

GRIFFIER VAN DIE HOGGEREGSHOF VAN SUID AFRIKA
 GAUTENG AFDELING · JOHANNESBURG

IN THE HIGH COURT OF SOUTH AFRICA
 (GAUTENG LOCAL DIVISION, JOHANNESBURG)

2021-06-04

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
 GAUTENG LOCAL DIVISION · JOHANNESBURG

Case no.: 21/26930

In the matter between:

GREATER KYALAMI CONSERVANCY



Applicant

and

**CHAIRPERSON: MUNICIPAL PLANNING TRIBUNAL,
 CITY OF JOHANNESBURG**



First Respondent

**THE MEMBER OF THE MAYORAL COMMITTEE:
 DEVELOPMENT PLANNING, CITY OF JOHANNESBURG**

Second Respondent

**CITY OF JOHANNESBURG METROPOLITAN
 MUNICIPALITY**

Third Respondent

**CENTURY PROPERTY DEVELOPMENTS (PTY) LTD
 (2002/023633/07)**

Fourth Respondent

**RIVERSANDS DEVELOPMENTS (PTY) LTD
 (2009/022660/07)**

Fifth Respondent

NOTICE OF MOTION IN TERMS OF RULE 53

TAKE NOTICE THAT the **GREATER KYALAMI CONSERVANCY** (the Applicant”) intends to make application to this court for an order in the following terms:

1. In re: Appeal Decisions

- (a) reviewing and setting aside the Second Respondent's decision(s) to dismiss the internal appeal brought by the Applicant against the decision(s) of the First Respondent of 20 September 2019, relating to the Applicant's objections to the Fourth and Fifth Respondents' applications to establish the townships of Riverside View Extensions 14, 17, 18, 36, 42, 97, 98, and 99 ("the township applications"); and its standing to participate in the Municipal Planning Tribunal process relating to the township applications. Such decision is constituted by one or more of the following:
- i) a decision by the Second Respondent (or his/her predecessor) on 5 May 2020;
 - ii) a decision taken by the Second Respondent (or his/her predecessor) on 15 October 2020;
 - iii) written Reasons despatched to the Applicant on 4 November 2020; and
 - iv) written Reasons despatched to the applicant on 7 December 2020.
- (b) alternatively, reviewing and setting aside the Second Respondent's decision not to entertain the internal appeal brought by the Applicant against the decision of the First Respondent of 20 September 2019 to exclude the Applicant and its chairperson from participating in the Municipal Planning Tribunal process relating to the township applications;
- (c) further alternatively, reviewing and setting aside the Second Respondent's failure to take a decision in relation to the internal appeal brought by the Applicant against the decision of the First Respondent of 20 September 2019;

and

2. in re: September 2019 Decision

- (a) reviewing and setting aside the First Respondent's decision of 20 September 2019, following the proceedings of 9 July 2019, 6 August 2019, and 7 August 2019, to disqualify the Applicant as a lawful objector to the township applications;
- (b) declaring lawful and admissible the objections submitted by the Applicant's chairperson on the Applicant's behalf against the township applications;
- (c) declaring that the Applicant and its chairperson were duly authorised to submit objections against the township applications;
- (d) declaring that the Applicant's chairperson was duly authorised to represent the Applicant at all proceedings relating to the township applications;

3. condoning the delay in filing this application.

4. that the time-period to institute these proceedings is extended in terms of section 9(2) of the Promotion of Administrative Justice Act 3 of 2000.

5. Ordering that any respondents opposing this application pay the costs of the application; and

6. Further and/or alternative relief.

TAKE NOTICE FURTHER that the accompanying affidavit of **KRISTIN KALLESEN** will be used in support thereof.

TAKE NOTICE FURTHER that the Applicant has appointed **POWER SINGH INCORPORATED**, First Floor, 20 Baker Street, Rosebank, Johannesburg, as its attorneys of record in these proceedings and the address at which it will accept notice and service of all process in these proceedings. The Applicant will also accept electronic service at the following email addresses: michael@powersingh.africa and slindile@powersingh.africa.

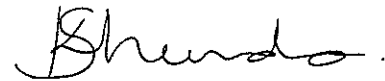
TAKE NOTICE FURTHER that the First and Second Respondents are called upon to dispatch to the registrar within fifteen days after receipt of this notice the full record of the proceedings leading to the decisions to be reviewed, together with all documents, reports, and any other material in whatever form, which were before the First and Second Respondents prior to and at the time of the making of the decisions to be reviewed; and to notify the Applicant that they have done so.

TAKE NOTICE FURTHER that if you intend opposing this application you are required

- (a) to notify applicant's attorney in writing within fifteen days of receipt of this notice
- (b) to appoint in such notification an address referred to in rule 53(5)(a) at which you will accept notice and service of all documents in these proceedings; and
- (c) further, to file your answering affidavits, if any, within thirty days of copies of the record being made available to all parties in accordance with Rule 53(3).

If no such notice of intention to oppose be given, the application will be made on _____ at 10 or so soon thereafter as counsel may be heard.

DATED at JOHANNESBURG on this the 3rd day of JUNE 2021.



POWER SINGH INCORPORATED

Attorneys for the Applicant

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slindile@powersingh.africa

Ref: PSIKK-202110

TO: THE REGISTRAR OF THE ABOVE HONOURABLE COURT
Johannesburg

**AND TO: CHAIRPERSON: MUNICIPAL PLANNING TRIBUNAL,
CITY OF JOHANNESBURG**

First Respondent

2nd Floor, Block A

Metropolitan Centre

158 Civic Boulevard

Braamfontein

Johannesburg

By e-mail: Cedricv@joburg.org.za

**AND TO: MEMBER OF THE MUNICIPAL COUNCIL: DEVELOPMENT
PLANNING**

Second Respondent

2nd Floor, Block A

Metropolitan Centre

158 Civic Boulevard
Braamfontein
Johannesburg
By e-mail: AmolemoMo@joburg.org.za

AND TO: CITY OF JOHANNESBURG METROPOLITAN MUNICIPALITY

Third Respondent
2nd Floor, Block A
Metropolitan Centre
158 Civic Boulevard
Braamfontein
Johannesburg
By e-mail: joburgconnect@joburg.org.za
AmolemoMo@joburg.org.za
BenAP@joburg.org.za

AND TO: CENTURY PROPERTY DEVELOPMENTS (PTY) LTD

Fourth Respondent
No 5 Lynx Road
Treesbank
Midrand
Johannesburg
By e-mail: sales@century.co.za
vee@century.co.za

AND TO: RIVERSANDS DEVELOPMENTS (PTY) LTD

Fifth Respondent
No 5 Lynx Road
Treesbank
Midrand
Johannesburg
By e-mail: sales@century.co.za
vee@century.co.za

IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG LOCAL DIVISION, JOHANNESBURG)

Case no.:

In the matter between:

GREATER KYALAMI CONSERVANCY Applicant

and

**CHAIRPERSON: MUNICIPAL PLANNING TRIBUNAL,
CITY OF JOHANNESBURG** First Respondent

**THE MEMBER OF THE MAYORAL COMMITTEE:
DEVELOPMENT PLANNING, CITY OF JOHANNESBURG** Second Respondent

**CITY OF JOHANNESBURG METROPOLITAN
MUNICIPALITY** Third Respondent

**CENTURY PROPERTY DEVELOPMENTS (PTY) LTD
(2002/023633/07)** Fourth Respondent


**RIVERSANDS DEVELOPMENTS (PTY) LTD
(2009/022660/07)** Fifth Respondent

APPLICANTS' FOUNDING AFFIDAVIT

I the undersigned

KRISTIN KALLESEN

do hereby make oath and say that:



- 1 I am an adult female (landscaper), residing at [REDACTED]
[REDACTED]
- 2 The facts deposed to herein are within my personal knowledge, unless the contrary is stated or appears from the context, and are to the best of my belief both true and correct.

THE PARTIES

- 3 The first Applicant is the **GREATER KYALAMI CONSERVANCY** ("GEKCO") (Registration Number: GCA055), a not-for-profit organisation registered with the Gauteng Department of Agriculture and Rural Development and the National Association of Conservancies/Stewardship of South Africa. GEKCO's principal place of business is situated at [REDACTED]
[REDACTED] Throughout the application, I use the terms "the applicant" and "GEKCO" interchangeably.
 - 3.1 GEKCO is a juristic person with a legal identity independent of its members or officers. A copy of GEKCO's constitution adopted on 2 September 2014 is annexed hereto and marked 'KK1'.
 - 3.2 I am the Chairperson of GEKCO and have been duly authorised to depose to this affidavit on its behalf. A copy of the resolution authorising me to do so is annexed hereto and marked 'KK2'.
 - 3.3 The conservancy area in respect of which GEKCO has a direct interest falls within the area of jurisdiction of the City of Johannesburg Metropolitan

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Municipality (**the City**) in terms of the Local Government: Municipal Demarcation Act 27 of 1998.

- 4 The first respondent is **CHAIRPERSON MUNICIPAL PLANNING TRIBUNAL (Chairperson)** of the City of Johannesburg (**the MPT**), Cedric van der Merwe, an adult male employee of the City with his principal place of employment at the City's offices at Metropolitan Centre Building, Civic Boulevard, Braamfontein, Johannesburg. The Chairperson is cited in his representative capacity.
- 5 The second respondent is the **MEMBER OF THE MUNICIPAL COUNCIL: DEVELOPMENT PLANNING (the MMC)** Thapelo Amad, an employee or appointed officer of the City whose further particulars are not known to GEKCO with his/her principal place of employment at the City's offices at Metropolitan Centre Building, Civic Boulevard, Braamfontein, Johannesburg. The MMC is cited in his representative capacity.
- 6 The third respondent is the **CITY OF JOHANNESBURG METROPOLITAN MUNICIPALITY**, a metropolitan municipality duly established in terms of the Municipal Structures Act 117 of 1998 and with its head office at Metropolitan Centre Building, Civic Boulevard, Braamfontein, Johannesburg.
 - 6.1 The City is cited in its capacity as the executive authority responsible for the implementation of the City of Johannesburg Metropolitan Municipality Municipal Planning By-Law, 2016 (**the By-Law**) and the Spatial Planning and Land Use Development Act 6 of 2014 (**Spluma**) within the City's jurisdiction.

- 6.2 No relief is sought against the City unless it chooses to oppose this application.
- 7 The fourth respondent is **CENTURY PROPERTY DEVELOPMENTS (PTY) LTD**, a company with limited liability, incorporated in terms of the company laws of South Africa, with registration number 2002/023633/07, and with its registered office at No 5 Lynx Road, Treesbank, Midrand, Johannesburg.
- 8 The fifth respondent is **RIVERSANDS DEVELOPMENTS (PTY) LTD**, a company with limited liability, incorporated in terms of the company laws of South Africa, with registration number 2009/022660/07, and with its registered office at No 5 Lynx Road, Treesbank, Midrand, Johannesburg.
- 9 The Fourth and Fifth Respondents are cited as parties interested in the outcome of this application. No relief is sought against the Fourth and Fifth Respondents unless they choose to oppose this application.

INTRODUCTION

- 10 GEKCO makes application in terms of section 6(1) of the Promotion of Administrative Justice Act, no 3 of 2000 ("**PAJA**") and also relies on the constitutional principle of legality.
- 11 The applicants seek the judicial review and setting aside of the following decisions:
- 11.1 the decision allegedly taken by the MMC on 5 May 2020 to dismiss the appeal lodged by GEKCO with respect to Riverside View Extensions 85,

97, 98, and 99 ("**the First Appeal Decision**") against the decision of the Chairperson *alternatively the MPT* set out below.

11.2 the decision apparently taken by the MMC on 15 October 2020 to dismiss the appeal lodged by GEKCO with respect to Riverside View Extensions 14, 17, 18, 36, and 42 ("**the Second Appeal Decision**") against the decision of the Chairperson *alternatively the MPT* set out below; and

11.3 the decision taken by the Chairperson *alternatively the MPT* on 20 September 2019. (**the September 2019 Decision**) in which the Chairperson *alternatively the MPT* made a decision:

11.3.1 when it was not properly constituted; and

11.3.2 to exclude GEKCO from objecting to application made by the Fourth and Fifth Respondents for the establishment of certain townships.

12 The publication of the First and Second Appeal Decisions (**the Appeal Decisions**), as well as the reasons therefore, is dealt with in the body of the application below.

13 Similarly, the September 2019 Decision, as well as the reasons therefore, is dealt with in the body of the application below.

BACKGROUND TO THIS APPLICATION

14 During 2014, 2017, and 2018, respectively, GEKCO submitted objections to three different sets of applications for the establishment of townships on



identified portions of the farms Diepsloot 388-JR and Zevenfontein 407-JR
(the Township Applications).

- 15 I submitted these objections in my capacity as chairperson of GEKCO and on GEKCO's behalf.
- 16 The objections were in respect of eleven Township Applications for the proposed townships on the following portions of land:
 - 16.1 Riverside View Extensions 14, 17, 18, 36, and 42 (submitted on 2 December 2014) **(the 2014 Objections)**;
 - 16.2 Riverside View Extensions 85, 86, and 87 (submitted on 26 July 2017) **(the 2017 Objections)**; and
 - 16.3 Riverside View Extensions 97, 98, and 99 (submitted on 29 August 2018) **(the 2018 Objections)**.
- 17 The applications for Riverside View Extension 86 and 87 were subsequently withdrawn and replaced with Riverside View Extensions 97, 98 and 99.
- 18 Copies of the objections lodged by me on GEKCO's behalf on these three separate occasions are annexed hereto and marked 'KK3', 'KK4', 'KK5', respectively.
- 19 Having received notice of the hearing, GEKCO raised its concerns around all nine applications being heard on one day. Each hearing requires a site inspection and in GEKCO's view, scheduling the hearing of nine applications on one day did not allow for sufficient time to consider the merits of each

objection. Consequently, GEKCO raised this is a matter of concern with the Executive Director: Department of Development Planning, Ms Amolemo Mothoagae ("**Ms Mothoagae**") and the Member of the Mayoral Committee for Development Planning, Mr Reuben Masango ("**Mr Masango**"). A copy of GEKCO's e-mail, which I sent, is attached and marked annexure "**KK6**".

- 20 We did not receive a response to this concern. Therefore, in my capacity as the chairperson of GEKCO, I escalated the matter to the Chairperson of the Oversight Committee for Development Planning and the Johannesburg Development Agency, Mr Graham de Kock ("**Mr de Kock**"). Following my e-mail to Mr de Kock, Ms Mothoagae responded and advised that the Director: Development Planning, Ms Nokuthula Thusi ("**Ms Thusi**") would look into this concern. A copy of both Mr de Kock's e-mail and Ms Motoagae's response is attached and marked annexure "**KK7**".
- 21 Despite GEKCO's concerns, the hearings were not split. On 27 June 2019, the Chairperson wrote to advise that the hearing would proceed as scheduled on 9 July 2019 (**the July Hearing**). The applications for Riverside View Extensions 86 and 87 were not included on the list of applications to be heard on this occasion. A copy of the Chairperson's e-mail is attached and marked annexure "**KK8**".
- 22 It is worth pointing out that in the MPT's schedule, 15 minutes was set aside for each objection (with the exception of 25 minutes set aside for Riverside View Extension 14). A copy of the MPT's schedule is attached and marked annexure "**KK9**".



- 23 I made arrangements to participate at the July Hearing to address the 2014, 2017 and 2018 Objections that had been made by GEKCO.
- 24 On 8 July 2019, one day prior to the Hearing, attorneys for the applicants for the proposed establishment of the townships (**the Developers**) addressed correspondence to me in my capacity as chairperson of GEKCO, as well as to the Chairperson, demanding that I produce at the hearing certain documents relating to my authority to represent GEKCO. A copy of this correspondence is annexed hereto and marked '**KK10**'.
- 25 On 9 July 2019, the Hearing commenced with a site visit at the relevant properties where the townships were proposed, however the hearing could not proceed owing to strike action affecting the City's offices and was postponed.
- 26 The MPT reconvened to hear the applications and objections over two consecutive days, namely 6 and 7 August 2019. (the "**August Hearing**"). An attendance register of the members of the MPT who presided over the hearing annexed hereto and marked "**KK11**". These individuals are all employees of the third respondent, which means the MPT on the day did not include an independent member, as required by statute and explained in detail below.
- 27 On 6 August 2019, The Chairperson gave the Developers, represented by attorney Adriaan Venter, permission to make substantive submissions in addressing the MPT on the Developers' *in limine* objections raised in his 8 July letter.



- 28 Following the hearing, Mr Venter submitted a document containing extracts from certain legal authorities which he had referred to during in the course of his oral submissions. A copy of this document is annexed hereto and marked 'KK12'.
- 29 Mr Venter's challenge was a broad one and he did not make it clear whether the Developers raised their *locus standi* objection only in respect of the 2014 Objections or if they had also objected to the July 2017 and August 2018 objections. Further, he did not make it clear whether they objected to my authority to represent GEKCO in respect of only the 2014 Objection or all of the Objections. The approach adopted by Mr Venter, on behalf of the Developers, seemed to me to be a direct attack on me challenging applications by the Developers, whether I was representing GEKCO (or anyone else).
- 30 Given the manner in which the Chairperson ultimately dealt with the matter, this aspect is important and will be addressed directly when the Record of the proceedings and the material considered by the decision makers is produced.
- 31 On 7 August 2019, I was given an opportunity to read into the record GEKCO's response to the Developers' in limine objections. I was also asked to provide documents to substantiate my and GEKCO's position, in writing, to the Chairperson after the Hearing. I produced the following:
- 31.1 A resolution and Power of Attorney from GEKCO as well as other individual objectors whom I had been asked to represent;

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- 31.2 Minutes from GEKCO's Annual General Meeting in 2014, where I was voted in as GEKCO's Chairperson;
- 31.3 Minutes from GEKCO's Annual General Meeting in 2019 wherein GEKCO discussed that it would be proceed to represent it's objections which were scheduled to be heard before the MPT on 9 July 2019.
- 31.4 Following consultation with GEKCO's Management Committee, I submitted two ratification letters stating GEKCO's confirmation of my authority to act on GEKCO's behalf in objecting to Riverside View Extensions 13, 17, 18, 36, 42, 85, 887, 98, and 99, amongst others.
- 31.5 GEKCO's Secretary, Mr van Niekerk, also provided the MPT with a a copy of GEKCO's constitution and highlighted clause 13, which confers authority to GEKCO's Management to act on behalf of GEKCO and in furtherance of GEKCO's objections.
- 32 These documents are annexed hereto and marked 'KK13'.
- 33 On 23 September 2019, I received a document dated 20 September 2019, signed by the Chairperson and titled 'Before the Municipal Planning Tribunal of the City of Johannesburg - In the application for the for the establishment of Townships Riverside view Extensions 14, 17, 18 36, 42, 85, 97, 98 and 99 – Ruling' (sic). A copy of this document is annexed hereto and marked 'K14'. This is the **September 2019 Decision**.
- 34 The introductions to this document records:

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"This ruling relates to the legal submission by the legal representative of the applicant (Century) challenging the locus standi of the representative of GEKCO (Ms. Kallesen - Chairperson of GEKCO) who apparently objected on behalf of GEKCO to the applications for the establishment of townships Riverside view extensions 14, 17, 18 36,42, 85,97,98 and 99. (See letters of objection date stamped 2 December 2014 attached as annexure A1 to A 5)

The legal submission relates to the authority of the objector (Ms. Kallesen) on the date of such objection and if the representative was duly authorized to lodge such objection.

The objections to the mentioned application were submitted on a GEKCO letterhead undated but date stamped with an acknowledgement of receipt by the city on 2 December 2014. The letters of objection were signed by Kirsten Kallesen - Chairperson Greater Kyalami Conservancy (GEKCO) see annexure **A1-A5**".

- 35 Although the introduction suggests that it was only the 2014 Objection that was being addressed, the reference to all of the proposed township land portions indicates that the Chairperson was dealing with the 2017 and 2018 Objections as well, but testing my authority in respect of all of them with reference to the December 2014 position (see the top of page 3). It seems The Chairperson ignored most of the documentary evidence presented to establish my authority.
- 36 In addition, although the introduction addresses my authority to represent GEKCO, the body of the September 2019 Decision and the purported reasons also seeks to exclude the ability of GEKCO to make representations in relation to the relevant properties.

The area defined in clause 4 of the constitution specifically excludes the Riversands Area. The subject properties of these township applications are therefore excluded from the defined area wherein the objectives of GEKCO

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as per their constitution authorises the Chairperson to carry out the business of GEKCO.

Considering the above I hold the opinion that the objectives of the conservancy and the powers of the management team to give effect to the objectives of the conservancy are limited to the defined area that specifically exclude the Riversands area.

Should the management team feel the need to involve GEKCO outside the defined area, specific authorization is required and any member purporting to act on behalf of GEKCO would have to be authorized to do so as an agent of GEKCO.

- 37 This too is a material error of law and is a symptom of the biased approach adopted in dealing with the Objections. The detailed basis for GEKCO's challenges are dealt with in the Appeal documentation addressed below.
- 38 On 1 October 2019 and on behalf of GEKCO, I sent a letter dated 30 September 2019 to the MPT responding to the September 2019 Decision and setting out GEKCO's objections. A copy of this letter is annexed hereto and marked '**KK15**'.
- 39 On 9 October 2019, I received an email from the Chairperson responding to GEKCO's letter of 30 September 2019. A copy of this email is annexed hereto and marked '**KK16**'.
- 40 On 25 October 2019, I, on behalf of GEKCO, directed a notice of appeal against the September 2019 Decision to the Johannesburg City Manager (**the City Manager**). A copy of this document, together with its annexures, and the City Manager's acknowledgement of receipt, is annexed hereto and marked '**KK17**'.

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- 41 This aim of this appeal was to challenge the September 2019 Decision. Once GEKCO lodged this appeal, it lodged two other appeals, following the approval of the township applications relating to Riverside View Extensions 14, 17, 18, 36 and 42 (appeal lodged in March 2020); as well as Riverside View Extension 85, 97, 97 and 99 (appeal lodged in November 2019). According to the SPLUMA, an appeal suspends a decision pending appeal. Therefore, while awaiting the outcome of the appeal to the September 2019 Decision.
- 42 I lodged the appeal in accordance with a document I obtained from the City titled 'City of Johannesburg Department of Development Planning, Appeal Process, Version 1 of 8/2016' which I had been provided specifically in response to my request for guidance on the correct appeal process to be followed. A copy of this document is annexed hereto and marked 'KK18'.
- 43 To avoid prolixity, I do not repeat, in this affidavit, the grounds relied upon to challenge the September 2019 Decision as set out in the Notice of Appeal herein but I confirm that GEKCO relies on each of those grounds which attack the process and errors made by the Chairperson in the September 2019 Decision. I note that the September 2019 Decision is not signed or concurred in by other members of the MPT and so it is not apparent what deliberations were held between them or what inputs were received from any other members. This will be apparent from the Record when it is received and addressed then.
- 44 On submitting the appeal, I was advised that the appeal would not be considered by the City Manager, but by Zain Alley, and the Chairperson, Mr van der Merwe. This struck me as highly irregular, considering the appeal


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related to a decision issued by the Chairperson I therefore addressed an email to the City Manager on 25 October 2019, requesting that the appeal not be processed by these individuals. Despite following up on this email, I never received a substantive response, only an acknowledgement of the appeal. A copy of the email trail is annexed hereto and marked Annexure 'KK17' above. GEKCO did not receive a response on the appeal to challenge the locus standi decision.

- 45 I expect the Record to provide details of the path followed by the Notice of Appeal and to show *inter alia* the involvement of the City Manager (if at all) and City's Legal Department, where the Chairperson is employed.
- 46 On 21 November 2019, the Developers opposed GEKCO's appeal. A copy of this opposition is annexed hereto and marked 'KK19'.
- 47 During June or July 2020, I received an e-mail attaching a letter dated 22 June 2020 and titled 'APPEAL: PROPOSED TOWNSHIPS RIVERSIDE VIEW EXTENSIONS 85, 97, 98 AND 99 (REF: 03-17620, REF: 03-18875, REF: 03-18869 AND REF: 03-18868)' signed by the Executive Director, Development Planning, advising me that:

"The abovementioned appeal was considered by the MMC Development Planning on 05 May 2020 and the following amended decision was adopted".

- 48 The document recorded *inter alia* that '[t]he appeal submitted by GECKO in relation to the finding of the tribunal on the locus standi of GECKO and their representative Ms. Kallesen in these proceedings be dismissed' (sic). A copy of this letter is annexed hereto and marked 'KK20'.



49 The letter refers to an 'amended decision' being adopted. It is unclear whether there was a previous appeal decision. I expect the Record to provide full details of the decision.

50 Similarly, during November 2020, I received an e-mail attached a letter addressed to GECKO and dated 4 November 2020, titled 'APPEAL: PROPOSED TOWNSHIPS RIVERSIDE VIEW EXTENSIONS 38, 39, 40, 41, 88, 89 and 90 (RE: 03-18242, 03-18233, 03-18241, 03-18246, 03-18245 & 03-18243)' signed by the Executive Director. This letter indicates the following:

"The abovementioned appeal was considered by the MMC Development Planning on 15 October 2020 and the following amended decision was adopted "

51 A copy of the November Letter is annexed hereto and marked '**KK21**'. The November 2020 Letter included the following bulleted points, which repeat two of the bulleted points in the June 2020 letter, namely:

"[t]he first point in limine by the respondent property owner in relation to the late filing of appeals be dismissed"; and

"[t]he second point in limine by the respondents/property owners' is upheld and GECKO is disqualified from any further participation in these proceedings and subsequent appeal".

52 Both letters refer to an 'amended decision' being adopted. It is unclear whether there were previous appeal decisions. I expect the Record to provide full details of the decision.



- 53 However, it appears that GEKCO's appeal in respect of the September 2019 Decision was considered on two separate occasions, namely on 5 May 2020 in respect of the 2017 and 2018 Objections, and on 15 October 2020 in respect of the 2014 Objections.
- 54 On 4 I requested reasons for this appeal decision by letter/email. A copy of my letter/email is annexed hereto and marked '**KK22**'.
- 55 During December 2020, I received a registered letter addressed to GEKCO and dated 7 December 2020, which included two documents titled, respectively:
- 55.1 'APPEAL: PROPOSED TOWNSHIPS RIVERSIDE VIEW EXTENTIONS 14,17,18,36 and 42 (REF: 03-14907, REF:03-14910, REF: 03-14908, REF: 03-14963 and REF: 03-14962) APPEAL REF N0:13/2020' (sic) (**Appeal Ref 13**); and
- 55.2 'APPEAL: PROPOSED TOWNSHIPS RIVERSIDE VIEW EXTENTIONS 38, 39, 40, 41, 88 ,89, AND 90 (REF: 03-14966, REF:03-18242, REF: 03-18244, REF 03-18241, REF 03-18246, REF 03-1845 and REF: 03-18243) APPEAL REF N0:14/2020' (sic) (**Appeal Ref 14**).
- 55.3 Copies of these documents are annexed hereto and marked '**KK23**' and '**KK24**'.
- 56 The documents purport to give the reasons for the MMC's decision of 15 October 2020 and 5 May 2020, respectively. However, both documents are recorded as being signed by "L Khoza" on 15 October 2020. The documents



signed off by Mr Khoza were clearly prepared by someone else and merely "confirmed" by him.

- 57 This fact, together with the discrepancy in the descriptions of the Developers' points in limine in the June 2020 Letter lead me to suspect that the Appeal Ref 13 and Appeal Ref 14 documents served as attempt by parties within the City to justify ex post facto the position taken in the earlier letters and the MMC's alleged decision of 5 May 2020 dismiss GEKCO's appeal against the September 2019 Decision.
- 58 Appeal Ref 13 does not specifically deal with GEKCO's standing, but instead references the reasoning contained in Appeal Ref 14.
- 59 When the Record is produced, it is essential that it discloses the documentation that allegedly served before the MMC on 5 May 2020 and 15 October 2020, the record of the MMC's decisions at the time, the drafts of the October/December 2020 documents, and the internal correspondence exchanged in the preparation of this document, as the overwhelming likelihood is that it was prepared by the City's Legal Department and prepared or influenced by the same personnel who prepared the September 2019 Decision.
- 60 Again, in the Appeal Ref 13 and Ref 14, there appears to be significant confusion in the manner in which the City and its representatives have dealt with the individual portions of land being the subject of the applications. It shows that that the City (and the decision makers) did not deal with each application and each objection separately and objectively but rather adopted a

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'bundled' approach with a predisposition to approve them without considering the merits of any objections.


- 61 In Appeal Ref 14, the MMC upheld September 2019 decision on the basis that 'once the status of an objecting party is decided on by the tribunal this decision is *functus officio* and such decision may only be reviewed by a competent court of law'. In effect, the reason given disqualified me and GEKCO from further participation in the proceedings relating to the Township Applications and precluded the interests of GEKCO and its members being protected and considered in the Appeal Process. Such a restriction creates significant prejudice for me and for GEKCO in furthering the aims of GEKCO and its members

THE SEPTEMBER 2019 DECISION

- 62 The September 2019 Decision was communicated to GEKCO on 23 September 2019 in the form of a 'ruling' signed by the Chairperson (annexure 'KK14' above). In response to certain objections raised by GEKCO on 1 October 2019, The Chairperson submitted a further document on 9 October 2019 purporting to justify the September 2019 Decision.

- 63 The reasoning adopted by the Chairperson in coming to the September 2019 Decision appears to be as follows:

63.1 Clauses 2.1 and 4 of GEKCO's constitution, read together, limit GEKCO management's powers to act in terms of clause 13.1 in instances where



the property motivating such action falls outside of the spatial bounds of GEKCO.

63.2 The properties forming the subject of the Township Applications fall outside of GEKCO.

63.3 GEKCO management requires specific authorisation from GEKCO members to exercise its clause 13.1 powers in such instances, and GEKCO management was not specifically empowered to submit the 2014, 2017, and 2018 Objections at the time.

63.4 The Developers would acquire a right or advantage in instances where objections to the Township Application were not lodged timeously. Therefore, GEKCO members could not ratify management's submission of the 2014, 2017, and 2018 Objections.

63.5 Therefore, GEKCO was not entitled to participate in the Hearing and any substantive submissions by GEKCO could be disregarded, irrespective of their merit.

The Chairperson was not empowered to take the September 2019 Decision

64 One of GEKCO's preliminary objections to the September 2019 Decision was that the Chairperson appeared to have taken that decision without reference to the other members of the MPT who heard the Township Applications. the Chairperson, in his 9 October 2019 response to GEKCO, did not deny this.

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65 I am not aware of any provisions empowering The Chairperson to take unilateral decisions on behalf of the MPT. I am advised, on the contrary, that section 40(8) of the Spatial Planning and Land Use Management Act 16 of 2013 (**SPLUMA**) requires that a decision by the MPT be taken by a majority of the MPT members designated to hear and consider a matter.

66 Consequently, GECKO denies that the Chairperson acted on behalf of the MPT when taking the September 2019 Decision, so that it falls to be reviewed and set aside in terms of section 6(2)(a)(i), alternatively section 6(2)(a)(ii) of the PAJA.

The MPT was not properly constituted at the time of the Hearing

67 The MPT members that presided over the Township Applications at the July and August Hearings were all municipal officials at the time.

68 I am advised that sections 40(1) and 40(2) of the SPLUMA prescribe that at least three members of the MPT must be designated to hear any matter coming before the MPT and that at least one of these three must be a member who is not a municipal official.

69 Consequently, even if the September 2019 Decision was a decision of the tribunal that was present, which appears not to be the case, the MPT was not properly constituted for the purposes of taking the September 2019 Decision as all members were municipal officials.

70 In the Appeal decision, to the extent that the December 2020 reasons given are found to be the reasons as at 5 May 2020, which is denied, the MMC committed

an error of law in refusing to deal with the appeal challenge to the MPT's September 2019 decision on this ground.

- 71 As such, both the September 2019 decision and the Appeal decision fall to be reviewed and set aside in terms of section 6(2)(b) and (d) of PAJA.

The MPT was biased in taking the September 2019 Decision

- 72 During the July inspection and the August Hearing, the Chairperson's conduct led me to suspect that he was biased in favour of the Developers. This conduct included:

72.1 allowing the Developers' representatives to interrupt me on multiple occasions, but refusing and rejecting any interruptions by me;


72.2 allowing the Developers' representative to make spurious comments and be unjustifiably rude to GEKCO's representatives and about GEKCO;

72.3 failing to address obvious deficiencies in the Township Applications, even where these were highlighted by other members of the MPT; and

72.4 expressing frustration at the fact that GEKCO has continued to object to development applications in the Greater Kyalami area.

- 73 The Chairperson's conduct was tolerated by the other members of the MPT, who did not interject to allow a fair process.

- 74 Moreover, in using the facts surrounding the 2014 Objection to inform the approach to authority on the 2017 and 2018 Objections and applying the



argument raised in respect of properties outside the conservancy to reject GEKCO's objections to properties within the conservancy, the Chairperson showed he had no interest in adopting an objective approach to assessing GEKCO's objections.

75 Further, and as will likely be evident from the Record, the absence of an independent person on the MPT permitted the MPT to adopt an approach to the applications which was premised on a prior internal decision within the City to support the applications. This pre-determination significantly influenced a biased approach to the assessment of the Objections.

76 Consequently, I reasonably suspect that The Chairperson was incapable of applying his mind to the question of GEKCO's locus standi in an impartial and objective manner. Even if the September 2019 Decision was taken by a duly constituted majority of the MPT, I reasonably suspect that the Chairperson exerted his power as chairperson of the MPT to affect the decision.

77 As such, the September 2019 Decision falls to be reviewed and set aside in terms of section 6(2)(a)(iii) of the PAJA.

The September 2019 Decision was procedurally unfair

78 The objections to GEKCO's locus standi were raised by the Developers during the Hearing on 6 and 7 August 2019. GEKCO was given an opportunity to respond to the objections so raised.



- 79 The Developers limited their submissions to the question of whether I was duly authorised to represent GEKCO when the 2014, 2017, and 2018 Objections were lodged.
- 80 The Developers did not make any submissions in respect of GEKCO's right, in principle, to object to developments on land falling outside of the spatial boundaries of GEKCO.
- 81 This question, which formed a centre-piece of the reasoning, was apparently considered by the Chairperson *mero motu* and after the Hearing had been concluded. The contention that GEKCO's constitution does not empower GEKCO management to object to developments on land falling outside of GEKCO's spatial boundaries was never put to GEKCO, during the July or August Hearing or afterwards. GEKCO was not afforded an opportunity to make oral or written submissions in relation to this issue.
- 82 Further, the MPT's decision is not in line with the intention of SPLUMA, which affords interested parties the opportunity to intervene in existing applications before a MPT and to participate in MPT proceedings. Through its constitution and its activities, GEKCO has established its status as an interested person in such proceedings, yet the MPT's decision is premised on an alleged deviation from common law and statutory principles of *locus standi*, as opposed to merits of the Objections.
- 83 Consequently, GECKO asserts that the MPT did not follow a procedurally fair process for the purposes of taking the September 2019 Decision because



GEKCO was not afforded a reasonable opportunity to make representations in terms of section 3(2)(b)(ii) of the PAJA.

- 84 The decision falls to be reviewed and set aside in terms of section 6(2)(c) of the PAJA.

The September 2019 Decision fails to consider relevant considerations

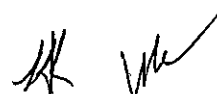
- 85 During the hearing of 6 and 7 August 2019, there was no representative of Johannesburg Roads Agency ("JRA") present.

- 86 The applicant, together with other objectors, raised objections regarding the impact which the proposed township establishments would have on road access, traffic flows, and the surrounding environment. Due to the JRA's absence, these issues could not be dealt with properly and considered in the MPT making its decision.

- 87 Accordingly, the MPT's decision is unlawful in terms of section 6(2)(e)(iii) of PAJA and the principle of legality.

The September 2019 Decision was taken because irrelevant considerations were taken into account and relevant considerations were ignored

- 88 As I have set out above, a key premise in the Chairperson's reasoning when taking the decision was that GEKCO's own constitution limits the powers of management to act in respect of property falling outside of GEKCO's spatial bounds, as described in clause 4.

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- 89 The Chairperson erred factually in determining that all the properties forming the subject of the Township Applications fall outside of GEKCO's spatial bounds. The properties forming the subject of the applications for Riverside View Extensions 85, 97, 98, and 99 fall squarely within the bounds of GEKCO, so that even on Mr van der Merwe's own reasoning I was duly authorised to lodge GEKCO's objections in respect of these applications.
- 90 The boundary of the conservancy is also defined in GEKCKO's constitution to be:
- "East from the R55 north of Kyalami business park, South West along the entire ridge (including Kyalami Ext 1, Intaba, Castle Kyalami, then parallel to Leeuwkop Prison along Main Road, (Leeuwkop Prison and Rietfontein ridge to Rietfontein Nature Reserve to be included when possible), following the path of the Jukskei River from P70 to R511, up the R511 to Mnandi Road (excluding Riversands), and on to Summit Road and back to the R55, and to the Blue Hills AH 'triangle' north of Summit Road."
- 91 In any event, the fact that the remaining properties forming the subject of the Township Applications are adjacent to, but physically outside, the conservancy area is irrelevant to GEKCO's right to object to such applications.
- 92 I am not aware of any provision of either the By-Law or SPLUMA which limits the right to object to development applications to individuals or organisations with a particular spatial relationship to the property under consideration.
- 93 Clause 13.1 of GEKCO's constitution provides that '[m]anagement has the power to perform all acts required to give effect to this constitution and the attainment of the objectives of the Conservancy' (my emphasis).



Urbanisation has impacted the conservancy, which has spurred GEKCO to work tirelessly to ensure that any development supports the environmental sensitivity of the conservancy. Some of the awareness and sustainability projects which GEKCO has been involved in over the years include the following projects which involve raising awareness within and outside the conservancy areas: The GECKO African Grass-Owl Project; The Kyalami Green Neighbourhood Project; and The Biodiversity Project.

- 94 For these and other projects, GECKO uses public participation and engagement processes to make representations on best practice for the environment, in accordance with environmental and town-planning policy and legislation.
- 95 Clause 2.1 sets out the objectives of GEKCO 'within the Conservancy', which means nothing more than that the focus of GEKCO's activity is the area defined in clause 4. However, this does not mean that GEKCO's management has no powers to act with reference to developments or other activities falling outside the spatial bounds of GEKCO but which GEKCO considers may affect the attainment of GEKCO's objectives. This would hobble management in the performance of its duties.
- 96 This is further underlined by a few of the objectives set out under clause 2.1, which include the protection of indigenous flora and fauna, wetlands, waterways, and ridges within the area. Notably, clause 2.1.8 specifically lists one of the objectives of GEKCO as being to '[e]ngage with property development so that it promotes and respects the objectives of the Conservancy'. Had the drafters of GEKCO's constitution intended to limit



management's powers to engage with property development or environmental concerns arising only within the conservancy, which they clearly did not, this would have been explicitly set out.

- 97 Had the suggestion been made during the July or August hearing, I would have pointed out the irrationality and, in fact, absurdity in the proposition that, in protecting waterways, wetlands and ridges within the conservancy, GEKCO could not be interested in, address and object to activities on neighbouring properties which impact on the same wetlands, waterways and ridges as they extend into those neighbouring properties or receive the impact of activities by neighbours.
- 98 The content of KK13, being the documents submitted to the Chairperson following the August Hearing, should have made my authority and GEKCO's interest in pursuing the Objections clear. It seems clear that these relevant considerations were not taken into account by the Chairperson.
- 99 The Chairperson took into consideration irrelevant sections and ignored relevant sections of GEKCO's constitution in coming to the September 2019 Decision. This caused him to rely on the false premise that GEKCO management required specific explicit authorisation from GEKCO members to lodge the 2014, 2017, and 2018 Objections.
- 100 This premise materially influenced the September 2019 Decision, which consequently falls to be set aside in terms of section 6(2)(e)(iii) of the PAJA.

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THE APPEAL DECISIONS

- 101 As outlined above, GEKCO received two separate letters more than five months apart *communicating* that two separate appeal decisions had been made by the MMC. No written decisions by the MMC himself were provided to GEKCO.
- 102 In the June 2020 Letter, the Executive Director records that the MMC purportedly dismissed GEKCO's appeal in consequence of upholding what is described as the Developers' "*first point in limine*". It goes on to record the consequence that
- "GEKCO is disqualified from any further participation in these proceedings and subsequent appeal."
- 103 In the November 2020 Letter, on the other hand, the Executive Director records that the MMC purportedly dismissed GEKCO's appeal in consequence of upholding what is described as the Developers' "*second point in limine*", and disqualified GEKCO from further participation and appeals on this ground.
- 104 The Developers' submissions did not succinctly highlight either a first or second point in limine, so that the reasons for the purported dismissal of the appeal were not apparent to GEKCO on the basis of the communicated appeal decisions alone.



105 It was only when GEKCO received Appeal Ref 14 in December 2020, that I was able to attempt to discern the alleged reasons for the Appeal Decisions. These seem to be that:

105.1 neither GEKCO nor its representatives were 'official objectors to [the Township Applications], thus legally and in terms of the by-law (section 49 (1)) is disqualified from lodging an appeal against the decision of the Tribunal'; and

105.2 'once the status of an objecting party is decided on by the tribunal this decision is *functus officio* and such decision may only be reviewed by a competent court of law' (original emphasis).

106 As noted above, the City has never produced any document reflecting the MMC's written decisions of 5 May 2020 or 1the decision that is alleged to have been amended, nor the bases on which those decisions were taken.

107 Instead, it has produced Appeal Ref 13 and Appeal Ref 14, apparently signed by the MMC on 15 October 2020, which set out reasons which were clearly not reasons produced by the MMC himself but merely "Confirmed" and, moreover, could not have served as reasons for a decision taken five months earlier, namely in May 2020.

108 In light of the reasons provided in Appeal Ref 13 and 14, I set out below why the Appeal Decisions fall to be reviewed and set aside, on one or more of the following grounds.

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The reasons given are not those of the MMC and no valid appeal process was followed

109 GEKCO was provided with the Appeal Ref 14 purportedly signed on 15 October 2020. Appeal Ref 13 does not give different reasons, but merely references Appeal Ref 14.

110 It is clear from the document, and will likely be apparent when the Record is produced, that the signatory was not involved in the alleged Appeal Decisions, the reasons were not prepared by the signatory, and the reasons could not have served before the signatory for the First Appeal Decision. Moreover, given the content of the documentation provided to GEKCO when the appeal was lodged, it appears likely that the appeal was processed and the reasons were prepared by the City's Legal Department, which is the department that employs (and is led by) the same personnel involved in issuing the September 2019 decision.

111 Consequently, the MMC's Appeal Decisions fall to be reviewed in accordance with sections 6(2)(b), and 6(2)(g) read with 6(3)(b) of the PAJA and the principle of legality.

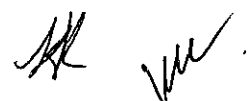
The Appeal Decision was unauthorised, involved a material error of law and was unreasonable

112 Despite the MMC's purported dismissal of the appeal in terms of the Appeal Decision, it appears from Appeal Ref 14 that the Appeal decision in fact amounted to a refusal to entertain the appeal on the grounds that GEKCO,



having been disqualified as a valid objector by the MPT, had no further rights in terms of section 49 of the By-Law, and that the MPT's decision resulted in the City being *functus officio* with respect to GEKCO's standing as an objector.

- 113 It is clear that the MMC did not base the Appeal Decision on the merits of GEKCO's appeal regarding its *locus standi* and none of GEKCO's submissions on its standing were addressed, either in the Appeal Decision letter or in Appeal Ref 13 or Appeal Ref 14.
- 114 As such, the Appeal Decision namely, to dismiss GEKCO's appeal, was materially influenced by an error of law, the MMC simultaneously deciding that the City and its officials were *functus officio* and that GEKCO held no section 49 rights to appeal, while at the same time purporting to *dismiss* the appeal on these grounds. In the circumstances, the Appeal Decision falls to be set aside in terms of section 6(2)(d) of the PAJA.
- 115 By failing or refusing to have regard to the evidence of authorisation the Appeal was procedurally unfair and failed to take into consideration relevant considerations. Under these circumstances, the Appeal Decision falls to be set aside in terms of section 6(2)(c) and 6(2)(d) of the PAJA and the principle of legality.
- 116 Additionally, the MMC's ambivalent decision, holding that she was simultaneously not empowered to consider GEKCO's appeal while at the same time purporting to dismiss the appeal was a decision so unreasonable

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that no reasonable administrator could have taken such a decision and falls to be set aside in terms of section 6(2)(h) of the PAJA.

The Appeal Decision was materially influenced by an error of law and failed to take into account relevant considerations

- 117 The Appeal Decision was materially influenced by an error of law in that the MMC dismissed the appeal on the grounds that GEKCO allegedly had no right to bring the appeal and that the City and its officials were functus officio with respect to the subject of the appeal.
- 118 This basis for the decision is wrong in law. GEKCO was obliged to follow the internal appeal process under the relevant legislation before it approached the High Court. As such, the Appeal Decision falls to be set aside in terms of section 6(2)(d) of the PAJA as the decision was materially influenced by an error of law.
- 119 The content of KK13, being the documents submitted to the Chairperson following the August Hearing and included in the Appeal submission, should have made my authority and GEKCO's interest in pursuing the Objections clear. It seems clear that these relevant considerations were not taken into account in determining the Appeal.
- 120 Further, in failing to deal with, alternatively dismissing GEKCO's challenge to the validity of the September 2019 Decision based on the constitution of the MPT, the MMC (or the person preparing the reasons presented to the MMC) committed an error of law. If the MPT was invalidly constituted, the



MMC ought not to have upheld any decision purportedly made by that body while invalidly constituted. In ignoring the provisions of SPLUMA which direct the peremptory requirements for a validly constituted MPT, the MMC committed a material error of law. For this reason too, the Appeal Decision falls to be set aside in terms of section 6(2)(d) of the PAJA and the principle of legality.

121 Additionally, the MMC failed to take into account relevant considerations, namely the substantive submissions made by GEKCO in relation to GEKCO's standing as a valid objector to the Township Applications. Instead, the MMC took into account only irrelevant considerations in making the Appeal Decision, by basing the decision on the findings of The Chairperson or the MPT, but without examining the reasonableness or validity of these findings.

122 As such, the Appeal Decision falls to be set aside in terms of section 6(2)(e)(iii) of the PAJA and the principle of legality.

CONDONATION

123 In terms of section 7(1) of PAJA, this application must be brought by no later than Friday, 4 June 2021, being 180 days after the applicant received the latest reasons pertaining to its objections on 7 December 2020.

