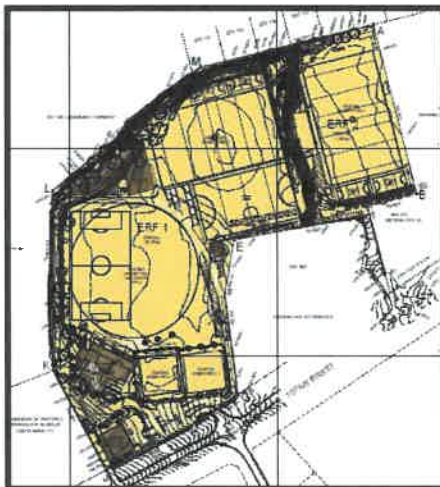


MEMORANDUM

IN SUPPORT OF AN APPLICATION FOR THE ESTABLISHMENT
OF A TOWNSHIP ON THE REMAINING EXTENT OF PORTION
116 OF THE FARM GROENKLOOF 358, REGISTRATION
DIVISION JR, PROVINCE OF GAUTENG

An application in terms of Section 16(4) of the City of Tshwane Land
Use Management By-law, 2016

PROPOSED TOWNSHIP: GROENKLOOF EXTENSION 14



PREPARED FOR

HARLEQUIN CLUB

BY

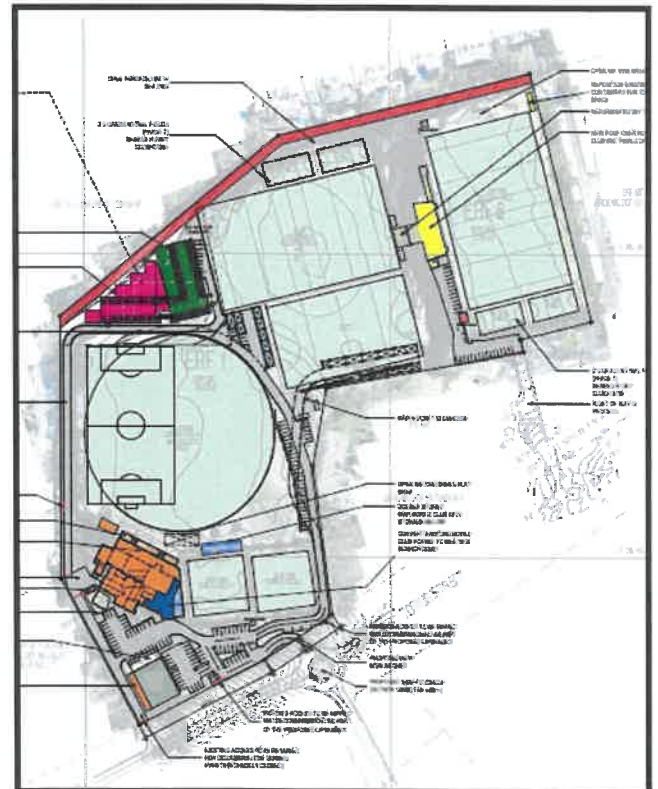
THE PRACTICE GROUP (PTY) LTD

P O BOX 35895
MENLO PARK
0102

Tel: 012 – 362 1741
Fax: 012 – 362 0983
E-mail: peter@practicegroup.co.za

Our Ref: 700/082

OCTOBER 2021



THE PRACTICE GROUP

1. INTRODUCTION AND EXECUTIVE SUMMARY

- 1.1 The Remaining Extent of Portion 116 of the farm Groenkloof 358 JR (subject property) is home to the existing Harlequin Club and related sport facilities (including various cricket fields, soccer pitches, rugby fields and associated facilities). The subject property lies wedged in between Lukasrand Township in the north and north-west whilst the townships of Groenkloof Extension 5 and Extension 9 abut on the subject property along the eastern and south-eastern boundaries.
- 1.2 The subject property is held as a farm portion and is zoned "Undetermined" in terms of the Tshwane Town Planning Scheme, 2008 (reviewed in 2014). The de facto use of the subject property is therefore not in proper alignment with the provisions of the aforesaid scheme. It is the intention of the landowner to introduce further developments on the subject property to co-exist with the various sport facilities and sport grounds including places of refreshment, a multi-purpose sports hall, and rehabilitation centre (including a gymnasium), covered pavilion area, and certain additions to clubhouses for different sporting codes and related facilities.
- 1.3 Given the situational context of the subject property, the aforesaid requires the establishment of a township thereon and this application seeks relief in terms of the provisions of Section 16(4) of the City of Tshwane Land Use Management By-law, 2016 (by-law) for the aforesaid purpose.
- 1.4 Upon successful proclamation of the township and the approval of the required land use rights, the larger development site measuring approximately 7,97ha will be permitted to accommodate a total of 9 500m² in gross floor area to cater for the existing and proposed uses described in more detail herein.
- 1.5 Should the application for township establishment be approved, the township will be described as Groenkloof Extension 14. A copy of the letter received from the Toponymy Division at the City of Tshwane Metropolitan Municipality, confirming the reservation of the township name, is attached hereto as **Annexure A**.
- 1.6 In the paragraphs to follow, the property details are presented and the application motivated in the context of the prevailing policies of the municipality and the applicable legislation so as to place the municipality in a position to take a fully informed decision on the matter.

2. PROPERTY PARTICULARS

- 2.1 The property which forms the subject of this application is held under Deed of Transfer T11278/1998 from which the following details are evident:
 - Registered Description: Remaining Extent of Portion 116 (a portion of Portion 2) of the farm Groenkloof 358, Registration Division JR, Province of Gauteng.
 - Registered Owner: Harlequin Club
 - Land Area: 7,9661ha
 - SG Diagram: SG A5359/1994
- 2.2 According to the records of the Registrar of Deeds, there are bonds which remain registered against the subject property and in the result no consent of the bondholder is required.

- 2.3 As far as the land area is concerned, the aforesaid Deed of Transfer (a copy of which is attached as **Annexure B**) confirms the land area to be 13.1511ha in extent. However, the land area associated with the township extensions of Groenkloof Extension 5 and Extension 9 have to be discounted namely:
- Groenkloof Extension 5 on Portion 131 of the same farm: 3.5 ha; and
 - Groenkloof Extension 9 on Portion 134 of the same farm: 1.68 ha
- 2.4 This results in the Remaining Extent measuring 7,9661ha. A copy of the relevant SG Diagram in the above regard is attached as **Annexure C** together with excerpts from the compilation plans on record with the Surveyor General.

3. MANDATE TO ACT FOR OWNER

- 3.1 The subject property is owned by a club (Harlequin Club) and for the purposes hereof a resolution of the members of the Council of the Club was passed to authorize the Practice Group to act in this matter. A copy of the resolution is attached as **Annexure D**.
- 3.2 Furthermore, a special power of attorney has been granted in favour of the Practice Group to act in this matter, a copy of which is also attached as **Annexure D** hereto.

