



**CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD**

Case ID 1500158729

**Remainder Erf 44953, 53 Milner Road,
Rondebosch**

Development Management

This cover page is added by the City of Cape Town as part of our standard branding and document-management process. It does not indicate that the City authored, verified or endorses the submission. All application documents remain the responsibility of the applicant and the City assesses them as submitted. Any errors or discrepancies will be addressed through the normal land use assessment process.

All rights reserved. No part of this data may be reproduced or transmitted without written permission from the Development Management Department of the City of Cape Town. This document is available on the City of Cape Town website (www.capetown.gov.za/LandUseNotices) for a limited time. Please do not host the document independently; you may link to it from the City's site. Documents downloaded from any other website cannot be verified for authenticity.

LJ GLUCKMAN

TOWN PLANNING

MOTIVATIONAL REPORT:

PREPARED BY: LJ GLUCKMAN TOWN PLANNING

APPLICATION: APPLICATION FOR PROPOSED DEPARTURES & AMENDMENT/REMOVAL OF
RESTRICTIVE CONDITIONS ASSOCIATED WITH PROPOSED NEW WORKS AT ERF 44953-RE, CAPE
TOWN

DATE: 26 JANUARY 2026

ERF Number	44953-RE, Cape Town
Address	53 Milner Road, Rondebosch
Title Deed	
Title Deed Date	25/06/2025
Restrictive Conditions	Yes
Registered Extent	654
Zoning	Residential 1
Overlay Zoning	NA

INTRODUCTION

The owner of Erf 44953-RE, Cape Town, wishes to locate 2 dwellings on this property and has prepared proposed building plans which indicate how these 2 dwellings will be accommodated on this land unit. These plans have been annexed to this application. This report serves to motivate for this proposal and includes all necessary land use applications as required in terms of the Municipal Planning By-Laws and the associated Development Management Scheme.

THE APPLICATION

- 1) Application is hereby made in terms of 42(b) of the MPBL, 2015, for a permanent departure from item 22(d)(i) to permit the building on the subject property to be setback 1.73m from the south eastern common boundary in lieu of 3m.
- 2) Application is hereby made in terms of 42(b) of the MPBL, 2015, for a permanent departure from item 22(d)(i) to permit the building on the subject property to be setback 1.73m from the north western common boundary in lieu of 3m.
- 3) Application is hereby made in terms of 42(b) of the MPBL, 2015, for a permanent departure from item 22(d)(i) to permit the building on the subject property to be setback 2.158m from the north eastern common boundary in lieu of 3m.
- 4) Application is hereby made in terms of 42(b) of the MPBL, 2015, for a permanent departure from item 22(c)(ii) to permit the building on the subject property within 3m of the north western common boundary to be 5.67m above EGL in lieu of 4m.
- 5) Application is hereby made in terms of 42(b) of the MPBL, 2015, for a permanent departure from item 22(c)(ii) to permit the building on the subject property within 3m of the south eastern common boundary to be 6.62m above EGL in lieu of 4m.
- 6) Application is hereby made in terms of 42(b) of the MPBL, 2015, for a permanent departure from item 22(c)(ii) to permit the building on the subject property within 3m of the north eastern common boundary to be 5.667m above EGL in lieu of 4m.
- 7) Application is hereby made in terms of 42(i) of the MPBL, 2015, for a councils consent in terms of item 140(2)(a) to permit 2 carriageway crossings on single street boundary.
- 8) Application is hereby made in terms of 42(i) of the MPBL, 2015, for a councils consent in terms of item 121(2) to permit the proposed structures to be set back 3.5m in lieu of 5m from Milner Road, a metropolitan road.

9) Application is hereby made in terms of 42(g)&(j) of the MPBL, 2015, for the removal of restrictive conditions C2(b), C2(c) & C2(d) as contained in title deed

THE APPLICANT

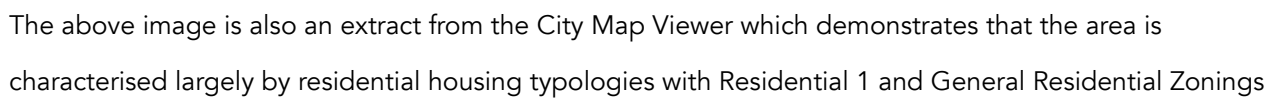
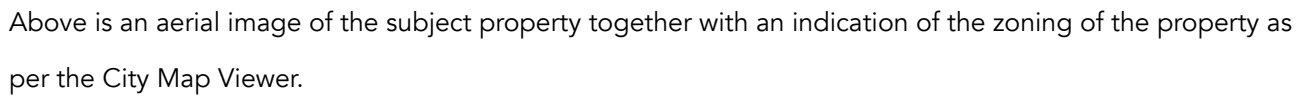
The owner of the subject property, _____ has a sole director who has duly authorised Lloyd Gluckman to act as the applicant in all matters pertaining to the submission of a land use application to the City of Cape Town.

