

DEVELOPMENT OF GREYTON



Ward 2 Forum

SERVING THE COMMUNITY TOGETHER

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FULL REPORT:

DEVELOPMENT OF GREYTON

1. STATUS QUO

Following docs submitted to Mr Pienaar:

- W2F proposals for municipal policy on Public Participation and Consultation;
- Original architectural/aesthetic Guidelines (June 2000);
- Confirmation of approval from Province for Guidelines of June 2000;
- W2F comments (September 2016) on Consultants' Heritage Survey Report;
- Copy of letter to HWC (October 2016) questioning status of legislation re the Heritage Register;
- Draft proposals for amendment of provisions for Advisory Committees;
- Draft Local Area Protection Overlay (2014);

GAAC is an advisory committee to TWKM. GAAC has refused to publish reasons for their decisions on suitability of development applications, or a record of Minutes of their meetings. GAAC claims that they operate under Terms of Reference agreed with Stan Wallace, Municipal Manager, in 2008; we are not aware of the existence of such an agreement.

HOZAC is essentially an advisory committee to TWKM also, although established by common consent of those at a 'stakeholders' meeting – and erroneously claimed to be a representational committee, because it is affiliated to Greyton Council. Mr Pienaar, TWKM Planning Manager, chairs it.

A number of properties have recently been constructed/are being constructed that clearly do not comply with the zoning Scheme and/or the aesthetic Guidelines, to an extent that in our view, and that of neighbours, have an undesirable visual impact and are a definite threat to the future development of Greyton. Essentially, they are inappropriate on the basis of mass, erf coverage, modern materials and finishes, aesthetic design, positioning on the erf, etc.

The problem is that either GAAC have deliberately relaxed the design provisions in the Guidelines, with the approval of TWKM, or TWKM have over-ruled GAAC's advice in ignorance or by intent to suit the owner/developer, or correctly approved plans have been deliberately altered by the owner or builder and the results ignored by the buildings Control Officer and or Buildings Inspector. Possibly there has been a combination of causes.

According to GAAC, there are a number of persons in TWKM and Greyton with an interest in development, who believe that the Overlay was never promulgated, and that therefore the Aesthetic Guidelines are not binding, therefore its restrictions are not enforceable. GAAC appears unable to substantiate and exercise their authority to address this unfortunate and unrealistic position. Documents in recent circulation from GAAC contain confusing and opposing statements concerning the compliance of recent buildings with the Guidelines. GAAC states that "there is a manifest conflict of interest behind the current rash of inappropriate planning submissions."

We believe that GAAC has an interest and intent to motivate the relaxation of aesthetic and other architectural provisions. We know that 3 of their members have vested interests in local architectural design and drafting of plans. Two of them are on both GAAC and HOZAC committees.

We believe that certain persons, including the Consultants, have been aware for some time of problems with the process of:

- a) getting approval from HWC of the Heritage Survey Report;
- b) registering all of Greyton's Heritage Resources;
- c) consultation with all the owners with graded properties;
- d) producing a heritage management plan, and implement it.

HWC have been asked for clarification but have not responded.

The budget was obviously too low to complete the whole project, TWKM were misled into agreeing this process rather than consider an alternative, and those involved in Greyton and TWKM were for some reason reluctant to question the details of the process. W2F were derided and insulted for criticising the process, and there is still no sign of any progress.

The alternative process was, and still is, to complete the existing draft Local Area Overlay and compile the associated Guidelines. In the meantime, the existing June 2000 Guidelines, (an agreed revision of them, with a more presentable layout and syntax may be preferred), could be prepared in 3-4 weeks.

The situation, if not addressed, will soon be out of control and the future of Greyton as we know it will be at risk. The consequences for Tourism and local employment can only get worse. It is worth repeating that the community is required to indicate by a significant majority if it wants changes to existing policies for the built and natural environment of Greyton. This has not happened. Such changes should therefore not be imposed arbitrarily.

