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ERF 425, CORNER OF JINGI STREET AND MFUNDO STREET, ZWELIHLE, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR THE EXTENSION OF THE PERIOD OF VALIDITY OF AN EXISTING APPROVAL AND THE AMENDMENT OF CONDITIONS OF EXISTING APPROVALS: WRAP PROJECT OFFICE ON BEHALF OF MC BHALA

425 HZW (4510/2023)

B Minnaar

9 September 2024

(028) 313 8900

Hermanus Administration

1. EXECUTIVE SUMMARY

An application has been received on 26 October 2023 from WRAP Project Office on behalf of MC Bhala on Erf 425, Zwelihle for the following:

- ❖ **Extension of the period of validity of an existing approval** in terms of Section 16(2)(i) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 to extend the temporary departure for a further three (3) years to operate a bottle store from the property; and
- ❖ **Amendment of the conditions of existing approvals** in terms of Section 16(2)(h) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020, as well as the provisions of SPLUMA, to extend the temporary deviation from the Zwelihle Business Corridors for a further three (3) years to operate a bottle store from the property.

A Locality Plan of the property concerned is attached as Annexure A. The Motivation Report from the applicant in support of the proposal is attached as Annexure B, while the proposed Site Development Plan is attached as Annexure C.

2. DECISION AUTHORITY

Municipal Planning Tribunal

3. BACKGROUND / SITE HISTORY

The erf measures 207m² in extent and is located in the residential township of Zwelihle. The property is zoned Residential Zone 1 with approved building plans for the residential dwelling house. The subject property has the necessary approval to operate a bottle store which expired on the 21st of September 2024 and have thus applied for an extension of the period of validity of an existing approval and the amendment of the conditions of existing approval to accommodate a further three years to operate a bottle store.

The bottle store has been operational since receiving the necessary approval and to date, no complaints have been received. The property is not located within the business corridor and the bottle store operates on a single residential property.

4. SUMMARY OF APPLICANT'S MOTIVATIONTHE MOTIVATION FOR THE APPLICATION IS AS FOLLOWS:

- The application is for the extension of the validity period of an existing approval to operate a bottle store from a residential property.
- Application is also made for the amendment of existing conditions of approval to extend the temporary deviation for a further three (3) years.
- The proposed extension is for the existing bottle store that sells alcoholic beverages to clients for off-site consumption.
- The primary objective of the property owner is to sustain the operation of the approved bottle store at the current location until a suitable replacement property becomes available within the designated business corridors.
- Prices of properties in the business corridors have increased significantly and property owners are hesitant to sell their properties, and this has contributed to the owner of the subject property still searching for a suitable and affordable property within the business corridors.
- Bottle stores, unlike taverns do not emit excessive noise which could ensure that neighbouring property owners are not exposed to loud noise until the early hours of the morning.
- The proposed trading hours is Monday - Saturday: 10:00 – 20:00 and Sunday: 10:00 – 13h00 which is in compliance with the Liquor By-Law.
- The proposed operational hours are therefore intended to ensure that there is no conflict between the residents of the surrounding erven and the existing bottle store.
- The purpose of this proposal is therefore intended to institute a process in Zwelihle where property owners aspire to submit land use planning applications to comply with all the prescribed town planning and building regulations.
- The approval of this proposal will enable the Municipality to impose conditions to regulate the activity.
- All services to the property are available.
- The application is to allow the owner the time to raise capital in order to purchase properties which are located in the economic corridor and apply for permanent lands use rights.
- This application also illustrates that there is a growing optimism among business owners that the OMZS, By-Law and town planning application process is highly facilitative and enabling for small business to flourish in the area.

SPATIAL PLANNING POLICIES:**PSDF**

The application seeks the approval of the Municipality to ensure that an existing business is granted a further extension in order to grow and soon be able to move to the business corridors which will enable the business to grow even further.

SDF

The property has approved building plans and the bottle store is already operational with no changes proposed except the period of validity of an existing approval. The location of the bottle store and a dwelling on the subject property promotes economic efficiency and decreasing overheads.

The property will remain primarily Residential Zone 1: Single Residential.

OMGMS

The proposed land use promotes integrated living environment which consists of a complementary and appropriate mixture of residential and small business. No densification is proposed for the subject property.

