



**MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING HELD IN THE COMMITTEE ROOM:
CORPORATE SERVICES ON WEDNESDAY, 13 MARCH 2024 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:

Ms C Havenga
Mr C Rabie

Other officials:

Director: Development Services, Ms J S Krieger
Senior Manager: Development Management, Mr A M Zaayman
Senior Town and Regional Planner, Mr A J Burger
Town and Regional Planner & GIS, Mr H Olivier
Town and Regional Planner, Ms A de Jager
Manager: Secretariat and Records, Ms N Brand (secretariat)

1. OPENING

The chairperson opened the meeting and welcomed members.

2. APOLOGY

No apologies were received.

3. DECLARATION OF INTEREST

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

4. MINUTES

4.1 MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON 14 FEBRUARY 2024

RESOLUTION

(proposed by Mr P A C Humphreys, seconded by Ms C Havenga)

That the minutes of a Municipal Planning Tribunal Meeting held on 14 February 2024 are approved and signed by the chairperson.

5. MATTERS ARISING FROM MINUTES

None.

6. MATTERS FOR CONSIDERATION

6.1 PROPOSED AMENDMENT OF RESTRICTIVE TITLE CONDITION AND PERMANENT DEPARTURES ON ERF 1142, YZERFONTEIN (15/3/4-14; 15/3/5-14)

The chairperson tabled the item and requested the author, Ms A de Jager, to give background to the application. Ms De Jager confirmed that the application entails the legalisation of the

6.1/...

unauthorised building work and the amendment of the restrictive conditions in the Title Deed that prohibits the encroachments on the building lines. However, the unauthorised building work, namely the garage, encroaches the building lines, exceeds the permissible width at street front and does not allow for enough parking space in front of the garage as prescribed by the By-law. Ms de Jager explained that Dassen Island Drive is a high-order road and off-street parking is required in front of a garage.

RESOLUTION

- (a) The Municipal Planning Tribunal may only consider the details of the proposal presented in the application and the preliminary evaluation established that the garage cannot be approved. As a result, rather than refusing the application outright, the application be referred back to the applicant in order to consider the following options and to amend the application accordingly –

Option 1:

- (i) The unauthorised garage be refused and ordered to be demolished in totality, in which instance none of the amendments or departures will be applicable anymore and the application may be withdrawn;

Option 2:

- (i) The encroaching garage structure be reconstructed into a carport by removing both the side walls and street façade, to the satisfaction of the Senior Manager: Development Management;
- (ii) The street façade of the carport be restricted to a maximum width of 6,5 metres, measured from edge to edge of the roof;
- (iii) Restrictive condition B.7.(b) be amended to read as follows:
No building or structure or any portion thereof, except boundary walls and fences, shall, except with the consent of the Administrator, be erected nearer than 1,5m of the south-eastern lateral boundary, common to the adjoining erf, provided that with the consent of the local authority:...
- (iv) The 1,5 m north-western side building line be departed to 0 m;
- (v) The 4 m north-eastern street building line to be departed to 0 m;

Option 3:

- (i) An alternative design proposal be prepared and discussed with the Senior Manager: Development Management, in order to ensure desirability;
- (ii) The application be amended to reflect the new proposal to the Senior Manager: Development Management;
- (iii) The applicable Title Deed amendments and building line departures remain in the application;
- (b) The proposed fire pit be considered positively, subject to a number of conditions, such as raising and extending the screen wall.

6.2 PROPOSED CONSENT UE ONF ERF 1919, YZERFONTEIN (15/3/10-14) (WARD 5)

Ms A de Jager confirmed that the application is for a consent use on Erf 1919, Yzerfontein in order to establish a double dwelling.

The proposal is not consistent with the definition of a double dwelling as the designed does not reflect as a single architectural entity and recommendations will be made to the owner/developer to give the appearance of a single large dwelling as per the definition.

RESOLUTION

- A. The application for consent use on Erf 1919, Yzerfontein, in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020) be approved, subject to the conditions that:

A1 TOWN PLANNING AND BUILDING CONTROL

- (a) The consent use authorises a double dwelling, ~~as presented in the application~~¹;

¹ To be addressed at building plan stage.

6.2(A1)/...

