

**REPORT TO TOWN PLANNING COMMITTEE****PROPOSED AMENDMENT OF THE WESTVILLE TOWN PLANNING SCHEME BY THE REZONING OF ERF 2180, ERF 2181, ERF 2182, PORTION 6 OF ERF 2369 AND REM OF ERF 2369 ALL OF WESTVILLE AND PORTION OF REM OF 1875 CATO MANOR NO 45, BEING COUNCIL OWNED LAND IN THE ROOSFONTEIN/MARYVALE AREA FOR BOTH HOUSING & ENVIRONMENTAL CONSERVATION PURPOSES IN TERMS OF SECTION 47BIS A OF THE TOWN PLANNING ORDINANCE NO 27 OF 1949, AS AMENDED.**

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File Reference: 15/1/3 & DPM 65/06

**1. EXECUTIVE SUMMARY**

The Council owns various parcels of vacant land situated in the Roosfontein/ Maryvale area of Westville, namely Erf 2180, Erf 2181, Erf 2182, Portion 6 of Erf 2369 and Rem of Erf 2369 all of Westville and wherein the existing Roosfontein Nature Reserve may be found. These properties following a long history, were finally identified by Council's Executive Committee on 22 April 2008, for both residential and conservation purposes. The residential identified land use in the east has been earmarked by the Housing Department for walk up flats, as a further extension of Chesterville Extension, while a relatively small portion in the west abutting Maryvale has been identified for private sector housing. Mindful of the Integrated Development Plan requirement to minimise urban sprawl and densify within the core area of the city, increases in density are proposed in the latter area, but while still being sensitive to the abutting residential development. The portion identified by Council as worthy for conservation land use has recently been further endorsed by eZemvelo KZN Wildlife, who after having conducted an extensive investigation have as part of its Stewardship Programme, have agreed to formally proclaimed the area as a nature reserve in terms of the National Environmental Management: Protected Areas Act, as it contains a critical natural environment and/or vegetation that is threatened and it is in addition portion of the Council approved D'MOSS areas.

The properties are all currently zoned Special Residential 1200 in the Westville Town Planning Scheme No 1, except for a small portion in the Durban Town Planning scheme zoned Special Residential 650, and are now required to be rezoned, in terms of Section 47bis A of the Town Planning Ordinance No 27 of 1949, as amended, to an appropriate zone or reservation to match the intended future use. The proposed future zones as per the above described land uses are respectively General Residential, General Commercial (for a small commercial component in the housing area), Intermediate Residential 1 and Environmental Conservation Reserve.

**2. DECISION REQUIRED:**

A quasi-judicial decision is required to the effect that it is the intention of Council to amend the Westville Town Planning Scheme No 1 in-course-of-preparation by [introducing a General Residential 2 zone into the scheme and by] rezoning various portions of Erf 2180, Erf 2181, Erf 2182, Portion 6 of Erf 2369 and Rem of Erf 2369 all of Westville to General Residential 2, Intermediate Residential 1 and Environmental Conservation Reserve and thereafter to advertise for

public representations and objections with a view to the eventual adoption of such proposals, all as required in terms of Section 47bis A (2) of the Town Planning Ordinance No 27 of 1949, as amended.

**LOCATION:**

On the locality map following, the shaded area representing current D'MOSS designated land.





The properties concerned are situated within a block broadly contained by the Westway Office Park flanking the N3 freeway (the national road to Pietermaritzburg), Harry Gwala (Spine/Booth) Road, Chesterville Extension, Ridgeview Quarry, the Mbilu River (separating the area from Queensburgh), the Westville Prison and the existing residential development in the Maryvale area of Westville. Access to the area may be taken from the Pavilion interchange off the N3 into Harry Gwala Road with the remainder of Spine Road leading to the Westville Prison and Syringa Avenue leading off it in turn. (See preceding aerial photograph).

### **3. PURPOSE OF REZONING**

To rezone the inappropriately zoned Special Residential 1200 area, which contains the established Roosfontein Nature Reserve for conservation purposes and to rezone the portions identified for residential purposes to an appropriate zoning to match the Council's intentions and the need to densify within the core of the city and minimise urban sprawl, as directed in terms of the Integrated Development Plan, but while remaining sensitive to surrounding existing zonings where necessary.

### **4. BACKGROUND & HISTORY**

#### **5.1 LAND OWNERSHIP**

eThekwini Municipality owns the following properties at Roosfontein and Maryvale:-

- Rem of Erf 2369 Westville (about 136 ha in extent),
- Portion 6 of Erf 2369 Westville (93.63 ha in extent),
- Erf 2180 Westville (2.02 ha in extent),
- Erf 2181 Westville (2.83 ha in extent), and
- Erf 2182 Westville (2.81 ha in extent).

