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Lêer verw/ 15/3/3-8/Erf_1220
File ref: 15/3/6-8/Erf_1220

Navrae/Enquiries:
Ms D N Stellenberg

28 November 2022

NM & Associates Planners and Designers
PO Box 44386
CLAREMONT
7735.

By Registered Mail

Sir/Madam

PROPOSED REZONING AND SUBDIVISION OF ERF 1220, MALMESBURY

Your application dated 28 February 2022 on behalf of National Government of the Republic of South Africa, has reference:

- A. The Municipal Planning Tribunal has resolved at a meeting held on 16 November 2022 to refuse the application for the rezoning and subdivision of Erf 1220, Malmesbury, in terms of section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020);
- B. General
 - (a) It is recommended that the department seek an alternative solution or location for the proposed Community Corrections Office, in a location that could be considered favourable. It is advised that the department and the Municipality work together in identifying property that is ideally located, that is suitably zoned / consistent with the MSDF, will not have a negative impact on the character of the area, as well as would be in the interest of the community it serves.
 - (b) Appeals against the Tribunal decision 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;
- C. The application be refused for the following reasons:
 - (a) The development proposal does not adhere to the spatial planning principles and can therefore be considered inconsistent with the spatial planning principles as contained in SPLUMA and LUPA;
 - (b) Spatial Justice: The proposal does not affect or address spatial and development imbalances through the improved access to and use of land. It is argued that the proposal to rezone a property with the extent of 1,3ha within the urban edge in order to accommodate administrative offices, only occupying 5% of the property and with the proposal restricting the use to the existing buildings, is not seen desirable. It is not in-line with the spatial planning goals as well as does not contribute to densification. As the rezoning effectively sterilises the property for any other development and will remain like that for years to come. This is deemed to be in contradiction with the MSDF, 2019 which promotes the effective use of property and services as well as supports densification;
 - (c) It is recognized that the MSDF does accommodate Authority use within the area, however, as mentioned above, the proposal is deemed inconsistent with the goals of the local, district and

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Die Munisipale Bestuurder
Privaatsak X52
Malmesbury 7299

Darling Tel: 022 492 2237

Tel: 022 487 9400
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Epos/Email: swartlandmun@swartland.org.za

Moorreesburg Tel: 022 433 2246

Kindly address all correspondence to:
The Municipal Manager
Private Bag X52
Malmesbury 7299

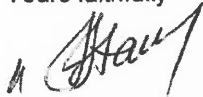
Yzerfontein Tel: 022 451 2366

provincial spatial policies as it will not promote the effective use of property and services as well as support densification. For these reasons the proposal does not contribute to spatial justice;

