



REPORT TO MUNICIPAL PLANNING TRIBUNAL

ITEM NO **MPTSW47/11/19**

CASE ID	70462919
CASE OFFICER	P Absolon
CASE OFFICER PHONE NO	021 444 7728
DISTRICT	Southern
REPORT DATE	2019-10-28

WARD 74: APPLICATION FOR ADMINISTRATIVE PENALTY IN TERMS OF THE CAPE TOWN MUNICIPAL PLANNING BY-LAW, 2015 (MPBL): ERF 4518 HOUT BAY, 2 GARRON AVENUE

1 EXECUTIVE SUMMARY

Property description	Erf 4518 Hout Bay
Property address	2 Garron Avenue, Hout Bay
Site extent	8027m ²
Current zoning	Rural Zone
Current land use	Dwelling house & unauthorised guest accommodation establishment.
Overlay zone applicable	Hout Local Area Overlay Zone
Submission date	2019-06-24
Subject to PHRA / SAHRA	No
Any unauthorised land use / building work?	Unauthorised guest accommodation establishment with 10 guest units.
Has owner applied for the determination of an administrative penalty	Yes
Has the City Manager applied to the MPT for an order that a person who is contravening the MPBL must pay an administrative penalty in an amount determined by the MPT	No
Has the City issued a demolition directive i.t.o section 128 of the MPBL? If yes, an administrative penalty may not be applied for.	No
Has the City served a notice on the owner or other person in respect of the unlawful land use or building work which required the owner or other person to apply for the determination of an administrative penalty?	No

2 DECISION AUTHORITY

For decision by the Municipal Planning Tribunal (MPT).

3 BACKGROUND / SITE HISTORY

- 3.1 In 1997 the then Urban and Environmental Planning Committee approved an application for a temporary departure to permit a guest house establishment on the subject property to accommodate no more than 10 guest bedrooms.
- 3.2 In 2004 a delegated official approved a further 5 year temporary departure to permit a bed and breakfast establishment on the subject property to accommodate no more than 10 guest bedrooms. Council's final notification letter was issued on 2004-06-24.
- 3.3 In 2005 an application was approved for an amendment of condition to permit the transfer of the temporary departure into the new owner's name. The final notification letter was issued on 2006-01-31.
- 3.4 A further temporary departure to permit a guest house with 16 bedrooms was submitted in 2008. The application was closed 2009-02-19 as the applicant failed to provide Council with the required outstanding information.
- 3.5 On 2019-07-22 the applicant submitted an application for deletion of a restrictive title deed condition and a condition of an existing approval relating to access off Valley Road, consent for tourist accommodation and departures (relating the street setback and parking) in order to regularize the unauthorised guest accommodation establishment on the subject property. This application still needs to be advertised.

4 SUMMARY OF APPLICANT'S MOTIVATION

The applicant's motivation is attached as Annexure C and may be summarised as follows:

- The lodge was sold to the current owner in November 2018.
- The fact that the temporary land use departure had lapsed in 2009 was not disclosed to the new owner. On the contrary, the seller's agent and attorney informed the new owner that all the necessary approvals were in place.
- The existing lodge on the eastern side, which forms part of this application, employs 8 permanent staff members and is open all year round.
- The average annual occupancy rate is 55% -60%.
- The extent of the contravention is 10 guest bedrooms with a combined size of 387m².
- The total floor area of Tarragona Lodge is 1122m², therefore the extent of the contravention is 34% of the total floor area.
- The owner has never contravened the MPBL.
- The guest house is the owner's only source of income.
- The owner took transfer recently and took steps to rectify the unauthorised uses as soon as he became aware of it.

5 ASSESSMENT OF APPLICATION

- 5.1 The guest accommodation establishment is in contravention of Item 112 of the Development Management Scheme (DMS). The temporary departure

lapsed in 2009. Tourist accommodation and a guest house are consent uses in the Rural Zone.

- 5.2 The access off Valley Road contravenes title deed condition E(d). As this was imposed in terms of the Townships Ordinance No 33 of 1934, this access technically contravenes the MPBL.
- 5.3 In terms of section 129(7)(b) of the By-Law, an administrative penalty for the land use contravention may not be more than 100% of the municipal valuation of the area that is used unlawfully.
- 5.4 The municipal value of the property is R13 000 000 as per GV2018 (see Annexure E).
- 5.5 It is difficult to precisely indicate which part of the property is being used for the guest accommodation establishment. The applicant states that only 34% of the floor space of the buildings is being used, but this does not correspond with the plans. In terms of calculating the maximum administrative penalty that can be imposed, for pragmatic reasons it is assumed that 50% of the property is being used for the guest accommodation establishment.
- 5.6 $R13\ 000\ 000 \times 0.5 = R6\ 500\ 000.00$
- 5.7 The total administrative penalty that can be imposed is 100% of R6 500 000.00.
- 5.8 The following factors need to be considered when determining an appropriate administrative penalty, as contemplated by section 129(8) of the By-Law:
 - a) **The nature, duration, gravity and extent of the contravention**

Nature – The nature of the contravention relates to an authorized guest accommodation establishment that is not permitted as of right in the Rural Zone.

Duration – The land use contravention has existed since 2009. The duration of the contravention is thus long.

Gravity – The gravity of the contravention is relatively serious given the fact that there are 10 guest suites (in addition to the main house). The gravity is aggravated by the fact that a title deed condition is being contravened.

Extent – The extent of the contravention is large.
 - b) **The conduct of the person involved in the contravention**

According to the applicant the previous owner did not inform the current owner that the guest house was unauthorised. It is difficult to believe that the new owner did not ask for written proof of the approval of the guest house. Failure to do so would suggest negligence. The conduct of the current owner cannot be condoned.
 - c) **Whether the unlawful conduct was stopped**

The unauthorized conduct has not been stopped.
 - d) **Whether a person involved in the contravention has previously contravened this By-Law or any other planning law**

As far as can be ascertained, the owner has not previously contravened this By-Law or any other planning law.

- 5.9 In view of the abovementioned considerations, and particular the conduct of the current owner and that administrative penalties are intended, in part at least, to serve as a deterrent, this Department recommends that an administrative penalty of **R10 000** be imposed.

6 REASONS FOR DECISION

Reasons for the recommended decision may be summarised as follows:

- 6.1 The guest accommodation establishment (with 10 guest suites in addition to the main dwelling) contravenes Item 112 of the Development Management Scheme.
- 6.2 The duration of the contravention is long.
- 6.3 The extent of the contravention is large.
- 6.4 The gravity of the contravention is relatively serious given the fact that there are 10 guest suites (in addition to the main house). The gravity is aggravated by the fact that a title deed condition is being contravened.
- 6.5 According to the applicant the previous owner did not inform the current owner that the guest house was unauthorised. It is difficult to believe that the new owner did not ask for written proof of the approval of the guest house. Failure to do so would suggest negligence. The conduct of the current owner cannot be condoned.
- 6.6 As far as can be ascertained, the owner has not previously contravened this By-Law or any other planning law.

7. RECOMMENDATION

In view of the above, it is recommended that:

- a) An administrative penalty in the amount of **R10 000** be determined in terms of section 129 of the City of Cape Town Municipal Planning By-Law, 2015 for Erf 4518 Hout Bay, in relation to the unauthorised guest accommodation establishment and vehicular access as shown on the plans drawn by KCH Architectural Designs with drawing numbers 0030/TAR/SDP/001 (Rev B), 0030/TAR/LD/001, 0030/TAR/LD/002, 0030/TAR/MH/001, 0030/TAR/MH/002, 0030/TAR/TR/001, all dated September 2018.

