

2024



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

REPORT TO: **MUNICIPAL PLANNING TRIBUNAL**

ITEM NO **MPTSW23/05/19**

WARD 59: APPLICATION FOR SUBDIVISION, COUNCIL'S APPROVAL AND DEPARTURES IN TERMS OF THE CAPE TOWN MUNICIPAL PLANNING BY-LAW, 2015: ERF 155317 CAPE TOWN AT NEWLANDS, 2 SPRINGS WAY & KILDARE ROAD

Case ID	70412614
Case Officer	N Floris
Case Officer phone number	021 444 9540
District	Southern
Ward	59
Ward Councilor	I Iversen
Report date	09/04/2019

1. EXECUTIVE SUMMARY

Property description	Erf 155317 Cape Town at Newlands			
Property address	2 Springs Way & Kildare Road			
Application components / description	<ol style="list-style-type: none"> To subdivide the property into 3 portions (Portion 1 $\pm 189m^2$, Portion 2 $\pm 264m^2$ and Portion 3 $\pm 11m^2$) as per the plan of subdivision attached as Annexure D. Portion 3 is a road portion to be ceded to the City. Council's approval in terms of conditions of the 1994 subdivision approval, as set out in Annexure A, relating to new building work and to permit alterations to the existing boundary walls and fences. For departures, as set out in Annexure A, relating to the floor factor, setbacks from the street and common boundaries, and the height of the buildings located beyond 12m from the street. This is in order to develop the property as per the Site Development Plan (SDP) attached as Annexure F. 			
Site extent	463m ²			
Current zoning	Single Residential Zone 1			
Current land use	Dwelling house			
Overlay zone applicable	None			
PHRA or SAHRA heritage	No			
Public participation outcome summary	1 objection was received			
Recommended decision				
Approval	✓	Refusal		Approval in part & Refusal in part

2. BACKGROUND FACTS

- 2.1 In 1994 an application to subdivide Erf 97563 Cape Town at Newlands into 8 portions was approved by Council subject to conditions (see Annexure M). 2 of these conditions necessitate the approval that is one of the components of the current application. The subject property was amongst the subdivided erven created.
- 2.2 After advertising, the plan of subdivision and the Site Development Plan (SDP) were amended in order to address the concerns raised by Council's Transport Planning Department. The amendments to the subdivision plan includes:
- The additional subdivision portion, i.e. the Portion 3, is a road splay that is to be ceded to Council.
 - The number of subdivision portions has increased from 2 to 3.
 - The size of Portion 1 has changed from $\pm 199\text{m}^2$ to $\pm 189\text{m}^2$.
- 2.3 As a result of the amended plan of subdivision, an additional departure has been applied for and 1 departure as part of the advertising process has been amended. They are as follow:
- a) Additional departure:
- Item 22(d): To permit the building on Portion 1 to be setback 0.51m in lieu of 1m from the splay at the corner of Kildare Road and Springs Way.
- b) Amended departure:
- **From** - Item 22: To permit a floor space of 206m^2 in lieu of 199m^2 on Portion 1 (ie a floor factor of 1.035 in lieu of 1).
 - **To** - Item 22: To permit a floor space of 206m^2 in lieu of 189m^2 on Portion 1 (ie a floor factor of 1.09 in lieu of 1).
- 2.4 It is not necessary to re-advertise the proposal as the changes are in direct response to the branch comments and no material change has been made to the proposal.

3. SUMMARY OF APPLICANT'S MOTIVATION

- 3.1. The applicant's motivation of the proposed development (see Annexure I) may be summarised as follows:
- The proposal complies with Provincial Spatial Development Framework, Municipal Spatial Development Framework, the Sothern District Plan and the Densification Policy.
 - A number of the erven in the area are of similar size and will not have a negative impact on the area.
 - The proposed buildings are modest in nature and will not impact negatively on the character of the area.
 - The proposed semi-detached building may appear as 1 building over the subdivided portions and will limit the impact on the built character of the area.
 - The design of the building relating to the setbacks, pitched roofs, steepes and balconies takes cognizance of the general built character in the area.
 - The setback from Kildare Road will limit the visual impact on the street.
 - The proposal is in keeping with the built character of the area.
 - The existing trees on the property will be retained.

- The proposal is compatible with the area.
- The proposal is suitable for contextually appropriate densification.
- The proposal contributes to the diversity and richness of the area without negatively impacting the streetscape and vegetation.
- Several of the surrounding properties have structures that are built on or in close proximity to the street and common boundaries.
- Structures close to the street and common boundary are part of the character of the area.
- A varied built form exists in the area and no uniform built form is prevalent or dominant in the area.
- A floor factor of 1 is unduly limiting and not in keeping with the built character of the area.
- The required floor factor departure is a result of the terraces which have been included in the floor factor calculation.
- The departures will have no negative impact on the character of the area or the neighbours.
- The street setback departure contributes to safety in the area by the buildings overlooking the street.
- The existing dwelling house is already located close to the street.
- The window setback departures will not impact negatively on the neighbours.
- Various common boundary departures are only as a result of the proposed subdivision portions and will not impact the neighbours.
- The proposal will not impact negatively on traffic.
- The proposal complies with the parking requirements in the Development Management Scheme.
- The new carriageway crossing is setback sufficiently from the intersection.
- The proposal will have a limited impact on the existing rights of neighbours.
- The proposal will have a positive socio-economic impact on the area.
- The proposal will result in an additional residential opportunity.
- The proposal will not impact on engineering services.
- The property is not located in any heritage area and the existing building is not older than 60 years. No heritage resources will be impacted on.
- No negative impact on the biophysical environment is envisaged.

4. PUBLIC PARTICIPATION

		Applicable	Dates / Comments
Advertising	Notice in the media (s81)		
	Notice to a person (s82)	✓	15/11/2018
	Notice to Community organization (s83)	✓	15/11/2018
	Notice to Ward Councilor (s83)	✓	14/11/2018
	Notice of no objection (s84)		
	Notice to Provincial Government (s86)		
	Notice to an Organ of State (s87)		
Outcome	Public meeting		
	On site display	✓	16/11/2018
	Objections	✓	1 objection was received
	Objection petition		
	Support / No objection		
	Comments		
	Ward Councilor response		

Summary of objection received

4.1. The objection received in respect of the application (see Annexure J) may be summarised as follows:

- There is no objection to the subdivision.
- A setback departure from Springs Way for Portion 1 has been omitted.
- A height departure will impact on the neighbours' existing rights and the density of built form in the area.
- A street departure will impact on the character of the street and the existing trees, both on the verge and within the property.
- Windows and entrances departures will impact on the neighbours' privacy.
- The departures regarding increases to the linear distances are nonsensical.
- The proposal is not in keeping with the character of the area.
- The proposed heights and density of the units and the loss of greenery will result in a change in character of the area.
- A landscaping plan is necessary and needs to be provided to the objector for further comment.
- The application needs to be carefully considered in light of the proposed protection of this area as a heritage protection overlay zone.

Summary of applicant's response to public participation

4.2. The applicant's response to the objection received (see Annexure K) may be summarised as follows:

- No other objections were received from surrounding properties.
- The neighbouring properties did not object to the height departure.
- The proposed building is setback along the south-eastern common boundary.
- Future development on the neighbouring property will not be negatively impacted by the proposal in terms of the Development Management Scheme (DMS).
- The neighbouring property is permitted to build 0m onto the common boundary for the first 12m measured from the street boundary.
- The motivation submitted argued the limited impact of the departures on the area and neighbours.
- The windows facing the south-eastern common boundary will not negatively impact on the neighbours and will only overlook the roof of the building located on neighbouring erf.
- The proposal architectural style is consistent with the built character of the area.
- The existing house is already located close to Springs Way.
- The existing trees will be retained and new trees will be planted in order to soften the streetscape.
- The owner has no issue with the imposition of a condition to retain the large tree at the corner of the property.
- A large tree is causing structural damage to the boundary wall and needs to be removed and replaced with a suitable indigenous tree.

5. BACKGROUND TO PROPOSAL**Description of the area / surrounding land uses**

- 5.1. The subject property is located within in an area characterised as being a middle to upper income, medium density, suburban, residential neighbourhood. Many of the buildings are old and the urban environment has a fine grain, village type of character. The properties vary in erf sizes, are well treed and consist of semi-detached and detached single and double storey dwelling houses. The area also has a mix of land uses with the majority being for residential purposes, but also business and community facilities such as St Andrews Church, Kildare Pre-primary School, Maitland Cottage Home Institution and Communicare Home for the Aged (see Annexure B). The area is further characterized by the relationship to Table Mountain and the busy roads that includes Newlands Avenue, Kildare Road and Main Street.

Zoning

- 5.2 As can be seen on Annexure B, the subject property as well as most of the surrounding properties are zoned Single Residential Zone 1, with the exception of a few properties zoned Open Space Zone 2, Community Zone 1, General Residential Subzone GR2, General Business Subzone GB5 and Utility Zone.

Property description

- 5.3 The subject property is well landscaped with trees and contains a single storey dwelling house building and a garage. The subject property currently takes vehicular access from Kildare Road.

Proposed development

- 5.4 The proposal is to subdivide the property into 3 portions (Portion 1 $\pm 189\text{m}^2$, Portion 2 $\pm 264\text{m}^2$ and Portion 3 $\pm 11\text{m}^2$) as per the plan of subdivision attached as Annexure D. Portion 3 is a road portion to be ceded to the City. Council's approval in terms of conditions of the 1994 subdivision approval, as set out in Annexure A, relating to the built form and to permit alteration to the existing boundary walls and fences is also required, as are departures, as set out in Annexure A, relating to the floor factor, setbacks from the street and common boundaries, and the height of the buildings located beyond 12m from the street.
- 5.5 This is in order to develop the property as per the Site Development Plan (SDP) attached as Annexure F.

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 correct application has been made, and all the process and procedures, including public participation have been followed.
- There is no unauthorized land use or building work relating to this application and thus no administrative penalty process is required.

6.1.2. Compliance or consistence with the municipal spatial development framework:

- The application complies with the Municipal Spatial Development Framework as explained in Section 6.2.1 below.

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

- a. Socio-economic impact: Approval of the proposal will have a positive impact in this regard in providing housing opportunities in a well located area and creating employment opportunities both during construction and the operational phase.
- b. Compatibility with surrounding uses:
 - The proposal is entirely residential, and is compatible with the surrounding built form and land uses within the area.
 - The scale, massing and height of the proposal is not out of keeping with the character of the area.
 - The 2 storey buildings is similar in height to other 2 storey dwelling houses found in the area.
 - The proposal will have no negative impact on the streetscape and will not impact on the character of the area as structures on or close to the street boundary are not uncommon in the area.
 - The building has a positive interface with the street and is well articulated along the streets.
 - The windows and doors setback departure from the south-eastern common boundary is minor and corresponds with the distance that the existing dwelling house is setback from the south-eastern common boundary.
 - The resultant erven will fit in well with those in the area, which contains a wide range of erf sizes. (Some nearby erven are $\pm 161m^2$ to $\pm 3252m^2$).
 - The level of densification is low (i.e. the proposal will only result in 1 additional dwelling unit). The erf sizes are of a size that effectively prevents a second dwelling being erected thereon.
- c. Impact on the external engineering services: The proposal does not impact significantly on external engineering services. None of the relevant services department have any objections (see Annexure L). A development contribution is payable.
- d. Impact on safety, health and wellbeing of the surrounding community: The proposal will not impact negatively on the safety, health and wellbeing of the surrounding community. The proposal will result in good surveillance of both Kildare Road and Springs Way.
- e. Impact on heritage:
 - The impact on heritage will not be significant.
 - The property is not currently located in a Heritage Protection Overlay Zone and the existing building does not exceed 60 years of age.
 - The 2008 Newlands Village Conservation Area Study was commissioned by Council and, inter alia, proposes a set of building guidelines for future development. In 2009 the Planning & Environment Portfolio Committee resolved, inter alia, that the declaration of the Newlands Village as a conservation area be taken forward as part of the new zoning scheme and that the design guidelines in the report be used as heritage advise guidelines when considering applications which require planning permission. (Note that this study is not a formal Council Policy, but needs to be considered nonetheless.)
 - Although the proposal does not comply fully with the design guidelines with regards to the number of storeys (i.e. 2 storeys in lieu of a 1.5 storey building), foot print of the 1st floor and a double garage door, given the careful and

appropriate design of the building, and the aspects of the proposal which complies with the guidelines such as the height, the garage setback, and retaining of vegetation, this Department does not consider the deviation to be of great consequence to protecting the character of the area. In this regard it must be noted that the guidelines are widely recognised as being in need of revision.

- Council's Heritage Resources Management Section has assessed the application (see Annexure L) and has no objection.
- f. Impact on the biophysical environment:
- The proposal will not have a significant impact on the biophysical environment. Although some trees will be affected, these are not significant and, according to the applicant, some trees on the property will be able to be retained.
 - Council's Environmental Resources Management Department (see Annexure L) has raised concerns relating to the removal of the mature Ficus tree located on Portion 2 and stated that the tree contributes to the unique sense of place that is a characteristic of Newlands. It must be noted that Council's Environmental Resources Management Department has further stated that this application is supported should the mature Ficus tree be retained.
 - This Department (i.e. Development Management) agrees that the mature Ficus tree must be retained and therefore a condition of approval is proposed stating that: "No mature tree on the property shall be felled, removed or damaged without the prior written permission of the Director: Environmental Management". It must be noted that although the applicant has provided reasons as to why the Ficus tree should be removed, this Department is of the opinion that it is possible to develop the property as per the attached SDP without felling the tree, albeit that a proposed swimming pool will be affected. While the tree may well damage a street boundary wall, there are other ways to secure the property.
 - Noting that the subject property is located close to a natural spring, it is important to note that the Catchment, Stormwater and River Management Department has no objection to this application (see Annexure L).
- g. Transport considerations:
- The proposal will not have a negative traffic impact.
 - It is important to note that the proposal requires 1 parking bays per an erf in terms of the Development Management Scheme (DMS). The proposal will provide double the required number of bays.
 - The subject property is located in close proximity to residential collector roads that can handle the added traffic.
 - Although Kildare Road is very busy there will only be 1 carriageway crossing off that road, which is the existing carriageway crossing. Springs Way carries very little traffic and the proposal will only result in 1 extra carriageway crossing.
 - Transport Planning has no objection to the proposal (see Annexure L).
- h. Mitigating conditions: Conditions are proposed relating to services, retaining of the mature Ficus tree and the payment of a development contribution (see Annexure A). A condition is contained in Annexure A stating that: "No mature tree on the property shall be felled, removed or damaged without the prior written permission of the Director: Environmental Management."

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:

- In terms of the Southern District Plan the property is located in an area designated as Urban Development. It must be noted that the subject property, which is located $\pm 650\text{m}$ and $\pm 600\text{m}$ from Main Road and the Claremont CBD respectively. In this regard the Southern District Plan states: "emphasis must be placed on residential densification within 1km of urban nodes and the spines of development corridors. ...". The proposal, which amounts to contextually appropriate densification, is compliant with the Southern District Plan.
- In terms of the Municipal Spatial Development Framework the property is in an area designated as "consolidation area". Contextually appropriate residential densification is promoted in such areas.

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 supports the Economic Growth Strategy.
- The proposal complies with the Densification Policy which supports contextually appropriate densification in all Single Residential zoned areas.

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

- See Section 6.1.3 above.

6.2.5. Impact on existing right:

- The proposal will not have a significant impact on existing rights.
- It is important to note that the height departure of 6.75m for Portions 1 and 2 in lieu of 4m, only relates to the very small portions of the building beyond 12m from the street and within 3m of the common boundary.
- Most of the development rules will not change as a result of the subdivision. The only change is to the street setback that will be reduced from 3.5m to 1m for Portion 1. This is not significant in this context where buildings close to the street are not uncommon.
- The linear distance departure for Portions 1 & 2 only affects a small portion of the building located beyond 12m from the street and within 3m of the common boundaries.
- The magnitude of the floor factor departures is small and not significant given that the floor factor is low (at 1).

- At 9.07m, the building height is below the 10m that applies to dwelling houses on erven of less than 650m².
- 6.2.6 Other considerations prescribed in relevant national or provincial legislation (ie Section 59 of the Land Use Planning Act and Section 7 of the Spatial Planning and Land Use Management Act):
- **Principle of spatial justice:** Indirectly, contextually appropriate densification, such as this proposal, will cumulatively (at a city-wide scale) contribute to spatial justice in terms of taking off pressure for development elsewhere that drives the poor to the periphery of the city. In other words, low densities close to areas with good opportunities displaces other people to worse located land. The biggest impact is on the urban poor.
 - **Principle of spatial sustainability:** Contextually appropriate densification, such as this proposal, will contribute to environmental sustainability by reducing pressure on valuable agricultural and natural land. Such applications effectively act to reduce urban sprawl and result in the better use of land (which is a scarce resource) and existing municipal services.
 - **Principle of efficiency:** Contextually appropriate densification, as is the case in this instance, results in the more efficient use of land and municipal resources.
 - **Principle of spatial resilience:** Contextually appropriate densification, as is the case in this instance, facilitates spatial resilience in that, inter alia, it allows for better options to residents.
 - **Principle of good administration:** The proposal has been processed in accordance with the relevant laws.

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 issues are addressed below.
- 6.3.2 It is this Department's opinion that the information provided with regard to the existing trees on and off the property is sufficient and that a landscaping plan is not required in this instance. It must be noted that Council's Environmental Management Section has assessed this application and has not requested any further information or a landscape plan. Trees grow well in this area and ± 99% of all landscaping done has occurred in the absence of conditions for a landscaping plan.
- 6.3.3 Despite the proposal to declare Newlands Village as a Heritage Protection Overlay Zone, the property is not currently located in a Heritage Protection Overlay Zone.
- 6.3.4 The "omitted departure" is not required for Portion 1 as the erf size is smaller than 200m² and thus a 1m street building line setback is applicable.
- 6.3.5 It is important to note that none of the neighbouring properties owners objected to the proposal.

7. REASONS FOR DECISION

- 7.1. Reasons for the recommended decision for **approval** relating to the application for the subdivision, Council's approval and departures may be summarized as follows:
- 7.1.1 The proposal is compatible with the surrounding land uses and will not change the character of the area and will not have a significant negative impact on neighbouring properties compared to the existing development rights.
 - 7.1.2 The scale, massing and height of the proposal is not out of keeping with the character of the area.
 - 7.1.3 The building has a positive interface with the street and is well articulated along the streets.
 - 7.1.4 The resultant erven will fit in well with those in the area, which contains a wide range of erf sizes.
 - 7.1.5 The level of densification proposed is low and is contextually appropriate.
 - 7.1.6 The proposal is consistent with the Southern District Plan, the Municipal Spatial Development Framework and the Densification Policy. The proposal supports the Economic Growth Strategy.
 - 7.1.7 There is adequate infrastructural capacity for the proposal.
 - 7.1.8 The traffic impact will not be significant and adequate off street parking will be provided.
 - 7.1.9 The proposal will not have a negative bio-physical impact. The large Ficus tree will be retained.
 - 7.1.10 The heritage impact will not be significant.
 - 7.1.11 The proposal is desirable and does not impact significantly on existing rights.

8. RECOMMENDATION

In view of the above, it is recommended that:

- 8.1 The application for the subdivision of Erf 155317 Cape Town at Newlands, **be approved** in terms of Section 98(b) of the Municipal Planning By-Law, 2015, as per plan of subdivision LUM/00/155317, subject to the conditions contained in Annexure A.
- 8.2 The application for Council's approval of Erf 155317 Cape Town at Newlands, as set out in Annexure A, **be approved** in terms of Section 98(b) of the Municipal Planning By-Law, 2015.
- 8.3 The application for departures, as set out in Annexure A, for Erf 155317 Cape Town at Newlands, **be approved** in terms of Section 98(b) of the Municipal Planning By-Law, 2015.

ANNEXURES

Annexure A	Application details and proposed conditions
Annexure B	Locality plan / public participation map
Annexure C	Advertised plan of subdivision
Annexure D	Revised plan of subdivision LUM/00/155317
Annexure E	Advertised Site Development Plan

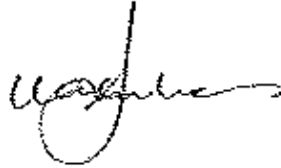
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Annexure F	Revised Site Development Plan
Annexure G	Title deed
Annexure H	Conveyancer's certificate
Annexure I	Applicant's motivation
Annexure J	Objection
Annexure K	Applicant's response to objection
Annexure L	Branch comments
Annexure M	1994 conditions of approval
Annexure N	List of relevant parties



Section Head

Name: Pierre Hoffa
Tel no: 021 444 7724
Date: 2019-04-09



District Manager

Name: Ossie Gonsalves
Tel no: 021 444 7720
Date: 2019-04-09

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 155317 Cape Town at Newlands, 2 Springs Way & Kildare Road**

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

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

CASE ID: 70412614

The departures are tied to the plan drawn by Millenaar Architects with drawing number 2.001 Rev 7, dated April 2019.

