

5.2.3 Durbanville CBD Urban Design Framework

The Durbanville CBD Urban Design Framework was developed in 1999 to serve as guidelines to aid architects and developers in the future development of Durbanville CBD. The Urban Design Framework divides the CBD into two zones, namely the CBD core and the Secondary CBD. The subject property is situated within the Secondary CBD area which serves as the transitional area between the CBD core and surrounding residential suburbs. This area is proposed to accommodate a mix of predominantly residential and office uses, allowing only restricted retail to serve local needs.

The following guiding principles identified by the Urban Design Framework are relevant to the development of the subject property:

- Urban block form responses should include buildings placed on the street reserve boundary, horizontal and vertical articulation, parking within the block core and positive building / street interface.
- Sensitive architectural design that respects the human scale must be used in conjunction with perimeter block development to attain a bulk of 1,8, accommodating the resulting parking requirement and ensure the retention and enhancement of the human scale and village character.
- The creation of strong edges is required to define urban paths and urban spaces. They are also required to achieve the compact CBD core.
- A zero street building line is prescribed and street level activity should be encouraged and facades designed to emulate the village character.
- New buildings must contribute to and enhance the village character extracting cues from the architectural heritage of Durbanville.

The design of the proposed development is largely based on the design principles contained in the Durbanville CBD Urban Design Framework. The proposed development has a floor factor that is consistent with the guidelines of the Urban Design Framework while 0m street setbacks and active street interfaces ensures a positive street / building relationship and the creation of strong edges. The scale and design of the building ensures development at a human scale and cues of the historical architectural character of Durbanville has been incorporated into the design (as explained in more detail in the Architectural Motivation – Annexure I).

It is thus evident that the proposal is in line with the design guidelines contained in the Durbanville CBD Urban Design Framework.

5.3 CONSISTENCY WITH APPROVED COUNCIL POLICIES

5.3.1 City of Cape Town TOD Strategic Framework

The City of Cape Town Transit Orientated Development (TOD) Strategy was adopted by the City of Cape Town in 2016 and is seen as a planning, design and implementation approach that can be employed to address inefficiencies in the urban form of the City. Various programs and strategic interventions are proposed by the TOD Strategy to facilitate effective urban growth and travel demand management. Densification and land use intensification within walking distance from public transport facilities form an integral part of these strategies to ensure that the required population thresholds are achieved in these areas to ensure sustainable use of public transportation.

The proposed development ensures that development on the property is densified with a mix of land uses and will contribute to a more compact urban form in the Durbanville CBD precinct. This will support the provision of improved public transportation services. Locational efficiency will thereby be maximized by providing more residential opportunities close to public transport facilities while the mix of residential and commercial opportunities also ensure greater accessibility between these land uses. The proposed development therefore supports the policies of the TOD.

5.3.2 City of Cape Town Densification Policy

The Cape Town Densification Policy encourages higher levels of densification at specific locations, particularly in areas with good public transport accessibility, at concentrations of employment, commercial development and / or social amenities and in areas of high amenity.

The increase of residential and commercial density on the property is aligned with the Densification Policy. The property is situated within the Durbanville CBD area, which is a local commercial node with high accessibility to commercial opportunities and amenities. The proposed development will contribute towards the average density of the Durbanville CBD to be increased to allow for long-term sustainability and more efficient use of resources.

5.3.3 City of Cape Town Urban Design Policy

The MSDF and District Plans already include many sound urban design principles at the scale of the city which can be used to assess desirability. The intent of the Urban Design Policy is to provide tools to assist with the assessment of development applications with the focus on the local level, the scale of the site, precinct or neighbourhood.

The Urban Design Policy identifies a number of objectives, each with associated policy statements, which form the basis through which development applications will be assessed. **Table 3** below provides a summary of the objectives that are applicable to this application:

Table 3 - Urban Design Policy Objectives	
Objective Statement	The proposed development
Objective 1 – Ensure that development contributes positively to the urban structure of the city to create integrated and legible places and neighbourhoods.	The property is situated within the Durbanville CBD in an area demarcated for higher density mixed-use development, in particular residential land uses with commercial space on ground floor. Although many properties in this area still contain smaller single storey buildings and dwelling houses, the area is still in transition as it responds to the City's vision for this area. The proposed land uses, scale and design of the proposal fits in with structure of the area, while the location of the property at the corner of Hafele and Windell Streets allows for a builder of a slightly higher order.
Objective 2 – Ensure that developments contribute to improved quality of the public realm and public spaces.	The proposed building is designed to ensure that orientation over the surrounding public streets are maximised, thereby contributing towards a higher quality public realm.
Objective 3 – Ensure that developments contribute to the creation of safe and secure communities.	The orientation of office space and residential units towards the surrounding street edges will create passive surveillance and will improve the safety of the area.
Objective 5 – Promote development intensity, diversity and adaptability.	The proposed development makes the most efficient use of the site as it contains a mix of land uses and with built form being intensified.
Objective 6 – Ensure enclosure and positive interfaces onto the public realm.	The design of the building and in particular the minimum setbacks and treatment of the ground floor space along the street edges ensures that a positive relationship with the surrounding streets is created.
Objective 9 – Development should respect and enhance the heritage, character and unique identity of the city and its neighbourhoods.	The design incorporates a number of architectural elements captured in the historical buildings within the Durbanville area, as demonstrated in more detail in the architectural motivation (Annexure I).

It is evident that the proposed development is compliant with the policies and objectives of the City of Cape Town Urban Design Policy.

5.3.4 Economic Growth Strategy

The principle objective of the Economic Growth Strategy (EGS) is to grow the economy and create jobs – the overarching objective of the Opportunity City. According to the EGS, the single most important factor determining poverty and inequality is the employment situation.

The proposed developed will contribute to economic growth in both the short-term (during construction) and the long-term (with the provision of additional office space within the CBD area). The proposed office will provide additional commercial space within existing commercial environment which is currently in high demand. In addition, the residential units will create opportunities for people to live closer to work opportunities within the CBD area.

5.3.5 Social Development Strategy

According to the City of Cape Town Social Development Strategy (SDS), a key strategy in reducing poverty and preventing intergenerational transmission of poverty within households and communities is creating economic opportunities and facilitating access to these opportunities. The SDS identifies urban planning as a means to promote spatial integration. The *Cape Town SDF* includes land use intensification as a strategy to ensure that a mix of land uses is concentrated in accessible, high-opportunity locations.

The City of Cape Town Municipal SDF promotes densification and mixed-use intensification within commercial nodes and areas of high order opportunities while the District Plan encourages higher density office and residential development in the local area. The proposal is therefore consistent with the policies of the City's SDF and will facilitate social integration and improving access to economic opportunities.

5.4 COMPLIANCE WITH DEVELOPMENT MANAGEMENT SCHEME

As previously indicated, it is proposed to rezone the property to General Business Zoning 2 (GB2). This zoning is deemed the most appropriate zoning for the proposed development as all proposed land uses are permitted as primary lands rights. The scale of the proposed building is also largely in line with the permitted building envelope of the sub-zoning. It should also be noted that a number of surrounding properties are currently zoned General Business Zoning 2.

Table 4 below provides a summary of the proposed development's development parameters in comparison to the development rules of the proposed General Business 2 zoning.

Parameter	Proposed Zoning (GB2)	Proposed Development	Compliant with GB2
Floor Factor	2,0	1,53	Yes
Coverage	100%	96,7%	Yes
Max Height	15,0m	13,52m	Yes
Street building line (up to height of 10m)	0m	Hafele Street – 2,186m	Yes
		Windell Street – 0m	Yes
		Hafele / Windell Streets splay – 0m	Yes
Street building line (above height of 10m)	4,5m	Hafele Street – 2,186m	No
		Windell Street – 1,629m	No
		Hafele / Windell Streets splay – 0m	No
Common boundary building line	0m	Western boundary – 0m	Yes
		Southern boundary – 0m	Yes

As evident from Table 4 above, the proposed development complies with the applicable floor factor, coverage, height and building line (below 10,0m) regulations. However, 4,5m street boundary

building lines apply for portions of the building higher than 10,0m. The proposed building encroach on these building lines and departures are included to permit these encroachments. In addition, a departure is also required to permit a reduced off-street parking provision.

The following departures are applied for:

- A departure to permit a building line encroachment with a setback of 2,1m in lieu of 4,5m from the Hafele Street boundary above a height of 10,0m.
- A departure to permit a building line encroachment with a setback of 1,6m in lieu of 4,5m from the Windell Street boundary above a height of 10,0m.
- A departure to permit a building line encroachment with a setback of 0m in lieu of 4,5m from the Hafele / Windell Street boundary splay above a height of 10,0m.
- A departure to permit a reduced off-street parking provision of 58 bays in lieu of 65 bays.

The above-listed departures are required to facilitate an efficient design and use of the available space. In terms of the building line departures, it should be noted that only relatively small portions of the top of the third storey encroach on the building lines, as indicated on the SDP. These encroachments are minor and will not impact negatively on any surrounding property.

The parking departure is deemed desirable as visitors' parking bays for the commercial and residential components can be shared on a counter-cyclical basis, due to different peak demand times. This is elaborated in more detail in Section 5.5.7 of this report.

5.5 DESIRABILITY OF THE PROPOSED LAND USE

In terms of Section 99(3) of the MPBL, the following considerations are relevant to the assessment of the extent to which the proposed land uses would be desirable.

5.5.1 Socio-Economic Impact

The Durbanville CBD fulfils an important economic function in the north-eastern region of the City of Cape Town and the sustainable growth of the CBD is imperative for the economic development of the local region. The proposed development will contribute towards the appropriate redevelopment of the local area, which now forms part of the Durbanville Secondary CBD, and will reinforce the intensified mixed-use function of the Durbanville CBD as encouraged by the City's spatial development frameworks.

The proposed commercial space responds to a current high demand for particularly office space in the Durbanville CBD area, while the proposed residential units provide for much needed residential

opportunities within the Durbanville CBD which is within walking distance of a range of employment opportunities and other commercial and social facilities.

Furthermore, the proposed development will improve the urban character of the local area (which is currently in a transition phase) and will have a positive impact on property values and the overall quality of the environment.

5.5.2 Compatibility with Surrounding Uses

As mentioned, the local area is currently in a transition phase due to the recent inclusion within the Durbanville Secondary CBD. Although many surrounding properties still contain single dwelling units, a number of properties in the area have responded to the City's higher density mixed-use vision for this area and have been rezoned or obtained additional land use rights to accommodate offices, medical facilities, a place of instruction or high-density residential development (apartments). It is envisaged that most properties in the area will be rezoned and / or redeveloped in the next few years.

The proposal will contribute positively to the envisaged mixed-use environment. The proposed commercial space (mostly office) and residential units are compatible in this area and are similar in nature to a number of surrounding properties. The commercial space on the ground storey of the development will ensure that an active interface with the surrounding streets are created while the residential units on the upper storeys will ensure that the residential component of the local area's character is maintained.

In terms of built form and the scale, the proposal is also deemed compatible with the surrounding area. The proposed height of three storeys is similar to the new development recently approved for Erf 17360 (refer to **Figure 13**) as well as the existing commercial development on Erf 1657 (refer to **Figure 14**). The City's local spatial development framework promotes development at a height of two or three storeys in this area. It is thus envisaged that the redevelopment of other surrounding properties will be similar in scale than the proposed development.

It should also be considered that the location of the property on Hafele Street, which is more active in terms of vehicular and pedestrian movement, contributes towards the desirability of an increased height.

The proposed General Business 2 zoning is also appropriate for this area. It is noted that a number of properties in the vicinity of the property are zoned General Business Zoning 2, including Erven 863, 868, 869, 1657 and other properties along Oxford Street.



Figure 13 – The three-storey residential development on Erf 17360, currently under construction.



Figure 14 – The existing three-storey commercial development on Erf 1657, Durbanville

5.5.3 Impact on External Engineering Services

A Civil Engineering Services Report (Annexure J) has been prepared by the project civil engineers (KLS Consulting Engineers) and confirms that there is sufficient existing civil engineering and electrical infrastructure surrounding the property to accommodate the proposed development. The following in summary:

Stormwater Drainage

An existing 450mm diameter stormwater main is situated in the road reserve of Hafele Street.

The proposed development will create impervious areas that will increase the stormwater runoff from the property. The installation of the internal stormwater system will concentrate stormwater runoff in certain areas (i.e. roof gutters and fullbore drains).

The stormwater drainage system for the building roof and parking decks will be designed to accommodate a 1:50 year recurring interval storm with a five-minute duration intensity. The system will also be designed to accommodate up to 50% blockages.

The roof drainage system will consist of a gutter, fullbore and downpipe network, which will collect, convey and discharge stormwater runoff towards Hafele and Windell Street, where underground stormwater systems will then discharge stormwater into the existing 450mm diameter stormwater main in Hafele Street.

Sanitation

An existing 160mm diameter sewer mains is situated within the roadways of Hafele and Windell Street. The property is connected by a means of a 110mm diameter connection located approximately half way along the western boundary of the property and connect to the existing sewer main in Hafele Street.

Preliminary discussions with the City of Cape Town: Water and Sanitation Department indicated that a new 160mm diameter sewer connection will need to be installed to the existing sewer manhole situated at the intersection of Hafele and Windell Street.

The internal foul sewer network will connect to the upgrading 160mm diameter sewer connection.

Water Reticulation

An existing 50mm diameter asbestos watermain is located within the road reserve of Windell Street and a 110mm diameter watermain in the road reserve of Hafele Street.

Preliminary discussions with the City of Cape Town: Water & Sanitation Department indicated that the existing 50mm diameter asbestos pipe in Windell Street is planned to be upgraded to a 110mm diameter HDPE pipe in the near future. The proposed development can connect to either of the existing watermains by means of a 75mm diameter connection with a 50mm bulk water meter.

The internal potable and fire water reticulation will connect to the upgraded 75mm water connection.

Electrical Connection

The estimated load for the development is 150kV (220A three phase), which includes the residential units, offices, basement parking and general / common areas.

There is an existing residential electrical connection to the property, assumed to be 60A single phase. The existing electrical infrastructure in the area is sufficient to accommodate the proposed development. An application to upgrade the existing supply to 220A three phase must be submitted to the City of Cape Town Electricity Department when the development rights have been obtained.

5.5.4 Impact on Safety, Health and Wellbeing of the Surrounding Community

The proposal is designed to ensure that the commercial space and residential units are orientated towards the surrounding public streets and will thereby ensure that surveillance is created over the surrounding area, thus creating a safer environment. The mix of commercial and residential space also ensures 24-hour activity at the property, which will further improve safety and security.

The proposed building envelope is more extensive than currently permitted by the Single Residential 1 zoning, with an increased height and 0m building lines. However, this must be seen in the context of the area which is currently in transition from a single residential suburb to a mixed-use environment and the likelihood that most (if not all) surrounding properties will be rezoned to General Residential or General Business zonings in the near future.

The properties most affected by the proposed development are the abutting Erven 855 and 865, both of which are still zoned Single Residential Zoning 1. Although the proposed building extends up the common boundary of Erf 865, this is mitigated with no windows or other overlooking features facing towards this boundary. The privacy of Erf 865 will therefore not be affected and all activities are directed away from that property.

The main external wall along the southern boundary (the common boundary with Erf 855) is setback of 3,56m and 2,38m on the 2nd and 3rd storeys respectively with limited overlooking features. The two balconies facing this boundary have high perimeter walls and will ensure that the privacy of that property is not affected.

5.5.5 Impact on Heritage

The original structure on the property was constructed in 1946. However, the structure was altered numerous times in the following years with building plans for these alterations and additions approved in 1995 and 2005. These alterations and additions have completely altered the condition of the original structure. It is thus not deemed that the existing structure has any heritage significance.

