

ERF 7154 KNYSNA

Subdivision Application



Planning  Space
Town and Regional Planners

12/14/2022

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DIAGRAM 1: Locality Map

DIAGRAM 2: Aerial Photo

DIAGRAM 3: Zoning Map

DIAGRAM 4: CBA & ESA Map

DIAGRAM 5: Proposed Subdivision Plan

DIAGRAM 6: Proposed Site Plan

LIST OF ANNEXURES:

ANNEXURE A: Power of Attorney and Company Resolution

ANNEXURE B: Draft Deed and a Letter from Conveyancing Attorney

ANNEXURE C: General Plan

ANNEXURE D: Approved Building Plans

ANNEXURE E: Extract from the original Knysna Zoning Map

INFORMATION REQUIRED IN TERMS OF SECTION 38. OF THE BY-LAW

COMPULSORY INFORMATION AND DOCUMENTATION REQUIRED

	SUBDIVISION	ANNEXURE REFERENCE
Completed & signed application form	√	T2
Power of Attorney / Owner's consent (1)	√	Annexure A
Resolution (2)	√	Annexure A
Proof of registered ownership (3)	√	Annexure B
Bondholder's consent (if any)	√	Not required
Written motivation (4)	√	Main document
S.G. diagram / Extract of general plan	√	Annexure C
Locality plan	√	Diagram 1
SDP / conceptual layout plan	√	Not required
Subdivision plan [incl street name(s) &no]	√	Diagram 5
Proof of payment of application fees	√	Attached
Copy of title deed	√	Annexure B
Conveyancer certificate (7)	√	Not required
Minutes of pre-application meeting (8)	-	Not Available

SUPPORTING INFORMATION AND DOCUMENTATION REQUIRED

Zoning plan	√	Diagram 3
Phasing plan	-	No Phasing required
Consolidation plan	-	Not required
Proof of lawful use right	-	Not required
Proof of failure of HOA (9)	-	Not required
Copy of original approval letter (s)	-	Not required

1. INTRODUCTION

VPM Planning has been appointed by **The Diocese of Oudtshoorn**, the owner of Erf 7154 Knysna, to prepare and submit the following application in terms of Section 15 (2) and Chapter IV of the Knysna Spatial Planning and Land Use Management By-Law 2021, to the Knysna Municipality (See Power of Attorney and Company Resolution attached as **Annexure A**).

- i. Section 15 (2) (d): Application for the subdivision of Erf 7154 Knysna into Portion A (2596 m²) and a Remainder (2095m²) respectively as indicated on the attached herewith Subdivision Plan attached as Diagram 5.

2. BACKGROUND

- The property is in the process of being transferred to The Diocese of Oudtshoorn as can be seen from the provided Attorney's Letter attached as Annexure B. The current property owner acquired the property from the Knysna Municipality in 1994. However, the transfer of the property never occurred, until now.
- Existing structures on site include a church building and a hall.
- The church building was built in 1993 as can be seen on the approved Building Plans attached as Annexure E.
- In 2000, Building Plans for the existing hall were submitted and approved. After 3 years (in 2003), another set of Building Plans was submitted and approved for the minor extensions/renovations that were made on the hall (see Annexure D).
- It is the intention to sell a portion of the property to another church group. Prior the sale of the portion, a Subdivision application is required.
- The purpose of this application is to obtain subdivision rights and meet requirements of the Spatial Planning and Land Use Management By-Law 2021 in order to allow creation of new SG Diagrams/General Plan.

3. PROPERTY INFORMATION

3.1 LOCALITY

The property is situated in a township called Khayaletu (one of the Knysna northern areas), in close proximity to Khayaletu Community Hall and Percy Mdala High School (See Diagram 1: Locality Map).

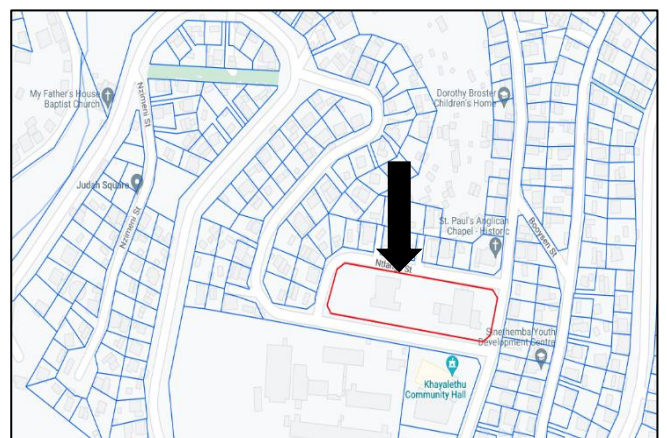


Figure 1: Extract indicating locality of the subject properties.

