

SOUTH WAIRARAPA DISTRICT COUNCIL

20 FEBRUARY 2019

AGENDA ITEM NO

REPORT ON 4 KANSAS STREET AND REQUEST FOR RESIDENTIAL USE ON THE PROPERTY.

Purpose of Report

To inform Councillors of Council Officers interactions with Daphne Geisler owner of 4 Kansa Street, Martinborough.

Recommendations

Officers recommend that the Council:

1. *Receive the information.*

1. Executive Summary

The property at 4 Kansas Street is zoned Commercial under the Wairarapa Combined District Plan. This property contains a dwelling and the site has a history of past residential use. However, the residential use was later abandoned as the property was utilised for the sale of antiques within the building.

2. Background

The owner of the property Mrs Daphne Geisler has sought to use the building on her property for residential use. She has sought approval that residential use is a permitted activity for activity within the building on the site.

3. Discussion

The following details the basis of Mrs Geisler's request and interaction with Council regarding the sought re commencement of residential use on the commercial zoned property.

- The owner inquired with Council in April 2017 seeking confirmation that she could convey to potential buyers that the building on 4 Kansas Street has current residential use rights.
- During phone calls and meetings with Russell Hooper, Mrs Geisler stated that the residential use had ceased for a period of more than 12 months, as it was used for antiques/second hand goods business. It was conveyed that under the Resource Management Act section 10

existing use rights were deemed to have lapsed. Accordingly, the wording of the Wairarapa Combined District Plan (the District Plan) was examined around 'new residential unit' (discretionary activity in rule 6.5.6(a)) and reached the conclusion that if the section 10 rights had lapsed then the building was no longer deemed to be a residential unit under the District Plan. On this basis the building would therefore become a new unit once residential use resumed. It was stated that there is ability to reside at the rear of the building and have commercial use at the front of the building as a permitted activity.

- The above was also conveyed by email from Russell Hooper to Jo McDonald of WCM legal in August 2017.
- Murray Buchanan, Group Manager Planning and Environment, further advised Mrs Geisler in August 2017 by email that the residential use rights have expired and that the building can no longer be used solely as a residence. He conveyed, that the only way that residential use might be re-established would be by way of the granting of a resource consent. This would unlikely to be supported as the purpose of the District Plan is to have the site used commercially.
- In May 2018, and in response to the matter being raised, Russell O'Leary, Group Manager Planning and Environment, assessed the file and advised Mrs Geisler that he agreed with the advice previously provided by Council Officers and that a resource consent was the appropriate way to recommence sole residential use of the building. The opportunity was taken to outline the objectives of the Commercial Zone and the definition of residential unit, within the District Plan.
- Mrs Geisler requested a meeting to discuss matters with Council's CEO and acting Mayor, this meeting was not accepted as at that time the best course of action was to encourage a resource consent application. The need to apply for resource consent was conveyed to Mrs Geisler. It was also advised, that if a satisfactory outcome was not achieved, that the Resource Management Act 1991 gave future opportunity for her appeal rights.
- A further meeting request was pursued by Mrs Geisler. A meeting was arranged and attendees included the Mayor, Councillor Vickery, and Russell O'Leary. This meeting was held to provide further opportunity to hear Mrs Geisler's concerns and for all parties to discuss the potential use and zoning of 4 Kansas Street, Martinborough. Mrs Geisler sought a Certificate of Compliance for residential use of the building at 4 Kansas Street as she believed that the residential use was permitted by the District Plan.
- In a letter of reply, 26th of October 2018, Russell O'Leary, Group Manager Planning and Environment, Mrs Geisler was advised that the requested Certificate of Compliance could not be granted.

4. Conclusion

The above represents Council's dealings with Mrs Geisler's request for permitted activity status for residential use at 4 Kansas Street, Martinborough. Officers have been consistent in regard to imparted planning advice. Council officers have had regard to the current District Plan, including the Commercial zoning intent, objectives and rules, the history and use of the site and the requirements of the Resource Management Act.

Contact Officer: Russell O'Leary Group Manager Planning and Environment
Reviewed By: Paul Crimp CEO

