



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

REPORT TO: **MUNICIPAL PLANNING TRIBUNAL**

ITEM NO **MPTSW46/05/19**

WARD 60: APPLICATION FOR DEPARTURE IN TERMS OF THE MUNICIPAL PLANNING BY-LAW, 2015: ERF 62877 CAPE TOWN AT LANSDOWNE, 109 BURWOOD ROAD, CRAWFORD

Case ID	70421244
Case Officer	Quanita Savahl
Case Officer phone number	021 684 4348
District	Cape Flats
Ward	60
Ward Councilor	Mark Kleinschmidt
Report date	2019-04-23

1. EXECUTIVE SUMMARY

Property description	Erfl 62877 Cape Town at Lansdowne
Property address	109 Burwood Road, Crawford
Application components / description	Height departure from 4m to 6,18m
Site extent	496m ²
Current zoning	Single Residential 1
Current land use	Dwelling house
Overlay zone applicable	None
PHRA or SAHRA heritage	None
Public participation outcome summary	Notice to neighbours. 1 objection received
Recommended decision	
Approval	✓
Refusal	
Approval in part & Refusal in part	

2. BACKGROUND FACTS

2.1. None.

3. SUMMARY OF APPLICANT'S MOTIVATION

3.1. The applicant's motivation of the proposed development (see Annexure D) may be summarised as follows:

- Second dwelling on first floor to avoid reducing the external play area, parking and courtyard.
- Height departure requested from 4m to 6,186m.

- Do not want to encroach over northern courtyard as it is the main source of natural light.

4. PUBLIC PARTICIPATION

		Applicable	Dates / Comments
Advertising	Notice in the media (s81)	x	
	Notice to a person (s82)	✓	09 November 2018
	Notice to Community organization (s83)	x	
	Notice to Ward Councillor (s83)	x	
	Notice of no objection (s84)	x	
	Notice to Provincial Government (s86)	x	
	Notice to an Organ of State (s87)	x	
	Public meeting	x	
	On-site display	x	
Outcome	Objections	✓	1
	Objection petition	x	
	Support / No objection	x	
	Comments	x	
	Ward Councillor response	x	

Summary of objections / comments received

- 4.1. Objections / comments received in respect of the application (see Annexure E) may be summarised as follows:

- No clear windows to overlook
- No scaffolding to protrude
- Applicant to use own water
- No further abuse to property like theft of drain cover

Summary of applicant's response to public participation

- 4.2. The applicant's response to objections received (see Annexure F) may be summarised as follows:

- Will comply with clear windows but will follow building regulations.
- No scaffolding as new building will be on opposite side of objector's house.
- Did not and will not use objector's water.
- Did not steal drain cover.
- Property was never abused.
- Objection is personal with no building regulation issues.

5. BACKGROUND TO PROPOSAL

Background

- 5.1. None.

Description of the area / surrounding land uses

- 5.2 Crawford is a mainly residential area bounded by Kromboom Road to the north, Jan Smuts Drive to the east, Turfhaai Road to the south and the Cape Flats Railway Line to the west. The subject property falls in the section of Crawford between Lawson Road and Gordon Road. Lawson is the only east west link running through the area which gives direct access to Jan Smuts Drive.

Property description

- 5.3 The subject property is almost completely developed with a dwelling house, domestic staff quarters, storeroom and garage. A small portion of the dwelling house at the rear is developed with a first floor. The subject property is separated from the street by a palisade wall.

Proposed development

- 5.4 The proposal is to build a second dwelling which will be located on the first floor of the existing building. The second dwelling will be located above the existing tandem garage, storeroom and domestic staff quarters. The size will be 108,6m² as the second dwelling will comprise of three bedrooms, entertainment area, tv room, kitchen and two bathrooms.
- 5.5 The Development Management Scheme (DMS) stipulates a height of 4m along the common boundary building lines after 12m from the street boundary. The following departure has been applied for:

Section 22(c) of the Development Management Scheme:

- To permit the height of the second dwelling to be 6,18m in lieu of 4m.