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

1.1 The subdivide the property into 3 portions (Portion 1 $\pm 189\text{m}^2$, Portion 2 $\pm 264\text{m}^2$ and Portion 3 $\pm 11\text{m}^2$) as per plan of subdivision LUM/00/155317.

1.2 Council's approval in terms of conditions of the 1994 subdivision approval:

- To permit a residential development in keeping with the character of the area and "to the approval of the City Planner (Urban Conservation Unit)".
- To permit alterations to the existing boundary wall/fences along Springs Way which "require approval of the City Planner (Urban Conservation Unit)".

1.3 Departures from the Development Management Scheme:

- Item 22: To permit a floor space of 206m^2 in lieu of 189m^2 on Portion 1 (ie a floor factor of 1.09 in lieu of 1).
- Item 22: To permit a floor space of 297m^2 in lieu of 264m^2 on Portion 2 (ie a floor factor of 1.125 in lieu of 1).
- Item 22(c)(ii): To permit the dwelling houses on Portion 1 and the Portion 2, located beyond 12m from the street and within 3m from the common boundaries, to be 6.75m in lieu of 4m in height from base level to the top of the roof.
- Item 22(d): To permit the dwelling house on Portion 1 to be setback 0.51m in lieu of 1m from the splay at the intersection of Kildare Road and Springs Way.
- Item 22(d): to permit the dwelling house on the Portion 2 to be setback 1.5m in lieu 3.5m of Springs Way.
- Item 22(d): To permit the dwelling house on Portion 1, beyond 12m from the street boundaries, and within 3m of the common boundaries, to have a linear distance of 3.14m in lieu of 2.58m.
- Item 22(d): To permit the dwelling house on Portion 2, beyond 12m from the street boundary, and within 3m of the common boundaries, to have a linear distance of 16.66m in lieu of 11.5m.
- Item 22(e): To permit the windows and doors on Portion 1 and Portion 2 to be setback 1.19m in lieu of 1.5m from the south-east common boundary.
- Item 22(e): To permit windows and door on Portion 2 to be setback 0.32m and 0.498 in lieu of 1.5m from the north-east common boundary.

2 CONDITIONS IMPOSED IN TERMS OF SECTION 100 OF THE MUNICIPAL PLANNING BY-LAW, 2015 WHICH MUST BE COMPLIED WITH AT THE COST OF THE DEVELOPER AND TO THE SATISFACTION AND ACCEPTANCE OF THE COUNCIL PRIOR TO THE TRANSFER OR SEPARATE REGISTRATION IN THE DEEDS REGISTRY OF ANY LAND

UNIT ARISING FROM THIS SUBDIVISION APPROVAL (SEE SECTION 137 OF THE MUNICIPAL PLANNING BY-LAW):

2.1 Development Contribution

- 2.1.1 The owner/developer shall pay a development charge (DC) in accordance with the approved Development Charges Policy for Engineering Services for the City of Cape Town. The total amount payable for the proposed land use right in accordance with the attached DC calculation is R 34 487.82. This amount is valid until 2019-06-30 and the amount due will be escalated annually with the Construction Price Adjustment Formula (CPAF) using the industry indices of StatsSA.

2.2 Electricity

- 2.2.1 A separate service connection cable, rated to supply the authorized capacity of the erf, must be installed to the point supply on the boundary of each erf of the subdivision. The cable shall be routed clear of all other private property, typically within the public road reserve.

- 2.2.2 In accordance with policy and tariffs approved by Council, a shared-network charge shall be paid.

- 2.2.3 In accordance with policy and tariffs approved by Council, a connection fee to provide a separate connection to property boundary, shall be paid.

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

2.3 General

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

Note: The conditions attached to this approval do not exempt the owner from compliance with any other laws or requirements.

2.4 Water & Sanitation

- 2.4.1 Each portion shall be provided with a separate sewer connection to the satisfaction of the Director: Sanitation.

2.5 Portion 3

- 2.5.1 Portion 3 shall be transferred to the Council free of all costs (including the costs of the land, transfer, surveying, etc.) and shall get a new erf number (i.e. it shall not be a Remainder Road).

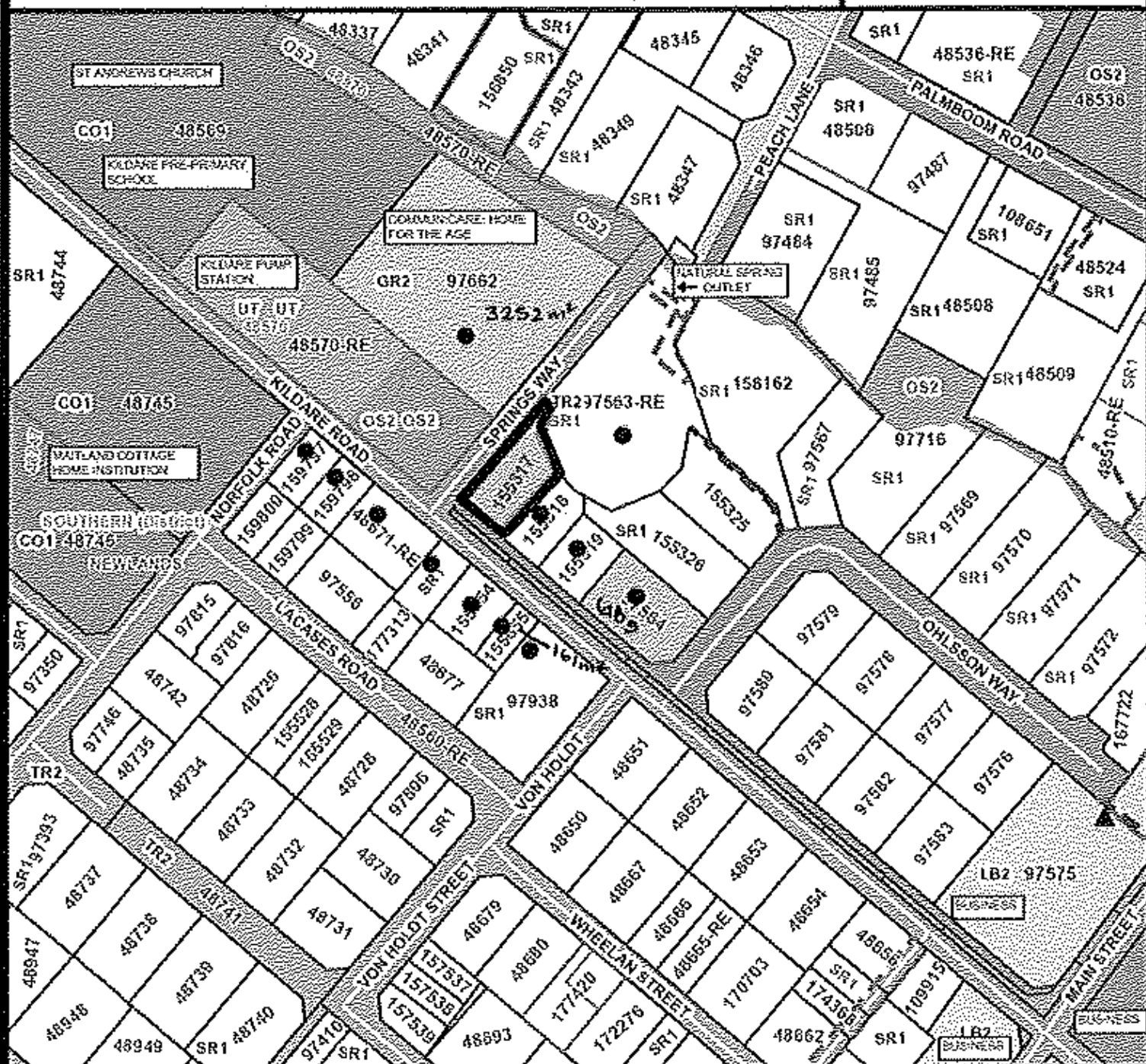
3. CONDITION IMPOSED IN TERMS OF SECTION 100 OF THE MUNICIPAL PLANNING BY-LAW, 2015:

- 3.1 No mature tree on the property shall be felled, removed or damaged without the prior written permission of the Director: Environmental Management.

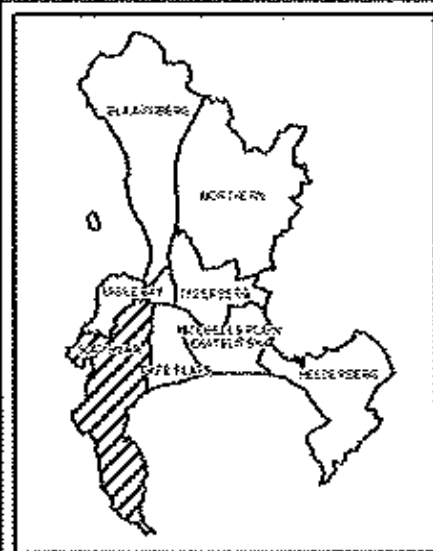
PLANNING AND BUILDING DEVELOPMENT MANAGEMENT
LOCALITY MAP

ANNEXURE : B

2037



Overview



Erf: 155317

Allocation: CAPE TOWN

Ward: 59

District: SOUTHERN

Suburb: NEWLANDS

Sub Council: Subcouncil 20



1:1 664

Notices Served



Support Received



Petition Signatory



Objections Received



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Date: Tuesday, April 9, 2019

File Reference:

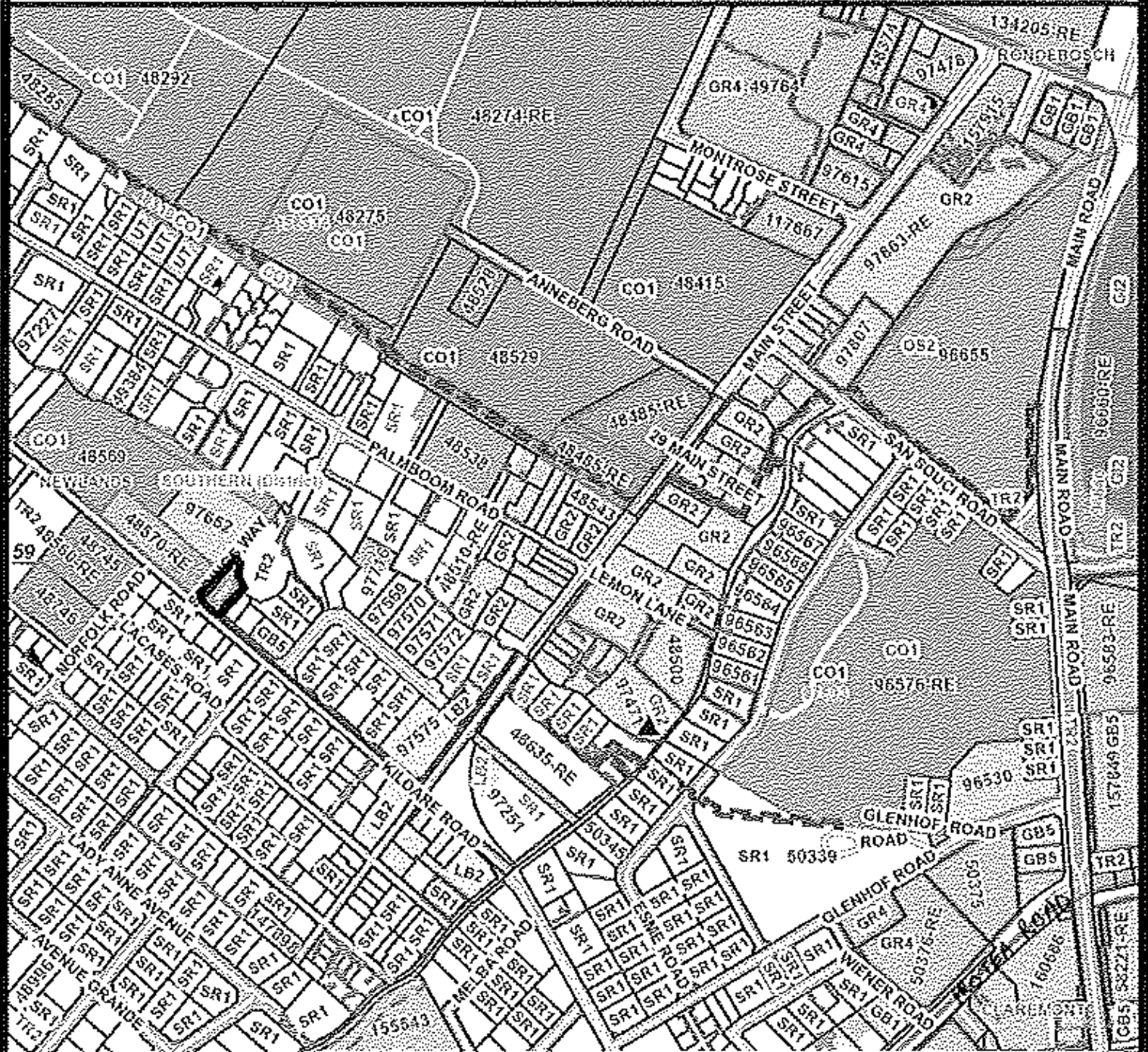


CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

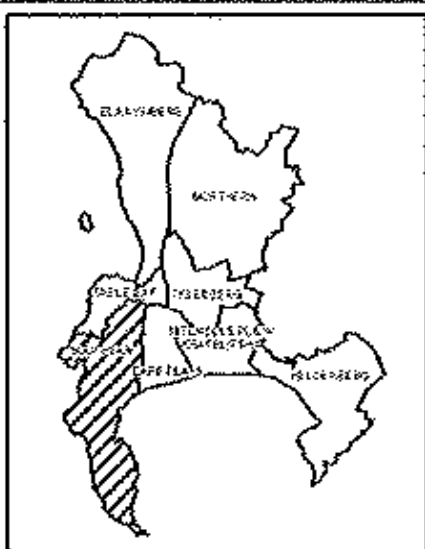
Making progress possible together

PLANNING AND BUILDING DEVELOPMENT MANAGEMENT
LOCALITY MAP 2038

ANNEXURE :



Overview



Erf: 155317

District: SOUTHERN

Abdment: CAPE TOWN

Suburb: NEWLANDS

Ward: 59

Sub Council: Subcouncil 20



1:4 494

Notices Served	●	Support Received	✓
Petition Signatory	■	Objections Received	✗

Generated by:

Date: Monday, April 1, 2019

File Reference:



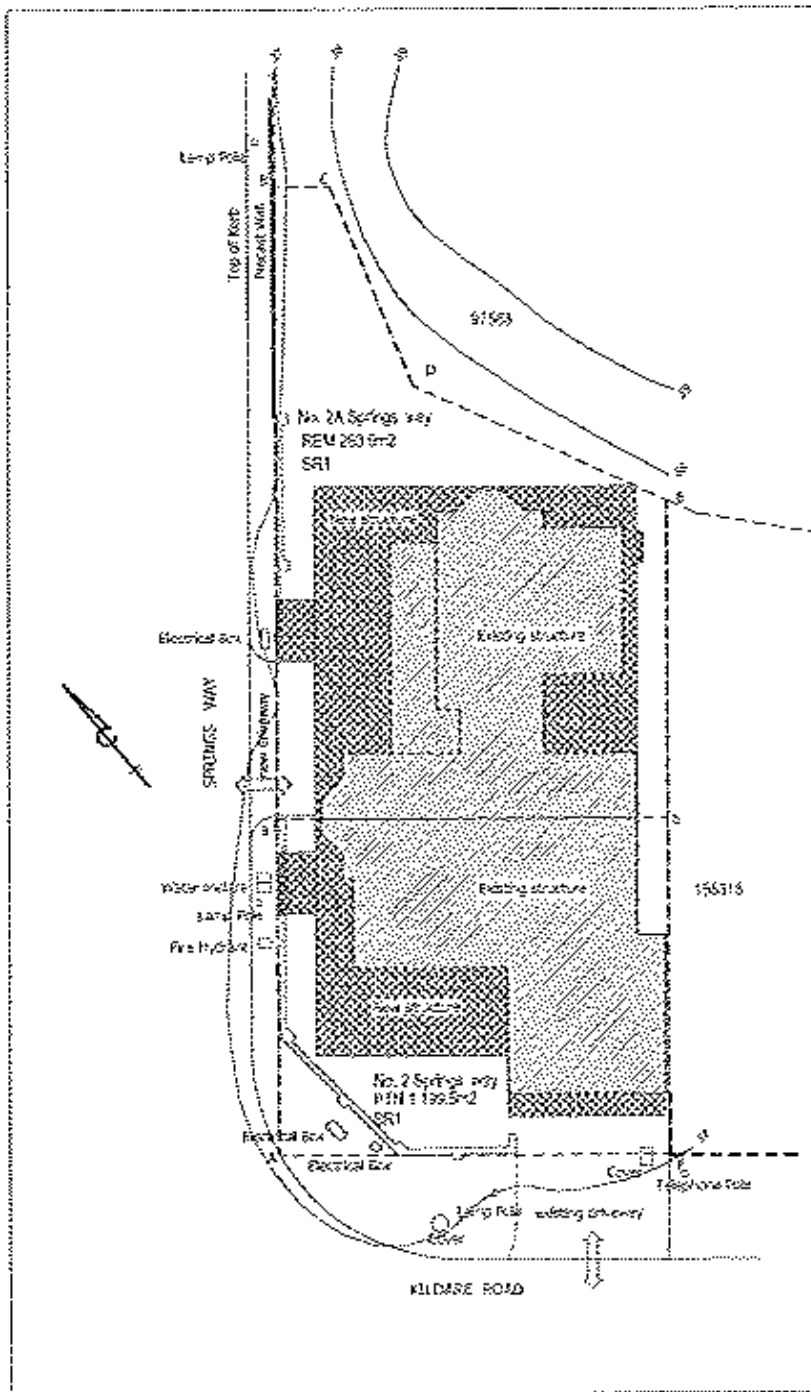
CITY OF CAPE TOWN
ISIKHO SASAKAPA
STAD KAAPSTAD

Mingqiso ka-omnye Sigqibo

Advertised Plan of Subdivision

ANNEXURE C

2039



PROPOSED SUBDIVISION PLAN

Scale 1:200

Notes:

1. The figure **A B C D E F** represents Erf 155317 Cope town Vids Dgm No. 11483/1974 annexed to DT 5001 / 2017 situated in Newlands in the City of Cape town, Province of the Western Cape, Administrative District of Cape.
2. The line **ob** represents the proposed subdivision line.
3. The figure **A o b f** represents Portion 1 of the proposed subdivision and represents 199.5m² of land.
4. The figure **a b C D E b** represents the remainder of Erf 155317 and represents 263.9m² of land.
5. All data approximate.
6. Zoning: Single Residential 1.

