



COMMUNE POLICY

April 2008

CITY OF TSHWANE COMMUNE POLICY

CONTENTS

Part One: Introduction

1.1 Background to the Project	3
1.2 Aim of the Policy	3
1.3 Application of the Policy	4
1.4 Structure of this Report	4
1.5 Process	4
1.6 Definitions	5

Part Two: Legislative and Institutional Frameworks 7

Part Three: Rationale and Objectives

3.1 Point of Departure	9
3.2 Rationale	9
3.3 Objectives	9

Part Four: Approach and Principles

4.1 Approach: flexibility	11
4.2 Principles	11

Part Five: Policy Directives

5.1 Background of Communes in Tshwane	13
5.2 Guidelines	13
5.3 Criteria	16
5.4 Application Procedures	18

Conclusion 20

PART ONE: Introduction

1.1 Background to the Project

In early 2006, the City Planning Division of the City of Tshwane (CoT) decided to embark on a revision of the commune land-use application process. As there was no existing commune policy, the terms of reference would be to formulate a policy that would cater to the entire Tshwane area in line with the Tshwane Town Planning Scheme, 2007, and that it be aligned with preferred development trends.

More recent trends in commune developments have been associated with matters of location, (building) typology, demand, tenants and contraventions of the applicable Town Planning Scheme. Concerns from Resident's Associations pertaining to social issues and requests from various Ward Councillors to further investigate communes also supported the need for a revised policy.

The purpose of this policy, then, is to mitigate negative aspects relating to the above-mentioned issues while simultaneously administering the appropriate application of the *City of Tshwane Compaction and Densification Strategy, 2005*.

The task team that dealt with the formulation of this policy comprised of planners from the Regional Spatial Planning Section, which forms a part of the City Planning Division of the Housing, City Planning and Environmental Management Department.

1.2 Aim of Policy

In broad terms, the purpose of this policy is to establish acceptable and reasonable location, design, amenity, parking and management standards that apply to the commune housing typology and developments within Tshwane.

In light of the fact that commune developments generally tend to be viewed upon by the general public unfavourably, it is also that the aim of the City of Tshwane to implement adequate and appropriate control measures so that these developments become desirable establishments. It should be noted that **communes meet the housing needs of a certain segment of the population** and it is City Planning Division's duty to plan for this in a holistic manner.





1.3 Application of the Policy

Although certain basic development control measures will be compulsory some degree of flexibility will be allowed for applications to be assessed on individual merit.

It is imperative that each individual commune suits the specific site in relation to the surrounding land use character. The onus will remain on the concerned city planning officials to evaluate the contextual analysis of each application.

1.4 Structure of this Document

Part One introduces the policy giving a broad explanation of how the final product was compiled. The institutional foundations on which the policy is based are given in Part Two. Part Three is a more detailed explanation of the *raison d'être* of this policy and what the aims and objectives are. The conceptual directives informing the approach towards implementation are given in Part Four while Part Five puts forward the actual policy directives- the requirements and responsibilities on the part of the applicant.

1.5 Process

To determine international trends in housing establishments similar to Tshwane communes, a desktop study was done. This information was then matched up against the municipality's records concerning contraventions from commune establishments over the past 5 years. All this information shed some light as to what would be needed to address and overcome related challenges. Once the document was compiled, it was circulated to all relevant Municipal departments for comment in order that an integrated planning approach is followed to ensure consensus across the board.



1.6 Definitions

N.B. – following definitions have been extracted from the Draft Tshwane Town Planning Scheme, 2007. These definitions shall be amended accordingly should the definitions in the Draft Tshwane Town Planning Scheme, 2007, be amended.

For the purposes of this policy, the given terms will have the following meanings:

Caretaker's Flat- Means a dwelling-unit for a person and his/her family who is responsible for the care and supervision of the land and main buildings on the same property.

Commune- Means a building designed as a dwelling-house but used by not more than six persons for residential purposes and who share communal facilities, such as a kitchen, lounge, etc.: Provided that the outbuildings shall not be used for such accommodation and provided that a Home Enterprise shall not be exercised by any such occupant.

Dwelling-House- Means a single dwelling-unit on property zoned "Residential 1", "Agriculture" and "Undetermined".

