



REPORT TO: **MUNICIPAL PLANNING TRIBUNAL**

WARD 71: APPLICATION FOR DEPARTURES IN TERMS OF THE MUNICIPAL PLANNING BY-LAW, 2015: ERF 9299 CONSTANTIA, 7 SEA BREEZE ROAD, KIRSTENHOF

MPTSW09/11/19

Case ID	70409544
Case Officer	Y Joffa
Case Officer phone number	021 444 9536
District	Southern
Ward	71
Ward Councillor	P East
Report date	25 October 2019

1. EXECUTIVE SUMMARY

Property description	Erf 9299 Constantia
Property address	7 Sea Breeze Road, Kirstenhof
Application components / description	<ul style="list-style-type: none"> Application for departures, as set out in Annexure A, relating to street and common boundary setbacks. This is in order to erect additions to existing dwelling house and erect a second dwelling on the property as per the site development plan (SDP) attached as Annexure C.
Site extent	752m ²
Current zoning	Single Residential Zone 1
Current land use	Dwelling house
Overlay zone applicable	Constantia Tokai Local area Overlay Zone
PHRA or SAHRA heritage	No
Public participation outcome summary	1 objection received.
Recommended decision	
Approval	✓
Refusal	
Approval in part & Refusal in part	

2. BACKGROUND FACTS

- 2.1. An application for departures to permit a second dwelling and additions to the existing dwelling house on the property was submitted on 17 October 2017. The application was closed due to the applicant's failure to submit additional information timeously.
- 2.2. After advertising, the applicant amended the proposed SDP in an attempt to mitigate the potential impact on the objector (Erf 4702). The changes include a reconfiguration of the layout of the first floor which places circulation space on the east (as opposed to bedrooms as advertised) and proposes smaller windows facing Erf 4702. The advertised and amended SDPs are attached as Annexures D & C respectively. As the amendments were made to mitigate the impact on the neighbour to the east, it is not necessary to re-advertise the application.

3. SUMMARY OF APPLICANT'S MOTIVATION 199

- 3.1. The applicant's motivation (see Annexure E) may be summarised as follows:
- The departure does not lead to loss of privacy.
 - Setting back the building by a further 1.5m will not change the extent to which the backyard is visible from the 1st floor of the proposed building.
 - The internal layout of the proposed building on the first floor takes into consideration the privacy of the building neighbouring to the east.
 - The openings along the eastern common boundary are small and high.
 - There will be no impact on views.
 - There is no departure from height.
 - The proposed departures will reduce the space which would serve as an alley.
 - The departures will result in increasing the useable space to create enjoyable garden space for the subject property.
 - Approving the departures will have land use intensification benefits which in turn will result in increased rates which is beneficial to the City.
 - Garages close to the street boundary are not uncommon in the area.
 - The proposed garage is one storey and will not result in overshadowing on the neighbouring property to the south.
 - Buildings close to the street are not uncommon in the area.
 - The architectural design elements proposed are in keeping with the surrounding area.

4. PUBLIC PARTICIPATION

		Applicable	Dates / Comments
Advertising	Notice in the media (s81)		
	Notice to a person (s82)	✓	13 March 2019
	Notice to Community organization (s83)	✓	13 March 2019
	Notice to Ward Councillor (s83)	✓	12 March 2019
	Notice of no objection (s84)		
	Notice to Provincial Government (s86)		
	Notice to an Organ of State (s87)		
	Public meeting		
	On-site display		
Outcome	Objections	✓	1 objection was received.
	Objection petition		
	Support / No objection		
	Comments		
	Ward Councillor response		

Summary of objection received

- 4.1. The objection received (see Annexure F) may be summarised as follows:
- The proposed building will have a negative visual impact on Erf 4702.
 - The proposal will result in the loss of views from Erf 4702.
 - The proposal will have a negative impact on the value of Erf 4702 when Erf 4702 is redeveloped.

Summary of applicant's response to public participation

- 4.2. The applicant's response to the objection (see Annexure G) may be summarised as follows:
- There is no objection relating to the street setback departure.
 - Setting the building back by further 1.5m will not change the visibility range into Erf 4702 from the proposed upper storey.
 - The departure does not lead to a loss of privacy.
 - As a response to objections, the proposed internal layout was changed to mitigate any potential impact on the neighbouring property.
 - The objection relating to views is unreasonable as there is no departure from height.
 - The objector's property is zoned General Residential Subzone GR2 with a permissible height of 15m. A sketch is attached demonstrating the impact on the property.

5. BACKGROUND TO PROPOSAL

Description of the area / surrounding land uses

- 5.1. The subject property is located in area that can be characterized as middle income, relatively low density, suburban residential area consisting of detached dwelling houses on large properties, blocks of flats and group housing schemes. The property abutting to the east (Erf4702) contains the Kirstenhof Police Station.

Zoning

- 5.2. As can be seen on Annexure B, the subject property is zoned Single Residential Zone 1. In the immediate area are properties zoned Single Residential Zone 1, General Residential Subzones GR1 & GR2, Community Zone 1 and Open Space Zone 2.

Property description

- 5.3. The subject property is large in size and is developed with a single store dwelling house, detached garage and a wendy house (which will be demolished).

Proposed development

- 5.4. Additions & alterations to the existing dwelling house as well as a proposed second dwelling are proposed, as per the SDP attached as Annexure C. The application requires departures, as set out in Annexure A, relating to the street and common boundary setbacks.

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 general requirements of the MPBL.
 - As the proposed building work has not yet been constructed, no administrative penalty is required.

- 6.1.2. Compliance or consistence with the Municipal Spatial Development Framework.
- The property is located in an area identified as *Urban Inner Core* and within a Structuring Corridor in terms of the MSDF. The proposal will result in contextually appropriate densification which is supported by the MSDF.
- 6.1.3. Consideration in terms of Section 99(3) of the desirability of the following criteria:
- a. Socio-economic impact: The proposal will indirectly result in a positive socio-economic impact; jobs will be created during construction phase and will result in increased investment in the property.
 - b. Compatibility with surrounding uses:
 - The property is located in a residential area. The proposed additions are entirely residential, and are compatible with the surrounding uses.
 - The first floor windows facing east are relatively small and in most cases relate to a passage and bathroom.
 - The buildings in the immediate area to the south, north and east are all single storey. Some buildings to the west are 2 storeys with architectural features breaking up the massing of the buildings. The proposed additions are to the rear of the property. The existing portion of the dwelling house will be kept as a single storey. This will ensure that the view of the property from the street is not significantly impacted on and that the character of the area is not changed.
 - Garages located close to the street boundaries are not uncommon in the area. In this instance the garage will not dominate the streetscape and will be setback 3.5m from the street. Furthermore, the impact on the street is mitigated by the wide width (exceeds 13m) of Sea Breeze Road.
 - c. Impact on the external engineering services: The proposal will not have a negative impact on the external engineering services. Although a second dwelling is proposed, as it is less than 60m², no development contribution is payable.
 - d. Impact on safety, health and wellbeing of the surrounding community:
 - The openings on the building overlooking on the property abutting to the east will not overlook into any living areas on the property.
 - The proposal will not have a negative impact on the safety, health and wellbeing of the surrounding community.
 - e. Impact on heritage: The property is not within a heritage protection overlay zone and the building on the property is not older than 60 years. The proposal will not have a negative impact on heritage.
 - f. Impact on the biophysical environment: The property is already developed and is not environmentally sensitive. No trees are affected by the proposal. There will be no impact on the biophysical environment.
 - g. Traffic impacts, parking, access and other transport related considerations:
 - The proposal does not include any transport related applications. Enough parking as per the requirements of the DMS will be provided.
 - The subject property is subject to title deed conditions (conditions 2 and 4 in title deed number T4269/2016) relating to structures within a certain distance from the centre line of the road and a condition

prohibiting any further dwelling houses without the written approval of the controlling authority (Provincial Department of Transport and Public Works) as defined in Act No. 21/1940. The application has been referred to the controlling authority to grant its consent. Note that such consent is not necessary prior to the approval of the land use application.

- The proposal will not have a negative transport impact.
- h. Conditions that can mitigate an adverse impact of the proposed land use:
 - None required.

- 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 MSDP as explained in Section 6.1.2 above.
 - The proposal is not inconsistent with the Southern District Plan; the subject property is located in an area designated as urban development.
- 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
- The proposal is consistent with the Main Road Growth Management Strategy. In terms of the policy, the property is located in a residential area where appropriate residential densification is supported.
- 6.2.4. Consideration in terms of Section 99(3) of the extent of desirability of the following criteria:
- See Section 6.3.1 above.
- 6.2.5. Impact on existing rights
- The proposal will not have a significant impact on existing rights.
 - It is unlikely that setting the building back a further 1.5m from the common boundary will have meaningful improved impact from the neighbouring property to the east.
 - The building from base level to top of the roof is 7.682, which is significantly lower than 11m that could be built as of right.
 - A substantially larger building with similar or greater impact could be built as of right compared to what is proposed.

- The first floor windows facing east are relatively small and in most cases relate to a passage and bathroom.
 - The impact on the street is mitigated by the wide width (exceeds 13m) of Sea Breeze Road.
 - The magnitude of the departure for the garage is relatively small.
- 6.2.6. Other considerations prescribed in relevant national or provincial legislation.
- The application complies with the principles set out in Section 59 of the Land Use Planning Act and Section 7 of the Spatial Planning and Land Use Management Act.

