

CITY OF CAPE TOWN  
ISIXEKO SASEKAPA  
STAD KAAPSTAD

**REPORT TO: MUNICIPAL PLANNING TRIBUNAL**

**ITEM NO MPTNW160822**

**WARD 53: APPLICATION FOR PERMANENT DEPARTURES AND CITY APPROVAL IN TERMS OF THE MUNICIPAL PLANNING BY-LAW, 2015: ERF 704, 78 FOREST DRIVE SERVICE ROAD, PINELANDS**

Case ID	70528110
Case Officer	Siyamthanda Mayinjana
Case Officer phone number	021 360 1171
District	Table Bay
Ward	53
Ward Councillor	Riad Davids
Report date	July 2022
<b>Acceptance date</b>	25/01/2021
<b>Applicable legislation</b>	Post 2019 MPBL amendment

**1. EXECUTIVE SUMMARY**

Property description	Erf 704, Pinelands		
Property address	78 Forest Drive Service Road, Pinelands		
Application components / description	<p>Proposal is for additions and alterations to a dwelling house. The proposal triggers the following applications.</p> <p><b>Departure</b></p> <ul style="list-style-type: none"> <li>Item 22(d): To permit the building, after the first 12m from the street boundary, to be setback 1.6m in lieu of 3.0m from the eastern common boundary.</li> <li>Item 22(d): To permit the building, after the first 12m from the street boundary, to be setback 1.8m in lieu of 3.0m from the eastern common boundary.</li> <li>Item 22(c)(ii): To permit portions of a building, after the first 12m from the street boundary within 3m from the common boundary, to be 5.1m in lieu of 4.0m in height from existing ground level to top of roof.</li> </ul> <p><b>City's approval</b></p> <ul style="list-style-type: none"> <li>Item 162(1): To permit building work within a Heritage Protection Overlay Zone.</li> </ul>		
Site extent	1 228m <sup>2</sup>		
Current zoning	Single Residential (SR1)		
Current land use	Dwelling house		
Overlay zone applicable	Heritage Protection Overlay Zone (HPOZ)		
PHRA or SAHRA heritage	One		
Public participation outcome summary	Notice to surrounding neighbours, ward councilor and Pinelands Residents and Ratepayers Association. One (1) objection received from the Pinelands Residents and Ratepayers Association.		
<b>Recommended decision</b>			
Approval	Refusal	Approval in part & Refusal in part	✓

## 2. BACKGROUND FACTS

- An application for determination for an administrative penalty (case ID: 70500560) was finalised.

## 3. SUMMARY OF APPLICANT'S MOTIVATION

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

- The proposal is for an as built entertainment/braai room and play room and alterations to the existing dwelling house and garage.
- The property is located within a heritage protection overlay zone.
- The proposal triggers permanent departure applications.
- The entertainment room is not visible from the road.
- The roof is tiled to match the existing dwelling and garage providing overall continuity of design.
- The oak tree was removed and a fan tree planted.

- The previous approved plan simply indicated the entrance and now has been enhanced with a sandstone rock cladding. This cladding has been used on other houses in the Pinelands area and the adoption of this feature does not entirely detract from the overall cultural aesthetics of Pinelands.
- The proposal is compatible with the surrounding built form and land uses.
- No traffic impacts are triggered.

#### 4. PUBLIC PARTICIPATION

		Applicable	Dates / Comments
<b>Advertising</b>	Notice in the media (s81)		
	Notice to a person (s82)	✓	15/11/2021
	Notice to Community organization (s83)	✓	15/11/2021
	Notice to Ward Councillor (s83)	✓	15/11/2021
	Notice of no objection (s84)		
	Notice to Provincial Government (s86)		
	Notice to an Organ of State (s87)		
	Public meeting		
	On-site display		
<b>Outcome</b>	Objections	✓	One (1) objection received
	Objection petition		
	Support / No objection		
	Comments		
	Ward Councillor response		

#### Summary of objections / comments received

- 4.1. Objections / comments / support received in respect of the application (see Annexure E) may be summarised as follows:

Objection	Applicant's response	Departmental Assessment
<p><b>Pinelands Residents and Ratepayers Association (PRRA)</b></p> <ul style="list-style-type: none"> <li>- The stone cladding is considered a foreign element in the language of architecture being conserved in Pinelands.</li> <li>- The existing chimney to remain unaltered.</li> </ul>	<ul style="list-style-type: none"> <li>- The applicant notes that PRRA has no objection to the proposed entertainment room.</li> <li>- Cladding is not a 'foreign element' in the area of Pinelands and there are properties in the area with cladding. E.g No. 6 Forest Drive Service Road.</li> </ul>	<ul style="list-style-type: none"> <li>- The building has a heritage grading of 3B, implying considerable intrinsic significance.</li> <li>- According to Environmental &amp; Heritage Management Department the stone cladding is not an authentic contemporary feature and is not in keeping with the original aesthetic character of the building. Therefore the proposed stone cladding is considered to be out of keeping with the historical architectural style of Forest Drive Service Road.</li> </ul>