124 At all times since receiving the Reasons documents, GEKCO has wished to challenge the decisions.



- 125 In February 2021, I was served with summons by the fourth and fifth respondents, under case number 5098/21. In March 2020, GEKCO was able to secure *pro bono* legal assistance to defend that matter. In preparing the defence to that matter, I raised the frustrations GEKCO had experienced in dealing with the Township Applications and the manner in which its Objections had been dealt with. In May 2020, GEKCO received advice that the decisions were reviewable and requested its attorneys in the aforementioned proceedings to assist GEKCO with these proceedings as well. GEKCO is committed to ensuring that development does not threaten the wildlife and biodiversity at the conservancy. However, the reality is that GEKCO is limited by its financial resources.
- 126 Despite the history and intricated background of this matter, there was never any deliberate disregard for PAJA or the rules of the above Honourable Court. The Developers are well resourced and have clearly had regular engagements and established close relationships with the City and the Provincial Authorities to influence policy and the processes which affect them as developers. GEKCO strives to execute on its mandate to ensure that due process is followed and that the interests of the community and the environment receive the appropriate consideration in all matters
- 127 I am advised that in terms of section 9(2) of PAJA, this application is brought in the interests of justice. GEKCO's right to participate in courts and other independent, impartial tribunals or forum enshrined in section 34 of the Constitution of the Republic of South Africa, 1996. Nevertheless, the



respondents have, over a period of time, dismissed GECKO and ultimately, denied it of its rights.

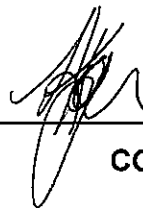
CONCLUSION

128 For the reasons set out above, to be supplemented when GEKCO receives a copy of the full Record in respect of both the September 2019 Decision and the Appeal Decisions Record, I pray that the relief prayed for in the notice of motion be granted.



DEPONENT

I certify that the deponent has acknowledged that she knows and understands the contents of this affidavit, which was signed and deposed to before me at **JOHANNESBURG** on this the **3rd day of June 2021**, and that the provisions of the regulations contained in Government Notice R1258 of 21 July 1972, as amended by Government Notice R1648 of 19 August 1977, by Government Notice R1428 of 11 July 1980, and by Government Notice R774 of 23 April 1982 have been complied with.



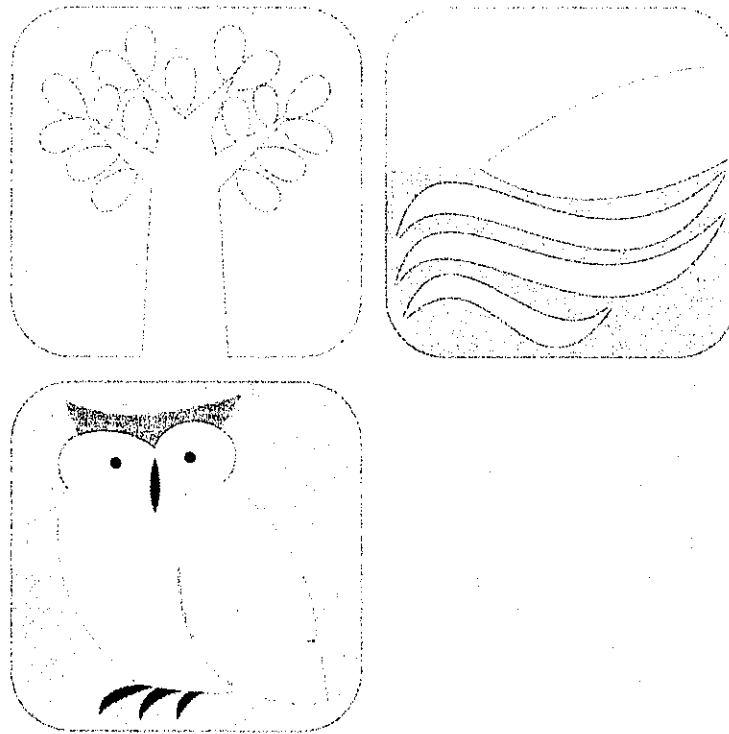
COMMISSIONER OF OATHS

KELLY KROPMAN
 Commissioner of Oaths
 Practising Attorney
 20 Baker Street,
 Rosebank, Johannesburg
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**CONSTITUTION
OF THE GREATER KYALAMI CONSERVANCY
("GEKCO")**

ADOPTED AT THE SPECIAL GENERAL MEETING HELD ON 2
SEPTEMBER 2014



GEKCO

PRESERVING OUR HERITAGE

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1. Name and Legal Powers

- 1.1. The Conservancy is called the Greater Kyalami Conservancy, hereinafter referred to as the "Conservancy" or "GEKCO" (tax registration number 9065/295/22/3).
- 1.2. The Conservancy is a registered conservancy with the Gauteng Conservancy Association ("GCA") with registration number GCA055.
- 1.3. The Conservancy is a body corporate with its own legal identity, which is separate from its individual members.
- 1.4. The Conservancy shall continue to exist even when there are changes in the composition of its membership or office-bearers.
- 1.5. The Conservancy is a juristic person and has the full capacity to perform all juristic acts necessary for the attainment of its objectives which include, without detracting from the generality of the foregoing; to perform all acts which a company registered under the Companies Act No. 71 of 2008 could perform.
- 1.6. The Conservancy is capable of suing or being sued in its own name.

2. Objectives

- 2.1. The objectives of the Conservancy within the defined area as set out in clause 4 are to:
 - 2.1.1. Raise awareness and educate the public and residents for the need to conserve the environmental resources in the Conservancy according to the Constitution of South Africa, the National Environmental Management Act No. 107 of 1998 (and all relevant guidelines published in terms of this Act), all other national, provincial and local statutes that relate to the protection of and or conservation of the Conservancy;
 - 2.1.2. Protect the area to allow the equine industry to continue to develop and exist in a sustainable and environmentally friendly fashion;
 - 2.1.3. Protect and rehabilitate the indigenous fauna and flora, especially the red data species;
 - 2.1.4. Protect and rehabilitate the wetlands and waterways in the area;
 - 2.1.5. Protect the ridges in the area;
 - 2.1.6. Maintain the Conservancy's status as registered conservancy;

- 2.1.7. Actively involve all the residents and public in our endeavours through educational processes and marketing;
 - 2.1.8. Engage with property development so that it promotes and respects the objectives of the Conservancy; and
 - 2.1.9. Cooperate with Government structures and like-minded organisations to further the objectives of the Conservancy.
- 2.2. The Conservancy is not formed and does not exist for the purpose of carrying on any business that has for its object the acquisition of gain by the Conservancy or its individual members.

3. **Membership**

- 3.1. Membership is separated into the following two categories:
 - 3.1.1. Voting Membership; and
 - 3.1.2. Non-Voting Membership.
- 3.2. Both voting and non-voting members can bring matters to the committee for consideration and may be represented by the Conservancy and may be accepted as part of the Conservancy.
- 3.3. Only Voting Members are entitled to speak or vote at Annual General Meetings and Special General Meetings.
- 3.4. The following persons qualify for **Voting Membership** of the Conservancy:
 - 3.4.1. The registered owner of land within the defined area as set out in clause 4;
 - 3.4.2. The registered owner of land adjacent to the defined area (set out in clause 4) who wants to add their land to the defined area;
 - 3.4.3. The tenant of any land referred to in clauses 3.4.1 and 3.4.2, with the consent of the owner;
 - 3.4.4. Any other person who is approved by management under special circumstances; and
 - 3.4.5. Any Residents Association or Homeowners Association which represents registered owners of land within the defined area set out in clause 4.
- 3.5. The following persons qualify for **Non-Voting Membership**:

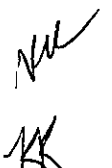
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- 3.5.1. Residents, businesses or tenants in the area who are not property owners, or where voting membership has already claimed by the registered land owner;
 - 3.5.2. Employees of businesses or property owners who are resident in the area; and
 - 3.5.3. Any supporting individual or organisation not resident in defined area as set out in clause 4.
- 3.6. Voting Membership fees for registered land owners will be determined on an annual basis and ratified at the Annual General Meeting for each financial year.
 - 3.7. Voting Membership fees for Resident's Associations and Homeowner's Associations will be determined on an annual basis and will be ratified at the Annual General Meeting for each financial year.
 - 3.8. Membership fees collected can solely be used in the attainment of the objectives set out in clause 2.
 - 3.9. Voting Members (exclusive of Residents' Associations and Homeowner's Associations) are entitled to one vote per member regardless of how many properties are owned within the Conservancy by the Voting Member
 - 3.10. Resident's Associations and Homeowners Associations are entitled to a single vote as a juristic person.
 - 3.11. All members must subscribe to the objectives laid out in clause 2, above.
 - 3.12. Membership is only removed upon request of the land owner or sale of the land to a new owner, or in the case of a Resident's Association or Homeowner's Association, upon request at a properly convened Annual General Meeting or Special Meeting of the Resident's Association or Homeowner's Association.
 - 3.13. Should any Voting or Non-Voting Member not comply with the objectives laid out in clause 2 above, their membership status may be discussed by the committee and revoked if it is deemed necessary.

4. **Defined area**

- 4.1. It was agreed that the boundary of the Conservancy be as follows:

East from the R55 north of Kyalami business park, South West along the entire ridge (including Kyalami Ext 1, Intaba, Castle Kyalami, then parallel to Leeuwkop Prison along Main Road, (Leeuwkop Prison and Rietfontein ridge to Rietfontein Nature Reserve to be included when possible), following the path of the Jukskei River from P70 to R511, up the



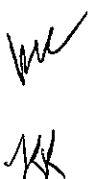
R511 to Mnandi Road (EXCLUDING Riversands), and on to Summit Road and back to the R55, and the Blue Hills AH 'triangle' north of Summit Road.

5. Financial

- 5.1. The financial year of the Conservancy runs from the date it is founded until 28th February of the following year and thereafter from the first of March of each year until the 28th of February of each subsequent year.
- 5.2. All financial transactions of the Conservancy are recorded by the Treasurer or in their absence or inability to act, the Secretary
- 5.3. Each year, after conclusion of the financial year, the Treasurer or Secretary, as the case may be, presents a complete financial report to the Annual general meeting.
- 5.4. The Chairperson and Treasurer sign the report referred to in clause 5.3 .
- 5.5. Every member is entitled to have sight of the financial records of the Conservancy.
- 5.6. Should the assets of the Conservancy exceed the value of R1 000 000.00 (ONE MILLION RAND) a certificate by an auditor shall accompany the financial statements.

6. Annual General Meeting

- 6.1. The Annual General Meeting is convened by the management within ninety days after the end of the financial year of the Conservancy.
- 6.2. Notice of the Annual General Meeting is given in writing to each member not less than twenty one calendar days prior to the intended meeting.
- 6.3. A quorum will exist at an Annual General Meeting if twenty percent of members are present in person or by proxy. If a quorum is not present at an Annual General Meeting, the meeting shall be reconvened on notice of not less than seven days. At the meeting so convened the members present shall constitute a quorum.
- 6.4. The following matters shall be dealt with by the Annual General Meeting:
 - 6.4.1. A report by the Chairperson concerning the year's activities;
 - 6.4.2. The election of the management for the following year;
 - 6.4.3. The financial report; and
 - 6.4.4. Any other matter placed on the agenda by a member no later than fourteen days before the meeting; with the Secretary.

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- 6.5. Only voting members shall be entitled to speak at the Annual General Meeting or to cast a vote during the meeting.
- 6.6. Voting members must be physically present at the meeting to be entitled to vote, when this is not possible a voting member may hold one proxy for another member who is eligible to vote.
- 6.7. A member which is a juristic person is represented by one natural person only, who may speak and vote on their behalf.
- 6.8. Notice of an Annual General Meeting is done by ordinary post or email to the addresses on membership list.

7. Special General Meetings

- 7.1. A Special General Meeting may be called at any time by the management in the same way as an Annual General Meeting is convened, except that the period of notice may be reduced to fourteen days.
- 7.2. A Special General Meeting must be convened by management if:
 - 7.2.1. Twenty percent of the members request such a general meeting; or
 - 7.2.2. The GCA or an appointed representative requests such a Special General Meeting.
- 7.3. The request referred to in clause 7.2 must be submitted in writing and must contain the signatures of the members requesting the meeting. A request from the GCA for a meeting must also be submitted in writing.
- 7.4. The request must reach the management not less than twenty one days before the date of the Special General Meeting. Should management fail to give notice of the Special General Meeting within seven days of having requested to do so, the parties requesting the meeting can issue the notice to this effect.
- 7.5. The notice of the Special General Meeting shall clearly set out the matters in relation to which the Special General Meeting is requested.
- 7.6. Only those matters placed on the notice shall be discussed at the Special General Meeting and no other matters.
- 7.7. Notice of a Special General Meeting is given by ordinary post or email to the address of members as it appears in the records of the Conservancy.
- 7.8. A quorum will exist at a Special General Meeting if:

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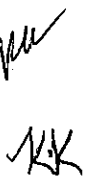
- 7.8.1. Twenty percent of members are present in person or by proxy when the meeting is called by the management;
 - 7.8.2. Two thirds of the members who requested the meeting in accordance with clause 7.2 are present in person or by proxy;
 - 7.8.3. If a quorum is not present at a Special General Meeting, the meeting shall be reconvened on notice of not less than seven days. At the meeting so convened the members present shall constitute a quorum.
- 7.9. Only voting members, or their authorised representatives, shall be entitled to speak at the meeting or to cast a vote during the meeting.
- 7.10. Voting members must be physically present at the meeting to be entitled to vote, when this is not possible a voting member may hold one proxy for another member who is eligible to vote.

8. Management

- 8.1. The management of the Conservancy is elected annually at the first meeting of the management committee after the Annual General Meeting, and comprises a minimum of four and a maximum of ten, of the following officers:
- 8.1.1. Chairperson - required;
 - 8.1.2. Vice Chairperson (who presides in the absence of the Chairperson) – required;
 - 8.1.3. Secretary (who presides in the absence of both the Chairperson and the Vice Chairperson) – required;
 - 8.1.4. Treasurer - required;
 - 8.1.5. Additional sub committees can be established by the management on an ad hoc basis from time to time.

9. Management meetings

- 9.1. Management holds office from the date of election, until the next Annual General Meeting.
- 9.2. Should any management member resign or become unable to discharge his/her duties for any reason prior to the next Annual General Meeting the management may appoint a successor. Such a nominated management member shall be deemed to be appointed by the Annual General Meeting and his term of office shall expire when the term of office of the management expires.

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- 9.3. Should a dispute arise within management members then a management meeting shall be called to resolve this conflict and the decision of a majority of members shall be respected.
- 9.4. A representative nominated by the Gauteng Department of Agriculture and Rural Development or GCA shall be entitled to attend management meetings and to address it, but shall not be entitled to vote.
- 9.5. The management meets at least four times a year at a time and place as determined by the Chairperson.

10. **Minutes**

- 10.1. The Secretary keeps minutes of each meeting of the management as well as of each Annual General Meeting.
- 10.2. Minutes must be confirmed and approved by the management committee.
- 10.3. Every member is entitled to have sight of the minutes of the management meetings as well as the minutes of general meetings.

11. **Constitution**

- 11.1. The Conservancy was founded on 27 March 2007, with the following founding members:

M. Donde, S. De Nobrega, A. Dicks, G. Martindale, S. Goodman, P. Hoets, B. Potgieter, K. Kullmann.. A copy of the constitution was submitted to the Gauteng MEC for Agriculture, Conservation, Environment and Land Affairs (GDACEL), GDACE.
- 11.2. Changes to the constitution may only take place:
 - 11.2.1. At an Annual General Meeting or at a Special General Meeting convened specifically for this purpose; and
 - 11.2.2. At which a quorum is present; and
 - 11.2.3. In relation to which a two thirds majority of members, present at the meeting, approves the changes; and
 - 11.2.4. Full-particulars of the proposed changes were given to members in the notice of the Annual General Meeting or Special General Meeting.
- 11.3. No amendment of the constitution is permitted which is not in conformity with environmental or conservation legislation.
- 11.4. Any amendments once approved are to be forwarded to GCA.

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12. Powers of the Conservancy

12.1. The Conservancy shall have all powers which are necessary, conducive or incidental to the attainment or furtherance of its objectives and in particular, without limiting the generality of the foregoing, the Conservancy may:

12.1.1. Acquire rights or incur obligations distinct from its members;

12.1.2. Acquire any movable or immovable property distinct from its members;

12.1.3. Report to the relevant authorities any illegal developments or activities within environmentally sensitive areas;

12.1.4. Enter into any agreement with any Government or other authority or agency or with persons, associations or conservancies, or affiliate with anybody likely to further the interests of the Conservancy;

12.1.5. Employ, dismiss and remunerate employees, professional assistants and experts, research workers, advisers, agents and other persons, and establish and contribute to pension, gratuity, medical and /or other funds for the benefit of its employees;

12.1.6. Collect and disseminate information about the protection and conservation of wildlife, flora and fauna and about policies or practices related thereto;

12.1.7. Invite the patronage of any person(s) to such honorary position(s) as it may consider advisable; and

12.1.8. Enter into agreements of all and any nature necessary to carry out aims and objectives of the Conservancy.

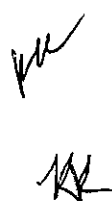
13. Powers of management

13.1. Management has the power to perform all acts required to give effect to this constitution and the attainment of the objectives of the Conservancy.

13.2. Management members perform their duties without any remuneration, but any management member who incurs reasonable expenses in the execution of his/her duties with the prior consent of the management, authorised by two members of management, shall be reimbursed by the Conservancy.

13.3. The Conservancy's income and property are not distributable to its members or office-bearers

14. Property and Income

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14.1. The income and assets of the Conservancy shall be applied solely for investment and for the promotion of the objects for which it is established.

14.2. No member of the Conservancy or employee has any rights to property owned by the Conservancy by virtue of membership.

15. Dissolution

15.1. The Conservancy may dissolve at any time if two thirds of the members, present in person, vote for dissolution at a Special General Meeting convened for that purpose.

15.2. If the Conservancy dissolves all assets of the Conservancy shall be liquidated and pledged to the GCA.

15.3. Members or office-bearers have no rights in the property or other assets of the Conservancy solely by virtue of their being members or office-bearers.

16. Dead heat in voting

16.1. At an Annual General Meeting, as well as at a management meeting, the Chairperson shall have a deliberative vote, as well as a casting vote, in the event of an equality of votes.

17. Cessation of activities

17.1. In case of a cessation of activities the GCA or an appointed representative may convene a Special general meeting of those members whose fees are paid for the purpose of dissolving the Conservancy.

17.2. Cessation of activities shall be deemed to include:

17.2.1. The Conservancy has been dormant for a period of six months since it was obliged in terms of this constitution to hold an annual general meeting;

17.2.2. Activities were undertaken that were inconsistent with the objectives of this constitution; or

17.2.3. The Constitution of the Conservancy ceases to comply with governing legislation and policy.

Signed at Kyalami on the 25th day of September 2014

Chairperson: Ms Kristin Kallesen

K. Kalles

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THE GREATER KYALAMI CONSERVANCY

GEKCO



RESOLUTION:

28 May 2021

The Management Committee of the Greater Kyalami Conservancy (GEKCO) resolves as follows:

1. That GEKCO will act as an applicant in proceedings to review the ruling by the Municipal Planning Tribunal of the City of Johannesburg of 20 September 2019.
2. Power Singh Inc. is appointed to represent GEKCO in the aforementioned proceedings.
3. The Management Committee authorises Kristin Kallesen in her capacity as the Chairperson for GEKCO, to depose to any necessary affidavits and take all steps which may be deemed necessary in the proceedings.

S. Warring (Deputy Chairperson)

D. Pater (Secretary)

K. Bush (Treasurer)

A. van Niekerk

D. van Niekerk

SIGNED ON THIS 28th DAY OF May 2021 IN Kyalami

"KK3"



City of Johannesburg
Executive Director: Development Planning and Urban Management
Room 8100, 8th Floor
A Block, Metropolitan Centre
158 Loveday Street Extension
Braamfontein

Attn: Ben Pretorius
BenAP@Joburg.org.za

To whom it may concern,

LETTER OF OBJECTION – RIVERSIDE VIEW EXTENSION 14 situated on Portions 7, 36 & 38 of the farm Diepsloot 388-JR

On behalf of the Greater Kyalami Conservancy I hereby object to such township establishment application for Riverside View Ext 14 for Motor Trade, Warehouses, Light Industrial, Offices, and Commercial uses as advertised in the provincial gazette on 5 November 2014.

The grounds upon which I object to the township application are, inter alia, the following:

- 1.1. The development does not encourage environmentally sustainable land development and practices. There are a number of important wetlands on site, extensive damage has already occurred and must not be allowed to continue. The site currently acts as a biodiversity corridor for the migration of bullfrogs, mammals and contains habitat for birdlife including the African Grass-Owl, a red listed species. A commercial development of this nature will not allow the biodiversity to be maintained. A well respected ornithologist has requested investigations be done as to the suitability of habitat and presence of Grass Owls after viewing the property. This request has been made to the developer who has not allowed specialists access to the site.

- 1.2. The development and proposed densities are motivated by proposed provincial roads, namely the K56, PWV5 and PWV9. An environmental impact assessment is currently being undertaken on the proposed K56 (planned in 1972) which is subject to serious hydrological and environmental issues. The PWV5 and PWV9 were slated as phase 2 of the Gauteng Freeway Improvement Programme (GFIP). As a result of the uncertainty and delay with the e-tolling, the future of these roads is uncertain. The applicant should not base the motivation of this application on proposed roads which are not yet approved or budgeted.

- 1.3. The issues above and the promotion of Urban Sprawl; development in areas requiring the addition of infrastructure which will require further capital input to maintain; building new roads rather than upgrading existing roads and improving public transport - resulting in longer commutes, increased travel costs and carbon emissions; loss of open space and biodiversity, are not in alignment with the City of Joburg Growth and Development Strategy for 2040. (GDS 2040)
- 1.4. This area is a rural residential suburb where residents ride horses as part of their daily routine, something that has been the lifeblood of this suburb for 30 years. The traffic produced by the proposed project will endanger the horses and riders alike. Rose Road must not be considered as an appropriate access to this development as it is a rural, farm road utilized extensively by horse riders and riding schools.
- 1.5. The development has not produced a needs and desirability study. There are many vacant industrial and warehousing areas in need of revitalization with appropriate access and infrastructure.
- 1.6. Diepsloot has a severe shortage of housing and infrastructure for existing residents. This development would only attract more job seekers looking for housing in an already stressed situation where many live in inhumane conditions.
- 1.7. South Africa is currently not able to produce enough electricity for existing loads. Further projects should not be allowed until we are able to provide for existing requirements and development which is not sustainable increases the risk of blackouts and a collapse of the system.

I reserve the right to add or amend comments as further information becomes available.

We reserve the right of our members to respond independently.

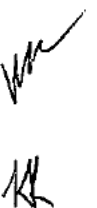
Yours faithfully

Kristin Kallesen - Chairperson Greater Kyalami Conservancy



Email: chair@gekco.co.za

Physical Address: [REDACTED]



City of Johannesburg
Executive Director: Development Planning and Urban Management
Room 8100, 8th Floor
A Block, Metropolitan Centre
158 Loveday Street Extension
Braamfontein



Attn: Ben Pretorius
BenAP@Joburg.org.za

To whom it may concern,

LETTER OF OBJECTION – RIVERSIDE VIEW EXTENSION 17 situated on Portion 7 of the farm Diepsloot 388-JR

On behalf of the Greater Kyalami Conservancy I hereby object to such township establishment application for Riverside View Ext 17 for Warehouses, Storage, Showrooms, Light Industrial, Commercial and Office uses as advertised in the provincial gazette on 5 November 2014.

The grounds upon which I object to the township application are, inter alia, the following:

- 1.1. The development does not encourage environmentally sustainable land development and practices. There are a number of important wetlands on site, extensive damage has already occurred and must not be allowed to continue. The site currently acts as a biodiversity corridor for the migration of bullfrogs, mammals and contains habitat for birdlife including the African Grass-Owl, a red listed species. A commercial development of this nature will not allow the biodiversity to be maintained. A well respected ornithologist has requested investigations be done as to the suitability of habitat and presence of Grass Owls after viewing the property. This request has been made to the developer who has not allowed specialists access to the site.

- 1.2. The development and proposed densities are motivated by proposed provincial roads, namely the K56, PWV5 and PWV9. An environmental impact assessment is currently being undertaken on the proposed K56 (planned in 1972) which is subject to serious hydrological and environmental issues. The PWV5 and PWV9 were slated as phase 2 of the Gauteng Freeway Improvement Programme (GFIP). As a result of the uncertainty and delay with the e-tolling, the future of these roads is uncertain. The applicant should not base the motivation of this application on proposed roads which are not yet approved or budgeted.

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- 1.3. The issues above and the promotion of Urban Sprawl; development in areas requiring the addition of infrastructure which will require further capital input to maintain; building new roads rather than upgrading existing roads and improving public transport - resulting in longer commutes, increased travel costs and carbon emissions; loss of open space and biodiversity, are not in alignment with the City of Joburg Growth and Development Strategy for 2040. (GDS 2040)
- 1.4. This area is a rural residential suburb where residents ride horses as part of their daily routine, something that has been the lifeblood of this suburb for 30 years. The traffic produced by the proposed project will endanger the horses and riders alike. Rose Road must not be considered as an appropriate access to this development as it is a rural, farm road utilized extensively by horse riders and riding schools.
- 1.5. The development has not produced a needs and desirability study. There are many vacant industrial and warehousing areas in need of revitalization with appropriate access and infrastructure.
- 1.6. Diepsloot has a severe shortage of housing and infrastructure for existing residents. This development would only attract more job seekers looking for housing in an already stressed situation where many live in inhumane conditions.
- 1.7. South Africa is currently not able to produce enough electricity for existing loads. Further projects should not be allowed until we are able to provide for existing requirements and development which is not sustainable increases the risk of blackouts and a collapse of the system.

I reserve the right to add or amend comments as further information becomes available.

We reserve the right of our members to respond independently.

Yours faithfully

Kristin Kallesen - Chairperson Greater Kyalami Conservancy



Email: chair@gekco.co.za

Physical Address: 



City of Johannesburg
Executive Director: Development Planning and Urban Management
Room 8100, 8th Floor
A Block, Metropolitan Centre
158 Loveday Street Extension
Braamfontein



Attn: Ben Pretorius
BenAP@Joburg.org.za

To whom it may concern,

LETTER OF OBJECTION – RIVERSIDE VIEW EXTENSION 18 situated on Portions 36,37, and 38 of the farm Diepsloot 388-JR

On behalf of the Greater Kyalami Conservancy I hereby object to such township establishment application for Riverside View Ext 18 for Motor Trade, Warehouses, Light Industrial, Commercial and Office uses as advertised in the provincial gazette on 5 November 2014.

The grounds upon which I object to the township application are, inter alia, the following:

- 1.1. This development would displace the Riversands Farm School which has been in existence for over 50 years and serves 700 children from Diepsloot.
- 1.2. The development does not encourage environmentally sustainable land development and practices. There are a number of important wetlands on site, extensive damage has already occurred and must not be allowed to continue. The site currently acts as a biodiversity corridor for the migration of bullfrogs, mammals and contains habitat for birdlife including the African Grass-Owl, a red listed species. A well respected ornithologist has requested investigations be done as to the suitability of habitat and presence of Grass Owls after viewing the property. This request has been made to the developer who has not allowed specialists access to the Riversands site.
- 1.3. The development and proposed densities are motivated by proposed provincial roads, namely the K56, PWV5 and PWV9. An environmental impact assessment is currently being undertaken on the proposed K56 (planned in 1972) which is subject to serious hydrological and environmental issues. The PWV5 and PWV9 were slated as phase 2 of the Gauteng Freeway Improvement Programme (GFIP). As a result of the uncertainty and delay with the e-tolling, the future of these roads is uncertain. The applicant should not base the motivation of this application on proposed roads which are not yet approved or budgeted.

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- 1.4. The issues above and the promotion of Urban Sprawl; development in areas requiring the addition of infrastructure which will require further capital input to maintain; building new roads rather than upgrading existing roads and improving public transport - resulting in longer commutes, increased travel costs and carbon emissions; loss of open space and biodiversity, are not in alignment with the City of Joburg Growth and Development Strategy for 2040. (GDS 2040)
- 1.5. This area is a rural residential suburb where residents ride horses as part of their daily routine, something that has been the lifeblood of this suburb for 30 years. The traffic produced by the proposed project will endanger the horses and riders alike. Rose Road must not be considered as an appropriate access to this development as it is a rural, farm road utilized extensively by horse riders and riding schools.
- 1.6. The development has not produced a needs and desirability study. There are many vacant industrial and warehousing areas in need of revitalization with appropriate access and infrastructure.
- 1.7. Diepsloot has a severe shortage of housing and infrastructure for existing residents. This development would only attract more job seekers looking for housing in an already stressed situation where many live in inhumane conditions.
- 1.8. South Africa is currently not able to produce enough electricity for existing loads. Further projects should not be allowed until we are able to provide for existing requirements and development which is not sustainable increases the risk of blackouts and a collapse of the system.

I reserve the right to add or amend comments as further information becomes available.

We reserve the right of our members to respond independently.

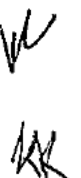
Yours faithfully

Kristin Kallesen - Chairperson Greater Kyalami Conservancy



Email: chair@gekco.co.za

Physical Address: 



City of Johannesburg
Executive Director: Development Planning and Urban Management
Room 8100, 8th Floor
A Block, Metropolitan Centre
158 Loveday Street Extension
Braamfontein



Attn: Ben Pretorius
BenAP@Joburg.org.za

To whom it may concern,

LETTER OF OBJECTION – RIVERSIDE VIEW EXTENSION 36 situated on part of Portion 7 of the farm Diepsloot 388-JR

On behalf of the Greater Kyalami Conservancy I hereby object to such township establishment application for Riverside View Ext 36 for Offices, Motor Trade and Storage uses as advertised in the provincial gazette on 12 November 2014.

The grounds upon which I object to the township application are, inter alia, the following:

- 1.1. The development does not encourage environmentally sustainable land development and practices. There are a number of important wetlands on site, extensive damage has already occurred and must not be allowed to continue. The site currently acts as a biodiversity corridor for the migration of bullfrogs, mammals and contains habitat for birdlife including the African Grass-Owl, a red listed species. A commercial development of this nature will not allow the biodiversity to be maintained. A well respected ornithologist has requested investigations be done as to the suitability of habitat and presence of Grass Owls after viewing the property. This request has been made to the developer who has not allowed specialists access to the site.

- 1.2. The development and proposed densities are motivated by proposed provincial roads, namely the K56, PWV5 and PWV9. An environmental impact assessment is currently being undertaken on the proposed K56 (planned in 1972) which is subject to serious hydrological and environmental issues. The PWV5 and PWV9 were slated as phase 2 of the Gauteng Freeway Improvement Programme (GFIP). As a result of the uncertainty and delay with the e-tolling, the future of these roads is uncertain. The applicant should not base the motivation of this application on proposed roads which are not yet approved or budgeted.

- 1.3. The issues above and the promotion of Urban Sprawl; development in areas requiring the addition of infrastructure which will require further capital input to maintain; building new roads rather than upgrading existing roads and improving public transport - resulting in longer commutes, increased travel costs and carbon emissions; loss of open space and biodiversity, are not in alignment with the City of Joburg Growth and Development Strategy for 2040. (GDS 2040)
- 1.4. This area is a rural residential suburb where residents ride horses as part of their daily routine, something that has been the lifeblood of this suburb for 30 years. The traffic produced by the proposed project will endanger the horses and riders alike. Rose Road must not be considered as an appropriate access to this development as it is a rural, farm road utilized extensively by horse riders and riding schools.
- 1.5. The development has not produced a needs and desirability study. There are many vacant industrial and warehousing areas in need of revitalization with appropriate access and infrastructure.
- 1.6. Diepsloot has a severe shortage of housing and infrastructure for existing residents. This development would only attract more job seekers looking for housing in an already stressed situation where many live in inhumane conditions.
- 1.7. South Africa is currently not able to produce enough electricity for existing loads. Further projects should not be allowed until we are able to provide for existing requirements and development which is not sustainable increases the risk of blackouts and a collapse of the system.

I reserve the right to add or amend comments as further information becomes available.

We reserve the right of our members to respond independently.

Yours faithfully

Kristin Kalliesen - Chairperson Greater Kyalami Conservancy



Email: chair@gekco.co.za

Physical Address: [REDACTED]



City of Johannesburg
Executive Director: Development Planning and Urban Management
Room 8100, 8th Floor
A Block, Metropolitan Centre
158 Loveday Street Extension
Braamfontein



Attn: Ben Pretorius
BenAP@Joburg.org.za

To whom it may concern,

LETTER OF OBJECTION – RIVERSIDE VIEW EXTENSION 42 situated on part of Portion 7 of the farm Diepsloot 388-JR

On behalf of the Greater Kyalami Conservancy I hereby object to such township establishment application for Riverside View Ext 42 for a Public Garage, Drive-thru Restaurant and ancillary uses as advertised in the provincial gazette on 12 November 2014.

The grounds upon which I object to the township application are, inter alia, the following:

- 1.1. The development does not encourage environmentally sustainable land development and practices. There are a number of important wetlands on site, extensive damage has already occurred and must not be allowed to continue. The site currently acts as a biodiversity corridor for the migration of bullfrogs, mammals and contains habitat for birdlife including the African Grass-Owl, a red listed species. A commercial development of this nature will not allow the biodiversity to be maintained. A well respected ornithologist has requested investigations be done as to the suitability of habitat and presence of Grass Owls after viewing the property. This request has been made to the developer who has not allowed specialists access to the site.

- 1.2. The development and proposed densities are motivated by proposed provincial roads, namely the-K56, PWV5 and PWV9. An environmental impact assessment is currently being undertaken on the proposed K56 (planned in 1972) which is subject to serious hydrological and environmental issues. The PWV5 and PWV9 were slated as phase 2 of the Gauteng Freeway Improvement Programme (GFIP). As a result of the uncertainty and delay with the e-tolling, the future of these roads is uncertain. The applicant should not base the motivation of this application on proposed roads which are not yet approved or budgeted.

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- 1.3. The issues above and the promotion of Urban Sprawl; development in areas requiring the addition of infrastructure which will require further capital input to maintain; building new roads rather than upgrading existing roads and improving public transport - resulting in longer commutes, increased travel costs and carbon emissions; loss of open space and biodiversity, are not in alignment with the City of Joburg Growth and Development Strategy for 2040. (GDS 2040)
- 1.4. This area is a rural residential suburb where residents ride horses as part of their daily routine, something that has been the lifeblood of this suburb for 30 years. The traffic produced by the proposed project will endanger the horses and riders alike. Rose Road must not be considered as an appropriate access to this development as it is a rural, farm road utilized extensively by horse riders and riding schools.
- 1.5. The development has not produced a needs and desirability study. There are many vacant industrial and warehousing areas in need of revitalization with appropriate access and infrastructure.
- 1.6. Diepsloot has a severe shortage of housing and infrastructure for existing residents. This development would only attract more job seekers looking for housing in an already stressed situation where many live in inhumane conditions.
- 1.7. South Africa is currently not able to produce enough electricity for existing loads. Further projects should not be allowed until we are able to provide for existing requirements and development which is not sustainable increases the risk of blackouts and a collapse of the system.

I reserve the right to add or amend comments as further information becomes available.

We reserve the right of our members to respond independently.

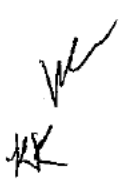
Yours faithfully

Kristin Kallesen - Chairperson Greater Kyalami Conservancy



Email: chair@gekco.co.za

Physical Address: [REDACTED]



"KK4"

From: GEKCO Chair [mailto:chair@gekco.co.za]

Sent: 26 July 2017 11:57 PM

To: 'Ben Pretorius'

Cc: 'Secretary GEKCO'

Subject: OBJECTION: PROPOSED TOWNSHIPS OF RIVERSIDE VIEW EXTENSION 85, EXTENSION 86 AND EXTENSION 87 - PORTIONS OF THE FARM ZEVENFONTEIN 407-JR

Importance: High

Dear Ben,

I would like to object to the proposed townships of Riverside View Ext 85, 86 and 87 on portions of the Farm Zevenfontein 407JR on behalf of the Greater Kyalami Conservancy.

The proposed site is a highly sensitive environmental site listed as a Critical Biodiversity Area in both the Gauteng Conservation plan and the City's Bioregional plan. A major wetland system runs through the site and connects to the Jukskei River. The property is also host to a number of wildlife and bird species, some endangered such as the African Grass-Owl. Any access to the site from Erling road crosses this wetland system and biodiversity corridor. The species are highly sensitive to traffic and noise.

Access to the site is a problem as highlighted by Glenferness residents as traffic must move through an equestrian area on farm roads which are wholly inadequate for this proposal.

We reserve the right to expand further upon these objections as further information becomes available.

Kind regards

Kristin Kallesen

Chairperson

Greater Kyalami Conservancy

[REDACTED]

PO Box 3 [REDACTED]

Kyalami

1684

chair@gekco.co.za

KK

From: GEKCO Chair [mailto:chair@gekco.co.za]

Sent: 29 August 2018 08:45 PM

To: 'ObjectionsPlanning@joburg.org.za'; 'Ben Pretorius'; 'lauren@century.co.za'

Cc: 'secretary@gekco.co.za'; Tammy Wild; 'info@gekco.co.za'; 'David Foley'; 'etienneA@joburg.org.za'; 'lebomol@joburg.org.za'; 'Pule Makena'; 'Jane Eagle'

Subject: Objection: Riverside View x97

Attn: Executive Director
City of Joburg Development Planning
c/o Mr. Ben Pretorius – Planning registrations

29/08/2018

Dear Mr. Pretorius,

RE: OBJECTION TO PROPOSED TOWNSHIP – RIVERSIDE VIEW EXTENSION 97

I would like to object to the proposed townships of Riverside View Ext 97 for Residential 1 - 110 erven and other uses on portions 11 and 8 of the Farm Zevenfontein 407JR (known also as Helderfontein Estate) on behalf of the Greater Kyalami Conservancy.

We are concerned with the impact of development and increased traffic in and around wetlands and wildlife corridors and influx of traffic into an equestrian / agricultural area. Increased traffic will overload existing roads and require further roads to be built such as the K56 which under the approved alignment contains four wetland crossings. I note on the layout plans that the K56 and access roads are well within the wetland / dam and floodline. Internal roads required to support this development also cross wetland areas and would extend into the Glenferness Agricultural Holdings. This impact of increased traffic on residents in the Glenferness suburb would be severe. Glenferness roads are narrow agricultural roads and are used constantly by residents for cycling, walking and horse riding.

The proposed site is a highly sensitive environmental site listed as a Critical Biodiversity Area in both the Gauteng Conservation plan and the City's Bioregional plan. A major wetland system runs through the site and connects to the Jukskei River. The property is also host to a number of wildlife and bird species, some endangered such as the African Grass-Owl. Access roads required cross this wetland system and biodiversity corridor. Some species are highly sensitive to traffic and noise.

The development and roads encroach on habitat for species and break down the wildlife corridor. Fencing off the property has further impact of cutting off wildlife movement and it is recommended that wildlife friendly fencing is installed to allow wildlife through. We have already seen many deaths of wildlife on this property due to cars with the recent opening of the Helderfontein school and opening of Chattan road. Porcupine, hedgehog, jackal, rinkaals and bullfrogs have all been killed with the increased traffic.

We object to the high densities and coverage that will encroach into these environmentally sensitive areas and will have a negative impact on surrounding residents in Glenferness and Kyalami which is outside the Urban Development Boundary. The densities and coverage proposed would remove soft soak areas which recharge the wetland system and replace with hard surfacing which creates additional heating. The current floodlines may increase due to upstream developments approved and in process – examples of which are Kyalami x3 and surrounds and Crowthorne x20. Any new roads constructed will also impact the current floodlines.

Adjacent properties are zoned Agricultural with a maximum of 8% coverage and two stories. The area contains a number of equestrian venues, riding schools and other equestrian businesses which create sustainable employment and provide accommodation for employees. These businesses will be negatively impacted by the increase in traffic, making it unsafe for horses to move through the Glenferness and Kyalami area. The equestrian aspects of this area make Kyalami unique in Joburg and in fact South Africa, providing recreational and business opportunities and attracting tourism to Fourways and Midrand.

The SDF2040 and Gauteng Environmental Management Framework both recognise the importance of areas outside the Urban Development Boundary as they provide ecological resources and tourism. Both policies state that these aspects must be promoted and protected for a resilient and sustainable City. This application undermines the intent of these policies and promotes urban sprawl into a greenfields area.

I attach a sensitivity layout of the above site obtained from the K56 EIA (see black site boundary outline) and request that the Council appointed town planner meet with the Environmental Impact Management to better understand the unique environmental sensitivities of this property and adjacent properties. GEKCO would be happy to attend this meeting to offer further detail in this regard.

Although environmental authorisation has been granted for these portions – it is subject to certain conditions as per the ROD attached:

- No clearing of vegetation is permitted in areas earmarked for open space
- No blanket clearing of vegetation
- All wetland buffers must be marked out and respected
- An amended sensitivity layout must be submitted to GDARD for approval
- Concerns raised by CoJ Impact Management must be included in the EMP
- CoJ Impact Management must sign off on storm water plans in addition to JRA

We reserve our right to expand on our objection as further information becomes available.

Should council or the applicant wish to discuss the objections in more detail in a meeting, GEKCO will send a representative to the meeting. Alternatively we will represent the objections at a tribunal.

PLEASE SEND CORRESPONDENCE BY EMAIL: CHAIR@GEKCO.CO.ZA

Physical address: [Redacted]
Postal address: PO Box [Redacted]
Phone: [Redacted]

Kind Regards

Kristin Kalfesen
Chairperson
Greater Kyalami Conservancy

email: chair@gekco.co.za
website: www.gekco.co.za



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Handwritten initials: KR and a signature

From: GEKCO Chair [mailto:chair@gekco.co.za]

Sent: 29 August 2018 08:45 PM

To: 'ObjectionsPlanning@joburg.org.za'; 'Ben Pretorius'; 'lauren@century.co.za'

Cc: 'secretary@gekco.co.za'; Tammy Wild; 'info@gekco.co.za'; 'David Foley'; 'etienneA@joburg.org.za'; 'lebomol@joburg.org.za'; 'Pule Makena'; 'Jane Eagle'

Subject: Objection: Riverside View x98

Attn: Executive Director
City of Joburg Development Planning
c/o Mr. Ben Pretorius – Planning registrations

29/08/2018

Dear Mr. Pretorius,

RE: OBJECTION TO PROPOSED TOWNSHIP – RIVERSIDE VIEW EXTENSION 98

I would like to object to the proposed townships of Riverside View Ext 98 for Residential 1 - 112 erven on portions 5, 11 and 8 of the Farm Zevenfontein 407JR (known also as Helderfontein Estate) on behalf of the Greater Kyalami Conservancy.

We are concerned with the impact of development and increased traffic in and around wetlands and wildlife corridors and influx of traffic into an equestrian / agricultural area. Increased traffic will overload existing roads and require further roads to be built such as the K56 which under the approved alignment contains four wetland crossings. I note on the layout plans that the K56 and access roads are well within the wetland / dam and floodline. Internal roads required to support this development also cross wetland areas and would extend into the Glenferness Agricultural Holdings. This impact of increased traffic on residents in the Glenferness suburb would be severe. Glenferness roads are narrow agricultural roads and are used constantly by residents for cycling, walking and horse riding.

The proposed site is a highly sensitive environmental site listed as a Critical Biodiversity Area in both the Gauteng Conservation plan and the City's Bioregional plan. A major wetland system runs through the site and connects to the Jukskei River. The property is also host to a number of wildlife and bird species, some endangered such as the African Grass-Owl. Access roads required cross this wetland system and biodiversity corridor. Some species are highly sensitive to traffic and noise.

The development and roads encroach on habitat for species and break down the wildlife corridor. Fencing off the property has further impact of cutting off wildlife movement and it is recommended that wildlife friendly fencing is installed to allow wildlife through. We have already seen many deaths of wildlife on this property due to cars with the recent opening of the Helderfontein school and opening of Chattan road. Porcupine, hedgehog, jackal, rinkaals and bullfrogs have all been killed with the increased traffic.

We object to the high densities and coverage that will encroach into these environmentally sensitive areas and will have a negative impact on surrounding residents in Glenferness and Kyalami which is outside the Urban Development Boundary. The densities and coverage proposed would remove soft soak areas which recharge the wetland system and replace with hard surfacing which creates additional heating. The current floodlines may increase due to upstream developments approved and in process – examples of which are Kyalami x3 and surrounds and Crowthorne x20. Any new roads constructed will also impact the current floodlines.

Adjacent properties are zoned Agricultural with a maximum of 8% coverage and two stories. The area contains a number of equestrian venues, riding schools and other equestrian businesses which create sustainable employment and provide accommodation for employees. These businesses will be negatively impacted by the increase in traffic, making it unsafe for horses to move through the Glenferness and Kyalami area. The equestrian aspects of this area make Kyalami unique in Joburg and in fact South Africa, providing recreational and business opportunities and attracting tourism to Fourways and Midrand.



From: GEKCO Chair [mailto:chair@gekco.co.za]
Sent: 29 August 2018 08:45 PM
To: 'ObjectionsPlanning@joburg.org.za'; 'Ben Pretorius'; 'lauren@century.co.za'
Cc: 'secretary@gekco.co.za'; Tammy Wild; 'info@gekco.co.za'; 'David Foley'; 'etienneA@joburg.org.za'; 'lebornol@joburg.org.za'; 'Pule Makena'; 'Jane Eagle'
Subject: Objection: Riverside View x99

Attn: Executive Director
City of Joburg Development Planning
c/o Mr. Ben Pretorius – Planning registrations

29/08/2018

Dear Mr. Pretorius,

RE: OBJECTION TO PROPOSED TOWNSHIP – RIVERSIDE VIEW EXTENSION 99

I would like to object to the proposed townships of Riverside View Ext 99 for 62 erven and other uses on portions 5, 11 and 8 of the Farm Zevenfontein 407JR (known also as Helderfontein Estate) on behalf of the Greater Kyalami Conservancy.

We are concerned with the impact of development and increased traffic in and around wetlands and wildlife corridors and influx of traffic into an equestrian / agricultural area. Increased traffic will overload existing roads and require further roads to be built such as the K56 which under the approved alignment contains four wetland crossings. I note on the layout plans that the K56 and access roads are well within the wetland / dam and floodline. Internal roads required to support this development also cross wetland areas and would extend into the Glenferness Agricultural Holdings. This impact of increased traffic on residents in the Glenferness suburb would be severe. Glenferness roads are narrow agricultural roads and are used constantly by residents for cycling, walking and horse riding.