PROPERTY DETAILS

The subject property is located at 53 Milner Road in Rondebosch. Rondebosch is a highly desirable suburb to reside in within the city given its proximity to excellent schools (both private and public), the University of Cape Town and the many available amenities in the area including health care, convenience centres and nodes, open space networks and its accessibility to the city centre and other areas of Cape Town. The suburb has retained its predominantly residential character and changes to the character of the area have been consistent with changing local policies and laws including the City's densification policy and adjustments to the local planning by-laws to accommodate higher residential densities throughout the City. These changes have included less intensive development restrictions on residential properties allowing for multiple dwelling units on a single erf and more relaxed building parameters including floor space, coverage and building line setbacks. While a number of properties still do only contain a single dwelling unit others in the area have been developed to accommodate multiple dwelling units and others to accommodate small blocks of flats.

The subject property itself does not border on, or contain, any features of biophysical or heritage significance and as such the proposals herein are not believed to result in detrimental impacts to the natural environment or heritage resources of the City. In addition to this the property is not located within a Heritage Protection Overlay Zone and is graded 4 by the City's heritage inventory indicating low heritage

An aerial photograph of a residential area with yellow property boundary lines. The central property is labeled '4953 RE' and has a red pin on its roof. To its right is a swimming pool. Surrounding properties are labeled '44836' (top right), '49527' (bottom left), and '53 B' (bottom left, near the road). The road at the bottom is labeled '54 RE' and '49527'.



indicating a mix of housing typologies. The image also shows that there are a variety of different erf sizes in the area.

DESCRIPTION OF APPLICATIONS

1, 2 & 3. PROPOSED DEPARTURE FROM ITEM 22(d)(ii) ON THE SOUTH EASTERN, NORTH WESTERN & NORTH EASTERN COMMON BOUNDARIES

As indicated on the proposed building plans, and the attached plans illustrating proposed departures, the proposed building is setback a distance of 1.73m from the north western and south eastern common boundaries and 2.158m from the north eastern common boundary in lieu of the required 3m. The proposed garages on the ground floor are permitted within this prescribed common boundary building line and only small portions of the proposed structure is located within the prescribed building lines of each respective common boundary mitigating any potential negative impacts on neighbouring properties.

On the ground floor this portion located within the 3m common boundary setback contains a portions of a proposed guest bedroom with en-suit bathroom and on the first floor contains portions of the master bedroom, wardrobe and en-suite. All proposed windows and doors are setback greater than the required distance as stipulated within the By-Laws. The proposed use of the areas to be located within the 3m common boundary setback are those that are typically associated with residential 1 housing typologies with this same zoning permitting dwellings on even smaller than the subject property to be located on the common boundaries. The proposal still includes a fairly large setback from the common boundaries and this proposal is not expected to have any negative impact upon the neighbouring properties or the local area.

4, 5 & 6. PROPOSED DEPARTURES FROM ITEM 22(c)(ii) ON THE NORTH WESTERN, NORTH EASTER AND SOUTH EASTERN COMMON BOUNDARIES.

As per the proposed building plans, proposed structures exceed 4m in height where buildings are located within 3m of the common boundary. Application is included to depart from the this provision of the by-laws to allow for building heights above Existing Ground Level of 5.67m on north western common boundary, 6.667 on the north eastern common boundary and 6.62m on the south eastern common boundary.

As with the proposed building line departures, the portions of the proposed structure to which these departures apply do not extend for the entire length of the property boundaries. The location of windows

relative to the common boundaries are compliant in terms of the provisions of the MPBL thus mitigating any negative impacts on neighbouring properties and these departures are not expected to result in conditions which allow for a structure regarded as out of character for the local area.

7. COUNCILS CONSENT TO PERMIT 2 CARRIAGEWAY CROSSINGS ON A SINGLE STREET BOUNDARY

Item 140(2)(a) of the DMS permits only one carriageway crossing per erf per street boundary. While the By-Laws do make provisions for exemptions from this restriction the width of the street boundary of the subject property does not qualify this erf to follow these exemptions. As such, application has been included to request consent from the City to permit two carriageway crossings on the properties street boundary (Milner Road).

