



**MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING HELD IN THE COMMITTEE ROOM:
CORPORATE SERVICES ON WEDNESDAY, 8 MAY 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 Record Services (secretary)

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 10 APRIL 2024

RESOLUTION

(proposed by Mr C Rabie, seconded by Ms C Havenga)

That the minutes of a Municipal Planning Tribunal Meeting held on 10 April 2024 are approved and signed by the chairperson, subject thereto that the apologies received from the Municipal Manager, Mr J J Scholtz and the Director: Protection Services, Mr P A C Humphreys be noted.

5. MATTERS ARISING FROM MINUTES

None.

6. MATTERS FOR CONSIDERATION

**6.1 PROPOSED REZONING, SUBDIVISION AND REGISTRATION OF A SERVITUDE ON ERF
2582, YZERFONTEIN (15/3/3-14; 15/3/6-14) (WARD 5)**

Mr H Olivier/...

Mr H Olivier gave background to the application and mentioned that Erf 2582, Yzerfontein forms part of the Strandveld Villas group housing complex and was earmarked for the development of a community health care centre.

The initial intention to donate Erf 2582, Yzerfontein to the ACVV did not realised as the latter did not have the capital to develop the site. Most recently the owners secured a purchaser for Erf 2582, Yzerfontein but the bid was withdrew as the developer was not prepared to spend capital on professional fees for the submission of a development proposal as required by the conditions of approval, before transfer could take place.

Mr Olivier explained that it is the intent of the owner, Yzerfontein Property Developers (Pty) Ltd decided to develop Erf 2582, Yzerfontein themselves as five (5) freestanding residential opportunities. Mr Olivier further explained the reason for the refusal of the application for a servitude and the recommendation to rather construct a private access road.

RESOLUTION

- A. The application for the rezoning of Erf 2582, Yzerfontein (5000 m² in extent), from General Residential Zone 3 to Subdivisional Area, be approved in terms of section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020);
- B. The application for the subdivision of Erf 2582, Yzerfontein be approved in terms of section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020);
- C. Decisions A and B above are subject to the following conditions:

C1 TOWN PLANNING AND BUILDING CONTROL

- (a) Erf 2582, Yzerfontein be rezoned from General Residential Zone 3 to Subdivisional Area to accommodate the following zoning categories;
 - (i) 5 Residential Zone 1 (±4225 m² in total)
 - (ii) 1 Transport Zone 2: private road (±775 m² in extent)
- (b) Erf 2582 (5000m² in extent) be subdivided as follows:
 - (i) Portion A (±1002 m² in extent)
 - (ii) Portion B (±771 m² in extent)
 - (iii) Portion C (±774 m² in extent)
 - (iv) Portion D (±774 m² in extent)
 - (v) Portion E (±928 m² in extent)
 - (vi) Remainder Road (±751 m²)
- (c) The General Plan be submitted to the Surveyor-General for approval, including proof to the satisfaction of the Surveyor-General of—
 - (i) the Municipality's decision to approve the subdivision;
 - (ii) the conditions of approval imposed in terms of section 76;
 - (iii) the approved subdivision plan;
 - (iv) and copies of said diagrams be made available to the Municipality;
- (d) An Owners' Association be established in terms of section 39 of the By-Law and that a constitution be compiled and submitted to the Senior Manager: Development Management for consideration and approval;
- (e) The constitution of an Owners' Association be approved by the Municipality before registration of the transfer of the first land unit and make provision for—
 - (i) the Owners' Association to formally represent the collective mutual interests of the area, suburb or neighbourhood set out in the constitution in accordance with the conditions of approval;
 - (ii) control over and maintenance of buildings, services or amenities arising from the subdivision;
 - (iii) the regulation of at least one annual meeting with its members;
 - (iv) control over the design guidelines of the buildings and erven arising from the subdivision;
 - (v) the ownership and maintenance by the Owners' Association of all common property arising from the subdivision, including:
 - (aa) private open spaces where applicable;
 - (bb) private roads and street lighting; and

