



STELLENBOSCH

STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNISIPALITEIT • UMASIPALA • MUNICIPALITY

Application Number: LU/6765

Our File Reference Number: Erf 5972, Stellenbosch

Your Reference Number: 3465-P

Enquiries: Ulrich von Molendorff

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Email address: Ulrich.Vonmolendorff@stellenbosch.gov.za

PER E-MAIL: Clifford@tv3.co.za

Sir

APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS: ERF 5972, STELLENBOSCH

1. The above application refers.
2. The duly authorised decision maker has decided on the above application as follows:
 - 2.1 That the application for the removal of the following restrictive title conditions as held in the Title Deed No. T04320/2007 on Erf 5972, Stellenbosch, in terms of Section 15(2)(f) of the Stellenbosch Municipality Planning By-Law (2015):
 - i. 1.B.(b) "Only one dwelling house shall be erected on the above land, which building shall be a single dwelling house and not semi-detached."
 - ii. 3.B.(c) "That only one dwelling house shall be erected on the above land, which building shall be a single dwelling house and not semi-detached."

BE APPROVED in terms of Section 60 of the said bylaw, subject to conditions in terms of Section 66 of the said Bylaw.

3. Conditions of Approval

- 3.1 The approval applies only to the proposed application under consideration and shall not be construed as authority to depart from any other legal prescriptions or requirements from Council;

3.2 The approval granted shall not exempt the applicant from complying with any other legal prescriptions or requirements that might have a bearing on the proposed use;

4. The reasons for the above decision are as follows:

4.1 The removal of the restrictive title deed conditions will not lead to a change in land use or comprise the existing character of the surrounding neighbourhood.

5. To be Noted:

5.1 It is the obligation of the applicant to amend the Title deed.

6. You are hereby informed in terms of section 79(2) of the Stellenbosch Municipal Land Use Planning Bylaw, 2015, of your right to appeal the above decision to the Appeal Authority within 21 days from the date of notification of the above decision. Please note that no late appeals or an extension of time for the submission of appeals are permitted in terms of Section 80(1)(a) of the said By-Law.

7. Appeals must be submitted with the prescribed information to satisfy the requirements of Section 80(2) of the said By-law, failing which the appeal will be invalid in terms of Section 81(1)(b) of the said By-Law. The following prescribed information is accordingly required:

(a) The personal particulars of the Appellant, including:

- (I) First names and surname;
- (II) ID number;
- (III) Company of Legal person's name (if applicable)
- (IV) Physical Address;
- (V) Contact details, including a Cell number and E-Mail address;

(b) Reference to this correspondence and the relevant property details on which the appeal is submitted.

(c) The grounds of the appeal which may include the following grounds:

- (i) that the administrative action was not procedurally fair as contemplated in the Promotion of Administrative Justice Act, 2000 (Act 3 of 2000);

(ii) grounds relating to the merits of the land development or land use application on which the appellant believes the authorised decision maker erred in coming to the conclusion it did.

(d) whether the appeal is lodged against the whole decision or a part of the decision;

(e) if the appeal is lodged against a part of the decision, a description of the part;

(f) if the appeal is lodged against a condition of approval, a description of the condition;

(g) the factual or legal findings that the appellant relies on;

(h) the relief sought by the appellant; and

(i) any issue that the appellant wishes the Appeal Authority to consider in making its decision;

(j) That the appeal includes the following declaration by the Appellant:

(i) The Appellant confirms that the information contained in the subject appeal and accompanied information and documentation is complete and correct

(ii) That the Appellant is aware that it is an offence in terms of Section 86(1)(d) of the said By-Law to supply particulars, information or answers in an appeal against a decision on an application, or in any documentation or representation related to an appeal, knowing it to be false, incorrect or misleading or not believing them to be correct.

8. Appeals must be addressed to the Municipal Manager and submitted to his/ her designated official by means of E-mail at the following address: Landuse.appeals@ Stellenbosch.gov.za

9. An applicant who lodges an appeal must pay the applicable appeal fee in terms of the approved municipal tariffs and submit the proof of payment together with the appeal. The **LU** Reference number on this correspondence, or the applicable Erf/ Farm Number must be used as the reference for the payment of the appeal fee.

10. The approved tariff structure may be accessed and viewed on the municipal website (<https://www.stellenbosch.gov.za/documents/finance/rates-and-tariffs>) and the banking details for the General Account can also be accessed on the municipal website (<https://www.stellenbosch.gov.za/documents/general/8314-stellenbosch-municipality-banking-details-1/file>).