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

6.3. Regarding the objection:

- 6.3.1 Most of the issues raised by the objector have been addressed above. However, some additional points are dealt with below.
- 6.3.2 This Department does not agree that the values of the surrounding properties will be negatively impacted upon by the proposal when one compares the existing proposal with the existing development rights. In any event, it must be noted that the Land Use Planning Act, 2014, and the Spatial Planning and Land Use Management Act, 2013, state that an application may not be refused solely on the ground that the value of a property is affected.
- 6.3.3 The objector objects to the loss of views as a result of the additions. It must be noted that there is no height departure; at 7.682m the proposed addition is significantly lower than the permitted height of 11m. A substantially larger building with similar or greater impact could be built as of right compared to what is proposed.

7. REASONS FOR DECISION

- 7.1. Reasons for the recommended decision for **approval** relating to the application for the departures may be summarised as follows:
- 7.1.1. The proposal is compatible with the surrounding uses and will not have a negative impact on the character of the area.
- 7.1.2. A building with a similar or greater impact could be built as of right compared to what is currently proposed.
- 7.1.3. The building from base level to the top of the roof is 7.682m, which is significantly lower than the 11m that could be built as of right.
- 7.1.4. The proposal will not have an impact on the external engineering services.
- 7.1.5. The proposal will not have a negative impact on the safety, health and well-being of the surrounding community.
- 7.1.6. The proposal will not have any impact on the biophysical environment.
- 7.1.7. The proposal will not have a negative impact on transport related considerations.
- 7.1.8. The proposal is consistent with the Municipal Spatial Development Framework, Southern District Plan and the Main Road Growth Management Strategy.

- 7.1.9. The proposal is desirable and does not significantly impact on existing rights.

8. RECOMMENDATION

In view of the above, it is recommended that:

- 8.1. The application for departures, as set out in Annexure A, for Erf 9299 Constantia, **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	Amended site development plan
Annexure D	Advertised site development plan
Annexure E	Applicant's motivation
Annexure F	Objection
Annexure G	Applicant's response to objection
Annexure H	Title deed
Annexure I	List of relevant parties

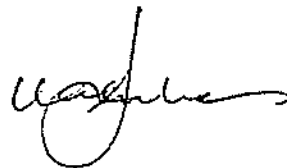


Section Head

Name: P Hoffa

Tel no: 021 444 7724

Date: 2019-10-25



District Manager

U Gonsalves

021 444 7720

2019-10-25

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 9299 Constantia, 7 Sea Breeze Road, Kirstenhof**

"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

"Dir: DM" means Director: Development Management or his/her delegatee.

CASE ID: 70409544

These departures are tied to the plans drawn by Alexander Sean May with drawing numbers 1032-1-00 (revision F) & 1032-4-00 (revision E), both dated 31/07/2014.

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

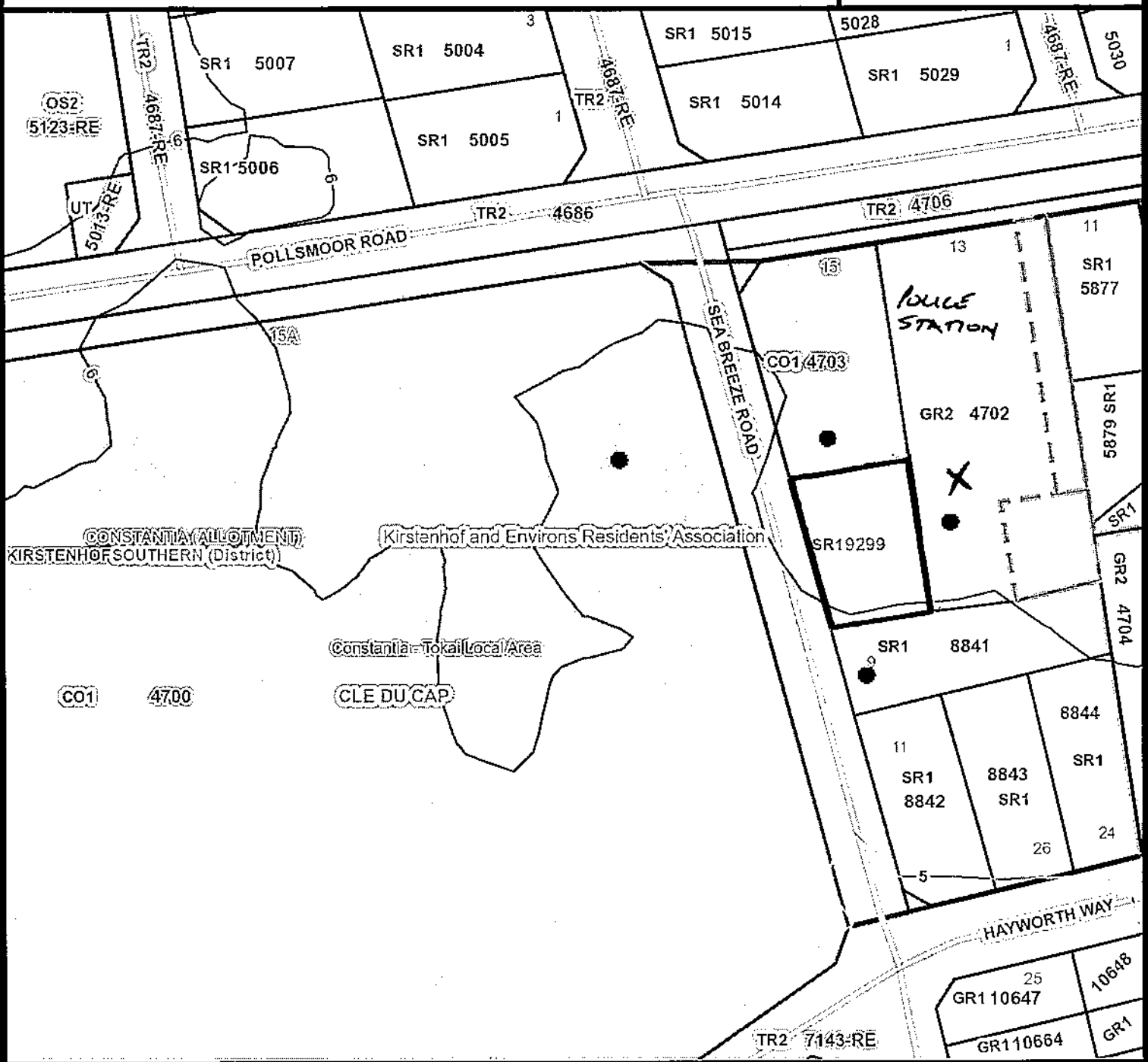
- 1.1. Item 22(f)(iii): To permit a garage to be setback 3.5m in lieu of 5m from Sea Breeze Road.
- 1.2. Item 22(d): To permit a dwelling house and second dwelling to be setback 1.5m in lieu of 3m from the eastern common boundary.

ANNEXURE I**LIST OF RELEVANT PARTIES****Applicant:**

Jono Trust Professional Planners
mark@jonotrust.co.za

Objector:

Milward & King Properties on behalf of M.F Kirsten & M Van Den Berg (Erf 4702)
P.O Box 395
Plumstead
7801



Overview

Erf:

District:

Allotment:

Suburb:

Ward:

Sub Council:

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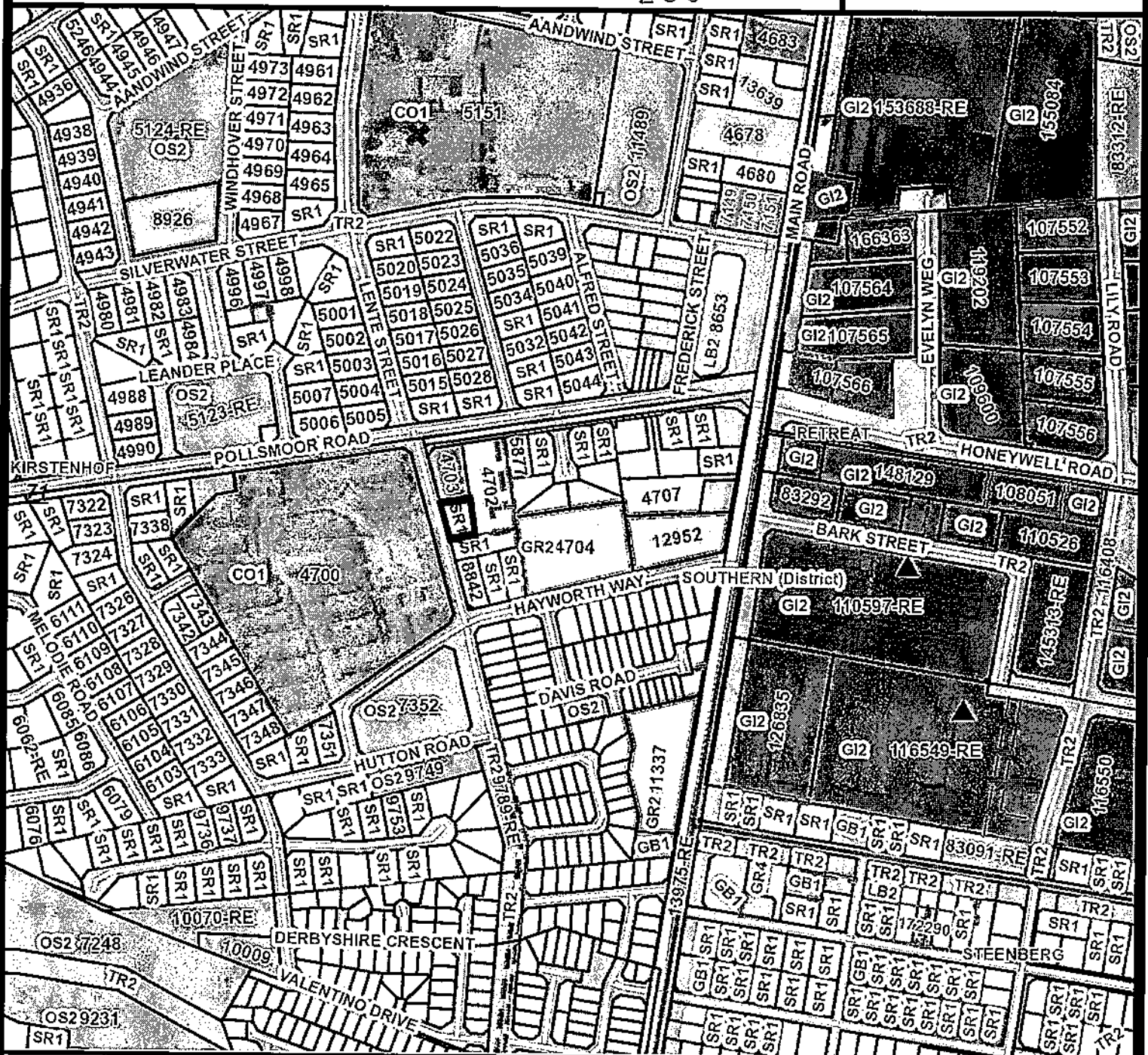
Date: 02 January 2019