ANNEXURES

Annexure A	Locality plan
Annexure B	Site Development Plan
Annexure C	Applicant's motivation
Annexure D	Title deed
Annexure E	Municipal valuation

2603



Section Head : Land Use Management

Name P Hoffa

Tel no 021 444 7724

Date 2019-10-28

Comment



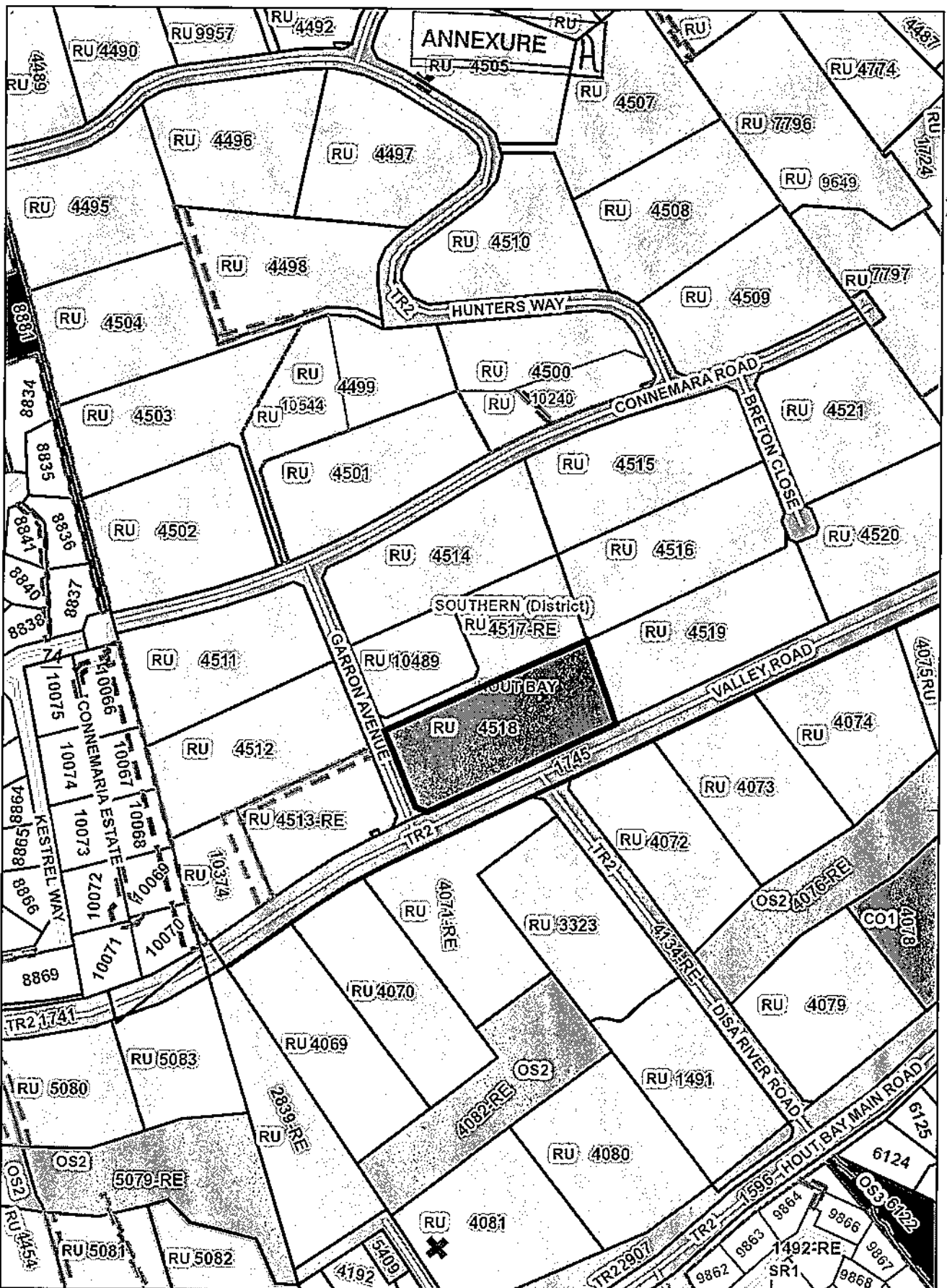
District Manager


Name U Gonsalves

Tel no 021 444 7720

Date 2019-10-29

Comment

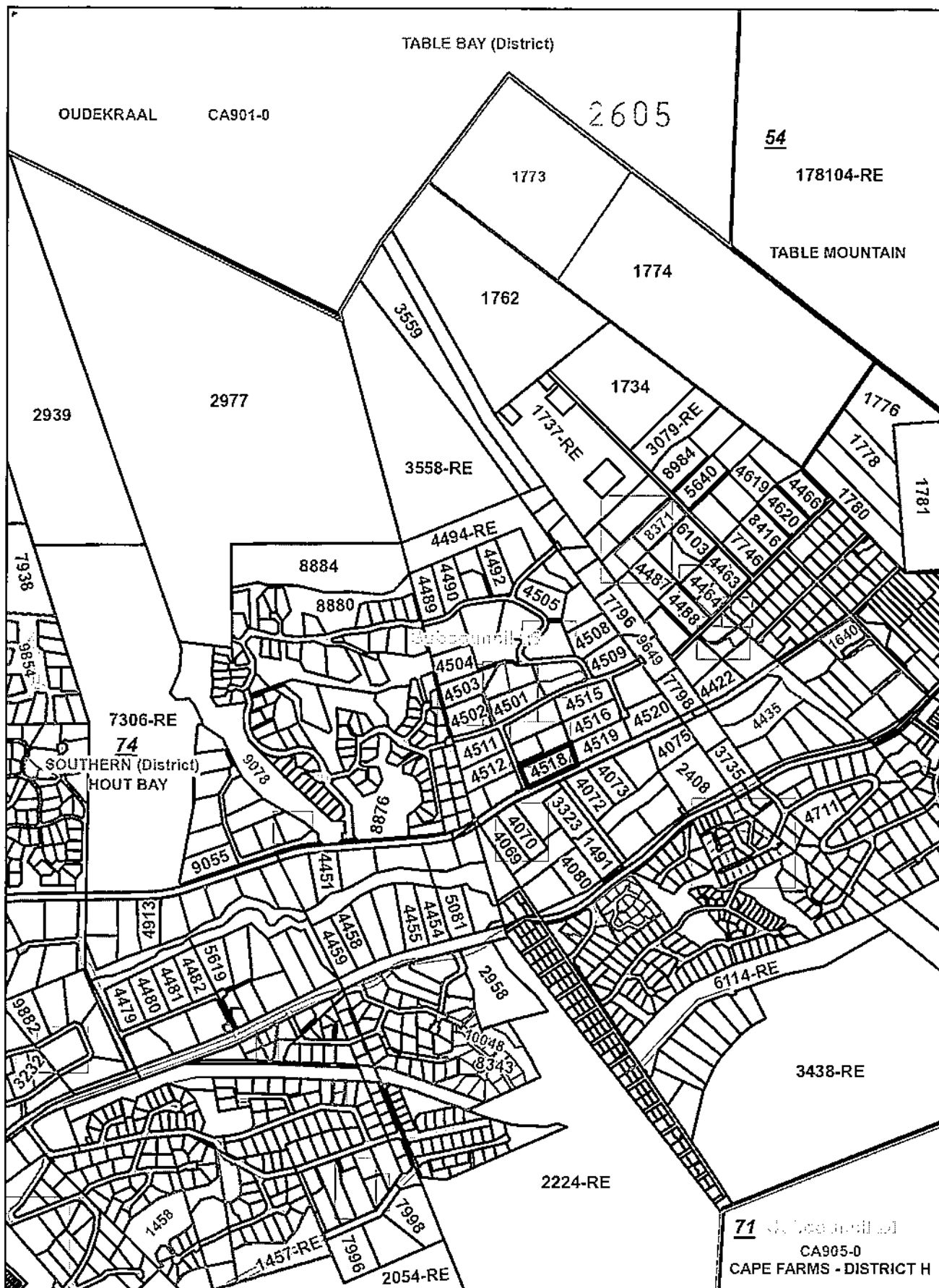



<p>Map Title</p> <p>DIRECTORATE : Energy, Environmental & Spatial Planning</p> <p>DEPARTMENT : Planning and Building Development Management</p> <p>BRANCH : Systems Integration</p> <p>DIVISION : Technical Information Systems</p> <p>Sobered: WBS, 1984</p> <p>Projection: Transverse Mercator (1000000)</p> <p>Map Compiled By: Printed By</p> <p>Date Compiled: 2019-10-16</p> <p>Scale: 1:3 492</p>		<p>Legend</p> <p>SG Approved</p> <p>Registered</p> <p>Confirmed</p> <p>P&BDM Districts</p> <p>Corporate GIS Wards (2011)</p> <p>Sub Council</p> <p>P&BDM Title Deed Restriction areas</p> <p>P&BDM Suburbs</p> <p>Public</p> <p>Private</p>	<p></p> <p>CITY OF CAPE TOWN ISIXEKO SASEKAPA STAD KAAPSTAD</p>
---	--	--	---

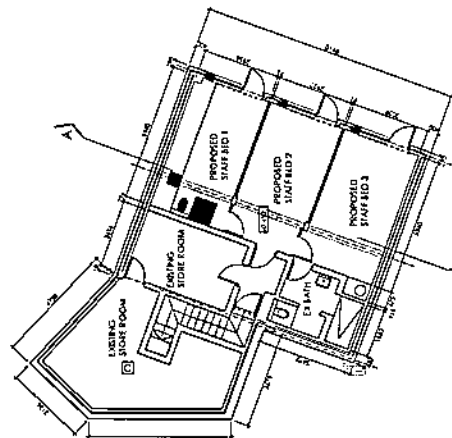
COPYRIGHT: ALL RIGHTS RESERVED. No part of this data map may be reproduced or transmitted in any form or by any means, electronic or mechanical, including photocopying, recording or by any information storage or retrieval systems, without written permission from the Town Planning Directorate of the City of Cape Town. Where the data is used as basis for or as an insertion in a plan, acknowledgement must be made of the source of such data as well as the copyright of the Council.

DISCLAIMER: The City of Cape Town makes no warranties as to the correctness of the information supplied. Persons relying on this information do so entirely at their own risk. The City of Cape Town will not be liable for any claims whatsoever, whether for damages or otherwise, which may arise as a result of inaccuracies in the information supplied.

PLEASE NOTE: Zoning is to be verified by means of an Official Zoning Certificate requested from relevant District Office. All cadastral is to be verified at the Office of the Surveyor General.