Note: Portion of the Rem of 2369 Westville is managed as the Roosfontein Nature Reserve and the remaining properties are undeveloped, i.e. vacant.

#### **5.2 LAND CHARACTERISTICS**

The properties are bounded by:

- the Mbilu River and the suburb of Queensburgh in the south,
- the Westway Office Park and the N3 freeway in the north,
- the Westville Prison and the suburb of Dawncliffe in the west, and
- the Ridgeview Quarry, Harry Gwala (Booth) Road, Chesterville Extension, Westville Hospital and the Pavilion in the east.

Spine Road runs in an east-west direction between the properties and provides access to the Westville Prison. Syringa Avenue runs from Spine Road through Maryvale to the suburb of Dawncliffe in Westville.

The land south of Spine Road forms the Roosfontein Nature Reserve while the balance of the land north of Spine Road is known as Maryvale.

Large portions of the properties are steep (slopes greater than 1 in 3). There is also an extensive wetland system on the Maryvale property (Portion 6 of Erf 2369 Westville). One of the tributaries of the Mkumbane River runs through the Maryvale property.

Most of the land is environmentally sensitive and has been recognized as “irreplaceable” by the provincial conservation authority (eZemvelo KZN Wildlife) in the provincial biodiversity conservation plan, sometimes referred to as C-Plan. However, the biodiversity conservation value of the Roosfontein/Maryvale precinct is arguably matched by its social value as an outdoor recreational and educational resource, especially due to its close proximity to densely developed urban areas. The area is also a significant provider of a broad range of environmental goods and services (e.g. reducing the impacts of flooding) to nearby areas as well as to the eThekweni Municipality as a whole.

### **5.3 THE ROOSFONTEIN HILL HOUSING PROJECT**

In 2003 the First Metro Housing Company, acting under an agreement with the former Cato Manor Development Association, appointed the consultancy Environmental Planning and Design to apply for environmental authorization for a social housing development known as the Roosfontein Hill Housing Project. The project was proposed to take place on a part of Erf 2369 Westville on a portion of land about 11.5 ha in extent situated at the corner of Booth and Spine Roads. The site falls largely within the boundaries of what is current known as the Roosfontein Nature Reserve. A portion however also falls within Durban. The environmental impact assessment process for the housing project was eventually put on hold when eZemvelo KZN Wildlife refused to agree to the further loss of the North Coast Grassland vegetation present on the site. This decision was because the loss of any further area of this type of grassland would mean that it will be difficult or impossible for our province to meet conservation targets for this particular vegetation type.