6 PROPOSAL ASSESSMENT

Criteria for deciding application

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

- 6.1.1 Compliance with the requirements of the MPBL

- The application requires a Departure from the Development Management Scheme.
- The decision maker is the Municipal Planning Tribunal.
- Public Participation was correctly undertaken as per the requirements of the Notification Policy.
- An Administrative Penalty is not applicable.

6.1.2 Compliance or consistence with the Municipal Spatial Development Framework

Not applicable.

6.1.3 Consideration in terms of Section 99(3) of the desirability of the following criteria:

The proposal is considered to be desirable for the reasons given in Section 6.2.4 below.

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?

No.

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

None applicable to this application.

6.2.2 Relevant criteria contemplated in the DMS

None applicable to this application.

6.2.3 Applicable policy or strategy approved by the City to guide decision making

Yes, Cape Town Densification Policy, 2012.

Cape Town Densification Policy, 2012

The height departure will enable intensification of the built form on the site while still retaining usable open space on the property.

6.2.4 Consideration in terms of Section 99(3) of the extent of desirability of the following criteria:

a. Socio-Economic impact

Alterations and additions such as proposed generally increase the value of the property by enabling the provision of additional residential accommodation without impacting on recreational amenities. Often such

improvements result in an increase in the value of surrounding properties as well.

b. Compatibility with surrounding uses

Since there are existing double storey dwellings in the area, the proposal fits in with the local land use and building form. Although the southern boundary will consist of a 19m long blank façade, in this case, no significant negative impact is expected since the neighbouring property is developed up to the common boundary at ground floor. The proposal is well setback from the street and the design has a positive impact on the streetscape of Burwood Road. The design of the roof being pitched, to match the existing design, further mitigates the potential negative impact of the blank façade.



c. Impact on the external engineering services

Given that the proposed second dwelling is larger than 60m², a Development Contribution levy will be payable by the owner at building plan approval stage.

d. Impact on safety, health and wellbeing of the surrounding community

The proposal will not impact on the safety, health and wellbeing of the surrounding community. All structures are to be approved in terms of the National Building Regulations which ensures structural and fire safety.

- e. Impact on heritage 2134

None.

- f. Impact on the biophysical environment

None.

- g. Traffic impacts, parking, access and other transport related considerations

None

- h. Conditions that can mitigate an adverse impact of the proposed land use

None

- 6.2.5 Impact on existing rights (other than the right to be protected against trade competition)

None

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

- 6.3 Regarding the objection:

- 6.3.1 The proposed building work will take place on the southern side of the applicant's property, an estimated 10m away from the objector who is located on the northern side of the subject property. Proposed windows comply with the DMS building lines.

- 6.3.2 The matter regarding protruding scaffolding, water usage and stolen drain are personal matters which do not fall within this Department's ambit.

7 REASONS FOR DECISION

- 7.1 Reasons for the recommended decision for **approval** relating to the application for the Departure may be summarised as follows:

- 7.1.1 The proposal will not affect the streetscape due to the location of the structure on the side and rear of the property and because the roof shape conforms to that of the existing house on the erf.

- 7.1.2 The proposal is not immediately adjacent to the objector and the impact is not expected to be significant.

- 7.1.3 A portion of the existing house is already double storey and the proposal can be considered to be an extension of this architectural form.

8. RECOMMENDATION

135

In view of the above, it is recommended that:

- 8.1 The application for height departure for Erf 62877 Cape Town at Lansdowne, **be approved** in terms of Section 98 (b) of the Municipal Planning By-law, 2015, subject to the condition contained in Annexure A.

