



CLEAN AUDITS SINCE 2010/11  
SKOON OUDITS SEDERT 2010/11

Lêer verw/ 15/3/10-14/Erf 505

File ref:



Swartland forward-thinking 2040 -  
where people can live their dreams!

Swartland vooruitdenkend 2040 -  
waar mense hul drome kan uitleef!  
Navrae/Enquiries:

Ms D N Stallenberg

28 November 2023

C K Rumboll & Partners  
P O Box 211  
MALMESBURY  
7299

By Registered Mail

Sir/Madam

### OUTCOME OF APPEAL : CONSENT USE ON ERF 505, YZERFONTEIN

The abovementioned appeal refers.

Notice is hereby given in terms of paragraph 91 of Swartland Municipality : Municipal Land Use Planning By-Law (PG 8226 dated 25 March 2020) of the outcome of the abovementioned appeal.

The Appeal Authority has gathered on Monday, 9 November 2023 as well as 27 November 2023 (minutes of meetings attached) and is the outcome as follows:

### RESOLUTION

#### UNANIMOUSLY RESOLVED

- (a) That the Executive Mayor as Appeal Authority of Swartland Municipality dismissed the appeals received for the following reasons:
- (i) Land uses like places of education can be accommodated inside a residential area due to its low disturbance potential. In this case an existing facility will relocate to Erf 505;
  - (ii) Erf 505 is situated directly adjacent to the identified CBD of Yzerfontein. This makes the locality of Erf 505 even more favorable to accommodate mix uses;
  - (iii) The impact of the proposed place of education on the surrounding area remains to be deemed low, taking into consideration the number of students, specialized learning, business hours, availability of on-site parking and mitigating the impact on Erf 506 by the erection of a boundary wall;
  - (iv) Existing traffic calming measures (speed hump) in Gey van Pittius Street is to the benefit of the proposed place of education;
- (b) That the Executive Mayor as Appeal Authority of Swartland Municipality, in terms of Section 91(7)(b) of the Swartland Municipality: Municipal Land Use Planning By-law (PG 8226 of 25 March 2020), confirmed the decision by the Municipal Planning Tribunal, Item 6.3 dated 8 August 2023, to approve the consent use and departure on Erf 505, Yzerfontein subject to the conditions of approval.

Yours faithfully

  
MUNICIPAL MANAGER  
via Department Development Services  
/ds

Rig asseblief alle korrespondensie aan:

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File Ref: 3/2/3;  
15/3/10-14; 15/3/4-14 (Erf 505)

**MINUTES OF A MEETING OF THE APPEAL AUTHORITY HELD IN THE MALMESBURY,  
BANQUETING HALL ON THURSDAY, 9 NOVEMBER 2023 AT 15:00**

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**PRESENT:**

The Executive Mayor, ald J H Cleophas (chairperson)  
The Executive Deputy Mayor, cllr J M de Beer  
Cllr D G Bess  
Cllr N Smit  
Ald T Van Essen  
Cllr A K Warnick

Advisor:

Senior Manager: Development Management

Secretariat:

Manager: Secretariat Services and Records, Ms N Brand

**1. OPENING**

The chairperson opened the meeting and declared the Appeal Authority in session in terms of paragraph 91 of the Swartland Municipality: By-law relating to Municipal Land Use Planning (PG 8226 dated 25 March 2020).

The chairperson allowed for a round of introductions and confirmed that the applicant, as well as some of the appellants are in attendance.

The chairperson expressed his believe that the parties to the appeal will regard the proceedings as fair and transparent.

**2. APOLOGIES**

No apologies was received.

**3. MINUTES**

None.

**4. MATTERS FOR CONSIDERATION**

**4.1 APPEAL RECEIVED ON THE PROPOSED CONSENT USE AND DEPARTURE ON ERF 505, YZERFONTEIN (15/3/10-14, 15/3/4-14)**

An appeal was received on the decision by the Municipal Planning Tribunal (MPT) – Item 6.3 dated 8 August 2023 – to refuse the application for consolidation of Erf 2241 and 2385, Yzerfontein.

The evaluation of the appeal was presented to the Appeal Authority in the report of the Municipal Manager dated 18 October 2023 and the report of the authorised official dated 11 October 2023 respectively.