Two carriageway crossings are proposed to allow each of the two proposed dwellings to have private access and enable motor vehicle access to their respective garages. As there are two dwellings proposed the design of the proposed layout has taken into consideration the fact that future owners may wish to subdivide this property to locate each dwelling on its own erf. The failure to consider this as a possibility could, and likely would, have negative consequences in the future in terms of the ability to propose the subdivision of this erf.

The property is located along a straight stretch of Milner Road which provides a clear line of site to all road users of the property thus making ingress and egress safer. The location of two carriageway crossings on this property is not believed to result in a negative impact upon pedestrian movement or traffic on Milner Road.

8. APPLICATION TO PERMIT PROPOSED STRUCTURES TO BE LOCATED 3.5M FROM MILNER ROAD IN LIEU OF 5M

Despite a street boundary building line setback of 3.5m imposed on the property, Milner Road is a designated Metropolitan Road thus requiring a 5m building line as per item 121(2) of the MPBL. The proposal to locate proposed structures 3.5m from the street boundary is not expected to have a negative impact on this road network nor is it expected to have a negative impact to the health, safety or wellbeing of those residing in the proposed dwellings. Further to this, aerial imagery confirms that the majority of existing structures, including those on neighbouring properties, along this road network are located within 5m of this road.

9. APPLICATION FOR THE REMOVAL OF RESTRICTIVE CONDITIONS IMPOSED UNDER LUPO

The following restrictive conditions as contained in title deed _____ were imposed in favour of the administrator under the Land Use Planning Ordinance and are therefore deemed to be conditions of approval as imposed by the MPBL.

The following conditions are proposed to be removed:

Condition C2(b)

It shall be used only for the purpose of erecting thereon one dwelling together with such outbuildings as are ordinarily required to be used therewith.

Condition C2(c)

not more than half the area thereof shall be built upon

Condition C2(d)

no building or structure or any portion thereof, except boundary walls and fences, shall be erected nearer than 4,72 metres to the street line which forms a boundary of this erf, nor within 3, 15 metres of the rear or 1,57 metres of the lateral boundary common to any adjoining erf, provided that with the consent of the local authority an outbuilding not exceeding 3,15 metres in height measured from the floor to the wall plate may be erected within the above prescribed rear space and within the above prescribed lateral space for a distance of 9,45 metres from the rear boundary. On consolidation of any two or more even this condition shall apply to the consolidated area as one erf. This condition shall not, however, apply to the existing buildings on Erf No. 24 until such time as they are altered or demolished.

Two dwelling units are proposed to be constructed on the subject property in lieu of one as per condition C(2)(b) and more than half of the area is proposed to be built upon which is in contravention of condition C2(c). The proposed structures are proposed to be located within the rear, lateral and street boundary setbacks as imposed by condition C2(d) which also contains a number of additional restrictions which are not aligned to the current By-Laws. As these 3 conditions contain restrictions which are no longer aligned with the current development laws and policies, and the proposed developed contravenes a number their restrictions, application is made for the proposed removal of these conditions from the title deeds.

MOTIVATION

This section serves to motivate for the proposals included in this application in terms of the Municipal Planning By-Laws 2015, as well as the Spatial Planning and Land Use Management Act and the Land Use Planning Act.

