



MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON WEDNESDAY, 8 NOVEMBER 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 that no declaration of interest was received.

4. MINUTES

4.1 MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON 4 OCTOBER 2017

RESOLVED

(proposed by Ms M S Terblanche, seconded by Mr C Rabie)

That the minutes of a Municipal Planning Tribunal Meeting held on 4 October 2017 are approved and signed by the chairperson.

5. MATTERS ARISING FROM THE MINUTES OF 4 OCTOBER 2017

None

6. MATTERS FOR CONSIDERATION

6.1/...

6.1 APPLICATION FOR REZONING, CONSENT USE AND DEPARTURE ON ERF 194, RIEBEEK WEST (15/3/3-12, 15/3/4-12, 15/3/10-12) (WARD 3)

Mr H Olivier, as author of the report, tabled the above mentioned application and confirmed that the application is the first to be received for the consideration of approval of a lodge. An inspection was carried out on 19 October 2017 and the owner already commenced with construction work. The owner was requested to cease all building work with immediate effect.

Mr Olivier confirmed that although approval was obtained from Heritage Western Cape for the alterations to the existing dwelling, approval is also needed for the outer buildings on the property on building plan stage.

There is no reason to depart from the side building lines (southern boundary) to accommodate the guestroom and braai as the erf is 4000 m² in extent, and the height of the braai is not clearly indicated on the site plan. It will be unfair of the applicant to expect from the Municipality to approve this part of the application only for the reason that building work already commenced on the property.

RESOLVED

- A. The application for the rezoning of Erf 194, Riebeek 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).
- B. The application for the consent use on Erf 194, Riebeek Wes be approved in terms of section 70 of the Swartland Municipal Land Use Planning By-Law (PG 7741 of 3 March 2017) in order to accommodate a lodge under the new zoning of general residential zone 3.
- C. The approvals mentioned in A and B above is subject to the following conditions:

C1 TOWN PLANNING AND BUILDING CONTROL

- (a) The lodge be restricted to a total footprint of 935 m² including 15 guest rooms, 2 dwelling units used for staff accommodation as well as related facilities as proposed in this application;
- (b) At least 19 onsite parking bays be provided in accordance with condition C4(a) below;
- (c) Building plans be submitted to the Director: Development Services for consideration and approval;
- (d) The approval of Heritage Western Cape be obtained prior to final consideration of building plans by Swartland Municipality;
- (e) All amenities and provision of meals shall be for the sole benefit of bona fide lodgers;
- (f) A register of guests and lodgers must be kept, and completed when rooms are let, and the register must be produced for inspection on request by a municipality official;
- (g) A lodge manager be at all time residing on the property;
- (h) Guest rooms may not be converted to, or used as separate dwelling units;
- (i) Application be made to Department: Development Services for the right to display of an advertising sign;
- (j) No advertising sign shall be displayed other than a sign or notice not projecting over a public street, and such sign may not exceed 1 m² in area;
- (k) A Certificate of Compliance be obtained from the West Coast District Municipality for the preparation and provision of food for lodgers;
- (l) A trade licence be obtained from Swartland Municipality for the operation of the lodge;
- (m) 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 must be utilised and all conditions of approval adhered to for the new zoning to be established;
- (n) The applicant/objectors are informed of the right to appeal against this decision of the Municipal Planning Tribunal, within 21 days of this notice, in terms of section 89(2) of the By-Law;

6.1/...