ANNEXURES

Annexure A	Application details and approval condition to be imposed
Annexure B-B1	Regional and Locality Maps
Annexure C	Building Plan
Annexure D	Applicant's motivation
Annexure E	Objection/comment received
Annexure F	Applicant's response to objection /comment received
Annexure G	List of Relevant Parties



For Section Head : Land Use Management

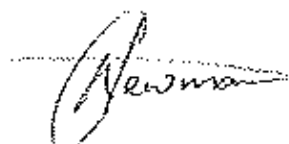
Name Mark Collison

Tel no 021 684 4343

Date 06 May 2019

Comment

None



District Manager

Name Chad Newman

Tel no 021 684 4310

Date 06 May 2019

Comment

Annexure

A

Application details,
Departure and Condition
of Approval

5137
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 62877 Cape Town at Lansdowne, 109 Burwood Road, Crawford**

"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: 70421244

This departure is linked to the plan drawn by I. JACOBS and associates in association with M. Joseph ARCHITECTS & URBAN PLANNERS, with drawing # IJ 18/22 and dated August 2018.

1. DEPARTURE FROM THE DEVELOPMENT MANAGEMENT SCHEME APPROVED IN TERMS OF SECTION 98 (B) OF THE MUNICIPAL PLANNING BY-LAW, 2015:

- 1.1 Item 22(c): to permit the second dwelling to be 6,18m in height in lieu of 4m.

2. CONDITION IMPOSED IN TERMS OF SECTION 100 OF THE CITY OF CAPE TOWN MUNICIPAL PLANNING BY-LAW, 2015

Asset Management and Maintenance

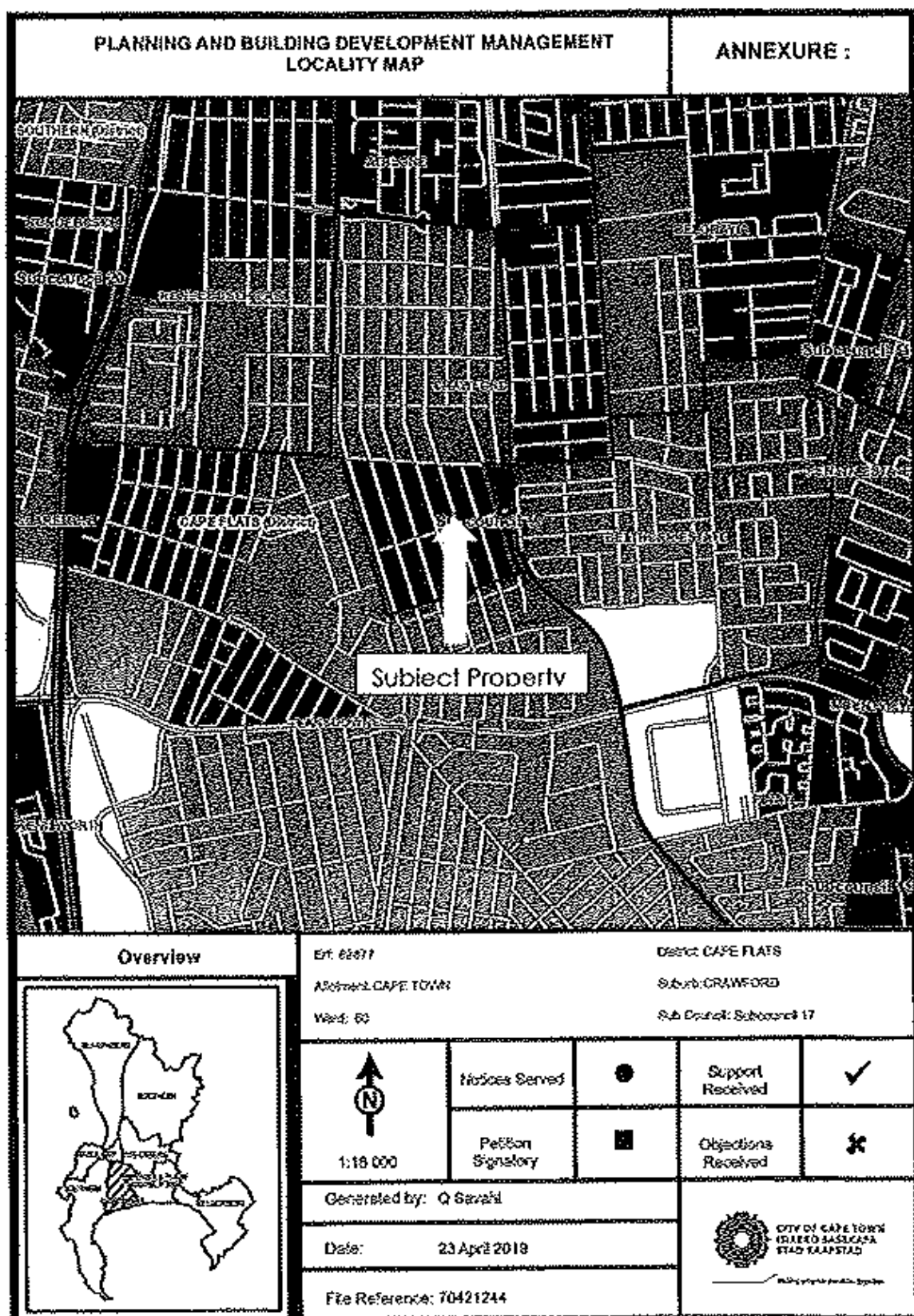
- 2.1 The owner shall pay a financial contribution towards the provision of bulk civil engineering services in the amount of **R23 128.41** in accordance with the set relevant policy. Such payment shall be made prior to final building plan approval.