PLANNING PRINCIPLES– Spatial Justice

The implementation of the proposal would contribute to facilities and land. The implementation of this proposal would contribute to unlocking contextually appropriate small business opportunity which is appropriate within the residential context in Zwelihle. This would combat the historic apartheid spatial development trend which only designated Zwelihle to exclusively function as a residential area and did not allocate any erven for commercial purposes, which would enable local entrepreneurs to flourish.

– Spatial Sustainability

The proposal promotes the compaction, missed use urban environments which allow for a functional space economy to flourish.

– Efficiency

The proposal represents a more efficient use of the land.

– Spatial Resilience

The proposal is aligned with the spatial resilience principles contained in the PSDF, SDF and OMGMS.

– Good Administration

Procedure as prescribed with public participation was followed.

5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Registered notices & e-mail	Yes	13 March 2023	19 April 2024
Internal departments	Yes	13 March 2023	19 April 2024
Ward Committee	Yes	13 March 2023	19 April 2024
Total comments	NONE		
Total letters of support	NONE		
Was public participation undertaken in accordance with section 47- 50 of the By-law on Municipal Land Use Planning?			Yes
Was the application processed correctly (if no, elaborate below):			Yes
Is the proposal consistent with the principles referred to in chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below)			Yes

6. SUMMARY OF COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS

Name	Date received	Summary of comments
Engineering Services	09/04/2024	See Annexure D.
Fire Department	19/03/2024	No objection subject to compliance with the provisions of SANS 10400-A:2016, SANS-T:2020 & By-Law relating to Community Fire Safety.
Building Department	14/03/2024	No objection. The building plan application must comply with all applicable law.

7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

N/A

8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS

N/A

9. MUNICIPAL ASSESSMENT OF COMMENTS

N/A

10. MUNICIPAL PLANNING EVALUATION (REFER TO RELEVANT CONSIDERATIONS GUIDELINE)**10.1 Background**

N/A

10.2 (In)consistency with the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)

The application is in line with the planning objectives applicable to this application.

The objectives relating to:

Spatial Justice

The application gives the applicant the opportunity to access the economy in an area demarcated for residential purposes with limited economic opportunities within the township.

Spatial Sustainability

The land use will not have any impact on the natural environment but will have to be managed properly to limit possible social impact within the urban environment.

Efficiency

The proposed application will not have an impact on any municipal services.

Spatial Resilience

The extension of validity will allow the owner to generate the funds needed to relocate the business to a more suitable location.

Good Administration

The application has followed due procedure.

10.3 (In)consistency with the principles referred to in Chapter VI of the Land Use Planning Act, 2014 (Act 3 of 2014)

Same as Point 10.2 above.

10.4 (In)consistency with the IDP/Various levels of SDF's/Applicable policies

Consistent with the Spatial Development Framework.

10.5 (In)consistency with guidelines prepared by the Provincial Minister

N/A

10.6 Impact on Municipal engineering services

The existing services are available and have been viewed positively by the Engineering Services Department.

10.7 Outcomes of investigations/applications i.t.o other legislation

N/A

10.8 Existing and proposed zoning comparisons and considerations

The application is in line with the Overstrand Spatial Documents. The application is in line with the Overstrand Zoning Scheme to accommodate such a use through an application process.

11. ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

N/A

12. THE DESIRABILITY OF THE PROPOSAL

The subject application is for an extension of the period of validity of an existing approval and the amendment of the conditions of existing approval to accommodate an extension of an additional three years to operate the existing bottle store. The original approval for Erf 425 was for the operation of a bottle store on the property for a period of three (3) years in which the owner of the property will seek to acquire enough capital to buy a more suitable property within the designated business corridors.

As per the motivation submitted by the applicant, the property owners located within the business are hesitant to sell their properties and have increased the prices of their properties. This made it difficult for business owners, such as the applicant, that is located outside the business corridors to relocate to suitable properties within the designated business corridors. It should also be taken into account that the subject bottle store is located in an area with many competitors. This include taverns and bottle stores such as SMS Liquor which is located less than 200m away (within the Jikeleza business corridor) and thus raising capital while living off the income of the bottle store becomes more challenging.



