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**Town Planners**

## **ERF 7235, KNYSNA**

APPLICATION FOR:  
PROPOSED PERMANENT DEPARTURE

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## 1. BACKGROUND

The purpose of this report is to address the issue of the permanent departure for the relaxation of the lateral building line as it relates to the as-built staircase and a toilet constructed over the lateral building line Erf 7253, Knysna. The property in question is located at 22 McClelland Circle, Knysna. Please find the 'Locality Plan' hereto attached as **Annexure A**.

Recently, the property was transferred to new owners who intend to bring all structures into compliance with current legislation. To obtain updated building plans for the subject property, an application for a permanent departure must be submitted in accordance with Section 15(2)(b) of the Knysna Municipality's Spatial Planning and Land Use Management By-Law (2021) (Planning By-Law). Notwithstanding this, there is an existing departure approval for the same building line dating back to November 1999. However, due to a lack of records of building plans for the subject property in the municipality's archives, the status of the previous departure cannot be confirmed.

In order to clarify the situation and bring certainty to the current owners, it is necessary to submit an updated application for a permanent departure, allowing them to submit building plans to ensure all structures are in compliance with current legislation. This will resolve any uncertainty surrounding the property's adherence to existing building and planning regulation and ensure that the owners can proceed with the submission of building plans.

## 2. APPLICATION DESCRIPTION

We would like to submit the following applications under Section 15(2) of the Knysna Municipality's Spatial Planning and Land Use Management By-Law (2021):

- 2.1. Application is submitted in terms of Section 15(2)(b) to allow for a relaxation of the lateral building line from 2m to 1.29m to allow the as-built toilet relating to Erf 7253, Knysna.



### 3. SUBJECT PROPERTY

|                             |                                                                                                                                        |
|-----------------------------|----------------------------------------------------------------------------------------------------------------------------------------|
| <b>Locality</b>             | 22 McClelland Circle                                                                                                                   |
| <b>Title Deed</b>           | T/41500/2023 ( <b>Annexure D</b> )                                                                                                     |
| <b>Ownership</b>            | M H & C A Creevy                                                                                                                       |
| <b>Bonds</b>                | Yes, Bondholder consent Attached ( <b>Annexure E</b> )                                                                                 |
| <b>SG Diagram</b>           | 7918/87 ( <b>Annexure C</b> )                                                                                                          |
| <b>Size</b>                 | 926m <sup>2</sup> in extent.                                                                                                           |
| <b>Public participation</b> | Public participation will be done in accordance with the Knysna Municipality's Spatial Planning and Land Use Management By-Law (2021). |

### 4. CONTEXTUAL INFORMANTS

#### 4.1. Current zoning and land use

The property in question, Erf 7253, Knysna, is zoned 'Single Residential Zone I' in terms of the Knysna Zoning Scheme By-Law (2020). Please find the zoning map pertaining to Erf 7253, Knysna, as **Annexure B** in the report. Presently, the property is being utilized for its intended residential purpose. The requested departure aims to relax the lateral building line pertaining to the as-built toilet and stairs, which will still adhere to the use rights and criteria of "Single Residential Zone I", ensuring compatibility with the zoning requirements and maintaining the property's residential function.

#### 4.2. Character of the area

The surrounding vicinity of Erf 7253, Knysna, is predominantly zoned as 'Single Residential Zone I,' featuring primarily single residential dwelling houses. The proposed departure for the lateral building line aligns with the intent of the zoning as outline in the scheme by neither conflicting with nor deviating from the prevailing character of the neighborhood. By maintaining the predominantly residential nature of the area, the proposed departure remains in harmony with the character of the surrounding environment.



#### 4.3. Access and parking

The subject property as one access point obtained from McClelland Circle and has no impact on the application area. The site makes use of a single access point and does not exceed the limitations of access as discussed in Section 45 of the Knysna Zoning Scheme By-Law (2020).

The subject property, Erf 7253, Knysna, has a single access point obtained from McClelland Circle, which does not have any bearing on the proposed departure. This access point is in compliance with the guidelines set forth in Section 45 of the Knysna Zoning Scheme By-law (2020). The property's utilization of a single access point remains within the limitations and parameters discussed in the zoning scheme by-law. Specifically, the proposal does not impact on the access or parking constraints outlined in the above legislation.

