



REPORT TO MUNICIPAL PLANNING TRIBUNAL

ITEM NO MPTSW23/01/20

CASE ID	70478493
CASE OFFICER	M WALKER (AS)
CASE OFFICER PHONE NO	021 444 7725
DISTRICT	SOUTHERN
REPORT DATE	10-01-2020

WARD 72: APPLICATION FOR ADMINISTRATIVE PENALTY IN TERMS OF THE CITY OF CAPE TOWN MUNICIPAL PLANNING BY-LAW, 2015 (MPBL): ERF 160741 CAPE TOWN, 1 CHADWIN ROAD, ELFINDALE

1 EXECUTIVE SUMMARY

Property description	Erf 160741 Cape Town
Property address	1 Chadwin Road, Elfindale
Site extent	3245 m ²
Current zoning	Single Residential Zone 1
Current land use	Place of instruction (Madressa and Early Childhood Development (ECD) Centre)
Overlay zone applicable	None
Submission date	01/11/2019
Subject to PHRA / SAHRA	No
Any unauthorised land use / building work?	There is unauthorised building work in the form of a conversion of a pergola into a verandah. This is for a covered area for the ECD Centre.
Has owner applied for the determination of an administrative penalty	Yes
Has the City Manager applied to the MPT for an order that a person who is contravening the MPBL must pay an administrative penalty in an amount determined by the MPT	No
Has the City issued a demolition directive i.t.o section 128 of the MPBL? If yes, an administrative penalty may not be applied for.	No
Has the City served a notice on the owner or other person in respect of the unlawful land use or building work which required the owner or other person to apply for the determination of an administrative penalty?	No

2 DECISION AUTHORITY

For decision by the Municipal Planning Tribunal.

3 BACKGROUND / SITE HISTORY

- 3.1 In 2004 the Spatial Planning and Land Use Management Committee (SPELUM) approved an application for consent to permit a place of instruction in the form of a madressa, including a "crèche", subject to conditions (see Annexure E). A site development plan for the place of instruction was approved in 2004 (see Annexure F). One of the conditions relating to the hours of operation was amended by a delegated official in 2010.
- 3.2 The required application for the setback departures to regularise the verandah has not yet been submitted.

4 SUMMARY OF APPLICANT'S MOTIVATION

The applicant's motivation is attached as Annexure C and may be summarised as follows:

- The original plan for the madressa was approved in 2005.
- The owner needed a covered play area which led to the installation of the roof over the approved pergola.
- The owner was of the opinion that the covering of the pergola would not need Council's approval.
- The owner was notified about the contravention when submitting an application for additional classrooms.
- The covering was installed in June 2013.
- The extent of the contravention is small.
- The nature of the contravention is low key and the gravity is not serious.
- The owner was not aware that the covering of the pergola would be classified as a contravention.
- The owner wishes to rectify the contravention.
- The owner has not been involved in any previous contravention.

5 ASSESSMENT OF APPLICATION

- 5.1 The administrative penalty relates to unauthorised building work on the subject property in the form of the conversion of an approved pergola into a verandah. It must be noted that the area of the verandah exceeds the extent of the approved pergola. The verandah contravenes Item 22 of the Development Management Scheme which prescribes 6m street and common boundary setbacks.
- 5.2 In terms of section 129(7)(a) of the By-Law, an administrative penalty for a building work contravention may not be more than 100% of the value of the building, construction and engineering work unlawfully carried out.
- 5.3 The table in the Standard Operating Procedure relating to administrative penalties has been used to determine the value of the unauthorized building work.
- 5.4 Unauthorised building work calculation:

$$R1020.00 \times 225m^2 = R229\ 500.00$$

- 5.5 An amount which is not more than 100% of R229 500.00 may be imposed as an administrative penalty.
- 5.6 The following factors need to be considered when determining an appropriate administrative penalty, as contemplated by section 129(8) of the By-Law:
- a) **The nature, duration, gravity and extent of the contravention**
Nature – The nature of the unauthorized building work relates to the conversion of a pergola to a verandah located within the 6m street and common boundary setbacks. It must be noted that the area of the verandah exceeds the extent of the approved pergola.
Duration – According to the applicant the unauthorized building work occurred in 2013. The duration of the contravention is thus long.
Gravity – The gravity of the contravention is moderate. Although the height of the verandah is low and it is located alongside school tennis courts, it is also located on the street boundary which aggravates the gravity.
Extent – At 225m², the extent of the contravention is large.
- b) **The conduct of the person involved in the contravention**
 The applicant claims that the owner was not aware that the covering of the pergola would be a contravention. Although this sounds plausible, it does not explain why the extent of the verandah was expanded beyond the approved pergola. In any event, ignorance of the law is not a valid excuse. The conduct of the owner cannot be condoned.
- c) **Whether the unlawful conduct was stopped**
 The unlawful conduct has not stopped.
- d) **Whether a person involved in the contravention has previously contravened by this By-Law or any other planning law**
 As far as can be ascertained, the owner of the property has not previously contravened this By-Law or any other planning law.
- 5.7 In view of the abovementioned considerations, this Department recommends that an administrative penalty of **R3000.00** be imposed.

6 REASONS FOR DECISION

Reasons for the recommended decision may be summarised as follows:

- 6.1 The verandah is unauthorized and contravenes Item 22 of the Development Management Scheme.
- 6.2 The extent of the contravention is large.
- 6.3 The duration of the contravention is long.
- 6.4 The gravity of the contravention is moderate. Although the height of the verandah is low and it is located alongside school tennis courts, it is also located on the street boundary which aggravates the gravity.
- 6.5 As far as can be ascertained, the owner of the property has not previously contravened this By-Law or any other planning law.

7. RECOMMENDATION

In view of the above, it is recommended that:

- a) That an administrative penalty in the amount of **R3000.00** be determined in terms of Section 129 of the City of Cape Town Municipal Planning By-Law, 2015 in respect of Erf 160741 Cape Town for the covered verandah as per the plans drawn by ACG Architects & Development Planners, numbered 001-003 & 201, 202 & 301, all Revision A, dated July 2018.

ANNEXURES

Annexure A	Locality map
Annexure B	Site Development Plan
Annexure C	Applicant's motivation
Annexure D	Title deed
Annexure E	Previous land use approvals
Annexure F	Approved Site Development Plan


Section Head : Land Use Management

Comment

Name P Hoffa

Tel no 021 444 7724

Date 2020-01-10

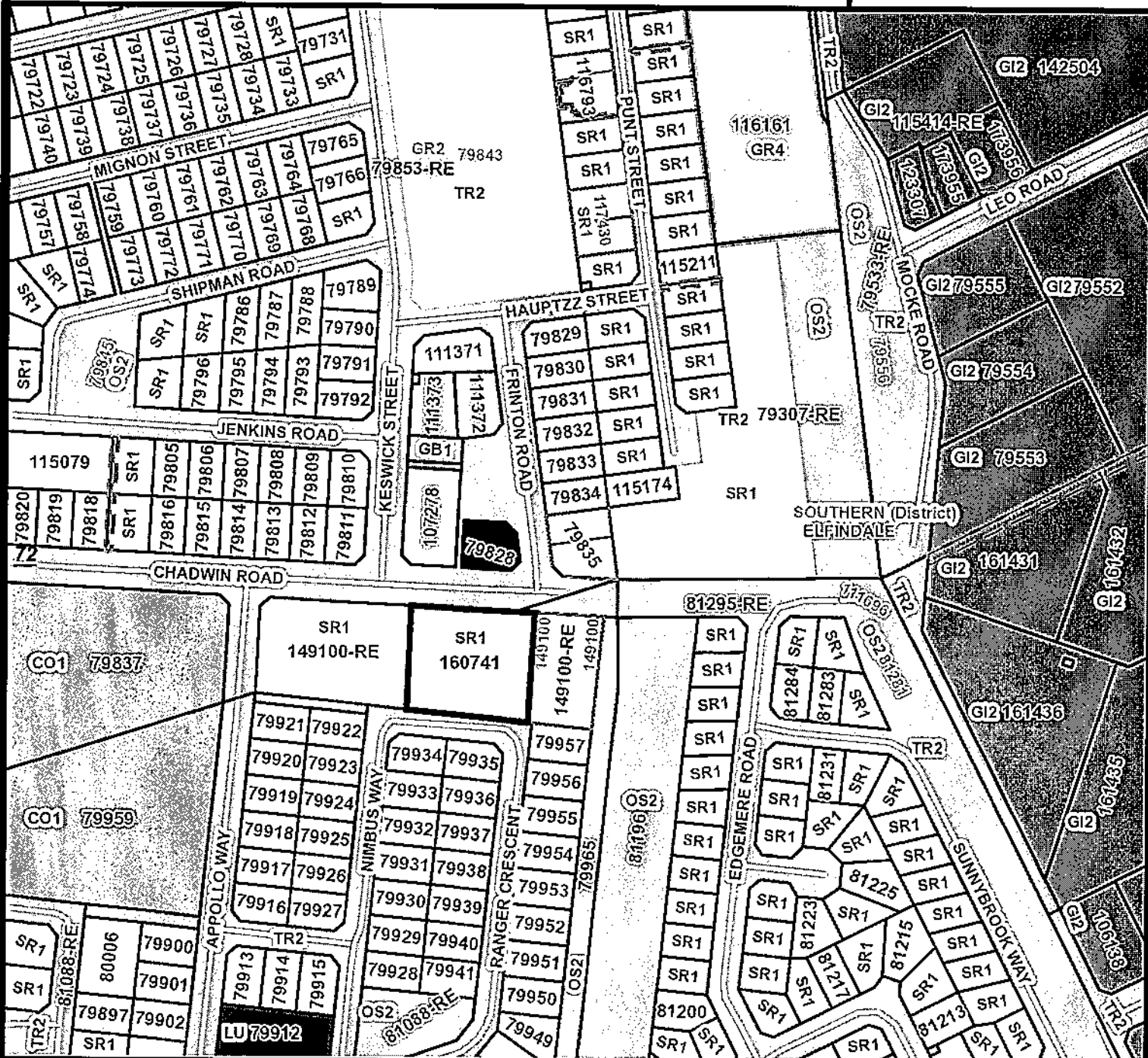

District Manager

Name U. Gonsalves

Comment

Tel no 021 444 7720

Date 2020-01-10



Overview

Erf: 160741

District:

Allotment:

Suburb:

Ward:

Sub Council:



1:2 887

Notices Served



Support Received



Petition Signatory



Objections Received



Generated by:

Date: 26 November 2019

File Reference:



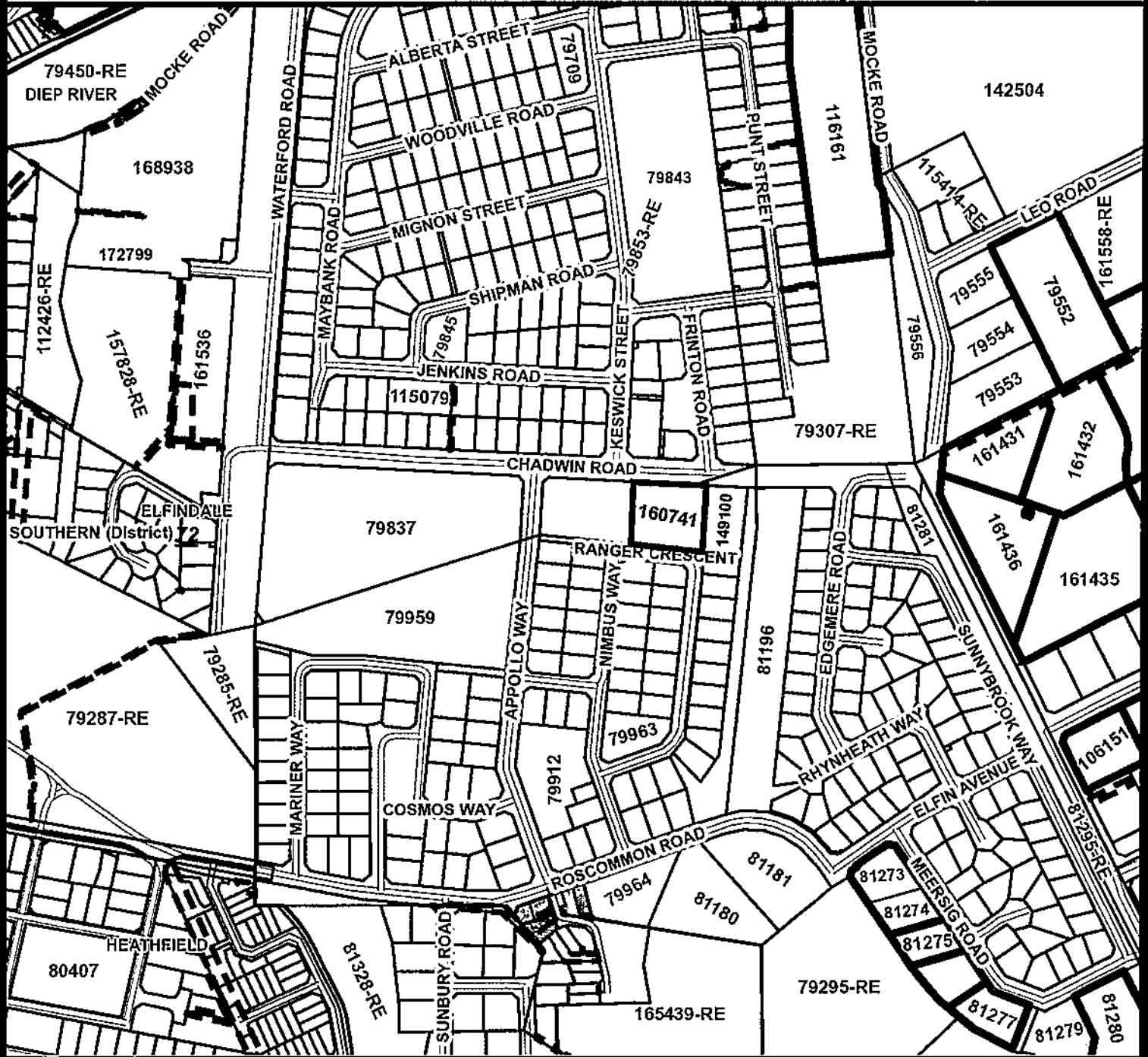
CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

Making progress possible. Together.

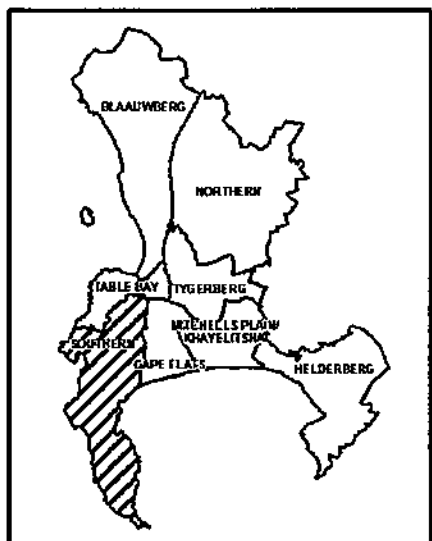
PLANNING AND BUILDING DEVELOPMENT MANAGEMENT
LOCALITY MAP

ANNEXURE :

671



Overview



Erf: 160741

District: SOUTHERN

Allotment: CAPE TOWN

Suburb: ELFINDALE

Ward: 72

Sub Council: Subcouncil 20



1:4 786

Notices Served



Support Received



Petition Signatory



Objections Received



Generated by:

Date:

File Reference:



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

Making progress possible. Together.