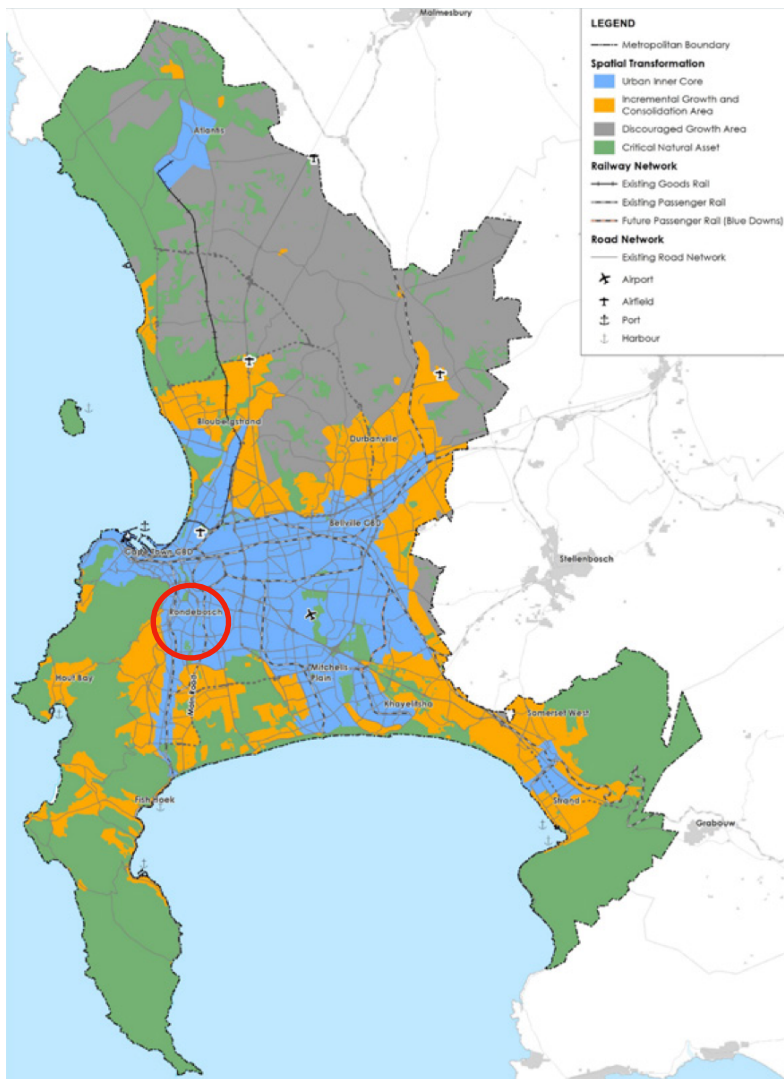
PROVINCIAL SPATIAL DEVELOPMENT FRAMEWORK

The Provincial Spatial Development Framework has been assessed against the proposals made herein and it has been found that the approval of these proposals cannot reasonably be expected to contravene this framework nor could they be expected to have a negative impact upon the directives contained within this policy.

MUNICIPAL SPATIAL DEVELOPMENT FRAMEWORK

The Municipal Spatial Development Framework provides a high level spatial planning guideline for the city of Cape Town and is adjusted periodically to account for changes in policy which inform both public and private investment throughout the city.

