



**MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING HELD IN THE BANQUETING HALL,
MALMESBURY ON TUESDAY, 10 FEBRUARY 2021 AT 14:00**

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
Ms C Havenga

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

1. OPENING

The chairperson opened the meeting and welcomed members.

2. APOLOGY

No apologies were received.

3. DECLARATION OF INTEREST

RESOLVED that cognisance is taken that no declarations of interest were received.

4. MINUTES

4.1 MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON 11 NOVEMBER 2020

RESOLVED

That the minutes of a Municipal Planning Tribunal Meeting held on 11 November 2020 are approved and signed by the chairperson

5. MATTERS ARISING FROM MINUTES

None.

6. MATTERS FOR CONSIDERATION

**6.1 APPLICATION FOR THE REZONING AND SUBDIVISION OF ERF 1963, YZERFONTEIN
(15/3/3-14; 15/3/6-14) (WARD 5)**

The chairperson requested the author, Mr A J Burger, to table the item.

Mr Burger stated that with the establishment of Yzerfontein the site was zoned as Residential Zone II allowing for the development of a group housing complex. The purpose of the application is to create on single residential erf on a part of the property.

A discussion followed on the steep slope of Erf 1963, Yzerfontein and if it should be a requirement to submit a subdivisional plan with the contours indicated on such plan. The Municipal Planning Tribunal is of the opinion that the development of a single residential erf increases the potential of the property. Access to the newly created erf will be obtained from the existing street, Atlantic Drive, and therefore the slope of Erf 1963 will not have a negative impact on the newly created erf.

Mr Burger confirmed that the existing subdivision rights of Erf 1963 as approved in 2015 is relinquished with this application and the applicant indicated that a new subdivision application will be made at a later stage.

RESOLUTION

- A. The application for the rezoning of Erf 1963, Yzerfontein, is approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020);
- B. An application for the subdivision of Erf 1963, Yzerfontein is approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020);
- C. The approvals in paragraph A and B are subject to the following conditions:

C1 TOWN PLANNING AND BUILDING CONTROL

- (a) Erf 1963 be rezoned from General Residential zone 1 to Subdivisional area in order to make provision for the following land uses, namely: General Residential zone 1 and Residential zone 1;
- (b) Erf 1963 be subdivided into a remainder (± 20918 m² in extent) and portion A (± 1080 m² in extent);
- (c) The legal certificate which authorises transfer of the subdivided portions in terms of Section 38 of the Swartland Municipal Land Use Planning By-law (PG 8226 of 25 March 2020), not be issued unless all the relevant conditions have been complied with;

C2 WATER

- (a) Portion A be provided with a separate water connection and is applicable at building plan stage;

C3 SEWERAGE

- (a) Portion A be provided with a conservancy tank with a minimum capacity of 8000 liters. The suction point be placed to be accessible to the service truck from the municipal street. The condition is applicable at building plan stage;

C4 DEVELOPMENT CHARGES

- (a) The owner/developer makes a development charge for the regional bulk supply of water at R6 534,30. The development contribution is payable to Swartland Municipality at clearance stage. The amount is payable to vote number 9/249-176-9210 and is valid for the financial year of 2020/2021 and may be revised thereafter;
- (b) A fixed development charge towards water be made to the Municipality to the amount of R5 402,70 at clearance stage. The amount is payable to vote number 9/249-174-9210 and is valid for the financial year of 2020/2021 and may be revised thereafter;
- (c) A the fixed development charge towards sewerage be made to the Municipality to the amount of R6 080,05 at clearance stage. The amount is payable to vote number 9/240-184-9210 and is valid for the financial year of 2020/2021 and may be revised thereafter;
- (d) A fixed development charge towards waste water treatment be made to the Municipality to the amount of R8 970,00 at clearance stage. The amount is payable to vote number 9/240-183-9210 and is valid for the financial year of 2020/2021 and may be revised thereafter;

6.1(C4)/...