Map Title DIRECTORATE : Energy, Environmental & Spatial Planning DEPARTMENT : Planning and Building Development Management BRANCH : Systems Integration DIVISION : Technical Information Systems Spheroid: WGS 1984 Projection: Transverse Mercator Linear Unit: Meter (1 000000) Map Compiled By: Printed By Date Compiled: 2019-10-18		Legend <div style="display: flex; justify-content: space-between;"> <div> <div style="border: 1px solid black; width: 20px; height: 10px; display: inline-block;"></div> SG Approved <div style="border: 2px solid black; width: 20px; height: 10px; display: inline-block;"></div> Registered <div style="border: 1px solid black; width: 20px; height: 10px; display: inline-block;"></div> Confirmed <div style="border: 1px solid black; width: 20px; height: 10px; display: inline-block;"></div> P&BDM Districts <div style="border: 1px solid black; width: 20px; height: 10px; display: inline-block;"></div> Corporate GIS Wards (2011) </div> <div> <div style="border: 1px solid black; width: 20px; height: 10px; display: inline-block;"></div> Sub Council <div style="border: 1px solid black; width: 20px; height: 10px; display: inline-block;"></div> P&BDM Title Deed Restriction areas <div style="border: 1px solid black; width: 20px; height: 10px; display: inline-block;"></div> P&BDM Suburbs <div style="border: 1px solid black; width: 20px; height: 10px; display: inline-block;"></div> Public <div style="border: 1px solid black; width: 20px; height: 10px; display: inline-block;"></div> Private </div> </div>	 CITY OF CAPE TOWN ISIXEKO SASEKAPA STAD KAAPSTAD
Scale: 1:13 968 GEOGRAPHICAL / SPECIAL AREA NOTATIONS			
<p>COPYRIGHT: ALL RIGHTS RESERVED. No part of this data map may be reproduced or transmitted in any form or by any means, electronic or mechanical, including photocopying, recording or by any information storage or retrieval systems, without written permission from the Town Planning Directorate of the City of Cape Town. Where the data is used as basis for or as an insertion-in a plan, acknowledgement must be made of the source of such data as well as the copyright of the Council.</p> <p>DISCLAIMER: The City of Cape Town makes no warranties as to the correctness of the information supplied. Persons relying on this information do so entirely at their own risk. The City of Cape Town will not be liable for any claims whatsoever, whether for damages or otherwise, which may arise as a result of inaccuracies in the information supplied.</p> <p>PLEASE NOTE: Zoning is to be verified by means of an Official Zoning Certificate requested from relevant District Office. All cadastral is to be verified at the Office of the Surveyor General.</p>			

