

COUNCIL OF THE CITY OF CAPE TOWN

25 MARCH 2015

ITEM NUMBER: C 39/03/15

*RECOMMENDATION FROM THE EXECUTIVE MAYOR: 19 MARCH 2015***MC 35/03/15 DETERMINATION OF ZONING: PORTION OF ERF 167714, CAPE TOWN AT RONDEBOSCH, 23 ROUWKOOP AVENUE**

It is **RECOMMENDED** that Council resolve, in terms of section 3.3.7 of the Cape Town Zoning Scheme Regulations, that the portion of Erf 67714, Cape Town at Rondebosch, at 23 Rouwkoop Avenue, as shown hatched on Annexure B to the report on the agenda dated 26 May 2014, is no longer required for public street purposes, and that such land be deemed to be zoned General Residential Subzone GR2.



REPORT TO MAYORAL COMMITTEE

DATE 2015-03-17

- 1 **ITEM NUMBER : MC 35/03/15**
 - 2 **DETERMINATION OF ZONING: PORTION OF ERF 167714 CAPE TOWN AT RONDEBOSCH, 23 ROUWKOOP AVENUE**
 - 2 **BEPALING VAN SONERING: GEDEELTE VAN ERF 167714 KAAPSTAD TE RONDEBOSCH, ROUWKOOPLAAN 23**
 - 2 **UKUGQITYWA KOMISELO LOMHLABA KWISIQEPHU SESIZA-167714 ESISEKAPA E-RONDEBOSCH, 23 ROUWKOOP AVENUE**

LSU E2464/F0690

On 11 February 2015 the Spatial Planning, Environment and Land Use Management Committee (SPELUM) considered the attached report dated 26 May 2014.

- 3 **RECOMMENDATION FROM THE SPATIAL PLANNING, ENVIRONMENT AND LAND USE MANAGEMENT COMMITTEE: 11 FEBRUARY 2015 (SPEL 12/02/15)**

To recommend to the Executive Mayor, together with the Mayoral Committee, that it be recommended that Council resolve, in terms of section 3.3.7 of the Cape Town Zoning Scheme Regulations, that the portion of erf 167714, Cape Town at Rondebosch, at 23 Rouwkoop Avenue, as shown hatched on annexure B to the report dated 26 May 2014, is no longer required for public street purposes, and that such land be deemed to be zoned General Residential Subzone GR2.

- 3 **AANBEVELING VAN DIE KOMITEE OOR RUIMTELIKE BEPLANNING, DIE OMGEWING EN GRONDGEBRUIKBESTUUR: 11 FEBRUARIE 2015 (SPEL 12/02/15)**

Aanbeveling by die uitvoerende burgemeester tesame met die burgemeesterskomitee dat daar aanbeveel word dat die Raad ingevolge artikel 3.3.7 van die Kaapstadse soneringskema regulasies besluit dat die gedeelte van erf 167714, Kaapstad te Rondebosch, Rouwkooplaan 23, soos aangetoon in bylae B by die verslag van 26 Mei 2014, nie meer vir openbarestraat-doeleindes benodig word nie, en dat die sonering van hierdie grond as algemeen residensiële subzone GR2 geag word.

3 ISINDULULO SEKOMITI YOCWANGCISO LOMHLABA ONGAMABALA, OKUSINGQONGILEYO NOLAWULO LOKUSETYENZISWA KOMHLABA: 11 FEBRUWARI 2015 (SPEL 12/02/15)

087

Ukuba kundululwe kuSodolophu weSigqeba nakwiKomiti yeSigqeba sakhe, sokuba kwenziwe isindululo kwiBhunga sokuba lisombulule ngokwecandelo-3.3.7 leMigaqo yeNkqubo yezoCando ukuba isiqephu sesiza-167714, esiseKapa e-Rondebosch, 23 Rouwkoop Avenue, njengoko sibonakaliswe ngomzobo okwisihlomelo-B kwingxelo ebhalwe owama-26 Meyi 2014, asisafuneki nganto ukusetyenziselwa imibandela yesitrato soluntu, kwakhona loo mhlaba mawuthathwe njengocandelwe uMmandlana wokuhlala ngokuphangaleleyo ongu-GR2.

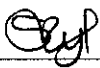


EXECUTIVE DIRECTOR

Comment:

NAME J HUGO

DATE 17.02.2015



LEGAL COMPLIANCE

REPORT COMPLIANT WITH THE PROVISIONS OF COUNCIL'S DELEGATIONS, POLICIES, BY-LAWS AND ALL LEGISLATION RELATING TO THE MATTER UNDER CONSIDERATION.

NON-COMPLIANT

NAME Sarah van Zyl

TEL 021 400 5446

DATE 17.02.2015

Comment:

Certified as legally compliant:
Based on the contents of the report.

