

AGENDA

EDEN JOINT MUNICIPAL PLANNING TRIBUNAL – GEORGE MUNICIPALITY EDEN GEMEENSKAPLIKE MUNISIPALE BEPLANNINGSTRIBUNAAL – GEORGE MUNISIPALITEIT

Office of the Municipal Manager:
Civic Centre
GEORGE
6530

Kantoor van die Munisipale Bestuurder:
Burgersentrum
GEORGE
6530

TO: All members of the Eden Joint Municipal Planning Tribunal

AAN: Alle lede van die Eden Gemeenskaplike Munisipale Beplanningstribunaal

Presiding Officer / Voorsittende Beampste	Olga Le Roux
Panel Members / Paneellede	Ruan Le Roux Madie Coetzee
Alternative members / Alternatiewe lede	Carel Venter Dalene Carstens

Notice is given that a meeting of the Eden Joint Municipal Planning Tribunal – George Municipality will be held in George via *Microsoft Teams* on **Tuesday, 26 July 2022 at 10h00.**

Kennis geskied dat 'n vergadering van die Eden Gemeenskaplike Munisipale Beplanningstribunaal – George Munisipaliteit in George gehou sal word via *Microsoft Teams* op **Dinsdag, 26 Julie 2022 om 10h00.**

HENDRIK VISSER

Chairperson / Voorsitter

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1.	OPENING OF MEETING	
2.	CONFIRMATION OF REQUIREMENTS	
3.	DETERMINATION OF VESTED RIGHTS	
4.	DECLARATION OF CONSTITUTED MEETING	
5.	APPLICATION FOR CONVENER/ORAL HEARING/ADDITIONAL ITEMS	
6.	ITEMS FOR DISCUSSION	

6. ITEMS FOR DISCUSSION

ITEM	AGENDA	PAGES
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6.1. Subdivision : Erf 1191, Frederik Avenue, Wilderness (R Janse van Rensburg)

LAND USE PLANNING REPORT						
APPLICATION FOR SUBDIVISION: ERF 1191, WILDERNESS						
Reference number	2032319	Application submission date	6 October 2021	Date report finalized	17 June 2022	
PART A: AUTHOR DETAILS						
First name(s)	Robert Henk					
Surname	Janse van Rensburg					
Job title	Town Planner					
SACPLAN registration number	A/2925/2020					
Directorate/Department	Planning and Development					
Contact details	Email: rhjansevanrensburg@george.gov.za Tel: 044 810 9555					
PART B: APPLICANT DETAILS						
First name(s)	Phillipus Cornelius Johannes					
Surname	Theron					
Company name	Formaplan					
SACPLAN registration number	A/025/1985	Is the applicant authorized to submit this application?			Y	N
Registered owner(s)	Moiria Lynette Baard (ID 491127 0664 083)					
PART C: PROPERTY DETAILS						
Property description (in accordance with Title Deed)	Erf 1191, Wilderness					
Physical address	Frederik Avenue, Wilderness Ext 7	Town/City	Wilderness			
Current zoning	Single Residential Zone I	Extent (m ² /ha)	1 535m ²	Are there existing buildings on the property?		Y N
Applicable Zoning Scheme	George Integrated Zoning Scheme By-Law, 2017 (hereafter referred to as " Zoning Scheme ");					
Legislation	Land-use Planning By-Law for George Municipality, 2015 (hereafter referred to as " Planning By-Law "); George Municipal Spatial Development Framework, 2019 (hereafter referred to as " GMSDF "). Wilderness, Lakes, Hoekwil Local Spatial Development Framework 2015 (WLH LSDF)					

Current Land Use	Vacant			Title Deed number & date	Title Deed T11095/2004 attached as Annexure E . SG Diagrams are attached as Annexure F .			
Any restrictive title conditions applicable?	Y	N	If Yes, list condition number(s)	According to the Conveyance Certificate received from Francois Scholtz Bruwer (30 August 2021), the relevant Title Deed does not contain any conditions that restrict the proposed subdivision. See attached Annexure G .				
Any third-party conditions applicable?	Y	N	If Yes, specify	N/A				
Any unauthorised land use/building work?	Y	N	If Yes, explain	N/A				
PART D: PRE-APPLICATION CONSULTATION (ATTACH MINUTES)								
Has pre-application consultation been undertaken?			Y	N	See Annexure D .			
Reference Number	1979305			Date of consultation	24 August 2021	Official's name	I. Huyser	
PART E: LIST OF APPLICATIONS (TICK APPLICABLE)								
a. Rezoning		b. Permanent departure		c. Temporary departure		d. Subdivision	X	
e. Consolidation		f. Amendment, suspension or deletion of restrictive conditions		g. Permissions required in terms of the zoning scheme		h. Amendment, deletion or additional conditions in respect of existing approval		
i. Extension of validity period		j. Approval of an overlay zone		k. Phasing, amendment or cancellation of subdivision plan		l. Permissions required in terms of conditions of approval		
m. Determination of zoning		n. Closure of public place		o. Consent use		p. Occasional use		
q. Establishment of a Home Owners Association		r. Rectify Beach of Home Owners Association		s. Reconstruct building of non-conforming use		Other		
PART F: APPLICATION DESCRIPTION								
<p>To consider an application for Subdivision in terms of Section 15(2)(d) of the Land Use Planning By-Law for George Municipality, 2015 of Erf 1191, Wilderness (1535m²), into:</p> <ol style="list-style-type: none"> 1. Portion 1 (750m²) 2. Remainder of Erf 1191, Wilderness(±785m²). 								

The map displays a residential area with the following streets and plot numbers:

- Streets:** LOUISA AVENUE, FREDERIK AVENUE, N 2, NA HOEKWIL, NA KNYSNA, JENNIE AVENUE, NONDEVLEI AVENUE, HOOFPAD 352.
- Plot Numbers:** 1140, 1141, 1143, 1188, 1185, 1187, 1186, 1182, 1183, 1179, 1177, 1176, 1175, 1139, 1138, 1137, 1136, 1135, 1134, 1133, 1132, 1194, 1193, 1192, 1191 (shaded), 1190, 1200, 1201, 1202, 1203, 1225, 1224, 1223, 1222, 1221, 1220, 1219, 2168, 2183, 2184, 2185, 2186, 2167, 2193, 2194, 2195, 2196, 2197, 2198, 2224, 2225, 2226, 2181, 2182, 2187, 2188, 2189, 2190, 2191, 2192, 2172, 2171, 2180.

- A previous subdivision application on Erf 1191, Wilderness was approved by Council on 30 March 2011.
- As the subdivision was not implemented within the applicable period of validity of the approval letter, Council extended the lapsing date of the approval, as applied for by the owner, until 30 March 2021.
- The owner failed to implement the subdivision and a further application for the extension of the validity of the approval was submitted on 29 March 2021.

- On the second application for extension, the Town Planning Department ruled that the approval for extension of time were submitted late and the subdivision has lapsed.

PART I: SUMMARY OF APPLICANTS MOTIVATION

The notes in italic did not form part of the applicant's motivation report and are merely for explanation purposes. The applicant's Memorandum is attached as **Annexure C.*

Physical Character of the Property

- There is a very steep embankment on the southern side of the property which falls more or less inside the 10m building line applicable on the south eastern boundary. From here there is a gentle slope in a northerly direction.
- There are a few protected trees on the property. These trees will not be removed and are shown on a plan that was previously submitted to and accepted by DAFF.
- The physical character of the property is such that the proposed subdivision, can be accommodated.

Proposed Land Use

- The property is currently zoned Single Residential Zone I. The purpose of this application is not to change the land use at all but to subdivide the erf and to permit 1 dwelling on each portion.

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

- Spatial Justice – This principle does not apply to this application.
- Spatial Sustainability – The proposed subdivision of this property will not affect this principle at all.
- Efficiency – This principle is supported.
- Spatial Resilience – This principle is not affected in this application.
- Good Administration – This principle is supported but does not apply to this application.

Public Interest

- Public Interest in the case of this application is limited due to the scale thereof. Only the direct neighbours could be affected by the proposal.
- In this respect, it is important to note that the subdivision was already approved in the past, despite a few objections that were received at the time. The objections were not considered substantial.
- Limited Municipal Services are required for the proposed additional portion. The current property is provided with municipal water, sewerage (conservancy tank), electricity and refuse removal.
- The proposed subdivision does not trigger any listed activities in terms of environmental legislation.

George Municipal Spatial Development Framework, 2019 (GMSDF)

- George Municipal Spatial Development Framework (MSDF) applies to this area.
- The MSDF does not refer to this property in particular, but one of the important principles of the MSDF that is mentioned very often in the document is that development should take place inside the Urban Edge of George. This property is inside the Urban Edge.

Wilderness, Lakes, Hoekwil Local Spatial Development Framework, 2015(LSDF)

Several guidelines are laid down in the document i.r.o. the development of the area. It is mentioned that the area is very sensitive and attractive and that any development that would have a negative impact on the unique character of the area, should not be approved. Specific reference is made that the landscape character of the area, especially , the tourist routes, should be protected. Developments on skylines and south facing slopes must be handled with great care.

- Erf 1191, Wilderness is situated in an existing developed residential area.
- The erf is not in view of any tourist route that pass the area. The erf is also not on the southern slopes of the area or the skyline. Subdivision of the erf into 2 portions will not lead to the degradation of the character of Wilderness/area.

- The LSDF also assesses the subdivision of erven in Wilderness. It is mentioned that, in general, subdivisions in Wilderness are not recommended but that there are a few opportunities for further subdivision and to ensure that the character of the area are not negatively affected, a minimum erf size of 750m² is adopted. Erf 1191, Wilderness is 1535m² in size which makes this erf one of those "few opportunities" that could be subdivided as mentioned in the LSDF.
- The applicant is of opinion that this application for subdivision, as proposed, complies with the guidelines laid down in the LSDF:
 - The proposed subdivided portions will each be 750m² and larger,
 - The property is not visible from any tourist routes,
 - The character of the area in which the subdivision will take place, will not be negatively affected.

Consistency with the Character of the Area

- The subject property will be used for single residential purposes and it is proposed to develop a dwelling house on each of the proposed erven.
- Although the two proposed erven will be smaller in size than the directly 14 surrounding erven, the proposed sizes are still sufficient to easily accommodate a dwelling house without causing a 'cramping' result.
- The proposed erf sizes are in line with the minimum sizes of erven proposed in the LSDF.
- We are of the opinion that the proposed subdivision is consistent with the character of the area where it is situated.

Potential of the Property

- At present, the erf can accommodate one dwelling house. The potential is however that the erf can be subdivided to accommodate two dwelling houses.

Access

- The property has existing access from Frederik Avenue and the subdivided portion will still use this access in future.

**The applicant motivated the building line departure. However, as mentioned before the Municipality is not the custodian of the condition and can thus not depart therefrom. The owner/applicant will need to obtain consent from SANRAL should they wish to relax the building line.*

PART J: SUMMARY OF PUBLIC PARTICIPATION (, Wilderness is the result of a subdivision of Erf *comment period was extended)

Methods of advertising				Date published	Closing date for objections
Press	Y	N	N/A		
Gazette	Y	N	N/A		
Notices	Y	N	N/A	18 October 2021	19 November 2021
Website	Y	N	N/A	18 October 2021	19 November 2021
Ward councillor	Y	N	N/A	18 October 2021 (Cllr. M. Viljoen via Registered Post)	19 November 2021
On-site display	Y	N	N/A	18 October 2021	19 November 2021
Community organisation(s) Wilderness Ratepayers & Residents Association (WRRRA), Wilderness & Lakes	Y	N	N/A	18 October 2021	19 November 2021

Environmental Action Forum (WALEAF)					
Public meeting	Y	N	N/A		
Third parties	Y	N	N/A		
Objector	Y	N	If yes, specify	The Owner of Erf 2589, Wilderness. (Ms. Bernita Meneses) was also informed	Erf 2589, Wilderness is the result of the subdivision of Erf 1190, Wilderness. During the initial public participation process, the existence of this erf was not known, and this owner was therefore contacted later.
Total valid objections	4 (Four)			Total invalid objections and petitions	N/A
Valid petition(s)	Y	N	If yes, number of signatures	N/A	
Community organisation(s) response	Y	N	N/A	Ward councillor response	Y N N/A
Total letters of support	0				
Was the minimum requirement for public participation undertaken in accordance with relevant By-Law on Municipal Land Use Planning and any applicable Council Policy					Y N

PART K: SUMMARY OF COMMENTS DURING PUBLIC PARTICIPATION

Numerous objections were received being individual or grouped from the following owners and interested parties (**table 1** below) and summarized in **table 2** below:

Table 1: List of Objectors

Erf 1135, Wilderness – I. Willis & A. Hepburn	Erf 1152, Wilderness – P. Walsh
Wilderness Ratepayers & Residents Association (WRRRA)	Erf 1190, Wilderness – Z. Rylands

The objections (refer to **Annexure H**) are summarised thematically (refer to **Table 2** below). Comments that were received are listed at the end of the table.

Table 2: Summary of comments/objections

Objectors	1. Density
I. Willis & A. Hepburn; P. Walsh	<ul style="list-style-type: none"> The subdivision, where there were two erven with one house on each property in this end of Frederick Close, if approved will result in four houses occupying the same area. The objector does not believe that having four dwellings on small erven will enhance the value of existing properties in Kingfisher Close.
Objectors	2. Public Participation
I. Willis & A. Hepburn; WRRRA	<ul style="list-style-type: none"> Only the five immediate neighbours were notified. Two of which may not object: Erf 1136 are non-resident and Erf 1134 are planning to sell up in December, going back to England. Kingfisher Close is a contained neighbourhood and any changes have an impact on all of the neighbours, not only those on Frederik Avenue. All neighbours should have an opportunity to comment on this application and we ask that you seek such comments not only from adjacent neighbours but from others on the street and in the neighbourhood.

Objectors	3. Traffic, Parking & Noise
I. Willis & A. Hepburn; P. Walsh; Z. Rylands	<ul style="list-style-type: none"> Kingfisher Close has one entrance and one exit, all of the traffic entering or exiting via Rondevlei Langvlei Ave or via Hennie Ave into Frederik, be it building staff walking in, heavy vehicles or new residents, their guests as well as the honey sucker drive past to my count: thirty-five houses. With the envisioned subdivision, with an average two car household, this subdivision will bring a slightly more than a ten percent increase in residential traffic alone for people at the exit points and virtually double the traffic coming into the Frederik Ave cul-de-sac. As things already stand there are a number of people, myself included, who would be in favour of more speed humps in Kingfisher Close. The subdivision will result in potentially, eight additional cars and eight dogs in an area where we can hear the people in Erf 1192, Wilderness Frederik Ave when they on occasion have a braai. From a noise disturbance viewpoint traffic or otherwise, further subdivision, is unacceptable. There is no parking place for guests and visitors. Where are they going to park? The norm on this end of the cul-de-sac is that my guests do not park on my neighbours' verges and vice versa as it is considered to be an intrusion. The nature of existing subdivisions running up the slope results in a lot more traffic and mechanical noise being generated, which, trapped by the slope, reflects back at residents in the cul-de-sac. My house (Erf 1152, Wilderness – P. Walsh) is on the road leading to Frederik Ave, and while not being an immediate neighbour, we will be affected by increased heavy vehicle traffic to and from Erf 1191 during the building stages of four new houses and the subsequent increase in traffic once they have been built. With the additional daily noise disturbance, all future building construction here needs to have time limits restricted to a five-day working week, imposed and enforced.
Objectors	4. Previous Approval
I. Willis & A. Hepburn	<ul style="list-style-type: none"> The viewpoint stated that because this subdivision was approved in 2010 provides substantiation for its re-approval now, is incorrect. It absolutely has to be challenged precisely because Erf 1190 has been subdivided in the meantime. We now with existing subdivisions, have two panhandles with driveways running uphill on and within a ten-meter proximity of our border, with a potential third driveway carrying the traffic for two households between Erf 1135, Wilderness and Erf 1192, Wilderness. All in the space of roughly forty meters as paced out by myself. Nowhere else in Kingfisher Close are there three panhandles. Nowhere else do driveways come together on one side of the road in this kind of massed proximity. Everywhere else in King Fisher Close the properties are equidistantly laid out, by this measure the Erf 1190 and 1191 on the Southern side should never have been subdivided at all, as the proposed subdivision will have an end result of four households on one side of the road with two on the other.

Objectors	5. Rainwater Runoff
I. Willis & A. Hepburn	<ul style="list-style-type: none"> What is going to happen to the water flowing off these erven? Without additional driveways feeding onto the road at present, when we have heavy rain a dam forms on the bottom edge of 1139 Frederik Ave.
Objectors	6. Removal of Restrictions
I. Willis & A. Hepburn	<ul style="list-style-type: none"> Absolutely not, If the subdivision requires relaxation of restrictions for residences to be built it should not be done at all. The long-standing strip of dense vegetation between the Close and the N2 is the main reason why this area of the Close has been relatively crime free. There is no easy walk through because access from the N2 has been virtually impossible. Any destruction to this long-standing natural barrier carries an ongoing risk to safety and security, not only for those living in the cul-de-sac here but also renders the electrical substation vulnerable to criminal activity emanating directly from the N2. The Town Planning office must determine whether the other building lines should be based on the Zoning Scheme or the Title Deed. Either way, they seem to come too close to the erf boundaries with the adjacent properties.
Objectors	7. Current Building activity and resultant disturbance:
I. Willis & A. Hepburn	<ul style="list-style-type: none"> The building across the road has resulted in two power outages, the most recent of which was from 16h00 until 09h30 the following morning. The first outage resulted in the removal of undergrowth and a trench dug, running up from the substation on the western side of Erf 1190. While the trench has been filled in this unsightly scar has been left as such. Apart from the new access, it creates from the N2, this loose slope in the event of heavy rain will result in sand being deposited on the road. While this is a municipal issue, this needs to be rehabilitated and vegetation planted. As a result of the levelling of erf 1190 the angle of the north western slope has increased dramatically with loose sand graded and resulting in a steep slope running down to the road, this also now represents the same risk in heavy rain. Is there going to be any form of retaining done? Excess sand is driven away using tipper trucks, a mechanical back actor being used not only to dig out and level the site but to carry bricks up from next to the road, to where the building is being done on an ongoing basis. On one evening we had the back-actor running until after 10 pm. The Current building activity is supposed to be completed in December, the thought of this being repeated another three times, resulting in at best nine months of future disturbance is at best intolerable.
Objectors	8. Current Building activity and resultant disturbance:
WRRRA	<ul style="list-style-type: none"> The subdivision of the plot into two parts sets an unacceptable precedent for increased density at Kingfisher Close. No matter that the municipal road engineer consented to reduce the building line on the south side from 10 to 5 metres, we ask that it remain at 10 metres. Such a relaxation also sets an unacceptable precedent.
Comments from Wilderness & Lakes Environmental Action Forum (WALEAF)	
<ul style="list-style-type: none"> WALEAF has no objection to the application. 	

PART L: SUMMARY OF APPLICANT'S REPLY TO OBJECTIONS

The reply to objections/comments from the applicant (refer to **Annexure I**) is listed in **table 3** below.

Table 3: Applicants reply comments/objections

Objectors	1. Density
I. Willis & A. Hepburn; P. Walsh	<ul style="list-style-type: none"> • If the objector implies that on each portion 2 dwellings can be erected, it should be noted that the new owners of the two newly created erven must apply to the municipality for approval of such second dwellings. • This objection is not applicable as any of the current owners in Frederik Avenue can apply for these second dwelling units and the accompanying potential increase in traffic. • Mr Willis states that traffic has increased on the N2 and Frederik Avenue since 2012 when he moved in. We agree with this statement as all traffic in South Africa has increased since 2012. • Mr Willis lives in a residential area close to the N2 and should expect that traffic will increase over time in this area. The same argument applies to the barking of dogs etc.
Objectors	2. Public Participation
I. Willis & A. Hepburn; WRRRA	<i>The applicant does not address this aspect.</i>
Objectors	3. Traffic, Parking & Noise
I. Willis & A. Hepburn; P. Walsh; Z. Rylands	<ul style="list-style-type: none"> • At present, the application is for one further dwelling on Frederik Avenue and we are of the opinion that the traffic from one further erf in the street is negligible. • The fact remains that Frederik Avenue is a public street and residents cannot claim sole right to the use of the street. • It is not clear what activity Ms Rylands refer to. The two proposed erven will remain single residential with normal people living in these dwellings. • It is very difficult to see how the addition of one dwelling will be detrimental to the residential character of the area. • It should be noted that in terms of the LSDF for the area, properties in this part of Wilderness may be subdivided into two portions not less than 750m² which is exactly what is proposed in this application. The proposed subdivision is 100% in line with the LSDF. • The subdivision for this property has been previously approved, but due to the economy, the owner could not find a buyer for the property. Thus, the approval lapsed. • The LSDF was already in force when the application for subdivision was considered previously, and the municipality found the subdivision acceptable in terms of the LSDF. This is exactly the same application. • It should be noted that Ms Rylands is the owner of Remainder Erf 1190, Wilderness. Erf 1190, Wilderness was subdivided in approximately 2017, based on the same principles as for Erf 1191, Wilderness. Erf 2589, Wilderness, therefore, serves as a buffer between Ms Rylands and Erf 1191, Wilderness. In our opinion, Ms Rylands should be more concerned with the activities on Erf 2589 than on Erf 1191 as Erf 2589 is directly adjacent to her property. A dwelling on Erf 2589 will most probably block most "activities" on Erf 1191. • Mr Willis' calculation is wrong as he assumes 4 units will result from the subdivision. He also assumes that none of the 35 erven he refers to will apply for a second dwelling in future.

