

*Beplanning en Ontwikkeling
Planning and Development*

Collaborator No.: 3324354
Reference / Verwysing: Erf 243, Wilderness
Date / Datum: 31 October 2025
Enquiries / Navrae: Primrose Nako

Email: hlourens@george.gov.za

Henko Lourens
46 Market Steet
GEORGE
6530

**APPLICATION FOR AMENDMENT OF RESTRICTIVE TITLE DEED CONDITION AND
CONSENT USE: ERF 243, WILDERNESS**

Your application in the above refers.

The Eden Joint Municipal Planning Tribunal – George Municipality, meeting held on 28 October 2025 resolved:

That, with due regard for the objections submitted against the removal of restrictions application as well as the comments received on the proposed the lease of a portion of Owen Grant Street to the owner of Erf 2081, Wilderness for outdoor dining and seating purposes, and the findings and conclusion reached in the report, the following applications applicable to Erf 243, Wilderness:

1. Amendment, in terms of Section 15(2)(f) of the Land Use Planning By-Law for George Municipality, 2023, of restrictive Title Deed Condition (B) contained in Deed of Transfer T59963/1984 that reads as follows:

"SUBJECT FURTHER to the following conditions contained in the said Deed of Transfer No. 2059/1923 namely:

"The area shown in the diagram of THE PARK shall be an open space or common for the use of all owners (as this term is hereafter defined) for recreational purposes. It shall not be built upon nor shall camping be permitted thereon. Until such time as a Local Authority existing or hereafter established shall take over THE PARK, the control and management thereof shall be vested in the registered owner of THE PARK, who shall have the right to enforce observance of order and cleanliness. The owner of THE PARK and of the remaining extent, hereinafter referred to shall permit owners (as hereinafter defined) at all times to have free access across the PARK and the Remaining Extent to the Touw River, situate on the remaining extent and the sea, and owners (as hereinafter defined) save that the term shall not include their families or visitors shall have the right to moor their boats to the banks of the River. During the progress of any building operation any owner as hereinafter defined, or his Contractor shall be allowed

to graze his draught animals in THE PARK for such time – not exceeding two hours in any one day – as is necessary to afford them rest.

“owners shall include:

(a) All owners of Lots deducted from the General Plan W 71, their families and visitors (whether paying or non - paying)

(b) The owners of lots ‘d’ and “dd” and family and visitors and guests (whether paying or non-paying).

But nothing hereinbefore contained shall be taken as affecting, diminishing or increasing any rights of the owners of the land or any part thereof described in:

Transfer No:	Date
2955)	16 th April 1907
2956)	
2957)	16 th April 1907
2958)	
1295)	21 st October 1918
14200)	6 th October 1920

Is not being the intention of these presents to regard the owners of these extents or any portions thereof as ‘Owners’ within the meaning of the foregoing definition, whether the same have or have not been included in the General Plan W71.”

be amended to read as follows:

“The property shall be used for public open space and public street purposes, including such uses as may be consented to on a temporary basis in accordance with the applicable By-Laws. No camping shall be permitted. No permanent structures may be allowed on the public open space area except for play apparatus, street furniture, open perimeter fencing, engineering infrastructure and architectural or landscaping features that support the intended use of the public open space.”

2. Consent Use in terms of Section 15(2)(o) of the Land Use Planning By-Law for George Municipality, 2023, for ‘outdoor trading and dining’ under the ‘Transport Zone II’ (public street) zoned area measuring +/- 333m² along Owen Grant Street road reserve adjoining Erf 2081, Wilderness (in accordance with the Council Resolution dated 24 July 2024);

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

REASONS

- (a) The condition was amended (broken down into its components below) to allow for the following:
 1. **The property shall be used for public open space and public street purposes** – meaning that it is limited to the present primary land uses stated under the respective zonings of the property – Open Space Zone I and Transport Zone II – in the zoning scheme.
 2. **including such uses as may be consented to on a temporary basis in accordance with the applicable By-Laws.** This refers to a consent use (with the emphasis on temporary) such as the outdoor dining and seating permitted through a lease agreement and occasional uses (events) permitted through municipal policies and bylaws.
 3. **No camping shall be permitted.** This provision is contained in the present condition and is being retained at the request of the Wilderness community.
 4. **No permanent structures may be allowed on the public open space area** – which prevents any permanent structures typically allowed as a primary right (such as an ablution block[s]) or structures allowed as consent uses (such as environmental facilities,

tourist facilities and freestanding base telecommunication stations) from being built on the public open space. This provision is included in consideration of the objections and comments received.

