



REPORT TO: **MUNICIPAL PLANNING TRIBUNAL**

ITEM NO **MPTSW11/03/19**

WARD 74: APPLICATION FOR DELETION OF A RESTRICTIVE TITLE DEED CONDITION AND DELETION OF A CONDITION OF AN EXISTING APPROVAL IN TERMS OF THE MUNICIPAL PLANNING BY-LAW, 2015: ERF 3644 HOUT BAY, 17 LUISA WAY & VALLEY ROAD

Case ID	70089137
Case Officer	P Abisalon
Case Officer phone number	021 444 7728
District	Southern
Ward	74
Ward Committee	R Quintas
Report date	2019-03-04

1. EXECUTIVE SUMMARY

Property description	Erf 3644 Hout Bay
Property address	17 Luisa Way & Valley Road
Application components / description	<ol style="list-style-type: none"> Deletion of a restrictive title deed condition, as set out in Annexure A, that states "That no direct access be allowed to Valley Road, Hout Bay (after the temporary access servitude referred to in Condition K above, has been uplifted)." Deletion of a condition of an existing approval imposed in terms of the Townships Ordinance No 33 of 1934, as set out in Annexure A, that states "That no direct access be allowed to Valley Road, Hout Bay (after the temporary access servitude referred to in Condition K above, has been uplifted)."
Site extent	2704m ²
Current zoning	Single Residential Zone 1
Current land use	Dwelling house and second dwelling
Overlay zone applicable	Hout Bay Local Area Overlay Zone
PHRA or SAHRA heritage	No
Public participation outcome summary	No objections received.
Recommended decision	
Approval	✓
Refusal	
Approval in part & Refusal in part	

2. BACKGROUND FACTS

- 2.1 On 2017-11-30 a delegated official approved the subdivision of the subject property into 2 portions (Portion 1: ±1517m² and Portion 2: ±1187m²)

as per the plan of subdivision attached as Annexure C. Council's final notification letter was issued on 2017-12-01.

- 2.2 As there are no objections to the application, the Municipal Planning Tribunal only has the delegation to make a decision on the component of the application relating to the deletion of the restrictive title deed condition. Once this component has been finalised, a decision on the rest of the application 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 temporary servitude will be removed by notarial cancellation.
- Providing access to Valley Road for the subject property will have no socio and cultural impact on the lives of people and their circumstances abutting this erf.
- The intention is to provide access for Portion 1 of the subdivision approval of the subject property, from Valley Road, rather than a right of way servitude via Luisa Way.
- Providing access will not change the circumstances of the abutting erven.
- The proposal will have no impact on external engineering services.
- The impact of safety, health and wellbeing of the surrounding community will not be affected by the removal of this title deed condition.
- The proposal will not have a heritage impact.
- The proposal will have no impact on the biophysical environment as providing access to Valley Road will not change the elements forming the biophysical environment.
- The proposal will not affect the flow of traffic onto Valley Road.
- The removal of the title deed condition will have no financial implications or loss to any other party.
- There is no social benefit of the restrictive clause staying in place as other properties already enjoy access onto Valley Road.

4. PUBLIC PARTICIPATION

		Applicable	Dates / Comments
Advertising	Notice in the media (s81)	✓	2019-01-18
	Notice to a person (s82)	✓	2019-01-08
	Notice to Community organization (s83)	✓	2019-01-08
	Notice to Ward Councilor (s83)	✓	2019-01-07
	Notice of no objection (s84)		
	Notice to Provincial Government (s86)		
	Notice to an Organ of State (s87)		
	Public meeting		
Outcome	On site display	✓	2019-01-16
	Objections		No objections were received
	Objection petition		
	Support / No objection		
	Comments		
	Ward Councilor response		

5. BACKGROUND TO PROPOSAL

Description of the area / surrounding land uses

- 5.1 The area to the north-west of Valley Road can be described as being an upper-income, suburban, residential area, whereas the area to the south-east of Valley Road has a rural character. The surrounding properties typically contain large detached dwelling houses set on large sized erven. The area is very well vegetated and has a close relationship to the surrounding mountains and valley floor.

Property description

- 5.2 The subject property contains two dwelling houses. Vehicular and pedestrian access is taken from Luisa Way. The property contains numerous trees.

Zoning

- 5.3 As can be seen from Annexure B, the subject property is zoned Single Residential Zone 1 as are all of the surrounding properties to the north-west of Valley Road. To the south-east of Valley Road the properties are zoned Rural Zone.

Proposed development

- 5.4 This application requires the deletion of a restrictive title deed condition and the deletion of a condition of an existing approval imposed in terms of the Townships Ordinance No 33 of 1934, as set out in Annexure A, which relates to no direct vehicular access from the subject erf to Valley Road. This will allow Portion 2 of the approved subdivision to take direct vehicular access from Valley Road, as opposed to the servitude access across Portion 1.

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.
- 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 or the Southern District Plan.

6.2.2 Relevant criteria contemplated in the DMS:

- N/A

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

- None are relevant to this application.

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

- Socio-economic impact: Approval of the proposal will not have a socio-economic impact.
- Compatibility with surrounding uses: The proposal is compatible with the surrounding uses. This application only relates to access from Valley Road.
- Impact on the external engineering services: The proposal will not have a negative impact on engineering services.
- Impact on safety, health and wellbeing of the surrounding community: The proposal will not impact on the safety, health or wellbeing of neighbours. Transport Planning has indicated no objection (see Annexure F).
- Impact on heritage: There will be no negative impact on heritage.
- Impact on the biophysical environment: The proposal will not have any impact on the biophysical environment. The site is already developed and is not environmentally sensitive. No trees are affected by the proposal.
- Transport considerations:
 - The traffic impact will be low.
 - Although most erven located along Valley Road do not take direct access off this road, some vehicular access off this road exists.
 - The verge along Valley Road, as it passes the subject property, is wide and the property is on a straight portion of the road, providing good sight distances.
 - Transport Planning has considered the application and has no objection (see Annexure F). It must be noted that this application was circulated to the provincial Department of Transport & Public Works which stated that Valley Road is now a municipal street under the sole jurisdiction of the City (see Annexure E).
- Mitigating conditions: None are necessary.

6.2.5 Impact on existing rights:

- The proposal will not impact significantly on existing rights.
- Vehicular access will be controlled by the provisions of the Development Management Scheme.

- Both portions contain an existing dwelling house.
- A conveyancer has indicated that the temporary servitude referred to in the title deed and shown on the Surveyor General's diagram annotated as Annexure J, will be removed notariaily (see Annexure K).

6.2.6 Other considerations prescribed in relevant national or provincial legislation:

- The proposal is consistent with the principles in Section 7 of the Spatial Planning and Land Use Management Act, 2013 and Section 59 of the Land Use Planning Act, 2014.

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 subdivision of Erf 3261 was approved in 1974, which resulted in the creation of the subject property (see the plan of subdivision attached as Annexure I), both the developer and the plan of subdivision attached as Annexure I) the Administrator of the Cape of Good Hope (in terms of the Townships Ordinance 33 of 1934) imposed a condition in the title deed restricting access from Valley Road.

6.3.2 At the time title deed restrictions were commonly used as a method to control development and, in the case of this property, and the others along Valley Road, prohibited vehicular access to / from Valley Road.

6.3.3 Subsequent to the 1974 subdivision, zoning schemes became more widely used to regulate land use development within Cape Town.

6.3.4 The applicant has applied to delete the title deed condition relating to no direct vehicular access from the subject erf to Valley Road, as set out in Annexure A.

6.3.5 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 49 of SPLUMA.