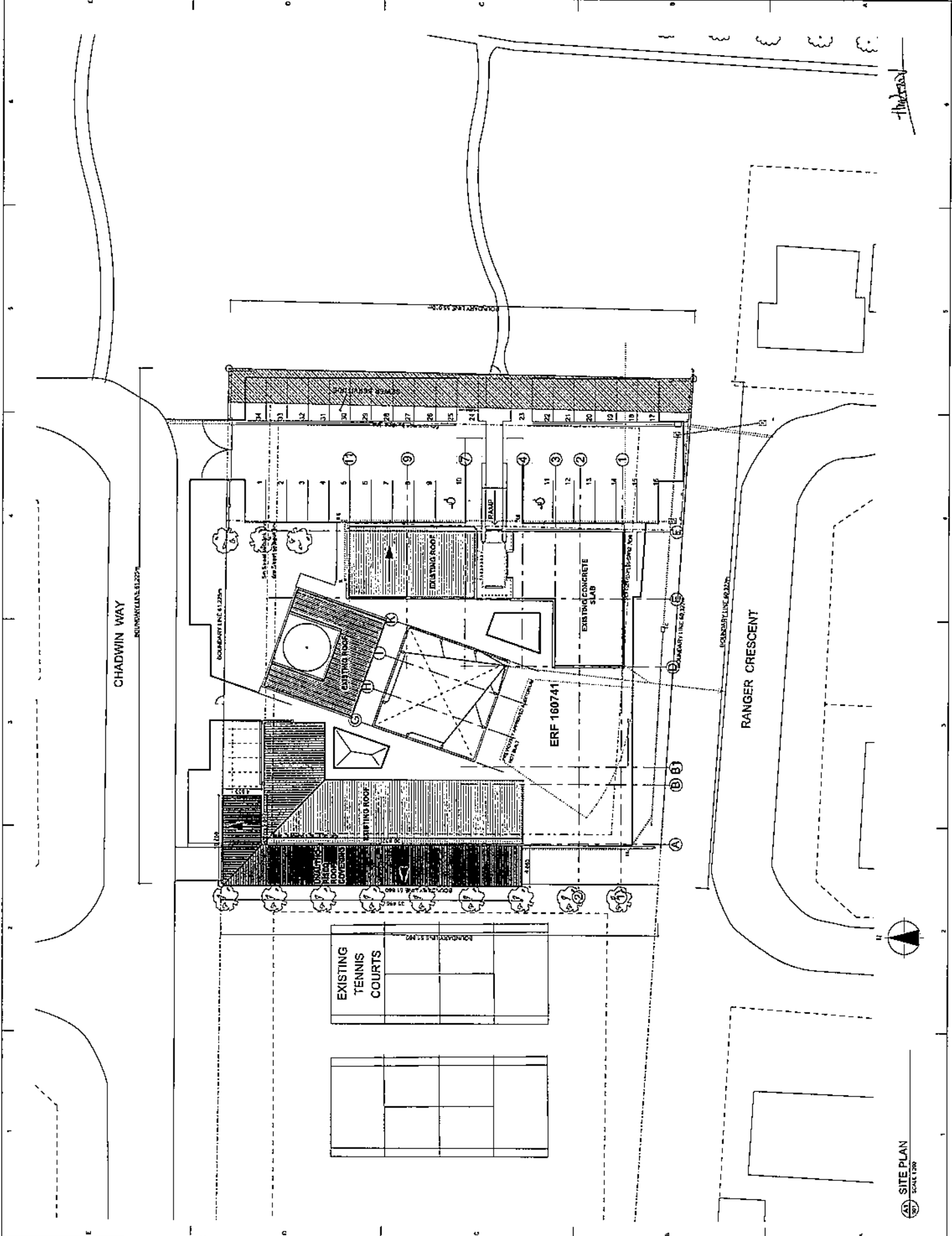
ANNEXURE B

672



REGISTERED PROFESSIONAL ENGINEER
 No. 123456789
 No. 123456789
 No. 123456789
 No. 123456789

SITE PLAN	
DATE	15/11/2018
SCALE	1:500
FOR COUNCIL	
PROJECT NO.	A 001



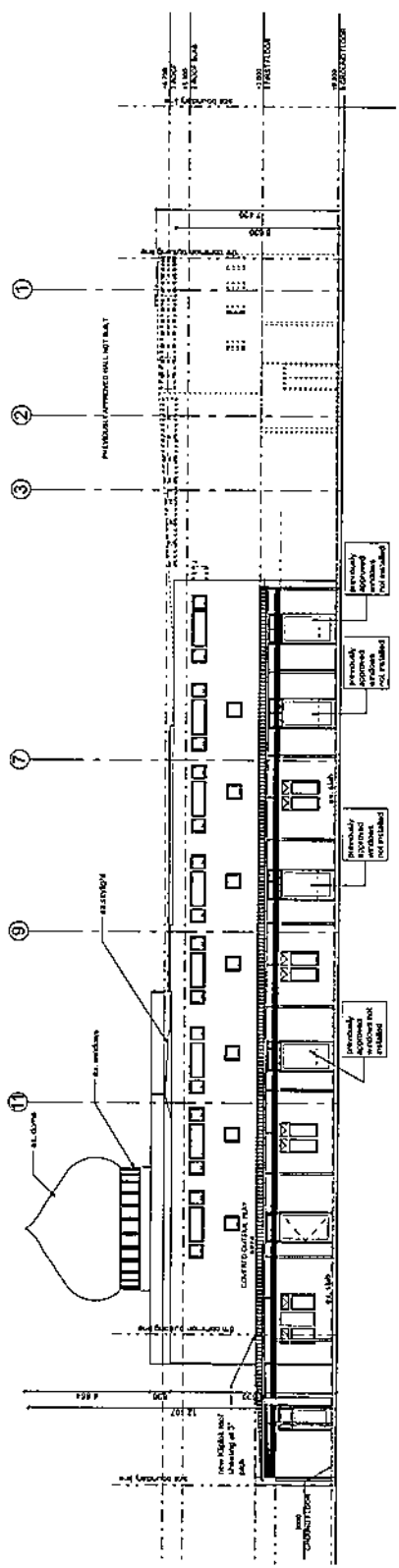
SITE PLAN
 SCALE 1:500

<p>676</p>	
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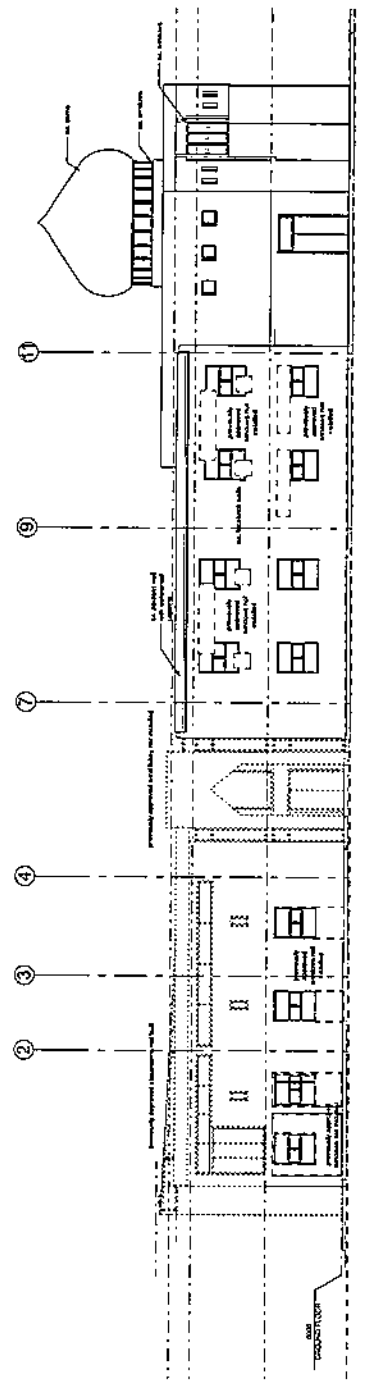
676

PROJECT: WEST ELEVATION
 DATE: 10/11/18
 DRAWN BY: [Signature]
 CHECKED BY: [Signature]
 SCALE: 1/8" = 1'-0"
 SHEET NO: 202
 PROJECT NO: 19921

- REVISIONS**
- 1. EXISTING WALL WITH WATERPROOF CURING
 - 2. NEW WALL WITH WATERPROOF CURING
 - 3. NEW WALL WITH WATERPROOF CURING
 - 4. NEW WALL WITH WATERPROOF CURING
 - 5. NEW WALL WITH WATERPROOF CURING
 - 6. NEW WALL WITH WATERPROOF CURING
 - 7. NEW WALL WITH WATERPROOF CURING
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 - 18. NEW WALL WITH WATERPROOF CURING
 - 19. NEW WALL WITH WATERPROOF CURING
 - 20. NEW WALL WITH WATERPROOF CURING



WEST ELEVATION
SCALE 1/8"




EAST ELEVATION
SCALE 1/8"

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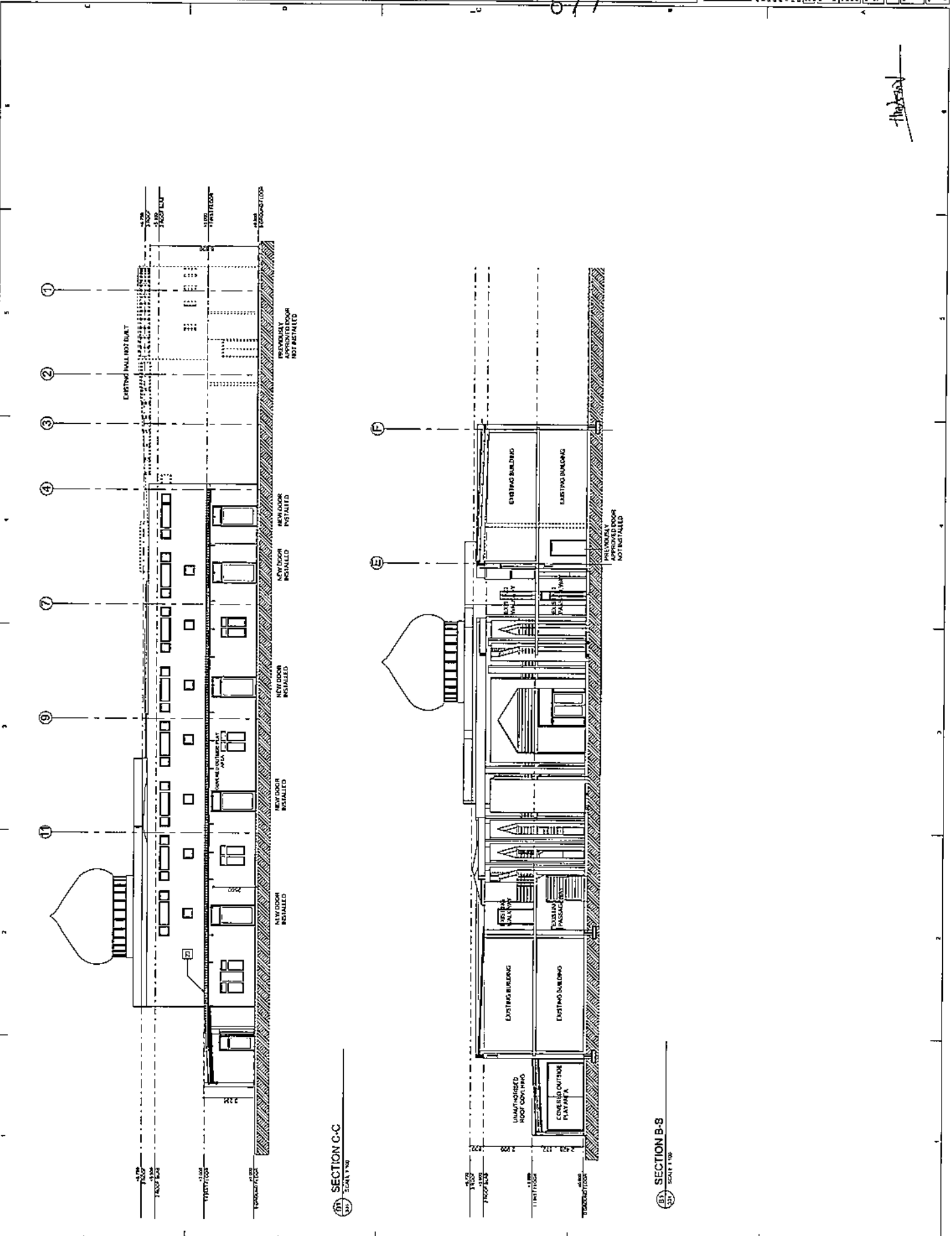
<p>1. All work shall be in accordance with the Council's Building Code of Practice (BCOP) and the Building Code of Australia (BCA).</p> <p>2. All work shall be in accordance with the Council's Building Code of Practice (BCOP) and the Building Code of Australia (BCA).</p> <p>3. All work shall be in accordance with the Council's Building Code of Practice (BCOP) and the Building Code of Australia (BCA).</p> <p>4. All work shall be in accordance with the Council's Building Code of Practice (BCOP) and the Building Code of Australia (BCA).</p> <p>5. All work shall be in accordance with the Council's Building Code of Practice (BCOP) and the Building Code of Australia (BCA).</p>

677



AGG ARCHITECTS & ENGINEERS PTY LTD
 11/11 BROADWAY
 SYDNEY NSW 2000
 PHONE: (02) 9231 1111
 FAX: (02) 9231 1111
 E-MAIL: info@agg.com.au

PROJECT NO.	9921
SECTION	SECTION B-B
DATE	JAN 2018
FOR COUNCIL	
A	C



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Land Use Management
Southern District Municipality
For Attention: Michelle Walker

678

25 September 2019

Dear Michelle,

HEATHFIELD MADRASSAH –MOTIVATION FOR APPLICATION FOR UNAUTHORIZED WORK AND ADMIN PENALTY.