5. except for play apparatus, street furniture, open (penetrable) perimeter fencing, engineering infrastructure and architectural or landscaping features that support the intended use of the public open space – to allow for municipal infrastructure which is placed below the ground and ancillary uses that will improve the amenity and use of the space for the benefit of the community.
- (b) The proposed amendment will not have any significant adverse impact on surrounding neighbours' rights and amenity in terms of access to and use of the land, with no adverse impacts in terms of loss of privacy, views, and sunlight.
 - (c) The park area will continue to function as public open space and serve the broader community while allowing for unencumbered public access, the construction of appropriate infrastructure and the hosting of occasional events in accordance with Council's policy and bylaws.
 - (d) The proposed amendment addresses community concerns by limiting development on the park area, while ensuring alignment with the public open space zoning as per the zoning scheme.
 - (e) The consent use applies exclusively to a portion of the road reserve along Owen Grant Street, measuring approximately 333m², to be leased to the Girls restaurant (Restaurant on Erf 2081, George) in accordance with the related Council resolution and the conditions of the lease agreement.
 - (f) The Consent does not establish any new land use but merely authorizes the continuation of the existing seating area as per Council's Resolution.
 - (g) The proposed lease area has formed part of and has been used by the owner of Erf 2081 for at least 68 years. There has been a restaurant operating from Erf 2081 since at least 1998. The current restaurants have been operating from the property and have been using the encroached area since about 2016, albeit illegally.
 - (h) The use of the lease area by the owner of Erf 2081 has never been an issue and is in principle supported by most commenters / objectors to the matter.
 - (i) The Consent Use (to use the portion of road reserve for outdoor dining and seating) was not specifically applied for, but in consideration of the extensive public participation processes conducted in relation thereto, it was agreed that it could be added as an application without an additional public participation process being followed.
 - (j) A condonation was granted by the Deputy Director: Development and Environmental Planning in accordance with the delegation granted to her to amend the application to include the proposed Consent Use without further public participation being required.

CONDITIONS OF THE DIRECTORATE: PLANNING AND DEVELOPMENT

Amendment of Title Condition:

1. That in terms of the Land Use Planning By-law for the George Municipality 2023, the approval for the amendment of the title deed condition shall lapse if not implemented within a period of five (5) years from the date it comes into operation.
2. That in terms of Section 34(1) the owner/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 amendment of the condition, after the publication of a notice contemplated in Section 33(7) in the Provincial Gazette.

Consent Use:

3. That in terms of the Land Use Planning By-law for the George Municipality 2023, Consent Use shall lapse within a period of maximum nine (9) years and eleven (11) months from

the date of it comes into operation or on expiration of the lease agreement, whichever comes first.

4. The Consent Use shall only be applicable to the +/- 333m² area on Own Grant Street road reserve, as shown on the plan that formed part of the lease agreement application (area currently being used for outdoor dining purposes).

NOTE:

Recommendation from Tribunal

1. *The Municipality should consider subdividing the street portion and parking areas from Erf 243, Wilderness, to ensure that the designated open space/park area is no longer included within the Transport Zone area.*
2. *The Municipality should consider preparing a Site Development Plan (SDP) for the park area. This plan must undergo a public participation process, even if it reflects the existing use of the land, and an official approval stamp must be endorsed on the final plan.*

You have the right to appeal to the Appeal Authority against the decision of the Eden Joint Municipal Planning Tribunal – George Municipality, 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: Planning and Development, P O Box 19, George, 6530 or Directorate: Planning and Development, 46 Market Street (Old York Hostel Building), George **on or before 21 November 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



C PETERSEN

SENIOR MANAGER: TOWNPLANNING

C:\Users\pnako\Desktop\TRUBUNAL ITEMS\Erf 243 Wilderness\Erf 243 Wilderness (Amendment of ROR & Consent use ,approval) H Lourense.docx