4. LOCATIONAL CONTEXT

- 4.1 **Maps 1 and 2** hereto illustrate the situational context of the subject property at regional and local levels.
- 4.2 From a regional perspective the subject property lies approximately 3.7 km due south-east of Church Square and immediately south of and abutting on the township of Lukasrand, a short distance due east of the Unisa University Campus.
- 4.3 In a local context, the subject property lies within an area bounded by the following streets:
- Sibelius Street in the north;
 - Florence Ribeiro Avenue (M 9) in the east;
 - Totius Street in the south-east; and
 - Dr Lategan Road in the west.
- 4.4 In the immediate vicinity to the south is the Groenkloof Life Hospital (previously known as Little Company of Mary) whilst to the south-east across Totius Street is the existing Pretoria Rugby Club premises. In close proximity to the west is the South African Bureau of Standards whilst the Crawford International Campus is situated directly east of the subject property.

5. LAND USE AND ZONING

- 5.1 **Maps 3 and 4** hereto illustrate the land use and zoning regimes which apply to the subject property and the immediate surroundings. As far as land use is concerned the subject property is well known as the Harlequin Club and related

sport fields including an offering of a restaurant and associated facilities. Larger parts of the subject property present as open air sport fields (cricket, rugby, etc.). The historic club house and related facilities are situated mainly on the south-western extreme of the subject property in close proximity to the entrance via Totius Street.

- 5.2 In the immediately surrounding area, the following land use regime is evident:
- To the north are a number of single residential houses associated with the Lukasrand suburb whilst the north-western boundary abuts on the existing Crawford College school and associated facilities.
 - To the east is an existing office complex.
 - To the south-east (on Groenkloof Extension 9) is a office facility
 - Across the Totius Street road reserve to the immediate south of the subject property is the existing Groenkloof Life Hospital complex and associated facilities.
 - A number of existing complexes of residential units are in evidence to the south-east.
 - In close proximity to the south-east is the existing Pretoria Club rugby fields and associated premises whilst further to the south-east is the existing CBC Old Boys sport facilities, gymnasium and related developments.
- 5.2 As far as zoning is concerned the subject property is zoned Undetermined whilst in the immediate vicinity a mixed zoning regime includes:
- Residential 1 to the north
 - Special zoning to the east
 - Special zoning to the south-east
 - Institutional to the south-west; and
 - Educational to the north-west
- 5.3 A zoning certificate issued by the municipality is attached under **Annexure E** confirming that the subject property is zoned under Use Zone 19 as "Undetermined".

6. DEVELOPMENT PROPOSAL

- 6.1 The subject property was previously owned by the municipality and was made available to the sport club to be used for different sport related purposes. This included the approval of building plans for a number of top structures erected on different parts of the subject property to provide for, inter alia, the main clubhouse, certain change room facilities, spectator pavilions and the like. The subject property was later transferred in ownership to Harlequin Club, the current owner.
- 6.2 Whilst building plans had been approved by the municipality in regard to certain of the top structures which exist on the subject property, such approvals were provided notwithstanding evident contradictions in regard to the statutory zoning provisions which applied to the subject property. Hence the requirement to regularize the existing use (and to provide for a measure of additional development) by way of township establishment. For such purpose the applicant briefed Messrs KWP Create Architects to prepare a form of master plan for the larger subject property and to provide for both existing and future top structures to be accommodated on those parts of the subject property which remain available for development whilst retaining the different sports fields and related

facilities. A copy of the architectural master plan/site development plan is attached as **Annexure F** and serves to illustrate the intentions of the applicant.

6.3 In summary, the applicant intends, over time, to develop and redevelop parts of the subject property for the following purposes:

- Existing Buildings and Structures (including the Clubhouse and Restaurant, Squash Courts, Pavilion and Rugby Club etc.) : $\pm 4500\text{m}^2$;
- New Multi-Purpose Sports Hall: $\pm 1\,250\text{m}^2$
- New Rehab Centre (Sub-Acute facility): $\pm 1\,173\text{m}^2$
- New Fitness Centre (Gym): $\pm 1\,245\text{m}^2$
- New Bowls Clubhouse: $\pm 200\text{m}^2$
- New Staff Rooms: $\pm 110\text{m}^2$

In total, the refurbishments associated with the existing building and the proposed new buildings/structures will provide for a total floor area of approximately $9\,500\text{m}^2$.

6.4 Access to the subject property will remain available from Totius Road along the southern boundary which access will to at surface parking areas situated mainly along the south-western boundary of the site. The existing main access will however be closed and a new main access point will be provided further east on Totius Street, whilst a traffic circle will be constructed as part of the new access point. The service/secondary access point (entrance only), along the south-western boundary of the site will be retained for occasional use.

6.5 The larger subject property (once consolidated) will present as a single entity accommodating the different top structures and sports fields as illustrated on the enclosed master plan/site development plan. It is envisaged that, once complete, the top structures will account for approximately 10% of covered area of the larger property. Given the existing position of the main clubhouse and related facilities, the places of refreshment, club administration offices, locker rooms and related facilities will be concentrated on the western part of the subject property in close proximity to the point of access.

6.6 Other building structures are proposed on different parts of the subject property to serve the various sporting codes and to be in close proximity to the different sport fields as follows:

- Bowls Clubhouse located in close proximity to the existing bowling greens
- Rugby Clubhouse situated within the existing pavilion next to the rugby field
- Multi-purpose sports hall, rehab centre and gym to be situated in the north-western corner of the site.

7. APPLICATION DETAILS

7.1 This application seeks relief in terms of the provisions of Section 16(4) of the City of Tshwane Land Use Management By-law (by-law) for approval of the application to establish a township on the Remaining Extent of Portion 116 of the farm Groenkloof 358 JR as illustrated on the proposed township layout plan 700/082/02 enclosed under **Annexure G** hereto.

7.2 The application proposes to provide two (2) Erven (to be consolidated upon proclamation) as follows:

- Proposed Erf 1: $\pm 6.02\text{m}^2$
- Proposed Erf 2: $\pm 1.95\text{m}^2$
- TOTAL ERF AREA: $\pm 7.97\text{ha}$**

- 7.3 The proposed land use zoning rights and restrictions for both of the erven area set out in summarized terms below:
- Land use zone: "Special"
 - Permitted land uses: Sports and Recreational Club, Place of Refreshment, Place of Amusement (limited to a sports arena/stadium used for live concerts and performances) and Sub-Acute Facility.
 - Height limitation: 3 storeys: Provided that the grandstands and flood lights may extent to a height of 30 meters above natural ground level.
 - Floor area ratio: 0.12 (Gross Floor Area restricted to $9\,500\text{m}^2$), restricted as follows:
 - Place of Refreshment: $1\,600\text{m}^2$ gross floor area
 - Sub-Acute Facility: $1\,200\text{m}^2$ gross floor area
 - Fitness Centre (Gym): $1\,300\text{m}^2$ gross floor area
 - Coverage restriction: As per approved SDP
 - Parking provision: To the satisfaction of the Municipality
- 7.4 The more detailed zoning provisions are set out in the proposed amendment scheme documents under **Annexure H** hereto and should be read in the context of the proposed township layout plan described above. A copy of the proposed conditions of establishment for the proposed township (Groenkloof Extension 14) is attached hereto as **Annexure I**.
- 7.5 Upon proclamation of the township in its proposed form, the land development applicant will be permitted to erect $9\,500\text{m}^2$ of gross floor area on the subject property and to retain the existing sport fields and related facilities generally associated with Harlequin Club.

