STELLENBOSCH
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Application Number: LU/16640 (TP615/2024)
Our File Reference Number: Erf 263, Stellenbosch
Your Reference Number:
Enquiries: Ulrich von Molendorff
Contact No: 021 – 808 8682
Email address: Ulrich.Vonmolendorff@stellenbosch.gov.za

PER E-MA[redacted]

Sir/Madam

APPLICATION FOR EXTENSION OF VALIDITY PERIOD IN TERMS OF SECTION 15(2)(i) OF THE STELLENBOSCH MUNICIPAL LAND USE PLANNING BYLAW, 2023: ERF 263, ALEXANDER STREET, 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 to Extend the Validity period for the relaxation of the building lines and to exceed the allowable coverage, bulk and number of storeys, was approved on 4 September 2019 by the Appeal Authority on Erf 263, Alexander Street, Stellenbosch, in terms of Section 15(2)(i) of the Stellenbosch Municipal Land Use Planning Bylaw 2023 for an additional 5 years from 4 September 2024 to 4 September 2029.

BE APPROVED in terms of Section 60 of the said Bylaw and subject to conditions of approval.

2.2 The approval is subject to the following conditions imposed in terms of Section 66 of said Bylaw:

2.2.1 The approval will lapse if not implemented / confirmed within five years from the date of final notification of approval of the application.

2.2.2 The approval only applies to the proposed extension of validity period under consideration and shall not be construed as authority to depart from any other legal prescriptions or requirements from Council or other legislation or Bylaws or Regulations that may be applicable.

2.2.3 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.

2.2.4 All conditions of approval as per approval letters dated 4 September 2019 and 9 September 2022, are applicable.

2.3 The reasons for the above decision are as follows:

2.3.1 The property already has a zoning which permits the development of a Multi-Residential building being developed as of right.

2.3.2 The proposal will result in densification of the area and the optimal use of the subject property.

3. You are hereby informed in terms of section 79(2) of the Stellenbosch Municipal Land Use Planning Bylaw 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.

4. 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:

4.1 The personal particulars of the Appellant, including:

a) First names and surname
b) ID number
c) Company of Legal person's name (if applicable)
d) Physical Address
e) Contact details, including a Cell number and E-Mail address

5. Reference to this correspondence and the relevant property details on which the appeal is submitted.

5.1 The grounds of the appeal which may include the following grounds:

a) that the administrative action was not procedurally fair as contemplated in the Promotion of Administrative Justice Act, 2000 (Act 3 of 2000)
b) 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.

5.2 Whether the appeal is lodged against the whole decision or a part of the decision.

5.3 If the appeal is lodged against a part of the decision, a description of the part.

5.4 If the appeal is lodged against a condition of approval, a description of the condition.

5.5 The factual or legal findings that the appellant relies on.

5.6 The relief sought by the appellant.

5.7 Any issue that the appellant wishes the Appeal Authority to consider in making its decision.

5.8 That the appeal includes the following declaration by the Appellant:

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

b) That the Appellant is aware that it is and 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.

6. 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

7. Any party (applicant or other) 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.

8. The approved tariff structure and the banking details for the General Account can be accessed and viewed on the municipal website. For any enquiries the office can be contacted at landuse.appeals@stellenbosch.gov.za

9. An applicant who lodges 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.

10. Kindly note that no appeal right exists in terms of Section 62 of the Local Government Municipal Systems Act, No 32 of 2000.

11. Kindly note the above decision in the case of any approval, is suspended, and 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 20/6/2024

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ANNEXURE B

STELLENBOSCH

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NOTICE OF DECISION OF APPEAL AUTHORITY

APPEAL LODGED IN TERMS OF SECTION 79(2) OF THE STELLENBOSCH MUNICIPAL LAND USE PLANNING BY-LAW (2015) AGAINST THE DECISION OF THE MUNICIPAL PLANNING TRIBUNAL TO APPROVE THE APPLICATION FOR DEPARTURES AND APPROVAL OF SITE DEVELOPMENT PLAN: ERF 263, STELLENBOSCH (LU/6894)

DECISION OF APPEAL AUTHORITY:
The Appeal Authority hereby, in terms of Section 81(7) of the Stellenbosch Municipal Land Use Planning By-law 2015:

Tick the appropriate box:

CONFIRM		**VARY**	**X**	**REVOKE**	

THE DECISION OF THE STELLENBOSCH MUNICIPAL PLANNING TRIBUNAL, ON THE 27TH OF AUGUST 2018, TO APPROVE IN TERMS OF SECTION 60 OF THE STELLENBOSCH MUNICIPAL LAND USE PLANNING BY-LAW DATED 20 OCTOBER 2015, TO DEVELOP A THREE STOREY BUILDING WITH A LOFT COMPRISING OF 31, ONE AND TWO-BEDROOM APARTMENTS AND A PENTHOUSE

1. The abovementioned appeal refers.

2. The Municipal Planning Tribunal, on the 08th of February 2019, approved **in whole**, in terms of Section 60 of the Stellenbosch Municipal Land Use Planning By-law, promulgated by Notice no 354/2015 dated 20 October 2015, the application for a for departures and approval of site development plan, to develop a three storey building with loft comprising 31, one and two-bedroom apartments and a penthouse.

