



**MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING HELD IN THE COMMITTEE ROOM:  
CORPORATE SERVICES ON WEDNESDAY, 11 JUNE 2025 AT 14:00**

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**PRESENT**

Internal members:

Municipal Manager, Mr J J Scholtz (chairperson)  
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 and 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**

The apology of the Director: Corporate Services be noted.

**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 MAY 2025**

**RESOLUTION**

That the minutes of a Municipal Planning Tribunal Meeting held on 14 May 2025 are approved and signed by the chairperson.

**5. MATTERS ARISING FROM MINUTES**

None.

**6. MATTERS FOR CONSIDERATION**

**6.1 PROPOSED CONSENT USE ON ERF 1623, YZERFONTEIN (15/3/10-14 – ERF 1623) (WARD 5)**

The author, Mr A J Burger, confirmed that the application is for a consent use on Erf 1623, Yzerfontein to erect a double dwelling.

Mr Burger/...

6.1/...

Mr Burger confirmed that the development proposal complies with all the zoning parameters, that the subject property will be used to its full potential, that the second dwelling will contribute toward densification and the optimal use of existing infrastructure.

## **RESOLUTION**

A. The application for a consent use on erf 1623, Yzerfontein be approved in terms of Section 70 of the By-law, subject to the following conditions:

### **A1 TOWN PLANNING AND BUILDING CONTROL**

- (a) The consent use authorises a double dwelling house, as presented in the application;
- (b) Building plans be submitted to the Senior Manager: Development Management, for consideration and approval;

### **A2 WATER**

- (a) A single water connection be provided and that no additional connections will be provided;

### **A3 SEWERAGE**

- (a) The property be provided with a conservancy tank of minimum 8 000 litre capacity and that the tank be accessible to the municipal service truck via the street, to the satisfaction of the Director: Civil Engineering Services;

### **A4 DEVELOPMENT CHARGES**

- (a) The development charge towards the supply of regional bulk water amounts to R11 514,95 and is payable by the owner/developer at building plan stage. The amount is due to the Swartland Municipality, valid for the financial year of 2024/2025 and may be revised thereafter (mSCOA: 9/249-176-9210);
- (b) The development charge towards water reticulation amounts to R1 045,35 and is payable by the owner/developer at building plan stage. The amount is due to the Municipality, valid for the financial year of 2024/2025 and may be revised thereafter (mSCOA 9/249-174-9210);
- (c) The development charge towards waste water treatment amounts to R12 722,45 and is payable by the owner/developer at building plan stage. The amount is due to the Municipality, valid for the financial year of 2024/2025 and may be revised thereafter (mSCOA 9/240-183-9210);
- (d) The development charge towards sewerage amounts to R5 242,85 and is payable by the owner/developer at building plan stage. The amount is due to the Municipality, valid for the financial year of 2024/2025 and may be revised thereafter (mSCOA 9/240-184-9210);
- (e) The development charge towards streets amounts to R7 200,15 and is payable by the owner/developer at building plan stage. The amount is due to the Municipality, valid for the financial year of 2024/2025 and may be revised thereafter. (mSCOA 9/247-188-9210);
- (f) The development charge towards electricity amounts to R11 762,00 and is payable by the owner/developer at building plan stage. The amount is due to the Municipality, valid for the financial year of 2024/2025 and may be revised thereafter. (mSCOA 9/253-164-9210)
- (g) The Council resolution of May 2024 makes provision for a 55% discount on development charges to Swartland Municipality. The discount is valid for the financial year 2024/2025 and can be revised thereafter;

## **B. GENERAL**

- (a) The approval does not exempt the applicant from adherence to any and all other legal procedures, applications and/or approvals related to the intended land use, as required by provincial, state, parastatal and other statutory bodies;
- (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](mailto:swartlandmun@swartland.org.za), within 21 days of notification of the decision. An appeal is to comply with section 90 of the

6.1/B(b)...

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 double dwelling is consistent with local, provincial and national legislation in support of densification.
  - (b) The application area is situated within an area with a residential character where densification is supported by the SDF.
  - (c) Erf 1623 has no physical restrictions which impacts negatively on the application.
  - (d) The impact of the development proposal on the surrounding area is deemed minimal and not considered to be detrimental to the rights of surrounding land owners.
  - (e) The double dwelling will appear as one, harmonious architectural unit, similar to a large, single dwelling, and therefore the character of the area will not be negatively impacted.
  - (f) The development proposal complies with all the zoning parameters applicable to the property.