File Reference:



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

Making progress possible. Together.



Overview

Erf: 9299

District: SOUTHERN

Allotment: CONSTANTIA

Suburb: KIRSTENHOF

Ward: 71

Sub Council: Subcouncil 20



1:4 800

Notices Served



Support
Received



Petition
Signatory



Objections
Received



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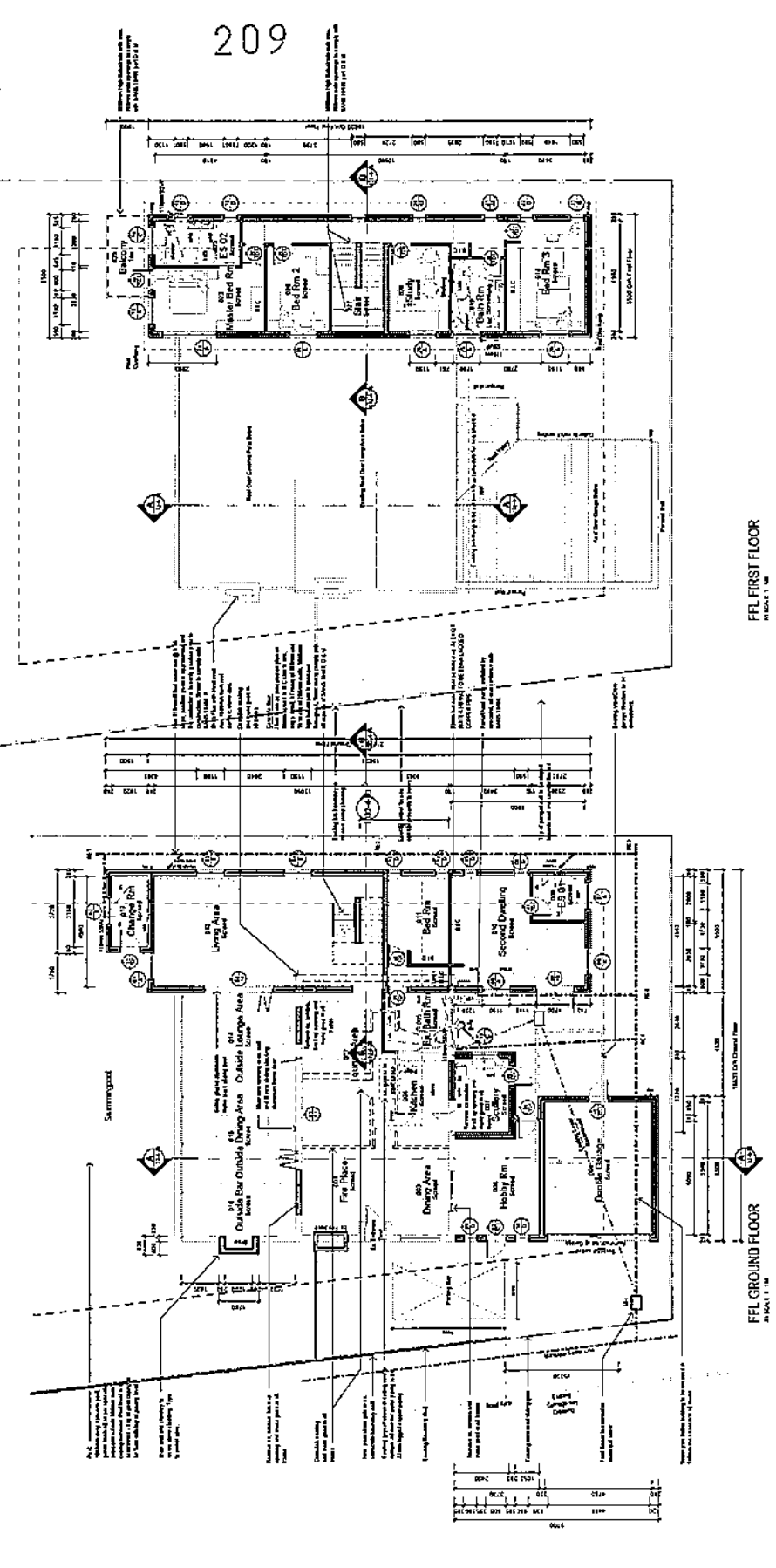
Date: Tuesday, 22 October 2019

File Reference:



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

Making progress possible. Together.



READ IN CONJUNCTION WITH DRAWING NUMBERS:

and all related Structural Mechanical Electrical Civil and Fire Consultants drawings & specifications. All drawings & specifications to be prepared before commencement of work and any discrepancies to be highlighted to the Architect.

and after C-14 had an alpha-blockade effect on parasympathetic innervation and subsequently a direct but delayed action on heart rate. These results suggest that the vagus nerve may be involved in the regulation of heart rate by the autonomic nervous system. The results of this study suggest that the vagus nerve may be involved in the regulation of heart rate by the autonomic nervous system. The results of this study suggest that the vagus nerve may be involved in the regulation of heart rate by the autonomic nervous system.

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NOTE: The TCO includes a provision for the local jurisdiction's estimated liability for the cost of the project. The TCO also includes a provision for the local jurisdiction's estimated liability for the cost of the project. The TCO also includes a provision for the local jurisdiction's estimated liability for the cost of the project.

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WALL, GORDON C. *CPUSA, Communist.* I am an experienced and successful sales and marketing executive with 20 years experience. I have been successful in selling a wide variety of products and services to a wide variety of clients. I am a member of the National Sales and Marketing Association and the International Brotherhood of Sales and Marketing Executives. I am currently seeking a position where I can utilize my skills and experience to the benefit of the company.

[illegible]

WALL CONSTRUCTION: Concrete;
Johson family built a new 2,000-sq-ft home on the property and added back onto it with stone, granite and limestone. In wet clay soil, the stone and granite walls were built on a 10-in. concrete foundation. The limestone was used for the interior walls. The stone and granite were used for the exterior walls.

Vertical CVCs in all segments in Rapp 1 week.

THEY SAY WE'VE BEEN "Lying and making our lives miserable for all people, black and white," according to the *Black Panther*. "We've been the biggest obstacle to the black revolution," says the *Black Panther*. "We've been the biggest obstacle to the black revolution," says the *Black Panther*. "We've been the biggest obstacle to the black revolution," says the *Black Panther*.

FOR THE
 ALL INFORMATION, CONTACT THE
 AT 1-800-368-6868 OR VISIT
 WWW.ASAP-AMERICAN-STATISTICAL-ASSOCIATION.ORG

Physical Activity:
All 7 women completed
and averaging about
60% of instances with reported physical activity

EDUCATION: A.B.C. REQUIREMENTS
All the important people in your life have them.

ELECTRICITY
All electrical appliances to be connected to a regulated source. All electrical appliances to comply with all ENEC, SABS and National Building Regulations.

CERTIFICATE AND STORE RELEASE
Insurance coverage for all buildings will be provided on demand.
Chicago residents can be guaranteed that they'll be approved at the local building
department.

