



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

REPORT TO SUBCOUNCIL 20 (WARD 71)

- 1 ITEM NUMBER 20SUB19/05/19
- 2 PROPOSED LEASE OF A PUBLIC STREET, BEING ERF 83326 AND PORTION OF ERF 83327 CAPE TOWN, ABUTTING ERF 114407 CAPE TOWN, CORNER OF MAIN AND KEYSERS ROADS, RETREAT: NIZAMIA MOSQUE NPC 2017/389265/08
2. VOORGESTELDE VERHURING VAN 'N OPENBARE STRAAT, SYNDE ERF 83326 EN 'N GEDEELTE VAN ERF 83327 KAAPSTAD, AANGRENSEND AAN ERF 114407 KAAPSTAD, HOEK VAN HOOF- EN KEYSERSWEG, RETREAT: NIZAMIA-MOSKEE NPC 2017/389265/08
2. ISIPHAKAMISO SOKUQESHISWA KWESITALATO SOLUNTU ESISIZA-83326 NESIQEPHU SESIZA-83327 ESISEKAPA, ESIMELENE NESIZA-114407 ESISEKAPA, YE-MAIN NE-KEYSERS ROADS, E-RETREAT: KWABE-NIZAMIA MOSQUE NPC 2017/389265/08

LSU: K3466

PTMS NO: 130001029

File Ref No: S14/3/6/1/2/51/00/114407

(Category 3)

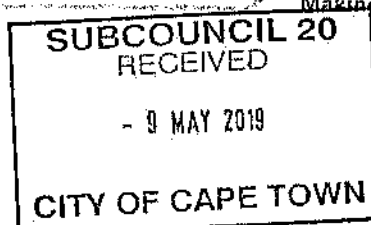
3 DELEGATED AUTHORITY

- ☒ The report is for comment by Subcouncil to the competent authority in terms of Part 24, Delegation 10(1).
- ☐ In terms of delegation Part 27B paragraph 22 (8), the following delegation was conferred upon the City Manager. This was sub-delegated to the Director: Property Manager as per memo CM 49739 dated 2018/03/05.

"To approve the granting of rights to use, control or manage capital assets: Capital assets less than R10 million, longer than 3 years (<R10 million and > 3 years) and capital assets more than R10 million, not longer than 3 years (>R10 million and <3 years) for the following categories:

- a) Social Care Leases: Leases to Social Care organisations) NPOs, NGOs, sports organisations not for profit) at a tariff rental as approved by Council annually.

NIZAMIA MOSQUE NPC 2017/389265/08



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- b) Non-viable gardening and security leases: Leases of non-viable portion(s) of municipal land to adjacent land owners at a tariff rental as approved by Council annually."

Provided that this delegation may only be exercised after considering the comment from the Sub-council in whose area of jurisdiction the capital is situated.

☐ Final decision lies with the Director: Property Management.

4 EXECUTIVE SUMMARY

PURPOSE OF REPORT	To consider the proposed lease of a Public Street, being Erf 83326 and portion of Erf 83327 Cape Town, abutting Erf 114407, corner of Main and Keyzers Roads, Retreat to Nizamia Mosque NPC 2017/389265/08			
Site extent	± 425m ²			
Submission date	2010-02-18			
Current zoning	Transport 2			
Current usage	Community/Place of Worship			
Proposed usage	Community/Place of Worship			
WARD CLLR	NOTICE DATE	WARD		
Councillor Penelope East	2016-02-18	71		
TOD Assessment	This application does not need to undergo the Comprehensive TOD Assessment as the extent is ≤ 5000 m ² with a lease period of more than 5 years.			
Internal circulation date	2014-02-28			
Internal department comments	The application was circulated to the relevant branch departments for comment and no objections were received.			
Public participation outcome summary	An annual once-off advertisement was published in the Cape Argus and Die Burger on 08 May 2015 which covers the 2015/16 fiscal period. No objections were received			
Viable	Yes		No	X
	The subject property has been identified as "Non-Viable Property" due to its size. It cannot be developed on its own or function as a separate entity and is therefore only useful to the adjoining applicants in conjunction with their property.			
Recommended decision	Approval	X	Refusal	
Regulation 34(1) In-principle approval	Granted by Director: Property Management in terms of delegated authority prior to 5 January 2017.			