	<ul style="list-style-type: none">• The objection from Mr Willis is based on speculation and has no merit in our opinion.• Each subdivided erf will have to comply with the zoning scheme requirements for parking. Visitors for the panhandle erf can easily be accommodated as it is approximately 30m long and sufficient to park 5 vehicles alone.				
Objectors	4. Previous Approval				
I. Willis & A. Hepburn	<i>Addressed in Part 3 above.</i>				
Objectors	5. Rainwater Runoff				
I. Willis & A. Hepburn	<ul style="list-style-type: none">• Mr Willis should take the dam that already forms during heavy rains up with the municipality as there seems to be a problem already. The subdivision will not add to the problem.				
Objectors	6. Removal of Restrictions				
I. Willis & A. Hepburn	<ul style="list-style-type: none">• Application is not made for the removal of restrictions.• Application is only made for relaxation of the building line on the provincial road.• Applications were already granted to other properties adjacent to this road as these relaxations do not negatively affect the road.• It is to be expected that the owner of the proposed panhandle will certainly wish to secure his property by erecting a fence on the southern property.• Erf 1191 does not border the N2. Therefore, no destruction will be caused to the vegetation between the N2 & the Close.• WRRRA offers no reason for their objection to building line relaxation.• In the application, it was pointed out what the reason for the 10m Building Line was when it was originally determined and that it served its purpose, but it is no longer applicable as the road has already been constructed many years ago.				
Objectors	7. Current Building activity and resultant disturbance:				
I. Willis & A. Hepburn	<ul style="list-style-type: none">• No Comment.				
Objectors	8. Setting a precedent				
WRRRA	<ul style="list-style-type: none">• The application is in line with the LSDF for subdivisions of erven to not be less than 750m².• Erf 1191, Wilderness is one of two erven large enough to be subdivided in Kingfisher Close. The other has already been subdivided.• Applications were already granted to other properties adjacent to this road as these relaxations do not negatively affect the road.				
PART M: SUMMARY OF COMMENTS FROM INTERNAL DEPARTMENTS AND/OR ORGANS OF STATE COMMENTS					
Name of Department	Date	Summary of comments	Recommendation		
Civil Engineering Services	13/10/2021	See development conditions	N/A		
Electrotechnical Services	13/10/2021	See development conditions	N/A		
PART N: MUNICIPAL PLANNING EVALUATION (REFER TO RELEVANT CONSIDERATIONS GUIDELINE)					
Is the proposal consistent with the principles referred to in chapter 2 of SPLUMA? (can be elaborated further below)			<table><tr><td>Y</td><td>N</td></tr></table>	Y	N
Y	N				

Is the proposal consistent with the principles referred to in chapter VI of LUPA? (can be elaborated further below)		Y	N	
(In)consistency with the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) and with the principles referred to in Chapter VI of the Land Use Planning Act, 2014 (Act 3 of 2014) (Section 65 of the Planning By-Law)				
The consistency of the application with the principles of SPLUMA and LUPA as read with Section 65 of the Planning By-Law was evaluated as follows:				
No	Evaluation checklist (s. 65)	Yes	No	N/A
1(a)	Does the application submitted comply with the provisions of this by-Law?	x		
	Has the motivation submitted been considered?	x		
1(b)	Were the correct procedures followed in processing the application? (see land use application process checklist)	x		
	Was a condonation required and granted with regards to the process followed? (see land use application process checklist)		x	
1(c)	Have the desirability guidelines as issued by the provincial minister to the utilise land for the proposed land uses been considered? (not yet applicable)			x
1(d)	Have the comments received from the respondents, any organs of state and the provincial minister been considered? (s. 45 of LUPA)			x
1(e)	Have the comments received from the applicant been considered?	x		
1(f)	Have investigations carried out in terms of other laws and that are relevant to the application being considered?			x
1(g)	Was the application assessed by a registered town planner? (see land use application process checklist)	x		
1(h)	Has the impact of the proposed development on municipal engineering services been considered?	x		
1(i)	Is the application in line, consistent and/or compatible with the IDP of the municipality?	x		
	Is the application in line, consistent and/or compatible with the municipal SDF?	x		
1(j)	Is the application in line, consistent and/or compatible with the IDP of the district municipality including its SDF?			x
1(k)	Is the application in line, consistent and/or compatible with the structure plan applicable to the area?			x
1(l)	Is the application in line, consistent and/or compatible with the local SDF applicable to the area?	x		
1(m)	Is the application in line, consistent and/or compatible with any other municipal policy or By-Law applicable to the proposed land use?			x
1(n)	Is the application in line, consistent and/or compatible with the provincial SDF?			x
1(o)	Is the application in line, consistent and/or compatible with the regional SDF (SPLUMA) or provincial regional SDF (LUPA)?			x
1(p)	Is the application in line, consistent and/or compatible with the applicable guidelines, standards, principles, norms or criteria set by national and/or provincial government?			x
1(r)	Is the application in line the consistent and/or compatible with the following principles as contained in section 7 of SPLUMA / 59 of LUPA:			

	1.	The redress spatial and other development imbalances of the past through improved access to and use of land?			x
	2.	Address the inclusion of persons and areas previously excluded in the past, specifically informal settlements and areas characterised by wide-spread poverty and deprivation?			x
	3.	Enable the redress of access to land by disadvantaged communities and persons?			x
	4.	Does the application support access to / facilitate the obtaining of security of tenure and/or incremental informal settlement upgrading?			x
	5.	Has the potential impact of the development proposal on the value of the affected land /properties been considered?	x		
	6.	The impact of the application on the existing rights of the surrounding owners been recognised?	x		
	7.	Does the application promote spatially compact, resource frugal development form?	x		
	8.	Can the development be accommodated within the existing fiscal (budget), institutional and administrative means of the municipality? <i>(e.g. Infrastructure upgrades required – when, budgeted for, etc.)</i>	x		
	9.	Has the protection of prime, unique and/or high potential agricultural land been considered?			x
	10.	Is the application consistent with the land use measures applicable to / contained in environmental management instruments?	x		
	11.	Does the application promote and stimulate the equitable and effective functioning of land markets?			x
	12.	Have all current and future costs to all parties for the provision of infrastructure and social services been considered?	x		
	13.	Does the application promote development that is sustainable, discourages urban sprawl, encourages residential densification and promotes a more compact urban form?	x		
	14.	Will the development result in / promote the establishment of viable communities?			x
	15.	Does the development strive to ensure that the basic needs of all the citizens are met in an affordable way?			x
	16.	Will the development sustain and/or protect natural habitats, ecological corridors and areas of high bio-diversity importance?			x
	17.	Will the development sustain and/or protect provincial heritage and tourism resources?			x
	18.	Will the development sustain and/or protect areas unsuitable for development including floodplains, steep slopes, wetlands, areas with a high-water table, and landscapes and features of cultural significance?			x
	19.	Will the development sustain and/or protect the economic potential of the relevant area or region?			x
	20.	Has provision been made in the development to mitigate against the potential impacts of climate change?			x
	21.	Does the development include measures to reduce consumption / conserve water and energy resources? <i>(renewable energy, energy saving, water saving, etc.)</i>			x
	22.	Does the development consider sea-level rise, flooding, storm			x

		surges, fire hazards?			
	23.	Does the development consider geological formations and topographical (soil and slope) conditions?	x		
	24.	Will the development discourage illegal land occupation – w.r.t. Informal land development practices?			x
	25.	Does the development benefit the long term social, economic and environmental priorities for the area (<i>sustained job opportunities, sustained income, integrated open space network, etc.</i>) over any short-term benefits (<i>job creation during construction, short term economic injection, etc.</i>)?	x		
	26.	Does the development contribute towards the optimal use of existing resources, infrastructure, agriculture, land, minerals and/or facilities?	x		
	27.	Does the development contribute towards social, economic, institutional and physical integration aspects of land use planning?			x
	28.	Promotes and supports the inter-relationships between rural and urban development?			x
	29.	Does the development promote the availability of employment and residential opportunities near each other or the integration thereof?			x
	30.	Does the development promote the establishment of a diverse combination of land uses?			x
	31.	Does the development contribute towards the correction of distorted spatial patterns of settlements within the town/city/village?			x
	32.	Does the development contribute towards and /or promote the creation of a quality and functional open spatial environment?			x
	33.	Will the development allow the area or town to be more spatially resilient that can ensure a sustainable livelihood for the affected community most likely to be affected by economic and environmental shocks?			x
1(s)		Is the application in line with the applicable provisions contained in the applicable zoning scheme regulations (By-Law)? (e.g. Definitions, land use description and development parameters)	x		

(In)consistency with the IDP/Various levels of SDF's/Applicable policies

George Municipal Spatial Development Framework, 2019 (MSDF)

The intention of the George MSDF, 2019 is to provide guidelines aimed at among others, promoting sustainability and affordability, providing for the needs of the community, strengthening the economy, finding a balance between urban development and the natural environment, responding to climate change and disaster management, the equitable and more efficient functioning of the city, providing a diversity of housing typologies and respond to broader housing needs, restructuring and densify the existing urban form, access to employment opportunities, social services, open spaces and recreation opportunities, connectivity by walking, non-motorised transport and public transport, enabling greater choice and a more productive economy.

Policy F states that the growth of urban settlements in George needs to be managed to ensure the optimum and effective use of existing infrastructure and resources and in return secure the Municipality's fiscal sustainability and resilience while preventing further loss of natural and agricultural assets. The proposed development is located within the urban edge and does not detract from the norms and standards in the MSDF and is thus considered to be consistent with the MSDF.

Wilderness, Hoekwil, Lakes Local Spatial Development Framework, 2015(LSDF)

The minimum erf size for Wilderness was originally adopted in the Wilderness Local Structure Plan of 1997. In terms of the document, no subdivision of a Single Residential erf in Wilderness could be smaller than 750m² with a stipulation that no subdivisions may take place on properties north of the Touw River (including Constantia Kloof). The standard was used to approve subdivision applications by delegation. The above provisions were later incorporated into the WHL-LSDF.

According to the LSDF, even though the subdivision of existing residential erven is not recommended, there are a few opportunities for further subdivision. To ensure that the character of the area is not affected by further and smaller subdivisions, the minimum erf size of 750 m² is re-adopted along with the proposal that no further subdivisions north of Waterside Road should be permitted to protect the sensitive view sheds from the tourist routes. Each portion of the proposed subdivision is within the requirement of 750m² and is located south of Waterside Road. The application is therefore in line with the provisions of the LSDF.

(In)consistency with guidelines prepared by the Provincial Minister

N/A

Outcomes of investigations/applications i.t.o other laws

N/A

Existing and proposed zoning comparisons and considerations

The proposed development consists of the subdivision of Erf 1191, Wilderness (1 585m²) into Portion 1 (750m²) and Remainder (±785m²).

The existing zoning of Erf 1191, Wilderness is 'Single Residential Zone I'. The proposed subdivision will result in both properties adopting a 'Single Residential Zone I' zoning. Under this zone, a dwelling house and 60m² second dwelling is a primary right which equates to a potential density of 13du/ha. Should both subdivided portions develop to its full potential viz. 4 units a density of 26du/ha will be reached which density is in line with the density as prescribed by the Western Cape Provincial Spatial Development Framework (PSDF). The PSDF states that urban development, which is residential densification within the urban edge, should be greater than 25du/ha gross.

The table below illustrates the building lines of the property before and after subdivision:

Building Line	Erf 1191	The respective Portions
Street	5m (10m along Road 352)	4m (10m along Road 352)
Side	3m	2m
Rear	3m	2m

The need and desirability of the proposal

The need and desirability for the proposed development have been considered in terms of the following factors:

No.	Evaluation checklist	Yes	No	N/A
1	Will the natural environment and/or open space systems be negatively affected?		x	
2	Will application result in trees/indigenous vegetation being removed on site or in the road reserve?		x	
3	Does the application have any negative impact on heritage resources?		x	
4	Will the character of the surrounding area be negatively affected?		x	
5	Will the architectural character of the streetscape be negatively affected?		x	
6	Will there be any negative impact on vehicle traffic and pedestrian safety?		x	
7	Will there be a negative impact on traffic movement?		x	
8	Will there be a negative impact on vehicle sight distances?		x	
9	Are there adequate on-site parking / loading facilities provided?			x
10	Are there adequate vehicle access/ egress to the property?			x
11	Will the neighbour's amenity to sunlight be negatively affected?		x	
12	Will the application result in overshadowing onto neighbours' properties?		x	
13	Will the neighbour's amenity to privacy / enjoyment of their property / views be negatively affected?		x	
14	Will the proposal have a negative impact on scenic vistas or intrude on the skyline		x	
15	Will the intended land use have a negative impact on adjoining uses?		x	
16	Will the land use pose a potential danger to life or property in terms of fire risks, air pollution or smells or compromise a person's right to a safe and secure environment?		x	
17	Will there be a negative impact on property values?		x	
18	Will the application result in a nuisance, noise nuisance, and disturbance to neighbours?		x	
19	Will adequate open space and/or recreational space be provided (for residential developments)?			x
20	Will approval of the application set a precedent?		x	

Comments

*1: The impacts on natural environment will be limited to the clearing of vegetation on the property itself. Erf 1191, Wilderness is not situated in an OSCAE area, hence mitigation applied to ensure minimal disturbance of natural vegetation will not be applied. The subdivision of the property will enable the development of two primary dwelling houses, resulting in more clearing that would be anticipated on the property if left in its original state. Two properties also demand two separate accesses, which require further clearing and additional hardened spaces. There are several indigenous trees located on the property. The proposed



subdivision was discussed with DEFF and approved the following Plan:

From the plan it is evident that the trees within the 5m street building line be retained as well as tree numbered 3, 4, 5. It is also assumed that trees numbered 1 and 2 will be removed to provide for the panhandle. However, given the potential for clearing on the subdivided property and the impacts of such subdivision, witnessed on Erf 1190, additional measures are needed to ensure the natural and scenic value of the precinct is honored and supported by the development.

These measures will be addressed in the conditions of approval.


Assessment of Objections/comments

The assessment of objections is depicted in **table 4** below.

Table 4: Summary of comments/objections

Objectors	1. Density
I. Willis & A. Hepburn; P. Walsh	<ul style="list-style-type: none"> The proposed subdivision will result in both properties adopting a 'Single Residential Zone I' zoning under which a dwelling house and 60m² second dwelling is a primary right. With 1(one) dwelling being built on each subdivision it equates to a potential density of 13du/ha. Should both subdivided portions develop to its full potential viz. 4 units a density of 26du/ha will be reached which density is in line with the density as prescribed by the Western Cape Provincial Spatial Development Framework (PSDF). The PSDF states that urban development, which is residential densification within the urban edge, should be greater than 25du/ha gross. Regard is given that the applicability of this requirement may be more relevant to the main urban centres and consideration must be given to the impacts on a coastal settlement, such as Wilderness where the preservation of the natural assets and attraction of the village is prioritised. There is no evidence provided that the value of the property will be negatively affected due to the subdivision.
Objectors	2. Public Participation
I. Willis & A. Hepburn; WRRRA	<ul style="list-style-type: none"> The public participation was conducted in terms of the Land Use Planning By-law, 2015. Public participation is therefore sufficient for the application. The current tenure status of surrounding properties is not relevant. Notices were sent to the owners of the properties at that stage.

Objectors	3. Traffic, Parking & Noise
I. Willis & A. Hepburn; P. Walsh; Z. Rylands	<ul style="list-style-type: none"> The proposed subdivision will not result in a significant increase in traffic. The objector's calculation of a 10% increase in traffic due to the subdivision is unfounded. It should be noted that all properties in the neighbourhood can accommodate a second dwelling and that traffic in the area will increase over time. Regard is given that the majority of the existing erven are 900m² and larger and the potential impact of four dwellings may render appearance of overcrowding. Placing speed calming measures in Kingfisher Close is not applicable to this application. The objector estimates an additional 8 vehicles, and eight dogs will be added to the neighbourhood due to the subdivision. Though this is theoretically possible, in practice only about 25% of single residential properties are ever developed with 2nd dwelling units. It is also speculative whether the new owners will have dogs. Each property is subject to parking requirements in terms of the Scheme. In this case, all properties have sufficient parking. The proposed subdivision will not result in any substantial noise generation due to the speed limitation of Frederik Avenue and the fact that it is a cul-de-sac. The specific road design of a cul-de-sac already mitigates any adverse noise generation. The minor increase in traffic due to the additional property being created, is unlikely to generate higher levels of noise, especially considering the present noise generated by traffic on MR 352 and the N2. The road infrastructure in terms of traffic capacity is sufficient according to the municipality's engineers.
Objectors	4. Previous Approval
I. Willis & A. Hepburn	<ul style="list-style-type: none"> It is agreed that the previous approval that lapsed cannot be used to motivate support of this application. The disturbance of vegetation incurred by the development of Erf 1190 and resultant impact on the natural character of the areas is observed. It is considered that the development rights to these subdivided portions must be regulated The number of panhandles in a street is relevant as access points result in more cleared and hardened surface, which impacts on the natural environment. The management of access to these properties needs to be mitigated.
Objectors	5. Rainwater Runoff
I. Willis & A. Hepburn	<ul style="list-style-type: none"> The stormwater management system is designed as part of the layout design. Driveways will not affect stormwater management. In this case Erf 1191, Wilderness is already part of the stormwater management system. Subdividing the property will have no substantive effect.
Objectors	6. Removal of Restrictions
I. Willis & A. Hepburn	<ul style="list-style-type: none"> No removal of restrictions is applied for. The initial building line departure application is no longer being considered.
Objectors	7. Current Building activity and resultant disturbance:
I. Willis & A. Hepburn	<ul style="list-style-type: none"> Building activity is not relevant to land use application as this needs to be managed in terms of the National Building Regulations by the Building Control office, as and when construction takes place. In the absence of a requirement for a permit in terms of the OSCA regulations, additional

	mitigation will be imposed to ensure the site is appropriately managed during construction.
Objectors	8. Setting a precedent
WRRRA	<ul style="list-style-type: none"> The current size of the property is substantially larger than the rest of the properties on the street and also vacant, making it more suitable for subdivision. Refer to images below. The current rights permit erection of two dwelling units and varying sizes and the decision will limit the development to this density. The proposal is in line with the minimum erf size viz.750m² for the Wilderness area as per the provisions in the LSDF. 

PART O: SUMMARY OF EVALUATION

The application under consideration is for the subdivision of Erf 1191, Wilderness (1585m²), into Portion 1 (750m²) and Remainder of Erf 1191, Wilderness(±785m²).

The property is situated on Frederik Avenue in Wilderness Ext.7 which falls within the Wilderness, Hoekwil, Lakes Local Spatial Development Framework. The property boundaries Road 352(Hoekwil Road) to the South of Erf 1191, Wilderness.

Subdivision

The proposal is found to be consistent with the spatial planning principles, objectives and guidelines of the George MSDF 2019. It is also in line with the minimum erf size set for Single Residential zoned properties viz.750m² for the Wilderness area (originally adopted in 1997 in the Wilderness Local Structure Plan) as per the provisions in the Wilderness, Lakes, Hoekwil Local Spatial Development Framework, 2015. Given the potential to development two primary dwellings and the potential implication for clearing of vegetation, the coverage will be restricted to limit the footprint of the development. The application is therefore consistent with the MSDF and LSDF for the area.

It is also found that that the proposed subdivision will not have any significant affect the character of the surrounding residential area. Further, even though it is recognized that both subdivided portions can be developed to its full potential viz. 4 units a density of 26du/ha. This density is considered excessive within the context of Wilderness and therefor the density will be limited. The houses to be erected on the respective properties in accordance with the development parameters in the Zoning Scheme, with the building area being considerate of the milkwood trees on the properties.

As the property is located in a cul-de-sac, and additional carriageway crossing (entrance is unlikely to have a significant negative impact on the street environment or traffic, however the access will result in additional clearing and hardened surfaces, which should be managed within the context of Wilderness. It is preferred that the access to the sites are combined and that the combined width of the access will not exceed 8 meters. The application is also unlikely to have any significant negatively affect the surrounding neighbours' rights and amenity in terms of privacy, views, or sunlight.

The management of the site during the construction phase should be done by an environmental practitioner in terms of an environmental management plan, approved by the municipality.

Conclusion

On the balance of all considerations in terms of Section 65 of the Land-Use Planning Bylaw for George Municipality, 2015, the application cannot be found undesirable and is therefore **SUPPORTED**, subject to mitigation measures.