- (e) A fixed development charge towards roads be made to the Municipality to the amount of R11 500,00 at clearance stage. The amount is payable to vote number 9/247-188-9210 and is valid for the financial year of 2020/2021 and may be revised thereafter;
- (f) A fixed development charge towards stormwater be made to the Municipality to the amount of R 4 560,90 at clearance stage. The amount is payable to vote number 9/247-144-9210 and is valid for the financial year of 2020/2021 and may be revised thereafter;
- (g) A fixed development charge towards electricity be made to the Municipality to the amount of R 10 419,00 at clearance stage. The amount is payable to vote number 9/253-164-9210 and is valid for the financial year of 2020/2021 and may be revised thereafter;
- (h) Council's resolution dated May 2020 makes provision for a 40% rebate applicable on the development charges of Swartland Municipality. Condition 4(a) is excluded from the rebate. The rebate is valid for the 2020/2021 financial year and may be revised thereafter;

C5 ELECTRICITY

- (a) The electricity connection be made to the existing low tension network;
- (b) Additional to the abovementioned, the owner/developer pays for the electrical connection to the subdivided portion;

C6 GENERAL

- (a) If the extension of existing services are deemed necessary in order to provide the development with services connections, the expense is for the account of the owner/developer;
- (b) Mr Daniel Mostert (tel no. 0787110643) be contacted for a quotation with reference to paragraph C5(b);
- (c) 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 that failing to do so will result in the lapsing of the approval;
- (d) The approval does not exonerate the applicant from obtaining any necessary approval from any other applicable statutory authority;
- (e) The applicant/objectors be notified of the outcome and their right to appeal in terms of Chapter VII, Section 89 of the By-law;

D. The application is supported for the following reasons:

- (a) Erf 1963 does not have any physical restrictions which may impact negatively on this application;
- (b) The creation of a single residential erf similar size as the surrounding single residential erven will complement the character of the area;
- (c) The application is regarded as infill development and part of densification, which is supported at municipal and provincial level;
- (d) The application supports the optimal use of existing infrastructure;
- (e) The application complies with the SDF as well as the minimum erf size of 500 m²;
- (f) The application complies with the principles of LUPA and SPLUMA;
- (g) The application complies with the requirements of Sections 48 and 55 as well as Schedule 2 of the Planning By-law;
- (h) The creation of Portion A and the existing access from the street unlocks the potential of the erf.

6.2 APPLICATION FOR A DEPARTURE ON ERF 2878, MALMESBURY (15/4/2-8) (WARD 10)

Mr H Olivier, as author, tabled the item at the request of the chairperson.

The Municipality was informed of unauthorised building work being conducted on Erf 2878, Malmesbury. After an investigation by the Building Control Division a notice was served on the owner of the subject property to stop the unauthorised building work.

It is required/...

6.2/...

It is required from the owner to obtain the consent from the neighbouring and affected property owners to depart from the building line parameters in order to accommodate the building work. An objection against the application was received and therefore the application for departure from the building lines is tabled for consideration.

RESOLUTION

- A. The application for a departure from development parameters on erf 2878, Malmesbury partially be approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), as follows:
- Departure from the 2 m rear building line (southern boundary) to 0 m, to only accommodate the existing shade port;
 - Departure from the 1,5 m side building line (eastern boundary) to 0 m;
- B. The approval is subject to the following conditions:
- B1 TOWN PLANNING AND BUILDING CONTROL**
- (a) The plans currently being considered be amended in order for the proposed carport to comply with the rear building line;
 - (b) Rainwater from the roof of the carport on the erf boundary of erf 2878 be transferred on the erf to the nearest municipal street;
 - (c) Revised building plans be submitted to Swartland Municipality for consideration and approval within 30 days after the final approval;
 - (d) The roof of the carport be cut back in order to adhere to the approved amended building plan within 60 days after final approval;
- C. The application for a departure of the rear building line on erf 2878, Malmesbury in order to accommodate the proposed carport, not be approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020):
- D. **GENERAL**
- (a) The applicant and objector be informed of their right to appeal against the decision of the Municipal Planning Tribunal, in terms of section 89(2) of the By-Law;
- E. The reasons for the approval are as follows:
- (a) The proposed building work complies with the requirements of the National Building Regulations;
 - (b) The proposed carport is located on a practical position on the property to accommodate the applicants need;
 - (c) The affected neighbouring property owner has given his consent;
 - (d) There are numerous examples of carports in the Panorama neighbourhood which encroach the building lines;
 - (e) The design of the carport complements the style of the existing dwelling and will therefore not have a negative impact on the street front or character of Tosca Street;
 - (f) The proposed shade port does not have a negative impact on erf 2883. If there were an impact at all it has been mitigated as seen in the photos inserted in the report;
- F. The reasons for the rejection are as follows:
- (a) Building lines are control measures that not only accommodate services but also preserve the nature and character of the area. The sheer extent, height as well as the design of the proposed carport is industrial in nature. This can be sufficiently mitigated by enforcing the 2 m rear building line as well as finalising the installation by installing the gutters and facias which complements the dwelling on the subject property;
 - (b) The extent and height of the already erected carport on the rear boundary, interferes with the outdoor living space of the objector.

**(SIGNED) J J SCHOLTZ
CHAIRPERSON**