



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

REPORT TO: **MUNICIPAL PLANNING TRIBUNAL**

ITEM NO **MPTSW35/07/19**

WARD 58: APPLICATION FOR DELETION OF A TITLE DEED CONDITION, DELETION OF A CONDITION OF AN EXISTING APPROVAL AND DEPARTURES IN TERMS OF THE CAPE TOWN MUNICIPAL PLANNING BY-LAW, 2015: ERF 98281 CAPE TOWN AT RONDEBOSCH, 15 ROVER ROAD

Case ID	70442290
Case Officer	N Floris
Case Officer phone number	021 444 9540
District	Southern
Ward	58
Ward Councillor	S Cottle
Report date	2019-06-27

1. **EXECUTIVE SUMMARY**

Property description	Erf 98281 Cape Town at Rondebosch
Property address	15 Rover Road
Application components / description	<ol style="list-style-type: none"> 1. Deletion of a condition from title deed T85670/2006, as set out in Annexure A, relating to building line setbacks. 2. Deletion a condition of an existing approval imposed in terms of the Townships Ordinance No 33 of 1934, as set out in Annexure A, relating to building line setbacks. 3. Departures from the Development Management Scheme (DMS), as set out in Annexure A, relating to the street boundary setback and the minimum width of the carriageway crossing. 4. This is in order to permit a garage on the property as per the Site Development Plans (SDPs) attached as Annexure C.
Site extent	744m ²
Current zoning	Single Residential Zone 1
Current land use	Dwelling house
Overlay zone applicable	None
PHRA or SAHRA heritage	None
Public participation outcome summary	No objections were received.
Recommended decision	
Approval	✓
Refusal	
Approval in part & Refusal in part	

2. **BACKGROUND FACTS**

- 2.1 In 2017, a departure application for additions to the main dwelling house within the common boundary setback was approved by a delegated official.

- 2.2 An application for deletion of a restrictive title deed condition, deletion of existing approval imposed in terms of the Townships Ordinance No 33 of 1934 and departures was submitted on 2018-09-11. The application was incomplete and closed on 2018-11-21 without it having been advertised.
- 2.3 A departure to permit the garage to be setback 0m in lieu of 3m from the eastern common boundary was applied for and advertised. It must be noted, however, that this departure is not necessary. However, a departure to permit the combined carriageway crossing to have a minimum width of 4.8m in lieu of 5m was not included as part of this application. It was only after advertising that this departure was applied for. As this departure is very minor and has no impact on the surrounding properties, it is not necessary to re-advertise this application. In this regard it must be noted that Section 82(2) of the MPBL states that a "notice must be served on a person whose rights or legitimate expectations are materially and adversely affected if the application is approved", which is not the case in this instance.
- 2.4 One objection was received that was subsequently withdrawn.
- 2.5 As there were no objections to this application, the Municipal Planning Tribunal only has the delegation to make a decision on the component of the application relating to deletion of the restrictive title deed condition. Once a decision on this component has been made, a decision on the deletion of a condition of an existing approval imposed in terms of the Townships Ordinance No 33 of 1934 and the departures will be made by a delegated official.

3. SUMMARY OF APPLICANT'S MOTIVATION

- 3.1. The applicant's motivation of the proposed development (see Annexure D) may be summarised as follows:
- The proposal complies with the Provincial Spatial Development Framework, the Municipal Spatial Development Framework and the Southern District Plan.
 - The impact on the existing rights of the township is far outweighed by the need for secure access provided by a garage.
 - The proposal will benefit the owners and increase the resale value of their property.
 - The proposal is considered normal and typical in terms of residential development.
 - The proposal is compatible with the surrounding uses.
 - There will be no impact on external engineering services.
 - There will be no impact on safety, health and wellbeing of the surrounding community.
 - The building work will not cause any inconvenience.
 - There will be no impact on heritage and the biophysical environment.
 - There will be very limited impact on the existing traffic, pedestrian access to the subject property and other transported related considerations.
 - No conditions are necessary to be imposed.
 - The application complies with the general requirements of Section 39(5) of the Land Use Planning Act.

- The application complies with the general requirements of Section 47(2) of the Spatial Planning and Land Use Management Act.
- The title deed condition and condition of township approval are both outdated and redundant.
- The subject property and the surrounding area is governed by the provisions of the Development Management Scheme.

4. PUBLIC PARTICIPATION

		Applicable	Dates / Comments
Advertising	Notice in the media (s81)	✓	2019-04-05
	Notice to a person (s82)	✓	2019-04-03
	Notice to Community organization (s83)	✓	2019-04-03
	Notice to Ward Councillor (s83)	✓	2019-04-02
	Notice of no objection (s84)		
	Notice to Provincial Government (s86)		
	Notice to an Organ of State (s87)		
	Public meeting		
	On-site display	✓	2019-04-05
Outcome	Objections		No objections (An objection received was subsequently withdrawn.)
	Objection petition		
	Support / No objection		
	Comments		
	Ward Councillor response		

Summary of objections received

4.1. N/A

Summary of applicant's response to public participation

4.2. N/A

5. BACKGROUND TO PROPOSAL

Description of the area / surrounding land uses

5.1 The subject property is located in an area which can be described as being a middle-income, low density, suburban, residential area. The surrounding properties typically contain detached single and double storey dwelling houses on large sized properties and well landscaped gardens with trees. The area is also characterized by the busy nature of Kromboom and Milner Roads, and the M5 freeway.

Zoning

5.2 As can be seen from Annexure B, the subject property and all the surrounding properties are zoned Single Residential Zone 1.

Property description

5.3 The subject property is developed with a double storey dwelling house and a pool, and has a few trees.

Proposed development

- 5.4 The proposal is to permit a double garage on the property as per the Site Development Plans (SDPs) attached as Annexure C. This requires the following applications:
- Deletion of a condition from title deed T85670/2006, as set out in Annexure A, relating to building line setbacks.
 - Deletion a condition of an existing approval imposed in terms of the Townships Ordinance No 33 of 1934, as set out in Annexure A, relating to building line setbacks.
 - Departures from the Development Management Scheme (DMS), as set out in Annexure A, relating to street and the minimum width of the carriageway crossing.

6. PROPOSAL ASSESSMENT

6.1. Consideration of criteria in terms of Section 99(1):

- 6.1.1. Compliance with the requirements of the MPBL:
- The application complies with the basic requirements of the MPBL.
 - As there is no unauthorised land use or building work related to this application, no administrative penalty is required.
- 6.1.2. Compliance or consistence with the municipal spatial development framework:
- The application is not inconsistent with the Municipal Spatial Development Framework. The property is located in an area designated as an "urban inner core".
- 6.1.3. Consideration in terms of Section 99(3) of the desirability of the following criteria:
- For the reasons given in Section 6.2.4 below, this Department is of the opinion that the proposal is desirable.
- 6.1.4. Would approval of the application have the effect of granting the property the development rules of the next subzone within a zone?
- N/A

I am satisfied that the decision making criteria in Section 99(1) have been complied with.

I am satisfied that the considerations in Section 99(3) have been assessed and that the proposed land use is desirable.

6.2. Consideration of criteria in terms of Section 99(2):

- 6.2.1. Any applicable spatial development framework:
- The proposal is not inconsistent with the Municipal Spatial Development Framework for the reasons given in Section 6.1.2 above.
 - The proposal is not inconsistent with the Southern District Plan. The property is in an area designated as urban development.
- 6.2.2. Relevant criteria contemplated in the DMS:

- N/A

743

- 6.2.3. Applicable policy or strategy approved by the City to guide decision making
 - The proposal indirectly supports the Economic Growth Strategy.
- 6.2.4. Consideration in terms of Section 99(3) of the extent of desirability of the following criteria:
 - a. Socio-economic impact: The proposal will have a small positive socio-economic impact in terms of resulting in additional investment on the property and creating employment opportunities during construction.
 - b. Compatibility with surrounding uses:
 - The proposal is compatible with the surrounding uses.
 - The proposal will not have a significant impact on the streetscape and will not impact on the character of the area as structures on or close to the street boundary are not uncommon in the area.
 - The height of the proposed garage is relatively modest and it will not dominate the streetscape.
 - c. Impact on the external engineering services: The proposal will not have a negative impact on engineering services.
 - d. Impact on safety, health and wellbeing of the surrounding community: The proposal will not impact on the safety, health or wellbeing of neighbours.
 - e. Impact on heritage: There will be no negative impact on heritage. Although the dwelling house exceeds 60 years of age, the proposed garage will not be attached to the dwelling house and thus no permit from Heritage Western Cape is required.
 - f. Impact on the biophysical environment: The proposal will not have a significant impact on the biophysical environment. The property is already developed and is not environmentally sensitive. No trees of significance will be affected.
 - g. Transport considerations: The proposal will not have an impact on transport. The existing carriageway crossing will be used, albeit widened. The magnitude of the carriageway crossing departure is very small. The application was assessed by the Transport Planning Department which has no objection (see Annexure I).
 - h. Mitigating conditions: None are required.
- 6.2.5. Impact on existing rights:
 - The proposal will not impact significantly on existing rights.
 - The departures applied for are mitigated by the fact that properties in the area also contain garage and carports on or close to the street and common boundary which is not uncommon.
 - The magnitude of the carriageway crossing departure is very small.
 - The proposal complies with the 50% built upon area in the title deed.
 - The title deed conditions are not meant to be inflexible. For example, the preamble in Condition 8.1 refers to amendment or alteration of the conditions.
- 6.2.6. Other considerations prescribed in relevant national or provincial legislation:
 - The proposal complies with the principles set out in Section 59 of the Land Use Planning Act and Section 7 of the Spatial Planning and Land Use Management Act.

I am satisfied that the decision making criteria in Section 99(2) have been complied with.

6.3 Assessment of the deletion of restrictive title deed conditions:

- 6.3.1 When the township (Twyford) that resulted in the creation of the subject properties was approved circa 1937 (see the General Plan in Annexure G), the Administrator of the Province of the Cape of Good Hope imposed conditions relating to the use, no more than 1 dwelling on an erf, built upon area, building line setbacks and subdivision.
- 6.3.2 At the time zoning schemes did not exist and thus title deed restrictions were the method used to achieve a particular look and feel of an area, in order to set the development parameters and uses permitted on the erf. These conditions, when read together, created a particular relatively low density, suburban, residential character.
- 6.3.3 Subsequent to the creation of the township, zoning schemes were established to regulate land use development and character within Cape Town. These changes promote a different development form to those as were originally set out in the area's title deeds. These issues are discussed within this report as well as expanded upon below.
- 6.3.4 It is noted that this character has, to a limited extent, begun to change with structures on or close to boundaries not being uncommon in the relevant township.
- 6.3.5 The applicant has applied to remove the title deed condition related to the street and common boundary setbacks, as set out in Annexure A
- 6.3.6 When assessing whether or not to uplift this restriction, the decision maker must have regard to the provisions in the MPBL, section 39(5) of LUPA and, where relevant, section 47 of SPLUMA.
- 6.3.7 With regard to the assessment of the deletion of the restrictive title deed condition, the following comments need to be made in relation to the decision criteria as set out in the Land Use Planning Act, No. 3 of 2014:
 - (i) The financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity, irrespective of whether these rights are personal or vest in the person as the owner of a dominant tenement:
 - The applicant has not provided any proper explanation or evidence regarding the financial value of the restrictive condition, but has stated that the proposal will not have a financial impact.
 - Given that other areas with a similar character and similar property values do not have this title deed condition, it can be argued that this condition has limited value.
 - However, given the absence of substantiation, not much weight can be attached to this consideration.