A	20-20-2015	15th April 2015
B	13-11-2015	13th April 2015
C	04-03-2016	15th April 2015
D	04-03-2017	15th April 2015

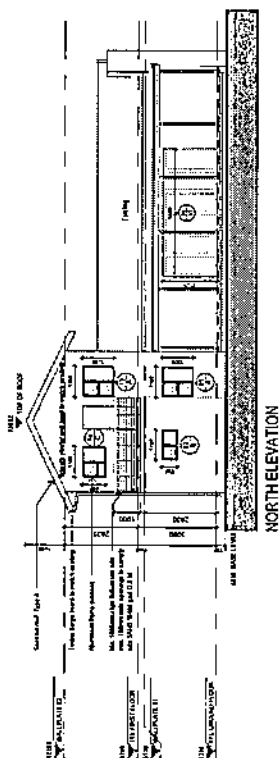
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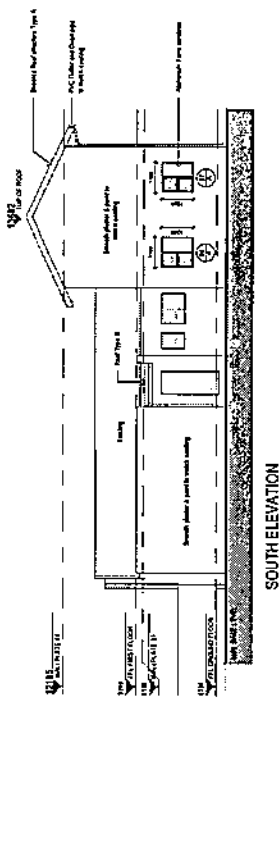
COUNCIL SUBMISSION

ELEVATIONS & SECTIONS 1032	page number 1032
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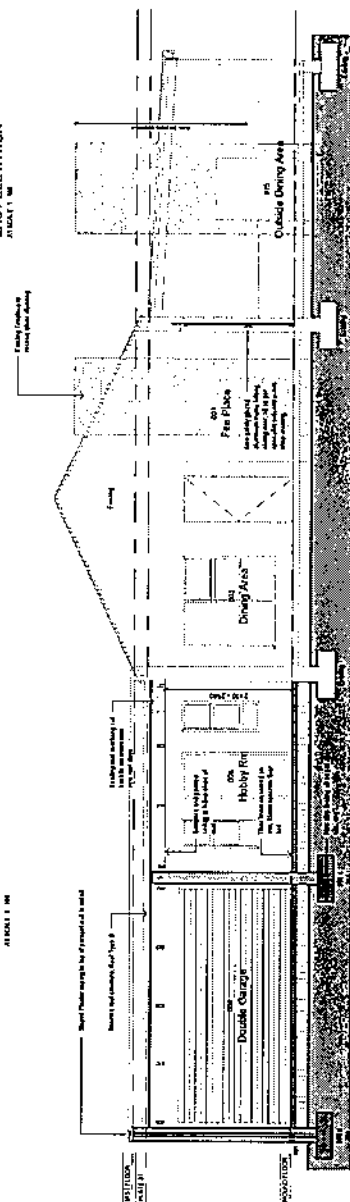
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NORTH ELEVATION



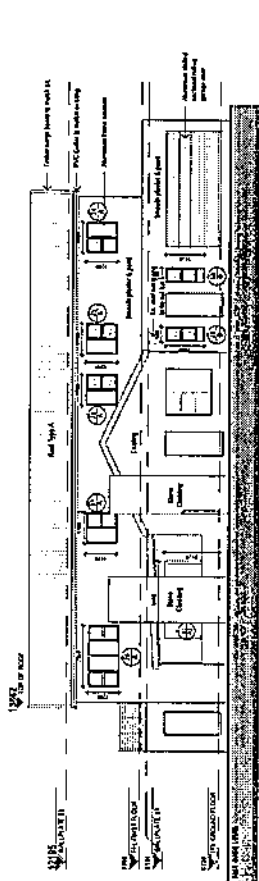
SOUTH ELEVATION



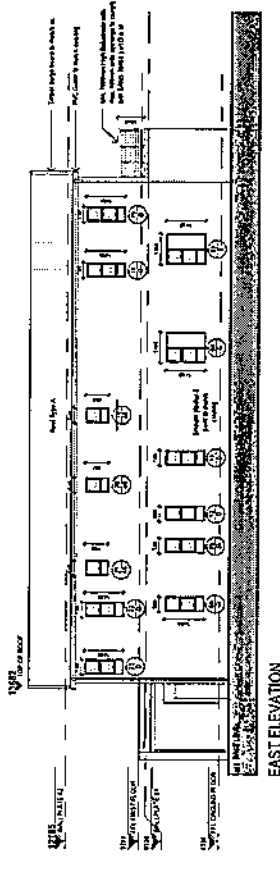
Section A



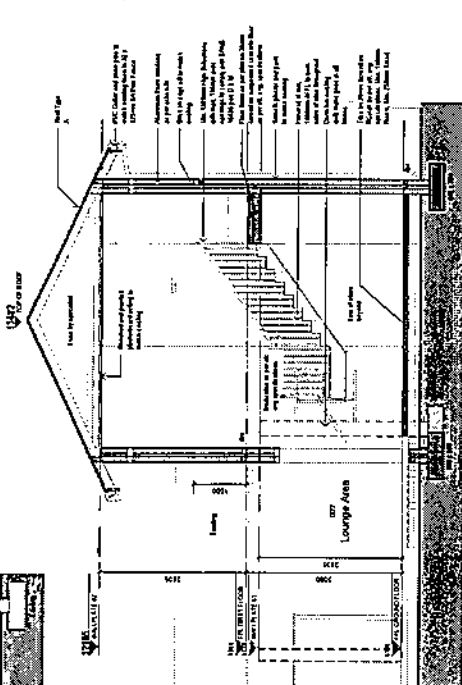
PART BOUNDARY WALL ELEVATION - Pedestrian Gate



WEST ELEVATION



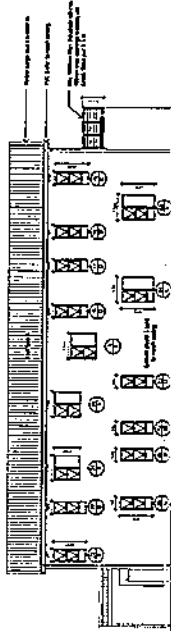
EAST ELEVATION



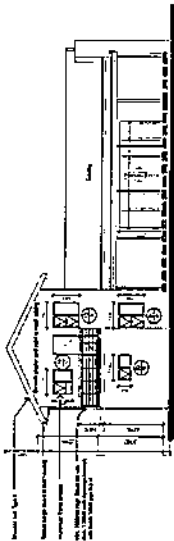
Section B

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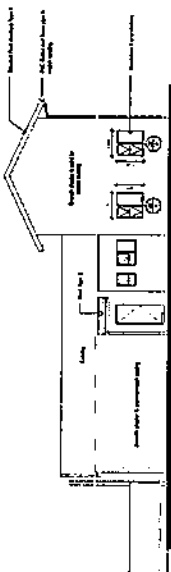
WEST ELEVATION



EAST ELEVATION



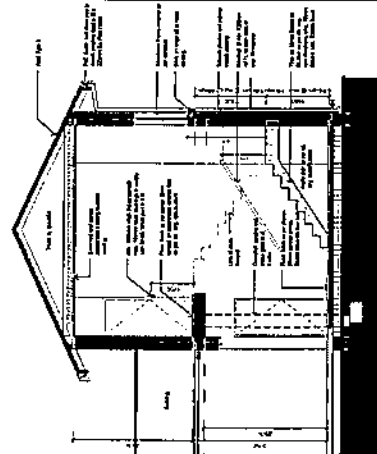
NORTH ELEVATION



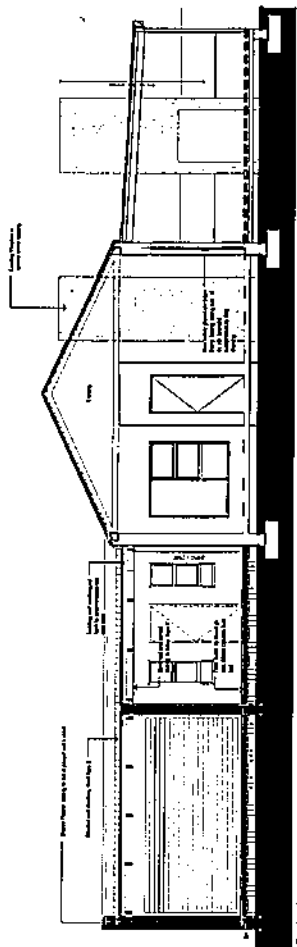
SOUTH ELEVATION



PART BOUNDARY WALL ELEVATION - Pedestrian Gate



PI 4001205



Section A

213
JONO TRUST

town & urban planning

environmental design

project facilitation

Our ref: 17.129/Lt19-07-25

25 July 2019

City of Cape Town
Plumstead Administrative Building
Cnr Main and Victoria Roads,
Plumstead
7800

Attention: Ms. Y. Jafta

ERF 9299 CONSTANTIA, 7 SEA BREEZE ROAD KIRSTENHOF: MOTIVATION

CASE ID #: 704 095 44

The current application on Erf 9299 Constantia seeks to:

- Allow a double storey building to be constructed at a line of 1,5m from eastern common boundary in lieu of 3,0m.
- Allow the garage to be set back by 3,501m instead of 5,0m from the street boundary.
- Allow the garage to be constructed at a line of 0,6m from the southern common boundary in lieu of 3,0m.

This application is not for building plan approval. We were previously advised by City officials to submit the building plans for this site and are happy to learn from your email dated 4 July 2019, that the building plan is not necessary.

The land use application forms and power of attorney is attached this letter of motivation.

1.0 MOTIVIATION IN SUPPORT OF THE DEPARTURE APPLICATIONS

1.1 Eastern Common Boundary Setback

It is proposed to setback the double storey building at a distance of 1,5m from the eastern boundary, as indicated on the attached plan (Figure 1: Building Setback Plan).

Please note that the building plan that the City has on file indicates a roof overhang, giving the impression that the proposed building is closer to the eastern boundary than 1,5m.

