

**Menslike Nedersettings, Beplanning en Ontwikkeling
Human Settlements, Planning and Development**

Collaborator No.: 2746896
Reference / Verwysing: Erf 1052, Hoekwil
Date / Datum: 05 July 2024
Enquiries / Navrae: Primrose Nako

Email: Fienie Yssel fienie.yssel@gmail.com
Johan yssel.johan@gmail.com

Mr & Mrs J & F Yssel

APPLICATION FOR REMOVAL OF RESTRICTION AND DEPARTURE: ERF 1052, HOEKWIL

Your comments / objection in the above regard refers.

The Deputy Director: Town Planning (Authorised Official) has, under delegated authority, 4.17.1.17 of 30 June 2022 decided:

1. That the application for Departure in terms of Section 15(2)(b) of the Land Use Planning By-Law for George Municipality, 2023 for the relaxation of western boundary building line from 30m to 12m to allow 7 storage containers on Erf 1052, Hoekwil;

BE REFUSED in terms of Section 60 of said Planning By-Law for the following reasons:

REASONS FOR DECISION

- a) The Directorate found the location of the 7 self-storage containers to be desirable due to their limited impact on surrounding neighbours, the public street and the natural environment.
- b) Notwithstanding, these structures are deemed to constitute a self-storage facility and not an outbuilding used for storage purposes as defined by the George Integrated Zoning Scheme By-law, 2023.
- c) A self-storage facility, even for personal use, is an industrial land use and is not permitted on properties zoned Agricultural Zone II in terms of the George Integrated Zoning Scheme, 2023. The scale of these facilities renders it vulnerable to misuse and will set undesirable precedent.
- d) Consequently, the application cannot be considered in positive light in its present form.

Note:

- (i) *The owner must remove the 7 containers from the property within 6-months from the date this decision comes into operation.*
- (ii) *Alternatively, the applicant may submit a revised proposal to convert a maximum of four (4) of these containers into a permanent storeroom structure(s) that align with the descriptions and definitions of the zoning scheme to the Directorate for consideration. The remaining storage containers must then be removed as per note (i).*

2. That the following applications applicable to Erf 1052, Hoekwil:

- (a) **Removal** in terms of Section 15(2)(f) of the Land Use Planning By-Law for George Municipality, 2023 of restrictive title deed condition F(b) from title deed no. T93598/2004 to permit a second dwelling on Erf 1052, Hoekwil;
- (b) **Departure** in terms of Section 15(2)(b) of the Land Use Planning By-Law for George Municipality, 2023 from the development parameter (b) for “second dwelling” to allow an existing second dwelling with a different architectural style from the main dwelling house on Erf 1052, Hoekwil;
- (c) **Departure** in terms of Section 15(2)(b) of the Land Use Planning By-Law for George, 2023 from development parameter (k) of “home occupation” to increase the floor area of the home occupation on Erf 1052, Hoekwil from 60m² to 65m²;

BE APPROVED in terms of Section 60 of said Planning By-Law for the following reasons:

REASONS FOR DECISION

Removal of Restrictions

- (a) The title deed contains a condition written in favour of the George Municipality that prohibits the development of more than one dwelling unit on the property.
- (b) The said condition could have been relaxed through the granting of Administrator’s Consent and the ROR application was in fact not required.
- (c) Nonetheless, the proposed removal of the restriction will have no negative impact on the Municipality (as holder of the right), surrounding neighbours or the surrounding smallholding area.

Second dwelling unit

- (d) Even though the second dwelling is not constructed in a style that is similar to that of a main dwelling house (in terms of building materials and roof type), its placement on the property as well as its limited extent and height means that it has no substantive negative impact on neighbours’ rights and amenity, the natural environment, the streetscape or the character of the surrounding smallholding area.
- (e) The application is also line with all other provisions of the Zoning Scheme as well as the spatial policies and frameworks applicable to the area.

Home occupation

- (f) The owner has been operating a home occupation (studio/office) for a considerable time and can be deemed a non-conforming land use since it already existed as an “occupational practice” under the previous Section 8 Zoning Scheme.
- (g) The Directorate has no record of complaints regarding the operation of home occupation on Erf 1052, Hoekwil.
- (h) It is clear that the existing home occupation does not have any negative impact to the surrounding neighbours or the smallholding area.