3. The aforementioned application was approved subject to a number of conditions imposed in terms of Section 66 of the Stellenbosch Municipality Land-Use Planning By-Law (2015).

4. The Stellenbosch Interest Group, lodged an appeal on behalf of the applicant in terms of Section 79(2) of the By-Law, with the Municipality on the 01st of April 2019, against the decision of the Stellenbosch Municipal Planning Tribunal and their

grounds of appeal was the following:

4.1 The principal reason for this appeal is related to the excessive floor factor of 1,95;

4.2 By providing a double basement, it will be difficult if not impossible to provide any street trees adjoining the development, let alone providing any trees on the site;

4.3 The high impact of the proposed development on the flats to the south (Bastmolen) has not been considered;

4.4 The loss of environmental amenity in the historic core and the unfortunate precedent resulting from the excessive floor factor have simply been ignored; The SIG considers that any development within the historic core should not exceed a floor factor of 1,2 (three floors at a coverage of 40%);

5. The appeal assessment report was drafted by Mrs Helene Janser from the Department of Environmental Affairs and Development, based on all documentation provided.

6. Inspections of the said report took place on the 29th of May and the 03rd of June 2019. This was done in compliance with section 81(6) of the Stellenbosch Municipality Land Use Planning By-Law (2015).

7. After careful consideration of the written appeal, as well as all relevant documents, information submitted to me as Appeal Authority, I have decided, in terms of Section 81(7)(b) of the By-Law to **VARY** the decision of the Stellenbosch Municipal Planning Tribunal by including the following condition:

7.1 That greening and tree planting be done to the satisfaction of the Head: Parks of Stellenbosch Municipality. Should this not be done within 1 year of the occupation certificate being issued, that the greening be done by the Municipality for the account of the owner.

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SIGNATURE: _____ **DATE:** 4 September 2019

Adv. Gesie van Deventer
EXECUTIVE MAYOR
(Appeal Authority in terms of Section 79(1) of the Stellenbosch Municipal Land Use Planning By-Law)

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Application Number: LU/12702
Our File Reference Number: Erf 263, Stellenbosch
Your Reference Number:
Enquiries: Ulrich von Molendorff
Contact No: 021 808 8682
Email address: Ulrich.Vonmolendorff@stellenbosch.gov.za

PER E-MAIL [redacted]

Sir,

APPLICATION FOR AMENDMENT OF THE CONDITIONS OF APPROVAL ON ERF 263, STELLENBOSCH

1. The above application refers.

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

That the application in terms of Section 15(2) of the Stellenbosch Municipal Land Use Planning By-Law (2015), on Erf 263, Stellenbosch, namely:

2.1 The amendment of condition 3(i) of approval, dated 07/03/2019 to replace the approved Site Development Plan with a new Site Development Plan.

BE APPROVED in terms of Section 60 of the said Bylaw and subject to conditions of approval. The approval is subject to the following conditions imposed in terms of Section 66 of the said Bylaw:

2.2 The approval only applies to the amendment of condition and shall not be construed to depart from any other legal prescriptions or requirements from Council, attached as **Annexure H.**

2.3 The development must be undertaken generally in accordance with the site development plan, as indicated on drawing no: E4218/D/201, E4218/D/202, E4218/D/203, E4218/D/204, E4218/D/205 & E4218/D/301, dated 25/02/2022, drawn by Dennis Moss Partnership attached as **Annexure H.**

2.4 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.

2.5 The building plans shall be substantially in accordance with the approved SDP and that the landscaping plan of greenery and tree planning be done to the satisfaction of the Head: Parks of Stellenbosch Municipality. Should this not be done within 1 year of the occupation certificate being issued, that the greening be done by the Municipality for the account of the owner;

2.6 The conditions imposed by the Director: Engineering Services in its memo dated 18 May 2022 be adhered to attached as **Annexure F**;

2.7 The conditions imposed by the Manager: Electrical Engineering in its memo dated 06/08/2021 be adhered to attached as **Annexure F**;

2.8 All visitors parking bays be indicated on the building plans and form part of the communal area to be available for the visitors only;

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

3.1 The amended Site Development Plan is consistent with the decision rules and complies with the conditions of approval.

3.2 The Site Development Plan is consistent with the development rules and complies with conditions of approval.

4. 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.

5. 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 and 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.

6. 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

7 Any party (applicant or other) 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.

8. 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).

9. 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.

10. Kindly note that no appeal right exists in terms of Section 62 of the Local Government Municipal Systems Act, No 32 of 2000.

11 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: 9/9/2022