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Factors motivating recommendation:	<ul style="list-style-type: none"> • The leasing of the land will relieve Council of the maintenance burden. • A tariff related rental income will be generated. • Better utilization of City land. • The mosque had a previous lease in place which has expired. Leasing the property has prevented criminal elements breaking into the cars belonging to the members during services as well as eliminate the possibility of the land becoming a haven for drug dealing. 	
Strategic intent	SFA 1 : an OPPORTUNITY City of Cape Town	
	Objective 1.5	Leverage the City's assets to drive economic growth and sustainable development
	Programme 1.5(a)	City strategic assets investigation

5 RECOMMENDATIONS FOR CONSIDERATION AND COMMENT BY THE RELEVANT SUBCOUNCIL

It is recommended that the lease of public street, being erf 83326 and portion of erf 83327 Cape Town situated on the corner of Main and Keyzers Roads, Retreat, shown hatched and lettered ABCD on the attached plan LT 252v1 marked annexure A, in extent approximately 425 m², to Nizamia Mosque NPC 2017/389265/08, owners of erf 114407 Retreat or their successors in title, be approved subject to inter alia the following conditions, that:

- a) A tariff rental of R883,48 per annum excluding VAT calculated at the rate applicable at the time of transaction be payable. Rates not applicable;
- b) The lease will endure for a period of ten years with an option to renew for a further ten years;
- c) The rental will be adjusted annually in terms of the rental tariff structure as approved by Council;
- d) The property be used for community purposes only;
- e) Subject to compliance with any other statutory requirements;
- f) No compensation will be payable for any improvement made to the property;
- g) No direct access onto Main Road P.M.R 101 will be permitted. Access to the leased portions must be taken off Keyser Road and must be positioned in the north-east corner of the property as shown on plan LT 252v1;
- h) Any alterations or deviations to electricity services necessary as a consequence of the proposal, or requested by the applicant, will be carried out at the applicant's cost;

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- i) No permanent structures are permitted in the lease area;
- j) Should the lease be cancelled or required for road or stormwater purposes, the area shall be reinstated to the original natural state, to the satisfaction of TCT Director: Maintenance. All costs will be for the applicant's account;
- k) Any alterations or deviations to electricity services necessary as a consequence of the proposal, or requested by the applicant, will be carried out at the applicant's cost;
- l) The applicants must adhere to the requirements of the City of Cape Town's water by-law;
- m) The applicant will be responsible for all associated costs for relocating any water services infrastructure (inclusive of water meters).

AANBEVELINGS VIR OORWEGING EN KOMMENTAAR DEUR DIE BETROKKE SUBRAAD

Daar word aanbeveel dat die verhuring van 'n openbare straat, synde erf 83326 en 'n gedeelte van erf 83327 Kaapstad, geleë op die hoek van Hoof- en Keyersweg, Retreat, aangetoon deur arsering en die letters ABCD op die aangehegte plan LT 252v1 gemerk bylae A, ongeveer 425 m² groot, aan die Nizamia-moskee NPC 2017/389265/08, eienaar van erf 114407 Retreat of sy regsopvolgers, goedgekeur word, onderworpe aan onder meer die volgende voorwaardes, naamlik dat:

- a) 'n Tariefhuurgeld van R883,48 per jaar, BTW uitgesluit - bereken teen die koers wat ten tyde van die transaksie geld - betaal moet word. Eiendomsbelasting nie van toepassing nie;
- b) Die huurooreenkoms vir 'n termyn van tien jaar sal duur, met 'n opsie om dit vir 'n verdere tien jaar te hernieu;
- c) Die huurgeld jaarliks aangepas sal word volgens die huurtariefstruktuur deur die Raad goedgekeur;
- d) Die eiendom slegs vir gemeenskapsdoeleindes gebruik word;
- e) Onderworpe aan die nakoming van enige ander statutêre vereistes;
- f) Geen vergoeding betaal sal word vir enige verbetering wat aan die eiendom aangebring word nie;
- g) Geen regstreekse toegang tot die Hoofweg P.M.R. 101 toegelaat sal word nie. Toegang tot die verhuurde gedeeltes moet uit Keyersweg geskied, en in die noordoostelike hoek van die eiendom geposisioneer wees soos aangetoon op plan LT 252v1;