## 6.2 PROPOSED REMOVAL OF RESTRICTIVE TITLE CONDITIONS AND CONSENT USE ON ERF 63, YZERFONTEIN (15/3/5-14, 15/3/10-14 – Erf 63) (WARD 5)

The author, Ms A de Jager, explained that the restrictive title deed condition determines that not more than one dwelling, together with the necessary outbuildings and appurtenances are allowed on Erf 63, Yzerfontein.

An application was received for the removal of the restrictive title deed conditions and consent use on Erf 63, Yzerfontein to establish a double dwelling on the property.

The development proposal complies with all the zoning parameters, that the subject property will be used to its full potential, that the second dwelling will contribute toward densification and the optimal use of existing infrastructure.

### RESOLUTION

- A. The application for the removal of a restrictive condition from Title Deed T8622/2020 of Erf 63, Yzerfontein, 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 consent use on Erf 63, 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. Approval A. and B. be subject to the following conditions:

#### **C1 TOWN PLANNING AND BUILDING CONTROL**

- (a) Condition B.I.(3) in Title Deed T8622/2020, that reads as follows:

*“...That not more than one dwelling, together with the necessary outbuildings and appurtenances be erected on the erf. ...”*

be removed from the title deed in its entirety;

- (b) The applicant/owner applies to the Deeds Office to amend the title deed in order to reflect the removal of the restrictive conditions;
- (c) The following minimum information be provided to the Deeds Office in order to consider the application, namely:
  - (i) Copy of the approval by Swartland Municipality;
  - (ii) Original Title Deed, and
  - (iii) Copy of the notice which was placed by Swartland Municipality in the Provincial Gazette;

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

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- (e) The parking bays in front of the dwelling be clearly marked and the surface, including the sidewalk, be finished in a permanent, dust free material such as concrete, tar or paving or any other such material previously approved by the Director: Civil Engineering Services;
- (f) Building plans be submitted to the Senior Manager: Development Management for consideration and approval;

**C2 WATER**

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

**C3 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 in a location that is accessible to the municipal vacuum truck, to the satisfaction of the Director: Civil Engineering Services;

**C4 DEVELOPMENT CHARGES**

- (a) The owner/developer is responsible for the development charge of R11 514,95 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 2024/2025 and may be revised thereafter (mSCOA: 9/249-176-9210);
- (b) The owner/developer is responsible for the development charge of R1 045,35 towards bulk water reticulation at building plan stage. The amount is due to the Municipality, valid for the financial year of 2024/2025 and may be revised thereafter (mSCOA 9/249-174-9210);
- (c) The owner/developer is responsible for the development charge of R5 242,85 towards sewerage at building plan stage. The amount is due to the Municipality, valid for the financial year of 2024/2025 and may be revised thereafter (mSCOA 9/240-184-9210);
- (d) The owner/developer is responsible for the development charge of R12 722,45 towards waste water treatment building plan stage. The amount is payable to the Municipality, valid for the financial year of 2025/2026 and may be revised thereafter (mSCOA 9/240-183-9210);
- (e) The owner/developer is responsible for the development charge of R7 200,15 towards roads at building plan stage. The amount is due to the Municipality, valid for the financial year of 2024/2025 and may be revised thereafter. (mSCOA 9/247-188-9210);
- (f) The owner/developer is responsible for the development charge of R11 762,00 towards electricity at building plan stage. The amount is payable to the Municipality, valid for the financial year of 2024/2025 and may be revised thereafter (mSCOA 9/253-164-9210);
- (g) The Council resolution of May 2024 makes provision for a 55% discount on development charges to Swartland Municipality. The discount is valid for the financial year 2024/2025 and may be revised thereafter;

**D. 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;
- (d)/...

6.2/D...

- (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](mailto: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.