- (ii) The personal benefits which accrue to the holder of rights in terms of the restrictive condition:
 - The personal benefits of both restrictive conditions to the holder of rights relate to the character of the area, which is also protected by the development rules contained in the DMS.
 - (iii) The personal benefits which will accrue to the person seeking the removal, suspension or amendment of the restrictive condition if it is removed, suspended or amended:
 - The proposal will enable the owner to efficiently develop his/her property and provide more secure parking for the owner's vehicles, with substantial personal benefits.
 - (iv) The social benefit of the restrictive condition remaining in place in its existing form:
 - "Social" is defined as "of relating to society and its organisations". Thus the question is, what is the benefit of the right to society? "Society" comprises the neighbours, the township, the local residents and the broader society.
 - Should the conditions not be deleted the status quo within the area will remain.
 - This Department is of the opinion that retaining the title deed condition will be of no social benefit.
 - It must be reiterated that the title deed condition was imposed in an era before zoning schemes came into being.
 - (v) The social benefit of the removal, suspension or amendment of the restrictive condition:
 - There are minor social benefits in deleting the condition in that it will facilitate investment in the property that will have positive knock-on impacts on the surrounding properties, and as it will facilitate improved security.
 - (vi) Whether the removal, suspension or amendment of the restrictive condition will completely remove all rights enjoyed by the beneficiary or only some of those rights:
 - The deletion of the condition will not completely remove the rights enjoyed by the beneficiaries. There will still be controls in the DMS that will ensure that development occurs in terms of the setbacks stated in the development rules.
- 6.3.8 With regard to the decision criteria as set out in Section 47 of the Spatial Planning and Land Use Management Act, No. 16 of 2013, due regard has been had to the respective rights of those affected in the assessment above of the factors relating to the criteria in Section 39 of LUPA.
- 6.3.9 The deletion of the restrictive condition will not amount to arbitrary deprivation of property as set out in section 25(1) of the Constitution. The deletion of the relevant condition will not be considered a deprivation of property.
- 3.6.10 The personal benefits conferred by the title deed condition on the owners in the township must be weighed up against the wider social benefit of deleting the restrictive condition and the benefit to the applicant. There are substantial benefits to the owner of the property for deleting the restriction. The adverse effect on the owners in the township are not substantial and there is no

evidence of financial impact. To the extent that there is such an impact, it is outweighed by the social benefits/public benefits for the reasons set out above.

I am satisfied that regard has been had to the decision making criteria in Section 39(5) of the LUPA and Section 47 of SPLUMA.

7. REASONS FOR DECISION

7.1. Reasons for the recommended decision for **approval** relating to the application for the deletion of a restrictive title deed condition may be summarised as follows:

- 7.1.1. The proposal is compatible with the surrounding land uses in which there are numerous similar garages.
- 7.1.2. The proposal will not have a negative impact on neighbouring properties.
- 7.1.3. The proposal will have no negative impact on the streetscape.
- 7.1.4. The proposal is not inconsistent with the Southern District Plan and the Municipal Spatial Development Framework.
- 7.1.5. The proposal will have a positive socio-economic impact.
- 7.1.6. There will be no negative impact on heritage.
- 7.1.7. The proposal not have a significant impact on the biophysical environment.
- 7.1.8. The proposal will not have a negligible impact on transport.
- 7.1.9. The proposal is desirable and does not impact significantly on existing rights.
- 7.1.10. The deletion of the title deed condition has been assessed in terms of the factors in the Municipal Planning By-Law 2015, the Land Use Planning Act 2014, and the Spatial Planning and Land Use Management Act, 2013, as explained in the assessment above.

7.2. Reasons for the recommended decision for **approval** relating to the application for the deletion of a condition of an existing approval and departures may be summarised as follows:

- 7.2.1. The proposal is compatible with the surrounding land uses in which there are numerous similar garages.
- 7.2.2. The proposal will not have a negative impact on neighbouring properties.
- 7.2.3. The proposal will have no negative impact on the streetscape.
- 7.2.4. The proposal is not inconsistent with the Southern District Plan and the Municipal Spatial Development Framework.
- 7.2.5. The proposal will have a positive socio-economic impact.
- 7.2.6. There will be no negative impact on heritage.
- 7.2.7. The proposal not have a significant impact on the biophysical environment.
- 7.2.8. The proposal will not have a negligible impact on transport.
- 7.2.9. The proposal is desirable and does not impact significantly on existing rights.

8. RECOMMENDATION

In view of the above, it is recommended that:

For decision by MPT:

- 8.1 The application for deletion of a restrictive title deed condition, as set out in Annexure A, for Erf 98281 Cape Town at Rondebosch, **be approved** in terms of Section 98(b) of the Municipal Planning By-Law, 2015.

For decision by a delegated official:

- 8.2 The application for deletion of a condition of an existing approval, as set out in Annexure A, for Erf 98281 Cape Town at Rondebosch, **be approved** in terms of Section 98(b) of the Municipal Planning By-Law, 2015.
- 8.3 The application for departures, as set out in Annexure A, for Erf 98281 Cape Town at Rondebosch, **be approved** in terms of Section 98(b) of the Municipal Planning By-Law, 2015.

ANNEXURES

Annexure A	Application details
Annexure B	Locality plan / public participation map
Annexure C	Site Development Plan
Annexure D	Applicant's motivation
Annexure E	Title deed
Annexure F	Conveyancer's certificate
Annexure G	General Plan
Annexure H	Bondholder's consent
Annexure I	Branch comment



Registered Planner

Name: P Hoffa

SACPLAN NO: A/2197/2015

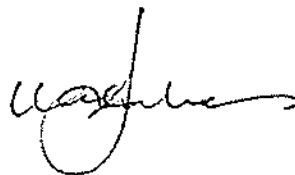


Section Head

Name: Pierre Hoffa

Tel no: 021 444 7724

Date: 2019-06-27



District Manager

Name: Ossie Gonsalves

Tel no: 021 444 7720

Date: 2019-06-28

ANNEXURE A

In this annexure:

"City" means the City of Cape Town

"The owner" means the registered owner of the property

"The property" means **Erf 98281 Cape Town at Rondebosch, 15 Rover Road**

"Bylaw" and "Development Management Scheme" has the meaning assigned thereto by the City of Cape Town Municipal Planning Bylaw, 2015 (as amended)

"Item" refers to the relevant section in the Development Management Scheme

CASE ID: 70442290

The departures are linked to the plans drawn by Louisewileman Architecture and Interior Design CC with drawing numbers One/1 and Two/1 both Revision 1 and both dated 2018-11-07.

1. APPLICATIONS GRANTED IN TERMS OF SECTION 98 (b) OF THE BYLAW

1.1 Deletion of title deed condition:

- 1.1.1 Deletion of condition B.1(d) from title deed T85670/2006: "That no building or structure or any portion thereof, except boundary walls and fences, shall be erected nearer than 4.72 metres to the street line which forms a boundary to this erf. No such building or structure shall be situated within 2.32 metres of the lateral boundary common to any adjoining erf, provided that an outbuilding not exceeding 6.30 metres in length and 3.15 metres in height, may be erected in such a position that the distance between it and any building situate on this or an adjoining erf, except another such outbuilding, is not less than 4.72 metres."

1.2 Deletion of a condition of a previous approval:

- 1.2.1 "That no building or structure or any portion thereof, except boundary walls and fences, shall be erected nearer than 4.72 metres to the street line which forms a boundary to this erf. No such building or structure shall be situated within 2.32 metres of the lateral boundary common to any adjoining erf, provided that an outbuilding not exceeding 6.30 metres in length and 3.15 metres in height, may be erected in such a position that the distance between it and any building situate on this or an adjoining erf, except another such outbuilding, is not less than 4.72 metres."

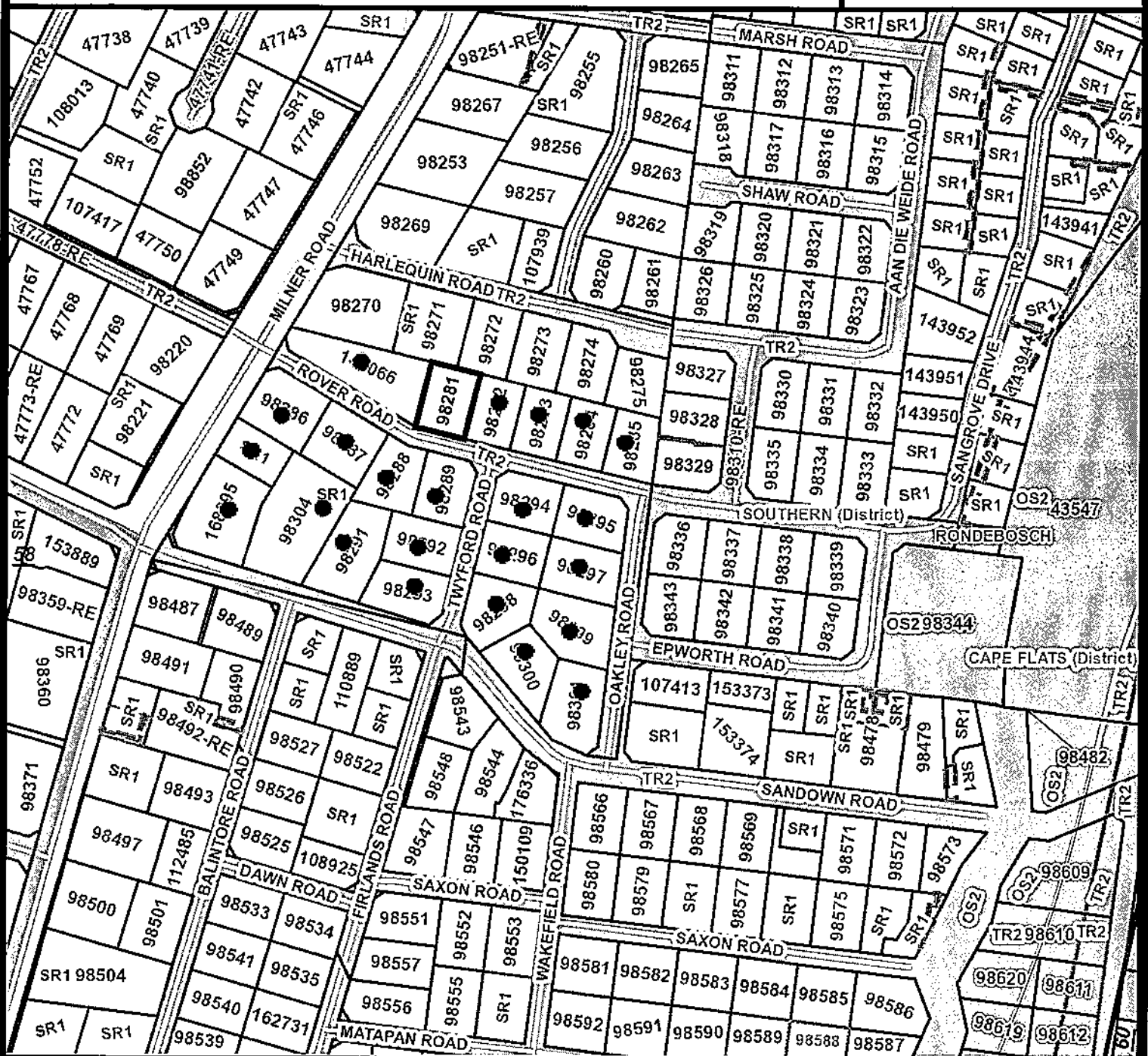
1.3 Departures from the Development Management Scheme:

- 1.3.1 Item 22(f)(iii): To permit a garage to be setback 0m in lieu of 5m from Rover Road.
- 1.3.2 Item 140(2)(c): To permit a minimum width of a combined carriageway crossing to be 4.8m in lieu of 5m.