A.G. Dm

EXECUTIVE DIRECTOR: COMPLIANCE AND
AUXILIARY SERVICES (ED: CAS)

NAME GRAS

DATE

18/2/15

SUPPORTED FOR ONWARD SUBMISSION
TO MAYOR / MAYCO / COUNCIL

NOT SUPPORTED

REFERRED BACK

COMMENT:

J. van der Merwe

MAYORAL COMMITTEE MEMBER

NAME J VAN DER MERWE

DATE

19/02/2015

COMMENT:



**REPORT TO SPATIAL PLANNING, ENVIRONMENT & LAND USE MANAGEMENT
COMMITTEE & FULL COUNCIL**

APPLICATION NO	N/A		
FILE REFERENCE	LUM/00/167714		
AUTHOR	A Allie		
PHONE NO	021 444 9535		
SECTION HEAD	P Hoffa		
PHONE NO	021 444 7724		
DISTRICT	Southern		
SUBCOUNCIL	20		
WARD	59		
WARD COUNCILLOR	I Iversen		
REPORT DATE	26-05-2014		
INTERVIEW REQUESTED	APPLICANT	YES	NO
	OBJECTOR(S)		
			✓
			✓

ITEM NO SPEL 12/02/15

**DETERMINATION OF ZONING: PORTION OF ERF 167714 CAPE TOWN AT
RONDEBOSCH, 23 ROUWKOOP AVENUE**

**BEPALING VAN SONERING: GEDEELTE VAN ERF 167714 KAAPSTAD TE
RONDEBOSCH, ROUWKOOPLAAN 23**

**UKUGQITYWA KOMISELO LOMHLABA KWISIQEPHU SESIZA-167714
ESISEKAPA E-RONDEBOSCH, 23 ROUWKOOP AVENUE**

LSU: E2464

1 EXECUTIVE SUMMARY

Property description	Erf 167714 Cape Town at Rondebosch
Registered owner	FAH Wilson
Applicant / agent	N/A
Site extent	281m ²
Applicable Zoning Scheme	Cape Town Zoning Scheme
Current zoning	General Residential Subzone GR2 & Transport Zone 2
Current land use	Dwelling House
Title deed restrictions	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Application components / description (state briefly)	To determine the zoning of a ±30m ² of Erf 167714 that is currently zoned Transport Zone 2, and which was successfully claimed by prescription.
Submission date	N/A
Special / Conservation area	Lower Rouwkoop Road Heritage Protection Area
Subject to PHRA / SAHRA	No
Any unauthorised land use / building work? (for background info; not to form part of consideration or basis of decision)	None
Public participation outcome summary (key words only)	N/A

Policies / plans applicable	None		
Policy compliant	Yes	√	No
Recommended decision	Approval	√	Refusal
Delegation no & extract	There are no specific delegations regarding this matter and thus the decision needs to be made by full Council.		
Reason(s) for coming to SPELUM (if applicable)	As the matter relates to planning, the matter is referred to SPELUM for a recommendation to full Council via Mayco.		

2 DECISION AUTHORITY

	Recommendation	Decision
Subcouncil		
SPELUM	√	
EESP		
MayCo	√	
Council		√
PGWC		

3 BACKGROUND / SITE HISTORY

- 3.1 As can be seen from Annexure A, Erf 167714 is split zoned General Residential Subzone GR2 and Transport Zone 2.
- 3.2 The portion zoned Transport Zone 2 was acquired by the land owner in 1975 from Council by means of a prescriptive claim in terms of the Prescription Act 68 of 1969. The prescriptive claim was admitted by Council (see Annexure C).
- 3.3 At the time of the prescriptive claim Council still intended to widen Rouwkoop Avenue. In other words, despite admitting to the prescriptive claim, Council wanted the land in question back and thus the land in question was not rezoned to be the same zone as the adjoining land.
- 3.4 There is a historic building on Erf 167714 that straddles the 2 zones. In 2013 a land use application was approved for extensive building work on Erf 167714 in the form of a dwelling house that was on both zones of the property. This application was processed in terms of the former Cape Town Zoning Scheme and the building work on the portion of land now zoned Transport Zone 2 was permitted by means of a consent approval.
- 3.5 Section 3.3.7 of the new Cape Town Zoning Scheme Regulations states: *"Any portion of land which was previously part of a public street but has become the property of an abutting owner through prescription shall be deemed to be zoned as Transport Zone 2: Public Street and Public Parking; provided that where Council specifically resolves that such portion of land is no longer required for public street purposes, such land shall be deemed to fall into the same zone and subzone as that of the abutting land belonging to such owner"*.

4 PUBLIC PARTICIPATION

Comments

Advertising	Press		
	Gazette		
	Notices	√	A notice was served on the property owner on 17-10-2013.
	Ward councillor		
	On-site display		
	Community organisation(s)		
	Public meeting		
Outcome	Objections		
	Objection petition		
	Support / No objection		
	Comments	√	No response was received.
	Ward councillor response		

5 SUSTAINABILITY IMPLICATIONS

Does the activity in this report have any sustainability implications for the City?	Yes		No	√
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5.1 This matter has no sustainability implications.

6 PROPOSAL ASSESSMENT

Character of the area

6.1 The area comprises of a well-established, middle-income, suburban, residential neighbourhood consisting of a wide range of built forms (ranging from row houses to blocks of flats) set on a range of erf sizes. The busy nature of nearby Campground Road as well as the railway line also contributes significantly to the character of the area.