Subject to the following conditions imposed in terms of Section 66 of the said Planning By-Law:

CONDITIONS OF THE DIRECTORATE: HUMAN SETTLEMENTS, PLANNING AND DEVELOPMENT

General conditions

1. That in terms of provisions of the Land Use Planning By-law for the George Municipality 2023, the approval shall lapse if not implemented within a period of two (2) years from the date it comes into operation.

Conditions applicable to removal of restrictive conditions

2. That in terms of Section 34(1) the owner 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 and/or amendment of the restrictive condition, after the publication of a notice contemplated in Section 33(7) in the Provincial Gazette.
3. A copy of the endorsed Title Deed be sent to the Planning Department for record purposes.

Conditions applicable to Departure

4. This approval shall be taken to cover only Departure applications as approved as indicated on site and building plan number **SMT 2022 035** drawn by **Susan Venter** attached as “**Annexure A**” which bears Council’s stamp and shall not be construed as to depart from any other Council requirements or legal provision.
5. As-built building plans be submitted to the Municipality for approval after the endorsement of the title deed by Deeds Registrar.
6. The above approval will be considered as implemented on the approval of the as-built building plans.

CONDITIONS OF THE DIRECTORATE: CIVIL ENGINEERING SERVICES:

7. The amount of Development Charges (DCs) to be paid by the developer are calculated in terms of the George Municipality Land Use Planning By-Law (as amended) and the approved DC Guidelines. With reference to clause above, with regards to the proposed development, the developer will be required to make development contribution, as follows:
8. The amounts of the development charges are reflected on the attached calculation sheet dated 04/10/2023 (Annexure B) and are as follows:

Roads:	R	7 225, 70	Excluding VAT
Sewer:	R	-	
Water:	R	14 106,67	Excluding VAT
Total:	R	21 332,37	Excluding VAT
9. The total amount of the development charges of **R21 332,37 Excluding VAT** shall be paid prior to the first transfer of a land unit pursuant to the application or upon the approval of building plans, whichever occurs first, unless otherwise provided in an engineering services agreement or, in the case of a phased development, in these or any other relevant conditions of approval.
10. Any amendments or additions to the proposed development which is not contained within the calculation sheet as dated in Condition 8 above, which might lead to an increase in the proportional contribution to municipal public expenditure, will result in the recalculation of the development charges and the amendment of these conditions of approval or the imposition of other relevant conditions of approval.
11. As provided in section 66(5B) (b) of the Planning By-Law (as amended), using the date of approval as the base month the amount of R21 332,37 Excluding VAT shall be adjusted in line with the consumer price index published by Statistics South Africa up to the date when payment is made in terms of Condition 9 above.
12. Development charges are to be paid to the Municipality in cash or by electronic funds transfer or such other method of payment as may be accepted by the Municipality at the time when payment is made.
13. All services -internal, link and relocation of or upgrades to existing - are to be designed by a registered consulting engineer in accordance with Council specifications. This may include bulk services outside the development area but that must be upgraded to specifically cater for the development. All drawings and plans are to be submitted to the applicable department, or any other relevant authority, (hard copy and electronically) for approval prior to any construction work taking place. All work is to be carried out by a suitable qualified/registered contractor under the supervision of the consulting engineer who is to arrange services inspection with the relevant services department, provide the relevant authority with a certificate of completion, and as-built plans in electronic format. All costs will be for the developer. No transfers will be approved before all the municipal services have been satisfactorily installed and as-builts submitted electronically as well as the surveyor's plan.
14. Any, and all, costs directly related to the development remain the developers’ responsibility.
15. Only one connection permitted per registered erf (water and sewer connections). Condition 13 applies.
16. Any services from the development that must be accommodated across another erf must be negotiated between the developer and the owner of the relevant erf. Any costs resulting from the accommodation of such services or the incorporation of these services into the network of another development are to be determined by the developer and the owner of the other erf. Condition 13 applies.
17. Any service from another erf that must be accommodated across the development or incorporated into the services of the development: all negotiations will be between the owner/developer of the relevant erf and the developer. Costs for the accommodation of these services or the upgrade of the developments