Fig. A Current published 11/07/2018



millenaar architects

10 Beach Lane, Newlands, 7700
 Email: frank@millenaar.co.za
 Phone: 082 329 1203

project title:

SKETCH PLANS
 2 & 2A SPRINGS WAY
 Newlands

ERF NO: F1755 88815817

drawing title:

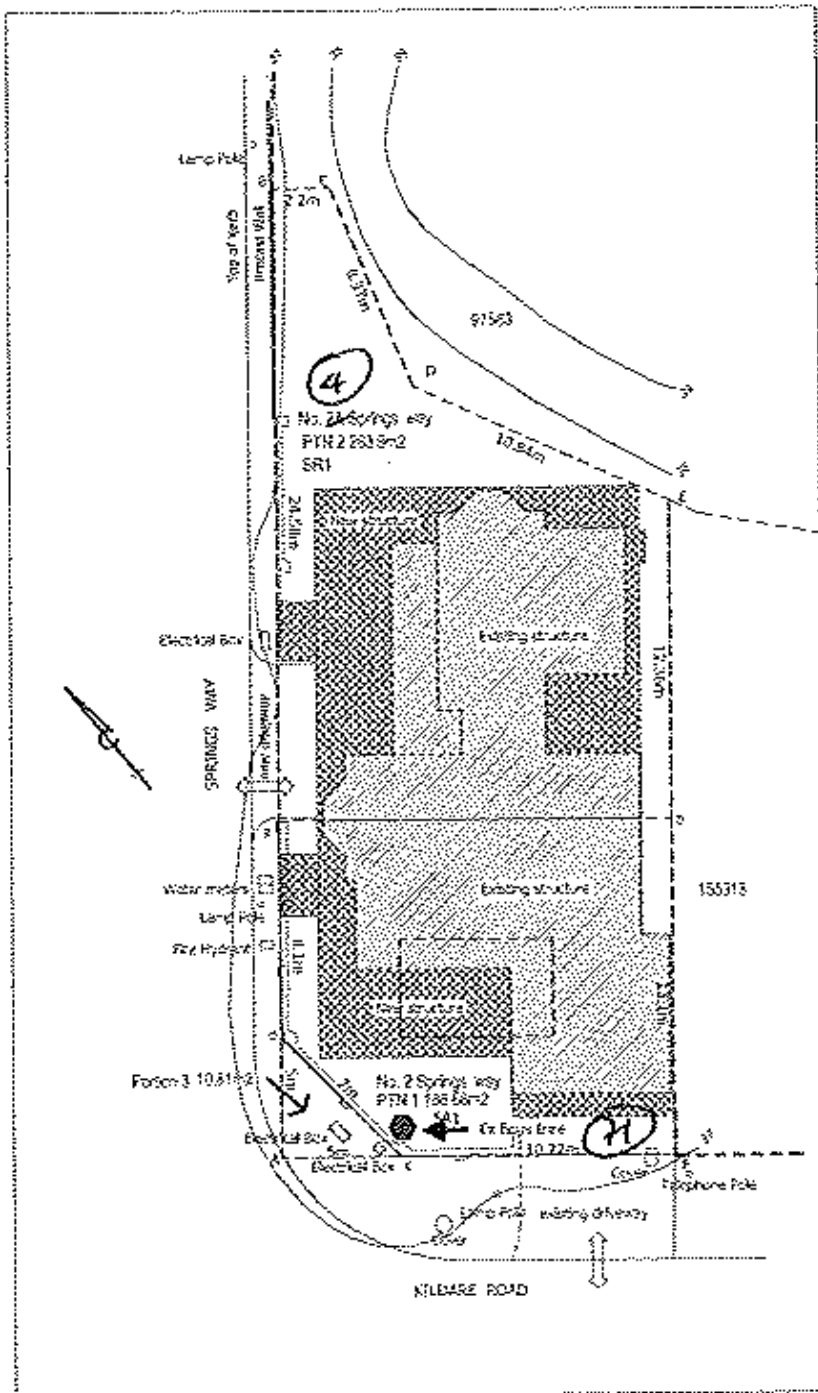
Sub-division plan

drawn: Et	date: July 2018	job no: 1647	scale: 1:200/200
drawing No: 2011			rev: A

Revised Plan of Subdivision

ANNEXURE D

2040



PROPOSED SUBDIVISION PLAN

Scale 1:200

Cum loc/155317

Notes:

1. The figure **A B C D E F** represents Erf 155317 Cape Town Vide Dgm No.11623/1994 or revised to DT 50301 / 2017 situated in **Newlands** in the City of Cape Town, Province of the Western Cape, Administrative district of Cape.
2. The line **ab** and **cd** represent the proposed subdivision lines.
3. The figure **ab f c d** represents Portion 1 of the proposed subdivision and represents 185.48m² of land.
4. The figure **ab c d e b** represents the Portion 2 of Erf 155317 and represents 243.9m² of land.
5. The figure **A c d** represents the Portion 3 of Erf 155317 and represents 10.6m² of land.
6. All data approximate.
7. Zoning: Single Residential 1.

Area C Portion 3 of 6 Dimensions
 Portion 2 Remainder of PTN 2 aggregated 07/09/2013
 Portion A Separate Deal established 11/07/2013



millenaar architects

17 Perdeklaar, Newlands, 7700
 Email: info@millenaar.co.za
 Phone: (021) 529 1700

project title:

SKETCH PLANS
 2 & 2A SPRINGS WAY
 Newlands

ERF NO: PTN 2 & 3 of 155317

drawing title:

Preliminary Sub-division plan

Client:	Date:	Job no:	Scale:
Ma	April 2019	0677	1:100/200
Drawing No:	2011		Rev:
			C

Revised Site Development Plan

ANNEXURE F

GENERAL NOTES:

1. ALL DIMENSIONS ARE IN METERS UNLESS OTHERWISE SPECIFIED.
2. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE LOCAL AUTHORITY.
3. THE DEVELOPER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS.
4. THE PROPOSED DEVELOPMENT SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE LOCAL AUTHORITY'S REQUIREMENTS.
5. THE DEVELOPER SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES.
6. THE DEVELOPER SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING UTILITIES AND STRUCTURES.
7. THE DEVELOPER SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING TREES AND LANDSCAPE.
8. THE DEVELOPER SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING SERVICES AND INFRASTRUCTURE.
9. THE DEVELOPER SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING ADJACENT PROPERTIES.
10. THE DEVELOPER SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING ADJACENT SERVICES AND INFRASTRUCTURE.

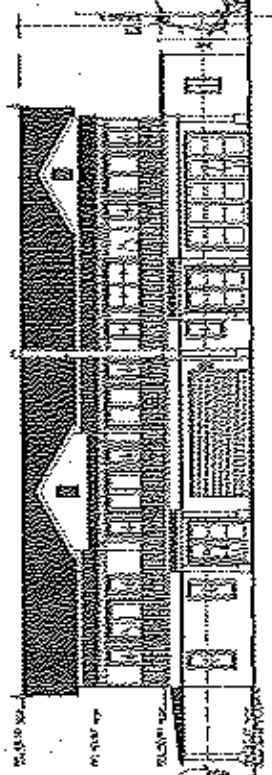
LEGEND:

- EXISTING BUILDING
- EXISTING WALL
- EXISTING WINDOW
- EXISTING DOOR
- EXISTING ROOF
- EXISTING FLOOR
- EXISTING CEILING
- EXISTING STAIR
- EXISTING ELEVATOR
- EXISTING MECHANICAL
- EXISTING ELECTRICAL
- EXISTING PLUMBING
- EXISTING HVAC
- EXISTING LIGHTING
- EXISTING LANDSCAPE
- EXISTING UTILITIES
- EXISTING SERVICES
- EXISTING INFRASTRUCTURE
- EXISTING ADJACENT PROPERTIES
- EXISTING ADJACENT SERVICES AND INFRASTRUCTURE

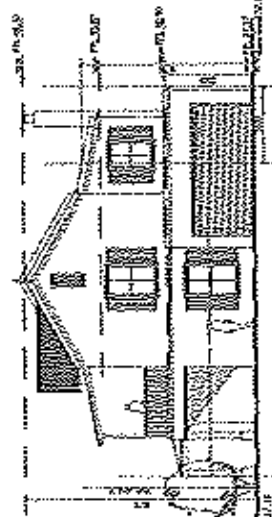
PROPOSED DEVELOPMENT:

- PROPOSED BUILDING
- PROPOSED WALL
- PROPOSED WINDOW
- PROPOSED DOOR
- PROPOSED ROOF
- PROPOSED FLOOR
- PROPOSED CEILING
- PROPOSED STAIR
- PROPOSED ELEVATOR
- PROPOSED MECHANICAL
- PROPOSED ELECTRICAL
- PROPOSED PLUMBING
- PROPOSED HVAC
- PROPOSED LIGHTING
- PROPOSED LANDSCAPE
- PROPOSED UTILITIES
- PROPOSED SERVICES
- PROPOSED INFRASTRUCTURE
- PROPOSED ADJACENT PROPERTIES
- PROPOSED ADJACENT SERVICES AND INFRASTRUCTURE

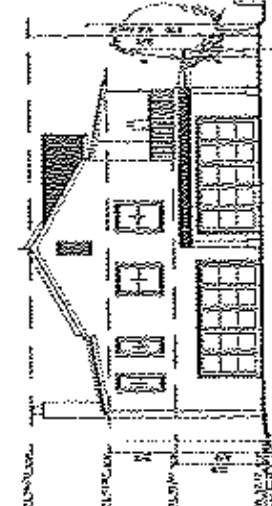
NO.	DESCRIPTION	DATE	BY	CHKD.
1	ISSUED FOR PERMIT	10/10/2018	J.M.	J.M.
2	REVISED FOR PERMIT	10/10/2018	J.M.	J.M.
3	ISSUED FOR PERMIT	10/10/2018	J.M.	J.M.
4	REVISED FOR PERMIT	10/10/2018	J.M.	J.M.
5	ISSUED FOR PERMIT	10/10/2018	J.M.	J.M.
6	REVISED FOR PERMIT	10/10/2018	J.M.	J.M.
7	ISSUED FOR PERMIT	10/10/2018	J.M.	J.M.
8	REVISED FOR PERMIT	10/10/2018	J.M.	J.M.
9	ISSUED FOR PERMIT	10/10/2018	J.M.	J.M.
10	REVISED FOR PERMIT	10/10/2018	J.M.	J.M.



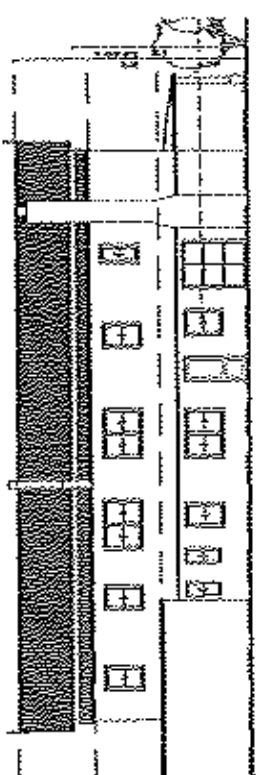
NORTH WEST ELEVATION
1110



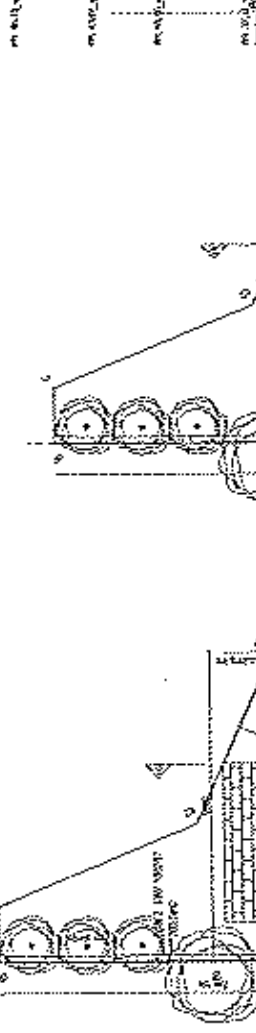
SOUTH EAST ELEVATION
1110



WEST ELEVATION
1110

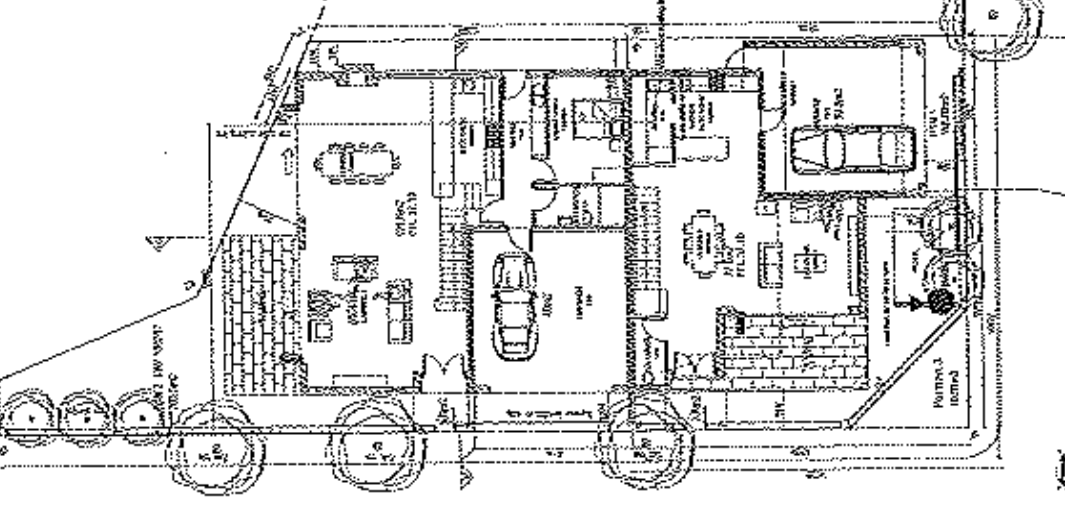
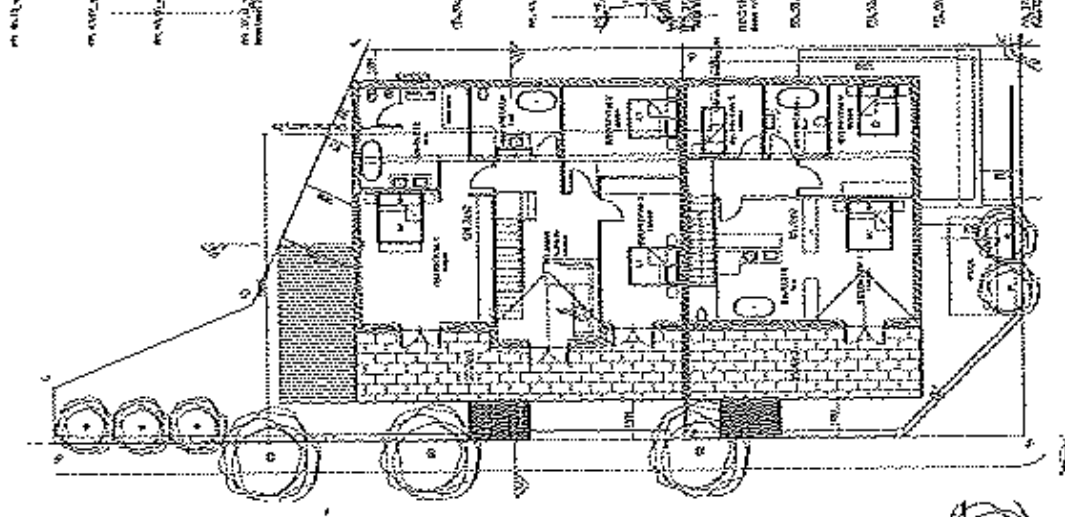
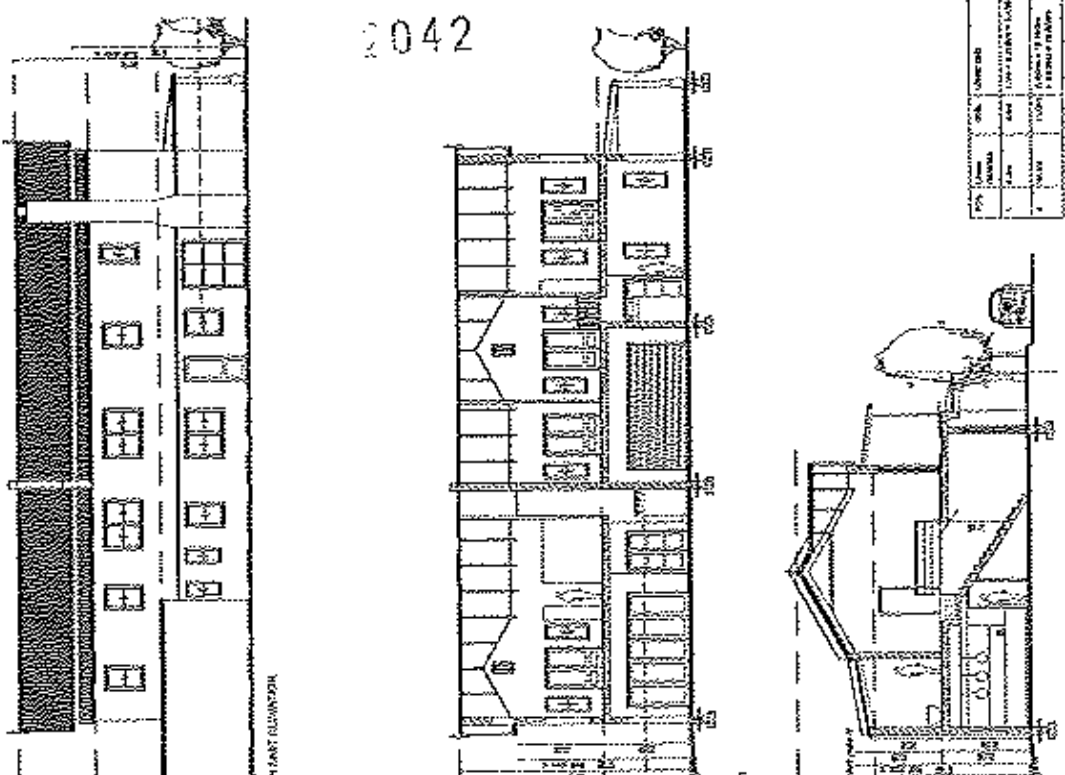


NORTH EAST ELEVATION
1110



SOUTH WEST ELEVATION
1110

2042



FLOOR PLAN
1110

FLOOR PLAN
1110

FLOOR PLAN
1110

ANNEXURE G

222

2043

MILTONS MATSEMELA INCORPORATED
Studio 110
Palmyra Junction
Shopping Centre
Palmyra Road
Claremont
7708

Prepared by me

[Handwritten signature]
CONVEYANCER
FRANCOIS TREDoux

Property Description	100-00	100-00
Area	100-00	100-00
Area for		
Construction		

DATA / CAPTURE
06 SEP 2017
NANDIPHA KETILE

T 000050601 / 2017

DEED OF TRANSFER

BE IT HEREBY MADE KNOWN THAT

NADIA DE KOCK

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 10 July 2017 granted to him by

PENELOPE ANN BRERETON PRIDEAUX
Identity Number 440128 0072 08 9
Married out of community of property

DATA / VERIFY
06 SEP 2017
[Handwritten signature]

And the appearer declared that his said principal had, on 22 June 2017, 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:

WARREN FISCHER
Identity Number 850913 5113 08 4
Married out of community of property

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

ERF 155317 CAPE TOWN
IN THE CITY OF CAPE TOWN
CAPE DIVISION, WESTERN CAPE PROVINCE

IN EXTENT 463 (FOUR HUNDRED AND SIXTY THREE) Square metres

FIRST TRANSFERRED AND STILL HELD BY DEED OF TRANSFER NO.
T34325/1995 WITH DIAGRAM S.G. NO. 11683/1994 ANNEXED THERETO

- A. **INSOFAR** as concerns the figure letterhead FghE on the annexed Diagram S.G No. 11683/1994

SUBJECT to such conditions as are referred to in Deeds of Transfer No. T2757/1896 dated 12th May 1896 and No. T383/1853 dated 20th June 1853 and No. T159/1853 dated 22nd September 1853 and to the special conditions contained in Deed of Transfer No. T383/1853 dated 20th June 1853 relating to water rights, ditches, roads, street and thoroughfares.

- B. **INSOFAR** as concerns the figure letterhead gABCDh on the annexed Diagram S.G No. 11683/1994

SUBJECT to such conditions as are referred to in Deed of Transfer No. T386/1889 dated 30th December 1889.

- C. **ENTITLED** to the benefits of the terms of the servitudes referred to in the following endorsements on Deed of Transfer No. T386/1889, dated 30th December 1889, namely:-

Endorsement dated 15th May 1929



"By Transfer No. 4724 dd 15 May 1929, all water rights to which lots 71 to 75 Estate Westerfoort thereby conveyed may be entitled to from Newlands spring on lot No. 148 ½ Newlands Estate are reserved to the within transferees as owners of said lot 148 ½ save in so far as said rights may have been ceded by Not. Deed dd 5th July 1889 and filed Transfer 384/1889 as will more fully appear on reference to the said Transfer."


Endorsement dated 28th February 1931

"By Deed of Trf No. 1287 dd 28.2.1931 the land thereby conveyed is transferred without any of the water rights to which Lots 28 to 31 held by para 1 of Trf No 2541 May 1893 may or may have been entitled from the Newlands spring on the land held by para 11 hereof which rights are reserved to the owner of the land last mentioned as will more fully appear on reference to said transfer."

Endorsement dated 2nd June 1931

"By deed of transfer No 3808 dated 2 June 1931 the land thereby conveyed is transferred without any of the water rights to which Lots 28 to 31 held by Para 1 of Transfer No. 2541 May 1893 may or may have been entitled from the Newlands spring on the land held by para II hereof which rights are reserved to the owner of the land last mentioned as will more fully appear on reference to the said Transfer."

Endorsement dated 3rd June 1931

 "By Deed of Transfer no 3823 dd 3 June 1931, the land thereby conveyed is transferred without any of the water rights to which the property held under Transfer 2784/1986 may or may have been entitled from the Newlands spring on the land held by Para II hereof, which rights are reserved to the owner of the land last mentioned as will more fully appear on reference to the said Deed of Transfer."

Endorsement dated 24th June 1931

"By Deed of Transfer No. 4451 dd 24.6.1931 the land thereby conveyed is transferred without any of the water rights to which the property held under Para II of Transfer 384 December 1889 may or may have been entitled from the Newlands Spring on the land held by Para II hereof, which rights are reserved to the owner of the last mentioned as will more fully appear on reference to said Deed of Transfer."