The bottle store, currently operating on Erf 425, ensured compliance with the relevant legislation by going through the required administrative process to obtain the necessary approval. The bottle store has operated without any complaints and has provided the owners of Erf 425 with a source of income. Upon a site-inspection done on 02 September 2024, it is evident that the liquor store contributes to the aesthetic and safety of the area it is located in as the property and the existing structure are well looked after and neat. The existing structures on the property remain unaltered and thus the character of the area has not been altered. The bottle store is still operating from the designated area and the land use on the property remains compliant with the Land Use Scheme.



It should be noted that the owner had a liquor license for a tavern, which due to its nature has a more profound impact on the neighbourhood as it is associated with noise pollution and unruly behaviour of patrons. The owner also took the necessary steps to gain the approval from the relevant authority to operate a bottle store on the subject property which will have less of a negative impact on adjacent and surrounding neighbours and contributes to the local economy through job creation. The subject application was circulated to the surrounding neighbours for comment and no objections were received.

While the approval for the bottle store was just a temporary means to enable the owner to build capital and relocate to the business corridors, it should be taken into account that the owner still plans to relocate, and the extension will grant the owner more time to find a suitable site.

The circumstances prevailing at the time of the original approval have not materially changed, no legislative or policy requirements applicable to the approval have materially changed and there is no pending court review with regards to the application which may affect the date of implementation of the approval. The temporary departure as approved by Council on 25 August 2021 (decision letter dated 6 September 2021 attached as Annexure E) remains desirable from a town planning perspective.

13. RECOMMENDATION

1. that the application in terms of Section 16(2)(i) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 on Erf 425, Zwelihle for the extension of the period of validity of an existing approval to extend the temporary departure for a further three (3) years to operate a bottle store from the property, **be approved**, in terms of the provisions of Section 61 of the By-Law,
2. that the application in terms of Section 16(2)(h) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020, as well as the provisions of SPLUMA, on Erf 425, Zwelihle for the amendment of the conditions of existing approvals, to extend the temporary deviation from the Zwelihle Business Corridors for a further three (3) years to operate a bottle store from the property; **be approved**, in terms of the provisions of Section 61 of the By-Law,
3. that the approvals in Points 1. and 2. above be subject to the following conditions:
 - (a) that the approval is only for the development as indicated on plan number 23/133 (001) dated 2023/10/23, submitted with the application;
 - (b) that all conditions contained in the previous approval dated 6 September 2021 (attached as Annexure E), be complied with;
 - (c) that the owner must at all times be in possession of a valid liquor license;
 - (d) that the property be maintained and kept in a sightly state at all times;
 - (e) that commercial rates and taxes, as determined by the annual budget, be made applicable, which tariffs are automatically adjusted in terms of the annual budget;
 - (f) that the Overstrand Municipality retains the right to enforce any relevant legislation and or By-Laws;
 - (g) that this approval does not absolve the applicant from compliance with any other relevant legislation;
 - (h) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with, and
 - (i) that all the conditions in the Services Report (attached as Annexure D), be complied with.
4. that the applicant be notified of their right of appeal in terms Section 78 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 with regard to the above conditions of approval.

14. REASONS FOR RECOMMENDATION

- ❖ The existing structures have approved building plans.
- ❖ The surrounding owners did not object.
- ❖ The existing use as a bottle store contributes to the local economy of Zwelihle and is less of a disturbance than the tavern that previously existed on the property.
- ❖ The approval remains a temporary means that grants the owners more time to find a more suitable location for their business.
- ❖ The existing structures contributes to the aesthetic of the area and does not jeopardize the character of the area.

15. ANNEXURES

Annexure A: Locality Plan
 Annexure B: Motivation Report
 Annexure C: Site Development Plan
 Annexure D: Services Report
 Annexure E: Previous Land Use Approval

SIGNATURES**AUTHOR:**

Name: **B MINNAAR**

SACPLAN Reg No: **C/8630/2021**

Signature: _____

Date: _____

REGISTERED PLANNER

Name: **H VAN DER STOEP**

SACPLAN registration number: **A/1708/2013**

Signature: _____

Date: _____

1. Locality Plan
ERF 425 - ZWELIHLE

Plan prepared by: Thian Jansen

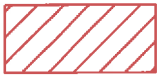
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Unit B, Standard House,
Corner of Royal and Dirkie Uys
Street Hermanus, 7200