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- (cc) land required for services provided by the Owners' Association;
- (vi) enforcement of conditions of approval or management plans;
- (vii) procedures to obtain the consent of the members of the owners' association to transfer an erf if the owners' association ceases to function; and
- (viii) the implementation and enforcement by the Owners' Association of the provisions of the constitution;
- (f) The Transport Zone 2 erf be transferred to the Owners' Association, before transfer of the first residential property is approved;
- (g) The legal certificate which authorises transfer of the subdivided portions in terms of section 38 of By-Law will not be issued unless all the relevant conditions have been complied with;

C2 WATER

- (a) Each subdivided portion be provided with a separate water connection from Buitenkant Street. This condition is applicable on building plan stage;

C3 SEWERAGE

- (a) Each subdivided portion be provided with a separate sewage suction tank with a minimum capacity of 8,000l. The suction tank be accessible to the service truck from Buitenkant Street. This condition is applicable on building plan stage;

C4 STREETS AND STORMWATER

- (a) The internal road be built to a permanent surface standard;
- (b) The vehicle access of the subdivided portion be restricted to internal road;
- (c) Storm water be conveyed underground to the nearest suitable municipal collection point;
- (d) The developer appoints an Engineer appropriately registered in terms of the provisions of Act 46 of 2000 to design the internal street and stormwater drainage;
- (e) The design be submitted to the Director: Civil Engineering Services for approval after which the construction work be carried out under the supervision of the Engineer;
- (f) The construction work be undertaken by a recognized civil construction firm;
- (g) The internal road and storm water network not be taken over by the Municipality and be transferred and maintained by the Owners' Association;

C5 REFUSE REMOVAL

- (a) Refuse be placed in refuse bags in Buitekant Street on the morning of refuse removal;

C6 ELECTRICAL ENGINEERING SERVICES

- (a) Each subdivided portion be provided with a separate electrical connection with a conventional meter at the expense of the owner/developer;
- (b) Should it be necessary to relocate any electrical cables across the relevant subdivided properties, it be moved at the expense of the owner/developer;
- (c) Where applicable, any electrical interconnect be isolated and fully removed;
- (d) The existing low-voltage network be extended in order to service the proposed subdivided portions;
- (e) The extension of the low-voltage network be done from mini-substation B11;
- (f) The developer appoints an authorized electrical contractor for the extension of the low voltage network;
- (g) The contractor contacts the Department: Electrical Engineering Services for the technical specifications regarding the extension of the low voltage network;
- (h) Provision be made for street lighting to the satisfaction of the Department: Electrical Engineering Services;
- (i) The design of the low voltage electrical extension be submitted to the Director of Electrical Engineering Services for approval before construction may begin;

C7 DEVELOPMENT CHARGES

- (a) Applicable to proposed portion A:
 - (i) The owner/developer is responsible for a development charge of R33 948,00 toward the bulk supply of regional water, at clearance stage. The amount is payable per newly created portion to Swartland Municipality,