The application is worthy of the decision-maker's support and approval because:

a) The Reduced Setback has an Insignificant Impact on Erf 4702's Backyard Privacy

We attach an elevation of the proposed building on Erf 9299 to demonstrate that placing the building at 1,5m from the boundary as opposed to 3,0m from the boundary:

- Has no effect on the degree to which Erf 4702's backyard is visible from Erf 9299 – in both instances (setback of 1,5m and 3,0m) the same area is visible from an upper storey with a 2,1m boundary wall. The departure, therefore, does not lead to a loss of privacy.
- The GR2 zoning of Erf 4702 permits the owner to place a lower building at 4,5m from the common boundary. If a taller structure is built, then the common boundary setback is increased. In both instances (i.e. a building on Erf 4702 at 4,5m and at 9,0m) backyard is visible from an upper storey windows located. The proposed setback departure does not change the extent to which the backyard is visible from the upper floor (see lines of sight 1 and 2 on Figure 1).

It is unreasonable for the owner of Erf 4702 to expect complete privacy in his back yard, since privacy is only a reasonable expectation within his building. Notwithstanding this, the owner of Erf 9299 has gone to some expense to redesign the internal layout of the first floor. The new internal layout (see attached building plans) places circulation space on the east (as opposed to bedrooms) and proposes smaller windows facing Erf 4702. This is a significant step to manage the type of activity that may have a view over the backyard of Erf 4702. These windows in the eastern façade are also small and higher.

b) The Reduced Setback has no effect on the views from Erf 4702

Using the same elevation drawing, we say that there will be no difference to views from Erf 4702 if the building is placed at a 3,0m distance as opposed to the proposed 1,5m distance from the common boundary between the two properties. We make this assertion because:

- The application is not to increase height. The 2-storey building on Erf 9299 will always present a 2-storey façade to Erf 4702. We are not proposing to exceed the current height permitted under SR1. Placing the building at 1,5m vs 3,0m have no effect on the potential views from Erf 4702.
- Erf 4702 is zoned GR2, which allows up to 15m to top of roof (approximately 5 floors). If Erf 4702 is development with a 5-storey building, as shown the attached diagram, then the lower 2 floors will face the 2 floors on Erf 9299; while the upper 3 floors will continue have views to the west (i.e. the mountain range). The height remains the same irrespective of the horizontal position i.e. the proposed departure has no effect on views.

c) The Reduced Setback Improves the Efficient Use of Erf 9299

We have demonstrated that there are no negative implications on the adjacent Erf 4702. We now turn to the benefit of a reduced common boundary setback, which includes:

- Reducing the 'back space' which would serve as an ²¹⁵alley, thereby increasing the useable space to create and enjoy garden / play areas in a location that benefits from afternoon and evening sunshine.
- Allowing the potential for additional building with its associated land intensification and rates increase that is beneficial to the City.

d) The Reduced Setback Does Not Present a Fire or Safety Hazard

The distance of 1,5m on Erf 9299, together with a similar distance on Erf 4702, potential creates 3,0m between buildings. This is considered more than enough from a fire safety perspective (and is the reason for potentially requiring 2,5m between structures in SR2).

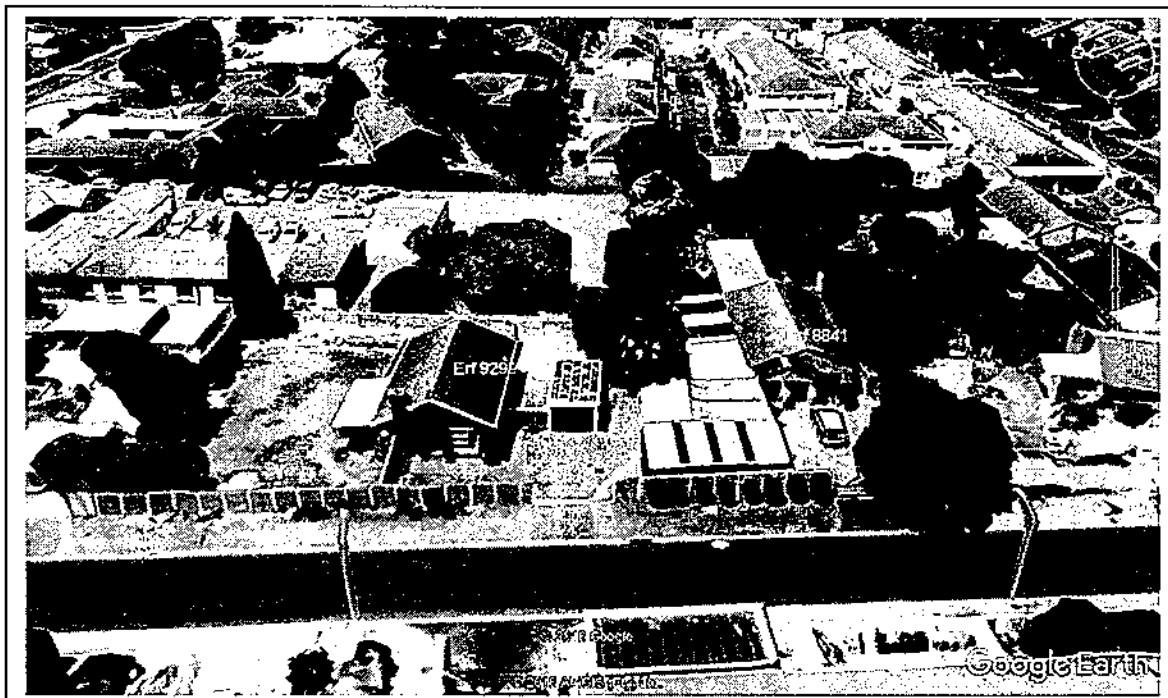
1.2 Southern Common Boundary Setback

It is proposed to setback the garage at a distance of 0,6m from the southern boundary with Erf 8841, as indicated on the attached plan (Figure 1: Building Setback Plan).

The application is worthy of the decision-maker's support and approval because:

a) The Reduced Setback has an Insignificant Impact on Erf 8841

The owners of Erf 8841 have already developed a onto the common boundary with Erf 9299, as illustrated in the oblique photo below. The proposal to retain a 0,6m setback on Erf 9299 on this edge is preferable to a zero-meter setback (as on Erf 8841) because the 0,6m allows enough space for maintenance and to manage stormwater run-off. The proposed single storey structure is not imposing given its height, nor is it overshadowing Erf 8841.



The reduced street setback (3,501m instead of 5,0m) is common in this area and will allow the new garage on Erf 9299 to better address the street.

It will also off a more defined edge to the street and tie in well with the existing building placement on Erf 8841, whilst minimising wasted space in front of a garage.

Across the road, buildings have also been setback by less than 5m, which suggests that there cannot be a concern about a negative impact on the street façade due to a reduced street setback.

We trust that the explanatory diagrams and image demonstrate how the proposed departures does not present a significant impact on adjacent properties and do in fact, lead to a better designed site.

We include for only for reference purposes in support of our arguments the building plans.

Yours faithfully,

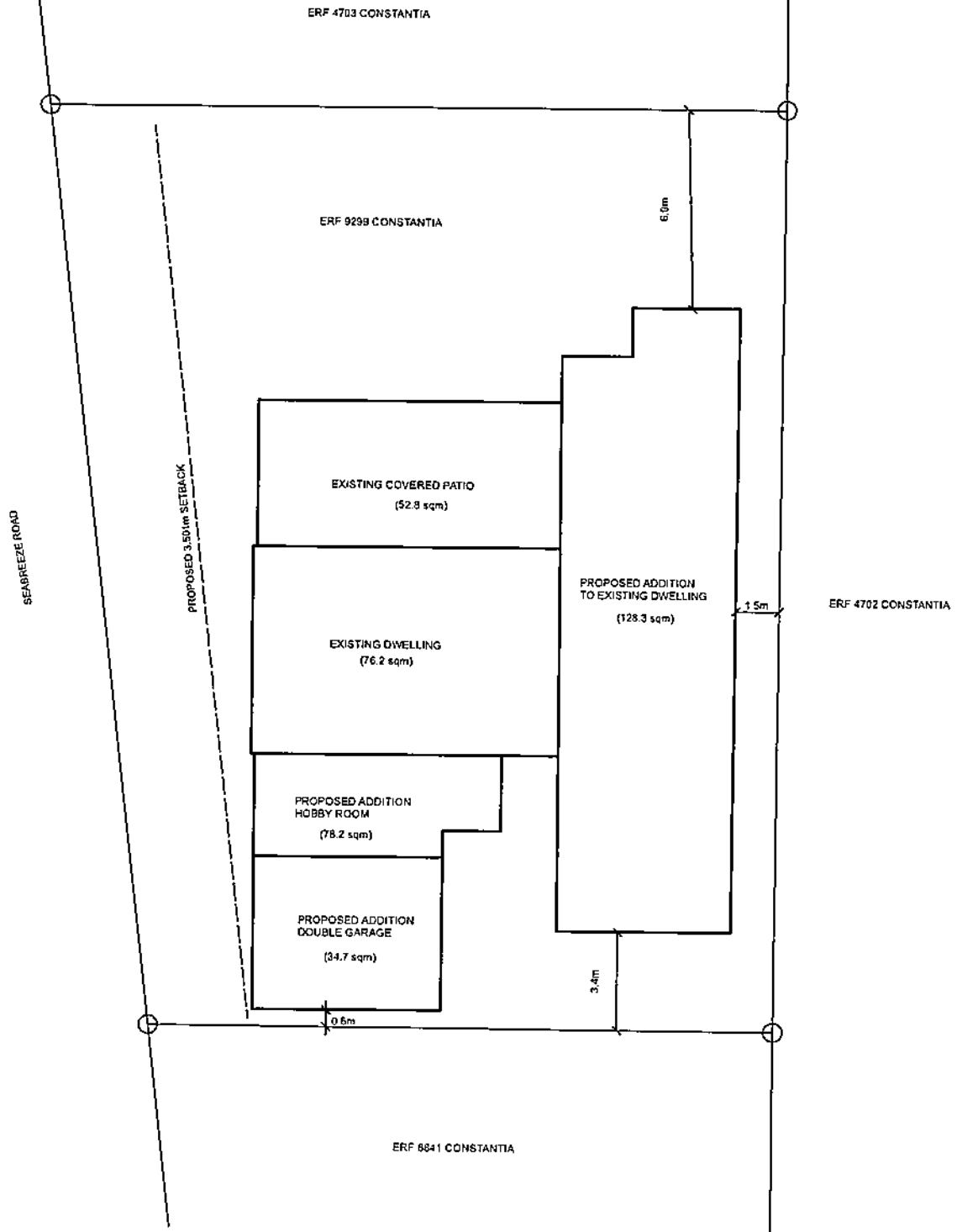
A handwritten signature in black ink, consisting of a stylized, cursive 'M' or 'J' followed by a large, sweeping loop.