The proposed site is a highly sensitive environmental site listed as a Critical Biodiversity Area in both the Gauteng Conservation plan and the City's Bioregional plan. A major wetland system runs through the site and connects to the Jukskei River. The property is also host to a number of wildlife and bird species, some endangered such as the African Grass-Owl. Access roads required cross this wetland system and biodiversity corridor. Some species are highly sensitive to traffic and noise.

The development and roads encroach on habitat for species and break down the wildlife corridor. Fencing off the property has further impact of cutting off wildlife movement and it is recommended that wildlife friendly fencing is installed to allow wildlife through. We have already seen many deaths of wildlife on this property due to cars with the recent opening of the Helderfontein school and opening of Chattan road. Porcupine, hedgehog, jackal, rinkaals and bullfrogs have all been killed with the increased traffic.

We object to the high densities and coverage that will encroach into these environmentally sensitive areas and will have a negative impact on surrounding residents in Glenferness and Kyalami which is outside the Urban Development Boundary. The densities and coverage proposed would remove soft soak areas which recharge the wetland system and replace with hard surfacing which creates additional heating. The current floodlines may increase due to upstream developments approved and in process – examples of which are Kyalami x3 and surrounds and Crowthorne x20. Any new roads constructed will also impact the current floodlines.

Adjacent properties are zoned Agricultural with a maximum of 8% coverage and two stories. The area contains a number of equestrian venues, riding schools and other equestrian businesses which create sustainable employment and provide accommodation for employees. These businesses will be negatively impacted by the increase in traffic, making it unsafe for horses to move through the Glenferness and

✓
KK

GEKCO has objected to each application individually as there are unique issues between them. Combining all will not allow us to present our case with each issue, or the tribunal members to understand the intricacies involved. There are multiple objectors on each application. We would like to point out features on site that are kilometres apart – requiring adequate time for the multiple site visits. It is also impossible to prepare adequately for 9 applications with only two weeks notice. Tribunal agendas are only available one week prior and are often incomplete, requiring multiple visits to council to obtain department comments.

While we do not object to the consolidation of applications within the same development at one tribunal to save time and costs for all involved, it is unreasonable to deal with both developments on the same day.

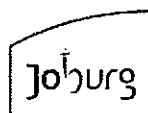
Therefore I would like to suggest the above remedy in fairness to all involved. Please may I request your urgent attention to this request.

With kind regards,
Kristin Kallesen
Chairperson
Greater Kyalami Conservancy (GEKCO)
[REDACTED]

KK

"KK7"

From: Amolemo Mothoagae [mailto:AmolemoMo@joburg.org.za]
Sent: 27 June 2019 10:13 AM
To: Graham de Kock; Vasco da Gama; Joanne van Greunen
Cc: GEKCO Chair; Reuben Mlungisi Masango; Nokuthula Thusi; Hector Makhubo
Subject: RE: Obejction to unreasonable hearing dates - Riverside View



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Pick Up



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Preserve our resources
for future generations

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Dear Chairperson

Your email is noted as well as the email from the chairperson of Gecko. Let me start by indicating that the emails raise important issues and the concerns of Gecko are valid. We will attend to them.

Please note that I have not been in the office since Tuesday because my son was going in for an operation. I spent parts of yesterday in a meeting outside the office and later in the day catching up with emails. My lack of response should therefore be taken into that context. My expectation is always that besides emails I can be contacted telephonically and issues are directed to the relevant officials (Directors) to resolve same. This is a matter that is squarely within the officials to resolve without burdening the Speaker.

I have in the mean time asked the Director, Ms Nokuthula Thusi and the team, copied hereto to look into this and communicate with the clients and parties to the application on any changes.

Kind regards

Amolemo

From: Graham de Kock [mailto:grahamdekock@hotmail.com]
Sent: Wednesday, 26 June 2019 23:24
To: Vasco da Gama; Joanne van Greunen
Cc: Amolemo Mothoagae; GEKCO Chair; Reuben Mlungisi Masango
Subject: Fw: Obejction to unreasonable hearing dates - Riverside View

Dear Speaker and Chair of Chairs

Part of my Oversight function is to ensure that the City, through the Department of Development Planning conducts itself in a manner that is legally compliant, procedurally fair, and follows the tenants of best practice.

One of the key pieces of legislation that the City is obliged to follow is that the of the Promotion of Administrative Justice Act (3 of 2000).

As you are aware, this entails ensuring that any administrative action has to be just,

fair, and in the interests of those who are affected by any administrative decision.

In the attached email from an objector to a number of planning applications which find themselves before the planning tribunals, it is clear that the administrative bundling of site inspections and hearings are scheduled in order to suit the administration and not those who are going to be affected by the administrative actions that flow from the processes.

I would ask that since the MMC and Executive Director have not responded to the pleas of the objector to the various applications under consideration, that you intervene (as a matter of some urgency) in order that the hearings be scheduled in such a manner that they are procedurally fair to both the applicants and the objectors.

In this regard, I would ask that the committee co-ordinator(s) take into account who the objectors are and not simply assume that in every case the objectors (or the applicants for that matter) are entirely different from each other in each of the instances on any given day.

What is particularly patent with respect to the hearings cited in the attached email, is that the objectors (at least one of them) is being severely prejudiced through the unreasonable scheduling of the hearings and the respective site inspections, and that this behaviour is procedurally unfair and unjust.

Yours sincerely

Graham de Kock
Chair: S79 Oversight Committee for Development Planning
and the JDA

From: GEKCO Chair <chair@gekco.co.za>
Sent: Wednesday, 26 June 2019 19:36
To: 'de Kock Graham'
Cc: [REDACTED]; [REDACTED]
Subject: RE: Obejection to unreasonable hearing dates - Riverside View

Dear Graham,

I have not had a response yet from the MMC or ED, nor from any of the tribunal members. I feel that this is highly disrespectful to objectors – as is the scheduling of 9 applications at the same time in different places. Please advise how to take this further. I will do whatever I can tomorrow.. however will be out of the office from tomorrow afternoon until early hours of the tribunal date 09 July.

Kind regards,
Kristin



"KK8"

From: Cedric van der Merwe [mailto:Cedricv@joburg.org.za]

Sent: 27 June 2019 02:24 PM

To: Nokuthula Thusi; Hector Makhubo; GEKCO Chair; Graham De Kock; Reuben Mlungisi Masango; Jacqui Alexander; Amolemo Mothoagae; RosemaryS@mweb.co.za

Cc: Thabo Underman

Subject: Objection to unreasonable hearing dates - Riverside View

Good afternoon all.

I am responding to this issue as the chair allocated to the sitting of the Municipal planning tribunal dealing with these applications.

Attached hereto a locality plan indicating the position of the application sites in relation to each other.

It is my understanding that GEKCO objected to the proposed Riverside View extensions 14, 17, 18,36 and 42 and that the objections are in principle the same on all the proposed extensions. All of these proposed extensions was public participated at the same time and objections provided at the same time.

The objections by GEKCO on proposed Riverside View extensions 85,97, 98 and 99 was as per the above townships similar in nature and objections also lodged together after public participation and with the same content.

The Land Use Department City grouped these applications together as there are 3 items on the agenda.

The tribunal members are transported to the site inspection via City transport and these applications sites are in close proximity to each other but quite a distance from the Civic therefore it is advisable to group them together and deal with it simultaneously to allow site inspections for the applications to happen in succession.

It is practice of the tribunal to conduct a complete site inspection and allow all parties, including objectors to such application under consideration, to comprehensively deal with the inspection.

Should it happen that the site inspection last the whole day as it sometimes happens we will postpone the applications to a mutually agreed date between all parties involved to deal with argument on the merits of such applications .

All applications from the date of registration and advertising thereof lay open for inspection at the City these applications will include all comments from all the relevant services departments as well as external stakeholders.

This is not the first application that GECKO objected against in this particular area, and they, trough Ms Kallesen are well versed in the planning processes and well aware of the Council approved policy pertaining to the area where these proposed township are situated.

Should Ms Kallesen (GECKO) require any documentation in relation to these applications I will personally undertake to assist in obtaining such.

For the sake of clarity I also attach an extract of the relevant section of the Municipal Planning Bylaw, 2016, section 58 thereof, below dealing with the hearing procedure of the Tribunal .

Of importance is subsections 6 that determine "The hearing **may** be preceded at the discretion of the



Municipal Planning Tribunal by a site inspection" (my own emphasis) and subsection 2 that stipulates that **14 days'** notice of such hearing shall be given.

58. Hearing of submissions, objections, comments or representations

- (1) Where in terms of any provision of this By-law a land development application is referred to the Municipal Planning Tribunal for a decision, the City shall forthwith determine a day, time and place for such hearing.
- (2) The person making the application and any other person, who timeously submitted an objection, comment or representation in terms of any provision of this By-law, including an interested person who has been granted intervener status for purposes of section 52 above, shall receive 14 days clear notice of such day, time and place of the hearing.
- (3) At such hearing contemplated in subsection (1) above the parties envisaged in subsection (2) above may appear in person and set out their motivation in support of the application or their grounds of objection or representation, as the case may be, and adduce any evidence in support thereof or authorise any other person to do so on their behalf.
- (4) A hearing contemplated in subsection (1) above shall be open to the public unless otherwise directed by the Chairperson of the Municipal Planning Tribunal.
- (5) Where an objection, comment or representation has been submitted in the form of a petition, the City will only be obliged to give notice of such hearing to the main petitioner.
- (6) The hearing may be preceded at the discretion of the Municipal Planning Tribunal by a site inspection.
- (7) The Municipal Planning Tribunal shall determine its own procedure in accordance with the objectives of administrative justice.

I trust it places the hearing scheduled for the 9th of July 2019, **18 days** from today in perspective.

Kind regards.

Cedric van der Merwe

Legal adviser: Group Legal and Contracts

3rd Floor, Metropolitan Centre

158 Civic Boulevard, Braamfontein

Email: cedricv@joburg.org.za

Tel: +27(0)114077228

Cell: 0824649469



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"KK9"

DATE	ITEM	DESCRIPTION	ESTIMATED TIME
09 JULY 2019	1	PROPOSED RIVERSIDE VIEW EXT 14 (SITUATED ON PORTIONS 7, 36 AND 38 OF THE FARM DIEPSLOOT 388 JR (A/SCHEME 03-14907))	09:50
09 JULY 2019	2	PROPOSED RIVERSIDE VIEW EXT 17 (SITUATED ON PORTION 7 OF THE FARM DIEPSLOOT 388 JR (A/SCHEME 03-14910))	10:15
09 JULY 2019	3	PROPOSED RIVERSIDE VIEW EXT 18 (SITUATED ON PORTIONS 36, 37 AND 38 OF THE FARM DIEPSLOOT 388 JR (A/SCHEME 03-14908))	10:30
09 JULY 2019	4	PROPOSED RIVERSIDE VIEW EXT 36 (SITUATED ON PORTION 7 OF THE FARM DIEPSLOOT 388 JR (A/SCHEME 03-14963))	10:45
09 JULY 2019	5	PROPOSED RIVERSIDE VIEW EXT 42 (SITUATED ON A PART OF PORTIONS 7 OF THE FARM DIEPSLOOT 388 JR) (A/SCHEME 03-14962))	11:00
09 JULY 2019	6	PROPOSED RIVERSIDE VIEW EXT 85 (SITUATED ON A PART OF THE REMAINDER OF PORTION 5; A PART OF THE REMAINING EXTENT OF PORTION 187 AND A PART OF PORTION 11 OF THE FARM ZEVENFONTEIN 407-JR (A/SCHEME 03-17620))	11:15
		PROPOSED RIVERSIDE VIEW EXT 97 (SITUATED ON A PART OF THE REMAINDER OF PORTION 11 OF THE FARM ZEVENFONTEIN 407-JR (A/SCHEME 03-18875))	11:30
		PROPOSED RIVERSIDE VIEW EXT 98 (SITUATED ON A PART OF THE REMAINDER OF PORTION 5 AND A PART OF PORTION 11 OF THE FARM ZEVENFONTEIN 407-JR (A/SCHEME 03-18869))	11:45

KK


		PROPOSED RIVERSIDE VIEW EXT 99 (SITUATED ON A PART OF THE REMAINDER OF PORTION 5 AND A PART OF PORTION 11 OF THE FARM ZEVENFONTEIN 407-JR (A/SCHEME 03-18868))	12:00
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Inspection in- loco will be conducted of the applications above. The Officials of the City of Johannesburg Municipal Planning Tribunal will leave for the site at 09:00 and will arrive at Riverside View at approximately 09:40. The Tribunal is made up of Mr Cedric Van Der Merwe (Chairperson), Mr Mbongeni Zondo from the JRA, Mr Ezekiel Khosi from Land Use Management, Mr Tshilidzi Tshimange from Environmental section, Mr Moteane Monyake from City Transformation, Ms Mamakhala Ramakhula from land Use Management, Mr Kabelo Nkhambula from Legal Administration, Committee services as a Committee Coordinator and Mr Thabo Underman (Manager) from Legal Administration: Committee Services and registration.

The first site inspection will be Portion 7 of Riverside View Extension 14 at approximately 09:50 or when all parties are available. Then we proceed to Portion 36 at approximately 10:15, Portion 37 at 10:30 and Portion 38 at 10:45 all situated on Farm Diepsloot 388 JR.

Then the Tribunal will proceed to inspect portions 5 and 11 of the Proposed Riverside View Extension 85 at approximately 11:00, Extension 97 at 11:15, Extension 98 and 11:30 and Extension 99 at approximately 12:00 of the Farm Zevenfontein 407 JR.

Throughout the whole process, depending on how long the inspections take, the Tribunal will be guided by the Chairperson in collaboration with the applicant and the objector's representatives respectively.

Once the Site inspection is concluded, the Chairperson of the Tribunal will pave a way forward including the actual time of the hearing.

PLEASE NOTE THAT DURATIONS ARE JUST AN ESTIMATE AND DEPEND ON ISSUES RAISED ON EACH PORTION.

KK 



**ADRIAAN
VENTER**

PROCURERS & ASSOCIATE
ATTORNEYS & ASSOCIATES

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

info@avatt.co.za

OUR REF/ONS VERW: JA VENTER/JM/AC0089 & AC0090

DATE / DATUM: 2019-07-08

TO: THE CHAIRPERSON
GREATER KYALAMI CONSERVANCY (GEKCO)
ATT: MS. KRISTIN KALLESEN
EMAIL: chair@gecko.co.za

COPY TO: THE CHAIRPERSON
THE MUNICIPAL PLANNING TRIBUNAL
CITY OF JOHANNESBURG METROPOLITAN MUNICIPALITY

ATT: MR. CEDRIC VAN DER MERWE
EMAIL: Cedricv@joburg.org.za

COPY TO: JLR ATTORNEYS & ASSOCIATES
ATT: MR. JASON LE ROUX
EMAIL: jason@jlrattorneys.co.za

Madam / Sirs,

HEARINGS SCHEDULED ON 9 JULY 2019 BEFORE THE CITY OF
JOHANNESBURG METROPOLITAN MUNICIPALITY'S MUNICIPAL PLANNING
TRIBUNAL IN RESPECT OF THE PROPOSED RIVERSIDE VIEW EXTENSIONS 85,
97, 98 & 99 TOWNSHIPS;
AND
THE PROPOSED RIVERSIDE VIEW EXTENSIONS 14, 17, 18, 36 AND 42
TOWNSHIPS

JAN ADRIAAN VENTER (BA B.PROC LLB LIMB)
Assisted by / Bygestaan deur:
DANIELE SMIT (LLB PGDFP) & WILHELM SCHEEPERS (BA LLB)

KK

We refer to the abovementioned Applications for Township Establishment and confirm that we act herein on behalf of the Applicants of such Applications, i.e. Century Property Developments (Pty) Ltd and Riversands Developments (Pty) Ltd respectively.

As you have already on several previous occasions specifically been forewarned, we for purposes of establishing your authority to act on behalf of the Greater Kyalami Conservancy (hereinafter referred to as "GEKCO"), including *inter alia* to represent **GEKCO** at the hearings scheduled to take place tomorrow, i.e. the 9th instant, before the aforementioned Municipal Planning Tribunal, demand that you make copies of the following documentation available tomorrow:

1. The Powers of Attorney which authorise yourself to act on behalf of **GEKCO** by *inter alia* representing **GEKCO** at the hearings scheduled before the Municipal Planning Tribunal in respect of each respective Application for Township Establishment mentioned *supra*;
2. Certified copies of the Minutes of the Meetings of **GEKCO**, during which it was apparently resolved that you be authorised to act on **GEKCO**'s behalf;
3. The attendance registers reflecting every person who attended the meetings referred to in paragraph 2 *supra*, as well as the names, contact details and capacities in which they attended such meetings;
4. Proof of membership to **GEKCO** of each and every person as per paragraph 3 *supra*;
5. Proof that a quorum existed during each aforementioned meeting apparently held in the above regard;
6. In the event that it is alleged that you act on behalf of **GEKCO** by virtue of a delegated authority, we require proof of such delegated authority in the form

JAN ADRIAAN VENTER (BA B.PROC LLB LIMB)
Assisted by / Bygestaan deur:
DANIELE SMIT (LLB PGDFP) & WILHELM SCHEEPERS (BA LLB)

Handwritten initials:
JKW
JKK

of a formal resolution as well as a certified copy of the Minutes of the Meeting at which such authority was delegated to yourself;

7. The attendance registers reflecting every person who attended the meeting referred to in paragraph 6 *supra*, as well as the names, contact details and capacities in which they attended such meetings;
8. Proof that a quorum existed during such meeting referred to in paragraph 7 *supra*;
9. A copy of the latest and updated constitution of **GEKCO**.

In the event that the aforementioned documentation is not forthcoming from yourselves, which documentation indeed should have been procured and should have existed in 2014 when you lodged objections purportedly on behalf of and by virtue of a mandate of the residents involved, our instructions are to make submissions against the authority and *locus standi* of **GEKCO** and its right to at all participate in the proceedings before the Municipal Planning Tribunal.

Yours faithfully,



ADRIAAN VENTER
ATTORNEYS & ASSOCIATES

JAN ADRIAAN VENTER (BA B.PROC LLB LIMB)
Assisted by / Bygestaan deur:
DANIELE SMIT (LLB PGDFP) & WILHELM SCHEEPERS (BA LLB)









**CITY OF JOHANNESBURG
MUNICIPAL PLANNING TRIBUNAL
HEARING 1**

DATE: 06 August 2019

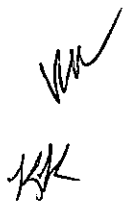
VENUE: 12th Floor Boardroom

Present Officials

NAME	DESIGNATION	SIGNATURE
C vd Merwe (Chair)	Chairperson	
E.Khosi	Member	
M.Zondo	Member	
T.Tshimange	Member	
M.Moteane	Member	
K Nkhambula	Committee Co-ordinator	
1. M. JONES		
2.		

OBSERVER/S

1.	
2.	





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

info@avatt.co.za

OUR REF / ONS VERW: JA VENTER/LJ/AC0090
YOUR REF / U VERW:

DATE / DATUM: 2019-08-06

THE CHAIRPERSON:

CITY OF JOHANNESBURG MUNICIPAL PLANNING TRIBUNAL

ATT: MR CEDRIC VAN DER MERWE

E-MAIL: Cedricv@joburg.org.za

AND TO THE OFFICE OF THE EXECUTIVE DIRECTOR
DEVELOPMENT PLANNING & URBAN MANAGEMENT
LEGAL ADMIN DEPARTMENT (COMMITTEE SERVICES)

ATT: MR KABELO NKHAMBULA

E-MAIL: Kabelon@joburg.org.za

THE CHAIRPERSON:

GREATER KYALAMI CONSERVANCY

ATT: MS. CHRISTIN KALLESEN

E-MAIL: chair@gecko.co.za

Sir/Madam

SUBMISSIONS ON BEHALF OF THE APPLICANT IN RESPECT OF THE LACK OF
AUTHORITY OF MRS. C. KALLESEN & GECKO TO PARTICIPATE IN THE
PROCEEDINGS BEFORE THE MUNICIPAL PLANNING TRIBUNAL IN RESPECT
OF THE APPLICATIONS FOR TOWNSHIP ESTABLISHMENT KNOWN AS

- RIVERSIDE VIEW EXTENSION 85, 97, 98 AND 99
- RIVERSIDE VIEW EXTENSION 14, 17, 18, 36 & 42

JAN ADRIAAN VENTER (BA B.PROC LLB LIMB)

Assisted by / Bygestaan deur:

DANIELE SMIT (LLB PGDFP) & WILHELM SCHEEPERS (BA LLB)

With reference to Exhibit 3, lodged by Mrs. Kallesen and allegedly GECKO, in substantiation of their authority to lodge objections against and appear before your Municipal Planning Tribunal in respect of the abovementioned Applications, we herewith, as undertaken, attach the quotes from the legal submissions made on behalf of the Applicant in that regard.


We trust you find the above in order.

Yours faithfully,



ADRIAAN VENTER
ATTORNEYS & ASSOCIATES

JAN ADRIAAN VENTER (BA B.PROC LLB LIMB)
Assisted by / Bygestaan deur:
DANIELE SMIT (LLB PGDFP) & WILHELM SCHEEPERS (BA LLB)



W. A. Joubert – The Law of South- Africa – Volume 1, page 110 - 111, par 113 – 117:

“Authorisation is an expression of will by one person that another shall have the power to conclude juristic acts on his behalf.”

“As authorisation is a juristic act, a person who has no capacity to conclude juristic acts cannot authorise another to conclude juristic acts on his behalf.”

“A person can only have actual authority to conclude a juristic act on behalf of another if that other has by word or conduct expressed his will that the former shall have power to do so.”

AJ KERR – THE LAW OF AGENCY 3RD EDITION, page 5 & 6 and page 69 to 71:

“In the great majority of instances in the law of agency in which an agent has power, it will be found that he obtained it as a result of entering into a contract with the principal”

In footnote 7 on the same page, the learned author states:

“Note also in parenthesis, that power is held not only by some agents but also by some representatives who are not normally referred to as agents for example guardians of wards and trustees of insolvent estates”

On page 69, under the heading “Express Agreement” it is inter alia stated:

“If in writing the appointment may be formal words such as those contained in a Power of Attorney”

AK

On page 70 the author furthermore states:

"An express agreement often contains not only the appointment of the agent but also a statement concerning the extent of power granted"

On page 71, under the heading "The interpretation of express provisions" it is stated:

"The primary task is to interpret the provisions of the contract in question. The general rules on interpretation of express provisions are to be found in chapter 13 of 'The Principles of Law of Contract'"

See also:

- *Bank of Lisbon & South Africa Limited v De Ormelas & Another 1988 (3) SA 580 A*
- *First National Bank of Southern Africa v Bophuthatswana Consumer Affairs Council 1995 (2) SA 853 (136)*
- *Good Gold Jewellery (Pty) Ltd v Brevadan CC 1992 (4) SA 474 W*

On page 74 under the heading "The onus of proof" it is stated:

"If a person claims that another is his agent has to prove that another is his agent and ... has to prove that the agency relationship existed at the time of question".

See in this regard also **Godfrey v Dent & Goodwin 1934 (2) PHN 43 A**

On page 77 the author also states:

"where the principle has given the agent express authority, the onus of proving an implied authority over and above the express authority is a very heavy burden"

AK

CILLIERS ET AL HERBSTEIN & VAN WINSEN - THE CIVIL PRACTISE IN THE
HIGH COURTS OF SOUTH AFRICA:

"The exact authority that the power of attorney confers on the attorney is of great importance. The institution and prosecution of legal proceedings is an important step which may involve the principle in great expense, and for that reason the power is strictly construed.

If a power confers certain specific authority in connection with an action and, as is often the case, concludes with general words, such as 'and whatsoever shall be requisite', such general words must be read, not as extending the specific authority granted by the power, but as limiting authority to matters falling with or incidental to the a authority as set out in the power."

In this regard, **Cilliers et al** clearly states the legal principles applicable to a power of attorney in as far as the contents thereof are concerned:

"A power of attorney is a document which is strictly construed and must therefore be carefully drawn. If it is vague and lacks the necessary details, and objection that there is no authority will be upheld...."

Ad page 274 : also see **Viljoen v Federated Trust Ltd 1971 1 SA 750 (O)**.

Ad page 276: see the authorities referred to therein.

AK
WK

REPRESENTATION

I, the undersigned

Terence Gary Casey

am the owner of immovable property located at [REDACTED]; duly
mandate Kristin Kallesen, Chairperson of the Greater Kyalami Conservancy (GEKCO), to be
my representative and to act on my behalf in objecting against the application for the proposed
township to be known as Riverside View Extensions 14,17,18,36 and 42, and to appear
before the Joburg planning tribunal for that purpose.

SIGNED AT KYALAMI ON THIS 08 DAY OF JULY 2019.

[Signature] SIGNATURE

Terence Casey NAME

KK

GEKCO AGM 2014



Date: 15-04-2014

Location: Beaulieu College Pavilion

Attending GEKCO committee:

Chair: Kristin Kallesen - KK	Committee: Tyrone McKendry - biodiversity - TMK
Treasurer: Alwina Brand - AW	Committee: Francois Euvard - FE
Vice Chair: Mandy Collins - MC	Committee: Simon Buskin - SB
Secretary: Anton van Niekerk - AVN	Sub-Committee: Kate Meyer - KM
Legal: Janine Turner - JT	Sub-Committee: Robyn Hare - RH
Committee: Darryl van Niekerk - DVN	

Attending:

<p>1. Welcome</p> <p>2. Minutes of the previous AGM</p> <p>3. Report of the Chair</p> <p>4. Report of the Treasurer</p> <p>5. Report of the Vice Chair</p> <p>6. Report of the Secretary</p> <p>7. Report of the Legal Officer</p> <p>8. Report of the Biodiversity Committee</p> <p>9. Report of the Environment Committee</p> <p>10. Report of the Health & Safety Committee</p> <p>11. Report of the Education Committee</p> <p>12. Report of the Finance Committee</p> <p>13. Report of the Marketing Committee</p> <p>14. Report of the Social & Welfare Committee</p> <p>15. Report of the Sports & Recreation Committee</p> <p>16. Report of the Technical Committee</p> <p>17. Report of the Transport Committee</p> <p>18. Report of the Welfare Committee</p> <p>19. Report of the Youth Committee</p> <p>20. Report of the Women's Committee</p> <p>21. Report of the Men's Committee</p> <p>22. Report of the Children's Committee</p> <p>23. Report of the Elders Committee</p> <p>24. Report of the Disability Committee</p> <p>25. Report of the Special Interest Groups</p> <p>26. Report of the Friends of the Club</p> <p>27. Report of the Supporters Club</p> <p>28. Report of the Ladies Club</p> <p>29. Report of the Gentlemen's Club</p> <p>30. Report of the Young People's Club</p> <p>31. Report of the Seniors Club</p> <p>32. Report of the Veterans Club</p> <p>33. Report of the Retirees Club</p> <p>34. Report of the Widows Club</p> <p>35. Report of the Orphans Club</p> <p>36. Report of the Single Parents Club</p> <p>37. Report of the Divorced Club</p> <p>38. Report of the Widowers Club</p> <p>39. Report of the Widows Club</p> <p>40. Report of the Orphans Club</p> <p>41. Report of the Single Parents Club</p> <p>42. Report of the Divorced Club</p> <p>43. Report of the Widowers Club</p> <p>44. Report of the Widows Club</p> <p>45. Report of the Orphans Club</p> <p>46. Report of the Single Parents Club</p> <p>47. Report of the Divorced Club</p> <p>48. Report of the Widowers Club</p> <p>49. Report of the Widows Club</p> <p>50. Report of the Orphans Club</p> <p>51. Report of the Single Parents Club</p> <p>52. Report of the Divorced Club</p> <p>53. Report of the Widowers Club</p> <p>54. Report of the Widows Club</p> <p>55. Report of the Orphans Club</p> <p>56. Report of the Single Parents Club</p> <p>57. Report of the Divorced Club</p> <p>58. Report of the Widowers Club</p> <p>59. Report of the Widows Club</p> <p>60. Report of the Orphans Club</p> <p>61. Report of the Single Parents Club</p> <p>62. Report of the Divorced Club</p> <p>63. Report of the Widowers Club</p> <p>64. Report of the Widows Club</p> <p>65. Report of the Orphans Club</p> <p>66. Report of the Single Parents Club</p> <p>67. Report of the Divorced Club</p> <p>68. Report of the Widowers Club</p> <p>69. Report of the Widows Club</p> <p>70. Report of the Orphans Club</p> <p>71. Report of the Single Parents Club</p> <p>72. Report of the Divorced Club</p> <p>73. Report of the Widowers Club</p> <p>74. Report of the Widows Club</p> <p>75. Report of the Orphans Club</p> <p>76. Report of the Single Parents Club</p> <p>77. Report of the Divorced Club</p> <p>78. Report of the Widowers Club</p> <p>79. Report of the Widows Club</p> <p>80. Report of the Orphans Club</p> <p>81. Report of the Single Parents Club</p> <p>82. Report of the Divorced Club</p> <p>83. Report of the Widowers Club</p> <p>84. Report of the Widows Club</p> <p>85. Report of the Orphans Club</p> <p>86. Report of the Single Parents Club</p> <p>87. Report of the Divorced Club</p> <p>88. Report of the Widowers Club</p> <p>89. Report of the Widows Club</p> <p>90. Report of the Orphans Club</p> <p>91. Report of the Single Parents Club</p> <p>92. Report of the Divorced Club</p> <p>93. Report of the Widowers Club</p> <p>94. Report of the Widows Club</p> <p>95. Report of the Orphans Club</p> <p>96. Report of the Single Parents Club</p> <p>97. Report of the Divorced Club</p> <p>98. Report of the Widowers Club</p> <p>99. Report of the Widows Club</p> <p>100. Report of the Orphans Club</p>	<p>Annette Deppe (DA Ward Councilor) - ADe</p>
---	--

Apologies:

None

KK

Meeting Begins: 18h43

Welcome – KK welcomed all

1. Hedgehog Conservation – J Artingstall

- 1.1 The hedgehog population in the UK has declined by 70% since 1970. This is due to a combination of factors including habitat loss, road mortality, and persecution. The hedgehog is a keystone species and its decline has significant implications for the ecosystem.

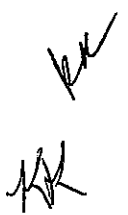
2. Biodiversity update – T McKendry

- 2.1 The biodiversity of the area is being monitored through a series of surveys. The results show a general decline in species richness over the last decade.
- 2.2 The main reasons for this decline are habitat fragmentation and the loss of native species.
- 2.3 Conservation efforts are being implemented to protect the remaining biodiversity.
- 2.4 The next steps are to conduct further surveys and to develop a management plan for the area.

3. Equine legacy document – M Donde

- 3.1 The equine legacy document is a key document for the management of the area. It outlines the objectives and the actions to be taken.
- 3.2 The document is being reviewed and updated to reflect the current situation.
- 3.3 The main focus is on the conservation of the equine population and the protection of their habitats.
- 3.4 The document also covers the management of the area and the role of the community.
- 3.5 The document is being distributed to all stakeholders and their views are being taken into account.

KK: Next Forum meeting 8 May



4. Chairpersons Report – K Kallesen

4.1 Events:

- 4.1.1 Snare clean up day in October, filmed by 50/50. Were joined by SAPS, sector 4, Bontle ke Thlago the Diepsloot recycling initiative, City of Johannesburg (COJ)
- 4.1.2 Mandela day clean-up in Diepsloot – 185 participants, schools, businesses, COJ.
- 4.1.3 Human Rights Day, teamed up with various organisations to promote the environment as a human right.
- 4.1.4 GEKCO assisted to arrange a visit of officials to Diepsloot. A, Dept Health and Diepsloot stakeholders attended. Dept of health looked into bringing this interaction into some sort of curriculum.

4.2 Recycling:

- 4.2.1
- 4.2.2
- 4.2.3

4.3 Scoping session:

4.4 Representations to City and Province:

- 4.4.1



- 4.4.2 [Faint text]
- 4.4.3 [Faint text]
- 4.4.4 [Faint text]

4.5 Successes:

- 4.5.1 [Faint text]
- 4.5.2 [Faint text]
- 4.5.3 [Faint text]
- 4.5.4 [Faint text]

4.6 Objections to proposed developments:

- 4.6 [Faint text]

4.7 Way Forward:

- 4.7.1 [Faint text]

5. Ratification of minutes from previous AGM

[Faint text]

- 5.1 [Faint text]

[Faint text]

[Faint text]

Handwritten initials: KR

- ☉ The proposed amendments to the Constitution of the Geographical Names Council of South Africa are hereby approved.
- ☉ The proposed amendments to the Constitution of the Geographical Names Council of South Africa are hereby approved.

5.2

The proposed amendments to the Constitution of the Geographical Names Council of South Africa are hereby approved.

6. GEKCO Membership & Constitution - J Turner

6.1

The proposed amendments to the Constitution of the Geographical Names Council of South Africa are hereby approved.

6.2

The proposed amendments to the Constitution of the Geographical Names Council of South Africa are hereby approved.

6.3

The proposed amendments to the Constitution of the Geographical Names Council of South Africa are hereby approved.

6.4

The proposed amendments to the Constitution of the Geographical Names Council of South Africa are hereby approved.

6.4

The proposed amendments to the Constitution of the Geographical Names Council of South Africa are hereby approved.

- ☉ The proposed amendments to the Constitution of the Geographical Names Council of South Africa are hereby approved.
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- ☉ The proposed amendments to the Constitution of the Geographical Names Council of South Africa are hereby approved.

AK VM

7. Financial Report – A Brand

- 7.1
- 7.2
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- 7.6
- 7.7
- 7.8
- 7.9
- 7.10
- 7.11

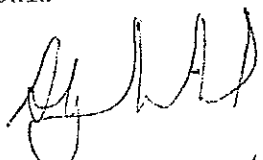
8. Election of new committee


KK: If you would like the committee members to stand again we are making ourselves available.

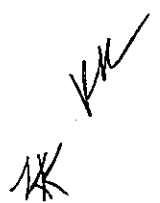
This was accepted.
No objections observed.

No new committee members were proposed despite request.

Closing
20h15


ANTONY VAN NIEKERK
Secretary


KRISTIN
CHAIR





GEKCO MANCOM Meeting minutes

Date	5 th May 2014	
Time	18h45	
Venue		
Present	Chair: Kristin Kallesen - KK Vice Chair: Mandy Collins - MC Secretary: Anton van Niekerk - AVN Kate Tasseron - KT Tyrone McKendry	Janine Turner - JT Robyn Hare - RH Darryl van Niekerk - DVN Simon Buskin - SB
Apologies		

KK opened the meeting and welcomed all present.

1. Membership

1.1

1.2

1.3

1.4

1.5

KK
 KK

1.6 The following people were voted into office as per their acknowledgment and confirmation by the attendees at the AGM held on 15th April 2014. There were no objections to their holding these positions by any GEKCO member at the AGM.

1.7 The following people were voted into office as per their acknowledgment and confirmation by the attendees at the AGM held on 15th April 2014. There were no objections to their holding these positions by any GEKCO member at the AGM.

1.8 The following people were voted into office as per their acknowledgment and confirmation by the attendees at the AGM held on 15th April 2014. There were no objections to their holding these positions by any GEKCO member at the AGM.

1.9 The following people were voted into office as per their acknowledgment and confirmation by the attendees at the AGM held on 15th April 2014. There were no objections to their holding these positions by any GEKCO member at the AGM.

1.10 The following people were voted into office as per their acknowledgment and confirmation by the attendees at the AGM held on 15th April 2014. There were no objections to their holding these positions by any GEKCO member at the AGM.

1.11 The following people were voted into office as per their acknowledgment and confirmation by the attendees at the AGM held on 15th April 2014. There were no objections to their holding these positions by any GEKCO member at the AGM.

1.12 The following people were voted into office as per their acknowledgment and confirmation by the attendees at the AGM held on 15th April 2014. There were no objections to their holding these positions by any GEKCO member at the AGM.

2. Outride

The following people were voted into office as per their acknowledgment and confirmation by the attendees at the AGM held on 15th April 2014. There were no objections to their holding these positions by any GEKCO member at the AGM.

3. Communications

The following people were voted into office as per their acknowledgment and confirmation by the attendees at the AGM held on 15th April 2014. There were no objections to their holding these positions by any GEKCO member at the AGM.

4. Constitutional amendments

The following people were voted into office as per their acknowledgment and confirmation by the attendees at the AGM held on 15th April 2014. There were no objections to their holding these positions by any GEKCO member at the AGM.

5. Events

The following people were voted into office as per their acknowledgment and confirmation by the attendees at the AGM held on 15th April 2014. There were no objections to their holding these positions by any GEKCO member at the AGM.

6. Grass Owl study

The following people were voted into office as per their acknowledgment and confirmation by the attendees at the AGM held on 15th April 2014. There were no objections to their holding these positions by any GEKCO member at the AGM.

7. Portfolios / elections

7.1 The following people were voted into office as per their acknowledgment and confirmation by the attendees at the AGM held on 15th April 2014. There were no objections to their holding these positions by any GEKCO member at the AGM.

7.2 Alwina Brand - Treasurer



Kristin Kallesen – Chair
Janine Turner - Legal
Anton van Niekerk - Secretary
Tyrone McKendry - Biodiversity
Mandy Collins - Vice Chair
Simon Buskin - Newsletter
Darryl van Niekerk – Committee

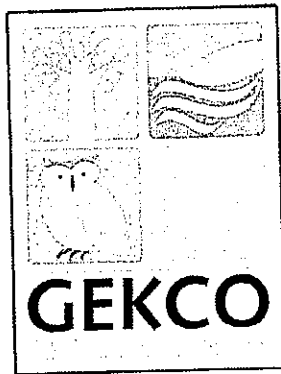
Kate Tasseron - Sub committee - Signage
Robyn Hare – Sub committee - Arbour day
Shiree Darley – Sub committee
Francois Euvrard – Sub committee

Meeting closes	19h55
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Next meeting is to be confirmed at a later date.

Minutes prepared by Anton van Niekerk – Secretary GEKCO

AK
KC



GEKCO AGM - June 5, 2019 19h00

Venue Inanda Country Base, Rose Road, Kyalami

Present **Chair:** Kristin Kallesen – KK, **Secretary:** Anton van Niekerk – AVN,
Neil Puntis – NP, Alwina Brand – AB, Keith
Bush – KB, Sue Warring – SW,
Cllr Julie Suddaby, Sonja
Bonsack, Christina Seegers
(GDARD), Jason duToit, Kathy duToit,
Lerato Mphefo,

Apologies **Treasurer:** Thys Brand, MP Madeleine Hicklin, Cllr David Foley, Cllr Annete
Deppe, Sue Goodman
Susan Warring – committee member, Darryl van Niekerk – committee
member,

Kristin welcomed everyone to the meeting. She asked if the previous AGM minutes could be ratified.

KK proposed

KB seconded

Minutes from 2018 AGM ratified

1. Chairmans report

1.1 The GEKCO area is recognised as a Special Management zone in the Gauteng EMF. It promotes eco tourism, low impact developments.

1.2 It also makes a special notice of the equestrian elements in the area.

1.3

Handwritten initials: KK and AVN

- 1.4 Feedback was given on a recent meeting with ABLAND about the Craft Homes proposed development.
- 1.5 Feedback given on meeting with Century Properties via the Kyalami Alliance.
- 1.6 GEKCO has also attended a site visit and meeting with CoJ officials and the applicant for a Church in the Blue Hills area that is looking for advice about best practice for the wetland they have on their property.

GEKCO does regularly engage with developers where possible.

2. Town Planning Tribunals

- 2.1 KB attended the tribunal about the proposed Sports Centre 155 Zevenfontein.
 - 2.1.1 KB – addressed a number of questions, felt it went well.
- 2.2 KK – There was a tribunal for Riversands Ext 17 mixed use, no outcome yet.
- 2.3 Riversands Ext 37 appeal was dismissed. This is the housing development 1888 units that is currently under construction.
- 2.4 The Riversands traffic study required roads to support the development – namely K56, K60, R55 and PWV5. Some of these roads would have severe impacts on the environment. Wetland impacts are severe.
 - 2.4.1 Construction of these roads does not seem likely with the current financial climate. Yet the developments are being approved with the roads being in place. This will impact residents in Diepsloot, Kyalami and Fourways.
- 2.5 Blue Hills petrol station – outcome not yet advised.
- 2.6 Multiple applications in Riversands and Helderfontein have been scheduled for a tribunal on 09 July. GEKCO has raised objections and will be representing these. We note that there are also a number of individual objectors to both of these applications.

3. Other challenges

- 3.1
- 3.2
- 3.3 Construction in wetlands occurs on a smaller scale but this adds up.
- 3.4

4. GEKCO initiatives

- 4.1
- 4.2 An environmental workshop was held. A thank you to the CPF for assisting with this. We had GDARD, SAPS, JMPD and the Green Scorpions, Department of Sanitation, Joburg Environmental Health. It was very successful as there was a

HK

deficit of knowledge and this helped to clarify this more.

- 4.3
- 4.4 Spruit Day saw a very large attendance with Lonehill residents and many other organisations like the Global Citizens and including the Mayor.
 - 4.4.1 A few hundred people attended.
- 4.5 Arborist Anton Moller give a talk on the Shot Hole Borer, how to identify it and possible management practices.
- 4.6

5. Thank you

5.1 A big thank you to the many associations that assist GEKCO –

- 5.1.1
- 5.1.2
- 5.1.3
- 5.1.4
- 5.1.5
- 5.1.6
- 5.1.7
- 5.1.8
- 5.1.9
- 5.1.10
- 5.1.11
- 5.1.12
- 5.1.13
- 5.1.14
- 5.1.15 A big thank you to the GEKCO committee.

6. African Grass Owls in Kyalami

- 6.1 AVN did a presentation about the Grass Owl Project.
- 6.2
- 6.3
- 6.4
- 6.5

- 6.6 [faint text]
- 6.7 [faint text]
- 6.8 [faint text]
 - 6.8.1 [faint text]
- 6.9 [faint text]
- 6.10 [faint text]
- 6.11 [faint text]
- 6.12 [faint text]
- 6.13 [faint text]
- 6.14 [faint text]
- 6.15 [faint text]
- 6.16 [faint text]
- 6.17 [faint text]
- 6.18 [faint text]

7. Controlling invasives

- 7.1 [faint text]
- 7.2 [faint text]
- 7.3 [faint text]
- 7.4 [faint text]
- 7.5 [faint text]
- 7.6 [faint text]
- 7.7 [faint text]
- 7.8 [faint text]
- 7.9 [faint text]

YK
 [Handwritten signature]

- 7.10 Highveld Grass mix which is the natural grass types that exist in the area.
- 7.11
- 7.12
- 7.13 You will have to declare or control invasives before you sell a property going forward.

A resident raised the issue of development threats, Rosemary Sandison explained how

...

... gave credit to GEKCO for the efforts they have made in

8. Annual financial report

8.1

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8.36.1

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8.11

8.12.1

The support of the financials were proposed by Keith Bush and seconded by Kristin Kallesen – motion carried forth as no objections.

9. Voting in new committee

- 9.1 A call was made for members who would like to stand on the committee, or a subcommittee.
- 9.2 Existing management committee re-elected: Management committee: Kristin Kallesen, Anton van Niekerk, Keith Bush, Darryl van Niekerk, Thys Brand, Susan Warring
- 9.3 Subcommittee with new members: Neil Puntis, Jason du Toit, Kathy du Toit, Penny Keene, Carly Blankenfort
- 9.4 All in favour, none opposed

AVN thanked KK for the incredible support she has given in the many hours of perusing documents and the many hours in meetings and with council. Darryl and Kristin spend many hours to make the initiatives successful.

10. K56 Road update:

- 10.1 [Faint text]
- 10.2 [Faint text]
- 10.3 [Faint text]
- 10.4 [Faint text]
- 10.5 [Faint text]
- 10.6 [Faint text]

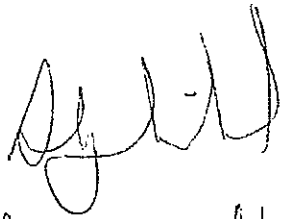
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[Faint text]

For – all
Against – none
Motion carried.

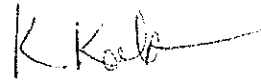


Meeting closed



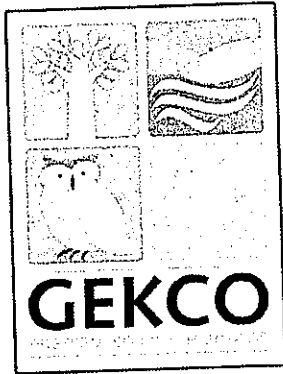
Annon van Nieuwkerk

Secretary



KRISTIN KALLEISEN
CHAIR





GEKCO committee meeting 19 June 2019 – 18h30

Venue

Present	Kristin Kallesen – KK	Tammy Wild – TW
	Anton van Niekerk – AVN	Keith Bush – KB
	Sue Warring – SW	Neil Puntis – NP
	Darryl van Niekerk – DVN	Kathy du Toit
	Sonja Bonsack	Penny Keene

Apologies Thys Brand, Jason du Toit

Minutes from GEKCO meeting 18h30, 19 June 2019 – du Toit house

1. Introductions

2. ~~Minutes from previous meeting~~ ...

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- 3. ...
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Handwritten signatures: KK, TW

3. Timing of meetings-

3.1. The meeting was held on 09 July 2014 at 10:00 AM at the Riverside View townships. The meeting was held at the Riverside View townships.

3.2. The meeting was held on 09 July 2014 at 10:00 AM at the Riverside View townships. The meeting was held at the Riverside View townships.

4. Membership

4.1. The meeting was held on 09 July 2014 at 10:00 AM at the Riverside View townships. The meeting was held at the Riverside View townships.

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4.5. The meeting was held on 09 July 2014 at 10:00 AM at the Riverside View townships. The meeting was held at the Riverside View townships.

4.6. The meeting was held on 09 July 2014 at 10:00 AM at the Riverside View townships. The meeting was held at the Riverside View townships.

5. Objections –

- a. Tribunal for numerous Riverside View townships is scheduled on 09 July. The scheduling is tight giving little time to prepare. Discussion on whether an attorney should be appointed to represent. Agreed that Kristin will represent GEKCO at the tribunal. She will require assistance to prepare and collect agenda as out the office the week prior. It was suggested Jason is also intending to attend Riversands Tribunals.

5.1. The meeting was held on 09 July 2014 at 10:00 AM at the Riverside View townships. The meeting was held at the Riverside View townships.

6. Invasive plants –

6.1. The meeting was held on 09 July 2014 at 10:00 AM at the Riverside View townships. The meeting was held at the Riverside View townships.

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6.4. The meeting was held on 09 July 2014 at 10:00 AM at the Riverside View townships. The meeting was held at the Riverside View townships.

