

**Menslike Nedersettings, Beplanning en Ontwikkeling
Human Settlements, Planning and Development**

Collaborator No.: 2911775
Reference / Verwysing: Erf 24845, George
Date / Datum: 06 September 2024
Enquiries / Navrae: Marisa Arries

Email: janvrolijk@jvtownplanner.co.za

JAN VROLIJK TOWN PLANNER
PO BOX 710
GEORGE
6530

**APPLICATION FOR ZONING RECTIFICATION, REMOVAL OF RESTRICTIVE CONDITION,
CLOSURE OF RIGHT OF WAY, SUBDIVISION, REGISTRATION OF SERVITUDES AND
AMENDMENT OF CONDITION OF APPROVAL: ERF 24845, GEORGE**

Your application in the above regard refers.

The Acting Deputy Director: Planning (Authorised Official) has, under delegated authority, 4.17.1.17 of 30 June 2022 decided that the following applications applicable to Erf 24845, George:

- A. That the application for zoning rectification in terms of Section 8(1) of the George Integrated Zoning Scheme By-Law, 2023 for the rectification of the land use of Erf 24845, George from Single Residential Zone II (Private Open Space) to Single Residential Zone II (administrative offices of the HOA and facilities ancillary to the functioning of the estate);

BE APPROVED in terms of Section 8(2) of the George Integrated Zoning Scheme, 2023 for the following reasons:

REASONS FOR DECISION:

- (i) Written proof has been submitted of the lawful land use right.
(ii) The suitable zoning has been allocated in terms of the George Integrated Zoning Scheme By-Law, 2023.

Note: The Municipality may not grant a right of appeal either in terms of the George Integrated Zoning Scheme, 2023 or the Land Use Planning Bylaw for George Municipality, 2023. An appeal in terms of Section 62 of the Municipal Systems Act, 2000 may also not be granted as no party to this application can be materially or adversely affected by this decision.

- B. That, notwithstanding the objections received, the following applications applicable to Erf 24845, George:

1. Removal of Restrictive condition in terms of Section 15(2)(f) of the Land Use Planning By-law for George Municipality, 2023 of Condition F. from Title Deed T76532/2012 applicable to Erf 24845, George.

2. Closure in terms of Section 15(2)(n) of the Land Use Planning By-law for George Municipality, 2023 of the 13 metre Right of Way Servitude in favour of the General Public registered over Erf 28485, George.
3. Subdivision in terms of section 15(2)(d) of the Land Use Planning By-law for George Municipality, 2023 for the subdivision of Erf 24845, George into a Portion A ($\pm 2\,207\text{m}^2$), Portion B ($\pm 1\,775\text{m}^2$) and a Portion C ($\pm 4\,301\text{m}^2$).
4. Registration of servitudes in terms of Section 15(2)(d) of the Land Use Planning By-law for George Municipality, 2023 for the following:
 - a) Stormwater and sewer line servitudes in general terms over Portion B and Portion C in favour of Portion A
 - b) Stormwater and sewer line servitudes in general terms over Portion C in favour of Portion B
 - c) Stormwater line servitude in general terms over Portion A in favour of Portion B
5. Amendment of condition of approval in terms of Section 15(2)(h) of the Land Use Planning By-law for George Municipality, 2023 for amendment of the land use plan to be as follows:
 - a) Portion B as per the "Land Use Plan for Blue Mountain Village" from Single Residential Zone II (Administrative offices of the HOA and facilities ancillary to the functioning of the estate) to Single Residential Zone II for a 'Retirement Resort – Memory Care Facility'
 - b) Portion C as per the "Land Use for Blue Mountain Village" from Single Residential Zone II (Administrative offices of the HOA and facilities ancillary to the functioning of the estate) to Single Residential Zone II for a 'Retirement Resort'

BE APPROVED in terms of Section 60 of the Land Use Planning Bylaw for George Municipality, 2023 for the following reasons:

REASONS FOR DECISION:

- (i) The proposed development is deemed to be consistent with the spatial planning policies and guidelines for this area.
- (ii) The proposed development is not in conflict with the guidelines and objectives of the George MSDF 2023.
- (iii) The proposal will ensure the effective use of underutilized land in a well-located area, providing much needed retirement/residential opportunities in close proximity to public transport routes.
- (iv) The subject property is located within walking distance from public transport facilities ("bus stops") and supports the efficiency of public transport systems and transport-orientated developments.
- (v) The proposed development will not have an impact on the character of the area, or the streetscape as sufficient mitigation measures are proposed to reduce visual impact.
- (vi) The proposed development will not have a significant adverse impact on surrounding neighbours' rights in terms of privacy, views and sunlight.
- (vii) The removal the restrictive title deed condition was found to be desirable and compliant in terms of Section 33 of the Land Use Planning By-Law for George Municipality, 2023 and Section 39(5) of the Land Use Planning Act (LUPA 2014).
- (viii) The disputes and contestations raised by the objectors are noted. These are however, private matters that must be resolved internally between the respective parties and cannot be used as reason to determine the outcome of these land use applications.

Subject to the following conditions imposed in terms of Section 66 of the said Planning By-Law:

CONDITIONS OF THE DIRECTORATE: HUMAN SETTLEMENTS, PLANNING AND DEVELOPMENT:

General

1. That in terms of the provisions of the Land Use Planning By-law for the George Municipality, 2023, the approval shall lapse if not implemented within a period of five (5) years from the date it comes into operation.

2. This approval shall be taken to cover the amendment of conditions of approval and subdivision as applied for as indicated on the subdivision plan dated 20 October 2023 drawn by Goosen, Clough & Louw, and Land Use Plan with plan no. 24845/1 dated July 2024 drawn by Jan Vrolijk Town Planners attached as “Annexure A” which bears Council’s stamp and shall not be construed as to depart from any other Council requirements or legal provision.
3. The following development parameters be applicable on Portion C as indicated on the Site Layout Plan with Plan no. 001 dated 08/03/23 drawn by ISA Architects attached as Annexure B:
 - a) Minimum Parking requirement of 1.2 parking bays per retirement resort unit on Portion C.
 - b) Building line on the southeastern lateral boundary building line on Portion C is 1.0m, to allow for the construction of units 1, 15 and 16.
 - c) Blue Mountain Boulevard Street boundary building line on Portion C is 0.0m to allow for the construction of garages.
 - d) The height of the retirement resort units will be limited to 6.5m to wall plate and 8.5m to top of the roof.
 - e) The architectural style of the retirement resort units on Portion C must be similar to the style of the units on Erf 24807, George.
4. The developer must submit the Surveyor General approved, subdivision diagram to the GIS Department of the Directorate of information purposes.
5. That in terms of Section 34(1) the owner must apply to the Registrar of Deeds to make the appropriate entries in, and endorsements on, any relevant register or title deed to reflect the removal of the restrictive condition, after the publication of a notice contemplated in Section 33(7) in the Provincial Gazette before any building plans are submitted.

Implementation

6. A site development plan (SDP) for the proposed development (or per each portion) must be submitted to the satisfaction of the Directorate: Human Settlements, Planning and Development, in accordance with the provisions of Section 23 of the George Zoning Scheme By-Law, 2023, applicable land use descriptions, the conditions of approval, prior to submission of building plans.
7. A separate landscaping plan to be submitted with the SDP(s) to the satisfaction of the Directorate for consideration and approval. The plan shall indicate all hard and soft landscaping elements to be incorporated into the development, including the indigenous vegetation and trees that will be planted, walking and cycling trails, play apparatus, benches, retaining walls, berms, etc. within the development. At least 1x 100L indigenous tree should be planted for
 - a) every x1 retirement unit on Portion C;
 - b) every x2 beds in the dementia facility on Portion B; and
 - c) every 6 parking bays on Portion A.
 These trees should be evenly spaced within the development and not grouped in one area.
8. The necessary landscaping to be done along Blue Mountain Boulevard to mitigate the visual impact of the approved garages on Portion C, must be completed prior to the transfer of the last retirement resort unit.
9. The current service gate and access (located within the right of way servitude) must remain open for use by the residents in the Blue Mountain development until the secondary access gate for the Blue Mountain development onto Platinum Drive has been completed at the developers cost.
10. The existing service gate must be used to access Portion C for the duration of the construction period and may only be closed once the construction of the respective units on Portion C, has been completed.
11. That all property owners within the development, including individual body corporates, shall become members of the Blue Mountain Masters Property Association.
12. A contravention levy of **R49 929.94** (VAT Included) is payable for the unlawful use of the property for the illegal offices not related to the functioning of the estate and shall be payable on submission of building plans for Portion B.
13. The subdivision approval will only be regarded as confirmed on the registration of a Portion in terms of the Deeds Registries Act.
14. The land development rights on Portions B and C will be deemed confirmed on the commencement of works in accordance with approved building plans for respective portions.

Notes:

- (i) An as-built building plan indicating the position of the existing structures within the boundaries of Portion A must be submitted for approval in accordance with the National Building Regulations (NBR) for record purposes.
- (ii) The contravention levy was calculated as follows:
 - a. Total extent of 669.69m^2 (directly use) –
 - b. The present municipal value of the property is R 5 370 000
 - c. The property area is 8283 m².
 - d. The m² value of the property is thus, R 648.32/m².
 - e. The contravention levy payable by the owner in accordance with the municipality's tariff list is:
 $10\% \times \text{R } 648.32/\text{m}^2 \times 669.69\text{m}^2 = \text{R } 43\,417.34$ Plus VAT (15%) = **R 49 929.94**
- (iii) Stormwater must be dispersed responsibly, and the stormwater management, retention and erosion prevention measures must be addressed on the building plans.
- (iv) Provisions for the removal of solid waste is to be addressed in conjunction with the Dir: Community Services.
- (v) The developer is to adhere to the requirements of all relevant Acts, as well as all conditions stipulated by any other authority whose approval is required and obtained for this proposed development.
- (vi) The necessary wayleaves will have to be obtained from the Municipality for the construction and work in the public street reserve.
- (vii) The owner is required to appoint a structural engineer to oversee / manage all construction works, including any excavations and rock removal, slope stabilisation, stormwater management, foundation setting, retaining walls, during construction, etc. A letter confirming the appointment of the structural engineer must accompany the building plans.
- (viii) The applicant is to comply with the National Forestry Act, Act No 84 of 1998, should it be required

CONDITIONS OF THE DIRECTORATE: CIVIL ENGINEERING SERVICES

14. The amount of Development Charges (DCs) to be paid by the developer are calculated in terms of the George Municipality Land Use Planning By-Law (as amended) and the approved DC Guidelines. With reference to clause above, with regards to the proposed development, the developer will be required to make development contribution, as follows:
15. The amounts of the development contributions are reflected on the attached calculation sheet (**Annexure C**) dated 19/01/2024 and are as follows:

Roads	R 255 377,74 Excluding VAT (Refer to attached DC calculation sheet)
Sewer	R 326 781,30 Excluding VAT (Refer to attached DC calculation sheet)
Water	R 296 989,30 Excluding VAT (Refer to attached DC calculation sheet)
Total	R 879 148,34 Excluding VAT
16. The total amount of the development charges of **R 879 148,34 Excluding VAT** shall be paid prior to the first transfer of a land unit pursuant to the application or upon the approval of building plans, whichever occurs first unless otherwise provided in an engineering services agreement or, in the case of a phased development, in these or any other relevant conditions of approval.
17. Any amendments or additions to the proposed development which is not contained within the calculation sheet as dated in **Condition 15** above, which might lead to an increase in the proportional contribution to municipal public expenditure, will result in the recalculation of the development charges and the amendment of these conditions of approval or the imposition of other relevant conditions of approval

Note: The Development Charges indicated above are based on the information available to the respective engineering departments at the time of approval. It is advised that the owners consult with these departments prior to submission of building plans for a final calculation.

18. As provided in section 66(5B) (b) of the Planning By-Law (as amended), using the date of approval as the base month the amount **R 879 148,34 Excluding VAT** shall be adjusted in line with the consumer price index published by Statistic South Africa up to the date when payment is made in terms of **Condition 16** above.
19. Development charges are to be paid to the Municipality in cash or by electronic funds transfer or such other method of payment as may be accepted by the Municipality at the time when payment is made.
20. All services -internal, link and relocation of or upgrades to existing - are to be designed by a registered consulting engineer in accordance with Council specifications. This may include bulk services outside the development area but that must be upgraded to specifically cater for the development. All drawings and plans are to be submitted to the applicable department, or any other relevant authority, (hard copy and electronically) for approval prior to any construction work taking place. All work is to be carried out by a suitable qualified/registered contractor under the supervision of the consulting engineer who is to provide the relevant authority with a certificate of completion, and as-built plans in electronic format. All costs will be for the developer. No transfers will be approved before all the municipal services have been satisfactorily installed and as-builts submitted electronically as well as the surveyor's plan.
21. Any, and all, costs directly related to the development remain the developers' responsibility.
22. Only one connection permitted per registered erf (water and sewer connections). **Condition 20** applies.
23. Any services from the development that must be accommodated across another erf must be negotiated between the developer and the owner of the relevant erf. Any costs resulting from the accommodation of such services or the incorporation of these services into the network of another development are to be determined by the developer and the owner of the other erf. (**Condition 20** applicable)
24. Any service from another erf that must be accommodated across the development or incorporated into the services of the development: all negotiations will be between the owner/developer of the relevant erf and the developer. Costs for the accommodation of these services or the upgrade of the developments services to incorporate such services are to be determined by the developers/owners concerned. (**Condition 20** applicable)
25. Any existing municipal or private service damaged during the development will be repaired at the developers cost and to the satisfaction of the George Municipality. (**Condition 20** applicable)
26. Should it be required, a services agreement is to be drawn up between the developer and the George Municipality, by an attorney acceptable to the Municipal Manager. All expenses will be for the developer.
27. Suitable servitudes must be registered for any municipal service not positioned within the normal building lines.
28. A home owners' association/body corporate (as applicable) is/are to be established incorporating all erven within any security development / private and /or access-controlled developments. The private roads and the related stormwater and light poles infrastructure, and private open spaces within the development will be transferred by the developer to this / these home owners' association/s who will assume responsibility for the maintenance thereof.
29. The association shall see to it that the officials and contractors of the Municipality shall at all times have access to any portion of the development that may otherwise not be generally accessible to the general public due to security measures, including guarded entrances, electronic gates or booms. For the avoidance of doubt, it is agreed that this requirement relates to the Municipality's emergency services, entry for normal maintenance and replacement, meter reading and inspection and refuse removal. If access to the development is denied to the Municipality or a contractor appointed by the Municipality, the developer and the association will jointly and severally be liable for the full cost of the municipal infrastructure repairs and any damages the Municipality may suffer as a result thereof and will be billed for any water losses or loss in electrical sales from the system.
30. Transfers, building plan approvals and occupation certificates may be withheld if any sums of money owing to the George Municipality are not paid in full, or if any services have not been completed to the satisfaction of the Dir: CES & ETS, or any condition of any authority has not been satisfactorily complied with.
31. The Developer is responsible to obtain the necessary approval / way leaves from third parties which include, but is not limited to the George Municipality, Telkom & Fibre optic service provider.

32. No construction activity may take place until all approvals, including way leave approval, are in place, all drawings and material have been approved by the Technical Directorates.
33. Municipal water is provided for potable use only. No irrigation water will be provided.
34. A water meter must be installed by the developer prior to construction to monitor water usage during the construction phase. The Dir: CES (Water section) is to be consulted by the developer, prior to installation, regarding the required specifications. Failure to complying with the water meter application process, will result in the developer being responsible for payment of penalties and/or an estimated non-metered water consumption by this department at a rate as per the applicable annual Tariff List. In this regard, transfers, building plan approval and occupation certificates may be withheld if any sums of money owing to the George Municipality are not paid in full. The water meter is to be removed on completion of construction if so required by the Dir: CES.
35. The development, in its entirety or in phases, is subject to confirmation by the Dir. CES of the availability of Water and Sanitation bulk treatment capacity at the time of the development implementation, or if developed in phases before the commencement of each phase. A development/implementation program is to be provided by the Developer when requesting confirmation of this capacity from the Dir. CES. If the Developer does not adhere to the program the Dir. CES will be entitled to revise the availability of such bulk capacity.
36. The private roads and the associated stormwater and private open spaces are to be registered as private and transferred to the HOA/BC, or other relevant governing or controlling body. Public roads must be transferred to the George Municipality.
37. If required, the developer is to have a Traffic Impact Assessment (TIA) conducted by a registered traffic engineer. The terms of reference of the TIA are to be finalised with the Dir. CES together with any other approving authority, and who must also approve the TIA. All recommendations stipulated in the TIA report and as approved by the Dir. CES and/or relevant authority are to be implemented by the developer. All costs involved will be for the developer.
38. Maintenance and/or upgrading of all private / servitude roads are the responsibility of all the owners who make use thereof.
39. The discharge of surface stormwater is to be addressed by the developer. **Condition 20** applies. All related costs are for the developer. The developer is to consult with the Dir: CES to ensure that stormwater planning is done on line with the available stormwater master plans.
40. Internal parking requirements (ie within the development area), position of accesses, provision for pedestrians and non-motorised transport, and other issues related to traffic must be addressed and all measures indicated on plans and drawings submitted for approval.
41. Adequate parking with a hardened surface must be provided on the premises of the proposed development.
42. No private parking will be allowed in the road reserve. The developer will be required at own cost to install preventative measures to ensure compliance.
43. The approval of the layout of the development and accesses is subject to the George Roads Master Plan and approved by the Dir: CES. A site development plan is to be submitted to the Dir: CES, or any other relevant authority for approval prior to any construction work taking place.
44. Permission for access onto municipal, provincial or national roads must be obtained from the relevant authorities.
45. Access to parking must conform to George Integrated Zoning Scheme 2023, and sufficient stacking distance should be allowed for, and indicated on the Site development Plan.
46. Minimum required off-street parking provided, must be provided in terms of the George Integrated Zoning Scheme 2023 parking requirements and vehicles must readily leave the site without reversing across the sidewalk. Alternative Parking may be supplied.
47. Site access to conform to the George Integrated Zoning Scheme 2023.
48. Developer to contributed financial (as per the Development Charges on roads) to the Eden Meander Road master plan, as stipulated within the existing Blou Mountain / Eden Meander service level Agreements.

CONDITIONS OF THE DIRECTORATE: ELECTRO TECHNICAL SERVICES

49. The amount of Development Charges (DCs) to be paid by the developer are calculated in terms of the George Municipality Land Use Planning By-Law (as amended) and the approved DC Guidelines. With

reference to clause above, with regards to the proposed development, the developer will be required to make development contribution, as follows:

50. The amounts of the development contributions are reflected on the attached calculation sheet (**Annexure C**) dated 21/12/2023 and are as follows:

Electricity R 367 364,56 Excluding VAT (Refer to attached DC calculation sheet)

Total R 367 364,56 Excluding VAT

51. The total amount of the development charges of **R 367 364,56 Excluding VAT** shall be paid prior to the first transfer of a land unit pursuant to the application or upon the approval of building plans, whichever occurs first, unless otherwise provided in an engineering services agreement or, in the case of a phased development, in these or any other relevant conditions of approval.
52. Any amendments or additions to the proposed development which is not contained within the calculation sheet as dated in **Condition 50** above, which might lead to an increase in the proportional contribution to municipal public expenditure, will result in the recalculation of the development charges and the amendment of these conditions of approval or the imposition of other relevant conditions of approval.

Note: The Development Charges indicated above are based on the information available to the respective engineering departments at the time of approval. It is advised that the owners consult with these departments prior to submission of building plans for a final calculation.

53. As provided in section 66(5B)(b) of the Planning By-Law (as amended), using the date of approval as the base month the amount of **R 367 364,56 Excluding VAT** shall be adjusted in line with the consumer price index published by Statistic South Africa up to the date when payment is made in terms of **condition 51** above.
54. Development charges are to be paid to the Municipality in cash or by electronic funds transfer or such other method of payment as may be accepted by the Municipality at the time when payment is made.
55. All services -internal, link and relocation of or upgrades to existing - are to be designed by a registered consulting engineer in accordance with Council specifications. This may include bulk services outside the development area but that must be upgraded to specifically cater for the development. All drawings and plans are to be submitted to the applicable department, or any other relevant authority, (hard copy and electronically) for approval prior to any construction work taking place. All work is to be carried out by a suitable qualified/registered electrical contractor under the supervision of the consulting engineer who is to provide the relevant authority with a certificate of completion, and as-built plans in electronic format. All costs will be for the developer. No transfers will be approved before all the municipal services have been satisfactorily installed and as-builts submitted electronically as well as the surveyor's plan.
56. Consent use approval with regards to Guest houses, School or Hotels are subject to the submission and approval of building plans, which shall include a detailed Site Development Plan (SDP), indicating proposed land use changes to the erf/erven. The SDP should, but not limited to, address all internal parking requirements (i.e. within the development area), position of accesses, provision for pedestrians and non-motorised transport, and other issues related to traffic.
57. Should more than two developments/properties be party to or share any service, the Dir: CES & ETS will in conjunction with the parties determine the pro-rata contributions payable.
58. Any, and all, costs directly related to the development remain the developers' responsibility.
59. Only one connection permitted per registered erf (Electrical, water and sewer connections). **Condition 55** applies.
60. Any services from the development that must be accommodated across another erf must be negotiated between the developer and the owner of the relevant erf. Any costs resulting from the accommodation of such services or the incorporation of these services into the network of another development are to be determined by the developer and the owner of the other erf. (**Condition 55** applicable)
61. Any service from another erf that must be accommodated across the development or incorporated into the services of the development: all negotiations will be between the owner/developer of the relevant erf and the developer. Costs for the accommodation of these services or the upgrade of the developments

services to incorporate such services are to be determined by the developers/owners concerned. **(Condition 55 applicable)**

62. Any existing municipal or private service damaged during the development will be repaired at the developers cost and to the satisfaction of the George Municipality. **(Condition 55 applicable)**
63. Should it be required, a services agreement is to be drawn up between the developer and the George Municipality, by an attorney acceptable to the Municipal Manager. All expenses will be for the developer.
64. Suitable servitudes must be registered for any municipal service not positioned within the normal building lines. Servitudes must be registered for all electrical services traversing erven.
65. Transfers, building plan approvals and occupation certificates may be withheld if any sums of money owing to the George Municipality are not paid in full, or if any services have not been completed to the satisfaction of the Dir: CES & ETS, or any condition of any authority has not been satisfactorily complied with.
66. The Developer is responsible to obtain the necessary approval / way leaves from third parties which include, but is not limited to the George Municipality, Telkom & Fibre optic service provider.
67. No construction activity may take place until all approvals, including way leave approval, are in place, all drawings and material have been approved by the Technical Directorates.
68. In all cases, where individual customer applies for a supply capacity exceeding that provided for in the calculation of DCs and for the developer paid, will be subject to additional DCs based on the rates applicable at the time.
69. Owner to ensure compliance with Regulation XA of SANS 10400 (building plans).
70. Owner to ensure compliance with Regulation XA of SANS 10142 (wiring) and any other applicable national standards.
71. The developer and/or an owner of an erf shall see to it that no Small-Scale Embedded Generation (SSEG) are installed on an erf, any portion of an erf or the development, without prior approval from the ETS. Should any SSEG be installed within any part of the development the Electrotechnical Services will within their discretion either implement applicable penalties and/or disconnect the relevant point of supply.
72. Where DCs have been applied for a particular section of the network, but the developer is requested to install and fund a part of the section of network, such work will be credited against DCs calculated.
73. Installation of ripple relays are compulsory for all geysers with electrical elements.
74. All municipal supply points must be subject to standard DC charges. These charges to be included in the project costs of the project.
75. A detailed energy efficiency and demand side management plan to be implemented in the development to provide to the municipality.
76. All LV work must be installed and be funded by the developer / customer.
77. The developer will be responsible to submit an Electrical Services Report for the development for the approval by the ETS. All the required electrical upgrades required on the Municipal electrical distribution network must be listed within the Electrical Services Report and will be for the cost of the developer. The developer will have to adhere to the Electrical Services Report. However, the preliminary designs, followed by the detailed designs, will only be finalised once the site development plan is approved. **Condition (55) applies.**
78. A temporary municipal metered construction supply can be installed, at a cost to be determine, prior to construction to monitor electrical consumption during the construction phase. All cost, installation and consumption, will be for the cost of the developer. No electricity may be consumed without it being metered by a registered municipal electrical meter. Standard application process will apply. Temporary supplies will only be made available on full payment of the DCs for the whole development.

You have the right to appeal to the Appeal Authority against the decision of the Authorised Employee in terms of Section 79(2) of the Land Use Planning By-Law for George Municipality, 2023.

A detailed motivated appeal with reasons should be directed to the Appeal Authority and received by the Director: Human Settlements, Planning and Development, P O Box 19, George, 6530 or Directorate: Human Settlements, Planning and Development, 5th floor, Civic Centre, York Street, George **on or before 27 SEPTEMBER 2024** and simultaneously submit a copy of the appeal on any person who commented, made representations or objected to the application in the above regard. *Please also note that the appeal must be e-mailed to the administrative officer mentioned above.*

An appeal that is not lodged within the applicable period mentioned above or that does not comply with Section 79 of the Land Use Planning By-Law for George Municipality, 2023, will be deemed invalid in terms of Section 80 of said By-Law.

Kindly note that no appeal right exists in terms of Section 62 of the Local Government Municipal Systems Act, No 32 of 2000.

Please also note that in terms of Section 80(14) of the Land Use Planning By-Law for George Municipality, 2023, the above decision is suspended until such time as the period for lodging an/appeal(s) has lapsed, any appeal(s) has been finalised and you have been advised accordingly.

Yours faithfully



C. PETERSEN

SENIOR MANAGER: TOWN PLANNING

C:\Users\marries\Desktop\Erf 24845, George(departure (rezoning, ror, subdivision, registration of servitudes and amendment of condition of approval)jvrolijk.docx

**APPLICATION FOR SUBDIVISION
IN TERMS OF SECTION 15(2)(d) OF THE
THE GEORGE BY-LAW ON MUNICIPAL
LAND USE PLANNING, 2015**

SKAAL / SCALE 1 : 1000

It is proposed to subdivide
Erf 24845, GEORGE
situate in the Municipality
and Administrative District of
GEORGE into Portions A, B and C
as shown.

Portion No.	Area (+m ²)
PORTION A	2207
PORTION B	1791
PORTION C	4285

Zoning:

PORTION A	Single Residential Zone II (Admin. Offices of HOA and facilities ancillary to functioning of the estate)
PORTION B	Single Residential Zone II (Institutional use - Memory Care Facility)
PORTION C	Single Residential Zone II (Retirement units)

Saamgestel deur ons: / Prepared by us:
GOOSEN, CLOUGH & LOUW

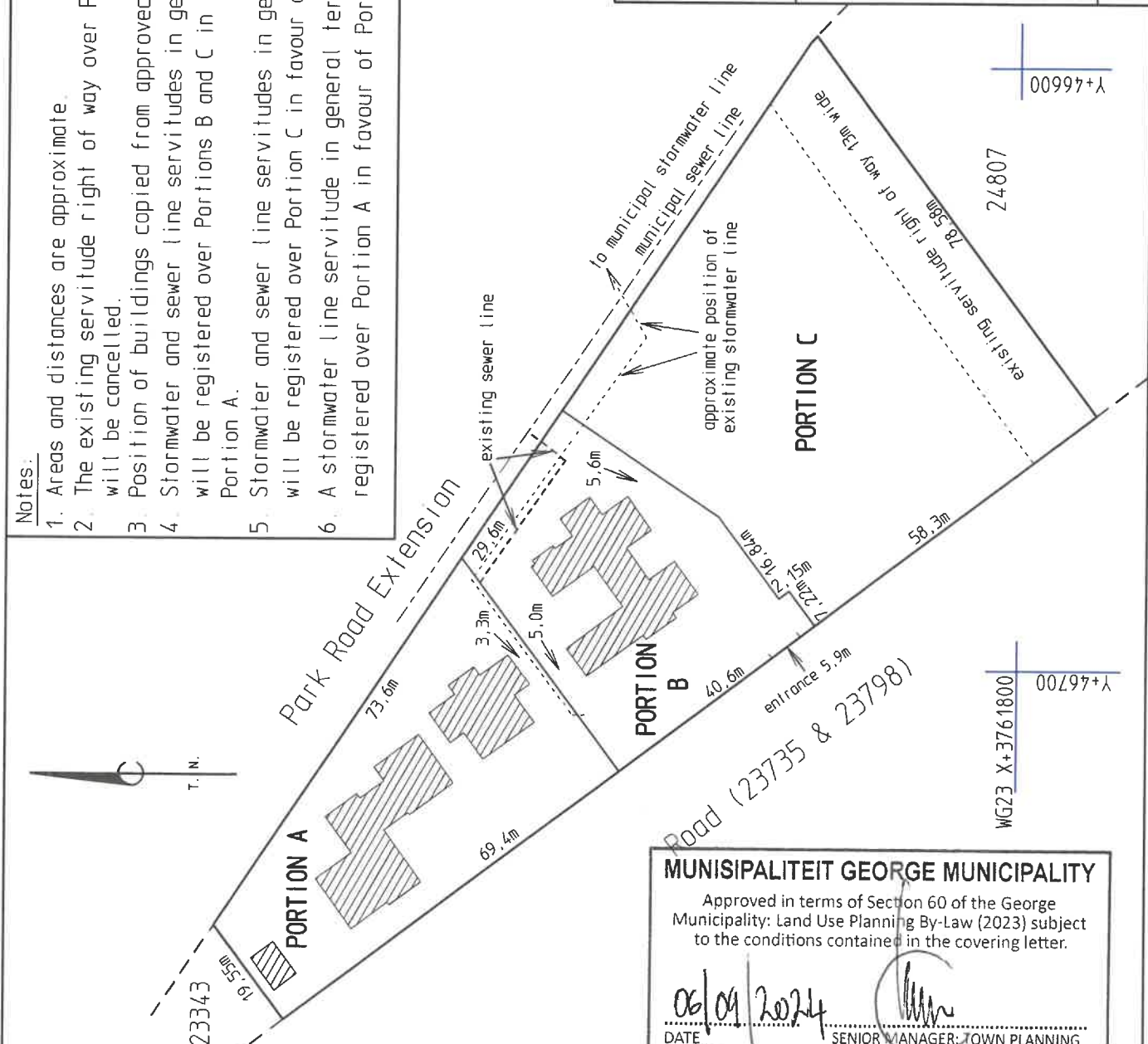
LANDMETERS / LAND SURVEYORS
DORPSGEBIEDBEPLANNERS / TOWNSHIP PLANNERS
Posbus / P.O. Box 60
George
6530

20 October 2023 A. LOUW
Datum/Date Landmeter / Land Surveyor

LÊER Nr. / FILE No. PF99A1

Notes:

1. Areas and distances are approximate.
2. The existing servitude right of way over Portion C will be cancelled.
3. Position of buildings copied from approved building plan
4. Stormwater and sewer line servitudes in general terms will be registered over Portions B and C in favour of Portion A.
5. Stormwater and sewer line servitudes in general terms will be registered over Portion C in favour of Portion B.
6. A stormwater line servitude in general terms will be registered over Portion A in favour of Portion B.

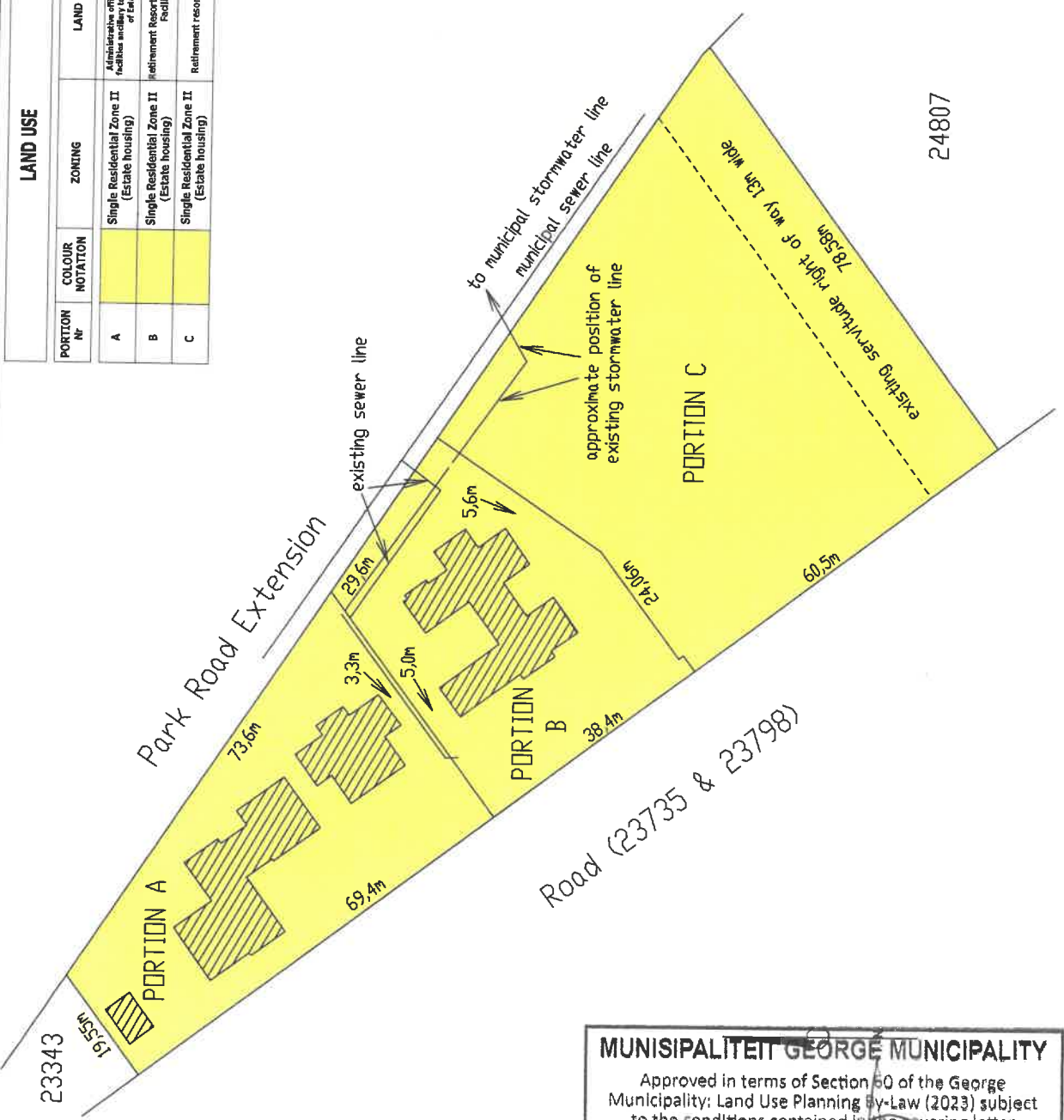


MUNISIPALITEIT GEORGE MUNICIPALITY

Approved in terms of Section 60 of the George Municipality: Land Use Planning By-Law (2023) subject to the conditions contained in the covering letter.

DATE / DATUM: 06/09/2024
SENIOR MANAGER: TOWN PLANNING / SENIOR BESTUURDER: STADSBEPLANNING

LAND USE			
PORTION Nr	COLOUR NOTATION	ZONING	LAND USE
A		Single Residential Zone II (Estate housing)	Administrative offices of HOA and facilities ancillary to the functioning of Estate
B		Single Residential Zone II (Estate housing)	Retirement Resort - Memory Care Facility
C		Single Residential Zone II (Estate housing)	Retirement resort



Land use plan
Erf 24846 George

Land use plan

JANVOLIEK TOWN PLANNER • STADSEPLANNIER

NO. 24846/1
DATE: July 2024
SCALE: 1:500
BY: [Signature]
FOR: Land use plan

ALL MEASUREMENTS APPROXIMATE
ALLE AFMETINGS BY BENADERING

KOPERSIS VOORBEHOUD COPY RIGHT RESERVED

MUNISIPALITEIT GEORGE MUNICIPALITY

Approved in terms of Section 60 of the George Municipality: Land Use Planning By-Law (2023) subject to the conditions contained in the covering letter.

06/09/2024
DATE
DATUM

[Signature]
SENIOR MANAGER: TOWN PLANNING
SENIOR BESTUURDER: STATSEPLANNING



SOFT LANDSCAPING		BOUNDARIES	
SYMBOL	DESCRIPTION	SYMBOL	SIZE
[Symbol]	EXISTING BUILDINGS	AB	178.30m
[Symbol]	EXISTING ROAD	BC	1.50m
[Symbol]	EXISTING DRIVE	CD	74.50m
[Symbol]	NEW	DE	103.30m
[Symbol]	NEW DRIVEWAY CARE	EA	19.50m
[Symbol]	NEW GRASS	EB	12.10m
[Symbol]	NEW EXISTING WALLS	ED	74.30m
[Symbol]	NEW CLEARWAY FENCE	EE	11.00m
[Symbol]	BENCHES		
[Symbol]	PAVING MATERIAL		
[Symbol]	NEW DRIVEWAY		
[Symbol]	NEW DRIVEWAY FENCE		
[Symbol]	NEW GRASS		
[Symbol]	NEW EXISTING WALLS		
[Symbol]	NEW CLEARWAY FENCE		
[Symbol]	BENCHES		
[Symbol]	PAVING MATERIAL		

MUNICIPALITEIT GEORGE MUNICIPALITY
 Approved in terms of Section 60 of the George Municipality: Land Use Planning By-Law (2023) subject to the conditions contained in the covering letter.

06/09/2024
 DATE DATUM

SENIOR MANAGER: TOWN PLANNING
 SENIOR BEST ORDER: STADSBEPLANNING

SITE PLAN
 SCALE 1:200

NO.	DATE	REVISION

NOTES:

- ALL DIMENSIONS AND LEVELS SHALL BE CHECKED ON SITE AND WHERE APPROPRIATE TO MATCH EXISTING STRUCTURE.
- ANY DISCREPANCY FOR CONTRIBUTION TO DIMENSIONS SHALL BE REPORTED TO THE ARCHITECT IMMEDIATELY.
- CONTRACT NOT TO BE SIGNED.
- ALL DIMENSIONS SHALL BE IN METERS UNLESS OTHERWISE SPECIFIED.
- ALL DIMENSIONS SHALL BE AS SHOWN ON THIS SET OF PLANS UNLESS OTHERWISE SPECIFIED.
- ALL DIMENSIONS SHALL BE AS SHOWN ON THIS SET OF PLANS UNLESS OTHERWISE SPECIFIED.
- ALL DIMENSIONS SHALL BE AS SHOWN ON THIS SET OF PLANS UNLESS OTHERWISE SPECIFIED.
- ALL DIMENSIONS SHALL BE AS SHOWN ON THIS SET OF PLANS UNLESS OTHERWISE SPECIFIED.
- ALL DIMENSIONS SHALL BE AS SHOWN ON THIS SET OF PLANS UNLESS OTHERWISE SPECIFIED.
- ALL DIMENSIONS SHALL BE AS SHOWN ON THIS SET OF PLANS UNLESS OTHERWISE SPECIFIED.
- ALL DIMENSIONS SHALL BE AS SHOWN ON THIS SET OF PLANS UNLESS OTHERWISE SPECIFIED.
- ALL DIMENSIONS SHALL BE AS SHOWN ON THIS SET OF PLANS UNLESS OTHERWISE SPECIFIED.
- ALL DIMENSIONS SHALL BE AS SHOWN ON THIS SET OF PLANS UNLESS OTHERWISE SPECIFIED.
- ALL DIMENSIONS SHALL BE AS SHOWN ON THIS SET OF PLANS UNLESS OTHERWISE SPECIFIED.
- ALL DIMENSIONS SHALL BE AS SHOWN ON THIS SET OF PLANS UNLESS OTHERWISE SPECIFIED.

ISA ARCHITECTS
 ARCHITECTS

10000 ARCHITECTS CC
 10000 ARCHITECTS CC
 10000 ARCHITECTS CC
 10000 ARCHITECTS CC

10000 ARCHITECTS CC
 10000 ARCHITECTS CC
 10000 ARCHITECTS CC
 10000 ARCHITECTS CC

RAINBOW PLACE PROPERTIES 29

PROJECT TITLE: **Subdivision and rezoning of Erf 24845 George**

PROJECT NO: 5011

DATE: 06/09/2024

SCALE: 1:200

DRAWN BY: [Name]

CHECKED BY: [Name]

APPROVED BY: [Signature]

REVISIONS

NO. DATE REVISION

SDP

PROJECT TITLE: **Subdivision and rezoning of Erf 24845 George**

PROJECT NO: 5011

DATE: 06/09/2024

SCALE: 1:200

DRAWN BY: [Name]

CHECKED BY: [Name]

APPROVED BY: [Signature]

SITE PLAN

PROJECT TITLE: **Subdivision and rezoning of Erf 24845 George**

PROJECT NO: 5011


DATE: 06/09/2024

SCALE: 1:200

DRAWN BY: [Name]

CHECKED BY: [Name]

APPROVED BY: [Signature]



CES Development Charges Calculator
Version 3.01 (Sep 2023)

Erf Number * 24845
Allocation area * George
Water & Sewer System * George System
Road network * George

Developer/Owner * Applewood Trading 128 (Pty) Ltd





Erf Size (ha) * 8283,25
Date (YYYY/MM/DD) * 2024-01-19
Current Financial Year * 2023/2024
Collaborator Application Reference * 2911775










GM 2023 Development Charges policy

Civil Engineering Service

Electro-Technical Service

GM 2023 Integrated Zoning Scheme By-Law

Code	Land Use	Unit	Total Existing Right			Total New Right																																					
			Units	FAR	m ² GLA	Units	FAR	m ² GLA																																			
RESIDENTIAL																																											
	Group Housing (Retirement Village) (200 - 267 m ² unit)	unit						17																																			
	Group Housing (Retirement Village) (267 - 400 m ² unit)	unit						6																																			
GENERAL BUSINESS																																											
	Offices - Small (<2 000m ² GLA)	m ² GLA	607,00	1,00	607,00																																						
CARE / ACCOMMODATION (HOSPITALS, CLINICS, OLD AGE HOMES)																																											
	Medical Clinic	bed																																									
		sqm GLA				645,00	1,00	645,00																																			
<p>Is the development located within Public Transport (PT1) zone? Please select <input type="radio"/> Yes <input type="radio"/> No</p> <p>Calculation of bulk engineering services component of Development Charge</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>Service</th> <th>Units</th> <th>Additional Demand</th> <th>Unit Cost</th> <th>Amount</th> <th>VAT</th> <th>Total</th> </tr> </thead> <tbody> <tr> <td> trips/day</td> <td>626,61</td> <td></td> <td>R 407,56</td> <td>R 255 377,74</td> <td>R 38 306,66</td> <td>R 293 684,40</td> </tr> <tr> <td> k/day</td> <td>7,30</td> <td></td> <td>R 44 780,00</td> <td>R 326 781,30</td> <td>R 49 017,20</td> <td>R 375 798,50</td> </tr> <tr> <td> k/day</td> <td>7,02</td> <td></td> <td>R 42 320,00</td> <td>R 296 989,30</td> <td>R 44 548,39</td> <td>R 341 537,69</td> </tr> <tr> <td colspan="6">Total bulk engineering services component of Development Charge payable</td> <td>R 1 011 020,59</td> </tr> </tbody> </table>									Service	Units	Additional Demand	Unit Cost	Amount	VAT	Total	 trips/day	626,61		R 407,56	R 255 377,74	R 38 306,66	R 293 684,40	 k/day	7,30		R 44 780,00	R 326 781,30	R 49 017,20	R 375 798,50	 k/day	7,02		R 42 320,00	R 296 989,30	R 44 548,39	R 341 537,69	Total bulk engineering services component of Development Charge payable						R 1 011 020,59
Service	Units	Additional Demand	Unit Cost	Amount	VAT	Total																																					
 trips/day	626,61		R 407,56	R 255 377,74	R 38 306,66	R 293 684,40																																					
 k/day	7,30		R 44 780,00	R 326 781,30	R 49 017,20	R 375 798,50																																					
 k/day	7,02		R 42 320,00	R 296 989,30	R 44 548,39	R 341 537,69																																					
Total bulk engineering services component of Development Charge payable						R 1 011 020,59																																					
Link engineering services component of Development Charge																																											
Total Development Charge Payable						R 1 131 872,25																																					

City of George

Calculated (CES): **JM Fivaz**

Signature: _____ **Date:** **January 19, 2024**

NOTES:


- In relation to the increase pursuant to section 66(5B)(b) of the Planning By-Law (as amended) in line with the consumer price index published by Statistic South Africa) using the date of approval as the base month
- Please note the calculation above only surfs as a pro-forma calculation. Once confirmation of the calculation is revised can a VAT invoice be requested from the Municipal Financial department. In this regard you can contact Werner Joubert on email at wjoubert@george.gov.za or telephone on 044 801 1333

Departmental Notes:

For the Internal use of Finance only

Service	Financial code/Key number	Total
Roads	20220703048977	R 293 684,40
Sewerage	20220703048978	R 375 798,50
Water	20220703048981	R 341 537,69
		R 1 011 020,59

Development Charges Calculator Version 1.00 2023/07/04



Erf Number	24845
Allotment area	George
Elec DCs Area/Region	George Network
Elec Link Network	MV/LV
Elec Development Type	Normal
Developer/Owner	Applewood Trading
Erf Size (ha)	0,4
Date (YYYY/MM/DD)	2023-12-21
Current Financial Year	2023/2024
Collaborator Application Reference	291775

Code	Land Use	Unit	Total Existing Right	Total New Right	
RESIDENTIAL					
	Single Res > 1000m ² Erf (Upmarket)	unit		1	
OTHERS					
	Others. No further diversity applied. (as applied by consultant)	Actual kVA (ADMD)			67,6

Is the development located within Public Transport (PT1) zone? Please select


Calculation of bulk engineering services component of Development Charge

Service	Units	Existing demand (ADMD)	New demand (ADMD)	Unit Cost	Amount	VAT	Total
Electricity	kVA	5,78	67,60	R 5 942,45	R 367 364,56	R 55 104,68	R 422 469,25
Total bulk engineering services component of Development Charge payable					R 367 364,56	R 55 104,68	R 422 469,25

Link engineering services component of Development Charge

Total Development Charge Payable

City of George

Calculated (ETS): 

Signature: _____

Date: December 21, 2023

NOTE : In relation to the increase pursuant to section 66(5B)(b) of the Planning By-Law (as amended) in line with the consumer price index published by Statistic South Africa) using the date of approval as the base month

Notes:

Departmental Notes:

For the internal use of Finance only

Service	Financial code/Key number	Total
Electricity	422000000	R 422 469,25
		R 422 469,25



The Municipal Manager
P. O. Box 19
George
6530

Reference: Erf 24845 George
Mun ref: 2325803

30 July 2024

For attention: Ilanè Huyser

AMENDMENT OF APPLICATION FOR RECTIFICATION OF ZONING, SUBDIVISION AND AMENDMENT OF LAND USE PLAN, PERMANENT DEPARTURES (RELAXATION OF BUILDING LINES, PARKING AND OPEN SPACE REQUIREMENT), CANCELATION OF SERVITUDE AND REMOVAL OF RESTRICTIVE CONDITION OF TITLE: ERF 24845 GEORGE

I refer to my abovementioned application dated 26 October 2023 and our meeting on 30 July 2024 regarding the amendment of the abovementioned application as set out in the following paragraphs.

Application is hereby made in terms of Section 52(1)(c) of the Land Use Planning By-Law for George Municipality, 2023 to amend my application dated 26 October 2023 as follows

1. The cancelation of the following applications:

- *The application in terms of section 15(2)(b) of the Land Use Planning By-law for George Municipality, 2023 for a departure from land use parameter (d) applicable to "Group housing" to waive the requirement that 50m² functional open space be provided for every retirement unit.*
- *The application in terms of section 15(2)(b) of the Land Use Planning By-law for George Municipality, 2023 for the relaxation of the parking requirements applicable to the retirement units from 1.75 parking bays per retirement unit to 1.2 parking bays per retirement unit.*

TEL: 044 873 3011 FAX: 086 510 4383 EMAIL: janvrolijk@jvtownplanner.co.za
CELL: 082 464 7871 PO Box 710 George 6530
OFFICE: Millwood Building corner of York and Victoria Street, George
SACPLAN REG No. A/1386/2010

- *The application in terms of section 15(2)(b) of the Land Use Planning By-law for George Municipality, 2023 for the relaxation of the*
 - *Blue Mountain Boulevard street boundary building line on Portion C from 3.0 metres to 0.0 metres to allow for the construction of garages.*
 - *southeastern lateral boundary building line on Portion C from 1.5 metres to 1.0 metres to allow for the construction of units 1, 15 and 16.*

2. *the amendment of the following application*

- *The application in terms of section 15(2)(h) of the Land Use Planning By-law for George Municipality, 2023 for amendment of the land use of*
 - *Portion B as per the "Land Use Plan for Blue Mountain Village" from Single Residential Zone II (Administrative offices of the HOA and facilities ancillary to the functioning of the estate) to Single Residential Zone II (Institutional use – Memory Care Facility).*
 - *Portion C as per the "Land Use for Blue Mountain Village" from Single Residential Zone II (Administrative offices of the HOA and facilities ancillary to the functioning of the estate) to Single Residential Zone II (Group housing - Retirement units).*

to read as follows:

- *Application is made in terms of section 15(2)(h) of the Land Use Planning By-law for George Municipality, 2023 for amendment of the land use of*
 - *Portion B as per the "Land Use Plan for Blue Mountain Village" from Single Residential Zone II (Administrative offices of the HOA and facilities ancillary to the functioning of the estate) to Single Residential Zone II (Retirement Resort – Memory Care Facility).*
 - *Portion C as per the "Land Use for Blue Mountain Village" from Single Residential Zone II (Administrative offices of the HOA and facilities*

ancillary to the functioning of the estate) to Single Residential Zone II (Retirement Resort).

An amended Land Use plan indicating the amended land use descriptions, as per the abovementioned amendments, is attached hereto.

The proposed amendments have no bearing on the desirability of the application and are only required to bring the application in line with the stipulations of a Single Residential Zone II (Estate housing) zoning as per the George Integrated Zoning Scheme By-law, 2023.

If any additional information is required, please do not hesitate to contact me.

Your prompt finalization of the application will be appreciated.

Thanking you in anticipation.

A handwritten signature in black ink, appearing to read 'J. Vrolijk', written in a cursive style.

Jan Vrolijk

MOTIVATION REPORT:
APPLICATION FOR RECTIFICATION OF ZONING, SUBDIVISION AND AMENDMENT
OF LAND USE PLAN, PERMANENT DEPARTURES (RELAXATION OF BUILDING
LINES, PARKING AND OPEN SPACE REQUIREMENT), CANCELATION OF
SERVITUDE AND REMOVAL OF RESTRICTIVE CONDITION OF TITLE
ERF 24845 GEORGE

1. EXISTING SITUATION

Erf 24845 George was created in terms of an approval dated 25 April 2006 which was amended on 6 June 2008. A copy of the approval letter dated 25 April 2006 is attached hereto as **Annexure "A"** whilst a copy of the amended approval letter dated 6 June 2008 is attached hereto as **Annexure "B"**. As no zoning existed at that stage which could accommodate the buildings and land uses associated with the homeowner's association, Portion 430 (now Erf 24845 George) was zoned Special (Utility use). The intention was that buildings be developed on the erf to be used for land uses associated and related to the Home Owners Association which had to be established for the management and administration of the Blue Mountain residential development. Erf 24845 George has since been developed as discussed and described in section 4 of this motivation report.

In terms of the Zoning Transition Table in the George Municipality Integrated Zoning Scheme By-law, 2017 the zoning of Erf 24845 George has on 1 September 2017, with the implementation of the George Municipality Integrated Zoning Scheme By-law, 2017, been changed to Single Residential Zone II (Private Open Space). This zoning was awarded to the erf because of a lack of another alternative zoning. This was obviously not the correct zoning which has since been admitted by the George Municipality.

The George Municipality has on 1 October 2023 promulgated revisions to the George Integrated Zoning Scheme By-law, 2017. In terms of the amended George Integrated Zoning Scheme By-law, 2023 provision has made for a zoning / land use to accommodate the facilities associated

with a Homeowners Association within an Estate Development, namely Single Residential Zone II (Administrative offices of the HOA and facilities ancillary to the functioning of the estate).

It has since been recommended by the George Municipality that an application for rectification of land use of Erf 24845 George from Single Residential Zone II (Private Open Space) to Single Residential Zone II (Administrative offices of the HOA and facilities ancillary to the functioning of the estate) be submitted for consideration.

Erf 24845 George is at present registered in terms of Deed of Transfer T76532/2012 in the name of Applewood Trading 128 (Pty) Ltd Registration number No 2008/002408/07. A copy of the Title Deed of the erf is attached hereto as **Annexure "C"**.

It is the intention of the Applewood Trading 128 (Pty) Ltd Registration number No 2008/002408/07 to deal with Erf 24845 George as prescribed in section 3 and 4 of this motivation report.

2. PRE-APPLICATION

The pre-application consultation discussion of the proposal by the relevant officials of George Municipality took place on 22 November 2023. The completed pre-application consultation form with the municipal comments on the proposal is attached hereto as **Annexure "D"**. The signed pre-application consultation application form contains the following comments that need to be addressed in the application:

"Town Planning

- *The Section 40 letter dated 6 November 2023 refers.*
- *Need to address compliance with MSDF 2023, LSDF, SPLUMA, Zoning Scheme etc.*
- *Parking, manoeuvrability, stacking distance etc will have to be included in the layout plans.*
- *Need to show the functional open space for the retirement facility.*
- *A land use plan to be included in the application clearly showing the respective uses for the subdivided portions.*

- *HOA approval will be required for the proposed development (to submit the signed minutes of the AGM meeting that was held).*
- *Note that no 'private office' or offices/uses other than for the HOA will be allowed on this property.*
- *Building line relaxation for the proposed carports are not required. Garage door – not facing the private street.*
- *The right of way servitude needs to be removed by means of an application for the "Removal of Restrictive Conditions".*
- *A land surveyor to confirm how the servitude will be removed from the approved Subdivision/SG plan.*
- *The condition was written in favour of the general public and full PPP will thus be required for this application.*
- *Publication in the Burger and not the George Herald is also recommended to target a larger public group.*
- *Notices should also be sent to Erven 29620, 29622, 26832 George and notices need to be placed on site.*

CES

- *Access: Restricted to the internal road network. The closure of the section of road is supported.*
- *Water & Sewer: Available, subject to confirmation of capacity required.*
- *Stormwater: Development must conform to Stormwater bylaw.*
- *Development Charges: Normal DC's in terms of the DC policy will apply. Credit will only be taken in consideration if proof of DC payments are available."*

No negative issues were thus mentioned, and permission was granted to proceed with the submission of the application. The issues raised above are addressed in various points throughout this motivation report.