#### Summary of internal branch comments

4.2. The internal branch comments are attached as Annexure F and may be summarized as follows:

Branch	Comment	Applicant's response
<b>Environmental Management Department</b>	<ul style="list-style-type: none"> <li>No objection to the entertainment room at the rear of the property.</li> <li>Objection to the stone cladding at the entrance and on the chimney.</li> </ul>	<ul style="list-style-type: none"> <li>The applicant argues that there are properties within the vicinity that have stone cladding and this is not a foreign element in the area. The stone cladding is aesthetically appealing.</li> </ul>

## 5. BACKGROUND TO PROPOSAL

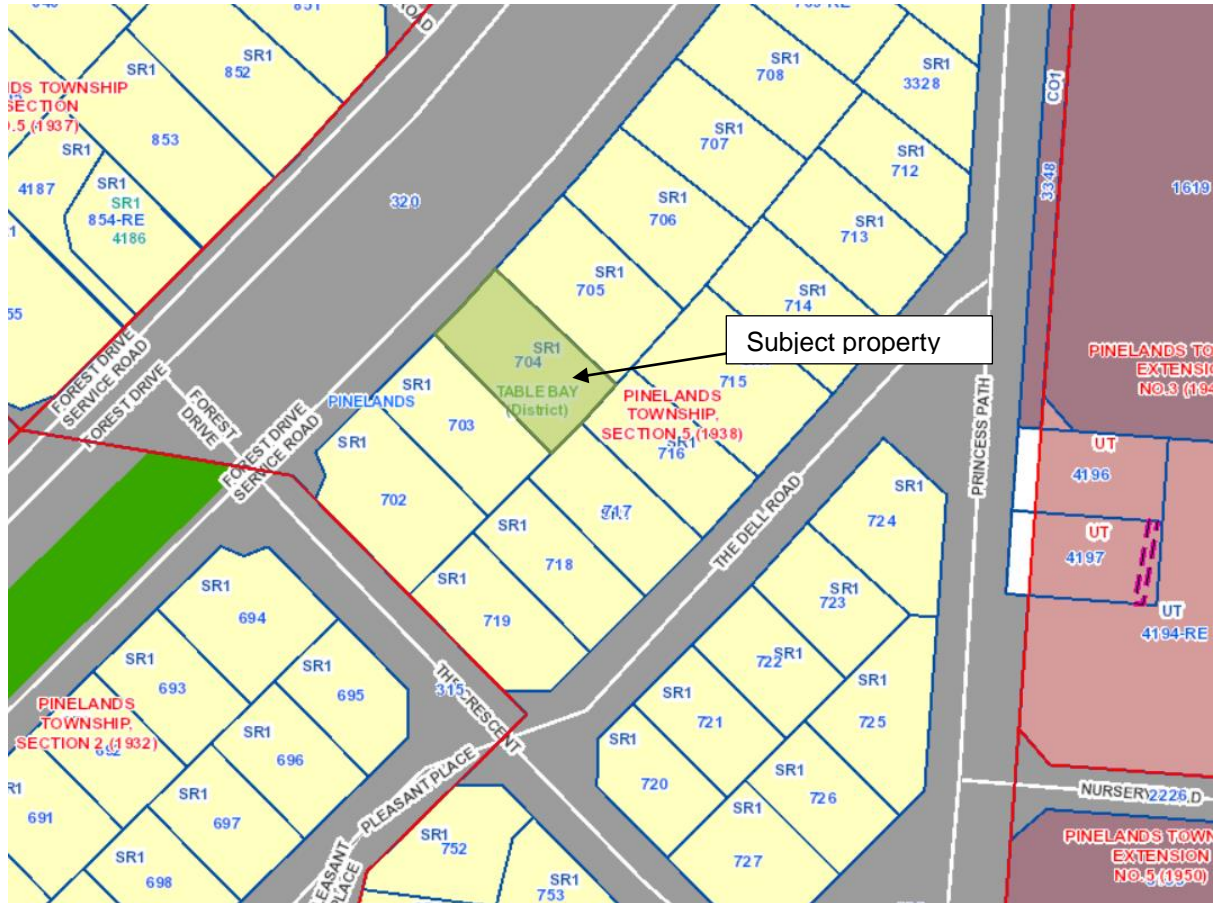
### Description of the area / surrounding land uses

5.1. In terms of the City-wide metropolitan context, the subject property is located along Forest Drive Service Road. The suburb in its entirety consists of predominately Single Residential (SR1) properties and a few open space zoned properties. The property is located within a vegetated area of Pinelands.

As can be seen in figure 2 below, the zoning of the properties immediately surrounding the subject property is mainly zoned Single Residential, SR1.