- (b) The street façade on the south-western border be re-designed to be more consistent with the façade of a single dwelling and the general street scape;
- (c) The parking bays in front of the garages, including the sidewalk, be finished in a permanent, dust free material such as concrete, tar or paving or any other such material pre-approved by the Director: Civil Engineering Services;
- (d) Building plans be submitted to the Senior Manager: Development Management for consideration and approval;

A2 WATER

- (a) The property be provided with a single water connection and that no additional connections be provided;

A3 SEWERAGE

- (a) The double dwelling be provided with a conservancy tank with the minimum capacity of 8 000 litre, to be installed on the property at a point that is accessible to the municipal vacuum truck, to the satisfaction of the Director: Civil Engineering Services;

A4 DEVELOPMENT CHARGES

- (a) The owner/developer is responsible for the development charge of R10 862,90 towards the supply of regional bulk water at building plan stage. The amount is due to the Swartland Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA: 9/249-176-9210);
- (b) The owner/developer is responsible for the development charge of R986,70 towards bulk water reticulation at building plan stage. The amount is due to the Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA 9/249-174-9210);
- (c) The owner/developer is responsible for the development charge of R4 946,15 towards sewerage at building plan stage. The amount is due to the Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA 9/240-184-9210);
- (d) The owner/developer is responsible for the development charge of R15 003,00 towards waste water treatment building plan stage. The amount is payable to the Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA 9/240-183-9210);
- (e) The owner/developer is responsible for the development charge of R10 275,25 towards roads at building plan stage. The amount is due to the Municipality, valid for the financial year of 2023/2024 and may be revised thereafter. (mSCOA 9/247-188-9210);
- (f) The owner/developer is responsible for the development charge of R11 044,14 towards electricity at building plan stage. The amount is payable to the Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA 9/253-164-9210);
- (g) The Council resolution of May 2023 makes provision for a 60% discount on development charges to Swartland Municipality. The discount is valid for the financial year 2023/2024 and can be revised thereafter;

B. GENERAL

- (a) The approval does not exempt the owner/developer from compliance with all legislation applicable to the approved land use;
- (b) Should it in future be determined necessary to extend or upgrade any engineering service in order to provide the development with services, it will be for the account of the owner/developer;
- (c) The approval is valid for a period of 5 years, in terms of section 76(2) of the By-Law, from the date of decision. Should an appeal be lodged, the 5 year validity period starts from the date of outcome of the decision against the appeal. All conditions of approval be implemented before the new land use comes into operation/or the occupancy certificate be issued and failing to do so will cause the approval to lapse. Should all conditions of approval be met within the 5 year period, the land use becomes permanent and the approval period will no longer be applicable;

6.2(B)/...

- (d) The applicant/objector be informed of the right to appeal against the decision of the Municipal Planning Tribunal in terms of section 89 of the By-Law. Appeals be directed, in writing, to the Municipal Manager, Swartland Municipality, Private Bag X52, Malmesbury, 7299 or by e-mail to swartlandmun@swartland.org.za, within 21 days of notification of decision. An appeal is to comply with section 90 of the By-Law and is to be accompanied by a fee of R5 000,00 in order 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 approval be supported for the following reasons:

- (a) The proposed double dwelling is a residential use and is therefore consistent with the proposals of the SDF;
- (b) A double dwelling is accommodated as a consent use under Residential Zone 1 of the By-Law;
- (c) The development proposal supports the optimal utilisation of the property;
- (d) The double dwelling promotes densification;
- (e) The double dwelling may support the tourism industry in Yzerfontein, as well as the local economy;
- (f) The double dwelling will provide in a need for a larger variety of housing opportunities to the wider population;
- (g) The development proposal will not negatively impact on the character of the surrounding neighbourhood or the larger Yzerfontein;
- (h) The concerns of the neighbouring and affected property owners are sufficiently addressed in the conditions of approval;
- (i) The design may be amended at building plan stage to improve the consistence with the definition of a double dwelling and to better integrate with the character of the surrounding area.

6.3 PROPOSED SUBDIVISION OF ERF 1809, RIEBEEK WEST (15/3/6-12; 15/3/13-12) (WARD 3)

Mr H Olivier gave background to the application and confirmed that there are no restrictions in the Title Deed of Erf 1809 prohibiting the proposed subdivision and that the proposal is consistent with the requirements of the Municipal SDF and the principles of LUPA and SPLUMA.