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- valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA 9/249-176-9210);
- (ii) The owner/developer is responsible for the development charge of R3 083,15 towards bulk water reticulation, at clearance stage. The amount is payable per newly created portion to Swartland Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA: 9/249-174-9210);
 - (iii) The owner/developer is responsible for the development charge of R10 627,15 towards sewage at clearance stage. The amount is payable per newly created portion to Swartland Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA: 9/240-184-9210);
 - (iv) The owner/developer is responsible for the development charge of R25 786,45 towards wastewater treatment at clearance stage. The amount is payable per newly created portion to Swartland Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA: 9/240-184-9210);
 - (v) The owner/developer is responsible for the development charge of R12 846,65 towards roads and storm water, at clearance stage. The amount is payable to Swartland Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA: 9/247-144-9210);
 - (vi) The owner/developer is responsible for the development charge of R11 044,14 towards electricity, at clearance stage. The amount is payable per newly created portion to Swartland Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA: 9/253-164-9210);
 - (vii) The Council resolution of May 2023 makes provision for a 60% rebate on development charges to Swartland Municipality. The discount is valid for the financial year 2023/2024 and may be revised thereafter;
- (b) Applicable to Proposed portions B to E :
- (i) The owner/developer is responsible for a development charge of R21 726,95 toward the bulk supply of regional water, at clearance stage. The amount is payable per newly created portion to Swartland Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA 9/249-176-9210);
 - (ii) The owner/developer is responsible for the development charge of R1 973,40 towards bulk water reticulation, at clearance stage. The amount is payable per newly created portion to Swartland Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA: 9/249-174-9210);
 - (iii) The owner/developer is responsible for the development charge of R6 801,10 towards sewage at clearance stage. The amount is payable per newly created portion to Swartland Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA: 9/240-184-9210);
 - (iv) The owner/developer is responsible for the development charge of R16 503,65 towards wastewater treatment at clearance stage. The amount is payable per newly created portion to Swartland Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA: 9/240-184-9210);
 - (v) The owner/developer is responsible for the development charge of R12 846,65 towards roads and storm water, at clearance stage. The amount is payable to Swartland Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA: 9/247-144-9210).
 - (vi) The owner/developer is responsible for the development charge of R11 044,14 towards electricity, at clearance stage. The amount is payable per newly created portion to Swartland Municipality, valid for the financial year of 2023/2024 and may be revised thereafter (mSCOA: 9/253-164-9210);
 - (vii) The Council resolution of May 2023 makes provision for a 60% rebate on development charges to Swartland Municipality. The discount is valid for the financial year 2023/2024 and may be revised thereafter;

D. **GENERAL**

- (a) Any existing services connecting the remainder and subdivided portion be moved and/or disconnected so that each erf's piping is located on the relevant erf;
- (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;

E. The application for the registration of a servitude right of way (7 m wide) in favour of the subdivided portions be refused in terms of section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020);

F. The application be supported for the following reasons:

- (a) There are no physical restrictions on the property that will have a negative impact on the proposed application;
- (b) There are no restrictions registered against the title deed of the property that prohibits the proposed subdivision or land use;
- (c) The proposed application is consistent with and not in contradiction to the Spatial Development Frameworks adopted on Provincial, District and Municipal levels;
- (d) The proposed application will not have a negative impact on the character of the area;
- (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 development proposal supports the optimal utilisation of the property;
- (g) Erf 2582 is situated inside the urban edge of Yzerfontein, located in an area earmarked for low to medium density residential land uses, and is well within the minimum property size supported for Residential Zone 1 properties. The application is therefore in compliance with the provisions of the MSDF, 2023;
- (h) The development proposal is foreseen to create employment opportunities in the short, as well as the long term;
- (i) The application complies with the principles of LUPA (Land Use Planning Act) and SPLUMA (Spatial Planning and Land Use Management Act);
- (j) Sufficient services capacity exists to accommodate the proposed development;
- (k) The proposal is consistent with the applicable development parameters as contained in the development management scheme;
- (l) The concerns raised by the objectors have sufficiently been mitigated with the development proposal as well as the conditions of approval;
- (m) The registration of the servitude is refused as it is no longer necessary. The private access road needs to be surveyed and transferred to the Owners' Association whom with ownership takes responsibility for the maintenance of the private road.

6.2 PROPOSED DEPARTURES ON ERF 2119, YZERFONTEIN (15/3/4-14) (WARD 5)

Ms A de Jager gave background to the establishment of Erf 2119, Yzerfontein as a portion of the mother erf, Erf 332, Yzerfontein adjacent to the tidal pool. Two dwellings were originally built on Erf 332 and only after completion did the owners decided to subdivide and to formalise the three portions, namely Erven 2119, 2122 and 2123.