3. APPLICATION

- Application is made for the rectification of the land use of Erf 24845 George from Single Residential Zone II (Private Open Space) to Single Residential Zone II (Administrative offices of the HOA and facilities ancillary to the functioning of the estate).
- Application is made in terms of section 15(2)(f) of the Land Use Planning By-law for George Municipality, 2023 for the removal of condition F. from Title Deed T76532/2012, the title deed of Erf 24845 George.
- Application is made in terms of section 15(2)(d) of the Land Use Planning By-law for George Municipality, 2023 for the cancelation of the 13 metre right of way servitude registered over Erf 28485 George.
- Application is made in terms of section 15(2)(d) of the Land Use Planning By-law for George Municipality, 2023 for the subdivision of Erf 24845 George into a Portion A ($\pm 2\ 207\text{m}^2$), Portion B ($\pm 1\ 775\text{m}^2$) and a Portion C ($\pm 4\ 301\text{m}^2$) as indicated on the subdivision plan attached hereto as **Annexure "E"**.
- Application is made in terms of section 15(2)(d) of the By-law on Land Use Planning for George Municipality, 2015 for the registration of
 - stormwater and sewer line servitudes in general terms over Portion B and Portion C in favour of Portion A as indicated on the subdivision plan attached hereto as **Annexure "E"**;
 - stormwater and sewer line servitudes in general terms over Portion C in favour of Portion B as indicated on the subdivision plan attached hereto as **Annexure "E"**; and
 - a stormwater line servitude in general terms over Portion A in favour of Portion B as indicated on the subdivision plan attached hereto as **Annexure "E"**.
- Application is made in terms of section 15(2)(h) of the Land Use Planning By-law for George Municipality, 2023 for amendment of the land use of

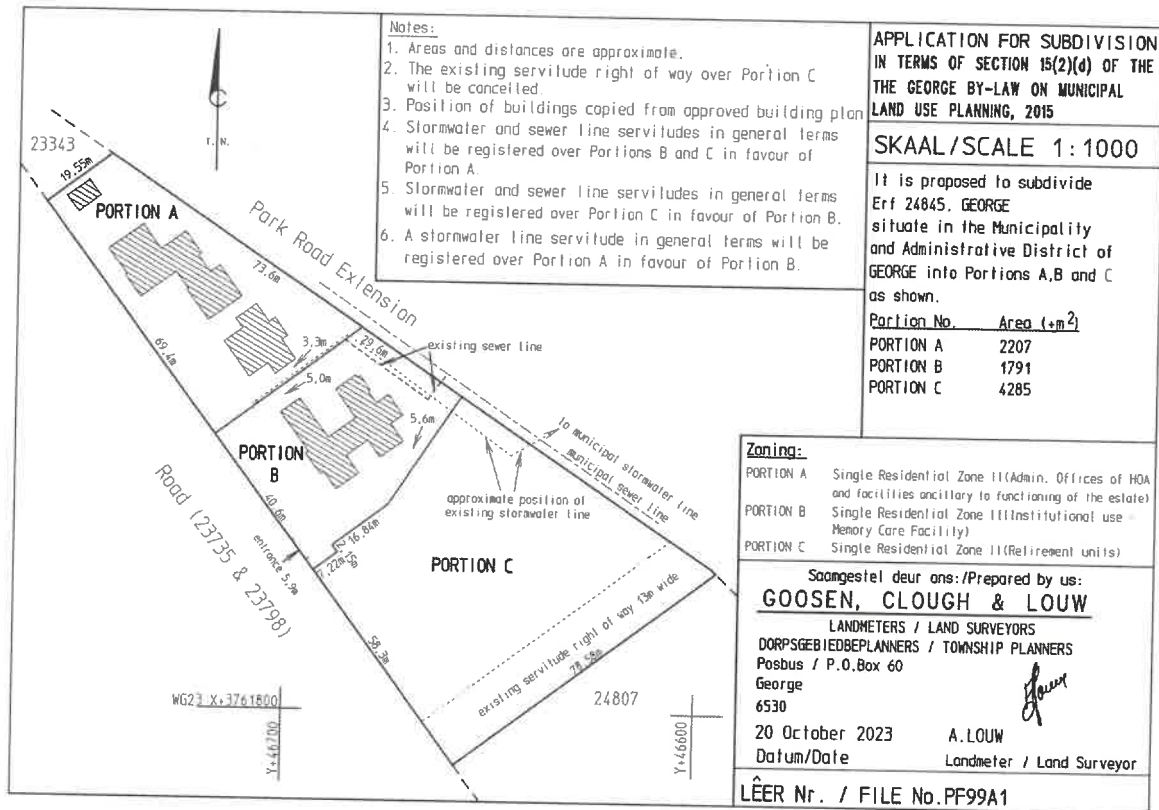
- Portion B as per the "Land Use Plan for Blue Mountain Village" from Single Residential Zone II (Administrative offices of the HOA and facilities ancillary to the functioning of the estate) to Single Residential Zone II (Institutional use – Memory Care Facility) as indicated on the Land Use Plan attached hereto as **Annexure "F"**.
- Portion C as per the "Land Use for Blue Mountain Village" from Single Residential Zone II (Administrative offices of the HOA and facilities ancillary to the functioning of the estate) to Single Residential Zone II (Group housing - Retirement units) as indicated on the Land Use Plan attached hereto as **Annexure "F"**.
- Application is made in terms of section 15(2)(b) of the Land Use Planning By-law for George Municipality, 2023 for the relaxation of the
 - ⇒ Blue Mountain Boulevard street boundary building line on Portion C from 3.0 metres to 0.0 metres to allow for the construction of garages in the position as indicated on the proposed site plan for Portion C attached hereto as **Annexure "G"**.
 - ⇒ southeastern lateral boundary building line on Portion C from 1.5 metres to 1.0 metres to allow for the construction of units 1, 15 and 16 as indicated on the proposed site plan for Portion C attached hereto as **Annexure "G"**.
- Application is made in terms of section 15(2)(b) of the Land Use Planning By-law for George Municipality, 2023 for a departure from land use parameter (d) applicable to "Group housing" to waive the requirement that 50m² functional open space be provided for every retirement unit.
- Application is made in terms of section 15(2)(b) of the Land Use Planning By-law for George Municipality, 2023 for the relaxation of the parking requirements applicable to the retirement units from 1.75 parking bays per retirement unit to 1.2 parking bays per retirement unit.

The completed municipal application form is attached hereto as **Annexure "H"**.

4. DEVELOPMENT PROPOSAL

4.1 Introduction

As has been mentioned in section 2 above it is the intention to subdivide the erf into three portions as indicated on the subdivision plan below.



More detail with regards the existing use of the various building on each of the three portions are provided in section 4.2 of this motivation report. Approved building plans do however exist for all these buildings.

4.2 Existing development

4.2.1 Portion A

As is visible from the subdivision plan in Section 4.1 above Portion A has been developed with three buildings.

The most northern building consists of a generator room where the generator is housed for the generation of electrical power for the offices located on Portion A during load shedding periods. This building has a floor area of approximately 20m². A copy of the approved building plan for this building is attached hereto as **Annexure "I"**.

The building located in the middle of Portion A accommodates the administrative offices, maintenance buildings and storerooms of the Blue Mountain Village Master Property Home Owners Association. The general management, administration and maintenance of Blue Mountain Village and Blue Mountain Gardens is undertaken from this building. Among other things, the building also accommodates all maintenance equipment and machinery used for the maintenance of the parks, sidewalks, etc., while a portion of the building is also used as storage space for the storage of material related to the daily maintenance of the residential area. This building has a floor area of approximately 266m². A copy of the approved building plan for this building is attached hereto as **Annexure "I"**.

The most southeastern building on Portion A is used as a service centre from where the security network and internet facilities, thus facilities ancillary to the functioning of the estate, is administrated, monitored and controlled by the Blue Mountain Village Master Property Home Owners Association. This building has a floor area of approximately 152m². A copy of the approved building plan for this building is attached hereto as **Annexure "I"**.

The three buildings are at present thus used for Home Owners Association facilities as per the approved building plans and as per the proposed zoning rectification.

A stormwater line is located along the southeastern boundary of Portion A from where it extends over Portion B and Portion C before it connects to a municipal stormwater connection point in Park Road Extension. The position of this stormwater line is indicated on the subdivision plan attached hereto as **Annexure "E"**.

4.2.2 Portion B

The building on Portion B used to accommodate the offices of the developer of the erven in the larger Blue Mountain development area as well as the consultants of the developer from where the development area was planned, managed and marketed. Some of the offices are at present still occupied by the consultants. The consultants have all been given notice and will in the next couple of months move to alternative premises. The committee room is however still occasionally used by the developer when development meetings are held with regards the larger Blue Mountain development area. This use will also terminate when the building is converted into the proposed memory care facility.

This existing double storey building has a floor area of approximately 607m². Carports located in the street building line along Blue Mountain Boulevard with a floor area of approximately 139m² has also been developed on this portion. A copy of the approved building plan for this building and the carports is attached hereto as **Annexure "J"**.

A stormwater line is located along the northeastern boundary of Portion B from where it extends over Portion C before it connects to a municipal stormwater connection point in Park Road Extension. A sewer line is also located along the northeastern boundary of Portion B from where it connects to a municipal sewer connection point in Park Road Extension. The positions of the stormwater and sewer line is indicated on the subdivision plan attached hereto as **Annexure "E"**.

4.2.3 Portion C

As is visible from the subdivision plan in Section 4.1 above a service road with an access control gate has been developed on Portion C. The service road has been developed in terms of a 13-metre right-of-way servitude which is registered over Erf 24845 George. The access control structure is located outside the right of way servitude on the vacant portion between the service road and the building on Portion B.

A stormwater line which originates on Portion A and extents over Portion B is also located along the northeastern boundary of Portion C. The position of this stormwater line is indicated on the subdivision plan attached hereto as **Annexure "E"**.

4.3 Proposed development

4.3.1 Proposed subdivision

It is the intention of the developer to subdivide Erf 24845 George into a Portion A ($\pm 2\,207\text{m}^2$), Portion B ($\pm 1\,775\text{m}^2$) and a Portion C ($\pm 4\,301\text{m}^2$) as indicated on the subdivision plan attached hereto as **Annexure "E"**.

Application is also made for amendment of the land use of

- Portion B as per the "Land Use Plan for Blue Mountain Village" from Single Residential Zone II (Administrative offices of the HOA and facilities ancillary to the functioning of the estate) to Single Residential Zone II (Institutional use – Memory Care Facility).
- Portion C as per the "Land Use for Blue Mountain Village" from Single Residential Zone II (Administrative offices of the HOA and facilities ancillary to the functioning of the estate) to Single Residential Zone II (Group housing - Retirement units).

Portion A will maintain its land use as per the rectification application, namely Single Residential Zone II (Administrative offices of the HOA and facilities ancillary to the functioning of the estate).

A Land Use Plan indicating the proposed Land Uses is attached hereto as **Annexure "F"**.

It is intended of the owners to use and develop the three portions as discussed in sections 4.3.2 to 4.3.4.

4.3.2 Portion A

The buildings located on Portion A are occupied by the Blue Mountain Village Master Property Home Owners Association. It is the intention to subdivide this portion from Erf 24845 George and to transfer this portion to the Blue Mountain Village Master Property Home Owners Association in accordance with an agreement reached by the owners of Erf 24845 George and the Blue Mountain Village Master Property Home Owners Association.

Portion A will have an area of approximately 2 207m². The portion will retain its present zoning namely Single Residential Zone II (Administrative offices of the HOA and facilities ancillary to the functioning of the estate). As mentioned in previous paragraphs of this motivation report there are approved building plans for the three buildings that are located on this portion. No changes or alterations are proposed to any of the buildings and the parking bays provided for these buildings. The current situation on the portion is thus not affected by the development proposal.

4.3.3 Portion B

It is the intention to convert the existing building on Portion B into a Memory Care Centre in accordance with the site plan and development plans attached hereto as **Annexure "K"**.

Portion B will have a size of approximately 1 775m². The existing double storey building located on this portion has a floor area of approximately 607m². It is intended to extend the ground floor of this building with a further 38m². The converted building, once completed, will have a total floor area of approximately 645m². Carports with a floor area of approximately 139m² has also been developed on this portion. Approved building plans exists for these carports. The carports will be retained. The Memory Care Centre will on completion have a coverage of approximately 35%.

It is the intention to convert the ground floor of this building into a 15 bed memory care facility. A nurse's station, an entertainment area, linen rooms as well as a consulting room and a therapy room will also be provided on the ground floor level of the building.

The upper floor of the building will house a reception area, the office of the manager of the facility, a staff tearoom, ablution facilities for the staff, a kitchen and consulting rooms for a physiotherapist, a doctor and psychiatrist.

The layout of the two floors is also indicated on the floor plans attached as part of **Annexure "K"**.

To allow for this development the existing land use of Portion B will have to be amended from Single Residential Zone II (Administrative offices of the HOA and facilities ancillary to the functioning of the estate) to Single Residential Zone II (Institutional use – Memory Care Facility).

A 5-metre street building line and 5-metre lateral building line are proposed for this land use as per “Institutional” as per the George Integrated Zoning Scheme By-law, 2023. Approved building plans do exist for the carports which encroaches the Blue Mountain Boulevard 5-metre street building line. No changes are proposed to these carports, and it is thus argued that no building line relaxation is required for the existing approved carports.

In terms of the minimum off-street parking requirements table in Section 42 of the George Integrated Land Use By-law, 2023 parking bays at a ratio of 0.75 parking bays need to be provided per bed for this facility. In terms of this requirement 11.25 parking bays need to be provided. In terms of the development proposal 14 parking bays are to be provided for the facility. The memory care facility will thus comply with the requirements applicable to this land use as per the mentioned by-law.

A motivation report from the General Manager Blue Mountain Village, Blue Mountain Gardens and Blue Mountain Retirement Community consisting of the Blue Mountain Retirement Estate, Blue Mountain Haven and Blue Mountain Gables explaining the need and desirability to develop a memory care facility within the boundaries of the Blue Mountain Village Estate is attached hereto as **Annexure “L”**.

4.3.4 Portion C

A service road with an access control gate has been developed on Portion C. This service road act as access for contractors who are involved with the development of dwelling units on the various erven within the greater Blue Mountain residential estate. As the development is in the final stages of completion the need for this service road will cease to exist within the next couple of months. For security reasons it is the intention to close this contractors access once the building activities has ceased.

A 13-metre wide right of way is registered over this service road. It is proposed to cancel the servitude and to remove the entrance control facilities and tar surface and to include the cancelled servitude area into the development proposal for Portion C. Condition F in Title Deed T76532/2012, the title deed of Erf 24845 George, also refers to this right of way servitude. This condition will thus also have to be removed from the title deed.

The existing land use of Portion C will simultaneously with the cancellation of the servitude be amended from Single Residential Zone II (Administrative offices of the HOA and facilities ancillary to the functioning of the estate) to Single Residential Zone II (Group housing - Retirement units).

Portion C will have an area of approximately 4 301m². It is the intention to develop 17 one bedroom and 6 two-bedroom retirement units on Portion C in accordance with the development plans and 3D presentation giving artist impression attached hereto as **Annexure "M"**.

The one-bedroom retirement units will have a floor area of approximately 64m² which includes a covered patio whilst the two-bedroom retirement units will have a floor area of approximately 78m² which also includes a covered patio.

The retirement units will be developed at a density of approximately 54 units per hectare.

The retirement units development has been planned to comply with the land use parameters applicable to townhousing as per the George Integrated Zoning Scheme, 2023. The proposed density of 54 retirement units per hectare will be within the 60 dwelling unit per hectare parameter applicable to townhousing. The total development will have a floor area of approximately 1 820m² with a coverage of approximately 42,32%. The proposal will thus also comply with the 60% coverage applicable to townhousing. The development will furthermore be subject to a 3-metre street building line and to 1.5 metre lateral building lines.

The retirement units will be similar in appearance to the retirements units which forms part of the Blue Mountain Carenet Haven development on Erf 24807 George directly to the southeast of Erf 24845 George. From the outside the proposed development will thus appear as an extension of the existing retirement village on Erf 24807 George. The retirement units will as far as frail care

facilities are concerned be linked to the Blue Mountain Carenet Haven development on Erf 24807.

Portions of retirement units 1, 15 and 16 will encroach into the southeastern lateral building line and an application for relaxation of these building lines will be necessary.

Fifteen lockup garages, eight carports, two disable parking spaces and 2 visitors parking spaces will be provided within the boundaries of Portion C. This calculate to 1.2 parking bays per retirement unit which is just below the parking requirement of 1,25 parking bay per retirement unit for a PT1 area. The 15 lock up garages will be located in the 3-metre street building line along the Blue Mountain Boulevard street boundary of the portion, thus in a similar position as the garages on Erf 24807 George which was recently approved by the George Municipality. An application for relaxation of the street building line along Blue Mountain Boulevard and an application for relaxation of the parking requirements will thus be necessary.

It is the intention to sell these 23 retirement units by way of section title. As there is already an existing sectional title development for the Blue Mountain Carenet Haven development on Erf 24807 George it is not possible to consolidate Portion C with Erf 24807 George. The 23 retirement units will therefore function as a separate entity who will enter into a service agreement as far as frail care facilities are concerned with the Blue Mountain Carenet Haven development on Erf 24807 George.

4.3.5 Proposed servitudes

A stormwater line is located along the southeastern boundary of Portion A from where it extends over Portion B and Portion C before it connects to a municipal stormwater connection point in Park Road Extension.

A stormwater line is located along the northeastern boundary of Portion B from where it extends over Portion C before it connects to a municipal stormwater connection point in Park Road Extension. A sewer line is also located along the northeastern boundary of Portion B from where it connects to a municipal sewer connection point in Park Road Extension.

A stormwater line which originates on Portion A and extends over Portion B is also located along the northeastern boundary of Portion C. There is currently a sewer line and a storm water pipe located on Portion B and Portion C in the position as indicated on the attached subdivision plan.

The position of the stormwater and sewer line is indicated on the subdivision plan attached hereto as **Annexure "E"**. The stormwater and sewer lines will remain in place and will as such have to be protected by the following servitudes:

- a stormwater and sewer line servitude in general terms over Portion B and Portion C in favour of Portion A as indicated on the subdivision plan attached hereto as **Annexure "E"**;
- a stormwater and sewer line servitude in general terms over Portion C in favour of Portion B as indicated on the subdivision plan attached hereto as **Annexure "E"**, and
- a stormwater line servitude in general terms over Portion A in favour of Portion B as indicated on the subdivision plan attached hereto as **Annexure "E"**.

The servitudes have no impact on the existing development on Portion A nor on the proposed development on Portion B and Portion C.

5. COMMENTS BLUE MOUNTAIN VILLAGE HOME OWNERS' ASSOCIATION

The development proposal was placed for discussion on the agenda of the 16th Annual General Meeting (AGM) of the Blue Mountain Village Home Owners' Association held at 17h30 on Wednesday, 17th May 2023, at Eden Gemeente, George. A copy of the signed minutes of the meeting of the meeting with references to the development proposal is attached hereto as **Annexure "N"**.

The proposal was well accepted by the majority of the residents that attended the meeting. The development proposal was after extensive discussion approved by the Blue Mountain Village Home Owners' Association.

6. OWNERSHIP

6.1 Registered owner

Erf 24845 George is at present registered in terms of Deed of Transfer T76532/2012 in the name of Applewood Trading 128 (Pty) Ltd Registration number No 2008/002408/07.

6.2 Title Deed

A copy of the Deed of Transfer T76532/2012 is attached hereto as **Annexure "C"**.

6.3 Power of Attorney

A copy of the company registration document of Applewood Trading 128 (Pty) Ltd Registration Number No 2008/002408/07 confirming the names of the directors of the company is attached hereto as **Annexure "O"**.

A Company Resolution authorizing Christiaan Johannes Theunis Roodt in his capacity as a Director of Applewood Trading 128 (Pty) Ltd Registration Number No 2008/002408/07 to appoint Jan Vrolijk Stadsbeplanner/Town Planner to prepare and submit the applications as set out in point 2 of this motivation report is attached hereto as **Annexure "P"**.

A Power of Attorney whereby Jan Vrolijk Town Planner/Stadsbeplanner is appointed by Christiaan Johannes Theunis Roodt as the nominated Director of Applewood Trading 128 (Pty) Ltd Registration Number No 2008/002408/07 to prepare and submit the applications as set out in point 2 of this motivation report is attached hereto as **Annexure "Q"**.

6.4 Bondholder's Consent

Erf 24845 George is encumbered by a bond. The permission of Investec, the bondholder, is attached hereto as **Annexure "R"**.

6.5 Conveyancer Certificate

A Conveyancer Certificate in respect of Erf 24845 George is attached hereto as **Annexure "S"**. The Conveyancer Certificate refers to the 13 meter right of way servitude which needs to be

removed from the title deed. The Conveyancer Certificate furthermore confirms that there are no other conditions in the Title Deed of the erf which restrict the development of the erf as proposed in this application.

7. GENERAL INFORMATION REGARDING ERF 24845 GEORGE

7.1 Locality

Erf 24845 George is located to the south of Park Road Extension in the residential township known as Blue Mountain Village. The locality of the erf is indicated on the locality plan which is attached hereto as **Annexure "T"**.

7.2 Existing land use

The existing development on Erf 24845 George is explained in detail in point 4.2 of this motivation report.

7.3 Extent

Erf 24845 George is 8 283m² in extent.

7.4 Present zoning

In terms of this application, application is made for the rectification of the land use of Erf 24845 George from Single Residential Zone II (Private Open Space) to Single Residential Zone II (Administrative offices of the HOA and facilities ancillary to the functioning of the estate).

7.5 Surveyor General Diagram

The Surveyor General Diagram of Erf 24845 George is attached hereto as **Annexure "U"**.

8. DESIRABILITY OF THE APPLICATION FOR THE SUBDIVISION, AMENDMENT OF LAND USE AND REMOVAL OF RESTRICTIVE CONDITION OF TITLE IN RESPECT OF ERF 24845 GEORGE

8.1 Introduction

The application erf is currently zoned to Single Residential Zone II (Administrative offices of the HOA and facilities ancillary to the functioning of the estate).

It is the intention to subdivide Erf 24845 George into a Portion A ($\pm 2\,207\text{m}^2$), Portion B ($\pm 1\,775\text{m}^2$) and a Portion C ($\pm 4\,301\text{m}^2$) as indicated on the subdivision plan attached hereto as **Annexure "E"**. It is further the intention to amend the land use of the subdivided portions as indicated in the following paragraphs and as indicated on the Land Use Plan attached hereto as **Annexure "F"**.

- Portion A will maintain its land use as per the rectification application, namely Single Residential Zone II (Administrative offices of the HOA and facilities ancillary to the functioning of the estate).
- Portion B as per the "Land Use Plan for Blue Mountain Village" from Single Residential Zone II (Administrative offices of the HOA and facilities ancillary to the functioning of the estate) to Single Residential Zone II (Institutional use – Memory Care Facility).
- Portion C as per the "Land Use for Blue Mountain Village" from Single Residential Zone II (Administrative offices of the HOA and facilities ancillary to the functioning of the estate) to Single Residential Zone II (Group housing - Retirement units).

No change of zoning of Erf 24845 George is thus proposed by means of this application. The land use will however change. Section 20(2) of the Land Use Planning By-Law for the George Municipality, 2023 is thus not applicable to this application.

The desirability of the application for subdivision, the amendment of the Land Use Plan for Erf 24845 George and the removal of the restrictive condition of title will subsequently be discussed with reference to the aspects listed below.

- Physical characteristics of the erf.
- The proposed land uses.
- The compatibility of the proposal with existing planning documentation, spatial frameworks, legislation and policies.
- The compatibility of the proposal with the character of the surrounding area.
- Potential of the erf.
- Accessibility of erf.
- Availability of parking.
- Provision of services.

It will be indicated in the following paragraphs that the proposed subdivision of the erf, the amendment of the Land Use Plan for Erf 24845 George and the removal of the restrictive condition of title to allow for a Memory Care Facility and 23 retirement units to be developed on the Portions B and C can be regarded as being desirable as far as the mentioned aspects are concerned.

8.2 Physical characteristics of the erf

8.2.1 Topography

Erf 24845 George is absolutely level and there are no topographic features that could place a restriction on the proposed subdivision of the erf into the three portions as proposed, nor on the development which is proposed for Portions B and C. The topography of the erf therefore plays no role in the desirability of the application.

8.2.2 Surface conditions

Little information concerning the soil conditions in the area is available. The soil condition of the erf seems stable. The existing structures on the erf do not appear to have construction anomalies relating to unstable soil conditions. It can, therefore, be accepted that the soil condition is suitable to accommodate the development as proposed.

There is therefore also no reason from this point of view why the application cannot be supported.

8.2.3 Vegetation

The existing garden surrounding the buildings on Portion A will not be affected by the development proposal.

The garden surrounding the building on Portion B consists of a lawn which is mowed on a regular basis. Once the building on this portion has been converted into the Memory Care Centre, the outside area will be landscaped to provide a private secure outdoor landscaped area for patients of the Memory Care Centre.

Portion C consists of a tar surface and an area overgrown with veld grass and weeds which is mowed on a regular basis. The tar surface and veld grass and weeds will be removed to make way for the development of this portion with 23 retirement units which will be located within a landscaped area.

No indigenous or conservation worthy vegetation will thus be affected by the development proposal.

8.2.4 Other characteristics

The development proposal is not affected by flood lines, fountains or other unique ecological habitats.

8.2.5 Conclusion

From the contents of the above-mentioned paragraphs, there is no reason from a physical characteristics point of view why the application for rezoning and subdivision cannot be supported.

8.3 Proposed land uses

It is the intention of the developer to subdivide Erf 24845 George into a Portion A ($\pm 2\,207\text{m}^2$), Portion B ($\pm 1\,775\text{m}^2$) and a Portion C ($\pm 4\,301\text{m}^2$) as indicated on the subdivision plan attached hereto as **Annexure "D"**.

Portion A - The buildings located on Portion A are occupied by the Blue Mountain Village Master Property Home Owners Association. The existing land use is to remain intact. No changes or alterations are also proposed to any of the buildings and the parking bays provided for these buildings. The current situation on Portion A is thus not affected by the development proposal.

Portion B - It is the intention to convert the existing building on Portion B into a Memory Care Centre in accordance with the details indicated in point 3.3.3 above.

Portion C – It is the intention to develop Portion C with 23 retirement units and garaging in accordance with the details indicated in point 3.3.4 above.

8.4 Density of the proposed development

Density is not applicable to Portion A and portion B.

Portion C will have an area of approximately $4\,301\text{m}^2$. It is the intention to develop 17 one bedroom and 6 two-bedroom retirement units on Portion C. The retirement units will be developed at a density of approximately 54 units per hectare.

The retirement units development has been planned to comply with the land use parameters applicable to townhousing as per the George Integrated Zoning Scheme, 2023. The proposed density of 54 retirement units per hectare will be within the 60 dwelling unit per hectare parameter applicable to townhousing. The total development will have a floor area of approximately $1\,820\text{m}^2$ with a coverage of approximately 42,32%. The proposal will thus also comply with the 60% coverage applicable to townhousing.

8.5 Compatibility of the development proposal with existing planning documentation and policies

8.5.1 Introduction

Different planning documents apply to the application and the desirability and compatibility of the application regarding each of these documents will subsequently be discussed.

8.5.2 "Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) (SPLUMA)"

Section 7 of the "Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)" lists 5 development principles which must be applied when any development application is to be evaluated. The principles referred to are as follows:

- "Spatial justice"
- "Spatial sustainability"
- "Spatial efficiency"
- "Spatial resilience"
- "Good administration"

Different development principles are identified under each of the 5 abovementioned principles which must be applied when a land use application is to be evaluated.

The proposed application for subdivision of the erf and the amendment of the Land Use Plan for Erf 24845 George to allow for a Memory Care Facility and 23 retirement units will subsequently be evaluated based on each of the principles.

Spatial justice		
Criteria	Compliance	Planning Implication
Past spatial and other development imbalances must be redressed through improved access to and use of land.	Complies with.	This application will result in the undeveloped portion of Erf 24845 George being developed with retirement units whilst the existing office building on the erf will be

		<p>converted into a Memory Care Facility. This portion of the development proposal will target the retiree and will result in housing and care facilities being made available to this specific group. The proposal will also make it possible to transfer the portion on which the homeowner's buildings and facilities are located to the Blue Mountain Village Master Property Home Owners Association. The proposal will thus lead to more efficient use of this erf. Due to the high infrastructure costs, the specialized nature of the care facility and the high market value of Erf 24845 George it is inevitable that the development is aimed at the middle to high income groups.</p>
<p>Spatial development frameworks and policies at all spheres of government must address the inclusion of persons and areas that were previously excluded, with an emphasis on informal settlements, former homeland areas and areas characterised by widespread poverty and deprivation.</p>	<p>Complies with.</p>	<p>George Municipality approved a Spatial Development Plan for George, 2023 which contains development proposals which are aimed at improving the quality of life of all the inhabitants of George, thus creating the opportunity for approval of applications of this nature.</p>
<p>Spatial planning mechanisms, including land use schemes, must incorporate provisions that enable redress in access to land by disadvantaged communities and persons.</p>	<p>Complies with.</p>	<p>George Municipality approved the George Integrated Zoning Scheme By-Law, 2023, which contains zoning and development parameters which guide the development of all erven in respect of type of structure allowed, land uses and land use parameters. The required provisions have been incorporated in the George Integrated Zoning Scheme By-Law, 2023. This By-law does however also allow for the development of retirement units and care facilities for the retiree as proposed in this application.</p>
<p>Land use management systems must include all areas of a municipality and especially include provisions that are flexible and appropriate for the</p>	<p>Complies with.</p>	<p>George Municipality approved the George Integrated Zoning Scheme By-Law, 2023 which contains zoning- and development parameters which guide</p>

<p>management of disadvantaged areas, informal settlements and former homelands areas.</p>		<p>the development of all erven in respect of type of structure allowed, land uses and land use parameters. This By-law includes provisions that are flexible and appropriate for the management of disadvantaged areas, informal settlements and former homelands areas. The parameters enable the development of erven in disadvantaged areas and informal settlements. Unfortunately, due to the high infrastructure costs, the specialized nature of the care facility and the high market value of Erf 24845 George it is inevitable that the development as proposed in this application is aimed at the middle to high income groups.</p>
<p>Land development procedures must include provisions that accommodate access to secure tenure and incremental upgrading of informal areas.</p>	<p>Not applicable.</p>	<p>This provision does not apply to this application, as no informal residential development is involved.</p>
<p>A Municipal Planning Tribunal, considering an application before it, may not be impeded or restricted in the exercise of its discretion solely on the ground that the value of land or property is affected by the outcome of this application.</p>	<p>Not applicable.</p>	<p>As far as is known, the Eden Joint Planning Tribunal - George Municipality's discretion when considering applications is not affected by the value of land or property. Decision making is, as far as is known, based on the principles, as stated in Section 7 of the Spatial Planning and Land Use Act, 2013 (Act 16 of 2013).</p>

<p style="text-align: center;">Spatial sustainability</p>		
<p>Criteria</p>	<p>Compliance</p>	<p>Planning Implication</p>
<p>Promote land development that is within the fiscal, institutional and administrative means of the Republic.</p>	<p>Complies with.</p>	<p>The proposed development will have no impact on the fiscal, institutional or administrative capabilities of the George Municipality. The George</p>

		Municipality's income base will in fact be broadened through this development proposal. The development proposal that forms the subject of the application is furthermore located within the urban edge of George in an area that is terms of the George Spatial Development Framework, 2023 earmarked for urban development.
Ensure that special consideration is given to the protection of prime and unique agricultural land.	Not applicable.	Erf 24845 George is zoned as indicated in point 6.4 of this Motivation Report. The provisions of the Act on the Subdivision of Agricultural Land, 1970 (Act 70 of 1970) is therefore not applicable to this application.
Uphold consistency of land use measures in accordance with environmental management instruments.	Not applicable.	The proposed development does not trigger any listed activities in terms of the National Environmental Management Act, 1998 (Act 107 of 1998). This Act is therefore not applicable to this application.
Promote and stimulate the effective and equitable functioning of land markets.	Complies with.	The residential component and density proposed in this application is considered appropriate for this specific location. A similar development is situated directly to the southeast of the proposed retirement units. The Memory Care Facility will be housed in an exciting office building which will be upgraded. The development proposed will be of a high standard and will be complimentary to the development in the area. The proposed development will not have a negative impact on surrounding property values and will contribute to the upgrading of the undeveloped area on Erf 24845 George. The buildings housing the HOA offices and facilities will not be affected by the development proposal.
Consider all current and future costs to all parties for the provision of infrastructure and	Complies with.	All infrastructure required for the development will be provided by the developer at his cost in accordance with municipal requirements. Civil and

social services in land developments.		electrical services report for the proposed development have been prepared and is discussed in more detail in point 7.12 of this Motivation Report.
Promote land development in locations that are sustainable and limit urban sprawl.	Complies with.	Erf 24845 George is in terms of the George Spatial Development Framework. 2023 located within the urban edge of the George Municipal area as well as in an area earmarked for urban development. The proposal will thus not result in urban sprawl.
Result in communities that are viable.	Complies with.	The development as proposed will further enhance the viability of the Blue Mountain residential estate, which will have a positive effect on property values and eventually the economy of George. This will furthermore result in additional income for the Municipality, income which could be used for the improvement of quality of services to all the citizens of George.

Spatial efficiency

Criteria	Compliance	Planning Implication
Land development optimises the use of existing resources and infrastructure.	Complies with.	The required infrastructure for the proposed development will be provided by the developer at his costs. The proposal will thus not result in infrastructure costs to any external parties. The proposal will thus not place any burden on municipal budget for the provision services infrastructure.
Decision-making procedures are designed to minimise negative financial, social, economic or environmental impacts.	Complies with.	In terms of the contents of this Motivation Report the proposed development will have no negative financial, social, economic or environmental impacts. It will thus be

		possible to comply with any procedures which the George Municipality has designed to minimise negative financial, social, economic or environmental impacts.
Development application procedures are efficient and streamlined and timeframes are adhered to by all parties.	Complies with.	George Municipality has adopted the George Municipality: Land Use Planning By-law, 2023 which prescribes procedures and timeframes developers must comply with when submitting land use applications, and which officials must consider when considering applications. This application has been prepared in accordance with the stipulations of the George Municipality: Land Use Planning By-law, 2023 and the application will therefore be handled and considered in accordance with the timeframes as prescribed.

Spatial resilience

Criteria	Compliance	Planning Implication
Flexibility in spatial plans, policies and land use management systems are accommodated to ensure sustainable livelihoods in communities most likely to suffer the impacts of economic and environmental shocks.	Complies with.	The application erven are situated within the urban Edge of George, in an area indicated for further development in the George Spatial Development Framework, 2023.

Good administration

Criteria	Compliance	Planning Implication

<p>All spheres of government ensure an integrated approach to land use and land development that is guided by the spatial planning and land use management systems as embodied in this Act.</p>	<p>This is general principle that municipalities need to comply with.</p>	<p>Input was received from all spheres of government when the George Spatial Development Framework, 2023 was drafted. An integrated approach, guided by the spatial planning and land use management systems as embodied in this Act, was thus followed in the preparation of the George Spatial Development Framework, 2023. As the development proposal can be deemed to comply with the contents of the George Spatial Development Framework, 2023, it can be stated that the proposal complies with the specific criteria.</p>
<p>All government departments must provide their sector inputs and comply with any other prescribed requirements during the preparation or amendment of spatial development frameworks.</p>	<p>This is general principle that municipalities need to comply with.</p>	<p>Input was received from all government departments and sectors when the George Spatial Development Framework, 2023 was drafted. An integrated approach, guided by the spatial planning and land use management systems as embodied in this Act, was thus followed in the preparation of the George Spatial Development Framework, 2023. As it can be deemed that the development proposal complies with the contents of the George Spatial Development Framework, 2023, it can be stated that the proposal complies with this specific criterion.</p>
<p>The requirements of any law relating to land development and land use are met timeously.</p>	<p>This is general principle that municipalities need to comply with.</p>	<p>The George Municipality has adopted the George Municipality: By-law on Land Use Planning, 2023 which prescribes procedures and timeframes which developers must adhere to when submitting land use applications and which officials needs to take into consideration when considering applications. This application has been prepared in keeping with the requirements as per the George Municipality: By-law on Land Use Planning, 2023 and the application will from date of submission be dealt with</p>

		and be considered within the timeframes prescribed in the by-law.
The preparation and amendment of spatial plans, policies, land use schemes as well as procedures for development applications, include transparent processes of public participation that afford all parties the opportunity to provide inputs on matters affecting them.	This is general principle that municipalities need to comply with.	This application will be advertised in accordance with the stipulations as contained in the George Municipality: By-law on Land Use Planning, 2023. All parties will be given the opportunity to participate in the public participation process and will be afforded the opportunity to provide input on the application.
Policies, legislation and procedures must be clearly set in order to inform and empower members of the public.	This is general principle that municipalities need to comply with.	The George Municipality: By-law on Land Use Planning, 2023 contains clear procedures set to inform and empower members of the public. This application will be subjected to these procedures.

As can be seen from the table above, it can be argued that the proposal can be regarded as being compatible with the 5 development principles of SPLUMA.

8.5.3 “Land Use Planning Act, 2014 (Act 3 of 2014) (LUPA)”

In terms of the above Act, it is expected of a municipality to consider the compatibility of any development proposal with existing provincial and municipal spatial development frameworks and as well as more detailed local spatial frameworks.

Section 19(1) and 19(2) of the Land Use Planning Act, 2014 (Act 3 of 2014) (LUPA) which is relevant to this application reads as follows:

*19(1) If a spatial development framework or structure plan specifically provides for the utilization or development of land as proposed in a land use application or a land development application, the proposed utilization or development is regarded as **complying** with that spatial development framework or structure plan.*

19(2) If a spatial development framework or structure plan does not specifically provide for the utilization or development of land as proposed in a land use application or a land development application, but the proposed utilization does not conflict with the purpose

*of the relevant designation in the spatial development framework or structure plan, the utilization or development is regarded as being **consistent** with that spatial development framework or structure plan.”*

The compatibility of the development proposal with existing spatial development frameworks is addressed in points 8.5.5 and 8.5.6 of this report.

The development principles referred to in Section 59 of LUPA, which should also be considered when motivating an application, are directly in line with the principles of SPLUMA which have been discussed in detail in section 8.5.2 above. The comments in paragraph 8.5.2 are thus also relevant as far as Section 59 of LUPA is concerned.

8.5.4 Western Cape Provincial Spatial Development Framework (WC-PSDF)

8.5.4.1 Introduction

The Western Cape Provincial Spatial Development Framework (WC-PSDF) not only provides for a new spatial development pattern for the Province but also clearly points out where development may and may not take place. The provisions of the development framework must therefore be considered with any development proposal.

In terms of the framework, mention is made of several principles namely spatial justice, spatial sustainability, spatial resilience, spatial efficiency, accessibility and quality of life and good administration to which spatial planning must comply. The impact of the application on spatial justice, spatial sustainability, spatial resilience, spatial efficiency, has already been fully discussed in point 7.5.2 above and it has been shown that the proposed development complies with the mentioned principles.

Several policy statements are also highlighted in terms of the WC-PSDF which must specifically correlate with the mentioned principles. Some of the policy statements that are relevant to this town planning application will be addressed in the following points.

8.5.4.2 Protection of agricultural land

In terms of the WC-PSDF it is indicated that agricultural land must be protected. Erf 24845 George is zoned Single Residential Zone II (Administrative offices of the HOA and facilities ancillary to the functioning of the estate) and is not used for agricultural purposes. The relevant objective of the WC-PSDF is therefore not relevant to this application.

8.5.4.3 Urban edge

The WC-PSDF provides for a guideline which determines that towns should identify an urban edge and that development should be restricted to areas inside the urban edge. The George Municipality identified an urban edge, and Erf 24845 George falls within the identified urban edge. As such, the proposed development will not result in "urban sprawl". The proposal therefore meets the requirement of this guideline set out in the WC-PSDF.

8.5.4.4 Densification

In terms of the WC-PSDF, higher densities and more compact cities must be created. According to the framework, it is recommended that towns should densify to an average density of 25 units per hectare with development densities of 3 to 6 units per hectare on the edge of a town and densities of between 40 to 60 units per hectare in the core of the urban area.

In the framework, it is highlighted that the density was decided upon following studies that were undertaken and which showed "that this is the minimum density at which urban settlements begin to significantly improve their urban performance."

According to the framework, the proposed density creates the following benefits:

- The ability to walk to several different destinations on foot.
- Improve surveillance and security.
- Employment and retail opportunities within easy distance.
- Vibrant and active streetscape.

The framework further states that "the figure of an average gross density of 25 du/ha should be seen as a hurdle below which urban settlements will not perform adequately, and above which a number of positive opportunities begin to be achievable."

According to the framework, increased densities are best applied in towns that are under development pressure and, according to the framework, increased densities is an important tool to counter urban sprawl. Although George is not subject to high development pressure and urban sprawl is not a problem at this stage, an application of this nature may contribute to limiting urban sprawl in the future.

According to the framework, the increased density and the combating of urban sprawl can be achieved through various development possibilities. Subdivisions of properties, the development of additional residential units as well as sectional title developments, demolition and redevelopment, high density residential areas, apartment blocks and infill are presented as ways by which higher densities can be achieved.

The option to develop vacant land that is located within the urban edge of a town and that is targeted for residential development and densification in terms of an approved spatial development framework, is thus the recommended way whereby densities can be increased, and urban sprawl can be counteracted. This specific proposal inter alia involves the development of a vacant portion of land which is located in an area earmarked for densification in terms of the George Spatial Development Framework, 2023 with 23 retirement units at an average density of approximately 54 units per hectare. This portion of the development proposal will thus contribute to the fact that the density prescribed by the framework will eventually be achieved and that urban sprawl will be limited.

The residential density proposed in this application is considered appropriate, as the portion to be developed with the 23 retirement units is situated adjacent to other, similarly zoned erven, as well as directly to the south of an extensive business node. The densification objective as prescribed in the development framework will therefore be achieved with this application.

8.5.4.5 Summary

From the content of point 8.5.4 it seems clear that the application can indeed be considered compatible with the WC-PSDF.

8.5.5 George Spatial Development Framework, 2023 (GSDF)

Erf 24845 George is located within the study area of the George Spatial Development Framework, 2023 (GSDF). The framework therefore applies to this application.

In terms of the George Spatial Development Framework, 2023 (GSDF) several business nodes have been identified. Erf 24845 George, which forms part of the Blue Mountain residential development node, is located directly adjacent to the area that is covered by the Eastern Commercial Node.

In terms of the GSDF the Eastern Commercial Node is described as follows:

“Sub-regional mixed-use node, focused presently on the commercial potential of the N2, but also containing a mix of residential and work opportunities, comprising the Garden Route Mall, the Eden Meander, surrounding zoned business and commercial zoned land adjacent to the N2. In time this node will include the future development of the ‘Kraaibosch South Extension’ site. (South and west of the N2).”

In terms of paragraph “4.4 Spatial Elements – Strategy 1b” the following extract provides more details as to the extent of the “mix of residential” promoted in the Eastern Commercial Node:

- *“Commercial precincts act as areas of mixed use commercial and retail nodes. These sites include business opportunities, shopping centres and **residential densification**.*
- *These zones are located along mobility routes with public transport transfer location to promote access to facilities and services. Transport Orientated Development (TOD) envisioned for commercial precincts.*
- ***Residential densification promoted in areas surrounding commercial precincts.***
- *Offices not to be included in these areas, should only be located in the CBD.*
- *Commercial precincts may include tourism related activities or facilities to increase viability.*

- ***Residential Densification – measured as walking distance from public transport route, directly adjacent to the node boundary (80u/ha (or more to be motivated) for 150m, 60u/ha in 151-350m and 45u/ha for 351-500m. Residential in node only above ground floor.”***

Erf 24845 George is located directly to the south of this commercial node and is only separated from the commercial node by Park Road Extension. To the southeast the erf borders on the Blue Mountain Carenet Haven with its high-density retirement units. The Blue Mountain Retirement Village, a high-density retirement village, is located to the southeast of the Blue Mountain Carenet Haven development. The last mentioned two developments also borders on Park Road Extension. The proposed retirement units on Erf 24845 George forms a natural extension of the existing already approved high-density development located to the south of the Eastern Commercial Node. The proposed retirement units are thus in keeping with the proposals that densification adjacent to this commercial node should be encouraged.

Park Road Extension forms an important link in the Go-George public transport network. As the proposed retirement units are located adjacent to Park Road Extension the development is clearly also within walking distance from a public transport route. The proposed retirement unit component of the development thus also complies with the public transport requirements stipulated for high-density residential development adjacent to the Eastern Commercial Node as per the GSDF.

In terms of paragraph “4.5.3 Theme C: Growth Management – Strategy C2.3” graded densification is supported in the Eastern Commercial Node with densities ranging from 45 units per hectare to 80 units per hectare depending on the distance from the node. The proposed retirement units will be located directly adjacent to the node and the proposal to develop 23 retirement units at a density 54 units per hectare is thus in keeping with this principle.

It is thus argued that the proposal to develop 23 retirement units on a portion of Erf 24845 George can be regarded as being compatible and in keeping with the densification requirements as proposed and contained in the GSDF.

The Memory Care facility can be regarded as a facility which is ancillary to and supportive of the existing retirement unit developments in the Blue Mountain residential area and the retirement units proposed in terms of this application. This facility will be housed in an existing building which forms an integral part of the higher density development strip located directly to the south of Park Road Extension.

In terms of paragraph "4.5.3 Theme C: Growth Management – Strategy C2.1" the GSDF furthermore provides for the following principle with regards urban sprawl:

"Urban sprawl relates mostly to residential - and associated urban (socioeconomic) uses and the management of urban sprawl must firstly aim to prevent development beyond the outer limits of urban expansion through giving strategic direction."

The George Municipality identified an urban edge, and Erf 24845 George falls within the identified urban edge. As such, the proposed development will not result in "urban sprawl". The proposal therefore meets the requirement of this principle set out in the SDF.

It is thus argued that the proposal can be regarded to be compatible with the principles of the GSDF.

8.5.6 George Integrated Zoning Scheme By-Law, 2023

Erf 24845 George was created in terms of an approval dated 25 April 2006 which was amended on 6 June 2008. A copy of the approval letter dated 25 April 2006 is attached hereto as **Annexure "A"** whilst a copy of the amended approval letter dated 6 June 2008 is attached hereto as **Annexure "B"**. As no zoning existed at that stage which could accommodate the buildings and land uses associated with the homeowner's association, Portion 430 (now Erf 24845 George) was zoned Special (Utility use). The intention was that buildings be developed on the erf to be used for land uses associated and related to the Home Owners Association which had to be established for the management and administration of the Blue Mountain residential development.

In terms of the Zoning Transition Table in the George Integrated Zoning Scheme By-law, 2023 the zoning of Erf 24845 George has on 1 September 2017, with the implementation of the George Municipality Integrated Zoning Scheme By-law, 2017, been changed to Single Residential Zone II (Private Open Space). This zoning was awarded to the erf because of a lack of another alternative zoning. This was obviously not the correct zoning which has since been admitted by the George Municipality.

The George Municipality has on 6 October 2023 promulgated revisions to the George Integrated Zoning Scheme By-law, 2017. In terms of the amended George Integrated Zoning Scheme By-law, 2023 provision has made for a zoning / land use to accommodate the facilities associated with a Homeowners Association within an Estate Development, namely Single Residential Zone II (Administrative offices of the HOA and facilities ancillary to the functioning of the estate).

It has since been recommended by the George Municipality that an application for rectification of land use of Erf 24845 George from Single Residential Zone II (Private Open Space) to Single Residential Zone II (Administrative offices of the HOA and facilities ancillary to the functioning of the estate) be submitted for consideration.

This rectification application forms an integral part of this application.

It is the intention of the developer to subdivide Erf 24845 George into a Portion A ($\pm 2\,207\text{m}^2$), Portion B ($\pm 1\,775\text{m}^2$) and a Portion C ($\pm 4\,301\text{m}^2$).

Application is also made for amendment of the land use of

- Portion B as per the "Land Use Plan for Blue Mountain Village" from Single Residential Zone II (Administrative offices of the HOA and facilities ancillary to the functioning of the estate) to Single Residential Zone II (Institutional use – Memory Care Facility).
- Portion C as per the "Land Use for Blue Mountain Village" from Single Residential Zone II (Administrative offices of the HOA and facilities ancillary to the functioning of the estate) to Single Residential Zone II (Group housing - Retirement units).

Portion A will maintain its land use as per the rectification application, namely Single Residential Zone II (Administrative offices of the HOA and facilities ancillary to the functioning of the estate).

The zoning and proposed land use of the three portions can thus be accommodated within the George Municipality Integrated Zoning Scheme By-law, 2023.

The existing development on Portion A and the proposed development on Portion B will comply with all the land use parameters applicable to the two portions.

As far as the proposed development on Portion C is concerned relaxation of certain building lines as set out in detail in point 2 of this Motivation Report will be required to accommodate the development. The application for relaxation of the building lines is motivated in point 8 of this Motivation Report.

Fifteen lockup garages, eight carports, two disable parking spaces and 2 visitors parking spaces will be provided for the 23 retirement units within the boundaries of Portion C. This calculate to 1.2 parking bays per retirement unit which is just below the parking requirement of 1,25 parking bay per retirement unit for a PT1 area as per the George Integrated Zoning Scheme By-law, 2023. An application for relaxation of the parking requirements will thus be necessary. The application for relaxation of the parking requirements is motivated in point 9 of this Motivation Report.

8.5.7 Title Deed

Although the title deed of a property is not a planning document, it sometimes still contains conditions which may have an essential impact on the development potential of a property.

The title deed of Erf 24845 George was scrutinised, and it was found that it contains a condition that refers to the 13 metre right of way servitude over Erf 24845 George which will be cancelled in terms of this development proposal.

The condition referred to reads as follows:

"2. F. SUBECT FURTHER as contained in Certificate of Consolidated Title No. T 1662/2009 to a servitude right of way 13 metres wide in favour of the General Public a is depicted by the figure F B C D G on Diagram SG No. 2570/2008."

As has been mentioned in point 4.3.4 a service road with an access control gate has been developed on Portion C. This service road act as access for contractors who are involved with the development of dwelling units on the various erven within the greater Blue Mountain residential estate. As the development is in the final stages of completion the need for this service road will cease to exist within the next couple of months. For security reasons it is the intention to close this contractors access once the building activities has ceased.

A 13-metre wide right of way is registered over this service road. It is proposed to cancel the servitude and to remove the entrance control facilities and tar surface and to include the cancelled servitude area into the development proposal for Portion C. Condition F in Title Deed T76532/2012, the title deed of Erf 24845 George, also refers to this right of way servitude. This condition will thus also have to be removed from the title deed to allow for the actions as mentioned above.

The specific servitude was registered for a specific purpose, a purpose for which no need will in a couple of months exist. This servitude will become redundant. This servitude was never used by any resident in the larger Blue Mountain as an access point. It was merely used as an access point for building and related contractors. The cancellation of the servitude and removal of the condition from the title deed of Erf 24845 George will thus have no effect on any resident residing within the larger Blue Mountain Estate. The land sterilized by the servitude can, as has been indicated in this motivation report, be put to better use.

8.5.8 Conclusion

From the above information it is obvious that the application for the subdivision of Erf 24845 George, the amendment of the Land Use Plan for Erf 24845 George and the removal of the restrictive condition of title to allow for a Memory Care Facility and 23 retirement units to be developed as proposed, comply with the mentioned Planning Polices and Planning Guidelines

and can be considered desirable.

8.6 Compatibility of the proposal with the character of the area

George is one of the fastest growing towns in South Africa and the eastern portions of George were identified by developers as the logical extension area for future development.

Kraaibosch, Kraaibosch Estate, Welgelegen, Blue Mountain Village, Blue Mountain Gardens and Groenkloof are but a few of the residential areas already approved and in the process being developed. Several other applications for residential developments on farm portions directly northeast of Kraaibosch Estate are currently being processed by the George Municipality.

The Garden Route Mall and the Eden Meander development were also developed in the area over the period, in line with the proposals contained in the GSDF. Vast changes/upgrades have been made to the road network to accommodate these expansions/developments.

The Municipality of George itself is also in the process of obtaining approval for a residential/commercial development that will be located around the Garden Route Dam.

The Municipality of George is also the owner of a 29 hectare portion of land, directly adjacent to the Kraaibosch development area, which is known as the George Riding Club land. The Municipality of George has already attempted on two occasions to make the land available for a mixed land use development by tender. The land has therefore also been identified by the municipality for development purposes and is therefore also targeted for development.

As can be gathered from the above, the character of the area has over the last decade changed from a forestry area to an area having a modern urban character with all the facilities associated with it. The proposal put forward in this motivation report will further address the needs of the population to be housed in the direct vicinity and will contribute further to the modern residential/working/retail/office area that is at present being created in this part of George.

It is evident that the development as proposed in this application will be compatible with the existing, as well as the future character of the surrounding area.

8.7 Compatibility of the proposal with the natural environment

The application erf is situated within the Urban Edge of George and as indicated in point 7.2.3 of this motivation report the areas surrounding the buildings consist of lawns which are mowed on a regular basis. The vacant southeastern portion of the erf is overgrown with veld grass and weeds which is moved on a regular basis.

There is as such no conservation worthy natural environmental elements situated on the application erf. No indigenous or conservation worthy vegetation will thus be affected by the development proposal. The proposed development will thus not have a negative impact on the natural environment.

8.8 Potential of the property

The buildings located on Portion A are occupied by the Blue Mountain Village Master Property Home Owners Association. It is the intention to subdivide this portion from Erf 24845 George and to transfer this portion to the Blue Mountain Village Master Property Home Owners Association in accordance with an agreement reached by the owners of Erf 24845 George and the Blue Mountain Village Master Property Home Owners Association.

The building on Portion B used to accommodate the offices of the developer of the erven in the larger Blue Mountain development area as well as the consultants of the developer from where the development area was planned, managed and marketed. Some of the offices are at present still occupied by the consultants. The consultants have all been given notice and will in the next couple of months move to alternative premises. The committee room is however still occasionally used by the developer when development meetings are held with regards the larger Blue Mountain development area. This use will also terminate when the building is converted into the proposed memory care facility. The building will thus be converted in a facility which can be regarded to be compatible with the Blue Mountain Carenet Haven facility. The building will thus be used to its fullest potential within the zoning restrictions applicable to this portion.

A service road with an access control gate has been developed on Portion C. The remainder of this portion is vacant. The proposal to remove the service road with an access control gate and to develop this portion with 23 retirement units represent the optimal use of this portion.

8.9 Accessibility of proposed development

Erf 24845 George forms part of the larger George Garden Route Mall development precinct. With the original application for the rezoning of the portion of land on which the Garden Route Mall is located, it was demonstrated that the George Garden Route Mall/Eden Meander Mall developments have excellent accessibility to the N2 National Road, the George Airport, other neighboring towns and holiday destinations. Erf 24845 George forms an integral part of this "precinct" and will therefore also benefit from the excellent accessibility of the area.

Several bus stops for the Go-George public transport service have been developed within the surrounding street reserves and at the George Garden Route Mall / Eden Meander Mall.

Easy and quick accessibility, not only for consumers but also for workers, therefore, characterizes the area in which Erf 24845 George is located.

8.10 Access to the three portions

Portion A has existing access from Blue Mountain Boulevard. The access is not affected by this application.

Portion B has existing access from Blue Mountain Boulevard. The access is not affected by this application.

A service road with an access control gate has been developed on Portion C. This service road act as access for contractors who are involved with the development of dwelling units on the various erven within the greater Blue Mountain residential estate. As the development is in the final stages of completion the need for this service road will cease to exist within the next couple of months. For security reasons it is the intention to close this contractors access once the building activities has ceased.

A 13-metre wide right of way is registered over this service road. It is proposed to cancel the servitude and to remove the entrance control facilities and tar surface and to include the cancelled servitude area into the development proposal for Portion C. The existing servitude access from Park Road Extension will be closed.

After closure of the access a new access point will be provided to Portion C from Blue Mountain Boulevard.

No access to Portions A, B and C is proposed from Park Road Extension.

The access points to the three portions are indicated on the site plans attached hereto as **Annexure "K"** and **Annexure "M"**. This aspect therefore places no restriction on the application as proposed.

8.11 Provision of parking

The parking requirements applicable to different land uses are set out in a table in Section 42 of the George Integrated Zoning Scheme By-Law, 2023.

The existing development on Portion A has been developed according to approved building plans. No changes are proposed to any of the existing buildings and the parking facilities that have been provided for the buildings as per the approved building plans.

The Memory Care Facility to be developed on Portion B will comply with the parking requirements applicable to this land use.

In terms of the development proposal fifteen lockup garages, eight carports, two disable parking spaces and 2 visitors parking spaces will be provided for the 23 retirement units within the boundaries of Portion C. This calculate to 1.2 parking bays per retirement unit which is just below the parking requirement of 1,25 parking bay per retirement unit for a PT1 area as per the George Integrated Zoning Scheme By-law, 2023. An application for relaxation of the parking

requirements will thus be necessary. The application for relaxation of the parking requirements is motivated in point 9 of this Motivation Report.

8.12 Provision of services

8.12.1 Introduction

The owners appointed VGC Raadgewende Ingenieurs Kaap as consulting engineers to attend to the civil services requirements of the development proposal whilst Lyners & Associates (RF) (Pty) Ltd was appointed as consulting engineers to attend to the electrical services requirements of the development proposal.

8.12.2 Civil Services Report

A Civil Services Engineering Report as prepared by VGC Raadgewende Ingenieurs Kaap dated 28 September 2023 for the proposed development is attached hereto as **Annexure "V"**.