C2 WATER

- (a) The development be provided with a single water connection of sufficient size;

C3 SEWERAGE

- (a) The existing connections are to be used and no additional connections will be provided;

C4 STREETS & STORMWATER

- (a) The proposed parking area be provided with a permanent dust free surface whether it be tar, concrete, paving or any other material, as approved by the municipality beforehand as well as that the parking bays must be clearly demarcated;
- (b) Stormwater must be directed to the nearest suitable municipal collection point;

C5 REFUSE REMOVAL

- (a) The basic refuse removal tariff be levied for each dwelling unit as well as the lodge and that the tariff be amended in accordance with the amount of refuse that is removed;
- (b) Refuse must be contained in refuse bags and placed on the nearest municipal sidewalk on the morning of collection;

C6 CAPITAL CONTRIBUTIONS

- (a) The owner/developer take note of the capital contribution for the regional bulk supply of water at R25 908,00. 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;
- (b) The fixed capital contribution towards water be made to this municipality to the amount of R 37 688,00 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 towards sewerage be made to this municipality to the amount of R51 514.32 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 to Swartland Municipality. This rebate is valid for the 2017/2018 financial year and may be revised thereafter. The rebate is not applicable to point C6(a);

C7 WEST COAST DISTRICT MUNICIPALITY

- (a) The conditions of the West Coast District Municipality dated 19 September 2017 with reference number 13/2/12/1/1; 13/2/12/1/3; 13/2/12/1/4 be adhered to;

C8 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;

D. The application for the departure on erf 194, Riebeek West be approved in terms of section 70 of the Swartland Municipal Land Use Planning By-Law (PG 7741 of 3 March 2017) in order to depart from the restriction in the total extent of the lodge from 450m² to 935m².

E. The application for the departure of the side building line (southern boundary) restriction on erf 194, Riebeek West in terms of the new general residential zone 3 zoning, be approved in terms of section 70 of the Swartland Municipal Land Use Planning By-Law (PG 7741 of 3 March 2017) from 5m to 2m in order to accommodate the existing outbuilding.

F./...

6.1/...

- F. The application for the departure of the side building line (southern boundary) restriction on erf 194, Riebeeck West in terms of section 70 of the Swartland Municipal Land Use Planning By-Law (PG 7741 of 3 March 2017) from 5m to 0m for the proposed braai situated on the boundary of the property, not be approved.
- G. The application for the departure of the side building line (southern boundary) restriction on erf 194, Riebeeck West in terms of section 70 of the Swartland Municipal Land Use Planning By-Law (PG 7741 of 3 March 2017) from 5m to 2m for the proposed guest room situated on the boundary of the property, not be approved.
- H. Reasons for the recommendation are:
 - (a) There are no physical restrictions on the property that will have a negative impact on this application;
 - (b) The proposed application is consistent with and not in contradiction to the Spatial Development Frameworks adopted on Provincial, District and Municipal levels as discussed in the Land Use Planning Report;
 - (c) The character of the surrounding area is that of a low-density residential neighbourhood. The nature of any guest house or lodge is to provide in temporary residential needs. The proposed land use is thus considered as a desirable activity within a residential neighbourhood, as it will accommodate residential activities, albeit of a temporary nature, compatible with that of the existing area;
 - (d) The proposed development will definitely have a positive impact on the economy of Riebeeck West as well as on attracting skills into the service and knowledge economy through job creation and possible training and skills development of staff;
 - (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 is intended to optimise the use of existing infrastructure and municipal engineering services, but will not necessitate the expansion of said services. It is also clear from the comments from the civil services department that should any upgrading be required in terms of access and connections, it will be for the developer's account;
 - (g) There is sufficient motivation to consider the departure of the maximum floor area for a lodge from 450m² to 935m² mainly due to the extent of the site as well as the overall bulk of the proposed development;
 - (h) The application for the departure of the side building line with reference to the existing outbuilding is considered desirable as there will be no additional impact on the built environment or the character of the area. This is due to the fact that the outbuilding will be used as dwelling units for staff members and management of the lodge;
 - (i) The application for the departure for the side building line with reference to the braai proposed on the side boundary cannot be considered with this application due to the lack of detail provided in the application as well as site development plan;
 - (j) The application for the departure of the side building line with reference to the guest rooms proposed 2m from the boundary can also not be supported due to the lack of motivation as well as the fact that it can easily be incorporated into the design of the facility without encroaching onto any building lines. As mentioned in the Land Use Planning Report, the fact that construction has started without the necessary authorization is not supported by this Municipality and is therefore not seen as a reason to approve due to the damages that the developer will suffer due to the departure not being approved.