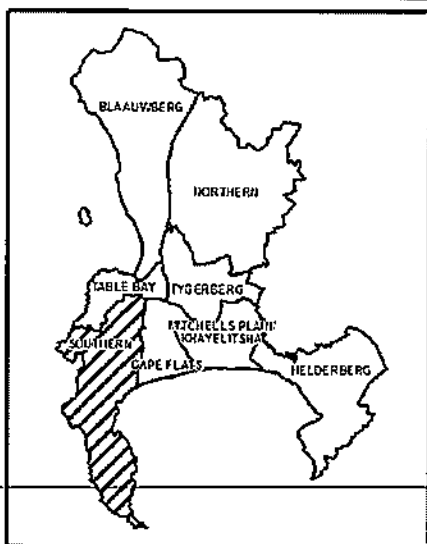
PLANNING AND BUILDING DEVELOPMENT MANAGEMENT LOCALITY MAP

749

ANNEXURE : B



Overview



Erf: 98281

Allotment: CAPE TOWN

Ward: 58

District: SOUTHERN

Suburb: RONDEBOSCH

Sub Council: Subcouncil 20



1:2 700

Notices Served



Support
Received



Petition
Signatory



Objections
Received



Generated by:

Date: Wednesday, March 20, 2019

File Reference:



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

Making progress possible. Together.

PLANNING AND BUILDING DEVELOPMENT MANAGEMENT LOCALITY MAP

750

ANNEXURE :



Overview

Erf: 98281

District: SOUTHERN

Allotment: CAPE TOWN

Suburb: RONDEBOSCH

Ward: 58

Sub Council: Subcouncil 20



1:4 118

Notices Served



Support
Received



Petition
Signatory



Objections
Received



Generated by:

Date: Monday, June 24, 2019

File Reference:

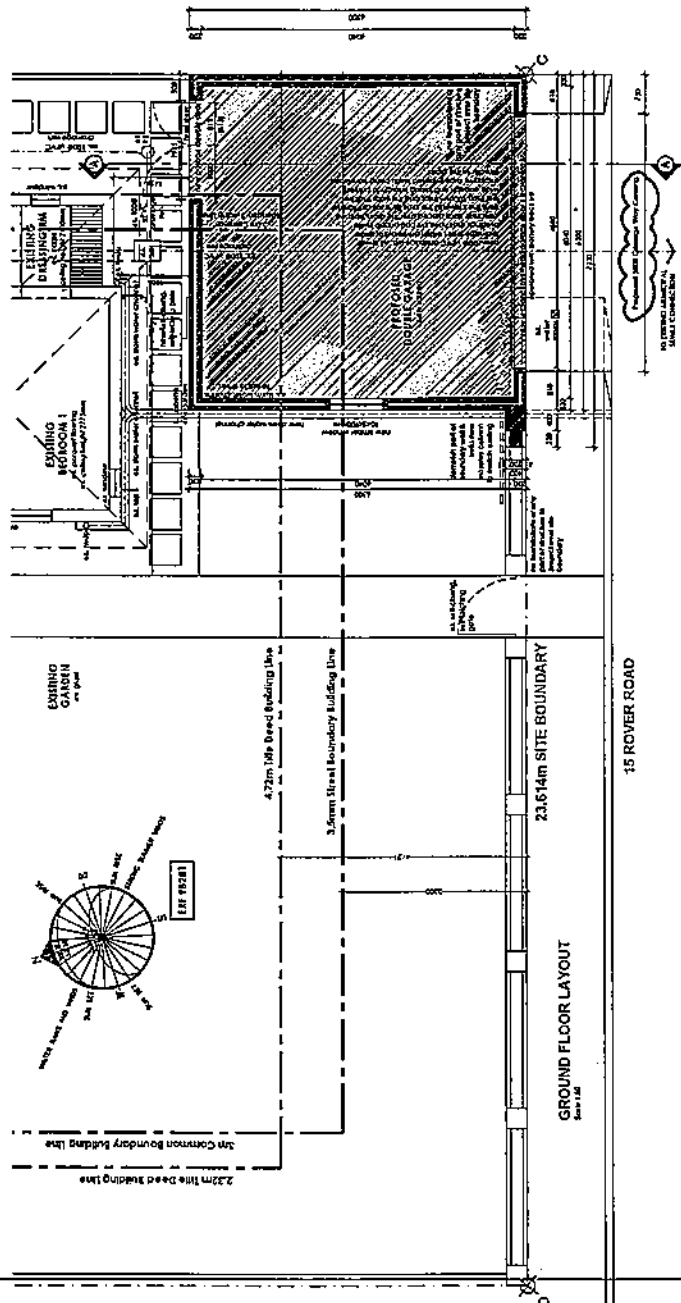


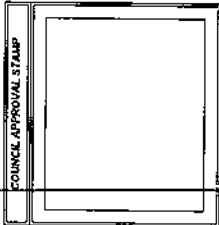
CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

Making progress possible. Together.

CNCL APPROVAL STAMP

The copyright of this document belongs to the author
 COURSE WILEYMAN ARCHITECTURE & INTERIOR
 DESIGN INC.

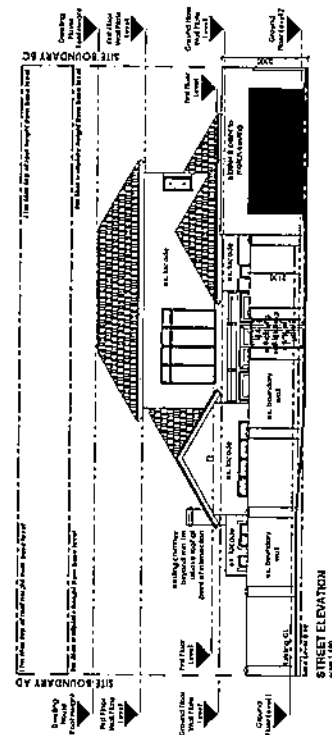
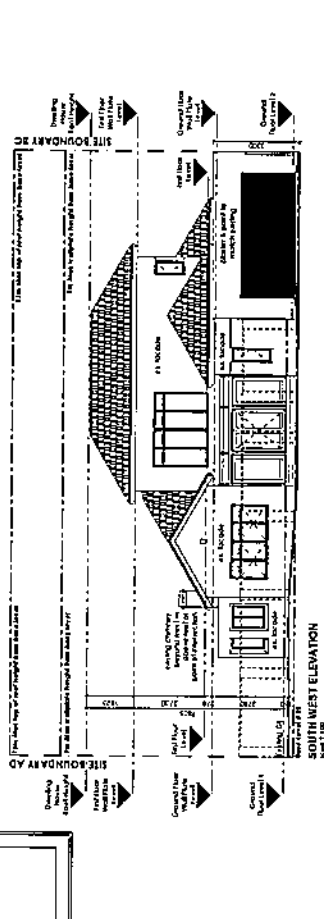
[illegible]



SERIAL NUMBER

GENERAL NOTES

ALL DRAWINGS AND NOTES TO BE CHECKED ON SITE BEFORE COMMENCEMENT OF WORK. Drawings are to be used in conjunction with the specification and any other documents and conditions of contract. The drawings are to be used in conjunction with the specification and any other documents and conditions of contract. The drawings are to be used in conjunction with the specification and any other documents and conditions of contract.



SPECIFICATION CROSS REFERENCES

ITEM	REFERENCE
1.1.1.1.1.1.1	1.1.1.1.1.1.1
1.1.1.1.1.1.2	1.1.1.1.1.1.2
1.1.1.1.1.1.3	1.1.1.1.1.1.3
1.1.1.1.1.1.4	1.1.1.1.1.1.4
1.1.1.1.1.1.5	1.1.1.1.1.1.5
1.1.1.1.1.1.6	1.1.1.1.1.1.6
1.1.1.1.1.1.7	1.1.1.1.1.1.7
1.1.1.1.1.1.8	1.1.1.1.1.1.8
1.1.1.1.1.1.9	1.1.1.1.1.1.9
1.1.1.1.1.1.10	1.1.1.1.1.1.10

DISCLAIMER

ALTHOUGH THE DRAWING STRUCTURE HAS BEEN DESIGNED BY THE ARCHITECT, THE ARCHITECT DOES NOT GUARANTEE THE ACCURACY OF THE INFORMATION CONTAINED HEREIN. THE ARCHITECT IS NOT RESPONSIBLE FOR THE CONSTRUCTION OF THE WORK OR THE SAFETY OF THE WORK. THE ARCHITECT IS NOT RESPONSIBLE FOR THE CONSTRUCTION OF THE WORK OR THE SAFETY OF THE WORK.