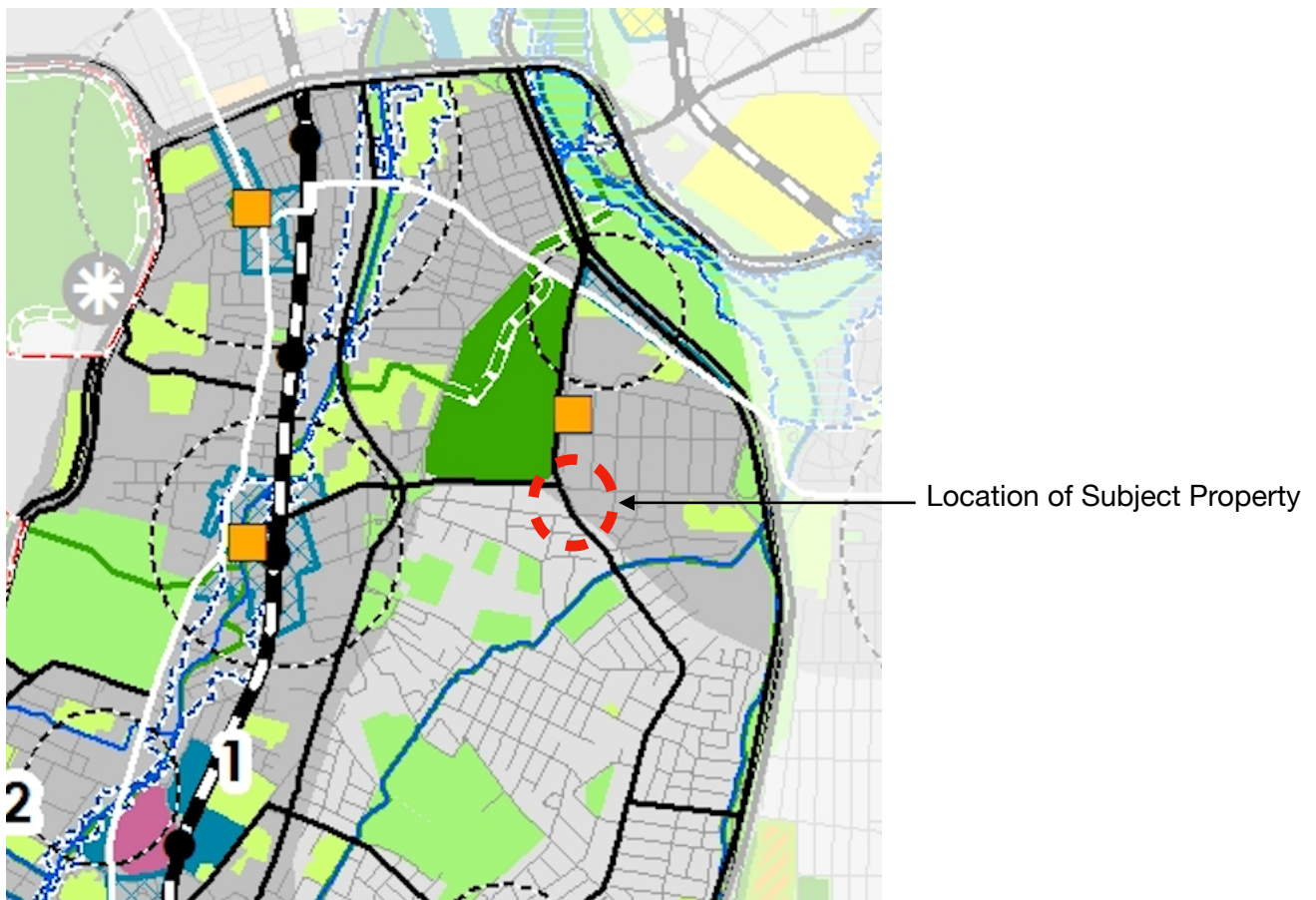
This policy contains three spatial strategies namely; Spatial Strategy 1: Build an inclusive, integrated, vibrant city; Spatial Strategy 2: Manage urban growth and create a balance between urban development and environmental protection; Spatial Strategy 3: Plan for employment and improve access to economic opportunities. The proposed development and removal of various restrictive conditions do not contravene these strategies nor could they be expected to create conditions which hinder the achievement of these. The removal of various restrictive conditions will allow for the property to be developed in a manner which facilitates the achievement of these strategies. For example, the stringent limits to development on the property which have been imposed by restrictive conditions in the title deed (i.e. limiting the property to a single dwelling unit) are in some cases more restrictive than the MPBL. This limits the development potential of well located land within the context of the city and places limitations on the property which are not aligned to the strategies contained in this policy. Creating an inclusive and vibrant city requires the effective utilisation of well located land. This proposal provides enhanced residential housing opportunities in an area on a property located is in close proximity to schools, places of employment and wide array of both public and private amenities.



The above extract from the MSDF indicates that the subject property is located within the Urban Inner Core

The desired spatial outcomes for the Urban Inner Core include intensification and diversification of land uses and, as its name suggests, this defined area is seen as the core, or heart, of the city which contains high concentrations of commercial activity and employment opportunities, major mobility routes, a concentration of an array of public and private infrastructure and high concentrations of residential development. The proposals made herein are not expected to be in conflict with the desired uses and outcomes for this area.

SOUTHERN DISTRICT PLAN



Extract from the Southern District Plain Main Technical Report

The above extract from the Southern District Plan shows that the subject property is located within the Urban Development Spatial Planning Category as defined by this policy. Areas which fall within this Spatial Category should be considered for a wide variety of urban uses. This includes the support for housing development and densification in these areas via the promotion of second and third dwellings on Single Residential 1 zoned properties. The plan also indicates the location of the property within a defined development corridor which are areas, "Typified by intensified and diversified land use, these corridors reflect the targeted, prioritised areas earmarked for the largest spectrum of land use mix associated with the highest density of population and employment".

The proposed development on the subject property, including all associated applications including the removal of restrictive conditions, is not believed to contravene the Southern District Spatial Plan. The proposed development is believed to promote the achievement of the spatial directives contained within this policy.

DENSIFICATION POLICY

The Densification Policy promotes the most efficient use of land within the urban edge. Densification of urban land promotes the reduction of valuable resource consumption, supports the development of viable public transport systems, makes the city more equitable, facilitates economic opportunities, improves housing patterns, contributes to place making and improves security. The City promotes densification in all areas and does not prescribe to a 'one sizes fits all' approach. The proposed development of the two dwellings on the subject property will directly result in enhanced densification in a well located area. As has been indicated, the subject property is located in a development corridor as identified by the Southern District Plan. Densification is promoted in these areas to promote the desired outcomes and support a growing demand for residential housing opportunities on properties located in close proximity to a wide variety of amenities and opportunities. These amenities include schools, health care facilities, commercial nodes and opportunities for residents extend to enhanced access to job opportunities and the ability to live in close proximity to their place of employment.