6.3.6 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 vests in the person as the owner of a dominant tenement:
 - The applicant has not directly addressed this issue or provided objective evidence in this regard.
 - Given the absence of substantiation, not much weight can be attached to the consideration.
- (ii)** The personal benefits which accrue to the holder of rights in terms of the restrictive condition:
 - The personal benefits to the holder of rights relate indirectly to the character of the area.

- (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 deletion of the condition will mean that access to Portion 2 can occur without the need for a servitude across Portion 1. This will result in the more efficient use of Portion 1 which will result in a personal benefit to the owner of that property.
- (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 condition not be deleted the status quo within the area will remain in terms of access.
 - It must be noted that title deed conditions were largely imposed in an era before zoning schemes became commonly used to control development (including vehicular access as in this instance).
- (v) The social benefit of the removal, suspension or amendment of the restrictive condition:
 - There are no social benefits in removing the condition.
- (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 removal of the condition in the title deed will remove all the rights of the property owners in this area to prevent vehicular access the property from Valley Road.

6.3.7 With regard to the decision criteria as set out in 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.

6.3.8 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 condition will not be considered a deprivation of property and only relates to access from Valley Road. As indicated above, the proposed development is not inconsistent with the development and land use principles set out in SPLUMA and LUPA.

6.3.9 The personal benefits conferred by this title deed condition on the immediate local residents must be weighed up against the wider social benefit of removing the restrictive condition and the benefit to the applicant. There is a benefit to removing the restriction, albeit not a significant one. The adverse effect on the neighbourhood is 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 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.
- 7.1.2 The proposal will not have a negative impact on neighbouring properties.
- 7.1.3 The traffic impact will be low and Transport Planning has no objection to the proposal.
- 7.1.4 The proposal will have no socio-economic impact.
- 7.1.5 The proposal is desirable and does not significantly impact on existing rights.
- 7.1.6 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.

8 RECOMMENDATION

In view of the above, it is recommended that:

- 8.1 The application for deletion of a restrictive title deed condition, as set out in Annexure A, for Erf 3644 Hout Bay, **be approved** in terms of Section 98(b) of the Municipal Planning By-Law, 2015.

ANNEXURES

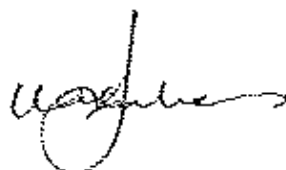
Annexure A	Application details
Annexure B	Locality plan / public participation map
Annexure C	Approved plan of subdivision from 2017 and conditions of approval
Annexure D	Applicant's motivation
Annexure E	Comment from the provincial Department of Transport & Public Works
Annexure F	Internal departmental comment
Annexure G	Title deed
Annexure H	Bondholders consent
Annexure I	Previous plan of subdivision
Annexure J	Surveyor General's diagram
Annexure K	Letter from conveyancer



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Registered Planner
Name: Pierre Hoffa

SACPLAN NO: A/2197/2015



Section Head
Name: P Hoffa
Tel no: 021 444 7724
Date: 2019-03-04

District Manager
Name: U Gonsalves
Tel no: 021 444 7720
Date: 2019-03-04

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 3644 Hout Bay, 17 Luisa Way & Valley 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: 70389137

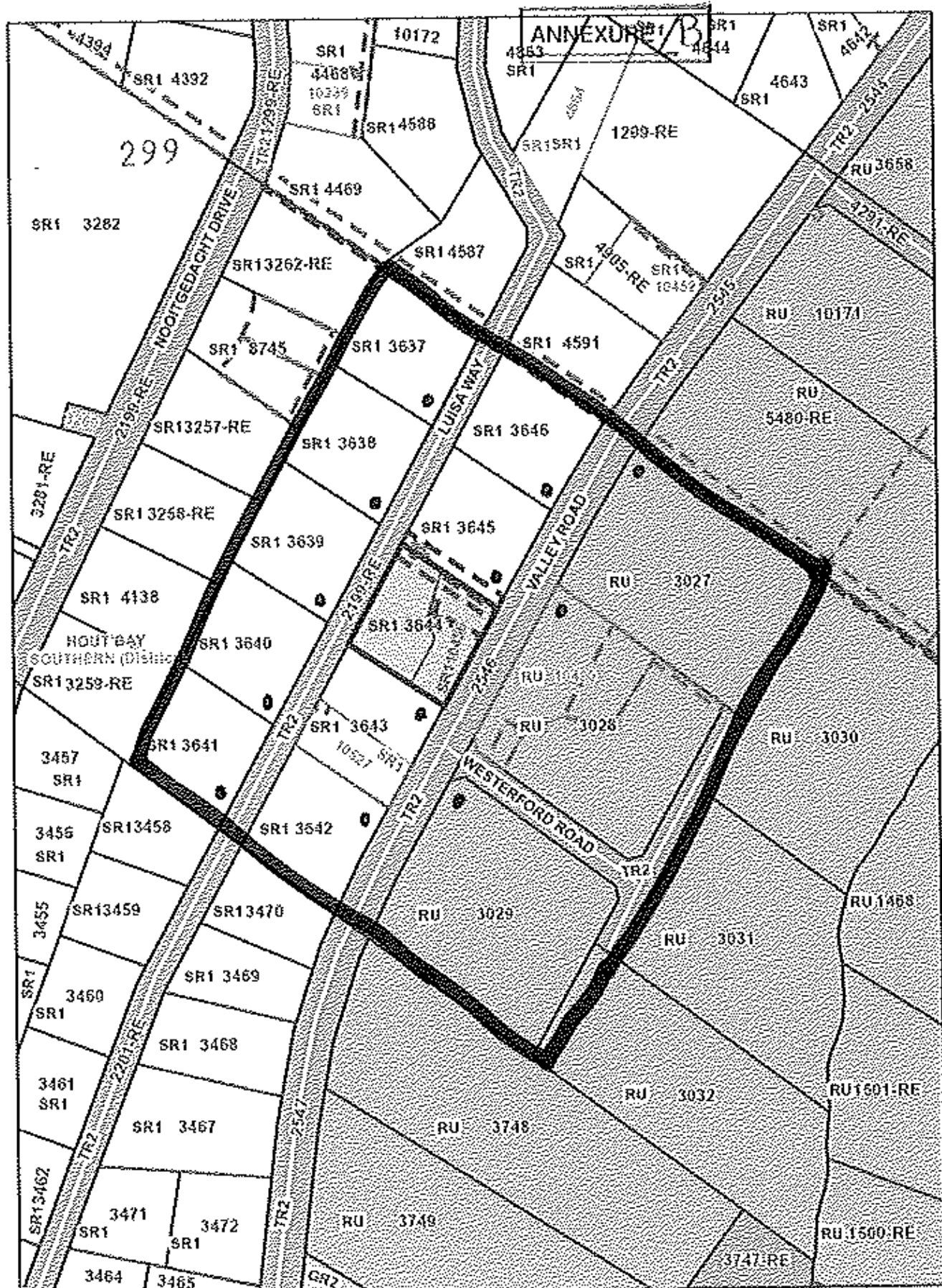
1. APPLICATIONS APPLIED FOR IN TERMS OF THE BYLAW:

1.1 Deletion of the following restrictive condition from title deed T37402/2003:

1.1.1 Condition L: "That no direct access be allowed to Valley Road, Hout Bay (after the temporary access servitude referred to in Condition K above, has been uplifted)."

1.2 Deletion of the following condition of a previous approval imposed in terms of the Townships Ordinance No 33 of 1934:

1.2.1 "That no direct access be allowed to Valley Road, Hout Bay (after the temporary access servitude referred to in Condition K above, has been uplifted)."