REVISIONS

NO.	DATE	DESCRIPTION
1	10/10/10	1.1.1.1.1.1.1
2	10/10/10	1.1.1.1.1.1.2
3	10/10/10	1.1.1.1.1.1.3
4	10/10/10	1.1.1.1.1.1.4
5	10/10/10	1.1.1.1.1.1.5
6	10/10/10	1.1.1.1.1.1.6
7	10/10/10	1.1.1.1.1.1.7
8	10/10/10	1.1.1.1.1.1.8
9	10/10/10	1.1.1.1.1.1.9
10	10/10/10	1.1.1.1.1.1.10

MARKS & BELINDA GEMAROT
Architects
10/10/10

1.1.1.1.1.1.1
1.1.1.1.1.1.2
1.1.1.1.1.1.3
1.1.1.1.1.1.4
1.1.1.1.1.1.5
1.1.1.1.1.1.6
1.1.1.1.1.1.7
1.1.1.1.1.1.8
1.1.1.1.1.1.9
1.1.1.1.1.1.10

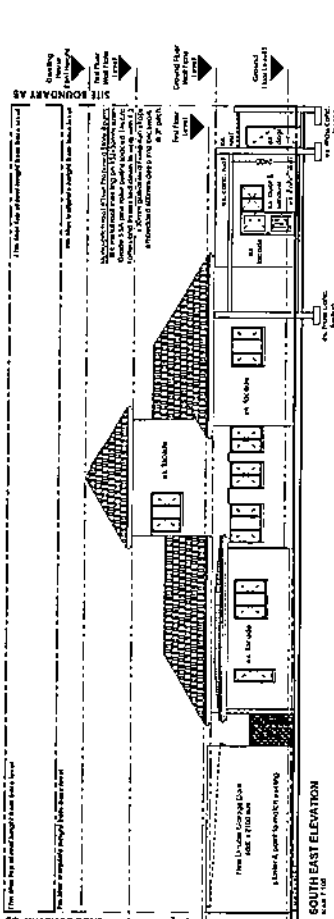
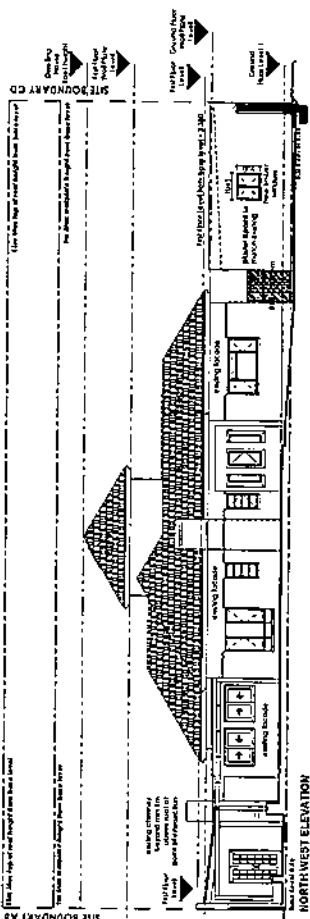
THIS DRAWING IS TO BE USED FOR LOCAL AUTHORITY SUBMISSION ONLY

louiswileman

ARCHITECTURE AND INTERIOR DESIGN
1.1.1.1.1.1.1
1.1.1.1.1.1.2
1.1.1.1.1.1.3
1.1.1.1.1.1.4
1.1.1.1.1.1.5
1.1.1.1.1.1.6
1.1.1.1.1.1.7
1.1.1.1.1.1.8
1.1.1.1.1.1.9
1.1.1.1.1.1.10

MARK & BELINDA GEMAROT

Proposed New Garage to be used for storage of vehicles and materials. The garage is to be constructed of brick and has a gabled roof. The garage is to be constructed of brick and has a gabled roof. The garage is to be constructed of brick and has a gabled roof.



753

**ERF 98281 CAPE TOWN, 15 ROVER ROAD RONDEBOSCH:
APPLICATION FOR PERMANENT SETBACK DEPARTURES,
DELETION OF A RESTRICTIVE TITLE DEED CONDITION AND
DELETION OF A CONDITION OF EXISTING APPROVAL IN
TERMS OF SECTIONS 42(b), 42(g) AND 42(j) RESPECTIVELY
OF THE CITY OF CAPE TOWN MUNICIPAL PLANNING BY-
LAW, 2015**

MEMORANDUM OF MOTIVATION

Amended March 2019



Prepared for submission to the City of Cape Town
On behalf of the owner by M A Smith

M A Smith
Town and Regional Planner
3 Earl Street Hout Bay, 7801
Tel (021) 790 7805
Fax: 086 689 9042
Cell: 083 270 1702
Email: mikesmith@mweb.co.za

1. INTRODUCTION

- 1.1 Application is hereby made in terms of sections 42(b), 42(g) and 42(j) respectively of the City of Cape Town Municipal Planning By-Law (MPBL), 2015, for permanent setback departures (street and eastern common boundary), deletion of a restrictive title deed condition and deletion of a condition of approval deemed to have been granted in terms of the MPBL, with respect to Erf 98281 Cape Town at Rondebosch (the subject property). These are necessary to permit the erection of a proposed double garage on the street boundary of the property (Rover Road).

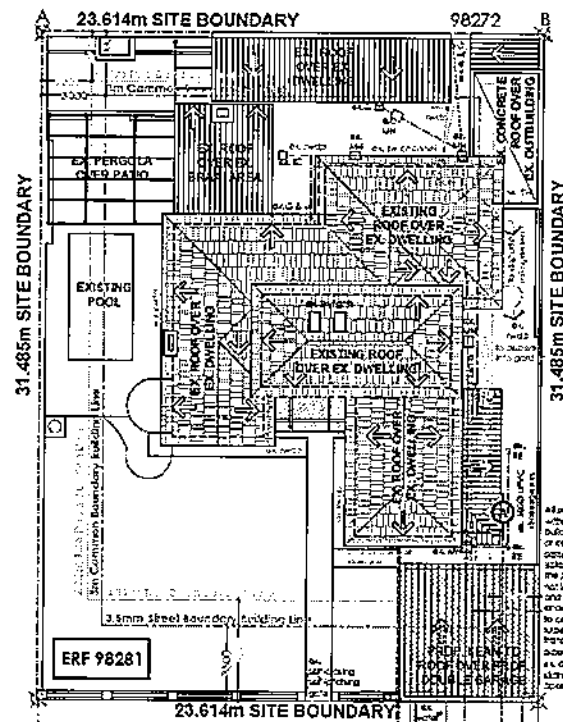


Figure 1: The proposed double garage is shown in red hatching in the above extract from the building plan

- 1.2 The proposed departures will be discussed in section 3 of this report, and the proposed deletion of a restrictive title deed condition and deletion of a condition of existing approval will be discussed in section 4 of this report.

2. OWNERSHIP, PROPERTY DETAILS AND LEGAL ASPECTS

2.1 Title Deed Ownership and Extent

- 2.1.1 The property is owned by Mark William Dewdney Gebhardt and Belinda Louise Gebhardt, held by Deed of Transfer No. T85670/2006.

- 2.1.2 The property is 744m² in extent.

2.2 Title Deed Restrictions

- 2.2.1 There is a restrictive condition contained in the Deed of Transfer of the property (Deed of Transfer T85670/2006), which is deemed restrictive as far as the proposed erection of the double garage is concerned – namely Condition B.1.(d) on page 3 of the deed, which specifies

various building setbacks. Application is therefore made to delete this condition – See Section 4 of this report.

755

2.3 Locality and Context of the Site within Rondebosch

- 2.3.1 Rondebosch lies between the slopes of Devil's Peak in the west and the M5 freeway in the east; it is one of the Southern Suburbs of Cape Town, which lie along the eastern slope of the Table Mountain massif. The suburb's western border with the Table Mountain National Park is defined by the M3 freeway. To the north are the suburbs of Rosebank and Mowbray, while to the south are Newlands and Claremont. The eastern border of Rondebosch is the M5 freeway; beyond the freeway are Sybrand Park, Athlone and Rondebosch East.
- 2.3.2 The Southern Line railway divides Rondebosch in two; the only road within Rondebosch that crosses the railway is the Belmont Road bridge. Main Road (the M4) runs north-south through the area west of the railway, while Campground Road runs in the same direction east of the railway. The third north-south through route is Milner Road, further east close to the M5.
- 2.3.3 The area around the intersection of Main Road and Belmont Road is Rondebosch's main commercial area, with several small shopping malls and two supermarkets. Also located in this area is Rondebosch railway station, which is the main public transport facility in the suburb. A smaller commercial area lies just to the east on the corner of Belmont and Campground Roads; there is also a row of shops along Belvedere Road in the southeastern part of the suburb. The rest of the suburb is used for educational and residential purposes, with the residential areas being generally denser further to the west where the influence of the University of Cape Town is felt.
- 2.3.4 Two canalised streams run from the slopes of Table Mountain through Rondebosch; the Liesbeeck River runs northwards between Main Road and the railway, while the Black River runs in a northeasterly direction through the eastern part of the suburb. The terrain is generally flat east of the railway line, while to the west it slopes upwards towards Devil's Peak.
- 2.3.5 The subject property is situated at No. 15 Rover Road in Rondebosch,
- 2.3.6 It is situated in an area characterized by upmarket houses on relatively small erven



Figure 2: The property is located at No. 15 Rover Road, Rondebosch

2.4 Surrounding Land Uses

2.4.1 The property is situated in an area characterized by dwelling houses on freehold erven.

2.5 Zoning

2.5.1 The property is zoned *Single Residential 1 (SR1)* in terms of the Development Management Scheme of the Municipal Planning By-law. The surrounding properties are zoned *Single Residential 1 (SR1)*.

2.6 Development Rules for SR1

The following table summarizes the Subject Property's compliance with the floor factor, floor space, height and building lines for Single Residential Zone 1

LAND UNIT AREA (m ²) OF SUBJECT PROPERTY >650 UP TO 1000			COMPLIANT
Floor Factor		N/A	✓
Maximum Floor Space		1500m ²	✓
Maximum Height above Base Level	To wall-plate	9.0m	✓
	To top of roof	11.0m	✓
Street Boundary Building Line		3.5m	✓
Common Boundary Building Line		3.0m	✓

3 THE PROPOSED DEPARTURES

3.1 Setback Departures

3.1.1 It is proposed to erect a double garage on the street boundary of Rover Road and the eastern common boundary with Erf 98282. The following setback departure are therefore required:

- (i) Item 22(f)(iii) of the DMS to permit the garage to be 0m from the street boundary in lieu of 5m
- (ii) Item 22(d) of the DMS to permit the garage to be 0m from the eastern common boundary in lieu of 3m, as referenced in item 22(f)(i) of the DMS.

3.2 Points of Motivation for the Departures

- 3.2.1 It is common for home-owners to erect garages on street and common boundaries (especially with respect to relatively small erven), in keeping with normal residential site development.
- 3.2.2 It is also considered safer in today's world to have a garage directly on the street.
- 3.2.3 It is evident that the owner of the adjoining property also has a structure (car port) built directly on the same common boundary.
- 3.2.4 It is considered that the departures are both minor and technical in nature.



Figure 3: The adjoining property also has a structure built on the common boundary

4 THE DELETION OF A RESTRICTIVE TITLE DEED CONDITION AND CONDITION OF EXISTING APPROVAL

4.1 The Proposed Deletion of Title Deed Condition B.1.(d) in terms of Section 42(g) of the MPBL

- 4.1.1 There is a restrictive condition contained in the title deed of the property (Deed of Transfer T85670/2006), which restricts the erection of the garage as proposed - namely Condition B.1.(d) on page 3 of the deed. Application is made to delete this condition, which reads as follows:

"That no building or structure or any portion thereof, except boundary walls and fences, shall be erected nearer than 4,72 metres to the street line which forms a boundary to this erf. No such building or structure shall be situated within 2,32 metres of the lateral boundary common to any adjoining erf, provided that an outbuilding not exceeding 6m in length and 3,15 metres in height, may be erected in such a position that the distance between it and any building situate on this or an adjoining erf, except another such outbuilding, is not less than 4,72 meters."