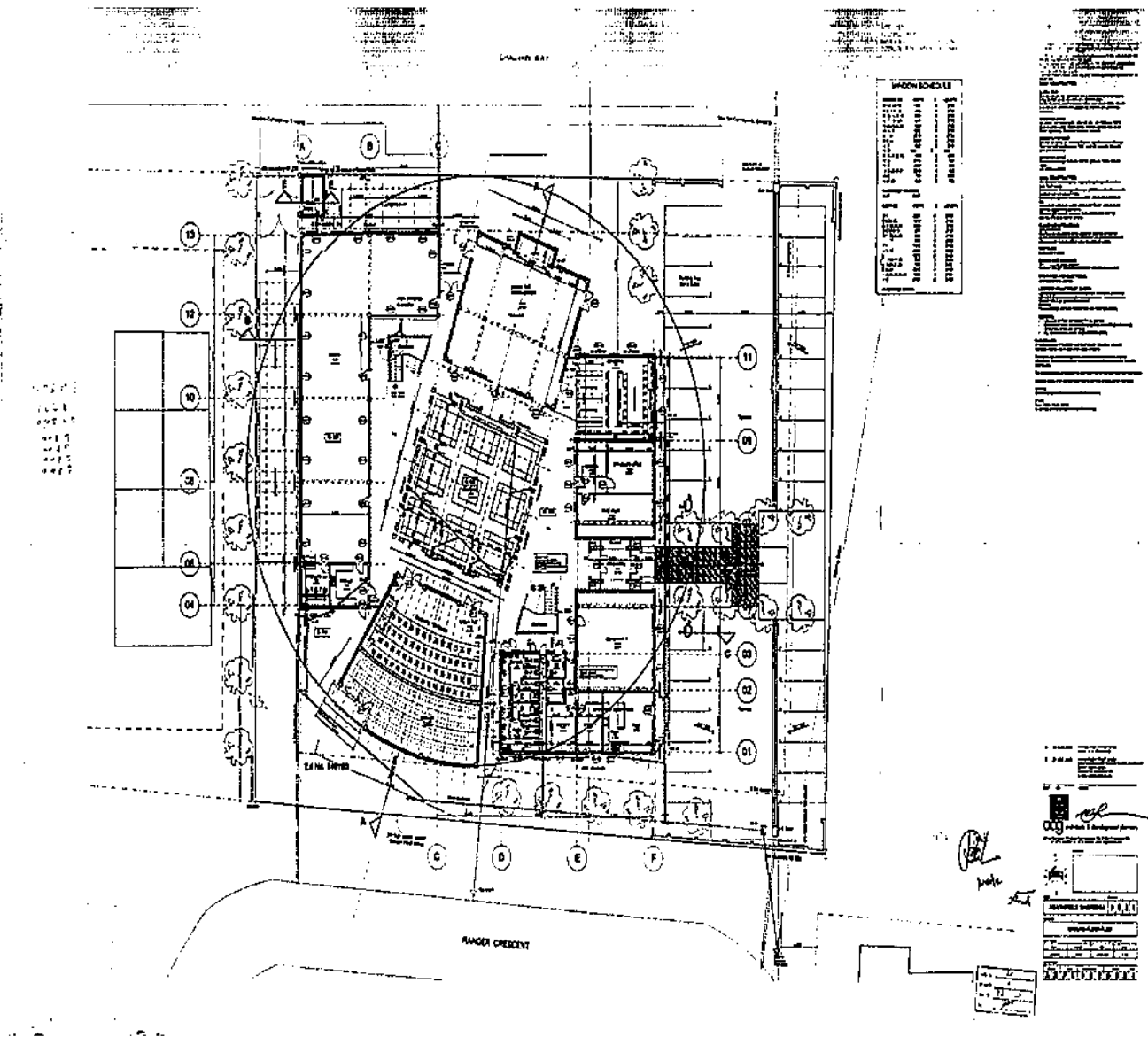


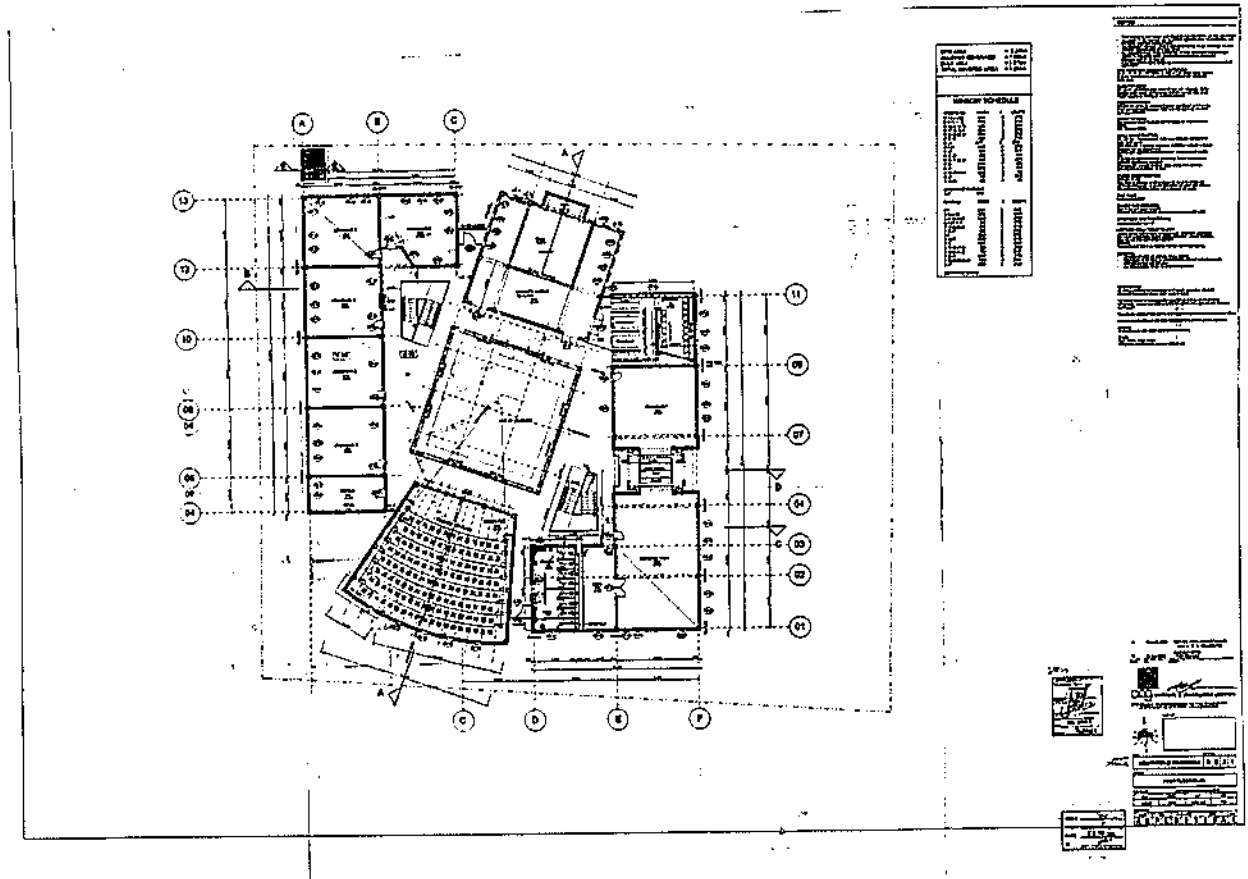
Image of the Healthfiled Madrassah (religious school)