6.2 PROPOSED DEPARTURE ON ERF 6162, MALMESBURY (15/3/4-8) (WARD 10)

An application has been received for the departure on erf 6162, Malmesbury in order to erect a transmission tower of 18 m in height.

Mr Burger/...

6.2/...

Mr Burger, as author, mentioned that the initial height of the tower was proposed at 25 m, as well as an alternative location, but after a meeting with the various role players the height was reduced to 18 m, and a new placement for the tower was proposed. This resulted in a second round of public participation.

Mr Burger confirmed that no records could be found by the Municipality or the Dutch Reformed Church North that any agreement exists between the church and surrounding property owners that the relevant portion of erf 6162 cannot be developed, as well as the fact that there are not restrictions in the Title Deed to this effect.

RESOVED

- A. The application for departure on erf 6162, Malmesbury in terms of section 60 of the Swartland Municipal By-law on Municipal Land Use Planning (PG 7420 of 3 July 2015) be approved in order to depart from the 6m height restriction to 18m in order to accommodate the transmission tower, subject to the following conditions that:

A1 Town Planning/ Building Control

- (a) The height of the transmission tower be restricted to 18 m as presented in this application;
- (b) Building plans be submitted to the Director: Development Services for consideration and approval;
- (c) The transmission tower be erected in the form of a pine tree which compliments the vegetation of the area;
- (d) This approval is in terms of section 66(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;
- (e) 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);

A2 Water

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

A3 Sewerage

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

A4 Refuse removal

- (a) The basic refuse removal tariff be levied;
- (b) The refuse be placed in refuse bags on the nearest municipal side walk on the morning of refuse removal days.

- B. The recommendation is supported for the following reasons:

- (a) The proposed transmission tower is a primary right under the community zone 2 zoning;
- (b) The application is regarded as being consistent with the SDF;
- (c) No proof can be provided that surrounding property values will be affected negatively;
- (d) The principle of NIMBY has no merit in the case of this application;
- (e) No proof or records could be found by Swartland Municipality or the Dutch Reformed Church North that any agreement exists between the church and surrounding property owners that the relevant portion of erf 6162 cannot be developed;
- (f) The Department of Health: Directorate Radiation Control issued a statement in June 2010 regarding the minimum health risks of transmission towers, which indicates that there is no proof that transmission towers poses any negative health impacts;
- (g)/...

6.2/...

- (g) Although the transmission tower will exceed 15 m in height and is situated within an urban area and is zoned community zone 2, no approval needs to be obtained in terms of the NEMA EIA Regulations of 2014;
- (h) The proposed transmission tower will have no impact on heritage resources, no approval is needed in terms of Section 38 of the National Heritage Resources Act (Act 25 of 1999);
- (i) The placement of the transmission tower ensures that the existing activities of the church and church hall are not being affected;
- (j) The transmission tower is proposed in the form of a pine tree which will have no different effect as existing trees which extends above the neighbourhood landscape;
- (k) The proposed transmission tower provides the broader community of Malmesbury with better access to the telecommunication networks.

6.3 PROPOSED SUBDIVISION OF ERF 2065, RIEBEEK KASTEEL (15/3/6-11) (WARD 12)

Ms A de Jager, as author of the item, confirmed that the application deals with the subdivision of erf 2065, Riebeek Kasteel in two portions which adhere to the minimum erf sizes, namely remainder (2662 m² in extent) and Portion A (2050 m² in extent).

A discussion followed on the quality of the subdivision plan, as the application was prepared by the applicant, and not a professional person, as well as the time taken by the office in supporting the applicant. The lack of an overall development plan is also highlighted in order to give sinergy to the development.