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- h) Enige veranderinge of afwykings ten opsigte van elektrisiteitsdienste wat as gevolg van die voorstel nodig is of deur die aansoeker versoek word, op die aansoeker se onkoste uitgevoer sal word;
- i) Geen permanente strukture in die verhuurde gebied toegelaat word nie;
- j) Indien die huurkontrak gekanselleer of die verhuurde gebied vir pad- of stormwaterdoeleindes benodig sou word, die gebied tot sy oorspronklike natuurlike toestand herstel moet word tot die bevrediging van die TCT-direkteur: instandhouding. Alle koste sal deur die aansoeker betaal moet word;
- k) Enige veranderinge of afwykings ten opsigte van elektrisiteitsdienste wat as gevolg van die voorstel nodig is of deur die aansoeker versoek word, op die aansoeker se onkoste uitgevoer sal word;
- l) Die aansoeker die vereistes van die Stad se Waterverordening moet nakom;
- m) Die aansoeker verantwoordelik sal wees vir alle koste verbonde aan die verskuiwing van enige waterdiens-infrastruktuur (met inbegrip van watermeters).

IZINDULULO UKUBA ZIQWALASELWE KWAYE KUVAKALISWE ULUVO LIBHUNGANA ELIFANELEKILEYO

Kundululwe ukuba makuphunyezwe uqeshiso lwesitalato soluntu esisiza-83326 nesiqephu sesiza-83327, esiseKapa, esikwikona ye-Main ne- Keysers Roads, e-Nizamia, esibonakaliswe ngomzobo nangunobumba abakhulu u-ABCD kwiplani eqhotyoshelweyo engu- LT 252v1, ephawulwe kwisihlomo-A, esibukhulu obumalunga ne-425 m², kwabe-Nizamia Mosque NPC 2017/389265/08, abangabanini besiza-114407 esise-Retreat okanye kwabangena ezihlangwini zabo ngokwetayitile, ngokuxhomekeke ekuthotyolweni kwale miqathango ilandelayo, yokuba:

- a) Makuhlawulwe ixabiso lrenti elingama-R883,48 ngonyaka (ngaphandle kweRhafu-ntengo) ngexabiso elijoliswe kwixesha elo lonaniselwano. IiRhafu zokuhlala azihlawulwa;
- b) Uqeshiso luyakuthi luqhubekke isithuba seminyaka elishumi kubekho nommiselo wokuhlaziywa eminye iminyaka elishumi;
- c) Irenti iyakuthi ilungelelaniswe rhoqo ngonyaka ngokwesakheko samaxabiso srenti njengoko siphunyezwe liBhunga;
- d) Ipropati iyakuthi isetyenziselwe imibandela yoLuntu kuphela;
- e) Ngokuxhomekeke ekuthotyolweni kwayo nayiphina imimiselo engeminye yomthetho;

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- f) Akukho mbuyekezo iyakuthi ihlawulwe ngalo naluphina uphuculo oluthe lwenziwa kwipropati;
- g) Akusayi kuvunyelwa ukungena okungqalileyo kwi- Main Road P.M.R 101. Indawo yokungena kwiziqephu zoqeshiso kufuneka isusele kwi-Keyser Road kwaye imiselwe kumntla-mpuma kwikona yepropati njengoko kubonakaliswe kumzobo ongu-LT 252v1;
- h) Naziphina iinguqulelo okanye uphambuko kwiinkonzo zombane ezifunekayo ngenxa yesiphakamiso okanye ngenxa yokucelwa ngumfaki-sicelo, ziyakuthi ziqhutywe ngokwendleko zomfaki-sicelo;
- i) Akuvumelekanga izakheko ezisisigxina kummandla woqeshiso;
- j) Ukuba luye lwarhoxiswa uqeshiso okanye wafuneka kulungiselelwa imibandela yendlela neyamanzi esitshi, kuyakufuneka ummandla lo ubuyiselwe kwisimo sawo sangaphambili apho kuyakuthi kwaneliseke uMlawuli we-TCT kwezoNononotshelo. Zonke iindleko ziyakubaluxanduva lomfaki-sicelo;
- k) Naziphina iinguqulelo okanye uphambuko kwiinkonzo zombane ezifunekayo ngenxa yesiphakamiso okanye ngenxa yokucelwa ngumfaki-sicelo, ziyakuthi ziqhutywe ngokwendleko zomfaki-sicelo;
- l) Abafaki-sicelo kufuneka bathobelele imimiselo yomthetho kamasipala weSixeko saseKapa ojongene nezamanzi;
- m) Umfaki-sicelo uyakuthi abenoxanduva lwazo zonke iindleko ezimalunga nofuduso lwaso nasiphina isakheko esingundoqo seenkonzo zamanzi (kuquka iimitha zamanzi).