### **5.4 THE 2003 PROPOSED LAND-USE PLAN FOR THE ROOSFONTEIN AND MARYVALE PRECINCT**

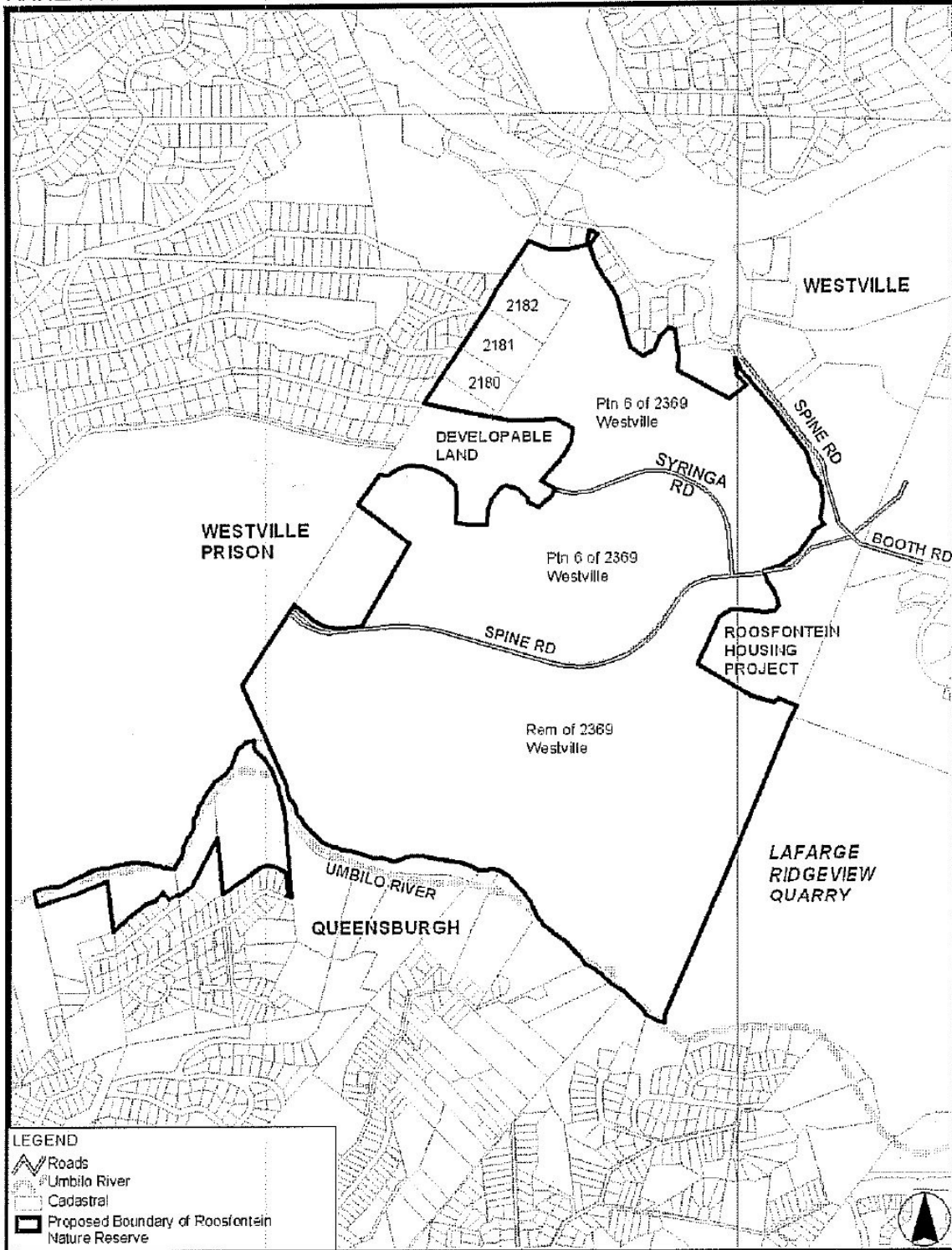
As a result of the then stalled housing project, the municipality’s Environmental Management Department (EMD) and the then Cato Manor Development Association (CMDA) jointly conducted a land-use planning exercise in 2003 on the greater Roosfontein and Maryvale precinct. This planning exercise was undertaken for two reasons:

- a. To see if it could be shown that environmental conservation objectives could be met on alternative land in the near vicinity of the area proposed for the social housing project, and
- b. To identify appropriate educational and recreational opportunities for the further development of the Roosfontein Nature Reserve for the benefit of surrounding communities.

# PROPOSED LAND-USE PLAN FOR THE ROOSFONTEIN/MARYVALE PRECINCT



ANNEXURE 1



Based on physical and environmental characteristics, such as the presence of North Coast Grassland, wetlands, steep slopes and unstable land, the CMDA and EMD were able to agree on a proposed land-use configuration for the Maryvale and Roosfontein areas. The proposed plan allows for the excision of certain land from the Roosfontein Nature Reserve and the development of the Roosfontein Hill Housing Project. As consequential environmental compensation, it was proposed that less developable land, i.e. not suitable for urban development, in the Maryvale area be set aside as part of an extended Roosfontein Nature Reserve, which will be proclaimed in terms of the National Environmental Management: Protected Areas Act No 57 of 2003. (Note that the eThekweni Municipality currently owns and manages only one proclaimed protected area, i.e. the Palmiet Nature Reserve in Westville, while only a small portion of the Paradise Valley Nature Reserve is proclaimed)

In addition to the identified housing project area, an approximately 10-ha portion of land, which forms part of the Maryvale area and lies adjacent to Dawncliffe, is not environmentally sensitive and is relatively flat. As such it has been identified as suitable for development which may be used for housing compatible to that found in Dawncliffe

Given that the proposed CMDA/EMD land-use plan allows for both development, environmental and social development objectives to be met it is considered to be a win-win planning solution.

## **5.5 PROPOSED TOURIST MECCA AND DOME STADIUM DEVELOPMENT BY THE VUSISIZWE GROUP**

In the second half of 2003, shortly before the CMDA and EMD were to present their proposed land-use plan for the Maryvale/Roosfontein area to the relevant eThekweni Council committees, Council received a proposal from the Vusisizwe Group to build a football stadium and a range of associated tourist and recreational facilities at Maryvale. On 10 June 2003 the eThekweni EXCO recommended *inter alia* that eThekweni Municipality:

*“sign and issue a letter of Intent to engage with Vusisizwe Group regarding the proposed development.”*

As a result of this decision the EMD/CMDA proposal was put on hold.

From late 2003 no work took place on either the planning or implementation of the proposed Tourist Mecca and Dome Stadium at Maryvale. In the middle of 2006 the Municipality began work on re-developing the King’s Park Precinct in preparation for the 2010 football World Cup. This later action effectively put an end to the development of large scale sporting facilities at Maryvale.