- 4.1.2 This condition was inserted into the title deeds of each erf (parent erf and successors-in-title) when the township was proclaimed in 1940.
- 4.1.3 It is therefore considered that this condition is outdated and redundant and was inserted into the deeds of the properties in the area at a time when there was no town planning scheme or zoning scheme which controlled land uses in the area.
- 4.1.4 The conditions also relate to a time long ago when this part of Rondebosch was not built up yet, and so are considered outdated.
- 4.1.5 Today land use is managed and controlled by the City of Cape Town Municipal Planning By-law. Setbacks are accordingly determined by the MPBL and therefore the title deed condition B.1.(d) is no longer necessary.

4.2 The Proposed Deletion of a Condition of Approval deemed to have been granted in terms of the MPBL in terms of Section 42(j) of the MPBL.

- 4.2.1 Since the title deed condition in question was inserted into the title deed at the time of township proclamation in terms of Ordinance 33 of 1934, the title deed condition is also deemed to be an existing condition of (township) approval, and therefore needs to be deleted vicariously.
- 4.2.2 The motivation to delete this condition of approval is materially the same as that for the deletion of the title deed condition and need not be repeated.

5 MOTIVATION

5.1 Compliance with Approved Policies and Relevant Legislation

5.1.1 *Provincial Spatial Development Framework*

Since the Provincial SDF demarcates the site as being suitable for Urban Development purposes, the proposed subdivision is consequently in line with the policies of the Provincial Spatial Development Framework.

5.1.2 *Municipal Spatial Development Framework*

The Municipal SDF calls for the creation of an efficient urban structure, through encouraging high density, mixed uses and development in appropriate areas. The proposal is therefore seen to be in line with the principles of the Municipal Spatial Development Framework

5.1.3 *The Southern District Plan – (Sub-District 3: Mowbray to Muizenberg)*

It is considered that the proposal generally complies with the following development guideline contained in *Sub-District 3: Mowbray to Muizenberg*:

“Residential densification, and indeed urban intensification, should be context specific, and guided by available service and infrastructure capacity. This may require that densification occurs in an incremental step by step manner over time rather than in a massive ‘big-bang’ step”

5.2 Compliance with Section 99 of the City of Cape Town Municipal Planning By-law.

- 5.2.1 It is considered that this application meets the minimum requirements of Section 99(1) of the MPBL, since it is both desirable and does not impact on any rights.

(i) It complies with the requirements of the By-Law;

(ii) It is consistent with the MSDF

The MSDF calls for the creation of an efficient urban structure, through encouraging high density, mixed uses and development in appropriate areas. The proposal is therefore seen to be broadly in line with the principles of the Municipal Spatial Development Framework

(iii) The proposed land use (addition of a double garage on the street) is desirable since it is considered necessary and enhances safety in today’s residential suburbs; and

(iv) The granting of the application will not have the effect of granting the property the development rules of the next Sub-zone.

5.2.2 Section 99 (2) of the By-law states that If an application is not refused under subsection (1), when deciding whether or no to approve the application, the decision-maker must consider all relevant considerations including, where relevant, the following:

(a) *Any applicable spatial development framework;*

- This is discussed in section 5.1 of this report.

(b) *Relevant criteria contemplated in the development management scheme*

- All the relevant criteria in the DMs have been assessed in section 2.6 of this report

(c) *Any applicable policy or strategy approved by the City to guide decision making, which includes the Social Development Strategy and the Economic Growth Strategy*

The proposal is compliant with all relevant policies and strategies approved by the City to guide decision making, as discussed in section 5.1 of this report.

(d) *The extent of desirability of the proposed land use as contemplated in subsection (3);*

- See section 5.2.3 below

(e) *Impact on existing rights (other than the right to be protected against trade competition);*

It is considered that the impact on the existing rights of other property owners in the township who are beneficiaries to the title deed condition are far outweighed by the need for secure access afforded by a garage on the street boundary.

(f) *In an application for the consolidation of land unit –*

(i) *the scale and design of the development*

(ii) *the impact of the building massing*

(iii) *the impact on surrounding properties; and*

- This is not applicable.

(g) *Other considerations prescribed in relevant national or provincial legislation, which includes the development principles as contained in section 7 of the Spatial Planning and Land Use Management Act, 2013 (Act no. 16 of 2013).*

- This is discussed in sections 5.3 and 5.4 of this report

5.2.3 The proposed land use is desirable in terms of the criteria of subsection (3); namely:

(i) *socio- economic impact;*

All additions and alterations to the existing structure have been designed to complement the existing aesthetic of the property and with minimal impact on adjacent sites, to not detract from, but enhance the streetscape.

The addition of a new double garage will improve the owners lives and use of the space, as well as increase the resale value of their property. The knock-on effect is that It will also have a beneficial impact on the value of the surrounding properties.

(ii) *compatibility with surrounding uses*

The addition of a double garage can be considered normal and even typical in terms of residential site development. The adjacent property to the east also has a structure (car port)

on the street boundary. It can therefore be concluded that the proposed garage is compatible with the surrounding uses.

(iii) *impact on the external engineering services*

There will be no impact whatsoever on the external engineering services This is not applicable.

(iv) *impact on safety, health and wellbeing of the surrounding community;*

The proposal is to simply improve the property with the addition of a double garage on the street boundary. There will be no lasting impact on the safety, health and wellbeing of the surrounding community. The building process will be quick, and any inconvenience caused during the construction period will be limited

(v) *impact on heritage;*

There will be no impact on the heritage of the area. The property is not located in a *Heritage Protection Overlay Zone*. The suburb is an ordinary residential suburb with no heritage aspects, and the existing building also does not have any heritage-worthy elements. It is not graded by *Heritage Western Cape*.

(vi) *impact on the biophysical environment;*

There will be no adverse impact on the biophysical environment. The area within which the property is located is not sensitive in terms of the biophysical environment (there are no streams or water courses or sensitive vegetation in the area). Only small-scale additions to the existing property are proposed, which will not result in the addition of any new vegetation or uprooting any existing vegetation.

(vii) *traffic impacts, parking, access and other transport related considerations; and*

The impact on traffic and parking will be negligible since the proposal is very modest in terms of what is being applied for. The addition of a double garage on the street boundary will result in the increase of the width of the existing carriage way crossing from 4.3m to 5.0m. There will be very limited impact on the existing traffic, pedestrian access to the subject property and other transported related considerations.

(viii) *whether the imposition of conditions can mitigate an adverse impact of the proposed land use*

It is not considered necessary in this instance for council to impose conditions to mitigate any adverse impact since there will be no adverse impact (as demonstrated above).

5.3 Requirements of the Land Use Planning Act (LUPA)

5.3.1 Section 39. (5) of the Land Use Planning Act (LUPA) states that ... "*when a municipality considers the removal, suspension or amendment of a restrictive condition, the municipality must have regard to at least the following:*" – (points of motivation will be listed under each of these headings)

(a) *"the financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity, irrespective of whether these rights are personal or vest in the person as the owner of a dominant tenement."*

- (i) It is considered that the value of the rights in terms of the restrictive condition enjoyed by all the registered owners of the township mentioned in paragraph 4.1.2, are intrinsically linked to the built environment in which they live. The addition of a

double garage to the subject property will positively affect the value of the subject property. It is reasonable to assume that this will also have a positive effect on the surrounding property values, because of general improvements to the streetscape and the built environment in the area.

- (b) *"the personal benefits which accrue to the holder of rights in terms of the restrictive condition."*
 - (i) It is considered that the personal benefits which accrue to the holder of rights in terms of the restrictive condition is that the restriction, if adhered to by all, would ensure harmonious development and built form of the neighbourhood.
 - (ii) It is further considered that when the township was developed the space between the buildings and the street was deemed important for aesthetic reasons. Boundary walls and garages on the street boundaries were not that common in the 1940's (when the township was established) because security was not as high a priority as it is today.
 - (iii) It is therefore argued that the personal benefits enjoyed by the holder of rights in terms of the restrictive condition are outweighed by the need for increased safety and security in today's world.
 - (c) *"the personal benefits which will accrue to the person seeking the removal, suspension or amendment of the restrictive condition if it is removed, suspended or amended."*
 - (i) The personal benefits to the owners are that they will be able to have their plans approved for a new double garage, in the event of the approval of this application. This will have a positive impact on the value of their property and the ease in which they can enter and access their property.
 - (d) *"the social benefit of the restrictive condition remaining in place in its existing form."*
 - (i) It is considered that the social benefit of the restrictive condition remaining in place in its existing form is negligible. At the time when the condition was inserted into the deed of the parent erf there were no town planning schemes or zoning schemes in place setting out development parameters. Today this aspect (setbacks from streets and common boundaries) is controlled by the DMS.
 - (ii) It is also conceivable that at the time the condition was inserted into the deed of the parent erf, motor cars were not as prevalent as today, and therefore building garages on the street to provide direct access to properties was not as important then as it is today.
 - (e) *"the social benefit of the removal, suspension or amendment of the restrictive condition"; and*
 - (i) The social benefit to the community of removing the condition will be that it will allow proper access to the property, which is seen to be a security enhancement of the area. If direct access to garages is not allowed from the street, it compromises safety in today's modern neighbourhoods.
 - (f) *"whether the removal, suspension or amendment of the restrictive condition will completely remove all rights enjoyed by the beneficiary or only some of those rights."*
 - (i) It is considered that the removal (deletion) of Condition B.1.(d) will not completely remove all rights enjoyed by the registered property owners who are beneficiaries of the condition because the setback from the street is not as important today as it probably was in the 1940's when the township was established. The registered owners in the township still enjoy many other rights. It is therefore safe to say that
-

the proposed deletion of the restrictive condition will only remove some of the rights enjoyed by these owners.

5.4 Section 47 of the Spatial Planning and Land Use Management Act (SPLUMA).

- 5.4.1 Section 47 of SPLUMA states that “... a restrictive condition may, with the approval of a Municipal Planning Tribunal and in the prescribed manner be removed, amended or suspended.”

It is requested that the MPT removes Condition B.1.(d) from Deed of Transfer No. T85670/2006 in the prescribed manner

- 5.4.2 It also states that (paraphrased):

“A removal, amendment or suspension of a restrictive condition must, in the absence of the contemplated written consent, be effected in accordance with Section 25 of the Constitution and this Act with due regard to the respective rights of all those affected, and to the public interest and in the prescribed manner”.

- 5.4.3 It is considered that the deletion of the restrictive condition will be in accordance with section 25 of the Constitution. No property owner is being deprived of property, and no arbitrary deprivation of property will be affected by the approval of this application.
- 5.4.4 It is considered that the only party who could realistically be affected is the owner of the adjoining property (Erf 98282) on whose common boundary the proposed garage will be erected, and since it is evident that the owner of Erf 98282 has a car port erected on the same common boundary, this becomes a moot point.
- 5.4.4 It is also considered that the deletion of the proposed restrictive condition (and condition of approval) is within the public interest because the proposal is in keeping with normal site development, insofar as access to motor garages is concerned. It is also argued that it is safer to have direct access to a garage on the street boundary.