The uses of the surrounding properties include single residential dwelling houses of single to double storeys.



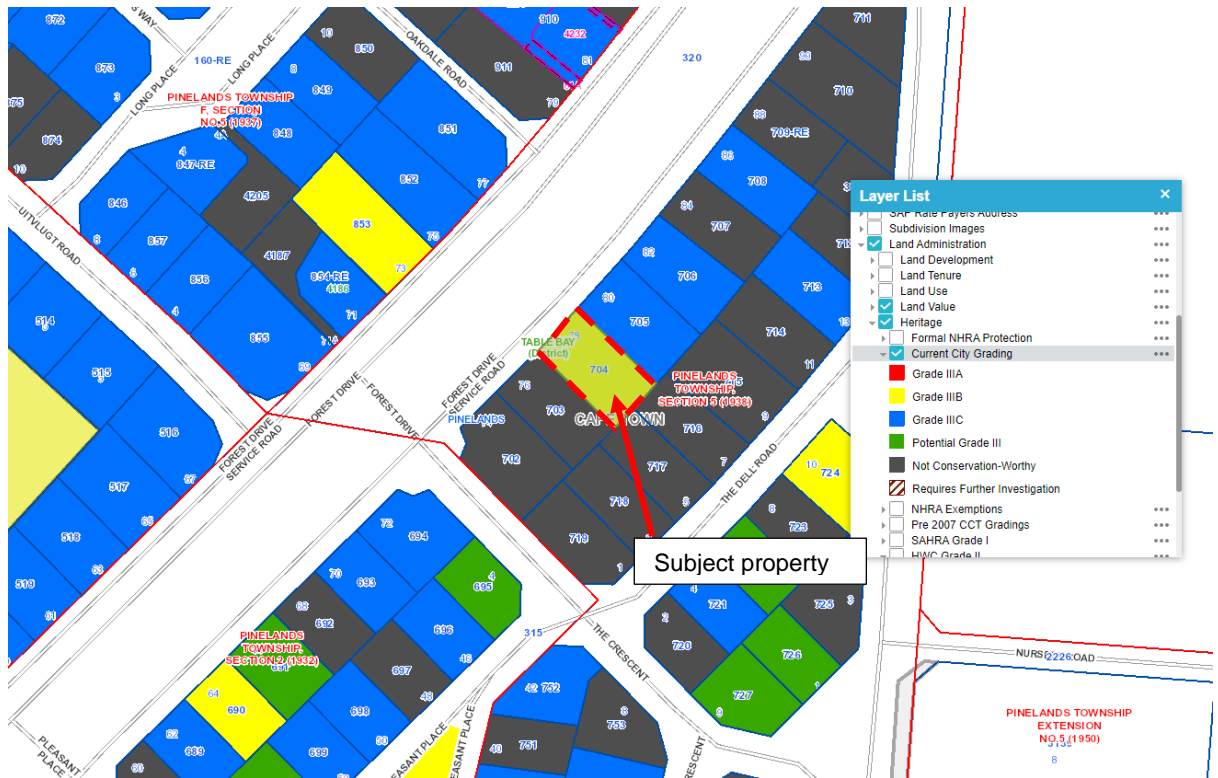


### Property description

- 5.2. Erf 704 measures 1228m<sup>2</sup> in extent and is currently developed with a dwelling house, garage and an unauthorised entertainment/braai room. The site is located in a vegetated area and is vegetated with trees along the common boundaries particularly on the street boundary and southwest common boundaries.

### Heritage significance

The property is located along Forest Drive which is one of the primary movement routes in Pinelands. Pinelands was established in the 1920s as an ideal and healthy suburb and was South Africa's first Garden City. Today Pinelands retains many of the features of the original Garden City concepts including extensive vegetation, mature trees and low hedges. This area has a good architectural example of typology and provides a good interface with and part of a well preserved streetscape. The property has a heritage grading of 3B which implies intrinsic significance, see below heritage grading.