- services to incorporate such services are to be determined by the developers/owners concerned. Condition 13 applies.
18. Any existing municipal or private service damaged during the development will be repaired at the developers cost and to the satisfaction of the George Municipality. Condition 13 applies.
 19. Suitable servitudes must be registered for any municipal service not positioned within the normal building lines.
 20. Transfers, building plan approvals and occupation certificates may be withheld if any sums of money owing to the George Municipality are not paid in full, or if any services have not been completed to the satisfaction of the Dir: CES & ETS, or any condition of any authority has not been satisfactorily complied with.
 21. The Developer is responsible to obtain the necessary approval / way leaves from third parties which include, but is not limited to the George Municipality, Telkom & Fibre optic service provider.
 22. No construction activity may take place until all approvals, including way leave approval, are in place, all drawings and material have been approved by the Technical Directorates.
 23. Municipal water is provided for potable use only. No irrigation water will be provided.
 24. A water meter must be installed by the developer prior to construction to monitor water usage during the construction phase. The Dir: CES (Water section) is to be consulted by the developer, prior to installation, regarding the required specifications. Failure to complying with the water meter application process, will result in the developer being responsible for payment of penalties and/or an estimated non-metered water consumption by this department at a rate as per the applicable annual Tariff List. In this regard, transfers, building plan approval and occupation certificates may be withheld if any sums of money owing to the George Municipality are not paid in full. The water meter is to be removed on completion of construction if so, required by the Dir: CES.
 25. The developer / erf owner is to apply to the George Municipality for the installation of an individual erf water meter prior to any building work commencing on an erf.
 26. No municipal waterborne sewer service is available at present. Should a municipal network in future be extended to this area, the owner will be compelled, at own cost, to connect to the network. A Development Charge for sewer will then become payable in accordance with the approved DC Guidelines at the time of connection.
 27. A conservancy tank, or alternative approved sewer disposal method, must be installed at the Developer/owner's cost. The Developer/owner is to appoint a private contractor, at own expense, to service the tank, and the disposal of the content is to be via an approved disposal method. The installation of a septic tank may be considered if the required percolation tests are within the accepted norms.
 28. The discharge of surface stormwater is to be addressed by the developer. Condition 13 applies. All related costs are for the developer. The developer is to consult with the Dir: CES to ensure that stormwater planning is done online with the available stormwater master plans.
 29. A layout plan indicating the proposed storm water drainage must be submitted to the Dir: CES for prior approval. Condition 13 applies.
 30. Internal parking requirements (i.e. within the development area), position of accesses, provision for pedestrians and non-motorized transport, and other issues related to traffic must be addressed and all measures indicated on plans and drawings submitted for approval.
 31. Adequate parking with a hardened surface must be provided on the premises of the proposed development.
 32. No private parking will be allowed in the road reserve. The developer will be required at own cost to install preventative measures to ensure compliance.
 33. A dimensioned layout plan indicating the proposed accesses onto private / servitude roads, must be submitted to the relevant departments for approval. Condition 13 applies.
 34. The approval of the layout of the development and accesses is subject to the George Roads Master Plan and approved by the Dir: CES. A site development plan is to be submitted to the Dir: CES, or any other relevant authority for approval prior to any construction work taking place.
 35. Permission for access onto municipal, provincial or national roads must be obtained from the relevant authorities.

36. Minimum required off-street parking provided, must be provided in terms of the George Integrated Zoning Scheme 2023 parking requirements and vehicles must, in terms of Clause 46(1)(b) readily leave the site without reversing across the sidewalk. Alternative Parking may be supplied in terms Clause 43(1 & 2).
37. Site access to conform to the George Integrated Zoning Scheme 2023 Clause 45 (3).