Mark Job Pr.Pl n A/1367/2010







Figure 1:
BUILDING SETBACK PLAN

217

218



Key

-  Site Boundary
-  Building Outline
-  Setback Line
- 
- 
- 



Coverage : 320.2 sqm
Land unit area : 752 sqm
Percentage : 43%

ERF 9299 CONSTANTIA

1

Building Setback Plan

SCALE at A4
1:150 0 1 2 4 Meters



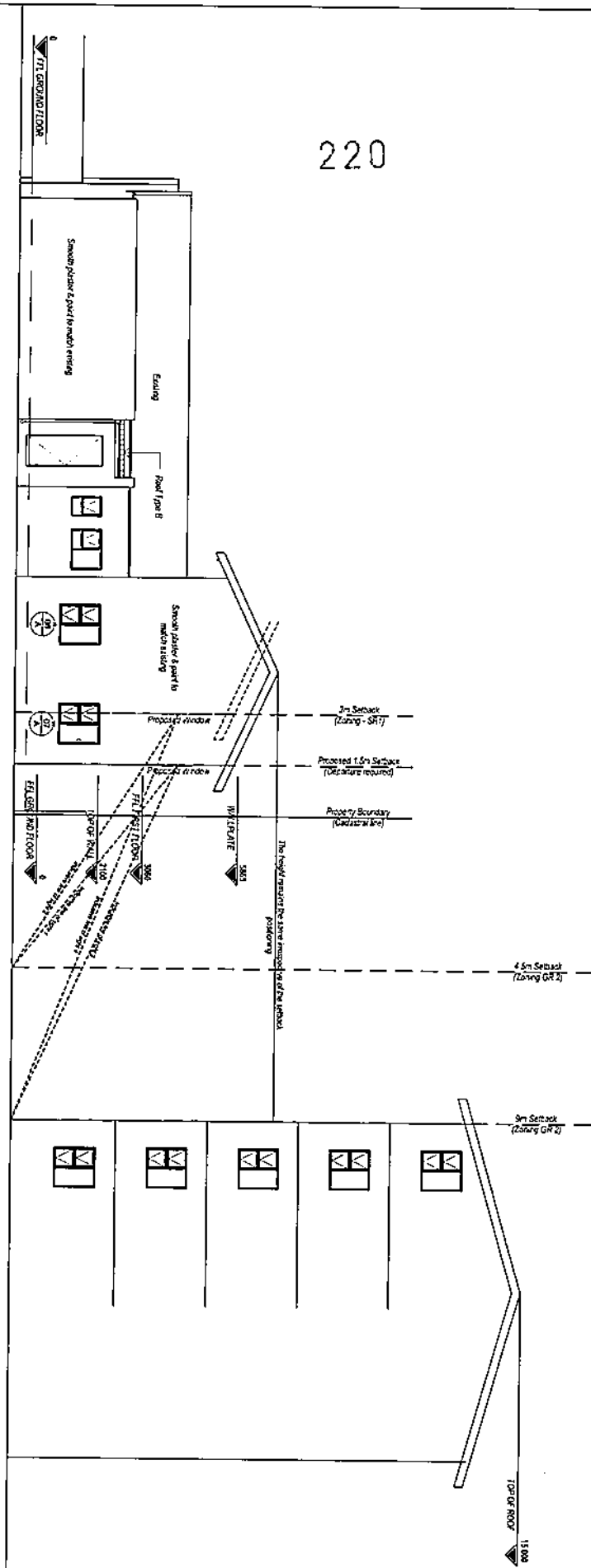
JONO TRUST


town & urban planning
environmental design project facilitation
www.jonotrust.co.za planning@jonotrust.co.za

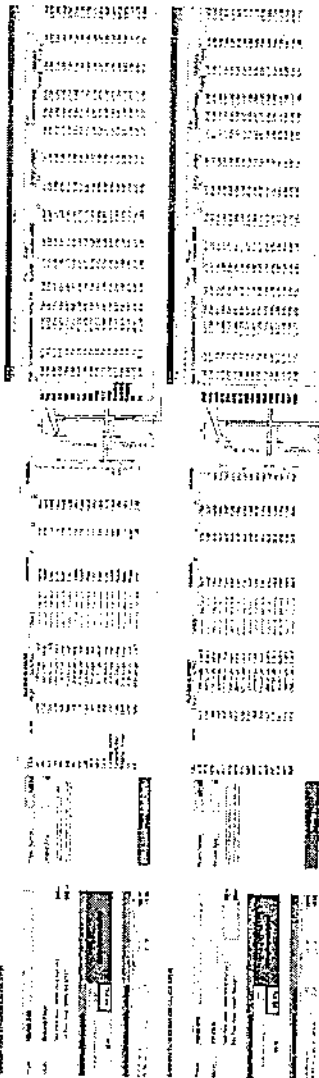


Job : 17.129 mod. Erf 9299 Constantia JULY 2019

220

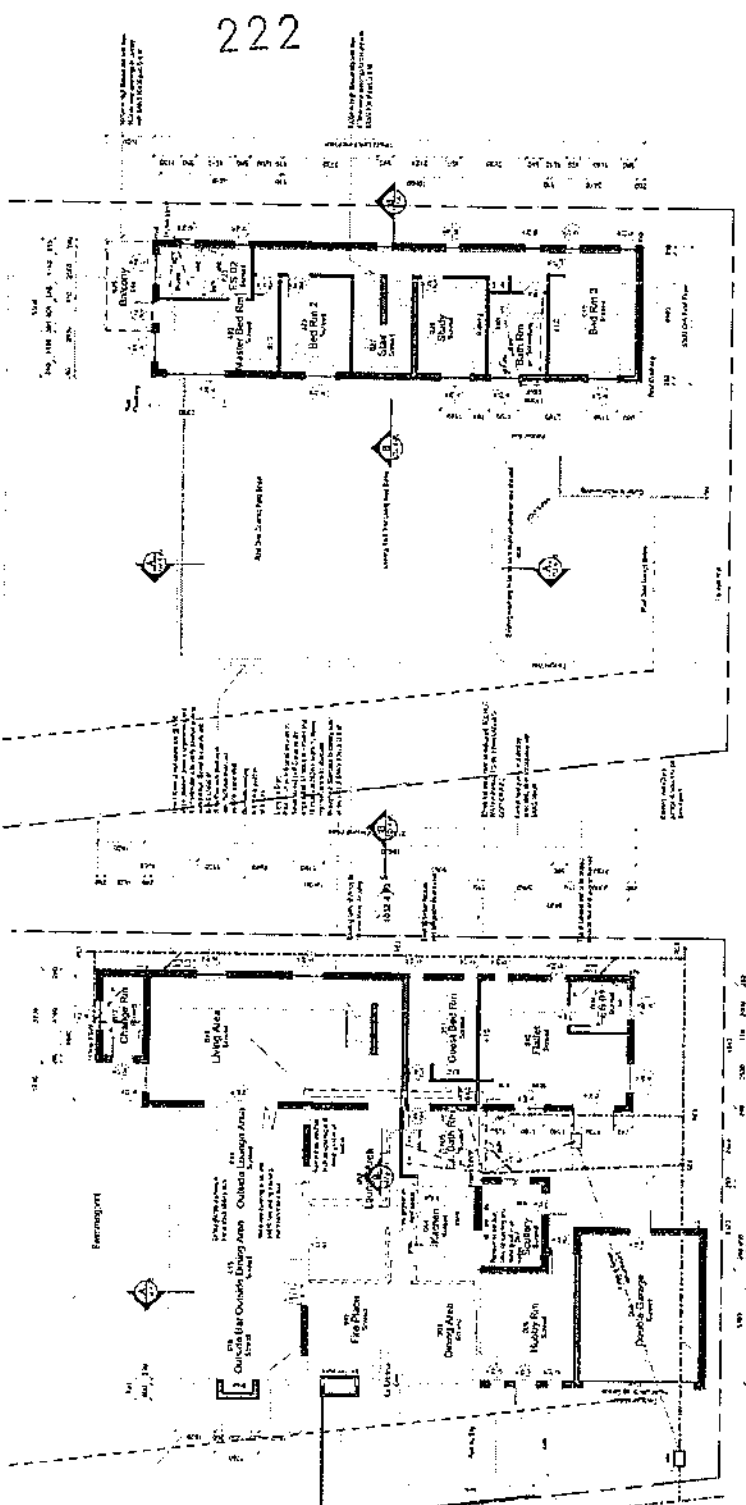


EFT 9299 CONSTANTIA		1
ELEVATION		
1:125 @ A3		
JONO Trust town & urban planning environmental design project facilitation 100 Main Road, 7th Floor, 7th Floor, 7th Floor Tel: 021 012 3456 Email: info@jonotrusted.co.za Website: www.jonotrusted.co.za		