8. CONDITIONS OF TITLE

- 8.1 **Annexure B** hereto is a copy of the Deed of Transfer which applies to the subject property. The applicant has also briefed a conveyancer to prepare a conveyancer's report, a copy of which is enclosed under **Annexure J** for ease of reference.
- 8.2 The subject property is affected by a number of historic conditions of title and servitudes and for the purpose hereof the following matters are highlighted given that they have a bearing on the proposed use and development of the erven in the proposed township and must be addressed in the conditions of establishment:

- Condition A

This is a servitude in favour of Eskom which does not affect the subject property due to geographical location but which requires input from Eskom given that certain ancillary rights have been reserved in its favour. This is typically a formality and a separate request to Eskom will be submitted for such purpose.

■ Condition C

This is a servitude in favour of Eskom which does not affect the subject property due to geographical location but which requires input from Eskom given that certain ancillary rights have been reserved in its favour. This is typically a formality and a separate request to Eskom will be submitted for such purpose.

■ Condition F

This is a servitude in favour of Eskom which does not affect the subject property due to geographical location but which requires input from Eskom given that certain ancillary rights have been reserved in its favour. This is typically a formality and a separate request to Eskom will be submitted for such purpose.

■ Endorsement on Page 9 of the Deed

This refers to a servitude K3306/2001S being a servitude for stormwater purposes in favour of the Municipality. This condition does indeed affect the subject property and will have to be brought forward into the title deeds of the erven in the township. Given that only 2 erven are proposed (and will be consolidated upon proclamation), the condition will attach to both. This will be inserted in the conditions of establishment as part of the "disposal of existing conditions of title" section.

The balance of the conditions of title dealt with in the conveyancer's report do not affect the subject property due to geographical location and for other reasons and, in the result will not be brought forward into the title deeds of the erven in the township. Under the heading "disposal of existing conditions of title", in the conditions of establishment, such conditions and servitudes will generally be excluded as they do not affect the township area due to location.

- 8.3 In addition to the above, a land surveyor's certificate has been provided by Mr. L Wessels, a copy of which is enclosed under **Annexure K** hereto confirming the different servitudes and the status thereof which shall also inform the manner in which final conditions of establishment may be formulated by the municipality should the application be approved.

9. ENVIRONMENTAL CONSIDERATIONS

- 9.1 The Biodiversity Company Environmental Assessment Practitioners were appointed to investigate the requirements (if any) to procure environmental authorization in terms of the provisions of the National Environmental Management Act, 1998 (Act 107 of 1998) (NEMA) and to advise on related environmental aspects which may inform the township establishment process.
- 9.2 In this regard a letter has been procured from the Gauteng Department of Agriculture and Rural Development (GDARD) dated 5 February 2021, a copy of which is attached under **Annexure L**, and which confirms that, what is intended by the applicant will not trigger any requirement to procure environmental authorization as contemplated in the regulations to NEMA.

- 9.3 In **Annexure M** hereto is a summary report by the environmental assessment practitioner describing those aspects of the subject property which may inform the layout of the township and related considerations. Suffice it to confirm that the environmental assessment practitioners have determined that there are no parts of the subject property which are particularly environmentally sensitive.
- 9.4 Having regard to the provisions of Section 42(2)(2) of Spatial Planning and Land Use Management Act, 2013 (SPLUMA) it is therefore evident that the municipality has been placed in a position to take its decision on the application for township establishment in the knowledge that all relevant aspects in regard to environmental legislation have been adhered to.
- 9.5 The environmental impact assessment practitioner undertook a wetland verification process which focused on a desktop assessment and related investigations pertaining largely to a delineated drainage line and corresponding stormwater inlets and outlets which border on the north-western and northern boundaries of the subject property (shared with, inter alia, Crawford College and certain erven in Lukasrand township). The report concludes that the identified watercourse does not constitute a wetland system and in consequence, no buffer zone will be applicable save to impose suitable stormwater management measures as addressed in the engineering reports enclosed herewith. A copy of the wetland verification report is attached hereto as **Annexure N**.
- 9.6 In addition to the above the responsible civil engineer has certified the township layout plan to confirm that, in terms of the National Water Act, 1998, the subject property is not affected by any 1:50 or 1:100-year flood lines.

10. TRAFFIC IMPACT ASSESSMENT AND ACCESS CONSIDERATIONS

- 10.1 A Traffic Impact Assessment Report was prepared by Messrs Dhubecon Consulting Engineers, a copy of which is enclosed under **Annexure O** hereto.
- 10.2 Whereas the current access to the subject property is taken from 3 different positions along Totius Street, the traffic impact assessment report recommends that two of such access points be consolidated via a new traffic circle whilst an existing service entrance will be retained in addition as indicated on the township layout plan. These proposals address matters pertaining to the spacing of access points and intersections in compliance with the requirements of the latest and most relevant guidelines (including the South African Traffic Impact and Site Traffic Assessment Standards and Requirements Manual). These matters were presented in principle to the relevant municipal officials prior to the submission of the application for township establishment. In addition to the above, the report proposes a minimum stacking distance of 25 meters to comply with the aforesaid manual.
- 10.3 As far as parking is concerned the Traffic Impact Assessment report confirms that, *de facto*, approximately 170 on site parking spaces were on offer.
- 10.4 The Traffic Impact Assessment report proposes that the on site parking offer be amended as per the provisional site development plan prepared by the project architect (**Annexure E**) confirming a total on-site parking provision of 313 spaces. This is considered to be adequate for the specialized purposes of the intended uses on the subject property as motivated in the traffic impact assessment report.