6. CONCLUSIONS

- 6.1 Application is hereby made in terms of sections 42(b), 42(g) and 42(j) respectively of the City of Cape Town Municipal Planning By-Law (MPBL), 2015, for permanent setback departures (street and eastern common boundary), deletion of a restrictive title deed condition and deletion of a condition of approval deemed to have been granted in terms of the MPBL, with respect to Erf 98281 Cape Town at Rondebosch (the subject property). These are necessary to permit the erection of a proposed double garage on the street boundary of the property (Rover Road).
- 6.2 It is considered that the proposal is in keeping with normal site development, insofar as access to motor garages is concerned.
- 6.3 It is considered that the title deed condition and condition of (township) approval are both outdated and redundant, since they were inserted into the parent deeds in the 1940's, at a time when this part of Rondebosch was not yet built up, and at a time when there were no zoning schemes to control land use and site development. Today the subject property and the surrounding area is governed by the provisions of the Development Management Scheme of the City of Cape Town Municipal Planning By-law, 2015.
- 6.4 The benefits to the beneficiaries of the title deed condition and the community at large of retaining the title deed condition is far outweighed by the need for proper site access, and therefore it is respectfully submitted that this application should be approved.

169

ANNEXURE E

Lara Colananni Attorneys
Suite 8, 1st Floor, J C Cuff Building
Jan Phillips Square
Paarl

Prepared by me

CONVEYANCER
LM COLANANNI

SEELREG
DUTY R.....

FOOI
FEE R..... 500 00

VERBIND MORTGAGED

VIR
FOR R (600 000 00)

000112313 / 2006

30 OCT 2006

REGISTRATEUR/REGISTRAR

TANIA HANCKE

Commissioner of Oaths
Practising Attorney • Conveyancer
Unit 4, Acorn House, East Wing
Old Oak Office Park
1 Edmar Street, TYGERVALLEY
P.O. Box 5122 TYGERVALLEY, 7536

Page 1 - 6

26/10/2018

T000085670 / 2006

DEED OF TRANSFER

EK SERTIFISEER DAT Hierdie DOKUMENT 'N
WARE AFSCRIF IS VAN DIE OORSPRONKLIKE

I CERTIFY THAT THIS DOCUMENT IS A TRUE
COPY OF THE ORIGINAL

appeared before me, REGISTRAR OF DEEDS, at CAPE TOWN, the said appearer
being duly authorised thereto by a Power of Attorney which said Power of Attorney
was signed at RONDEBOSCH on 11 September 2006 granted to him by

KATHLEEN MARY BURTON EVANS
Identity Number 420924 0057 08 6
Divorced

DATA / VERIFY
22 NOV 2006
COMBRINK A

DATA / CAPTURE
14 NOV 2006
VERWEY T

GhostConvey 8.2.6.1a

And the appearer declared that his said principal had, on 5 August 2006, truly and legally sold by Private Treaty, and that he, the said Appearer, in his capacity aforesaid, did, by virtue of these presents, cede and transfer to and on behalf of:

1. **MARK WILLIAM DEWDNEY GEBHARDT**
Identity Number 720228 5265 08 3
Married out of community of property
2. **BELINDA LOUISE GEBHARDT**
Identity Number 740627 0049 08 5
Married out of community of property

their Heirs, Executors, Administrators or Assigns, in full and free property

ERF 98281 CAPE TOWN AT RONDEBOSCH, SITUATE IN THE CITY OF
CAPE TOWN, CAPE DIVISION, PROVINCE OF THE WESTERN CAPE

IN EXTENT 744 (SEVEN HUNDRED AND FORTY FOUR) SQUARE
METRES

FIRST TRANSFERRED BY DEED OF TRANSFER NO. T11237/1940 WITH
DIAGRAM NO. 7879/1937 RELATING THERETO AND HELD BY DEED OF
TRANSFER NO. T43491/1988.

A. **SUBJECT** to such conditions as are referred to in Deed of Transfer No.
T11237/1940.

B. **SUBJECT** to the following special conditions contained in said Deed of Transfer
No. T11237/1940, and imposed by the Administrator of the Province of the
Cape of Good Hope when approving of the Township in terms of Ordinance No.
33 of 1934, namely:-

1. As being in favour of the registered owner of any erf in the Township and
subject to amendment or alteration by the Administrator under the
provisions of Section 18(3) of Ordinance No. 33 of 1934:-

(a) That this erf be used for residential purposes only;

(b) That not more than one dwelling, together with such outbuildings as
are ordinarily required to be used therewith, be erected on this erf;

- (c) That not more than half the area of this erf be built upon;
- (d) That no building or structure or any portion thereof, except boundary walls and fences, shall be erected nearer than 4,72 metres to the street line which forms a boundary to this erf. No such building or structure shall be situated within 2,32 metres of the lateral boundary common to any adjoining erf, provided that an outbuilding not exceeding 6,30 metres in length and 3,15 metres in height, may be erected in such a position that the distance between it and any building situate on this or an adjoining erf, except another such outbuilding, is not less than 4,72 metres;

2. As being in favour of the Administrator:-

- (e) That this erf be not subdivided except with the consent in writing of the Administrator;

3. As being in favour of the Municipality of Cape Town:-

- (f) That the owner of this erf shall be obliged to allow the drainage or sewerage of any other erf or even to be conveyed over this erf if deemed necessary by the Municipality and in such manner and in such position as may from time to time be reasonably required by the Municipality.
- (g) That the owner of this erf shall be obliged to receive the material necessary to give a proper slope to the bank should this erf be below the level at which the adjoining road is constructed, or if this erf is above the level at which the adjoining road is constructed, he shall in like manner permit a safe slope to the bank or he shall building retaining walls. All necessary works of excavation, filling or the constructions of retaining walls, shall be undertaken and completed to the satisfaction of the City Engineer, by and at the cost of the owner, when he is called upon by the Municipality so to do on the construction of the adjoining road being undertaken.



C. **SUBJECT** to the conditions contained in said Deed of Transfer No. T11237/1940 and imposed by the Transferor Company for the benefit of all owners of erven which form portion of the Township, namely:-

(i)

(ii) That the cost of erection of the dwelling erected on this erf shall be at least R2 500.00 (TWO THOUSAND FIVE HUNDRED RAND).

A handwritten signature or mark, possibly a stylized 'G' or 'C', is written over the signature line.

WHEREFORE the said Appearer, renouncing all right and title which the said

TRANSFEROR

heretofore had to the premises, did in consequence also acknowledge her to be entirely dispossessed of, and disentitled to the same, and that by virtue of these presents, the said

TRANSFEREES

their Heirs, Executors, Administrators or Assigns, now are and henceforth shall be entitled thereto, conformably to local custom, the State, however reserving its rights, and finally acknowledging the purchase price to be the sum of R1 820 000,00 (ONE MILLION EIGHT HUNDRED AND TWENTY THOUSAND RAND).

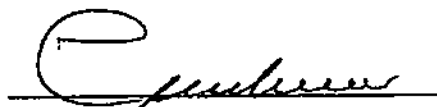
IN WITNESS WHEREOF, I the said Registrar, together with the Appearer, have subscribed to these presents, and have caused the Seal of Office to be affixed thereto.

THUS DONE and EXECUTED at the Office of the Registrar of Deeds at Cape Town
on 30th October 2006



q.q.


In my presence



REGISTRAR OF DEEDS



. 6 . 768

VERBOD		MORTGAGED	
VR FOR R 3. 960 000,00			
B 000019977 / 2018		 REGISTRAR/REGISTRAR	
11 SEP 2018			



769

DEVELOPMENT MANAGEMENT

CONVEYANCER'S CERTIFICATE

I/we, **JAN BRAND ROBERTSON of ROBERTSON'S INCORPORATED ATTORNEYS**

(conveyancer's name)

hereby wish to certify that a search was conducted in the Deeds Registry, Cape Town, regarding the following property(ies) (including both current and earlier title deeds/pivot deeds/deeds of transfer):

ERF 98281 CAPE TOWN (AT RONDEBOSCH) IN THE CITY OF CAPE TOWN, CAPE DIVISION, PROVINCE OF THE WESTERN CAPE, IN EXTENT 744 (SEVEN HUNDRED AND FORTY FOUR) SQUARE METRES

(erf number/s and description/s as it appear in the title deed)

in respect of which it was found that there *are/are no restrictive conditions registered against such property(ies) prohibiting it from being utilised/developed for the following purposes (as elaborated on in the accompanying application):

BUILDING A DOUBLE GARAGE DIRECTLY ONTO THE STREET (SOUTH WEST) BOUNDARY AND SOUTH EAST SIDE BOUNDARIES

(proposed use/development/zoning of property)

(*delete whichever not applicable)

LIST OF RESTRICTIVE TITLE CONDITIONS (if any)

Categories	Are there title deed restrictions (indicate below)		Title deed and clause number if restrictive conditions are found (see Annexure A if more space is required)
Use of Land	X	N	T85670/2006 CONDITION B1(a) -residential purposes only
Building lines	X	N	T85670/2006 CONDITION B1(d) no building to be erected nearer than 4,72m to street line or 2,32 m of lateral boundary .
Height	X	N	T85670/2006 CONDITION B1(d) an outbuilding may not exceed 3,15m in height .
Number of dwellings	X	N	T85670/2006 CONDITION B1(b) that not more than one dwelling together with such outbuildings ordinarily required to be used therewith be erected on this erf.
Bulk floor area	X	N	T85670/2006 CONDITION B1(c) That not more than half the area of this erf be built upon.
Coverage / built upon area	X	N	T85670/2006 CONDITION B1(c) That not more than half the area of this erf be built upon.
Subdivision	X	N	T85670/2006 CONDITION B2(e)
Servitudes that may be registered over or in favour of the property		X	
Other restrictive conditions	X	N	T85670/2006 CONDITION C places a minimum value of R2 500,00 on any dwelling erected.

770

PROCESS BY WHICH RELEVANT CONDITIONS WILL BE ADDRESSED (please tick appropriate box)

Application in terms of the City of Cape Town's Municipal Planning By-Law (application type 42(g) or (h))	Notarial Deed of Cancellation (Submit copy of signed agreement)	Expungement by means of 'rule nisi' application to the High Court (Submit copy of court order)	If other, please specify:
---	---	--	---------------------------

Signed at **DURBANVILLE** on this **17th** day of **JULY** 20 **18**

Signature 

Kindly endorse certificate by affixing firm's official stamp here and initialling it.

