
APPLICATION FOR DEPARTURE ON PTN 132 OF THE FARM 189, BOVEN LANGE VALLEY, DIVISION
GEORGE

INTRODUCTION

The property owner recently bought the subject property and was developed as built. The property is situated in Boven Lange Valley. The property owner intends retaining the buildings as they currently are which therefore requires departure application.

JCVH Architecture has been appointed by the by the owner of Portion 132 of the Farm 189, Division George to submit the required land use application for the as-built buildings. A Power of Attorney to submit than application is attached.

Title deed

Portion 132 of the Farm 189 Boven Lange Valley, Division George is registered in the name of *Mr Johan Swart* with Title Deed No. T22704/2023. The property is 6607m² in extent.

Land Use Application

The follow applications are required for Portion 132 of the Farm 189 Boven Lange, Division George:

- Departure in terms of Section 15 (2) (b) of the George Municipality Land Use Planning By-Law 2023 for the relaxation of the northern side boundary building line from 10m to 7.753m for the existing dressing in the dwelling unit; and
- Departure in terms of Section 15 (2) (b) of the George Municipality Land Use Planning By-Law 2023 for the relaxation of the northern western side boundary building line from 10m to 8.693m for the existing bathroom in the dwelling unit; and
- Departure in terms of Section 15 (2) (b) of the George Municipality Land Use Planning By-Law 2023 for the relaxation of the northern side boundary building line from 10m to 1.89m for the existing toolshed.
- Deletion of Approval Condition (e) of the approval letter of 14 November 2007 in terms of Section 15 (2) (h) of the George Municipality Land Use Planning By-Law 2023 to allow the existing dwelling and outbuilding of 372m² in lieu of 300m².

Locality

The property is situated to the north of the Langvlei and Rondevlei Dams area in the Boven Lange Valley area. The property is situated just off the Rondevlei Road. Figure 1 below indicates the subject property, in relation to the surrounding area. Figure 2 gives a closer look at the subject property and surrounding area.

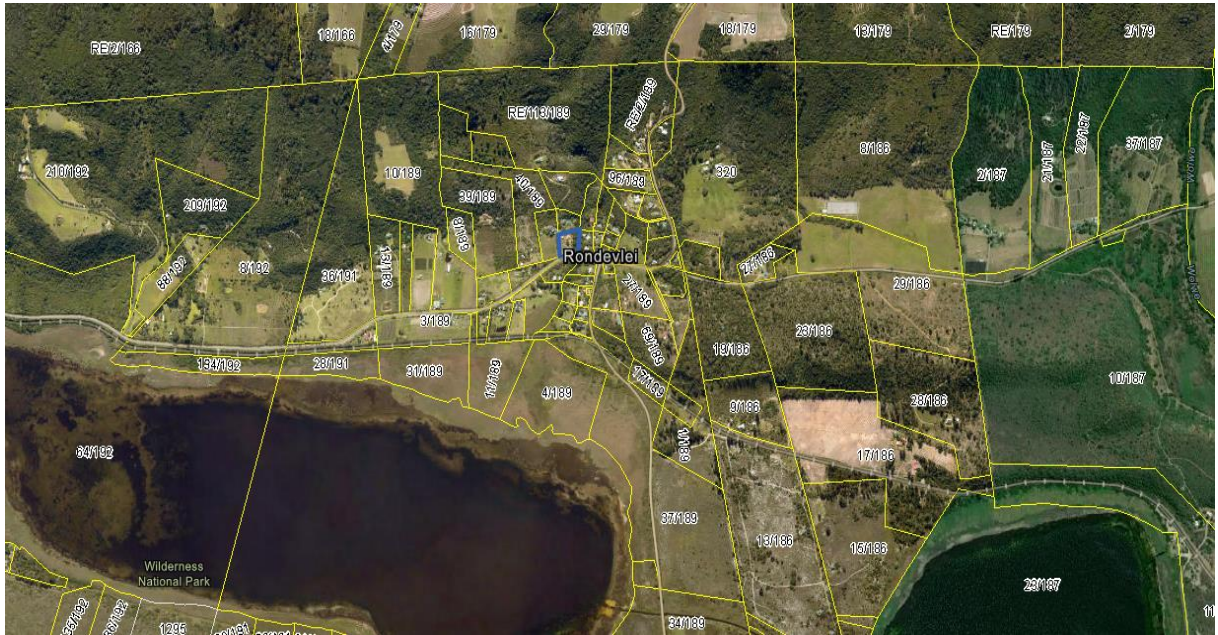


Figure 1



Figure 2

Character of the Area

When observing the surrounding area one can conclude that the area is of a rural nature with houses and outbuildings associated therewith. The majority of the properties are relatively small in size and therefore a majority of them require departure when constructing dwellings and sheds. As previously stated the owner has bought the property as is and has been using the buildings as is. It can therefore be concluded that, the character of this area won't be negatively impacted by the proposed application.