Endorsement dated 27th August 1931

"By Deed of Transfer no 6375 dd 27.8.1931 the land thereby conveyed is transferred without any of the water rights to which the property held under Para II of Deed of Transfer 2541 dd 16 May 1893 may or may have been entitled from the Newlands Spring on the land held by Para II hereof, which rights are reserved to the owner of the last mentioned as will more fully appear on reference to said Deed of Transfer."

Endorsement dated 23rd August 1935

"By Trf No 7060 dd 23.8.1935 transferring Lots TH2 and TH4 Palmboom Estate, the properties thereby transferred are not entitled to any rights to water from the Newlands Spring situate on the property under Para II hereof which rights to water are reserved to the owner of the ppty held under Para II hereof as will more fully appear on reference to the said Trf."

Endorsement dated 11th September 1935

 "By Trf No 4075 dd 22.5.1935 transferring Lots EN1 and EN2 Palmboom Estate, the properties thereby transferred are not entitled to any rights to water from the Newlands Spring situate on the property under Para II hereof which rights to water are reserved to the owner of the property held under Para II hereof as will more fully appear on reference to the said deed of transfer."

Endorsement dated 30th October 1945

"By Trf No 14953/45 dated 3.10.45. The ppty hereby conveyed is not entitled to any rights to water from the Newlands Spring situate on the ppty held under para II hereof which rights are reserved to the owner of the ppty held under Para II hereof as will more fully appear on reference to the above Trf."

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

PENELOPE ANN BRERETON PRIDEAUX, Married as aforesaid

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

WARREN FISCHER, Married as aforesaid

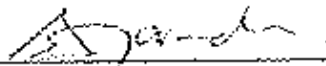
his Heirs, Executors, Administrators or Assigns, now is and henceforth shall be entitled thereto, conformably to local custom, the State, however reserving its rights, and finally acknowledging the purchase price to be the sum of R6 320 000,00 (SIX MILLION THREE HUNDRED AND TWENTY THOUSAND RAND) .

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 1 SEPTEMBER 2017



In my presence



REGISTRAR OF DEEDS







CITY OF CAPE TOWN
ISIXEKO SASAKAPA
SYAD KAAPSTAD

2048

REGULATED
PLANNING AND BUILDING
DEVELOPMENT MANAGEMENT

Print Form

CONVEYANCER'S CERTIFICATE

I/we, Simona Franks
(conveyancer's name)

hereby wish to certify that a search was conducted in the Deeds Registry, Cape Town, regarding the following property, etc (including both current and earlier deeds/plat deeds/deeds of transfer):

Erf 155317 Cape Town, in the City of Cape Town, Cape Division, Province of the Western Cape
in extent 483 square metres
(see plan/s and description/s as it appears in the title deed)

in respect of which it was found that there were no restrictive conditions registered against such property(ies) prohibiting it from being utilised/developed for the following purposes (as elaborated on in the accompanying application):

Subdivision of the property

(define whichever not applicable) (propose use/development/ zoning of property)

LIST OF RESTRICTIVE TITLE CONDITIONS (if any)

Categories	Are there any deed restrictions (indicate below)	Title deed and clause number if restrictive conditions are found (see Annexure A if more space is required)
Use of Land	X	
Building lines	X	
Height	X	
Number of Buildings	Y	
Gross floor area	X	
Coverage / built upon area	X	
Subdivision	Y	
Services that may be registered over or in favour of the property	X	
Other restrictive conditions	X	

PROCESS BY WHICH RELEVANT CONDITIONS WILL BE ADDRESSED (please tick appropriate box)

Application in terms of the City of Cape Town's Municipal Planning By-Law (application type 42(g) or (h))	Notarial Deed of Cancellation (Submit copy of signed agreement)	Expungement by means of rule nisi application to the High Court (Submit copy of court order)	If other, please specify:
---	---	--	---------------------------

Signed at **Cape Town** on this **30** day of **November** 20**17**

Signature: 

Kindly endorse certificate by affixing firm's official stamp here and inserting it.

Postal address: **Cliffe Dekker Hofmeyr Inc. PO Box 685**
Cape Town 8000

Tel: **(021) 4616464**

Email: **simone.franks@cdhlegal.com**





PLANNING STUDIO

planning | property | design 2050

APPLICATION FOR SUBDIVISION AND DEPARTURES IN
TERMS OF THE MUNICIPAL PLANNING BY-LAW: ERF
155317 CAPE TOWN AT NEWLANDS, 2 SPRINGS WAY

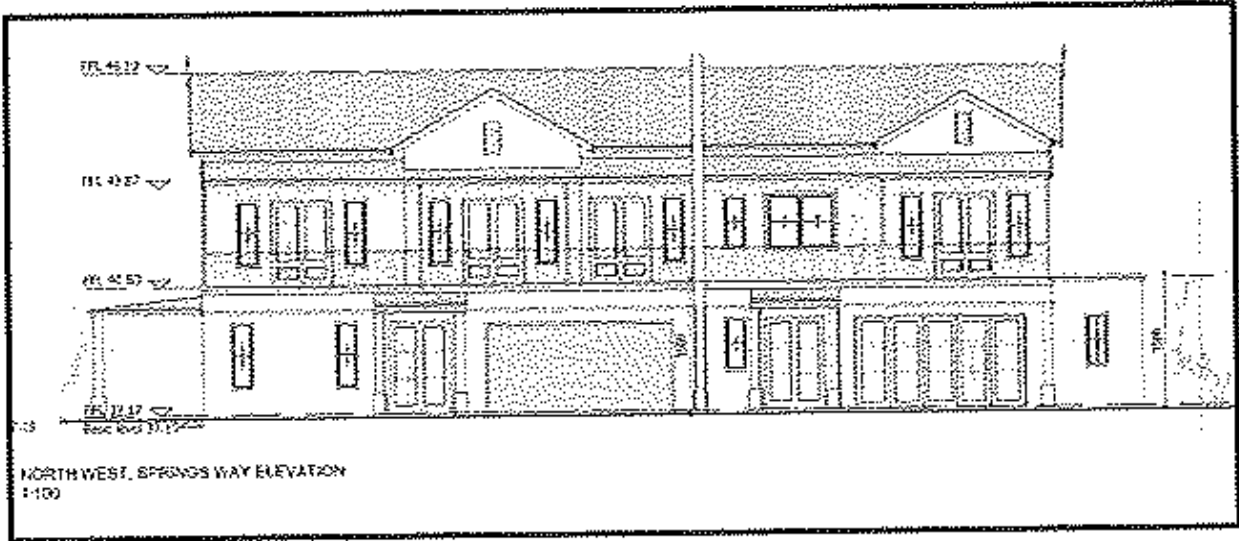


TABLE OF CONTENT

1. INTRODUCTION

- 1.1. Planning Application and Proposal
- 1.2. Subject Property / Property Description
- 1.3. Development Management Scheme Compliance Assessment
- 1.4. Applications Required in terms of Planning Law

2. BASIC INFORMATION

- 2.1 Applicant
- 2.2 Ownership Details
- 2.3 Title Deeds and Restrictions
- 2.4 SG Diagram

3. PLANNING MOTIVATION

- 3.1 Location, surrounding land uses and character of the area
- 3.2 Relevant planning policy
- 3.3 Subdivision assessment
- 3.4 Departures
- 3.5 Traffic and access
- 3.6 Impact on Existing Rights
- 3.7 Compliance with the decision-making criteria as per Section 99 of the Municipal Planning By-law (MPBL)

4. DESIRABILITY AND REASONS FOR SUPPORTING THE PROPOSAL

LIST OF ANNEXURES

Council application form

Power of Attorney (POA)

Title Deed

Conveyancer's certificate

SG Diagram

Plan of Subdivision

Site Development Plan / Architectural Plans

Motivation (this report)



PLANNING STUDIO

planning | property | design 2053

1. INTRODUCTION

1.1 Planning application and proposal

It is proposed to subdivide the subject property into two portions (Portion 1: approx. 199.5m² & a Remainder: approx. 263.5m²), as shown on the attached plan of subdivision. The existing dwelling house will mostly be demolished and a new dwelling house will be constructed on both portions as per the submitted SDP, which will allow context specific minor densification by permitting an additional / new dwelling house to be constructed in the area.

The dwelling houses will be attached, double storey units, reading as one building, with vehicular access to the dwelling houses being off Spring Way and Kildare Road respectively. The existing trees on and adjacent to the property will be retained as far as possible and new trees planted as shown on the SDP.

1.2 Subject property / property description

The subject property is 463m² in extent and is currently still improved with a single level dwelling house, which is not older than 60 years. Vehicular access to a double garage is currently provided off Kildare Road, with pedestrian access provided off Springs Way. The subject property is basically flat and appears well treed, mainly along its Kildare Street boundary. The subject property is zoned Single Residential 1 (SR1) and is not subject to any Overlay Zone provisions within the Municipal Planning By-Lay (MPBL).

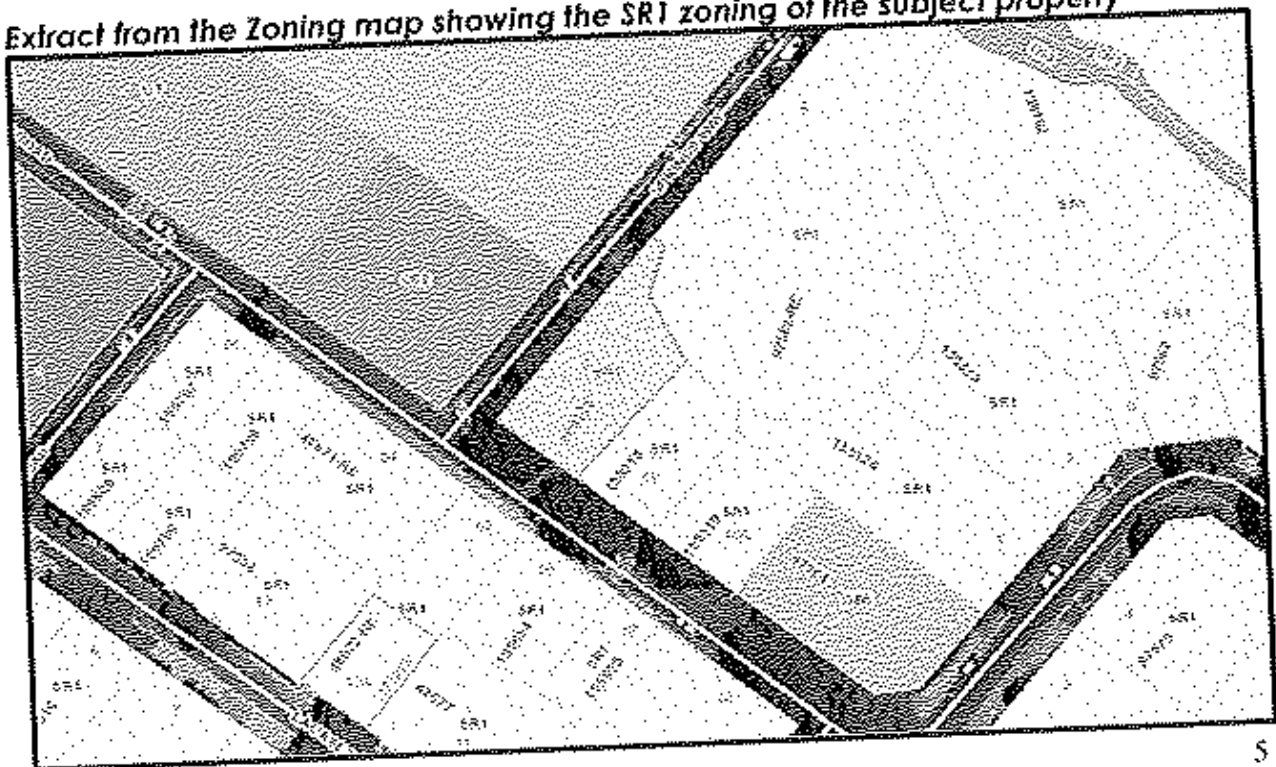
1.3 Development Management Scheme (DMS) compliance assessment

The City of Cape Town Municipal Planning By-law and the Development Management Scheme (DMS) are applicable to the subject property. The subject property has a Single Residential 1 (SR1) zoning, with provisions as follows:

DMS extract

SINGLE RESIDENTIAL ZONINGS	LAND UNIT AREA (m ²)	FLOOR FACTOR	MAXIMUM FLOOR SPACE	MAXIMUM HEIGHT ABOVE BASE LEVEL		BUILDING LINES		STREET CENTRELINE SETBACK	OTHER PROVISIONS
				To wallplate	To top of roof	Street boundary	Common boundaries		
SINGLE RESIDENTIAL ZONING 1: CONVENTIONAL HOUSING (SR1)	>2 000	Na	1 500 m ²	9,0 m	11,0 m	6,0 m	6,0 m	Na	Windows and door placement Garages, carports and outbuildings Parking and access Additional use rights - home occupation, bed and breakfast establishment and home child care
PRIMARY USES Dwelling house, private road and additional use rights	>1 000 up to 2 000	Na	1 500 m ²	9,0 m	11,0 m	4,5 m	3,0 m		
ADDITIONAL USE RIGHTS Home occupation of bed and breakfast establishment or home child care	>350 up to 650	1,0	Na	8,0 m	10,0 m	3,5 m	0,0 m (12,0 m from street and 60%) and 3,0 m rest		
CONSENT USES Secured dwelling, care services, place of instruction, place of worship, house shop, institution, guest house, rooftop base telecommunication station, wind turbine infrastructure, open space, urban agriculture and battery house	>200 up to 350	1,0	Na	8,0 m	10,0 m	3,5 m	0,0 m (12,0 m from street and 60%) and 3,0 m rest		
	>200	1,0	Na	6,0 m	10,0 m	1,0 m	6,0 m (12,0 m from street and 60%) and 3,0 m rest		

Extract from the Zoning map showing the SR1 zoning of the subject property



In terms of compliance with the relevant provisions of the **DMS**, please note the following:

Maximum Floor Space

1.3.1 A maximum floor space of 199.5m² is applicable to Portion 1 and 263.5m² is applicable to the Remainder. As is clear from the SDP provided, minor floor space departures are required for the new dwelling houses, mainly due to a covered balcony being slightly wider than 2.5m. **The required departures are discussed in detail later in this report.**

Height

1.3.2 In terms of the DMS, a height restriction of 8m to wall-plate and 10m to top of roof is applicable. As is shown on the SDP submitted, the proposed Dwelling Houses clearly complies with the height restriction. **The proposal therefore complies with both the wall-plate and roof height provisions of the DMS.**

Street boundary

1.3.3 While the proposed dwelling house on Portion 1 complies with the permissible 1m street setback, the proposed dwelling house on the Remainder requires a street setback departure for both the ground storey and 1st storey terrace. **The required departures are discussed in detail later in this report.**

Common boundaries

1.3.4 Various common boundary setbacks are required for the new dwelling houses on the subdivided properties as per Section 1.4 below. **These required departures are discussed in detail later in this report.**

1.4 Applications required in terms of planning law

Application is made for departures and subdivision in terms of Section 42 of the Municipal Planning By-law, in order to permit the subdivision of the property and the erection of new dwelling houses as per the submitted SDP. In this regard, please note the following:

1.4.1 **Subdivision** of the subject property into two portions (Portion 1: approx. 199.5m² & the Remainder: approx. 263.5m²) in accordance with the plan of subdivision prepared by **D&S Planning Studio** dated 2017/12/04.



PLANNING STUDIO

planning | property | design 2056

1.4.2 The following planning applications are required in terms of the provisions of the **Development Management Scheme (DMS)**, which are contained as Schedule 3 of the Municipal Planning By-Law:

Departures relating to Portion 1

- Item 22(2): **Departure** to permit a floor factor of 1.03 (206.1m²) in lieu of 1 (199.5m²).
- Item 22(d): **Departure** to permit the building at ground storey (which portion is more than 60% of the remaining linear distance) to be setback 0m to 3m from the north-eastern common boundary (subdivision boundary).
- Item 22(d): **Departure** to permit the building at 1st storey to be setback 0m & 1.194m in lieu of 3m from the north-eastern (subdivision boundary) & south-eastern common boundaries respectively for the portions more than 12m from the street boundaries.
- Item 22(e): **Departure** to permit the new windows to be setback 1.194m in lieu of 1.5m from the south-eastern common boundary.

Departures relating to the Remainder

- Item 22(2): **Departure** to permit a floor factor of 1.13 (296.5m²) in lieu of 1 (263.5m²).
- Item 22(d): **Departure** to permit the ground and 1st floor to be setback 1.5m in lieu of 3.5m from Springs Way.
- Item 22(d): **Departure** to permit the building at ground storey (which portions are more than 60% of the remaining linear distance) to be setback 0m & 1.194m to 3m from the north-eastern / south-western & south-eastern common boundaries respectively.
- Item 22(d): **Departure** to permit the building at 1st storey to be setback 0m and 1.194m in lieu of 3m from the north-eastern / south-western and south-eastern common boundaries respectively for the portions more than 12m from the street boundaries.
- Item 22(e): **Departure** to permit the new door and windows to be setback 0m & 1.194m in lieu of 1.5m from the north-eastern & south-eastern common boundaries respectively.

2. BASIC INFORMATION

2.1 Applicant

The registered owner of the subject property Warren Fischer has duly authorised D&S Planning Studio to make application to the City of Cape Town for the application referred to in Paragraph 1.4 above, and to act as the applicant in this and related matters.

2.2 Ownership details

The subject property is owned by W Fischer who are desirous to improve the subject property with a development that would contribute positively to the character of the area.

2.3 Title deeds and restrictions

The subject property is held in Deed of Transfer T50601/2017. Please see attached a copy of the title deed as well as the conveyancers certificate indicating that there are no conditions that would prohibit the proposed development.

2.4 Surveyor General (SG) Diagram

The Surveyor General (SG) diagram vid SG No. 11683/94 is attached as part of the application.

There are no servitudes or encumbrances reflected on the SG diagram relating to the subject property.

3. MOTIVATION FOR THE PLANNING APPLICATION

3.1 Location, surrounding land uses and character of the area

The subject property is located within the previously proposed Newlands Village Special Area, which has a distinct "urban village" character consisting of a mix of historic cottages and more modern buildings. The small business node at the intersection of Main Street and Kildare Road forms an integral part of this "urban village" character. The Newlands Village area is also characterised by relative narrow and winding streets and varying erf sizes, with the majority of the Dwelling Houses being either single or double storey, and with these Dwelling Houses being constructed close to or in some instances hard-up on the street boundary. Most dwelling houses have pitched roofs. Boundary walls constructed hard-up on the street boundary is also common.

This mixed land use environment consists of a small vibrant business node at the intersection of Main Street and Kildare Road, various residential properties, as well as educational and community facilities. With the exception of the community and utility land uses to the west of the subject property and the historic Newlands natural spring located to the north-west, all of the immediate surrounding properties appear to be used for residential purposes, consistent with their SR1 zoning.

When considering the built character of the area as described above, it is clear that the proposed subdivision and proposed dwelling houses are in keeping with the area and that the proposal will not result in any adverse impact on the surrounding area.

It will be shown later in this report that the proposed subdivision will have no impact on the character of the area or surrounding property owners and should be supported by the City.

3.2 Relevant planning policy

The following planning policies and legislation are applicable to this application:

3.2.1 Provincial Spatial Development Framework (PSDF)

The PGWC's strategy of densification is embodied within the Provincial Spatial Development Framework (PSDF), which strongly focuses on urban restructuring, and identifies various objectives and associated linked strategies to address spatial discrimination and inefficiencies. The identified strategies are specifically geared towards curtailing urban sprawl through the appropriate densification of urban settlements and minimising the consumption of scarce resources (i.e. land). Residential densification is identified as a key-planning element.

The proposal is considered to comply with the overarching objectives and strategies specified within the PSDF.

3.2.2 The City's Municipal Spatial Development Framework (MSDF), 2018

The following policy statements contained within the MSDF, which are linked to broad spatial strategies, are applicable to this proposal (albeit considering the higher-level positioning of this Framework):

- Support the intensification and diversification of land use in areas supportive of transit-oriented development
- Promote quality urban design and contextual fit.
- Promote appropriate land use intensity.
- Encourage medium-higher density forms of urban development to locate on bus, rail or intermodal stations as well as along corridors and in nodes.

This proposal is considered to be in line with these policy statements within the City's MSDF.