Postal address **PO BOX 1893**
DURBANVILLE
 Tel **0823345216**
 Email **jan@robertsonsllegal.co.za**

JAN BRAND ROBERTSON
 KOMMISSARIS VAN EDE / COMMISSIONER OF OATHS
 PRAKTISERENDE PROKUREUR / PRACTISING ATTORNEY
 No. 4 MUNT STREET / 4 MUNT STRAAT
 DURBANVILLE RSA

Amended on: 01/03/2017

Index	Analysis	Concentration	Reference No.
10	507-307	1	103
11	507-307	1	103
12	507-307	1	103
13	507-307	1	103
14	507-307	1	103
15	507-307	1	103
16	507-307	1	103
17	507-307	1	103
18	507-307	1	103
19	507-307	1	103
20	507-307	1	103
21	507-307	1	103
22	507-307	1	103
23	507-307	1	103
24	507-307	1	103
25	507-307	1	103
26	507-307	1	103
27	507-307	1	103
28	507-307	1	103
29	507-307	1	103
30	507-307	1	103
31	507-307	1	103
32	507-307	1	103
33	507-307	1	103
34	507-307	1	103
35	507-307	1	103
36	507-307	1	103
37	507-307	1	103
38	507-307	1	103
39	507-307	1	103
40	507-307	1	103
41	507-307	1	103
42	507-307	1	103
43	507-307	1	103
44	507-307	1	103
45	507-307	1	103
46	507-307	1	103
47	507-307	1	103
48	507-307	1	103
49	507-307	1	103
50	507-307	1	103
51	507-307	1	103
52	507-307	1	103
53	507-307	1	103
54	507-307	1	103
55	507-307	1	103
56	507-307	1	103
57	507-307	1	103
58	507-307	1	103
59	507-307	1	103
60	507-307	1	103
61	507-307	1	103
62	507-307	1	103
63	507-307	1	103
64	507-307	1	103
65	507-307	1	103
66	507-307	1	103
67	507-307	1	103
68	507-307	1	103
69	507-307	1	103
70	507-307	1	103
71	507-307	1	103
72	507-307	1	103
73	507-307	1	103
74	507-307	1	103
75	507-307	1	103
76	507-307	1	103
77	507-307	1	103
78	507-307	1	103
79	507-307	1	103
80	507-307	1	103
81	507-307	1	103
82	507-307	1	103
83	507-307	1	103
84	507-307	1	103
85	507-307	1	103
86	507-307	1	103
87	507-307	1	103
88	507-307	1	103
89	507-307	1	103
90	507-307	1	103
91	507-307	1	103
92	507-307	1	103
93	507-307	1	103
94	507-307	1	103
95	507-307	1	103
96	507-307	1	103
97	507-307	1	103
98	507-307	1	103
99	507-307	1	103
100	507-307	1	103

Lot	sq. Feet	Lot	sq. Feet
Lot No 1	7500	Lot No 13	10500 sq. Feet
Lot No 2	7500	Lot No 14	7500
Lot No 3	7500	Lot No 15	7500
Lot No 4	7500	Lot No 16	8250
Lot No 5	7500	Lot No 17	8250
Lot No 6	7500	Lot No 18	9100
Lot No 7	7500	Lot No 19	9600
Lot No 8	7500	Lot No 20	10000
Lot No 9	7500	Lot No 21	10500
Lot No 10	7500	Lot No 22	10500
Lot No 11	7500		
Lot No 12	11000		

7715NNA7. N170377B A77
FLARLEGIN

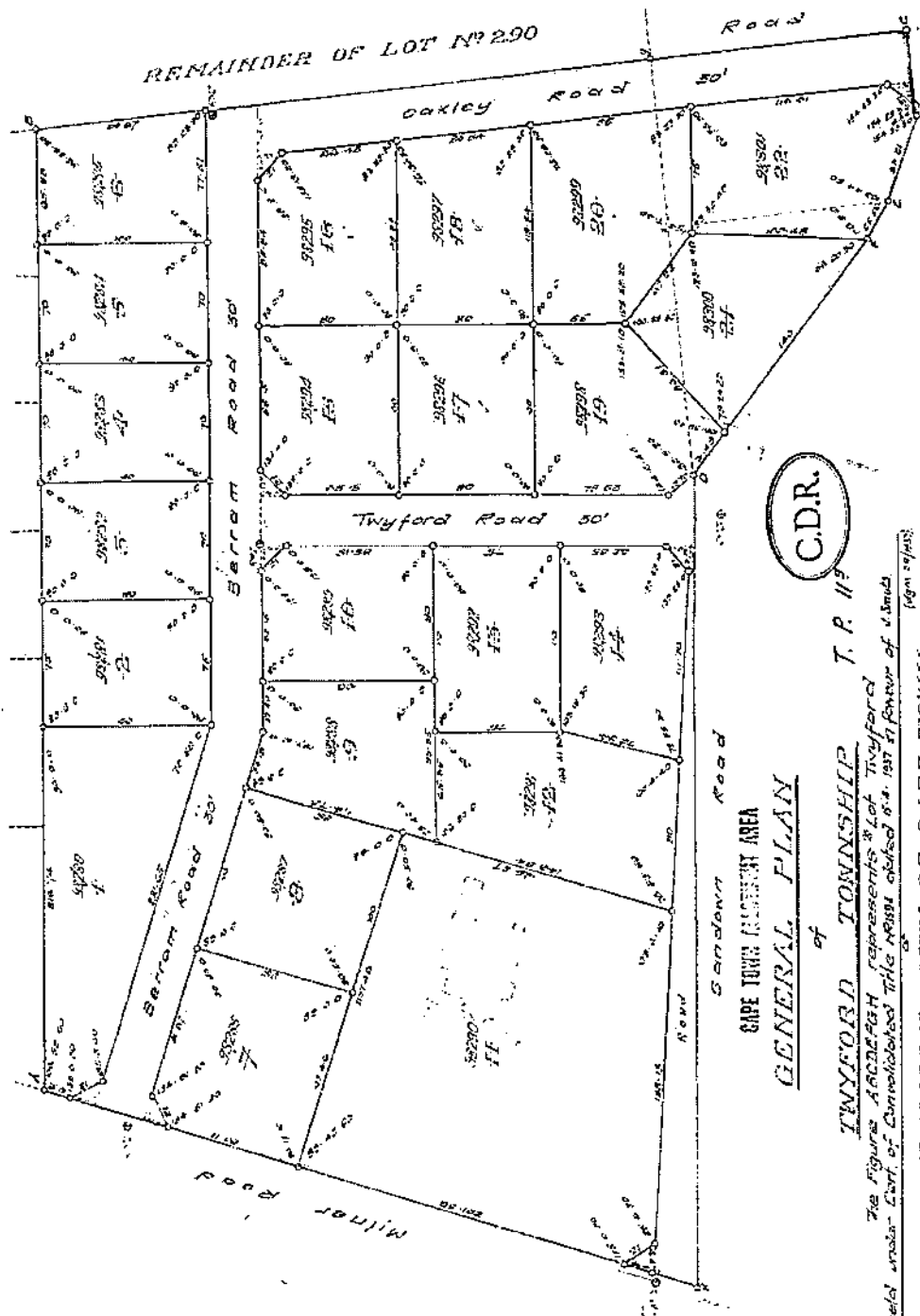
1	1	7570/3337	1.6	1.6	1.6	7585/3357	1.6	1.6	7595/3377
2	2	7580/3347	1.6	1.6	1.6	7590/3357	1.6	1.6	7600/3377
3	3	7590/3357	1.6	1.6	1.6	7600/3367	1.6	1.6	7610/3377
4	4	7600/3367	1.6	1.6	1.6	7610/3377	1.6	1.6	7620/3387
5	5	7610/3377	1.6	1.6	1.6	7620/3387	1.6	1.6	7630/3397
6	6	7620/3387	1.6	1.6	1.6	7630/3397	1.6	1.6	7640/3407
7	7	7630/3397	1.6	1.6	1.6	7640/3407	1.6	1.6	7650/3417
8	8	7640/3407	1.6	1.6	1.6	7650/3417	1.6	1.6	7660/3427
9	9	7650/3417	1.6	1.6	1.6	7660/3427	1.6	1.6	7670/3437
10	10	7660/3427	1.6	1.6	1.6	7670/3437	1.6	1.6	7680/3447
11	11	7670/3437	1.6	1.6	1.6	7680/3447	1.6	1.6	7690/3457
12	12	7680/3447	1.6	1.6	1.6	7690/3457	1.6	1.6	7700/3467
13	13	7690/3457	1.6	1.6	1.6	7700/3467	1.6	1.6	7710/3477
14	14	7700/3467	1.6	1.6	1.6	7710/3477	1.6	1.6	7720/3487
15	15	7710/3477	1.6	1.6	1.6	7720/3487	1.6	1.6	7730/3497
16	16	7720/3487	1.6	1.6	1.6	7730/3497	1.6	1.6	7740/3507
17	17	7730/3497	1.6	1.6	1.6	7740/3507	1.6	1.6	7750/3517
18	18	7740/3507	1.6	1.6	1.6	7750/3517	1.6	1.6	7760/3527
19	19	7750/3517	1.6	1.6	1.6	7760/3527	1.6	1.6	7770/3537
20	20	7760/3527	1.6	1.6	1.6	7770/3537	1.6	1.6	7780/3547
21	21	7770/3537	1.6	1.6	1.6	7780/3547	1.6	1.6	7790/3557
22	22	7780/3547	1.6	1.6	1.6	7790/3557	1.6	1.6	7800/3567
23	23	7790/3557	1.6	1.6	1.6	7800/3567	1.6	1.6	7810/3577
24	24	7800/3567	1.6	1.6	1.6	7810/3577	1.6	1.6	7820/3587
25	25	7810/3577	1.6	1.6	1.6	7820/3587	1.6	1.6	7830/3597
26	26	7820/3587	1.6	1.6	1.6	7830/3597	1.6	1.6	7840/3607
27	27	7830/3597	1.6	1.6	1.6	7840/3607	1.6	1.6	7850/3617
28	28	7840/3607	1.6	1.6	1.6	7850/3617	1.6	1.6	7860/3627
29	29	7850/3617	1.6	1.6	1.6	7860/3627	1.6	1.6	7870/3637
30	30	7860/3627	1.6	1.6	1.6	7870/3637	1.6	1.6	7880/3647
31	31	7870/3637	1.6	1.6	1.6	7880/3647	1.6	1.6	7890/3657
32	32	7880/3647	1.6	1.6	1.6	7890/3657	1.6	1.6	7900/3667
33	33	7890/3657	1.6	1.6	1.6	7900/3667	1.6	1.6	7910/3677
34	34	7900/3667	1.6	1.6	1.6	7910/3677	1.6	1.6	7920/3687
35	35	7910/3677	1.6	1.6	1.6	7920/3687	1.6	1.6	7930/3697
36	36	7920/3687	1.6	1.6	1.6	7930/3697	1.6	1.6	7940/3707
37	37	7930/3697	1.6	1.6	1.6	7940/3707	1.6	1.6	7950/3717
38	38	7940/3707	1.6	1.6	1.6	7950/3717	1.6	1.6	7960/3727
39	39	7950/3717	1.6	1.6	1.6	7960/3727	1.6	1.6	7970/3737
40	40	7960/3727	1.6	1.6	1.6	7970/3737	1.6	1.6	7980/3747
41	41	7970/3737	1.6	1.6	1.6	7980/3747	1.6	1.6	7990/3757
42	42	7980/3747	1.6	1.6	1.6	7990/3757	1.6	1.6	8000/3767
43	43	7990/3757	1.6	1.6	1.6	8000/3767	1.6	1.6	8010/3777
44	44	8000/3767	1.6	1.6	1.6	8010/3777	1.6	1.6	8020/3787
45	45	8010/3777	1.6	1.6	1.6	8020/3787	1.6	1.6	8030/3797
46	46	8020/3787	1.6	1.6	1.6	8030/3797	1.6	1.6	8040/3807
47	47	8030/3797	1.6	1.6	1.6	8040/3807	1.6	1.6	8050/3817
48	48	8040/3807	1.6	1.6	1.6	8050/3817	1.6	1.6	8060/3827
49	49	8050/3817	1.6	1.6	1.6	8060/3827	1.6	1.6	8070/3837
50	50	8060/3827	1.6	1.6	1.6	8070/3837	1.6	1.6	8080/3847
51	51	8070/3837	1.6	1.6	1.6	8080/3847	1.6	1.6	8090/3857
52	52	8080/3847	1.6	1.6	1.6	8090/3857	1.6	1.6	8100/3867
53	53	8090/3857	1.6	1.6	1.6	8100/3867	1.6	1.6	8110/3877
54	54	8100/3867	1.6	1.6	1.6	8110/3877	1.6	1.6	8120/3887
55	55	8110/3877	1.6	1.6	1.6	8120/3887	1.6	1.6	8130/3897
56	56	8120/3887	1.6	1.6	1.6	8130/3897	1.6	1.6	8140/3907
57	57	8130/3897	1.6	1.6	1.6	8140/3907	1.6	1.6	8150/3917
58	58	8140/3907	1.6	1.6	1.6	8150/3917	1.6	1.6	8160/3927
59	59	8150/3917	1.6	1.6	1.6	8160/3927	1.6	1.6	8170/3937
60	60	8160/3927	1.6	1.6	1.6	8170/3937	1.6	1.6	8180/3947
61	61	8170/3937	1.6	1.6	1.6	8180/3947	1.6	1.6	8190/3957
62	62	8180/3947	1.6	1.6	1.6	8190/3957	1.6	1.6	8200/3967
63	63	8190/3957	1.6	1.6	1.6	8200/3967	1.6	1.6	8210/3977
64	64	8200/3967	1.6	1.6	1.6	8210/3977	1.6	1.6	8220/3987
65	65	8210/3977	1.6	1.6	1.6	8220/3987	1.6	1.6	8230/3997
66	66	8220/3987	1.6	1.6	1.6	8230/3997	1.6	1.6	8240/4007
67	67	8230/3997	1.6	1.6	1.6	8240/4007	1.6	1.6	8250/4017
68	68	8240/4007	1.6	1.6	1.6	8250/4017	1.6	1.6	8260/4027
69	69	8250/4017	1.6	1.6	1.6	8260/4027	1.6	1.6	8270/4037
70	70	8260/4027	1.6	1.6	1.6	8270/4037	1.6	1.6	8280/4047
71	71	8270/4037	1.6	1.6	1.6	8280/4047	1.6	1.6	8290/4057
72	72	8280/4047	1.6	1.6	1.6	8290/4057	1.6	1.6	8300/4067
73	73	8290/4057	1.6	1.6	1.6	8300/4067	1.6	1.6	8310/4077
74	74	8300/4067	1.6	1.6	1.6	8310/4077	1.6	1.6	8320/4087
75	75	8310/4077	1.6	1.6	1.6	8320/4087	1.6	1.6	8330/4097
76	76	8320/4087	1.6	1.6	1.6	8330/4097	1.6	1.6	8340/4107
77	77	8330/4097	1.6	1.6	1.6	8340/4107	1.6	1.6	8350/4117
78	78	8340/4107	1.6	1.6	1.6	8350/4117	1.6	1.6	8360/4127
79	79	8350/4117	1.6	1.6	1.6	8360/4127	1.6	1.6	8370/4137
80	80	8360/4127	1.6	1.6	1.6	8370/4137	1.6	1.6	8380/4147
81	81	8370/4137	1.6	1.6	1.6	8380/4147	1.6	1.6	8390/4157
82	82	8380/4147	1.6	1.6	1.6	8390/4157	1.6	1.6	8400/4167
83	83	8390/4157	1.6	1.6	1.6	8400/4167	1.6	1.6	8410/4177
84	84	8400/4167	1.6	1.6	1.6	8410/4177	1.6	1.6	8420/4187
85	85	8410/4177	1.6	1.6	1.6	8420/4187	1.6	1.6	8430/4197
86	86	8420/4187	1.6	1.6	1.6	8430/4197	1.6	1.6	8440/4207
87	87	8430/4197	1.6	1.6	1.6	8440/4207	1.6	1.6	8450/4217
88	88	8440/4207	1.6	1.6	1.6	8450/4217	1.6	1.6	8460/4227
89	89	8450/4217	1.6	1.6	1.6	8460/4227	1.6	1.6	8470/4237
90	90	8460/4227	1.6	1.6	1.6	8470/4237	1.6	1.6	8480/4247
91	91	8470/4237	1.6	1.6	1.6	8480/4247	1.6	1.6	8490/4257
92	92	8480/4247	1.6	1.6	1.6	8490/4257	1.6	1.6	8500/4267
93	93	8490/4257	1.6	1.6	1.6	8500/4267	1.6	1.6	8510/4277
94	94	8500/4267	1.6	1.6	1.6	8510/4277	1.6	1.6	8520/4287
95	95	8510/4277	1.6	1.6	1.6	8520/4287	1.6	1.6	8530/4297
96	96	8520/4287	1.6	1.6	1.6	8530/4297	1.6	1.6	8540/4307
97	97	8530/4297	1.6	1.6	1.6	8540/4307	1.6	1.6	8550/4317
98	98	8540/4307	1.6	1.6	1.6	8550/4317	1.6	1.6	8560/4327
99	99	8550/4317	1.6	1.6	1.6	8560/4327	1.6	1.6	8570/4337
100	100	8560/4327	1.6	1.6	1.6	8570/4337	1.6	1.6	8580/4347
101	101	8570/4337	1.6	1.6	1.6	8580/4347	1.6	1.6	8590/4357
102	102	8580/4347	1.6	1.6	1.6	8590/4357	1.6	1.6	8600/4367
103	103	8590/4357	1.6	1.6	1.6	8600/4367	1.6	1.6	8610/4377
104	104	8600/4367	1.6	1.6	1.6	8610/4377	1.6	1.6	8620/4387
105	105	8610/4377	1.6	1.6	1.6	8620/4387	1.6	1.6	8630/4397
106	106	8620/4387	1.6	1.6	1.6	8630/4397	1.6	1.6	8640/4407
107	107	8630/4397	1.6	1.6	1.6	8640/4407	1.6	1.6	8650/4417
108	108	8640/4407	1.6	1.6	1.6	8650/4417	1.6	1.6	8660/4427
109	109	8650/4417	1.6	1.6	1.6	8660/4427	1.6	1.6	8670/4437
110	110	8660/4427	1.6	1.6	1.6	8670/4437	1.6	1.6	8680/4447
111	111	8670/4437	1.6	1.6	1.6	8680/4447	1.6	1.6	8690/4457
112	112	8680/4447	1.6	1.6	1.6	8690/4457	1.6	1.6	8700/4467
113	113	8690/4457	1.6	1.6	1.6	8700/4467	1.6	1.6	8710/4477
114	114	8700/4467	1.6	1.6	1.6	8710/4477	1.6	1.6	8720/4487
115	115	8710/4477	1.6	1.6	1.6	8720/4487	1.6	1.6	8730/4497
116	116	8720/4487	1.6	1.6	1.6	8730/4497	1.6	1.6	8740/4507
117	117	8730/4497	1.6	1.6	1.6	8740/4507	1.6	1.6	8750/4517
118	118	8740/4507	1.6	1.6	1.6	8750/4517	1.6	1.6	8760/4527
119	119	8750/4517	1.6	1.6	1.6	8760/4527	1.6	1.6	8770/4537
120	120	8760/4527	1.6	1.6	1.6	8770/4537	1.6	1.6	8780/4547
121	121	8770/4537	1.6	1.6	1.6	8780/4547	1.6	1.6	8790/4557
122	122	8780/4547	1.6	1.6	1.6	8790/4557	1.6	1.6	8800/4567
123	123	8790/4557	1.6	1.6	1.6	8800/4567	1.6	1.6	8810/4577
124	124	8800/4567	1.6	1.6	1.				