Zoning

The zoning of the subject property according to the George Integrated Zoning Scheme By- Law is "Agriculture Zone II". The application does not constitute a rezoning; therefore, the zoning of the property will remain unchanged. The proposed structures are commonly found in the surrounding area. The below shows the zoning of the surrounding properties.



Figure 3

DEVELOPMENT PROPOSAL

Development

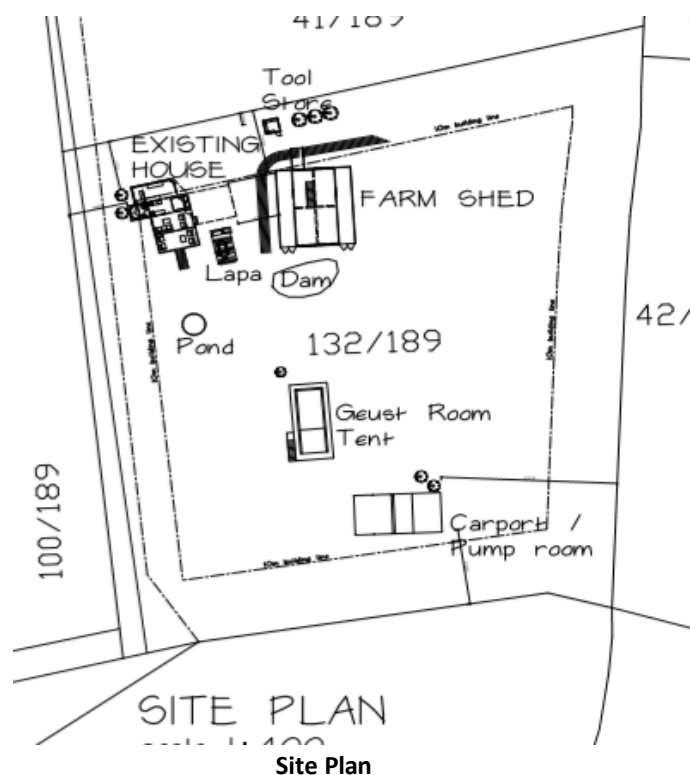
The property owner intends approve the existing dwelling unit and toolshed found on the property which encroaches the building lines. These structures are existing and can be argued forms an integral part of the character of the site and surrounding smallholding area. The proposed development does not require departure from any other parameters applicable to the property than applied for.