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7. Events –

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8. Election of office bearers

- a. Roles of office bearers was explained – Secretary responsible for ensuring good governance and assessing risk to organisation; Vice Chair to step in if Chair is unavailable to call / run meetings, etc.
- b. Kristin proposed Thys Brand for Treasurer – all in favour
- c. Anton proposed Kristin for Chairperson – all in favour
- d. Anton proposed Sue for Vice Chair – all in favour
- e. Darryl proposed Anton for Secretary – all in favour

20h45 meeting closed

AK ML



RATIFICATION LETTER

We, the elected Management Committee of the Greater Kyalami Conservancy (GEKCO) in 2014 hereby ratify and confirm that Ms Kallesen was authorised to act on behalf of GEKCO in objecting to the Riverside View townships Extension 13, 14, 17, 18, 36, 37, 38, 42 and 59 situated on Portions 7,36,37,38 and 121 of the farm Diepsloot 388-JR as lodged with the City of Johannesburg Legal Administration in December 2014.

Signed on this date 17 August 2014 in Kyalami.

Vice Chairperson – Mandy Collins

Secretary – Anton van Niekerk

Treasurer – Alwina Brand

Legal – Janine Turner

DARRYL VAN NIEKERK



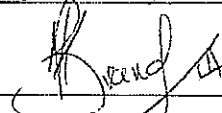
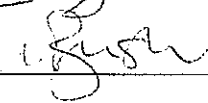
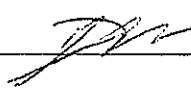


RATIFICATION LETTER

We, the Management Committee of the Greater Kyalami Conservancy (GEKCO) hereby ratify and confirm that

- i) Ms Kallesen continues to be authorised to represent GEKCO;
- ii) that GEKCO persists with the objections to the Riverside View townships Extension 14, 17, 18, 36 and 42 situated on Portions 7,36,37,38 and 121 of the farm Diepsloot 388-JR as lodged with the City of Johannesburg Legal Administration in December 2014; and the objections to Riverside View townships Extension 85,97,98 and 99 on portions of the farm Zevenfontein 407JR
- iii) that, to the extent necessary all acts by Ms Kallesen in objecting and in pursuing such objections are ratified.

Signed on this date 14 August 2017 in Kyalami.

 _____	Vice Chairperson – Susan Warring
 _____	Secretary – Anton van Niekerk
 _____	Treasurer – Thys Brand
 _____	Keith Bush
 _____	Darryl van Niekerk



CITY OF JOHANNESBURG
MUNICIPAL PLANNING TRIBUNAL
MR. CEDRIC VAN DER MERWE – CHAIRPERSON

AV ATTORNEYS
MR. ADRIAAN VENTER
REPRESENTING CENTURY PROPERTIES

Dear sirs,

I am the Secretary of the Greater Kyalami Conservancy (GEKCO). As part of this letter relates to Ms Kristin Kallesen, GEKCO's chairperson, I have written this letter on behalf of the Management of GEKCO.

2. Gekco has objected to the current applications by Century before the tribunal to RIVERSIDE VIEW EXTENSIONS 14,17,18,36 and 42 known as the proposed Riversands Commercial Park and to RIVERSIDE VIEW EXTENSIONS 85,97,98 and 99 known as the proposed Helderfontein Residential Development.

3. The primary grounds of objection raised by GEKCO on these applications were:

- i) the absence of a wetland delineation to define buffer zones to protect wetland and wildlife corridors on the Riversands Properties;
- ii) the environmental impact on wetlands, graves and rocky outcrop by the access road (Erling link) for the Helderfontein applications (impacts which have been cited by the City of Joburg and Department of Water and Sanitation as prohibitive to the road construction);
- iii) environmental and social impacts and also viability of roads which are conditions of the Traffic Impact Assessments for both developments (namely the K56, PWV5 and existing Chattan road).

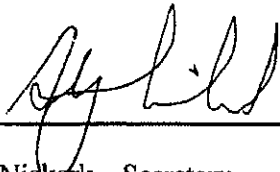
4. On the eve of the hearing of the application, and less than the required 7 days before the hearing, Century's attorney raised a point in limine challenging the status of Kristin Kallesen i) to have represented GEKCO when the objections were emailed and hand delivered in December 2014; and ii) to represent GEKCO in the proceedings. This was a clear attempt to use a technical ploy to avoid having to deal with the substantive grounds of objection raised by GEKCO.

5. We point out that Century did not challenge the locus standi of GEKCO itself to object or address the objections before the Tribunal.

6. The tribunal has requested a response from GEKCO in writing confirming that Ms Kallesen is (and was) authorised to represent GEKCO. To this end, I attach:

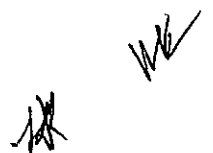


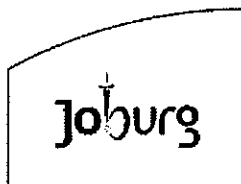
- a. A copy of the GEKCO constitution, highlighting clause 13.1. As appears from the constitution, the Chairperson of GEKCO is empowered to act on behalf of GEKCO in carrying out the business of GEKCO. *[Annexure 1]*
- b. A copy of the minutes of the April 2014 AGM and committee meeting at which Ms Kallesen was elected chairperson. *[Annexure 2]*
- c. A copy of the minutes of the 2019 AGM where Ms Kallesen and the committee were elected and the committee meeting on July 19 2019 wherein Ms Kallesen was re-elected as Chairperson. I confirm that she has been chairperson, uninterrupted since 2014. *[Annexure 3]*
- d. A letter signed by members of the management committee elected in 2014 confirming that Ms Kallesen was authorised to act on behalf of GEKCO. *[Annexure 4]*
- e. A letter signed by the members of the current management committee confirming i) that Ms Kallesen continues to be authorised to represent GEKCO; ii) that GEKCO persists with the objection; iii) that, to the extent necessary (which ought not to be the case), that all acts by Ms Kallesen in objecting and in pursuing such objections are ratified. *[Annexure 5]*



Mr. Anton van Niekerk – Secretary
Greater Kyalami Conservancy (GEKCO)

13 August 2019
Kyalami





City of Johannesburg
Legal & Contracts
Office of the Executive Mayor

3rd Floor A Block
Metropolitan Centre
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Braamfontein

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South Africa
2000

Tel +27(0) 11 407 7228
Fax +27(0) 11 339 4204
cedricv@joburg.org.za
www.joburg.org.za

Before the Municipal Planning Tribunal of the City of Johannesburg

**In the application for the for the establishment of Townships Riverside view
Extensions 14, 17, 18 36, 42, 85, 97, 98 and 99.**

Ruling

This ruling relates to the legal submission by the legal representative of the applicant (Century) challenging the locus standi of the representative of GEKCO (Ms. Kallesen – Chairperson of GEKCO) who apparently objected on behalf of GEKCO to the applications for the establishment of townships Riverside view extensions 14, 17, 18 36,42, 85,97,98 and 99. (See letters of objection date stamped 2 December 2014 attached as annexure A1 to A 5)

The legal submission relates to the authority of the objector (Ms. Kallesen) on the date of such objection and if the representative was duly authorized to lodge such objection.

The objections to the mentioned application were submitted on a GEKCO letterhead undated but date stamped with an acknowledgement of receipt by the city on 2 December 2014. The letters of objection were signed by Kirsten Kallesen – Chairperson Greater Kyalami Conservancy (GEKCO) see annexure A1- A5

As part of the challenge on the authority of Ms. Kallesen the applicant required that proof be submitted to the Tribunal that Ms. Kallesen was duly authorized to submit the objections on the date of submission. Further it was required to show that she was duly authorized by a representative majority vote of members of GEKCO by virtue of the constitution of GEKCO to do so, including authorization by GEKCO to represent the conservancy at the tribunal hearing.

GEKCO and Ms. Kallesen were granted an opportunity to provide the required information to place the Tribunal in a position to make an informed decision on the legal points raised. In response the Secretary of GEKCO Mr. Van Niekerk provided the Tribunal with a copy of the GEKCO constitution well as written

A handwritten signature in black ink, appearing to be "KK" followed by a flourish.

submissions together with copies of the letters of objection attached as annexure A1- A5. As part of the written submissions Mr. Van Niekerk on behalf of the management of GEKCO provided ratification letters dated 14 August 2019. (See annexure B1-B2).

The *first* ratification letter B1 ratifying and confirming that Ms. Kallesen was authorized to act on behalf of GEKCO in objecting to the subject applications, which objections were lodged with the city in December 2014 (See annexure A1-A5).

The *second* ratification letter ratify and confirm that Ms. Kallesen is authorized to continue to represent GEKCO, that GEKCO persists with the objections and that all acts by Ms. Kallesen in objecting and pursuing the such objections are ratified. (See B2).

It is common cause that GEKCO is a juristic person (see clause 1 of the GEKCO constitution). It is further not disputed that MS. Kallesen is the elected chairperson of GEKCO from April 2014 and re-elected on July 2019.

In opposition to the challenge Mr. van Niekerk in the written submissions, firstly relies on GEKCO's constitution and specifically highlights clause 13 thereof wherein, he argues, it is stated that the Chairperson is empowered to act on behalf of GEKCO in carrying out the business of GEKCO (own emphasis).

Clause 13.1 of the GEKCO constitution states - "Management has the power to perform all acts required to give effect to the constitution and the objectives of the conservancy."

The objectives of the conservancy are contained in Clause 2 of the constitution and starts off as – "2.1 the objectives of the conservancy within the defined area as set out in clause 4 are to..." (Own emphasis)

Thus, the objectives of the conservancy are confined to a defined area as per clause 4 of the constitution of GEKCO.

The area defined in clause 4 of the constitution specifically excludes the Riversands Area. The subject properties of these township applications are therefore excluded from the defined area wherein the objectives of GEKCO as per their constitution authorises the Chairperson to carry out the business of GEKCO.

Considering the above I hold the opinion that the objectives of the conservancy and the powers of the management team to give effect to the objectives of the conservancy are limited to the defined area that specifically exclude the Riversands area.

Should the management team feel the need to involve GEKCO outside the defined area, specific authorization is required and any member purporting to act on behalf of GEKCO would have to be authorized to do so as an agent of GEKCO.

Despite request no evidence was provided to the tribunal by GEKCO or Ms. Kallesen that she as chairperson was duly authorized to lodge objections on behalf of GEKCO to the various applications, falling outside the defined area of the GEKCO jurisdiction, at the time when the objection letters were submitted to the City in December 2014.

In an attempt to overcome this lack of authorization GEKCO provided the tribunal with the two ratification letters described above (annexure B1 and B2).

As a general rule, if a principal (GEKCO) ratify wat was done in his name, then the resulting situation is same as if power has been granted beforehand. Thus, ratification is equivalent to a mandate. Ratification is also retrospective in effect. (See Law of agency AJ Kerr). Also see- Law of South Africa, second edition, Agency and Representation par 87 – "Where a person acts for another without authority, that lack of authority may in appropriate circumstances be cured by ratification".

However there is a limitation in the South African law on ratification- "When an act has to be done within a fixed time, performance of that act by an unauthorised agent cannot be ratified by the principle after the lapse of such fix time to the prejudice of another who is required some right or advantage from the non-performance within the fixed time" - See Law of Agency AJ Kerr 3rd edition p 104 under heading "(v) When ratification may take place".

Also see Uitenhage Municipality v Uys 1974(3) SA par E-F p807

In this instance the applications for the proposed townships was lodged in terms of the Town Planning and Townships Ordinance, 1986. Any lawful objections in terms of the Ordinance must have been filed within the prescribed 28 days. Thus, the act of the authorised agent (Ms Kallesen) lodging the objections on behalf of GEKCO must have happened within this fixed time of 28 days.

Factually Ms. Kallesen was not authorised to object to these applications that fall outside the defined area of the Conservancy at the time of lodging such objections.

Therefor the attempted retrospective ratification letters dated 14 August 2019 (annexure B1 and B2) fall foul of the limitation quoted above. The unauthorised actions by Ms. Kallesen on behalf of GEKCO cannot be legally ratified outside the fixed time period of 28 days as per the provisions of the Ordinance.

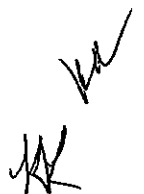
Considering the above I find and rule that the objections as launched by Ms. Kallesen on behalf of GEKCO date stamped the 2nd of December 2014 are unauthorised and invalid and incapable of lawful ratification.

Therefore, GECKO and Ms. Kallesen is ruled not to be official objectors against the above applications.



Cedric van der Merwe
Chairperson- Municipal Planning Tribunal
Urban Development Legal Services
Tel: 011-407-7228
cedricv@loburg.org.za

20 September 2019



1 A 1



City of Johannesburg
Executive Director: Development Planning and Urban Management
Room 8100, 8th Floor
A Block, Metropolitan Centre
15B Loveday Street Extension
Braamfontein

2/12/2014
B-BW
S

Attn: Ben Pretorius
BenAP@Joburg.org.za

To whom it may concern,

LETTER OF OBJECTION – RIVERSIDE VIEW EXTENSION 14, situated on Portions 7, 36 & 38 of the farm Diepsloot 388-JR.

On behalf of the Greater Kyalami Conservancy I hereby object to such township establishment application for Riverside View Ext 14 for Motor Trade, Warehouses, Light Industrial, Offices, and Commercial uses as advertised in the provincial gazette on 5 November 2014.

The grounds upon which I object to the township application are, inter alia, the following:

- 1.1. The development does not encourage environmentally sustainable land development and practices. There are a number of important wetlands on site, extensive damage has already occurred and must not be allowed to continue. The site currently acts as a biodiversity corridor for the migration of bullfrogs, mammals and contains habitat for birdlife including the African Grass-Owl, a red listed species. A commercial development of this nature will not allow the biodiversity to be maintained. A well respected ornithologist has requested investigations be done as to the suitability of habitat and presence of Grass Owls after viewing the property. This request has been made to the developer who has not allowed specialists access to the site.

- 1.2. The development and proposed densities are motivated by proposed provincial roads, namely the K56, PWV5 and PWV9. An environmental impact assessment is currently being undertaken on the proposed K56 (planned in 1972) which is subject to serious hydrological and environmental issues. The PWV5 and PWV9 were slated as phase 2 of the Gauteng Freeway Improvement Programme (GFIP). As a result of the uncertainty and delay with the e-tolling, the future of these roads is uncertain. The applicant should not base the motivation of this application on proposed roads which are not yet approved or budgeted.

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- 1.3. The issues above and the promotion of Urban Sprawl; development in areas requiring the addition of infrastructure which will require further capital input to maintain; building new roads rather than upgrading existing roads and improving public transport - resulting in longer commutes, increased travel costs and carbon emissions; loss of open space and biodiversity, are not in alignment with the City of Joburg Growth and Development Strategy for 2040. (GDS 2040)
- 1.4. This area is a rural residential suburb where residents ride horses as part of their daily routine, something that has been the lifeblood of this suburb for 30 years. The traffic produced by the proposed project will endanger the horses and riders alike. Rose Road must not be considered as an appropriate access to this development as it is a rural, farm road utilized extensively by horse riders and riding schools.
- 1.5. The development has not produced a needs and desirability study. There are many vacant industrial and warehousing areas in need of revitalization with appropriate access and infrastructure.
- 1.6. Diepsloot has a severe shortage of housing and infrastructure for existing residents. This development would only attract more job seekers looking for housing in an already stressed situation where many live in inhumane conditions.
- 1.7. South Africa is currently not able to produce enough electricity for existing loads. Further projects should not be allowed until we are able to provide for existing requirements and development which is not sustainable increases the risk of blackouts and a collapse of the system.

I reserve the right to add or amend comments as further information becomes available.

We reserve the right of our members to respond independently.

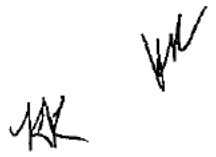
Yours faithfully

Kristin Kallesen - Chairperson Greater Kyalami Conservancy



Email: chair@gekco.co.za

Physical Address: [REDACTED]



A2

City of Johannesburg
Executive Director: Development Planning and Urban Management
Room 8100, 8th Floor
A Block, Metropolitan Centre
158 Loveday Street Extension
Braamfontein



Handwritten note: a list of the things that are on the site

Attn: Ben Pretorius
BenAP@Joburg.org.za

To whom it may concern,

LETTER OF OBJECTION – RIVERSIDE VIEW EXTENSION 17 situated on Portion 7 of the farm Diepsloot 388-JR

On behalf of the Greater Kyalami Conservancy I hereby object to such township establishment application for Riverside View Ext 17 for Warehouses, Storage, Showrooms, Light Industrial, Commercial and Office uses as advertised in the provincial gazette on 5 November 2014.

The grounds upon which I object to the township application are, inter alia, the following:

- 1.1. The development does not encourage environmentally sustainable land development and practices. There are a number of important wetlands on site, extensive damage has already occurred and must not be allowed to continue. The site currently acts as a biodiversity corridor for the migration of bullfrogs, mammals and contains habitat for birdlife including the African Grass-Owl, a red listed species. A commercial development of this nature will not allow the biodiversity to be maintained. A well respected ornithologist has requested investigations be done as to the suitability of habitat and presence of Grass Owls after viewing the property. This request has been made to the developer who has not allowed specialists access to the site.

- 1.2. The development and proposed densities are motivated by proposed provincial roads, namely the K56, PWV5 and PWV9. An environmental impact assessment is currently being undertaken on the proposed K56 (planned in 1972) which is subject to serious hydrological and environmental issues. The PWV5 and PWV9 were slated as phase 2 of the Gauteng Freeway Improvement Programme (GFIP). As a result of the uncertainty and delay with the e-tolling, the future of these roads is uncertain. The applicant should not base the motivation of this application on proposed roads which are not yet approved or budgeted.

Handwritten signatures: AK, VAK

- 1.3. The issues above and the promotion of Urban Sprawl; development in areas requiring the addition of infrastructure which will require further capital input to maintain; building new roads rather than upgrading existing roads and improving public transport - resulting in longer commutes, increased travel costs and carbon emissions; loss of open space and biodiversity, are not in alignment with the City of Joburg Growth and Development Strategy for 2040. (GDS 2040)
- 1.4. This area is a rural residential suburb where residents ride horses as part of their daily routine, something that has been the lifeblood of this suburb for 30 years. The traffic produced by the proposed project will endanger the horses and riders alike. Rose Road must not be considered as an appropriate access to this development as it is a rural, farm road utilized extensively by horse riders and riding schools.
- 1.5. The development has not produced a needs and desirability study. There are many vacant industrial and warehousing areas in need of revitalization with appropriate access and infrastructure.
- 1.6. Diepsloot has a severe shortage of housing and infrastructure for existing residents. This development would only attract more job seekers looking for housing in an already stressed situation where many live in inhumane conditions.
- 1.7. South Africa is currently not able to produce enough electricity for existing loads. Further projects should not be allowed until we are able to provide for existing requirements and development which is not sustainable increases the risk of blackouts and a collapse of the system.

I reserve the right to add or amend comments as further information becomes available.

We reserve the right of our members to respond independently.

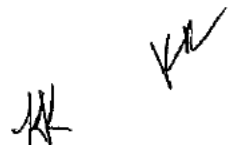
Yours faithfully

Kristin Kallesen - Chairperson Greater Kyalami Conservancy



Email: chair@gekco.co.za

Physical Address: [REDACTED]



A3

City of Johannesburg
Executive Director: Development Planning and Urban Management
Room 8100, 8th Floor
A Block, Metropolitan Centre
158 Loveday Street Extension
Braamfontein



0/12/2014
Ben Pretorius

Attn: Ben Pretorius
BenAP@Joburg.org.za

To whom it may concern,

LETTER OF OBJECTION – RIVERSIDE VIEW EXTENSION 18 situated on Portions 36,37, and 38 of the farm Diepsloot 388-JR.

On behalf of the Greater Kyalami Conservancy I hereby object to such township establishment application for Riverside View Ext 18 for Motor Trade, Warehouses, Light Industrial, Commercial and Office uses as advertised in the provincial gazette on 5 November 2014.

The grounds upon which I object to the township application are, inter alia, the following:

- 1.1. This development would displace the Riversands Farm School which has been in existence for over 50 years and serves 700 children from Diepsloot.
- 1.2. The development does not encourage environmentally sustainable land development and practices. There are a number of important wetlands on site, extensive damage has already occurred and must not be allowed to continue. The site currently acts as a biodiversity corridor for the migration of bullfrogs, mammals and contains habitat for birdlife including the African Grass-Owl, a red listed species. A well respected ornithologist has requested investigations be done as to the suitability of habitat and presence of Grass Owls after viewing the property. This request has been made to the developer who has not allowed specialists access to the Riversands site.
- 1.3. The development and proposed densities are motivated by proposed provincial roads, namely the K56, PWV5 and PWV9. An environmental impact assessment is currently being undertaken on the proposed K56 (planned in 1972) which is subject to serious hydrological and environmental issues. The PWV5 and PWV9 were slated as phase 2 of the Gauteng Freeway Improvement Programme (GFIP). As a result of the uncertainty and delay with the e-tolling, the future of these roads is uncertain. The applicant should not base the motivation of this application on proposed roads which are not yet approved or budgeted.

Handwritten signatures and initials at the bottom right of the page.

- 1.4. The issues above and the promotion of Urban Sprawl; development in areas requiring the addition of infrastructure which will require further capital input to maintain; building new roads rather than upgrading existing roads and improving public transport - resulting in longer commutes, increased travel costs and carbon emissions; loss of open space and biodiversity, are not in alignment with the City of Joburg Growth and Development Strategy for 2040. (GDS 2040)
- 1.5. This area is a rural residential suburb where residents ride horses as part of their daily routine, something that has been the lifeblood of this suburb for 30 years. The traffic produced by the proposed project will endanger the horses and riders alike. Rose Road must not be considered as an appropriate access to this development as it is a rural, farm road utilized extensively by horse riders and riding schools.
- 1.6. The development has not produced a needs and desirability study. There are many vacant industrial and warehousing areas in need of revitalization with appropriate access and infrastructure.
- 1.7. Diepsloot has a severe shortage of housing and infrastructure for existing residents. This development would only attract more job seekers looking for housing in an already stressed situation where many live in inhumane conditions.
- 1.8. South Africa is currently not able to produce enough electricity for existing loads. Further projects should not be allowed until we are able to provide for existing requirements and development which is not sustainable increases the risk of blackouts and a collapse of the system.

I reserve the right to add or amend comments as further information becomes available.

We reserve the right of our members to respond independently.

Yours faithfully

Kristin Kalleesen - Chairperson Greater Kyalami Conservancy



Email: chair@gekco.co.za

Physical Address: [REDACTED]



A4

City of Johannesburg
Executive Director: Development Planning and Urban Management
Room 8100, 8th Floor
A Block, Metropolitan Centre
158 Loveday Street Extension
Braamfontein



*Historic
Conservancy*

Attn: Ben Pretorius
BenAP@Joburg.org.za

To whom it may concern,

LETTER OF OBJECTION – RIVERSIDE VIEW EXTENSION 36 situated on part of Portion 7 of the farm Diepsloot 388-JR.

On behalf of the Greater Kyalami Conservancy I hereby object to such township establishment application for Riverside View Ext 36 for Offices, Motor Trade and Storage uses as advertised in the provincial gazette on 12 November 2014.

The grounds upon which I object to the township application are, inter alia, the following:

1.1. The development does not encourage environmentally sustainable land development and practices. There are a number of important wetlands on site, extensive damage has already occurred and must not be allowed to continue. The site currently acts as a biodiversity corridor for the migration of bullfrogs, mammals and contains habitat for birdlife including the African Grass-Owl, a red listed species. A commercial development of this nature will not allow the biodiversity to be maintained. A well respected ornithologist has requested investigations be done as to the suitability of habitat and presence of Grass Owls after viewing the property. This request has been made to the developer who has not allowed specialists access to the site.

1.2. The development and proposed densities are motivated by proposed provincial roads, namely the K56, PWV5 and PWV9. An environmental impact assessment is currently being undertaken on the proposed K56 (planned in 1972) which is subject to serious hydrological and environmental issues. The PWV5 and PWV9 were slated as phase 2 of the Gauteng Freeway Improvement Programme (GFIP). As a result of the uncertainty and delay with the e-tolling, the future of these roads is uncertain. The applicant should not base the motivation of this application on proposed roads which are not yet approved or budgeted.

AK *KW*

- 1.3. The issues above and the promotion of Urban Sprawl; development in areas requiring the addition of infrastructure which will require further capital input to maintain; building new roads rather than upgrading existing roads and improving public transport - resulting in longer commutes, increased travel costs and carbon emissions; loss of open space and biodiversity, are not in alignment with the City of Joburg Growth and Development Strategy for 2040. (GDS 2040)
- 1.4. This area is a rural residential suburb where residents ride horses as part of their daily routine, something that has been the lifeblood of this suburb for 30 years. The traffic produced by the proposed project will endanger the horses and riders alike. Rose Road must not be considered as an appropriate access to this development as it is a rural, farm road utilized extensively by horse riders and riding schools.
- 1.5. The development has not produced a needs and desirability study. There are many vacant industrial and warehousing areas in need of revitalization with appropriate access and infrastructure.
- 1.6. Diepsloot has a severe shortage of housing and infrastructure for existing residents. This development would only attract more job seekers looking for housing in an already stressed situation where many live in inhumane conditions.
- 1.7. South Africa is currently not able to produce enough electricity for existing loads. Further projects should not be allowed until we are able to provide for existing requirements and development which is not sustainable increases the risk of blackouts and a collapse of the system.

I reserve the right to add or amend comments as further information becomes available.

We reserve the right of our members to respond independently.

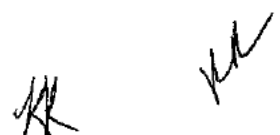
Yours faithfully

Kristin Kallisen - Chairperson Greater Kyalami Conservancy



Email: chair@gekco.co.za

Physical Address: [REDACTED]



B-14962

AS

City of Johannesburg
Executive Director: Development Planning and Urban Management
Room 8100, 8th Floor
A Block, Metropolitan Centre
158 Loveday Street Extension
Braamfontein



2/12/2014
Pretorius

Attn: Ben Pretorius
BenAP@Joburg.org.za

To whom it may concern,

**LETTER OF OBJECTION – RIVERSIDE VIEW EXTENSION 42 situated on part of Portion 7 of the farm
Diensloot 388-JR**

On behalf of the Greater Kyalami Conservancy I hereby object to such township establishment application for Riverside View Ext 42 for a Public Garage, Drive-thru Restaurant and ancillary uses as advertised in the provincial gazette on 12 November 2014.

The grounds upon which I object to the township application are, inter alia, the following:

- 1.1. The development does not encourage environmentally sustainable land development and practices. There are a number of important wetlands on site, extensive damage has already occurred and must not be allowed to continue. The site currently acts as a biodiversity corridor for the migration of bullfrogs, mammals and contains habitat for birdlife including the African Grass-Owl, a red listed species. A commercial development of this nature will not allow the biodiversity to be maintained. A well respected ornithologist has requested investigations be done as to the suitability of habitat and presence of Grass Owls after viewing the property. This request has been made to the developer who has not allowed specialists access to the site.

- 1.2. The development and proposed densities are motivated by proposed provincial roads, namely the K56, PWV5 and PWV9. An environmental impact assessment is currently being undertaken on the proposed K56 (planned in 1972) which is subject to serious hydrological and environmental issues. The PWV5 and PWV9 were slated as phase 2 of the Gauteng Freeway Improvement Programme (GFIP). As a result of the uncertainty and delay with the e-tolling, the future of these roads is uncertain. The applicant should not base the motivation of this application on proposed roads which are not yet approved or budgeted.

HK
Kw

- 1.3. The issues above and the promotion of Urban Sprawl; development in areas requiring the addition of infrastructure which will require further capital input to maintain; building new roads rather than upgrading existing roads and improving public transport - resulting in longer commutes, increased travel costs and carbon emissions; loss of open space and biodiversity, are not in alignment with the City of Joburg Growth and Development Strategy for 2040. (GDS 2040)
- 1.4. This area is a rural residential suburb where residents ride horses as part of their daily routine, something that has been the lifeblood of this suburb for 30 years. The traffic produced by the proposed project will endanger the horses and riders alike. Rose Road must not be considered as an appropriate access to this development as it is a rural, farm road utilized extensively by horse riders and riding schools.
- 1.5. The development has not produced a needs and desirability study. There are many vacant industrial and warehousing areas in need of revitalization with appropriate access and infrastructure.
- 1.6. Diepsloot has a severe shortage of housing and infrastructure for existing residents. This development would only attract more job seekers looking for housing in an already stressed situation where many live in inhumane conditions.
- 1.7. South Africa is currently not able to produce enough electricity for existing loads. Further projects should not be allowed until we are able to provide for existing requirements and development which is not sustainable increases the risk of blackouts and a collapse of the system.

I reserve the right to add or amend comments as further information becomes available.

We reserve the right of our members to respond independently.

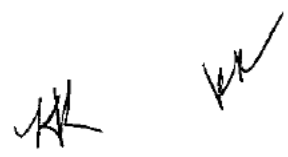
Yours faithfully

Kristin Kallesen - Chairperson Greater Kyalami Conservancy



Email: chair@gekco.co.za

Physical Address: [REDACTED]



B

THE GREATER KYALAMI CONSERVANCY


GEKCO



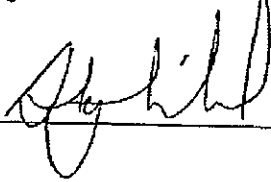
RATIFICATION LETTER

We, the elected Management Committee of the Greater Kyalami Conservancy (GEKCO) in 2014 hereby ratify and confirm that Ms Kallesen was authorised to act on behalf of GEKCO in objecting to the Riverside View townships Extension 13, 14, 17, 18, 36, 37, 38, 42 and 59 situated on Portions 7,36,37,38 and 121 of the farm Diepsloot 388-JR as lodged with the City of Johannesburg Legal Administration in December 2014.

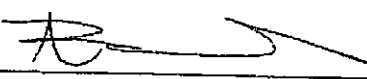
Signed on this date 14 August 2019 in Kyalami.




Vice Chairperson – Mandy Collins




Secretary – Anton van Niekerk





Treasurer – Alwina Brand



Legal – Janine Turner



DARRYL VAN NIEKERK

B2

THE GREATER KYALAMI CONSERVANCY

GEKCO




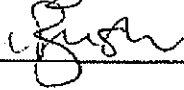
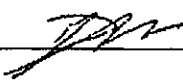


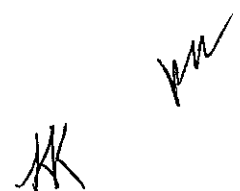
RATIFICATION LETTER

We, the Management Committee of the Greater Kyalami Conservancy (GEKCO) hereby ratify and confirm that

- i) Ms Kallesen continues to be authorised to represent GEKCO;
- ii) that GEKCO persists with the objections to the Riverside View townships Extension 14, 17, 18, 36 and 42 situated on Portions 7,36,37,38 and 121 of the farm Diepsloot 388-JR as lodged with the City of Johannesburg Legal Administration in December 2014; and the objections to Riverside View townships Extension 85,97,98 and 99 on portions of the farm Zevenfontein 407JR
- iii) that, to the extent necessary all acts by Ms Kallesen in objecting and in pursuing such objections are ratified.

Signed on this date 14 August 2019 in Kyalami.

	_____	Vice Chairperson – Susan Warring
	_____	Secretary – Anton van Niekerk
	_____	Treasurer – Thys Brand
	_____	Keith Bush
	_____	Darryl van Niekerk



THE GREATER KYALAMI CONSERVANCY

GEKCO



30 September 2019

Dear Sirs

- 1 We have received the “Ruling” signed by Cedric Van der Merwe dated 20 September 2019 (“the Ruling”).
- 2 As set out in the first, second and fourth paragraphs of the ruling, the only objection made by the applicant (Century) and to which GEKCO was required to respond was whether Ms Kallesen was authorised to represent GEKCO when the letters of objection were delivered. At no stage did the applicant challenge the right of GEKCO, a public interest organisation, to object to the proposed development. If there had been any challenge to the right of GEKCO to object to the developments, those would have been responded to and refuted by GEKCO.
- 3 The Ruling suffers from a number of fatal flaws, not least of which are the following:
 - 3.1 It has not answered the question which was placed before the Tribunal – whether Ms Kallesen was authorised to represent GEKCO at the relevant time. It does however appear that the Ruling accepts the evidence given by the secretary of GEKCO which would confirm that Ms Kallesen was so authorised.
 - 3.2 The Ruling purports to answer a question that was not asked – namely, whether GEKCO has locus standi object to developments in the Riversands area (the “GEKCO jurisdiction argument”).
 - 3.3 The Tribunal has not given GEKCO a right to a hearing in respect of the GEKCO jurisdiction argument on which the Ruling is based. The Tribunal was obliged to give GEKCO a hearing or the entitlement to make submissions before such a ruling was made.
 - 3.4 The Ruling does not appear to be a Ruling of the Tribunal.

HK

WV

THE GREATER KYALAMI CONSERVANCY

GEKCO



- 3.4.1 A Tribunal constituted in terms of SPLUMA is required to include a member who is independent and not in the employ of the municipality.
- 3.4.2 The Ruling appears to be a view expressed by Mr van der Merwe, unsupported by the other members of a properly constituted Tribunal. The fact that the Ruling is a view expressed only by Mr van der Merwe and is not a decision by the Tribunal is apparent from the penultimate paragraph where Mr van der Merwe says “I find” -expressing his personal finding and not the finding of a properly constituted Tribunal.
- 4 In the circumstances, the Ruling is not a ruling of the Tribunal, has no binding effect in relation to the objections raised by the applicant or any issue addressed by Mr van der Merwe.
- 5 Currently, it is not within the power of the Tribunal to express a view on the *locus standi* of GEKCO, as there has been no objection to the *locus standi* of GEKCO in bringing the objections. The sole point which the Tribunal has to decide (and is still required to decide) is whether Ms Kallesen was authorised to act on behalf of GEKCO when the relevant objections were delivered. We submit that the evidence establishes overwhelmingly that she was authorised.
- 6 If the Tribunal wishes to consider the GEKCO jurisdiction argument (which it ought not to do as no objection has been made), then GEKCO requires the opportunity to make submissions in this regard. We note that Mr van der Merwe has misread the GEKCO constitution completely and has consequently formed the view expressed in his Ruling without a proper understanding of the GEKCO constitution and the law in relation to GEKCO’s entitlement to make objections.
- 7 We look forward to your urgent response confirming that the Tribunal will still consider the point which is submitted to it. We also seek urgent clarity from the Tribunal as to whether the Tribunal intends to have regard to the issues raised in Mr van der Merwe’s “Ruling” and, if so, to set out:

THE GREATER KYALAMI CONSERVANCY

GEKCO



- 7.1 The legal basis on which the Tribunal considers it is entitled to have regard to such matters given that they have not been raised by the applicant or anyone else.
- 7.2 Confirmation that GEKCO will be afforded a hearing or an opportunity to make submissions if the Tribunal intends to have regard to these matters.

8 We look forward to your urgent response hereto.

Yours faithfully

Kristin Kallesen

Chairperson

Greater Kyalami Conservancy (GEKCO)

KK
KK

From: Cedric van der Merwe [mailto:Cedricv@joburg.org.za]
Sent: 09 October 2019 12:38 PM
To: GEKCO Chair; Ben Pretorius
Cc: Kabelo Nkhambula; Gina Zanti; Nokuthula Thusi; Amolemo Mothoagae; Reuben Mlungisi Masango
Subject: RE: THE TOWNSHIPS RIVERSIDE VIEW EXTENSIONS 14, 17, 18, 36 & 42 AS WELL AS EXTENSIONS 85, 97, 98 & 99



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Good Day Ms Kallesen.

Herewith the response to the GEKCO letter under your signature as Chairperson dated 30 September 2019.

At the outset I wish to categorically state that the ruling is the ruling of the Municipal Planning Tribunal of which I was the Chair dealing with the specific applications. As the Chair of the Tribunal I am mandated to act as legal adviser to the Tribunal. The issues raised by the applicant's representative was of a legal nature and therefore I am mandated to consider such and deal therewith in my capacity as Chairman/ legal adviser.

I note your averment that the Ruling suffers from "fatal flaws" and strongly disagree therewith.

Ad par 3.1 of the letter -It is specifically mentioned in the Ruling that Ms Kallesen and GEKCO could not provide evidence that Ms Kallesen was duly authorised to lodge the objections at the time of doing so. That is supported by the ratifications letters presented by Mr van Niekerk that attempted to remedy that lack of authorization. Also please read the second last paragraph where it is specifically said that the objections lodged by Ms Kallesen on behalf of GEKCO is unauthorised.

Ad par 3.2 of the letter-The GEKCO constitution was provided by Mr van Niekerk in support of the argument that you as Chair may as a general rule object to applications on behalf of GEKCO. I merely interpreted to complete document and made findings in relation to his argument.

Ad par 3.3 of the letter-All documentation presented in opposition to the legal issue was done through Mr van Niekerk as the secretary of GEKCO on behalf of GEKCO so it is simply not correct to say that GEKCO was not granted an opportunity to make submission.

Ad par 3.4 of the letter-Please see paragraph two above.

The content of remainder of the letter is noted and the correctness thereof is denied. The failure to deal therewith specifically should not be construed as the acknowledgement of the correctness thereof.

AK *KK*

The ruling is final and a ruling of the tribunal in relation to the legal issues raised by the representative of applicant.

Kind regards.

Cedric van der Merwe
Legal adviser: Group Legal and Contracts
3rd Floor, Metropolitan Centre
158 Civic Boulevard, Braamfontein

Email: cedricv@joburg.org.za | Tel: +27(0)114077228 | Cell: 0824649489



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@CityofJoburgZA

CityofJohannesburg

From: GEKCO Chair [<mailto:chair@gekco.co.za>]
Sent: 09 October 2019 10:02 AM
To: Ben Pretorius
Cc: Cedric van der Merwe; Kabelo Nkhambula
Subject: FW: THE TOWNSHIPS RIVERSIDE VIEW EXTENSIONS 14, 17, 18, 36 & 42 AS WELL AS EXTENSIONS 85, 97, 98 & 99
Importance: High

Dear Ben,

I have not yet had a response to the urgent email below dated 01 October.
Please may I request you escalate this for an urgent response as it affects our rights as objectors.

Kind regards,
Kristin Kallesen

From: GEKCO Chair [<mailto:chair@gekco.co.za>]
Sent: 07 October 2019 09:16 AM
To: 'Kabelo Nkhambula'; 'benp@joburg.org.za'; 'cedricv@joburg.org.za'
Cc: 'secretary@gekco.co.za'; 'info@gekco.co.za'; 'susan warring'; 'Amolemo Mothoagae'; 'City Manager'; 'Graham De Kock'; 'Reuben Mlungisi Masango'
Subject: FW: THE TOWNSHIPS RIVERSIDE VIEW EXTENSIONS 14, 17, 18, 36 & 42 AS WELL AS EXTENSIONS 85, 97, 98 & 99
Importance: High

ATT: Municipal Town Planning Tribunal
RE: Riverside View Townships

Good morning,

Two handwritten signatures in black ink, one appearing to be 'AK' and the other 'VM'.

Please may I request an urgent response to the email sent below on 01 October 2019.
We require a response by close of business 08 October in order to prepare a response timeously.
The attached finding by the chairperson of the tribunal, Mr van der Merwe affects our rights as objectors and we request an opportunity to respond to this finding as set out in our letter attached.

With regards,

Kristin Kallesen
Chairperson
Greater Kyalami Conservancy (GEKCO)
[REDACTED]

From: GEKCO Chair [mailto:chair@gekco.co.za]
Sent: 01 October 2019 06:07 PM
To: 'Kabelo Nkhambula'; 'benp@joburg.org.za'; 'cedricv@joburg.org.za'
Cc: 'Amolemo Mothoagae'; 'City Manager'; 'info@avatt.co.za'; 'secretary@gekco.co.za'
Subject: RE: THE TOWNSHIPS RIVERSIDE VIEW EXTENSIONS 14, 17, 18, 36 & 42 AS WELL AS EXTENSIONS 85, 97, 98 & 99
Importance: High

Dear sirs,

Please see attached letter from the Greater Kyalami Conservancy (GEKCO) with regards to the finding received on 23 September regarding Riverside View Extensions.
We await an urgent response in regard to the points raised.

With regards,

Kristin Kallesen
Chairperson
Greater Kyalami Conservancy (GEKCO)
[REDACTED]

From: Kabelo Nkhambula [mailto:KabeloN@joburg.org.za]
Sent: 23 September 2019 12:52 PM
To: info@avatt.co.za; chair@gekco.co.za; secretary@gekco.co.za
Subject: THE TOWNSHIPS RIVERSIDE VIEW EXTENSIONS 14, 17, 18, 36 & 42 AS WELL AS EXTENSIONS 85, 97, 98 & 99
Importance: High

Dear All

AK W

Please find attached hereto the finding in relation to the legal point raised by the applicant (Century) in the above applications heard on 6 and 7 August 2019.

Regards,

Kabelo

Kabelo Nkhambula

Committee Coordinator: Legal Admin (Land Use Development Management)
5th Floor, Metropolitan Centre, 158 Civic Boulevard
Braamfontein, 2017

Email: Kabelon@joburg.org.za	Tel: 0114076486	Cell: 0823307187
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@CityofJoburgZA

CityofJohannesburg

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AK VL

"KK17"

From: City Manager [mailto:CityManager@joburg.org.za]

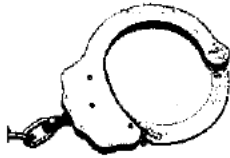
Sent: 08 November 2019 03:11 PM

To: GEKCO Chair

Cc: Hloniphile Dube; Kedibone Semanya

Subject: RE: Appeal to ruling by the Municipal Planning Tribunal / Riverside View X14,17,18,36&42 and X85,97,98,99

Importance: High



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Good day Ms Kallesen

Your email is hereby acknowledged.

Regards

Patricia

Office of the City Manager

Reception Desk

2nd Floor, CCW, Metro Centre, 158 Civic Boulevard, Braamfontein, 2001

Gauteng, South Africa

Email: citymanager@joburg.org.za | Tel: 011 407 7300 | Fax: 086 719 6338



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@CityofJoburgZA

CityofJohannesburg

From: GEKCO Chair [mailto:chair@gekco.co.za]

Sent: 05 November 2019 02:50 PM

To: City Manager; Ndivhoniswani Lukhwareni

Cc: secretary@gekco.co.za

Subject: RE: Appeal to ruling by the Municipal Planning Tribunal / Riverside View X14,17,18,36&42 and X85,97,98,99

Importance: High

Dear City Manager Mr Lukhwareni,

Please may I request an urgent response to my below email.

With regards,

Kristin Kallesen

Chairperson

Greater Kyalami Conservancy



AK KM

From: GEKCO Chair [mailto:chair@gekco.co.za]

Sent: 25 October 2019 10:17 PM

To: 'citymanager@joburg.org.za'; 'ndivhoL@joburg.org.za'

Cc: 'secretary@gekco.co.za'

Subject: Appeal to ruling by the Municipal Planning Tribunal / Riverside View X14,17,18,36&42 and X85,97,98,99

City of Joburg

City Manager: Dr Ndivhoniswani Lukhwareni

Dear Mr Lukhwareni,

RE: APPEAL TO RULING BY THE MUNIICIPAL PLANNING TRIBUNAL / RIVERSIDE VIEW X14,17,18,36,42 and X85,97,98,99

Please find attached an appeal submitted to Legal Administration as per the rules of the Municipal Planning Tribunal and addressed to yourself.

This appeal is to a decision taken by a Senior Legal Advisor, Mr Cedric van der Merwe with regards to the locus standi of the Greater Kyalami Conservancy (GEKCO). When submitting this appeal I was informed by the Legal Admin that this appeal will be directed to Zain Alley and Mr Cedric van der Merwe. This is a technical legal argument and is not an appeal to the township itself, therefore should not go back to the land use department. Sending the appeal to the legal department headed up by Mr van der Merwe who made the initial decision is also flawed. Please may we request that this appeal is decided by an independent body to the initial decision?

I await your consideration and response.

Kind Regards

Kristin Kallesen

Chairperson

Greater Kyalami Conservancy

email: chair@gekco.co.za

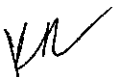
website: www.ggekco.co.za



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**NOTICE OF APPEAL AGAINST RULING BY MUNICIPAL TRIBUNAL
WITH RESPECT TO RIVERSIDE VIEW X 14, 17, 18, 36 AND 42 AS WELL AS
X 85, 97, 98 AND 99**

To: The City Manager

- 1 This is an internal appeal directed to the City Manager against a “ruling” issued by Cedric van der Merwe, Chairperson-Municipal Planning Tribunal, Urban Development Legal Services dated 20 September 2019 and published on 23 September 2019 (“the decision”). A copy of the decision is attached marked “GK1”.
- 2 The appellant is the Greater Kyalami Conservancy (GEKCO), a juristic person and registered Conservancy with the Gauteng Conservancy Association. The Constitution of GEKCO is attached marked “GK2” (“the GEKCO Constitution”). The appellant was an objector before the Municipal Tribunal, in various applications made by Century Property Developments (Pty) Ltd and Riversands Developments (Pty) Ltd since 2014 (“the applicants”) to develop:
 - 2.1 Riverside View extensions 14, 17, 18, 36 and 42 – referred to as Riversands.
 - 2.2 Riverside View extensions 85, 97, 98 and 99 – referred to as Helderfontein.
- 3 On 1 October 2019, the appellant noted a challenge to the decision and invited an urgent response from the City (Attached marked “GK3”). When this was not responded to, the appellant sent further requests for an urgent response on 7 and 9 October 2019.
- 4 On 9 October 2019, Mr Cedric van der Merwe “Legal Advisor: Group Legal and Contracts”, the same person that issued the decision responded to the appellants purporting to justify the decision and noting that it was final (Attached marked “GK4”). On 10 October 2019, the appellants requested advice of the appeal process to be followed and the applicable fees payable. Those details were provided, in the form

of “City of Johannesburg Department of Development Planning, Appeal Process, Version 1 of 8/2016” (“the Appeal Process”).

- 5 This appeal is noted in terms of the Appeal Process and the council is requested to give notification to the applicant and other objectors to the application of this appeal pursuant to clause 7 of the “appeal process”.

Procedural issue: objection to involvement of “Legal and Compliance” and/or “Legal Section”

- 6 At the outset, before dealing with the grounds of appeal and the errors in fact and errors in law arising from the decision, the appellant wishes to highlight an important procedural issue. In clauses 13 and 14 of the “appeal process”, it is noted that an appeal would be forwarded to “Legal and Compliance” and that it would be submitted for consideration to “Legal Section”.
- 7 In the current circumstances, this would be improper and unlawful as the decision itself has been taken by Cedric van der Merwe who is a senior member of the Legal Services Department. As the author of the original decision, neither Mr van der Merwe nor anyone in his department can be party to or give input on the appeal as to do so would compromise the impartial independent requirement to be given to an appeal.
- 8 The City Manager is requested to indicate the process that would be followed and the persons that would be involved in the assessment of the appeal and the recommendations made consequent on the appeal.