The chairperson stated that the Appeal Authority must adhere to the following requirements in resolving the appeal:

- (1) All actions must, in terms of administrative law and natural justice, be more than fair;
- (2) All the relevant facts must be legally considered and evaluated independently of the matters considered by the MPT in order to conclude on the matter.

4.1/...

The chairperson further stated that all parties to the appeal were invited to make submissions to the Appeal Authority in adherence to natural justice to apply the *audi alteram partem* rule.

The chairperson confirmed that an appeal was received on behalf of various homeowners and gave the opportunity to the appellants to highlight matters from the appeal.

Mr Du Plooy, on behalf of the appellants, confirmed that the content of the appeal is clear and that no further explanations are necessary.

The chairperson gave the opportunity to the applicant to explain the proposed application for a place of education to be operated in the form of a learning centre for children.

Mr H Volgraaf, co-owner of Erf 505, Yzerfontein confirmed that the learning centre is already in operation from the rental house and that no disturbances are created. The learning centre is operated as an in-house learning hub and at there will not be a noise disturbance at any stage during the day. The operating hours at the moment are from 08:00 to 12:00. The learning centre is mainly for learners with learning difficulties that cannot be accommodated in the mainstream schools in the surrounding towns.

The chairperson requested the Senior Manager: Development Management to highlight aspects from the evaluation of the appeal and it is confirmed by Mr Zaayman that the information before the Appeal Authority is adequate and complete in order to make a decision.

The Senior Manager: Development Management stated that the appeal received is based on the reasons given by the Municipal Planning Tribunal in the support of the application and some are highlighted:

- (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 land use;
- (c) The SDF, 2023 supports densification as well as the accommodation of professional services and secondary educational facilities in residential areas. The subject property is located next to the identified CBD of Yzerfontein;
- (d) The proposed application is consistent with and not in contradiction to the Spatial Development Frameworks adopted on Provincial, District and Municipal levels;
- (e) The proposed application will not have a negative impact on the character of the area;
- (f) 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;
- (g) A place of education is accommodated as a consent use under Residential Zone 1 of the By-Law;
- (h) The development proposal supports the optimal utilisation of the property;
- (i) The place of education may support the tourism industry in Yzerfontein, as well as the local economy.
- (j) The need for this service in Yzerfontein is recognised;
- (k) Sufficient on-site parking is proposed, and the proposal will not have a significant impact on traffic in Gey van Pittius Street."

The Senior Manager: Development Management, in addition to the above, mentioned the following:

- The report refer to a place of education, but the facility is operated as a learning centre;
- The learning centre is in operation on the rental property and when visiting the property the same activities as for a normal household are experienced;
- There are no disturbances to the outside of the learning centre;
- The learning centre is operated from 88 m<sup>2</sup> of the property;
- The impact of the learning centre is low within a residential area;
- Early childhood development and education is a major priority for Swartland Municipality.

The Senior Manager: Development Management requested the chairperson to suffice with the decision by the Municipal Planning Tribunal.

The chairperson allowed for questions for clarity:

Question	Answer
Operating hours (07:30 to 17:30, Monday to Saturday)	4 hours in the morning, might extent to 4 hours in the afternoon
Operating hours on Saturday may create a problem	
Number of children?	x12 learners – a new application be made if the learning centre intends to expand
Play area?	Not a requirement as learners are there for 4 hours of learning
School vs learning centre	Learning centre – 1 on 1 specialised learning / individual learning
Traffic impact	Learners are dropped off / no other educators except for occupants of the dwelling
Parking requirements – are x4 parking bays adequate?	
Consideration for speedhumps / Only one speedhump was constructed, but two were required	Need for speedhumps can be evaluated when the learning centre is established and the affect on traffic is known
Registration for home schooling	Responsibility of parents – learning centre is part of support system for parents. The curriculums that are presented is of international standard, amongst other, Cambridge International Curriculum.

The Senior Manager: Development Management, considering the above questions of clarity, confirmed an excerpt from the resolution by the Municipal Planning Tribunal, namely –

A1(b) The place of education consisting of a learning centre, be restricted to 88 m<sup>2</sup>;

A1(c) No more that 12 children/students be accommodated at the place of education;

A1(d) The hours of the place of education be restricted from 07:30 to 17:30 on Monday to Saturdays.

