
 - (e) As the visual impact of the transmission tower is deemed to be low, it cancels out any possible concerns/impacts on tourism (Kerk Street being a tourism corridor), the environment and heritage;
 - (f) The transmission tower does not require approval Heritage Western Cape and the Department of Environmental Affairs and Development Planning;
 - (g) Potential noise created by the transmission tower will not exceed the allowable decibels;
 - (h) The privacy of surrounding land owners will not be affected;
 - (i) The proposed telecommunication infrastructure does not pose a fire risk;
 - (j) Surrounding property values will not be affected negatively;
 - (k) Sufficient services capacity exists to accommodate the proposed transmission tower;
 - (l) Erf 19 has no title deed restrictions which are restrictive to this application;
 - (m) The transmission tower and equipment is placed strategically on Erf 19 and has a low impact on surrounding properties;
 - (n) The public interest of this application is deemed to be positive;
 - (o) The application is in compliance with the SDF of Riebeek Kasteel;
 - (p) The application complies with the principles of LUPA and SPLUMA.

**(SIGNED) J J SCHOLTZ
CHAIRPERSON**