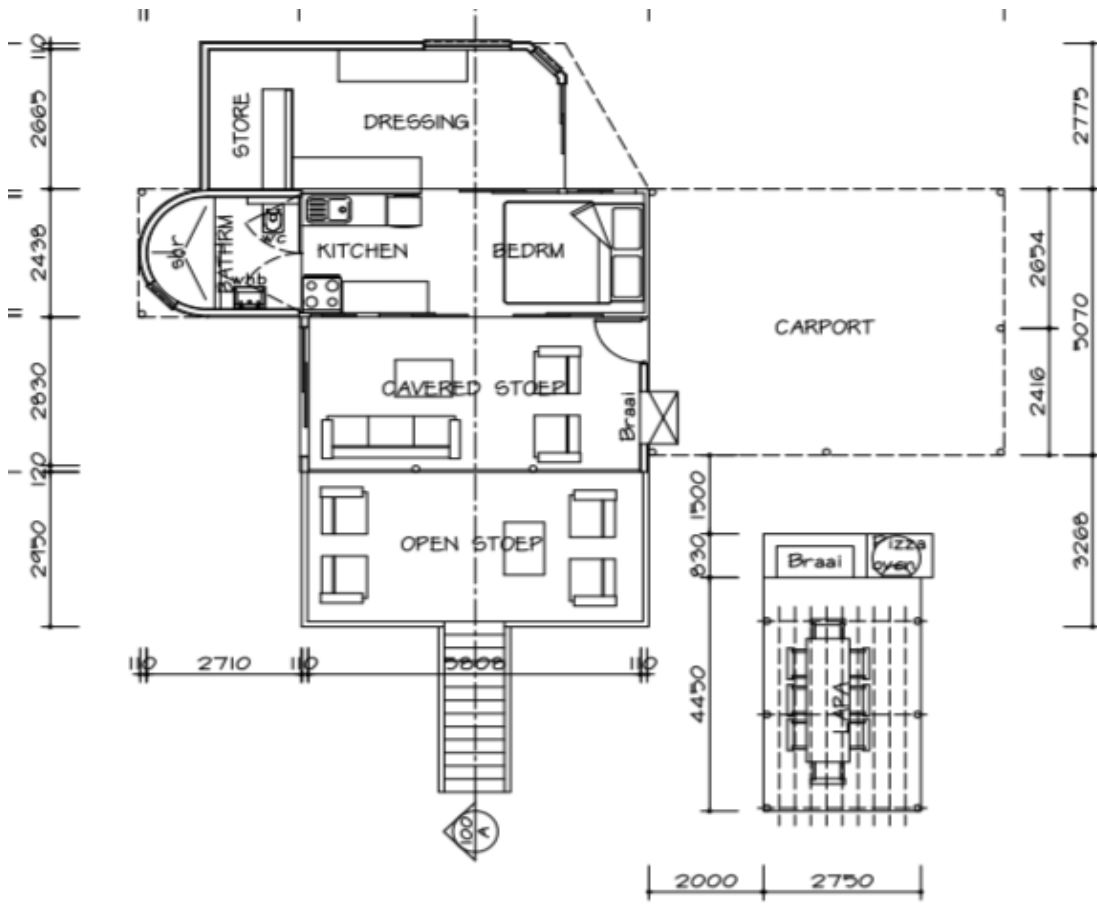
Deletion of Condition of Approval

The subdivision of the subject property was approved on 14 Nov 2007 and therein condition (e) stated that a new dwelling unit and its outbuildings be restricted to a total footprint of 300m² including patios, decks, stoeps, verandas, yards, swimming pools and other visible structures. It is the owners' intention to delete the condition as laid down in the original subdivision of the property that limits the property to a total footprint of 300m². The existing dwelling and outbuildings found on the farm totals 372m².

The condition limits the properties potential in terms of the development parameters as contained in the zoning scheme by-law. The deletion is required to align the farm with the development parameters of the zoning scheme, all structures and additions will need to align to these provisions. There will be no material or physical changes to accommodate the structures as mentioned previously, the property has been purchased as is from the previous owner.

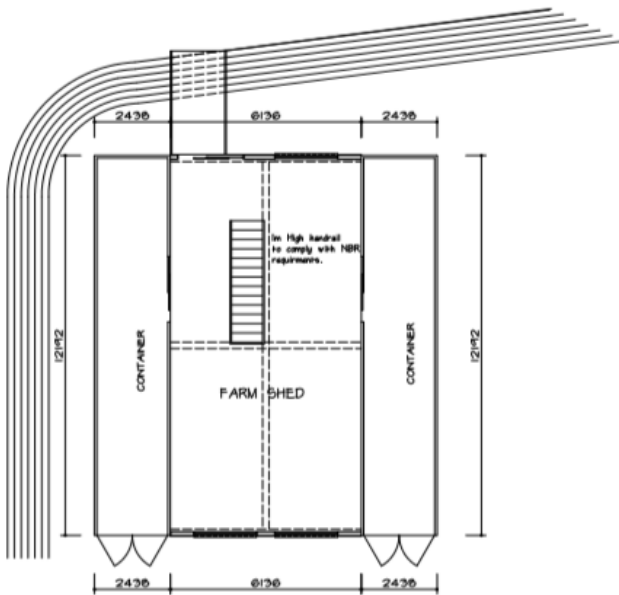
Below the site plan and floor plan of the dwelling and toolshed on the property:



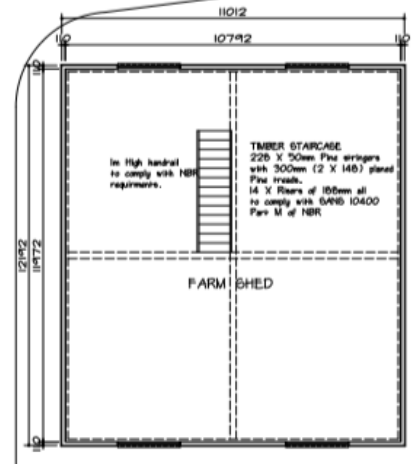


GROUND FLOOR PLAN

Floor Plan Dwelling



UPPER GROUND FLOOR PLAN
scale 1:100



GROUND FLOOR PLAN
scale 1:100

Floor Plan Farm Shed

Accessibility and Parking

The proposed dwelling will gain access off the servitude gravel road on the western side of the property. Access thereto is obtained from the Rondevlei Road. The existing access will be used and no additional access is required for the proposal. Sufficient space remains around the dwelling to accommodate the parking needs of the owner.