- 10.5 The report also confirms that, based on the development proposals and the proposed gross floor area components envisaged on the subject property, the estimated total vehicular trips associated with the proposal may come to:
- AM peak hour trips (vph) 164
 - PM peak hour trips (vph) 429
- 10.6 In summary the recommendations contained in the traffic impact assessment report, the following proposed road and intersection upgrades have been mentioned:
- Main access/Totius Street/Steger Street intersection
- It is proposed that the intersection (Steger Street/Totius Street T-junction) be upgraded to a 4-legged traffic circle control intersection. This implies that the existing main access and the existing special access be decommissioned. It is furthermore proposed that any bulk engineering services contributions payable in regard to roads and stormwater be partially off-set in regard to the aforementioned intersection upgrades and for the upgrading of other potentially problematic intersections in the area identified by the municipality.
- As far as non-motorized and public transport matters are concerned the traffic impact assessment report recommends that the paved sidewalk along the southern boundary of the site (along Totius Street) be reinstated. This will assist in providing access to, inter alia, public transport facilities in Totius Street and also further afield in Florence Ribeiro Avenue (M9) and George Storrar Drive (M7).
- 10.7 The traffic impact assessment report concludes that from a traffic engineering perspective the proposed township on the subject property may be supported subject to the aforesaid upgrading proposals being implemented and the proposed site access arrangements being imposed.

11. WATER AND SANITATION ENGINEERING SERVICES

- 11.1 Messrs Bigen Africa Services (Pty) Ltd prepared a report in regard to water and sanitation engineering services, a copy of which is attached as **Annexure P**. The report confirms the fairly gentle slope of the overall site (estimated to be approximately 1:45), mainly in an eastern direction. Attention is drawn to the existing drainage channel which traverses the subject property. These aspects are indicated on the site plan and township layout plan enclosed herewith as **Annexure F and G**, indicating contour intervals, slope direction, the position of the drainage channel and related physical features.
- 11.2 The report also attended to a geotechnical assessment confirming that the subject property is generally underlain by shale and/or quartzite. A fog zone affects the northern portion of the subject property. No evident rock outcrops were observed on the subject property and no groundwater seepage was evident from test pit excavations.
- 11.3 As far as water supply is concerned the report concludes that the existing pipeline along Totius Street requires to be upgraded from the current 75mm diameter to a proposed 116mm from Florence Ribeiro Avenue to George Storrar

Drive. This may be required to increase to 200mm diameter over a distance of approximately 786 meters to address fire flow conditions to the satisfaction of the Municipality.

- 11.4 As far as sanitation is concerned the report concludes that, save for two new sewer manhole connections to be added to the existing infrastructure, no upgrades to the bulk infrastructure will be required to accommodate what is intended on the subject property.

12. GEOTECHNICAL CONDITIONS

- 12.1 A report prepared by Messrs Ungrounded Geotechnic in collaboration with Messrs T.O. Geotechnical Solutions is enclosed under **Annexure Q**. The geotechnical assessment concludes that:
- No collapsible fabric was observed in the soil horizons underlying the subject property.
 - No seepage was encountered in any of the test pits as excavated.
 - The natural underlying in-situ horizons were found to have a "low" expansiveness and a "low" potential for heave.
 - No slope instability aspects were identified during the investigation. The report recommends that, as far as foundations are concerned certain aspects require attention:
 - Certain additions to the existing squash court building. Normal construction or stiffened/reinforced strip footing should suffice.
 - For future structural development, the report recommends that footprint specific investigations be conducted for any new structure to be erected.
 - From the aforesaid, it is evident that no insurmountable problems in regard to geotechnical conditions were identified during the aforesaid investigations.

12. ROADS AND STORMWATER ENGINEERING SERVICES

- 12.1 A report prepared by Messrs Bigen Africa Services (Pty) Ltd is enclosed under **Annexure R**.
- 12.2 As far as roads are concerned, the report confirms that the subject property is served by a Class 4a commercial collector road (Totius Street) which creates a link between 2 Class 3 minor arterial roads namely:
- George Storrar Drive (M7); and
 - Florence Ribeiro Avenue (M9)
- 12.3 Furthermore, a Class 5 local collector road namely Steger Street is evident directly south of the proposed township. The proposed road upgrades contemplated in the traffic impact assessment report are repeated in the recommendations pertaining to the roads component of the report.
- 12.4 As far as stormwater is concerned the report confirms that the subject property drains generally towards the Magnolia Dal open space area forming part of the Walkerspruit system some distance north of the subject property. Site drainage occurs mainly in a north-easterly direction. The report suggest that stormwater should be designed in a manner that it be collected and transported by means

of an underground pipe system and then discharged into the closest floodplain or to connect to the nearest existing municipal infrastructure. It is proposed that the existing concrete channel extending from Crawford College along the north-western boundary are required to be upgraded. Existing field inlet on the subject property is connected to certain underground stormwater pipes that drain into concrete stormwater channels located beyond the boundaries of the proposed township. The report concludes that there is sufficient capacity within the existing infrastructure to accommodate the stormwater run-off associated with the development and that no upgrades are required beyond the boundaries of the township.

13. ELECTRICAL ENGINEERING SERVICES

- 13.1 Given that the use of the subject property for sport and related facilities has been ongoing for a considerable time and that, what is proposed in the application for township establishment will not bring about any substantial additional demands in regard to bulk electricity supplies to the area and given that the subject property is situated in a well-developed urban area in which municipal engineering infrastructure is available, it is evident that this proposal will not place any unreasonable demands on the available electricity supply which currently serves the subject property.
- 13.2 The conversion of the subject property into a township, per se, will not change the aforesaid circumstances and it may be concluded that no considerations relevant to the provision of bulk electricity militate against what is proposed by the applicant.

14. MOTIVATION

14.1 SPATIAL PLANNING CONSIDERATIONS

- 14.1.1 This matter concerns the establishment of a township on a portion of farmland located within a well-developed urban area (where the suburbs of Lukasrand and Groenkloof meet). The subject property is surrounded by a mix of urban type developments including educational facilities, medical facilities, residential developments of differing typologies, other sport related facilities, a shopping centre, various office developments and the like.
- 14.1.2 The subject property has been home to the well-known Harlequin Club for a considerable time. The property was previously owned by the Municipality and leased to the Club for sport related purposes which, at the time, included a clubhouse facility (bars and dining facilities and locker rooms and function rooms) together with the different sport fields and facilities such as squash courts, bowling greens, etc. Harlequin Club is a well-known and well-established facility in the Tshwane area.
- 14.1.3 For reasons which are not relevant hereto, the municipality transferred the ownership of the property to the club without amending the land use zoning provisions, notwithstanding having approved prior building plans which evidently did not comply with the provisions of the town planning scheme at the time (under a zoning of "Undetermined").
- 14.1.4 Over time the different buildings on the subject property were converted and added to including the introduction of an on-site place of refreshment

(restaurant) and associated facilities. Such restaurant was not only in use by visitors to the sport club per se and was made available to members of the public. The ongoing use of the restaurant was also considered to militate against the provisions of the Scheme. In consequence, it was resolved by the club to approach the municipality to regularize the existing use by the establishment of a township on the subject property which, in turn, would bring about an amendment of the land use zoning provisions with a view to sanctioning the existing on-site facilities whilst providing for a measure of expansion for future use. In general terms, the predominant use of the subject property will remain namely a sport club offering various sport fields and sporting codes and associated facilities. These are illustrated on the architectural master plan/site development plan enclosed under **Annexure E** and is also evident from the aerial photograph of the subject property enclosed under **Map 5**.