Map Title

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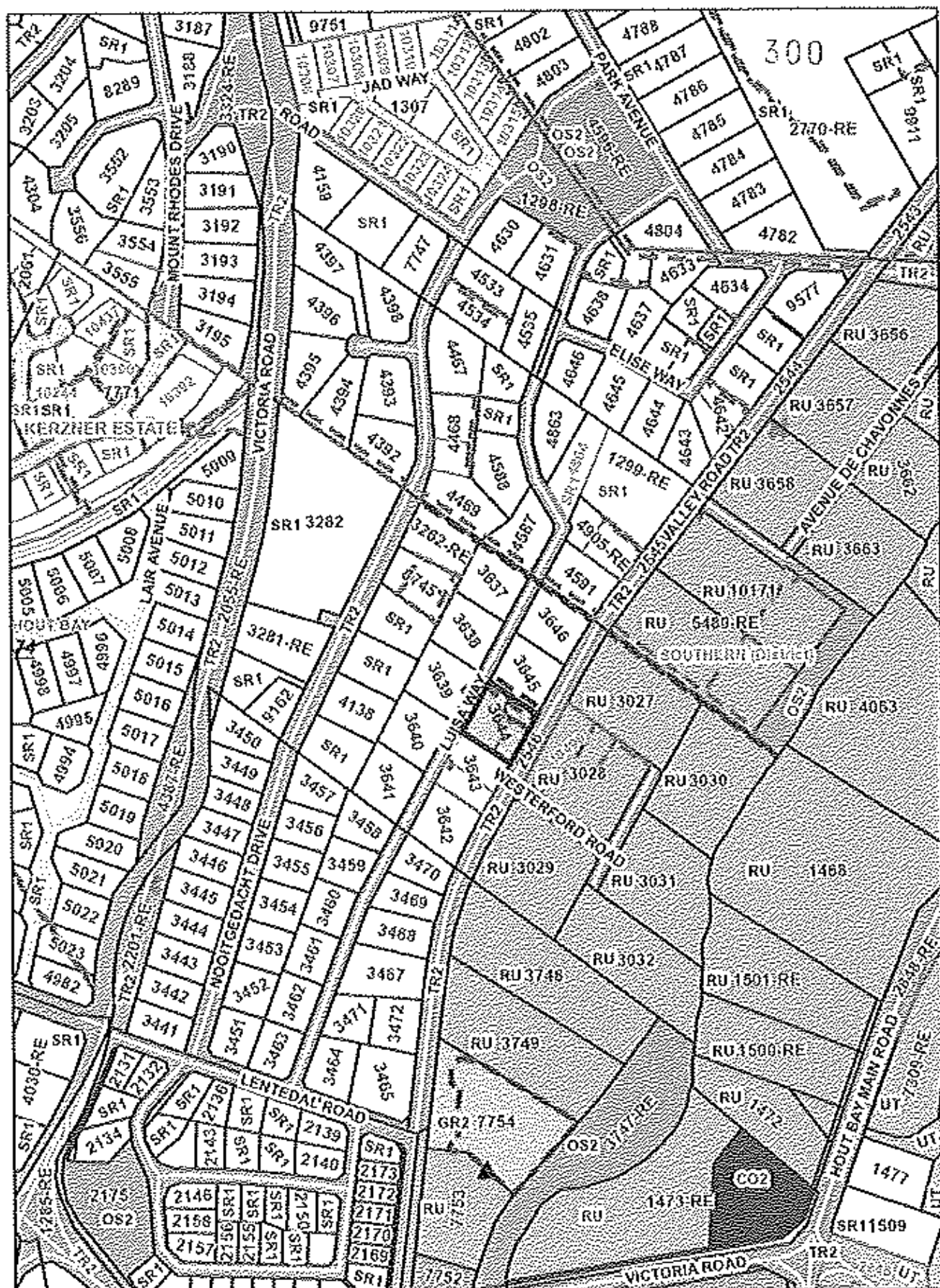
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- ☐ SG Approved
- ☐ Registered
- ☐ Confirmed
- ☐ P&BDM Districts
- ☐ Corporate GIS Wards (2011)
- ☐ Sub Council
- ☐ P&BDM Title Deed Restriction areas
- ☐ P&BDM Suburbs
- ☐ Public
- ☐ Private



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

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Map Title

GENERAL PURPOSE	-Energy Efficient, Durable & Support Durability
ADMINISTRATIVE	-Planning and Building Development for Management
COLLEGE	-Active Involvement
CONCRETE	-Lowest Cost Concrete Systems
CONCRETE MASONRY	properties Lower Cost More durable and support
See Attached Map, Filled In	
Map of Attached Map, Filled In	

Legend

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| <input type="checkbox"/> Registered | <input type="checkbox"/> P&SDM Title Deed Registration |
| <input type="checkbox"/> Confirmed | <input type="checkbox"/> P&SDM Suburbs |
| <input type="checkbox"/> P&SDM Districts | <input type="checkbox"/> Public |
| <input type="checkbox"/> Corporate GIS Wards (2011) | <input type="checkbox"/> Private |