Due to the original structure being older than 60 years, an application needs to be submitted to Heritage Western Cape (HWC) in terms of Section 34 of the National Heritage Resources Act for a permit to allow the proposed demolition. The demolition application has been submitted to HWC and the demolition permit will be provided when issued. The City of Cape Town Environmental and Heritage Management branch was requested to provide comment on the proposed demolition, as required by HWC, and confirmed that they have no objection to the demolition as (1) the existing structure is not conservation worthy, and (2) the structure does not contribute to any unique streetscape (refer to Annexure K).

In terms of the surrounding environment, although the Durbanville area contains heritage elements with many structures reflecting a unique heritage architectural character, the area has not been proclaimed as a heritage protection area. Nevertheless, the design of the proposed building responds positively to the Durbanville architectural character and reflect the architectural elements of the region to ensure that the development fits into the environment and celebrates the local architectural context.

5.5.6 Impact on the Biophysical Environment

The property is situated within an established urban environment and is not located near any sensitive natural environmental area. The proposed development will not impact on a surrounding natural environment in any way.

The property contains a number of existing trees. The tree species have been identified by a horticulturalist and confirmed that none of the trees are conservation worthy and can be removed (see the list of tree species in Table 5 below).

The following trees are found on the property (also refer to the Existing Tree Survey, attached as Annexure L, which indicate the location of the listed trees):

Tree No on plan	Specie Name	Approximate Age	Conservation Status
1	Searsia Penduline	6 years	Can be removed
2	Malus Domestica (Apple)	4 years	Can be removed
3	Conifer sp.	4 / 5 years	Can be removed
4	Calistemon sp.	6 years	Can be removed
5	Diospyros whyteana	3 / 4 years	Can be removed
6	Malus Domestica (Apple)	4 years	Can be removed
7	Loquat	5 years	Can be removed
8	Searsia Penduline	6 years	Can be removed
9	Searsia Penduline	6 years	Can be removed
10	Conifer sp.	2 / 3 years	Can be removed
11	Syzygium paniculate	7 years	Can be removed
12	Eucalyptus sp.	10 - 15 years	Can be removed

13	Jacaranda mimosifolia	10 - 15 years	Can be removed
14	Conifer sp.	50 years	Can be removed
15	Ulmus Pavifolia	15 years	Can be removed
16	Callistemon sp.	15 years	Can be removed
17	Ulmus Pavifolia	15 years	Can be removed
18	Callistemon sp.	15 years	Can be removed
19	Ulmus Pavifolia	15 years	Can be removed
20	Callistemon sp.	15 years	Can be removed
21	Ulmus Pavifolia	15 years	Can be removed
22	Callistemon sp.	15 years	Can be removed
23	Ulmus Pavifolia	15 years	Can be removed

Additional landscaping will be added along the property boundary and also within the internal flower boxes on the residential level. The proposed landscaping plan is attached as **Annexure M**.

5.5.7 Traffic Impact

General Traffic Impact

The proposed development will not result in any significant traffic impact. The area is demarcated by the City for higher-density mixed-use development and, as previously demonstrated, the scale of the proposal is in line with Council policy and the urban design guidelines for this area. It is therefore expected that the scale of development promoted in this area has been tested against the existing road infrastructure and that the surrounding road network can accommodate the additional traffic to be generated by the proposed development.

Access

Vehicular access to the proposed development is obtained from both Hafele and Windell Streets. The access off Hafele Street leads into the ground storey parking area while the access off Windell Street leads into the basement parking area.

Both accesses comply with the regulations contained in Item 140 of the DMS. The widths of the carriageway crossings are 7,56m (Hafele Street) and 6,5m (Windell Street) respectively. Neither access is closer than 10m to the Hafele / Windell Street intersection.

Neither of the accesses are currently planned to accommodate access control. However, should security booms / gates be required in future, sufficient stacking distance is provided for each access to prevent congestion from vehicles waiting to enter the building.

Off-Street Parking

As mentioned, provision is made for off-street parking within the basement and ground storey levels of the proposed building. The entire basement area consists of a parking area, providing for a total of 41 parking bays. These bays are mostly dedicated towards the residential units. The parking area on the ground storey, 'behind' the commercial space provides for a total of 17 parking bays. These parking bays are dedicated to the commercial component.

Item 137 of the DMS prescribes minimum parking requirements for all land uses. Note that the property is not situated within a PT1 or PT2 zone, therefore no official parking reductions apply. Table 6 below provides a summary of the off-street parking requirement applicable to the proposed development as well as the proposed parking provision.

Land Use	Provision	Parking Requirement (as per DMS)	Number of parking bays required	Number of parking bays provided	Location parking bays
Office	564m ² GLA	4 bays / 100m ² GLA	23 bays	16 bays	Ground storey
Residential	21 units	2 bays / unit	42 bays	42 bays	Basement + 1 disabled bay in ground storey
Total			65 bays	58 bays	

As evident from Table 6, a minimum of 65 off-street parking bays needs to be provided. The proposal accommodates 58 bays in the two on-site parking levels, which is shortfall of seven bays. An application for a departure is therefore required for a reduced parking provision to be permitted.

Despite the shortfall of seven parking bays, the proposed parking provision is still deemed to be sufficient. Residential and commercial land uses generally have different peak times, with commercial parking bays mostly utilized during office hours and residential parking bays utilized outside of office hours. The mix of land uses therefore allows a certain number of visitors' parking bays to be utilized on a counter-cyclical basis and shared during the different peak times. Seven parking bays (which constitute the shortfall in parking bays) in the basement parking area have been marked as visitors' bays and will be used as shared parking bays between the commercial and residential components.

In addition, it should also be noted that five of the 21 residential units are one-bedroom apartments. In some areas of Cape Town parking for one-bedroom units are accepted at a rate of 1,25 bays / unit. This would result in a requirement of six bays for these one-bedroom units as opposed to the 10 bays required by the DMS and further substantiates the merits of a reduced parking provision.

Please note that, in terms of the commercial floor space, although the large commercial unit is dedicated as an office land use, the two smaller units can function as either an office or shop. This does not make a difference in terms of parking provision as the parking requirement for an office and shop is the same (4 bays / 100m² GLA).

Provision is also made for two disabled parking bays in the ground storey parking area, as per the DMS requirement. No loading facilities are required.

5.5.8 The Imposition of Conditions to Mitigate Impact

As with any land use application, conditions can be imposed by the City to mitigate impact on the surrounding properties, should it be deemed to be required. However, it is likely that the proposed Site Development Plan (SDP), attached hereto, will be approved with the rezoning application. Any development on the property will therefore need to be generally in accordance with the approved plans and will restrict undesirable development on the property.

5.6 IMPACT ON EXISTING RIGHTS

The difference in impact of the permitted land uses and development rules between the Single Residential Zoning 1 and General Business Zoning 2 zonings are significant. However, this must be viewed in the context of the local area currently transitioning from a single residential suburb to a mixed-use environment, in response to the City's spatial vision for this area. In order for the area to realize its higher density mixed-use potential, the properties need be rezoned. It should be noted that a number of properties in the surrounding area have already been rezoned to General Business or General Residential zonings.

Nevertheless, the proposed building has been designed to be as sensitive to the surrounding properties as possible. Activities and overlooking features are directed towards the surrounding public streets, away from the abutting properties. The height and scale of the building is also deemed appropriate for this environment and in line with the City's urban design guidelines for this area.

Note that the GB2 subzone was selected to accommodate the proposed floor factor of 1,53, which is slightly higher than the permitted 1,5 of General Business Zoning 1. In terms of the MPBL, a permanent departure cannot be provided for an increased floor space if a higher subzone permitting the proposed floor space exist. Therefore, even though the proposal complies with the height requirement of GB1, an application to rezone the property to General Business Zoning 2 is required.

It is however important to note that, despite the development rules of GB2, the City will likely impose a condition that development on the property must be generally in accordance with the approved

SDP. The floor space of 1,53 and height of 13,52m therefore cannot be increased without the approval of an application to amend the approved SDP, which will likely require public participation.

5.7 REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS

As mentioned in Section 1.3 of this report, the property's title deeds contain restrictive conditions which prohibits the proposed development. It is therefore required for these conditions to be formally deleted from the property's title deeds, as permitted in Section 39 of the Land Use Planning Act No.3 of 2014 and Section 48 of the City of Cape Town Municipal Planning By-law (2015).

Note that two separate title deeds currently apply to this property. The conditions and numbering thereof are identical. The set of conditions in both title deeds therefore need to be deleted.

The following title deed conditions, as contained in title deeds T69464/1988 and T88092/1993 are proposed to be deleted:

B. Subject further to the following special conditions in said Deed of Transfer No. 1800/1944, namely:-

As being in favour of the registered owner of any Erf in the Township and subject to amendment or modification by the Administrator by virtue of the provisions of Section 18(3) of Ordinance No. 33 of 1934 namely:

- (a) That this erf be used for residential purposes only.*
- (b) That only one dwelling house with such outbuilding as are ordinarily required to be used therewith be erected on this erf.*
- (c) That not more than half the area of this erf be built upon.*
- (d) That no building or structure or any portion thereof except boundary walls and fences shall be erected nearer than 20 feet to the street line which forms a boundary of this erf. No such building or structure shall be situated within five feet of the lateral boundary common to any adjoining erf.*

As being in favour of the registered owner of any erf in the Township and of the Municipal Council by who the conditions were imposed:-

- (h) That no building constructed of galvanized iron be erected on this erf.*

It is noted that conditions B.(a), (b), (c), (d) and (h) are in favour of all registered owners in the township.

Other conditions contained in the title deed (namely conditions B.(e), (f), (g), and C.(1), (2)) are not restrictive to development on the property and are not required to be removed. Note that conditions C.(1) and C.(2) are private conditions in favour of the owners of Erven 865 and 864, Durbanville and are also not being contravened.

In terms of Section 39(5) of the Land Use Planning Act, when a municipality considers the removal, suspension or amendment of a restrictive condition, the municipality must have regard for the following:

5.7.1 The financial or other value of the rights

The concerned title deed conditions were imposed at the time of township establishment to protect the single residential character of the area and to ensure that a low density built form is maintained. Although this was deemed desirable at the time, the context and nature of the local area has changed significantly, especially with reference to its location adjacent to the Durbanville CBD. Low density residential development is no longer desirable at this location and has resulted in this area to be included within the Secondary Durbanville CBD area. It is thus encouraged by the authorities that the properties in this area be redeveloped to accommodate higher-density residential or mixed-use development.

To allow mixed-use development on the property, the concerned conditions need to be deleted. Although the removal of these conditions might have impacted negatively on the surrounding properties in the past, it is now required to allow development in accordance with the new spatial vision for this area. The transition of this area to a mixed-use environment increased the property values of these properties significantly. The removal of these conditions therefore has a positive financial impact on the surrounding properties.

5.7.2 Personal benefits which accrue to the holder of the rights

The removal of the concerned conditions allows the transition of the local area to a mixed-use environment. This will unlock opportunities for the surrounding property owners who also intend on redeveloping their properties in line with the City's spatial policy for this area. Note that a number of surrounding properties, who also contained the same or similar conditions in their title deeds, already had these conditions removed.

5.7.3 Personal benefits which will accrue to the person seeking the removal suspension or amendment of of restrictive condition

Removal of the concerned conditions will allow the owner the redevelop the property, in line with Council policy and the City's spatial vision for this area.

5.7.4 Social benefit of the restrictive condition remaining in place

Should the restrictive condition remain in place, the redevelopment of the property will not be possible and it will remain single residential in land use, with is in contradiction to the City's spatial development framework. Given that a number of surrounding properties have already had similar restrictive conditions deleted to allow redevelopment, the subject property will remain an isolated single residential property within a mixed-use environment. This will not result in any social benefit.

5.7.5 Social benefit of the removal, suspension or amendment of the restrictive condition

Removal of the restrictive conditions will allow the redevelopment of the property at a higher density and with a mix of land uses, as promoted by the City in the relevant spatial development frameworks. The proposed mixed-use development will contribute positively towards the envisaged character of the area and will also assist in creating a sustainable urban environment where location efficiency in terms of access to residential, commercial and public transport facilities is improved.

5.7.6 Whether the removal, suspension or amendment of the restrictive condition will completely remove all rights enjoyed by the beneficiary

The proposed removal of restrictions will not remove all rights of the surrounding properties. Except for the land use of the concerned property being changed, no other rights of the surrounding properties will be affected.

5.7.7 Summary

It is evident that the removal of the concerned conditions is essential to permit and to facilitate the transitioning of the area to a mixed-use environment, as encouraged by the City's spatial development frameworks. All properties within the township contain similar title deed restrictions, all of which need to be removed when land use applications are submitted to permit redevelopment / change of land use. It is reiterated that a number of surrounding properties have already had these conditions removed.

The removal of these conditions is therefore to the benefit of the local community and will not negatively affect the rights of the surrounding property owners.

6.0 CONCLUSION & RECOMMENDATION

It has been demonstrated that the proposed development is aligned with Council policy and will facilitate the transition of this area to a sustainable mixed-use environment as part of the Secondary Durbanville CBD area. The design and scale of the building is appropriate in this context and reflects the architectural character of Durbanville. We highlight the following in conclusion:

- The proposal involves demolition of existing structures and the development of a new three-storey (+ basement) mixed-use building, accommodating commercial and residential opportunities. Application is made to rezone the property from SR1 to GB2. Applications for departures and removal of title deed restrictions and conditions of approval are also included.
- The area was until recently a single residential environment but was officially included within the Secondary Durbanville CBD area. Mixed-use development (residential and office) up to three storeys in height are encouraged in this area.
- The proposal is aligned with all relevant spatial development frameworks and planning policies, including the MSDP, Northern District Plan, Durbanville CBD Urban Design Framework, TOD Policy, Densification Policy and Urban Design Policy.
- The proposed development will contribute towards the appropriate redevelopment of the local area and will reinforce the intensified mixed-use function of the Durbanville CBD as encouraged by the City's spatial development frameworks.
- The building is designed to be sensitive to the surrounding properties. Activities and overlooking features are directed towards the surrounding public streets, away from the abutting properties. Balconies facing the surrounding properties are screened with high perimeter walls.
- Although the existing structure on the property is older than 60 years, it has been significantly altered in subsequent years and is not deemed to be of heritage significance. The City's Heritage branch confirmed no objection to the demolition of existing structures.
- A Civil Engineering Services Report confirms that there is sufficient existing civil engineering and electrical infrastructure to accommodate the proposed development.
- The proposed development will not result in a negative traffic impact. With the City's designation of the area as a higher density mixed-use environment it is expected that the existing road infrastructure was tested to ensure that it can accommodate the additional traffic.
- Although a parking departure is required, the proposed off-street parking provision is deemed sufficient. The commercial and residential components have opposing peak parking times. Visitors parking can thus be shared on a counter-cyclical basis.

- The removal of the restrictive title deed condition is required to permit redevelopment of the property in line with the City's vision for this area. It is thus to the benefit of the local community and will not negatively affect the rights of the surrounding property owners.

ARoux Town Planning recommends that this application, for the rezoning of Erf 854, Durbanville from Single Residential Zoning 1 to General Business Zoning 2, the approval of permanent building line departures and a parking departure, and the removal of restrictive title deed conditions and conditions of approval to permit the proposed mixed-use development, be considered for approval.

Annexure

E

Anne Smit

944

From: Pierre Smit & Associates <plan@pierresmit.co.za>
Sent: 04 September 2019 03:30 PM
To: Comments_Objections Northern
Cc: Anne Smit
Subject: APPLICATION IN TERMS OF THE CITY OF CAPE TOWN MUNICIPAL PLANNING BY-LAW: ERF 854, DURBANVILLE Your case ID: 70456970
Attachments: Objection.pdf

Good day.

Attached please find an objection against approval of the abovementioned application.

Regards.