- 14.1.5 What is intended by the applicant is not material different to the de facto use of the subject property which has been ongoing for a considerable time, also when the land and buildings were owned by the municipality. From a spatial planning and land use management perspective, very little will change should the application for township establishment be approved save to bring the de facto use of the subject property into proper compliance in regard to, inter alia, the Tshwane Town Planning Scheme, 2008 (revised in 2014).
- 14.1.6 The fact that the development proposal of the applicant will not add any substantial potential floor area component to the larger site and the fact that the existing and proposed development will ultimately only account for some 10% of coverage of the larger site it follows that the practical impact of approving the township will have little if any consequences for the receiving environment – especially in regard to the proposed bulk of buildings to be erected on the subject property.
- 14.1.7 As far as the ongoing use of the sport fields and related sport facilities are concerned, this will occur on an ad hoc basis and will not differ substantially from the use of the subject property over an extended period of time since the inception of the club. It follows that also in this regard no discernable change will come about as a result of the approval of the township application.
- 14.1.8 The introduction of land use zoning rights to sanction the place of refreshment (restaurant) on the subject property may require the imposition of appropriate mitigating measures. The ongoing use, amenity, and enjoyment of adjacent properties (including those residential properties in Lukasrand suburb to the north) require to be protected to the extent possible. In this regard the land development applicant has appointed an acoustic expert to assess ambient noise levels in the area and to make recommendations in regard to any noise related impacts which may result from the use of the aforesaid place of refreshment (restaurant) and associated facilities. Such mitigating measures will be presented to the relevant municipal division responsible for such aspects and, where required the municipality may impose the conditions relevant thereto as part of the final land use zoning restrictions relevant to the erven in the township.
- 14.1.9 Having regard to the various reports enclosed as annexures in support of the application and the fact that no problematic conditions were identified to be addressed in the establishment of the township, it follows that what is proposed by the applicant is indeed justified in spatial planning terms and would indeed result in proper land use management post proclamation.

14.2 ALIGNMENT WITH MUNICIPAL POLICIES

- 14.2.1 The subject property is situated within Region 3 of the City of Tshwane Metropolitan Municipality and remains subject to the policy guidelines contained in the Regional Spatial Development Framework dated 2018.
- 14.2.2 Excerpts from the RSDF are attached under **Annexure S** from which it is evident that the subject property is earmarked for "Mixed Use" purposes. Given its historic use as a sport related facility, the conversion of the existing farm portion into a properly proclaimed township cannot militate against any of the adopted policies of the municipality.
- 14.2.3 The proposal of the applicant will not bring about any substantial potential gross floor area to be executed on the subject property and, from a physical perspective what has been erected on the subject property will not change in any dramatic nature or form.
- 14.2.4 Against this background, it may be concluded that what is proposed by the applicant complies in all relevant respects with the adopted policy of the municipality. This is also relevant with regard to spatial planning guidelines on a Provincial and National Level.

14.3 ALIGNMENT WITH SPLUMA PRINCIPLES

- 14.3.1 Whilst the proposal of the applicant does not involve any substantial new development or a change in use (de facto), it remains incumbent upon the applicant to demonstrate proper alignment with the provisions of, inter alia, Section 42 of the Spatial Planning and Land Use Management Act, 2013 (SPLUMA) with due reference to the development principles set out therein.
- 14.3.2 For the purposes hereof, reference is made to **Table 1** hereto being a summary of the responses of the applicant in regard to the provisions listed in Section 42 and with due regard to the development principles of SPLUMA (where same may be relevant to the consideration of the application for township establishment).

TABLE 1: SPLUMA – SECTION 42

SECTION 42 DIRECTIVES	RESPONSE BY APPLICANT
42(1)(a): Municipality to be guided by Development Principles set out in Chapter 2 of SPLUMA	This matter is dealt with in a separate part of this memorandum with regard to each of the relevant Development Principles. The relief sought by the applicant does not offend any of said Development Principles and is generally in line with same. [See paragraph 14.4 of memorandum]
42(1)(b): Municipal decision to be consistent with norms and standards and measures to protect/promote sustainable use of agricultural land, national and provincial policies and municipal Spatial Development Framework (SDF) and related policy guidelines	These matters have also been dealt with separately in separate paragraphs of this memorandum and suffice it to confirm that the applicable policies of the national and provincial spheres of government do not militate against the intentions of the applicant. The applicant's proposal is generally in line with said guidelines. As far as the municipal Spatial Development Framework (SDF/RSDF) is concerned, the separate motivation presented with regard thereto in the memorandum proves that the application positively aligns with the adopted policy. [See paragraph 14.2 of memorandum]
42(1)(c)(i): Municipality to take public interest into account.	Given that the application aligns positively with the municipal SDF (and by extension with provincial and national guidelines) and given that the public was consulted in the process of adopting the aforesaid policies (more particularly the

SECTION 42 DIRECTIVES	RESPONSE BY APPLICANT
	applicable SDF), a positive decision by the municipality cannot be against the public interest. The applicant has demonstrated that the application aligns positively with the development principles in Chapter 2 of SPLUMA, including the promotion of spatial justice. Clearly, the justification found in the aforesaid principle encapsulates the public interest and, more particularly that the result of approving this application will: • create a situation where the long existing as built situation may be properly sanctioned in terms of the relevant land use controls.
42(1)(c)(ii): Municipality must consider constitutional transformation imperatives.	The property in question forms part an existing developing urban area, earmarked for a specific end use in the adopted policy of the municipality (SDF). To the extent that transformative imperatives are relevant, the policies of the municipality (aligned with both national and provincial government guidelines) are generally aimed at achieving particular transformation outcomes, also with regard to the manner in which the urban structure of the municipality will be developed over time (to become more inclusive/integrated). The applicant's proposal will bring about a greater selection of • opportunities; and • land use typologies; to accommodate a larger segment of the affected public, also those previously denied such opportunities. The transformation of the spatial reality in the affected area will be supported by this outcome.
42(1)(c)(iii): Municipality must consider facts and circumstances relevant to the application.	The subject property forms part of a developing urban area, earmarked for a particular purpose in the municipal SDF. The proposal of the applicant does not militate against the guidelines contained in the SDF. The fact of the matter is that the subject property has been in use for purposes of sports facility and related land uses for an extended prior of time (even before the property was owned by the club). There are no facts and circumstances relevant to the application which prevent the positive decision of the municipality in this matter. Spatial planning considerations suggest that the subject property is situated in an area which is deemed compatible with the applicant's proposal (as the long existence of the club illustrates). The desirability of the proposal is not in question, given the prevailing land use regime in the area.
42(1)(c)(iv): Municipality must consider respective rights and obligations of affected parties.	The application under consideration has been given notice of, as required in the municipal by-law. Affected parties have therefore been offered the opportunity to consider the proposals of the applicant and to respond thereto (to the extent that this may be relevant). As the application bundle proves, there are no rights or obligations of affected parties which stand to be negatively affected by the approval of the application, save to confirm that mitigating measures may have to be put in place to protect owners of adjacent residential properties from any noise pollution that may be cause. The affected parties form part of the larger public who, in turn, participated in the process of preparing and adopting the spatial development framework for the area. The application aligns positively with the guidelines in the adopted SDF.
42(1)(c)(v): Municipality must consider the state of and impact of engineering services, social infrastructure and open space offerings.	The application is accompanied by reports by professional engineers detailing the anticipated impact of the proposed township establishment on engineering services networks and capacities and the current state of bulk engineering supplies. The reports indicate that no considerations relevant thereto