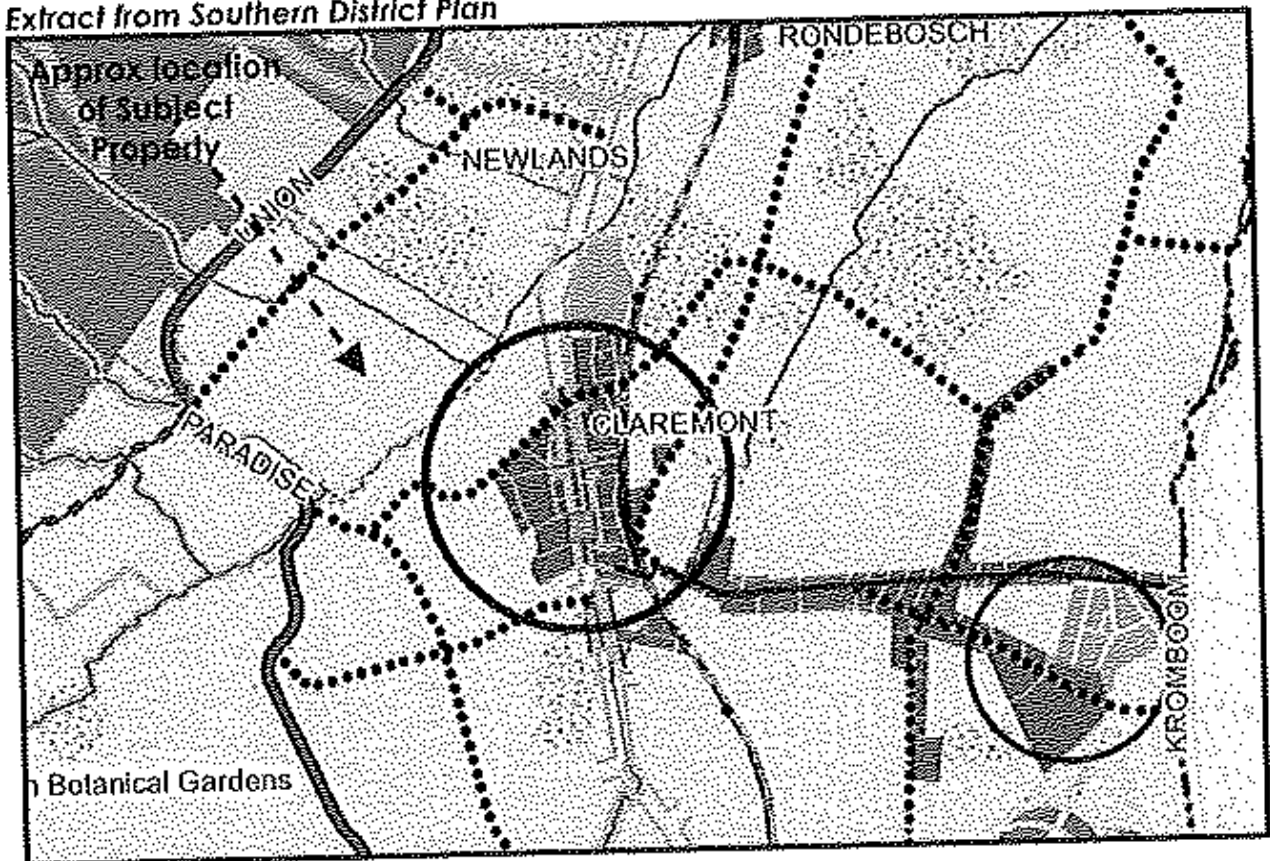
3.2.3 The Southern District Plan

The Southern District Plan indicates that the subject property is located in Sub-district area 3 and is located in relatively close proximity to important connector routes such as Newlands Avenue and Paradise Road. The following policy statements contained within the Southern District Plan, relating to this specific area, are applicable to this proposal:

- Residential areas in close proximity around CBD areas should be reinforced by increasing their residential densities.
- Emphasis must be placed on residential densification within 1km of urban nodes and the spines of development corridors, with a special emphasis within 500m of these, so as to maximize the opportunities of existing infrastructure capacities.
- Residential densification, and indeed urban intensification, should be context specific, and guided by available service and infrastructure capacity. This may require that densification occurs in an incremental step by step manner over time rather than in a massive 'big-bang' step.

It is believed that the approval of this proposal will be in line with these policy statements within the Southern District Plan.

Extract from Southern District Plan



The approved above-mentioned plans echo the principles mentioned in the PSDF and also advocate efficient and integrated urban structures, in which urban sprawl are contained and appropriate densification is encouraged.

3.2.4 Council's Densification Policy

The Densification Policy recognises the need for appropriate densification across the City to promote the longer-term sustainability of Cape Town's natural, urban and rural environments. The Densification Policy was approved in Feb 2012 to specifically, amongst others, guide decision-making with regards to density related applications. Densification is of utmost importance, for the following reasons:

- Densification reduces the consumption of valuable/non-renewable resources.
- Densification supports the development of a viable public transport system.
- Densification makes the city more equitable.
- Densification facilitates economic opportunities and supports service provision.
- Densification improves housing patterns and choice of house type.
- Densification contributes to urban place-making and improves safety.

It has been shown in this report that the proposal will not have a negative impact on the character of the area or surrounding property owners' rights, thereby complying with the Densification Policy requirement for contextual appropriate densification.

3.3 Subdivision assessment

It should be considered that various factors relating to a subdivision have a possible impact on the area, including the character of the area, erf sizes, built-forms, landscaping, etc. The proposed subdivision should therefore be considered holistically in order to show desirability and lack of any impact on existing rights in the area.

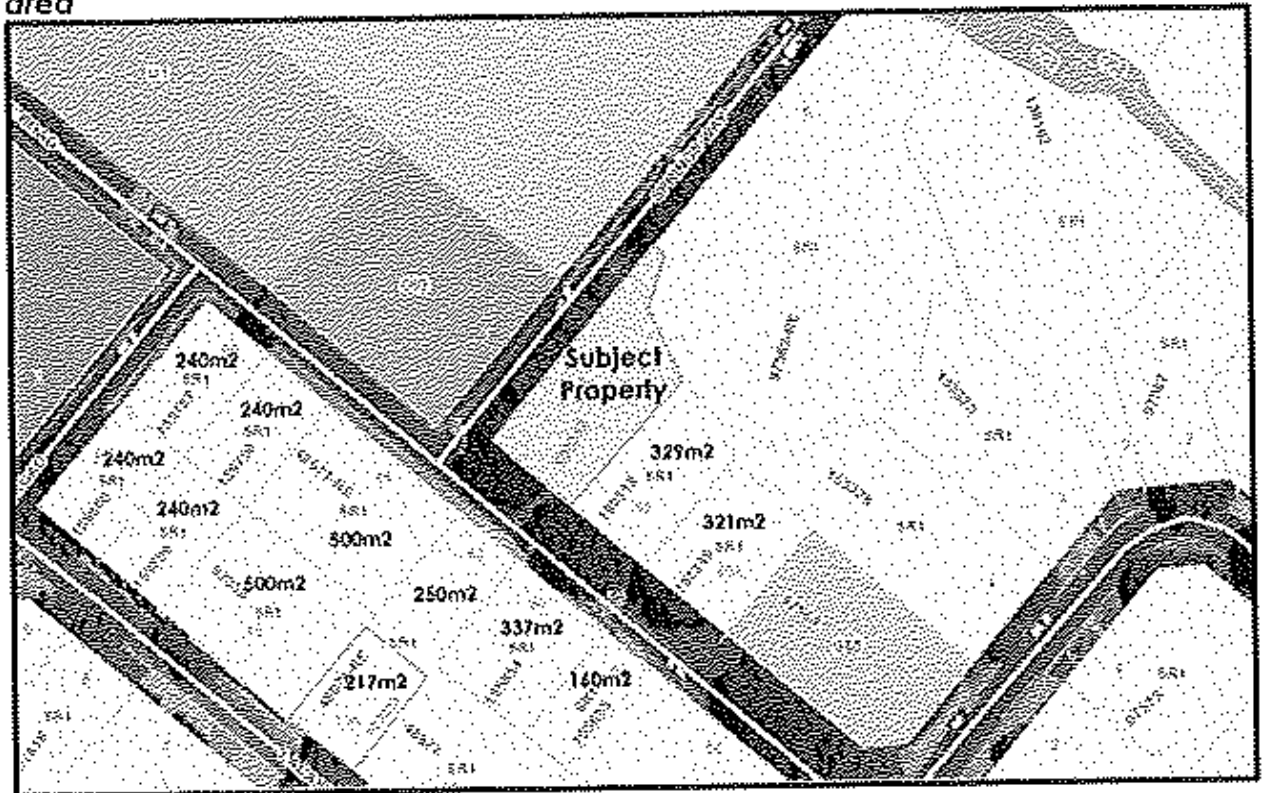
3.3.1 Erf sizes

In terms of erf sizes; this is only one of the elements to consider when dealing with a subdivision application in terms of desirability and the following should be noted:

- The subject property is proposed to be subdivided into two portions, with the resultant erven being comparable to erf sizes in the surrounding area. Residential erf sizes are not consistent and range from as small as 160m² to erven of approximately 1000m² in size. A number of the erven in the immediate Newlands Village area are of similar size (and smaller) than the proposed portions.

- The erf sizes being created as a result on this proposal (i.e. Portion 1: 199.5m² and Portion 2: 263.5m²) is comparable to most of the existing erf sizes in the area (see below map showing approximate erf sizes in the area). The proposal will therefore not have a negative impact on the area as it relates to erf size.

Map showing the general erf size of residential properties in the immediate area



- As should be clear when considering the proposed dwelling houses, taking cognisance of the applicable DMS development rules and the built character of the area, that the proposed new buildings is modest in nature and will not impact negative on the character of the area.
- The subject property also abuts two different streets, with the narrower portion of the property abutting Kildare Road. This will further reduce the possible impact on the area.

3.3.2 Built form

In terms of the built form, the following should be noted:



PLANNING STUDIO

planning | property | design

2063

- One attached building, consisting of two dwellings are proposed, which should limit the impact on the built character of the area. The building may still appear as one house, although the property is being subdivided.
- The subject property abuts two different streets, with separate accesses being proposed of the two different streets for the various portions. Given that the new vehicular access is located at least 13m along Spring Way from the intersection with Kildare Road; this will not be readily visible from Kildare Road, limiting the built form impact.
- The design of the building relating to the setbacks, pitched roofs, stoeps and balconies takes cognisance of the general built character in the area.
- Except for the double garage, which is basically located in terms of the existing garage, the building is pulled back from Kildare Road, to further limit the possible visual impact of the double storey building when traveling up and down the street.
- Where overlooking the public spaces to the north-west and north-east, the building defines the edge and is located in close proximity to the property boundaries, which is in keeping with the built character of the area.
- Where possible, the existing trees on the subject property will be retained and together with the trees on the footway and the proposed new trees / landscaping would further contribute to limit any built form impact.
- The proposal is therefore considered compatible with the area, as the subdivided portions of the subject property can accommodate appropriately designed and well-articulated new dwellings, without compromising the existing built-form or character of the area.

It is clear when considering the above that the subdivision will not result in a built form that would impact negatively on the area or the rights of surrounding property owners.

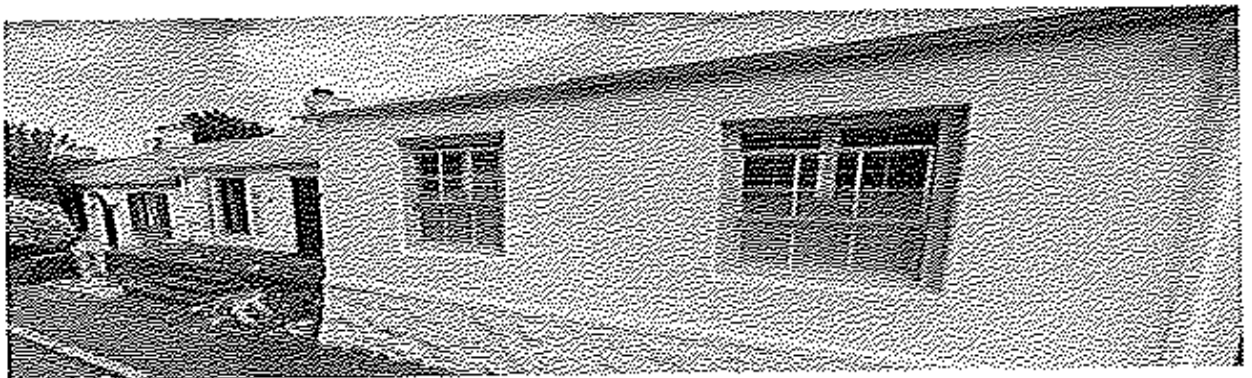
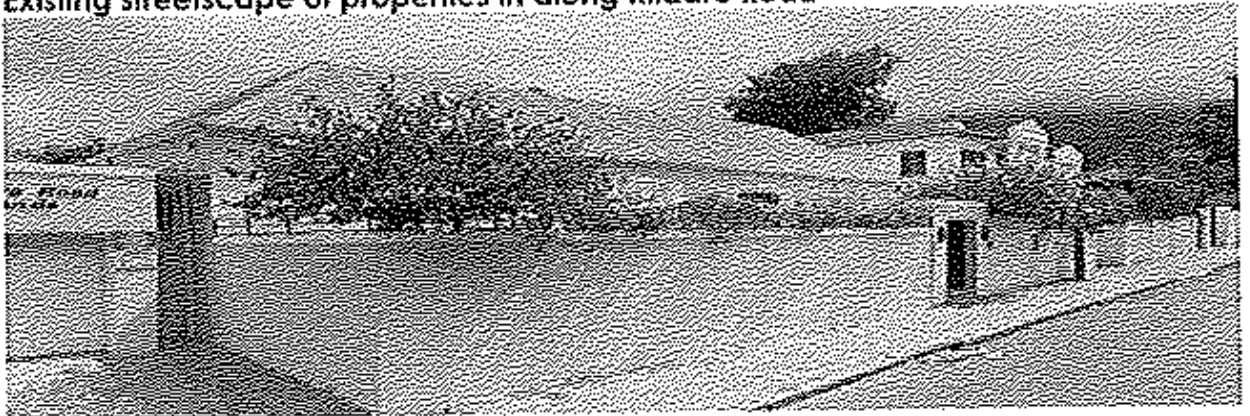
3.3.3 Character of the area

In terms of the possible impact of the subdivision on the character of the area, the following should be noted:

- This area is considered suitable for contextually appropriate densification as it is a sought after area that already includes diverse densification solutions and erf sizes.
- The proposal is considered to add to the diversity and richness of the suburb, without negatively impacting on the streetscape and vegetation.

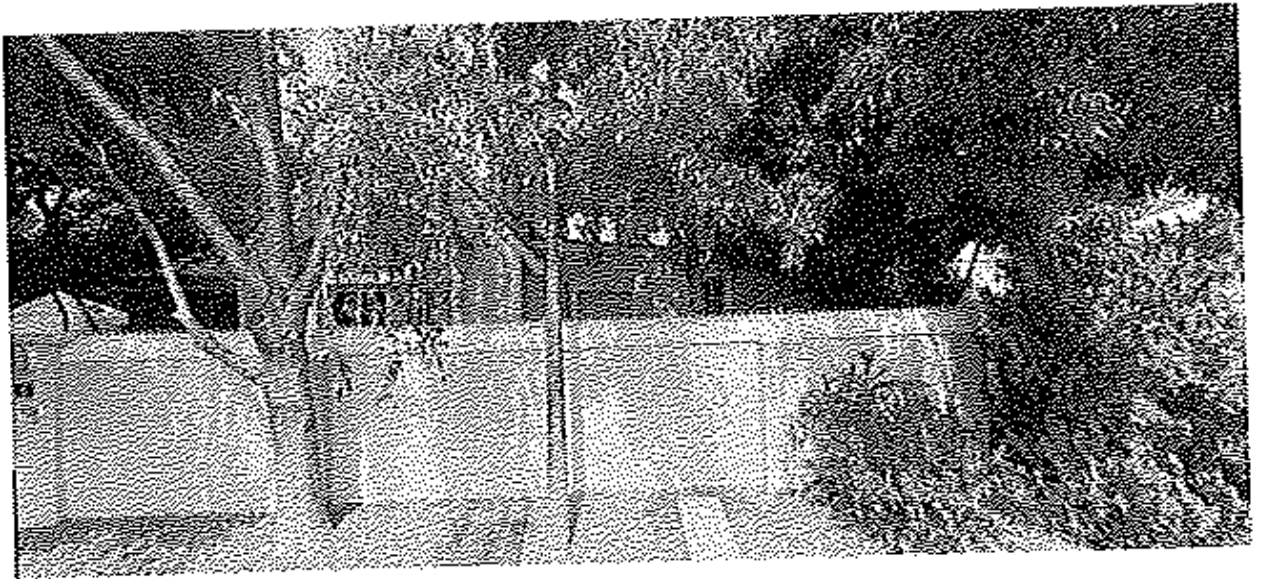
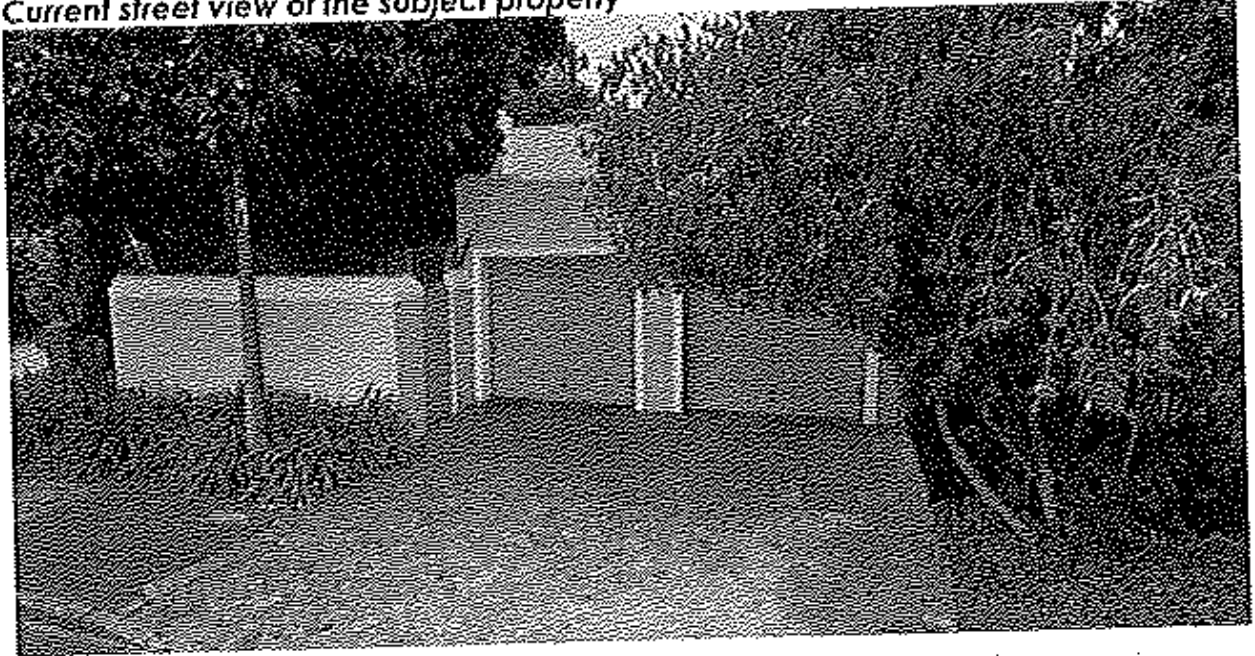
- It has been shown that similar erf sizes to the proposal exist in the area, which contributes to limiting any possible negative impact as a result of this proposal on the character of the area.
- Several of the surrounding properties have been improved with structures that have been built on / in close proximity to the street boundary and common boundaries. It is clear that this is part of the character of the area.

Existing streetscape of properties in along Kildare Road



2065

Current street view of the subject property



- Considering the existing built form in the area, the proposal will not have a negative impact on the character of the area, specifically in terms of the possible visual / aesthetic appearance and impact on the existing houses in the area.
- The proposed subdivision will have a limited impact on the vegetation in the area, which contributes positively to the character of the area.

- It is clear that a varied built form exists in the area. Except for buildings being constructed in close proximity to property boundaries and the mostly pitched roofs of the buildings, no uniform built form is prevalent or dominant in the area.

3.4 Departures

In terms of the various departures applied for as per Section 1.4 above, the following should be noted:

Floor space / factor departures

- In terms of the previous Cape Town Zoning Scheme Regulations, there was no previous limitation on floor space for dwelling houses. The floor factor provision was introduced by the integrated Zoning Scheme Regulations and it could be argued that given the built character of the area as per above, that a floor factor of 1 is unduly limiting and not in keeping with the built character of the area.
- It appears clear from the built form in the area that a number of the existing dwelling houses will unlikely comply with a floor factor of 1.
- Dwelling houses of 263.5m² and 206.1m² in this specific area cannot be considered excessive or out of keeping with the area.
- The total floor space increase relating to both dwelling houses is 8.5%, which is less than the 10% where the City does not normally require advertising in terms of the relevant policy. This 8.5% translates to only a 39.5m² increase, which is not seen as excessive.
- The floor factor departures are mainly required due to the 1st storey covered terraces, which portions are just more than 2.5m in width resulting in the entire terraces contributing to floor space. This could easily be remedied, but the terraces are considered essential in terms of the built character of the area and the design.