First ground – the Tribunal is not validly constituted

- 9 The Tribunal is not validly constituted and consequently the decision is not a valid decision of the Municipal Tribunal. Section 36 of the Spatial Planning and Land Use Management Act 2013 (SPLUMA) sets out the peremptory requirements for the membership of a municipal tribunal. In addition to fulltime employees of the Municipality, the Tribunal must include persons who are not municipal officials and

who have knowledge and experience of spatial planning, land use management and land development or the law related thereto.

9.1 When the Tribunal was convened, all of the members of the Tribunal were municipal officials.

9.2 The decision is written and signed only by the Chairperson of the Tribunal, Cedric van der Merwe, ("the Chairperson") who is an employee of the Municipality. No non-municipal personnel participated in the publication of the decision.

10 For the above reasons, individually and taken together, the Tribunal was not properly constituted and consequently, any decision purportedly made by the Tribunal is invalid, of no force and effect and should be set aside.

Second ground – bias and lack of fairness

11 During the proceedings, including the site inspection, the Chairperson treated the GEKCO representatives unfairly and treated the GEKCO representatives in a manner which indicated that the Tribunal Chairperson had pre-determined the applications in favour of the applicants and had set his mind against GEKCO. The bias was manifested in multiple ways including –

11.1 permitting the applicant's representatives to interrupt the GEKCO representatives on multiple occasions, but refusing and rejecting any interruptions by the GEKCO representative;

11.2 permitting the applicant's representative to make spurious comments and to be unjustifiably rude to GEKCO and GEKCO's representatives;

11.3 failing to deal with the obvious deficiencies in the applications despite these deficiencies being highlighted at the hearing by other members of the Tribunal;

11.4 expressing frustration at the fact that GEKCO has continued to object to applications for development by the applicants and other developers in the Greater Kyalami area;



11.5 purporting to exclude GEKCO from proceedings where doing so is unwarranted and unjustified, as set out more fully below.

12 The decision has been issued in blatantly unfair circumstances where the appellant was not given an opportunity to address the points which are now relied upon by the Chairperson in the decision to exclude it from proceedings.

12.1 The only objection made by the applicant and to which the appellants were required to respond was whether Ms Kallesen was authorised to represent GEKCO when the letters of objection were delivered.

12.2 At no stage did the applicant challenge the right of GEKCO, a public interest organisation, to object to the proposed developments or to participate as an objector.

12.3 At no stage was it put to the appellants that the GEKCO constitution excludes the properties which are subject to the applications and, for that reason, GEKCO lacks *locus standi*. If such assertions had been made and the appellants had been treated fairly and given an opportunity to address the point, they would have had valid and full answers thereto.

12.3.1 First, Riverside View extensions 85, 97, 98 and 99 fall outside of the area known as “Riversands” and falls squarely within the demarcated boundary of the Conservancy defined in the GEKCO Constitution. Consequently, the factual basis of the Chairperson’s argument is wrong.

12.3.2 Riverside View extensions 14, 17, 18, 36 and 42 are areas which fall within what was known as Riversands Farm. Those properties border on the Conservancy and all development related to those extensions will have a direct impact on the neighbouring properties and on multiple properties within the Conservancy given that the developments are associated with significant infrastructure assumptions (roads, sewers, powerlines etc) as well as traffic, pollution etc, the impact of which will extend beyond and have a direct impact on neighbouring properties. As a public interest organisation



constituted and empowered to protect the Conservancy and areas within the Conservancy, GEKCO has a direct interest in developments which take place on neighbouring properties, including Riversands.

- 13 The appellants were denied the opportunity of making these submissions and these issues were not taken into account when the decision was made. As such, the decision falls to be set aside.

Third Ground – Mr Venter’s objections to *locus standi* were out of time

- 14 The objection *in limine* giving rise to this appeal was delivered by the applicant’s attorney, Mr Venter, on 8 July 2019 (copy attached marked “GK5”). It was delivered just one day prior to the hearings which were scheduled for 9 July 2019 - less than the required seven days before the hearing, as required by the tribunal rules attached to the notice of the tribunal hearing .

- 15 For this reason alone, it should have been ignored.

Fourth ground – authority of Ms Kallesen

- 16 In his 8 July letter which was directed to Ms Kallesen, Mr Venter called for nine categories of documents. In motivating his request for those documents, he recorded that the documents were required “*for purposes of establishing your authority to act on behalf of*” GEKCO at the hearings and when the objections into the development were issued by Ms Kallesen, on behalf of GEKCO in 2014. The sole purpose of Mr Venter’s objection is a technical point to test whether GEKCO had the relevant records to show that Ms Kallesen had been authorised to act on its behalf in 2014 and remained authorised in 2019 to attend the hearings.

- 17 To the extent that, in the last sentence of Mr Venter’s letters, where “the authority and *locus standi*” of GEKCO is mentioned, this must be read subject to the context which precedes it, ie whether the objections which have been lodged by Ms Kallesen were objections authorised by GEKCO. He argued that if Ms Kallesen was not authorised by GEKCO when the 2014 objections were issued, then even if GEKCO would have had

locus standi to object, the objection documents she delivered were not valid because GEKCO had not authorised her to do so.

- 18 GEKCO responded to Mr Venter's letter on 14 August 2019. The response is attached marked "GK6". In the response, GEKCO noted specifically that the grounds of objection raised by Mr Venter challenged only the status of Kristin Kallesen and not the *locus standi* of GEKCO. There was no response from Mr Venter to correct this statement or make a contrary assertion.
- 19 In annexure "GK6" and the attachments thereto, the GEKCO secretary set out clearly that, at all times since April 2014, when Ms Kallesen was elected as chairperson of GEKCO, Ms Kallesen was authorised to represent GEKCO and to deliver the objections in issue.
 - 19.1 Pertinently, in 2014, Ms Kallesen was re-elected on to the committee (15 April 2014 AGM); and re-elected chair at the first GEKCO Mancom meeting (5 May 2014).
 - 19.2 In terms of the GEKCO Constitution, the chairperson of GEKCO is empowered to act on behalf of GEKCO in carrying out the business of GEKCO.
 - 19.3 In addition, and as a "belt and braces" step, additional documents prepared by the erstwhile GEKCO committee members confirming Ms Kallesen's authority to deliver the objections.
- 20 The Constitution of GEKCO and the common cause fact - that Ms Kallesen was the chairperson of GEKCO throughout (see decision page 2) - was sufficient to dispose of Mr Venter's objection.
- 21 The decision should therefore have concluded on page 2 with a finding that GEKCO is a juristic person, that Ms Kallesen was, at all times, authorised to act on behalf of GEKCO and that therefore the objections by Ms Kallesen were authorised by GEKCO at the respective times.

Fifth ground – boundaries of the Conservancy

- 22 Instead of concluding with his finding on page 2 that Ms Kallesen was the authorised representative of GEKCO, the Chairperson went on in the decision to investigate the “defined area” as per clause 4 of the GEKCO Constitution and to interrogate whether GEKCO was entitled to object to developments outside the defined area.
- 23 This was not an issue before the Tribunal and, as set out above, dealing with this was irregular and unlawful. As noted above, the fact that the Chairperson went looking for alternate reasons to exclude GEKCO beyond those before the Tribunal, shows a lack of objectivity and an exceeding of powers.
- 24 In any event, as stated in paragraph 12.3 above, the decision is wrong in fact because Riverside View Extension 85, 97, 98 and 99 (“Helderfontein”) fall specifically within the defined area. For this reason alone, the reasoning adopted in the decision is fatally flawed and must be overturned.
- 25 Second, while it is correct that clause 4 of the GEKCO Constitution excludes “Riversands”, Mr van der Merwe made no attempt to investigate the definition of “Riversands”. Certainly, “Riverside View” is not the same as “Riversands”. The decision fails to distinguish between “Riversands” and “Riverside View” and for this reason too should be set aside.

Sixth ground – developments falling outside the defined area

- 26 The decision accepts that GEKCO is entitled and empowered to protect the interests of the occupants within the defined area. The decision finds that GEKCO is not entitled to object to developments which occur outside of the Conservancy area as defined in clause 4 of the GEKCO Constitution. This is clearly wrong.
- 27 By analogy, the effect of the finding is the following:
- 27.1 A and B are neighbouring properties. As such the owner of property A exercises rights and interests as owner within the boundaries of property A. The owner of property B exercises rights and interests in respect of property B.

- 27.2 Then the owner of B seeks to develop B as an industrial site and makes application to council for approval.
- 27.3 On the logic and reasoning of the decision, the owner of the neighbouring property A is precluded from objecting to such development because (says the decision) the interests of owner A stop at its boundary with B.
- 27.4 This only has to be stated to be rejected. Clearly, those with interests in neighbouring properties are entitled to object.
- 28 As set out in the objections raised by the appellants, the proposed developments at Riversands (Riverside View Extensions 14, 17, 18, 36 and 42) have clear impacts on neighbouring properties including multiple properties within the defined area. in at least the following ways:
- 28.1 The proposed roads relied upon in these applications traverse the Conservancy area and properties owned by our members. The environmental impacts of the proposed roads, namely the K56, PWV5, Erling road extension have severe environmental impacts and dissect the Conservancy. They are untenable for our members due to the severe negative environmental and social impacts.
- 28.2 These proposed townships and the proposed roads have substantial impacts on wetland systems in the area that traverse the Conservancy. They cut off wildlife movement and connectivity of wildlife corridors that GEKCO seeks to protect.
- 28.3 The influx in traffic has a detrimental impact on the ability of our members to access equestrian facilities and ride horses safely. Horses need to be exercised and need to access open lands and equestrian sporting venues.
- 28.4 The influx in development is causing gridlock traffic and has been responsible for the deaths of many species of wildlife that GEKCO seeks to protect.
- 28.5 The pressure on roads and the water and electrical grid affects our members directly in their daily lives and is unsustainable for the area as a whole.

- 28.6 The above mentioned reasons as well as visual impacts affect resale and property values of our members as well as quality of life.
- 29 As such, GEKCO is entitled to object and to participate in hearings as an “interested person” as it and its members have a direct concern in the proceedings.
- 30 All of the above should have been clear to the Tribunal from the submissions made by GEKCO during the inspection and during the hearing on 9 July 2019. To the extent it was not clear and it was an issue which the Tribunal was interested in, the Tribunal was required to ask GEKCO to make further submissions in relation thereto before purporting to exclude GEKCO as a valid objector.

Seventh ground – substantive appeal

- 31 Whether through bias or procedural unfairness, the procedure adopted by the Tribunal Chairperson appears to have used a technical excuse to disregard the substantive grounds of objection raised by GEKCO. GEKCO participated in the hearings on 9 July and made submissions on behalf of multiple local residents with direct interest.
- 32 Motivated by Mr Venter (see letter 1 October 2019 as an example – attached marked “GK7”), the Chairperson purports to disregard the substantive elements of GEKCO’s objections on these invalid technical grounds. The result is that the interests of justice are undermined and the interests of the various local residents are ignored.
- 33 As noted in the Tribunal hearing by a tribunal member with specialist knowledge, the studies used to motivate the approvals was wholly inadequate and did not comply with the requirements to achieve authorisation.
- 34 By seeking to use invalid technical grounds to exclude the appellants and the GEKCO objections, the Chairperson seeks to ignore the substantive deficiencies in the applications and to “rubber stamp” these applications.

35 Where valid grounds exist to reject the applications, they ought to be rejected. Unlawful applications cannot be permitted to be approved where the Tribunal itself sees the deficiencies in the application.

Relief sought on Appeal

36 In the circumstances, the appellants ask that the appeal be upheld and that the decision be overturned. Further, the appellants seek confirmation that any decision on the substance of the applications, taken without reference to their objections, be set aside.

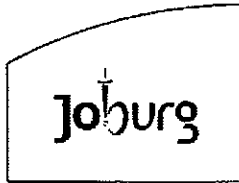
37 Further, and as anticipated above, the appellant repeats the request that the "Appeal Process" should not include input from the Legal Section where Mr van der Merwe is employed.

GEKCO Chairperson

GEKCO Secretary

Date: _____





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Before the Municipal Planning Tribunal of the City of Johannesburg

**In the application for the for the establishment of Townships Riverside view
Extensions 14, 17, 18 36, 42, 85, 97, 98 and 99.**

Ruling

This ruling relates to the legal submission by the legal representative of the applicant (Century) challenging the locus standi of the representative of GEKCO (Ms. Kallesen – Chairperson of GEKCO) who apparently objected on behalf of GEKCO to the applications for the establishment of townships Riverside view extensions 14, 17, 18 36,42, 85,97,98 and 99. (See letters of objection date stamped 2 December 2014 attached as annexure A1 to A 5)

The legal submission relates to the authority of the objector (Ms. Kallesen) on the date of such objection and if the representative was duly authorized to lodge such objection.

The objections to the mentioned application were submitted on a GEKCO letterhead undated but date stamped with an acknowledgement of receipt by the city on 2 December 2014. The letters of objection were signed by Kirsten Kallesen – Chairperson Greater Kyalami Conservancy (GEKCO) see annexure A1- A5

As part of the challenge on the authority of Ms. Kallesen the applicant required that proof be submitted to the Tribunal that Ms. Kallesen was duly authorized to submit the objections on the date of submission. Further it was required to show that she was duly authorized by a representative majority vote of members of GEKCO by virtue of the constitution of GEKCO to do so, including authorization by GEKCO to represent the conservancy at the tribunal hearing.

GEKCO and Ms. Kallesen were granted an opportunity to provide the required information to place the Tribunal in a position to make an informed decision on the legal points raised. In response the Secretary of GEKCO Mr. Van Niekerk provided the Tribunal with a copy of the GEKCO constitution well as written

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submissions together with copies of the letters of objection attached as annexure A1- A5. As part of the written submissions Mr. Van Niekerk on behalf of the management of GEKCO provided ratification letters dated 14 August 2019. (See annexure B1-B2).

The *first* ratification letter B1 ratifying and confirming that Ms. Kallesen was authorized to act on behalf of GEKCO in objecting to the subject applications, which objections were lodged with the city in December 2014 (See annexure A1-A5).

The *second* ratification letter ratify and confirm that Ms. Kallesen is authorized to continue to represent GEKCO, that GEKCO persists with the objections and that all acts by Ms. Kallesen in objecting and pursuing the such objections are ratified. (See B2).

It is common cause that GEKCO is a juristic person (see clause 1 of the GEKCO constitution). It is further not disputed that MS. Kallesen is the elected chairperson of GEKCO from April 2014 and re-elected on July 2019.

In opposition to the challenge Mr. van Niekerk in the written submissions, firstly relies on GEKCO's constitution and specifically highlights clause 13 thereof wherein, he argues, it is stated that the Chairperson is empowered to act on behalf of GEKCO in carrying out the business of GEKCO (own emphasis).

Clause 13.1 of the GEKCO constitution states - "Management has the power to perform all acts required to give effect to the constitution and the objectives of the conservancy."

The objectives of the conservancy are contained in Clause 2 of the constitution and starts off as – "2.1 the objectives of the conservancy within the defined area as set out in clause 4 are to..." (Own emphasis)

Thus, the objectives of the conservancy are confined to a defined area as per clause 4 of the constitution of GEKCO.

The area defined in clause 4 of the constitution specifically excludes the Riversands Area. The subject properties of these township applications are therefore excluded from the defined area wherein the objectives of GEKCO as per their constitution authorises the Chairperson to carry out the business of GEKCO.

Considering the above I hold the opinion that the objectives of the conservancy and the powers of the management team to give effect to the objectives of the conservancy are limited to the defined area that specifically exclude the Riversands area.

Should the management team feel the need to involve GEKCO outside the defined area, specific authorization is required and any member purporting to act on behalf of GEKCO would have to be authorized to do so as an agent of GEKCO.

Despite request no evidence was provided to the tribunal by GEKCO or Ms. Kallesen that she as chairperson was duly authorized to lodge objections on behalf of GEKCO to the various applications, falling outside the defined area of the GEKCO jurisdiction, at the time when the objection letters were submitted to the City in December 2014.

In an attempt to overcome this lack of authorization GEKCO provided the tribunal with the two ratification letters described above (annexure B1 and B2).

As a general rule, if a principal (GEKCO) ratify wat was done in his name, then the resulting situation is same as if power has been granted beforehand. Thus, ratification is equivalent to a mandate. Ratification is also retrospective in effect. (See Law of agency AJ Kerr). Also see- Law of South Africa, second edition, Agency and Representation par 87 – “Where a person acts for another without authority, that lack of authority may in appropriate circumstances be cured by ratification”.

However there is a limitation in the South African law on ratification- “When an act has to be done within a fixed time, performance of that act by an unauthorised agent cannot be ratified by the principle after the lapse of such fix time to the prejudice of another who is required some right or advantage from the non-performance within the fixed time” - See Law of Agency AJ Kerr 3rd edition p 104 under heading “(v) When ratification may take place”.

Also see Uitenhage Municipality v Uys 1974(3) SA par E-F p807


In this instance the applications for the proposed townships was lodged in terms of the Town Planning and Townships Ordinance, 1986. Any lawful objections in terms of the Ordinance must have been filed within the prescribed 28 days. Thus, the act of the authorised agent (Ms Kallesen) lodging the objections on behalf of GEKCO must have happened within this fixed time of 28 days.

Factually Ms. Kallesen was not authorised to object to these applications that fall outside the defined area of the Conservancy at the time of lodging such objections.

Therefor the attempted retrospective ratification letters dated 14 August 2019 (annexure B1 and B2) fall foul of the limitation quoted above. The unauthorised actions by Ms. Kallesen on behalf of GEKCO cannot be legally ratified outside the fixed time period of 28 days as per the provisions of the Ordinance.

Considering the above I find and rule that the objections as launched by Ms. Kallesen on behalf of GEKCO date stamped the 2nd of December 2014 are unauthorised and invalid and incapable of lawful ratification.

Therefore, GECKO and Ms. Kallesen is ruled not to be official objectors against the above applications.



Cedric van der Merwe
Chairperson- Municipal Planning Tribunal
Urban Development Legal Services
Tel: 011-407-7228
cedricv@loburg.org.za

20 September 2019



1 A 1



City of Johannesburg
Executive Director: Development Planning and Urban Management
Room 8100, 8th Floor
A Block, Metropolitan Centre
158 Loveday Street Extension
Braamfontein

2/12/2014
B-B-C-W
D

Attn: Ben Pretorius
BenAP@Joburg.org.za

To whom it may concern,

LETTER OF OBJECTION – RIVERSIDE VIEW EXTENSION 14 situated on Portions 7, 36 & 38 of the farm Diepsloot 388-JR

On behalf of the Greater Kyalami Conservancy I hereby object to such township establishment application for Riverside View Ext 14 for Motor Trade, Warehouses, Light Industrial, Offices, and Commercial uses as advertised in the provincial gazette on 5 November 2014.

The grounds upon which I object to the township application are, inter alia, the following:

- 1.1. The development does not encourage environmentally sustainable land development and practices. There are a number of important wetlands on site, extensive damage has already occurred and must not be allowed to continue. The site currently acts as a biodiversity corridor for the migration of bullfrogs, mammals and contains habitat for birdlife including the African Grass-Owl, a red listed species. A commercial development of this nature will not allow the biodiversity to be maintained. A well respected ornithologist has requested investigations be done as to the suitability of habitat and presence of Grass Owls after viewing the property. This request has been made to the developer who has not allowed specialists access to the site.

- 1.2. The development and proposed densities are motivated by proposed provincial roads, namely the K56, PWV5 and PWV9. An environmental impact assessment is currently being undertaken on the proposed K56 (planned in 1972) which is subject to serious hydrological and environmental issues. The PWV5 and PWV9 were slated as phase 2 of the Gauteng Freeway Improvement Programme (GFIP). As a result of the uncertainty and delay with the e-tolling, the future of these roads is uncertain. The applicant should not base the motivation of this application on proposed roads which are not yet approved or budgeted.

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- 1.3. The issues above and the promotion of Urban Sprawl; development in areas requiring the addition of infrastructure which will require further capital input to maintain; building new roads rather than upgrading existing roads and improving public transport - resulting in longer commutes, increased travel costs and carbon emissions; loss of open space and biodiversity, are not in alignment with the City of Joburg Growth and Development Strategy for 2040. (GDS 2040)
- 1.4. This area is a rural residential suburb where residents ride horses as part of their daily routine, something that has been the lifeblood of this suburb for 30 years. The traffic produced by the proposed project will endanger the horses and riders alike. Rose Road must not be considered as an appropriate access to this development as it is a rural, farm road utilized extensively by horse riders and riding schools.
- 1.5. The development has not produced a needs and desirability study. There are many vacant industrial and warehousing areas in need of revitalization with appropriate access and infrastructure.
- 1.6. Diepsloot has a severe shortage of housing and infrastructure for existing residents. This development would only attract more job seekers looking for housing in an already stressed situation where many live in inhumane conditions.
- 1.7. South Africa is currently not able to produce enough electricity for existing loads. Further projects should not be allowed until we are able to provide for existing requirements and development which is not sustainable increases the risk of blackouts and a collapse of the system.

I reserve the right to add or amend comments as further information becomes available.

We reserve the right of our members to respond independently.

Yours faithfully

Kristin Kallesen - Chairperson Greater Kyalami Conservancy



Email: chair@gekco.co.za

Physical Address: [REDACTED]



A2

City of Johannesburg
Executive Director: Development Planning and Urban Management
Room 8100, 8th Floor
A Block, Metropolitan Centre
158 Loveday Street Extension
Braamfontein



2/12/2014
Pretorius

Attn: Ben Pretorius
BenAP@Joburg.org.za

To whom it may concern,

LETTER OF OBJECTION – RIVERSIDE VIEW EXTENSION 17 situated on Portion 7 of the farm Diepsloot 388-JR

On behalf of the Greater Kyalami Conservancy I hereby object to such township establishment application for Riverside View Ext 17 for Warehouses, Storage, Showrooms, Light Industrial, Commercial and Office uses as advertised in the provincial gazette on 5 November 2014.

The grounds upon which I object to the township application are, inter alia, the following:

- 1.1. The development does not encourage environmentally sustainable land development and practices. There are a number of important wetlands on site, extensive damage has already occurred and must not be allowed to continue. The site currently acts as a biodiversity corridor for the migration of bullfrogs, mammals and contains habitat for birdlife including the African Grass-Owl, a red listed species. A commercial development of this nature will not allow the biodiversity to be maintained. A well respected ornithologist has requested investigations be done as to the suitability of habitat and presence of Grass Owls after viewing the property. This request has been made to the developer who has not allowed specialists access to the site.

- 1.2. The development and proposed densities are motivated by proposed provincial roads, namely the K56, PWV5 and PWV9. An environmental impact assessment is currently being undertaken on the proposed K56 (planned in 1972) which is subject to serious hydrological and environmental issues. The PWV5 and PWV9 were slated as phase 2 of the Gauteng Freeway Improvement Programme (GFIP). As a result of the uncertainty and delay with the e-tolling, the future of these roads is uncertain. The applicant should not base the motivation of this application on proposed roads which are not yet approved or budgeted.

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- 1.3. The issues above and the promotion of Urban Sprawl; development in areas requiring the addition of infrastructure which will require further capital input to maintain; building new roads rather than upgrading existing roads and improving public transport - resulting in longer commutes, increased travel costs and carbon emissions; loss of open space and biodiversity, are not in alignment with the City of Joburg Growth and Development Strategy for 2040. (GDS 2040)
- 1.4. This area is a rural residential suburb where residents ride horses as part of their daily routine, something that has been the lifeblood of this suburb for 30 years. The traffic produced by the proposed project will endanger the horses and riders alike. Rose Road must not be considered as an appropriate access to this development as it is a rural, farm road utilized extensively by horse riders and riding schools.
- 1.5. The development has not produced a needs and desirability study. There are many vacant industrial and warehousing areas in need of revitalization with appropriate access and infrastructure.
- 1.6. Diepsloot has a severe shortage of housing and infrastructure for existing residents. This development would only attract more job seekers looking for housing in an already stressed situation where many live in inhumane conditions.
- 1.7. South Africa is currently not able to produce enough electricity for existing loads. Further projects should not be allowed until we are able to provide for existing requirements and development which is not sustainable increases the risk of blackouts and a collapse of the system.

I reserve the right to add or amend comments as further information becomes available.

We reserve the right of our members to respond independently.

Yours faithfully

Kristin Kallesen - Chairperson Greater Kyalami Conservancy



Email: chair@gekco.co.za

Physical Address: [REDACTED]



A3

City of Johannesburg
Executive Director: Development Planning and Urban Management
Room 8100, 8th Floor
A Block, Metropolitan Centre
158 Loveday Street Extension
Braamfontein



2/12/2014
Pretoria

Attn: Ben Pretorius
BenAP@joburg.org.za

To whom it may concern,

LETTER OF OBJECTION – RIVERSIDE VIEW EXTENSION 18 situated on Portions 36,37, and 38 of the farm Diepsloot 388-JR

On behalf of the Greater Kyalami Conservancy I hereby object to such township establishment application for Riverside View Ext 18 for Motor Trade, Warehouses, Light Industrial, Commercial and Office uses as advertised in the provincial gazette on 5 November 2014.

The grounds upon which I object to the township application are, inter alia, the following:

- 1.1. This development would displace the Riversands Farm School which has been in existence for over 50 years and serves 700 children from Diepsloot.
- 1.2. The development does not encourage environmentally sustainable land development and practices. There are a number of important wetlands on site, extensive damage has already occurred and must not be allowed to continue. The site currently acts as a biodiversity corridor for the migration of bullfrogs, mammals and contains habitat for birdlife including the African Grass-Owl, a red listed species. A well respected ornithologist has requested investigations be done as to the suitability of habitat and presence of Grass Owls after viewing the property. This request has been made to the developer who has not allowed specialists access to the Riversands site.
- 1.3. The development and proposed densities are motivated by proposed provincial roads, namely the K56, PWV5 and PWV9. An environmental impact assessment is currently being undertaken on the proposed K56 (planned in 1972) which is subject to serious hydrological and environmental issues. The PWV5 and PWV9 were slated as phase 2 of the Gauteng Freeway Improvement Programme (GFIP). As a result of the uncertainty and delay with the e-tolling, the future of these roads is uncertain. The applicant should not base the motivation of this application on proposed roads which are not yet approved or budgeted.

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- 1.4. The issues above and the promotion of Urban Sprawl; development in areas requiring the addition of infrastructure which will require further capital input to maintain; building new roads rather than upgrading existing roads and improving public transport - resulting in longer commutes, increased travel costs and carbon emissions; loss of open space and biodiversity, are not in alignment with the City of Joburg Growth and Development Strategy for 2040. (GDS 2040)
- 1.5. This area is a rural residential suburb where residents ride horses as part of their daily routine, something that has been the lifeblood of this suburb for 30 years. The traffic produced by the proposed project will endanger the horses and riders alike. Rose Road must not be considered as an appropriate access to this development as it is a rural, farm road utilized extensively by horse riders and riding schools.
- 1.6. The development has not produced a needs and desirability study. There are many vacant industrial and warehousing areas in need of revitalization with appropriate access and infrastructure.
- 1.7. Diepsloot has a severe shortage of housing and infrastructure for existing residents. This development would only attract more job seekers looking for housing in an already stressed situation where many live in inhumane conditions.
- 1.8. South Africa is currently not able to produce enough electricity for existing loads. Further projects should not be allowed until we are able to provide for existing requirements and development which is not sustainable increases the risk of blackouts and a collapse of the system.

I reserve the right to add or amend comments as further information becomes available.

We reserve the right of our members to respond independently.

Yours faithfully

Kristin Kallesen - Chairperson Greater Kyalami Conservancy



Email: chair@gekco.co.za

Physical Address: [REDACTED]



A4

City of Johannesburg
Executive Director: Development Planning and Urban Management
Room 8100, 8th Floor
A Block, Metropolitan Centre
158 Loveday Street Extension
Braamfontein



Handwritten signature/initials

Attn: Ben Pretorius
BenAP@Joburg.org.za

To whom it may concern,

**LETTER OF OBJECTION – RIVERSIDE VIEW EXTENSION 36 situated on part of Portion 7 of the farm
Diensloot 388-JR**

On behalf of the Greater Kyalami Conservancy I hereby object to such township establishment application for Riverside View Ext 36 for Offices, Motor Trade and Storage uses as advertised in the provincial gazette on 12 November 2014.

The grounds upon which I object to the township application are, inter alia, the following:

- 1.1. The development does not encourage environmentally sustainable land development and practices. There are a number of important wetlands on site, extensive damage has already occurred and must not be allowed to continue. The site currently acts as a biodiversity corridor for the migration of bullfrogs, mammals and contains habitat for birdlife including the African Grass-Owl, a red listed species. A commercial development of this nature will not allow the biodiversity to be maintained. A well respected ornithologist has requested investigations be done as to the suitability of habitat and presence of Grass Owls after viewing the property. This request has been made to the developer who has not allowed specialists access to the site.

- 1.2. The development and proposed densities are motivated by proposed provincial roads, namely the K56, PWV5 and PWV9. An environmental impact assessment is currently being undertaken on the proposed K56 (planned in 1972) which is subject to serious hydrological and environmental issues. The PWV5 and PWV9 were slated as phase 2 of the Gauteng Freeway Improvement Programme (GFIP). As a result of the uncertainty and delay with the e-tolling, the future of these roads is uncertain. The applicant should not base the motivation of this application on proposed roads which are not yet approved or budgeted.

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- 1.3. The issues above and the promotion of Urban Sprawl; development in areas requiring the addition of infrastructure which will require further capital input to maintain; building new roads rather than upgrading existing roads and improving public transport - resulting in longer commutes, increased travel costs and carbon emissions; loss of open space and biodiversity, are not in alignment with the City of Joburg Growth and Development Strategy for 2040. (GDS 2040)
- 1.4. This area is a rural residential suburb where residents ride horses as part of their daily routine, something that has been the lifeblood of this suburb for 30 years. The traffic produced by the proposed project will endanger the horses and riders alike. Rose Road must not be considered as an appropriate access to this development as it is a rural, farm road utilized extensively by horse riders and riding schools.
- 1.5. The development has not produced a needs and desirability study. There are many vacant industrial and warehousing areas in need of revitalization with appropriate access and infrastructure.
- 1.6. Diepsloot has a severe shortage of housing and infrastructure for existing residents. This development would only attract more job seekers looking for housing in an already stressed situation where many live in inhumane conditions.
- 1.7. South Africa is currently not able to produce enough electricity for existing loads. Further projects should not be allowed until we are able to provide for existing requirements and development which is not sustainable increases the risk of blackouts and a collapse of the system.

I reserve the right to add or amend comments as further information becomes available.

We reserve the right of our members to respond independently.

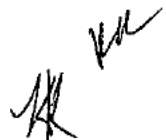
Yours faithfully

Kristin Kallisen - Chairperson Greater Kyalami Conservancy



Email: chair@gekco.co.za

Physical Address: [REDACTED]



BB - 14962

AS

City of Johannesburg
Executive Director: Development Planning and Urban Management
Room 8100, 8th Floor
A Block, Metropolitan Centre
158 Loveday Street Extension
Braamfontein



2/12/2014
Pretoria

Attn: Ben Pretorius
BenAP@Joburg.org.za

To whom it may concern,

LETTER OF OBJECTION – RIVERSIDE VIEW EXTENSION 42 situated on part of Portion 7 of the farm Diepsloot 388-JR

On behalf of the Greater Kyalami Conservancy I hereby object to such township establishment application for Riverside View Ext 42 for a Public Garage, Drive-thru Restaurant and ancillary uses as advertised in the provincial gazette on 12 November 2014.

The grounds upon which I object to the township application are, inter alia, the following:

- 1.1. The development does not encourage environmentally sustainable land development and practices. There are a number of important wetlands on site, extensive damage has already occurred and must not be allowed to continue. The site currently acts as a biodiversity corridor for the migration of bullfrogs, mammals and contains habitat for birdlife including the African Grass-Owl, a red listed species. A commercial development of this nature will not allow the biodiversity to be maintained. A well respected ornithologist has requested investigations be done as to the suitability of habitat and presence of Grass Owls after viewing the property. This request has been made to the developer who has not allowed specialists access to the site.

- 1.2. The development and proposed densities are motivated by proposed provincial roads, namely the K56, PWV5 and PWV9. An environmental impact assessment is currently being undertaken on the proposed K56 (planned in 1972) which is subject to serious hydrological and environmental issues. The PWV5 and PWV9 were slated as phase 2 of the Gauteng Freeway Improvement Programme (GFIP). As a result of the uncertainty and delay with the e-tolling, the future of these roads is uncertain. The applicant should not base the motivation of this application on proposed roads which are not yet approved or budgeted.

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- 1.3. The issues above and the promotion of Urban Sprawl; development in areas requiring the addition of Infrastructure which will require further capital input to maintain; building new roads rather than upgrading existing roads and improving public transport - resulting in longer commutes, increased travel costs and carbon emissions; loss of open space and biodiversity, are not in alignment with the City of Joburg Growth and Development Strategy for 2040. (GDS 2040)
- 1.4. This area is a rural residential suburb where residents ride horses as part of their daily routine, something that has been the lifeblood of this suburb for 30 years. The traffic produced by the proposed project will endanger the horses and riders alike. Rose Road must not be considered as an appropriate access to this development as it is a rural, farm road utilized extensively by horse riders and riding schools.
- 1.5. The development has not produced a needs and desirability study. There are many vacant industrial and warehousing areas in need of revitalization with appropriate access and Infrastructure.
- 1.6. Diepsloot has a severe shortage of housing and infrastructure for existing residents. This development would only attract more job seekers looking for housing in an already stressed situation where many live in inhumane conditions.
- 1.7. South Africa is currently not able to produce enough electricity for existing loads. Further projects should not be allowed until we are able to provide for existing requirements and development which is not sustainable increases the risk of blackouts and a collapse of the system.

I reserve the right to add or amend comments as further information becomes available.

We reserve the right of our members to respond independently.

Yours faithfully

Kristin Kallisen - Chairperson Greater Kyalami Conservancy



Email: chair@gekco.co.za

Physical Address: [REDACTED]



B

THE GREATER KYALAMI CONSERVANCY

GEKCO



RATIFICATION LETTER

We, the elected Management Committee of the Greater Kyalami Conservancy (GEKCO) in 2014 hereby ratify and confirm that Ms Kallesen was authorised to act on behalf of GEKCO in objecting to the Riverside View townships Extension 13, 14, 17, 18, 36, 37, 38, 42 and 59 situated on Portions 7,36,37,38 and 121 of the farm Diepsloot 388-JR as lodged with the City of Johannesburg Legal Administration in December 2014.

Signed on this date 14 August 2019 in Kyalami.

[Signature] Vice Chairperson – Mandy Collins

[Signature] Secretary – Anton van Niekerk

[Signature] Treasurer – Alwina Brand

[Signature] Legal – Janine Turner

[Signature] DARRYL VAN NIEKERK

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THE GREATER KYALAMI CONSERVANCY

GEKCO



RATIFICATION LETTER

We, the Management Committee of the Greater Kyalami Conservancy (GEKCO) hereby ratify and confirm that

- i) Ms Kallesen continues to be authorised to represent GEKCO;
- ii) that GEKCO persists with the objections to the Riverside View townships Extension 14, 17, 18, 36 and 42 situated on Portions 7,36,37,38 and 121 of the farm Diepsloot 388-JR as lodged with the City of Johannesburg Legal Administration in December 2014; and the objections to Riverside View townships Extension 85,97,98 and 99 on portions of the farm Zevenfontein 407JR
- iii) that, to the extent necessary all acts by Ms Kallesen in objecting and in pursuing such objections are ratified.

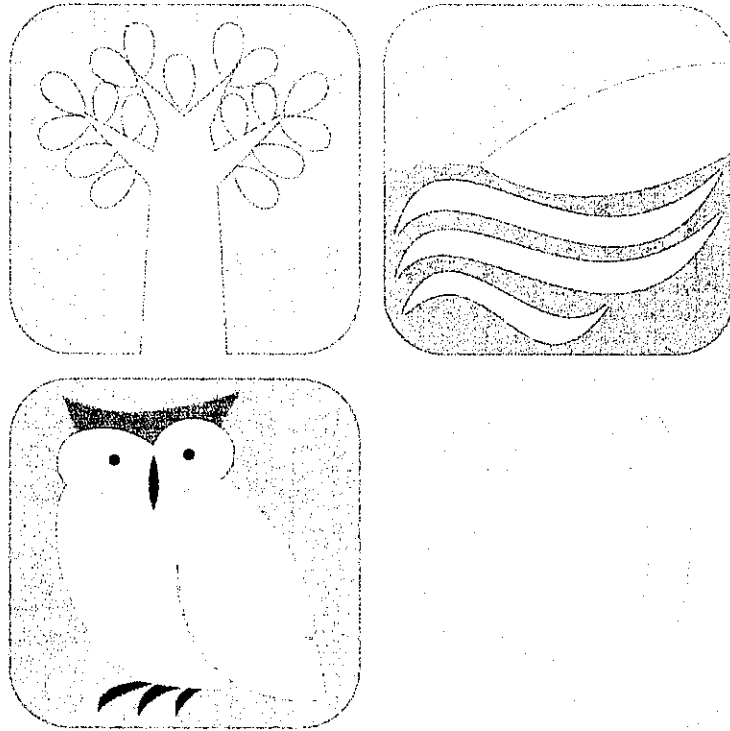
Signed on this date 14 August 2019 in Kyalami.

Susan Warring Vice Chairperson – Susan Warring
Anton van Niekerk Secretary – Anton van Niekerk
Thys Brand Treasurer – Thys Brand
Keith Bush Keith Bush
Darryl van Niekerk Darryl van Niekerk

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**CONSTITUTION
OF THE GREATER KYALAMI CONSERVANCY
("GEKCO")**

ADOPTED AT THE SPECIAL GENERAL MEETING HELD ON 2
SEPTEMBER 2014



GEKCO
PRESERVING OUR HERITAGE

Handwritten initials: HK KC

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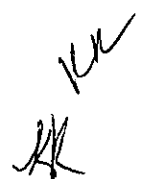
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1. Name and Legal Powers

- 1.1. The Conservancy is called the Greater Kyalami Conservancy, hereinafter referred to as the "Conservancy" or "GEKCO" (tax registration number 9065/295/22/3).
- 1.2. The Conservancy is a registered conservancy with the Gauteng Conservancy Association ("GCA") with registration number GCA055.
- 1.3. The Conservancy is a body corporate with its own legal identity, which is separate from its individual members.
- 1.4. The Conservancy shall continue to exist even when there are changes in the composition of its membership or office-bearers.
- 1.5. The Conservancy is a juristic person and has the full capacity to perform all juristic acts necessary for the attainment of its objectives which include, without detracting from the generality of the foregoing; to perform all acts which a company registered under the Companies Act No. 71 of 2008 could perform.
- 1.6. The Conservancy is capable of suing or being sued in its own name.

2. Objectives

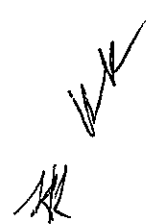
- 2.1. The objectives of the Conservancy within the defined area as set out in clause 4 are to:
 - 2.1.1. Raise awareness and educate the public and residents for the need to conserve the environmental resources in the Conservancy according to the Constitution of South Africa, the National Environmental Management Act No. 107 of 1998 (and all relevant guidelines published in terms of this Act), all other national, provincial and local statutes that relate to the protection of and or conservation of the Conservancy;
 - 2.1.2. Protect the area to allow the equine industry to continue to develop and exist in a sustainable and environmentally friendly fashion;
 - 2.1.3. Protect and rehabilitate the indigenous fauna and flora, especially the red data species;
 - 2.1.4. Protect and rehabilitate the wetlands and waterways in the area;
 - 2.1.5. Protect the ridges in the area;
 - 2.1.6. Maintain the Conservancy's status as registered conservancy;



- 2.1.7. Actively involve all the residents and public in our endeavours through educational processes and marketing;
 - 2.1.8. Engage with property development so that it promotes and respects the objectives of the Conservancy; and
 - 2.1.9. Cooperate with Government structures and like-minded organisations to further the objectives of the Conservancy.
- 2.2. The Conservancy is not formed and does not exist for the purpose of carrying on any business that has for its object the acquisition of gain by the Conservancy or its individual members.

3. **Membership**

- 3.1. Membership is separated into the following two categories:
 - 3.1.1. Voting Membership; and
 - 3.1.2. Non-Voting Membership.
- 3.2. Both voting and non-voting members can bring matters to the committee for consideration and may be represented by the Conservancy and may be accepted as part of the Conservancy.
- 3.3. Only Voting Members are entitled to speak or vote at Annual General Meetings and Special General Meetings.
- 3.4. The following persons qualify for **Voting Membership** of the Conservancy:
 - 3.4.1. The registered owner of land within the defined area as set out in clause 4;
 - 3.4.2. The registered owner of land adjacent to the defined area (set out in clause 4) who wants to add their land to the defined area;
 - 3.4.3. The tenant of any land referred to in clauses 3.4.1 and 3.4.2, with the consent of the owner;
 - 3.4.4. Any other person who is approved by management under special circumstances; and
 - 3.4.5. Any Residents Association or Homeowners Association which represents registered owners of land within the defined area set out in clause 4.
- 3.5. The following persons qualify for **Non-Voting Membership**:

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- 3.5.1. Residents, businesses or tenants in the area who are not property owners, or where voting membership has already claimed by the registered land owner;
 - 3.5.2. Employees of businesses or property owners who are resident in the area; and
 - 3.5.3. Any supporting individual or organisation not resident in defined area as set out in clause 4.
- 3.6. Voting Membership fees for registered land owners will be determined on an annual basis and ratified at the Annual General Meeting for each financial year.
 - 3.7. Voting Membership fees for Resident's Associations and Homeowner's Associations will be determined on an annual basis and will be ratified at the Annual General Meeting for each financial year.
 - 3.8. Membership fees collected can solely be used in the attainment of the objectives set out in clause 2.
 - 3.9. Voting Members (exclusive of Residents' Associations and Homeowner's Associations) are entitled to one vote per member regardless of how many properties are owned within the Conservancy by the Voting Member
 - 3.10. Resident's Associations and Homeowners Associations are entitled to a single vote as a juristic person.
 - 3.11. All members must subscribe to the objectives laid out in clause 2, above.
 - 3.12. Membership is only removed upon request of the land owner or sale of the land to a new owner, or in the case of a Resident's Association or Homeowner's Association, upon request at a properly convened Annual General Meeting or Special Meeting of the Resident's Association or Homeowner's Association.
 - 3.13. Should any Voting or Non-Voting Member not comply with the objectives laid out in clause 2 above, their membership status may be discussed by the committee and revoked if it is deemed necessary.

4. **Defined area**

- 4.1. It was agreed that the boundary of the Conservancy be as follows:

East from the R55 north of Kyalami business park, South West along the entire ridge (including Kyalami Ext 1, Intaba, Castle Kyalami, then parallel to Leeuwkop Prison along Main Road, (Leeuwkop Prison and Rietfontein ridge to Rietfontein Nature Reserve to be included when possible), following the path of the Jukskei River from P70 to R511, up the

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R511 to Mnandi Road (EXCLUDING Riversands), and on to Summit Road and back to the R55, and the Blue Hills AH 'triangle' north of Summit Road.

5. Financial

- 5.1. The financial year of the Conservancy runs from the date it is founded until 28th February of the following year and thereafter from the first of March of each year until the 28th of February of each subsequent year.
- 5.2. All financial transactions of the Conservancy are recorded by the Treasurer or in their absence or inability to act, the Secretary
- 5.3. Each year, after conclusion of the financial year, the Treasurer or Secretary, as the case may be, presents a complete financial report to the Annual general meeting.
- 5.4. The Chairperson and Treasurer sign the report referred to in clause 5.3 .
- 5.5. Every member is entitled to have sight of the financial records of the Conservancy.
- 5.6. Should the assets of the Conservancy exceed the value of R1 000 000.00 (ONE MILLION RAND) a certificate by an auditor shall accompany the financial statements.

6. Annual General Meeting

- 6.1. The Annual General Meeting is convened by the management within ninety days after the end of the financial year of the Conservancy.
- 6.2. Notice of the Annual General Meeting is given in writing to each member not less than twenty one calendar days prior to the intended meeting.
- 6.3. A quorum will exist at an Annual General Meeting if twenty percent of members are present in person or by proxy. If a quorum is not present at an Annual General Meeting, the meeting shall be reconvened on notice of not less than seven days. At the meeting so convened the members present shall constitute a quorum.
- 6.4. The following matters shall be dealt with by the Annual General Meeting:
 - 6.4.1. A report by the Chairperson concerning the year's activities;
 - 6.4.2. The election of the management for the following year;
 - 6.4.3. The financial report; and
 - 6.4.4. Any other matter placed on the agenda by a member no later than fourteen days before the meeting; with the Secretary.

- 6.5. Only voting members shall be entitled to speak at the Annual General Meeting or to cast a vote during the meeting.
- 6.6. Voting members must be physically present at the meeting to be entitled to vote, when this is not possible a voting member may hold one proxy for another member who is eligible to vote.
- 6.7. A member which is a juristic person is represented by one natural person only, who may speak and vote on their behalf.
- 6.8. Notice of an Annual General Meeting is done by ordinary post or email to the addresses on membership list.

7. Special General Meetings

- 7.1. A Special General Meeting may be called at any time by the management in the same way as an Annual General Meeting is convened, except that the period of notice may be reduced to fourteen days.
- 7.2. A Special General Meeting must be convened by management if:
 - 7.2.1. Twenty percent of the members request such a general meeting; or
 - 7.2.2. The GCA or an appointed representative requests such a Special General Meeting.
- 7.3. The request referred to in clause 7.2 must be submitted in writing and must contain the signatures of the members requesting the meeting. A request from the GCA for a meeting must also be submitted in writing.
- 7.4. The request must reach the management not less than twenty one days before the date of the Special General Meeting. Should management fail to give notice of the Special General Meeting within seven days of having requested to do so, the parties requesting the meeting can issue the notice to this effect.
- 7.5. The notice of the Special General Meeting shall clearly set out the matters in relation to which the Special General Meeting is requested.
- 7.6. Only those matters placed on the notice shall be discussed at the Special General Meeting and no other matters.
- 7.7. Notice of a Special General Meeting is given by ordinary post or email to the address of members as it appears in the records of the Conservancy.
- 7.8. A quorum will exist at a Special General Meeting if:

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- 7.8.1. Twenty percent of members are present in person or by proxy when the meeting is called by the management;
- 7.8.2. Two thirds of the members who requested the meeting in accordance with clause 7.2 are present in person or by proxy;
- 7.8.3. If a quorum is not present at a Special General Meeting, the meeting shall be reconvened on notice of not less than seven days. At the meeting so convened the members present shall constitute a quorum.
- 7.9. Only voting members, or their authorised representatives, shall be entitled to speak at the meeting or to cast a vote during the meeting.
- 7.10. Voting members must be physically present at the meeting to be entitled to vote, when this is not possible a voting member may hold one proxy for another member who is eligible to vote.