3.2 BIO-PHYSICAL SITE CONDITIONS

3.2.1 Topography

- The site is sloping to the southwestern direction with an even gradient.
- In terms of topography, there is nothing of relevance to this subdivision application as the property is developable and there are already existing structures.



Figure 2: Extract indicating slope of the property.

3.2.2 Vegetation

- There is no sensitive vegetation on site. The site is mostly covered with grass and trees.
- It is the intention to keep the existing trees on site.
- The site has no conservation value and does not serve a corridor function. In terms of Cape Nature BSP 2017, the property has not been identified as a Critical Biodiversity Area (CBA) or an Ecological Support Area (ESA). (See Diagram 4: **CBA & ESA Map**).

3.2.3 Improvements on site

- The subject property is fenced with an access gate on Mbetane Street.
- On site, there is an existing church building and a hall.



Figure 3, 4 & 5: Pictures indicating vegetation, slope and structures on site.

3.3 PROPERTY DETAIL

Title Deed Description:	Erf 7154, in the Municipality & Division of Knysna, Western Cape.
21 Digit code	C03900050000715400000
Title Deed Number:	T62886/99 (Attached as Annexure B)
S.G./ GP Diagram No:	GP 7523/1994 (attached as Annexure C)
Title Deed Restrictions:	None applicable to the proposed application
Property Size:	4691 (Four Thousand Six Hundred and Ninety One) m ²
Property Owner:	Knysna Municipality [in the process of being transferred to the new owner (The Diocese of Oudtshoorn)]
Bonds:	None
Land Use	Church and Youth Development Centre
Zoning:	Community Zone II

4. PROPOSAL

The subject property measures 4691m² and consists of an existing church building as well as a hall that is used as a Youth Development Centre. Erf 7154 is zoned Community Zone II. The primary right in Community Zone II includes a place of worship.

Knysna Zoning Scheme By-Law defines a “place of worship” as a church, synagogue, mosque, temple, chapel or other place for practicing a faith or religion, provided that a dwelling where the occupants engage in worship does not constitute a place of worship, and—

(a) includes ancillary uses such as a religious leader’s dwelling, office, crèche function hall, place of assembly or place for religious instruction; and

(b) does not include a funeral parlour, cemetery or crematorium.

Therefore, the land use of the property complies with the zoning rights of Erf 7154.

The Diocese of Oudtshoorn bought the subject property from the municipality in 1994 with the intention of using the property for church services but the transfer of the property never took place. The subject property has been being used as a place of worship ever since it was acquired. It is the intention to subdivide the property into Portion A and a Remainder as indicated on the attached Subdivision Plan attached as Diagram 5. The owner wishes to sell Portion A to another church group since it has been realised that their congregation is becoming smaller.

4.1 SUBDIVISION

The owner would like to subdivide the stand into Portion A and a Remainder. In extent, Portion A will measure ± 2095 m² and the Remainder ± 2596 m². The intention is to sell Portion A and retain the remainder. The subdivision line is proposed to be where the existing fence on site is currently situated. The zoning for both properties will remain Community Zone II.