It is clear when considering the above and the existing built character of the area, that the floor factor departures will have no negative impact on the area or surrounding property owners.

Street setback departure

- A minor street setback departure is only required for the new dwelling house on the Remainder.
- Considering the built character of the area as described above, the street setback departure is considered necessary and in keeping with the built character of the area.
- The portions of the building triggering the street setback departure positively contribute to safety in the area, by overlooking the street and the parking / garden area of the home for the aged to the west.
- The existing dwelling house is already located in close proximity to Springs Way.
- The existing landscaping / trees in the footway area will be retained, as well as new trees planted on the boundary, which will further soften the possible streetscape of the building being erected closer to the street boundary.

Common boundary setback departures

- The common boundary setback departures relate only to the portions of the new dwelling house more than 12m from the various street boundaries and can be considered minor in nature.
- Ground storey portions of the existing dwelling house along the south-eastern common boundary is being retained, which is already located at 1,194m from this boundary and includes windows.
- Although windows are proposed facing the south-eastern common boundary at 1st storey level, these windows relate to bathrooms and bedrooms and should therefore not have a negative impact on the property to the south-east relating to overlooking features from entertainment areas.
- The existing dwelling house on adjacent Erf 155318 appears to already be constructed on the western common boundary between the two properties, which further limits any possible impact.
- The proposed bedroom and bathroom windows along the south-eastern common boundary will only overlook the roof of the dwelling house on Erf 155318.
- It appears that the outdoor entertainment areas of Erf 155318 are located towards the north-eastern common boundary, with the proposal not having any impact in this regard, considering no 1st storey overlooking features (except a minor bathroom window) facing this boundary.
- Various of the common boundary departures listed relate only to the newly created subdivision boundary between Portion 1 and the Remainder and will therefore not impact on surrounding property owners.

When considering the above, the required common and street boundary setback departures will have no impact on the area or surrounding property owners.

3.5 Traffic and access

In terms of traffic and access, it is proposed to only subdivide the property into two portions. The proposal will therefore clearly not impact negatively on the existing traffic and parking situation in the area. Both dwelling houses comply with the required parking provision. The existing double garage off Kildare Road will basically be retained, while the new double garage of Spring Way is located a sufficient distance (i.e. 13m) from the Spring Way / Kildare Road intersection to comply with the DMS rule (i.e. 10m) in this regard.

Kildare Road is a lower order, speed restricted road and therefore the subdivision of the property will not have a negative impact on the area in terms of parking and traffic issues. Also, sufficient on-street parking opportunities for visitors is available mainly in Springs Way, especially since the previous Newlands Spring water collection point at the end of the road has been closed by the City.

3.6 Impact on Existing Rights

Given the legal planning requirements as stated in Section 1 and the assessment above, it is clear that the proposal will have a limited impact on the existing rights of surrounding property owners. It is essential that this proposal and required planning application be seen in the context of area, the various densification policies and the subject property's existing rights, and considering these rights, the minor impact of the planning application required, it is therefore considered that this proposal will have a positive impact on the area and the surrounding property owners.

3.7 Compliance with the decision-making criteria as per Section 99 of the Municipal Planning By-law (MPBL)

3.7.1 In terms of **Section 99(1) of the MPBL** an application must be refused if the application does not satisfy the minimum requirements as listed in this section. In this regard, the following should be noted:

- Given the application made and legislation specified as per Section 1.4 of this report, it is clear that this **application comply with the requirements of the MPBL.**
- Given that the subdivision is planned for an existing erf within an urban area, it is also clear that the proposal **complies with the provisions of the City's Municipal Spatial Development Framework.**

- Given the assessment above and for the reasons as listed in Section 4 of this report below, **it has been shown that the proposal is desirable as per the relevant consideration criteria as stated in Section 99(3) of the MPBL.**
- The proposal is for the subdivision of the subject property and **does not have the effect of granting the property the development rules of the next subzone.** In any event, the property has a Single Residential 1 (SR1) zoning and therefore no subzone is applicable.

Given the above, the application does not fail to comply with the minimum requirements as stated in Section 99(1) of the MPBL and should therefore not be refused but supported by the decision-maker.

3.7.2 In terms of **Section 99(2) of the MPBL**, if the application is not refused in terms of Section 99(1), when deciding whether or not to approve the application, the decision-maker must consider all relevant considerations as listed in this section. In this regard, the following should be noted:

- In terms of the applicable Southern District Plan (relevant spatial development framework), the area and subject property is designated for urban development. Given that a subdivision and new dwelling houses are planned for an existing erf within an urban area, it is clear that the proposal **complies with the provisions of the Southern District Plan.**
- It has been shown in the report that the proposal **complies with any relevant criteria contemplated in the DMS.**
- Given the nature of the application, i.e. subdivision and the construction of new dwelling houses on the property, the proposal does not trigger and is **not in conflict with any relevant Council policy.** In fact, the proposal positively contributes to the City's Densification Policy.
- Given the assessment above and for the reasons as listed in Section 4 of this report below, **it has been shown that the proposal is desirable as per the relevant consideration criteria as stated in Section 99(3) of the MPBL.**
- It has been shown and argued in this report that the proposal **will not have a negative impact on the existing rights of relevant surrounding property owners,** especially given the assessment of the departures provided above.
- With regards to this proposal, there are no other relevant Provincial and National legislation applicable.

Given the above and considering the desirability assessment in Section 4 below, the decision maker should approve the application in terms of Section 98 of the MPBL.

4. DESIRABILITY AND REASONS FOR SUPPORTING THE PROPOSAL

Through the motivation above it has been shown that there is no negative impact on existing rights. The reasons for supporting this application can be summarised as follows:

Socio-economic impact

- Given the detailed motivation in this report relating to policy compliance; the proposal should have a positive socio-economic impact on the area.
- The proposal will result in additional residential opportunity being made available within the Newlands area, which will have a positive socio-economic impact.
- The scale of the investment into the area, albeit at a micro scale, should have a positive socio-economic impact on the area and the larger city in terms of an increased rates base, etc.

Compatibility with surrounding uses

- The subdivision and new dwelling houses have been shown as being compatible with the character of the area and surrounding uses, which are also residential in nature.
- The application will have a limited impact on the surrounding property owners when considering the development rules / provisions within the DMS.
- The proposal will sufficiently integrate into the existing built form and architectural appearance of the area.
- The proposal will not have a negative impact on the character of the area, especially when considering the size of the subject property and the proposed subdivision plan.
- The proposal contributes to additional residential stock in the area, which is highly sort after and needed in this area.

Impact on the external engineering services

- The proposal will not impact on any engineering services, especially when considering the contextually appropriate densification as per the relevant City policy.
- Any required development contribution will be paid / completed as part of this proposal.
- Existing rights in terms of a second dwelling is already relevant relating to this proposal.

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

- The safety, health and well-being of the surrounding community is not impacted on as a result of this application.

Impact on heritage

- The property is not located in any heritage area and the existing building is not older than 60 years. No heritage resources will therefore be impacted on by this proposal.

Impact on the biophysical environment

- No negative impact on the biophysical environment is envisaged.

Traffic impacts, parking, access and other transport related considerations

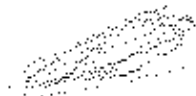
- Given the minor nature of the proposal, the contextually appropriate densification, and considering the character of the area; the proposal will not have a negative impact on the parking and traffic situation in the area.
- Except for the new access for the Remainder, the same vehicular and pedestrian accesses will be used as are currently relevant for the subject property.

Whether the imposition of conditions can mitigate an adverse impact of the proposed land use

- No adverse impact on the area or surrounding property owners are envisaged and therefore the possible standard approval conditions should be sufficient in this regard.

General

- It has been motivated in detail in this planning report that the impact of this application, i.e. subdivision and departures, is negligible.
- The proposal complies with the various national, provisions and local policies and legislation.
- The proposal supports contextually appropriate densification and is therefore in line with the City's Densification Policy.
- The streetscape will not be negatively impacted on as a result of the proposal.



Ben Schoeman



Newlands Residents ASSOCIATION

2072

ANNEXURE : J

PostNet # 339
Private Bag X 1005
7735 Claremont

admin@newlandsresidents.org.za

20 January 2019

The District Manager
Development Management
City of Cape Town
South Peninsula Administration

APPLICATION NUMBER: 70412614 | ERF 155317, 2 SPRINGS WAY, NEWLANDS

The NRA wishes to make the following representations with regard to the above application:

1. SUBDIVISION OF PROPERTY INTO 2 PORTIONS:

The NRA has no objection to the subdivision of the property into two portions due to the fact that the building lines and height restrictions for the new portions remain unchanged within the DAMS's rules for single residential zoning.

2. DEPARTURES FROM THE DEVELOPMENT MANAGEMENT SCHEME:

2.1 Item 22: to permit floor space of 208m² in lieu of 199m² on Portion 1 and to permit floor space of 297m² in lieu of 264m² on the Remainder – no objection;

2.2 Item 22(c)(ii): to permit the dwelling houses on Portion 1 and the Remainder, located beyond 12m from the street and within 3m from the common boundaries to be 6,75m in lieu of 4m high from base level – the NRA objects to this where it affects the common boundary to the adjacent property to the south-east; permitting structures of such height at close proximity to the common boundary will impact drastically on the adjacent property's future right to develop within the DAMS and will create density of form uncharacteristic of the area;

2.3 Item 22(d): to permit the dwelling house on the Remainder to be setback 1,5m in lieu of 3,5m from Springs Way – the NRA objects to this departure as it will impact on the character of the street and also on existing trees both on the verge and within the property; furthermore, the NRA notes that there is an omission of a similar departure for Portion 1 to be 1,5m from Springs Way.

2.4 Item 22(d): to permit the dwelling house on Portion 1, beyond 12m from the street boundaries and within 3m of the common boundaries to have a linear distance of 3,14m in lieu of 2,58m – this departure is nonsensical as the built form that is within the linear distance is higher than the 4m above base level, and is covered by the height departure noted above under item 2.2, to which the NRA objects; the NRA will not object to this departure only if the height of the structure is not more than 4m above base level.

2.5 Item 22(d): to permit the dwelling house on the Remainder, beyond 12m from the street boundaries and within 3m of the common boundaries to have a linear distance of 16,66m in lieu of 11,5m – this departure is nonsensical as the built form that is within the linear distance is higher than the 4m above base, and is covered by the height departure above under item 2.2, to which the NRA objects; the NRA will not object to this departure only if the height of the structure is not more than 4m above base level.

2.6 Item 22(e): to permit windows and doors on Portion 1 to be setback 1,19m in lieu of 1,5m from the south-east boundary – the NRA has no objection where the windows serve the ground storey, but objects to this for windows on the upper storey;

2.7 Item 22(e): to permit windows and doors on the Remainder to be setback 0,32m in lieu of 1,5m from the north-east boundary – the NRA has no objection due to the fact that the property to the north-east is open ground zoned Transport 2 and is unlikely to be built upon;

Committee:

D. Baigrie, M Turnbull, J Devine, M Hendriks, C Burgess, J Deerman,
J Rogers, S Gilbert, G Goncalves, A Donovan, H Clarke.

3. COUNCIL'S APPROVAL IN TERMS OF CONDITIONS OF THE 1994 SUBDIVISION: 2073

3.1 To permit a residential development in keeping with the character of the area and "to the approval of the City Planner (Urban Conservation Unit)" – The NRA does not view the proposed development to be in "keeping with the character of the area" – the proposed heights and density of the units and the loss of greenery will result in a change in character.

3.2 To permit alterations to the existing boundary wall/fences along Springs Way with require approval of the City Planner (Urban Conservation Unit)" – no objection provided a sense of transparency is included and mature existing trees within the site and the verge are retained.

Additionally, a Landscape Plan to be prepared by a qualified landscape designer or landscape architect indicating existing trees and shrubs (to be retained, transplanted or removed) as well as proposed new planting and landscape features which will be implemented in terms of the new development. This is to be provided to the NRA for further comment.

We request the City of Cape Town to carefully consider the impact of this planning application relative to the character of the neighbourhood, especially in the light of the proposed (and long overdue) protection of Newlands under a Heritage Protection Overlay Zone which we believe is receiving City of Cape Town attention and support.

Kind Regard

The Newlands Residents Association

admin@newlandsresidents.org.za | mobile: 072 791 9454

Post Net #339 | Private Bag X1005 | 7735 Claremont

www.newlandsresidents.org.za



2074
Newlands Residents
ASSOCIATION

PostNet # 339
Private Bag X 1005
7735 Claremont

admin@newlandsresidents.org.za

20 January 2019

The District Manager
Development Management
City of Cape Town
South Peninsula Administration

APPLICATION NUMBER: 70412614 | ERF 155317, 2 SPRINGS WAY, NEWLANDS

The NRA objects to the departures from the Development Management Scheme on the following grounds:

A height departure of 6,75m in lieu of 4m where the building is located at close proximity to the south east common boundary will impact drastically on the adjacent property's future right to develop within the DAMS and will create density of form uncharacteristic to the area.

A street building line departure of 1,5m in lieu of 3,5m from Springs Way will impact on the character of the street and also on existing trees both on the verge and within the property, and should not be permitted.

Permitting windows and doors to be setback 1.19m in lieu of 1,5m from the south-east boundary will impact on the privacy of the adjacent property.

The departures regarding increases to the linear distances are nonsensical as the built form that is within the linear distance is higher than the permitted 4m above base level, and is covered by the height departure noted above.

The NRA does not view the proposed development to be in keeping with the character of the area – the proposed heights and density of the units and the loss of greenery will result in a change in character.

The Site Development Plan provided does not accurately indicate existing mature trees. The NRA requests that a Landscape Plan is prepared by a qualified landscape designer or landscape architect indicating existing trees and shrubs (proposed to be retained, transplanted or removed) as well as proposed new planting and landscape features which will be implemented in terms of the new development. This is to be provided to the NRA for further comment.

We request the City of Cape Town to carefully consider the impact of this planning application relative to the character of the neighbourhood, especially in the light of the proposed (and long overdue) protection of Newlands under a Heritage Protection Overlay Zone which we believe is receiving City of Cape Town attention and support.

Yours sincerely

The Newlands Residents Association

admin@newlandsresidents.org.za | mobile: 072 791 9454

Post Net #339 | Private Bag X1005 | 7735 Claremont

www.newlandsresidents.org.za

Committee: D Baigrie, M Turnbull, J Devine, M. Hendriks, C Burgess, J deerman, J Rogers, S Gilbert
G Goncalves, A Donovan, H Clarke

n&c 2075
PLANNING STUDIO
planning | property | design

Our Ref: SD/Newlands/155317

Date: 2019-02-11

City of Cape Town
Planning & Building Development Management
2nd floor Media City
Cape Town

FOR ATTENTION: Mr Nasrudeen Floris
CASE NO: 70412614

Dear Sir

APPLICATION FOR SUBDIVISION, DEPARTURES AND THE CITY'S APPROVAL IN TERMS OF THE MUNICIPAL PLANNING BY-LAW OF 2015: ERF 155317 CAPE TOWN AT NEWLANDS, 2 SPRINGS WAY AND KILDARE ROAD

Your letter dated 2019-01-23 and the above application have reference. In your letter, you indicated that 1 objection and various branch comments have been received relating to the proposal / application and that a written response in this regard is required. The purpose of this letter is to provide the required written response on the objection received in order for this application to be further assessed in terms of the relevant legislation.

1. Background

We have been requested by the owner of the subject property ("our client") to prepare a response to the objection and branch comments received relating to the application submitted.

2. Objection received

As indicated in the City's letter, only 1 objection has been received, which was received from the Newlands Residents Association (NRA). It is interesting to note that although the proposal was relatively widely advertised, **no other objections were received from surrounding property owners.**

2.1 Objection received from the Newlands Residents Association (NRA)

Regarding the negative impact of the height departure (i.e. 4m issue) on the adjacent neighbour in terms of his future possible development rights and the impact of the windows and doors on privacy

In this regard, the following should be noted:

- It is interesting to note that the owner of adjacent Erf 155318 did not object to the proposal / application.
- The proposed building along the south-east common boundary is still setback 1.194m from this boundary.
- Any possible future development on adjacent Erf 155318 in terms of the DMS rules will not be negatively impacted by the proposal. Even a 0m setback for the 1st 12m from the street along the south-eastern common boundary is possible.
- The planning motivation provided has in detail assessed the various departures applied for and has argued limited impact on the area and surrounding property owners.
- Although windows are proposed facing the south-eastern common boundary at 1st storey level, these windows relate to bathrooms and bedrooms and should therefore not have a negative impact on the property to the south-east relating to overlooking features from entertainment areas.
- The existing dwelling house on adjacent Erf 155318 is already constructed on the western common boundary between the two properties, which further limits any possible impact (see photos below).



- The proposed bedroom and bathroom windows along the south-eastern common boundary will only overlook the roof of the dwelling house on Erf 155318.
- It appears that the outdoor entertainment areas of Erf 155318 are located towards the north-eastern common boundary, with the proposal not having any impact in this regard, considering no 1st storey overlooking features (except a minor bathroom window) facing this boundary.

Given the assessment above, the issue regarding this application being unconstitutional should be disregarded by the City.

Regarding the issue the street setback departure and the character of the street / area

In this regard, the following should be noted:

- The built character of the area was analysed and discussed in detail as part of the planning motivation and it is clear that the proposed build form will not impact negatively on this character. The proposed architecture is in the Cape Vernacular style (see elevations), consistent with built character of the area.
- The Newlands Village area is characterised by relative narrow and winding streets and varying erf sizes, with the majority of the Dwelling Houses being either single or double storey, and with these Dwelling Houses being constructed close to or in some instances hard-up on the street boundary.
- Considering the built character of the area as described above, the street setback departure is considered necessary and in keeping with the built character of the area.
- The portions of the building triggering the street setback departure positively contributes to safety in the area, by overlooking the street and the parking / garden area of the home for the aged to the west.
- The existing dwelling house is already located in close proximity to Springs Way.
- The existing landscaping / trees in the footway area will be retained, as well as new trees planted on the boundary, which will further soften the possible streetscape of the building being erected closer to the street boundary.

Regarding the Issue of landscaping

In this regard, the following should be noted:

- The City's Environmental Management Branch has suggested a condition be imposed that the large tree on the corner of the property be retained.
- The owner / developer has no objection to the imposition of condition regarding a landscaping plan for the property, to be implemented to the satisfaction for the relevant City Departments. Currently, this is conditional that the large tree, which is currently causing structural damage to the boundary wall, can be removed and replaced with a suitable indigenous tree.
- The trees on or along the footway will mainly be retained.
- New trees have been indicated on the SDP.

3 City Departmental comments received and revised proposal

3.1 Revised proposal

Due to mainly the City Departmental comments received, the proposal has been very slightly amended as follows to address the concerns raised:

- The required splay at the intersection of Kildare Road and Springs Way has been reflected on both the plan of subdivision and the SDP submitted.
- The owner has indicated that the splay area (measuring 10.81sqm) is to be transferred to the City at no cost. The value of the splay area is R147 557 (applying a rate of R13 650/sqm). The owner furthermore does not request that this amount be offset against the Development Charges of R34 487.82, on condition that the tree causing damage to the structural wall can be removed.
- The subdivision of the required splay area has resulted in a reduced Portion 1 size, as well as a changed bulk departure and a minor new street setback departure from the splay area (see revised application list attached).
- The application, as advertised, is still essentially the same and the minor amendment is as a result of the required splay area.

Importantly, it should be noted that due to the changes to the plans, the list of applications applied for has also been amended to reflect the changes. This revised document has also been added to this response to the objections.

This document now submitted includes (see after page 7):

- Updated LUM application list
- Revised plan of subdivision
- Revised SDP
- Signed DC

3.2 Water & Sanitation and Catchment, Stormwater & River Management

The relevant branches provided no objection to the proposal and indicate that the proposal does not trigger any stormwater management policies.

3.3 GIS

This branch had no objection to the proposal and noted the new street addresses for the two portions.

3.4 Roads

The relevant branch provided no objection to the proposal and provided a DC calculation sheet, which has been signed by the owner / developer and is attached.

3.5 Solid Waste Management

The Solid Waste Management Department indicated **no objection** to the proposal.

3.6 TIA & Development Control

This branch had certain requirements, mainly relating to the provision of a splay at the intersection of Springs Way and Kildare Road. The issues mentioned have been addressed and the plan of subdivision and SDP have been amended in this regard. The required 4.5m X 4.5m splay has been provided.