CONDITIONS OF THE DIRECTORATE: ELECTROTECHNICAL SERVICES:

38. The amount of Development Charges (DCs) to be paid by the developer are calculated in terms of the George Municipality Land Use Planning By-Law (as amended) and the approved DC Guidelines. With reference to condition above, with regards to the proposed development, the developer will be required to make development contribution, as follows:
39. The amounts of the development contributions are reflected on the attached calculation sheet dated 21/12/2023 (Annexure B) and are as follows:
Electricity: R13 220,03 Excluding VAT
40. The total amount of the development charges of **R13 220,03 Excluding VAT** shall be paid prior to the first transfer of a land unit pursuant to the application or upon the approval of building plans, whichever occurs first, unless otherwise provided in an engineering services agreement or, in the case of a phased development, in these or any other relevant conditions of approval.
41. Any amendments or additions to the proposed development which is not contained within the calculation sheet as dated in Condition 39 above, which might lead to an increase in the proportional contribution to municipal public expenditure will result in the recalculation of the development charges and the amendment of these conditions of approval or the imposition of other relevant conditions of approval.
42. As provided in section 66(5B) (b) of the Planning By-Law (as amended), using the date of approval as the base month the amount of R13 220, Excluding VAT shall be adjusted in line with the consumer price index published by Statistics South Africa up to the date when payment is made in terms of Condition 40 above.
43. Development charges are to be paid to the Municipality in cash or by electronic funds transfer or such other method of payment as may be accepted by the Municipality at the time when payment is made
44. All services -internal, link and relocation of or upgrades to existing - are to be designed by a registered consulting engineer in accordance with Council specifications. This may include bulk services outside the development area but that must be upgraded to specifically cater for the development. All drawings and plans are to be submitted to the applicable department, or any other relevant authority, (hard copy and electronically) for approval prior to any construction work taking place. All work is to be carried out by a suitable qualified/registered contractor under the supervision of the consulting engineer who is to arrange services inspection with the relevant services department, provide the relevant authority with a certificate of completion, and as-built plans in electronic format. All costs will be for the developer. No transfers will be approved before all the municipal services have been satisfactorily installed and as-builts submitted electronically as well as the surveyor's plan.
45. Should more than two developments/properties be party to or share any service, the Dir: CES & ETS will in conjunction with the parties determine the pro-rata contributions payable.
46. Any, and all, costs directly related to the development remain the developers' responsibility.
47. Only one connection permitted per registered erf (Electrical, water and sewer connections). Condition 44 applies.
48. Any services from the development that must be accommodated across another erf must be negotiated between the developer and the owner of the relevant erf. Any costs resulting from the accommodation of such services or the incorporation of these services into the network of another development are to be determined by the developer and the owner of the other erf. Condition 44 applies.
49. Any services from the development that must be accommodated across another erf must be negotiated between the developer and the owner of the relevant erf. Any costs resulting from the accommodation of such services or the incorporation of these services into the network of another development are to be determined by the developer and the owner of the other erf. Condition 44 applies.
50. Any service from another erf that must be accommodated across the development or incorporated into the services of the development: all negotiations will be between the owner/developer of the relevant erf and the developer. Costs for the accommodation of these services or the upgrade of the developments services to incorporate such services are to be determined by the developers/owners concerned. Condition 44 applies. Any existing municipal or private service damaged during the development will be repaired at the developers cost and to the satisfaction of the George Municipality. Condition 44 applies.

51. Suitable servitudes must be registered for any municipal service not positioned within the normal building lines. Servitudes must be registered for all electrical services traversing erven.\
52. Transfers, building plan approvals and occupation certificates may be withheld if any sums of money owing to the George Municipality are not paid in full, or if any services have not been completed to the satisfaction of the Dir: CES & ETS, or any condition of any authority has not been satisfactorily complied with.
53. The Developer is responsible to obtain the necessary approval / way leaves from third parties which include, but is not limited to the George Municipality, Telkom & Fibre optic service provider.
54. No construction activity may take place until all approvals, including way leave approval, are in place, all drawings and material have been approved by the Technical Directorates.
55. In all cases, where individual customer applies for a supply capacity exceeding that provided for in the calculation of DCs and for the developer paid, will be subject to additional DCs based on the rates applicable at the time.
56. Owner to ensure compliance with Regulation XA of SANS 10400 (building plans).
57. Owner to ensure compliance with Regulation XA of SANS 10142 (wiring) and any other applicable national standards.
58. The developer and/or an owner of an erf shall see to it that no Small-Scale Embedded Generation (SSEG) are installed on an erf, any portion of an erf or the development, without prior approval from the ETS. Should any SSEG be installed within any part of the development the Electrotechnical Services will within their discretion either implement applicable penalties and/or disconnect the relevant point of supply.
59. Where DCs have been applied for a particular section of the network, but the developer is requested to install and fund a part of the section of network, such work will be credited against DCs calculated.
60. Installation of ripple relays are compulsory for all geysers with electrical elements.
61. All LV work must be installed and be funded by the developer / customer.
62. The Electricity DC charge excludes any MV/LV and LV network costs. The customer will be quoted separately for any upgrade work required.
63. Rural connection: Capital contributions will be payable by the applicant as part of the electrical connection on application for an electrical connection. The Capital contribution will be determined by the department ETS, based on the size of the connection at the standard prevailing DCs calculation methodology for rural connections.