S.G. OFFICE NOTES
E-1 98184 Replacement of Browsers E-1075/93

771

ANNEXURE 6

The figure lettered A to H represents freehold land
The figure lettered 1 to 6 represents portion of original



NY 103
received from
"Kopelman, Inc."
by each agreement to purchase
the stock last May, that the
company is now in a position to
be sold for a profit of \$100,000.

Cape Division - Province Cape of Good Hope.



772

09 July 2018

Private/Confidential

GEBHARDT MR MWD & MRS BL
15 ROVER ROAD
RONDEBOSCH
7700

Dear Sir / Madam

REQUEST RECEIVED FOR: REMOVAL OF RESTRICTIVE CONDITIONS AND APPROVAL OF PLAN

Mortgage loan account number: 8065411884

Property description: ERF NO 98281 CAPE TOWN

We refer to the above account and agree to the consent for removal of restrictive conditions in the title deed and approval of plan to build a garage, relaxation of building line on the above mentioned property.

According to your mortgage loan agreement it is your responsibility to ensure that you have sufficient property insurance.
If you are insured with Absa please phone 0861 722 272.

Please instruct a conveyancing attorney to attend to the removal of these restrictive conditions on the title deed. Only a conveyancing attorney can attend at the Deeds office to remove the conditions.

Yours faithfully

Property Control

Our ref: Mtonga Mazibuko

Tel nr: 011 971 3015



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

Making progress possible. Together.

773

Faragh Barnes
Principal Technician – TDA
Southern Region (Plumstead & Athlone District)

Tel: +27 21 444-9521
E-mail: faragh.barnes@capetown.gov.za
Address: 3 Victoria Road, 1st Floor, Plumstead, 7800

Our File Ref no : W1 – Erf 98281, Rondebosch
Application no/(Your File Ref No): 70442290

MEMORANDUM

Integrated Transport Planning (ITP) Department
Transport Impact Assessment and Development Control

DATE / DATUM: 22 March 2019
TO / AAN: Transport and Urban Development Authority (TDA)
ATT / AANDAG: Nasrudeen Floris (City of Cape Town, Southern Region, Plumstead Office)

LAND USE APPLICATION TO PERMIT DEPARTURE ON ERF 98281, RONDEBOSCH: TDA – INTEGRATED TRANSPORT PLANNING COMMENT

With reference to your application for departure on Erf 98281, Rondebosch, this department comments as follows:-

1. The garage meets the minimum requirement of 10m from the nearest intersection.
2. During the site visit, minimal vehicles were observed making use of this road. This branch therefore does not have any objection of the garage being constructed at 0.m in lieu of 5m from the street boundary as it poses no traffic safety concern.

For any further information please contact Faragh Barnes from the Transport Department.

Regards,

Faragh Barnes
Principal Technician – Southern Region
Transport Impact Assessment and Development Control

South Peninsula
3 Victoria Road, Plumstead, 7800
Private Bag X5
Plumstead, 7800

Ntshona Koloni
3 Victoria Road, Plumstead, 7800
Private Bag X5
Plumstead, 7801

Suid Skiereiland
3 Victoria Road, Plumstead, 7800
Private Bag X5
Plumstead, 7801

www.capetown.gov.za