PART P: RECOMMENDATION

- A. That the applicant and objectors be informed that the George Municipality cannot consider the building line departure application as applied for (10m to 5m), as it is not the competent authority in this regard. The owner will need to obtain the necessary consents in this regard from the Provincial Roads Authority, however the George Municipality is not in support of a relaxation along this boundary.
- B. That, notwithstanding the objections received, the application for Subdivision in terms of Section 15(2) (d) of the Land Use Planning By-Law for George Municipality (2015) of Erf 1191, Wilderness (1535m²), into:
1. Portion 1 (750m²); and
 2. Remainder of Erf 1191, Wilderness(±785m²);

BE APPROVED in terms of Section 60 of said By-law for the following reasons:

1. The proposed development, with mitigation measures imposed will not result in any significant negative impact on surrounding neighbours' rights and amenities.
2. The proposal will not detract from the residential character of the area or the streetscape.
3. The proposal is in line with the minimum erf size viz. 750m² for the Wilderness area.
4. The development proposal is deemed an appropriate form of densification for this section of Wilderness, in line with the spatial planning objectives and guidelines applicable to this property;
5. The natural amenity of the area is respected through the imposition of additional controls aimed at limiting the amount of vegetation clearing on the property.

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

CONDITIONS OF THE DIRECTORATE: PLANNING AND DEVELOPMENT:

1. That in terms of the provisions of the Land Use Planning By-law for the George Municipality, 2015, the approval shall lapse if not implemented within a period of five (5) years from the date thereof.

2. An amended subdivision plan which only indicates the Municipal building lines in terms of the George Integrated Zoning Scheme By-Law, 2017 and the 10m building line as per the conditions of approval for Wilderness Ext. 7. must be submitted for approval which does not show the 5m building line departure. The subdivision plan to the Directorate for endorsement.
3. An approved Surveyor General diagram must be submitted to the Directorate: Planning and Development (GIS Section) for record purposes.
4. That each subdivided portion be limited to 1 dwelling unit. This condition must be registered against the title of the property with the provision that the Municipality may permit a 2nd dwelling on the recalculation of and payment of the applicable development charges (as contemplated in Conditions 16 and 46 below).
5. That the coverage on each portion will be restricted to 40% of the area of each erf.
6. That both portions shall be accessed via a combined access carriage crossing (entrance), limited to a combined width of 8metres, subject to the registration of a right of way servitude in favour of portion 1 across the panhandle, minimum 10metres in depth, measured from the street boundary, which servitude must be indicated on the amended diagram referred to in (2) above.
7. The approval will only be regarded as implemented on the submission of the approved SG Diagram by the Surveyor General as well as the registration of Portion 1 in terms of the Deeds Registries Act.
8. The developer must submit a site management plan to address impacts of construction, clearing, run-off, containment of the construction site and rehabilitation, post-construction. The plan must include an inventory and map of existing indigenous vegetation and schedule of plants to be used during rehabilitation.
9. The applicant must appoint an Environmental Control Officer (ECO), who must be knowledgeable with regard to site management, whose appointment must remain for the duration of the clearing, construction and post construction rehabilitation of the site. It is recommended that a staff member of the company doing the site management plan be appointed as ECO for the project as they are familiar with all aspects of the site.
10. The developer must provide the George Municipality with an appointment letter for the ECO prior to any activities commencing on site.
11. The ECO shall monitor compliance with the conditions of the site management and rehabilitation plans and report any contraventions to the responsible enforcement authority.
12. The ECO shall provide the George Municipality with a post-construction report confirming compliance with the plan prior to any occupation certificate for the proposed structures being issued.
13. Indigenous/ protected flora must be rescued within the proposed footprint area prior to construction to the satisfaction of the National Department of Forestry, Fisheries and Environment (Forestry: Knysna). The Garden Route Botanical Garden may be approached to receive and rescue plants for the Garden.
14. The owner must obtain a license from Department Forestry, Fisheries and Environment for the transplantation of protected/ indigenous shrubs falling within the footprint of the proposed construction site, once revised proposed Building Plans are approved.

CONDITIONS OF THE DIRECTORATE: CIVIL ENGINEERING SERVICES

15. 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:
16. The amounts of the development contributions are reflected on the attached calculation sheet (**Annexure B**) dated 13/10/2021 and are as follows:

Roads	R 10 298.48	Excluding VAT (Refer to attached DC calculation sheet)
Sewer	R 16 957.61	Excluding VAT (Refer to attached DC calculation sheet)
Water	R 18 160.42	Excluding VAT (Refer to attached DC calculation sheet)
Total	R45 416.51	Excluding VAT

17. The total amount of the development charges of **R45 416.51** 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.
18. Any amendments or additions to the proposed development which is not contained within the calculation sheet as dated in condition 7 above, which may 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.
19. 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 **R45 416.51** 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 8 above.
20. 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.
21. 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.
22. Any, and all, costs directly related to the development remain the developers' responsibility.
23. Only one connection permitted per registered erf (Electrical, water and sewer connections). Condition 12 applies.
24. 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 12 applicable)
25. 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 12 applicable)
26. 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 12 applicable)
27. Suitable servitudes must be registered for any municipal service not positioned within the normal building lines.
28. The applicant is to comply with the National Forestry Act, Act No 84 of 1998, should it be required.
29. Provisions for the removal of solid waste is to be addressed in conjunction with the Dir: Environmental Services.
30. 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.
31. 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.
32. 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.

33. 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.
34. Municipal water is provided for potable use only. No irrigation water will be provided.
35. 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.
36. The developer / erf owner is to apply to the George Municipality for the installation of an individual erf water meter prior to any building work commencing on an erf.
37. 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.
38. The discharge of surface stormwater is to be addressed by the developer. Condition 12 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.
39. 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.
40. Adequate parking with a hardened surface must be provided on the premises of the proposed development.
41. No private parking will be allowed in the road reserve.
42. A dimensioned layout plan indicating the proposed accesses onto private / servitude roads, must be submitted to the relevant departments for approval. Condition 12 applies.
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.

CONDITIONS OF THE DIRECTORATE: ELECTROTECHNICAL SERVICES

45. 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:
46. The amounts of the development contributions are reflected on the attached calculation sheet (**Annexure B**) dated 13/10/2021 and are as follows:

Electricity: **R 22 326.66** Excluding VAT (Refer to attached DC calculation sheet)

47. The total amount of the development charges of **R22 327.66**, 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.
48. Any amendments or additions to the proposed development which is not contained within the calculation sheet as dated in condition 37 above, which may 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.

49. 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 **R22 326.66** 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 38 above.
50. 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.
51. 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.
52. 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 (ie within the development area) , position of accesses, provision for pedestrians and non-motorised transport, and other issues related to traffic.
53. Any, and all, costs directly related to the development remain the developers' responsibility.
54. Only one connection permitted per registered erf (Electrical, water and sewer connections). Condition 42 applies.
55. 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 42 applicable)
56. 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 42 applicable)
57. 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 42 applicable)
58. Suitable servitudes must be registered for any municipal service not positioned within the normal building lines.
59. The applicant is to comply with the National Forestry Act, Act No 84 of 1998, should it be required.
60. Provisions for the removal of solid waste is to be addressed in conjunction with the Dir: Environmental Services.
61. 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.
62. 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.
63. 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.
64. 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.

65. No electricity may be consumed within, or by any part of the development, without the consumption of the supply being metered and billed by a municipal meter (prepaid or credit). All cost, installation and consumption, will be for the cost of the developer. Standard application process will apply.
66. 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.
67. Each new portion created must have separate electrical connection and it may not cross any other portion. Each consumer will have to enter into a separate supply agreement with the Municipality. For new consolidated erven it will be the responsibility of the owner/developer to make the necessary arrangements with the Electrotechnical Services Department to remove all the unused electrical services. All costs will be for the owner/developer.
68. Owner to ensure compliance with Regulation XA of SANS 10400 (building plans).
69. Owner to ensure compliance with Regulation XA of SANS 10142 (wiring) and any other applicable national standards.
70. Neither the Developer or the HOA or a property owner are allowed to distribute electricity across property boundaries.
71. All the MV/LV work must be installed and be funded by the developer as no DCs are levied for this network.

PART Q: ANNEXURES

Annexure A	Subdivision Diagram
Annexure B	CES & ETS Calculation Sheets
Annexure C	Application Memorandum
Annexure D	Pre-Application
Annexure E	Title Deed
Annexure F	SG Diagram
Annexure G	Conveyancer Certificate
Annexure H	Objections/ Comments
Annexure I	Reply to objections
Annexure J	Previous Approval

		<u>2022/05/30</u> DATE
R.H. Janse van Rensburg (A/2925/2020) TOWN PLANNER		
RECOMMENDED/ REFER TO APPLICANT/ REFER TO TRIBUNAL		
		<u>2022.06.17</u> Date
I Huyser (A/1664/2013) SENIOR TOWN PLANNER		
RECOMMENDED/ REFER BACK TO APPLICANT/ REFER TO TRIBUNAL		
		<u>24/06/2022</u> Date
C. PETERSEN (B/8336/2016) SENIOR MANAGER: TOWN PLANNING		
RECOMMENDED/ REFER BACK TO APPLICANT/ REFER TO TRIBUNAL		
		<u>01 July 2022</u> Date
D. POWER (A/1973/2014) DEPUTY DIRECTOR: PLANNING/AUTHORISED OFFICIAL		

Attachments : Annexures for Erf 1191, Wilderness



Erf 1191,
Wilderness(Tribunal

6.2. Consent Use and Departure : Erf 1018, Watsonia Street, Hoekwil (M Botha)

LAND USE PLANNING REPORT
APPLICATION FOR A CONSENT USE AND PERMANENT DEPARTURE: ERF 1018 HOEKWIL

Reference number	1995593	Application submission date	08/09/2021	Date report finalized	16/06/2022
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PART A: AUTHOR DETAILS

First name(s)	Martin
Surname	Botha
Job title	Town Planner
SACPLAN registration number	Pr Pln A/2518/2017
Directorate/Department	Planning and Development
Contact details	pmbbotha@george.gov.za

PART B: APPLICANT DETAILS

First name(s)	Johannes George				
Surname	Vrolijk				
Company name	Jan Vrolijk Town Planner				
SACPLAN registration number	A/1386/2010	Is the applicant authorized to submit this application?	Y	N	
Registered owner(s)	Elsie Johanna Moll				

PART C: PROPERTY DETAILS

Property description (in accordance with Title Deed)	Erf 1018 Hoekwil					
Physical address	1018 Watsonia Street		Town/City	Hoekwil (Wilderness Heights)		
Current zoning	Agricultural Zone II (AZII)	Extent (m²/ha)	3.3039ha	Are there existing buildings on the property?	Y	N
Applicable Zoning Scheme	George Integrated Zoning Scheme By – Law (2017) (hereafter referred to as “ Zoning Scheme 2017 ”)					
Legislation	Land-use Planning By-Law for George Municipality (2015) (hereafter referred to as “ Planning By-Law 2015 ”) Provincial Spatial Development Framework (2014) Rural Areas Guidelines (2019)					

		George Municipal Spatial Development Framework (2019) Wilderness, Lakes and Hoekwil Local Spatial Development Framework (2015)			
Current Land Use	Rural Residential		Title Deed number & date	T13835/09	
Any restrictive title conditions applicable?	Y	N	If Yes, list condition number(s)	N/A	
Any third-party conditions applicable?	Y	N	If Yes, specify	N/A	
Any unauthorised land use/building work?	Y	N	If Yes, explain	N/A	
PART D: PRE-APPLICATION CONSULTATION (ATTACH MINUTES)					
Has pre-application consultation been undertaken?	Y	N	n/a		
Reference Number	N/A		Date of consultation	N/A	Official's name N/A
PART E: LIST OF APPLICATIONS (TICK APPLICABLE)					
b. Rezoning		b. Permanent departure	x	t. Temporary departure	u. Subdivision
v. Consolidation		w. Amendment, suspension or deletion of restrictive conditions		x. Permissions required in terms of the zoning scheme	y. Amendment, deletion or additional conditions in respect of existing approval
z. Extension of validity period		aa. Approval of an overlay zone		bb. Phasing, amendment or cancellation of subdivision plan	cc. Permissions required in terms of conditions of approval
dd. Determination of zoning		ee. Closure of public place		ff. Consent use	x gg. Occasional use
hh. Establishment of a Home Owners Association		ii. Rectify Beach of Home Owners Association		jj. Reconstruct building of non-conforming use	Other
PART F: APPLICATION DESCRIPTION					
Consideration of the following applications applicable to Erf 1018, Hoekwil:					
a) Consent Use, in terms of Section 15(2)(o) of the Land Use Planning By-law for George Municipality (2015), to allow for a second dwelling unit on Erf 1018 Hoekwil;					
b) Departure, in terms of Section 15(2)(b) of the Land Use Planning By-law for George Municipality (2015), to allow for the following on Erf 1018, Hoekwil:					

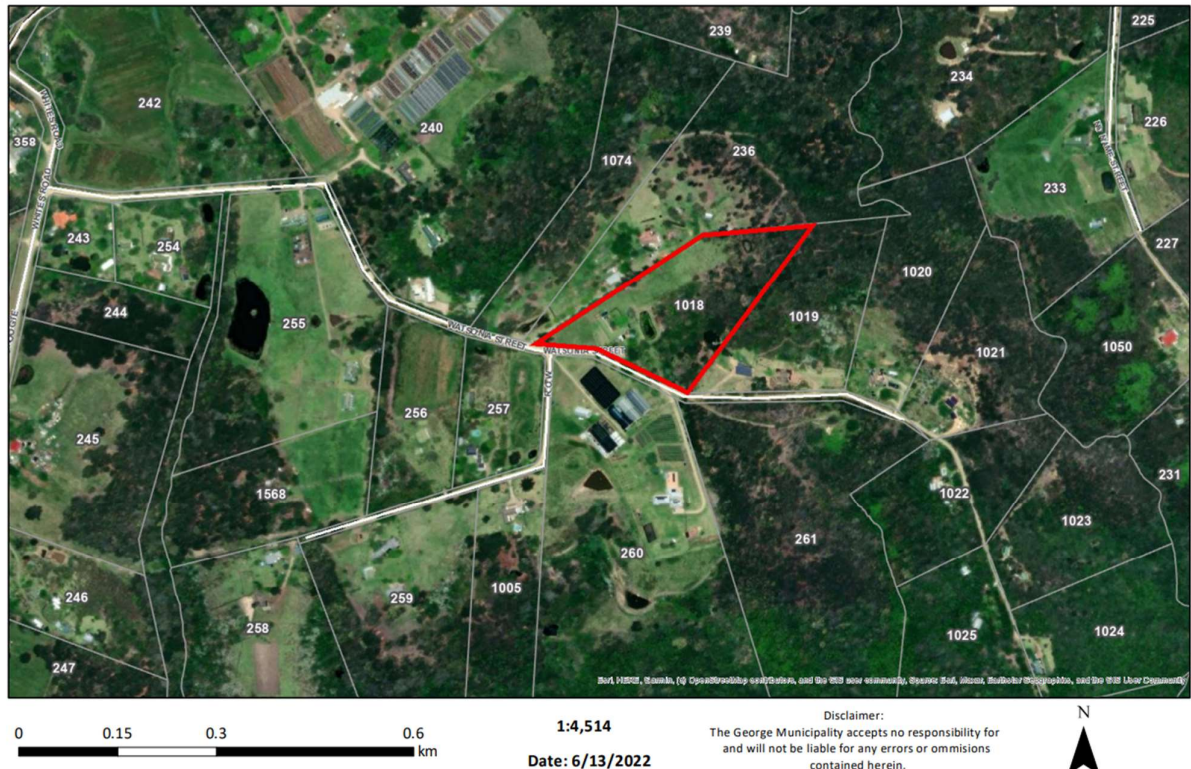


Figure 2: Local Context

PART H: BACKGROUND AND HISTORY

Erf 1018, Hoekwil was created following the consolidation of Erven 232 (vide diagram 8100/1960) & 235 (vide diagram 8097/160), Hoekwil. The subject property was subdivided, following the afore-mentioned consolidation, to create the current cadastral configuration (vide diagram 1638/2001). The site is currently developed with both a primary and second dwelling, located in the same structure. It is now the intention of the landowner to upgrade and extend the second dwelling unit.

PART I: SUMMARY OF APPLICANTS MOTIVATION

**The notes in italic did not form part of the applicant's motivation report and is merely for explanation purposes*

The Application:

An application is submitted for:

- A Consent Use for a second dwelling (measuring greater than 60m²);
- Departure, to increase the maximum floor space of the second dwelling from 150m² to 245m²;
- Relaxation of the street building line from 20m to 17.96m; and
- Relaxation of the north-western common boundary building line from 20m to 17.49m.

Development Proposal:

- There is currently an existing dwelling, a second dwelling, garages, and a swimming pool developed on the site.
- It is now the intention of the landowner to upgrade and expand the second dwelling on the site, as per the requirements of family members that wish to move to the property and take care of their mother. Extra space is required as both the new occupants (of the second dwelling) work from home.

For record purposes, it should be noted that the total area used for all home occupation activity on a land unit, including storage, may not consist of more than 25% of the total floor area of the dwelling units on the land unit or 60m², whichever is smaller. On the basis of the afore-mentioned, it can be concluded that the maximum size for home occupation is 60m².

Figures 3 – 5 indicate the development proposal.

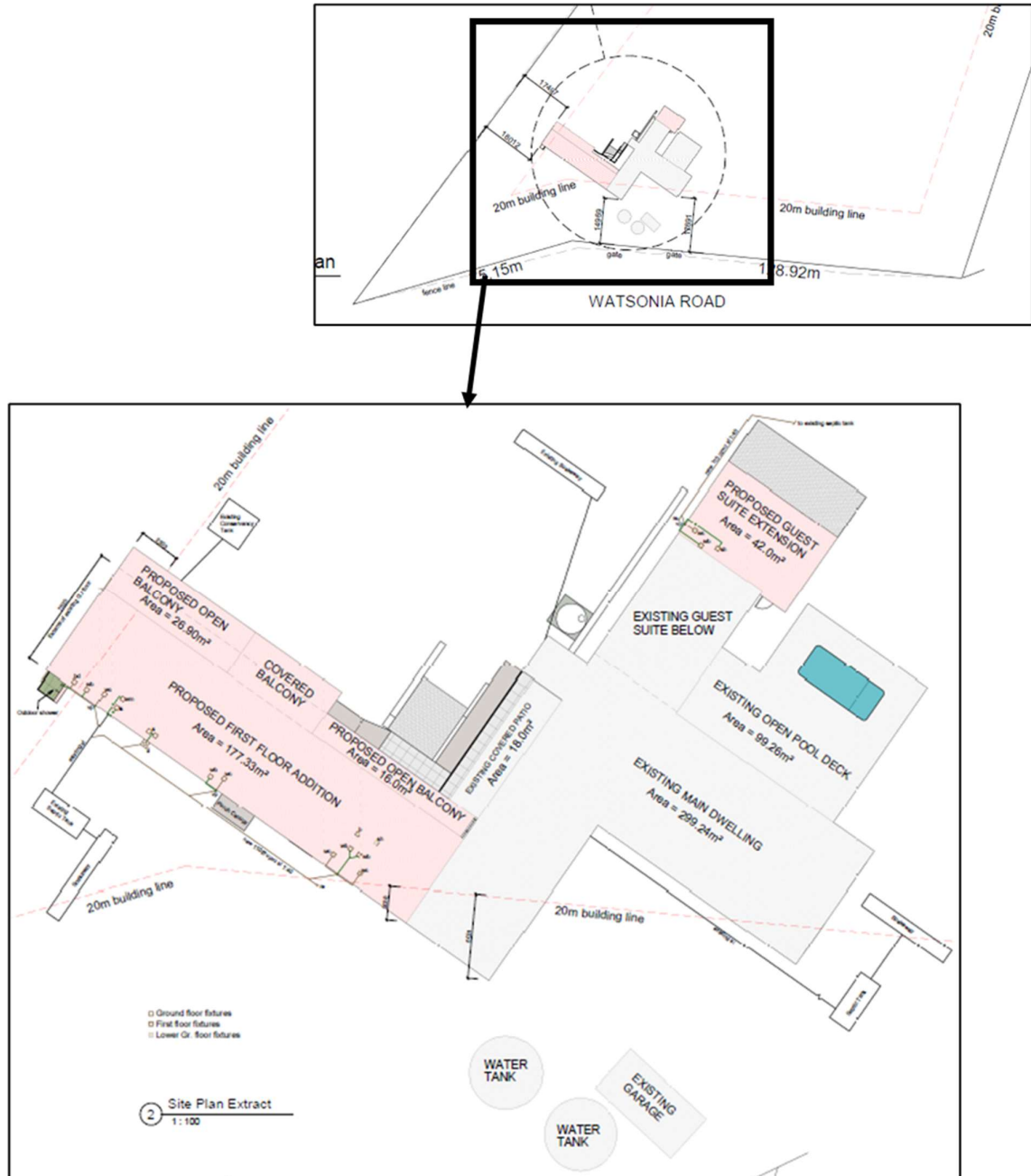


Figure 3: Site Plan

- It is planned to extend the existing second dwelling by developing a new floor on the said primary dwelling.