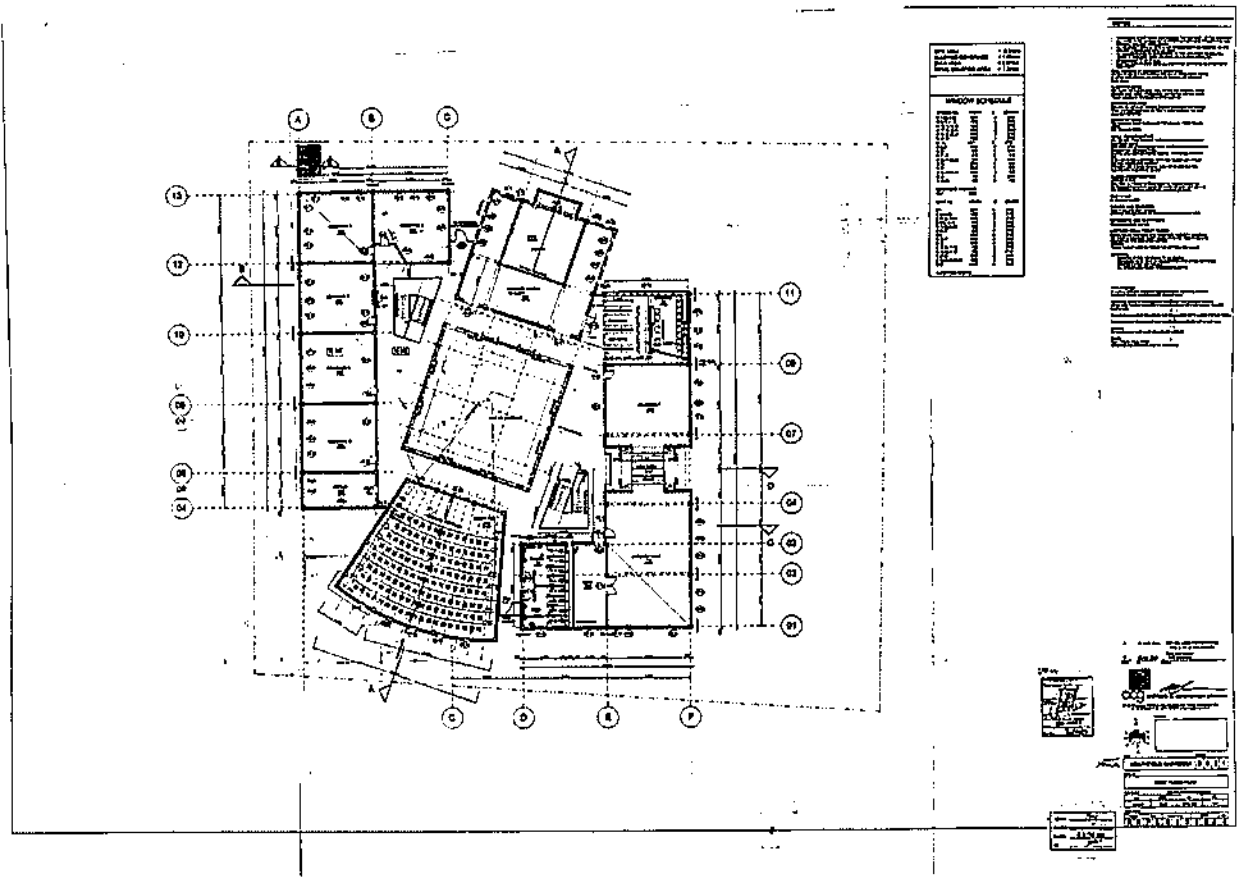


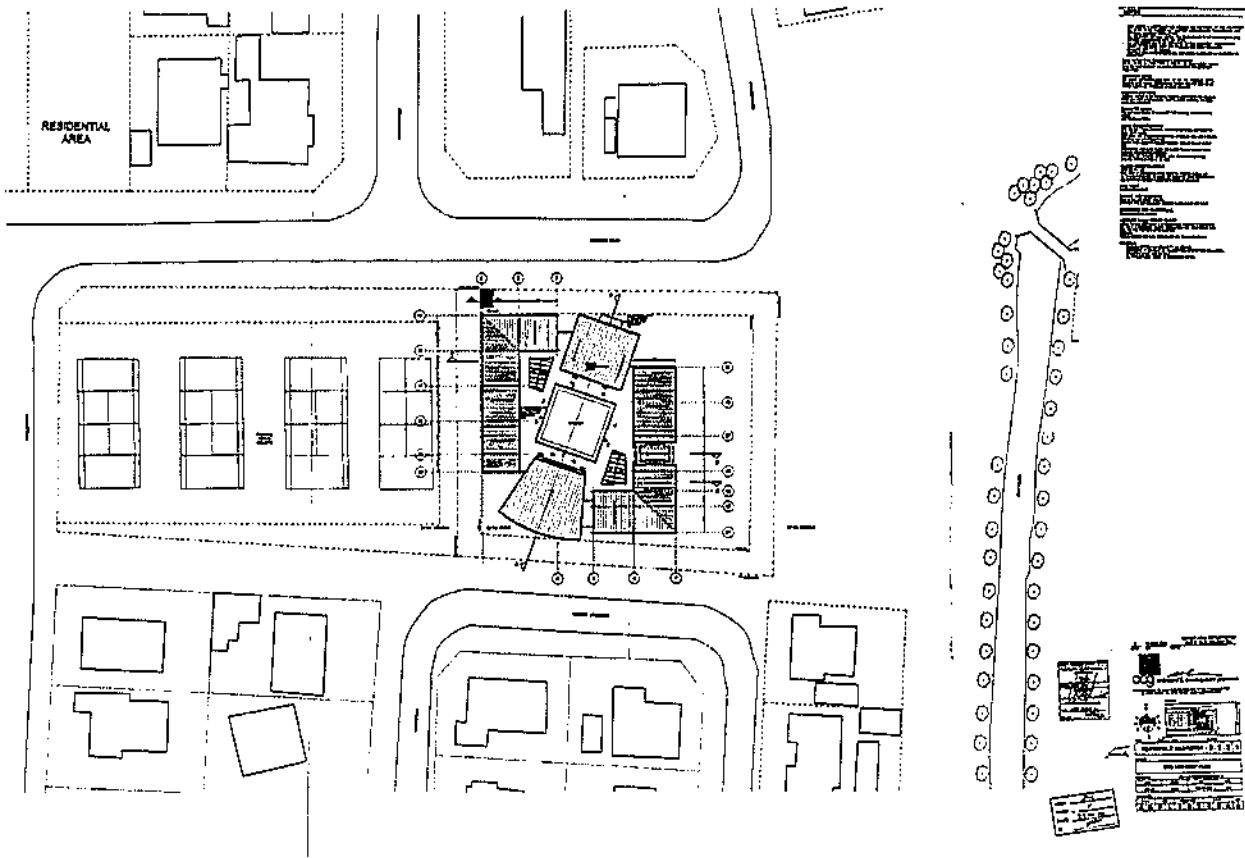
Property Description	Erf 16041
Property Address	1 Chadwin Street, Elfindale
Site extent	3245 sqm
Current Zoning	Single Residential with consent use
Current Land Use	Place of Instruction

The original plan was approved in 2005. See below plans.











The nature of the contravention

The extent of the land use contravention on the subject property is a minimum of 225sqm in total of the 3245sqm property.

The owner needed a covered play area for the crèche and installed a roof covering over the approved pergola area which faces the weather side. He was of the opinion that this would not need council approval since he only added a roof covering to an already approved pergola area.

When he submitted a departure plan for additional classrooms he was notified by yourself to apply for an administration penalty for the unauthorized roof covering which changed the use of the space from a pergola to a verandah.

Duration, gravity and extent of the contravention

The owner installed this covering in June 2013.

Although the contravention is over 14years, the extent of the contravention is small. The nature of the contravention is low key and the gravity is not to be considered serious. It does not impact negatively on the streetscape or adjacent property (tennis courts).

The actual cost of this unthorized work was R53 000.00.

The conduct of the person involved in the contravention

The owner of this property has not contravened any other By-Law before and was not aware that the covering of the pergola would be classified as a contravention.

The owner wishes to rectify the contravention and has voluntarily submitted this application.

Whether the unlawful conduct was stopped

The work is existing and was not stopped during construction.

The owner was informed that this was unauthorized work when he submitted plans in 2016 for additions and alterations.

Whether a person involved in the contravention has previously contravened this By- Law or a previous planning law.

The owner has not been involved in any previous contraventions of this By-Law or previous planning law that we are aware of.

Unathorised Land Use Calculation:

Land Use Contravention Calculation		
$\frac{\text{Total Municipal Value of Property}}{\text{Total Area of Property (m}^2\text{)}}$	\times	$\text{Total Unlawful Area (m}^2\text{) =}$

$$\frac{R\ 4\ 867\ 000.00}{3245\ m^2} \times 225\ m^2 = R\ 337\ 465.33$$



684

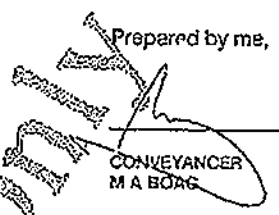
Your consideration to the above will be appreciated.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'H Asmal', written over a horizontal line.

H Asmal
for
ACG Architects and Development Planners

53
Fairbridge Arderne & Lawton Inc.
Attorneys, Notaries & Conveyancers
of Cape Town

Prepared by me,

CONVEYANCER
M A BOAG

SELLING
DUTY n.....
FORM
FEE n. 145.80

For Information Only
10/3/47

T 161621
2000

DEED OF TRANSFER

BE IT HEREBY MADE KNOWN THAT

LOUIS RUDOLPH LE ROUX

appeared before me, Registrar Of Deeds at Cape Town, he, the said Appearer, being duly
authorised by a Power of Attorney executed at PLUMSTEAD on 2 AUGUST 1999 by

SOUTH PENINSULA MUNICIPALITY

which Power, duly witnessed, has been exhibited to and lodged with me

AND THE APPEARER DECLARED that his said Principal had on 30 September 1998 truly and legally sold and that he, the said Appearer, in his capacity aforesaid, did by these presents cede and transfer, in full and free property, to

THE EXECUTIVE COMMITTEE FOR THE TIME BEING OF THE HEATHFIELD MADRESSA SOCIETY

or its Assigns

ERF 160741 PORTION OF ERF 149100 CAPE TOWN
SITUATE IN THE SOUTH PENINSULA MUNICIPALITY
CAPE DIVISION, WESTERN CAPE PROVINCE

IN EXTENT: 3245 (Three Thousand Two Hundred and Forty Five) Square Metres;

AS WILL APPEAR from Diagram SG No. 2569/1999

HELD BY Certificate of Consolidated Title No. T14923/1995

FOR INFORMATION ONLY
161611-2000

I. INsofar as concerns the figure A(x) on Diagram SG No. 2569/1999:-
SUBJECT to the conditions referred to in Certificate of Consolidated Title No. T14923/1995.

B. ---
C. ---

D. SUBJECT FURTHER to the special conditions contained in Deed of Transfer No. T26226/1965 imposed by the Administrator of the Province of the Cape of Good Hope in terms of Ordinance No. 33 of 1934 when approving of Puntis Township:-

The owner of this erf shall, without compensation be obliged to allow electricity cables and/or wires and main and/or other waterpipes and the sewage and drainage, including stormwater of any other erf or erven inside or outside this township to be conveyed across this erf, if deemed necessary by the local authority and in such manner and position as may from time to time be reasonably required. This shall include the right of access to the erf at any reasonable time in order to construct, maintain, alter, remove or inspect any sewer, manhole, channel, conduit or other works pertaining thereto.

2. The owner of this erf shall be obliged, without compensation, to receive such material or permit such excavation on the erf, as may be required to allow use of the full width of the street and provide a safe and proper slope to its bank owing to difference between the levels of the street as finally constructed and the erf unless he elects to build retaining walls to the satisfaction of and within a period to be determined by the local authority.

G

3.

This erf shall be used for such purposes as are permitted by the Town Planning Scheme of the Local Authority and subject to the conditions and restrictions stipulated by the scheme.

II. INSOFAR as concerns the figure yBCDX on Diagram SG No. 2569/1999-

ino Erf Slag (PTN of Slag) HEATHFIELD

SUBJECT to the conditions referred to in Certificate of Registered Title No. T39726/1965.

B. SUBJECT FURTHER to the Servitude endorsement dated 8th June 1933 in Deed of Transfer No. T7849/1926 relating to a right of way, which endorsement reads as follows:-

"By transfer No. 3233 d.d. 8/6/33 the owner of the properties thereby conveyed is entitled to use the 'right of way' running partly over the property hereby conveyed by Para 2 and remainder of property conveyed by Para 11 of Trfr. 8533/1927 as will more fully appear on reference to the said Transfer and Diagram."

C. SUBJECT FURTHER to the conditions contained in Deed of Transfer No. T12825/1968 imposed by the Administrator of the Province of the Cape of Good Hope in terms of Ordinance No. 33 of 1934 when approving the establishment of the said ELFINDALE TOWNSHIP, namely:

1. The owner of this erf shall, without compensation be obliged to allow electricity cables and/or wires and main and/or other waterpipes and the sewage and drainage, including stormwater of any other erf or even inside or outside this township to be conveyed across this erf, if deemed necessary by the local authority and in such manner and position as may from time to time be reasonably required. This shall include the right of access to the erf at any reasonable time in order to construct, maintain, alter, remove or inspect any sewer, manhole, channel, conduit or other works pertaining thereto.