#### 5. DEVELOPMENT PROPOSAL

The property was recently transferred to new owners who intend to bring all structures into compliance with current legal requirements. A small portion of the existing structure encroaches over the lateral building line, and while there is a departure approval for a relaxation dated 5 November 1999 (see **Annexure H**), no approved building plans could be found in the Municipal archives. Notwithstanding there is a note in the building plans record books that indicates that during that time plans were submitted. Unfortunately, without access to the actual plans, the legal status of the plans cannot be determined, and therefore brings to question the status of the departure of November 1999. To address this situation and ensure certainty of regulatory compliance, an application for a departure is be submitted in accordance with Section 15(2)(b) of the Knysna Municipality's Spatial Planning and Land Use Management By-Law (2021) which will facilitate the submission of new building plans.

**Toilet:** On the western lateral building line, there is a toilet located on the ground floor, with stairs ascending to the second floor situated above it. It should be noted that, according to Section 21 of the Knysna Zoning Scheme By-Law (2020), a garage can be built over the building lines; however, the toilet is an extension added to the garage. This addition,



although attached to the garage, is not exempted in terms of Section 21. As such, it requires an application in terms of Section 15(2)(b) for the lateral building line relaxation.

**Landing:** The landing, which leads to the first floor, is expressly exempted from application, as stated in Section 21 of the Zoning Scheme By-Law (2020). The owners seek to resubmit a departure in terms of Section 15(2) of the Knysna Municipality's Spatial Planning and Land Use Management By-Law (2021) to ensure certainty and facilitate the submission of updated building. This approach ensures alignment and compliance with existing legislation.

## 6. REGULATORY COMPLIANCE

In South Africa, land use development follows the guidelines of the Spatial Planning and Land Use Management Act 2013 (Act No 16 of 2013). SPLUMA outlines a framework in which development needs to occur. This means that all development, including decisions related to it, must adhere to Chapter II of the Act.

### 6.1. Spatial Planning and Land Use Management Act 2013 (Act No 16 of 2013)

The proposed departure application adheres to the principles contemplated in the Spatial Planning and Land Use Management Act 2013 (Act No. 16 of 2013), commonly referred to as SPLUMA. The current application demonstrates its consistency with the principles of SPLUMA as follows:

#### **Spatial Justice**

The principle of spatial justice emphasizes development strategies that address the adverse impacts of the apartheid planning regime by rectifying development imbalances and facilitating better access to land, particularly for informal settlements. By prioritizing inclusivity, spatial justice highlights the importance of integrating individuals and areas that were previously excluded, thereby mitigating the pervasive poverty associated with these regions.

While Erf 7253, Knysna, is not located in an area considered to be part of the



marginalized groups affected by apartheid planning, the principle of spatial justice still holds relevance for this development. The application for a building line departure seeks to bring the property into compliance with current legislation and ensure that all structures adhere to the appropriate zoning requirements. By doing so, it promotes equity in land use and contributes to a more inclusive built environment.

It is therefore argued that this application consistent with and not in conflict with the principle of spatial justice.

### **Spatial Sustainability**

The principle of 'spatial sustainability' embodies sustainable land development within the context of urban development. Notably, it diverges from perpetuating urban sprawl and, instead, advocates for further development within an already established township. This principle aims to promote and stimulate effective functioning of land markets and considers future costs associated with providing infrastructure services to the public.

In line with this principle, the proposal aligns with sustainability seeing that it is in an established area regulated by a zoning scheme, and contributes to the outcome of 'viable communities', at no detrimental financial impact to vicinity owners and does not result in urban sprawl.

### **Efficiency**

The principle of efficiency in land development emphasizes the optimization of existing resources and infrastructure, minimizing waste while maximizing benefits for stakeholders. It also requires that decision-making procedures be designed to minimize negative financial, social, economic, or environmental impacts, ensuring positive contributions to the surrounding community and environment. Furthermore, it stresses the importance of efficient and streamlined development application procedures, with all parties adhering to prescribed timeframes, to facilitate a smooth and timely approval process. By upholding these guidelines, land development projects can promote



sustainability, efficiency, and overall quality of life for all involved parties.

The proposal aligns closely with the principle of 'efficiency', as it contributes to the optimal use of existing resources and infrastructure. By including an extension to the existing dwelling house, this development approach seeks to make the living arrangement more convenient for the property owners while leveraging the benefits of the already established infrastructure in the area.