2. NEW LEGISLATION

The process of advising property owners or their advisers concerning the municipal requirements for plans to develop a site, construct or alter a building or change a land use is the responsibility of the Planning Department. So also is the process of managing the application for approval, for determining the conformity with existing zoning scheme and Guidelines provisions, ensuring adequate public participation if that is required and finally considering the application and making a decision on its approval. The details of this process are covered in the TWKM Land Use Planning By-law (2015).

The new By-law is operated under SPLUMA, but neither refers to the use of Advisory Committees. Development applications are to be decided by a designated planning official or a Tribunal. The latter must include two or more non-municipal persons. The specific limits of responsibility of each of these functions needs to be clarified. It is also not clear if an Advisory Committee such as GAAC can be established under SPLUMA or LUPA, although the TWKM Integrated Zoning Scheme, approved by Province in July 2011, does include provision for such committees.

3. DEVELOPMENT CONTROL

We were led to understand that the Rabie investigation into procedural errors under the Bettie de Koch regime had determined the causes and fixed them. No improvements are evident. The process should be revised.

The Zoning Scheme, any future Overlays and the Guidelines should be written with a clear distinction between mandatory provisions (preceded by must, will, shall, is to be) and other provisions, which may be preceded by may or may not, if relevant, should be considered, is preferred, if considered necessary etc. Any *significant deviation or variation* from a mandatory provision or a Guideline statement must be motivated in the development application, and a decision to ignore either must be defended. A Departure process then becomes necessary prior to a decision being made. Such management responses depend on a complete knowledge and understanding of the detail of the provisions. There are also criteria that, for example those of an aesthetic nature, which are more subjective *value judgements* and these require more experience to assess.

The above deviations and variations must go through a public approval process, in which case community representation should be encouraged by a stakeholder interest group. As the application is therefore in the public domain, there is no problem from public disclosure of the plans and the application details.

A problematic area could be to ensure that plans approved by Planning Dept, altered or not by a public participation process, cannot be further changed by the owner, developer or builder – without an approved variation order. An ‘oversight’ function should be considered to validate planning decisions, including those for which a Departure is deemed to be unnecessary.

4. PROPOSALS

We request full discussions with TWKM on the following proposals, the results of which will be reported to the public together with this report:

- Discussion on the undesirability of recent buildings (as shown on photos attached);
- Offer by W2F, in collaboration with TWKM Planning, to audit:
 - a) records of existing approvals of plans for the above buildings;
 - b) assessment of pending development applications;
 - c) the basis for persistent rumours that there is ongoing discussion involving TWKM on the development of Erf 530 (Greyton);
- Agreement of W2F proposals for public consultation on matters related to planning and development, and implementation as TWKM policy;
- Confirmation of suitability of original approved Guidelines (June 2000), possibly revised, and their application;
- Confirmation of correct procedure for use of above Guidelines, specifically including that the provisions must not be changed without a suitable public process;
- Consideration of future of Advisory Committees under SPLUMA, possible amendment of Integrated Zoning Scheme to suit decision, and establishment of new Terms of Reference for GAAC;
- Revision of planning application process to ensure efficient and reliable procedures, and compliance with the Zoning Scheme, specifically to include a Departure process if there is a significant deviation from the prescribed zoning provisions or Guideline statements;
- Consideration of an 'oversight' function in Planning;
- Disestablishment of HOZAC committee on the basis of:
 - a) failure to advise TWKM correctly on aspects of the Heritage situation;
 - b) vested interests that prohibit reasonable functionality;
- Agreement for joint exercise between W2F and TWKM to continue work on draft Local Area Overlay (2012), up to point at which legal advice may be necessary;
- Continuation of compilation of new Guidelines, associated with the Overlay;
- Suspend further effort on the Heritage Register until:
 - a) all the required legislation from HWC has been gazetted;
 - b) the list of heritage resources in Greyton has been approved by HWC;
 - c) TWKM have approved a realistic budget for completion of the Heritage Overlay and implementation of the system to manage heritage resources;
 - d) the public have had an opportunity to scrutinise the responses from TWKM and the Consultants to the Heritage Survey Report PP process, and to respond to them if appropriate.

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