SECTION 42 DIRECTIVES	RESPONSE BY APPLICANT
	prohibit the approval of the application. As far as social infrastructure is concerned, the use of the subject property for purposes of a sports and recreational club and associated use will not rely or be dependent on any new social infrastructure, but will rather serve as such. The area in which the subject property is situated is well developed and well serviced, forming part of an existing urban area. As far as open space requirements are concerned, the nature of the application for a sports a recreational facility, does not unlock a requirement to provide any public open space.
42(1)(c)(vi): The municipality must have regard to timeframes as prescribed in the by-law and SPLUMA	The applicant has complied with the timeframes prescribed in the by-law. On its part, the municipality is bound by its own guidelines with regard to the timeframes. Given that the matter is still under consideration, this aspect does not trigger any further requirement for a response on the part of the applicant.
42(2): The municipality must ensure compliance with environmental legislation	The application pertains to a property of some 7.97ha situated in an urban context. Having regard to the Regulations to the National Environmental Management Act, 1998 (Act 107 of 1998) (NEMA), it is evident that the proposal of the applicant does not unlock any requirements to also procure environmental authorization in terms of NEMA. A letter confirming same was obtained from GDARG and is attached hereto as Annexure L.

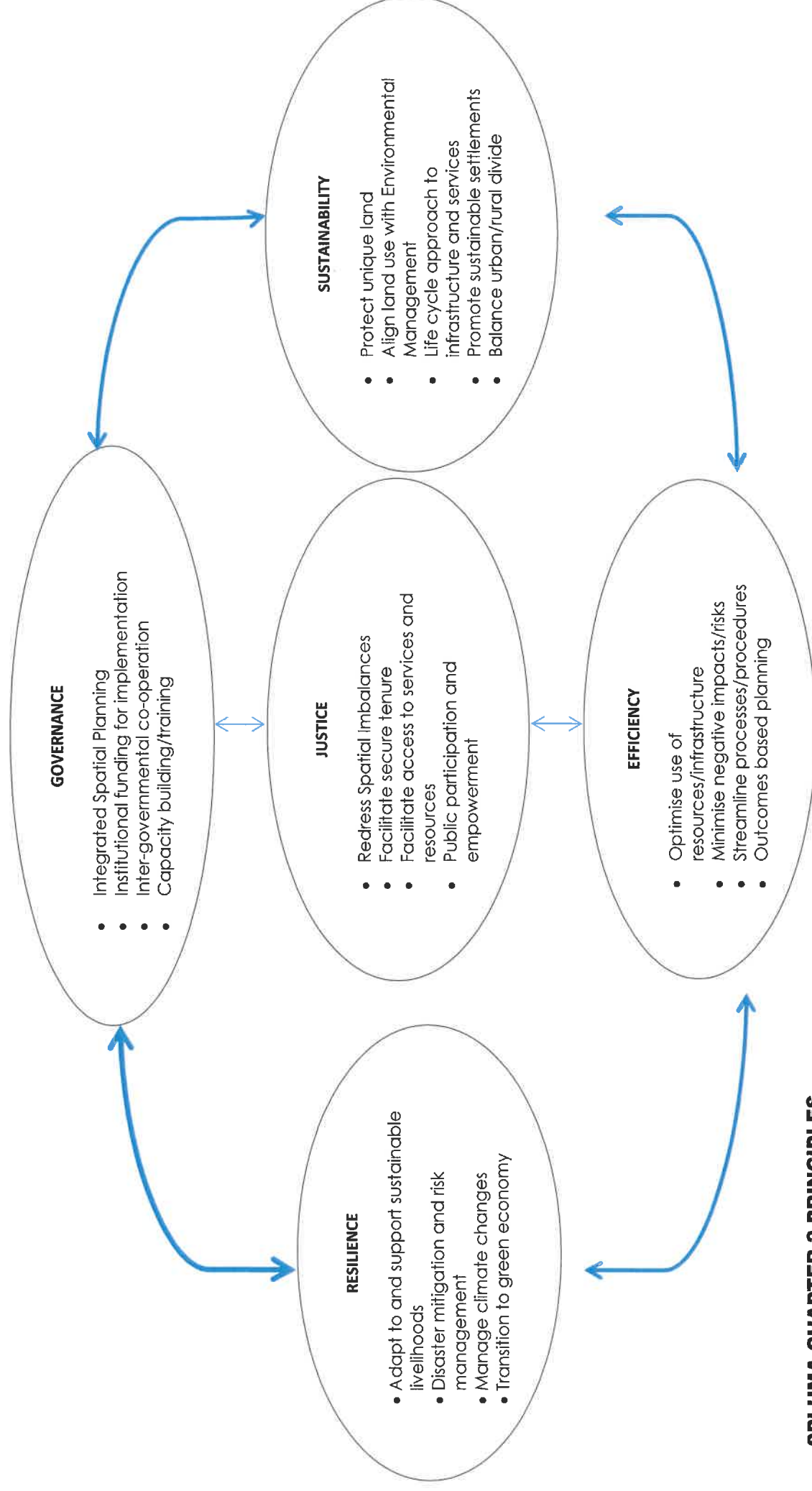
14.3.3 Suffice it to confirm that, having regard to the historic use of the subject property and the limited development footprint envisaged thereon, the proposal does not offend any of the aforesaid provisions or principles. The municipality may therefore take an informed decision on the matter in the knowledge that, where relevant, the application indeed complies.

