



CLEAN AUDITS SINCE 2010/11



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File ref: 15/3/3-8/Erf 5766
15/3/4-8/Erf 5766

Enquiries:
A. de Jager

18 October 2022

C K Rumboll & Partners
P.O. Box 211
MALMESBURY
7299

By Registered Mail

Dear Sir/Madam

PROPOSED REZONING AND DEPARTURE ON ERF 5766, MALMESBURY

Your application with reference number MAL/12101/GT-ZN, dated 1 July 2022, on behalf of M.M. and N.P. Bartman, refers.

- A. By virtue of the authority delegated to the Senior Manager: Built Environment in terms of Council Decision No. 4.1 dated 28 March 2019, as determined by Section 79(1) of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8227 of 25 March 2020), the application for the rezoning of Erf 5766, Malmesbury, is approved in terms of Section 70 of the By-Law;
- B. By virtue of the authority delegated to the Senior Manager: Built Environment in terms of Council Decision No. 4.1 dated 28 March 2019, as determined by Section 79(1) of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8227 of 25 March 2020), the application for the departure from development parameters on Erf 5766, Malmesbury, is approved in terms of Section 70 of the By-Law;

Approvals A and B above are subject to the conditions that:

1. TOWN PLANNING AND BUILDING CONTROL

- a) The approval authorises the rezoning of Erf 5766, Malmesbury (714m² in extent), from Residential Zone 4 to Business Zone 2, restricted to a broadcasting studio and a flat on first floor level;
- b) A minimum of two (2) on-site parking bays be provided as presented in the application and that the parking areas be finished with a permanent, dust free surface, whether it be tar, concrete, paving or any other material, as pre-approved by the Director: Civil Engineering Services, and the parking bays need to be clearly demarcated;
- c) Building plans, indicating the change in use, additions and amendments to the building be submitted to the Senior Manager: Built Environment for consideration and approval;
- d) Sound proofing measures be employed in the broadcasting studio at building plan stage, to the satisfaction of the Director: Civil Engineering Services;
- e) Speakers, megaphones or any other form of sound transmission systems be restricted to the interior of the broadcasting studio building and that no such sound transmission systems be permitted on the exterior of the building or elsewhere on Erf 5766;
- f) Application be made to the Senior Manager: Built Environment for the right to display the name board/sign of the facility on the site;
- g) A minimum of two (2) on-site parking bays be provided in lieu of the nine (9) parking bays required;
- h) An additional parking bay be provided instead of the bar, the shortfall diminishes to 8 parking bays;
- i) A cash amount be paid to the Municipality for the non-provision of 8 on-site parking bays;
- j) The amount for the non-provision of one parking bay was calculated as follows:
(Area of one parking bay as determined by the By-Law x number of parking bays not provided) x (Property market value per m² as determined by the 2019 valuation roll)

Rig asseblief alle korrespondensie aan:

Die Munisipale Bestuurder
Privaatsak X52
Malmesbury 7299

Tel: 022 487 9400
Faks/Fax: 022 487 9440

Epos/Email: swartlandmun@swartland.org.za

Moorreesburg Tel: 022 433 2246

Kindly address all correspondence to:

The Municipal Manager
Private Bag X52
Malmesbury 7299

Darling Tel: 022 492 2237

Yzerfontein Tel: 022 451 2366

$$= (12,5\text{m}^2 \times 8) \times (\text{R}98,00)$$

$$= \text{R}9\ 800$$

- k) The 6,5m setback line from the street centre be departed from and reduced to 6,1m for the extent of the portion of the building presented in the application;
- l) Both the 3m side building lines be departed from and reduced to 1m to accommodate the portions of the existing building that encroaches on the new building lines, as presented in the application;
- m) The 3m rear building line be departed from and reduced to 1m to accommodate the portion of the existing building that encroaches on the new building line, as presented in the application;

2. WATER

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

3. SEWERAGE

- b) The existing sewerage connection be used and that no additional connections be provided;

4. STREETS AND STORMWATER

- a) Delivery vehicles to the property be restricted to a maximum brute vehicle mass of 16 000kg;

