



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

REPORT TO: **MUNICIPAL PLANNING TRIBUNAL**

ITEM NO MPTSE170522

WARD 47: APPLICATION FOR CONSENT IN TERMS OF THE MUNICIPAL PLANNING BY-LAW, 2015: ERF 39174 CAPE TOWN, 33 ANANDALE ROAD, BELTHORN ESTATE

Case ID	70537925
Case Officer	Silulami Kanzi
Case Officer phone number	021 684 4372
District	Cape Flats
Ward	Ward 48
Ward Councillor	Zahid Badroodien
Report date	29 March 2022
Acceptance date	12 May 2021
Applicable legislation	Post 2019 MPBL

1. **EXECUTIVE SUMMARY**

Property description	Erf 39174, Cape Town				
Property address	33 Anandale Road, Belthorn Estate				
Application components / description	Application in terms of item 22(b) <ul style="list-style-type: none"> To allow the double garage to setback 0.0m in lieu of 1.5m street building line from Anandale Road. To allow the dwelling extensions to be 0.0m in lieu of 3.0m from the Southern and Eastern boundary. To allow the dwelling extensions to be 2.583m in lieu of 3m from the Western Boundary. 				
Site extent	446m ²				
Current zoning	Single Residential (SR1)				
Current land use	One dwelling house				
Overlay zone applicable	None				
PHRA or SAHRA heritage	None				
Public participation outcome summary	One objection received				
Recommended decision					
Approval	✓	Refusal		Approval in part & Refusal in part	

2. BACKGROUND FACTS

An application for permanent departures for the dwelling extensions and a double garage was submitted in May 2021. One neighbour opted the application to be advertised to them and submitted an objection after formal advertising was conducted.

The applicant amended the application in response to the objection received thus re-advertising of the application was not considered necessary due to the reduced impact of the proposal along the common boundary.

3. SUMMARY OF APPLICANT'S MOTIVATION

3.1. The applicant's motivation (see Annexure D) may be summarised as follows:

- The surrounding area consists of similar dwelling extensions.
- The design of the proposal compliments the existing architectural style and will have no impacts to the streetscape.
- Sufficient parking is provided.

4. PUBLIC PARTICIPATION

		Applicable	Dates / Comments
Advertising	Notice in the media (s81)	x	
	Notice to a person (s82)	✓	30 July 2021
	Notice to Community organization (s83)	x	
	Notice to Ward Councillor (s83)	x	
	Notice of no objection (s84)	x	
	Notice to Provincial Government (s86)	x	
	Notice to an Organ of State (s87)	x	
	Public meeting	x	
	On-site display	x	
Outcome	Objections	✓	One objection received
	Objection petition	x	
	Support / No objection	x	
	Comments	x	
	Ward Councillor response	x	

4.1 Summary of objection

4.1.1 the objections (see Annexure E) may be summarised as follows:

- The proposed 5.96m height departure will reduce direct sunlight to my northern garden and outdoor living area. The block of the sunlight will affect sustaining a lawn in this area.
- The timber structure poses a greater risk in terms of fire to my property.

4.2 Summary of applicant's response to public participation

4.2.1 the applicant's response to the objection (see Annexure F) may be summarised as follows:

- With regards to the objection for the first storey proposal, the proposal has been revised to only include a single storey with a height of 3.15m.

5. BACKGROUND TO PROPOSAL

5.1 Background

The application for permanent departures in terms of items 22(d) to allow for the proposed dwelling extensions and a double garage was accepted in May 2021. The No Objection letters were sent to the affected neighbours and three neighbours chose the application to be formally advertised (Erf 39175, Erf 39182, and Erf 39183). The application was advertised to the applicable neighbours and only one objection was received (Erf 39183).

5.2 Description of the area / surrounding land uses

The property is located within a well-established residential area of Belthorn Estate. The property is accessed via Anandale Road. The surrounding context is dominated by properties of a single residential nature. There is mix of single and double storeys dwellings.

5.3 Property description

Erf 39174, Cape Town measures 446m² in extent. It comprises a dwelling house, a covered yard, and a second dwelling/domestic quarters on the Southern boundary.

The existing second dwelling/domestic quarters does have approved plans and are located within the 3m common building lines. Although the unlawful structure required a determination of an administrative penalty, the contravention is less than 18m² in extent and less than 4m in height and is thus exempted in terms of Staff Circular 20 of 2021.

5.4 Proposed development

The proposal is for a permanent departures for the dwelling extensions and a new double garage. The proposal necessitates departures from the 1.5m street building line, and 3m common boundary building lines.