### Proposed development

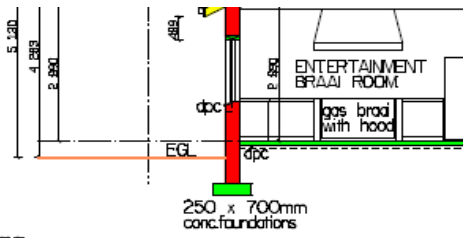
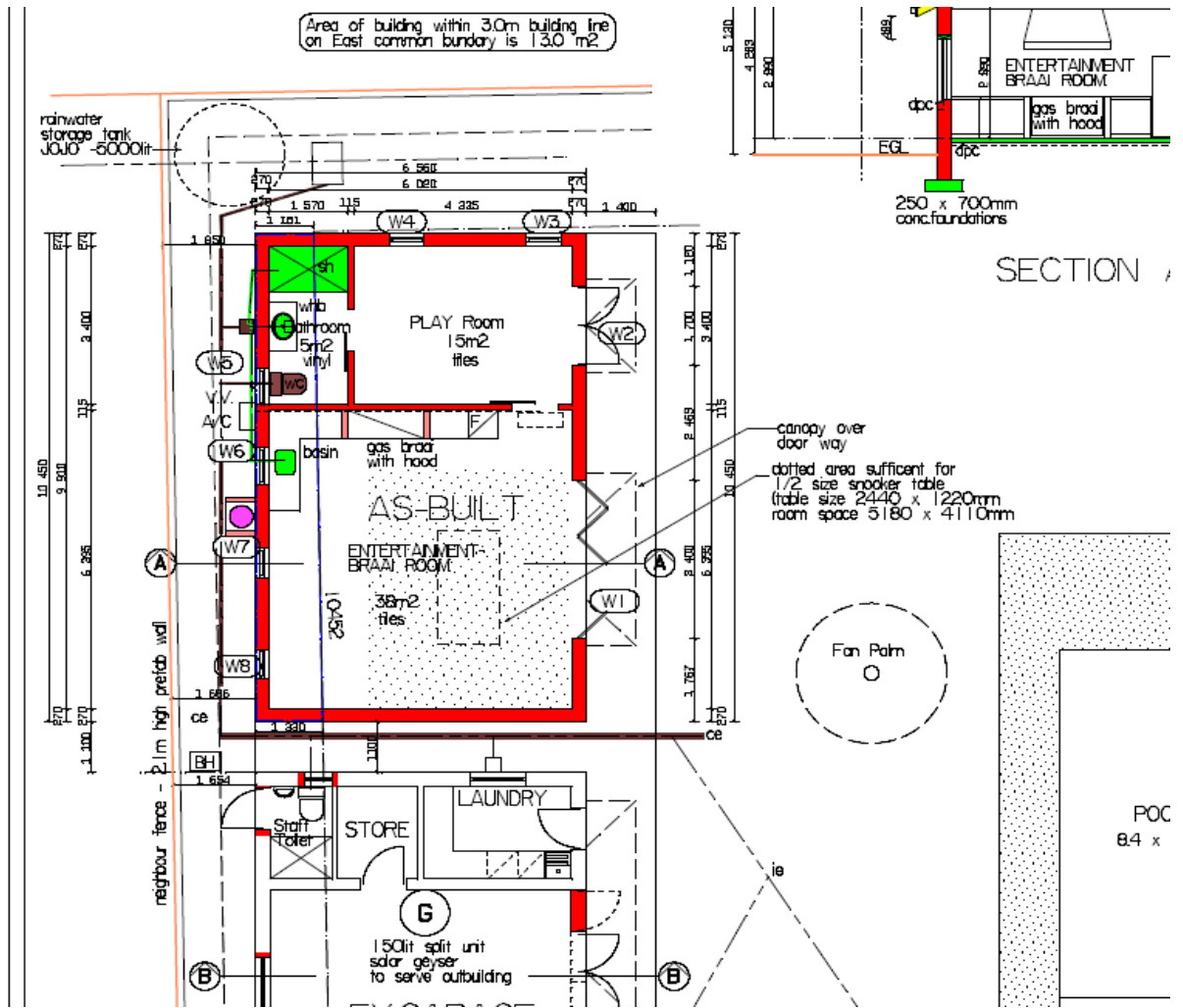
- 5.3. The proposal is for an outbuilding (entertainment/braai room) and additions and alterations to the existing dwelling house. The proposal requires the following applications.

