

CIRCULAR TO THE MEMBERS OF WARA REGARDING ERF 599, 16 January 2016.

This is the first of our Newsletters for 2016, and focusses on the sale and development of erf 599 : It clarifies certain issues arising from the AGM, and highlights important conditions of the current state of play.

FIRSTLY, THE ISSUE OF 'PERSONALITIES' : WHAT IS THAT ABOUT ?

There is an accusation, constantly kept alive, that WARA's challenges to various planning issues, are stimulated by "personality" conflicts, or settling of scores. This entirely false.

The current legal process is an action brought between WARA and the CAM in terms of their respective views as to the legality :

- of the proposed Auction of erf 599.
- Of the prior settlement Agreement giving rise to the Auction and
- Of the process of granting of full Business Zoning over erf 599.

The action is not between WARA and Robert Haarbuerger, the Arniston Hotel or any other person or entity that has ever been involved, or has any interest in the outcome of the legal process.

WHY DO WE FEEL IT IMPORTANT ENOUGH TO PREVENT THE AUCTION FROM PROCEEDING ?

Note : CAM stands for Cape Agulhas Municipality. SDF stands for Structural Development Framework : see end notes

THE CAM'S ATTITUDE TOWARD RATE PAYER INTERESTS : Municipalities are legally obliged to consult with and inform all affected Communities before instituting changes to urban planning or spatial conditions*.

- WARA is a serious and significant representative body, yet has never been informed at any stage of the Auction of Erf 599. As expressed by the chairman at the AGM, there is serious concern about the CAM's attitude toward WARA, and the wider public, in terms of their legal obligations in this respect.
- WARA has the duty to ensure oversight and vigilance where our assets and rights are concerned, and where other bodies fail to do so.

Consider the following actions :

OUR OBJECTIONS SIMPLY IGNORED :

- During the public participative process of rezoning of Erf 599, we raised serious objections, including critical conditions of the Structural Development Framework (SDF) see end notes explaining the SDF.
- These objections were acknowledged sympathetically by CAM's own Planning staff, in public documents, as being valid and important. Yet in granting full Business Zoning they were brushed aside.

A PRIVATE AGREEMENT :

- A private agreement was negotiated by the CAM with one party only, as an 'offset' for un-related costs, in order to settle legal disputes between them. We contend that this is illegal*.
- The Agreement distorts the Auction process, and creates a strong sense of bias toward one party.

*Municipal Economic Systems and Management Systems Acts are quite clear and specific as to the issues of public participation in Municipal affairs, as well as the rules governing disposal of publicly owned assets, especially relating to this being fair and transparent.

VALUATION :

- Without the required public participation process, or disclosing how the valuation was arrived at, erf 599 was valued at R5,3 million. This very high upset price will deter serious developers from participating, thus reducing fair competition at the Auction.
(NOTE : the land cost in February 2004 was R426 000 : an increase of 12 fold, 8 of those years of depression).

WHY AN AUCTION AND NOT PUBLIC TENDER ?

The Municipal Manager advised WARA, in January 2015, that Erf 599 was to be sold by Public Tender.

- A Public Tender process would ensure that qualitative issues as well as price would be evaluated.

NOTICE of AUCTION :

- Why, suddenly, with no further discussion, or notification, was a sale by public Auction of erf 599, with full Business Zoning announced – in local press only and on site -- with just two weeks' notice ?

DISPOSAL OF MUNICIPAL ASSETS :

- A condition of the sale of any municipal asset obliges the CAM to consider whether the property has benefit for Arniston's community. But, without giving any reasons, and with there being numerous potential uses of this property 599 was declared to be of no value to our community.
- Secondly, and most importantly, once the site is sold, the Business Zoning can no longer be negotiated, except by compensating the new Owner for loss of rights. **While the CAM still owns the land they can remove or revise conditions of the Business Zoning .**
(See below for the implications of this).

WE HAVE INCLUDED in our COURT PAPERS, that the BUSINESS ZONING FOR ERF 599 be REVIEWED or SET ASIDE : WHY HAVE WE DONE THAT ? and WHAT DO WE WANT TO SEE BEING BUILT ?

FIRSTLY WHAT ARE THE IMPLICATIONS OF BUSINESS ZONING ?

- The owner may build a building with a total floor area of 2 x the site area : In this case, 4 496 square meters. This is a very large building, comparable to the Hotel in size.
- The number of floors is not limited, but the total height may not exceed 16 meters : Say 5 storeys. A very significant structure in Arniston.
- The building can be built up to all of the boundaries, even cantilevering over some boundaries. **This, in a residential area, and adjacent to an historic graveyard park in Arniston.**

WHAT SORT of USES ARE POSSIBLE for a BUILDING on 599 ?

- From historic evidence, the area needed for a viable shop / restaurant in Arniston is not much greater than that in use at Bob's old shop, and restaurant : about 300 to 400 sq. meters.