11. An applicant who lodge an appeal must also adhere to the following requirements stipulated in terms of section 80(3) to (7) of the said By-law:
- (a) Simultaneously serve the appeal on any person who commented on the application concerned and any other person as the municipality may determine.
 - (b) The notice by the applicant must invite persons to comment on the appeal within 21 days from date of notification of the appeal.
 - (c) The notice must be served in accordance with section 35 of the said legislation and in accordance with the prescripts or such additional requirements as may be determined by the Municipality.
 - (d) Proof of serving the notification must be submitted to the Municipality at the above E-mail address within 14 days of serving the notification.
12. Kindly note that no appeal right exists in terms of Section 62 of the Local Government Municipal Systems Act, No 32 of 2000.
13. Kindly note the above decision is suspended, and in the case of any approval, may therefore not be acted on, until such time as the period for lodging appeals has lapsed, any appeal has been finalised and you've been advised accordingly.

Yours faithfully



FOR DIRECTOR: PLANNING AND ECONOMIC DEVELOPMENT

4/5/2021
DATE:

COPIES TO:

- 1) Stellenbosch Interest Group
Email: info@stellenboschinterestgroup.org
- 2) Pietman Retief
Email: pietmanretief@absamail.co.za
- 3) Muller Family Trust : Dr E. J. Muller
Email: emul@icon.co.za

En genoemde Komparant het verklaar dat sy prinsipaal, op 20 September 2006, waarlik en wettiglik verkoop by Privaat ooreenkoms, en dat hy, in sy voorgenoemde hoedanigheid hierby sedeer en transporteer aan en ten gunste van

**ZELPY 1749 (EIENDOMS) BEPERK
NO. 2002/031320/07**

HUL Opvolgers in titel of Regverkrygendes in volkome en vrye eiendom,

**ERF 5972 STELLENBOSCH in die Munisipaliteit en Afdeling
STELLENBOSCH, Provinsie WES-KAAP**

**GROOT: 2 156 (TWEEDUISEND EENHONDERD SES EN VYFTIG) Vierkante
Meter**

AANVANKLIK geregistreer en steeds gehou kragtens Sertifikaat van Verenigde Titel No T40743/1983 met Kaart No 1664/73 wat daarop betrekking het

1. **WAT BETREF die figuur A B H J op die aangehegte Kaart No 1664/73:**
 - A. ONDERHEWIG aan die voorwaardes waarna verwys word in Transportakte No T7667/1922.
 - B. ONDERHEWIG VERDER aan die volgende spesiale voorwaardes waarna verwys word in Transportakte No T11417/1923 wat opgelê is vir die voordeel van die eienaars van alle onderverdelings van Perseel J J B, naamlik:
 - (a) no dwelling house shall be put on the above land of less than one thousand five hundred rand (R1 500,00).
 - (b) only one dwelling house shall be erected on the above land, which building shall be a single dwelling house and not semi-detached.
 - C. GEREKTIG op die voordeel van die voorwaardes waarna verwys word in die endossement gedateer 4 Mei 1955 op Transportakte no T8286/1948, welke endossement soos volg lui:

"Kragtens Not Akte No 211/55 gedateer 22.3.1955 is die eienaar van die eiendomme hierby gehou geregtig om oor die eiendom gehou onder T6837/54 water te lei deur middel van 'n bestaande watersloot, 31 meter wyd, vanaf 'n punt op die suidelike grens welke punt 3,46 meter van die suid-westelike baken gemerk D op kaart no A 4755/1929 geheg aan T6837/54 en vir 'n distansie van 36,84 meter tot by 'n punt op die noordelike grens 3,78 meter vanaf die baken gemerk B op Kaart A 4755/1929, onderhewig aan voorwaardes soos meer volledig sal blyk uit gesegde Not Akte 'n kopie waarvan hieraan geheg is."
 - D. ONDERHEWIG VERDER aan die voorwaardes opgelê deur die Administrateur van die Kaap Provinsie kragtens Artikel 9 van Ordonnansie 33 van 1934, soos vervat in Transportakte No T40742/1983, naamlik:

1) Die eienaar van hierdie erf is verplig om sonder betaling van vergoeding toe te laat dat hoofgasleidings, elektrisiteits-, telefoon- en televisiekabels en/of drade, hoof- en ander waterpype en die rioolvuil en dreinerings, insluitende stormwater van enige ander erf of erwe, oor hierdie erf gevoer word, indien dit deur die plaaslike owerheid nodig geag word en wel op die wyse en plek wat van tyd tot tyd redelikerwys vereis word. Dit sluit die reg op toegang te alle redelike tye tot die eiendom in met die doel om enige werke met betrekking tot bogenoemde aan te lê, te wysig, te verwyder of te inspekteer.

2) Die eienaar van hierdie erf is verplig om sonder vergoeding op die erf die materiaal te ontvang of uitgrawings op die erf toe te laat al na vereis word, sodat die volle breedte van die straat gebruik kan word en die wal veilig en behoorlik skuins gemaak kan word omrede van die verskil tussen die hoogte van die straat soos finaal aangelê en die erf, tensy hy verkies om steunmure te bou tot genoeë van en binne 'n tydperk wat die plaaslike owerheid bepaal.