- The existing second dwelling is located in the northern part of the western wing of the main house. The second dwelling currently consists of a bedroom, bathroom, dining room, kitchen and living room (its floor area is 67m²).
- Following the upgrade/extension of the second dwelling, same will measure 245m² consisting of 3 bedrooms, 3 bathrooms, a kitchen, dining room, a living room, a family room, a study, worker's room, guest toilet, and entrance hall and a garage. The second dwelling will be larger than the permitted 150m² (therefor a Consent Use and Permanent Departure applications).
- The ground floor footprint of the existing building on the site will not be increased.

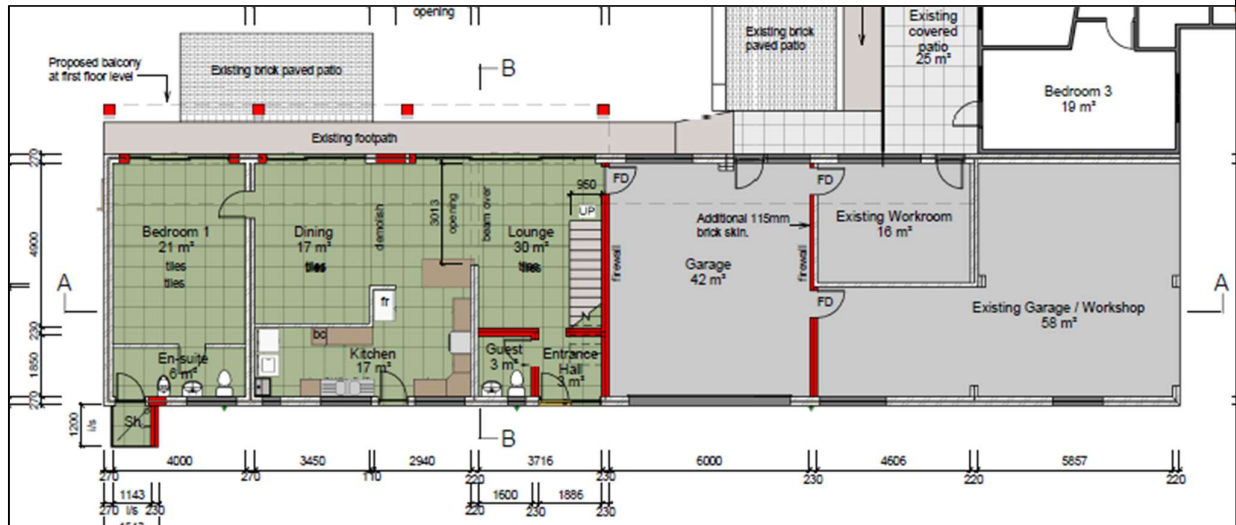


Figure 4: Ground floor (existing second dwelling connecting to main)

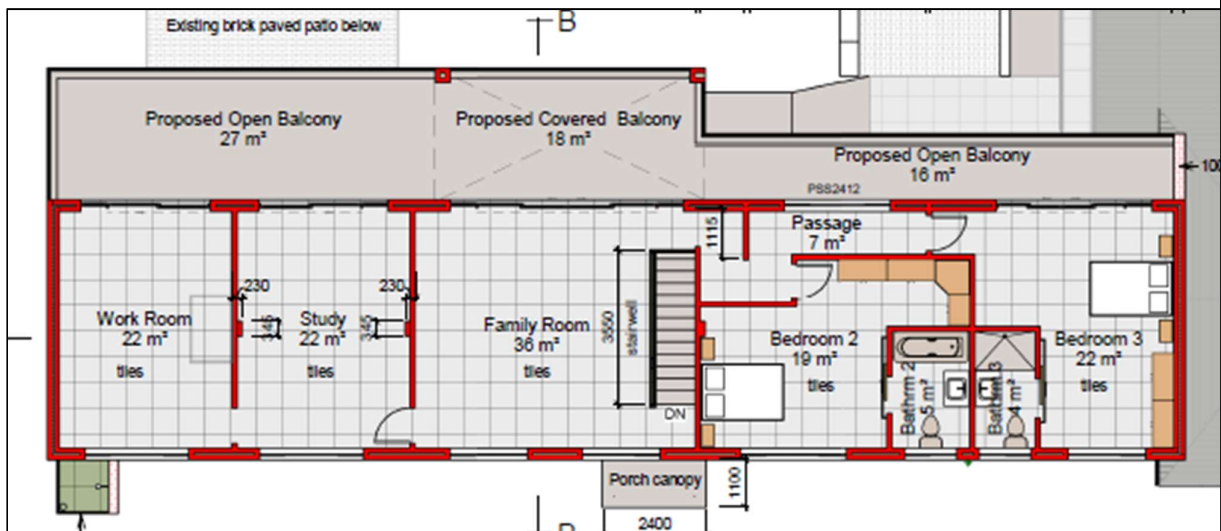


Figure 5: Proposed first floor (upgrade of second)

It is the Directorate's considered opinion, that the floor area of the second dwelling unit exceeds 245m² and was therefore calculated incorrectly by the applicant. The applicant failed to include the buildings/uses ancillary to the second dwelling (specific reference is made to the double garage abutting the second dwelling unit, and the covered balconies which exceed a width of 2.5m). In this regard, it should be noted that the plans which accommodate the application description, are fatally flawed. The proposed floor area calculates to approximately 305m² and not 245m².

It is also stated by the applicant that the existing second dwelling measures 67m² in extent. The existing second dwelling is therefore currently illegal, as the maximum size of a second dwelling is 60m² when utilised as a primary right. However, the matter will be rectified should the Consent Use application be approved.

Locality:

The site is located directly north of Watsonia Street, in Wilderness Heights.

Existing Land Use and Zoning:

- The application area is used for rural living purposes.
- A portion of the site is used for the grazing of horses (to the west and north-east of the dwelling house).
- The site is zoned for Agricultural Zone II uses, in terms of the George Integrated Zoning Scheme By-law (2017).

Title Deed and Conveyancer's Certificate:

- Erf 1018 Hoekwil, is registered in the name of Elsie Johanna Moll, vide title deed T13835/09.
- There are no restrictive title deed conditions that require removal, to accommodate the development proposal, according to the Conveyancing Attorney.

Topography and Geotechnical Conditions:

- The gentle slope of the site will have no impact on the proposed development.
- The geotechnical conditions on the site are stable. The existing building on the site does not contain any structural issues.
- There is no reason to refuse the application, from a geotechnical or topographical perspective.

Vegetation:

- The proposed extension entails the development of a second storey, on top of the ground floor. There will therefore be no impact on the vegetation.
- There will also be no impact on ecological features / habitats.

Planning Policy:

- The application is consistent with the principles of the Spatial Planning and Land Use Management Act (SPLUMA 2013), as follows:
 - Spatial justice (complies): The density on the site will not increase, as a second dwelling is allowed as primary right on the property. The increased size of the second dwelling will create more convenient living circumstances.
 - Spatial sustainability (complies): The site is located within the smallholding area and same is designated for development as proposed by the application. There will be no impact on the environment. There will not be a negative impact on property values. Engineering services are available to accommodate the proposed development.
 - Spatial efficiency: The site is located within a serviced area. The proposed development will therefore connect to existing engineering services. The application was submitted in terms of the Land Use Planning By-Law for George Municipality (2015) and will be processed accordingly (w.r.t timeframes).
 - Spatial resilience: The site is located within the smallholding area and same is designated for development as proposed by the application.
 - Good administration: The local spatial development frameworks for George were compiled on the basis of an integrated process (input was received from all spheres of government). The proposed development is compatible with the broad development proposals of the said spatial development frameworks. The application was submitted in terms of the Land Use Planning By-Law for George Municipality (2015) and will be processed accordingly (w.r.t timeframes). The application will undergo a public participation process, as prescribed by the Land Use Planning By-Law for George Municipality (2015).
- The application is consistent with the principles of the Land Use Planning Act (LUPA 2014).

- The application complies with the Provincial Spatial Development Framework (PSDF 2014), as increased densification is proposed (i.e. the development of a second dwelling).
- The proposed development is consistent with the broad parameters of the George Municipal Spatial Development Framework (MSDF 2019). The proposal will not have a negative impact on surrounding nature conservation areas or view lines/corridors. A second dwelling is developed within an existing smallholding area, which is not in conflict with the MSDF (2019).
- The proposal complies with the Wilderness-Lakes-Hoekwil Local Spatial Development Framework (LSDF 2015). The LSDF (2015) states that in addition to the primary rights, the smallholding area should also cater for certain tourist facilities such as second dwelling units, guest houses, bed and breakfast establishment, tourist facilities, also subject to these activities not causing excessive water usage, undue noise, light pollution, effluent generation or odours. It should be noted that the proposal is consistent with the character and uses of the immediate surrounds.
- The second dwelling will, except for its size and building lines, comply with the George Integrated Zoning Scheme By-law (2017).

Character of the Surrounding Environment:

- The proposed development (including departures) will not have a negative impact on surrounding property rights, due to the distance of the existing surrounding neighbours' homes to the dwelling on the site.
- The proposed development will ensure that the site is used to its full potential.
- The increased size of the second dwelling should be assessed relative to the size of the site. The second dwelling only uses 0.74% of the total property. It should also be noted that the ground floor footprint of the existing dwelling will not increase.

Access and Parking:

- The property has excellent access via the existing road network.
- Two separate accesses are proposed for the site (17m from each other).
- Sufficient on-site parking will be provided.
- There will not be a negative impact on traffic movement.

Provision of Services:

Existing services are available to accommodate the development proposal.

Impact on Community Facilities, Sunlight, Views & Privacy:

- The proposed application will not have an impact on community facilities, whatsoever.
- The proposal will not have a negative impact on sunlight, views and privacy of surrounding properties, as the surrounding dwelling units are located far from the proposed development. Trees on erf boundaries will also mitigate any potential impacts.

Impact on Streetscape:

- A high quality development is proposed, consistent with the surrounds. The upgrades will also be consistent with the existing architectural character of the house.
- The larger portion of the building will be located further than 20m from the street boundary.
- The proposal will not have a negative impact on the streetscape.

Impact on Property Values:

The proposed development will be of high quality, having no impact on surrounding property values.

Conclusion:

- The application is consistent with existing planning policy for the area.
- The proposed development will not have a negative impact on the environment.
- No negative impacts on traffic movement are foreseen.

- The proposal will connect to existing engineering services.
- The proposal can be considered desirable.

PART J: SUMMARY OF PUBLIC PARTICIPATION

Methods of advertising				Date published	Closing date for objections		
Press	Y	N	N/A				
Gazette	Y	N	N/A				
Notices (per registered mail to surrounding property owners)	Y	N	N/A	01/10/2021	01/11/2021		
Website & social media	Y	N	N/A	01/10/2021	01/11/2021		
Ward councillor	Y	N	N/A	04/10/2021	01/11/2021		
On-site display	Y	N	N/A	01/10/2021	01/11/2021		
Community organisation(s)	Y	N	N/A	04/10/2021	01/11/2021		
Public meeting	Y	N	N/A				
Third parties	Y	N	N/A				
Other	Y	N	If yes, specify	<p>The notice was also sent to:</p> <ul style="list-style-type: none"> • Western Cape Department of Environmental Affairs and Development Planning; • Department of Environment, Forestry and Fisheries 	04/10/2021	01/12/2021	
Total valid objections	1				Total invalid objections and petitions	N/A	
Valid petition(s)	Y	N	If yes, number of signatures	N/A			
Community organisation(s) response	Y	N	N/A	Ward councillor response	Y	N	N/A
Total letters of support	0						
<p>Was the minimum requirement for public participation undertaken in accordance with relevant By-Law on Municipal Land Use Planning and any applicable Council Policy</p> <p><i>*Note: The applicant forwarded the application for comments to the Ward Councillor, Community Organisations and State Departments on 04/10/2021. The advertising period closed on 01/11/2021 (for the Ward Councillor) and on 01/12/2021 (for State Departments). The said Interested and Affected Parties did not have the required 30 days and 60 days for comment. However, given the fact that comments were received on the applications, the advertising process is considered sufficient.</i></p>					Y	N	

PART K: SUMMARY OF COMMENTS DURING PUBLIC PARTICIPATION

The following objection to the application was received (refer **Annexure G**):

Wilderness & Lakes Environmental Action Forum (WALEAF)

- No objection is submitted to the principle of developing a second dwelling unit on the site.
- An objection is lodged against the size of the second dwelling and proposed building line departures.
- The total number of bedrooms at present and proposed amounts to 9 bedrooms.
- Allowing two full sized dwellings on this erf would be in contravention of the Zoning Scheme By-law, and this application should be rejected.
- Precedent will be set, should the application be approved. There will be a flood of applications for two full-size dwellings on every property in rural areas, which the municipality would not be able to decline.
- We feel that the property is of such a size that building lines should not be relaxed.

Department of Environmental Affairs and Development Planning (DEA&DP)

In addition to the above, the Department of Environmental Affairs and Development Planning (DEA&DP) stated the following:

The Provincial Rural Guidelines (2019) recommends the maximum size of an additional dwelling unit to be 175m². The proposed increase would be by approximately 70m² which is significantly more than the recommended maximum size. The Municipality must satisfy itself that the proposed departure from this guideline is justifiable in the prevailing context.

PART L: SUMMARY OF APPLICANT'S REPLY TO OBJECTIONS

Response to objections (refer **Annexure H**):

Wilderness & Lakes Environmental Action Forum (WALEAF)

- Possible precedent that may be set by approving the application, does not impact the decision-making process and plays no role therein. Each application is evaluated on the basis of its own merits, by the decision maker (this is also requested by the landowner – that the application is evaluated on its own merits).
- It is the intention to upgrade the second dwelling, to accommodate family members of the landowner (to care for the landowner). In this regard, the second dwelling needs to be positioned as such, to link with the main dwelling. The family members also work from home, therefore the increased size of the second dwelling.
- It should be noted that a building plan can be submitted for the extension of the existing dwelling, as per the property's primary rights. The visual impact will therefore be no different to what is now proposed. The site can therefore be developed with the same visual impact, in terms of its primary rights.
- No objections were received from neighbouring property owners. The proposal is therefore consistent with the development of the surrounds.
- The impression will be created of only one big dwelling house on the site, as the units are connected. Large dwelling units can also be associated with smallholdings.
- Should the proposed second dwelling be developed on another portion of the property as a freestanding unit (not interlinked with the existing dwelling), clearance of vegetation will be required, having an environmental impact. The family members will then also not be able to properly care for the landowner. There will also be a negative impact on the rural character, should a freestanding unit be developed.

Department of Environmental Affairs and Development Planning (DEA&DP)

- The application for the increased size of the second dwelling is sufficiently motivated in the application.
- The response to comments from WALEAF, sufficiently addresses the increased size of the second dwelling.

Conclusion

- The application, as submitted is well-motivated, and the objections have no foundation.
- The increased size of the second dwelling will not have a negative impact on the character of the environment.
- The application can be considered as desirable and should therefore be approved.

PART M: SUMMARY OF COMMENTS FROM INTERNAL DEPARTMENTS AND/OR ORGANS OF STATE COMMENTS

Name of Department	Date	Summary of comments	Recommendation
Civil Engineering Services	13/06/2022	See comments below	Support
Electrotechnical Services	20/06/2022	See conditions below	Services are available
Environmental	04/10/2021	<ul style="list-style-type: none"> • Indigenous/ protected flora must be rescued within proposed footprint area prior to construction. • Biodiversity in all areas outside of the development footprint should be maintained as is. 	Support
Department of Environmental Affairs and Development Planning	07/10/2021	The Provincial Rural Guidelines (2019) recommends the maximum size of an additional dwelling unit to be 175m ² . The proposed increase would be by approximately 70m ² which is significantly more than the recommended maximum size. The Municipality must satisfy itself that the proposed departure from this guideline is justifiable in the prevailing context.	See comment below.

PART N: MUNICIPAL PLANNING EVALUATION (REFER TO RELEVANT CONSIDERATIONS GUIDELINE)

Is the proposal consistent with the principles referred to in chapter 2 of SPLUMA? (can be elaborated further below)	Y	N
Is the proposal consistent with the principles referred to in chapter VI of LUPA? (can be elaborated further below)	Y	N

(In)consistency with the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) and with the principles referred to in Chapter VI of the Land Use Planning Act, 2014 (Act 3 of 2014) (Section 65 of the Planning By-Law)

The consistency of the application with the principles of SPLUMA and LUPA as read with Section 65 of the Planning By-Law was evaluated as follows:

No	Evaluation checklist (s. 65)	Yes	No	N/A
1(a)	Does the application submitted comply with the provisions of this by-Law?	x		

	Has the motivation submitted been considered?	x		
1(b)	Were the correct procedures followed in processing the application? (see land use application process checklist)	x		
	Was a condonation required and granted with regards to the process followed? (see land use application process checklist)		x	
1(c)	Have the desirability guidelines as issued by the provincial minister to the utilise land for the proposed land uses been considered? (not yet applicable)			x
1(d)	Have the comments received from the respondents, any organs of state and the provincial minister been considered? (s. 45 of LUPA)	x		
1(e)	Have the comments received from the applicant been considered?	x		
1(f)	Have investigations carried out in terms of other laws and that are relevant to the application being considered?			x
1(g)	Was the application assessed by a registered town planner? (see land use application process checklist)	x		
1(h)	Has the impact of the proposed development on municipal engineering services been considered?	x		
1(i)	Is the application in line, consistent and/or compatible with the IDP of the municipality?			x
	Is the application in line, consistent and/or compatible with the municipal SDF?	x		
1(j)	Is the application in line, consistent and/or compatible with the IDP of the district municipality including its SDF?			x
1(k)	Is the application in line, consistent and/or compatible with the structure plan applicable to the area?			x
1(l)*	Is the application in line, consistent and/or compatible with the local SDF applicable to the area?	x		
1(m)	Is the application in line, consistent and/or compatible with any other municipal policy or By-Law applicable to the proposed land use?			x
1(n)	Is the application in line, consistent and/or compatible with the provincial SDF?	x		
1(o)	Is the application in line, consistent and/or compatible with the regional SDF (SPLUMA) or provincial regional SDF (LUPA)?			x
1(p)	Is the application in line, consistent and/or compatible with the applicable guidelines, standards, principles, norms or criteria set by national and/or provincial government?		x	
1(r)	Is the application in line the consistent and/or compatible with the following principles as contained in section 7 of SPLUMA / 59 of LUPA:			
	1. The redress spatial and other development imbalances of the past through improved access to and use of land?			x
	2. Address the inclusion of persons and areas previously excluded in the past, specifically informal settlements and areas characterised by wide-spread poverty and deprivation?			x
	3. Enable the redress of access to land by disadvantaged communities and persons?			x
	4. Does the application support access to / facilitate the obtaining of security of tenure and/or incremental informal settlement upgrading?			x
	5. Has the potential impact of the development proposal on the value of the affected land /properties been considered?	x		
	6. The impact of the application on the existing rights of the surrounding owners been recognised?	x		

7.	Does the application promote spatially compact, resource frugal development form?	x		
8.	Can the development be accommodated within the existing fiscal (budget), institutional and administrative means of the municipality? (<i>e.g. Infrastructure upgrades required – when, budgeted for, etc.</i>)			x
9.	Has the protection of prime, unique and/or high potential agricultural land been considered?	x		
10.	Is the application consistent with the land use measures applicable to / contained in environmental management instruments?			x
11.	Does the application promote and stimulate the equitable and effective functioning of land markets?			x
12.	Have all current and future costs to all parties for the provision of infrastructure and social services been considered?	x		
13.	Does the application promote development that is sustainable, discourages urban sprawl, encourages residential densification and promotes a more compact urban form?	x		
14.	Will the development result in / promote the establishment of viable communities?			x
15.	Does the development strive to ensure that the basic needs of all the citizens are met in an affordable way?			x
16.	Will the development sustain and/or protect natural habitats, ecological corridors and areas of high bio-diversity importance?	x		
17.	Will the development sustain and/or protect provincial heritage and tourism resources?			x
18.	Will the development sustain and/or protect areas unsuitable for development including floodplains, steep slopes, wetlands, areas with a high-water table, and landscapes and features of cultural significance?	x		
19.	Will the development sustain and/or protect the economic potential of the relevant area or region?			x
20.	Has provision been made in the development to mitigate against the potential impacts of climate change?	x		
21.	Does the development include measures to reduce consumption / conserve water and energy resources? (<i>renewable energy, energy saving, water saving, etc.</i>)	x		
22.	Does the development consider sea-level rise, flooding, storm surges, fire hazards?			x
23.	Does the development consider geological formations and topographical (soil and slope) conditions?			x
24.	Will the development discourage illegal land occupation – w.r.t. Informal land development practices?			x
25.	Does the development benefit the long term social, economic and environmental priorities for the area (<i>sustained job opportunities, sustained income, integrated open space network, etc.</i>) over any short-term benefits (<i>job creation during construction, short term economic injection, etc.</i>)?			x
26.	Does the development contribute towards the optimal use of existing resources, infrastructure, agriculture, land, minerals and/or facilities?	x		
27.	Does the development contribute towards social, economic,			x

		institutional and physical integration aspects of land use planning?			
	28.	Promotes and supports the inter-relationships between rural and urban development?	x		
	29.	Does the development promote the availability of employment and residential opportunities near each other or the integration thereof?			x
	30.	Does the development promote the establishment of a diverse combination of land uses?			x
	31.	Does the development contribute towards the correction of distorted spatial patterns of settlements within the town/city/village?			x
	32.	Does the development contribute towards and /or promote the creation of a quality and functional open spatial environment?			x
	33.	Will the development allow the area or town to be more spatially resilient that can ensure a sustainable livelihood for the affected community most likely to be affected by economic and environmental shocks?			x
1(s)		Is the application in line with the applicable provisions contained in the applicable zoning scheme regulations (By-Law)? (e.g. Definitions, land use description and development parameters)		x	

(In)consistency with the IDP/Various levels of SDF's/Applicable policies

Provincial Spatial Development Framework (2014)

The Provincial Spatial Development Framework (PSDF 2014) provides broad overarching development principles and guidelines for the Western Cape Province. The PSDF (2014) contains a plethora of spatial related policies. The following policies are considered directly relevant to this application:

- Policy R1: Protect Biodiversity and ecosystem services.
 - Continue to use CBA mapping to inform spatial planning and land use management decisions in the Province.
- Policy R5: Safeguard cultural and scenic assets.
 - Protect heritage and scenic assets from inappropriate development and land use change.
- Policy S1: Protect, manage and enhance sense of place, cultural and scenic landscapes.
 - Prevent settlement encroachment into agricultural areas, scenic landscapes and biodiversity priority areas.
- Policy E2: Diversify and strengthen the rural economy.
 - Prevent settlement encroachment into agricultural areas, scenic landscapes and biodiversity priority areas. Compatible and sustainable rural activities (i.e. activities that are appropriate in a rural context, generate positive socioeconomic returns, and do not compromise the environment or ability of the municipality to deliver on its mandate) and of an appropriate scale and form can be accommodated outside the urban edge.