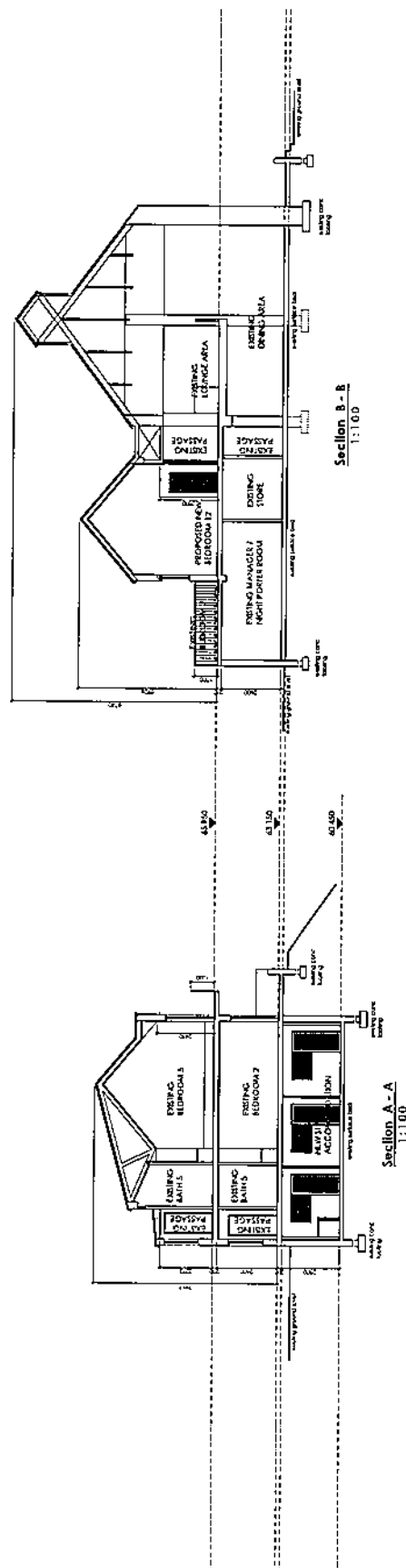
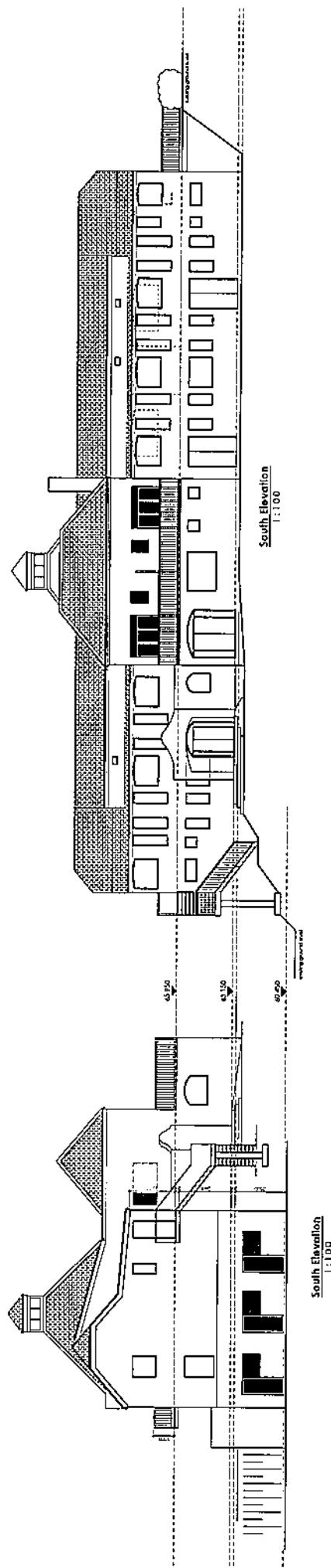


Basement Floor Plan
1:100

[illegible]

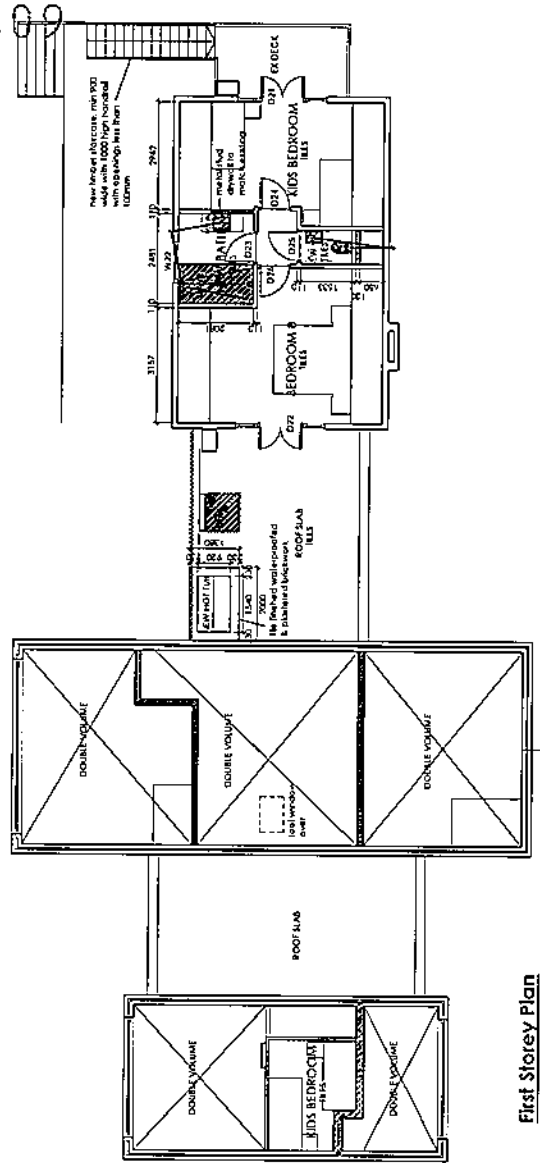
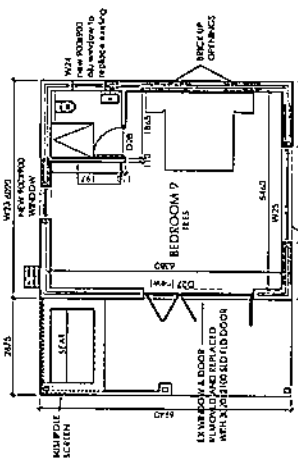
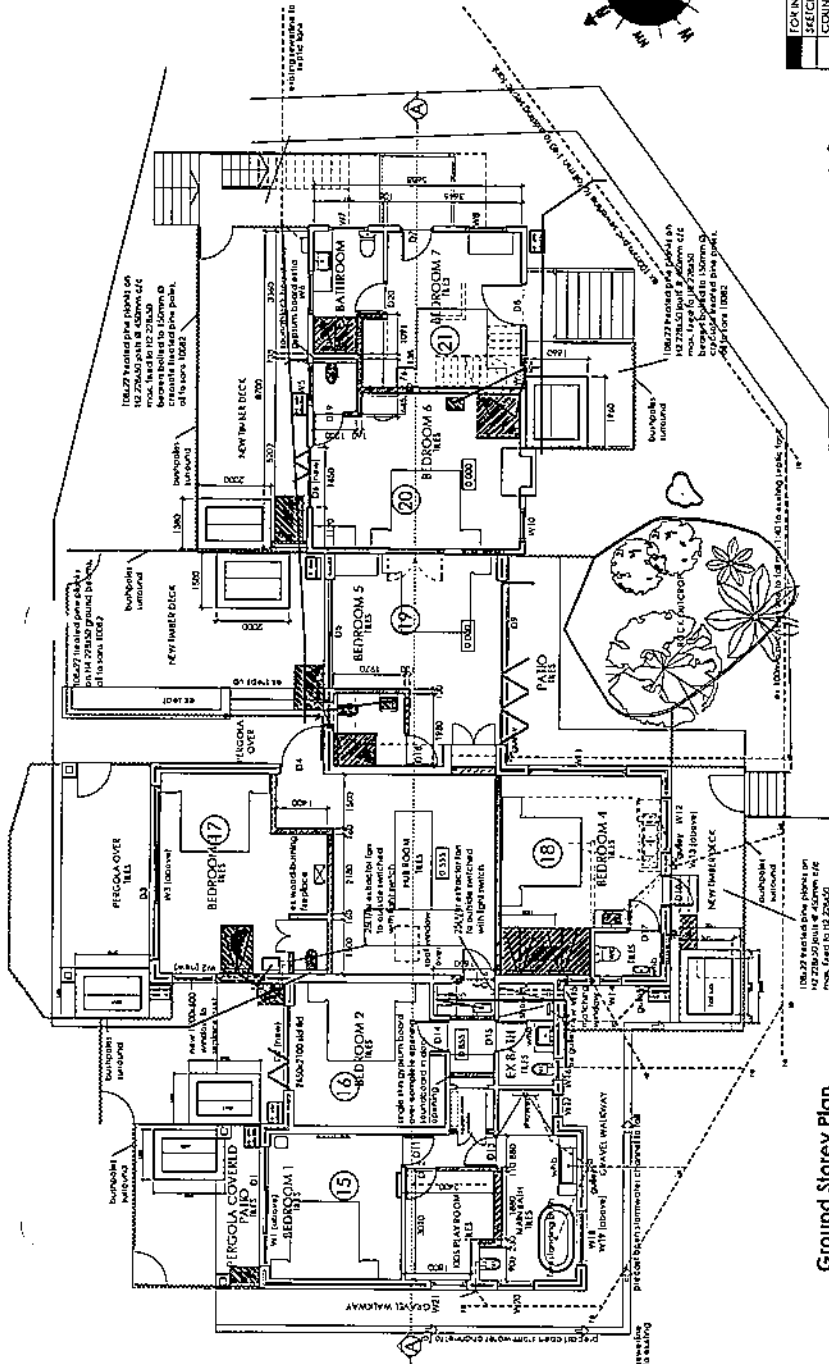
13 JANUARY 2018