Project Office
Town Planning & Project Management



Subject property



Scale 1 : 500



Scale 1 : 2 000



MOTIVATION

1. ABBREVIATIONS

OM	Overstrand Municipality
OMLUS	Overstrand Municipality Land Use Scheme, 2020
BY-LAW	Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020
PSDF	Western Cape Provincial Spatial Development Framework, 2014
LUPA	Western Cape Land Use Planning Act, 2014.
MSDF	Overstrand Spatial Development Framework, 2020
SR1	Residential Zone 1: Single Residential

2. PROPERTY DETAILS

Consultant	WRAP Project Office
Erf Number	Erf 425 Zwelihle
Extent	207m ²
Zoning	Residential Zone 1: Single Residential

3. BACKGROUND AND INTENT

The letters of approval from Overstrand Municipality for the temporary and permanent departures on Erf 425, Zwelihle, with reference 425 HZW / App ID 3506/2019, dated 13 April 2021, as well as the Council's decision letter to the applicant with reference 425 HZW, dated 6 September 2021, pertain to the following:

Overstrand Municipality granted a temporary departure approval for a period of three (3) years, allowing the property owner to operate a bottle store on Erf 425 Zwelihle. This property, hereinafter referred to as the subject property, is a corner plot situated at 425 Jingi Street in Zwelihle (see Plan 1 – Locality Plan). The property owner, Monwabisi Caswell Bhala, has authorized the WRAP Project Office to submit this land use application (see **Annexure A – Power of Attorney**).

The proposal is to request an extension of the validity period for the aforementioned approvals. While these approvals have not yet expired, the property owner is taking proactive steps to ensure compliance with relevant policies and legislation. In terms of the by-law, it is possible to apply for an extension of the validity periods of such applications.

To attain the desired outcome, a land use application must be submitted in accordance with Section 16(2) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020:

- The extension of the validity period of the approval on Erf 425 Zwelihle with three (3) years (new expiry date 6 September 2027).



MOTIVATION

4. PROCEDURE TO ACHIEVE THE PROPERTY OWNER'S INTENT

WRAP compiled this report to ensure the property owner's requirements are met. The following is proposed:

4.1 Extension of the period of validity of an approval in terms of section 16(2)(i) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

When the Municipality considers an application for the extension of the validity period of an approval Section 68(2) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning states it must have regard to the following:

- a) *if the circumstances prevailing at the time of the original approval have materially changed; and*
- b) *if the legislative or policy requirements applicable to the approval which prevailed at the time of the original approval, have materially changed;*
- c) *whether there is a pending review application in court which may have an effect on the date of implementation of the approval.*

a) *if the circumstances prevailing at the time of the original approval have materially changed; and*

The property owner's primary objective remains to sustain the operation of the approved bottle store at its current location until a suitable replacement property becomes available. The owner is committed and driven to establish a bottle store within the designated business corridors throughout Zwelihle, depending on availability of a suitable property.

The OMLUS defines a bottle store as the following: "*bottle store*" means an establishment where the main purpose is the retail sale of alcoholic beverages for off-site consumption.

Establishing a bottle store within these business corridors involves several steps, including the acquisition of property or properties large enough to meet all prescribed parking standards and accommodate vehicle manoeuvring space. Additionally, the submission of any necessary planning applications and building plans is required to ensure compliance with relevant legislation. Lastly, the property must be strategically situated in proximity to the target market.

As word has spread to property owners about the development of these business corridors, they have increased their property prices and are holding onto their properties, making it more challenging and time-consuming to persuade them to sell.

The circumstances surrounding the original approval have not significantly changed, as the property owner still intends to relocate his business but requires an extension of time to secure suitable space for relocation. This proposal underscores the property owner's commitment to adhere to all the regulations of the OMLUS and local by-laws. Approving this extension would, therefore, create a supportive environment for the property owner to continue operating a legal bottle store.



MOTIVATION

b) if the legislative or policy requirements applicable to the approval which prevailed at the time of the original approval, have materially changed;

Since the approval of this application, the Overstrand Municipality has sanctioned amendments to the Spatial Development Framework (SDF), By-Law, and OMLUS in 2020. These revisions in the SDF have designated Zwelihle as the most densely populated area in the Greater Hermanus region, with a population density of 8615 individuals per square kilometre. This places heightened pressure on the property owner to identify a suitable replacement site for the bottle store. It's essential to note that there have been no significant amendments to any planning policies.