The proposed development on the subject property promotes densification in a manner which is aligned to current policies and legislation. The development rules contained within the Development Management Scheme is evidently informed by the densification policy as this legislation is constantly updated to help promote the directives of this policy. Residential 1 zoned properties, for example, are permitted to contain a 2nd and 3rd dwelling units. The removal of restrictive conditions and the proposed development of two dwellings on the subject property is believed to be aligned to, and in support of, the Densification Policy.

SOCIAL DEVELOPMENT STRATEGY & INCLUSIVE ECONOMIC GROWTH POLICY

The Social Development Strategy and Inclusive Economic Growth Strategy policies have been assessed against the proposals made within this application and it has been found that there can be no expectation that the achievement of these policies should be limited by their approval. Enhanced residential housing opportunities in a well located area close to places of employment and economic opportunities is viewed as a factor which contributes toward the directives of these two policies. Providing greater housing opportunities in well located areas throughout the city affords more people the opportunity to reside in these areas and is a factor which contributes toward creating a more equitable city.

SPLUMA

Chapter 2 of the Spatial Planning and Land Use Management Act (SPLUMA), 2013, sets out a number of development principles designed to guide spatial planning and land use management. There are 5 development principles stipulated, these are; 1. Spatial Justice, 2. Spatial Sustainability, 3. Efficiency, 4. Spatial Resilience, 5. Good Administration.

The proposals made herein support a number of these principles. Spatial sustainability is supported as the deletion of these restrictive conditions will result in the more efficient use of land within the urban edge. Efficiency is promoted in utilising land available for development within the urban edge and optimises the use of existing infrastructure. The proposals contained within this application supports more efficient and equitable use of well-located urban residential land thus contributing toward spatial justice. Spatial resilience is enhanced as the property will be able to better, and more appropriately, respond to to changing urban needs over time.

LUPA

Chapter 6 of the Land Use Planning Act (LUPA), 2014, stipulates the Land Use Planning Principles to be upheld by the Province. These principles are in line with SPLUMA's development principles. These principles are promoted as described above and it is maintained that the proposals made within this application do not contravene any of these principles.

THE DEVELOPMENT MANAGEMENT SCHEME

The DMS prescribes the development rules for properties located within Cape Town. The DMS prescribes that an ERF zoned Residential 1 that is greater than 650 square meters in extent is restricted to a 3.5 meter street boundary building line and a 3m common boundary building line. Restrictive condition C2(d) currently places greater restrictions on the rear and street boundary building lines to 4.72m (street boundary) and 3.15m (rear boundary).

The DMS places no restrictions on coverage for properties of this size while restrictive condition C2(c) limits coverage to 50% (not more than half the area may be built upon). The DMS currently permits 3 dwellings on erven zoned Residential Zone 1 whereas restrictive condition C2(b) limits the subject property to one dwelling building.

As indicated above, the title deed restrictive conditions are, in many cases, more restrictive than the current development laws contained within the MPBL. The removal of these conditions will therefore allow for the subject property to be developed in line with current laws.

The proposals contained within this application have also been assessed against the provisions of the DMS and application has been included to depart from the provisions of item 22(c)(ii) to permit new works on the existing dwelling to be located within the 3m common boundary building line setback. Application for Councils Consent has also been included to permit two carriageway crossings on a single street boundary.

LUPA & SPLUMA CRITERIA

This section motivates for the proposals made herein in terms of the relevant criteria stipulated in

LUPA & SPLUMA.

SPLUMA

Section 42(1)(c) provides a list of factors that must be assessed when determining an application for the removal of restrictive conditions:

1. The public interest

No proposals made within this application are expected to have a negative impact on the public interest. All proposals are made on private property and none of these proposals are expected to result in harmful or negative impacts to individuals or the community at large.

2. The constitutional transformation imperatives and the related duties of the state

The applications contained herein have been made according to applicable laws.

3. The facts and circumstances relevant to the application

This report has detailed the facts and circumstances of the application including the character of the local area and how this has changed over the years, building plans have been provided detailing the proposed additions and renovations and, among other factors, local policies and laws have been taken into consideration.

4. The respective rights and obligations of all those affected

The owners of the subject properties are operating within their rights to submit an application requesting the approval of the City for proposed renovations and extensions on their property. This application in turn provides interested and affected parties the right to submit comments in response to these proposals. The City of Cape Town is required to assess the applications and proposals contained herein.