As practical features intended to enhance the usability and comfort of the dwelling, these extensions can be viewed as logical additions to the property. The proposal does not result in any negative financial, social, economic, or environmental impacts; rather, it aligns with the principle of efficiency by making the most of existing resources and infrastructure. By the alteration of in alignment with existing legislation requirements while promoting responsible development practices, this proposal demonstrates its consistency with the principle of efficiency and enhances the overall quality of life for the property owners and the surrounding community.

### **Spatial Resilience**

The principle of 'spatial resilience' emphasizes implementing systems that provide sustainable livelihoods in communities vulnerable to economic and environmental shocks. The goal is to create a robust system capable of withstanding various pressures, maintaining its integrity, and consistently providing benefits to those who rely on it.

Our proposal recognizes the importance of spatial resilience, even though its direct impact on the community's livelihood may be limited. By adhering to the principles of spatial resilience and ensuring that the proposal does not negatively affect the sustainability and resilience of the community, it demonstrates commitment to responsible land use practices. This approach aligns with the core values of spatial resilience, which emphasize adaptive and sustainable planning in the face of social, economic, and environmental challenges. By embracing these principles, our proposal contributes to a more resilient and sustainable future for all involved parties.



### **Good Administration**

The principle of good administration, though not directly related to this application, emphasizes the importance of efficient and responsible governmental spheres in land use and development decision-making. By adhering to spatial planning and land use management systems as embodied in SPLUMA, municipalities can ensure an integrated approach to development that is both sustainable and equitable.

As the Knysna Municipality is obligated to consider this application fairly and within the prescribed timeframes outlined in the municipal planning bylaw, we emphasize our commitment to collaborating with local authorities. This collaboration aims to facilitate a smooth and efficient approval process that aligns with the principles of good administration and contributes to a more transparent, accountable, and effective land use decision-making process.

Following the above, it is hereby argued that the proposal is consistent with core development principles as outlined in the Spatial Planning and Land Use Management Act, 2013 (Act No. 16 of 2013) as contemplated in Section 7.

### **6.2. The Western Cape Land Use Planning Act (2014) ('LUPA')**

It is important to note that the arguments and principles outlined under SPLUMA are equally applicable under the Western Cape Land Use Planning Act (2014) ('LUPA') since LUPA adopts and aligns with the principles originating from SPLUMA. SPLUMA serves as the national law governing spatial planning and land use management, LUPA at the provincial level mirrors and reinforces these principles to ensure consistency and coherence in the planning and development processes. Therefore, both acts share the common goal of promoting spatial justice, spatial efficiency, spatial Resilience, spatial sustainability, and good administration, aiming to foster balanced and sustainable development in South Africa's diverse regions and municipalities. It is therefore argued that the same motivation can be applied hereunder Western Cape Land Use Planning Act (2014).



### 6.3. Knysna Municipality's Spatial Planning and Land Use Management By- Law (2021)

At the local level, the Knysna Municipality's Spatial Planning and Land Use Management By-Law (2021) and the Knysna Zoning Scheme By-Law (2020) serves as the governing pieces of legislation for managing development and land use activities at site-specific levels. The present application has undergone a comprehensive evaluation in accordance with the stipulations outlined in the Spatial Planning and Land Use Management By-Law (2021) and the Knysna Zoning Scheme By-Law (2020), ensuring strict adherence to its prescribed requirements and regulations. Where there is a lack of compliance with any of the specified requirements, appropriate applications to deviate from the by-laws is herewith being submitted.

### 6.4. Compliance with zoning parameters

The property is zoned "Single Residential Zone I". In accordance with the Knysna Zoning Scheme By-Law (2020), "Single Residential Zone I" permits a "dwelling house" together with ancillary land uses. Our application adheres to the use rights associated with 'Single Residential Zone I'.

The subject Erf conforms to the zoning parameters as follows:

| PARAMETERS             | SRZ I         | COMPLIANCE         |
|------------------------|---------------|--------------------|
| Coverage               | 50%           | Comply             |
| Height                 | 8.5m          | Comply             |
| street building lines  | 4,5m          | Comply             |
| Lateral building lines | 2.0m          | Departure required |
| Rear building lines    | 2.0m          | Comply             |
| Parking                | 2 Bays per du | Comply             |

The subject Erf largely complies with the Knysna Zoning Scheme By-Law (2020), adhering to its guidelines and requirements. To maintain compliance and address any existing deviations, a departure from the western lateral building line is being applied for.



## 7. RESTRICTIVE TITLE DEED CONDITIONS

There are no restrictive title deed conditions that could hinder the consideration of this application.