6. PROPOSAL ASSESSMENT

6.1. Consideration of criteria in terms of Section 99(1):

6.1.1 Compliance or consistence with the Municipal Spatial Development Framework (MSDF) (2018)

In terms of the MSDF, the property is located within the "Urban Inner Core". Within the Urban Inner Core the following is supported:

- Intensification and diversification of land uses supportive of transit orientated development.
- Promoting quality urban design and contextual fit.

The proposal complies with the MSDF. The proposal allows intensification of residential land use, and the design is set to blend with the existing dwelling's design and is in keeping with the character and built form of the surrounding area.

6.1.2 Would approval of the application have the effect of granting the property the development rules of the next subzone within a zone?

No.

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 subject property is designated in the **Cape Flats District Plan (CFDP) (2012)** for "urban development". Urban development includes buildings and infrastructure for residential purposes such as being proposed in this application. Erf 39174 is located approximately 100m from Jan Smuts Drive, a major through route in the area which offers public transport opportunities. Intensification of the property, such as being proposed, is supported by the CFDP.

6.2.2. Relevant criteria contemplated in the DMS

None applicable to this application.

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

The proposal will support the Economic Development Strategy because the application will provide some short term construction employment. The proposal will support the Social Development Policy because additional living space will be provided.

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

a. Socio- economic Impact

The departures will enable extensions to the dwelling that are intended to provide further living areas for the applicant's family. Regarding economic impact, in short term the proposal will provide employment during construction, and longer term it will increase property value and provide investment in the area.

b. Compatibility with surrounding area

The surrounding area consists of similar developments with structures constructed onto or close to the rear common boundary. Therefore, the proposal blends in with the existing residential character of the area. The proposed double garage onto the street boundary will further not impact negatively on the surrounding area.

c. Impact on engineering services

No impact, as the accommodation is still intended for the accommodation of a single family.

d. Impact on the health, safety and wellbeing of the surrounding community

The proposal will have no impacts on health, safety and wellbeing of the surrounding community. The windows and opening are located at a fair distance from the common boundaries.

The applicant revised the proposal from a double storey to a single storey dwelling extension, thereby any negative impact on the abutting neighbours.

e. Impact on heritage

No impact.

f. Impact on the biophysical environment

No impact.

g. Traffic impact, assess and parking

There are no additional traffic impacts and the property's parking complies with DMS parking requirements.

h. Conditions that can mitigate an adverse impact of the proposed land use

A requirement that the proposal shall be substantially in accordance with the building plan (Annexure B) has made a condition of approval.

6.2.5. Impact on existing rights (other than the right to be protected against trade competition)

No impacts on existing rights.

6.2.6 Impact on consolidation of land units

Not applicable

6.2.7 Other considerations prescribed in relevant national or provincial legislation:

The proposal complies with the principles set out in Section 59 of the Land Use Planning Act (LUPA) and Section 7 of the Spatial Planning and Land Use Management Act (SPLUMA), particularly as it relates to the principles of spatial sustainability and efficiency. The proposed development of this proposal aligns with the aforementioned principles as they are contained in SPLUMA and LUPA for the reasons listed below;

- The proposal is in line with the development principle of **spatial sustainability** (see section 7(b) of SPLUMA) as it promoted land development in a sustainable location without creating urban sprawl.
- The proposal is in line with the development principle of **good administration** (see section 7(e) of SPLUMA) as the application has been processed according to the procedures and timeframes set by the City of Cape Town Municipal Planning By Law 2015.

6.2.8 The correct application has been made.

All the correct processes and procedures have been undertaken.
The public participation has been correctly undertaken.

Regarding the objection

The objection received against the original application related to specifically a double storey structure that was proposed on the common boundary. Based on the objections received the applicant amended the proposal to a single storey structure which complies in terms of the 4.0 height limitation along the common boundary.

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

7. REASONS FOR DECISION

7.1. Reasons for the recommended decision for **approval** relating to the application for the permanent departures may be summarised as follows:

7.1.1 The proposal is not inconsistent with the Cape Flats District Plan (CFDP) or the Municipal Spatial Planning Framework as it will increase residential accommodation in a well located urban area.

- 7.1.3 The proposal is unlikely to have any negative impacts on the surrounding properties as similar structures can be found within the area. The proposal is compliant with planning policies as it promotes intensification of use and good contextual fit. And furthermore the proposal will provide increased living area for the family.
- 7.1.2 The proposal provides short term employment opportunities, while possibly improving property value and investment in the area.
- 7.1.4 The proposed street building line encroachment for the double garage will not have negative impacts to the streetscape and the abutting properties.
- 7.1.5 The applicant revised the proposal from a double storey to a single storey to respond to the objector's comments.
- 7.1.6 There are no impacts on traffic and on-site parking is provided in accordance with the DMS requirements.