## **5.6 APPROACH BY LAFARGE AGGREGATES**

Lafarge Aggregates, along with the Greater Durban Community Foundation and WWF-SA (World Wildlife Fund-SA), approached the EMD in 2006 with an offer to support the development and management of the Roosfontein Nature Reserve. The company’s interest stems in part from the fact that its Ridgeview Quarry adjoins the Nature Reserve. The company is already active in Chesterville Extension and has provided trees for homes

and works with three schools in the area. Due to uncertainty with regard to future land-use at Roosfontein/Maryvale, it was not possible to accept Lafarge Aggregate's offer at the time.

## **5.7 THE 2007/2008 PROPOSAL**

Given that:

1. the Roosfontein Nature Reserve had not been formally proclaimed and remained significantly under-managed and under-developed,
2. the Roosfontein Hill Housing Project cannot be completed for environmental reasons,
3. Lafarge Aggregates cannot invest in the development of the Roosfontein Nature Reserve without security regarding the future land-use in the area,
4. and that the 2010 football stadium was under construction in the Kings Park Precinct,

it was then proposed that the eThekweni Council adopt the 2003 proposed land-use plan for the Roosfontein and Maryvale precinct.

### **5.7.1 CONSULTATION**

The following key stakeholders were then consulted during the course of 2007 and 2008 prior to presenting this report to eThekweni Executive Committee. All parties indicated in principle their support for the proposal. Specifically: -

- Councillor S. Gumede, Chairperson of Housing, Cleansing & Solid Waste & Human Resources Committee
- Metro Housing Department
- First Metro Housing Company
- Councillor F. Peer and the Ward Committee of Ward 24
- Councillor L. Ntaka and the Ward Committee of Ward 29
- Staff of the Development Planning and Management Unit (LUMS & Framework Planning)
- Regional Land Claims Commission
- eZemvelo KZN Wildlife
- Natural Resources Branch of the Parks Leisure and Cemeteries Department
- Greater Durban Community Foundation
- Ms T. Cibane (Regional Mineral Resources Manager at Lafarge Aggregates)

### **5.7.2 PRIOR RECOMMENDATIONS TO EXECUTIVE COMMITTEE**

In a report by the City Manager, dated 3 March 2008, it was put to the Executive Committee at their meeting held on 22 April 2008 that given that the CMDA/EMD proposed land-use plan offered an opportunity to:

- complete the Roosfontein Hill Housing Project,
- to allow the development of a parcel of land on Syringa Avenue near Dawncliffe,
- to secure the Roosfontein Nature Reserve,



- and to accept Lafarge Aggregates offer of investment in the Roosfontein Nature Reserve

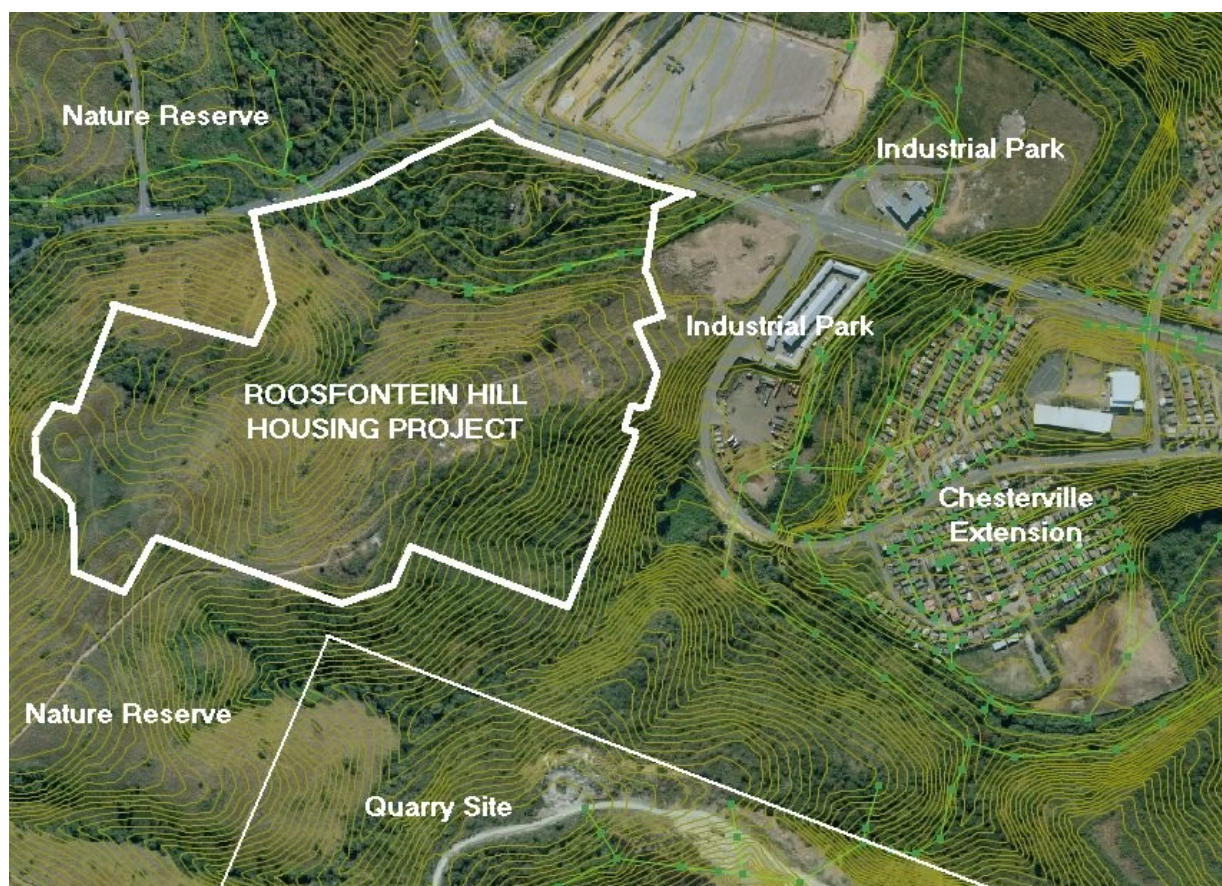
and given that the Tourist Mecca and Dome Stadium development by the Vusisizwe Group had not taken place, it was recommended that