Pierre Smit
Pr.Pln A/1417/2011

Pierre Smit & Associates Town Planning & Development Facilitation
cell: 083 2678 986 phone: 021 461 5025 email: plan@pierresmit.co.za

945

pierre smit and associates

town planning and development facilitation

cell 083 267 8986

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plan@pierresmit.co.za

4 September 2019

Your case ID: 70456970

The Director: Development Management
City of Cape Town
Northern District Office
Brighton Road
Kraaifontein

Sir/Madam

**APPLICATION IN TERMS OF THE CITY OF CAPE TOWN MUNICIPAL PLANNING BY-LAW:
ERF 854, DURBANVILLE**

The abovementioned application which was advertised in the press on 8 August 2019 refers.

We act on behalf of the owners of Erf 855, Durbanville, situated at 9 Windell Street, adjacent to Erf 854 (the subject property). At the instance of our client we hereby object to the application.

Our client's grounds for objecting are set out below.

1. Application:

The subject property is zoned Single Residential Zone 1 (SR1). Application is made in terms of Section 42 of the City of Cape Town Municipal Planning By-law, 2015 (MPBL) for the following approvals:

- Rezoning from SR1 to General Business 2 (GB2);
- Departures to permit street boundary building line encroachments above a height of 10m;
- Departure to permit 58 parking bays in lieu of 65 bays;
- Deletion of restrictive conditions of title; and
- Deletion of conditions of approval.

Objection is specifically made to the following components of the application:

- Rezoning from SR1 to General Business 2 (GB2);
- Departure to permit 58 parking bays in lieu of 65 bays;
- Deletion of title deed conditions B.(c) and (d);
- Deletion of conditions of approval B.(c) and (d).

2. Grounds for Objection:

There is no objection to the proposed rezoning and deletion of conditions of title/approval to permit a mixed-use development on Erf 854. The applicant's motivation that the transition of the area from a low-density residential neighbourhood to a mixed-use precinct is encouraged by the City and that it will be facilitated by the proposed development, is supported.

However, objection is made to the rezoning and deletion of conditions of title/approval insofar as approval will permit a coverage of 100% and buildings to be set back 0,0m from common boundaries. In this regard, it is the opinion that the proposed development will have a severely negative impact on my client's property.

Objection is also made to the proposal to permit a shortfall in off-street parking. Furthermore, as the proposal includes substantial construction work on the common boundary with Erf 855, it is the opinion that said construction activities will be detrimental to existing and future development on Erf 855.

Our specific objections are as follows:

- a. The proposed common boundary setbacks and coverage are not compatible with the built character of the neighbourhood.

While mixed-use development is supported in the secondary CBD, the emphasis is on residential development. It can therefore be expected that the area will retain its residential character, albeit at a significantly higher density. Residential redevelopment in the precinct typically entails rezoning to GR2 with associated common boundary building lines of 4,5m or 0,6/H. New residential buildings are therefore typically set back between 4,5m and 8m from common boundaries, depending on the height of the building. Coverage generally is below 60%.

A common boundary setback of 0,0m for the entire length of such boundary and a coverage of 100%, as permitted in the GB2 zone, are not considered compatible with either the existing or future built character of the area. Consequently, the proposed 0,0m setbacks on the common boundaries with Erven 855 and 865, and the proposed coverage of 96,7% are not considered compatible with the residential character of the area.

- b. The proposed building, set back a minimum of 0,0m from the common boundary with Erf 855, will have a severely negative impact on Erf 855.

The applicant correctly states that the proposed building envelope is more extensive than that currently permitted in terms of the SR1 zoning of the property. The additional impact of the proposed setbacks of 0,0m at basement level, 0,0m at ground/1st-storey level, 0,0m at 2nd-storey level and 2,4m at 3rd-storey level should therefore be evaluated in terms of the current SR1 development rules which do not permit buildings nearer than 3,0m to the common boundary.

The applicant states that the properties most affected by the proposed development are the abutting Erven 855 and 865. The impact on Erf 865 is mitigated by the absence of windows and overlooking features facing towards this boundary. All activities which may impact on privacy are directed away from Erf 865.

While an effort is made to mitigate the impact of the proposed reduced setbacks on Erf 865, no such effort is made to reduce the impact on my client's property. Consequently, it is the opinion that the proposed setbacks will have the following negative impacts on Erf 855:

- Basement: Parking bays, a generator room, stairs, a service duct and a refuse room are set back 0,0m from the common boundary. It can be expected that the presence of these facilities and services will impact negatively on Erf 855 as far as noise, fumes and odours are concerned.

It should be noted that the diesel generator room requires proper mechanical ventilation/exhaust that are neither displayed nor explained on the plans. Such mechanical equipment should be above roof height, facing the street, away from the adjacent residential property. The possibility of swapping the generator room with the water tank room should be considered.

- Ground/first storey: Parking bays, stairs and refuse rooms are set back 0,0m from the common boundary. Nuisances such as noise and odours will be created.

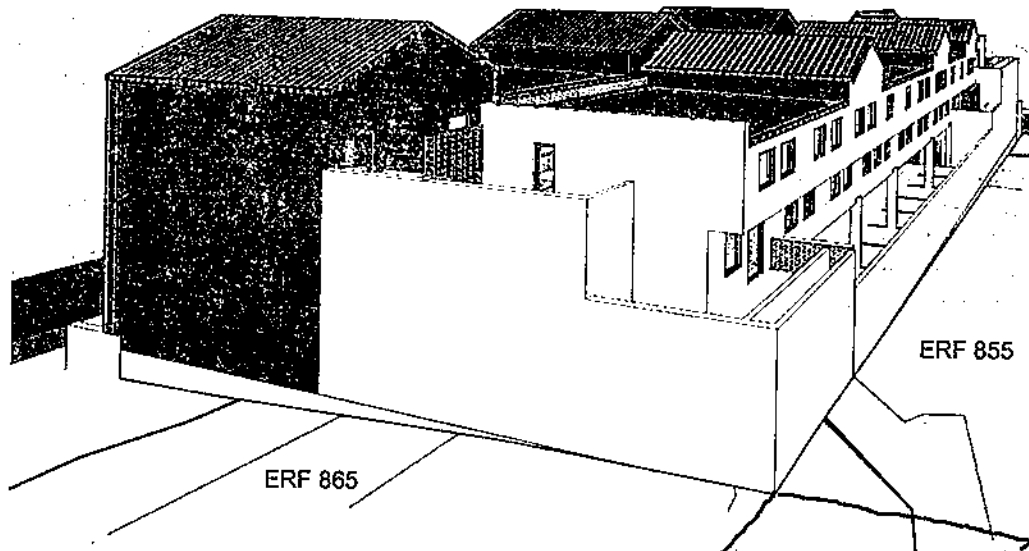


Image showing orientation of building towards Erf 855

It is noted that no provision is made for a refuse embayment at ground floor level. As provision of a refuse embayment is a standard requirement, it can be expected that the City will insist that the Site Development Plan be amended to show the position of said embayment. As there is inadequate space along the Windell Street boundary to provide such an embayment, it is likely that the refuse room and embayment will have to be moved to the Hafele Street boundary of the property.

- Second storey: Stairs and a refuse room are set back 0,0m from the boundary, two balconies are set back 1,1m from the boundary and the main wall of the building is set back 3,6m from the common boundary. The main wall of the building contains windows overlooking Erf 855.

The refuse room on the boundary will impact negatively on Erf 855 as far as odours are concerned, while the balconies, set back 1,1m from the boundary, will have a severe impact on privacy. The main wall of the building, set back 3,6m from the boundary, will have a negative impact with regard to overshadowing, while the presence of windows will result in overlooking with a significant negative impact on privacy.

- Third storey: A balcony is set back approximately 1,1m from the boundary and the main wall of the building is set back a mere 2,4m from the common boundary. At a height of 13,5m above base level, the building, set back 2,4m from the common boundary, will completely overshadow Erf 855, especially during winter months. The presence of windows will result in overlooking with a significant negative impact on privacy.

In this regard, it is instructive to compare the building lines applicable to the residential zones and, more specifically, the GR2 zone. At a height of 13,5m above base level, further than 18 m from the street, a building in the GR2 zone must be set back 8,1m from common boundaries. This clearly demonstrates that the proposed setback of 2,4m is not appropriate in a predominantly residential area. Suffice it to say that the proposed 2,4m common boundary setback at 3rd-storey level will have a severely negative impact on the adjacent Erf 855.

- c. Application is made for a departure to permit 58 off-street parking bays in lieu of 65 bays. It is the opinion that the proposed shortfall in off-street parking provision will contribute to a shortage of on-street parking in the area, especially over the short- to medium term. While it is possible that an efficient public transport system may be introduced in Durbanville over the longer term, it can be expected that a shortage of on-street parking will be experienced for a considerable period after completion of the proposed development. A parking shortage will have a negative impact not only on the subject property but on all properties in the area.

- d. There is serious concern about the impact of construction work along the common boundary on existing buildings and the possibility that it may compromise future development on Erf 855.

It is proposed to excavate the basement to a depth of 3,4m below natural ground level and to construct a 3,4m-high retaining wall and 3,7m-high boundary wall on the common boundary with Erf 855. No details of this work are available. In this regard, it is pointed out that the existing building on Erf 855 is 1,5m from the boundary and that there is a real danger that the proposed excavation and construction may result in damage to said building.

It is not clear how the basement retaining wall on the boundary with Erf 855 will be constructed without excavation intruding onto Erf 855 and how subsoil drainage and waterproofing of the retaining wall will be accommodated.

It is anticipated that future development on both Erf 855 and Erf 865 will be compromised and complicated by the proposed building on common boundaries. It is uncertain whether or not the retaining wall design allows for surcharge of a 3-storey structure.

It is also not clear how construction along the boundary will be carried out without access from Erf 855. Should access from Erf 855 be required, it is likely that it would be for a long period during which time the house cannot be tenanted. Security during replacement of the existing boundary wall will become a major concern.

Finishes of the wall facing Erf 855 should be plastered and painted entirely and scaffolding and contractors are to remain within the boundaries of Erf 854 at all time.

3. Conclusion: Our client's grounds for objecting can be summarized as follows:

- The proposed building setbacks and coverage are incompatible with the residential character of the neighbourhood.
- The proposal will have an unacceptable impact on my client's property and will materially derogate from his rights as owner of the property.
- Approval of the proposed parking shortfall will result in a parking shortage with associated negative impacts on properties in the vicinity of the subject property.
- There are serious concerns about the proposed excavation and construction work on the common boundary with Erf 855. In the absence of details regarding engineering design and construction management, there is no alternative but to object to this aspect of the development.

Please note that, should the abovementioned objections and concerns be satisfactorily resolved by the applicant, my client would be prepared to reconsider his objection.

Yours faithfully,

Pierre Smit
Pr.Plh A/1417/2011

Anne Smit

From: jens horber <jens.horber@gmail.com>
Sent: 09 September 2019 08:35 PM 951
To: Comments_Objections Northern
Subject: Ref 70456970
Attachments: 190908_YU_Public Comment_Ref 70456970.pdf

Dear Madam/Sir,

Please find attached comments on Case Ref 70456970

Kind regards,
Jens Horber

Please consider the environment before printing this email.

Public comment:

Ref 70456970 - Rezoning, removal of title deed and township conditions, departures, approval of the site development and landscaping plan

Erf 854, Durbanville.

Details of commenter:

Jens Horber, on behalf of Young Urbanists

Physical address: 7 Toulon Avenue, Plumstead, 7800, Cape Town

Email: jens.horber@gmail.com

Contact via email

Interest in the application:

I, Jens Horber, represent the 11 members of the Young Urbanists Steering Committee. We have no personal financial interest in the application.

The Young Urbanists is a platform for open dialogue, engagement and action aimed at challenging the apartheid legacies we face in our cities. We stand for economic, social, environmental, and spatial justice; and strive to empower members to be change agents within their chosen professions. Young Urbanist membership is free and open to all regardless of discipline, class, race, gender, or religion. The platform is an inclusive space that facilitates dialogue and seeks innovative solutions that challenge the status quo of how are cities are built and operate.

Comment:

This comment touches on issues relating to compliance with the principles of spatial justice, spatial efficiency and spatial sustainability set out in SPLUMA and LUPA, with supporting arguments referring to the City of Cape Town Municipal Spatial Development Framework (MSDF), TOD Strategic Framework, Economic Growth Strategy and Social Development Strategy.

COMPLIANCE WITH SPLUMA AND LUPA

1. The Applicant has failed to demonstrate how the proposed development is aligned with the development principles contained in SPLUMA and LUPA of **spatial justice, spatial efficiency and spatial sustainability**.
2. The principle of spatial justice requires that, "spatial planning mechanisms, including land use schemes, must incorporate provisions that enable redress in access to land by disadvantaged

communities and persons”¹ and that “past spatial and other development imbalances should be redressed through improved access to and utilisation of land”² and that “spatial planning mechanisms, including zoning schemes, should incorporate provisions that enable redress in access to land by disadvantaged communities and persons.”³

3. The principle of spatial sustainability requires that “spatial planning and land use management systems must: promote and stimulate the effective and equitable functioning of land markets;⁴ consider all current and future costs to all parties for the provision of infrastructure and social services in land developments;⁵ promote land development in locations that are sustainable and limit urban sprawl;⁶ and result in communities that are viable.”⁷ The applicant has failed to make any arguments as to how the proposed development will facilitate more equitable land markets.
4. The principle of spatial efficiency requires that; “integrated cities and towns should be developed whereby the social, economic, institutional and physical aspects of land development is integrated...the availability of residential and employment opportunities in close proximity to, or integrated with, each other is promoted; the phenomenon of urban sprawl in urban areas is discouraged and the development of more compact towns and cities with more dense habitation is promoted” and “historically distorted spatial patterns of settlement are corrected.”⁸

Decisions on compliance in other applications

5. This evidence of lack of access by race and class is compelling and cannot be ignored. A number of development applications have already been deemed to be inconsistent with the abovementioned development principles on similar grounds.
6. These include, amongst others: The Vogue (Case ID No: 70352880); Burmeister Circle (Case ID No: 70330240); and Old Christian Barnard Hospital (Case ID No: 70372908).
7. In ‘The Vogue’ application (application No: 70352880) in the Table Bay Planning District, The City Planner found that the Vogue Development was not completely consistent with the development principles of SPLUMA and LUPA in the following respects: It was not compliant with the principle of spatial justice as it did not “redress past spatial and other development imbalances through improved access to and utilisation of land.”⁹ It (only) partially complied with the principle of spatial sustainability as “it does not promote the effective and equitable functioning of land markets and it does not provide a varied value of housing units”; and “does not ensure the basic needs of all citizens are met in an affordable way, [by] not providing units of

¹ Section 7(a)(iii), Act 16 of 2013.

² Section 59(1) (a), Act 3 of 2014.

³ Section 59(1) (c), Act 3 of 2014.

⁴ Section 7(b)(iv), Act 16 of 2013.

⁵ Section 7(b)(v), Act 16 of 2013.

⁶ Section 7(b)(vi), Act 16 of 2013.

⁷ Section 7(b)(vii), Act 16 of 2013.

⁸ Section 59(3) (b), Act 3 of 2014.

⁹ Page 40 of the Planner’s Report.

varied value.”¹⁰ It was (only) partially compliant with the principle of spatial efficiency, as the development did not correct historically distorted patterns of spatial segregation.

8. The City planner found that The Vogue is not compliant with the following criteria for deciding an application the Section 99 of the By-Law:

Section 99 (2) (c) - It is only partially compliant with the Social Development Strategy, 2013 as “the proposal does not help redress inequality or spatial divides given that the target market is not considered to be ‘affordable’.”¹¹

Section 99 (3) (a) - The Vogue Development would have a negative socio-economic impact, which would affect its desirability. The City Planner suggested that “the provision of ‘affordable housing’ units (as requested by an objector) would assist in improving the socio-economic impact of the development.”¹²

9. For these reasons, as well as the location of the erf within the expanded Durbanville CBD and near to major surrounding vehicular routes including Wellington Road (300m northwest of the site), Durbanville Avenue (450m southwest of the site) and Van der Byl Avenue (200m southeast of the site), close to areas of employment and amenities, and in a densifying area where development and intensification in support of the spatial restructuring of the area is encouraged, we therefore suggest that the proposed development should include the provision of a reasonable number of ‘affordable housing’ units, given the high demand and urgent need for affordable housing in the Cape Town metropolitan area.