## 8. CONSISTENCY WITH EXISTING POLICY FRAMEWORKS

### 8.1. Local Spatial Development Framework 2025

Knysna Municipality has adopted the following spatial Planning vision to lead and manage development within the Knysna Municipal Area:

***“To guide the spatial distribution of current and future land uses, infrastructure investment, development, and protection of the natural environment, considering financial realities, whilst giving effect to the vision, goals, and objectives of the municipal Integrated Development Plan (IDP)”***

To realize the vision, the spatial development framework outlines spatial principles to guide and shape development and land use management within the greater Knysna area. The proposal has been assessed considering these strategies and aligns as follows:

| <b>Promote Socio-Economic Integration</b>                                                                                                |                |
|------------------------------------------------------------------------------------------------------------------------------------------|----------------|
| Facilitate mixed-use, mixed-income areas—especially around town centers and transit corridors                                            | Not Applicable |
| Situate social infrastructure centrally to promote equity                                                                                | Not Applicable |
| Define Integration Zones and Social-Housing Restructuring Zones as priority areas for public transport and affordable-housing investment | Not Applicable |
| <b>Diversify Housing Typologies</b>                                                                                                      |                |
| Support a range of housing types and densities for diverse tenure and affordability needs—including for retirees and first-time buyers   | Not Applicable |



|                                                                                                                             |                |
|-----------------------------------------------------------------------------------------------------------------------------|----------------|
| Encourage residential infill and redevelopment in urban cores, coupled with infrastructure upgrades                         | Not Applicable |
| <b>Targeted Densification</b>                                                                                               |                |
| Set densification targets based on local infrastructure capacity, heritage and ecological constraints, and transport access | Not Applicable |
| Employ design guidelines to maintain settlement identity while allowing increased density                                   | Not Applicable |

This application seeks a building line relaxation solely to accommodate an access staircase. While this request represents a departure from standard spatial parameters, it constitutes a micro-scale architectural adjustment that neither attains the macro-level scope of the Spatial Development Framework (SDF) objectives nor conflicts with its overarching directives. Consequently, the proposed relaxation is entirely compatible with the strategic intent of the framework.

The development proposal does not trigger any environmental impact, nor does it have any negative impact on the economic assets shared by all. The proposal, being minor in scale, does not have any negative impact on the community.

Furthermore, the SDF seeks to balance diverse land-use planning interests in order to guide the urban development of Knysna. It focuses on revitalizing existing settlements while ensuring that future developments prioritize environmental preservation, **community well-being**, and economic efficiency. To achieve these objectives, specific strategies have been formulated, including the following:

|                                                                                                                                                                       |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>D3.6.1 GREEN BUILDING DESIGN</b>                                                                                                                                   |
| <b>Promoting Health and Well-being:</b> Designing buildings to maximize natural light and ventilation, <i>contributing to the comfort and enjoyment of occupants.</i> |



Proposal's alignment with policy objective

Although this proposal is not a new development but the regularization of an existing dwelling house, the SDF speaks directly to what this application is trying to achieve. The stairway with an outside toilet has been positioned where it is currently located specifically for the benefit and enjoyment of the occupants. This essence of this principle can be considered as good planning practice and is in line with the objective of ensuring the health and well being of occupants that ultimately enjoy this.

In summary the proposal consists of existing alterations that are ordinary appurtenances to a residential dwelling house. It is therefore argued that although the nature of the proposal would not be specifically covered in the SDF, considering its scale, it can still be considered consistent with the spatial principles as outlined above.

## 9. MOTIVATION

The property at 22 McClelland Circle in Knysna has recently changed ownership, and the new owners wish to regularize the structures on the property. As discussed, without approved building plans, one cannot confirm the legal status of the 1999 departure application. To remedy this, the departure is resubmitted to facilitate the submission of updated building plans and ensure that records are also up to date.

In addition to the above, resubmitting the departure application also presents a unique opportunity to address minor discrepancies between the November 1999 departure approval and existing site circumstances. General Public Interest

It is important to underscore that the proposed departure has negligible negative impacts on the public. The building line departure is confined to the private property and does not extend into public areas or communal open spaces. It, therefore, neither hampers public access to any areas nor poses any safety hazards. Furthermore, the departure does not obstruct sight lines for adjacent properties, traffic flow or services. As a result, there will be no



negative impact on community wellbeing.