Dwelling-Unit- Means a self contained suite of rooms mutually connected and consisting of habitable room(s), a bathroom(s), toilet(s) and not more than one kitchen without the permission of the Municipality for the purpose of residence by a single family, or a single person or two unmarried persons and may include outbuildings which are ancillary and subservient to the dwelling-unit and may include a Home Enterprise subject to Schedule 9."

Family- Means the following people that live together:

- (1) a married couple with or without their parents and/or their children; or
- (2) a single person with his/her parents and/or his/her children; or
- (3) brothers and sisters; or
- (4) a single person with his/her grandparents and/or his/her grandchildren; or
- (5) grandparents with their grandchildren.

Home Enterprise- Means the practice of an activity, hobby, business or occupation in a dwelling-unit excluding a commune, a guest-house, a block of tenements, a boarding house, a hotel and hostel, with the aim of deriving an income there-from subject to Schedule 9.





Kitchen- Means a room or part of a room designed or used for the storage of food, utensils, crockery, cutlery, etc. and for the preparation of food by means of electrical, wood, coal or gas appliances and shall include washing facilities or have interleading washing facilities.



Outbuilding- Means a building(s) which has its own entrance or door and no inter leading door to the main building, which is attached or free standing from the main building on the same property and which may contain:

- (1) garages, storerooms, studios, exercise rooms, hobby rooms, music room, washrooms, home enterprise, etc.;
- (2) a squash court only with the permission of the Municipality; and
- (3) residential accommodation, which shall not exceed 20% of the floor area of the main building up to a maximum of 50 m² without the permission of the Municipality and which may consist of habitable rooms, bathroom(s) and only one kitchen:



Provided that such outbuilding has a common vehicular access with the main building and it is for the purposes of only the occupants of the main building and their staff and the total gross floor area of such outbuilding(s) shall not exceed 40% of the gross floor area of the main building without the permission of the Municipality and such outbuildings shall not be leased to tenants or sold under sectional title.



Owner- Means in relation to land or a registered right in land, the person in whose name such land or right is registered, in a Deeds Registry in terms of the Deeds Registry Act, 1937 (Act 47 of 1937) and includes-

- (1) if the owner is deceased, the executor of the deceased estate;
- (2) if the estate of the owner has been sequestrated, the trustee of the insolvent estate;
- (3) if the owner is a company or other juristic person;
- (4) if the owner is a company or other juristic person that is being wound up, the liquidator thereof;
- (5) if the owner is under legal disability, the owners legal representative;
- (6) the authorised representative of the owner; or
- (7) in the case of a road or public space under the control of the Municipality, that Municipality.





PART TWO: Legislative and Institutional Frameworks

The policy must be read in conjunction with the following:

Housing Act, 1997: Principles for Housing Development	Development Facilitation Act, 1995: Principles for the Settlements and Environments we create	Tshwane Compaction and Densification Strategy, 2005: Key Directives
<p>The Housing Process: Housing development should</p> <ul style="list-style-type: none"> • Provide as wide a choice of housing and tenure options as is reasonably possible. • Be economically, fiscally, socially and financially affordable and sustainable. • Be based on integrated development planning. • Consider and address the impact on the environment. <p>Aspects of Housing: The following must be promoted in respect of housing development:</p> <ul style="list-style-type: none"> • Effective functioning of the housing market and level playing fields. • Higher densities and the economical utilisation of land and services. • The meeting of special needs... • The expression of ... diversity in housing development • Participation: Individuals and communities affected by housing development must be meaningfully consulted and the active participation of all relevant stakeholders in housing development should be facilitated. • The principles of the Development Facilitation Act, 1995 should be observed and 	<p>Policy, administrative practice and laws in relation to land development should:</p> <ul style="list-style-type: none"> • provide for a range of settlement types in both urban and rural areas. • promote sustained protection of the environment. • promote efficient and integrated land development, including the social, economic, institutional and physical integration, and discouraging urban sprawl. • meet the basic needs of all citizens in an affordable way. • promote sustainable land development at the required scale. 	<ul style="list-style-type: none"> • Promote higher density and integrated environments with typical urban characteristics to balance suburban developments • Ensure that residents have access to a range of choices with regard to housing typologies as well as locations



CITY OF TSHWANE COMMUNE POLICY

maintained.		
-------------	--	--

In addition to this, the Housing Act, 1997, also requires of municipalities to:

- promote the resolution of conflicts arising in the housing development process;
- initiate plan, co-ordinate, facilitate, promote and enable appropriate housing development in its area of jurisdiction;
- plan and manage land use and development.