Supporting Arguments

10. We note that affordable housing needs to be defined as many property developments are not even comparatively affordable to the average Capetonian, considering that according to the latest census data, around half (48%) of City of Cape Town households earn less than R40 000 per annum, with 21% earning less than R 10 000 per annum (<https://wazimap.co.za/profiles/municipality-CPT-city-of-cape-town/>).

Average annual household income in Cape Town is R57 300.

A wider offering of significantly more affordable units on the site would work more meaningfully to achieving the spirit of the principles contained in SPLUMA and LUPA.

11. Section 5.1 of the motivation report addresses the principle of Spatial Justice. It is argued by the applicant that:

This principle is often applied in the argument for provision of affordable / inclusionary housing opportunities in well-located areas.

The applicant then goes on to argue that:

¹⁰ Ibid.

¹¹ Page 13 of the Planner’s Report.

¹² Page 13 of the Planner’s Report.

Although it is critically important that the delivery of such housing opportunities is expedited, the provision of affordable / low-cost housing is not considered appropriate for this property for the following reasons:

- *The area is not well-located for affordable housing. Although the location of the property within the Durbanville CBD presents access to commercial opportunity, the size of the CBD is relatively small in comparison to other nodes in the Cape Town metropolitan area and employment opportunities are limited. Durbanville is also situated on the outskirts of the metropolitan area, isolated from other nodes of commercial opportunity. This is further exacerbated by limited public transport opportunities, with taxis the only mode of public transport in the area.*
- *The existing character of the local area is relatively upmarket. Lower-cost housing opportunities will not be compatible with the surrounding area and it can be reasonably expected that such a development will negatively impact on the existing character and surrounding property values.*
- *Commercial realities must also be taken into consideration. Given the cost and value of land in the area, the development of the property with affordable / low-cost housing opportunities will not be economically feasible and will result in the property to remain single residential, which will contribute to the unsustainable utilization of land and low economic growth. To ensure feasibility, development on the property will need to be at an increased height which will not be appropriate in the local context where development is restricted to a height of three storeys. It will probably also not be possible due to the limited size of the property.*

It must also be noted that as it stands, the City of Cape Town has no affordable / inclusionary housing policy to guide a development application on the geographic areas where inclusionary housing is needed, the form of such housing and future ownership structures for such housing.

The proposal is still considered as being aligned with the principles of spatial justice as it contributes to general residential densification, intensification of land uses and improved utilization of land.

12. *The arguments may seem convincing but need to be interrogated as they are based on false reasoning.*
13. *Firstly, while "the size of the CBD is relatively small in comparison to other nodes in the Cape Town metropolitan area and employment opportunities are limited" in comparison to these nodes (such as the Cape Town CBD and Belville CBDs), the report itself argues in section 5.5.1 that:*

The Durbanville CBD fulfils an important economic function in the north-eastern region of the City of Cape Town and the sustainable growth of the CBD is imperative for the economic development of the local region. The proposed development will contribute towards the appropriate redevelopment of the local area, which now forms part of the Durbanville Secondary CBD, and will reinforce the intensified mixed-use function of the Durbanville CBD as encouraged by the City's spatial development frameworks. The proposed commercial space responds to a current high demand for particularly office space in the Durbanville CBD area, while the proposed residential units provide for much needed residential opportunities within the Durbanville CBD which is within walking distance of a range of employment opportunities and other commercial and social facilities

14. As such the applicant is motivating here and elsewhere in the report that the proposed development should be supported in order to strengthen this already important economic node and to respond to the economic growth and demand for commercial and office space in this area.
15. The report argues that *"Durbanville is also situated on the outskirts of the metropolitan area, isolated from other nodes of commercial opportunity. This is further exacerbated by limited public transport opportunities, with taxis the only mode of public transport in the area."*
16. This is a false as the expanded Durbanville CBD is both located in close proximity to and has strong economic and transport ties with Cape Town's "second CBD" in Belville (via Tygervalley) which is also experiencing high demand and growth. In addition, elsewhere in the report it is stated in section 5.2.1 that:

Although Durbanville CBD does not currently have access to high levels of public transportation, various taxi and bus routes travel to and from the area. Durbanville CBD is considered a regional node and mixed-land use intensification, such as the proposed development, should therefore be supported.

17. Mixed-use intensification in the Durbanville CBD node will further increase the demand for public transportation and hence the viability of public transportation, further strengthening the node in terms of employment opportunities.
18. Secondly, it is claimed that:

The existing character of the local area is relatively upmarket. Lower-cost housing opportunities will not be compatible with the surrounding area and it can be reasonably expected that such a development will negatively impact on the existing character and surrounding property values.

19. This is precisely the argument that reinforces spatial and social segregation, in opposition to the principle of spatial justice in SPLUMA and LUPA. These principles call for a range of housing opportunities at different price levels, and not just social housing.
20. It is also insulting to human dignity to claim that lower-cost housing opportunities will automatically not be compatible with a higher-income area or automatically negatively impact on the existing character and surrounding property values. There are local and international examples of well-designed and managed lower-cost developments that have significantly benefitted the surrounding area.
21. Thirdly it is claimed that:

Commercial realities must also be taken into consideration. Given the cost and value of land in the area, the development of the property with affordable / low-cost housing opportunities will not be economically feasible and will result in the property to remain single residential, which will contribute to the unsustainable utilization of land and low economic growth. To ensure feasibility, development on the property will need to be at an increased height which will not be appropriate in the local context where development is restricted to a height of three storeys. It will probably also not be possible due to the limited size of the property.

22. Once again this is false reasoning. Not only is the land cost in the expanded Durbanville CBD lower than in other CBDs and economic nodes in Cape Town (e.g. Cape Town CBD, Claremont and Belville CBD), but a wider offering of significantly more affordable units is certainly possible on this site given that the definition of affordability as argued above is much wider than purely social housing (e.g. GAP housing and more affordable housing relative to the average property prices in an area). The applicant has failed to provide transparent calculations to back up their

claim of lack of feasibility. The height and size of the property would not need to be increased for a handful of the 21 units to be made more affordable.

23. While an affordable / inclusionary housing policy is urgently needed, the lack of one at this time does not preclude the City from imposing a requirement for a number of affordable / inclusionary units in this development.
24. In terms of the MSDF, the applicant argues that:

The proposal provides for commercial space and residential units at a high density and thereby ensures land use intensification. Being situated within the Durbanville CBD, the area is considered an appropriate location for mixed-use development and supports the principles of TOD.

In section 5.3.1 (City of Cape Town TOD Strategic Framework) it is also argued that:

The proposed development ensures that development on the property is densified with a mix of land uses and will contribute to a more compact urban form in the Durbanville CBD precinct. This will support the provision of improved public transportation services. Locational efficiency will thereby be maximized by providing more residential opportunities close to public transport facilities while the mix of residential and commercial opportunities also ensure greater accessibility between these land uses. The proposed development therefore supports the policies of the TOD

25. As such, this is further argument that the locational attributes of the site will improve the viability of TOD and therefore the viability of more affordable housing on the site (which will have lower parking requirements).

26. The report states in section 3.5.4 (Economic Growth Strategy) that:

The proposed developed (sic) will contribute to economic growth in both the short-term (during construction) and the long-term (with the provision of additional office space within the CBD area). The proposed office will provide additional commercial space within existing commercial environment which is currently in high demand. In addition, the residential units will create opportunities for people to live closer to work opportunities within the CBD area.

27. This argument demonstrates that the proposed development is not only not in line with the SPLUMA principle of spatial justice, but also not in line with the City's Economic Growth Strategy. The argument further reinforces the need for more than one income level to be catered for in this development through the provision of more affordable housing units. Officeworkers, both professional and clerical, as well as commercial employees (e.g. shop workers) and semi-skilled workers will also want to live closer to work opportunities within the CBD area.

28. The report states in section 5.3.5 (Social Development Strategy) that:

According to the City of Cape Town Social Development Strategy (SDS), a key strategy in reducing poverty and preventing intergenerational transmission of poverty within households and communities is creating economic opportunities and facilitating access to these opportunities. The SDS identifies urban planning as a means to promote spatial integration. The Cape Town SDF includes land use intensification as a strategy to ensure that a mix of land uses is concentrated in accessible, high opportunity locations. The City of Cape Town Municipal SDF promotes densification and mixed-use intensification within commercial nodes and areas of high order opportunities while the District Plan encourages higher density office and residential development in the local area. The proposal is therefore consistent with the policies of the City's SDF and will facilitate social integration and improving access to economic opportunities.

29. This argument demonstrates that the proposed development is not only not in line with the SPLUMA principle of spatial justice, but also not in line with the City's Social Development Strategy. This is further argument that a number of affordable / inclusionary units in this development are needed in order to promote spatial integration in line with the SPLUMA and LUPA principles of spatial justice and efficiency. The applicant errs in claiming that the proposal is therefore consistent with the policies of the City's MSDP as it **will not** facilitate social integration and **will not** improve access to economic opportunities.

30. In section 5.5.7. *General Traffic Impact* it is argued that:

The proposed development will not result in any significant traffic impact. The area is demarcated by the City for higher-density mixed-use development and, as previously demonstrated, the scale of the proposal is in line with Council policy and the urban design guidelines for this area. It is therefore expected that the scale of development promoted in this area has been tested against the existing road infrastructure and that the surrounding road network can accommodate the additional traffic to be generated by the proposed development.

31. This argument tries to avoid the need for a Traffic Impact Assessment (as required by planning legislation), and shifts the potential "blame" for any future negative traffic impacts on to the City. This is disingenuous and attempts to set a dangerous precedent.

32. In the section of 5.5.7. titled *Off-Street Parking*, the following table is shown:

Land Use	Provision	Parking Requirement (as per DMS)	Number of parking bays required	Number of parking bays provided	Location parking bays
Office	564m ² GLA	4 bays / 100m ² GLA	23 bays	16 bays	Ground storey
Residential	21 units	2 bays / unit	42 bays	42 bays	Basement + 1 disabled bay in ground storey
Total			65 bays	58 bays	

33. it is argued that:

Despite the shortfall of seven parking bays, the proposed parking provision is still deemed to be sufficient. Residential and commercial land uses generally have different peak times, with commercial parking bays mostly utilized during office hours and residential parking bays utilized outside of office hours. The mix of land uses therefore allows a certain number of visitors' parking bays to be utilized on a counter-cyclical basis and shared during the different peak times. Seven parking bays (which constitute the shortfall in parking bays) in the basement parking area have been marked as visitors' bays and will be used as shared parking bays between the commercial and residential components.

34. However, taking this argument further, the office and residential land uses will predominantly make use of parking at different times of day (office vs. office hours). As such the parking provision is still excessive as a much larger proportion of the proposed parking can be shared. The space freed up by this excess parking provision can further increase the financial viability of a number of more affordable housing units on the site, without significantly impact the financial viability of the development as a whole.

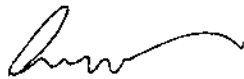
Conclusion:

35. The development is in a well-located area near places of employment, and in a densifying area, and it should make better use of these current and future locational attributes to the **meaningful** benefit of a range of income levels and socioeconomic groups
36. The City of Cape Town should abide by its legal and policy mandate to ensure that the form of this development goes further towards achieving the stated objectives of SPLUMA and LUPA, as argued in this comment. Spatial transformation and sustainability cannot be held hostage by narrow interests and forms of development that entrench spatial and social segregation.

This public comment raises issues with the nature of the development proposal, particularly inconsistencies of the application with the principles of spatial justice, spatial efficiency and spatial sustainability set out in SPLUMA and LUPA.

As such the City of Cape Town Development Management department should not grant to the applicant the **proposed rezoning, removal of title deed and township conditions, departures, and approval of the site development and landscaping plan** that are being sought, until such time as these concerns are addressed through further refinement of the development proposal, or alternatively use the inconsistencies as a basis for requiring further concessions from the applicant in terms of addressing these concerns in the proposed design.

Signed,



Jens Horber

On behalf of Young Urbanists Steering Committee

960

Annexure

F



961

MEMORANDUM

T +27 21 444 4937 F +27 21 400 4891
M Stefan.deVilliers@capetown.gov.za W www.tct.gov.za

DATE	19 August 2019
To	A Smit / S Magadlela Spatial Planning & Environment Planning & Building Development Management

PROPOSED REZONING, DEPARTURES & APPROVAL OF SDP: ERF 854, 11 WINDELL ST, DURBANVILLE

The application with case number **70456970** has reference.

NATURE OF APPLICATION:

- Rezoning of Erf 854, Durbanville from Single Residential Zoning 1 to General Business Zoning 2
- Permanent departures to permit street boundary building line encroachments above a height of 10,0m (x3)
- Permanent departure to permit a reduced off-street parking provision (58 bays in lieu of 65 bays)
- Removal of restrictive title deed conditions
- Removal of restrictive conditions of approval (original township conditions)

NOTES

- No civil services traverse erf 854 Durbanville according to the GIS data.
- The erf boundary on Windell St is setback 2.4m from the street edge according to the SDP. Sight distance is thus accepted without corner splays.
- No access control is indicated or motivated and is evaluated accordingly.
- The SDP by bpas Architects with project no 408 Drawing: Site Plan refer.

RECOMMENDED:

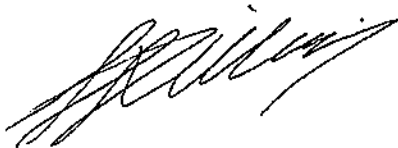
This Department offers in principle no objection to the proposed on erf 854 Durbanville, subject to the following conditions:

1. That 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.
2. That the development charges to the amount of R 764 564 (VAT inclusive) as reflected on the Development Charges Calculator, dated 19 Aug 2019, be paid by the developer towards the provision of bulk municipal civil services in accordance with the relevant legislation and as determined by Council's Policy.
3. That the development be limited to the following land use:

General Residential Zone 2 (GR2)

Flats <100m² Unit : 21 units
Office GLA : 564m²

4. That any amendments and/or additions to the Site Development Plan, once approved, which might lead to an increase in the number of units will result in the recalculation of the development charges for which the developer will be responsible.
5. DC's will be payable prior to any transfer of properties or approval of building plan, whichever comes first.
6. That it be noted that the development charges as reflected above will be subject to annual escalation up to date of payment. The final amount payable will therefore be the amount as calculated at the time that payment is made. Escalation will be based on the Construction Price Adjustment Factor, calculated by using the Consumer Price Indexes as published in the Government Gazette.
7. That the developer at his cost provides all services and link services required to the satisfaction of Council.
8. That detailed engineering services plans, prepared by a Registered Civil Engineering Professional, be submitted for approval by Council prior to building plan approval and prior to commencement of any works. All services shall comply with the "Minimum Standards of Civil Engineering Services in Townships (as amended) document". The Engineer shall monitor all construction activities and maintain an adequate level of supervision of the works.
9. That all services be handed over to/inspected by Council on completion of the works and prior to the issue of an occupation certificate. A completion certificate must be obtained prior to transfer of individual units.
10. That a separate Services Agreement for the provision of Bulk Services in lieu of Development contributions may be reached.
11. That clearance will only be given per phase and the onus is on the developer to phase his development accordingly.
12. That a sidewalk, as indicated on the SDP, be constructed at the developers cost and to the satisfaction of Transport: Road Infrastructure & Management.
13. That the developer be responsible for the payment of open trench levies/deposits and reinstatement according to the relevant wayleave standards where applicable.