RESOLUTION

A. The application for the subdivision of erf 1809, Riebeeck West be approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), subject to the conditions that:

A1 TOWN PLANNING AND BUILDING CONTROL

- (a) Erf 1809, Riebeeck West (2843 m² in extent) be subdivided into a remainder (1610 m² in extent) and portion A (±1233 m² in extent) as presented in the application;

A2 WATER

- (a) Each subdivided portion be provided with a separate water connection and meter at building plan stage;

A3 SEWERAGE

- (a) Each subdivided portion be provided with a separate sewer connection at clearance stage;

A4 DEVELOPMENT CHARGES

- (a) The owner/developer is responsible for a development charge of R33 948,00 towards the bulk supply of regional water, at clearance stage. The amount is payable to the Swartland Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA 9/249-176-9210);

(b)/...

6.3(A4)/...

- (b) The owner/developer is responsible for the development charge of R32 030,95 towards bulk water distribution, at clearance stage. The amount is payable to the Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA: 9/249-174-9210);
- (c) The owner/developer is responsible for the development charge of R18 343,65 towards sewerage, at clearance stage. The amount is payable to the Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA: 9/240-184-9210).
- (d) The owner/developer is responsible for the development charge of R24 666,35 towards waste water treatment works, at clearance stage. The amount is payable to the Municipality, valid for the financial year of 2023/2024 and may be revised thereafter. (mSCOA: 9/240-183-9210);
- (e) The owner/developer is responsible for the development charge of R16 209,25 towards roads, at clearance stage. The amount is payable to the Municipality, valid for the financial year of 2023/2024 and may be revised thereafter. (mSCOA: 9/247-188-9210);
- (f) The Council resolution of May 2023 makes provision for a 60% discount on development charges to Swartland Municipality. The discount is valid for the financial year 2023/2024 and can be revised thereafter;

B. GENERAL

- (a) The legal certificate which authorises transfer of the subdivided portion in terms of Section 38 of the By-Law not be issued unless all the relevant conditions have been complied with;
- (b) The approval does not exempt the applicant from adherence to all other legal procedures, applications and/or approvals related to the intended land use, as required by provincial, state, parastatal and other statutory bodies.
- (c) Should it be determined necessary to expand or relocate any of the engineering services to provide the development with connections, said expansion and/or relocation will be for the cost of the owner/developer;
- (d) The approval is valid for a period of 5 years, in terms of section 76(2) of the By-Law from date of decision. Should an appeal be lodged, the 5-year validity period starts from the date of outcome of the decision against the appeal.
- (e) All conditions of approval be implemented before the new land uses come into operation/or occupancy certificate be issued and failing to do so the approval will lapse. Should all conditions of approval be met within the 5-year period, the land use becomes permanent, and the approval period will no longer be applicable.
- (f) The applicant/objectors be informed of the right to appeal against the decision of the Municipal Planning Tribunal in terms of section 89 of the By-Law. Appeals be directed, in writing, to the Municipal Manager, Swartland Municipality, Private Bag X52, Malmesbury, 7299 or by e-mail to swartlandmun@swartland.org.za, within 21 days of notification of the decision. An appeal is to comply with section 90 of the By-Law and be accompanied by a fee of R5000-00 to be valid. Appeals that are received late and/or do not comply with the requirements, will be considered invalid and will not be processed:

- C. The registration of a 5m wide right-of-way servitude over the remainder, in favour of the newly created Portion A of Erf 1809, Riebeeck West, complies with the requirements of Section 34 of Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020) and is thus exempted from approval from Swartland Municipality;

Kindly provide Swartland Municipality with copies of the approved Surveyor General diagram for record keeping purposes;

- D. The proposal be supported for the following reasons:

- (a) The proposal is consistent with the spatial proposals of the Municipal SDF, 2023;
- (b) The proposal is consistent with the minimum erf size determined by the SDF, namely 500 m²;
- (c) The development promotes densification in an urban area, consistent with national, provincial and local legislation and policy;
- (d) The proposal complies with the principles of LUPA and SPLUMA;

6.3(D)/...