PART THREE: Rationale and Objectives

3.1 Point of Departure

The practice of deriving an income by letting out parts of one's or one's entire home is not a new one, nor is it limited to a certain part of Tshwane. The problem with communes, in particular, tends to be the fact that they are usually located in the heart of the tranquil residential areas. Due to the fact that any single commune may accommodate several individuals of different persuasions and having different backgrounds there is often the possibility of the much treasured tranquillity being compromised by nuisances such as noise disturbance. In many areas of Tshwane there was previously no set framework in place to govern commune establishments, leading to further problems such as inadequate maintenance of the property by the owner. This policy sets out to cater for the entire Municipal area, while also mitigating some of the often negative externalities brought about by several communes in our city. All of this in order to make the policy relevant to and appropriate for today's development trends, forward planning aims and objectives.

3.2 Rationale

The reason for specifically targeting the Commune Policy is to make the land-use application processing procedure of this development typology a more comprehensive one. The applicant, municipality and other interested and affected parties, such as owners of properties adjacent to the proposed commune will have adequate information for an informed decision to be taken on the land-use application for the commune to the benefit of all concerned.

3.3 Objectives

The primary (overall) objectives are as follows:

- To minimise the negative effects of communes on neighbours and surrounding properties e.g. noise disturbance, security risk;
- To prevent the loss of residential character;
- To improve the decision-making process on which commune applications are evaluated, assessed and finalised;
- To provide up to satisfactory accommodation (in accordance with building standards of the National



CITY OF TSHWANE COMMUNE POLICY

Building Regulations and requirements of by-laws emanating from the Building Control Section of the City of Tshwane: City Planning Division).



PART FOUR: Approach and Principles

4.1 Approach: Flexibility

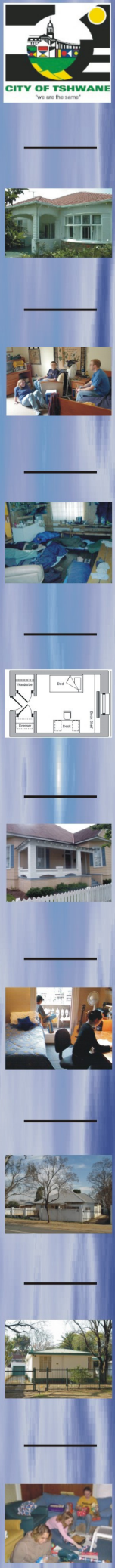
Realising that every application may have unique issues to address and consider, it is important that the policy allows for a fair amount of flexibility within certain development parameters. There is a danger in presenting policy requirements as nothing more than guidelines in that it creates the possibility of the requirements not being adhered to at all. Too broad an approach may lend the policy to a high level of misinterpretation and other problems concerning appropriate application and implementation. These parameters will be set by the existing institutional framework and further informed by the previous experience of technical administrators of the policy.

4.2 Principles

Smart Growth and Sustainability-

One of the approaches of the *Compaction and Densification Strategy*, May 2005:12, is to pursue *smart growth* for the City of Tshwane. According to this strategy, “Smart Growth” can be defined as ““doing the right thing in the right place in the right way””.

In the same way that the old city structure could not survive the changing landscape of South African society, it is unrealistic to believe that prohibiting the establishment of communes will make them disappear. The fact remains that there exists a demand for this type of accommodation due to its affordability by tenants, the income yield for owners and perceived low maintenance requirements. Therefore, keeping them out of more ‘exclusive’ areas is a near-impossible goal. It’s not so much that existing residential settlements will need to be adapted to receive these communes, but rather that communes will have to be standardised such that they are acceptable to these areas. “The City of Tshwane ...recognises that on the one hand there is a very definite need to increase residential densities in the city as a whole, and more specifically in certain strategic locations, and on the other hand there is a need to maintain the protection of existing unique or special low density areas and to provide new low density developments as part of the range



CITY OF TSHWANE COMMUNE POLICY

of choices available in the city. The aim is to find a balance between these two needs through the application of specific principles in specific locations” (Tshwane Compaction and Densification Strategy, 2005).