Zoning

6.2 As can be seen in Annexure A, the subject property is split zoned General Residential Subzone GR2 and Transport Zone 2. The surrounding properties are zoned General Residential Subzone GR2.

Description of the property

6.3 The property is developed with a double storey dwelling house a portion of which comprises a building older than 60 years built 0m from the Rouwkoop Avenue cadastral boundary. There is a significant Oak tree situated partially on the portion of land acquired by prescription.

Comment from the Director: Transport

6.4 The Director: Transport (Transport Network Infrastructure Development Unit) has considered this matter (see Annexure D) and has stated that:

- The recommendation from the then City Engineer dated 1976 that the encroaching area in Rouwkoop Avenue to which Council has admitted a

prescriptive claim should continue to be reserved for the widening or improving of Rouwkoop Avenue was written when heritage legislation was not yet established and demolishing the cottage was an option.

- The widening and improvement of Rouwkoop Avenue (at Erf 167714 only) is not going to be possible by virtue of the established and protected oak tree and the 100 year old cottage within the area acquired by prescription. As such, the ±1.9m wide prescription land area can be abandoned for street purposes.
- Rouwkoop Avenue is not affected by a road widening scheme.

Zoning Impact

- 6.5 There is no benefit to the City to keep the land in question zoned Transport Zone 2. In fact, in the long term, deeming the land in question to be zoned General Residential Subzone GR2 will reduce the red tape. This proposal has no negative zoning implications.

7 REASONS FOR RECOMMENDATION

Reasons for the recommendation may be summarised as follows:

- The widening of Rouwkoop Avenue at Erf 167714 is not going to be possible for heritage reasons.
- No road widening scheme exists for Rouwkoop Avenue.
- The Director: Transport has confirmed that the land acquired from Council by the owner is not necessary for street purposes.
- The proposal has no negative zoning implications.

8 RECOMMENDATION / AANBEVELING / IZINDULULO

In view of the above, it is recommended that:

In die lig van die bogenoemde, word daar aanbeveel dat:

Ngokwalo mcimbi ungentla, kundululwe ukuba:

- 8.1 That the zoning of the portion of Erf 167714 Cape Town at Rondebosch that was acquired from Council by prescription be deemed to be zoned General Residential Subzone GR2 in terms of Section 3.3.7 of the Cape Town Zoning Scheme Regulations.
- 8.1 Daar word aanbeveel dat die sonering van die gedeelte van erf 167714 Kaapstad te Rondebosch wat die Raad deur verjaring verkry het, geag word as gesoneer as algemeen residensiële subsone GR2 ingevolge artikel 3.3.7 van die Kaapstadse soneringskema regulasies.
- 8.1 Kundululwe ukuba umiselo lwesiqephu sesiza-167714 esiseKapa e-Rondebosch, esathi safunyanwa kwiBhunga ngokomyalelo, makugqitywwe ukuba simiselwe njengoMmandla wokuHlala ngokuphangaleleyo ongu-GR2 ngokwecandelo-3.3.7 leMigaqo yeNkqubo yezoCando yaseKapa.

ANNEXURES

- Annexure A Locality plan and zoning map
 Annexure B Surveyor General's diagram indicating the portion of land acquired by prescription
 Annexure C City Engineer's letter dated 15-04-1976 and associated plan
 Annexure D Comment from the Director: Transport

P Hoffa

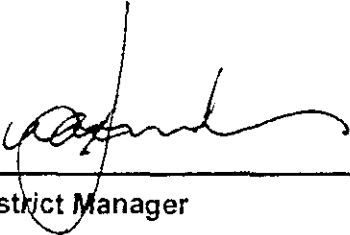
Section Head : Land Use Management

Comment

Name P Hoffa

Tel no 021 444 7724

Date 2014-05-27



District Manager

Name O Gonsalves

Comment

Tel no 021 444 7720

Date 2014-05-27

ITEM NUMBER: C 40/03/15

RECOMMENDATION FROM THE EXECUTIVE MAYOR: 19 MARCH 2015

MC 21/03/15 APPLICATION FOR THE DETERMINATION OF A SPECIAL RATING AREA (SRA) KNOWN AS THE ELSIES RIVER CITY IMPROVEMENT DISTRICT (ERCID)

It is **RECOMMENDED** that:

- (a) the City of Cape Town determine the area as reflected in the body of the report on the agenda to be declared a special rating area (SRA), known as the Elsie's River City Improvement District (ERCID), in terms of the Special Rating Area By-law, 2012
- (b) the City of Cape Town approve the application submitted by Makeshift 1104 (Pty) Ltd, the registered owner of Erf 9722, Elsie's River, to establish an SRA in the ERCID area in terms of section 8.1 (a) of the By-law
- (c) the City of Cape Town impose the levying of an additional rate on commercial properties in the ERCID in terms of section 22(1)(b) of the Local Government: Municipal Property Rates Act (MPRA), Act 6 of 2004, after section 10 of the By-law has been met
- (d) a Finance Agreement be concluded between the City of Cape Town and the ERCID Management Committee in terms of section 12(6) of the By-law.