The incorrect position of the dwelling on the erf and the resultant encroachment of building lines, can be attributed to various factors, i.e. this history of the property, integration of various zoning schemes and formalising of 9th Street to connect with Beach Road.

Ms de Jager confirmed that the approval of the departures are desirable within the spatial context and will have a minimal impact.

RESOLUTION

- A. The application for departure on Erf 2119, Yzerfontein, in order to encroach on the northern street building line, be approved in terms of section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020);
- B. The application for departure on Erf 2119, Yzerfontein, in order to encroach on the eastern lateral building line, be approved in terms of section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020);
- C. The application for departure from Section 12.1.1(c) of the By-Law, on Erf 2119, Yzerfontein, in order to allow for portions of the first storey to encroach on the northern and eastern building line, be approved in terms of section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020);
- D. The application for departure on Erf 2119, Yzerfontein, in order to exceed the maximum permissible coverage, be approved in terms of section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020);
- E. Approvals A. B. C. and D. above are subject to the conditions that:

E1 TOWN PLANNING AND BUILDING CONTROL

- (a) The 4m street building line be departed from and reduced to 1m;
- (b) The 1,5m eastern lateral building line be departed from and reduced to 1m;
- (c) The building line departures be restricted to the portions of the dwelling that encroach on the building lines, as presented in the application;
- (d) The encroachment of the street and side building lines be allowed on first floor level to the same extent and on the same footprint as the ground floor departures, as presented in the application;
- (e) The maximum permissible coverage of 50% be departed from and increased to 51,2%, as presented in the application;
- (f) Building plans clearly indicating the existing structure and the proposed amendments be submitted to the Senior Manager: Development Management for consideration and approval;

E2 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 by 1 June 2024, 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 by 1 June 2024, the land use becomes permanent and the approval period will no longer be applicable;

- (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;

F. The application be supported for the following reasons:

- (a) Application for departure is a mechanism provided for by the By-Law, in order to deviate from the required development parameters;
- (b) The impact of the permissible departures have been evaluated and deemed to have either minimal impact on the surrounding area with regards to views, safety, access, privacy and health concerns, or the impacts were considered manageable and mitigated through conditions of approval;
- (c) The approved departures will have little impact on the residential character of the area, as the land use will remain unchanged;
- (d) The approved departures are considered desirable within the spatial context;
- (e) The proposed street building line departure is considered to enhance the streetscape;
- (f) The impact of the proposed coverage departure is considered negligible in the context.

6.3 PROPOSED DEPARTURE OF DEVELOPMENT PARAMETERS ON ERF 3777, MALMESBURY (15/4/2-8) (WARD 10)

Mr A J Burger mentioned that the owners of Erf 3777, Malmesbury has a need for additional covered parking space in front of the existing double garage. As the garage has been erected on the communal side boundary with Erf 3513, an application for departure of the 1,5 m side building line was received in order to erect a carport.

RESOLUTION

A. The application for the departure of development parameters on Erf 3777, Malmesbury 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 of the 1,5 m side building line (northern boundary) to 0 m.

B. **GENERAL**

- (a) 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;
- (b) 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 application be supported for the following reasons:

- (a) The proposed carport complies with the definition of a carport as defined by the Swartland Planning By-Law;
- (b) The carport is proposed in an area which is already being used for the parking of motor vehicles;
- (c) The position of the carport in front and in line with the existing garage is logical and practical;

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- (d) Only a portion of the proposed parapet wall of the carport will be visible from Erf 3513. This is due to existing large trees and a boundary of 2,4m in height on Erf 3513;
- (e) Building work on Erf 3777 complies with the permitted 50% coverage;
- (f) The type of structure and materials used for the proposed carport remains the prerogative of the owners of Erf 3777;
- (g) The area on Erf 3513 adjacent to Erf 3777 is used as a storage area and not an outdoor living area;
- (h) The impact of the proposed carport on Erf 3513 is deemed to be low to none.

**(SIGNED) J J SCHOLTZ
CHAIRPERSON**