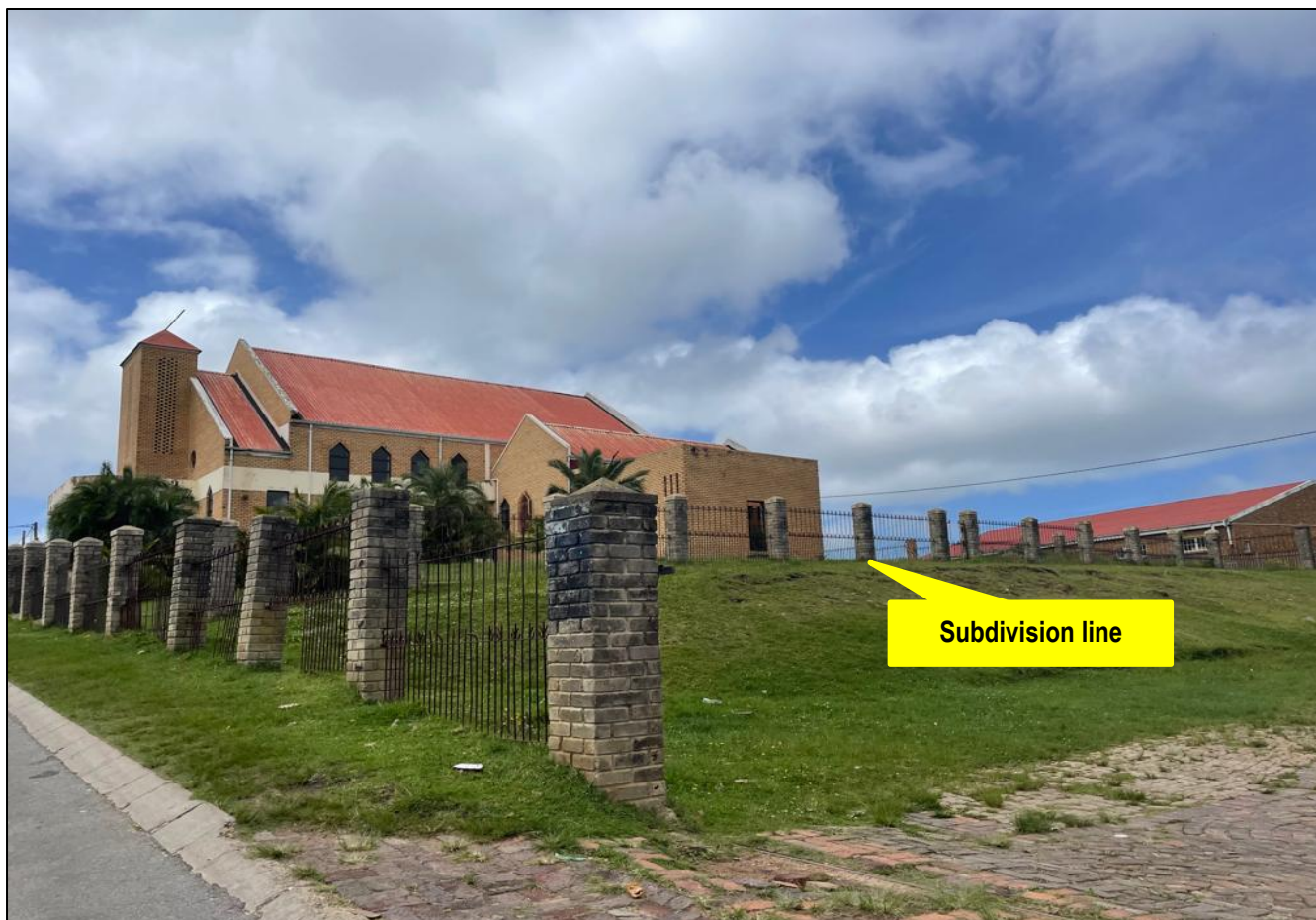


Figure 8: Picture indicating existing fence on site.

5. FACTORS TO CONSIDER

5.1 LACK OF AVAILABLE CHURCH SITES

The Municipality stated since 2011 that there is an over-demand and under-supply of worship sites in Knysna. A church site normally requires more land than residential uses due to parking requirement and landscaping. Presently, there are no church sites available and congregations that need a church have to identify suitable located and accessible properties. The owner of Erf 7154 will assist another church group that is in need of land for practicing church services. The size of the subject property is large enough to accommodate two church buildings which can comply with place of worship development parameters.

5.2 THE NEED TO RESPECT RELIGIOUS FREEDOM

Chapter 2 of the Constitution of South Africa, the Bill of Rights, contains a number of provisions dealing with religious freedom. Section 15 states that everyone has the right to freedom of conscience, religion, thought, belief and opinion. Section 31 in particular protects the right of persons belonging to a religious community to practice their religion together with other members of that community, and to form, join and maintain voluntary religious associations.

Section 9, the equality clause, furthermore, prohibits unfair discrimination on various grounds including religion and requires national legislation to be enacted to prevent or prohibit unfair discrimination.

5.3 COMPATIBILITY WITH THE KNYSNA ZONING SCHEME BY-LAW

The Khayaletu township was established in terms of the Less Formal Township Establishment Act 113 of 1991. When the building plans were approved in 1993 the Knysna Zoning Scheme did not apply to the Khayaletu township (See extract from the original Knysna Zoning Map attached as Annexure E).

5.4 PARKING REQUIREMENTS

5.4.1 Remainder of Erf 7154

The existing church building measures $\pm 624\text{m}^2$ in extent and it accommodates ± 300 seats. The latest approved SDP indicates only 9 parking bays for both the church and the church hall. Although this ratio does not conform with current parking ratio requirement of 1 bay per 8 seats, it has been approved as such in a time when there were no specifications. Due to low car ownership in the area and the availability of public transport, this parking arrangement has always been sufficient for the needs of the church.