8. **Management**

- 8.1. The management of the Conservancy is elected annually at the first meeting of the management committee after the Annual General Meeting, and comprises a minimum of four and a maximum of ten, of the following officers:
 - 8.1.1. Chairperson - required;
 - 8.1.2. Vice Chairperson (who presides in the absence of the Chairperson) – required;
 - 8.1.3. Secretary (who presides in the absence of both the Chairperson and the Vice Chairperson) – required;
 - 8.1.4. Treasurer - required;
 - 8.1.5. Additional sub committees can be established by the management on an ad hoc basis from time to time.

9. **Management meetings**

- 9.1. Management holds office from the date of election, until the next Annual General Meeting.
- 9.2. Should any management member resign or become unable to discharge his/her duties for any reason prior to the next Annual General Meeting the management may appoint a successor. Such a nominated management member shall be deemed to be appointed by the Annual General Meeting and his term of office shall expire when the term of office of the management expires.



- 9.3. Should a dispute arise within management members then a management meeting shall be called to resolve this conflict and the decision of a majority of members shall be respected.
- 9.4. A representative nominated by the Gauteng Department of Agriculture and Rural Development or GCA shall be entitled to attend management meetings and to address it, but shall not be entitled to vote.
- 9.5. The management meets at least four times a year at a time and place as determined by the Chairperson.

10. **Minutes**

- 10.1. The Secretary keeps minutes of each meeting of the management as well as of each Annual General Meeting.
- 10.2. Minutes must be confirmed and approved by the management committee.
- 10.3. Every member is entitled to have sight of the minutes of the management meetings as well as the minutes of general meetings.

11. **Constitution**

- 11.1. The Conservancy was founded on 27 March 2007, with the following founding members:

M. Donde, S. De Nobrega, A. Dicks, G. Martindale, S. Goodman, P. Hoets, B. Potgieter, K. Kullmann.. A copy of the constitution was submitted to the Gauteng MEC for Agriculture, Conservation, Environment and Land Affairs (GDACEL), GDACE.
- 11.2. Changes to the constitution may only take place:
 - 11.2.1. At an Annual General Meeting or at a Special General Meeting convened specifically for this purpose; and
 - 11.2.2. At which a quorum is present; and
 - 11.2.3. In relation to which a two thirds majority of members, present at the meeting, approves the changes; and
 - 11.2.4. Full-particulars of the proposed changes were given to members in the notice of the Annual General Meeting or Special General Meeting.
- 11.3. No amendment of the constitution is permitted which is not in conformity with environmental or conservation legislation.
- 11.4. Any amendments once approved are to be forwarded to GCA.



12. Powers of the Conservancy

- 12.1. The Conservancy shall have all powers which are necessary, conducive or incidental to the attainment or furtherance of its objectives and in particular, without limiting the generality of the foregoing, the Conservancy may:
- 12.1.1. Acquire rights or incur obligations distinct from its members;
 - 12.1.2. Acquire any movable or immovable property distinct from its members;
 - 12.1.3. Report to the relevant authorities any illegal developments or activities within environmentally sensitive areas;
 - 12.1.4. Enter into any agreement with any Government or other authority or agency or with persons, associations or conservancies, or affiliate with anybody likely to further the interests of the Conservancy;
 - 12.1.5. Employ, dismiss and remunerate employees, professional assistants and experts, research workers, advisers, agents and other persons, and establish and contribute to pension, gratuity, medical and /or other funds for the benefit of its employees;
 - 12.1.6. Collect and disseminate information about the protection and conservation of wildlife, flora and fauna and about policies or practices related thereto;
 - 12.1.7. Invite the patronage of any person(s) to such honorary position(s) as it may consider advisable; and
 - 12.1.8. Enter into agreements of all and any nature necessary to carry out aims and objectives of the Conservancy.

13. Powers of management

- 13.1. Management has the power to perform all acts required to give effect to this constitution and the attainment of the objectives of the Conservancy.
- 13.2. Management members perform their duties without any remuneration, but any management member who incurs reasonable expenses in the execution of his/her duties with the prior consent of the management, authorised by two members of management, shall be reimbursed by the Conservancy.
- 13.3. The Conservancy's income and property are not distributable to its members or office-bearers

14. Property and Income

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14.1. The income and assets of the Conservancy shall be applied solely for investment and for the promotion of the objects for which it is established.

14.2. No member of the Conservancy or employee has any rights to property owned by the Conservancy by virtue of membership.

15. Dissolution

15.1. The Conservancy may dissolve at any time if two thirds of the members, present in person, vote for dissolution at a Special General Meeting convened for that purpose.

15.2. If the Conservancy dissolves all assets of the Conservancy shall be liquidated and pledged to the GCA.

15.3. Members or office-bearers have no rights in the property or other assets of the Conservancy solely by virtue of their being members or office-bearers.

16. Dead heat in voting

16.1. At an Annual General Meeting, as well as at a management meeting, the Chairperson shall have a deliberative vote, as well as a casting vote, in the event of an equality of votes.

17. Cessation of activities

17.1. In case of a cessation of activities the GCA or an appointed representative may convene a Special general meeting of those members whose fees are paid for the purpose of dissolving the Conservancy.

17.2. Cessation of activities shall be deemed to include:

17.2.1. The Conservancy has been dormant for a period of six months since it was obliged in terms of this constitution to hold an annual general meeting;

17.2.2. Activities were undertaken that were inconsistent with the objectives of this constitution; or

17.2.3. The Constitution of the Conservancy ceases to comply with governing legislation and policy.

Signed at Kyalami on the 25th day of September 2014

Chairperson: Ms Kristin Kallesen

K. Kallesen

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THE GREATER KYALAMI CONSERVANCY

GEKCO



30 September 2019

Dear Sirs

- 1 We have received the “Ruling” signed by Cedric Van der Merwe dated 20 September 2019 (“the Ruling”).
- 2 As set out in the first, second and fourth paragraphs of the ruling, the **only** objection made by the applicant (Century) and to which GEKCO was required to respond was whether Ms Kallesen was authorised to represent GEKCO when the letters of objection were delivered. At no stage did the applicant challenge the right of GEKCO, a public interest organisation, to object to the proposed development. If there had been any challenge to the right of GEKCO to object to the developments, those would have been responded to and refuted by GEKCO.
- 3 The Ruling suffers from a number of fatal flaws, not least of which are the following:
 - 3.1 It has not answered the question which was placed before the Tribunal – whether Ms Kallesen was authorised to represent GEKCO at the relevant time. It does however appear that the Ruling accepts the evidence given by the secretary of GEKCO which would confirm that Ms Kallesen was so authorised.
 - 3.2 The Ruling purports to answer a question that was not asked – namely, whether GEKCO has locus standi object to developments in the Riversands area (the “GEKCO jurisdiction argument”).
 - 3.3 The Tribunal has not given GEKCO a right to a hearing in respect of the GEKCO jurisdiction argument on which the Ruling is based. The Tribunal was obliged to give GEKCO a hearing or the entitlement to make submissions before such a ruling was made.
 - 3.4 The Ruling does not appear to be a Ruling of the Tribunal.



- 3.4.1 A Tribunal constituted in terms of SPLUMA is required to include a member who is independent and not in the employ of the municipality.
- 3.4.2 The Ruling appears to be a view expressed by Mr van der Merwe, unsupported by the other members of a properly constituted Tribunal. The fact that the Ruling is a view expressed only by Mr van der Merwe and is not a decision by the Tribunal is apparent from the penultimate paragraph where Mr van der Merwe says “I find” -expressing his personal finding and not the finding of a properly constituted Tribunal.
- 4 In the circumstances, the Ruling is not a ruling of the Tribunal, has no binding effect in relation to the objections raised by the applicant or any issue addressed by Mr van der Merwe.
- 5 Currently, it is not within the power of the Tribunal to express a view on the *locus standi* of GEKCO, as there has been no objection to the *locus standi* of GEKCO in bringing the objections. The sole point which the Tribunal has to decide (and is still required to decide) is whether Ms Kallesen was authorised to act on behalf of GEKCO when the relevant objections were delivered. We submit that the evidence establishes overwhelmingly that she was authorised.
- 6 If the Tribunal wishes to consider the GEKCO jurisdiction argument (which it ought not to do as no objection has been made), then GEKCO requires the opportunity to make submissions in this regard. We note that Mr van der Merwe has misread the GEKCO constitution completely and has consequently formed the view expressed in his Ruling without a proper understanding of the GEKCO constitution and the law in relation to GEKCO’s entitlement to make objections.
- 7 We look forward to your urgent response confirming that the Tribunal will still consider the point which is submitted to it. We also seek urgent clarity from the Tribunal as to whether the Tribunal intends to have regard to the issues raised in Mr van der Merwe’s “Ruling” and, if so, to set out:

THE GREATER KYALAMI CONSERVANCY

GEKCO



- 7.1 The legal basis on which the Tribunal considers it is entitled to have regard to such matters given that they have not been raised by the applicant or anyone else.
- 7.2 Confirmation that GEKCO will be afforded a hearing or an opportunity to make submissions if the Tribunal intends to have regard to these matters.

8 We look forward to your urgent response hereto.

Yours faithfully

Kristin Kallesen

Chairperson

Greater Kyalami Conservancy (GEKCO)

From: Cedric van der Merwe [mailto:Cedricv@joburg.org.za]
Sent: 09 October 2019 12:38 PM
To: GEKCO Chair; Ben Pretorius
Cc: Kabelo Nkhambula; Gina Zanti; Nokuthula Thusi; Amolemo Mothoagae; Reuben Mlungisi Masango
Subject: RE: THE TOWNSHIPS RIVERSIDE VIEW EXTENSIONS 14, 17, 18, 36 & 42 AS WELL AS EXTENSIONS 85, 97, 98 & 99



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Good Day Ms Kallesen.

Herewith the response to the GEKCO letter under your signature as Chairperson dated 30 September 2019.

At the outset I wish to categorically state that the ruling is the ruling of the Municipal Planning Tribunal of which I was the Chair dealing with the specific applications. As the Chair of the Tribunal I am mandated to act as legal adviser to the Tribunal. The issues raised by the applicant's representative was of a legal nature and therefore I am mandated to consider such and deal therewith in my capacity as Chairman/ legal adviser.

I note your averment that the Ruling suffers from "fatal flaws" and strongly disagree therewith.

Ad par 3.1 of the letter -It is specifically mentioned in the Ruling that Ms Kallesen and GEKCO could not provide evidence that Ms Kallesen was duly authorised to lodge the objections at the time of doing so. That is supported by the ratifications letters presented by Mr van Niekerk that attempted to remedy that lack of authorization. Also please read the second last paragraph where it is specifically said that the objections lodged by Ms Kallesen on behalf of GEKCO is unauthorised.

Ad par 3.2 of the letter-The GEKCO constitution was provided by Mr van Niekerk in support of the argument that you as Chair may as a general rule object to applications on behalf of GEKCO. I merely interpreted to complete document and made findings in relation to his argument.

Ad par 3.3 of the letter-All documentation presented in opposition to the legal issue was done through Mr van Niekerk as the secretary of GEKCO on behalf of GEKCO so it is simply not correct to say that GEKCO was not granted an opportunity to make submission.

Ad par 3.4 of the letter-Please see paragraph two above.

The content of remainder of the letter is noted and the correctness thereof is denied. The failure to deal therewith specifically should not be construed as the acknowledgement of the correctness thereof.

The ruling is final and a ruling of the tribunal in relation to the legal issues raised by the representative of applicant.

Kind regards.

Cedric van der Merwe
Legal adviser: Group Legal and Contracts
3rd Floor, Metropolitan Centre
158 Civic Boulevard, Braamfontein

Email: cedricv@joburg.org.za | Tel: +27(0)114077228 | Cell: 0824649469



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@CityofJoburgZA

CityofJohannesburg

From: GEKCO Chair [<mailto:chair@gekco.co.za>]
Sent: 09 October 2019 10:02 AM
To: Ben Pretorius
Cc: Cedric van der Merwe; Kabelo Nkhambula
Subject: FW: THE TOWNSHIPS RIVERSIDE VIEW EXTENSIONS 14, 17, 18, 36 & 42 AS WELL AS EXTENSIONS 85, 97, 98 & 99
Importance: High

Dear Ben,

I have not yet had a response to the urgent email below dated 01 October.
Please may I request you escalate this for an urgent response as it affects our rights as objectors.

Kind regards,
Kristin Kallesen

From: GEKCO Chair [<mailto:chair@gekco.co.za>]
Sent: 07 October 2019 09:16 AM
To: 'Kabelo Nkhambula'; 'benp@joburg.org.za'; 'cedricv@joburg.org.za'
Cc: 'secretary@gekco.co.za'; 'info@gekco.co.za'; 'susan warring'; 'Amolemo Mothoagae'; 'City Manager'; 'Graham De Kock'; 'Reuben Mlungisi Masango'
Subject: FW: THE TOWNSHIPS RIVERSIDE VIEW EXTENSIONS 14, 17, 18, 36 & 42 AS WELL AS EXTENSIONS 85, 97, 98 & 99
Importance: High

ATT: Municipal Town Planning Tribunal
RE: Riverside View Townships

Good morning,

A handwritten signature in black ink, appearing to be "Kuc" or similar, located in the bottom right corner of the page.

Please may I request an urgent response to the email sent below on 01 October 2019.
We require a response by close of business 08 October in order to prepare a response timeously.
The attached finding by the chairperson of the tribunal, Mr van der Merwe affects our rights as objectors and we request an opportunity to respond to this finding as set out in our letter attached.

With regards,

Kristin Kallesen
Chairperson
Greater Kyalami Conservancy (GEKCO)

From: GEKCO Chair [mailto:chair@gekco.co.za]
Sent: 01 October 2019 06:07 PM
To: 'Kabelo Nkhambula'; 'benp@joburg.org.za'; 'cedricv@joburg.org.za'
Cc: 'Amolemo Mothoagae'; 'City Manager'; 'info@avatt.co.za'; 'secretary@gekco.co.za'
Subject: RE: THE TOWNSHIPS RIVERSIDE VIEW EXTENSIONS 14, 17, 18, 36 & 42 AS WELL AS EXTENSIONS 85, 97, 98 & 99
Importance: High

Dear sirs,

Please see attached letter from the Greater Kyalami Conservancy (GEKCO) with regards to the finding received on 23 September regarding Riverside View Extensions.
We await an urgent response in regard to the points raised.

With regards,

Kristin Kallesen
Chairperson
Greater Kyalami Conservancy (GEKCO)

From: Kabelo Nkhambula [mailto:KabeloN@joburg.org.za]
Sent: 23 September 2019 12:52 PM
To: info@avatt.co.za; chair@gekco.co.za; secretary@gekco.co.za
Subject: THE TOWNSHIPS RIVERSIDE VIEW EXTENSIONS 14, 17, 18, 36 & 42 AS WELL AS EXTENSIONS 85, 97, 98 & 99
Importance: High

Dear All



Please find attached hereto the finding in relation to the legal point raised by the applicant (Century) in the above applications heard on 6 and 7 August 2019.

Regards,

Kabelo

Kabelo Nkhambula

Committee Coordinator: Legal Admin (Land Use Development Management)
9th Floor, Metropolitan Centre, 158 Civic Boulevard
Braamfontein, 2017

Email: Kabelon@joburg.org.za	Tel: 0114076486	Cell: 0823307187
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CityofJohannesburg

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A handwritten signature in black ink, appearing to be "K Kabelo".



**ADRIAAN
VENTER**

PROCURERS & ASSOCIATE
ATTORNEYS & ASSOCIATES

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

info@avatt.co.za

OUR REF/ONS VERW: JA VENTER/JM/AC0089 & AC0090

DATE / DATUM: 2019-07-08

TO: THE CHAIRPERSON
GREATER KYALAMI CONSERVANCY (GEKCO)
ATT: MS. KRISTIN KALLESEN
EMAIL: chair@gecko.co.za

COPY TO: THE CHAIRPERSON
THE MUNICIPAL PLANNING TRIBUNAL
CITY OF JOHANNESBURG METROPOLITAN MUNICIPALITY
ATT: MR. CEDRIC VAN DER MERWE
EMAIL: Cedricv@joburg.org.za

COPY TO: JLR ATTORNEYS & ASSOCIATES
ATT: MR. JASON LE ROUX
EMAIL: jason@jlrattorneys.co.za

Madam / Sirs,

**HEARINGS SCHEDULED ON 9 JULY 2019 BEFORE THE CITY OF
JOHANNESBURG METROPOLITAN MUNICIPALITY'S MUNICIPAL PLANNING
TRIBUNAL IN RESPECT OF THE PROPOSED RIVERSIDE VIEW EXTENSIONS 85,
97, 98 & 99 TOWNSHIPS;
AND
THE PROPOSED RIVERSIDE VIEW EXTENSIONS 14, 17, 18, 36 AND 42
TOWNSHIPS**

JAN ADRIAAN VENTER (BA B.PROC LLB LIMB)
Assisted by / Bygestaan deur:
DANIELE SMIT (LLB PGDFP) & WILHELM SCHEEPERS (BA LLB)

We refer to the abovementioned Applications for Township Establishment and confirm that we act herein on behalf of the Applicants of such Applications, i.e. Century Property Developments (Pty) Ltd and Riversands Developments (Pty) Ltd respectively.

As you have already on several previous occasions specifically been forewarned, we for purposes of establishing your authority to act on behalf of the Greater Kyalami Conservancy (hereinafter referred to as "GEKCO"), including *inter alia* to represent **GEKCO** at the hearings scheduled to take place tomorrow, i.e. the 9th instant, before the aforementioned Municipal Planning Tribunal, demand that you make copies of the following documentation available tomorrow:

1. The Powers of Attorney which authorise yourself to act on behalf of **GEKCO** by *inter alia* representing **GEKCO** at the hearings scheduled before the Municipal Planning Tribunal in respect of each respective Application for Township Establishment mentioned *supra*;
2. Certified copies of the Minutes of the Meetings of **GEKCO**, during which it was apparently resolved that you be authorised to act on **GEKCO's** behalf;
3. The attendance registers reflecting every person who attended the meetings referred to in paragraph 2 *supra*, as well as the names, contact details and capacities in which they attended such meetings;
4. Proof of membership to **GEKCO** of each and every person as per paragraph 3 *supra*;
5. Proof that a quorum existed during each aforementioned meeting apparently held in the above regard;
6. In the event that it is alleged that you act on behalf of **GEKCO** by virtue of a delegated authority, we require proof of such delegated authority in the form

JAN ADRIAAN VENTER (BA B.PROC LLB LIMB)
Assisted by / Bygestaan deur:
DANIELE SMIT (LLB PGDFP) & WILHELM SCHEEPERS (BA LLB)



of a formal resolution as well as a certified copy of the Minutes of the Meeting at which such authority was delegated to yourself;

7. The attendance registers reflecting every person who attended the meeting referred to in paragraph 6 *supra*, as well as the names, contact details and capacities in which they attended such meetings;
8. Proof that a quorum existed during such meeting referred to in paragraph 7 *supra*;
9. A copy of the latest and updated constitution of **GEKCO**.

In the event that the aforementioned documentation is not forthcoming from yourselves, which documentation indeed should have been procured and should have existed in 2014 when you lodged objections purportedly on behalf of and by virtue of a mandate of the residents involved, our instructions are to make submissions against the authority and *locus standi* of **GEKCO** and its right to at all participate in the proceedings before the Municipal Planning Tribunal.

Yours faithfully,



ADRIAAN VENTER
ATTORNEYS & ASSOCIATES

JAN ADRIAAN VENTER (BA B.PROC LLB LIMB)
Assisted by / Bygestaan deur:
DANIELE SMIT (LLB PGDFP) & WILHELM SCHEEPERS (BA LLB)





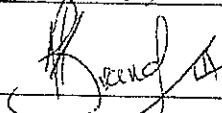
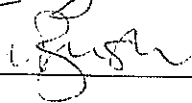
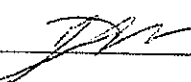


RATIFICATION LETTER

We, the Management Committee of the Greater Kyalami Conservancy (GEKCO) hereby ratify and confirm that

- i) Ms Kallesen continues to be authorised to represent GEKCO;
- ii) that GEKCO persists with the objections to the Riverside View townships Extension 14, 17, 18, 36 and 42 situated on Portions 7,36,37,38 and 121 of the farm Diepsloot 388-JR as lodged with the City of Johannesburg Legal Administration in December 2014; and the objections to Riverside View townships Extension 85,97,98 and 99 on portions of the farm Zevenfontein 407JR
- iii) that, to the extent necessary all acts by Ms Kallesen in objecting and in pursuing such objections are ratified.

Signed on this date 14 August 2011 in Kyalami.

	_____	Vice Chairperson – Susan Warring
	_____	Secretary – Anton van Niekerk
	_____	Treasurer – Thys Brand
	_____	Keith Bush
	_____	Darryl van Niekerk



CITY OF JOHANNESBURG
MUNICIPAL PLANNING TRIBUNAL
MR. CEDRIC VAN DER MERWE – CHAIRPERSON

AV ATTORNEYS
MR. ADRIAAN VENTER
REPRESENTING CENTURY PROPERTIES

Dear sirs,

I am the Secretary of the Greater Kyalami Conservancy (GEKCO). As part of this letter relates to Ms Kristin Kallesen, GEKCO's chairperson, I have written this letter on behalf of the Management of GEKCO.

2. Gekco has objected to the current applications by Century before the tribunal to RIVERSIDE VIEW EXTENSIONS 14,17,18,36 and 42 known as the proposed Riversands Commercial Park and to RIVERSIDE VIEW EXTENSIONS 85,97,98 and 99 known as the proposed Helderfontein Residential Development.

3. The primary grounds of objection raised by GEKCO on these applications were:

- i) the absence of a wetland delineation to define buffer zones to protect wetland and wildlife corridors on the Riversands Properties;
- ii) the environmental impact on wetlands, graves and rocky outcrop by the access road (Erling link) for the Helderfontein applications (impacts which have been cited by the City of Joburg and Department of Water and Sanitation as prohibitive to the road construction);
- iii) environmental and social impacts and also viability of roads which are conditions of the Traffic Impact Assessments for both developments (namely the K56, PWV5 and existing Chattan road).

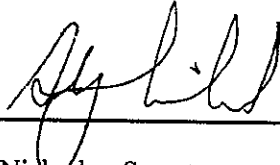
4. On the eve of the hearing of the application, and less than the required 7 days before the hearing, Century's attorney raised a point in limine challenging the status of Kristin Kallesen i) to have represented GEKCO when the objections were emailed and hand delivered in December 2014; and ii) to represent GEKCO in the proceedings. This was a clear attempt to use a technical ploy to avoid having to deal with the substantive grounds of objection raised by GEKCO.

5. We point out that Century did not challenge the locus standi of GEKCO itself to object or address the objections before the Tribunal.

6. The tribunal has requested a response from GEKCO in writing confirming that Ms Kallesen is (and was) authorised to represent GEKCO. To this end, I attach:



- a. A copy of the GEKCO constitution, highlighting clause 13.1. As appears from the constitution, the Chairperson of GEKCO is empowered to act on behalf of GEKCO in carrying out the business of GEKCO. *[Annexure 1]*
- b. A copy of the minutes of the April 2014 AGM and committee meeting at which Ms Kallesen was elected chairperson. *[Annexure 2]*
- c. A copy of the minutes of the 2019 AGM where Ms Kallesen and the committee were elected and the committee meeting on July 19 2019 wherein Ms Kallesen was re-elected as Chairperson. I confirm that she has been chairperson, uninterrupted since 2014. *[Annexure 3]*
- d. A letter signed by members of the management committee elected in 2014 confirming that Ms Kallesen was authorised to act on behalf of GEKCO. *[Annexure 4]*
- e. A letter signed by the members of the current management committee confirming i) that Ms Kallesen continues to be authorised to represent GEKCO; ii) that GEKCO persists with the objection; iii) that, to the extent necessary (which ought not to be the case), that all acts by Ms Kallesen in objecting and in pursuing such objections are ratified. *[Annexure 5]*



Mr. Anton van Niekerk – Secretary
Greater Kyalami Conservancy (GEKCO)

13 August 2019
Kyalami



GEKCO AGM 2014



Date: 15-04-2014

Location: Beaulieu College Pavilion

Attending GEKCO committee:

Chair: Kristin Kallesen – KK	Committee: Tyrone McKendry – biodiversity - TMK
Treasurer: Alwina Brand – AW	Committee: Francois Euvard – FE
Vice Chair: Mandy Collins – MC	Committee: Simon Buskin – SB
Secretary: Anton van Niekerk – AVN	Sub-Committee: Kate Meyer - KM
Legal: Janine Turner – JT	Sub-Committee: Robyn Hare - RH
Committee: Darryl van Niekerk – DVN	

Attending:

<p><i>(Faint, illegible text)</i></p>	<p>Annette Deppe (DA Ward Councilor) - ADe</p>
<p><i>(Faint, illegible text)</i></p>	<p><i>(Faint, illegible text)</i></p>
<p><i>(Faint, illegible text)</i></p>	<p><i>(Faint, illegible text)</i></p>
<p><i>(Faint, illegible text)</i></p>	<p><i>(Faint, illegible text)</i></p>

Apologies:

(Faint, illegible text)

KK

Meeting Begins: 18h43

Welcome – KK welcomed all

1. Hedgehog Conservation – J Artingstall

- 1.1 [Faint text]

2. Biodiversity update – T McKendry

- 2.1 [Faint text]
- 2.2 [Faint text]
- 2.3 [Faint text]
- 2.4 [Faint text]

3. Equine legacy document – M Donde

- 3.1 [Faint text]
- 3.2 [Faint text]
- 3.3 [Faint text]
- 3.4 [Faint text]
- 3.5 [Faint text]

KK: Next Forum meeting 8 May

4. Chairpersons Report - K Kallesen

4.1 Events:

- 4.1.1 Snare clean up day in October; filmed by 50/50. Were joined by SAPS, sector 4, Bontle ke Thlago the Diepsloot recycling initiative, City of Johannesburg (COJ)
- 4.1.2 Mandela day clean-up in Diepsloot – 185 participants, schools, businesses, COJ.
- 4.1.3 Human Rights Day, teamed up with various organisations to promote the environment as a human right.
- 4.1.4 GEKCO assisted to arrange a visit of officials to Diepsloot. A, Dept Health and Diepsloot stakeholders attended. Dept of health looked into bringing this interaction into some sort of curriculum.

4.2 Recycling:

- 4.2.1
- 4.2.2
- 4.2.3

4.3 Scoping session:

4.4 Representations to City and Province:

- 4.4.1

- 4.4.2 [Faint text]
- 4.4.3 [Faint text]
- 4.4.4 [Faint text]

4.5 Successes:

- 4.5.1 [Faint text]
- 4.5.2 [Faint text]
- 4.5.3 [Faint text]
- 4.5.4 [Faint text]

4.6 Objections to proposed developments:

- 4.6 [Faint text]

4.7 Way Forward:

- 4.7.1 [Faint text]

5. Ratification of minutes from previous AGM

[Faint text]

- 5.1 [Faint text]

[Faint text]

[Faint text]

5.2

The following information is provided for the purpose of the financial statements for the year ended 31 December 2014.

6. GEKCO Membership & Constitution - J Turner

6.1 The following information is provided for the purpose of the financial statements for the year ended 31 December 2014.

6.2 The following information is provided for the purpose of the financial statements for the year ended 31 December 2014.

6.3 The following information is provided for the purpose of the financial statements for the year ended 31 December 2014.

The following information is provided for the purpose of the financial statements for the year ended 31 December 2014.

6.4 The following information is provided for the purpose of the financial statements for the year ended 31 December 2014.

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The following information is provided for the purpose of the financial statements for the year ended 31 December 2014.

Handwritten initials/signature in the bottom right corner.

...the ... of ...
...the ... of ...
...the ... of ...
...the ... of ...
...the ... of ...

7. Financial Report - A Brand

- 7.1 ...
- 7.2 ...
- 7.3 ...
- 7.4 ...
- 7.5 ...
- 7.6 ...
- 7.7 ...
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- 7.9 ...
- 7.10 ...
- 7.11 ...

...the ... of ...
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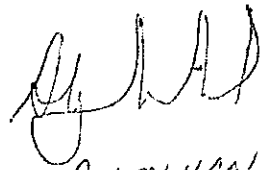
8. Election of new committee


KK: If you would like the committee members to stand again we are making ourselves available.

This was accepted.
No objections observed.

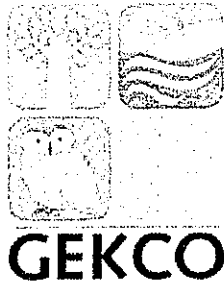
No new committee members were proposed despite request.

Closing
20h15


ANTONY VAN NIEKERK
Secretary


KRISTINI
CHAIR





GEKCO MANCOM Meeting minutes

Date	5 th May 2014	
Time	18h45	
Venue	---	
Present	Chair: Kristin Kallesen - KK Vice Chair: Mandy Collins - MC Secretary: Anton van Niekerk - AVN Kate Tasseron - KT Tyrone McKendry	Janine Turner - JT Robyn Hare - RH Darryl van Niekerk - DVN Simon Buskin - SB
Apologies		

KK opened the meeting and welcomed all present.

1. Membership

1.1

1.2

1.3

1.4

1.5

KK
AK

- 1.6 The following people were voted into office as per their acknowledgment and confirmation by the attendees at the AGM held on 15th April 2014. There were no objections to their holding these positions by any GEKCO member at the AGM.
- 1.7 The following people were voted into office as per their acknowledgment and confirmation by the attendees at the AGM held on 15th April 2014. There were no objections to their holding these positions by any GEKCO member at the AGM.
- 1.8 The following people were voted into office as per their acknowledgment and confirmation by the attendees at the AGM held on 15th April 2014. There were no objections to their holding these positions by any GEKCO member at the AGM.
- 1.9 The following people were voted into office as per their acknowledgment and confirmation by the attendees at the AGM held on 15th April 2014. There were no objections to their holding these positions by any GEKCO member at the AGM.
- 1.10 The following people were voted into office as per their acknowledgment and confirmation by the attendees at the AGM held on 15th April 2014. There were no objections to their holding these positions by any GEKCO member at the AGM.
- 1.11 The following people were voted into office as per their acknowledgment and confirmation by the attendees at the AGM held on 15th April 2014. There were no objections to their holding these positions by any GEKCO member at the AGM.
- 1.12 The following people were voted into office as per their acknowledgment and confirmation by the attendees at the AGM held on 15th April 2014. There were no objections to their holding these positions by any GEKCO member at the AGM.

2. Outride

The following people were voted into office as per their acknowledgment and confirmation by the attendees at the AGM held on 15th April 2014. There were no objections to their holding these positions by any GEKCO member at the AGM.

3. Communications

The following people were voted into office as per their acknowledgment and confirmation by the attendees at the AGM held on 15th April 2014. There were no objections to their holding these positions by any GEKCO member at the AGM.

4. Constitutional amendments

The following people were voted into office as per their acknowledgment and confirmation by the attendees at the AGM held on 15th April 2014. There were no objections to their holding these positions by any GEKCO member at the AGM.

5. Events

- 1. The following people were voted into office as per their acknowledgment and confirmation by the attendees at the AGM held on 15th April 2014. There were no objections to their holding these positions by any GEKCO member at the AGM.
- 2. The following people were voted into office as per their acknowledgment and confirmation by the attendees at the AGM held on 15th April 2014. There were no objections to their holding these positions by any GEKCO member at the AGM.

6. Grass Owl study

- 1. The following people were voted into office as per their acknowledgment and confirmation by the attendees at the AGM held on 15th April 2014. There were no objections to their holding these positions by any GEKCO member at the AGM.

7. Portfolios / elections

- 7.1 The following people were voted into office as per their acknowledgment and confirmation by the attendees at the AGM held on 15th April 2014. There were no objections to their holding these positions by any GEKCO member at the AGM.
- 7.2 Alwina Brand - Treasurer

Handwritten signatures

Kristin Kallesen – Chair
Janine Turner - Legal
Anton van Niekerk - Secretary
Tyrone McKendry - Biodiversity
Mandy Collins - Vice Chair
Simon Buskin - Newsletter
Darryl van Niekerk – Committee

Kate Tasseron - Sub committee - Signage
Robyn Hare – Sub committee - Arbour day
Shiree Darley – Sub committee
Francois Euvrard – Sub committee

Meeting closes	19h55
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Next meeting is to be confirmed at a later date.

Minutes prepared by Anton van Niekerk – Secretary GEKCO

AK
AK



Lady Brooks Gebou / Lady Brooks Building
14 - 12de Straat, Menlopark, Pretoria
14 - 12th Street, Menlo Park, Pretoria
1335, Pretoria, 0001
012 346 1075
012 346 1845
012 346 6665
info@avatt.co.za

OUR REF / ONS VERW: JA VENTER/LJ/AC0089
YOUR REF / U VERW:

DATE / DATUM: 2019-10-01

TO: THE CHAIRPERSON
CITY OF JOHANNESBURG MUNICIPAL PLANNING TRIBUNAL
ATT: MR. CEDRIC VAN DER MERWE
E-MAIL: Cedricv@joburg.org.za

COPY TO: THE CHAIRPERSON
THE GREATER KYALAMI CONSERVANCY
ATT: MS. KRISTIN KALLESEN
E-MAIL: Chair@gekco.co.za

COPY TO: THE DIRECTORS
RIVERSANDS DEVELOPMENTS (PTY) LTD
AND CENTURY PROPERTY DEVELOPMENTS (PTY) LTD
ATT: MR. CHRIS LOMBARD / MR. HARM SCHREURS /
MS. GERDA SCHOEMAN / MS. LAUREN LIBERA

BY E-MAIL

Sir / Madam,

**RULING OF THE MUNICIPAL PLANNING TRIBUNAL PERTAINING TO THE
LOCUS STANDI AND AUTHORITY OF MS. KALLESEN OF THE GREATER
KYALAMI CONSERVANCY TO OPPOSE THE RIVERSIDE VIEW TOWNSHIP
DEVELOPMENTS**

JAN ADRIAAN VENTER (BA B.PROC LLB LIMB)
Assisted by / Bygestaan deur:
DANIELE LOUW (LLB PGDFP) & WILHELM SCHEEPERS (BA LLB)

We refer to the above matter, confirm that we act herein on behalf of Riversands Developments (Pty) Ltd as well as Century Property Developments (Pty) Ltd (hereinafter collectively referred to as "our clients") and herewith confirm that we are in possession of the MPT Ruling in the above regard, the contents of which have been noted.

We have however been instructed to record the following:

1. Our clients, i.e. the Applicants in these matters, have lodged not less than 27 (twenty seven) separate Township Establishment Applications, some of which are pending, some of which have been approved, some of which have been proclaimed and some of which have already been developed.
2. GEKCO and Ms Kallesen have allegedly, on an unauthorised basis, already objected to all such Township Establishment Applications and the authority and *locus standi* of Ms Kallesen and GEKCO have always been disputed by our clients.
3. A point *in limine* pertaining to the authority and *locus standi* of Ms Kallesen and GEKCO was recently raised in general at the specific hearings arranged before the MPT in respect of the pending Township Establishment Applications for Riverside View Extensions 14, 17, 18, 36, 42, 85, 97, 98 and 99.
4. The Applicants specifically however recorded at such hearings before the MPT that a decision on the point *in limine* is not required for those specific hearings held in respect of these specific Townships, which hearings were held on 2 (two) consecutive days, and that GEKCO and Ms Kallesen could, on an uninterrupted basis, participate in such proceedings, irrespective of the point *in limine* raised by the Applicants.
5. The aforementioned arrangement was accepted by all parties to the effect that Ms Kallesen stated a case on behalf of GEKCO, which submissions were duly

JAN ADRIAAN VENTER (BA B.PROC LLB LIMB)
Assisted by / Bygestaan deur:
DANIELE LOUW (LLB PGDFP) & WILHELM SCHEEPERS (BA LLB)



considered and responded to by the Applicants, and therefore undoubtedly would form part of the considerations of the MPT for purposes of its Decisions in respect of the abovementioned Townships.

6. The ruling now received from the MPT with regard to the authorisation and *locus standi* of Ms Kallesen and GEKCO can therefore only have effect and impact upon their involvement in our clients' other remaining and pending Applications for Township Establishment which are still to be considered by the Municipality and/or the MPT, in respect of which they have already filed their irregular and invalid objections.
7. Ms Kallesen and GEKCO are therefore only entitled to lodge an Appeal in response to the ruling made by the MPT regarding their authority and *locus standi* to participate in our clients' other still pending Riverside View Township Establishment Applications, for purposes of which they have now been disqualified to participate in.
8. No Appeal can therefore be lodged in respect of the completed hearings held for purposes of the Riverside View Extensions 14, 17, 18, 36, 42, 85, 97, 98 and 99 Townships in which hearings Ms Kallesen and GEKCO already fully participated.

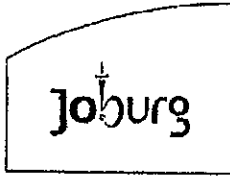
We trust you find the above of assistance.

Yours faithfully,


~~ADRIAAN VENTER~~
ATTORNEYS & ASSOCIATES

JAN ADRIAAN VENTER (BA B.PROC LLB LIMB)
Assisted by / Bygestaan deur:
DANIELE LOUW (LLB PGDFP) & WILHELM SCHEEPERS (BA LLB)





City of Johannesburg
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Before the Municipal Planning Tribunal of the City of Johannesburg

**In the application for the for the establishment of Townships Riverside view
Extensions 14, 17, 18 36,42, 85, 97, 98 and 99.**

Ruling

This ruling relates to the legal submission by the legal representative of the applicant (Century) challenging the locus standi of the representative of GEKCO (Ms. Kallesen – Chairperson of GEKCO) who apparently objected on behalf of GEKCO to the applications for the establishment of townships Riverside view extensions 14, 17, 18 36,42, 85,97,98 and 99. (See letters of objection date stamped 2 December 2014 attached as annexure A1 to A 5)

The legal submission relates to the authority of the objector (Ms. Kallesen) on the date of such objection and if the representative was duly authorized to lodge such objection.

The objections to the mentioned application were submitted on a GEKCO letterhead undated but date stamped with an acknowledgement of receipt by the city on 2 December 2014. The letters of objection were signed by Kirsten Kallesen – Chairperson Greater Kyalami Conservancy (GEKCO) see annexure A1- A5

As part of the challenge on the authority of Ms. Kallesen the applicant required that proof be submitted to the Tribunal that Ms. Kallesen was duly authorized to submit the objections on the date of submission. Further it was required to show that she was duly authorized by a representative majority vote of members of GEKCO by virtue of the constitution of GEKCO to do so, including authorization by GEKCO to represent the conservancy at the tribunal hearing.

GEKCO and Ms. Kallesen were granted an opportunity to provide the required information to place the Tribunal in a position to make an informed decision on the legal points raised. In response the Secretary of GEKCO Mr. Van Niekerk provided the Tribunal with a copy of the GEKCO constitution well as written

Two handwritten signatures in black ink are located in the bottom right corner of the page. The first signature is a stylized, cursive 'AK' and the second is a more fluid, cursive signature.

submissions together with copies of the letters of objection attached as annexure A1- A5. As part of the written submissions Mr. Van Niekerk on behalf of the management of GEKCO provided ratification letters dated 14 August 2019. (See annexure B1-B2).

The *first* ratification letter B1 ratifying and confirming that Ms. Kallesen was authorized to act on behalf of GEKCO in objecting to the subject applications, which objections were lodged with the city in December 2014 (See annexure A1-A5).

The *second* ratification letter ratify and confirm that Ms. Kallesen is authorized to continue to represent GEKCO, that GEKCO persists with the objections and that all acts by Ms. Kallesen in objecting and pursuing the such objections are ratified. (See B2).

It is common cause that GEKCO is a juristic person (see clause 1 of the GEKCO constitution). It is further not disputed that MS. Kallesen is the elected chairperson of GEKCO from April 2014 and re-elected on July 2019.

In opposition to the challenge Mr. van Niekerk in the written submissions, firstly relies on GEKCO's constitution and specifically highlights clause 13 thereof wherein, he argues, it is stated that the Chairperson is empowered to act on behalf of GEKCO in carrying out the business of GEKCO (own emphasis).

Clause 13.1 of the GEKCO constitution states - "Management has the power to perform all acts required to give effect to the constitution and the objectives of the conservancy."

The objectives of the conservancy are contained in Clause 2 of the constitution and starts off as – "2.1 the objectives of the conservancy within the defined area as set out in clause 4 are to:..." (Own emphasis)

Thus, the objectives of the conservancy are confined to a defined area as per clause 4 of the constitution of GEKCO.

The area defined in clause 4 of the constitution specifically excludes the Riversands Area. The subject properties of these township applications are therefore excluded from the defined area wherein the objectives of GEKCO as per their constitution authorises the Chairperson to carry out the business of GEKCO.

Considering the above I hold the opinion that the objectives of the conservancy and the powers of the management team to give effect to the objectives of the conservancy are limited to the defined area that specifically exclude the Riversands area.

Should the management team feel the need to involve GEKCO outside the defined area, specific authorization is required and any member purporting to act on behalf of GEKCO would have to be authorized to do so as an agent of GEKCO.



Despite request no evidence was provided to the tribunal by GEKCO or Ms. Kallesen that she as chairperson was duly authorized to lodge objections on behalf of GEKCO to the various applications, falling outside the defined area of the GEKCO jurisdiction, at the time when the objection letters were submitted to the City in December 2014.

In an attempt to overcome this lack of authorization GEKCO provided the tribunal with the two ratification letters described above (annexure B1 and B2).

As a general rule, if a principal (GEKCO) ratify what was done in his name, then the resulting situation is same as if power has been granted beforehand. Thus, ratification is equivalent to a mandate. Ratification is also retrospective in effect. (See Law of agency AJ Kerr). Also see- Law of South Africa, second edition, Agency and Representation par 87 – "Where a person acts for another without authority, that lack of authority may in appropriate circumstances be cured by ratification".

However there is a limitation in the South African law on ratification- "When an act has to be done within a fixed time, performance of that act by an unauthorised agent cannot be ratified by the principle after the lapse of such fix time to the prejudice of another who is required some right or advantage from the non-performance within the fixed time" - See Law of Agency AJ Kerr 3rd edition p 104 under heading "(v) When ratification may take place".

Also see Uitenhage Municipality v Uys 1974(3) SA par E-F p807

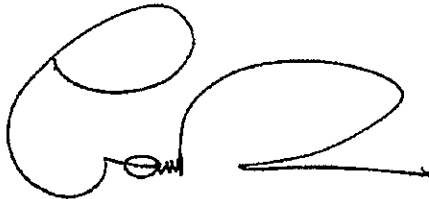
In this instance the applications for the proposed townships was lodged in terms of the Town Planning and Townships Ordinance, 1986. Any lawful objections in terms of the Ordinance must have been filed within the prescribed 28 days. Thus, the act of the authorised agent (Ms Kallesen) lodging the objections on behalf of GEKCO must have happened within this fixed time of 28 days.

Factually Ms. Kallesen was not authorised to object to these applications that fall outside the defined area of the Conservancy at the time of lodging such objections.

Therefor the attempted retrospective ratification letters dated 14 August 2019 (annexure B1 and B2) fall foul of the limitation quoted above. The unauthorised actions by Ms. Kallesen on behalf of GEKCO cannot be legally ratified outside the fixed time period of 28 days as per the provisions of the Ordinance.

Considering the above I find and rule that the objections as launched by Ms. Kallesen on behalf of GEKCO date stamped the 2nd of December 2014 are unauthorised and invalid and incapable of lawful ratification.

Therefore, GECKO and Ms. Kallesen is ruled not to be official objectors against the above applications.



Cedric van der Merwe
Chairperson- Municipal Planning Tribunal
Urban Development Legal Services
Tel: 011-407-7228
cedricv@loburg.org.za

20 September 2019



1 A 1

City of Johannesburg
Executive Director: Development Planning and Urban Management
Room 8100, 8th Floor
A Block, Metropolitan Centre
158 Loveday Street Extension
Braamfontein



2/12/2014
Ben AP

Attn: Ben Pretorius
BenAP@Joburg.org.za

To whom it may concern,

LETTER OF OBJECTION – RIVERSIDE VIEW EXTENSION 14 situated on Portions 7, 36 & 38 of the farm Diepsloot 388-JR.

On behalf of the Greater Kyalami Conservancy I hereby object to such township establishment application for Riverside View Ext 14 for Motor Trade, Warehouses, Light Industrial, Offices, and Commercial uses as advertised in the provincial gazette on 5 November 2014.

The grounds upon which I object to the township application are, inter alia, the following:

- 1.1. The development does not encourage environmentally sustainable land development and practices. There are a number of important wetlands on site, extensive damage has already occurred and must not be allowed to continue. The site currently acts as a biodiversity corridor for the migration of bullfrogs, mammals and contains habitat for birdlife including the African Grass-Owl, a red listed species. A commercial development of this nature will not allow the biodiversity to be maintained. A well respected ornithologist has requested investigations be done as to the suitability of habitat and presence of Grass Owls after viewing the property. This request has been made to the developer who has not allowed specialists access to the site.
- 1.2. The development and proposed densities are motivated by proposed provincial roads, namely the K56, PWV5 and PWV9. An environmental impact assessment is currently being undertaken on the proposed K56 (planned in 1972) which is subject to serious hydrological and environmental issues. The PWV5 and PWV9 were slated as phase 2 of the Gauteng Freeway Improvement Programme (GFIP). As a result of the uncertainty and delay with the e-tolling, the future of these roads is uncertain. The applicant should not base the motivation of this application on proposed roads which are not yet approved or budgeted.

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- 1.3. The issues above and the promotion of Urban Sprawl; development in areas requiring the addition of infrastructure which will require further capital input to maintain; building new roads rather than upgrading existing roads and improving public transport - resulting in longer commutes, increased travel costs and carbon emissions; loss of open space and biodiversity, are not in alignment with the City of Joburg Growth and Development Strategy for 2040. (GDS 2040)
- 1.4. This area is a rural residential suburb where residents ride horses as part of their daily routine, something that has been the lifeblood of this suburb for 30 years. The traffic produced by the proposed project will endanger the horses and riders alike. Rose Road must not be considered as an appropriate access to this development as it is a rural, farm road utilized extensively by horse riders and riding schools.
- 1.5. The development has not produced a needs and desirability study. There are many vacant Industrial and warehousing areas in need of revitalization with appropriate access and infrastructure.
- 1.6. Diepsloot has a severe shortage of housing and infrastructure for existing residents. This development would only attract more job seekers looking for housing in an already stressed situation where many live in inhumane conditions.
- 1.7. South Africa is currently not able to produce enough electricity for existing loads. Further projects should not be allowed until we are able to provide for existing requirements and development which is not sustainable increases the risk of blackouts and a collapse of the system.