Furthermore, it's worth mentioning that the Western Cape Provincial Government has obtained an exemption from Section 43 of the Spatial Planning and Land Use Management Act (SPLUMA), which typically restricts validity periods to a maximum of 5 years. This exemption has been extended to 10 years. Overstrand Municipality has accordingly amended the Municipal Land Use Planning Bylaw to align with this extension, allowing validity periods of up to 10 years.

In light of these developments, the request to extend the period of validity for an additional three (3) years is consistent with the provisions of the by-law.

c) whether there is a pending review application in court which may have an effect on the date of implementation of the approval.

There is no pending review application in court.

After reviewing the three conditions which the OM must consider when an application is received to extend the validity period of the application it is clear that the application is not in contradiction in any one of the circumstances.

The extension of the validity period of the subdivision approval on Erf 425 Zwelihle with three (3) years (new expiry date 6 September 2027).

Bottle stores, unlike places of entertainment do not emit excessive noise which would ensure that neighbouring property owners are not exposed to loud noise until the early hours of the morning. This would be a huge discomfort and adversely alter the valued residential character in the area where the subject property is located. The bottle store operates only within the allowed timeframes as per the historic approval which is:

Monday - Saturday:	10:00 – 20:00
Sunday:	10:00 – 13h00

The operational hours are therefore intended to ensure that there is no conflict between the utilisers of the residential land uses as well as the bottle store.

The main purpose of this application is to ensure that the property remains in compliance with the municipality's legislation and policies while being able to operate while the property owner receives an income and allow him to continue looking for a new property.



MOTIVATION

5. APPLICATION

Considering the above, application is made for the following:

5.1 Extension of the period of validity of an approval in terms of section 16(2)(i) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

6. LAND USE ENVIRONMENT

The properties surrounding the subject property are predominantly zoned for single residential purposes. The surrounding area's zonings are illustrated in **Plan 2** (zoning plan). There have not been any concerns or objections received in the past 2 years and the surrounding area has become accustomed to the bottle store in the area.

7. TITLE DEED

Title deed (refer **Annexure B – Title Deed**) was perused and there are no restrictive conditions that prohibit the bottle store.

8. ZONING

The following zoning parameters were assessed in conjunction with the SR1 OMLUS zoning as this is a relevant consideration in terms of Section 66 (1) (q) of the OM By-Law:

Residential Zone 1: Single Residential			
	Parameters	Proposal	Comply or deviate
Primary use	Dwelling house, day care centre, guest rooms, home occupation and second dwelling unit.	Dwelling house	Comply
Consent use	Crèche, guest house, green house, house shop, institution, place of instruction, place of worship, residential building and tourist accommodation.	N/A	N/A
Land Use Restrictions			
Coverage	65%	The coverage: $\pm 44\%$	Comply
Street building line	A 2-meter street building line.	The bottle store area is located 0m from the street boundary; The existing house is located 1m from the street boundary;	Approval received.

**MOTIVATION**

Side and Rear building line	Side and rear building lines	The existing toilet is located 0m from the side boundary.	Approval received.
Height	8 m measured from the base level to the top of the roof.	3,5m	Comply
Garages and carports	Garages and carports may be constructed within the building lines in accordance with 16.1.2.	N/A	Comply
Parking	Parking and access shall be provided on the land unit in accordance with Section 17.1 of the Overstrand Municipality Zoning Scheme, 2013. One onsite parking bays	Two onsite parking bays are indicated.	Comply

9. SERVICES

The availability of services is a relevant consideration in terms of Section 42(1)(c)(v) of SPLUMA and is herewith illustrated.

Solid waste

Solid waste is collected by the OM on a weekly basis in Zwelihle and the subject property derives the same benefit.

Electricity

The subject building is connected to the existing electricity network in Zwelihle and the approval and implementation of this proposal will not alter this.

Water

The subject property is connected to the existing reliable water network which is provided by the OM and the approval and implementation of this proposal will not alter this.

Sewage

Sewage on the subject property is disposed of into the municipal sewer network and the approval and implementation of this proposal will not alter this.

Access and egress

Access and egress will continue to be gained from Jingi Street and Mfundo Street.

