



CONSECUTIVE CLEAN AUDITS



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File ref: 15/3/5–14/Erf 1059
15/3/10–14/Erf 1059

Enquiries:
Mr AJ Burger

28 July 2021

CK Rumboll & Partners
P.O. Box 211
MALMESBURY
7299

By Registered Mail

Dear Sir/Madam

PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS AND CONSENT USE ON ERF 1059, YZERFONTEIN

Your application, with reference YZER/11785/AC/NJdK, dated 10 December 2020, on behalf of F. Joubert, regarding the subject refers.

- A. By virtue of the authority delegated to the Senior Manager: Built Environment in terms of Council Resolution No. 4.1, dated 28 March 2019, as determined by section 79(1) of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226, dated 25 March 2020), application for the removal of restrictive condition B7(a), B7(b), B7(b)(i), B7(b)(ii), B7(c) and B7(d) from Title Deed T31521/2020, as registered against Erf 1059, Yzerfontein, is not approved in terms of section 70 of the By-Law.

The reasons for the refusal of the application are as follows:

1. Condition B7(a) of title deed makes provision for other land uses as permitted by the Planning By-law, like a consent use for a double dwelling house in this case. "...the local authority may permit such other buildings as are permitted by the scheme subject to the conditions and restrictions stipulated by the scheme..."
 2. Conditions B7(a), B7(b), B7(b)(i), B7(b)(ii), B7(c) and B7(d) have no impact on the proposed development, nor does the development impact on the conditions. The proposed removal is thus considered arbitrary and unconstitutional.
 3. The meaning of 'arbitrary' deprivation of property was determined by the Constitutional Court, in terms of section 25(1) of the Constitution of the Republic of South Africa, 1996, and held to be when there is insufficient reason for the deprivation or it is procedurally unfair.
 4. The removal of the conditions are not motivated sufficiently.
- B. By virtue of the authority delegated to the Senior Manager: Built Environment in terms of Council Decision No. 4.1 dated 28 March 2019, as determined by Section 79(1) of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), the application for a consent use on Erf 1059, Yzerfontein, is approved in terms of Section 70 of the By-Law, subject to the conditions that:

Rig asseblief alle korrespondensie aan:

**Die Munisipale Bestuurder
Privaatsak X52
Malmesbury 7299**

Darling Tel: 022 492 2237

Tel: 022 487 9400

Faks/Fax: 022 487 9440

Epos/Email: swartlandmun@swartland.org.za

Moorreesburg Tel: 022 433 2246

Kindly address all correspondence to:

**The Municipal Manager
Private Bag X52
Malmesbury 7299**

Yzerfontein Tel: 022 451 2366

1. TOWN PLANNING AND BUILDING CONTROL

- a) The consent use be restricted to a double dwelling house which permits a maximum of two dwelling units on the property;
- b) Building plans be submitted to the Senior Manager: Built Environment for consideration and approval within 60 days of the decision;

2. WATER

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

3. SEWERAGE

- a) The property be provided with a conservancy tank of minimum 8 000 liter capacity which is accessible for the services truck from the street;

4. DEVELOPMENT CHARGES

- a) The owner/developer is responsible for the development charge towards regional bulk water supply, amounting to R5 445,25, at building plan stage. The amount is payable to Swartland Municipality, valid for the financial year of 2021/2022 and may be revised thereafter (mSCOA: 9/249-176-9210);
- b) The owner/developer is responsible for the development charge towards water distribution, amounting to R4 502,25, at building plan stage. The amount is payable to Swartland Municipality, valid for the financial year of 2021/2022 and may be revised thereafter (mSCOA: 9/249-174-9210);
- c) The owner/developer is responsible for the development charge towards sewerage, amounting to R5 612,00, at building plan stage. The amount is payable to Swartland Municipality, valid for the financial year of 2021/2022 and may be revised thereafter (mSCOA: 9/240-184-9210);
- d) The owner/developer is responsible for the development charge towards waste water treatment, amounting to R8 280,00, at building plan stage. The amount is payable to Swartland Municipality, valid for the financial year of 2021/2022 and may be revised thereafter (mSCOA: 9/240-183-9210);
- e) The owner/developer is responsible for the development charge towards roads, amounting to R11 500,00, at building plan stage. The amount is payable to Swartland Municipality, valid for the financial year of 2021/2022 and may be revised thereafter (mSCOA: 9/247-188-9210);
- f) The owner/developer is responsible for the development charge towards storm water, amounting to R3 192,40, at building plan stage. The amount is payable to Swartland Municipality, valid for the financial year of 2021/2022 and may be revised thereafter (mSCOA: 9/247-144-9210);
- g) Council's resolution dated May 2021 makes provision for a 40% rebate applicable to the development charges of Swartland Municipality. This rebate is valid for the 2021/2022 financial year and may be revised thereafter. The rebate is not applicable to point 4(a);

5. GENERAL

- a) The approval is, in terms of section 76(2)(w) of the By-Law, only valid for a period of 5 years. All conditions of approval must be complied with before occupation be issued certificate and failing to do so will result in further administration action.

In terms of Chapter VII, Section 89 of the Swartland Municipality By-law relating Municipal Land Use Planning (PG 7741 of 3 March 2017), you have a right to appeal within 21 days of date of registration of this letter to the appeal authority of the Swartland Municipality against the decision of the Authorised official.

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 you do appeal, an appeal fee of R2400-00 is payable. Your appeal be accompanied by the proof of payment and only then the appeal be regarded as valid.

Yours sincerely


MUNICIPAL MANAGER
per Department Development Services
AJB/ds

Copies: *Department: Civil Engineering Services*
 Department: Financial Services
 Director: Financial Services
 Building Control Officer
 F. Joubert, 68 Lutie Katz Road, Yzerfontein, 7405