In terms of the services report the existing bulk water network and the existing bulk sewer reticulation network can accommodate the development proposal.

From the contents of the report its clear that there is no reason from a civil engineering point of view why the application as submitted cannot be approved.

8.12.3 Electrical Engineering Services Report

An Electrical Engineering Services Report as prepared by Lyners & Associates (RF) (Pty) Ltd dated October 2023 for the proposed development is attached hereto as **Annexure "W"**.

From the contents of the report its clear that there is no reason from an electro technical engineering point of view why the application as submitted cannot be approved.

8.12.4 Conclusion

The proposed will, therefore, not have a negative impact on the provision of services to the surrounding area. The proposal will in fact result in more effective utilization of existing municipal services, which is one of the objectives of the Western Cape Provincial Spatial Development Framework.

9. DESIRABILITY OF THE APPLICATION FOR PERMANENT DEPARTURE (RELAXATION OF BUILDING LINES) IN RESPECT OF PORTION C

9.1 Introduction

Specific issues which must be addressed in the motivation of applications are highlighted in the Land Use Planning By-Law for George Municipality, 2023. These issues are, however, aimed at more complex applications and are not applicable to lesser applications, such as permanent departures in respect of the relaxation of building lines and parking requirements.

This application will therefore be motivated with reference to the following aspects:

- *Compatibility of the proposal with the existing planning and land uses of the surrounding area.*
- *The impact that the proposal will have on the environment.*
- *The impact that the proposal will have on traffic and parking in the surrounding area.*
- *The impact that the proposal will have on surrounding facilities such as schools, open spaces and other community facilities, should the application result in an increase in the population of the area concerned.*
- *The impact that the proposal will have on the existing character of the surrounding area and the right of the inhabitants of the area in respect of property values, privacy, view, sunlight, et cetera.*
- *Provision of essential services.*

It will be indicated in the following paragraphs that the proposed relaxation of the lateral building lines on Portion C to allow for the development of the retirement units on Portion C

can be regarded as being desirable as far as the mentioned aspects are concerned.

9.2 Existing planning in the area

9.2.1 Proposed garages on Portion C

Erf 24845 George is located directly south of a business node consisting of the Garden Route Mall, the Eden Meander Mall and various other business land uses. The area that is located directly to the north of Erf 24845 George therefore has a commercial character with large, extensive structures that has been developed on these erven. The Blue Mountain Carenet Haven development with its carports and garages which have been developed on the 0.0 metre street building line along Blue Mountain Boulevard is located to the southeast of Erf 24845 George. The immediate area thus consists of a high intensity extensively developed mixed use area.

The proposed development on Portion C of Erf 24845 George can be regarded as being complimentary to the business character north of Park Road and the Blue Mountain Carenet Haven development to the southeast there off. The retirement units will in fact form a natural extension of the existing retirement units on the Blue Mountain Carenet Haven development site. The high-density retirement units and the garaging proposed can indeed thus be regarded as being compatible with the abovementioned area.

As the garages proposed are minute in relation to these business complexes and the Blue Mountain Carenet Haven development, the existing planning which is located north of the Portion C will in no way be negatively affected by the proposed building line relaxation to allow for the 15 garages as proposed in this application.

Although street building line relaxations are not common within the Blue Mountain residential estate several building line relaxations along Blue Mountain Boulevard to allow for carports and garages on Erf 24807 George were approved by virtue of approvals dated 6 March 2020 (**Annexure "X"**) and as recently on 28 July 2023 (**Annexure "Y"**). These structures have since been erected and forms an integral part of the aesthetic and visual appearance of the Blue Mountain Boulevard streetscape. It should also be mentioned that approved building plans exists for the carports on Portion B which are also located within the Blue Mountain Boulevard street

building line. The building line relaxation proposed in terms of the current application is in keeping with these approvals.

Blue Mountain Boulevard has a 25-meter street reserve with an 8-meter carriageway that meanders within the street reserve which therefore means that wide sidewalks are found along the street which greatly negates the impact of the building line relaxations. The road service of Blue Mountain Boulevard is at this point located within the southern extent of the road reserve. The sidewalk along the boundary of Portion C where the 15 garages is to be developed is thus very wide. To soften the impact of the garages on the residential area to the south, extensive landscaping is proposed on the sidewalk along Portion C. The walls of the garages facing south will furthermore be treated and finished in such a way that it will have an expensive aesthetically pleasing appearance as is indicated on the plan below. The impact of the garages on the streetscape will as such be mitigated by the landscaping and aesthetic proposals.



The present structures which are located within the street building line has no negative affect on the character of this portion of Blue Mountain Village and form part and parcel of the character of the development located to the north of Blue Mountain Boulevard. The additional garages which are proposed to be located in the street building line are not going to have any changing or negative impact on the residential area located south of Blue Mountain Boulevard. It is therefore argued that the proposal can indeed be accommodated within the planning of the area.

9.2.2 Proposed retirement units

In terms of the development proposal, a 1.0 metre building line is proposed for certain portions of the retirement units which are to be constructed along the common boundary of Portion C and

Erf 24807 George – the southeastern lateral boundary. The only development which can be affected by this proposed building line relaxation along this southeastern lateral boundary line is the retirement units on Erf 24807 George. From the plan below it is clear that

- the distance between the proposed and existing retirement units will still be in excess of 5 metres; and
- the orientation of the existing retirement units on Erf 24807 George and the proposed retirement units on Portion C is such that the proposed building line relaxation along this boundary will have no effect on the privacy, view or sunlight of the existing retirement units on Erf 2407 George. A busy street will in fact be replaced with attractive retirement units. The ambiance of the area will improve by virtue of this development proposal.



It is as such argued that the building line relaxation along the common boundary of Portion C and Erf 24807 George will not detract from the character of the area.

9.3 Impact on schools, open spaces and other community facilities

In terms of the development 15 additional garages are proposed, thus a land use that will not result in an increase in population and will as such have no impact on schools, open spaces and community facilities.

The retirement units will be occupied by retirees and will as such place no additional burden on schools.

Blue Mountain Village is a security area with well-developed parks and walking areas developed throughout the neighborhood. Open spaces are therefore available in the immediate vicinity of the proposed retirement unit.

The retirement units will be located directly adjacent to the Blue Mountain Carenet Haven development. The facilities at the Blue Mountain Carenet Haven development will be available for the retirees residing in the 23 retirement units.

As such, the proposal will have no impact on schools, open spaces and other community facilities. The aspect is therefore not relevant.

9.4 Impact on streetscape

9.4.1 Proposed garages on Portion C and existing carports on Portion B

Blue Mountain Boulevard has a street reserve width of 25 meters with an 8-meter carriageway developed within the street reserve width. The carriageway meanders in the street reserve, which gives the street a special character. The street also has wide sidewalks. Several buildings which include retirement units, the entrance structure, carports and garages are already located within the 3.0 metre street building line without negatively detracting from the appearance of the streetscape of the specific section of Blue Mountain Boulevard.

The road service of Blue Mountain Boulevard is at this point located within the southern extent of the road reserve. The sidewalk along the boundary of Portion C where the 15 garages is to be developed is thus very wide. To soften the impact of the garages on the residential area to the south extensive landscaping is proposed on the sidewalk along Portion C. The walls of the

garages facing south will furthermore be treated and finished in such a way that it will have an expensive aesthetically pleasing appearance as is indicated on the plan attached hereto as **Annexure "P"**. The impact of the garages on the streetscape will as such be mitigated by the landscaping and aesthetic proposals.

9.4.2 Proposed retirement units

The retirement units that will encroach the southeastern lateral boundary building line will be located at such a position on Portion C that it cannot and will not have any impact on the streetscape. From the plans attached as **Annexure "P"** it is clear that an attractive aesthetically pleasing development which will be compatible with the Blue Mountain Carenet Haven development is proposed.

9.5 Impact on sunlight, view and privacy

9.5.1 Proposed garages on Portion C and existing carports on Portion B

The section of Blue Mountain Boulevard along which the building line relaxation for the 15 garages are required has a street reserve width of 25 meters with an 8-meter carriageway developed within the street reserve width. The residential erven located to the south of Blue Mountain Boulevard are subject to a 5-meter street building line and on the dwelling units on these erven have already been developed in compliance with the 5.0-meter street building line. This means that the dwelling units are located approximately 30 meters from the proposed garages which will encroach the 3-meter building line. There is no way that the privacy, sunlight and view of the dwelling units on the erven south of Blue Mountain Boulevard will be negatively affected by the proposed building line relaxation.

9.5.2 Proposed retirement units

The retirement units that will encroach the southeastern lateral boundary building line are located at such a distance from the residential erven to the south of Blue Mountain Boulevard that it can in no way have a detrimental effect on the privacy, sunlight or view of these residential erven.

The retirement units which will encroach into the lateral building lines will furthermore be screened off from these residential erven by the proposed 15 garages. There is as such no way that the building line relaxation can influence the privacy, sunlight or view of these residential erven.

The orientation of the existing retirement units on Erf 24807 George and the proposed retirement units on Portion C is such that the proposed building line relaxation along this boundary will have no effect on the privacy, view or sunlight of the existing retirement units on Erf 24807 George.

9.6 Impact on property values

As indicated in the development brochure attached hereto as **Annexure “P”** the proposed development will be of a high quality and will be designed in accordance with the architectural guidelines for Blue Mountain. It is furthermore proposed to extensively landscape the sidewalk adjacent to Portion C whilst special attention will also be given to the design and appearance of the walls of the garages facing towards Blue Mountain Boulevard. The aesthetic appearance of the proposed retirement units and garages will thus be in keeping with the character of the existing Blue Mountain residential area. There is therefore no reason to suspect that the development proposal will negatively affect the property values of any structure within Blue Mountain.

9.7 Impact of proposal on the provision of parking spaces

No parking spaces will be lost as a result of this proposal. The 15 garages will be developed as an integral part of the development proposal. The parking situation on Portion C will therefore not be negatively affected by the proposed building line relaxations.

9.8 Impact of proposal on traffic movement patterns

9.8.1 Proposed garages on Portion C and existing carports on Portion B

The proposed building line relaxation is located along Blue Mountain Boulevard, a private street located within a security complex. No through traffic occurs on the street and the only traffic that

moves on Blue Mountain Boulevard is internal traffic that must comply with low imposed speed limits. Traffic moves as such at a low speed on Blue Mountain Boulevard. Blue Mountain Boulevard also has a 25-meter street reserve width with wide sidewalks found on either side of the street. Several buildings on Erf 24807 George, including carports, retirements units, entrance structures and garages are already located within the 3-metre street building line without having any negative affect on traffic movement patterns.

The 15 proposed garages will be located in a similar position and at such a distance from the Blue Mountain Boulevard roadway that it cannot exert any impact on any sight lines or traffic movement along the section of Blue Mountain Boulevard.

It is therefore argued that the proposed building line relaxation for the proposed garages will have no impact on traffic movement within the Blue Mountain development area.

9.8.2 Proposed retirement units

The retirement units for which building line relaxation is requested are located on such a position on Portion C that it can have no impact on traffic movement within the Blue Mountain development area.

9.9 Provision of services

The services for the proposed development on Portion C will be designed and positioned in such a way that it will take cognizance of the building line relaxations applied for. The building line relaxation will therefore have no impact on the provision of services for the proposed development.

9.10 Firefighting

The building line relaxation has no effect on the fire fighting requirements as Portion C will be fully accessible for firefighting purposes.

10. DESIRABILITY OF THE APPLICATION FOR PERMANENT DEPARTURE (RELAXATION OF PARKING REQUIREMENTS) IN RESPECT OF PORTION C

The parking requirements applicable to different land uses are set out in a table in Section 42 of the George Integrated Zoning Scheme By-Law, 2023.

In terms of the development proposal for Portion C, fifteen lockup garages, eight carports, two disable parking bays and 2 visitors parking bays will be provided for the 23 retirement units to be developed on Portion C. This calculate to 1.2 parking bay per retirement unit which is just below the parking requirement of 1,25 parking bay per retirement unit for a PT1 area as per the George Integrated Zoning Scheme By-law, 2023. In terms of the PT1 requirements this amounts to a shortfall of 1.15 parking bays.

The following motivation is provided in support of the application to relax the parking requirements from 1.75 parking bays to 1.2 parking bays per retirement housing unit:

- The 23 retirement units that will be developed on Portion C are similar in size and layout as the retirement units that have been developed on Erf 24807 George, the erf to the southeast on which the the Blue Mountain Carenet Haven development is located. In terms of the municipal approval dated 6 March 2020 which is attached hereto as **Annexure "W"** an application for relaxation of the parking requirements for the retirement units, which have since been developed on Erf 24807 George, has been relaxed from 2.25 parking bays per retirement unit to 1 parking bays per retirement unit. This application could not have been approved if the municipality was not convinced that a retirement units would have had a higher parking ratio requirement. A parking requirement of 1 parking bay per unit was at that stage regarded as sufficient per retirement unit. Nothing has since changed. Because of the similarity of the new retirement units with the existing retirement units, it is argued there is as such no reason why the parking requirements for the new retirement units can also not be relaxed to 1 parking bay per retirement unit. Application is however not made for relaxation to 1 parking bay per retirement unit but to 1.2 parking bay per retirement unit, thus 0.2 parking bays per retirement unit more that has been provided for the retirement unit on the Blue Mountain Carenet Haven development site. The parking

situation on Potion C will thus be more favorable than the parking situation on the adjacent erf.

- No shortages of parking bays or parking problems or issues have been experienced on the Blue Mountain Carenet Haven erf. An inspection of the erf will in fact point out that there is always parking spaces available on the erf. It is as such obvious that the retiree's requirement with regards parking requirements is considerably lower than that of a normal dwelling unit. The proposed 23 retirement units will be sold to retirees with the same type of needs. There is thus no reason to believe that a parking ratio of 1.2 parking bays per retirement unit will not be sufficient.
- One of the aspects that will be highlighted to prospective buyers (the retiree) during the acquisition of the retirement housing units is the fact that there is only 1 parking bay available per retirement housing unit. The prospective buyers (the retiree) will therefore be well aware of the fact that there is only 1 parking bay available per retirement unit. If the retiree however requires more parking bays he will unfortunately not be able to acquire a retirement unit in this development.
- It must be kept in mind that this specific development cannot be compared to a retirement village which is being developed at 25 to 35 units per hectare with complete two to three bedroom houses with a double garage on a 300m² erf. The latter type of development is usually inhabited by persons who will soon reach retirement age or have recently retired. The type of elderly person usually moves at this stage from his normal home into a retirement home where the elderly person can still maintain his low density lifestyle to a large extent and can keep his two cars. The proposed 23 retirement units cannot be compared to the type of development. The proposed 23 retirement units is aimed more at the elderly who are entering the last phase of their life and are no longer able to maintain the large retirement home with its double garage and garden. The needs of the elderly in this type of development have been significantly scaled down and the motor vehicle no longer plays an important role in the life of the elderly.
- In terms of the George Integrated Zoning Scheme By-law, 2023, the parking requirements that apply to different land uses are set out in table format in section 42 of the relevant by-

law. In terms of the Table - "Minimum Off-street parking requirements" different parking requirements for the same type of land use are proposed depending on the area within which the erf is located. In terms of the by-law, "Normal areas, PT1 Areas and PT2 Areas" are referred to with "PT" referring to "Public Transport". In terms of the table, it appears that, the greater the availability of public transport, the lower the parking requirement. However, the by-law states that the "PT1 Areas and PT2 Areas" must be shown on the zoning map that accompanies the by-law. At this stage, the areas have not yet been shown and the parking requirements for the various areas cannot yet be applied without a specific application for relaxation of the parking requirements. However, it appears from discussions with officials who are directly involved in the determination of parking requirements that it is generally accepted that the parking requirements as per "PT1 Areas" apply along and in the direct vicinity of bus routes. In terms of the parking requirements applicable to a "PT 1 Area", there must be 1.25 parking bays per retirement unit and 0.25 parking bays per retirement unit for visitors. In terms of the requirements applicable to a "PT 1 Area", there must therefore be a total of 1.25 parking bays per retirement unit in a "PT 1 Area".

Erf 24845 George is located on Park Road Extension in the Garden Route Mall precinct. There are several Go-George bus stops within a 500 meter to a 1km radius of Erf 24845 George providing access to the majority of the wider Go-George bus route network. The opinion is therefore held that the plot very clearly meets the requirements of a "PT1 Area". There is therefore no doubt that the erf is located within a "PT1 Area" and that the 1.25 parking bay requirement can be applied to this development.

Application is made to lower the parking requirements further from 1.25 parking bays to 1.2 parking bays per retirement unit. In terms of the PT1 requirements this amounts to a shortfall of 0.05 parking bays. This shortfall is regarded as negligible bearing in mind that a parking requirement of 1 parking bay per retirement unit has previously been approved for the retirement units on the Blue Mountain Carenet Haven erf as indicated in the earlier paragraph of the point.

- The purpose of a public transport service is to limit the use of the private motor vehicle so that the public transport service can be used optimally. By relaxing parking requirements,

the public is forced to make more use of the public transport service. The relaxation of parking requirements therefore has a direct impact on the successful operation of the public transport service. In this particular case, the erf is situated in such a way that any tenant/owner/visitor can make use of the public transport service without difficulty and problems.

- The fact that the erf is located within easy reach of a public transport service route will ensure that the proposed development will also be extremely accessible to uses that cannot be reached on foot, for example the George Central Business area. The fact therefore also creates the opportunity to lower the parking requirements.
- The fact that the development is also located within easy reach of a public transport service route also means that the development will be extremely accessible to any workers (caretaker, cleaners, etc.) who will be working in the development.

11. DESIRABILITY OF THE APPLICATION FOR PERMANENT DEPARTURE (OPEN SPACE REQUIREMENTS) IN RESPECT OF PORTION C

In terms of land use parameter (d) applicable to “Group housing” functional open space of at least 50m² per dwelling unit must be provided, which may include private or communal open spaces or any outdoor space which is inaccessible to motor vehicles, but excludes roads, service yards and parking areas.

In terms of this requirement 1 150m² open space must be provided within the development area. Although ample open space is provided within the development area, it can be argued that it is not regarded to be functional in nature.

The following motivation is provided in support of the application for a waiver of the requirement that functional open space of at least 50m² per dwelling unit must be provided within the development area.

- The 23 retirement units will be occupied by retirees who have no demand for function open space. The needs of the retired person are more directed to a passive open space or areas for walking.
- The open space which is to be provided in the development area will be landscaped and developed with benches and seating areas where the retiree can enjoy the landscaped open space within a safe and secure area. The open space areas that is available within the development area will thus be developed in accordance with the needs of the retiree.
- Footpaths will furthermore be developed through out the development area where the retiree can walk in a landscaped area.
- If the retiree has the need for functional open space ample open space is available within the larger Blue Mountain Residential Estate. These open spaces are available to the retiree residing within the proposed development area.
- The private streets with their wide sidewalks and the low speed of vehicles within the Blue Mountain Residential Estate also provide safe pedestrian movement for the retiree who wishes to walk.

It is thus argued that the open space needs of a retiree is very limited and that the open space that will be developed within the development area and that is available in the remainder if the estate will more than service in the needs of the retiree.

12. CONCLUSION

As indicated in this report the proposed applications are compatible with all existing planning documents, spatial plans, legislation and policy documents applicable to the applications.

The proposal will not have a negative impact on the environment, development, public facilities, traffic circulation or Municipal services in the surrounding area.

The applications can therefore be considered desirable and are submitted for consideration in terms of the relevant stipulations of the Land Use Planning By-Law for the George Municipality, 2023.

bx2

Raubenheimers Inc
 PO Box 21
 60 Cathedral Street
 George
 6530

Prepared by me

[Signature]
 CONVEYANCER
 LUTTIG WM

Fee endorsement	
Amount	Office fee
Purchase price/Value R 5500 000,00	R 1100,00
Mortgage capital Amount R	R
Reason for exemption Cat	Exempt i t o section Act

VERBIND MORTGAGED

VR FOR R 6 600 000,00

B 000034436 / 2012
 2012-12-06

[Signature]
 REGISTRAR/REGISTRAR

T 000076592 / 2012

DATA CAPTURE
 11 DEC 2012

DEED OF TRANSFER

BE IT HEREBY MADE KNOWN THAT

~~Willem Munro Luttig~~ JANINE FOUCHÉ

appeared before me, REGISTRAR OF DEEDS at Cape Town, the said appearer being duly authorised thereto by a Power of Attorney which said Power of Attorney was signed at GEORGE on 23 July 2012 granted to him by

CUMULUS PROJECTS PROPRIETARY LIMITED
 Registration Number 1999/001857/07

[Faint stamp]
 REGISTRAR
 DEEDS
 TRANSFER

And the appearer declared that his said principal had, on 11 May 2012, truly and legally sold by Private Treaty, and that he, the said Appearer, in his capacity aforesaid, did, by virtue of these presents, cede and transfer to and on behalf of

Q

APPLEWOOD TRADING 128 PROPRIETARY LIMITED
Registration Number 2008/002408/07

or its Successors in Title or assigns, in full and free property

Q

ERF 24845 GEORGE, IN THE MUNICIPALITY AND DIVISION OF GEORGE,
WESTERN CAPE PROVINCE

IN EXTENT 8283 (EIGHT THOUSAND TWO HUNDRED AND EIGHTY
THREE) Square Metres

**FIRST REGISTERED AND STILL HELD BY CERTIFICATE OF CONSOLIDATED
TITLE NUMBER T1662/2009 WITH DIAGRAM SG2570/2008 ANNEXED THERETO**

- A SUBJECT to the conditions referred to in the said Deed of Transfer No T10120/1919
- B FURTHER SUBJECT to the special conditions contained in Amended Grant dated 23rd April 1913 (George Quitrents Vol 15 No 11), which condition reads as follows
- "That the said land (Kraai Bosch) shall be subject to all such duties and regulations as either are already or shall in future be established respecting lands held on similar tenure "
- C SUBJECT FURTHER to the terms of the servitude referred to in the endorsement dated 16th November 1944 on Deed of Transfer No T6136/1941, which endorsement reads as follows

^

"By Notarial Deed No 348 dated 30 October 1944, the owner and his successors in title of the land held under paragraphs 3 to 6 hereof has given and signified his consent to the construction of certain waterworks over the said properties by the Municipality of George affecting the riparian rights of the land held under the said paragraphs of this deed subject to conditions as will more fully appear on reference to the said Notarial Deed vide copy annexed hereto "

- D By Servitude No K493/77S the within described land is subject to a servitude with regard to apportionment of water in terms of an Order of the Water Court (Water Court District No) dated 3 6 77 as will more fully appear on reference to the copy of said Order annexed to Servitude No K493/77S
- E By Servitude No 15/72 the within described land is subject to a servitude with regard to apportionment of water in terms of an Order of the Water Court (Water Court District Cape) dated 26 5 71 as will more fully appear on reference to the copy of said Order annexed to Servitude No 15/72
- F SUBJECT FURTHER as contained in Certificate of Consolidated Title No T1662/2009 to a servitude right of way 13 metres wide in favour of the General Public as is depicted by the figure F B C D G on Diagram SG No 2570/2008, attached thereto

WHEREFORE the said Appearer, renouncing all right and title which the said

CUMULUS PROJECTS PROPRIETARY LIMITED

Registration Number 1999/001857/07

heretofore had to the premises, did in consequence also acknowledge it to be entirely dispossessed of, and disentitled to the same, and that by virtue of these presents, the said

APPLEWOOD TRADING 128 PROPRIETARY LIMITED

Registration Number 2008/002408/07

or its Successors in Title or assigns, now is and henceforth shall be entitled thereto, conformably to local custom, the State, however reserving its rights, and finally acknowledging the purchase price to be the sum of R5 500 000,00 (FIVE MILLION FIVE HUNDRED THOUSAND RAND)

Q

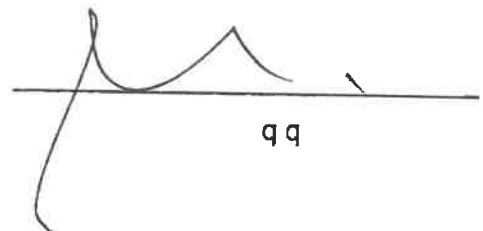
IN WITNESS WHEREOF, I the said Registrar, together with the Appearer, have subscribed to these presents, and have caused the Seal of Office to be affixed thereto

THUS DONE and EXECUTED at the Office of the REGISTRAR OF DEEDS at Cape Town on 08 2007 2012

In my presence



REGISTRAR OF DEEDS


q q

2

CONVEYANCER'S CERTIFICATE

I, the undersigned

ZENARIAH POOLE (96698)

a duly qualified and admitted Conveyancer, practicing at:

STADLER & SWART INCORPORATED
Unit 2, 4th Floor, Earlgo Building, 2A Park Road, Gardens, Cape Town

do hereby certify as follows:

1. I have perused the following Title Deed/s:

Deed of Transfer No. T 76532/2012;

Deed of Transfer No. T 10120/1919;

Certificate of Amended Grant dated 23 April 1913, George Quitrants Vol. 15 No. 11.

In respect of:

ERF 24845 GEORGE

In the Municipality and Division of GEORGE

WESTERN CAPE PROVINCE

In Extent 8283 (Eight Thousand Two Hundred and Eighty Three) Square Metres

REGISTERED in the name of

APPLEWOOD TRADING 128 PROPRIETARY LIMITED

Registration Number 2008/002408/07

2. Deed of Transfer No. **T 76532/2012** contains the following restrictive conditions:

"B. SUBJECT FURTHER to the special condition contained in Amended Grant dated 23rd April 1913 (George Quitrents Vol. 15 No. 11), which condition reads as follows:

"That the said land (Kraai Bosch) shall be subject to all such duties and regulations as either are already or shall in future be established respecting lands held on similar tenure."

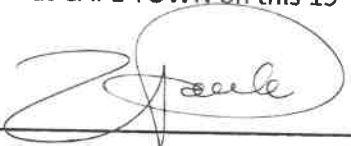


- C. SUBJECT FURTHER to the terms of the servitude referred to in the endorsement dated 16th November 1944 on Deed of Transfer No. T6136/1941 which endorsement reads as follows:

“By Notarial Deed No. 348 dated 30 October 1944, the owner and his successors in title of the land held under paragraphs 3 to 6 hereof has given and signified his consent to the construction of certain waterworks over the said properties by the Mun. of George affecting the riparian rights of the land held under the said paragraphs of this deed subject to conditions as will more fully appear on reference to the said Notarial Deed vide copy annexed hereto.”

- D. BY Servitude No. K493/77S the within described land is subject to a servitude with regard to apportionment of water in terms of an Order of the Water Court (Water Court District No...) dated 3.6.77 as will more fully appear on reference to the copy of said Order annexed to Servitude No. K493/1977S.
- E. BY servitude No. 15/1972 the within described land is subject to a servitude with regard to apportionment of water in terms of an Order of the Water Court (Water Court District Cape) dated 26.5.1971 as will more fully appear on reference to the copy of said Order annexed to Servitude No. 15/72.
- F. SUBJECT FURTHER as contained in Certificate of Consolidated Title No. T 1662/2009 to a servitude right of way 13 metres wide in favour of the General Public a is depicted by the figure F B C D G on Diagram SG No. 2570/2008.
3. The Title Deed/s, as referred to in paragraph 1 hereof contain no further restrictive conditions.

SIGNED at CAPE TOWN on this 19TH day of SEPTEMBER 2023



A handwritten signature in black ink, appearing to read 'Z POOLE', is written over a horizontal line. The signature is stylized and cursive.

Z POOLE (96698)
CONVEYANCER

SIDES Metres		ANGLES OF DIRECTION		CO-ORDINATES Y System WG23 ° X			S.G. No.
		Constants		+	0, 00	+3 700 000, 00	2570/2008
AB	176, 93	303 45 00	A	+	46 743, 00	+ 61 666, 62	Approved <i>[Signature]</i> Surveyor-General 2008.06.05
BC	1, 52	313 30 00	B	+	46 595, 89	+ 61 764, 91	
CD	78, 58	53 09 00	C	+	46 594, 79	+ 61 765, 96	
DE	168, 39	143 09 00	D	+	46 657, 67	+ 61 813, 08	
EA	19, 55	233 09 00	E	+	46 758, 65	+ 61 678, 34	
Servitude Data							
BF	12, 19	123 45 00					Sheet 1 of 2 Sheets
FG	74, 28	53 09 00	F	+	46 606, 03	+ 61 758, 14	
GD	13, 00	323 09 00	G	+	46 665, 46	+ 61 802, 68	
		Δ (108) BERG 14		+	38 503, 70	+ 55 512, 87	
		Δ (163) OUD 7		+	56 651, 97	+ 52 235, 65	
<u>Components:</u>							
1. The figure A j k E represents ERF 23344, GEORGE Vide General Plan No.6314/2006							
1. The figure j B C D k represents Remainder ERF 23794, GEORGE Vide Diagram No.717/2007							
<u>Servitude notes:</u>							
a. The figure h j k m represents a SERVITUDE 10m wide. Vide General Plan No.6314/2006							
b. The figure F B C D G represents a SERVITUDE Right of Way 13m wide.							
The figure A B C D E represents 8283 square metres of land being ERF 24845, GEORGE comprising 1. and 2. above situate in the Municipality and Administrative District of George Province Western Cape Surveyed in December 2006 - April 2008							
by me				A.LOUW (PLS0356) Professional Land Surveyor			
This diagram is annexed to No. T1662/2009 Dated i.f.o.		The original diagrams are as scheduled above		File No. Geor.195 V.5 S.R. No. 1178/2008 Comp.BL-7DD/Y5 (1759) LPI C0270002			
Registrar of Deeds							

S

ERF 24845, GEORGE

situate in the Municipality and
Administrative District of George
Province Western Cape

S.G. No.

2570/2008

Approved

[Signature]

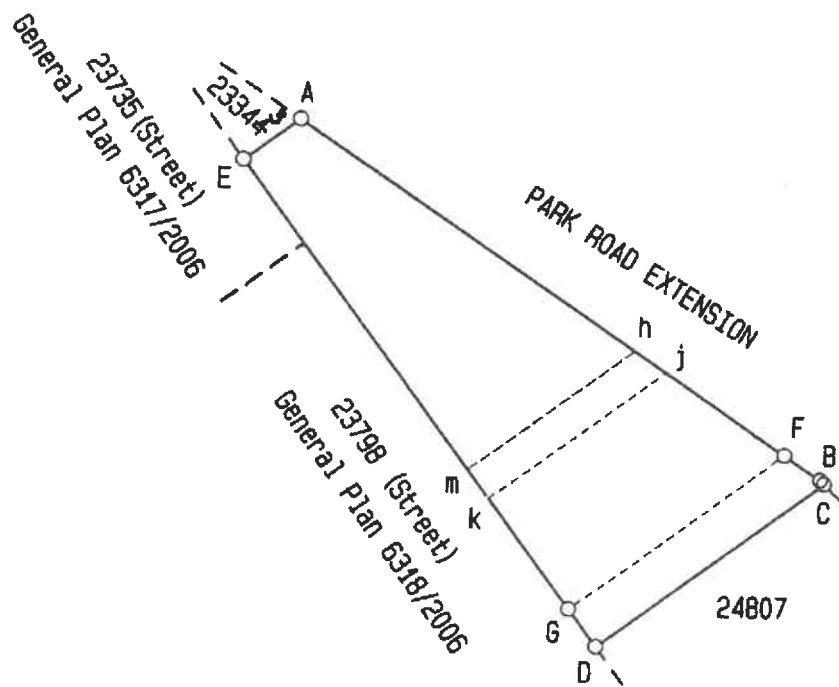
Surveyor-General

2008.06.05

Sheet 2 of 2 Sheets

BEACONS:

- A 12mm hole in wall
- B 12mm hole in paving
- C, D, F, G 12mm iron peg
- E corner of wall



Scale 1: 2000

Surveyed in December 2006 - April 2008

by me

[Signature]

A.LOUW (PLS0356) Professional Land Surveyor

S

ERF 24845/ BLUE MOUNTAIN

Annalie Zandberg <annaliezandberg@gmail.com>

Tue 2024/01/30 12:03

To: Marisa Arries <Marries@george.gov.za>

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Goeiedag

VIR WIE DIT MAG AANGAAN

Hiermee wens ek vertoë te rig teen voorgestelde projek, aangesien daar 'n saak by die Prokureurs lê. Eienaarskap van bogenoemde erf is nog nie uitgeklaar nie, maw eienaarskap is nog nie bevestig nie.

Alvorens eienaarskap bewys kan word, mag projek nie goedgekeur word nie.

Ek is heeltemal teen die projek want dit blyk te wees dat grond aan HOA Blue Mountain behoort.

--

Kind regards / Vriendelike groete,

Annalie Zandberg

082 788 9782

ERF 24845

Kim Dempster <kimdempster13@gmail.com>

Mon 2024/01/22 12:59

To: Marisa Arries <Marries@george.gov.za>

Cc: janvrolijk@jvtownplanner.co.za <janvrolijk@jvtownplanner.co.za>

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I object to this application for the following reasons.

1. Every estate has its own HOA Office.
2. We have been paying for these HOA Offices for our own property that belongs to Bluemountain residents. We should never have been charged for renting our own property.
3. The developer wanted to sell these offices to our Estate for 5 Million and we refused. (Belongs to our Estate)
4. The contractors gate is situated close to the security office and main entrance and we are happy with this option.
5. Building any further offices and houses in the estate will just cause problems. We already have a shortage of electricity and surridge problems.

Regards

Kim Dempster

0728220967

ERF25476

Objection

Nico Weitsz <nicoweitsz1@gmail.com>

Mon 2024/01/22 14:22

To: Marisa Arries <Marries@george.gov.za>

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I strongly object to the rezoning to business.

Nico and Lize Weitsz
Owners - 9 Malutiberg Close
Erf 23564
Tel 0825896056(Nico)
0828733436(Lize)

Regards

Nico and Lize Weitsz

Get [Outlook for Android](#)

Jan Vrolijk

From: Anton Bergh <antonbergh.10@gmail.com>
Sent: Thursday, 15 February 2024 12:01
To: janvrolijk@jvtownplanner.co.za
Subject: Reference Number: 2325803

Property Description: Erf 24845 George – South of Park Road Extension in the residential township known as Blue Mountain Village.

REFERENCE: Erf 24845-George Complete-Application-Part 1-1 – Point 4.3.4 PORTION C

We hereby formally lodge a dispute in regards to the above point which refers to the doing away with the contractor's/service entrance in its entirety and not relocating it as discussed at our AGM in 2023, whereby the developer agreed to relocate at his expense this entrance near to SARS.

Regardless if most of the housing has been constructed, residents of Blue Mountain Estate will need this entrance as they continually do alterations requiring materials like wood, building bricks, tiles to be delivered, skips get delivered, gas deliveries, paving bricks, topsoil, grass, moving trucks, couriers, municipal waste trucks etc. etc. in addition to other maintenance contractors such as plumbers, garden services and electricians. What about all the staff that come and go on a daily basis through the pedestrian gate, this must be at least 200 a day if not a lot more? What about the construction of this proposed new development that will take months if not years to complete? How can they all now want to use the main entrance?

To reroute all this amount of traffic through one entrance will highly inconvenience us residents and any visitors including the fact it will become a total traffic jam. The main entrance would have to be modified which is not even feasible due to the few traffic lanes among other issues as no large removal trucks or similar could get in as it exists right now, let alone the amount of staff required to work there to handle this huge volume of extra traffic and pedestrians. We do not believe this is a viable solution at all for this size estate.

At our last AGM in 2023, it was raised and we were all informed that the developer will relocate at their expense the contractors/service entrance next to SARS. What has happened to this proposal?

There is no way that the contractors/service entrance was constructed as only a "temporary measure" while the Estate was still being developed. It is very shortsighted not to realise how absolutely necessary such an entrance is and will always be due to the points we have raised. We are a very large estate with about 600 hundred homes, it is a constant flow of traffic to and from the estate main entrance, a totally separate entrance is definitely a necessity.

Regards

Anton & Tanya Bergh

6 Giants Castle Close

Blue Mountain Village

Jan Vrolijk

From: Ann Ellis <annpicanto@gmail.com>
Sent: Wednesday, 14 February 2024 15:40
To: Board of Directors/HOA; marries@george.gov.za; janvrolijk@jvtownplanner.co.za
Subject: Re: Rezoning Notice: ERF 24845 (Municipal Contact details)

Attention Town Planner - JAN VROLIYK - Erf 24845

In response the below mentioned information, I hereby submit my objection to the proposed Erf 24845 rezoning in Blue Mountain Estate

Kindly accept my objection to the rezoning of the above mentioned. This being so due to lack of information provided for changes that were intended between the developer and owners of properties belonging to Blue Mountain Estate. As far as I can remember there was no committed mandate.

It would be appreciated to receive feedback of any proposals that were exchanged.

Sincerely

Ann Ellis

Stand 23685, Blue Mountain Estate

On 2024/02/14 14:14, Board of Directors/HOA wrote:

[View this email in your browser](#)



Dear Owners

With reference to yesterday's correspondence, kindly find enclosed contact information for Owners wanting to make submissions to the George Municipality directly, provided such submissions are made in terms of the notice (see below) by the due date of 19 February 2024.

Reference Number: 2325803

Property Description: Erf 24845 George – South of Park Road Extension in the residential township known as Blue Mountain Village.

Applicant Details:

Jan Vrolijk - Town Planner/Stadsbeplanner

082 464 7871 or 044 873 3011

ianvrolijk@jvtownplanner.co.za

“Any objection(s) and/or comment(s) with full reasons therefore and how their interests are affected, should be lodged in writing via e-mail to the responsible **Administrative Officer (Marisa Arries - marries@george.gov.za)** or, if no email facility is available, via SMS to the cell phone number of the said Official (only provided on request) and/or to the applicant, in terms of Section 50 of the George Land Use Planning By-Law, 2023, on/or before 19 February 2024 quoting the application erf number, your property description, physical address and full contact details (email and telephone) of the person or body submitting the objection/comment, without which the Municipality/applicant cannot correspond with said person/body.”

Kind regards

Christo Steyn (on behalf of the Board of Directors/HOA)

044 805 7119

bmv@bmv.co.za

This email was sent to annpicanto@gmail.com

[why did I get this?](#) [unsubscribe from this list](#) [update subscription preferences](#)

Blue Mountain Village · 149 Park Road · Blue Mountain View · George, WC 6529 · South Africa



Jan Vrolijk

From: Primrose Nako <Pnako@george.gov.za>
Sent: Monday, 19 February 2024 12:42
To: bianca b; janvrolijk@jvtownplanner.co.za
Subject: Fw: Objection - Property Description: Erf 24845 George – South of Park Road Extension
Attachments: Erf-24845-George-Advert.docx; BMG special meeting 2-09-2019.pdf

Good day Bianca

I acknowledge receipt of your comments.

@Jan Vrolijk, please see comments/objection below for your attention.

Kind Regards

Primrose Nako
Administrator
Planning and Development
George Municipality

Office: 044 801 9416

Email: pnako@george.gov.za

Office of the Director: Human Settlements, Planning and Development and Property Management



71 York Street, George | PO Box 19, George, 6530 | 044 801 9111 | www.george.gov.za

CONFIDENTIALITY & DISCLAIMER NOTICE: The information contained in this message is confidential and is intended for the addressee(s) only. If you have received this message in error or there are any problems please notify the originator immediately. The unauthorized use, disclosure, copying or alteration of this message is strictly forbidden. George Municipality will not be liable for direct, special, indirect or consequential damages arising from the use of this message by a third party or as a result of any malicious code or virus being passed on. If you have received this message in error, please notify the sender immediately by email, facsimile or telephone and return and/or destroy the original message.

From: bianca b <biancabb1993@gmail.com>
Sent: Friday, 16 February 2024 10:24
To: Primrose Nako <Pnako@george.gov.za>
Subject: Objection - Property Description: Erf 24845 George – South of Park Road Extension

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Reference Number: 2325803

Property Description: Erf 24845 George – South of Park Road Extension in the residential township known as Blue Mountain Village.

To Whom it may Concern:

As the owner of
Erf 25484 / 13 Geelbos street,
Erf 28677 / 13A Geelbos street,
Erf 25485 / 15 Geelbos street,
Erf 28678 / 15A Geelbos street,
Erf 25432 / 18 Geelbos street,
Erf 28426 / 18A Geelbos street,
Erf 25489 / 23 Geelbos street and
Erf 28679 / 23A Geelbos street, Blue Mountain Estate,

I object against the items in the attached notice dealing with the following:

- Application is made in terms of section 15(2)(f) of the Land Use Planning By-law for George Municipality, 2023 for the **removal of condition F.** from Title Deed T76532/2012, the title deed of Erf 24845 George.
- Application is made in terms of section 15(2)(d) of the Land Use Planning By-law for George Municipality, 2023 for the **cancellation of the 13 metre right of way servitude registered over Erf 28485 George.**

These applications are to remove the access road to Park Road and thus closing the contractors gate.

The contractor's gate cannot be closed because it is mainly used daily by hundreds of pedestrians (carers, domestic workers, gardeners, contractor's workmen, delivery vehicles (Checkers, Takealot, Dischem etc) electricians, plumbers etc.

The present gate is ideally situated to give access to Park Road which is a major collector-distributor road providing access to the CBD, the Industrial Sites , Eden Meander, Garden Route Mall and the N2 Freeway.

The developer is proposing moving the contractor's gate to the end of Geelbos street, next to SARS. We also object to this proposal as the area they want to move the gate to is not a suitable location and will cause extra traffic all the way through the estate as the proposed gate is not centrally located like the current gate. The area suggested for the new Contractors Gate is on the corner of the road heading to SARS and the new development past SARS so traffic on that corner cannot accommodate trucks and other delivery vehicles that have to use the contractors gate.

The intention to move the contractors gate was not known by any homeowners of Geelbos street when the properties were originally acquired. This proposition will have a negative effect on the area, decrease the surrounding properties' market value drastically, and cause great hindrance to occupiers and tenants.

Also as per the attached Minutes of a Special General meeting dated 2 September 2019, the moving of the gate was decided against.

Kindly,
Bianca Buitendag

biancabb1993@gmail.com

0762889595

CONFIDENTIALITY & DISCLAIMER NOTICE The information contained in this message is confidential and is intended for the addressee(s) only. If you have received this message in error or there are any problems please notify the originator immediately. The unauthorized use, disclosure, copying or alteration of this message is strictly forbidden. George Municipality will not be liable for direct, special, indirect or consequential damages arising from alteration of this message by a third party or as a result of any malicious code or virus being passed on. If you have received this message in error, please notify the sender immediately by email, facsimile or telephone and return and/or destroy the original message. ***** Privacy policy George Municipality implements a privacy policy aimed at protecting visitors to our social media sites. POPIA We respect the privacy rights of everyone who uses or enquires about our services. Protecting your personal information, as defined in the Protection of Personal Information Act, Act 4 of 2013, will be respected. Personal information will only be shared for purposes of resolving customer enquiries, providing customer services or for any other legitimate purpose relating to George Municipal functions. For your reference, the POPI and PAIA Acts are available at www.gov.za/documents/acts with amendments listed on www.acts.co.za



BLUE MOUNTAIN
Gardens

HOA Office Park • Blue Mountain Boulevard • George • 6529
PO Box 13284 • Garden Route Mall • George • 6546

MINUTES of the SPECIAL GENERAL MEETING for the BLUE MOUNTAIN GARDENS HOME OWNERS' ASSOCIATION HELD AT 14H00 ON MONDAY, 2nd SEPTEMBER 2019, in the BLUE MOUNTAIN RETIREMENT ESTATE CLUBHOUSE.

Present: Mr. C Roodt (CR) Director DEVELOPER (Chairman)
Mr. F Manuel (FM) Director BMGARDENS
Mr. A Burger (AB) Director BMGARDENS

Members as recorded in the attendance register in person and/or proxy

In Attendance: Mrs. B. Halse (BH) Director BMCRE
Mr. P Schoeman Estate Manager BMV
Mrs. C. Hattingh Admin BMV
Wikus Vorster Topline
Francois Redelinghuys Clearwire
Mrs Rosa Green DRC

1. *Welcome / Notice / Constitution*

Mr Chris Roodt welcomed all present.

Notices were sent out timeously by e-mail in accordance with procedure. As a quorum was present, the meeting was declared open by the Chairperson, and could proceed.

In attendance as per register: 15
Proxies as per register: 6

The Chairman enquired whether there were any further issues to be added to the agenda for discussion.

No additional issues were tabled for discussion.

2. *Apologies*

Bryan and Christine Coppin
Charmaine Schlesinger
John Davis
Jeff Pearson
Mike Wallis

3. *To consider and confirm the further subdivision and construction of duette houses as per the original approval of council in 2013.*

The Chairman enquired if there were any queries in this regard.

As there were no queries raised, the decision to allow the subdivision of the remaining undivided even for the construction of duette houses were unanimously approved.

4. To consider and approve:

- 4.1 *The incorporation of erf 28006 in the Blue Mountain Gardens development.*

The meeting approved the intention to incorporate erf 28006 into the gated estate on condition that the Architectural Guidelines for the Gardens will be followed.

- 4.2 *The exclusion of erven 25489 & 25490 from the Blue Mountain Gardens development.*

CR requested permission to exclude erven 25489 and 25490 from the Blue Mountain Gardens.

There were no objections. Permission was granted

- 4.3 *The permanent closure of the proposed second entrance gate at Blue Mountain Gardens and the consolidation of the remaining road with erf 25490.*

The meeting agreed not to proceed with an entrance gate in BMG due to the high costs and security risk. The existing main entrance in BMV will be upgraded to allow residents to make use of the visitors' exit and at the end of the building period the contractors' gate will be upgraded to also accommodate residents. This should provide more than adequate access for residents. This decision was approved unanimously.

- 4.4 *The re-alignment of the security fence to exclude erven 25489, 25490 and remainder portion of the entrance road from the Blue Mountain Gardens development.*

Hermann Spangenberg inquired about the fencing between the estate and commercial development. CR confirmed that the fencing will be a wall. Access to the new development will be outside the BMV boundary and will not make use of any services provided by the Association, e.g. security, telecommunication, etc. The developer will take responsibility for the costs involved. In return, the developer gave permission for the establishment of a recreational area on the erven on the southeast corner of the development. Decision approved unanimously.

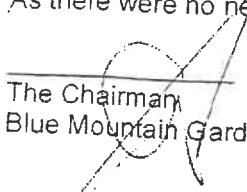
5. *Approval of the consolidation of specific erven and the subsequent subdivision of these erven to form a sectional title development of housing units.*

Rosa Green presented the meeting with a proposal to develop a Sectional Title Development – governed by a Body Corporate, by consolidating specific erven. The Body Corporate will pay levies to the Home Owner's Association. The first phase consists of 28 units. The development will have its own Guidelines to fit in with the rest of the BMG. There will be one entrance and each unit will have its own garage and an additional off-street parking area. No pets will be permitted.

There were no objections. The decision was approved.

6. *Closure*

As there were no new matters, the meeting closed at 14h40.


The Chairman
Blue Mountain Gardens Home Owners' Association



BRAND & VAN DER BERGH

PROKUREURS | | ATTORNEYS

GEORGE MUNICIPALITY
Town Planning Department

Our Ref: EB/B2985
Your Ref: 2325083

By e-mail: marries@george.gov.za

19 February 2024

GEORGE MUNICIPALITY / MUNISIPALITEIT
Acknowledging Receipt/ Ontvangserkenning
Date/ Datum: 19.02.2024
Name/ Naam: P. N.
Signature/Handtekening: P. N.
Directorate: Human Settlements, Land Affairs And Planning
Direktoraat: Menslike Nedersettings, Grondskake En Beplanning

Dear Lady

**IN RE: OBJECTION TO LANDUSE APPLICATION IN RESPECT OF ERF 24845,
GEORGE (BLUE MOUNTAIN VILLAGE) – REFERENCE NUMBER 2325803**

1. We refer to the application for *inter alia* rectification of zoning, subdivision, amendment of land use plan, permanent departures, cancellation of servitude and removal of restrictive conditions of title: Erf 24845, George.
2. We confirm that we act on behalf of the board of directors of the Blue Mountain Village Home Owners Association (RF) NPC T/A Blue Mountain Village Master Property Owners Association 2006/027010/08 ("Hereafter BMVMPOA"), who represent the members of the various entities within the boundary of the estate, namely: Blue Mountain Gardens Home Owners Association (RF) NPC 2009/004516/08, the Blue Mountain Carenet Retirement Estate Property Owners Association (RF) NPC 2006/028242/08 and the Blue Mountain Carenet Haven Sectional Title Scheme SS61/2010.
3. It is common cause that the property in question, Erf 24845, George, falls within the Blue Mountain Village estate which was established in terms of the Town Council's approval of the Subdivision and Rezoning of the Remainder of Portion 2 and Portion 71 of the farm Kraaibosch, farm number 195, Division of George. The Conditions of Establishment of this Township is given in the Council's letter dated 2 April 2006.¹

¹ See Annexure "A" of the application. The Applicant failed to include the Subdivisional Plan which makes the approval letter meaningless. The Subdivisional Plan is therefore attached hereto as Annexure A.

126 Cradock Street, PO Box 1079, George, 6530
Docex 9 | Tel: (044) 874 5244

Partners: E Brand (BA LL.B; Dip. Auctioneering) - A van der Bergh (B.Luris; LL.B)
Professional Assistant: Talitha Fourie: (Bcom; LL.B) | Gerard le Roux (BSc, LLB)
Candidate Attorney: N Pilger Zackey (LLB)
Consultant: Jaco Snyman: (BA LLB; LLM – Corporate Law)

4. We place on record that we on 30 January 2024 already requested more information on the application from the Town Planning Department, as advertised in the subject notice. That information was wrongly refused and we were, in our view, wrongly directed to file a PAIA application, which to date has not been answered. We submit that further requests for information relating to a land use application cannot be stalled by way of insisting on the formalities of a PAIA application, knowing full well that the time period for objections to be filed, will expire before the information is obtained. In the light hereof, we reserve the right to add to and/or amend the objections filed herein, once the requested documentation has been made available to us, whether or not it is received after the deadline for submissions.

A) Application does not comply with regulation:

5. Section 38(1)(p) of the Land-Use Planning By-Law ("hereinafter LUP By-Law) states as follows:

*"38. (1) ... an application **must be accompanied** by the following information and documents where applicable...*

(p) if the property is part of a development governed by an owners' association the consent of the owners' association on a letterhead duly signed by the authorized representative of the owners' association and a copy of the mandate;"

6. The purpose and intention of s 38(1)(p) is clear and obvious. Every owner of a property, governed by "an owners' association", wishing to subdivide and rezone their property must apply to their governing homeowners' association for its consent, prior to submitting an application to the Municipality.

7. In this instance the applicant never submitted the applicant/owner's proposed subdivision and rezoning of Erf 24845, in its present format, to the board of directors of BMVMPOA for approval before submitting the application to the George Municipality. In other words, the applicant failed to obtain the written and signed

126 Cradock Street, PO Box 1079, George, 6530
Docex 9 | Tel: (044) 874 5244

Partners: E Brand (BA LL.B; Dip. Auctioneering) - A van der Bergh (B.Juris; LL.B)

Professional Assistant: Talitha Fourie: (Bcom; LL.B) | Gerard le Roux (BSc, LLB)

Candidate Attorney: N Pilger Zackey (LLB)

Consultant: Jaco Snyman: (BA LLB; LLM - Corporate Law)



- consent of the BMVMPOA, which is mandatory for all applications concerning all the erven in Blue Mountain Village, as per the municipal by-law.
8. It seems the applicant believes the minutes of the BMVMPOA AGM, held on 17 May 2023 are sufficient "proof" of the BMVMPOA's consent to the application. According to the application documents, this unreasonable and non-compliant "consent" was proposed in a "section 40 letter" dated 6 November 2023.
 9. The minutes of the AGM cannot be considered an acceptable replacement for "a letterhead duly signed by the authorised representative of the owners' association and a copy of the mandate" as proof of the consent of the BMVMPOA to the proposed subdivision and rezoning of erf 24845. Therefore, the Municipality's Section 38 Approval letter dated 08 December 2023 is *ultra vires* and therefore null and void.
 10. It is further clear from the following that the applicant was fully aware, or at the very least had reasonable suspicion, that the AGM minutes are misleading and not in compliance with section 38(1)(p). This is so for the following reasons:
 - 10.1 It is common cause that the minutes of an AGM can only be signed and approved as a correct record, at the next sitting of the AGM by the members of the BMVMPOA, which is only scheduled to be held only in May 2024.
 - 10.2 These AGM minutes were further only signed by the ex-chairman, Mr Fahdiel Manual, specifically for the purpose of being submitted to the homeowners post AGM 2023 for review purposes, and not as accepted and approved minutes, as this is only done by a vote of all the members at the next AGM. The applicant, as an attempt to mislead the Municipality, is attaching the minutes as if the BMVMPOA has "consented" to the proposed land use application.
 - 10.3 Section 38(1)(p) also requires a "copy of the mandate" with the duly signed consent, which has not been attached to the applicant's application. This is unsurprising given the fact that the AGM minutes have not been approved, therefore no such mandate exists.

126 Cradock Street, PO Box 1079, George, 6530
Docex 9 | Tel: (044) 874 5244

Partners: E Brand (BA LL.B; Dip. Auctioneering) - A van der Bergh (B.Luris; LL.B)
Professional Assistant: Talitha Fourie: (Bcom; LL.B) | Gerard le Roux (BSc, LLB)
Candidate Attorney: N Pilger Zackey (LLB)
Consultant: Jaco Snyman: (BA LLB; LLM – Corporate Law)



- 10.4 The AGM was held in May 2023 and the date on the proposed subdivision plan is only October 2023, so it is impossible to have been the same plan that was supposedly "consented to" at the AGM.
- 10.5 If the applicant (or seemingly the Municipal officials) had read the minutes of the AGM, they will note that there is no mention of any subdivision and rezoning of Erf 24845 therein.
- 10.6 Moreover, the AGM minutes state that the "double storey building...belongs to the developer and that it was offered to the BMRC at a *reduced price*, and that the idea is to have it converted into a memory care facility". This wording is far removed from the intentions of the applicant with what the applicant is attempting to achieve with this application.
- 10.7 Interestingly enough, the written motivation (Annexure L) provided by a mere employee of BMVMPOA, Mr C.P. Steyn, and not a director, states that the applicant intends "turning the existing HOA offices into a 'memory care facility'", yet the applicant has not requested nor presented the proper consent of the BMVMPOA to do so.
11. By submitting the AGM minutes as being the "consent" of the HOA in terms of section 38, the applicant has provided misleading and incorrect information in his application to the Municipality which is an offence in terms of Sections 62(2) and 86(1)(d) of the LUP By-Law.
12. In view of the above, the Municipality has committed a fatal error in deeming the applicant's application "...complete in terms of Section 38 of the Land Use Planning By-Law for George Municipality 2023" and incorrectly issued the Compliance letter dated 8 December 2023.
13. The "consent" letter in terms of Section 38(1)(p) is the most important document that must be provided by every applicant making an application to subdivide and rezone "...a property [that] is part of a development governed by an owners' association".

126 Cradock Street, PO Box 1079, George, 6530
Docex 9 | Tel: (044) 874 5244

Partners: E Brand (BA LL.B; Dip. Auctioneering) - A van der Bergh (B.Juris; LL.B)
Professional Assistant: Talitha Fourie: (Bcom; LL.B) | Gerard le Roux (BSc, LLB)
Candidate Attorney: N Pilger Zackey (LLB)
Consultant: Jaco Snyman: (BA LLB; LLM - Corporate Law)



14. However, in part D of Section D of Annexure D (The Pre-application Consultation Form) of this application, the "Home Owners' Association consent" is not listed as "Compulsory Information Required", but only as "Minimum and Additional Requirements". Moreover, the tick-box next to the HOA consent item is not noted as a "Yes" or "No", it is simply left blank.
15. However, in contrast to this, the applicant's motivation report stated that in the pre-application consultation one of the Municipality's Town Planning comments, that needed to be addressed in this application, was: "HOA approval will be required for the proposed development (to submit the signed minutes of the AGM meeting that was held)"². The comment in parenthesis is bizarre, as it is a complete departure from the section 38(1)(p) requirement and it attempts to elevate a discussion between the applicant and Municipal officials to a binding decision. Should this derogation have been made by municipal officials, such actions would be *ultra vires* and would be without any force or effect.