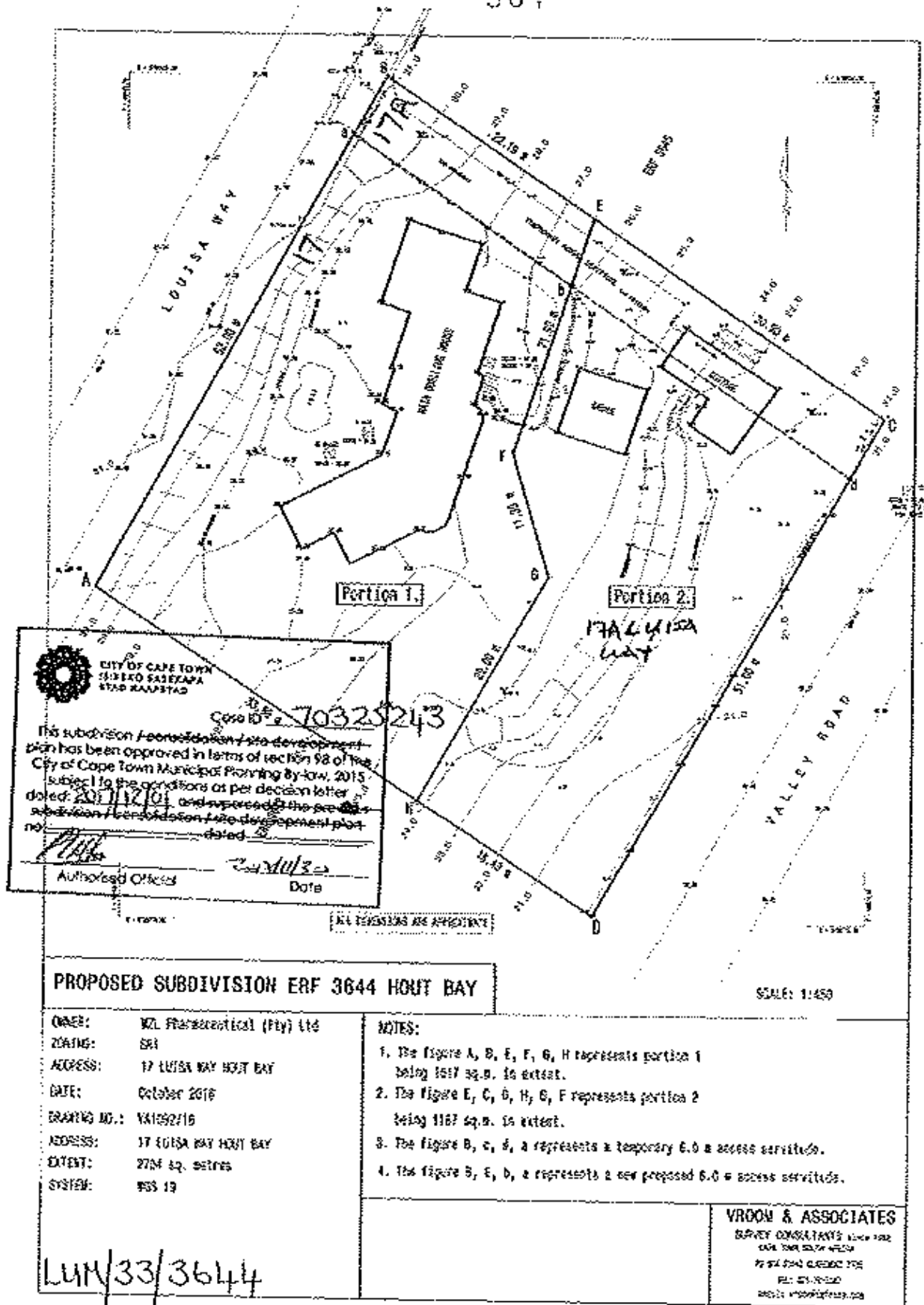


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ANNEXURE A

In this annexure:

302

"Council" means the City of Cape Town

"The owner" means the registered owner of the property

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"Bylaw" & "Development Management Scheme" has the meaning assigned thereto by the City of Cape Town Municipal Planning Bylaw, 2015

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

CASE ID: **70325243**

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

- 1.1 The subdivision of the property into 2 portions (Portion 1 $\pm 1517\text{m}^2$ and Portion 2 $\pm 1187\text{m}^2$) as per plan of subdivision LUM/33/3644.
- 1.2 Item 181(2): to permit each portion to be less than 2700m^2 .

2. CONDITIONS IMPOSED IN TERMS OF SECTION 100 OF THE MUNICIPAL PLANNING BY-LAW, 2015 WHICH MUST BE COMPLIED WITH AT THE COST OF THE DEVELOPER AND TO THE SATISFACTION AND ACCEPTANCE OF THE COUNCIL PRIOR TO THE TRANSFER OR SEPARATE REGISTRATION IN THE DEEDS REGISTRY OF ANY LAND UNIT ARISING FROM THIS SUBDIVISION APPROVAL (SEE SECTION 137 OF THE MUNICIPAL PLANNING BY-LAW):

2.1 Electricity Services

- 2.1.1 A separate service connection cable, rated to supply the authorised capacity of the erf, must be installed to the point of supply on the boundary of each erf of the subdivision. The cable shall be routed clear of all other private property, typically within the public road reserve.
- 2.1.2 In accordance with policy and tariffs approved by Council, a shared network charge shall be paid.
- 2.1.3 In accordance with policy and tariffs approved by Council, a connection fee, to provide a separate connection to the property boundary, shall be paid.

Note: A quote for the shared network charge and connection fee, as well as conditions of supply, will be provided upon formal application.

2.2 Sanitation

- 2.2.1 Separate sewer connections shall be provided for each portion.
- 2.2.2 A sewer servitude shall be registered over Portion 2 in favour of Portion 1 where the sewer serving Portion 1 crosses Portion 2. The width and conditions of the servitude shall be to the satisfaction of the Director: Sanitation.
- 2.2.3 A combined sewer is permitted depending on the layout of the existing drainage and may have to adapt to the criteria/requirements of the Director: Sanitation.

2.3 Water Services

- 2.3.1 All water services infrastructure that cross the lines of subdivision shall be separated by a registered private plumbing contractor.

2.3.2 The applicant will be responsible for all associated costs for relocating any water services infrastructure (inclusive of water meters). 303

2.3.3 Separate water meters shall be supplied for each portion.

2.4 General

2.4.1 The owner shall be responsible for all costs incurred in respect of the upgrading, extension, deviation or removal of any existing stormwater, sewerage, electricity or other services or works, whether on the property of the Council or of any other body whether public or private, which may be requested by the Council or any other body having authority so to require as a result of the development of the property concerned and for any connection costs in respect of such services.

2.5 Development Charge

2.5.1 The owner/developer shall pay a development charge (DC) in accordance with the approved Development Charges Policy for Engineering Services for the City of Cape Town. The total amount payable for the proposed land use right in accordance with the attached DC calculation is R48 134.84. It must be noted that this amount is valid up to 2018-06-30 and that the amount will be escalated annually with the Construction Price Adjustment Formula (CPAF) using the industry indices of StatsSA.

2.6 Access Servitude

2.6.1 A 6m wide servitude for right of way and services shall be registered over Portion 1 in favour of Portion 2, as depicted on plan of subdivision LUM/33/3644.

VROOM & ASSOCIATES
SURVEY CONSULTANTS 304
 SINCE 1982
 CAPE TOWN SOUTH AFRICA

P O BOX 23443 CLAREMONT 7735
 HIGHWICK DRIVE KENILWORTH

TEL: (021)7612287 FAX: 0866855404
 EMAIL: vroom@iafrica.com

City of Cape Town
 Planning and Building Development Management
 Plumstead Office

Motivation – revision 1D(30/11/2018)

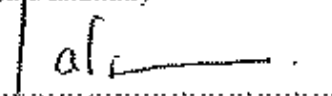
1. The Owner of erf 3644 Luisa Way Hout Bay, is submitting an application to remove the Title Deed condition 'L', from title deed No. T37402/03, dated 26/03/2003.
2. Condition 'K', which appears before condition 'L' in the Title Deed, refers to a temporary servitude 6 (six) metres wide that is registered over erf 3644 Hout Bay in favour of erven 3637, 3640, 3641, 3646, 3643 & 3642 Hout Bay (see attached diagram erf 2199). This temporary servitude will be removed by notarial cancellation, after confirmation from the City that the relevant public roads referred to in the condition have been established. Two public roads have already been established, being Luisa Way and Valley Road.
3. Condition 'L' states the following, *"That no direct access be allowed to Valley Road, Hout Bay (after the temporary access servitude referred to in Condition K above, has been uplifted)".*

In support of our request to have Title Deed condition 'L' removed, we motivate this application in respect of section 99(3) of the MPBL's.

- (a) Providing access to Valley Road for erf 3644 Hout Bay will have no socio and cultural impact on the lives of people and their circumstances abutting this erf. The intention is to provide access for the approved subdivision of Portion 1 of erf 3644 Hout Bay from Valley Road, and not via a 'right of way' via Luisa Way.
- (d) At present various erven are already accessing Valley Road, and they are numbers 27, 25, 23 & 21 Valley Road. Providing access will not be changing the circumstances with respect to abutting erven. Please see the attached PDF images.
- (e) Erf 3644 Hout Bay and the second dwelling (which is situated on Portion 1) already has its own Municipal services, therefore there will be no impact on the external engineering services.
- (f) The impact of safety, health and wellbeing of the surrounding community will not be affected by the removal of this title deed condition.
- (g) Erf 3644 is not affected by Heritage elements.
- (h) There will be no impact on the biophysical environment, as providing access to Valley Road will not change the elements forming the biophysical environment.