5. The state and impact of engineering services, social infrastructure and open space requirements

The proposals contained within this report are not expected to have a negative impact on engineering services, social infrastructure or open space requirements.

6. Any factors that may be prescribed, including time frames for making a decision

These factors are prescribed largely by the Municipal Planning By-Laws.

Section 47(2) of the Spatial Planning and Land Use Management Act (SPLUMA), 2013, provides that a removal, amendment or suspension of a restrictive condition must occur:

(a). in accordance with section 25 of the Constitution and SPLUMA

The property rights of any party will not be affected by the removal of these restrictive conditions.

(b). With due regard to the respective rights of all those affected, and to the public interest

It is believed that rights of any party and the public interest will not be negatively impacted upon by the removal of these restrictive conditions. The public interest is currently protected by the Municipal Planning By-Laws and the rules and regulations prescribed within the DMS. The restrictive conditions which have been registered over this property are older than these, more current, development regulations. The conditions were put in place to protect the character of the area, the character of which has changed significantly and in a manner which conforms to current legislation and policy. The public interest will continue to be protected by the MPBL and the DMS and the removal of the stipulated restrictive conditions will allow the owner of the property to exercise the current development rights permitted by the City.

(c). in the prescribed manner if such suspension, amendment or removal will deprive any person of property as contemplated in section 25 of the Constitution.

The proposed removal of these restrictive conditions will not result in any person being deprived of property.

LUPA

Section 39(5) of the Land Use Planning Act (LUPA), 2014, must be considered when motivating for the deletion of a restrictive condition.

Section 39(5) stipulates that *when a municipality considers the removal, suspension or amendment of a restrictive condition, the municipality must have regard to at least the following:*

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

We are not in a position, nor are we qualified, to provide accurate information pertaining to the current financial value. It is our opinion however, that the removal of these restrictive conditions will not impact upon financial value, or any other value, enjoyed by a person or entity. The removal of these conditions will not negatively affect the rights of surrounding properties, as neighbouring owners continue to retain their full zoning rights and development opportunities applicable to their individual erven.

The value in the rights of the restrictive conditions is to maintain the character of the area. These restrictive conditions were imposed to maintain low building densities on properties within the local area. The removal of these conditions will allow for the property to be developed in line with the current planning laws and will not result in development which would be considered to deviate from the character of the local area. Many properties in the surrounding area have already been developed or altered in a manner which is in line with contemporary planning legislation and policy. This has resulted in a change in the character of the local area which is no longer aligned to these older restrictive conditions. It is therefore our view that the rights of owners of the surrounding properties will not be negatively affected by the proposed removal of these restrictive conditions.

(b). *The personal benefits which accrue to the holder of the rights in terms of the restrictive condition.*

The personal benefits which accrue to the holder of the rights are the expectations that the character of the area will be maintained by keeping the restrictive conditions in place. As has been discussed, the character of the area has changed significantly as a result of contemporary policy and planning laws and, given the nature of development on properties in the area, it is clear that many are no longer bound by these restrictions.

The conditions are also historic in nature and were imposed at a time when restrictive conditions were used to place development controls over properties. Given changes and development in local legislation, the Municipal Planning By-Laws, and associated DMS, provides comprehensive control of land-use and development of properties throughout the City. This legislation is constantly adjusted to ensure alignment with local policies and changing national and provincial legislation. As a result, in many cases, as is believed to the case in this instance, historical restrictive conditions become outdated and are no longer appropriate in the context of the desired development of the city.

The subject conditions do not provide a 'personal benefit' to the neighbours who also do not have any other rights over the subject property (i.e. servitude), nor are they entitled to a real right which will be impacted upon following the removal of the stipulated restrictive conditions.

(c). *The personal benefits which will accrue to the person seeking the removal, suspension or amendment of the restrictive condition if it is removed, suspended or amended.*

The removal of these restrictive conditions will enable the landowner to develop the property in a manner which is in line with current legislation and policies, specifically the DMS. The removal of these restrictive conditions will allow for less restrictive controls on development and will enable enhanced investment in the property by the owner.

These restrictive conditions limit the property owner's ability to invest in the subject property. The removal of these restrictive conditions, which, in some instances, place more intensive restrictions to development than the current By-Laws, will provide the owner of the property with opportunities to enhance their investment.