6 DISCUSSION/CONTENTS

6.1 BACKGROUND:

An application has been received from Nizamia Mosque NPC, to lease a Public Street, being Erf 83326 and portion of Erf 83327 Cape Town, abutting Erf 114407, on the corner of Main and Keyser Roads, Retreat, in extent approximately 425 m², shown hatched and lettered ABCD on the attached plan LT 252v1 marked **Annexure A**, for community purposes.

Nizamia Mosque NPC had a previous lease in place which expired on 2009-09-30. See lease plan LT 252 marked **Annexure B**.

Leasing the property has not only prevented criminal elements breaking into the cars belonging to the members of the mosque, during services, but also eliminated the possibility of the land becoming a haven for drug dealing.

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It must be noted that there has been an amendment to company information. See the registration certificate attached as **Annexure C**.

The proposed lease was circulated to relevant branches of Council, and no objections were received.

5.2 CONSULTATION WITH INTERNAL BRANCHES:

The various Council Departments were consulted and have no objection to the lease subject to the following conditions that will form part of the lease agreement:

- 5.2.1 No direct access onto Main Road P.M.R. 101 will be permitted. Access to the leased portions must be taken off Keyser Road and must be positioned in the north-east corner of the property as shown on plan LT 252v1.
- 5.2.2 Any alterations or deviations to electricity services necessary as a consequence of the proposal, or requested by the applicant, will be carried out at the applicant's cost.
- 5.2.3 No permanent structures are permitted in the lease area.
- 5.2.4 Should the lease be cancelled or required for road or stormwater purposes, the area shall be reinstated to the original natural state, to the satisfaction of TCT Director: Maintenance. All costs will be for the applicant's account.
- 5.2.5 Any alterations or deviations to electricity services necessary as a consequence of the proposal, or requested by the applicant, will be carried out at the applicant's cost.
- 5.2.6 The applicants must adhere to the requirements of the City of Cape Town's water by-law
- 5.2.7 The applicant will be responsible for all associated costs for relocating any water services infrastructure (inclusive of water meters).

5.3 VALUATION

The application category fits within the tariff structure of the City approved on 30 May 2018;

An annual rental tariff of R883,48 excl. VAT subject to increase in accordance with the City's tariff structure as approved by Council and as may be amended from time to time will be payable.

6.4 CONSTITUTIONAL AND POLICY IMPLICATIONS

- 6.4.1 The proposal complies with Section 14 of the Municipal Finance Management Act No.56 of 2003 in that the relevant branches of Council have confirmed that the land is not required for the provision of the minimum level of a basic municipal service.
- 6.4.2 Chapter C of Council's policy relating to the Management of certain of the City of Cape Town's Immovable Property (approved 26 August 2010), permits the leasing of immovable property.

6.5 FINANCIAL IMPLICATIONS

All costs involved in this transaction will be for the Applicant's account.

6.6 TAX COMPLIANCE

In terms of the City's Supply Chain Management Policy, approved by Council on 29 March 2017 (C22/03/17), paragraph 92.3 stipulates the City may not consider a bid or quote unless the bidder who submitted the bid or quote has submitted a valid tax clearance certificate certifying that the provider's tax matters are in order.

In terms of the City's Supply Chain Management Policy, approved by Council on 29 March 2017 (C22/03/17), paragraph 93 stipulates "Irrespective of the procurement process, the City may not make any award above R15 000,00 to a person who's tax matters have not been declared by the SARS to be in order."

Paragraphs 372 – 375 of the afore-mentioned policy deal with the sale and letting of City owned immovable property and are silent on the SARS requirement. Property Management adopted the principle as per paragraph 93 above and applicants need to submit a SARS clearance certificate or exemption certificate for the sale of all City Owned immovable property. Except for tariff based rentals, which do not exceed R15 000,00 all applicants need to submit a SARS clearance or exemption certificate for the leasing of City owned immovable property.

This transaction is tariff based and does not exceed R15 000,00 and as such the requirements for a SARS clearance or exemption certificate is not applicable.

6.7 FINANCIAL DUE DILIGENCE

The applicant's debt profile has been verified and it is confirmed that the applicant is not in arrears.