### 9.1. Previous Approval and Site Rectification

The original application for building line relaxation in November 1999 sought a departure to include the stairs and toilet at a distance of 1,385m from the lateral building line. Please see building plans submitted with the departure application hereto attached as **Annexure I**.

During the drafting of updated building plans, it was discovered that the actual distance is 1,294m from the lateral building line. Although this discrepancy is minor in nature, the resubmission of the departure application presents a unique opportunity to make the necessary correction and align with site-specific circumstances. The wording of the approval for the departure granted in November 1999 reads as follows:

Approval is hereby granted in terms of Section 15 of Ordinance 15 of 1985 for a Departure in respect of a relaxation of the lateral building line on the western boundary of Erf 7253, Knysna, to 1,3 metres, in order to permit the construction of an outside stairway and toilet as indicated on Plan No. 99-KNY dated 6 September 1999, subject to the following conditions:

It should be noted that technology has improved quite a bit since 1999, and evidently, newer and more accurate methods exist to ensure more precise records can be submitted.

We would like to submit that this should not be seen as an encroachment in terms of Section 93, seeing that the normal route for land use approval was sought in November 1999 and was obtained, although building plan approval cannot be confirmed at this time.

We plea that the Municipality should recognize my clients' proactive actions to ensure accurate and updated building plans are submitted, which is both in the interest of my clients and the Municipality. By doing so, it will not only benefit my clients' but also align with broader community objectives and contribute to a more efficient land use decision-



making process as outlined in Policy guideline B of the SDF (2020).

### **9.2. General Public Interest**

It is crucial to emphasize that the proposed departure has negligible negative impacts on the public. The building line departure is confined to the private property and does not extend into public areas or communal open spaces, ensuring that public access to these areas remains unhindered. Furthermore, the departure does not obstruct sight lines for adjacent properties, traffic flow, or services, thus maintaining safety and order in the community. As a result, there will be no negative impact on community wellbeing.

### **9.3. Desirability**

The stairs and toilet on Erf 7253, Knysna were originally proposed in November 1999. The desirability assessment conducted at the time found the proposal to be suitable and in accordance with the prevailing guidelines. Since then, there have been no objections or complaints from any of the vicinity land owners.

In line with the above, the proposal still maintains its desirability and has not resulted in any negative impacts on any of the surrounding property owners. Furthermore, it does not pose any adverse effects on the privacy of the immediately affected neighbor. It is submitted that the departure continues to be desirable and does not negatively impact any of the members of the community.

Furthermore, the proposal remains an appropriate and advantageous solution for the current property owners, maintaining their peace of mind and enjoyment of their properties Access and Egress

The proposed departure does not have any adverse impact on vehicular access to the property or neighboring properties without any encroachment or infringement on the rights of others.

### **9.4. Economic Analysis**

The proposed relaxation will not only benefit the new property owners by allowing them to submit updated building plans, thereby demonstrating compliance with current legislation



and building standards. It will also enhance the property's marketability and appeal to potential buyers. The approval of this application will further contribute to a more viable community, ensuring that structures are built according to established guidelines and practices.

#### **9.5. Services Infrastructure**

The proposed relaxation of the western lateral building line to accommodate the existing toilet does not pose a significant impact on infrastructure services. Since the change pertains to an existing structure, there will be no changes or impact to physical infrastructure services. Furthermore, the toilet will not pose a significant burden or strain on the existing infrastructure, as it is specifically catered to a single family's needs and does not overburden the existing infrastructure.

### **10. CONCLUSION**

The property at 22 McClelland Circle, Knysna has recently changed ownership and the new owners wish to regularize the structures on the property. They seek a departure to relax the lateral building line in order to align with existing site circumstances and ensure compliance with current building and planning regulation. This proposal does not have any negative impact on infrastructure or the public, and it allows for a separate entrance to the first floor without constituting an additional dwelling unit as described in the zoning Scheme. The resubmission of the application seeks to rectify a minor discrepancy in the approved departure, ensuring compliance with the original intent and spirit of the zoning guidelines. This proposal aligns with broader community objectives and contributes to a more efficient land use decision-making process.

### **11. SUPPORTING DOCUMENTATION**

**Annexure A** – Locality Plan

**Annexure B** – Zoning Map

**Annexure C** – SG Diagrams

**Annexure D** – Copy of Title Deeds



**Annexure E** – Power of Attorney

**Annexure F** – As-built Architectural Drawings for Erf 7253, Knysna.

**Annexure G** - Approved Building Plans

**Annexure I** – November 1999 Proposed Plans