- (d) **Spatial Sustainability:** The proposal to rezone such a large property within a residential neighbourhood to accommodate administrative offices is deemed undesirable as it is in conflict with the general nature "sense of place" within the neighbourhood and will therefore detract from the character of the area. Furthermore, it could be argued that the proposed development will not result in a more spatially compact and resource-efficient settlement and will therefore not optimise the use of existing infrastructure. Although the proposal does include the use of under-utilised property the proposal is not seen as spatially sustainable;
- (e) **Efficiency:** The development proposal will not promote the optimal utilisation of services in the area. The applicant does motivate that the application seeks to regularise the existing stock theft unit as well as the potential cost saving should the office need to move to another location. Further, the applicant also motivates that in terms of efficiency the co-location of public services on the same property contribute to the principle of efficiency. However, the illegal land use cannot be used as motivation for the municipality to approve the proposed application, secondly due to the extent of the site, the amount of money needed to renovate the old dwelling in order to make it compliant with fire and safety regulations in order to specifically accommodate the use of it as offices, is not seen as effective. It is agreed that there is a number of advantages in co-locating public administration facilities and therefore more suitable locations are available to the department to co-locate its facilities, like the existing prison complexes as well as the existing police station in Malmesbury;
- (f) The municipality is also bound by timeframes with the processing of land use applications, and although it is agreed that the comments / conditions from Heritage Western Cape is critical information required to assist the decision making, the time frame provided by the Department that the information will only be provided in July 2023 is unacceptable. The Municipality need to finalise the application, ensuing compliance with the applicable By-Law as well as to ensure efficiency. Therefore this application does not comply with the principle of efficiency;
- (g) The development proposal is deemed inconsistent with the PSDF as the proposal will not achieve higher densities, will not result in the optimum use of land / space within the urban edge, will detract from the character of the area, it will negatively impact the sense of place within the residential neighbourhood it is located as well as will not improve accessibility;
- (h) The proposal is deemed to be in contradiction with the West Coast District SDF, 2020 as it will not result in the enhancement of the quality of life nor will it improve the access to amenities and opportunities of the residents affected by the application;
- (i) The proposal is deemed to be in contradiction with the MSDF, 2019 which rather promotes the effective use of property and services as well as supports densification;
- (j) Not one of the proposed offices have their access taken from the activity street, St Thomas Street. Both offices are accessed of Pinard Street which is a low order residential street;
- (k) In terms of section 42(1) of SPLUMA it is clear that the Municipal Planning Tribunal must make a decision which is consistent with the norms and standards, measures designed to protect and promote the sustainable use of agricultural land, national and provincial government policies and the Municipal Spatial Development Framework. Due to the proposal being inconsistent with and in contradiction with the spatial planning policies as mentioned above, the application can therefore not be approved;
- (l) No site-specific circumstances were illustrated by the applicant to justify any departure from the MSDF, 2019;
- (m) The proposal to rezone such a large property within a residential neighbourhood to accommodate administrative offices is deemed undesirable as it is in conflict with the general nature "sense of place" within the neighbourhood and will therefore detract from the character of the area. The property, also accommodating the old residency, is of historical, architectural as well as contextual significance;
- (n) There are much more advantages in clustering public administration / functional facilities at existing locations;
- (o) The proposal is deemed not in the interest of the community affected by the application nor is it in the interest of the staff or the parolees that need to visit the property, as it will not improve accessibility;
- (i) The proposal is inconsistent with the spatial planning proposals, is situated in a residential area and the rezoning of such a large property within a residential neighbourhood to accommodate

- administrative offices is deemed undesirable as it is in conflict with the general nature "sense of place" within the neighbourhood and will therefore detract from the character of the area;
- (ii) Should the status quo remain there is a risk that the current state of the property will continue to deteriorate ultimately resulting in the complete loss of the heritage asset as well as the negative impact on neighbouring properties due to the lack of proper maintenance of the subject property. Should the application be approved the rezoning will effectively sterilise the property for any other development and will remain like that for the foreseeable future;
 - (iii) The proposal to rezone such a large property within a residential neighbourhood to accommodate administrative offices is deemed undesirable as it is in conflict with the general nature "sense of place" within the neighbourhood and will therefore detract from the character of the area;
 - (iv) The need for the DCS office in Malmesbury is recognised, the proposed location of it within a residential area on the other hand is not supported. Not only is it prejudicial to the interests of the residents in the area but also, it is not conveniently located next to transport routes, within the CBD, or clustered with other public administration facilities to be in the interest of the staff or the parolees that need to visit the offices;
 - (v) There is no long term benefit to the proposed development as it is not deemed sustainable. In the short term the Department will have a state owned building in which to accommodate the DCS office, however, the proposed repurposing of the historic building on the site in order to use it as offices as well as the potential negative impact on the area far outweighs the potential cost saving that the department claims to achieve;
 - (p) The application contains no detail on the future developments on the rezoned erf, the impacts thereof on the residential neighbourhood can therefore not be determined;
 - (q) The property, accommodating the old residency, is of historical, architectural as well as contextual significance and is therefore deemed an important heritage resource. Other than the proposed renovation of the buildings, the application does not contain detail on the proposed preservation of this significant heritage resource.

Yours faithfully



MUNICIPAL MANAGER

via Department Development Services

/ds