Stéfán de Villiers

SJdV/ldn

[http://teamsites.capetown.gov.za/sites/rs_0aa_kraai/Shared Documents/DEV FACIL/Docs 2019/S de Villiers/Memorandums/D'vile/854 Aug19 - Rezoning to GR2, SDP \(70456970\).docx](http://teamsites.capetown.gov.za/sites/rs_0aa_kraai/Shared Documents/DEV FACIL/Docs 2019/S de Villiers/Memorandums/D'vile/854 Aug19 - Rezoning to GR2, SDP (70456970).docx)

CIVIC CENTRE IZIKO LOLUNGU BURGERSENTRUM
 87 BRIGHTONWEG KRAAIFONTEIN 7570 PO BOX 25 KRAAIFONTEIN 7569
www.capetown.gov.za

Making progress possible. Together.



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

963

Erf Number * 854 (70456970)
 Suburb * Durbanville
 Developer/Owner * Louise Zamboni
 Erf Size (ha) * 0.1467
 Date (YYYY/MM/DD) * August 19, 2019
 Current Financial Year 2019/2020
 Approved Building Plan No.

Making progress possible. Together.

Code	Land Use	Unit	Development Parameters	
			Existing Right	Total New Right
RESIDENTIAL				
A1	Single Residential > 1000m² Erf	Dwelling unit	1	
A2	Single Residential > 650m² Erf	Dwelling unit		
A3	Single Residential > 350m² Erf	Dwelling unit		
A4	Single Residential < 350m² Erf	Dwelling unit		
A5	State Funded Housing	Dwelling unit		
A6	GAP/Affordable Housing	Dwelling unit		
A7	Group Housing >650m² 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 GLA		
B2	Accommodation Establishments	Rooms m² GLA		
BUSINESS				
C1	General Business	m² GLA		
C2	Office	m² GLA		
C3	Retail/Shop	m² GLA		
INDUSTRIAL				
D1	Warehouse	m² GLA		
D2	Industrial	m² GLA		
INSTITUTIONAL/COMMUNITY				
E1	Early Childhood Development Centres / Home Child Care	Learner m² GLA		
E2	Universities / Schools	Learner m² GLA		
E3	Care / Accommodation (Hospitals, Clinics, Old age home)	Bed m² GLA		
E4	Office/ Consulting rooms (welfare offices, clinics, hospitals & env. facilities)	m² GLA		
E5	Meeting Places (places of assembly, place of worship)	m² GLA		
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

Service	Units	Additional Demand	Unit Costs	Amount	Rate	Amount	Rate	Amount
Roads	trips/day	90.1700	R	4 394.25	R	396 229.49	R	59 434.42
Transport	pers.trips/peak period	42.2000	R	897.17	R	37 860.57	R	5 679.09
Stormwater	ha°C	0.1383	R	177 090.61	R	24 486.74	R	3 673.01
Sewerage	kl/day	7.8304	R	18 005.47	R	140 990.03	R	21 148.51
Water	kl/day	7.9760	R	2 208.64	R	17 616.09	R	2 642.41
Solid Waste	kg/day	106.9400	R	445.62	R	47 654.75	R	7 148.21
Total Bulk Engineering Services component of Development Charge								

City of Cape Town		Developer/Owner	
Calculated :	SJ de Villiers	Received :	_____
Signature :		Signature:	_____
Date :	2019-08-19	Date:	_____

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.

Reason for alternative: Support Application

LUM Case ID 70456970
Erf 854, Windell Street
Durbanville

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Herewith the Water & Sanitation department's comments and conditions for the above application:

- All link- and connecting services (as applicable) that is required shall be installed by the developer to the satisfaction of Council with all associated costs for the developer's account and not deductible from Development Charges (DCs).
- Detailed engineering services plans, prepared by a Registered Civil Engineering Professional, shall be submitted for approval by Council prior to building plan approval and prior to commencement of any works. All services shall comply with the "WATER & SANITATION DEPARTMENT SERVICE GUIDELINES & STANDARDS (28 May 2015 Version 3.2)".
- The Engineer shall monitor all construction activities on site and maintain an adequate level of supervision of the works. Upon completion the Engineer shall provide the City with a signed completion certificate.
- The new water connection for the proposed development shall be situated at the entrance to the development off Hafele Street and connected to the existing 100mm municipal water main along Hafele Street. The domestic 20mm dia water connection currently serving Erf 854 shall be terminated outside the erf boundary and the developer shall make application and payment at the City (Water & Sanitation department, 1st floor, Kraaifontein offices, Brighton Rd) to settle the account and for the existing meter to be disconnected and removed by the City.
- The new sewer connection for the proposed development shall be 160mm nominal diameter connected to the existing sewer manhole in the Hafele Street/Windell Street intersection. The existing 100mm dia sewer connection currently serving Erf 854 is for a single residential erf only and cannot be used to serve a development consisting of multiple dwellings/units. The developer must therefore terminate the existing sewer connection outside the erf boundary and install a new 160mm dia sewer connection to serve the proposed development.
- All municipal services and connections to be handed over to the City shall be inspected by Council upon completion of the works and a completion certificate be obtained from the developer's appointed professional engineer (who undertook the design and supervision during construction) prior to Section 137 clearance being issued and the transfer of any internal units being allowed.
- The applicant (developer) shall pay a development charge (DC) in accordance with the approved Development Charges Policy for Engineering Services for the City of Cape Town.
- All private internal water and sewer services shall be maintained by the proposed development's Home Owners Association (HOA).

Regards

Tiaan Wright
021 444 4922



MEMORANDUM

DATE 7 November 2019

To Anne Smit, Planning & Building Development Management

CASE NO 70456970: PROPOSED REZONING, PERMANENT DEPARTURES, REMOVAL OF TITLE DEED CONDITIONS & APPROVAL OF THE SDP: ERF 854, 11 WINDELL STREET, DURBANVILLE

The above mentioned application refers.

This memorandum supersedes and replaces all previous comments on the application.

Application details:

- Application for rezoning of Erf 854, Durbanville from Single Residential Zoning 1 to General Business Zoning 2 in terms of Section 42(a) of the City of Cape Town Municipal Planning By-Law (2015) to permit offices on ground floor and residential above.
- Application for the following permanent departures in terms of Section 42(b) of the City of Cape Town Municipal Planning By-Law (2015), read with Items 60(e) and 137(a) of the City of Cape Town Development Management Scheme (DMS);
 - Item 60(e): To permit a building line encroachment with a setback of 2,1m in lieu of 4,5m from the Hafele Street boundary above a height of 10,0m.
 - Item 60(e): To permit a building line encroachment with a setback of 1,6m in lieu of 4,5m from the Windell Street boundary above a height of 10,0m.
 - Item 60(e): To permit a building line encroachment with a setback of 0m in lieu of 4,5m from the Hafele / Windell Street boundary splay above a height of 10,0m.
 - Item 137(a): To permit a reduced off-street parking provision of 58 bays in lieu of 65 bays.
- Application for removal of the restrictive conditions B.(a), (b), (c), (d) and (h) contained in title deeds T69464/1988 and T88092/1993, relating to use of the property for residential purposes only, that only one dwelling house be permitted, maximum coverage, building lines and the use of galvanized iron in terms of Section 42(g) of the City of Cape Town Municipal Planning By-Law (2015);
- Application for removal of the restrictive conditions B.(a), (b), (c) and (d) contained in title deeds T69464/1988 and T88092/1993 as per the original township conditions, in terms of Section 42(j) of the City of Cape Town Municipal Planning By-Law (2015).
- Approval of the Site Development- and Landscaping Plan.

Comments on the application:

1. Subsequent to our previous memorandum a revised SDP including detail longitudinal sections through the vehicular access ramps was submitted and circulated for perusal.
2. The details reflected on these sections comply with the minimum ramp grades as required by the City.
3. A departure to permit 58 on-site parking bays in lieu of 65 bays is being applied for.
4. The office component of 564m² GLA requires 23 on-site bays (4 bays per 100m²) and the residential component of 21 units 42 bays (1,75 plus 0,25 for visitors per unit)
5. The net shortfall in parking bays equates to approximately 11%.
6. Due to the staggered parking demands between residential and commercial usage, there is opportunity to apply the principal of combined parking requirements as permitted under Chapter 15 Item 139 of the DMS.
7. The on-site parking is provided in two parking decks each with its own access.
8. The ground/first storey deck taking access from Hafele Street provides 17 bays for the exclusive use for the commercial/office component.

9. The basement deck taking access from Windell Street provides 41 bays for the use of the residential component of which 7 are marked as visitor's bays. These visitor's bays will during business hours be made available for the commercial component should the need arise.
10. The mix of residential flat units are 5 one bedroom and 16 two bedroom units.
11. A reduction in on-site parking provision for the one bedroom units would be considered favorably by this department adding further motivation for the 11% undersupply in on-site parking.
12. A formalized pedestrian walkway is present along the street frontage of the property along Hafele Street.
13. This existing sidewalk terminates at the corner of Hafele and Windell Street.
14. It will be required that the developer extends this sidewalk from where it currently ends along the entire street frontage of the property with Windell Street.

Recommendation:

In view of the above this department has **no objection** to the application subject to the following conditions being imposed:

1. That the proposed development be limited to:

- a. A residential component consisting of:

- i. One bedroom units: 5
 - ii. Two bedroom units: 16

- b. Commercial/office use: 564m² GLA

2. That on-site parking be provided in accordance with the SDP.
3. That no vehicular access control be permitted to any of the 2 parking decks without being submitted for perusal and approval by the City.
4. That the developer be responsible for his/her account for the provision of a formalized pedestrian sidewalk along the entire street frontage of the property with Windell Street starting from the point where the existing sidewalk along Hafele Street currently terminates. Construction to be to the standard of the City's Road and Infrastructure Management Branch.

Yours sincerely

Sigmund Storm



967

Rory Cox
Senior Plans Examiner: Water & Sanitation

T: +27 21 444 6137
E: Rory.Cox@capetown.gov.za

UTILITY SERVICES

Water & Sanitation Requirements and Comments

CASE FILE NO / BUILDING PLAN NO: 70456970

ERF NUMBER: 854

DATE: 19.07.2019

RESIDENTIAL, COMMERCIAL, INDUSTRIAL & INSTITUTIONAL TYPE BUILDINGS

COMMENTS

CONTACT DETAILS, PHYSICAL ADDRESS & OTHER :

11 WINDELL STREET, DURBANVILLE

Not in order.

Clearly indicate the capacity of the water storage tanks and what it is used for.



LUM By-Law Application ERF 00000854 DURBANVILLE 70456970

1. Any alterations or deviations to existing electricity services necessary as a consequence of the proposal, or requested by the applicant, will be carried out at the applicant's cost.
2. Installations with a new or upgraded authorised capacity of more than 41,5 kVA will have to meet certain energy efficiency requirements. These requirements are subject to change
3. All metering equipment shall be accommodated in a single location directly accessible from public road, i.e. on the erf boundary on the applicant's property adjacent to the road reserve and at street level, subject to departmental requirements.
4. No internal electrical services will be taken over by City of Cape Town.
5. If an increase of supply is required, depending on the size of the increased load it may be necessary for the owner of the property to supply City of Cape Town with a 6 meter x 4 meter substation site on property.
6. This substation site must be on the erf boundary and shall be positioned such that 24 hour heavy vehicular access from a public road is maintained and shall not be traversed by any other services. This site must be free of any underground services.
7. The position of the substation must be approved by this Department.
8. This substation site shall be levelled to street level and cleared of all obstruction and shall be acceptable in all other respects to this Department.
9. This substation site shall be included on the Plan for the subdivision, and shall be rezoned and registered in favour of the City to the City free of all charges.
10. Any structure of the proposed building to be erected must have a minimum clearance of 3 m to any electrical overhead lines that runs on the pavement.
11. In the construction phase the construction equipment used must maintain a 3m clearance to any overhead mains conductors at all times
12. The property owner is responsible for the cost of the connection to the developments, as well as upgrading of the existing electrical network, should it be required.
13. Timely application for the above is required. The connection fee, shared network Costs and conditions will be determined upon receipt of the formal application. The shared network costs are based on the increase in supply capacity applied for.



MEMORANDUM

DATE	6 November 2019
TO	Anne Smit/ Phylliswa Magadlala – Development Management Case ID: 70456970

ERF 854, 11 WINDELL STREET, DURBANVILLE: REZONING, REMOVAL OF RESTRICTIVE CONDITIONS AND PERMANENT DEPARTURE APPLICATION

The rezoning, removal of restrictive conditions and permanent departure application in order to permit a mixed use development (inclusive of offices and residential components) refers.

The following documents have reference:

- Comment by this Department, dated 15 August 2019
- Response letter, dated 16 October 2019, as compiled by *ARoux Town Planning*
- Updated Tree Survey document and accompanying plan, undated, as compiled by *Eden Landscaping*
- Landscape Plan (Dwg. No.: Erf854_LP_001; Rev: 1 dated 14 October 2019) as compiled by *Eden Landscaping*
- SDP – Basement Plan (Dwg. No.: 200; Rev: 001; dated 14 October 2019) as compiled by *BPAS Architecture*
- SDP – Ground/First Storey Plan (Dwg. No.: 201; Rev: 001; dated 14 October 2019) as compiled by *BPAS Architecture*
- SDP – Second Storey Plan (Dwg. No.: 202; Rev: 001; dated 14 October 2019) as compiled by *BPAS Architecture*
- SDP – Third Storey Plan (Dwg. No.: 203; Rev: 001; dated 14 October 2019) as compiled by *BPAS Architecture*

Comments made by this Department (memo dated 15 August 2019) have been addressed. The Landscape Plan (Dwg. No.: Erf854_LP_001; Rev: 1 dated 14 October 2019) as compiled by *Eden Landscaping* is deemed satisfactory and hereby recommended for approval.

The Environmental Management Department has **no objection** to the rezoning, removal of restrictive conditions and permanent departure application, subject to the following conditions:

1. Consent from the Recreation and Parks Department in consultation with this Department is required prior to any tree identified as retained on the Landscape Plan (Dwg. No.: Erf854_LP_001; Rev: 1 dated 14 October 2019) as compiled by *Eden Landscaping* being removed, topped, chopped or felled.

An endorsed copy of the recommended landscape plan, bearing Council's stamp, dated 6 November 2019, is enclosed herewith.

PAT TITMUSS

Head: Environmental and Heritage Management – Northern District
Environmental Management Department

Proposed planting - Mixed planting as per plant list

Existing trees on sidewalk to retain

Trees to remove

New proposed *Secotia penduliflora* 200 litre size

Paved sidewalk

Plant Name	Quantity	Plant Size	Plant Type
Secotia penduliflora	1	200L	Tree
...