- 1) the eThekweni Council rescind the decision taken by the Executive Committee on 2003-06-10 regarding the Tourist Mecca and Dome Stadium development by the Vusisizwe Group.
- 2) That the City Manager writes to the Vusisizwe Group to inform them that the eThekweni Council's decision of 2003-06-10 has been rescinded.
- 3) That the City Manager be authorized to advance discussions with Lafarge Aggregates regarding their possible role in the development and management of the Roosfontein Nature Reserve.
- 4) That the land-use plan prepared by the former Cato Manor Development Association and the Environmental Management Department be endorsed and that the Head: Development Planning, Environment and Management is authorized to proceed with the necessary sub-division, consolidation and rezoning processes.
- 5) The land identified for the Roosfontein Hill Housing project be developed for housing under the direction of the Metro Housing Department.
- 6) That the EMD work with eZemvelo KZN Wildlife to proclaim the Roosfontein Nature Reserve.

Following discussions, the recommendations were duly adopted by the Executive Committee on 22 April 2008.

The current report therefore seeks to give effect to the rezoning requirement of recommendation (4) above.

## 6 ROOSFONTEIN HILL HOUSING AREA



**Photographic plan of the Roosfontein Hill housing area showing contours and the existing sewer lines.**

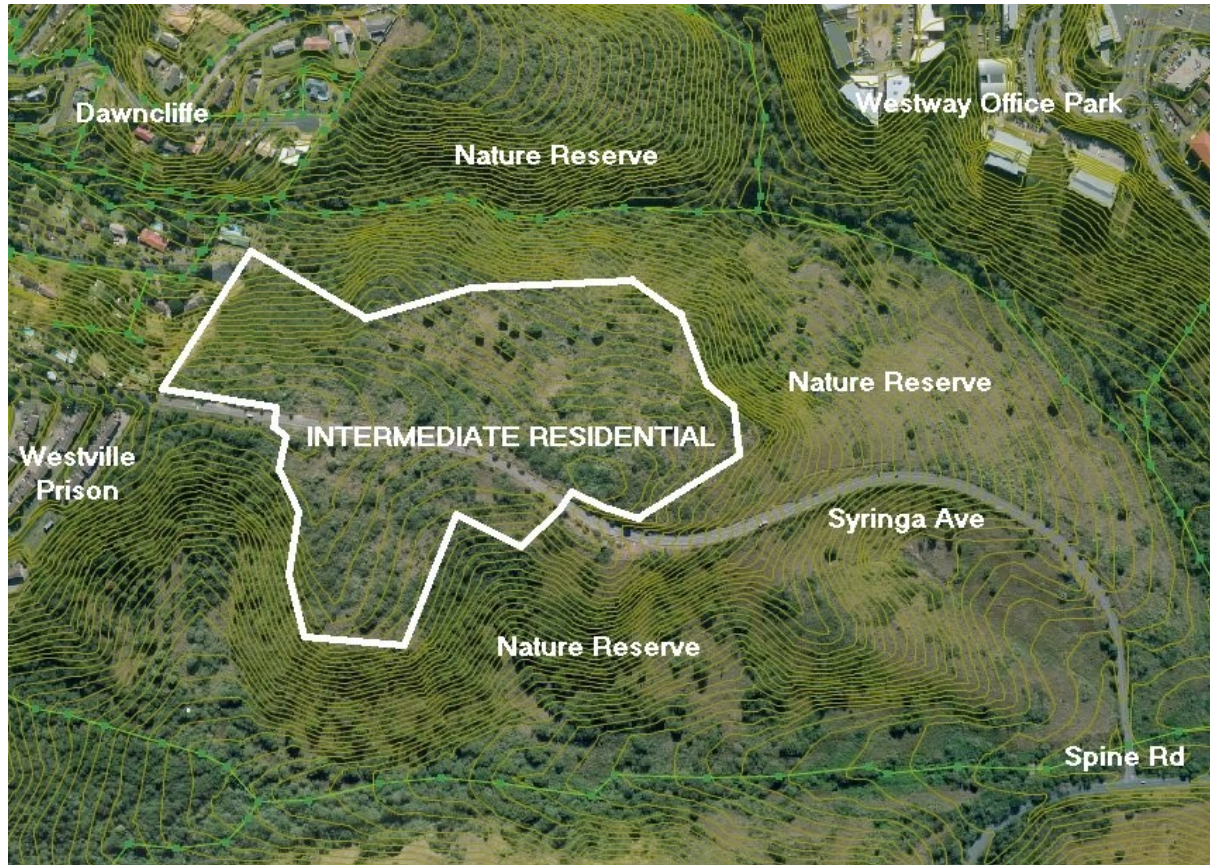
This proposal in the south of the area to be rezoned is effectively a continuation of the Chesterville Extension in a westerly direction on land immediately flanking the earlier extension and a relatively small industrial park.