AREA TABULATION

DESCRIPTION	AREA (SQ. FT.)	AREA (SQ. YD.)
CONCRETE	10,000	111.1
CEILING	10,000	111.1
FLOORING	10,000	111.1
WALLS	10,000	111.1
ROOFING	10,000	111.1
MECHANICAL	10,000	111.1
ELECTRICAL	10,000	111.1
PLUMBING	10,000	111.1
PAINTING	10,000	111.1
LANDSCAPING	10,000	111.1
TOTAL	100,000	1111.1



222

FFL FIRST FLOOR

FFL FIRST FLOOR

NOTES:

1. ALL DIMENSIONS ARE IN FEET AND INCHES.
2. ALL WALLS ARE 12" THICK UNLESS OTHERWISE NOTED.
3. ALL FLOORS ARE 4" THICK CONCRETE UNLESS OTHERWISE NOTED.
4. ALL ROOFS ARE 6" THICK CONCRETE UNLESS OTHERWISE NOTED.
5. ALL MECHANICAL EQUIPMENT IS TO BE LOCATED OUTSIDE THE BUILDING UNLESS OTHERWISE NOTED.
6. ALL ELECTRICAL EQUIPMENT IS TO BE LOCATED OUTSIDE THE BUILDING UNLESS OTHERWISE NOTED.
7. ALL PLUMBING EQUIPMENT IS TO BE LOCATED OUTSIDE THE BUILDING UNLESS OTHERWISE NOTED.
8. ALL PAINTING IS TO BE DONE IN ACCORDANCE WITH THE SPECIFICATIONS.
9. ALL LANDSCAPING IS TO BE DONE IN ACCORDANCE WITH THE SPECIFICATIONS.

HEAD IN CONSTRUCTION WITH DRAWING NUMBERS:

NOT 440: SHOWN & SECTIONS

COUNCIL SUBMISSION

APPROVED BY: [Signature]

DATE: [Date]

PROJECT: [Project Name]

1032

07/20/14

1032-100: F



MILWARD & KING PROPERTIES

Proprietors: Milward & King Property Brokers C.C.

Reg. No. CK 1997/059314/23
VAT Reg. No. 4610134423

ESTATE AGENTS, INSURANCE FACILITATORS
PROPERTY & SECTIONAL TITLE ADMINISTRATORS

E-mail: info@milwardandking.co.za
Website: www.milwardandking.co.za

P.O. Box 395
PLUMSTEAD
7801

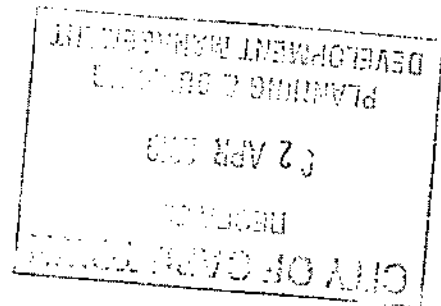
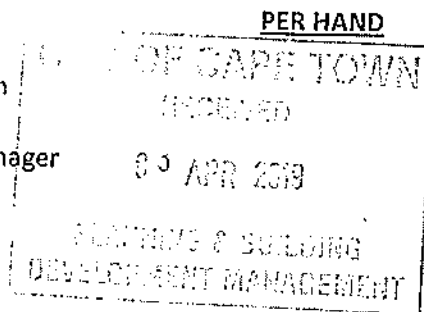
223

PLUMSTEAD BRANCH
59 GABRIEL ROAD
PLUMSTEAD
7800
Ph(021) 761 6611
Fax(021) 797 3062

RESIDENTIAL SALES
119 MAIN ROAD
BERGVLIET
7800
Ph(021) 712 2600
Fax(021) 715 4769

2nd April 2019

The City Of Cape Town
For Attention:
The Development manager
Mr R. van Wyk
3 Victoria Road
Plumstead
7800



Dear Sir

**Re: PROPOSED APPLICATION: Cape Town Municipal Planning BY LAW: SECTION 42(B) –
PERMANENT DEPARTURE: ERF 9299, CONSTANTIA, 7 SEA BREEZE ROAD, KIRSTENHOF –
OBJECTION TO PROPOSED BUILDING LINE**

Application no: Case ID: 70409544

Applicant /owner's detail – Mark Job & Paul Job
Erf No. 9299

We Milton Ferdinand Kirsten and Milne' Van Den Berg being the registered owners of Erf 4702 hereby confirm that we are in possession of your letter dated 6 March 2019 in respect of the applicants proposal for permanent departure as set out in the notification, we object to item 1:- 22(d) as follows:-.

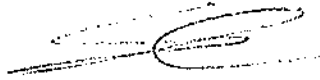
The additional setback of 1,500 m will impact on the future development potential of Erf 4702 in that being a double story the reduced setback will have a negative impact on:-

- The visual intrusion the double story building will have on the privacy of Erf 4702 with specific reference to the 3 meter set back which will in all probability consist of a garden;
- Any view advantage that may exist from Erf 4702 which will be negated by the extra set back applied for.

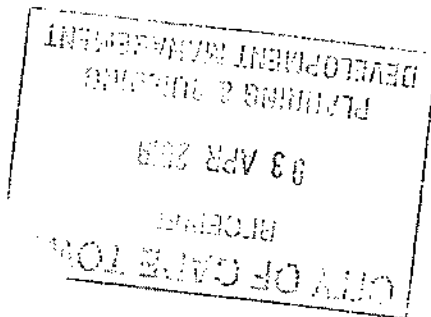
We wish to advise that a future development of Erf 4702 has already been applied for and approved by the City rezoning department and should this setback be approved it will impact on any future value of our property when further developed.

In this regard we reject the proposed application.

Yours faithfully
Milward & King
Managing Agents



Per S. Carstens
Portfolio manager
Duly authorised, on behalf of M. van Den Berg & M.F. Kirsten



JONO TRUST

town & urban planning

environmental design

225

project facilitation



Our ref: 17.129/Lt19-05-17

17 May 2019

City of Cape Town
Plumstead Administrative Building
Cnr Main and Victoria Roads,
Plumstead
7800

Attention: Mr. R van Wyk

ERF 9299 CONSTANTIA, 7 SEA BREEZE ROAD KIRSTENHOF: RESPONSE TO COMMENT**CASE ID #: 704 095 44**

The current application on Erf 9299 Constantia seeks to:

- Allow a double storey building to be constructed at a line of 1,5m from eastern common boundary in lieu of 3,0m.
- All the garage to be set back by 3,501m instead of 5,0m from the street boundary.

The application was advertised to identified I&APs between the 6th of March 2019 and 15 April 2019.

One objection was received from the representatives of Erf 4702, located to the east of the Erf 9299. The objection concerns the proposed departure to allow the building to be setback 1,5m in lieu of 3,5m from the common boundary between Erf 9299 and 4702. The objection is not concerned with the proposed street setback departure from Sea Breeze Road.

1.0 RESPONSE TO COMMENT

The objector raises 2 concerns:

- That the 1,5m relaxation will impact on privacy;
- Any view that may exist from Erf 4702 towards the west (i.e. across Erf 9299 towards the mountain range) will be negated by the 1,5m relaxation.

The reject these assertions based on the following factors:

1.1 Loss of Privacy: Reduced setback is insignificant

The attached diagram (Figure 1) shows the proposed double storey building section in relation to the

property boundary and the current rights that the owner of Erf 4702 enjoys (Erf 4702 is zoned GR2). It also shows a 2,1m boundary wall.

226

Placing the building at 1,5m from the boundary as opposed to 3,0m from the boundary:

- Has no effect on the degree to which Erf 4702's backyard is visible from Erf 9299 – in both instances (setback of 1,5m and 3,0m) the same area is visible from an upper storey with a 2,1m boundary wall. The departure, therefore, does not lead to a loss of privacy.
- The GR2 zoning of Erf 4702 permits the owner to place a lower building at 4,5m from the common boundary. If he decides to do this, then the same area is visible from an upper storey window located as it is located at 1,5m or 3,0m. The proposed setback departure does not change the extent to which the backyard is visible from the upper floor (see lines of sight 1 and 2 on Figure 1).

In order to further allay the concerns raised by the objector, the owner of Erf 9299 has gone to some expense to redesign the internal layout of the first floor. The new internal layout (see attached building plans) places circulation space on the east (as opposed to bedrooms) and proposes smaller windows facing Erf 4702. This is a significant step to manage the type of activity that may have a view over the backyard of Erf 4702.