E. The application be supported for the following reasons:

- (a) The design of the double dwelling is consistent with the definition contained in the By-Law, as it appears as a single architectural unit;
- (b) The proposed double dwelling adheres to all the development parameters of Residential Zone 1 and does not impact on the rights of the abutting land owners;
- (c) The proposal will enable the owner of the property to develop the property in response to the market and personal preference. They will also be able to more efficiently utilise the property, possibly gaining financially through rental income or sale of the second unit;
- (d) The social benefits to amending the condition is foreseen to be substantial, as it will result in the creation of an additional residential opportunity in a well-located area, without detracting from the visual or residential appeal of the area;
- (e) While the proposal promotes densification, the visual impact of the double dwelling is similar to that of a large single residence. The character of the neighbourhood thus remains unaffected as a low-density residential area, consistent with the spatial proposals of the SDF;
- (f) The subject of the condition proposed for removal, is governed by more than one legislative tool. The development will thus not be able to continue unchecked, even after the condition has been removed;
- (g) The development will result in the better utilisation of the property in terms of modern town development and align with various policies which require more efficient use of land and contextually appropriate densification;
- (h) A double dwelling is accommodated as a consent use under Residential Zone 1 of the By-Law;
- (i) The development proposal supports the optimal utilisation of the property;
- (j) The double dwelling may support the tourism industry in Yzerfontein, as well as the local economy;
- (k) The double dwelling will provide in a need for a larger variety of housing opportunities to the wider population;
- (l) The concerns of the neighbouring and affected property owners are sufficiently addressed in the conditions of approval.

### **6.3 APPLICATION FOR THE REMOVAL OF RESTRICTIVE TITLE CONDITIONS ON ERF 2537, YZERFONTEIN (15/3/5-14 – ERF 2537) (WARD 5)**

Mr H Olivier, as author, gave the background to the establishment of the Beaches Restaurant on Erf 2537, Yzerfontein which is in operation for more than 26 years.

Mr Olivier confirmed that with previous approvals for building work on Erf 2537, Yzerfontein the title deed of the property was not consulted and the Municipality only became aware of the illegal building work within the 6.3 m title deed building line restriction area with the submission of a building plan for alterations in 2024. It was communicated with the owner that the removal of the restrictive title conditions must first be approved before the Municipality could consider the building plan.

### **RESOLUTION**

- A. The application for the removal of restrictive condition II.C.6(a)3. of Title Deed T15012/2013 of erf 2537, Yzerfontein be approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020).

A1/...

**A1 TOWN PLANNING AND BUILDING CONTROL**

(a) Condition II.C.6(a)3. in Title Deed T15012/2013 , that reads as follows:

“...II.C(a)3. Dat geen geboue opgerig mag word binne 6,30 meter van enige straat wat aan die erf grens, of binne 6,30 meter van enige oop plek waar dit aan die erf grens aan die seefront...”

be removed from the Title Deed in its totality;

- (b) The applicant/owner applies to the Deeds Office to amend the Title Deed in order to reflect the removal of the restrictive conditions;
- (c) The following minimum information be provided to the Deeds Office in order to consider the application, namely:
  - (i) Copy of the approval by Swartland Municipality;
  - (ii) Original Title Deed, and
  - (iii) Copy of the notice which was placed by Swartland Municipality in the Provincial Gazette;
- (d) A copy of the amended Title Deed be provided to Swartland Municipality for record purposes.

**B. GENERAL**

- (a) The approval does not exempt the applicant from adherence to any and all other legal procedures, applications and/or approvals related to the intended land use, as required by provincial, state, parastatal and other statutory bodies;
- (b) 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;
- (c) 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;
- (d) 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) Erf 2537 is zoned Business Zone 2 with a consent use for a restaurant, which permits the current use;
- (b) The restaurant has been in legal operation for over 26 years, with building plans approved in 1998 and 2010;
- (c) The deck in question is a refurbishment of an existing, previously approved structure, not a new addition;
- (d) Past municipal approvals did not enforce the title deed restriction, creating a legitimate expectation for continued use;
- (e) The deck was refurbished due to structural instability, as confirmed by the engineering report;
- (f) The work was done to ensure public safety, not to expand or intensify the use of the property. The specific portion may be argued to accommodate less patrons due to the new seating arrangement;
- (g) The removal of the restriction does not increase the building footprint beyond what is already permitted under zoning. Any additions / extensions will be considered in terms of the applicable regulations and processes as required in terms of the applicable legislation;
- (h) Noise, odour, and traffic concerns are regulated under separate municipal by-laws and are not directly tied to the building line restriction;

6.3/C...

- (i) The restaurant in its unique setting is a key contributor to local tourism and employment in Yzerfontein. Removing the restriction supports the economic viability of a long-standing business and enhances the town's appeal as a tourist destination;
- (j) The removal affects only one development parameter (the street building line) and does not eliminate other rights or protections for surrounding owners. All other development controls, such as height, coverage, and parking remain enforceable;
- (k) The additional evaluation criteria for the removal of restrictions were also taken into consideration.

**(SIGNED) J J SCHOLTZ  
CHAIRPERSON**