#### Permanent departures:

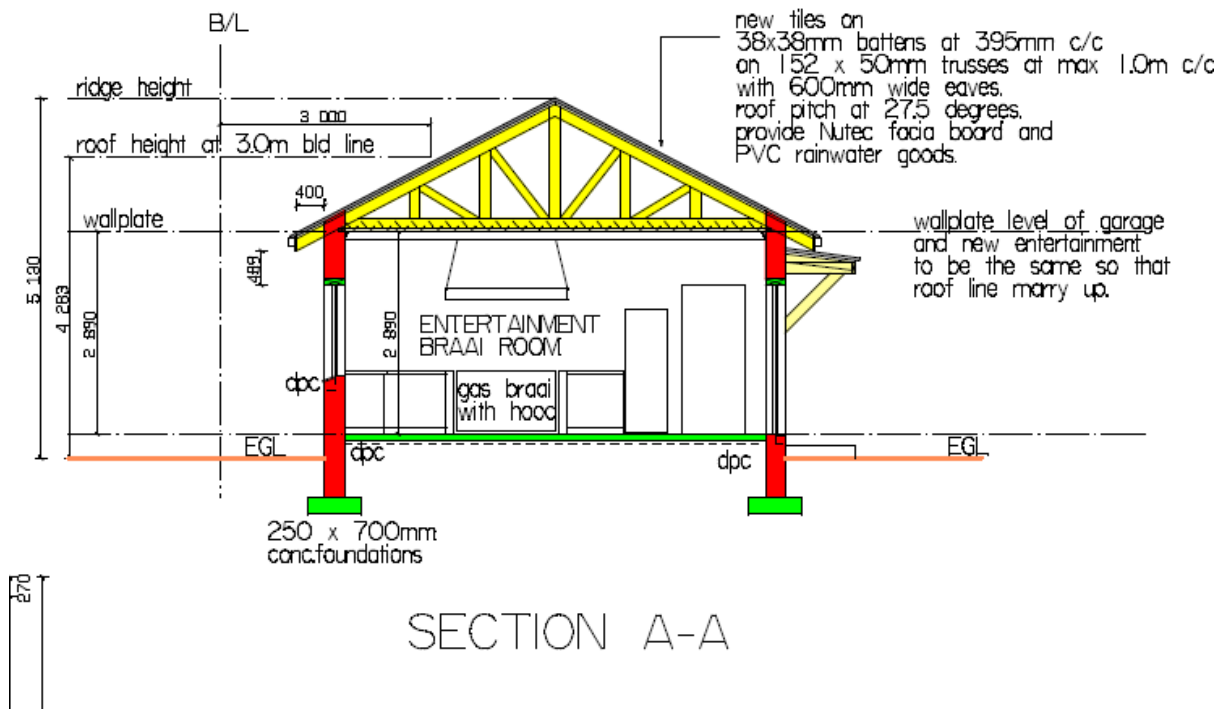
- Entertainment/braai room to be setback 1.6m in lieu of 3.0m from the eastern common boundary.
- Entertainment/braai room to be setback 1.8m in lieu of 3.0m from the eastern common boundary.
- Entertainment/braai room to be 5.1m in lieu of 4.0m in height from existing ground level to top of roof.

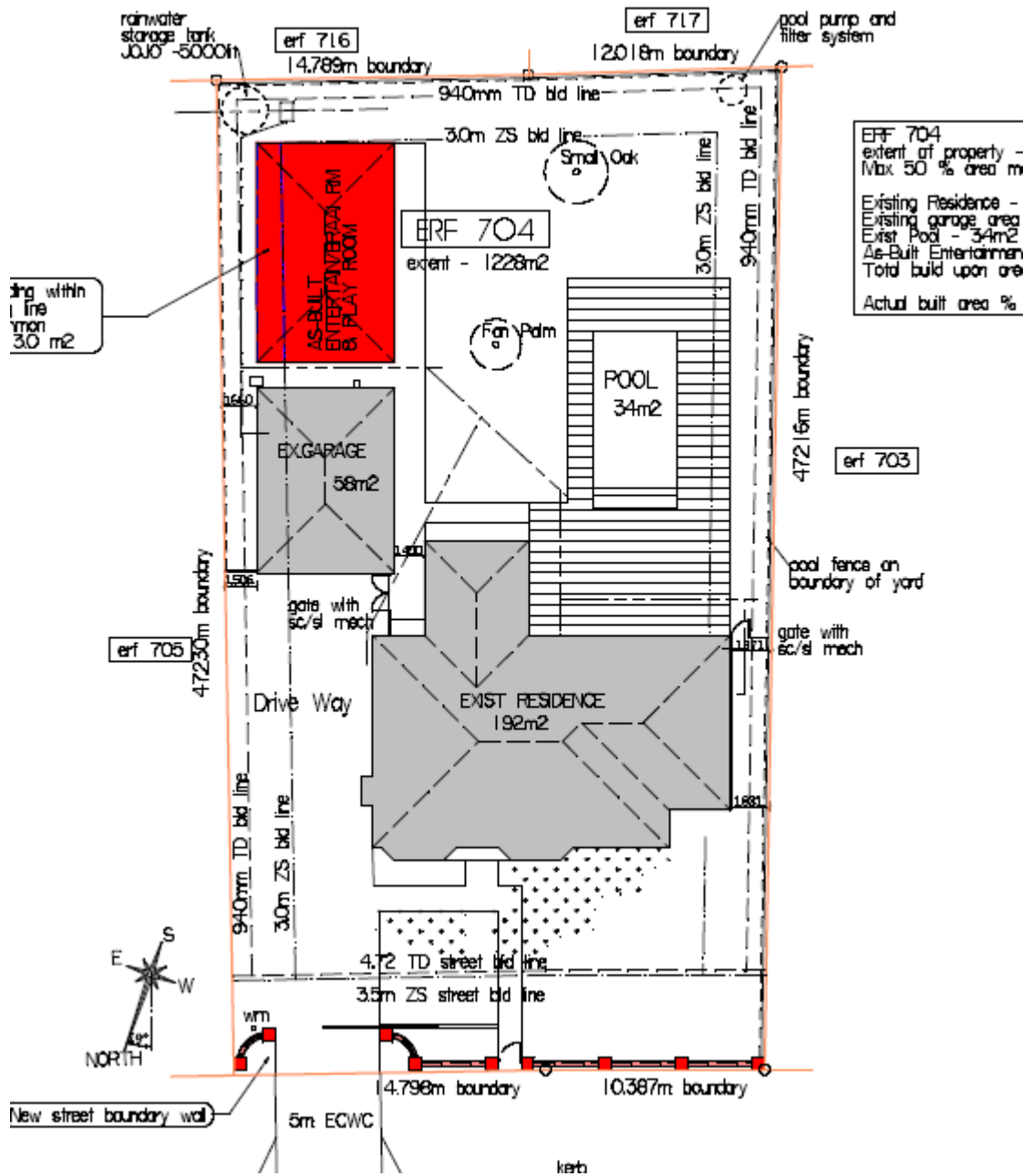
#### City Approval:

- To permit building work within a Heritage Protection Overlay Zone.



canopy over door way  
dotted area sufficient for 1/2 size snooker table (table size 2440 x 1220mm) room space 5180 x 4110mm





## 6. PROPOSAL ASSESSMENT

### Criteria for deciding application

#### Post-MPBL Amendment 2019 process

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

6.1.1. Compliance or consistence with the municipal spatial development framework,

- The proposal complies with the MSDF as the property is located in the urban inner core in which urban development is encouraged.

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

- Not applicable

**I am satisfied that the decision making criteria in Section 99(1) have been correctly assessed.**

6.2. Consideration of criteria in terms of Section 99(2)

6.2.1. Any applicable spatial development framework

#### Cape Town Municipal Spatial Development Framework, 2018

- The property is located within an existing urban footprint within the Urban Inner Core of the Spatial Transformation Areas of 2018 Cape Town Municipal Spatial Development Framework (CTMSDF).
- The proposal is consistent with the MSDF.

#### Table Bay District Plan, 2012

- The property is located within Sub-district 4 of the 2012 Table Bay District Plan (TBDP) and falls within the urban development area of the District.
- Whereas the TBDP is a high level document in relation to the minor nature of additions and alterations, the proposal is considered not to adversely affect or negatively change the built form in the area which satisfies the TBDP objective to ensure appropriate built form and land use in the surrounding urban environment.
- The proposal is consistent with the TBDP.

6.2.2. relevant criteria contemplated in the DMS

- All the required applications have been made;
- All the processes and procedures have been correctly undertaken;
- The public participation was correctly undertaken.

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

#### Inclusive Economic Growth Strategy, 2021

The aforementioned strategy aims to serve as a short, medium and long-term plan for addressing the economic crisis facing Cape Town and for identifying comparative advantages that can be leveraged.

Furthermore, it is still acknowledged that economic development must be rolled out in a responsible and sustainable manner, in order to ultimately improve the quality of life of the citizens of the City.

While the proposal is minor, it represents an economic opportunity for businesses during the submission process.

Integrated Development Plan, 2017-2022

The Integrated Development Plan (IDP) encourages intensification in suitable locations to be in line with the MSDP and District SDF. The proposal is consistent with the MSDP objectives and IDP given that the proposal seeks to marginally intensify a dwelling house within corresponding residential zone.

Social Development Strategy (SDS), 2013.

The proposal seeks to marginally intensify a dwelling house within a residential zoned property. It is acknowledged that the proposal and proposed conditions are minor in nature and will retain alignment with SDS objective for safe households and communities.

Urban Design Policy

The proposed interface on the street is for a revised boundary wall which creates an urban edge to the street. There are other similar structures zero on the street along Forest Drive Service Road so the proposal is compatible within its context.

**I am satisfied that the decision making criteria in Section 99(2) have been correctly assessed.**

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

a. socio-economic impact

The proposal will have a positive economic and social impact by improving the subject property close to amenities and facilities.

d. compatibility with surrounding uses

The intended use of the property is residential and is compatible with the surrounding uses, which contain residential dwellings. The built form is not out of context with the area.

Despite the objection, the proposed departures related to the entertainment room will create a built form, which is not out of context given the scale thereof and the prevalence of other residential dwellings. Furthermore, the proposal is believed to sufficiently integrate into the existing built form. It is noted that structures close to the common boundaries are not uncommon within the surrounding residential area. As such the proposal will not adversely detract from the built form in the surrounding area.

Common boundary departures

The outbuilding is positioned along the eastern common boundary (shared with erf 705 & 716) within the 3m common boundary building line. It will not have a significant adverse impact on the aforementioned adjoining neighbours from a privacy perspective as the windows are positioned more than 1.5m from the boundary. The vegetation along the boundary is also a mitigating feature. Based on arguments in this assessment, impact related issues are adequately addressed by the proposal.