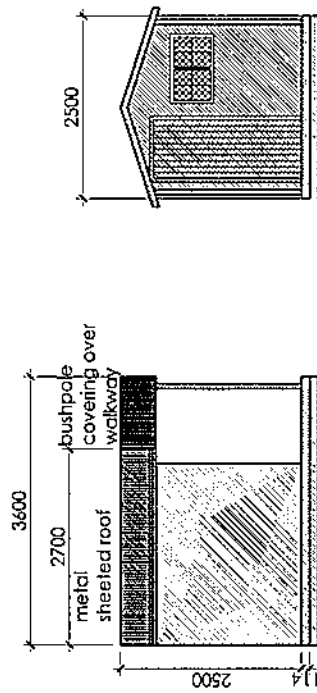
2607



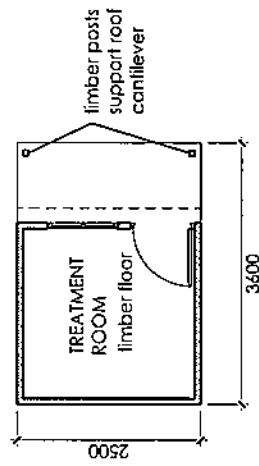
2608

[illegible]

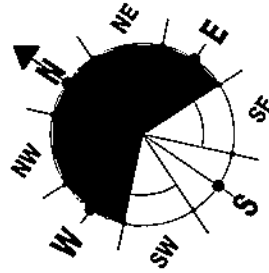
[illegible]




timber frame structure laid on rc concrete bed to eng spec as required



timber frame structure as supplied from Pole Yard, insulated with wool fibre in cavities



FOR INFORMATION ONLY	
SKETCH DESIGN	DATE
COUNCIL SUBMISSION	SEPT 2018
FOR TENDER	
FOR CONSTRUCTION	
LIVINA AFRICA	
PROJECT	
ALTERATIONS & ADDITIONS TO EXISTING STRUCTURES ON EFF 4318, HOUT BAY	
DRAWINGS ARE	
PROPOSED NEW TREATMENT ROOMS PLAN & ELEVATIONS	
ARCHITECT	
OWNER	
SCALE	DATE
1:100	SEPT 2018
DWG NO	REV
0030/TA/HR/001	-
<p>NOTES:</p> <p>1. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE NATIONAL BUILDING REGULATIONS AND THE NATIONAL BUILDING ACT OF 1977.</p> <p>2. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE NATIONAL ELECTRICAL REGULATIONS AND THE NATIONAL ELECTRICAL ACT OF 1977.</p> <p>3. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE NATIONAL WATER SUPPLY REGULATIONS AND THE NATIONAL WATER SUPPLY ACT OF 1977.</p> <p>4. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE NATIONAL SEWAGE REGULATIONS AND THE NATIONAL SEWAGE ACT OF 1977.</p> <p>5. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE NATIONAL ROAD REGULATIONS AND THE NATIONAL ROAD ACT OF 1977.</p> <p>6. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE NATIONAL AIR POLLUTION REGULATIONS AND THE NATIONAL AIR POLLUTION ACT OF 1977.</p> <p>7. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE NATIONAL SOIL POLLUTION REGULATIONS AND THE NATIONAL SOIL POLLUTION ACT OF 1977.</p> <p>8. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE NATIONAL CLIMATE REGULATIONS AND THE NATIONAL CLIMATE ACT OF 1977.</p> <p>9. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE NATIONAL ENVIRONMENTAL REGULATIONS AND THE NATIONAL ENVIRONMENTAL ACT OF 1977.</p> <p>10. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE NATIONAL LAND USE REGULATIONS AND THE NATIONAL LAND USE ACT OF 1977.</p>	
	
K&S ARCHITECTURAL DESIGNS 101-103 Main Road HOUT BAY 7801 TEL: 022 344 8919 PMS174742898	

2612
ERF 4518 HOUT BAY: APPLICATION FOR THE DETERMINATION
OF AN ADMINISTRATIVE PENALTY IN TERMS OF SECTION 42(r)
OF THE CITY OF CAPE TOWN MUNICIPAL PLANNING BY-LAW,
2015

MOTIVATION REPORT

June 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 7889
Fax: 086 689 9042
Cell: 083 270 1702
Email: mikesmith@mweb.co.za

1. INTRODUCTION

- 1.1 Application is hereby made in terms of section 42(r) of the City of Cape Town Municipal Planning By-Law for the determination of an administrative penalty as contemplated in section 129(1) of the By-Law with respect to Erf 4518 Hout Bay (the subject property).
- 1.2 A separate application has been submitted in terms of sections 42(i), 42(b), 42(g) and 42(j) respectively of the MPBL for consent for tourist accommodation, permanent departures relating to setbacks and provision of off-street parking, deletion of a restrictive title deed condition and deletion of an existing condition of approval to regularize the current land use on the property.
- 1.4 The current owner bought the property in November 2018. The existing lodge (Tarragona Lodge) was sold as an ongoing concern. The new owner was informed by the seller's attorney that all necessary approvals were in place. However, council had approved a temporary land use departure for the lodge in 2004, which lapsed in 2009, which was not disclosed to the new owner.
- 1.5 There are approved building plans for both the existing lodge on the eastern side of the property as well as for a new dwelling unit on the eastern side of the property (recently built). The approved plans also clearly show an existing access off Valley Road, even though Condition E. (d) in the title deed prohibits this access.
- 1.6 Since the temporary land use departure for the existing lodge on the eastern side of the property lapsed in 2009, this application is for the determination of an administrative penalty for the unauthorized uses (existing guest lodge and access off Valley Road) in terms of section 42(r) of the By-Law, as contemplated in section 129(1) of the By-Law.