The basis is that communes are in residential homes. In order to overcome disturbances, they should *preferably* be on the periphery of residential areas where roads are busier due to some adjoining properties being operated as home offices, and other uses other than residential (legally). Although communes are not targeted at students and young professionals people specifically, they are likely to be the largest group of commune dwellers. Being close to transport routes will cater for the many that are likely not to have cars and for the students so they can be closer to places of education.

Another location criteria relates to the legally binding Tshwane Scheme, 2007, which indicates what land uses are permitted on properties. According to the scheme, communes may only be a consent use application in Use Zones 1 (Residential 1), 17 (Agricultural) and 19 (Undetermined) where a dwelling-house is a primary right.

Integration-

For the tenant, the very nature of communes allows for a lower cost in rental expense. This means that in some cases, a lower-income group will be residing in such accommodation. Where communes are located in middle- to higher-income neighbourhoods, there can be a greater mix of income groups.

Accountability-

Many problems emanating from communes have been intensified due to a lack of accountability on the part of the owner. This is to be rectified through related conditions of approval.



PART FIVE: Policy Directives

5.1 Background of Communes in Tshwane

As already mentioned the term “commune” means a building designed as a dwelling-house but used by not more than six unrelated persons who live together and share communal facilities, such as a kitchen, lounge, etc. : Provided that the outbuildings shall not be used for accommodation and provided that a Home Enterprise shall not be exercised by any such occupant.

In the recent past, communes known to the Municipality were mainly located in the Hatfield, Brooklyn and Arcadia areas. All of these residential areas are in close proximity to the University of Pretoria and as such, these communes were aimed at catering for students’ housing needs. As the communes were primarily located in these areas, the definition of communes, according to council policy on residential types was also based on the housing typology and average family size of these areas. Thus there is an expectation of 3 or 4 bedrooms per house in which 3-6 individuals may co-habit. As one will see when applying for medical aid, or taking advantage of a special holiday offer or even purchasing home furniture, the average family size in South Africa and many parts of the world is taken to be four to six family members. This policy will not have a restriction on bedrooms per commune, but rather the number of people. This is in order that number of occupants in a commune mimics the largely accepted number of people that comprise a family.

Although communes no longer exclusively cater for students, but for a much broader section of the population; such as young working professionals, unmarried adults, couples wanting to save money for a period of time, etc. - there will not be a differentiation made between different commune typologies that are based on the composition of the occupying tenants. That differentiation would simply create tedious application and adjustment procedures for both the property owner and Council with every change of tenants.

5.2 Guidelines

Scheme Requirements

A commune may only be a consent use application in Use Zones 1 (Residential 1), 17 (Agricultural) and 19 (Undetermined), where a dwelling-house is a primary right.

Where a home owner rents out bedrooms to only 1 or 2 tenants, it is not necessary to apply for use as a commune as this is a primary right:

Without prejudice to any powers of the Municipality derived from any other law or to the remainder of this Scheme, nothing in Clauses 14(3) or 16 of this Scheme shall be



CITY OF TSHWANE COMMUNE POLICY

construed as prohibiting or restricting or enabling the Municipality to prohibit or restrict...the letting, subject to the by-laws relating to lodging- and boarding houses, by any owner or occupant of a dwelling-house of any part of the dwelling-house excluding its outbuildings [**other than as a separate dwelling**], on condition that not more than two rooms for a maximum of two persons in any dwelling-house are so let... (See clause 17, section 2 of Tshwane Town Planning Scheme 2007)

A **commune** may not house more than 6 tenants; nor should it be confused with any of the other residential typologies. These include guest houses, lodges, blocks of flats, etc (See Clause 14, Table B of Tshwane Town Planning Scheme 2007).