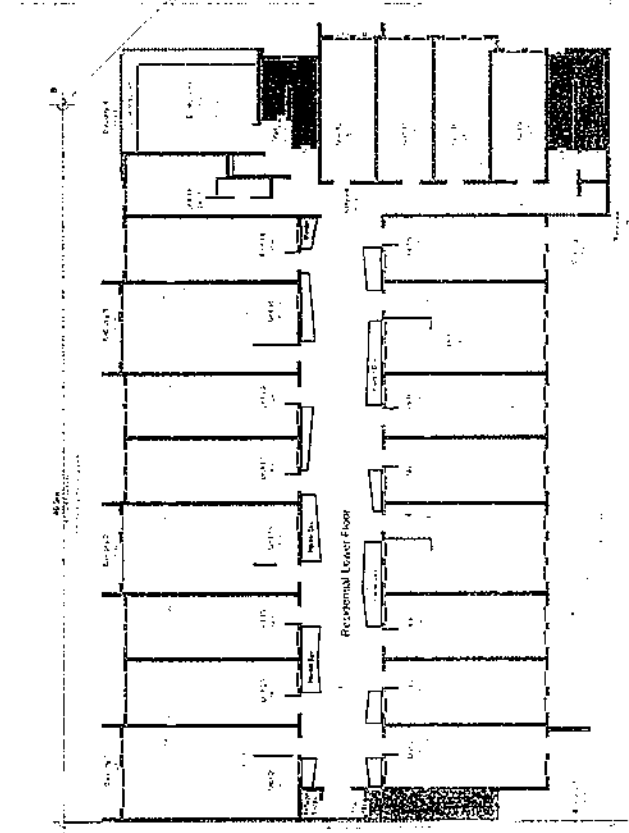
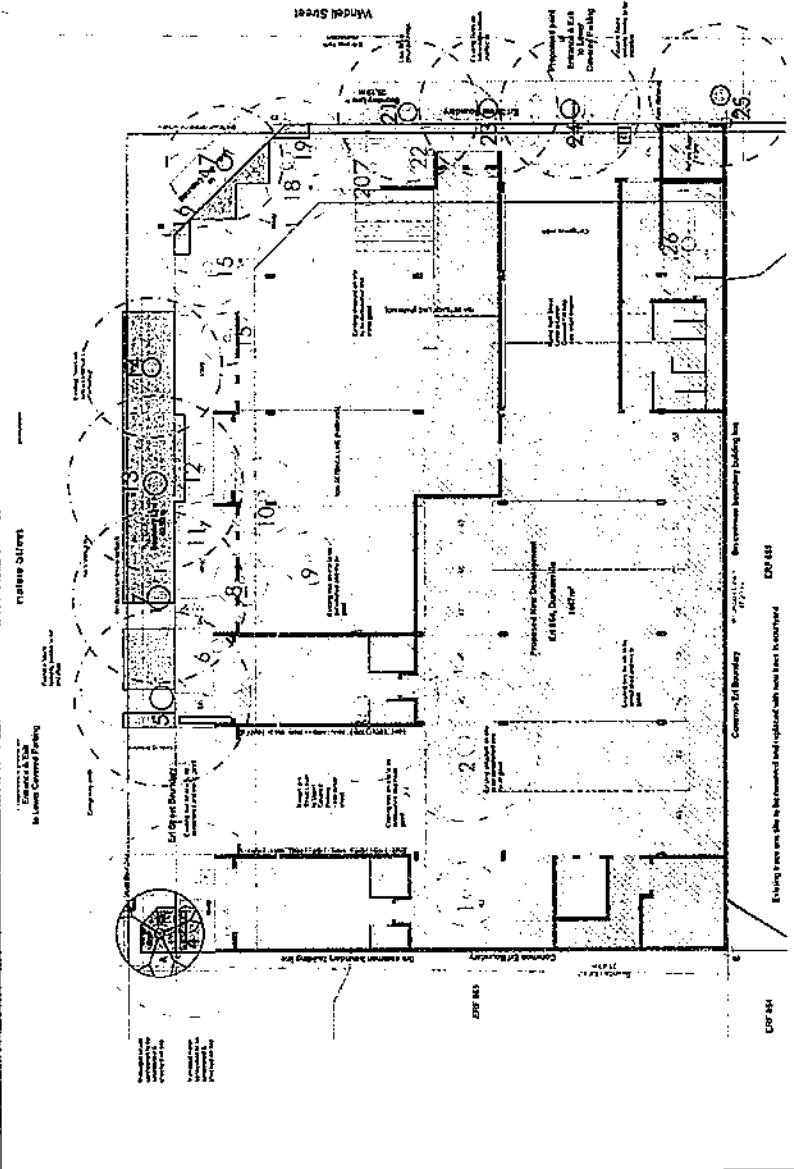
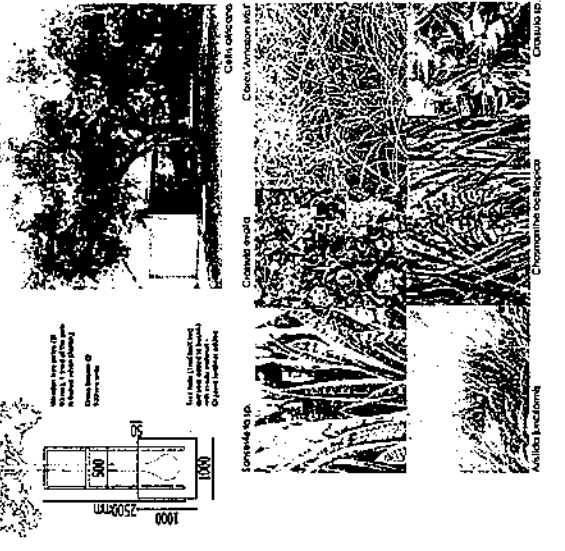
- All existing trees to be retained by proposed new developments, the preservation of existing trees is a key objective of the project.
- Where retention is not possible, trees to be removed shall be replaced with an equivalent or better tree to be planted within the same period.
- All proposed new plantings shall be planted in accordance with the proposed planting schedule and shall be planted in accordance with the proposed planting schedule.
- Plantings shall be installed in accordance with the proposed planting schedule and shall be planted in accordance with the proposed planting schedule.
- Plantings shall be installed in accordance with the proposed planting schedule and shall be planted in accordance with the proposed planting schedule.
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Plant Name	Quantity	Plant Size	Plant Type
Secotia penduliflora	1	200L	Tree
...

Plant Name	Quantity	Plant Size	Plant Type
Secotia penduliflora	1	200L	Tree
...

Characteristics of vegetation with plants

...



City of Cape Town
Environmental and Heritage Management Dept.
RECOMMENDED
2019-11-06
P. Farman
Signature

971

REGISTERED POST

Our Ref: HM/ CAPE TOWN METROPOLITAN/DURBANVILLE/ERF 854
Case No.: 19061401TZ0614E
Enquiries: Thando Zingange
E-mail: Thando.Zingange@westerncape.gov.za
Tel: 021 483 9689
Date: 01 July 2019



Louise Zambon
11 Windell Street
Durbanville

PERMIT

CASE NUMBER 19061401TZ0614E

Issued in terms of Section 34(1) of the National Heritage Resources Act, 1999 (Act 25 of 1999) and Regulation 3(3)(a) of PN 298 (29 August 2003)

This permit is valid for three years from the date of issue

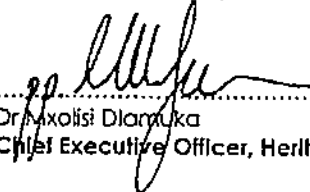
This permit is issued for:

Proposed Action: Total Demolition
Site: Erf 854, 11 Windell Street, Durbanville
Graded: Not Conservation Worthy

NOTE:

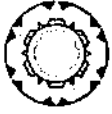
- This decision is subject to an **appeal period of 14 working days**.
- The applicant is required to inform any party who has expressed a bona fide interest in any heritage-related aspect of this record of decision. The appeal period shall be taken from the date above. It should be noted that for an appeal to be deemed valid it must refer to the decision, it must be submitted by the due date and it must set out the grounds of the appeal. Appeals must be addressed to the official named above and it is the responsibility of the appellant to confirm that the appeal has been received within the appeal period.
- **Work may NOT be initiated during this 14 working day appeal period.**
- If any archaeological material or evidence of burials is discovered during earth-moving activities all works must be stopped and Heritage Western Cape must be notified immediately.
- This approval does not exonerate the applicant from obtaining any necessary approval from any other applicable statutory authority.
- **A copy of this permit must be displayed in a prominent place on the site until the permitted work is completed.**

Should you have any further queries, please contact the official above and quote the case number.


.....
Dr. Mxolisi Dlamuka
Chief Executive Officer, Heritage Western Cape

www.westerncape.gov.za/cas

Street Address: 11th Floor, 25th Street, Durbanville, Cape Town, 7800 • Postal Address: P.O. Box 1705, Cape Town, 8001
• Tel: (021) 483 9689 • Email: cas@westerncape.gov.za
Straatadres: 11de verdieping, 25de straat, Durbanville, Kaapstad, 7800 • Posadres: P.O. Bos 1705, Kaapstad, 8001
• Tel: (021) 483 9689 • E-pos: cas@westerncape.gov.za
Idilesi yendawo: 11th floor, 25th Street, Durbanville, Cape Town, 7800 • Idilesi yeposi: P.O. Box 1705, Cape Town, 8001
• Tel: (021) 483 9689 • I-dilesi ye-im-vite: cas@westerncape.gov.za



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

RECREATION & PARKS

Phila Nkosinkulu
Senior Professional Officer
Central District Office

DEPARTMENTAL MEMORANDUM

T: +27 21 444 0905
E: phila.nkosinkulu@capetown.gov.za

DATE	13 November 2019
TO	Anne Smit
REFERENCE	Case ID: 70456970

Dear Anne

THE APPLICATION FOR THE REZONING, REMOVAL OF RESTRICTIONS, SITE DEVELOPMENT PLAN AND LANDSCAPE PLAN ERF 854 DURBANVILLE

The following documents are referenced:

- a) Landscape Plan Drawing No: Erf854_LP_001; Rev:01; dated: 14.10.2019; compiled by Eden Landscaping
- b) Tree Survey Plan compiled by Eden Landscaping
- c) Site Development Plan Drawing No: 100; Rev:00; dated: 18.04.2019; compiled by bpas architect

The Recreation and Parks Department is in support of this amended Landscape Plan and the development.

Yours faithfully
Phila Nkosinkulu
for DIRECTOR : RECREATION AND PARKS



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MEMORANDUM

Directorate: Community Services & Health, Environmental Health – Durbanville Office

DATE : 06/08/2019
TO : PLANNING AND BUILDING DEVELOPMENT MANAGEMENT
ATTENTION :

APPLICATION FOR REZONING, REMOVAL OF CONDITION, DEPARTURE, CONSENT AT ERF 854, 11 WINDLELL STREET, DURBANVILLE, CASE 70456970

- This department has no objection to the above mentioned application.
- Detailed building plans must be submitted for new buildings or alterations to the existing building.

Yours faithfully

M. Nogwanya

Environmental Health Practitioner



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

SAFETY AND SECURITY
FIRE AND RESCUE

974

Dewald du Toit
Station Commander

T: 021 444 8291 F: 021 444 8287
E: dewald.dutoit@capetown.gov.za

Ref T 31/2/2/1/1/2/1
TO: PLANNING & BUILDING DEVELOPMENT

DATE : 02-08-2019
TO : Planning & Building Development Management.
ATTENTION : A Smit

**MULTIPLE APPLICATIONS: ERF 854, 11 WINDELL STREET, DURBANVILLE
CASE ID 70456970**

The Section: Fire and Rescue Services objects against the above mentioned application, because of the following:

1. Compliance with SANS 10400 of 2011 and the Community Fire Safety By-law, Provincial Gazette 5832 (as amended 29 June 2007 and 21 August 2015), with special reference to –
 - Detailed rational fire design to be submitted for the proposed development.
 - Provision of fire escape routes as per SANS 10400 T4.16.2.c) & d) will require a rational fire design by a competent person (fire engineer).

Yours faithfully

DOUGLAS
FIRE & LIFE SAFETY

1 for I. Smart
Head: Fire and Life Safety



MEMORANDUM

T: 021 400 1458
E: nina.vanstaden@capetown.gov.za

To : Development Management
From : Business Systems (Development Management) GIS
Subject : Branch comments with regards to Land Use Application 70456970
Date : 19-07-2019

To Whom it may concern:

REZONING OF ERF 854 DURBANVILLE

GIS has no objection to this application based on the following conditions:

1. That Erf 854 Durbanville retain the current physical address of: 11 Windell Street, as access to the development will be via Windell Street as per the SDP.

Kind Regards

Nina van Staden

GIS Technician: Business Systems
Spatial Planning and Environment

3rd Floor, Transport Management Centre, Hugo Street, Goodwood
Tel: +27 21 444 1458 | **Email:** nina.vanstaden@capetown.gov.za

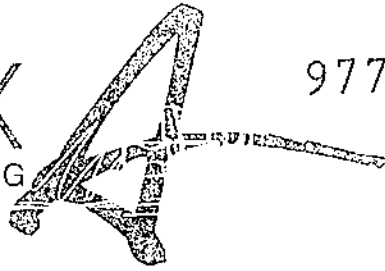
[CCT website](#) | [Report a fault](#) | [Enquiry](#) | **0800 65 64 63** (free call 24/7)



976

Annexure

G



16 October 2019

Our reference: 18090

City of Cape Town
Spatial Planning & Environmental Directorate
Development Management Branch
1st Floor, Kraaifontein Civic Centre
Brighton Road
Kraaifontein
7570

Attention: Me Anne Smit

Dear Me Smit

APPLICATION FOR REZONING, PERMANENT DEPARTURES, REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND REMOVAL OF CONDITIONS OF APPROVAL: ERF 854, DURBANVILLE

Case ID 70456970

The application for rezoning, permanent departures, removal of restrictive title deed conditions and removal of conditions of approval for Erf 854, Durbanville was submitted to the City of Cape Town in May 2019 to permit a mixed-use development (offices and flats) on the property. The application was advertised on 8 August 2018, which included notices sent to the surrounding property owners, a press advert and on-site notice. The closing date for comments was 7 September 2019.

Two objections were received as part of the public participation process. Your letter dated 25 September 2019 invited the applicant to respond to the comments received. Please find herewith our written response to the above-mentioned comments.

1.0 Objection from Pierre Smit and Associates, on behalf of Erf 855, Durbanville

Summary of Comments:

- There is no objection to the proposed rezoning and deletion of conditions. The applicant's motivation that the area is in transition to a mixed-use precinct is supported;
- Objection is made to the rezoning and deletion of conditions insofar as it will permit a coverage of 100% and 0m setbacks. The proposed development will have a severely negative impact on my client's property;

- The proposed common boundary setbacks and coverage are not compatible with the built character of the neighbourhood;
- While mixed-use development is supported, the emphasis is on residential development. Residential development typically entails rezoning to GR with 4,5m building lines and 60% coverage;
- The proposed building, set back 0m from the common boundary with Erf 855, will have a severely negative impact on Erf 855;
- The proposed shortfall in off-street parking provision will contribute to a shortage of on-street parking in the area.
- There is a serious concern about the impact of construction work along the common boundary on existing buildings and that it may compromise future development on Erf 855;

Applicant's Response:

- 1.1 Mr Smit (the objector) as well as his client and owner of the adjacent Erf 855 (Mr Jallat) have been consulted on a number of occasions to discuss the developments on both Erven 854 and 855 (a sectional-title residential development is planned by Mr Jallat for Erf 855). This include a meeting held on 28 August 2019. The discussions have been positive and Mr Jallat advised that they do not oppose the rezoning application and proposed development in principle. Further sessions will be scheduled to discuss the design of both developments and processes when the draft plans for Erf 855 are ready. It is therefore disappointing that an objection was submitted despite previous positive engagements.
- 1.2 Although the majority of the recently approved development applications for properties within the Durbanville Secondary CBD are residential only, the City of Cape Town Northern District Plan clearly refers to this area, specifically Windell and Newhaven Streets, as an area where "*mixed uses that complement the residential uses may be considered*". The City's Urban Integration and Development Management departments were consulted extensively during pre-submission consultation and it was confirmed by these departments that commercial space on ground floor is supported as it will contribute to the envisioned mixed-use environment. This is however on condition that the dominant land use of the development remain residential. Note that the area contains a number of commercial land uses on properties zoned General Business.
- 1.3 Although the proposed General Business (GB) zoning permit 0m setbacks and a 100% coverage, it does not mean that the built form of the proposed development is inappropriate as claimed by the objector. A main focus of the design was to ensure that the development does not impact negatively on the surrounding properties. This is largely achieved with limited overlooking features adjacent to the common boundaries and sufficient setbacks on the upper floors (which contain the residential units).
- 1.4 In any event, although the General Residential zoning prescribes a minimum building line setback of 4,5m, application can be made for building line departures. This was done for the recently approved rezoning of Erf 2524, Durbanville, situated opposite Erf 854, which was an application submitted by this objector. Mr Smit applied for four building line departures to allow setbacks of 1,875m, 2,29m, 2,75m and 4,38m, all of which were approved by the City. These setbacks are

similar to the setbacks above ground storey of the proposed development on Erf 854 (the ground storey contains mostly parking adjacent to the common boundaries). Not only is the objection to the proposed building setbacks hypocritical, but the building line departures for Erf 2524 also demonstrates that the setbacks, coverage and bulk of the proposed development is consistent with the surrounding environment.