2. OWNERSHIP AND PROPERTY DETAILS

2.1 Title Deed Ownership and Extent

2.1.1 The property is owned by Livinafrica Proprietary Limited, held by Deed of Transfer No. T51593/2018

2.1.2 The property is 8 027m² in extent.

2.2 Locality

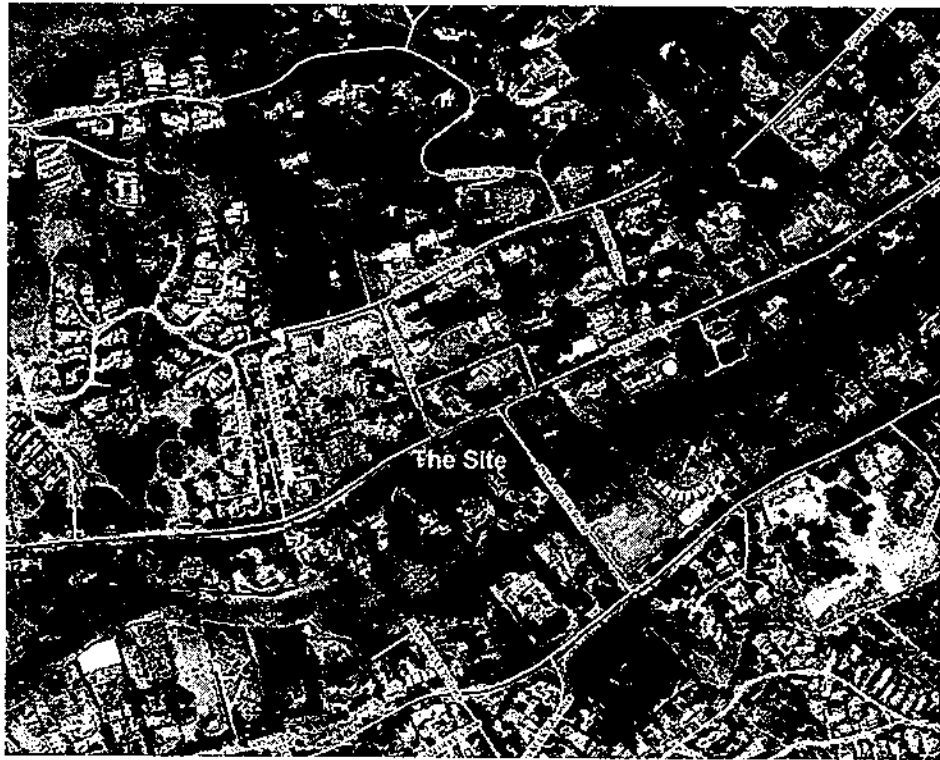


Figure 1: Locality Plan showing the property in relation to the surrounding area

2.2.1 The property is situated at No. 2 Garron Avenue in Tarragona, Hout Bay.

2.3 Title Deed Conditions

2.3.1 Condition E. (d) on page 4 of the title deed is restrictive as far as the current application is concerned. It states as follows:

"No direct vehicular access from this erf to the abutting road on its southern boundary shall be permitted and this erf shall also be subject to a 10 (ten) metre building line from the said road".

2.3.2 As mentioned above a separate application has been submitted to delete this condition from the title deed.

2.4 General Plan

2.4.1 The property is shown as Erf 4518 Hout Bay and forms part of Hout Bay Township Extension No. 31 (General Plan No. 10625). The GP has been submitted with the application documents.

2.5 Existing Land Use

2.5.1 The property comprises an existing lodge (Tarragona Lodge) on the eastern side of the property comprising 12 guest bedrooms (10 existing and 2 new proposed) and a new dwelling unit on the western side. (See Aerial Photo and SDP).

2.6 Zoning

2615

2.6.1 The subject property is currently zoned *Rural (RU)*.

2.6.2 The surrounding erven are zoned *Rural (RU)*

2.7 Mandate

2.7.1 M. A. Smith is authorized to submit this application on behalf of the registered owners by the power of attorney and company resolution submitted with this application.

3. ADMINISTRATIVE PENALTY - LAND USE CONTRAVENTION

3.1 Building Plans for a ten-bedroom house (Tarragona House) were approved by council on 25 September 1997. (See Approved Building Plans submitted with this application).

3.2 It started operating as a guest lodge (Tarragona Lodge) in 2004 after council approved a temporary land use departure for the operation of a guest lodge on the property.

3.3 It has been run as a guest lodge ever since, even though the temporary land use departure (Ref. 15/6/3/33/4518) lapsed in 2009.

3.4 On 24 July 2017 further building plans were approved for additions to the existing managers cottage on the western side of the property in the form of a large 2-bedroom house. It is notable that the approved plans clearly show the existing access to the property off Valley Road, even though a title deed condition restricts access from this road – See Approved Building Plans.

3.5 The lodge was sold as a going concern to the new owner Livinafrica Pty Limited (the applicant) in November 2018. The fact that the temporary land use departure had lapsed in 2009 was not disclosed to the new owner. On the contrary the seller's agent and attorney informed the new owner that all the necessary approvals were in place.

3.6 The new owner proposes to convert the approved dwelling house on the western side of the property into nine additional guest bedrooms (See SDP), which forms part of a separate application for consent for tourist accommodation submitted simultaneously with this application.

3.7 The existing lodge on the eastern side (Tarragona Lodge), which is the subject of this application, employs eight permanent staff members and is open all year round. The average annual occupancy rate is 55% - 60%.

4. MUNICIPAL VALUE AND THE EXTENT OF THE CONTRAVENTION

4.1 The municipal valuation of the property is R12,3 million (see Rates account, page 2), and the property is 8 027m² in extent, therefore the property is valued at R1 532.00 per square meter.

- 4.2 The extent of the contravention is the ten guest bedrooms in Tarragona Lodge (with a combined size of 387m²) and the CWC off Valley Road (15m²). A total of 402m² can therefore be construed as the contravention (See SDP and Approved Building Plans).
- 4.3 The total floor area of Tarragona Lodge is 1 122m², therefore the extent of the contravention is 34% of the total floor area).