Notes:

- a) *The mancave is an existing structure and does not form part of the applications submitted. Nonetheless, the objectors alleged that the man cave/entertainment area was also a dwelling unit, and thus, it was investigated.*
- b) *It is evident that the mancave was used as dwelling unit in the past. However, it no longer has a kitchen and is now regarded as an outside room and not a dwelling unit.*
- c) *The owner is warned to not convert the mancave back into a dwelling unit as it is a contravention of the George Integrated Zoning Scheme, 2023.*
- d) *The mancave is used for hosting functions (workshops, kids parties, staff meetings etc.). This is also a contravention of the George Integrated Zoning Scheme, 2023. The owner is herewith warned to cease the use of the mancave for this purpose.*
- e) *If the owner desires to conduct these activities on the property, she must first apply for a consent use for a function venue or an occasional use to the Municipality for consideration. The activity may not be conducted from the property unless said application has been approved.*
- f) *Building plans to be submitted in terms of section 4 of the National Building Regulations and Building Standards Act, 103 of 1977, for the development.*
- g) *The owner is to comply with all requirements of OSCAE condonation issued for the 2nd dwelling unit.*
- h) *The owner is reminded that the property falls within a Critical Biodiversity Area and Ecological Support Area in terms of the Western Cape Biodiversity Spatial Plan.*
- i) *The property also has two drainage lines on each side which serves as a water source protection for the Touws River. The protection of the Touws River is of national importance and their ecological functioning must be protected and maintained.*
- j) *The owner/applicant is reminded of the importance to maintain CBA connectivity and to ensure that the proposed development does not negatively affect the CBA and ESA on the property.*

- k) Adequate fire breaks must be prepared and maintained around the property to prevent the spread of wildfire in the area. The owner must submit an OSCAE application before any clearing of vegetation may occur.
- l) Cape Nature recommend that the owner of the property should register to be a member of the Southern Cape Fire Protection Association if not yet a member.
- q) The must take heed of Section 27(3) of the George Integrated Zoning Scheme By-law, 2023 before erecting any new boundary walls and fences on the property. In this regard, the provisions of the OSCAE Regulations may apply.
- m) The Development Charges indicated above are based on the information available to the respective engineering departments at the time of approval. It is advised that the owner consults with these departments prior to submission of building plans for a final calculation.
- n) The applicant is to comply with the National Forestry Act, Act No 84 of 1998, should it be required.
- o) Provision for the removal of solid waste are to be addressed in conjunction with the Directorate: Community Services.
- p) The developer is to adhere to the requirements of all relevant Acts, as well as all conditions stipulated by any other authority whose approval is required and obtained for this proposed development.

The application complies with the requirements of Section 67 of the Land Use Planning By-Law for George Municipality, 2015.

You have the right to appeal to the Appeal Authority against the decision of the Authorised Employee, in terms of Section 79(2) of the Land Use Planning By-Law for George Municipality, 2023.

A detailed motivated appeal with reasons should be directed to the Appeal Authority and received by the Director: Human Settlements, Planning and Development, P O Box 19, George, 6530 or Directorate: Human Settlements, Planning and Development, 5th floor, Civic Centre, York Street, George **on or before 26 JULY 2024**. Please also note that the appeal must be e-mailed to the administrative officer mentioned above.

An appeal that is not lodged within the applicable period mentioned above or that does not comply with Section 79 of the Land Use Planning By-Law for George Municipality, 2023, will be deemed invalid in terms of Section 80 of said By-Law.

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

Yours faithfully



I. HUYSER
ACTING SENIOR MANAGER: TOWN PLANNING

C:\stan\Erf 1052 Hoekwil (ROR & Depature Decision Letter)J & F Yssel Objector.docx