- 1.5 0m setbacks on the street boundaries are generally supported by the City, as confirmed during pre-submission consultation, as it will improve the street interface and will create an active street edge. This design is also aligned with the approved urban design guidelines for the Durbanville CBD, with 0m setbacks on ground storey being encouraged. These setbacks will not negatively affect any surrounding property in any way.
- 1.6 The above-mentioned urban design guidelines also support 0m common boundary setbacks and a 100% coverage stating that *"up to 100% coverage may be granted by the local authority depending on the degree of compliance with the urban design guidelines"*. As demonstrated in the application document, the proposed development is fully compliant with the approved urban design guidelines.
- 1.7 The objector is concerned that the proposed development will impact negatively on the dwelling house of Erf 855. In this regard, it is important to note that the area is currently within a transition phase with most properties in the area recently rezoned, in the process of being rezoned, or are currently in the design phase with land use applications to be submitted in the near future. It was therefore safe to expect that Erf 855 will be redeveloped shortly as well, and this was confirmed in a discussion with Mr Smit during the design phase of the proposed development (before the land use application was submitted). The proposed development was therefore designed with the future redevelopment of Erf 855 in mind, with specific attention given to how development on that property can tie into the proposed development.
- 1.8 Although the proposed building has a 0m setback on ground storey adjacent to the common boundary with Erf 855, the space adjacent to the common boundary contains parking and non-habitable rooms (ablutions, staircases and refuse room) only. Parking bays are permitted along the common boundary by the property's existing zoning, while the ablutions, staircases and refuse room will be entirely secured and will not impact negatively on the neighbouring property. This design also presents the opportunity for development on Erf 855 to also utilise the ground storey space up to the common boundary for similar uses.
- 1.9 Setbacks of 3,39m and 2,38m are maintained along the common boundary with Erf 855 for the second and third storeys respectively. These storeys contain residential units only. It must be noted that these units are orientated inwards, away from the common boundary with limited balconies provided along this edge. As mentioned in paragraph 1.3, these setbacks are similar to other developments recently approved in the area and is deemed appropriate in this context, especially considering that the development on Erf 855 can apply the same principles.
- 1.10 The desirability of the parking departure has been motivated in detail in the application's motivation report. Due to the mix of office space and residential units, which have different peak parking demand times, off-street parking can be utilised on a counter-cyclical basis, with visitors' parking

shared between commercial and residential visitors at different times. This arrangement has been implemented successfully in a number of developments in the city and is supported by the City's Transport department. The proposed parking provision is deemed sufficient and will not result in additional parking in the surrounding road reserve.

- 1.11 The concerns regarding construction activities are unfounded. Many developments throughout the city entail construction up to the property boundaries and standard measures are put in place to accommodate this during construction. In the previous meeting with the objector this was discussed and assurance was given that the architects and developer of Erf 854 will further engage with Mr Jallat in this regard and the required measures will be put in place to ensure that the existing rights and infrastructure on Erf 855 are not affected in any way during the construction process. It was confirmed that there is a shared willingness between all parties to work together.

2.0 Objection from the Young Urbanists

Summary of Comments:

- The applicant has failed to demonstrate how the proposed development is aligned with the development principles contained in SPLUMA and LUPA;
- A number of development applications have already been deemed to be inconsistent with the abovementioned development principles on similar grounds;
- The proposed development should include the provision of a reasonable number of 'affordable housing' units;
- The Durbanville CBD is located in close proximity to and has strong economic and transport ties with Bellville CBD which is also experiencing high demand and growth;
- Mixed-use intensification in the Durbanville CBD node will further increase the demand for public transportation, further strengthening the node in terms of employment opportunities;
- It is insulting to human dignity to claim that lower-cost housing opportunities will automatically not be compatible with a higher-income area;
- Not only is the land cost in the expanded Durbanville CBD lower than in other CBD's in Cape Town, but a wider offering of significantly more affordable units is certainly possible on the site;
- While an inclusionary housing policy is urgently needed, the lack of one at this time does not preclude the City from imposing a requirement for affordable / inclusionary units in this development;
- The argument tries to avoid the need for a Traffic Impact Assessment and shifts the potential "blame" for any future negative traffic impacts on the City;
- The parking provision is still excessive. The space freed up by this excess parking can further increase financial viability of more affordable units;
- The development is in a well-located area near places of employment and should make better use of these locational attributes to the meaningful benefit of a range of income levels;

Applicant's Response:

- 2.1 Firstly, it must be noted that the objector is not a resident within or near the area and is not directly affected by the proposed development (his organisation is based in Cape Town while his personal address is in Plumstead, both a significant distance from Durbanville). Although he is well within

his rights to comment on the application, it is clear that the objector is abusing this public participation process to drive his own agenda, instead of utilising other engagement opportunities with the City directly. Note that he has not been given a mandate by any surrounding property owner or resident to act on their behalf.

- 2.2 Section 5.1 of the application's motivation report describes in detail how the proposed development complies with the land use principles of SPLUMA and LUPA. The objector claims that the proposal does not sufficiently comply with these land use principles. It is however evident that the objector does not understand (1) how these land use principles need to be implemented, (2) the preconditions for the successful implementation of inclusionary housing, and (3) the current realities of the economy and market forces.
- 2.3 The provision of more affordable housing units in Cape Town as part of more integrated urban areas and societies is fully supported by the applicant. However, the implementation of this principle needs to be economically viable and sustainable and must be based on a strong working relationship between the authorities and the private development industry. Forcing private developers to provide affordable housing units as part of small development projects, without an approved inclusionary housing policy being in place, can have severe negative impacts on an already struggling development industry in an economic climate that is already under pressure.
- 2.4 The proposed development is relatively small, with the residential component providing for 21 units only. Given the current economic climate, construction costs, price of the land and market demand, the provision of affordable housing units, even if only constituting a portion of the development, is simply not economically feasible without additional government subsidies being made available. The proposed development provides the maximum bulk that can be achieved on the site, with reference to the approved urban design guidelines for Durbanville CBD. The bulk and height of the development can therefore not be increased to improve the feasibility for affordable housing.
- 2.5 The location of the property is also an important consideration. Being situated on the outskirts of the Cape Town metropolitan area, Durbanville is not centrally located in a metropolitan context. Although it is well connected with the surrounding areas, these connections are by road only, thereby dependant on private vehicle ownership (this includes the linkage between Bellville and Durbanville CBD's to which the objector refers to). Limited public transport infrastructure is in place for this area, with minibus taxis services the most prominent, but this service is still unaffordable to a large portion of the population.
- 2.6 Durbanville CBD is also a relatively small commercial node and presents limited economic and employment opportunities, especially in comparison to other CBD's such as Cape Town and Bellville. Areas such as Morningstar, which is situated on the edge of the Durbanville CBD, already provides a number of affordable housing opportunities, which is sufficient provision for this node.
- 2.7 As argued in the motivation report, the City should rather focus its resources in encouraging and assisting in the provision of affordable housing units in areas with much higher accessibility to economic, employment and public transport opportunities. Such areas are identified by the MSDF as being the *Urban Inner Core*. Durbanville is not situated in this spatial transformation zone, being located in an *Incremental Growth and Consolidation Area*.

- 2.8 The objector is not correct in stating that the City must impose conditions to enforce the provision of affordable housing units within private developments, without an approved inclusionary housing policy being in place. Many objections by activist groups such as the objector has been set aside due to the current lack of an inclusionary housing policy. Property development investment decisions are made based on the relevant planning policies and it would be irresponsible of the City to enforce a change in the type of development without it being guided by an approved policy.
- 2.9 The objector refers to three other applications where decisions were made by the City that these applications were inconsistent with the above-mentioned land use planning principles. However, what the objector fails to indicate is that the conditions and context of these developments are entirely different to that of the proposed development. Two of these developments are situated within the Table Bay district, within or near the Cape Town CBD, while the third development is situated in Milnerton. These areas are much more favourably located for the provision of inclusionary housing due to its proximity and accessibility to economic opportunity, a high number of employment opportunities (in a variety of sectors, including commercial and industrial) and public transportation. Said developments are also significantly larger than the proposed development.
- 2.10 In any event, despite what the objector claims, at least two of the three mentioned developments (the Vogue and Christiaan Barnard Hospital) were approved by the City without the provision of affordable housing units being included as a condition of approval. These decisions are challenged legally by activist groups but no further rulings have been made and as it stands the approvals are in place.
- 2.11 At no point does the application try to avoid a traffic study or shift blame to the Transport department, as claimed by the objector. The proposal was extensively discussed with the Transport department. It was confirmed by the department that a traffic study is not required as the proposed development will generate less than 50 peak hour trips, which is the minimum threshold for a traffic impact statement being required. Regarding the statement of the capacity of the existing roads infrastructure, blame is not shifted to anyone. It is reasonably assumed that the Transport department would have been consulted regarding traffic capacity when the City decided to include the area as part of the Durbanville Secondary CBD.
- 2.12 A departure application is already included to permit a reduced parking provision. It is not deemed desirable that a further reduction in parking provision be provided as it will lead to additional parking in the road reserve. Also note the shortage of public transportation as explained in previous paragraphs.

3.0 Conclusion

We highlight the following in conclusion:

- 3.1 Despite the objection from the adjacent property owner (Erf 855), there has been positive engagement between the respective developers. The redevelopment of Erf 855 is currently in the design phase and we understand that a rezoning application for that property will also be submitted in the coming months. We are committed to continue engagement with the neighbour to ensure

that the design of the two developments complement each other and that none of the involved parties will be negatively affected.

- 3.2 The form and scale of the proposed development is deemed appropriate in the context of the envisaged built form of the local area, which is currently in a transition phase from single residential to higher density mixed-use. The proposed setbacks of the residential storeys are similar to recently approved developments (which included building line departures). The development has been designed to minimise impact on the abutting properties.
- 3.3 The objection regarding construction activities is not relevant to this application. Many developments throughout the city contain construction up to common boundaries and measures will be put in place to ensure that construction activities do not affect the adjacent properties. As mentioned, we are committed to continuously engage with the neighbouring property owner in this regard.
- 3.4 The cause that the Your Urbanists are driving is commendable and the applicant is fully supportive of affordable housing being encouraged within well located areas to ensure that integrated communities are created in an attempt to correct past injustices. However, the manner in which this principle is implemented is important.
- 3.5 The implementation of successful affordable housing programs must rely on a strong working relationship between the City and the private development sector. Economically viable opportunities must be created and effective systems must be established to ensure that the correct beneficiaries benefit from these schemes. Too many inclusionary housing projects have been unsuccessful due to inefficient political and institutional systems being in place.
- 3.6 As it stands, the City of Cape Town has no affordable / inclusionary housing policy in place to guide development applications on the geographic areas where inclusionary housing is needed, the form of such housing and future ownership structures for such housing. Enforcing affordable housing units as part of the development at this stage of the process will set a dangerous precedent and will undoubtedly have a negative effect on the local development industry, which is already under significant pressure in the current economic climate
- 3.7 Due to the location of Durbanville CBD, on the periphery of the metropolitan area, limited employment opportunities (specifically for unskilled adults) and the lack of public transport infrastructure and systems, the area is not deemed well located for inclusionary housing development.
- 3.9 As demonstrated in the application document, the proposed development is aligned with Council policy and all relevant spatial development frameworks. The proposal will contribute positively to the local urban environment. Despite notices being sent to a number of properties in the area, only one objection was received from the local community, which demonstrate general support for the proposed development.

It has been demonstrated that the subject application is desirable. The objectors have not submitted any substantiate claims against the proposal that merits refusing this application. It is also reiterated that all government departments notified are in support of the application, subject to minor changes to the plans which have been accommodated. The application should therefore be supported by the City.

Yours sincerely

A handwritten signature in black ink, appearing to read 'ARoux', with a long horizontal stroke extending to the right.

André Roux
ARoux Town Planning

Annexure

H



ABRAHAMSKIEWITZ
INCORPORATED

986

Penthouse, 6th Floor, Imperial Terraces
Tyger Waterfront, Carl Cronje Drive
Tygervalley, Bellville, 7535
Cape Town, South Africa
P.O. Box 3048, Tygervalley, 7536
Tel: +27 21 914 4842
General Fax: +27 21 914 1455
Conveyancing Fax: +27 21 914 0277
Email: viona@ak.law.za
DoceX 69 Tygerberg
Lodgement 232 CTN

Our ref: MAT19708/LJM/vj

Your ref:

6 November 2019

AVNANT RAPPOPORT ATTORNEYS

Via e-mail: louis@avenant.co.za

Dear Sir / Madam

OUR BOND CANC. : L ZAMBON IFO NEDBANK
ACCOUNT NO.: 8966207273301
PROPERTY: ERF 854 DURBANVILLE

We confirm that we received instructions from Nedbank to attend to this bond cancellation.

This bond was cancelled in the Cape Town Deeds Office on 31 October 2019.

All amounts due to Nedbank has been settled.

Yours faithfully

ABRAHAMSKIEWITZ/INC

PER:

L J MOOLMAN

987

CONVEYANCER'S CERTIFICATE

I/we, **LOUIS PAUL VAN SCHALKWYK**

(conveyancer's name)

hereby wish to certify that a search was conducted in the Deeds Registry, Cape Town for restrictive conditions affecting the development of the following property(ies) (including title deeds and pivot deeds):

ERF 854 DURBANVILLE IN THE CITY OF CAPE TOWN, DIVISION CAPE

PROVINCE WESTERN CAPE

(erf number/s and description/s as it appear in the title deed)

1. CERTIFICATE TYPE (please select only one option)

The information provided below is a certified record of all restrictive conditions affecting development on the above stated property(ies).

The information provided below is a certified record of all applicable restrictive conditions relating to a specific plan or proposed application of the above stated property(ies). (complete plan no., date and application type below).

Plan no. **408**

Date

Application type

2. SCHEDULE OF TITLE DEEDS APPLICABLE (List title deed number in full and attach a complete set of copies)

T69464/1988 AND T88092/1993

3. LIST OF RESTRICTIVE TITLE CONDITIONS Please note: If any clause is selected, Addendum A needs to be completed for each property.