The proposals consist of some 53 three to four storey walk up blocks of social housing apartments that will in total comprise 1180 units on some 19.02 hectares of land, viz. a gross density of 62 units per ha. This also includes a proposed commercial site of 0.35 hectares and open space of 2.1 hectares. The proposed development will have a floor area ratio (FAR) of 0.43 and a site coverage of 13 per cent. The single blocks will be some four units per floor while the double blocks (singles mirrored) will be eight units per floor. It is intended that onsite parking will be provided for the occupants.

| LAND USE       | STOREYS | NO OF BLOCKS | TYPE   | UNITS |
|----------------|---------|--------------|--------|-------|
| Social Housing | 4       | 21           | Single | 336   |
| Social Housing | 3       | 20           | Double | 480   |
| Social Housing | 3       | 1            | Single | 12    |
| Social Housing | 4       | 11           | Double | 352   |
| Total          |         | 53           |        | 1180  |

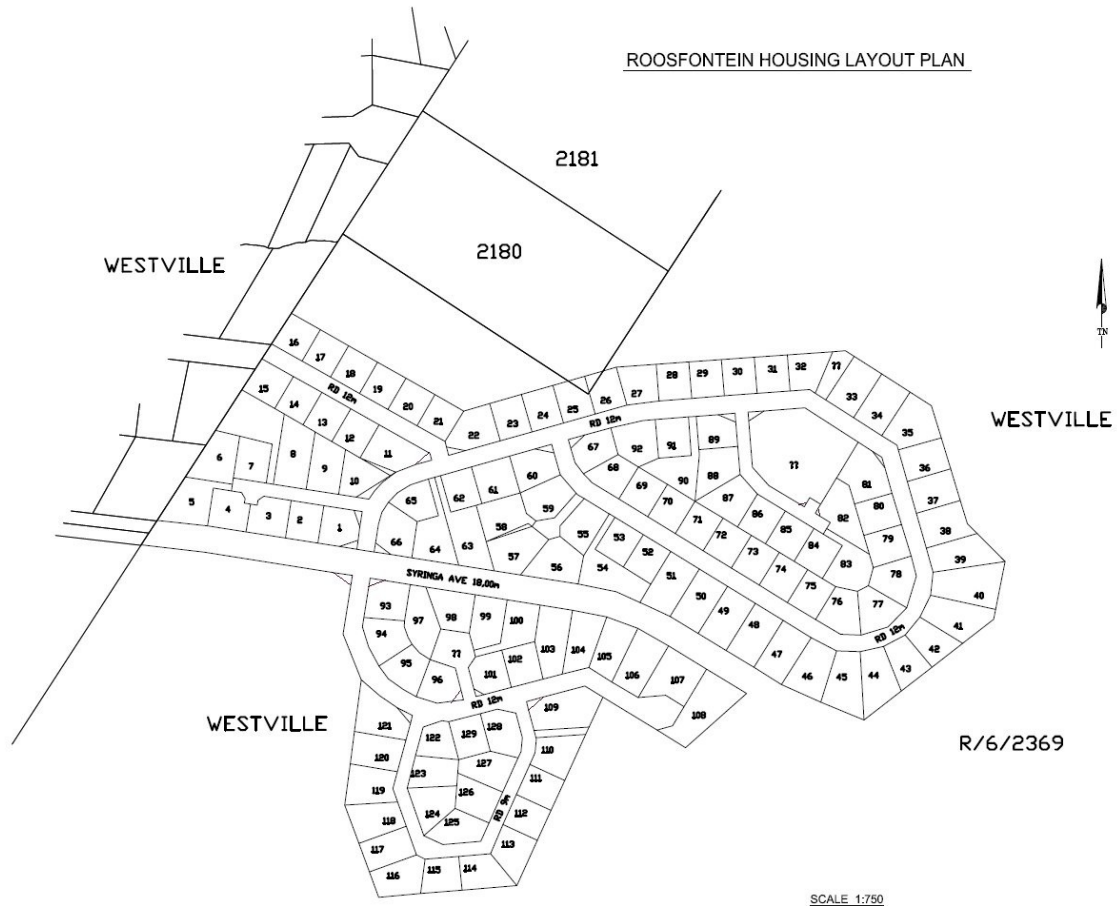
The proposed zoning for this area is General Residential within the Westville Town Planning Scheme in-course-of-preparation which bulk factors comprise a FAR of 0.5, a 30% coverage and a 4 floor height restriction. There is no specific density control. The street building line is 7.5 metres with side and rear spaces of 4.5 metres for more than 1 floor. Free entry land uses are Dwelling House, Maisonette, Medium Density Housing and Residential Building. The Housing Department's proposals falling under the ambit of Residential Building. This zone should accordingly more than adequately cover the residential development proposals. The small commercial component is proposed to be zoned as General Commercial.