I reserve the right to add or amend comments as further information becomes available.

We reserve the right of our members to respond independently.

Yours faithfully

Kristin Kalleesen - Chairperson Greater Kyalami Conservancy



Email: chair@gekco.co.za

Physical Address [REDACTED]



A2

City of Johannesburg
Executive Director: Development Planning and Urban Management
Room 8100, 8th Floor
A Block, Metropolitan Centre
158 Loveday Street Extension
Braamfontein



2.11.2014
per
S

Attn: Ben Pretorius
BenAP@Joburg.org.za

To whom it may concern,

LETTER OF OBJECTION – RIVERSIDE VIEW EXTENSION 17 situated on Portion 7 of the farm Diepsloot 388-JR

On behalf of the Greater Kyalami Conservancy I hereby object to such township establishment application for Riverside View Ext 17 for Warehouses, Storage, Showrooms, Light Industrial, Commercial and Office uses as advertised in the provincial gazette on 5 November 2014.

The grounds upon which I object to the township application are, inter alia, the following:

- 1.1. The development does not encourage environmentally sustainable land development and practices. There are a number of important wetlands on site, extensive damage has already occurred and must not be allowed to continue. The site currently acts as a biodiversity corridor for the migration of bullfrogs, mammals and contains habitat for birdlife including the African Grass-Owl, a red listed species. A commercial development of this nature will not allow the biodiversity to be maintained. A well respected ornithologist has requested investigations be done as to the suitability of habitat and presence of Grass Owls after viewing the property. This request has been made to the developer who has not allowed specialists access to the site.

- 1.2. The development and proposed densities are motivated by proposed provincial roads, namely the K56, PWV5 and PWV9. An environmental impact assessment is currently being undertaken on the proposed K56 (planned in 1972) which is subject to serious hydrological and environmental issues. The PWV5 and PWV9 were slated as phase 2 of the Gauteng Freeway Improvement Programme (GFIP). As a result of the uncertainty and delay with the e-tolling, the future of these roads is uncertain. The applicant should not base the motivation of this application on proposed roads which are not yet approved or budgeted.

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- 1.3. The Issues above and the promotion of Urban Sprawl; development in areas requiring the addition of infrastructure which will require further capital input to maintain; building new roads rather than upgrading existing roads and Improving public transport - resulting in longer commutes, increased travel costs and carbon emissions; loss of open space and biodiversity, are not in alignment with the City of Joburg Growth and Development Strategy for 2040. (GDS 2040)
- 1.4. This area is a rural residential suburb where residents ride horses as part of their daily routine, something that has been the lifeblood of this suburb for 30 years. The traffic produced by the proposed project will endanger the horses and riders alike. Rose Road must not be considered as an appropriate access to this development as it is a rural, farm road utilized extensively by horse riders and riding schools.
- 1.5. The development has not produced a needs and desirability study. There are many vacant industrial and warehousing areas in need of revitalization with appropriate access and infrastructure.
- 1.6. Diepsloot has a severe shortage of housing and infrastructure for existing residents. This development would only attract more job seekers looking for housing in an already stressed situation where many live in inhumane conditions.
- 1.7. South Africa is currently not able to produce enough electricity for existing loads. Further projects should not be allowed until we are able to provide for existing requirements and development which is not sustainable increases the risk of blackouts and a collapse of the system.

I reserve the right to add or amend comments as further information becomes available.

We reserve the right of our members to respond independently.

Yours faithfully

Kristin Kallisen - Chairperson Greater Kyalami Conservancy



Email: chair@gekco.co.za

Physical Address: [REDACTED]



A3

City of Johannesburg
Executive Director: Development Planning and Urban Management
Room 8100, 8th Floor
A Block, Metropolitan Centre
158 Loveday Street Extension
Braamfontein



2/12/2014
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Attn: Ben Pretorius
BenAP@Joburg.org.za

To whom it may concern,

LETTER OF OBJECTION – RIVERSIDE VIEW EXTENSION 18 situated on Portions 36,37, and 38 of the farm Diepsloot 388-JR.

On behalf of the Greater Kyalami Conservancy I hereby object to such township establishment application for Riverside View Ext 18 for Motor Trade, Warehouses, Light Industrial, Commercial and Office uses as advertised in the provincial gazette on 5 November 2014.

The grounds upon which I object to the township application are, inter alia, the following:

- 1.1. This development would displace the Riversands Farm School which has been in existence for over 50 years and serves 700 children from Diepsloot.
- 1.2. The development does not encourage environmentally sustainable land development and practices. There are a number of important wetlands on site, extensive damage has already occurred and must not be allowed to continue. The site currently acts as a biodiversity corridor for the migration of bullfrogs, mammals and contains habitat for birdlife including the African Grass-Owl, a red listed species. A well respected ornithologist has requested investigations be done as to the suitability of habitat and presence of Grass Owls after viewing the property. This request has been made to the developer who has not allowed specialists access to the Riversands site.
- 1.3. The development and proposed densities are motivated by proposed provincial roads, namely the K56, PWV5 and PWV9. An environmental impact assessment is currently being undertaken on the proposed K56 (planned in 1972) which is subject to serious hydrological and environmental issues. The PWV5 and PWV9 were slated as phase 2 of the Gauteng Freeway Improvement Programme (GFIP). As a result of the uncertainty and delay with the e-tolling, the future of these roads is uncertain. The applicant should not base the motivation of this application on proposed roads which are not yet approved or budgeted.

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- 1.4. The issues above and the promotion of Urban Sprawl; development in areas requiring the addition of infrastructure which will require further capital input to maintain; building new roads rather than upgrading existing roads and improving public transport - resulting in longer commutes, increased travel costs and carbon emissions; loss of open space and biodiversity, are not in alignment with the City of Joburg Growth and Development Strategy for 2040. (GDS 2040)
- 1.5. This area is a rural residential suburb where residents ride horses as part of their daily routine, something that has been the lifeblood of this suburb for 30 years. The traffic produced by the proposed project will endanger the horses and riders alike. Rose Road must not be considered as an appropriate access to this development as it is a rural, farm road utilized extensively by horse riders and riding schools.
- 1.6. The development has not produced a needs and desirability study. There are many vacant industrial and warehousing areas in need of revitalization with appropriate access and infrastructure.
- 1.7. Diepsloot has a severe shortage of housing and infrastructure for existing residents. This development would only attract more job seekers looking for housing in an already stressed situation where many live in inhumane conditions.
- 1.8. South Africa is currently not able to produce enough electricity for existing loads. Further projects should not be allowed until we are able to provide for existing requirements and development which is not sustainable increases the risk of blackouts and a collapse of the system.

I reserve the right to add or amend comments as further information becomes available.

We reserve the right of our members to respond independently.

Yours faithfully

Kristin Kallisen - Chairperson Greater Kyalami Conservancy



Email: chair@gekco.co.za

Physical Address: [REDACTED]



A4

City of Johannesburg
Executive Director: Development Planning and Urban Management
Room 8100, 8th Floor
A Block, Metropolitan Centre
158 Loveday Street Extension
Braamfontein



Attn: Ben Pretorius
BenAP@Joburg.org.za

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To whom it may concern,

**LETTER OF OBJECTION – RIVERSIDE VIEW EXTENSION 36 situated on part of Portion 7 of the farm
Diepsloot 388-JR.**

On behalf of the Greater Kyalami Conservancy I hereby object to such township establishment application for Riverside View Ext 36 for Offices, Motor Trade and Storage uses as advertised in the provincial gazette on 12 November 2014.

The grounds upon which I object to the township application are, inter alia, the following:

- 1.1. The development does not encourage environmentally sustainable land development and practices. There are a number of important wetlands on site, extensive damage has already occurred and must not be allowed to continue. The site currently acts as a biodiversity corridor for the migration of bullfrogs, mammals and contains habitat for birdlife including the African Grass-Owl, a red listed species. A commercial development of this nature will not allow the biodiversity to be maintained. A well respected ornithologist has requested investigations be done as to the suitability of habitat and presence of Grass Owls after viewing the property. This request has been made to the developer who has not allowed specialists access to the site.

- 1.2. The development and proposed densities are motivated by proposed provincial roads, namely the K56, PWV5 and PWV9. An environmental impact assessment is currently being undertaken on the proposed K56 (planned in 1972) which is subject to serious hydrological and environmental issues. The PWV5 and PWV9 were slated as phase 2 of the Gauteng Freeway Improvement Programme (GFIP). As a result of the uncertainty and delay with the e-tolling, the future of these roads is uncertain. The applicant should not base the motivation of this application on proposed roads which are not yet approved or budgeted.

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- 1.3. The issues above and the promotion of Urban Sprawl; development in areas requiring the addition of infrastructure which will require further capital input to maintain; building new roads rather than upgrading existing roads and improving public transport - resulting in longer commutes, increased travel costs and carbon emissions; loss of open space and biodiversity, are not in alignment with the City of Joburg Growth and Development Strategy for 2040. (GDS 2040)
- 1.4. This area is a rural residential suburb where residents ride horses as part of their daily routine, something that has been the lifeblood of this suburb for 30 years. The traffic produced by the proposed project will endanger the horses and riders alike. Rose Road must not be considered as an appropriate access to this development as it is a rural, farm road utilized extensively by horse riders and riding schools.
- 1.5. The development has not produced a needs and desirability study. There are many vacant industrial and warehousing areas in need of revitalization with appropriate access and infrastructure.
- 1.6. Diepsloot has a severe shortage of housing and infrastructure for existing residents. This development would only attract more job seekers looking for housing in an already stressed situation where many live in inhumane conditions.
- 1.7. South Africa is currently not able to produce enough electricity for existing loads. Further projects should not be allowed until we are able to provide for existing requirements and development which is not sustainable increases the risk of blackouts and a collapse of the system.

I reserve the right to add or amend comments as further information becomes available.

We reserve the right of our members to respond independently.

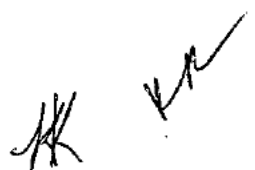
Yours faithfully

Kristin Kallesen - Chairperson Greater Kyalami Conservancy



Email: chair@gekco.co.za

Physical Address: 



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City of Johannesburg
Executive Director: Development Planning and Urban Management
Room 8100, 8th Floor
A Block, Metropolitan Centre
158 Loveday Street Extension
Braamfontein



2/12/2014
Pretorius

Attn: Ben Pretorius
BenAP@joburg.org.za

To whom it may concern,

LETTER OF OBJECTION – RIVERSIDE VIEW EXTENSION 42 situated on part of Portion 7 of the farm Diepsloot 388-JR

On behalf of the Greater Kyalami Conservancy I hereby object to such township establishment application for Riverside View Ext 42 for a Public Garage, Drive-thru Restaurant and ancillary uses as advertised in the provincial gazette on 12 November 2014.

The grounds upon which I object to the township application are, inter alia, the following:

- 1.1. The development does not encourage environmentally sustainable land development and practices. There are a number of important wetlands on site, extensive damage has already occurred and must not be allowed to continue. The site currently acts as a biodiversity corridor for the migration of bullfrogs, mammals and contains habitat for birdlife including the African Grass-Owl, a red listed species. A commercial development of this nature will not allow the biodiversity to be maintained. A well respected ornithologist has requested investigations be done as to the suitability of habitat and presence of Grass Owls after viewing the property. This request has been made to the developer who has not allowed specialists access to the site.
- 1.2. The development and proposed densities are motivated by proposed provincial roads, namely the K56, PWV5 and PWV9. An environmental impact assessment is currently being undertaken on the proposed K56 (planned in 1972) which is subject to serious hydrological and environmental issues. The PWV5 and PWV9 were slated as phase 2 of the Gauteng Freeway Improvement Programme (GFIP). As a result of the uncertainty and delay with the e-tolling, the future of these roads is uncertain. The applicant should not base the motivation of this application on proposed roads which are not yet approved or budgeted.

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- 1.3. The issues above and the promotion of Urban Sprawl; development in areas requiring the addition of infrastructure which will require further capital input to maintain; building new roads rather than upgrading existing roads and improving public transport - resulting in longer commutes, increased travel costs and carbon emissions; loss of open space and biodiversity, are not in alignment with the City of Joburg Growth and Development Strategy for 2040. (GDS 2040)
- 1.4. This area is a rural residential suburb where residents ride horses as part of their daily routine, something that has been the lifeblood of this suburb for 30 years. The traffic produced by the proposed project will endanger the horses and riders alike. Rose Road must not be considered as an appropriate access to this development as it is a rural, farm road utilized extensively by horse riders and riding schools.
- 1.5. The development has not produced a needs and desirability study. There are many vacant industrial and warehousing areas in need of revitalization with appropriate access and infrastructure.
- 1.6. Diepsloot has a severe shortage of housing and infrastructure for existing residents. This development would only attract more job seekers looking for housing in an already stressed situation where many live in inhumane conditions.
- 1.7. South Africa is currently not able to produce enough electricity for existing loads. Further projects should not be allowed until we are able to provide for existing requirements and development which is not sustainable increases the risk of blackouts and a collapse of the system.

I reserve the right to add or amend comments as further information becomes available.

We reserve the right of our members to respond independently.

Yours faithfully

Kristin Kallesen - Chairperson Greater Kyalami Conservancy



Email: chair@gekco.co.za

Physical Address: [REDACTED]



B2

THE GREATER KYALAMI CONSERVANCY

GEKCO



RATIFICATION LETTER

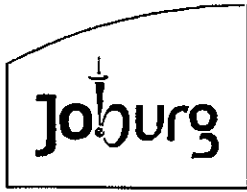
We, the Management Committee of the Greater Kyalami Conservancy (GEKCO) hereby ratify and confirm that

- i) Ms Kallesen continues to be authorised to represent GEKCO;
- ii) that GEKCO persists with the objections to the Riverside View townships Extension 14, 17, 18, 36 and 42 situated on Portions 7,36,37,38 and 121 of the farm Diepsloot 388-JR as lodged with the City of Johannesburg Legal Administration in December 2014; and the objections to Riverside View townships Extension 85,97,98 and 99 on portions of the farm Zevenfontein 407JR
- iii) that, to the extent necessary all acts by Ms Kallesen in objecting and in pursuing such objections are ratified.

Signed on this date 14 August 2019 in Kyalami.

Susan Warring Vice Chairperson – Susan Warring
Anton van Niekerk Secretary – Anton van Niekerk
Thys Brand Treasurer – Thys Brand
Keith Bush Keith Bush
Darryl van Niekerk Darryl van Niekerk

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a world class African city

City of Johannesburg
Department of Development Planning

Appeal Process

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Internal appeals

An owner of land, any person that submitted an objection and any person who's petition to intervene has been granted, whose rights may be adversely affected by a decision taken by the Municipal Planning Tribunal, the authorised official or any of its sub-delegates in respect of-

- (a) any land development application envisaged in Chapter 5 of the By-law;
- (b) a change of circumstances application;
- (c) any engineering services- and/or parks or open spaces contributions imposed or levied in terms of any provision of this By-law,

1. The appeal must be addressed to the City Manager
2. The appeal must be submitted within 28 days from the date when the decision was received by the Applicant and or objector. If and when the decision was received late proof thereof must be submitted.
3. A comprehensive grounds of appeal and written notice must be submitted to the Registration Section, Registration Counter, Department of Development Planning, Room 8100, 8th Floor A- Block, Metropolitan Centre, 158 Civic Boulevard, Braamfontein within the period mentioned in (2 above)
4. The required application fee is payable.
5. Should reference be made to a specific document, policy, framework, copies of the Document should be attached (only the specific pages of the document and not the whole Document). These documents must be marked as annexures to the appeal.
6. Should the applicant of an application be the appellant, the Applicant would be responsible in the notification of all objectors and interested parties of such an appeal.
7. Should the objector be the appellant, the Council would be responsible in the notification to the applicant and other objectors to the application.
8. An appeal is invalid if it is not lodged within the time period mentioned in (2) above.
9. The notice of an appeal must allow all parties concerned 21 days from the date of notification to oppose or comment on the appeal.



10. The appellant must provide the City with proof of notification within 14 days from the date of the notification as in (6) above.
11. The appeal will be captured on the date of submission in the Council Application system and a file will be opened for the appeal. The appeal will be allocated a reference number and all documents related to the appeal will be placed on file.
12. The appeal will be processed by the Department of Development Planning.
13. Once finalised the appeal will be forwarded to the Legal and Compliance.
14. Thereafter the appeal will be submitted for consideration to Legal Section where the Appeal Committee will discuss the appeal.
15. A Recommendation will be made to the MMC Development Planning.
16. Once a decision has been made by the MMC Development Planning, the Appellant and objectors/applicant will be informed in writing of the decision taken.

Handwritten signatures in black ink, appearing to be initials or names, located in the bottom right corner of the page.



Lady Brooks Gebou / Lady Brooks Building
14 - 12de Straat, Menlo Park, Pretoria
14 - 12th Street, Menlo Park, Pretoria
1335, Pretoria, 0001
012 346 1075
012 346 1845
012 346 6665
info@avatt.co.za

OUR REF / ONS VERW: JA VENTER/DL/bb/AC0094
YOUR REF / U VERW:

DATE / DATUM: 2019-11-21

TO: THE MANAGER
LAND USE MANAGEMENT (REGISTRATION)
CITY OF JOHANNESBURG METROPOLITAN MUNICIPALITY

ATT: MR. BEN PRETORIUS

EMAIL: Benp@joburg.org.za

COPY TO: THE CHAIRPERSON
MUNICIPAL PLANNING TRIBUNAL
URBAN DEVELOPMENT LEGAL SERVICES
CITY OF JOHANNESBURG METROPOLITAN MUNICIPALITY

ATT: MR. CEDRIC VAN DER MERWE

EMAIL: Cedricv@joburg.org.za

Sir/Madam,

**OPPOSITION AND RESPONSE TO THE "APPEAL" LODGED BY THE GREATER
KYLAMI CONSERVANCY AGAINST THE DETERMINATION MADE BY THE
MUNICIPAL PLANNING TRIBUNAL DATED 20 SEPTEMBER 2019**

1. We confirm that we act herein on behalf of the **Applicants** in respect of various **Applications** for Township Establishment which have been submitted to the City of Johannesburg Metropolitan Municipality. Our authority to act herein on behalf of our clients is clearly evident from the contents of

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Assisted by / Bygestaan deur:
DANIELE LOUW (LLB PGDFP) & WILHELM SCHEEPERS (BA LLB)

Annexures A1 – A4 hereto

2. Our clients' interest in this matter is derived from its status as the respective property owners of the **subject properties** as well as the **Applicants** in respect of the aforementioned Township Establishment **Applications**.
3. Our instructions are that the **Applicants** have been confronted with a document, apparently constituting an "**Appeal**" dated 21 October 2019, which was allegedly lodged by **GEKCO** to the **Municipality**. Our instructions are that such document was not dispatched to our clients and our clients were not formally notified thereof as is required by the provisions of the **By-Law** (more specifically Section 49(8) thereof) as defined *infra* but the existence thereof was coincidentally detected by an employee of our clients who attended the offices of the **Municipality** for other matters during the last week of October or first week of November. A copy of such document was consequently received by hand. The aforementioned stemmed from the fact that electronic communication with or from your **Municipality** was at the time suspended for reasons not important for this response.
4. We consequently confirm that our instructions are to formally object and respond to the alleged "**Appeal**" document in terms of Section 49(9) of the City of Johannesburg Municipal Planning **By-Law**, 2016, for purposes of which we hereby record that the contact details which appear on this letterhead, are to be used for all correspondence relating to this alleged "**Appeal**".
5. For purposes of this response and in order to avoid any confusion in this regard, the following words and phrases shall, unless the context indicates otherwise, have the meanings donated opposite thereto:

Appeal : The alleged **Appeal** lodged by the **Appellant** dated 21 October 2019, apparently in respect of the **determination**

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of the **MPT** dated 20 September 2019.

- Appellant** : The Greater Kyalami Conservancy, and **GEKCO** shall have a consonant meaning.
- Applicants** : Riversands Developments (Pty) Ltd and Century Property Developments (Pty) Ltd, being the registered **property owners**.
- Applications** : Various **Applications** for Township Establishment lodged by the **Applicants** to the **Municipality**, which are to be known as Riverside View Extensions 14, 17, 18, 36, 42, 85, 97, 98 and 99, which pertain to the **subject properties**.
- By-Law** : The City of Johannesburg Municipal Planning **By-Law** 2016.
- Determination** : The **MPT's** procedural determination in respect of the authorisation and *locus standi* of the **Appellant** dated 20 September 2019, and **Ruling** shall have a consonant meaning.
- MAT** : The Municipal Appeal Authority of the **Municipality** as contemplated in Section 49 of the **By-Law**, read with Section 51(2) of **SPLUMA**.
- MPT** : The Municipal Planning Tribunal of the **Municipality** who made the **Determination**

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-
- Municipality** : The City of Johannesburg Metropolitan **Municipality**.
- PAJA** : The Promotion of Administrative Justice Act, Act 3 of 2000.
- Property owners** : The registered Landowners of the **subject properties** being the **Applicants**.
- SPLUMA** : The Spatial Planning and Land Use Management Act, Act 16 of 2013.
- Subject properties** : Parts of Portion 7, 36, 37 and 38 of the Farm Diepsloot 388, Registration Division JR and the Remaining Extent of Portion 5 (a Portion of Portion 4), Portion 11 (a Portion of Portion 8) and Portion 187 of the Farm Zevenfontein 407, Registration Division JR.


6.

INTRODUCTORY REMARKS

- 6.1 The alleged "**Appeal**" lodged by the **Appellant**, was lodged against a **Ruling** made by the **MPT** in respect of the lack of authorisation and *locus standi* of the **Appellant**, which point was raised by the **Applicants** during the hearing before the **MPT** in respect of the **Applications**.
- 6.2 Such **Appeal**, in our view, does not constitute a valid Appeal in terms of Section 49 of the **By-Law** at all, and moreover does not pertain to

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any decision which can be appealed against in terms of the **By-Law** or **SPLUMA**, which fact shall be illustrated *infra*.

- 6.3 The aforementioned abortive **Appeal** lodged by the **Appellant** constitutes nothing more than yet another frivolous and vexatious endeavour of the **Appellant** to delay the inevitable development of the **subject properties** by the **Applicants**.
- 6.4 We consequently submit that such **Appeal** should simply be dismissed due to the fact that same in fact does not constitute a valid **Appeal** which can be processed in terms of the **By-Law** by the **MAT**. Such fact shall be illustrated hereinafter.

7.

AD THE INVALID APPEAL AND LACK OF AN APPEALABLE DECISION

- 7.1 It is common cause that the **Appellant's Appeal** pertains exclusively to a **Ruling** made by the **MPT** subsequent to the hearings held in respect of the **Applicants' Applications**. Some of such **Applications** were heard by way of 2 (two) phased and separate hearings by the **MPT** for purposes of which the Townships were grouped in the form of Extensions 14, 17, 18, 36 and 42 for one hearing and Extensions 85, 97, 98 and 99 for the second hearing. Such **Ruling** is attached to the **Appeal** document and marked as "GK1" and evidently does not directly or indirectly pertain to the merits of any such **Applications**.
- 7.2 It should be noted that Section 15(1) of the **By-Law** sets out the powers and functions of a **MPT** and prescribes as follows:

"15. Powers and functions of a Municipal Planning Tribunal

(1) A Municipal Planning Tribunal –

(a) approve, in whole or in part, or refuse any

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application referred to it in accordance with this By-Law;

- (b) *in the approval of any application, impose any reasonable conditions, including conditions related to the provision of engineering services and the payment of any engineering services contributions;*
- (c) make an appropriate determination regarding all matters necessary or incidental to the performance of its functions in terms of this By-Law, the SPLUMA and/or any Provincial legislation;
- (d) *conduct any necessary investigation;*
- (e) *give directions relevant to its functions to any person in the service of the city or the municipal entity; or*
- (f) *decide any question concerning its own jurisdiction."*

(own underlining)

7.3 It is submitted that the **Ruling** made by the **MPT**, which forms the subject matter of the abortive **Appeal** of the **Appellant**, constitutes a determination made by the **MPT** in terms of Section 15(1)(c) of the **By-Law** and moreover does not at all constitute a final "decision" of the **MPT** in respect of the Town Planning merits of any Application envisaged in Section 15(1)(a) of the **By-Law**.

7.4 The **Appeal** therefore can by no stretch of the imagination be interpreted to pertain to the Town Planning merits of the **Applications**. Such fact is confirmed by undisputed circumstances where the **Appeal** was apparently lodged on 21 October 2019, whilst the **MPT's** decision in respect of the first hearing of the **Applications** involved i.e.

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Riverside View Extensions 85, 97, 98 and 99 was according to our instructions only reached on 24 October 2019, i.e. 3 (three) days after the **Appeal** has been lodged. It should further be noted that no decision from the **MPT** has, as of yet, been forthcoming in respect of the other **Applications** of the **Applicant** heard during the second hearing.

- 7.5 An extract of the aforementioned formal decision reached by the **MPT** in respect of the first group of **Applications** dated 24 October 2019, is attached hereto and marked as **Annexure B**. Same obviously does not and could not form the subject matter of the **Appeal**.
- 7.6 The ridiculousness of the **Appellant's** obstructive behaviour shall in all probability again be illustrated by the lodgement of an Appeal by the **Appellant** against the decision attached hereto as **Annexure B**, which behaviour is anticipated by the **Applicants**.
- 7.7 In the aforementioned context, Section 49(1) of the **By-Law** prescribes the Appeal process which has to be followed by any party who wishes to lodge an Appeal against a decision, and *inter alia* provides as follows:

"49

- (1) *an owner of land, any person that submitted an objection and any person whose petition to intervene has been granted as envisaged in Section 52 below, whose rights may be adversely affected by a decision taken by the Municipal Planning Tribunal, the authorised official or any of its sub-delegates in respect of –*
- (a) *any land development application envisaged in Chapter 5 of this By-Law;*
- (b) *any change of circumstances application envisaged in*



Section 24(2) and 42(6) above;

(c) any engineering services- and/or parks or open spaces contributions imposed or levied in terms of any provision of this By-Law

may appeal against that decision to the City Manager by giving written notice of the appeal, including comprehensive grounds of appeal, within 28 (twenty) eight days of the date of receipt of such notification of the decision or of date of receipt of the notification of such engineering services- and/or parks and/or open spaces and/or inclusionary housing contributions imposed or levied."
(own underlining)

- 7.8 The essence of the **Ruling** indeed is to the effect that the **Appellant** is not, and never was, a timeous valid and authorised Objector to the **Applications**. Such fact *per se*, according to the clear wording of Section 49(1) disqualifies the **Appellant** as an acknowledged aggrieved Objector entitled to lodge an **Appeal** and renders the **Appeal** irregular.
- 7.9 In addition, it should be noted that the **Ruling** made by the **MPT** does not constitute a "decision" envisaged without the ambit of Section 49(1) of the **By-Law** since the **Ruling** does not pertain to any land development application envisaged in Chapter 5 of the **By-Law**, does not pertain to a change of circumstances application envisaged in the **By-Law** and furthermore does not pertain to any engineering services and/or parks or open space contributions imposed in terms of the **By-Law**. The **Ruling** exclusively pertains to the authority and status of the **Appellant** as a timeous, valid and authorised "Objector" against the **Applications** and its *locus standi* to, in that capacity, participate in the land development proceedings prescribed in **SPLUMA** and the **By-Law**.

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- 7.10 In the aforementioned context, the provisions of Section 49(1) *supra* is specifically repeated in the **Municipality's** internal "*Appeal Process*" document, an extract of which is attached hereto and marked as **Annexure C**.
- 7.11 In the latter regard it should be noted that neither the **By-Law** nor the internal Appeal Process document adopted by the **Municipality** contains any Appeal mechanism in terms of which a party can lodge an Appeal against a determination or ruling made by the **MPT** in terms of Section 15(1)(c) of the **By-Law**.
- 7.12 Section 49(1) of the **By-Law**, as already alluded to above, specifically only provides for Appeals which can be lodged against **Decisions** taken by the **MPT** in respect of a land development application and correctly does not provide for interim procedural and other technical rulings or determinations of the **MPT** to form the subject matter of any such **Appeals**. The latter interim procedural and technical rulings and or determinations which do not deal or dispose of the merits of the **Applications**, do not constitute appealable "decisions" which fact renders the "**Appeal**" irregular, not processable and invalid. Such fact is repeated in the internal Appeal Process policy of the Municipality. In this regard your attention is drawn to the general requirements of an appealable "Decision", which has repeatedly been confirmed in our Courts and which only pertains to a Decision on the merits of a matter. In this regard:

- In *Garydale Estate and Investment Company (Pty) Limited v Johannesburg Western Rent Board & another TPD 1957 p. 467* the Court found that "A decision given under the Act in Section 11(1) of Act 43 of 1950 means a decision on the merits of a complaint or application relating to the rent of controlled premises subject to the Rent Act.. It does not

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apply to a decision declining jurisdiction." (my underlining).

- In *Nasionale Vervoer Kommissie van S.A. vs Salz Gossow Transport (Edms) Bpk, 1983 (4) (A)*, the learned Judge stated the following: "In die gewone loop van sake kan dit gebeur dat dit nodig sal wees vir 'n Raad wat 'n aansoek aanhoor, om 'n reeks beslissings te gee op uiteenlopende punte voordat daar uiteindelik by die beslissing van die aansoek op die meriete daarvan gekom word. Voorbeelde hiervan is beslissings in verband met aansoek om uitstel en beslissings met betrekking tot die tersaaklikheid van getuienis. Indien elke sodanig beslissing onderhewig is aan appel kan dit 'n uitgerekte tydverspillende, duur en frustrerende proses tot gevolg hê.....Waar 'n woord "beslissing" gebruik word in verband met 'n besluit van 'n persoon wat in 'n regterlike hoedanigheid ageer, tree die eienskap van finaliteit egter sterk op die voorgrond ... Dit sal dan in hierdie geval beteken dat die woord "beslissing" vertolk moet word om betrekking te hê op die meriete van die aansoek en nie op beslissings wat in die loop van so 'n aansoek gegee word met betrekking tot prosessiële aangeleenthede nie."
- The aforementioned decision has also with approval been quoted in *Weissglass NO vs Savonnerie Establishment 1992 (3)(SA) 928 (A)*.
- See also *South African Broadcasting Corporation –vs- Transvaal Townships Board and Others 1953 TPD*.
- In *Zweni v Minister of Law and Order 1993 (1) SA 523 A* this trite legal principle was confirmed as follows:

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“a Judgment or Order” is a decision which, as a general principle, has three attributes:

- 1. the decision must be final in effect and not susceptible of alteration by the Court of first instance;*
- 2. it must be definitive of the rights of the parties; and*
- 3. it must have the effect of disposing of at least a substantial portion of the relief claimed in the main proceedings.”*

- See also the matter of *Jacobs and others v Baumann NO and others 2009 (5) SA 432 (SCA)* where the Supreme Court of Appeal confirmed the latter legal principle as follows:

“It is trite that, generally speaking, a judgment or order is susceptible to appeal if it is (a) final in effect, i.e. unalterable by the court which made it; (b) definitive of the rights of the parties in that it grants definitive and distinct relief; and (c) dispositive of at least a substantial portion of the relief claimed in the main proceedings. Therefore, a court determining whether or not an order is final considers not only its form but also, and predominantly, its effect.”

- 7.13 Upon the mere perusal of the **Ruling** of the **MPT**, it is clear that same does not address the merits of the **Applications** at all, does not dispose of the **Applications** or even a part thereof, has no final effect on the **Applications** and consequently cannot form the subject matter of any **Appeal** to be considered by the **MAT**. This fact is confirmed by the simple practicality that the **“Appeal”** against the **Ruling** does not and cannot suspend the operation of anything as is envisaged in respect of an “appealable decision” envisaged in Section 49(16) of the **By-Law**.



7.14 In the aforementioned context it is trite Law that decisions which are not based on the merits of the Application and do not constitute appealable decisions, can only be reviewed by a Court of Law by way of a formal Review Application. In this regard, the following should be mentioned:

- *Rose Innes: Judicial Review of Administrative Tribunals, p. 8: "The common law power of review is exercised exclusively by the Supreme Court. Unless especially so provided by the statute, an administrative authority authorised to hear appeals from a sub-ordinate authority or Board has no power to review on the ground of irregularity or illegality, the decision of the sub-ordinate authority. The Body to correct such irregularities and illegalities is the Supreme Court. An Administrative Tribunal can not exercise the powers of judicial review in respect of the act of another administrative authority or official because that is a jurisdiction ordinarily possessed only by a Court of Law. The Grounds upon which the proceedings of administrative bodies may be subject to review at common law include..... (b) that the proceedings did not comply with the principals of natural justice and that either a fair hearing was not afforded to persons affected or that a Tribunal or official was biased... (c) a failure to give reasons for a decision where there is a duty on the Tribunal to do so (d) mistake in law or of fact in certain circumstances."*
- The learned writer on page 13 further states the following with regard to review: "It is directed at procedural irregularities and illegalities, rather than at the substantive correctness of the ultimate decisions of law and fact of the sub-ordinate"



tribunal.”

- On page 36 the learned author with regard to the so-called “wide appeal principal” states: “..Indeed an Administrative Tribunal or a Minister who sits on appeal from another Administrative body does not have the power of the Supreme Court to review for irregularity, the proceedings of the inferior tribunal.”

7.15 It should moreover be noted that an Application for judicial review of administrative action is currently governed by way of the provisions of PAJA, and upon consideration of Section 6 of PAJA, (which sets out the grounds for such review) it is clear that the Appellant’s endeavour to approach the MAT in this regard, is totally misdirected:

“6(2) A court or tribunal has the power to judicially review an administrative action if-

- (a) the administrator who took it-**
 - (i) was not authorised to do so by the empowering provision;**
 - (ii) acted under a delegation of power which was not authorised by the empowering provision; or**
 - (iii) was biased or reasonably suspected of bias;**
- (b) a mandatory and material procedure or condition prescribed by an empowering provision was not complied with;**
- (c) the action was procedurally unfair;**
- (d) the action was materially influenced by an error of law;**
- (e) the action was taken-**
 - (i) for a reason not authorised by the empowering provision;**
 - (ii) for an ulterior purpose or motive;**

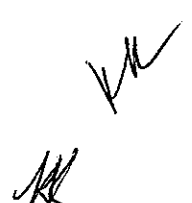
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- (iii) *because irrelevant considerations were taken into account or relevant considerations were not considered;*
- (iv) *because of the unauthorised or unwarranted dictates of another person or body;*
- (v) *in bad faith; or*
- (vi) *arbitrarily or capriciously;*
- (f) *the action itself-*
- (i) *contravenes a law or is not authorised by the empowering provision; or*
 - (ii) *is not rationally connected to-*
 - (aa) *the purpose for which it was taken;*
 - (bb) *the purpose of the empowering provision;*
 - (cc) *the information before the administrator;*
 - or*
 - (dd) *the reasons given for it by the administrator;*
- (g) *the action concerned consists of a failure to take a decision;*
- (h) *the exercise of the power or performance of the function authorised by the empowering provision, in pursuance of which the administrative action was purportedly taken, is so unreasonable that no reasonable person could have so exercised the power or performed the function; or*
- (i) *the action is otherwise unconstitutional or unlawful."*

7.16 In addition to the foregoing, the jurisdiction of the **MAT** is in terms of Regulation 22 of the **SPLUMA** Regulations with regard to a "decision" which constitutes "administrative action" as defined in **PAJA**, restricted to only hear appeals on such decisions which pertain to the merits of the land development applications:

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- a. if same was reached by way of unfair administrative procedures or;
 - b. on the merits of the land development application.
- 7.17 Regulation 26 of **SPLUMA** in addition only authorized the **MAT** to consider Appeals which have "lawfully" been lodged and entitles the **MAT** to determine whether the "Appeal" falls within its jurisdiction.
- 7.18 In cases where no "decision" on the merits of the land development application was at all made by the **MPT**, the procedural fairness thereof can not even come into play and the wording of the above provisions *per se* deprives the **MAT** of any jurisdiction to accept, process and decide upon an Appeal, the subject matter of which does not pertain to a land development application at all, which is clearly unlawful and which indeed constitutes an abuse of process.
- 7.19 In view of the fact that both the **Applicants** and the **Appellant** were afforded ample opportunity to state their respective cases to the **MPT** before the **Ruling** was made, there can in any event not be talk of procedural unfair administrative action at all.
- 7.20 In the aforementioned context, it is clear that any Decision which may lawfully be appealed, must by necessity pertain to a Decision on the merits of the **Applications**, and which should bring finality to the **Applications** on the part of the **MPT** in its capacity as the authorised body to determine land use applications in terms of the **By-Law**.
- 7.21 In view of the foregoing, it is clear that the **Ruling** which exclusively constitutes an interim procedural / technical determination with regard to the status of an Objector and which forms the subject matter of the **Appeal** does not constitute an appealable Decision of the **MPT** on the merits of the **Applications**. Such fact renders the **Appeal** unlawful and



deprives the **MAT** of any jurisdiction to entertain same in terms of the provisions of **SPLUMA** or the **By-Law**.

7.22 It is reiterated that the **MAT's** powers and authority to process and consider Appeals are to be found in the relevant legislation in terms of which the **MAT** has been established, i.e. the **By-Law** and **SPLUMA**. The **MAT** is therefore restricted to its functions as determined in such legislation and more specifically the Sections and Regulations alluded to above. In circumstances where neither the **By-Law** nor **SPLUMA** provides for Appeal mechanisms in respect of interim technical / procedural rulings or determinations made by the **MPT**, any such **Appeals** shall *de facto* be unlawful and render same unprocessable in terms of both sets of legislation.

8. CONCLUSION

8.1 In the aforementioned context it is submitted that the "**Appeal**" lodged by the **Appellant** should summarily be dismissed as being unlawful and irregular in circumstances where:

8.1.1 The **Ruling** of the **MPT** against which the so-called **Appeal** has been lodged, does not constitute an appealable Decision in terms of either **SPLUMA** or the **By-Law**;

8.1.2 Such **Ruling** pertaining to authority, *locus standi* and the status of an Objector made by the **MPT**, in fact constitutes a determination in terms of Section 15(1)(c) of the **By-Law**, and same constitutes a matter incidental to the **MPT's** functions as set out in the **Bylaw**;

8.1.3 The **MAT** is not authorised to either process or decide on any such invalid **Appeal** in circumstances where no mechanism is provided for same in terms of the relevant legislation.

JAN ADRIAAN VENTER (BA B.PROC LLB LIMB)
Assisted by / Bygestaan deur:
DANIELE LOUW (LLB PGDFP) & WILHELM SCHEEPERS (BA LLB)




- 8.2 It is furthermore submitted that, in accordance with the **Determination** made by the **MPT** on 20 September 2019, by virtue of which it has been ruled that the **Appellant** did not have the authority or necessary *locus standi* to have participated in the proceedings from the outset, the **Appellant** is *per se* disqualified from lodging any **Appeals** in respect of the abovementioned **Applications**.
- 8.3 Due to the fact that such **Appeal**, on the submissions made *supra* is an unlawful and not processable, we do not at this stage find it necessary to respond to the somewhat unsavoury and unfounded allegations or averments contained in same and our neglect to do so by way of this *in limine* response must not be construed as an admission or concession thereof. Should your **MAT** on whatever basis find that the **Appeal** is valid and processable, the **Applicants'** rights are fully reserved to at that stage respond to the "grounds" of **Appeal** alluded to by the **Appellant**, within a period of 7 (seven) days after this *in limine* submission has not been upheld and the Applicants have been informed thereof in writing.

Yours faithfully



ADRIAAN VENTER
ATTORNEYS & ASSOCIATES

JAN ADRIAAN VENTER (BA B.PROC LLB LIMB)
Assisted by / Bygestaan deur:
DANIELE LOUW (LLB PGDFP) & WILHELM SCHEEPERS (BA LLB)



**EXTRACT FROM THE MINUTES OF A MEETING OF THE BOARD OF
DIRECTORS OF RIVERSANDS DEVELOPMENTS (PTY) LTD
(REGISTRATION NUMBER 2009/022660/07)**

HELD AT MIDRAND ON THIS 3 DAY OF JULY 2019

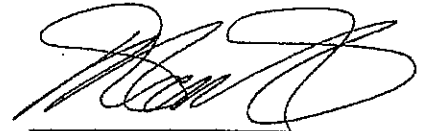
RESOLVED

1. That the Company, being the registered owner of the properties known as the remaining extents of Portions 7, 36 and 38 of the Farm Diepsloot, Registration Division JR, Gauteng Province, continues with the Applications for Township Establishment lodged to the City of Johannesburg Metropolitan Municipality during November 2014 in terms of Section 96(1) read with Section 69(3) of the Town Planning and Townships Ordinance (Ordinance 15 of 1986), which proposed townships are to be known as Riverside View Extensions 14, 17, 18, 36 and 42 and shall comprise of several erven zoned as "Special" for purposes of motor trade, warehouses, light industrial uses, offices, commercial uses, storage, showrooms, access, access control, private roads/streets, public garage, drive through-restaurant and ancillary and subservient uses, as well as private open space, and to otherwise and in general take any actions necessary and required to pursue such Applications to finality, including to, if necessary and if required, lodge or oppose any Appeal in terms of any applicable and prevailing legislation to any relevant Appeal authority or other statutory body with the necessary jurisdiction and authority to process such Appeal and to pursue same to finality.
2. That **MARK ARTHUR CORBETT** in his capacity as a Director of the abovementioned Company be authorized with the power of delegation, substitution and ratification, to appoint any consultants and/or attorneys for purposes pursuing the aforementioned Applications, to sign all documents and statements in this regard and to depose to any required affidavits on behalf of the Company, and if necessary and if required, to lodge or oppose any Appeal in terms of the aforementioned

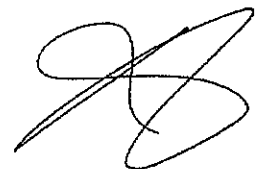
The block contains three handwritten signatures in black ink. The largest signature is a stylized, cursive 'JAC' or similar. Below it and to the right are two smaller, more scribbled signatures.

legislation in respect of the outcome of the Applications mentioned in paragraph 1 supra, and to pursue same to finality in order to give effect to paragraph 1 above.

CERTIFIED AS A TRUE EXTRACT FROM THE MINUTES OF THE ABOVE MEETING



COMPANY SECRETARY



" A2 "

POWER OF ATTORNEY



I, the undersigned

MARK ARTHUR CORBETT

in my capacity as a Director of **RIVERSANDS DEVELOPMENTS (PTY) LTD** (Registration number: **2009/022660/07**), duly authorized thereto by way of a Resolution of the Board of Directors of the abovementioned Company, hereby authorize, nominate, constitute and appoint **JAN ADRIAAN VENTER** of the firm **ADRIAAN VENTER ATTORNEYS & ASSOCIATES**, and/or any employees of such firm and/or **JOHANNES GERRIT BUSSE** of the Company **URBAN DYNAMICS (GAUTENG) INCORPORATED** and/or any employees of such Company, with the power of substitution and agency to be the lawful representatives and agents in the name, place and stead of the aforementioned Company and to act as such on its behalf in continuing with the Applications for Township Establishment lodged to the City of Johannesburg Metropolitan Municipality during November 2014 in terms of Section 96(1) read with Section 69(3) of the Town Planning and Townships Ordinance (Ordinance 15 of 1986), which proposed townships are to be known as Riverside View Extensions 14, 17, 18, 36 and 42 and which Townships shall respectively comprise of several erven zoned as "Special" for purposes of motor trade, warehouses, light industrial uses, offices, commercial uses, storage, showrooms, access, access control, private roads/streets, public garage, drive through-restaurant and ancillary and subservient uses, as well as private open space, and to otherwise and in general take any actions necessary and required to pursue such Applications to finality, including to, if necessary and if required, lodge or oppose any Appeal in terms of any applicable and prevailing legislation to any relevant Appeal authority or other statutory body with the necessary jurisdiction and authority to process such Appeal and to pursue same to finality.

The aforementioned representatives and agents are moreover specifically authorized to appear and participate in any proceedings on the Company's behalf, before any relevant Town Planning authority or statutory body, including but not limited to the Municipal Planning Tribunal and Municipal Appeal Tribunal in this regard or to appoint Counsel for that purpose.

I hereby ratify, allow, confirm and promise and agree to ratify, allow and confirm all and

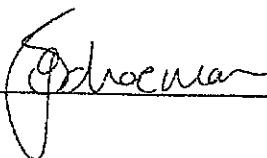



whatsoever such agents shall lawfully do, or cause to be done, by virtue of these present and whatever such agents have to date done herein.

SIGNED AT MILDELAND ON THIS 3 DAY OF JULY 2019.

WITNESSES:

1.





MARK ARTHUR CORBETT

2.

~~RECEIVED~~



"A3"

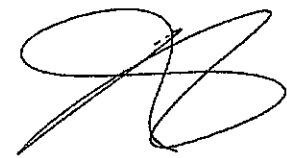
**EXTRACT FROM THE MINUTES OF A MEETING OF THE BOARD OF
DIRECTORS OF CENTURY PROPERTY DEVELOPMENTS (PTY) LTD
(REGISTRATION NUMBER: 2002/023633/07)**

HELD AT MIDRAND ON THIS 3 DAY OF JULY 2019

RESOLVED

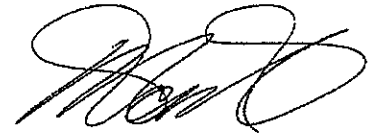
1. That the Company, being the registered owner of the properties known as the remaining extents of Portion 5 (a Portion of Portion 4), Portion 11 (a Portion of Portion 8) and Portion 187 of the Farm Zevenfontein 407, Registration Division JR, Gauteng Province, continues with and pursues the Applications for Township Establishment lodged to the City of Johannesburg Metropolitan Municipality in terms of Section 26 of the City of Johannesburg's Municipal Planning Bylaw of 2016, read with Section 2(2) of the Spatial Planning and Land Use Management Act, Act 16 of 2016, which proposed Townships are to be known as Riverside View Extensions 85, 97, 98 and 99 and which shall comprise of several even respectively zoned as "Residential 1", "Special for purposes of roads, access, access control, security-controlled gatehouse access structures, parking, landscaping, refuse areas and municipal services (including gas reticulation)" and "Private Open Space including a clubhouse with sport and recreational facilities, sales and administrative offices, restaurants and ancillary and related uses", and to otherwise and in general take any actions necessary and required to pursue such Applications to finality, including to, if necessary and if required, lodge or oppose any Appeal in terms of any applicable and prevailing legislation to any relevant Appeal authority or other statutory body with the necessary jurisdiction and authority to process such Appeal and to pursue same to finality.

