

## RAADSVERGADERING : 23 FEBRUARIE 2016

### 10.2.3 REZONING, SUBDIVISION AND CONSOLIDATION OF PROPERTY, AND THE ACQUISITION AND LEASE OF PROPERTY IN RESPECT OF THE VISHUIS HERITAGE CENTRE IN KASSIESBAAI, ARNISTON (W416 - MTRP) (WARD 5)

#### PURPOSE OF REPORT

For Council to consider this final report, separately attached as Annexure A - in respect of the Vishuis Heritage Centre in Waenhuiskrans / Arniston.

#### BACKGROUND

In support of the worthy objectives of the Vishuis Project, CAM previously took certain decisions concerning the heritage centre. Those previous decisions included a decision to donate Portion B (then referred to as erf 758) to the Union. CAM also made a zoning determination and granted building plan approval in respect of the heritage centre. Thereafter construction of the heritage centre commenced with funding raised for that purpose by the Waenhuiskrans Arniston Community Development Trust ('the Trust').

In June 2013 certain residents of Arniston questioned the legal validity of those decisions. As a result, CAM investigated the decision to donate Portion B to the Union and the related decisions and identified a number of administrative irregularities. Construction on the heritage centre was suspended. CAM then brought an application before the Western Cape High Court to have the previous decisions set aside because of the irregularities which it had identified. At CAM's request, on 1 October 2013 the Court set aside the decisions, and remitted the matter to CAM for consideration. The heritage centre is currently partially constructed.

CAM considered the Vishuis Project afresh and revisited the legal requirements relating to the matter. As indicated, CAM is now considering a transaction in terms of which CAM's property will be leased to the Union for a nominal amount rather than donated. This means that CAM will not only retain ownership of Portion B, but it will acquire part of the Union's property.

The applications for the subdivisions, consolidation and rezoning are separately attached as Annexure A. The applications should be read with the motivation report from Town & Country Land Surveyors and Town Planners, Annexure B.

On 9 December 2014 the Council resolved to advertise for public participation a series of decisions in accordance with those contemplated in paragraph 84 below (Council Resolution 258/2014). This included the proposed in-principle approval of the lease of erf 769.

On or about 6 February 2015 CAM issued advertisements for public comment. One of the notices (notice 1) mistakenly stated that the Council had resolved to donate Portion B to the Union. Notice 2 advertised the proposed subdivisions, consolidation and rezoning. CAM received certain objections in response to notices 1 and 2. CAM investigated and considered the objections. Where relevant, the results of those investigations are described in this report.

Due to the error in notice 1, it was necessary to withdraw notice 1. Interested and affected persons and the public were given a further notice (Notice 3) and a draft copy of this report (entitled 'Second Draft Report'). Notice 3 set out the proposed decisions contemplated in paragraph 84 below. Interested and affected persons and the public were invited:

1. to comment on the Second Draft Report, which provided the material
2. information upon which the proposed decisions will be taken;
3. to obtain further details of the proposals from the offices of CAM during office hours; and
4. invited to comment on the proposed decisions.

Copies of the advertisements which include Notice 3 are separately attached as Annexure C. Annexure C1 is a copy of Notice 3, in English and Afrikaans, which was sent by registered letter to each of the persons listed in the accompanying schedule, which includes surrounding property owners; 17.2 Annexure C2 is a copy of Notice 3 which appeared in the following newspapers: in *Suidernuus/Southern Post* in Afrikaans on 3 and 10 July 2015, and in the *Overberg Gazette* in English on 3 and 10 July 2015. Annexure C3 contains photographs taken on 3 July 2015 showing the placement on site of Notice 3.

Objections and comments were received in response to the advertisements. Correspondence was also exchanged with the objectors. These are in annexure D. Annexure D1 contains objections and correspondence with (a) Arniston Hotel (Pty) Ltd, (b) Arniston Seaside Cottages (Pty) Ltd, (c) The Haarburger Trust and (d) Robert Ivan Haarburger. A combined objection was lodged on behalf of these persons, referred to below as 'the objectors'. Annexure D1 includes the objections in response to notices 1, 2 and 3 and correspondence between CAM and the objectors. Under cover of a letter to CAM dated 17 August 2015, the Trust provided comments and a number of other attachments allegedly concerning the objectors. These are in Annexure D2.

Council is required to make its decisions after considering the above mentioned motivation, the objections and comments, together with the remaining matters addressed in this report.

### **CONDITIONS OF APPROVAL**

In the event that Council approves the subdivisions and rezoning discussed in this report, it is recommended that such approvals be subject to the conditions set out in Annexure R. The recommended conditions of approval include standard conditions of approval. They also contain the following conditions:

1. Before the heritage centre may commence operation, there must be compliance with Regulation 67(2) of the Zoning Scheme concerning the provision of alternative parking, as discussed in para 39;
2. The Union must pay the costs of installation of the electrical connection and any other engineering service that it requires as discussed in para 75.1; and
3. The conditions recommended respectively by Eskom and the Breede-Gouritz Catchment Area Management Agency as referred to in paras 75.4 and 75.5.

### **MANAGEMENT RECOMMENDATION**

It is recommended that the Council resolves to APPROVE the following:

1. Any resolution of the Council inconsistent with the following approvals is rescinded.
2. The subdivision of Erf 416 into the Remainder Erf 416, Arniston and Portion A:  $\pm 44\text{m}^2$  (with proposed new erf number Erf 768, Arniston) is approved.
3. The subdivision of the Remainder of Farm 260 Arniston Downs Bredasdorp RD into the Remainder of the Remainder of Farm 260 Arniston Downs Bredasdorp RD and Portion B  $\pm 339\text{m}^2$  (with proposed new erf number Erf 767, Arniston) is approved.
4. After subdivision, the consolidation of Portion A and Portion B to form a new erf of  $\pm 383\text{m}^2$  (with proposed new erf number Erf 769 Arniston) is approved.
5. The provision of alternative parking for the heritage centre in accordance with either parking Alternative A or Alternative B described in the supplementary parking report ARN/1210 by Town and Country is approved.
6. The above subdivisions and rezoning are approved subject to the conditions set out in Annexure R.
7. The annexed Special Zone Site Development Plan in respect of erf 769 is approved.
8. It is determined that Portion B be regarded as a 'non-viable parcel of land' in terms of Part 10.1.8 of the Land Disposal Policy dated 23 February 2012.

9. In-principle approval is given to grant the Union the right to use erf 769 in accordance with the annexed lease which must be signed on behalf of CAM and the Union.
10. It is recorded that the above approvals do not remove the need for the Union and / or CAM to obtain all other approvals required by law before commencing with the contemplated uses and activities.

*(Raadsheer Marthinus nie teenwoordig tydens bespreking van die aangeleentheid nie.)*

**BESLUIT 19/2016**

That the Management recommendation be accepted as a resolution of Council.