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Klipfontein-344/M J Engelbrecht
Collab 10539342 (App 21-05/2022)

5 October 2023

Messrs Nel & de Kock Town & Regional Planners
P O Box 1186
GEORGE
6530

Sir

APPEAL : APPLICATION FOR THE AMENDMENTS OF CONDITIONS OF APPROVAL AND PERMANENT DEPARTURE : PORTION 1 OF THE FARM KLIPFONTEIN NO. 344, NAUTILUS BAY, MOSSEL BAY IN TERMS OF SECTION 15 OF THE MOSSEL BAY BY-LAW ON MUNICIPAL LAND USE PLANNING, 2021 (TO INCREASE THE MAXIMUM FLOOR AREA OF THE DWELLING UNITS)

Your appeal in the above regard refers. The Executive Mayor (Appeal Authority) resolved in terms of Resolution UB62-09/2023 as follows:

- "1. That the Appeal received against the decision by the Eden Joint Municipal Planning Tribunal, resolved under Resolution PT7-04/2023, to not approved the application for the amendment of conditions of approval and permanent departure on Nautilus Bay, Portion 1 of the Farm Klipfontein 344, **be upheld**.
2. That the application for the amendment of conditions of approval for Portion 1 of the Farm Klipfontein 344 in terms of Section 15(2)(h) of the Mossel Bay Municipality By-Law on Municipal Land Use Planning, 2021, namely, Condition No 2.4 of approval AFR6/19/4/2-P3 (approval with date stamp 27 March 1998) read together with approval Mos/344/1 (approval with date stamp 10 May 2001) to allow for a maximum floor area of 500m² per dwelling unit with the exception of Erven 27 (Portion 27 of the Farm No 344) and 35 (Portion 35 of the Farm No 344) of which the existing floor areas are limited to 526m² and 564m² respectively, **be approved**, in terms of Section 60 of the said By-Law.
3. That the application for the permanent departure of all Resort Zone II zoned properties in Nautilus Bay in terms of Section 15(2)(b) of the Mossel Bay Municipality By-Law on Municipal Land Use Planning, 2021 to allow for a maximum floor area of 500m² per dwelling unit with the exception of Erven 27

(Portion 27 of the Farm No 344) and 35 (Portion 35 of the Farm No 344) of which the existing floor areas are limited to 526m² and 564m² respectively, **be approved**, in terms of Section 60 of the said By-Law.

4. That the approvals above are subject to the following conditions imposed in terms of Section 66 of the said legislation:

Conservation Levy:

- 4.1 That a Conservation Levy calculated at a ratio of R10.00/m² for each square meter that the dwelling unit exceeding the 250m² floor area be paid by the property owner to the Nautilus Bay Homeowners Association on a monthly basis from date that the Occupation Certificate is issued.
- 4.2 That the Conservation Levy is subject to escalation of 5% every financial year.
- 4.3 That the Conservation Levy must be paid by the property Owner into the account of the Nautilus Bay Homeowners Association specifically for a conservation fund of which the financial status, environmental projects, and environmental project implementation status, must be provided to the Environmental Management Section of the Municipality at the end of each financial year.
- 4.4 That the Nautilus Bay Homeowners Association must provide an environmental project proposal report of the conservation project for the following financial year to the Environmental Management Section of the Municipality at the end of each financial year.
- 4.5 The utilisation of the conservation fund for projects outside the borders of the Nautilus Bay development may only be for environmental conservation projects approved by the Environmental Management Section of the Municipality located within the SDF Open space network.
- 4.6 That the Conservation Levy is applicable for buildings already constructed and new buildings to be constructed.
- 4.7 That the Conservation Levy must be included into the Nautilus Bay Homeowners Association Constitution and must be submitted to the Municipality for approval.
- 4.8 That the Nautilus Bay Homeowners Association must form part of an established local conservancy.

Contravention Levy:

- 4.9 That a Contravention Levy for each dwelling unit already constructed without approved building plans be paid by the property Owner(s) in terms of the Municipality's Tariff List of R13,000.00 (financial year 2022/2023) per dwelling unit prior to submission of the building plans.
- 4.10 That the Contravention Levy payable is subject to escalation.

Kindly note:

- That the Applicant/Owner must comply to the National Buildings Regulations at all times.
- That this approval does not exempt compliance with any other legislation that may be applicable to the proposed development.
- That all costs related to the development be for the account of the Applicant/Owner.
- That no second dwellings or outside bedrooms are allowed under Resort Zone II.
- That solar panels on carports will be regarded as floor area.

REASONS

That the decision above is made due to the following reasons:

- a) The comments from the Department of Environmental Affairs and Development Planning (DEA&DP) and the reasons for not approving the land use planning application by the Eden Joint Municipal Planning Tribunal (EJMPT) is acknowledged, however the inherited planning decision which provides present day challenges was not addressed by either the DEA&DP or the EJMPT.
- b) Exceeding the approved floor area on Resort Zone II properties is also not encouraged by the Mossel Bay Municipality for reasons in line with the decision taken by the EJMPT, however the Mossel Bay Municipality Spatial Development Framework (SDF), 2022 provides innovative solutions to create a balance between development and conservation which was not taken into consideration by the DEA&DP or the EJMPT.
- c) The proposal will establish a solid base for future construction administration by the Nautilus Bay Homeowners Association (HOA) and the Municipality whilst contributing towards

conservation efforts as established in the Mossel Bay SDF, 2022.

- d) Although the Appellant requested to reduce the Conservation Levy, it should be noted that, increasing the floor area is not encouraged and the payment of the monthly Conservation Levy is only payable by property owners who decide to exceed the 250m² floor area, therefore each property owner must make a calculated decision to take up this additional right."

Yours faithfully

 DIRECTOR : TOWN PLANNING & BUILDING CONTROL

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