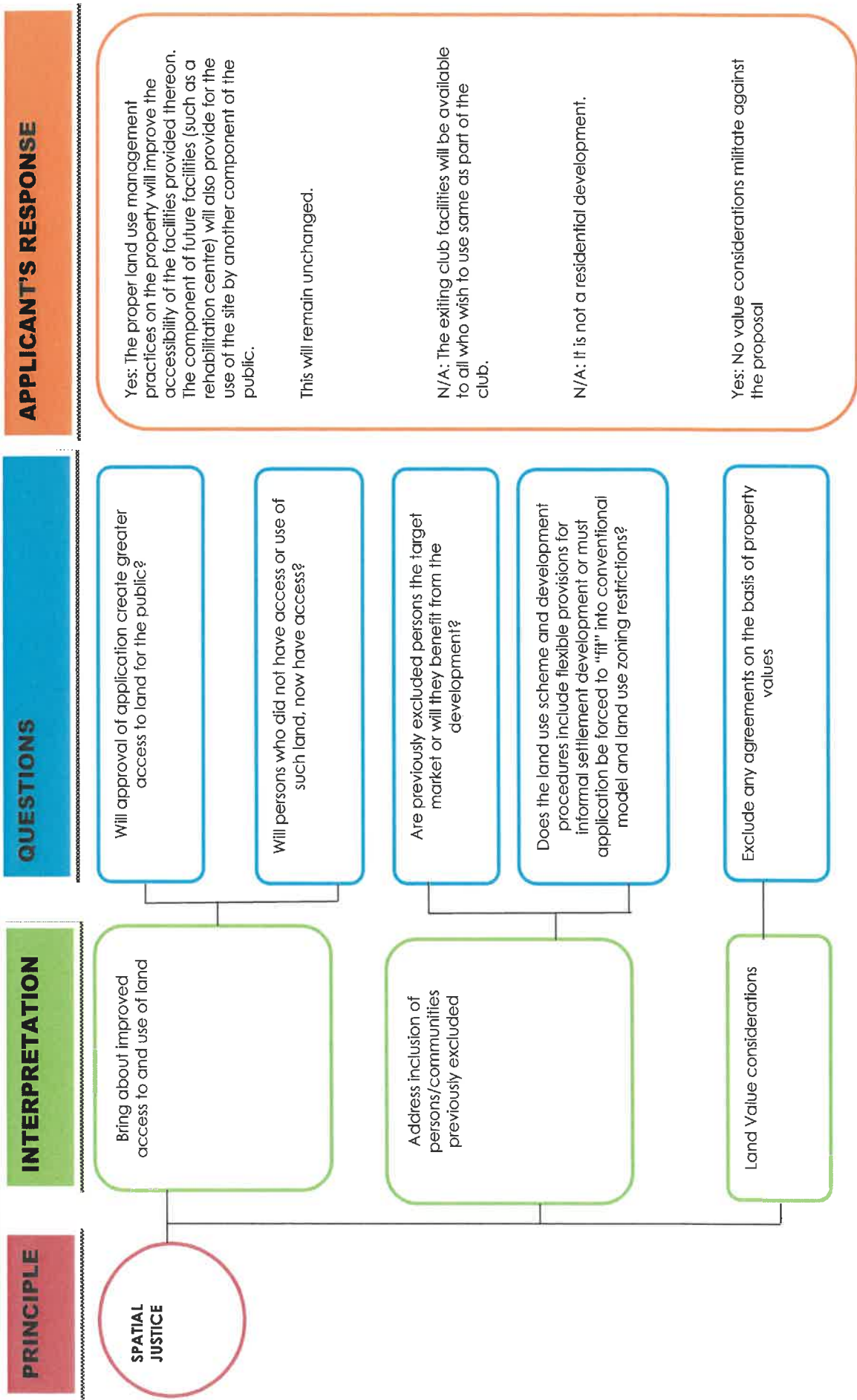
14.3.4 The proposed development on the subject property does not include any bona fide residential facilities and in the result considerations relevant to residential design, social amenities, access and the like are not particularly relevant to the matter under consideration. The proposed development on the subject property serves a regional function as a sport facility (supported by a number of associated uses) and given its historic status within the area concerned, the application should be approved to bring about the proper land use management practices.

14.4 DEVELOPMENT PRINCIPLES: SPLUMA, 2013

14.4.1 In the paragraphs to follow, the application is motivated in the context of the development principles enshrined in SPLUMA.

◆ THE SPLUMA PRINCIPLES ◆ SPATIAL IMPERATIVES





PRINCIPLE



INTERPRETATION

Land development within the fiscal, institutional and administrative means of Municipality

Special consideration to the protection of prime unique agricultural land

Promote/stimulate effective/equitable functioning of land markets

Consider current/ future costs for provision of infrastructure/social services

Promote locations resulting in sustainable development & limit sprawl

Ensure viable communities/settlements

QUESTIONS

Will development incur high cost that municipality cannot afford?

Will development result in excessive institutional burden on capacity of municipality?

Is development on agricultural land? Is it land needed for agriculture?

Will development promote/stimulate land markets?
Who will have access to these land markets?

What are the likely future costs of development? Will it put a burden on authorities (municipality)?

Is this development well located?

Will there be unintended "hidden" costs for authorities and residents in this location?

Will the resident community become more impoverished by having to move?

APPLICANT'S RESPONSE

No: The applicant will contribute to enhancing engineering services (where relevant)

No: The development will enhance the income base of the municipality

No: Urban infill land/Existing facility.

N/A: Given that the exiting facility has existed for many years, it is not anticipated that the formalization thereof will have a notable impact on land markets.