The congregation has diminished substantially in the last years and that is one of the reasons that the owner is selling a portion of Erf 7154. The membership of the church is approximately 50 people, but when there are events such as weddings and funerals; the church can accommodate up to 300 seats. In terms of the new Zoning Scheme By-Law, 38 parking bays will be required. Although we believe that this parking provision is not needed for this congregation, the attached herewith SDP indicates that both subdivided portions have sufficient space to accommodate parking requirements of the current governing Zoning Scheme By-Law (see Diagram 5).

5.4.2 Portion A

The existing hall building measures 366m^2 in size. The parking bays are not indicated on the approved Building Plans as can be seen on Annexure D2. It is the intention to convert the existing hall on Portion A into a church building. By creating a new property, the parking ratio for the new Zoning Scheme By-Law will apply to Portion A.

The Knysna Zoning Scheme stipulates that for church buildings, 1 bay per 8 seats is required. The planned church building will consist of ±100 seats which calculates to 12.5 parking bays required. 13 on-site parking bays will be provided as indicated on the Site Plan attached as Diagram 6. There is ample space to extend the building and the proposed parking area, should the new owners at a later stage feel the need to do so.

5.5 OTHER ZONING SCHEME PARAMETERS

DEVELOPMENT PARAMETER	RESTRICTION	COMPLIANCE	
		RE/7154	PORTION A
Coverage	The maximum coverage is 60%.	The existing building on site complies with the coverage limitation. Presently, the SDP indicates coverage of 27.33%.	The planned development on site will comply with the coverage limitation. Presently, the SDP indicates coverage of 13.55%.
Height	The highest point of a building may not exceed 8,5m from natural ground level, provided that there is no height limit for a bell tower, steeple, minaret or similar architectural feature designed to accentuate the significance of a building.	The church building does not exceed 8.5m height restriction.	The hall building does not exceed 8.5m height restriction.
Building Lines	The street building line is 5m.	The development does not comply. However, it can be regarded as a non-conforming use as the existing building on site was approved prior the Zoning Scheme By-Law time.	The development complies with street building line restriction.
	Side and rear building lines are 5 m.	The property is enclosed with street boundaries on all sides.	The property is enclosed with street boundaries on all sides.

Parking and access	1 bay per 8 seats.	The church building will consist of 300 seats which calculates to 38 parking bays required. 38 on-site parking bays will be provided.	The church building will consist of 100 seats which calculates to 12.5 parking bays required. 13 on-site parking bays will be provided.
Single entrance or exit way	Minimum: 2.7m Maximum: 4m	The development has 3 separate combined entrance and exit way access points due to the parking scenario on site. The access points measure 5m in width and they are more than 12m apart. Therefore, the proposed development complies with Zoning Scheme By-Law access requirements.	The development will have a combined entrance and exit way access point. The access point measures 5m in width. Therefore, the proposed development will comply with Zoning Scheme By-Law access requirements.
Combined entrance and exit way	Minimum: 5m Maximum: 8m		
Physically disabled accessible parking		Please see the parking discussion above.	1 physically disabled parking bay has been provided.
1-50	1		

5.6 DESIRABILITY OF THE PROPOSED UTILISATION OF LAND

Desirability refers to the place, i.e., is the land suitable for the type of land-use/activity being proposed and how will it fit in and impact on the surrounding environment.

The suitability of the site for the proposed subdivision can be summarised as follow:

- The property is the large enough to accommodate two church buildings. The proposed subdivision will result into two church properties measuring approximately 2095m² and 2596m² respectively.
- The portion that will be sold off is not environmentally sensitive and consist of a hall that is being used as a Youth Development Centre.
- Portion A will be used for place of worship purposes and that is allowed as a primary right in Community Zone II zoning which is the current zoning of the property to be subdivided (Erf 7154).

- Erf 7154 is situated within the urban edge of Knysna town where services are available and easy to connect to.
- The area itself is not environmentally sensitive or required for rehabilitation or connectivity.
- The property already has two entrance points which makes access very easy and there are structures already on site which are being used for community uses.
- The property is situated close to social facilities which include Khayaletu Library and Community Hall as well as Percy Mdala High School

5.7 ANTICIPATED IMPACTS OF THE PROPOSAL

5.7.1 Character of the area

As can be seen on the Zoning map, the property is situated in a residential area which has community amenities. We do not believe that the development will have any significant impact on the neighbouring properties as Portion A will be owned by a church group and church services will be operated from a structure that is already existing. The subdivision will not introduce a new land use to the area. Furthermore, the proposal will comply with place of worship development parameters without any deviations.

5.7.2 Impact on neighbouring properties

In terms of views, it is believed that the proposal will not cause any major impact as no new structures will be built. Should the owners of Portion A wish to make any alterations, Building Plans will be submitted to the Local Authority for consideration prior any construction. Church services will not be an everyday thing and noise mitigation measures will be applied to avoid any nuisance to the neighbouring properties.