Engineering Services

The dwelling and toolshed is situated in an area with smallholdings that has already been developed with existing services. No extra connections to the municipal water, sewer, or electricity services will be needed.

SPATIAL PLANNING GUIDELINES

George Municipal Spatial Development Framework (2023) & Wilderness, Lakes & Hoekwil Local Spatial Development Framework (2015)

The GMSDF does not refer to the subject property specifically. The WLHLSDF does also not refer to the subject property and no reference is made to Rondevlei and the prescribed conditions for the area. The subject property is not a productive farm and farming is only for sustenance purposes. The image below indicates that the subject property falls within the smallholding / farming area. As the as-built dwelling unit and additions is proposed on the subject property, the proposed development will not change the character of the farming environment and can be argued is not considered to be in conflict with the GMSDF and WLHLSDF.

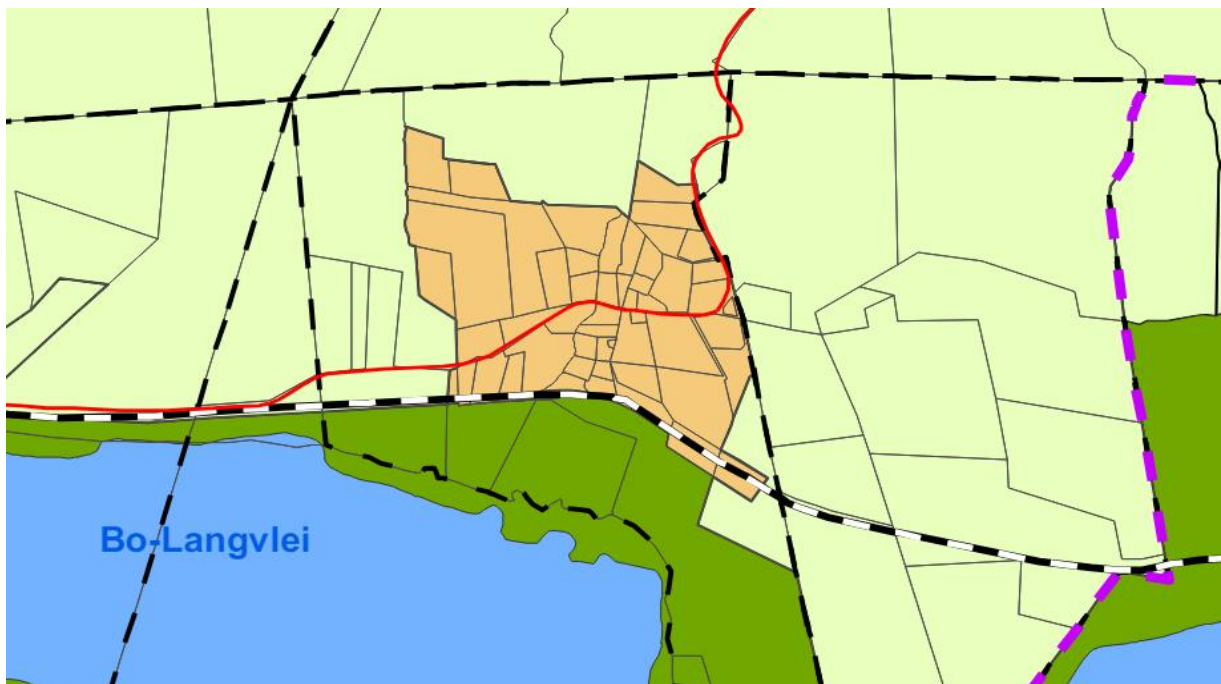


Figure 6: An extract from the WLHLSDF

STATUTORY FRAMEWORKS

Spatial Planning and Land Use Management Act, 2013 (ACT 16 OF 2013) (SPLUMA)

Section 7 of SPLUMA lists the five development principles that apply to spatial planning, land use development and land use management namely (each of which to be elaborated on);

1. *Spatial justice* refers to the need for improved access and use of land in order to readdress past spatial and development imbalances as well as the need for SDF's and relevant planning policies, spatial planning mechanisms, land use management systems and land development procedures to address these imbalances.
 - *The proposed development will contribute to a more integrated urban environment.*
 - *This development will also contribute to the character of the surrounding area.*

