Dear Madam,

PROPOSED SUSPENSION OF RESTRICTIVE TITLE CONDITIONS, PERMANENT DEPARTURES AND CONSENT USE: ERF 436 NATURE’S VALLEY

1. The Manager: Land Use Management made the following decision on 12/08/2019:

2. That approval be granted in terms of Section 60 of the Bitou Municipality: Land Use Planning Bylaw (2015) for:

   a) A permanent departure in terms of Section 15 (2) (b) from the provisions of the Section 8 Zoning scheme to allow the relaxation of building lines to accommodate all encroaching structures as indicated on the Site Plan (NV436SP-31-10-2018). This will include:
      i) relaxation of the street building line from 4.0m to 1.73m from the western boundary of the servitude; to allow encroachments of the main dwelling and Lapa (building # 1 and 2 on the Site Plan);
      ii) relaxation of the northern lateral building line from 2m to 0.53m to allow the additional dwelling (building # 8 on the Site Plan);
      iii) Rear building line to accommodate the existing garden shed (building #7 on the Site Plan);
      iv) Southern building lines to accommodate encroaching structure (building# 2-7 on the Site Plan).

   b) A consent use in terms of Section 15(2)(o) to allow for an additional dwelling on a “Residential Zone I” in terms of the Section 8 Zoning Scheme Regulations;

   c) Suspension of Restrictive Title Condition C. (2), in respect of Title Deed 6360/2015 in terms of Section 15 (2) (f) to allow the Title deed building line restrictions to be relaxed to accommodate all encroaching structures as indicated on the Site Plan (NV436SP-31-10-2018). This will include:
      i) Relaxation of the street building line from 4.72 to 1.73m from the western boundary of the servitude, to allow encroachments of the main dwelling and Lapa (building 1 and 2 on the Site Plan);
      ii) Relaxation of the northern lateral building line from 3.15m to 0.53m to allow the encroachment of the additional dwelling (building 8 on the Site Plan);
      iii) Consent from the local authority in terms of Condition C. 2(a) to allow a second dwelling, carport, store room and garden shed within the lateral building lines within 11.02m from the rear boundary.
3. The above approval is subject to the following conditions imposed in terms of Section 66 of the Bitou Municipality Land Use Planning Bylaw (2015):

i. This approval applies only to the application under consideration and shall not be construed as authority to depart from any other legal prescriptions or requirements from Council;

ii. Any further encroachments over the title deed or Zoning Scheme building lines which are not indicated on the layout plan (Plan No: NV436SP-31-10-2018) will require additional applications for removal/suspension or departures in terms of the relevant planning bylaw;

iii. This approval does not constitute building plan approval in terms of the National Building Regulations and Building Standards Act 1977;

iv. This approval will lapse after a period of five (5) years from the date that this approval comes into operation, if building plans for the proposed additions have not been approved, or if all conditions of approval have not been complied with;

v. Buildings #2-7 & 9 shall be limited to the use of an outbuilding this includes: housing of servants, garaging of motor vehicles and storage purposes. No other use/s may be permitted for these structures.

vi. The location of the structures ‘regularised’ are brought about in line with the Layout Plan (Plan No NV436SP-31-10-2018). These structures should be reflected on the Site development plan upon building plan submission;

vii. The existing septic tank/s on site, if any, should be converted to a conservancy tank to the satisfaction of the Head: Municipal Services & Infrastructure Development.

viii. That a Site Development Plan be submitted to the Head: Economic Development and Planning for approval before building plans are submitted.

ix. This approval does not absolve the applicant from compliance with the requirements of any other legislation related to land development.

4. Reasons for the above decision are as follows:

a) The existing unlawful structures will be legalised and will adhere to the development parameters for a Single Residential Zone in terms of the Section 8 Zoning Scheme Regulations.

b) The approval should not set an undesirable precedent, as the encroachment is minimal and supported by the abutting property owner. Each case should be evaluated on its own desirability/merit.

c) A suspension (once-off approval) rather than a removal will allow for the existing additions whilst the restrictive title conditions remain in place for any future structures.

d) The proposed encroachment should not have any negative effect on the natural environment.

e) The development proposal will have no impact on municipal or engineering services.

f) The servitude right of way was used as precautionary measure because it was unclear if the eastern boundary of the site encroached onto a ‘Street’. Hence, the departures and suspension of restrictive title deed conditions will legalise the existing structures measured from the western boundary of the servitude and not the Eastern boundary of the site.

g) Title deed conditions specifying development parameters (such as building lines) were imposed before the advent of Town planning/Zoning Schemes. Compliance with the Zoning Scheme building lines, and departures to relax the building lines ensures a more consistent approach.
h) The formalisation of the existing structures should not adversely affect the character of the surrounding area, and should not have a detrimental effect on the views or privacy of neighbouring property owners.

5. You are hereby informed of your right to appeal to the Appeal Authority in terms of section 79(2) of the said legislation.

6. Such an appeal must be submitted in writing to the Municipal Manager, Bitou Municipality, Private Bag X1002, Plettenberg Bay, 6600, within 21 days of registration of this letter.

7. The attached appeal form must be completed and should be directed to the Municipal Manager, Bitou Municipality, Private Bag X1002, Plettenberg Bay, 6600, within 21 days of notification of this decision together with proof of payment of the appeal fee.

8. If you exercise your right to appeal, you are requested to simultaneously serve notice of the appeal on any person who commented on the application and any other persons as the Municipality may determine. Proof of serving the notification must be submitted to the Municipality, within 14 days of serving the notification.

9. The notice must be served in accordance with section 35 of the said legislation and in accordance with the additional requirements as may be determined by the Municipality. The notice must invite persons to comment on the appeal within 21 days from date of registration of this letter.


11. A notification in terms of Section 61 of the Bitou Municipality Land Use Bylaw (2015) will confirm the coming into operation of the approval, if no appeals were received within 21 days of registration of this letter.

Yours faithfully

David Friedman
Director: Economic Development and Planning