6.8 SUSTAINABILITY IMPLICATIONS

Does the activity in this report have any sustainability implications for the City?	No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/>
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6.9 LEGAL IMPLICATIONS

Regulation 36 of the MATR

In terms of the above Regulation, Council must take into account a number of factors (highlighted in bold) when considering any proposed granting of rights to use, control or manage municipal capital assets, and it is herewith confirmed that:

Whether asset may be required for the municipality's own use during the period for which the right is to be granted

Council's service branches confirmed that the asset is not required for own purposes.

Extent to which any compensation to be received, estimated value of improvements or enhancements to party the right is granted to will be required to make, economic or financial benefit to the City

Council will receive a financial benefit in the form of a tariff rental to the amount of R883,48 per month per annum excluding VAT calculated at the rate applicable at the time of transaction be payable, as well as rates and taxes, if applicable.

Management of Risk

No operational or control risk to the City.

Stakeholder comments and recommendations

The Director: Property Management, in terms of her delegated powers, has approved the public participation process as required, resulting in the proposed lease being advertised in the Cape Times and Die Burger on 2015-05-08 (Annual Advert). Copies of the advertisement were sent to the Ward Councillor, Manager and Chairperson of the relevant Sub-Council and registered local community organisations, as well as abutting owners. Closing date for objections was 2016-03-18. No objections were received.

Views from National and Provincial Treasury

In terms of Regulation 34 of the MATR the subject property falls within the category of a capital asset in respect of which the proposed right to be granted has a value less than R10 million and a period exceeding 3 years (Non-Significant Property Right). National and Provincial Treasury have been notified. No comments or objections were received.

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Strategic, Legal and Economic Interests

None of these interests will be compromised through the granting of the right to use, control or manage the asset. In fact, they will be supported.

Compliance with Legislative Regime that is Applicable to the Proposed Granting of the Right

Granting of the right to use, control or manage the asset is compliant with the Municipal Finance Management Act, Municipal Asset Transfer Regulations and Council's policy on the management of certain of the City of Cape Town's immovable property.

6.10 STAFF IMPLICATIONS

Does your report impact on staff resources, budget, grading, remuneration, allowances, designation, job description, location or your organisational structure?

No ☒

Yes ☐

ANNEXURES

- | | | |
|------------|---|---------------------------------------------|
| ANNEXURE A | - | Plan LT 252v1 |
| ANNEXURE B | - | Plan LT 252 |
| ANNEXURE C | - | Registration Certificate Nizamia Mosque NPC |

Staff

FOR FURTHER DETAILS CONTACT:

NAME	LINDSAY JOY ARON
CONTACT NUMBERS	(021) 444 2587
E-MAIL ADDRESS	LINDSAYJOY.ARON@CAPETOWN.GOV.ZA
DIRECTORATE	ASSETS AND FACILITIES MANAGEMENT (AFM)
FILE REF No	S14/3/6/1/2/51/00/114407
MANAGER: PROPERTY HOLDING RACHEL SCHNACKENBERG	Schnackenberg 13-03-2019

[Signature]
**DIRECTOR : PROPERTY MANAGEMENT IN HER
CAPACITY AS EXECUTIVE DIRECTOR : ASSETS &
FACILITIES MANAGEMENT NOMINEE**

NAME RUBY GELDERBLOEM

DATE 2019-03-19

Comment:

[Signature]
LEGAL COMPLIANCE

☒ REPORT COMPLIANT WITH THE PROVISIONS OF
COUNCIL'S DELEGATIONS, POLICIES, BY-LAWS
AND ALL LEGISLATION RELATING TO THE MATTER
UNDER CONSIDERATION.

☐ NON-COMPLIANT

NAME Jean-Mari Holt

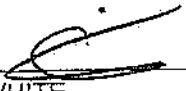
TEL 021 400 2753

DATE 23/04/2019

Comment:

[Signature]
Certified as legally compliant:
Based on the contents of the report.