Specifically, the removal of these conditions will allow for the opportunity to develop more than one dwelling unit, for the built upon area to be greater than half the erf size and for structures to be located closer to the property boundaries than what is currently permitted by these conditions. Overall, it will allow

for the owner of the subject property to develop the property in a manner which is more aligned to current permissible development parameters, a benefit which is believed to be reasonable, proportionate, and consistent with the rights available to comparable properties in the area.

(d). The social benefit of the restrictive condition remaining in place in its existing form.

It is believed that there will be no social benefit in retaining these restrictive conditions. The restrictive conditions provide no meaningful social benefit in the current legislative context as their original purpose was to impose development controls prior to the current Municipal Planning By-Laws which, together with the DMS and zoning scheme, provide a comprehensive and strict set of laws associated with development within the Cape Town. Retaining these outdated conditions are not believed to result in enhancements to the local area and their continued existence creates inconsistency within the suburb and may hinder appropriate infill development, efficient land use, and housing availability.

(e). The social benefit of the removal, suspension or amendment of the restrictive condition.

The restrictive conditions contradict a number of current policies, including the densification policy, and legislation, all of which are designed to promote and facilitate development in the city which is in line with the development principles. As many of these development principles seek to promote greater social benefit, it is our opinion that the removal of these restrictive conditions will, in fact, promote greater social benefit.

For example:

- Allowing buildings closer to the street boundary has a positive social impact in enhancing security via passive surveillance over public areas.
- Enabling more efficient residential land use close to services, amenities, transport routes and job opportunities
- Supports incremental densification in line with current policy
- Ensuring consistency in development controls across the area where development on properties is already controlled by the current By-Laws.

The above all contributes toward supporting long term spatial efficiency, equity and sustainability among other desirable outcomes.

(f). *whether the removal, suspension or amendment of the restrictive condition will completely remove all rights enjoyed by the beneficiary or only some of those rights.*

The beneficiary in this case is the City of Cape Town. The removal of these restrictive conditions will not remove all rights enjoyed by the beneficiary as the CoCT will maintain control over development of the property through the MPBL and the Development Management Scheme.

It is indicated in a number of sections above that the removal of these conditions will allow for the property to be developed in line with current laws and policies which govern land use and development within Cape Town. These laws make provisions to deviate from these prescribed development parameters and, as such, the removal of these restrictive conditions will allow for any proposed development on the subject property to be considered solely in terms of these updated laws and policies. In this instance, it is believed that the conditions contained within this report are no longer necessary as a means through which to place controls on development over this property as a result of updated laws and policies and changes to the character of the local area as a result. As such, application has been made to remove these conditions from the property's title deeds.

IMPACT ON EXISTING RIGHTS

The rights of surrounding property owners are not expected to be negatively impacted upon as a result of the proposals made within this application. The restrictive conditions contained within this application afford rights over the subject property in favour of the City of Cape Town. As has been shown, these controls on development are outdated as per new policies and spatial plans and the City will still retain rights associated with permissible development on the subject property via the MPBL and associated DMS. No rights of any individual or property will be taken away as a result of the approval of this application.

ADDITIONAL CONSIDERATIONS

CRITERIA	IMPACT
(a) Socio-Economic Impact	The proposed development on the subject property is not expected to result in any negative socio-economic impacts.
(b) Compatibility with Surrounding Area	The proposed development is believed to be compatible with the surrounding area and is not believed to deviate from the character of the local area.

(c) Impact on External Engineering Services	There is believed to be sufficient external engineering capacity within the area and the proposals contained herein are not expected to place significant increase in demand on these systems.
(d) Impact on Safety, Health and Wellbeing of the Surrounding Community	The approval of this application is in no way expected to result in detrimental impacts to the safety, health and well-being of the local community.
(e) Impact on Heritage	Heritage has been considered as it relates to the subject property and the proposals made within this application. The property is not located within an HPOZ and is not considered by the City to be of significance from a heritage perspective.
(f) Impact on Biophysical Environment	The property is not situated in an environmentally sensitive area nor are the proposals made expected to impact negatively on the biophysical environment.
(g) Traffic Impacts	There is no proposals contained herein which will be expected to have a negative impact on traffic in the local area. There is believed to be sufficient space between the two proposed carriageway crossing and the location of these on the same street boundary is not expected to result in dangerous conditions for those entering and exiting the property nor for those making use of the road.
(j) Imposition of Conditions	Not deemed to be applicable in this case

CONCLUSION

This motivation contains all the information and considerations as required by local planning legislation and, given the motivations put forward to the City we respectfully request that this proposal together with the associated applications be approved.