B) Objections to merits of Application

The memory care facility:

16. Although the residents were in principle satisfied with the creation of such a facility, the minutes noted that "[t]his discussion was for noting purposes only and the proposal was received positively". An acceptance in principle of such a facility does not amount to an overwhelming approval or consent. There was no item on the agenda of the AGM held in May 2023 for the members of the relevant estates to approve such a facility in its current form and place. Full details of the development were never provided, as is clear from the reading of the minutes.
17. The information to the members of the meeting was merely to inform them of the intention to build a memory care facility and the plan to move the gate, but no formal

² This comment is also mentioned on pg. 3 (section 40 letter).

126 Cradock Street, PO Box 1079, George, 6530
Docex 9 | Tel: (044) 874 5244

Partners: E Brand (BA LL.B; Dip. Auctioneering) - A van der Bergh (B.Juris; LL.B)

Professional Assistant: Talitha Fourie (Bcom; LL.B) | Gerard le Roux (BSc, LLB)

Candidate Attorney: N Pilger Zackey (LLB)

Consultant: Jaco Snyman: (BA LLB; LLM – Corporate Law)



negotiations had been entered into and no subdivisional plan was agreed upon. The information provided at that stage (and to date) was only informative in nature.

18. Furthermore, the use of the word "memory care facility" is a misnomer. A correct description is an "Alzheimer's and Dementia Treatment Centre". The reason to call it a Memory Care Facility is puzzling to say the least. The applicant states in his application that Blue Mountain Haven, part of Blue Mountain Retirement Community Agency NPC, "is presently caring for 12 patients who should be in a dementia/Alzheimer facility". The Haven is supposedly a frail care facility that has been provided to cater **only** for owners of dwelling units in the Blue Mountain Retirement Estate and the Blue Mountain Haven and Gables. It is therefore not open to the general public.
19. It is common cause that Alzheimer patients cannot be treated in the same facility as frail care patients for obvious reasons. The Haven sectional title apartments are at present falsely advertised as the "George Frail Care and Alzheimer Centre".
20. Furthermore, all Dementia and Alzheimer centres in this area such as Jura Lands Brenton and Rheenendal are situated in rural areas e.g. outside the urban edge because these patients require to be treated in quiet and serene surroundings. The proposed facility is to be situated in an urban area adjacent to a busy and noisy road and therefore will not be suitable for the purpose proposed.
21. The discussion at the AGM was not based on the current plan on which the rectification of zoning, subdivision, permanent departures etc. is sought on. The discussion was based on a different plan which was only presented to the directors and members at the AGM. Only a single director has seen this plan beforehand.
22. None the above information was presented at the AGMs. Should it have been, it could have had an influence on the alleged unanimous decisions in this regard. Accordingly, until such time that homeowners are properly informed and given a chance to consider the applicant's proposals, it should be accepted that no consent has been given.

126 Cradock Street, PO Box 1079, George, 6530
Docex 9 | Tel: (044) 874 5244

Partners: E Brand (BA LL.B; Dip. Auctioneering) - A van der Bergh (B.Luris; LL.B)
Professional Assistant: Talitha Fourie: (Bcom; LLB) | Gerard le Roux (BSc, LLB)
Candidate Attorney: N Pilger Zackey (LLB)
Consultant: Jaco Snyman: (BA LLB; LLM - Corporate Law)



The cancellation of servitude and removal of restrictive conditions on title erf 24845

23. The cancellation of the subject servitude would mean that the current contractors' access to Blue Mountain Village would have to be permanently closed. The motivation for the cancellation of such servitude found on page 46 paragraph 8.5.7 is incorrect.
24. At a Special General Meeting of the Blue Mountains Gardens Home Owners Association (RF) NPC, held on 2 September 2019, the developer and a director of the owner of erf 24845, Mr. Chris Roodt, gave a commitment to the upgrading of the existing contractor's gate at the end of the development periods, which was the main reason for the decision to never construct the planned alternative gate to the Gardens section of the development. Such decision was approved unanimously. The applicant is therefore now estopped from making an application to close the existing contractors gate because he wants to develop the so called "sterilized" area. This is incorrect, as the area is presently widely used by the owners of properties who park their vehicles to pick up their domestic workers and gardeners, who can only access the estate through the existing contractor's gate.
25. It is further submitted that Blue Mountain Boulevard belongs to the BMVMPOA. No permission was granted for the use of this road or the main gate for purposes of the proposed memory care facility or the proposed new units to be built.
26. The access road currently used as the contractors' entrance cannot be assumed by the owner of erf 24845. Although the owners indicated that they were in principle in favour of moving the gate (to the other side of the estate), no agreement was reached with the BMVMPOA in writing and this is also not apparent from the municipal application.
27. It is further submitted that regardless of whether the most houses have been constructed, the residents of the BMVMPOA will need the continued use of current contractor's entrance, as there will be continuous alterations, requiring material to be offloaded, skips to be delivered and contractors to be allowed access. Similarly, gas deliveries, courier and municipal waste trucks will continuously move through the

126 Cradock Street, PO Box 1079, George, 6530
Docex 9 | Tel: (044) 874 5244

Partners: E Brand (BA LL.B; Dip. Auctioneering) - A van der Bergh (B.Luris; LL.B)

Professional Assistant: Talitha Fourie (Bcom; LL.B) | Gerard le Roux (BSc, LLB)

Candidate Attorney: N Pilger Zackey (LLB)

Consultant: Jaco Snyman: (BA LLB; LLM – Corporate Law)



estate and maintenance contractors will need to have access. Similarly, staff will come and go and the proposed new development will take months if not years to complete, putting a huge strain on either the main entrance or the new proposed entrance, certainly causing extreme pressure on the current traffic and will inconvenience homeowners along the way.

28. The present gate is at the most practical location, as it is close to the main entrance and there is enough space to manage the flow of traffic as well as the walk-in contract staff. It is walking distance for most of the domestic workers and convenient for most areas in Blue Mountain Village and Blue Mountain Gardens.
29. It is also a well-known fact that many homeowners of the estate use the contractor's gate as an exit gate. Closing the gate would therefore increase the amount of traffic exiting the estate which has not been studied.
30. The comments of the Municipal officials at the pre-application meeting also make specific reference that a "full PPP will thus be required for this application" as the right of way is in favour of the general public. No such public participation process has been held and no such public participation report has been filed. An important requirement has therefore not been met that will affect not only homeowners but the general public as well.
31. Relocation of the gate would mean that it is not conveniently located for access from main routes, there are blind corners from both ways, the entrance area is substantially narrower and it approaches directly on the residential corner houses in Geelbos Street, creating unnecessary noise and inconvenience for these homeowners. Furthermore, the traffic would increase to unacceptable levels in Geelbos Street and the entrance would be on the outskirts of the BMVMPOA, instead of being in the middle, as it is now.
32. The proposed new entrance has no space to construct a new security gate house and it is not convenient for larger trucks. It will create traffic congestions at peak times. No proper traffic study has been done to allay the above-mentioned fears. It is thus

126 Cradock Street, PO Box 1079, George, 6530
Docex 9 | Tel: (044) 874 5244

Partners: E Brand (BA LL.B; Dip. Auctioneering) - A van der Bergh (B.Juris; LL.B)
Professional Assistant: Talitha Fourie: (Bcom; LL.B) | Gerard le Roux (BSc, LLB)
Candidate Attorney: N Pilger Zackey (LLB)
Consultant: Jaco Snyman: (BA LLB; LLM - Corporate Law)



uncertain how the applicant can contend in its application that "the closure of the section of road is supported".

33. In any event, no application for an access gate elsewhere in Blue Mountain Village of Blue Mountain Gardens has formally been made by the applicant and/or developer. With this land use application, the applicant therefore intends to close one gate but not to open another. For the above reasons, such action must not be approved.

Current use of Erf 24845 and history of the erf

34. The current zoning of Erf 24845 is "Open Space Zone II (OSZ-2)" for the use of the "HOA [BMVMPOA] offices and entrance gate only". At the moment it is operating as a commercial leasing enterprise by the applicant and owner of the property, which should have never been approved. The development period has ended and thereby the owner of erf 24845 is but only a member of the BMVMPOA.

35. This means that communal areas, communal facilities, erven (including units) and properties (as defined in the MOI) now all fall under the remit of the BMVMPOA. This includes the responsibilities to maintain and control the common property (subject to lease agreement).

36. The owner of erf 24845, like any other owner therefore cannot, without obtaining the written consent of the BMVMPOA sell or alienate the property, which includes the rezoning, the sub-division, the purchase or removal of restrictions, as these constitute forms of alienation. Such written consent has not been requested by or been provided to the owner of erf 24845 by the BMVMPOA and for that reason the application also has to fail.

37. Furthermore, Applewood Trading (PTY) Ltd has recently, by way of its attorneys, namely Stadler & Swart Attorneys, confirmed that it is indeed a member of the BMVMPOA in lieu of its ownership of an erf therein. Accordingly, as a member, the applicant will have to obtain written consent from the BMVMPOA for its intended actions.

126 Cradock Street, PO Box 1079, George, 6530
Docex 9 | Tel: (044) 874 5244

Partners: E Brand (BA LL.B; Dip. Auctioneering) - A van der Bergh (B.Juris; LL.B)
Professional Assistant: Talltha Fourie (Bcom; LLB) | Gerard le Roux (BSc, LLB)
Candidate Attorney: N Pilger Zackey (LLB)
Consultant: Jaco Snyman: (BA LLB; LLM - Corporate Law)



38. What is of further concern is how ownership under the applicant, Applewood Trading (PTY) Ltd, and its predecessor, Cumulus Projects (PTY) Ltd ever came about. This is in lieu of section 29(3)(e)(iii) of the LUP By-Law that requires ownership of all common property to be in the HOA after subdivision of the land (to form the estate), and more specifically, that there be land owned by the HOA in such an estate as "required for services provided by the owner's association".
39. However, in the case of Blue Mountain, the HOA offices are located on land that is **not** common property and which the BMVMPOA needs to rent from the applicant. The BMVMPOA was never provided with common property where they could set up their offices on land they owned.
40. The applicant previously leased the rest of the buildings to other unrelated third parties as office space, despite that being contrary to the current zoning scheme of the property. The majority of tenants have now left, with the exception of Clearwire Communications, a company that provides services to the BMVMPOA and individual homeowners, but which utilises the buildings predominantly as its head office to service other clients all across the country.
41. The applicant's contention that the current zoning is incorrect and that this was allegedly conceded by the Municipality, does not in any way constitute approval for the derogation from the current zoning scheme and it is submitted that his use thereof is illegal.
42. Unsurprisingly, the Municipality issued a Compliance Notice in terms of section 87 of the LUP By-Law on the owners of erf 24845 to cease the illegal business usage of the two other buildings. The enforcement of this Compliance Notice is still outstanding and should therefore have been included in this application
43. The proposed rezoning also does not make provision for the purchase of the building situated on erf 24845, by the BMVMPOA and which is currently used by the BMVMPOA. This building is the only building that is compliant with the current land use zoning of the erf. Furthermore, this purchase was conditionally approved by the

126 Cradock Street, PO Box 1079, George, 6530
Docex 9 | Tel: (044) 874 5244

Partners: E Brand (BA LL.B; Dip. Auctioneering) - A van der Bergh (B.Luris; LL.B)
Professional Assistant: Talitha Fourie (Bcom; LLB) | Gerard le Roux (BSc, LLB)
Candidate Attorney: N Pilger Zackey (LLB)
Consultant: Jaco Snyman: (BA LLB; LLM - Corporate Law)



AGM of 2023, but the conditions have not been met yet. However, none of this is addressed in the current application.

44. Furthermore, this situation of an HOA not owning common property from where it can conduct its business is a serious anomaly, which creates the presumption that an error of some kind must have occurred, and necessitated further investigation.

45. Moreover, the development documents attached to the application cited as the 25 April 2006 and 6 June 2008 approval documents, create more uncertainty. These documents refer to sub-division requirements that were never followed or the final result in respect of this particular erf is different. It is for this reason that further records are required in order to be able to establish the true status of this erf. Only once obtained, will a more thorough view on the matter of the ownership be obtained. It is therefore imperative that these records be made available.

46. Our client will receive notice at our below stated address, or alternatively, at talitha@bvdblegal.co.za and brand@bvdblegal.co.za. Our office number is 044 874 5244.

Yours faithfully

BRAND & VAN DER BERGH PROKUREURS / ATTORNEYS

Per:



E Brand (attorney)



W van der Westhuizen (Chairman of BMVMPOA Board)

126 Cradock Street, PO Box 1079, George, 6530
Docex 9 | Tel: (044) 874 5244

Partners: E Brand (BA LL.B; Dip. Auctioneering) - A van der Bergh (B.Juris; LL.B)

Professional Assistant: Talitha Fourie: (Bcom; LL.B) | Gerard le Roux (BSc, LLB)

Candidate Attorney: N Pilger Zackey (LLB)

Consultant: Jaco Snyman: (BA LLB; LLM – Corporate Law)



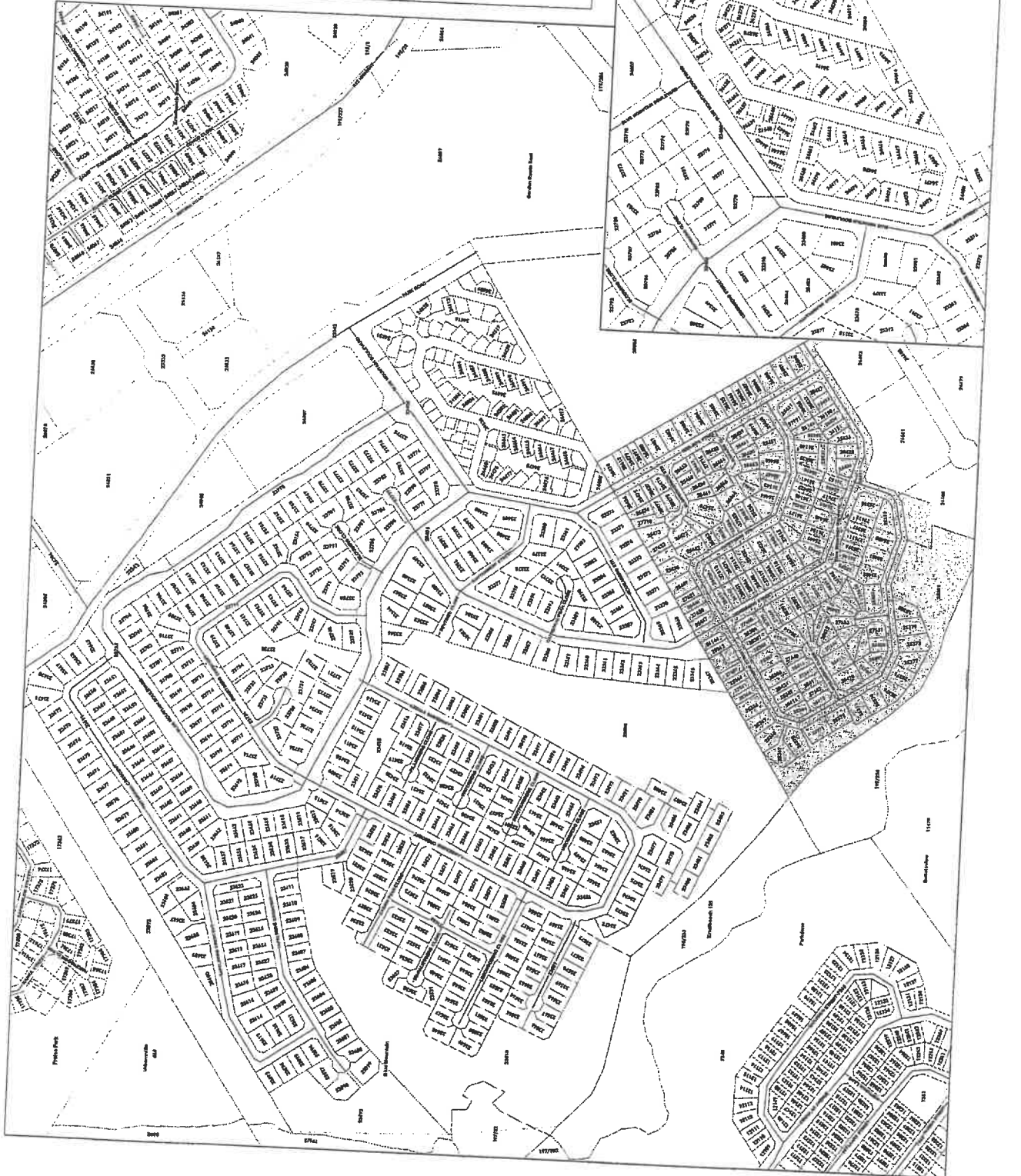
GEORGE MUNICIPALITY

**BLUE MOUNTAIN
AND
BLUE MOUNTAIN
GARDENS
2019**

- Legend
- Suburbs
 - Blue Mountain
 - Blue Mountain Gardens



1:2 200





Plan Date October 2005



Jan Vrolijk

From: Sifiso Ntondini <Sntondini@george.gov.za>
Sent: Tuesday, 30 January 2024 13:36
To: janvrolijk@jvtownplanner.co.za
Subject: Re: Erf 24845 George

comments on Erf 24845

Good day Mr. Vrolijk

Thanks for giving me an opportunity to comment on the application. I Sifiso Ntondini the Councillor of Ward 11, I have no objection to this application.

Regards,
Cllr. Ntondini

From: Jan Vrolijk <janvrolijk@jvtownplanner.co.za>
Sent: Friday, January 19, 2024 3:26 PM
To: Sifiso Ntondini <Sntondini@george.gov.za>
Subject: Erf 24845 George

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good afternoon, Councillor

At the request of the Directorate of Planning and Development of the George Municipality, please find attached for your information/comments a copy of an application in your ward that is being advertised for comments/objections. The application is advertised in the Burger of 19 January 2024. Notices have also been placed on the erf and registered letters have been forwarded to all adjoining erf owners. The closing date for submitting comments/objections is 19 February 2024

If you have any questions with regards the application, you are most welcome to contact me.

Regards

Jan



TEL: 044 873 3011 FAX: 086 510 4383 EMAIL: janvrolijk@jvtownplanner.co.za
CELL: 082 464 7871 PO Box 710 George 6530
OFFICE: Millwood Building corner of York and Victoria Street, George
SACPLAN REG No. A/1386/2010

CONFIDENTIALITY & DISCLAIMER NOTICE The information contained in this message is confidential and is intended for the addressee(s) only. If you have received this message in error or there are any problems please notify the originator immediately. The unauthorized use, disclosure, copying or alteration of this message is strictly forbidden. George Municipality will not be liable for direct, special, indirect or consequential damages arising from alteration of this message by a third party or as a result of any malicious code or virus being passed on. If you have received this message in error, please notify the sender immediately by email, facsimile or telephone and return and/or destroy the original message. ***** Privacy policy George Municipality implements a privacy policy aimed at protecting visitors to our social media sites. POPIA We respect the privacy rights of everyone who uses or enquires about our services. Protecting your personal information, as defined in the Protection of Personal Information Act, Act 4 of 2013, will be respected. Personal information will only be shared for purposes of resolving customer enquiries, providing customer services or for any other legitimate purpose relating to George Municipal functions. For your reference, the POPI and PAIA Acts are available at www.gov.za/documents/acts with amendments listed on www.acts.co.za

Jan Vrolijk

From: Primrose Nako <Pnako@george.gov.za>
Sent: Monday, 19 February 2024 12:45
To: Daniel Buitendag; janvrolijk@jvtownplanner.co.za
Subject: Fw: Reference Number: 2325803 Objection: Erf 24845 George
Attachments: BMG special meeting 2-09-2019.pdf; Erf-24845-George-Advert.docx

Good day Daniel Buitendag

I acknowledge receipt of your comments/objection.

@Jan Vrolijk please see comments/objection below for your attention.

Kind Regards

Primrose Nako

Administrator

Planning and Development

George Municipality

Office: 044 801 9416

Email: pnako@george.gov.za

Office of the Director: Human Settlements, Planning and Development and Property Management



71 York Street, George | PO Box 18, George 6530 | 044 801 9111 | www.george.gov.za

CONFIDENTIALITY & DISCLAIMER NOTICE The information contained in this message is confidential and is intended for the addressee(s) only. If you have received this message in error or there are any problems please notify the originator immediately. The unauthorized use, disclosure, copying or alteration of this message is strictly forbidden. George Municipality will not be liable for direct, special, indirect or consequential damages arising from alteration of this message by a third party or as a result of any malicious code or virus being passed on. If you have received this message in error please notify the sender immediately by email, facsimile or telephone and return and/or destroy the original message.

From: Daniel Buitendag <Daniel@buitendagarch.co.za>
Sent: Friday, 16 February 2024 10:21
To: Primrose Nako <Pnako@george.gov.za>
Subject: Fwd: Reference Number: 2325803 Objection: Erf 28419

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Kind regards / Vriendelike groete,
Daniel Buitendag
066 486 7078

Begin forwarded message:

From: Daniel Buitendag <Daniel@buitendagarch.co.za>
Subject: Reference Number: 2325803 Objection: Erf 28419
Date: 16 February 2024 at 10:19:54 SAST
To: marries@george.gov.za
Cc: bianca b <biancabb1993@gmail.com>, "klipheuwelfun@gmail.com" <klipheuwelfun@gmail.com>, "mysie3@yahoo.com" <mysie3@yahoo.com>, Lien Erasmus <lienerasmus@gmail.com>, M.nigrini@absamail.co.za, Darius Smith <smithdarius199@gmail.com>

To Whom it may Concern:

Me, as the owner of 14A (Erf 28419) Geelbos Road, Blue Mountain Estate object against the items in the attached notice dealing with the following:

- Application is made in terms of section 15(2)(f) of the Land Use Planning By-law for George Municipality, 2023 **for the removal of condition F**. from Title Deed T76532/2012, the title deed of Erf 24845 George.
- Application is made in terms of section 15(2)(d) of the Land Use Planning By-law for George Municipality, 2023 for the **cancelation of the 13 metre right of way servitude registered over Erf 28485 George**.

These applications are to remove the access road to Park Road and thus closing the contractors gate.

The contractor's gate cannot be closed because it is mainly used daily by hundreds of pedestrians (carers, domestic workers, gardeners, contractor's workmen, delivery vehicles (Checkers, Takealot, Dischem etc) electricians plumbers etc.

The present gate is ideally situated to give access to Park Road which is a major collector-distributor road providing access to the CBD, the Industrial Sites , Eden Meander, Garden Route Mall and the N2 Freeway.

The developer is proposing moving the contractors gate to the end of Geelbos street, next to SARS. We also object to this proposal as the area they want to move the gate to is not a suitable location and will cause extra traffic all the way through the estate as the proposed gate is not centrally located like the current gate. The area suggested for the new Contractors Gate is on the corner of the road heading to SARS and the new development past SARS so traffic on that corner cannot accommodate trucks and other delivery vehicles that has to use the contractors gate. The intention to move the contractors gate was not known by any homeowners of Geelbos street when the properties were originally acquired. This proposition will have a negative effect on the area, decrease the surrounding properties' market value drastically, and cause great hindrance to occupiers and tenants.

Also as per the attached Minutes of a Special General meeting dated 2 September 2019, the moving of the gate was decided against and after that Erf 25490 and 25489 was sold by the Developer with no mention of any new plans for the gate to be moved.

Kind regards / Vriendelike groete,
Daniel Buitendag
066 486 7078

CONFIDENTIALITY & DISCLAIMER NOTICE The information contained in this message is confidential and is intended for the addressee(s) only. If you have received this message in error or there are any problems please notify the originator immediately. The unauthorized use, disclosure, copying or alteration of this message is strictly forbidden. George Municipality will not be liable for direct, special, indirect or consequential damages arising from alteration of this message by a third party or as a result of any malicious code or virus being passed on. If you have received this message in error, please notify the sender immediately by email, facsimile or telephone and return and/or destroy the original message. ***** Privacy policy George Municipality implements a privacy policy aimed at protecting visitors to our social media sites. POPIA We respect the privacy rights of everyone who uses or enquires about our services. Protecting your personal information, as defined in the Protection of Personal Information Act, Act 4 of 2013, will be respected. Personal information will only be shared for purposes of resolving customer enquiries, providing customer services or for any other legitimate purpose relating to George Municipal functions. For your reference, the POPI and PAIA Acts are available at www.gov.za/documents/acts with amendments listed on www.acts.co.za



HOA Office Park • Blue Mountain Boulevard • George • 6529
PO Box 13284 • Garden Route Mall • George • 6546

MINUTES of the SPECIAL GENERAL MEETING for the BLUE MOUNTAIN GARDENS HOME OWNERS' ASSOCIATION HELD AT 14H00 ON MONDAY, 2nd SEPTEMBER 2019, in the BLUE MOUNTAIN RETIREMENT ESTATE CLUBHOUSE.

Present: Mr. C Roodt (CR) Director DEVELOPER (Chairman)
Mr. F Manuel (FM) Director BMGARDENS
Mr. A Burger (AB) Director BMGARDENS

Members as recorded in the attendance register in person and/or proxy

In Attendance: Mrs. B. Halse (BH) Director BMCRE
Mr. P Schoeman Estate Manager BMV
Mrs. C. Hattingh Admin BMV
Wikus Vorster Topline
Francois Redelinghuys Clearwire
Mrs Rosa Green DRC

1. *Welcome / Notice / Constitution*

Mr Chris Roodt welcomed all present.

Notices were sent out timeously by e-mail in accordance with procedure. As a quorum was present, the meeting was declared open by the Chairperson, and could proceed.

In attendance as per register: 15
Proxies as per register: 6

The Chairman enquired whether there were any further issues to be added to the agenda for discussion.

No additional issues were tabled for discussion.

2. *Apologies*

Bryan and Christine Coppin
Charmaine Schlesinger
John Davis
Jeff Pearson
Mike Wallis

3. *To consider and confirm the further subdivision and construction of duette houses as per the original approval of council in 2013.*

The Chairman enquired if there were any queries in this regard.

As there were no queries raised, the decision to allow the subdivision of the remaining undivided erven for the construction of duette houses were unanimously approved.

4. To consider and approve:

4.1 The incorporation of erf 28006 in the Blue Mountain Gardens development.

The meeting approved the intention to incorporate erf 28006 into the gated estate on condition that the Architectural Guidelines for the Gardens will be followed.

4.2 The exclusion of erven 25489 & 25490 from the Blue Mountain Gardens development.

CR requested permission to exclude erven 25489 and 25490 from the Blue Mountain Gardens.

There were no objections. Permission was granted

4.3 The permanent closure of the proposed second entrance gate at Blue Mountain Gardens and the consolidation of the remaining road with erf 25490.

The meeting agreed not to proceed with an entrance gate in BMG due to the high costs and security risk. The existing main entrance in BMV will be upgraded to allow residents to make use of the visitors' exit and at the end of the building period, the contractors' gate will be upgraded to also accommodate residents. This should provide more than adequate access for residents. This decision was approved unanimously.

4.4 The re-alignment of the security fence to exclude erven 25489, 25490 and remainder portion of the entrance road from the Blue Mountain Gardens development

Hermann Spangenberg inquired about the fencing between the estate and commercial development. CR confirmed that the fencing will be a wall. Access to the new development will be outside the BMV boundary and will not make use of any services provided by the Association, e.g. security, telecommunication, etc. The developer will take responsibility for the costs involved. In return, the developer gave permission for the establishment of a recreational area on the erven on the southeast corner of the development. Decision approved unanimously.

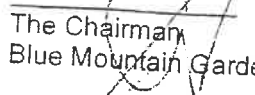
5. Approval of the consolidation of specific erven and the subsequent subdivision of these erven to form a sectional title development of housing units.

Rosa Green presented the meeting with a proposal to develop a Sectional Title Development – governed by a Body Corporate, by consolidating specific erven. The Body Corporate will pay levies to the Home Owner's Association. The first phase consists of 28 units. The development will have its own Guidelines to fit in with the rest of the BMG. There will be one entrance and each unit will have its own garage and an additional off-street parking area. No pets will be permitted.

There were no objections. The decision was approved

6. Closure

As there were no new matters, the meeting closed at 14h40.


The Chairman
Blue Mountain Gardens Home Owners' Association

Jan Vrolijk

From: Primrose Nako <Pnako@george.gov.za>
Sent: Monday, 19 February 2024 12:55
To: janvrolijk@jvtownplanner.co.za
Subject: Fw: Reference Number: 2325803 Objection: Erf 25366

Hi Jan

Please find attached another one for your attention.

Kind Regards

Primrose Nako
Administrator
Planning and Development
George Municipality
Office: 044 801 9416
Email: pnako@george.gov.za
Office of the Director: Human Settlements, Planning and Development and Property Management



CONFIDENTIALITY & DISCLAIMER NOTICE: The information contained in this message is confidential and is intended for the addressee(s) only. If you have received this message in error or there are any problems please notify the originator immediately. The unauthorized use, disclosure, copying or alteration of this message is strictly forbidden. George Municipality will not be liable for direct, special, indirect or consequential damages arising from alteration of this message by a third party or as a result of any malicious code or virus being passed on. If you have received this message in error, please notify the sender immediately by email, facsimile or telephone and return and/or destroy the original message.

From: Daniel Buitendag <danielbuitendag95@gmail.com>
Sent: Friday, 16 February 2024 10:21
To: Primrose Nako <Pnako@george.gov.za>
Subject: Fwd: Reference Number: 2325803 Objection: Erf 25366

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

----- Forwarded message -----

From: **Daniel Buitendag** <danielbuitendag95@gmail.com>

Date: Fri, Feb 16, 2024 at 10:19 AM

Subject: Reference Number: 2325803 Objection: Erf 25366

To: <marries@george.gov.za>

Cc: bianca b <biancabb1993@gmail.com>, klipheuwelfun@gmail.com <klipheuwelfun@gmail.com>, mysie3@yahoo.com <mysie3@yahoo.com>, Lien Erasmus <lienerasmus@gmail.com>, <M.nigrini@absamail.co.za>, Darius Smith <smithdarius199@gmail.com>

To Whom it may Concern:

Me, as the owner of 34 Patrysbos (erf 25366) Road, Blue Mountain Estate object against the items in the attached notice dealing with the following:

- Application is made in terms of section 15(2)(f) of the Land Use Planning By-law for George Municipality, 2023 **for the removal of condition F**. from Title Deed T76532/2012, the title deed of Erf 24845 George.
- Application is made in terms of section 15(2)(d) of the Land Use Planning By-law for George Municipality, 2023 for **the cancellation of the 13 metre right of way servitude registered over Erf 28485 George**.

These applications are to remove the access road to Park Road and thus closing the contractors gate.

The contractor's gate cannot be closed because it is mainly used daily by hundreds of pedestrians (carers, domestic workers, gardeners, contractor's workmen, delivery vehicles (Checkers, Takealot, Dischem etc) electricians, plumbers etc. The present gate is ideally situated to give access to Park Road which is a major collector-distributor road providing access to the CBD, the Industrial Sites, Eden Meander, Garden Route Mall and the N2 Freeway.

The developer is proposing moving the contractor's gate to the end of Geelbos street, next to SARS. We also object to this proposal as the area they want to move the gate to is not a suitable location and will cause extra traffic all the way through the estate as the proposed gate is not centrally located like the current gate. The area suggested for the new Contractors Gate is on the corner of the road heading to SARS and the new development past SARS so traffic on that corner cannot accommodate trucks and other delivery vehicles that have to use the contractors gate. The intention to move the contractors gate was not known by any homeowners of Geelbos street when the properties were originally acquired. This proposition will have a negative effect on the area, decrease the surrounding properties' market value drastically, and cause great hindrance to occupiers and tenants.

Also as per the attached Minutes of a Special General meeting dated 2 September 2019, the moving of the gate was decided against and after that Erf 25490 and 25489 was sold by the Developer with no mention of any new plans for the gate to be moved.

Kind regards / Vriendelike groete,
Daniel Buitendag
066 486 7078

CONFIDENTIALITY & DISCLAIMER NOTICE The information contained in this message is confidential and is intended for the addressee(s) only. If you have received this message in error or there are any problems please notify the originator immediately. The unauthorized use, disclosure, copying or alteration of this message is strictly forbidden. George Municipality will not be liable for direct, special, indirect or consequential damages arising from alteration of this message by a third party or as a result of any malicious code or virus being passed on. If you have received this message in error, please notify the sender immediately by email, facsimile or telephone and return and/or destroy the original message. ***** Privacy policy George Municipality implements a privacy policy aimed at protecting visitors to our social media sites. POPIA We respect the privacy rights of everyone who uses or enquires about our services. Protecting your personal information, as defined in the Protection of Personal Information Act, Act 4 of 2013, will be respected. Personal information will only be shared for purposes of resolving customer enquiries, providing customer services or for any other legitimate purpose relating to George Municipal functions. For your reference, the POPI and PAIA Acts are available at www.gov.za/documents/acts with amendments listed on www.acts.co.za



HOA Office Park • Blue Mountain Boulevard • George • 6529
PO Box 13284 • Garden Route Mall • George • 6546

MINUTES of the SPECIAL GENERAL MEETING for the BLUE MOUNTAIN GARDENS HOME OWNERS' ASSOCIATION HELD AT 14H00 ON MONDAY, 2nd SEPTEMBER 2019, in the BLUE MOUNTAIN RETIREMENT ESTATE CLUBHOUSE.

Present: Mr. C Roodt (CR) Director DEVELOPER (Chairman)
Mr. F Manuel (FM) Director BMGARDENS
Mr. A Burger (AB) Director BMGARDENS

Members as recorded in the attendance register in person and/or proxy

In Attendance: Mrs. B. Halse (BH) Director BMCRE
Mr. P Schoeman Estate Manager BMV
Mrs. C. Hattingh Admin BMV
Wikus Vorster Topline
Francois Redelinghuys Clearwire
Mrs Rosa Green DRC

1. *Welcome / Notice / Constitution*

Mr Chris Roodt welcomed all present.

Notices were sent out timeously by e-mail in accordance with procedure. As a quorum was present, the meeting was declared open by the Chairperson, and could proceed.

In attendance as per register: 15
Proxies as per register: 6

The Chairman enquired whether there were any further issues to be added to the agenda for discussion.

No additional issues were tabled for discussion.

2. *Apologies*

Bryan and Christine Coppin
Charmaine Schlesinger
John Davis
Jeff Pearson
Mike Wallis

3. *To consider and confirm the further subdivision and construction of duette houses as per the original approval of council in 2013.*

The Chairman enquired if there were any queries in this regard.

As there were no queries raised, the decision to allow the subdivision of the remaining undivided erven for the construction of duette houses were unanimously approved.

4. *To consider and approve:*

4.1 *The incorporation of erf 28006 in the Blue Mountain Gardens development.*

The meeting approved the intention to incorporate erf 28006 into the gated estate on condition that the Architectural Guidelines for the Gardens will be followed.

4.2 *The exclusion of erven 25489 & 25490 from the Blue Mountain Gardens development.*

CR requested permission to exclude erven 25489 and 25490 from the Blue Mountain Gardens.

There were no objections. Permission was granted

4.3 *The permanent closure of the proposed second entrance gate at Blue Mountain Gardens and the consolidation of the remaining road with erf 25490.*

The meeting agreed not to proceed with an entrance gate in BMG due to the high costs and security risk. The existing main entrance in BMV will be upgraded to allow residents to make use of the visitors' exit and at the end of the building period, the contractors' gate will be upgraded to also accommodate residents. This should provide more than adequate access for residents. This decision was approved unanimously.

4.4 *The re-alignment of the security fence to exclude erven 25489, 25490 and remainder portion of the entrance road from the Blue Mountain Gardens development*

Hermann Spangenberg inquired about the fencing between the estate and commercial development. CR confirmed that the fencing will be a wall. Access to the new development will be outside the BMV boundary and will not make use of any services provided by the Association, e.g. security, telecommunication, etc. The developer will take responsibility for the costs involved. In return, the developer gave permission for the establishment of a recreational area on the erven on the southeast corner of the development. Decision approved unanimously.

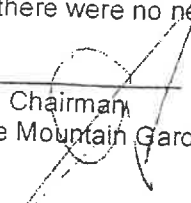
5. *Approval of the consolidation of specific erven and the subsequent subdivision of these erven to form a sectional title development of housing units.*

Rosa Green presented the meeting with a proposal to develop a Sectional Title Development – governed by a Body Corporate, by consolidating specific erven. The Body Corporate will pay levies to the Home Owner's Association. The first phase consists of 28 units. The development will have its own Guidelines to fit in with the rest of the BMG. There will be one entrance and each unit will have its own garage and an additional off-street parking area. No pets will be permitted.

There were no objections. The decision was approved

6. *Closure*

As there were no new matters, the meeting closed at 14h40.


The Chairman
Blue Mountain Gardens Home Owners' Association

Jan Vrolijk

From: Primrose Nako <Pnako@george.gov.za>
Sent: Monday, 19 February 2024 14:31
To: Etienne Terblanche; janvrolijk@jvtownplanner.co.za
Subject: Fw: Reference Number: 2325803 Objection Erf 24845
Attachments: Erf-24845-George-Advert.docx; BMG special meeting 2-09-2019.pdf

Good day Mr Terblanche

I acknowledge receipt of your comments/objections.

@Jan Vrolijk please see comments/objection below for your attention.

Kind Regards

Primrose Nako

Administrator

Planning and Development

George Municipality

Office: 044 801 9416

Email: pnako@george.gov.za

Office of the Director: Human Settlements, Planning and Development and Property Management



71 York Street, George | PO Box 19, George, 6530



044 801 9111



www.george.gov.za



CONFIDENTIALITY & DISCLAIMER NOTICE: The information contained in this message is confidential and is intended for the addressee(s) only. If you have received this message in error or there are any problems please notify the originator immediately. The unauthorized use, disclosure, copying or alteration of this message is strictly forbidden. George Municipality will not be liable for direct, special, indirect or consequential damages arising from alteration of this message by a third party or as a result of any malicious code or virus being passed on. If you have received this message in error, please notify the sender immediately by email, facsimile or telephone and return and/or destroy the original message.

From: Etienne Terblanche <etiennet@mweb.co.za>

Sent: Friday, 16 February 2024 10:19

To: Primrose Nako <Pnako@george.gov.za>

Cc: Marisa Arries <Marries@george.gov.za>

Subject: FW: Reference Number: 2325803 Objection Erf 24845

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

To Whom it may Concern:

We as owners of Geelbos Street 25, Blue Mountain Estate (Erf 25490) object against the items in the attached notice dealing with the following:

- Application is made in terms of section 15(2)(f) of the Land Use Planning By-law for George Municipality, 2023 for the **removal of condition F.** from Title Deed T76532/2012, the title deed of Erf 24845 George.
- Application is made in terms of section 15(2)(d) of the Land Use Planning By-law for George Municipality, 2023 for the **cancelation of the 13 metre right of way servitude registered over Erf 28485 George.**

These applications are to remove the access road to Park Road and thus closing the contractors gate.

The contractor's gate cannot be closed because it is mainly used daily by hundreds of pedestrians (carers, domestic workers, gardeners, contractor's workmen, delivery vehicles (Checkers, Takealot, Dischem etc) electricians plumbers etc.

The present gate is ideally situated to give access to Park Road which is a major collector-distributor road providing access to the CBD, the Industrial Sites , Eden Meander, Garden Route Mall and the N2 Freeway.

The developer is proposing moving the contractors gate to the end of Geelbos street, next to SARS. We also object to this proposal as the area they want to move the gate to is not a suitable location and will cause extra traffic all the way through the estate as the proposed gate is not centrally located like the current gate. The area suggested for the new Contractors Gate is on the corner of the road heading to SARS and the new development past SARS so traffic on that corner cannot accommodate trucks and other delivery vehicles that has to use the contractors gate. The intention to move the contractors gate was not known by any homeowners of Geelbos street when the properties were originally acquired. This proposition will have a negative effect on the area, decrease the surrounding properties' market value drastically, and cause great hindrance to occupiers and tenants.

Also as per the attached Minutes of a Special General meeting dated 2 September 2019, the moving of the gate was decided against and after that Erf 25490 and 25489 was sold by the Developer with no mention of any new plans for the gate to be moved.

Regards

Etienne Terblanche

082 829 5521

etiennet@mweb.co.za

Representing MTK Familie Trust

CONFIDENTIALITY & DISCLAIMER NOTICE The information contained in this message is confidential and is intended for the addressee(s) only. If you have received this message in error or there are any problems please notify the originator immediately. The unauthorized use, disclosure, copying or alteration of this message is strictly forbidden. George Municipality will not be liable for direct, special, indirect or consequential damages arising from alteration of this message by a third party or as a result of any malicious code or virus being passed on. If you have received this message in error, please notify the sender immediately by email, facsimile or telephone and return and/or destroy the original message. ***** Privacy policy George Municipality implements a privacy

policy aimed at protecting visitors to our social media sites. POPIA We respect the privacy rights of everyone who uses or enquires about our services. Protecting your personal information, as defined in the Protection of Personal Information Act, Act 4 of 2013, will be respected. Personal information will only be shared for purposes of resolving customer enquiries, providing customer services or for any other legitimate purpose relating to George Municipal functions. For your reference, the POPI and PAIA Acts are available at www.gov.za/documents/acts with amendments listed on www.acts.co.za



HOA Office Park • Blue Mountain Boulevard • George • 6529
PO Box 13284 • Garden Route Mall • George • 6546

MINUTES of the SPECIAL GENERAL MEETING for the BLUE MOUNTAIN GARDENS HOME OWNERS' ASSOCIATION HELD AT 14H00 ON MONDAY, 2nd SEPTEMBER 2019, in the BLUE MOUNTAIN RETIREMENT ESTATE CLUBHOUSE.

Present: Mr. C Roodt (CR) Director DEVELOPER (Chairman)
Mr. F Manuel (FM) Director BMGARDENS
Mr. A Burger (AB) Director BMGARDENS

Members as recorded in the attendance register in person and/or proxy

In Attendance: Mrs. B. Halse (BH) Director BMCRE
Mr. P Schoeman Estate Manager BMV
Mrs. C. Hattingh Admin BMV
Wikus Vorster Topline
Francois Redelinghuys Clearwire
Mrs Rosa Green DRC

1. *Welcome / Notice / Constitution*

Mr Chris Roodt welcomed all present.

Notices were sent out timeously by e-mail in accordance with procedure. As a quorum was present, the meeting was declared open by the Chairperson, and could proceed.

In attendance as per register: 15
Proxies as per register: 6

The Chairman enquired whether there were any further issues to be added to the agenda for discussion.

No additional issues were tabled for discussion.

2. *Apologies*

Bryan and Christine Coppin
Charmaine Schlesinger
John Davis
Jeff Pearson
Mike Wallis

3. *To consider and confirm the further subdivision and construction of duette houses as per the original approval of council in 2013.*

The Chairman enquired if there were any queries in this regard.

As there were no queries raised, the decision to allow the subdivision of the remaining undivided erven for the construction of duette houses were unanimously approved.

4. *To consider and approve:*

4.1 *The incorporation of erf 28006 in the Blue Mountain Gardens development.*

The meeting approved the intention to incorporate erf 28006 into the gated estate on condition that the Architectural Guidelines for the Gardens will be followed.

4.2 *The exclusion of erven 25489 & 25490 from the Blue Mountain Gardens development.*

CR requested permission to exclude erven 25489 and 25490 from the Blue Mountain Gardens.

There were no objections. Permission was granted

4.3 *The permanent closure of the proposed second entrance gate at Blue Mountain Gardens and the consolidation of the remaining road with erf 25490.*

The meeting agreed not to proceed with an entrance gate in BMG due to the high costs and security risk. The existing main entrance in BMV will be upgraded to allow residents to make use of the visitors' exit and at the end of the building period, the contractors' gate will be upgraded to also accommodate residents. This should provide more than adequate access for residents. This decision was approved unanimously.

4.4 *The re-alignment of the security fence to exclude erven 25489, 25490 and remainder portion of the entrance road from the Blue Mountain Gardens development.*

Hermann Spangenberg inquired about the fencing between the estate and commercial development. CR confirmed that the fencing will be a wall. Access to the new development will be outside the BMV boundary and will not make use of any services provided by the Association, e.g. security, telecommunication, etc. The developer will take responsibility for the costs involved. In return, the developer gave permission for the establishment of a recreational area on the erven on the southeast corner of the development. Decision approved unanimously.

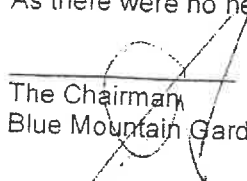
5. *Approval of the consolidation of specific erven and the subsequent subdivision of these erven to form a sectional title development of housing units.*

Rosa Green presented the meeting with a proposal to develop a Sectional Title Development – governed by a Body Corporate, by consolidating specific erven. The Body Corporate will pay levies to the Home Owner's Association. The first phase consists of 28 units. The development will have its own Guidelines to fit in with the rest of the BMG. There will be one entrance and each unit will have its own garage and an additional off-street parking area. No pets will be permitted.

There were no objections. The decision was approved.

6. *Closure*

As there were no new matters, the meeting closed at 14h40.


The Chairman
Blue Mountain Gardens Home Owners' Association

James and Susan Jackelman
66 Langeberg Crescent
Blue Mountain Village, George

30 January, 2024

The Application for rectification of zoning, subdivision of land, permanent amendment of land use plan, permanent departures (relaxation of building lines, parking and open space requirements), cancellation of the servitude of right of way and the removal of restrictive conditions of title for Erf 24845 dated 27 November refers.

Erf 24845 is situated within Blue Mountain Village (BMV).

Our comments on the application are as follows:

1. The *Memorandum of Incorporation* (MOI) for the Blue Mountain Village Homeowners Association (RF) NPC (Reg # 2006/027010/08) – dated 8 March 2022 - states that the ‘development period’ for BMV ends on 30 May 2022.
2. This means that ‘communal areas’, ‘communal facilities’, ‘erven’ (including ‘units’) and ‘properties’ (as defined in the MOI) now falls under the remit of the NPC (see Part 4 of the MOI). This includes the responsibility ‘**to maintain and control the common property [subject to lease agreements]**’.
3. With the understanding that the ‘development period’ has now ended, members of the NPC are only ‘any person who is a registered owner of a unit or an erf’. This means that the registered owner of Erf 24845 (whether as an individual or any other legal entity) is deemed to automatically be just **one member** of the NPC.
4. Now that the development period has ended, a servitude must be registered against the title deed of every erf in the development, indicating that the owner of any erf, or interest therein, shall become a member of the Blue Mountain Village Homeowners Association (the ‘Company’), subject to its rules. Our understanding is that **this servitude must also be registered against Erf 24845**.
5. The MOI further states that (now that the development period is over) the owner of an erf (or part thereof) may NOT sell or alienate (the erf) in any manner **without containing written consent of the Association**. It is our view that a change in zoning, subdivision, departures and removal of restrictions constitute a form of alienation.
6. It is our understanding that this **written consent has not been requested by, or provided, to the owner of Erf 24845** by the Company.
7. For an application of this nature, it is our contention that it is also beyond the powers of the BOD of give written consent to the owners of Erf 24845 on behalf of the members **without first getting approval from its members**, either at a Special Meeting or at an AGM.
8. Further, the application states (under Part 5 on page 14) that ‘*the development proposal was placed for discussion on the agenda of the 16th Annual General Meeting (AGM) of the Blue Mountain Village Home Owners’ Association held at 17h30 on Wednesday, 17th May 2023, at Eden Gemeente, George. A copy of the signed minutes of the meeting of the meeting with references to the development proposal is attached hereto as Annexure “N”*’. **This is simply not**

true and is contested. We were at the aforementioned meeting and separate discussions were held about: (i) the option to make an offer to buy the current office used by the company or continue with the monthly leasing of the office space; and (ii) the feasibility of developing a 'Memory Care Facility' at the location of the current contractor entrance; and (iii) the moving of the contractor gate to another site. In the case of (i) the members attending the meeting showed – by way of hands – an in principle agreement that the BOD explore the feasibility of this type of development. In the case of (ii) the members attending the meeting agreed that there was a need for the BOD to first assess the legal queries about ownership of, and use rights to, the building that were raised at the meeting. The request of members was to revert back with a legal opinion and recommendations on the way forward (as it relates to the use of the building for the use by the company). In the case of (iii) the members were in favour of the principle, but required further information on the implications and practicalities. There were, to our recollection (in the absence of minutes of the meeting), no discussions about this application, in its current formulation. The members attending the AGM were not provided with the minutes of this meeting (as required by the Company Act) and the minutes have also not been approved and adopted by the members, so the minutes appended to the application are not necessarily a true reflection of the meeting discussions. Regardless, the minutes in their draft form appended as Annexure N already reiterate that the contention that 'the development proposal' was presented as a consolidated package proposal is **simply not true.**

9. Further, the application states that '*the proposal was well accepted by the majority of the residents that attended the meeting. The development proposal was after extensive discussion approved by the Blue Mountain Village Home Owners' Association*'. The proposal – in this formulation – as indicated above, **was not submitted to the members at the AGM, so this is not correct.**

In the light of the above, we request that:

<p>The application NOT be considered by the Municipality until: (i) the members of the Company first consider the consolidated application at a Special Meeting or at the next AGM and vote on whether to support it or not; AND (ii) the Company (through the BOD) – if mandated by the members - provide a written letter of consent to be appended to the resubmission of the application. Thereafter it can be resubmitted for formal review by the Municipality.</p>

Jan Vrolijk

From: Johan Preston <johanpreston156@gmail.com>
Sent: Sunday, 18 February 2024 09:02
To: marries@george.gov.za; janvrolijk@jvtownplanner.co.za
Subject: Erf 24845

I object to this application for the following reasons.

1. Every estate has its own Hoa Office.
2. We have been paying for these offices for years that belongs to the home owners of Bluemountain. We should never have been charged rental for our offices.
3. At our Hoa annual meetings for years we have been complaining about this.
4. The contractors gate is in the perfect position for security reasons close to the Hoa & Security offices as well as the main gate if there are problems.
5. We are happy with the position of the gate.
6. Building any further buildings/offices and houses will just cause further problems.
7. We have a huge problem with surridge as all the Garden Route Mall and Eden Mall and now the new car garages have also impacted the problem further.

Regards

Johan Preston
0845053357
Erf 27710

Jan Vrolijk

From: Primrose Nako <Pnako@george.gov.za>
Sent: Monday, 19 February 2024 12:38
To: Marguerite Robertson; janvrolijk@jvtownplanner.co.za
Subject: Fw: Fw: Objection: Erf (correction) 24845

Good day Mrs Robertson

I acknowledge receipt of your comment/objection.

@Jan Vrolijk, please see comment/ objection below for your attention.

Kind Regards

Primrose Nako

Administrator

Planning and Development

George Municipality

Office: 044 801 9416

Email: pnako@george.gov.za

Office of the Director: Human Settlements, Planning and Development and Property Management



71 York Street, George | PO Box 18, George, 6530 | 044 801 9111 | www.george.gov.za



CONFIDENTIALITY & DISCLAIMER NOTICE: The information contained in this message is confidential and is intended for the addressee(s) only. If you have received this message in error or there are any problems please notify the originator immediately. The unauthorized use, disclosure, copying or alteration of this message is strictly forbidden. George Municipality will not be liable for direct, special, indirect or consequential damages arising from alteration of this message by a third party or as a result of any malicious code or virus being passed on. If you have received this message in error, please notify the sender immediately by email, facsimile or telephone and return and/or destroy the original message.

From: Marguerite Robertson <klipheuwelfun@gmail.com>

Sent: Monday, 19 February 2024 12:27

To: Primrose Nako <Pnako@george.gov.za>

Subject: Re: Fw: Objection: Erf (correction) 24845

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Primrose Nako,

Sorry Must have been a typo on my side. The correct erf nr is 24845. My sincere apologies for the inconvenience.

Please let me know if you require any further information. Hope you have a lovely day.

On Mon, 19 Feb 2024 at 12:18, Primrose Nako <Pnako@george.gov.za> wrote:
Good day Mrs Robertson

Above mentioned erf no does not appear on our system. Are you sure there is a land use application for above mentioned property? Please check for correct erf no or send me notice if you have a copy.

Kind Regards

Primrose Nako

Administrator

Planning and Development

George Municipality

Office: 044 801 9416

Email: pnako@george.gov.za

Office of the Director: Human Settlements, Planning and Development and Property Management



71 York Street, George | PO Box 19, George, 6530 | 044 801 9111 | www.george.gov.za



CONFIDENTIALITY & DISCLAIMER NOTICE The information contained in this message is confidential and is intended for the addressee(s) only. If you have received this message in error or there are any problems please notify the originator immediately. The unauthorized use, disclosure, copying or alteration of this message is strictly forbidden. George Municipality will not be liable for direct, special, indirect or consequential damages arising from alteration of this message by a third party or as a result of any malicious code or virus being passed on. If you have received this message in error, please notify the sender immediately by email, facsimile or telephone and return and/or destroy the original message.

From: Marguerite Robertson <klipheuwelfun@gmail.com>

Sent: Friday, 16 February 2024 13:57

To: Primrose Nako <Pnako@george.gov.za>

Subject: Fwd: Objection: Erf 28419

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

----- Forwarded message -----

From: **Marguerite Robertson** <klipheuwelfun@gmail.com>

Date: Fri, 16 Feb 2024 at 13:56

Subject: Objection: Erf 28419

To: <marries@george.gov.za>

Me, as the owner of 21A Geelbos (erf 28006) Road, Blue Mountain Estate object against the items in the attached notice dealing with the following:

- Application is made in terms of section 15(2)(f) of the Land Use Planning By-law for George Municipality, 2023 for the removal of condition F. from Title Deed T76532/2012, the title deed of Erf 24845 George.
- Application is made in terms of section 15(2)(d) of the Land Use Planning By-law for George Municipality, 2023 for the cancellation of the 13 metre right of way servitude registered over Erf 28485 George.

These applications are to remove the access road to Park Road and thus closing the contractors gate.

The contractor's gate cannot be closed because it is mainly used daily by hundreds of pedestrians (carers, domestic workers, gardeners, contractor's workmen, delivery vehicles (Checkers, Takealot, Dischem etc) electricians, plumbers etc.
The present gate is ideally situated to give access to Park Road which is a major collector-distributor road providing access to the CBD, the Industrial Sites, Eden Meander, Garden Route Mall and the N2 Freeway.

The developer is proposing moving the contractor's gate to the end of Geelbos street, next to SARS. We also object to this proposal as the area they want to move the gate to is not a suitable location and will cause extra traffic all the way through the estate as the proposed gate is not centrally located like the current gate. The area suggested for the new Contractors Gate is on the corner of the road heading to SARS and the new development past SARS so traffic on that corner cannot accommodate trucks and other delivery vehicles that have to use the contractors gate. The intention to move the contractors gate was not known by any homeowners of Geelbos street when the properties were originally acquired. This proposition will have a negative effect on the area, decrease the surrounding properties' market value drastically, and cause great hindrance to occupiers and tenants.

Also as per the attached Minutes of a Special General meeting dated 2 September 2019, the moving of the gate was decided against and after that Erf 25490 and 25489 was sold by the Developer with no mention of any new plans for the gate to be moved.