Should an applicant wish to accommodate a number exceeding that of 6 tenants, this will no longer be considered a commune. In such a situation, the applicant will have to consider one of the following building typologies in terms of the Town Planning Scheme:

RESIDENTIAL TYPES		
Land Use	Zoning	Definition
<i>Block of tenements</i>	Gen Res Res 3 Res4	Means a building containing 2 or more dwelling units without their own kitchen and may include communal kitchens and communal ablution facilities.
Boarding House	Gen res Res3 Res4	Means land and buildings consisting of habitable rooms without a kitchen, which are let or rented to persons and where one or more meals are provided in a communal dining room and a communal kitchen and includes a caretaker's flat on the property.
Hostel	Educational	Means a boarding house for persons attending a place of instruction or institution and which is owned or managed by the said place of instruction or institution.
Guest House	Spec res Res1 Res2 Res3 Res4	Means a dwelling unit, excluding a Home Enterprise, consisting of not more than 16 bedrooms for a maximum of 32 guests, a dining room, lounge, bar and may include a conference room with the permission of the municipality, for the exclusive use of such guests who need accommodation for a short period, which shall be managed by the owner or manager



CITY OF TSHWANE COMMUNE POLICY

		who shall reside on the same property.
Backpackers	Spec Res Res1 Res2	Means land and buildings consisting of habitable rooms, a communal kitchen , dining room, lounge and ablution facilities for the accommodation of tourists for short periods.
Lodge		Means land and buildings used for accommodating guests or tourists for short periods and may include recreation facilities, a conference centre or social hall, wedding chapel, staff quarters and ancillary and subservient uses.

Only one dwelling-house per property may be used for the purposes of a commune. In cases where a second dwelling also exists, the second dwelling may only be used as the primary residence of a *family* as defined in clause 5 of the Tshwane Town Planning Scheme, 2007. Any other extended family that is being *charged* for the accommodation will be considered a commune tenant and not *family*. Either the owner or a caretaker/manager of the commune is obliged to live on the property in the caretaker's flat for the purpose of management. The owner or manager shall not reside in a part of the Commune or use the outbuildings for residential purposes. Every application will have its own merits and will need to be assessed contextually.

The "Commune" definition overrules the concept of the residence being used by a single family, or a single, person or two persons, as well as the exercising of a Home Enterprise and accommodation in the outbuildings. Thus no occupant is allowed to exercise the provision of the Tshwane Town Planning Scheme (2007) for a Home Enterprise.

An applicant who chooses to subdivide a large property so as to have two separate properties each with single houses as communes on adjacent properties may receive approval for the subdivision, but is unlikely to get both commune applications approved.

Existing vs. New Communes

Any legally communes (i.e. having gone through the application process previously required) falling outside the directives of this policy shall only require re-assessment in terms of the specific conditions under which the establishment was originally approved should there be any complaints from

CITY OF TSHWANE COMMUNE POLICY

any affected parties as a result of such an existing establishment and of gross negligence of any title-deed, by-law, ordinance, or any other form of applicable legislation. According to the Tshwane Town Planning Scheme, Transition Clause (4) states the following:

(1) Any consent, permission or approval granted in terms of the provisions of a Town-planning Scheme in force for the erection or use of buildings or for the use of land, or any rights legally exercised in terms of such scheme, before the date contemplated in Clause 1 and before **[31 January 2007]** ... (the proclamation date of this Scheme), shall be deemed to be a consent, permission or approval in terms of the provisions of this scheme: Provided that any such consent, permission or approval shall be null and void unless development or use in accordance with such consent, permission or approval has been substantially undertaken or exercised before or on such date and that if there is a conflict in meaning of terminology between the previous consent, permission or approval and the meaning of terminology of the Scheme after the afore-mentioned dates then the less restrictive terminology shall prevail.

(2) Any Annexures B, Annexures or Schedules promulgated in terms of the former Akasia- Soshanguve Town-planning Scheme,1996, the Centurion Town-planning Scheme,1992, the Pretoria Town-planning Scheme,1974, or other rights granted or promulgated in terms of other applicable land use legislation shall be deemed to be granted or approved in terms of this Scheme. Conversion Tables, Schedules 16, 17, 18 and 19, of this Scheme should be used to convert the terminology of the former land use rights to the terminology of this Scheme.

In cases of gross negligence it may be necessary to revoke the consent use rights. The Municipality is under no obligation to re-instate those rights in the event of re-application.

Any illegal commune will have to undergo the necessary application process as put forward within this policy in order to avoid possible prosecution.

The Tshwane Town Planning Scheme, 2007 incorporates all areas of the City of Tshwane and this policy corresponds with this.