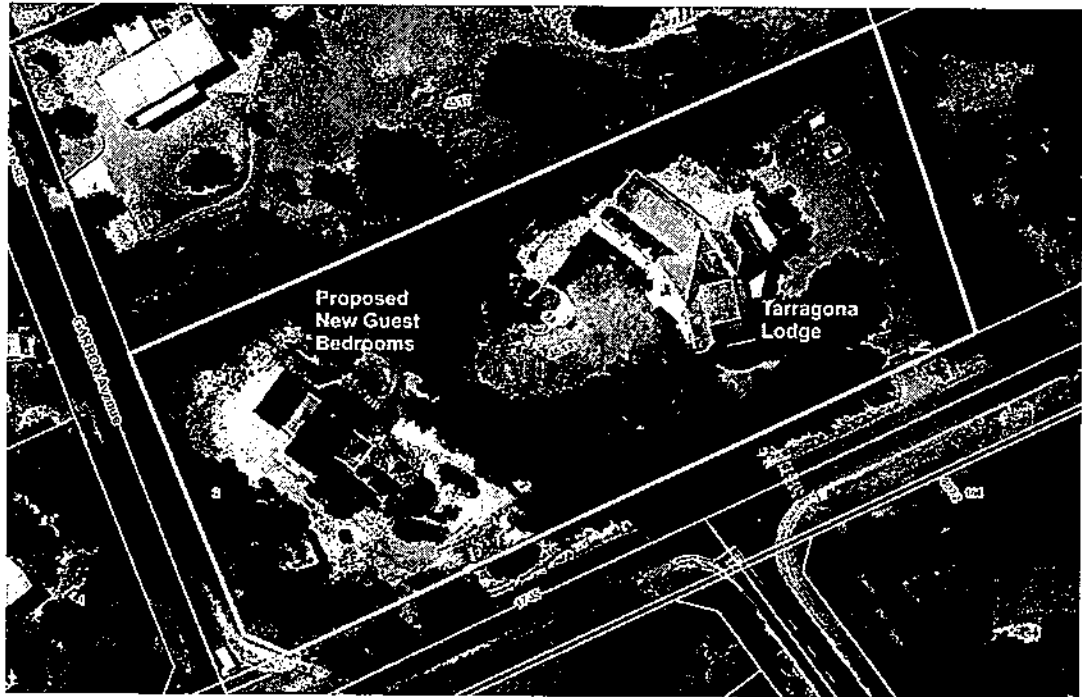


Figure 2: Aerial Image showing the buildings on the property – See SDP and approved Building Plans

5. MITIGATING CIRCUMSTANCES

- 5.1 The owner is a lay person and a foreigner and was informed that all the necessary approvals were in place when he purchased the property comprising an existing guest lodge and owners/managers house.
- 5.2 The owner has never contravened the By-Law or a previous planning law before. This should be considered.
- 5.3 The owner has invested his life savings in the property and it his only source of income, hence he is not able to cease operating Tarragona Lodge.

6. CONCLUSION

- 6.1 This application is for the determination of an administrative penalty in terms of section 42(r), as contemplated in sections 129 and 130 of the City of Cape Town Municipal Planning By-Law, 2015.
- 6.2 The existing owner took transfer of the property in November 2018 (only seven months ago), and immediately took steps to rectify the unauthorized uses when it came to light.

2617

- 6.3 The owner has never contravened this By-law or any previous planning laws before.
- 6.4 It is therefore respectfully requested that lenience be shown in this case

11

STBB SMITH TABATA BUCHANAN BOYES
8th & 9th Floor
5 St Georges Mall
Cape Town
8001

Docex 45		F.e. endorsement	
	Amount	Office fee	
Transfer property value	R. 15,000 000 00	R. 3.057 00	
Mortgage capital Amount	R. _____	R. _____	
Reason for exemption	Exempted by Crt. _____ Section _____ Act _____		

Prepared by me,

2618

CONVEYANCER
JAMES EDOUARD PHILLIPSON
CHARNÉ SYMINGTON

T 000051593 / 2018

DEED OF TRANSFER

BE IT HEREBY MADE KNOWN THAT

Madelein Williams

appeared before me, REGISTRAR OF DEEDS at CAPE TOWN, he/she, the said
Appearer, being duly authorised thereto by a Power of Attorney granted to him/her by

ROBERT IVAN SEED

Identity Number 640521 5083 08 5

and

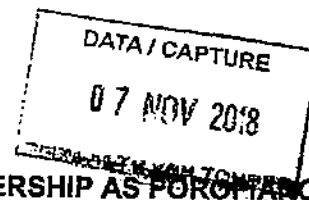
FRIEDA SEED

Identity Number 640131 0043 08 2

Married in community of property to each other

TOGETHER CARRYING ON BUSINESS IN PARTNERSHIP AS POROMASONG

signed at Cape Town dated 21 September 2018



AND the said Appearer declared that his/her principal had on 5 September 2018 truly and legally sold and that he/she, the said Appearer in his/her capacity aforesaid, did, by these presents cede and transfer to and on behalf of:

LIVINAFRICA PROPRIETARY LIMITED
Registration Number 2008/003067/07

its successors in title or assigns in full and free property:

ERF 4518 HOUT BAY
IN THE CITY OF CAPE TOWN
CAPE DIVISION
WESTERN CAPE PROVINCE

IN EXTENT: 8027 (EIGHT THOUSAND AND TWENTY SEVEN) SQUARE METRES

FIRST TRANSFERRED by Deed of Transfer Number T13115/1990 with General Plan TP 10625 relating thereto and held by Deed of Transfer Number T49416/2014

A. SUBJECT to the conditions referred to in Deed of Transfer Number T7373/1918.

B. FURTHER ENTITLED to a servitude set out in the endorsement dated 11 December 1946 on the said Deed of Transfer Number T7373 dated 30 July 1918, reading as follows:

"REMAINDER

By Transfer Number T21717 dated 11/12/1946:


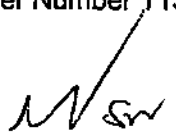
1. The owner and his successors in title of ptn 1 and ptn 2 thereby conveyed shall ring fence the said pptides. The indication is imposed by the owner of the remdr. of ppty held hereunder.
2. The owner of the remdr. of property held hereunder is entitled to run a stream of water across aforesaid ptn 1 thereby conveyed under para 1 from beacon d indicated on diag. No 527/1946 thereto annexed along boundary d.e. to point C, then diagonally to a point on Western Boundary a.g. not more than 2,05 metres from beacon a on aforesaid diagram together with right access etc."

As will more fully appear on reference to said Transfer.

C. FURTHER SUBJECT AND ENTITLED, as the case may be, to the servitude contained in an endorsement dated 19 November 1948, endorsed upon the said Deed of Transfer Number T7373/1918 reading as follows:

"REMAINDER

By Transfers Nos. 26362 dated 19/11/48 Erf 1492 thereby conveyed and the remainder of Erf 1488 held hereunder are subject and entitled to as the case may be to certain conditions relative to water rights, cleansing, and upkeep of furrow, fencing restriction against trading, usage of land as will more fully appear on reference to said Deed of Transfer,"

- D. **FURTHER SUBJECT** to the following conditions contained in Deed of Partition Transfer Number T24813/1976 imposed by the Administrator of the Province of the Cape of Good Hope in terms of Ordinance No 33 of 1934 (as amended) when approving of the subdivision of Erf 1488 Hout Bay, namely:
- (a) The owner of this erf shall, without compensation, be obliged to allow electricity cables and / or wires and main and / or other waterpipes and the sewerage and drainage, including stormwater of any other erf of erven to be conveyed across this erf, if deemed necessary by the Local Authority in such manner and position as may from time to time be reasonably required. This shall include the right of access to the erf at any reasonably time for the purpose of constructing, altering, removing or inspecting any works connected with the above.
 - (b) The owner of this erf shall be obliged, without compensation, to receive such material or permit such excavation on the erf as may be required to allow use of the full width of the street and provide a safe and proper slope to its bank owing to difference between the levels of the street as finally constructed and the erf, unless he elects to build retaining walls to the satisfaction of and within a period to be determined by the local authority.
- E. **SUBJECT FURTHER** to the conditions imposed by the Administrator of the Cape of Good Hope in terms of Ordinance No. 33 of 1934 when approving Hout Bay Township Extension No. 31, as contained in Deed of Transfer Number T13115/1990:
- (a) The owner of this erf shall without compensation, be obliged to allow gas mains, electricity, telephone and television cables and/or wires and main and/or other waterpipes and the sewage and drainage including stormwater of any other erf or erven inside or outside this township to be conveyed across this erf, and surface installations such as mini-substations, meter kiosks and service pillars to be installed thereon if deemed necessary by the local authority or other statutory authority and in such manner and position as may from time to time be reasonably required. This shall include the right of access to the erf at any reasonable time for the purpose of constructing, altering, removing or inspecting any works connected with the above.
 - (b) The owner of this erf shall be obliged, without compensation, to receive such material or permit such excavation on the erf, as may be required to allow use of the full width of the street and provide a safe and proper slope to its bank owing to difference between the levels of the street as finally constructed and the erf, unless he elects to build retaining walls to the satisfaction of and within a period to be determined by the local authority.
 - (c) This erf shall be used only for such purposes as are permitted by the Town Planning Scheme of the local authority and subject to the conditions and restrictions stipulated by the scheme.
 - (d) No direct vehicular access from this erf to the abutting road on its southern boundary shall be permitted and this erf shall also be subject to a 10 metre building line from the said road.
- F. **SUBJECT FURTHER** to the following conditions imposed by the Transferor, BEATRICE PHOEBE MITCHELL, for the benefit of herself and her successors-in-title, as contained in Deed of Transfer Number T13115/1990, namely:
- 
- 