8. RECOMMENDATION

In view of the above, it is recommended that:

- 8.1 The application for permanent departures for Erf 39174 Cape Town **be approved** in terms of Section 98(b) of the Municipal Planning By-Law, 2015, subject to conditions contained in Annexure A.

ANNEXURES

Annexure A	Conditions of approval
Annexure B	Locality Plan/Public participation map
Annexure C	Building Plan
Annexure D	Applicant's Motivation
Annexure E	Objection
Annexure F	Applicant's response



District Manager & obo Section Head: Land Use Management

Name	Chad Newman	Comment
Tel no	021 684 4310	
Date	7 April 2022	

ANNEXURE

A

Annuxure A

In this annexure:

“City” means the City of Cape Town

“The owner” means the registered owner of the property

“The property” means **Erf 39174, Cape Town**

“Bylaw” and “Development Management Scheme” has the meaning assigned thereto by the City of Cape Town Municipal Planning Bylaw, 2015 (as amended)

“Item” refers to the relevant section in the Development Management Scheme

CASE ID: 70537925

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

- 1.1 Departure to permit double garage to be 0,0m in lieu of 1.5m street building line.
- 1.2 Departure to permit the dwelling extensions to be 0,0m in lieu of 3m common building line (South and Eastern Boundary).
- 1.3 Departure to permit the dwelling extensions to be 2.583m in lieu of 3,0m (Western Boundary).
- 1.4 Departure to permit the height of the dwelling within the 3m common building line to be 5,96m in lieu of 4,0m on the South and Eastern boundaries.