10. POLICIES AND REGULATIONS**10.1 Spatial Planning Policies**

This proposal as motivated in the original application is not in conflict with any provisions of the Western Cape Provincial Spatial Development Framework, 2014, Overstrand Spatial Development Framework, 2020 or the Overstrand Municipality Growth Management Scheme, 2010.



RECOMMENDATION

11. EVALUATION

We are of the opinion that:

- The temporary departure's approval on Erf 425, Zwelihle, is still desirable and consistent with the existing legislation and spatial planning policies.
- The owner is still committed to the relocation of the bottle store, however, is unsure if he will be able to find a suitable premises before the approval lapses.
- The extension of the validity is not in contradiction of the following requirements:
 - a. if the circumstances prevailing at the time of the original approval have materially changed; and
 - b. if the legislative or policy requirements applicable to the approval which prevailed at the time of the original approval, have materially changed;
 - c. whether there is a pending review application in court which may have an effect on the date of implementation of the approval.
- Therefore, the application for the extension of the validity of the existing approval can be granted.

12. RECOMMENDATION

Based on the abovementioned motivation, it is recommended that the following be approved:

- 12.1 Extension of the validity of the approval** on Erf 425 Zwelihle with three (3) years (new expiry date 6 September 2027) in terms of section 16(2) (i) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

Site Plan
Erf 425 Zweilohle

Erf 425 Zweilohle

Bottle store



Plan prepared by: Thian Jansen on 2023/10/23
Based on plans by CHF Designs & Drafts

Plan Number - 23/133 (001)

All distances are approximate
and subject to a survey

Tel: 028 313 1411

Email: admin@wrapgroup.co.za

Unit B, Standard House,
Corner of Royal and Dirkie Uys
Street Hermanus, 7200



Project Office
Town Planning & Project Management

SCALE 1 : 100



Annexure D

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:
APPLICATION FOR EXTENSION OF THE PERIOD OF VALIDITY OF AN
APPROVAL & THE AMENDMENT OF CONDITIONS OF EXISTING APPROVAL:
ERF 425, ZWELIHLE (45/0/2023)**

Conditions:

1. that all the conditions contained in the previous approval, dated 06 September 2021, are still applicable and must be adhered to.


DENNIS HENDRIKS
SENIOR MANAGER:
ENGINEERING SERVICES


DATE

OFFICE OF THE DIRECTOR: INFRASTRUCTURE & PLANNING
TOWN & SPATIAL PLANNING



ENQUIRIES | NAVRAE: Mrs H van der Stoep (Senior Town Planner)
FILE REFERENCE | LEËRVERWYSING: 425 HZV
DATE | DATUM: 6 September 2021

WRAP
R Kotze
PO Box 1247
HERMANUS
7200

REGISTERED MAIL
admin@wrapgroup.co.za

Dear Sirs

COUNCIL DECISION LETTER TO APPLICANT

ERF 425, MFUNDO STREET, ZWELIHLE, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR DEPARTURE: MESSRS WRAP ON BEHALF OF MC BHALA

1. The application received on 30 October 2019 refers.
2. It is hereby confirmed that the matter was considered by the Mayoral Committee during a meeting held on 25 August 2021, and that it was resolved as follows:

RECOMMENDATION TO THE COUNCIL:

*that the application in terms of Spatial Planning and Land Use Management Act No. 16 of 2013 read with Section 12 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 in order to accommodate the temporary approval to deviate from the Business Corridors, Zwelihle in order to allow for the operation of a bottle store on Erf 425, Zwelihle for a period of three (3) years, **be approved.***

3. The Council during a meeting held on 25 August 2021 resolved as follows:

RESOLVED (SUPPORTED BY 25 COUNCILLORS):

*that the application in terms of Spatial Planning and Land Use Management Act No. 16 of 2013 read with Section 12 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 in order to accommodate the temporary approval to deviate from the Business Corridors, Zwelihle in order to allow for the operation of a bottle store on Erf 425, Zwelihle for a period of three (3) years, **be approved.***

Yours faithfully

S MÜLLER
DIRECTOR : INFRASTRUCTURE AND PLANNING

OFFICE OF THE DIRECTOR: INFRASTRUCTURE & PLANNING
TOWN & SPATIAL PLANNING

Munisipaliteit • U-Masipala • Municipality



ENQUIRIES | NAVRAE: Ms H van der Stoep
FILE REFERENCE | LEËRVERWYSING: 425 HZW
APP ID | AANSOEK ID : 3506/2019
DATE | DATUM: 13 April 2021