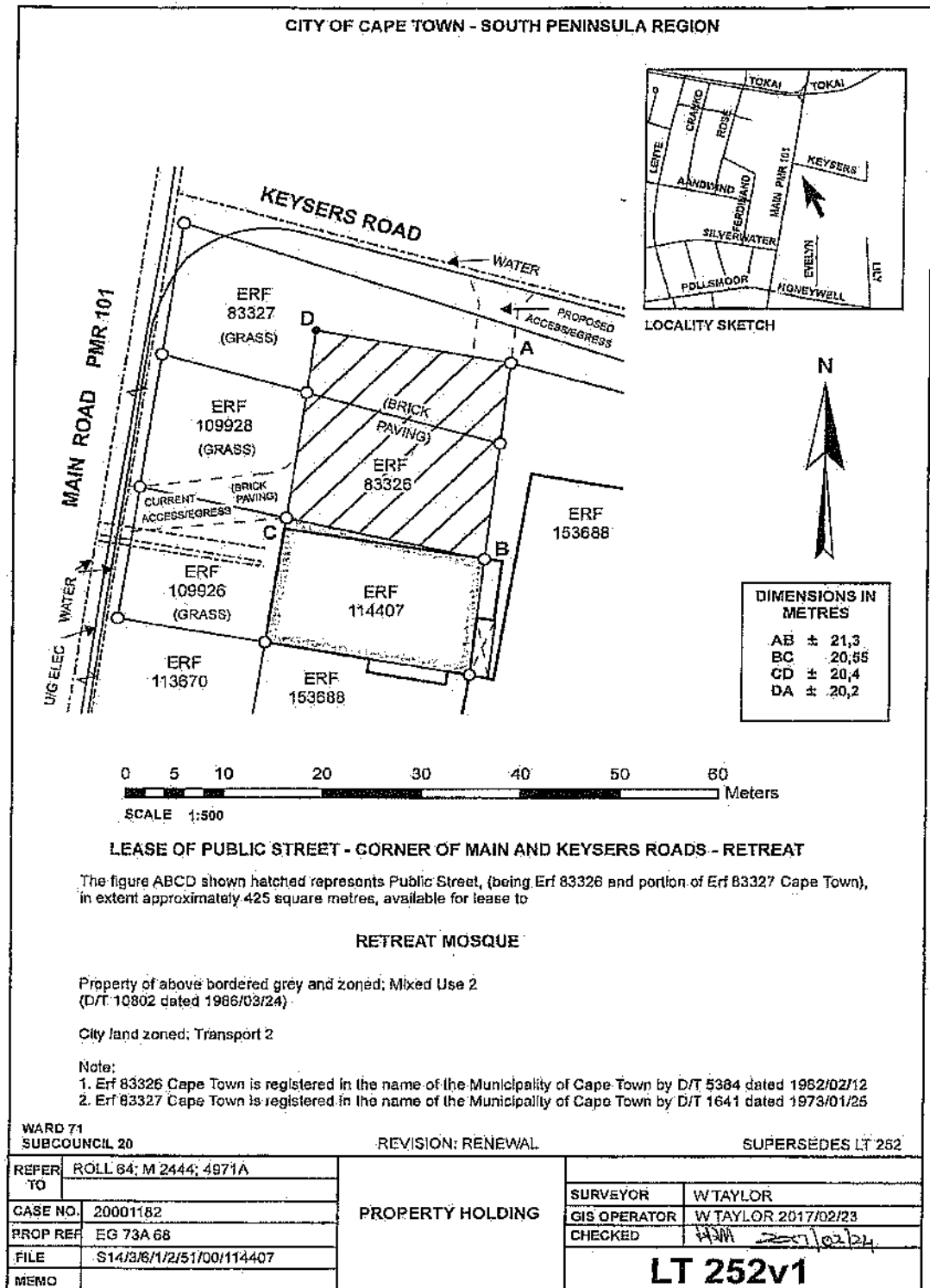
COMMENT


RICHARD WHITE
SUBCOUNCIL MANAGER

Tel No. 021 444 8112

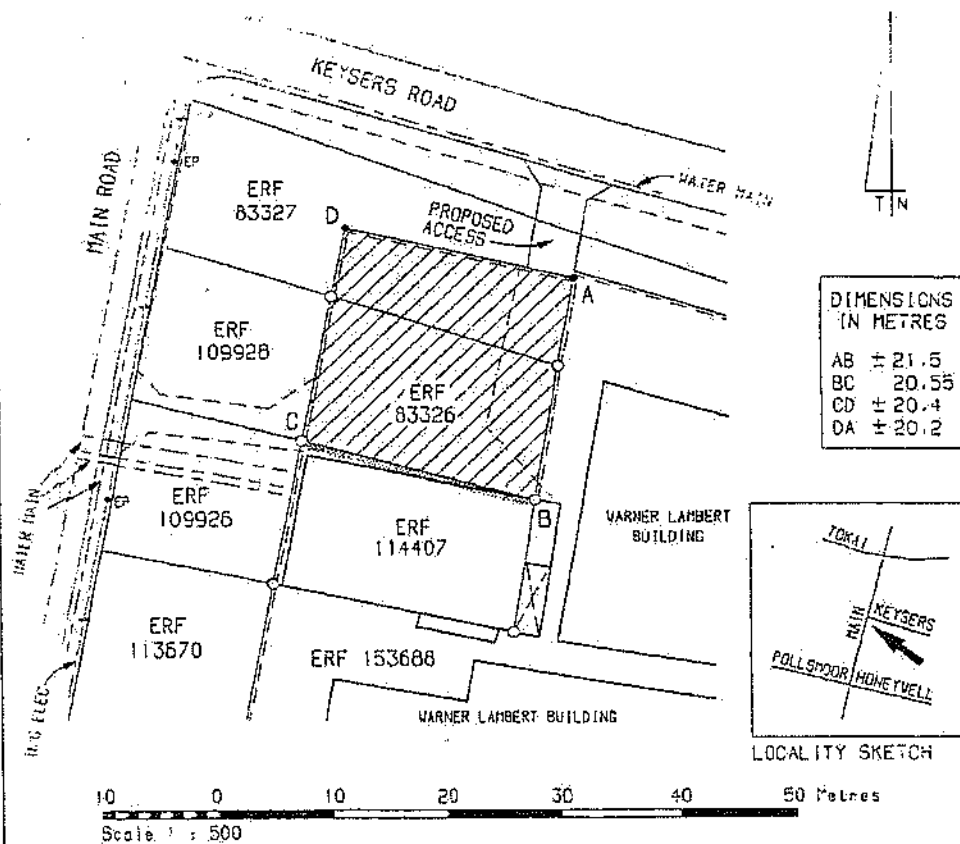
DATE: 13 May 2019

ANNEXURE A



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CITY OF CAPE TOWN - SOUTH PENINSULA ADMINISTRATION



LEASE OF CITY LAND - CORNER OF MAIN AND KEYSERS ROADS - RETREAT

The figure ABCD shown hatched represents City Land being Erf 83326 and portion of Erf 83327 Cape Town, in extent approximately 425 square metres available for lease to

RETREAT MOSQUE

Property of above bordered grey (D/T 10802 dated 1986-03-24)

Notes: 1. Erf 83326 is registered in the name of the Municipality of Cape Town by D/T 5384 dated 1982-02-12

2. Erf 83327 is registered in the name of the Municipality of Cape Town by D/T 1641 dated 1973-01-25.

WARD 71

REFER	ROLL 64: M2444; 4971A.
TO	
PROP. REF	ED 023 A 068
FILE NO.	1314/3/57/2/5/100/114407 (1955)

H.S.D. WALLACE

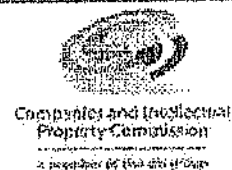
SURVEYOR	J. J. SIMS
DRAUGHTSMAN	M. A. TAYLOR (2007-05-30)
CHECKED BY	

1 T 252

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CoR 14.3

**Certificate issued by the Companies and Intellectual Property
Commission on Friday, February 16, 2018 12:10
Certificate of Confirmation**



Registration number	2017 / 389265 / 08
Enterprise Name	NIZAMIA MOSQUE NPC
Enterprise Shortened Name	None provided.
Enterprise Translated Name	None provided.
Registration Date	30/08/2017
Business Start Date	30/08/2017
Enterprise Type	Non Profit Company
Enterprise Status	In Business
Financial year end	February
Main Business/Main Object	BUSINESS ACTIVITIES NOT RESTRICTED.
Postal address	P O BOX 31195 TOKAI WESTERN CAPE 7966
Address of registered office	291 MAIN ROAD TOKAI WESTERN CAPE 7945



The Companies and Intellectual Property Commission
of South Africa
P.O. BOX 129, PRETORIA, 0001, Republic of South Africa, Docex 256, PRETORIA
Call Centre Tel 0800 100 2472, Website www.cipc.co.za



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