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File ref: 15/3/3-15/Farm_554/39

Enquiries:
D N Stellenberg

21 October 2021

C K Rumboll & Partners
P O Box 211
MALMESBURY
7299

By Registered Mail

Dear Sir/Madam

PROPOSED REZONING ON PORTION 39 OF FARM JACOBUSKRAAL NO. 554, DIVISION MALMESBURY

Your with application with reference YZF/11937/NG dated 8 July 2021, refers.

- A. The Municipal Planning Tribunal has resolved at a meeting held on 13 October 2021 to refuse the application for the rezoning of a portion of portion 39, of the Farm Jacobus Kraal no 554, Malmesbury Registration Division, in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020);
- B. GENERAL**
- (a) The applicant 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;
- (b) Building plans be submitted to the Senior Manager: Built Environment for consideration and approval with specific reference to any existing unauthorised structures. These plans need to specifically indicate how the existing container structures relate to the primary right as well as authorised activities on the property. All structures which does not relate to the existing authorised use or which is in contradiction with conditions of approval of any existing approval granted to the property, be removed within 60 days from the date of the notice;
- (c) The use of a portion of the property as a car wash is in contradiction with the By-Law as well as the existing authorisations on the property and should be stopped immediately;
- C. The application is refused for the following reasons:
- (a) The proposal is in contradiction with the spatial proposals of the Swartland MSDF, 2019. The SDF clearly identifies the R315 as a vibrant and growing tourism corridor with an agricultural and natural landscape that needs to be protected. It also supports development that is sensitive to the agricultural landscape with the development of limited service industries and agri-processing being supported south of the fish market as well as at the R315 and R27 intersection. The MSDF, 2019 does identify this portion of the R315 as an intensive rural use corridor but only supports the development of small holdings, small scale agri-processing as well as conservation and tourism related uses.

- (b) In terms of Section 22(1) of the Spatial Planning and Land Use Management Act, Act 16 of 2013, (SPLUMA) the Municipal Planning Tribunal or any other authority required or mandated to make a land development decision in terms of the Act or any other law relating to land development, may not make a decision which is inconsistent with the applicable Municipal Spatial Development Framework.
- (c) As stated in the Western Cape Land Use Planning Guidelines for Rural Areas, 2019, "...all non place-bound industry (industries not ancillary to agriculture or serving the rural needs e.g. transport contractors and builder's yards) should be located within urban areas... ". Should the application be approved it will not promote sustainable development in appropriate rural locations as required by the guideline. It will also not safeguard priority biodiversity areas or maintain integrity or authenticity of the farming, ecological, coastal, cultural and scenic rural landscape in which it is located.
- (d) Although not specifically defined, the development management scheme is not vague in the fact that commercial storage fits directly into the objective of Industrial zone 1 zoning. Commercial storage is deemed inappropriate within a residential area, inappropriate within the central business district as well as inappropriate in a rural context. The application is therefore deemed inappropriate in the position applied for, as it is not within the urban edge, not in an area deemed to be an industrial area or a transitional area between an industrial area and a residential and business area respectively.
- (e) The Yzerfontein community's need for a storage facility is recognised, however sufficient vacant and under-utilised land exists within the urban edge of Yzerfontein where this need can be accommodated.
- (f) The proposed use is detrimental to the rural character of the area.
- (g) The application does not take into account that the facility is located in an earmarked CBA and no proof / supporting documentation is provided to motivate the contrary.

In terms of Chapter VII, Section 89 of the Swartland Municipality By-law relating Municipal Land Use Planning (PG 8226 of 25 March 2020), you as well as the objectors have a right to appeal within 21 days of date of registration of this letter to the appeal authority of the Swartland Municipality against Council's decision.

Should you decide to appeal, you can write to the following address:

The Municipal Manager, Swartland Municipality, Private Bag X52, Malmesbury, 7299

Please note that if the applicant/objector does appeal, an appeal fee of R2400-00 is payable. The appeal must be accompanied by the proof of payment and only then will the appeal be regarded as valid.

Yours faithfully



MUNICIPAL MANAGER

Via Department Development Services

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