WRAP
R Kotze
PO Box 1247
HERMANUS
7200

REGISTERED MAIL
admin@wrapgroup.co.za

Dear Sir

DECISION LETTER TO APPLICANT

ERF 425, MFUNDO STREET, ZWELIHLE, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR DEPARTURE: MESSRS WRAP ON BEHALF OF MC BHALA

1. The application received on 30 October 2019 refers.
2. You are hereby notified in terms of Section 62 of the Overstrand By-law on Municipal Land Use Planning of the decision made by the Authorised Official on 29 March 2021.
3. The Resolution in terms of Section 61 of the Overstrand By-Law on Municipal Land Use Planning, with conditions, are as follows:

RESOLVED

1. *that the application in terms of Section 16(2)(c) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 on Erf 425, Zwelihle for a departure in order to allow for the operation of a bottle store for a temporary period of three (3) years, **be approved** in terms of the provisions of Section 61 of the By-Law,*
2. *that the application in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 on Erf 425, Zwelihle for the following departures:*
 - o *to relax the south-western street building line from 2m to 0m to accommodate the bottle store;*
 - o *to relax the southern street building line from 2m to 1m to accommodate the existing dwelling; and*
 - o *to relax the northern building line from 1m to 0m to accommodate the existing toilet*

be approved, in terms of the provisions of Section 61 of the By-Law,
3. *that the approvals in Points 1. and 2. above be subject to the following conditions:*
 - (a) *that this approval is only for the development as indicated on plan numbers Plan 3 : SDP and Plan 4 : Elevation, dated October 2019, as submitted with the application;*
 - (b) *that building plans be submitted to the Building Department for approval, and that all conditions of the Building- and the Fire Department be complied with at that stage;*



- (c) *that all illegal structures be demolished within three (3) months after the building plan is approved;*
 - (d) *that the owner must at all times be in possession of a valid liquor license;*
 - (e) *that trading hours be restricted as follows:
Monday – Saturday: 10:00 – 20:00
Sunday: 10:00 – 13:00*
 - (f) *that the property be maintained and kept in a tidy state at all times*
 - (g) *that this approval does not absolve the applicant from compliance with any other relevant legislation;*
 - (h) *that all other development parameters as prescribed in the relevant Zoning Scheme be complied with, and*
 - (i) *that all the conditions in the Services Report (attached as Annexure D), be complied with.*
2. *that the applicant be notified of its right of appeal in terms Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2015 with regards to the above conditions of approval.*

RECOMMENDATION TO COUNCIL

that the deviation of the Business Corridors, Zwelihle be recommended for a temporary approval."

4. Reasons for the above decision are as follows:

- ❖ The existing structures have approved building plans.
- ❖ The surrounding owners did not object.
- ❖ The change use from a tavern to a bottle store will have less impact on the surrounding area.
- ❖ The approval is temporary to enable the applicant to relocate to a more suitable property.

5. You are hereby informed of your right to appeal to the Appeal Authority in terms of Section 78(2) of the By-law.

5.1 The appeal form must be completed and should be directed to the Appeal Authority (Executive Mayor) and received **within 21 days of notification** of this decision together with proof of payment of the appeal fee (R3351-00).

5.2 The appeal form is available at request or alternatively on the Municipal website (www.overstrand.gov.za).

5.3 Contact details are as follows:

Physical address : 16 Paterson Street, Hermanus, 7200
 Postal address : PO Box 20, Hermanus, 7200
 E-mail address : loretta@overstrand.gov.za



6. Please be advised that subsequent to the finalization of any appeal, with regard to the above decision, the **recommendation** as contained in the above decision to deviate from the Spatial Development Framework still has to be referred to Council for a decision. You may thus not act on the above decision of the Municipal Planning Tribunal prior to receipt of written confirmation, which will only be issued upon receipt of Council's resolution.