3.7 Environmental and Heritage Management Branch

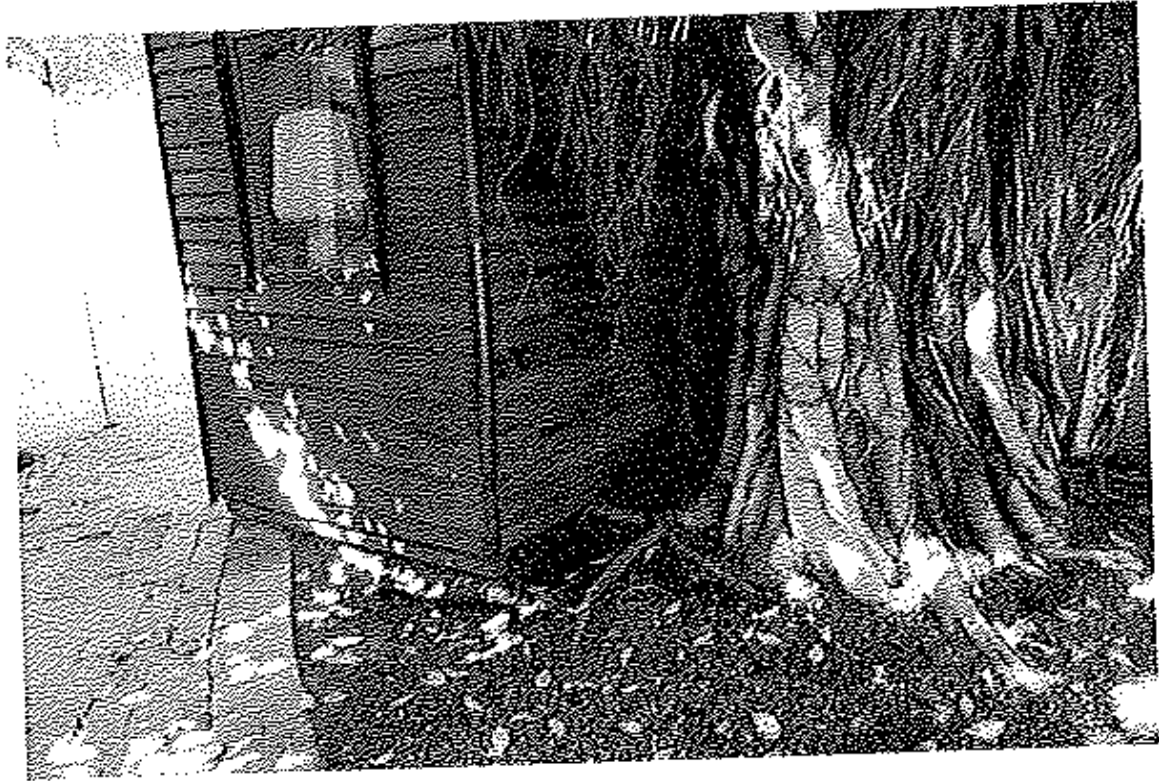
This City branch supports the subdivision on the condition that the large tree on the property (i.e. on the corner of Springs Way and Kildare Road) be retained.

In this regard, the owner has advised as follows:

- The owner has requested that he be permitted to remove the tree referred to by the Environmental Management Branch. Although the contribution of the tree to the leafy character of the area is acknowledged, the tree is currently causing some structural damage (see photos below).
- The structural integrity of the existing perimeter wall has been severely compromised, such that it is a very real concern that the wall is going to fall over onto the City's power box.
- The subject tree is not indigenous and the proposal is to plant indigenous trees as replacement (including possibly on the splay area).
- A condition could then be imposed regarding a landscaping plan (to the relevant City Departments' satisfaction) to replace trees and ensure no impact on the character.

Photos of structural damage cause by the tree





4. Conclusion

Given the response above it should be clear that the objection received from NRA should be disregarded by the City and the application should be recommended for approval.

It will be appreciated if the above can please be considered and the required recommendation / documentation forwarded to the Municipal Planning Tribunal for a decision at your earliest convenience.

Yours faithfully

Ben Schoeman

Nasrudeen Floris

From: Ben Schoeman <ben@planningstudio.co.za>
Sent: Monday, April 8, 2019 12:49 PM 2082
To: Nasrudeen Floris
Subject: Erf 155317 Newlands
Attachments: Revised SDP_8 April 2019.pdf; Revised Plan of Sub_8 April 2019.pdf; Updated application list_8 April 2019.pdf

Hi Nasrudeen

Thank you for the phone call earlier. In this regard, please note:

1. Please see attached the updated plans of subdivision and SDP addressing the following as requested:
 - The **splay area has been renamed Portion 3**. Please note that the application list (see attached) has also been updated to refer to Portion 3.
 - The **property boundary dimensions** have been added to the plan of subdivision.
 - The **location of the existing ficus tree** has been shown on both the plan of subdivision and the SDP.
 - Updated revision numbers, etc have been provided.
2. As per our response to the objections and the branch comments; the problems associated with the existing ficus tree have been mentioned. In this regard, please note the following if the tree has to be retained:
 - The tree is currently causing some structural damage to the boundary wall, which wall will then need to be continuously replaced in future.
 - It is possible that the tree may in future interfere with the various municipal services in close proximity. The structural integrity of the existing perimeter wall has been severely compromised, such that it is a very real concern that the wall is going to fall over onto the City's power box.
 - The provision of a swimming pool in the front garden will be limited.
 - The ficus tree is not indigenous and the proposal is to plant indigenous trees as replacement, which will in time have a similar positive impact on the leafy character of the area.

I hope this assist and is what you were looking for.

Kind regards

BEN SCHOEMAN

URBAN PLANNER / BTRP Pr. P/n A/1306/2005
079 706 3316

250 Buitongracht Street / Tamboerskloof
www.planningstudio.co.za



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2083

MEMORANDUM

To: Development Management

from: Business Enablement GIS

Date: 14 November 2018

Subject: Branch comments with regards to Land Use Application

To Whom it may concern:

We approve the application but want to set a condition with regards to the street addresses.
The addresses provided below must be used as part of the subdivision.

Remainder: No. 4 Springs Way Newlands

Portion 1: No. 71 Kildare Road Newlands

Kind Regards

Charleen

Charleen Martin
GIS Technician: TDA Cape Town
TDA Business Processes
Department: Business Enablement
3rd Floor, Transport Management Centre
Hugo Street, Goodwood

T: +27 21 400 6755

E: charleen.martin@capetown.gov.za

W: www.capetown.gov.za





2084

Chantel Erlank
Administrative Officer 1

T: +27 21 400 5576 F: +27 86 576 2197
E: chantel.erlank@capetown.gov.za

Application Number/Case Number: **70412614**

Reference Number:

Date: 23 November 2018
Subject: **PLANNING AND BUILDING DEVELOPMENT MANAGEMENT**
Attention: Yushra Lornie

Application for Subdivision for Erf 155317, Newlands is Supported by the Director: Solid Waste Management (OSWM) Subject Following Conditions listed Below:

Please ensure that refuse bins are placed outside on the scheduled day of refuse removal to the nearest access Road for a Kerbside (Sidewalk) Refuse Removal Service.

Please Refer to Paragraph (1) listed below referring to Subdivision to enable refuse removal services.

- 1) Should the owner/s make alterations or additions to the Residential Property or Subdivide the Property into 2 or more portions for Residential Purposes and require Additional Refuse Containers / Bins, the owner/s must liaise with the Corporate Call Centre for Solid Waste Management Enquiries on 086 010 3089 to make the necessary arrangements. The owner/tenants are required to Place the Refuse bin/s on their nearest access Road – the Kerbside (Sidewalk) of a Public Street on the Scheduled Day of Refuse Collection.

SUBDIVISION CONDITION COMPLIANCE TO SECTION 137:

Solid Waste Conditions must be clearly stated with the Attached "Annexure A" forms to avoid delays with the clearances given by Solid Waste Management.

Yours Faithfully,

Chantel Erlank
For: The Director: Solid Waste Management



TDA
CAPE TOWN

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

Internal Memorandum

2085

To : Planning and Building Development Management
From : Environment and Heritage Management Branch (**Heritage Resource Section**)
Subject : Building Plan application

Erf 15531, Newlands:

The application is inside a HPOZ.

Heritage Resource Section (HRS) supports this application.

Thank you.

Bewin September
Heritage Resource Section
Environment and Heritage Management Branch
Environmental Management Department
021 444 2610
bewin.september@capetown.gov.za



TDA
CAPE TOWN

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

Internal Memorandum

2086

T: 021 444 2171 F: 021 444 3802
E: Rashaad.samaal@capetown.gov.za

To : Land Use Management

From : Environment and Heritage Management Branch (Environmental Management Section)

Subject : Re Application for subdivision and departures in terms of the Municipal Planning By-Law: Erf 155317, Newlands

The abovementioned application has reference.

The proposed development of the subdivided portions will negatively impact the trees that exist on the property and on the Spring Road verge. The applicant acknowledges the presence of the trees but states that some trees will be retained and that landscaping will be done. However, the tree that is located on the inside of the property on the corner of Kildare Road and Spring Way must be retained. This is a mature tree that contributes significantly to the streetscape.

My department supports the subdivision application subject to the following condition:

- the tree that is located on the inside of the property on the corner of Kildare Road and Spring Way must be retained and protected during construction.

My Department reserves the right to revise its comment based on new information received.

Kind Regards

Rashaad Samaal

Environmental Professional Officer: Environment and Heritage Management

Department: Environmental Management



Internal Memorandum 2087

T: 021 444 2171 F: 021 444 3802
E: Rashaad.samaai@capetown.gov.za

To : Nasrudeen Floris, Land Use Management
From : Rashaad Samaai, Environment and Heritage Management Branch (Environmental)
Subject : Land use application 70412614, Erf 155317, Newlands
Date : 06 March 2019

The abovementioned application and your email correspondence dated 5 March 2019 refer.

I have reviewed the correspondence, dated 11 February 2019, from Mr Ben Schoeman of D&S Planning Studio and the Environmental Management Section (EMS) does not support the removal of the mature Ficus tree. This tree is part of the area's natural heritage which contributes to the unique sense of place that is characteristic of Newlands. Furthermore, the property forms part of the proposed Newlands Village Heritage Protection Overlay Zone (HPOZ) and mature trees forms an integral part of the proposed HPOZ. For these reasons the Environmental Management Section (EMS) does not support this application.

However, EMS will support the application if the tree is retained.

My Department reserves the right to revise its comment based on new information received.

Kind Regards

Rashaad Samaai

Environmental Professional Officer: Environment and Heritage Management
Department: Environmental Management



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

2088

Erf Number
Suburb
Developer/Owner
Erf Size (ha)
Date (YYYY/MM/DD)
Current Financial Year
Approved Building Plan No.

155317
Newlands
485M2
November 19, 2018
2018/2019

Making progress possible. Together.

Approved Building Plan No.

	Code	Description	Unit	Existing Right	Total New Right
RESIDENTIAL					
A1	Single Residential > 1000m² Erf	Dwelling unit			
A2	Single Residential > 650m² Erf	Dwelling unit			
A3	Single Residential > 350m² Erf	Dwelling unit		1	
A4	Single Residential < 350m² Erf	Dwelling unit			2
A5	State funded Housing	Dwelling unit			
A6	GAD/A Affordable Housing	Dwelling unit			
A7	Group Housing > 850m² Erf	Dwelling unit			
A8	Group Housing > 200m² Erf	Dwelling unit			
A9	Group Housing < 200m² Erf	Dwelling unit			
A10	Flat > 100m² Unit	Dwelling unit			
A11	Flat < 100m² Unit	Dwelling unit			
A12	Second/ Additional Dwelling/Granny Flat	Dwelling unit			
A13	Rural / Undetermined / Agricultural	Dwelling unit			
A14	Rural Intensification / Agri-subdivisions	Dwelling unit			
ACCOMMODATION ESTABLISHMENTS					
B1	Hotel	Rooms	m² GIA		
B2	Accommodation Establishments	Rooms	m² GIA		
BUSINESS					
C1	General Business		m² GIA		
C2	Office		m² GIA		
C3	Retail/Shop		m² GIA		
INDUSTRIAL					
D1	Warehouse		m² GIA		
D2	Industrial		m² GIA		
INSTITUTIONAL / COMMUNITY					
E1	Early Childhood Development Centres / Home Child Care	Learner	m² GIA		
E2	Universities / Schools	Learner	m² GIA		
E3	Care / Accommodation (hospitals, clinics, old age home)	Bed	m² GIA		
E4	Office/ Consulting rooms (welfare offices, clinics, hospitals & env. facilities)		m² GIA		
E5	Meeting Places (places of assembly, place of worship)		m² GIA		
E6	Open Spaces / Public Open Spaces		m²		
Land uses not reflected on the calculator			Actual Demand	Click yellow button to enter demand	

Is the development located within Public Transport (PT2) zone?

Please select

Category	Unit	Rate	Volume	Value	Rate	Volume	Value	Rate	Volume	Value
Roads	trips/day	8.4000	R	5 627.31	R	59 999.84	R	2 599.06	R	71 999.81
Transport	pers./trips/peak period	0.5500	R	333.24	R	458.28	R	68.74	R	527.02
Stormwater	m³/c	0.0020	R	164 478.85	R	321.57	R	45.74	R	381.31
Sewerage	m³/day	0.3500	R	55 722.37	R	5 852.83	R	422.92	R	5 730.75
Waste	M/day	0.5000	R	2 051.75	R	615.37	R	92.31	R	707.68
Solid Waste	kg/day	6.6000	R	953.87	R	2 731.51	R	439.73	R	3 141.21

City of Cape Town
Calculated: _____
Signature: _____
Date: 19/11/18

Developer/Owner
WILHELM FRISCHER
Received: _____
Signature: _____
Date: 06/02/2019

NOTE: THIS CALCULATION IS BASED ON THE DEVELOPMENT INFORMATION PROVIDED AND UNIT COSTS APPLICABLE FOR THE FINANCIAL YEAR IN WHICH THE DEVELOPMENT APPLICATION IS MADE. UNIT COSTS ARE ESCALATED ANNUALLY ON 1 JULY WITH THE CPAF AND THE ACTUAL AMOUNT DUE WILL BE BASED ON THE UNIT COST APPLICABLE ON THE DATE PAYMENT BECOMES DUE.

2089

TRANSPORT PLANNING COMMENT

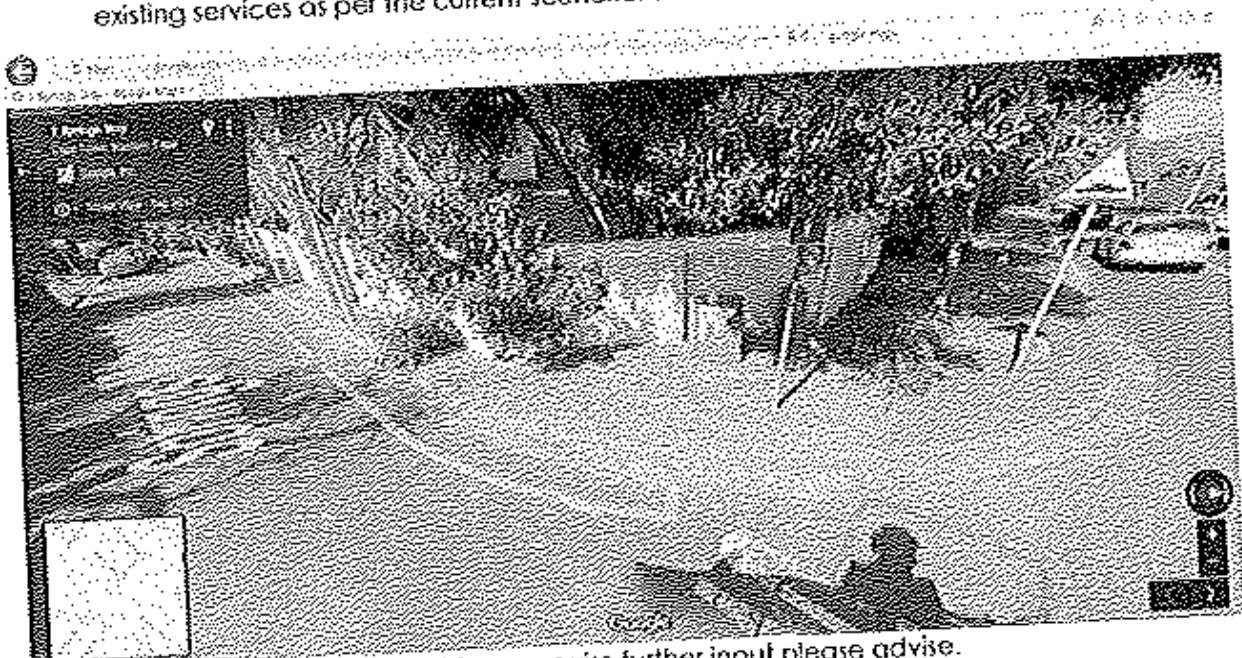
From: Marilyn Botha <Marilyn.Botha@capetown.gov.za>
Sent: Tuesday, December 4, 2018 8:20 AM
To: Nathaniel Williams <Nathaniel.Williams@capetown.gov.za>
Cc: Nasrudeen Floris <Nasrudeen.Floris@capetown.gov.za>
Subject: RE: Application for subdivision (2 portions) on Erf 155317, Newlands (CASE ID: 70412614)

Transport Comment: 04-12-2018
RE: Application for subdivision (2 portions) on Erf 155317, Newlands (CASE ID: 70412614)
Our Ref: W2 - Erf 155317, Newlands

REQUIREMENTS:-

This branch is not in a position to issue a final comment on this application due to the following:-

1. Allowance must be for a standard splay (4.5m x 4.5m) at the intersection of Springs Way and Kildare Road, this is to allow for adequate sight distance at the intersection.
2. The subdivision plan must be amended and the splay area must be subdivided off the parent erf, zoned for road purpose and ceded to the City at no cost.
3. The site plan must be amended to indicate the kerb-edge on Springs Way and Kildare Road and all existing fixtures (light poles, drainage systems, trees or fire hydrants) within the road reserve. The boundary wall must be amended to make allowance for all existing services as per the current scenario. See extract below.



I trust that this is in order but should you require further input please advise.

Kind regards,
Marilyn Botha
for IDA: Transport & Urban Development Authority

Nasrudeen Floris

2020

From: Marilyn Botha
Sent: Wednesday, March 6, 2019 2:12 PM
To: Nasrudeen Floris; Rashaad Samaai
Subject: RE: Application for subdivision (2 portions) on Erf 155317, Newlands (CASE ID: 70412614)

Good day Nas,

Please note that this branch offers no objection to the revised layout submitted as it complies with the previous comment issued.

I trust that this is in order for you to proceed with the application.

Marilyn Botha
Regional Coordinator – Southern Region (Plumstead and Athlone Districts)
Transport Impact Assessment & Development Control
Directorate Transport

1st Floor, 3 Victoria Road,
Plumstead Office (Southern Region)

T +27 21 444 9520
F +27 21 444 3805

E marilyn.botha@capetown.gov.za
W www.capetown.gov.za



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

..... Making progress, plus 500, together.....

.....
From: Nasrudeen Floris <Nasrudeen.Floris@capetown.gov.za>
Sent: Tuesday, March 5, 2019 3:58 PM
To: Marilyn Botha <Marilyn.Botha@capetown.gov.za>; Rashaad Samaai <Rashaad.Samaai@capetown.gov.za>
Subject: RE: Application for subdivision (2 portions) on Erf 155317, Newlands (CASE ID: 70412614)

Good day

Kindly find attached the amended proposal which address the concerns raised by your respective department(s).

Please send your final comment in order that I may proceed with the report.

Regards

Nasrudeen Floris
Assistant Professional Officer: Development Management
Southern District
Department: Spatial Planning and Environment
First Floor, Plumstead Administrative Offices, Corner of Main & Victoria Road, Plumstead
T +27 21 444 9540



2091

Susan Nel
Senior Technical Assistant

T: 021 4004681
E: susan.nel@capetown.gov.za
Your Ref: 78412614

2018-12-11

DIRECTOR: PLANNING AND BUILDING DEVELOPMENT

PROPOSED SUBDIVISION OF ERF 155317: 2 SPRINGS WAY, NEWLANDS

I have no objection to the proposal subject to the following conditions:

1. Any alterations or deviations to electricity services necessary as a consequence of the proposal, or requested by the applicant, will be carried out at the applicant's cost.
2. A separate service connection cable, rated to supply the authorised capacity of the erf, must be installed to the point of supply on the boundary of each erf of the subdivision. The cable shall be routed clear of all other private property, typically within the public road reserve.
3. In accordance with policy and tariffs approved by Council, a shared-network charge, as published in the standard tariffs, shall be paid before clearance of the subdivision will be granted.
4. In accordance with policy and tariffs approved by Council, a connection cost -- to provide a separate connection to the property boundary -- shall be paid before clearance of the subdivision will be granted.
5. A quote for the shared-network charge and connection cost, as well as conditions of supply, will be provided upon formal application. Such application must be submitted prior to application for Section 137 clearance.