RESOLVED

- A. The application for the subdivision of Erf 2065, Riebeek Kasteel, 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 conditions that:

A1 TOWN PLANNING AND BUILDING CONTROL

- (a) Erf 2065 (4712m² in extent) be subdivided into a remainder (2662 m² in extent) and portion A (2050 m² in extent), as presented in this application;
- (b) A right-of-way servitude be registered against the Title Deeds of Erf 1330 and Erf 1329, in order to provide access to the remainder of Erf 2065, as well as portion A, or that any other legal requirement be complied with to provide access to the remainder of Erf 2065, as well as portion A;
- (c) A right-of-way servitude be registered against the Title Deed of the remainder of Erf 2065, to provide access to portion A;
- (d) The legal certificate which authorises transfer of the subdivided portion in terms of Section 38 of By-law will not be issued unless all the relevant conditions have been complied with;
- (e) 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 failing to do so will result in this approval expiring;
- (f) The applicant/objector be informed of the right to appeal against this decision of the Municipal Planning Tribunal, in terms of section 89(2) of the By-Law;

A2 WATER

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

A3 SEWERAGE

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

A4 REFUSE REMOVAL

- (a) The basic refuse removal tariff will be levied for each erf, being it vacant or built-up, as well as for each dwelling unit separately;
- (b) Refuse be placed in refuse bags on the nearest municipal street on the morning of refuse removal;

A5 CAPITAL CONTRIBUTIONS

- (a) The owner/developer is responsible for the capital contribution of R10 795,80 for the bulk supply of regional water. This capital contribution is payable to Swartland Municipality at clearance stage. The amount is valid for the financial year of 2017/2018 and may be revised thereafter (vote number: 9/249-176-9210);
- (b) The fixed capital contribution of R18 843,06 be made to this municipality towards water distribution, at clearance stage. This amount is valid for the financial year of 2017/2018 and may be revised thereafter (vote number 9/249-174-9210);
- (c) The fixed capital contribution of R9 032,22 be made towards sewerage to this municipality at clearance stage. This amount is valid for the financial year of 2017/2018 and may be revised thereafter (vote number: 9/240-184-9210);
- (d) The fixed capital contribution of R9 405,00 be made towards waste water treatment works, to this municipality at clearance stage. This amount is valid for the financial year of 2017/2018 and may be revised thereafter (vote number: 9/240-184-9210);
- (e) The fixed capital contribution towards roads be made to this municipality to the amount of R8 896,56 at clearance stage. This amount is valid for the financial year of 2017/2018 and may be revised thereafter (vote number: 9/247-144-9210);
- (f) The fixed capital contribution towards stormwater be made to this municipality to the amount of R4 476,78 at clearance stage. This amount is valid for the financial year of 2017/2018 and may be revised thereafter (vote number: 9/248-194-9210);
- (g) Council's resolution dated May 2017 makes provision for a 40% rebate applicable on the capital contributions to Swartland Municipality. This rebate is valid for the 2017/2018 financial year and may be revised thereafter. The rebate is not applicable to point A5(a);

A6 GENERAL

- (a) Any existing services which connect the remainder and subdivided portion be moved or disconnected to ensure that each erf's pipe work is situated on the separate erven;
- (b) Should 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.

B. The application is supported for the following reasons:

- (a) The application is in compliance with the minimum erf size for the specific portion of Riebeek Kasteel, as determined by the SDF;
- (b) This application is seen as densification which is supported by the SDF and PSDF;
- (c) The application complies with section 42 of SPLUMA and Principles referred to in Chapter VI of LUPA;
- (d) The proposed subdivision will not negatively affect the character of the neighbourhood, as the proposal complies with the minimum erf size of 2000m², supporting the semi-rural character of the area;
- (e) Surrounding properties consist of similar development potential as Erf 2065;
- (f) There is sufficient services capacity to accommodate the newly created erf;
- (g) The privacy of surrounding property owners will not be negatively affected, as the developable area of the remainder, as well as portion A, will remain extensive;
- (h) All development parameters of the By-Law will be adhered to.

**(SIGNED) J J SCHOLTZ
CHAIRPERSON**