Categories	Title deed and clause number of restrictive conditions. Conveyancer to provide details of any necessary interpretation of conditions.		
	Title deed number	Clause number	Interpretation
Use of Land	T69464/1988, T8809 2/1993	B (a)	The property may only be used for residential purposes
Building lines	T69464/1988, T8809 2/1993	B (d)	20 feet building line to boundary and five feet building line on common boundary
Height			
Number of dwellings	T69464/1988, T8809 2/1993	B (b)	Only 1 dwelling and its outbuilding may be erected on property
Bulk floor area			
Coverage / built upon area	T69464/1988, T8809 2/1993	B (c)	Building not to cover more than 50% of erf.
Subdivision	T69464/1988, T8809	B (e)	No subdivision proposed, not required to remove condition
Servitudes that may be registered over or in favour of the property			
Other restrictive conditions limiting development	T69464/1988, T8809 2/1993	B(h) & C(2)	Restriction on materials used for building

Signed at **BELLVILLE**

Company name **AVENANT RAPOPOORT INC**

Postal address **PO BOX 4397**

TYGERVALLEY 7536

Tel **0219142720**

Email **Louis@avenant.co.za**

TEL: 021 514 2720

Property reference	APPLICABLE LEGISLATION OR TYPE OF CONDITIONS	APPLICATION NECESSARY TO CITY OF CAPE TOWN	AFFECTED CONDITION FOR PROPOSED DEVELOPMENT ON PROPERTY		BENEFICIARY IDENTIFICATION TO BE SUPPLIED BY CONVEYANCER	BENEFICIARIES (If insufficient space is provided in each block, then please attach a separate document or file)
			Title deed no.	Clause no.		
RESTRICTIVE CONDITIONS IMPOSED AT TIME OF TOWNSHIP ESTABLISHMENT	Municipal Planning By-law 2015	Mandatory			* All properties in affected Township (attach a copy of approved general plan) * Specified state departments	
	33/34 or LUPO or any other legislation repealed in terms of LUPA (see section 77)	Mandatory	T69464/1988, T8809/1993	B:(e), (b), (c), (d), (n)	* All properties in affected Township (attach a copy of approved general plan) * Specified state departments	B:(g)-(j) IN FAVOUR OF ALL REGISTERED OWNERS IN TOWNSHIP B:(h) CONDITION IN FAVOUR OF MUNICIPAL COUNCIL AND ALL OWNERS IN TOWNSHIP. BUILDING MUST NOT BE OF GALVANIZED IRON
TRADITIONAL CONDITIONS IMPOSED AFTER TOWNSHIP ESTABLISHMENT	Prior to 33/34	Voluntary			* Properties or individuals affected by the condition * Specified state departments	
	Developer	Voluntary			* Developer (if still alive) * Company (if not deregistered) * Properties or individuals affected by decision on application * Specified state departments	
TRADITIONAL CONDITIONS IMPOSED AFTER TOWNSHIP ESTABLISHMENT	Praedial (multiple affected parties)	No provision in MPBL for application to be made to the City at this time			* Persons whose rights are affected * Specified state departments	
	Personal (individual party)	No provision in MPBL for application to be made to the City at this time	T69464/1988, T8809/1993	G(2)	* Individual named * Specified state departments	BUILDING MUST BE OF BRICK AND ROOFED WITH TILES OR SHINGLES

It is acknowledged that the information on beneficiaries supplied will be relied upon by the City as being correct for Public Participation purposes.

FOR FURTHER ENDORSEMENTS SEE
VIR VANDERE ENDOSSEMENTE SIEN..... *P 6*

177 - SCHKOLNE HART - WILSON BARNARD

989 Prepared by me

299

all in 17/11

[Signature]
CONVEYANCER
BARNARD W.A.

BC 37538 94
GEKANSELLEER
CANCELLED
[Signature]
REGISTRATEUR/REGISTRAR
~~30-08-1994~~

VERBIND MORTGAGED
VR FOR R 93 000,00
86677 193
12 11 93
[Signature]
REGISTRATEUR/REGISTRAR

W.O.P.

DEED OF TRANSFER

SCHKOLNE HART - WILSON BARNARD
139 MAIN ROAD
SOMERSET WEST
7130

T 88092 93

KNOW ALL MEN WHOM IT MAY CONCERN

THAT DANIEL JACOBUS SIEBRITS
appeared before me, Registrar of Deeds at Cape Town, he
being duly authorised thereto by a Power of Attorney
executed at CAPE TOWN on 19 AUGUST by

**THE TRUSTEE OF THE
INSOLVENT ESTATE PETER GORDON HEMMINGS**

which Power of Attorney duly witnessed according to law, was
exhibited to me on this day.

[Handwritten mark]

And the Appearer declared that his said Principal had truly and legally sold on 19 JULY 1993 and that He in his capacity as Attorney aforesaid did, by these presents, cede and transfer in full and free property to and on behalf of

LOUISE ZAMBON

Identity Number 610923 0057 00 5

Married out of community of property

Her Heirs, Executors, Administrators or Assigns:

1/2 SHARE OF ERF 854 DURBANVILLE, situate in the Municipality of Durbanville, Cape Division;

IN EXTENT: 1467 (One Thousand Four Hundred and Sixty Seven) Square Metres

FIRST TRANSFERRED by Deed of Transfer No T1800/1944 with Diagram No 5507/1943 annexed and **HELD BY** Deed of Transfer No T69464/88.

A. **SUBJECT** to no other conditions of rights of ownership or reservation in favour of the State except the following contained in Certificate of Uniform Title No. 3430 dated 31st March 1942, namely:

"That the Government shall at all times have the right of resuming a portion of the whole of the said land if required for public purposes, on payment to the Proprietor of such money in compensation as may be mutually agreed upon by the parties concerned or failing such agreement, as may be determined by Arbitration."

B. **SUBJECT** /...



B. SUBJECT FURTHER to the following special conditions contained in said Deed of Transfer No T1800/1944, namely:-

As being in favour of the registered owner of any Erf in the Township and subject to amendment or modification by the Administrator by virtue of the provisions of Section 18(3) of Ordinance No. 33 of 1934 namely:

- "(a) That this erf be used for residential purposes only.
- (b) That only one dwelling house with such outbuilding as are ordinarily required to be used therewith be erected on this erf.
- (c) That not more than half the area of this erf be built upon.
- (d) That no building or structure or any portion thereof except boundary walls and fences shall be erected nearer than 20 feet to the street line which forms a boundary of this erf. No such building or structure shall be situated within five feet of the lateral boundary common to any adjoining erf."

As being in favour of the Administrator:-

- (e) "That this erf be not subdivided except with the consent in writing of the Administrator."

As being in favour of the Municipal Council:-

- (f) "That the owner of this erf shall be obliged to allow the drainage or sewerage of any other erf to be conveyed over this erf, if deemed necessary by the Council of the Municipality of Durbanville and in such manner and in such position as may from time to time be reasonably required by the said Municipal Council."

As being in favour of the registered owner of any erf in the Township and of the Municipal Council by who the conditions were imposed:-

(g) "That /...



- (g) "That no dwelling be erected on this erf costing less than R1 500,00.
- (h) That no building constructed of galvanized iron be erected on this erf."

C. SUBJECT FURTHER to the following special conditions imposed by Gideon Christiaan Albertus Van der Westhuyzen as the owner of Ervan 865 and 864 Durbanville and contained in Deed of Transfer No T19576/1946, namely:-

- (1) "That no house of a lesser value than R3 000,00 shall be erected on the said Erf.
- (2) That any dwelling house erected on the property and the necessary outbuildings shall be built of brick and roofed with tiles or shingles."

WHEREFORE /...



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

heretofore had to the premises, did, in consequence also acknowledge the INSOLVENT ESTATE

to be entirely dispossessed of, and disentitled to the same; and that by virtue of these presents the said TRANSFEREE

Her 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 said INSOLVENT ESTATE

to be satisfactorily paid the whole of the purchase money amounting to the sum of R90 000,00 (NINETY 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 this 17th day of November in the Year of our Lord, One Thousand Nine Hundred and Ninety Three (1993).



q. q.

In my presence,


Registrar of Deeds



Share of P.G. Hemming
w. Zambon

GETRANSPORTEER AAN	TRANSFERRED TO
w. Zambon	
RESTANTREKANTIER	
T 88092 93	<i>[Signature]</i> REGISTRATEUR/REGISTRAR
12 11 93	

VERBIND	MORTGAGED
VIR FOR R 93 000,00	<i>[Signature]</i> REGISTRATEUR/REGISTRAR
B 86677 93	
12 11 93	

w.o.p.

BC 37538/94
GEKANSELLEER CANCELLED
<i>[Signature]</i> REGISTRATEUR/REGISTRAR
1994 -06- 30

Share of L Zambon.

w.o.p.

VERBIND	MORTGAGED
VIR FOR R 140 000,00	<i>[Signature]</i> REGISTRATEUR/REGISTRAR
B 46526/94	
1994 -06- 30	

BC 69601
GEKANSELLEER CANCELLED
<i>[Signature]</i> REGISTRATEUR/REGISTRAR
1 11 97

VERBIND	MORTGAGED
VIR FOR R 50 000,00	<i>[Signature]</i> REGISTRATEUR/REGISTRAR
B 29522 96	
02 05 96	

w.o.p.
Share 7/11/97

BC 69602 '97
GEKANSELLEER CANCELLED
<i>[Signature]</i> REGISTRATEUR/REGISTRAR
11 11 97

299

VERBIND MORTGAGE
 995
 V.P. FOR R

J. W. G. G. G.

REGISTRATEUR/REGISTRAR

B. 72013 188 /19

VERBIND MORTGAGED
 vir for R. 88 000

INSOLVENTE B. (met aanspraak op voorrang)

vir 'n verder bedrag nie opsonde vir 'n addisionale bedrag nie exceeding

11-28

Aktr. Deeds Office Asst.-registrateur Asst. Registrar
 KAAPSTAD/CAPE TOWN

C 73129 193

GEKANSELLEER CANCELLED

REGISTRATEUR/REGISTRAR

12-11 93

VIR ENDE TOEWENTE KYK BLADSY FOR ENDORSEMENTS SEE PAGE

T 69464 88

Deed of Transfer

BY VIRTUE OF A POWER OF ATTORNEY

Prepared by and
C. G. Abernethy
C G ABERNETHY
Conveyancer

KNOW ALL MEN WHOM IT MAY CONCERN

That CHRISTOPHER GERALD ABERNETHY appeared before me, Registrar of Deeds at CAPE TOWN, he being duly authorised thereto by a Power of Attorney, executed at BELVILLE, on the 4th day of OCTOBER 1988 by

MARK GARY BUNNING

(Identity Number: 570922 5083 006)
- married out of community of property -

which power, witnessed in accordance with law, was exhibited to me on this day. And the Appearer declared that his said Principal had truly and legally sold on 10 September 1988 and that He in his capacity as attorney aforesaid/ . . .

996

aforesaid did by these presents, cede and transfer, in full and free property to and on behalf of

1. PETER GORDON HEMMINGS

(Identity Number: 540816 5111 006)

- unmarried -

and

2. LOUISE ZAMBON

(Identity Number: 610923 0057 005)

- unmarried -

- BOTH WHITE GROUP -

Their Heirs, Executors, Administrators or Assigns

ERF 854 DURBANVILLE, situate in the Municipality of Durbanville, Cape Division

IN EXTENT: 1467 (ONE THOUSAND FOUR HUNDRED AND SIXTY SEVEN) Square Metres

FIRST transferred by Deed of Transfer No. T1800/1944 with Diagram 5507/1943 annexed and held by Deed of Transfer No. T52055/1986

WHITE GROUP
BLANKE GROEP

A. SUBJECT to no other conditions of rights of ownership or reservation in favour of the State except the following contained in Certificate of Uniform Title No. 3430 dated 31st March 1942, namely:

"That the Government shall at all times have the right of resuming a portion of the whole of the said land if required for public purposes, on payment to the Proprietor of such money in compensation as may be mutually agreed upon by the parties concerned or failing such agreement, as may be determined by Arbitration."

B. SUBJECT/..

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B. SUBJECT FURTHER to the following special conditions contained in said Deed of Transfer No. 1800/1944, namely:-

As being in favour of the registered owner of any Erf in the Township and subject to amendment or modification by the Administrator by virtue of the provisions of Section 18(3) of Ordinance No. 33 of 1934 namely:

- "(a) That this erf be used for residential purposes only.
- (b) That only one dwelling house with such outbuilding as are ordinarily required to be used therewith be erected on this erf.
- (c) That not more than half the area of this erf be built upon.
- (d) That no building or structure or any portion thereof except boundary walls and fences shall be erected nearer than 20 feet to the street line which forms a boundary of this erf. No such building or structure shall be situated within five feet of the lateral boundary common to any adjoining erf."

As being in favour of the Administrator:-

- (e) "That this erf be not subdivided except with the consent in writing of the Administrator."

As being in favour of the Municipal Council:-

- (f) "That the owner of this erf shall be obliged to allow the drainage or sewerage of any other erf to be conveyed over this erf, if deemed necessary by the Council of the Municipality of Durbanville and in such manner and in such position as may from time to time be reasonably required by the said Municipal Council."

As being in favour of the registered owner of any erf in the Township and of the Municipal Council by who the conditions were imposed:-

- (g) "That/....."

S

ke

(g) "That no dwelling be erected on this erf costing less than R1 500,00.

(h) That no building constructed of galvanized iron be erected on this erf."

C. SUBJECT FURTHER to the following special conditions imposed by Gideon Christiaan Albertus Van der Westhuyzen as the owner of Erfvan 865 and 864 Durbanville and contained in Deed of Transfer No. 19576 dated 12th November 1946, namely:-

(1) "That no house of a lesser value than R3 000,00 shall be erected on the said Erf.

(2) That any dwelling house erected on the property and the necessary outbuildings shall be built of brick and roofed with tiles or shingles."

WHEREFORE/....

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Wherefore the Appearer in his said Capacity, renouncing all the right and title the said TRANSFEROR

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heretofore had to the premises, did, in consequence also acknowledge the said TRANSFEROR

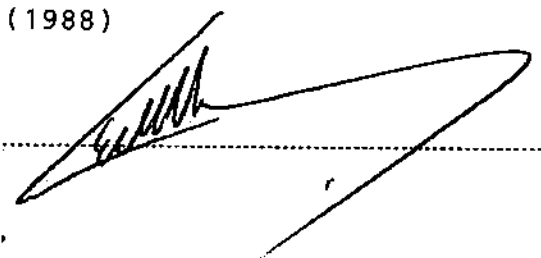
to be entirely dispossessed of, and disentitled to the same; and that by virtue of these presents, the said TRANSFEREES

Heirs, Executors, Administrators or Assigns, now and henceforth shall be entitled thereto conformably to local custom; State, however, reserving its rights; and finally acknowledging the said TRANSFEROR

to be satisfactorily paid the whole of the purchase money amounting to the sum of R96 800,00 (NINETY SIX THOUSAND, EIGHT HUNDRED RAND)

In Witness whereof, I, the said Registrar, together with the Appearer q.q. 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, in CAPE TOWN on the 28 day of November in the Year of our Lord, One Thousand Nine Hundred and Eighty Eight (1988)


.....
q.q.

In my presence,


Registrar of Deeds

Mortgage Endorsements
(if any) at head of Deed

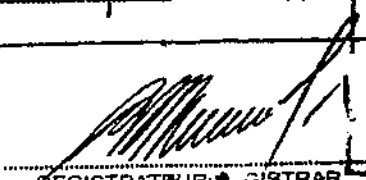
Registered in the
Register of
Book Folio
Clerk in Charge.




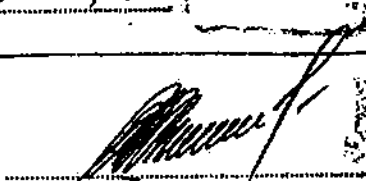
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WOP

VERBIND MORTGAGED	
VIR FOR R 140 000.00	
B 46526 194	
30 06 194	
REGISTRATEUR/REGISTRAR	


BC 69601 '97
GEKANSLEER CANCELLED

REGISTRATEUR/REGISTRAR
11 11 97


VERBIND MORTGAGED	
VIR FOR R 50 000,00	
B 29522 196	
18 APR 2006	
REGISTRATEUR/REGISTRAR	

BC 69602 '97
GEKANSLEER CANCELLED


REGISTRATEUR/REGISTRAR
11 11 97

WOP

VERBIND MORTGAGED	
VIR FOR R 434 000.00	
B 70010 97	
11 11 97	
REGISTRATEUR/REGISTRAR	

BC 70026777 / 2006
ONTHEF RELEASED

REGISTRATEUR/REGISTRAR
18 APR 2006

WOP


VERBIND MORTGAGED	
VIR FOR R 300 000.00	
B 36178 2006	
18 APR 2006	
REGISTRATEUR/REGISTRAR	

WOP


1001

Share of L. Zambon

WOP

VERBIND		MORTGAGED	
VIR FOR R. 434 000 - 00			
B	70010 97	 REGISTRATEUR/REGISTRAR	
	11 11 97		
		B 0026777...6 ON THE F RELEASED 18 APR 2006	

WOP

VERBIND		MORTGAGED	
VIR FOR R. 300 000 000			
B	000036178 / 2006	 REGISTRATEUR/REGISTRAR	
	18 APR 2006		