## 7 SYRINGA AVENUE INTERMEDIATE RESIDENTIAL AREA



**Photographic plan of Intermediate Residential area on upper slopes bisected by Syringa Avenue showing contours and the existing sewer lines.**

Due to the irregular shape of the area suitable for housing after deducting the environmentally sensitive and the oversteep areas it was deemed prudent to investigate the feasibility of the development of the area. Also bearing in mind the much reduced area for potential housing of some 10.5 ha it was deemed desirable to increase the current density, a requirement in any event of the integrated development plan within the core area, but while being cognisant of the nearby residential development. Accordingly a group housing type layout was evolved which yielded 140 sites, 93 to the north of Syringa Avenue and 37 to the south. See draft layout plan below. While the minimum erf size is of the order of 500 m<sup>2</sup>, the average nett site size is some 628 m<sup>2</sup>, which equates to a nett density of 15.9 units per hectare while the gross density is some 13.3 units per hectare.



**Layout Plan showing proposed Intermediate Residential Development**

The Westville Town Planning Scheme has a variety of Intermediate Residential Zones 1 – 4 allowing for densities of 25 to 10 units per hectare in 5 units per hectare steps. In all cases there is no maximum floor area ratio (FAR), a maximum coverage of 30 per cent and a two storey limit.

| ZONE                       | Gross Site Area Ha | Estimated Nett Site Area Ha | FAR | Coverage % | Units/ Ha | Max Units permitted | Maximum Gross Coverage m2 | Max Average Coverage per Unit |
|----------------------------|--------------------|-----------------------------|-----|------------|-----------|---------------------|---------------------------|-------------------------------|
| Intermediate Residential 1 | 9.5                | 7.6                         | NA  | 30%        | 25        | 190                 | 22800                     | 120                           |
| Intermediate Residential 2 | 9.5                | 7.6                         | NA  | 30%        | 20        | 152                 | 22800                     | 150                           |
| Intermediate Residential 3 | 9.5                | 7.6                         | NA  | 30%        | 15        | 114                 | 22800                     | 200                           |
| Intermediate Residential 4 | 9.5                | 7.6                         | NA  | 30%        | 10        | 76                  | 22800                     | 300                           |

Accordingly Intermediate Residential 2 is proposed to accommodate the proposal.

While this development on the western side flanks a Special Residential zone with 1200 m<sup>2</sup> minimum erf size, i.e. 8.3 units per hectare, it is in near proximity to the town house development to the south of Syringa Avenue for the staff on the Westville Prison, and is accordingly not out of keeping for the area. The Intermediate Residential zone has a building line of 7.5 metres, a side space of 3 metres (4.5 metres for more than 1 floor) and a rear space of 4.5 metres. It is however considered appropriate where necessary to relax [by special consent?] the “internal” building line and side and rear space restrictions for this type of housing.