Based on the assessment above, the outbuilding will not have any adverse negative impact on the built form.

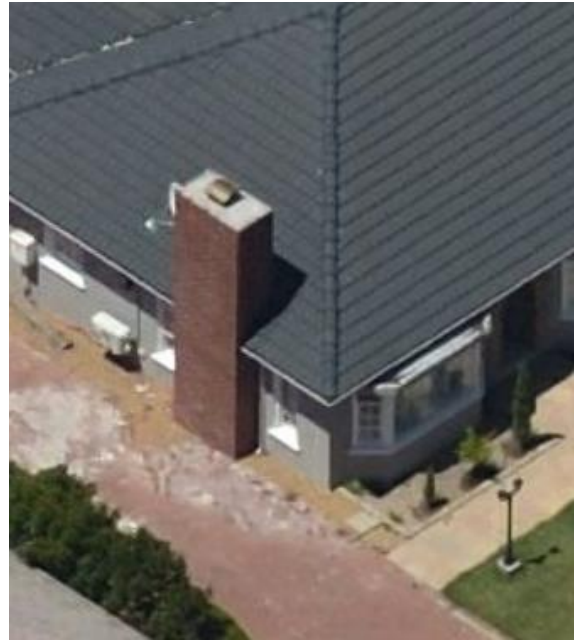
- e. impact on the external engineering services  
The proposal will not affect engineering services.
- f. impact on safety, health and wellbeing of the surrounding community  
The proposed additions will not have significant negative impacts on safety, health and wellbeing of the surrounding community for the reasons mentioned in this assessment.
- g. impact on heritage  
The property falls within the Pinelands HPOZ, which is a unique environment with a high density of highly conservation worthy heritage resources. The property (as well as numerous others in the area) is graded 3B which means that it is considered to have an intrinsic heritage resource significance in terms of the significance criteria identified by the NHRA. The building is older than 60 years and the applicant has not submitted an HWC permit.

The Environmental and Heritage Resources Management Department indicated that the proposed changes to the chimney and front door result in an adverse change to the character of the area, as stone cladding on the chimney and to the front facing door along Forest Drive will result in the loss of the original fabric of the high architectural significance. The department also enquired about the large oak tree on the property which seems to have been removed and not relocated.

The Environmental and Heritage Resources Management Department indicated non-support of the stone cladding of the chimney and the front door along Forest Drive as this has resulted in the loss of heritage significance.



Original Chimney



Current stone cladding Chimney

The applicant was given the opportunity to comment on the negative comments received and the arguments were based on the precedent of altered buildings along Forest Drive and within Pinelands, particularly on the following properties;



- 56 Pleasant Place: 3B (no approved building plan as far as can be ascertained)



- 6 Forest Drive: 3B (no approved building plan as far as can be ascertained)



- 17 Central Avenue: 3B (no approved building plan as far as can be ascertained)

As far as can be ascertained, there are no approvals related to the building work on the aforementioned properties and therefore constitutes unauthorised building work, which cannot be used as precedent in the consideration of the proposal. Enforcement has been informed of the unauthorised building work on the aforementioned properties.

The proposed stone cladding is considered to be out of keeping with the historical architectural style along Forest Drive. Pinelands architecture has strong arts and crafts influence with asymmetrical volumes, multiple pitched and hipped roofs, often thatched, wooden window frames and leaded glass in punctured openings. Pinelands remains largely intact in architecture and design principles of its concept of the Garden City.

The proposed stone cladding is in conflict with the heritage significance of these heritage buildings. Therefore, the architectural language of the proposal is inconsistent with the historical style, and will degrade the heritage significance of the buildings Forest Drive and cannot be supported.

However, the Environmental Department indicated no objection to the outbuilding and related departures as well as the minor alteration to the main dwelling, garage and the reconstruction of the boundary wall.

h. impact on the biophysical environment

There is no negative impact on the biophysical environment as the property is located within an urban area and contains established and developed buildings.

i. traffic impacts, parking, access and other transport related considerations

The proposal does not trigger any parking or traffic aspects. Adequate on-site parking has been provided.

j. conditions that can mitigate an adverse impact of the proposed land use

No conditions are proposed.

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

Height departure

The proposed height of the outbuilding is 5.1m in lieu of 4m. The deviation of 1.1m is considered very minor and this only relates to a small portion of the property located at the rear and a result of the pitched roof.

For the reasons expressed above, the proposal is considered to be appropriate in terms of scale, appearance and design and will have no adverse impact on existing rights.

However, given the historical context of the area and property as elaborated above in this report, the additions along the street related to stone cladding at the entrance door and the chimney are not supported as they may detract from the historical built form of the surrounding area. The proposed outbuilding (entertainment room) is supported.

6.1.1. other considerations prescribed in relevant national or provincial legislation.