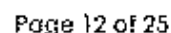
Note: The development contribution shall be subject to an annual escalation equal to the construction price adjustment (CPA) from civil engineering services and the amount payable will be calculated at the time of payment.

Annexure

B

Regional & Locality
plans / Public
participation map





Annexure C Building Plan

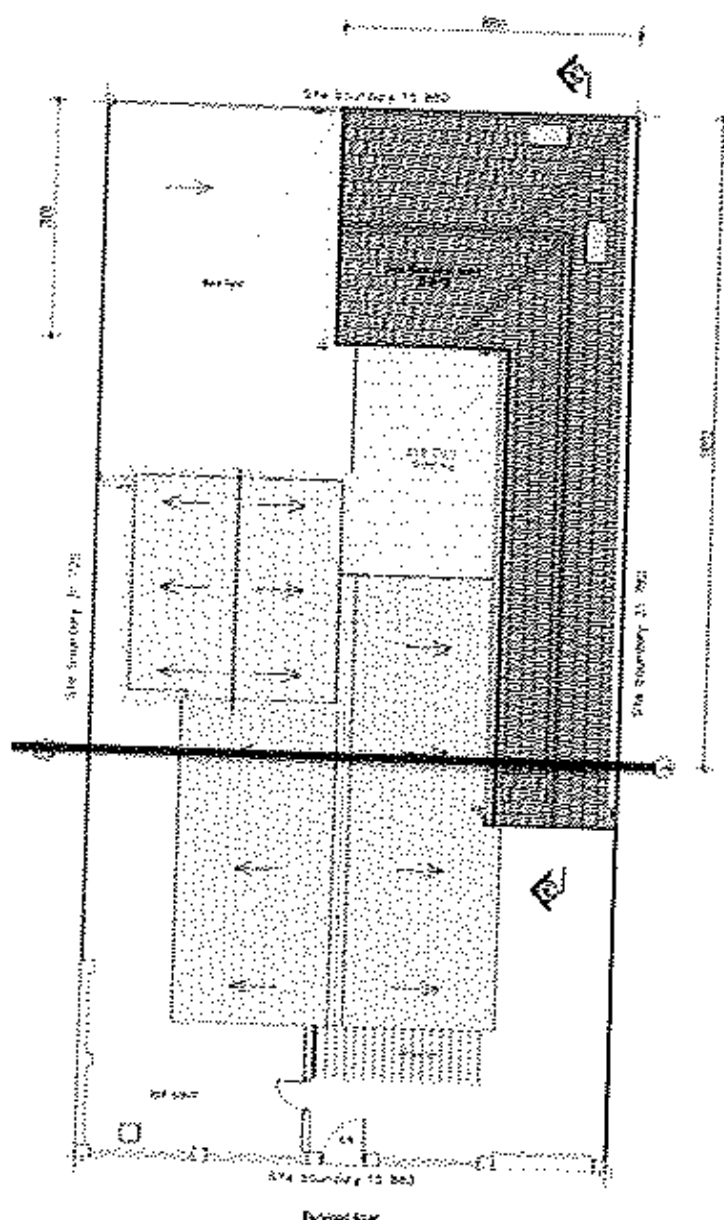
142

Existing Area to Central Area 24.0m

Existing Ground Area 24.0m

Existing East Area 24.0m

New East Area 24.0m



ROOF STOREY

1. The proposed development is a roof storey to be constructed on the existing building. The proposed development is a roof storey to be constructed on the existing building. The proposed development is a roof storey to be constructed on the existing building.

2. The proposed development is a roof storey to be constructed on the existing building. The proposed development is a roof storey to be constructed on the existing building. The proposed development is a roof storey to be constructed on the existing building.

3. The proposed development is a roof storey to be constructed on the existing building. The proposed development is a roof storey to be constructed on the existing building. The proposed development is a roof storey to be constructed on the existing building.

4. The proposed development is a roof storey to be constructed on the existing building. The proposed development is a roof storey to be constructed on the existing building. The proposed development is a roof storey to be constructed on the existing building.

5. The proposed development is a roof storey to be constructed on the existing building. The proposed development is a roof storey to be constructed on the existing building. The proposed development is a roof storey to be constructed on the existing building.

6. The proposed development is a roof storey to be constructed on the existing building. The proposed development is a roof storey to be constructed on the existing building. The proposed development is a roof storey to be constructed on the existing building.

7. The proposed development is a roof storey to be constructed on the existing building. The proposed development is a roof storey to be constructed on the existing building. The proposed development is a roof storey to be constructed on the existing building.

8. The proposed development is a roof storey to be constructed on the existing building. The proposed development is a roof storey to be constructed on the existing building. The proposed development is a roof storey to be constructed on the existing building.