No: The applicant will contribute to enhancing the municipal systems

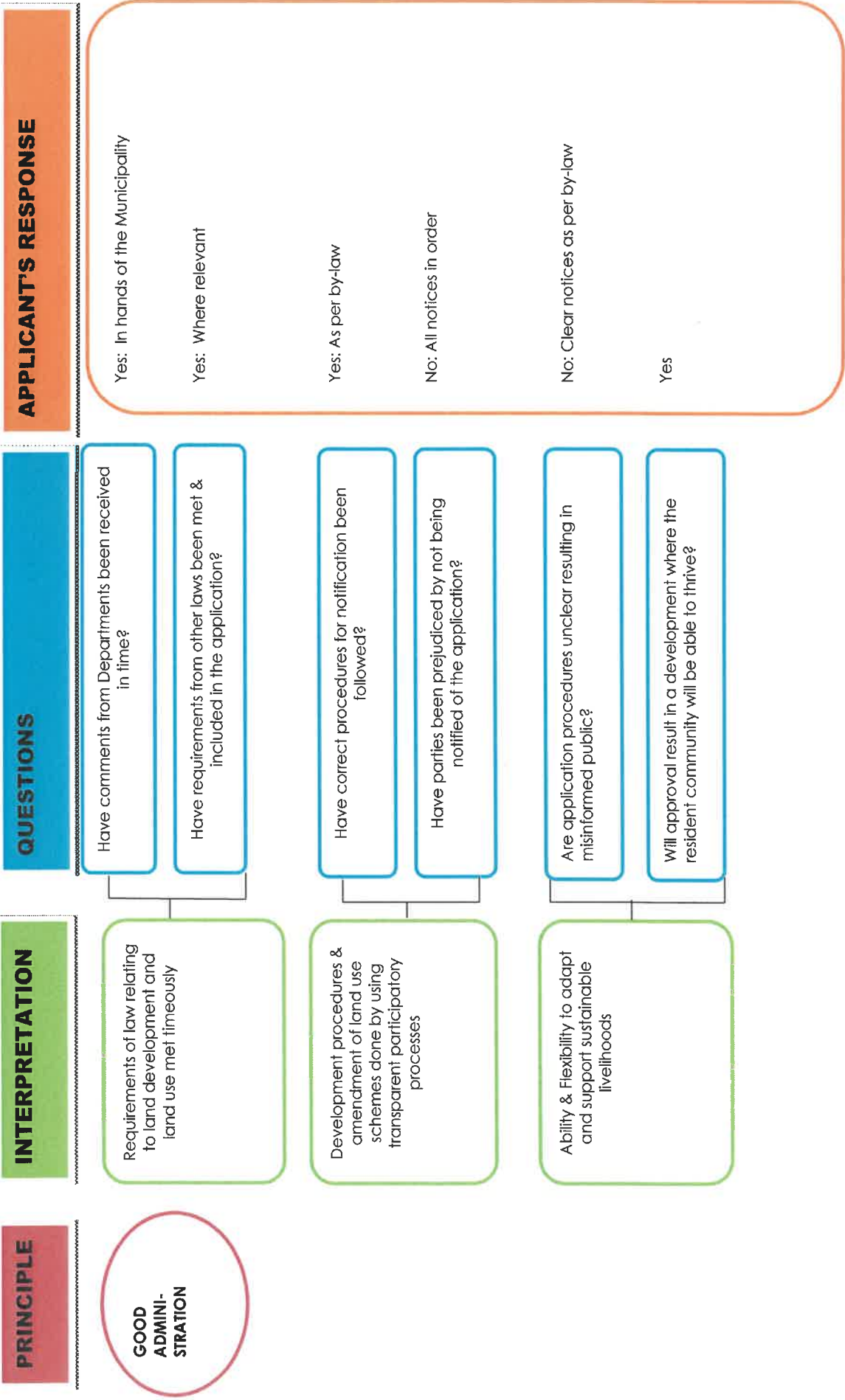
Yes: In a developing urban area and has been in existence for many years.

No: No hidden costs are foreseen

No: Existing community in the area is fully self sufficient

PRINCIPLE	INTERPRETATION	QUESTIONS	APPLICANT'S RESPONSE
SPATIAL EFFICIENCY	Land development must optimize use of existing resources and infrastructure	Is development density aligned with SDF and suitable for site?	Yes: Positively aligned
		Is development located so as to use infrastructure efficiently?	Yes: As per engineering reports attached
		Will other resources be used efficiently by development?	Yes: Available land and services will be used effectively
	Decision-making procedures must minimize negative financial, social, economic or environmental impacts	Are decision-making processes time efficient? Are long delays resulting in unwarranted costs?	Yes: In the hands of the municipality
		Will inefficient decision-making procedures prejudice interests of other parties?	Yes: End users will pay more if delays occur
	Adhere to efficient & streamlined development application procedures & timeframes	Are the timeframes adhered to? Were comments received in time?	Yes

PRINCIPLE	INTERPRETATION	QUESTIONS	APPLICANT'S RESPONSE
SPATIAL RESILIENCE	Mitigate potential economic & environmental shocks	Will development result in marginal/vulnerable community becoming more vulnerable?	No: No resident community on site
	Ability to adapt to change	Will resident/affected community be able to adapt to ensure increased resilience in terms of future shocks	N/A: No resident community on site
	Ability & Flexibility to adapt and support sustainable livelihoods	Will development deprive resident community resources necessary to sustain livelihoods?	N/A: No resident community on site



PRINCIPLE OF SPATIAL JUSTICE

What the National Development plan says about Spatial Justice: The historic policy of confining particular groups to limited space, as in ghetto-isolated and segregation, and the unfair allocation of public resources between areas, must be reversed to ensure that the needs of the poor are addressed first rather than last.

Spatial justice is a central concept, given the history of spatial discrimination, barriers to access to land and inferior planning laws and standards for disenfranchised groups. It is therefore important that new developments do not perpetuate these injustices.

Each development application must be assessed to determine whether it will contribute to a more just and equitable spatial outcome. Spatial justice incorporates important active intentions, such as:

- Inclusivity – actively promoting the inclusion, rather than the exclusion, of disadvantaged groups and areas.
- Redress – to make up for past imbalances and injustices
- Increased access – by disadvantaged groups and also spatially through well located developments
- Incorporation of disadvantaged areas – to create a more just spatial form, and
- Flexible mechanisms with applicability in previously excluded areas – inclusion of incremental development procedures for upgrading informal settlements for example and developing suitable zoning and regulations for slums or informal areas or traditional areas where existing procedures made the development and use of land illegal and criminalised residents.

This is not particularly relevant to the application site.

PRINCIPLE OF GOOD ADMINISTRATION

This principle is in support of good governance and inter-governmental relations

This does not directly impact on the applicant.

PRINCIPLE OF SPATIAL SUSTAINABILITY

What the National Development plan says about Spatial Sustainability: Sustainable patterns of consumption and production should be supported, and ways of living promoted that do not damage the natural environment.

This principle looks at the longer term view of development and embraces the concepts of environment, social and economic sustainability.

PRINCIPLE OF SPATIAL EFFICIENCY

What the National Development plan says about Spatial Efficiency: Productive activity and jobs should be supported, and burdens on business minimised. Efficient commuting patterns and circulation of goods and services should be encouraged, with regulatory procedures that do not impose unnecessary costs on development.

This principle embodies the notion that we need to use our resources efficiently and not be wasteful of them and of our time and capacity as we have resource

constraints. We must make the best and most efficient use possible with the limited resources available.

PRINCIPLE OF SPATIAL RESILIENCE

What the National Development Plan says about Spatial Resilience: Vulnerability to environmental degradation, resource scarcity and climatic shocks must be reduced. Ecological systems should be protected and replenished.

This principle embodies the notion that communities that live in vulnerable spatial locations have less ability to withstand economic and social shocks so spatial plans and policies need to be flexible to enable them to continue to have sustainable livelihoods.

- 14.4.2 From the above it follows that, with regard to the considerations emanating from Section 42 of SPLUMA, the proposal of the applicant aligns positively with regard to those aspects which are most relevant to the matter under consideration.

15. CONCLUSION

- 15.1 This application seeks relief to establish a township on the subject property to be known as Groenkloof Extension 14 so as to accommodate the existing Harlequin Club and associated facilities thereon.
- 15.2 The township establishment application primarily seeks to regularize the existing use of the subject property (as opposed to bringing about substantial new development). The applicant has demonstrated that there are no considerations which militate against the approval of the application.

Prepared by The Practice Group