



**MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON WEDNESDAY, 2 AUGUST 2017
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:

Sr Manager: Building Environment, Mr A M Zaayman (advisor)
Manager: Secretariat and Records, Ms N Brand (secretariat)
Director: Development Services, Mr J T Steenkamp
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

The committee is complete.

3. DECLARATION OF INTEREST

RESOLVED that cognisance is taken of the interest declared by Mr W Steyn regarding his involvement with an application adjacent to erf 2130, Yzerfontein (item 6.2 of the agenda).

4. MINUTES

4.1 MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON 19 JULY 2017

RESOLVED

(proposed by Mr W Steyn, seconded by Ms M S Terblanche)

That the minutes of a Municipal Planning Tribunal Meeting held on 19 July 2017 are approved and signed by the chairperson.

5. MATTERS ARISING FROM THE MINUTES OF 19 JULY 2017

None

6. MATTERS FOR CONSIDERATION

6.1/...

6.1 PROPOSED CONSENT USE ON ERF 1479, RIEBEEK-WES (15/3/10-12) (WARD 3)

An application for the consent use on erf 1479, Riebeeek-Wes was received to operate a tavern (off-consumption) from a portion ($\pm 19 \text{ m}^2$) of the property.

Mr H Olivier, as author, tabled the item and mentioned that the application was not advertised, but a notice was sent out to 33 effected parties, including the ward councillor, SAPS and Eskom.

Paragraph 55 of the By-law determines the applications for which public notice must be given, and a consent use – that will not materially affect the public interest or the interest of the community – is excluded from this determination. As a result, the client is exempted from the payment of advertisement costs of $\pm R5\ 000$.

Mr Rabie confirmed that to advertise has different meanings, and to serve a notice also mean to advertise.

The chairperson requested that when it is indicated in the report that the notice was served on the ward councillor, more detail is given.

RESOLVED

- (a) That the application for a consent use on erf 1479, Riebeeek-Wes (19 m^2 in extent) in terms of section 70 of the By-law for a house tavern (off-consumption), not be approved;
- (b) That the applicant/objectors be notified of this outcome and their right to appeal in terms of Chapter VII, Section 89 of the By-law;
- (c) The application is rejected for the following reasons:
 - (i) The application is inconsistent with the proposals of the MSDF;
 - (ii) The existing un-authorized building work as well existing work departing from the approved building plans is in contradiction with the requirements of the zoning scheme regulations;
 - (iii) The location of the proposed tavern not being next to one of the identified activity streets is deemed undesirable.

6.3 APPLICATION FOR REZONING AND CONSENT USE ON PORTION 7 OF THE FARM LAMMERSHOEK, NO 842, DIVISION MALMESBURY (15/3/3-15, 15/3/10-15) (WARD 12)

[The chairperson switched item 6.3 and 6.2 with the approval of the committee.]

The author, Ms A de Jager, tabled the item and referred to the information in addition to Annexure A circulated at the meeting to clearly indicate the location of the farm.

Application is made for the rezoning of Portion 7 of the Farm Lammershoek, no 842 ($\pm 2\ 768 \text{ m}^2$ in extent) from agricultural zone 1 to agricultural zone 2 in order to expand the existing agricultural zone 2 footprint of the wine cellar. Further application is made for a consent use within the agricultural zone 2 footprint in order to accommodate a tourist facility in the form of a function venue ($\pm 235 \text{ m}^2$ in extent).

Ms de Jager mentioned that the extent of the expansion of the footprint is due to the inclusion of the parking area at the function venue.

Mr Steyn confirmed that the expansion of a winery (agri-industries) with more than 2000 m^2 is a listed activity in accordance with NEMA and that in accordance with SPLUMA an EIA must be concluded before the land use application may be considered.

RESOLVED

- (a) That the application be referred back to the applicant in order to determine if the expansion of the footprint is a listed activity that requires an Environmental Impact Assessment;

6.3/...

- (b) That the application can not be considered before the conclusion of the EIA, which must also include the approval of the dam that was built without obtaining the necessary approval from the Municipality, as well as Department of Environmental Affairs (EIA);

RESOLVED FURTHER

- (b) That the following matters be included in the application when it is tabled for consideration again:
 - (i) Request the submission of a site development plan clearly indicating the visual impact on the surrounding rural environment as required by the By-law;
 - (ii) Comments by the Provincial Road Engineer regarding the contribution to the upgrading of the road in view of the additional traffic that will be generated by the approval of this application, and also in view of the comments received from the objectors stated that the road is in a very poor condition. The Road Authority (Provincial Road Engineer) when considering the sand mine application requested a contribution to the maintenance of the same road as a condition of approval;
 - (iii) That cognisance is taken that the Provincial Departments is not consistent in the comments on applications that is requested from them, and many applications is delayed and development is hampered;
 - (iv) Mitigating measures regarding noise pollution/control from the function venue, especially considering the neighbour's house being situated ± 283 m from the venue, e.g. limit operating hours, limit decibel levels and the comments received from the objectors;
 - (v) More detail regarding the runoff water from the winery and how it will be accommodated;
 - (vi) The construction of the dam must first be approved, before the application can be considered, as this was also a matter mentioned by the objectors.
- (c) Mr Botha, from the Civil Engineering Department, be requested to do a study on the agreements regarding the availability of water from the Paardeberg Dam to the surrounding farmers, as the agreements with farmers determined the provision of drinking water to the households, and not the provision of drinking water for agricultural purposes. The study must include a survey on the beneficiaries of the initial 1920-scheme, and what water connections were added and for what purposes.