- (a) No corrugated iron shall be used on the property for roofing nor shall corrugated iron, vibracrete, precast concrete panels or asbestos be used for boundary walls and fences.
- (b) No prefabricated buildings, structures, caravans or temporary accommodation may be erected on this erf without the prior written approval of the Seller.
- (c) The owner of the property shall not display any advertisement or sign thereon nor do or suffer to be done on the same anything which in the opinion of the Seller is noisome, injurious, objectionable or detrimental, or a public or private nuisance or source of damage or disturbance to any other owner or occupier of erven in the township in which the erf is situated.
- (d) The owner of this erf shall not permit any commercial type vehicle, caravan, trailer or boat or any derelict vehicle to be parked thereon unless it is adequately screened from public view.

SV
✓

Em

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

ROBERT IVAN SEED,
and

FRIEDA SEED, Married in community of property to each other

TOGETHER CARRYING ON BUSINESS IN PARTNERSHIP AS POROPIANONG

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

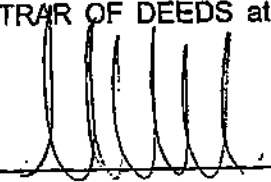
LIVINAFRICA PROPRIETARY LIMITED,

its successors in title or assigns

now is and henceforth shall be entitled thereto, conformably to local custom, the State, however, reserving its rights, and finally acknowledging the purchase price of the property hereby transferred to be the sum of R15 000 000.00 (FIFTEEN MILLION RAND).

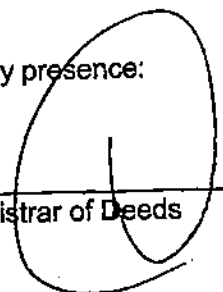
IN WITNESS WHEREOF I, the said Registrar of Deeds together with the Appearer, have subscribed to these presents, and have caused the Seal of Office to be affixed thereto.

THUS DONE AND EXECUTED at the Office of the REGISTRAR OF DEEDS at CAPE TOWN on 06 NOV 2018



q.q.

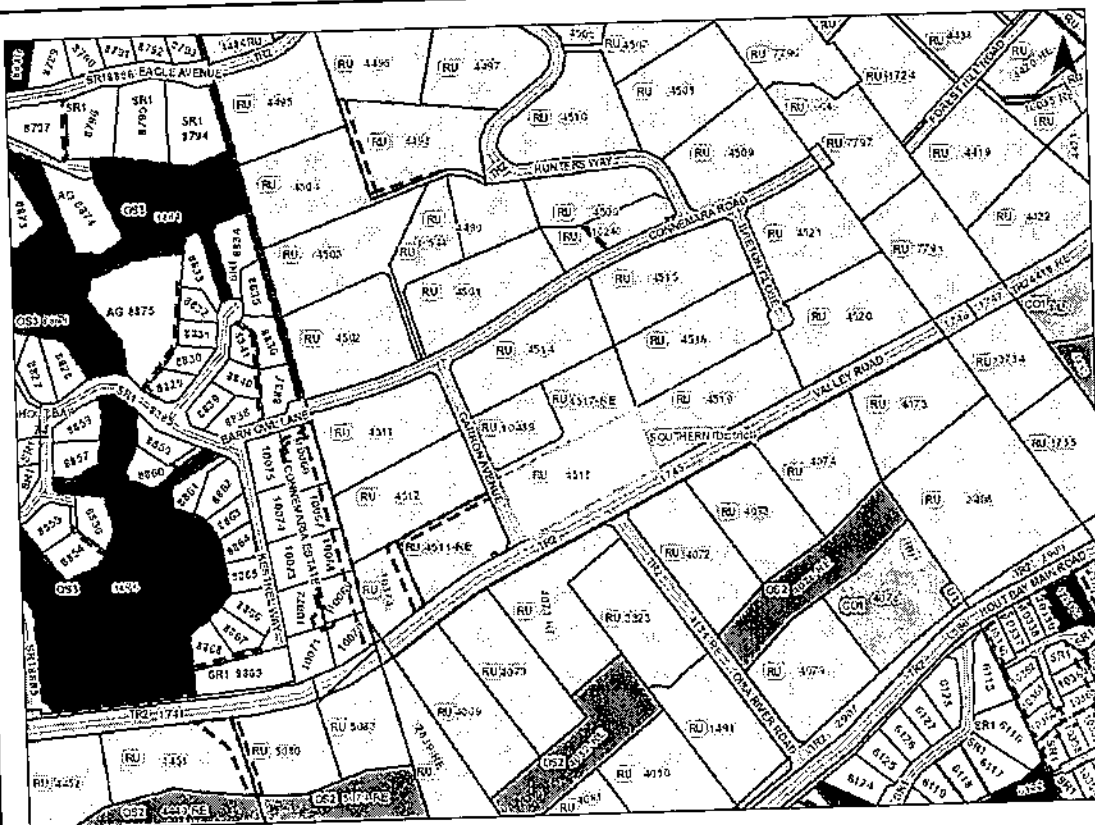
In my presence:



Registrar of Deeds

2623



Usage Code	B05
Usage	Guest houses
Area (Calculated)	8,025.92 m2
Total Value	13000000
Valuation Year	20190701
Approval Date	0000-00-00
Registered Date	2018-11-06
Purchase Date	2018-09-05
Purchase Price	15000000,0
Title Deed Number	T51593/2018
Business Partner Nr	1002646464
Owner Title	The Director
Owner Name	LIVINAFRICA PROPRIETARY LIMITED
Owner First Name	LIVINAFRICA PROPRIETARY LIMITED
Language	
Owner Postal Address	0 NONE CAPE TOWN 8005
ID Number	2008/003067/07(Comp. Reg. Number, expired)
Rate payer Name	LIVINAFRICA PROPRIETARY LIMITED
Rate payer Street Address	NONE 0 CAPE TOWN ZA
Rate payer Postal Address	0 NONE CAPE TOWN 8005
key	363787
Physical Address	2 GARRON AVENUE, HOUT BAY
Erf No	4518