2. That **MARK ARTHUR CORBETT** in his capacity as a Director of the abovementioned Company hereby be authorized with the power of delegation, substitution and ratification, to appoint any consultants and/or attorneys for purposes of pursuing the aforementioned Applications to finality, to sign all

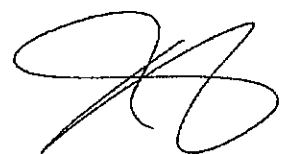


documents and statements in this regard and to depose to any required affidavits on behalf of the Company, and if necessary and if required, to lodge or oppose any Appeal in terms of the aforementioned legislation in respect of the outcome of the Applications mentioned in paragraph 1 *supra*, and to pursue same to finality in order to give effect to paragraph 1 above.

CERTIFIED AS A TRUE EXTRACT FROM THE MINUTES OF THE ABOVE MEETING



COMPANY SECRETARY



"A4"

POWER OF ATTORNEY

I, the undersigned

MARK ARTHUR CORBETT

in my capacity as a Director of **CENTURY PROPERTY DEVELOPMENTS (PTY) LTD** (Registration number: **2002/023633/07**), duly authorized thereto by way of a Resolution of the Board of Directors of the abovementioned Company, hereby authorize, nominate, constitute and appoint **JAN ADRIAAN VENTER** of the firm **ADRIAAN VENTER ATTORNEYS & ASSOCIATES**, or any employees of such firm, with the power of substitution and agency to be the lawful representatives and agents in the name, place and stead of the aforementioned Company and to act as such on its behalf in continuing with and pursuing the Applications for Township Establishment lodged to the City of Johannesburg Metropolitan Municipality in terms of Section 26 of the City of Johannesburg's Municipal Planning Bylaw of 2016, read with Section 2(2) of the Spatial Planning and Land Use Management Act, Act 16 of 2016, which proposed Townships are to be known as Riverside View Extensions 85, 97, 98 and 99 and which shall comprise of several erven respectively zoned as "Residential 1", "Special for purposes of roads, access, access control, security-controlled gatehouse access structures, parking, landscaping, refuse areas and municipal services (including gas reticulation)" and "Private Open Space including a clubhouse with sport and recreational facilities, sales and administrative offices, restaurants and ancillary and related uses", and to otherwise and in general take any actions necessary and required to pursue such Applications to finality, including to, if necessary and if required, lodge or oppose any Appeal in terms of any applicable and prevailing legislation to any relevant Appeal authority or other statutory body with the necessary jurisdiction and authority to process such Appeal and to pursue same to finality.

The aforementioned representatives and agents are moreover specifically authorized to appear and participate in any proceedings on the Company's behalf, before any relevant Town Planning authority or statutory body, including but not limited to the Municipal Planning Tribunal and Municipal Appeal Tribunal in this regard or to appoint Counsel for that purpose.

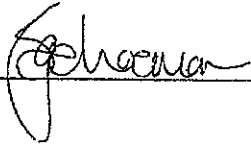



I hereby ratify, allow, confirm and promise and agree to ratify, allow and confirm all and whatsoever such agents shall lawfully do, or cause to be done, by virtue of these present and whatever such agents have to date done herein.

SIGNED AT MIDRANDON THIS 3 DAY OF JULY 2019.

WITNESSES:

1.



2.



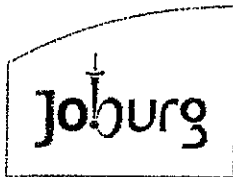


MARK ARTHUR CORBETT





"B"



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City of Johannesburg
Department of Development Planning and Urban Management

Land Use Management
Metropolitan Centre
158 Loveday Street
Braamfontein

P O Box 30733
Braamfontein
2017

Tel +27(0) 11 407 6142
Fax +27(0) 11 339 4000
www.joburg.org.za

REGISTERED POST

24 October 2019

Century Property Development
PO Box 4366
RIETVALLEIRAND
0174

Dear Sirs

PROPOSED TOWNSHIPS:

RIVERSIDE VIEW EXT 85, 97, 98 AND 99 SITUATED ON PORTIONS OF THE REMAINING EXTENTS OF PORTION 5 (A PORTION OF PORTION 4) PORTION 11 (A PORTION OF PORTION 8) AND PORTION 187 OF THE FARM ZEVENFONTEIN 407-JR (REF NO 03-17620, 03-18869 & 03-18868)

The above application was considered by the City of Johannesburg Municipal Planning Tribunal on 06 August 2019 when the following was resolved.

"That notwithstanding the provisions of any other law, the City of Johannesburg approves under provision of Section 28(1) of the City of Johannesburg Municipal Planning By-law, 2016, for permission to establish the following townships: RIVERSIDE VIEW EXTENSION 85, RIVERSIDE VIEW EXTENSION 97, RIVERSIDE VIEW EXTENSION 98, AND RIVERSIDE VIEW EXTENSION 99 (SITUATED ON A PART OF THE REMAINING EXTENT OF PORTION 5; A PART OF THE REMAINING EXTENT OF PORTION 187 AND A PART OF PORTION 11 OF THE FARM ZEVENFONTEIN 407 – JQ), subject to the following conditions:

1. DEVELOPMENT PLANNING

1.1 GENERAL CONDITIONS:

1.1.1 The applicant shall comply with Section 46 (1) of the City of Johannesburg Municipal Planning By-Law, 2016, which relates to the provision of engineering services and engineering services contributions.

1.1.2 Third party servitudes (if deemed necessary) to provide roads,

(iii) The local authority shall be entitled to deposit temporarily on the land adjoining the aforesaid servitude such material as may be excavated by them during the course of the construction, maintenance or removal of such sewerage mains and other works as it, in its discretion may deem necessary and shall further be entitled to reasonable access to the said land for the aforesaid purpose subject to any damage being done during the process of the construction, maintenance or removal of such sewerage mains and other works being made good by the local authority.

5. LAYOUT PLAN

The Townships shall consist of erven and streets as indicated on the Layout Plans as follows:

- a) Plan No: 15/8/RV/85/18/03
- b) Plan No: 15/8/RV/97/18/03
- c) Plan No: 15/8/RV/98/18/03
- d) Plan No: 15/8/RV/99/18/03

*It is hereby noted that the approval does not constitute conditions of establishment such conditions will be issued at a later stage.

Should an appeal be submitted from the applicant or any formal objector, it must be submitted within 28 days from the date of receipt of the notification of the decision letter.

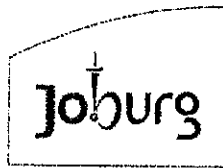
Yours faithfully


for: **GROUP HEAD :**
DEVELOPMENT PLANNING

Contact Person: B A Pretorius
Tel No: 407-6136
Fax No: 339-4000
/av

"C"

Appeal Process



City of Johannesburg
Department of Development Planning

Metro Centre
158 Civic Boulevard
Braamfontein

PO Box 30733
Braamfontein
2017

Joburg Connect +27(0)11 375 5555
www.joburg.org.za

Appeal Process

AK KH

Internal appeals

An owner of land, any person that submitted an objection and any person who's petition to intervene has been granted, whose rights may be adversely affected by a decision taken by the Municipal Planning Tribunal, the authorised official or any of its sub-delegates in respect of-

- (a) any land development application envisaged in Chapter 5 of the By-law;
 - (b) a change of circumstances application;
 - (c) any engineering services- and/or parks or open spaces contributions imposed or levied in terms of any provision of this By-law,
1. The appeal must be addressed to the City Manager
 2. The appeal must be submitted within 28 days from the date when the decision was received by the Applicant and / or objector. If and when the decision was received late, proof thereof must be submitted.
 3. A comprehensive grounds of appeal and written notice must be submitted to the Registration Section, Registration Counter, Department of Development Planning, Room 8100, 8th Floor A- Block, Metropolitan Centre, 158 Civic Boulevard, Braamfontein within the period mentioned in (2) above)
 4. Prescribed fee. (Refer to fees schedule).
 5. Should reference be made to a specific document, policy, framework, copies of the Document should be attached (only the specific pages of the document and not the whole Document). These documents must be marked as annexures to the appeal.
 6. Should the applicant of an application be the appellant, the Applicant would be responsible in the notification of all objectors and interested parties of such an appeal.
 7. Should the objector be the appellant, the Council would be responsible in the notification to the applicant and other objectors to the application.
 8. An appeal is invalid if it is not lodged within the time period mentioned in (2) above.

Handwritten signatures in the bottom right corner of the page.

9. The notice of an appeal must allow all parties concerned 21 days from the date of notification to oppose or comment on the appeal.
10. The appellant must provide the City with proof of notification within 14 days from the date of the notification as in (6) above.
11. The appeal will be captured on the date of submission in the Council Application system and a file will be opened for the appeal. The appeal will be allocated a reference number and all documents related to the appeal will be placed on file.
12. The appeal will be processed by the Department of Development Planning.
13. Once finalised the appeal will be forwarded to the Legal and Compliance.
14. Thereafter the appeal will be submitted for consideration to Legal Section where the Appeal Committee will discuss the appeal.
15. A Recommendation will be made to the MMC Development Planning.
16. Once a decision has been made by the MMC Development Planning, the Appellant and objectors/applicant will be informed in writing of the decision taken.





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City of Johannesburg
Department of Development Planning

Land Use Management
Metropolitan Centre
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P O Box 30733
Braamfontein
2017

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Fax +27(0) 11 339 4000
www.joburg.org.za

REGISTERED POST

22 June 2020

Kristin Kallesen
PO Box 30936
Kyalami
1684
chair@gekco.co.za

Dear Sir / Madam

**APPEAL: PROPOSED TOWNSHIPS RIVERSIDE VIEW EXTENSIONS 85, 97, 98 AND 99
(REF: 03-17620, REF: 03-18875, REF: 03-18869 AND REF: 03-18868)**

The abovementioned appeal was considered by the MMC Development Planning on 05 May 2020 and the following amended decision was adopted -.

- "The appeal submitted by GECKO in relation to the finding of the tribunal on the locus standi of GECKO and their representative Ms. Kallesen in these proceedings be dismissed.
- The first point in limine by the respondents/property owners` is upheld and GECKO is disqualified from any further participation in these proceedings and subsequent appeal.
- The second point in limine by the respondent property owner in relation to the late filing of the appeals be dismissed.
- That the appeals on the merits of the applications as submitted by the Gail Goxcroft (supported by Cindy Faber and staff at Glenfox Stables), Keith H Bush, Jassy Mackenzie (supported by Dion de Jong and Sonja Bohnsack) and GECKO be dismissed.
- That approval by the City of Johannesburg Planning Tribunal for the establishment of Proposed Townships Riverside View extensions 85, 97, 98 and 99 be upheld and implemented as approved.

Handwritten initials, possibly "KK", in the bottom right corner of the page.



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City of Johannesburg
Department of Development Planning

Land Use Management
Metropolitan Centre
158 Civic Boulevard
Braamfontein

P O Box 30733
Braamfontein
2017

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Fax +27(0) 11 339 4000
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Yours faithfully


for: **EXECUTIVE DIRECTOR
DEVELOPMENT PLANNING**

Contact Person: B A Pretorius
Tel No: 407-6136
Fax No: 339-4000
/av

APPEAL LETTERS
B PRETORIUS



City of Johannesburg
Department of Development Planning

Land Use Management P O Box 30733 Tel +27(0) 11 407 6142
Metropolitan Centre Braamfontein Fax +27(0) 11 339 4000
158 Civic Boulevard 2017 www.joburg.org.za
Braamfontein

REGISTERED POST

04 November 2020

Greater Kyalami Conservancy
47 Saddlebrook Drive
KYALAMI
chair@gekco.co.za

Dear Sir / Madam

APPEAL: PROPOSED TOWNSHIPS RIVERSIDE VIEW EXTENTIONS 38,39,40,41,88,89 & 90 (RE: 03-18242, 03-18244, 03-18241, 03-18246, 03-18245 & 03-18243

The abovementioned appeal was considered by the MMC Development Planning on 15 October 2020 and the following amended decision was adopted.

- The first *point in limine* raised by the GKA in relation to the composition of the tribunal be dismissed.
- That it be confirmed that the GKA lacks locus standi to lodge an appeal in these proceedings.
- The Appeal submitted by Greater Kyalami Conservancy (GECKO) represented by Ms. Kristin Kallesen and the Greater Kyalami Alliance (GKA) represented by Ms. Rosemary Sandison be dismissed.
- That approval by the City of Johannesburg Planning Tribunal for the establishment of Proposed Townships Riverside View Extensions 38, 39, 40, 41, 88, 89, 90 be upheld and implemented as approved.

Yours faithfully


for: EXECUTIVE DIRECTOR
DEVELOPMENT PLANNING

Contact Person: B A Pretorius
Tel No: 407-6136
Fax No: 339-4000
/av

APPEAL LETTERS
B PRETORIUS



From: GEKCO Chair [mailto:chair@gekco.co.za]
Sent: 04 November 2020 03:43 PM
To: 'ANGELIQUE VAN RENSBURG'
Cc: 'Ben Pretorius'
Subject: RE: Message from "RNP002673F5D580"

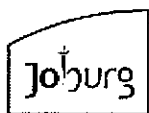
Dear Angelique,

I formally request reasons for the decisions as they are not provided on the decisions attached. Please advise the amount for payment and bank account details.

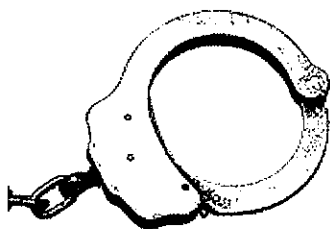
With kind regards,

Kristin Kallesen
Chairperson
Greater Kyalami Conservancy
GEKCO

From: ANGELIQUE VAN RENSBURG [mailto:Angeliquev@joburg.org.za]
Sent: 04 November 2020 12:05 PM
To: GEKCO Chair
Cc: 'Gerda Schoeman'
Subject: FW: Message from "RNP002673F5D580"



www.joburg.org.za



SAY 
TO CORRUPTION

Do not offer or accept bribes

[Click Here](#)

Good day,

Herewith the appeal decision for your attention.

Kind Regards
Angelique Van Rensburg
Tel: 011 4076208

KK
VR

-----Original Message-----

From: Angeleque <Angelequev@joburg.org.za>

Sent: Wednesday, 04 November 2020 10:59

To: ANGELIQUE VAN RENSBURG <Angeliquev@joburg.org.za>

Subject: Message from "RNP002673F5D580"

This E-mail was sent from "RNP002673F5D580" (MP 9003).

Scan Date: 11.04.2020 09:58:42 (+0100)

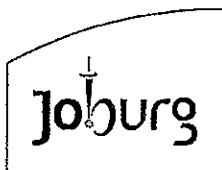
Queries to: scans@joburg.org.za

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City of Johannesburg
Department of Development Planning

Land Use Management
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2017

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Fax +27(0) 11 339 4000
www.joburg.org.za

REGISTERED POST

07 December 2020

Greater Kyalami Conservancy
47 Saddlebrook Drive
KYALAMI
chair@gekco.co.za

Dear Sir / Madam


REQUEST FOR REASONS ON APPEALS

- a) **PROPOSED TOWNSHIPS RIVERSIDE VIEW EXTENSIONS 14, 17, 18, 36 and 42**
(REF: 03-14907, REF: 03-14910, REF: 03-14908, REF: 03-14963 and REF: 03-14962)
- b) **PROPOSED TOWNSHIPS RIVERSIDE VIEW EXTENSIONS 38, 39, 40, 41, 88, 89 and 90**
(REF: 03-14966, REF: 03-18242, REF: 03-18244, REF: 03-18241, REF: 03-18246,
REF: 03-18245 and REF: 03-18243)

The request for reasons in the above appeal refers.

Attached hereto the recommendation that served before the Appeal authority that formed the basis and reasoning for the decision on the subject appeal by the Appeal Authority.

The recommendation that served before the Appeal Authority was accompanied by the appeal documents, the reply thereto by the respondents as well as the Land Use Departments` reply.


Yours faithfully

**for: EXECUTIVE DIRECTOR
DEVELOPMENT PLANNING**

Contact Person: M Reinecke
Tel No: 407-6224
Fax No: 339-4000
/av

APPEAL LETTERS



COJ: MMC: DEVELOPMENT PLANNING

**GROUP LEGAL & CONTRACTS &
DEVELOPMENT PLANNING**

**APPEAL: PROPOSED TOWNSHIPS
RIVERSIDE VIEW EXTENTIONS
14,17,18,36 and 42 (REF: 03-14907, REF:
03-14910, REF: 03-14908, REF: 03-14963
and REF: 03-14962) APPEAL REF
NO:13/2020**

1 STRATEGIC THRUST

GDS Outcome 4:

A high performing metropolitan government that proactively contributes to and builds sustainable, social inclusive, locally integrated and globally competitive GCR.

2 OBJECTIVE

The purpose of this report is to consider the appeals submitted by 2 parties, GECKO represented by Kirsten Kallesen and Mr Charles Guise Brown, that participated in the hearing of the application for the establishment of the above mentioned townships and the opposition by the applicant/ owner including certain legal issues raised in opposition to these appeals in terms of section 51 of the Spatial Planning and Land Use Management Act, 16 of 2013, read with section 49 of the COJ.Municipal Planning By-law, 2016, against the approval by the City of Johannesburg Planning Tribunal for the establishment of Proposed Townships on Portions of the farm Diepsloot 388 - JR.

3 SUMMARY

Locality: The proposed townships form part of the Riverside View Commercial Development to the east of William Nicol Drive (K46) within the Riversands Commercial Park.

Existing Zoning: The properties are currently zoned "Undetermined" in terms of the City of Johannesburg Land Use Scheme, 2018. The farm portions on which the townships are to be established are currently vacant.

Site Area: Riverside View Ext. 14 measures 15, 50 Ha
Riverside View Ext. 17 measures 7, 35 Ha
Riverside View Ext. 18 measures 17, 46 Ha
Riverside View Ext. 36 measures 7, 45 Ha
Riverside View Ext 42 measures 0, 80 ha

Application: The townships were submitted in terms of Section 26 of the City of Johannesburg Municipal Planning By-Law, 2016, in order to establish five (5) townships to be known as Riverside View Extensions 14,17,18,36 and 42.



**GROUP LEGAL & CONTRACTS &
DEVELOPMENT PLANNING**

The application served at the Municipal Planning Tribunal and in brief, the MPT approved the establishment of five (5) subject to conditions as per the approvals attached to the record of appeal.

Riverside View Ext. 14 -For Motor Trade, Warehouses, Light industrial, Offices, Commercial Uses.

Riverside View Ext. 17-For Warehouse, storage, Showrooms, Light Industrial, offices, Commercial uses

Riverside View Ext. 18 -For Motor Trade, Warehouses, Light Industrial, offices and Commercial uses

Riverside View Ext. 36 -For Offices, Motor Trade and storage

Riverside View Ext. 42 -For Public garage, drive through restaurant (fast food) and ancillary and subservient use

The said uses were subject to development controls and to certain conditions.

No objections were received from any of the City's services departments against the application.

Legal arguments and points *in limine*

The respondents/property owners oppose the appeal through their duly authorized representative and raise a first point *in limine* against the appeals in that they were lodged late in terms of the provisions of the bylaw.

In a second point *in limine* against the *locus standi* of GEKCO they argue that the tribunal by virtue of a formal ruling disqualified GEKCO as an authorized valid objector with *locus standi* to participate in the Town Planning proceedings. The ruling referred to in the argument on the point *in limine* form part of the submissions as an annexure (Annexure D) that is presented in opposition to this appeal. It is argued that this ruling disqualifies GECKO from any further participation in these proceedings and subsequent appeal.

The two points *in limine* needs consideration.

On the first point the respondent argue that the appeal was lodged outside the stipulations of the bylaw in that it was lodged on the 4th of March whereas it should have been lodged on the 3rd of March. On inspection of the appeal documentation it is noted that the City's admin department indeed signed acknowledgment of the appeals on the 3rd therefore making it in time as prescribed by section 49(1) of the bylaw.

On the second point *in limine*- Once the *locus standi* of a party is decided on by the tribunal this decision is *functus officio* and such decision may only be reviewed by a competent court of law. The appeal by GECKO against the finding by the tribunal on their locus standi was comprehensively dealt with in the appeal of Riverside view extensions 85, 97, 98 and 99.

KK
RM

**GROUP LEGAL & CONTRACTS &
DEVELOPMENT PLANNING**

It then follows that the second point *in limine* by the respondents/property owners must stand and that GECKO is disqualified from any further participation in these proceedings and subsequent appeal.

That being said and, out of an abundance of caution, the merits of the appeal as submitted by GECKO will also be considered hereunder.

Planning merits and grounds of appeal:

Due to the similarities of the grounds of appeal lodged by the appellants and to avoid repetition, the appeal grounds will be dealt with simultaneously, as well as the grounds of appeal as presented by GECKO on the merits of the planning application will be dealt with despite the fact that they were found to be disqualified to participate in these proceedings.

The appellants argue and put forward the following summarized grounds of appeal -

- *The tribunal was not properly constituted did not follow procedure and failed to take into consideration relevant information.*
The appellants state that 1) none of the members from the panel of the tribunal are independent and not employees of the City as required by Part C 40(2) of SLUMA. 2) and therefore the tribunal was invalid and the appeal must then succeed. The tribunal also allowed a point *in limine* challenging the locus standi of GECKO without proper notification thereof
- *Non - compliance with environmental legislation.*
The wetland delineation is questioned by both appellants and there cannot be reliance on the environmental authorization only.
- *Sustainability of the township from a Traffic engineering point of view.*
The proposed townships rely on upgrades to various roads and there are no confirmations of funding for any of the provincial roads to be upgraded. Therefore the applicants failed to prove infrastructure availability. It is highly irresponsible for the Municipality to approve such applications in the absence of available infrastructure.
- *Impact on the 'Special Management Zone' area outside the Urban Development Boundary*
The character of areas that are outside the Urban Development Boundary should be retained and their importance is recognized by the Gauteng Environmental Management Framework (2015) and Joburg Spatial Development Framework (2016). Development is not supported in this area. The proposed townships may have a detrimental impact on this area as they are adjacent to the green zone.

Policy position

The proposed townships fall within the Specialist SMME Mixed Use Nodes. The zone seeks to promote a mix of land uses such as; retail, warehouses/wholesale, motor trade, light industrial, showrooms, institutions, offices, commercial uses and restaurants. The proposed area is being developed with a mix of developments and a rapid development is currently underway; in Riverside View and its surroundings.

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These properties form part of the Riversands Commercial Park development, which is located to the north-east of Steyn City Development (Riverglen Erven 1 and 2 and Dainfern Extension 26) and is located south of Riverside View Extension 15 known as the Incubation Hub development.

Since 2008, the application underwent several amendments in view of the current market changes. Early in 2013, a provincial project was conceptualized to establish a SMME Incubator Program in this area to include a SMME Training Centre and a variety of Businesses, Light Industrial and Commercial uses in support of a Commercial Park. Riverside View Extension 13 to 18 was then identified as a suitable location for the Vocational Training Centre (SMME Incubator) and the proposed Riversands Commercial Park. The application to establish the Vocational Training Centre (SMME Incubator) on Riverside View Extension 15 was later approved by the City of Johannesburg: Land Use Planning Department in October 2013.

While it is accurate to an extent that the existing RSDF policy does support mixed land uses in this locality, the specific land use mix required for SMME Incubation Hub use and supporting Business / Light Industrial Park is not sufficient to accommodate the project as envisaged. As such, a formal request was made to City of Johannesburg: Directorate of City Transformation by Urban Dynamics Gauteng Inc to amend the land use categories and boundaries of the RSDF's approved mixed use node at the PWV5/K46 (William Nicol Drive) to include Warehousing, Light Industrial and Commercial Uses. This request was also approved by the Directorate of City Transformation in March 2014.

Comments from the Land Use Department on the appeal:

The proposed townships were supported from a Land Use Management perspective as being in line with The Specialised Regional Node: Specialist SSME Mixed Use Nodes. Being High intensity mixed use zone; Transition Mixed Use Zone. Intense uses are situated next to William Nicol to encourage Transit Orientated Development. The area between the Transition Mixed Use Zone and the UDB is recognised as a residential Zone with only low to Medium intensity uses in order to reduce developmental activities closer to the UDB.

All five of the applications were circulated to the relevant departments and the various studies were conducted which address issues of access, road upgrades, environmental sensitive areas and availability of services. Joburg Water approved the Outline Scheme Report and specified conditions to which the developer shall adhere to. The JRA approved a Traffic Impact Assessment as well as an addendum to it and set out conditions that are to be adhered to.

It was shown that the municipality did consider transportation routes and systems (and other engineering services) as required in terms of Regulation 18 of Ordinance 15 of 1986 and for the provision of services under Section 42 of SPLUMA. These sections direct municipalities to consider the state of infrastructure and the impact those developments will have thereon.

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From an infrastructural perspective, the applicant was obliged to coordinate its analysis and infrastructure upgrading proposals together with other developments of magnitude in the sub-region. These developments included Steyn City, the City's Riverside View development (Diepsloot South) and Province's Tanganani development (Diepsloot East).

From a traffic impact perspective, these joint investigations were coordinated by the City of Johannesburg (JRA) and established the pro-rata allocation of responsibilities and liabilities on the part of the respective developers to procure such engineering services infrastructure and create adequate engineering capacity of all these developments. The City of Johannesburg consequently considered and approved a holistic Traffic Impact Assessment and Road Master Plan which not only pertained to the Riversands Commercial Park development, but also to adjacent proposed developments and the requirements of each respective developer were allocated per development phase in each respective development.

At the Municipal Planning Tribunal, the applicant proved that based on the positive comments by Gautrans, SANRAL, CJMM Transportation and JRA on Riverside View Extensions 14, 17, 18, 36 and 42 and the documents and reports appended to the MPT agenda, these developments will be sustainable from an infrastructural point of view and from a traffic impact perspective. (This includes the JRA comments on the TIA in April 2018 and updated technical comments on these townships in May 2018).

The issue raised related to the appellants questioning the wetland Delineation and municipal reliance on the RoD. The MPT and Development Planning considered environmental aspects pertaining to the application in accordance with Section 42(2) of SPLUMA, Schedule 1 of the By-Law and Regulation 18 of the Ordinance. The authorized environmental authority, GDARD issued a Record of Decision in 2009 which authorized the listed activities triggered by the intended development in terms of NEMA. This environmental authorization was amended in February 2013 to account for the phasing of the project. There was also a second amendment in December 2013 approved by GDARD.

The five townships are strategically located in terms of connectivity and network. The area around the K46 (William Nicol Drive), is experiencing an increase in business activities and attracting private investments to the area. The K46 (William Nicol Drive) has been identified for corridor development where mixed land uses should be promoted along and around the corridor, optimising the use of surrounding road networks and increasing employment opportunities to the disadvantaged communities. This public transportation spine will link Fourways, Dainfern and Diepsloot, as well as the mixed-use nodes proposed along this spine, in particular the Regional node proposed on the intersection of the PWV5 and K46. It can therefore be concluded that the proposed developments of Riverside View Extensions 14, 17, 18, 36 and 42 complements the development of a Mobility Spine of Road K46 (William Nicol Drive) within the City.

The environmental issues raised by the appellants are based on the EISD comments dated 20 January 2016 which refer to the EIR for the design and construction of Erling road between K46 and K56, and the K56 between K46 and Main Road. It is noted that these comments oppose the proposed design and construction of these roads as they are said to pose adverse detrimental effects on the receiving environment. However,

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Environmental Authorisation from GDARD dated 15th July 2017 which grants the design and construction of the said roads. This Environmental Authorisation clearly states that the proposed activity will not conflict with the general objectives of integrated environmental management and any potential detrimental environmental

impacts resulting from the proposed activity can be mitigated to acceptable levels. The Water Use Licence Application was commented to on 5th August 2019, the EISD commented favourably to the construction of the K56 from William Nicol Drive to Main Road (including Erling Road). Both latter comments supersede the negative comments by EISD to which the appellants base their argument on. Furthermore, comments from EISD which were attached on the TAS system and used when assessing the application from the onset have no objective to the proposed development, subject to certain conditions being adhered to by the developer.

On the issue of the tribunal that was allegedly not properly constituted it must be noted that the composition and operation of the Municipal Planning Tribunal is in accordance with an approved Council decision as well as the provisions of the Municipal Planning By-law, 2016. In any event any challenge on the legality of the composition of the City's Planning Tribunal cannot be subject of a land development appeal and would fall outside the ambit of the authority of the Municipal appeal authority.

A further issue raised by the appellants is the alleged unfairness as a result of the joint hearing of the applications. All the applications were advertised simultaneously and objections to the applications filed simultaneously. All parties received proper notice (21 days) of the hearing and the hearing was further postponed by agreement between all parties to a future two day date to allow argument on the merits of the application. Therefore no party could be prejudiced by not being granted sufficient time to prepare their arguments on the merits of these applications. There are simply no merits in this argument.

In conclusion, the proposed townships are in line with policy. The department of Land Use Management dealt with all the grounds of appeal and JRA comprehensively dealt the future road planning within the greater area taking into consideration future Provincial roads. Thus the city still stands by its recommendation to support the proposed residential townships with the development controls approved by the MPT.

All of the supporting documentation is attached for perusal and consideration.

4 POLICY IMPLICATIONS

None.

5 LEGAL AND CONSTITUTIONAL IMPLICATIONS

The appeal is in terms of section 51 of the Spatial Planning and Land Use Management Act, 16 of 2013, read with section 49 of the COJ Municipal Planning By-law, 2016.

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The appeal authority under this provision has been delegated to the MMC: Development Planning by the Executive Mayor.

6 FINANCIAL IMPLICATIONS

None.

7 COMMUNICATION IMPLICATIONS

The decision will be communicated to the appellant in writing.

8 OTHER BODIES/DEPARTMENTS CONSULTED

Development Planning and City Transformation.

IT IS RECOMMENDED

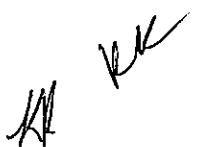
- The first *point in limine* by the respondent property owner in relation to the late filing of the appeals be dismissed.
- The second *point in limine* by the respondents/property owners' is upheld and GECKO is disqualified from any further participation in these proceedings and subsequent appeal.
- That the appeals on the merits of the applications as submitted by the Charles Guise Brown and GECKO be dismissed.
- That approval by the City of Johannesburg Planning Tribunal for the establishment of Proposed Townships Riverside View Extensions 14,17,18,36 and 42 be upheld and implemented as approved.

~~CONFIRMED/NOT CONFIRMED~~



MMC: DEVELOPMENT PLANNING
L KHOZA

15/10/2020
DATE





City of Johannesburg
Department of Development Planning

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REGISTERED POST

07 December 2020

**Greater Kyalami Conservancy
47 Saddlebrook Drive
KYLAMI
chair@gekco.co.za**

Dear Sir / Madam

REQUEST FOR REASONS ON APPEALS

- a) **PROPOSED TOWNSHIPS RIVERSIDE VIEW EXTENSIONS 14, 17, 18, 36 and 42
(REF: 03-14907, REF: 03-14910, REF: 03-14908, REF: 03-14963 and REF: 03-14962)**
- b) **PROPOSED TOWNSHIPS RIVERSIDE VIEW EXTENSIONS 38, 39, 40, 41, 88, 89 and 90
(REF: 03-14966, REF: 03-18242, REF: 03-18244, REF: 03-18241, REF: 03-18246,
REF: 03-18245 and REF: 03-18243)**

The request for reasons in the above appeal refers.

Attached hereto the recommendation that served before the Appeal authority that formed the basis and reasoning for the decision on the subject appeal by the Appeal Authority.

The recommendation that served before the Appeal Authority was accompanied by the appeal documents, the reply thereto by the respondents as well as the Land Use Departments` reply.


Yours faithfully

**for: EXECUTIVE DIRECTOR
DEVELOPMENT PLANNING**

Contact Person: M Reinecke
Tel No: 407-6224
Fax No: 339-4000
/av

APPEAL LETTERS



**GROUP LEGAL & CONTRACTS &
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**APPEAL: PROPOSED TOWNSHIPS
RIVERSIDE VIEW EXTENTIONS 38, 39, 40,
41, 88 ,89, AND 90 (REF: 03-14966, REF:
03-18242, REF: 03-18244, REF 03-18241,
REF 03-18246, REF 03-1845 and REF: 03-
18243) APPEAL REF NO:14/2020**

1 STRATEGIC THRUST

GDS Outcome 4:

A high performing metropolitan government that proactively contributes to and builds sustainable, social inclusive, locally integrated and globally competitive GCR.

2 OBJECTIVE

The purpose of this report is to consider the appeals submitted by 2 parties namely Greater Kyalami Conservancy (Gecko) represented by Ms. Kristin Kallesen and the Greater Kyalami Alliance (GKA) represented by Ms. Rosemary Sandison that participated in the hearing of the application for the establishment of the above mentioned townships and the opposition by the applicant/ owner including certain legal issues raised in opposition to these appeals in terms of section 51 of the Spatial Planning and Land Use Management Act, 16 of 2013, read with section 49 of the COJ Municipal Planning By-law, 2016, against the approval by the City of Johannesburg Planning Tribunal for the establishment of Proposed Townships on Portions of the farm Diepsloot 388 - JR.

3 SUMMARY

Locality: The proposed townships form part of the Riverside View Commercial Development to the east of William Nicol Drive (K46) within the Riversands Commercial Park.

Existing Zoning: The properties are currently zoned "Undetermined" in terms of the City of Johannesburg Land Use Scheme, 2018. The farm portions on which the townships are to be established are currently vacant.

Site Area: Riverside View Ext. 38 measures 10,12 Ha
Riverside View Ext. 39 measures 12,42 Ha
Riverside View Ext. 40 measures 6,45 Ha
Riverside View Ext. 41 measures 17,80 Ha
Riverside View Ext. 88 measures 18,86 Ha
Riverside View Ext. 89 measures 10,27 Ha
Riverside View Ext. 90 measures 2,59 Ha

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Application: The townships were submitted in terms of Section 26 of the City of Johannesburg Municipal Planning By-Law, 2016, in order to establish seven townships to be known as Riverside View Extensions 38, 39, 40, 41, 88, 89, 90.

The Townships were approved by the Municipal Planning Tribunal as per the approvals currently under appeal.

Riverside View Ext. 38 – “Special” for Offices, Motor Trade, Residential 4 (permitting 120 dwelling units per hectare), Place of Instruction, Public and private open space and Private streets

Riverside View Ext. 39 – “Special” For Offices, Motor Trade, Residential Buildings, provided that non-residential uses may include 35% related Commercial uses

Riverside View Ext. 40 – “Special” for Residential 4, Offices, Motor Trade, Residential 4 (permitting 120 dwelling units per hectare), Place of Instruction, Public and private open space and Private streets.

Riverside View Ext. 41 – “Residential 4” including Place of Instruction, Place of Public Worship, Club House, Access Control, Public and Private Open Space and Private Streets.

Riverside View Ext. 88 – “Residential 4” including Place of instruction, Place of Public Worship, Club House, Access Control, Public and Private Open Space and Private Streets.

Riverside View Ext. 89 – “Residential 4” including Place of instruction, Place of Public Worship, Clubhouse, Access Control, Public and Private Open Space and Private Streets.

Riverside View Ext. 90 – “Educational” with primary rights for a Place of Instruction

The said uses were subject to development controls and to certain conditions.

No objections were received from any of the City’s services departments against the application.

Legal arguments and points *in limine* challenging the *locus standi* of the appellant GKA

The respondents/property owners, oppose, the appeal through their duly authorized representative and raise a first point, challenging the locus standi of GKA, against the appeal by GKA represented by Ms. Sandison as the said organization nor Ms. Sandison were not part of the 56 official objectors to the application nor were intervenor status granted to them.

Secondly they argue that the tribunal by virtue of a formal ruling disqualified GECKO (represented by Ms. Kallesen) as an authorized valid objector with *locus standi* to participate in the Town Planning proceedings. The ruling referred to in the argument form part of the submissions as an annexure (Annexure D) that is presented in opposition to this appeal. It is argued that this ruling disqualifies GECKO from any further participation in these proceedings and subsequent appeal.

It is indeed correct that neither Ms. Sandison nor the organization she now purports to represent were party to the applications for the establishment of the various townships

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as they were not official objectors to such applications, thus legally and in terms of the by-law (section 49 (1)) is disqualified from lodging an appeal against the decision of the Tribunal. It is also noted that the mentioned appellant was also not granted intervenor status.

On the **second** point it must be noted that once the status of an objecting party is decided on by the tribunal this decision is *functus officio* and such decision may only be reviewed by a competent court of law. The status of Ms. Kallsen representing GEKCO as an objector was decided by the Tribunal and such decision disqualifying her and GEKCO therefore stand.

It then follows that the point *in limine* by the respondents/property owners must stand and that GEKCO is disqualified from any further participation in these proceedings and subsequent appeal.

That being said and, out of an abundance of caution, the merits of the appeal will also be considered hereunder.

Planning merits and grounds of appeal:

The appellants argue and put forward the following summarized grounds of appeal -

- *Raised as a point in limine: The tribunal was not properly constituted.*
The appellants state that 1) none of the members from the panel of the tribunal are independent and not employees of the City as required by Part C 40(2) of SLUMA. 2) and therefore the tribunal was invalid and the appeal must then succeed.
- *Failure to prove traffic sustainability.*
The easy access to Provincial roads that was used in the motivation of the townships is flawed as these roads do not exist and are unlikely to exist within the next 15 – 20 years.
- *Failure to prove environmental sustainability.*
The wetlands identified have been disregarded in the township design. The townships encroach into the wetlands and buffers in numerous places. There are no water use licenses in place and on request at the tribunal could not be produced.
- *Impact on the green zone not supported by current policies.*
The nodal policy was adopted by council on 27 February, less than a week after these townships were approved and this policy prohibits the approved densities. These townships contradict the SDF and the Nodal Policy by promoting urban sprawl and high density on the edge of the City.

Policies:The proposed townships fall within the Specialist SMME Mixed Use Nodes. The zone seeks to promote a mix of land uses such as; retail, warehouses/wholesale, motor trade, light industrial, showrooms, institutions, offices, commercial uses and restaurants further promotes medium to high density, motor trade, offices, educational and medical

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facilities The proposed area is being developed with a mix of developments and a rapid development is currently underway; in Riverside View and its surroundings.

These properties form part of the Riversands Commercial Park development, which is located to the north-east of Steyn City Development (Riverglen Erven 1 and 2 and Dainfern Extension 26) and Riverside View Extension 15 known as the Incubation Hub development.

Since 2008, the application underwent several amendments in view of the current market changes. Early in 2013, a provincial project was conceptualized to establish a SMME Incubator Program in this area to include a SMME Training Centre and a variety of Businesses, Light Industrial and Commercial uses in support of a Commercial Park. Riverside View Extension 13 to 18 was then identified as a suitable location for the Vocational Training Centre (SMME Incubator) and the proposed Riversands Commercial Park. The application to establish the Vocational Training Centre (SMME Incubator) on Riverside View Extension 15 was later approved by the City of Johannesburg: Land Use Planning Department in October 2013.

While it is accurate to an extent that the existing RSDF policy does support mixed land uses in this locality, the specific land use mix required for SMME Incubation Hub use and supporting Business / Light Industrial Park is not sufficient to accommodate the project as envisaged. As such, a formal request was made to City of Johannesburg: Directorate of City Transformation by Urban Dynamics Gauteng Inc to amend the land use categories and boundaries of the RSDF's approved mixed use node at the PWV5/K46 (William Nicol Drive) to include Warehousing, Light Industrial and Commercial Uses. This request was also approved by the Directorate of City Transformation in March 2014.

Comments from the Land Use Department on the appeal:

The proposed townships were supported from a Land Use Management perspective as being in line with The Specialised Regional node: Specialist SMME Mixed Use Nodes. Being the; High intensity mixed use zone; Transition Mixed Use Zone and the Residential Zone.

The intense uses are approved next to William Nicol Drive to encourage Transit Orientated Development. The area between the Transition Mixed Use Zone and UDB is recognised as a Residential zone with only low to medium intensity land uses, in order to reduce developmental activities closer to the UDB. The transition area (between the Residential zone and UDB) is viewed as an interface area before one reaches the UDB, to act as a buffer between the activity node and UDB.

The issue raised related to the townships interfering with the "Green Zone". The application for RSDF amendment was submitted in 2013 and after extensive public participation; the City of Johannesburg formally adopted it as policy on 28 November 2013.

This spatial planning policy amendment supported the development of a node with mixed-use developments along the William Nicol corridor, a detailed land use mix and

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specific measures to deal with the transition between those areas falling within the UDB and those that the appellant now refers to as the "Green Zone" which they claim is under their personal protection to the East thereof.

All seven (7) of the applications were circulated to the relevant departments and the various studies were conducted which address issues of access, road upgrades, environmental sensitive areas and availability of services. Johannesburg Water approved the Outline Scheme Report and specified conditions to which the developer shall adhere to. The JRA approved a Traffic Impact Assessment as well as an addendum to it and set out conditions that are to be adhered to.

It was shown that the municipality did consider transportation routes and systems (and other engineering services) as required in terms of Regulation 18 of Ordinance 15 of 1986 and for the provision of services under Section 42 of SPLUMA. These sections direct municipalities to consider the state of infrastructure and the impact those developments will have thereon.

From an infrastructural perspective, the applicant was obliged to coordinate its analysis and infrastructure upgrading proposals together with other developments of magnitude in the sub-region. These developments included Steyn City, the City's Riverside View development (Diepsloot South) and Province's Tanganani development (Diepsloot East).

From a traffic impact perspective, these joint investigations were coordinated by the City of Johannesburg (JRA) and established the pro-rata allocation of responsibilities and liabilities on the part of the respective developers to procure such engineering services infrastructure and create adequate engineering capacity of all these developments. The City of Johannesburg consequently considered and approved a holistic Traffic Impact Assessment and Road Master Plan which not only pertained to the Riversands Commercial Park development, but also to adjacent proposed developments and the requirements of each respective developer were allocated per development phase in each respective development.

At the Municipal Planning Tribunal, the applicant proved that based on the positive comments by Gautrans, SANRAL, CJMM Transportation and JRA on Riverside View Extensions 38 to 41 and 88 to 90 and the documents and reports appended to the MPT agenda, these developments will be sustainable from an infrastructural point of view and from a traffic impact perspective.

The issue raised related to the appellants questioning the Wetlands and buffers are not shown on the layout. The layout plans for these extensions included the wetlands as delineated in the original application for environmental authorization issued by GDARD in 2009. The plans also clearly define the 30m DWAF Buffer and the 1:100-year flood line. The authorized environmental authority, GDARD issued a Record of Decision in 2009 which authorized the listed activities triggered by the intended development in terms of NEMA. This environmental authorization was amended in February 2013 to account for the phasing of the project. There was also a second amendment in

December 2013 approved by GDARD (all appended to the MPT agenda) that even referred to the wetland delineation and imposed buffers.

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The seven (7) townships are strategically located in terms of connectivity and network. The area around the K46 (William Nicol Drive), is experiencing an increase in business activities and attracting private investments to the area. The K46 (William Nicol Drive) has been identified for corridor development where mixed land uses should be promoted along and around the corridor, optimising the use of surrounding road networks and increasing employment opportunities to the disadvantaged communities. This public transportation spine will link Khayalami, Fourways, Dainfern and Diepsloot, as well as the mixed-use nodes proposed along this spine, in particular the Regional node proposed on the intersection of the PWV5 and K46. It can therefore be concluded that the proposed developments of Riverside View Extensions 38 to 41 and 88 to 90 complements the development of a Mobility Spine of Road K46 (William Nicol Drive) within the City.

On the issue of the tribunal that was allegedly not properly constituted it must be noted that the composition and operation of the Municipal Planning Tribunal is in accordance with an approved Council decision as well as the provisions of the Municipal Planning By-law, 2016. In any event any challenge on the legality of the composition of the City's Planning Tribunal cannot be subject of a land development appeal and would fall outside the ambit of the authority of the Municipal appeal authority.

The traffic sustainability of the proposed townships was duly considered by the department as well as the JRA when commenting on the applications. A holistic Traffic Impact assessment and Roads Master Plan which not only pertained to the Riversands development and these Townships but also adjacent developments in the greater area was considered and approved by the City and JRA. The High level traffic modelling and public transport assessment by JRA, Gautrans and SANRAL was considered and formed part of the documents that was considered by the Tribunal.

The **environmental issues** raised by the appellants are simply incorrect as the layout plans for these townships include the wetlands as delineated by the GDARD authorizations. The plans also indicate the 30m DWAF buffer and the 1: 100 year floodline.

Impact on green zone is used as an argument by the appellants to substantiate the purported impact that these townships will have on the area to the east which falls outside the Urban Development Boundary and called the "Green Zone". Provision is made in terms of policy and actual development to reduce any potential impact on properties in the so called "Green Zone" by developing polo fields, sport fields, a school and equestrian links between the higher intensity developments to the west of these properties that fall outside the Urban Development Boundary. Density as well as height in this area will also be reduced to the benefit of the "Green Zone".

In conclusion, the proposed townships are in line with policy. The department of Land Use Management and the respondent dealt with all the grounds of appeal and JRA comprehensively dealt the proposed townships and the future road planning within the greater area taking into consideration future Provincial roads. Thus the city still stands by its recommendation to support the proposed residential townships with the development controls approved by the MPT.

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**GROUP LEGAL & CONTRACTS &
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4 POLICY IMPLICATIONS

None.

5 LEGAL AND CONSTITUTIONAL IMPLICATIONS

The appeal is in terms of section 51 of the Spatial Planning and Land Use Management Act, 16 of 2013, read with section 49 of the COJ Municipal Planning By-law, 2016.

The appeal authority under this provision has been delegated to the MMC: Development Planning by the Executive Mayor.

6 FINANCIAL IMPLICATIONS

None.

7 COMMUNICATION IMPLICATIONS

The decision will be communicated to the appellant in writing.

8 OTHER BODIES/DEPARTMENTS CONSULTED

Development Planning and City Transformation.

All of the supporting documentation is attached for perusal and consideration.

IT IS RECOMMENDED

- The point *in limine* raised by the GKA in relation to the composition of the tribunal be dismissed.
- That it be confirmed that the GKA lacks *locus standi* to lodge an appeal in these proceedings.
- The Appeal submitted by Greater Kyalami Conservancy (Gecko) represented by Ms. Kristin Kallesen and the Greater Kyalami Alliance (GKA) represented by Ms. Rosemary Sandison be dismissed.
- That approval by the City of Johannesburg Planning Tribunal for the establishment of Proposed Townships Riverside View Extensions 38,39,40,41,88,89,90 be upheld and implemented as approved.

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15/10/2020
DATE