Only someone as unique as Bob could have made a living from that small scale operation. Subsequent operators failed.

- Deducting 450 sq.m for the shop, a large balance of 4000 sq.m can still be built.
- Business Zoning would allow many other uses : hotel suites, flats, offices, meeting rooms., etc..

A logical assumption for development on 599, of 4496 sq.m, would suggest a very large, multi-storey residential building -- flats or hotel -- with only a small retail space at ground floor -- shop & restaurant.

WHAT DON'T WE LIKE ABOUT THAT ?

A number of problems stem from full Business Zoning. But major issues are Aesthetic and Technical. :

problem one : AESTHETIC IMPACT :

It is universally accepted : by Arniston people, (resident and visitor from this country and abroad), by Heritage Western Cape, by the Western Cape Tourist Board, in the Integrated Coastal Management Program, that a vital key to the unique quality of Arniston is its finely balanced development:

- Of small scale of urban structures together with unparalleled but sensitive natural beauty.
- Of a sophisticated level of accommodation that allows direct access to primeval nature.
- Of conditions, that as with a world Heritage area are fragile and must be strenuously guarded.

By contrast, a very large five-storey building, in the prominent location of 599, would represent a tipping point of irreversible change, setting a precedent for extensive urban and commercial sprawl along the Main road..

problem two : WATER and SEWAGE

FRESH WATER SUPPLY :

Arniston once had serious water problems. Now, even the new pipe-line laid 10 years ago, that provided us with adequate clean water from the Tierwaterskloof dam system, no longer meets peak period needs.

- The Municipal Engineer, at the meeting in January 2015, confirmed that water is critically low at peak periods. This was highlighted in the SDF Report, written five years ago.

The SDF, states, (See also notes at end), specifically that any **new plots be limited to 53 erven** without further permanent water supply. Since then : § a number of new RDP houses and new houses have been built. § the Caravan Park has expanded, (each family is the equivalent of a household in terms of water and waste). § The CAM is currently planning for development of 42 new house plots behind Harbour Street. § development of 599 could result in 70 to 100 new domestic units, apart from the shops.

Thus, we can anticipate some 3-4 times the recommendation in the SDF Report of 2012, will be built in the next 2 to 3 years, with literally no provision for expanding water storage to meet peak demand.

Remember, that local borehole water is brackish, tastes bad and leads to stomach problems. **The Tierwaterskloof dam is currently 67 % full.** This is down 30% from past years, where December capacities saw figures of 88 – 97% full .

- THERE IS NO MORE WATER FOR ARNISTON.

SEWAGE DISPOSAL

The sewage plant designed some ten years ago, was designed to be **connected to all houses**. The plant currently connects a small northern section of Arniston, including the Hotel. Yet, local residents experience the stench of a dysfunctional system, sewage is pumped in the veld, and appears in storm-water.

- Despite this serious and long-standing problem, and the high rates we pay, CAM has made no budget provision for sewage improvement, or even re-design and engineering of existing plant.

One has to ask WHAT ALL THOSE EXTRA FLATS on 599 WILL DO TO THIS PROBLEM ?

IN CONCLUSION : We would not want to be a subject for a *Carte Blanche* television review : yet another disastrous municipality, once thriving, clean and healthy, now barely liveable : with values decimated.

SO WHAT WOULD WE LIKE TO SEE GOING FORWARD ?

- Once the existing Business Rights are cancelled, a fully participative program, exposing the needs and desires of all stake-holders in Arniston, including CAM, must determine the conditions for Business Zoning.
- Based on these modified Zoning conditions, approved by the CAM, competitive Tenders are invited.

SHOP : Erf 599 was always intended as the site to replace Bob's Shop. : It is on the main road, opposite the Caravan Park and convenient to all of Arniston housing, for a Retail outlet, restaurant and petrol sales.

PUBLIC AMENITIES: Retain parts of the building for public services : § Satellite Police station, § Fire Service, § for other minor municipal services. § Consider recreation facility in the high ceilinged basement. § , Design a creative relationship to the Grave Site, to exploit tourism, provide for remembrance plaques, and thereby also creating jobs.

FLATS : Provide for a small number of flats, enough to create an appropriate 'presence' on the site.

WATER & SEWAGE SERVICES : Limit all development to availability of water and sewage capacity.

We need all your support to see this through, and care for Arniston for future generations.

NOTES REGARDING THE STRUCTURAL DEVELOPMENT PROGRAM SDF : Every four years the municipalities are required to create a 4-5 year strategy for all aspects of the Municipality. This will examine every aspect, including roads, sewage, water, environment, and built and open space. It will evaluate how much or how little development is feasible for the next few years. Initially circulated for public comment, once approved by the Town Council it has to be implemented. Its conditions even over-ride the Town Planning Scheme. Any reference to the SDF regarding water, sewage and limits on new housing are serious constraints. **The next SDF is due in 2016.**

Rod Lloyd

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