Note: When this residential development occurs it will be necessary to effect connections to the existing sewer lines that run in the respective valleys below the ridge and which form part of the Roosfontein Nature Reserve. Special precaution will need to be taken to ensure that minimal impact occurs where any new line may run through the nature reserve.

## **8 ROOSFONTEIN NATURE RESERVE AREA**

A new Environmental Conservation Reserve was recently introduced into various town planning schemes situated throughout the city where properties had been acquired by Council for environmental purposes. One of the schemes into which the Environmental Conservation Reserve was introduced was the Westville Town Planning Scheme. These acquired properties were then zoned for this purpose along with other nearby council or provincial owned land that had also retained in the past for environmental purposes. Areas zoned Environmental Conservation Reserve in this process included the Krantzkloof Nature Reserve, the New Germany Nature Reserve, the Paradise Valley Nature Reserve and the Silverglen Nature Reserve.

It is now similarly intended to rezone the Roosfontein Nature Reserve as Environmental Conservation Reserve. This very specific form of zoning for conservation purposes, with its tight controls, will compliment the intended formal proclamation by eZemvelo KZN Wildlife of the area in terms of the National Environmental Management: Protected Areas Act as a Nature Reserve as part of their stewardship programme (see attached letter dated 11 September 2009) as the site contains a critical natural environment and/or vegetation that is threatened and it is in addition portion of the Council approved D'MOSS areas.

## **9 ENVIRONMENTAL IMPACT ASSESSMENT REQUIREMENTS**

### **9.1 Roosfontein Hill Housing Project**

The Housing Department had originally initiated an environmental impact assessment process as required in terms of National Environmental Management Act No 107 of 1998 (NEMA) and its regulations R385-387. This process was however put on hold following the initial concerns raised by Ezemvelo KZN Wildlife (see 5.3 above). This process will now have to be reinitiated.

### **9.2 Syringa Avenue Intermediate Residential Area**

Notwithstanding the existing special residential zoning of the overall site and the fact that this area has been identified of being of less environmental significance, in terms of NEMA and

its regulations R385-387 the proposed intermediate residential development involving the transformation (R386, activity 16) and the possible subdivision of as area in excess of 9 hectares (R386, activity 18), requires a basic environmental assessment to be undertaken. The current regulations are very shortly due to be revised and in terms of the new draft regulations, the requirement for a basic environmental assessment for such a subdivision may fall away. However in terms of the new draft Schedule 1, activity 17, when within an urban area and involving the transformation of any area of land of between 5 and 20 hectares in extent, a basic environmental assessment is still required. A basic environmental assessment will therefore be required to be undertaken prior to any development occurring on site.

### **9.3 Roosfontein Nature Reserve Area.**

No environmental assessment is required in terms of NEMA and its regulations R385-387 or in terms of the new draft regulations.

## **10 RECOMMENDATIONS**

It is recommended

- (1) That in terms of Section 47 *bis* A (2) of the Town Planning Ordinance No 27 of 1949, as amended, the proposed amendment of the Westville Town Planning Scheme-in-course-of-preparation by the rezoning of Erf 2180, Erf 2181, Erf 2182, Portion 6 of Erf 2369 and Rem of Erf 2369 all of Westville from Special Residential 1200 to General Residential, General Commercial, Intermediate Residential 2 and Environmental Conservation Reserve and portion of Rem of 1875 Cato Manor No 45 from Special Residential 650 in the Durban Town Planning Scheme to General Residential in the Westville Scheme all as depicted on Plan No 19 be advertised with a view to its eventual adoption in terms of Section 47 *bis* A (4) of the Town Planning Ordinance No 27 of 1949, as amended.
- (2) That upon receipt of any objections and representations in regard to the proposals in (1) above, the Head: Development Planning and Management be required to report further thereon, but in the event of no such objections being received, the proposals be placed before the eThekweni Municipal Council for its adoption in terms of Section 47 *bis* A (4) of the Town Planning Ordinance No 27 of 1949, as amended.

**JOHN A FORBES  
PLANNING CONSULTANT  
ENVIRONMENTAL MANAGEMENT DEPARTMENT**

**DEBRA ROBERTS  
DEPUTY HEAD: ENVIRONMENTAL MANAGEMENT**

**LIHLE PHEWA**  
**DEPUTY HEAD: PLANNING & DEVELOPMENT**

**SOOBS T MOONSAMMY**  
**HEAD: DEVELOPMENT PLANNING ENVIRONMENT & MANAGEMENT**

**NOMAXABISO MAHLAWE**  
**DEPUTY CITY MANAGER: SUSTAINABLE DEVELOPMENT AND CITY ENTERPRISES**