The proposed development is consistent with the PSDF (2014) as:

- Agricultural land is protected;
- Sustainable development will be promoted, as no impact on biodiversity is foreseen; and
- The development is not visually obtrusive. Scenic assets and landscapes will therefore be protected.

Provincial Rural Areas Guidelines (2019)

The objectives of the Rural Areas Guidelines are to:

- Promote sustainable development in appropriate rural locations throughout the Western Cape, and ensure the inclusive growth of the rural economy.

- Safeguard priority biodiversity areas and the functionality of the Province's life supporting ecological infrastructure and ecosystem services (i.e. environmental goods and services).
- Maintain the integrity, authenticity and accessibility of the Western Cape's significant farming, ecological, coastal, cultural and scenic rural landscapes, and natural resources.
- Assist Western Cape municipalities to plan and manage their rural areas more effectively, and to inform the principles of their zoning schemes and spatial development frameworks in a pro-active manner.
- Provide clarity to all role players and partners (public and private) on the type of development that is appropriate beyond the current built-up areas, suitable locations where it could take place, and the desirable form and scale of such development.
- Be viewed as a gender mainstreaming tool which will move the Western Cape further along the trajectory towards the achievement of equality, particularly the youth and gender equality imperatives in rural land use planning.

It should be noted that the Rural Areas Guidelines allow for and promotes the development of additional dwelling units to support rural tourism opportunities and to diversify farm income. Second dwelling units are also supported in smallholding areas.

According to the Rural Areas Guidelines, development in the rural area should not:

- Have a significant negative impact on biodiversity, ecological system services or the coastal environment;
- Lead to the loss or alienation of agricultural land or has a cumulative impact there upon;
- Compromise existing or potential farming activities;
- Compromise the current and future possible use of mineral resources;
- Be inconsistent with the cultural and scenic landscape within which it is situated;
- Lead to inefficient service delivery or unjustifiable extensions to the municipality's reticulation networks;
- Impose real costs or risks to the municipality delivering on their mandate; and
- Infringe on the authenticity of the rural landscape.

The Rural Areas Guidelines refer to the following objectives w.r.t smallholdings:

- To accommodate larger residential properties in order to provide a full range of opportunities. This may be used for limited agriculture, but primarily serve as places of residence for people who seek a rural lifestyle.
- The WCG objective is to prevent new smallholding development from fragmenting the Western Cape's rural landscapes.

It is further stated that the rural landscape character of the area should be considered in determining the appropriate unit size.

In addition to the above, an "Additional Dwelling Unit" is defined as follows by the Rural Areas Guidelines (2019):

"additional dwelling units" means dwelling units that may be erected on a land unit zoned for agricultural purpose where a permitted dwelling house has first been erected, provided that the additional dwelling units, shall remain on the same cadastral unit. The number of additional units permitted is 1 additional unit per 10ha, to a maximum of 5 units. A maximum floor area, including garaging of 175m² and building height of 1 storey (6,5m) is encouraged, while permanent tents are regarded to be additional dwelling units. Additional dwelling units may not be alienated, whether by individual erven, sectional title, share block or by any other means."

It should further be noted that the Rural Areas Guidelines (2019) is silent about the recommended size for second dwelling units on smallholdings. However, it can be derived from the comments from the DEA&DP (refer **Annexure I**) that the size parameter/rule of 175m² is applicable to any residential accommodation/development, in addition to a main dwelling, on a site in the rural environment.

Following assessment of the Provincial Rural Areas Guidelines (2019), it can be concluded that the proposed application partially complies with the guidelines as:

- No negative impact on the environment and biodiversity resources is foreseen.
- There will not be an impact on high quality agricultural land, as the existing building footprint is used (the existing dwelling unit will be extended upwards).
- The principle of allowing a second dwelling on this property is consistent with the rural character of the landscape, as no additional buildings are proposed on the site (the existing dwelling unit will be extended upwards).
- However, notwithstanding the above-mentioned, the proposal is not aligned with the Provincial Rural Areas Guidelines (2019), as the proposed second dwelling exceeds a floor area of 175m² quite substantively (see also comments from the DEA&DP / **Annexure I**).

George Municipal Spatial Development Framework, 2019 (MSDF)

The intention of the George MSDF (2019) is to provide guidelines aimed at among others, promoting sustainability and affordability, providing for the needs of the community, strengthening the economy, finding a balance between urban development and the natural environment, responding to climate change and disaster management, the equitable and more efficient functioning of the city, providing a diversity of housing typologies and respond to broader housing needs, restructuring and densify the existing urban form, access to employment opportunities, social services, open spaces and recreation opportunities, connectivity by walking, non-motorised transport and public transport, enabling greater choice and a more productive economy.

The following policy is considered directly relevant to the application:

- **Policy G2:** Implement a more articulated approach to the development of human settlement opportunities that support the spatial development vision of the MSDF (2019) and stimulates economic development. In this regard, the consolidation of backyard housing / second dwellings should be supported as a legitimate form of housing supply and household income.

It is further stated by the George MSDF (2019) that threats to the Hoekwil area include the subdivision of smallholdings, expansion of poorly located and serviced informal areas, and insensitive building development. The Municipality will maintain the present environmental, rural and settlement character of the area. To this end it will:

- Not permit expansion of residential areas beyond the urban edge, with the exception of Hoekwil (where a node has been identified).
- Prohibit significant densification of existing residential areas (except through group / town housing and resort development on land available within the urban edge).
- Discourage further growth of the Kleinkrantz and Wilderness Heights settlements.
- No development should impact negatively on the lakes area, crest skyline and green boundaries.

It should further be noted that detailed directives for the development and management of Wilderness and related settlements are contained in the Wilderness-Lakes-Hoekwil Local Spatial Development Framework (2016). The proposed principle of a second dwelling is regarded consistent with the George MSDF (2019) as residential densification will be promoted.

Local Spatial Development Framework: Wilderness / Lakes / Hoekwil 2015 (LSDF)

The Wilderness and The Lakes areas, including Hoekwil and the agricultural areas to the north have a specific and unique character that defines the area, attracts vast numbers of tourists and contain very sensitive and

valuable landscapes. To assist decision makers and developers to manage the future development of this area, Council approved guidelines to ensure the sustainable use and protection of the positive landscape characteristics of this area. The LSDF (2015) states that applications should be refused, or mitigation measures should be imposed, should new structures be located in the visually sensitive areas along any of the tourism routes. If development has to occur in these sensitive landscapes or along scenic routes due to existing rights or other circumstances, it must be sensitive to the landscape and natural visual resources. The layout, buildings, density, landscape treatment and infrastructure should:

- Be visually unobtrusive;
- Utilise materials and colours that originate from or blend into the surrounding landscape;
- Be grouped in clusters with open spaces between clusters;
- Not interfere with the skyline, landmarks, major views and vistas;
- Not result in light, noise or effluent pollution;
- Not result in excessive water consumption, and should incorporate a requirement for rainwater collection as part of the building;
- Respond to the historical, architectural and landscape style of surrounding layout and buildings;
- Incorporate existing man-made or natural landmarks and movement patterns; and
- Keep and protect a visual buffer along the N2 National Road as far as possible.

The main goal of the LSDF (2015) as far as existing smallholding precincts are concerned is to ensure that the character and ambience of these areas are protected and to ensure that the overall landscape character of the study area is retained and improved through appropriate measures. Secondly, the approach is to prevent further development of smallholdings or extensive residential lifestyle properties in the rural landscape. No further extensions to the demarcated smallholding areas should be considered and no land outside of the smallholding outer boundaries may be subdivided to form new smallholdings or agricultural portions that are smaller than the minimum viable agricultural units prescribed by Department of Agriculture, Western Cape Government. Subdivision of smallholdings inside the demarcated smallholding areas should not be granted automatically, it is also subject to the overarching guidelines that protect the special landscape character of Wilderness and should be refused if it does not comply with these guidelines.

In addition to the primary rights, the smallholding area should also cater for certain tourist facilities such as *second dwelling units, guest houses, bed and breakfast establishment, tourist facilities*, also subject to these activities not causing excessive water usage, undue noise, light pollution, effluent generation or odours, according to the LSDF (2015).

Following the above, it can be concluded that the development of a second dwelling on the site is consistent with the planning principles of the LSDF (2015), as follows:

- The proposed second dwelling is not visually obtrusive.
- The structure will not interfere with the skyline, vistas, scenic landscapes or major view corridors.
- The natural environment is being protected, as the second dwelling is proposed on the existing dwelling unit's footprint.
- The structure is not located along a major tourism route.

(In)consistency with guidelines prepared by the Provincial Minister

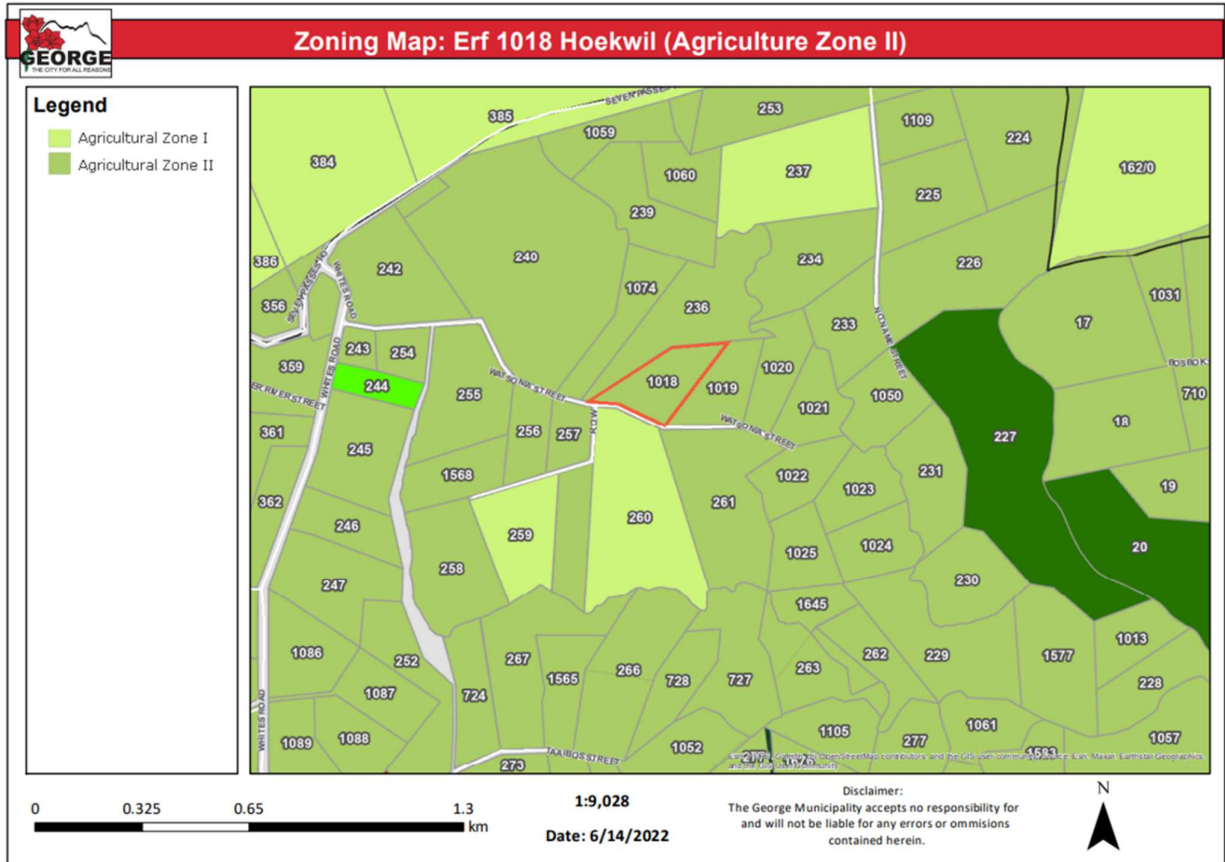
N/A

Outcomes of investigations/applications i.t.o other laws

N/A

Existing and proposed zoning comparisons and considerations

Figure 6 below indicates the existing zoning of the area. The subject property is zoned for Agricultural Zone II (Smallholding) purposes, in terms of the George Integrated Zoning Scheme By-law (2017). The properties surrounding the application site are zoned Agricultural Zone I & II.



The proposal is to upgrade the existing dwelling to accommodate a second dwelling of approximately 305m². A second dwelling is described as follows, by the George Integrated Zoning Scheme By-law (2017):

“second dwelling means another dwelling unit which may, in terms of this By-law, be erected on a land unit where a dwelling house is also permitted; and such second dwelling may be a separate structure or attached to an outbuilding or may be contained in the same structure as the dwelling house.”

It is further stated by the said By-law (2017) that the total floor space of a second dwelling unit may not exceed 150m², which includes the floor space of all ancillary buildings. From the afore-mentioned (with specific reference to the maximum size of a second dwelling), it is clear that the intention / objective(s) of a second dwelling is to:

- Create an additional living opportunity on a site, which is supplementary/secondary to the main dwelling.
- Support rural tourism opportunities.
- Diversify farm income.
- Increase residential densification (by means of small-scale infill development).
- Create affordable accommodation, as a rental option.

The application proposes a second dwelling unit with an approximate size of 305m². The following table indicates the assessment of the proposal, relative to the George Integrated Zoning Scheme By-law (2017):

Second Unit Integrated Scheme (2015)	Dwelling (George Zoning By-law)	Maximum permitted floor area	Development proposal	Compliant	Conclusion
		150m ²	±305m ²	No	The application proposes a 103% (or 155m ²) increase to what is permitted in terms of the George Integrated Zoning Scheme By-law (2017). The proposed increase in size can be considered a material deviation from the said zoning scheme.

The George Integrated Zoning Scheme By-law (2017), which regulates land use development within the municipal area to ensure long term sustainable and just development, intentionally limits the size of second dwelling units and the said parameter (i.e. maximum size) was imposed to obtain a certain development objective (i.e. there is logic behind the decision). The afore-mentioned statement is based on the fact that second dwelling units are considered secondary to the primary dwelling, and in most instances, second dwelling units are utilized to create small scale accommodation opportunities, while simultaneously protecting the character of an area over the long term.

The proposed deviation from 150m² to 305m² (or 103% increase) is material and in conflict with the development objectives / intent of second dwelling units. The floor area of the main dwelling unit on Erf 1018 Hoekwil, calculates to approximately 360m². The primary and second dwelling units will therefore be similar in size, meaning that the true intention of this application is to establish two primary dwelling units on the property, subverting the intent of this zoning scheme parameter.

The need and desirability of the proposal

The need and desirability for the proposed development has been considered in terms of the following factors:

NO.	Evaluation check list	Yes	No	N/A
1	Will the natural environment and/or open space systems be negatively affected?		X	
2	Will application result in trees/indigenous vegetation being removed on site or in the road reserve?		X	
3	Does the application have any negative impact on heritage resources?		X	
4	Will the character of the surrounding area be negatively affected?		X	
5	Will the architectural character of the streetscape be negatively affected?		X	
6	Will there be any negative impact on vehicle traffic and pedestrian safety?		X	
7	Will there be a negative impact on traffic movement?		X	
8	Will there be a negative impact on vehicle sight distances?		X	
9	Are there adequate on-site parking / loading facilities provided?	X		
10	Are there adequate vehicle access/ egress to the property?	X		
11	Will the neighbour's amenity to sunlight be negatively affected?		X	
12	Will the application result in overshadowing onto neighbours' properties?		X	

13	Will the neighbour's amenity to privacy / enjoyment of their property / views be negatively affected?		X	
14	Will the proposal have a negative impact on scenic vistas or intrude on the skyline		X	
15	Will the intended land use have a negative impact on adjoining uses?		X	
16	Will the land use pose a potential danger to life or property in terms of fire risks, air pollution or smells or compromise a person's right to a safe and secure environment?		X	
17	Will there be a negative impact on property values?		X	
18	Will the application result in a nuisance, noise nuisance, and disturbance to neighbours?		X	
19	Will adequate open space and/or recreational space be provided (for residential developments)?			X
20	Will approval of the application set a precedent?	X		

Comments

*1 & 2: The proposed second dwelling will be developed on the existing building footprint, as the current dwelling unit on the site will be upgraded and extended upwards (a new storey is proposed).

*3: There is no reason to believe that the proposed development will impact on any heritage resources.

*4 & 5: The application is regarded as being consistent with and complementary to the surrounding land uses. The principle of a second dwelling will therefore not have a negative impact on the character of the surrounding area.

*6, 7, 8, 9 & 10: The proposed development will have no negative impact on traffic in the area. The access/egress for the property is sufficient. On-site parking will be provided.

*11, 12, 13 & 14: The second dwelling, in its proposed location, will not have a negative impact on scenic vistas or views from surrounding properties. The fact that the existing dwelling unit is upgraded (the footprint on ground floor will not increase), creates the impression of only one dwelling unit on the site.

*15: There will not be a negative impact on surrounding property rights, whatsoever (refer 11 to 14 above).

*20: Unwanted precedent may be set when approving a $\pm 305\text{m}^2$ second dwelling - of similar size as the main dwelling. The precedent will be cited by landowners on surrounding smallholdings and agricultural areas to build excessively large 2nd and additional dwelling units on surrounding properties. Such scenario will cause cumulative negative impacts that will ruin the existing landscape character which dominates the area. The existing landscape is the main attraction for tourists and visitors to the area and forms the basis of the local economy. Thus, it is incumbent on the municipality to ensure that such impacts are avoided.

Further, allowing such a significant deviation – more than double than what is allowed by the zoning scheme, subverts the intent of the scheme and would effectively render the development parameter redundant.

Assessment of objections/comments

The objections from Interested and Affected Parties, and the response by the applicant thereto, were carefully assessed and considered. Following assessment of the documentation, the following can be concluded:

Objection / Issue	Assessment / Comment	Conclusion
<p>a) An objection is lodged against the size of the second dwelling. Allowing two full sized dwellings on this erf would be in contravention of the Zoning Scheme By-law, and this application should be rejected. Precedent will be set, should the application be approved. There will be a flood of applications for two full-size dwellings on every property in rural areas, which the municipality would not be able to decline.</p>	<p>a) The concerns by the objector are noted and agreed with. Though the applicant is correct that each application should be assessed on its own merits, the Municipality must consider the cumulative impact of allowing such a substantive deviation. Future applicants will most likely exploit such a deviation and decision, which will ultimately have a negative influence on the rural landscape which needs to be protected and preserved.</p> <p>In terms of the zoning scheme, a home occupation may not exceed 60m². The applicant's argument that the increased size/space is required for the second dwelling as the new occupants work from home, does not justify the substantive deviation being applied for. Rather, it appears that the true intent is to establish two primary dwelling units on the site.</p>	<p>a) The risk of unwanted precedent that may be set is duly noted and agreed with. The reasoning behind the size parameter for a second dwelling was based on a thorough understanding of the long-term planning objectives of the municipal area, specifically with reference to enhancing the rural economy by protecting the character and ambience of the receiving rural environment. Allowing such a substantive deviation renders the maximum size parameter of a second dwelling unit ineffective and worthless.</p>
<p>b) The property is of such a size that building lines should not be relaxed. Construction can take place elsewhere on the property where building lines do not have to be relaxed.</p>	<p>b) The proposed building lines do not materially deviate from the George Integrated Zoning Scheme By-law (2017), as minor departures are requested.</p> <p>It should also be noted that the ground floor of the existing dwelling will not be extended to encroach over building lines. The building line departures are merely to accommodate the new use and proposed second storey.</p> <p>Constructing the second dwelling elsewhere on the property, as a freestanding unit which does not encroach over building lines, may have a negative environmental impact, as vegetation will have to be cleared to accommodate a new building. Utilising the existing structure on the site is a better outcome for the natural environment.</p>	<p>b) The concern raised by the objector has been sufficiently addressed. The objection should therefore be disregarded.</p>

Conclusion

In consideration of the above, the Directorate finds as follows:

- The objector failed to prove that there will be adverse / negative impacts on surrounding property owners.
- The proposal has no material visual impact as the existing structure will be renovated and extended to accommodate the dwellings on the site.
- The proposed size of the second dwelling is considered a material deviation from the George Integrated Zoning Scheme By-law (2017). An unwanted precedent will be set should the increased size of the second dwelling unit be approved. The afore-mentioned may have detrimental long-term impacts on the rural character of Wilderness Heights. The opportunity will for larger families to settle in rural areas cannot be ignored and may contribute to unwanted impacts that may affect the local character, such as traffic impacts, demand on services, etc.).