- (i) By providing another access point onto Valley Road, it will not affect the abutting erven or the flow of traffic onto Valley Road. The boundary line length that faces onto Valley Road is 51m. The line of sight in both directions is good for at least 100 meters. There are no demarcated parking bays on Valley Road, so it will not affect public parking spaces.
4. Our comment with regards to LUPA and SPLUMA section 47 of Act No.16 of 2013 relating to the removal, suspension or amendment of restrictive conditions;
1. The application to remove the title deed restriction that prevents access onto Valley Road will not adversely affect section 25 of the Constitution or Act No.16 of 2013.
 2. The removal of this title deed clause will not affect anybody else's respective rights or interest. This condition only affects the owner of erf 3644 Hout Bay.
 3. Access was always available from Luisa Way down to Valley Road via a 6 metre wide servitude (diagram No.496/75) put in place for the following erven, 3637, 3640, 3641, 3646, 3643, 3644 & 3642 Hout Bay. This servitude was to remain active until access via a Public Road was made available for the said erven. This is now the case, and this clause can now be removed from the title deed.
 4. The removal of this title deed condition will have no financial implications or loss to any other party.
 5. This title deed condition does not benefit any organ of state and they will therefore not be adversely affected.
 6. On the granting of the removal of this title deed condition, the owner will immediately instruct their acting Attorney to apply to the registrar of Deeds to have the restriction removed.
 7. The main benefit to the owner of erf 3644 Hout Bay in having this title deed restriction removed, is that it will provide a separate access for the newly subdivided portion of erf 3644 Hout Bay (being unregistered diagram No.424/18).
 8. There is no social benefit in this restrictive clause staying in place as other properties already enjoy access onto Valley Road including the abutting neighbours.
 9. With respect to the desirability of this proposal to have the restrictive condition removed, it can be viewed as being desirable as it would increase a better spatial development of the approved subdivision, by allowing better access to the subdivided land unit.
5. The present access point for Erf 3644 and the approved subdivision of Portion I, is via Luisa Way. Please refer to the attached site survey.

Yours faithfully


 L.A. Vroom

Date: 28/11/2018

L.A.Vroom (Managing) (N.Dip.Survey)(SAGC)(SAGI); Associate PLS J.Blyth B.Sc.(UCT);

and PLS Alex Bröel B.Sc.(UCT).

Patrick John Absolon

From: Alvin Cope <Alvin.Cope@westerncape.gov.za>
Sent: Monday, January 14, 2019 2:53 PM
To: Yushra Larnie
Subject: RE: ERF 3644 HOUT BAY, 17 LUISA WAY & VALLEY ROAD
Attachments: RE ERF 3468 HOUT BAY, 7 LUISA WAY & VALLEY ROAD - to Alvin Cope PRE

Hi Ms YL,

1. Your e-m below of 7 January 2019; Case ID: 70389137.
2. The contents of my e-m to you of 29 August 2018 apply *mutatis mutandis* to this application.

Thanx,

Regards.

A

Alvin L Cope
WCG
9 Dorp Street
P O Box 2603
Cape Town 8000
Road Network Management - Room 3-36
+27 21 483 2009 (tel)
Alvin.Cope@WesternCape.Gov.ZA



From: Yushra Larnie <Yushra.Larnie@capetown.gov.za>
Sent: 07 January 2019 10:11 AM
To: Alvin Cope <Alvin.Cope@westerncape.gov.za>
Cc: Patrick John Absolon <Patrick.Absolon@capetown.gov.za>
Subject: ERF 3644 HOUT BAY, 17 LUISA WAY & VALLEY ROAD

Good day Mr Cope

Case ID: 70389137

PROPOSED DELETION OF A RESTRICTIVE TITLE DEED CONDITION & DELETION OF A CONDITION OF AN EXISTING APPROVAL IN TERMS OF THE MUNICIPAL PLANNING BY-LAW, 2015: ERF 3644 HOUT BAY, 17 LUISA WAY & VALLEY ROAD

Please see attached notice for your comment.

Regards

Yushra Larnie
Customer Interface
Development Management

307

Ground floor, Plumstead Administration Building
3 Victoria Road, Plumstead, 7800

T + 27 21 444 2623

F + 27 21 444 3798

E yushra.larnie@capetown.gov.za

W www.capetown.gov.za



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and Urban Development Authority*

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Patrick John Absolon

From: Alvin Cope <Alvin.Cope@westerncape.gov.za>
Sent: Wednesday, August 29, 2018 8:44 AM
To: Yushra Larnie
Cc: Patrick John Absolon
Subject: RE: ERF 3468 HOUT BAY, 7 LUISA WAY & VALLEY ROAD - to Alvin Cope PRE

Hi Ms YL,

1. Your e-m of 28 August 2018 and accompanying docs; Case ID: 70356205.
2. Pl note that in terms of Section 66. (3) of the Roads Ordinance (Ord 19 of 1976), Valley Road is no longer PDR 1033, but is a Municipal Street under the sole jurisdiction of the City of Cape Town.
3. Accordingly, as it is clear that we are not involved as the Controlling Authority in terms of Act 21 of 1940 in the Title Deed, the Removal of Restrictions is now the responsibility of the Local Authority, all the decisions to do with this proposal must be made by the City of Cape Town, with no involvement at all from this Branch.

Thanx,

Regards.

A

Alvin L Cope
 WCG
 9 Dorp Street
 P O Box 2603
 Cape Town 8000
 Road Network Management - Room 3-36
 +27 21 483 2009 (tel)
Alvin.Cope@WesternCape.Gov.ZA



591174

From: Yushra Larnie [<mailto:Yushra.Larnie@capetown.gov.za>]
Sent: 28 August 2018 04:32 PM
To: Alvin Cope <Alvin.Cope@westerncape.gov.za>
Cc: Patrick John Absolon <Patrick.Absolon@capetown.gov.za>
Subject: ERF 3468 HOUT BAY, 7 LUISA WAY & VALLEY ROAD - to Alvin Cope PRE

Good day Mr Cope

Case ID: 70356205

- PROPOSED SUBDIVISION, DEPARTURE, DELETION OF RESTRICTIVE TITLE DEED CONDITION & DELETION OF A CONDITION OF AN EXISTING APPROVAL IN TERMS OF THE MUNICIPAL PLANNING BY-LAW, 2015: ERF 3468 HOUT BAY, 7 LUISA WAY & VALLEY ROAD

309

Herewith attached the following documents:

- Notice
- Locality
- Motivation
- Subdivision Plan
-

Relating to the above application, please provide this office with your written comment within 60 days from the date of this email notification.

Due date for comment: 31 October 2018

Regards

Yushra Larnie
Customer Interface
Development Management

Ground Floor, Plumstead Administration Building
3 Victoria Road, Plumstead, 7800

T + 27 21 444 2623

F + 27 21 444 3798

E yushra.larnie@capetown.gov.za

W www.capetown.gov.za



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and Urban Development Authority

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disclaimer@capetown.gov.za and a copy will be provided to you. By replying to this e-mail or opening any
attachment you agree to be bound by the provisions of the disclaimer.



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The City of Cape Town's Transport
and Urban Development Authority

310

Volante Bruinlles

Senior Professional Officer – IDA

Southern Region (Pumstead & Athlone District)

Tel: +27 21 444-9519

E-mail: volante.bruinlles@capetown.gov.za

Address: 3 Victoria Road, 1st Floor, Pumstead, 7800

Our File Ref no : W6 – Erf 3644, Hout Bay
Application no/(Your File Ref No): 70389137

MEMORANDUM

Integrated Transport Planning (ITP) Department

Transport Impact Assessment and Development Control

DATE / DATUM: 21 December 2018

TO / AAN: Transport and Urban Development Authority (IDA)

ATT / AANDAG: Mr P Absolon (City of Cape Town, Southern Region, Pumstead District office)

**APPLICATION TO PERMIT DELETION OF CONDITION OF APPROVAL AND REMOVAL OF
RESTRICTIONS ON ERF 3644, HOUT BAY:
IDA – INTEGRATED TRANSPORT PLANNING COMMENT**

With reference to your application for deletion of condition of approval and removal of restrictions on Erf 3644 (Hout Bay) to permit access off Valley Road, this department comments as follows:-

This branch offers no objection to this application, subject to the following:-

1. A Site Development Plan (SDP)/Building plan must be submitted prior to commencement of any works in order to validate all internal services such as access layout, traffic circulation, parking etc.