Kind regards / Vriendelike groete,
Marguerite Robertson
0768538099

CONFIDENTIALITY & DISCLAIMER NOTICE The information contained in this message is confidential and is intended for the addressee(s) only. If you have received this message in error or there are any problems please notify the originator immediately. The unauthorized use, disclosure, copying or alteration of this message is strictly forbidden. George Municipality will not be liable for direct, special, indirect or consequential damages arising from alteration of this message by a third party or as a result of any malicious code or virus being passed on. If you have received this message in error, please notify the sender immediately by email, facsimile or telephone and return and/or destroy the original message. ***** Privacy policy George Municipality implements a privacy policy aimed at protecting visitors to our social media sites. POPIA We respect the privacy rights of everyone who uses or enquires about our services. Protecting your personal information, as defined in the Protection of Personal Information Act, Act 4 of 2013, will be respected. Personal information will only be shared for purposes of resolving customer enquiries, providing customer services or for any other legitimate purpose relating to George Municipal functions. For your reference, the POPI and PAIA Acts are available at www.gov.za/documents/acts with amendments listed on www.acts.co.za

CONFIDENTIALITY & DISCLAIMER NOTICE The information contained in this message is confidential and is intended for the addressee(s) only. If you have received this message in error or there are any problems please notify the originator immediately. The unauthorized use, disclosure, copying or

alteration of this message is strictly forbidden. George Municipality will not be liable for direct, special, indirect or consequential damages arising from alteration of this message by a third party or as a result of any malicious code or virus being passed on. If you have received this message in error, please notify the sender immediately by email, facsimile or telephone and return and/or destroy the original message. ***** Privacy policy George Municipality implements a privacy policy aimed at protecting visitors to our social media sites. POPIA We respect the privacy rights of everyone who uses or enquires about our services. Protecting your personal information, as defined in the Protection of Personal Information Act, Act 4 of 2013, will be respected. Personal information will only be shared for purposes of resolving customer enquiries, providing customer services or for any other legitimate purpose relating to George Municipal functions. For your reference, the POPI and PAIA Acts are available at www.gov.za/documents/acts with amendments listed on www.acts.co.za

Reference Number: 2325803
ERF 24845 GEORGE

OBJECTION AGAINST

THE APPLICATION FOR
RECTIFICATION OF ZONING,

SUBDIVISION AND AMENDMENT OF LAND USE
PLAN,

PERMANENT DEPARTURES (RELAXATION OF
BUILDING LINES, PARKING AND OPEN SPACE
REQUIREMENT),

CANCELATION OF SERVITUDE AND REMOVAL
OF RESTRICTIVE CONDITION OF TITLE

Peter J Gray
59 Blue Mountain Retirement Estate,
149 Park Road,
George.
6529
Email: pgray@telkomsa.net
Cell: 083 641 5141P J Gray

February 2024

Table of Contents

1. Introduction	3
2. Historical background and zoning of erf 24585.....	4
3. Disputed Ownership of Erf 24585	6
4. Application is Non-Compliant with Section 38 of the LUP By-Law.....	7
5. Servitude Right of Way (Contractors Access)	10
6. Conclusions and Recommendations	11

1. Introduction

This objection, is made in terms of section 50 of the Land Use Planning By-law for George Municipality, 2023, (LUP By-law) in response to an application for *inter alia* the proposed rezoning and subdivision of erf 24845 situated in Blue Mountain Village.

The Blue Mountain estate is managed by the Blue Mountain Master Property Owners Association (RF) NPC 2006/027010/08 (hereinafter HOA).

The subsidiary Associations of the HOA are the Blue Mountain Gardens Home Owners Association (RF) NPC 2009/004516/08, the Blue Mountain Carenet Retirement Estate Property Owners Association (RF) NPC 2006/028242/08 and the Blue Mountain Carenet Haven Sectional Title Scheme SS61/2010.

Blue Mountain Village consists of 425 erven, Blue Mountain Gardens comprises of 127 erven, the Retirement Estate consists of 82 erven, Blue Mountain Haven comprises of 60 sectional title apartments and the Gables consists of 56 group housing units—i.e. when fully developed there will be a total of 750 dwelling units¹.

This means that there are many property owners that will be affected by the proposed application for the rezoning of Erf 24845—primarily the proposed closure of the so-called contractor's gate together with the “removal” of the Right of Way servitude registered over erf 24845.

The application is riddled with misinformation and misleading information which was known, or should have been known, to the agent.²

¹ <https://bmvhoa.co.za/> (Date of use 13 February 2024)

² Subsections 62(2) and 86(1(d) of the Land Use Planning By-Law for George Municipality ,2023

The primary error in the application is the applicants failure to obtain the consent of the HOA in the correct format as stated in section 38(1)(p) of the George Integrated Zoning Scheme By-Law,2023.³

The object of this objection to the application will be to highlight these erroneous assertions so as to provide the Municipality with the facts and therefore the reasons why the application should be dismissed.

2. Historical background and zoning of erf 24585

The Conditions of Establishment for the Subdivision and Rezoning of the Remainder of Portion 2 and Portion 71 of the farm Kraaibosch 195/ Division George is given in the Council's approval letter dated 2 April 2006.⁴ Blue Mountain Village formed part of the approval. The applicant failed to include the Council approved "Subdivisional Plan"⁵ of the area in his application and therefore the plan is included in this objection as Annexure A.

Failure to include the Subdivisional plan in Annexure A of the application is the applicant's first violation of subsection 62(2) of the LUP By-law because the Council's approval letter is meaningless without it.

In terms of the April 2006 approval, erf 430 (later erf 23344 and now 24845) was zoned Special Zone (Utilities) and was subject to a 10m Servitude Right of Way.⁶ The approval letter erroneously states that "*Servitude Nr.(sic) 13*" is a 10m wide "*storm water servitude(s)*".⁷ This servitude ROW is pivotal to this objection and will be discussed in detail later. The area of erf 430 is given as 0.5219 ha (5 219m²).

³ Promulgated in terms of Section 13 of the Local Government Municipal Systems Act, 2000 on 6 October 2023 by virtue of P.N 8831.

⁴ See Annexure "A" of the application.

⁵ Approval date 25 April 2006.

⁶ See Annexure A and note servitude No. 13.

⁷ Paragraph 10 of Annexure "A".

The subsequent amended approval letter dated 6 June 2008 is superfluous to the application as it only concerned the swapping of the zoning of erven situated outside the Blue Mountain Village area.

The applicant quite rightly states that the intention of the April 2006 Special Zone (Utilities) for erf 430

*“...was **that buildings be developed** on the erf to be used for **land uses associated and related to the Home Owners Association** which had to be established for **the management and administration** of the Blue Mountain residential development”.⁸ (my emphasis)*

This statement is important in that only one of the 4 (four) buildings that have been erected on erf 24845, during the period *circa* 2007-2009, have been compliant with this land use zoning—i.e. being used by the HOA for HOA purposes (this will be discussed in detail later).

The Special (Utilities) zoning was applicable to erf 24845 from April 2006 till 01 September 2017, when the George Municipality promulgated the George Integrated Zoning Scheme By-Law, 2017. The new zoning for erf 245845 was given as Open Space Zone II with a primary use of Private open space.

The Private Open Space Zoning was applicable to erf 24585 from 01 September 2017 till 06 October 2023, a period of more than 6 years. During this period the applicant knew that this zoning was incorrect and even states in his application that

“(t)his was obviously not the correct zoning which has since been admitted by the George Municipality.”⁹

⁸ The Application pg 1.

⁹ The Application pg 1.

The applicant, however, in the interim period of more than 6 (six) years, made no attempt to rectify this “incorrect” zoning in terms of section 8 of the LUP By-Law—this he may have done by simply making an application to the Municipality.

He has therefore acquiesced to the zoning of erf 24585 and in terms of the Doctrine of acquiescence is now estopped from rectifying that zoning, in terms of this application, which was only submitted to the Municipality on 26 October 2023.

However, because of George Municipality’s promulgation on 6 October 2023 of the George Integrated Zoning Scheme By-Law, 2023 erf 24585 is now already zoned Single Residential Zone II (Administrative offices of the HOA and facilities ancillary to the functioning of the estate) which makes the applicant’s application for rectification superfluous.

3. Disputed Ownership of Erf 24585

When members of the BMVMPOA found out that erf 24585 was zoned as Private open space they were told by officials of the George Municipality Town Planning Department that this erf should have been transferred to the HOA in terms of the Conditions of Establishment dated 25 April 2006.

Table 1

Erf No.	Zoning
426	Business II
427	Institutional II
429	Residential IV and Open Space II
430	Special Zone
433	Residential IV
434	Residential IV
435	Residential IV
436	Residential III (Retirement Village)
437	Residential III (The Haven)

From the table above it can be seen that erf 430 has been wrongly placed with erven that can be subdivided and in terms of paragraph 3 is subject to capital contributions. Furthermore, all these erven including the Special Zone must have site development plans approved in terms of paragraph 18 of the Conditions of Establishment.

From the table above it is obvious that erf 430 should not be amongst those erven that can be subdivided and redeveloped. The applicant himself admits this fact by stating the following

"(a)s no zoning existed at that stage which could accommodate the buildings and land uses associated with the homeowner's association, Portion 430 (now Erf 24845 George) was zoned Special (Utility use)".

The BMMPOA and the other Home Owners Associations were established in terms of Section 29 of Ordinance 15 of 1985¹⁰ and in terms of subsection 66(7) of the LUP By-law is recognised as an official home owners with all the rights and obligations imposed by the LUP By-law in terms of section 29 thereof.

In terms of subsection 29(3)(b) of the By-law the BMMPOA *"has control over and maintenance of buildings, services or amenities arising from the subdivision;"* and in terms of subsection (e)(iii) *"the ownership by the owners' association... arising from the subdivision, including— land required for services provided by the owners' association;"*

In terms of the above the Council made a fatal error in not transferring erf 430 to the Home Owners Association in terms of the 26 April 2006 Conditions of Establishment.

If the Council had not failed in its duty to transfer erf 430 to the HOA, at the time, the unreasonable and nonsensical situation that now exists, regarding the ownership of erf 24585 and the buildings erected thereon, would never have arisen.

4. Application is Non-Compliant with Section 38 of the LUP By-Law

Section 38(1)(p) of the LUP By Law states as follows:

*"38. (1) ... an application **must be accompanied** by the following information and documents where applicable..."*

¹⁰ Condition 15 of Conditions of establishment 26 April 2006)

*(p) if the property is part of a development **governed by an owners' association** the **consent of the owners' association** on a letterhead duly signed by the **authorised representative of the owners' association and a copy of the mandate**;(my emphasis)"*

The purpose and intention of s38(1)(p) is clear and obvious. Every owner of a property, governed by "an owners' association, wishing to subdivide and rezone their property **must apply** to their homeowners association for its consent prior to submitting an application to the Municipality. In this instance the applicant never submitted, the owner's proposed subdivision and rezoning of erf 24845, in its present format, to the board of directors of the Blue Mountain Master Property Owners Association NPC (BMMPOA) for approval before submitting the application to the Municipality. In other words the applicant **failed to obtain the consent** of the BMMPOA which is mandatory for all applications concerning all the erven in Blue Mountain Village.

For some unknown reason, either the Municipality advised the applicant or, more likely, the applicant proffered the minutes of the BMMPOA AGM held on 17 May 2023 to be adequate proof of the BMMPOA's consent of the application. According to the application documents this unreasonable and non-compliant "consent" was proposed in a "section 40 letter" dated 6 November 2023.

The minutes of the AGM is not considered an acceptable replacement document that can be submitted by the applicant as proof of the consent of the BMMPOA to the proposed subdivision and rezoning of erf 24845 *in lieu* of the consent letter required in terms of section 38. Therefore the Municipality's section 38 Approval letter dated 08 December 2023 is *ultra vires* and therefore *null and void*.

Further reasons that the applicant was fully aware that the AGM minutes were misleading and unlawful in terms of section 38 are as follows,

1. The minutes had not been ratified by the board at any board meeting post the AGM.

2. It is common cause that the minutes of an AGM can only be signed as a correct record, at the next AGM meeting, which is to be held only in May 2024.
3. These AGM minutes have therefore been signed in error by the ex-chairman of the board, Mr Fahdiel Manual, who resigned his post on 1 November 2023. It has subsequently been established that Mr Manual should in any event not have been a member of the board of the BMMPOA. In any event his signature of the AGM minutes is a moot point as it does not ratify the minutes as a true record of the proceedings of the AGM. That can only be done at the next AGM of all the members when the minutes will be approved by the members.
4. If a subdivision plan had been presented to the members that attended the May 2023 AGM it was obviously a previous proposal by the owner which was to subdivide erf 24845 into four and not three portions.
5. The AGM was held in May 2023 and the date on the proposed subdivision plan is October 2023 so it is impossible to have been the same plan that was supposedly "consented to" at the AGM.
6. If the applicant or the Municipal officials had read the minutes of the AGM they would have noted that there was no mention of any subdivision and rezoning of erf 24845 therein.

By submitting the AGM minutes as being the "consent" of the HOA in terms of section 38 the applicant has provided misleading and incorrect information in his application to the Municipality which is an offence in terms of Sections 62(2) and 86(1)(d) of the LUP By-law.

In view of the above the Municipality committed a fatal error in deeming the applicant's application "...complete in terms of Section 38 of the Land Use Planning By-law for George Municipality,2023" and incorrectly issued the Compliance letter dated 8 December 2023.

The "consent" letter in terms of Section 38(1)(p) is the **most important document** that must be provided by every applicant making an application to subdivide and rezone "*...a property (that) is part of a development governed by an owners' association*". However, in part D of Section D of Annexure D (the pre-

application consultation) of the application the "*Home Owners' (sic) consent*" is not listed as "**Compulsory Information Required**" but only as "*Minimum and Additional Requirements*" and the tick box next to the HOA consent item is not even noted as a Yes or No.

It is therefore my submission that the application does not comply with section 38 and therefore the Municipality should have rejected the application *ab initio* in terms of section 40(b) of the LUP By-law.

The Municipality's Section 38 approval letter, dated 8 December 2023, was wrongfully issued as verification that Section 38 had been complied with and must notify the applicant in terms of section 41(1)(c)(ii) that the consent of the BMMPOA is outstanding.

5. Servitude Right of Way (Contractors Access)

The servitude right of way (ROW) registered over erf 24585 is not a restrictive condition *per se* that can be removed from the title deeds as proposed by the applicant. The ROW is a praedial servitude¹¹ where the servient property is erf 24585 and the dominant property is the subdivisional area consisting of Blue Mountain Village, Blue Mountain Gardens, Blue Mountain Retirement Estate and the Haven/Gables. Each owner of each erf in these areas has a real right to use the ROW over erf 24585; i.e. a total of 750 dwelling units.

The contractors access to Park Road is an asset of the BMMPOA and is an important access for not only delivery vehicles but hundreds of pedestrians that work in the area. There is a bus stop in Park Road near the access road and there drop-off and pick-up areas situated on the access road.

As mentioned previously the access road has been approved by the Municipality and is in the most advantageous position to serve the Blue Mountain area.

¹¹ Badenhorst, Pienaar, Mostert *Silberberg and Schoeman's The Law of Property* 322-338

Furthermore, the applicant only proposes to close the access road in his application thinking that the traffic using the access road will just disappear. He obviously has never been to the site to see who uses the access road.

It must also be noted that the Municipal officials commented that a Public Participation Process just for the removal of the ROW is required which has been ignored by the applicant.

6. Conclusions and Recommendations

From the above it can be concluded that the Municipality cannot approve any of the applications applied for because the applicant has not submitted all the documents required in terms of section 38 and therefore the Municipality's section 38 letter dated 08 December 2023 is invalid and should be withdrawn.

Because the application is invalid *ab initio* further comments on the application will be superfluous.

Peter J Gray BSc(Eng)(Wits) LLB(UNISA) LLM(UNISA)

19 February 2024



BLUE MOUNTAIN VILLAGE

Parkdene



NOTE
 THE DRAWING IS THE PROPERTY OF DELPLAN URBAN AND REGIONAL PLANNING. ANY REVISIONS TO THE DRAWING SHALL BE APPROVED BY DELPLAN URBAN AND REGIONAL PLANNING. NO PART OF THIS DRAWING IS TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM. THE DESIGN OF THIS DRAWING IS THE PROPERTY OF DELPLAN URBAN AND REGIONAL PLANNING. ANY REVISIONS TO THE DRAWING SHALL BE APPROVED BY DELPLAN URBAN AND REGIONAL PLANNING. NO PART OF THIS DRAWING IS TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM.

1. General layout from original survey
2. Control points and features
3. Colour in accordance with the drawings
4. Shaded areas by name of the area
5. Boundary lines by name of the area
6. Property boundaries by name of the area
7. Reserves and easements
8. Particulars of the drawing
9. Particulars of the drawing
10. Particulars of the drawing

MUNISIPALITEIT GEORGE MUNICIPALITY
 Hierdie ontwerp is goedgekeur deur die raad van die gemeente van 15 Desember 2006.
 This design is approved in terms of Section 25(1) of the Local Government Act of 1996 subject to the conditions contained in the covering letter.

Director of Planning & Development

PROPOSED DEVELOPMENT FOR CUMULUS PROJECTS (PTY) LTD

KRAAIBOSCH 195 1/2 REMAINDER & 71, GEORGE DIVISION AND MUNICIPALITY

1:4000

APRIL 2006

DELplan URBAN & REGIONAL PLANNING
 Tel: 044 673 4884 - Email: planning@delplan.co.za

Author	AA	288JFS8
Checker	AA	288GEO03
Date	April 2006	

ALL MEASUREMENTS APPROXIMATE
 ALLE AFMETINGS BY BENADINGS

KOPIEREG VOORBEHOU / COPY RIGHT RESERVED

Service Nr.	Position Nr.	Qty	Unit	Reason
1	437, 438	10 m	4 m	Services (Storm Water)
2	423	2 m		Services (Storm Water)
3	402	3 m		Services (Storm Water)
4	281	3 m		Services (Storm Water)
5	244	3 m		Services (Storm Water)
6	238	3 m		Services (Storm Water)
7	207	3 m		Services (Storm Water)
8	192	3 m		Services (Storm Water)
9	154	3 m		Services (Storm Water)
10	245	3 m		Services (Storm Water)
11	245	3 m		Services (Storm Water)
12	245	3 m		Services (Storm Water)
13	245	3 m		Services (Storm Water)
14	245	13 m		Services (Storm Water)

Zoning	Pt. Nr.	Area (m²)	Average m²	Max (m²)	%	Number
Residential I		25,448	853	800	102.2	35,428
Residential II		2,019				2,019
Residential III		11,252	23,403	14,200	32,000	3,611
Residential IV		4,469	NA	NA	NA	6,141
Residential V		1,025	NA	NA	NA	2,141
Residential VI		1,878	NA	NA	NA	2,141
Residential VII		5,529	NA	NA	NA	NA
Special Zone		0,584	NA	NA	NA	NA
Author/Zone		12,882	21,025	823	11,467	16,468
Overall Total		60,772				100,000
Transport (Public Road)		5,307	NA	NA	NA	5,307
Private Road		11,172	NA	NA	NA	13,477
Total		83,474				123,477

REVISIONS REQUIRED OFF TO REVISION FULL WALL

Jan Vrolijk

From: Primrose Nako <Pnako@george.gov.za>
Sent: Monday, 19 February 2024 12:09
To: janvrolijk@jvtownplanner.co.za; Total Sandkraal
Subject: Fw: Reference Number: 2325803 Objection
Attachments: Erf-24845-George-Advert.docx; BMG special meeting 2-09-2019.pdf

Good day Mr Gelderblom

I acknowledge receipt of you comment/objection.

@Jan Vrolijk, please email below, an objection from Mr Gelderblom for your attention.

Kind Regards

Primrose Nako

Administrator

Planning and Development

George Municipality

Office: 044 801 9416

Email: pnako@george.gov.za

Office of the Director: Human Settlements, Planning and Development and Property Management



71 York Street, George | PO Box 19, George, 6530 | 044 801 9111 | www.george.gov.za

CONFIDENTIALITY & DISCLAIMER NOTICE: The information contained in this message is confidential and is intended for the addressee(s) only. If you have received this message in error or there are any problems please notify the originator immediately. The unauthorized use, disclosure, copying or alteration of this message is strictly forbidden. George Municipality will not be liable for direct, special, indirect or consequential damages arising from alteration of this message by a third party or as a result of any malicious code or virus being passed on. If you have received this message in error, please notify the sender immediately by email, facsimile or telephone and return and/or destroy the original message.

From: Total Sandkraal <totalsan@mweb.co.za>
Sent: Monday, 19 February 2024 08:21
To: Primrose Nako <Pnako@george.gov.za>
Subject: FW: Reference Number: 2325803 Objection

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

To Whom it may Concern:

We as owners of 21 Swartberg Crescent, 20 Patrysbos Street and 20A Patrysbos Street, Blue Mountain Estate (Erf 25490) object against the items in the attached notice dealing with the following:

- Application is made in terms of section 15(2)(f) of the Land Use Planning By-law for George Municipality, 2023 **for the removal of condition F.** from Title Deed T76532/2012, the title deed of Erf 24845 George.
- Application is made in terms of section 15(2)(d) of the Land Use Planning By-law for George Municipality, 2023 **for the cancelation of the 13 metre right of way servitude registered over Erf 28485 George.**

These applications are to remove the access road to Park Road and thus closing the contractors gate.

The contractor's gate cannot be closed because it is mainly used daily by hundreds of pedestrians (carers, domestic workers, gardeners, contractor's workmen, delivery vehicles (Checkers, Takealot, Dischem etc) electricians plumbers etc.

The present gate is ideally situated to give access to Park Road which is a major collector-distributor road providing access to the CBD, the Industrial Sites, Eden Meander, Garden Route Mall and the N2 Freeway.

The developer is proposing moving the contractors gate to the end of Geelbos street, next to SARS. We also object to this proposal as the area they want to move the gate to is not a suitable location and will cause extra traffic all the way through the estate as the proposed gate is not centrally located like the current gate. The area suggested for the new Contractors Gate is on the corner of the road heading to SARS and the new development past SARS so traffic on that corner cannot accommodate trucks and other delivery vehicles that has to use the contractors gate. The intention to move the contractors gate was not known by any homeowners of Geelbos street when the properties were originally acquired. This proposition will have a negative effect on the area, decrease the surrounding properties' market value drastically, and cause great hindrance to occupiers and tenants.

Also as per the attached Minutes of a Special General meeting dated 2 September 2019, the moving of the gate was decided against and after that Erf 25490 and 25489 was sold by the Developer with no mention of any new plans for the gate to be moved.

Regards

P J Gelderblom
Gelderblom Family Trust

CONFIDENTIALITY & DISCLAIMER NOTICE The information contained in this message is confidential and is intended for the addressee(s) only. If you have received this message in error or there are any problems please notify the originator immediately. The unauthorized use, disclosure, copying or alteration of this message is strictly forbidden. George Municipality will not be liable for direct, special, indirect or consequential damages arising from alteration of this message by a third party or as a result of any malicious code or virus being passed on. If you have received this message in error, please notify the sender immediately by email, facsimile or telephone and return and/or destroy the original message. ***** Privacy policy George Municipality implements a privacy policy aimed at protecting visitors to our social media sites. POPIA We respect the privacy rights of

everyone who uses or enquires about our services. Protecting your personal information, as defined in the Protection of Personal Information Act, Act 4 of 2013, will be respected. Personal information will only be shared for purposes of resolving customer enquiries, providing customer services or for any other legitimate purpose relating to George Municipal functions. For your reference, the POPI and PAIA Acts are available at www.gov.za/documents/acts with amendments listed on www.acts.co.za



HOA Office Park • Blue Mountain Boulevard • George • 6529
PO Box 13284 • Garden Route Mall • George • 6546

MINUTES of the SPECIAL GENERAL MEETING for the BLUE MOUNTAIN GARDENS HOME OWNERS' ASSOCIATION HELD AT 14H00 ON MONDAY, 2nd SEPTEMBER 2019, in the BLUE MOUNTAIN RETIREMENT ESTATE CLUBHOUSE.

Present: Mr. C Roodt (CR) Director DEVELOPER (Chairman)
Mr. F Manuel (FM) Director BMGARDENS
Mr. A Burger (AB) Director BMGARDENS

Members as recorded in the attendance register in person and/or proxy

In Attendance: Mrs. B. Halse (BH) Director BMCRE
Mr. P Schoeman Estate Manager BMV
Mrs. C. Hattingh Admin BMV
Wikus Vorster Topline
Francois Redelinghuys Clearwire
Mrs Rosa Green DRC

1. *Welcome / Notice / Constitution*

Mr Chris Roodt welcomed all present.

Notices were sent out timeously by e-mail in accordance with procedure. As a quorum was present, the meeting was declared open by the Chairperson, and could proceed.

In attendance as per register: 15
Proxies as per register: 6

The Chairman enquired whether there were any further issues to be added to the agenda for discussion.

No additional issues were tabled for discussion.

2. *Apologies*

Bryan and Christine Coppin
Charmaine Schlesinger
John Davis
Jeff Pearson
Mike Wallis

3. *To consider and confirm the further subdivision and construction of duette houses as per the original approval of council in 2013.*

The Chairman enquired if there were any queries in this regard.

As there were no queries raised, the decision to allow the subdivision of the remaining undivided erven for the construction of duette houses were unanimously approved.

4. To consider and approve:

4.1 *The incorporation of erf 28006 in the Blue Mountain Gardens development.*

The meeting approved the intention to incorporate erf 28006 into the gated estate on condition that the Architectural Guidelines for the Gardens will be followed.

4.2 *The exclusion of erven 25489 & 25490 from the Blue Mountain Gardens development.*

CR requested permission to exclude erven 25489 and 25490 from the Blue Mountain Gardens.

There were no objections. Permission was granted

4.3 *The permanent closure of the proposed second entrance gate at Blue Mountain Gardens and the consolidation of the remaining road with erf 25490.*

The meeting agreed not to proceed with an entrance gate in BMG due to the high costs and security risk. The existing main entrance in BMV will be upgraded to allow residents to make use of the visitors' exit and at the end of the building period, the contractors' gate will be upgraded to also accommodate residents. This should provide more than adequate access for residents. This decision was approved unanimously.

4.4 *The re-alignment of the security fence to exclude erven 25489, 25490 and remainder portion of the entrance road from the Blue Mountain Gardens development.*

Hermann Spangenberg inquired about the fencing between the estate and commercial development. CR confirmed that the fencing will be a wall. Access to the new development will be outside the BMV boundary and will not make use of any services provided by the Association, e.g. security, telecommunication, etc. The developer will take responsibility for the costs involved. In return, the developer gave permission for the establishment of a recreational area on the erven on the southeast corner of the development. Decision approved unanimously.

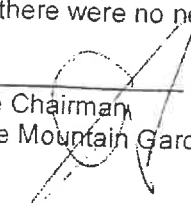
5. *Approval of the consolidation of specific erven and the subsequent subdivision of these erven to form a sectional title development of housing units.*

Rosa Green presented the meeting with a proposal to develop a Sectional Title Development – governed by a Body Corporate, by consolidating specific erven. The Body Corporate will pay levies to the Home Owner's Association. The first phase consists of 28 units. The development will have its own Guidelines to fit in with the rest of the BMG. There will be one entrance and each unit will have its own garage and an additional off-street parking area. No pets will be permitted.

There were no objections. The decision was approved.

6. *Closure*

As there were no new matters, the meeting closed at 14h40.


The Chairman
Blue Mountain Gardens Home Owners' Association



Lady Brooks Gebou / Lady Brooks Building
14 - 12de Straat, Menlo Park, Pretoria
14 - 12th Street, Menlo Park, Pretoria
✉ 1335, Pretoria, 0001
☎ 012 346 1075
012 346 1845
☎ 012 346 6665

info@avatt.co.za

OUR REF / ONS VERW: JA VENTER/LJ/AA0121
YOUR REF / U VERW:

DATE / DATUM: 2024-04-03

**TO: THE MUNICIPAL MANAGER
GEORGE MUNICIPALITY**

ATT: DR. MICHELE GRATZ

E-MAIL: tlduplooy@george.gov.za

**AND TO: THE DEPARTMENTAL HEAD
THE TOWN PLANNING DEPARTMENT
GEORGE MUNICIPALITY**

ATT: CLINTON PETERSEN

E-MAIL: cpetersen@george.gov.za

**ATT: MARISA ARRIES / ILANE HUYSER /
ROBERT JANSE VAN RENSBURG**

**E-MAIL: marries@george.gov.za / ihuyser@george.gov.za /
rhjansevanrensburg@george.gov.za**

Dear Gentlemen / Mesdames,

**APPLICANT'S REPLY TO OBJECTIONS / COMMENTS RECEIVED
IN TERMS OF SECTION 55(2) OF THE LAND USE PLANNING BY-LAW
FOR GEORGE MUNICIPALITY 2023 PERTAINING TO THE
LAND USE CHANGE AND ANCILLARY APPLICATIONS LODGED
IN RESPECT OF THE PROPERTY KNOWN AS ERF 24845 GEORGE,
REGISTRATION DIVISION RD, WESTERN CAPE
REFERENCE: 2325803**

**JAN ADRIAAN VENTER (BA B.PROC LLB LIMB)
Assisted by / Bygestaan deur:
WILHELM SCHEEPERS (BA LLB) & JULIET MARAIS (LLB)
RIEGAL KRAHTZ (BA LLB)**

1.

We record that we act herein on behalf of the Landowner of the abovementioned property (i.e. Erf 24845 George) being Applewood Trading 128 (Pty) Ltd with Registration Number 2008/002408/07 and hereto attach, marked as **ANNEXURES A** and **B**, our authority to do so on behalf of the abovementioned Landowner.

2.

- 2.1 We shall, for the convenience of your Municipality, in this Reply dealt with *infra*, unless the context indicates otherwise, use the words and phrases defined hereinafter and to which a specific meaning has been donated by virtue of the definitions contained therein.
- 2.2 This Reply should be read in conjunction with the Motivating Memorandum lodged as integral part of the Applications and the Annexures thereto, which documents are, by way of reference, incorporated herein as if specifically traversed in respect of the objections raised. The contents thereof are therefore not repeated. This Reply only contains the Applicant's response to the salient aspects raised in respect of the Applications by the Objectors and should be considered in such context.

3.

DEFINITIONS

Applicant: The Landowner at all relevant times represented herein by Jan Vrolijk Town Planners.

JAN ADRIAAN VENTER (BA B.PROC LLB LIMB)
Assisted by / Bygestaan deur:
WILHELM SCHEEPERS (BA LLB) & JULIET MARAIS (LLB)
RIEGAL KRAHTZ (BA LLB)

Applications:

The simultaneous Applications lodged to the **Municipality** during November 2023 for *inter alia* the permanent departure (relaxation of building lines, parking and open space requirements), the rectification of the land use pertaining to the **subject property** from Single Residential Zone II (Private Open Space) to Single Residential Zone II (Administrative Offices of the HOA and facilities ancillary to the functioning of the Estate), for the subdivision of the **subject property** into 3 (three) Portions [i.e., Portion A ($\pm 2\,207\text{ m}^2$), Portion B ($\pm 1\,775\text{ m}^2$) and Portion C ($\pm 4\,301\text{ m}^2$)], for the amendment of the land use rights pertaining to the latter subdivided parts of the **subject property** i.e. the rezoning of such subdivided portions of the **subject property** from Single Residential Zone II (Administrative Offices of the HOA and facilities ancillary to the functioning of the Estate) to Single Residential Zone II (Institutional use – Memory Care Facility) on proposed Portion B of the **subject property** and Single Residential Zone II (Group Housing – Retirement Units) on proposed Portion C of the **subject property**, and any other relevant and/or necessary Applications incidental thereto

lodged in terms of the applicable provisions of the **By-law**, the **Scheme** and **SPLUMA**.

By-law: The George Municipality: Land Use Planning By-law of 2023.

Companies Act: The Companies Act (Act 71 of 2008) as amended.

Constitution: The Constitution of the Republic of South Africa of 1996.

Estate: The Blue Mountain Village Estate situated in the Town of George in the Western Cape Province, which is controlled by the Blue Mountain Village Master Property Owners Association (RF) NPC with Registration Number: 2006/027010/08 and the "**Village Estate**" shall have a consonant meaning

Gardens Estate: A residential development located within the greater **Estate** referred to as the Blue Mountain Gardens Estate, which is controlled by the Blue Mountain Gardens Home Owners Association (RF) NPC with Registration Number: 2009/004516/08.

Haven SS: A retirement / frail care facility located within the greater **Estate** referred to as the Blue Mountain

Carenet Haven Sectional Title Scheme with Title
Scheme Number: SS61/2010.

HOA: The Blue Mountain Village Master Property Owners Association, which Association comprises of various entities within the boundaries of the **Estate**, i.e., the Property Owners Association of the **Retirement Estate**, the Home Owners Association of the **Gardens Estate** as well as the Body Corporate of the Sectional Title Scheme of **Haven SS**.

Landowner: Applewood Trading 128 (Pty) Ltd in its capacity as the registered owner of the **subject property**.

Municipality: The George Municipality.

NBRBSA: The National Building Regulations and Building Standards Act (Act 103 of 1977).

Objections: The aggregate of 16 (sixteen) objections solicited against the **Applications** from various **Objectors** during the statutory public participation period.

Objectors: The 16 (sixteen) **objections** received from various objectors in respect of the **Applications** and which were submitted by, i.e.,:

-
1. Brand & Van Der Berg Attorneys (**Brand**)
ostensibly on behalf of the **HOA**, the Property
Owners Association of the **Retirement Estate**,
the Home Owners Association of the **Gardens
Estate** as well as the Sectional Title Scheme of
Haven SS;
 2. Mr. Peter J Gray;
 3. Mr. James Jackelman & Mrs. Susan Jackelman;
 4. Mr. Anton Berg & Mrs. Tanya Berg;
 5. Mrs. Ann Ellis;
 6. Mrs. Annalie Zandberg;
 7. Mr. Johan Preston;
 8. Mrs. Kim Dempster;
 9. Mr. Nico Wietsz & Mrs. Lize Weitsz;
 10. Mrs. Bianca Buitendag;
 11. Mr. Daniel Buitendag;
 12. Mr. Daniel Buitendag;
 13. Mr. Etienne Terblanche representing the MTK
Familie Trust;
 14. Open Projects (Pty) Ltd;
 15. Mr. PJ Gelderblom on behalf of Gelderblom
Family Trust and
 16. Mrs. Marguerite Robertson

Reply: This Reply submitted on behalf of the **Applicant** in response to the **objections** received against the **Applications**, which Reply is submitted to the **Municipality** in terms of Section 55(2) of the **By-law**.

Retirement Estate: A retirement development located within the greater **Estate** referred to as the Blue Mountain Carenet Retirement Estate, which is controlled by the Blue Mountain Carenet Retirement Estate Property Owners Association (RF) NPC with Registration Number: 2006/028242/08.

SPLUMA: The Spatial Planning and Land Use Management Act (Act 16 of 2013).

Subject property: The property known as Erf 24845 George, Registration Division RD, Western Cape Province, which property is 8283 m² in extent.

INTRODUCTION

4.

- 4.1 It is common cause that the **Applicant** has, by way of a comprehensive public participation process followed in terms of the **By-law**, solicited a total of 16 (sixteen) **objections**, 8 (eight) of which were submitted by individual **Objectors** and a further 7 (seven) of which constitute exact duplicates.

-
- 4.2 The latter 7 (seven) duplicating **objections** strictly speaking fall within the ambit of a "Petition" envisaged and dealt with in terms of Section 49 of the **By-law**.
- 4.3 A lengthy **objection** was also submitted by Brand & Van Der Berg Attorneys ("**Mr. Brand**") allegedly on behalf of the overarching Homeowners Association, the Property Owners Association of the **Retirement Estate**, the Home Owners Association of the **Gardens Estate** as well as the Body Corporate of the Sectional Title Scheme of **Haven SS**.

5.

Save for the individual **Objectors** who *bona fide* raised their concerns, regarding predominantly the removal of the right-of-way servitude and the intended consequential closure of the so-called "Contractor's Access" in conjunction with the substitution of the latter, it is regrettable that some of the **Objectors** found it fit to, inappropriately, embark on historical and technical criticism in respect of events which allegedly occurred nearly 2 (two) decades ago and against an erstwhile Developer, your **Municipality** and the erstwhile Chairperson of the **HOA** in a somewhat futile endeavour to attack the validity and processability of the **Applications** instead of dealing with the Town Planning merits or demerits of such **Applications**.

6.

The **Applicant** shall consequently, firstly, superficially deal with the peripheral issues raised by the **Objectors** in respect of the **Landowner**, the **Applicant** or the **Applications**, which issues can, with respect, have no bearing at all on the Town Planning merits of the **Applications** and indeed behove no comprehensive discussion

since same cannot assist this **Municipality** in the final Town Planning adjudication of the **Applications** at all.

7.

In the above regard, it is indeed clear that Messrs. Brand and Van Der Berg Attorneys and Mr. Peter J. Gray have colluded, and have raised the same principle legal issues in respect of the **Applications** which issues however are of no moment, and should indeed for all intents and purposes be ignored by your **Municipality** for the reasons alluded to hereinafter.

These issues are that:

- 7.1 No dominium of the existing so-called "**HOA Building**" developed on the **subject property** vests in the **HOA**, which ownership allegedly is compulsory for the existence of any **HOA** and which fact should be considered as an impediment against the approval of the **Applications**.
- 7.2 The entire **subject property**, according to these **Objectors**, should have been donated to and should have been registered into the name of the **HOA** in 2006 / 2007 already, and your **Municipality** erred in that regard when the Development on the **subject property** and surrounding area was approved. The ownership of the **subject property** is consequently allegedly in dispute.
- 7.3 According to these **Objectors**, alleged unlawful historical occupancy of structures erected on a part of the **subject property** occurred or was allowed by the **Landowner**.

- 7.4 The **Applications** are, according to these **Objectors**, in the context of the history of the **subject property** and the land use rights which pertain thereto, superfluous and academic and acquiescence of the erstwhile Developer of the “incorrect zoning” attached to the **subject property** (which now stands to be rectified) renders the latter irreversible.
- 7.5 The partial intended use of the **subject property** for purposes of a “Memory Care Centre” allegedly constitutes a “misnomer” and an Application should have been launched for an “Alzheimer and Dementia Treatment Centre”.
- 7.6 According to these **Objectors**, varying subdivision plans for the intended Development envisaged by way of the **Applications** served before the Annual General Meeting of the **HOA**, upon approval of the intended Development by the latter and differ from the subdivision plans which have now been incorporated in the **Applications**. Such difference allegedly nullifies the validity of the **Applications**.
- 7.7 It is alleged by these **Objectors** that no public participation was followed in respect of the Removal of the Restrictive Title Conditions in the form of a right-of-way servitude while such requirement was indeed specifically set by the **Municipality**.

8

In addition to the aforementioned somewhat irrelevant matters raised by Messrs. Brand and Van Der Berg Attorneys as well as Mr. Peter J. Gray, which can have no bearing on the Town Planning merits of the **Applications**, the **Applicant** has taken cognisance of

the additional **objections** raised by these persons and the other individual **Objectors** which **objections** shall be dealt with hereinafter on a summarised basis.

9

The **Applicant** shall, for the convenience of your **Municipality**, at the outset thereof deal with the 7 (seven) aforementioned peripheral and somewhat irrelevant issues raised and listed in paragraph 7 *supra* and thereafter deal with the remaining and duplicating summarised issues listed *supra* which may indeed pertain to the merits of the **Applications** and which were more specifically contained in the submissions made by Messrs. Brand and Van Der Berg Attorneys and that of Mr. Gray.

IN LIMINE

10

It is, at the outset, recorded on behalf of the **Applicant** that some of the **objections** lodged do not comply with the statutory requirements for valid and processable objections / comments stipulated in Section 50 of the **By-law**.

11

The aforementioned state of affairs stem from the fact that such **objections** do not, as is required in terms of Section 50 of the **By-law**, pertinently record the **Objectors'** specific alleged interest in the **Applications**, the reasons for the comments / objections, a clear demonstration and explanation of the facts and circumstances which underpin any alleged undesirable affect which may stem from approval of the **Applications** and such situation does indeed not enable the **Applicant** to effectively respond to such comments

JAN ADRIAAN VENTER (BA B.PROC LLB LIMB)
Assisted by / Bygestaan deur:
WILHELM SCHEEPERS (BA LLB) & JULIET MARAIS (LLB)
RIEGAL KRAHTZ (BA LLB)

/ objections.

12

The aforementioned **objections** should be disqualified on the abovementioned basis alone by your **Municipality**, and the fact that the **Applicant** constructively hereinafter endeavours to respond thereto may not be construed as an acceptance or condonation of such flawed **objections**. The **Applicant's** rights in that regard however are and remain reserved.

13

In addition to the clear non-compliance of **objections** with the requirements of Section 50 of the **By-law**, some of the **Objectors** indeed moreover purport to represent the alleged interests of Trusts, Companies or other registered legal entities (i.e. a legal *persona*) and the signatories of such **objections** purport to represent these entities by way of the **objections** and comments lodged.

14

14.1 It is however, in terms of trite principles of the Law of Agency and Representation in South Africa, not possible for either a single Trustee, a Director of a Company or an alleged nominated agent of any legal *persona* and or legal entity, to act without them having formally been authorised by way of authorising Resolutions of the entity involved, and in addition that a formal Power of Attorney have been issued by virtue of such authorising Resolution by virtue of which Power of Attorney the signatory of the objection / comment has duly been authorised to act as such.

14.2 The aforementioned common law requirements for authorised Agency or Representation which apply independent from the provisions of the **By-law** should be common cause and as will be illustrated *infra* is an undeniable fact which should prevail and should be enforced by your **Municipality** to procure the existence of valid authorised representation of any legal entity involved in **objections**.

15

In this regard, where a statutory time period for lodgement of a valid, timeous objection / comment applies, i.e. an objection period with a calculated expiry date, the compulsory authorising Resolution and Power of Attorney by virtue of which the agent allegedly acted, must exist before expiry of the statutory objection time period for lodgement of objections and comments and same simply cannot lawfully and validly occur without such authorising Resolution and Power of Attorney being in existence. The latter fact renders the objection / comment lodged on the abovementioned unauthorised basis a nullity, which nullity cannot retrospectively be resuscitated by such Objector / entity and which belated and retrospectively irregular ratified objections cannot unilaterally be accepted or condoned by your **Municipality** to the detriment of the **Applicant**.

16

In *casu*, by virtue of the aforementioned applicable principles of Agency and Representation, illustrated *infra*, the objections / comments of:

16.1 The Gelderblom Familie Trust;

16.2 The NTK Familie Trust;

JAN ADRIAAN VENTER (BA B.PROC LLB LIMB)
Assisted by / Bygestaan deur:
WILHELM SCHEEPERS (BA LLB) & **JULIET MARAIS** (LLB)
RIEGAL KRAHTZ (BA LLB)

- 16.3 Afrikaine (Pty) Ltd, lodged by Mrs. Bianca Buitendag; and
- 16.4 Brand and Van Der Berg Attorneys, allegedly acting on behalf of 5 (five) registered legal *persona*

are *per se* disqualified as valid, authorised and timeous objections and should, for all intents and purposes, be ignored by your **Municipality** on the basis of the legal principles set out *infra*.

17

See in this regard the following with regard to the lodgement of objections which constitute a juristic act:

W. A. JOUBERT – The Law of South- Africa – Volume 1, page 110 - 111, par 113 – 117:

“Authorisation is an expression of will by one person that another shall have the power to conclude juristic acts on his behalf.”

“As authorisation is a juristic act, a person who has no capacity to conclude juristic acts cannot authorise another to conclude juristic acts on his behalf.”

“A person can only have actual authority to conclude a juristic act on behalf of another if that other has by word or conduct expressed his will that the former shall have power to do so.”

AJ KERR – The Law of Agency 3rd Edition, page 5 & 6 and page 69 to 71:

“In the great majority of instances in the law of agency in which an agent has power, it will be found that he obtained it as a result of entering into a contract with the principal”

On page 69, under the heading “Express Agreement” it is inter alia stated:

“If in writing the appointment may be formal words such as those contained in a Power of Attorney”

“A power of attorney is a formal document in writing setting out the scope of the agent’s authority and signed by the principal” – See Gibson and Comrie: South African Mercantile and Company Law Third Edition 1975 page 216.

On page 70 the author furthermore states:

“An express agreement often contains not only the appointment of the agent but also a statement concerning the extent of power granted”

On page 74 under the heading “The onus of proof” it is stated:

*“If a person claims that another is his agent has to prove that another is his agent and ... has to prove that the agency relationship existed at the time of question”. See in this regard also **GODFREY V DENT & GOODWIN 1934 (2)***

PHN 43 A

On page 77 the author also states:

“where the principle has given the agent express authority, the onus of proving an implied authority over and above the express authority is a very heavy burden”

18

The foregoing required from the 4 (four) disqualified **Objectors** listed *supra* to simultaneously with the **objection** and before expiry of the objection period, file authorising Resolutions of the entities involved to sanction such opposition of the **Applications** as well as written Powers of Attorney by virtue of which the signatory of the **objection** was authorised to act in such capacity on behalf of the principal.

19

It is common cause that no such authorising documents of the aforementioned disqualified **Objectors** existed, were filed with or were in possession of your **Municipality** before expiry of the statutory objection period which fact rendered such **objections** null and void and which nullity cannot retrospectively, i.e. after expiry of the statutory objection period, be rectified. In this regard, the following legal principles are relevant:

THORPE & OTHERS V TRITTENWEIN & ANOTHER 2007 (2) SA 72 SCA where the Court *inter alia* ruled with regard to later ratification, the following:

“The Appellants in replying affidavits sought to reply in the alternative on a subsequent written ratification of Thorpe’s conduct in entering into the

agreement. In this Court, Counsel abandoned the point. The concession was well made. Ratification relates back to the original transaction. There can be no ratification of a contract that is void ab initio". (See paragraph 16 on page 178)

Also in **VAN DER WESTHUIZEN V VAN SANDWYK 1996 (2) SA 490 W, paragraph (h) at page 496,** it was stated:

"In die alternatief het die eiser betoog dat die ander Trustees die instelling van die aksie deur hom geratifiseer het en dat enige gebrek in sy locus standi deur sodanige ratifikasie reggestel is

Magtiging deur die ander trustees na instelling van die aksie, maak nie die aksie een wat namens die Trust ingestel is nie Die aksie is ingestel deur een van die trustees van die trust sonder dat hy namens die ander trustees opgetree het"

See also:

- **BANK OF LISBON & SOUTH AFRICA LIMITED V DE ORMELAS & ANOTHER 1988 (3) SA 580 A**
- **FIRST NATIONAL BANK OF SOUTHERN AFRICA V BOPHUTHATSWANA CONSUMER AFFAIRS COUNCIL 1995 (2) SA 853 (136)**
- **GOOD GOLD JEWELLERY (PTY) LTD V BREVADAN CC 1992 (4) SA 474 W**

Save for the aforementioned trite common law principles applicable to Agency and

Representation in our South African law, which per se nullified the **Objectors** listed *supra*, the attention of your **Municipality** is invited to the requirements of Section 50 of the **By-law**, which stipulate the statutory prescripts with which a valid, processable objection / comment should comply with.

21

With due consideration of such aforementioned common law principles and the statutory requirements for a valid objection, reference to the specific **objections** lodged by Mr. Peter Gray and **Mr. Brand** needs attention.

22

Mr. Brand ostensibly being a practicing Attorney, alleges in paragraph 2 of his **objection**, that he acts on behalf of:

- The Board of Directors of the Blue Mountain Village Homeowners Association;
- The Blue Mountain Gardens Homeowners Association;
- The Blue Mountain Carenet Retirement Estate Properties Owners Association;
- and
- The Blue Mountain Carenet Haven Sectional Title Scheme.

23

It is common cause that no authorising Resolutions of the aforementioned Boards of Directors of the entities allegedly represented by **Mr. Brand** were attached to the **objection** by virtue of which he should have been authorised to act on behalf of such

JAN ADRIAAN VENTER (BA B.PROC LLB LIMB)
Assisted by / Bygestaan deur:
WILHELM SCHEEPERS (BA LLB) & JULIET MARAIS (LLB)
RIEGAL KRAHTZ (BA LLB)

entities as alleged.

24

It is moreover common cause that even if such authorising Resolutions of the respective entities have been taken, no Powers of Attorney has been issued to **Mr. Brand** by the authorised and identified Representatives of the respective entities, clearly stipulated in the fictitious authorising Resolutions.

25

In addition, it is clear that such obligatory authorisation from the registered entities allegedly represented by **Mr. Brand** by way of respective decisions taken in terms of Section 66 of the Companies Act (Act 71 of 2008) did not occur within the statutory timeframes within which a valid, lawful and processable objection could have been lodged against the **Applications** in terms of the **By-law**, nor have any duly sanctioned Powers of Attorney been issued and signed in favour of **Mr. Brand** on behalf of such entities within the statutory timeframes for valid objections contained in the **By-law** and by virtue of which **Mr. Brand** could have represented such entities and lodged his **objections**.

26

It has already comprehensively been alluded to above and have been illustrated that the objection filed by **Mr. Brand**, on an unauthorised basis, on 19 February 2024, consequently constituted a nullity, which nullity cannot, due to the statutory objection periods stipulated in the **By-law**, be resuscitated retrospectively by way of belated, ratifying authorising Resolutions of such legal entities and or the issue of Powers of

Attorney outside the ambit of the time restrictions for valid objections contained in the **By-law**.

27

The fact that the new Chairperson of the **HOA** has apparently endorsed the **objection** filed by **Mr. Brand** does not assist the latter with the unauthorised nature of the **objection**. No authority has been attached to the **objection** by virtue of which such new Chairperson, a one W. van der Westhuizen, has, within the statutory **objection** period pertaining to the **Applications**, been authorised by the **HOA** or any of the entities which he allegedly acts for to oppose the **Applications**. The legal principles alluded to above still apply and the **objection** remain unauthorised and invalid.

28

It is in any event highly debatable as to whether a newly appointed Chairperson of the **HOA** can, in terms of the Memorandum of Incorporation or otherwise, on any basis belatedly act in conflict with a duly signed and certified Resolution of the same **HOA** in which the latter expressed itself on the very same subject matter and the **Applicant's** rights in that regard are herewith reserved.

29

The **Objection** lodged by **Mr. Brand**, ostensibly on behalf of numerous legal entities, is consequently simply unauthorised, invalid and not processable, and should moreover in accordance with the evaluation criteria stipulated in Section 50 of the **By-law**, be rejected as such. All the **Applicant's** rights in this regard are reserved.

JAN ADRIAAN VENTER (BA B.PROC LLB LIMB)
Assisted by / Bygestaan deur:
WILHELM SCHEEPERS (BA LLB) & **JULIET MARAIS** (LLB)
RIEGAL KRAHTZ (BA LLB)

With reference to the objection filed by Mr. Peter Gray, the following aspects should be pointed out to the **Municipality** with specific reference to the requirements of Section 50 of the **By-law** for a valid objection:

- 30.1 Mr. Gray did not once indicate or suggest that he acted by virtue of a mandate granted to him by any third person and it should consequently be deducted that he acts in his own personal capacity.
- 30.2 Save for the fact that this objection of Mr. Gray reflects his name and address, the objection contains no description of his personal "interest" in the **Applications** and furnish no reasons for his objection thereto or his comments in that regard.
- 30.3 Upon scrutiny of the objection of Mr. Gray, the objection does not contain any detail to:

(a) "indicate the facts and circumstances that explain the comments;

(b) demonstrate the undesirable effect the Application will have if approved;

(c) demonstrate any aspect of the Application that is not considered consistent with any applicable Municipal Policy"

as is required by Section 50 of the **By-law** and consequently, this **objection** does not comply with the minimum prescripts of a valid objection stipulated in Section 50 of the **By-law**.

31

Save for the fact that Mr. Gray, as already alluded to above, clearly was unduly influenced by the objection and contentions made by **Mr. Brand** in his invalid and unauthorised **objection**, the **objection** of Mr. Gray objectively in the aforementioned circumstances, does not enable the **Applicant** to respond in detail to the apparent objections and comments envisaged by virtue thereof.

32

On the aforementioned basis alone, the objection of Mr. Gray should be dismissed or rejected by your **Municipality** by virtue of the prescripts of Section 50 of the **By-law**.

33

Our discussion of such objections / comments, which are clearly unauthorised and invalid, *infra* should as already recorded above, consequently not be construed as a direct or indirect recognition or concession of the validity thereof and the **Applicant's** rights in that regard are and remain hereby reserved.

34

We shall consequently, on instructions of the **Landowner** and **Applicant**, first deal with the peripheral issues repeatedly raised in the **objections** which can have no bearing on the merits of the **Applications**, and which issues do not contain any reference or connotation to the evaluation criteria which are to be considered and which have been imposed upon your **Municipality** in terms of Section 42 of **SPLUMA** and Section 65 of the **By-law** in respect of the **Applications**.

JAN ADRIAAN VENTER (BA B.PROC LLB LIMB)
Assisted by / Bygestaan deur:
WILHELM SCHEEPERS (BA LLB) & JULIET MARAIS (LLB)
RIEGAL KRAHTZ (BA LLB)

AD THE EXISTENCE OF A HOA BUILDING AND ALLEGED OBLIGATION TO DONATE THE SUBJECT PROPERTY TO THE HOA

35.1 We reiterate that this **objection** has no bearing on the Town Planning merits of the **Applications** at all.

35.2 It is not a statutory or practical prerequisite for the existence and the valid operation of an **HOA** that it should hold *dominium* of a building in an Estate from which its administrative activities are or can be conducted.

35.3 Fact is that a host of existing operational HOA's even in George do not own administrative buildings in, or outside the relevant Estate from which its administrative activities can be conducted and such fact does not derogate from the status, authority, or existence of such HOA's at all. Examples of the foregoing are according to our instructions, *inter alia*:

- Blue Mountain Gardens;
- Kraaibosch Estate;
- Kraaibosch Manner;
- Golf Park 1, 2 and 3;
- Mooi Kloof;
- Diep Kloof;
- Glenwood Village;

- Cherry Creek Country Estate;
- Cape Dutch Residential Estate; and
- Cherry Wood Security Estate.

- 35.4 In *casu*, the **HOA**, since 2006 / 2007 occupies a part of a building which has lawfully and at extensive costs, been erected by the erstwhile Developer of the **Estate** on the **subject property**. Such occupation occurs by way of a duly signed and enforceable Lease Agreement concluded between the **Landowner** (or its predecessor) and the **HOA** which Lease Agreement is still intact and is valid and binding *inter partes*.
- 35.5 No historical condition of approval imposed by your **Municipality** with regard to the relevant development of the **Estate** or the establishment of the **HOA** imposed any obligation on the **Landowner** or its predecessor to either donate the **subject property** or a part thereof to the **HOA** or to transfer *dominium* of buildings erected on the **subject property** at the cost of such Developer to the **HOA** at all.
- 35.6 Retrospective criticism raised against your **Municipality** in that regard by Messrs. Brand and Gray or some of the other **Objectors** i.e. that your **Municipality** should, in 2006 and 2007 already have procured transfer of *dominium* of the **subject property** into the name of the **HOA** which criticism is raised nearly two decades later, is with respect naïve and opportunistic, especially in circumstances where an opportunity was afforded by the **Landowner** to the **HOA** to purchase the relevant building currently occupied by the **HOA** on the **subject property**.

- 35.7 The baseless nature of these submissions made on behalf of the **Objectors** is exacerbated by the fact that same apparently stem from archaic hearsay advice of unknown Municipal Officials relied upon by the **Objectors**.
- 35.8 The only statutory requirement which should, in terms of the **By-law**, prevail in respect of the **subject property** to render the **Applications** valid and processable, is that the **Landowner** should, in terms of the data of the Deeds Registry be reflected as the registered owner of the **subject property**. Proof of this fact is already contained in the **Applications** and the abovementioned irrelevant issues raised by the **Objectors**, which do not and cannot pertain to the merits of the **Applications** at all, should for all intents and purposes, therefore be ignored by your **Municipality**.

36

AD ALLEGED UNLAWFUL HISTORICAL ERECTION AND OCCUPATION OF STRUCTURES ON THE SUBJECT PROPERTY

- 36.1 Again, these averments do not pertain to the Town Planning merits of the **Applications** at all. These submissions should be considered in the context of the belatedly conceded incorrect zoning which has, in terms of the prevailing and previous Land Use Management Schemes been donated to the **subject property**, and which zoning now stands to be finally rectified by way of a part of the **Applications**. Such rectification process is indeed clearly provided for in terms of Section 8 of the **By-law**.

