

Collaborator No.: 3034654
Reference / Verwysing: Erf 1559, Heroldsbay
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APPLICATION FOR THE PERMANENT DEPARTURE (BUILDING LINE RELAXATION):
ERF 1559, UITSPANNING STREET, HEROLDSBAY

Your application in the above regard refers.

The Deputy Director: Town Planning (Authorised Official) has, under delegated authority, 4.17.1.17 of 24 April 2025 decided that the application for Permanent Departures in terms of Section 15(2)(b) the Land Use Planning By-Law for George Municipality, 2023 for the following on Erf 1559, Herolds Bay:

1. Relaxation of the north-eastern side boundary building line from 1.5m to 0.655m to accommodate open stairs on Erf 1559, Herolds Bay;
2. Relaxation of the eastern side boundary building line from 1.5m to 0.606m to accommodate open stairs on Erf 1559, Herolds Bay;
3. Relaxation of the south eastern street boundary building line from 3.0m to 2.338m and 1.394m, respectively to accommodate additions and open stairs on Erf 1559, Herolds Bay; and
4. Increase in the allowable coverage from 65% to 68.52% to accommodate additions to the existing dwellinghouse on Erf 1559, Herolds Bay;

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

REASONS

- a) The overall massing of the structure and increased coverage could negatively affect the neighbouring properties and overall negative impact on the character of the streetscape and area. The design guidelines in the LSDF were proposed as a turnaround strategy due to the massing of buildings in Herold's Bay lower which was threatening the village character of the area. The massing of existing buildings in this area can therefore not serve as motivation to deviate from the parameters applicable to the property, which is already liberal, compared to former parameters.
- b) The large milkwood tree(s) is a vital part of the character of the property and streetscape which will be negatively affected with the removal of these tree(s).
- c) Aerial imagery from 1957 confirms the presence of these trees which is evident that they have defined the streetscape for over 70 years and likely more than 100 years. It is therefore likely that this tree can be classified as a champion tree and regarded as part of the natural heritage of the village. The applicant has not provided sufficient information in this regard.

- d) The Milkwood trees on site form part of the Herolds Bay urban forest, also known as the “green fingers,” which serve as crucial ecological corridors linking urban areas to surrounding mountains and forests and every effort must be taken to ensure their preservation.
- e) Further, pedestrian access to the 1st floor of the addition can be taken off Ben Lambrecht Lane with access to the beach via Ben-Ben steps, eliminating the need for the proposed steps.
- f) There is opportunity to reconfigure the development to comply to all development parameters while also retaining the Milkwood Trees on site. The applicant has not pursued the design that is sensitive to the environment and the interests of surrounding property owners.
- g) The Department must consider the latent development rights of the property afforded by the zoning of the site, the extent to which it may deny the owner from exercising these rights to protect the natural environment and to what extent reasonable conditions may be imposed to mitigate against potential negative impacts of the development on the natural aspects of the property and surrounds.
- h) The development proposal does not achieve the objective of balancing the owners’ rights to develop against the need to protect the natural environment. The building design is not considerate of the bio-physical constraints of the property, and potential impacts it may have on the natural environment and landscapes which characterises and frames the village. The applicant has made no attempt to mitigate against environmental impacts and the proposed development only stands to reinforce inconsiderate and inappropriate development forms.
- i) The proposed development, in its current form, is found to conflict with the environmental and heritage aspects as outlined in the Municipal Spatial Development Framework (MSDF), while also conflicting with the “Duty of Care” principles as outlined in NEMA. It, therefore, cannot agree to a development that will result in the complete removal of these trees.
- j) The maximum occupancy of the property (8 bedrooms and at least 15 people) suggests that multiple or extended families will utilise the house. It is likely that additional on-site parking, beyond what is prescribed by the zoning scheme, will be required for these occupants, especially during peak holiday periods, contributing to the Municipality’s assertion that the development proposal should be reconsidered, eliminating / mitigating its impact on the trees and the natural environment.

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 18 JULY 2025** and simultaneously submit a copy of the appeal on any person who commented, made representations or objected to the application in the above regard. 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.

Please also note that in terms of Section 80(14) of the Land Use Planning By-Law for George Municipality, 2023, the above decision is suspended until such time as the period for lodging an/appeal(s) has lapsed, any appeal(s) has been finalised and you have been advised accordingly.

Yours faithfully



H. KOCH

SENIOR MANAGER: SPATIAL PLANNING

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