5. DEVELOPMENT CHARGES

- a) The owner/developer is responsible for a development charge of R6 534,30 (R10 890,50 x 0.6) towards the bulk supply of regional water, at building plan stage. The amount is payable to the Swartland Municipality, valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA 9/249-176-9210);
- b) The owner/developer is responsible for the development charge of R7 340,83 towards bulk water reticulation, at building plan stage. The amount is payable to the Municipality, valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA: 9/249-174-9210);
- c) The owner/developer is responsible for the development charge of R3 631,57 towards sewerage, at building plan stage. The amount is payable to this Municipality, valid for the financial year of 2022/2023 and may be revised thereafter. (mSCOA: 9/240-184-9210);
- d) The owner/developer is responsible for the development charge of R5 410,04 towards roads and storm water, at building plan stage. The amount is payable to the Municipality, valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA: 9/247-144-9210);
- e) The owner/developer is responsible for the cash amount for the non-provision of parking bays that amounts to R9 800,00 and is payable to the Municipality at building plan stage. The amount is valid for the financial year of 2022/2023 and may be reviewed thereafter (mSCOA 9/222-303-9212);
- f) The owner/developer is responsible for the development charge of R4 358,90 towards electricity, at building plan stage. The amount is payable to this Municipality, valid for the financial year of 2022/2023 and may be revised thereafter. (mSCOA: 9/253-164-9210);
- g) The Council resolution of May 2022 makes provision for a 35% discount on development charges to Swartland Municipality, except for condition 5.a), which is payable in full. The discount is valid for the financial year 2021/2022 and can be revised thereafter;

6. GENERAL

- a) The application for the departure from the required on-site parking bays is supported due to the fact that alternative transport methods are mainly used in the area, as opposed to individual motor vehicle transport;
- b) The approval does not exempt the applicant from adherence to any other legal procedures, applications and/or approvals related to the intended land use, as required by provincial, state, parastatal and other statutory bodies;
- c) The approval is, in terms of section 76(2)(w) of the By-Law, valid for 5 years. All conditions of approval be complied with by no later than 30 January 2022 and failing to do so will result in further administrative action. Once all the conditions of approval have been met by the specified date, the land use and departure will be permanent and the approval period will not be applicable anymore.

- C. By virtue of the authority delegated to the Senior Manager: Built Environment in terms of Council Decision No. 4.1 dated 28 March 2019, as determined by Section 79(1) of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8227 of 25 March 2020), the application for the rezoning of Erf 5766, Malmesbury, from Residential Zone 4 to Business Zone 2, in order to establish a bar and flat on ground floor level on a portion of the property, is refused in terms of Section 70 of the By-Law for the following reasons:

1. TOWN PLANNING AND BUILDING CONTROL

- a) The zoning category, Business Zone 2, includes a business premises as a primary right. The By-Law definition for a business premises does not, however, list a bar as one of the uses included on a business premises;
- b) Business Zone 2 allows for a place of assembly, a place of entertainment and a bottle store only as consent uses, which implies that said uses should be more regulated within the zoning context. It is thus argued that a business such as a bar, a use that encompasses the sale of alcohol, the assembly of people and possibly entertainment, cannot be regarded as being a primary use and should not be allowed in a residential area without further consideration;
- c) A restaurant may be regarded as a primary use, but permission to sell alcohol is not automatically permitted without the applicable licences;
- d) Section 76 of the By-Law enables the Municipality to formulate the conditions of approval specific to an application, in order to ensure that a proposed development is appropriate and consistent with the permissible land uses and character of an area;
- e) The flat on ground floor level does not comply with the definition of a dwelling unit.

C2 GENERAL

- a) Appeals against the Tribunal decision should be directed, in writing, to the Municipal Manager, Swartland Municipality, Private Bag X52, Malmesbury, 7299 or by e-mail to swartlandmun@swartland.org.za, no later than 21 days after registration of the approval letter. A fee of R4 500,00 is to accompany the appeal and section 90 of the By-Law complied with, for the appeal 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.

Yours sincerely


MUNICIPAL MANAGER
per Department Development Services
AdJ/ds

Copies: *Director: Civil Engineering Services*
 Director: Financial Services
 Building Control Officer
 M.M. and N.P. Bartman, Hawerstraat 48, Malmesbury, 7300