JAN ADRIAAN VENTER (BA B.PROC LLB LIMB)
Assisted by / Bygestaan deur:
WILHELM SCHEEPERS (BA LLB) & JULIET MARAIS (LLB)
RIEGAL KRAHTZ (BA LLB)

- 36.2 It is recorded that, according to our instructions, a single non-compliance notice issued to the **Landowner** in the past by the **Municipality** in the aforementioned erroneous land use allocation circumstances, has by agreement with the **Municipality**, been suspended.
- 36.3 It is moreover recorded that, according to our instructions, the erection of all existing structures on the **subject property** indeed occurred lawfully in terms of Sections 4 and 7 of the **NBRBSA** by way of approved Building Plans, which Building Plan approvals do not permit the erection of structures in conflict with any law including the prevailing **Scheme** or **By-law**.
- 36.4 Such rectification action embarked upon by the **Applicant** as integral part of the **Applications** and the additional land uses applied for in respect of the **subject property** demanded the formal lodgement of the **Applications** which are in addition required for the Removal of a Restrictive Title Condition, the intended subdivision of the **subject property** and the departures and relaxations sought in terms thereof. Approval of the **Applications** would finally render the theoretical existence of the Contravention Notice issued academic.
- 36.5 Averments made by the **Objectors** to the effect that the adoption of the 2023 **By-law** rendered the "Rectification component" of the **Applications** superfluous is moreover misdirected since the Zoning Map of your **Municipality** currently still reflects the entire **subject property** before subdivision thereof as being zoned "Open Space Zone II" which incorrect zoning has to be rectified by way of a formal Application.

36.6 Again, these complaints raised by/or on behalf of the **Objectors** do not pertain to the Town Planning merits of the **Applications** and should simply be disregarded by your **Municipality**.

37

AD ALLEGED INCORRECT DESCRIPTION OF LAND USE

- 37.1 The somewhat presumptuous unexplained personal views of the **Objectors** to the effect that a “Memory Care Centre” applied for by the **Applicant** as integral part of the **Applications** and which was defined and motivated in the **Applications**, should be substituted for “Alzheimer and Dementia Treatment Centre” is with respect irrelevant and behoves no response.
- 37.2 The description of the establishment envisaged as a land use component of the intended Development is of no moment if the function, land use rights and development controls attached thereto remain unchanged.
- 37.3 Insofar as it is alleged that a “Memory Care Centre” is incompatible with a “Frail Care Retirement facility”, should be established in a rural setup and cannot be conducted under one facility licence, such averments are denied, are speculative and negated by practice and the extent of the licence already issued to Blue Mountain Haven for purposes of which the **Landowner** shall in due course apply once the applicable land use rights are approved. Your **Municipality** is however not a licensing authority, and this aspect falls entirely outside the ambit of your jurisdiction.

37.4 The above objection / criticism or comment constitutes a further irrelevancy embarked upon by the **Objectors** as part of the **objections** and should therefore be rejected.

38

**AD VARYING SUBDIVISIONAL PLANS AND ALLEGED HISTORICAL ERRORS
MADE BY THE MUNICIPALITY**

- 38.1 The **Applicant** has, since initiation of this Development, liaised with the **HOA** over a protracted period of time and has, in the process, in conjunction with your **Municipality**, especially in the context of existing improvements which existed on the **subject property**, embarked on various varying Subdivisional Plans which ultimately evolved in the current Subdivision Plan which was incorporated in the **Applications** and which currently serve before this **Municipality**.
- 38.2 The **HOA** was at all relevant times, in the **Landowner's** endeavours to procure the Consent for the intended Development from the **HOA** in terms of Section 38 of the **By-law**, appraised of a subdivision intention as integral part of the **Applications** albeit by way of a Subdivision Plan which may not exactly, but undoubtedly, substantially correlated with the current subdivisional proposal which serves before your **Municipality**.
- 38.3 The aforementioned fact does not affect the Consent ultimately procured from the **HOA** for the intended Development or the validity of the **Applications**, especially in circumstances where no misrepresentation at all occurred, and no prejudice could possibly stem from the evolution of Subdivisional Plans which may indeed

change up to date of final approval of the Subdivision Application by this **Municipality**.

- 38.4 The **Objectors'** averments, in the above regard, apparently under the naïve impression that the erstwhile Erf 430 of the Development (now the subject property of which full *dominium* vests in the **Landowner**), was or currently is "common property" on which "**HOA Offices**" were to be erected and that the **Municipality** erred 18 (eighteen) years ago and/or recently not to prohibit subdivision of the **subject property** are in such context exaggerated and farfetched, are not supported by the facts and same deserve no consideration by your **Municipality** at all.

39

**AD ALLEGED NON-COMPLIANCE WITH COMPULSORY PUBLIC PARTICIPATION
BY THE APPLICANT**

- 39.1 It is correct that your **Municipality**, for purposes of removal of the servitude involved, demanded that the **Applicant** embark on a public participation process in that regard.
- 39.2 The aforementioned directive is *inter alia* the reason why a comprehensive public participation process was embarked upon by the **Applicant** in respect of the **Applications** in strict compliance with the prescripts of Section 38 read with Sections 45, 46, 48 and 51 of the **By-law** which indeed entailed:
- 39.2.1 The publication of notices in respect of the **Applications** in the Burger, on 19 January 2024;

JAN ADRIAAN VENTER (BA B.PROC LLB LIMB)
Assisted by / Bygestaan deur:
WILHELM SCHEEPERS (BA LLB) & JULIET MARAIS (LLB)
RIEGAL KRAHTZ (BA LLB)

-
- 39.2.2 Dispatch of notices of the **Applications** to adjacent Landowners in writing on 19 January 2024;
- 39.2.3 The placement of advertisements in respect of the **Applications** on Facebook;
- 39.2.4 An advertisement was placed on the web page of the **Municipality**;
- 39.2.5 The publication of the **Applications** or notices in that regard on the website of your **Municipality** in terms of Section 21 of the Local Government Municipal Systems Act (Act 32 of 2000);
- 39.2.6 The display of site notices of the **Applications** on the **subject property** in accordance with the prescripts of the **By-law** and maintenance thereof for a period of 30 (thirty) days calculated as from 19 January 2024.
- 39.3 It is indeed the aforementioned comprehensive public participation process embarked upon by the **Applicant** which solicited the **objections** discussed herein.
- 39.4 It is with respect, not understood what point the **Objectors** wish to make with the averments to the effect that no public participation occurred in respect of the intended Removal of a Restrictive Condition of Title. Same consequently cannot derogate from the merits of the **Applications**.

In circumstances where it has been illustrated *supra* that the abovementioned “peripheral

issues” raised by **Objectors** cannot directly or indirectly derogate from the merits of the **Applications** and should be ignored or rejected by your **Municipality**, we consequently deal with the remaining issues raised in the **objections** also by individual **Objectors** and in the “Petition” of the 7 (seven) **Objectors**.

These **objections** can be summarised as follows:

- 40.1 The **Landowner**, holding *dominium* of the **subject property** which is located in the **Estate**, is on a compulsory basis, by virtue of its Title Deed, a member of the **HOA** and may not “alienate” the **subject property** without Consent of the **HOA**. It is alleged that no such Consent has been granted for the intended **Applications** by the **HOA** and consequently, the **Municipality** is requested to suspend the consideration and final adjudication of the **Applications** until the **HOA** has considered and consented to the consolidated **Applications** at an Annual General Meeting to be arranged for that purpose in future.
- 40.2 Closure of the “Contractor’s Access” by virtue of the Removal of the Restrictive Condition of Title, will cause inconvenience and traffic congestion at the existing main entrance to the **Estate** which situation is to be exacerbated by further internal “business” developments envisaged by the **Landowner** and such “Contractor’s Access” cannot be removed without a substituting access having been established allegedly promised to be provided at the Developer’s / Landlord’s cost.
- 40.3 The relocation of the existing “Contractor’s Access” from Park Road to Geelbos Street is undesirable due to locational constraints, turning limitations for trucks as

well as alleged geometrical restrictions applicable to the new Geelbos Access.

40.4 Such relocated access to Geelbos Street will moreover have serious adverse property value implications for properties located close to the new substituting access gate which implications were not foreseen when those properties were acquired by their respective owners.

40.5 The ownership of the **subject property** and the current structures erected thereon and occupied by *inter alia* the **HOA** and other third-party tenants is in dispute.

41

AD DISPUTED OWNERSHIP OF THE SUBJECT PROPERTY AND IMPROVEMENTS THEREON AND THE ALLEGED UNAUTHORISED NATURE THEREOF

41.1 We have already alluded above to the effect that *dominium* of the **subject property** and all and any structures thereon unambiguously vests in the **Landowner** as is clear from the computer Windeed results attached hereto and marked as **ANNEXURE C**.

41.2 It is moreover common cause that none of the structures erected on the **subject property** has been sectionalised, that there cannot be talk of multiple ownership and that, in accordance with the South African law, all fixtures, i.e. improvements erected and constructed on the **subject property** vest in the registered owner of such **subject property**.

41.3 I have moreover already alluded to the fact that in terms of the Conditions of

-
- Approval by virtue of which the **subject property** and other erven in the **Estate** came about, no obligation was imposed upon the Developer, the erstwhile owner of the Land, or the **Landowner** as successor in title, to donate, transfer or develop any part of the **subject property** to or to the benefit of the **HOA**.
- 41.4 Full and unfettered / unrestricted ownership of the **subject property** and the improvements thereon therefore, subject to the contents of the relevant Title Deed pertaining thereto, vests in the **Landowner** and it is significant to note that no obligation has been imposed upon the **Landowner** in terms of the prevailing Title Deed which pertains to the **subject property**, that it is obliged to become a member of any Homeowners Association or to comply with any Rules and Regulations which may be issued and applied by such Homeowners Association.
- 41.5 The mere establishment of a Homeowners Association as a legal entity, some of the Memoranda of Incorporation, which do not even identify the properties / Estate to which it pertains, subsequently or retrospectively, cannot change the prevailing provisions of the Title Deed pertaining to the **subject property**.
- 41.6 In the aforementioned context, this **Municipality**, in terms of the **By-law**, is only obliged to, in terms of Sections 15(2), 38(1)(b) and 65 thereof, read with Section 40 of **SPLUMA**, determine whether a registered Landowner or its duly authorised agent features as the Applicant in a land use change or other Application lodged in terms of the **By-law**.
- 41.7 The sole and exclusive proof of Land ownership in South Africa is the data kept in that regard by the Registrar of Deeds and such Deeds Registry data
-

unambiguously confirms such state of affairs in respect of the **Landowner** as per the extract of the Title Deed Number T76532/2012 attached hereto and marked as **ANNEXURE D**.

See in this regard **GOUDINI CHROME (PTY) LTD V MCC CONTRACTS (PTY) LTD [1992] ZASCA 208; 1993 (1) SA 77 (A) at 82**, in which matter it was confirmed that:

“It is trite that the best evidence for proof of ownership of immovable property is the Title Deed”

- 41.8 Save for historical servitudes registered against the **subject property**, the part of a much larger historical land parcel in terms of the aforementioned Title Deed and which servitude cannot be considered as impediments against the intended Development of the **subject property**, the *dominium* conferred upon by the **Landowner** for purposes of the **Applications** is unfettered and unconditional.
- 41.9 The only exception to the latter statement is the 13m (thirteen meter) right-of-way servitude which stands to be removed as integral part of the relief sought in terms of the **Applications**, for very relevant and substantiated reasons, which have been alluded to in the Motivating Memorandum of the **Applications** and which shall be dealt with *infra*.
- 41.10 It is moreover common cause that, when such Township and the **Estate** came about and has been approved by this **Municipality** in 2006 and 2007 (i.e. when **SPLUMA** and the **By-law** inappropriately retrospectively quoted by the **Objectors**, did not even exist), no condition has been imposed on the erstwhile

Developer (the **Landowner's** predecessor) to donate the **subject property** or a portion thereof to or transfer same into the name of an intended Homeowners Association, or to improve any portion thereof for **HOA Buildings** or other commercial uses in favour of the **HOA**.

41.11 Any averments to the aforementioned effect constitute misrepresentation, a misinterpretation of the law, are based on speculation and dubious hearsay evidence and are devoid of the truth. Such averments should seriously be frowned upon by your **Municipality**, especially if same are raised by legal representatives or legally qualified **Objectors**.

41.12 It consequently is, in the aforementioned circumstances, and where all improvements of the **subject property** have lawfully been erected at the cost of the **Landowner** (or its predecessors), in terms of Sections 4 and 7 of the **NBRBSA**, inexplicable that the ownership of the **subject property** or any improvements thereon can ± 2 (two) decades after this *status quo* situation with regard to ownership was established, be disputed and your **Municipality** can be criticised for not procuring ownership or a user right in respect of the **subject property** or improvements in that regard in favour of the **HOA** ± 18 (eighteen) years ago.

41.13 The abovementioned submissions are naïve, negated by prevailing facts and simply devoid of substance.

41.14 The fact that the **HOA** currently constitutes a lawful paying tenant of buildings / improvements on the **subject property** of the **Landowner** and in principle

formally, at an Annual General Meeting (duly minuted), displayed interest to acquire one of the buildings erected on the **subject property** from the **Landowner**, indeed per se nullify all these belated opportunistic averments made by/or on behalf of the **Objectors**.

41.15 The aforementioned ownership of the **Landowner** and its right to, in terms of Section 25 of the Constitution of the Republic of South Africa of 1996, freely deal with the **subject property**, is in prevailing circumstances, not changed by the fact that the **subject property** constitutes part of the **Estate** and may be subject to the jurisdiction of the **HOA** *inter alia* set out in the Memorandum of Incorporation of the **HOA** and the **By-law**.

42

42.1 In the latter regard, with specific reference to averments made on behalf of the **Objectors**, with regard to the alleged unauthorised status of the **Applications** the following facts should be taken cognisance of:

42.1.1 The Certificate of Consolidated Title pertaining to the **subject property** (T76532/2012) does not contain any provision or “servitude” envisaged in the Memorandum of Incorporation of the **HOA** by virtue of which the **Landowner**, upon procurement of *dominium* of the **subject property** is obliged to become of a member of any prevailing Homeowners Association with jurisdiction and that it is obliged to subject itself to the Rules and Regulations of such Homeowners Association.

42.1.2 This jurisdiction relied upon by the HOA is only contained in the Memorandum of Incorporation thereof, (and not the Title Deed) which determines that:

“The owner of an erf or interest therein shall, at the date of registration of the erf in a Deeds Office, become a member of the HOA subject to its rules.”

42.1.3 Such Memorandum of Incorporation further determines that no alienation of such an erf may be effected without a condition contained in the Deed of Sale to the effect that such a successor in title shall also become a member of the HOA.

42.1.4 The Memorandum of Incorporation of the HOA consequently contains a definition of “alienate” and determines that no alienation of an erf in the Estate may occur without the “consent” of the HOA – ***“which consent will however not unreasonably be withheld”***.

42.1.5 Such definition of “alienation” does objectively only pertain to a change in ownership, payment of debts and acceptance of liabilities by a successor in title of an erf / interest located within the Estate and reads as follows: ***“Alienate – means the alienation of any erf or new part thereof and includes alienation by way of sale, exchange, donation, partition deed, intestate succession, will, cession, assignment, lease, court order or insolvency, irrespective of whether such alienation is subject to a suspensive or resolute***

condition and alienation shall have a corresponding meaning”

42.2 There is no rationale and/or objective manner in which the abovementioned definition of “alienate” can be construed as meaning that “alienation” includes any Application lodged in terms of **SPLUMA** and the **By-law** by an owner of land to a Planning Authority for approval to subdivide, an Application for Removal of Restrictive Conditions of Title or an Application for departures or change of land use rights which **Applications** have been embarked upon by/or on behalf of the **Landowner** in terms of **SPLUMA** and the **By-law**.

42.3 The context of the Memorandum of Incorporation of the **HOA** moreover clearly confirms that such “alienation” pertains to the nature of the occupant, acceptance of Articles and Rules by the Purchaser, payment of all levies and amounts owing by the Seller, testamentary or intestate disposition of the erf located within the **Estate** and acceptance of liabilities in the latter regard by the Purchaser.

43

The “Consent” required for “alienation” in terms of the Memorandum of Incorporation of the **HOA** which is fictitiously relied upon by the **Objectors** as disqualifying factor for the **Applications** clearly even in terms of the Memorandum of Incorporation of the **HOA**, does not pertain to, and does not constitute a prerequisite for the lodgement of the **Applications** at all and submissions made to that effect are misdirected and not supported by the contents of the Title Deed which pertains to the **subject property** or the Memorandum of Incorporation.

44

The **By-law** of your **Municipality** however, notwithstanding the foregoing situation which, in terms of the Title Deed of the **subject property** and the Memorandum of Incorporation of the **HOA** pertains to the **Landowner** and the **subject property** in terms of Section 38(1)(p) of the **By-law**, requires the "Consent" of the **HOA** if the **subject property**, or a part thereof, is "governed" by an **HOA**.

45

Although we hold the view that this provision of the **By-law** (i.e.; Section 38(1)(p)) is clumsily and unrealistically worded, the intended purpose of the abovementioned provision of the **By-law** is and can only be to procure that no land development Application is lodged with the **Municipality** in respect of a property located within the jurisdiction of a duly registered and operational **HOA** without the knowledge and or input of the **HOA** and if such Consent constitutes support, proof of such support should be submitted in writing by an authorised person of the **HOA**.

46

The "Consent" referred to in Section 38 of the **By-law** (*supra*) however cannot pertain to a "Town Planning Consent" in respect of a land use change or other pending Application (to be taken and issued by the **HOA**) because the **Municipality** has no authority, in terms of the **Constitution**, **SPLUMA** or the **By-law**, to subject its Municipal Planning executive constitutional power conferred upon it in terms of Sections 152 and 156 read with Schedule 4 Part B of the **Constitution** (*supra*), Section 40 of **SPLUMA** and Section 65 of the **By-law**, to the unilateral discretion of an **HOA**.

47

Even if such "Consent" envisaged in Section 38 of the **By-law** does not exist or has not been issued by an HOA with jurisdiction, the **Municipality** moreover has no authority to refuse the **Applications** on such basis alone, but remains obliged to process same and finally adjudicate on the merits thereof in terms of **SPLUMA** and the **By-law** subject to input regarding the stance adopted by the HOA having been submitted to it for consideration *inter alia* to determine whether such consent has, as is provided for in the Memorandum of Incorporation of the **HOA**, not "unreasonably been withheld".

48

Any other interpretation of Section 38 of the **By-law** relied upon by the **Objectors** makes a mockery of your **Municipality's** executive Constitutional Town Planning Authority and indeed would, where an HOA exists, nullify the existence of both **SPLUMA** and your prevailing **By-law**.

49

In *casu*, the intended Development of the **Landowner** was according to our instructions, however, notwithstanding the above, repeatedly and comprehensively been submitted to and discussed with the **HOA** at formal meetings thereof held on:

- 3 August 2022;
- 8 February 2023;
- 17 April 2023;
- 10 May 2023;

- 11 August 2023 and
- 17 October 2023.

50

It should be common cause that all aspects, detail and components of the **Applications** were in principle presented to the Board of Directors of the **HOA** in respect of the **subject property** and the intended Development during the abovementioned meetings and that duly recorded minutes of such meetings, signed and certified by the Chairperson of the **HOA** who presided during and at such meetings are in possession of the **Applicant** and were indeed incorporated as integral part of the **Applications**. In this regard the signed minutes of the meetings held on 8 February 2023, 17 April 2023 and 17 May 2023 are of particular importance. Copies of the latter minutes of the meetings are attached hereto and marked as **ANNEXURE E** and **F**.

51

The submission by **Mr. Brand** that the minutes of the meetings involved could not have been signed and certified by the Presiding Chairperson of the duly constituted meeting but should have remained in *limbo* until same have been approved by a subsequent meeting held, is with respect non-sensical, impractical and in conflict with Section 66 of the **Companies Act supra**.

52

It is clear from the minutes of the aforementioned meetings of the **HOA**, duly signed and certified by the Chairperson who presided during such meetings of the **HOA** in terms of

Section 66 of the **Companies Act**, that the detailed principles and implications of such **Applications** were submitted, discussed and supported by the **HOA** including the proposals on behalf representatives of the **HOA** by virtue of which the acquisition of one of the buildings erected on the **subject property** was to be acquired by the **HOA** to accommodate its administrative offices.

53

Such duly recorded and signed minutes of the meetings of the **HOA** reflecting such support were consequently duly incorporated in the **Applications** in compliance with the requirements of Section 38 of the **By-law** referred to *supra*.

54

There could, in the abovementioned context, be no rationale for or basis on which such duly signed minutes of meetings of the **HOA** by the Chairperson, who at the time lawfully and on an authorised basis presided, could be disqualified as a decision of the Board of Directors of the **HOA** as is envisaged in Section 66 of the **Companies Act** (*supra*) and such certified decision indeed binds the **HOA**.

55

The aforementioned *modus operandi* followed on behalf of the **Landowner** in respect of the **Applications** consequently should be accepted by your **Municipality** as compliance with Section 38 of the **By-law**, despite the fact that the certified Resolution has not been lodged by way of/or on an official letterhead of the **HOA** as is intimated in such Section of the **By-law**.

JAN ADRIAAN VENTER (BA B.PROC LLB LIMB)
Assisted by / Bygestaan deur:
WILHELM SCHEEPERS (BA LLB) & JULIET MARAIS (LLB)
RIEGAL KRAHTZ (BA LLB)

It should moreover be common cause, despite the non-sensical averments of the **Objectors** to the contrary, that your **Municipality** is only obliged in terms of the **By-law** to determine whether the purport of Section 38 of the **By-law** has, in the circumstances, been achieved by the **Landowner** and not whether somewhat superfluous forms and formalities prescribed in the **By-law** (i.e. an official letterhead) have been complied with.

The latter is in trite law confirmed by our Constitutional Court and averments of the **Objectors** that the Chairperson of the meetings or any other authorised official should have confirmed the certified minutes of the meeting on an official letterhead of the **HOA**, as is stipulated in Section 38 of the **By-law**, consequently, is of no moment and negated by the following:

57.1 In the matter of **ALLPAY CONSOLIDATED INVESTMENT HOLDINGS (PTY) LTD AND OTHERS V CHIEF EXECUTIVE OFFICER OF THE SOUTH AFRICAN SOCIAL SECURITY AGENCY AND OTHERS (CCT 48/13) [2013] ZACC 42; 2014 (1) SA 604 (CC)** the Constitutional Court referred to the following stance adopted by the Supreme Court of Appeal, which is applicable *in casu*:

“There will be few cases of any moment in which flaws in the process of public procurement cannot be found, particularly where it is scrutinised intensely with the objective of doing so. But a fair process does not demand perfection and not every flaw is fatal. It was submitted that the

process of procurement has a value in itself, which must lead to invalidity if the process is flawed irrespective of whether the flaw has consequences.... I have pointed out that the public interest has a role to play in cases of this kind. It would be gravely prejudicial to the public interest if the law was to invalidate public contracts for inconsequential irregularities”.

57.2 The Constitutional Court, in paragraph 22, *inter alia* stated:

“The materiality of compliance with legal requirements depends on the extent to which the purpose of the requirements is attained.”

57.3 In the matter of **LIEBENBERG NO AND OTHERS V BERGRIVIER MUNICIPALITY (CCT 104/12) [2013] ZACC 16; 2013 (5) SA 246 (CC); 2013 (8) BCLR 863 (CC) (6 June 2013)** at paras 22 – 25, the Constitutional Court handed down judgment on 6 June 2013 in which it outlined the broad approach that should be adopted when assessing alleged non-compliance of a **Municipality** with statutory prescripts.

“The test should be whether there has been compliance with the relevant prescripts in such a manner that the objects of the statutory instruments concerned have been achieved.”

57.4 In the matter of **UNLAWFUL OCCUPIERS, SCHOOL SITE V SITE OF JOHANNESBURG 2005 (4) SA 199 (SCA)** the Supreme Court of Appeal stated:

“It is clear from the authorities that even where the formalities required by statute are peremptory it is not every deviation from the literal prescription that is fatal. Even in that event, the question remains whether, in spite of the defects, the object of the statutory provision had been achieved”.

57.5 In the matter of ***NOKENG TSA TAEMANE LOCAL MUNICIPALITY V DINOKENG PROPERTY OWNER ASSOCIATION & OTHERS*** (2010) ZASCA 128; (2011) 2 (ALL SA 46 (SCA) the Supreme Court of Appeal in addition found:

“It is important to mention that the mere failure to comply with one or other administrative provision does not mean the whole procedure is necessarily void. It depends in the first instance on whether the Act contemplated that the Relevant Failure should be visited with nullity and in the second instance on its materiality.... To nullify the revenue stream of a local authority because of an administrative hiccup appears to me to be so drastic a result that it is unlikely that the Legislature could have intended it.”

57.6 In ***AFRICAN CHRISTIAN DEMOCRATIC PARTY V ELECTORAL COMMISSION AND OTHERS*** (2006) ZACC 1; 2006 (3) SA 305 (CC); 2006 (5) BCLR 579 (CC), the Court, in assessing an entity’s compliance with certain Municipal legislation, held that: ***“Narrowly textual and legalistic approach is to be avoided”***. In this regard, **Bergroivier**, at paras 25 - 26 found that:

“Rather, the question is whether the steps taken by the local authority are effective when measured against the object of the Legislature, which is ascertained from the language, scope and purpose of the enactment as a whole as the statutory requirement in particular.”

“Therefore, a failure by a municipality (in this case the Applicant) to comply, with relevant statutory provisions does not necessarily lead to the actions under scrutiny being rendered invalid. The question is rather whether there has been substantial compliance, taking into account the relevant statutory provisions in particular and the legislative scheme as a whole.”

- 57.7 In the matter of **BERTIE VAN ZYL (PTY) LTD AND ANOTHER V MINISTER FOR SAFETY AND SECURITY AND OTHERS 2010 (2) SA 181 (CC)** the Constitutional Court stated in paragraph 21 that: ***“Our Constitution requires a purposive approach to statutory interpretation.”***
- 57.8 The Constitutional Court proceeds in the **BERTIE VAN ZYL (PTY) LTD AND ANOTHER V MINISTER FOR SAFETY AND SECURITY AND OTHERS** matter to state in paragraph 21, that: ***“The purpose of a statute plays an important role in establishing a context that clarifies the scope intended effect of a law.”***
- 57.9 In **AFRICAN CHRISTIAN DEMOCRATIC PARTY V ELECTORAL COMMISSION 2006 (3) SA 305 (CC)**, page 316 at paragraph 24, with approval, referred to the 1964 Appeal Court decision of **MAHARAJ & OTHERS V**

RAMPERSAD 1964 (4) SA 638 A and quotes the following from such judgment:

“The enquiry, I suggest, is not so much whether there has been ‘exact’, ‘adequate’ or ‘substantial’ compliance with this injunction, but rather whether there has been compliance therewith. This enquiry postulates an application of the injunction to the facts and resulting comparison between what the position is and what according to the requirements of the injunction, it ought to be.

58

Your **Municipality** has in the aforementioned circumstances, and upon a proper interpretation of Section 38 of the **By-law**, in the context of the documents and information in its possession, i.e. the support of the **Applications** by the **HOA** in the form of duly signed and certified minutes of official meetings held in that regard clearly correctly accepted and confirmed the **Applications** as being complete and in compliance of the prescripts of the **By-law** including Section 38 of the **By-law**.

59

It should in the aforementioned context be clear that the **Landowner** has substantially complied with the goal and purpose of Section 38 of the **By-law**, that official principle support for the **Landowner’s** Development reflected in the **Applications** has ambiguously been procured from the **HOA**, that the purport of Section 38 has been achieved and that your **Municipality** correctly accepted and certified the **Applications** as complete in terms of Section 41 of the **By-law**. Any refusal of such “consent” by the

HOA would in the context of the prevailing facts and circumstances and the compatible nature and characteristics of the Development envisaged in any event have been grossly unreasonable which is the reason why no substantiated land use objections were raised by the **Objectors**.

60

The **Application** is consequently duly authorised, and your **Municipality** is obliged to consider and finally adjudicate upon same with due consideration of the contents of the **Applications**, the contents of only the duly authorised timeous and valid comments / **objections** and the contents of this **Reply**.

AD THE OBJECTIONS AGAINST THE REMOVAL OF A RESTRICTIVE CONDITION OF TITLE (A 13m RIGHT-OF-WAY), CLOSURE OF THE “CONTRACTOR’S ACCESS” CONSTRUCTED ON / IN SUCH SERVITUDE AND ALLEGED ADVERSE IMPACTS OF THE “RELOCATION” OF SUCH ACCESS

61

Only the Removal of the Restrictive Condition of Title serves as a Town Planning Application before your **Municipality**. The consequential closure of the Contractor’s Access and relocation thereof are consequences of such **Applications** but behoves no approval from your **Municipality**.

62

Due to the fact that the **Estate**, upon approval, at the time, 2006 / 2007, provided for the development of hundreds of residential units to be developed in phases, over a

JAN ADRIAAN VENTER (BA B.PROC LLB LIMB)
Assisted by / Bygestaan deur:
WILHELM SCHEEPERS (BA LLB) & JULIET MARAIS (LLB)
RIEGAL KRAHTZ (BA LLB)

protracted time period, provision was made for the 13m temporary right-of-way over the **subject property** to, during this predominant envisaged construction phase, serve as temporary Construction Access to the **Estate**.

63

Developments over the last 2 (two) decades however have rendered the retention of such a "Construction Access" superfluous, unacceptable from a traffic engineering point of view, and entirely incompatible with the **Applications** and the most sensitive land uses and Developments envisaged therewith.

64

The restrictive condition sought to be removed pertains exclusive to the **subject property** and encroaches upon same at a width of 13m. No other property is therefore affected by the existence of such servitude or will be affected by the removal thereof.

65

The servitude was, as already alluded to above in 2006 / 2007, provided to, on a temporary basis, accommodate the construction phase of the **Estate** which provided for an aggregate of some 425 erven and not less than 750 residential units.

66

The servitude area was never destined to constitute a fully-fledged alternative access to the **Estate** in conflict with the approved layout and subdivisional plan of the **Estate** and the egresses and accesses indicated thereon. The Servitude Area was moreover never envisaged or reflected on the formally approved subdivisional plan of the **Estate** as a

public street or access available to the general public for such use.

67

During such construction phase of the **Estate**, this temporary Construction Access was predominantly used by Contractors and construction vehicles but was, over time, also abused by residents as an alternative access to the main access and was, in addition, on an unauthorised basis, used by any delivery or courier services and persons employed by individual Landowners in the **Estate** and employed by the administration of the **Estate** itself. The aforementioned culminated in a situation where approximately 7,4% of the traffic to and from the **Estate** are currently inappropriately canalised through the temporary Construction Access.

68

The aforementioned situation resulted in unaccepted vehicular trip and pedestrian canalisation through the "Construction Access" not geometrically designed or located for such purpose which did not only cause a safety risk for the **Estate** but also caused unacceptable queuing and friction during peak hours at such access and resulted in serious traffic congestion within the operational area of the Construction Access and Park Road, the latter which in turn compromised the mobility function and traffic flow of Park Road itself.

69

It is common cause that substantial new developments in the interim materialised in close proximity of the **Estate** which, since 2006/2007, culminated in substantial additional traffic growth by way of normal trip generation attributable to such new developments.

JAN ADRIAAN VENTER (BA B.PROC LLB LIMB)
Assisted by / Bygestaan deur:
WILHELM SCHEEPERS (BA LLB) & **JULIET MARAIS** (LLB)
RIEGAL KRAHTZ (BA LLB)

70

The latter however was exacerbated by standard expected and observed annual background traffic growth since 2005/2006 on the surrounding road network, which varied between 2% and 3% per annum which increase in traffic compromised the use, traffic demand and mobility function of Park Road substantially.

71

Your **Municipality** in the aforementioned traffic engineering context directed an updated Traffic Impact Assessment to be conducted in respect of *inter alia* the **Estate** in order to assess the interim increased traffic and the capacity of the existing surrounding road network.

72

Such Traffic Impact Assessment and a subsequent supplement thereto indeed revealed that retention of the "Construction Access" over the servitude area is undesirable, that same causes an unsafe traffic engineering situation due to unacceptable capacity demand and inadequate sight and speed differentiation distances available, and compromises the safety and operation of Park Road and it was indeed recommended by the relevant Traffic Engineers that the access should be closed and be relocated to Geelbos Street to rectify the aforementioned unacceptable situation. A copy of such supplementary Traffic Impact Assessment is attached hereto and marked as **ANNEXURE G.**

73

The **Landowner** has, in the aforementioned circumstances and in the context of the **Applications** offered to relocate the "Construction Access" at its cost to Geelbos Street, which new access shall substitute the current problematic and abused "Construction Access", and comply with all the required traffic engineering criteria and geometric requirements set by the **Landowner's** Traffic Engineers in conjunction with your **Municipality**. The Traffic Engineers of the **Applicant** envisages that, upon finalisation and realisation of this alternative Geelbos Street Access to the **Estate**, between 10% and 21,15% of the current **Estate** traffic shall be canalised through this new access.

74

Save for the fact that such relocation of a substituting access to Geelbos Street shall alleviate the current unacceptable traffic and safety risk posed by the existing "Construction Access" in Park Road, same will still cater for construction vehicles which construction use however have substantially been reduced since 2006/2007 due to the fact that 95% of the aggregate envisaged erven in the **Estate** has already been developed and that only 5% of erven in the **Estate**, i.e. less than 30 erven in aggregate still remain as vacant developable erven within the **Estate**.

75

The **Landowner**, by way of the aforementioned gesture, shall however in addition procure the benefit that the retention of the 13m servitude area currently used for the Construction Access shall become redundant, shall no longer in any way hamper or restrict its development intentions in respect of the **subject property** by way of the

Applications and such action shall simultaneously remove a current incompatible use with unacceptable noise and other nuisance factors emanating therefrom, (i.e. the "Construction Access") directly adjacent to the **subject property** where sensitive retirement units and the establishment of a "Memory Care Clinic facility" are planned by virtue of the **Applications**.

76

It is against the backdrop of the foregoing facts clear that, save for the incompatible and undesirable characteristics of the Construction Access, the Removal of the Restrictive Condition of Title is also motivated by traffic engineering principles identified and recommended by expert Traffic Engineers, will objectively be in the public interest and that the approval of such removal and consequential closure of the current "Construction Access" to the **Estate** will not be prejudicial to any member of the **HOA**, the **Objectors** or adversely impact on them from a traffic engineering and convenience point of view.

77

Insofar as some of the **Objectors** in the aforementioned circumstances plead prejudice, in that the value of their properties in close proximity of the new envisaged substituting Geelbos Access will allegedly negatively be affected by such relocation actions, such averments are denied by the **Landowner**, are at best speculative in nature and cannot serve as an impediment against approval of the **Applications**.

78

In this regard, any adverse property value impacts which may allegedly stem from the **Applications** and more specifically the removal and upliftment of the servitude of right-

JAN ADRIAAN VENTER (BA B.PROC LLB LIMB)
Assisted by / Bygestaan deur:
WILHELM SCHEEPERS (BA LLB) & JULIET MARAIS (LLB)
RIEGAL KRAHTZ (BA LLB)

of-way (and the subsequent closure and relocation of the Construction Access) may in any event not, from a Town Planning point of view, be considered or assessed as an impediment against approval of the **Applications** and such possible *modus operandi* by your **Municipality** propagated by the **Objectors** is specifically prohibited by the provisions of Sections 7 and 57 of **SPLUMA** read with Section 65 of the **By-law**, which provisions *inter alia* state the following:

“7 The following principles apply to spatial planning, land development and land use management:

(a) The principle of spatial justice, whereby-

(vi) a Municipal Planning Tribunal considering an application before it, may not be impeded or restricted in the exercise of its discretion solely on the ground that the value of land or property is affected by the outcome of the application”

79

Similarly, Section 57 of **SPLUMA**, under the heading “Non-impediment of function”, reads as follows:

“Without derogating from the provisions of other laws governing the compensation for expropriation, an exercise of a power and a performance of a function in terms of this Act may not be impeded or stopped solely on the ground that the value of a property is affected by such exercise of power or performance of function.”

JAN ADRIAAN VENTER (BA B.PROC LLB LIMB)
 Assisted by / Bygestaan deur:
 WILHELM SCHEEPERS (BA LLB) & JULIET MARAIS (LLB)
 RIEGAL KRAHTZ (BA LLB)

80

In addition, Section 65 of the **By-law** under the heading "**General Criteria for Consideration of Applications**", save for confirmation that the principles of spatial planning contained in Chapter VI of **SPLUMA** quoted *supra* must be adhered to contains no indication that impact of land value should be considered.

81

There consequently is a proven objective need to remove the restrictive servitude of right-of-way from the Title Deed of the **subject property**.

82

The approval of such removal component of the **Applications** will not only be to the benefit of the **subject property**, the **Landowner** and its intended Development, but is underpinned by traffic engineering benefit to the public including the **Objectors** and all members of the **HOA** already alluded to above. The aforementioned fact renders approval of this component of the **Applications** desirable.

83

As a consequence, the **Municipality** is compelled to reject these **objections** raised by the **Objectors** in respect of the Removal of the restrictive Condition which will ultimately culminate in the relocation of the Construction Access and the establishment of the new Geelbos Access. The latter inevitably shall have to comply with basic reasonable and geometric traffic engineering requirements which fact negates speculative alleged restrictions on the suitability of such new access from a traffic engineering point of view.

84

The **Landowner** is however prepared to accept the imposition of a condition for the latter purpose to the effect that the **Landowner** shall not be entitled to finally close the Contractors' Access until the relocation thereof to Geelbos Street has been finalised at the cost of the **Landowner** and has, from a traffic engineering point of view, been approved by your **Municipality**.

85

In the aforementioned context the **objections** raised insofar as same may be valid, authorised and processable, cannot derogate from the obvious merits of the **Applications**, should be rejected by your **Municipality** and the **Applications** should be approved, subject to such conditions already proposed by the **Applicant** or subject to such additional reasonable conditions your **Municipality** may consider expedient.

Yours faithfully,



ADRIAAN VENTER
ATTORNEYS & ASSOCIATES

**EXTRACT FROM THE MINUTES OF A MEETING OF THE BOARD
OF DIRECTORS OF APPLEWOOD TRADING 128 (PTY) LTD
(REGISTRATION NUMBER: 2008/002408/07)**

HELD AT George ON THIS THE 25 DAY OF March 2024

RESOLVED THAT

- APPLEWOOD TRADING 128 (PTY) LTD** (hereinafter referred to as “the **Company**”), being the registered owner of the property known as Erf 24845 George, Registration Division RD, Western Cape Province (hereinafter referred to as “the **subject property**”), continues with and pursues the simultaneous Application lodged to the George Municipality for *inter alia* the subdivision of the **subject property** into 3 (three) Portions [i.e., Portion A (± 2 207 m²), Portion B (± 1 775 m²) and Portion C (± 4 301 m²)], for the amendment of the land use rights pertaining to the **subject property** rezoning same from Single Residential Zone II (Administrative Offices of the HOA and facilities ancillary to the functioning of the Estate) to Single Residential Zone II (Institutional use – Memory Care Facility) on proposed Portion B of the **subject property** and Single Residential Zone II (Group Housing – Retirement Units) on proposed Portion C of the **subject property**, and any other relevant and/or necessary Applications incidental thereto lodged *inter alia* in terms of Section 15 of the George Municipality: Land Use Planning By-law of 2023 (hereinafter referred to as “the **By-law**”), the George Municipality: Integrated Zoning Scheme By-law of 2023 (hereinafter referred to as “the **Scheme**”) as well as the applicable provisions of the Spatial Planning and Land Use Management Act (Act 16 of 2013) (hereinafter referred to as “**SPLUMA**”) and/or any other relevant and/or applicable and prevailing Town Planning legislation, for purposes of developing a Memory Care Facility and Retirement Units on proposed Portion B and Portion C of the **subject property** and to otherwise and in general take any actions required in that regard, including to serve, sign and file any notices, Affidavits and/or

documents which may be necessary and/or required in pursuance of such Applications, and/or to, if necessary and/or if required, lodge or oppose any Appeal lodged against any decision taken by any Town Planning Authority with the necessary jurisdiction and authority in that regard and furthermore to take any further action in order to give effect to this Resolution, which includes if applicable approaching the High Court with a Review Application and to pursue same to finality.

2. **CHRISTIAAN JOHANNES THEUNIS ROODT** in his capacity as a Director of the abovementioned **Company** hereby be authorized with the power of delegation, substitution and ratification, to appoint any Consultants, Attorneys and/or Counsel for purposes of pursuing the aforementioned Applications to finality, to sign all documents and statements in this regard and to depose to any required Affidavits on behalf of the **Company** in respect of the Applications mentioned in paragraph 1 *supra*, and to do anything otherwise required in order to give effect to paragraph 1 above.

CERTIFIED AS A TRUE EXTRACT FROM THE MINUTES OF THE ABOVE MEETING



DIRECTOR

.

POWER OF ATTORNEY

I, the undersigned

CHRISTIAAN JOHANNES THEUNIS ROODT

in my capacity as a Director of **APPLEWOOD TRADING 128 (PTY) LTD** (Registration number: 2008/002408/07) (hereinafter referred to as "the **Company**"), duly authorized thereto by way of a Resolution of the Board of Directors of the **Company**, hereby authorize, nominate, constitute and appoint **JAN ADRIAAN VENTER** of the firm **ADRIAAN VENTER ATTORNEYS & ASSOCIATES**, or any employees of such firm, with the power of substitution and agency to be the lawful representatives and agents in the name, place and stead of the **Company** and to act as such on its behalf, in continuing with and pursuing the simultaneous Application lodged to the George Municipality (hereinafter referred to as "the **Municipality**") in respect of the property known as Erf 24845 George, Registration Division RD, Western Cape Province (hereinafter referred to as "the **subject property**") for *inter alia* the subdivision of the **subject property** into 3 (three) Portions [i.e., Portion A ($\pm 2\,207\text{ m}^2$), Portion B ($\pm 1\,775\text{ m}^2$) and Portion C ($\pm 4\,301\text{ m}^2$)], for the amendment of the land use rights pertaining to the **subject property** from Single Residential Zone II (Administrative Offices of the HOA and facilities ancillary to the functioning of the Estate) to Single Residential Zone II (Institutional use – Memory Care Facility) on proposed Portion B of the **subject property** and Single Residential Zone II (Group Housing – Retirement Units) on proposed Portion C of the **subject property**, and any other relevant and/or necessary Applications incidental thereto, lodged *inter alia* in terms of Section 15 of the George Municipality: Land Use Planning By-law of 2023 (hereinafter referred to as "the **By-law**"), the George Municipality: Integrated Zoning Scheme By-law of 2023 (hereinafter referred to as "the **Scheme**") as well as the applicable provisions of the Spatial Planning and Land Use Management Act (Act 16 of 2013) (hereinafter referred to as "**SPLUMA**"), and/or any other relevant and applicable prevailing Town Planning legislation, for purposes of developing a Memory Care Facility and Retirement Units on proposed Portion B and Portion C of the **subject property** and to otherwise and in general take any actions required in that regard, including to serve, sign and file any notices, Affidavits and/or documents which may be necessary and/or required in pursuance of such Applications, and/or to, if necessary and/or if required, lodge or oppose any Appeal lodged against any decision taken by any Town Planning authority

with the necessary jurisdiction and authority in that regard and furthermore to take any other actions, which includes if applicable approaching the High Court with a Review Application and to pursue same to finality.

The authority of my abovementioned agents furthermore includes the authority to in terms of the provisions of the **By-law** on behalf of the **Company** submit a written reply to the objections and/or comments received against and/or in respect of the pending simultaneous Application to the **Municipality**, to sign any documentation, appoint any Consultants and/or Counsel to appear and participate in any hearings, to depose to any Affidavits relating to the Applications referred to above and to furthermore sign any documents such as notices and pleadings on behalf of the **Company**, in order to give effect to the mandate contained in the foregoing paragraph.

I hereby ratify, allow, confirm, and promise and agree to ratify, allow and confirm all and whatsoever such agents or employees shall lawfully do, or cause to be done, by virtue of these present and whatever such agents have to date done herein.

SIGNED AT George ON THIS 25 DAY OF March 2024.

WITNESSES:

1. 

2. 


**CHRISTIAAN JOHANNES THEUNIS
ROODT**

Deeds Office Property

GEORGE, 24845, 0, CAPE TOWN

Lexis® WinDeed



This report is compiled exclusively from the very latest data directly supplied to WinDeed by the Deeds Office.

Any personal information obtained from this search will only be used as per the Terms and Conditions agreed to and in accordance with applicable data protection laws including the Protection of Personal Information Act 2013 (POPI), and shall not be used for marketing purposes.

** ASTERISKS INDICATE THE INFORMATION IS ENRICHED FROM THE WINDEED DATABASE.

SEARCH CRITERIA

Search Date	2024/03/05 07:24	Erf Number	24845
Reference	-	Portion Number	-
Report Print Date	2024/03/05 09:09	Deeds Office	Cape Town
Township	GEORGE	Search Source	Deeds Office

PROPERTY INFORMATION

Property Type	ERF	Diagram Deed Number	T1662/2009
Township	GEORGE	Local Authority	GEORGE MUN
Erf Number	24845	Province	WESTERN CAPE
Portion Number	0	Extent	8283,0000SQM
Registration Division	GEORGE RD	LPI Code	C02700020002484500000
Previous Description	-	Co-ordinates (Lat/Long)**	-33.981695 / 22.494946
Suburb / Town**	GEORGE		

OWNER INFORMATION (1)

APPLEWOOD TRADING 128 PTY LTD

Owner 1 of 1

Company Type**	COMPANY	Document	T76532/2012
Registration Number	200800240807	Microfilm / Scanned Date	-
Name	APPLEWOOD TRADING 128 PTY LTD	Purchase Price (R)	5 500 000
Multiple Owners**	NO	Purchase Date	2012/05/11
Multiple Properties**	NO	Registration Date	2012/12/06
Share (%)	-		

ENDORSEMENTS (4)

#	Document	Institution	Amount (R)	Microfilm / Scanned Date
1	B10184/2016	INVESTEC BANK LTD	2 000 000	-
2	B34436/2012	INVESTEC BANK LTD	6 600 000	-
3	CONSOLIDATE FROM	TOWN GEORGE ,ERF 23794 ,PRTN 0	-	-

DISCLAIMER

This report contains information provided to LNRM by content providers and LNRM cannot control the accuracy of the data nor the timely accessibility. LNRM will not be held liable for any claims based on reliance of the search information provided. This report is subject to the terms and conditions of LexisNexis Risk Management Agreement. LexisNexis Risk Management (Pty) Ltd is a registered credit bureau (NCRCB26).

ENDORSEMENTS (4)				
#	Document	Institution	Amount (R)	Microfilm / Scanned Date
4	CONSOLIDATE FROM	TOWN GEORGE ,ERF 23344 ,PRTN 0	-	-

HISTORIC DOCUMENTS (3)				
#	Document	Institution	Amount (R)	Microfilm / Scanned Date
1	VA6807/2012	-	-	-
2	B115671/2007	-	-	-
3	T1662/2009	CUMULUS PROJECTS PTY LTD	CCT	-

DISCLAIMER

This report contains information provided to LNRM by content providers and LNRM cannot control the accuracy of the data nor the timely accessibility. LNRM will not be held liable for any claims based on reliance of the search information provided. This report is subject to the terms and conditions of LexisNexis Risk Management Agreement. LexisNexis Risk Management (Pty) Ltd is a registered credit bureau (NCRCB26)

ANNEXURE D

582

Raubenheimers Inc
 PO Box 21
 60 Cathedral Street
 George
 6530

Prepared by me

Fee endorsement	
Purchase price/Value	Amount
R. 5500 000	R. 1100
Mortgage capital Amount	R.
Reason for exemption	Exempt i.t.o section.....Act.....

[Signature]
 CONVEYANCER
 LUTTIG WM

VERBIND MORTGAGED

VR FOR R 6 600 000.00

B 000034436 / 2012
 2012-12-06

[Signature]
 REGISTRATEUR/REGISTRAR

DATA / CAPTURE
 11 DEC 2012
 BELINDA GONCALVES

T 000076592 / 2012

DEED OF TRANSFER

BE IT HEREBY MADE KNOWN THAT

~~Willem Munro Luttig~~ **JANINE FOUCHÉ**

appeared before me, REGISTRAR OF DEEDS at Cape Town, the said appearer being duly authorised thereto by a Power of Attorney which said Power of Attorney was signed at GEORGE on 23 July 2012 granted to him by

CUMULUS PROJECTS PROPRIETARY LIMITED
 Registration Number 1999/001857/07

DATA / VERIFY
 8 DEC 2012
 BELINDA GONCALVES

mc

And the appearer declared that his said principal had, on 11 May 2012, truly and legally sold by Private Treaty, and that he, the said Appearer, in his capacity aforesaid, did, by virtue of these presents, cede and transfer to and on behalf of:

APPLEWOOD TRADING 128 PROPRIETARY LIMITED
Registration Number 2008/002408/07

or its Successors in Title or assigns, in full and free property

ERF 24845 GEORGE, IN THE MUNICIPALITY AND DIVISION OF GEORGE,
WESTERN CAPE PROVINCE

IN EXTENT 8283 (EIGHT THOUSAND TWO HUNDRED AND EIGHTY
THREE) Square Metres

**FIRST REGISTERED AND STILL HELD BY CERTIFICATE OF CONSOLIDATED
TITLE NUMBER T1662/2009 WITH DIAGRAM SG2570/2008 ANNEXED THERETO**

- A. SUBJECT to the conditions referred to in the said Deed of Transfer No. T10120/1919.
- B. FURTHER SUBJECT to the special conditions contained in Amended Grant dated 23rd April 1913 (George Quitrents Vol. 15 No. 11), which condition reads as follows:

"That the said land (Kraai Bosch) shall be subject to all such duties and regulations as either are already or shall in future be established respecting lands held on similar tenure."

- C. SUBJECT FURTHER to the terms of the servitude referred to in the endorsement dated 16th November 1944 on Deed of Transfer No. T6136/1941, which endorsement reads as follows:

"By Notarial Deed No. 348 dated 30 October 1944, the owner and his successors in title of the land held under paragraphs 3 to 6 hereof has given and signified his consent to the construction of certain waterworks over the said properties by the Municipality of George affecting the riparian rights of the land held under the said paragraphs of this deed subject to conditions as will more fully appear on reference to the said Notarial Deed vide copy annexed hereto."

- D. By Servitude No. K493/77S the within described land is subject to a servitude with regard to apportionment of water in terms of an Order of the Water Court (Water Court District No. ...) dated 3.6.77 as will more fully appear on reference to the copy of said Order annexed to Servitude No. K493/77S.
- E. By Servitude No. 15/72 the within described land is subject to a servitude with regard to apportionment of water in terms of an Order of the Water Court (Water Court District Cape) dated 26.5.71 as will more fully appear on reference to the copy of said Order annexed to Servitude No. 15/72.
- F. SUBJECT FURTHER as contained in Certificate of Consolidated Title No. T1662/2009 to a servitude right of way 13 metres wide in favour of the General Public as is depicted by the figure F B C D G on Diagram SG No. 2570/2008, attached thereto.

WHEREFORE the said Appearer, renouncing all right and title which the said

CUMULUS PROJECTS PROPRIETARY LIMITED

Registration Number 1999/001857/07

heretofore had to the premises, did in consequence also acknowledge it to be entirely dispossessed of, and disentitled to the same, and that by virtue of these presents, the said

APPLEWOOD TRADING 128 PROPRIETARY LIMITED

Registration Number 2008/002408/07

or its Successors in Title or assigns, now is and henceforth shall be entitled thereto, conformably to local custom, the State, however reserving its rights, and finally acknowledging the purchase price to be the sum of R5 500 000,00 (FIVE MILLION FIVE HUNDRED THOUSAND RAND).

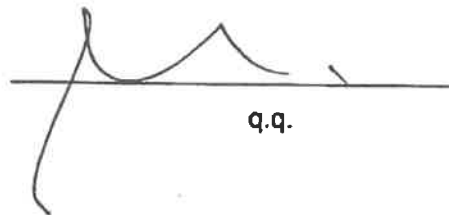
IN WITNESS WHEREOF, I the said Registrar, together with the Appearer, have subscribed to these presents, and have caused the Seal of Office to be affixed thereto.

THUS DONE and EXECUTED at the Office of the REGISTRAR OF DEEDS at Cape Town on 06 DEC 2012 2012

In my presence



REGISTRAR OF DEEDS



q.q.

Q

nc



HOME OWNERS' ASSOCIATION

HOA Office Park • Blue Mountain Boulevard • George, 6529
 P O Box 12167 • Garden Route Mall • George • 6546

MINUTES of a DIRECTORS MEETING of the BLUE MOUNTAIN VILLAGE MASTER PROPERTY OWNERS' ASSOCIATION HELD ON WEDNESDAY, 08 FEBRUARY 2023 AT 09:00, in the CUMULUS BOADROOM, BLUE MOUNTAIN VILLAGE.

Present: Mr F Manuel (FM) – *Chairperson*
 Mr JL van der Westhuizen (JW) – *Director BMVHOA*
 Dr M Stephens (MS) – *Director BMCRE*

Mrs C Fourie (CF) – *Director BMVHOA*
 Mr K Harmse (KH) – *Director BMG*
 Mr D Biermann (DB) – *Director BMCRE*

Absent: Mr F Wepener (FW) – *Director BMVHOA*

In Attendance: Christo Steyn (CS)
 Clarissa van Schalkwyk (CVS)
 Selene van Niekerk (SN)

Estate Manager – BMV
Finance Manager – BMV
Administrator - BMV

	Action By
<p>1. Welcome. The chairperson welcomed the directors and wished all a wonderful 2023.</p>	
<p>2. Apologies. Mr Frikkie Wepener.</p>	
<p>3. Approval of minutes of BOD meeting held on 1 December 2022. Proposed: CF Seconded: KH</p> <p>Add "cost to be shared on camera" matter of previous minutes. Minutes has been approved with changes. Agenda going forward to have new matters for a) noting and b) for resolution structure.</p>	SN
<p>4. Matters arising from these minutes.</p> <p>4.1 Previous MA (10/10/22) Item 6: Roads Inspection Committee (CF). CF: The board requires a second independent quotation, acknowledges Henra quotation. Will confirm a committee meeting for next week.</p>	CS
<p>4.2 Previous MA (03/08/22) Item 9: Amalgamation Committee (CF). KH wrote a letter to Mr Roodt requesting written confirmation of the proposed duet development in the Gardens. CF: Next amalgamation committee meeting will be called as soon as written confirmation is received that the apartments development is no longer going ahead, and that the development will be duets. CS said that municipality confirmed it will be normal duet housing.</p>	CS
<p>4.3 Previous MA (03/08/22) Item 14: Stands with no access for Security Patrols (CS). CS: This will be managed by security patrolling on the inside and outside of the estate, as one of the owner's wanted to be reimbursed for her land if used by the HOA for security access. Decided that we do not want to go that route, as it will be unnecessary cost, and may be problematic should other parties involved want a similar outcome.</p>	
<p>4.4 Previous MA (03/08/22) Item 18: Electricity Patrysbos (CS). CS: (For noting) Costing around R984 000, and quotation was handed to the developer. Mailer went out to Village/Gardens to confirm that work will commence in parts of the Gardens within the next two weeks. We will do our best to communicate with affected residents a day ahead of planned work commencing.</p>	CS

<p>4.5 Previous MA (03/08/22) Item 21: Healthcare Services -Memory Care Facility (CS): CS: For transparency and noting only as awaiting feedback from municipality.</p>	CS
<p>4.6 Previous MA (10/10/22) under Finances Item 6:2 Speedometer/ Speed Meter (CS). CS: We got our speed meter camera back and it is currently being upgraded. Speedbumps has been delivered and will be installed in streets with a lot of speeding complaints (Geelbos, Cederberg, Kougaaberg) as well as signs to indicate where speedbumps are going to be. JW also mentioned traffic from Blue Mountain Boulevard to Kougaaberg as a speeding hazard to be considered. CS: speedbumps to also be placed at certain stop streets. Was confirmed that stopping is essential and part of the rules of the estate.</p>	CS
<p>4.7 Previous MA (10/10/22) Item 7:2 Proposed New Group Housing Development Gardens (CS). Matter was discussed see 4.2.</p>	
<p>4.8 Previous MA (01/12/22) HOA Office – Renting vs Buying (CS). FM confirmed the confidential nature of the Board meetings and that sensitive matters discussed may not be discussed with outsiders. Board needs to stand united on a decision regarding renting vs buying and needs to be prepared to give members all the pros and cons of such a transaction.</p>	
<p>CF: Advised against sending out an opinion circular, but to rather have full information available to owners with all the facts surrounding the property, stand, rights, borrowing from bank etc, make the information available to owners prior to the AGM, and then invite owners to decide at the AGM. CF & FM confirmed that there must be a 48-hour period prior to the AGM, in which Residents/Owners can raise all their questions/concerns with the Board. CF confirmed that all the information as mentioned above is needed to do the financial model for the proposal to members.</p>	CS/CF/CVS
<p>CS: Market valuation from a couple of years ago, vs now is similar, at R3 million. FM asked whether we could negotiate price with the Developer, because this property can only be used for HOA Administrative purposes and nothing other.</p>	
<p>Question was asked should Clearwire purchase the building next to the HOA office, whether they will then still have the service provision monopoly in the estate, and CS confirmed that they will not, however, they do have a remaining 17 year (of 20 years) in place for fibre provision in Blue Mountain.</p>	
<p>4.9 Previous MA (03/08/2022) Item 21: Contractors Gate – potential move to SARS/Developer contribution (CS). CS: For noting – the Developer will contribute R1.2 million to the new gate, and had plans drawn up. Confirmed that the road in front of the village will become more and more digested with the new developments (SPAR, KIA, HUYNDAI etc.) CS distributed a copy of a proposed new gate for noting.</p>	
<p>4.10 Previous MA (03/08/22) Item 21: Turning Space at front entrance (CS). The lack of turning space at the front entrance remains a risk and potential solutions were discussed. This has been carefully considered by architects and a turning space before the gate is not feasible. Important to have security play a role to guide motorists to go through the boomed gate and turn back through the boomed gate. Was also suggested to put signage up to suggest this to vehicles parked.</p>	CS
<p>4.11 Previous MA (01/12/22) Item 8 (under General) – mandate to Estate Manager/Finance Manager (CS). CS: we manage spending within budget allocation. CF: to constitute the finance committee and propose a procurement policy. JW: emphasised the importance of the committees functioning well. All in agreement.</p>	

5. Security Budget & Requirements (CS).

CS: upcoming Body Corporate (Gables) meeting to add a new camera as the street is getting busier, other cameras are already up at the back of the Retirement Estate and Geelbos, and within budget with RE contributing and approval was obtained by BMCRE BOD. Also, that the first solar light went up next to the fence to assist during loadshedding.