5.3 Criteria

The criteria governing commune establishments were informed by matters relating to scheme. Policy and legal prescriptions and are as follows:

Preferred Location:

Near (within 1km) of educational institutions and/or near main public transport routes (in order to cater for a mostly young and/or student tenant population, many of whom may not own private vehicles) and/or on the periphery of residential



areas (so as not to disrupt the residential fabric of mostly conventional family homes).

Building Control:

Parking

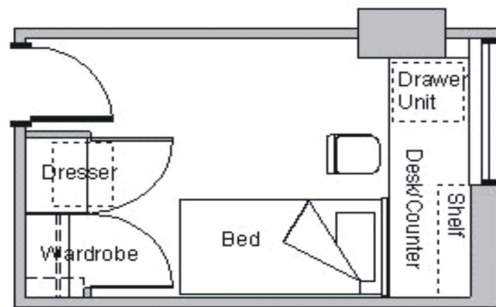
- 1 **dust free** parking space /tenant and 1 visitor's parking for every 2 tenants;
- must be on site;
- should include landscaping to preserve the residential character and prevent large unsightly paved areas i.e. parking areas should not be visible from the street

Dwelling-house

- Minimum of 6m²/ tenant/ bedroom;
- Minimum of 14/ m²/ 2 tenants/bedroom
- Minimum of 6m² for common rooms i.e. any rooms serving a communal function, excluding ablution facilities;
- Minimum of 1 bathroom and toilet to every 3 tenants- 2 bathrooms/toilets for every number over 3 tenants



WHAT SHOULD BE AVOIDED IS OVERCROWDING OF A SINGLE BEDROOM



A TENANT MAY NEED SPACE FOR MORE THAN JUST A BED IN A BEDROOM

- Except with CoT approval of a building conversion plan, only existing bedrooms may be used for the purposes of a bedroom



CITY OF TSHWANE COMMUNE POLICY

- Habitable outbuildings may be included as rentable space for the purposes of a commune
- Wendy houses may not be used as rentable space for the purposes of a commune (in accordance with National Building Regulations and Building Standards Act No. 49 of 1995, sections 10 and 17).

Property

- There must be a physical boundary wall of at least 2m in height between the commune property and adjoining properties;
- Only one dwelling-house/ property may be used for the purpose of a commune in cases where a second dwelling may exist.

Streetscape

- 1 tree/2 parking bays over and above landscaping;
- No area facing the street may be used for storage purposes or hanging of washing unless not visible from street

The above mentioned criteria may be relaxed to the satisfaction of the General Manger: City Planning.

5.4 Application Procedures

The process followed by all applications is as follows:

- All land use applications are received by the City Planning and Development Division;
- The applications are then checked for technical correctness by the Land Use Management Section;
- The content of the applications is then checked by the Planning Professionals at the Regional Spatial Planning Section;
- Should the application meet initial requirements of the Regional Spatial Planning Section, it is then circulated to all relevant departments such as Legal Services, Water and Sanitation and Health and Social Development;
- Each concerned department is given the opportunity to comment on the application;



CITY OF TSHWANE COMMUNE POLICY

- The application is then evaluated by the Regional Spatial Planning Section against all the comments received and conditions imposed from each department;
- If the application is recommended for approval, the approval will include all relevant comments and conditions as laid out by each department
- Violation of any of these conditions will constitute a contravention and will be enforced by the Development Control Section.

The application will be a Consent Use application. With every application, the following should be provided:

Site Layout Plan indicating clearly the following:

- All existing and proposed structures on site
- Relation to neighbouring properties;
- Physical barriers between the proposed development and neighbouring developments;
- Location of outside entertainment areas and the screening off thereof;
- Parking lay-out
- Entrances/ Exits

House Layout Plan indicating clearly the following:

- Areas of rooms within the house
- Intended use of rooms
- The number of tenants to be accommodated per bedroom (note that there may only be a maximum of 2 tenants per bedroom)



Conclusion

It is with great concern for commune owners, tenants and other affected parties that this policy was compiled as the main objective is to improve upon the existing commune typology such that it becomes a desirable housing typology.

In light of all that has been put forward here, it is trusted that there will be decreased conflict within the circles of residential development.