Yours faithfully



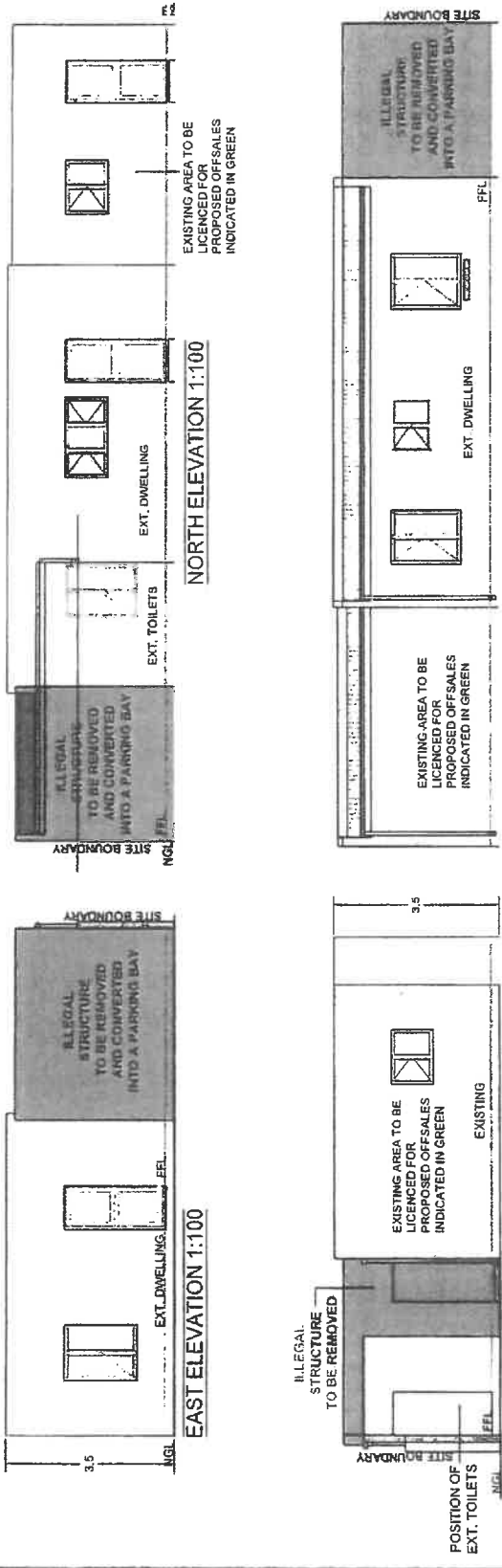
S MÜLLER

DIRECTOR : INFRASTRUCTURE AND PLANNING

Plan 4: Elevations Erf 425 Zweilohle

-  Illegal structure to be removed and converted into a parking bay
-  Proposed bottle store

Based on plans by CHF Designs & Drafts
 All illegal structures to be demolished and building rubble disposed of according to Municipal guidelines.
 Tel: 028 313 1411
 Email: admin@wrapgroup.co.za
 Plan prepared in October 2019
 File number 19/074
 35 Duker Street, Hermanus, 7200
 Plan prepared by: Reelittle Jankie
 All distances are approximate and subject to a survey



NORTH ELEVATION 1:100

SOUTH ELEVATION 1:100

EAST ELEVATION 1:100

WEST ELEVATION 1:100



**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:
APPLICATION FOR DEPARTURE: ERF 425, ZWELIHLE**

Stormwater (SW) : In Order
Electricity : In Order
Water : In Order
Sewer : In Order
Roads and traffic : In Order

Conditions:

1. that only the existing water and sewerage connections will be available to the development, should larger capacity in any of these services be required, the upgrading will be at the owner's cost;
2. that only the existing electricity connection will be available for the development and that, should additional capacity be required, an investigation be conducted, with regard to the capacity required and that available, at the owner's cost;
3. that the developer investigate and determine the limitations of the site in terms of sewer drainage, subject to the minimum requirements of *SANS 10400 – P: 2010: Drainage*;
4. that, should any upgrading and/or development of the relevant sidewalks adjacent to the property be required as part of the development, application for such development be made to the office of the Area Manager: Hermanus for written approval;
5. that any additional and / or extended vehicle entrances will be for the owner's account;
6. that stormwater be allowed to discharge through Erf 425, Zwelihle, unobstructed;
7. that no on-street parking be allowed.


DENNIS HENDRIKS
SENIOR MANAGER:
ENGINEERING SERVICES

14-08-2020
DATE