2. CONDITIONS OF APPROVAL IMPOSED IN TERMS OF SECTION 100 OF THE BYLAW

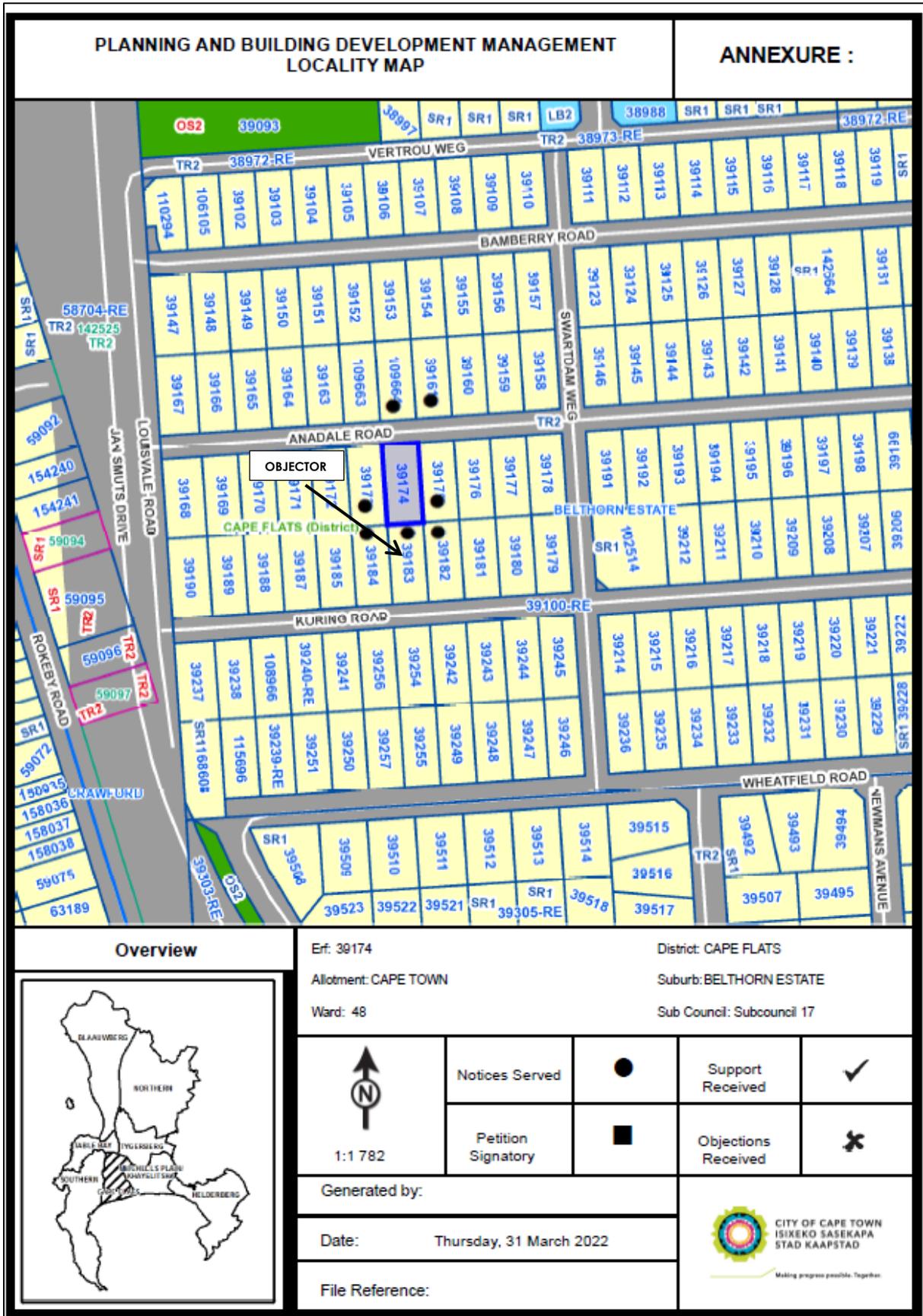
2.1 LAND USE MANAGEMENT

- 2.1.1 The development shall be implemented generally in accordance with the Plan no. 0001 prepared by RL Leading Edge Architectural Studio dated 02/12/2020.

ANNEXURE

B

Annexure B



ANNEXURE

C

ANNEXURE D

Annexure D

Letter of Motivation

To whom it may concern

26 March 2021

The proposed additions for **ERF 39174 at 33 Anadale Rd, Belthorn Estate, Crawford** is to extend the existing dwelling to accommodate my growing family.

- (a) The socio-economic impact remains unchanged.
- (d) The compatibility with the surrounding is in keeping with the area whereby the back sections of properties are usually extended with an additional storey for growing families.
- (e) Impact on external engineering services remain unchanged.
- (f) Impact on safety, health and wellbeing of the surrounding community will remain unimpacted as the type of construction being timber and nutec minimize construction noise and period.
- (g) The proposals does not negatively impact on the property or the surrounding properties. The proposal will also not impact negatively on the streetscape and ties in with the existing architecture of the existing dwelling and surrounding properties
- (h) Impact on the biophysical environment remain unchanged.
- (i) Traffic impacts, parking, access and other transport related considerations remain unchanged as the ability for up to three cars to park on the property carries over into the new design which still allows for up to three cars on the property. Street parking and road use will continue as per it's current state.
- (j) No adverse impacts exist in relation to the application and it's proposed land use.

The proposal triggers a departure:

Street Building Line Departure: 0,0m in lieu of 1,5m – this to accommodate the double garage onto the street boundary. Many of the properties within the area have a similar design.

Dwelling Extension Departure: 6,255m in lieu of 4m on the lateral and common boundaries – the existing outbuilding will be extended to include a new 1st storey. The adjoining property structure is 3.5m therefore no impact to the surrounding properties.



J. Mollagee (Owner)



A. Danty (Owner)

ANNEXURE

E

Annexure E

CASE No. 70537925

OBJECTION TO DEPARTURE FOR ERF 39174, being No. 33 Anadale Road, Belthorne Estate.

FROM : SHIRLEY GUNN, OWNER ERF 39183, being No.30 Koring Road, Crawford.

With respect to the departure request, *-the height of the dwelling within 3.0m of the South and East boundaries to be 5.96 m in lieu of 4.0m*, - I object as follows:

The proposed 5,96m high structure will reduce direct sunlight to my northern garden and outdoor living area. The current attraction and feature of this space is that it receives lots of light. Reduced sunlight will also affect sustaining a lawn in this area, since the extent of shade will be increased.

I accept that the 4.0m height is permissible on the boundary, but feel that increasing this by up to 2.0m is excessive. I have sought professional advice, and am advised that a First floor structure is still achievable within the 4.0m boundary height restriction.

With respect to the owner's motivation, I wish to note the following:

1. I contest the Owner's claim that health and safety of neighbouring properties will not be effected. The proposed First floor structure is a timber framed structure which poses a greater risk in terms of fire and places my property at risk in the event of a fire.
2. I contest the owner's claim that it has become common for many owners in the neighbourhood to build first storey extentions on the boundary. I see very little evidence of the owner's claim within the neighbourhood

Yours faithfully,

Shirley Gunn.

ANNEXURE

F

ANNEXURE F

CASE No. 70537925

RESPONSE TO DEPARTURE FOR ERF 39174, No. 33 Anadale Road, Belthorne Estate.

With respect to the departure request, *-the height of the dwelling within 3.0m of the South and East boundaries to be 5.96 m in lieu of 4.0m, -* The following revisions have been made as follows:

The proposed 5,96m high structure have been reduced to within a single storey with an overall height of 3150mm along the boundary lines AB & AD.

Yours faithfully,



A. Spies