Proposed Alterations on 1st floor
Existing Building

1st floor alterations

I. JACOBS and associates
in association with M. Joseph

ARCHITECTS AND PLANNERS

100, 101, 102, 103
104, 105, 106, 107

HOUSE HENDRICKS

WORKING DRAWING

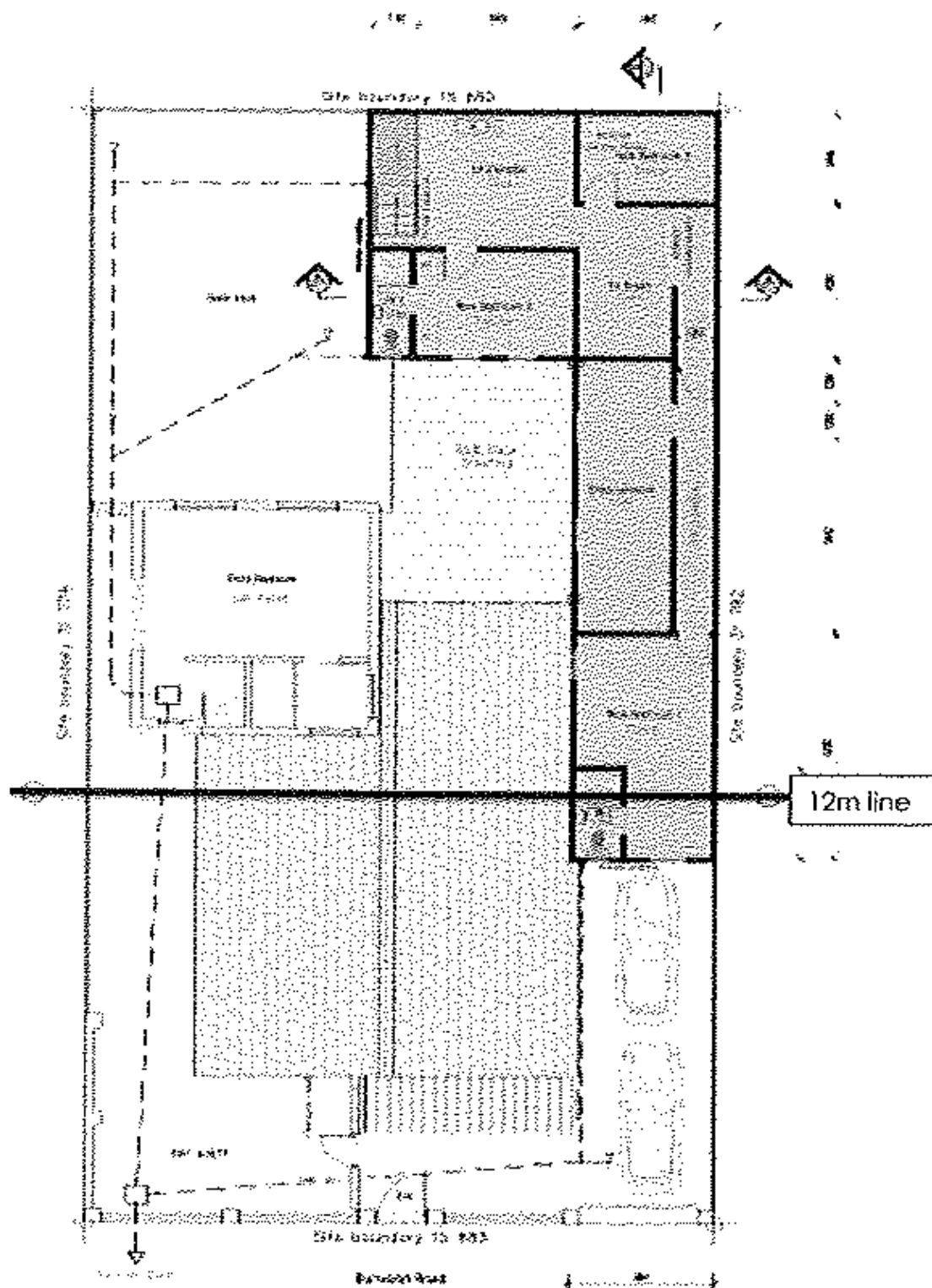
142

主



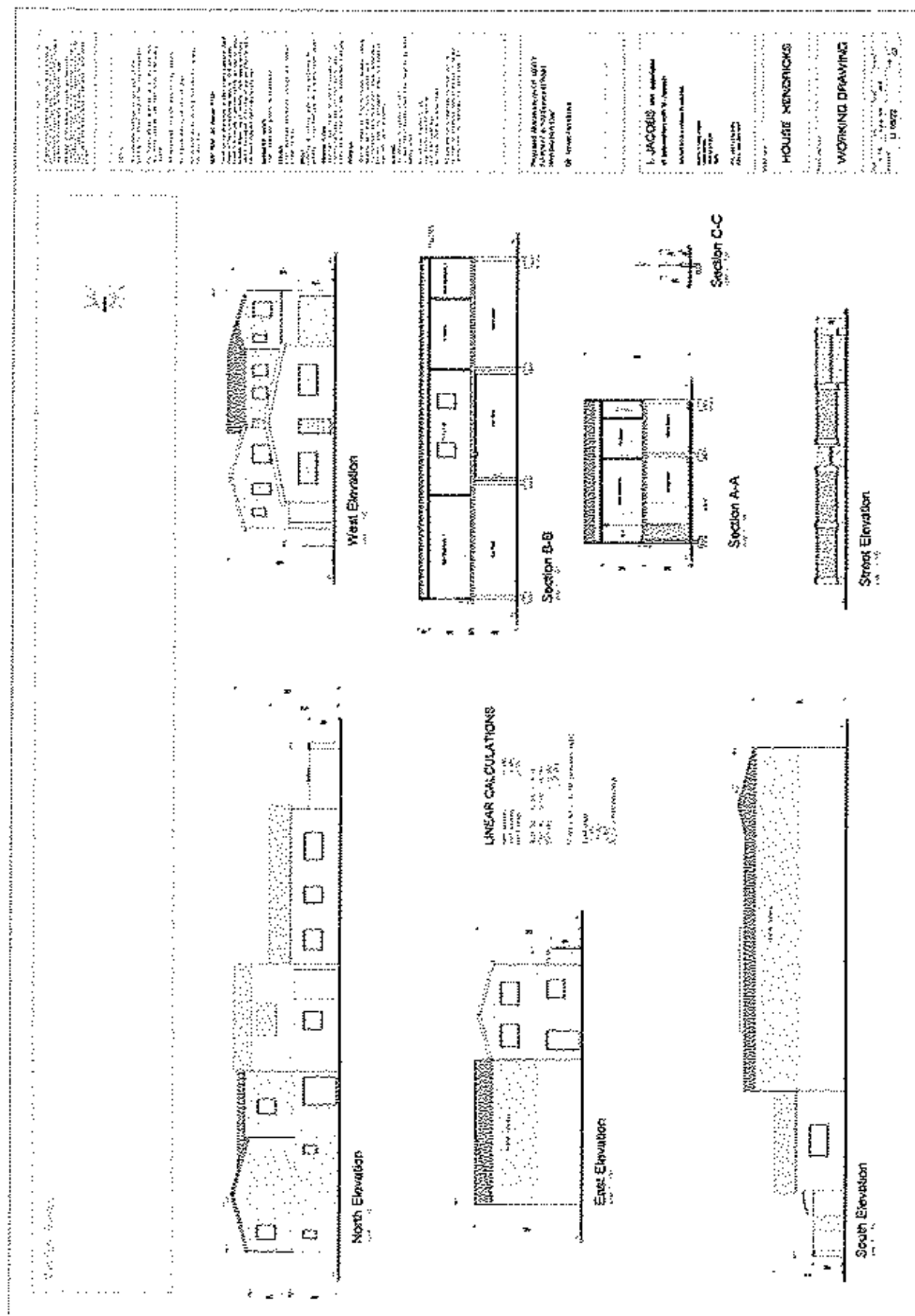
$\frac{1}{2} \frac{1}{2}$ $\frac{1}{2} \frac{1}{2}$

3144



FIRST FLOOR STOREY

Scale 1:50



Annexure D Applicant's Motivation

2147



Ismail Jacobs & Associates
Architects, Project Management
& Urban Designers

Suite 4 Vine Park,
Vine Road,
Woodstock 7925,
Cape Town, RSA

Phone (+27) 021 4486580
Cell 082 490 3377
ismail.jwa@gmail.com

Motivation Report

27 August 2018

House Hendricks, ERF 62877 at No. 109 Burwood Road, Rondebosch/East

City of Cape Town
Ledger House
Athlone

To Whom It May Concern.

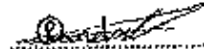
The existing structures creates a meaningful and economical advantage to the proposed new concept and design thus enhances the overall aesthetics of same including the streetscape which will blend in well with the surroundings.