JW: got a solar light installation opposite his property which seems to be working well, and suggested residents get involved to help solve the lighting crisis during loadshedding.

There was deliberated to perhaps get a standard solar light product with stands (Ops Manager to manage), and get residents involved to sponsor a streetlight that will remain HOA property.

CF suggested that we do a newsletter item to ask residents with solar/inverters during loadshedding to please turn on outside lights, to help provide light in the estate.

FM confirmed it is the HOA's responsibility to provide streetlights to residents.

6. Finances

CVS presented the income statement and balance sheet summary.

KH congratulated finance team for staying in budget as much as possible, especially taking large generator/diesel expenses into account.

FM mentioned the possibility of getting irrigation long-term due to issues with drought. CS said that operations is currently pumping water from the dam into a plastic container to water the gardens.

It was suggested that we add a picture of the plastic container/tank into the newsletter with some positive news as to how the dam's water is benefiting us during water restrictions.

7. New Matters

BMGHOA SGM Minutes from 2 September 2019 (KH).

KH mentioned that the minutes with regards to this specific Special General Meeting, was not a true reflection of what happened during the meeting, for example, the minutes says all was approved, whereas there were many objections received. This is for noting.

8. General

8.1 Airbnb Application – Mr Francois Gerber (CS).

CS: Mr Gerber said that he had permission from previous management to run an Airbnb in the estate, however, email correspondence makes mention that he needed to submit an application, which was not received by us. Further discussed that we are aware of 6 Airbnb's operating in BMV, and that a letter will go out to residents to say that this is not allowed as per our rules and regulations. For noting, as Mr Gerber was in the process of consulting an attorney. The Board agrees that Mr Gerber's current application to run a B&B in the estate, was declined. Short term contracts are still permitted subject to the rules and regulations.

8.2 Speeding in Kougaberg/Cederberg (CS).

Was discussed in point 4.6.

8.3 Rules & Regulations handouts at security gate (CS).

Resolved not to circulate/hand out.

8.4 Generators in the estate (CS).

The rules permit silent generators in the estate.

CS

SN

SN

SN

CS discussed the current electricity crisis in SA, and the effect it is having on our finances with diesel spent for generators. CF asked that the Finance Committee be mandated to look into this, as generator costs are excessive, and that we need to know exactly what the cost are for the gardens, village, retirement estate, Haven/Gables. It was proposed that the HOA should be taken into account in respect of a decision made by the developer, pending a potential property purchase. CS obtained a quotation with a full report from an engineer on solar panels, batteries, invertors.

We looked at municipal readings and did specific splits to know exactly what each building's requirements and costs are. WJ asked whether it was tax deductible, CS said it most likely isn't due to our NGO status. DB also mentioned perhaps having specific times to run generators/swimming pool pumps as unnecessary during the night.

8.5 Rosa Green Structure (Erf 25363) (CS).

CS discussed feedback from Rosa on where she was in the process of getting an investor or selling the property, and that she had four potential buyers, but unfortunately all four has withdrawn.

It was deliberated that it is not appropriate for her as an owner in breach of estate rules and regulations to be a member of the Design and Review Committee. The decision was made that she will be asked to step down as Architect on the DRC with immediate effect. Furthermore, that a legal process will be followed should she not sell/start building on the site by end March 2023.

CS

JW made mention of two other problematic properties in Giants Castle and Malutiberg Close. CS and Hennie Jordaan (Operations Manager) will tend to the problem.

CS/HJ

8.6 Dates for Roads Inspection Committee & Amalgamation Committees.

To be confirmed.

FOR NOTING – KH mentioned that Christo Pretorius in the operations team, has done a splendid job in making the gardens beautiful. KH further mentioned that a stronger pump is needed at the entrance gate fountain, as it is not aesthetically pleasing at the moment.

DB asked whether we have a disaster plan in case of emergency, CS confirmed we do in line with Health & Safety policy.

CS

CS confirmed PSIRA registration papers received from Clearwire.

9. Closing

FM declared the meeting closed.

SIGNED:


FAHDIEL MANUEL - CHAIRPERSON

DATE: 08 / 3 / 2023



HOME OWNERS' ASSOCIATION

HOA Office Park •, Blue Mountain Boulevard • George, 6529
P O Box 12167 • Garden Route Mall • George • 6546

MINUTES of a DIRECTORS MEETING of the BLUE MOUNTAIN VILLAGE MASTER PROPERTY OWNERS' ASSOCIATION HELD ON MONDAY, 17th APRIL 2023 at 08:15, in the CUMULUS BOADROOM, BLUE MOUNTAIN VILLAGE.

Present: Mr F Manuel (FM) – *Chairperson*
Mr JL van der Westhuizen (JW) – *Director BMVHOA*
Dr M Stephens (MS) – *Director BMCRE*
Mr F Wepener (FW) – *Director BMVHOA*

Mrs C Fourie (CF) – *Director BMVHOA*
Mr K Harmse (KH) – *Director BMG*
Mr D Biermann (DB) – *Director BMCRE*

In Attendance: Christo Steyn (CS)
Clarissa van Schalkwyk (CVS)
Selene van Niekerk (SN)

Estate Manager – BMV
Finance Manager – BMV
Administrator - BMV

	Action By
<p>1. Welcome. The chairperson welcomed the directors.</p>	
<p>2. Apologies. All was present.</p>	
<p>3. Approval of minutes of BOD meeting held on 8th February 2023 & BOD Budget Meeting held 8th March 2023. 8th February 2023: Proposed: CF Seconded: KH 8th March 2023: Proposed: DB Seconded: MS</p>	
<p>4. Matters arising from these minutes. 4.1 Previous MA (03/08/22) Item 21: Contractors Gate – potential move to SARS/ developers contribution – Mr Roodt Presentation (CR) Mr Roodt went into detail with regards to the current Contractors Gate, and a potential move thereof to the Gardens, with entry near SARS. A plan and quotation from a Quantity Surveyor was presented, and board members were asked to consider the aesthetical look of the design, as it was done within the estate's architectural guidelines, and whether it would be acceptable to the BOD. Mr Roodt, furthermore, explained that there is a servitude registered in favour of the HOA, and that the developer would need to have it cancelled, as the intention is to develop a further 23 Gable units, as well as a Memory Care facility (in the current Clearwire building). The Developer would carry the cost of the new gate, should it fall within the proposed design, totalling R1.2 million exclusive of VAT, as well as the move of the current access control equipment (not new) to the value of R54 000. Any additional costs incurred will be for the developer's account. He further confirmed that should the BOD agree to the proposal, it will need to go to the AGM for approval, and thereafter to the municipality for permission/final approval to commence building. It is very costly, and building work can not commence before the process of approvals are in place. Directors discussed the different legal entities with regards to ownership, as the servitude is currently in favour of the Village, and the gate will be on Gardens property. It was further confirmed that the gate will be for the benefit of all residents/owners of the estate. There was further deliberation with regards to whether there will be objections by residents, and CS</p>	

confirmed that some residents living nearby are unhappy with the contractor's gate on the Boulevard as it is now, and that will most likely be the case for the Gardens residents near the new gate too. However, there are other factors to keep in mind, the current road in front of the estate is going to become a double road and we may be forced by the municipality to close the gate as cars are queuing in the road mornings/late afternoons, causing a safety concern. There is the added benefit of having a second entrance near the Garden Route Mall, and potentially an offramp to the N2 coming to that part of the road too in the future.

CF proposed that at the AGM we will vote based on a linked resolution, cancellation of the servitude, subject to approval of and satisfactory completion of the gate.

The Developer raised the matter of the HOA building and the smaller Clearwire technical staff building next to the HOA, and that there may be challenges with the current building lines dividing the properties. It is possible that the municipality may not approve each building as a full title, and that they may only consider it as a sectional title division. He further discussed minimum parking requirements, and that the municipality is currently working on it, to give estates clarity thereon.

Mr Roodt confirmed that he is a willing seller.

Directors in principle are not concerned whether the building will be full title or sectional title, but it is imperative to have the full picture, with all the facts, of what we were proposing at the AGM to members. CF has a mandate to prepare a presentation and crunch numbers for the AGM and needs to have the full details within the next few days.

FW proposed that we provide the Developer with a Letter of Intend to purchase the HOA office building. KH proposed that we do the Letter of Intent, but also in return receive same from the Developer.

A new item was raised by the Developer, that the generator will not be part and parcel of a sale of the building. FM mentioned the importance of us drawing up an inventory, specifically detailing exactly what we will be buying, and what we see as fixtures of the HOA office and outer buildings.

It was deliberated that the HOA needs to have legal representation to advise on the matters discussed, and CS confirmed that a meeting was scheduled to discuss amalgamation documentation as well as a Letter of Intent with Willem Luttig from Raubenheimer Attorneys on Wednesday, 19th April at 10:30. CR invited CS to attend a meeting held on Tuesday, 18th April 2023 with his attorney. CS to communicate the outcome of these meetings by mail.

4.2 Previous MA (10/10/2022) Item 6: Roads project feedback (CS)

CS confirmed that ACV Civils has commenced with the project according to their method statement and that HJ and Dave O'Neill are monitoring the project closely.

4.3 Previous MA (03/08/22) Item 9: Amalgamation Committee meeting feedback (CF).

CF confirmed that minutes are being finalised, and that the proposal for the AGM will be tabled at the next BOD meeting.

4.4 Previous MA (03/08/22) Item 18: Electricity Patrysbos, problems and progress (CS).

CS confirmed that the project initially was messy, but that repairs has been done, and that the paving areas were fixed properly.

4.5 Previous MA (10/10/22) under Finances Item 6:2 Speedhumps – Instruction (CS).

CS confirmed that two areas were left out that was initially included in the instruction. Reason being that the speedhumps needed to be fixed across the whole area (both sides of the street) as when it was initially placed on one side of the road, at the stop street, cars would avoid driving over it, and in order to skip the speedhump, drive into the other lane, which could have resulted in accidents. This is on our operational list to have speedhumps placed there next though.

4.6 Previous MA (08/02/23) Item 8:4 Generators in the Estate & Previous MA Budget Meeting (08/03/23) Item 4:2 Renewable Energy (CS)

Directors resolved to approve a budget of R361 000 for renewable energy solutions (inverters/batteries & solar panels), R147 312,47 for the HOA building, and R213 152,50 for the main gate.

CS

CS

CF

<p>Funds have been allocated from the diesel budget.</p> <p>CS confirmed that work was commencing this week, and that the inverter system was going to be the HOA's property, to be added to our asset register.</p>	
<p>4.7 Previous MA Budget Meeting (08/03/23) Item 3: Electric Fence Repairs (CS) CS confirmed that two quotations were received, with the one being a lot more cost-effective, and that work has commenced to repair the fence zone 8-12. FM asked to closely monitor the quality of the products supplied by the more affordable supplier.</p>	CS
<p>5. Security (CS).</p> <p>CS mentioned the security breach that took place in broad daylight shortly after 4pm in the afternoon, where a person was digging for approx. 13 minutes, he then entered the estate with a panga, stood in the estate for a few seconds, and then went out again. Shortly after 8pm that evening, the guard with dog patrolling the perimeter fence found the breach and notified us. CS said that the breach can clearly be seen on the cameras, but that there is a 10-to-15-meter gap between analytics that did not pick this up to create alarm. The guard who was on duty is undergoing a hearing, as she was seen from the other camera, not looking at the screens, and not picking this up. CS is not happy with the report provided by Clearwire, and asked additional questions to Eugene Braack, which has not been answered, such as why there were no patrols between 4pm and 8pm, why are there only one person in the control room, and no senior person (supervisor or manager) etc. FM asked that strict SLA protocols will be in place and followed with regards to the matter. CS further confirmed that a couple of months ago the question of working analytics was raised by Santorini and that Santorini and Clearwire decided on one full day to monitor all cameras on the estate, to ensure that all analytics were in working order. CS confirmed that we received an email from Santorini to confirm that all analytics were in working order at the time. The question was raised whether this was perhaps an inside job, due to the exact spot where the breach occurred, in between analytics. To be investigated.</p>	CS
<p>6. Financial Reporting & Financial Statements (CVS/CF) CVS went through the financial statements with the Board. Audited Financial Statements for year ending February 2022 was approved and signed off.</p> <p>The Board agreed to allocate an additional R40 000 to the diesel budget.</p> <p>The Board approved R2200 for a scanner at the contractor's gate in the monthly budget.</p> <p>CF requested that directors provide requests to her directly with regards to the need for additional cameras, and batteries to include in the budget forecast.</p> <p>Was confirmed that the building period with building levies for the Village is coming to an end, which will result in that income falling away for the HOA. CF will draw up a forecasted budget based on several factors (roads, purchasing of building vs renting, renewable energy solutions) to clearly show current income vs budget, and then projected income vs projected budget. To ensure members have a clear long-term financial implication understanding of why the Board recommends that the building is purchased vs being rented.</p> <p>FM thanked CVS, CF and CS for the financials and for being well prepared for the AGM.</p>	CF
<p>7. New Matters</p> <p>7.1 (a – for noting) Dahua Technology/Santorini Presentation: Facial Recognition (AL/EB) Eugene Braack arranged for André Laubscher from Dahua Technology and Helena Pretorius from At The Gate (ATG), to do a short presentation on facial recognition technology, as a potential consideration for the new gate. JW provided a short background as to the origin of the request – during the security meeting, several security issues (such as having Airbnb operators on the estate) was discussed, as well as effective ways of managing security breaches inclusive of facial recognition software, hence this was tabled for discussion at the BOD meeting.</p> <p>Various security scenarios were discussed by the Directors and company representatives, with CS to obtain cost quotations from these providers for future reference.</p>	CS

8. General

8.1 Speedhump complaint (b – for decision making): Mrs Marlene Stratford, 29 Blue Mountain Boulevard (CS)

CS explained that certain areas were identified by the operations team and the relevant Directors as problem areas for speeding. The complaint is from Mrs Stratford, who is very unhappy about the placement of the speedhump, as it is at her bedroom window and causing a lot of noise. CS confirmed that this placement is right between s-bends, where speeding takes place. JW confirmed that we had various compliments on the WhatsApp groups specifically as thank you for these measures being taken. FM mentioned that as the HOA did a proper study of the problem areas, and we will unfortunately not be able to please everyone. The Board decided to keep the speedhump where it is.

CS

8.2 Pets (proposed changes to Rules 11.5 and 11.7 (CS))

CS asked for BOD input to make changes to Rules 11.5 and 11.7 to allow for a height increase to 60cm instead of 50cm for dogs, specifically to include certain breeds such as Labradors and Golden Retrievers in our estate as allowed pets. And to specifically add in addition to "dangerous dogs" that Pit Bulls are not allowed in the estate. CF will give input in terms of formulations of these rules.

CF/CS

8.3 Marzanne Bezuidenhout/Pieter Gelderblom – Approval Request (b – for decision making): Erven 25373/29617 & 25374/29618 (CS).

CS explained the origin of the request to the BOD as well as the reasons the Design & Review Committee (DRC) did not approve of the plans submitted.

Plan Approval was given by the DRC based on duets being built on the erven, and the plans clearly showed that the space below was to be utilised as storerooms with no windows.

A couple of months ago, tenants came in to get access tags sorted out, but mentioned that they were renting the flat under one of the duets in question. Red flags were raised as there were already tenants in the property, but the HOA was not aware of a separate flat on the property too. HJ and CS went to do an inspection, and found a full flat (bathroom, kitchen, built-in cupboards, windows etc) in the "approved" storage area. The tenants then moved in with the tenants from the duet as they were there to look after the lady there apparently, as the HOA did not approve of their sub-letting. They mentioned that they paid a deposit for the flat already and was very upset as their furniture was here to be off loaded.

New plans were submitted to the DRC for a room with bathroom with a municipal bylaw clause as part of the application, but it was once again not approved by the DRC as this is against estate rules.

FM said that this will not be allowed in the estate, and that a formal letter must be sent to the applicants. The Board agrees to enforce the rules of the estate.

CS

8.4 Gardening Service Quotations (CS)

CS discussed that gardening quotations was obtained and compared to our current service provider Jan Brak's costs. It was way more than what our current service provider charges. The Board decided to continue working with Jan Brak.

CS

9. Closing

Wednesday, 10th May 2023 at 08:15 was confirmed for the AGM preparation meeting. KH apologised as he will not be able to attend this meeting as he is away. He also stated that he will not be available to stand for 2023/2024 as Director.

SIGNED:


FAHDIEL MANUEL - CHAIRPERSON

DATE: 10 May 2023

Applewood Trading 128 (PTY) Ltd

Email: cjtroodt@gmail.com

15 March 2024

Our Reference: 4578

Attention: Mr Chris Roodt

Dear Mr Roodt,

Access to Blue Mountain Gardens: Closure of Contractors Gate and new Secondary Gate

Regarding your request for an investigation into the viability and need for closing the current contractor gate to the larger Blue Mountain development. The Blue Mountain development consists of the following sub-areas:

- Blue Mountain Haven - 60 Sectional title units old age home
- Blue Mountain Gables - 64 Sectional title units with a proposed expansion of 23 units
- Retirement Estate - 82 Single Residential Units
- Blue Mountain Village – 425 Single Residential Units (10 erven vacant)
- Blue Mountain Gardens - 219 Duet erven (14 erven vacant)

A locality map indicating the site in the context of the larger precinct around the Garden Route Mall as well as the two existing accesses and the proposed new access are shown in Figure 1.

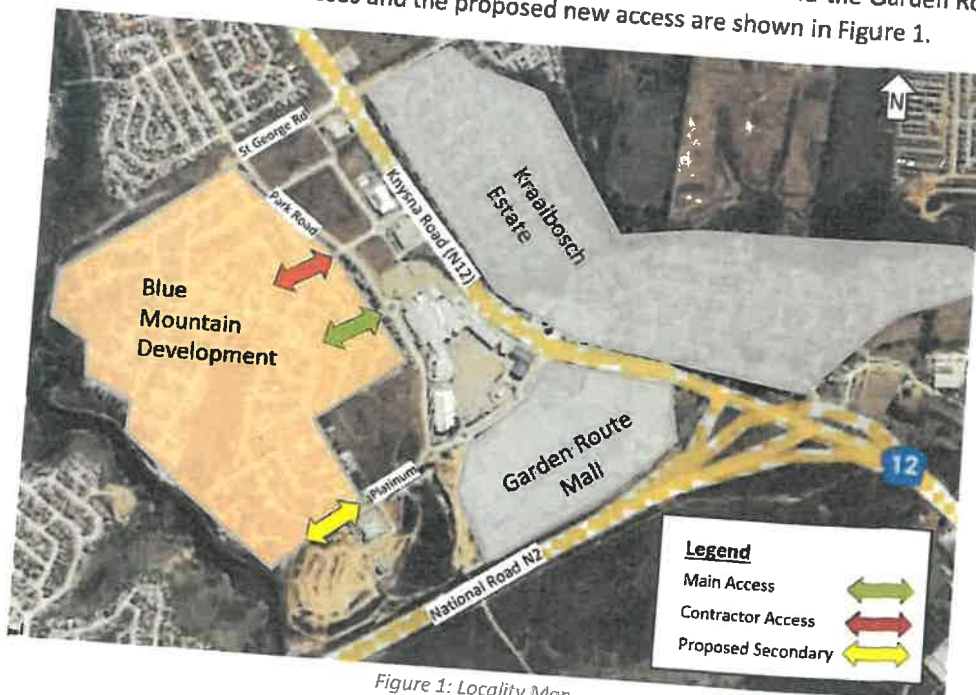


Figure 1: Locality Map

THINKING GLOBAL, ACTING LOCAL

Directors: JL Coetzee Pr Eng (Managing), Dr P Pretorius Pr Eng
Dr JC Krogscheepers Pr Eng, Mrs LC Pretorius Pr Eng, Ms O Ribeiro MBA
Registration No: 2001/027 205/07

Existing Situation

The status quo situation of the Blue Mountain development is depicted in the following figure. From this, it is evident that:

- The development is mostly built-out, i.e. there are only a few erven not developed. This implies that a dedicated contractor gate is no longer needed. The traffic volumes in/out of the development are close to the ultimate traffic demand in/out of the development. The traffic pattern should be stable. There is approximately 30 undeveloped erven within the larger Blue Mountain Development. Most of these are in the south-eastern corner along Patrysbos Street.
- The proposed access off Platinum Drive is in line with the original planned internal road network.
- The location of the Contractor Access is on the inside of a horizontal curve.



Figure 2: Status Quo of Blue Mountain Development – Development Progress and Accesses

Purpose and Background

The purpose of this letter is to motivate the closure of the current Contractor Access and in this context, we refer to the following recent studies:

- Proposed secondary access gate to Blue Mountain in the George Municipality, TIA, TechIQ, October 2023
- Eden Meander Development, George, Western Cape, Transport Impact Assessment, ITS (Pty) Ltd, July 2023.

The ITS TIA evaluated the transport impact of the development of the remaining open erven in the Eden Meander Precinct. The study covered all the intersections along Park Road, including the Main and Contractor Accesses. For the total future scenario, it was assumed that the Contractor Access to the Blue Maintain Development will be closed and that all that current movement through that access

will re-route to the Main Access. The study did not specifically allow for secondary access to Blue Mountain and it concluded that:

“The construction access to Blue Mountain Village is no longer required. From a traffic operations perspective, it is possible to seize the use of the access and divert all current traffic to the main access to Blue Mountain Village. This will not result in any operational issues on the network and specifically also none at the main entrance gate to Blue Mountain Village.”

The focus of the ITS TIA was on the larger impacts on the major road network of the precinct's development and did not specifically investigate possible queuing issues at the Main Access to Blue Mountain. The latter was investigated in the TechIQ study of October 2023. In the latter study it was concluded that with the closure of the Contractor Gate, the queues entering the Main Access to Blue Mountain may occasionally spill back into the roundabout along Park Road, supporting the construction of an alternative access to Blue Mountain and specifically on Platinum Drive.

Safety Evaluation of Contractor Access

Irrespective of operational requirements and changes in operations at the current gates and future gates, the existing Contractor Access is unsafe due to the available sight distance for vehicles exiting from the Contractor Access onto Park Road. The access is located on the inside of a horizontal curve. With the absence of adequate splays on either side of the access and the walls built on the property boundary, the sight distances in both directions are inadequate. The available sight distance along Park Road from the access is illustrated in the layout drawing (Figure 2) and the two following photographs taken from the stop line. The available sight distance in both directions is less than 45 metres. Note that the requirement for sight distance is measured from 5 metres back of the stop line (as shown in Figure 2) and not from the perspective the two photographs were taken. The following shoulder sight distances are required for operational speeds of 60 km/h along a major road (UTG 1, Guidelines for the Geometric Design of Urban Arterial Roads):

- Passenger Car: 120 m
- Single Unit Truck: 175 m

From this, it is evident that the available shoulder sight distance for the exit from Blue Mountain via the Contractor Access is inadequate. It is our understanding based on information provided by the management of Blue Mountain, that there have been accidents at the access. However, the cause and/or reasons for these crashes are uncertain, but may most likely have been due to the limited sight distance.

The traffic volumes along Park Road, conflicting with the traffic exiting from the Contractor Access have historically been relatively low since the Eden Meander precinct has not been fully developed. However, several new developments are being completed and in process along Park Road. This will increase the traffic volumes along Park Road, which will increase the conflicts at the Contractor Access with a significant impact on the safety of the vehicles and pedestrians using the access. The Contractor Access was never intended and/or designed as a long-term access into the Blue Mountain development. From a safety perspective, the access needs to be closed as soon as possible. Alternatively, the control at the intersection of the Contractor Access/Park Road intersection needs to be changed to stop the traffic along Park Road either with a 4-way stop, a roundabout or a traffic signal. Changing the control has several other implications for mobility along Park Road and since it was never the intention in the planning for the area, the least impact is to close the access.



Figure 3: Available Sight Distance – Exit from Contractor Access to Park Road



Figure 4: View to the left: Contractor Access along Park Road



Figure 5: View to the Right: Contractor Access along Park Road

The obvious and safer alternative access to Blue Mountain development would be via the proposed secondary access off Platinum Street. This was investigated and recommended in the TechIQ impact assessment dated August 2023. This second access is in line with the existing internal road network. The access to Platinum Drive will be in a safe location for traffic exiting the Blue Mountain Development. The intersection of Park Road/Platinum Drive was planned for a roundabout. The first phase of the intersection was also built to minimize the cost of building a roundabout. The July 2023 TIA conducted by ITS, recommended that the roundabout be constructed as part of the development of a possible retail development on the corner of Park Road/Platinum Drive intersection.

Redistribution of Traffic

The current traffic and person volumes through the main gate and the contractor gate are as follows (data for February 2024):

Gate	Type	Average Volumes	
		Weekday	Weekend Day
Main Gate	Residents (Vehicles)	3 350	2 390
	Visitors (Vehicles)	300	380
	TOTAL	3 650	2 770
Contractor Gate	Contractors (Vehicles)	270	25
	Domestic Workers (Persons)	170	30
	Gardeners (Persons)	40	22
	TOTAL (Vehicles)	270	25

The daily vehicle volumes through the contractor gate are approximately 7.4% of the total vehicle volumes using the main gate. With only 30 undeveloped/open erven remaining in the precinct, the number of contractor vehicles is expected to reduce significantly over the next few years. Most of the undeveloped erven, i.e. approximately 20 of the 30 erven are in the south-eastern corner and along Patrysbos Street. With the proposed new gate off Platinum Drive, most of the contractor vehicles will access the sites via the new access and along Platinum Drive. Refer to the following figure where the green highlighted route indicates the route along which most of the remaining contractor vehicles will drive to access most of the remaining open erven.

Closing the current contractor access will not only have safety benefits for the vehicles accessing the network onto Park Road, but it will also minimise any construction traffic nuisance along the internal road network. With the new access off Platinum Drive and most of the undeveloped erven in the southeastern corner, the construction vehicle activity along the rest of the internal road network will be as low as it will be in any other scenario.

Once the construction of residential units on the open erven is completed it is expected that 10% – 15% of the current traffic through the main gate, will use the new access of Platinum Drive. The daily volumes are then expected to be as follows:

- Main Gate Daily Weekday Volumes: 3 100 – 3 300 vehicles per day
- Proposed New Gate: 360 - 550 vehicles per day

During the peak hours, the percentage of residents using the new gate may be as much as 20%, if they wish to avoid the possible congestion at the main gate. In the TechIQ TIA it was estimated that this could be as high as 21.15%.

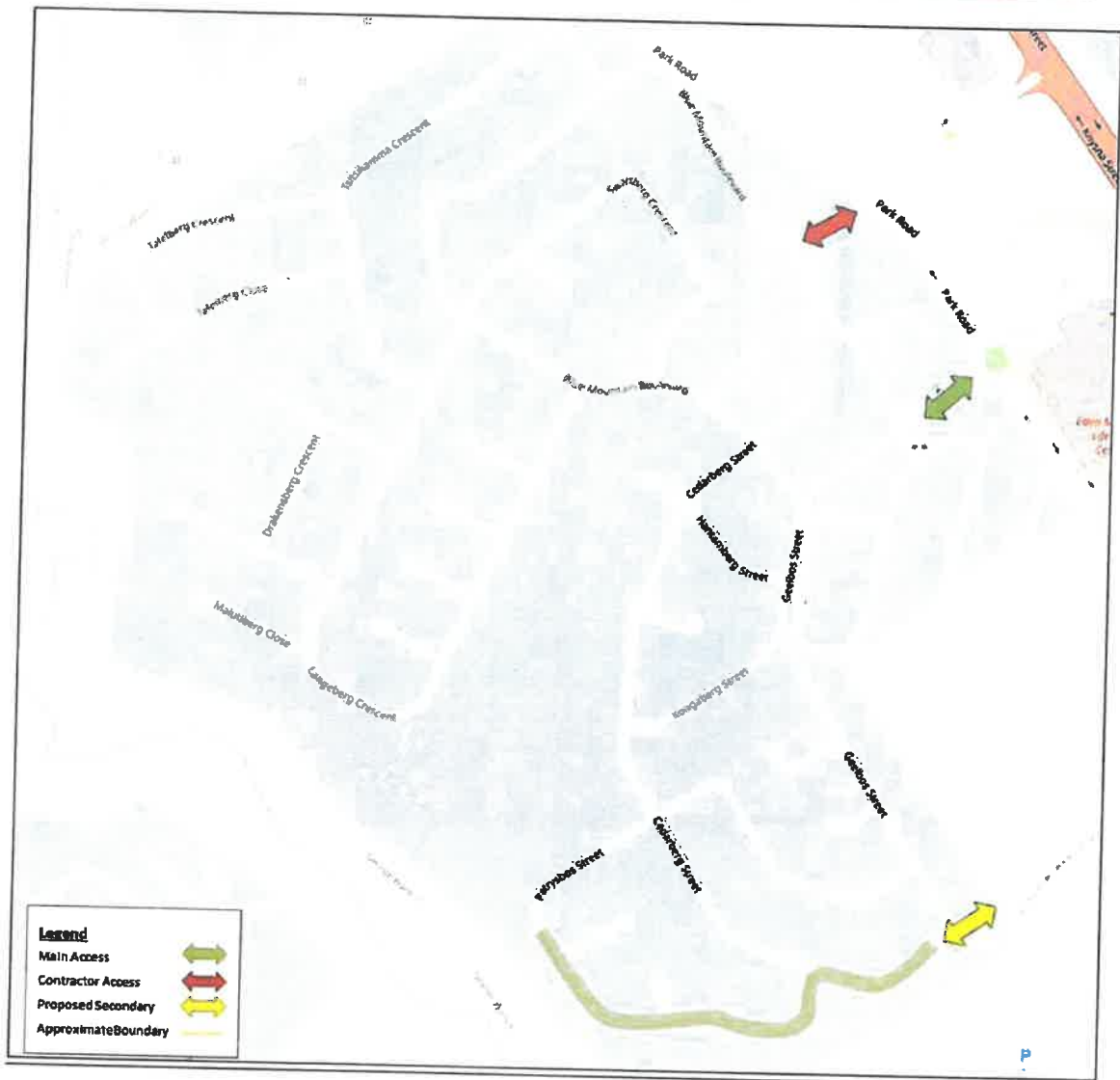


Figure 6: Blue Mountain Road Network – Construction Vehicle Route

Reinstatement of Contractor Access.

The Contractor Access needs to be closed and re-instated. The details of how this should be done are outlined in Figures A1 and A2 in Annexure A.

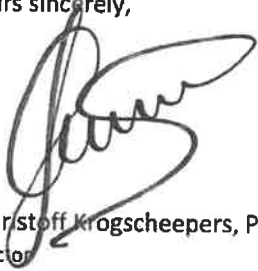
Summary

In summary, we conclude that the current Contractor Access to Blue Mountain should be closed and may be replaced by another access via Platinum Drive. The Contractor Access was never intended as a long-term access but as a temporary access for construction traffic. The available sight distances

along Park Road are unsafe and the safety of the access onto Park Road will even further deteriorate with the anticipated increase in traffic volumes along Park Road.

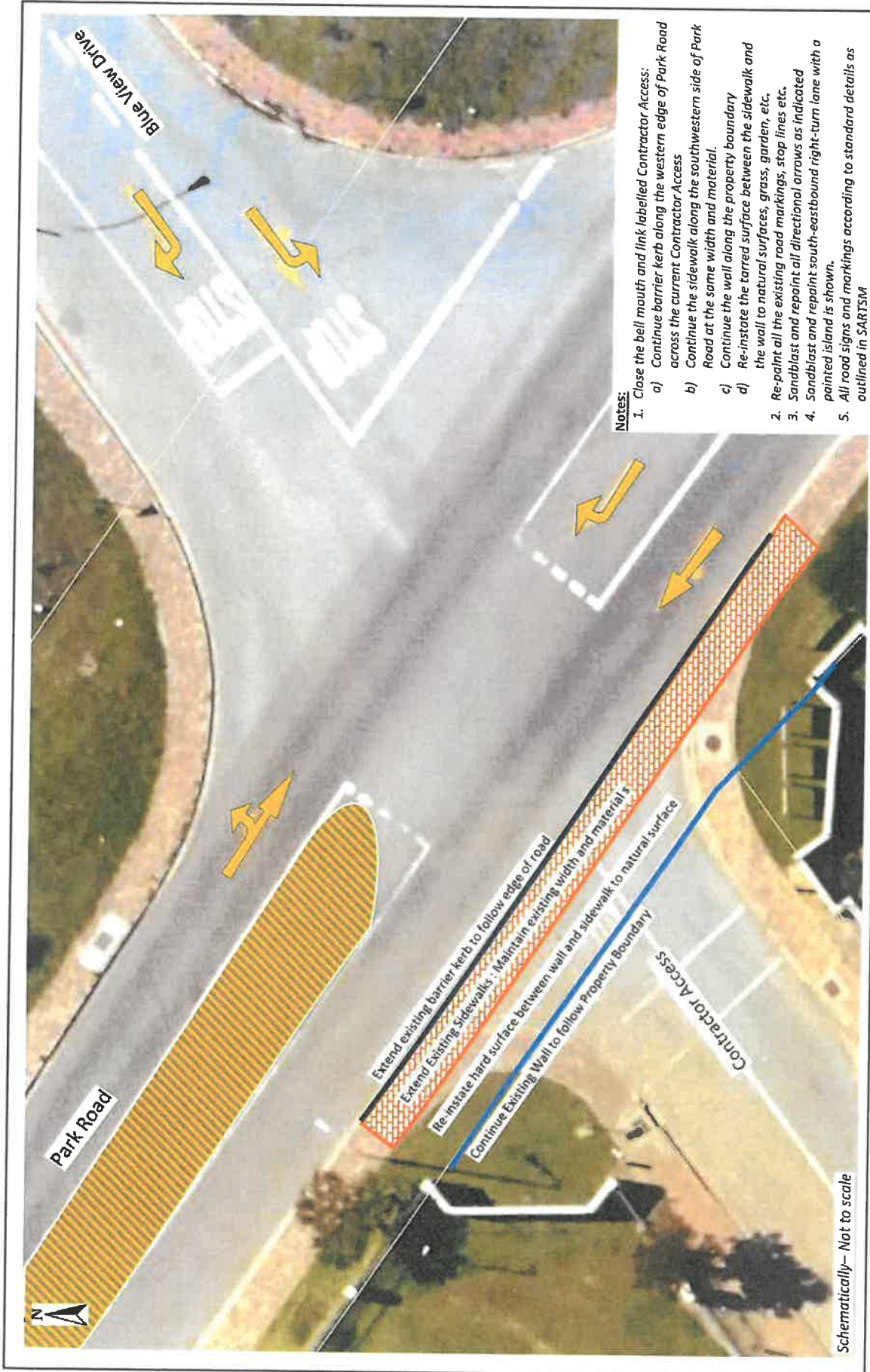
With the closure of the contractor gate and the proposed new gate, it is anticipated that in terms of daily traffic between 10 and 15% of the vehicles currently using the main gate, could move to the new gate off Platinum Drive.

Yours sincerely,




J Christoff Krogscheepers, PhD, Pr. Eng.
Director

Annexure A: Sketches – Closure of Contractor Access



Notes:

1. Close the bell mouth and link labelled Contractor Access:
 - a) Continue barrier kerb along the western edge of Park Road across the current Contractor Access
 - b) Continue the sidewalk along the southwestern side of Park Road at the same width and material.
 - c) Continue the wall along the property boundary
 - d) Re-instate the tarred surface between the sidewalk and the wall to natural surfaces, grass, garden, etc.
2. Re-paint all the existing road markings, stop lines etc.
3. Sandblast and repaint all directional arrows as indicated
4. Sandblast and repaint south-eastbound right-turn lane with a painted island is shown.
5. All road signs and markings according to standard details as outlined in SARTSM

	PROJECT Blue Mountain Garden: Closure of Contractor Access	FIGURE: Proposed Reinstatement of Contractor Access along Park Road Close-up View	NUMBER A1
---	---	---	--------------



Notes:

1. Close the bell mouth and link labelled Contractor Access:
 - a) Continue barrier kerb along the western edge of Park Road across the current Contractor Access
 - b) Continue the sidewalk along the southwestern side of Park Road at the same width and material.
 - c) Continue the wall along the property boundary
 - d) Re-instate the tarred surface between the sidewalk and the wall to natural surfaces, grass, garden, etc.
2. Re-paint all the existing road markings, stop lines etc.
3. Sandblast and repaint all directional arrows as indicated
4. Sandblast and repaint south-eastbound right-turn lane with a painted island as shown.
5. All road signs and markings according to standard details as outlined in SARTSM

PROJECT:

Blue Mountain Garden: Closure of Contractor Access

FIGURE:

Proposed Reinstatement of Contractor Access along Park Road
Zoomed-out View

NUMBER:

A2



ANNEXURE G

29 De Havilland Crescent
Pro Park, Building 1
Perseus Technopark
Pretoria 0020
+27 (0)12 349 1664
gauteng@itsglobal.co.za

5th Floor, Imperial Terraces
Carl Cronje Drive,
Tyger Waterfront
Bellville 7530
+27 (0)21 914 6211
westerncape@itsglobal.co.za

www.itsglobal.co.za

Applewood Trading 128 (PTY) Ltd

Email: cjtroodt@gmail.com

15 March 2024

Our Reference: 4578

Attention: Mr Chris Roodt

Dear Mr Roodt,

Access to Blue Mountain Gardens: Closure of Contractors Gate and new Secondary Gate

Regarding your request for an investigation into the viability and need for closing the current contractor gate to the larger Blue Mountain development. The Blue Mountain development consists of the following sub-areas:

- Blue Mountain Haven - 60 Sectional title units old age home
- Blue Mountain Gables - 64 Sectional title units with a proposed expansion of 23 units
- Retirement Estate - 82 Single Residential Units
- Blue Mountain Village – 425 Single Residential Units (10 erven vacant)
- Blue Mountain Gardens - 219 Duet erven (14 erven vacant)

A locality map indicating the site in the context of the larger precinct around the Garden Route Mall as well as the two existing accesses and the proposed new access are shown in Figure 1.

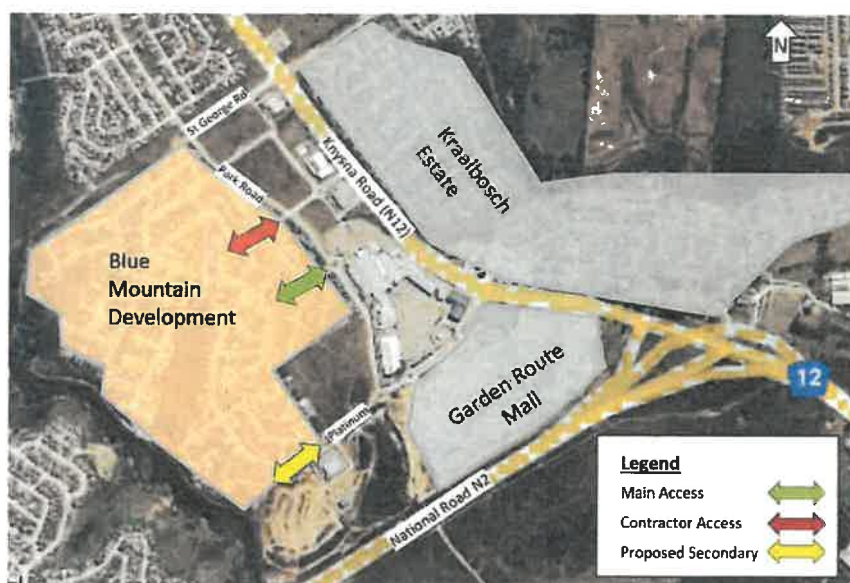


Figure 1: Locality Map

THINKING GLOBAL, ACTING LOCAL

Directors: JL Coetzee Pr Eng (Managing), Dr P Pretorius Pr Eng
Dr JC Krogscheepers Pr Eng, Mrs LC Pretorius Pr Eng, Ms O Ribeiro MBA
Registration No: 2001/027 205/07

Existing Situation

The status quo situation of the Blue Mountain development is depicted in the following figure. From this, it is evident that:

- The development is mostly built-out, i.e. there are only a few erven not developed. This implies that a dedicated contractor gate is no longer needed. The traffic volumes in/out of the development are close to the ultimate traffic demand in/out of the development. The traffic pattern should be stable. There is approximately 30 undeveloped erven within the larger Blue Mountain Development. Most of these are in the south-eastern corner along Patrysbos Street.
- The proposed access off Platinum Drive is in line with the original planned internal road network.
- The location of the Contractor Access is on the inside of a horizontal curve.



Figure 2: Status Quo of Blue Mountain Development – Development Progress and Accesses

Purpose and Background

The purpose of this letter is to motivate the closure of the current Contractor Access and in this context, we refer to the following recent studies:

- Proposed secondary access gate to Blue Mountain in the George Municipality, TIA, TechIQ, October 2023
- Eden Meander Development, George, Western Cape, Transport Impact Assessment, ITS (Pty) Ltd, July 2023.

The ITS TIA evaluated the transport impact of the development of the remaining open erven in the Eden Meander Precinct. The study covered all the intersections along Park Road, including the Main and Contractor Accesses. For the total future scenario, it was assumed that the Contractor Access to the Blue Mountain Development will be closed and that all that current movement through that access

will re-route to the Main Access. The study did not specifically allow for secondary access to Blue Mountain and it concluded that:

“The construction access to Blue Mountain Village is no longer required. From a traffic operations perspective, it is possible to seize the use of the access and divert all current traffic to the main access to Blue Mountain Village. This will not result in any operational issues on the network and specifically also none at the main entrance gate to Blue Mountain Village.”

The focus of the ITS TIA was on the larger impacts on the major road network of the precinct's development and did not specifically investigate possible queuing issues at the Main Access to Blue Mountain. The latter was investigated in the TechIQ study of October 2023. In the latter study it was concluded that with the closure of the Contractor Gate, the queues entering the Main Access to Blue Mountain may occasionally spill back into the roundabout along Park Road, supporting the construction of an alternative access to Blue Mountain and specifically on Platinum Drive.

Safety Evaluation of Contractor Access

Irrespective of operational requirements and changes in operations at the current gates and future gates, the existing Contractor Access is unsafe due to the available sight distance for vehicles exiting from the Contractor Access onto Park Road. The access is located on the inside of a horizontal curve. With the absence of adequate splays on either side of the access and the walls built on the property boundary, the sight distances in both directions are inadequate. The available sight distance along Park Road from the access is illustrated in the layout drawing (Figure 2) and the two following photographs taken from the stop line. The available sight distance in both directions is less than 45 metres. Note that the requirement for sight distance is measured from 5 metres back of the stop line (as shown in Figure 2) and not from the perspective the two photographs were taken. The following shoulder sight distances are required for operational speeds of 60 km/h along a major road (UTG 1, Guidelines for the Geometric Design of Urban Arterial Roads):

- Passenger Car: 120 m
- Single Unit Truck: 175 m

From this, it is evident that the available shoulder sight distance for the exit from Blue Mountain via the Contractor Access is inadequate. It is our understanding based on information provided by the management of Blue Mountain, that there have been accidents at the access. However, the cause and/or reasons for these crashes are uncertain, but may most likely have been due to the limited sight distance.

The traffic volumes along Park Road, conflicting with the traffic exiting from the Contractor Access have historically been relatively low since the Eden Meander precinct has not been fully developed. However, several new developments are being completed and in process along Park Road. This will increase the traffic volumes along Park Road, which will increase the conflicts at the Contractor Access with a significant impact on the safety of the vehicles and pedestrians using the access. The Contractor Access was never intended and/or designed as a long-term access into the Blue Mountain development. From a safety perspective, the access needs to be closed as soon as possible. Alternatively, the control at the intersection of the Contractor Access/Park Road intersection needs to be changed to stop the traffic along Park Road either with a 4-way stop, a roundabout or a traffic signal. Changing the control has several other implications for mobility along Park Road and since it was never the intention in the planning for the area, the least impact is to close the access.



Figure 3: Available Sight Distance – Exit from Contractor Access to Park Road



Figure 4: View to the left: Contractor Access along Park Road



Figure 5: View to the Right: Contractor Access along Park Road

The obvious and safer alternative access to Blue Mountain development would be via the proposed secondary access off Platinum Street. This was investigated and recommended in the TechIQ impact assessment dated August 2023. This second access is in line with the existing internal road network. The access to Platinum Drive will be in a safe location for traffic exiting the Blue Mountain Development. The intersection of Park Road/Platinum Drive was planned for a roundabout. The first phase of the intersection was also built to minimize the cost of building a roundabout. The July 2023 TIA conducted by ITS, recommended that the roundabout be constructed as part of the development of a possible retail development on the corner of Park Road/Platinum Drive intersection.

Redistribution of Traffic

The current traffic and person volumes through the main gate and the contractor gate are as follows (data for February 2024):

Gate	Type	Average Volumes	
		Weekday	Weekend Day
Main Gate	Residents (Vehicles)	3 350	2 390
	Visitors (Vehicles)	300	380
	TOTAL	3 650	2 770
Contractor Gate	Contractors (Vehicles)	270	25
	Domestic Workers (Persons)	170	30
	Gardeners (Persons)	40	22
	TOTAL (Vehicles)	270	25

The daily vehicle volumes through the contractor gate are approximately 7.4% of the total vehicle volumes using the main gate. With only 30 undeveloped/open erven remaining in the precinct, the number of contractor vehicles is expected to reduce significantly over the next few years. Most of the undeveloped erven, i.e. approximately 20 of the 30 erven are in the south-eastern corner and along Patrysbos Street. With the proposed new gate off Platinum Drive, most of the contractor vehicles will access the sites via the new access and along Platinum Drive. Refer to the following figure where the green highlighted route indicates the route along which most of the remaining contractor vehicles will drive to access most of the remaining open erven.

Closing the current contractor access will not only have safety benefits for the vehicles accessing the network onto Park Road, but it will also minimise any construction traffic nuisance along the internal road network. With the new access off Platinum Drive and most of the undeveloped erven in the southeastern corner, the construction vehicle activity along the rest of the internal road network will be as low as it will be in any other scenario.

Once the construction of residential units on the open erven is completed it is expected that 10% – 15% of the current traffic through the main gate, will use the new access of Platinum Drive. The daily volumes are then expected to be as follows:

- Main Gate Daily Weekday Volumes: 3 100 – 3 300 vehicles per day
- Proposed New Gate: 360 - 550 vehicles per day

During the peak hours, the percentage of residents using the new gate may be as much as 20%, if they wish to avoid the possible congestion at the main gate. In the TechIQ TIA it was estimated that this could be as high as 21.15%.



Figure 6: Blue Mountain Road Network – Construction Vehicle Route

Reinstatement of Contractor Access.

The Contractor Access needs to be closed and re-instated. The details of how this should be done are outlined in Figures A1 and A2 in Annexure A.

Summary

In summary, we conclude that the current Contractor Access to Blue Mountain should be closed and may be replaced by another access via Platinum Drive. The Contractor Access was never intended as a long-term access but as a temporary access for construction traffic. The available sight distances

along Park Road are unsafe and the safety of the access onto Park Road will even further deteriorate with the anticipated increase in traffic volumes along Park Road.

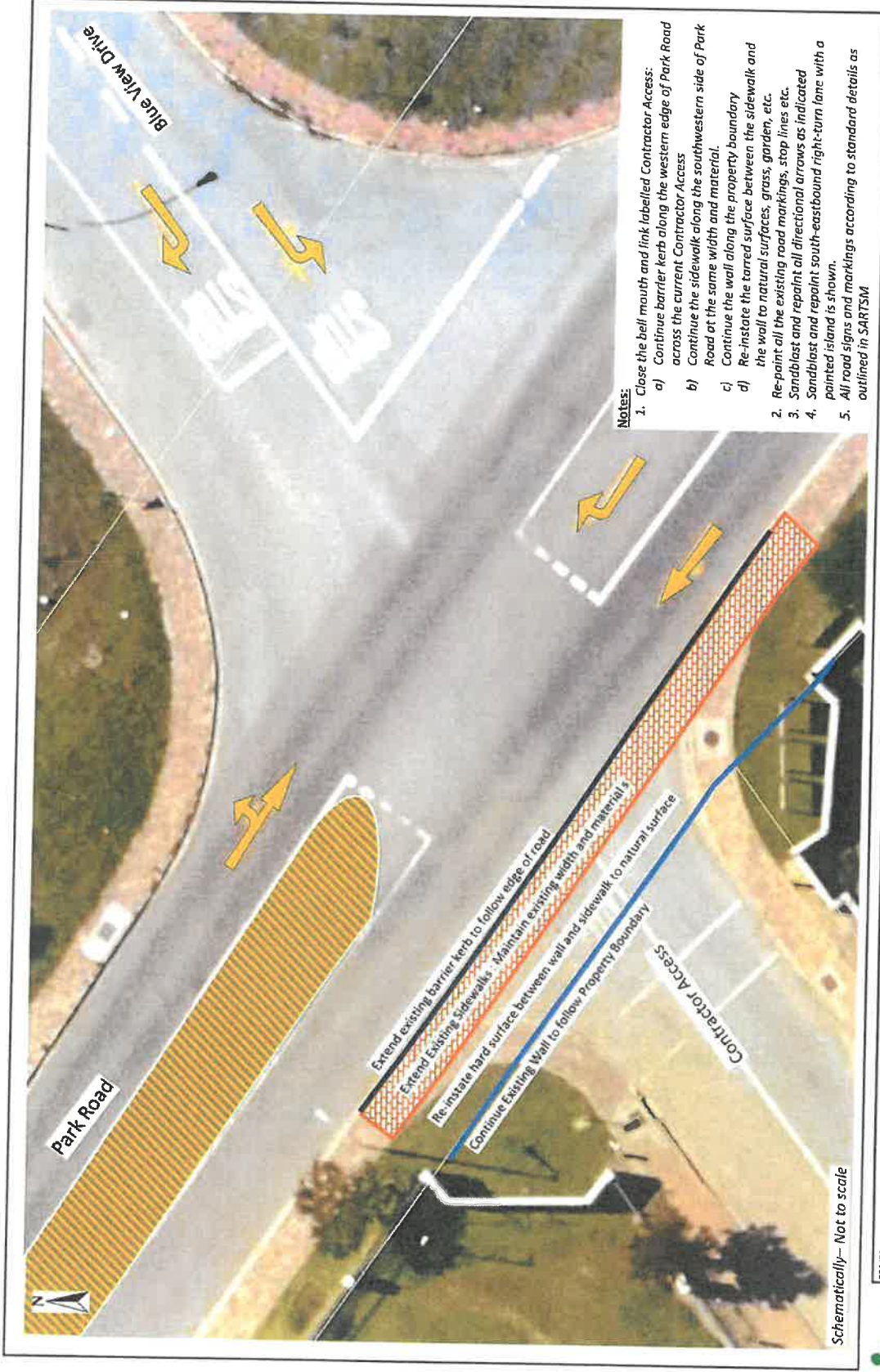
With the closure of the contractor gate and the proposed new gate, it is anticipated that in terms of daily traffic between 10 and 15% of the vehicles currently using the main gate, could move to the new gate off Platinum Drive.

Yours sincerely,



J Christoff Krogscheepers, PhD, Pr. Eng.
Director

Annexure A: Sketches – Closure of Contractor Access



Notes:

1. Close the bell mouth and link labelled Contractor Access:
 - a) Continue barrier kerb along the western edge of Park Road across the current Contractor Access
 - b) Continue the sidewalk along the southwestern side of Park Road at the same width and material.
 - c) Continue the wall along the property boundary
 - d) Re-instate the torred surface between the sidewalk and the wall to natural surfaces, grass, garden, etc.
2. Re-paint all the existing road markings, grass, garden, etc.
3. Sandblast and repaint all directional arrows as indicated
4. Sandblast and repaint south-eastbound right-turn lane with a painted island is shown.
5. All road signs and markings according to standard details as outlined in SARTSM

PROJECT

FIGURE

Blue Mountain Garden: Closure of Contractor Access

Proposed Reinstatement of Contractor Access along Park Road
Close-up View

NUMBER

A1





Notes:

1. Close the bell mouth and link labelled Contractor Access:
 - a) Continue barrier kerb along the western edge of Park Road across the current Contractor Access
 - b) Continue the sidewalk along the southwestern side of Park Road at the same width and material.
 - c) Continue the wall along the property boundary
 - d) Re-instate the tarred surface between the sidewalk and the wall to natural surfaces, grass, garden, etc.
2. Re-paint all the existing road markings, stop lines etc.
3. Sandblast and repaint all directional arrows as indicated
4. Sandblast and repaint south-eastbound right-turn lane with a painted island is shown.
5. All road signs and markings according to standard details as outlined in SARTSM

PROJECT:

Blue Mountain Garden: Closure of Contractor Access

FIGURE:

Proposed Reinstatement of Contractor Access along Park Road
Zoomed-out View

NUMBER:

A2





VGC Raadgewende Ingenieurs Kaap

Our Ref: 23.07
28 September 2023

Applewood Trading 128 (Pty) Ltd
George
6539

BLUE MOUNTAIN, Erf 24825 GEORGE: SUBDIVISION INTO PORTIONS A, B and C SERVICES REPORT: CIVIL INFRASTRUCTURE

1. BACKGROUND

The administrative offices for the Blue Mountain Village Master Property Home Owners Association and facilities ancillary to the HOA for the functioning of the Estate has been developed on Erf 24825, Blue Mountain.

It is the intention of the developer to subdivide Erf 24825 into portions A, B and C.

Only portions B and C is considered under this report.

2. PROPOSED NEW DEVELOPMENT ON PORTIONS B AND C

2.1 Portion B: This subdivision will have a size of 1775m². The existing administrative building of 607m² will be enlarged to 645m² and converted into a 15 bed Memory Care Centre.

2.2 Portion C: There is a service road and access gate on a 13m registered right of way on the southern boundary of the site. The rest of the site is undeveloped.

Portion C will have an area of 4 301m² and will have 17 one bedroom and 6 two bedroom retirement units with parking and garages.

3. BULK SERVICES

The proposed development forms part of the existing Blue Mountain Village township and all existing bulk services were approved by the George Municipality for the original development. See attached the "As Build Drawings" of the services.

GLS Consulting, responsible for the Water and Sewer Master Planning for George Municipality, was consulted as to the demands to apply for the water and sewage.

3.1 ACCESS

Portion B has an existing access from Blue Mountain Boulevard.

Portion C will have a separate access from Blue Mountain Boulevard.