It is this Directorate's considered opinion that a material deviation from the George Integrated Zoning Scheme By-law (2017) is proposed. Potential long-term negative impacts on the rural character of the area has not been addressed by the applicant and the application is found lacking in justification of the said deviation from the maximum size of a second dwelling. The objection as submitted by WALEAF, which argues that the second dwelling unit is too large (and of similar size than a normal dwelling), should be upheld. Notwithstanding the afore-mentioned, the objection against the proposed building lines, should be disregarded.

PART O: SUMMARY OF EVALUATION

It is the intention of the landowner to upgrade and extend the existing dwelling house on the property to accommodate a large second dwelling unit. The ground floor footprint of the primary dwelling will not be extended. However, a second storey is proposed to accommodate the use. The application considers the character of the surrounding area, existing site conditions, existing spatial policies and the surrounding neighbours' rights and amenities.

The proposal has been assessed and the following is found:

- The application is consistent with the Provincial Spatial Development Framework, George Municipal Spatial Development Framework (2019) and the Wilderness, Lakes and Hoekwil LSDF (2015);
- The application is in line with the principles of the Spatial Planning and Land Use Management Act (SPLUMA 2013) and the Land Use Planning Act (LUPA 2014);
- The proposal does not comply with the Provincial Rural Areas Guidelines (2019), in terms of unit size;
- The proposal will not have a substantive negative visual impact on the immediate surrounds as the impression is being created that there is only one dwelling unit on the site, given the fact that the second dwelling is accommodated within the primary dwelling (there is only one architectural style);
- No negative impacts on engineering services are foreseen. The existing engineering services are to be utilized;
- There will not be a negative impact on the surrounding property rights (views, privacy & sunlight), given the fact that the properties/dwellings potentially affected are located ± 100 from the development site;
- There will not be a negative impact on traffic in the area; and
- The proposal will not have a significant detrimental impact on heritage resources or character of the area, as same is proposed outside of the critical biodiversity area. There is no reason to believe that there are any heritage resources on the site.

Notwithstanding the above and the fact that the principle of a second dwelling unit on the site is supported, an unwanted precedent may be set when approving a $\pm 305\text{m}^2$ second dwelling which is of similar size as the main dwelling. The opportunity will be created for landowners in smallholding and agricultural areas to create two primary units of similar size, thereby exploiting the principle and objectives of second dwelling units. Should the afore-mentioned scenario realize, the maximum size parameter for second dwelling units in terms

of the George Integrated Zoning Scheme By-law (2017) will become redundant, making the decision of imposing such a restriction irrelevant.

By creating the opportunity for landowners to develop much substantively large second dwelling units, may have cumulative negative impacts on the future character and ambience of the rural area, contributing to an unwanted creative form of urban sprawl (having a negative impact on traffic, service delivery, contributing to dispersed planning etc.).

Thus, on the balance of all considerations in terms of Section 65 of the Land-Use Planning Bylaw for George Municipality (2015), the Directorate can in principle **SUPPORT** the development of a second dwelling on the position shown on site, but the application for departure to increase the size of the second dwelling from 150m² to ±305m² is found to be undesirable and is therefore **NOT SUPPORTED**.

PART P: RECOMMENDATION

A) That, in consideration of the objection received as well as the conclusions reached in the planner's report, the application for Departure in terms of Section 15(2)(b) of the Land Use Planning By-law for George Municipality (2015), to increase the maximum floor space of the second dwelling from 150m² to 245m² (305m²);

BE REFUSED in terms of Section 60 of the Land Use Planning By-law for George Municipality (2015) for the following reasons:

- (i). A material deviation from the development parameters of the George Integrated Zoning Scheme By-law (2017) is proposed, which negates the intent of the zoning scheme and threatens the objectives associated with rural areas;
- (ii). The proposal is not adequately supported by justifiable site-specific circumstances and the approval of the application under the current motivation will create expectations with regards to the municipality's response to similar applications on other sites, both within the rural and urban areas;
- (iii). The afore-mentioned may have cumulative detrimental impacts on the ambience and character of the rural area (a form of urban sprawl will be promoted).
- (iv). The size of the unit is in conflict with and deviates substantially from the preferred unit size as described in the Rural Areas Guidelines (2019).

B) That, notwithstanding the objections received and in consideration of the information available, the following applications applicable to Erf 1018, Hoekwil:

- a) Consent Use, in terms of Section 15(2)(o) of the Land Use Planning By-law for George Municipality (2015), to allow for a second dwelling unit on Erf 1018 Hoekwil; and
- b) Departure, in terms of Section 15(2)(b) of the Land Use Planning By-law for George Municipality (2015), to allow for the following on Erf 1018 Hoekwil:
 - 1. Relaxation of the street building line from 20m to 17.96m; and
 - 2. Relaxation of the north-western common boundary building line from 20m to 17.49m,

BE APPROVED in terms of Section 60 of said By-law for the following reasons:

- (i). The principle of a second dwelling is not in conflict with the spatial development objectives for the area (George MSDP 2019 & Wilderness-Lakes-Hoekwil LSDP 2015);
- (ii). No negative impacts on bulk engineering services are foreseen;
- (iii). There will be no negative impact on traffic in the area;

- (iv). The development proposal will not result in any significant negative changes to the bio-physical characteristics of the property; and
- (v). There will be no negative impacts on surrounding property rights, whatsoever.

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

CONDITIONS OF THE DIRECTORATE: PLANNING AND DEVELOPMENT:

General Conditions

1. That in terms of Section 43 of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) read with the provisions of the Land Use Planning By-law for the George Municipality, 2015, the approval shall lapse if not implemented within a period of two (2) years from the date thereof;
2. A revised Site Layout Plan for the second dwelling must be submitted in accordance with Section 23 of the George Integrated Zoning Scheme Bylaw to the satisfaction of the Directorate for approval;
3. No development should occur within the CBA area adjacent to the development site;
4. All areas of natural vegetation to be left undisturbed;
5. A building plan for the second dwelling must be submitted to the Directorate for approval after approval of the SDP;
6. The approval will be deemed implemented on the commencement of works in accordance with the approved building plan;

CONDITIONS OF THE DIRECTORATE: CIVIL ENGINEERING SERVICES

7. 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:
8. The amounts of the development contributions are reflected on the attached calculation sheet dated 13/06/2022 (attached as **Annexure B**) are as follows:

Roads R	3 203,88;
Sewer R	15 218,37
Water R	13 329,75
Total: R	31 752,00 (Vat excluded)
9. The total amount of the development charges of **R31 752,00** (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.
10. Any amendments or additions to the proposed development which is not contained within the calculation sheet as dated in condition 8 above, which may 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.
11. 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 R31 752 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 9 above.
12. 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.
13. 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.
14. Any, and all, costs directly related to the development remain the developers' responsibility.
 15. Only one connection permitted per registered erf (Electrical, water and sewer connections), should municipal service be available (condition 13 applies).
 16. 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 13 applies).
 17. 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 13 applies).
 18. 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 13 applies).
 19. No development may take place within the 1:100 year flood line or on slopes steeper than 1:4.
 20. Suitable servitudes must be registered for any municipal service not positioned within the normal building lines.
 21. The applicant is to comply with the National Forestry Act, Act No 84 of 1998, should it be required.
 22. Provisions for the removal of solid waste is to be addressed in conjunction with the Dir: Environmental Services.
 23. 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.
 24. 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.
 25. 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.
 26. 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.
 27. Municipal water is provided for potable use only. No irrigation water will be provided.
 28. 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.
 29. The developer / erf owner is to apply to the George Municipality for the installation of an individual erf water meter prior to any building work commencing on an erf.
 30. No municipal waterborne sewer service is available at present. Should a municipal network in future be extended to this area, the owner will be compelled, at own cost, to connect to the network. A Development Charge for sewer will then become payable in accordance with the approved DC Guidelines at the time of connection.
 31. A conservancy tank, or alternative approved sewer disposal method, must be installed at the Developer/owner's cost. The Developer/owner is to appoint a private contractor, at own expense, to service the tank, and the disposal of the content is to be via an approved disposal methods. The

installation of a septic tank may be considered if the required percolation tests are within the accepted norms.

32. The discharge of surface stormwater is to be addressed by the developer. Condition 13 applies. All related costs are for the developer. The developer is to consult with the Dir: CES to ensure that stormwater planning is done online with the available stormwater master plans.
33. 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 must be addressed and all measures indicated on plans and drawings submitted for approval.
34. Adequate parking with a hardened surface must be provided on the premises of the proposed development.
35. No private parking will be allowed in the road reserve.
36. A dimensioned layout plan indicating the proposed accesses onto private / servitude roads, must be submitted to the relevant departments for approval (condition 13 applies).
37. 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.
38. Permission for access onto municipal, provincial or national roads must be obtained from the relevant authorities.

CONDITIONS OF THE DIRECTORATE: ELECTROTECHNICAL SERVICES

39. 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:
40. The amounts of the development contributions are reflected on the attached calculation sheet dated 20/06/2022 (attached as **Annexure B**) are as follows:

Electricity R 11 583,77 (Vat excluded)

41. The total amount of the development charges of **R11 583,77** (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.
42. Any amendments or additions to the proposed development which is not contained within the calculation sheet as dated in condition 40 above, which may 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.
43. 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 R11 583,77 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 41 above.
44. 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.
45. 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.
46. 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.
 47. Any, and all, costs directly related to the development remain the developers' responsibility.
 48. Only one connection permitted per registered erf (Electrical, water and sewer connections). Condition 45 applies.
 49. 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 45 applies).
 50. 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 45 applies).
 51. 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 45 applies).
 52. No development may take place within the 1:100 year flood line or on slopes steeper than 1:4.
 53. Suitable servitudes must be registered for any municipal service not positioned within the normal building lines.
 54. The applicant is to comply with the National Forestry Act, Act No 84 of 1998, should it be required.
 55. Provisions for the removal of solid waste is to be addressed in conjunction with the Dir: Environmental Services.
 56. 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.
 57. 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.
 58. 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.
 59. 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.

PART Q: ANNEXURES

Annexure A	Site Plan
Annexure B	CES and ETS calculation sheet
Annexure C	Motivation Report
Annexure D	Locality Plan
Annexure E	Conveyancer Certificate
Annexure F	Title Deed
Annexure G	Objections
Annexure H	Response to Objections Report
Annexure I	Comment from Department of Environmental Affairs and Development Planning
Annexure J	SG Diagram
Annexure K	Power of Attorney



MARTIN BOTHA (Pr.Pl.n. A/2518/2017)
TOWN PLANNER

16/06/2022
DATE



J. Fourie A/1429/2011
SENIOR TOWN PLANNER

20/06/2022

DATE

~~RECOMMENDED / REFER TO APPLICANT / REFER TO TRIBUNAL~~



C. PETERSEN (B/8336/2016)
SENIOR MANAGER: TOWN PLANNING

27/06/2022

Date

~~APPROVED / REFUSED / REFER BACK TO APPLICANT / REFER TO TRIBUNAL~~



D. POWER (A/1973/2014)
DEPUTY DIRECTOR PLANNING/AUTHORISED OFFICIAL

01 July 2022

Date

Attachments : Annexures for Erf 1018, Hoekwil

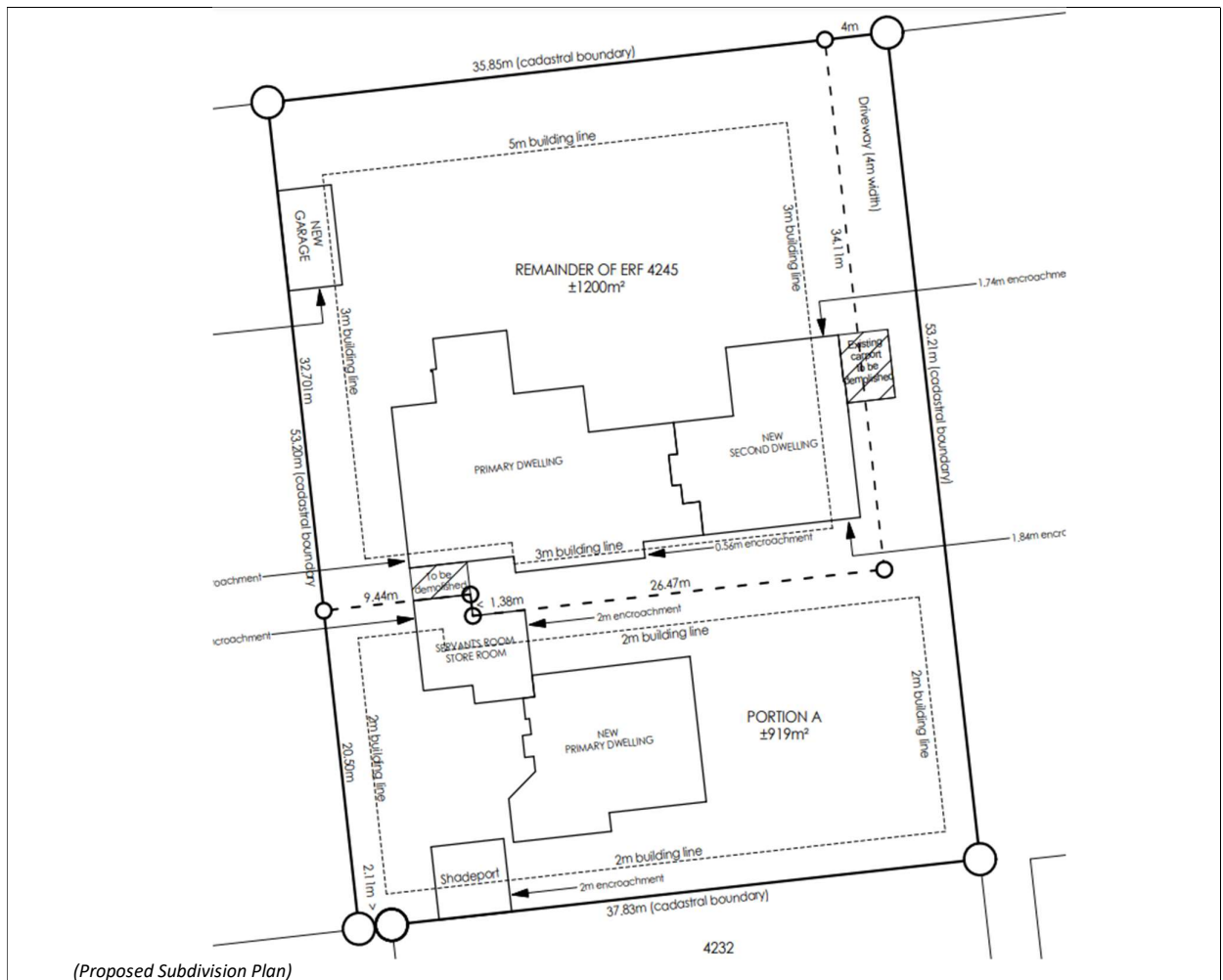


Erf 1018 Hoekwil
(Tribunal annexures)

6.3. Subdivision, Consent Use and Departure : Erf 4245, 9 Cypress Avenue, Heather Park, George (R Janse van Rensburg)

LAND USE PLANNING REPORT						
APPLICATION FOR SUBDIVISION, CONSENT & DEPARTURE: ERF 4245, GEORGE						
Reference number	2081805	Application submission date	12 November 2021	Date report finalized	17 June 2022	
PART A: AUTHOR DETAILS						
First name(s)	Robert Henk					
Surname	Janse van Rensburg					
Job title	Town Planner					
SACPLAN registration number	A/2925/2020					
Directorate/Department	Planning and Development					
Contact details	Email: rhjansevanrensburg@george.gov.za Tel: 044 810 9555					
PART B: APPLICANT DETAILS						
First name(s)	Stefan					
Surname	De Kock					
Company name	Perception Planning					
SACPLAN registration number	A/1599/2012	Is the applicant authorized to submit this application?			Y	N
Registered owner(s)	Kathleen Margaret Mackay (ID 380815 5004 088)					
PART C: PROPERTY DETAILS						
Property description (in accordance with Title Deed)	Erf 4245, George					
Physical address	9 Cypress Avenue, Heather Park		Town/City	George		
Current zoning	Single Residential Zone I	Extent (m ² /ha)	2 119m ²	Are there existing buildings on the property?	Y	N
Applicable Zoning Scheme	George Integrated Zoning Scheme By-Law, 2017 (hereafter referred to as " Zoning Scheme ");					
Legislation	Land-use Planning By-Law for George Municipality, 2015 (hereafter referred to as " Planning By-Law "); George Municipal Spatial Development Framework, 2019 (hereafter referred to as " GMSDF ").					

Current Land Use	Dwelling House and Second Dwelling			Title Deed number & date	Title Deed T10769/2017 attached as Annexure E . SG Diagrams are attached as Annexure F .			
Any restrictive title conditions applicable?	Y	N	If Yes, list condition number(s)	According to the Conveyance Certificate received from Zenariah Martin of Stadler & Swart Inc. (23 August 2021), the relevant Title Deed does not contain any conditions that restrict the proposed subdivision. See attached Annexure G .				
Any third-party conditions applicable?	Y	N	If Yes, specify	N/A				
Any unauthorised land use/building work?	Y	N	If Yes, explain	N/A				
PART D: PRE-APPLICATION CONSULTATION (ATTACH MINUTES)								
Has pre-application consultation been undertaken?			Y	N	See Annexure D .			
Reference Number	1905983			Date of consultation	29 June 2021	Official's name	I.Huyser	
PART E: LIST OF APPLICATIONS (TICK APPLICABLE)								
c. Rezoning		b. Permanent departure	X	kk. Temporary departure		ll. Subdivision	X	
mm. Consolidation		nn. Amendment, suspension or deletion of restrictive conditions		oo. Permissions required in terms of the zoning scheme		pp. Amendment, deletion or additional conditions in respect of existing approval		
qq. Extension of validity period		rr. Approval of an overlay zone		ss. Phasing, amendment or cancellation of subdivision plan		tt. Permissions required in terms of conditions of approval		
uu. Determination of zoning		vv. Closure of public place		ww. Consent use	X	xx. Occasional use		
yy. Establishment of a Home Owners Association		zz. Rectify Beach of Home Owners Association		aaa. Reconstruct building of non-conforming use		Other		
PART F: APPLICATION DESCRIPTION								
To consider the following applications applicable to Erf 4245, George:								
1. Subdivision in terms of Section 15(2)(d) of the Land Use Planning By-Law for George Municipality, 2015 of Erf 4245, George into: <ul style="list-style-type: none"> a) Portion A ($\pm 919\text{m}^2$) b) Remainder of Erf 4245, George ($\pm 1200\text{m}^2$). 								



2. Consent Use, in terms of Section 15(2)(o) of the Land Use Planning By-Law for George Municipality, 2015, for a Second Dwelling on the proposed Remainder of Erf 4245, George.
3. Departure in terms of Section 15(2)(b) of the Land Use Planning By-Law of George Municipality, 2015 for relaxation of the following building lines:
 - a) Northern common boundary building line of proposed Portion A from 2m to 0m to accommodate the existing servant's and store- rooms;
 - b) Southern common boundary building line of proposed Remainder from 3m to 2.1m and 2.44m to accommodate the existing dwelling house;
 - c) Eastern common boundary building line of proposed Remainder from 3m to 1.74m to accommodate the existing building/ proposed second dwelling;

PART G: LOCATION

Erf 4245, George (2 119m² in extent) is situated on the southern side of Cypress Avenue, between Airway Road and Wattle Road, within the predominantly residential suburb of Heather Park, about ±3 km west of the George Central Business District (CBD).