Yours faithfully

DIRECTOR: ELECTRICITY GENERATION & DISTRIBUTION

Reason for alternative Support Application

Concur with Motlatsi Nkhoesa's response

Abdulla Parker

29 November 2018

OUR REF: 2.3.3.1 LIESBEEK RIVER DEVELOPMENT PROPOSAL

Case ID: 70412614, Erf 155317, NEWLANDS

Attention: Nasrudeen Floris

Note: No hard copy of file was opened

APPLICATION FOR SUBDIVISION AND THE CONSTRUCTION OF NEW DWELLINGS ON ERF 155317,
NEWLANDS

Herewith the response from the Catchment, Stormwater and River Management Office (this Office). Please note that these comments are based on the information that this office has received to date as well as all previous correspondence. Should any new information be provided to this office, then this office reserves the right to review the comments as deemed appropriate.

1. The abovementioned Erf 155317, Newlands has a total area of 463m² and is not situated within a floodplain,
2. As such, Erf 155317 does not trigger any of the stormwater management policies,
3. From a stormwater perspective this application is supported,
4. Stormwater best management practices such as rainwater harvesting are encouraged.

Regards

Motlatsi Nkhoesa
Catchment Stormwater and River Management – Water and Sanitation
Informal Settlements Water and Waste Services

3rd Floor, Water and Sanitation Head Office, 8 Voortrekker Road, c/o Voortrekker and Mike Pienaar
Blvd, Bellville, Cape Town
Tel: 021 400 2390 | Cell: 078 745 5472 | Email: MotlatsiChristian.Nkhoesa@capetown.gov.za | Web:
www.capetown.gov.za

CCT Contacts | CCT Media and News | Report a fault | Account Queries | Water Restrictions

js

Civic Centre
12 Hertzog Boulevard
PO Box 1884
Cape Town 8000
Telegr: Ccplan
Tele: 62-0968 CEECT SA
Fax: (021) 419 7066

Burgersentrum
Hertzogboulevard 12
Postbus 1884
Kaapstad 8000
Telegr: Ccplan
Tele: 62-0968 CEECT SA
Faks: (021) 419 7066



CITY OF CAPE TOWN
CITY PLANNER'S DEPARTMENT
STAD KAAPSTAD
DEPARTEMENT VAN DIE
STADSBEPLANNER

1994-09-23

Mrs Gerber
400-2466

SE.13919/1 (5296)

K C Beard
5 Noreen Avenue
CLAREMONT
7700

FILE COPY -- DO NOT REMOVE

Dear Sir

"NEWLANDS SPRING"

SUBDIVISIONAL APPROVAL: ERF 97563 CAPE TOWN AT NEWLANDS - KILDARE ROAD AND SPRINGS WAY - LAND OWNER S A BREWERIES LTD

- Your application reference Nwlds/97563/Springs Way dated 1993-10-20 and 1994-06-22 refers.
- In terms of Section 25(1) of the Land Use Planning Ordinance No.15 of 1985 approval is hereby granted to the subdivision of the abovementioned property as depicted on the attached plan of subdivision SE 13919/1 which bears Council's stamp of approval dated ~~1994-09-23~~ 1994-09-23. The validity of this approval is 5 years from the said date subject to the provisions of Section 27 of the said Ordinance.
- EXTENT OF APPROVAL:** This approval authorises the subdivision of Erf 97563 into 7 portions plus the Remainder.

The following portions shall be consolidated:

- Portion 4 with Erf 107737.
- Portion 5 with Erf 97566.
- Portion 6 with Erf 97565.

CONDITIONS OF APPROVAL: In terms of Section 42 of Ordinance 15 of 1985 this approval is subject to the conditions appearing hereunder and those set out in the attached Annexure A and B.

- REGULATIONS:** Each portion of the subdivision is subject to the following regulations published in Provincial Notice 1049 of 1988 in terms of Section 7(2) of Ordinance 15 of 1985:
 - The Road Bank and Services Clause Reg. Nos 3.5.1 and 3.5.2
- TITLE CONDITIONS:** No portion of this subdivision may be transferred or separately registered until such time that any restrictive conditions of title have been removed. No private or owners conditions may be imposed in the Title Deeds of the proposed deductions.

Yours faithfully

CITY PLANNER

cc: S.G - Valuation Section

CONDITIONS APPLICABLE TO SUBDIVISION (PLAN NO. SE.13919/1)

2094

The following conditions have been imposed in terms of Section 42 of Ordinance 15 of 1985 and must be complied with to the satisfaction and acceptance of the Council or the City of Cape Town prior to the transfer of separate registration of any portion of the subdivision in the Deeds Registry.

1. **CLEARANCE CERTIFICATE:** Once the conditions of subdivision have been met the applicants must apply for a subdivision clearance certificate and such application must be accompanied by the original approved survey diagrams.
2. **RATES CLEARANCE:** Applications for rates clearance to the City Treasurer for the individual portions of the subdivision must be accompanied by the subdivision clearance certificates. In the case where servitudes are created the Powers of Attorney to pass transfer must be submitted to this office and the clearance certificates will be endorsed on those documents. The rates clearances will be endorsed on the same documents. In terms of Section 31(1) Ordinance 15 of 1985 the City Treasurer will not issue a rates clearance for any portion of this subdivision until such time as he is supplied with proof of compliance with the conditions of subdivision (i.e the subdivision clearance certificate).
3. **CONSOLIDATION**
 - 3.1 Portion 4 must be consolidated with Erf 107737.
 - 3.2 Portion 5 must be consolidated with Erf 97566.
 - 3.3 Portion 6 must be consolidated with Erf 97565.
4. **DRAINAGE AND SEWERAGE**
 - 4.1 No portion of the subdivision may fall below the 20 year flood level of the river.
5. **WATER MAIN SERVITUDES**
 - 5.1 A 3,0m wide water main servitude lettered Kimmop must be registered over Portion 3 in favour of the Municipality of Cape Town to protect the existing Municipal water main which crosses that portion. The centreline of the servitude must coincide with the centreline of the pipe.
6. **PUMPHOUSE**
 - 6.1 The existing pumphouse on Portion 3 must be resited on the Remainder as shown.
 - 6.2 An archaeological watching brief must be instituted over the excavations for the new pumphouse on the Remainder by and at the developers cost.
7. **SERVITUDE FOR WATER PIPING**
 - 7.1 A servitude for the water pipeline traversing portion 3 must be registered in favour of the Remainder. The applicants must resolve the question of the relocation of the pump house and any water piping prior to diagrams being lodged with the Surveyor General.

Amended

*Applied with
HL PMS.*

1 
CITY PLANNER

ANNEXURE B 2095

APPROVAL TO SUBDIVISION SE 13919/1

AMENDMENTS TO THE ZONING SCHEME:

APPLICANT: K C BAARD
OWNER: SA BREWERIES LTD
PROPERTY CONCERNED (erf no) 97563
SUBURB AND STREET NAME: NEWLANDS, KILDARE ROAD AND SPRINGS WAY
PROP REF: EG 40 A 001
MAP NO: 49

A. NEW LAND USE RESTRICTIONS IMPOSED IN TERMS OF SECTION 42(1) ORDINANCE 15/1985

Notwithstanding anything to the contrary contained in the Scheme Regulations:

- Any development on the Remainder must be with the prior written approval of the City Planner (Urban Conservation Unit). This condition shall also apply to any earthworks.
- The character of the residential development on Portions 1, 2, 3 and 7 must be in keeping with the character of the environs generally and must be to the approval of the City Planner (Urban Conservation Unit).
- On development of the residential portions 1, 2, 3 and 7 one parking bay facility must be provided on each of those portions.

B. SPECIAL CONDITIONS IMPOSED IN TERMS OF SECTION 42 ORDINANCE 15/85

- The nature and style of boundary walls/fences for Portions 1 and 3 which abutts Springs Way require approval of the City Planner (Urban Conservation Unit) in order to promote appropriate public view corridors to the 'berm' on the Remainder.
- The nature and style of fencing of informal lease areas within the Remainder to adjoining owners must be subject to the control and approval of the City Planner (Urban Conservation Unit).


CITY PLANNER

c.c. BS (ZAS) 15th Floor (copy of subdivision plan attached)

Replaced.

ANNEXURE B 2096

APPROVAL TO SUBDIVISION SE 13919/1

AMENDMENTS TO THE ZONING SCHEME:

APPLICANT: K C BAARD
OWNER: SA BREWERIES LTD
PROPERTY CONCERNED (erf no) 97563
SUBURB AND STREET NAME: NEWLANDS, KILDARE ROAD AND SPRINGS WAY
PROP REF: EG 40 A 001
MAP NO: 49

A. NEW LAND USE RESTRICTIONS IMPOSED IN TERMS OF SECTION 42(1) ORDINANCE 15/1985

Notwithstanding anything to the contrary contained in the Scheme Regulations:

- Any development on the Remainder must be with the prior written approval of the City Planner (Urban Conservation Unit). This condition shall also apply to any earthworks.
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CITY PLANNER
c.c. BS (ZAS) 15th Floor (copy of subdivision plan attached)

bp

Civic Centre
1218000000
PO Box 1006
Cape Town 8000
Telegr: C2plan
Tele: 52-5006 CEEGT SA
Fax: (021) 419 7006

Burgersdorp
Hortengrunderd 12
Postbus 1504
Kaapstad 8000
Telegr: C2plan
Tele: 52-5006 CEEGT SA
Faks: (021) 419 7006

2097



CITY OF CAPE TOWN
CITY PLANNER'S DEPARTMENT
STAD KAAPSTAD
DEPARTEMENT VAN DIE
STADSBEPLANNER

Mrs E Gerber
400 2466
SE 13919/2 (10186)

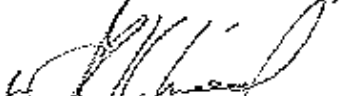
Mr K Baard
5 Noreen Avenue
CLARENONT
7700

Dear Sir

AMENDMENT TO SUBDIVISIONAL APPROVAL ERF 97563 CAPE TOWN
AT NEWLANDS, KILDARE ROAD AND SPRINGS WAY:
LAND OWNER: S A BREWERIES LTD.:

1. Your letter dated 29 September 1994 refers.
2. In terms of Section 42(3)(a) of the Land Use Planning Ordinance 15/1985 my approval SE 13919/1 dated 1994-09-23 is hereby amended as follows:-
 - 2.1 Clauses 6.1 and 6.2 in Annexure A is deleted and replaced with the following:
 - 6.1 Prior to any building development being permitted by this Council or commenced on Portion 3 the existing pumphouse must be re-sited on the Remainder as shown on Plan SE 13919/2 approved on 1994-09-23.
 - 2.2 Annexure B is replaced in its entirety as attached with special reference to Clause B.3.

Yours faithfully


CITY PLANNER

c.c. Surveyor General
Valuations

ANNEXURE B 2098

APPROVAL TO SUBDIVISION SE 13919/2 (10186)

AMENDMENTS TO THE ZONING SCHEME:

APPLICANT: K C BAARD
OWNER: SA BREWERIES LTD
PROPERTY CONCERNED (erf no) 97563
SUBURB AND STREET NAME: NEWLANDS, KILDARE ROAD & SPRINGS WAY
PROP REF: EG 40 A 001
MAP NO: 49

A. NEW LAND USE RESTRICTIONS IMPOSED IN TERMS OF SECTION 42(1) ORDINANCE 15/1985:

Notwithstanding anything to the contrary contained in the Scheme Regulations:

- (1) Any development on the Remainder must be with the prior written approval of the City Planner (Urban Conservation Unit). This condition shall also apply to any earthworks.
- (2) The character of the residential development on Portions 1, 2, 3 and 7 must be in keeping with the character of the environs generally and must be to the approval of the City Planner (Urban Conservation Unit).
- (3) On development of the residential Portions 1, 2, 3 and 7 one parking bay facility must be provided on each of those portions.

B. SPECIAL CONDITIONS IMPOSED IN TERMS OF SECTION 42 ORDINANCE 15/85:

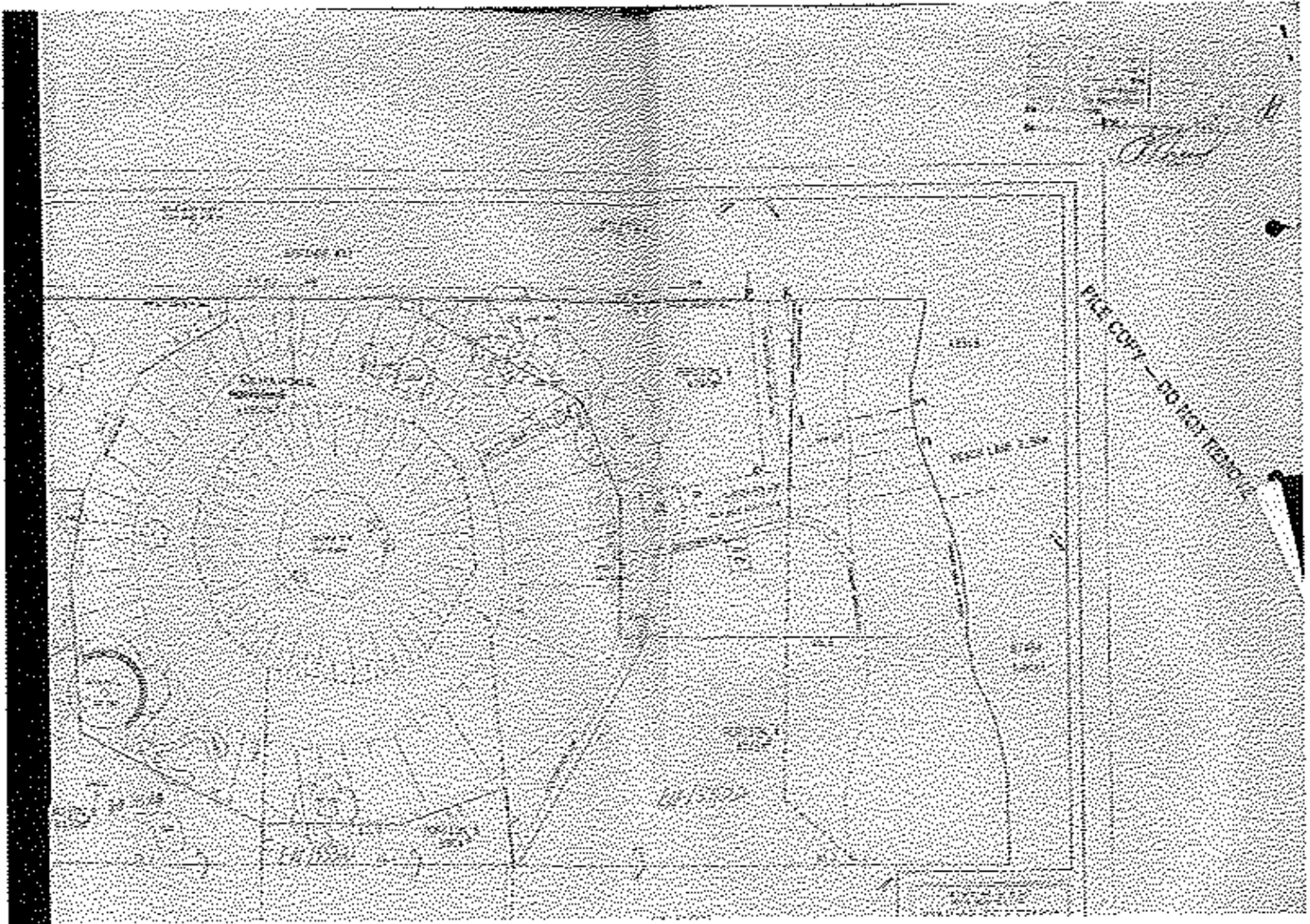
- (1) The nature and style of boundary walls/fences for Portions 1 and 3 which abuts Springs Way require approval of the City Planner (Urban Conservation Unit) in order to promote appropriate public view corridors to the 'berm' on the Remainder.
- (2) The nature and style of fencing of informal lease areas within the Remainder to adjoining owners must be subject to the control and approval of the City Planner (Urban Conservation Unit).
- (3) Prior to any building development being permitted by this Council or commenced on Portion 3 the existing pumphouse must be re-sited on the Remainder as shown on Plan SE 13919/1 approved on 1994-09-23.

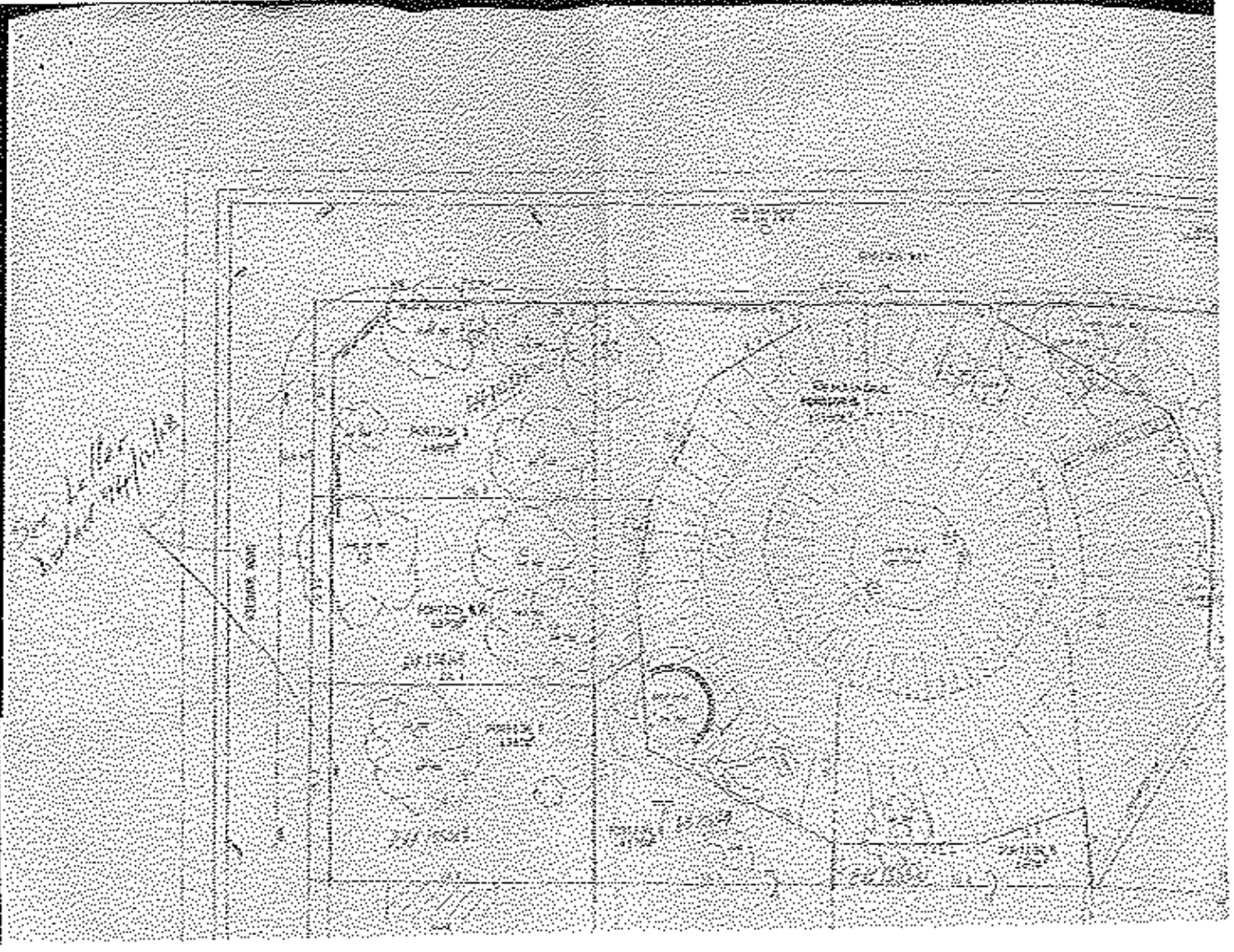

CITY PLANNER

c.c. BS (ZAS) 15th Floor (copy of subdivision plan attached)

FILE COPY - DO NOT REMOVE

2099





ANNEXURE N 2101

List of relevant parties

Applicant

D & S Planning Studio
ben@planningstudio.co.za

Objectors

1. Newlands Residents Association
Post Net #339
Private Bag X1005
Claremont
7735