GROOT BRAKRIVIER

Duikersirkel 31
Outeniqua Strand
GROOT BRAKRIVIER
6525

Posbus 1190
GROOT BRAKRIVIER
6525

grebe@intemet-sa.co.za
Tel: (082 4566514

IN ASSOSIASIE MET:

ILIFA Africa Engineers (Pty)
Ltd

Kantore te:

Dundee
Empangeni
Harrismith
Krugersdorp
Midrand
Pretoria
Richardsbaai
Sasolburg
Vanderbijlpark

Vennote:

DK Grebe Pr Ing
B Ing (Siv) (Stell)
Gev PB (Sert) (Pret)

Spesialis Raadgewers:

3.2 WATER

Portion B has an existing water connection and the new AADD will be approximately 3,3kℓ/day (220ℓ/bed) compared to the existing use of approximately 2,5kℓ/d(400ℓ/100m²), which is a negligible increase load on the the bulk water network.

Portion C will get a new erf connection from the existing pipeline on the boundary in Blue Mountain Boulevard.

The Average annual daily demand (AADD) as per GLS Consulting Table was applied.

See table below:

Table: Summary of the design standards for average annual daily demand & sewer outflow figures										
Water Loss = 10%										
Item	Land use / Zoning	Density (up to) #/ha	Stand size (up to) m ²	Unit of measure For liter ³ see #	Water Demand (excl. Loss) (AADD)		Water Demand (incl. Loss)		Sewer flow (FGDW) (excl. infiltration)	
					Dom + garden ℓ/unit/d	Total ℓ/unit/d	Total ℓ/unit/d	% AADD	Total ℓ/unit/d	Unit Type
A - SINGLE RESIDENTIAL										
14 A 2	Residential (George & Wilderness)									
15 A 2.01	Very High density, small sized Residential stands	32.0	250	unit	0.38 + 0.07 =	0.450	0.500	85%	0.425	UH10
16 A 2.02	High density, small sized Residential stands	16.0	500	unit	0.40 + 0.10 =	0.500	0.556	80%	0.466	UH44
17 A 2.03	Medium density, medium sized Residential stands	8.0	1000	unit	0.46 + 0.20 =	0.650	0.722	70%	0.506	UH13
18 A 2.04	Low density, large sized Residential stands	5.3	1500	unit	0.45 + 0.30 =	0.750	0.833	60%	0.500	UH2
19 A 2.05	Very Low density, extra large sized Residential stands	4.0	2000	unit	0.50 + 0.41 =	0.900	1.000	55%	0.550	UH1
52 B 1	Group Housing (George & Wilderness)									
53 B 3.01	Very High density Group Housing units	60.0	133	unit	0.24 + 0.01 =	0.250	0.278	95%	0.264	UH12
54 B 3.02	High density Group Housing units	40.0	200	unit	0.27 + 0.03 =	0.300	0.333	90%	0.300	UH11
55 B 3.03	Medium density Group Housing units	30.0	267	unit	0.31 + 0.06 =	0.367	0.407	85%	0.346	UH10
56 B 3.04	Low density Group Housing units	20.0	400	unit	0.40 + 0.10 =	0.500	0.556	80%	0.444	UH4
62 B 3	Flats (George & Wilderness)									
63 B 3.01	Very High density Flat units up to 50 m ² (Footprint=0.6 and Storeys=2)	100.0	80	unit	0.14 + 0.01 =	0.150	0.167	95%	0.158	UH12
64 B 3.02	High density Flat units up to 50 m ² (Footprint=0.6 and Storeys=1)	80.0	100	unit	0.19 + 0.01 =	0.200	0.222	95%	0.211	UH12
65 B 3.03	Medium density Flat units up to 50 m ² (Footprint=0.6 and Storeys=1)	60.0	133	unit	0.24 + 0.01 =	0.250	0.278	95%	0.264	UH12
66 B 3.04	Low density Flat units up to 50 m ² (Footprint=0.6 and Storeys=1)	40.0	200	unit	0.27 + 0.03 =	0.300	0.333	90%	0.300	UH11

Only water wise gardening will be implemented.

The Annual Average Daily Demand will be:

$$\begin{aligned}
 17 \times 333\ell/\text{u/d one bedroom units} &= 5,66 \\
 6 \times 407\ell/\text{u/d two bedroom units} &= \underline{2,44} \\
 &= \mathbf{8,10 \text{ k}\ell/\text{day}}
 \end{aligned}$$

The peak flow will be approximately **0,42ℓ/s**.

The water use for Portions A, B and C is in line with the initial design parameters and the bulk network can accommodate the flows.

3.3 SEWER

Portion B has an existing connection to the bulk sewer on Park Drive.

The additional AADD for the new Memory Care centre will be a negligible **0,008ℓ/s (0,68 kℓ/day)**.

The internal sewer reticulation of **Portion C** will be connected to the existing bulk sewer line in Park Drive at manhole N13.

The AADD for the retirement units will be:

$$\begin{aligned}
 17 \times 333 \times 0,80 \text{ one bedroom units} &= 4,81 \\
 6 \times 407 \times 0,80 \text{ two bedroom units} &= \underline{2,07} \\
 &= \mathbf{6,88 \text{ k}\ell/\text{day}}
 \end{aligned}$$

The peak flow of the combined additional sewer discharge for portions B and C, with a peak factor of 4, is **0,245ℓ/s**. The existing bulk sewer reticulation can accommodate this small additional flow.

3.4 STORMWATER

No additional stormwater will be generated at **Portion B** and the existing subsurface drainage is connected to the bulk stormwater network in Park Drive.

An existing stormwater kerb inlet/connection for **Portion C** is available in the south-eastern corner of the site. The internal subsurface drainage system for the retirement development will connect to the bulk stormwater system at that point.

3.5 WASTE DISPOSAL

The proposed development forms part of the existing Blue Mountain Village which is already serviced by the municipal waste infrastructure.

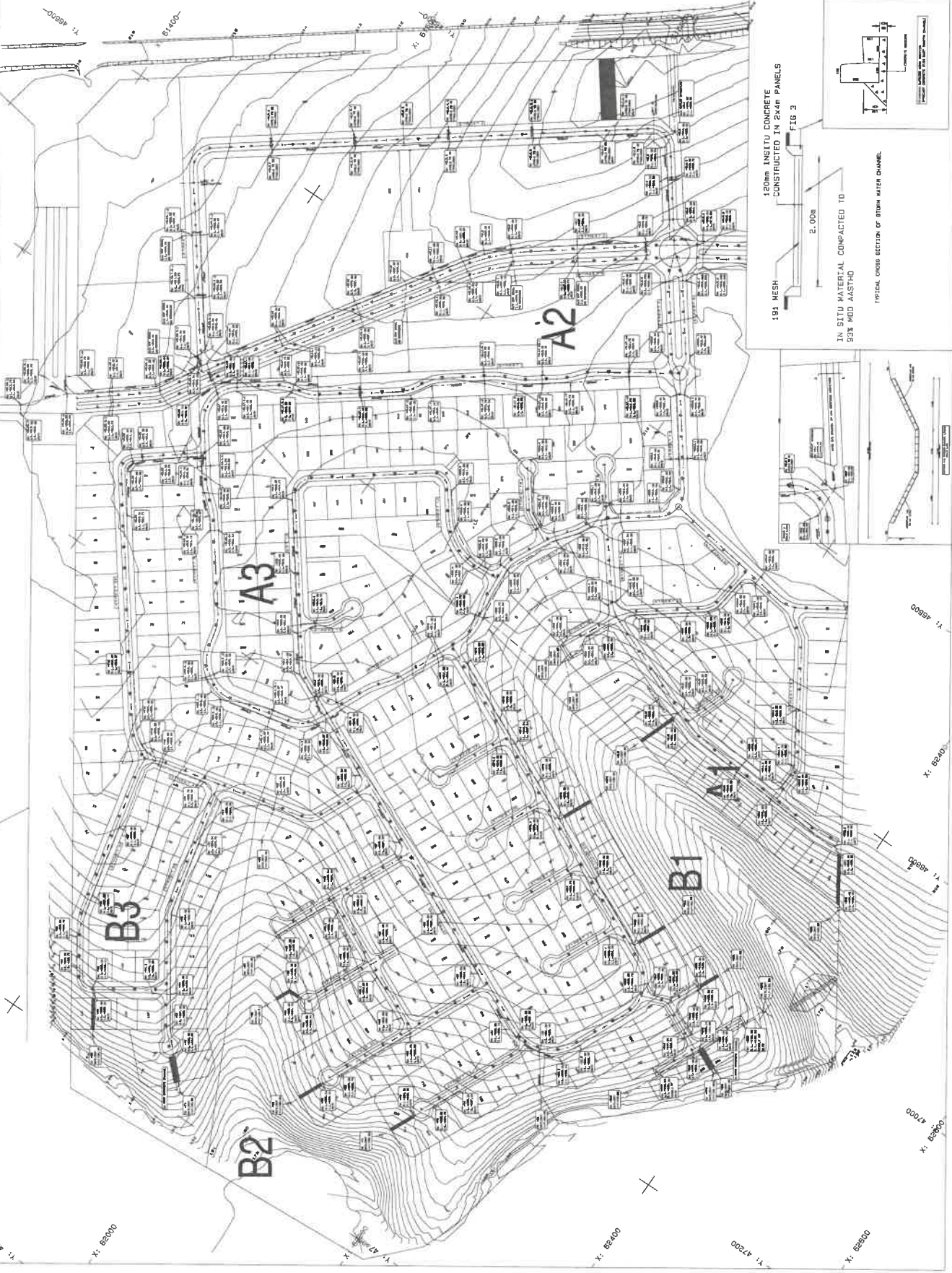
Medical waste at **Portion B** will be incorporated with that of the existing Frail Care Facility at Blue Mountain Haven. All other waste will be serviced as at present.

The waste generated at Portion C at 2kg/person will be at average about $23 \times 2p/u \times 2kg = 92kg/day$.

4. We are available to provide further information that may be required.



Dion K Grebe Pr. Eng



NO. _____
 PROJECTS / MEMBERS
 NAME AND ADDRESS OF CLIENT/OWNER/ARCHITECT/ENGINEER
VBC RAADGENDE INGENIEURS KAAP.
 RAADGENDE BOUWERS EN STRUKTURELE INGENIEUR
 14 KEMPERIAAN, WILHELMIA, JOHANNESBURG
 2001
 TEL: 011 486 3333
 FAX: 011 486 3334
 E-MAIL: info@vbc.co.za



KY3
KWAZI NATAL ENGINEERS
 1011 10TH AVENUE
 GEORGETOWN
 GEORGETOWN
 TEL: 031 27 44 873/887
 FAX: 031 27 44 874
 E-MAIL: info@ky3.co.za

SURVEYED/OPEEMET	TRACED/ANSIEKTRIP	DESIGNED/ONTWERP	APPROVED/GOEDKEUR
COMPILED/SAAMSTEL	ADAPTED/AMENSA	DRAWN/GETEKEN	CHECKED/AMENSA
PLAN NO./NO.	DATE/DAAT	PROJECT NO./NO.	DATE/DAAT

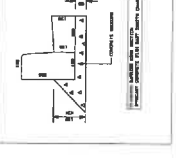
CLIENT
CUMULUS PROJECTS (Pty) Ltd.
 PO BOX 4688
 GEORGETOWN EAST
 6539

APPROVED	DATE/DATE
RECOMMENDED	DATE/DATE
DATE/DATE	DATE/DATE

PROJECT TITLE / PROJEKTITTEL
**BLUE MOUNTAIN VILLAGE
 CONSTRUCTION OF ROADS
 AND SERVICES**

CLIENT / KLIANT	DATE / DATUM
SCALE	SCALE
DEPT. PLAN NO.	DEPT. PLAN NO.
SHEET 1 OF 1	SHEET 1 OF 1

120mm INSITU CONCRETE
CONSTRUCTED IN 2x4m PANELS
FIG 3



194 MESH
IN SITU MATERIAL COMPACTED TO
93% MOD AASTHO
TYPICAL CROSS SECTION OF STORM WATER CHANNEL

- 1 POSITIONS FOR THE CHECK VALVE BOXES REFER TO 200150FS0/24 FOR DETAIL
- 2 NEW POSITION OF SHUT OFF VALVE BOX ON GROUND PIPE - REFER TO 200150FS0/26 FOR DETAIL
- 3 NEW CONFIGURATION OF WATER PIPES AND FITTINGS REFER TO 200150FS0/23 FOR DETAIL - DRAWING 3
- 4 NEW HORIZONTAL ALIGNMENT FOR STREET 5 & 6 REFER TO 200150FS0/16 FOR DETAIL

ISSUES / AMENDMENTS

DATE: 15/08/2001
 DRAWN BY: J. J. VAN DER WERF
 CHECKED BY: J. J. VAN DER WERF
 APPROVED BY: J. J. VAN DER WERF

VBC RAADGENOEGE INGENIEURSKAAP
 PRACHTINGSTUUR EN STRUKTURALE INGENIEURSBUREAU
 NIEUWSTADT, 7530 BZ
 TEL: 0511 481111
 FAX: 0511 481112
 WWW.VBC.NL

KV3
 KWEZEL V3 ENGINEERS
 6, Oude 747
 Tel: +27 11 473 7877
 Email: kv3@kv3.co.za

TRACED/AMETREK	
COMPILED/SAANSTEL	
ADAPTED/ANGEPAS	
DRYNN/BEKON	A.J.F.
CHECKED/AMBEKON	
DESIGNED/ONTWEP	A.J.F.
APPROVED/GOEDGEK	
PLAN NR./NO.	DA
DATE/PROEKS. DAT.	DA

CLIENT: CUMULUS PROJECTS (Pty) Ltd.
 PO BOX 4029
 GEORGE EAST
 6539

DATE: 15/08/2001
 DRAWN BY: J. J. VAN DER WERF
 CHECKED BY: J. J. VAN DER WERF
 APPROVED BY: J. J. VAN DER WERF

AMBEVEEL		DATE/DATE
RECOMMENDED		18/08/2001
GOEDGEKOP		DATE/DATE
APPROVED		

PROJECT TITLE: /PROEKTITEL
 BLUE MOUNTAIN VILLAGE
 CONSTRUCTION OF ROADS
 AND SERVICES

PLANTITEL/PLAN TITLE
 WATER LAYOUT

PROJECT NR./PROJECT NO.
 LEER / FILE

SCALE: 1:1000

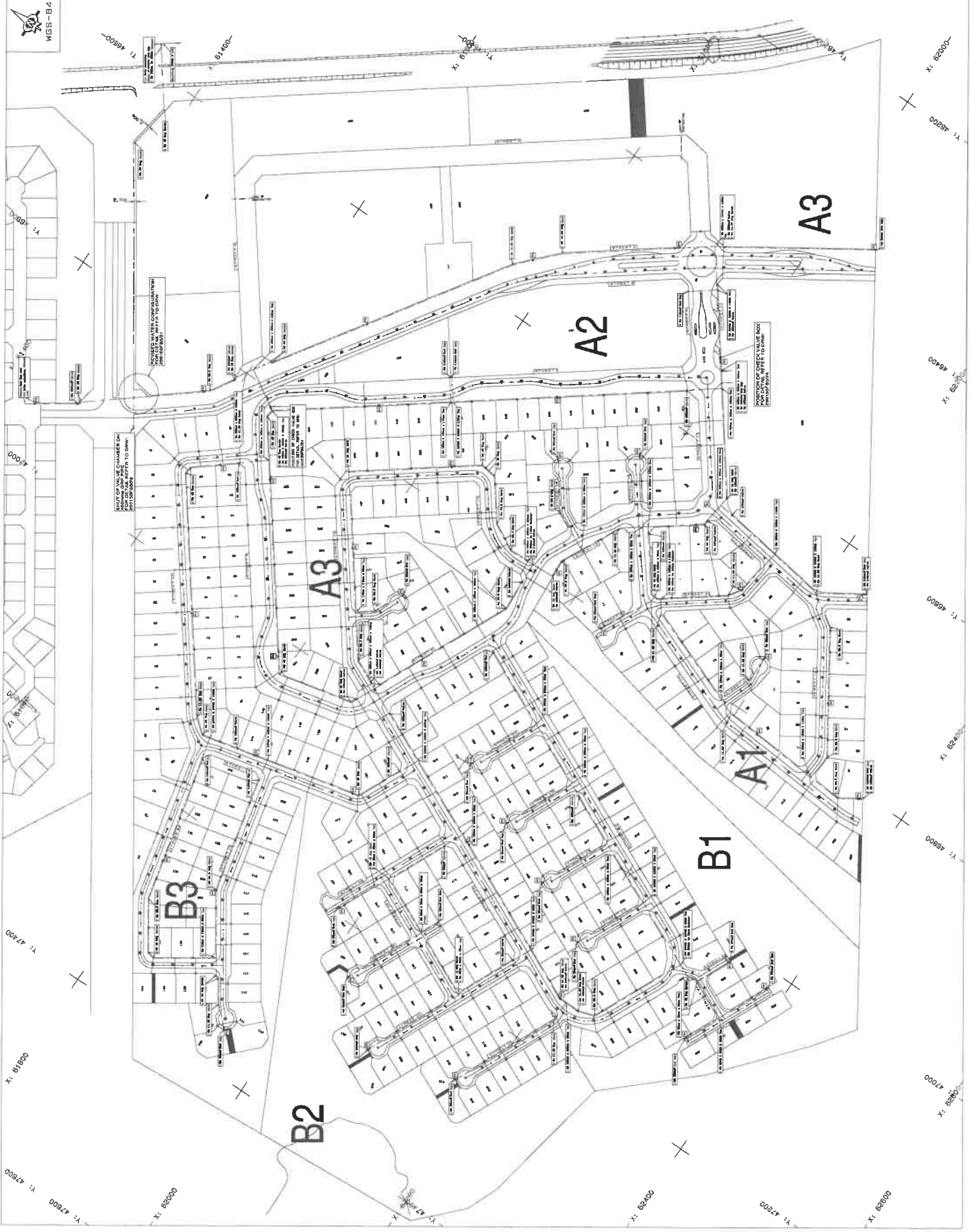
DEPT. PLAN NO. 200150FS0/3a - A1

DEPT. PLAN NO. 200150FS0/3a - A1

SHEET 1 OF 1

VELLE SHEETS

HEBSTER



CLIENT: APPLEWOOD TRADING128 (PTY) LTD

SERVICES REPORT

FOR

ELECTRICAL ENGINEERING SERVICES

PROJECT NAME : BLUE MOUNTAIN GABLES ON ERF 24845 PORTION C

DATE: OCTOBER 2023

Compiled for :

Applewood Trading128 (PTY) Ltd

Compiled by :



**Lyners & Associates (RF) (Pty) Ltd
P O Box 757
GEORGE
6530**

REPORT DETAILS :**Lyners Reference No:****Client:** Applewood Trading128 (PTY) Ltd**Report prepared by:** Jacques van Zyl**Client representative:** Chris Roodt**Keywords:****Revision record and date:**

Date	Revision	Status	Format	Issued to:
18/10/2023	0		PDF	C Roodt

Disclaimer, Confidentiality and Copyright :

This report was prepared for the Client based on information obtained from the Client including existing services information, water meter readings of historical water consumption, data of equipment installed, sub metering information, water re-use quantities and related information as part of the project.

Lyners, its members and staff accept no responsibility for :

- Correctness of the information provided.
- Any matters outside the agreed scope of work.

The contents of this report is confidential. Any third party which uses or considers any information, calculations or statement in this report does so at their own risk.

Copyright of this report rests with Lyners, unless otherwise agreed to in writing and no part of this report may be reproduced copied or transmitted in any form or by any means whatsoever to any person without written permission by the copyright holder.

CONTENTS LIST		PAGE
1.	AVAILABLE INFORMATION AND INVESTIGATIONS	4
1.1	Land Development	4
2.	SUPPLY OF ELECTRICAL SERVICES	4
2.1	Electrical Demand	4
2.2	Internal Electrical Services	4
2.3	External Electrical Services.....	4
2.4	Contributions and other requirements by supply authority.....	5

EXECUTIVE SUMMARY

Applewood Trading128 (PTY) Ltd appointed Neil Lyners and Associates (RF)(Pty) Ltd to compile an engineering services report for The Gables on Erf 24845 Portion C, George.

This report will deal with the following matters:

- The availability of engineering services.
- Planning of the services.

The development will consist of the following land uses:

- Residential Zone 2 (Retirement Units)

1. AVAILABLE INFORMATION AND INVESTIGATIONS

1.1 Land Development

The proposed Site Development Plan (SDP), indicating the proposed zoning and number of units to be developed, was provided by ISA Architects from George.

Portion C is a portion of Erf 24845 which is not developed yet.

Portion A and B are already developed into office buildings during previous developments.

2. SUPPLY OF ELECTRICAL SERVICES

2.1 Electrical Demand

The peak demand for this development is calculated based on the information provided in the SDP and the average ADMD values used within the George area. These ADMD values are in line with the values published NRS 069, *Code of Practice for the Recovery of Capital Costs for Distribution Systems*. The total estimated load is calculated as follows:

Zoning	Units	ADMD (kVA)	Total Load (kVA)
Single Res Zone II	23	2.8	64.4
Site Lighting			1
Garages			2.2
TOTAL			67.6

2.2 Internal Electrical Services

The internal network will consist of consumer distribution units and all other necessary low voltage and site lighting networks.

The internal network installed inside the development, will be constructed according to the George Municipality's guidelines, but will remain private property.

2.3 External Electrical Services

M/S Blue Mountain 1 is installed next to Erf 24845.

A new supply circuit breaker will be installed inside M/S Blue Mountain 1 with a new Metering Kiosk next to the minisub. From the Metering Kiosk, the supply will be taken into the erf.

2.4 Contributions and other requirements by supply authority

The Directorate: Electrotechnical Services, at the George Municipality, also requested the following, amongst others, as development requirements:

- Capital contributions to be paid towards the George Municipality for the additional supply.
- Connection Deposit to be paid towards the George Municipality for the additional supply.

We trust that this report meets with your approval and will gladly provide any further information that may be required.

Signed:



**J VAN ZYL Pr Techni Eng
for LYNERS**

Copies: Director: Financial Services
 Director: Civil and Technical Services
 Director: Electrotechnical Services
 Director: Planning and Development
 Surveyor-General, Private Bag X9028, CAPE TOWN, 8000

Outgoing
 11:30 26/4/2006
Qu

E-mail: stadsbeplanning@george.org.za
 Kraaibosch 195/2, 22 & 77

Mr. JG Vrolijk

044 - 801 9191

25 April 2006

REGISTERED MAIL

Delplan
 PO Box 9956
 GEORGE
 6530

**PROPOSED APPLICATION FOR SUBDIVISION AND REZONING: KRAAIBOSCH
 195/REMAINDER PORTION 2 AND PORTION 71, DIVISION GEORGE**

The abovementioned application refers.

The final approval is hereby granted:

- (a) in terms of Section 17 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) for the rezoning of the consolidated Kraaibosch 195/Remainder and Portion 71 from Agricultural Zone I to a Subdivisional Area.
- (b) in terms of Section 25 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) for the subdivision of the Subdivisional Area as indicated on the attached plan (marked annexure "A") which bears Council's stamp, subject to the following conditions, as well as the conditions contained in Annexure "B", imposed in terms of Section 42(1) of Ordinance 15 of 1985:

1. That the approval will lapse in accordance with the Ordinance if the conditions are not complied with to the satisfaction of the Municipality;

2. ZONING

The zoning of the erven will be as follows:

ZONING	PORTION NUMBER
Residential I	Portions: 1 - 425
Residential III	Portion: 437
Residential III (Retirement Village)	Portion: 436
Residential IV	Portions: 433 - 435
Residential IV and Open Space II	Portion: 429 (zoning as indicated on plan)
Business II	Portion: 426

Open Space II	Portions: 438 – 444, 458
Private Road	Portions: 446 – 457
Transport Zone II	Remainder Road: (Municipal Portions B & D) Remainder Road: (Provincial Portions C & E)
Institutional II	Portion: 427
Special Zone	Portion: 430
Authority Zone	Portion: 432

The land use restrictions applicable to the abovementioned zonings will be as stipulated in the Scheme Regulations made in terms of Section 8 of the Ordinance and promulgated under Provincial Notice 353 dated 20 June 1986 as amended.

3. CAPITAL CONTRIBUTIONS

The following pro rata contributions must be paid for the provision of services in terms of the regulations of Section 42 of the abovementioned Ordinance:

Water network: R6 450 + VAT per equivalent portion (for portions 1 – 425)

Sewerage network: R6 450 + VAT per equivalent portion (for portions 1 – 425)

Electricity network: R 3 250 + VAT per equivalent portion (for portions 1 – 425)

With regard to Portions 437, 436, 426, 429, 433, 434, 435, 427 and 430 water, sewerage and electrical contributions will be payable for every equivalent unit.

These capital contributions and the payment thereof to the George Municipality will be fully addressed in a Service Agreement between the developer and the George Municipality. For commercial/business erven, capital contributions payable by the developer, will be based on the development proposal submitted. Contributions payable may be adjusted should the actual water usage exceed the accepted normal daily usage based on the Guidelines for Human Settlement Planning and Design or the Municipal standards/specifications.

The abovementioned contributions shall be payable by the owners (developer) prior to transfer of any erf or portion (any individual erf and/or any subdivided erf), and prior to the registration of a Certificate of Registered Title ("CRT") being approved by the relevant directorate, or against approval of a building plan, whichever occurs first.

The abovementioned contributions are further subject to a yearly escalation as determined by the Council in its absolute discretion, and shall be so adjusted at the time when such contributions become due and payable.

4. DEPARTMENT OF WATER AFFAIRS AND FORESTRY (WESTERN CAPE)

That the conditions imposed by the Department of Water Affairs and Forestry (Western Cape) be adhered to, namely:

- (i) All relevant sections and regulations of the National Water Act, 1998 (Act 36 of 1998) regarding water use must be adhered to.
- (ii) No pollution of surface water or ground water resources may occur.
- (iii) Storm water management must be addressed both in terms of flooding and pollution potential.
- (iv) The 1:100 year flood line must be indicated on a plan which is acceptable to the local authority, as stipulated by section 144 of the National Water Act, 1998 (Act 36 of 1998).
- (v) The water provided for domestic use must comply with the SABS 241 Ed.5 guidelines for drinking water. Regular monitoring must be done to ensure compliance. If the quality of the water is of such a nature that it is a threat to human health, then this Department and the Provincial Department of Health must be informed, of the procedures to rectify the problem.
- (vi) The development needs to be part of the Water Services Development Plans for George Municipality and needs to be adjusted accordingly.
- (vii) The disposal of sewerage must at all times comply with the requirements of Section 22 and 40 of the National Water Act, 1998 (Act 36 of 1998).
- (viii) The sewerage from the development must be linked to the George Regional sewerage treatment works. If sewerage pump stations have to be built for connection to George Regional sewerage treatment works, a precautionary approach must be applied with the design and positioning of such structures so that no pollution to the water resources may occur during emergency situations. It is important that emergency overflows are designed not to have their flow into water resources, but that the design allows for the re-diversion from water resources.
- (ix) All relevant sections and regulations of the Environmental Conservation Act, 1989 (Act 73 of 1989) regarding the disposal of solid waste must be adhered to.

5. **DEPARTMENT OF TRANSPORT AND PUBLIC WORKS: (WESTERN CAPE)**

All conditions/requirements laid down in a letter dated 15 September 2005 received from the Department of Transport and Public Works: Western Cape must be adhered to.

6. **EDEN DISTRICT MUNICIPALITY (DIRECTOR: HEALTH)**

If foodstuffs are to be provided to the general public from any premises the following conditions imposed by the Director: Health (Eden District Municipality) must be adhered to;

- (i) that the owner obtains a business license for the preparation of meals as required in terms of the Business Act, 1991 (Act 71 of 1991);
- (ii) that the premises comply with the general hygiene requirements for food premises and the transport of food Regulation 918 of 1999 as promulgated under the Health Act, 1977 (Act 63 of 1977);
- (iii) that a certificate of acceptability be obtained as required by the Health Act, 1977 (Act 63 of 1977);
- (iv) that the premises comply with government notice R975 of 2000 relating to the smoking of tobacco products in public places as promulgated in terms of Section 2 of the Tobacco Products Control Act, 1993 (Act 83 of 1993) as amended.

7. **SERVICE AGREEMENT**

A Service Agreement shall be drawn up to regulate the construction and installation of internal and external services and other related aspects, and such Services Agreement shall be drawn up by the attorneys appointed by the

developer and as approved by the relevant directorate. All costs incurred in the preparation, negotiation and finalization of such a Service Agreement, shall be payable by the developer upon request by the applicable attorney.

8. INTERNAL SERVICES

8.1 Roads (including control access points) and associated storm water drainage:

- (i) Roads and storm water drainage for the full development, must be designed and constructed by the developer at the cost of the developer;
- (ii) The roads and storm water drainage must be designed by a registered consulting engineer, whose design must be in accordance with the specifications of the Council;
- (iii) The design of all plans and drawings, of the roads and storm water drainage must be submitted to the Director: Civil and Technical Services (in electronic format and hard copy) for approval before any construction work is commenced;
- (iv) The roads and storm water drainage must be constructed under the supervision of the registered engineer, and a completion certificate must be issued upon completion of the work by the registered consulting engineer to the Director: Civil and Technical Services;
- (v) As built plans in electronic format must be provided by the developer to the Director: Civil and Technical Services;
- (vi) Road Remainders A to E must be registered as public streets whilst portions 446 to 457 must be registered as private streets;
- (vii) Upon completion and acceptance by the relevant directorates/authorities the roads and storm water drainage (Road Remainder A, B, C and D) shall revert to Council, in terms of Section 28 of Ordinance 15 of 1985, who will accept responsibility for the maintenance and operation thereof as from date of take-over, subject thereto that the developer shall be responsible to rectify all defects for a period of 12 months from the date of take-over in accordance with the General Conditions of Contract, 2004 or as amended;
- (viii) Upon completion and approval of the roads and storm water drainage, Portions 446 to 457, must be transferred to the Home Owners Association whom shall accept responsibility for the maintenance and upkeep thereof from date of transfer, subject thereto that the developer shall be responsible to rectify all defects for a period of 12 months from the date of take-over in accordance with the General Conditions of Contract, 2004 or as amended;
- (ix) Upon completion and approval by the Provincial Roads Department (DRE) the roads and storm water drainage, (Road Remainder E), shall revert to the Provincial Administration whom shall accept responsibility for the maintenance and upkeep thereof from date of transfer, subject thereto that the developer shall be responsible to rectify all defects for a period of 12 months from the date of take-over in accordance with the General Conditions of Contract, 2004 or as amended;
- (x) All street markings, street signs and street names shall be provided by the developer at his cost;
- (xi) The developer is to take note that all road reserve widths are to be in accordance with the Guidelines for Human Settlement Planning and Design standards. The width of road reserves is to be approved by the Director: Civil and Technical Services prior to the finalisation of the final layout;

- (xii) A storm water management plan must be submitted and approved by the Director: Civil and Technical Services and the District Roads Engineer. All measures are to be implemented by the developer.

8.2 Water:

- (i) Water reticulation for the full development, link services and/or the upgrading of existing services must be designed and constructed by the developer at the cost of the developer;
- (ii) The water reticulation, link services and/or upgrades of existing services must be designed by a registered consulting engineer, whose design must be in accordance with the specifications of the Council;
- (iii) All plans and drawings, of the water reticulation must be submitted in electronic format and hard copy to the Director: Civil and Technical Services for approval, before any construction work is commenced;
- (iv) The water reticulation must be constructed under the supervision of the registered consulting engineer, and upon completion the registered consulting engineer must issue a completion certificate to the Director: Civil and Technical Services;
- (v) The registered consulting engineer must determine the average daily water requirements of the development, and must submit a report to the Director: Civil and Technical Services for approval;
- (vi) The developer must comply with the National Water Act, 1998 (Act 36 of 1998) with regard to the use of surface as well as sub-surface water;
- (vii) Upon completion and acceptance by the George Municipality the water reticulation shall revert to Council, in terms of Section 28 of Ordinance 15 of 1985, who will accept responsibility for the maintenance and operation thereof as from date of take-over, subject thereto that the developer shall be responsible to rectify all defects for a period of 12 months from the date of take-over in accordance with the General Conditions of Contract, 2004 or as amended;
- (viii) As built plans in electronic format must be provided by the developer to the Director: Civil and Technical Services on completion of construction work and before the municipality will accept the service;
- (ix) A bulk water meter must be installed by the developer at commencement of construction to monitor water usage during the construction phase. The Directorate: Civil and Technical Services (Water section) is to be consulted by the developer, prior to installation, regarding the required specifications;
- (x) Water availability provided for in the present updated water master plan for George is based on the development proposal presently available. If there is a substantial deviation from the development proposals that result in a deviation from the information provided the costs related to the required revisions will be for the developer. The availability of water for new development is restricted. The Director: Civil And Technical Services has assumed that the development of the proposed Kraaibosch Estate, and the extension of the George Municipal raw water sources, will occur simultaneously;
- (xi) A water demand management plan must be submitted and approved by the Director: Civil and Technical Services. All measures are to be implemented by the developer;
- (xii) An additional amount of R 750-00 (excl VAT) is payable, per incident, should any road surface need to be repaired during the provision of a municipal connection. This amount is subject to annual escalation.

8.3 Sewerage:

- (i) Sewerage reticulation for the full development, any link service required and/or an upgrade of existing service required as a result of the development must be designed and constructed by the developer at the cost of the developer;
- (ii) The sewerage reticulation, any link service required and/or an upgrade of existing service required as a result of the development must be designed by a required consulting engineer, whose design must be in accordance with the specifications of the Council;
- (iii) All plans and drawings of the sewerage reticulation, any link service required and/or an upgrade of existing service required as a result of the development must be submitted to the Director: Civil and Technical Services for approval before any construction work may be commenced;
- (iv) The sewerage reticulation, any link service required and/or an upgrade of existing service required as a result of the development must be constructed under the supervision of a registered consulting engineer and a completion certificate must be issued upon completion of the work by the registered consulting engineer to the Director: Civil and Technical Services;
- (v) Upon completion and the acceptance by the George Municipality, the sewerage reticulation shall revert to Council, in terms of Section 28 of Ordinance 15 of 1985, who will accept responsibility for the maintenance and operation thereof as from date of take-over, subject thereto that the developer shall be responsible to rectify all defects for a period of 12 months from the date of take-over in accordance with the General Conditions of Contract, 2004 or as amended;
- (vi) As built plans in electronic format must be provided by the developer to the Director: Civil and Technical Services on completion of construction work and before the municipality will accept the services;
- (vii) An additional amount of R 750-00 (excl VAT) is payable, per incident, should any road surface need to be repaired during the provision of a municipal connection. This amount is subject to annual escalation.

8.4 Electricity:

- (i) Electricity for the full development must be designed and constructed by the developer at the cost of the developer;
- (viii) The electricity reticulation must be designed by a registered consulting engineer, whose design must be in accordance with the specifications of the Council;
- (ix) The design of the electrical reticulation, with the inclusion of all sketches and drawings, must be submitted to the Director: Electrotechnical Services for approval before any construction work may be commenced;
- (x) The electrical reticulation must be constructed under the supervision of a registered consulting engineer and a completion certificate, with inclusion of all applicable documents such as, but not limited to, test certificates, building drawings, hand books and the such must be handed to the Director: Electrotechnical Services upon completion by the registered consulting engineer;
- (xi) Upon completion and approval, the electrical reticulation shall revert to Council, in terms of Section 28 of Ordinance 15 of 1985, who will accept responsibility for the maintenance and operation thereof as from date of take-over, subject thereto that the developer shall be responsible to rectify all defects for a period of 12 months from the

- date of take-over in accordance with the General Conditions of Contract, 2004 edition as amended;
- (ii) As built plans in electronic format must be provided by the developer to the Director: Civil and Technical Services.

9. EXTERNAL SERVICES

9.1 Electricity

- (i) The developer must make a contribution towards street lighting in Knysna Road.
- (ii) The developer must make a contribution towards the replacement of the overhead 11Kv bundle conductor with underground cable along Knysna Road.
- (iii) The developer must make a contribution towards the extension of the Glenwood substation building to accommodate additional 11Kv switching panels.
- (iv) The developer must take cognisance of the 44 meter Eskom servitude on the northeast boundary of the development.

10. SERVITUDES

- 10.1 The following storm water servitudes must be registered as indicated on the subdivision plan:

SERVITUDE NR.	PORTION NR.	SERVITUDE SIZE
1	433	10m
1	435	4m
2	423	2m
3	102	3m
4	251	3m
5	244	3m
6	239	3m
7	217	3m
8	200	3m
9	182	3m
10	104	3m
11	233	3m
12	234	3m
13	430	10m
14	433	13m

- 10.2 A right of way servitude must be registered over Portion 446 in favour of Portion 436;
- 10.3 A right of way servitude must be registered over Portions 446 and 450 in favour of Portion 437;
- 10.4 The right of way in favour of Portion 71 of the Farm Kraaibosch 195 must be cancelled.

11. GENERAL

- (i) The developer shall be responsible and liable for the linking and connection of all internal services with the bulk services at its own cost, after the registered consultant engineer has made the necessary arrangements with the applicable Director of the George Municipality;

- (ii) The installation of all services must be co-ordinated by the registered consulting engineer with the Director: Civil and Technical Services / Director: Electrotechnical Services;
- (iii) All services must be installed prior to permission being granted for the transfer of any erf resulting from the subdivision or prior to the registration of a Certificate of Registered Title being permitted, or against approval of building plans, whichever occurs first;
- (iv) If required, the developer shall submit to the Council the necessary Environment Impact Study prior to the installation of any services, which Environmental Impact Study shall be to the satisfaction of the Council;
- (v) The applicant is to comply with the National Forests Act, 1998 (Act 84 of 1998), should it be required. Should it be necessary to remove a tree, a permit is to be obtained from Department Water Affairs and Forestry (indigenous trees) or Chief: Parks and Gardens George Municipality (other planted trees). For every tree that is removed two trees of similar sort are to be planted on the property;
- (vi) All trees on the perimeter of the development that might pose a threat to future or existing dwellings must be removed by the developer, after obtaining the necessary approvals / permits;
- (vii) No storm water may be discharged towards Knysna Road or towards the railway line without the approval of the relevant authorities;
- (viii) No development may take place within the 1:50 year flood line or on slopes steeper than 1:4;
- (ix) Any, and all, costs directly related to the development remain the developers' responsibility;
- (x) The approval of the above development is subject to the Arterial Management Plan as required and approved by the Department of Transport and Provincial Roads Administration and co-ordinated by the Director: Civil and Technical Services. The financial arrangements regarding the provision of roads must be finalised and will be based on a financial model as determined by the Director: Civil and Technical Services.
- (xi) The arterial management plan as accepted by the District Roads Engineer must be adhered to;
- (xii) The developer is to adhere to the requirements of the Occupational Health and Safety Act at all times;
- (xiii) Any services from the development that must be accommodated across another erf must be negotiated between the developer and the owner of the relevant erf. Any costs resulting from the accommodation of such services or the incorporation of these services into the network of another development are to be determined by the developer/owner of the other erf and the developer of Remainder Portion 2 and Portion 71 of the Farm Kraaibosch 195;
- (xiv) Any services from another erf must be accommodated across the development or incorporated into the services of the development. All negotiations will be between the owner/developer of the relevant erf and the developer of Remainder Portion 2 and Portion 71 of the Farm Kraaibosch 195. Costs for the accommodation of these services or the upgrade of the developments services to incorporate such services are to be determined by the developers/owners concerned;
- (xv) Should more than two developments/properties be party to or share any service, the Director: Civil and Technical Services will in conjunction with the parties determine pro-rata contributions payable.
- (xvi) Any existing municipal or private services damaged during the development will be repaired at the developers cost and to the satisfaction of the George Municipality;
- (xvii) The Residential III and IV, Institutional and other non-residential erven must be provided with connections to all services and are to form part of/be

- incorporated into the internal networks planning. All erven must be incorporated into the Service Agreement;
- (xviii) Park Road forms a direct link between the road from the Garden Route Mall, through the development to Wolhuter Street. If Park Road needs to be upgraded the conditions mentioned under condition 8.1 will be applicable. Pro rata contributions payable by the various developments will be calculated by the Director: Civil and Technical Services;
 - (xix) Permission for access to/from Knysna Road during the construction period must be obtained from the relevant authorities.

12. OPEN SPACES

- (i) Portions 436 to 444 and 458 must be registered as private open spaces;
- (ii) The private open spaces must be transferred to the Home Owners Association;
- (iii) The private open spaces must be developed to the satisfaction of the Chief: Parks and Recreation, Municipality of George before it may be transferred to the Home Owners Association;
- (iv) The sidewalk between the development and the Knysna Road road surface must be landscaped to the satisfaction of the Chief: Parks and Recreation, Municipality of George;
- (v) The open space situated on Portion 429 must be developed in accordance with the requirements of the Department of Environmental Affairs and Development Planning (Western Cape).

13. DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING (WESTERN CAPE)

- (i) That the record of decision issued by the Department of Environmental Affairs and Development Planning (Provincial Government: Western Cape) dated 6 December 2005 be adhered to;
- (ii) That the conditions imposed by the Department of Environmental Affairs and Development Planning (Provincial Government: Western Cape) with the approval of the amendment of the George and Environs Structure Plan be adhered to.

14. HOME OWNERS ASSOCIATION:

- (i) A Home Owners Association must be established in terms of Section 29 of Ordinance 15 of 1985 with regard to the Residential I development;
- (ii) A Home Owners Association must be established for the development on Portions 436 and 437. This Home Owners Association must be a member of the Home Owners Association established for the Residential I erven;
- (iii) The Constitution of the said Home Owners Association must be submitted to Council for its approval prior to registration of any subdivided erf, or registration of a CRT, will be permitted;
- (iv) Should the Home Owners Associations wish to amend the said Constitution, such proposed amendments must be submitted to the Council for its approval;
- (v) The developer shall be liable for any disbursement incurred by Council in relation to the perusal of the proposed Constitution of the said Home Owners Association;
- (vi) The following conditions must be incorporated in the Home Owners Associations Constitutions, namely:
 - (a) That no building plan be approved on any erf without the prior written approval of the Home Owners Association, and further subject to the

- Standard and/or Municipal Building Regulations that may be applicable from time to time;
- (b) No additions and or alterations to units shall be permitted without the prior written approval of the Home Owners Association, and further subject to the standard and/or Municipal Building Regulations enforced from time to time;
 - (c) No demolition or removal of any feature which constituted an original portion of the scheme shall be permitted without prior written approval of the Home Owners Association, and further subject to the standard and/or Municipal Building Regulations that may be enforced from time to time;
 - (d) Should it be necessary to rebuild any unit in its entirety such rebuilding shall be in accordance with the building plan of the unit originally approved;
 - (e) Any communal portion of a supporting wall, roof, pipe, gutter, fencing or other structure or object on such unit shall be maintained by the owner of the unit;
 - (f) Each portion of such supporting wall, roof, pipe, gutter, fencing or other structure or object on such unit shall likewise be maintained by the owner of the unit;
 - (g) Access to such unit shall be allowed for the purpose of maintenance, cleaning, renovations, repair, renewal, alterations of and in addition to such wall, roof, pipe, gutter, fencing or other structure or object and nothing shall be done which may prevent access to or hinder such access;
 - (h) Should the Home Owners Association resolve to approve any such alterations and or additions, they shall be of such a nature as to be applicable to all unit owners and all unit owners shall be permitted without exception to affect similar alterations and additions;
 - (i) A plan shall be provided showing the proposed location of the alterations and/or additions in relation to all units within the direct vicinity of the unit. (This does not imply that all unit owners should necessarily also affect such additions and alterations. The said plan is required only to enable an evaluation to be made of the total effect of a proposal on the aesthetic appearance of the scheme);
 - (j) Should it be proposed to alter the colour scheme of the complex an indication must be given of the period in which the scheme in its totality of colour scheme will be altered and such period shall not be later than one year from the date of commencement of the alteration of the colour scheme.

15. FIRE CONTROL

The developer must, in case where:

- (i) Municipal water is not available and the development is dependant upon its own water resources, fully comply with the National Building Regulations (SABS 0400) with regard to fire control; or
- (ii) Where municipal water is available, ensure that the registered consulting engineer determine the water pressure available to the development and that the necessary fire control measurements are implemented in accordance with SANS 10400.

16. ARCHITECTURAL DESIGNED MANUAL

- (i) The developer must provide the Council with a detailed architectural design manual, which shall take all design parameters into account, and the said

- manual must be submitted to the Council's Aesthetical Committee for approval prior to the commencement of any building activities;
- (ii) The wall referred to under condition 6 (ii) must be approved by Council's Aesthetical Committee prior to the erection thereof;
 - (iii) Any boundary wall to be erected along Knysna Road and any other public road must be approved by Council's Aesthetical Committee prior to the erection thereof.

17. REFUSE REMOVAL

- (i) The necessary arrangements for the removal of refuse, must be made with the Director: Health Services;
- (ii) The developer shall insure that the development's layout is of such a nature that a refuse vehicle is able to collect refuse from individual property, and shall provide the necessary turning circle in each cul de sac to the satisfaction of the Director: Civil and Technical Services;
- (iii) If the development is a private development and/or security development and the developer does not provide 24 hour access control, the developer shall ensure that a separate refuse containment area is designed and constructed, in consultation with the Director: Civil and Technical Services, in order for the Council to have 24 hour access to such refuse containment area;
- (iv) Only refuse that may be received in terms of the permit of the relevant refuse transfer station, shall be collected by the Council. Refuse such as poisonous refuse, dangerous refuse and medical refuse will be delivered by the owner at its own cost to the suitable facility and to the satisfaction of the Director: Health Services;
- (v) In the instance where a business complex is developed, the developer shall provide a refuse stall at own cost, which will be accessible to a refuse removal vehicle. The said refuse removal stall will be constructed in consultation with the Director: Civil and Technical Services;
- (vi) The Council reserves the right to require of the developer to sort refuse in three categories and to place it in difference containers, namely:
 - (a) Re-usable such as glass, paper, plastic and metals;
 - (b) Garden refuse;
 - (c) Household refuse.

18. SITE DEVELOPMENT PLANS

- (i) A site development plan to a scale determined by the Municipality indicating the information as below shall be submitted for approval by the Municipality before any construction commences on any Residential III, Residential IV, Institutional Zone II, Business Zone II or Special Zone erf;
- (ii) The following must be indicated on the site development plan:
 - a) An annexure in which the zoning of the land units is indicated as well as any restrictions with regard to coverage, height, floor area as well as the parking requirement applicable to the land unit. This annexure shall also indicate the proposed land use restriction for the planned development;
 - b) Erf boundaries and dimensions;
 - c) All servitudes applicable to the erf;
 - d) Building restriction areas;
 - e) Service connection points;
 - f) Contours at 1 (one) m interval;
 - g) All existing land unit features such as trees, existing buildings, etc.;
 - h) All the development and features on adjoining land units;

- i) Height and layout of all proposed buildings;
- j) Commercial open spaces, landscaping patterns and private open spaces;
- k) Entrances to and from the land unit, internal roads and parking areas;
- l) Elevation treatment of all buildings and structures;
- m) Provision made for refuse removal;
- n) Elevation, section diagrams or perspective drawings of the proposed land unit layout;
- o) Proposals regarding site boundaries (i.e. fences)
- p) Proposed subdivision lines;
- q) On evaluation the site development plans the Municipality may lay down such town planning requirements as it may deem fit, i.e. parking requirements.

19. **PHASING**

- (i) The development may be phased as indicated on the subdivision plan;
- (ii) No transfer of any erf within a phase will be allowed unless all conditions relevant to the phase have been adhered to.

Notwithstanding Council's decision you have the right of appeal against the conditions of approval in terms of Section 44 of Ordinance 15 of 1985, which right must be exercised and submitted in writing within 21 days from date of registration (date stamp on envelope) of this letter. The appeal must be directed to **Chief Directorate: Planning, Private Bag X9083, Cape Town, 8000** within the aforementioned time period **with a copy endorsed and submitted in writing to the George Municipality.**

Your attention is further directed to the provision of Section 16(2)(a)(i) and Section 27(1) of Ordinance 15 of 1985 in terms of which this approval will lapse if it is not exercised within 2 years from date hereof, or should the subdivision not be implemented within a period of 5 years from date hereof.

Yours faithfully


CM AFRICA
DIRECTOR: PLANNING AND DEVELOPMENT

G:\Michelle\Jan\Bri\we\Kraai Bosch\195-2,22&71(ondv&hers).doc

E-mail: michelle.joseph@george.org.za
Kraaibosch 195/2, 22 & 77, division George

Ms M Joseph

044 – 801 9171

Fax: 086 645 6296

6 June 2008

Jan Vrolijk Town Planner
PO Box 710
GEORGE
6530

**PROPOSED AMENDMENT OF CONDITIONS: KRAAIBOSCH 195/2 & 71
(BLUE MOUNTAIN)**

The abovementioned application refers.

The Department Planning and Housing has under delegated authority decided to approve the abovementioned application in terms of Section 44 of the Land Use Planning Ordinance, 1985 subject to the conditions stipulated in Council's letter (attached) dated 25 April 2006 with the exception of condition 2 which shall read as follows:

The zoning of the erven will be as follows:

ZONING	PORTION NUMBER
Residential I	Portions: 1 – 425
Residential III	Portion: 437
Residential III (Retirement Village)	Portion: 438
Residential IV	Portions: 433 – 435
Residential IV and Open Space II	Portion: 429 (zoning as indicated on plan)
Business II	Portion: 427
Open Space II	Portions: 438 – 444, 458
Private Road	Portions: 446 – 457

Transport Zone II	Remainder Road: (Municipal Portions B & D) Remainder Road: (Provincial Portions C & E)
Institutional II	Portion: 426
Special Zone	Portion: 430
Authority Zone	Portion: 432

The above approval is subject to the conditions stipulated as follows by the Departments: Civil Engineering Services and Electrotechnical Services:

Department: Civil Engineering Services

1. Capital Contributions are payable by the developer, based on the development proposal submitted, applicable on approval of building plans, but also subject to annual adjustments should development of the site not commence immediately after approval of building plans. Contributions payable may be adjusted should the actual water usage exceed the accepted normal daily usage based on 400l/100m² area of building.
2. An additional amount of R850,00 (excl. VAT) is payable, per incident, should any road surface need to be repaired during the provision of a municipal connection. This amount is subject to annual escalation.
3. Any, and all, costs directly related to the development remain the developer's responsibility.
4. Any existing service damaged during the development of the erf is to be repaired at the developer's expense, and in accordance with municipal standards.
5. All civil services, -internal, link and relocation of or upgrades to existing- are to be designed by a registered consulting engineer in accordance with Council and the "Guidelines for Human Settlement Planning and Design" specifications. All drawings and plans are to be submitted to the Department: Civil Engineering Services (hard copy and electronically) for approval prior to any construction work taking place. All work is to be carried out under the supervision of the consulting engineer who is to provide the Department: Civil Engineering Services with a certificate on completion, and as-built plans in electronic format. All costs will be for the developer.
6. No parking will be allowed in the road reserve. Adequate parking with a hardened surface must be provided on the premises of the proposed development. A minimum of 6 bays/100m² GLA for shops (retail) or 1 bay/30m² for business (offices) is required. Provision must also be made for loading zones on the premises. Refer to the Kraaibosch/Blue Mountain Road Master Plan.
7. A dimensioned layout indicating the proposed access onto the development and internal parking must be submitted to the Department: Civil Engineering Services for approval. Condition (5) applies.
8. A layout indicating the proposed internal stormwater system must be submitted to the Department: Civil Engineering Services for approval. Condition (6) applies.
9. A bulk meter must be installed by the developer at commencement of construction to monitor water usage during the construction phase. The Department: Civil Engineering Services (Water section) is to be consulted by the developer, prior to installation, regarding the required specifications.

10. The applicant is to comply with the National Forest Act, 1998 (Act 84 of 1998), should it be required. Entrances to properties are to be positioned so that no street trees need to be removed. Should it be necessary to remove a street tree, a permit is to be obtained from Department: Water Affairs and Forestry (indigenous trees) or Parks and Gardens (other planted trees).

Department: Electrotechnical Services

1. Capital Contributions are payable for electricity for each equivalent portion created as per standard tariffs for George by the applicant, based on the development proposal submitted applicable on approval of building plans but also subject to annual adjustments should development not commence immediately after approval of building plans.
2. Any, and all, costs directly related to the development remain the developer's responsibility.
3. All electrical services, -internal, link and relocation of or upgrades to existing- are to be designed by a registered consulting engineer in accordance with Council and the "Guidelines for Human Settlement Planning and Design" specifications. All drawings and plans are to be submitted to the Department: Electrotechnical Services (hard copy and electronically) for approval prior to any construction work taking place. All work is to be carried out under the supervision of the consulting engineer who is to provide the Department: Electrotechnical Services with a certificate on completion, and as-built plans in electronic format. All costs will be for the developer.

Notwithstanding Council's decision you have the right of appeal against the conditions of approval in terms of Section 44 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) which right must be exercised and submitted in writing within 21 days from date of registration (date stamp on envelope) of this letter. The appeal must be directed to Chief Directorate: Planning, Private Bag X9003, Cape Town, 8000 within the aforementioned time period with a copy endorsed and submitted in writing to the George Municipality.

An appeal fee of R1140.00 + VAT is payable to George Municipality and will be refunded if your appeal is successful.

Your attention is further directed to the provision of Section 14(5) of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) in terms of which approval will lapse if it is not exercised within two (2) years from date thereof.

Yours faithfully


SB ERASMUS

SENIOR MANAGER: PLANNING AND HOUSING

0:\Wichster\Michelle\Erasmus\Kraatsbosch\105-2-22877\approval.doc

BLUE MOUNTAIN
Village

Protea Park

Parkdene

Parkdene



PROTEA PARK
SUBDIVISION
GENERAL LAYOUT PLAN
SCALE: 1:1000
DATE: 15/08/2010

PROTEA PARK
SUBDIVISION
GENERAL LAYOUT PLAN
SCALE: 1:1000
DATE: 15/08/2010

PROTEA PARK
SUBDIVISION
GENERAL LAYOUT PLAN
SCALE: 1:1000
DATE: 15/08/2010

PROTEA PARK
SUBDIVISION
GENERAL LAYOUT PLAN
SCALE: 1:1000
DATE: 15/08/2010

PROTEA PARK
SUBDIVISION
GENERAL LAYOUT PLAN
SCALE: 1:1000
DATE: 15/08/2010

PROTEA PARK
SUBDIVISION
GENERAL LAYOUT PLAN
SCALE: 1:1000
DATE: 15/08/2010

PROTEA PARK
SUBDIVISION
GENERAL LAYOUT PLAN
SCALE: 1:1000
DATE: 15/08/2010

PROTEA PARK
SUBDIVISION
GENERAL LAYOUT PLAN
SCALE: 1:1000
DATE: 15/08/2010

PROTEA PARK
SUBDIVISION
GENERAL LAYOUT PLAN
SCALE: 1:1000
DATE: 15/08/2010

PROTEA PARK
SUBDIVISION
GENERAL LAYOUT PLAN
SCALE: 1:1000
DATE: 15/08/2010

PROTEA PARK
SUBDIVISION
GENERAL LAYOUT PLAN
SCALE: 1:1000
DATE: 15/08/2010

Block No.	Area (m ²)	Volume (m ³)	Height (m)	Notes
1	1000	1000	10	
2	2000	2000	10	
3	3000	3000	10	
4	4000	4000	10	
5	5000	5000	10	
6	6000	6000	10	
7	7000	7000	10	
8	8000	8000	10	
9	9000	9000	10	
10	10000	10000	10	

Block No.	Area (m ²)	Volume (m ³)	Height (m)	Notes
11	11000	11000	10	
12	12000	12000	10	
13	13000	13000	10	
14	14000	14000	10	
15	15000	15000	10	
16	16000	16000	10	
17	17000	17000	10	
18	18000	18000	10	
19	19000	19000	10	
20	20000	20000	10	

Block No.	Area (m ²)	Volume (m ³)	Height (m)	Notes
21	21000	21000	10	
22	22000	22000	10	
23	23000	23000	10	
24	24000	24000	10	
25	25000	25000	10	
26	26000	26000	10	
27	27000	27000	10	
28	28000	28000	10	
29	29000	29000	10	
30	30000	30000	10	