Note: (1) All new work proposed within the road reserve must be designed and built to the design standards prescribed by the TDA: Asset Management and Maintenance Branch. (2) Should any fixtures (light poles, drainage systems, trees or fire hydrants) within the road reserve need to be removed or relocated, approval must be obtained from the relevant City Branch prior to commencement of works.

I trust that this is in order but should you require further input please contact Volante Bruinlles from the Transport Department.

Regards,

Volante Bruinlles

Senior Professional Officer – Southern Region

Transport Impact Assessment and Development Control

South Peninsula

3 Victoria Road, Pumstead, 7800
Private Bag X5
Pumstead, 7800

Nishana Koloni

3 Victoria Road, Pumstead, 7800
Private Bag X5
Pumstead, 7800

Subi Skerckland

3 Victoria Road, Pumstead, 7800
Private Bag X5
Pumstead, 7800

www.capetown.gov.za

ANNEXURE G

11
 BUCHANAN BOYES ATTORNEYS
 No. 3 Northpoint Centre
 Cnr Marine Circle & Porterfield Road
 TABLE VIEW
 7441

311

Prepared by me

Ilze Du Toit
 CONVEYANCER
~~LOTZ-DE~~
 Ilze Du Toit

CERTIFIED A TRUE COPY OF THE
 ORIGINAL

Abrie
 LAURES DANIELS
 COMMISSIONER OF OATHS (RSA)
 PRACTISING ATTORNEY, R.S.A.
 BUCHANAN CHAMBERS
 Cnr. WATKINS STREET & PEARCE ROAD
 CLAREMONT, 7708

SEARCH DUTY	R	
FOOT FEE	R	500

VERBIND		MORTGAGED	
NO FOR R 1233 000 00			
B	022031/2003		
ZET-01-30			

T000037402/2003

DEED OF TRANSFER

DATE	
28-5	L MUR

BE IT HEREBY MADE KNOWN THAT

DARREN ELOY BRANDER

appeared before me, REGISTRAR OF DEEDS, at CAPE TOWN, the said
 appraiser being duly authorised thereto by a Power of Attorney which said Power
 of Attorney was signed at CAPE TOWN on 26 MARCH 2003 granted to him by

1. GLENN FRANCIS MILLEN
 Identity Number 650514 5094 08 4
 Married out of community of property
2. KAREN MILLEN (FORMERLY JANSEN VAN RENSBURG)
 Identity Number 720201 0038 08 6
 Married out of community of property

VIR ENDOSSEMENTE KYK BLADSY 7
 FOR ENDORSEMENTS SEE PAGE 7 ET SEQ

And the appearer declared that his said principal had, on 23 February 2003, truly and legally sold by Private Treaty, and that he, the said Appearer, in his capacity aforesaid, did, by these presents, cede and transfer to and on his own behalf of:

MZL PHARMACEUTICALS (PROPRIETARY) LIMITED
No. 1990/005011/07

its Successors in Title or assigns, in full and **CERTIFIED A TRUE COPY OF THE ORIGINAL**

ERF 3844 HOUT BAY
IN THE CITY OF CAPE TOWN
CAPE DIVISION, WESTERN CAPE

Deniel
LAWYER
PROV. SIGNED BY OATHS (RSA)
PROV. SIGNED BY ATTORNEY, R.S.A.
SULLIVAN CHAMBERS
401 MANWICK STREET & PEARCE ROAD
CLAREMONT (FOUR AND FOUR)

IN EXTENT 2704 (TWO THOUSAND SEVEN HUNDRED AND FOUR)
SQUARE METRES

FIRST TRANSFERRED by Deed of Transfer No. T5469/1978 with Diagram No. 498/1975 relating thereto and HELD by Deed of Transfer No. T43841/1995

- A. SUBJECT to such conditions as are referred to in Certificate of Uniform Title No. T15385/1951.
- B. SUBJECT FURTHER AND ENTITLED to the following conditions, contained in Deed of Transfer No. T16483/1903, reading as follows:-
- (1) That all existing roads shall remain as heretofore;
 - (2) That the road 9,45 metres wide shown along the south western boundary of Lots 2,3,4 and 5 of the remaining extent of the said farm Kronendal, extending to the Sea, shall be for the common use of the property hereby transferred and the said lots this day transferred to J Wakelin;
- C. SUBJECT FURTHER to the reservation to the State of "all rights to gold, silver and precious stones", as embodied on the Certificate of Mineral Rights No. 120/1951 and referred to in the said Certificate of Uniform Title No. T15385/1951.
- D. ENTITLED to the terms of the endorsement dated 29 January 1974 on Deed of Transfer No. T11748/1964, namely:-
- "By Deeds of Transfer Numbers 2078/74, 2078/74, 2077/74 and 2078/74 dated this day the properties conveyed thereby namely Erf 3281 Hout Bay meas. 7453 sq. metres, Erf 3257 Hout Bay meas. 3998 sq. m, Erf 3258 Hout Bay meas. 3915 sq. m, and Erf 3259 Hout Bay meas. 3905 sq. m, respectively are subject to the conditions relating to height of building structures and trees which may be erected or planted on the said erven as well as a boundary line restriction i.f.o. the remainder of Erf 2199 Hout Bay meas. 5,4139 ha held hereunder. As will more fully appear on reference to the said Deeds of Transfer."

Jdt

313

E. ENTITLED to the terms of the endorsement dated 29 January 1974 on Deed of Transfer No. T11748/1964, namely:-

"By Deed of Transfer No. 2079/74 dated this day Erf 3267 Hout Bay meas. 3981 sq.m. transferred thereby is subject to

- (a) Conds. relating to height of buildings, structures and trees which may be erected or planted thereon as well as a boundary line restriction.
- (b)

As will more fully appear on reference to said Deed of Transfer."

F. SUBJECT FURTHER to the terms of the endorsement dated 17 December 1976 on Deed of Transfer No. T11748/1964, namely:-

"By Deed of Transfer No. T39757/1976 the following conditions were imposed against the remainder of the within property measuring 5,1429 ha by the Administrator of the Cape in terms of Section 9 of Ordinance 33/34 and Section 196 of Ord. 15/52 with approving of the subdivision:-

1. 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 sewage and drainage, including stormwater of any other erf or erf to be conveyed across this erf, if deemed necessary by the local 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 inspection any works connected with the above.
2. 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."

CERTIFIED A TRUE COPY OF THE
ORIGINAL

JAMES DANIELS
COMMISSIONER OF OATHS (RSA)
PRACTISING ATTORNEY, R.S.A.
BUCHANAN CHAMBERS
ONE WARRICK STREET & PEARCE ROAD
CLAREMONT, 7703

G. SUBJECT FURTHER to the terms of the endorsement dated 17 December 1976 on Deed of Transfer No. T11748/1964, namely:-

"Remainder

By Deed of Transfer No. T39757/1976 dated this day the remainder of the within property is subject to a temporary servitude Right of Way in favour of Erf 3638 meas. 2710 sq. m., the servitude is depicted by the figure efgh on Diagram No. 490/75 annexed thereto",

which servitude is indicated on the aforesaid Diagram No. 490/75 by the letters bcfe."