2. **WAT BETREF die figuur B C D H op die aangehegte kaart nommer 1664/73**

A. **ONDERHEWIG** aan die voorwaardes waarna verwys word in Transportakte No T3450/1943.

B. **GEREGTIG** op die voordeel van die voorwaarde waarna verwys word in die endossement, gedateer 7 Februarie 1930 op Sertifikaat van Verenigde Titel No T9108/1923, naamlik:

"By Deed of Transfer No 935 dated 7th of February 1930 the storm water from the remaining extent of the property held hereby shall be allowed to flow free and undisturbed along the existing furrow marked on the diagram of the property conveyed by said transfer cutting across the N.W. boundary thereof as will more fully appear on reference to the said Deed of Transfer."

C. **GEREGTIG** op die voordeel van die voorwaarde waarna verwys word in die endossement, gedateer 4 Mei 1955 op Transportakte No T8286/1948, soos in paragraaf 1C hierbo.

3. **WAT BETREF die figuur H D E F G op die aangehegte Kaart Nummer 1664/73:**

A. **ONDERHEWIG** aan die voorwaardes na verwys in Transportakte No T6837/1954.

B. **ONDERHEWIG VERDER** aan die volgende voorwaardes genoem in Transportakte No T935/1930, naamlik:

"The above land is subject to the following special conditions of which condition (a) is imposed for the benefit of the owner of the remaining extent of Lot J J B and his successors in title and conditions (b), (c) and (d) are imposed for the benefit of owners of all subdivisions of above Lot J J B, viz:

(a) That the stormwater from the remaining extent of the Lot J J B

shall be allowed to flow free and undisturbed along the existing furrow, marked BLUE on the diagram of the above land, hereto annexed, and cutting across the North Western corner thereof.

- (b) No dwelling house shall be put on the above land of less value than one thousand five hundred rand (R1 500,00).
- (c) That only one dwelling house shall be erected on the above land, which building shall be a single dwelling house and not semi-detached.
- (d) That the said transferee and their successors in title shall not have the right to subdivide the said land, but the same shall be kept intact as a whole.

C. ONDERHEWIG VERDER aan die voorwaardes na verwys in die twee endossemente op Transportakte No T6837/1954 welke endossement as volg lui:

Endossement gedateer 4 Mei 1955:

Kragtens Not Akte No 221/55 gedateer 22.3.1955 gee die eienaar van die eiendom hierby gehou aan die eienaar van die eiendomme onder T8286/48 gehou die reg om water te lei deur middel van 'n bestaande watersloot, 31 meter wyd vanaf 'n punt op die suidelike grens welke punt 3,46 meter van die suid-oostelike baken (gemerik D) op kaart No A 4755/1929 hieraan geheg en vir 'n distansie van 36,78 meter vanaf die baken gemerik B op kaart No A4755/1929, onderhewig aan voorwaardes soos meer volledig sal blyk uit gesegde Not Akte, 'n kopie waarvan hieraan geheg is.

Endossement gedateer 10 November 1961:

Kragtens Notariële Akte No 778/61 gedateer 15.8.1961 is die beperking ingestel teen Perseel 10 gehou onder Transportakte No T6845/34, soos daarin onder voorwaarde 2 uiteengesit en afdwingbaar deur al die onderverdelinge van Perseel J J B gekanselleer.

Soos meer volledig uit 'n afskrif van gesegde Notariële Akte hieraan geheg sal blyk.

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WESHALWE die komparant afstand doen van al die regte en titel wat

AUDREY VAN WIJK (VOORHEEN MULLER), Ongetroud

voorheen op genoemde eiendom gehad het, en gevolglik ook erken het dat sy geheel en al van die besit daarvan onthef en nie meer daartoe geregtig is nie en dat, kragtens hierdie akte, bogenoemde

ZELPY 1749 (EIENDOMS) BEPERK NO. 2002/031320/07

~~diese Opvolgers in titel of Regverkrygendes, tans en voortaan daartoe geregtig is, ooreenkomstig plaaslike gebruik, behoudens die regte van die Staat en ten slotte erken dit dat die verkoopprijs die bedrag van R5 700 000,00 (VYF MILJOEN SEWE HONDERD DUISEND RAND) beloop.~~

TEN BEWYSE WAARVAN ek, genoemde Registrateur, tesame met die Komparant hierdie Akte onderteken en dit met die ampseël bekragtig het.

Onderteken, verly en met die ampseël bekragtig op die kantoor van die Registrateur van Aktes te Kaapstad op **25 JANUARIE** 2007



q.q.

In my teenwoordigheid

REGISTRATEUR VAN AKTES