Regional locality of Erf 4245, George



Erf 4245, George shown within the closer urban context



Aerial image describing site-specific context of Erf 4245, George



PART H: BACKGROUND AND HISTORY

- A previous subdivision application on Erf 4245, George was approved on 10 December 2008 in terms of Section 25(1) the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985).
- The subdivision was never implemented by the owner and as a result, a new application was required in terms of the Land Use Planning By-Law for George Municipality, 2015.
- It should be noted that the subdivision as applied for is different as the previous approved subdivision in 2008.
- According to the landowner, permission for a second dwelling was granted prior to 2017 (i.e. before implementation of the GIZS, 2017) though this could not be confirmed through a search of the relevant municipal planning file.

PART I: SUMMARY OF APPLICANTS MOTIVATION

**The notes in italic did not form part of the applicant's motivation report and are merely for explanation purposes.*

The applicant's Memorandum is attached as **Annexure C**.

Access & Parking

- The two existing driveways to Erf 4245, George would remain as is and served the dwelling house and second dwelling, respectively (on proposed Remainder)
- The length of the cadastral boundary onto Cypress Avenue is $\pm 39.8\text{m}$ and the separation distance between said entrances is $\pm 22.8\text{m}$.
- The western (primary) entrance and driveway provides access to the main dwelling house whilst the eastern (secondary) entrance and driveway provides access second dwelling on the eastern portion of the property (*Proposed Remainder*).
- Sufficient on-site parking will be provided for the two main dwelling houses (on portion A and Remainder) as well as the second dwelling (on the Remainder) in accordance with the requirements of the GIZS.
- Additional traffic movements likely to be generated in terms of the proposal would be for a single family and would not result in a traffic hazard or compromise of traffic safety along Cypress Avenue.

Physical characteristics

- The property is level, stable and do not contain any landfills.
- Existing vegetation consists of lawned areas interspersed by shrubs and trees.
- In addition to existing fencing, established, densely vegetated hedging along the northern and western boundaries while mature trees occurring on adjoining properties along the southern cadastral boundary of Erf 4245, are of such a nature that overlooking to/from adjoining properties to the west and south are not possible.

Proposed Development

- The first part of the proposed development is the subdivision of the property into two portions, namely a Portion A (southern portion of the property measuring $\pm 919\text{m}^2$ in extent) and the Remainder of Erf 4245 (northern portion of the property, $\pm 1200\text{m}^2$ in extent).
- To implement the above, two portions of existing buildings would be demolished as follows:
 - An existing single carport ($\pm 14\text{m}^2$) to the eastern elevation of the dwelling house;
 - Portion of the existing outbuilding (comprising a store room and servant's room, measuring $\pm 7.5\text{m}^2$) presently connecting the dwelling house and dwelling to the rear.
- As a consequence of the proposed subdivision, permission for encroachment of existing buildings onto the building lines are sought as follows:
 - Proposed Portion A: Relaxation of the northern building lines from 2m to 0m to accommodate the existing outbuilding (store and servant's rooms).
 - Proposed Remainder: Relaxation of the southern building line from 3m to 2.1m and 2.44m to accommodate the existing dwelling house.
 - Proposed Remainder: Relaxation of the eastern building line from 3m to 1.74m to accommodate the existing building/ proposed second dwelling.
- Lastly, permission is sought for a Second Dwelling ($\pm 113\text{m}^2$) on the proposed Remainder of Erf 4245.
 - * *According to the information available, the main dwelling was illegally converted into 3 dwellings. Thus, the proposed subdivision will result in 2 dwellings (Main and second) on proposed Remainder and one Dwelling on proposed Portion A. Thus, the proposed dwellings are, albeit unlawful, existing.*
- The existing dwelling situated to the rear of the property would thus become the primary dwelling to proposed Portion A.

Municipal Services and Infrastructure

- Access to proposed Portion A would be via a 4m wide panhandle following the eastern cadastral boundary of the property.
- Minor shrubs currently occurring along the eastern cadastral boundary would need to be removed for this purpose.
- Existing municipal services and infrastructure are available.

SPLUMA - The Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)

Section 7 of this Act sets out five development principles that are applicable to spatial planning, land development and land use management, as outlined below together with respective planning responses insofar as these are applicable to the proposed development.

- **Spatial Justice:** While from a broader perspective this proposal would not necessarily readdress past spatial and development imbalances the creation of an additional land unit is likely to create additional work opportunities within the local economy.
- **Spatial Development:** Implementation of the proposal would imply intensified use of an existing residential property situated within the urban edge within an urban area characterised by residential-orientated land use. SPLUMA promotes land development in locations, which such as in this case, are sustainable and would limit urban sprawl.

- **Efficiency:** The proposal will tie into existing engineering services and infrastructure with available capacity and furthermore make use of existing built form thus efficiently and sustainably making use of available resources.
- **Spatial Resilience:** The proposal complies to the relevant principles as Erf 4245, George is situated within an established suburb the overall development density of which is of such a nature that it allows for appropriate forms of densification.
- **Good Administration:** This principle is complied with.

LUPA - Land Use Planning Act, 2014 (Act 3 of 2014)

- The land use planning principles of LUPA (Section 59) is in essence the expansion of the five development principles of SPLUMA listed above. With regards to this application, no further assertions are to be added.

George Municipal Spatial Development Framework, 2019 (GMSDF)

- The GMSDF shows Erf 4245, George as a residential property situated within the urban edge.
- Spatial policies and objectives contained in the GMSDF emphasises the importance of appropriate forms of densification within in the current urban edge and contributing to a more efficient use of urban land, municipal infrastructure, facilities and amenities. The proposal complies with the following MSDP policies:
 - **Policy C:** "Maintain a compact settlement form to achieve better efficiency in service delivery and resource use, and to facilitate inclusion and integration." (GM 2019:62)
 - **Policy C3:** "Restructure settlement patterns through densification of the urban areas in the George city area in order to reduce land consumption, deliver services and facilities to households more cost effectively, and to establish the thresholds for viable public transport systems." (GM 2019:66)
 - **Policy F:** "Manage the growth of urban settlement in George to ensure the optimum and efficient use of existing infrastructure and resources and in turn, secure the Municipality's fiscal sustainability and resilience, while preventing further loss of natural and agricultural assets." (GM 2019:97)
 - **Policy F1:** "Maintain the urban edge as the development boundary were identified for settlements in the Greater George Area including the George City Area." (GM 2019:97)

George Integrated Zoning Scheme Bylaw, 2017 (GIZS)

- Compliance with the development parameters in terms of the George Integrated Zoning Scheme, 2017 is tabled below:

Development parameter	Proposed Portion A (*)	Proposed Remainder (**)	Proposed	Departure Required
Coverage	325m ² / 50%	500m ² / 40%	14%/ 24%	No
Street Building line	4m	5m	5m	No
Side/ Rear Building line	2m/ 2m	3m/ 3m	See Section 2.1	Yes
Parking	Dwelling House – 2	Dwelling House – 2 Second Dwelling – 1	Complies, see SDP	No

Table 1: Summary outlining compliance with applicable development parameters, GIZS

(*) Erf size 501 m² - 1,000m²

(**) Erf size greater than 1,000m²

- The following departures in terms of building lines are applied for (*referred to as Section 2.1 in table above*):
 - Northern building line of proposed Portion A from 2m to 0m to accommodate the existing servant's and store rooms;
 - Southern building line of proposed Remainder from 3m to 2.1m and 2.44m to accommodate the existing dwelling house;
 - Eastern building line of proposed Remainder from 3m to 1.74m to accommodate the existing building/ proposed second dwelling.
- Consent use for a second dwelling is applied for and does not deviate from the provisions in the Scheme.

Character of the surrounding area

- Erf 4245, George is situated within the predominantly residential suburb of Heather Park which was traditionally characterised by low density single residential developments.

- Over the last two decades various forms of densification have been permitted within Heather Park and its direct environs, all of which have a bearing on this application.
- Generally, the sizes of single residential properties within the direct proximity of Erf 4245, George vary between $\pm 1,900\text{m}^2$ - $2,000\text{m}^2$ though several subdivision applications have either been approved or are currently under consideration.
- Current Council policy dictates the minimum permissible erf size in Heather Park to be 800m^2 . The proposal would create two new land units measuring $\pm 1,200\text{m}^2$ (Remainder) and $\pm 919\text{m}^2$ in extent, thus complying to said established policy requirement.
- It must be reiterated that a similar land use application for subdivision of Erf 4245, George into two portions, measuring $1,618\text{m}^2$ and 951m^2 , respectively, was approved by Council during the course of 2008.

**Note that there was a 'typo' on the previously approval. "1618m²" is in fact "1168m²".*

Potential direct impacts

- Physical impacts associated with implementation of the proposed development is likely to include the removal of minor shrubs and an existing carport as part of the establishment of a new 4m wide panhandle access along the eastern property boundary.
- The existing street kerb will be opened to create a new entrance. Existing densely vegetated hedging along the northern (street) boundary will be retained.
- As the proposed second dwelling will be contained within the existing building/ dwelling house, no associated visual encroachment onto Cypress Avenue or said public open space adjoining to the east would occur.
- Considering the above it is anticipated that the proposal would have a limited visual impact from Cypress Avenue as well as from Erf 4532 (the public open space) direct to the east.
- It is therefore submitted that the impact of the proposal on the streetscape along Cypress Avenue would be negligible.
- The proposal would not give rise to overlooking, overshadowing or invasion of privacy of adjoining residential properties.

Need and Desirability

- The proposal (subdivision and consent use) would make provision for appropriate densification within a residential suburb traditionally characterised by low density urban development, but which has seen various forms of appropriate densification during recent years.
- The proposal would effectively create an additional land unit within the urban edge within an area where there is a high demand (i.e. need) for residential properties.
- The new property is likely to attract further investment and therefore contribute positively to the sustained long-term development of the area.
- The overall (physical) impact associated with the proposal is considered negligible and would tend to uplift rather than detract from the residential amenities of the area and/or properties within its direct proximity.

Public Interest

- Potential visual impacts associated with the proposal as may be perceived from the streetscape along Cypress Avenue and the adjoining public open space (Erf 4532) would be minimal and not detract from the overall residential character of the area.
- As such it is our contention that the proposal would not militate against public interest.

Other

- The land use application does not trigger any development activities listed in terms of the National Heritage Resources Act, 1999 (Act 25 of 1999).

- This land use application does not trigger any development activities listed in terms of NEMA regulations.
- The proposal is consistent with the relevant spatial policies and objectives contained in the GMSDF and thus in accordance with the requirements outlined in Section 19 of the Western Cape Land Use Planning Act, 2014 (Act 3 of 2014).

Conclusion

The proposal implies an appropriate form of densification through the creation an additional residential land unit within the urban edge as well as more efficient use of existing built form without negatively impacting on the residential character of the area, surrounding streetscape setting and without requiring significant expansion of existing engineering services and infrastructure. Development contributions that will be required will assist in ensuring that existing reticulation networks are maintained and ensure ongoing maintenance, upgrading may continue to be done to enhance capacity.

PART J: SUMMARY OF PUBLIC PARTICIPATION

Methods of advertising				Date published	Closing date for objections		
Press	Y	N	N/A				
Gazette	Y	N	N/A				
Notices	Y	N	N/A	15 November 2021			15 December 2021
Website	Y	N	N/A	15 November 2021			15 December 2021
Ward councillor	Y	N	N/A	No Councillor selected at time of advertisement			
On-site display	Y	N	N/A	15 November 2021			15 December 2021
Community organisation(s)	Y	N	N/A				
Public meeting	Y	N	N/A				
Third parties	Y	N	N/A				
Other	Y	N	If yes, specify	N/A	N/A		N/A
Total valid objections	1 (One)				Total objections and petitions	invalid	N/A
Valid petition(s)	Y	N	If yes, number of signatures	N/A			
Community organisation(s) response	Y	N	N/A	Ward councillor response	Y	N	N/A
Total letters of support	0						
Was the minimum requirement for public participation undertaken in accordance with relevant By-Law on Municipal Land Use Planning and any applicable Council Policy						Y	N

PART K: SUMMARY OF COMMENTS DURING PUBLIC PARTICIPATION

Only one objection was lodged against the proposed development by Mr Mark Greef - Owner of Erf 5785, George (11 Cypress Avenue) neighboring Erf 4245, George to the West.

The objection (refer to **Annexure H**) is summarised in **Table 1** below.

Table 1: Summary of Objections/Comments

1. General
<ul style="list-style-type: none">• The objector is in principle not opposed to the subdivision of the property into 2 portions.• The objector however feels that the current property owner should agree to, and participate in, the construction of a proper fence / wall between Erven 4245 and 5785 to mitigate potential security, containment and noise impacts due to the subdivision and resultant increase in traffic and activity anticipated on that property.
2. Construction of new Garage
<ul style="list-style-type: none">• The objector is significantly opposed to the “new garage” to be built against the property line between Erven 4245 and 5785 on the eastern property border of Erf 5785, George. The objector is opposed to any construction within the three-metre building line. The objector is concerned that:<ul style="list-style-type: none">a) It will require access and impact to his property in order to construct.b) It will result in a building wall that is the responsibility of the owner of Erf 4245 for upkeep and maintain, but the applicant (owner) will not have physical access to it.c) It will directly shade the objector’s property.d) It will impede the view of the mountain from the objector’s property.e) It will negatively impact the value of the objector’s property due to the view impacts and the proximity to my master bedroom.f) It may cause rain runoff onto the objector’s property.

PART L: SUMMARY OF APPLICANT’S REPLY TO OBJECTIONS

The reply to objections/comments from the applicant (refer to **Annexure I**) is listed in **table 2** below.

Table 2: Applicants reply comments/objections

1. General
<ul style="list-style-type: none">• The objector’s in principle agreement to the proposed subdivision is acknowledged with thanks.• The landowner is amenable to share in the installation of a boundary fence along the shared boundary, subject to confirmation of said alignment by a registered land surveyor.• Taken in conjunction with the appellant’s in principle agreement to the proposed subdivision (1), the proposal would, from the landowner’s perspective, retain the current (single residential) zoning and furthermore orientated the panhandle to proposed Portion A along the eastern boundary of Erf 4245.• With the exception of demolition of a portion of the existing main building, as outlined in the application, it is respectfully submitted that implementation of the subject proposal will not result in undue increase of traffic or disturbance that would detract from the residential amenity of adjoining properties.
2. Construction of new Garage
<ul style="list-style-type: none">• According to the George Integrated Zoning Scheme, 2017 (GIZS), garages, carports and outbuildings to dwelling houses are permitted within common boundary building lines (and do not require land use approval) provided that:<ul style="list-style-type: none">- Said structure do not exceed 4m in height,- contain more than a double garage façade or,- exceed a length of 12m and width of 6,5m.

- Despite the fact that the proposed garage fully complies to the development parameters outlined in the GIZS and therefore does not require land use planning permission, the landowner is willing to relocate the garage to another position in future, in accordance with the parameters outlined in the GIZS (building plans of said structure will be submitted to George Municipality in future as and when required).
- Notwithstanding the point raised above, the landowner of Erf 4245 reiterates that:
 - The proposed garage complies to development parameters for garages to dwelling houses as per the GIZS;
 - Given its height, dimensions, location and orientation of the proposed garage would clearly not result in undue overshadowing or detract from views;
 - There is an existing densely vegetated hedge as well as other vegetation along the shared cadastral boundary between Erven 4245 and 5785;
 - Several mature trees and dense vegetation occur along the street boundary of Erf 5785, which already impedes north facing view from that property;
 - Rainwater gutters would be fitted to face towards Erf 4245, so as not to project run off onto adjoining properties;

PART M: SUMMARY OF COMMENTS FROM INTERNAL DEPARTMENTS AND/OR ORGANS OF STATE COMMENTS

Name of Department	Date	Summary of comments	Recommendation
Civil Engineering Services	10/05/2022	See development conditions	N/A
Electrotechnical Services	10/05/2022	See development conditions	N/A

PART N: MUNICIPAL PLANNING EVALUATION (REFER TO RELEVANT CONSIDERATIONS GUIDELINE)

Is the proposal consistent with the principles referred to in chapter 2 of SPLUMA? (can be elaborated further below)	Y	N
Is the proposal consistent with the principles referred to in chapter VI of LUPA? (can be elaborated further below)	Y	N

(In)consistency with the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) and with the principles referred to in Chapter VI of the Land Use Planning Act, 2014 (Act 3 of 2014) (Section 65 of the Planning By-Law)

The consistency of the application with the principles of SPLUMA and LUPA as read with Section 65 of the Planning By-Law was evaluated as follows:

No	Evaluation checklist (s. 65)	Yes	No	N/A
1(a)	Does the application submitted comply with the provisions of this by-Law?	x		
	Has the motivation submitted been considered?	x		
1(b)	Were the correct procedures followed in processing the application? (see land use application process checklist)	x		
	Was a condonation required and granted with regards to the process followed? (see land use application process checklist)		x	
1(c)	Have the desirability guidelines as issued by the provincial minister to the utilise land for the proposed land uses been considered? (not yet applicable)			x
1(d)	Have the comments received from the respondents, any organs of state and the provincial minister been considered? (s. 45 of LUPA)			x

1(e)	Have the comments received from the applicant been considered?	x		
1(f)	Have investigations carried out in terms of other laws and that are relevant to the application being considered?			x
1(g)	Was the application assessed by a registered town planner? (<i>see land use application process checklist</i>)	x		
1(h)	Has the impact of the proposed development on municipal engineering services been considered?	x		
1(i)	Is the application in line, consistent and/or compatible with the IDP of the municipality?	x		
	Is the application in line, consistent and/or compatible with the municipal SDF?	x		
1(j)	Is the application in line, consistent and/or compatible with the IDP of the district municipality including its SDF?			x
1(k)	Is the application in line, consistent and/or compatible with the structure plan applicable to the area?			x
1(l)	Is the application in line, consistent and/or compatible with the local SDF applicable to the area?			x
1(m)	Is the application in line, consistent and/or compatible with any other municipal policy or By-Law applicable to the proposed land use?			x
1(n)	Is the application in line, consistent and/or compatible with the provincial SDF?			x
1(o)	Is the application in line, consistent and/or compatible with the regional SDF (<i>SPLUMA</i>) or provincial regional SDF (<i>LUPA</i>)?			x
1(p)	Is the application in line, consistent and/or compatible with the applicable guidelines, standards, principles, norms or criteria set by national and/or provincial government?			x
1(r)	Is the application in line the consistent and/or compatible with the following principles as contained in section 7 of <i>SPLUMA</i> / 59 of <i>LUPA</i> :			
	1. The redress spatial and other development imbalances of the past through improved access to and use of land?			x
	2. Address the inclusion of persons and areas previously excluded in the past, specifically informal settlements and areas characterised by wide-spread poverty and deprivation?			x
	3. Enable the redress of access to land by disadvantaged communities and persons?			x
	4. Does the application support access to / facilitate the obtaining of security of tenure and/or incremental informal settlement upgrading?			x
	5. Has the potential impact of the development proposal on the value of the affected land /properties been considered?	x		
	6. The impact of the application on the existing rights of the surrounding owners been recognised?	x		
	7. Does the application promote spatially compact, resource frugal development form?	x		
	8. Can the development be accommodated within the existing fiscal (budget), institutional and administrative means of the municipality? (<i>e.g. Infrastructure upgrades required – when, budgeted for, etc.</i>)	x		
	9. Has the protection of prime, unique and/or high potential agricultural land been considered?			x
	10. Is the application consistent with the land use measures applicable to / contained in environmental management			x

		instruments?			
	11.	Does the application promote and stimulate the equitable and effective functioning of land markets?			x
	12.	Have all current and future costs to all parties for the provision of infrastructure and social services been considered?	x		
	13.	Does the application promote development that is sustainable, discourages urban sprawl, encourages residential densification and promotes a more compact urban form?	x		
	14.	Will the development result in / promote the establishment of viable communities?			x
	15.	Does the development strive to ensure that the basic needs of all the citizens are met in an affordable way?			x
	16.	Will the development sustain and/or protect natural habitats, ecological corridors and areas of high bio-diversity importance?			x
	17.	Will the development sustain and/or protect provincial heritage and tourism resources?			x
	18.	Will the development sustain and/or protect areas unsuitable for development including floodplains, steep slopes, wetlands, areas with a high-water table, and landscapes and features of cultural significance?			x
	19.	Will the development sustain and/or protect the economic potential of the relevant area or region?			x
	20.	Has provision been made in the development to mitigate against the potential impacts of climate change?			x
	21.	Does the development include measures to reduce consumption / conserve water and energy resources? (<i>renewable energy, energy saving, water saving, etc.</i>)			x
	22.	Does the development consider sea-level rise, flooding, storm surges, fire hazards?			x
	23.	Does the development consider geological formations and topographical (soil and slope) conditions?	x		
	24.	Will the development discourage illegal land occupation – w.r.t. Informal land development practices?			x
	25.	Does the development benefit the long term social, economic and environmental priorities for the area (<i>sustained job opportunities, sustained income, integrated open space network, etc.</i>) over any short-term benefits (<i>job creation during construction, short term economic injection, etc.</i>)?	x		
	26.	Does the development contribute towards the optimal use of existing resources, infrastructure, agriculture, land, minerals and/or facilities?	x		
	27.	Does the development contribute towards social, economic, institutional and physical integration aspects of land use planning?			x
	28.	Promotes and supports the inter-relationships between rural and urban development?			x
	29.	Does the development promote the availability of employment and residential opportunities near each other or the integration thereof?			x
	30.	Does the development promote the establishment of a diverse combination of land uses?			x

	31.	Does the development contribute towards the correction of distorted spatial patterns of settlements within the town/city/village?			x
	32.	Does the development contribute towards and /or promote the creation of a quality and functional open spatial environment?			x
	33.	Will the development allow the area or town to be more spatially resilient that can ensure a sustainable livelihood for the affected community most likely to be affected by economic and environmental shocks?			x
1(s)		Is the application in line with the applicable provisions contained in the applicable zoning scheme regulations (By-Law)? (e.g. Definitions, land use description and development parameters)	x		

(In)consistency with the IDP/Various levels of SDF's/Applicable policies

George Municipal Spatial Development Framework, 2019 (MSDF)

The intension of the George MSDF, 2019 is to provide guidelines aimed at among others, promoting sustainability and affordability, providing for the needs of the community, strengthening the economy, finding a balance between urban development and the natural environment, responding to climate change and disaster management. The aim is also to afford equitable and more efficient functioning of the city, providing a diversity of housing typologies, restructuring and densify the existing urban form, discourage gated estates on the urban periphery, access to employment opportunities, provision of social services, open spaces and recreation opportunities, creating connectivity through pedestrian, non-motorised transport and public transport facilities which will enable greater choices and a more productive economy. Municipalities are thus encouraged to densify within their urban areas (urban edge).