H. ENTITLED to the terms of the endorsement dated 17 December 1976 on Deed of Transfer No. T11748/1964, namely:-

Jdt

"By Deed of Transfer No. T39767/76 dated this day the property thereby conveyed namely Erf 3638 Hout Bay meas. 2710 sq. m. is subject to conditions relating to heights of buildings, structures and trees which may be erected or planted on the said Erf as well as a boundary line restriction i.f.o. the remainder of Erf 2199 meas. 5,1429 ha held hereunder."

1. **SUBJECT FURTHER** to the terms of the endorsement dated 20 June 1977 on Deed of Transfer No. T11748/1964, namely:-

"Remainder"

By Deed of Transfer No. T14952/1977 dated this day, the Remainder of the within property is subject to a temporary servitude Right of Way 6 metres wide in favour of Erf 3645 meas. 2898 sq. m., the servitude is depicted by the figure adde on Diagram No. 497/76 annexed thereto",

which servitude is indicated on the annexed Diagram No. 498/75 by the letters b-e-f-e."

2. **ENTITLED** to the terms of endorsement dated 20 June 1977 on Deed of Transfer No. T11748/1964, namely:-

"By Deed of Transfer No. T14952/77 dated this day, the property thereby conveyed namely Erf 3645 Hout Bay meas. 2898 sq. m. is subject to conditions relating to heights of buildings, structures and trees which may be erected or planted on the said erf as well as a boundary line restriction i.f.o. the remainder of Erf 2199 meas. 4,8731 ha held hereunder. As will more fully appear on reference to said Deed of Transfer."

SUBJECT FURTHER to the following condition, contained in Deed of Transfer No. T2489/1978, imposed by the Administrator of the Cape of Good Hope in terms of Section 9(9) of Ordinance no. 33/1934 as amended, when approving of the subdivision, and which reads as follows:-

"A temporary servitude of access 6 (six) metres wide in favour of:

Erf No. 3337, portion of Erf 2199 Hout Bay, measuring : 2691 sq. metres held by Deed of Transfer No. T5473/78 dated this day;

Erf No. 3840, portion of Erf 2199 Hout Bay, measuring : 2715 sq. metres held by Deed of Transfer No. T5474/78 dated this day;

Erf No. 3841, portion of Erf 2199 Hout Bay, measuring : 2695 sq. metres held by Deed of Transfer No. T5475/78 dated this day;

Erf No. 3646, portion of Erf 2199 Hout Bay, measuring : 2719 sq. metres held by Deed of Transfer No. T5472/78 dated this day;

Erf No. 3843, portion of Erf 2199 Hout Bay, measuring : 2719 sq. metres held by Deed of Transfer No. T6470/78 dated this day;

Erf No. 3842, portion of Erf 2199 Hout Bay, measuring : 2750 sq. metres held by Deed of Transfer No. T5471/78 dated this day;

until there is access to a public road. The said servitude is indicated by the letters b-e-f-e on the annexed diagram No. 496/75.

CERTIFIED A TRUE COPY OF THE
ORIGINAL

LAMEES DANIELS
COMMISSIONER OF OATHS (RSA)
PRACTISING ATTORNEY, R.S.A.
BUCHANAN CHAMBERS
CNR. WATKINS STREET & PEARCE ROAD
CLAREMONT, 7708

Jdt

315

- L. SUBJECT FURTHER to the following condition, contained in Deed of Transfer No. T5468/1978, imposed by the Administrator of the Cape of Good Hope in terms of Section 8(9) of Ordinance No. 33/1934, as amended, when approving of the subdivision and which reads as follows:-

*That no direct access be allowed to Valley Road, Hout Bay (after the temporary access servitude referred to in Condition K above, has been uplifted).

CERTIFIED A TRUE COPY OF THE
ORIGINAL

Daniels
LAMEES DANIELS
COMMISSIONER OF OATHS (RSA)
PRACTISING ATTORNEY, R.S.A.
ONE WILSON CHAMBERS
ONE WILSON STREET & PEARCE ROAD
CENTRAL 1016

DM

316

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

1. GLENN FRANCIS MILLEN, Married as aforesaid
2. KARIEN MILLEN (FORMERLY JANSEN VAN RENSBURG), Married as aforesaid

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

MZL PHARMACEUTICALS (PROPRIETARY) LIMITED
No. 1980/005911/07

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 to be the sum of R1 370 000,00 (ONE MILLION THREE HUNDRED AND SEVENTY 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 30 April 2003

In my presence


REGISTRAR OF DEEDS

CERTIFIED A TRUE COPY OF THE ORIGINAL

Daniels
LANEES DANIELS
COMMISSIONER OF OATHS (RSA)
PRACTISING ATTORNEY, R.S.A.
DUCHANAN CHAKKERS
CHR. WARVICK STREET & PEARCE ROAD
CLAREMONT, 7708