- (e) The zoning of the properties will remain unchanged and consistent with the character of the area;
- (f) The rights of the surrounding landowners will not be negatively affected;
- (g) The subdivision promotes the optimal utilisation of land and the existing engineering services;
- (h) There are no physical restrictions that prevent the subdivision from being approved;
- (i) Property values of the surrounding properties will not be affected negatively;
- (j) The concern raised by the objector regarding the availability of services have been addressed with the confirmation by the Department: Civil Engineering Services that municipal engineering services networks with sufficient capacity are available in the vicinity for the property in order to accommodate the proposed subdivision. Should any services need upgrading it will be for the cost of the applicant/owner.

6.4 PROPOSED REZONING OF ERF 5662, MOORREESBURG (15/3/3-9) (WARD 1)

The author, Mr A J Burger, presented the report and confirmed that Erf 5662, Moorreesburg was created in order to establish a cemetery.

Mr Burger confirmed that Environmental Authorisation was obtained in February 2024 and included specialist studies, amongst others, on the impact, assessments and mitigation measures on freshwater, stormwater, etc. Mr Burger confirmed that compliance with the conditions of approval stipulated in the Environmental Management Programme are deemed sufficient to mitigate the potential detrimental environmental impacts which may result from the proposed cemetery.

RESOLUTION

- A. The application for the rezoning of erf 5662, Moorreesburg be approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), subject to the following conditions:

A1 TOWN PLANNING AND BUILDING CONTROL

- (a) Erf 5662 be rezoned from Agricultural zone 1 to Open Space 4, as presented in the application;
- (b) The cemetery be fenced and landscaped. Trees be planted on the southern and eastern boundaries of Erf 5662 in order to soften the visual impact of the cemetery;

B. GENERAL

- (a) Application be made for an exemption in terms of Chapter 2 section 2(a) of the National Health Act (Act 61 of 2003) to the Director General of the National Department of Health;
- (b) Cognisance be taken of the conditions of approval of the Environmental Authorization of the Department of Environmental Affairs and Development Planning with reference 16/3/3/1/F5/17/2025/23, dated 8 February 2024;
- (c) Cognisance be taken of the letter from Eskom with reference 05653-00, dated 19 May 2022;
- (d) The approval does not exempt the applicant from adherence to all other legal procedures, applications and/or approvals related to the intended land use, as required by provincial, state, parastatal and other statutory bodies;
- (e) The approval is valid for a period of 5 years, in terms of section 76(2) of the By-Law from date of decision. Should an appeal be lodged, the 5 year validity period starts from the date of outcome of the decision against the appeal;
- (f) All conditions of approval be implemented before the new land uses come into operation and failing to do so the approval will lapse. Should all conditions of approval be met within the 5 year period, the land use becomes permanent, and the approval period will no longer be applicable;
- (g) The applicant/objectors be informed of the right to appeal against the decision of the Municipal Planning Tribunal in terms of section 89 of the By-Law. Appeals be directed, in writing, to the Municipal Manager, Swartland Municipality, Private Bag X52, Malmesbury, 7299 or by e-mail to swartlandmun@swartland.org.za, within 21 days of notification of the decision. An appeal is to comply with section 90 of the By-Law and be accompanied by a fee of R5000,00 to be valid. Appeals that are received late and/or do not comply with the requirements, will be considered invalid and will not be processed.

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- C. The application be supported for the following reasons:
- (a) The existing cemeteries in Moorreesburg are nearing full capacity and cannot be expanded due to a variety of reasons;
 - (b) Erf 5662 does not consist of any physical restrictions which may impact negative on the application;
 - (c) The character of the area will not be affected negatively. The proposed cemetery will be fenced and landscaped which will make it less visible and more attractive;
 - (d) Various specialist studies were conducted which found Erf 5662 suited for cemetery purposes;
 - (e) The application is in compliance with the spatial planning of Moorreesburg;
 - (f) The application complies with the principles of LUPA and SPLUMA;
 - (g) An Environmental Authorisation from the Department of Environmental Affairs and Development Planning has been issued for the development of a cemetery;
 - (h) The concerns of the objectors have sufficiently been addressed or mitigated;
 - (i) Any disturbance cause by the cemetery (burials) on the surrounding area are temporary. The disturbance is deemed low;
 - (j) The impact on surrounding property values are determined by market conditions and sales in the area. The proposed cemetery will not impact negatively on the surrounding property values;
 - (k) Access to the proposed cemetery is deemed sufficient;
 - (l) The loss of agricultural land is deemed to be of medium negative significance.

**(SIGNED) J J SCHOLTZ
CHAIRPERSON**