2. The owner of this erf shall be obliged, without compensation, to receive such material or permit such excavation on the erf, as may be required to allow use of the full width of the street and provide a safe and proper slope to its bank owing to difference between the levels of the street as finally constructed and the erf unless he elects to build retaining walls to the satisfaction of and within a period to be determined by the local authority.

3. This erf shall be used for such purposes as are permitted by the Town Planning Scheme of the Local Authority and subject to the conditions and restrictions stipulated by the scheme.

III. INSOFAR as concerns the whole of the property on Diagram SG No. 2569/1999-

SUBJECT FURTHER to the following conditions imposed by the South Peninsula Municipality for its benefit:-

The line BC on Diagram SG No. 2569/1999 represents the Eastern Boundary of a sewer servitude area 4,00 metres wide ("the servitude area") to protect the underground foul sewer, which servitude shall be subject to the following conditions:-

1. No buildings or structures shall be erected within or over the servitude area. A boundary wall crossing the area at right angles shall be permitted subject to it being done under the supervision of and plans thereof being submitted for approval to the Transferor's Executive Director: Engineering Services.

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2. No excavations or filling shall be carried out within the servitude area without prior consent of the Transferor's Executive Director Engineering Services.
3. No pegs or stakes to be driven into the ground in the vicinity of the foul sewer.
4. No mechanical plant is to be used within 8 metres of the underground foul sewer.
5. No plant or material is to be stored in the servitude area.
6. The transferee is liable for the cost of repairing any damage caused to the existing underground foul sewer in the servitude area.
7. Before any excavations take place near the underground foul sewer, contact must be made with the Transferor's Executive Director Engineering Services.
8. The Transferor shall have the right of access at all times for the purpose of maintaining and repairing the underground foul sewer and to lay or install additional services.

B. The land and building/s erected thereon shall not be used for the purposes of a Mosque.

C. The Transferee or its Successors-in-Title shall only use the said land for the erection of buildings for use as a Madressa, and for purposes ancillary thereto, which purposes shall include a creche and for no other purpose whatsoever.

D. Should the Transferee or its Successors-in-Title to the land use the buildings erected for a Madressa and purposes ancillary thereto, for any other purpose whatsoever, or erect buildings for any other purpose except as set out above, the said land shall revert to the Municipality without any compensation being payable by the Municipality to the Transferee or its Successors-in-Title for any buildings, works or improvements which may be erected thereon. The cost of such transfer shall be borne by the then owner.

Prop manage.

E. The Transferee of this erf shall without compensation be obliged to allow gas mains, electricity, telephone and television cables and/or wires and main and/or other waterpipes and the sewage and drainage, including stormwater of any other erf or erf to be conveyed across this erf and surface installations such as main-substations, meter kiosks and service pillars to be installed thereon if deemed necessary by the local authority. This shall include the right of access to the Property at any reasonable time for the purpose of constructing, altering, removing or inspecting any works connected with the above.

FOR

G

Wherefore the said Appearer, renouncing all right and title

TRANSFEROR

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 Transferee or its Assigns now are and henceforth shall be entitled thereto, conformably to local custom; the State, however, reserving its rights; - and finally acknowledging the purchase price to be the sum of R140 000,00 (One Hundred and Forty Thousand Rands);

IN WITNESS whereof I, the said Registrar, together with the Appearer, q.c., have subscribed to these presents, and have caused the Seal of Office to be affixed thereto.

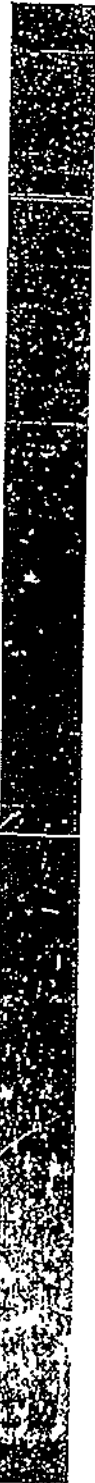
THUS DONE and executed at the Office of the Registrar of Deeds in Cape Town, Province of the Western Cape, on 3 March 2016 1600.

q.c.

In my presence

Registrar of Deeds

For Informant



Plumstead Office
3 Victoria Road
Plumstead 7800
Private Bag X5, Plumstead 7801
Ask for: Mr R Brice
Tel: 021-710-9308
Fax: 021-710-8283

Plumstead Office
3 Victoria Road
Plumstead 7800
Private Bag X5, Plumstead 7801
Cela: Mnu R Brice
Umnxeba: 021-710-9308
Ifeksi: 021-710-8283

Plumstead Kantoor
Victoriaweg
Plumstead 7800
Privaatsak X5, Plumstead 7801
Vra vir: Mnr R Brice
Tel: 021-710-9308
Faks: 021-710-8283

E-mail: Roger.Brice@capetown.gov.za
Website: <http://www.capetown.gov.za>
Ref: LUM/00/160741 (Vol.3) (Application No: 183905)

Filename: \\PLM-CAMPUS-016\Home\$\Rbrice\My Documents\Novel\160741 Elfindale Final Notification Letter.doc

690

STRATEGY & PLANNING — Department : Planning and Building Development Management

26 May 2010

REGISTERED MAIL

Heathfield Madressa Society
P O Box 42
BERGVLIET
7864

Attention: Dr A. Harneker (Chairman)

FINAL NOTIFICATION LETTER

Dear Sir / Madam

APPLICATION FOR AMENDMENT OF A CONDITION OF APPROVAL: ERF 160741 CAPE TOWN AT ELFINDALE, CHADWIN ROAD

My previous correspondence dated 7 April 2010 and 3 May 2010 refers.

I wish to advise that the appeal process has now been concluded and that the decision as per Council's previous letter of approval is therefore now considered final. Accordingly, you may now act on the decision, subject to compliance with the conditions detailed in my letter dated 7 April 2010.

Yours faithfully



[R. Brice]

for **DIRECTOR : PLANNING & BUILDING DEVELOPMENT MANAGEMENT**

cc Director : Valuations



CITY OF CAPE TOWN | ISIXEKO SASEKAPA | STAD KAAPSTAD

Plumstead Office
3 Victoria Road
Plumstead 7800
Private Bag X5, Plumstead 7801
Ask for: Mr R Brice
Tel: 021-710-9308
Fax: 021-710-8283

Plumstead Office
3 Victoria Road
Plumstead 7800
Private Bag X5, Plumstead 7801
Cela: Mnr R Brice
Umnxeba: 021-710-9308
Ileksi: 021-710-8283

Plumstead Kantoor
Victoriaweg
Plumstead 7800
Privaatsak X5, Plumstead 7801
Vra vir: Mnr R Brice
Tel: 021-710-9308
Faks: 021-710-8283

E-mail: Roger.Brice@capetown.gov.za

Website: <http://www.capetown.gov.za>

Ref: LUM/00/160741 (Vol.3) (Application No: 183905)

Filename: \\PLM-CAMPUS-016\Home\$\Rbrice\My Documents\Novell\160741 Elfindale. App MSA Appeal Right.doc

691

STRATEGY & PLANNING — Department : Planning and Building Development Management

7 April 2010

Application no: 183905

REGISTERED MAIL

Heathfield Madressa Society
P O Box 42
BERGVLIET
7864

Attention: Dr. A. Harneker (Chairman)

Dear Sir/Madam

APPLICATION FOR AMENDMENT OF A CONDITION OF APPROVAL: ERF 160741 CAPE TOWN AT ELFINDALE, CHADWIN ROAD

Your application in the above regard, received on 28 August 2009, refers.

The delegated official on 10 March 2010 **approved** in terms of Section 42 of the land Use Planning Ordinance No 15 of 1985, your application for :

Amendment of a condition , as set out in the **attached** Annexure A.

Copies of the approved Site Development diagrams of the property (Approved by Council on 19/11/04) are also **attached** for your information.

In terms of Section 62 of the Local Government Municipal Systems Act, No 32 of 2000, you may appeal to the City Manager against the above Council decision (including any conditions imposed in case of approval) by giving written notice of such appeal, in which case you may upon request be given the opportunity to appear in person before the Appeal Authority to state your case. A detailed motivated appeal with reasons therefore (and not only the intention to appeal), clearly stating in terms of which legislation it is made, should be directed to and received by Pumla Stofile, Executive Committee Services, Private Bag X9181, Cape Town, 8000, or if hand delivered, to 5th floor, Podium Block, Civic Centre, 12 Hertzog Boulevard, Cape Town or if faxed, to 021 418 9009, **within 21 days** of the date of registration at the Post Office of this notification letter (with such registration day not included in the appeal period, provided that where the last day for lodging an appeal falls either on a Sunday or public holiday, it shall be deemed to be the next working day thereafter).

Notwithstanding the above, kindly note, you are not permitted to submit a revised proposal as part of such an appeal. Should this be the case, your submission will not be regarded as an appeal, but rather a new application which should be submitted in the normal manner, as only the above decision can be appealed at this stage.

Should you take up this right of appeal in terms of Section 62 of the Local Government Municipal Systems Act, No 32 of 2000, kindly complete the **attached** questionnaire and submit it together

with your appeal. Also note, appellants are not permitted to canvass the City Manager or members of Council's Planning and General Appeals Committee before or after the matter is heard. Should no appeal be received within such appeal period, or upon conclusion of this appeal process, you will be advised of a further right of appeal in terms of Section 44 of Land Use Planning Ordinance, No 15 of 1985 in due course.

Kindly note the above Council decision is suspended until such time as the period for lodging appeals has lapsed, any appeal has been finalised and you have been advised accordingly.

Yours faithfully



for **DIRECTOR : PLANNING & BUILDING DEVELOPMENT MANAGEMENT**

TO BE COMPLETED BY APPLICANT / OWNER

DECLARATION

I, (full name), properly authorised in such respect, herewith wish to acknowledge receipt of this decision letter. I confirm that I accept the decision, conditions of approval and requirements provided therein and do not wish to appeal against this outcome in terms of the Local Government Systems Act, Act 32 of 2000 or the Land Use Planning Ordinance, Ordinance 15 of 1985. As such, I thus hereby relinquish any further right to appeal in this regard.