Policy C3 in the MSDF states that settlement patterns need to be restructured through densification of the urban areas in the George city area to reduce land consumption, deliver services and facilities to households more effectively, and to establish the thresholds for viable public transport system. National and provincial government have set municipalities the target of increasing the density of urban areas to an average gross-based density of 25 dwelling units / hectare which equates to a property size of 400m².

Policy F in the MSDF states that the growth of urban settlements in George needs to be managed to ensure the optimum and effective use of existing infrastructure and resources and in return secure the Municipality's fiscal sustainability and resilience while preventing further loss of natural and agricultural assets.

The proposed development is located within the urban edge and does not detract from the norms and standards in the MSDF and is thus considered to be consistent with the MSDF.

Committee Resolution in terms of the minimum erf sizes for certain areas in George:

More than 20 years ago, the Planning Committee of the George Municipality set a minimum erf size for certain areas in George based on the subdivision applications (average size of subdivided erven) they received for the respective neighbourhoods. These standards are old and not in line with the new policies and guidelines as set by the Western Cape Governance. Nonetheless, these standards have not been repealed and needs to be considered as part of the evaluation process.

Heather Park were set at a minimum erf size of 800m² for 1 dwelling and 1000m² for 2 dwellings/duet. The proposed erf sizes comply with the minimum erf sizes prescribed for Heather Park with Portion A being limited to only 1 dwelling unit as the owner has no intention of developing a second dwelling at this time.

(In)consistency with guidelines prepared by the Provincial Minister

N/A

Outcomes of investigations/applications i.t.o other laws

N/A

Existing and proposed zoning comparisons and considerations

The proposed development consists of the subdivision of Erf 4245, George (2 119m²) into Portion A (±919m²) and Remainder (±1200m²). A consent use for a second dwelling is also applied for in respect of Remainder Erf 4245, George. As a result of the subdivision multiple building line departures are required to accommodate the existing structures in respect of the subdivision lines.

The existing zoning of Erf 4245, George is 'Single Residential Zone I'. The proposed subdivision will result in both properties adopting a 'Single Residential Zone I' zoning. Under this zone, a dwelling house and 60m² second dwelling is a primary right which equates to an overall development potential of 4 units which equates to a density of 19du/ha should both subdivided portions develop to its full potential. The latter density is in line with the density standard set by National and Provincial policies viz. 25du/ha gross.

The consent use for the Second Dwelling on Remainder Erf 4245, George is applied for due to the size being more than 60m². The GIZS defines a "Second Dwelling" as, *"another dwelling unit which may, in terms of this By-law, be erected on a land unit where a dwelling house is also permitted; and such second dwelling may be a separate structure or attached to an outbuilding or may be contained in the same structure as the dwelling house."*

Second Dwelling Development parameters applicable:

- *The total floor space of a second dwelling unit may not exceed 150 m², which includes the floor space of all ancillary buildings* – The total floor area of the proposed second dwelling, including a covered stoep would be ± 113m².
- *A second dwelling must be constructed in a style that is similar to the architecture of the main dwelling house* – The proposed second dwelling forms part of the existing dwelling house and therefore complies to this parameter.
- *A second dwelling that is contained within the same building as a dwelling house must be designed so that the building appears to be a single dwelling house* – This is complied with.

Notwithstanding the above, due to the way development charges are calculated, a condition must be imposed in the title deed, limiting Portion A to one dwelling house only. This condition effectively means that development density equates to 15du/ha. The owner confirmed that they currently have no intention to develop a second dwelling on Portion A and acknowledged the latter condition.

The table below illustrates the building lines of the property before and after subdivision without building line relaxations:

Building Line	Erf 4245, George	Proposed Remainder	Proposed Portion A
Street	5m	5m	4m
Side	3m	3m	2m
Rear	3m	3m	2m

The proposed building line departures are as follows:

1. Northern common boundary building line of proposed Portion A from 2m to 0m to accommodate the existing servant's and store rooms;
2. Southern common boundary building line of proposed Remainder from 3m to 2.1m and 2.44m to accommodate the existing dwelling house;
3. Eastern common boundary building line of proposed Remainder from 3m to 1.74m to accommodate the existing building/ proposed second dwelling;

As can be establish from the above, the departures are for existing structures and are only required to

regularise these buildings according to the new common property boundaries between the two subdivided portions. There are thus no departures that affect adjoining neighbours.

The need and desirability of the proposal

The need and desirability for the proposed development have been considered in terms of the following factors:

No.	Evaluation checklist	Yes	No	N/A
1	Will the natural environment and/or open space systems be negatively affected?		x	
2	Will application result in trees/indigenous vegetation being removed on site or in the road reserve?		x	
3	Does the application have any negative impact on heritage resources?		x	
4	Will the character of the surrounding area be negatively affected?		x	
5	Will the architectural character of the streetscape be negatively affected?		x	
6	Will there be any negative impact on vehicle traffic and pedestrian safety?		x	
7	Will there be a negative impact on traffic movement?		x	
8	Will there be a negative impact on vehicle sight distances?		x	
9	Are there adequate on-site parking / loading facilities provided?			x
10	Are there adequate vehicle access/ egress to the property?			x
11	Will the neighbour's amenity to sunlight be negatively affected?		x	
12	Will the application result in overshadowing onto neighbours' properties?		x	
13	Will the neighbour's amenity to privacy / enjoyment of their property / views be negatively affected?		x	
14	Will the proposal have a negative impact on scenic vistas or intrude on the skyline		x	
15	Will the intended land use have a negative impact on adjoining uses?		x	
16	Will the land use pose a potential danger to life or property in terms of fire risks, air pollution or smells or compromise a person's right to a safe and secure environment?		x	
17	Will there be a negative impact on property values?		x	
18	Will the application result in a nuisance, noise nuisance, and disturbance to neighbours?		x	
19	Will adequate open space and/or recreational space be provided (for residential developments)?			x
*20	Will approval of the application set a precedent?		x	

Comments

*20: The proposed subdivision is in line with the surrounding residential character of the area and minimum erf sizes as per Council Resolution (which minimum erf size is 800m² for 1 dwelling and 1000m² for 2 dwellings/duet) and will thus not set a precedent.

Assessment of Objections/comments

The assessment of objections is depicted in **table 3** below.

Table 3: Summary of comments/objections

1. General
<ul style="list-style-type: none">• No in principle objection to the proposed subdivision of Erf 4245, George is noted.• All structures on the site are existing, and it is anticipated that the proposed subdivision will not intrude negatively on Erf 5785.• Nonetheless, the landowner (applicant) is amenable to share in the installation cost of a boundary fence along the shared boundary, subject to confirmation of said alignment by a registered land surveyor.• None of the Municipality's by-laws or policies force owners to erect walls between them and it is also not stated who is financially responsible for such wall(s) if and when built.• This agreement is thus between the respective property owners and the Municipality cannot, in this instance, force such a condition upon the landowner of Erf 4245, George. The objection should therefore not be considered.
2. Construction of new Garage
<ul style="list-style-type: none">• The objection to the new proposed garage being erected over the building line is not relevant to the application as it is a primary right on any Single Residential Zone I in terms of the George integrated Zoning Scheme, 2017 – irrespective of whether the subdivision is granted or not.• According to the George Integrated Zoning Scheme, 2017, garages, carports and outbuildings are subject to the following:<ul style="list-style-type: none">(i) <i>A garage, carport and outbuildings are permitted within the common boundary building line provided that the garage and carport do not—</i><ul style="list-style-type: none">(aa) <i>exceed a height of 4 metres;</i>(bb) <i>contain more than a double garage façade; and</i>(cc) <i>exceed a length of 12 metres and width of 6,5 metres.</i>• The proposed garage that forms part of the application, does not require a building line relaxation as it complies the development parameters stated above. The objection should therefore not be considered.

PART O: SUMMARY OF EVALUATION

Proposal

The application under consideration is for the subdivision of Erf 4245, George (2 119m²) into Portion A (±919m²) and Remainder (±1200m²). A consent use for a second dwelling is also applied for in respect of the Remainder of Erf 4245, George. As a result of the proposed subdivision line and the position of existing buildings on site, multiple building line departures are required to regularise the existing structures on the respective subdivided portions.

The building line departures applied for on Portion A is the northern common boundary building line from 2m to 0m to accommodate the existing servant's and storerooms. Building line departures for the Remainder of Erf 4245, George are the southern common boundary building line 3m to 2.1m and 2.44m to accommodate the existing dwelling house and the eastern common boundary building line from 3m to 1.74m to accommodate the existing building/ proposed second dwelling.



Taking the above into consideration, it is derived that the departures applied for will have no negative impact on the neighbour's amenity to privacy, views or sunlight.

Character of the area

The property is located within a core residential area. The majority of the properties are developed with a dwelling house and outbuildings. Several properties are also developed with a second dwelling house. There are also examples of smaller erven already existing nearby. The properties' sizes range between 670m² and 2 300m². Similar subdivisions have already occurred just south of the subject property and will thus not set a precedent in the area.



The property is already connected to the existing bulk engineering infrastructure services and in terms of the comments received from the Civil and Electrical departments, the new portion will also be able to connect separately.

Development contributions

As mentioned before, due to the way DC's must be calculated, and no SDP or building plan being submitted for a second dwelling unit on Portion A, a condition will be imposed that only one dwelling unit on Portion A will be permitted.

Contravention Levy

The 112m² illegally constructed 3rd dwelling unit (to become the 2nd dwelling on the Remainder portion) and 113m² 2nd Dwelling unit on the subject property –constitutes a contravention in terms of said Bylaw. The contravention levy is payable as follows:

22	Administrative penalty for the rectification of a Contravention / Contravention Levy	Structures or activities directly related to the contravention	Properties up 2500m ² in extent No fee payable if owner can prove that contravention was committed by previous owner. Rebates subject to Council policy	10% of the per m ² municipal property value x floor area of illegal structure and footprint of activity	Section 86(4)
		Structures or activities indirectly related to the contravention		5% of the per m ² municipal property value x floor area of illegal structure and footprint of activity	Section 86(4)

Factor	Calculations
Floor area (directly related)	113m ² is used for purposes of an illegal second dwelling and 130m ² for an illegal 3 rd dwelling unit (total 243m²).
Floor Area (Indirectly related)	NA
Per m ² value of the Property	$\frac{\text{Total Municipal Value of property (R 1 882 000)}}{\text{Total area of property (2 119m}^2\text{)}} = \text{R 888.15/m}^2$
Contravention levy 10% (directly)	10% x R888.15 = R 88.82 x 243m ² = R21 583.26 Plus VAT (15%) = R 24 820.75
Contravention levy 5% (indirectly related)	NA

Grand total = R 24 820.75

Conclusion

In consideration of the above, it can be concluded that the proposed development is consistent with the spatial planning development objectives for the area. The proposal will not have an adverse effect on the surrounding fabric, development pattern and land use character of the area. The proposed development does not propose any additional structures and thus will not have a significant negative affect the surrounding neighbours' rights and amenity in terms of privacy, views, or sunlight.

Thus, on the balance of all considerations in terms of Section 65 of the Land-Use Planning Bylaw for George Municipality, 2015, the application cannot be found undesirable and is therefore **SUPPORTED**.

PART P: RECOMMENDATION

That notwithstanding the objection received, the following applications applicable to Erf 4245, George:

1. Subdivision in terms of Section 15(2)(d) of the Land Use Planning By-Law for George Municipality, 2015, of Erf 4245, George into:
 - a) Portion A ($\pm 919\text{m}^2$);
 - b) Remainder of Erf 4245, George ($\pm 1200\text{m}^2$);
2. Consent Use, in terms of Section 15(2)(o) of the Land Use Planning By-Law for George Municipality, 2015, for a Second Dwelling on the proposed Remainder of Erf 4245, George;
3. Departure in terms of Section 15(2)(b) of the Land Use Planning By-Law for George Municipality, 2015, for the relaxation of following building lines:
 - a) Northern common boundary building line of proposed Portion A from 2m to 0m to accommodate the existing servant- and store rooms;
 - b) Southern common boundary building line of proposed Remainder from 3m to 2.1m and 2.44m to accommodate the existing dwelling house;
 - c) Eastern common boundary building line of proposed Remainder from 3m to 1.74m to accommodate the existing building/ proposed second dwelling;

BE APPROVED in terms of Section 60 of said By-law for the following reasons:

- i. The proposed development will not result in any significant negative impact on surrounding neighbours' rights and amenities in terms of privacy, view, or sunlight;
- ii. The proposal will not detract from the residential character of the area or the streetscape of Cypress Avenue.

- iii. The proposal is in line with the minimum erf size prescribed for Heather Park.
- iv. The proposed development is deemed to be consistent with the spatial planning policies and guidelines for the area in terms of densification.

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

CONDITIONS OF THE DIRECTORATE: PLANNING AND DEVELOPMENT:

General

- 1. That in terms of the provisions of the Land Use Planning By-law for the George Municipality, 2015, the approval shall lapse if not implemented within a period of five (5) years from the date thereof.
- 2. This approval shall be taken to cover only the Subdivision, Consent Use and Departures as applied for as indicated on the Subdivision Diagram drawn by Perception Planning and 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;

Subdivision

- 3. An approved Surveyor General diagram must be submitted to the Directorate: Planning and Development (GIS Section) for record purposes;
- 4. That the subdivided Portion A be limited to 1 dwelling unit. This condition must be registered against the title of the property with the provision that the Municipality may permit a 2nd dwelling on the recalculation of and payment of the applicable development charges (as contemplated in Conditions 9 and 39 below.)”
- 5. The subdivision approval will only be regarded as implemented on the submission of the approved SG Diagram by the Surveyor General as well as the registration of one of the subdivided portions in terms of the Deeds Registries Act.

Consent Use and Departures

- 6. As-built building plans for both subdivided portions must be in accordance with the National Building Regulations (NBR) prior to the registration of the 1st subdivided portion in terms of the Deeds Registries Act.
- 7. The Consent Use and Departure approvals will be deemed implemented on the issuing of the occupation certificate in terms of the approved building plans.
- 8. A contravention levy calculated as follows is payable on the submission of building plans or on request to transfer a portion in terms of Section 28 of the Land Use Planning Bylaw for George Municipality, 2015:
 - (i) 243m² of the floor area of the property is used directly for an unlawful 2nd and 3rd dwelling unit on a single residential zone I property.
 - (ii) The present municipal value of the property is R1 882 000; and
 - (iii) The property area is 2 119m².
 - (iv) The m² value of the property is thus, R888.15/m².
 - (v) The contravention levy payable by the owner in accordance with the municipality’s tariff list is thus, 10% x R88.82/m² x 243m² = R21 583.26 plus 15% VAT = **R24 820.75** (direct use);

CONDITIONS OF THE DIRECTORATE: CIVIL ENGINEERING SERVICES

- 9. 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:
- 10. The amounts of the development contributions are reflected on the attached calculation sheet (**Annexure B**) dated 17/06/2022 and are as follows:

Roads	R 20 596.97	Excluding VAT (Refer to attached DC calculation sheet)
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Sewer	R 48 263.97	Excluding VAT (Refer to attached DC calculation sheet)
Water	R 63 561.47	Excluding VAT (Refer to attached DC calculation sheet)
Total	R132 422.41	Excluding VAT

11. The total amount of the development charges of **R132 422.41** 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.
12. Any amendments or additions to the proposed development which is not contained within the calculation sheet as dated in condition 10 above, which may 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.
13. 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 **R132 422.41** 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 11 above.
14. 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.
15. 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.
16. Any, and all, costs directly related to the development remain the developers' responsibility.
17. Only one connection permitted per registered erf (water and sewer connections). Condition 15 applies.
18. 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 15 applicable)
19. 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 15 applicable)
20. 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 15 applicable)
21. Suitable servitudes must be registered for any municipal service not positioned within the normal building lines.
22. The applicant is to comply with the National Forestry Act, Act No 84 of 1998, should it be required.
23. Provisions for the removal of solid waste is to be addressed in conjunction with the Dir: Environmental Services.
24. 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.
25. 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.
26. 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.

27. 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.
28. Municipal water is provided for potable use only. No irrigation water will be provided.
29. 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.
30. The developer / erf owner is to apply to the George Municipality for the installation of an individual erf water meter prior to any building work commencing on an erf.
31. 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.
32. The discharge of surface stormwater is to be addressed by the developer. Condition 15 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.
33. 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 must be addressed and all measures indicated on plans and drawings submitted for approval.
34. Adequate parking with a hardened surface must be provided on the premises of the proposed development.
35. No private parking will be allowed in the road reserve.
36. A dimensioned layout plan indicating the proposed accesses onto private / servitude roads, must be submitted to the relevant departments for approval. Condition 15 applies.
37. 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.
38. Permission for access onto municipal, provincial or national roads must be obtained from the relevant authorities.

CONDITIONS OF THE DIRECTORATE: ELECTROTECHNICAL

39. 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:
40. The amounts of the development contributions are reflected on the attached calculation sheet (**Annexure B**) dated 10/05/2022 and are as follows:





Electricity: R 28 743.64 Excluding VAT (Refer to attached DC calculation sheet)
41. The total amount of the development charges of **R28 743.64** 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.
42. Any amendments or additions to the proposed development which is not contained within the calculation sheet as dated in condition 40 above, which may 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.

43. 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 **R28 743.64** 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 41 above.
44. 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.
45. 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.
46. 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 (ie within the development area), position of accesses, provision for pedestrians and non-motorised transport, and other issues related to traffic.
47. 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.
48. Any, and all, costs directly related to the development remain the developers' responsibility.
49. Only one connection permitted per registered erf (Electrical, water and sewer connections). Condition 45 applies.
50. 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 45 applicable)
51. 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 45 applicable)
52. 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 45 applicable)
53. 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..
54. 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.
55. The applicant is to comply with the National Forestry Act, Act No 84 of 1998, should it be required.
56. Provisions for the removal of solid waste is to be addressed in conjunction with the Dir: Environmental Services.
57. 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.
58. 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.
59. 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.
60. 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.

61. In all cases, where individual customer apply 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.
62. Owner to ensure compliance with Regulation XA of SANS 10400 (building plans).
63. Owner to ensure compliance with Regulation XA of SANS 10142 (wiring) and any other applicable national standards.
64. 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.
65. 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.
66. Installation of ripple relays are compulsory for all geysers with electrical elements.
67. 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.

PART Q: ANNEXURES

Annexure A	Subdivision Diagram & Site Development Plan
Annexure B	CES & ETS Calculation Sheets
Annexure C	Application Memorandum
Annexure D	Pre-Application
Annexure E	Title Deed
Annexure F	SG Diagram
Annexure G	Conveyancer Certificate
Annexure H	Objections/ Comments
Annexure I	Reply to objections
Annexure J	Previous Approval

 R.H. Janse van Rensburg (A/2925/2020) TOWN PLANNER	<u>2022/06/09</u> DATE
RECOMMENDED/ REFER TO APPLICANT/ REFER TO TRIBUNAL	
 I Huyser (A/1664/2013) SENIOR TOWN PLANNER	<u>04 July 2022</u> Date
RECOMMENDED/ REFER BACK TO APPLICANT/ REFER TO TRIBUNAL	
 C. PETERSEN (B/8336/2016) SENIOR MANAGER: TOWN PLANNING	<u>29/06/2022</u> Date
RECOMMENDED/ REFER BACK TO APPLICANT/ REFER TO TRIBUNAL	
 D. POWER (A/1973/2014) DEPUTY DIRECTOR: PLANNING/AUTHORISED OFFICIAL	<u>05 July 2022</u> Date

Attachments : Annexures for Erf 4245, George



Erf 4245, George -
(Tribunal Annexures)