1.2 Potential Impact on Views: No Effect

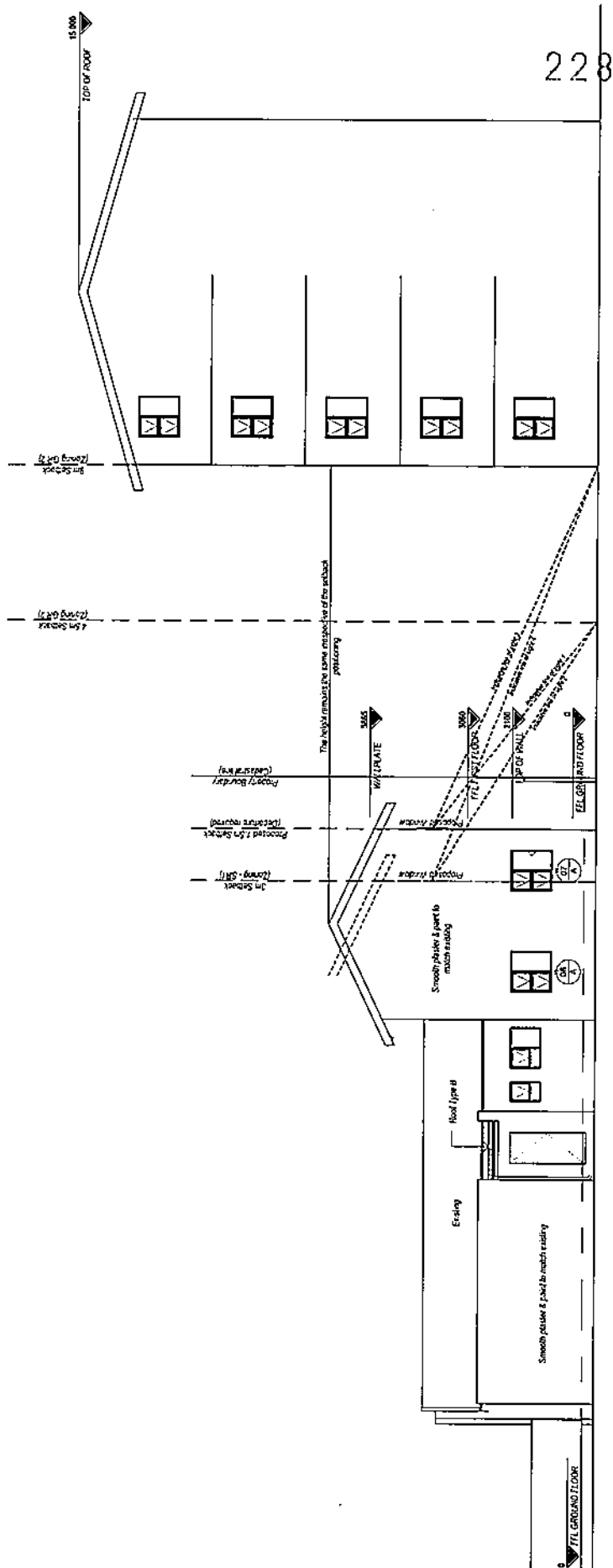
The objector suggests that a setback departure will affect views from Erf 4702. This is an unreasonable statement, since:

- The application is not to increase height. The 2-storey building on Erf 9299 will always present a 2-storey façade to Erf 4702. We are not proposing to exceed the current height permitted under SR1. Placing the building at 1,5m vs 3,0m have no effect on the potential views from Erf 4702.
- Erf 4702 is zoned GR2, which allows up to 15m to top of roof (approximately 5 floors). If Erf 4702 is development with a 5-storey building, as shown the attached diagram, then the lower 2 floors will face the 2 floors on Erf 9299; while the upper 3 floors will continue have views to the west (i.e. the mountain range). The height remains the same irrespective of the horizontal position i.e. the proposed departure has no effect on views.

We trust that our diagram and responses demonstrate that the points raised by the objector of not valid and trust that the City takes a realistic approach when objectors raise issues such as loss of privacy or loss of view.

Yours faithfully,





CTN01367

Hofmeyr and Haude
23 Eugene Marais Avenue
Constantia
7806

Purchase price/seller		1 950 000 - a 940 - e	
Reason for		Exempt L.T. 0	
Registration		Section 21	

ANNEXURE H

Prepared by me

229

CONVEYANCER
CASEY JANE HOFMEYR

VEHICLE		MORTGAGED	
1 700 000 - a			
B	000018079 / 2015		
15 JUL 2015		REGISTRAR OF DEEDS	

000042649 / 2016

DEED OF TRANSFER

BE IT HEREBY MADE KNOWN THAT

CASEY JANE HOFMEYR

appeared before me, REGISTRAR OF DEEDS at CAPE TOWN, the said appearer being duly authorised thereto by a Power of Attorney which said Power of Attorney was signed at CAPE TOWN on 25 MAY 2016 granted to him by

1. **TRACY LEE KUKARD**
Identity Number 851218 0247 08 8
Unmarried
2. **STEPHEN GRANT STRAUSS**
Identity Number 840821 5029 08 0
Unmarried

DATA / CAPTURE
25 JUL 2016
KETILEN

GhostConvey 15.8.10.1

And the appearer declared that his said principal had, on 19 April 2016, truly and legally sold by Private Treaty, and that he, the said Appearer, in his capacity aforesaid, did, by virtue of these presents, cede and transfer to and on behalf of:

PAUL CLIVE JOB

Identity Number 780510 5164 08 6

and

TAMENSON JOY JOB

Identity Number 791120 0086 08 1

Married in community of property to each other

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

ERF 9299 CONSTANTIA

SITUATE IN THE CITY OF CAPE TOWN

DIVISION CAPE

PROVINCE OF THE WESTERN CAPE

IN EXTENT 752 (SEVEN HUNDRED AND FIFTY TWO) SQUARE METRES

FIRST TRANSFERRED by Deed of Transfer Number T47092/1984 with Diagram S.G. No. 9758/1983 relating thereto and held by Deed of Transfer Number T27643/2013.

- A. **SUBJECT** to such conditions as are referred to in Deed of Transfer T21483/1953.
- B. **SUBJECT FURTHER** to the following conditions contained in Deed of Transfer T2612/1947 and imposed by the Divisional Council of the Cape in their capacity as Controlling Authority in terms of Act 21 of 1940, namely:
- "1. The land may not be subdivided nor may any share in it or portion of it be sold, leased or disposed of in any way, without the written approval of the controlling authority as defined in Act 21 of 1940.
 2. No further dwelling houses shall be erected on the land without the written approval of the controlling authority as defined in Act No. 21/1940.

3. The land shall be used for residential and agricultural purposes; no store or place of business or industry whatsoever may be opened or conducted on the land without the written approval of the controlling authority as defined in Act 21 of 1940.
4. No new building or any structure whatsoever shall be erected within a distance of 94,48 metres from the centre line of the road, without the written approval of the controlling authority as defined in Act 21 of 1940."

C. **ENTITLED** to the following condition contained in Deed of Partition Transfer T10384/1943, namely:

"ENTITLED to the benefit of the free use of a servitude road 12,59 metres wide over Lot No. 16 this day transferred to Ernst Carl Christian Kirsten by Deed of Partition Transfer No. 10382 and which said road is lettered H.r.i.j.B.C.D.k.m.J.n.o.p.q. on the diagram of the said Lot No. 16 annexed to the said Deed of Partition Transfer No. 10382. It is clearly recognised that the said road although demarcated on the said diagram of the said Lot No. 16 is not a made up road or capable of being used but is simply bush and that the owner of the said Lot No. 16 or his successors in title shall not be obliged to make proper or hard roads and if the owner of the Remaining Extent hereby transferred or his successors in title desires to make use of the said road or any portion thereof he shall make the said road usable at his own expense but shall not be obliged to make proper or hard roads."

D. **FURTHER ENTITLED** to the benefit of the following condition contained in Deed of Transfer T2612/1947, namely:

"THE property hereby transferred shall be further entitled to the fee use of a 9,45 metre road over the remaining extent of the farm Pollsmoor held by Appearer's Constituent under the said Deed of Partition Transfer No. 10384, which said 9,45 metre road is situate on the Northern Boundary of the said Portion 49 and on the Northern Boundary of Portion 48 this day transferred to Bernard Fischer by Deed of Transfer No. 2611 and on the Northern Boundary of the said remaining extent and is indicated on the Diagram S.G. 9362/46 hereto annexed of the said Portion 49 hereby transferred and on Servitude Diagram S.G. No. 4799/43 of Notarial Deed of Servitude No. 105/1944 annexed to the Deed of Partition Transfer No. 10384 aforesaid. It is clearly recognised that the



GhestConvey 15.8.10.1

said 9.45 metre road although demarcated on the said Diagram is not a made up road or capable of being used and that the Appearer's Constituent or his successors in title to the said remaining extent shall not be obliged to make proper or hard roads and if the owner of the said Portion 49 hereby transferred or his successors in title desires to make use of the said 9.45 metre road or any portion thereof he shall make the said road usable at his own expense but shall not be obliged to make proper or hard roads."

E. **SUBJECT FURTHER** to the following conditions contained in Deed of Transfer T47092/1984, imposed by the Administrator of the Province of the Cape of Good Hope when approving the subdivision in terms of Section 9 of Ordinance No. 33 of 1934, namely:

- "1. 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 to be conveyed across this erf, and surface installations such a mini-substations, metre kiosks and service pillars to be installed thereon 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 inspecting 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."



GhastConvey 15.8.10.1

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

1. **TRACY LEE KUKARD, Unmarried**
2. **STEPHEN GRANT STRAUSS, Unmarried**

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

PAUL CLIVE JOB and TAMENSON JOY JOB, Married as aforesaid

their Heirs, Executors, Administrators or Assigns, now are and henceforth shall be entitled thereto, conformably to local custom, the State, however reserving its rights, and finally acknowledging the purchase price to be the sum of R1 950 000,00 (ONE MILLION NINE HUNDRED AND FIFTY 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 15 JULY 2016

In my presence

REGISTRAR OF DEEDS



q.q.