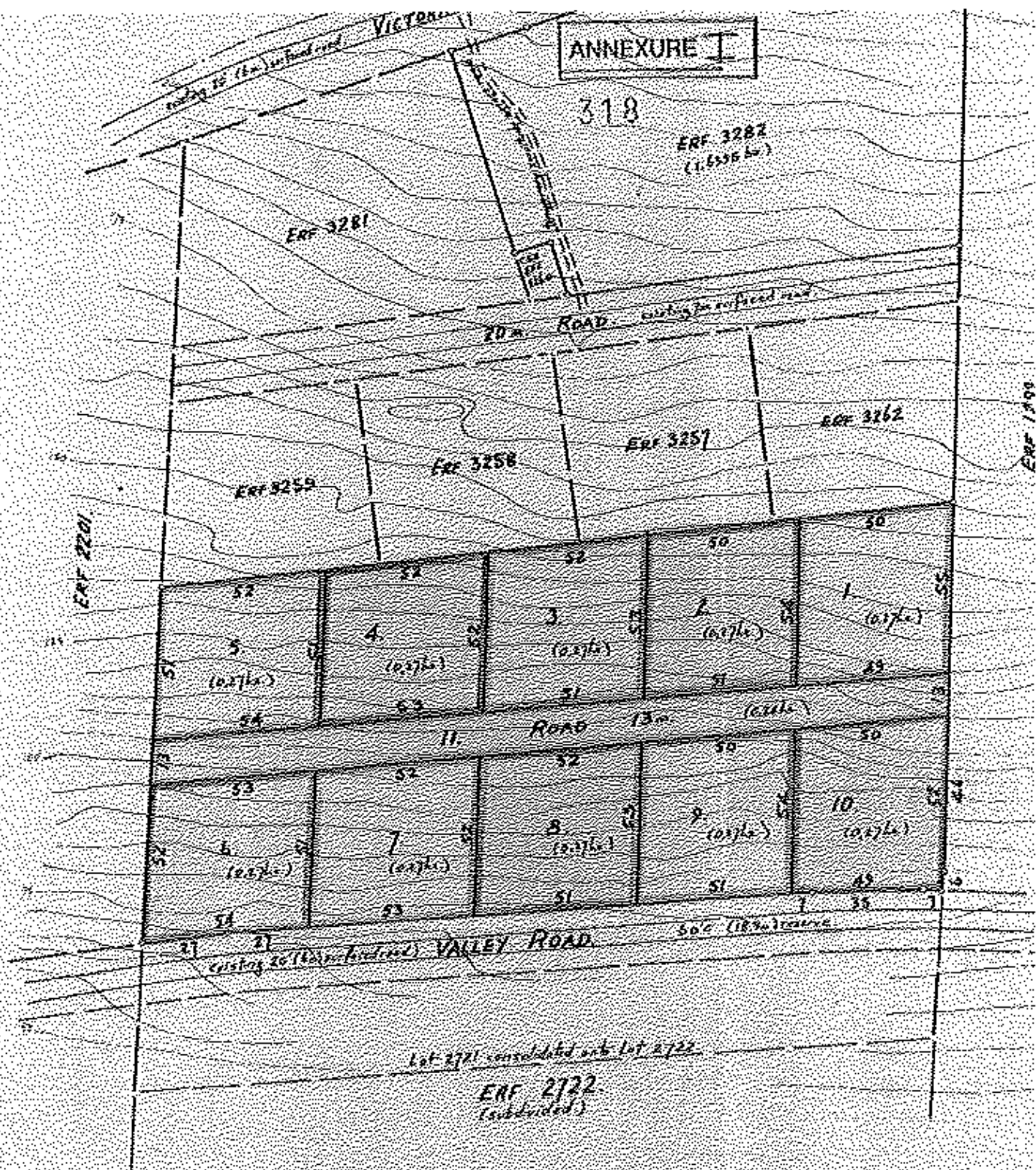
John

317

VERBIND . MORTGAGED	
VER FOR R 364 000,00	
B 0111018355/2007	
27 FEB 2007	
REGISTRATEUR DER GEDINGEN	

CERTIFIED A TRUE COPY OF THE
ORIGINAL

Lamere Daniels
 LAMERE DANIELS
 COMMISSIONER OF OATHS (RSA)
 PRACTISING ATTORNEY, R.S.A.
 BUCHANAN CHAMBERS
 ONE WARRICK STREET & PEARCE ROAD
 CLAREMONT, 7708

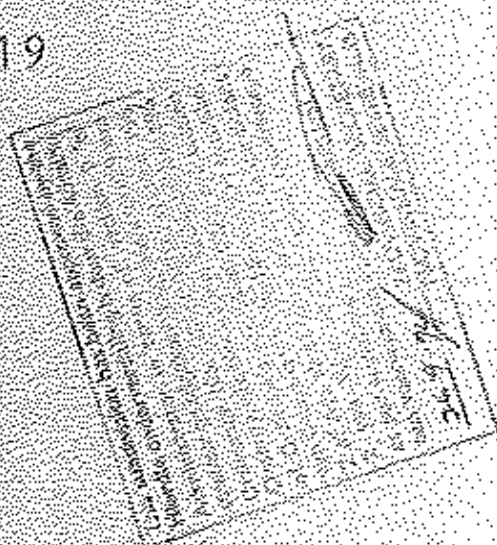


PROPOSED PLAN OF SUBDIVISION
OF ERF 3261, PORTION OF THE REMAINDER OF ERF 2199, HOUT L
 VIDE DIAGRAM 8566/1954 ANNEXED TO DEED OF TRANSFER 11740/64
 (previously issued to Deed of Transfer 3420/56) AND SUBSEQUENT DEDUCTIONS.
AREA: 3.0486 HECTARES.
SCALE: 1:1200.

2199/22.

[Signature]

319



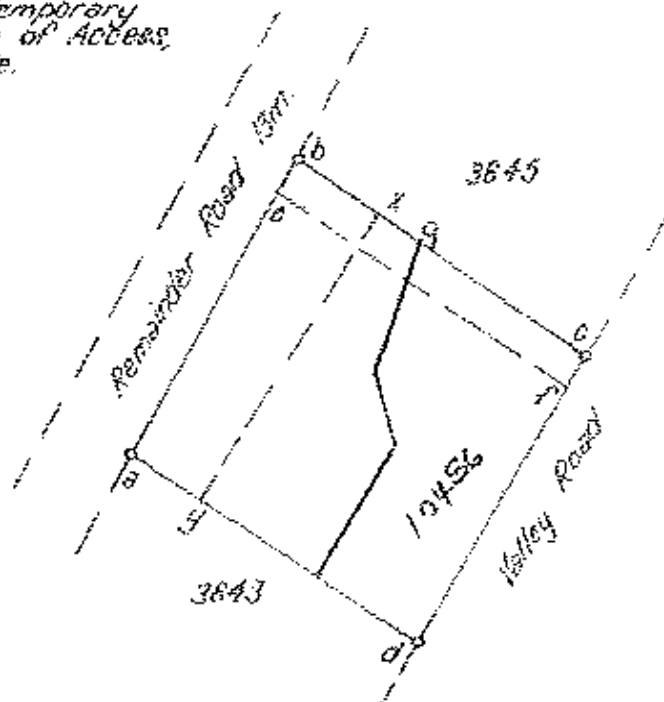
B. D. Harris, Land Surveyor, Cape Town

SIDES Metres	ANGLES OF DIRECTION		CO-ORDINATES System to 19		S.O. No.
			Y	X	
	Constant:		+ 59009,00	+376600,00	49875 Approved <i>J. B. Latt</i> Surveyor-General 7.2.1975.
ab	52,00	a	+ 679,77	+ 379,95	
bc	53,09	b	+ 654,63	+ 334,33	
cd	51,00	c	+ 611,07	+ 364,39	
da	52,31	d	+ 636,14	+ 409,61	
	24 A 3		+ 693,14	+ 531,52	
	25 A 3		+ 577,68	+ 317,77	

Description of Reasons:

a,b,c,d - section standards.

The figure here represents a temporary Servitude of Access, 8 m. wide.



Scale: 1/1000

The figure abcd

represents 2705 square metres

of land, being

ERF 3644 Portion of Erf 3261 HOUT BAY

situate in the Local Area of Hout Bay,

Administrative District of the Cape,

Province of Cape of Good Hope.

Surveyed in October and November, 1974,

by me, and January, 1975.

This diagram is annexed to <i>2/1</i> No. <i>5469/1970</i> dated i.f.o.	The original diagram is <i>17560/54</i> No. <i>576/73</i> annexed to Transfer/Grant No. <i>1956 G.D. 3420</i>	File No. <i>S. 5327/55</i>
		S.R. No. <i>3.138/75</i>
		Comp. BA <i>Att. 184/45, X51</i> <i>(4,7)</i>
		<i>M 243</i>
Registrar of Deeds		

S. 5327/55

FOR FURTHER INFORMATION
SEE BACK OF DIAGRAM

3644

321

T: +27 (0) 21 673 4709

F: +27 (0) 21 673 4701

2nd Floor Buchanan's Chambers

Civ Warwick Street & Pearce Road, Clarendon 7702

P.O. Box 29355, Clatsmont, 7735

DX 9, C:\WINDOWS\

lance6@stb.co.za | www.stb.co.za

TO WHOM IT MAY CONCERN

Your Ref: ERF 3544 HQJT BAY

Our Ref: A69W167LemoesDoricks

Date: 28 November 2018

Dear Sir/Madam

NOTARIAL CANCELLATION OF TEMPORARY ACCESS SERVITUDE REGISTERED OVER ERF
3844 HOUT BAY

3644 HOUL BAY

We confirm that we have been instructed to attend to the cancellation of the temporary access servitude registered over Erf 3644 Hoult Bay (highlighted on the attached holding deed).

We confirm further that we will attend to the subject notarial cancellation as soon as we have received written confirmation from the City of Cape Town that the relevant public roads have been established and that the temporary servitude may therefore be cancelled.

Kindly direct any queries to the writer.

Yours faithfully,

SMITH TABATA BUCHANAN BOYES

[illegible][illegible]

Page 10 of 10 Doc ID: 33274231-2471
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