Application Number: LU/9814
Our File Reference Number: Erf 1197, Stellenbosch
Your Reference Number: None
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Sir

APPLICATION FOR A REMOVAL OF A RESTRICTIVE TITLE DEED CONDITION, SPECIAL DEVELOPMENT
AND A DEPARTURES ON ERF 1197, STELLENBOSCH

1. The above application refers.

2. The duly authorised decision maker has decided on the above application as follows:

2.1. That the following applications in terms of the Stellenbosch Municipal Land Use
Planning By-Law, promulgated by notice number 354/2015, dated 20 October 2015,
on Erf 1197, Stellenbosch, namely:

2.2 special development in terms of Section 15(2)(a) of the said bylaw for the utilization
of a portion of the dwelling house for purposes of a home-enterprise of ±45.1m²
(medical consulting rooms);

2.3 The departure in terms Section 15(2)(b) of the said Bylaw to:

a) permit a portion of the building to be 3 storeys in lieu of 2 storeys;
b) permit a floor factor of 0.65 in lieu of 0.63

NOT BE APPROVED in terms of Section 60 of the said Bylaw for the following reasons:

a) The proposed development (home-enterprise) does not conform to all the special
conditions listed in the zoning scheme for special developments of this nature as the
medical consulting rooms will not only be operated by the owner/resident of the property.

b) The use of the property for medical consultation rooms, which is not operated by the owner, is best suited on a property which is zoned for business purposes.

c) The proposed activity will have a detrimental impact on the character of the surrounding area as patients/clients will parked in the street due to the fact that no sufficient parking will be available on the subject property.

d) The height restriction of buildings on single residential zone properties is two storeys (ground floor plus first floor) only and the applicant failed to motivate the need for a third storey.

e) The departure for the increase in height and total floor area, as well as the home-enterprise, represents an overdevelopment of a single residential zone property which will have a detrimental impact on the character of the area (overspill of parking in the street).

3. That the following applications in terms of the Stellenbosch Municipal Land Use Planning By-Law, promulgated by notice number 354/2015, dated 20 October 2015, on Erf 1197, Stellenbosch, namely:

3.1 **Removal of the restrictive title deed condition** (Section 15)(2)(f) Clause B.2 as contained in Deed of Transfer No. T56357/2018, which stipulates “that only one dwelling house shall be erected on the above land, which building shall be a single dwelling house and not semi-attached”.

3.2 special development in terms of Section 15(2)(o) of the said bylaw to allow for:

a) The extension to the existing guest house by adding four additional guest house bedrooms to the exiting guest house (total of 9 bedrooms).

b) The construction of an additional dwelling unit (±103.3m²)

**BE APPROVED** in terms of Section 60 of the said Bylaw for the following reasons:

a) The proposal is in support of tourism related development with positive local economic benefits.
b) The proposed development will not detract from the character of the area and will blend in with the surrounding existing land uses in the area.

c) The proposal (additional dwelling unit) will result in a sensible increase in density and will not detract from the character of the area and there will be no negative impact on existing rights of neighbouring properties with regards to views, privacy, sunlight and daylight as it will be accommodated within the parameters of the zoning scheme.

d) The removal of the restrictive title deed conditions as applied for will allow the owner to maximise the use of the property.

4. That such approval BE SUBJECT to the following conditions in terms of Section 66 of the said Bylaw:

4.1 The approval applies only to the proposal as indicated above, and shall not be construed as authority to depart from any other legal prescriptions or requirements from Council;

4.2 The approval will lapse if not implemented within the timeframe stipulated in the subject Bylaw;

4.3 A revised site development plan shall be submitted to the Municipality for approval by the Director: Planning and Economic Development that reflects the approved land uses (extension to guest house and additional dwelling unit) only. The proposal must adhere to the building lines, coverage, floor area, parking and height as prescribed in the Zoning Scheme;

4.4 Development contributions are payable before the approval of building plans and which amount will be calculated in accordance with the council tariffs in force at the time of payment;

4.5 The existing water and sewer connections must be utilized for the proposed development: no upgrade in the size of the connection will be allowed, unless agreed to by our Water Services Department;

4.6 No guests may be allowed to park in the road reserve (off-site) and the operation of the guest house facility must under no circumstances lead to a parking demand in excess of the parking bays provided on the property;

4.7 The owner or his agent must stay on the property to manage the guest house;
4.8 No name or advertising sign shall be erected on the property, except one which complies with Council’s approved policy on outdoor advertising and signage;

4.9 The electrical consulting engineer responsible for the development shall schedule an appointment with the Manager: Electricity Services (Engineering Services) before commencing with the construction of the development (as well as to discuss new power requirements if required);

4.10 The development’s specifications must be submitted to Stellenbosch Municipality (Engineering Services) for approval i.e
   a) The design of the electrical distribution system;
   b) The location of substations(s) and related equipment.

4.11 A separate distribution board/s shall be provided for municipal switchgear and metering (shall be accessible & lockable). Pre-paid metering systems shall be installed in domestic dwellings;

4.12 24-hour access to the location of the substation, metering panel and main distribution board is required by Technical Services (on street boundary);

4.13 Appropriate caution shall be taken during construction to prevent damage to existing service cables and electrical equipment in the vicinity, should damage occur, the applicant will be liable for the cost involved for repairing damages.

4.14 On completion of the development, Stellenbosch Municipality (Technical Services) together with the electrical consulting engineer and electrical contractor will conduct a take-over inspection;

4.15 No electricity supply will be switched on (energised) if the development contributions, take-over inspection and certificate(s) of compliance are outstanding;

4.16 All new developments and upgrades of supplies to existing projects are subject to SANS 10400-XA energy savings and efficiency implementations such as:
   a) Solar water heating or heat pumps in dwellings;
   b) Energy efficient lighting systems;
   c) Roof insulation with right R-value calculations:
      i) In large building developments;
      ii) Control air condition equipment tied to alternative efficiency systems;
iii) Preheat at least 50% of hot water with alternative energy saving sources;
iv) All hot water pipes to be clad with insulation with R-value of 1
v) Provide a professional engineer’s certificate to proof that energy saving measures is not feasible.

4.17 After the publication of a notice in the Provincial gazette the applicant must apply to the Registrar of Deeds to make the appropriate entries in, and endorsements on, any relevant register or title deed to reflect the removal, suspension or amendment of the restrictive conditions;

4.18 An experienced conservation architect be appointed by the applicant to redesign the new building so far as to improve alignment with the architectural guidelines contained in the Conservation Strategy but also based on best practise to the satisfaction of the Director: Planning and Economic Development;

4.19 The same architect to be appointed ensure that the public interface, on-site parking and fencing around the property be designed in an appropriate manner in order to ensure that the character of the area be taken into account.

4.20 Building plans to be submitted to the Municipality for approval.

5. **Matters on the application TO BE NOTED:**

5.1 A business licence and a liquor licence be applied for, if required.

5.2 The main building is older than 60 years and the necessary permission needs to BE OBTAINED from Heritage Western Cape for any proposed alterations to the main building.

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: Lenacia.Kamineth@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.


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.

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

DATE: 25/8/20
COPIES:

Stellenbosch Interest Group
Email: info@stellenboschinterestgroup.org