.....
.....

OWNER

Date

In this Annexure:

"Council" means the City of Cape Town

"The Owner" means the owner of the property

"The Property" means **ERF 160741 CAPE TOWN, CHADWIN ROAD**

"Scheme Regulations" has the meaning assigned thereto by Ordinance 15 of 1985

APPLICATION NUMBER: 183905

FILE REFERENCE: LUM/00/160741

1. **AMENDMENT OF CONDITION (IMPOSED IN TERMS OF COUNCIL'S LETTER DATED 2004-11-09) APPROVED IN TERMS OF SECTION 42 OF THE LAND USE PLANNING ORDINANCE NO 15 OF 1985** :(Strikethrough indicates deleted wording and underlining indicates new wording)
- 1.4 The Hours of operation for the Crèche shall be 07h00 to ~~14h00~~ 18h00 Mondays to Fridays only. The Hours of operation for the Madressa Classes shall be 16h00 to 18h00 Monday to Fridays and from 08h00 to 12h00 on Saturday mornings only. The Hours of operation for the evening Madressa Classes shall be 19h00 to 21h00 Monday to Fridays only.

ACTION MINUTE

694

SPATIAL PLANNING, ENVIRONMENT AND LAND USE MANAGEMENT
COMMITTEE

20 APRIL 2004

<p>SPEL11/04/04</p> <p>14:00</p>	<p>CONSENT : ERF 160741, CHADWIN ROAD, HEATHFIELD / ISICELO SEMVUME : KWISIZA 160741, KWINDLELA ICHADWIN, EHEATHFIELD / TOESTEMMING : ERF 160741, CHADWINWEG, HEATHFIELD LUM/00/160741/MJC</p> <p>On 2004-03-02 the Committee adjourned consideration of the matter as interviews had been requested.</p> <p>RESOLVED</p> <p>That the application BE APPROVED as set out in the recommendation from Sub-Council 20 ; for the reasons as set out in the report dated October 27, 2003.</p> <p>NOTE : The Committee agreed with the recommended amendment of the Sub-Council.</p>	<p>W-73</p> <p>Syré</p> <p>S-C 20</p>
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“Adopted by ordinary resolution”

SPATIAL PLANNING ENVIRONMENTAL AND
LAND USE MANAGEMENT COMMITTEE

695

20SUB20\11\03

APPLICATION FOR CONSENT IN TERMS OF SECTION 15 OF THE
MUNICIPALITY OF CAPE TOWN ZONING SCHEME REGULATIONS TO PERMIT
A MADRESSA AS A PLACE OF WORSHIP AND A CRECHE AS A PLACE OF
INSTRUCTION, ERF 160741 CAPE TOWN AT CHADWIN ROAD, HEATHFIELD

AANSOEK OM TOESTEMMING INGEVOLGE ARTIKEL 15 VAN DIE
SONERINGSKEMAREGULASIES VAN DIE MUNISIPALITEIT VAN
KAAPSTAD OM 'N MADRESSA AS PLEK VAN AANBIDDING EN 'N CRECHE
AS 'N PLEK VAN ONDERRIG TOE TE LAAT, ERF 160741 KAAPSTAD TE
CHADWINWEG, HEATHFIELD

ISICELO SEMVUME NGOKWEMIQATHANGO YECANDELO 15 LEMIGAQO
YEENKQUBO ZOCANDO ZOMASIPALA WASEKAPA UKUVUMELA
IMADRESSA NJENGENDAWO YOKUKHONZELA KUNYE NEKRITSHI
NJENGENDAWO YOKUFUNDISELA KWISIZA 160741 EPAPA
KWINDLELA ICHADWIN, EHEATHFIELD

(LUM/00/160741)
GRAHAME SHELVER
710 8179

The applicant Mr Harneker and the objectors Messrs McGregor and Mr Davids
(Princess Vlei Civic Association) were interviewed.

DISCUSSION ENSUED

**RECOMMENDED TO THE SPATIAL PLANNING ENVIRONMENTAL AND
LAND USE MANAGEMENT COMMITTEE**

- (a) That the recommendation of the Planning Department be supported.
- (b) That the application for Council's consent in terms of Section 15 (3) of the Municipality of Cape Town Zoning Scheme Regulations to permit a Madressa as a place of Worship and a Creche as a Place of Instruction **BE APPROVED** subject to the conditions contained in the attached Annexure A: and subject to the following deletion in bold:

1.4 "The premises may only be used for prayer in direct association with or as part of the curriculum of the madressa activities".

- (c) That all interested and affected parties be notified of the decision.

It was NOTED that Councillor Syre supported the application, but not the removal of Condition 1.4.

"Adopted by ordinary resolution"

ANNEXURE A

File Reference : LUM/00/75709

In this annexure:
"Council" means the City of Cape Town.
"the Owner" means the registered owner of the property.
"the property" means ERF 160741 Cape Town
"scheme regulations" has the meaning assigned thereto by Ordinance 15 of 1985.

CONDITIONS IMPOSED IN TERMS OF SECTION 10 OF THE MUNICIPALITY OF CAPE TOWN ZONING SCHEME REGULATIONS IN RESPECT OF THE PROPERTY CONCERNED

1. **LAND USE**
- 1.1 The subject property may only be used for the purposes of a Madressa and a Creche.
- 1.2 The land and buildings erected thereon shall not be used for the purposes of a mosque.
- 1.3 No amplification of calls to prayer will be permitted.
- ~~1.4 The premises may only be used for prayer in direct association with or as part of the curriculum of the madressa activities.~~
- 1.5 The Hours of operation for the Creche shall be 07h00 to 14h00 Mondays to Fridays only.
The Hours of operation for the Madressa Classes shall be 16h00 to 18h00 Monday to Fridays and from 08h00 to 12h00 on Saturday Mornings only.
The Hours of operation for the evening Madressa Classes shall be 19h00 to 21h00 Monday to Fridays only.
- 1.6 A maximum of 40 children only shall be accommodated for by the creche facility.
- 1.7 A maximum of 100 children only shall be accommodated for by the Madressa facility.
- 1.8 Prior to submission of building plans, the applicant shall submit to Council a Site Development Plan to the satisfaction and approval of the Executive Director : Urban & Environmental Services (SPA), showing:
 - location and orientation of all proposed buildings;
 - the proposed outdoor play areas for the creche ;
 - provision for and location of all on-site parking bays;
 - provision for and location of a stop and drop facility ;
 - access points;
 - architectural details
 - landscaping, including tree planting on the property and;
 - all proposed boundary walls/ fencing.
- 1.9 No building on the property shall exceed two (2) stories in height.

Adopted by ordinary resolution

2. HEALTH

- 2.1 The use of amplified equipment from the property is not permitted.
- 2.2 The Director : City Health reserves the right to call for the submission of a Noise Impact Assessment report, compiled and carried out by an accredited Acoustic Engineer or Consultant. Such assessment will be to the cost of the applicant and is to be based on an acceptable series of readings to the satisfaction of the Director : City Health. In addition, subject to the outcome of the aforementioned report, the right is reserved to call for further restrictive requirements, should it be deemed necessary.
- 2.3 Further to this, should the need arise, a Noise Management Plan is to be submitted for approval of the Director : City Health within thirty (30) days of the land use approval being granted which must comply with the Environmental Conservation Act (Act 73 of 1989) and is to include recommendations for the satisfactory management of noise levels and impacts generated by the proposed use.
- 2.4 The Director : City Health reserves the right to call for any further requirements should the need arise.

3. TRAFFIC, ACCESS AND PARKING

- 3.1 No pedestrian or vehicular access from Ranger Crescent will be permitted. All access points are to be located on the Chadwin Road property boundary.
- 3.2 Thirty two (32) on-site parking bays are to be provided.

4. ENGINEERING SERVICES

The applicant shall pay to Council, prior to the approval of building plans, a development contribution in respect of bulk engineering services. Such contribution is to be determined by Council in accordance with the provisions of Section 42(2) of the Land Use Planning Ordinance 15 of 1985.

5. GENERAL

The owner shall be responsible for all costs necessary to comply with the above conditions unless otherwise specified.

“Adopted by ordinary resolution”

NOTES:

1. THE ARCHITECT HAS CONDUCTED VISUAL IMPACT ASSESSMENT AND HAS CONSIDERED THE VISUAL IMPACT OF THE PROPOSED DEVELOPMENT ON THE SURROUNDING ENVIRONMENT. THE VISUAL IMPACT ASSESSMENT HAS TAKEN INTO ACCOUNT THE PROPOSED DEVELOPMENT'S LOCATION, DESIGN, AND SCALE, AS WELL AS THE SURROUNDING ENVIRONMENT'S CHARACTERISTICS. THE VISUAL IMPACT ASSESSMENT HAS CONCLUDED THAT THE PROPOSED DEVELOPMENT IS VISUALLY COMPATIBLE WITH THE SURROUNDING ENVIRONMENT AND WILL NOT CAUSE UNDESIRABLE VISUAL IMPACTS.
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CITY OF CAPE TOWN
 South Peninsula Administration
 Town Planning
APPROVED
Debbie
 for CITY MANAGER
 DATE