5.7.3 Impact on the road network

The subdivided properties will be accessed through the existing road network. Portion A will gain access from Ntlanga Street and the Remainder will remain getting access from Mbetane Street, where access is currently gained. It is submitted that the development will not contribute to or cause any negative additional traffic impacts as the access will be gained through the existing roads/streets and on-site parking will be provided. The area also is also served by public transport as car ownership within the respective congregations is low.

5.7.4 Impact on the biophysical environment

The subject sites do not contain any vegetation, wetlands, streams, or other environmentally sensitivity that need to be considered. The existing vegetation on site will remain unaffected as no vegetation clearing will take place.

5.8 MUNICIPAL SERVICES

The subject property is already connected to the municipal services. If the subdivision is successful, the existing services connection will be separated. The impact on the surrounding infrastructure due to additional demand is not expected to be substantial.

5.9 CONSIDERATION OF KNYSNA MUNICIPAL SPATIAL DEVELOPMENT FRAMEWORK (SDF)

- The property is situated within the urban edge of the Knysna municipal area.
- Development of social facilities is being supported by the SDF as they cater for the public needs.
- There is nothing in the document that specifically prevents the subdivision of properties.
- The SDF does not mention anything specific about church sites, or their location and the document does not indicate any sites which are earmarked for church purposes.
- Policy F1 is of relevance and states that *“innovative ways of providing social facilities in clusters, shared facilities / buildings and in partnership with the private sector should be considered. Space standards should be applied flexibly taking into consideration the shortage of space, the cost of land and the cost of maintaining and securing public facilities”*.
- Therefore, the proposal aligned with the provisions of the Spatial Development Framework.

5.10 POLICIES, PRINCIPLES AND PLANNING AND DEVELOPMENT NORMS AND CRITERIA SET BY THE NATIONAL AND PROVINCIAL GOVERNMENT

In considering the application, the decision maker needs to be guided by the DEVELOPMENT PRINCIPLES contained in (Chapter II) of Spatial Planning and Land Use Management Act 2013 (Act no 16 of 2013) SPLUMA and Chapter VI of the Land Use Planning Act, 2014 (Act 3 of 2014) (LUPA).

The Spatial Planning and Land Use Management Act 16 of 2013 (SPLUMA) is a national Act that was passed by Parliament in 2013. SPLUMA aims to develop a new framework to govern planning permissions and approvals, sets parameters for new developments and provides for different lawful land uses in South Africa. SPLUMA is a framework law, which means that the law provides broad principles for a set of provincial laws that will regulate planning.

Section 7 of the Act describes a set of development principles that need to be considered when evaluating any development application. These principles include the following:

5.10.1 Spatial Justice:

The principle of spatial justice requires that past spatial and other development imbalances must be redressed through improved access to and use of land. The proposed subdivision will improve access to land for another Church group.

5.10.2 Spatial Sustainability:

The proposal supports this principle of spatial sustainability in the sense that it facilitates infill development within urban area and thereby limiting urban sprawl and encouraging the optimal use of existing underutilised urban land and as well as services. This subdivision will allow the optimal use of urban land and infrastructure without impacting on natural resources. Developing the site into two church properties will address the much-required need for church sites.

5.10.3 Spatial Efficiency:

The proposal supports the efficient use of existing resources and infrastructure where decision-making procedures are designed to minimise negative financial, social, economic or environmental impacts. The positive consideration of the application will contribute to the efficient use of serviced urban land with minimal negative impact and the public needs will be catered for.

5.10.4 Spatial Resilience and Good Administration:

These principles mostly relate to spatial plans, policies, land use schemes and procedures, which, although important on a wider scale and does not have direct relevance on a proposal of this nature.

6. SUMMARY OF APPLICATION

Council is humbly requested to favorably consider the following application:

- Section 15 (2) (d): Application to Subdivide Erf 7154 into Portion A (2596 m²) and a Remainder (2095m²) respectively.

The reasons for approving the development are summarised as follow:

- The proposal is not in conflict with the SPLUMA principles.
- The proposal is in line with the objectives of the Knysna Municipality Spatial Development Framework in a sense that it supports development of social facilities.
- The subject property is large enough to accommodate two church buildings and on-site parking without any departures or deviations.

- The proposed zoning for both properties will remain Community Zone II and the proposal will not introduce a new land use.
- The congregation that will acquire Portion A will be able to exercise the right of religion and belief.
- Church services will be operated from the structure that is already existing and approved on Portion A.