In order to accommodate a 2nd dwelling we are forced to create a First floor because we do not want to increase the footprint of the dwelling too much as this may reduce the living and circulation spaces i.e. External play areas, car park and Court yard.

We therefore request a departure for height from 4.0m to 6.186m.

East and South building line departures are required from 3.0m to 0.0m to accommodate the new structure mentioned above, as we do not want to encroach over the Northern Court Yard as its the Main source of natural light to the existing dwelling.

Yours Sincerely


Qasim Randall

Annexure

E

Objection/comment
received

3149

Development Management,
City of Cape Town Municipality,
7/1 Aden Avenue & George Street,
Athlone, 77164

Ext-62878
107 Burwood Road,
Rondebosch East 7780
7 December 2018.

Application number: - 70421244 ext 62877
107 Burwood Road, Rondebosch East.

Dear Sirs,

I hereby wish to lodge an objection to the above building structure, for the following reasons.

- ① No see-through windows to overlook/into my property.
- ② No scaffolding to protrude my property/boundary wall.
- ③ No usage of my water, as Applicant/owner did, with his last building alterations during 24/12/2008 to 24/9/2009.
my water usage went up from 3-5000 KL to 28.000 KL per month.
- ④ No further abuse to my property.
- ⑤ Like stealing my outside drain cover.

Yours faithfully,

Budlen Ketteringham Cms

for: M.M. Ketteringham



Annexure

F

Applicant's response to
objection/comment

Gmail: ERF 62677

<https://mail.google.com/mail/u/0/?ik=115a7ab537&ikw=pr&se...>

M Gmail

Ismael Jacobs <ismael.jwa@gmail.com>

ERF 62677

Hendricks, Nasheetah <Nasheetah.Hendricks@maersk.com>

Thu, Jan 24, 2019 at 4:05 PM

To: "Craig Theron@capestown.gov.za" <craig.theron@capestown.gov.za>

Cc: "shen@zixunsa.net" <shen@zixunsa.net>, "ismael.jwa@gmail.com" <ismael.jwa@gmail.com>

Dear Sir, Mr Theron

I hereby respond to Mrs Buchner's objections as follows:

1.) With see through windows facing her property, I will comply, as I value my own privacy as much as she does however, I will follow building regulation as specified as far as windows are concerned.

2.) There won't be any scaffolding erected on her property, as the new building will be at the far opposite end from her house.

3.) I will certainly not make use of her water and I have never done so in the past as she claims.

4.) And most certainly never stole her drain cover, as she claimed, as I have no use for this.

5.) Never did I or anyone from my side abuse her property in any way. In fact, I try to improve the values of both properties where ever possible, to the benefit for both parties.

So as you can see and from my understanding, her objection is more personal than any building regulation issues.

Hope this response will be favourable in my application to accommodate my children, as times are tough and they can't afford to buy their own property.

Should you require any further information, please do not hesitate to reach out to me. Contact details below.

Yours sincerely

Kind regards

Mr M.L. Hendricks

Mobile: 083 463 3231

Email: shen@zixunsa.net

From: Ismael Jacobs (ms101ismael.jwa@gmail.com)

Sent: Wednesday, 23 January 2019 15:47

To: Hendricks, Nasheetah <Nasheetah.Hendricks@maersk.com>; nasheeta.hendricks@maersk.com

Subject: ERF 62677

This message was sent from outside of Maersk. Please do not click links or open attachments unless you recognise the source of this email and know the content is safe.

1 of 2

2019/01/24, 04:03 PM

Annexure

G

List of relevant parties

List of relevant parties 3153

Applicant

MAHAMMAD ISMAIL & NASHEETAH HENDRICKS
109 BURWOOD ROAD
RONDEBOSCH EAST
7780
ismail.jwa@gmail.com

Objector

MM KETTERINGHAM
107 BURWOOD ROAD
RONDEBOSCH EAST
7780

ERF 62878