6.2 PROPOSED REZONING AND CONSENT USE ON ERF 2130, YZERFONTEIN (15/3/3-14, 15/3/10-14)

[Mr Steyn left the meeting for the duration of the discussion, due to his declaration of interest in this matter.]

An application was received for the rezoning of erf 2130, Yzerfontein from agricultural zone 1 (± 355 m²), residential zone 1 (± 4 300 m²) and open space zone 2 ($\pm 1,719$ ha) to leisure accommodation zone in order to provide for a tourist and holiday facility which includes accommodation facilities.

An application was also received for a consent use for a tourist facility on erf 2130, Yzerfontein that will include the existing Strandkombuis open air restaurant which will also be utilised as an entertainment facility.

Mr A J Burger, as author, mentioned that the recent storm surge destroyed a large part of the Strandkombuis open air restaurant, as well as the dune on which it is built. The Department of Development Planning indicated that an environmental authorisation in terms of NEMA and the EIA Regulations will be required to rebuild the open air restaurant. Mr Rabie requested that the EIA should also incorporate the coastal management lines from the study that was done by Province.

RESOLVED

- A The application/..

6.2/...

- A The application for the rezoning of erf 2130, Yzerfontein from agricultural zone 1 (± 355 m²), residential zone 1 (± 4300 m²) and open space zone 2 ($\pm 1,719$ ha) to leisure accommodation zone in order to provide for a tourist and holiday facility which includes accommodation facilities, be approved in terms of section 70 of the Swartland Municipal Land Use Planning By-Law (PG 7741 of 3 March 2017).
- B The application for a consent use of a tourist facility on erf 2130, Yzerfontein, be approved in terms of section 70 of the Swartland Municipal Land Use Planning By-Law (PG 7741 of 3 March 2017).
- C Points A and B are subject to the following conditions, that:
- C1 TOWN PLANNING AND BUILDING CONTROL**
- (a) The tourist facility (± 355 m²) in extent will include the existing Strandkombuis open air restaurant which will also be utilized as an entertainment facility as presented in this application;
 - (b) The new position for the open air restaurant will be determined by the environmental authorisation, the consent use right will be restricted to 355 m² in extent;
 - (c) Building plans be submitted to the Director: Development Services for consideration and approval;
 - (d) All structures in the area which is fenced off along-side the parking area where animals were kept in the past must be removed as undertaken by the owner;
 - (e) An application for the erection of advertising signs be made to the Director: Development Services for approval;
 - (f) An application for a business license be made to Swartland Municipality for approval and to the West Coast District Municipality for a compliance certificate for the operation of the open air restaurant;
 - (g) This approval is in terms of section 76(2)(w) of the By-Law valid for a period of 5 years. All conditions of approval must be complied with within the 5 year period and that failing to do so will result in this approval expiring;
 - (h) The applicant/objector is informed of the right to appeal against this decision of the Municipal Planning Tribunal, in terms of section 89(2) of the By-Law;
 - (i) The site development plan, including the parking area, be submitted to the Swartland Municipality;
- C2 WATER**
- (a) The existing water connection be used and that no additional water connections will be provided;
- C3 SEWERAGE**
- (a) The erf be provided with conservancy tanks with a sufficient size to the satisfaction of the Municipality which is accessible to the services truck;
- C4 REFUSE REMOVAL**
- (a) The basic refuse removal tariff will be levied for each dwelling unit and each business and that the tariff will be adjusted according to the amount of refuse removed;
 - (b) The road is accessible for the refuse removal truck;
- C5 STREETS AND STORMWATER**
- (a) The existing right of way servitudes be used for access;
- C6 CAPITAL CONTRIBUTIONS**
- (a) The owner/developer take note of the capital contribution for the regional bulk supply of water at R100 760,80. This capital contribution is payable to Swartland Municipality at building plan stage. This amount is payable to vote number 9/249-176-9210 and is valid for the financial year of 2017/2018 and may be revised thereafter;

6.2/C6...

- (b) The fixed capital contribution towards water be made to this municipality to the amount of R67 918,67 at building plan stage. This amount is payable to vote number 9/249-174-9210 and is valid for the financial year of 2017/2018 and may be revised thereafter;
- (c) The fixed capital contribution sewerage be made to this municipality to the amount of R33 600,00 at building plan stage. This amount is payable to vote number 9/240-184-9210 and is valid for the financial year of 2017/2018 and may be revised thereafter;
- (d) Council's resolution dated May 2017 makes provision for a 40% rebate applicable on the capital contributions of Swartland Municipality. This rebate is valid for the 2017/2018 financial year and may be revised thereafter. The rebate is not applicable to point 6(a);

C7 GENERAL

- (a) If the extension of any existing services be deemed necessary to provide the subdivided portion with services connections, it will be for the cost of the applicant/owner/developer;

D That the application is supported for the following reasons:

- (a) The application is in compliance with the SDF as the existing tourism node is strengthened;
- (b) The tourism landscape of Yzerfontein is enhanced by this application which is supported by the PSDF;
- (c) The application complies with section 42 of SPLUMA and Principles referred to in Chapter VI of LUPA;
- (d) The unique character of the area will not be affected by the proposed land uses;
- (e) The proposed activities are complementary to each other;
- (f) Sufficient services capacity and access exist to accommodate the proposed land uses.

**(SIGNED) J J SCHOLTZ
CHAIRPERSON**