[Spatial Planning and Land Use Management Act (SPLUMA), 2013 and Land Use Planning Act (LUPA), 2014]

To the extent that the nature and scale of the proposal is minor it may promote the development principles of SPLUMA and LUPA in so far as:

- To the extent that the additions are minor and small scale, the proposal is considered to be spatially sustainable. It could be considered to marginally increase residential density on a small footprint.
- The proposal promotes efficiency in that it encourages a more intensive use of the site, which discourages a sprawling urban form.
- A denser use of the site, albeit marginal, also promotes the principle of resilience to the extent that increased access to mobility and social services opportunities makes access to economic opportunities easier.

6.1.2. Whether the application complies with the requirements of the MPBL

- All the required applications have been made.
- The application complies with the basic requirements of the MPBL.
- The administrative penalty application was finalised.

**I am satisfied that the decision making criteria in Section 99(3) have been correctly assessed.**

## **7. REASONS FOR DECISION**

7.1. Reasons for the recommended decision for **approval** relating to the application for the permanent departures and city approval to outbuilding and additions and alteration to the dwelling house may be summarised as follows:

7.1.1. The application complies with Sections 99(1) and (2) of the Municipal Planning Bylaw.

7.1.2. The proposal is desirable in terms of the Section 99(3) of the Municipal Planning Bylaw as elaborated on in this report.

7.1.3. The application complies with City policies (i.e. MSDF, TBDP, Densification Policy).

7.1.4. The proposal will not negatively impact existing infrastructure.

7.2. Reasons for the recommended decision for **refusal** relating to the application for the city approval related to the stone cladding on the chimney and front door along Forest Dive may be summarised as follows:

- 7.2.1. The proposal will have a negative impact on heritage resources and the Heritage Protection Overlay Zone.
- 7.2.2. The additions are considered to negatively impact the character of the area and the streetscape.
- 7.2.3. The proposal will result in the loss of the highly significant original architectural fabric.

## 8. RECOMMENDATION

In view of the above, it is recommended that:

- 8.1. The application for Permanent Departures and City Approval for erf 704, Pinelands as set out in Annexure A, **be approved** in terms of Section 98(b) of the City of Cape Town Municipal Planning By-Law, 2015.
- 8.2. The application for City Approval for stone cladding on the chimney and front door on erf 704, Pinelands as set out in Annexure A, **be refused** in terms of Section 98 (c) of the City of Cape Town Municipal Planning By-law, 2015.

## ANNEXURES

Annexure A	Application details and approval conditions to be imposed
Annexure B	Locality plan / Public participation map
Annexure C	Site development
Annexure D	Applicant's motivation
Annexure E	Objections received
Annexure F	Internal departmental comments
Annexure G	Applicant's response to objections /comments received

It is confirmed that this report has been checked and considered for POPIA compliance.




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Registered Planner

Name: Siyamthanda Mayinjana

SACPLAN NO: C/8371/2016

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Section Head

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District Manager

Name: \_\_\_Gregory September\_\_\_\_\_

\_\_\_Marx Mupariwa\_\_\_\_\_

Tel no: \_\_\_084 499 4923\_\_\_\_\_

\_\_\_082 926 8079\_\_\_\_\_

Date: \_\_\_18 July 2022\_\_\_\_\_

\_\_\_18 July 2022\_\_\_\_\_

The signatures above represents support for report content and confirms POPIA compliance.

# ANNEXURE A

In this annexure:

"City" means the City of Cape Town

"The owner" means the registered owner of the property

"The property" means **Erf 704, 78 Forest Drive Service Road, Pinelands**

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

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

"Dir: DM" means Director: Development Management or his/her delegatee.

## **CASE ID: 70528110**

### **1. APPLICATIONS APPROVED IN TERMS OF SECTION 98 (b) OF THE BYLAW**

- 2.1 Item 162(1): To permit the additions and alterations to the property (outbuilding, minor alterations to existing dwelling, garage and boundary wall) located within a Heritage Protection Overlay Zone.

#### Permanent Departures

- 2.2 Item 22(d): To permit the building, after the first 12m from the street boundary, to be setback 1.6m in lieu of 3.0m from the eastern common boundary.
- 2.3 Item 22(d): To permit the building, after the first 12m from the street boundary, to be setback 1.8m in lieu of 3.0m from the eastern common boundary.
- 2.4 Item 22(c) (ii): To permit portions of a building, after the first 12m from the street boundary within 3m from the common boundary, to be 5.1m in lieu of 4.0m in height from existing ground level to top of roof.

### **2. APPLICATIONS REFUSED IN TERMS OF SECTION 98 (c) OF THE BYLAW**

#### City Approval

- 1.1 Item 162(1): To permit the additions and alterations to the property (stone cladding on chimney and front door) located within a Heritage Protection Overlay Zone.