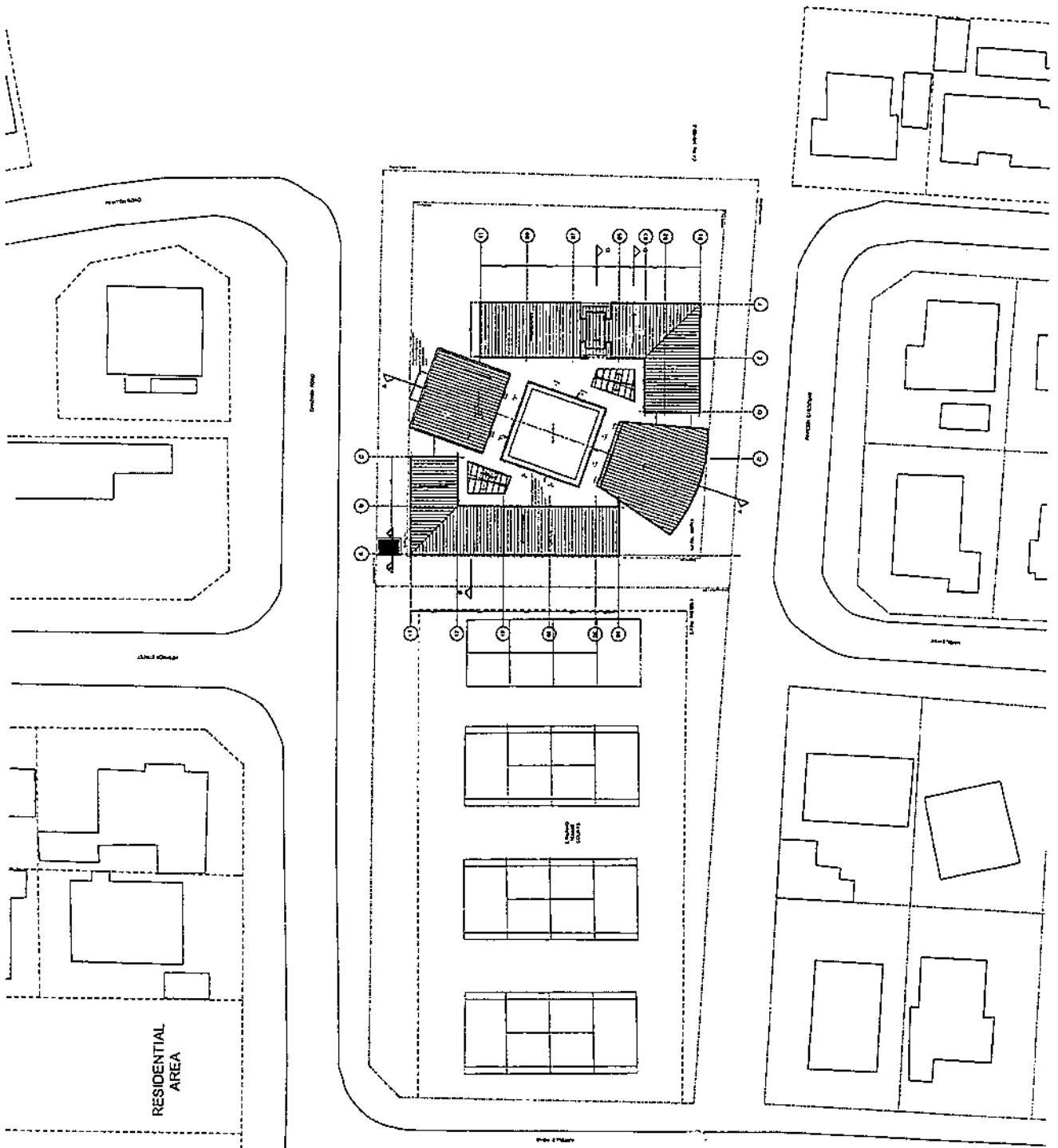
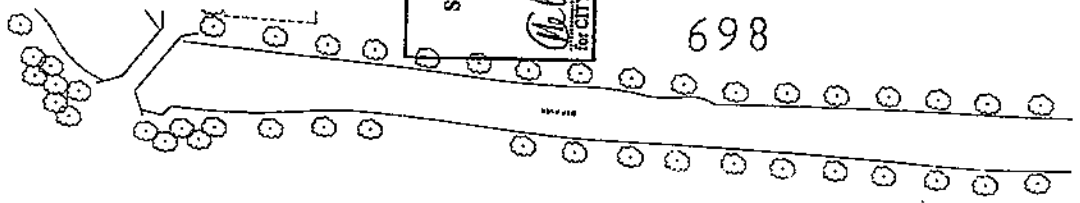
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architects & development planners



HEATHFIELD ADDRESSA	9921
SITE AND ROOF PLAN	
LANDLORD	NAME
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APPROVED	DATE
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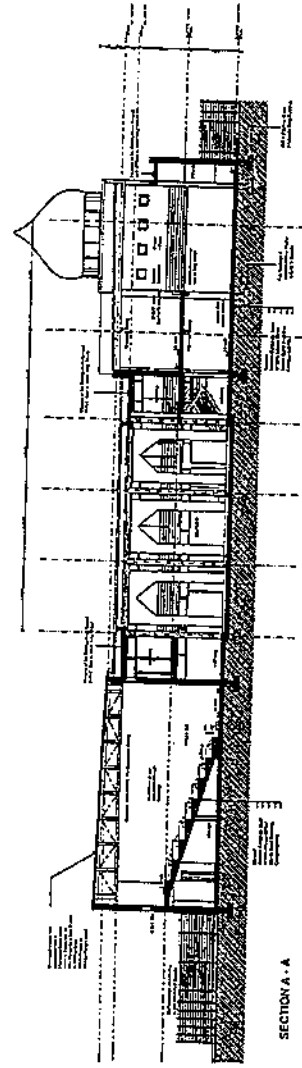


RESIDENTIAL AREA

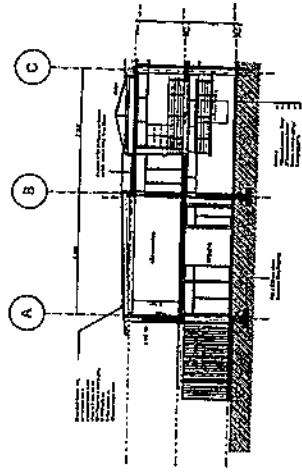
NOTES

- 1. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
- 2. ALL MATERIALS TO BE USED SHALL BE APPROVED BY THE ARCHITECT.
- 3. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE CITY OF CAPE TOWN TOWN PLANNING ACT AND REGULATIONS.
- 4. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE NATIONAL BUILDING REGULATIONS AND STANDARDS.
- 5. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE NATIONAL ELECTRICAL REGULATIONS AND STANDARDS.
- 6. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE NATIONAL WATER SUPPLY REGULATIONS AND STANDARDS.
- 7. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE NATIONAL SANITATION REGULATIONS AND STANDARDS.
- 8. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE NATIONAL FIRE REGULATIONS AND STANDARDS.
- 9. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE NATIONAL SAFETY REGULATIONS AND STANDARDS.
- 10. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE NATIONAL ENVIRONMENTAL REGULATIONS AND STANDARDS.
- 11. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE NATIONAL HEALTH REGULATIONS AND STANDARDS.
- 12. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE NATIONAL EDUCATION REGULATIONS AND STANDARDS.
- 13. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE NATIONAL CULTURAL REGULATIONS AND STANDARDS.
- 14. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE NATIONAL RECREATION REGULATIONS AND STANDARDS.
- 15. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE NATIONAL TOURISM REGULATIONS AND STANDARDS.
- 16. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE NATIONAL TRANSPORT REGULATIONS AND STANDARDS.
- 17. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE NATIONAL COMMUNICATIONS REGULATIONS AND STANDARDS.
- 18. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE NATIONAL ENERGY REGULATIONS AND STANDARDS.
- 19. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE NATIONAL INFORMATION REGULATIONS AND STANDARDS.
- 20. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE NATIONAL SCIENCE REGULATIONS AND STANDARDS.
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- 22. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE NATIONAL ARTS REGULATIONS AND STANDARDS.
- 23. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE NATIONAL SPORTS REGULATIONS AND STANDARDS.
- 24. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE NATIONAL MEDIA REGULATIONS AND STANDARDS.
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- 27. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE NATIONAL LEGAL REGULATIONS AND STANDARDS.
- 28. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE NATIONAL POLITICAL REGULATIONS AND STANDARDS.
- 29. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE NATIONAL SOCIAL REGULATIONS AND STANDARDS.
- 30. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE NATIONAL ENVIRONMENTAL REGULATIONS AND STANDARDS.

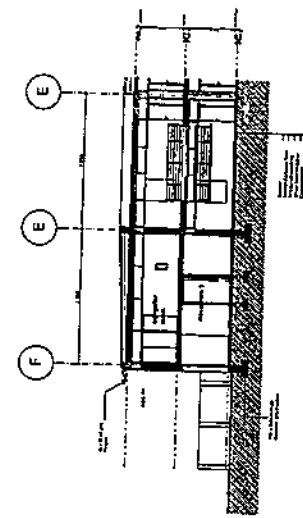
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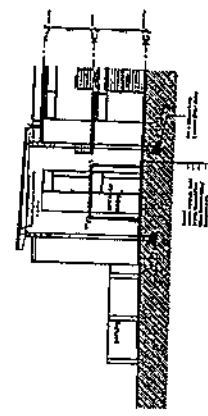
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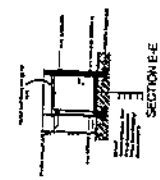
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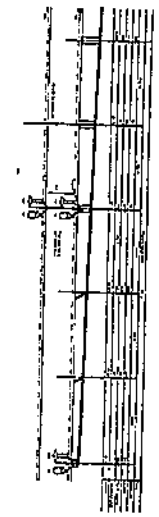
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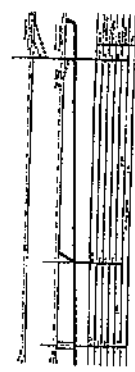
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SECTION E-E



DRAINAGE SECTION 01



DRAINAGE SECTION 02

DRAINAGE NOTES

1. ALL DRAINAGE SYSTEMS SHALL BE DESIGNED TO ACCORDANCE WITH THE NATIONAL BUILDING REGULATIONS AND STANDARDS.
2. ALL DRAINAGE SYSTEMS SHALL BE DESIGNED TO ACCORDANCE WITH THE NATIONAL ELECTRICAL REGULATIONS AND STANDARDS.
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26. ALL DRAINAGE SYSTEMS SHALL BE DESIGNED TO ACCORDANCE WITH THE NATIONAL ENVIRONMENTAL REGULATIONS AND STANDARDS.

CITY OF CAPE TOWN
 South Peninsula Administration
 Town Planning
APPROVED
[Signature]
 for CITY MANAGER

REFUSE AREA REPOSITIONED AND C.W.C. RELOCATED



HEATHFIELD ADDRESSA		9	9	2	1
SECTIONS AND DRAINAGE					
SECTION	DATE	REVISION	BY	DATE	NO.
AIRPL 0014 0004					