The chairperson closed the meeting and confirmed that the outcome of the appeal will be communicated to the applicant and appellants after a site inspection to the subject property.

The meeting adjourned at 15:45.

**(SGD) ALD J H CLEOPHAS**  
**CHAIRPERSON**



**MINUTES OF A MEETING OF THE APPEAL AUTHORITY HELD IN THE COMMITTEE ROOM,  
COUNCILLOR'S OFFICES ON MONDAY, 27 NOVEMBER 2023 AT 09:15**

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**PRESENT:**

The Executive Mayor, ald J H Cleophas (chairperson)  
Cllr D G Bess  
Cllr N Smit  
Ald T Van Essen  
Cllr A K Warnick

Advisor:  
Senior Manager: Development Management

Secretariat:  
Manager: Secretariat Services and Records, Ms N Brand

**1. OPENING**

The chairperson opened the meeting and declared the Appeal Authority in session in terms of paragraph 91 of the Swartland Municipality: By-law relating to Municipal Land Use Planning (PG 8226 dated 25 March 2020).

**2. APOLOGIES**

**COGINSANCE BE TAKEN** of the apology received from the Deputy Executive Mayor, Cllr J M de Beer.

**3. MINUTES**

None.

**4. MATTERS FOR CONSIDERATION**

**4.1 APPEAL RECEIVED ON THE PROPOSED CONSENT USE AND DEPARTURE ON ERF 505, YZERFONTEIN (15/3/10-14, 15/3/4-14)**

[Read with minutes of Appeal Authority held on 9 November 2023.]

The chairperson confirmed that the purpose of the meeting is to finalise the outcome of the appeal received on the proposed consent use and departure on Erf 505, Yzerfontein taking into account the discussions on 9 November 2023 as well as the site inspection on 21 November 2023.

The chairperson confirmed further that both the properties were visited where (1) the learning centre is operated from at the moment and (2) Erf 505, Yzerfontein and that members of the Appeal Authority took the opportunity to ensure themselves of the activities of the learning centre and impact thereof on surrounding properties.

The chairperson allowed for members to give comments/inputs and Ald T van Essen gave background on the requirements, or lack thereof, regarding home schooling as presented by current legislation. Ald T van Essen stated that 95% of parents do not register their children for home schooling. Although the Act required for learning centres to be registered with the Provincial Departments, some do not have the capacity or knowledge to handle the registration processes, because it is not governed by any regulation.

Ald Van Essen confirmed that there are many examples of home schools in the Swartland Municipality that is not registered and do not comply with the requirements of the By-law, e.g. 10 m building line.

The learning centre proposed on Erf 505, Yzerfontein followed the correct procedures to obtain the required land-use and there is an urgent need in South Africa for learning centres such as the proposed one. For the children who go to school there, an injustice will be done if the application is not approved.

The Senior Manager: Development Management confirmed that the proposed facility is supported by the Departement as well as the Municipal Planning Tribunal. Mr Zaayman confirmed that most places of education have the necessary land-use approval and are regulated by the By-law.

#### **UNANIMOUSLY RESOLVED**

- (a) That the Executive Mayor as Appeal Authority of Swartland Municipality dismissed the appeals received for the following reasons:
  - (i) Land uses like places of education can be accommodated inside a residential area due to its low disturbance potential. In this case an existing facility will relocate to Erf 505;
  - (ii) Erf 505 is situated directly adjacent to the identified CBD of Yzerfontein. This makes the locality of Erf 505 even more favorable to accommodate mix uses;
  - (iii) The impact of the proposed place of education on the surrounding area remains to be deemed low, taking into consideration the number of students, specialized learning, business hours, availability of on-site parking and mitigating the impact on Erf 506 by the erection of a boundary wall;
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- (b) That the Executive Mayor as Appeal Authority of Swartland Municipality, in terms of Section 91(7)(b) of the Swartland Municipality: Municipal Land Use Planning By-law (PG 8226 of 25 March 2020), confirmed the decision by the Municipal Planning Tribunal, Item 6.3 dated 8 August 2023, to approve the consent use and departure on Erf 505, Yzerfontein subject to the conditions of approval.

**(SGD) ALD J H CLEOPHAS**  
**CHAIRPERSON**