 2. *Spatial sustainability* refers to the need for spatial planning and land use management systems to promote land development that is viable and feasible within a South African context, to ensure the protection of agricultural land and maintain environmental management mechanisms. It further relates to the need to promote effective/equitable land markets, whilst considering the cost implications of future development on infrastructure and social services as well as the need to limit urban sprawl and ensure viable communities.
 - *This development complies with the George Municipal Local Municipality's Spatial Development Framework (2023) as a tool to guide future development within George Local Municipality.*

 3. *Efficiency* relates to the need for optimal use of existing resources and infrastructure, decision- making that minimizes negative financial, social, economic or environmental impacts and development application procedures that are efficient and streamlined.
 - *The proposed development will optimize existing resources related to the subject property that will not have a financial, social, economic or environmental impact on the subject property and the surrounding properties.*
 - *The development will make use of existing local resources and contribute to specialised skills development within the municipality.*
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4. *Spatial resilience* refers to the extent to which spatial plans, policies and land use management systems are flexible and accommodating to ensure sustainable livelihoods in communities most likely to suffer the impacts of economic and environmental shocks.
 - *The proposed development complies with the George Municipal Spatial Development Framework (2023).*
 - *This proposed development also complies with George Municipality's zoning scheme.*

 5. *Good administration* refers to the obligation on all spheres of government to ensure implementation of the above efficiently, responsibly and transparently.
 - *This principle has no direct bearing on the application. George Municipality should consider the application within the prescribed timeframes. Public participation must be transparent with policies and legislation. Procedures should be clear to inform and empower members of the public.*

Public Interest

The approval of the application will allow the property owner to regularize the existing buildings found on the property. The approval of the property will not have a negative impact on the surrounding property owners. No neighbour will be overshadowed or disturbed by the proposal. Many of the surrounding farms are relatively small and in most cases require departure approvals when doing additions.

Environmental

No listed activities as contemplated by the National Environmental Management Act, 1998 (as amended) (NEMA) are triggered by this application as the dwelling and additions are in the disturbed area and the existing development footprint.

An OSCAE permit / exemption may be required by the municipality. The owner will submit the required application after the decision of the land use application.

The departure will not pose a potential danger to life or any property in terms of fire risks, air pollution or smells, or compromise a person's right to a safe and secure environment. Slopes, stormwater runoff, geological formations and other environmental constraints have been considered and the correct procedures had been followed.

Land Use Planning Act (LUPA)

The development objectives entrenched in SPLUMA have been assimilated into the Western Cape Land Use Planning Act, 2014 (Act 3 of 2014) and sets out a basis for the adjudication of land use planning applications in the province. It requires that local municipalities have due regard to at least the following when doing so:

- Applicable spatial development frameworks;
- Applicable structure plans;
- Land use planning principles referred to in Chapter VI (Section 59);
- The desirability of the proposed land use; and
- Guidelines that may be issued by the Provincial Minister regarding the desirability of proposed land use.

The land-use planning principles of LUPA (Section 59) is, in essence, the expansion of the five development principles of SPLUMA listed above. Again, only the relevant aspects are addressed in this report.

Spatial Policy Compliance

Section 19(1) and (2) of LUPA states that the following:

“(1) If a spatial development framework or structure plan specifically provides for the utilisation or development of land as proposed in a land use application or a land development application, the proposed utilisation or development is regarded as complying with that spatial development framework or structure plan;

“(2) If a spatial development framework or structure plan does not specifically provide for the utilisation or development of land as proposed in a land use application or a land development application, but the proposed utilisation or development does not conflict with the purpose of the relevant designation in the spatial development framework or structure plan, the utilisation or development is regarded as being consistent with that spatial development framework or structured plan.”

As addressed above, it is clear that the application is consistent with the spatial policies, specifically the George Municipality’s Spatial Development Framework (2023).

Desirability

The concept “*desirability*” in the land use planning context can be defined as the degree of acceptability of a proposed development on land units concerned or the proposed development of the property. This section expresses the desirability of the proposed

departures, taken in conjunction with the development principles and criteria set out through the statutory land use planning framework, as well as the degree to which this proposal can be considered within the context of the public interest. We are of the view that the initial investigations into the desirability of the proposal reveals no negative impacts.

The proposed development is not considered to be in conflict with the GMSDF or the WLHLSDF. Further, the proposed departure will not have a negative impact on the character of the area or the surrounding neighbours rights to views and privacy. The proposed departure further will not negatively impact the surrounding neighbours in terms of height as the applicable height restrictions have been adhered to. Given the above, the proposed departure is considered desirable.

CONCLUSION

It is clear from the abovementioned principles, considerations and guidelines for this land use application satisfies the applicable legislation. As a result, it is trusted that this application can be viewed positively and favorably.